



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2172/1
PJH:kjf

2015 ASSEMBLY BILL 309

August 12, 2015 - Introduced by Representatives JOHNSON, GOYKE, BARNES, BOWEN, GENRICH, C. TAYLOR, KESSLER, ZEPNICK, HESSELBEIN, BERCEAU, OHNSTAD, SPREITZER, KOLSTE and BROSTOFF, cosponsored by Senators L. TAYLOR and VINEHOUT. Referred to Committee on Corrections.

1 **AN ACT** *to amend* 302.11 (7) (am), 302.113 (9) (am), 302.114 (9) (am) and 304.06
2 (3); and *to create* 301.038 of the statutes; **relating to:** limiting the number of
3 annual revocations of extended supervision and parole for violations that are
4 not a crime.

Analysis by the Legislative Reference Bureau

Under current law, a person may be released from confinement in prison to the community on parole or under extended supervision. A person who is released to the community must comply with certain conditions relating to his or her behavior while in the community (conditions of parole or extended supervision). If a person who is released violates a condition of parole or extended supervision, the person's release may be revoked and the person must return to prison for a period of time, depending on the nature of the violation.

Under this bill, the Department of Corrections, the Parole Commission, and the Division of Hearings and Appeals may order no more than 3,000 revocations and returns to prison annually for violations of conditions of parole or extended supervision that are not crimes.

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:

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1 **SECTION 1.** 301.038 of the statutes is created to read:

2 **301.038 Revocation of parole, probation, or extended supervision;**
3 **annual limit.** The department, the parole commission, and the division of hearings
4 and appeals in the department of administration may not order more than 3,000
5 revocations of parole and returns to prison under s. 302.11 or 304.06 and revocations
6 of extended supervision and returns to prison under s. 302.113 or 302.114, for
7 violations that are not crimes, annually.

8 **SECTION 2.** 302.11 (7) (am) of the statutes is amended to read:

9 302.11 (7) (am) The Subject to s. 301.038, the reviewing authority may return
10 a parolee released under sub. (1) or (1g) (b) or s. 304.02 or 304.06 (1) to prison for a
11 period up to the remainder of the sentence for a violation of the conditions of parole.
12 The remainder of the sentence is the entire sentence, less time served in custody
13 prior to parole. The revocation order shall provide the parolee with credit in
14 accordance with ss. 304.072 and 973.155.

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

16 302.113 (9) (am) If a person released to extended supervision under this section
17 violates a condition of extended supervision, the reviewing authority may, subject to
18 s. 301.038, revoke the extended supervision of the person. If the extended
19 supervision of the person is revoked, the reviewing authority shall order the person
20 to be returned to prison for any specified period of time that does not exceed the time
21 remaining on the bifurcated sentence. The time remaining on the bifurcated
22 sentence is the total length of the bifurcated sentence, less time served by the person
23 in confinement under the sentence before release to extended supervision under sub.
24 (2) and less all time served in confinement for previous revocations of extended
25 supervision under the sentence. The order returning a person to prison under this

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1 paragraph shall provide the person whose extended supervision was revoked with
2 credit in accordance with ss. 304.072 and 973.155.

3 **SECTION 4.** 302.114 (9) (am) of the statutes is amended to read:

4 302.114 (9) (am) If a person released to extended supervision under this section
5 violates a condition of extended supervision, the reviewing authority may, subject to
6 s. 301.038, revoke the extended supervision of the person. If the extended
7 supervision of the person is revoked, the person shall be returned to the circuit court
8 for the county in which the person was convicted of the offense for which he or she
9 was on extended supervision, and the court shall order the person to be returned to
10 prison for a specified period of time before he or she is eligible for being released again
11 to extended supervision. The period of time specified under this paragraph may not
12 be less than 5 years and may be extended in accordance with sub. (3).

13 **SECTION 5.** 304.06 (3) of the statutes is amended to read:

14 304.06 (3) Every paroled prisoner remains in the legal custody of the
15 department unless otherwise provided by the department. If the department alleges
16 that any condition or rule of parole has been violated by the prisoner, the department
17 may take physical custody of the prisoner for the investigation of the alleged
18 violation. If the department is satisfied that any condition or rule of parole has been
19 violated it shall afford the prisoner such administrative hearings as are required by
20 law. Unless waived by the parolee, the final administrative hearing shall be held
21 before a hearing examiner from the division of hearings and appeals in the
22 department of administration who is licensed to practice law in this state. ~~The~~
23 Subject to s. 301.038, the hearing examiner shall enter an order revoking or not
24 revoking parole. Upon request by either party, the administrator of the division of
25 hearings and appeals shall review the order. The hearing examiner may order that

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1 a deposition be taken by audiovisual means and allow the use of a recorded
2 deposition under s. 967.04 (7) to (10). If Subject to s. 301.038, if the parolee waives
3 the final administrative hearing, the secretary of corrections shall enter an order
4 revoking or not revoking parole. If Subject to s. 301.038, if the examiner, the
5 administrator upon review, or the secretary in the case of a waiver finds that the
6 prisoner has violated the rules or conditions of parole, the examiner, the
7 administrator upon review, or the secretary in the case of a waiver, may order the
8 prisoner returned to prison to continue serving his or her sentence, or to continue on
9 parole. If the prisoner claims or appears to be indigent, the department shall refer
10 the prisoner to the authority for indigency determinations specified under s. 977.07
11 (1).

12 **SECTION 6. Effective date.**

13 (1) This act takes effect on January 1, 2016.

14 (END)