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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1403/P1

PJH:kjf

P2

DOA:.....Steinmetz, BB0304 - Earned Release Review Commission

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

D-note

Don't Gen

...serving indeterminate bifurcated sentences

A person who is serving a bifurcated sentence is not eligible for parole and generally must serve the entire confinement portion of his or her bifurcated sentence before being released to extended supervision.

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

Analysis by the Legislative Reference Bureau

CORRECTIONS

ADULT CORRECTIONAL SYSTEM

Currently, the parole commission in DOC determines whether, and under what conditions, ~~certain~~ inmates may be released from imprisonment to parole. However, ~~a~~ ^{set} person who is sentenced to a bifurcated sentence for a Class C to Class I felony may petition the sentencing court to adjust his or her sentence and release the person from prison to extended supervision if he or she has served 85 percent (for Class C to Class E felonies) or 75 percent (for Class F to Class I felonies) of the confinement in prison portion of the sentence. Under current law, a person who is released to extended supervision must serve his or her entire sentence before extended supervision terminates.

Under this bill, the parole commission is renamed the earned release review commission. In addition to its duties under current law, the earned release review commission may release to extended supervision a prisoner who was sentenced to a bifurcated sentence for a Class F to Class I felony if the prisoner has served 75 percent of the confinement in prison portion of the sentence and may terminate the extended supervision of a prisoner who was sentenced to a bifurcated sentence for

a Class F to Class I felony if the prisoner has served 75 percent of the extended supervision portion of the sentence.

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

1 **SECTION 1.** 15.01 (2) of the statutes is amended to read:

2 15.01 (2) "Commission" means a 3-member governing body in charge of a
3 department or independent agency or of a division or other subunit within a
4 department, except for the Wisconsin waterways commission which shall consist of
5 5 members and the parole earned release review commission which shall consist of
6 8 members. A Wisconsin group created for participation in a continuing interstate
7 body, or the interstate body itself, shall be known as a "commission", but is not a
8 commission for purposes of s. 15.06. The parole earned release review commission
9 created under s. 15.145 (1) shall be known as a "commission", but is not a commission
10 for purposes of s. 15.06. The sentencing commission created under s. 15.105 (27)
11 shall be known as a "commission" but is not a commission for purposes of s. 15.06 (1)
12 to (4m), (7), and (9).

13 **SECTION 2.** 15.06 (6) of the statutes is amended to read:

14 15.06 (6) QUORUM. A majority of the membership of a commission constitutes
15 a quorum to do business, except that vacancies shall not prevent a commission from
16 doing business. This subsection does not apply to the parole earned release review
17 commission.

18 **SECTION 3.** 15.105 (27) (b) of the statutes is amended to read:

19 15.105 (27) (b) *Nonvoting members.* The secretary of corrections or his or her
20 designee, the chairperson of the parole earned release review commission or his or

1 her designee, and the director of state courts or his or her designee shall be nonvoting
2 members of the commission.

3 SECTION 4. 15.145 (1) of the statutes is amended to read:

4 15.145 (1) PAROLE EARNED RELEASE REVIEW COMMISSION. There is created in the
5 department of corrections ~~a parole~~ an earned release review commission consisting
6 of 8 members. Members shall have knowledge of or experience in corrections or
7 criminal justice. The members shall include a chairperson who is nominated by the
8 governor, and with the advice and consent of the senate appointed, for a 2-year term
9 expiring March 1 of the odd-numbered years, subject to removal under s. 17.07 (3m),
10 and the remaining members in the classified service appointed by the chairperson.

11 SECTION 5. 17.07 (3m) of the statutes is amended to read:

12 17.07 (3m) Notwithstanding sub. (3), the parole earned release review
13 commission chairperson may be removed by the governor, at pleasure.

14 SECTION 6. 20.410 (2) (title) of the statutes is amended to read:

15 20.410 (2) (title) PAROLE EARNED RELEASE REVIEW COMMISSION. (a) *General*
16 *program operations.*

****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

17 SECTION 7. 20.410 (2) (a) of the statutes is amended to read:

18 20.410 (2) (a) *General program operations.* The amounts in the schedule for
19 the general program operations of the parole earned release review commission.

20 SECTION 8. 20.923 (4) (b) 6. of the statutes is amended to read:

21 20.923 (4) (b) 6. Parole Earned release review commission: chairperson.

22 SECTION 9. 230.08 (2) (pd) of the statutes is amended to read:

1 230.08 (2) (pd) The chairperson of the parole earned release review
2 commission.

3 **SECTION 10.** 230.337 of the statutes is amended to read:

4 **230.337 Rights of employees: corrections or parole.** If any incumbent
5 member of the parole board in the office of the secretary of health and family services
6 on January 1, 1990, in a classified position is not appointed to the parole earned
7 release review commission created by 1989 Wisconsin Act 31, or if the incumbent
8 member is appointed to the commission and subsequently terminated for any reason
9 except just cause, the incumbent member shall have restoration rights and
10 reinstatement privileges, including the right of displacement if necessary, to a
11 position having a comparable or lower pay rate or range for which the person is
12 qualified which is within the department of corrections, as created by 1989 Wisconsin
13 Act 31, or the department of health and family services. In the case of termination,
14 the incumbent shall have 90 days after notice of termination to exercise the rights
15 and privileges. The rights and privileges granted under this subsection are subject
16 to the terms of any collective bargaining agreement that covers the incumbent parole
17 board members.

18 **SECTION 11.** 301.03 (3) of the statutes is amended to read:

19 301.03 (3) Administer parole, extended supervision and probation matters,
20 except that the decision to grant or deny parole or to grant or terminate extended
21 supervision under s. 304.06 (1) (b) to inmates shall be made by the parole earned
22 release review commission and the decision to revoke probation, extended
23 supervision or parole in cases in which there is no waiver of the right to a hearing
24 shall be made by the division of hearings and appeals in the department of
25 administration. The secretary may grant special action parole releases under s.

1 304.02. The department shall promulgate rules establishing a drug testing program
2 for probationers, parolees and persons placed on extended supervision. The rules
3 shall provide for assessment of fees upon probationers, parolees and persons placed
4 on extended supervision to partially offset the costs of the program.

5 **SECTION 12.** 301.0465 (3) (a) 4. of the statutes is amended to read:

6 301.0465 (3) (a) 4. He or she is serving an indeterminate sentence and the
7 ~~parole~~ parole earned release review commission has authorized his or her release on parole
8 within the next 6 months.

9 **SECTION 13.** 301.048 (2) (am) 3. of the statutes is amended to read:

10 301.048 (2) (am) 3. The ~~parole~~ parole earned release review commission grants him
11 or her parole under s. 304.06 and requires his or her participation in the program as
12 a condition of parole under s. 304.06 (1x).

13 **SECTION 14.** 301.21 (1m) (c) of the statutes is amended to read:

14 301.21 (1m) (c) Any hearing to consider parole to which an inmate confined
15 under this contract may be entitled by the laws of Wisconsin will be conducted by the
16 Wisconsin ~~parole~~ parole earned release review commission under rules of the department.

17 **SECTION 15.** 301.21 (2m) (c) of the statutes is amended to read:

18 301.21 (2m) (c) Any hearing to consider parole or whether to grant or terminate
19 extended supervision, if the prisoner is sentenced under s. 973.01 for a Class F to a
20 Class I felony, to which a prisoner confined under a contract under this subsection
21 may be entitled by the laws of Wisconsin shall be conducted by the Wisconsin ~~parole~~
22 earned release review commission under rules of the department.

23 **SECTION 16.** 302.045 (3) of the statutes is amended to read:

24 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department
25 determines that an inmate serving a sentence other than one imposed under s.

1 973.01 has successfully completed the challenge incarceration program, the parole
2 earned release review commission shall parole the inmate for that sentence under
3 s. 304.06, regardless of the time the inmate has served. When the parole earned
4 release review commission grants parole under this subsection, it must require the
5 parolee to participate in an intensive supervision program for drug abusers as a
6 condition of parole.

7 **SECTION 17.** 302.05 (3) (b) of the statutes is amended to read:

8 302.05 (3) (b) Except as provided in par. (d), if the department determines that
9 an eligible inmate serving a sentence other than one imposed under s. 973.01 has
10 successfully completed a treatment program described in sub. (1), the parole earned
11 release review commission shall parole the inmate for that sentence under s. 304.06,
12 regardless of the time the inmate has served. If the parole earned release review
13 commission grants parole under this paragraph, it shall require the parolee to
14 participate in an intensive supervision program for drug abusers as a condition of
15 parole.

16 **SECTION 18.** 302.11 (1g) (b) (intro.) of the statutes is amended to read:

17 302.11 (1g) (b) (intro.) Before an incarcerated inmate with a presumptive
18 mandatory release date reaches the presumptive mandatory release date specified
19 under par. (am), the parole earned release review commission shall proceed under
20 s. 304.06 (1) to consider whether to deny presumptive mandatory release to the
21 inmate. If the parole earned release review commission does not deny presumptive
22 mandatory release, the inmate shall be released on parole. The parole earned release
23 review commission may deny presumptive mandatory release to an inmate only on
24 one or more of the following grounds:

25 **SECTION 19.** 302.11 (1g) (b) 2. of the statutes is amended to read:

1 302.11 (1g) (b) 2. Refusal by the inmate to participate in counseling or
2 treatment that the social service and clinical staff of the institution determines is
3 necessary for the inmate, including pharmacological treatment using an
4 antiandrogen or the chemical equivalent of an antiandrogen if the inmate is a serious
5 child sex offender as defined in s. 304.06 (1q) (a). The parole earned release review
6 commission may not deny presumptive mandatory release to an inmate because of
7 the inmate's refusal to participate in a rehabilitation program under s. 301.047.

8 **SECTION 20.** 302.11 (1g) (c) of the statutes is amended to read:

9 302.11 (1g) (c) If the parole earned release review commission denies
10 presumptive mandatory release to an inmate under par. (b), the parole earned
11 release review commission shall schedule regular reviews of the inmate's case to
12 consider whether to parole the inmate under s. 304.06 (1).

13 **SECTION 21.** 302.11 (1g) (d) of the statutes is amended to read:

14 302.11 (1g) (d) An inmate may seek review of a decision by the parole earned
15 release review commission relating to the denial of presumptive mandatory release
16 only by the common law writ of certiorari.

17 **SECTION 22.** 302.11 (1m) of the statutes is amended to read:

18 302.11 (1m) An inmate serving a life term is not entitled to mandatory release.
19 Except as provided in ss. 939.62 (2m) (c) and 973.014, the parole earned release
20 review commission may parole the inmate as specified in s. 304.06 (1).

21 **SECTION 23.** 302.11 (7) (c) of the statutes is amended to read:

22 302.11 (7) (c) The parole earned release review commission may subsequently
23 parole, under s. 304.06 (1), and the department may subsequently parole, under s.
24 304.02, a parolee who is returned to prison for violation of a condition of parole.

25 **SECTION 24.** 302.113 (2) of the statutes is amended to read:

1 302.113 (2) Except as provided in subs. (3) and (9), an inmate subject to this
2 section is entitled to release to extended supervision after he or she has served the
3 term of confinement in prison portion of the sentence imposed under s. 973.01, as
4 modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b) 1., 302.05 (3)
5 (c) 2. a., or 973.195 (1r), if applicable, or as adjusted by the earned release review
6 commission under s. 304.06 (1) (b).

7 **SECTION 25.** 302.113 (7m) (a) of the statutes is amended to read:

8 302.113 (7m) (a) Except as provided in par. (e), a person subject to this section
9 or the department may petition the sentencing court, or if the person is eligible for
10 a sentence adjustment under s. 304.06 (1) (b), may petition the earned release review
11 commission, to modify any conditions of extended supervision set by the court or the
12 earned release review commission.

13 **SECTION 26.** 302.113 (7m) (b) of the statutes is amended to read:

14 302.113 (7m) (b) If the department files a petition under this subsection, it
15 shall serve a copy of the petition on the person who is the subject of the petition and,
16 if the person is represented by an attorney, on the person's attorney. If a person who
17 is subject to this section or his or her attorney files a petition under this subsection,
18 the person or his or her attorney shall serve a copy of the petition on the department.
19 The court or earned release review commission shall serve a copy of a petition filed
20 under this section on the district attorney. The court or earned release review
21 commission may direct the clerk of the court to provide notice of the petition to a
22 victim of a crime committed by the person who is the subject of the petition.

23 **SECTION 27.** 302.113 (7m) (c) of the statutes is amended to read:

24 302.113 (7m) (c) The court or earned release review commission may conduct
25 a hearing to consider the petition. The court or earned release review commission

1 may grant the petition in full or in part if it determines that the modification would
2 meet the needs of the department ~~and the public~~ and would be consistent with the
3 objectives of the person's sentence.

4 **SECTION 28.** 302.113 (7m) (e) 1. of the statutes is amended to read:

5 302.113 (7m) (e) 1. An inmate may not petition the court or earned release
6 review commission to modify the conditions of extended supervision earlier than one
7 year before the date of the inmate's scheduled date of release to extended supervision
8 or more than once before the inmate's release to extended supervision.

9 **SECTION 29.** 302.113 (7m) (e) 2. of the statutes is amended to read:

10 302.113 (7m) (e) 2. A person subject to this section may not petition the court
11 or earned release review commission to modify the conditions of extended
12 supervision within one year after the inmate's release to extended supervision. If a
13 person subject to this section files a petition authorized by this subsection after his
14 or her release from confinement, the person may not file another petition until one
15 year after the date of filing the former petition.

16 **SECTION 30.** 304.01 (title) of the statutes is amended to read:

17 **304.01 (title) Parole Earned release review commission and**
18 **commission chairperson; general duties.**

19 **SECTION 31.** 304.01 (1) of the statutes is amended to read:

20 304.01 (1) The chairperson of the parole earned release review commission
21 shall administer and supervise the commission and its activities and shall be the
22 final parole-granting authority for granting parole, release to extended supervision,
23 or termination of extended supervision, except as provided in s. 304.02 or 973.195.

24 **SECTION 32.** 304.01 (2) (intro.) of the statutes is amended to read:

1 304.01 (2) (intro.) The parole earned release review commission shall conduct
2 regularly scheduled interviews to consider the parole or release to extended
3 supervision of eligible inmates of the adult correctional institutions under the
4 control of the department of corrections, eligible inmates transferred under ch. 51
5 and under the control of the department of health and family services and eligible
6 inmates in any county house of correction. The department of corrections shall
7 provide all of the following to the parole earned release review commission:

8 **SECTION 33.** 304.01 (2) (b) of the statutes is amended to read:

9 304.01 (2) (b) Scheduling assistance for parole interviews for prisoners who
10 have applied for parole or release to extended supervision at the correctional
11 institutions.

