

2005 ASSEMBLY BILL 36

January 25, 2005 – Introduced by Representatives FRISKE, BIES, HINES, KERKMAN, PETROWSKI, JESKEWITZ, OWENS, BALLWEG, HUNDERTMARK, MUSSER, ALBERS, GUNDERSON, HAHN, VRAKAS, OTT and TOWNSEND, cosponsored by Senators OLSEN, S. FITZGERALD and LASSA. Referred to Committee on Corrections and the Courts.

1 **AN ACT** *to repeal* 302.36 (1g) and 302.36 (1r); *to renumber and amend* 302.36
2 (1), 302.36 (2) and 302.36 (3); *to amend* 302.36 (title); and *to create* 302.36 (1g)
3 and 302.36 (3) of the statutes; **relating to:** classification of jail prisoners for
4 determining prisoner housing assignments, the type of prisoner supervision,
5 and the delivery of services and programs to prisoners.

Analysis by the Legislative Reference Bureau

Under current law, a county jail must keep certain prisoners separate from other prisoners. Prisoners who have not been convicted must be kept separate from prisoners who have been convicted, and prisoners who are mentally ill must be kept separate from prisoners who are not mentally ill. In addition, prisoners of different sexes must be kept separate, though a sheriff or jailer may permit prisoners of different sexes to eat together or to participate together in treatment or in educational, vocational, religious, or athletic activities, if the prisoners are appropriately supervised.

Under this bill county jails have the option, until January 1, 2006, of segregating prisoners under current law or of establishing a prisoner classification system for determining prisoner housing assignments, how to supervise and provide services and programs to prisoners, and the particular services and programs to provide them. The prisoner classification system must be based on objective criteria, including a prisoner's criminal offense record and gender, information relating to the current offense for which he or she is sentenced, the prisoner's history of behavior

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in jail, the prisoner's medical and mental health condition, and any other factor necessary to provide for the protection of prisoners, staff, and the general public.

Under the bill, the option of employing the segregation system set forth in current law expires on January 1, 2008. By that date, all jails must adopt a prisoner classification system meeting the requirements discussed above.

For further information see the *local* 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.** 302.36 (title) of the statutes is amended to read:

2 **302.36 (title) Segregation and classification of prisoners.**

3 **SECTION 2.** 302.36 (1) of the statutes is renumbered 302.36 (1r) (a) and
4 amended to read:

5 302.36 (1r) (a) All jails using a prisoner segregation system shall be provided
6 with suitable wards or buildings or cells in the case of jail extensions under s. 59.54
7 (14) (g) for the separation of criminals from noncriminals; persons of different sexes;
8 and persons alleged to be mentally ill. All prisoners shall be kept segregated
9 accordingly.

10 **SECTION 3.** 302.36 (1g) of the statutes is created to read:

11 302.36 (1g) The sheriff, jailer, or keeper of a jail shall segregate prisoners under
12 sub. (1r) or establish a prisoner classification system under sub. (3).

13 **SECTION 4.** 302.36 (1g) of the statutes, as created by 2005 Wisconsin Act (this
14 act), is repealed.

15 **SECTION 5.** 302.36 (1r) of the statutes, as affected by 2005 Wisconsin Act (this
16 act), is repealed.

17 **SECTION 6.** 302.36 (2) of the statutes is renumbered 302.36 (1r) (b) and
18 amended to read:

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1 302.36 (1r) (b) Notwithstanding sub. (1), the par. (a), a sheriff, jailer, or keeper
2 segregating prisoners under this subsection may permit prisoners of different sexes
3 to participate together in treatment or in educational, vocational, religious, or
4 athletic activities or to eat together, under such supervision as the sheriff, jailer, or
5 keeper deems necessary.

6 **SECTION 7.** 302.36 (3) of the statutes is created to read:

7 302.36 (3) If adopted by the sheriff, jailer, or keeper of a jail, a prisoner
8 classification system shall be used to determine prisoner housing assignments, how
9 to supervise and provide services and programs to a prisoner, and what services and
10 programs to provide a prisoner. The prisoner classification system shall be based on
11 objective criteria, including a prisoner's criminal offense record and gender,
12 information relating to the current offense for which the prisoner is in jail, the
13 prisoner's history of behavior in jail, the prisoner's medical and mental health
14 condition, and any other factor the sheriff, jailer, or keeper of a jail considers
15 necessary to provide for the protection of prisoners, staff, and the general public.

16 **SECTION 8.** 302.36 (3) of the statutes, as created by 2005 Wisconsin Act (this
17 act), is renumbered 302.36 and amended to read:

18 **302.36 Segregation and classification Classification of prisoners.** If
19 ~~adopted by the~~ The sheriff, jailer, or keeper of a jail, shall establish a prisoner
20 classification system ~~shall be used to determine prisoner housing assignments, the~~
21 ~~type of prisoner supervision, and the delivery of services and programs to prisoners~~
22 how to supervise and provide services and programs to a prisoner, and what services
23 and programs to provide a prisoner. The prisoner classification system shall be based
24 on objective criteria, including a prisoner's criminal offense record and gender,
25 information relating to the current offense for which the prisoner is in jail, the

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1 prisoner's history of behavior in jail, the prisoner's medical and mental health
2 condition, and any other factor the sheriff, jailer, or keeper of a jail considers
3 necessary to provide for the protection of prisoners, staff, and the general public.

4 **SECTION 9. Effective dates.** This act takes effect on the day after publication,
5 except as follows:

6 (1) The repeal of section 302.36 (1g) and (1r) of the statutes and the
7 renumbering and amendment of section 302.36 (3) of the statutes take effect on
8 January 1, 2008.

9 (END)