

2013 DRAFTING REQUEST

Bill
Received: 1/23/2014 Received By: chanaman
Wanted: As time permits Same as LRB:
For: John Nygren (608) 266-2343 By/Representing: Jennifer Malcore
May Contact: Drafter: chanaman
Subject: Correctional System - com crctns Addl. Drafters:
Correctional System - misc Extra Copies:

Submit via email: YES
Requester's email: Rep.Nygren@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Sanctions for persons on community supervision

Instructions:

See attached

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>
/?	chanaman 1/23/2014	evinz 1/23/2014		_____			
/P1	chanaman 1/23/2014	evinz 1/23/2014	jmurphy 1/23/2014	_____	srose 1/23/2014		State S&L
/1			jmurphy 1/23/2014	_____	srose 1/23/2014	srose 1/23/2014	State S&L

FE Sent For:

At Intro.

<END>

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/1			jmurphy 1/23/2014	_____	srose 1/23/2014		State S&L

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/?	chanaman 1/23/2014	evinz 1/23/2014		_____			
/P1			jmurphy 1/23/2014	_____	srose 1/23/2014	JACKET FOR A	State S&L
FE Sent For:		1/1 eev 1/23/14	1/1 eev 1/23/14 <END>	jm			

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1/?	chanaman	1/pl eev 1/23/14	1/pl eev 1/23/14	_____	_____ + SR 1/23		

FE Sent For:

<END>



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-4024/P2
CMH:sac/rs

4083/P1

ASAP

EEPV

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

development of a system of

refer cut

1 **AN ACT to renumber and amend** 301.03 (3); **to amend** 301.068 (5), 302.11 (7)

2 (am), 302.113 (8m) (b), 302.113 (9) (am), 304.06 (3) and 973.10 (2) (intro.); and

3 **to create** 20.410 (1) (bc), 301.03 (3) (a), (b) and (c) and 971.375 of the statutes;

4 **relating to:** short-term sanctions for individuals who violate conditions of

5 extended supervision, parole, probation, or a deferred prosecution agreement,

6 granting rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, if an individual who is on probation, extended supervision, or parole (release) violates a condition of that release, the person is subject to sanctions including incarceration. This bill requires the Department of Corrections (DOC) to develop a system of short-term sanctions for violations of conditions of release and permits the sanctions to be imposed on the individual. This bill also allows a district attorney to use the short-term sanctions system for violations of a deferred prosecution agreement. The short-term sanctions system must provide a list of sanctions for the most common violations. In developing the system DOC must account for the objective to be accomplished by imposing the sanction and consider the level of intensity necessary to achieve the objective; protect the public, correct the offender's behavior, and hold the offender accountable; determine when revocation is the required response; provide flexibility in imposing sanctions but also provide offenders with clear and immediate consequences for violations; provide examples

of high, medium, and low level sanctions and what factors to consider when determining which level of sanction to apply; determine how to reward compliance; and ensure that efforts to minimize the impact on an offender's employment and family are made when applying sanctions. Finally, this bill requires DOC to perform reviews of sanctions imposed in order to assess disparities among sanctions, to evaluate the effectiveness of sanctions, and to monitor the impact of sanctions on the number and type of revocations for violations.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

3 2013-14 2014-15

4 **20.410 Corrections, department of**

5 (1) ADULT CORRECTIONAL SERVICES

6 (bc) Short-term sanctions GPR A -0- -0-

***NOTE: We'll need dollar amounts here.

7 SECTION 2. 20.410 (1) (bc) of the statutes is created to read:

8 20.410 (1) (bc) *Short-term sanctions*. The amounts in the schedule to develop
9 and maintain a system of short-term sanctions under s. 301.03 (3) (b).

10 SECTION 3. 301.03 (3) of the statutes is renumbered 301.03 (3) (intro.) and
11 amended to read:

12 301.03 (3) (intro.) Administer parole, extended supervision, and probation
13 matters, except that the decision to grant or deny parole to inmates shall be made

14 by the parole commission and the decision to revoke impose sanctions for violations

15 of conditions or rules, including revoking probation, extended supervision, or parole,

16 in cases in which there is no waiver of the right to a hearing shall be made by the

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1 division of hearings and appeals in the department of administration. The secretary
2 may grant special action parole releases under s. 304.02. The department shall
3 promulgate rules ~~establishing a drug testing program for probationers, parolees and~~
4 ~~persons placed on extended supervision. The rules shall provide for assessment of~~
5 ~~fees upon probationers, parolees and persons placed on extended supervision to~~
6 ~~partially offset the costs of the program. to do all of the following:~~

7 **SECTION 4.** 301.03 (3) (a), (b) and (c) of the statutes are created to read:

8 301.03 (3) (a) Develop a system of short-term sanctions for violations of
9 conditions of parole, probation, extended supervision, and deferred prosecution
10 agreements that sets forth a list of sanctions to be imposed for the most common
11 violations.

12 (b) Ensure that the system of short-term sanctions developed under par. (a)
13 does all of the following:

14 1. Takes into account the objective to be accomplished by imposing the sanction,
15 considers the level of intensity necessary to achieve the objective, and considers the
16 extent to which sanction imposition is likely to accomplish the objective.

17 2. Takes into account the goals of protecting the public, correcting the offender's
18 behavior, and holding the offender accountable.

19 3. Determines when revocation is the required response to the violation.

20 4. Provides flexibility in imposing sanctions but also provides offenders with
21 clear and immediate consequences for violations.

22 5. Provides examples of high, medium, and low level sanctions and what factors
23 to consider when determining which level of sanction to apply.

24 6. Determines how to reward offenders for compliance with conditions of
25 parole, of probation, of extended supervision, or of the agreement.

1 7. Ensures that efforts to minimize the impact on an offender's employment are
2 made when applying sanctions.

3 8. Ensures that efforts to minimize the impact on an offender's family are made
4 when applying the sanctions.

5 (c) Perform reviews of sanctions imposed under the system to assess disparities
6 among sanctions, to evaluate the effectiveness of sanctions, and to monitor the
7 impact of sanctions on the number and type of revocations for violations.

8 **SECTION 5.** 301.068 (5) of the statutes is amended to read:

9 301.068 (5) The department shall provide to probation, extended supervision,
10 and parole agents training and skill development in reducing offenders' risk of
11 reoffending and intervention techniques and shall by rule set forth requirements for
12 the training and skill development. The department shall develop policies to guide
13 probation, extended supervision, and parole agents in the supervision and
14 revocation of offenders on probation, extended supervision, and parole and develop
15 practices regarding alternatives to revocation of probation, extended supervision, or
16 parole. To the extent practicable, the department shall incorporate the practices into
17 the system developed under s. 301.03 (3) (a).

****NOTE: This section is new. Is it consistent with your intent?

18 **SECTION 6.** 302.11 (7) (am) of the statutes is amended to read:

19 ~~302.11 (7) (am) The reviewing authority may return If a parolee released under~~
20 ~~sub. (1) or (1g) (b) or s. 304.02 or 304.06 (1) violates a condition of parole, the~~
21 ~~reviewing authority may impose a sanction as provided in the system developed~~
22 ~~under s. 301.03 (3) (a). If the sanction imposed returns the parolee to prison for a~~
23 ~~period up to, the imprisonment period may not exceed the remainder of the sentence~~
24 for a violation of the conditions of parole. The remainder of the sentence is the entire

1 sentence, less time served in custody prior to parole. ~~The revocation~~ Any order
2 ~~returning the parolee to prison~~ shall provide the parolee with credit in accordance
3 with ss. 304.072 and 973.155.

4 **SECTION 7.** 302.113 (8m) (b) of the statutes is amended to read:

5 302.113 (8m) (b) If a person released to extended supervision under this section
6 signs a statement admitting a violation of a condition or rule of extended supervision,
7 the department may, ~~as a~~ impose a sanction as provided in the system developed
8 under s. 301.03 (3) (a). If the sanction for the violation, includes confinement, the
9 department may confine the person for up to 90 days in a regional detention facility
10 or, with the approval of the sheriff, in a county jail. If the department confines the
11 person in a county jail under this paragraph, the department shall reimburse the
12 county for its actual costs in confining the person from the appropriations under s.
13 20.410 (1) (ab) and (b). Notwithstanding s. 302.43, the person is not eligible to earn
14 good time credit on any period of confinement imposed under this subsection.

15 **SECTION 8.** 302.113 (9) (am) of the statutes is amended to read:

16 302.113 (9) (am) If a person released to extended supervision under this section
17 violates a condition of extended supervision, the reviewing authority may ~~revoke the~~
18 ~~extended supervision of the person~~ impose a sanction as provided in the system
19 developed under s. 301.03 (3) (a). If the extended supervision of the person is revoked
20 as a sanction, the reviewing authority shall order the person to be returned to prison
21 for any specified period of time that does not exceed the time remaining on the
22 bifurcated sentence. The time remaining on the bifurcated sentence is the total
23 length of the bifurcated sentence, less time served by the person in confinement
24 under the sentence before release to extended supervision under sub. (2) and less all
25 time served in confinement for previous revocations of extended supervision under

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

4 **SECTION 9.** 304.06 (3) of the statutes is amended to read:

5 ~~304.06 (3) Every paroled prisoner remains in the legal custody of the~~
6 ~~department unless otherwise provided by the department. If the department alleges~~
7 ~~that any condition or rule of parole has been violated by the prisoner, the department~~
8 ~~may take physical custody of the prisoner for the investigation of the alleged~~
9 ~~violation. If the department is satisfied that any condition or rule of parole has been~~
10 ~~violated it shall afford the prisoner such administrative hearings as are required by~~
11 ~~law. Unless waived by the parolee, the final administrative hearing shall be held~~
12 ~~before a hearing examiner from the division of hearings and appeals in the~~
13 ~~department of administration who is licensed to practice law in this state. The~~
14 ~~hearing examiner shall enter an order revoking or not revoking parole. Upon request~~
15 ~~by either party, the administrator of the division of hearings and appeals shall review~~
16 ~~the order. The hearing examiner may order that a deposition be taken by audiovisual~~
17 ~~means and allow the use of a recorded deposition under s. 967.04 (7) to (10). If the~~
18 ~~parolee waives the final administrative hearing, the secretary of corrections shall~~
19 ~~enter an order revoking or not revoking parole. If the examiner, the administrator~~
20 ~~upon review, or the secretary in the case of a waiver finds that the prisoner has~~
21 ~~violated the rules or conditions of parole, the examiner, the administrator upon~~
22 ~~review, or the secretary in the case of a waiver, may order the prisoner returned to~~
23 ~~prison to continue serving his or her sentence, or to continue on parole impose a~~
24 ~~sanction as provided in the system developed under s. 301.03 (3) (a). If the examiner~~
25 ~~imposes a sanction, the administrator of the division of hearings and appeals shall~~

1 ~~review the order upon request by either party.~~ If the prisoner claims or appears to
2 be indigent, the department shall refer the prisoner to the authority for indigency
3 determinations specified under s. 977.07 (1).

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4 **SECTION 10.** 971.375 of the statutes is created to read:

5 **971.375 Deferred prosecution agreements; sanctions.** The district
6 attorney may subject a defendant to sanctions as provided in the system developed
7 under s. 301.03 (3) (a) if the defendant violates a condition of a deferred prosecution
8 agreement.

9 ~~**SECTION 11.** 973.10 (2) (intro.) of the statutes is amended to read:~~

10 ~~973.10 (2) (intro.) If a probationer violates the conditions of probation, the~~
11 ~~department of corrections may initiate a proceeding before the division of hearings~~
12 ~~and appeals in the department of administration. Unless waived by the probationer,~~
13 ~~a hearing examiner for the division shall conduct an administrative hearing and~~
14 ~~enter an order either revoking or not revoking probation. Upon request of either~~
15 ~~party, the administrator of the division shall review the order. If the probationer~~
16 ~~waives the final administrative hearing, The examiner, or the secretary of~~
17 ~~corrections shall enter an order either revoking or not revoking probation if the~~
18 ~~probationer waives the final administrative hearing, may impose a sanction as~~
19 ~~provided in the system developed under s. 301.03 (3) (a). If the examiner imposes a~~
20 ~~sanction, the administrator of the division shall review the order upon request by~~
21 ~~either party. If probation is revoked as a sanction, the department shall:~~

22 **SECTION 12. Initial applicability.**

23 (1) This act first applies to violations occurring on the effective date of this
24 subsection.

25 (END)

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7-22

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4083/?ins
CMH:.....

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Insert 7-4

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

304.06 (3g) If a paroled prisoner signs a statement admitting a violation of a condition or rule of parole, the department may, as a sanction for the violation, confine the prisoner for up to 90 days in a regional detention facility or, with the approval of the sheriff, in a county jail. If the department confines the prisoner in a county jail under this subsection, the department shall reimburse the county for its actual costs in confining the prisoner from the appropriations under s. 20.410 (1) (ab) and (b). Notwithstanding s. 302.43, the prisoner is not eligible to earn good time credit on any period of confinement imposed under this subsection.

Insert 7-22

SECTION 2. 973.10 (2g) of the statutes is created to read:

973.10 (2g) If a probationer signs a statement admitting a violation of a condition or rule of probation, the department may, as a sanction for the violation, confine the probationer for up to 90 days in a regional detention facility or, with the approval of the sheriff, in a county jail. If the department confines the probationer in a county jail under this subsection, the department shall reimburse the county for its actual costs in confining the probationer from the appropriations under s. 20.410 (1) (ab) and (b).



Now

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Repeal

1 **AN ACT to renumber and amend** 301.03 (3); **to amend** 301.068 (5); and **to**
 2 **create** 20.410 (1) (bc), 301.03 (3) (a), (b) and (c), 304.06 (3g), 971.375 and 973.10
 3 (2s) of the statutes; **relating to:** development of a system of short-term
 4 sanctions for individuals who violate conditions of extended supervision,
 5 parole, probation, or a deferred prosecution agreement, ^{and} granting rule-making
 6 authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, if an individual who is on probation, extended supervision, or parole (release) violates a condition of that release, the person is subject to sanctions including incarceration. This bill requires the Department of Corrections (DOC) to develop a system of short-term sanctions for violations of conditions of release and permits the sanctions to be imposed on the individual. This bill also allows a district attorney to use the short-term sanctions system for violations of a deferred prosecution agreement. The short-term sanctions system must provide a list of sanctions for the most common violations. In developing the system DOC must account for the objective to be accomplished by imposing the sanction and consider the level of intensity necessary to achieve the objective; protect the public, correct the offender's behavior, and hold the offender accountable; determine when revocation is the required response; provide flexibility in imposing sanctions but also provide offenders with clear and immediate consequences for violations; provide examples

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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2 the following amounts for the purposes indicated:

				2013-14	2014-15
3					
4	20.410	Corrections, department of			
5	(1)	ADULT CORRECTIONAL SERVICES			
6	(bc)	Short-term sanctions	GPR A	-0-	-0-

****NOTE: We'll need dollar amounts here.

7 **SECTION 2.** 20.410 (1) (bc) of the statutes is created to read:
8 20.410 (1) (bc) *Short-term sanctions*. The amounts in the schedule to develop
9 and maintain a system of short-term sanctions under s. 301.03 (3) (b).

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

12 301.03 (3) (intro.) Administer parole, extended supervision, and probation
13 matters, except that the decision to grant or deny parole to inmates shall be made
14 by the parole commission and the decision to revoke probation, extended
15 supervision, or parole, in cases in which there is no waiver of the right to a hearing,
16 shall be made by the division of hearings and appeals in the department of

1 administration. The secretary may grant special action parole releases under s.
2 304.02. The department shall promulgate rules ~~establishing a drug testing program~~
3 ~~for probationers, parolees and persons placed on extended supervision.~~ The rules
4 shall provide for assessment of fees upon probationers, parolees and persons placed
5 ~~on extended supervision to partially offset the costs of the program.~~ to do all of the
6 following:

7 **SECTION 4.** 301.03 (3) (a), (b) and (c) of the statutes are created to read:

8 301.03 (3) (a) Develop a system of short-term sanctions for violations of
9 conditions of parole, probation, extended supervision, and deferred prosecution
10 agreements that sets forth a list of sanctions to be imposed for the most common
11 violations.

