



1997 ASSEMBLY BILL 501

September 2, 1997 - Introduced by Representative LADWIG. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to amend** 20.410 (1) (gr), 165.8285 (title), 165.8285 (2), 301.38 (title),
2 301.38 (1) (am), 301.38 (2) (intro.), 938.51 (2), 950.045, 973.03 (4) (a) and 973.03
3 (4) (d); **to repeal and recreate** 950.045; and **to create** 165.8285 (2m), 301.38
4 (1) (ag), 301.38 (2) (c), 301.38 (2) (d), 301.38 (5), 302.425 (6m), 302.47, 938.51 (4)
5 (c), 938.51 (4) (d), 938.51 (5), 973.03 (4) (e) and 973.03 (4) (f) of the statutes;
6 **relating to:** notification of certain persons concerning the escape of prisoners
7 and other persons in detention and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, if a prisoner escapes from a prison the department of corrections (DOC) must make a reasonable effort to notify the victim of the prisoner's crime and witnesses who testified against the prisoner that the prisoner has escaped. DOC must also make a reasonable effort to notify the victim and witnesses when the prisoner has been recaptured. (This notification requirement does not cover escape by prisoners who are in the intensive sanctions program or who are imprisoned as an alternative to the revocation of probation or parole, but does cover prisoners in community residential confinement, including those under electronic monitoring.) DOC is required to notify a victim or witness only if the person has informed DOC that he or she wants to receive notice and has sent DOC a card with his or her name and other specified information.

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Current law also provides that, if a juvenile who has been found delinquent and placed in a secured correctional facility or a secured child caring institution escapes from the secured correctional facility or secured child caring institution, DOC or the county department of social services (county department) that has supervision over the juvenile must make a reasonable effort to notify the victim of the act for which the juvenile was found delinquent and witnesses who testified against the juvenile that the juvenile has escaped. Like current law concerning notice of escape of prisoners, DOC and county departments are required to notify a victim or witness only if the person has informed DOC or the county department that he or she wants to receive notice and has sent DOC or the county department a card with his or her name and other specified information.

This bill makes a number of changes relating to notice of an escape by a prisoner or juvenile. First, the bill expands the notification requirement to cover, in addition to the escape of a prisoner who is in custody in the state prison, an escape by any of the following: 1) a person sentenced to imprisonment in a county jail or house of correction; 2) a person who is in the intensive sanctions program or imprisoned in a state prison as an alternative to revocation of probation or parole; 3) a person confined in a county jail or a house of correction who has been placed in the home detention program under electronic monitoring; and 4) a person sentenced by a judge to electronic monitoring in lieu of a sentence of imprisonment to county jail. A sheriff or superintendent of a house of correction is responsible for notification concerning escape of a person sentenced to imprisonment in a county jail or house of correction, while DOC is responsible for providing notification of the escape of a person in the intensive sanctions program and the persons (specified in items 3 and 4, above) who are under electronic monitoring.

The bill also expands the list of persons who must be notified about the escape of a prisoner or juvenile. Under the bill, the responsible agency (DOC, a county department, a sheriff or a superintendent of a house of correction) must notify, in addition to victims and witnesses, a person who has an abuse or harassment injunction against the prisoner or juvenile who escapes and a person who, because of a physical act or threat of a physical act by the prisoner or juvenile, reasonably fears an unlawful interference with his or her person by the prisoner or juvenile. As under current law, the responsible agency is required to notify a person if he or she has informed the responsible agency that he or she wants to receive notice and has sent the responsible agency a card with his or her name and other specified information. In addition, the responsible agency must: 1) determine, using the transaction information for management of enforcement (TIME) system (a statewide law enforcement data base), whether there are persons who have an abuse or harassment injunction against an escaped prisoner or juvenile but who have not informed the responsible agency that they want to be notified if the prisoner or juvenile escapes; and 2) notify persons found through the TIME system that the prisoner or juvenile has escaped.

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For further information see the *state and local* 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) (gr) of the statutes is amended to read:

2 20.410 (1) (gr) *Home detention services.* The amounts in the schedule to obtain,
3 install, operate and monitor electronic equipment for the home detention program
4 under s. 302.425. All moneys received under s. ss. 302.425 (3m) or (4) and 973.03 (4)
5 (a) shall be credited to this appropriation. On June 30, 1992, June 30, 1993, and June
6 30, 1994, one-third of the amount expended in fiscal year 1990-91 from the
7 appropriation under par. (cm) shall lapse to the general fund.

