



1997 ASSEMBLY BILL 233

March 27, 1997 - Introduced by Representatives WALKER, PLALE, HOVEN, RILEY, LADWIG, ZIEGELBAUER, GREEN, FREESE, RYBA, HASENOHRL, NASS, MUSSER, SKINDRUD, LORGE, SERATTI, HUEBSCH, VRAKAS, F. LASEE, GUNDERSON and BRANDEMUEHL, cosponsored by Senators ROSENZWEIG, WELCH, FARROW, HUELSMAN, DRZEWIECKI and A. LASEE. Referred to Committee on Criminal Justice and Corrections.

- 1 **AN ACT** *to renumber and amend* 943.23 (1m); *to amend* 304.06 (1) (b), 304.071
2 (2) and 943.23 (1g); and *to create* 302.11 (1g) (e) of the statutes; **relating to:**
3 taking a vehicle without consent of the owner and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from taking a vehicle without the consent of the owner. If a person violates this prohibition while possessing a dangerous weapon and using or threatening to use force or the dangerous weapon (a crime often referred to as "carjacking"), he or she may be imprisoned for not more than 40 years. If the person causes great bodily harm to another person while committing a carjacking, he or she is subject to a presumptive minimum sentence of 10 years of imprisonment. (Under a law providing for a presumptive minimum sentence, a judge may give a lesser sentence if he or she decides that is appropriate and if he or she places reasons for the lesser sentence on the record at the sentencing hearing.) Finally, a person who causes the death of another while committing a carjacking must be sentenced to life imprisonment.

This bill provides that a person who is convicted of carjacking must be sentenced to at least one year of imprisonment. The person may not be placed on probation and the person is not eligible for parole until he or she has served at least one year in prison. The bill also provides that a person convicted of causing great bodily harm to another person while committing a carjacking is still subject to the 10-year presumptive minimum sentence, except that while a judge may decide to sentence the person to less than 10 years of imprisonment, the judge may not

ASSEMBLY BILL 233

sentence the person to less than one year of imprisonment and may not place the person on probation. Like a person convicted of carjacking, a person convicted of causing great bodily harm to another person while committing a carjacking who is sentenced to less than the 10-year presumptive minimum sentence is not eligible for parole until he or she has served at least one year in prison. The bill does not affect the sentences for persons convicted of causing the death of another while committing a carjacking.

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

1 **SECTION 1.** 302.11 (1g) (e) of the statutes is created to read:

2 302.11 **(1g)** (e) An inmate serving a term subject to s. 943.23 (1g) or (1m) (b) is
3 eligible for presumptive mandatory release under this subsection, except that the
4 inmate may not be released before he or she has served at least one year in prison.

5 **SECTION 2.** 304.06 (1) (b) of the statutes is amended to read:

6 304.06 **(1)** (b) Except as provided in sub. (1m) or s. 302.045 (3), 943.23 (1g) or
7 (1m), 961.49 (2) or 973.0135, the parole commission may parole an inmate of the
8 Wisconsin state prisons or any felon or any person serving at least one year or more
9 in a county house of correction or a county reforestation camp organized under s.
10 303.07, when he or she has served 25% of the sentence imposed for the offense, or 6
11 months, whichever is greater. Except as provided in s. 939.62 (2m) or 973.014, the
12 parole commission may parole an inmate serving a life term when he or she has
13 served 20 years, as modified by the formula under s. 302.11 (1) and subject to
14 extension using the formulas under s. 302.11 (2). The person serving the life term
15 shall be given credit for time served prior to sentencing under s. 973.155, including
16 good time under s. 973.155 (4). The secretary may grant special action parole
17 releases under s. 304.02. The department or the parole commission shall not provide
18 any convicted offender or other person sentenced to the department's custody any

ASSEMBLY BILL 233

1 parole eligibility or evaluation until the person has been confined at least 60 days
2 following sentencing.

3 **SECTION 3.** 304.071 (2) of the statutes is amended to read:

4 304.071 (2) If a prisoner is not eligible for parole under s. 939.62 (2m), 943.23
5 (1g) or (1m) (b), 961.49 (2), 973.014 (1) (c) or 973.032 (5), he or she is not eligible for
6 parole under this section.

7 **SECTION 4.** 943.23 (1g) of the statutes is amended to read:

8 943.23 (1g) Whoever, while possessing a dangerous weapon and by the use of,
9 or the threat of the use of, force or the weapon against another, intentionally takes
10 any vehicle without the consent of the owner is guilty of a Class B felony. A court shall
11 sentence a person who violates this subsection to at least one year in prison, but
12 otherwise the penalties for the crime apply. The court may not place the person on
13 probation. The person is not eligible for parole until he or she has served at least one
14 year, with no modification by the calculation under s. 302.11 (1).

15 **SECTION 5.** 943.23 (1m) of the statutes is renumbered 943.23 (1m) (a) and
16 amended to read:

17 943.23 (1m) (a) Whoever violates sub. (1g) and causes great bodily harm to
18 another is guilty of a Class B felony and, except as provided in par. (b), shall be
19 sentenced to not less than 10 years of imprisonment, ~~unless the~~.

20 (b) The sentencing court otherwise provides may impose a sentence under par.
21 (a) that is less than 10 years of imprisonment but may not impose a sentence of less
22 than one year in prison and may not place the person on probation. If the court ~~places~~
23 ~~the person on probation or~~ imposes a sentence less than the 10-year presumptive
24 minimum sentence under par. (a), it shall place its reasons for doing so on the record.

ASSEMBLY BILL 233

SECTION 5

1 A person sentenced under this paragraph is not eligible for parole until he or she has
2 served at least one year, with no modification by the calculation under s. 302.11 (1).

3 **SECTION 6. Initial applicability.**

4 (1) This act first applies to offenses occurring on the effective date of this
5 subsection.

6 (END)