



1995 SENATE BILL 72

February 15, 1995 - Introduced by Senators C. POTTER, PANZER and ANDREA, cosponsored by Representatives OTTE, GOETSCH, ZIEGELBAUER, BAUMGART, DOBYNS, BRANDEMUEHL, RYBA, BOYLE and SERATTI. Referred to Committee on Judiciary.

1 **AN ACT to amend** 946.42 (1) (a) and 946.425 (2); and **to create** 946.425 (1r) and
2 968.255 (7) (d) of the statutes; **relating to:** persons who are ordered to be
3 confined as a condition of probation and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes various changes relating to persons who are confined in a jail or similar facility as a condition of probation:

1. Current law provides penalties for a person who has received a sentence requiring a series of periods of imprisonment and who intentionally fails to report to jail as required by the sentence. This bill makes the same penalties apply to a person who intentionally fails to show up for confinement ordered as a condition of probation. Upon conviction, the person may be fined not more than \$10,000 or imprisoned for not more than 5 years or both.

2. Current law provides penalties for persons who escape from custody. The prohibitions apply to a person on probation only when the person is in actual custody, such as in custody in a jail. This bill makes a probationer subject to the escape law at all times when he or she is subject to an order of confinement as a condition of probation. Upon conviction, the person may be fined not more than \$10,000 or imprisoned for not more than 5 years or both.

3. Current law provides a number of restrictions on the manner in which strip searches and body cavity searches may be conducted. Those restrictions do not apply to certain searches of certain persons, such as a search of a person serving a sentence, pursuant to a conviction, in a jail, state prison or house of correction. This bill provides an additional exception so that the restrictions on strip searches and body cavity searches do not apply to searches of persons who are confined as a condition of probation.

For further information see the *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.** 946.42 (1) (a) of the statutes is amended to read:

2 946.42 (1) (a) “Custody” includes without limitation actual custody of an
3 institution, including a secured juvenile correctional facility, a secure detention
4 facility, as defined under s. 48.02 (16), or a juvenile portion of a county jail, or of a
5 peace officer or institution guard and constructive custody of prisoners and juveniles
6 subject to an order under s. 48.34 (4m) temporarily outside the institution whether
7 for the purpose of work, school, medical care, a leave granted under s. 303.068, a
8 temporary leave or furlough granted to a juvenile or otherwise. Under s. 303.08 (6)
9 it means, without limitation, that of the sheriff of the county to which the prisoner
10 was transferred after conviction. “Custody” also includes the custody by the
11 department of health and social services of a child who is placed in the community
12 under corrective sanctions supervision under s. 48.533. It does not include the
13 custody of a probationer or parolee by the department of corrections or a probation
14 or parole officer or the custody of a person who has been released to aftercare
15 supervision under ch. 48 unless the person is in actual custody or is subject to a
16 confinement order under s. 973.09 (4).

17 **SECTION 2.** 946.425 (1r) of the statutes is created to read:

18 946.425 (1r) Any person who is subject to a confinement order under s. 973.09
19 (4) and who intentionally fails to report to the county jail as required under the order
20 is guilty of a Class D felony.

21 **SECTION 3.** 946.425 (2) of the statutes is amended to read:

