



## 2009 ASSEMBLY BILL 594

November 24, 2009 - Introduced by Representatives STASKUNAS, GUNDRUM, DANOU, BALLWEG, BERCEAU, BIES, BROOKS, GUNDERSON, KERKMAN, LEMAHIEU, MURSAU, A. OTT, PETROWSKI, SPANBAUER, TOWNSEND, TURNER and VOS, cosponsored by Senators PLALE, DARLING, SCHULTZ and HANSEN. Referred to Committee on Corrections and the Courts.

1     **AN ACT** *to amend* 51.37 (10) (dm), 51.37 (10) (dx), 302.1135 (7) (a), 302.114 (6)  
2           (a), 304.06 (1) (d) 1., 304.06 (1) (d) 4., 304.06 (1) (e), 304.06 (1) (eg), 304.06 (1)  
3           (em), 304.06 (1) (f), 304.09 (3), 304.10 (2), 971.17 (4m) (c), 971.17 (6m) (c) and  
4           971.17 (6m) (d); and *to create* 51.37 (10) (dg) 4., 301.046 (4) (b) 3., 301.048 (4m)  
5           (b) 3., 301.38 (2) (c), 302.105 (2) (c), 303.068 (4m) (b) 3., 304.06 (1) (c) 4., 304.063  
6           (2) (c), 304.09 (2) (d), 971.17 (4m) (b) 3. and 971.17 (6m) (b) 3. of the statutes;  
7           **relating to:** notifying a law enforcement agency when certain persons are  
8           released from the custody of the Department of Corrections.

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### *Analysis by the Legislative Reference Bureau*

Under current law, when a person who committed a crime petitions for release from a correctional facility, escapes from a correctional facility, is released from extended supervision or parole, petitions for a pardon, is placed into a community setting, or is conditionally or permanently released from a mental health facility, the victim of the person's crime is notified. If the victim of the crime was killed, the victim's family receives notification. If the notification relates to a petition for early release, sentence modification, or a pardon, the victim or the victim's family may testify against the person's petition.

Under this bill, if the victim was a law enforcement officer and was killed by the person, the law enforcement agency that employed the victim and the head of the

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bargaining unit that represented the victim must be notified under the same circumstances as a victim or the family of the victim. The bill affords the law enforcement agency and the head of the bargaining unit the same opportunities to testify against the person's petition for early release, sentence modification, or a pardon.

For further information see the *state and local* 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.** 51.37 (10) (dg) 4. of the statutes is created to read:

2           51.37 **(10)** (dg) 4. If the patient committed an offense described in s. 940.01,  
3 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the victim was a law  
4 enforcement officer, as defined in s. 102.475 (8) (c), notify the law enforcement agency  
5 on which the officer served and the head of the collective bargaining unit, if any, for  
6 that law enforcement agency.

7           **SECTION 2.** 51.37 (10) (dm) of the statutes is amended to read:

8           51.37 **(10)** (dm) 1. The notice under par. (dg) shall inform the offices and ~~person~~  
9 persons under par. (dg) 1. to ~~3.~~ 4. of the patient's name and of the date the patient  
10 will begin the home visit or leave. The department shall provide notice under this  
11 paragraph for a patient's first extended home visit or leave and, upon request, for  
12 subsequent extended home visits or leaves.

13           2. The department shall send the notice, postmarked at least 7 days before the  
14 patient begins the extended home visit or leave, to the last-known ~~address~~ addresses  
15 of the offices and ~~person~~ persons under par. (dg) 1. to ~~3.~~ 4.

16           3. If the notice is for a first extended home visit or leave, the notice shall inform  
17 the offices and ~~person~~ persons under par. (dg) 1. to ~~3.~~ 4. that notification of  
18 subsequent extended home visits or leaves will be provided only upon request.

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1           **SECTION 3.** 51.37 (10) (dx) of the statutes is amended to read:

2           51.37 **(10)** (dx) The department shall design and prepare cards for persons  
3 specified in par. (dg) 3. and 4. to send to the department. The cards shall have space  
4 for these persons to provide their names and addresses, the name of the applicable  
5 patient and any other information the department determines is necessary. The  
6 department shall provide the cards, without charge, to district attorneys. District  
7 attorneys shall provide the cards, without charge, to persons specified in par. (dg) 3.  
8 and 4. These persons may send completed cards to the department. All  
9 departmental records or portions of records that relate to mailing addresses of these  
10 persons are not subject to inspection or copying under s. 19.35 (1).

11           **SECTION 4.** 301.046 (4) (b) 3. of the statutes is created to read:

12           301.046 **(4)** (b) 3. If the prisoner was convicted of an offense under s. 940.01,  
13 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the victim was a law  
14 enforcement officer, as defined in s. 102.475 (8) (c), the law enforcement agency on  
15 which the officer served and the head of the collective bargaining unit, if any, for that  
16 law enforcement agency.

17           **SECTION 5.** 301.048 (4m) (b) 3. of the statutes is created to read:

18           301.048 **(4m)** (b) 3. If the prisoner was convicted of an offense under s. 940.01,  
19 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the victim was a law  
20 enforcement officer, as defined in s. 102.475 (8) (c), the law enforcement agency on  
21 which the officer served and the head of the collective bargaining unit, if any, for that  
22 law enforcement agency.

23           **SECTION 6.** 301.38 (2) (c) of the statutes is created to read:

24           301.38 **(2)** (c) If the prisoner was convicted of an offense under s. 940.01, 940.02,  
25 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the victim was a law

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1 enforcement officer, as defined in s. 102.475 (8) (c), the law enforcement agency on  
2 which the officer served and the head of the collective bargaining unit, if any, for that  
3 law enforcement agency.

4 **SECTION 7.** 302.105 (2) (c) of the statutes is created to read:

5 302.105 (2) (c) If the inmate was convicted of an offense under s. 940.01, 940.02,  
6 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the victim was a law  
7 enforcement officer, as defined in s. 102.475 (8) (c), the law enforcement agency on  
8 which the officer served and the head of the collective bargaining unit, if any, for that  
9 law enforcement agency.

10 **SECTION 8.** 302.1135 (7) (a) of the statutes, as affected by 2009 Wisconsin Act  
11 28, is amended to read:

12 302.1135 (7) (a) In this subsection, “victim” has the meaning given in s. 950.02  
13 (4) and includes, if the inmate was convicted of an offense under s. 940.01, 940.02,  
14 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the person killed was a law  
15 enforcement officer, as defined in s. 102.475 (8) (c), the law enforcement agency on  
16 which the officer served and the head of the collective bargaining unit, if any, for that  
17 law enforcement agency.

18 **SECTION 9.** 302.114 (6) (a) of the statutes is amended to read:

19 302.114 (6) (a) In this subsection, “victim” has the meaning given in s. 950.02  
20 (4) and includes, if the inmate was convicted of an offense under s. 940.01, 940.02,  
21 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the person killed was a law  
22 enforcement officer, as defined in s. 102.475 (8) (c), the law enforcement agency on  
23 which the officer served and the head of the collective bargaining unit, if any, for that  
24 law enforcement agency.

25 **SECTION 10.** 303.068 (4m) (b) 3. of the statutes is created to read:

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1           303.068 (4m) (b) 3. If the inmate was convicted of an offense under s. 940.01,  
2           940.02, 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the victim was a law  
3           enforcement officer, as defined in s. 102.475 (8) (c), the law enforcement agency on  
4           which the officer served and the head of the collective bargaining unit, if any, for that  
5           law enforcement agency.

6           **SECTION 11.** 304.06 (1) (c) 4. of the statutes is created to read:

7           304.06 (1) (c) 4. If the inmate was convicted of an offense under s. 940.01,  
8           940.02, 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the victim was a law  
9           enforcement officer, as defined in s. 102.475 (8) (c), the law enforcement agency on  
10          which the officer served and the head of the collective bargaining unit, if any, for that  
11          law enforcement agency.

12          **SECTION 12.** 304.06 (1) (d) 1. of the statutes, as affected by 2009 Wisconsin Act  
13          28, is amended to read:

14          304.06 (1) (d) 1. The notice under par. (c) shall inform the offices and persons  
15          under par. (c) 1. to ~~3.~~ 4. of the manner in which they may provide written statements  
16          under this subsection, shall inform persons under par. (c) 3. or 4. of the manner in  
17          which they may attend interviews or hearings and make statements under par. (eg)  
18          and shall inform persons under par. (c) 3. or 4. who are or who represented, pursuant  
19          to par. (c) 4., victims, or family members of victims, of crimes specified in s. 940.01,  
20          940.03, 940.05, 940.225 (1), (2), or (3), 948.02 (1) or (2), 948.025, 948.06 or 948.07 of  
21          the manner in which they may have direct input in the decision-making process  
22          under par. (em) for parole or release to extended supervision. The earned release  
23          review commission shall provide notice under this paragraph for an inmate's first  
24          application for parole or release to extended supervision and, upon request, for  
25          subsequent applications for parole or release to extended supervision.