12 (b) Ensure that the system of short-term sanctions developed under par. (a)
13 does all of the following:

14 1. Takes into account the objective to be accomplished by imposing the sanction,
15 considers the level of intensity necessary to achieve the objective, and considers the
16 extent to which sanction imposition is likely to accomplish the objective.

17 2. Takes into account the goals of protecting the public, correcting the offender's
18 behavior, and holding the offender accountable.

19 3. Determines when revocation is the required response to the violation.

20 4. Provides flexibility in imposing sanctions but also provides offenders with
21 clear and immediate consequences for violations.

22 5. Provides examples of high, medium, and low level sanctions and what factors
23 to consider when determining which level of sanction to apply.

24 6. Determines how to reward offenders for compliance with conditions of
25 parole, of probation, of extended supervision, or of the agreement.

1 7. Ensures that efforts to minimize the impact on an offender's employment are
2 made when applying sanctions.

3 8. Ensures that efforts to minimize the impact on an offender's family are made
4 when applying the sanctions.

5 (c) Perform reviews of sanctions imposed under the system to assess disparities
6 among sanctions, to evaluate the effectiveness of sanctions, and to monitor the
7 impact of sanctions on the number and type of revocations for violations.

8 **SECTION 5.** 301.068 (5) of the statutes is amended to read:

9 301.068 (5) The department shall provide to probation, extended supervision,
10 and parole agents training and skill development in reducing offenders' risk of
11 reoffending and intervention techniques and shall by rule set forth requirements for
12 the training and skill development. The department shall develop policies to guide
13 probation, extended supervision, and parole agents in the supervision and
14 revocation of offenders on probation, extended supervision, and parole and develop
15 practices regarding alternatives to revocation of probation, extended supervision, or
16 parole. To the extent practicable, the department shall incorporate the practices into
17 the system developed under s. 301.03 (3) (a).

****NOTE: This section is new. Is it consistent with your intent?

18 **SECTION 6.** 304.06 (3g) of the statutes is created to read:

19 304.06 (3g) If a paroled prisoner signs a statement admitting a violation of a
20 condition or rule of parole, the department may, as a sanction for the violation,
21 confine the prisoner for up to 90 days in a regional detention facility or, with the
22 approval of the sheriff, in a county jail. If the department confines the prisoner in
23 a county jail under this subsection, the department shall reimburse the county for
24 its actual costs in confining the prisoner from the appropriations under s. 20.410 (1)

1 (ab) and (b). Notwithstanding s. 302.43, the prisoner is not eligible to earn good time
2 credit on any period of confinement imposed under this subsection.

3 **SECTION 7.** 971.375 of the statutes is created to read:

4 **971.375 Deferred prosecution agreements; sanctions.** The district
5 attorney may subject a defendant to sanctions as provided in the system developed
6 under s. 301.03 (3) (a) if the defendant violates a condition of a deferred prosecution
7 agreement.

8 **SECTION 8.** 973.10 (2s) of the statutes is created to read:

9 **973.10 (2s)** If a probationer signs a statement admitting a violation of a
10 condition or rule of probation, the department may, as a sanction for the violation,
11 confine the probationer for up to 90 days in a regional detention facility or, with the
12 approval of the sheriff, in a county jail. If the department confines the probationer
13 in a county jail under this subsection, the department shall reimburse the county for
14 its actual costs in confining the probationer from the appropriations under s. 20.410
15 (1) (ab) and (b).

16 **SECTION 9. Initial applicability.**

17 (1) This act first applies to violations occurring on the effective date of this
18 subsection.

19 (END)