

1987 Assembly Bill 782

Date of enactment: **April 12, 1988**
Date of publication: **April 20, 1988**

1987 Wisconsin Act 238

AN ACT *to repeal 946.42 (1) and 946.42 (1m); to renumber and amend 946.42 (5) and 946.44 (1) (c); to amend 56.065 (2), 946.42 (4), 946.44 (1) (b), 946.44 (2) (a), 946.44 (2) (b), 946.45 (2) (a) and 946.45 (2) (b); and to repeal and recreate 946.42 (2) and 946.42 (3) of the statutes; and to affect 1987 Wisconsin Act 27, section 3204 (24) (eg), relating to escape and providing penalties.*

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

SECTION 1. 56.065 (2) of the statutes is amended to read:

56.065 (2) The department shall promulgate rules for the administration of the work release program and shall determine those inmates who may participate in the plan. If any inmate violates the conditions prescribed by the institution, his or her work release privileges may be withdrawn. Failure to report to or return from the planned employment shall be considered an escape under s. 946.42 (3) (a). The department may approve as work release privileges placement in universities, colleges, technical, vocational or trade schools or in sheltered workshops or training programs designed to improve the skills and ability of the inmate.

SECTION 2. 946.42 (1) of the statutes is repealed.

SECTION 3. 946.42 (1m) of the statutes is repealed.

SECTION 4. 946.42 (2) of the statutes is repealed and recreated to read:

946.42 (2) A person in custody who intentionally escapes from custody under any of the following circumstances is guilty of a Class A misdemeanor:

(a) Pursuant to a legal arrest for or lawfully charged with or convicted of a violation of a statutory traffic regulation, a statutory offense for which the penalty is a forfeiture or a municipal ordinance.

(b) Lawfully taken into custody under s. 48.19 for a violation of or lawfully alleged or adjudged under ch. 48 to have violated a statutory traffic regulation, a statutory provision for which the penalty is a forfeiture or a municipal ordinance.

(c) Pursuant to a civil arrest or body execution.

SECTION 5. 946.42 (3) of the statutes, as affected by 1987 Wisconsin Act 27, is repealed and recreated to read:

946.42 (3) A person in custody who intentionally escapes from custody under any of the following circumstances is guilty of a Class D felony:

(a) Pursuant to a legal arrest for, lawfully charged with or convicted of or sentenced for a crime.

(b) Lawfully taken into custody under s. 48.19 for or lawfully alleged or adjudged under ch. 48 to be delinquent on the basis of a violation of a criminal law.

(c) Subject to a disposition under s. 48.34 (4m).

(d) Subject to an order under s. 48.366.

(e) In custody under the circumstances described in sub. (2) and leaves the state to avoid apprehension. Leaving the state and failing to return is prima facie evidence of intent to avoid apprehension.

(f) Pursuant to a legal arrest as a fugitive from justice in another state.

(g) Committed to the department of health and social services under ch. 975.

SECTION 6. 946.42 (4) of the statutes is amended to read:

946.42 (4) ~~Sentences imposed~~ A court shall impose a sentence under this section ~~shall be~~ consecutive to any sentence previously imposed or which may be

imposed for any crime or offense for which the person was in custody when he or she escaped.

SECTION 7. 946.42 (5) of the statutes is renumbered 946.42 (1), and 946.42 (1) (a), as renumbered, is amended to read:

946.42 (1) (a) "Custody" includes without limitation actual custody of an institution, including a secured juvenile correctional facility, a secure detention facility, as defined under s. 48.02 (16), or a juvenile portion of a county jail, or of a peace officer or institution guard and constructive custody of prisoners and juveniles subject to an order under s. 48.34 (4m) temporarily outside the institution whether for the purpose of work, school, medical care, a leave granted under s. 56.068, a temporary leave or furlough granted to a juvenile or otherwise. Under s. 56.08 (6) it means, without limitation, that of the sheriff of the county to which the prisoner was transferred after conviction. It does not include the custody of a probationer or parolee by the department of health and social services or a probation or parole officer or the custody of a person who has been released to aftercare supervision under ch. 48 unless the person is in actual custody ~~after revocation of probation, parole or aftercare supervision, or to enforce discipline or to prevent the person from absconding.~~

SECTION 8. 946.44 (1) (b) of the statutes is amended to read:

946.44 (1) (b) Whoever with intent to aid any prisoner to escape from custody introduces into the institution where ~~he the prisoner~~ the prisoner is detained or transfers to ~~such~~ the prisoner anything adapted or useful in making an escape; ~~or,~~

SECTION 9. 946.44 (1) (c) of the statutes is renumbered 946.44 (1m) and amended to read:

946.44 (1m) Whoever intentionally introduces into an institution where prisoners are detained or transfers to a prisoner any firearm, whether loaded or unloaded, or any article used or fashioned in a manner to lead another person to believe it is a firearm, is guilty of a Class C felony.

SECTION 10. 946.44 (2) (a) of the statutes is amended to read:

946.44 (2) (a) "Custody" has the meaning designated in s. 946.42 (~~§~~) (1) (a).

SECTION 11. 946.44 (2) (b) of the statutes is amended to read:

946.44 (2) (b) "Escape" has the meaning designated in s. 946.42 (~~§~~) (1) (b).

SECTION 12. 946.45 (2) (a) of the statutes is amended to read:

946.45 (2) (a) "Custody" has the meaning designated in s. 946.42 (~~§~~) (1) (a).

SECTION 13. 946.45 (2) (b) of the statutes is amended to read:

946.45 (2) (b) "Escape" has the meaning designated in s. 946.42 (~~§~~) (1) (b).

SECTION 14. 1987 Wisconsin Act 27, section 3204 (24) (eg), is amended to read:

(1987 Wisconsin Act 27) Section 3204 (24) (eg) *Extended jurisdiction.* The treatment of sections 46.26 (4) (a), 48.02 (15m), 48.23 (2m) and (4), 48.243 (1) (b), 48.275 (3), 48.366, 48.44, 48.53, 48.992 (3), 53.11 (1) and (10), 53.17, 53.255, 57.15, ~~946.42 (3) (e)~~, 946.44 (2) (d), 946.45 (2) (d), 976.08, 977.05 (4) (i) 5 (by SECTION 2231p) and 977.08 (2) (e) (by SECTION 2236p) of the

statutes, the creation of sections 48.44 (2) and 53.17 (3) of the statutes and SECTION 3203 (24) (eg) of this act take effect July 1, 1988.

SECTION 15. **Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 946.42 (3) (d) of the statutes takes effect July 1, 1988.
