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Intensive Sanctions Program (DOC -- Community Corrections)

CURRENT LAW

A person may be sentenced by the court to the intensive sanctions program for a felony offense occurring between August 15, 1991, and December 30, 1999. A person sentenced for a felony occurring on or after December 31, 1999: (a) may not be sentenced to the program; (b) is not eligible for the program while serving the confinement portion of a bifurcated sentence; and (c) may be placed in the program as a condition of extended supervision.

GOVERNOR

No provision.

DISCUSSION POINTS

1. The Department of Corrections administers the intensive sanctions program. The program is designed to provide: (a) punishment that is less costly than ordinary imprisonment and more restrictive that ordinary probation or parole supervision or extended supervision; (b) component phases that are intensive and highly structured; and (c) a series of component phases for each participant that is based on public safety considerations and a participant's needs for punishment and treatment. The component phases are required to include one or more of the following sanctions: (a) confinement; (b) intensive or other field supervision; (c) electronic monitoring; (d) community service; (e) restitution; and (f) other programs as prescribed by the Department.

2. A person may be sentenced by the court to the intensive sanctions program for a felony offense occurring between August 15, 1991, and December 30, 1999. A person not

sentenced under a bifurcated sentence may also enter the intensive sanctions program if: (a) the person is a prisoner serving a felony sentence not punishable by life imprisonment and the Department of Corrections directs the person to participate in the program; or (b) the Parole Commission grants the person parole and requires the person to participate in the program as a condition of parole. Further, a person may be placed in the program if the Department and the person agree to his or her participation in the program as an alternative to revocation of probation, extended supervision or parole. Finally, a person sentenced for a felony occurring on or after December 31, 1999: (a) may not be sentenced to the program; (b) is not eligible for the program while serving the confinement portion of a bifurcated sentence; and (c) may be placed in the program as a condition of extended supervision.

3. In 1999 Act 9, the intensive sanctions program was modified to specify that a person who at any time has been convicted, adjudicated delinquent or found not guilty by reason of mental disease for a violent offense is not eligible for the program. As a result, individuals convicted of the following crimes may not be sentenced or placed in the program: (a) first-degree intentional homicide; (b) first-degree reckless homicide; (c) felony murder; (d) second-degree intentional homicide; (e) second-degree reckless homicide; (f) homicide by negligent handling of a dangerous weapon, explosives or fire; (g) homicide by intoxicated used of a vehicle or firearm; (h) homicide by negligent operation of a vehicle; (i) certain battery offenses causing substantial or great bodily harm; (j) certain battery offenses to an unborn child causing substantial or great bodily harm; (k) special circumstance battery offenses; (l) battery or threats to witnesses; (m) battery or threat to a judge; (n) mayhem; (o) first-, second- and third-degree sexual assault; (p) reckless injury; (q) intentional or reckless maltreatment of vulnerable adults; (r) abuse of residents of penal facilities; (s) certain abuse and neglect of patients and residents; (t) kidnapping; (u) certain intimidation of a witness or victim offenses; (v) certain endangering safety by use of a dangerous weapon offenses; (w) sale, use, possession or transportation of machine guns or other weapons; (x) recklessly endangering safety; (z) tampering with household products; (aa) damage to the property of any person who serves on a grand or petit jury because of a verdict or indictment; (bb) damage or threat to property of a witness; (cc) damage or threat to property of a judge; (dd) arson; (ee) damage of property by explosives; (ff) arson with intent to defraud; (gg) sale, use, possession, manufacture or transportation of molotov cocktails; (hh) armed burglary; (ii) carjacking; (jj) threats to injure or accuse of a crime; (kk) robbery; (ll) assaults by prisoners; (mm) bomb scares; (nn) first- or second-degree sexual assault of a child; (oo) repeated acts of sexual assault with the same child; (pp) physical abuse of a child; (qq) causing mental harm to a child; (rr) sexual exploitation of a child; (ss) incest with a child; (tt) child enticement; (uu) solicitation of a child for prostitution; and (vv) abduction of another's child. In addition to the crimes listed above, violent offenses also include a crime under federal law, the law of another state or, prior to October 29, 1999, any Wisconsin law that is comparable to the crimes listed above. The modifications enacted in Act 9 were first applicable to persons placed in or sentenced to the program on October 29, 1999.

