

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sentencing
Correctional System - ext superv
Correctional System - probation**

Extra Copies: rlr

Submit via email: NO

Requester's email:

Pre Topic:

SDC:.....Keckhaver - CN6568,

Topic:

Truth in sentencing

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>
/?	mdsida 06/16/2001	hhagen 06/16/2001		_____			
/1		jdye 06/19/2001	rschluet 06/16/2001	_____	lrb docadmin 06/16/2001		
/2			pgreensl 06/19/2001	_____	gretskl 06/19/2001		

FE Sent For:

<END>

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/1	mdsida 06/16/2001	hhagen 06/16/2001					
/1		1/2 6/19 jld	rschluet 06/16/2001	6/19 Seth	lrb_docadmin 06/16/2001		
			6/19 P8				

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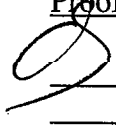
Topic:

Truth in sentencing

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<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?	mdsida	1. hmb 6/16/01					
			6-16-01				

FE Sent For:

<END>

yes

06/15/2001 02:21 PM

Agency: General Provisions

caucus number 6568

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

other notes

Description2: Delete changes related to "Bifurcated Sentencing Structure Modifications". These provisions are described in the LFB Summary Document Under General Provisions, Item #2 at pages 352-355.

drafting instructions:
more instructions:

Agency: **General Provisions**

Number of Amendments: 1

M&D

GENERAL PROVISIONS

CM6568

Delete changes related to "Bifurcated Sentencing Structure Modifications". These provisions are described in the LFB Summary Document Under General Provisions, Item #2 at pages 352-355.

GENERAL PROVISIONS

1. REGISTER OF DEEDS FEES FOR CERTIFYING COPIES

Governor/Joint Finance: Increase the fee that registers of deeds charge for certifying copies of records or papers from \$0.25 to \$1, effective with copies certified on the effective date of the bill. Each county has a register of deeds responsible for maintaining records pertaining to real estate, personal property, births, deaths, marriages, other vital statistics, historical societies in the county, posts of the Grand Army of the Republic in the county and the organization of corporations, fraternal societies, religious groups, associations and other entities. When providing copies of records, current law authorizes registers of deeds to charge \$2 for the first page and \$1 for each additional page, plus the certification fee.

2. BIFURCATED SENTENCING STRUCTURE MODIFICATIONS

Governor/Joint Finance: Modify the current bifurcated sentencing (truth-in-sentencing) structure as follows:

Delete

a. *Revocation of Extended Supervision.* Specify that every person released to extended supervision remains in the legal custody of Corrections. If the Department alleges that any condition or rule of extended supervision has been violated, the Department may take physical custody of the person for the investigation of the alleged violation.

In regards to revocation hearings, create a definition of "reviewing authority" (the Division of Hearings and Appeals in the Department of Administration, upon proper notice and hearing, or the Department of Corrections, if the parolee waives a hearing). Specify that the reviewing authority may consolidate parole and extended supervision revocation hearings for the same person. If an extended supervision revocation hearing is held before the Division of Hearing and Appeals, allow the hearing examiner to order the taking and allow the use of a videotaped deposition under certain circumstances.

Specify that if there is a hearing before the Division of Hearings and Appeals, the person on extended supervision may seek review of a decision to revoke extended supervision and the Department of Corrections may seek review of a decision to not revoke extended supervision. Review of a decision may be sought only by an action for certiorari.

Specify that if a person on extended supervision (other than an individual serving a life sentence) is returned to prison, the maximum amount of additional confinement time is the person's total sentence less confinement time already served, including any extensions imposed for infractions, and all time served in confinement for previous revocations of extended supervision under the sentence. If a person is returned to prison for a period of time that is less

than the time remaining on a bifurcated sentence, specify that the person be released to extended supervision after he or she has served the period of time specified by the reviewing authority and any extensions imposed the Department. Specify that the remaining extended supervision portion of the bifurcated sentence is the total length of the bifurcated sentence, less the time served in confinement under the bifurcated sentence, including time served in confinement for any revocation.

