



## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 4

TO: MEMBERS OF THE STUDY COMMITTEE ON REDUCING RECIDIVISM AND REMOVING IMPEDIMENTS TO EX-OFFENDER EMPLOYMENT

FROM: Michael Queensland, Staff Attorney

RE: Information in Response to Requests at the July 13, 2016 Meeting

DATE: August 25, 2016

At the Study Committee's July 13 meeting, several members made requests for information to be shared with the full Study Committee. Specifically, members of the Study Committee have requested the following information be distributed:

1. **Letter from the Department of Workforce Development (DWD).** A letter from DWD in response to questions asked at the July 13 meeting is included as **Attachment 1**.
2. **Letter from Representative Goyke.** A letter from Representative Goyke that summarizes select bills introduced during the 2015-16 Legislative Session that relate to earned time credit, imprisonment following revocation of extended supervision or probation, and expungement is included as **Attachment 2**.
3. **Letter from State Public Defender Kelli Thompson.** A letter from Public Member Kelli Thompson is included as **Attachment 3**.
4. **Legislative Fiscal Bureau memorandum to Senator Taylor.** A memorandum to Senator Taylor from the Legislative Fiscal Bureau on state financial incentives for employers to hire ex-offenders is included as **Attachment 4**.
5. **Information about the 2009 Special Committee on Justice Reinvestment Initiative Oversight.** The Council of State Governments Justice Center (Justice Center) made policy recommendations to the Special Committee that would "reduce spending on corrections and reinvest in strategies to increase public safety in Wisconsin." The following policy brief summarizes the Justice Center's recommendations: <https://csgjusticecenter.org/wp->

[content/uploads/2012/12/Wisconsin\\_Analyses\\_and\\_Policy\\_Options.pdf](#). The Special Committee's recommendations are included as **Attachment 5**.

6. **Information about earned time credits.** The National Conference of State Legislatures has prepared the following documents about earned time credits:

- A report on state earned time policies:  
[http://www.ncsl.org/Portals/1/Documents/cj/Earned\\_time\\_report.pdf](http://www.ncsl.org/Portals/1/Documents/cj/Earned_time_report.pdf).
- A current chart on good time and earned time policies for state prison inmates in all 50 states, included as **Attachment 6**.

7. **Reports on sentencing trends.** The Vera Institute of Justice and NCSL have prepared the following reports on trends in state sentencing and corrections:

- [https://storage.googleapis.com/vera-web-assets/downloads/Publications/justice-in-review-new-trends-in-state-sentencing-and-corrections-2014-2015/legacy\\_downloads/state-sentencing-and-corrections-trends-2014-2015.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/justice-in-review-new-trends-in-state-sentencing-and-corrections-2014-2015/legacy_downloads/state-sentencing-and-corrections-trends-2014-2015.pdf).
- <http://www.ncsl.org/Documents/CJ/TrendsInSentencingAndCorrections.pdf>.

8. **Report about collateral consequences.** A Vera Institute of Justice report on state approaches to dealing with collateral consequences of a criminal conviction, available here: <http://archive.vera.org/sites/default/files/resources/downloads/states-rethink-collateral-consequences-report-v4.pdf>.<sup>1</sup>

9. **Information about the Justice Center's Integrated Reentry and Employment Strategies (IRES) program.** The Justice Center has produced the following reports about the IRES pilot program in Milwaukee, available here:

- <https://csgjusticecenter.org/reentry/the-reentry-and-employment-project/integrated-reentry-and-employment/>.
- <https://csgjusticecenter.org/reentry/publications/findings-and-recommendations-from-the-milwaukee-county-wi-integrated-reentry-and-employment-strategies-pilot-project/>.

10. **Report on recidivism.** The following report, prepared by the U.S. Department of Justice, provides data on the recidivism rate over a five-year period: <http://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>. [*Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010*, prepared by the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, April 2014.]

---

<sup>1</sup> For more information about collateral consequences, see Memo No. 3, Collateral Consequences of Conviction, available at: [www.legis.wisconsin.gov/lc](http://www.legis.wisconsin.gov/lc).

11. **Information about Moral Reconciliation Therapy (MRT).** Public Member Eric Johnson requested that the following links to information about MRT be shared with the committee:

- <https://www.mrtcenters.com/>.
- <http://www.moral-reconciliation-therapy.com/>.
- <https://www.ccimrt.com/>.
- <http://www.moral-reconciliation-therapy.com/Resources/metaMRTprob.pdf>.
- [http://www.moral-reconciliation-therapy.com/Resources/2010-Journal\\_of\\_Community\\_Corrections.pdf](http://www.moral-reconciliation-therapy.com/Resources/2010-Journal_of_Community_Corrections.pdf).
- <http://www.co.solano.ca.us/civicax/filebank/blobdload.aspx?blobid=14484>.

12. **Information about defining the term “recidivism.”** Public Member Lisa Stark requested that the following publication, which contains a discussion about defining recidivism on page 14, be shared with the committee:

[http://www.courtinnovation.org/sites/default/files/Recidivism\\_101%5B2%5D.pdf](http://www.courtinnovation.org/sites/default/files/Recidivism_101%5B2%5D.pdf).

Recidivism can be defined many different ways. The following are example definitions:

- “Recidivism is measured by criminal acts that resulted in rearrest, reconviction or return to prison with or without a new sentence during a three-year period following the prisoner’s release.” [National Institute of Justice, available at: <http://www.nij.gov/topics/corrections/recidivism/pages/welcome.aspx>.]
- “Following an episode of incarceration with the WI DOC, to commit a criminal offense that results in a new conviction and sentence to WI DOC custody or supervision.” [Wisconsin Department of Corrections, available at: [http://doc.wi.gov/Documents/WEB/ABOUT/DATARESEARCH/Recidivism%20After%20Release%20from%20Prison%202\\_FINAL.pdf](http://doc.wi.gov/Documents/WEB/ABOUT/DATARESEARCH/Recidivism%20After%20Release%20from%20Prison%202_FINAL.pdf).]
- “Recidivism refers broadly to re-offending, with the most common measurements including re-arrest, re-conviction, and/or re-incarceration. Recidivism rates measure the frequency with which individuals re-engage with the criminal justice system within a defined time period.” [Wisconsin Criminal Justice Coordinating Council, available at: [https://cjcc.doj.wi.gov/sites/default/files/article\\_files/Framework%20for%20Defining%20and%20Measuring%20Recidivism%20September%202015.pdf](https://cjcc.doj.wi.gov/sites/default/files/article_files/Framework%20for%20Defining%20and%20Measuring%20Recidivism%20September%202015.pdf).]

MQ:ty

Attachments

Department of Workforce Development  
 Secretary's Office  
 201 E. Washington Avenue  
 P.O. Box 7946  
 Madison, WI 53707  
 Telephone: (608) 266-3131  
 Fax: (608) 266-1784  
 Email: [sec@dwd.wisconsin.gov](mailto:sec@dwd.wisconsin.gov)



Scott Walker, Governor  
 Raymond Allen, Secretary

August 24, 2016

Senator Alberta Darling  
 Representative Rob Hutton  
 Wisconsin State Capitol  
 2 East Main Street  
 Madison, WI 53703

Dear Chairperson Darling and Vice-Chairperson Hutton:

In response to the Legislative Council Study Committee on Reducing Recidivism and Removing Impediments to Ex-Offender Employment, please see background information to assist with the report to the Legislative Council Study Committee Members:

**What incentives does DWD offer to employers to hire ex-offenders:**

- Fidelity Bonding Program: <http://dwd.wisconsin.gov/bonding/default.htm>
- Work Opportunity Tax Credit: <http://dwd.wisconsin.gov/jobservice/taxcredit/wotc.htm>

**How does DWD educate employers about those incentives:**

As part of our local Job Center Business Service team structure, our business representatives meet with employers to discuss the services available through the One-Stop system, including incentive programs such as Fidelity Bonding and the WOTC program.

Throughout the year, we have booths at a variety of employer related events to remind employers of services/programs operated/available through the Job Center.

At times, we have done mailings to employers to announce events, share new features/services, etc. We often coordinate with DWD's Division of Unemployment Insurance to also use their employer mailings as a way to provide additional information.

For our employers using the JobCenterofWisconsin.com system, we also have the ability to do no-cost email blasts to inform employers on topics of interest.

**What types of incentives are other states offering to employers to hire ex-offenders:**

The following are links for reentry information/initiatives for five of our Midwestern states. States have a variety of tools in place to address reentry initiatives. Many are things done in Wisconsin as well, but it would be advisable for a study group to research some of these initiatives. Within our Division, we do have contacts in our ten state Midwest region, if there is a desire to have conversations with them to understand their reentry strategies in more detail. All states would use the WOTC program as one incentive to employers to hire ex-felons.

State of Iowa: <http://www.doc.state.ia.us/OffenderReentry>

SEC-7792-E (R. 01/2016)

<http://dwd.wisconsin.gov/>

State of Illinois: <https://exoffenders.net/reentry-programs-assistance/illinois/>

State of Minnesota: <http://www.doc.state.mn.us/pages/index.php/about/reports-and-publications/publications/reentry/>

State of Michigan: <https://exoffenders.net/reentry-programs-assistance/michigan/>

State of Ohio: <http://www.drc.ohio.gov/web/offenderreentry.htm>

### **What programs does DWD offer to inmates and ex-offenders:**

We offer a variety of programs/services to both inmates and ex-offenders. For inmates, there is a lot of work being done right now between DOC and DWD/DET to have inmates conduct a variety of career assessments, while still incarcerated, to better identify career goals, aptitudes, better awareness of labor market conditions, etc. With IT coordination, information will be shared with DWD/DET to populate our client reporting information on this population. This will help with targeting resources for better program coordination, employment plan development, targeted marketing/outreach. Additionally, both Job Center staff and Veteran Services staff do go into prisons to do workshops, establish case management relationships, etc.

For ex-offenders, workshops and staff assistance are offered at the Job Centers. These customers are advised of all the programs we offer to potentially assist them with their employment and training needs, including the WIOA program, Veteran programs, Counseling offerings, Vocational rehabilitation, etc.

### **How does DWD educate inmates about those programs:**

Information is provided when staff do outreach at prisons. We have also made information available to DOC to share with inmates. We have had long standing IT solutions between DOC and DWD so inmates could get a secure view of some JCW information.

### **When will the next large scale business survey of employers across the state be conducted? Please ask employers "What are the biggest barriers to employing ex-offenders":**

We have not established the survey yet, but anticipate doing a survey in the fall of 2016. This survey will include questions specifically tailored to reentry initiatives/hiring of ex-felons.

### **How many private sector employers are hiring ex-offenders:**

We do not have this information as employers do not report on this. We can't get this information through current UI wage data reporting, since this status isn't captured on a UI claim. Because of WIOA, we are adding more fields to our client reporting tool to capture ex-felon status, but this will still be optional for the person to provide the information.

However, we can provide the following data for the Federal Work Opportunity Tax Credit program (WOTC). The following is ex-felon WOTC certification information for the last four quarters. For every certification, that is the result of an employer doing a hire.

- Quarter ending 9/30/15: 377 people
- Quarter ending 12/31/15: 340 people
- Quarter ending 3/31/16: 424 people
- Quarter ending 6/30/16: 517 people

### **How many people in DWD programs are ex-offenders:**

As part of active participants in our Workforce Innovation and Opportunity Act (WIOA) Adult and Youth programs, for the time frame of 1/1/16-7/31/16, 159 out of the 607 Adult participants had self-reported 'yes' to the offender status question. That represents 21%; 50 out of the 350 youth participants had answered yes, or 12.5%. As mentioned above, this information isn't currently captured for all programs, and if it is captured, it's still voluntarily provided.

For purposes of enrollment into some of our federal programs, including WIOA, ex-offender status is one that would make them eligible for these programs.

As part of our Federal WIOA program implementation, we are now specifically required to have a field in our client reporting system called 'ex-offender' for customers to provide this information, but is still optional, and we are required to allow the person to not disclose that information.

**Can you identify ex-offender friendly employers:**

We haven't been tracking this information this way statewide. However, with the Salesforce tool that our business services representatives are now using, an entry field has been added to allow business representatives to indicate if an employer is willing/interested in hiring ex-offenders, so overtime, we will start building a better database of this.

Sincerely,

A handwritten signature in cursive script that reads "Georgia E. Maxwell". The signature is written in black ink and is positioned above the typed name.

Georgia E. Maxwell  
Deputy Secretary





STATE REPRESENTATIVE  
18th ASSEMBLY DISTRICT



August 2, 2016

**To: Members of the Legislative Council Study Committee on Reducing Recidivism and Removing Impediments to Ex-Offender Employment**

Dear Committee Members,

I hope this letter finds you well.

As requested, I have submitted as a starting point several bills that I introduced at the end of the 2015-16 legislative session. In total I introduced 28 bills that would reform parts of the justice system. I've focused on six that really target our committee's scope. I've also included one bill introduced by Rep. Nick Milroy regarding expungement, as well as an editorial submission I authored upon introduction of these bills.

I hope these bills provide a starting point for our work. I welcome all feedback and acknowledge that none of these bills are in perfect form. I look forward to working together to find the right language and compromise to forward these ideas should the committee agree to do so.

Thank you.

Sincerely,

State Representative Evan Goyke  
18<sup>th</sup> Assembly District

***Bills:***

**Earned Good Time I**

LRB-4016 (AB 998): Allowing certain prisoners to earn time toward early release from confinement in prison

Bill link: <http://docs.legis.wisconsin.gov/2015/related/proposals/ab998.pdf>

Wisconsin's current sentencing laws generally prohibit individuals engaged in rehabilitation from earning a reduction of incarceration. This bill gives determined individuals the ability to earn a reduction in a sentence for the completion of an evidence-based program that reduces the rate of recidivism.

This bill empowers the individual to improve their lives while incarcerated by promoting the completion of programs that are proven to reduce the likelihood of committing a new crime. Our communities benefit from the reduced risk upon release. The individual benefits from the reduced period of incarceration.

Likely programs include educational, vocational, or alcohol or substance abuse programs. These programs reduce crime and should be increased and incentivized.

Under the bill, upon successful completion of a designated program, the individual would receive a reduction of his or her prison sentence, with the term of community supervision extended by the amount of incarceration reduced – ensuring that the individual serves the entirety of the sentence.

**Earned Good Time II**

LRB-4015 (AB 999): Allowing certain prisoners to earn time toward early release from confinement in prison

Bill link: <http://docs.legis.wisconsin.gov/2015/related/proposals/ab999.pdf>

Similar to LRB-4016, this bill provides an opportunity for incarcerated individuals to earn reduced incarceration through good behavior.

Under the bill, an individual would earn one day of reduced incarceration for every five days he or she serves without violation of a prison rule or regulation. Like LRB-4016, the individual's term of community supervision would be extended by the amount of incarceration reduced – ensuring that the individual serves the entirety of the sentence.

## **Earned Community Credit**

LRB-3889 (AB 992): Sentencing credit for time served on parole or under extended supervision

Bill link: <http://docs.legis.wisconsin.gov/2015/related/proposals/ab992.pdf>

One of the major sources fueling Wisconsin's prison population is the re-incarceration of individuals serving community supervision. For example, in 2012, 7,456 individuals were admitted to Wisconsin prisons. Of that number, 4,874 individuals were admitted to prison in 2012 for the revocation of community supervision. The remaining 2,582 individuals were admitted for a new sentence only.

Breaking down the 4,874 revocations of supervision is difficult as criminal prosecutions and revocation proceedings often occur simultaneously. According to the DOC, 879 individuals were revoked and re-incarcerated based on a new sentence for a new crime. That leaves 3,995 individuals re-incarcerated for the revocation of supervision. Many of these individuals may have had overlapping criminal prosecutions pending and the DOC estimates this may be roughly 33% of these individuals. Assuming the 33% rate to be accurate, that leaves 2,677 admissions to prison for the revocation of supervision with no new criminal sentence. This represents 36% of the prison admissions in 2012.

Under current law, when an individual is re-released from incarceration, the time of extended supervision needed to successfully discharge from DOC supervision starts over.

For example, a sentence may be: two years of prison, followed by five years of extended supervision. Under this scenario, the individual serves the full two years and is released under supervision. For three years the individual is compliant with supervision, but then violates the rules and his supervision is revoked. After serving a period of incarceration for the violation, the individual returns to supervision for five years. There is no credit for the three years that the individual served successfully.

This example is not uncommon and can occur multiple times with the same individuals. The revolving door that is supervision-incarceration-supervision-incarceration can result in individuals serving the maximum allowable incarceration, devouring major resources, and not improving outcomes or community safety.

This bill gives credit for successful time in the community. Under the example above, the individual would return to supervision to finish two years of supervision instead of returning to repeat the original five years.

## **Swift and Certain Sanctions II**

LRB-3839 (AB 1002): maximum period of imprisonment following revocation of extended supervision or probation

Bill link: <http://docs.legis.wisconsin.gov/2015/related/proposals/ab1002.pdf>

Cited above, in 2012, Wisconsin admitted 4,874 individuals back into prison as a revocation of supervision. That number is further broken down with roughly 2,600 individuals not necessarily accused of committing a new crime, but a violation of a rule of supervision and still facing re-incarceration.

