

## 2009 DRAFTING REQUEST

### Bill

Received: **01/11/2010**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Suder (608) 267-0280**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sentencing**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Suder@legis.wisconsin.gov**

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Sentencing modification

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### Instructions:

Remove all Act 28 sentence modification

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### 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>
/?							
/P1	phurley 01/24/2010	nnatzke 01/29/2010	mduchek 01/29/2010	_____	cduerst 01/29/2010		S&L
/1	phurley 02/21/2010	nnatzke 02/23/2010	mduchek 02/23/2010	_____	lparisi 02/23/2010	cduerst 02/24/2010	
	phurley 02/23/2010	nnatzke 02/23/2010		_____			

FE Sent For:

at  
intro

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/P1	phurley 01/24/2010	nmatzke 01/29/2010 /1 nwn 2/23	mduchek 01/29/2010		cduerst 01/29/2010		

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*[Handwritten signatures and initials]*  
 PH  
 2/23  
 <END>

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By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Criminal Law - sentencing

Extra Copies:

Submit via email: YES

Requester's email: Rep.Suder@legis.wisconsin.gov

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/?	phurley	/pl nym 1/29	<i>[Signature]</i>	_____	_____	_____	_____

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<END>

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Addl. Drafters:

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Extra Copies:

Submit via email: **YES**

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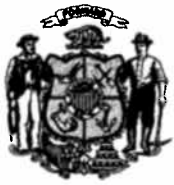
**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/?	phurley			_____			
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FE Sent For:

<END>



**ASSEMBLY AMENDMENT 25,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2009 ASSEMBLY BILL 75**

June 11, 2009 – Offered by Representatives SUDER and KLEEFISCH.

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

2 ~~1.~~ Page 18, line 19: delete the material beginning with that line and ending  
3 with page ~~19~~, line 8.

4 ~~2.~~ Page 20, line 19: delete the material beginning with that line and ending  
5 with page ~~21~~, line 2.

6 ~~3.~~ Page 45, line 15: delete lines 15 to 17.

7 ~~4.~~ Page ~~158~~, line 5: delete lines 5 to 7.

8 ~~5.~~ Page 160, line 13: delete “EARNED RELEASE REVIEW” and substitute “PAROLE”.

9 ~~6.~~ Page 297, line 23: delete the material beginning with that line and ending  
10 with page ~~298~~, line 3.

11 ~~7.~~ Page 298, line 11: delete lines 11 to 15.



1 ~~8.~~ Page 387, line 5: delete lines 5 and 6.

2 ~~9.~~ Page 1331, line 8: delete lines 8 to 10.

3 ~~10.~~ Page 1401, line 12: delete the material beginning on that line and ending  
4 with page 1402, line 2.

5 ~~11.~~ Page 1402, line 10: delete the material beginning on that line and ending  
6 with page 1404, line 22. *301:06/14*

7 ~~12.~~ Page 1407, line 25: delete the material beginning with that line and  
8 ending with page 1408, line 10.

9 ~~13.~~ Page 1414, line 18: delete the material beginning with that line and  
10 ending with page 1419, line 15.

11 ~~14.~~ Page 1419, line 19: delete the material beginning with that line and  
12 ending with page 1435, line 24. *done thru here - 302.114(9)(c)*

13 ~~15.~~ Page 1437, line 11: delete the material beginning with that line and  
14 ending with page 1438, line 16. *help to 301:06/14*

15 ~~16.~~ Page 1438, line 20: delete the material beginning with that line and  
16 ending with page 1450, line 6. *also add in "as attached" to all these*

17 ~~17.~~ Page 1649, line 11: delete lines 11 to 18.

18 ~~18.~~ Page 1651, line 3: delete lines 3 to 8.

19 ~~19.~~ Page 1676, line 18: delete the material beginning with that line and  
20 ending with page 1677, line 2.

21 ~~20.~~ Page 1705, line 20: delete the material beginning with that line and  
22 ending with page 1706, line 13.

- 1           **21.** Page 1708, line 12: delete the material beginning with that line and
- 2 ending with page 1710, line 5.
- 3           **22.** Page 1710, line 10: delete lines 10 to 20.
- 4           **23.** Page 1711, line 25: delete the material beginning with that line and
- 5 ending with page 1712, line 7.
- 6           **24.** Page 1713, line 3: delete the material beginning with that line and ending
- 7 with page 1714, line 3.
- 8           **25.** Page 1714, line 5: delete the material beginning with that line and ending
- 9 with page 1715, line 2.
- 10          **26.** Page 1716, line 8: delete lines 8 to 14.
- 11          **27.** Page 1861, line 22: delete the material beginning with that line and
- 12 ending with page 1862, line 25.

(END)

*eff  
dates  
so  
not included.*

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4097<sup>2</sup> P1  
PJH:f:dn  
awn

Date

Representative Suder:

*and seeks to reverse the changes to sentencing and early release that were passed in 2009 Act 280e*

Please review this preliminary draft to ensure that it is consistent with your intent. This draft is based on Assembly Amendment 25 to Assembly Substitute Amendment 1 to 2009 Assembly Bill 75. In general terms, if Act 28 added text, this draft deletes that text and if Act 28 deleted text, this draft adds it back into the statutes. This draft deletes statutory sections that were created by Act 28 and re-creates statutory sections that were repealed by Act 28.

Under this draft, the changes will first apply to persons sentenced on, petitions for release that are submitted on, and revocations of extended supervision that occur on, the effective date of the draft. I did not include an effective date; please let me know if you would like to have one added to the draft.

There are some people who have been sentenced, revoked, or have filed for release under the Act 28 provisions. I created s. 301.03 (3v) of the statutes to require the department of corrections to promulgate rules to review the release or revocation of people who are sentenced or revoked or who qualify for early release between the effective date of Act 28 (October 1, 2009) and the effective date of this draft.

Please let me know if you have any other questions or concerns.

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



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

SAV  
x-refv

1-27-10  
done  
by 1-29

Gen.

**AN ACT ...; relating to:** sentencing, revocation of parole or extended supervision,  
and requiring the exercise of rule-making authority.✓

---

*Analysis by the Legislative Reference Bureau*

*[Signature]*

This is a preliminary draft. An analysis will be provided in a later version.✓

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

**SECTION 1.** 15.01 (2) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

15.01 (2) "Commission" means a 3-member governing body in charge of a department or independent agency or of a division or other subunit within a department, except for the Wisconsin waterways commission which shall consist of 5 members and the earned release review parole✓ commission which shall consist of 8 members. A Wisconsin group created for participation in a continuing interstate

body, or the interstate body itself, shall be known as a "commission", but is not a commission for purposes of s. 15.06. The ~~earned release review parole~~ commission created under s. 15.145 (1) shall be known as a "commission", but is not a commission for purposes of s. 15.06.✓

**History:** 1977 c. 29, 274; 1979 c. 34; 1983 a. 27, 189, 371, 410, 538; 1985 a. 29, 120, 180; 1987 s. 27, 342, 399; 1989 a. 31, 107, 202; 1991 a. 39, 269, 315; 1993 a. 16, 107, 210, 215; 1995 a. 27 ss. 74 and 9145 (1); 1995 a. 442, 462; 1997 a. 27, 237; 2001 a. 16, 105, 109; 2005 a. 25, 421; 2007 a. 20; 2009 a. 28.

**SECTION 2.** 15.06 (6) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

**History:** 1971 c. 193, 307; 1977 c. 29, 196, 274; 1981 c. 347; 1983 a. 27, 371, 410, 538; 1985 a. 29; 1987 a. 27, 403; 1989 a. 31; 1991 a. 39, 269, 316; 1993 a. 16, 123; 1995 a. 27; 1997 a. 27; 2001 a. 16; 2003 a. 33; 2005 a. 149; 2009 a. 28.

**SECTION 3.** 15.145 (1) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

Note: Note: Section 15.145 (title) is shown as amended eff. 1-4-10 by 2009 Wis. Act 28. Prior to 1-4-10 it reads: Note:)

15.145 Same; attached boards and commissions.

**History:** 1989 a. 107 ss. 4, 5m; 1989 a. 121; 1993 a. 399; 1997 a. 27, 237; 2001 a. 16, 96; 2005 a. 234; 2009 a. 28.

**SECTION 4.** 17.07 (3m) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

17.07 (3m) Notwithstanding sub. (3), the ~~earned release review~~ <sup>plain space</sup> parole commission chairperson may be removed by the governor, at pleasure. ✓

**History:** 1971 c. 211; 1977 c. 196 s. 131; 1979 c. 221; 1987 a. 63; 1989 a. 121; 1991 a. 32; 1995 a. 27; 2009 a. 28.

**SECTION 5.** 20.410 (1) (ds) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed. ✓

**SECTION 6.** 20.410 (2) (title) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

20.410 (2) (title) EARNED RELEASE REVIEW PAROLE COMMISSION. ✓

**History:** 1989 a. 31 ss. 340, 361 to 380, 382 to 392; 1989 a. 107, 122, 359; 1991 a. 39; 1993 a. 16, 98, 377, 437, 490; 1995 a. 27, 77, 416, 440; 1997 a. 4, 27, 35, 237, 252, 275, 283, 284; 1999 a. 9, 89; 2001 a. 16; 2003 a. 33; 2005 a. 25 ss. 287 to 295m, 414t, 415wr; 2005 a. 234 s. 4; 2005 a. 344, 433; 2007 a. 20, 97; 2009 a. 28.

**SECTION 7.** 20.410 (2) (a) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

**History:** 1989 a. 31 ss. 340, 361 to 380, 382 to 392; 1989 a. 107, 122, 359; 1991 a. 39; 1993 a. 16, 98, 377, 437, 490; 1995 a. 27, 77, 416, 440; 1997 a. 4, 27, 35, 237, 252, 275, 283, 284; 1999 a. 9, 89; 2001 a. 16; 2003 a. 33; 2005 a. 25 ss. 287 to 295m, 414t, 415wr; 2005 a. 234 s. 4; 2005 a. 344, 433; 2007 a. 20, 97; 2009 a. 28.

**SECTION 8.** 20.923 (4) (b) 6. of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

**History:** 1971 c. 18, 125, 164; 1971 c. 270 ss. 98, 104; 1971 c. 307, 321; 1973 c. 90, 156, 243, 333; 1975 c. 28; 1975 c. 39 ss. 236c to 247, 735 (5); 1975 Ex. Order No. 24; 1975 c. 189, 199, 224, 422; 1977 c. 29 ss. 399g to 406d, 1649, 1650m, 1654 (8) (e), 1656 (43); 1977 c. 44; 1977 c. 187 ss. 29, 30, 31, 135; 1977 c. 196 ss. 74 to 76m, 131; 1977 c. 203, 272, 277, 418, 447, 449; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1979 c. 32 s. 92 (1); 1979 c. 34, 89, 189; 1979 c. 221 ss. 201m to 218, 2202 (13); 1979 c. 361; 1981 c. 20 ss. 587 to 592g, 2202 (33) (b), (c), (56) (a); 1981 c. 96 ss. 16, 67; 1981 c. 121, 127, 347, 353; 1981 c. 390 s. 252; 1983 a. 27, 46, 121, 192, 371, 378; 1985 a. 18, 23; 1985 a. 29 ss. 603 to 607, 3202 (22) (a); 1985 a. 34, 332; 1987 a. 6, 27, 82, 119, 306, 340, 354, 399, 403; 1989 a. 31, 56, 107, 208, 219, 336; 1991 a. 39, 269; 1993 a. 12, 16, 75, 123, 144, 184, 294, 349, 399, 490; 1995 a. 27 ss. 1193 to 1217m, 9130 (4), 9216 (19); 1995 a. 37, 216, 225; 1997 a. 2, 3, 27, 29, 41, 194, 237; 1999 a. 9, 42, 102, 186; 2001 a. 16, 19, 29, 109; 2003 a. 33 ss. 721 to 735m, 9160; 2003 a. 91, 320; 2005 a. 25; 2007 a. 1; 2007 a. 20 ss. 616 to 630, 9121 (6) (a); 2007 a. 196; 2009 a. 28.

**SECTION 9.** 230.08 (2) (pd) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

**History:** 1971 c. 40, 270; 1973 c. 333, 335; 1977 c. 29, 187; 1977 c. 196 ss. 34, 108, 130 (5); 1977 c. 272, 418, 449; Stats. 1977 s. 230.08; 1979 c. 34, 189, 221, 356, 361; 1981 c. 20, 347, 374; 1983 a. 27 ss. 1605o to 1609am, 2200 (15); 1983 a. 189 s. 329 (27); 1983 a. 371, 378; 1985 a. 29; 1987 a. 27, 119, 204, 354, 399, 403; 1989 a. 31, 107, 119, 122, 169, 208, 219, 336; 1991 a. 39, 250, 269; 1993 a. 16, 349, 399; 1995 a. 27 ss. 6245 to 6277m, 9126 (19), 9130 (4); 1995 a. 216; 1997 a. 3, 27, 179, 194, 237; 1999 a. 9, 42, 87, 186; 2001 a. 16, 19, 109; 2003 a. 33 ss. 2392 to 2407b, 9160; 2003 a. 91, 326; 2005 a. 22, 25; 2007 a. 1; 2007 a. 20 ss. 3006 to 3014, 9121 (6) (a); 2009 a. 28.

**SECTION 10.** 301.03 (3) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

301.03 (3) Administer parole, extended supervision, and probation matters, except that the decision to grant or deny parole ~~or to grant extended supervision under s. 304.06 (1)~~ to inmates shall be made by the ~~earned release review parole commission~~ and the decision to revoke probation, extended supervision or parole in cases in which there is no waiver of the right to a hearing shall be made by the division of hearings and appeals in the department of administration. The secretary may grant special action parole releases under s. 304.02. ~~The department may discharge inmates from extended supervision under s. 973.01 (4m) and may modify a bifurcated sentence under s. 302.113 (9h), and the earned release review commission may modify a sentence under s. 302.1135.~~ The department shall promulgate rules establishing a drug testing program for probationers, parolees and persons placed on extended supervision. The rules shall provide for assessment of fees upon probationers, parolees and persons placed on extended supervision to partially offset the costs of the program.

Note: NOTE: Sub. (3) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

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

History: 1989 a. 31, 107, 121, 188, 336; 1991 a. 39; 1993 a. 16, 377, 479; 1995 a. 27 ss. 6355, 6356m, 6356p, 9126 (19); 1995 a. 77, 141; 1997 a. 27, 35, 237, 275, 283, 284; 1999 a. 9, 32; 2001 a. 16, 109; 2003 a. 321; 2005 a. 44, 431, 434, 451; 2007 a. 1; 2007 a. 20 ss. 3100g, 9121 (6) (a); 2007 a. 96, 97; 2009 a. 28.

**SECTION 11.** 301.03 (3v) of the statutes is created to read:

301.03 (3v) Promulgate rules establishing a review procedure for granting release to extended supervision for persons sentenced between October 1, 2009 and the effective date of this subsection ...[LRB inserts date],<sup>✓</sup> for reviewing petitions for release that were submitted between October 1, 2009 and the effective date of this subsection ...[LRB inserts date],<sup>✓</sup> and for reviewing revocations of extended supervision that occurred between October 1, 2009 and the effective date of this subsection ...[LRB inserts date].<sup>✓</sup>

**SECTION 12.** 301.048 (2) (am) 3. of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

Note: NOTE: Subd. 3. is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

3. The parole commission grants him or her parole under s. 304.06 and requires his or her participation in the program as a condition of parole under s. 304.06 (1x).

History: 1991 a. 39; 1993 a. 79, 97, 227, 437, 479; 1995 a. 27; 1997 a. 27, 133, 181, 283; 1999 a. 9; 2001 a. 109; 2005 a. 277; 2007 a. 116; 2009 a. 28.

**SECTION 13.** 301.068 of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.<sup>✓</sup>

**SECTION 14.** 301.21 (1m) (c) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

301.21 (1m) (c) Any hearing to consider parole ~~or whether to grant extended supervision, if the inmate is sentenced under s. 973.01~~ to which an inmate confined under this contract may be entitled by the laws of Wisconsin will be conducted by the Wisconsin ~~earned release review~~ parole commission under rules of the department.<sup>✓</sup>

Note: NOTE: Par. (c) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

(c) Any hearing to consider parole to which an inmate confined under this contract may be entitled by the laws of Wisconsin will be conducted by the Wisconsin ~~parole commission under rules of the department.~~

History: 1981 c. 20; 1983 a. 27; 1989 a. 31 s. 965; Stats. 1989 s. 301.21; 1995 a. 344; 1997 a. 27, 283; 2009 a. 28.

**SECTION 15.** 301.21 (2m) (c) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

301.21 (2m) (c) Any hearing to consider parole ~~or whether to grant extended supervision, if the prisoner is sentenced under s. 973.01~~ to which a prisoner confined under a contract under this subsection may be entitled by the laws of Wisconsin shall be conducted by the Wisconsin ~~earned release review~~ parole commission under rules of the department.<sup>✓</sup>

Note: NOTE: Par. (c) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

(c) Any hearing to consider parole to which a prisoner confined under a contract under this subsection may be entitled by the laws of Wisconsin shall be conducted by the Wisconsin ~~parole commission under rules of the department.~~

History: 1981 c. 20; 1983 a. 27; 1989 a. 31 s. 965; Stats. 1989 s. 301.21; 1995 a. 344; 1997 a. 27, 283; 2009 a. 28.



**SECTION 16.** 302.042 of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.✓

**SECTION 17.** 302.045 (1) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

302.045 (1) PROGRAM. The department shall provide a challenge incarceration program for inmates selected to participate under sub. (2). The program shall provide participants with manual labor, personal development counseling, substance abuse treatment and education <sup>plain space</sup> ~~and military drill and ceremony, counseling,~~ and strenuous physical exercise, for participants who have not attained the age of 30 as of the date on which they begin participating in the program, or age-appropriate strenuous physical exercise, for all other participants, in preparation for release on parole or extended supervision. ~~The program shall provide, according to each participant's needs as assessed under sub. (2) (d), substance abuse treatment and education, including intensive intervention when indicated, personal development counseling, education, employment readiness training, and other treatment options that are directly related to the participant's criminal behavior.~~ The department shall design the program to include not less than 50 participants at a time and so that a participant may complete the program in not more than 180 days. The department may restrict participant privileges as necessary to maintain discipline.✓

**History:** 1989 a. 122; 1991 a. 39; 1993 a. 218, 227, 491; 1995 a. 456; 1997 a. 283; 2001 a. 109; 2003 a. 33; 2005 a. 277; 2007 a. 116; 2009 a. 28.

**SECTION 18.** 302.045 (2) (d) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed and recreated to read:

302.045 (2) (d) The department determines, during assessment and evaluation, that the inmate has a substance abuse problem.✓

**SECTION 19.** 302.045 (3) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department determines that an inmate serving a sentence other than one imposed under s. 973.01 has successfully completed the challenge incarceration program, the ~~earned release review~~ <sup>plain</sup> parole commission shall parole the inmate for that sentence under s. 304.06, regardless of the time the inmate has served. When the ~~earned release review~~ <sup>plain</sup> parole commission grants parole under this subsection, it must require the parolee to participate in an intensive supervision program ~~appropriate to the parolee's rehabilitation needs~~ for drug abusers as a condition of parole. ✓

Note: NOTE: Sub. (3) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

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

History: 1989 a. 122; 1991 a. 39; 1993 a. 218, 227, 491; 1995 a. 456; 1997 a. 283; 2001 a. 109; 2003 a. 33; 2005 a. 277; 2007 a. 116; 2009 a. 28.

**SECTION 20.** 302.045 (3m) (d) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed. ✓

**SECTION 21.** 302.05 (title) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

**302.05 (title) Wisconsin earned release substance abuse program.** ✓

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116; 2009 a. 28.

**SECTION 22.** 302.05 (1) of the statutes, as affected by 2009 Wisconsin Act 28, is renumbered 302.05 (1) (am) (intro.) and amended to read:

**302.05 Wisconsin earned release program.** (1) (am) (intro.) The department of corrections shall, ~~at any correctional facility the department determines is appropriate, provide a rehabilitation program for inmates for the purposes of the earned release program described in sub. (3).~~ and the department of health services may designate a section of a mental health institute as a correctional

treatment facility for the treatment of substance abuse of inmates transferred from Wisconsin state prisons. ✓ This section shall be administered by the department of corrections and shall be known as the Wisconsin substance abuse program. ✓ The department of corrections and the department of health services shall ensure that the residents at the institution and the residents in the substance abuse program. ✓

**SECTION 23.** 302.05 (1) (am) 1. of the statutes is created to read:

302.05 (1) (am) 1. Have access to all facilities that are available at the institution and are necessary for the treatment programs designed by the departments. ✓

**SECTION 24.** 302.05 (1) (am) 2. of the statutes is created to read:

302.05<sup>(B)</sup>(1)(am)2. Are housed on separate wards. ✓  
Δ Δ ΔΔ

**SECTION 25.** 302.05 (1) (b) of the statutes is created to read:

302.05 (1) (b) The Robert E. Ellsworth Correctional Center shall provide a substance abuse treatment program for inmates for the purposes of the earned release program described in sub. (3). ✓

Insert A

**SECTION 26.** 302.05 (2) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

302.05 (2) Transfer to a ~~correctional~~ <sup>plain</sup> treatment facility for participation in a program described in sub. (1) participation in a program described in sub. (1) shall be considered a transfer under s. 302.18. ✓

the treatment of substance abuse

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116; 2009 a. 28.

**SECTION 27.** 302.05 (3) (b) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

302.05 (3) (b) Except as provided in par. (d), if the department determines that an eligible inmate serving a sentence other than one imposed under s. 973.01 has

successfully completed a ~~rehabilitation~~ treatment program described in sub. (1), the ~~earned release review~~ parole commission shall parole the inmate for that sentence under s. 304.06, regardless of the time the inmate has served. If the ~~earned release review~~ parole commission grants parole under this paragraph, it shall require the parolee to participate in an intensive supervision program ~~appropriate to the parolee's rehabilitation needs for drug abusers~~ as a condition of parole.✓

**History:** 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116; 2009 a. 28.

**SECTION 28.** 302.05 (3) (c) 1. of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

302.05 (3) (c) 1. Except as provided in par. (d), if the department determines that an eligible inmate serving the term of confinement in prison portion of a bifurcated sentence imposed under s. 973.01 has successfully completed a ~~rehabilitation~~ treatment program described in sub. (1), the department shall inform the court that sentenced the inmate.✓

**History:** 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116; 2009 a. 28.

**SECTION 29.** 302.05 (3) (c) 2. (intro.) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

302.05 (3) (c) 2. (intro.) Upon being informed by the department under subd. 1. that an inmate whom the court sentenced under s. 973.01 has successfully completed a ~~rehabilitation~~ treatment program described in sub. (1), the court shall modify the inmate's bifurcated sentence as follows:✓

**History:** 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116; 2009 a. 28.

**SECTION 30.** 302.05 (3) (c) 3. of the statutes is repealed.

**History:** 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116; 2009 a. 28.

**SECTION 31.** 302.05 (3) (d) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

302.05 (3) (d) The department may place intensive sanctions program participants in a ~~rehabilitation treatment~~ program described in sub. (1), but pars. (b) and (c) do not apply to those participants. ✓

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116; 2009 a. 28.

**SECTION 32.** 302.11 (1g) (b) (intro.) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

Note: NOTE: Par. (b) (intro.) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note: ✓

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

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266; 1983 a. 66, 528; 1985 a. 27; 1985 a. 332 s. 251 (1); 1987 a. 27, 412; 1989 a. 31 ss. 1629, 1630; Stats. s. 302.11; 1989 a. 107; 1991 a. 39; 1993 a. 79, 97, 194, 289, 483; 1995 a. 77, 448; 1997 a. 133, 275, 283, 284, 295, 326; 1999 a. 188; 2001 a. 16, 109; 2005 a. 344; 2009 a. 28.

**SECTION 33.** 302.11 (1g) (b) 2. of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

Note: NOTE: Subd. 2. is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

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

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266; 1983 a. 66, 528; 1985 a. 27; 1985 a. 332 s. 251 (1); 1987 a. 27, 412; 1989 a. 31 ss. 1629, 1630; Stats. s. 302.11; 1989 a. 107; 1991 a. 39; 1993 a. 79, 97, 194, 289, 483; 1995 a. 77, 448; 1997 a. 133, 275, 283, 284, 295, 326; 1999 a. 188; 2001 a. 16, 109; 2005 a. 344; 2009 a. 28.

**SECTION 34.** 302.11 (1g) (c) of the statutes, as affected by 2009 Wisconsin Act

28, is amended to read:

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

Note: NOTE: Par. (c) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

(c) If the parole commission denies presumptive mandatory release to an inmate under par. (b), the parole commission shall schedule regular reviews of the inmate's case to consider whether to parole the inmate under s. 304.06 (1).

