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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1403/P3

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

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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 Class F to Class I felony if the prisoner has served 75 percent of the extended supervision portion of the sentence. A prisoner who is serving a bifurcated sentence for a Class C to a Class E felony must petition the sentencing court for any sentence adjustment.

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:

24 301.21 (1m) (c) Any hearing to consider parole or whether to grant or terminate
25 extended supervision, if the prisoner is sentenced under s. 973.01 for a Class F to a

1 Class I felony to which an inmate confined under this contract may be entitled by the
2 laws of Wisconsin will be conducted by the Wisconsin parole earned release review
3 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 reforestation 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:

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

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

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

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

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

15 **SECTION 33.** 304.06 (1) (br) of the statutes is created to read:

16 304.06 (1) (br) 1. Except as provided under subd. 2., the earned release review
17 commission may ~~adjust the sentence of~~ a person who is sentenced under s. 973.01 for
18 a Class F to Class I felony only as follows:

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

23 b. If the inmate is confined in prison upon revocation of extended supervision,
24 a reduction in the amount of time remaining in the period of confinement in prison

reduce the ^{term} of confinement of

1 imposed upon revocation, less up to 30 days, and a corresponding increase in the term
2 of extended supervision.

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

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

21 **SECTION 34.** 304.06 (1) (bu) of the statutes is created to read:

22 304.06 (1) (bu) An inmate who is sentenced under s. 973.01 for a Class F to Class
23 I felony may submit only one petition under this subsection for each sentence
24 imposed under s. 973.01.

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

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

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

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

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

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

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

2 304.06 (1) (eg) The parole earned release review commission shall permit any
3 person under par. (c) 3. to attend any interview or hearing on the parole application
4 for parole, release to extended supervision, or termination of extended supervision
5 of an applicable inmate and to make a statement at that interview or hearing.

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

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

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

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

1 release to extended supervision, or termination of extended supervision under this
2 section, the parole earned release review commission shall obliterate from the
3 statement all references to the mailing addresses of the person. A person specified
4 in par. (c) 3. who attends an interview or hearing under par. (eg) may not be required
5 to disclose at the interview or hearing his or her mailing addresses.

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

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

14 **SECTION 42.** 304.06 (1m) (intro.) of the statutes is amended to read:

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

18 **SECTION 43.** 304.06 (1q) (b) of the statutes is amended to read:

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

25 **SECTION 44.** 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 under this subsection, the parole earned release review commission may
3 not consider, as a factor in making its decision, that the offender is a proper subject
4 for pharmacological treatment using an antiandrogen or the chemical equivalent of
5 an antiandrogen or that the offender is willing to participate in pharmacological
6 treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

7 **SECTION 45.** 304.06 (1x) of the statutes is amended to read:

8 304.06 (1x) The parole earned release review commission may require as a
9 condition of parole that the person is placed in the intensive sanctions program under
10 s. 301.048. In that case, the person is in the legal custody of the department under
11 that section and is subject to revocation of parole under sub. (3).

12 **SECTION 46.** 304.06 (2m) (d) of the statutes is amended to read:

13 304.06 (2m) (d) The parole earned release review commission or the
14 department shall determine a prisoner's county of residence for the purposes of this
15 subsection by doing all of the following:

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

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

24 **SECTION 47.** 304.071 (1) of the statutes is amended to read:

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

18 **SECTION 48.** 950.04 (1v) (f) of the statutes is amended to read:

19 950.04 (1v) (f) To have the ~~parole~~ earned release review commission make a
20 reasonable attempt to notify the victim of applications for parole, release to extended
21 supervision, or termination of extended supervision, as provided under s. 304.06 (1).

22 **SECTION 49.** 973.01 (4) of the statutes is amended to read:

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

1 The term of confinement in prison portion is subject to extension under s. 302.113 (3)
2 and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a., 302.113 (9g),
3 304.06 (1) (b), or 973.195 (1r).