4. In September, 1997, the Department of Corrections administratively discontinued the use of the intensive sanctions program. As a result, the Department no longer administratively transfers offenders to intensive sanctions or uses the program as an alternative to the revocation of probation or parole. In addition, offenders are no longer paroled to the program. The number of

offenders in the program has decreased from a high of 1,628 offenders in the community in September, 1997, to 37 in May, 2001.

5. In SB 55, funding and positions associated with the intensive sanctions program ($3,183,300 GPR in 2001-02 and $3,185,400 GPR and 24.0 GPR positions annually) are reallocated to support increased community corrections resources in the probation, extended supervision and parole program.

6. In February, 1998, a review panel appointed by the Governor to evaluate the intensive sanctions program issued its recommendations. The panel expressed a number of concerns and criticisms of the program related to program administration, uses of the program and its mission. The panel's recommendations, generally, would have shifted the focus of the program to the supervision of high risk offenders after completion of their prison sentence (a "strict supervision" model). This proposal would have changed the statutory focus of the program from punishment that is less costly than ordinary imprisonment and more restrictive than ordinary probation or parole supervision, to an intensive probation and parole supervision program for high risk offenders at mandatory release from prison. To the extent that the panel's recommendations did not allow for earlier release of offenders to community supervision, but rather allowed for more intensive supervision of high risk offenders upon release, the "strict supervision" model would not have resulted in reduced costs.

7. In August, 1999, the Criminal Penalties Study Committee (a Committee created to recommend modifications to the bifurcated sentencing structure created in 1997 Act 283) recommended that community supervision of offenders serving extended supervision sentences be designed in a manner similar to the intensive sanctions review panel's "strict supervision" model. The Criminal Penalties Study Committee made no recommendations that would have allowed the intensive sanctions program to be utilized under a bifurcated sentence prior to an offender reaching the court-imposed extended supervision sentence.

8. To the extent that inmates are placed in the intensive sanctions program and are subsequently placed in the community, institutional prison populations are reduced. According to Corrections' 2000 Annual Fiscal Report, the annual cost per offender in the intensive sanctions program in 1999-00 was $11,400, compared with the average cost of a correctional facility placement of $22,600 annually. Currently, out-of-state contract prison beds cost $16,100 annually.

9. As designed, the intensive sanctions program provided staffing at a one agent for every 25 offenders ratio, with approximately $2,400 annually for the purchase of services for offenders. In addition, security supervision was provided on a one correctional officer to every 68 offender basis. Under the probation, extended supervision and parole program, agents currently have a budgeted caseload of approximately 54 offenders and a purchase of services budget of approximately $237 per offender. Further, the probation, extended supervision and parole program does not utilize correctional officers.

10. Since the intensive sanctions program is designed to be "less costly than ordinary

imprisonment," the Committee could consider making some statutory modifications to the program to allow it to be used under bifurcated sentencing and providing funding and staff to support some modest level of program participation. Given that the program has been administratively discontinued and that funding and positions are reallocated under the bill to probation and parole staffing and purchase of services for offenders, it is assumed that additional resources would need to be provided in order for the intensive sanction program to be utilized in the 2001-03 biennium.

11. Given that state correctional institutions currently exceed operating capacity, inmate population growth is generally addressed by placing inmates in out-of-state contract beds. The following table indicates potential program costs and corresponding contract bed reductions that could be made if the intensive sanctions program was reestablished. The cost estimates assume that offenders will begin entering the program in January, 2002. During this period Corrections could begin to prepare for program initiation, identify offenders sentenced to prison for crimes occurring before December 31, 1999, who would be eligible for administrative transfer or parole to the program and inform the courts of the program as a revised sentencing option.

	2001-02		2002-03		2001-03
Alternative	Amount	Positions	Amount	Positions	Amount
300 Offenders:					
Program Costs	$493,500	6.75	$1,791,000	21.50	$2,284,500
Contract Bed Offset	-396,400	0.00	-3,182,200	0.00	-3,578,600
Total	$97,100	6.75	-$1,391,200	21.50	-$1,294,100
400 Offenders:					
Program Costs	$697,300	9.25	$2,206,700	29.00	$2,904,000
Contract Bed Offset	-566,300	0.00	-4,421,400	0.00	-4,987,700
Total	$131,000	9.25	-$2,214,700	29.00	-$2,083,700

12. In the table, the number of offenders (300 or 400) was established at a level that: (a) would generate cost savings; and (b) was assumed to be reasonable to achieve within the 2001-03 biennium.

