



## 1997 ASSEMBLY BILL 690

January 6, 1998 - Introduced by Representatives F. LASEE, LADWIG, BRANDEMUEHL, OTTE, MUSSER and ALBERS, cosponsored by Senators DARLING and DRZEWIECKI. Referred to Committee on Criminal Justice and Corrections.

1     **AN ACT** *to renumber and amend* 303.065 (1); *to amend* 304.02 (5), 304.071 (2)  
2             and 973.014 (1) (intro.); and *to create* 304.02 (3m), 940.01 (4) and 973.014 (1m)  
3             of the statutes; **relating to:** causing the death of children under certain  
4             circumstances and affecting parole eligibility.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person who causes the death of another human being with intent to kill that person or another is guilty of first-degree intentional homicide and must be sentenced to life imprisonment. A person serving a sentence of life imprisonment usually must serve 20 years minus time calculated under the mandatory release formula (currently set at two-thirds of the length of the sentence) before he or she is eligible for release on parole. Thus, if the person does not receive extensions due to violations of prison rules, he or she reaches parole eligibility after serving 13 years, 4 months. However, a judge may set a parole eligibility date for a person serving a life sentence that is later than the usual parole eligibility date or may provide that the person is not eligible for parole.

This bill changes parole eligibility for persons who are convicted of certain first-degree intentional homicides. Specifically, a person sentenced to life imprisonment after a conviction for first-degree intentional homicide is not eligible for parole until he or she has served 25 years if the victim of the homicide was a child under the age of 16 years and if the convicted person was responsible for the welfare of the child victim. As under current law, the sentencing court may set a parole

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eligibility date that is later than 25 years or may provide that the person is not eligible for parole.

For purposes of the parole eligibility changes made by the bill, a person responsible for the welfare of a child includes the following: 1) the child's parent, stepparent, guardian, foster parent or treatment foster parent; 2) an employe of a public or private residential home, institution or agency; 3) a person legally responsible for the child's welfare in a residential setting; and 4) a person employed by one legally responsible for the child's welfare to exercise temporary control or care for the child.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 303.065 (1) of the statutes is renumbered 303.065 (1) (intro.) and  
2 amended to read:

3           303.065 (1) (intro.) The department may grant work release privileges to any  
4 person incarcerated within the state prisons, except that ~~no~~ as follows:

5           (a) No person serving a life sentence may be considered for work release until  
6 he or she has reached parole eligibility under s. 304.06 (1) (b) or 973.014 (1) (a) or (b)  
7 or (1m) (a) or (b), whichever is applicable, ~~and no~~.

8           (b) No person serving a life sentence under s. 939.62 (2m) or 973.014 (1) (c) or  
9 (1m) (c) may be considered for work release.

10           **SECTION 2.** 304.02 (3m) of the statutes is created to read:

11           304.02 (3m) Notwithstanding subs. (1) to (3), a prisoner who is serving a life  
12 sentence under s. 973.014 (1m) (a) or (b) is not eligible for release to parole  
13 supervision under this section unless he or she has served at least 25 years of his or  
14 her sentence.

15           **SECTION 3.** 304.02 (5) of the statutes is amended to read:

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1           304.02 (5) Notwithstanding subs. (1) to (3), a prisoner who is serving a life  
2 sentence under s. 939.62 (2m) or 973.014 (1) (c) or (1m) (c) is not eligible for release  
3 to parole supervision under this section.

4           **SECTION 4.** 304.071 (2) of the statutes is amended to read:

5           304.071 (2) If a prisoner is not eligible for parole under s. 939.62 (2m), 961.49  
6 (2), 973.014 (1) (c) or (1m) (c) or 973.032 (5), he or she is not eligible for parole under  
7 this section.

8           **SECTION 5.** 940.01 (4) of the statutes is created to read:

9           940.01 (4) PAROLE ELIGIBILITY IN CERTAIN CASES. (a) A defendant convicted of a  
10 violation of sub. (1) committed on or after the effective date of this subsection ...  
11 [revisor inserts date], is subject to s. 973.014 (1m) if all of the following apply:

12           1. The human being whose death is caused by the defendant was a child who  
13 had not attained the age of 16.

14           2. At the time he or she caused the child's death, the defendant was a person  
15 responsible for the child's welfare, as defined in s. 948.01 (3).

16           (b) The court shall direct that the trier of fact find a special verdict as to all of  
17 the issues specified in par. (a).

18           **SECTION 6.** 973.014 (1) (intro.) of the statutes is amended to read:

19           973.014 (1) (intro.) Except as provided in ~~sub.~~ subs. (1m) and (2), when a court  
20 sentences a person to life imprisonment for a crime committed on or after July 1,  
21 1988, the court shall make a parole eligibility determination regarding the person  
22 and choose one of the following options:

23           **SECTION 7.** 973.014 (1m) of the statutes is created to read:

24           973.014 (1m) When a court sentences a person to life imprisonment for a  
25 violation of s. 940.01 (1) to which s. 940.01 (4) applies, the court shall make a parole

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**SECTION 7**

1 eligibility determination regarding the person and choose one of the following  
2 options:

3 (a) The person is eligible for parole after he or she has served 25 years.

4 (b) The person is eligible for parole on a date set by the court. Under this  
5 paragraph, the court may set any later date than that provided in par. (a), but may  
6 not set a date that occurs before the earliest possible parole eligibility date as  
7 calculated under par. (a).

8 (c) The person is not eligible for parole.

9 (END)