4 **SECTION 50.** 973.01 (7) of the statutes is amended to read:

5 973.01 (7) NO DISCHARGE. The department of corrections may not discharge a
6 person who is serving a bifurcated sentence from custody, control and supervision
7 until the person has served the entire bifurcated sentence, except as provided in s.
8 304.06 (1) (b).

9 **SECTION 51.** 973.195 (1g) of the statutes is repealed.

10 **SECTION 52.** 973.195 (1r) (a) of the statutes is amended to read:

11 973.195 (1r) (a) An inmate who is serving a sentence imposed under s. 973.01
12 for a ~~crime other than a Class B Class C to Class E~~ felony may petition the sentencing
13 court to adjust the sentence if the inmate has served at least the applicable
14 percentage 85 percent of the term of confinement in prison portion of the sentence.
15 If an inmate is subject to more than one sentence imposed under this section, the
16 sentences shall be treated individually for purposes of sentence adjustment under
17 this subsection.

18 **SECTION 53.** 973.195 (1r) (d) of the statutes is amended to read:

19 973.195 (1r) (d) If the sentence for which the inmate seeks adjustment is for
20 an offense under s. 940.225 (2) ~~or (3)~~, 948.02 (2), 948.08, or 948.085, and the district
21 attorney does not object to the petition within 10 days of receiving notice under par.
22 (c), the district attorney shall notify the victim, as defined under s. 950.02 (4), of the
23 inmate's petition. The notice to the victim shall include information on the sentence
24 adjustment petition process under this subsection, including information on how to
25 object to the inmate's petition. If the victim objects to adjustment of the inmate's

1 sentence within 45 days of the date on which the district attorney received notice
2 under par. (c), the court shall deny the inmate's petition.

3 **SECTION 54.** 974.07 (4) (b) of the statutes is amended to read:

4 974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing
5 addresses from completed information cards submitted by victims under ss. 51.37
6 (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f),
7 304.063 (4), 938.51 (2), 971.17 (6m) (d), and 980.11 (4), the department of corrections,
8 the parole earned release review commission, and the department of health and
9 family services shall, upon request, assist clerks of court in obtaining information
10 regarding the mailing address of victims for the purpose of sending copies of motions
11 and notices of hearings under par. (a).

12 **SECTION 55.** 976.03 (23) (c) of the statutes is amended to read:

13 976.03 (23) (c) The application shall be verified by affidavit, shall be executed
14 in duplicate and shall be accompanied by 2 certified copies of the indictment
15 returned, or information and affidavit filed, or of the complaint made to a judge,
16 stating the offense with which the accused is charged, or of the judgment of
17 conviction or of the sentence. The prosecuting officer, parole earned release review
18 commission, warden or sheriff may also attach such further affidavits and other
19 documents in duplicate as he, she or it deems proper to be submitted with the
20 application. One copy of the application, with the action of the governor indicated
21 by endorsement thereon, and one of the certified copies of the indictment, complaint,
22 information and affidavits, or of the judgment of conviction or of the sentence shall
23 be filed in the office of the governor to remain of record in that office. The other copies
24 of all papers shall be forwarded with the governor's requisition.

25 (END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1403/1

PJH:kjf:pg

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

D-note

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 Class F to Class I felony if the prisoner has served 75 percent of the extended supervision portion of the sentence. A prisoner who is serving a bifurcated sentence for a Class C to a Class E felony must petition the sentencing court for any sentence adjustment.

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

*** NOTE This is reconciled s. 15.01(2). This section has been
affected by LRB-1416. drafts with the following LRB #'s: LRB-1403 and

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:

24 301.21 (1m) (c) Any hearing to consider parole or whether to grant or terminate
25 extended supervision, if the prisoner is sentenced under s. 973.01 for a Class F to a

1 Class I felony to which an inmate confined under this contract may be entitled by the
2 laws of Wisconsin will be conducted by the Wisconsin parole earned release review
3 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 reforestation 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:

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

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

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

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

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

15 **SECTION 33.** 304.06 (1) (br) of the statutes is created to read:

16 304.06 (1) (br) 1. Except as provided under subd. 2., the earned release review
17 commission may reduce the term of confinement of a person who is sentenced under
18 s. 973.01 for a Class F to Class I felony only as follows:

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

23 b. If the inmate is confined in prison upon revocation of extended supervision,
24 a reduction in the amount of time remaining in the period of confinement in prison

1 imposed upon revocation, less up to 30 days, and a corresponding increase in the term
2 of extended supervision.