To address the problems associated with the revocation process, the Legislature passed 2013 Wisconsin Act 192, which created the idea of “swift and certain sanctions” for individuals on community supervision. The idea is simple and compelling: respond to negative behavior with quick, fair, and proportionate consequences. Act 192 was bi-partisan and a great first step. I proudly voted for it.

Building on the reform of Act 192, this bill establishes a boundary of the DOC’s power to re-incarcerate when the allegations leading to revocation of supervision are non-criminal. Under the bill, the DOC may not incarcerate an individual for longer than 90 days unless there are allegations of the individual committing a new crime.

Under the bill there are three important exceptions: First, if the individual is ordered as a condition of supervision to have no contact with the victim and violates that condition the incarceration may exceed 90 days. Second, if the individual absconds from supervision, the incarceration may exceed 90 days. Third, if the individual is required to register as a sex offender as a condition of supervision this bill would not apply.

The government’s power to take the liberty of an individual must be reserved to those violations that endanger our community. This bill maintains that power, yet establishes a boundary that ensures individuals aren’t incarcerated for excessive periods of time for non-criminal behavior.

### **Expungement Reform I**

LRB-1075 (AB 1008): Expunging a court record of certain offenses a person committed before he or she reached the age of 25

Bill link: <http://docs.legis.wisconsin.gov/2015/related/proposals/ab1008.pdf>

Current law allows for certain individuals, under 25 years old and generally convicted of low-level offenses, to apply for the expungement of the criminal record upon successful completion of the sentence. The concept is simple and appropriate, yet current law contains a procedural problem. The relevant statute, Wis. Stat. 973.015 contains the following language:

973.015(1)(a) When a person is under the age of 25 at the time of the commission of an offense for which the person has been found guilty in a court for violation of a law for which the maximum period of imprisonment is 6 years or less, the court may order at the time of sentencing that the record be expunged upon successful completion of the sentence if the court determines the person will benefit and society will not be harmed by this disposition... (emphasis added)

As shown above, the decision of whether an individual may even be eligible for expungement must be made at the sentencing hearing by the circuit court judge.

The sentencing hearing is not the appropriate time for this decision, as it requires the judge to guess whether the individual will benefit or society will not be harmed. The better approach would be to allow the individual to apply for expungement following the successful completion of the sentence and prove through his or her actions how he or she would benefit and society would not be harmed. This post-completion approach is used in the juvenile system under Wis. Stat. 938.355(4m) and should be used for adults as well.

The Supreme Court of Wisconsin recently exposed the limits of our current expungement procedures in the case of *State v. Matasek*, 2014 WI 27. Addressing this exact point, the Court held that the language of Wis. Stat. 973.015 limits the decision of expungement to the sentencing hearing, despite the recognition that it may not be the best public policy. Writing for a unanimous Court, Justice Abrahamson wrote:

We agree with the defendant, as did the circuit court, that there are policy reasons for permitting the circuit court to decide on expunction after the offender completes his or her sentence rather than at the time of sentencing. The circuit court will probably be better positioned to weigh the benefit to the offender and the harm to society after (rather than before) the offender has successfully completed the sentence. *Matasek* at ¶41

This bill makes the simple change of moving the court's decision regarding expungement from the "time of sentencing" to after the individual's successful completion of his or her sentence. This bill maintains the age restriction and crime restrictions under current law.

## **Expungement Reform II**

LRB-1355 (AB 1009): Expunging a court record of certain offenses ten years after completion of a sentence

Bill link: <http://docs.legis.wisconsin.gov/2015/related/proposals/ab1009.pdf>

The change to our expungement law in LRB-1075 is important, but is limited to individuals convicted of a crime moving forward. There are thousands of individuals that were convicted before Wisconsin's expungement law was created (1975 and was limited to age 21 or younger and only applied to misdemeanors until 2009) and thousands more convicted under the inefficient procedure outlined above.

Under current law, if a determination of eligibility for expungement was not made at the time of sentencing, the individual cannot get his or her conviction expunged. The only option available to thousands of Wisconsinites is a pardon from the Governor.

How long should a low-level criminal conviction stay on your record?

Under this bill, any individual, regardless of age or date of the conviction, may apply for the expungement of his or her criminal conviction so long as:

- 1) The conviction is one currently eligible for expungement under Wis. Stat. 973.015; and
- 2) 10 years have lapsed since the individual successfully completed his or her sentence and the individual has not been convicted of any subsequent crime.

This bill would give an opportunity to thousands of Wisconsinites to show that they have been rehabilitated. The bill does not require that expungement be granted, only that if the individual meets the conditions in the bill that he or she may apply and the court may determine, if the individual will benefit and society will not be harmed, to expunge the criminal conviction.

### **Rep. Milroy's Expungement Bill**

AB 1005 - <http://docs.legis.wisconsin.gov/2015/proposals/ab1005>

### **Editorial Submission**

### **Roadmap for Smart-on-Crime Reform**

State Legislatures throughout America are addressing the problem of mass incarceration. Budget constraints and poor outcomes have inspired bi-partisan efforts in both conservative and liberal legislatures. Wisconsin is no different and several important steps have been made in recent years to address problems within our criminal justice system, yet serious work remains.

Without bold reform, Wisconsin will continue to spend more general fund dollars on prisons than colleges and maintain our unacceptable distinction as America's leader in the racial disparity between the incarceration rates of African Americans compared to whites. Neither is defensible nor sustainable.

Public debate surrounding criminal justice reform is often difficult. Victimization is real and should not be ignored, nor undervalued. The powerful emotions that criminal justice policies invokes inspired successful political campaigns from both sides of the aisle, leading to "tough on crime" politics and policy. That era is dying. The truth is that "tough on crime" doesn't make us safer; it only makes us feel safer. Smart justice reform can make our communities safer while creating a more efficient and effective system.

Here's how:

First, who we target matters. A small percentage of people are responsible for a large percentage of crime. Reduce the rate of reoffending among this population and the crime rate will go down. The decision regarding who we target is a calculation of risk, needs, and victim input. Given these basic inputs, the justice system should look to apply an intervention that, based on evidence of success, will have the greatest likelihood of ending the person's criminal behavior. Less repeat offenders equals less crime, which equals safer communities.

Second, how much we intervene matters. Most people self-correct. Age, family, education, and employment tend to result in general law-abiding behaviors. Most people that commit a crime do not go on to commit more crime. The same calculation of risk, needs, and victim input should inform the application of the appropriate intervention, based on evidence of success that will have the greatest likelihood of ending the person's criminal behavior. Over-intervention can have adverse effects. Placing low-risk and high-risk offenders together, like in a prison or jail, can make low-risk offenders more likely to reoffend. Again, less repeat offenders equals less crime, which equals safer communities.

The failing of our criminal justice system is a lack of time, information, and flexibility. Our responses must be better-individualized and informed through the use of evidence-based decision making, increased objectivity, and a relentless commitment to intervening in a way most likely to reduce crime. More time and attention must be spent on the early decision of whether to arrest and prosecute. Getting these decisions right is critical because stopping or even slowing down the criminal justice system once it starts is incredibly difficult and expensive.

The Smart-on-Crime Reform package of bills totals over 25 individual proposals. Some bills are simple, cheap, and could be adopted quickly to make our justice system function better tomorrow. Some bills are complex and require serious investment and long-term structural changes. The bills are grouped into three packages; the first package involves "pre-conviction reforms;" the next "post-conviction reforms;" and the final package of bills relate to "collateral" reforms outside of the structure of a criminal prosecution.

These bills can be first steps in a process of increasing efficiency, fairness and safety.





## Wisconsin State Public Defender

17 S. Fairchild St. - 5<sup>th</sup> Floor  
 PO Box 7923 Madison, WI 53707-7923  
 Office Number: 608-266-0087 / Fax Number: 608-267-0584  
[www.wisspd.org](http://www.wisspd.org)

Kelli S. Thompson  
 State Public Defender

Michael Tobin  
 Deputy State  
 Public Defender

August 16, 2016

Attorney Mike Queensland  
 Committee on Reducing Recidivism & Removing Impediments to Ex-Offender Employment  
 1 E. Main St.  
 Madison, WI 53708

Dear Attorney Queensland,

Thank you for the opportunity to participate on the Legislative Council Study Committee on Reducing Recidivism and Removing Impediments to Ex-Offender Employment. I appreciate the discussion at the committee's first meeting.

I am writing as follow up to a few of the ideas that were suggested as topics for the committee to consider and to provide additional information that may be helpful as you put together information for the committee's consideration.

As several committee members noted, providing incentives for good behavior, for participation in treatment or educational programming while incarcerated, and for compliance with rules of Department of Corrections (DOC) supervision would be a way to reduce recidivism going forward. As Representatives Goyke and Nygren mentioned, using 2015 Assembly Bills 992, 998, and 999 as a starting point for discussion might allow the committee to address this issue without starting a drafting process from the beginning.

In addition, 2015 Assembly Bill 1002 is a proposal that would treat technical rules violations of probation, parole, or extended supervision differently than a revocation based on new criminal activity. Assembly Bill 1002 would also expand on the legislation Representative Nygren offered, which became 2013 Wisconsin Act 196.

As Chair of the State Criminal Justice Coordinating Council's Committee on Problem Solving Courts, I have looked at the impact of lack of access to identifying documents and the impact it has on reintegration and specifically access to employment and housing. The committee may want to look at ways to ensure that, before release, offenders have valid and current driver's license or identification cards and copies of their birth certificate. This initiative may not be a drastic or costly policy change but it would have a significant impact on removing barriers to employment. I am including a recent article from *The Atlantic* highlighting this issue.

Along the same lines, the committee heard testimony from DOC regarding the provision of medication and access to medication following release from a prison. This medication often helps the individuals to cope with mental health issues that contribute to recidivism. On a related note, we often see the decompensation cycle that takes place when individuals are moved from one jail to another or from jail to prison. The same medications in the same doses are not consistently available in all detention facilities. Not only does this lack of continuity create a security risk to jailors, but it results in decreased

efficiency of courts. Having a standardized formulary between all detention facilities and consistent access to medication would improve security and better ensure that inmates are prepared for eventual reintegration into the community.

Several committee members raised the topic of collateral consequences. Collateral consequences of conviction are one of the most significant barriers to employment for ex-offenders. First, to understand the scope of the impact, please visit <http://abacollateralconsequences.org/map/> and click on Wisconsin.

This website was established by the American Bar Association and much of the information related to Wisconsin was provided by the State Public Defender's office. The site lists and cross-referenced which types of criminal convictions result in which types of statutory or administrative rule prohibitions on issues such as becoming professionally licensed or obtaining employment regardless of licensure. The site also includes consequences based on federal law. In order to look into this issue further, Department of Safety and Professional Services (DSPS) would be interesting to hear from regarding the license restrictions that exist.

A recent federal district court sentencing decision in *United States of America against Chevelle Nesbeth* (15-CR-18) was the first decision to fully consider the impact of collateral consequences in sentencing a defendant. The decision details a process by which both federal and circuit courts can factor collateral consequences into consideration and how the collateral consequences should be considered part of the punitive aspect of a sentence.

Another suggestion for the committee to consider would be to look at a system to provide relief from the collateral consequences related to employment on a case-by-case basis. Representative Dean Knudson introduced a bill, 2015 Assembly Bill 614, to allow for certificates of qualification for employment.

I also mentioned a topic on the impact of fines, fees, and forfeitures. The Director of State Court's Office has presented information in the past as to the impact of fees and forfeitures added on top of monetary fines. The impact of these obligations can have consequences far beyond the life of the sentence. The amounts can result in the inability to pay restitution to victims and a lack of money available to obtain housing or transportation. These effects limit the ability to seek, obtain, and maintain employment after incarceration, and individuals can face additional incarceration due only to non-payment of these financial obligations. The result is a revolving cycle of leveraged fines and inability to pay them because of the inability to maintain employment. There have been instances of probation being extended only for non-payment and even arrest and incarceration for failure to pay, a practice sometimes called "Debtor's Prison." Getting more information on this issue from the Director of State Courts may be useful to the committee.

It seems that many well-intentioned costs and surcharges have been added over the years, not only in Wisconsin, but nationwide. This trend is understandable given budgetary constraints and the need to fund courts and other government programs without raising tax rates. However, this trend has arguably reached a tipping point by imposing unrealistic financial burdens on a population that has, for the most part, very limited ability to pay.

Expungement is another topic that seemed to draw widespread interest from committee members. As I suggested at the meeting, an easy first step to expand access to expungement would be to remove "at the time of sentencing" from s. 973.015(1m)(a)1. This change would allow a court to expunge a record after successful completion of a sentence, considering the individual's post-sentencing rather than requiring judges to make an educated guess as to whether the individual will meet the subjective criteria. The possibility of expungement would provide additional incentive for positive behavior while incarcerated

August 16, 2016

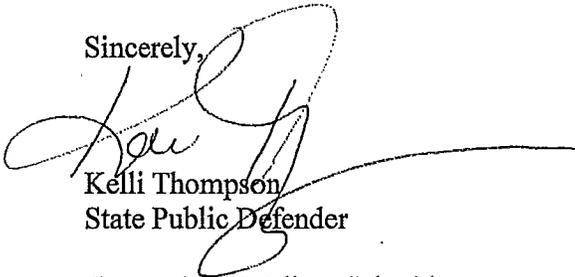
and while placed on supervision in the community. The committee is likely aware that there are limits to the effect of expunging a record. I am including an article from *The Marshall Project* which summarizes the practical limits of expungement.

In a related issue, public access to view past convictions and charges can be as impactful as a conviction. While there is much debate about the balancing test between access to public records and the negative impact on individuals from having that information available, one area that the committee might consider working on is somehow limiting access especially when charges have been dismissed or the individual is found not guilty. Consideration could also be given to prohibiting the use of websites which publish arrest and conviction records and charge individuals a fee to remove the record. In the last couple of years, several states including California, Colorado, Connecticut, Georgia, Missouri, New Jersey, Oregon, South Carolina, Texas, Utah, and Virginia have enacted legislation to limit or provide remedy for the practice of using the information inappropriately.

Finally, members of the committee expressed interest in hearing about the real life impact on employment from ex-offenders. We have former clients that have spoken about the obstacles they have endured while trying to obtain employment following a conviction and would be happy to speak before the committee. In addition, the Wisconsin Grassroots Empowerment Project works with ex-offenders and others with mental health issues on a variety of topics, including reintegration into the community. As they work statewide and on a wide variety of issues, having a speaker from their group may give some of the real life perspective for which the committee is looking. I'm happy to work with you to schedule time for them to appear at a future meeting.

Thank you again for the ability to participate on this committee. I look forward to working with you and the committee members as we address these important issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kelli Thompson', is written over a horizontal line. The signature is fluid and cursive.

Kelli Thompson  
State Public Defender

Cc: Atty. Melissa Schmidt  
Deej Lundgren  
RJ Lambert

# Five Things You Didn't Know About Clearing Your Record

**A primer on the complicated road to expungement.**

By Christie Thompson. Posted on Thursday, September 17, 2015 at 5:50 p.m.

A Nashville lawyer hopes to wipe clean some arrest records for 128,000 Tennesseans. The lawyer, Daniel Horwitz, who has worked on multiple cases regarding incarceration and re-entry, has filed a class-action motion in county court to have the case files destroyed for hundreds of thousands of arrests and charges that never resulted in a conviction.

Many of those who could benefit from the process, called expungement, do not even know it. "A lot of the people who are affected by this already believe they've had their records expunged," Horwitz told the Tennessean. That's the thing about expungement: many who are eligible for it don't know they are, advocates say, and many who know they are don't know how to get it.

Expungements are a legal process that can clear arrests, charges and minor convictions from someone's record (the Tennessee motion does not apply to convictions). Though "expunge" and "seal" are often used interchangeably, expungement means to erase such documents while "sealing" simply means they are no longer public record. The law on who is eligible for either varies state by state, and there is no encompassing federal law on expunging adult crimes.

Here are some additional things to know about expungements and sealed records:

## **In the Internet age, expungement only goes so far.**

If your record is approved for expungement, the court agrees to toss out its records. But what about Google? News archives? Mugshots.com? "It's impossible to expunge information in this cyber-age," said James Jacobs, a law professor at New York University and author of "The Eternal Criminal Record." "You can have an official expungement, but to actually erase the events from history, I don't think so."

But Horwitz says that doesn't mean expungements are not still an important step. "I don't think anybody believes this is going to be a silver bullet, but any bit you can pare down someone's record helps them gain access to employment or housing. It's vital."

## **An expunged record can still hurt your chances of landing a job.**

Beyond doing a simple Internet search for your name, employers often turn to private information providers to run background checks on job candidates. “[Companies] have downloaded the databases of the courts periodically, and they have them stored on their own databases,” Jacobs said. “Then it’s in the hands of the private people. Could you tell them not to ever tell anybody that they found an expunged record?”

