



1995 ASSEMBLY BILL 123

February 8, 1995 - Introduced by Representatives OWENS, LADWIG, FREESE, LAZICH, VRAKAS, AINSWORTH, HANDRICK, COLEMAN, OTTE, GROTHMAN, OLSEN, HOVEN, PORTER, MUSSER and WASSERMAN, cosponsored by Senators BUETTNER, PETAK, A. LASEE and BRESKE. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to amend** 302.11 (1), 304.02 (5), 304.06 (1) (b), 304.071 (2), 939.50 (2),
2 948.02 (1), 971.11 (1), 971.37 (1) (intro.) and 973.09 (1) (c); and **to create** 302.11
3 (1x), 939.50 (1) (ab) and 939.50 (3) (ab) of the statutes; **relating to:** sexual
4 assault and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, whoever is convicted of sexually assaulting a child younger than 13 years old may be imprisoned for not more than 40 years. Under this bill, the offender must be sentenced to imprisonment for not less than 20 nor more than 50 years. The offender must serve the sentence without the possibility of parole.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

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

5 **SECTION 1.** 302.11 (1) of the statutes is amended to read:
6 302.11 (1) The warden or superintendent shall keep a record of the conduct of
7 each inmate, specifying each infraction of the rules. Except as provided in subs. (1g),
8 (1m), (1x), (7) and (10), each inmate is entitled to mandatory release on parole by the
9 department. The mandatory release date is established at two-thirds of the
10 sentence. Any calculations under this subsection or sub. (2) (b) resulting in fractions
11 of a day shall be rounded in the inmate's favor to a whole day.

1 **SECTION 2.** 302.11 (1x) of the statutes is created to read:

2 302.11 (**1x**) An inmate serving a term subject to s. 939.50 (3) (ab) is not entitled
3 to mandatory release.

4 **SECTION 3.** 304.02 (5) of the statutes is amended to read:

5 304.02 (**5**) Notwithstanding subs. (1) to (3), a prisoner who is serving a life
6 sentence under s. 939.62 (2m) or who is serving a term subject to s. 939.50 (3) (ab)
7 is not eligible for release to parole supervision under this section.

8 **SECTION 4.** 304.06 (1) (b) of the statutes is amended to read:

9 304.06 (**1**) (b) Except as provided in sub. (1m) or s. 161.49 (2), 302.045 (3),
10 939.50 (3) (ab) or 973.0135, the parole commission may parole an inmate of the
11 Wisconsin state prisons or any felon or any person serving at least one year or more
12 in a county house of correction or a county reforestation camp organized under s.
13 303.07, when he or she has served 25% of the sentence imposed for the offense, or 6
14 months, whichever is greater. Except as provided in s. 939.62 (2m) or 973.014, the
15 parole commission may parole an inmate serving a life term when he or she has
16 served 20 years, as modified by the formula under s. 302.11 (1) and subject to
17 extension using the formulas under s. 302.11 (2). The person serving the life term
18 shall be given credit for time served prior to sentencing under s. 973.155, including
19 good time under s. 973.155 (4). The secretary may grant special action parole
20 releases under s. 304.02. The department or the parole commission shall not provide
21 any convicted offender or other person sentenced to the department's custody any
22 parole eligibility or evaluation until the person has been confined at least 60 days
23 following sentencing.

24 **SECTION 5.** 304.071 (2) of the statutes is amended to read:

1 304.071 (2) If a prisoner is not eligible for parole under s. 161.49 (2), 939.50 (3)
2 (ab), 939.62 (2m) or 973.032 (5), he or she is not eligible for parole under this section.

3 **SECTION 6.** 939.50 (1) (ab) of the statutes is created to read:

4 939.50 (1) (ab) Class AB felony.

5 **SECTION 7.** 939.50 (2) of the statutes is amended to read:

6 939.50 (2) A felony is a Class A, AB, B, C, D or E felony when it is so specified
7 in chs. 939 to 951.

8 **SECTION 8.** 939.50 (3) (ab) of the statutes is created to read:

9 939.50 (3) (ab) For a Class AB felony, imprisonment for not less than 20 years
10 nor more than 50 years. The defendant shall serve the sentence that the court
11 imposes without the possibility of parole.

12 **SECTION 9.** 948.02 (1) of the statutes is amended to read:

13 948.02 (1) **FIRST DEGREE SEXUAL ASSAULT.** Whoever has sexual contact or sexual
14 intercourse with a person who has not attained the age of 13 years is guilty of a Class
15 B AB felony.

16 **SECTION 10.** 971.11 (1) of the statutes is amended to read:

17 971.11 (1) Whenever the warden or superintendent receives notice of an
18 untried criminal case pending in this state against an inmate of a state prison, the
19 warden or superintendent shall, at the request of the inmate, send by certified mail
20 a written request to the district attorney for prompt disposition of the case. The
21 request shall state the sentence then being served, the date of parole eligibility, if
22 applicable, the approximate discharge or conditional release date, and prior decision
23 relating to parole. If there has been no preliminary examination on the pending case,
24 the request shall state whether the inmate waives such examination, and, if so, shall
25 be accompanied by a written waiver signed by the inmate.

