



1997 ASSEMBLY BILL 747

January 27, 1998 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to repeal** 301.10 (1) and 301.29 (1); **to renumber and amend** 973.09 (5);
2 **to amend** 301.32 (1) and 302.385; and **to create** 973.09 (5) (a) 1. and 973.09
3 (5) (b) and (c) of the statutes; **relating to:** fiscal responsibilities of the
4 department of corrections and the disposal of property belonging to prisoners
5 and inmates under the supervision of the department of corrections; standards
6 for delivery of health services in state correctional institutions; and discharge
7 of persons from probation (suggested as remedial legislation by the department
8 of corrections).

Analysis by the Legislative Reference Bureau

Under current law, the steward of each institution under the control of the department of corrections (DOC) must serve as the business manager of the institution and is responsible for certain duties relating to purchasing. In current practice, however, there is no steward at these institutions, but instead the steward's functions are performed by other DOC employes who occupy the positions of business director and financial supervisor. This bill eliminates these steward duties.

Current law also requires that the steward file and execute an official bond. This bill eliminates this requirement.

Current law regulates the delivery and disposal of property belonging to prisoners and residents in institutions under the control of DOC. Under current law,

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if any prisoner or resident leaves property, other than money, uncalled for at an institution for one year, the superintendent of the institution must sell the property and deposit the proceeds in the state general fund. This bill provides that the superintendent, as an alternative to selling the property, may donate the property to a public agency or private, nonprofit organization or destroy the property.

Under current law, the standards for delivery of health services in state correctional institutions must be based on the essential standards of the American Medical Association Standards for Health Services in prisons, published in July 1979, and Standards for Health Services in Juvenile Correctional Facilities, published in August 1979. This bill provides that the standards must be based on the standards of any professional organization that establishes standards for health services in prisons and that is recognized by DOC.

Under current law, a person who is convicted of a crime may be placed on probation. Current law specifies that when a person who is on probation has satisfied the conditions of his or her probation, the person must be discharged from probation and DOC must issue a certificate of final discharge to the probationer and file a copy of the certificate of final discharge with the clerk of the court that placed the person on probation.

This bill makes the following changes relating to the discharge of a person who is on probation:

1. The bill provides that a person who is on probation must be discharged when the period of probation has expired, instead of when the person on probation satisfies the conditions of probation, as under current law.

2. The bill provides that DOC must issue a certificate of discharge only to a person who was placed on probation for a felony, and not to all persons on probation, as required under current law. If a person was placed on probation for a misdemeanor, the bill requires DOC to notify the person that his or her period of probation has expired.

3. The bill specifies that DOC must issue a certificate of final discharge only to a person who is discharged from probation for a felony and who, at the time of discharge, is not on probation or parole for another felony. If a person who is discharged from probation is still on probation or parole for another felony, he or she is given a certificate of discharge that relates only to the period of probation from which he or she has been discharged.

4. The bill requires DOC to notify the court that placed the person on probation that the period of probation has expired, instead of sending a copy of the certificate of discharge to the court, as required under current law.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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:

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LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of corrections and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 301.10 (1) of the statutes is repealed.

2 **SECTION 2.** 301.29 (1) of the statutes is repealed.

NOTE: Under current law, the steward of each institution under the control of the Department of Corrections (DOC) must serve as business manager of the institution and is responsible for certain purchasing duties. Further, current law also requires the steward to file and execute an official bond. According to the DOC, there is no steward at these institutions, and the steward's functions are performed by other DOC employees. Therefore, SECTIONS 1 and 2 amend the statutes which refer to steward's duties and responsibilities to delete these references to stewards.

3 **SECTION 3.** 301.32 (1) of the statutes, as affected by 1997 Wisconsin Act 27, is
4 amended to read:

5 301.32 (1) (title) ~~PROPERTY DELIVERED TO STEWARD~~ WARDEN OR SUPERINTENDENT;
6 CREDIT AND DEBIT. All money ~~including wages~~ and other property delivered to an
7 ~~officer or~~ employe of any state correctional institution for the benefit of a prisoner or
8 resident shall be delivered to the ~~steward~~ warden or superintendent, who shall enter
9 the property upon his or her ~~books~~ accounts to the credit of the prisoner or resident.
10 The property may be used only under the direction and with the approval of the
11 superintendent or warden and for the crime victim and witness assistance surcharge
12 under s. 973.045 (4), the delinquency victim and witness assistance surcharge under
13 s. 938.34 (8d) (c), the deoxyribonucleic acid analysis surcharge under s. 973.046 or
14 the benefit of the prisoner or resident. If the money remains uncalled for for one year
15 after the prisoner's or resident's death or departure from the state correctional
16 institution, the superintendent shall deposit it in the general fund. If any prisoner
17 or resident leaves property, other than money, uncalled for at an a state correctional
18 institution for one year, the superintendent shall sell the property and deposit the

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1 proceeds in the general fund, donate the property to a public agency or private,
2 nonprofit organization or destroy the property. If any person satisfies the
3 department, within 5 years after the deposit, of his or her right to the deposit, the
4 department shall direct the department of administration to draw its warrant in
5 favor of the claimant and it shall charge the same to the appropriation made by s.
6 20.913 (3) (bm).

NOTE: SECTION 3 deletes references to the steward's role in taking delivery of property belonging to a prisoner or resident of an institution under the control of the DOC. The reference to steward is deleted, and replaced with a reference to the warden or superintendent of the institution, who, according to DOC, is the person who is responsible for this function. Further, the amendment to this statute permits unclaimed prisoner or resident property to be donated to a public agency or private, nonprofit organization or to be destroyed, in addition to permitting the property to be sold, as under current law. According to the DOC, this change is necessary because unclaimed property is often in poor condition and difficult to dispose of through sale.

7 **SECTION 4.** 302.385 of the statutes is amended to read:

8 **302.385 Correctional institution health care.** The standards for delivery
9 of health services in state correctional institutions governed under s. 301.02 shall be
10 based on the ~~essential standards of the American medical association standards for~~
11 ~~health services in prisons, published in July 1979 and standards for health services~~
12 ~~in juvenile correctional facilities, published in August 1979~~ standards of any
13 professional organization that establishes standards for health services in prisons
14 and that is recognized by the department.

NOTE: SECTION 4 provides that standards for delivery of health services in state correctional institutions shall be based on standards of any professional organization that establishes standards for health services in prisons and that is recognized by the DOC. According to the DOC, this revision to current law is necessary because the current reference to the American Medical Association (AMA) 1979 standards is outdated, because those references have been updated several times since 1979. In addition, there are several standard-setting bodies now in addition to the AMA. The DOC states that this amendment will allow the DOC to tailor its standards for delivery of health services by policies and procedures, instead of being tied to a specific standard in the statutes.

Further, SECTION 4 deletes references to standards for juvenile correctional facilities, since these facilities presently have a standard in s. 938.505, stats.

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1 **SECTION 5.** 973.09 (5) of the statutes is renumbered 973.09 (5) (intro.) and
2 amended to read:

3 973.09 (5) (intro.) When the period of probation for a probationer has satisfied
4 the conditions of his or her probation expired, the probationer shall be discharged
5 from probation and the department shall do all of the following:

6 (a) If the probationer was placed on probation for a felony, issue the probationer
7 a one of the following:

8 2. A certificate of final discharge, a copy of which shall be filed with the clerk
9 if, at the time of discharge, the probationer is not on probation or parole for another
10 felony. A certificate of final discharge under this subdivision shall list the civil rights
11 which have been restored to the probationer and the civil rights which have not been
12 restored to the probationer.

13 **SECTION 6.** 973.09 (5) (a) 1. of the statutes is created to read:

14 973.09 (5) (a) 1. A certificate of discharge from probation for the felony for
15 which he or she was placed on probation if, at the time of discharge, the probationer
16 is on probation or parole for another felony.

17 **SECTION 7.** 973.09 (5) (b) and (c) of the statutes are created to read:

18 973.09 (5) (b) If the probationer was placed on probation for a misdemeanor,
19 notify the probationer that his or her period of probation has expired.

20 (c) In all cases, notify the court that placed the probationer on probation that
21 the period of probation has expired.

NOTE: SECTIONS 5 to 7 change the wording of the statute relating to discharges from probation, and also change the circumstances under which certificates of final discharge from probation are issued to probationers. Under the amendments, a probationer is discharged from probation when the probationer's period of probation has expired. If the probationer had been on probation for a felony, the probationer is issued a certificate of final discharge which lists the civil rights which have been restored to the probationer. If the probationer had been on probation for a misdemeanor, no certificate would be issued; however, the probationer would be notified that the period of probation has

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expired. In all cases, the court that placed the probationer on probation would be notified that the period of probation had expired. According to the DOC, these changes are needed because: 1) a probationer may be discharged even if all the conditions of probation have not been satisfied; thus, the current statute does not reflect current practice; and 2) persons on probation for misdemeanors do not lose any civil rights, which obviates the need for a discharge document to be filed on their behalf. According to the DOC, these changes will reduce the DOC's workload in issuing probation certificates by about 50%.

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(END)