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

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

21 **SECTION 34.** 304.06 (1) (bu) of the statutes is created to read:

22 304.06 (1) (bu) An inmate who is sentenced under s. 973.01 for a Class F to Class
23 I felony may submit only one petition under this subsection for each sentence
24 imposed under s. 973.01.

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

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

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

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

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

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

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

2 304.06 (1) (eg) The ~~parole~~ earned release review commission shall permit any
3 person under par. (c) 3. to attend any interview or hearing on the ~~parole~~ application
4 for parole, release to extended supervision, or termination of extended supervision
5 of an applicable inmate and to make a statement at that interview or hearing.

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

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

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

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

1 release to extended supervision, or termination of extended supervision under this
2 section, the parole earned release review commission shall obliterate from the
3 statement all references to the mailing addresses of the person. A person specified
4 in par. (c) 3. who attends an interview or hearing under par. (eg) may not be required
5 to disclose at the interview or hearing his or her mailing addresses.

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

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

14 **SECTION 42.** 304.06 (1m) (intro.) of the statutes is amended to read:

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

18 **SECTION 43.** 304.06 (1q) (b) of the statutes is amended to read:

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

25 **SECTION 44.** 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 under this subsection, the parole earned release review commission may
3 not consider, as a factor in making its decision, that the offender is a proper subject
4 for pharmacological treatment using an antiandrogen or the chemical equivalent of
5 an antiandrogen or that the offender is willing to participate in pharmacological
6 treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

7 **SECTION 45.** 304.06 (1x) of the statutes is amended to read:

8 304.06 (1x) The parole earned release review commission may require as a
9 condition of parole that the person is placed in the intensive sanctions program under
10 s. 301.048. In that case, the person is in the legal custody of the department under
11 that section and is subject to revocation of parole under sub. (3).

12 **SECTION 46.** 304.06 (2m) (d) of the statutes is amended to read:

13 304.06 (2m) (d) The parole earned release review commission or the
14 department shall determine a prisoner's county of residence for the purposes of this
15 subsection by doing all of the following:

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

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

24 **SECTION 47.** 304.071 (1) of the statutes is amended to read:

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

18 **SECTION 48.** 950.04 (1v) (f) of the statutes is amended to read:

19 950.04 (1v) (f) To have the parole earned release review commission make a
20 reasonable attempt to notify the victim of applications for parole, release to extended
21 supervision, or termination of extended supervision, as provided under s. 304.06 (1).

22 **SECTION 49.** 973.01 (4) of the statutes is amended to read:

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

1 The term of confinement in prison portion is subject to extension under s. 302.113 (3)
2 and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a., 302.113 (9g),
3 304.06 (1) (b), or 973.195 (1r).

4 **SECTION 50.** 973.01 (7) of the statutes is amended to read:

5 973.01 (7) NO DISCHARGE. The department of corrections may not discharge a
6 person who is serving a bifurcated sentence from custody, control and supervision
7 until the person has served the entire bifurcated sentence, except as provided in s.
8 304.06 (1) (b).

9 **SECTION 51.** 973.195 (1g) of the statutes is repealed.

10 **SECTION 52.** 973.195 (1r) (a) of the statutes is amended to read:

11 973.195 (1r) (a) An inmate who is serving a sentence imposed under s. 973.01
12 for a ~~crime other than a Class B Class C to Class E~~ felony may petition the sentencing
13 court to adjust the sentence if the inmate has served at least ~~the applicable~~
14 percentage 85 percent of the term of confinement in prison portion of the sentence.
15 If an inmate is subject to more than one sentence imposed under this section, the
16 sentences shall be treated individually for purposes of sentence adjustment under
17 this subsection.

