

**2001 DRAFTING REQUEST**

**Bill**

Received: **01/18/2001**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-3420**

By/Representing: **Johnston**

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

Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Correctional System - parole  
Correctional System - ext superv**

Extra Copies:

**Pre Topic:**

DOA:.....Johnston -

**Topic:**

Allow DOC to authorize medical parole or medical extended supervision

**Instructions:**

See Attached

**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>
/1	nelsorp1 01/20/2001	gilfokm 01/20/2001	martykr 01/22/2001	_____			State
/2	nelsorp1 01/23/2001	gilfokm 01/26/2001	pgreensl 01/26/2001	_____	lrb docadmin 01/26/2001		State
/3	nelsorp1 02/06/2001	gilfokm 02/06/2001	rschluct 02/06/2001	_____	lrb docadmin 02/06/2001		State
/4	nelsorp1 02/07/2001	gilfokm 02/07/2001	pgreensl 02/07/2001	_____	lrb docadmin 02/07/2001		State

FE Sent For:

<END>

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/2	nelsorp1 01/23/2001	gilfokm 01/26/2001	pgreensl 01/26/2001	<u>          </u> P8/km	lrb_docadmin 01/26/2001		State
/3	nelsorp1 02/06/2001	gilfokm 02/06/2001	rschluet 02/06/2001	<u>          </u> 	lrb_docadmin 02/06/2001		State

FE Sent For:

14-2/kmg  
17-01

2/7  
P2

<END>

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/2	nelsorp1 01/23/2001	gilfokm 01/26/2001	pgreensl 01/26/2001	_____	lrb_docadmin 01/26/2001		State

FE Sent For:

*13-2/Kmg*  
*16-01* *2-6-1*

<END>

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DOA:.....Johnson -

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**Instructions:**

See Attached

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1?	nelsorp1	1-11 King 26-01	km/22	DS 2/1/24			
FE Sent For:		12-1/25-01 King	1/25 P8	1/25 P8/RB <END>			

**Nelson, Robert P.**

---

**From:** Dsida, Michael  
**Sent:** Thursday, January 18, 2001 2:33 PM  
**To:** Johnston, James  
**Cc:** Nelson, Robert P.  
**Subject:** Medical parole/ES

1. What happens if a person who is released under this bill violates the terms of parole or ES? (I assume that DOC would want the same authority to revoke parole or ES that it has for people released to parole or ES in a conventional fashion.)

2. Do the conditions imposed by the court under s. 973.01 (5) still apply to a person released under this bill? In thinking about this, consider the case of a person released because s/he is completely incapacitated (for example, because of a massive stroke). The person's disability may preclude him or her from complying with the court's order. One option might be to keep the conditions in place, with DOC retaining the discretion that it has generally to seek or not to seek revocation.

We have not yet looked at the constitutional issues (in the area of separation of powers) that this request may raise, but it may not be possible to have this draft apply to persons who have previously been sentenced under truth-in-sentencing. (I don't think it will be a problem with older cases.) In any event, we will look into this and try to keep you posted.

Mike Dsida  
Legislative Reference Bureau  
608/266-9867  
michael.dsida@legis.state.wi.us

**Nelson, Robert P.**

---

**From:** Dsida, Michael  
**Sent:** Thursday, January 18, 2001 2:36 PM  
**To:** Nelson, Robert P.

bob-

You probably should do some conceptual searches ("released to parole" "released to ES") as well as some cross-ref checks for provisions like 302.113 (2) and (7) (there will be different ones for parole)

## Nelson, Robert P.

---

**From:** Dsida, Michael  
**Sent:** Wednesday, January 17, 2001 9:55 AM  
**To:** Nelson, Robert P.  
**Subject:** FW: Medical Parole

-----Original Message-----

**From:** Johnston, James  
**Sent:** Wednesday, January 17, 2001 9:54 AM  
**To:** Deida, Michael  
**Subject:** Medical Parole

Mike,  
Based on the feedback I've received so far (see attached e-mail for an example), the language should allow for the DOC Secretary to have the flexibility to determine who to release under medical parole and when that release should occur based on the criteria listed in the initial drafting request.  
Thanks,  
Jim

-----Original Message-----

**From:** Grapentine, Mark  
**Sent:** Monday, January 15, 2001 2:53 PM  
**To:** Johnston, James  
**Subject:** RE: Medical Parole

\* I understand why you want the first one, but does that muddle things? Kind of makes judges more likely to make sure they sentence completely harshly.  
\* You'd know better than I would re: Hospice requirements. But would that be too limiting, potentially? What if someone ends up w/MS, but they're not w/in 6 months of expiring?

-----Original Message-----

**From:** Johnston, James  
**Sent:** Monday, January 15, 2001 2:13 PM  
**To:** Grapentine, Mark  
**Cc:** Mullikin, Melissa; Steinmetz, Jana  
**Subject:** Medical Parole

I've been thinking about the medical parole initiative and have two possible refinements:

- Prohibit inmates sentenced to life without the possibility of parole from being eligible, and
- Requiring a physician statement that the inmate would qualify for hospice care. I believe hospice care is limited to patients certified by a physician to be terminally ill and in the last 6 months of life.

What do you think?

**Nelson, Robert P.**

---

**From:** Johnston, James  
**Sent:** Thursday, January 11, 2001 10:01 AM  
**To:** Nelson, Robert P.  
**Cc:** Steinmetz, Jana  
**Subject:** Advance notice of new drafting request



statlang medical  
parole.DOC

Bob,

Attached is a drafting request to allow the Secretary of DOC to release certain sick inmates. I will send over the official hard copy through Steve Miller this morning with the attachments I mention in the memo.

Thanks,  
Jim

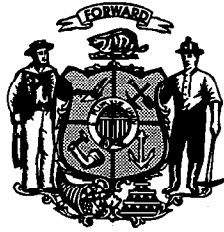
AB 465  
Waiting!



STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON  
GOVERNOR

GEORGE LIGHTBOURN  
SECRETARY



Division of Executive Budget and Finance  
Post Office Box 7864  
Madison, WI 53707-7864  
Voice (608) 266-1736  
Fax (608) 267-0372  
TTY (608) 267-9629

**Date:** January 11, 2001

**To:** Steve Miller, LRB

**From:** Jim Johnston, DOA  
266-3420

**Subject:** Department of Corrections Biennial Budget Statutory Language Drafting  
Request - Medical Parole

I am writing to request that language be drafted for the Department of Corrections to allow certain inmates to be paroled based on their medical condition and health insurance status.

The intent of the language is to create a conditional medical parole/extended supervision release program for inmates who are seriously and/or terminally ill, and who pose no threat to the public. The warden of the institution housing the sick inmate would make the request for release to the Secretary of the Department of Corrections, who would have sole authority to approve or deny the request.

In making the decision to release the inmate under this program, the Secretary must consider the following factors: the offender's age, committing offense, medical condition, health care needs, security classification, potential risk for violence, appropriate level of community supervision and alternative placements available for the offender. An inmate may not be released under this program unless the Secretary has determined that the inmate's health care costs are likely to be borne by the medical assistance program, veteran's benefits, or by other federal or state funded medical programs or by the inmate. Offenders released under this program are governed by all of the existing provisions relating to community supervision with the added limitation that if the offender's medical condition improves to the extent that continued release presents a risk to the public, the release may be rescinded without hearing by the Secretary.

As possible reference points for drafting the language, I have attached some statutory language from Minnesota and Rhode Island describing those states' special release programs and definitions of serious medical conditions.

Please call if you have any questions or need additional information.

Thanks

Parole - 304.06

Search for 302.113 (3)

302.045 (3m)

Parole - 302.11  
+ 113  
ES

add language to 302.11  
993.01 (8), 302.113  
like Com 993.01 (4)

# TITLE 13

## Criminals – Correctional Institutions

### CHAPTER 13-8.1

#### Medical Parole

#### SECTION 13-8.1-3

**§ 13-8.1-3 Definitions.** – As used in this chapter:

(1) "Terminally ill" means suffering from a condition caused by injury, except self inflicted injury, disease, or illness which to a reasonable degree of medical certainty, will result in death within six (6) months.

(2) "Permanently physically incapacitated" means suffering from a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, permanently and irreversibly physically incapacitates the individual to the extent that no significant physical activity is possible, and the individual is confined to bed or a wheelchair.

# TITLE 13

## Criminals – Correctional Institutions

### CHAPTER 13-8.1

#### Medical Parole

#### SECTION 13-8.1-4

**§ 13-8.1-4 Procedure.** – (a) The parole board may at any time grant release of a prisoner, unless serving life without parole, who is determined to be terminally ill or permanently physically incapacitated within the meaning of § 13-8.1-3.

(b) In order to apply for medical parole release, the prisoner with an attending physician's written approval, or an attending physician on behalf of the prisoner, shall file an application with the director of the department of corrections. Within seventy-two (72) hours after the filing of an application, the director shall refer the application to the health service unit of the department of corrections for a medical report and a medical discharge plan to be completed within five (5) days. Upon receipt of the medical discharge plan the director of the department of corrections shall immediately transfer the medical discharge plan together with the application to the parole board for its consideration and decision.

(2) The report shall contain, at a minimum, the following information:

(i) Diagnosis of the prisoner's medical conditions, including related medical history;

(ii) Detailed description of the conditions and treatments;

(iii) Prognosis, including life expectancy, likelihood of recovery, likelihood of improvement, mobility, and rate of debilitation;

(iv) Degree of incapacity/disability, including an assessment of whether the prisoner is ambulatory, capable of engaging in any substantial physical activity, and the extent of possible activity; and

(v) An opinion from the medical director as to whether the person is terminally ill, and if so, the stage of the illness or whether the person is permanently physically incapacitated.

(c) When the director of the department of corrections refers a prisoner to the parole board for medical parole, the director shall provide to the parole board a medical discharge plan which is acceptable to the parole board.

(2) The department of corrections and the parole board shall jointly develop standards for the medical discharge plan that are appropriately adapted to the criminal justice setting. The discharge plan should ensure at the minimum that:

(i) An appropriate placement for the prisoner has been secured, including but not limited to a hospital, nursing facility, hospice, or family home;

(ii) A source for payment of the prisoner's medical expenses has been secured;

(iii) A physician continues to examine the releasee and reports back to the board.

(d) If the parole board finds from the credible medical evidence that the prisoner is terminally ill or permanently physically incapacitated, the board shall grant release to the prisoner but only after the board also considers whether, in light of the prisoner's medical condition, there is a reasonable probability that the prisoner, if released, will live and remain at liberty without violating the law, and that release is compatible with the welfare of society and will not so depreciate the seriousness of the crime as to undermine respect for the law. Release may be granted at any time during the term of a prisoner's sentence, notwithstanding any other provision of law.

(e) There is a presumption that the opinion of the physician and/or medical director will be accepted. However, the applicant, the physician, the director, or the parole board may request an independent medical evaluation within seven (7) days after the physician's and/or medical director's report is presented. The evaluation shall be completed and a report, containing the information required, by subsection (b) of this section, filed with the director and the parole board and a copy sent to the applicant within fourteen (14) days from the date of the request.

(f) Within seven (7) days of receiving the application, the medical report and the discharge plan, the parole board shall determine whether the application, on its face, demonstrates that relief may be warranted. If the face of the application clearly demonstrates that relief is unwarranted, the board may deny the application without a hearing or further proceedings, and within seven (7) days shall notify the prisoner in writing of its decision to deny the application, setting forth its factual findings and a brief statement of the reasons for denying release without a hearing. Denial of release does not preclude the prisoner from reapplying for medical parole after the expiration of sixty (60) days. A reapplication under this section must demonstrate a material change in circumstances.

(g) Upon receipt of the application from the director of the department of corrections the parole board shall, except as provided in subsection (f), set the case for hearing within fourteen (14) days;

(2) Notice of the hearing shall be sent to the prosecutor and the victim(s), if any, of the offense(s) for which the prisoner is incarcerated. The prosecutor and the victim(s) have the right to be heard at the hearing or in writing or both;

(3) At the hearing, the prisoner is entitled to be represented by an attorney or by the public defender if qualified or other representative.

(h) Within seven (7) days of the hearing, the parole board shall issue a written decision granting or denying medical parole and explaining its reasons. If the board determines that medical parole is warranted, it shall impose conditions of release which shall include the following:

(1) Periodic medical examinations;

(2) Periodic reporting to a parole officer, and the reporting interval;

(3) Any other terms or conditions the board deems necessary.

(i) If after release the releasee's condition or circumstances change to render him or her ineligible for medical parole, the parole board may order a return to custody to await hearing to determine whether the

release should be revoked. A release may also be revoked for violation of conditions otherwise applicable to parole.

(j) An annual report shall be prepared by the director of the department of corrections for the parole board and the general assembly. The report shall include: the number of inmates who have applied for medical parole; the number who have been granted medical parole; the nature of the illness of the applicants, and the nature of the placement pursuant to the medical discharge plan; the categories of reasons for denial for those who have been denied; the number of releasees on medical parole who have been returned to the custody of the department of correctional services and the reasons for return.

**Section:** 244.05 continued...

Notwithstanding subdivisions 4 and 5, the commissioner may order that any offender be placed on **conditional** **medical** **release** before the offender's scheduled supervised release date or target release date if the offender suffers from a grave illness or medical condition and the release poses no threat to the public. In making the decision to release an offender on this status, the commissioner must consider the offender's age and medical condition, the health care needs of the offender, the offender's custody classification and level of risk of violence, the appropriate level of community supervision, and alternative placements that may be available for the offender. An inmate may not be released under this provision unless the commissioner has determined that the inmate's health costs are likely to be borne by medical assistance, Medicaid, general assistance medical care, veteran's benefits, or by any other federal or state medical assistance programs or by the inmate. **Conditional** **medical** **release** is governed by provisions relating to supervised release except that it may be rescinded without hearing by the commissioner if the offender's medical condition improves to the extent that the continuation of the **conditional** **medical** **release** presents a more serious risk to the public.

Subd. 4. Minimum imprisonment, life sentence. An inmate serving a mandatory life sentence under section 609.106 must not be given supervised release under this section. An inmate serving a mandatory life sentence under section 609.185, clause (1), (3), (5), or (6); or 609.109, subdivision 2a, must not be given supervised release under this section without having served a minimum term of 30 years. An inmate serving a mandatory life sentence under section 609.385 must not be given supervised release under this section without having served a minimum term of imprisonment of 17 years.

Subd. 5. Supervised release, life sentence. (a) The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence under section 609.185, clause (1), (3), (5), or (6); 609.109, subdivision 2a; or 609.385 after the inmate has served the minimum term of imprisonment specified in subdivision 4.

(b) The commissioner shall require the preparation of a community investigation report and shall consider the findings of the report when making a supervised release decision under this subdivision. The report shall reflect the sentiment of the various elements of the community toward the inmate, both at the time of the offense and at the present time. The report shall include the views of the sentencing judge, the prosecutor, any law enforcement personnel who may have been involved in the case, and any successors to these individuals who may have information relevant to the supervised release decision. The report shall also include the views of the victim and the victim's family unless the victim or the victim's family chooses not to participate.

(c) The commissioner shall make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's supervised release review hearing.

**Section:** 244.05 continued...

The victim has a right to submit an oral or written statement at the review hearing. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be given supervised release at this time. The commissioner must consider the victim's statement when making the supervised release decision.

(d) As used in this subdivision, "victim" means the individual who suffered harm as a result of the inmate's crime or, if the individual is deceased, the deceased's surviving spouse or next of kin.





1/22 (120)  
State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2142/1

RPN... King  
LMG

DOA:.....Johnson - Allow DOC to authorize medical parole or medical extended supervision

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT <sup>DON'T GEN. CAT.</sup> relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**CORRECTIONAL SYSTEM**

**ADULT CORRECTIONAL SYSTEM**

Under current law, any person who is serving a sentence for a felony that was committed before January 1, 2000, may be paroled after serving 25% of his or her sentence, except that if the person is serving a life sentence, the person must serve 20 years of the sentence before he or she is eligible for parole. The parole commission makes the decision as to when the person actually is paroled, based on specific criteria. Currently, any person who is serving a sentence for a felony that was committed after December 31, 1999, is not eligible for parole. Instead, the person is sentenced to prison and to extended supervision for a specific time determined by the court. The term of imprisonment may be reduced if the person is placed in the challenge incarceration program, that provides a limited number of youthful offenders a program of strenuous exercise, manual labor, substance abuse treatment, and personal development counseling.

