



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1505/1
MJW:emw

2023 SENATE BILL 170

April 3, 2023 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to renumber and amend** 302.05 (3) (e); **to amend** 302.05 (title), 302.05
2 (1) (am) (intro.), 302.05 (1) (b), 302.05 (2), 302.05 (3) (b), 302.05 (3) (c) 2. (intro.),
3 302.05 (3) (d), 302.113 (2) and 973.01 (4); and **to create** 302.05 (1) (c), 302.05
4 (3) (c) 2m., 302.05 (3) (e) 2., 302.05 (4) and 302.05 (5) of the statutes; **relating**
5 **to:** earned release for inmates upon the completion of an employment readiness
6 training program and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Legislative Council Study Committee on Increasing Offender Employment Opportunities. The bill expands the current law earned release program to also apply to inmates who complete an employment readiness training program.

Current law allows eligible inmates to earn early release to extended supervision or parole if they complete a substance abuse program. Inmates are generally eligible for

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early release to supervision under the program if they meet the following conditions: (1) the individual is serving time for a crime other than a specified violent crime; (2) the sentencing court deems the individual eligible; and (3) the individual successfully completes a Department of Corrections (DOC) substance abuse treatment program.

An inmate who completes the earned release program will have his or her sentence modified by a court to convert remaining confinement time in prison to supervised time in the community. The program allows for early release while maintaining the total length of an individual's sentence. Presently, the earned release program is only available to inmates with substance abuse needs who complete substance abuse programs, and not to those who earn educational credentials or complete job training programs. Under current law, an individual is deemed eligible or ineligible for the earned release program at the time the individual is initially sentenced.

The bill expands the earned release program to also apply to eligible inmates who complete an employment readiness training program (ERTP) pursuant to DOC administrative rules. An "employment readiness training program" is an education, job training, employment, or other equivalent evidence-based program intended to lead to employment and reduce recidivism. An inmate cannot be released from confinement after completing an ERTTP until the individual has served at least two-thirds of the confinement in prison portion of his or her bifurcated sentence.

The bill permits eligible inmates serving bifurcated sentences to petition the sentencing court for ERTTP eligibility at any point after sentencing, if the inmate has DOC approval. Under the bill, DOC must prepare biennial reports providing data on the number of individuals deemed eligible for the earned release program but who have not yet begun programming, program enrollments and completions, recidivism rates for those granted early release to supervision, and cost savings resulting from reduced confinement time. The bill directs DOC to promulgate administrative rules for implementation of the earned release program, but delays the statutory changes to the program for one year.

1 **SECTION 1.** 302.05 (title) of the statutes is amended to read:

2 **302.05** (title) **Wisconsin substance abuse program earned release**
3 **program.**

4 **SECTION 2.** 302.05 (1) (am) (intro.) of the statutes is amended to read:

5 302.05 (1) (am) (intro.) The department of corrections and the department of
6 health services may designate a section of a mental health institute as a correctional
7 treatment facility for the treatment of substance abuse use disorder of inmates
8 transferred from Wisconsin state prisons. ~~This section shall be administered by the~~
9 ~~department of corrections and shall be known as the Wisconsin substance abuse~~
10 ~~program.~~ The department of corrections and the department of health services shall
11 ensure that the residents at the institution and the residents in the substance abuse
12 use disorder program:

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1 **SECTION 3.** 302.05 (1) (b) of the statutes is amended to read:

2 302.05 (1) (b) The department of ~~corrections~~ and the department of health
3 services shall, at any correctional facility the departments determine is appropriate,
4 provide a substance ~~abuse~~ use disorder treatment program for inmates for the
5 purposes of the program described in sub. (3).

6 **SECTION 4.** 302.05 (1) (c) of the statutes is created to read:

7 302.05 (1) (c) 1. In this paragraph, “employment readiness training program”
8 means an educational, job training, employment, or other equivalent
9 evidence-based program intended to lead to employment and reduce recidivism.
10 2. The department shall, at any correctional facility the department
11 determines is appropriate, provide employment readiness training programs for the
12 purposes of the program described in sub. (3).

13 **SECTION 5.** 302.05 (2) of the statutes is amended to read:

14 302.05 (2) Transfer to a correctional treatment facility for the treatment of
15 substance ~~abuse~~ use disorder shall be considered a transfer under s. 302.18.

16 **SECTION 6.** 302.05 (3) (b) of the statutes is amended to read:

17 302.05 (3) (b) Except as provided in par. (d), if the department determines that
18 an eligible inmate serving a sentence other than one imposed under s. 973.01 has
19 successfully completed a substance use disorder treatment program described in
20 sub. (1) ~~(am) or (b) or an employment readiness training program described in sub.~~
21 (1) (c), the parole commission shall parole the inmate for that sentence under s.
22 304.06, regardless of the time the inmate has served. If the parole commission grants
23 parole under this paragraph for the completion of a substance use disorder treatment
24 program, it shall require the parolee to participate in an intensive supervision
25 program for drug abusers as a condition of parole.

