



## 2019 ASSEMBLY BILL 832

January 30, 2020 - Introduced by Representatives GOYKE, SORTWELL, GRUSZYNSKI, SARGENT, C. TAYLOR, ZAMARRIPA, NEUBAUER, ANDERSON, POPE, SUBECK, EMERSON, BOWEN, STUBBS, KOLSTE, CROWLEY, CONSIDINE, L. MYERS, SPREITZER, OHNSTAD and BILLINGS, cosponsored by Senators L. TAYLOR, JOHNSON, LARSON, RISSER and SMITH. Referred to Committee on Judiciary. Referred to Joint Review Committee on Criminal Penalties.

1     **AN ACT to repeal** 973.01 (2) (d) 3.; **to renumber and amend** 302.113 (9) (ag) and  
2           302.113 (9) (am); **to amend** 20.410 (1) (a), 20.410 (1) (ab), 20.410 (1) (b), 302.11  
3           (7) (am), 302.113 (9) (b), 302.113 (9) (c), 302.114 (9) (ag), 304.072 (4), 911.01 (4)  
4           (c), 939.50 (3) (d), 950.04 (1v) (gm), 973.01 (2) (d) 4. and 973.15 (5); and **to create**  
5           20.410 (1) (kj), 301.03 (6w), 973.01 (5m), 973.01 (8) (a) 6. and 973.156 of the  
6           statutes; **relating to:** sentence credits for time on parole or extended  
7           supervision, sentencing limitations on extended supervision, early discharge  
8           from extended supervision, making an appropriation, and providing a penalty.

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### ***Analysis by the Legislative Reference Bureau***

This bill limits the amount of time for which a sentencing court may sentence a person to extended supervision for certain felonies, creates an earned compliance credit for time spent on extended supervision or parole, and allows the sentencing court to discharge a person early from extended supervision.

Under current law, a person who is imprisoned for a felony committed on or after December 31, 1999, or a misdemeanor committed on or after February 1, 2003, is sentenced to a bifurcated sentence, with the first portion of the sentence served in confinement in prison and the second portion of the sentence served under extended supervision in the community. Under current law, the sentencing court has

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discretion in setting the length of confinement and the length of extended supervision but generally, the length of confinement may not be more than 75 percent of the total sentence and the length of extended supervision is capped based on the classification of the crime committed. This bill reduces the cap for extended supervision for a Class D felony from 10 years to 5 years.

Under current law, the Department of Corrections may not discharge a person from extended supervision until the bifurcated sentence, as set by the sentencing court, is complete. This bill allows the sentencing court to reduce the term of a person's extended supervision and discharge the person from extended supervision after he or she has served the lesser of three years or 50 percent of the term of extended supervision without violating the conditions and rules of supervision if the person has met all of his or her financial obligations, is not required to register as a sex offender, and is serving a sentence for a crime that is not a crime against life or bodily security or a specified crime against a child.

Under current law, a person's extended supervision or parole may be revoked if he or she violates a condition of the extended supervision or parole. Under current law, if extended supervision or parole is revoked, the Division of Hearings and Appeals, or DOC if the person has waived a hearing, may order incarceration for up to the length of the original sentence, less any time actually served in confinement and less any credit for good behavior. Under this bill, a person receives an earned compliance credit for time served on extended supervision or parole without any condition or rule violations before the condition or rule violation that precipitated the revocation occurred. Under the bill, a person is eligible to receive earned compliance credit for time served on extended supervision or parole only if the person is not required to register as a sex offender and is serving a sentence for a crime that is not a crime against life or bodily security or a specified crime against a child. Under the bill, if a person's extended supervision or parole is revoked, he or she may be incarcerated for up to the length of the original sentence, less any credit for time served in confinement, any credit for good behavior, and any earned compliance credit.

This bill requires DOC to submit an annual report to the governor, the legislature, and the director of state courts on early discharges from extended supervision and the reduced days spent in incarceration due to the earned compliance credit. Under the bill, the amount of money that DOC reports is saved through these measures is used to reduce caseloads for community supervision officers. This bill also requires DOC to review and report on the efficacy of its standard conditions and rules of supervision to the governor, the legislature, and the director of state courts.

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.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 20.410 (1) (a) of the statutes is amended to read:

2           20.410 (1) (a) *General program operations.* The amounts in the schedule to  
3 operate institutions and provide field services and administrative services. No  
4 payments may be made under this paragraph for payments in accordance with other  
5 states party to the interstate corrections compact under s. 302.25. Annually, there  
6 is transferred from this appropriation to the appropriation account under s. 20.410  
7 (1) (kj) the amount of cost savings from reduced days of incarceration that resulted  
8 from the earned compliance credit under s. 973.156, as reported by the department  
9 under s. 301.03 (6w) (b).

10           **SECTION 2.** 20.410 (1) (ab) of the statutes is amended to read:

11           20.410 (1) (ab) *Corrections contracts and agreements.* The amounts in the  
12 schedule for payments made in accordance with contracts entered into under ss.  
13 301.21, 302.25, and 302.27 (1), contracts entered into with the federal government  
14 under 18 USC 5003, and intra-agency agreements relating to the placement of  
15 prisoners. Annually, there is transferred from this appropriation to the  
16 appropriation account under s. 20.410 (1) (kj) the amount of cost savings from  
17 reduced days of incarceration that resulted from the earned compliance credit under  
18 s. 973.156, as reported by the department under s. 301.03 (6w) (b).

19           **SECTION 3.** 20.410 (1) (b) of the statutes is amended to read:

20           20.410 (1) (b) *Services for community corrections.* The amounts in the schedule  
21 to provide services related to probation, extended supervision and parole, the

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1 intensive sanctions program under s. 301.048, the community residential  
2 confinement program under s. 301.046, programs of intensive supervision of adult  
3 offenders and minimum security correctional institutions established under s.  
4 301.13. No payments may be made under this paragraph for payments in accordance  
5 with other states party to the interstate corrections compact under s. 302.25.  
6 Annually, there is transferred from this appropriation to the appropriation account  
7 under s. 20.410 (1) (kj) the amount of cost savings from reduced days of community  
8 supervision that resulted from the earned compliance credit under s. 973.156 and  
9 early discharge from extended supervision under s. 973.01 (5m), as reported by the  
10 department under s. 301.03 (6w) (b).

11 **SECTION 4.** 20.410 (1) (kj) of the statutes is created to read:

12 20.410 (1) (kj) *Reduced caseloads for community supervision officers.* All  
13 moneys transferred from the appropriation accounts under s. 20.410 (1) (a), (ab), and  
14 (b) to reduce caseloads for community supervision officers.

15 **SECTION 5.** 301.03 (6w) of the statutes is created to read:

16 301.03 (6w) (a) In this subsection, "recidivism" means any of the following:

17 1. A return to prison upon revocation of extended supervision, parole, or  
18 probation.

19 2. A conviction for a crime that was committed within 3 years of release from  
20 confinement.

21 (b) No later than June 15 of each year, the department shall submit a report  
22 to the governor, the chief clerk of each house of the legislature for distribution to the  
23 appropriate standing committees under s. 13.172 (3), and the director of state courts.  
24 The report shall include data on the earned compliance credit provided under s.  
25 973.156 and early discharge under s. 973.01 (5m) in the 12 months preceding the

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1 report, including the demographics of individuals who received the earned  
2 compliance credit or were discharged early and the rate of recidivism among those  
3 individuals and including an accounting of the cost savings from reduced days of  
4 incarceration or reduced days of parole or extended supervision that resulted from  
5 the earned compliance credit under s. 973.156 or early discharge from extended  
6 supervision under s. 973.01 (5m). The department shall report the data by region.

7 **SECTION 6.** 302.11 (7) (am) of the statutes is amended to read:

8 302.11 (7) (am) The reviewing authority may return a parolee released under  
9 sub. (1) or (1g) (b) or s. 304.02 or 304.06 (1) to prison for a period up to the remainder  
10 of the sentence for a violation of the conditions of parole. The remainder of the  
11 sentence is the entire sentence, less time served in custody prior to parole and less  
12 any earned compliance credit under s. 973.156. The revocation order shall provide  
13 the parolee with credit in accordance with ss. 304.072 and 973.155.

14 **SECTION 7.** 302.113 (9) (ag) of the statutes is renumbered 302.113 (9) (ag)  
15 (intro.) and amended to read:

16 302.113 (9) (ag) (intro.) In this subsection "~~reviewing~~:"

17 1. "Reviewing authority" means the division of hearings and appeals in the  
18 department of administration, upon proper notice and hearing, or the department  
19 of corrections, if the person on extended supervision waives a hearing.

20 **SECTION 8.** 302.113 (9) (am) of the statutes is renumbered 302.113 (9) (am) 1.  
21 and amended to read:

22 302.113 (9) (am) 1. If a person released to extended supervision under this  
23 section violates a condition of extended supervision, the reviewing authority may  
24 revoke the extended supervision of the person. If the extended supervision of the  
25 person is revoked, the reviewing authority shall order the person to be returned to

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1 prison for any specified period of time that does not exceed the time remaining on the  
2 bifurcated sentence. ~~The time~~

3 (ag) 2. “Time remaining on the bifurcated sentence” is the total length of the  
4 bifurcated sentence, less time served by the person in confinement under the  
5 sentence before release to extended supervision under sub. (2), less any earned  
6 compliance credit under s. 973.156, and less all time served in confinement for  
7 previous revocations of extended supervision under the sentence.

8 (am) 2. The order returning a person to prison under this paragraph shall  
9 provide the person whose extended supervision was revoked with credit in  
10 accordance with ss. 304.072 and 973.155.

11 **SECTION 9.** 302.113 (9) (b) of the statutes is amended to read:

12 302.113 (9) (b) A person who is returned to prison after revocation of extended  
13 supervision shall be incarcerated for the entire period of time specified by the order  
14 under par. (am) 1. The period of time specified under par. (am) 1, may be extended  
15 in accordance with sub. (3). If a person is returned to prison under par. (am) 1, for  
16 a period of time that is less than the time remaining on the bifurcated sentence, the  
17 person shall be released to extended supervision after he or she has served the period  
18 of time specified by the order under par. (am) 1, and any periods of extension imposed  
19 in accordance with sub. (3).

20 **SECTION 10.** 302.113 (9) (c) of the statutes is amended to read:

21 302.113 (9) (c) A person who is subsequently released to extended supervision  
22 after service of the period of time specified by the order under par. (am) 1, is subject  
23 to all conditions and rules under sub. (7) and, if applicable, sub. (7m) until the  
24 expiration of the time remaining extended supervision portion of on the bifurcated  
25 sentence. ~~The remaining extended supervision portion of the bifurcated sentence is~~

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1 ~~the total length of the bifurcated sentence, less the time served by the person in~~  
2 ~~confinement under the bifurcated sentence before release to extended supervision~~  
3 ~~under sub. (2) and less all time served in confinement for previous revocations of~~  
4 ~~extended supervision under the bifurcated sentence.~~

5 **SECTION 11.** 302.114 (9) (ag) of the statutes is amended to read:

6 302.114 (9) (ag) In this subsection “reviewing authority” has the meaning given  
7 in s. 302.113 (9) (ag) 1.

8 **SECTION 12.** 304.072 (4) of the statutes is amended to read:

9 304.072 (4) The sentence of a revoked parolee or person on extended  
10 supervision resumes running on the day he or she is received at a correctional  
11 institution subject to sentence credit for the period of custody in a jail, correctional  
12 institution or any other detention facility pending revocation according to the terms  
13 of s. 973.155 and subject to earned compliance credit under s. 973.156.

14 **SECTION 13.** 911.01 (4) (c) of the statutes is amended to read:

15 911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or  
16 rendition; sentencing, granting or revoking probation, modification of a bifurcated  
17 sentence under s. 302.113 (9g), or adjustment of a bifurcated sentence under s.  
18 973.01 (5m), 973.195 (1r) or 973.198; issuance of subpoenas or warrants under s.  
19 968.375, arrest warrants, criminal summonses, and search warrants; hearings  
20 under s. 980.09 (2); proceedings under s. 971.14 (1r) (c); proceedings with respect to  
21 pretrial release under ch. 969 except where habeas corpus is utilized with respect to  
22 release on bail or as otherwise provided in ch. 969; or proceedings under s. 165.76 (6)  
23 to compel provision of a biological specimen for deoxyribonucleic acid analysis.

24 **SECTION 14.** 939.50 (3) (d) of the statutes is amended to read:

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1           939.50 (3) (d) For a Class D felony, a fine not to exceed \$100,000 or  
2 imprisonment not to exceed ~~25~~ 20 years, or both.

3           **SECTION 15.** 950.04 (1v) (gm) of the statutes is amended to read:

4           950.04 (1v) (gm) To have reasonable attempts made to notify the victim of  
5 petitions for sentence adjustment as provided under s. 973.01 (5m) (d), 973.09 (3m),  
6 973.195 (1r) (d), or 973.198.

7           **SECTION 16.** 973.01 (2) (d) 3. of the statutes is repealed.

8           **SECTION 17.** 973.01 (2) (d) 4. of the statutes is amended to read:

9           973.01 (2) (d) 4. For a Class D, E, F, or G felony, the term of extended  
10 supervision may not exceed 5 years.

11          **SECTION 18.** 973.01 (5m) of the statutes is created to read:

12          973.01 (5m) EARLY DISCHARGE FROM EXTENDED SUPERVISION. (a) In this  
13 subsection, “qualifying offense” means a crime other than a violation of ch. 940 or s.  
14 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,  
15 948.085, or 948.095.

16          (b) The court may modify a person’s term of extended supervision and discharge  
17 the person from extended supervision for a qualifying offense if all of the following  
18 apply:

19           1. The department petitions the court to discharge the person from extended  
20 supervision for a qualifying offense.

21           2. The person has completed 3 years or 50 percent of his or her term of extended  
22 supervision for the qualifying offense, whichever is less.

23           3. The person has satisfied all conditions of extended supervision that were set  
24 by the sentencing court for the qualifying offense.

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1           4. The person has satisfied all rules and conditions of supervision that were set  
2 by the department for the qualifying offense.

3           5. The person has fulfilled all financial obligations to his or her victims, the  
4 court, and the department, including the payment of any fine, forfeiture, fee, or  
5 surcharge or order of restitution, for the qualifying offense.

6           6. The person is not required to register under s. 301.45.

7           (c) If a person is serving more than one sentence, early discharge under par. (b)  
8 applies only to the terms of extended supervision imposed for qualifying offenses.

9           (d) 1. In this paragraph, "victim" has the meaning given in s. 950.02 (4).

10          2. When a court receives a petition under par. (a), the clerk of the circuit court  
11 shall send a notice of hearing to the victim of the crime committed by the person  
12 serving the term of extended supervision, if the victim has submitted a card under  
13 subd. 3. requesting notification. The notice shall inform the victim that he or she may  
14 appear at any hearing scheduled under par. (a) and shall inform the victim of the  
15 manner in which he or she may provide a statement concerning the early discharge  
16 from extended supervision. The clerk of the circuit court shall make a reasonable  
17 attempt to send the notice of hearing to the last-known address of the victim,  
18 postmarked at least 10 days before the date of the hearing.

