



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0385/2
CMH:all

**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO SENATE BILL 54**

February 22, 2018 - Offered by Representatives SANFELIPPO, BORN, NYGREN, VOS, JACQUE, TITTL, SCHRAA, VORPAGEL, ZIMMERMAN, SPIROS, KRUG, SUMMERFIELD, STEFFEN and KNODL.

1 **AN ACT** *to amend* 20.866 (2) (ux), 302.113 (8m) (a), 302.114 (8m) (a), 304.06 (3)
2 and 973.10 (2) (intro.); and *to create* 978.09 of the statutes; **relating to:**
3 recommendation to revoke parole, probation, and extended supervision if a
4 person is charged with a felony or violent misdemeanor; increasing positions in
5 district attorney offices; granting bonding authority; and making an
6 appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 **SECTION 1c.** 20.866 (2) (ux) of the statutes, as affected by 2017 Wisconsin Act
8 59, is amended to read:

9 20.866 (2) (ux) *Corrections; correctional facilities.* From the capital
10 improvement fund, a sum sufficient for the department of corrections to acquire,
11 construct, develop, enlarge, or improve adult and juvenile correctional facilities. The

1 state may contract public debt in an amount not to exceed \$926,679,900
2 \$1,276,679,900 for this purpose.

3 **SECTION 1p.** 302.113 (8m) (a) of the statutes is amended to read:

4 302.113 (8m) (a) Every person released to extended supervision under this
5 section remains in the legal custody of the department. If the department alleges
6 that any condition or rule of extended supervision has been violated by the person,
7 the department may take physical custody of the person for the investigation of the
8 alleged violation. If the person is charged with a felony or a violent misdemeanor,
9 as defined in s. 941.29 (1g) (b), the department shall recommend that the person's
10 extended supervision be revoked, except that the department may make a different
11 recommendation if the person is participating in a substance abuse treatment
12 program. The department may revise its recommendation to revoke if the charges
13 are subsequently dismissed or if the person is found not guilty of the crime.

14 **SECTION 1q.** 302.114 (8m) (a) of the statutes is amended to read:

15 302.114 (8m) (a) Every person released to extended supervision under this
16 section remains in the legal custody of the department. If the department alleges
17 that any condition or rule of extended supervision has been violated by the person,
18 the department may take physical custody of the person for the investigation of the
19 alleged violation. If the person is charged with a felony or a violent misdemeanor,
20 as defined in s. 941.29 (1g) (b), the department shall recommend that the person's
21 extended supervision be revoked, except that the department may make a different
22 recommendation if the person is participating in a substance abuse treatment
23 program. The department may revise its recommendation to revoke if the charges
24 are subsequently dismissed or if the person is found not guilty of the crime.

25 **SECTION 2.** 304.06 (3) of the statutes is amended to read:

1 304.06 (3) Every paroled prisoner remains in the legal custody of the
2 department unless otherwise provided by the department. If the department alleges
3 that any condition or rule of parole has been violated by the prisoner, the department
4 may take physical custody of the prisoner for the investigation of the alleged
5 violation. If the department is satisfied that any condition or rule of parole has been
6 violated it shall afford the prisoner such administrative hearings as are required by
7 law. If the person is charged with a felony or a violent misdemeanor, as defined in
8 s. 941.29 (1g) (b), the department shall recommend that the person's parole be
9 revoked, except that the department may make a different recommendation if the
10 person is participating in a substance abuse treatment program. The department
11 may revise its recommendation to revoke if the charges are subsequently dismissed
12 or if the person is found not guilty of the crime. Unless waived by the parolee, the
13 final administrative hearing shall be held before a hearing examiner from the
14 division of hearings and appeals in the department of administration who is licensed
15 to practice law in this state. The hearing examiner shall enter an order revoking or
16 not revoking parole. Upon request by either party, the administrator of the division
17 of hearings and appeals shall review the order. The hearing examiner may order that
18 a deposition be taken by audiovisual means and allow the use of a recorded
19 deposition under s. 967.04 (7) to (10). If the parolee waives the final administrative
20 hearing, the secretary of corrections shall enter an order revoking or not revoking
21 parole. If the examiner, the administrator upon review, or the secretary in the case
22 of a waiver finds that the prisoner has violated the rules or conditions of parole, the
23 examiner, the administrator upon review, or the secretary in the case of a waiver,
24 may order the prisoner returned to prison to continue serving his or her sentence, or
25 to continue on parole. If the prisoner claims or appears to be indigent, the

1 department shall refer the prisoner to the authority for indigency determinations
2 specified under s. 977.07 (1).

3 **SECTION 3.** 973.10 (2) (intro.) of the statutes is amended to read:

4 973.10 (2) (intro.) If a probationer violates the conditions of probation, the
5 department of corrections may initiate a proceeding before the division of hearings
6 and appeals in the department of administration. If the person is charged with a
7 felony or a violent misdemeanor, as defined in s. 941.29 (1g) (b), the department shall
8 recommend that the person's probation be revoked, except that the department may
9 make a different recommendation if the person is participating in a substance abuse
10 treatment program. The department may revise its recommendation to revoke if the
11 charges are subsequently dismissed or if the person is found not guilty of the crime.

12 Unless waived by the probationer, a hearing examiner for the division shall conduct
13 an administrative hearing and enter an order either revoking or not revoking
14 probation. Upon request of either party, the administrator of the division shall
15 review the order. If the probationer waives the final administrative hearing, the
16 secretary of corrections shall enter an order either revoking or not revoking
17 probation. If probation is revoked, the department shall:

18 **SECTION 4m.** 978.09 of the statutes is created to read:

19 **978.09 Reports on actions regarding recommendations to revoke**
20 **release. (1)** In a county having a population of 750,000 or more, the district attorney
21 office shall annually report to the appropriate standing committees of the legislature
22 under s. 13.172 (3) the office's actions regarding recommendations to revoke under
23 ss. 302.113 (8m) (a), 302.114 (8m) (a), and 304.06 (3). The report shall include all of
24 the following:

25 (a) Total number of case referrals, broken down by class.

1 (b) Total number of cases filed, broken down by class.

2 (c) Total number of charges filed, broken down by class.

3 (d) Total number of dispositions, broken down by class.

4 **(2)** This section does not apply 2 years after the district attorney office submits
5 its first annual report.

6 **SECTION 4v. Nonstatutory provisions.**

7 (1) DISTRICT ATTORNEY POSITION INCREASES.

8 (a) The authorized FTE positions for the department of administration are
9 increased by 53.75 GPR positions on July 1, 2019, to be funded from the
10 appropriation under section 20.475 (1) (d) of the statutes, for the purpose of
11 increasing the number of district attorney positions as follows:

12 1. In Iowa County, 0.25 positions.

13 2. In each Green, Marquette, and Pierce counties, 0.5 positions.

14 3. In Jefferson County, 0.7 positions.

15 4. In each Burnett and Columbia counties, 0.75 positions.

16 5. In Adams County, 0.8 positions.

17 6. In each Ashland, Barron, Bayfield, Chippewa, Dodge, Forest, Jackson,
18 Langlade, Lincoln, Marathon, Ozaukee, Shawano, Taylor, Walworth, and
19 Washington counties, 1.0 positions.

20 7. In each Brown, Douglas, Dunn, Eau Claire, Fond du Lac, Kenosha, La
21 Crosse, Manitowoc, Monroe, Outagamie, Polk, Portage, Racine, Sheboygan,
22 Waukesha, Winnebago, and Wood counties, 2.0 positions.

23 (b) The authorized FTE positions for the department of administration are
24 increased by 0.4 GPR positions on January 1, 2020, to be funded from the
25 appropriation under section 20.475 (1) (d) of the statutes, for the purpose increasing

1 the number of district attorney positions in Marinette County to replace a 0.4 GPR
2 project position that expires on December 31, 2019.

3 (1m) STUDY OF REQUIREMENT TO REVOKE RELEASE. No later than January 15,
4 2020, the legislative fiscal bureau shall submit a study to the legislature concerning
5 the costs involved in the revocation requirements in sections 302.113 (8m) (a),
6 302.114 (8m) (a), 304.06 (3), and 973.10 (2) (intro.) of the statutes.

7 (2) 2017-19 AUTHORIZED STATE BUILDING PROGRAM ADDITION. In 2017 Wisconsin
8 Act 59, SECTION 9104 (1), the following project is added to the 2017-19 Authorized
9 State Building Program and the appropriate totals are increased by the amounts
10 shown:

11 (a) In paragraph (c) 1., under projects financed by general fund supported
12 borrowing:

es. Construction of additional prison bed space —

Statewide	\$350,000,000
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13 **SECTION 5c. Initial applicability.**

14 (1) The treatment of sections 302.113 (8m) (a), 302.114 (8m) (a), 304.06 (3), and
15 973.10 (2) (intro.) of the statutes first applies to charges that are filed on the effective
16 date of this subsection.

17 **SECTION 5p. Effective dates.** This act takes effect on July 1, 2019, except as
18 follows:

19 (1) SECTION 4v (2) of this act takes effect on the day after publication.

20 (END)