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266; 1983 a. 66, 528; 1985 a. 27; 1985 a. 332 s. 251 (1); 1987 a. 27, 412; 1989 a. 31 ss. 1629, 1630; Stats. s. 302.11; 1989 a. 107; 1991 a. 39; 1993 a. 79, 97, 194, 289, 483; 1995 a. 77, 448; 1997 a. 133, 275, 283, 284, 295, 326; 1999 a. 188; 2001 a. 16, 109; 2005 a. 344; 2009 a. 28.

**SECTION 35.** 302.11 (1g) (d) of the statutes, as affected by 2009 Wisconsin Act

28, is amended to read:

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

Note: NOTE: Par. (d) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

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

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266; 1983 a. 66, 528; 1985 a. 27; 1985 a. 332 s. 251 (1); 1987 a. 27, 412; 1989 a. 31 ss. 1629, 1630; Stats. s. 302.11; 1989 a. 107; 1991 a. 39; 1993 a. 79, 97, 194, 289, 483; 1995 a. 77, 448; 1997 a. 133, 275, 283, 284, 295, 326; 1999 a. 188; 2001 a. 16, 109; 2005 a. 344; 2009 a. 28.

**SECTION 36.** 302.11 (1m) of the statutes, as affected by 2009 Wisconsin Act 28,

is amended to read:

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

Note: NOTE: Sub. (1m) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

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

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266; 1983 a. 66, 528; 1985 a. 27; 1985 a. 332 s. 251 (1); 1987 a. 27, 412; 1989 a. 31 ss. 1629, 1630; Stats. s. 302.11; 1989 a. 107; 1991 a. 39; 1993 a. 79, 97, 194, 289, 483; 1995 a. 77, 448; 1997 a. 133, 275, 283, 284, 295, 326; 1999 a. 188; 2001 a. 16, 109; 2005 a. 344; 2009 a. 28.

**SECTION 37.** 302.11 (7) (c) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

Note: NOTE: Par. (c) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

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

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266; 1983 a. 66, 528; 1985 a. 27; 1985 a. 332 s. 251 (1); 1987 a. 27, 412; 1989 a. 31 ss. 1629, 1630; Stats. s. 302.11; 1989 a. 107; 1991 a. 39; 1993 a. 79, 97, 194, 289, 483; 1995 a. 77, 448; 1997 a. 133, 275, 283, 284, 295, 326; 1999 a. 188; 2001 a. 16, 109; 2005 a. 344; 2009 a. 28.

**SECTION 38.** 302.113 (1) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

302.113 (1) An inmate is subject to this section if he or she is serving a bifurcated sentence imposed under s. 973.01. ~~An inmate convicted of a misdemeanor or of a Class F to Class I felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1., and who is eligible for positive adjustment time under sub. (2) (b) pursuant to s. 973.01 (3d) (b) may be released to extended supervision under sub. (2) (b) or (9h). An inmate convicted of a Class C to Class E felony or a Class F to Class I felony that is a violent offense, as defined in s. 301.048 (2) (bm) 1., or a Class F to Class I felony that is not a violent offense, as defined under s. 301.048 (2) (bm) 1., but who is ineligible for positive adjustment time under sub. (2) (b) pursuant to s. 973.01 (3d) (b) may be released to extended supervision only under sub. (2) (a) or (9h) or s. 304.06.~~ ✓

Note: NOTE: Sub. (1) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

(1) An inmate is subject to this section if he or she is serving a bifurcated sentence imposed under s. 973.01.

History: 1997 a. 283; 2001 a. 16, 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 39.** 302.113 (2) (a) of the statutes, as affected by 2009 Wisconsin Act 28, is renumbered 302.113 (2) and amended to read:

302.113 (2) ~~Except as provided in par. (b) and subs. (3) and (9) and s. 304.06,~~ <sup>ΔΔ</sup> an inmate subject to this section is entitled to release to extended supervision after he

or she has served the term of confinement in prison portion of the sentence imposed under s. 973.01, ~~as modified by the department under sub. (9h), as modified under s. 302.1135 by the earned release review commission in the manner specified in s. 302.1135 (6) (a),~~ <sup>↓</sup> ~~or~~ as modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b) 1., 302.05 (3) (c) 2. a., or 973.195 (1r), if applicable.✓

**SECTION 40.** 302.113 (2) (b) of the statutes, as affected by 2009 Wisconsin Act Act 28, is repealed.✓

**SECTION 41.** 302.113 (2) (c) of the statutes, as affected by 2009 Wisconsin Act Act 28, is repealed.✓

**SECTION 42.** 302.113 (3) (d) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

302.113 (3) (d) If the term of confinement in prison portion of a bifurcated sentence for a ~~Class B~~ felony is increased under this subsection, the term of extended supervision is reduced so that the total length of the bifurcated sentence does not change.✓

Note: NOTE: Par. (d) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

(d) If the term of confinement in prison portion of a bifurcated sentence is increased under this subsection, the term of extended supervision is reduced so that the total length of the bifurcated sentence does not change.

History: 1997 a. 283; 2001 a. 16, 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 43.** 302.113 (3) (e) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.✓

**SECTION 44.** 302.113 (7) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

302.113 (7) Any inmate released to extended supervision under this section is subject to all conditions and rules of extended supervision until the expiration of the term of extended supervision portion of the bifurcated sentence ~~or until the department discharges the inmate under s. 973.01 (4m), whichever is appropriate.~~✓



1 The department may set conditions of extended supervision in addition to any  
 2 conditions of extended supervision required under s. 302.116, if applicable, or set by  
 3 the court under sub. (7m) or s. 973.01 (5) if the conditions set by the department do  
 4 not conflict with the court's conditions.

Note: NOTE: Sub. (7) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

(7) Any inmate released to extended supervision under this section is subject to all conditions and rules of extended supervision until the expiration of the term of extended supervision portion of the bifurcated sentence. The department may set conditions of extended supervision in addition to any conditions of extended supervision required under s. 302.116, if applicable, or set by the court under sub. (7m) or s. 973.01 (5) if the conditions set by the department do not conflict with the court's conditions.

History: 1997 a. 283; 2001 a. 16, 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

SECTION 45. 302.113 (9) (am) of the statutes, as affected by 2009 Wisconsin Act

28, is amended to read:

302.113 (9) (am) If a person released to extended supervision under this section  
 or under s. 302.1135 violates a condition of extended supervision, the reviewing  
 authority may revoke the extended supervision of the person. If the extended  
 supervision of the person is revoked, the reviewing authority person shall be  
 returned to the circuit court for the county in which the person was convicted of the  
 offense for which he or she was on extended supervision, and the court shall order  
 the person to be returned to prison for any specified period of time that does not  
 exceed the time remaining on the bifurcated sentence. The time remaining on the  
 bifurcated sentence is the total length of the bifurcated sentence, less time served by  
 the person in confinement under the sentence before release to extended supervision  
 under sub. (2) and less all time served in confinement for previous revocations of  
 extended supervision under the sentence. The order returning a person to prison  
 under this paragraph shall provide the person whose extended supervision was  
 revoked with credit in accordance with ss. 304.072 and 973.155.

Note: NOTE: Par. (am) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

(am) If a person released to extended supervision under this section violates a condition of extended supervision, the reviewing authority may revoke the extended supervision of the person. If the extended supervision of the person is revoked, the person shall be returned to the circuit court for the county in which the person was convicted of the offense for which he or she was on extended supervision, and the court shall order the person to be returned to prison for any specified period of time that does not exceed the time remaining on the bifurcated sentence. The time remaining on the bifurcated sentence is the total length of the bifurcated sentence, less time served by the person in confinement under the sentence before release to extended supervision under sub. (2) and less all time served in confinement for previous

revocations of extended supervision under the sentence. The court order returning a person to prison under this paragraph shall provide the person whose extended supervision was revoked with credit in accordance with ss. 304.072 and 973.155.

