



1997 ASSEMBLY BILL 648

December 4, 1997 - Introduced by Representatives DOBYNS, HOVEN, MUSSER, HASENOHRL, GREEN, GOETSCH, LADWIG, OTTE, KAUFERT, SERATTI, F. LASEE, RYBA, OURADA, GUNDERSON and JOHNSRUD, cosponsored by Senators WELCH, ROSENZWEIG, DRZEWIECKI and DARLING. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to amend** 302.11 (1g) (a) 2., 939.62 (2m) (a) 2. and 973.0135 (1) (b) 2. of
2 the statutes; **relating to:** persistent serious felony offenders.

Analysis by the Legislative Reference Bureau

Under current law, a court must sentence certain 3-time serious felony offenders to life imprisonment without the possibility of parole. Under this so-called "3 strikes, you're out" law, an offender receives a life sentence without the possibility of parole if he or she is being sentenced for a serious felony and he or she has 2 or more previous convictions for serious felonies preceding the current serious felony violation. To be covered under the "3-strikes, you're out" law, at least one of the prior convictions must have occurred before the date of at least one of the other prior serious felony violations. The serious felonies to which the "3 strikes, you're out" law applies include offenses such as homicide, aggravated battery, sexual assault, mayhem, kidnapping, taking hostages, arson, armed burglary, armed robbery, carjacking, assault by a prisoner, certain crimes against children and serious controlled substances violations.

Current law also provides that a person serving a sentence of imprisonment to a state prison who is eligible for parole usually has 3 possible ways of being released on parole: discretionary parole granted by the parole commission (for which a person is usually eligible after serving 25% of the sentence or 6 months, whichever is greater); mandatory release on parole (usually granted automatically after the person serves two-thirds of the sentence); or special action parole release by the secretary of corrections (a program designed to relieve prison crowding). However, if a person is convicted of a serious felony and the person has a prior conviction for a serious felony, a judge may set a discretionary parole eligibility date for the offender that is later than 25% of the sentence or 6 months but not later than the mandatory release date of two-thirds of the sentence. The serious felony offenses covered by this parole provision are the same serious felonies covered by the "3 strikes, you're out" law.

Finally, current law provides that certain serious felony offenders who are serving a prison sentence need not be automatically released when they reach their mandatory release dates. Instead, the parole commission may deny mandatory release to such an offender in order to protect the public or because the offender refused to participate in counseling or treatment. The serious felony offenses covered by this restriction on mandatory release are the same serious felonies covered by the “3 strikes, you’re out” law.

This bill adds 3 crimes to the list of serious felonies covered by the “3 strikes, you’re out” law, the current provisions allowing a judge to set a discretionary parole eligibility date and the current restriction on mandatory release. The crimes added are battery by a prisoner, battery to a law enforcement officer or fire fighter and battery to a probation and parole agent or aftercare agent.

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:

1 **SECTION 1.** 302.11 (1g) (a) 2. of the statutes is amended to read:

2 302.11 (**1g**) (a) 2. Any felony under s. 940.02, 940.03, 940.05, 940.09 (1), 940.19
3 (5), 940.20 (1), (2) or (2m), 940.21, 940.225 (1) or (2), 940.305 (2), 940.31 (1) or (2) (b),
4 943.02, 943.10 (2), 943.23 (1g) or (1m), 943.32 (2), 946.43, 948.02 (1) or (2), 948.025,
5 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, 948.30 (2), 948.35 (1) (b) or (c) or
6 948.36.

7 **SECTION 2.** 939.62 (2m) (a) 2. of the statutes is amended to read:

8 939.62 (**2m**) (a) 2. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
9 (1), 940.19 (5), 940.20 (1), (2) or (2m), 940.21, 940.225 (1) or (2), 940.305, 940.31,
10 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m) or (1r), 943.32 (2), 946.43,
11 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, 948.30
12 (2), 948.35 (1) (b) or (c) or 948.36.

13 **SECTION 3.** 973.0135 (1) (b) 2. of the statutes is amended to read:

