

State of Wisconsin



1995 Assembly Bill 444

Date of enactment: April 24, 1996

Date of publication*: May 8, 1996

1995 WISCONSIN ACT 281

AN ACT to amend 301.37 (1), 302.38 (4), 302.381, 302.425 (1) (b), 302.425 (3), 351.08, 973.03 (3) (d) and 973.09 (4); and to create 102.07 (17), 161.01 (12m) (f), 302.372, 303.08 (5m) and 303.10 of the statutes; relating to: county prisoners and county work camps.

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

SECTION 1. 102.07 (17) of the statutes is created to read:

102.07 (17) A prisoner of a county jail who is assigned to a work camp under s. 303.10 is not an employe of the county or counties providing the work camp while the prisoner is working under s. 303.10 (3).

SECTION 2. 161.01 (12m) (f) of the statutes is created to read:

161.01 (12m) (f) A work camp under s. 303.10.

SECTION 3. 301.37 (1) of the statutes is amended to read:

301.37 (1) The department shall fix reasonable standards and regulations for the design, construction, repair and maintenance of houses of correction, reforestation camps maintained under s. 303.07, jails as defined in s. 302.30, extensions of jails under s. 59.68 (7), rehabilitation facilities under s. 59.07 (76), lockup facilities as defined in s. 302.30, work camps under s. 303.10, Huber facilities under s. 303.09 and, after consulting with the department of health and social services, secure detention facilities, with respect to their adequacy and fitness for the needs which they are to serve.

SECTION 4. 302.372 of the statutes is created to read:

302.372 Prisoner reimbursement to a county. (1) DEFINITIONS. In this section:

(a) "Jail" includes a house of correction, Huber facility under s. 303.09 or a work camp under s. 303.10.

(b) "Jailer" includes a sheriff, superintendent or other keeper of a jail.

(2) REIMBURSEMENT OF EXPENSES; COUNTY OPTION.

(a) Except as provided in pars. (c) and (d), a county may seek reimbursement for any expenses incurred by the county in relation to the crime for which a person was sentenced to a county jail, or for which the person was placed on probation and confined in jail, as follows:

1. From each person who is or was a prisoner, not more than the actual per-day cost of maintaining that prisoner, as set by the county board by ordinance, for the entire period of time that the person is or was confined in the jail, including any period of pretrial detention.

2. To investigate the financial status of the person.

3. Any other expenses incurred by the county in order to collect payments under this section.

(b) Before seeking any reimbursement under this section, the county shall provide a form to be used for determining the financial status of prisoners. The form shall provide for obtaining the social security number of the prisoner, the age and marital status of a prisoner, the number and ages of children of a prisoner, the number

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

and ages of other dependents of a prisoner, the income of a prisoner, type and value of real estate owned by a prisoner, type and value of personal property owned by a prisoner, the prisoner's cash and financial institution accounts, type and value of the prisoner's investments, pensions and annuities and any other personalty of significant cash value owned by a prisoner. The county shall use the form whenever investigating the financial status of prisoners. The information on a completed form is confidential and not open to public inspection or copying under s. 19.35 (1).

(c) This section applies to expenses incurred on or after the effective date of this paragraph [revisor inserts date].

(d) The jailer shall choose, for each prisoner, whether to seek reimbursement under this section or as otherwise provided in chs. 301 to 303, but may not collect for the same expenses twice. The jailer may choose to seek reimbursement for the expenses under sub. (2) (a) using the method under sub. (5), the method under sub. (6) or a combination of both methods, but may not seek reimbursement for the same expenses twice.

(3) LIST OF PRISONERS; INFORMATION; REPORTS. Upon request of the district attorney or the corporation counsel for the county, the jailer shall provide the district attorney or corporation counsel with a list containing the name of each sentenced prisoner or prisoner confined as a condition of probation, the term of sentence or confinement, and the date of admission, together with information regarding the financial status of each prisoner to enable the county to obtain reimbursement under this section.

(4) PRISONER COOPERATION. A prisoner in a jail shall cooperate with the county in seeking reimbursement under this section for expenses incurred by the county for that prisoner. A prisoner who intentionally refuses to cooperate under this subsection may not earn good time credit under s. 302.43 or diminution of sentence under s. 303.19 (3). If the prisoner is confined as a condition of probation, refusal to cooperate is a ground for revocation of probation.

(5) CHARGE TO OBTAIN REIMBURSEMENT. The jailer may charge a prisoner for the expenses under sub. (2) (a) while he or she is a prisoner. If the jailer maintains an institutional account for a prisoner's use for payment for items from canteen, vending or similar services, the jailer may make deductions from the account to pay for the expenses under sub. (2) (a). Any money collected under this subsection shall be deposited in the county treasury.

(6) ACTION TO OBTAIN REIMBURSEMENT. (a) Within 12 months after the release of a prisoner from jail, the county where the jail is located shall commence a civil action in circuit court to obtain a judgment for the expenses under sub. (2) (a) or be barred. The jailer shall provide any assistance that the county requests related to an action under this subsection.

(b) An action commenced under this subsection shall be commenced in the county where the jail is located or in the county where the defendant resides.

(c) The complaint in an action commenced under this subsection shall include the date and place of the sentence, the length of time of the sentence, the length of time actually served in the jail and the amount of expenses incurred by the county under sub. (2) (a).

(d) Before entering a judgment for the county, the court shall consider any legal obligations of the defendant for support or maintenance under ch. 767 and any moral obligation of the defendant to support dependants and may reduce the amount of the judgment entered for the county based on those obligations.

(e) Any money obtained as the result of an action commenced under this subsection shall be deposited in the county treasury.

SECTION 5. 302.38 (4) of the statutes, as affected by 1995 Wisconsin Act 43, is amended to read:

302.38 (4) The governmental unit paying the costs of medical or hospital care under this section, regardless of whether the care is provided in or out of the jail or house of correction, may collect the value of the same from the prisoner or the prisoner's estate as provided for in s. 49.08. If applicable, the governmental unit may proceed to collect under this section or may seek reimbursement under s. 302.372, but may not collect for the same expenses twice.

SECTION 6. 302.381 of the statutes is amended to read:

302.381 Emergency services for crisis intervention for prisoners. The costs of providing emergency services for crisis intervention for prisoners of a jail or house of correction with medical illnesses or disabilities, mental illnesses, developmental disabilities or alcohol or other drug abuse problems are payable according to the criteria under s. 302.38 (2). If applicable, a county may seek payment under this section or seek reimbursement under s. 302.372, but may not collect for the same expenses twice.

SECTION 7. 302.425 (1) (b) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

302.425 (1) (b) "Jail" includes a house of correction, a work camp under s. 303.10 and a Huber facility under s. 303.09.

SECTION 8. 302.425 (3) of the statutes, as affected by 1995 Wisconsin Acts 26 and 27, is amended to read:

302.425 (3) PLACEMENT OF A PRISONER IN THE PROGRAM. If a prisoner described under sub. (2) and the department of corrections agree, the sheriff or superintendent may place the prisoner in the home detention program and provide that the prisoner be detained at the prisoner's place of residence or other place designated by the sheriff or superintendent and be monitored by an active electronic monitoring system. The sheriff or super-

intendent shall establish reasonable terms of detention and ensure that the prisoner is provided a written statement of those terms, including a description of the detention monitoring procedures and requirements and of any applicable liability issues. The terms may include a requirement that the prisoner pay the county a daily fee to cover the county costs associated with monitoring him or her. The county may obtain payment under this subsection or s. 302.372, but may not collect for the same expenses twice.

SECTION 9. 303.08 (5m) of the statutes is created to read:

303.08 (5m) A county may receive payments under sub. (5) (a) and (b) or seek reimbursement under s. 302.372, but may not collect for the same expenses twice.

SECTION 10. 303.10 of the statutes is created to read:

303.10 County work camp. (1) (a) Subject to par. (b), the county board of any county may provide a work camp for the reformation and employment of persons sentenced to the county jail. Any 2 or more counties may jointly provide one work camp.

(b) Before establishing a work camp under par. (a), the county board or, if 2 or more counties want jointly to provide one work camp, the county boards of all of the counties providing the work camp shall agree with the sheriff who will administer the work camp concerning the staffing level of the work camp. If the county board or, if applicable, county boards and the sheriff do not reach an agreement concerning the staffing level of a work camp, the county board or, if applicable, county boards may not establish the work camp.

(1g) If a county board establishes a work camp under sub. (1), the sheriff of the county or a person designated by that sheriff shall administer the work camp unless the county board provides otherwise. If 2 or more counties jointly provide for one work camp under sub. (1), the sheriff of the county in which the work camp is located, or a person designated by that sheriff, shall administer the work camp unless the county boards of the counties that jointly established the work camp provide otherwise by unanimous agreement.

(1r) A work camp established under sub. (1) may be located within the house of correction of the county in which the work camp is located, if the county has a house of correction and if the work camp is operated as a separate unit from the house of correction.

(2) The sheriff may transfer persons between a county jail and a work camp.

(3) The sheriff may provide prisoners assigned to a work camp the opportunity, on a volunteer basis, to do any of the following:

(a) Perform supervised work at paid employment in the community.

(c) Perform supervised work on a project that serves the public interest or a charitable purpose and is operated by an organization that is exempt from federal income

taxation under section 501 (c) (3) of the internal revenue code, but only if the work performed does not result in a competitive disadvantage to a for-profit enterprise.

