



1999 ASSEMBLY BILL 84

February 4, 1999 – Introduced by Representatives GOETSCH, GUNDERSON, OWENS, RILEY, ALBERS, SYKORA, LA FAVE, SPILLNER, F. LASEE, ZIEGELBAUER, MUSSER and RYBA. Referred to Committee on Criminal Justice.

- 1 **AN ACT to create** 973.017 of the statutes; **relating to:** the factors to be considered
2 by a court when sentencing a person convicted of a crime.

Analysis by the Legislative Reference Bureau

Under current Wisconsin appellate court decisions, a court imposing a sentence on a person convicted of a crime must consider various factors. The three primary factors are: 1) the gravity of the offense; 2) the character of the convicted person; and 3) the need to protect the public. As part of these primary factors, the sentencing court may also consider such things as the vicious or aggravated nature of the crime, the person's past record of criminal offenses, the person's personality, character and social traits, the person's remorse, repentance and cooperativeness and the person's need for rehabilitative control. See, for example, *State v. Borrell*, 167 Wis. 2d 749, 773-74 (1992).

This bill codifies the factors that appellate case law requires a court to consider when imposing a sentence on a person convicted of a crime. The bill also specifies that when considering the character of the convicted person, the court must consider any efforts at rehabilitation made by the person after his or her arrest for the offense and before being sentenced.

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

- 3 **SECTION 1.** 973.017 of the statutes is created to read:

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1 **973.017 Factors to be considered at sentencing.** (1) When deciding
2 whether to impose a sentence or place a person on probation for conviction of a
3 criminal offense, a court shall consider the following factors:

4 (a) The gravity of the offense.

5 (b) The character of the person convicted of the offense, including any effort at
6 rehabilitation made by the person after his or her arrest for the offense and before
7 being sentenced or placed on probation.

8 (c) The need to protect the public.

9 **(2)** As part of its consideration of the factors specified in sub. (1), the court may
10 consider any of the following:

11 (a) The vicious or aggravated nature of the criminal offense.

12 (b) The degree of the person's culpability.

13 (c) The person's past record of criminal offenses.

14 (d) The person's personality, character and social traits, including the person's
15 history of undesirable behavior patterns, if any.

16 (e) The person's age, educational background and employment record.

17 (f) The person's demeanor at trial, if applicable.

18 (g) The person's remorse, repentance and cooperativeness.

19 (h) The person's need for rehabilitative control.

20 (i) The length of pretrial detention of the person, if applicable.

21 (j) The rights of the public.

22 (k) The results of any presentence investigation prepared under s. 972.15.

23 (L) Any other factor that the court determines is relevant.

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(END)