This bill allows the secretary <sup>of DOC</sup> to release a prisoner, other than one who is sentenced to life imprisonment, before the end of his or her mandatory time of imprisonment and regardless of when the offense was committed, if the prisoner is seriously or terminally ill. Under the bill, the prisoner may be released if the

of corrections

secretary determines that the release of the inmate would not pose a risk of harm to any person. The secretary must also determine that the inmate's health care costs are likely to be paid by the federal medicare program, a veteran's program, medical assistance, or another federal or state medical program, or by the inmate. The bill provides that the person's release may be revoked if his or her medical condition improves and he or she may pose a risk of harm to any person. The bill requires ~~the~~ department to promulgate rules regarding eligibility for this conditional medical parole or extended supervision program.

DOC

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 301.03 (3) of the statutes is amended to read:  
 2           301.03 (3) Administer parole, extended supervision and probation matters,  
 3 except that the decision to grant or deny parole to inmates shall be made by the parole  
 4 commission and the decision to revoke probation, extended supervision or parole in  
 5 cases in which there is no waiver of the right to a hearing shall be made by the  
 6 division of hearings and appeals in the department of administration. The secretary  
 7 may grant special action parole releases under s. 304.02. The secretary may grant  
 8 conditional medical parole under s. 302.11 (2m). The department shall promulgate  
 9 rules establishing a drug testing program for probationers, parolees and persons  
 10 placed on extended supervision. The rules shall provide for assessment of fees upon  
 11 probationers, parolees and persons placed on extended supervision to partially offset  
 12 the costs of the program.

History: 1989 a. 31, 107, 121, 188, 336; 1991 a. 39; 1993 a. 16, 377, 479; 1995 a. 27 ss. 6355, 6356m, 6356p, 9126 (19); 1995 a. 77, 141; 1997 a. 27, 35, 237, 275, 283, 284; 1999 a. 9, 32.

13           **SECTION 2.** 302.11 (2m) of the statutes is created to read:  
 14           302.11 (2m) (a) An inmate who is subject to a mandatory release on parole  
 15 under sub. (1) may be released from prison before the mandatory release date on a  
 16 conditional medical parole if all of the following conditions are met:

1           1. The warden of the correctional institution in which the inmate is confined  
2 makes a request to the secretary ~~of the department~~ that the inmate be released on  
3 conditional medical parole.

4           2. The warden provides the secretary with the inmate's age, ~~committing~~  
5 ~~offense~~ <sup>for which committed</sup>, medical condition, health care needs, security classification, potential risk  
6 for violence, <sup>and</sup> appropriate level of community supervision, and possible alternative  
7 community placements.

8           3. The inmate is seriously ill or terminally ill and the secretary determines that  
9 the release of the inmate would not pose a risk of harm to any person.

10          4. The secretary determines that the inmate's health care costs are likely to be  
11 paid by the federal medicare program, a veteran's program, medical assistance, or  
12 another federal or state medical program, or by the inmate.

13          5. The department complies with par. (e).

14 ~~6. The secretary orders the inmate released on a conditional medical parole.~~

15          (b) An inmate released on conditional medical parole is subject to all <sup>of</sup> the rules  
16 related to community supervision.

17          (c) An offender's conditional medical parole may be revoked if the offender's  
18 medical condition improves and <sup>is</sup> that continuing the conditional medical parole poses  
19 a risk of harm to any person.

20          (d) The department shall promulgate rules for the conditional medical parole  
21 program, including eligibility criteria, procedures for the secretary to <sup>use in deciding</sup> ~~decide~~ whether  
22 to grant a prisoner a conditional medical parole <sup>and to provide notice</sup> ~~and to provide notice~~ under par. (e)  
23 and conditions of the parole. <sup>Notification</sup>

24          (e) The department shall follow the procedures for notification and comment  
25 followed by the parole commission under s. 304.06 (1) (c) to (g).

1 SECTION 3. 302.11 (6) of the statutes is amended to read:

2 302.11 (6) Any inmate released on parole under sub. (1) ~~or~~, (1g) (b), (2m) <sup>or</sup> or s.  
3 304.02 or 304.06 (1) is subject to all conditions and rules of parole until the expiration  
4 of the sentence or until he or she is discharged by the department. Except as provided  
5 in ch. 304, releases from prison shall be on the Tuesday or Wednesday preceding the  
6 release date. The department may discharge a parolee on or after his or her  
7 mandatory release date or after 2 years of supervision. Any inmate sentenced to the  
8 intensive sanctions program who is released on parole under sub. (1) <sup>or (2m)</sup> or s. 304.02 or  
9 304.06 (1) remains in the program unless discharged by the department under s.  
10 301.048 (6) (a).

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266; 1983 a. 66, 528; 1985 a. 27; 1985 a. 332 s. 251 (1); 1987 a. 27, 412; 1989 a. 31 ss. 1629, 1630; Stats. s. 302.11; 1989 a. 107; 1991 a. 39; 1993 a. 79, 97, 194, 289, 483; 1995 a. 77, 448; 1997 a. 133, 275, 283, 284, 295, 326; 1999 a. 188.

11 SECTION 4. 302.11 (7) (a) of the statutes is amended to read:

12 302.11 (7) (a) The division of hearings and appeals in the department of  
13 administration, upon proper notice and hearing, or the department of corrections, if  
14 the parolee waives a hearing, may return a parolee released under sub. (1) ~~or~~, (1g)  
15 (b), or (2m) or s. 304.02 or 304.06 (1) to prison for a period up to the remainder of the  
16 sentence for a violation of the conditions of parole. The remainder of the sentence  
17 is the entire sentence, less time served in custody prior to parole. The revocation  
18 order shall provide the parolee with credit in accordance with ss. 304.072 and  
19 973.155.

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266; 1983 a. 66, 528; 1985 a. 27; 1985 a. 332 s. 251 (1); 1987 a. 27, 412; 1989 a. 31 ss. 1629, 1630; Stats. s. 302.11; 1989 a. 107; 1991 a. 39; 1993 a. 79; 97, 194, 289, 483; 1995 a. 77, 448; 1997 a. 133, 275, 283, 284, 295, 326; 1999 a. 188.

20 SECTION 5. 302.11 (7) (c) of the statutes is amended to read:

1           302.11 (7) (c) The parole commission may subsequently parole, under s. 304.06  
2           (1), and the department may subsequently parole, under sub. (2m) or s. 304.02, a  
3           parolee who is returned to prison for violation of a condition of parole.

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266; 1983 a. 66, 528; 1985 a. 27; 1985 a. 332 s. 251 (1); 1987 a. 27, 412; 1989 a. 31 ss. 1629, 1630; Stats. s. 302.11; 1989 a. 107; 1991 a. 39; 1993 a. 79, 97, 194, 289, 483; 1995 a. 77, 448; 1997 a. 133, 275, 283, 284, 295, 326; 1999 a. 188.

4           **SECTION 6. 302.113 (2m) of the statutes is created to read:**

5           302.113 (2m) (a) An inmate who is serving a bifurcated sentence under s.  
6           973.01 may be eligible for a reduction in the prison portion of the bifurcated sentence  
7           and may be released from prison on conditional medical extended supervision ~~if~~ <sup>if</sup>  
8           all of the following conditions are met:

9           1. The warden of the correctional institution in which the inmate is confined  
10          makes a request to the secretary ~~that the inmate be released on~~  
11          conditional medical extended supervision.

12          2. The warden provides the secretary with the inmate's age, ~~committing~~  
13          <sup>for which committed</sup> offense, <sup>and</sup> medical condition, health care needs, security classification, potential risk  
14          for violence, <sup>and</sup> appropriate level of community supervision <sup>and</sup> possible alternative  
15          community placements.

16          3. The inmate is seriously ill or terminally ill and the secretary determines that  
17          the release of the inmate would not pose a risk of harm to any person.

18          4. The secretary determines that the inmate's health care costs are likely to be  
19          paid by the federal medicare program, a veteran's program, medical assistance, or  
20          another federal or state medical program, or by the inmate.

21          5. The department complies with par. (e).

22          6. ~~The secretary orders the inmate released on conditional medical extended~~  
23          supervision.

1 (b) An inmate released on conditional medical extended supervision is subject  
2 to all <sup>of</sup> the rules related to extended supervision.

3 (c) An offender's conditional medical extended supervision may be revoked if  
4 the offender's medical condition improves and ~~that~~ <sup>is</sup> continuing the conditional  
5 medical extended supervision poses a risk of harm to any person.

6 (d) The department shall promulgate rules for the conditional medical  
7 extended supervision program, including eligibility criteria, procedures for the  
8 secretary to <sup>use in deciding</sup> ~~decide~~ whether to grant a prisoner conditional medical extended  
9 supervision ~~and for notification under paragraph (b), and~~ <sup>and</sup> conditions of the extended  
10 supervision.

11 (e) The department shall follow the procedures for notification under s.  
12 304.063. ✓

13 SECTION 7. 973.01 (4) of the statutes is amended to read:

14 973.01 (4) NO GOOD TIME; EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT. A  
15 person sentenced to a bifurcated sentence under sub. (1) shall serve the term of  
16 confinement in prison portion of the sentence without reduction for good behavior.  
17 The term of confinement in prison portion is subject to extension under s. 302.113 (3)  
18 and, if applicable, to reduction under s. 302.045 (3m) or 302.113 (2m).

History: 1997 a. 283.

19 SECTION 8. 973.01 (8) <sup>(a) 6.</sup> ~~was~~ of the statutes is created to read:

20 973.01 (8) <sup>(a) 6.</sup> ~~was~~ That the person may be eligible for a reduction in the prison  
21 portion of the bifurcated sentence <sup>if</sup> ~~when~~ the person meets the conditions under s.  
22 302.113 (2m), and inform the person of the provisions of s. 302.113 (2m). ✓

23 (END)



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2142/1  
RPN&MGD:kmg:km

DOA:.....Johnson - Allow DOC to authorize medical parole or medical extended supervision

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

*Minimum time to serve*

*Why Used 2003 384.  
063 notice - other option  
set 950, 04 (iv) (7) or (8)*

*D-Note*

*Includes all except lifers,  
Geriatric last year was class "C" 2  
less.*

*# of penalty provide for mandatory  
minimum. I did not those  
and those statutes*

1 AN ACT ...; relating to: the budget.

**Analysis by the Legislative Reference Bureau**

*Dec. 31, 1999*

**CORRECTIONAL SYSTEM**

**ADULT CORRECTIONAL SYSTEM**

*other than a life sentence*

Under current law, any person who is serving a sentence for a felony that was committed before January 1, 2000, may be paroled after serving 25% of his or her sentence, except that if the person is serving a life sentence the person must serve 20 years of the sentence before he or she is eligible for parole. The parole commission makes the decision as to when the person actually is paroled, based on specific criteria. Currently, any person who is serving a sentence for a felony that was committed after December 31, 1999, is not eligible for parole. Instead, the person is sentenced to prison and to extended supervision for a specific time determined by the court. The term of imprisonment may be reduced if the person is placed in the challenge incarceration program, that provides a limited number of youthful offenders a program of strenuous exercise, manual labor, substance abuse treatment, and personal development counseling.

*on or  
other than a life sentence*

This bill allows the secretary of corrections to release a prisoner, other than one who is sentenced to life imprisonment, before the end of his or her mandatory time of imprisonment and regardless of when the offense was committed, if the prisoner is seriously or terminally ill. Under the bill, the prisoner may be released if the

secretary determines that the release of the inmate would not pose a risk of harm to any person. The secretary must also determine that the inmate's health care costs are likely to be paid by the federal medicare program, a veteran's program, medical assistance, or another federal or state medical program, or by the inmate. The bill provides that the person's release may be revoked if his or her medical condition improves and he or she may pose a risk of harm to any person. The bill requires DOC to promulgate rules regarding eligibility for this conditional medical parole or extended supervision program.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

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

1           **SECTION 1.** 301.03 (3) of the statutes is amended to read:

2           301.03 (3) Administer parole, extended supervision and probation matters,  
3 except that the decision to grant or deny parole to inmates shall be made by the parole  
4 commission and the decision to revoke probation, extended supervision or parole in  
5 cases in which there is no waiver of the right to a hearing shall be made by the  
6 division of hearings and appeals in the department of administration. The secretary  
7 may grant special action parole releases under s. 304.02. The secretary may grant  
8 conditional medical parole under s. 302.11 (2m) <sup>& extended</sup> The department shall promulgate  
9 rules establishing a drug testing program for probationers, parolees and persons  
10 placed on extended supervision. The rules shall provide for assessment of fees upon  
11 probationers, parolees and persons placed on extended supervision to partially offset  
12 the costs of the program.

13           **SECTION 2.** 302.11 (2m) of the statutes is created to read:

14           302.11 (2m) (a) <sup>The secretary of corrections may release</sup> An inmate who is subject to a mandatory release on parole  
15 under sub. (1) ~~may be released from prison~~ before the mandatory release date on a  
16 conditional medical parole if all of the following conditions are met:



1           1. The warden of the correctional institution in which the inmate is confined  
2 makes a request to the secretary that the inmate be released on conditional medical  
3 parole.

4           2. The warden provides the secretary with the inmate's age, offense for which  
5 committed, medical condition, health care needs, security classification, potential  
6 risk for violence, and appropriate level of community supervision and possible  
7 alternative community placements.

8           3. The inmate is seriously ill or terminally ill and the secretary determines that  
9 the release of the inmate would not pose a risk of harm to any person.

10          4. The secretary determines that the inmate's health care costs are likely to be  
11 paid by the federal medicare program, a veteran's program, medical assistance, or  
12 another federal or state medical program, or by the inmate.

13          5. The department complies with par. (e).

14          (b) An inmate released on conditional medical parole is subject to all of the rules  
15 related to community supervision.

16          (c) An offender's conditional medical parole may be revoked if the offender's  
17 medical condition improves and if continuing the conditional medical parole poses  
18 a risk of harm to any person.

19          (d) The department shall promulgate rules for the conditional medical parole  
20 program, including eligibility criteria, procedures for the secretary to use in deciding  
21 whether to grant a prisoner a conditional medical parole, <sup>revocation under (c)</sup> and conditions of the  
22 parole.

23          (e) The department shall follow the procedures for notification and comment  
24 followed by the parole commission under s. 304.06 <sup>(c)</sup> ~~(c)~~ to (g). 950.04(w)

25          SECTION 3. 302.11 (6) of the statutes is amended to read:

*(F) or (w)*

**SECTION 3**

1           302.11 (6) Any inmate released on parole under sub. (1) or (1g) (b), or (2m) or  
2 s. 304.02 or 304.06 (1) is subject to all conditions and rules of parole until the  
3 expiration of the sentence or until he or she is discharged by the department. Except  
4 as provided in ch. 304, releases from prison shall be on the Tuesday or Wednesday  
5 preceding the release date. The department may discharge a parolee on or after his  
6 or her mandatory release date or after 2 years of supervision. Any inmate sentenced  
7 to the intensive sanctions program who is released on parole under sub. (1) or (2m)  
8 or s. 304.02 or 304.06 (1) remains in the program unless discharged by the  
9 department under s. 301.048 (6) (a).

10           **SECTION 4.** 302.11 (7) (a) of the statutes is amended to read:

11           302.11 (7) (a) The division of hearings and appeals in the department of  
12 administration, upon proper notice and hearing, or the department of corrections, if  
13 the parolee waives a hearing, may return a parolee released under sub. (1) or (1g)  
14 (b), or (2m) or s. 304.02 or 304.06 (1) to prison for a period up to the remainder of the  
15 sentence for a violation of the conditions of parole. The remainder of the sentence  
16 is the entire sentence, less time served in custody prior to parole. The revocation  
17 order shall provide the parolee with credit in accordance with ss. 304.072 and  
18 973.155.

19           **SECTION 5.** 302.11 (7) (c) of the statutes is amended to read:

20           302.11 (7) (c) The parole commission may subsequently parole, under s. 304.06  
21 (1), and the department may subsequently parole, under sub. (2m) or s. 304.02, a  
22 parolee who is returned to prison for violation of a condition of parole.

