



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0473/P5
EAW:amn/cdc/skw

DOA:.....Potts, BB0130 - Earned release and extended supervision

FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Extended supervision

Under current law, a person who is sentenced to prison under a bifurcated sentence serves the first portion of the sentence confined in prison and the second portion under extended supervision in the community. DOC may not discharge a person from extended supervision until the entire term of the bifurcated sentence is completed. Under certain circumstances, the sentencing court may reduce the confinement portion of the bifurcated sentence, but current law does not allow the sentencing court to reduce the period of extended supervision. This bill allows the sentencing court to reduce the term of a person's extended supervision if all of the following apply:

1. The person has served the lesser of three years or 50 percent of the term of extended supervision without violating the conditions and rules of supervision.
2. The person has met all of his or her financial obligations to the victim of the crime.
3. The person is not required to register as a sex offender and is serving a sentence for a crime that is not a crime against life or bodily security or a specified crime against a child.

Maximum penalty for a Class D felony

This bill reduces the maximum sentence for a Class D felony. Under current law, the sentencing court has discretion in setting the length of confinement and the length of extended supervision, but both the total length of the sentence and the length of extended supervision are capped based on the classification of the crime committed, and generally the length of confinement may not be more than 75 percent of the total sentence. This bill reduces the sentence cap for a Class D felony from 25 to 20 years and the extended supervision cap from 10 to 5 years.

Earned compliance credit

This bill creates an earned compliance credit for time spent on extended supervision or parole. Under current law, a person's extended supervision or parole may be revoked if he or she violates a condition of the extended supervision or parole. If extended supervision or parole is revoked, the person is returned to prison for an amount of time up to the length of the original sentence, less any time actually served in confinement and less any credit for good behavior. Under current law, when extended supervision or parole is revoked, the time spent on extended supervision or parole is not credited as time served under the sentence.

Under this bill, an eligible inmate receives an earned compliance credit for time served on extended supervision or parole. The earned compliance credit equals the amount of time served on extended supervision or parole without violating any conditions or rules of extended supervision or parole. Under the bill, a person is eligible to receive the earned compliance credit only if the person is not required to register as a sex offender and is serving a sentence for a crime that is not a specified violent crime or a specified crime against a child. Under the bill, if a person's extended supervision or parole is revoked, he or she may be incarcerated for up to the length of the original sentence, less any credit for time served in confinement, any credit for good behavior, and any earned compliance credit.

Revocation of probation, parole, or extended supervision

Under current law, if a person violates a condition or rule of probation, parole, or extended supervision, the Division of Hearing and Appeals (DHA) in DOA, or DOC if a hearing is waived, may revoke that person's probation, parole, or extended supervision and return the person to confinement. Under this bill, a person's probation, parole, or extended supervision may not be revoked for a rule violation unless one of the following conditions is met:

1. The person committed three or more independent rule violations during his or her term of probation, parole, or extended supervision.
2. The person violated a condition prohibiting contact of a specified individual.
3. The person is a registered sex offender.
4. When the person committed the rule violation, the person also allegedly committed a crime.
5. The person failed to report for supervision for more than 60 consecutive days.

Sanctions for violating a condition or rule of probation, parole, or extended supervision

Under current law, if a person admits to violating a rule or condition of probation, parole, or extended supervision, DOC may sanction the person with imprisonment for up to 90 days instead of revoking probation, parole, or extended supervision. This bill changes the sanction procedure.

Under the bill, if the person does not admit to committing the rule violation, DHA holds a hearing on the violation. If DHA determines that the person committed the violation, DHA may sanction the person with imprisonment for up to 30 days, or up to 90 days if the rule violation meets the grounds for revocation. Under the bill, if the person admits to the alleged rule violation, DOC may impose the 30- or 90-day sanction without a hearing.

Earned release

Under current law, an eligible inmate may earn early release to parole or extended supervision by successfully completing a substance abuse program. An inmate is eligible for earned release only if the inmate is serving time for a crime that is not a violent crime and, for an inmate who is serving a bifurcated sentence, the sentencing court determines that the inmate is eligible.

This bill expands the earned release program to include educational, vocational, treatment, or other qualifying training programs that are evidence-based to reduce recidivism. The bill also provides that DOC, not the sentencing court, determines eligibility for all inmates.

