



2019 ASSEMBLY BILL 831

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 Corrections.

1 **AN ACT** *to repeal* 302.113 (8m) (b), 304.06 (3g) and 973.10 (2s); *to renumber*
2 302.113 (8m) (a) and 973.10 (2) (a) and (b); *to renumber and amend* 302.11
3 (7) (ag), 302.11 (7) (am), 302.113 (9) (ag), 302.113 (9) (am) and 973.10 (2) (intro.);
4 **to amend** 20.410 (1) (a), 20.410 (1) (ab), 301.035 (2), 302.107 (2), 302.113 (9) (b),
5 302.113 (9) (c), 302.114 (9) (ag), 302.33 (1), 303.08 (1) (intro.), 303.08 (2), 303.08
6 (5) (intro.), 303.08 (6), 303.08 (12), 304.06 (3), 808.075 (4) (g) 3. and 950.04 (1v)
7 (vg); and **to create** 20.410 (1) (kj), 301.03 (6s), 302.11 (7) (ag) 1., 302.11 (7) (am)
8 1. a. to e., 302.113 (9) (ag) 1. and 2., 302.113 (9) (am) 1. a. to e., 302.115, 304.06
9 (3) (g) 1. to 5. and 973.10 (2) (bm) 1. of the statutes; **relating to:** maximum
10 period of imprisonment following revocation of extended supervision or
11 probation and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill changes the conditions under which a person's probation, parole, or extended supervision may be revoked and allows the use of short-term sanctions as an alternative to revocation.

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Under current law, a person's probation, parole, or extended supervision may be revoked if he or she violates a condition or rule of probation, parole, or extended supervision. Under this bill, a person's probation, parole, or extended supervision may not be revoked unless one of the following conditions is met:

1. The person committed three or more independent violations during his or her term of probation, parole, or extended supervision.
2. The condition that the person violated was a condition that the person not contact any specified individual.
3. The person was required to register as a sex offender with the Department of Corrections.
4. When the person violated the rule or condition, the person also allegedly committed a crime.
5. The person absconded.

Under current law, if a person admits that he or she has violated a rule or condition of probation or extended supervision, DOC may sanction the person with imprisonment for up to 90 days. Under the bill, DOC may sanction the person with imprisonment for only 30 days, unless the violation meets the grounds for revocation of probation, parole, or extended supervision, in which case DOC may sanction the person with imprisonment for up to 90 days.

Under the bill, if DOC alleges that a person on probation, parole, or extended supervision has violated a rule or condition that is not grounds for revocation, and the person does not admit to the violation or waive a hearing, the Division of Hearings and Appeals must hold a hearing on the allegation of the violation and may impose a sanction of imprisonment for up to 30 days for the violation or up to 90 days if the violation meets the grounds for revocation. Under the bill, if the person waives a hearing, DOC may impose the sanction without a hearing.

Under the bill, DOC is required to submit an annual report to the governor, the legislature, and the state courts on data related to the revocation of extended supervision and probation and recidivism. The bill requires DOC to report on the amount of cost savings that results from the limitation on incarceration for revocations imposed under this bill. The bill requires DOC to use the money saved on incarceration under this bill to fund programs to reduce recidivism.

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

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

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1 states party to the interstate corrections compact under s. 302.25. Annually, there
2 is transferred from this appropriation account to the appropriation account under
3 par. (kj) the cost savings reported under s. 301.03 (6s) (b) 4.

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

5 20.410 (1) (ab) *Corrections contracts and agreements.* The amounts in the
6 schedule for payments made in accordance with contracts entered into under ss.
7 301.21, 302.25, and 302.27 (1), contracts entered into with the federal government
8 under 18 USC 5003, and intra-agency agreements relating to the placement of
9 prisoners. Annually, there is transferred from this appropriation account to the
10 appropriation account under par. (kj) the cost savings reported under s. 301.03 (6s)
11 (b) 4.

12 **SECTION 3.** 20.410 (1) (kj) of the statutes is created to read:

13 20.410 (1) (kj) *Recidivism reduction services.* All moneys transferred from the
14 appropriation accounts under pars. (a) and (ab) to provide services to persons who
15 are on probation, or who are soon to be or are currently on parole or extended
16 supervision, following a felony conviction, in an effort to reduce recidivism.

17 **SECTION 4.** 301.03 (6s) of the statutes is created to read:

18 301.03 (6s) (a) In this subsection, “recidivism” means any of the following:

19 1. A return to prison upon revocation of extended supervision, parole, or
20 probation.

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

23 (b) No later than June 15 each year, submit a report on revocations of parole,
24 extended supervision, and probation to the governor, the chief clerk of each house of
25 the legislature for distribution to the appropriate standing committees under s.

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1 13.172 (3), and the director of state courts. The report shall include all of the
2 following data:

3 1. The rate of recidivism among probationers, parolees, and persons on
4 extended supervision by region and demographics, including the level of the
5 recidivism event.

6 2. The number of and reason for revocations of probation, parole, and extended
7 supervision by region and demographics.

8 3. The number and lengths of short-term sanctions imposed under s. 302.115.

9 4. An accounting of the cost savings for the preceding 12-month period that
10 resulted from the use of short-term sanctions in lieu of revocations.

11 **SECTION 5.** 301.035 (2) of the statutes is amended to read:

12 301.035 (2) Assign hearing examiners from the division to preside over
13 hearings under ss. 302.11 (7), 302.113 (9), 302.114 (9), 302.115, 938.357 (5), 973.10
14 and 975.10 (2) and ch. 304.

15 **SECTION 6.** 302.107 (2) of the statutes is amended to read:

16 302.107 (2) Upon revocation of parole or extended supervision under s. 302.11
17 (7), 302.113 (9), 302.114 (9), or 304.06 (3) ~~or (3g)~~, the department shall make a
18 reasonable effort to send a notice of the revocation to a victim of an offense committed
19 by the inmate, if the victim can be found, in accordance with sub. (3) and after
20 receiving a completed card under sub. (4).

21 **SECTION 7.** 302.11 (7) (ag) of the statutes is renumbered 302.11 (7) (ag) (intro.)
22 and amended to read:

23 302.11 (7) (ag) (intro.) In this subsection ~~“reviewing:~~

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1 3. “Reviewing authority” means the division of hearings and appeals in the
2 department of administration, upon proper notice and hearing, or the department
3 of corrections, if the parolee waives a hearing.

4 **SECTION 8.** 302.11 (7) (ag) 1. of the statutes is created to read:

5 302.11 (7) (ag) 1. “Abscond” means to fail to report or make oneself available
6 for supervision for a period of more than 60 consecutive days.

7 **SECTION 9.** 302.11 (7) (am) of the statutes is renumbered 302.11 (7) (am) 1.
8 (intro.) and amended to read:

9 302.11 (7) (am) 1. (intro.) The reviewing authority may not return a parolee
10 released under sub. (1) or (1g) (b) or s. 304.02 or 304.06 (1) to prison for a period up
11 to the remainder of the sentence for a violation of the conditions of parole. The
12 remainder unless one of the following applies:

13 (ag) 2. “Remainder of the sentence is” means the entire sentence, less time
14 served in custody prior to parole.

15 (am) 2. If the reviewing authority revokes parole, the revocation order may
16 return the parolee to prison for a period up to the remainder of the sentence. The
17 revocation order shall provide the parolee with credit in accordance with ss. 304.072
18 and 973.155.

19 **SECTION 10.** 302.11 (7) (am) 1. a. to e. of the statutes are created to read:

20 302.11 (7) (am) 1. a. The person committed 3 or more independent violations
21 while released on parole.

22 b. The condition that the person violated was a condition that the person not
23 contact any specified individual.

24 c. The person was required to register as a sex offender under s. 301.45.

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1 d. When the person violated the condition of parole, the person also allegedly
2 committed a crime.

3 e. The person absconded.

4 **SECTION 11.** 302.113 (8m) (a) of the statutes is renumbered 302.113 (8m).

5 **SECTION 12.** 302.113 (8m) (b) of the statutes is repealed.

6 **SECTION 13.** 302.113 (9) (ag) of the statutes is renumbered 302.113 (9) (ag)
7 (intro.) and amended to read:

8 302.113 (9) (ag) (intro.) In this subsection ~~“reviewing:~~

9 3. “Reviewing authority” means the division of hearings and appeals in the
10 department of administration, upon proper notice and hearing, or the department
11 of corrections, if the person on extended supervision waives a hearing.

12 **SECTION 14.** 302.113 (9) (ag) 1. and 2. of the statutes are created to read:

13 302.113 (9) (ag) 1. “Abscond” means to fail to report or make oneself available
14 for supervision for a period of more than 60 consecutive days.