18 **SECTION 53.** 973.195 (1r) (d) of the statutes is amended to read:

19 973.195 (1r) (d) If the sentence for which the inmate seeks adjustment is for
20 an offense under s. 940.225 (2) ~~or (3)~~, 948.02 (2), 948.08, or 948.085, and the district
21 attorney does not object to the petition within 10 days of receiving notice under par.
22 (c), the district attorney shall notify the victim, as defined under s. 950.02 (4), of the
23 inmate's petition. The notice to the victim shall include information on the sentence
24 adjustment petition process under this subsection, including information on how to
25 object to the inmate's petition. If the victim objects to adjustment of the inmate's

1 sentence within 45 days of the date on which the district attorney received notice
2 under par. (c), the court shall deny the inmate's petition.

3 **SECTION 54.** 974.07 (4) (b) of the statutes is amended to read:

4 974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing
5 addresses from completed information cards submitted by victims under ss. 51.37
6 (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f),
7 304.063 (4), 938.51 (2), 971.17 (6m) (d), and 980.11 (4), the department of corrections,
8 the ~~parole~~ earned release review commission, and the department of health and
9 family services shall, upon request, assist clerks of court in obtaining information
10 regarding the mailing address of victims for the purpose of sending copies of motions
11 and notices of hearings under par. (a).

12 **SECTION 55.** 976.03 (23) (c) of the statutes is amended to read:

13 976.03 (23) (c) The application shall be verified by affidavit, shall be executed
14 in duplicate and shall be accompanied by 2 certified copies of the indictment
15 returned, or information and affidavit filed, or of the complaint made to a judge,
16 stating the offense with which the accused is charged, or of the judgment of
17 conviction or of the sentence. The prosecuting officer, ~~parole~~ earned release review
18 commission, warden or sheriff may also attach such further affidavits and other
19 documents in duplicate as he, she or it deems proper to be submitted with the
20 application. One copy of the application, with the action of the governor indicated
21 by endorsement thereon, and one of the certified copies of the indictment, complaint,
22 information and affidavits, or of the judgment of conviction or of the sentence shall
23 be filed in the office of the governor to remain of record in that office. The other copies
24 of all papers shall be forwarded with the governor's requisition.

25 (END)

D-108K

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

D-note

Date

LRB-1403/2dn

~~PS~~
PJH:bjf

Jana:

This draft reconciles LRB-1403/1
and LRB-1416/5. Both LRB-1403 and
LRB-1416 should continue to appear in
the compiled bill.

PJH

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

LRB-1403/2dn
PJH:kjf:rs

January 30, 2007

Jana:

This draft reconciles LRB-1403/1 and LRB-1416/5. Both LRB-1403 and LRB-1416 should continue to appear in the compiled bill.

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

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 Class F to Class I felony if the prisoner has served 75 percent of the extended supervision portion of the sentence. A prisoner who is serving a bifurcated sentence for a Class C to a Class E felony must petition the sentencing court for any sentence adjustment.

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).~~

 ****NOTE: This is reconciled s. 15.01 (2). This SECTION has been affected by drafts
with the following LRB numbers: LRB-1403 and LRB-1416

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

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

8 **SECTION 4.** 17.07 (3m) of the statutes is amended to read:

9 17.07 (3m) Notwithstanding sub. (3), the ~~parole~~ earned release review
10 commission chairperson may be removed by the governor, at pleasure.

11 **SECTION 5.** 20.410 (2) (title) of the statutes is amended to read:

12 20.410 (2) (title) PAROLE EARNED RELEASE REVIEW COMMISSION. (a) *General*
13 *program operations*.

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

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

15 20.410 (2) (a) *General program operations*. The amounts in the schedule for
16 the general program operations of the ~~parole~~ earned release review commission.