13. The Committee should note that while the truth-in-sentencing law prohibits the use of the intensive sanctions program as part of the confinement portion of a bifurcated sentence, a person serving a bifurcated sentence may be eligible for the challenge incarceration program ("boot camp") if the sentencing court specifies that he or she is eligible. If an eligible person successfully completes the challenge incarceration program, a judge is required to reduce the prison portion of the sentence so the person is released to supervision, while the supervision portion of the sentence is increased by a corresponding amount, resulting in the same total sentence length.

14. If the Committee wishes, the intensive sanctions program could be modified in a manner similar to the challenge incarceration program to permit intensive sanctions to be used as an

alternative to a prison placement for offenders sentenced for crimes occurring on or after December 31, 1999. The following modifications could be made:

a. Delete the requirement that a judge may not sentence an individual to the intensive sanctions program for an offense that occurs on or after December 31, 1999.

b. Delete the provision that an offender convicted of an offense that occurs on or after December 31, 1999 is not eligible for the program while serving the confinement portion of a bifurcated sentence.

c. Allow a judge at sentencing to determine if an offender is eligible for the program. Allow a sentencing judge to determine the date at which an offender may be eligible for release to the community portion of the program but specify that this may be no sooner than one year (the minimum amount of time an offender must serve in prison under a bifurcated sentence) or longer than two years (under current law, the maximum confinement time under the intensive sanction program is two years for offenses occurring before December 31, 1999).

d. Require that the determination to place a person sentenced under a bifurcated sentence in the community portion of the intensive sanctions program is solely the discretion of the sentencing court, based on a recommendation from the Department of Corrections at the time of the potential placement decision.

e. Provide that if a judge decides to hold a hearing regarding a potential intensive sanctions community placement, the court would be required to provide victim notification and allow victim statements at the hearing.

f. Provide that if a judge decides to hold a hearing regarding a potential intensive sanctions community placement, the court would be required to notify the district attorney in the county that originally prosecuted the case.

ALTERNATIVES TO BILL

A. Intensive Sanctions Program Funding

1. Provide $493,500 and 6.75 positions in 2001-02 and $1,791,000 and 21.5 positions in 2002-03 to staff and fund the intensive sanctions program to support a population of 300 offenders. Reduce prison contract bed funding by $396,400 in 2001-02 and $3,182,200 in 2002-03 associated with decreased prison populations.

Alternative 1	**GPR**
2001-03 FUNDING (Change to Bill)	**-** $1,294,100
2002-03 POSITIONS (Change to Bill)	21.50

2. Provide $697,300 and 9.25 positions in 2001-02 and $2,206,700 and 29.0 positions in 2002-03 to staff and fund the intensive sanctions program to support a population of 400 offenders. Reduce prison contract bed funding by $566,300 in 2001-02 and $4,421,400 in 2002-03 associated with decreased prison populations.

Alternative 2	**GPR**
2001-03 FUNDING (Change to Bill)	**-** $2,083,700
2002-03 POSITIONS (Change to Bill)	29.00

3. Take no action.

B. Statutory Modifications

1. Modify current statutory language related to use of the intensive sanctions program under truth-in-sentencing to: (a) delete the requirement that a judge may not sentence an individual to the intensive sanctions program for an offense that occurs on or after December 31, 1999; (b) delete the provision that an offender convicted of an offense that occurs on or after December 31, 1999 is not eligible for the program while serving the confinement portion of a bifurcated sentence; (c) allow a judge at sentencing to determine if an offender is eligible for the program; (d) allow a sentencing judge to determine the date at which an offender may be eligible for release to the community portion of the program, but specify that this may be no sooner than one year or longer than two years; (e) require that the determination to place a person sentenced under a bifurcated sentence in the community portion of the intensive sanctions program is solely the discretion of the sentencing court, based on a recommendation from the Department of Corrections at the time of the potential placement decision; (f) specify that if a judge decides to hold a hearing regarding a potential intensive sanctions community placement, the court is required to provide victim notification and to allow victim statements at the hearing; and (g) specify that if a judge decides to hold a hearing regarding a potential intensive sanctions community placement, the court is required to notify the district attorney in the county that originally prosecuted the case.

2. Take no action.

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