



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0444/1
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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 923**

March 10, 2004 – Offered by COMMITTEE ON CORRECTIONS AND THE COURTS.

1 **AN ACT** *to repeal* 20.505 (6) (kv); *to amend* 302.43, 973.032 (6), 973.155 (1) (b)
2 and 973.155 (3); *to repeal and recreate* 961.472 (5); and *to create* 16.964 (10),
3 20.505 (6) (e), 20.505 (6) (kv), 967.11 and 973.155 (1m) of the statutes; **relating**
4 **to:** grants to counties for providing alternatives to prosecution and
5 incarceration for persons who abuse alcohol or other drugs and making
6 appropriations.

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

7 **SECTION 1.** 16.964 (10) of the statutes is created to read:
8 16.964 **(10)** (a) In this subsection:
9 1. “County department” means a county department under s. 51.42 or 51.437
10 that provides substance abuse treatment services.
11 2. “Violent offender” means a person to whom one of the following applies:

1 a. The person has been charged with or convicted of an offense in a pending case
2 and, during the course of the offense, the person carried, possessed, or used a
3 dangerous weapon, the person used force against another person, or a person died
4 or suffered serious bodily harm.

5 b. The person has one or more prior convictions for a felony involving the use
6 or attempted use of force against another person with the intent to cause death or
7 serious bodily harm.

8 (b) The office shall make grants to county departments to enable them to
9 establish and operate programs, including suspended and deferred prosecution
10 programs and programs based on principles of restorative justice, that provide
11 alternatives to prosecution and incarceration for criminal offenders who abuse
12 alcohol or other drugs. The office shall make the grants from the appropriations
13 under s. 20.505 (6) (e) and (kv). The office shall collaborate with the departments of
14 corrections and health and family services in establishing this grant program.

15 (c) A county department shall be eligible for a grant under par. (b) if all of the
16 following apply:

17 1. The county department's program is designed to meet the needs of a person
18 who abuses alcohol or other drugs and who may be or has been charged with or who
19 has been convicted of a crime in that county related to the person's use or abuse of
20 alcohol or other drugs.

21 2. The program is designed to promote public safety, reduce prison and jail
22 populations, reduce prosecution and incarceration costs, reduce recidivism, and
23 improve the welfare of participants' families by meeting the comprehensive needs of
24 participants.

1 3. The program establishes eligibility criteria for a person's participation. The
2 criteria shall specify that a violent offender is not eligible to participate in the
3 program.

4 4. The program is consistent with the best practices in substance abuse and
5 mental health treatment and provides intensive case management.

6 5. The program uses graduated sanctions and incentives to promote successful
7 substance abuse treatment.

8 6. The program provides holistic treatment to its participants and provides
9 them services that may be needed, as determined under the program, to eliminate
10 or reduce their use of alcohol or other drugs, improve their mental health, facilitate
11 their gainful employment or enhanced education or training, provide them stable
12 housing, facilitate family reunification, ensure payment of child support, and
13 achieve other objectives selected under subd. 10.

14 7. The program is designed to integrate all mental health services provided to
15 program participants by state and local government agencies and other
16 organizations. The program shall require regular communication between a
17 participant's substance abuse treatment providers and any probation, extended
18 supervision, and parole agent assigned to the participant.

19 8. The program provides substance abuse and mental health treatment
20 services through providers that are certified by the department of health and family
21 services.

22 9. The program requires participants to pay a reasonable amount for their
23 treatment, based on their income and available assets.

24 10. The program is developed with input from one or more circuit court judges,
25 the district attorney, the state public defender, local law enforcement officials, the

1 county department, other county agencies responsible for providing social services,
2 including services relating to child welfare, mental health, and the Wisconsin works
3 program, the departments of corrections and health and family services, private
4 social services agencies, and substance abuse treatment providers.

5 11. The county department complies with other eligibility requirements
6 established by the office to promote the objectives listed in subds. 1. and 2.

7 (d) If a county department for a county with a population of 500,000 or more
8 applies for a grant from the office under par. (b), and the county department's
9 program meets the requirements of par. (c), the office shall award the county
10 department a grant under par. (b).

