



2013 ASSEMBLY BILL 896

March 31, 2014 – Introduced by Representatives GOYKE, HEBL, BERCEAU, KESSLER, OHNSTAD and PASCH, cosponsored by Senator HARRIS. Referred to Committee on Corrections.

1 **AN ACT** *to renumber* 973.10 (2) (a) and (b); *to renumber and amend* 302.113
2 (9) (ag) and 973.10 (2) (intro.); *to amend* 302.113 (9) (am), 302.113 (9) (b),
3 302.113 (9) (c) and 808.075 (4) (g) 3.; and *to create* 302.113 (9) (ag) 1. and
4 302.113 (9) (am) 2. a. of the statutes; **relating to:** length of time in confinement
5 following revocation of extended supervision or probation for violating a
6 condition.

Analysis by the Legislative Reference Bureau

Under current law, if a person not serving a life sentence is released to extended supervision and violates a condition of extended supervision, the person's release may be revoked. If the person's release is revoked, the person must return to prison for a period that does not exceed the time remaining on the bifurcated sentence. Under this bill, if a person released to extended supervision violates a condition of extended supervision and the violation is not a crime and the person did not abscond, the person must return to prison for a period not to exceed 90 days if the person is not required to register with the Department of Corrections (DOC) as a sex offender.

Under current law, if a person on probation violates a condition of probation, the person's probation may be revoked. If the person's probation is revoked, the person is ordered to prison for a length of time imposed by the sentencing court. Under this bill, if a person on probation violates a condition of probation and the violation is not a crime and the person did not abscond, the person must be ordered

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to prison for a period not to exceed 90 days if the person is not required to register with the DOC as a sex offender.

For further information see the *state and 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.** 302.113 (9) (ag) of the statutes is renumbered 302.113 (9) (ag)
2 (intro.) and amended to read:

3 302.113 (9) (ag) (intro.) In this subsection “~~reviewing:~~

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

7 **SECTION 2.** 302.113 (9) (ag) 1. of the statutes is created to read:

8 302.113 (9) (ag) 1. “Crime” has the meaning given in s. 939.12.

9 **SECTION 3.** 302.113 (9) (am) of the statutes is amended to read:

10 302.113 (9) (am) 1. If a person released to extended supervision under this
11 section violates a condition of extended supervision, the reviewing authority may
12 revoke the extended supervision of the person.

13 2. If the extended supervision of the person is revoked, the reviewing authority
14 shall order the person to be returned to prison for any specified period of time that
15 does not exceed one of the following:

16 b. If, when the person violated the condition of extended supervision, the
17 person also allegedly committed a crime or the person absconded or if the person was
18 required to register as a sex offender under s. 301.45, the time remaining on the
19 bifurcated sentence. ~~The time~~

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1 (ag) 3. “Time remaining on the bifurcated sentence” is the total length of the
2 bifurcated sentence, less time served by the person in confinement under the
3 sentence before release to extended supervision under sub. (2) and less all time
4 served in confinement for previous revocations of extended supervision under the
5 sentence.

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

9 **SECTION 4.** 302.113 (9) (am) 2. a. of the statutes is created to read:

10 302.113 (9) (am) 2. a. If, when the person violated the condition of extended
11 supervision, the person did not also allegedly commit a crime and did not abscond
12 and if the person was not required to register as a sex offender under s. 301.45, 90
13 days.

14 **SECTION 5.** 302.113 (9) (b) of the statutes is amended to read:

15 302.113 (9) (b) A person who is returned to prison after revocation of extended
16 supervision shall be incarcerated for the entire period of ~~time~~ specified by the order
17 under par. (am) 2. The period of ~~time~~ specified under par. (am) 2. may be extended
18 in accordance with sub. (3). If a person is returned to prison under par. (am) for a
19 period of ~~time~~ that is less than the time remaining on the bifurcated sentence, the
20 person shall be released to extended supervision after he or she has served the period
21 of ~~time~~ specified by the order under par. (am) 2. and any periods of extension imposed
22 in accordance with sub. (3).

23 **SECTION 6.** 302.113 (9) (c) of the statutes is amended to read:

24 302.113 (9) (c) A person who is subsequently released to extended supervision
25 after service of the period of ~~time~~ specified by the order under par. (am) 2. is subject

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1 to all conditions and rules under sub. (7) and, if applicable, sub. (7m) until the
2 expiration of the remaining extended supervision portion of the bifurcated sentence.
3 The remaining extended supervision portion of the bifurcated sentence is the total
4 length of the bifurcated sentence, less the time served by the person in confinement
5 under the bifurcated sentence before release to extended supervision under sub. (2)
6 and less all time served in confinement for previous revocations of extended
7 supervision under the bifurcated sentence.

8 **SECTION 7.** 808.075 (4) (g) 3. of the statutes is amended to read:

9 808.075 (4) (g) 3. Imposition of sentence upon revocation of probation under s.
10 973.10 (2) (a) (bm) 2. a.

11 **SECTION 8.** 973.10 (2) (intro.) of the statutes is renumbered 973.10 (2) (am) and
12 amended to read:

13 973.10 (2) (am) If a probationer violates the conditions of probation, the
14 department of corrections may initiate a proceeding before the division of hearings
15 and appeals in the department of administration. Unless waived by the probationer,
16 a hearing examiner for the division shall conduct an administrative hearing and
17 enter an order either revoking or not revoking probation. Upon request of either
18 party, the administrator of the division shall review the order. If the probationer
19 waives the final administrative hearing, the secretary of corrections shall enter an
20 order either revoking or not revoking probation.

21 (bm) 1. If probation is revoked, the probationer may not be ordered to prison
22 for a period that exceeds 90 days if the probationer is not required to register as a sex
23 offender under s. 301.45, and if, when the probationer violated a condition of
24 probation, the probationer did not also allegedly commit a crime, as defined in s.
25 939.12, and did not abscond.