19          3. The director of state courts shall design and prepare cards for a victim to send  
20 to the clerk of the circuit court for the county in which the person serving the term  
21 of extended supervision was convicted and sentenced. The cards shall have space for  
22 a victim to provide his or her name and address, the name of the applicable person  
23 serving a term of extended supervision, and any other information that the director  
24 of state courts determines is necessary. The director of state courts shall provide the  
25 cards, without charge, to clerks of circuit court. Clerks of circuit court shall provide

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1 the cards, without charge, to victims. Victims may send completed cards to the clerk  
2 of the circuit court for the county in which the person serving a term of extended  
3 supervision was convicted and sentenced. All court records or portions of records  
4 that relate to mailing addresses of victims are not subject to inspection or copying  
5 under s. 19.35 (1).

6 **SECTION 19.** 973.01 (8) (a) 6. of the statutes is created to read:

7 973.01 (8) (a) 6. The conditions under which the court may reduce the term of  
8 the person's extended supervision under sub. (5m).

9 **SECTION 20.** 973.15 (5) of the statutes is amended to read:

10 973.15 (5) A convicted offender who is made available to another jurisdiction  
11 under ch. 976 or in any other lawful manner shall be credited with service of his or  
12 her Wisconsin sentence or commitment under the terms of s. ss. 973.155 and 973.156  
13 for the duration of custody in the other jurisdiction.

14 **SECTION 21.** 973.156 of the statutes is created to read:

15 **973.156 Earned compliance credit. (1)** In this section, "qualifying offense"  
16 means a crime other than a violation of ch. 940 or s. 948.02, 948.025, 948.03, 948.05,  
17 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095.

18 **(2)** Upon the revocation of extended supervision or parole under s. 302.11 (7)  
19 or 302.113 (9), a person shall be given earned compliance credit toward the service  
20 of his or her sentence for a qualifying offense for each day that the person spent on  
21 extended supervision or parole without violating a condition or rule of extended  
22 supervision or parole prior to the violation that resulted in the revocation.

23 **(3)** Subsection (2) does not apply to a person who is required to register under  
24 s. 301.45.

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1           (4) If a person is serving more than one sentence, earned compliance credit  
2 under sub. (2) is earned only for the time spent on extended supervision or parole for  
3 qualifying offenses.

4           (5) The amount of the credit under sub. (2) shall be calculated and applied by  
5 the appropriate reviewing authority under s. 302.11 (7) (am) or 302.113 (9) (am) 1.

6           **SECTION 22. Nonstatutory provisions.**

7           (1) CONDITIONS OF SUPERVISION. No later than July 1, 2021, the department of  
8 corrections shall review the efficacy of its standard conditions and rules of  
9 supervision, and shall provide a report to the governor, the chief clerk of each house  
10 of the legislature for distribution to the appropriate standing committees in the  
11 manner provided under s. 13.172 (3), and the director of state courts. The report shall  
12 include the number of violations reported for each condition and rule and a  
13 comparison of the department of correction's standard conditions and rules of  
14 supervision to conditions and rules of supervision in other states.

15           (2) EARNED COMPLIANCE CREDIT. A person who is serving a sentence for a  
16 violation other than a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05,  
17 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095 and who is in  
18 custody upon revocation of extended supervision or parole on the effective date of this  
19 subsection may petition the department to be given credit under s. 973.156. Upon  
20 proper verification of the facts alleged in the petition, s. 973.156 shall be applied  
21 retroactively to the person. If the department is unable to determine whether credit  
22 should be given, or otherwise refuses to award retroactive credit, the person may  
23 petition the sentencing court for relief. This subsection applies regardless of the date  
24 the person was sentenced. A person who is required to register under s. 301.45 is not  
25 eligible to receive credit under this subsection.

