



State of Wisconsin  
1997 - 1998 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 2,  
TO 1997 SENATE BILL 345**

February 12, 1998 - Offered by Senator WINEKE.

1     **AN ACT to amend** 51.20 (1) (ar) (intro.), 51.20 (13) (g) 2m., 51.37 (8) (a), 51.37 (8)  
2           (b), 302.11 (1), 302.11 (1g) (am), 302.11 (1i), 302.11 (1p), 302.11 (6), 302.11 (9),  
3           302.45 (1), 303.19 (3), 304.02 (3) (d), 971.11 (6), 978.07 (1) (c) 2. and 978.07 (1)  
4           (c) 3.; and **to create** 302.11 (1z) of the statutes; **relating to:** mandatory release  
5           on parole and creating a criminal code study committee.

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

6           **SECTION 1.** 51.20 (1) (ar) (intro.) of the statutes is amended to read:  
7           51.20 (1) (ar) (intro.) If the individual is an inmate of a state prison, the petition  
8           may allege that the inmate is mentally ill, is a proper subject for treatment and is  
9           in need of treatment. The petition shall allege that appropriate less restrictive forms  
10          of treatment have been attempted with the individual and have been unsuccessful  
11          and it shall include a description of the less restrictive forms of treatment that were  
12          attempted. The petition shall also allege that the individual has been fully informed

1 about his or her treatment needs, the mental health services available to him or her  
2 and his or her rights under this chapter and that the individual has had an  
3 opportunity to discuss his or her needs, the services available to him or her and his  
4 or her rights with a licensed physician or a licensed psychologist. The petition shall  
5 include the inmate's sentence and his or her expected date of release as determined  
6 under s. 302.11 or, if s. 302.11 does not apply to the inmate, the expiration date of the  
7 inmate's sentence. The petition shall have attached to it a signed statement by a  
8 licensed physician or a licensed psychologist of a state prison and a signed statement  
9 by a licensed physician or a licensed psychologist of a state treatment facility  
10 attesting either of the following:

11 **SECTION 2.** 51.20 (13) (g) 2m. of the statutes is amended to read:

12 51.20 (13) (g) 2m. In addition to the provisions under subds. 1., 2. and 2g., no  
13 commitment ordered under par. (a) 4. or 4m. may continue beyond the inmate's date  
14 of release as determined under s. 302.11 or, if s. 302.11 is not applicable, the  
15 expiration date of the inmate's sentence.

16 **SECTION 3.** 51.37 (8) (a) of the statutes is amended to read:

17 51.37 (8) (a) Rights to reexamination under s. 51.20 (16) apply to a prisoner or  
18 inmate who is found to be mentally ill or drug dependent except that the petition  
19 shall be made to the court that made the finding or, if the prisoner or inmate is  
20 detained by transfer, to the circuit court of the county in which he or she is detained.  
21 If upon rehearing it is found that the standards for recommitment under s. 51.20 (13)  
22 (g) no longer apply to the prisoner or inmate or that he or she is not in need of  
23 psychiatric or psychological treatment, the prisoner or inmate shall be returned to  
24 the prison or county jail or house of correction unless it is past his or her release date

1 as determined under s. 302.11 or, if s. 302.11 is not applicable, the expiration date  
2 of his or her sentence, in which case he or she shall be discharged.

3 **SECTION 4.** 51.37 (8) (b) of the statutes is amended to read:

4 51.37 (8) (b) If the condition of any prisoner or inmate committed or transferred  
5 under this section requires psychiatric or psychological treatment after his or her  
6 date of release as determined under s. 302.11 or, if s. 302.11 is not applicable, after  
7 the expiration date of his or her sentence, the director of the state treatment facility  
8 shall, within a reasonable time before the release date of the prisoner or inmate,  
9 make a written application to the court which committed the prisoner or inmate  
10 under sub. (5) (a). Thereupon, the proceeding shall be upon application made under  
11 s. 51.20, but no physician or psychologist who is connected with a state prison,  
12 Winnebago or Mendota mental health institute or any county jail or house of  
13 correction may be appointed as an examiner. If the court does not commit the  
14 prisoner or inmate, it may dismiss the application and order the prisoner or inmate  
15 returned to the institution from which he or she was transferred until the release  
16 date of the prisoner or inmate. If the court commits the prisoner or inmate for the  
17 period commencing upon his or her release date, the commitment shall be to the care  
18 and custody of the county department under s. 51.42 or 51.437.