23           **SECTION 6.** 302.113 (2m) of the statutes is created to read:

24           302.113 (2m) (a) *the secretary of corrections may reduce* of  
25 973.01 *may be eligible for a reduction in the prison portion of the bifurcated sentence*

*AB 465  
reduction in term of  
cont matched by int  
ext sup*

1 ~~and may be released from prison~~ <sup>and</sup> <sup>the inmate</sup> on conditional medical extended supervision if all  
2 of the following conditions are met:

3 1. The warden of the correctional institution in which the inmate is confined  
4 makes a request to the secretary that the inmate be released on conditional medical  
5 extended supervision.

6 2. The warden provides the secretary with the inmate's age, offense for which  
7 committed, medical condition, health care needs, security classification, potential  
8 risk for violence, and appropriate level of community supervision and possible  
9 alternative community placements.

10 3. The inmate is seriously ill or terminally ill and the secretary determines that  
11 the release of the inmate would not pose a risk of harm to any person.

12 4. The secretary determines that the inmate's health care costs are likely to be  
13 paid by the federal medicare program, a veteran's program, medical assistance, or  
14 another federal or state medical program, or by the inmate.

15 5. The department complies with par. (e).

16 (b) ~~An inmate released on conditional medical extended supervision is subject~~  
17 ~~to all of the rules related to extended supervision.~~

18 (c) An offender's conditional medical extended supervision may be revoked if  
19 the offender's medical condition improves and if continuing the conditional medical  
20 extended supervision poses a risk of harm to any person.

21 (d) The department shall promulgate rules for the conditional medical  
22 extended supervision program, including eligibility criteria, procedures for the  
23 secretary to use in deciding whether to grant a prisoner conditional medical extended  
24 supervision and conditions of the extended supervision.

1 (e) The department shall follow the procedures for notification under s.  
2 304.063.

3 **SECTION 7.** 973.01 (4) of the statutes is amended to read:

4 **973.01 (4) NO GOOD TIME; EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT.** A  
5 person sentenced to a bifurcated sentence under sub. (1) shall serve the term of  
6 confinement in prison portion of the sentence without reduction for good behavior.  
7 The term of confinement in prison portion is subject to extension under s. 302.113 (3)  
8 and, if applicable, to reduction under s. 302.045 (3m) or 302.113 (2m).

9 **SECTION 8.** 973.01 (8) (a) 6. of the statutes is created to read:

10 **973.01 (8) (a) 6.** That the person may be eligible for a reduction in the prison  
11 portion of the bifurcated sentence if the person meets the conditions under s. 302.113  
12 (2m), and inform the person of the provisions of s. 302.113 (2m).

13 **(END)**

Soon (1/23)

2

DOA:.....Johnson - Allow DOC to authorize medical parole or medical extended supervision

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

D-NOTE

December 31, 1999

DON'T GEN. CAT.

1 AN ACT relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

other than a life sentence

Under current law, any person who is serving a sentence for a felony that was committed before January 1, 2000, may be paroled after serving 25% of his or her sentence, except that if the person is serving a life sentence the person must serve 20 years of the sentence before he or she is eligible for parole. The parole commission makes the decision as to when the person actually is paroled, based on specific criteria. Currently, any person who is serving a sentence for a felony that was committed after December 31, 1999, is not eligible for parole. Instead, the person is sentenced to prison and to extended supervision for a specific time determined by the court. The term of imprisonment may be reduced if the person is placed in the challenge incarceration program, that provides a limited number of youthful offenders a program of strenuous exercise, manual labor, substance abuse treatment, and personal development counseling.

on or

This bill allows the secretary of corrections to release a prisoner, other than one who is sentenced to life imprisonment, before the end of his or her mandatory time of imprisonment and regardless of when the offense was committed, if the prisoner is seriously or terminally ill. Under the bill, the prisoner may be released if the

secretary determines that the release of the inmate would not pose a risk of harm to any person. The secretary must also determine that the inmate's health care costs are likely to be paid by the federal medicare program, a veteran's program, medical assistance, or another federal or state medical program, or by the inmate. The bill provides that the person's release may be revoked if his or her medical condition improves and he or she may pose a risk of harm to any person. The bill requires DOC to promulgate rules regarding eligibility for this conditional medical parole or extended supervision program.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

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

1 SECTION 1. 301.03 (3) of the statutes is amended to read:

2 301.03 (3) Administer parole, extended supervision and probation matters,  
3 except that the decision to grant or deny parole to inmates shall be made by the parole  
4 commission and the decision to revoke probation, extended supervision or parole in  
5 cases in which there is no waiver of the right to a hearing shall be made by the  
6 division of hearings and appeals in the department of administration. The secretary  
7 may grant special action parole releases under s. 304.02. The secretary may grant  
8 or conditional medical extended supervision under s. 302.11 (2m) <sup>2m</sup> ~~under s. 302.11 (2a)~~. The department shall promulgate  
9 rules establishing a drug testing program for probationers, parolees and persons  
10 placed on extended supervision. The rules shall provide for assessment of fees upon  
11 probationers, parolees and persons placed on extended supervision to partially offset  
12 the costs of the program.

13 SECTION 2. 302.11 (2m) of the statutes is created to read:

14 <sup>The secretary of administration may release</sup>  
15 302.11 (2m) (a) An inmate who is subject to a mandatory release on parole  
16 under sub. (1) ~~may be released from prison~~ before the mandatory release date on a  
conditional medical parole if all of the following conditions are met:

1 1. The warden of the correctional institution in which the inmate is confined  
2 makes a request to the secretary that the inmate be released on conditional medical  
3 parole.

4 2. The warden provides the secretary with the inmate's age, offense for which  
5 committed, medical condition, health care needs, security classification, potential  
6 risk for violence, and appropriate level of community supervision and possible  
7 alternative community placements.

8 3. The inmate is seriously ill or terminally ill and the secretary determines that  
9 the release of the inmate would not pose a risk of harm to any person.

10 4. The secretary determines that the inmate's health care costs are likely to be  
11 paid by the federal medicare program, a veteran's program, medical assistance, or  
12 another federal or state medical program, or by the inmate.

13 5. The department complies with par. (a). <sup>d</sup>

14 ~~(b) An inmate released on conditional medical parole is subject to all of the rules~~  
15 ~~related to community supervision.~~

16 <sup>b</sup>  
(b) An offender's conditional medical parole may be revoked if the offender's  
17 medical condition improves and if continuing the conditional medical parole poses  
18 a risk of harm to any person.

19 <sup>c</sup>  
(c) The department shall promulgate rules for the conditional medical parole  
20 program, including eligibility criteria, procedures for the secretary to use in deciding  
21 whether to grant a prisoner a conditional medical parole, and conditions of the  
22 conditional medical parole. *procedures to follow when revoking a conditional medical parole*

23 <sup>d</sup>  
(d) The department shall follow the procedures for notification ~~and comment~~  
24 ~~followed by the parole commission~~ under s. 304.06 <sup>3</sup> ~~(a) to (g)~~. *medical parole*

304.063

25 SECTION 3. 302.11 (6) of the statutes is amended to read:

**SECTION 3**

1           302.11 (6) Any inmate released on parole under sub. (1) ~~or~~, (1g) (b), or (2m) or  
 2 s. 304.02 or 304.06 (1) is subject to all conditions and rules of parole until the  
 3 expiration of the sentence or until he or she is discharged by the department. Except  
 4 as provided in ch. 304, releases from prison shall be on the Tuesday or Wednesday  
 5 preceding the release date. The department may discharge a parolee on or after his  
 6 or her mandatory release date or after 2 years of supervision. Any inmate sentenced  
 7 to the intensive sanctions program who is released on parole under sub. (1) or (2m)  
 8 or s. 304.02 or 304.06 (1) remains in the program unless discharged by the  
 9 department under s. 301.048 (6) (a).

10           **SECTION 4.** 302.11 (7) (a) of the statutes is amended to read:

11           302.11 (7) (a) The division of hearings and appeals in the department of  
 12 administration, upon proper notice and hearing, or the department of corrections, if  
 13 the parolee waives a hearing, may return a parolee released under sub. (1) ~~or~~, (1g)  
 14 (b), or (2m) or s. 304.02 or 304.06 (1) to prison for a period up to the remainder of the  
 15 sentence for a violation of the conditions of parole. The remainder of the sentence  
 16 is the entire sentence, less time served in custody prior to parole. The revocation  
 17 order shall provide the parolee with credit in accordance with ss. 304.072 and  
 18 973.155.