8 **SECTION 2.** 165.8285 (title) of the statutes is amended to read:

9 **165.8285** (title) **Transaction information for management of**
10 **enforcement system; department of corrections and other records.**

11 **SECTION 3.** 165.8285 (2) of the statutes is amended to read:

12 165.8285 (2) The department of justice shall provide the department of
13 corrections with access to the transaction information for management of
14 enforcement system administrative message process and to information in the
15 transaction information for management of enforcement system concerning orders
16 or injunctions under ss. 813.12, 813.122 and 813.125.

17 **SECTION 4.** 165.8285 (2m) of the statutes is created to read:

18 165.8285 (2m) The department of justice shall provide jailers, as defined in s.
19 302.47 (1) (b), and the county departments under ss. 46.215, 46.22, 46.23, 51.42 and
20 51.437 with access to information in the transaction information for management of
21 enforcement system concerning orders or injunctions under ss. 813.12, 813.122 and

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1 813.125 to enable jailers to comply with s. 302.47 (5) and to enable the county
2 departments to comply with s. 938.51 (5).

3 **SECTION 5.** 301.38 (title) of the statutes is amended to read:

4 **301.38 (title) Notification of victims and, witnesses and other persons**
5 **about prisoner escapes.**

6 **SECTION 6.** 301.38 (1) (ag) of the statutes is created to read:

7 301.38 (1) (ag) "Prison" means a state prison under s. 302.01, including a Type
8 2 prison.

9 **SECTION 7.** 301.38 (1) (am) of the statutes is amended to read:

10 301.38 (1) (am) "Prisoner" has the meaning given in s. 301.01 (2), ~~but does not~~
11 ~~include any person in the intensive sanctions program under s. 301.048 or any person~~
12 ~~who is imprisoned as an alternative to the revocation of probation or parole.~~

13 **SECTION 8.** 301.38 (2) (intro.) of the statutes is amended to read:

14 301.38 (2) (intro.) If a prisoner escapes from a ~~Type 1~~ prison, the department
15 shall make a reasonable effort to notify all of the following persons, if they can be
16 found, in accordance with sub. (3) and after receiving a completed card under sub.
17 (4) and complying with sub. (5):

18 **SECTION 9.** 301.38 (2) (c) of the statutes is created to read:

19 301.38 (2) (c) A person who, because of a physical act or threat of a physical act
20 by the prisoner, reasonably fears an unlawful interference with his or her person by
21 the prisoner.

22 **SECTION 10.** 301.38 (2) (d) of the statutes is created to read:

23 301.38 (2) (d) A person who has an injunction under s. 813.12, 813.122 or
24 813.125 against the prisoner.

25 **SECTION 11.** 301.38 (5) of the statutes is created to read:

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1 301.38 (5) In addition to using completed cards sent to it under sub. (4), the
2 department shall use the transaction information for management of enforcement
3 system to determine whether there are persons specified in sub. (2) (d) who have an
4 injunction issued under s. 813.12, 813.122 or 813.125 against the prisoner and, if so,
5 the names and addresses of those persons.

6 **SECTION 12.** 302.425 (6m) of the statutes is created to read:

7 302.425 (6m) NOTIFICATION OF VICTIMS, WITNESSES AND OTHERS ABOUT ESCAPES.

8 (a) In this subsection:

9 1. "Member of the family" means a spouse, child, sibling, parent or legal
10 guardian.

11 2. "Victim" means a person against whom a crime has been committed.

12 (b) If a prisoner or a child who has been placed in the home detention program
13 escapes from the program, the department shall make a reasonable effort to notify
14 all of the following persons, if they can be found, in accordance with par. (c) and after
15 receiving a completed card under par. (d) and complying with par. (e):

16 1. The victim of the crime committed by the prisoner or of the act for which the
17 child was found delinquent or, if the victim died as a result of the crime or act, an
18 adult member of the victim's family or, if the victim is younger than 18 years old, the
19 victim's parent or legal guardian.

20 2. Any witness who testified against the prisoner or child in any court
21 proceeding involving the offense or act.

22 3. A person who, because of a physical act or threat of a physical act by the
23 prisoner or child, reasonably fears an unlawful interference with his or her person
24 by the prisoner or child.

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1 4. A person who has an injunction under s. 813.12, 813.122 or 813.125 against
2 the prisoner or child.

3 (c) The department shall make a reasonable effort to notify the person by
4 telephone as soon as possible after the escape and after any subsequent
5 apprehension of the prisoner or child.

6 (d) The department shall design and prepare cards for any person specified in
7 par. (b) to send to the department. The cards shall have space for any such person
8 to provide his or her name, telephone number and mailing address, the name of the
9 applicable prisoner or child and any other information that the department
10 determines is necessary. The department shall provide the cards, without charge,
11 to district attorneys, sheriffs, superintendents of houses of correction and county
12 departments. District attorneys, sheriffs, superintendents of houses of correction
13 and county departments shall provide the cards, without charge, to persons specified
14 in par. (b). These persons may send completed cards to the department. All
15 department records or portions of records that relate to telephone numbers and
16 mailing addresses of these persons are not subject to inspection or copying under s.
17 19.35 (1).

18 (e) In addition to using completed cards sent to it under par. (d), the department
19 shall use the transaction information for management of enforcement system to
20 determine whether there are persons specified in par. (b) 4. who have an injunction
21 issued under s. 813.12, 813.122 or 813.125 against the prisoner and, if so, the names
22 and addresses of those persons.

23 **SECTION 13.** 302.47 of the statutes is created to read:

24 **302.47 Notification about escape of jail or house of correction prisoner.**

25 **(1)** In this section:

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1 (a) "Jail" includes a house of correction, a Huber facility under s. 303.09 or a
2 work camp under s. 303.10.

3 (b) "Jailer" includes a sheriff, superintendent or other keeper of a jail.

4 (c) "Jail prisoner" means a person confined in a jail who has been arrested for,
5 charged with, convicted of or sentenced for a crime, including a person confined
6 under s. 973.09 (4).

7 (d) "Member of the family" means a spouse, child, sibling, parent or legal
8 guardian.

9 (e) "Victim" means a person against whom a crime has been committed.

10 **(2)** If a jail prisoner escapes from a jail, the jailer shall make a reasonable effort
11 to notify all of the following persons, if they can be found, in accordance with sub. (3)
12 and after receiving a completed card under sub. (4) and complying with sub. (5):

13 (a) The victim of the crime committed by the jail prisoner or, if the victim died
14 as a result of the crime, an adult member of the victim's family or, if the victim is
15 younger than 18 years old, the victim's parent or legal guardian.

16 (b) Any witness who testified against the jail prisoner in any court proceeding
17 involving the offense.

18 (c) A person who, because of a physical act or threat of a physical act by the jail
19 prisoner, reasonably fears an unlawful interference with his or her person by the jail
20 prisoner.

21 (d) A person who has an injunction under s. 813.12, 813.122 or 813.125 against
22 the jail prisoner.

23 **(3)** The jailer shall make a reasonable effort to notify the persons specified in
24 sub. (2) by telephone as soon as possible after the escape and after any subsequent
25 apprehension of the jail prisoner.

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1 (4) The department shall, in cooperation with jailers, design and prepare cards
2 for any person specified in sub. (2) to send to the jailer who has custody of the
3 applicable jail prisoner. The cards shall have space for any such person to provide
4 his or her name, telephone number and mailing address, the name of the applicable
5 jail prisoner and any other information that the department and jailers determine
6 is necessary. The department shall provide the cards, without charge, to district
7 attorneys and jailers. District attorneys and jailers shall provide the cards, without
8 charge, to persons specified in sub. (2). These persons may send completed cards to
9 the jailer who has custody of the applicable jail prisoner. All records or portions of
10 records of a jailer that relate to telephone numbers and mailing addresses of these
11 persons are not subject to inspection or copying under s. 19.35 (1).

12 (5) In addition to using completed cards sent to him or her under sub. (4), a
13 jailer shall use the transaction information for management of enforcement system
14 to determine whether there are persons specified in sub. (2) (d) who have an
15 injunction issued under s. 813.12, 813.122 or 813.125 against the jail prisoner and,
16 if so, the names and addresses of those persons.

17 **SECTION 14.** 938.51 (2) of the statutes is amended to read:

18 938.51 (2) The department shall design and prepare cards for any person
19 specified in sub. (1) (b), (c) or (d) to send to the department or county department
20 having supervision over the juvenile. The cards shall have space for any such person
21 to provide his or her name, telephone number and mailing address, the name of the
22 applicable juvenile and any other information that the department determines is
23 necessary. The department shall provide the cards, without charge, to district
24 attorneys. District attorneys shall provide the cards, without charge, to persons
25 specified in sub. (1) (b) to (d). These persons may send completed cards to the

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1 department or county department having supervision over the juvenile. All
2 department records or portions of records that relate to telephone numbers and
3 mailing addresses of these persons are not subject to inspection or copying under s.
4 19.35 (1).

5 **SECTION 15.** 938.51 (4) (c) of the statutes is created to read:

6 938.51 (4) (c) A person who, because of a physical act or threat of a physical act
7 by the juvenile, reasonably fears an unlawful interference with his or her person by
8 the juvenile.

9 **SECTION 16.** 938.51 (4) (d) of the statutes is created to read:

10 938.51 (4) (d) A person who has an injunction under s. 813.12, 813.122 or
11 813.125 against the juvenile.

12 **SECTION 17.** 938.51 (5) of the statutes is created to read:

13 938.51 (5) In addition to using completed cards sent to it under sub. (2), the
14 department or county department shall use the transaction information for
15 management of enforcement system to determine whether there are persons
16 specified in sub. (4) (d) who have an injunction issued under s. 813.12, 813.122 or
17 813.125 against the juvenile and, if so, the names and addresses of those persons.

18 **SECTION 18.** 950.045 of the statutes is amended to read:

19 **950.045 Victims; application for parole or pardon; releases; escapes;**
20 **corrections programs.** Victims of crimes have the right to provide written
21 statements concerning parole applications under s. 304.06 (1) (e), to have direct input
22 in the parole decision-making process under s. 304.06 (1) (em) and to provide written
23 statements concerning pardon applications under s. 304.10 (2). Victims of crimes
24 have the right to be notified by district attorneys under s. 971.17 (4m) regarding
25 conditional releases under s. 971.17. Victims of crimes have the right to be notified

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1 by the department of health and family services under s. 971.17 (6m) regarding
2 terminations or discharges under s. 971.17. Victims of crimes have the right to be
3 notified by the department of corrections under s. 301.046 (4) regarding community
4 residential confinements, under s. 301.048 (4m) regarding participation in the
5 intensive sanctions program, ~~under s. 301.38 regarding escapes from a Type 1~~
6 ~~prison~~, under s. 302.115 regarding the expiration of sentences and under s. 304.063
7 regarding parole releases. Victims of crimes have the right to be notified under ss.
8 301.38, 302.425 (6m), 302.47, 938.51 (4) and 973.03 (4) (f) regarding escapes. Victims
9 of acts of sexual violence have the right to be notified by district attorneys or the
10 department of justice under s. 980.11 regarding supervised releases under s. 980.06
11 and discharges under s. 980.09 or 980.10.

12 **SECTION 19.** 950.045 of the statutes, as affected by 1995 Wisconsin Act 440,
13 section 88, and 1997 Wisconsin Act ... (this act), is repealed and recreated to read:

14 **950.045 Victims; application for parole or pardon; releases; escapes;**
15 **corrections programs.** Victims of crimes have the right to provide written
16 statements concerning parole applications under s. 304.06 (1) (e), to have direct input
17 in the parole decision-making process under s. 304.06 (1) (em) and to provide written
18 statements concerning pardon applications under s. 304.10 (2). Victims of crimes
19 have the right to be notified by district attorneys under s. 971.17 (4m) regarding
20 conditional releases under s. 971.17. Victims of crimes have the right to be notified
21 by the department of health and family services under s. 971.17 (6m) regarding
22 terminations or discharges under s. 971.17. Victims of crimes have the right to be
23 notified by the department of corrections under s. 301.046 (4) regarding community
24 residential confinements, under s. 301.048 (4m) regarding participation in the
25 intensive sanctions program, under s. 302.115 regarding the expiration of sentences

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1 and under s. 304.063 regarding parole releases. Victims of crimes have the right to
2 be notified under ss. 301.38, 302.425 (6m), 302.47, 938.51 (4) and 973.03 (4) (f)
3 regarding escapes. Victims of acts of sexual violence have the right to be notified by
4 the department of health and family services under s. 980.11 regarding supervised
5 releases under s. 980.06 and discharges under s. 980.09 or 980.10. Victims have the
6 right to be notified of the registration of a person and the update of information
7 regarding that person under s. 301.46.

