

1983 Assembly Bill 1011

Date of enactment: **May 10, 1984**
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1983 Wisconsin Act 528

AN ACT *to repeal 53.11 (3) (b) and 53.12 (3); to renumber 53.12 (4); to renumber and amend 53.11 (2), 53.11 (2a), 53.11 (3) (a) and 53.12 (2); to amend 53.11 (title), 53.11 (1), 53.11 (4), 53.12 (title), 56.07 (3), 56.07 (9), 57.06 (1), 57.06 (3), 57.11 (3), 227.22 (4), 971.11 (6), 973.04, 973.15 (6) and 973.155 (4); to repeal and recreate 53.11 (5) to (8) and 57.072; and to create 53.11 (1m), 53.11 (2) (b) and (c), 53.11 (9) and 976.05 (10) (c) of the statutes, relating to parole, sentence reduction, good time credits, probation and granting rule-making authority.*

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

SECTION 1. 53.11 (title) of the statutes is amended to read:

53.11 (title) Mandatory release.

SECTION 2. 53.11 (1) of the statutes, as affected by 1983 Wisconsin Act 66, is amended to read:

53.11 (1) The warden or superintendent shall keep a record of the conduct of each inmate, specifying each infraction of the rules. Each Except as provided in subs. (1m) and (7), each inmate who acts properly and performs all required duties is entitled to good time or diminution of sentence at a rate of one day for each 2 days the inmate serves mandatory release on parole by the department. The mandatory release date is established at two-thirds of the sentence. Any calculations under this subsection or sub. (2) (b) resulting in fractions of a day shall be rounded in the inmate's favor to a whole day.

SECTION 3. 53.11 (1m) of the statutes is created to read:

53.11 (1m) An inmate serving a life term is not entitled to mandatory release. The department may parole the inmate as specified in s. 57.06 (1).

SECTION 4. 53.11 (2) of the statutes, as affected by 1983 Wisconsin Act 66, is renumbered 53.11 (2) (a) and amended to read:

53.11 (2) (a) Any inmate who violates any regulation of the prison or refuses or neglects to perform the duties required of him or her shall be subject to forfeiture of any good time previously granted or earned under this chapter, 10 days for the first offense, 20 days for the 2nd offense and 40 days for the 3rd or each subsequent offense. Good time so forfeited shall not be restored. In addition, the department, or the warden or the superintendent, with the approval of the department, may cancel all or part of such good time required or assigned duties is subject to extension of the mandatory release date as follows: 10 days for the first offense, 20 days for the 2nd offense and 40 days for the 3rd or each subsequent offense.

SECTION 5. 53.11 (2) (b) and (c) of the statutes are created to read:

53.11 (2) (b) In addition to the sanctions under par. (a), any inmate who is placed in adjustment, program or controlled segregation status shall have his or her mandatory release date extended by a number of days equal to 50% of the number of days spent in segregation status. In administering this paragraph, the department shall use the definition of adjustment, program or controlled segregation status under departmental rules in effect at the time an inmate is placed in that status.

(c) No extension under this section may require the inmate to serve more days in prison than provided for under the sentence.

SECTION 6. 53.11 (2a) of the statutes, as affected by 1983 Wisconsin Act 66, is renumbered 53.11 (7) (a) and amended to read:

53.11 (7) (a) ~~A parolee, other than a parolee eligible for release under sub. (7) (a), is eligible to earn good time at the rate prescribed in this section. The department may, upon proper notice and hearing forfeit all or part of the good time previously earned under this chapter, for violation of the conditions of parole, whether or not the parole is revoked for the misconduct, return a parolee released under either sub. (1) or s. 57.06 (1) to prison for a period up to the remainder of the sentence for a violation of the conditions of parole. The remainder of the sentence is the entire sentence, less time served in custody prior to parole. The revocation order shall provide the parolee with credit in accordance with ss. 57.072 and 973.155.~~

SECTION 7. 53.11 (3) (a) of the statutes, as affected by 1983 Wisconsin Act 66, is renumbered 53.11 (3) and amended to read:

~~53.11 (3) For the purpose of computing good time earned or forfeited under this section, separate~~ All consecutive sentences shall be construed computed as one continuous sentence, ~~regardless of when the convictions occurred and when the sentences were imposed, if the crimes for which those sentences were imposed occurred before the person was committed under any of the sentences. Each separate consecutive sentence imposed for a crime which is committed while the person is serving a sentence or is on parole shall be deemed a first sentence for purposes of computing good time. No more good time may be granted for any one year than is specified in sub. (1).~~

SECTION 8. 53.11 (3) (b) of the statutes is repealed.