Reports

This bill requires DOC to submit the following annual reports to the governor, the legislature, and the director of state courts:

1. A report on early discharges from extended supervision and the reduction in incarceration due to the earned compliance credit.
2. A report on the expanded earned release program.
3. A report on revocation of parole, extended supervision, and probation.

Each of these annual reports is required to include an accounting of the cost savings resulting from the relevant programs under the bill. The bill requires DOC use the amount of the cost savings reported to pay for the extended supervision, earned release, and revocation programs under the bill.

This bill also requires DOC to conduct a onetime review and report to the governor, the legislature, and the director of state courts on all of the following:

1. The efficacy of DOC's standard conditions and rules of supervision.
2. DOC's evidence-based risk assessment tool.
3. DOC's training of community supervision officers.
4. The aging and elderly population in Wisconsin's prisons and possible options for alternatives to prison for that population.

For further information see the state 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:

SECTION 1. 20.410 (1) (a) of the statutes is amended to read:

20.410 (1) (a) *General program operations.* The amounts in the schedule to operate institutions and provide field services and administrative services. No payments may be made under this paragraph for payments in accordance with other states party to the interstate corrections compact under s. 302.25. Annually, there is transferred from this appropriation account to the appropriation account under par. (ki) the amount of cost savings attributable to this account reported under ss. 301.03 (6s) (a) and 302.05 (4) (b) 4., and the amount of cost savings attributable to this account from reduced days of incarceration that resulted from the earned compliance credit under s. 973.156, as reported by the department under s. 301.03 (6s) (b).

SECTION 2. 20.410 (1) (ab) of the statutes is amended to read:

20.410 (1) (ab) *Corrections contracts and agreements.* The amounts in the schedule for payments made in accordance with contracts entered into under ss. 301.21, 302.25, and 302.27 (1), contracts entered into with the federal government under [18 USC 5003](#), and intra-agency agreements relating to the placement of prisoners. Annually, there is transferred from this appropriation account to the appropriation account under par. (ki) the amount of cost savings attributable to this account reported under ss. 301.03 (6s) (a) and 302.05 (4) (b) 4., and the amount of cost savings attributable to this account from reduced days of incarceration that resulted

from the earned compliance credit under s. 973.156, as reported by the department under s. 301.03 (6s) (b).

SECTION 3. 20.410 (1) (b) of the statutes is amended to read:

20.410 (1) (b) *Services for community corrections.* The amounts in the schedule to provide services related to probation, extended supervision and parole, the intensive sanctions program under s. 301.048, the community residential confinement program under s. 301.046, programs of intensive supervision of adult offenders and minimum security correctional institutions established under s. 301.13. No payments may be made under this paragraph for payments in accordance with other states party to the interstate corrections compact under s. 302.25. Annually, there is transferred from this appropriation account to the appropriation account under par. (ki) the amount of cost savings from reduced days of community supervision that resulted from the earned compliance credit under s. 973.156 and early discharge from extended supervision under s. 973.01 (5m), as reported by the department under s. 301.03 (6s) (b).

SECTION 4. 20.410 (1) (ki) of the statutes is created to read:

20.410 (1) (ki) *Training programs for inmates, recidivism reduction services, and community supervision.* All moneys transferred from the appropriation accounts under pars. (a), (ab), and (b) to provide vocational readiness training programs that qualify for the earned release program under s. 302.05, to provide services to persons who are on probation, or who are soon to be or are currently on parole or extended supervision, following a felony conviction, in an effort to reduce recidivism, and to reduce caseloads for community supervision officers.

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

SECTION 5. 301.03 (6s) of the statutes is created to read:

301.03 (6s) No later than June 15 each year, submit the following reports to the governor, the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3), and the director of state courts:

(a) A report on revocation of probation, parole, and extended supervision. The report shall include the rate of recidivism, as defined in s. 302.05 (4) (a), among probationers, parolees, and persons on extended supervision by region and demographics, including the level of the recidivism event, the number of and reason for revocations of probation, parole, and extended supervision by region and demographics, the number and lengths of short-term sanctions imposed under s. 302.115, and an accounting of the cost savings for the preceding 12-month period that resulted from the use of short-term sanctions in lieu of revocations.

(b) A report on the earned compliance credit provided under s. 973.156 and early discharge from extended supervision under s. 973.01 (5m) in the 12 months preceding the report. The report shall include the demographics of individuals who received the earned compliance credit or were discharged early by region and demographics and the rate of recidivism, as defined in s. 302.05 (4) (a), among those individuals, and an accounting of the cost savings from reduced days of incarceration or reduced days of parole or extended supervision that resulted from the earned compliance credit under s. 973.156 or early discharge under s. 973.01 (5m).

SECTION 6. 301.035 (2) of the statutes is amended to read:

301.035 (2) Assign hearing examiners from the division to preside over hearings under ss. 302.11 (7), 302.113 (9), 302.114 (9), 302.115, 938.357 (5), 973.10 and 975.10 (2) and ch. 304.

SECTION 7. 302.05 (title) of the statutes is amended to read:

302.05 (title) Wisconsin substance abuse earned release program.

SECTION 8. 302.05 (1) (am) (intro.) of the statutes is amended to read:

302.05 (1) (am) (intro.) The department of ~~corrections~~ 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 use disorder 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 use disorder program:

SECTION 9. 302.05 (1) (b) of the statutes is amended to read:

302.05 (1) (b) The department of ~~corrections~~ and the department of health services shall, at any correctional facility the departments determine is appropriate, provide a substance abuse use disorder treatment program for inmates for the purposes of the program described in sub. (3).

SECTION 10. 302.05 (1) (c) of the statutes is created to read:

302.05 (1) (c) 1. In this paragraph, “vocational readiness training program” means an educational, vocational, treatment, or other evidence-based training program to reduce recidivism.

2. The department shall, at any correctional facility the department determines is appropriate, provide vocational readiness training programs for the purposes of the program described in sub. (3).

SECTION 11. 302.05 (2) of the statutes is amended to read:

302.05 (2) Transfer to a correctional treatment facility for the treatment of substance abuse use disorder shall be considered a transfer under s. 302.18.

SECTION 12. 302.05 (3) (a) 2. of the statutes is amended to read:

302.05 (3) (a) 2. ~~If the inmate is serving a bifurcated sentence imposed under s. 973.01, the sentencing court decided under par. (e) or s. 973.01 (3g)~~ The department determines that the inmate is eligible to participate in the earned release program described in this subsection. In making its determination, the department shall consider a decision of the sentencing court under s. 302.05 (3) (e), 2019 stats., or s. 973.01 (3g), 2019 stats.

SECTION 13. 302.05 (3) (b) of the statutes 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 substance use disorder treatment program described in sub. (1) (b) or a vocational readiness training program described in sub. (1) (c), the parole commission shall parole the inmate for that sentence under s. 304.06, regardless of the time the inmate has served. If the parole commission grants parole under this paragraph for the completion of a substance use disorder treatment program, it shall require the parolee to participate in an intensive supervision program for drug abusers as a condition of parole.

SECTION 14. 302.05 (3) (c) 1. of the statutes 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 substance use disorder treatment program described in sub. (1) (b) or a vocational readiness training program described in sub. (1) (c), the department shall inform the court that sentenced the inmate.

SECTION 15. 302.05 (3) (c) 2. (intro.) of the statutes 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 substance use disorder treatment program described in sub. (1) (b) or a vocational readiness training program described in sub. (1) (c), the court shall modify the inmate's bifurcated sentence as follows:

SECTION 16. 302.05 (3) (d) of the statutes is amended to read:

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

SECTION 17. 302.05 (3) (e) of the statutes is repealed.

SECTION 18. 302.05 (4) of the statutes is created to read:

302.05 (4) (a) In this subsection, "recidivism" means any of the following:

1. A return to prison upon revocation of extended supervision, parole, or probation.
2. A conviction for a crime that was committed within 3 years of release from confinement.

(b) No later than June 15 of each year, the department shall submit a report on participation in vocational readiness training programs qualifying for earned release under sub. (3) to the governor, the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3), and the director of state courts. The report shall include all of the following data:

1. A list of available vocational readiness training programs and the number of participants in each vocational readiness training program.

2. The number of eligible inmates who are on the wait list for participation in a vocational readiness training program, and the department's methodology for selecting participants from the wait list.

3. The rate of recidivism among individuals who earned release through completion of a vocational readiness training program, and whether the recidivism event was return to prison upon revocation or was a conviction for a misdemeanor or felony. The department shall report this data by region and shall include demographic information.

4. An accounting of the cost savings for the preceding 12-month period that resulted from reduced terms of confinement in prison for participants in the earned release program who were released to extended supervision or parole for completion of a vocational readiness training program.

SECTION 19. 302.107 (2) of the statutes is amended to read:

302.107 (2) Upon revocation of parole or extended supervision under s. 302.11 (7), 302.113 (9), 302.114 (9), or 304.06 (3) ~~or (3g)~~, the department shall make a reasonable effort to send a notice of the revocation to a victim of an offense committed by the inmate, if the victim can be found, in accordance with sub. (3) and after receiving a completed card under sub. (4).

SECTION 20. 302.11 (7) (ag) of the statutes is renumbered 302.11 (7) (ag) (intro.) and amended to read:

302.11 (7) (ag) (intro.) In this subsection "~~reviewing~~:"

2. "Reviewing authority" means the division of hearings and appeals in the department of administration, upon proper notice and hearing, or the department of corrections, if the parolee waives a hearing.

SECTION 21. 302.11 (7) (am) of the statutes is renumbered 302.11 (7) (am) 1. (intro.) and amended to read:

302.11 (7) (am) 1. (intro.) The reviewing authority may not return a parolee released under sub. (1) or (1g) (b) or s. 304.02 or 304.06 (1) to prison ~~for a period up to the remainder of the sentence~~ for a violation of the conditions of parole. ~~The remainder~~ unless one of the following applies:

(ag) 1. “Remainder of the sentence is” means the entire sentence, less time served in custody prior to parole and less any earned compliance credit under s. 973.156.

(am) 2. If the reviewing authority revokes parole, the revocation order may return the parolee to prison for a period up to the remainder of the sentence. The revocation order shall provide the parolee with credit in accordance with ss. 304.072 and 973.155.

SECTION 22. 302.11 (7) (am) 1. a. to e. of the statutes are created to read:

302.11 (7) (am) 1. a. The parolee committed 3 or more independent violations while released on parole.

b. The condition that the parolee violated was a condition that the parolee not contact any specified individual.

c. The parolee was required to register as a sex offender under s. 301.45.

d. When the parolee violated the condition of parole, the parolee also allegedly committed a crime.

e. The parolee failed to report or make himself or herself available for supervision for a period of more than 60 days.

SECTION 23. 302.113 (8m) (a) of the statutes is renumbered 302.113 (8m).

SECTION 24. 302.113 (8m) (b) of the statutes is repealed.

SECTION 25. 302.113 (9) (ag) of the statutes is renumbered 302.113 (9) (ag) (intro.) and amended to read:

302.113 (9) (ag) (intro.) In this subsection “~~reviewing~~”:

2. “Reviewing authority” means the division of hearings and appeals in the department of administration, upon proper notice and hearing, or the department of corrections, if the person on extended supervision waives a hearing.

SECTION 26. 302.113 (9) (ag) 1. of the statutes is created to read:

302.113 (9) (ag) 1. “Crime” has the meaning given in s. 939.12.

SECTION 27. 302.113 (9) (am) of the statutes is renumbered 302.113 (9) (am) 1. (intro.) and amended to read:

302.113 (9) (am) 1. (intro.) If a person released to extended supervision under this section violates a condition of extended supervision, the reviewing authority may not revoke the extended supervision of the person; unless one of the following applies:

2. If the extended supervision of the person is revoked under subd. 1., the reviewing authority 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~~

(ag) 4. “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), less any earned compliance credit under s. 973.156, and less all time served in confinement for previous revocations of extended supervision under the sentence.

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

SECTION 28. 302.113 (9) (am) 1. a. to e. of the statutes are created to read:

302.113 **(9)** (am) 1. a. The person committed 3 or more independent violations during his or her term of extended supervision.

b. The condition that the person violated was a condition that the person not contact any specified individual.

c. The person was required to register as a sex offender under s. 301.45.

d. When the person violated the condition of extended supervision, the person also allegedly committed a crime.

e. The person failed to report or make himself or herself available for supervision for a period of more than 60 consecutive days.

SECTION 29. 302.113 (9) (b) of the statutes 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 under par. (am) 2. The period ~~of time~~ specified under par. (am) 2. may be extended in accordance with sub. (3). If a person is returned to prison under par. (am) 2. 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 under par. (am) 2. and any periods of extension imposed in accordance with sub. (3).