11 (f) 1. A county department that receives a grant under this subsection shall
12 create an oversight committee to advise the county department in administering and
13 evaluating its program. Each committee shall consist of a circuit court judge, the
14 district attorney or his or her designee, the state public defender or his or her
15 designee, a local law enforcement official, a representative of the county department,
16 a representative of each other county agency responsible for providing social
17 services, including services relating to child welfare, mental health, and the
18 Wisconsin works program, representatives of the departments of corrections and
19 health and family services, a representative from private social services agencies, a
20 representative of substance abuse treatment providers, and other members to be
21 determined by the county department.

22 2. A county department that receives a grant under this subsection shall
23 comply with state audits and shall submit an annual report to the office regarding
24 the impact of the program on jail and prison populations.

1 (g) Two or more county departments may jointly apply for and receive a grant
 2 under this subsection. If county departments submit a joint application, they shall
 3 include with their application a written agreement specifying each county
 4 department's role in developing, administering, and evaluating the program. The
 5 oversight committee established under par. (c) shall consist of representatives from
 6 each county department.

7 (gm) Grants provided under this subsection shall be provided on a calendar
 8 year basis beginning on January 1, 2005.

9 (h) The office shall assist a county department receiving grants under this
 10 subsection in obtaining funding from other sources for its program.

11 (i) The office shall inform any county department that is applying for a grant
 12 under this subsection whether the county department meets the requirements
 13 established under par. (c), regardless of whether the county department receives a
 14 grant.

15 **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
 16 the following amounts for the purposes indicated:

	2003-04	2004-05
20.505 Administration, department of		
(6) OFFICE OF JUSTICE ASSISTANCE		
(e) Alternatives to prosecution and		
incarceration for persons who		
use alcohol or other drugs	GPR A	-0- -0-

23 **SECTION 3.** 20.505 (6) (e) of the statutes is created to read:

1 20.505 (6) (e) *Alternatives to prosecution and incarceration for persons who use*
2 *alcohol or other drugs.* The amounts in the schedule for making grants to counties
3 under s. 16.964 (10).

4 **SECTION 4.** 20.505 (6) (kv) of the statutes is created to read:

5 20.505 (6) (kv) *Grants for substance abuse treatment programs for criminal*
6 *offenders.* All moneys received from the departments of corrections and health and
7 family services that are provided to enable the office to make grants to counties under
8 s. 16.964 (10) for the purpose of making such grants.

9 **SECTION 5.** 20.505 (6) (kv) of the statutes, as created by 2003 Wisconsin Act
10 (this act), is repealed.

11 **SECTION 6.** 302.43 of the statutes is amended to read:

12 **302.43 Good time.** Every inmate of a county jail is eligible to earn good time
13 in the amount of one-fourth of his or her term for good behavior if sentenced to at
14 least 4 days, but fractions of a day shall be ignored. An inmate shall be given credit
15 for time served prior to sentencing under s. 973.155, including good time under s.
16 973.155 (4). An inmate who violates any law or any regulation of the jail, or neglects
17 or refuses to perform any duty lawfully required of him or her, may be deprived by
18 the sheriff of good time under this section, except that the sheriff shall not deprive
19 the inmate of more than 2 days good time for any one offense without the approval
20 of the court. An inmate who files an action or special proceeding, including a petition
21 for a common law writ of certiorari, to which s. 807.15 applies shall be deprived of
22 the number of days of good time specified in the court order prepared under s. 807.15
23 (3). This section does not apply to a person who is confined in the county jail in
24 connection with his or her participation in a substance abuse treatment program

1 that meets the requirements of s. 16.964 (10) (c), as determined by the office of justice
2 assistance under s. 16.964 (10) (i).

3 **SECTION 7.** 961.472 (5) of the statutes is repealed and recreated to read:

4 961.472 (5) The court is not required to enter an order under sub. (2) if any of
5 the following applies:

6 (a) The court finds that the person is already covered by or has recently
7 completed an assessment under this section or a substantially similar assessment.

