



2019 ASSEMBLY BILL 943

February 24, 2020 - Introduced by Representatives TITTL, EDMING, JAMES, MAGNAFICI and WICHGERS, cosponsored by Senator BEWLEY. Referred to Committee on Judiciary.

1 **AN ACT to amend** 971.17 (3) (e) and 971.17 (4) (a) of the statutes; **relating to:**
2 petitions for conditional release following revocation of conditional release.

Analysis by the Legislative Reference Bureau

Under current law, if a person is committed to institutional care following a finding of not guilty by mental disease or mental defect, the person may petition a court to be placed on conditional release after six months of commitment. If the court grants conditional release, the court may revoke the release if the person violates a rule or condition of the release or for the safety of the person or another. Under current law, if a court revokes a person's conditional release, the person may not petition the court to be placed again on conditional release until at least six months have passed since the revocation. Under this bill, if a court revokes a person's conditional release, that court must determine when the person may petition the court to be placed again on conditional release.

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

3 **SECTION 1.** 971.17 (3) (e) of the statutes is amended to read:
4 971.17 (3) (e) An order for conditional release places the person in the custody
5 and control of the department of health services. A conditionally released person is

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1 subject to the conditions set by the court and to the rules of the department of health
2 services. Before a person is conditionally released by the court under this subsection,
3 the court shall so notify the municipal police department and county sheriff for the
4 area where the person will be residing. The notification requirement under this
5 paragraph does not apply if a municipal department or county sheriff submits to the
6 court a written statement waiving the right to be notified. If the department of
7 health services alleges that a released person has violated any condition or rule, or
8 that the safety of the person or others requires that conditional release be revoked,
9 he or she may be taken into custody under the rules of the department. The
10 department of health services shall submit a statement showing probable cause of
11 the detention and a petition to revoke the order for conditional release to the
12 committing court and the regional office of the state public defender responsible for
13 handling cases in the county where the committing court is located within 72 hours
14 after the detention, excluding Saturdays, Sundays, and legal holidays. The court
15 shall hear the petition within 30 days, unless the hearing or time deadline is waived
16 by the detained person. Pending the revocation hearing, the department of health
17 services may detain the person in a jail or in a hospital, center or facility specified
18 by s. 51.15 (2) (d). The state has the burden of proving by clear and convincing
19 evidence that any rule or condition of release has been violated, or that the safety of
20 the person or others requires that conditional release be revoked. If the court
21 determines after hearing that any rule or condition of release has been violated, or
22 that the safety of the person or others requires that conditional release be revoked,
23 it may revoke the order for conditional release and order that the released person be
24 placed in an appropriate institution under s. 51.37 (3) until the expiration of the
25 commitment or until again conditionally released under this section. If the court

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1 revokes an order for conditional release, the court shall determine the time, which
2 may not exceed 6 months, that must elapse before the person may petition a court
3 to again authorize conditional release under this section.

4 **SECTION 2.** 971.17 (4) (a) of the statutes is amended to read:

5 971.17 (4) (a) Any person who is committed for institutional care may petition
6 the committing court to modify its order by authorizing conditional release if at least
7 6 months have elapsed since the initial commitment order was entered, or the most
8 recent release petition was denied or, if the commitment followed a revocation of
9 conditional release, if at least the amount of time the court determined under sub.
10 (3) (e) has elapsed since the most recent order for conditional release was revoked.
11 The director of the facility at which the person is placed may file a petition under this
12 paragraph on the person's behalf at any time.

13 **SECTION 3. Initial applicability.**

14 (1) This act first applies to revocation orders issued on the effective date of this
15 subsection.

16 (END)