SECTION 30. 302.113 (9) (c) of the statutes 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 under par. (am) 2. is subject

to all conditions and rules under sub. (7) and, if applicable, sub. (7m) until the expiration of the time remaining ~~extended supervision portion of~~ on 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.~~

SECTION 31. 302.114 (9) (ag) of the statutes is amended to read:

302.114 (9) (ag) In this subsection “reviewing authority” has the meaning given in s. 302.113 (9) (ag) 3.

SECTION 32. 302.115 of the statutes is created to read:

302.115 Sanctions for violation of condition of probation, parole, or extended supervision. (1) In this section:

(a) “Division” means the division of hearings and appeals in the department of administration.

(b) “Reviewing authority” means the division or, if a hearing is waived under sub. (5), the department.

(2) Notwithstanding ss. 302.11 (7), 302.113 (9), and 973.10 (2), if a person on probation or parole or a person on extended supervision under s. 302.113 violates a condition or rule of that probation, parole, or extended supervision, the department may initiate a proceeding before the division to sanction the person for the violation.

(3) The division shall hold a hearing no later than 21 days after the department initiates the proceeding to determine the appropriate sanction for the violation.

(4) The reviewing authority may impose one of the following sanctions:

(a) Except as provided under par. (b), imprisonment for a period not to exceed 30 days.

(b) Imprisonment for a period not to exceed 90 days if any of the following applies:

1. The person has committed 3 or more independent violations during his or her term of probation, parole, or extended supervision.

2. The condition that the person violated was a condition that the person not contact any specified individual.

3. The person was required to register as a sex offender under s. 301.45.

4. When the person violated the condition of probation, parole, or extended supervision, the person also allegedly committed a crime.

5. The person failed to report or make himself or herself available for supervision for a period of more than 60 consecutive days.

(5) A person who is the subject of a proceeding under this section may waive the hearing under sub. (3) by signing a statement admitting the violation. If the person waives the hearing under this subsection, the reviewing authority may impose a sanction under sub. (4).

(6) If a person is confined in a county jail under this section, the department shall reimburse the county for its actual costs in confining the person from the appropriations under s. 20.410 (1) (ab) and (b).

(7) Notwithstanding s. 302.43, a person is not eligible to earn good time credit on any period of confinement under this section.

SECTION 33. 302.33 (1) of the statutes is amended to read:

302.33 (1) The maintenance of persons who have been sentenced to the state penal institutions; persons in the custody of the department, except as provided in

sub. (2) and ss. 301.048 (7), ~~302.113 (8m)~~, and 302.114 (8m), and 302.115; persons accused of crime and committed for trial; persons committed for the nonpayment of fines and expenses; and persons sentenced to imprisonment therein, while in the county jail, shall be paid out of the county treasury. No claim may be allowed to any sheriff for keeping or boarding any person in the county jail unless the person was lawfully detained therein.

SECTION 34. 303.08 (2) of the statutes is amended to read:

303.08 (2) Unless such privilege is expressly granted by the court or, in the case of a person subject to a confinement sanction under s. ~~302.113 (8m)~~ or 302.114 (8m) or 302.115, the department, the person is sentenced to ordinary confinement. A prisoner, other than a person subject to a confinement sanction under s. ~~302.113 (8m)~~ or 302.114 (8m) or 302.115, may petition the court for such privilege at the time of sentence or thereafter, and in the discretion of the court may renew the prisoner's petition. The court may withdraw the privilege at any time by order entered with or without notice.

SECTION 35. 303.08 (5) (intro.) of the statutes is amended to read:

303.08 (5) (intro.) By order of the court or, for a person subject to a confinement sanction under s. ~~302.113 (8m)~~ or 302.114 (8m) or 302.115, by order of the department, the wages, salary and unemployment insurance and employment training benefits received by prisoners shall be disbursed by the sheriff for the following purposes, in the order stated:

SECTION 36. 303.08 (6) of the statutes is amended to read:

303.08 (6) The department, for a person subject to a confinement sanction under s. ~~302.113 (8m)~~ or 302.114 (8m) or 302.115, or the sentencing court, by order, may authorize the sheriff to whom the prisoner is committed to arrange with another

sheriff for the employment or employment training of the prisoner in the other's county, and while so employed or trained to be in the other's custody but in other respects to be and continue subject to the commitment.