12 **SECTION 34.** 304.01 (2) (c) of the statutes is amended to read:

13 304.01 (2) (c) Clerical support related to the parole interviews for prisoners who
14 have applied for parole or release to extended supervision.

15 **SECTION 35.** 304.01 (2) (d) of the statutes is amended to read:

16 304.01 (2) (d) Appropriate physical space at the correctional institutions to
17 conduct the parole interviews for prisoners who have applied for parole or release to
18 extended supervision.

19 **SECTION 36.** 304.06 (title) of the statutes is amended to read:

20 **304.06 (title) Paroles Release to parole or extended supervision from**
21 **state prisons and house of correction; termination of extended supervision.**

22 **SECTION 37.** 304.06 (1) (b) of the statutes is amended to read:

23 304.06 (1) (b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or s.
24 302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the parole earned release review
25 commission may parole an inmate of the Wisconsin state prisons or any felon or any

1 person serving at least one year or more in a county house of correction or a county
2 reforestation camp organized under s. 303.07, when he or she has served 25% of the
3 sentence imposed for the offense, or 6 months, whichever is greater. The earned
4 release review board may release to extended supervision a person sentenced under
5 s. 973.01 for a Class F to a Class I felony after the person has served at least 75
6 percent of the term of confinement in prison portion of the sentence, and may
7 terminate extended supervision of a person sentenced under s. 973.01 for a Class F
8 to a Class I felony after the person has completed 75 percent of his or her extended
9 supervision portion of the sentence. Except as provided in s. 939.62 (2m) (c) or
10 973.014 (1) (b) or (c), (1g) or (2), the ~~parole~~ earned release review commission may
11 parole an inmate serving a life term when he or she has served 20 years, as modified
12 by the formula under s. 302.11 (1) and subject to extension under s. 302.11 (1q) and
13 (2), if applicable. The person serving the life term shall be given credit for time served
14 prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The
15 secretary may grant special action parole releases under s. 304.02. The department
16 or the ~~parole~~ earned release review commission shall not provide any convicted
17 offender or other person sentenced to the department's custody any ~~parole~~ eligibility
18 or evaluation for parole or release to extended supervision until the person has been
19 confined at least 60 days following sentencing.

20 **SECTION 38.** 304.06 (1) (c) (intro.) of the statutes is amended to read:

21 304.06 (1) (c) (intro.) If an inmate applies for parole, release to extended
22 supervision, or termination of extended supervision under this subsection, the
23 ~~parole~~ earned release review commission shall make a reasonable attempt to notify
24 the following, if they can be found, in accordance with par. (d):

5 **SECTION 39.** 304.06 (1) (d) 1. of the statutes is amended to read:

1 304.06 (1) (d) 1. The notice under par. (c) shall inform the offices and persons
2 under par. (c) 1. to 3. of the manner in which they may provide written statements
3 under this subsection, shall inform persons under par. (c) 3. of the manner in which
4 they may attend interviews or hearings and make statements under par. (eg) and
5 shall inform persons under par. (c) 3. who are victims, or family members of victims,
6 of crimes specified in s. 940.01, 940.03, 940.05, 940.225 (1) ~~or~~, (2), or (3), 948.02 (1)
7 or (2), 948.025, 948.06 or 948.07 of the manner in which they may have direct input
8 in the parole decision-making process under par. (em) for parole, release to extended
9 supervision, or termination of extended supervision. The parole earned release
10 review commission shall provide notice under this paragraph for an inmate's first
11 application for parole, release to extended supervision, or termination of extended
12 supervision and, upon request, for subsequent applications for parole, ~~release to~~
13 ~~extended supervision, or termination of extended supervision.~~

14 **SECTION 40.** 304.06 (1) (e) of the statutes is amended to read:

15 304.06 (1) (e) The parole earned release review commission shall permit any
16 office or person under par. (c) 1. to 3. to provide written statements. The parole
17 earned release review commission shall give consideration to any written statements
18 provided by any such office or person and received on or before the date specified in
19 the notice. This paragraph does not limit the authority of the parole earned release
20 review commission to consider other statements or information that it receives in a
21 timely fashion.

22 **SECTION 41.** 304.06 (1) (eg) of the statutes is amended to read:

23 304.06 (1) (eg) The parole earned release review commission shall permit any
24 person under par. (c) 3. to attend any interview or hearing on the parole application

1 for parole, release to extended supervision, or termination of extended supervision
2 of an applicable inmate and to make a statement at that interview or hearing.

3 **SECTION 42.** 304.06 (1) (em) of the statutes is amended to read:

4 304.06 (1) (em) The parole earned release review commission shall promulgate
5 rules that provide a procedure to allow any person who is a victim, or a family
6 member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1) ~~or~~,
7 (2), or (3), 948.02 (1) or (2), 948.025, 948.06 or 948.07 to have direct input in the parole
8 decision-making process for parole, release to extended supervision, or termination
9 of extended supervision.

10 **SECTION 43.** 304.06 (1) (f) of the statutes is amended to read:

11 304.06 (1) (f) The parole earned release review commission shall design and
12 prepare cards for persons specified in par. (c) 3. to send to the commission. The cards
13 shall have space for these persons to provide their names and addresses, the name
14 of the applicable prisoner and any other information the parole earned release
15 review commission determines is necessary. The parole earned release review
16 commission shall provide the cards, without charge, to district attorneys. District
17 attorneys shall provide the cards, without charge, to persons specified in par. (c) 3.
18 These persons may send completed cards to the parole earned release review
19 commission. All commission records or portions of records that relate to mailing
20 addresses of these persons are not subject to inspection or copying under s. 19.35 (1).
21 Before any written statement of a person specified in par. (c) 3. is made a part of the
22 documentary record considered in connection with a parole hearing for parole,
23 release to extended supervision, or termination of extended supervision under this
24 section, the parole earned release review commission shall obliterate from the
5 statement all references to the mailing addresses of the person. A person specified

1 in par. (c) 3. who attends an interview or hearing under par. (eg) may not be required
2 to disclose at the interview or hearing his or her mailing addresses.

3 SECTION 44. 304.06 (1) (g) of the statutes is amended to read:

4 304.06 (1) (g) Before a person is released on parole, ^{or} ~~released to extended~~
5 ~~supervision, or has his or her extended supervision terminated~~ under this
6 subsection, the parole earned release review commission shall so notify the
7 municipal police department and the county sheriff for the area where the person
8 will be residing. The notification requirement under this paragraph does not apply
9 if a municipal department or county sheriff submits to the parole earned release
10 review commission a written statement waiving the right to be notified. If
11 applicable, the department shall also comply with s. 304.063.

12 SECTION 45. 304.06 (1m) (intro.) of the statutes is amended to read:

13 304.06 (1m) (intro.) The parole earned release review commission may waive
14 the 25% or 6-month service of sentence requirement under sub. (1) (b) under any of
15 the following circumstances:

16 SECTION 46. 304.06 (1q) (b) of the statutes is amended to read:

17 304.06 (1q) (b) The parole earned release review commission or the department
18 may require as a condition of parole, ~~release to extended supervision, or termination~~
19 ~~of extended supervision~~ that a serious child sex offender undergo pharmacological
20 treatment using an antiandrogen or the chemical equivalent of an antiandrogen.
21 This paragraph does not prohibit the department from requiring pharmacological
22 treatment using an antiandrogen or the chemical equivalent of an antiandrogen as
23 a condition of probation.