(4) The sheriff shall not assign prisoners to work under sub. (3) on projects in a manner that results in the displacement of employed persons from their jobs or the replacement of workers on strike or locked out of work. Before prisoners assigned to work under sub. (3) begin work, the employer or other person in charge of a place of employment that is the site of the proposed work project shall post, at the locations where notices to employees are usually posted, a written notice informing employees that prisoners have been assigned under this section to work at the place of employment. If a collective bargaining agreement is in effect at a place of employment that is the site of a proposed work project under sub. (3) (c), that bargaining unit must agree to the assignment of prisoners at the place of employment before the assignment is made.

(5) Any intentional failure of a prisoner to report to or return from a work assignment is considered an escape under s. 946.42 (3) (a).

(6) Any prisoner employed under sub. (3) (a) shall reimburse the county for food, clothing and daily travel expenses to and from work for days worked. The county may collect moneys under sub. (8) or may seek reimbursement under s. 302.372, but may not collect for the same expenses twice.

(7) The sheriff shall collect the wages or salary of each prisoner employed under sub. (3) or require the prisoner to turn over the wages, salary or benefits in full when received. The sheriff shall deposit the wages, salary or benefits in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salary are not subject to garnishment in the hands of either the employer or the sheriff during the prisoner's term, and shall be disbursed only as provided in this section; but for tax purposes they are income of the prisoner.

(8) The sheriff shall disburse wages, salary or benefits collected under sub. (7) using the priority order under s. 303.08 (5).

(10) An employer that employs a prisoner for work under this section shall pay the prisoner at a rate set by the county board by ordinance.

(11) (a) Any officer, employe or agent of a county, employer or organization involved in the provision of any of the work camp options listed under sub. (3), and the county, employer and organization, are immune from civil liability for the death or injury of a prisoner caused by the good faith act or omission of the officer, employe or agent of the county, employer or organization related to carrying out any responsibilities under a work camp option.

(b) The immunity under this subsection includes any good faith act or omission that occurs during the trans-

portation of a prisoner to or from a work camp option listed under sub. (3).

(c) The immunity under this subsection does not apply to any person whose act or omission involves reckless, wanton or intentional misconduct.

SECTION 11. 351.08 of the statutes is amended to read:

351.08 Operation of motor vehicle by habitual traffic offender or repeat habitual traffic offender prohibited; penalty; enforcement. Any person who is convicted of operating a motor vehicle in this state while the revocation under this chapter is in effect shall, in addition to any penalty imposed under s. 343.44, be fined not to exceed \$5,000 and imprisoned not to exceed 180 days. No portion of the sentence may be suspended, except in a case where operating was made necessary by a situation of emergency, as determined by the court. Any person imprisoned under this section, on his or her request, may be allowed Huber law work privileges under s. 303.08 or may be allowed to work under s. 303.10 (3). For the purpose of enforcing this section, in any case in which the accused is charged with driving a motor vehicle while his or her license, permit or privilege to drive is suspended or revoked or is charged with driving without a license, the court before hearing the charge shall determine whether the person is a habitual traffic offender or repeat habitual traffic offender and therefore barred from operating a motor vehicle on the highways of this state.

SECTION 12. 973.03 (3) (d) of the statutes is amended to read:

973.03 (3) (d) This subsection applies to persons who are sentenced to a county jail but are transferred to a Huber facility under s. 303.09, to a county work camp under s. 303.10 or to a tribal jail under s. 302.445.

SECTION 13. 973.09 (4) of the statutes is amended to read:

973.09 (4) The court may also require as a condition of probation that the probationer be confined during such

period of the term of probation as the court prescribes, but not to exceed one year. The court may grant the privilege of leaving the county jail, Huber facility, work camp or tribal jail during the hours or periods of employment or other activity under s. 303.08 (1) (a) to (e) while confined under this subsection. The court may specify the necessary and reasonable hours or periods during which the probationer may leave the jail, Huber facility, work camp or tribal jail or the court may delegate that authority to the sheriff. In those counties without a Huber facility under s. 303.09, a work camp under s. 303.10 or an agreement under s. 302.445, the probationer shall be confined in the county jail. In those counties with a Huber facility under s. 303.09, the sheriff shall determine whether confinement under this subsection is to be in that facility or in the county jail. In those counties with a work camp under s. 303.10, the sheriff shall determine whether confinement is to be in the work camp or the county jail. The sheriff may transfer persons confined under this subsection between a Huber facility or a work camp and the county jail. In those counties with an agreement under s. 302.445, the sheriff shall determine whether confinement under this subsection is to be in the tribal jail or the county jail, unless otherwise provided under the agreement. In those counties, the sheriff may transfer persons confined under this subsection between a tribal jail and a county jail, unless otherwise provided under the agreement. While subject to this subsection, the probationer is subject to s. 303.08 (1), (3) to (6), (8) to (12) and (14); or to s. 303.10, whichever is applicable, and to all the rules of the county jail, Huber facility, work camp or tribal jail and the discipline of the sheriff.

SECTION 14. Initial applicability.

(1) The treatment of section 302.372 of the statutes first applies to expenses incurred on the effective date of this subsection.