SECTION 37. 303.08 (12) of the statutes is amended to read:

303.08 **(12)** In counties having a house of correction, any person violating the privilege granted under sub. (1) may be transferred by the county jailer to the house of correction for the remainder of the term of the person's sentence or, if applicable, the remainder of the person's confinement sanction under s. ~~302.113 (8m) or 302.114 (8m) or 302.115.~~

SECTION 38. 304.06 (3) of the statutes is renumbered 304.06 (3) (a) and amended to read:

304.06 **(3)** (a) Every paroled prisoner remains in the legal custody of the department unless otherwise provided by the department.

(b) If the department alleges that any condition or rule of parole 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 has been violated it shall afford the prisoner such administrative hearings as are required by law.

(c) Unless waived by the parolee, 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 under par. (g).

(d) Upon request by either party, the administrator of the division of hearings and appeals in the department of administration shall review the order.

(e) 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) in a hearing under this subsection.

(f) If the parolee waives the final administrative hearing, the secretary of corrections shall enter an order revoking or not revoking parole.

(g) If the hearing 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, the examiner, the administrator upon 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. The hearing examiner, administrator, or secretary may not revoke parole under this subsection unless one of the following applies:

(h) 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).

SECTION 39. 304.06 (3) (g) 1. to 5. of the statutes are created to read:

304.06 (3) (g) 1. The person has committed 3 or more independent violations while released on parole.

2. The condition that the person violated was a condition that the person not contact any specified individual.

3. The person was required to register as a sex offender under s. 301.45.

4. When the person violated the condition of parole, the person also allegedly committed a crime.

5. The person failed to report or make himself or herself available for supervision for a period of more than 60 consecutive days.

SECTION 40. 304.06 (3g) of the statutes is repealed.

SECTION 41. 304.072 (4) of the statutes is amended to read:

304.072 (4) The sentence of a revoked parolee or person on extended supervision resumes running on the day he or she is received at a correctional institution subject to sentence credit for the period of custody in a jail, correctional institution or any other detention facility pending revocation according to the terms of s. 973.155 and subject to earned compliance credit under s. 973.156.

SECTION 42. 808.075 (4) (g) 3. of the statutes is amended to read:

808.075 (4) (g) 3. Imposition of sentence upon revocation of probation under s. 973.10 (2) (a) (bm) 2. a.

SECTION 43. 911.01 (4) (c) of the statutes 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. 302.113 (9g), or adjustment of a bifurcated sentence under s. 973.01 (5m), 973.195 (1r) or 973.198; issuance of subpoenas or warrants under s. 968.375, arrest warrants, criminal summonses, and search warrants; hearings under s. 980.09 (2); proceedings under s. 971.14 (1r) (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; or proceedings under s. 165.76 (6) to compel provision of a biological specimen for deoxyribonucleic acid analysis.

SECTION 44. 939.50 (3) (d) of the statutes is amended to read:

939.50 (3) (d) For a Class D felony, a fine not to exceed \$100,000 or imprisonment not to exceed 25 20 years, or both.

SECTION 45. 950.04 (1v) (gm) of the statutes is amended to read:

950.04 (1v) (gm) To have reasonable attempts made to notify the victim of petitions for sentence adjustment as provided under s. 973.01 (5m) (d), 973.018 (3) (e), 973.09 (3m), 973.195 (1r) (d), or 973.198.

****NOTE: This is reconciled s. 950.04 (1v) (gm). This SECTION has been affected by drafts with the following LRB numbers: -0473/p4 and -1661/p1.

SECTION 46. 950.04 (1v) (vg) of the statutes is amended to read:

950.04 (1v) (vg) To have the department of corrections make a reasonable attempt to notify the victim, pursuant to s. 302.107, of a revocation of parole or of release to extended supervision under s. 302.11 (7), 302.113 (9), 302.114 (9), or 304.06 (3) ~~or (3g)~~.

SECTION 47. 973.01 (2) (d) 3. of the statutes is repealed.

SECTION 48. 973.01 (2) (d) 4. of the statutes is amended to read:

973.01 (2) (d) 4. For a Class D, E, F, or G felony, the term of extended supervision may not exceed 5 years.

SECTION 49. 973.01 (3g) of the statutes is repealed.

