

## 1999 SENATE BILL 84

March 16, 1999 - Introduced by Senator BURKE, cosponsored by Representative CARPENTER, by request of Milwaukee County District Attorney. Referred to Committee on Judiciary and Consumer Affairs.

1     **AN ACT to repeal** 302.425 (6); **to renumber and amend** 946.425 (1); **to amend**  
2           938.51 (4) (intro.), 946.42 (3) (intro.), 946.425 (1m) (a) and 946.425 (1m) (b); and  
3           **to create** 946.42 (3m) and 946.425 (1) (a) of the statutes; **relating to:** penalties  
4           for failure to report to jail in certain circumstances and for escapes from home  
5           detention programs.

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### ***Analysis by the Legislative Reference Bureau***

This bill changes current penalties for failure to report to jail in certain circumstances and for escapes from home detention programs.

#### ***Failure to report to jail***

Current law provides penalties for failing to report to jail to begin serving a sentence. The penalties vary depending on the circumstances of the case. The penalties affected by this bill are as follows:

1. Currently, a court may sentence a person to serve a series of periods in jail instead of a continuous sentence. These periods may not be less than 48 hours nor more than three days for each period. If a person who has been sentenced to a series of periods in jail fails to report to jail as required by the sentence, the person may be fined not more than \$10,000 or imprisoned for not more than five years or both, if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than ten years or both, if the offense occurs on or after December 31, 1999. This bill changes this penalty if the series of periods in jail were

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imposed for a misdemeanor conviction. Under the bill, a person who fails to report to jail to serve a series of periods in jail for a misdemeanor conviction may be fined not more than \$10,000 or imprisoned for not more than nine months or both. If a person fails to report to jail to serve a series of periods of jail imposed for a felony conviction, the penalty provided under current law applies.

2. Currently, a court may under some circumstances delay the date on which a person must begin serving a jail sentence. If a person fails to report to jail as required after a court delays the starting date of a sentence, the penalty the person faces will depend on the length of the sentence. If the sentence is less than ten days in jail, the person may be fined not more than \$10,000 or imprisoned for not more than nine months or both. If the sentence is ten or more days in jail, the person may be fined not more than \$10,000 or imprisoned for not more than five years or both, if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than ten years or both, if the offense occurs on or after December 31, 1999. This bill provides that the penalty depends not on the length of the sentence but on whether the sentence was imposed for a misdemeanor or for a felony. Thus, under the bill, if the sentence was imposed for a misdemeanor, the person may be fined not more \$10,000 or imprisoned for not more than nine months or both. If the sentence was imposed for a felony, the person may be fined not more than \$10,000 or imprisoned for not more than five years or both, if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than ten years or both, if the offense occurs on or after December 31, 1999.

***Escape from a home detention program***

Under current law, a county sheriff or a superintendent of a house of correction may place a jail prisoner who has been arrested for, charged with, convicted of or sentenced for a crime into a home detention program. In addition, the department of corrections (DOC) or a county department of human or social services (county department) may place a child who is in its custody or under its supervision into a home detention program. Under a home detention program, the prisoner or child is detained at his or her residence or other designated place and is monitored by an electronic monitoring system. The sheriff or superintendent or, in the case of a child, DOC or the county department must establish reasonable terms of detention. If a person placed in a home detention program intentionally fails to remain within the limits of his or her detention or to return to his or her place of detention, the person may be fined not more than \$10,000 or imprisoned for not more than five years or both, if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than ten years or both, if the offense occurs on or after December 31, 1999. If the person is a child who is not waived into adult court, he or she would instead be subject to proceedings in a court authorized to exercise jurisdiction under the juvenile justice code.

This bill changes the penalty for escaping from a home detention program if the person is in the home detention program after being arrested for, charged with, convicted of or sentenced for a misdemeanor. Under the bill, a person who escapes from a home detention program after being arrested for, charged with, convicted of or sentenced for a misdemeanor may be fined not more than \$10,000 or imprisoned

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for not more than nine months or both. If a person escapes from a home detention program after being arrested for, charged with, convicted of or sentenced for a felony, the penalty provided under current law applies. As under current law, if the person who escapes from home detention is a child who is not waived into adult court, he or she would be subject to proceedings in a court authorized to exercise jurisdiction under the juvenile justice code.

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

1           **SECTION 1.** 302.425 (6) of the statutes is repealed.

2           **SECTION 2.** 938.51 (4) (intro.) of the statutes is amended to read:

3           938.51 **(4)** (intro.) If a juvenile described in sub. (1), (1d) or (1g) escapes from  
4 a secured correctional facility, child caring institution, inpatient facility, secure  
5 detention facility or juvenile portion of a county jail, or from the custody of a peace  
6 officer or a guard of such a facility, institution or jail, or is in a home detention  
7 program under s. 302.425 and intentionally fails to remain within the limits of his  
8 or her detention or to return to his or her place of detention, or has been allowed to  
9 leave a secured correctional facility, child caring institution, inpatient facility, secure  
10 detention facility or juvenile portion of a county jail for a specified period of time and  
11 is absent from the facility, institution or jail for more than 12 hours after the  
12 expiration of the specified period, as soon as possible after the department or county  
13 department having supervision over the juvenile discovers that escape, failure or  
14 absence, that department or county department shall make a reasonable attempt to  
15 notify by telephone all of the following persons:

16           **SECTION 3.** 946.42 (3) (intro.) of the statutes is amended to read:

17           946.42 **(3)** (intro.) ~~A~~ Except as provided in sub. (3m), a person in custody who  
18 intentionally escapes from custody under any of the following circumstances is guilty  
19 of a Class D felony:

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1           **SECTION 4.** 946.42 (3m) of the statutes is created to read:

2           946.42 **(3m)** A prisoner in a home detention program under s. 302.425 who  
3 intentionally fails to remain within the limits of his or her detention or to return to  
4 his or her place of detention, as specified in the terms of detention under s. 302.425  
5 (3), is guilty of:

6           (a) A Class A misdemeanor, if the person has been arrested for, charged with,  
7 convicted of or sentenced for a misdemeanor.

8           (b) A Class D felony, if the person has been arrested for, charged with, convicted  
9 of or sentenced for a felony.

10          **SECTION 5.** 946.425 (1) of the statutes is renumbered 946.425 (1) (intro.) and  
11 amended to read:

12          946.425 **(1)** (intro.) Any person who is subject sentenced to a series of periods  
13 of imprisonment under s. 973.03 (5) (b) and who intentionally fails to report to the  
14 county jail as required under the sentence is guilty of a:

15          (b) A Class D felony, if the sentence was imposed for a felony.

16          **SECTION 6.** 946.425 (1) (a) of the statutes is created to read:

17          946.425 **(1)** (a) A Class A misdemeanor, if the sentence was imposed for a  
18 misdemeanor.

19          **SECTION 7.** 946.425 (1m) (a) of the statutes is amended to read:

20          946.425 **(1m)** (a) Any person who receives a stay of execution under s. 973.15  
21 (8) (a) of a sentence of imprisonment of less than 10 days to a county jail under s.  
22 973.15 (8) (a) that was imposed for a misdemeanor and who intentionally fails to  
23 report to the county jail as required under the sentence is guilty of a Class A  
24 misdemeanor.

25          **SECTION 8.** 946.425 (1m) (b) of the statutes is amended to read:

