



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1862/P1
MJW:wlj

DOA:.....Richter, BB0528 - Earned Release

FOR 2023-2025 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

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 or rule 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 the 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 condition or rule 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.

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 successful completion of a vocational readiness program, which includes educational, vocational, treatment, or other qualifying evidence-based training programs to reduce recidivism, in addition to successful completion of a substance use disorder treatment program. The bill also provides that DOC, not the sentencing court, determines eligibility for all inmates.

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

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

SECTION 2. 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 3. 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 4. 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 5. 302.05 (2) of the statutes is amended to read:

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

SECTION 6. 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), 2021 stats., or s. 973.01 (3g), 2021 stats.

SECTION 7. 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 8. 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 9. 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 10. 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 11. 302.05 (3) (e) of the statutes is repealed.

SECTION 12. 302.11 (7) (am) of the statutes is amended to read:

302.11 (7) (am) The reviewing authority may 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 of the sentence is the entire sentence, less time served in custody prior to parole and less any earned compliance credit under s. 973.156. The revocation order shall provide the parolee with credit in accordance with ss. 304.072 and 973.155.

SECTION 13. 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~~”:

1. “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 14. 302.113 (9) (am) of the statutes is renumbered 302.113 (9) (am) 1. and amended to read:

302.113 (9) (am) 1. 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 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) 2. “Time remaining on the bifurcated sentence is” means 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) 2. 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.

SECTION 15. 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) 1. The period of time specified under par. (am) 1. may be extended in accordance with sub. (3). If a person is returned to prison under par. (am) 1. 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) 1. and any periods of extension imposed in accordance with sub. (3).

SECTION 16. 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) 1. 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 17. 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) 1.

SECTION 18. 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 19. 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 20. 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.

(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 earned compliance 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 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.

(2) **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 of corrections to be given credit under s. 973.156. Upon proper verification of the facts alleged in the petition, credit under s. 973.156 shall be applied retroactively to the person. If the department of corrections is unable to determine whether credit under s. 973.156 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.

(END)