



## 1995 SENATE BILL 57

February 8, 1995 - Introduced by Senator A. LASEE, cosponsored by Representatives LADWIG, VANDER LOOP, OWENS, OTT and AINSWORTH. Referred to Committee on Judiciary.

1 **AN ACT to repeal** 973.0135; and **to amend** 304.06 (1) (b), 939.62 (2m) (b) and  
2 973.011 (1) (intro.) of the statutes; **relating to:** persistent serious felony  
3 offenders.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a court must sentence certain 3-time serious felony offenders to life imprisonment without the possibility of parole. Under this so-called "3 strikes, you're out" law, an offender receives a life sentence without the possibility of parole if he or she is currently sentenced for a serious felony and he or she has 2 or more previous convictions for serious felonies preceding the current serious felony violation. To be covered under the "3-strike" law, at least one of the prior convictions must have occurred before the date of at least one of the prior serious felony violations. The serious felonies include serious violations related to homicide, battery, sexual assault, mayhem, kidnapping, taking hostages, tampering with household products, arson, armed burglary, armed robbery, carjacking, assault by prisoner, crimes against children and controlled substances violations.

This bill creates a "2 strikes, you're out" requirement. Under the bill, if a person is currently being sentenced for a serious felony and has one or more previous convictions for serious felonies preceding the current felony violation, the court must sentence the person to life imprisonment without the possibility of parole. Currently, if such a person is not subject to the "3 strikes" requirements, the court may delay the offender's parole eligibility date up to a date that constitutes two-thirds of his or her sentence.

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

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

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

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

16          **SECTION 2.** 939.62 (2m) (b) of the statutes is amended to read:

17          939.62 (2m) (b) The actor is a persistent repeater if he or she has been convicted  
18          of a serious felony on ~~2~~ one or more separate occasions at any time preceding the  
19          serious felony for which he or she presently is being sentenced under ch. 973, which  
20          ~~convictions remain~~ conviction remains of record and unreversed and, ~~that of the 2~~  
21          ~~or more previous convictions, at least one conviction must have occurred before the~~  
22          ~~date of violation of at least one of the other felonies for which the actor was previously~~  
23          ~~convicted.~~ It is immaterial that the sentence for a previous conviction was stayed,  
24          withheld or suspended, or that he or she was pardoned, unless the pardon was  
25          granted on the ground of innocence. The term of imprisonment for the felony for

1 which the persistent repeater presently is being sentenced under ch. 973 is life  
2 imprisonment without the possibility of parole.

3 **SECTION 3.** 973.011 (1) (intro.) of the statutes is amended to read:

4 973.011 (1) (intro.) The sentencing commission shall promulgate rules under  
5 this subsection. Any such rules shall provide guidelines for use by judges for  
6 sentencing defendants convicted of felonies, but shall not provide guidelines for  
7 determinations under s. ~~973.0135~~ or 973.014. The rules shall:

8 **SECTION 4.** 973.0135 of the statutes is repealed.

9 **SECTION 5. Initial applicability.**

10 (1) The treatment of section 939.62 (2m) (b) of the statutes first applies to  
11 serious felonies committed on the effective date of this subsection, but does not  
12 preclude the counting of other serious felonies as prior serious felonies for sentencing  
13 a person as a persistent repeater under section 939.62 (2m) of the statutes, as  
14 affected by this act.

15 (END)