SENATE BILL 170**SECTION 7**

1 **SECTION 7.** 302.05 (3) (c) 2. (intro.) of the statutes is amended to read:

2 302.05 (3) (c) 2. (intro.) Upon being informed by the department under subd.
3 1. that an inmate whom the court sentenced under s. 973.01 has successfully
4 completed a substance use disorder treatment program described in sub. (1) (am) or
5 (b), the court shall modify the inmate's bifurcated sentence as follows:

6 **SECTION 8.** 302.05 (3) (c) 2m. of the statutes is created to read:

7 302.05 (3) (c) 2m. Upon being informed by the department under subd. 1. that
8 an inmate whom the court sentenced under s. 973.01 has successfully completed an
9 employment readiness training program described in sub. (1) (c), the court shall
10 modify the inmate's bifurcated sentence as follows:

11 a. The court shall reduce the term of confinement in prison portion of the
12 inmate's bifurcated sentence in a manner that provides for the release of the inmate
13 to extended supervision either within 30 days of the date on which the court receives
14 the information from the department under subd. 1. or on a date that reduces the
15 confinement in prison portion of the inmate's bifurcated sentence by one third of the
16 total confinement in prison portion of the inmate's bifurcated sentence, whichever
17 is later.

18 b. The court shall lengthen the term of extended supervision imposed so that
19 the total length of the bifurcated sentence originally imposed does not change.

20 **SECTION 9.** 302.05 (3) (d) of the statutes is amended to read:

21 302.05 (3) (d) The department may place intensive sanctions program
22 participants in a treatment program described in sub. (1) (am) or (b), but pars. (b) and
23 (c) do not apply to those participants.

24 **SECTION 10.** 302.05 (3) (e) of the statutes is renumbered 302.05 (3) (e) 1. and
25 amended to read:

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1 302.05 (3) (e) 1. If an inmate is serving the term of confinement portion of a
2 bifurcated sentence imposed under s. 973.01, the sentence was imposed before July
3 26, 2003, and the inmate satisfies the criteria under par. (a) 1., the inmate may, with
4 the department's approval, petition the sentencing court to determine whether he or
5 she is eligible or ineligible to participate in ~~the earned release program under this~~
6 ~~subsection~~ a substance use disorder treatment program described in sub. (1) (am) or
7 (b) during the term of confinement. The inmate shall serve a copy of the petition on
8 the district attorney who prosecuted him or her, and the district attorney may file a
9 written response. The court shall exercise its discretion in granting or denying the
10 inmate's petition but must do so no later than 90 days after the inmate files the
11 petition. If the court determines under this ~~paragraph~~ subdivision that the inmate
12 is eligible to participate in the ~~earned release~~ substance use disorder treatment
13 program, the court shall inform the inmate of the provisions of par. (c).

14 **SECTION 11.** 302.05 (3) (e) 2. of the statutes is created to read:

15 302.05 (3) (e) 2. Notwithstanding a previous finding of ineligibility under s.
16 973.01 (3g), if an inmate is serving the term of confinement portion of a bifurcated
17 sentence imposed under s. 973.01 and the inmate satisfies the criteria under par. (a)
18 1., the inmate may, at any time, with the department's approval, petition the
19 sentencing court to determine whether he or she is eligible to participate in an
20 employment readiness training program described in sub. (1) (c) during the term of
21 confinement. The inmate shall serve a copy of the petition on the district attorney
22 who prosecuted him or her, and the district attorney may file a written response. The
23 court shall exercise its discretion in granting or denying the inmate's petition but
24 must do so no later than 90 days after the inmate files the petition. If the court
25 determines under this subdivision that the inmate is eligible to participate in the

SENATE BILL 170**SECTION 11**

1 employment readiness training program, the court shall inform the inmate of the
2 provisions of par. (c).

3 **SECTION 12.** 302.05 (4) of the statutes is created to read:

4 302.05 (4) On or before October 15 of each even-numbered year, the
5 department shall submit a report on substance use disorder treatment programs
6 provided under sub. (1) (am) and (b) in which participants qualified for earned
7 release under sub. (3) and a report on employment readiness training programs
8 provided under sub. (1) (c) in which participants qualified for earned release under
9 sub. (3) to the governor, the chief clerk of each house of the legislature for distribution
10 to the appropriate standing committees under s. 13.172 (3), and the director of state
11 courts. The reports shall include all of the following data:

12 (a) The number of individuals who have been determined to be eligible but who
13 have not yet begun programming on the last day of each month in the report period.

14 (b) The total number of enrollments into the earned release programs and total
15 number of completions in the report period.

16 (c) Recidivism rates, including rearrest, reconviction, and reincarceration
17 rates, and the reasons for reincarceration for those who completed the programs and
18 were granted early release under an earned release program. Recidivism rates shall
19 be calculated only for individuals who have been released from prison for at least one
20 year.

21 (d) An accounting of the cost savings for the preceding 24-month period that
22 resulted from reduced terms of confinement in prison for participants for completion
23 of an earned release program.

24 **SECTION 13.** 302.05 (5) of the statutes is created to read:

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1 302.05 (5) The department shall promulgate rules necessary to implement the
2 earned release program under this section.

3 **SECTION 14.** 302.113 (2) of the statutes is amended to read:

4 302.113 (2) Except as provided in subs. (3) and (9), an inmate subject to this
5 section is entitled to release to extended supervision after he or she has served the
6 term of confinement in prison portion of the sentence imposed under s. 973.01, as
7 modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b) 1., 302.05 (3)
8 (c) 2. a. or 2m. a., 973.195 (1r), or 973.198, if applicable.

9 **SECTION 15.** 973.01 (4) of the statutes is amended to read:

10 973.01 (4) NO GOOD TIME; EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT. A
11 person sentenced to a bifurcated sentence under sub. (1) shall serve the term of
12 confinement in prison portion of the sentence without reduction for good behavior.
13 The term of confinement in prison portion is subject to extension under s. 302.113 (3)
14 and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a. or 2m. a.,
15 302.113 (9g), 973.195 (1r), or 973.198.

16 **SECTION 16. Effective date.**

17 (1) This act takes effect on the first day of the 13th month beginning after
18 publication.

19

(END)