



2021 SENATE BILL 851

January 13, 2022 - Introduced by Senators JACQUE and STROEBEL, cosponsored by Representatives WICHGERS, SANFELIPPO, ARMSTRONG, BEHNKE, DUCHOW, GUNDRUM, KUGLITSCH, KRUG, MURPHY and DITTRICH. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to amend** 302.045 (2) (c), 302.05 (3) (a) 1., 302.113 (9g) (b) (intro.), 973.01
2 (3g) and 973.01 (3m); and **to create** 304.02 (1m) and 973.09 (3) (d) 7. of the
3 statutes; **relating to:** earned release from parole or extended supervision and
4 discharge from probation.

Analysis by the Legislative Reference Bureau

This bill specifies that an individual who is on probation for committing certain violent crimes may not be discharged early from probation, and an individual who is serving a sentence in prison for committing certain violent crimes does not qualify for programs that allow early release to parole or extended supervision.

Under current law, the court may discharge a person from probation after he or she has completed 50 percent of his or her probation period if he or she has met all the rules and conditions of probation. Under the bill, a person is not eligible to be discharged from probation under this provision if he or she is on probation for certain violent crimes.

Under current law, the Department of Corrections provides certain programs that allow inmates to qualify for release to parole or extended supervision regardless of the amount of time the inmate has served. Under current law, an inmate is ineligible for these programs if he or she is serving a sentence for certain violent crimes. The bill adds certain other violent crimes to the list of crimes that make an inmate ineligible for these programs.

Under current law, an inmate may petition for a reduced term of confinement in prison if that inmate has reached a certain age or has an extraordinary health

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condition. Under the bill, an inmate is ineligible for the reduced term of confinement based on age or an extraordinary health condition if the inmate is serving a sentence for certain violent crimes.

Under current law, DOC may use a special action release program to relieve crowding in state prisons by releasing certain inmates to parole. Under the bill, an inmate is not eligible for special action release if he or she is serving a sentence for certain violent crimes.

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:

1 **SECTION 1.** 302.045 (2) (c) of the statutes is amended to read:

2 302.045 (2) (c) The inmate is incarcerated regarding a violation other than a
3 crime specified in ch. 940 or s. 941.29 (1g) (a); a crime specified in s. 941.29 (1g) (b),
4 not including s. 951.02, 951.08, 951.09, or 951.095; or a crime under s. 948.02,
5 948.025, 948.03, 948.05, 948.051 (3), 948.055, 948.06, 948.07, 948.075, 948.08,
6 948.085, or 948.095.

7 **SECTION 2.** 302.05 (3) (a) 1. of the statutes is amended to read:

8 302.05 (3) (a) 1. The inmate is incarcerated regarding a violation other than
9 a crime specified in ch. 940 or s. 941.29 (1g) (a); a crime specified in s. 941.29 (1g) (b),
10 not including s. 951.02, 951.08, 951.09, or 951.095; or a crime under s. 948.02,
11 948.025, 948.03, 948.05, 948.051 (3), 948.055, 948.06, 948.07, 948.075, 948.08,
12 948.085, or 948.095.

13 **SECTION 3.** 302.113 (9g) (b) (intro.) of the statutes is amended to read:

14 302.113 (9g) (b) (intro.) An inmate who is serving a bifurcated sentence for a
15 crime other than a crime specified in s. 941.29 (1g) (a); a crime specified in s. 941.29
16 (1g) (b), not including s. 951.02, 951.08, 951.09, or 951.095; a crime under s. 948.02
17 (3), 948.055, 948.075, or 948.095; or a Class B felony may seek modification of the

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1 bifurcated sentence in the manner specified in par. (f) if he or she meets one of the
2 following criteria:

3 **SECTION 4.** 304.02 (1m) of the statutes is created to read:

4 304.02 **(1m)** A person who is serving a sentence for a crime specified in s. 941.29
5 (1g) (a); a crime specified in s. 941.29 (1g) (b), not including s. 951.02, 951.08, 951.09,
6 or 951.095; or a crime under s. 948.02 (3), 948.055, 948.075, or 948.095 is not eligible
7 for special action release under this section.

8 **SECTION 5.** 973.01 (3g) of the statutes is amended to read:

9 973.01 **(3g)** EARNED RELEASE PROGRAM ELIGIBILITY. When imposing a bifurcated
10 sentence under this section on a person convicted of a crime other than a crime
11 specified in ch. 940 or s. 941.29 (1g) (a); a crime specified in s. 941.29 (1g) (b), not
12 including s. 951.02, 951.08, 951.09, or 951.095; or a crime under s. 948.02, 948.025,
13 948.03, 948.05, 948.051 (3), 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, or
14 948.095, the court shall, as part of the exercise of its sentencing discretion, decide
15 whether the person being sentenced is eligible or ineligible to participate in the
16 earned release program under s. 302.05 (3) during the term of confinement in prison
17 portion of the bifurcated sentence.

18 **SECTION 6.** 973.01 (3m) of the statutes is amended to read:

19 973.01 **(3m)** CHALLENGE INCARCERATION PROGRAM ELIGIBILITY. When imposing
20 a bifurcated sentence under this section on a person convicted of a crime other than
21 a crime specified in ch. 940 or s. 941.29 (1g) (a); a crime specified in s. 941.29 (1g) (b),
22 not including s. 951.02, 951.08, 951.09, or 951.095; or a crime under s. 948.02,
23 948.025, 948.03, 948.05, 948.051 (3), 948.055, 948.06, 948.07, 948.075, 948.08,
24 948.085, or 948.095, the court shall, as part of the exercise of its sentencing
25 discretion, decide whether the person being sentenced is eligible or ineligible for the

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SECTION 6

1 challenge incarceration program under s. 302.045 during the term of confinement in
2 prison portion of the bifurcated sentence.

3 **SECTION 7.** 973.09 (3) (d) 7. of the statutes is created to read:

4 973.09 (3) (d) 7. The probationer is on probation for a violation other than a
5 crime specified in s. 941.29 (1g) (a); a crime specified in s. 941.29 (1g) (b), not
6 including s. 951.02, 951.08, 951.09, or 951.095; or a crime under s. 948.02 (3),
7 948.055, 948.075, or 948.095.

8 (END)