SECTION 9. 53.11 (4) of the statutes is amended to read:

53.11 (4) An inmate may waive ~~his good time entitlement to mandatory release.~~

SECTION 10. 53.11 (5) to (8) of the statutes are repealed and recreated to read:

53.11 (5) Before a person is released on parole under this section, the department shall so notify the municipal police department and the county sheriff for the area where the person will be residing. The notification requirement does not apply if a municipal department or county sheriff submits to the department a written statement waiving the right to be notified.

(6) Any inmate released on parole under sub. (1) or s. 57.06 (1) is subject to all conditions and rules of parole until the expiration of the sentence or until he or she is discharged by the department. Except as provided in ch. 57, releases from prison shall be on the Tuesday or Wednesday preceding the release date. The department may discharge a parolee on or after his or her mandatory release date or after 2 years of supervision.

(7) (b) A parolee returned to prison for violation of the conditions of parole shall be incarcerated for the entire period of time determined by the department under par. (a), unless paroled earlier under par. (c). The parolee is not subject to mandatory release under sub. (1). The period of time determined under par. (a) may be extended in accordance with sub. (2).

(c) The department may subsequently parole, under s. 57.06 (1), a parolee who is returned to prison for violation of a condition of parole.

(d) A parolee who is subsequently released either after service of the period of time determined by the department under par. (a) or by a grant of parole under par. (c) is subject to all conditions and rules of parole until expiration of sentence or discharge by the department.

(8) The department may adopt rules under ch. 227 establishing guidelines and criteria for the exercise of discretion under this section.

SECTION 11. 53.11 (9) of the statutes is created to read:

53.11 (9) This section applies to persons committing offenses occurring on or after June 1, 1984, or persons filing requests in accordance with 1983 Wisconsin Act (this act), section 29 (2) or (3).

SECTION 12. 53.12 (title) of the statutes, as affected by 1983 Wisconsin Act 66, is amended to read:

53.12 (title) Reward of merit.

SECTION 13. 53.12 (2) of the statutes is renumbered 53.12 (1) and amended to read:

53.12 (1) The department may provide by rule for the payment of wages money to inmates. The rate ~~of such wages~~ may vary for different prisoners in accordance with the pecuniary value of the work performed, willingness, and good behavior. The payment of wages money to inmates working in the prison industries shall be governed by s. 56.01 (4).

SECTION 14. 53.12 (3) of the statutes is repealed.

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SECTION 15. 53.12 (4) of the statutes, as affected by 1983 Wisconsin Act 27, is renumbered 53.12 (2).

SECTION 16. 56.07 (3) of the statutes, as affected by 1983 Wisconsin Act 66, is amended to read:

56.07 (3) Each prisoner serving a sentence under ~~s. 52.05 or s. 939.62~~ shall receive time credits at the rate of one day for each 6 days served this section who could have been sentenced to a state prison is subject to s. 53.11 (1) and (2). Each prisoner serving such a sentence may be transferred to a state prison upon recommendation of the superintendent and approval of the department. The county board may, pursuant to its regulations approved by the department, extend to all other prisoners similar pecuniary earnings and rewards, subject to similar conditions and limitations as those prescribed by s. 53.12 for prisoners in a the Wisconsin state prison. ~~Any inmate who violates any regulation of the camp shall forfeit from good time previously earned 5 days for the first offense, 10 days for the 2nd offense and 20 days for the 3rd or each subsequent offense. Good time so forfeited shall not be restored. In addition, the superintendent with the approval of the county board committee appointed under s. 28.11 may cancel all or part of such good time prisons.~~