Require that the Division of Hearings and Appeals assign and supervise hearing examiners for extended supervision hearings.

b. *Penalties for Criminal Attempt.* If a court imposes a bifurcated sentence for an attempt to commit a felony offense or a misdemeanor battery, battery to an unborn child or theft offense, the following requirements would apply: (1) if the completed crime is a classified felony, the maximum term of confinement in prison for an attempt is one-half of the maximum term of confinement in prison for the classified felony; or (2) if the completed crime is not a classified felony, the maximum term of confinement for the attempt is 75% of the maximum term of imprisonment for the crime. Subject to the required minimum extended supervision term, the maximum term of confinement in prison for an attempt may be increased for habitual criminality or a second or subsequent drug offense. Specify that if the maximum term of confinement in prison is increased for habitual criminality or a second or subsequent drug offense, the maximum term of imprisonment is increased by the same amount. These provisions would become effective and applicable to crimes committed on the first day of the seventh month after publication of the bill.

c. *Not Guilty by Reason of Mental Disease or Defect.* Specify that when a defendant is found not guilty by reason of mental disease or mental defect for a crime committed on or after the first day of the seventh month after publication of the bill and the crime is one for which a court may impose a bifurcated sentence, the court is required to commit the person to the Department of Health and Family Services for a specified period not exceeding the maximum term of confinement in prison that could be imposed on an offender convicted of the same crime, including imprisonment authorized by any applicable penalty enhancement statutes. The provision would become effective and applicable to crimes committed on the first day of the seventh month after publication of the bill.

Specify that when a defendant is found not guilty by reason of mental disease or mental defect for a misdemeanor committed before the first day of the seventh month after publication of the bill, or a misdemeanor committed on or after the first day of the seventh month after publication of the bill for which a court may not impose a bifurcated sentence, the court is required to commit the person to the Department of Health and Family Services for a specified period not exceeding two-thirds of the maximum term of imprisonment that could be imposed against an offender convicted of the same misdemeanor, including imprisonment authorized by any applicable penalty enhancement statutes.

d. *Misdemeanants Sentenced to Prison as a Result of Penalty Enhancers or Placed on Probation.* Specify that for misdemeanors committed on or after the first day of the seventh

month after publication of the bill, if a court sentences an individual to prison (rather than to county jail) as a result of the application of penalty enhancers, the person sentenced receives a bifurcated sentence.

Create the following definitions: (a) "bifurcated sentence misdemeanor," a misdemeanor committed on or after the first day of the seventh month after publication of the bill, for which a court may impose a bifurcated sentence; and (b) "indeterminate sentence misdemeanor," a misdemeanor other than a bifurcated sentence misdemeanor. Specify that individuals placed on probation as a result of a "bifurcated sentence misdemeanor" are required to be serve terms of probation as are individuals placed on probation for felony offenses.

Under current law, a person placed on probation for a felony is required to serve a term of not less than one year nor more than the maximum term of imprisonment for the crime or three years, whichever is greater. If a probationer is convicted of two or more crimes including at least one felony, at the same time, the maximum term of probation may increase by one year for each felony conviction. Include bifurcated sentence misdemeanors under the provision for increasing probation terms. These provisions would become effective and applicable on the first day of the seventh month after publication of the bill.

e. *Consecutive and Concurrent Sentences.* Create the following definitions: (a) "determinate sentence," a bifurcated sentence or a life sentence under which a person is eligible for release to extended supervision; (b) "indeterminate sentence," a sentence to the Wisconsin state prisons other than a determinate sentence or a sentence under which the person is not eligible for release on parole; and (c) "period of confinement in prison," with respect to any sentence to the Wisconsin state prisons, any time during which a person is incarcerated under that sentence, including any extensions and any period of confinement in prison required to be served as a result of revocation.

1. Determinate Sentence to Run Concurrent with or Consecutive to Determinate Sentences. Specify that if a court provides that a determinate sentence is to run concurrent with another determinate sentence, the person sentenced is required to serve the periods of confinement in prison under the sentences concurrently and the terms of extended supervision under the sentences concurrently. If a court provides that a determinate sentence is to run consecutive to another determinate sentence, the person sentenced is required to serve the periods of confinement in prison under the sentences consecutively and the terms of extended supervision under the sentences consecutively and in the order in which the sentences have been pronounced.

2. Determinate Sentence to Run Concurrently with or Consecutive to Indeterminate Sentences. Specify that if a court provides that a determinate sentence is to run concurrent with an indeterminate sentence, the person sentenced is required to serve the period of confinement in prison under the determinate sentence concurrent with the period of confinement in prison under the indeterminate sentence and the term of extended supervision under the determinate sentence concurrent with the parole portion of the indeterminate sentence. If a court provides that a determinate sentence is to run consecutive to an indeterminate sentence, the person

sentenced is required to serve the period of confinement in prison under the determinate sentence consecutive to the period of confinement in prison under the indeterminate sentence and the parole portion of the indeterminate sentence consecutive to the term of extended supervision under the determinate sentence.