19 **SECTION 5.** 302.11 (1) of the statutes is amended to read:

20 302.11 (1) The warden or superintendent shall keep a record of the conduct of  
21 each inmate, specifying each infraction of the rules. Except as provided in subs. (1g),  
22 (1m), (1z), (7) and (10), each inmate is entitled to mandatory release on parole by the  
23 department. The mandatory release date is established at two-thirds of the  
24 sentence. Any calculations under this subsection or sub. (2) (b) resulting in fractions  
25 of a day shall be rounded in the inmate's favor to a whole day.

1           **SECTION 6.** 302.11 (1g) (am) of the statutes is amended to read:

2           302.11 **(1g)** (am) The mandatory release date established in sub. (1) is a  
3 presumptive mandatory release date for an inmate who is serving a sentence for a  
4 serious felony committed on or after April 21, 1994, but before the effective date of  
5 this paragraph .... [revisor inserts date].

6           **SECTION 7.** 302.11 (1i) of the statutes is amended to read:

7           302.11 **(1i)** ~~An~~ Except as provided in sub. (1z), an inmate serving a sentence  
8 to the intensive sanctions program is entitled to mandatory release. The mandatory  
9 release date under sub. (1) is established at two-thirds of the sentence under s.  
10 973.032 (3) (a).

11           **SECTION 8.** 302.11 (1p) of the statutes is amended to read:

12           302.11 **(1p)** An inmate serving a term subject to s. 961.49 (2) for a crime  
13 committed on or after the effective date of this subsection .... [revisor inserts date],  
14 is entitled to mandatory release, except the inmate may not be released before he or  
15 she has complied with s. 961.49 (2).

16           **SECTION 9.** 302.11 (1z) of the statutes is created to read:

17           302.11 **(1z)** An inmate who is sentenced to imprisonment for a crime that is  
18 committed on or after the effective date of this subsection .... [revisor inserts date],  
19 is not entitled to mandatory release on parole under this section but may be paroled  
20 by the parole commission as provided in s. 304.06 (1).

21           **SECTION 10.** 302.11 (6) of the statutes is amended to read:

22           302.11 **(6)** Any inmate released on parole under sub. (1) or (1g) (b) or s. 304.02  
23 or 304.06 (1) is subject to all conditions and rules of parole until the expiration of the  
24 sentence or until he or she is discharged by the department. Except as provided in  
25 ch. 304, releases from prison shall be on the Tuesday or Wednesday preceding the

1 release date. The department may discharge a parolee on or after his or her  
2 mandatory release date, if applicable, or after 2 years of supervision. Any inmate  
3 sentenced to the intensive sanctions program who is released on parole under sub.  
4 (1) or s. 304.02 or 304.06 (1) remains in the program unless discharged by the  
5 department under s. 301.048 (6).

6 **SECTION 11.** 302.11 (9) of the statutes is amended to read:

7 302.11 **(9)** Except as provided in ~~sub.~~ subs. (1g) (am) and (1z), this section  
8 applies to persons committing offenses occurring on or after June 1, 1984, or persons  
9 filing requests in accordance with 1983 Wisconsin Act 528, section 29 (2) or (3).

10 **SECTION 12.** 302.45 (1) of the statutes is amended to read:

11 302.45 **(1)** The department and any county or group of counties may contract  
12 for the cooperative establishment and use of state-local shared correctional  
13 facilities. Inmates sentenced to the Wisconsin state prisons, a county jail, a county  
14 reforestation camp or a county house of correction may be transferred to a shared  
15 facility by the department, sheriff or superintendent, respectively, under the  
16 agreement covering use of the facility. Any inmate confined in a state-local shared  
17 correctional facility shall be deemed to be serving time in the penal institution to  
18 which he or she was sentenced and shall be eligible to earn good time credit against  
19 his or her sentence as provided under ~~ss.~~ s. 302.11, if applicable, and ~~ss.~~ ss. 302.12~~;~~,  
20 302.43~~;~~, 303.07 and 303.19 for that institution.

21 **SECTION 13.** 303.19 (3) of the statutes is amended to read:

22 303.19 **(3)** The superintendent shall keep a true record of the conduct of each  
23 prisoner, specifying each infraction of the rules of discipline; and at the end of each  
24 month shall give a certificate of good conduct to each prisoner against whom no such  
25 infraction is recorded, subject to annulment by the department for subsequent

1 misconduct. Upon each such certificate issued to any such prisoner serving sentence  
2 for a misdemeanor the prisoner may be credited, at the discretion of the  
3 superintendent, with a diminution of the sentence not exceeding 5 days. Each such  
4 prisoner serving sentence for a felony shall receive time credits as provided in s.  
5 302.11, if applicable.

6 **SECTION 14.** 304.02 (3) (d) of the statutes is amended to read:

7 304.02 (3) (d) The inmate is not granted a special action release more than 18  
8 months before his or her expected release date under s. 302.11, if applicable.

9 **SECTION 15.** 971.11 (6) of the statutes is amended to read:

10 971.11 (6) The prisoner shall be delivered into the custody of the sheriff of the  
11 county in which the charge is pending for transportation to the court, and the  
12 prisoner shall be retained in that custody during all proceedings under this section.  
13 The sheriff shall return the prisoner to the prison upon the completion of the  
14 proceedings and during any adjournments or continuances and between the  
15 preliminary examination and the trial, except that if the department certifies a jail  
16 as being suitable to detain the prisoner, he or she may be detained there until the  
17 court disposes of the case. The prisoner's existing sentence continues to run and he  
18 or she receives time credit under s. 302.11, if applicable, while in custody.

19 **SECTION 16.** 978.07 (1) (c) 2. of the statutes is amended to read:

20 978.07 (1) (c) 2. Any case record of a felony punishable by a maximum period  
21 of imprisonment equal to at least 20 years or a related case, after the mandatory  
22 release date established under s. 302.11 (1) or the presumptive mandatory release  
23 date established under s. 302.11 (1g), if applicable, of any person convicted of that  
24 felony or 20 years after commencement of the action, whichever if that date is later  
25 or s. 302.11 does not apply to the person.

1           **SECTION 17.** 978.07 (1) (c) 3. of the statutes is amended to read:

2           978.07 (1) (c) 3. Except as provided in subds. 1. and 2., any case record of a  
3 felony or related case, after the mandatory release date established under s. 302.11  
4 (1) or the presumptive mandatory release date established under s. 302.11 (1g), if  
5 applicable, of any person convicted of that felony or 10 years after the commencement  
6 of the action, ~~whichever~~ if that date is later or s. 302.11 does not apply to the person.

7           **SECTION 18. Nonstatutory provisions.**

8           (1) CRIMINAL CODE STUDY COMMITTEE.

9           (a) In this subsection, “criminal code” means chapters 939 to 951 of the statutes.

10          (b) There is established a committee under section 15.01 (3) of the statutes  
11 called the criminal code study committee consisting of the following members:

12           1. Two judges appointed by the supreme court.

13           2. The majority leader in each house, or his or her designee.

14           3. The minority leader in each house, or his or her designee.

15           4. One faculty member from the law school of the University of  
16 Wisconsin-Madison appointed by the governor.

17           5. One faculty member from the law school of Marquette University appointed  
18 by the governor.

19           6. The attorney general or his or her designee.

20           7. One current district attorney appointed by the attorney general.

21           8. The state public defender or his or her designee.

22           9. One representative of crime victims appointed by the attorney general.

23           10. One member of the criminal law section of the state bar appointed by the  
24 governor.

1           11. One representative of law enforcement agencies appointed by the  
2 governor.

3           12. Three public members appointed by the governor.

4           13. The secretary of corrections or his or her designee.

5           (c) The governor shall appoint one member of the committee to be chairperson  
6 and one member of the committee to be reporter for the committee.

7           (d) The department of administration shall provide staff services to the  
8 committee. The department of corrections shall assign a department of corrections  
9 attorney to provide legal services to the committee.

10          (e) The committee shall study the classification of criminal offenses in the  
11 criminal code and the penalties for all felonies and shall make recommendations  
12 concerning all of the following:

13           1. Creating a uniform classification system for all felonies, including felonies  
14 outside of the criminal code.

15           2. Classifying each felony in a manner that places crimes of similar severity  
16 into the same classification.

17           3. Consolidating all felonies into a single criminal code.

18           4. Creating a sentencing commission to promulgate sentencing guidelines for  
19 use by judges when imposing sentences for felonies.

20           5. Temporary sentencing guidelines for use by judges when imposing  
21 sentences for felonies during the period before the promulgation of sentencing  
22 guidelines by a sentencing commission.

23           6. Changing the administrative rules of the department of corrections to  
24 ensure that a person who violates a condition of parole is returned to prison promptly  
25 and for an appropriate period of time.

1           (f) No later than January 1, 1999, the committee shall submit a report of its  
2 findings and recommendations to the legislature in the manner provided under  
3 section 13.172 (2) of the statutes. The report shall include any proposed legislation  
4 that is necessary to implement the recommendations made by the committee in its  
5 report.

6

**(END)**