15 2. “Crime” has the meaning given in s. 939.12.

16 **SECTION 15.** 302.113 (9) (am) of the statutes is renumbered 302.113 (9) (am) 1.
17 (intro.) and amended to read:

18 302.113 (9) (am) 1. (intro.) If a person released to extended supervision under
19 this section violates a condition of extended supervision, the reviewing authority
20 may not revoke the extended supervision of the person. unless one of the following
21 applies:

22 2. If the extended supervision of the person is revoked under subd. 1., the
23 reviewing authority shall order the person to be returned to prison for any specified
24 period of time that does not exceed the time remaining on the bifurcated sentence.

25 ~~The time~~

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

6 (am) 3. The order returning a person to prison under this paragraph subd. 2.
7 shall provide the person whose extended supervision was revoked with credit in
8 accordance with ss. 304.072 and 973.155.

9 **SECTION 16.** 302.113 (9) (am) 1. a. to e. of the statutes are created to read:

10 302.113 (9) (am) 1. a. The person committed 3 or more independent violations
11 during his or her term of extended supervision.

12 b. The condition that the person violated was a condition that the person not
13 contact any specified individual.

14 c. The person was required to register as a sex offender under s. 301.45.

15 d. When the person violated the condition of extended supervision, the person
16 also allegedly committed a crime.

17 e. The person absconded.

18 **SECTION 17.** 302.113 (9) (b) of the statutes is amended to read:

19 302.113 (9) (b) A person who is returned to prison after revocation of extended
20 supervision shall be incarcerated for the entire period of time specified by the order
21 under par. (am) 2. The period of time specified under par. (am) 2. may be extended
22 in accordance with sub. (3). If a person is returned to prison under par. (am) 2. for
23 a period of time that is less than the time remaining on the bifurcated sentence, the
24 person shall be released to extended supervision after he or she has served the period

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1 of time specified by the order under par. (am) 2. and any periods of extension imposed
2 in accordance with sub. (3).

3 **SECTION 18.** 302.113 (9) (c) of the statutes is amended to read:

4 302.113 (9) (c) A person who is subsequently released to extended supervision
5 after service of the period of time specified by the order under par. (am) 2. is subject
6 to all conditions and rules under sub. (7) and, if applicable, sub. (7m) until the
7 expiration of the time remaining extended supervision portion of on the bifurcated
8 sentence. ~~The remaining extended supervision portion of the bifurcated sentence is~~
9 ~~the total length of the bifurcated sentence, less the time served by the person in~~
10 ~~confinement under the bifurcated sentence before release to extended supervision~~
11 ~~under sub. (2) and less all time served in confinement for previous revocations of~~
12 ~~extended supervision under the bifurcated sentence.~~

13 **SECTION 19.** 302.114 (9) (ag) of the statutes is amended to read:

14 302.114 (9) (ag) In this subsection “reviewing authority” has the meaning given
15 in s. 302.113 (9) (ag) 3.

16 **SECTION 20.** 302.115 of the statutes is created to read:

17 **302.115 Sanctions for violation of condition of probation, parole, or**
18 **extended supervision.** (1) In this section:

19 (a) “Abscond” means to fail to report or make oneself available for supervision
20 for a period of more than 60 consecutive days.

21 (b) “Reviewing authority” means the division of hearings and appeals in the
22 department of administration or, if a hearing is waived under par. (5), the
23 department.

24 (2) Notwithstanding ss. 302.11 (7), 302.113 (9), and 973.10 (2), if a person on
25 probation or parole or a person on extended supervision under s. 302.113 violates a

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1 condition or rule of that probation, parole, or extended supervision, the department
2 may initiate a proceeding before the division of hearings and appeals in the
3 department of administration to sanction the person for the violation.

4 (3) The division of hearings and appeals in the department of administration
5 shall hold a hearing no later than 14 days after the department initiates the
6 proceeding to determine the appropriate sanction for the violation.

7 (4) The reviewing authority may impose one of the following sanctions:

8 (a) Except as provided under par. (b), imprisonment for a period not to exceed
9 30 days.

10 (b) Imprisonment for a period not to exceed 90 days if any of the following
11 applies:

12 1. The person has committed 3 or more independent violations during his or
13 her term of probation, parole, or extended supervision.