19           **SECTION 5.** 302.11 (7) (c) of the statutes is amended to read:

20           302.11 (7) (c) The parole commission may subsequently parole, under s. 304.06  
 21 (1), and the department may subsequently parole, under sub. (2m) or s. 304.02, a  
 22 parolee who is returned to prison for violation of a condition of parole.

23           **SECTION 6.** 302.113 (2m) of the statutes is created to read:

24           302.113 (2m) (a) *The secretary of corrections may reduce the term of confinement*  
 25           An inmate who is serving a bifurcated sentence under s.  
 973.01 *may be eligible for a reduction in the prison portion* of the bifurcated sentence *of*



*the inmate*

① and may be released ~~from prison~~ on conditional medical extended supervision if all  
2 of the following conditions are met:

3 1. The warden of the correctional institution in which the inmate is confined  
4 makes a request to the secretary that the inmate be released on conditional medical  
5 extended supervision.

6 2. The warden provides the secretary with the inmate's age, offense for which  
7 committed, medical condition, health care needs, security classification, potential  
8 risk for violence, and appropriate level of community supervision and possible  
9 alternative community placements.

10 3. The inmate is seriously ill or terminally ill and the secretary determines that  
11 the release of the inmate would not pose a risk of harm to any person.

12 4. The secretary determines that the inmate's health care costs are likely to be  
13 paid by the federal medicare program, a veteran's program, medical assistance, or  
14 another federal or state medical program, or by the inmate.

15 5. The department complies with par. (e).

16 (b) An inmate released on conditional medical extended supervision is subject  
17 *shall have his or her period of* ~~to all of the rules related to~~ extended supervision *increased by the amount*  
*that his or her term of*  
*confinement is reduced*

18 (c) An offender's conditional medical extended supervision may be revoked if  
19 the offender's medical condition improves and if continuing the conditional medical  
20 extended supervision poses a risk of harm to any person.

21 (d) The department shall promulgate rules for the conditional medical  
22 extended supervision program, including eligibility criteria, procedures for the  
23 secretary to use in deciding whether to grant a prisoner conditional medical extended  
24 *procedures to follow when revoking a conditional medical*  
*supervision) and conditions of the extended supervision.*  
*extended supervision*

*conditional medical*

1 (e) The department shall follow the procedures for notification under s.  
2 304.063.

3 SECTION 7. 973.01 (4) of the statutes is amended to read:

4 973.01 (4) NO GOOD TIME; EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT. A  
5 person sentenced to a bifurcated sentence under sub. (1) shall serve the term of  
6 confinement in prison portion of the sentence without reduction for good behavior.  
7 The term of confinement in prison portion is subject to extension under s. 302.113 (3)  
8 and, if applicable, to reduction under s. 302.045 (3m) or 302.113 (2m).

9 ~~SECTION 8. 973.01 (8) (a) 6. of the statutes is created to read:~~

10 ~~973.01 (8) (a) 6. That the person may be eligible for a reduction in the prison~~  
11 ~~portion of the bifurcated sentence if the person meets the conditions under s. 302.113~~  
12 ~~(2m), and inform the person of the provisions of s. 302.113 (2m).~~

13

(END)

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

LRB-2142/1dn <sup>2</sup>  
RPN&MGD:kmg:km

D-Note

1. Numerous penalty sections of the statutes require a mandatory minimum period of imprisonment. This draft does not amend any of those sections or refer to those sections when creating the conditional medical parole or extended supervision.
2. This bill allows any person <sup>who is</sup> imprisoned, except persons serving a life sentence, to be subject to conditional medical parole or extended supervision. Assembly Bill 465 from last ~~year~~ <sup>session</sup> limited the geriatric release to felons other than lifers and Class B felons.
3. To provide notice to victims, I used the notice provisions in section 304.063, not the notice provisions in section 304.06 (1) (c). No change is made in section 950.04, which refers to the notification procedure under 304.063. <sup>section</sup>
4. This draft does not require any minimum time of imprisonment before a person is subject to the conditional medical parole or extended supervision.

If any of these decision <sup>is</sup> ~~are~~ incorrect, please let me know.

(S)

Robert P. Nelson  
Senior Legislative Attorney  
Phone: (608) 267-7511  
E-mail: robert.nelson@legis.state.wi.us

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

LRB-2142/2dn  
RPN&MGD:kmg:pg

January 26, 2001

1. Numerous penalty sections of the statutes require a mandatory minimum period of imprisonment. This draft does not amend any of those sections or refer to those sections when creating the conditional medical parole or extended supervision.
2. This bill allows any person who is imprisoned, except persons serving a life sentence, to be subject to conditional medical parole or extended supervision. Assembly Bill 465 from last session limited the geriatric release to felons other than lifers and Class B felons.
3. To provide notice to victims, I used the notice provisions in section 304.063, not the notice provisions in section 304.06 (1) (c). No change is made in section 950.04, which refers to the notification procedure under section 304.063.
4. This draft does not require any minimum time of imprisonment before a person is subject to the conditional medical parole or extended supervision.

If any of these decisions is incorrect, please let me know.

Robert P. Nelson  
Senior Legislative Attorney  
Phone: (608) 267-7511  
E-mail: robert.nelson@legis.state.wi.us



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2142(2)  
RPN&MGD:kmg:pg 3

D-Note

DOA:.....Johnston - Allow DOC to authorize medical parole or medical extended supervision

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

DON'T GEN. CAT.

1 AN ACT ~~to amend 301.03 (3), 302.11 (6), 302.11 (7) (a), 302.11 (7) (c) and 973.01~~  
 2 ~~(4); and to create 302.11 (2m) and 302.113 (2m) of the statutes; relating to:~~  
 3 the budget.

*Analysis by the Legislative Reference Bureau*

**CORRECTIONAL SYSTEM**

**ADULT CORRECTIONAL SYSTEM**

Under current law, any person who is serving a sentence, other than a life sentence, for a felony that was committed before December 31, 1999, may be paroled after serving 25% of his or her sentence. The parole commission makes the decision as to when the person actually is paroled, based on specific criteria. Currently, any person who is serving a sentence, other than a life sentence, for a felony that was committed on or after December 31, 1999, is not eligible for parole. Instead, the person is sentenced to prison and to extended supervision for a specific time determined by the court. The term of imprisonment may be reduced if the person is placed in the challenge incarceration program, that provides a limited number of youthful offenders a program of strenuous exercise, manual labor, substance abuse treatment, and personal development counseling.

This bill allows the secretary of corrections to release a prisoner, other than one who is sentenced to life imprisonment, before the end of his or her mandatory time

of imprisonment and regardless of when the offense was committed, if the prisoner is seriously or terminally ill. Under the bill, the prisoner may be released if the secretary determines that the release of the inmate would not pose a risk of harm to any person. The secretary must also determine that the inmate's health care costs are likely to be paid by the federal medicare program, a veteran's program, medical assistance, or another federal or state medical program, or by the inmate. The bill provides that the person's release may be revoked if his or her medical condition improves and he or she may pose a risk of harm to any person. The bill requires DOC to promulgate rules regarding eligibility for this conditional medical parole or extended supervision program.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

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

1           **SECTION 1.** 301.03 (3) of the statutes is amended to read:

2           301.03 (3) Administer parole, extended supervision and probation matters,  
3           except that the decision to grant or deny parole to inmates shall be made by the parole  
4           commission and the decision to revoke probation, extended supervision or parole in  
5           cases in which there is no waiver of the right to a hearing shall be made by the  
6           division of hearings and appeals in the department of administration. The secretary  
7           may grant special action parole releases under s. 304.02. The secretary may grant  
8           conditional medical parole under s. 302.11 (2m) or conditional medical extended  
9           supervision under s. 302.113 (2m). The department shall promulgate rules  
10          establishing a drug testing program for probationers, parolees and persons placed  
11          on extended supervision. The rules shall provide for assessment of fees upon  
12          probationers, parolees and persons placed on extended supervision to partially offset  
13          the costs of the program.

14          **SECTION 2.** 302.11 (2m) of the statutes is created to read:

1           302.11 (2m) (a) The secretary may release an inmate who is subject to a  
2 mandatory release on parole under sub. (1) before the mandatory release date on a  
3 conditional medical parole if all of the following conditions are met:

4           1. The warden of the correctional institution in which the inmate is confined  
5 makes a request to the secretary that the inmate be released on conditional medical  
6 parole.

7           2. The warden provides the secretary with the inmate's age, offense for which  
8 committed, medical condition, health care needs, security classification, potential  
9 risk for violence, and appropriate level of community supervision and possible  
10 alternative community placements.

11           3. The inmate is seriously ill or terminally ill and the secretary determines that  
12 the release of the inmate would not pose a risk of harm to any person.

13           4. The secretary determines that the inmate's health care costs are likely to be  
14 paid by the federal medicare program, a veteran's program, medical assistance, or  
15 another federal or state medical program, or by the inmate.

16           5. The department complies with par. (d).

17           (b) An offender's conditional medical parole may be revoked if the offender's  
18 medical condition improves and if continuing the conditional medical parole poses  
19 a risk of harm to any person.

20           (c) The department shall promulgate rules for the conditional medical parole  
21 program, including eligibility criteria, procedures for the secretary to use in deciding  
22 whether to grant a prisoner a conditional medical parole, procedures to follow when  
23 revoking a conditional medical parole, and conditions of the conditional medical  
24 parole.

1 (d) The department shall follow the procedures for notification under s.  
2 304.063.

3 **SECTION 3.** 302.11 (6) of the statutes is amended to read:

4 302.11 (6) Any inmate released on parole under sub. (1) ~~or~~, (1g) (b), or (2m) or  
5 s. 304.02 or 304.06 (1) is subject to all conditions and rules of parole until the  
6 expiration of the sentence or until he or she is discharged by the department. Except  
7 as provided in ch. 304, releases from prison shall be on the Tuesday or Wednesday  
8 preceding the release date. The department may discharge a parolee on or after his  
9 or her mandatory release date or after 2 years of supervision. Any inmate sentenced  
10 to the intensive sanctions program who is released on parole under sub. (1) or (2m)  
11 or s. 304.02 or 304.06 (1) remains in the program unless discharged by the  
12 department under s. 301.048 (6) (a).

13 **SECTION 4.** 302.11 (7) (a) of the statutes is amended to read:

14 ~~302.11 (7) (a) The division of hearings and appeals in the department of  
15 administration, upon proper notice and hearing, or the department of corrections, if  
16 the parolee waives a hearing, may return a parolee released under sub. (1) ~~or~~, (1g)  
17 (b), or (2m) or s. 304.02 or 304.06 (1) to prison for a period up to the remainder of the  
18 sentence for a violation of the conditions of parole. The remainder of the sentence  
19 is the entire sentence, less time served in custody prior to parole. The revocation  
20 order shall provide the parolee with credit in accordance with ss. 304.072 and  
21 973.155.~~

22 **SECTION 5.** 302.11 (7) (c) of the statutes is amended to read:

23 302.11 (7) (c) The parole commission may subsequently parole, under s. 304.06  
24 (1), and the department may subsequently parole, under sub. (2m) or s. 304.02, a  
25 parolee who is returned to prison for violation of a condition of parole.



1           **SECTION 6.** 302.113 (2m) of the statutes is created to read:

2           302.113 (2m) (a) The secretary may reduce the term of confinement of the  
3 bifurcated sentence of an inmate who is serving a bifurcated sentence under s. 973.01  
4 and may release the inmate on conditional medical extended supervision if all of the  
5 following conditions are met:

6           1. The warden of the correctional institution in which the inmate is confined  
7 makes a request to the secretary that the inmate be released on conditional medical  
8 extended supervision.

9           2. The warden provides the secretary with the inmate's age, offense for which  
10 committed, medical condition, health care needs, security classification, potential  
11 risk for violence, and appropriate level of community supervision and possible  
12 alternative community placements.

13           3. The inmate is seriously ill or terminally ill and the secretary determines that  
14 the release of the inmate would not pose a risk of harm to any person.

15           4. The secretary determines that the inmate's health care costs are likely to be  
16 paid by the federal medicare program, a veteran's program, medical assistance, or  
17 another federal or state medical program, or by the inmate.

18           5. The department complies with par. (e).

19           (b) An inmate released on conditional medical extended supervision shall have  
20 his or her period of extended supervision increased by the amount that his or her  
21 term of confinement is reduced.

22           (c) An offender's conditional medical extended supervision may be revoked if  
23 the offender's medical condition improves and if continuing the conditional medical  
24 extended supervision poses a risk of harm to any person.



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

2142/3  
LRB-1855/2 dr

MGD:gs:km  
King

This draft reconciles LRB-1855 and LRB-2142. All of these drafts should continue to appear in the compiled bill.

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

LRB-2142/3dn  
RPN&MGD:kmg:rs

February 6, 2001

This draft reconciles LRB-1855 LRB-2142. All of these drafts should continue to appear in the compiled bill.

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State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2142/3

RPN&MGD:kmg:rs

Today 2/7

DOA:.....Johnston - Allow DOC to authorize medical parole or medical extended supervision

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

Jim Johnston: D-Note

This draft makes the changes that were discussed on the telephone.

Bob N

1 AN ACT <sup>DON'T GEN. CAT.</sup> relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**CORRECTIONAL SYSTEM**

**ADULT CORRECTIONAL SYSTEM**

Under current law, any person who is serving a sentence, other than a life sentence, for a felony that was committed before December 31, 1999, may be paroled after serving 25% of his or her sentence. The parole commission makes the decision as to when the person actually is paroled, based on specific criteria. Currently, any person who is serving a sentence, other than a life sentence, for a felony that was committed on or after December 31, 1999, is not eligible for parole. Instead, the person is sentenced to prison and to extended supervision for a specific time determined by the court. The term of imprisonment may be reduced if the person is placed in the challenge incarceration program, that provides a limited number of youthful offenders a program of strenuous exercise, manual labor, substance abuse treatment, and personal development counseling.

This bill allows the secretary of corrections to release a prisoner, other than one who is sentenced to life imprisonment, before the end of his or her mandatory time of imprisonment and regardless of when the offense was committed, if the prisoner is seriously or terminally ill. Under the bill, the prisoner may be released if the secretary determines that the release of the inmate would not pose a risk of harm to

any person. The secretary must also determine that the inmate's health care costs are likely to be paid by the federal medicare program, a veteran's program, medical assistance, or another federal or state medical program, or by the inmate. The bill provides that the person's release may be revoked if his or her medical condition improves and he or she may pose a risk of harm to any person. The bill requires DOC to promulgate rules regarding eligibility for this conditional medical parole or extended supervision program, *and regarding criteria for revoking the parole* or extended supervision.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*or extended supervision*

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

1           **SECTION 1.** 301.03 (3) of the statutes is amended to read:

2           301.03 (3) Administer parole, extended supervision and probation matters,  
3 except that the decision to grant or deny parole to inmates shall be made by the parole  
4 commission and the decision to revoke probation, extended supervision or parole in  
5 cases in which there is no waiver of the right to a hearing shall be made by the  
6 division of hearings and appeals in the department of administration. The secretary  
7 may grant special action parole releases under s. 304.02. The secretary may grant  
8 conditional medical parole under s. 302.11 (2m) or conditional medical extended  
9 supervision under s. 302.113 (2m). The department shall promulgate rules  
10 establishing a drug testing program for probationers, parolees and persons placed  
11 on extended supervision. The rules shall provide for assessment of fees upon  
12 probationers, parolees and persons placed on extended supervision to partially offset  
13 the costs of the program.

14           **SECTION 2.** 302.11 (2m) of the statutes is created to read:

15           302.11 (2m) (a) The secretary may release an inmate who is subject to  
16 mandatory release on parole under sub. (1) before the mandatory release date on a  
17 conditional medical parole if all of the following conditions are met:

*sentenced to the Wisconsin state prisons for a crime committed before December 31, 1999, other than a person sentenced to life imprisonment,*

1           1. The warden of the correctional institution in which the inmate is confined  
2 makes a request to the secretary that the inmate be released on conditional medical  
3 parole.

