



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2011 Assembly Bill 86

**Assembly
Amendment 1**

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2011 Assembly Bill 86

2011 Assembly Bill 86 generally repeals all of the provisions of the sentencing modification laws that were created or affected by 2009 Wisconsin Act 28, the 2009-11 Biennial Budget Act.

The bill repeals the earned release programs that use “positive adjustment time,” “risk reduction sentences,” earned release within 12 months of the inmate’s eligible release date, early discharge after serving two years of extended supervision, and early discharge from probation.

The bill allows an inmate who is serving a sentence imposed on or after October 1, 2009, but before the effective date of the bill becoming law, who earned positive adjustment time or was given a risk reduction sentence to petition for adjustment under the positive adjustment time accrued during that period or to be released upon successful completion of a risk reduction sentence imposed during that period.

The bill also largely restores the early release provisions for the sentencing adjustment program, early release for an extraordinary health condition, and the earned release for rehabilitation and challenge incarceration programs as they existed prior to being modified by Act 28. However, the bill retains Act 28’s language defining an extraordinary health condition, rather than prior language that was based upon a terminal health condition.

Assembly Amendment 1

Assembly Amendment 1 to 2011 Assembly Bill 86 does the following:

- Restores the language from Act 28 that provides a six working-day timeline for release from incarceration by the Department of Corrections (DOC) after receipt of a court order

modifying the inmate's bifurcated sentence for successful completion of the earned release for rehabilitation or challenge incarceration programs.

- Specifies a six working-day timeline for release from incarceration by DOC after receipt of a court order releasing the inmate to extended supervision upon successful completion of the requirements of his or her risk reduction sentence.
- Restores the provision from Act 28 that allows for early discharge from probation, revises Act 28's authority to discharge from DOC to the court, creates criteria for determining if a person is eligible for early discharge, and creates a procedure for a victim of the crime to be notified of the hearing and provide a statement for consideration of early discharge from probation. The criteria for eligibility for early discharge from probation are: completion of 50% of the period of probation; satisfaction of conditions of probation set by the sentencing court; satisfaction of all rules and conditions set by the department; and fulfillment of all financial obligations to victims of the crime, the court, and the department, including fines, forfeitures, fees, surcharges, and restitution.
- Specifies that an inmate may petition the court for a sentencing adjustment based on the number of days of positive adjustment time the inmate claims have been earned, rather than requiring the inmate to include documentation from the department in the petition to the court. The amendment also removes the detailed considerations for the court's determination, and specifies that an inmate who has served at least 75% to 85% of the imprisonment may petition the court for a sentencing adjustment a year after a petition based on positive adjustment time.
- Specifies that any inmate serving a bifurcated sentence under the truth-in-sentencing laws effective December 31, 1999, regardless of the sentencing date, may petition the court for a sentencing adjustment based on the number of days of positive adjustment time earned between October 1, 2009, and the effective date of the bill, rather than only inmates who were sentenced between October 1, 2009, and the effective date of the bill.

Legislative History

Assembly Amendment 1 was offered by the Assembly Committee on Criminal Justice and Corrections on May 12, 2011, and adoption was recommended by the committee on a vote of Ayes, 5; Noes, 3. The committee also voted to recommend 2011 Assembly Bill 86, as amended, on a vote of Ayes, 5; Noes, 3.

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