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1           **SECTION 13.** 304.06 (1) (d) 4. of the statutes, as affected by 2009 Wisconsin Act  
2 28, is amended to read:

3           304.06 (1) (d) 4. If the notice is for a first application for parole or release to  
4 extended supervision, the notice shall inform the offices and persons under par. (c)  
5 1. to ~~3.~~ 4. that notification of subsequent applications for parole or release to extended  
6 supervision will be provided only upon request.

7           **SECTION 14.** 304.06 (1) (e) of the statutes, as affected by 2009 Wisconsin Act 28,  
8 is amended to read:

9           304.06 (1) (e) The earned release review commission shall permit any office or  
10 person under par. (c) 1. to ~~3.~~ 4. to provide written statements. The earned release  
11 review commission shall give consideration to any written statements provided by  
12 any such office or person and received on or before the date specified in the notice.  
13 This paragraph does not limit the authority of the earned release review commission  
14 to consider other statements or information that it receives in a timely fashion.

15           **SECTION 15.** 304.06 (1) (eg) of the statutes, as affected by 2009 Wisconsin Act  
16 28, is amended to read:

17           304.06 (1) (eg) The earned release review commission shall permit any person  
18 under par. (c) 3. or 4. to attend any interview or hearing on the application for parole  
19 or release to extended supervision of an applicable inmate and to make a statement  
20 at that interview or hearing.

21           **SECTION 16.** 304.06 (1) (em) of the statutes, as affected by 2009 Wisconsin Act  
22 28, is amended to read:

23           304.06 (1) (em) The earned release review commission shall promulgate rules  
24 that provide a procedure to allow any person who is a victim, or a family member of  
25 a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1), (2), or (3),

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1 948.02 (1) or (2), 948.025, 948.06 or 948.07 and to allow a person specified under par.  
2 (c) 4. to have direct input in the decision-making process for parole or release to  
3 extended supervision.

4 **SECTION 17.** 304.06 (1) (f) of the statutes, as affected by 2009 Wisconsin Act 28,  
5 is amended to read:

6 304.06 (1) (f) The earned release review commission shall design and prepare  
7 cards for persons specified in par. (c) 3. and 4. to send to the commission. The cards  
8 shall have space for these persons to provide their names and addresses, the name  
9 of the applicable prisoner and any other information the earned release review  
10 commission determines is necessary. The earned release review commission shall  
11 provide the cards, without charge, to district attorneys. District attorneys shall  
12 provide the cards, without charge, to persons specified in par. (c) 3. and 4. These  
13 persons may send completed cards to the earned release review commission. All  
14 commission records or portions of records that relate to mailing addresses of these  
15 persons are not subject to inspection or copying under s. 19.35 (1). Before any written  
16 statement of a person specified in par. (c) 3. or 4. is made a part of the documentary  
17 record considered in connection with a hearing for parole, or release to extended  
18 supervision under this section, the earned release review commission shall  
19 obliterate from the statement all references to the mailing addresses of the person.  
20 A person specified in par. (c) 3. or 4. who attends an interview or hearing under par.  
21 (eg) may not be required to disclose at the interview or hearing his or her mailing  
22 addresses.

23 **SECTION 18.** 304.063 (2) (c) of the statutes is created to read:

24 304.063 (2) (c) If the prisoner was convicted of an offense under s. 940.01,  
25 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the victim was a law

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1 enforcement officer, as defined in s. 102.475 (8) (c), the law enforcement agency on  
2 which the officer served and the head of the collective bargaining unit, if any, for that  
3 law enforcement agency.

4 **SECTION 19.** 304.09 (2) (d) of the statutes is created to read:

5 304.09 (2) (d) If the convict was convicted of an offense under s. 940.01, 940.02,  
6 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the victim was a law  
7 enforcement officer, as defined in s. 102.475 (8) (c), the law enforcement agency on  
8 which the officer served and the head of the collective bargaining unit, if any, for that  
9 law enforcement agency.

10 **SECTION 20.** 304.09 (3) of the statutes is amended to read:

11 304.09 (3) The notice shall inform the persons under sub. (2) of the manner in  
12 which they may provide written statements or participate in any applicable hearing.  
13 The applicant shall serve notice on the persons under sub. (2) (a) and (b) at least 3  
14 weeks before the hearing of the application. The governor shall make a reasonable  
15 attempt to serve notice on the ~~person~~ persons under sub. (2) (c) and (d) at least 3  
16 weeks before the hearing of the application. The notice shall be published at least  
17 once each week for 2 successive weeks before the hearing in a newspaper of general  
18 circulation in the county where the offense was committed. If there is no such  
19 newspaper, the notice shall be posted in a conspicuous place on the door of the  
20 courthouse of the county for 3 weeks before the hearing and published once each  
21 week for 2 consecutive weeks before the hearing in a newspaper published in an  
22 adjoining county. Publication as required in this subsection shall be completed by  
23 a date designated by the governor. The date shall be a reasonable time prior to the  
24 hearing date.

25 **SECTION 21.** 304.10 (2) of the statutes is amended to read:



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1           304.10 (2) When a victim ~~or~~, member of the victim's family, or person specified  
2 in s. 304.09 (2) (d) receives notice under s. 304.09 (3), he or she may provide the  
3 governor with written statements indicating his or her views regarding the  
4 application and stating any circumstances within his or her knowledge in  
5 aggravation or extenuation of the applicant's guilt. Upon receipt of any such  
6 statement, the governor shall place the statement with the other pardon application  
7 papers.

8           **SECTION 22.** 971.17 (4m) (b) 3. of the statutes is created to read:

9           971.17 (4m) (b) 3. If the defendant was charged with an offense under s. 940.01,  
10 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the victim was a law  
11 enforcement officer, as defined in s. 102.475 (8) (c), notify the law enforcement agency  
12 on which the officer served and the head of the collective bargaining unit, if any, for  
13 that law enforcement agency.

14           **SECTION 23.** 971.17 (4m) (c) of the statutes is amended to read:

15           971.17 (4m) (c) The notice under par. (b) shall inform the department of  
16 corrections and the ~~person~~ persons under par. (b) 1. and 3. of the defendant's name  
17 and conditional release date. The district attorney shall send the notice, postmarked  
18 no later than 7 days after the court orders the conditional release under this section,  
19 to the department of corrections and to the last-known ~~address~~ addresses of the  
20 ~~person~~ persons under par. (b) 1. and 3.

21           **SECTION 24.** 971.17 (6m) (b) 3. of the statutes is created to read:

22           971.17 (6m) (b) 3. If the defendant was charged with an offense under s. 940.01,  
23 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, or 940.10 and the victim was a law  
24 enforcement officer, as defined in s. 102.475 (8) (c), notify the law enforcement agency

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1 on which the officer served and the head of the collective bargaining unit, if any, for  
2 that law enforcement agency.

3 **SECTION 25.** 971.17 (6m) (c) of the statutes is amended to read:

4 971.17 **(6m)** (c) The notice under par. (b) shall inform the department of  
5 corrections and the ~~person~~ persons under par. (b) 1. and 3. of the defendant's name  
6 and termination or discharge date. The department of health services shall send the  
7 notice, postmarked at least 7 days before the defendant's termination or discharge  
8 date, to the department of corrections and to the last-known ~~address~~ addresses of  
9 the ~~person~~ persons under par. (b) 1. and 3.

10 **SECTION 26.** 971.17 (6m) (d) of the statutes is amended to read:

11 971.17 **(6m)** (d) The department of health services shall design and prepare  
12 cards for persons specified in par. (b) 1. and 3. to send to the department. The cards  
13 shall have space for these persons to provide their names and addresses, the name  
14 of the applicable defendant and any other information the department determines  
15 is necessary. The department shall provide the cards, without charge, to district  
16 attorneys. District attorneys shall provide the cards, without charge, to persons  
17 specified in par. (b) 1. and 3. These persons may send completed cards to the  
18 department. All departmental records or portions of records that relate to mailing  
19 addresses of these persons are not subject to inspection or copying under s. 19.35 (1),  
20 except as needed to comply with a request under sub. (4m) (d) or s. 301.46 (3) (d).

21 **SECTION 27. Initial applicability.**

22 (1) This act first applies to offenses that are committed on the effective date of  
23 this subsection.

24

(END)