4           2. The warden provides the secretary with the inmate's age, offense for which  
5 committed, medical condition, health care needs, security classification, potential  
6 risk for violence, and appropriate level of community supervision and possible  
7 alternative community placements.

8           3. The inmate is seriously ill or terminally ill and the secretary determines that  
9 the release of the inmate would not pose a risk of harm to any person.

10          4. The secretary determines that the inmate's health care costs are likely to be  
11 paid by the federal medicare program, a veteran's program, medical assistance, or  
12 another federal or state medical program, or by the inmate.

13          5. The department complies with par. (d).

14          (b) An offender's conditional medical parole may be revoked if the offender's  
15 ~~medical condition improves and if continuing the conditional medical parole poses~~  
16 ~~a risk of harm to any person.~~ *the conditional medical*  
*violates any condition or rule of parole*

17          (c) The department shall promulgate rules for the conditional medical parole  
18 program, including eligibility criteria, procedures for the secretary to use in deciding  
19 whether to grant a prisoner a conditional medical parole, procedures to follow when  
20 revoking a conditional medical parole, and conditions of the conditional medical  
21 parole.

22          (d) The department shall follow the procedures for notification under s.  
23 304.063.

24          **SECTION 3.** 302.11 (6) of the statutes is amended to read:

**SECTION 3**

1           302.11 (6) Any inmate released on parole under sub. (1) or (1g) (b), or (2m) or  
2 s. 304.02 or 304.06 (1) is subject to all conditions and rules of parole until the  
3 expiration of the sentence or until he or she is discharged by the department. Except  
4 as provided in ch. 304, releases from prison shall be on the Tuesday or Wednesday  
5 preceding the release date. The department may discharge a parolee on or after his  
6 or her mandatory release date or after 2 years of supervision. Any inmate sentenced  
7 to the intensive sanctions program who is released on parole under sub. (1) or (2m)  
8 or s. 304.02 or 304.06 (1) remains in the program unless discharged by the  
9 department under s. 301.048 (6) (a).

10           **SECTION 4.** 302.11 (7) (c) of the statutes is amended to read:

11           302.11 (7) (c) The parole commission may subsequently parole, under s. 304.06  
12 (1), and the department may subsequently parole, under sub. (2m) or s. 304.02, a  
13 parolee who is returned to prison for violation of a condition of parole.

14           **SECTION 5.** 302.113 (2m) of the statutes is created to read:

15           302.113 (2m) (a) The secretary may reduce the term of confinement of the  
16 bifurcated sentence of an inmate who is serving a bifurcated sentence under s. 973.01  
17 and may release the inmate on conditional medical extended supervision if all of the  
18 following conditions are met:

19           1. The warden of the correctional institution in which the inmate is confined  
20 makes a request to the secretary that the inmate be released on conditional medical  
21 extended supervision.

22           2. The warden provides the secretary with the inmate's age, offense for which  
23 committed, medical condition, health care needs, security classification, potential  
24 risk for violence, and appropriate level of community supervision and possible  
25 alternative community placements.



1           3. The inmate is seriously ill or terminally ill and the secretary determines that  
2 the release of the inmate would not pose a risk of harm to any person.

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4 paid by the federal medicare program, a veteran's program, medical assistance, or  
5 another federal or state medical program, or by the inmate.

6           5. The department complies with par. (e).

7           (b) An inmate released on conditional medical extended supervision shall have  
8 his or her period of extended supervision increased by the amount that his or her  
9 term of confinement is reduced.

10          (c) An offender's conditional medical extended supervision may be revoked if  
11 the offender's <sup>the</sup> medical condition improves and if continuing the conditional <sup>the</sup> medical  
12 ~~extended supervision poses a risk of harm to any person.~~ <sup>violates a condition or rule of conditional</sup> medical <sup>extended</sup> <sup>supervision</sup>

13          (d) The department shall promulgate rules for the conditional medical  
14 extended supervision program, including eligibility criteria, procedures for the  
15 secretary to use in deciding whether to grant a prisoner conditional medical extended  
16 supervision, procedures to follow when revoking a conditional medical extended  
17 supervision, and conditions of the conditional medical extended supervision.

18          (e) The department shall follow the procedures for notification under s.  
19 304.063.

20          **SECTION 6.** 973.01 (4) of the statutes is amended to read:

21          973.01 (4) **NO GOOD TIME; EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT.** A  
22 person sentenced to a bifurcated sentence under sub. (1) shall serve the term of  
23 confinement in prison portion of the sentence without reduction for good behavior.

1 The term of confinement in prison portion is subject to extension under s. 302.113 (3)  
2 and, if applicable, to reduction under s. 302.045 (3m) or 302.113 (2m).

3 (END)

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

LRB-2142/4dn  
RPN:kmg:pg

February 7, 2001

**Jim Johnston:**

This draft makes the changes that were discussed on the telephone.

Robert P. Nelson  
Senior Legislative Attorney  
Phone: (608) 267-7511  
E-mail: robert.nelson@legis.state.wi.us



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2142/4  
RPN&MGD:kmg:pg

DOA:.....Johnston – Allow DOC to authorize medical parole or medical extended supervision

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

---

*Analysis by the Legislative Reference Bureau*

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**ADULT CORRECTIONAL SYSTEM**

Under current law, any person who is serving a sentence, other than a life sentence, for a felony that was committed before December 31, 1999, may be paroled after serving 25% of his or her sentence. The parole commission makes the decision as to when the person actually is paroled, based on specific criteria. Currently, any person who is serving a sentence, other than a life sentence, for a felony that was committed on or after December 31, 1999, is not eligible for parole. Instead, the person is sentenced to prison and to extended supervision for a specific time determined by the court. The term of imprisonment may be reduced if the person is placed in the challenge incarceration program, that provides a limited number of youthful offenders a program of strenuous exercise, manual labor, substance abuse treatment, and personal development counseling.

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any person. The secretary must also determine that the inmate's health care costs are likely to be paid by the federal medicare program, a veteran's program, medical assistance, or another federal or state medical program, or by the inmate. The bill requires DOC to promulgate rules regarding eligibility for this conditional medical parole or extended supervision program and regarding criteria for revoking the parole or extended supervision.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

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

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5           cases in which there is no waiver of the right to a hearing shall be made by the  
6           division of hearings and appeals in the department of administration. The secretary  
7           may grant special action parole releases under s. 304.02. The secretary may grant  
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3 parole.

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7 alternative community placements.

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9 the release of the inmate would not pose a risk of harm to any person.

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11 paid by the federal medicare program, a veteran's program, medical assistance, or  
12 another federal or state medical program, or by the inmate.

13          5. The department complies with par. (d).

14           (b) An offender's conditional medical parole may be revoked if the offender  
15 violates any condition or rule of the conditional medical parole.

16           (c) The department shall promulgate rules for the conditional medical parole  
17 program, including eligibility criteria, procedures for the secretary to use in deciding  
18 whether to grant a prisoner a conditional medical parole, procedures to follow when  
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19 extended supervision.

20 2. The warden provides the secretary with the inmate's age, offense for which  
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23 alternative community placements.

24 3. The inmate is seriously ill or terminally ill and the secretary determines that  
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5           (b) An inmate released on conditional medical extended supervision shall have  
6 his or her period of extended supervision increased by the amount that his or her  
7 term of confinement is reduced.

8           (c) An offender's conditional medical extended supervision may be revoked if  
9 the offender violates a condition or rule of the conditional medical extended  
10 supervision.

11           (d) The department shall promulgate rules for the conditional medical  
12 extended supervision program, including eligibility criteria, procedures for the  
13 secretary to use in deciding whether to grant a prisoner conditional medical extended  
14 supervision, procedures to follow when revoking a conditional medical extended  
15 supervision, and conditions of the conditional medical extended supervision.

16           (e) The department shall follow the procedures for notification under s.  
17 304.063.

18           **SECTION 6.** 973.01 (4) of the statutes is amended to read:

19           **973.01 (4) NO GOOD TIME; EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT.** A  
20 person sentenced to a bifurcated sentence under sub. (1) shall serve the term of  
21 confinement in prison portion of the sentence without reduction for good behavior.  
22 The term of confinement in prison portion is subject to extension under s. 302.113 (3)  
23 and, if applicable; to reduction under s. 302.045 (3m) or 302.113 (2m).

24

(END)