An expunged record in many states does legally allow you to leave the box blank when a job application asks if you have ever been convicted of a crime. But some applications — like many for law school or the legal bar — will ask about former run-ins with the law, *even* if they are sealed or tossed out.

## **Congress is considering whether to make even more people eligible for expungement.**

The highly publicized REDEEM Act introduced by Senators Cory Booker, Democrat of New Jersey, and Rand Paul, Republican of Kentucky, actually stands for “Record Expungement Designed to Enhance Employment.” Under the proposal, those convicted of nonviolent federal crimes could apply to have them sealed, and nonviolent juvenile offenses would automatically be expunged or sealed, depending on age.

“The biggest impediment to civil rights and employment in our country is a criminal record,” Sen. Paul said in a 2014 statement. “Many of these young people could escape this trap if criminal justice were reformed, if records were expunged after time served, and if nonviolent crimes did not become a permanent blot preventing employment.”

## **If you aren’t a citizen, even an expunged crime can still make you deportable.**

Under immigration law passed in 1996, a “conviction” for the purposes of deportation includes any instance in which a person pleads guilty to a crime or some kind of punishment is imposed, such as some mandatory diversion programs. Even if the record was sealed or expunged, it could still be used as a reason to remove someone from the country.

## **If you’re trying to clear your record — there’s an app for that.**

In Chicago, Maryland, and Louisiana, advocates and developers have built apps to help people understand whether or not they are eligible for expungement, and how to get in touch with a lawyer. (While a lawyer is not required, legal expertise can help navigate a complicated process.)

Previously, if someone tried to search for expungement help online, “the top results in Maryland was a 20-page pdf from the judiciary that walked you through every nuance of the statute,” said Jason Tashea, founder of Justice Codes and creator of [expungemaryland.org](http://expungemaryland.org). “For the average person, that is irrelevant.” The website asks users basic questions about their crime, and then connects them with a free or low-cost attorney to help with the application.

Cathy Deng of expunge.io in Chicago found the same thing — a 25-page document full of legalese when people searched for information on juvenile expungement. Her goal, along with the youth nonprofit Mikva Challenge, was to try and close the information gap on eligibility. “The vast majority of arrest records for kids in Chicago can be expunged, but very few people apply because it’s confusing,” she said. Both websites are open-sourced on github.

**The Marshall Project**

156 West 56th Street, Suite 701

New York, NY 10019

212-803-5200

# The Atlantic

## The Elusiveness of an Official ID After Prison

A bureaucratic maze within the federal government leaves scores of former inmates without the key to a fresh start.



Attorney General Loretta Lynch testifies on Capitol Hill, urging the nation's governors to make it easier for convicted felons to obtain state-issued ID.

Andrew Harnik / AP

JULEYKA LANTIGUA-WILLIAMS  
AUG 11, 2016 | POLITICS

TEXT SIZE



Subscribe to *The Atlantic's* Politics & Policy Daily, a roundup of ideas and events in American politics.

SIGN UP

A flat piece of plastic can mean so much to a former inmate. It can mean stable housing, a better job, access to social services, educational opportunities, and more. But this singular piece of plastic proves elusive—impossible, really—for

scores of citizens across the United States. An official government-issued identification card, equal in value to and as universally accepted as a driver's license or passport, can be the key to a post-incarceration life filled with possibilities instead of roadblocks.



Crime and punishment in the age of mass incarceration  
[Read more](#)

About 600,000 people return home from federal and state prisons each year. The federal government alone releases some 41,000 inmates annually. But it and many states do not provide returning citizens with this invaluable instrument.

For its part, the federal government does acknowledge the need for an official ID. Earlier this year, Attorney General Loretta Lynch asked all state governors to provide state-issued IDs for newly released federal inmates. This is a significant but only symbolic step: The Department of Justice cannot legally compel states to do anything in this regard. It can only ask politely and say please. “I am asking each state to work with us to allow citizens returning from federal prisons to exchange their federal BOP [Bureau of Prisons] inmate ID card—and their authenticated release documentation—for a state-issued ID,” she said at a reentry event in Philadelphia in April. “This basic step would have a powerful impact. As a practical matter, it would standardize the current patchwork of state policies around providing returning citizens with identification, and it would eliminate one of the most common—and most harmful—barriers to reentry across the United States.”

But, before asking states to do their part, why wouldn't the Federal Bureau of Prisons take the task on themselves? They are talking about federal inmates, after all. So I made a handful of phone calls to multiple federal agencies and exchanged some emails with Justin Long, a spokesperson at the bureau. I gained a better understanding of the intricacies involved, but mostly, I still have a lot of questions.

First, Long said that “preliminary discussions have occurred or contacts received” from Alaska, Arkansas, Colorado, the District of Columbia, Hawaii, Illinois, Michigan, Nevada, New Jersey, New York, North Carolina, North Dakota, Ohio,

Oregon, Pennsylvania, Puerto Rico, Rhode Island, and Virginia. That doesn't explain why the feds don't take the project on themselves, but 17 states and DC does seem promising. "Initial conversations have involved setting up appropriate points of contact and sending relevant BOP policies or procedures to interested states to become familiarized with our internal identification process," Long wrote. "In general discussions, the states contacted have expressed a sincere willingness to find a solution to this issue." But he was clear that the level of commitment may vary among states because some changes could require legislative amendments. On their end, the BOP set up the National Reentry Affairs Branch to coordinate with the DOJ and state representatives, like directors of departments of motor vehicles or secretaries of state.

"Most people don't focus on it, but it's a huge barrier for the formerly incarcerated, a huge barrier for caring for their families and themselves," said Paul Samuels, president of Legal Action Center, an advocacy organization in New York City whose clients include former inmates. "It also leads to high rates of recidivism. People return to criminal activity when they run out of legitimate ways to normalize their situation," he said.

Lynch agrees: In her letter to governors, the attorney general reminded them that securing employment and housing plays an important role in preventing individuals from returning to "patterns" that resulted in their incarceration. Okay, problem identified. So is the National Reentry Affairs Branch having an impact? Are states being heard? I wondered, would the BOP agree to make modifications to its prison identification, as Lynch said it would consider doing, if specific adjustments were requested by states? Long said that some states did suggest various "identity metrics," which are under review since they have to first comply with the Real ID Act, created to establish national guidelines for official IDs. Additionally, states were concerned about their ability to "protect their citizens from identity theft," Long said. So now the Federal Bureau of Prisons is assessing all of these, suggestions, requests, and concerns.

But what if the states weren't asked for input? Or at least, not on the question of federal-inmate IDs. Presumably, the Federal Bureau of Prisons verified the identity of every prisoner in its care prior to trying, sentencing, and incarcerating them. It even has a software application to create inmate ID cards. These cards are used during custody to identify inmates to staff, as well as to facilitate prison purchases and services. Upon being released to halfway houses, group homes, or residential reentry centers, inmates keep the cards to use as picture IDs. To prepare for someone's release, BOP staff often also work with inmates to obtain a birth certificate so they can get a state-issued ID instead, where that's an option. Which makes sense: The stigma associated with having a criminal record makes it difficult to imagine that providing prison-issued IDs would have broad appeal—especially among former inmates.

“Who will accept that in the community? Employers and other agencies do not recognize those IDs as legitimate,” said Samuels. He explained that DMV rules in New York state allow the state-prison ID to actually help people get a driver's license or state-issued nondriver ID, an ID that does not include driving privileges but which is on par with a license in terms of validity. Samuels, however, warned that for many returning citizens, the financial cost can be an additional barrier.

“That's why we suggest a waiver for people who are indigent. When people come out of jail they have very little money to get on their feet, so it's important for the fees to be waved to help them get started,” he said.

---

**At this point, reporting this story started feeling like a mean version of “hot potato.”**

---

Some states are already way ahead of the federal government in this regard. Arizona, California, Illinois, Montana, Ohio, Utah, and Wisconsin allow released state inmates to exchange their corrections-department documentation for a state-issued ID or for prison documents to meet primary identification requirements for other state-issued forms of ID, according to Lynch's letter. And a handful of other states—Florida, Maryland, Minnesota, Mississippi, Missouri, Nevada, New Jersey,

and Wyoming—already have systems in place for providing a valid state-issued ID upon release. This got me thinking: If the states are sending released prisoners off with state IDs, could the Federal Bureau of Prisons send them off with federal IDs? Why doesn't the federal government just issue passports to former inmates? It is one of the most powerful and widely recognized forms of identification on the planet.

I called the Department of State, which issues passports, to ask. After some mention of the difficulty in obtaining birth certificates, which are required for U.S.-born Americans (as opposed to naturalized ones or permanent residents) to be issued passports, they referred me back to DOJ and BOP. "Yes, this concept was considered during the early planning stages of this project," Long said. "It was determined that current requirements to obtain a passport would inhibit wide-scale application for BOP's population." I took that to mean that birth certificates would complicate this, since most inmates don't have easy access to them. In a colossal twist, however, most local governments ask for state-issued IDs to process a birth-certificate reissue request.

"In many cases, our inmate population may not have access to this document and would require an alternative identification document to meet this requirement," Long explained. An alternative document like... a state ID! Of course if they had the state ID, they wouldn't need the passport to show to potential employers or landlords. "The BOP is working with each state to identify the most relevant information we can provide to suitably substitute for the absence of a birth certificate," he said. But other obstacles may stand in the way. "Some states have expressed concern with maintaining or gaining compliance with the Real ID Act from the Department of Homeland Security," Long wrote.

At this point, reporting this story started feeling like a mean version of "hot potato." But I was genuinely interested in getting to the bottom of why those with the power to provide official IDs could not figure out how to do it.

Then I learned that certain classes of crime prevent a person from having a passport application approved. So even if birth certificates grew on trees, being

convicted as a drug trafficker who crossed an international border to commit a crime eliminates any chance of getting a passport. The same applies to people currently subject to federal arrest or a felony-related subpoena. People convicted of sex tourism will also be unable to travel internationally, either by having their previously issued passport taken away or by having their passport application denied.

What's more, a judge has the discretion to decide whether or not a person who was formally declared legally incompetent during trial can get a passport. The same is also true for people who owe more than \$5,000 in child support. If someone already had a passport but obtained it via fraudulent means or altered it in some way, it can be revoked at any time. If someone served time in a prison outside the United States and needed financial assistance from the U.S. government to be released from prison and be sent back to the United States, he may be prevented from obtaining a passport until he repays all those fees. These restrictions make sense—and many seem to be exceptions to the rule—but I still was left wondering why issuing a piece of plastic with some words and a picture on it presented the federal government with such a herculean feat despite all indications of basic ID-issuing competence and multiple layers of seemingly earnest commitment.

In April, during an event to mark the first-ever National Reentry Week, Lynch made an impassioned case on behalf of returning citizens. "It's every mother who wants to come back equipped to help provide for her family," she said. "It's every father who wants to return as a role model for his kids. It is every friend and neighbor who went down the wrong path but is determined to give back to their neighborhood, to contribute to their community, and to be more than their worst mistake.

"I believe that we owe every individual that chance," Lynch said.

I agree. A lot of states do, too. In fact, in some states, Lynch may just be preaching to the choir. State officials nationwide might think proper IDs are crucial and yet just can't untangle the bureaucratic knots to make it happen. Which is why Lynch should take her own advice: The federal government, in the form of the BOP and DOJ, should lead by example. Not automatically issuing official identification to the

inmates the federal government releases from custody is an unnecessary extension of their punishment. It is also illogical not to issue IDs while simultaneously beseeching state prison systems to do so. Finally, given the fact that the federal government has already verified the identities of its inmate population, it seems absurd that they can't also laminate those identities and hand them out to released men and women on their way home.

---

*This article is part of our Next America: Criminal Justice project, which is supported by a grant from the John D. and Catherine T. MacArthur Foundation.*

#### ABOUT THE AUTHOR

---



**JULEYKA LANTIGUA-WILLIAMS** is a staff writer at *The Atlantic*, where she covers criminal justice.

 Twitter  Facebook

---





## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

July 13, 2016

TO: Senator Lena Taylor  
Room 19 South, State Capitol

FROM: Jere Bauer, John Gentry, Sean Moran

SUBJECT: State Financial Incentives for Employers to Hire Ex-Offenders

At your request, this memorandum provides information related to state programs that provide a financial incentive for employers to hire ex-offenders. The programs identified may include ex-offenders as one of the possible target populations of the program or may target exclusively to ex-offenders. For purposes of this memorandum, ex-offenders are individuals with a prior criminal conviction who are no longer under the supervision and jurisdiction of the Department of Corrections. The memorandum does not address programs which may be operated independently by private, non-profit organizations, community organizations, or by non-state governmental organizations.

### **Transform Milwaukee and Transitional Jobs Programs**

The Transform Milwaukee jobs program provides employers in the City of Milwaukee with financial subsidies if they hire eligible low-income individuals with annual household incomes below 150% of the federal poverty level. Pursuant to the policies adopted by the Department of Children and Families (DCF), a participant must generally reside within the boundaries of the program's service area (the area of Milwaukee encompassed by West Silver Spring Drive, West Mitchell Street, North Sherman Boulevard, and Highway 43) and be a parent who is an ex-offender, who has a child support order, or who has a reunification plan.

Under the Transform Milwaukee jobs program, DCF may reimburse an employer a weekly wage subsidy less than or equal to the minimum wage for 20 hours to up to a maximum of 40 hours worked per week. DCF may also reimburse certain expenses that are attributable to employing a participant, such as federal social security and Medicare taxes, unemployment taxes, and worker's compensation insurance premiums.

Transitional Jobs is a substantially similar jobs program that is anticipated to be implemented outside of Milwaukee County in 2016-17.

A total of 769 participants were placed in Transform Milwaukee jobs in May, 2016. From the amounts received under the federal Temporary Assistance for Needy Families block grant, \$6,000,000 is budgeted in fiscal year 2015-16 and \$7,000,000 is budgeted in fiscal year 2016-17 for the Transform

Milwaukee and Transitional jobs programs. These amounts are not limited to ex-offenders and are available to all eligible persons.

### **Nonrefundable Business Tax Credits**

*Development Zone Credit.* The development zone tax credit program provides nonrefundable credits that can be claimed by businesses located in areas designated by the Wisconsin Economic Development Corporation (WEDC) as development opportunity zones for certain expenses related to environmental remediation, job creation, job retention, or capital expenditures. Currently, areas in the City of Kenosha, the City of Janesville, and the City of Beloit are designated as development opportunity zones. The credit can be claimed against the individual income tax, including the alternative minimum tax, the corporate income/franchise tax, and the insurance premiums tax by businesses certified by WEDC as eligible to receive the credit. It is estimated that the development zone credits will reduce state tax revenues by \$2.5 million in 2015-16 and by \$2.3 million in 2016-17.

For the job creation component of the credit, an additional \$2,000 credit (\$8,000 credit total) per job created may be available to businesses that create a full-time job in a zone that is filled by a member of a targeted group. At least one-third of credits claimed by businesses based on creating full-time jobs generally must be based on creating jobs that are filled by members of a targeted group. Members of a targeted group include economically disadvantaged ex-offenders, public assistance recipients, and other economically disadvantaged persons. WEDC states that it does not collect information as to what portion of the credit is associated with hiring members of a targeted group, nor does it collect data regarding what portion thereof is associated with hiring economically disadvantaged ex-offenders.

*Economic Development Credit.* The economic development tax credit program provides nonrefundable credits that can be claimed for a portion of a business's eligible expenses related to job creation, capital investment, employee training, or a corporate headquarters location or retention project. Businesses must be certified by WEDC to receive the credit, which can be claimed against the individual income tax, including the alternative minimum tax, the corporate income/franchise tax, and the insurance premiums tax. It is estimated that the economic development zone credits will reduce state tax revenues by \$18.3 million in 2015-16 and \$16.7 million in 2016-17. Pursuant to 2015 Wisconsin Act 55, economic development credits may not be awarded unless the credits were authorized by WEDC prior to December 31, 2015. The fiscal estimate reflects the estimated costs of credits that were authorized prior to the sunset date.

WEDC may award additional credits to a business for a project if WEDC determines that the business conducts at least one eligible activity that benefits, creates, retains, or significantly upgrades full-time jobs for, that trains, or that re-educates members of a targeted group, as defined above. WEDC does not currently collect information as to what portion of the credit is associated with benefiting, training, hiring, or retaining members of a targeted group nor does it collect data regarding what portion thereof is associated with hiring economically disadvantaged ex-offenders.