History: 1997 a. 283; 2001 a. 16, 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 46.** 302.113 (9) (at) of the statutes, as affected by 2009 Wisconsin Act

28, is created to read:

302.113 (9) (at) When a person is returned to court under par. (am) after revocation of extended supervision, the reviewing authority shall make a recommendation to the court concerning the period of time for which the person should be returned to prison. The recommended time period may not exceed the time remaining on the bifurcated sentence, as calculated under par. (am).<sup>✓</sup>

Note: NOTE: Par. (at) is repealed eff. 10-1-09 by 2009 Wis. Act 28. Note:

History: 1997 a. 283; 2001 a. 16, 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 47.** 302.113 (9) (b) of the statutes, as affected by 2009 Wisconsin Act

28, is amended to read:

302.113 (9) (b) A person who is returned to prison after revocation of extended supervision shall be incarcerated for the entire period of time specified by the ~~order~~ court under par. (am). The period of time specified under par. (am) may be extended in accordance with sub. (3). If a person is returned to prison under par. (am) for a period of time that is less than the time remaining on the bifurcated sentence, the person shall be released to extended supervision after he or she has served the period of time specified by the ~~order~~ court under par. (am) and any periods of extension imposed in accordance with sub. (3).<sup>✓</sup>

Note: NOTE: Par. (b) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

(b) A person who is returned to prison after revocation of extended supervision shall be incarcerated for the entire period of time specified by the court under par. (am). The period of time specified under par. (am) may be extended in accordance with sub. (3). If a person is returned to prison under par. (am) for a period of time that is less than the time remaining on the bifurcated sentence, the person shall be released to extended supervision after he or she has served the period of time specified by the court under par. (am) and any periods of extension imposed in accordance with sub. (3).

History: 1997 a. 283; 2001 a. 16, 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 48.** 302.113 (9) (c) of the statutes, as affected by 2009 Wisconsin Act

28, is amended to read:

302.113 (9) (c) A person who is subsequently released to extended supervision after service of the period of time specified by the ~~order~~ court under par. (am) is

subject to all conditions and rules under subs. (7) and, if applicable, (7m) until the expiration of the remaining extended supervision portion of the bifurcated sentence ~~or until the department discharges the person under s. 973.01 (4m), whichever is appropriate.~~ The remaining extended supervision portion of the bifurcated sentence is the total length of the bifurcated sentence, less the time served by the person in confinement under the bifurcated sentence before release to extended supervision under sub. (2) and less all time served in confinement for previous revocations of extended supervision under the bifurcated sentence.

Note: NOTE: Par. (c) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

(c) A person who is subsequently released to extended supervision after service of the period of time specified by the court under par. (am) is subject to all conditions and rules under subs. (7) and, if applicable, (7m) until the expiration of the remaining extended supervision portion of the bifurcated sentence. The remaining extended supervision portion of the bifurcated sentence is the total length of the bifurcated sentence, less the time served by the person in confinement under the bifurcated sentence before release to extended supervision under sub. (2) and less all time served in confinement for previous revocations of extended supervision under the bifurcated sentence.

History: 1997 a. 283; 2001 a. 16, 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 49.** 302.113 (9h) of the statutes, as affected by 2009 Wisconsin Act 28,

is repealed.

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**SECTION 50.** 302.1135 of the statutes, as affected by 2009 Wisconsin Act 28, is

repealed.

**SECTION 51.** 302.113 (9g) of the statutes is created to read:

302.113 (9g) (a) In this subsection:

1. "Program review committee" means the committee at a correctional institution that reviews the security classifications, institution assignments, and correctional programming assignments of inmates confined in the institution.

2. "Terminal condition" means an incurable condition afflicting a person, caused by injury, disease, or illness, as a result of which the person has a medical prognosis that his or her life expectancy is 6 months or less, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care.

(b) An inmate who is serving a bifurcated sentence for a crime other than a Class B felony may seek modification of the bifurcated sentence in the manner specified in par. (f) if he or she meets one of the following criteria:✓

1. The inmate is 65 years of age or older and has served at least 5 years of the term of confinement in prison portion of the bifurcated sentence.✓

2. The inmate is 60 years of age or older and has served at least 10 years of the term of confinement in prison portion of the bifurcated sentence.✓

3. The inmate has a terminal condition.✓

(c) An inmate who meets the criteria under par. (b) may submit a petition to the program review committee at the correctional institution in which the inmate is confined requesting a modification of the inmate's bifurcated sentence in the manner specified in par. (f). If the inmate alleges in the petition that he or she has a terminal condition, the inmate shall attach to the petition affidavits from 2 physicians setting forth a diagnosis that the inmate has a terminal condition.✓

(cm) If, after receiving the petition under par. (c), the program review committee determines that the public interest would be served by a modification of the inmate's bifurcated sentence in the manner provided under par. (f), the committee shall approve the petition for referral to the sentencing court and notify the department of its approval. The department shall then refer the inmate's petition to the sentencing court and request the court to conduct a hearing on the petition. If the program review committee determines that the public interest would not be served by a modification of the inmate's bifurcated sentence in the manner specified in par. (f), the committee shall deny the inmate's petition.✓

(d) When a court is notified by the department that it is referring to the court an inmate's petition for modification of the inmate's bifurcated sentence, the court

shall set a hearing to determine whether the public interest would be served by a modification of the inmate's bifurcated sentence in the manner specified in par. (f).<sup>✓</sup>

The inmate and the district attorney have the right to be present at the hearing, and any victim of the inmate's crime has the right to be present at the hearing and to provide a statement concerning the modification of the inmate's bifurcated sentence.<sup>✓</sup>

The court shall order such notice of the hearing date as it considers adequate to be given to the department, the inmate, the attorney representing the inmate, if applicable, and the district attorney. Victim notification shall be provided as specified under par. (g).<sup>✓</sup>

(e) At a hearing scheduled under par. (d), the inmate has the burden of proving by the greater weight of the credible evidence that a modification of the bifurcated sentence in the manner specified in par. (f) would serve the public interest. If the inmate proves that a modification of the bifurcated sentence in the manner specified in par. (f) would serve the public interest, the court shall modify the inmate's bifurcated sentence in that manner. If the inmate does not prove that a modification of the bifurcated sentence in the manner specified in par. (f) would serve the public interest, the court shall deny the inmate's petition for modification of the bifurcated sentence.<sup>✓</sup>

(f) A court may modify an inmate's bifurcated sentence under this section only as follows:<sup>✓</sup>

1. The court shall reduce the term of confinement in prison portion of the inmate's bifurcated sentence in a manner that provides for the release of the inmate to extended supervision within 30 days after the date on which the court issues its order modifying the bifurcated sentence.<sup>✓</sup>

2. The court shall lengthen the term of extended supervision imposed so that the total length of the bifurcated sentence originally imposed does not change.✓

(g)1. In this paragraph, "victim" has the meaning given in s. 950.02 (4).✓

2. When a court sets a hearing date under par. (d), the clerk of the circuit court shall send a notice of hearing to the victim of the crime committed by the inmate, if the victim has submitted a card under subd. 3. requesting notification. The notice shall inform the victim that he or she may appear at the hearing scheduled under par. (d) and shall inform the victim of the manner in which he or she may provide a statement concerning the modification of the inmate's bifurcated sentence in the manner provided in par. (f).✓ The clerk of the circuit court shall make a reasonable attempt to send the notice of hearing to the last-known address of the inmate's victim, postmarked at least 10 days before the date of the hearing.✓

3. The director of state courts shall design and prepare cards for a victim to send to the clerk of the circuit court for the county in which the inmate was convicted and sentenced. The cards shall have space for a victim to provide his or her name and address, the name of the applicable inmate, and any other information that the director of state courts determines is necessary. The director of state courts shall provide the cards, without charge, to clerks of circuit court. Clerks of circuit court shall provide the cards, without charge, to victims. Victims may send completed cards to the clerk of the circuit court for the county in which the inmate was convicted and sentenced. All court records or portions of records that relate to mailing addresses of victims are not subject to inspection or copying under s. 19.35 (1).✓

(h) An inmate may appeal a court's decision to deny the inmate's petition for modification of his or her bifurcated sentence.✓ The state may appeal a court's decision to grant an inmate's petition for a modification of the inmate's bifurcated

sentence.<sup>✓</sup> In an appeal under this paragraph, the appellate court may reverse a decision granting or denying a petition for modification of a bifurcated sentence only if it determines that the sentencing court erroneously exercised its discretion in granting or denying the petition.<sup>✓</sup>

(i) If the program review committee denies an inmate's petition under par. (cm), the inmate may not file another petition within one year after the date of the program review committee's denial. If the program review committee approves an inmate's petition for referral to the sentencing court under par. (cm) but the sentencing court denies the petition, the inmate may not file another petition under par. (cm) within one year after the date of the court's decision.<sup>✓</sup>