SECTION 50. 973.01 (5m) of the statutes is created to read:

973.01 (5m) EARLY DISCHARGE FROM EXTENDED SUPERVISION. (a) In this subsection, “qualifying offense” means a crime other than a violation of ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095.

(b) The court may modify the person’s sentence by reducing the term of extended supervision and may order early discharge of the person from the sentence if all of the following apply:

1. The department petitions the court to discharge the person from extended supervision for a qualifying offense.

2. The person has completed 3 years or 50 percent of his or her term of extended supervision for the qualifying offense, whichever is less.

3. The person has satisfied all conditions of extended supervision that were set by the sentencing court for the qualifying offense.

4. The person has satisfied all rules and conditions of supervision that were set by the department for the qualifying offense.

5. The person has fulfilled all financial obligations to his or her victims.

6. The person is not required to register under s. 301.45.

(c) If a person is serving more than one sentence, early discharge under par. (b) applies only to the terms of extended supervision imposed for qualifying offenses.

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

2. When a court receives a petition under par. (b) 1., the clerk of the circuit court shall send a notice of hearing to the victim of the crime committed by the person serving the term of extended supervision, 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 any hearing scheduled under par. (b) and shall inform the victim of the manner in which he or she may provide a statement concerning the early discharge from extended supervision. The clerk of the circuit court shall make a reasonable attempt to send the notice of hearing to the last-known address of the 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 person serving the term of extended supervision 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 person serving a term of extended supervision, 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 person serving a term of extended supervision 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).

SECTION 51. 973.01 (8) (a) 6. of the statutes is created to read:

973.01 (8) (a) 6. The conditions under which the court may reduce the term of the person's extended supervision under sub. (5m).

SECTION 52. 973.01 (8) (ag) of the statutes is amended to read:

973.01 (8) (ag) ~~If the~~ The court provides under sub. (3g) that shall inform the person is ~~eligible to participate in~~ of the availability of the earned release program under s. 302.05 (3), ~~the court shall also inform the person of the provisions of s. 302.05 (3) (e).~~

SECTION 53. 973.10 (2) (intro.) of the statutes is renumbered 973.10 (2) (am) and amended to read:

973.10 (2) (am) If a probationer violates the conditions of probation, the department of corrections may initiate a proceeding before the division of hearings and appeals in the department of administration. Unless waived by the probationer, a hearing examiner for the division shall conduct an administrative hearing and enter an order either revoking or not revoking probation. Upon request of either party, the administrator of the division shall review the order. If the probationer waives the final administrative hearing, the secretary of corrections shall enter an order either revoking or not revoking probation.

(bm) 2. If probation is revoked, the department shall do one of the following:

SECTION 54. 973.10 (2) (a) and (b) of the statutes are renumbered 973.10 (2)

(bm) 2. a. and b.

SECTION 55. 973.10 (2) (bm) 1. of the statutes is created to read:

973.10 (2) (bm) 1. Probation may not be revoked unless one of the following applies:

- a. The person committed 3 or more independent violations while on probation.
- b. The condition that the person violated was a condition that the person not contact any specified individual.
- c. The person was required to register as a sex offender under s. 301.45.
- d. When the person violated the condition of probation, the person also allegedly committed a crime.
- e. The person failed to report or make himself or herself available for supervision for a period of more than 60 consecutive days.

SECTION 56. 973.10 (2s) of the statutes is repealed.

SECTION 57. 973.15 (5) of the statutes is amended to read:

973.15 (5) A convicted offender who is made available to another jurisdiction under ch. 976 or in any other lawful manner shall be credited with service of his or her Wisconsin sentence or commitment under the terms of s. ss. 973.155 and 973.156 for the duration of custody in the other jurisdiction.

SECTION 58. 973.156 of the statutes is created to read:

973.156 Earned compliance credit. (1) In this section, “qualifying offense” means a crime other than a violation of ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095.

(2) Upon the revocation of extended supervision under s. 302.113 (9) or parole under s. 302.11 (7), a person shall be given earned compliance credit toward the service of his or her sentence for a qualifying offense for each day that the person spent on extended supervision or parole without violating a condition or rule of extended supervision or parole prior to the violation that resulted in the revocation. A person may not be given earned compliance credit for any time between the date of the most recent violation and the date of the revocation.

(3) Subsection (2) does not apply to a person who is required to register under s. 301.45.