JR/JG/SM/sas



WISCONSIN LEGISLATIVE COUNCIL  
PROPOSED REPORT TO THE LEGISLATURE

---

SPECIAL COMMITTEE ON  
JUSTICE REINVESTMENT  
INITIATIVE OVERSIGHT

May 18, 2009

PRL 2009-12



---

# Special Committee on Justice Reinvestment Initiative Oversight

Prepared by:  
Anne Sappenfield and Ronald Sklansky, Senior Staff Attorneys; and Melissa Schmidt, Staff Attorney  
May 18, 2009

---

## CONTENTS

<b>PART I - KEY PROVISIONS OF COMMITTEE RECOMMENDATIONS .....</b>	<b>3</b>
WLC: 0425/3, relating to maximum term of extended supervision .....	3
WLC: 0426/3, relating to the parole and extended supervision revocation process and time spent in prison after revocation.....	3
WLC: 0427/3, relating to community supervision services .....	3
WLC: 0428/3, relating to risk reduction sentence .....	3
<b>PART II - COMMITTEE ACTIVITY.....</b>	<b>5</b>
Assignment .....	5
Summary of Meetings.....	5
<b>PART III - RECOMMENDATION INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL .....</b>	<b>9</b>
WLC: 0425/3 .....	9
WLC: 0426/3 .....	10
WLC: 0427/3 .....	11
WLC: 0428/3 .....	12
Appendix 1 - Committee and Joint Legislative Council Votes .....	15
Appendix 2 - Lists of Joint Legislative Council Members .....	17
Appendix 3 - List of Committee Members .....	19
Appendix 4 - Committee Materials List .....	21



# PART I

## KEY PROVISIONS OF COMMITTEE RECOMMENDATIONS

The Special Committee on Justice Reinvestment Initiative Oversight recommends the following bill drafts to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature.

### **WLC: 0425/3, Relating to Maximum Term of Extended Supervision**

WLC: 0425/3 provides that a court may not order a term of extended supervision that exceeds 75% of the term of confinement in prison ordered for a person. This limitation does not apply to a person who has been convicted of a Class A, B, or C felony or a sex offense.

### **WLC: 0426/3, Relating to the Parole and Extended Supervision Revocation Process and Time Spent in Prison After Revocation**

WLC: 0426/3 provides that, when a person's extended supervision or parole is revoked, the person must be ordered to be confined in prison for six months. The Department of Corrections (DOC) may extend the confinement time of a person placed in prison for six months by not more than 90 days for rule violations or failure to participate in programming or treatment.

### **WLC: 0427/3, Relating to Community Supervision Services**

WLC: 0427/3 makes appropriations for community-based mental health services, a transitional employment program, and community services to reduce recidivism for persons on supervision. In addition, the draft sets a goal of reducing recidivism by 25% by 2011. The draft requires DOC to create community services to reduce recidivism, to track the effectiveness of these services, and to report annually to the Governor, the Legislature, and the Director of State Courts on the services provided and the progress towards reducing recidivism.

### **WLC: 0428/3, Relating to Risk Reduction Sentence**

WLC: 0428/3 permits a court to order a risk reduction sentence for a person who agrees to participate in an assessment of the person's criminogenic needs and risk of re-offending and any programming or treatment required by DOC to address the person's risk and needs. If the person successfully completes the risk reduction sentence, DOC must release the person after he or she has served 75% of the term of confinement in prison ordered under the sentence.

### **Additional Recommendations**

The committee recommends that legislation be enacted that does the following:

- Creates a mechanism for tracking restitution orders and enforcing the payment of restitution by persons on correctional supervision or against whom a civil judgment for restitution has been entered.
- Provides notification to victims when an offender's supervision is subject to revocation.
- Provides information to victims relating to programming DOC provides to offenders in institutions and in the community.



## PART II

### COMMITTEE ACTIVITY

#### Assignment

The Joint Legislative Council established the Special Committee on Justice Reinvestment Initiative Oversight and appointed the chairperson by an April 9, 2008 mail ballot. The committee was directed to serve as the entity to which the Council of State Governments (CSG) Justice Center reports. The study committee process creates a unique forum in which legislators receive data from the Justice Center along with public members who work directly in different aspects of the corrections and criminal justice systems. The CSG Justice Center will provide technical assistance relating to corrections costs. Specifically, the technical assistance will include: (1) mapping of specific neighborhoods where large numbers of offenders are released from prison to identify how to improve coordination of services, correctional supervision, and law enforcement; (2) analyzing the prison population to determine what is driving its growth and to identify which categories of offenders are at high risk of re-offending; (3) developing policy options, based upon the data collected, to increase public safety and decrease corrections spending; and (4) projecting the fiscal impact of any policy options identified.

Membership of the Special Committee, appointed by a December 3, 2008 mail ballot, consisted of two Senators, four Representatives, and 10 Public Members. Modifications were made by a January 8, 2009 mail ballot appointing Representative Robert Turner as Vice-Chair and Senator Luther Olsen as a member to the committee. A list of committee members is included as **Appendix 3** to this report.

#### Summary of Meetings

The Special Committee held six meetings on the following dates:

January 12, 2009  
March 11, 2009  
April 7, 2009  
April 22, 2009  
May 6, 2009  
May 15, 2009

At the January 12, 2009 meeting, the Special Committee heard invited testimony from the Council on State Governments (CSG) Justice Center and DOC. **Marshall Clement**, Project Director, Justice Reinvestment Initiative, CSG Justice Center, provided a background of justice reinvestment projects. He described some of the work the CSG Justice Center has done in nine other states, including Michigan, Kansas, and Texas. He explained that Governor James Doyle, Chief Justice Shirley Abrahamson, Senate President Fred Risser, and Assembly Speaker Michael Huebsch requested technical assistance to help Wisconsin increase public safety, manage the increase in the state's prison population, and reinvest in strategies to reduce recidivism.

**Tony Streveler**, Executive Policy Initiatives Advisor, DOC, reported the department's prison population projections for 2009 to 2019. He reported a projected 16% increase in the prison population over the next 10 years. He also described several efforts addressing mental health issues within the corrections population, as well as treatment and diversion programs and re-entry programs.

**Dr. Tony Fabelo**, Director of Research, Justice Reinvestment Initiative, CSG Justice Center, presented preliminary analyses of Wisconsin's crime and prison population. He described the increase in the number of persons whose supervision is revoked and who are subsequently placed in prison.

At the March 11, 2009 meeting, the Special Committee heard invited testimony from the CSG Justice Center. **Marshall Clement**, Project Director, Justice Reinvestment Initiative, CSG Justice Center, listed the six areas of analyses CSG conducted: (1) prison population projections; (2) law enforcement and public safety; (3) community corrections system; (4) substance abuse and mental health; (5) reentry and employment strategies; and (6) mapping analysis.

Mr. Clement also described the justice reinvestment framework: strengthening and improving the effectiveness of community supervision and services; reducing the number of revocations and the cost to taxpayers; and reinvesting in strategies to increase public safety by reducing recidivism and rising rates of violent crime.

**Dr. Tony Fabelo**, Director of Research, Justice Reinvestment Initiative, CSG Justice Center, presented the findings on Wisconsin's community corrections system. He reported that revocations without a new sentence accounted for 50% on prison admissions in 2000 and 61% of admissions in 2007. Dr. Fabelo recommended best practices for effective supervision, including effective assessment of risk and needs; supervision strategies; incentives and sanctions; and reduction in the number returned to prison.

At the April 7, 2009 meeting, the Special Committee heard invited testimony from the CSG Justice Center. **Dr. Tony Fabelo**, Director of Research, Justice Reinvestment Initiative, CSG Justice Center, reported that DOC will have a shortfall of 6,935 beds by 2019 and that CSG's policies will save Wisconsin \$1.4 billion in construction and \$1 billion in operating costs over the next 10 years.

**Marshall Clement**, Project Director, Justice Reinvestment Initiative, CSG Justice Center, presented an analysis of Wisconsin's rates in crime, arrests, and convictions.

**Dr. Fred Osher**, Director of Health Systems and Services Policy, Justice Reinvestment Initiative, CSG Justice Center, presented information on the overrepresentation of persons with substance use disorders and serious mental disorders among Wisconsin's incarcerated population. He presented policy recommendations regarding screening and assessments, the use of Medicaid for severely mentally ill offenders on supervision, and targeting financial resources to medium to high risk and high need individuals.

At the April 22, 2009 meeting, the Special Committee heard invited testimony from the CSG Justice Center. **Dr. Tony Fabelo**, Director of Research, Justice Reinvestment Initiative, CSG Justice Center, presented the Justice Center's draft of its final report entitled *Justice Reinvestment in Wisconsin: Analyses & Policy Options to Reduce Spending on Corrections and Increase Public Safety*.

**Marshall Clement**, Project Director, Justice Reinvestment Initiative, CSG Justice Center, reviewed four policy options proposed by the CSG Justice Center justice reinvestment team. The four policy options included: (1) focusing supervision resources; (2) reallocating revocation expenditures to community-based strategies; (3) creating a sentencing option to reduce risk prior to release; and (4) setting a recidivism reduction goal. Dr. Fabelo said that if Wisconsin implemented the four policy options, the state could cumulatively avert \$2.5 billion in construction and operating costs over the next 10 years, with a net savings of \$2.3 billion.

After the testimony, the committee discussed the policy options. There was consensus to prepare initial drafts of the four policy options.

At the May 6, 2009 meeting, the Special Committee heard invited testimony from **Marshall Clement**, Project Director, Justice Reinvestment Initiative, CSG Justice Center. Mr. Clement presented the final version of the report entitled *Justice Reinvestment in Wisconsin: Analyses and Policy Options to Reduce Spending on Corrections and Increase Public Safety*.

After the testimony, the committee discussed four initial bill drafts which incorporated the policy options recommended by the CSG Justice Center. There was consensus to continue to pursue:

(1) allocating resources for community supervision services related to mental health, unemployment, and community alternatives; (2) changing the maximum term of extended supervision for felonies other than a Class B or C felony or a sex offense; (3) modifying the parole and extended supervision revocation process and time spent in prison after revocation; and (4) creating a risk reduction sentence.

At the May 15, 2009 meeting, the Special Committee discussed and voted on the four bill drafts with modifications made in response to the previous meeting.

Public member **Richard Dufour** reported on a meeting with victims' rights advocacy groups. He recommended amending current restitution procedures so that collection would be comparable with child support collection instead of using extended supervision resources to help victims obtain restitution. According to Mr. Dufour, the victims' groups also stated they would like more information when an offender's supervision is revoked and programming recommended and provided by DOC. Because the committee had been focused on reinvestment and these ideas had not been raised at earlier committee meetings, Chair Taylor requested that legislation be pursued separately from the committee's report. The committee also requested that the committee report include a statement reflecting that it supports the revisions to current law suggested by the victims' groups.



## **PART III**

### **RECOMMENDATION INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL**

This part of the report provides background information on, and a description of, the drafts as recommended by the Special Committee on Justice Reinvestment Initiative Oversight.

#### **WLC: 0425/3**

#### **Background**

Under current law, a court must impose a bifurcated sentence for a person sentenced to imprisonment for a felony, other than a Class A felony, committed after December 31, 1999, or a misdemeanor committed on or after February 1, 2003. A bifurcated sentence includes a period of confinement and a period of extended supervision.

The statutes define the maximum term of imprisonment for each sentence. The term of imprisonment for a bifurcated sentence is broken into two phases: confinement and extended supervision.

The statutes also define the maximum term a court may sentence a person to spend in confinement as well as both the minimum and maximum term of extended supervision for classified felonies. The minimum term of extended supervision may not be less than 25% of the time one is sentenced to confinement. The maximum terms of confinement and extended supervision for felonies other than a Class A felony are as follows:

- Class B felony: 40 years of confinement; 20 years of extended supervision.
- Class C felony: 25 years of confinement; 15 years of extended supervision.
- Class D felony: 15 years of confinement; 10 years of extended supervision.
- Class E felony: 10 years of confinement; 5 years of extended supervision.
- Class F felony: 7.5 years of confinement; 5 years of extended supervision.
- Class G felony: 5 years of confinement; 5 years of extended supervision.
- Class H felony: 3 years of confinement; 3 years of extended supervision.
- Class I felony: 1.5 years of confinement; 2 years of extended supervision.

The Justice Center recommended that Wisconsin amend its statutes to provide that a court may not order a term of extended supervision that exceeds 75% of the term of confinement in prison ordered. The Justice Center proposed this option as a way of targeting resources and ensuring that community supervision resources are focused on the initial months of supervision when the risk of recidivism is the highest and the potential to increase public safety is the greatest.

The Justice Center recommended excluding persons convicted of a Class A, B, or C felony or a sex offense from this requirement. Committee members raised concerns about limiting the term of

extended supervision in cases where a victim is owed restitution that cannot be paid during a limited term of extended supervision or when there is a no-contact order (e.g., in a domestic violence case) is enforced under the extended supervision.

## **Description**

WLC: 0425/3 provides that the maximum term of extended supervision may not exceed 75% of the term of confinement for all crimes other than Class B felonies, Class C felonies, and the crimes defined as "sex offenses" under s. 301.45 (1d) (b), Stats. For Class B and C felonies and sex offenses, the maximum terms of extended supervision set forth in current law apply.

This provision will first apply to persons who commit an offense on the effective date of the legislation.

## **WLC: 0426/3**

### **Background**

Under current law, a person who is sentenced to prison may be released to parole or extended supervision, depending on the date the offense was committed. Extended supervision applies to a bifurcated sentence for a felony committed on or after December 31, 1999, or a misdemeanor committed on or after February 1, 2003. For all other offenses, a person under the department's community supervision following a prison term is on parole.

To revoke a person's extended supervision, the statutes require two hearings. The first hearing determines whether a person's extended supervision is revoked. The second hearing determines the length of the term of reconfinement.

Unless the first hearing is waived, the determination of whether to revoke extended supervision is made by a hearing examiner in the Department of Administration, Division of Hearings and Appeals. If the hearing is waived, DOC makes the revocation determination. If the hearing examiner or DOC decides to revoke a person's extended supervision status, the hearing examiner or DOC must make a recommendation to the circuit court as to the length of time the person should spend in confinement in prison. The circuit court reviews the hearing examiner's recommendations and determines the appropriate period of time that the person should spend in confinement. The initial term of confinement and additional terms of confinement following revocations may not exceed the total length of the bifurcated sentence.

To revoke a person's parole status, the statutes require one hearing before a hearing examiner. The time period a person spends in prison following parole revocation is determined by the hearing examiner.

Current law also provides a framework for how time spent in prison after revocation may be extended for both extended supervision and parole. For both extended supervision and parole, the superintendent or warden may extend the time spent in prison by the following number of days for each offense, not to exceed the total length of the sentence (for parole) or bifurcated sentence (for extended supervision): (1) 10 days for the first offense; (2) 20 days for the second offense; and (3) 40 days for the third and subsequent offenses.

Also, under current law, a person whose parole was revoked may be released from prison earlier than the release date determined by the hearing examiner through a special action release program. The DOC may use a special action release program to place someone on parole if there is prison overcrowding. Current law also allows a person who has served 25% of the sentence or six months, whichever is greater, to apply to the parole commission to be released earlier than the release date determined at the revocation hearing.

The Justice Center recommended that Wisconsin amend its statutes so that a person whose extended supervision or parole is revoked would serve a six-month period of reconfinement. The Justice Center recommended allowing DOC to hold an offender for up to an additional 90 days, in addition to the six months, for rule violations and failure to participate in programming. The Justice Center suggested this alternative as a means of targeting resources because revocation expenditures will be reduced and may be reallocated to community-based strategies. In addition, the Justice Center notes that a set reconfinement period eliminates the need for reconfinement hearings and, therefore, could reduce jail, prosecutor, public defender, and court time currently expended on the reconfinement hearing process.

## **Description**

WLC: 0426/2 requires the reviewing authority to order an offender whose parole or extended supervision is revoked to be confined in prison for six months or the total length of the remaining sentence (for parole) or bifurcated sentence (for extended supervision), whichever is less. The reviewing authority is the hearing examiner in the Department of Administration, Division of Hearings and Appeals or DOC, if the hearing is waived.

This draft also gives DOC the authority to extend the period of time a person spends in confinement after revocation up to 90 days for any of the following violations:

1. Violating any regulation of the prison.
2. Refusing or neglecting to perform required or assigned duties.
3. Refusing or neglecting to participate in programming or treatment as required by DOC.

The draft removes authority from the parole commission to release a person from prison earlier than the time period determined by the hearing examiner. However, it retains the ability for DOC to release a person from prison through a special action release program if there is prison overcrowding.

## **WLC: 0427/3**

### **Background**

The Justice Center recommended that Wisconsin reinvest corrections spending in community-based mental health care for high-risk offenders on extended supervision or parole, targeted efforts to reduce unemployment among high-risk offenders on extended supervision or parole, and community-based services to reduce recidivism for persons on probation, extended supervision, or parole.

The Justice Center also recommended that Wisconsin set a goal to reduce recidivism by 25% from the 2008 levels by 2011. According to the Justice Center, this goal will help Wisconsin improve assessment processes, allocate supervision resources according to risks and needs, connect offenders with the right services to reduce violations, and tailor responses to violations to improve compliance.

### **Description**

WLC: 0427/3 creates the following biennial general purpose revenue (GPR) appropriations for DOC to provide or purchase the following:

1. \$8 million for mental health services for severely mentally ill persons who are on parole or extended supervision and are at high risk of re-offending.
2. \$12 million for a transitional employment program for persons who are on parole or extended supervision, are unemployed, and are at high risk of re-offending.