14 2. The condition that the person violated was a condition that the person not
15 contact any specified individual.

16 3. The person was required to register as a sex offender under s. 301.45.

17 4. When the person violated the condition of probation, parole, or extended
18 supervision, the person also allegedly committed a crime.

19 5. The person absconded.

20 (5) A person who is the subject of a proceeding under this section may waive
21 the hearing under sub. (3) by signing a statement admitting the violation. If the
22 person waives the hearing under this subsection, the reviewing authority may
23 impose a sanction under sub. (4).

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1 **(6)** If a person is confined in a county jail under this section, the department
2 shall reimburse the county for its actual costs in confining the person from the
3 appropriations under s. 20.410 (1) (ab) and (b).

4 **SECTION 21.** 302.33 (1) of the statutes is amended to read:

5 302.33 **(1)** The maintenance of persons who have been sentenced to the state
6 penal institutions; persons in the custody of the department, except as provided in
7 sub. (2) and ss. 301.048 (7), ~~302.113 (8m)~~, and 302.114 (8m), and 302.115; persons
8 accused of crime and committed for trial; persons committed for the nonpayment of
9 fines and expenses; and persons sentenced to imprisonment therein, while in the
10 county jail, shall be paid out of the county treasury. No claim may be allowed to any
11 sheriff for keeping or boarding any person in the county jail unless the person was
12 lawfully detained therein.

13 **SECTION 22.** 303.08 (1) (intro.) of the statutes is amended to read:

14 303.08 **(1)** (intro.) Any person sentenced to a county jail for crime, nonpayment
15 of a fine or forfeiture, or contempt of court or subject to a confinement sanction under
16 s. ~~302.113 (8m)~~ or 302.114 (8m) or 302.115 or a probationer detained in a county jail,
17 tribal jail, or other county facility for a probation violation who meets the criteria
18 under s. 302.335 (2j) may be granted the privilege of leaving the jail during necessary
19 and reasonable hours for any of the following purposes:

20 **SECTION 23.** 303.08 (2) of the statutes is amended to read:

21 303.08 **(2)** Unless such privilege is expressly granted by the court or, in the case
22 of a person subject to a confinement sanction under s. ~~302.113 (8m)~~ or 302.114 (8m)
23 or 302.115, the department, the person is sentenced to ordinary confinement. A
24 prisoner, other than a person subject to a confinement sanction under s. ~~302.113 (8m)~~
25 ~~or 302.114 (8m)~~ or 302.115, may petition the court for such privilege at the time of

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1 sentence or thereafter, and in the discretion of the court may renew the prisoner's
2 petition. The court may withdraw the privilege at any time by order entered with
3 or without notice.

4 **SECTION 24.** 303.08 (5) (intro.) of the statutes is amended to read:

5 303.08 (5) (intro.) By order of the court or, for a person subject to a confinement
6 sanction under s. ~~302.113 (8m) or 302.114 (8m)~~ or 302.115, by order of the
7 department, the wages, salary and unemployment insurance and employment
8 training benefits received by prisoners shall be disbursed by the sheriff for the
9 following purposes, in the order stated:

10 **SECTION 25.** 303.08 (6) of the statutes is amended to read:

11 303.08 (6) The department, for a person subject to a confinement sanction
12 under s. ~~302.113 (8m) or 302.114 (8m)~~ or 302.115, or the sentencing court, by order,
13 may authorize the sheriff to whom the prisoner is committed to arrange with another
14 sheriff for the employment or employment training of the prisoner in the other's
15 county, and while so employed or trained to be in the other's custody but in other
16 respects to be and continue subject to the commitment.

17 **SECTION 26.** 303.08 (12) of the statutes is amended to read:

18 303.08 (12) In counties having a house of correction, any person violating the
19 privilege granted under sub. (1) may be transferred by the county jailer to the house
20 of correction for the remainder of the term of the person's sentence or, if applicable,
21 the remainder of the person's confinement sanction under s. ~~302.113 (8m) or 302.114~~
22 (8m) or 302.115.

23 **SECTION 27.** 304.06 (3) of the statutes is amended to read:

24 304.06 (3) (a) Every paroled prisoner remains in the legal custody of the
25 department unless otherwise provided by the department.