SECTION 17. 56.07 (9) of the statutes is amended to read:

56.07 (9) Inmates of a reforestation camp sentenced to ~~such the~~ camp for less than one year or in lieu of a county jail sentence ~~shall be~~ are subject to ~~the same diminution of time as is provided in s. 53.43.~~

SECTION 18. 57.06 (1) of the statutes, as affected by 1983 Wisconsin Act 64, is amended to read:

57.06 (1) Except as provided in sub. (1m), the department may parole an inmate of the Wisconsin state prisons or any felon or any person serving at least one year or more in the Milwaukee county house of correction or a county reforestation camp organized under s. 56.07, when he or she has served 25% of the sentence imposed for the offense, or 6 months, whichever is greater, ~~or when he or she has served 20 years of a life term less the deduction earned for good conduct as provided in s. 53.11.~~ The department may parole an inmate serving a life term when he or she has served 20 years, as modified by the formula under s. 53.11 (1) and subject to extension using the formulas under s. 53.11 (2). The person serving the life term shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The department shall not provide any convicted offender or other person sentenced to its custody any parole eligibility or evaluation until the person has been confined at least 60 days following sentencing. The district attorney and judge who tried the inmate shall be notified in writing at least 10 days before the first application for parole is acted upon and if they so request be given like notice of each subsequent application. Before a person is released on parole under this subsection, the department shall so notify the municipal police department and the county sheriff for the area where the person will be residing. The notification requirement does not apply if a municipal department or county sheriff submits to the department a written statement waiving the right to be notified.

SECTION 19. 57.06 (3) of the statutes is amended to read:

57.06 (3) Every paroled prisoner remains in the legal custody of the department unless otherwise provided by the department. If the department alleges that any condition or rule of parole has been violated by the prisoner, the department may take physical custody of the prisoner for the investigation of the alleged violation. If the department is satisfied that any condition or rule of parole has been violated it shall afford the prisoner such administrative hearings as are required by law. The final administrative hearing shall be held before hearing examiners who are licensed to practice law in this state. The hearing examiners shall enter an order revoking or not revoking parole which order shall be, upon request by either party, reviewed by the secretary. If the examiner or the secre-

tary upon review finds that the prisoner has violated the rules or conditions of parole, the examiner, or the secretary upon review, may order the prisoner returned to prison to continue serving his or her sentence, or to continue on parole, ~~and in either case, may order that the prisoner forfeit good time as provided in s. 53.11 (2a).~~ If the prisoner claims or appears to be indigent, the department shall refer the prisoner to the authority for indigency determinations specified under s. 977.07 (1).

SECTION 20. 57.072 of the statutes is repealed and recreated to read:

57.072 Period of probation or parole tolled. (1) If the department determines that a parolee or probationer has violated the terms of his or her supervision, the department may toll all or any part of the period of time between the date of the violation and the date an order of revocation or reinstatement is entered, subject to credit according to the terms of s. 973.155 for any time the parolee or probationer spent confined in connection with the violation.

(2) If a parolee or probationer is alleged to have violated the terms of his or her supervision but the department determines that the alleged violation was not proven, the period between the alleged violation and the determination shall be treated as service of the probationary or parole period.

(3) Except as provided in s. 973.09 (3) (b), the department preserves jurisdiction over a probationer or parolee if it commences an investigation, issues a violation report or issues an apprehension request concerning an alleged violation prior to the expiration of the probationer's or parolee's term of supervision.

(4) The sentence of a revoked parolee resumes running on the day he or she is received at a correctional institution subject to sentence credit for the period of custody in a jail, correctional institution or any other detention facility pending revocation according to the terms of s. 973.155.

(5) The sentence of a revoked probationer shall be credited with the period of custody in a jail, correctional institution or any other detention facility pending revocation and commencement of sentence according to the terms of s. 973.155.