3. \$10 million for community services to reduce recidivism for persons who are on probation, parole, or extended supervision for a felony.

The draft requires DOC to establish community services that have the goal of increasing public safety, reducing the risk of offenders on community supervision, and reducing the community supervision recidivism rate for persons convicted of a felony by 25% between fiscal year 2008 and fiscal year 2011. Under the draft, the services must target the criminogenic needs of medium- and high-risk offenders and DOC, in establishing alternatives, must consider the capacity of existing services and any gaps in services for medium- and high-risk offenders placed in the community. The community services to reduce recidivism must include alcohol and other drug treatment, including residential treatment, outpatient treatment, and aftercare; cognitive group intervention; day reporting centers; and other services that are evidence based and have been shown to reduce recidivism as promulgated by DOC by rule.

The draft provides that DOC must ensure that the services target offenders who are at medium or high risk for revocation of supervision; provide offenders with needed supervision to improve the offender's opportunity to successfully complete his or her term of probation, parole, or extended supervision; use a system of intermediate sanctions for violations; and be based upon an assessment and evaluation of the offender using valid, reliable, and objective instruments approved by DOC.

The draft requires DOC to develop an accountability system for monitoring and tracking offenders receiving services under this provision in order to evaluate the effectiveness of services provided under this provision.

Under the draft, DOC must provide training and skill development for probation, extended supervision, and parole agents in risk reduction and intervention and must develop policies to guide agents in the supervision and revocation of offenders on community supervision and best practices relating to the use of alternatives to revocation of supervision. DOC must promulgate rules setting forth the requirements for staff training and skill development.

DOC is required, under the draft, to report annually to the Governor, the Legislature, and the Director of State Courts on the scope of services provided, the number of arrests, re-convictions, and returns to prison, progress toward the goal of reducing recidivism, and adjustments to services that will be made to reach the goal of reducing revocations by 25% by fiscal year 2011.

## **WLC: 0428/3**

### **Background**

The Justice Center recommended creating a sentencing option that provides offenders with an incentive to complete programs and treatment prior to release from prison while adhering to the principles of Wisconsin's truth-in-sentencing system. The Justice Center proposed providing the court with the ability to impose a risk reduction term of confinement that equals 75% of the confinement time of the person's total sentence so that there is an incentive to complete programming and treatment along with certainty as to the term of confinement.

### **Description**

WLC: 0428/3 permits a court to order a risk reduction sentence for a person who has been convicted of a felony if the court determines that a risk reduction sentence is appropriate and if the person agrees to all of the following:

1. To cooperate in an assessment of the person's criminogenic needs and risk of re-offending.

2. To participate in any programming or treatment ordered by the DOC to address issues raised in any needs or risk assessment conducted by the department.

The draft requires DOC to conduct a validated and objective assessment of the criminogenic needs and risk of re-offending of any person under a risk reduction sentence and requires DOC to provide programming and treatment to address the risks and needs identified in the DOC assessment.

If DOC determines that a person has successfully completed a risk reduction sentence, DOC must release the person to extended supervision after the person has served 75% of the person's term of confinement and must notify the court that the person, to that point, has successfully completed the risk reduction sentence.



## Appendix 1

### Committee and Joint Legislative Council Votes

The following drafts were recommended by the Special Committee on Justice Reinvestment Initiative Oversight to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature.

#### Special Committee Vote

The Special Committee voted to recommend WLC: 0425/3, excluding the bracketed language in SECTIONS 1 and 2 of the bill draft, to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature. The vote on the draft was as follows:

- WLC: 0425/3, relating to maximum term of extended supervision: Ayes, 6 (Sen. Taylor; Rep. Turner; and Public Members Chiarkas, Stark, Voelker, and White); Noes, 4 (Reps. Kleefisch and Suder; and Public Members Dufour and Dwyer); Absent, 8 (Sens. Kapanke and Olsen; Rep. Grigsby; and Public Members Chisholm, Graves, Humphrey, McNally, and Wray); and Not Voting, 1 (Public Member Streveler).

The Special Committee voted to recommend WLC: 0426/3, excluding the bracketed language in SECTION 6 of the bill draft, to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature. The vote on the draft was as follows:

- WLC: 0426/3, relating to the parole and extended supervision revocation process and time spent in prison after revocation: Ayes, 8 (Sen. Taylor; Rep. Turner; and Public Members Chiarkas, Dufour, Dwyer, Stark, Voelker, and White); Noes, 2 (Reps. Kleefisch and Suder); Absent, 8 (Sens. Kapanke and Olsen; Rep. Grigsby; and Public Members Chisholm, Graves, Humphrey, McNally, and Wray); and Not Voting, 1 (Public Member Streveler).

The Special Committee voted to recommend WLC: 0427/3, including the bracketed language in proposed s. 301.068 (5), Stats., to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature. The vote on the draft was as follows:

- WLC: 0427/3, relating to community supervision services: Ayes, 8 (Sen. Taylor; Rep. Turner; and Public Members Chiarkas, Dufour, Dwyer, Stark, Voelker, and White); Noes, 2 (Reps. Kleefisch and Suder); Absent, 8 (Sens. Kapanke and Olsen; Rep. Grigsby; and Public Members Chisholm, Graves, Humphrey, McNally, and Wray); and Not Voting, 1 (Public Member Streveler).

The Special Committee voted to amend WLC: 0428/3 by (1) providing that proposed s. 304.042 (1) (b), Stats., read: "Provide programming and treatment to the person to address risks and needs identified in the assessment under par. (a)." and (2) excluding the bracketed language in proposed s. 304.042 (3), Stats., to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature. The vote on the amendment to the draft was as follows:

- WLC: 0428/3, relating to risk reduction sentence: Ayes, 10 (Sen. Taylor; Reps. Turner, Kleefisch, and Suder; and Public Members Chiarkas, Dufour, Dwyer, Stark, Voelker, and White); Noes, 0; Absent, 8 (Sens. Kapanke and Olsen; Rep. Grigsby; and Public Members Chisholm, Graves, Humphrey, McNally, and Wray); and Not Voting, 1 (Public Member Streveler).

The Special Committee voted to recommend WLC: 0428/3, as amended, to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature. The vote on the draft was as follows:

- WLC: 0428/3, relating to risk reduction sentence: Ayes, 8 (Sen. Taylor; Rep. Turner; and Public Members Chiarkas, Dufour, Dwyer, Stark, Voelker, and White); Noes, 2 (Reps. Kleefisch and Suder); Absent, 8 (Sens. Kapanke and Olsen; Rep. Grigsby; and Public Members Chisholm, Graves, Humphrey, McNally, and Wray); and Not Voting, 1 (Public Member Streveler).

## Appendix 2

### Joint Legislative Council

*[Joint Legislative Council Members Who Selected and Appointed Committee and Its Membership]*

#### Co-Chair

#### **FRED RISSER**

*Senate President*  
5008 Risser Road  
Madison, WI 53705

#### Co-Chair

#### **STEVE WIECKERT**

*Representative*  
1 Weatherstone Drive  
Appleton, WI 54914

#### SENATORS

#### **ROGER BRESKE**

8800 Hwy. 29  
Eland, WI 54427

#### **RUSSELL DECKER**

*Majority Leader*  
6803 Lora Lee Lane  
Weston, WI 54476

#### **ALAN LASEE**

2259 Lasee Road  
De Pere, WI 54115

#### **TIM CARPENTER**

*President Pro Tempore*  
2957 South 38<sup>th</sup> Street  
Milwaukee, WI 53215

#### **SCOTT FITZGERALD**

*Minority Leader*  
N4692 Maple Road  
Juneau, WI 53039

#### **MARK MILLER**

4903 Roigan Terrace  
Monona, WI 53716

#### **SPENCER COGGS**

3732 North 40<sup>th</sup> Street  
Milwaukee, WI 53216

#### **SHEILA HARSDORF**

N6627 County Road E  
River Falls, WI 54022

#### **JUDY ROBSON**

2411 E. Ridge Road  
Beloit, WI 53511

#### **ALBERTA DARLING**

1325 West Dean Road  
River Hills, WI 53217

#### REPRESENTATIVES

#### **JOAN BALLWEG**

170 W. Summit Street  
Markesan, WI 53946

#### **DEAN KAUFERT**

1360 Alpine Lane  
Neenah, WI 54956

#### **MARK POCAN**

309 N. Baldwin Street  
Madison, WI 53703

#### **JEFF FITZGERALD**

*Majority Leader*  
910 Sunset  
Horicon, WI 53032

#### **JIM KREUSER**

*Minority Leader*  
3505 14th Place  
Kenosha, WI 53144

#### **KITTY RHOADES**

708 4th Street  
Hudson, WI 54016

#### **MARK GOTTLIEB**

*Speaker Pro Tempore*  
1205 Noridge Trail  
Port Washington, WI 53074

#### **THOMAS NELSON**

1510 Orchard Dr.  
Kaukauna, WI 54130

#### **MARLIN SCHNEIDER**

3820 Southbrook Lane  
Wisconsin Rapids, WI 54494

#### **MICHAEL HUEBSCH**

*Speaker*  
419 West Franklin  
West Salem, WI 54669

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

## Joint Legislative Council

[Current Joint Legislative Council Members Receiving Committee Report]

### Co-Chair

#### **FRED A. RISSER**

*Senate President*

100 Wisconsin Avenue, Unit 501  
Madison, WI 53703

### Co-Chair

#### **MARLIN D. SCHNEIDER**

*Representative*

3820 Southbrook Lane  
Wisconsin Rapids, WI 54494

### SENATORS

#### **SPENCER COGGS**

7819 W. Potomac Avenue  
Milwaukee, WI 53222

#### **ALBERTA DARLING**

1325 West Dean Road  
River Hills, WI 53217

#### **RUSSELL DECKER**

*Majority Leader*

6803 Lora Lee Lane  
Schofield, WI 54476

#### **SCOTT FITZGERALD**

*Minority Leader*

N4692 Maple Road  
Juneau, WI 53039

#### **SHEILA HARSDORF**

N6627 County Road E  
River Falls, WI 54022

#### **PAT KREITLOW**

*President Pro Tempore*

15854 93<sup>rd</sup> Avenue  
Chippewa Falls, WI 54729

#### **MARK MILLER**

4903 Roigan Terrace  
Monona, WI 53716

#### **JUDY ROBSON**

2411 E. Ridge Road  
Beloit, WI 53511

#### **DALE SCHULTZ**

515 North Central Avenue  
Richland Center, WI 53581

#### **ROBERT WIRCH**

3007 Springbrook Road  
Pleasant Prairie, WI 53158

### REPRESENTATIVES

#### **JOAN BALLWEG**

170 W. Summit Street  
Markesan, WI 53946

#### **TERESE BERCEAU**

4326 Somerset Lane  
Madison, WI 53711

#### **SPENCER BLACK**

5742 Elder Place  
Madison, WI 53705

#### **JEFF FITZGERALD**

*Minority Leader*

910 Sunset  
Horicon, WI 53032

#### **DEAN KAUFERT**

1360 Alpine Lane  
Neenah, WI 54956

#### **THOMAS NELSON**

*Majority Leader*

1510 Orchard Drive  
Kaukauna, WI 54130

#### **MARK POCAN**

309 N. Baldwin Street  
Madison, WI 53703

#### **MICHAEL SHERIDAN**

*Speaker*

1032 Nantucket Drive  
Janesville, WI 53546

#### **TONY STASKUNAS**

*Speaker Pro Tempore*

2010 South 103<sup>rd</sup> Court  
West Allis, WI 53227

#### **ROBIN VOS**

4710 Eastwood Ridge  
Racine, WI 53406

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

## Appendix 3

### JUSTICE REINVESTMENT INITIATIVE OVERSIGHT

Senator Lena Taylor, Chair  
1518 West Capitol Drive  
Milwaukee, WI 53206

Senator Dan Kapanke  
1610 Lakeshore Drive  
La Crosse, WI 54603

Representative Tamara Grigsby  
2354 North 41st Street  
Milwaukee, WI 53210

Representative Joel Kleefisch  
W357 N6189 Spinnaker Drive  
Oconomowoc, WI 53066

John Chisholm, District Attorney  
Milwaukee County Safety Building  
821 West State Street, Room 405  
Milwaukee, WI 53233

Dave Graves, Sheriff  
Waukesha County Courthouse  
515 West Moreland Boulevard  
Waukesha, WI 53188

Frank Humphrey  
NAACP—Madison Branch  
P.O. Box 45  
Madison, WI 53701

Judge Lisa Stark, Branch 1  
Eau Claire County Circuit Courts  
Eau Claire County Courthouse  
721 Oxford Avenue  
Eau Claire, WI 54703

A. John Voelker, Director  
Director of State Courts  
16E Capitol Building  
P.O. Box 1688  
Madison, WI 53701-1688

Noble Wray, Chief of Police  
City of Madison Police Department  
211 South Carroll Street  
Madison, WI 53703

Representative Robert Turner, Vice-Chair  
36 McKinley Avenue  
Racine, WI 53404

Senator Luther Olsen  
1023 Thomas Street  
Ripon, WI 54971

Representative Scott Suder  
102 South 4th Avenue  
Abbotsford, WI 54405

Nicholas Chiarkas  
State Public Defender  
315 North Henry Street, 2nd Floor  
Madison, WI 53703-3233

Richard Dufour, District Attorney  
Marquette County  
P.O. Box 396  
Montello, WI 53949

James Dwyer, County Board Chair  
1170 County Road NN  
P.O. Box 1004  
Elkhorn, WI 53121

Kit McNally, Executive Director  
The Benedict Center  
135 West Wells Street, Suite 700  
Milwaukee, WI 53203

Tony Streveler  
Department of Corrections  
3099 East Washington Avenue  
Madison, WI 53704

Maxine White, Deputy Chief Judge  
1st Judicial District, Courthouse  
901 North 9th Street, Room 500  
Milwaukee, WI 53233-1425

**STUDY ASSIGNMENT:** The committee is directed to serve as the entity to which the Council of State Governments (CSG) Justice Center reports. The study committee process creates a unique forum in which legislators will receive data from the Justice Center along with public members who work directly in different aspects of the corrections and criminal justice systems. The CSG Justice Center will provide technical assistance relating to corrections costs. Specifically, the technical assistance will include: (1) mapping of specific neighborhoods where large numbers of offenders are released from prison to identify how to improve coordination of services, correctional supervision, and law enforcement; (2) analyzing the prison population to determine what is driving its growth and to identify which categories of offenders are at high risk of re-offending; (3) developing policy options, based upon the data collected, to increase public safety and decrease corrections spending; and (4) projecting the fiscal impact of any policy options identified.

**19 MEMBERS:** 3 Senators, 4 Representatives, and 12 Public Members.

**LEGISLATIVE COUNCIL STAFF:** Anne Sappenfield and Ronald Sklansky, Senior Staff Attorneys, and Melissa Schmidt, Staff Attorney; and Julie Learned, Support Staff.