(j) An inmate eligible to seek modification of his or her bifurcated sentence under this subsection has a right to be represented by counsel in proceedings under this subsection.<sup>✓</sup> An inmate, or the department on the inmate's behalf, may apply to the state public defender for determination of indigency and appointment of counsel under s. 977.05 (4) (jm) before or after the filing of a petition with the program review committee under par. (c). If an inmate whose petition has been referred to the court under par. (cm) is without counsel, the court shall refer the matter to the state public defender for determination of indigency and appointment of counsel under s. 977.05

(4) (jm).<sup>✓</sup>

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→ SECTION 52. 302.114 (9) (am) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

302.114 (9) (am) If a person released to extended supervision under this section or under s. ~~302.1135~~ 302.113 (9g)<sup>✓</sup> violates a condition of extended supervision, the reviewing authority may revoke the extended supervision of the person. If the extended supervision of the person is revoked, the person shall be returned to the

circuit court for the county in which the person was convicted of the offense for which he or she was on extended supervision, and the court shall order the person to be returned to prison for a specified period of time before he or she is eligible for being released again to extended supervision. The period of time specified under this paragraph may not be less than 5 years and may be extended in accordance with sub. (3).<sup>✓</sup>

History: 1997 a. 283; 2001 a. 16, 109; 2005 a. 42; 2009 a. 28.

**SECTION 53.** 302.114 (9) (c) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

302.114 (9) (c) A person who is subsequently released to extended supervision under par. (bm) is subject to all conditions and rules under sub. (8) until the expiration of the sentence ~~or until the department discharges the person under s. 973.01 (4m), whichever is appropriate.~~<sup>✓</sup>

Note: NOTE: Par. (c) is shown as amended eff. 10-1-09 by 2009 Wis. Act 28. Prior to 10-1-09 it reads: Note:

(c) A person who is subsequently released to extended supervision under par. (bm) is subject to all conditions and rules under sub. (8) until the expiration of the sentence<sup>✓</sup>

History: 1997 a. 283; 2001 a. 16, 109; 2005 a. 42; 2009 a. 28.

**SECTION 54.** 304.01 (title) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

**304.01 (title) ~~Earned release review~~ Parole commission and commission chairperson; general duties.**<sup>✓</sup>

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a); 2009 a. 28.

**SECTION 55.** 304.01 (1) of the statutes, as affected by 2009 Wisconsin Act Act<sup>✓</sup> 28, is amended to read:

304.01 (1) The chairperson of the ~~earned release review~~ parole commission shall administer and supervise the commission and its activities and shall be the final parole granting authority ~~for granting parole or release to extended supervision,~~ except as provided in s. 304.02.<sup>✓</sup>

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a); 2009 a. 28.



**SECTION 56.** 304.01 (2) (intro.) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

**History:** 1989 a. 31; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a); 2009 a. 28.

**SECTION 57.** 304.01 (2) (b) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

**History:** 1989 a. 31; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a); 2009 a. 28.

**SECTION 58.** 304.01 (2) (c) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

**History:** 1989 a. 31; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a); 2009 a. 28.

**SECTION 59.** 304.01 (2) (d) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

**History:** 1989 a. 31; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a); 2009 a. 28.

**SECTION 60.** 304.06 (title) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

**304.06 (title) ~~Release to parole or extended supervision~~ Paroles from state prisons and house of correction.**<sup>✓</sup>

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 61.** 304.06 (1) (b) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

304.06 (1) (b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or s. 302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the ~~earned release review parole~~ commission may parole an inmate of the Wisconsin state prisons or any felon or any person serving at least one year or more in a county house of correction or a county reforestation camp organized under s. 303.07, when he or she has served 25% of the sentence imposed for the offense, or 6 months, whichever is greater. Except as provided in s. 939.62 (2m) (c) or 973.014 (1) (b) or (c), (1g) or (2), the ~~earned release review parole~~ commission may parole an inmate serving a life term when he or she has served 20 years, as modified by the formula under s. 302.11 (1) and subject to extension under s. 302.11 (1q) and (2), if applicable. The person serving the life term shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The secretary may grant special action parole releases under s. 304.02. The department or the ~~earned release review parole~~ commission shall not provide any convicted offender or other person sentenced to the department's custody any parole eligibility or evaluation ~~for parole or release to~~

~~extended supervision~~ until the person has been confined at least 60 days following sentencing. ✓

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 62.** 304.06 (1) (bg) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed. ✓

**SECTION 63.** 304.06 (1) (bk) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed. ✓

**SECTION 64.** 304.06 (1) (bn) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed. ✓

**SECTION 65.** 304.06 (1) (br) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed. ✓

**SECTION 66.** 304.06 (1) (c) (intro.) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 67.** 304.06 (1) (d) 1. of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

304.06 (1) (d) 1. The notice under par. (c) shall inform the offices and persons under par. (c) 1. to 3. of the manner in which they may provide written statements under this subsection, shall inform persons under par. (c) 3. of the manner in which they may attend interviews or hearings and make statements under par. (eg) and shall inform persons under par. (c) 3. who are victims, or family members of victims,

of crimes specified in s. 940.01, 940.03, 940.05, 940.225 (1), ~~(2), or (3)~~ or (2), 948.02 (1) or (2), 948.025, 948.06 or 948.07 of the manner in which they may have direct input in the decision-making process under par. (em) ~~for parole or release to extended supervision.~~ The earned release review parole commission shall provide notice under this paragraph for an inmate's first application for parole ~~or release to extended supervision~~ and, upon request, for subsequent applications for parole ~~or release to extended supervision.~~

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 68.** 304.06 (1) (d) 2. of the statutes, as affected by 2009 Wisconsin Act

28, is amended to read:

304.06 (1) (d) 2. The notice shall be by 1st class mail to an office's or a person's last-known address sent at least 3 weeks before the interview or hearing upon the application for parole ~~or release to extended supervision.~~

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 69.** 304.06 (1) (d) 3m. of the statutes, as affected by 2009 Wisconsin

Act 28, is amended to read:

304.06 (1) (d) 3m. If applicable, the notice shall state the manner in which the person may have direct input in the decision-making process for parole ~~or release to extended supervision.~~

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 70.** 304.06 (1) (d) 4. of the statutes, as affected by 2009 Wisconsin Act

28, is amended to read:

304.06 (1) (d) 4. If the notice is for a first application for parole ~~or release to extended supervision~~, the notice shall inform the offices and persons under par. (c)

1. to 3. that notification of subsequent applications for parole ~~or release to extended supervision~~ will be provided only upon request. ✓

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**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 71.** 304.06 (1) (e) of the statutes, as affected by 2009 Wisconsin Act 28,

is amended to read:

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

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 72.** 304.06 (1) (eg) of the statutes, as affected by 2009 Wisconsin Act

28, is amended to read:

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

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 73.** 304.06 (1) (em) of the statutes, as affected by 2009 Wisconsin Act

28, is amended to read:

304.06 (1) (em) The ~~earned release review parole~~ commission shall promulgate rules that provide a procedure to allow any person who is a victim, or a family member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1), (2),

or ~~(3)~~ or <sup>✓</sup>(2), 948.02 (1) or (2), 948.025, 948.06 or 948.07 to have direct input in the decision-making process for parole ~~or release to extended supervision~~.<sup>✓</sup>

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 74.** 304.06 (1) (f) of the statutes, as affected by 2009 Wisconsin Act 28,

is amended to read:

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→ 304.06 (1) (f) The ~~earned release review parole~~ commission shall design and prepare cards for persons specified in par. (c) 3. to send to the commission. The cards shall have space for these persons to provide their names and addresses, the name of the applicable prisoner and any other information the ~~earned release review parole~~ commission determines is necessary. The ~~earned release review parole~~ commission shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in par. (c) 3. These persons may send completed cards to the ~~earned release review parole~~ commission. All commission records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35 (1). Before any written statement of a person specified in par. (c) 3. is made a part of the documentary record considered in connection with a parole hearing ~~for parole, or release to extended supervision~~ under this section, the ~~earned release review parole~~ commission shall obliterate from the statement all references to the mailing addresses of the person. A person specified in par. (c) 3. who attends an interview or hearing under par. (eg) may not be required to disclose at the interview or hearing his or her mailing addresses.<sup>✓</sup>