SECTION 21. 57.11 (3) of the statutes is amended to read:

57.11 (3) If upon inquiry it further appears to the governor that the convicted person has violated or failed to comply with any of ~~such~~ those conditions, ~~he~~ the governor may issue his or her warrant remanding ~~him~~ the person to the institution from which ~~he was discharged, and he~~ the person shall ~~thereupon~~ be confined and treated as though no pardon had been granted, except that ~~he~~ the person loses ~~the any applicable~~ good time which he or she had earned; ~~otherwise he.~~ If the person is returned to prison, the person is subject to the same limitations as a revoked parolee under s. 53.11 (7). The department shall determine the period of incarceration under s. 53.11 (7) (a). If the governor determines the person has not violated or failed to comply with the conditions, the person shall be discharged subject to the conditional pardon.

SECTION 22. 227.22 (4) of the statutes is amended to read:

227.22 (4) The provisions of this chapter relating to contested cases do not apply to proceedings involving revocation of parole or probation, grant of probation, prison discipline or ~~good time~~ mandatory release under s. 53.11 or other proceedings involving the care and treatment of particular inmates of correctional institutions.

SECTION 23. 971.11 (6) of the statutes is amended to read:

971.11 (6) The prisoner shall be delivered into the custody of the sheriff of the county in which the charge is pending for transportation to the court, and ~~he~~ the prisoner shall be retained in ~~such~~ that custody during all proceedings under this section. The sheriff shall return ~~him~~ the prisoner to the prison upon the completion of the proceedings and during any adjournments or continuances and between the preliminary examination and the trial, except that if the department certifies a jail as being suitable to detain the pris-

oner, he or she may be detained there until the court disposes of the case. ~~His~~ The prisoner's existing sentence continues to run and ~~good time is earned~~ he or she receives time credit under s. 53.11 while ~~he is~~ in custody.

SECTION 24. 973.04 of the statutes, as affected by 1983 Wisconsin Act 66, is amended to read:

973.04 Credit for imprisonment under earlier sentence for the same crime. When a sentence is vacated and a new sentence is imposed upon the defendant for the same crime, the department shall credit the defendant with confinement ~~theretofore~~ previously served and good time, if any, earned by the defendant under s. 53.11 while so confined.

SECTION 25. 973.15 (6) of the statutes is amended to read:

973.15 (6) Sections 53.11 and 57.06 are applicable to an inmate serving a sentence to the Wisconsin state prisons but confined in a federal institution or an institution in another state. ~~Section 53.12 applies only during that portion of the sentence served in actual residence in a Wisconsin institution.~~

SECTION 26. 973.155 (4) of the statutes is amended to read:

973.155 (4) The credit provided in sub. (1) shall include ~~good time earned under ss. 53.11, 53.43, 56.07 (3) and 56.19 (3), whichever are applicable. The department may promulgate rules under ch. 227 to provide criteria for the awarding of good time allowed under this subsection~~ earned good time for those inmates subject to s. 53.43, 56.07 (3) or 56.19 (3) serving sentences of one year or less and confined in a county jail, house of correction or county reforestation camp.

SECTION 27. 976.05 (10) (c) of the statutes is created to read:

976.05 (10) (c) "Good time" includes time credit under s. 53.11.

SECTION 28. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
975.12	53.11 (7) (a)	53.11 (7) (a), 1981 stats.,

SECTION 29. **Initial applicability.** (1) This act applies to persons committing offenses occurring on or after June 1, 1984.

(2) A person who committed an offense prior to June 1, 1984, and was received by a state prison prior to June 1, 1984, may, by written request to the department of health and social services prior to October 1, 1984, be subject to this act. Upon receipt of such a request, the department shall compute the person's sentence in the same manner as for offenses occurring on or after June 1, 1984.

(3) A person who committed an offense prior to June 1, 1984, and was received in a state prison on or after June 1, 1984, may, by written request to the department of health and social services within 60 days of reception in a state prison, be subject to this act. Upon receipt of such a request, the department shall compute the person's sentence in the same manner as for offenses occurring on or after June 1, 1984.

SECTION 30. **Effective date.** This act takes effect on June 1, 1984.