(4) If a person is serving more than one sentence, earned compliance credit under sub. (2) is earned only for the time spent on extended supervision or parole for qualifying offenses.

(5) The amount of the credit under sub. (2) shall be calculated and applied by the appropriate reviewing authority under s. 302.11 (7) (am) or 302.113 (9) (am) 1.

SECTION 9108. Nonstatutory provisions; Corrections.

(1) EARNED RELEASE PROGRAM; REPORT. No later than the first day of the 12th month beginning after the effective date of this subsection, the department of corrections shall submit a report to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3). The department shall report on the aging and elderly population of inmates in Wisconsin prisons, the costs of health care and other accommodations for that population, and trends and projections for the aging and elderly population and associated costs. The department shall also report on the feasibility, including costs and projected savings, of establishing and operating a state run facility for elderly inmates, the feasibility for adopting electronic monitoring as an alternative to incarceration for elderly

inmates, and the possibility for eligibility for medical assistance for individuals who would qualify for alternatives to incarceration.

(2) **EARNED RELEASE PROGRAM; RULES.** The department of corrections shall update its administrative rules to implement earned release for completion of a vocational readiness training program under s. 302.05 (3), including specification of the eligibility criteria for persons sentenced before the effective date of this subsection to participate in the program.

(3) **CONDITIONS OF SUPERVISION.** No later than July 1, 2022, the department of corrections shall review the efficacy of its standard conditions and rules of supervision, and shall provide a report to the governor, the chief clerk of each house of the legislature for distribution to the appropriate standing committees in the manner provided under s. 13.172 (3), and the director of state courts. The report shall include the number of violations reported for each condition and rule and a comparison of the department of correction's standard conditions and rules of supervision to conditions and rules of supervision in other states.

(4) **EARNED COMPLIANCE CREDIT.** A person who is serving a sentence for a violation other than a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095 and who is in custody upon revocation of extended supervision or parole on the effective date of this subsection may petition the department to be given credit under s. 973.156. Upon proper verification of the facts alleged in the petition, s. 973.156 shall be applied retroactively to the person. If the department is unable to determine whether credit should be given, or otherwise refuses to award retroactive credit, the person may petition the sentencing court for relief. This subsection applies regardless of the date

the person was sentenced. A person who is required to register under s. 301.45 is not eligible to receive credit under this subsection.

(5) REPORTS ON RISK ASSESSMENT AND TRAINING.

(a) The department of corrections shall conduct a review of the department's evidence-based risk assessment tool and shall submit a report to the governor, the chief clerk of each house of the legislature for distribution to the appropriate standing committees in the manner provided under s. 13.172 (3), and the director of state courts no later than the first day of the 12th month beginning after the effective date of this paragraph. The department shall include in the report a review of the available alternatives to the current risk assessment tool and the costs and savings that would result from the use of alternatives. The department shall include in its review the efficacy of an evidence-based risk assessment tool that uses ongoing or recurring evaluations of an individual's ability to meet the conditions of supervision.

(b) The department of corrections shall conduct a review of the department's training of community supervision officers and shall submit a report to the governor, the chief clerk of each house of the legislature for distribution to the appropriate standing committees in the manner provided under s. 13.172 (3), and the director of state courts no later than the first day of the 12th month beginning after the effective date of this paragraph. The department shall include in its report an evaluation of best practices and outcomes of training models used in other states.

SECTION 9308. Initial applicability; Corrections.

(1) REVOCATION AND SANCTIONS. The treatment of ss. 301.035 (2), 302.107 (2), 302.113 (8m) (a) and (b) and (9) (b) and (c), 302.114 (9) (ag), 302.115, 302.33 (1), 303.08 (1) (intro.), (2), (5) (intro.), (6), and (12), 304.06 (3g), 808.075 (4) (g) 3., 950.04 (1v) (vg), 973.10 (2) (intro.), (a), (b), and (bm) 1. and (2s), the renumbering and amendment of

ss. 302.11 (7) (ag) and (am), 302.113 (9) (ag) and (am), and 304.06 (3), and the creation of ss. 302.11 (7) (ag) 1. and (am) 1. a. to e., 302.113 (9) (ag) 1. and 2. and (am) 1. a. to e., and 304.06 (3) (g) 1. to 5. first apply to a person who is alleged to have violated a condition or rule of probation, parole, or extended supervision on the effective date of this subsection.

(END)