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 75.** 304.06 (1) (g) of the statutes, as affected by 2009 Wisconsin Act 28,

is amended to read:

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

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 76.** 304.06 (1m) (intro.) of the statutes, as affected by 2009 Wisconsin

Act 28, is amended to read:

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

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 77.** 304.06 (1q) (b) of the statutes, as affected by 2009 Wisconsin Act

28, is amended to read:

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

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 78.** 304.06 (1q) (c) of the statutes, as affected by 2009 Wisconsin Act

28, is amended to read:

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

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 79.** 304.06 (1x) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 80.** 304.06 (2m) (d) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

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

2. The ~~earned release review~~ parole commission or the department shall apply the criteria for consideration of residence and physical presence under subd. 1. to the



facts that existed on the date that the prisoner committed the serious sex offense that resulted in the sentence the prisoner is serving. ✓

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 81. 304.06 (3) of the statutes, as affected by 2009 Wisconsin Act 28,**

is amended to read:

304.06 (3) Every paroled prisoner ~~paroled or released to extended supervision~~ remains in the legal custody of the department unless otherwise provided by the department. If the department alleges that any condition or rule of parole ~~or extended supervision~~ has been violated by the prisoner, the department may take physical custody of the prisoner for the investigation of the alleged violation. If the department is satisfied that any condition or rule of parole ~~or extended supervision~~ has been violated it shall afford the prisoner such administrative hearings as are required by law. Unless waived by the parolee ~~or person on extended supervision~~, the final administrative hearing shall be held before a hearing examiner from the division of hearings and appeals in the department of administration who is licensed to practice law in this state. The hearing examiner shall enter an order revoking or not revoking parole ~~or extended supervision~~. ✓ Upon request by either party, the administrator of the division of hearings and appeals shall review the order. The hearing examiner may order that a deposition be taken by audiovisual means and allow the use of a recorded deposition under s. 967.04 (7) to (10). If the parolee ~~or person on extended supervision~~ ✓ waives the final administrative hearing, the secretary of corrections shall enter an order revoking or not revoking parole ~~or~~ ~~extended supervision~~. ✓ If the examiner, the administrator upon review, or the secretary in the case of a waiver finds that the prisoner has violated the rules or conditions of parole ~~or extended supervision~~, the examiner, the administrator upon

↓  
extended supervision  
↓  
plain

review, or the secretary in the case of a waiver, may order the prisoner returned to prison to continue serving his or her sentence, or to continue on parole ~~or extended supervision~~. If the prisoner claims or appears to be indigent, the department shall refer the prisoner to the authority for indigency determinations specified under s. 977.07 (1).<sup>✓</sup>

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 82.** 304.06 (3e) of the statutes, as affected by 2009 Wisconsin Act 28,

is amended to read:

304.06 (3e) The division of hearings and appeals in the department of administration shall make either an electronic or stenographic record of all testimony at each parole ~~or extended supervision~~ revocation hearing. The division shall prepare a written transcript of the testimony only at the request of a judge who has granted a petition for judicial review of the revocation decision. Each hearing notice shall include notice of the provisions of this subsection and a statement that any person who wants a written transcript may record the hearing at his or her own expense.<sup>✓</sup>

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 83.** 304.06 (3m) of the statutes, as affected by 2009 Wisconsin Act 28,

is amended to read:

304.06 (3m) If the convicting court is informed by the department that a prisoner on parole ~~or extended supervision~~ has absconded and that the prisoner's whereabouts are unknown, the court may issue a *capias* for execution by the sheriff.<sup>✓</sup>

**History:** 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28.

**SECTION 84.** 304.071 (1) of the statutes, as affected by 2009 Wisconsin Act 28,

is amended to read:

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

History: 1989 a. 31 ss. 1702, 1703; Stats. 1989 s. 304.071; 1991 a. 39; 1993 a. 289; 1995 a. 48, 448; 1997 a. 283, 326; 1999 a. 32; 2001 a. 109; 2009 a. 28.

**SECTION 85.** 801.50 (5) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

801.50 (5) Venue of an action for certiorari to review a probation, extended supervision, or parole revocation, a denial by ~~the earned release review commission~~ a program review committee under s. ~~302.1135 (5)~~ 302.113 (9g) of a petition for modification of a bifurcated sentence, or a refusal of parole shall be the county in which the relator was last convicted of an offense for which the relator was on

probation, extended supervision, or parole or for which the relator is currently incarcerated.<sup>✓</sup>

**History:** 1983 a. 204, 228, 389, 538; 1985 a. 234, 291; 1987 a. 208; 1993 a. 318, 319; 1997 a. 283; 1999 a. 150 s. 672; 2001 a. 30 s. 108; 2001 a. 109; 2007 a. 1; 2009 a. 28, 42.

**SECTION 86.** 809.30 (1) (c) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

809.30 (1) (c) "Postconviction relief" means an appeal or a motion for postconviction relief in a criminal case, other than an appeal, motion, or petition under ss. 302.113 (7m), ~~302.1135~~ 302.113 (9g), 973.19, 973.195, 974.06, or 974.07 (2). In a ch. 980 case, the term means an appeal or a motion for postcommitment relief under s. 980.038 (4).<sup>✓</sup>

**History:** Sup. Ct. Order, 83 Wis. 2d xiii (1978); Sup. Ct. Order, 92 Wis. 2d xiii (1979); Sup. Ct. Order, 104 Wis. 2d xi (1981); 1981 c. 390 s. 252; Sup. Ct. Order, 112 Wis. 2d xvii (1985); Sup. Ct. Order, 123 Wis. 2d xi (1985); 1985 a. 332; Sup. Ct. Order, 136 Wis. 2d xxv (1987); Sup. Ct. Order, 161 Wis. 2d xiii (1991); Sup. Ct. Order No. 93-19, 179 Wis. 2d xxiii (1994); 1993 a. 16, 395, 451; 1995 a. 77; Sup. Ct. Order No. 00-02, 2001 WI 39, 242 Wis. 2d xxvii; 2001 a. 16; Sup. Ct. Order No. 02-01, 2002 WI 120, 255 Wis. 2d xiii; 2005 a. 264, 434; 2007 a. 20; Sup. Ct. Order No. 04-08, 2008 WI 108, filed 7-30-08, eff. 1-1-09; 2009 a. 26, 28.

**SECTION 87.** 911.01 (4) (c) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or rendition; sentencing, granting or revoking probation, modification of a bifurcated sentence under s. ~~302.1135~~ 302.113 (9g), adjustment of a bifurcated sentence under s. 973.195 (1r), ~~release to extended supervision under s. 302.113 (2) (b) or 304.06 (1) or discharge under s. 973.01 (4m)~~, issuance of arrest warrants, criminal summonses and search warrants; hearings under s. 980.09 (2); proceedings under s. 971.14 (1) (c); proceedings with respect to pretrial release under ch. 969 except where habeas corpus is utilized with respect to release on bail or as otherwise provided in ch. 969.<sup>✓</sup>

**History:** Sup. Ct. Order, 59 Wis. 2d R1, R366 (1973); 1977 c. 305 s. 64; 1977 c. 345; 1979 c. 32 s. 92 (16); 1981 c. 183, 367, 390, 391; 1987 a. 208, 398; 1991 a. 40, 269; 2001 a. 61, 109; 2005 a. 434; 2009 a. 24, 28.

**SECTION 88.** 950.04 (1v) (f) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

950.04 (1v) (f) To have the ~~earned release review~~ parole commission make a reasonable attempt to notify the victim of applications for parole ~~or release to extended supervision~~, as provided under s. 304.06 (1).<sup>✓</sup>

**History:** 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31; 1997 a. 181, 237, 283; 1999 a. 9, 32, 188; 2001 a. 16, 109; 2003 a. 224; 2005 a. 155, 277, 434, 447; 2007 a. 20 ss. 3863, 9121 (6) (a); 2007 a. 97; 2009 a. 28.

**SECTION 89.** 950.04 (1v) (g) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

950.04 (1v) (g) To have reasonable attempts made to notify the victim of hearings or court proceedings, as provided under ss. 302.113 (9g) 2., 302.114 (6), 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and 972.14 (3) (b).<sup>✓</sup>

**History:** 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31; 1997 a. 181, 237, 283; 1999 a. 9, 32, 188; 2001 a. 16, 109; 2003 a. 224; 2005 a. 155, 277, 434, 447; 2007 a. 20 ss. 3863, 9121 (6) (a); 2007 a. 97; 2009 a. 28.