8 (b) The person is participating in a substance abuse treatment program that
9 meets the requirements of s. 16.964 (10) (c), as determined by the office of justice
10 assistance under s. 16.964 (10) (i).

11 **SECTION 8.** 967.11 of the statutes is created to read:

12 **967.11 Alternatives to prosecution and incarceration; monitoring**
13 **participants. (1)** In this section, “approved substance abuse treatment program”
14 means a substance abuse treatment program that meets the requirements of s.
15 16.964 (10) (c), as determined by the office of justice assistance under s. 16.964 (10)
16 (i).

17 **(2)** If a county department establishes an approved substance abuse treatment
18 program and the program authorizes the use of electronic monitoring or day
19 reporting programs, a court or a district attorney may require a person participating
20 in an approved substance abuse treatment program to submit to electronic
21 monitoring or to participate in a day reporting program as a condition of
22 participation.

23 **SECTION 9.** 973.032 (6) of the statutes is amended to read:

1 973.032 **(6)** CREDIT. Any sentence credit under s. 973.155 (1) or (1m) applies
2 toward service of the period under sub. (3) (a) but does not apply toward service of
3 the period under sub. (3) (b).

4 **SECTION 10.** 973.155 (1) (b) of the statutes is amended to read:

5 973.155 **(1)** (b) The categories in par. (a) and sub. (1m) include custody of the
6 convicted offender which is in whole or in part the result of a probation, extended
7 supervision or parole hold under s. 302.113 (8m), 302.114 (8m), 304.06 (3), or 973.10
8 (2) placed upon the person for the same course of conduct as that resulting in the new
9 conviction.

10 **SECTION 11.** 973.155 (1m) of the statutes is created to read:

11 973.155 **(1m)** A convicted offender shall be given credit toward the service of
12 his or her sentence for all days spent in custody as part of a substance abuse
13 treatment program that meets the requirements of s. 16.964 (10) (c), as determined
14 by the office of justice assistance under s. 16.964 (10) (i) for any offense arising out
15 of the course of conduct that led to the person's placement in that program.

16 **SECTION 12.** 973.155 (3) of the statutes is amended to read:

17 973.155 **(3)** The credit provided in sub. (1) or (1m) shall be computed as if the
18 convicted offender had served such time in the institution to which he or she has been
19 sentenced.

20 **SECTION 13. Nonstatutory provisions.**

21 (1) The joint committee on finance may transfer funds under section 13.101 of
22 the statutes from any appropriation under section 20.410 or 20.435 of the statutes
23 that is of the type described in section 20.001 (2) (b), (c), or (e) of the statutes to the
24 appropriation under section 20.505 (6) (kv) of the statutes, as created by this act. The
25 committee need not make any of the findings specified in section 13.101 (3) (a) of the

1 statutes in connection with any transfer under this subsection. This subsection does
2 not apply after June 30, 2005.

3 (2) By August 1, 2004, the office of justice assistance shall solicit proposals for
4 grants under section 16.964 (10) of the statutes, as created by this act, for calendar
5 year 2005. All such proposals shall be submitted to the office of justice assistance by
6 November 1, 2004.

7 (3) If any proposal submitted under subsection (2) meets the requirements
8 established under section 16.964 (10) (c) of the statutes, as created by this act, the
9 office of justice assistance and the departments of corrections and health and family
10 services shall collaborate in determining whether implementation of the proposal
11 may result in a reduction of their expenditures and whether there is any federal or
12 state funding available to implement the proposal.

13 (4) Based on determinations made under subsection (3), the office of justice
14 assistance shall submit a proposal to the joint committee on finance for the transfer
15 of funds under subsection (1) or under section 13.101 of the statutes or both for the
16 purpose of funding the grant program under section 16.964 (10) of the statutes, as
17 created by this act. The proposal shall include a description of the determinations
18 made under subsection (3) and shall specify the amounts that would be transferred
19 for use as grants and for the administration of the grant program and the
20 appropriations from and to which the funds would be transferred if the proposal were
21 adopted.

22 **SECTION 14. Effective date.**

23 (1) The repeal of section 20.505 (6) (kv) of the statutes takes effect on July 1,
24 2005.

25

(END)