2009 SENATE BILL 318

September 30, 2009 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1   AN ACT *to repeal* 302.042 (3); and *to amend* 302.042 (4) and 973.031 of the

2   statutes; **relating to:** risk reduction programming.

Analysis by the Legislative Reference Bureau

Under current law, a person who is sentenced for a felony receives a bifurcated sentence, which requires the person to serve a portion of his or her sentence in prison (incarceration portion) and a portion in the community under extended supervision. 2009 Wisconsin Act 28 created an option for persons who are convicted of certain felonies. Under the act, with certain exceptions listed below, the sentencing court may order a person to serve a risk reduction sentence if the court determines that a risk reduction sentence is appropriate, the person agrees to cooperate in an assessment provided by the Department of Corrections (DOC), and the person agrees to participate in programming or treatment that DOC determines is appropriate for the person. Under the act, DOC may modify the person's treatment or program plan for any reason.

A court may not order a risk reduction sentence for a person convicted of felony murder, second–degree reckless homicide, a strangulation or suffocation offense, human trafficking, kidnapping, certain stalking offenses, disarming a peace officer, tampering with a global positioning system, certain offenses involving the physical abuse or neglect of a child, certain offenses against an elderly or vulnerable person, certain offenses related to ethical government, or certain offenses involving weapons in a school.

If a person successfully completes the program and treatment plan DOC determines is appropriate for the person and the person maintains a good conduct

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record while in prison, he or she may be released from incarceration to extended supervision in the community after he or she has served at least 75 percent of the incarceration portion of his or her sentence.

   Under this bill, DOC may not modify an inmate's program and must release an inmate when the inmate has served 75 percent of the incarceration portion of his or her sentence if the inmate successfully completes his or her program and treatment plan. The bill also eliminates the list of offenses that render a person ineligible for a risk reduction sentence.

   Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

   JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Justice Reinvestment Initiative Oversight.

   The bill permits a court to order a risk reduction sentence for a person who has been convicted of a felony if the court determines that a risk reduction sentence is appropriate and if the person agrees to all of the following:

   1. To cooperate in an assessment of the person's criminogenic needs and risk of re−offending.

   2. To participate in any programming or treatment ordered by the Department of Corrections (DOC) to address issues raised in any risk assessment conducted by DOC.

   The bill requires DOC to conduct a criminogenic needs and risk assessment of any person under a risk reduction sentence and requires DOC to provide programming and treatment to address the risks and needs identified in the risk assessment.

   If DOC determines that a person has successfully completed a risk reduction sentence, DOC must release the person to extended supervision after the person has served 75% of the person's term of confinement and must notify the court that the person has, to that point, successfully completed the risk reduction sentence.

1   SECTION 1. 302.042 (3) of the statutes, as created by 2009 Wisconsin Act 28, is

2   repealed.

3   SECTION 2. 302.042 (4) of the statutes, as created by 2009 Wisconsin Act 28, is

4   amended to read:

5   302.042 **(4)** The department shall release an inmate who is serving a risk

6   reduction sentence to extended supervision when he or she serves ~~not less than~~ 75

7   percent of the term of confinement portion of his or her sentence imposed under s.

1   973.01 and the department determines that he or she has completed the

2   programming or treatment under his or her plan ~~and that the inmate maintained a~~

3   ~~good conduct record during his or her term of confinement.~~ Not less than 30 days

4   prior to release under this subsection, the department shall notify the sentencing

5   court that the inmate has thus far successfully completed the requirements of his or

6   her risk reduction sentence.

7   **SECTION 3.** 973.031 of the statutes, as created by 2009 Wisconsin Act 28, is

8   amended to read:

9   **973.031 Risk reduction sentence.** Whenever a court imposes a sentence for

10   a felony under s. 973.01, the court may order the person it sentences to serve a risk

11   reduction sentence if the court determines that a risk reduction sentence is

12   appropriate and the person agrees to cooperate in an assessment of his or her

13   criminogenic factors and his or her risk of reoffending, and to participate in

14   programming or treatment the department develops for the person under s. 302.042

15   (1). ~~This section does not apply if the court sentences a person for a violation of s.~~

16   ~~940.03, 940.06, 940.11 (1), 940.235, 940.302, 940.31 (1), 940.32 (3), 941.21, 946.465,~~

17   ~~948.03 (2) (a), or 948.40 (4) (a) or for a felony murder under s. 940.03, an offense~~

18   ~~against an elderly or vulnerable person, as defined in s. 939.22 (20d), an offense~~

19   ~~related to ethical government, as defined in s. 939.22 (20m), or an offense related to~~

20   ~~school safety, as defined in s. 939.22 (20s).~~

21   **SECTION 4. Effective date.**

22   (1) This act takes effect on October 2, 2009.

23   **(END)**