



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0522/2
CMH:amn

2017 ASSEMBLY BILL 796

December 27, 2017 - Introduced by Representatives GOYKE, KRUG, MURSAU, BOWEN, BROSTOFF, BERCEAU, ANDERSON, RIEMER, CONSIDINE, KOLSTE, OHNSTAD, KESSLER, C. TAYLOR, POPE, SUBECK, SARGENT, ZAMARRIPA, SPREITZER and BILLINGS, cosponsored by Senators LARSON, L. TAYLOR, WIRCH and RISSER. Referred to Committee on Corrections.

1 **AN ACT** *to renumber* 973.10 (2) (a) and (b); *to renumber and amend* 302.113
2 (9) (ag) and 973.10 (2) (intro.); *to amend* 302.113 (9) (am), 302.113 (9) (b),
3 302.113 (9) (c) and 808.075 (4) (g) 3.; and *to create* 302.113 (9) (ag) 1. and
4 302.113 (9) (am) 2. a. of the statutes; **relating to:** maximum period of
5 imprisonment following revocation of extended supervision or probation.

Analysis by the Legislative Reference Bureau

Under this bill, if a person released to extended supervision or a person on probation violates a condition of extended supervision or probation, his or her extended supervision or probation may be revoked. Under this bill, the period of imprisonment following revocation may not exceed 30 days unless the person has committed three or more violations during his or her release, unless the violation is a crime or a violation of a condition that the person not contact a specified individual, unless the person has absconded, or unless the person is registered with the Department of Corrections as a sex offender. This bill does not change current law regarding the maximum period of imprisonment following revocation if the person has committed three or more violations during his or her release, if the violation was a crime or a violation of a condition not to contact a specified individual, if the person absconded, or if the person is registered as a sex offender. The maximum period for these persons remains the time remaining on the bifurcated sentences for a person

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on extended supervision or the time imposed by the sentencing court for a person on probation.

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

1 **SECTION 1.** 302.113 (9) (ag) of the statutes is renumbered 302.113 (9) (ag)
2 (intro.) and amended to read:

3 302.113 (9) (ag) (intro.) In this subsection “~~reviewing~~:

4 2. “Reviewing authority” means the division of hearings and appeals in the
5 department of administration, upon proper notice and hearing, or the department
6 of corrections, if the person on extended supervision waives a hearing.

7 **SECTION 2.** 302.113 (9) (ag) 1. of the statutes is created to read:

8 302.113 (9) (ag) 1. “Crime” has the meaning given in s. 939.12.

9 **SECTION 3.** 302.113 (9) (am) of the statutes is amended to read:

10 302.113 (9) (am) 1. If a person released to extended supervision under this
11 section violates a condition of extended supervision, the reviewing authority may
12 revoke the extended supervision of the person.

13 2. If the extended supervision of the person is revoked, the reviewing authority
14 shall order the person to be returned to prison for any specified period of time that
15 does not exceed one of the following:

16 b. If the person has committed 3 or more independent violations during his or
17 her term of extended supervision, if the condition the person violated was a condition
18 that the person not contact any specified individual, if the person was required to
19 register as a sex offender under s. 301.45, or if, when the person violated the
20 condition of extended supervision, the person also allegedly committed a crime or the
21 person absconded, the time remaining on the bifurcated sentence. ~~The time~~

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1 ~~(ag) 3. “Time remaining on the bifurcated sentence”~~ is the total length of the
2 bifurcated sentence, less time served by the person in confinement under the
3 sentence before release to extended supervision under sub. (2) and less all time
4 served in confinement for previous revocations of extended supervision under the
5 sentence.

6 ~~(am) 3.~~ The order returning a person to prison under ~~this paragraph~~ subd. 2.
7 shall provide the person whose extended supervision was revoked with credit in
8 accordance with ss. 304.072 and 973.155.

9 **SECTION 4.** 302.113 (9) (am) 2. a. of the statutes is created to read:

10 302.113 (9) (am) 2. a. Except as provided in subd. 2. b., 30 days.

11 **SECTION 5.** 302.113 (9) (b) of the statutes is amended to read:

12 302.113 (9) (b) A person who is returned to prison after revocation of extended
13 supervision shall be incarcerated for the entire period ~~of time~~ specified by the order
14 under par. (am) 2. The period ~~of time~~ specified under par. (am) 2. may be extended
15 in accordance with sub. (3). If a person is returned to prison under par. (am) 2. for
16 a period ~~of time~~ that is less than the time remaining on the bifurcated sentence, the
17 person shall be released to extended supervision after he or she has served the period
18 ~~of time~~ specified by the order under par. (am) 2. and any periods of extension imposed
19 in accordance with sub. (3).

20 **SECTION 6.** 302.113 (9) (c) of the statutes is amended to read:

21 302.113 (9) (c) A person who is subsequently released to extended supervision
22 after service of the period ~~of time~~ specified by the order under par. (am) 2. is subject
23 to all conditions and rules under sub. (7) and, if applicable, sub. (7m) until the
24 expiration of the time remaining ~~extended supervision portion of~~ on the bifurcated
25 sentence. ~~The remaining extended supervision portion of the bifurcated sentence is~~

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1 ~~the total length of the bifurcated sentence, less the time served by the person in~~
2 ~~confinement under the bifurcated sentence before release to extended supervision~~
3 ~~under sub. (2) and less all time served in confinement for previous revocations of~~
4 ~~extended supervision under the bifurcated sentence.~~

5 **SECTION 7.** 808.075 (4) (g) 3. of the statutes is amended to read:

6 808.075 (4) (g) 3. Imposition of sentence upon revocation of probation under s.
7 973.10 (2) (a) (bm) 2. a.

8 **SECTION 8.** 973.10 (2) (intro.) of the statutes is renumbered 973.10 (2) (am) and
9 amended to read:

10 973.10 (2) (am) If a probationer violates the conditions of probation, the
11 department of corrections may initiate a proceeding before the division of hearings
12 and appeals in the department of administration. Unless waived by the probationer,
13 a hearing examiner for the division shall conduct an administrative hearing and
14 enter an order either revoking or not revoking probation. Upon request of either
15 party, the administrator of the division shall review the order. If the probationer
16 waives the final administrative hearing, the secretary of corrections shall enter an
17 order either revoking or not revoking probation.

18 (bm) 1. If probation is revoked, the probationer may not be ordered to prison
19 for a period that exceeds 30 days except as provided in subd. 2.

20 2. If probation is revoked, the department shall do one of the following if the
21 person has committed 3 or more independent violations during his or her term of
22 probation, if the condition the person violated was a condition that the person not
23 contact any specified individual, if the probationer was required to register as a sex
24 offender under s. 301.45, or if, when the probationer violated the condition of

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1 probation, the probationer allegedly committed a crime, as defined in s. 939.12, or
2 absconded:

3 **SECTION 9.** 973.10 (2) (a) and (b) of the statutes are renumbered 973.10 (2) (bm)
4 2. a. and b.

5 **SECTION 10. Initial applicability.**

6 (1) This act first applies to an order entered on the effective date of this
7 subsection.

8 (END)