24 SECTION 47. 304.06 (1q) (c) of the statutes is amended to read:

1 304.06 (1q) (c) In deciding whether to grant a serious child sex offender release
2 on parole, ~~release to extended supervision, or termination of extended supervision~~
3 under this subsection, the parole earned release review commission may not
4 consider, as a factor in making its decision, that the offender is a proper subject for
5 pharmacological treatment using an antiandrogen or the chemical equivalent of an
6 antiandrogen or that the offender is willing to participate in pharmacological
7 treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

8 **SECTION 48.** 304.06 (1x) of the statutes is amended to read:

9 304.06 (1x) The parole earned release review commission may require as a
10 condition of parole ~~or release to extended supervision~~ that the person is placed in the
11 intensive sanctions program under s. 301.048. In that case, the person is in the legal
12 custody of the department under that section and is subject to revocation of parole
13 ~~or release to extended supervision~~ under sub. (3).

14 **SECTION 49.** 304.06 (2) of the statutes is amended to read:

15 304.06 (2) No prisoner under sub. (1) may be paroled, released to extended
16 supervision, or have his or her extended supervision terminated until the parole
17 earned release review commission is satisfied that the prisoner has adequate plans
18 for suitable employment or to otherwise sustain himself or herself. The paroled
19 prisoner who is paroled or released to extended supervision shall report to the
20 department in such manner and at such times as it requires.

21 **SECTION 50.** 304.06 (2m) (d) of the statutes is amended to read:

22 304.06 (2m) (d) The parole earned release review commission or the
23 department shall determine a prisoner's county of residence for the purposes of this
24 subsection by doing all of the following:

1 1. The parole earned release review commission or the department shall
2 consider residence as the voluntary concurrence of physical presence with intent to
3 remain in a place of fixed habitation and shall consider physical presence as prima
4 facie evidence of intent to remain.

5 2. The parole earned release review commission or the department shall apply
6 the criteria for consideration of residence and physical presence under subd. 1. to the
7 facts that existed on the date that the prisoner committed the serious sex offense that
8 resulted in the sentence the prisoner is serving.

9 **SECTION 51.** 304.071 (1) of the statutes is amended to read:

10 304.071 (1) The parole earned release review commission may at any time
11 grant a parole or release to extended supervision to any prisoner in any penal
12 institution of this state, or the department may at any time suspend the supervision
13 of any person who is on probation ~~or~~, parole, or extended supervision to the
14 department, if the prisoner or person on probation ~~or~~, parole, or extended supervision
15 is eligible for induction into the U.S. armed forces. The suspension of parole,
16 extended supervision, or probation shall be for the duration of his or her service in
17 the armed forces; and the parole, extended supervision, or probation shall again
18 become effective upon his or her discharge from the armed forces in accordance with
19 regulations prescribed by the department. If he or she receives an honorable
20 discharge from the armed forces, the governor may discharge him or her and the
21 discharge has the effect of a pardon. Upon the suspension of parole, extended
22 supervision, or probation by the department, the department shall issue an order
23 setting forth the conditions under which the parole, extended supervision, or
24 probation is suspended, including instructions as to where and when and to whom

1 the ~~paroled~~ person on parole or extended supervision shall report upon discharge
2 from the armed forces.

3 SECTION 52. 950.04 (1v) (f) of the statutes is amended to read:

4 950.04 (1v) (f) To have the ~~parole~~ earned release review commission make a
5 reasonable attempt to notify the victim of applications for parole, release to extended
6 supervision, or termination of extended supervision, as provided under s. 304.06 (1).

7 SECTION 53. 973.01 (4) of the statutes is amended to read:

8 973.01 (4) NO GOOD TIME; EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT. A
9 person sentenced to a bifurcated sentence under sub. (1) shall serve the term of
10 confinement in prison portion of the sentence without reduction for good behavior.
11 The term of confinement in prison portion is subject to extension under s. 302.113 (3)
12 and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a., 302.113 (9g),
13 304.06 (1) (b), or 973.195 (1r).

14 SECTION 54. 973.01 (7) of the statutes is amended to read:

15 973.01 (7) NO DISCHARGE. The department of corrections may not discharge a
16 person who is serving a bifurcated sentence from custody, control and supervision
17 until the person has served the entire bifurcated sentence, except as provided in s.
18 304.06 (1) (b).

19 SECTION 55. 973.195 (1g) of the statutes is repealed.

20 SECTION 56. 973.195 (1r) (a) of the statutes is amended to read:

21 973.195 (1r) (a) An inmate who is serving a sentence imposed under s. 973.01
22 for a ~~crime other than a Class B Class C to Class E~~ Class C to Class E felony may petition the sentencing
23 court to adjust the sentence if the inmate has served at least ~~the applicable~~
24 percentage 85 percent of the term of confinement in prison portion of the sentence.

25 If an inmate is subject to more than one sentence imposed under this section, the

1 sentences shall be treated individually for purposes of sentence adjustment under
2 this subsection.

3 **SECTION 57.** 973.195 (1r) (d) of the statutes is amended to read:

4 973.195 (1r) (d) If the sentence for which the inmate seeks adjustment is for
5 an offense under s. 940.225 (2) ~~or (3)~~, 948.02 (2), 948.08, or 948.085, and the district
6 attorney does not object to the petition within 10 days of receiving notice under par.
7 (c), the district attorney shall notify the victim, as defined under s. 950.02 (4), of the
8 inmate's petition. The notice to the victim shall include information on the sentence
9 adjustment petition process under this subsection, including information on how to
10 object to the inmate's petition. If the victim objects to adjustment of the inmate's
11 sentence within 45 days of the date on which the district attorney received notice
12 under par. (c), the court shall deny the inmate's petition.

13 **SECTION 58.** 974.07 (4) (b) of the statutes is amended to read:

14 974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing
15 addresses from completed information cards submitted by victims under ss. 51.37
16 (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f),
17 304.063 (4), 938.51 (2), 971.17 (6m) (d), and 980.11 (4), the department of corrections,
18 the ~~parole~~ earned release review commission, and the department of health and
19 family services shall, upon request, assist clerks of court in obtaining information
20 regarding the mailing address of victims for the purpose of sending copies of motions
21 and notices of hearings under par. (a).

22 **SECTION 59.** 976.03 (23) (c) of the statutes is amended to read:

23 976.03 (23) (c) The application shall be verified by affidavit, shall be executed
24 in duplicate and shall be accompanied by 2 certified copies of the indictment
25 returned, or information and affidavit filed, or of the complaint made to a judge,

1 stating the offense with which the accused is charged, or of the judgment of
2 conviction or of the sentence. The prosecuting officer, parole earned release review
3 commission, warden or sheriff may also attach such further affidavits and other
4 documents in duplicate as he, she or it deems proper to be submitted with the
5 application. One copy of the application, with the action of the governor indicated
6 by endorsement thereon, and one of the certified copies of the indictment, complaint,
7 information and affidavits, or of the judgment of conviction or of the sentence shall
8 be filed in the office of the governor to remain of record in that office. The other copies
9 of all papers shall be forwarded with the governor's requisition.

10

(END)

D-Note

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1403/P1ins
PJH:kjf:pg

INSERT A:

SECTION 1. 304.06 (1) (bn) of the statutes is created to read:

304.06 (1) (bn) 1. A person who is sentenced under s. 973.01 for a Class F to Class I felony may submit only one petition under this subsection for each sentence imposed under s. 973.01.

2. The earned release review commission may consider the factors under s. 973.195 (1r) (b) as grounds for granting or denying a petition for release to extended supervision or termination of extended supervision.