17 **SECTION 7.** 20.923 (4) (b) 6. of the statutes is amended to read:

18 20.923 (4) (b) 6. Parole Earned release review commission: chairperson.

19 **SECTION 8.** 230.08 (2) (pd) of the statutes is amended to read:

20 230.08 (2) (pd) The chairperson of the ~~parole~~ earned release review
21 commission.

22 **SECTION 9.** 301.03 (3) of the statutes is amended to read:

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

12 **SECTION 10.** 301.0465 (3) (a) 4. of the statutes is amended to read:

13 301.0465 (3) (a) 4. He or she is serving an indeterminate sentence and the
14 parole earned release review commission has authorized his or her release on parole
15 within the next 6 months.

16 **SECTION 11.** 301.048 (2) (am) 3. of the statutes is amended to read:

17 301.048 (2) (am) 3. The parole earned release review commission grants him
18 or her parole under s. 304.06 and requires his or her participation in the program as
19 a condition of parole under s. 304.06 (1x).

20 **SECTION 12.** 301.21 (1m) (c) of the statutes is amended to read:

21 301.21 (1m) (c) Any hearing to consider parole or whether to grant or terminate
22 extended supervision, if the prisoner is sentenced under s. 973.01 for a Class F to a
23 Class I felony to which an inmate confined under this contract may be entitled by the
24 laws of Wisconsin will be conducted by the Wisconsin parole earned release review
25 commission under rules of the department.

1 **SECTION 13.** 301.21 (2m) (c) of the statutes is amended to read:

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

7 **SECTION 14.** 302.045 (3) of the statutes is amended to read:

8 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department
9 determines that an inmate serving a sentence other than one imposed under s.
10 973.01 has successfully completed the challenge incarceration program, the parole
11 earned release review commission shall parole the inmate for that sentence under
12 s. 304.06, regardless of the time the inmate has served. When the parole earned
13 release review commission grants parole under this subsection, it must require the
14 parolee to participate in an intensive supervision program for drug abusers as a
15 condition of parole.

16 **SECTION 15.** 302.05 (3) (b) of the statutes is amended to read:

17 302.05 (3) (b) Except as provided in par. (d), if the department determines that
18 an eligible inmate serving a sentence other than one imposed under s. 973.01 has
19 successfully completed a treatment program described in sub. (1), the parole earned
20 release review commission shall parole the inmate for that sentence under s. 304.06,
21 regardless of the time the inmate has served. If the parole earned release review
22 commission grants parole under this paragraph, it shall require the parolee to
23 participate in an intensive supervision program for drug abusers as a condition of
24 parole.

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

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

9 **SECTION 17.** 302.11 (1g) (b) 2. of the statutes is amended to read:

10 302.11 (1g) (b) 2. Refusal by the inmate to participate in counseling or
11 treatment that the social service and clinical staff of the institution determines is
12 necessary for the inmate, including pharmacological treatment using an
13 antiandrogen or the chemical equivalent of an antiandrogen if the inmate is a serious
14 child sex offender as defined in s. 304.06 (1q) (a). The parole earned release review
15 commission may not deny presumptive mandatory release to an inmate because of
16 the inmate's refusal to participate in a rehabilitation program under s. 301.047.

17 **SECTION 18.** 302.11 (1g) (c) of the statutes is amended to read:

18 302.11 (1g) (c) If the parole earned release review commission denies
19 presumptive mandatory release to an inmate under par. (b), the parole earned
20 release review commission shall schedule regular reviews of the inmate's case to
21 consider whether to parole the inmate under s. 304.06 (1).

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

23 302.11 (1g) (d) An inmate may seek review of a decision by the parole earned
24 release review commission relating to the denial of presumptive mandatory release
25 only by the common law writ of certiorari.

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

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

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

6 302.11 (7) (c) The parole earned release review commission may subsequently
7 parole, under s. 304.06 (1), and the department may subsequently parole, under s.
8 304.02, a parolee who is returned to prison for violation of a condition of parole.