## Appendix 4

### Committee Materials List (Copies of documents are available at [www.legis.state.wi.us/lc](http://www.legis.state.wi.us/lc))

May 15, 2009 Meeting	Notice	Agenda	Audio	Minutes
<ul style="list-style-type: none"> <li>• <u>Editorial</u>, <i>Shrinking the Prison Population</i>, submitted by Chair Taylor (May 11, 2009).</li> <li>• <u>Editorial</u>, <i>Time to break prison-spending cycle</i>, submitted by Chair Taylor (May 13, 2009).</li> <li>• WLC: 0425/3, relating to maximum term of extended supervision.</li> <li>• WLC: 0426/3, relating to the parole and extended supervision revocation process and time spent in prison after revocation.</li> <li>• WLC: 0427/3, relating to community supervision services.</li> <li>• WLC: 0428/3, relating to risk reduction sentence.</li> <li>• <u>WLC: 0425/2</u>, relating to maximum term of extended supervision.</li> <li>• <u>WLC: 0426/2</u>, relating to the parole and extended supervision revocation process and time spent in prison after revocation.</li> <li>• <u>WLC: 0427/2</u>, relating to community supervision services.</li> <li>• <u>WLC: 0428/2</u>, relating to risk reduction sentence.</li> </ul>				
May 6, 2009 Meeting	Notice	Agenda	Audio	Minutes
<ul style="list-style-type: none"> <li>• <u>WLC: 0425/1</u>, relating to maximum term of extended supervision.</li> <li>• <u>WLC: 0426/1</u>, relating to the parole and extended supervision revocation process and time spent in prison after revocation.</li> <li>• <u>WLC: 0427/1</u>, relating to community supervision services.</li> <li>• <u>WLC: 0428/1</u>, relating to risk reduction sentence.</li> <li>• <u>Letter</u> to Senator Lena Taylor from Richard Dufour, Marquette County District Attorney (April 30, 2009).</li> <li>• <u>Report</u>, <i>Analyses &amp; Policy Options to Reduce spending on Corrections and Increase Public Safety</i>, submitted by the Council of state Governments, Justice Center (May 2009).</li> <li>• Milwaukee Journal Sentinel <u>Article</u>, requested by Chair Taylor.</li> <li>• Milwaukee Journal Sentinel <u>Article</u>, requested by Chair Taylor.</li> <li>• <u>Handout</u>, Kansas/Texas outcomes, submitted by Marc Pelka, Policy Analyst, Justice Reinvestment Initiative, Council of State Governments Justice Center.</li> </ul>				
April 22, 2009 Meeting	Notice	Agenda	Audio	Minutes
<ul style="list-style-type: none"> <li>• <u>Draft document</u>, <i>Analyses &amp; Policy Options to Reduce Spending on Corrections and Increase Public Safety</i>, submitted by the Council of State Governments Justice Center (April 2009).</li> <li>• <u>PowerPoint presentation</u>, <i>Justice Reinvestment Policy Framework for Wisconsin</i>, submitted by Dr. Tony Fabelo, Director of Research, Marshall Clement, Justice Reinvestment Project Director, Mike Eisenberg, Research Manager, and Marc Pelka, Policy Analyst, Council of State Governments Justice Center.</li> </ul>				
April 7, 2009 Meeting	Notice	Agenda	Audio	Minutes
<ul style="list-style-type: none"> <li>• Legislative Audit Bureau's evaluation of mental health care in the Department of Corrections, Department of Health Services: <i>Inmate Mental Health Care</i>: <a href="http://www.legis.state.wi.us/lab/reports/09-4full.pdf">http://www.legis.state.wi.us/lab/reports/09-4full.pdf</a>.</li> <li>• <u>PowerPoint presentation</u>, <i>Final Analysis and Framework for Justice Reinvestment in Wisconsin</i>, submitted by Dr. Tony Fabelo, Director of Research, Dr. Fred Osher, Director of Health Systems and Services Policy, Marshall Clement, Justice Reinvestment Project Director, Hope Glassberg and Marc Pelka, Policy Analysts, Justice Center, Council of State Governments.</li> </ul>				

- Report, *Setting the Framework for a Wisconsin Community Justice Act*, Committee on Effective Strategies for Community Justice (June 2008), submitted by Tony Steveler, Policy Initiatives Advisor, Department of Corrections.
- Initiatives Summary, Summary of Initiatives Referenced at Committee Meeting on 03/11/2009, submitted by Tony Steveler, Policy Initiatives Advisor, Department of Corrections.

<b>March 11, 2009 Meeting</b>	<b>Notice</b>	<b>Agenda</b>	<b>Audio</b>	<b>Minutes</b>
-------------------------------	---------------	---------------	--------------	----------------

- Report, Governor's Commission on Reducing Racial Disparities, submitted by Public Member Maxine White.
- Letter from Senator Lena Taylor, Chair, dated March 3, 2009.
- Presentation, *Interim Analyses on Community Corrections*, submitted by the Council of State Governments Justice Center (March 11, 2009).

<b>January 12, 2009 Meeting</b>	<b>Notice</b>	<b>Agenda</b>	<b>Audio</b>	<b>Minutes</b>
---------------------------------	---------------	---------------	--------------	----------------

- Document, submitted by the Council of State Governments Justice Center, *Justice Reinvestment: Overview*.
- Report, submitted by the Council of State Governments Justice Center, *Justice Reinvestment State Brief: Kansas* (October 2007).
- Report, submitted by the Council of State Governments Justice Center, *Justice Reinvestment State Brief: Texas* (October 2007).
- Report, submitted by the Council of State Governments Justice Center, *Reducing Crime & Generating Savings: Options for Arizona Policymakers* (February 2008).
- Council of State Governments Justice Center website: [www.justicecenter.csg.org](http://www.justicecenter.csg.org).
- Justice Reinvestment: A Project of the Council of State Governments Justice Center website: [www.justicereinvestment.org](http://www.justicereinvestment.org).
- Presentation, *Challenges and Strategies to Develop a Policy Framework for Wisconsin*, submitted by Dr. Tony Fabelo, Director of Research, Marshall Clement, Justice Reinvestment Project Director, Mike Eisenberg, Research Manager, and Marc Pelka, Policy Analyst, Council of State Governments Justice Center.
- Presentation, *Justice Reinvestment*, submitted by Dr. Tony Fabelo, Director of Research, Marshall Clement, Justice Reinvestment Project Director, Mike Eisenberg, Research Manager, and Marc Pelka, Policy Analyst, Council of State Governments Justice Center.
- Ten-Year Facility Development Plan, Wisconsin Department of Corrections (January 8, 2009).

1     **AN ACT** *to repeal and recreate* 973.01 (2) (d) (intro.) of the statutes; **relating to:**  
2           maximum term of extended supervision.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This bill draft was prepared for the Joint Legislative Council's Special Committee on Justice Reinvestment Initiative Oversight.

Under current law, a court must impose a bifurcated sentence for a person sentenced to imprisonment for a felony, other than a Class A felony, committed after December 31, 1999, or a misdemeanor committed on or after February 1, 2003. A bifurcated sentence includes a period of confinement and a period of extended supervision.

The statutes define the maximum term of imprisonment for each sentence. The term of imprisonment for a bifurcated sentence is broken into 2 phases: confinement and extended supervision.

The statutes also define the maximum term a court may sentence a person to spend in confinement as well as both the minimum and maximum term of extended supervision for classified felonies. The minimum term of extended supervision is not less than 25% of the time one is sentenced to confinement. The maximum terms of confinement and extended supervision for felonies other than a Class A felony are as follows:

- Class B felony: maximum term of confinement is 40 years; maximum term of extended supervision is 20 years.
- Class C felony: maximum term of confinement is 25 years; maximum term of extended supervision is 15 years.
- Class D felony: maximum term of confinement is 15 years; maximum term of extended supervision is 10 years.
- Class E felony: maximum term of confinement is 10 years; maximum term of extended supervision is 5 years.
- Class F felony: maximum term of confinement is 7.5 years; maximum term of extended supervision is 5 years.

- Class G felony: maximum term of confinement is 5 years; maximum term of extended supervision is 5 years.
- Class H felony: maximum term of confinement is 3 years; maximum term of extended supervision is 3 years.
- Class I felony: maximum term of confinement is 1.5 years; maximum term of extended supervision is 2 years.

This draft provides that the maximum term of extended supervision may not exceed 75% of the term of confinement for all crimes other than Class B felonies, Class C felonies, and the crimes defined as “sex offenses” under s. 301.45 (1d) (b), stats. For Class B and C felonies and sex offenses, the maximum terms of extended supervision set forth in current law apply.

1           **SECTION 1.** 973.01 (2) (d) (intro.) of the statutes is repealed and recreated to read:  
2           973.01 (2) (d) (intro.) *Minimum and maximum term of extended supervision.* Except  
3 for a Class B felony, a Class C felony, or a crime described in s. 301.45 (1d) (b), the term of  
4 extended supervision may not be less than 25%, and not more than 75%, of the length of the  
5 term of confinement in prison imposed under par. (b). For a Class B felony, a Class C felony,  
6 or a crime described in s. 301.45 (1d) (b), the minimum term of extended supervision may not  
7 be less than 25% of the term of confinement in prison imposed under par. (b) and the maximum  
8 term of extended supervision is subject to whichever of the following limits is applicable:

**NOTE:** This SECTION provides that the maximum term of extended supervision may not exceed 75% of the term of confinement, except for Class B felonies, Class C felonies, and sex offenses as defined in s. 301.45 (1d) (b), stats. For these latter crimes, the maximum terms of extended supervision set forth in current law apply.

9           **SECTION 2. Initial applicability.**

10           (1) This act first applies to persons sentenced for crimes committed on the effective date  
11 of this act.

**NOTE:** This SECTION provides that the legislation first applies to persons sentenced for crimes committed on the effective date of the legislation.

12

(END)

1     **AN ACT** *to repeal* 302.113 (9) (at); *to amend* 302.11 (7) (am), 302.11 (7) (b), 302.11  
2           (7) (c), 302.113 (9) (am), 302.113 (9) (b) and (c) and 304.06 (3); and *to create*  
3           302.11 (2m) and 302.113 (3m) of the statutes; **relating to:** the parole and extended  
4           supervision revocation process and time spent in prison after revocation.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This bill draft was prepared for the Joint Legislative Council's Special Committee on Justice Reinvestment Initiative Oversight.

Under current law, a person who is sentenced to prison may be released to parole or extended supervision, depending on the date the offense was committed. Extended supervision applies to a bifurcated sentence for a felony committed on or after December 31, 1999, or a misdemeanor committed on or after February 1, 2003. For all other offenses, a person under the department's community supervision following a prison term is on parole.

To revoke a person's extended supervision, the statutes require 2 hearings. The first hearing determines whether a person's extended supervision is revoked. The 2nd hearing determines the length of the term of reconfinement. Unless the first hearing is waived, the revocation decision is determined by a hearing examiner in the Department of Administration, Division of Hearings and Appeals. The 2nd hearing is before the circuit court where the person was convicted.

A hearing examiner decides whether to revoke a person's extended supervision status and makes a recommendation to the circuit court as to the length of time the person should spend in confinement in prison. The circuit court reviews the hearing examiner's recommendations and determines the appropriate period of time that the person should spend in confinement. The initial term of confinement and additional terms of confinement following revocations may not exceed the total length of the bifurcated sentence.

To revoke a person's parole status, the statutes require one hearing before the hearing examiner in the Department of Administration, Division of Hearings and Appeals. The time period a person spends in

prison following parole revocation is determined by the hearing examiner.

Current law also provides a framework for how time spent in prison after revocation may be extended for both extended supervision and parole. For both extended supervision and parole, the superintendent or warden may extend the time spent in prison by the following number of days for each offense, not to exceed the total length of the sentence (for parole) or bifurcated sentence (for extended supervision):

1. 10 days for the first offense.
2. 20 days for the 2nd offense.
3. 40 days for the 3rd and subsequent offenses.

Also, under current law, a person whose parole was revoked may be released from prison earlier than the release date determined by the hearing examiner through a special action release program. The Department of Corrections (DOC) may use a special action release program to place someone on parole if there is prison overcrowding. Current law also allows a person who has served 25% of the sentence or 6 months, whichever is greater, to apply to the parole commission to be released earlier than the release date determined at the revocation hearing.

This draft requires the reviewing authority to order an offender whose parole or extended supervision is revoked to be confined in prison for 6 months or the total length of the remaining sentence (for parole) or bifurcated sentence (for extended supervision), whichever is less. The reviewing authority is the hearing examiner in the Department of Administration, Division of Hearings and Appeals, or the DOC if the hearing is waived.

This draft also gives the DOC the authority to extend the period of time a person spends in confinement after revocation up to 90 days for any of the following violations:

1. Violating any regulation of the prison.
2. Refusing or neglecting to perform required or assigned duties.
3. Refusing or neglecting to participate in programming or treatment as required by the DOC.

The draft removes authority from the parole commission to release a person from prison earlier than the time period determined by the hearing examiner. It retains the ability for the DOC to release a person

from prison through a special action release program if there is prison overcrowding.

1           **SECTION 1.** 302.11 (2m) of the statutes is created to read:

2           302.11 (2m) (a) The warden or superintendent shall keep a record of the conduct of each  
3 person who is returned to prison after revocation of parole, specifying each infraction of the  
4 rules. If a person violates any regulation of the prison, refuses or neglects to perform required  
5 or assigned duties, or refuses or neglects to participate in required programming or treatment,  
6 the department may extend the release date by not more than 90 days.

7           (b) No extension of the release date under this subsection may require a person to serve  
8 more days in prison than provided in the sentence.

**NOTE:** This SECTION gives the warden or superintendent the authority to extend the release date of a person returned to prison after revocation of parole if the person violates prison regulations, refuses or neglects to perform the duties required or assigned by the DOC, or refuses or neglects to participate in the programming or treatment required by the department. The extension of the release date may not exceed 90 days and may not exceed the total days in prison provided in the sentence.

9           **SECTION 2.** 302.11 (7) (am) of the statutes is amended to read:

10           302.11 (7) (am) The reviewing authority may return a parolee released under sub. (1)  
11 or (1g) (b) or s. 304.02 or 304.06 (1) to prison for a period up to the remainder of the sentence  
12 or for 6 months, whichever is less, for a violation of the conditions of parole. The remainder  
13 of the sentence is the entire sentence, less time served in custody prior to parole. The period  
14 of time may be extended in accordance with sub. (2m). The revocation order shall provide  
15 the parolee with credit in accordance with ss. 304.072 and 973.155.

**NOTE:** This SECTION provides that a person whose parole is revoked and who is returned to prison must serve 6 months or the remainder of the sentence, whichever is less. The period of time spent in prison may also be extended according to the procedures explained in SECTION 1 of this draft.

1           **SECTION 3.** 302.11 (7) (b) of the statutes is amended to read:

2           302.11 (7) (b) A parolee returned to prison for violation of the conditions of parole shall  
3 be incarcerated for the entire period of time determined by the reviewing authority unless  
4 paroled earlier under par. (c). The parolee is not subject to mandatory release under sub. (1)  
5 or presumptive mandatory release under sub. (1g). The period of time determined under par.  
6 (am) may be extended in accordance with subs. ~~(1q)~~ and ~~(2)~~ sub. (2m).

**NOTE:** This SECTION changes the cross-reference relating to the authority of a warden or superintendent to extend the time spent in prison following a parole revocation, as specified in SECTION 1 of this draft.

7           **SECTION 4.** 302.11 (7) (c) of the statutes is amended to read:

8           302.11 (7) (c) ~~The parole commission may subsequently parole, under s. 304.06 (1),~~  
9 ~~and the department may subsequently parole, under s. 304.02, a parolee who is returned to~~  
10 prison for violation of a condition of parole.

**NOTE:** This SECTION removes the provision that allows the parole commission to release a person spending time in prison after parole revocation after the person has served 25% of the sentence or 6 months, whichever is greater. It retains DOC authority to use a special action release program to place a person on parole due to prison overcrowding.

11          **SECTION 5.** 302.113 (3m) of the statutes is created to read:

12          302.113 (3m) (a) The warden or superintendent shall keep a record of the conduct of  
13 each person who is returned to prison after revocation of extended supervision, specifying  
14 each infraction of the rules. If a person violates any regulation of the prison, refuses or neglects  
15 to perform required or assigned duties, or refuses or neglects to participate in required  
16 programming or treatment, the department may extend the term of confinement in prison by  
17 not more than 90 days.

1 (b) No increase of a term of confinement in prison under this subsection may require  
2 a person to serve more days in prison than the total length of the bifurcated sentence imposed  
3 under s. 973.01.

**NOTE:** This SECTION gives the warden or superintendent the authority to extend the reconfinement period of a person returned to prison after revocation of extended supervision if that person violates prison regulations, refuses or neglects to perform the duties required or assigned by the DOC, or refuses or neglects to participate in the programming or treatment required by the department. The extension of reconfinement is 90 days, unless the days served in prison would exceed the total length of the bifurcated sentence.

4 **SECTION 6.** 302.113 (9) (am) of the statutes is amended to read:

5 302.113 (9) (am) If a person released to extended supervision under this section violates  
6 a condition of extended supervision, the reviewing authority may revoke the extended  
7 supervision of the person. If the extended supervision of the person is revoked, ~~the person~~  
8 ~~shall be returned to the circuit court for the county in which the person was convicted of the~~  
9 ~~offense for which he or she was on extended supervision, and the court~~ the reviewing authority  
10 shall order the person to be returned to prison for ~~any specified~~ a period of time that ~~does not~~  
11 ~~exceed equals~~ the time remaining on the bifurcated sentence or for 6 months, whichever is less.  
12 The time remaining on the bifurcated sentence is the total length of the bifurcated sentence,  
13 less time served by the person in confinement under the sentence before release to extended  
14 supervision under sub. (2) and less all time served in confinement for previous revocations of  
15 extended supervision under the sentence. ~~The court order~~ of the reviewing authority returning  
16 a person to prison under this paragraph shall provide the person whose extended supervision  
17 was revoked with credit in accordance with ss. 304.072 and 973.155.

**NOTE:** This SECTION removes the requirement that a court order the period of time spent in prison after extended supervision is revoked and provides that an administrative law judge will order a revocation period

equal to the time remaining on the bifurcated sentence or 6 months, whichever is less.

1           **SECTION 7.** 302.113 (9) (at) of the statutes is repealed.

**NOTE:** This SECTION removes the statutory requirement that the Department of Administration, Division of Hearings and Appeals must make a recommendation to the circuit court regarding the length of the reconfinement period following a revocation of extended supervision.