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

LRB-1403/P1dn
PJH:kjf:gs

Date

Jana,

X I believe this draft takes care of the issues raised by you and DOC. Please note that this draft removes all references to release to, or termination of, extended supervision for serious child sex offenders, because those offenders would not qualify for sentence adjustment under this draft (i.e., they are not Class F to I felons). Let me know if further changes are needed. I look forward to hearing from you.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

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

LRB-1403/P2dn
PJH:kjf:sh

January 25, 2007

Jana,

I believe this draft takes care of the issues raised by you and DOC. Please note that this draft removes all references to release to, or termination of, extended supervision for serious child sex offenders, because those offenders would not qualify for sentence adjustment under this draft (i.e., they are not Class F to Class I felons). Let me know if further changes are needed. I look forward to hearing from you.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

DOA:.....Steinmetz, BB0304 - Earned Release Review Commission
FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Don't Gen

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

Analysis by the Legislative Reference Bureau

CORRECTIONS

ADULT CORRECTIONAL SYSTEM

Currently, the parole commission in DOC determines whether, and under what conditions, inmates serving indeterminate sentences may be released from imprisonment to parole. A person who is serving a bifurcated sentence is not eligible for parole and generally must serve the entire confinement portion of his or her bifurcated sentence before being released to extended supervision. However, a person who is sentenced to a bifurcated sentence for a Class C to Class I felony may petition the sentencing court to adjust his or her sentence and release the person from prison to extended supervision if he or she has served 85 percent (for Class C to Class E felonies) or 75 percent (for Class F to Class I felonies) of the confinement in prison portion of the sentence. Under current law, a person who is released to extended supervision must serve his or her entire sentence before extended supervision terminates.

Under this bill, the parole commission is renamed the earned release review commission. In addition to its duties under current law, the earned release review commission may release to extended supervision a prisoner who was sentenced to a bifurcated sentence for a Class F to Class I felony if the prisoner has served 75 percent of the confinement in prison portion of the sentence and may terminate the extended supervision of a prisoner who was sentenced to a bifurcated sentence for

A prisoner who is serving a bifurcated sentence to a class E felony must petition the sentencing court for any sentence adjustment.

a Class F to Class I felony if the prisoner has served 75 percent of the extended supervision portion of the sentence.

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

1 **SECTION 1.** 15.01 (2) of the statutes is amended to read:

2 15.01 (2) "Commission" means a 3-member governing body in charge of a
3 department or independent agency or of a division or other subunit within a
4 department, except for the Wisconsin waterways commission which shall consist of
5 5 members and the parole earned release review commission which shall consist of
6 8 members. A Wisconsin group created for participation in a continuing interstate
7 body, or the interstate body itself, shall be known as a "commission", but is not a
8 commission for purposes of s. 15.06. The parole earned release review commission
9 created under s. 15.145 (1) shall be known as a "commission", but is not a commission
10 for purposes of s. 15.06. The sentencing commission created under s. 15.105 (27)
11 shall be known as a "commission" but is not a commission for purposes of s. 15.06 (1)
12 to (4m), (7), and (9).

13 **SECTION 2.** 15.06 (6) of the statutes is amended to read:

14 15.06 (6) **QUORUM.** A majority of the membership of a commission constitutes
15 a quorum to do business, except that vacancies shall not prevent a commission from
16 doing business. This subsection does not apply to the parole earned release review
17 commission.

18 **SECTION 3.** 15.105 (27) (b) of the statutes is amended to read:

19 15.105 (27) (b) *Nonvoting members.* The secretary of corrections or his or her
20 designee, the chairperson of the parole earned release review commission or his or

1 her designee, and the director of state courts or his or her designee shall be nonvoting
2 members of the commission.

3 **SECTION 4.** 15.145 (1) of the statutes is amended to read:

4 15.145 (1) ~~PAROLE~~ EARNED RELEASE REVIEW COMMISSION. There is created in the
5 department of corrections ~~a parole~~ an earned release review commission consisting
6 of 8 members. Members shall have knowledge of or experience in corrections or
7 criminal justice. The members shall include a chairperson who is nominated by the
8 governor, and with the advice and consent of the senate appointed, for a 2-year term
9 expiring March 1 of the odd-numbered years, subject to removal under s. 17.07 (3m),
10 and the remaining members in the classified service appointed by the chairperson.

11 **SECTION 5.** 17.07 (3m) of the statutes is amended to read:

12 17.07 (3m) Notwithstanding sub. (3), the ~~parole~~ earned release review
13 commission chairperson may be removed by the governor, at pleasure.

14 **SECTION 6.** 20.410 (2) (title) of the statutes is amended to read:

15 20.410 (2) (title) ~~PAROLE~~ EARNED RELEASE REVIEW COMMISSION. (a) *General*
16 *program operations.*

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

17 **SECTION 7.** 20.410 (2) (a) of the statutes is amended to read:

18 20.410 (2) (a) *General program operations.* The amounts in the schedule for
19 the general program operations of the ~~parole~~ earned release review commission.

20 **SECTION 8.** 20.923 (4) (b) 6. of the statutes is amended to read:

21 20.923 (4) (b) 6. ~~Parole~~ Earned release review commission: chairperson.

22 **SECTION 9.** 230.08 (2) (pd) of the statutes is amended to read:

1 230.08 (2) (pd) The chairperson of the parole earned release review
2 commission.

3 **SECTION 10.** 301.03 (3) of the statutes is amended to read:

4 301.03 (3) Administer parole, extended supervision and probation matters,
5 except that the decision to grant or deny parole or to grant or terminate extended
6 supervision under s. 304.06 (1) (b) to inmates shall be made by the parole earned
7 release review commission and the decision to revoke probation, extended
8 supervision or parole in cases in which there is no waiver of the right to a hearing
9 shall be made by the division of hearings and appeals in the department of
10 administration. The secretary may grant special action parole releases under s.
11 304.02. The department shall promulgate rules establishing a drug testing program
12 for probationers, parolees and persons placed on extended supervision. The rules
13 shall provide for assessment of fees upon probationers, parolees and persons placed
14 on extended supervision to partially offset the costs of the program.

15 **SECTION 11.** 301.0465 (3) (a) 4. of the statutes is amended to read:

16 301.0465 (3) (a) 4. He or she is serving an indeterminate sentence and the
17 parole earned release review commission has authorized his or her release on parole
18 within the next 6 months.

19 **SECTION 12.** 301.048 (2) (am) 3. of the statutes is amended to read:

20 301.048 (2) (am) 3. The parole earned release review commission grants him
21 or her parole under s. 304.06 and requires his or her participation in the program as
22 a condition of parole under s. 304.06 (1x).

23 **SECTION 13.** 301.21 (1m) (c) of the statutes is amended to read:

or whether to grant or terminate extended supervision if the prisoner is sentenced under s. 973.01 for a Class F to a Class I Felony =

1 301.21 (1m) (c) Any hearing to consider parole to which an inmate confined
2 under this contract may be entitled by the laws of Wisconsin will be conducted by the
3 Wisconsin parole earned release review commission under rules of the department.

4 **SECTION 14.** 301.21 (2m) (c) of the statutes is amended to read:

5 301.21 (2m) (c) Any hearing to consider parole or whether to grant or terminate
6 extended supervision, if the prisoner is sentenced under s. 973.01 for a Class F to a
7 Class I felony, to which a prisoner confined under a contract under this subsection
8 may be entitled by the laws of Wisconsin shall be conducted by the Wisconsin parole
9 earned release review commission under rules of the department.