**SECTION 90.** 950.04 (1v) (gm) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

950.04 (1v) (gm) To have reasonable attempts made to notify the victim of an ~~offender who submits a petition~~ petitions for sentence adjustment as provided under s. 973.195 (1r) (d), ~~an offender who applies for release to extended supervision under s. 302.113 (2) (b), 302.1135, or 304.06 (1), or an offender who applies for a reduction under s. 973.01 (4m).~~<sup>✓</sup>

**History:** 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31; 1997 a. 181, 237, 283; 1999 a. 9, 32, 188; 2001 a. 16, 109; 2003 a. 224; 2005 a. 155, 277, 434, 447; 2007 a. 20 ss. 3863, 9121 (6) (a); 2007 a. 97; 2009 a. 28.

**SECTION 91.** 950.04 (1v) (nt) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

950.04 (1v) (nt) To attend a hearing on a petition for modification of a bifurcated sentence and provide a statement concerning modification of the sentence, as provided under s. ~~302.1135 (4)~~ 302.113 (9g) (d).<sup>✓</sup>

**History:** 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31; 1997 a. 181, 237, 283; 1999 a. 9, 32, 188; 2001 a. 16, 109; 2003 a. 224; 2005 a. 155, 277, 434, 447; 2007 a. 20 ss. 3863, 9121 (6) (a); 2007 a. 97; 2009 a. 28.

**SECTION 92.** 973.01 (3d) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.<sup>✓</sup>

**SECTION 93.** 973.01 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

973.01 (4) ~~EXTENSION~~ NO GOOD TIME. EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT. A person sentenced to a bifurcated sentence under sub. (1) shall serve the term of confinement in prison portion of the sentence without reduction for good behavior. The term of confinement in prison portion is subject to extension under s. 302.113 (3) and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a., 302.113 (9g), or 973.195 (1r), ~~or adjustment under s. 302.113 (2) (b), 302.1135 (6) (a), or 304.06 (1).~~✓

History: 1997 a. 283; 2001 a. 109; 2003 a. 33; 2005 a. 277; 2007 a. 116, 226; 2009 a. 28.

**SECTION 94.** 973.01 (4m) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.✓

**SECTION 95.** 973.01 (7) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

973.01 (7) ~~DISCHARGE~~ NO DISCHARGE. The department of corrections shall may not discharge a person who is serving a bifurcated sentence from custody, control and supervision ~~when~~ until the person has served the entire bifurcated sentence, ~~as modified under sub. (4m) or s. 302.113 (2) (b) or (9h), 302.1135, or 304.06 (1), if applicable.~~✓

History: 1997 a. 283; 2001 a. 109; 2003 a. 33; 2005 a. 277; 2007 a. 116, 226; 2009 a. 28.

**SECTION 96.** 973.031 of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.✓

**SECTION 97.** 973.09 (3) (d) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.✓

**SECTION 98.** 973.195 (1r) (a) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

973.195 (1r) (a) An inmate who is serving a sentence imposed under s. 973.01 before ~~October 1, 2009~~, for a crime other than a Class B felony may petition the sentencing court to adjust the sentence if the inmate has served at least the applicable percentage of the term of confinement in prison portion of the sentence. If an inmate is subject to more than one sentence imposed under this section, the sentences shall be treated individually for purposes of sentence adjustment under this subsection.✓

History: 2001 a. 109; 2005 a. 253, 277; 2007 a. 97; 2009 a. 28.

**SECTION 99.** 973.195 (1r) (j) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.✓

**SECTION 100.** 974.07 (4) (b) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

History: 2001 a. 16; 2005 a. 60; 2007 a. 20 s. 9121 (6) (a); 2009 a. 28.

**SECTION 101.** 976.03 (23) (c) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

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

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

**History:** 1971 c. 40 s. 93; 1971 c. 298 s. 26 (2) to (4); 1981 c. 289; 1989 a. 31; 1993 a. 486; 1995 a. 225; 1997 a. 283; 2009 a. 28.

**SECTION 102.** 977.05 (4) (jm) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

977.05 (4) (jm) At the request of an inmate determined by the state public defender to be indigent or upon referral of ~~the department of corrections~~ a court under s. ~~302.1135 (10)~~ 302.113 (9g) (j), represent the inmate in proceedings for modification of a bifurcated sentence under s. ~~302.1135~~ before the earned release review commission 302.113 (9g) before a program review committee and the sentencing court, if the state public defender determines the case should be pursued.✓

**History:** 1977 c. 29; 1979 c. 34, 352, 356; 1981 c. 20, 27, 289; 1983 a. 377; 1987 a. 27; 1989 a. 12, 31, 56, 334; 1991 a. 263, 269; 1993 a. 318, 437, 451, 479, 481; 1995 a. 27, 77; 1997 a. 35, 283; 2001 a. 16, 61, 103, 109; 2005 a. 264; 2005 a. 443 s. 265; 2007 a. 20; 2009 a. 28.

**SECTION 103. Initial applicability.**

(1) This act first applies to persons who are sentenced on, petitions that are submitted on, and revocations of extended supervision that occur on, the effective date of this subsection.✓

(END)

D-note



**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4097/P1ins  
PJH:.....

**INSERT A**

1           **SECTION 1.** 302.05 (1) (b) of the statutes is created to read:  
2           302.05 (1) (b) The department of corrections and the department of health  
3 services shall, at any correctional facility the departments determine is appropriate,  
4 provide a substance abuse treatment program for inmates for the purposes of the  
5 earned release program described in sub. (3).<sup>√</sup>

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

LRB-4097/P1dn  
PJH:nwn:md

January 29, 2010

Representative Suder:

Please review this preliminary draft to ensure that it is consistent with your intent. This draft is based on Assembly Amendment 25 to Assembly Substitute Amendment 1 to 2009 Assembly Bill 75 and seeks to reverse the changes to sentencing and early release that were passed in 2009 Act 28. In general terms, if Act 28 added text to a statute, this draft deletes that text and if Act 28 deleted text, this draft adds it back into the statutes. This draft deletes statutory sections that were created by Act 28 and recreates statutory sections that were repealed by Act 28.

Under this draft, the changes will first apply to persons sentenced on, petitions for release that are submitted on, and revocations of extended supervision that occur on, the effective date of the draft. I did not include an effective date; please let me know if you would like to have one added to the draft.

There are some people who have been sentenced, revoked, or have filed for release under the Act 28 provisions. I created s. 301.03 (3v) of the statutes to require the Department of Corrections to promulgate rules to review the release or revocation of people who are sentenced or revoked or who qualify for early release between the effective date of Act 28 (October 1, 2009) and the effective date of this draft.

Please let me know if you have any other questions or concerns.

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

**Hurley, Peggy**

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**From:** Hurley, Peggy  
**Sent:** Wednesday, February 17, 2010 11:37 AM  
**To:** Hurley, Peggy  
**Subject:** FW: LRB 4097

1/c to Luke 2-17-10. I don't know what will happen to the folks sentenced between the budget and the date this passes. The rule-making authority was an attempt to have DOC mete out these sentences without having to keep everything in the statutes for people who were sentenced under that scheme. Luke wants the earning of good time to stop on the effective date of this bill; I don't think that will happen. I think people who were sentenced under good time provisions will continue to earn good time, but I am not positive about that. I think I can try making it apply to people sentenced on effective date of budget in order to stop their earning of good time, but that may be challenged.

In any event, Luke acknowledges he is aware of the issues but wants to remove rule-making authority and go forward.

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**From:** Hilgemann, Luke  
**Sent:** Wednesday, February 17, 2010 11:26 AM  
**To:** Hurley, Peggy  
**Subject:** LRB 4097

Peggy,

We'd like to move forward with the bill, but we have some changes. Please remove the section (301.03) that you created to give the DOC the ability to create rules to review the release or revocation of people who qualify for early release between the effective date of the draft and when the budget was passed. We'd like the effective date of the bill to be the date of enactment.

Let me know if you have any questions.

**LUKE HILGEMANN**

*Office of State Representative Scott Suder  
Wisconsin's 69th Assembly District  
608.267.0280 ~ 888.534.0069 (toll-free)*

Act 28 applied to all post-TIS folks, so this bill should, too. As bill goes forward, revisit applicability to see if DOC can administer it as drafted.