2           **SECTION 8.** 302.113 (9) (b) and (c) of the statutes are amended to read:

3           302.113 (9) (b) A person who is returned to prison after revocation of extended  
4 supervision shall be incarcerated for the entire period of time specified by the ~~court~~ reviewing  
5 authority under par. (am). The period of time specified under par. (am) may be extended in  
6 accordance with sub. ~~(3)~~ (3m). If a person is returned to prison under par. (am) for a period  
7 of time that is less than the time remaining on the bifurcated sentence, the person shall be  
8 released to extended supervision after he or she has served the period of time specified by the  
9 ~~court~~ reviewing authority under par. (am) and any periods of extension imposed in accordance  
10 with sub. ~~(3)~~ (3m).

11           (c) A person who is subsequently released to extended supervision after service of the  
12 period of time specified by the ~~court~~ reviewing authority under par. (am) is subject to all  
13 conditions and rules under subs. (7) and, if applicable, (7m) until the expiration of the  
14 remaining extended supervision portion of the bifurcated sentence. The remaining extended  
15 supervision portion of the bifurcated sentence is the total length of the bifurcated sentence, less  
16 the time served by the person in confinement under the bifurcated sentence before release to  
17 extended supervision under sub. (2) and less all time served in confinement for previous  
18 revocations of extended supervision under the bifurcated sentence.

**NOTE:** This SECTION specifies that the reviewing authority, the Department of Administration, Division of Hearings and Appeals, not

the circuit court, is the entity that orders the length of time a person is returned to prison after extended supervision is revoked.

1           **SECTION 9.** 304.06 (3) of the statutes is amended to read:

2           304.06 (3) Every paroled prisoner remains in the legal custody of the department unless  
3 otherwise provided by the department. If the department alleges that any condition or rule of  
4 parole has been violated by the prisoner, the department may take physical custody of the  
5 prisoner for the investigation of the alleged violation. If the department is satisfied that any  
6 condition or rule of parole has been violated it shall afford the prisoner such administrative  
7 hearings as are required by law. Unless waived by the parolee, the final administrative hearing  
8 shall be held before a hearing examiner from the division of hearings and appeals in the  
9 department of administration who is licensed to practice law in this state. The hearing  
10 examiner shall enter an order revoking or not revoking parole. Upon request by either party,  
11 the administrator of the division of hearings and appeals shall review the order. The hearing  
12 examiner may order that a deposition be taken by audiovisual means and allow the use of a  
13 recorded deposition under s. 967.04 (7) to (10). If the parolee waives the final administrative  
14 hearing, the secretary of corrections shall enter an order revoking or not revoking parole. If  
15 the examiner, the administrator upon review, or the secretary in the case of a waiver finds that  
16 the prisoner has violated the rules or conditions of parole, the examiner, the administrator upon  
17 review, or the secretary in the case of a waiver, may order the prisoner returned to prison to  
18 continue serving for the remainder of his or her sentence or for 6 months, whichever is less,  
19 or to continue on parole. The period of time spent in prison may be extended in accordance  
20 with s. 302.11 (2m). If the prisoner claims or appears to be indigent, the department shall refer  
21 the prisoner to the authority for indigency determinations specified under s. 977.07 (1).

**NOTE:** This SECTION provides that if parole is revoked, the period of time a person is required to spend in prison after parole revocation is 6

months or the remainder of the sentence, whichever is less. The period of time spent in prison may also be extended according to the procedures set forth in SECTION 1 of this draft.

1

(END)

- 1        **AN ACT** to create 20.410 (1) (de), (dm), and (ds) and 301.068 of the statutes; relating  
2            to: community supervision services.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft was prepared for the Joint Legislative Council's Special Committee on Justice Reinvestment Initiative Oversight.

This draft creates the following biennial general purpose revenue (GPR) appropriations for the Department of Corrections (DOC) to provide or purchase the following:

1. \$8 million for mental health services for severely mentally ill persons who are on parole or extended supervision and are at high risk of re-offending.
2. \$12 million for a transitional employment program for persons who are on parole or extended supervision, are unemployed, and are at high risk of re-offending.
3. \$10 million for community services to reduce recidivism for persons who are on probation, parole, or extended supervision for a felony.

The draft requires the DOC to establish community services to reduce recidivism that have the goal of increasing public safety, reducing the risk of offenders on community supervision, and reducing the community supervision recidivism rate for persons convicted of a felony by 25% between fiscal year 2008 and fiscal year 2011. Under the draft, the services must target the criminogenic needs of medium- and high-risk offenders and the DOC, in establishing services, must consider the capacity of existing services and any gaps in services for medium- and high-risk offenders placed in the community. The community services must include alcohol and other drug treatment, including residential treatment, outpatient treatment, and aftercare; cognitive group intervention; day reporting centers; and other services that are evidenced based and have been shown to reduce recidivism as promulgated by the DOC by rule.

The draft provides that the DOC must ensure that the services target offenders who are at medium or high risk for revocation of supervision;

provide offenders with needed supervision to improve the offender's opportunity to successfully complete his or her term of probation, parole, or extended supervision; use a system of intermediate sanctions for violations; and be based upon an assessment and evaluation of the offender using valid, reliable, and objective instruments approved by the DOC.

The draft requires the DOC to develop an accountability system for monitoring and tracking offenders receiving services under this provision in order to evaluate the effectiveness of services provided under this provision.

Under the draft, the DOC must provide training and skill development for probation, extended supervision, and parole agents in risk reduction and intervention and must develop policies to guide agents in the supervision and revocation of offenders on community supervision and best practices relating to the use of alternatives to revocation of supervision.

The DOC is required, under the draft, to report annually to the governor, the legislature, and the director of the state courts on the scope of services provided, the number of arrests, re-convictions, and returns to prison, progress toward the goal of reducing recidivism, and adjustments to services that will be made to reach the goal of reducing recidivism by 25% by fiscal year 2011.

1           SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the  
2 following amounts for the purposes indicated:

			2009-10	2010-11
3				
4	<b>20.410</b>	<b>Corrections, department of</b>		
5	(1)	ADULT CORRECTIONAL SERVICES		
6	(de)	Community-based mental health		
7		services	GPR    A    \$4,000,000	\$4,000,000

				2009-10	2010-11
1	(dm)	Transitional employment program	GPR A	\$6,000,000	\$6,000,000
2	(ds)	Community services for persons on			
3		probation, parole, or extended			
4		supervision	GPR A	\$5,000,000	\$5,000,000

5 SECTION 2. 20.410 (1) (de), (dm), and (ds) of the statutes are created to read:

6 20.410 (1) (de) The amounts in the schedule to provide or purchase mental health  
7 services for severely mentally ill persons who are transitioning to or who are on parole or  
8 extended supervision who are at high risk of re-offending.

9 (dm) The amounts in the schedule to provide or purchase a transitional employment  
10 program for persons who are transitioning to or who are on parole or extended supervision,  
11 are unemployed, and are at high risk of re-offending.

12 (ds) The amounts in the schedule to provide or purchase community services to reduce  
13 recidivism under s. 301.068 for persons on probation or who are transitioning to or are on  
14 parole or extended supervision for a felony conviction.

NOTE: Creates GPR appropriations for the DOC to provide mental health services, transitional employment programs, and community services to reduce recidivism for persons who are on community supervision or are transitioning to supervision.

15 SECTION 3. 301.068 of the statutes is created to read:

16 **301.068 Community services to reduce recidivism.** (1) The department shall  
17 establish community services that have the goal of increasing public safety, reducing the risk  
18 of offenders on community supervision, and reducing the recidivism rate of persons on  
19 probation, parole, or extended supervision for a felony conviction by 25% between fiscal year  
20 2008 and fiscal year 2011. The services to reduce recidivism shall target the criminogenic

1 needs of medium- and high-risk offenders and, in establishing services under this section, the  
2 department shall consider the capacity of existing services and any gaps in services for  
3 medium- and high-risk offenders placed in the community.

4 (2) The community services to reduce recidivism shall include all of the following:

5 (a) Alcohol and other drug treatment, including residential treatment, outpatient  
6 treatment, and aftercare.

7 (b) Cognitive group intervention.

8 (c) Day reporting centers.

9 (d) Other treatment and services that are evidence based and have been shown to reduce  
10 recidivism as promulgated by the department by rule.

11 (3) The department shall ensure that services provided under this section meet all of the  
12 following conditions:

13 (a) Target offenders at medium or high risk for revocation as determined by valid,  
14 reliable, and objective risk assessment instruments approved by the department.

15 (b) Provide offenders with needed supervision and services to improve the offender's  
16 opportunity to successfully complete his or her term of probation, parole, or extended  
17 supervision. These services may include employment training and placement, educational  
18 assistance, transportation, and housing. The services shall address the offender's  
19 criminogenic risks, needs, and responsivity characteristics.

20 (c) Use a system of intermediate sanctions for violations.

21 (d) Be based upon an assessment and evaluation of the offender using valid, reliable,  
22 and objective instruments approved by the department.

23 (4) The department shall develop an accountability system for monitoring and tracking  
24 offenders receiving services under this section in order to evaluate the effectiveness of

1 services provided under this section in decreasing arrests, re-convictions, and returns to  
2 prison among the persons participating in services provided under this section.

3 (5) The department shall provide training and skill development for probation,  
4 extended supervision, and parole agents in risk reduction and intervention and shall develop  
5 policies to guide probation, extended supervision, and parole agents in the supervision and  
6 revocation of offenders on probation, extended supervision, and parole and best practices  
7 relating to the use of alternatives to revocation of supervision. The department shall  
8 promulgate rules setting forth the requirements for staff training and skill-development under  
9 this subsection.

10 (6) The department shall report annually to the governor, the chief clerk of each house  
11 of the legislature for distribution to the appropriate standing committees under s. 13.172 (3),  
12 and the director of state courts. The report shall set forth the scope of the services provided  
13 under this section; the number of arrests, re-convictions, and returns to prison of persons on  
14 probation, parole, or extended supervision among offenders receiving services under this  
15 section; progress toward the goal under sub. (1) of reducing recidivism by 25% by fiscal year  
16 2011; and adjustments to services that will be made to reach the goal of reducing recidivism  
17 by 25% by fiscal year 2011.

**NOTE:** Requires the DOC to establish community services to reduce  
recidivism that have the goal of increasing public safety, reducing the  
risk of offenders on community supervision, and reducing the rate of  
recidivism by 25% between fiscal year 2008 and fiscal year 2011 and  
sets forth the requirements for these services.

18

(END)

1     **AN ACT** to create 302.042 and 973.031 of the statutes; relating to: risk reduction  
 2           sentence.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft was prepared for the Joint Legislative Council’s Special Committee on Justice Reinvestment Initiative Oversight.

The draft permits a court to order a risk reduction sentence for a person who has been convicted of a felony if the court determines that a risk reduction sentence is appropriate and if the person agrees to all of the following:

1. To cooperate in an assessment of the person’s criminogenic needs and risk of re–offending.
2. To participate in any programming or treatment ordered by the Department of Corrections (DOC) to address issues raised in any risk assessment conducted by the department.

The draft requires DOC to conduct a criminogenic needs and risk assessment of any person under a risk reduction sentence and requires the department to provide programming and treatment to address the risks and needs identified in the risk assessment.

If the department determines that a person has successfully completed a risk reduction sentence, the department must release the person to extended supervision after the person has served 75% of the person’s term of confinement and must notify the court that the person has, to that point, successfully completed the risk reduction sentence.

3           **SECTION 1.** 302.042 of the statutes is created to read:

4           **302.042 (1)** The department shall provide risk reduction programming and treatment  
 5           for an inmate sentenced to a risk reduction sentence under s. 973.031.

6           **(2)** The department shall do all of the following for a person who is sentenced to a risk  
 7           reduction sentence:

1 (a) Conduct a validated and objective assessment of the person's criminogenic needs  
2 and risk of re-offending.

3 (b) Provide programming and treatment to the person to address risks and needs  
4 identified in the assessment under par. (a).

5 (3) If the department determines that an inmate serving a sentence imposed under s.  
6 973.031 has successfully completed the assessment and treatment or programming required  
7 by the department under sub. (2), the department shall release the inmate to extended  
8 supervision after he or she has served 75% of the term of confinement portion of the sentence  
9 imposed under s. 973.01. The department shall notify the court at least 30 days before the  
10 inmate has served 75% of the term of confinement portion of the inmate's bifurcated sentence  
11 that the inmate has, to that point, successfully completed the requirements of the risk reduction  
12 sentence.

**NOTE:** This SECTION provides that DOC must provide a risk and needs assessment and risk reduction programming and treatment for an inmate sentenced to a risk reduction sentence. A risk reduction sentence is a sentence that a court may order if the court determines it is appropriate and if a person convicted of a felony agrees to all of the following:

1. To cooperate in an assessment of the person's criminogenic needs and risk of re-offending.
2. To participate in any programming or treatment ordered by the DOC to address issues raised in any needs and risk assessment.

Following the imposition of a risk reduction sentence, the DOC must conduct a needs and risk assessment and provide appropriate programming and treatment to the convicted person. If the DOC determines that an inmate serving a risk reduction sentence has successfully completed the required assessment and treatment or programming, the DOC must release the inmate to extended supervision after the inmate has served 75% of the confinement portion of his or her sentence. The DOC must notify the sentencing court at least 30 days before the inmate has served 75% of the term of confinement that the inmate has, to that point, successfully completed the risk reduction sentence.

1           **SECTION 2.** 973.031 of the statutes is created to read:

2           **973.031 Risk reduction sentence.** When a court sentences a person who is convicted  
3 of a felony to imprisonment in a state prison, the court may order the person to serve a risk  
4 reduction sentence if the court determines that a risk reduction sentence is appropriate and if  
5 the person agrees to all of the following:

6           (1) To cooperate in an assessment of the person's criminogenic needs and risk of  
7 re-offending.

8           (2) To participate in any programming or treatment ordered by the department to  
9 address issues raised in any needs and risk assessment under sub. (1).

**NOTE:** This SECTION permits a court to sentence a person convicted of a  
          felony to a risk reduction sentence.

10

(END)



## NATIONAL CONFERENCE of STATE LEGISLATURES

*The Forum for America's Ideas*

### Good Time and Earned Time Policies for State Prison Inmates (as established by law)

Created November 2011 (updated January 2016)

This chart highlights sentence credit policies listed in state statutes that are applicable to inmates in state prisons. Earned time is defined as a credit against an inmate's sentence or period of incarceration that he or she earns for participation in or completion of productive activities. Earned time is distinguished from, and can be offered in addition to, "good time" credits which are given to offenders for following prison rules and required participation in activities.

STATES	GOOD TIME							NOTES	
<i>Alabama</i> <i>§14-9-40 et seq.; §14-9-3</i>	20, 40 or 75 days per 30 days served for prisoner behavior, discipline, work practices and job responsibility.							30 days per 12 months for blood donation; on top of other time earned.	Time awarded based on inmate classification
<i>Alaska</i> <i>§33.20.010</i>	1/3 off prison term for good conduct.								
<i>Arizona</i> <i>§41-1604.06 to .07</i>	1 day per 6 served for education, training, treatment programs and any assignments of confidence and trust.								DOC to create and base credit on classification, including ineligible classes
<i>Arkansas</i> <i>§12-29-201 et seq.</i>	30 days per month served for work practices, job	90 days per completion of GED	90 days per completion of vocational	90 days per completion of drug or alcohol					Earned time not to exceed 360 days, earned on

STATES	GOOD TIME								NOTES
	responsibilities, and rehabilitative activities.		certification	treatment					top of good time. Board of Corrections to create inmate classifications
<i>California Penal Code §2933 et seq. and §2935</i>	Six months per six months served or proportionally less time awarded for less time served, in line with regulations set by the secretary of corrections.	See other	See other	See other		2 days per 1 day working for working at a conservation camp or for working as an inmate firefighter or after completion of training for those programs.	Up to 12 months for heroic acts in life threatening situations or providing exceptional assistance in maintaining the safety and security of a prison.	1 – 6 weeks per 12-month period for completion of rehabilitative programming as determined by DOC but may include academic programs, vocational programs, vocational training, and core programs such as anger management, social life skills, and substance abuse programs. Awarded on top of good time. Jail inmates-1 day per 8 hours of participation in educational, vocational, substance abuse, life skills, and parenting programs	Certain inmates are only eligible to earn 15% of good time.
<i>Colorado §17-22.5-405 et seq.</i>	10 or 12 days per month served based on DOC standards of consistent progress	Up to 60 days per completion of program milestone or phase of an	Up to 60 days per completion of program milestone or phase of a	Up to 60 days per completion of program milestone or phase of a		1 day per 1 day of working at a disaster site, on top of	Up to 60 days per act of exceptional conduct.	An additional maximum 30 days or maximum 60 days for certain inmates without	Administrative segregation inmates eligible for earned time after first 90