10 **SECTION 15.** 302.045 (3) of the statutes is amended to read:

11 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department
12 determines that an inmate serving a sentence other than one imposed under s.
13 973.01 has successfully completed the challenge incarceration program, the parole
14 earned release review commission shall parole the inmate for that sentence under
15 s. 304.06, regardless of the time the inmate has served. When the parole earned
16 release review commission grants parole under this subsection, it must require the
17 parolee to participate in an intensive supervision program for drug abusers as a
18 condition of parole.

19 **SECTION 16.** 302.05 (3) (b) of the statutes is amended to read:

20 302.05 (3) (b) Except as provided in par. (d), if the department determines that
21 an eligible inmate serving a sentence other than one imposed under s. 973.01 has
22 successfully completed a treatment program described in sub. (1), the parole earned
23 release review commission shall parole the inmate for that sentence under s. 304.06,
24 regardless of the time the inmate has served. If the parole earned release review
25 commission grants parole under this paragraph, it shall require the parolee to

1 participate in an intensive supervision program for drug abusers as a condition of
2 parole.

3 **SECTION 17.** 302.11 (1g) (b) (intro.) of the statutes is amended to read:

4 302.11 (1g) (b) (intro.) Before an incarcerated inmate with a presumptive
5 mandatory release date reaches the presumptive mandatory release date specified
6 under par. (am), the ~~parole~~ earned release review commission shall proceed under
7 s. 304.06 (1) to consider whether to deny presumptive mandatory release to the
8 inmate. If the ~~parole~~ earned release review commission does not deny presumptive
9 mandatory release, the inmate shall be released on parole. The ~~parole~~ earned release
10 review commission may deny presumptive mandatory release to an inmate only on
11 one or more of the following grounds:

12 **SECTION 18.** 302.11 (1g) (b) 2. of the statutes is amended to read:

13 302.11 (1g) (b) 2. Refusal by the inmate to participate in counseling or
14 treatment that the social service and clinical staff of the institution determines is
15 necessary for the inmate, including pharmacological treatment using an
16 antiandrogen or the chemical equivalent of an antiandrogen if the inmate is a serious
17 child sex offender as defined in s. 304.06 (1q) (a). The ~~parole~~ earned release review
18 commission may not deny presumptive mandatory release to an inmate because of
19 the inmate's refusal to participate in a rehabilitation program under s. 301.047.

20 **SECTION 19.** 302.11 (1g) (c) of the statutes is amended to read:

21 302.11 (1g) (c) If the ~~parole~~ earned release review commission denies
22 presumptive mandatory release to an inmate under par. (b), the ~~parole~~ earned
23 release review commission shall schedule regular reviews of the inmate's case to
24 consider whether to parole the inmate under s. 304.06 (1).

25 **SECTION 20.** 302.11 (1g) (d) of the statutes is amended to read:

1 302.11 (1g) (d) An inmate may seek review of a decision by the parole earned
2 release review commission relating to the denial of presumptive mandatory release
3 only by the common law writ of certiorari.

4 **SECTION 21.** 302.11 (1m) of the statutes is amended to read:

5 302.11 (1m) An inmate serving a life term is not entitled to mandatory release.
6 Except as provided in ss. 939.62 (2m) (c) and 973.014, the parole earned release
7 review commission may parole the inmate as specified in s. 304.06 (1).

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

9 302.11 (7) (c) The parole earned release review commission may subsequently
10 parole, under s. 304.06 (1), and the department may subsequently parole, under s.
11 304.02, a parolee who is returned to prison for violation of a condition of parole.

12 **SECTION 23.** 302.113 (2) of the statutes is amended to read:

13 302.113 (2) Except as provided in subs. (3) and (9), an inmate subject to this
14 section is entitled to release to extended supervision after he or she has served the
15 term of confinement in prison portion of the sentence imposed under s. 973.01, as
16 modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b) 1., 302.05 (3)
17 (c) 2. a., or 973.195 (1r), if applicable, or as adjusted by the earned release review
18 commission under s. 304.06 (1) (b).

19 **SECTION 24.** 304.01 (title) of the statutes is amended to read:

20 **304.01 (title) Parole Earned release review commission and**
21 **commission chairperson; general duties.**

22 **SECTION 25.** 304.01 (1) of the statutes is amended to read:

23 304.01 (1) The chairperson of the parole earned release review commission
24 shall administer and supervise the commission and its activities and shall be the

1 final ~~parole granting~~ authority for granting parole, release to extended supervision,
2 or termination of extended supervision, except as provided in s. 304.02 or 973.195.

3 **SECTION 26.** 304.01 (2) (intro.) of the statutes is amended to read:

4 304.01 (2) (intro.) The parole earned release review commission shall conduct
5 regularly scheduled interviews to consider the parole or release to extended
6 supervision of eligible inmates of the adult correctional institutions under the
7 control of the department of corrections, eligible inmates transferred under ch. 51
8 and under the control of the department of health and family services and eligible
9 inmates in any county house of correction. The department of corrections shall
10 provide all of the following to the parole earned release review commission:

11 **SECTION 27.** 304.01 (2) (b) of the statutes is amended to read:

12 304.01 (2) (b) Scheduling assistance for parole interviews for prisoners who
13 have applied for parole or release to extended supervision at the correctional
14 institutions.

15 **SECTION 28.** 304.01 (2) (c) of the statutes is amended to read:

16 304.01 (2) (c) Clerical support related to the parole interviews for prisoners who
17 have applied for parole or release to extended supervision.

18 **SECTION 29.** 304.01 (2) (d) of the statutes is amended to read:

19 304.01 (2) (d) Appropriate physical space at the correctional institutions to
20 conduct the parole interviews for prisoners who have applied for parole or release to
21 extended supervision.

22 **SECTION 30.** 304.06 (title) of the statutes is amended to read:

23 **304.06 (title) Paroles Release to parole or extended supervision from**
24 **state prisons and house of correction; termination of extended supervision.**

25 **SECTION 31.** 304.06 (1) (b) of the statutes is amended to read:

1 304.06 (1) (b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or s.
2 302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the parole earned release review
3 commission may parole an inmate of the Wisconsin state prisons or any felon or any
4 person serving at least one year or more in a county house of correction or a county
5 re-forestation camp organized under s. 303.07, when he or she has served 25% of the
6 sentence imposed for the offense, or 6 months, whichever is greater. The earned
7 release review board may release to extended supervision a person sentenced under
8 s. 973.01 for a Class F to a Class I felony after the person has served at least 75
9 percent of the term of confinement in prison portion of the sentence, and may
10 terminate extended supervision of a person sentenced under s. 973.01 for a Class F
11 to a Class I felony after the person has completed 75 percent of his or her extended
12 supervision portion of the sentence. Except as provided in s. 939.62 (2m) (c) or
13 973.014 (1) (b) or (c), (1g) or (2), the parole earned release review commission may
14 parole an inmate serving a life term when he or she has served 20 years, as modified
15 by the formula under s. 302.11 (1) and subject to extension under s. 302.11 (1q) and
16 (2), if applicable. The person serving the life term shall be given credit for time served
17 prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The
18 secretary may grant special action parole releases under s. 304.02. The department
19 or the parole earned release review commission shall not provide any convicted
20 offender or other person sentenced to the department's custody any parole eligibility
21 or evaluation for parole or release to extended supervision until the person has been
22 confined at least 60 days following sentencing.