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1 **(b)** If the department alleges that any condition or rule of parole has been
2 violated by the prisoner, the department may take physical custody of the prisoner
3 for the investigation of the alleged violation. If the department is satisfied that any
4 condition or rule of parole has been violated it shall afford the prisoner such
5 administrative hearings as are required by law.

6 **(c)** Unless waived by the parolee, the final administrative hearing shall be held
7 before a hearing examiner from the division of hearings and appeals in the
8 department of administration who is licensed to practice law in this state. The
9 hearing examiner shall enter an order revoking or not revoking parole under par. (g).

10 **(d)** Upon request by either party, the administrator of the division of hearings
11 and appeals in the department of administration shall review the order.

12 **(e)** The hearing examiner may order that a deposition be taken by audiovisual
13 means and allow the use of a recorded deposition under s. 967.04 (7) to (10) in a
14 hearing under this subsection.

15 **(f)** If the parolee waives the final administrative hearing, the secretary of
16 ~~corrections~~ shall enter an order revoking or not revoking parole.

17 **(g)** If the examiner, the administrator upon review, or the secretary in the case
18 of a waiver finds that the prisoner has violated the rules or conditions of parole, the
19 examiner, the administrator upon review, or the secretary in the case of a waiver,
20 may order the prisoner returned to prison to continue serving his or her sentence, or
21 to continue on parole. The hearing examiner, administrator, or secretary may not
22 revoke parole under this subsection unless one of the following applies:

23 **(h)** If the prisoner claims or appears to be indigent, the department shall refer
24 the prisoner to the authority for indigency determinations specified under s. 977.07
25 (1).

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1 **SECTION 28.** 304.06 (3) (g) 1. to 5. of the statutes are created to read:

2 304.06 (3) (g) 1. The person has committed 3 or more independent violations
3 while released on parole.

4 2. The condition that the person violated was a condition that the person not
5 contact any specified individual.

6 3. The person was required to register as a sex offender under s. 301.45.

7 4. When the person violated the condition of parole, the person also allegedly
8 committed a crime.

9 5. The person absconded, as defined in s. 302.11 (7) (ag) 1.

10 **SECTION 29.** 304.06 (3g) of the statutes is repealed.

11 **SECTION 30.** 808.075 (4) (g) 3. of the statutes is amended to read:

12 808.075 (4) (g) 3. Imposition of sentence upon revocation of probation under s.
13 973.10 (2) ~~(a)~~ (bm) 2. a.

14 **SECTION 31.** 950.04 (1v) (vg) of the statutes is amended to read:

15 950.04 (1v) (vg) To have the department of corrections make a reasonable
16 attempt to notify the victim, pursuant to s. 302.107, of a revocation of parole or of
17 release to extended supervision under s. 302.11 (7), 302.113 (9), 302.114 (9), or 304.06
18 (3) ~~or (3g).~~

19 **SECTION 32.** 973.10 (2) (intro.) of the statutes is renumbered 973.10 (2) (am)
20 and amended to read:

21 973.10 (2) (am) If a probationer violates the conditions of probation, the
22 department of corrections may initiate a proceeding before the division of hearings
23 and appeals in the department of administration. Unless waived by the probationer,
24 a hearing examiner for the division shall conduct an administrative hearing and
25 enter an order either revoking or not revoking probation. Upon request of either

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1 party, the administrator of the division shall review the order. If the probationer
2 waives the final administrative hearing, the secretary of corrections shall enter an
3 order either revoking or not revoking probation.

4 (bm) 2. If probation is revoked, the department shall do one of the following:

5 **SECTION 33.** 973.10 (2) (a) and (b) of the statutes are renumbered 973.10 (2)

6 (bm) 2. a. and b.

7 **SECTION 34.** 973.10 (2) (bm) 1. of the statutes is created to read:

8 973.10 (2) (bm) 1. Probation may not be revoked unless one of the following
9 applies:

10 a. The person committed 3 or more independent violations while on probation.

11 b. The condition that the person violated was a condition that the person not
12 contact any specified individual.

13 c. The person was required to register as a sex offender under s. 301.45.

14 d. When the person violated the condition of probation, the person also
15 allegedly committed a crime.

16 e. The person absconded, as defined in s. 302.113 (9) (ag) 1.

17 **SECTION 35.** 973.10 (2s) of the statutes is repealed.

18 **SECTION 36. Initial applicability.**

19 (1) This act first applies to an order entered on the effective date of this
20 subsection.

21 (END)