STATES	GOOD TIME							NOTES	
	with work, training, group living (personal hygiene, cooperation, double bunking, and social adjustment), counseling and self-help groups, progress towards goals identified in diagnostic program, has not harassed victim, any parole release rules, and progress in literacy corrections program or correctional education program	educational program.	vocational program.	therapeutic program.		good time		penal code infractions within specified timeframes, has been program compliant, and has not been previously convicted of certain felonies; at the discretion of the parole board. Up to 60 days per completion of program milestone or phase of a reentry program.	days
<i>Connecticut §18-98e</i>								Up to 5 days per month for compliance with accountability plan, participation in eligible programs and good conduct. (credit may not be earned for only good conduct)	Total credit cannot exceed 5 days per month
<i>Delaware 11 Del.C. §4381</i>	2 days per month for first year served and 3 days per month for subsequent years served for no violations and work	Up to 5 days per month for participation in education			Up to 5 days per month for participation in work			Up to 5 days per month for participation in rehabilitation or program approved by DOC. Up to 60 days for successful	Good time not to exceed 36 days per year and total credit not to exceed 100 days per year; earned

STATES	GOOD TIME							NOTES
	toward rehabilitation						completion of program designed to reduce recidivism	time programs determined by DOC in line with authorized list
<i>Florida §944.275 and §944.801</i>	10 days per month served for participating in training, working diligently, using time constructively, or other positive activities	6 days per 150 hours of participation in correctional education program; 60 days for completion of GED	60 days for completion of vocational certificate			Up to 60 days for service in outstanding deed (saving a life or assisting with recapture of escapee)		education / vocation is a onetime credit; <u><i>Inmate Education Guidelines §944.801</i></u>
<i>Georgia §42-5-101, HB349 (2013)</i>		1 day per 1 day of participation in academic education	1 day per 1 day of participation in vocational education					Instructs the parole board to consider credits when making a release decision. Inmates convicted of certain offenses are not eligible
<i>Hawaii N/A</i>								Requested development of earned time program
<i>Idaho §20-101D</i>						Up to 15 days per month for an extraordinary act of heroism at the risk of his own life or for outstanding service to the state of Idaho which results in		

STATES	GOOD TIME	GOOD TIME						NOTES	
							the saving of lives, prevention of destruction of major property loss during a riot, or the prevention of an escape from a correctional facility.		
<i>Illinois 730 ILCS 5/3-6-3</i>	1 day per 1 day or 4.5 days per month served for compliance with rules and regulations	Good time multiplied by 1.5 for participation in educational program; 90 days for completion of GED on top of other good and earned time.		Good time multiplied by 1.5 for participation in full-time substance abuse program	Good time multiplied by 1.5 for working in correctional industry assignment		Up to 90 or 180 days for service as determined by DOC, including compliance with rules and regulations and services to DOC, community or state; at the directors discretion.	Good time multiplied by 1.5 for participation in behavior modification program, life skills program, or reentry planning.	
<i>Indiana §35-50-6-3 et seq., HB 1006 (2013)</i>	1 day per 1 day served, 1 day per 2 days served or 1 day per 6 days served. For convictions after June 30, 2014: 1 day per 1 day served, 1 day per 3 days served, 1 day per 6 days served, or no credit.	Time earned per completion of literacy skills program (6 months), GED (6 months), High School Diploma (1 year), associate's degree (1 year), or bachelor's degree (2 years) on top of other good and earned time.	Up to 1 year for completion of one or more career and technical or vocational education program on top of good time.	Up to 6 months for completion of one or more substance abuse or basic life skills program on top of good time.				Up to 6 months for completion of one or more reformatory program on top of good time	Total credit not to exceed 2 years or 1/3 of sentence, whichever is lesser.
<i>Iowa</i>	15/85 of a day for	12/10 of a day per		12/10 of a day	12/10 of a		Up to 365 days		Inmates are

STATES	GOOD TIME								NOTES
<i>§903A.2</i>	good conduct	1 day of participation in an educational program.		per 1 day of participation in a treatment program	day per 1 day working in the institution, Iowa state industries or an employment program TBD by DOC		for exemplary acts		either eligible for 15/85 good time or 12/10 earned time dependant on type of sentence, not both.
<i>Kansas §21-6821</i>	15% or 20% of prison term	90 days for completion of a GED on top of good time.	90 days for completion of a technical or vocational training program on top of good time.	90 days for completion of a substance abuse program on top of good time.				90 days for completion of any other program which has been shown to reduce offender's risk after release on top of good time.	
<i>Kentucky §197.045 and §197.047, SB 78 (2013)</i>	10 days per month served based on conduct	90 days for completion of GED, high school diploma, two or four year college degree, or civics education program on top of good time.	90 days for completion of two or four year applied science or technical education diploma or an online or correspondence education program on top of good time.	90 days for completion of a drug treatment program or other evidence-based program on top of good time.			7 days per month for outstanding performance related to institutional operations and programs; additional 7 days per month during an emergency on top of good and earned time.	1/5 day per 8 hours of participation in state or local government entities work projects or work related to maintenance and operation of a correctional facility.	
<i>Louisiana RS 15: §571.3, RS 15: §833.1, RS 15: §828, HB 59 (2013)</i>	45 days per 30 days or 3 days per 17 days in custody for good behavior and performance of work or self-				1.5 days per 1 day working in lieu of incentive wages.	30 days per 30 days working on disaster remediation.		1.5 days per 1 day for performance in self-improvement activities in lieu of incentive wages.	Inmates earn either good time or earned time, not both. Total good time limited to 360

STATES	GOOD TIME							NOTES
	improvement activities.							days
<p><i>Maine</i> 17-A MRSA §1253 (8) – (10)</p>	Up to 4 or 5 days per month served based on conduct.						Up to 3 days per month for complying with transition plan for work, education or rehab; additional 2 days per month for community-based work, education or rehab, on top of good time.	
<p><i>Maryland</i> Correctional Services §3-701 et seq.</p>	5 or 10 days per month served	5 days per month of participation in educational or other training courses on top of good time.	5 days per month of participation in vocational courses on top of good time.		5 days per month for satisfactory performance in assigned tasks on top of good time.		10 days per month of participation in special selected work projects or other special programs on top of good time.	Total credits not to exceed 20 days per month.
<p><i>Massachusetts</i> 127:§129C and §129D</p>		5 days per month of participation in a GED educational course or other educational course	5 days per month of participation in a vocational program		5 days per month of working at a state hospital or state school; employed on work release or in prison industry.		5 days per month for any other program deemed valuable to an inmate's rehabilitation. Additional 5 days while confined in a prison camp on top of other earned time. One-time up to 10 day credit for program requiring six months satisfactory participation.	Total credits not to exceed 10 days per month. Habitual offenders cannot earn good time.

STATES	GOOD TIME								NOTES
<i>Michigan</i> <i>§800.34</i>									No credit. Disciplinary time: time added to prison term for misconduct to be considered by the parole board for release.
<i>Minnesota</i> <i>§244.05</i>									No credit. Time added to prison term for misconduct or non-participation in rehabilitative programming.
<i>Mississippi</i> <i>§47-5-138,</i> <i>§47-5-138.1,</i> <i>and §47-5-142</i>	4.5 days per 30 days served for compliance with good conduct and performance requirements.	30 days per month of participation in educational or instructional programs on top of good time; additional time of up to 10 days for every 30 days participation for completion			30 days per month for satisfactory participation in work projects on top of good time; additional time of up to 10 days for every 30 days participation for completion			30 days per month of participation in special incentive programs on top of good time; additional time of up to 10 days for every 30 days participation for participation.	
<i>Missouri</i> <i>§558.041 and</i> <i>14 CSR 10-</i> <i>5.010</i>	1 – 2 months per year for acceptable behavior and appropriate program involvement.								Statute Instructs Department to create a policy.

STATES	GOOD TIME								NOTES
Montana N/A									No credit.
Nebraska §83-1,107	Six months per year, credit may be forfeited or withheld for misconduct. 3 days per month for no class I or II violations nor more than 3 class III violations within preceding 12 months.								
Nevada §209.4465, §209.448, §209.449, and §209.443, AB 43 (2013), SB 71 (2013)	20 days per month served with no serious infractions and performing duties assigned.	10 days per month for participation in study on top of good time. 60 days for GED, 90 days for high school diploma, 120 days for 1 <sup>st</sup> associates degree and up to 90 days for additional degrees on top of all other time.	60 days for completion of a vocational education and training program on top of all other time; additional maximum 60 days for meritorious or exceptional achievement in completing the program.	60 days for completion of alcohol or drug treatment program by a licensed counselor on top of all other time.	10 days per month for "laboring" on top of good time.	10 days per month for participating in a conservation camp on top of good time.	Up to 90 days per year for exceptional meritorious service on top of all other time.	10 days per month for participating in a restitution center, reentry program, work release or any other program outside prison.	Board of prison commissioners supposed to adopt regulations allowing offenders sentenced after June 30, 1969 for crime committed before July 1, 1985 to earn credit for donating blood. Cannot earn more good time credit than time remaining on sentence. Limits reduction from minimum term of imprisonment to 58%

STATES	GOOD TIME	Education	Vocational	Mental Health	Substance Abuse	Mental Health	Vocational	Other	NOTES
<i>New Hampshire</i> §651:2(II-e), §651-A:22 and §651-A:22-a		90 days for GED. 120 days for high school diploma. 180 days for Associate's Degree and 180 days for Bachelor's Degree	60 days for successful completion of vocational programming	One-time 60 day reduction for meaningfully participating in recommended or mandated mental health and/or substance use treatment.				Up to 12.5 days per month served (150 days per year) for good conduct and participation in programs designed to reduce recidivism.	150 days "disciplinary time" added for each year of term; days reduced for good conduct at the same rate
<i>New Jersey</i> §30:4-92; §30:4-92a and §30:4-140	7 days per month up to 16 days per month served, time awarded increases with number of years served for orderly conduct.	Commissioner may award time for achievements in education on top of other time.	Commissioner may award time for achievements in workforce training on top of other time.		3 days per month for the first year employed and 5 days per month for subsequent years working in honor camps, farms or details.				
<i>New Mexico</i> §33-2-34	Up to 4, 8 or 30 days per month served dependant on crime and quality of participation.	3 months for a GED, 4 months for an associates degree, 5 months for a bachelor's degree or graduate qualification completion, on top of good time.	1 month for completion of a vocational program, on top of good time.	1 month for completion of a substance abuse or mental health program on top of good time.			For a heroic act of saving life or property or extraordinary conduct that demonstrates commitment to rehabilitation. Amount earned at discretion of DOC.		Earned time awarded may not exceed 1 year in a 12-month period.
<i>New York Correction</i> §803 - §805		Total of 1/7, 1/6, or 1/3 of the sentence for completion of a GED .	Total of 1/7, 1/6, or 1/3 of the sentence for vocational trade certificate following at least six month of	Total of 1/7, 1/6, or 1/3 of the minimum sentence for alcohol and substance abuse treatment				6 months for participation in work and treatment and completion of "significant programmatic	6 month credit will be applied to the end of a prison term, on top of other credit earned.

STATES	GOOD TIME							NOTES	
			vocational programming or at least 400 hours of community work crew service.	certificate.				accomplishment" (defined in statute).	
<p><i>North Carolina §148-13, §15A-1340.13(d), §15A-1340.18 and P&amp;P Ch. B, sec. 0100</i></p>		Up to 30 days for each educational degree achieved.	5, 15 or 30 days credit for completion of apprentice program, dependant on program.		2 – 6 days per month for working full-time. Additional one day credit per 8 hours overtime worked. DOC can also award time for working in inclement weather.		Up to 30 days for each exemplary act.	2 – 6 days per month for full-time participation in programs that assist in productive reentry. 20% the minimum sentence for participation in treatment, education and rehabilitative programs – eligibility determined by the court.	Monthly credit cannot exceed 6 days per month. Completion and meritorious credit on top of other credit. Statute Instructs DOC to create a policy .
<p><i>North Dakota §12-54.1</i></p>							Lump sum or monthly rate equal to 2 days per month for outstanding performance or heroic acts, on top of other earned time.	5 days per month based on participation in court ordered or staff recommended treatment and education programs and good work performance.	No more than 1 day for 6 days served
<p><i>Ohio §2967.193</i></p>		1 or 5 days per month of participation in an education program	1 or 5 days per month of participation in vocational training	1 or 5 days per month of participation in substance abuse treatment or sex offender treatment	1 or 5 days per month working in prison industries			1 or 5 days per month of participation in a constructive program TBD by DOC with specific standards for performance	May earn time for up to 2 programs and total credit cannot exceed 8% of total days of sentence.

STATES	GOOD TIME							NOTES	
<i>Oklahoma</i> §57-138, §57-138.1, and §57-65	22, 33, 44, 45, or 60 days per month for rehabilitation, obtaining job skills, and educational enhancement, participation in and completion of alcohol/chemical abuse programs, incentives for inmates to accept work assignments and jobs, work attendance and productivity, conduct record, participation in programs, cooperative general behavior, and appearance.	10 – 30 days for educational accomplishments on top of good time; 90 days for completion of GED on top of good time; 200 days for a bachelor’s degree; 100 credits for an associate’s degree.	80 days for vocational certificate on top of good time.	70 days for completion of a minimum 4 month alcohol/chemical abuse treatment program on top of good time.			Up to 100 days for meritorious act within the public interest in enhancing public safety on top of all other time.	10 – 30 days for programs not specified on top of good time.  3 days for each pint of blood in first 30 days, up to 5 days for each pint during any sixty-day period thereafter for jail inmates	
<i>Oregon</i> §421.121	Total of 20% or 30% of prison term on crime for appropriate institutional behavior								
<i>Pennsylvania</i> 61 Pa CSA §4501 - §4512								1/4 or 1/6 the minimum sentence for participation in and completion of evidence-based program plan as determined by risk assessments	Eligibility determined by sentencing court.
<i>Rhode Island</i> §42-56-24	Up to 10 days per month for good			5 days per month of participation;	2 days per month		3 days per month for	5 days per month for programs that	Inmates serving time for murder,

STATES	GOOD TIME	EARNED TIME						NOTES	
		Education	Vocational	Professional	Work	Incentives	Incentives		
	behavior.			30 days for completion	working in prison industries on top of good time.		performing heroic acts or for extraordinary and useful ideas and which have been implemented for the benefit of the state resulting in substantial savings and/or a higher degree of efficiency or performance; on top of good time but NOT in addition to rehabilitation or other earned time.	address inmate's personal needs related to criminal behavior and 30 days for completion of a program on top of good time.	kidnapping a minor, sexual assault, or child molestation cannot earn good time
South Carolina §24-13-210 to 235	3 or 20 days per month served for a good conduct record.	Up to 1 day for every 2 or 6 days per month for actively enrolled and participating in academic training; granted upon successful completion on top of good time.	Up to 1 day for every 2 or 6 days per month for actively enrolled and participating in vocational or technical training; granted upon successful completion on top of good time.						
South Dakota N/A									No credit.
Tennessee §41-21-236	Up to 8 days per month served for good institutional	Up to 8 days per month of participation on	Up to 8 days per month of participation on		Up to 8 days per month working on				Inmates can earn up to 16 days per month

STATES	GOOD TIME								NOTES
	behavior.	top of good time. 60 days for completion of GED, high school diploma, 2 or 4-year college degree or applied sciences program on top of all other credit.	top of good time; 60 days for completion of a vocational educational diploma		top of good time				and one educational completion credit.
<i>Texas Gov. Code §498.002 - §498.003</i>		10 to 30 days per month of participation in an educational program; literacy program only if inmate is a tutor or pupil	10 to 30 days per month of participation in a vocational program	10 to 30 days per month of participation in a treatment program	10 to 30 days per month working in an industrial or other work program	10 to 30 days per month working in agricultural program			
<i>Utah §77-27-5.4</i>							Minimum 4 months for completion of one program identified in case action plan.		Earn credit for up to two programs. Parole board has discretion to award additional time.
<i>Vermont 28 VSA §811 to §813</i>					30 days per month for working in a work camp.				
<i>Virginia §53.1-191, §53.1-202 et seq.</i>							Time awarded is agency discretion for assistance in preventing an escape; blood donation to another	4.5 days per 30 served for participation and cooperation in programs based on a risk assessment, related to successful reentry	

STATES	GOOD TIME							NOTES	
							prisoner; extraordinary service; suffers bodily injury		
<i>Washington §9.94A.729</i>	Up to 1/3 of total sentence for good behavior and performance.							Up to 50% of sentence for good behavior and performance in reentry program plan.*	Good time cannot exceed 1/3 of total sentence. *50% does not apply to inmates convicted after July 1, 2010.
<i>West Virginia §28-5-27</i>	1 day for 1 day served as determined by DOC rules			See other			Time can be awarded at agency discretion, with approval of governor for exceptional work or service.		
<i>Wisconsin §302.113(3) and §302.11</i>									10 days – 40 days added to mandatory release date for violating rules or not performing required duties.
<i>Wyoming §7-13-420 and P&amp;P #1.500</i>	Up to 10 or 15 days per month based on inmate performance, conduct and behavior.								Statute instructs the governor, parole board and DOC to create policy

Source: National Conference of State Legislatures, November 2011 (updated Jan. 2015)

Ph.: (303) 364-7700 || E-mail: [cj-info@ncsl.org](mailto:cj-info@ncsl.org)

Statutes and bills may be edited or summarized; full text can be retrieved from [NCSL's State Legislative Directory](#)