3. Indeterminate Sentence to Run Concurrent with or Consecutive to Determinate Sentences. Specify that if a court provides that an indeterminate sentence is to run concurrent with a determinate sentence, the person sentenced is required to serve the period of confinement in prison under the indeterminate sentence concurrent with the period of confinement in prison under the determinate sentence and the parole portion of the indeterminate sentence concurrent with the term of extended supervision required under the determinate sentence. If a court provides that an indeterminate sentence is to run consecutive to a determinate sentence, the person sentenced is required to serve the period of confinement in prison under the indeterminate sentence consecutive to the period of confinement in prison under the determinate sentence and the parole portion of the indeterminate sentence consecutive to the term of extended supervision under the determinate sentence.

4. Indeterminate or Determinate Consecutive Sentences. Specify that all consecutive sentences for crimes committed before December 31, 1999, be computed as one continuous sentence. Specify that all consecutive sentences imposed for crimes committed on or after December 31, 1999, be computed as one continuous sentence.

5. Revocation in Multiple Sentence Cases. Specify that if a person is serving concurrent determinate sentences and extended supervision is revoked in each case, or if a person is serving a determinate sentence concurrent with an indeterminate sentence and both extended supervision and parole are revoked, the person shall concurrently serve any periods of confinement in prison required under those sentences.

f. No Parole. Clarify that a person serving a bifurcated sentence is not eligible for release on parole under that sentence. (A person may be paroled under an indeterminate sentence running concurrently or consecutively with the bifurcated sentence.)

3. STATUTE OF LIMITATION IN SEXUAL ASSAULT CASES

Governor/Joint Finance: Define "deoxyribonucleic acid [DNA] profile" as any analysis of DNA that results in the identification of an individual's patterned chemical structure of genetic information. Specify that for first- or second-degree sexual assault, the state may commence prosecution of a person within 12 months after comparison of DNA evidence relating to the crime results in a probable identification of a person, if: (a) the state has evidence of a DNA profile of a person who committed the crime; (b) the evidence was collected before the statute of limitation expired (prosecution commenced within six years); and (c) comparisons of the evidence to DNA profiles of known persons made before the time limitation expired did not result in a probable identification of the person. Specify that for first- or second-degree sexual assault of a child or engaging in repeated acts of sexual assault of the same child, the state may

AMDT TO BUDGET SUB AMDT

msgd : hmk :

See form AMENDMENTS — COMPONENTS & ITEMS.

SENATE AMENDMENT
TO ~~SENATE AMENDMENT~~ _____,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55

At the locations indicated, amend the substitute amendment/[amendment] as follows:

#. Page [✓]1070[✓], line [✓]1[✓]: delete lines [✓]1 to [✓]9

#. Page [✓]1077[✓], line [✓]8[✓]: " 8 to 16

#. Page [✓]1078[✓], line [✓]3[✓]: " 3 to 11

Insert ←

#. Page [✓]1080[✓], line [✓]7[✓]: " 7 to 11

#. Page [✓]1080[✓], line [✓]20[✓]: delete the ^{material} ~~material~~ beginning ^{with} ~~with~~ that line ^{and} ~~and~~ ending ^{with} ~~with~~ ^{page} 1083, line 21.

#. Page [✓]1084[✓], line [✓]4[✓]: " " ^{page} 1086, line 9.

2001

Date (time) needed _____

LRB b _____ / _____

AMDT TO BUDGET SUB AMDT

_____ : _____ : _____

See form AMENDMENTS — COMPONENTS & ITEMS.

SENATE AMENDMENT
TO SENATE AMENDMENT _____,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55

At the locations indicated, amend the substitute amendment [amendment] as follows:

- #. Page [✓]1093[✓], line [✓]12[✓]: delete lines 12 to 22.
- #. Page [✓]1219[✓], line [✓]16[✓]: " 16 to 21
- #. Page [✓]1231[✓], line [✓]12[✓]: delete the material beginning ^{with} that line & ending ^{with} page 1232, line 7
- #. Page [✓]1255[✓], line [✓]22[✓]: " " page 1256, line 4
- #. Page [✓]1256[✓], line [✓]14[✓]: " " page 1258, line 7
- #. Page [✓]1258[✓], line [✓]16[✓]: " " page 1260, line 9.

AMDT TO BUDGET SUB AMDT

_____ : _____ : _____

See form AMENDMENTS — COMPONENTS & ITEMS.

