

**1999 DRAFTING REQUEST**

**Bill**

Received: **01/5/99**

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Brian Burke (608) 266-8535**

By/Representing: **Barry**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Correctional System - jails  
Correctional System - misc**

Extra Copies:

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**Topic:**

Failure to report to jail; escape from home detention

---

**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	olsenje 01/28/99	ptellez 02/5/99		_____			
/1			lpaasch 02/5/99	_____	lrb_docadmin 02/5/99	lrb_docadmin 02/10/99	

FE Sent For:

<END>

*Not Needed*

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17	olsenje	1/1 pgt 1/29/99 1 jlg 3/4	25 L.P.	<del>2558</del> KAA			

FE Sent For:

<END>

JEG  
2

**LEGISLATIVE REFERENCE BUREAU**

**BILL REQUEST FORM**

Legal Section, 5<sup>th</sup> Floor, 100 N. Hamilton St.  
(608) 266-3561

(608)

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.  
Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: 1-4-98	Legislator or agency requesting this draft: SEN. BURKE
Name/phone number of person submitting request: BARRY ASHNEFELTER 6-8535	
Persons to contact for questions about this draft (names and phone numbers please): BARRY 6-8535	
Describe the problem, including any helpful examples. How do you want to solve the problem?  Please re-draft 1997 SB 528, LRB 4846/1 which is attached.	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy.	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

**Requests are confidential unless stated otherwise.**

May we tell others that we are working on this for you?  YES  NO

If yes, anyone who asks?  YES  NO

Any legislator?  YES  NO  ONLY the following persons:

Do you consider this urgent?  YES  NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?

YES  NO If yes, please sign your name here:



State of Wisconsin  
1997 - 1998 LEGISLATURE

LRB-4846/1

JEO;jlg:km

## 1997 SENATE BILL 528

March 24, 1998 - Introduced by Senators BURKE, GROBSCHMIDT and ROESSLER, cosponsored by Representatives BOCK, CARPENTER, DOBYNS, J. LEHMAN and R. YOUNG, by request of Milwaukee County District Attorney. Referred to Committee on Judiciary, Campaign Finance Reform 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.**

---

### ***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 period may not be less than 48 hours nor more than 3 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 5 years or both. This bill changes this penalty if the series of periods in jail were 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

**SENATE BILL 528**

\$10,000 or imprisoned for not more than 9 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 10 days in jail, the person may be fined not more \$10,000 or imprisoned for not more than 9 months or both. If the sentence is 10 or more days in jail, the person may be fined not more \$10,000 or imprisoned for not more than 5 years or both. 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 9 months or both. If the sentence was imposed for a felony, the person may be fined not more \$10,000 or imprisoned for not more than 5 years or both.

***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 5 years or both, except that 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 for not more than 9 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

**SENATE BILL 528**

she would be subject to proceedings in a court authorized to exercise jurisdiction under the juvenile justice code.

---

*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           <sup>Ref 207</sup>**SECTION 2.** 938.51 (4) (intro.) of the statutes is amended to read:

3           938.51 (4) (intro.) If a juvenile escapes in violation of s. 946.42 (3) or (3m), as  
4           soon as possible after the department or county department having supervision over  
5           the juvenile discovers that escape, that department or county department shall  
6           make a reasonable effort to notify by telephone all of the following persons:

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

8           946.42 (3) (intro.) ~~A~~ Except as provided in sub. (3m), a person in custody who  
9           intentionally escapes from custody under any of the following circumstances is guilty  
10          of a Class D felony:

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

12          946.42 (3m) A prisoner in a home detention program under s. 302.425 who  
13          intentionally fails to remain within the limits of his or her detention or to return to  
14          his or her place of detention, as specified in the terms of detention under s. 302.425  
15          (3), is guilty of:

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

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

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





1999

Date (time) needed \_\_\_\_\_

LRB - 1600 1 1

BILL

D-Note

JEO : pgt :  
+  
JLg

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; relating to: .....

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[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

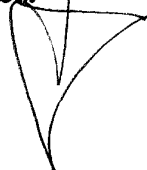
*Analysis by the Legislative Reference Bureau*

For the 3 titles used in an analysis, in the component bar:

- For the main heading [old =M], execute: ..... create → anal: → title: → head
- For the subheading [old =S], execute: ..... create → anal: → title: → sub
- For the sub-subheading [old =P], execute: ..... create → anal: → title: → sub-sub

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

SECTION #.