8 **SECTION 20.** 973.03 (4) (a) of the statutes is amended to read:

9 973.03 (4) (a) In lieu of a sentence of imprisonment to the county jail, a court
10 may impose a sentence of detention at the defendant's place of residence or other
11 place designated by the court. The length of detention may not exceed the maximum
12 possible period of imprisonment. The detention shall be monitored by the
13 department by the use of an electronic device worn continuously on the defendant's
14 person and capable of providing positive identification of the wearer at the detention
15 location at any time. A sentence of detention in lieu of jail confinement may be
16 imposed only if agreed to by the defendant. The court and the department shall
17 ensure that the defendant is provided a written statement of the terms of the
18 sentence of detention, including a description of the detention monitoring procedures
19 and requirements and of any applicable liability issues. The terms of the sentence
20 of detention may include a requirement that the defendant pay the department a
21 daily fee to cover the costs associated with monitoring him or her. ~~In that case, the~~
22 ~~terms must specify to whom the payments are made.~~

23 **SECTION 21.** 973.03 (4) (d) of the statutes is amended to read:

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1 973.03 (4) (d) A sentence under this subsection is not a sentence of
2 imprisonment, except as provided in par. (e) and except for purposes of ss. 973.04,
3 973.15 (8) (a) and 973.19.

4 **SECTION 22.** 973.03 (4) (e) of the statutes is created to read:

5 973.03 (4) (e) Any intentional failure of a person sentenced to detention under
6 par. (a) to remain within the limits of his or her detention or to return to his or her
7 place of detention, as specified in the terms of detention under par. (a), is considered
8 an escape under s. 946.42 (3) (a).

9 **SECTION 23.** 973.03 (4) (f) of the statutes is created to read:

10 973.03 (4) (f) 1. In this paragraph:

11 a. "Member of the family" means a spouse, child, sibling, parent or legal
12 guardian.

13 b. "Victim" means a person against whom a crime has been committed.

14 2. If a person sentenced to detention under par. (a) escapes from detention, the
15 department shall make a reasonable effort to notify all of the following persons, if
16 they can be found, in accordance with subd. 3. and after receiving a completed card
17 under subd. 4. and complying with subd. 5.:

18 a. The victim of the crime committed by the person sentenced to detention or,
19 if the victim died as a result of the crime, an adult member of the victim's family or,
20 if the victim is younger than 18 years old, the victim's parent or legal guardian.

21 b. Any witness who testified against the person sentenced to detention in any
22 court proceeding involving the offense.

23 c. A person who, because of a physical act or threat of a physical act by the
24 person sentenced to detention, reasonably fears an unlawful interference with his or
25 her person by the person sentenced to detention.

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1 d. A person who has an injunction under s. 813.12, 813.122 or 813.125 against
2 the person sentenced to detention.

3 3. The department shall make a reasonable effort to notify the persons specified
4 in subd. 2. by telephone as soon as possible after the escape and after any subsequent
5 apprehension of the person sentenced to detention.

6 4. The department shall design and prepare cards for any person specified in
7 subd. 2. to send to the department. The cards shall have space for any such person
8 to provide his or her name, telephone number and mailing address, the name of the
9 applicable person sentenced to detention and any other information that the
10 department determines is necessary. The department shall provide the cards,
11 without charge, to district attorneys. District attorneys shall provide the cards,
12 without charge, to persons specified in subd. 2. These persons may send completed
13 cards to the department. All department records or portions of records that relate
14 to telephone numbers and mailing addresses of these persons are not subject to
15 inspection or copying under s. 19.35 (1).

16 5. In addition to using completed cards sent to it under subd. 4., the department
17 shall use the transaction information for management of enforcement system to
18 determine whether there are persons specified in subd. 2. d. who have an injunction
19 issued under s. 813.12, 813.122 or 813.125 against the person sentenced to detention
20 and, if so, the names and addresses of those persons.

21 **SECTION 24. Effective dates.** This act takes effect on the day after
22 publication, except as follows:

23 (1) The repeal and recreation of section 950.045 of the statutes takes effect on
24 June 1, 1997.

25 (END)