9 **SECTION 22.** 302.113 (2) of the statutes is amended to read:

10 302.113 (2) Except as provided in subs. (3) and (9), an inmate subject to this
11 section is entitled to release to extended supervision after he or she has served the
12 term of confinement in prison portion of the sentence imposed under s. 973.01, as
13 modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b) 1., 302.05 (3)
14 (c) 2. a., or 973.195 (1r), if applicable, or as adjusted by the earned release review
15 commission under s. 304.06 (1) (b).

16 **SECTION 23.** 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 24.** 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 25.** 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 26.** 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 27.** 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 28.** 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 29.** 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 30.** 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 31.** 304.06 (1) (bn) of the statutes is created to read:

21 304.06 (1) (bn) The earned release review commission may consider any of the
22 following as a ground for a petition under par. (b) for sentence reduction by a person
23 who is sentenced under s. 973.01 for a Class F to Class I felony:

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

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

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

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

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

13 304.06 (1) (br) 1. Except as provided under subd. 2., the earned release review
14 commission may reduce the term of confinement of a person who is sentenced under
15 s. 973.01 for a Class F to Class I felony only as follows:

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

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

24 2. a. If the earned release review commission adjusts a sentence under subd.
25 1. on the basis of a change in law or procedure as provided under par. (bn) 2. and the

1 total sentence length of the adjusted sentence is greater than the maximum sentence
2 length that the offender could have received if the change in law or procedure had
3 been applicable when the inmate was originally sentenced, the earned release review
4 commission may reduce the length of the term of extended supervision so that the
5 total sentence length does not exceed the maximum sentence length that the offender
6 could have received if the change in law or procedure had been applicable when the
7 inmate was originally sentenced.

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

17 **SECTION 33.** 304.06 (1) (bu) of the statutes is created to read:

18 304.06 (1) (bu) An inmate who is sentenced under s. 973.01 for a Class F to Class
19 I felony may submit only one petition under this subsection for each sentence
20 imposed under s. 973.01.

21 **SECTION 34.** 304.06 (1) (c) (intro.) of the statutes is amended to read:

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

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

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

14 **SECTION 36.** 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 37.** 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 38.** 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 39.** 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
25 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 40.** 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 under this subsection, the parole earned release review commission
6 shall so notify the municipal police department and the county sheriff for the area
7 where the person will be residing. The notification requirement under this
8 paragraph does not apply if a municipal department or county sheriff submits to the
9 parole earned release review commission a written statement waiving the right to
10 be notified. If applicable, the department shall also comply with s. 304.063.

11 **SECTION 41.** 304.06 (1m) (intro.) of the statutes is amended to read:

12 304.06 (1m) (intro.) The parole earned release review commission may waive
13 the 25% or 6-month service of sentence requirement under sub. (1) (b) under any of
14 the following circumstances:

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

16 304.06 (1q) (b) The parole earned release review commission or the department
17 may require as a condition of parole or that a serious child sex offender undergo
18 pharmacological treatment using an antiandrogen or the chemical equivalent of an
19 antiandrogen. This paragraph does not prohibit the department from requiring
20 pharmacological treatment using an antiandrogen or the chemical equivalent of an
21 antiandrogen as a condition of probation.

22 **SECTION 43.** 304.06 (1q) (c) of the statutes is amended to read:

23 304.06 (1q) (c) In deciding whether to grant a serious child sex offender release
24 on parole under this subsection, the parole earned release review commission may
25 not consider, as a factor in making its decision, that the offender is a proper subject

1 for pharmacological treatment using an antiandrogen or the chemical equivalent of
2 an antiandrogen or that the offender is willing to participate in pharmacological
3 treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

4 **SECTION 44.** 304.06 (1x) of the statutes is amended to read:

5 304.06 (1x) The parole earned release review commission may require as a
6 condition of parole that the person is placed in the intensive sanctions program under
7 s. 301.048. In that case, the person is in the legal custody of the department under
8 that section and is subject to revocation of parole under sub. (3).