~~1997 SENATE BILL 528~~

March 24, 1998 - Introduced by Senators BURKE, GROBSCHMIDT and ROESSLER, cosponsored by Representatives BOCK, CARPENTER, DOBYNS, J. LEHMAN and R. YOUNG, by request of Milwaukee County District Attorney. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

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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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✓ three

✓ five

✓ ANALYSIS  
INSERT A

**SENATE BILL 528**

\$10,000 or imprisoned for not more than 9 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 10 days in jail, the person may be fined not more than \$10,000 or imprisoned for not more than 9 months or both. If the sentence is 10 or more days in jail, the person may be fined not more than \$10,000 or imprisoned for not more than 5 years or both. 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 than \$10,000 or imprisoned for not more than 9 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 5 years or both.

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**SENATE BILL 528**

she would be subject to proceedings in a court authorized to exercise jurisdiction under the juvenile justice code.

*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 escapes in violation of s. 946.42 (3) or (3m), as~~  
4            ~~soon as possible after the department or county department having supervision over~~  
5            ~~the juvenile discovers that escape, that department or county department shall~~  
6            ~~make a reasonable effort to notify by telephone all of the following persons:~~

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

8            946.42 (3) (intro.) -A Except as provided in sub. (3m), a person in custody who  
9            intentionally escapes from custody under any of the following circumstances is guilty  
10           of a Class D felony:

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

12           946.42 (3m) A prisoner in a home detention program under s. 302.425 who  
13           intentionally fails to remain within the limits of his or her detention or to return to  
14           his or her place of detention, as specified in the terms of detention under s. 302.425  
15           (3), is guilty of:

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

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

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

INS  
3-2

Proof w/ STAT.

Proof w/ STAT.

SENATE BILL 528

SECTION 5

Proof w/ STATS.  
3

1 946.425 (1) (intro.) Any person who is ~~subject~~ sentenced to a series of periods  
2 of imprisonment under s. 973.03 (5) (b) and who intentionally fails to report to the  
3 county jail as required under the sentence is guilty of ~~a~~ plain

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

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

6 946.425 (1) (a) A Class A misdemeanor, if the sentence was imposed for a  
7 misdemeanor.

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

9 946.425 (1m) (a) Any person who receives a stay of execution under s. 973.15  
10 (8) (a) of a sentence of imprisonment of ~~less than 10 days~~ to a county jail ~~under s.~~  
11 ~~973.15 (8) (a)~~ that was imposed for a misdemeanor and who intentionally fails to  
12 report to the county jail as required under the sentence is guilty of a Class A  
13 misdemeanor.

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

15 946.425 (1m) (b) Any person who receives a stay of execution under s. 973.15  
16 (8) (a) of a sentence of imprisonment of ~~10 or more days~~ to a county jail ~~under s. 973.15~~  
17 ~~(8) (a)~~ that was imposed for a felony and who intentionally fails to report to the county  
18 jail as required under the sentence is guilty of a Class D felony.

19 SECTION 9. **Initial applicability.**

20 (1) This act first applies to offenses committed on the effective date of this  
21 subsection.

22 (END)

Proof w/ STATS.  
18

[Inserts]  
1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1600/lins  
JEO:.....

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**ANALYSIS INSERT A:**

<sup>NO</sup> ~~#~~, if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than ten <sup>✓</sup> years or both, if the offense occurs on or after December 31, 1999 <sup>NO</sup> ~~#~~

**ANALYSIS INSERT B:**

<sup>NO</sup> ~~#~~, 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 <sup>NO</sup> ~~#~~

**ANALYSIS INSERT C:**

<sup>NO</sup> ~~#~~ 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.

**INSERT 3-2:**

**SECTION 1.** 938.51 (4) (intro.) of the statutes is amended to read:

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

NOTE: NOTE: Sub. (4) (intro.) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE: History: 1995 a. 77, 352; 1997 a. 181, 207; s. 13.93 (2) (c).

[end of inserts]

LRB-1600/1 In  
JED:pgt:

D-Note

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JL  
JL

# This is a redraft of 1997

Senate Bill 528. ✓

JED

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1600/1dn  
JEO:pgt&jlg:lp

February 5, 1999

This is a redraft of 1997 Senate Bill 528.

Jefren E. Olsen  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: [Jefren.Olsen@legis.state.wi.us](mailto:Jefren.Olsen@legis.state.wi.us)



**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

---

**Date:** 2/5/99

**To:** Senator Burke


**Relating to LRB drafting number:** LRB-1600

**Topic**

Failure to report to jail; escape from home detention

**Subject(s)**

Correctional System - jails, Correctional System - misc

1. **JACKET** the draft for introduction  \_\_\_\_\_  
in the **Senate**  or the **Assembly** \_\_\_\_\_ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached \_\_\_\_\_.  
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.  
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Jefren E. Olsen, Legislative Attorney  
Telephone: (608) 266-8906