SENATE AMENDMENT
TO SENATE AMENDMENT _____,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55

At the locations indicated, amend the substitute amendment [amendment] as follows:

#. Page [✓] 1265, line [✓] 12.: delete the material beginning ^{with} that line ^{and} ending ^{with} on page 1267, line 7.

#. Page [✓] 1268, line [✓] 17.: 1271, line 6 [✓]

#. Page [✓] 1415, line [✓] 4.: delete lines [✓] 4 to 14.

#. Page [✓] 1428, line [✓] 10.: delete lines [✓] 10 to 17

#. Page, line

END!

#. Page, line

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1070/lins
MGD:.....

✓ ✓
1078 17

1 ¹⁰⁸⁰ ~~1.~~ Page ~~2~~, line ~~2~~: delete the material beginning with that line and ending on
2 page ~~2~~, line ~~2~~ and substitute: ^{3359 m} ✓
3 "SECTION ~~2~~. 302.11 (7) (a) of the statutes is amended to read:
4 302.11 (7) (a) The division of hearings and appeals in the department of
5 administration, upon proper notice and hearing, or the department of corrections, if
6 the parolee waives a hearing, may return a parolee released under sub. (1) ~~or~~ (1g)
7 (b), or (2m) or s. 304.02 or 304.06 (1) to prison for a period up to the remainder of the
8 sentence for a violation of the conditions of parole. The remainder of the sentence
9 is the entire sentence, less time served in custody prior to parole. The revocation
10 order shall provide the parolee with credit in accordance with ss. 304.072 and
11 973.155."

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.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb1070/1
MGD:hmh:rs

SDC:.....Keckhaver – CN6568, Truth in sentencing

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

*retrieve
from hold*

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1070, line 1: delete lines 1 to 9.

3 **2.** Page 1077, line 8: delete lines 8 to 16.

4 **3.** Page 1078, line 3: delete lines 3 to 11.

5 **4.** Page 1078, line 17: delete the material beginning with that line and ending
6 on page 1080, line 2 and substitute:

7 ~~SECTION 3359m. 302.11 (7) (a) of the statutes is amended to read:~~

8 302.11 (7) (a) The division of hearings and appeals in the department of
9 administration, upon proper notice and hearing, or the department of corrections, if
10 the parolee waives a hearing, may return a parolee released under sub. (1) or (1g)

1 ~~(b), or (2m) or s. 304.02 or 304.06 (1) to prison for a period up to the remainder of the~~
2 ~~sentence for a violation of the conditions of parole. The remainder of the sentence~~
3 ~~is the entire sentence, less time served in custody prior to parole. The revocation~~
4 ~~order shall provide the parolee with credit in accordance with ss. 304.072 and~~
5 ~~973.155.”.~~

6 **5.** Page 1080, line 7: delete lines 7 to 11.

7 **6.** Page 1080, line 20: delete the material beginning with that line and ending
8 with page 1083, line 21.

9 **7.** Page 1084, line 4: delete the material beginning with that line and ending
10 with page 1086, line 9.

11 **8.** Page 1093, line 12: delete lines 12 to 22.

12 **9.** Page 1219, line 16: delete lines 16 to 21.

13 **10.** Page 1231, line 12: delete the material beginning with that line and
14 ending with page 1232, line 7.

15 **11.** Page 1255, line 22: delete the material beginning with that line and
16 ending with page 1256, line 4.

17 **12.** Page 1256, line 14: delete the material beginning with that line and
18 ending with page 1258, line 7.

19 **13.** Page 1258, line 16: delete the material beginning with that line and
20 ending with page 1260, line 9.

21 **14.** Page 1265, line 12: delete the material beginning with that line and
22 ending with page 1267, line 7.

1 **15.** Page 1268, line 17: delete the material beginning with that line and
2 ending with page 1271, line 6.

3 **16.** Page 1415, line 4: delete lines 4 to 14.

4 **17.** Page 1428, line 10: delete lines 10 to 17.

5 **(END)**

SDC:.....Keckhaver – CN6568, Truth in sentencing

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 1070, line 1: delete lines 1 to 9.
- 3 **2.** Page 1077, line 8: delete lines 8 to 16.
- 4 **3.** Page 1078, line 3: delete lines 3 to 11.
- 5 **4.** Page 1078, line 17: delete the material beginning with that line and ending
- 6 on page 1080, line 2.
- 7 **5.** Page 1080, line 7: delete lines 7 to 11.
- 8 **6.** Page 1080, line 20: delete the material beginning with that line and ending
- 9 with page 1083, line 21.