23 **SECTION 32.** 304.06 (1) (bn) of the statutes is created to read:

Insert A

1 ~~304.06 (1) (bn) 1.~~ A person who is sentenced under s. 973.01 for a Class F to
2 Class I felony may submit only one petition under this subsection for each sentence
3 imposed under s. 973.01.

4 ~~2.~~ The earned release review commission may consider the factors under s.
5 973.195 (1r) (b) as grounds for granting or denying a petition for release to extended
6 supervision or termination of extended supervision.

7 **SECTION 33.** 304.06 (1) (c) (intro.) of the statutes is amended to read:

8 304.06 (1) (c) (intro.) If an inmate applies for parole, release to extended
9 supervision, or termination of extended supervision under this subsection, the
10 ~~parole~~ earned release review commission shall make a reasonable attempt to notify
11 the following, if they can be found, in accordance with par. (d):

12 **SECTION 34.** 304.06 (1) (d) 1. of the statutes is amended to read:

13 304.06 (1) (d) 1. The notice under par. (c) shall inform the offices and persons
14 under par. (c) 1. to 3. of the manner in which they may provide written statements
15 under this subsection, shall inform persons under par. (c) 3. of the manner in which
16 they may attend interviews or hearings and make statements under par. (eg) and
17 shall inform persons under par. (c) 3. who are victims, or family members of victims,
18 of crimes specified in s. 940.01, 940.03, 940.05, 940.225 (1) ~~or~~, (2), or (3), 948.02 (1)
19 or (2), 948.025, 948.06 or 948.07 of the manner in which they may have direct input
20 in the parole decision-making process under par. (em) for parole, release to extended
21 supervision, or termination of extended supervision. The ~~parole~~ earned release
22 review commission shall provide notice under this paragraph for an inmate's first
23 application for parole, release to extended supervision, or termination of extended
24 supervision and, upon request, for subsequent applications for parole.

25 **SECTION 35.** 304.06 (1) (e) of the statutes is amended to read:

1 304.06 (1) (e) The ~~parole~~ earned release review commission shall permit any
2 office or person under par. (c) 1. to 3. to provide written statements. The ~~parole~~
3 earned release review commission shall give consideration to any written statements
4 provided by any such office or person and received on or before the date specified in
5 the notice. This paragraph does not limit the authority of the ~~parole~~ earned release
6 review commission to consider other statements or information that it receives in a
7 timely fashion.

8 **SECTION 36.** 304.06 (1) (eg) of the statutes is amended to read:

9 304.06 (1) (eg) The ~~parole~~ earned release review commission shall permit any
10 person under par. (c) 3. to attend any interview or hearing on the ~~parole~~ application
11 for parole, release to extended supervision, or termination of extended supervision
12 of an applicable inmate and to make a statement at that interview or hearing.

13 **SECTION 37.** 304.06 (1) (em) of the statutes is amended to read:

14 304.06 (1) (em) The ~~parole~~ earned release review commission shall promulgate
15 rules that provide a procedure to allow any person who is a victim, or a family
16 member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1) ~~or,~~
17 (2), ~~or (3),~~ 948.02 (1) or (2), 948.025, 948.06 or 948.07 to have direct input in the ~~parole~~
18 decision-making process for parole, release to extended supervision, or termination
19 of extended supervision.

20 **SECTION 38.** 304.06 (1) (f) of the statutes is amended to read:

21 304.06 (1) (f) The ~~parole~~ earned release review commission shall design and
22 prepare cards for persons specified in par. (c) 3. to send to the commission. The cards
23 shall have space for these persons to provide their names and addresses, the name
24 of the applicable prisoner and any other information the ~~parole~~ earned release
25 review commission determines is necessary. The ~~parole~~ earned release review

1 commission shall provide the cards, without charge, to district attorneys. District
2 attorneys shall provide the cards, without charge, to persons specified in par. (c) 3.
3 These persons may send completed cards to the ~~parole~~ earned release review
4 commission. All commission records or portions of records that relate to mailing
5 addresses of these persons are not subject to inspection or copying under s. 19.35 (1).
6 Before any written statement of a person specified in par. (c) 3. is made a part of the
7 documentary record considered in connection with a ~~parole~~ hearing for parole,
8 release to extended supervision, or termination of extended supervision under this
9 section, the ~~parole~~ earned release review commission shall obliterate from the
10 statement all references to the mailing addresses of the person. A person specified
11 in par. (c) 3. who attends an interview or hearing under par. (eg) may not be required
12 to disclose at the interview or hearing his or her mailing addresses.

13 **SECTION 39.** 304.06 (1) (g) of the statutes is amended to read:

14 304.06 (1) (g) Before a person is released on parole or released to extended
15 supervision under this subsection, the ~~parole~~ earned release review commission
16 shall so notify the municipal police department and the county sheriff for the area
17 where the person will be residing. The notification requirement under this
18 paragraph does not apply if a municipal department or county sheriff submits to the
19 ~~parole~~ earned release review commission a written statement waiving the right to
20 be notified. If applicable, the department shall also comply with s. 304.063.

21 **SECTION 40.** 304.06 (1m) (intro.) of the statutes is amended to read:

22 304.06 (1m) (intro.) The ~~parole~~ earned release review commission may waive
23 the 25% or 6-month service of sentence requirement under sub. (1) (b) under any of
24 the following circumstances:

25 **SECTION 41.** 304.06 (1q) (b) of the statutes is amended to read:

1 304.06 (1q) (b) The ~~parole~~ earned release review commission or the department
2 may require as a condition of parole or that a serious child sex offender undergo
3 pharmacological treatment using an antiandrogen or the chemical equivalent of an
4 antiandrogen. This paragraph does not prohibit the department from requiring
5 pharmacological treatment using an antiandrogen or the chemical equivalent of an
6 antiandrogen as a condition of probation.

7 **SECTION 42.** 304.06 (1q) (c) of the statutes is amended to read:

8 304.06 (1q) (c) In deciding whether to grant a serious child sex offender release
9 on parole under this subsection, the ~~parole~~ earned release review commission may
10 not consider, as a factor in making its decision, that the offender is a proper subject
11 for pharmacological treatment using an antiandrogen or the chemical equivalent of
12 an antiandrogen or that the offender is willing to participate in pharmacological
13 treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

14 **SECTION 43.** 304.06 (1x) of the statutes is amended to read:

15 304.06 (1x) The ~~parole~~ earned release review commission may require as a
16 condition of parole that the person is placed in the intensive sanctions program under
17 s. 301.048. In that case, the person is in the legal custody of the department under
18 that section and is subject to revocation of parole under sub. (3).

19 **SECTION 44.** 304.06 (2m) (d) of the statutes is amended to read:

20 304.06 (2m) (d) The ~~parole~~ earned release review commission or the
21 department shall determine a prisoner's county of residence for the purposes of this
22 subsection by doing all of the following:

23 1. The ~~parole~~ earned release review commission or the department shall
24 consider residence as the voluntary concurrence of physical presence with intent to

1 remain in a place of fixed habitation and shall consider physical presence as prima
2 facie evidence of intent to remain.

3 2. The ~~parole~~ earned release review commission or the department shall apply
4 the criteria for consideration of residence and physical presence under subd. 1. to the
5 facts that existed on the date that the prisoner committed the serious sex offense that
6 resulted in the sentence the prisoner is serving.

7 **SECTION 45.** 304.071 (1) of the statutes is amended to read:

8 304.071 (1) The ~~parole~~ earned release review commission may at any time
9 grant a parole or release to extended supervision to any prisoner in any penal
10 institution of this state, or the department may at any time suspend the supervision
11 of any person who is on probation ~~or~~, parole, or extended supervision to the
12 department, if the prisoner or person on probation ~~or~~, parole, or extended supervision
13 is eligible for induction into the U.S. armed forces. The suspension of parole,
14 extended supervision, or probation shall be for the duration of his or her service in
15 the armed forces; and the parole, extended supervision, or probation shall again
16 become effective upon his or her discharge from the armed forces in accordance with
17 regulations prescribed by the department. If he or she receives an honorable
18 discharge from the armed forces, the governor may discharge him or her and the
19 discharge has the effect of a pardon. Upon the suspension of parole, extended
20 supervision, or probation by the department, the department shall issue an order
21 setting forth the conditions under which the parole, extended supervision, or
22 probation is suspended, including instructions as to where and when and to whom
23 the ~~paroled~~ person on parole or extended supervision shall report upon discharge
24 from the armed forces.

25 **SECTION 46.** 950.04 (1v) (f) of the statutes is amended to read:

1 950.04 (1v) (f) To have the parole earned release review commission make a
2 reasonable attempt to notify the victim of applications for parole, release to extended
3 supervision, or termination of extended supervision, as provided under s. 304.06 (1).

4 **SECTION 47.** 973.01 (4) of the statutes is amended to read:

5 973.01 (4) NO GOOD TIME; EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT. A
6 person sentenced to a bifurcated sentence under sub. (1) shall serve the term of
7 confinement in prison portion of the sentence without reduction for good behavior.
8 The term of confinement in prison portion is subject to extension under s. 302.113 (3)
9 and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a., 302.113 (9g),
10 304.06 (1) (b), or 973.195 (1r).

11 **SECTION 48.** 973.01 (7) of the statutes is amended to read:

12 973.01 (7) NO DISCHARGE. The department of corrections may not discharge a
13 person who is serving a bifurcated sentence from custody, control and supervision
14 until the person has served the entire bifurcated sentence, except as provided in s.
15 304.06 (1) (b).

16 **SECTION 49.** 973.195 (1g) of the statutes is repealed.

17 **SECTION 50.** 973.195 (1r) (a) of the statutes is amended to read:

18 973.195 (1r) (a) An inmate who is serving a sentence imposed under s. 973.01
19 for a ~~crime other than a Class B Class C to Class E~~ felony may petition the sentencing
20 court to adjust the sentence if the inmate has served at least ~~the applicable~~
21 percentage 85 percent of the term of confinement in prison portion of the sentence.
22 If an inmate is subject to more than one sentence imposed under this section, the
23 sentences shall be treated individually for purposes of sentence adjustment under
24 this subsection.

25 **SECTION 51.** 973.195 (1r) (d) of the statutes is amended to read:

1 973.195 (1r) (d) If the sentence for which the inmate seeks adjustment is for
2 an offense under s. 940.225 (2) ~~or (3)~~, 948.02 (2), 948.08, or 948.085, and the district
3 attorney does not object to the petition within 10 days of receiving notice under par.
4 (c), the district attorney shall notify the victim, as defined under s. 950.02 (4), of the
5 inmate's petition. The notice to the victim shall include information on the sentence
6 adjustment petition process under this subsection, including information on how to
7 object to the inmate's petition. If the victim objects to adjustment of the inmate's
8 sentence within 45 days of the date on which the district attorney received notice
9 under par. (c), the court shall deny the inmate's petition.

10 **SECTION 52.** 974.07 (4) (b) of the statutes is amended to read:

11 974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing
12 addresses from completed information cards submitted by victims under ss. 51.37
13 (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f),
14 304.063 (4), 938.51 (2), 971.17 (6m) (d), and 980.11 (4), the department of corrections,
15 the parole earned release review commission, and the department of health and
16 family services shall, upon request, assist clerks of court in obtaining information
17 regarding the mailing address of victims for the purpose of sending copies of motions
18 and notices of hearings under par. (a).

19 **SECTION 53.** 976.03 (23) (c) of the statutes is amended to read:

20 976.03 (23) (c) The application shall be verified by affidavit, shall be executed
21 in duplicate and shall be accompanied by 2 certified copies of the indictment
22 returned, or information and affidavit filed, or of the complaint made to a judge,
23 stating the offense with which the accused is charged, or of the judgment of
24 conviction or of the sentence. The prosecuting officer, parole earned release review
25 commission, warden or sheriff may also attach such further affidavits and other

1 documents in duplicate as he, she or it deems proper to be submitted with the
2 application. One copy of the application, with the action of the governor indicated
3 by endorsement thereon, and one of the certified copies of the indictment, complaint,
4 information and affidavits, or of the judgment of conviction or of the sentence shall
5 be filed in the office of the governor to remain of record in that office. The other copies
6 of all papers shall be forwarded with the governor's requisition.

7

(END)

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304.06 (1) (bn) (intro.) The earned release review commission may consider any of the following as a ground for a petition under par. (b) for sentence reduction by a person who is sentenced under s. 973.01 for a Class F to Class I felony:

1. The inmate's conduct, efforts at and progress in rehabilitation, or participation and progress in education, treatment, or other correctional programs since he or she was sentenced.

2. A change in law or procedure related to sentencing or revocation of extended supervision effective after the inmate was sentenced that would have resulted in a shorter term of confinement in prison or, if the inmate was returned to prison upon revocation of extended supervision, a shorter period of confinement in prison upon revocation, if the change had been applicable when the inmate was sentenced.

3. The inmate is subject to a sentence of confinement in another state or the inmate is in the United States illegally and may be deported.

4. Sentence adjustment is otherwise in the interests of justice.

SECTION # 304.06 (1) (br) of the statutes is created to read:

X
304.06 (1) (br) 1. Except as provided under subd. 2., the earned release review commission may adjust the sentence of a person who is sentenced under s. 973.01 for a Class F to Class I felony only as follows:

a. If the inmate is serving the term of confinement in prison portion of the sentence, a reduction in the term of confinement in prison by the amount of time remaining in the term of confinement in prison portion of the sentence, less up to 30 days, and a corresponding increase in the term of extended supervision.

b. If the inmate is confined in prison upon revocation of extended supervision, a reduction in the amount of time remaining in the period of confinement in prison imposed upon revocation, less up to 30 days, and a corresponding increase in the term of extended supervision.

X 2. a. ~~no~~ If the earned release review commission adjusts a sentence under subd. 1. on the basis of a change in law or procedure as provided under par. (bn) 2. and the total sentence length of the adjusted sentence is greater than the maximum sentence length that the offender could have received if the change in law or procedure had been applicable when the inmate was originally sentenced, the earned release review commission may reduce the length of the term of extended supervision so that the total sentence length does not exceed the maximum sentence length that the offender could have received if the change in law or procedure had been applicable when the inmate was originally sentenced.

X b. If the earned release review commission adjusts a sentence under subd. 1. on the basis of a change in law or procedure as provided under par. (bn) 2. and the adjusted term of extended supervision is greater than the maximum term of extended supervision that the offender could have received if the change in law or procedure had been applicable when the inmate was originally sentenced, the earned release review commission may reduce the length of the term of extended supervision so that the term of extended supervision does not exceed the maximum term of extended supervision that the offender could have received if the change in law or procedure had been applicable when the inmate was originally sentenced.

SECTION 2. 304.06 (1) (bu) of the statutes is created to read:

Class

X
X

304.06 (1) (bu) An inmate who is sentenced under s. 973.01 for a Class F to I felony may ~~may~~ submit only one petition under this subsection for each sentence imposed under s. 973.01.