

2009 DRAFTING REQUEST

Bill

Received: 09/24/2009

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Legislative Council - JLC

By/Representing: Anne Sappenfield

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Correctional System - misc

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Risk reduction programming

Instructions:

companion to 09-3089

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 09/24/2009	jdye 09/29/2009		_____			Crime
/1			phenry 09/29/2009	_____	sbasford 09/29/2009	sbasford 09/30/2009	

FE Sent For:

<END>

↳ Not Needed

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/?	phurley	1 9/29 jld	9/29 ph	9/29 ph			

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State of Wisconsin
2009 - 2010 LEGISLATURE

3542/1
LRB-3089/2
PJH:kjf&jld:rs

Stays

2009 BILL

9.24.09

x Regen

1 AN ACT *to repeal* 302.042 (3); and *to amend* 302.042 (4) and 973.031 of the
2 statutes; **relating to:** risk reduction programming.

Analysis by the Legislative Reference Bureau

Under current law, a person who is sentenced for a felony receives a bifurcated sentence, which requires the person to serve a portion of his or her sentence in prison (incarceration portion) and a portion in the community under extended supervision. 2009 Wisconsin Act 28 created an option for persons who are convicted of certain felonies. Under the act, with certain exceptions listed below, the sentencing court may order a person to serve a risk reduction sentence if the court determines that a risk reduction sentence is appropriate, the person agrees to cooperate in an assessment provided by the Department of Corrections (DOC), and the person agrees to participate in programming or treatment that DOC determines is appropriate for the person. Under the act, DOC may modify the person's treatment or program plan for any reason.

A court may not order a risk reduction sentence for a person convicted of felony murder, second-degree reckless homicide, a strangulation or suffocation offense, human trafficking, kidnapping, certain stalking offenses, disarming a peace officer, tampering with a global positioning system, certain offenses involving the physical abuse or neglect of a child, certain offenses against an elderly or vulnerable person, certain offenses related to ethical government, or certain offenses involving weapons in a school.

If a person successfully completes the program and treatment plan DOC determines is appropriate for the person and the person maintains a good conduct

BILL

record while in prison, he or she may be released from incarceration to extended supervision in the community after he or she has served at least 75 percent of the incarceration portion of his or her sentence.

Under this bill, DOC may not modify an inmate's program and must release an inmate when the inmate has served 75 percent of the incarceration portion of his or her sentence if the inmate successfully completes his or her program and treatment plan. The bill also eliminates the list of offenses that render a person ineligible for a risk reduction sentence.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Justice Reinvestment Initiative Oversight.

The bill permits a court to order a risk reduction sentence for a person who has been convicted of a felony if the court determines that a risk reduction sentence is appropriate and if the person agrees to all of the following:

1. To cooperate in an assessment of the person's criminogenic needs and risk of re-offending.
2. To participate in any programming or treatment ordered by the Department of Corrections (DOC) to address issues raised in any risk assessment conducted by DOC.

The bill requires DOC to conduct a criminogenic needs and risk assessment of any person under a risk reduction sentence and requires DOC to provide programming and treatment to address the risks and needs identified in the risk assessment.

If DOC determines that a person has successfully completed a risk reduction sentence, DOC must release the person to extended supervision after the person has served 75% of the person's term of confinement and must notify the court that the person has, to that point, successfully completed the risk reduction sentence.

1 **SECTION 1.** 302.042 (3) of the statutes, as created by 2009 Wisconsin Act 28, is
2 repealed.

3 **SECTION 2.** 302.042 (4) of the statutes, as created by 2009 Wisconsin Act 28, is
4 amended to read:

5 302.042 (4) The department shall release an inmate who is serving a risk
6 reduction sentence to extended supervision when he or she serves not less than 75
7 percent of the term of confinement portion of his or her sentence imposed under s.

BILL

1 973.01 and the department determines that he or she has completed the
2 programming or treatment under his or her plan ~~and that the inmate maintained a~~
3 ~~good conduct record during his or her term of confinement.~~ Not less than 30 days
4 prior to release under this subsection, the department shall notify the sentencing
5 court that the inmate has thus far successfully completed the requirements of his or
6 her risk reduction sentence.

7 **SECTION 3.** 973.031^X of the statutes, as created by 2009 Wisconsin Act 28, is
8 amended to read:

9 **973.031 Risk reduction sentence.** Whenever a court imposes a sentence for
10 a felony under s. 973.01, the court may order the person it sentences to serve a risk
11 reduction sentence if the court determines that a risk reduction sentence is
12 appropriate and the person agrees to cooperate in an assessment of his or her
13 criminogenic factors and his or her risk of reoffending, and to participate in
14 programming or treatment the department develops for the person under s. 302.042
15 (1). ~~This section does not apply if the court sentences a person for a violation of s.~~
16 ~~940.03, 940.06, 940.11 (1), 940.235, 940.302, 940.31 (1), 940.32 (3), 941.21, 946.465,~~
17 ~~948.03 (2) (a), or 948.40 (4) (a) or for a felony murder under s. 940.03, an offense~~
18 ~~against an elderly or vulnerable person, as defined in s. 939.22 (20d), an offense~~
19 ~~related to ethical government, as defined in s. 939.22 (20m), or an offense related to~~
20 ~~school safety, as defined in s. 939.22 (20s).~~

21 **SECTION 4. Effective date.**

22 (1) This act takes effect on October 2, 2009.

23 (END)



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

September 29, 2009

MEMORANDUM

To: Legislative Council - JLC

From: Peggy J. Hurley, Senior Attorney

Re: LRB-3542/1 Risk reduction programming

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-8906 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.