9 **SECTION 45.** 304.06 (2m) (d) of the statutes is amended to read:

10 304.06 (2m) (d) The parole earned release review commission or the
11 department shall determine a prisoner's county of residence for the purposes of this
12 subsection by doing all of the following:

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

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

21 **SECTION 46.** 304.071 (1) of the statutes is amended to read:

22 304.071 (1) The parole earned release review commission may at any time
23 grant a parole or release to extended supervision to any prisoner in any penal
24 institution of this state, or the department may at any time suspend the supervision
25 of any person who is on probation ~~or~~ parole, or extended supervision to the

1 department, if the prisoner or person on probation ~~or~~, parole, or extended supervision
2 is eligible for induction into the U.S. armed forces. The suspension of parole,
3 extended supervision, or probation shall be for the duration of his or her service in
4 the armed forces; and the parole, extended supervision, or probation shall again
5 become effective upon his or her discharge from the armed forces in accordance with
6 regulations prescribed by the department. If he or she receives an honorable
7 discharge from the armed forces, the governor may discharge him or her and the
8 discharge has the effect of a pardon. Upon the suspension of parole, extended
9 supervision, or probation by the department, the department shall issue an order
10 setting forth the conditions under which the parole, extended supervision, or
11 probation is suspended, including instructions as to where and when and to whom
12 the ~~paroled~~ person on parole or extended supervision shall report upon discharge
13 from the armed forces.

14 **SECTION 47.** 950.04 (1v) (f) of the statutes is amended to read:

15 950.04 (1v) (f) To have the ~~parole~~ earned release review commission make a
16 reasonable attempt to notify the victim of applications for parole, release to extended
17 supervision, or termination of extended supervision, as provided under s. 304.06 (1).

18 **SECTION 48.** 973.01 (4) of the statutes is amended to read:

19 973.01 (4) NO GOOD TIME; EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT. A
20 person sentenced to a bifurcated sentence under sub. (1) shall serve the term of
21 confinement in prison portion of the sentence without reduction for good behavior.
22 The term of confinement in prison portion is subject to extension under s. 302.113 (3)
23 and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a., 302.113 (9g),
24 304.06 (1) (b), or 973.195 (1r).

25 **SECTION 49.** 973.01 (7) of the statutes is amended to read:

1 973.01 (7) NO DISCHARGE. The department of corrections may not discharge a
2 person who is serving a bifurcated sentence from custody, control and supervision
3 until the person has served the entire bifurcated sentence, except as provided in s.
4 304.06 (1) (b).

5 **SECTION 50.** 973.195 (1g) of the statutes is repealed.

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

7 973.195 (1r) (a) An inmate who is serving a sentence imposed under s. 973.01
8 ~~for a crime other than a Class B~~ Class C to Class E felony may petition the sentencing
9 court to adjust the sentence if the inmate has served at least ~~the applicable~~
10 percentage 85 percent of the term of confinement in prison portion of the sentence.
11 If an inmate is subject to more than one sentence imposed under this section, the
12 sentences shall be treated individually for purposes of sentence adjustment under
13 this subsection.

14 **SECTION 52.** 973.195 (1r) (d) of the statutes is amended to read:

15 973.195 (1r) (d) If the sentence for which the inmate seeks adjustment is for
16 an offense under s. 940.225 (2) ~~or (3)~~, 948.02 (2), 948.08, or 948.085, and the district
17 attorney does not object to the petition within 10 days of receiving notice under par.
18 (c), the district attorney shall notify the victim, as defined under s. 950.02 (4), of the
19 inmate's petition. The notice to the victim shall include information on the sentence
20 adjustment petition process under this subsection, including information on how to
21 object to the inmate's petition. If the victim objects to adjustment of the inmate's
22 sentence within 45 days of the date on which the district attorney received notice
23 under par. (c), the court shall deny the inmate's petition.

24 **SECTION 53.** 974.07 (4) (b) of the statutes is amended to read:

