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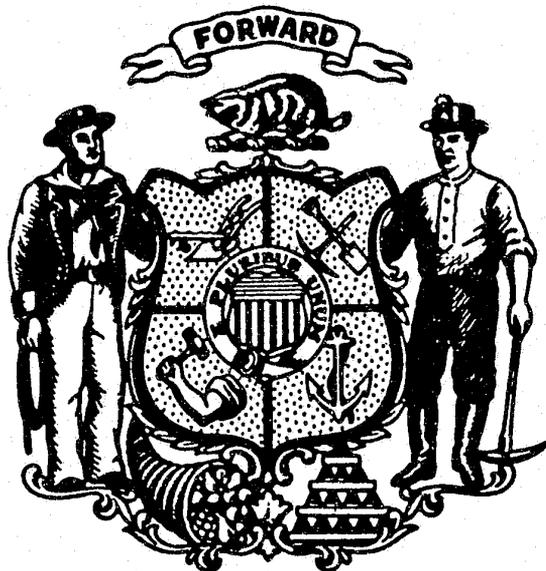
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INTENSIVE SANCTIONS

MANUAL
FOR THE WISCONSIN
CRIMINAL JUSTICE SYSTEM



Wisconsin Department
of Corrections

1992

142565

ACKNOWLEDGEMENTS

The Department of Corrections acknowledges and greatly appreciates the efforts of the many different people who had a role in the development of the Intensive Sanctions program and this manual. Special thanks goes to all members of the internal committee (comprised of persons from within the Department) and the external advisory committee (comprised of representatives from all parts of the criminal justice system including judges, prosecutors, public defenders, sheriffs, chiefs of police, and victim-witness advocates as well as officials from the Department of Corrections).

Finally, thanks to Bill Grosshans who, assisted by Mickey Richards, spearheaded the development of Intensive Sanctions from its inception and has laid the foundation for its success. Also thanks to Mickey for overseeing the production of, and ultimately writing much of, this manual.

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Secretary

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Ave M. Bie
Executive Assistant

April, 1992

EDITOR'S COMMENT

Throughout the manual, the statutory authority is cited where legislation has been established. When not cited, the Department of Corrections has developed the policy or procedure.

Although policies and procedures have been developed for Intensive Sanctions by the Department of Corrections, the administrative rules have not yet been written. The legislation allows the Department time to formulate the administrative rules (9112 Non-statutory Provisions; Corrections) and indicates that the Department of Corrections shall promulgate rules administering the intensive sanctions program under section 301.048 of the statutes for the period prior to July 1, 1993.

JUN 8 1993

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1. HISTORY OF INTENSIVE SANCTIONS

Wisconsin has been facing startling increases in prison population over the past several years. In June, 1985, the number of inmates in Wisconsin prisons was 5,034 and projected to grow to 5,412 by 1990. By June 1990, the actual population was 6,888. Our projections for June of 1995 are 11,841. By the end of this century, projections are that the prison population will nearly triple from the 7,600 as of September 1991.

Not only are there more inmates, but the rate at which they enter the institutions is also rapidly increasing. In 1989, our average net growth per month was 37. By 1990, the net growth had increased to an average of 58 per month. In May 1991, the net growth was 135 per month.

In March, 1991, Governor Tommy G. Thompson presented to the legislature his correctional system expansion plan. The Governor's plan called for the construction of 4,500 prison beds by the year 2001 and increases in community-based programs.

Legislative leaders then appointed a panel to review this plan and to develop possible alternatives. The panel's final report recommended the creation of a new organizational unit within the Department of Corrections to develop intermediate sanctions programs particularly for nonviolent property offenders.

The Governor signed into law the Intensive Sanctions legislation (1991 WI Act 39). The development of the program began in September 1991, it was approved as the Division of Intensive Sanctions in December 1991, and is to be available statewide to sentencing courts by July 1, 1992.

Intensive Sanctions will provide some relief to an overcrowded prison system; a system that now holds, as of April 10, 1992, over 8,000 inmates and receives an average of 360 new male inmates every month.

2. WHAT IS INTENSIVE SANCTIONS?

Intensive Sanctions, as of July 1, 1992, is a third sentencing option for the courts in Wisconsin. The legislative intent is that it be utilized as a sentence for certain felons who, in the past, would have received a sentence to a state prison. It is not supposed to be utilized as a sentence for offenders who, in the past, would have been placed on probation. (s. 973.032(2)(a))

By law, the Division of Intensive Sanctions is a correctional institution. It is defined as a Type 2 prison, with all other correctional institutions being Type 1 prisons. (s. 301.01) All offenders in the program are prisoners, who are under the control and custody of the Department of Corrections. (s. 301.048(4)) The program sanctions consist of any or all of the following, in any order (s. 301.048(3)):

- ◆ Confinement, which may include prison, jail, a reforestation camp, a residential treatment facility, or community-based residential facility. (s. 301.048(3)(a)1)

Note: The court shall provide a maximum period for placements under s. 301.048(3)(a)1 which may not exceed one year unless the defendant waives this requirement. (s. 973.032(3)(b)) The Department may request that the court extend the maximum period of confinement which may not exceed a total of two (2) years or two-thirds of the maximum term of imprisonment, whichever is less. (s. 973.032(4)(b))

- ◆ Intensive or field supervision.
- ◆ Electronic Monitoring.
- ◆ Alcohol or other drug abuse, outpatient treatment and services.
- ◆ Mental health treatment and services.
- ◆ Community service.
- ◆ Restitution.
- ◆ Other programs as prescribed by the Department.

Although the Division of Probation and Parole and the Division of Intensive Sanctions are both community-based programs, there are some key differences. The Division of Probation and Parole (DPP) has caseloads that average 1:72, the Division of Intensive Sanctions (DIS) is at 1:25. DPP has agents responsible for all supervision and while in DIS, supervision is done by a team of agents and correctional officers. In DPP, revocation is necessary to place an offender in prison. In DIS, an inmate may be moved to a prison without a hearing. (s. 301.048(3)(b)) DIS is a correctional institution and DPP is a community-based program. The purchase of service dollars within the community are greater for DIS and allow for greater flexibility in its use. Offenders who abscond from DIS may be charged with escape (s. 301.048(5)); in DPP they are absconders only.

3. STATUTORY REQUIREMENTS FOR SENTENCE TO INTENSIVE SANCTIONS

Eligibility - s. 301.048(2), s. 973.032(2)(a)

Beginning July 1, 1992, a court may sentence a person who is convicted of a felony occurring on or after August 15, 1991, to participate in the Intensive Sanctions program. (s. 973.032(1))

The court must request that the Division of Probation and Parole complete a presentence investigation when considering an offender for a sentence to the Division of Intensive Sanctions. The court may sentence the offender to the Division of Intensive Sanctions if the Department provides a presentence investigation recommending that the person be sentenced to the program. If the Department does not make the recommendation to DIS, the court may order the Department to assess and evaluate the offender. After the assessment and evaluation, the court may sentence the person to the program unless the Department objects on the ground that the sentence under the sentencing guideline matrices is probation. (s. 973.032(2)(a))

On the next page is a list of offenses which the Department of Corrections will use as a guideline when considering a recommendation of a sentence to Intensive Sanctions.

The following is a list of offenses to use as a guideline when considering offenders for sentence, parole or transfer to the Division of Intensive Sanctions. The list is advisory, not exhaustive. The intent is to place non-violent, non-drug dealing, property offenders in the program. Careful consideration needs to be given to the specific circumstances of the offense. Offenders whose crimes involved death, injury, or the threat of injury, are not recommended for participation in the program.

Issue of Worthless Checks

Forgery

Perjury

Bribery

Theft - (i.e. Retail, From Person, Trade Secrets)

Operating a Motor Vehicle Without Owner Consent

Burglary

Criminal Damage to Property

Possession of Burglarious Tools

Fraud - (i.e. Welfare, Credit Card, Of Innkeeper, Securities,

Insurance Claims)

Receiving Stolen Property

Computer Crimes

False Swearing

Escape

Embezzlement

Racketeering

Bail Jumping

Pandering

Vandalism

Interference with Custody of Child

Failure to Support

Soliciting a Prostitute

Income Tax Laws

Conspiracy to Commit Crime

Concealing Identity

Contributing to the Delinquency of Minors (no sexual contact or pornography)

Illegal Possession of a Firearm (the weapon was not used in the commission of a crime)

Gambling

Misconduct in Public Office

Harboring/Aiding a Felon

Breaking and Entry

Sentence Structure/Options

- ◆ The court shall provide a maximum period for the sentence, which may not exceed the maximum term of imprisonment that could be imposed on the offender, including imprisonment authorized by any penalty enhancement statute. (s. 973.032(3)(a))
- ◆ The court shall provide a maximum period of confinement time which may not exceed one (1) year unless the defendant waives this requirement. The Department may request that the court extend the maximum period of confinement time, which may not exceed two (2) years or two-thirds of the maximum term of imprisonment, whichever is less. (s. 301.048(3)(a)1, s. 973.032(4)(b))

(Note: Per Department of Corrections policy, all DIS inmates will do at least 25% of their court-ordered confinement at the start of their sentence.)
- ◆ The court may prescribe reasonable and necessary conditions of the sentence. (i.e. restitution, treatment) The court may not designate the place of confinement. (s. 973.032(3)(c)2)

Types of Sentences Available - s.973.15(2)(b), s.973.09(1)(e)

- ◆ A court may impose a sentence to Intensive Sanctions, stay it and place the defendant on probation. Participation in Intensive Sanctions may not be a condition of probation. (s. 973.09(1)(e))
- ◆ A court may not impose a sentence to Intensive Sanctions consecutive to any other sentence. (s. 973.15(2)(b))
- ◆ A court may not impose a sentence to Intensive Sanctions concurrent with a sentence imposing imprisonment. (s. 973.15(2)(b))
- ◆ A court may impose concurrent Intensive Sanctions sentences. (s. 973.15(2)(b))
- ◆ A court may impose an Intensive Sanctions sentence concurrent to probation or concurrent to any non-Intensive Sanctions sentence that does not include imprisonment. (s. 973.15(2)(b))
- ◆ A court may not impose a sentence to Intensive Sanctions for a misdemeanor who receives a sentence enhancement under s. 939.62, because enhancement does not convert a misdemeanor to a felony: State v. Denter, 121 Wis. 2d 118, 357 N.W. 2d 555 (1984)
- ◆ Pursuant to s. 973.032(4)(b), a participant may not serve more than 2 years of confinement time or two-thirds of the maximum term of imprisonment, whichever is less, when sentenced to Intensive Sanctions.

4. RECOMMENDING INTENSIVE SANCTIONS AS A SENTENCE

The following are the factors which the Department of Corrections will consider when making a determination as to whether Intensive Sanctions should be the recommended sentence:

1. Intensive Sanctions should be considered whenever:

- a. The recommended sentence would otherwise be a prison term up to 3-4 years.
- b. The risk of assaultive behavior is low.
- c. The offender is being sentenced for a non-violent offense which is also a non-drug trafficking offense.

2. Intensive Sanctions may be especially appropriate when:

- a. The primary purpose of the sentence is moderate punishment.
- b. The offender has identifiable treatment needs related to criminal behavior which can be met within the requirements of time restrictions and/or be augmented by intensive supervision and surveillance.
- c. The offender has positive community ties that are desirable to maintain.
- d. Restitution obligations require the offender to maintain employment.

3. Intensive Sanctions is not appropriate when:

- a. Probation would otherwise be recommended. (s.973.032(2)(a))
- b. The offender needs long-term residential or institution treatment.
(i.e. - Sex offender program at Oshkosh Correctional Institution)
- c. The offender poses a risk of assaultive/violent behavior or an unreasonable risk to the community, or the offense was for drug trafficking.
- d. The sentencing guidelines suggest a prison term greater than 3-4 years.

5. COURT ORDERS

When sentencing an offender to the Division of Intensive Sanctions, the box on the court order (revised) should be checked for Intensive Sanctions with the length of sentence indicated. The court-ordered conditions should be outlined with the confinement time specified. (s. 972.13(6))

The Sentence Offender Report should be completed if there are specific recommendations to the Department regarding confinement and treatment.

| | |
|---|---|
| State of Wisconsin, Plaintiff -vs- _____ John Doe _____, Defendant _____ Defendant's Date of Birth | TYPE OF CONVICTION (Select One) <input checked="" type="checkbox"/> Sentence to Wisconsin State Prisons <input type="checkbox"/> Sentence Withheld, Probation Ordered <input type="checkbox"/> Sentence Imposed & Stayed, Probation Ordered COURT CASE NUMBER |
|---|---|

The defendant entered plea(s) of: Guilty Not Guilty No Contest

The Court Jury found the defendant guilty of the following crime(s):

| CRIME(S) | WIS STATUTE(S) VIOLATED | FELONY OR MISDEMEANOR (F OR M) | CLASS (A-E) | DATE(S) CRIME COMMITTED |
|----------|----------------------------|--------------------------------------|----------------|-------------------------------|
|----------|----------------------------|--------------------------------------|----------------|-------------------------------|

IT IS ADJUDGED that the defendant is convicted on June 1, 1992 as found guilty and:

- on _____ is sentenced to prison for _____
- on July 1, 1992 is sentenced to intensive sanctions for 3 years
- on _____ is sentenced to county jail/HOC for _____
- on _____ is placed on probation for _____

CONDITIONS OF SENTENCE/PROBATION

Obligations: (Total amounts only)

| | |
|---|----------|
| Fine (Includes jail assessments; drug assessments; penalty assessments) | \$ _____ |
| Court costs (Includes service fees; witness fees; restitution surcharge; domestic abuse fees; subpoena fees; automation fees) | \$ _____ |
| Attorney fees | \$ _____ |
| Restitution | \$ _____ |
| Other | \$ _____ |
| Mandatory victim/witness surcharge(s) | |
| felony _____ counts | \$ _____ |
| misdemeanor _____ counts | \$ _____ |

Jail: To be incarcerated in the county jail/HOC for

Confinement Order For Intensive Sanctions sentence only - length of term: 1 year

Miscellaneous

IT IS ADJUDGED that _____ days sentence credit are due pursuant to s. 973.155 Wis. Stats. and shall be credited if on probation and it is revoked.

IT IS ORDERED that the Sheriff shall deliver the defendant into the custody of the Department located in the City of _____

| |
|-------------------|
| NAME OF JUDGE |
| DISTRICT ATTORNEY |
| DEFENSE ATTORNEY |

BY THE COURT:

Circuit Court Judge/Clerk/Deputy Clerk

Date Signed

SENTENCE OFFENDER REPORT

INSTRUCTIONS: To be completed by the sentencing judge or clerk of court.

| | | | |
|--------------------------------|---------|---------------|-------------------|
| NAME (As Shown on Court Order) | | DATE OF BIRTH | COURT CASE NUMBER |
| COUNTY OF CONVICTION | OFFENSE | TERM | |

SENTENCING INFORMATION Information of particular importance to the Department of Corrections. (Including any recommendation to DOC regarding the confinement order as part of the Intensive Sanctions sentence).

RECOMMENDATION ON TREATMENT NEEDS Identify specific treatment needs or makes observations about the offender that should be considered by the Department of Corrections in establishing a correctional program.

| |
|-------------------|
| NAME OF JUDGE |
| DISTRICT ATTORNEY |
| DEFENSE ATTORNEY |

BY THE COURT:

Signature of Judge

Date Signed

IMPORTANT NOTICE TO CLERK OF COURT

Send a copy to district attorney and defense attorney. Send two copies of the report along with the Judgement of Conviction form to the local Probation and Parole Office or Admitting Institution.

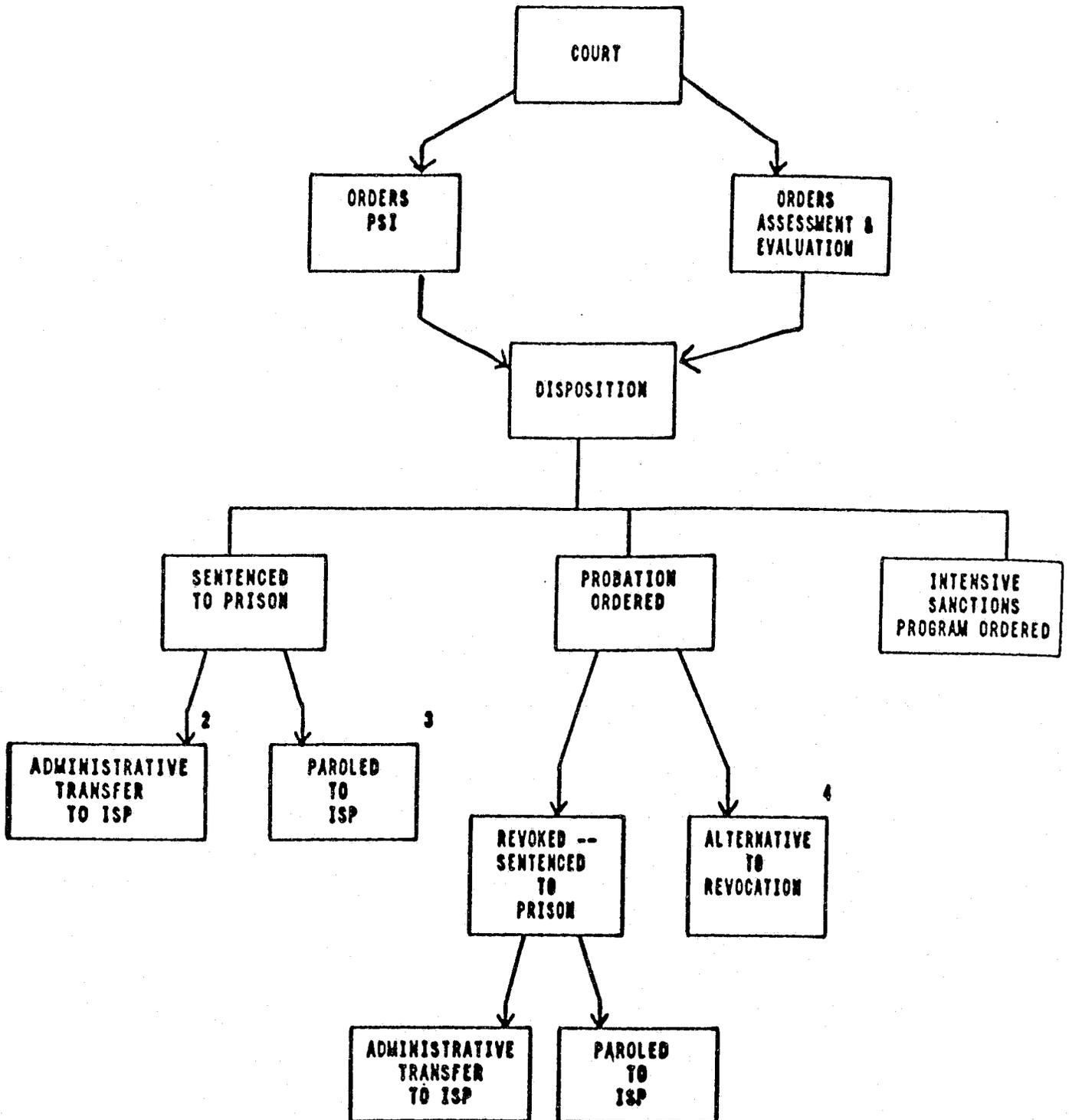
6. ENTRY POINTS INTO INTENSIVE SANCTIONS

There are four (4) entry points into the Division of Intensive Sanctions.
(s. 301.048(2)) They are as follows:

- ◆ A court may sentence convicted felons to the program, beginning July 1, 1992.
- ◆ The Department of Corrections may administratively assign an inmate to the program.
- ◆ An inmate may be paroled to the program by the Parole Commission.
- ◆ A probationer or parolee may be placed in the program as an alternative to revocation.

(See the flow chart on the next page.)

ENTRY POINTS TO THE INTENSIVE SANCTIONS PROGRAM



- 1) Court Sentenced to ISP beginning July 1, 1992
- 2) Department Administratively Directs to ISP
- 3) Parole Grant to ISP
- 4) Alternative to Revocation to ISP

bh/sec/

7. DIVISION OF INTENSIVE SANCTIONS PROGRAM GOALS

STATEMENT OF PURPOSE

The Division of Intensive Sanctions protects the public through placement, control, supervision and treatment of offenders commensurate with their risk to the community and assessed treatment needs to assist them in making lifestyle changes to lessen the likelihood of reoffending.

GOALS

1. Provide a cost-effective sentencing/placement option which satisfies punishment and public safety issues for offenders who would otherwise be incarcerated.
2. Provide public safety through the administration of sanctions and supervision standards appropriate to the needs and requirements of the offender.
3. Provide the necessary treatment and services to assist the offender in making meaningful, positive changes.
4. Promote a crime-free lifestyle by requiring offenders to be employed, perform community service, make restitution and remain drug free.
5. Increase communication among victims, victim service agencies, and legal professionals.

8. PHASE SYSTEM/SUPERVISION STANDARDS

The Division of Intensive Sanctions inmates will progress through a system of supervision phases. Each phase has a distinct set of requirements and supervision standards. The Phase System requires an inmate to demonstrate satisfactory adjustment before being assigned to a less restrictive phase. Effective and meaningful supervision requires that DIS staff have regular face-to-face contacts with the inmates. Such contact may occur in a variety of places including the DIS office, the inmate's home, the inmate's place of employment, school or treatment facility.

The legislation indicates that the Department shall design the program to include component phases for each participant that is based on public safety considerations and the participant's needs for punishment and treatment. Using the legislation as a framework, the Department of Corrections has established the following phase system.

PHASE I - CONFINEMENT

REQUIREMENTS: Every inmate in Intensive Sanctions will serve an initial period of confinement. The amount of time each offender will serve in confinement at the start of their term depends on where they enter the program.

A. Sentence to Intensive Sanctions

1. All inmates initially spend at least two (2) weeks at the Dodge Correctional Institution (DCI) or Taycheedah Correctional Institution (TCI) for an Assessment and Evaluation (A&E).
2. Following A&E, all inmates will serve at least 25% of their court ordered confinement time at the start of their sentence, or complete the required treatment program, whichever is greater.

B. Administrative Transfer

1. All inmates must serve to their initial Parole Eligibility Date (PED) before being considered for the program.

C. Parole

1. All inmates must serve to their initial Parole Eligibility Date (PED) before being considered for the program.

D. Alternative To Revocation

1. All inmates will initially spend at least two (2) weeks at Dodge Correctional Institution (DCI) or Taycheedah Correctional Institution (TCI) for an Assessment and Evaluation (A&E).
2. All inmates must then complete designated confinement/treatment program identified at A&E.

SUPERVISION STANDARDS:

A. While in a Type I prison:

1. DIS staff will complete pre-release planning with institution staff and offender as needed.

B. While in all other confinement:

1. DIS staff will have weekly face-to-face contact with the inmate.
2. DIS staff will have weekly contact with treatment providers/facility staff.

COMPLETION:

To leave Phase I and progress to Phase II an inmate must have:

1. Completed a minimum of two (2) weeks at DCI or TCI for Assessment and Evaluation.
2. Completed the designated treatment program (for ATRs and Sentences).
3. Completed 25% of court ordered confinement time (for Sentences).

PHASE II

REQUIREMENTS:

- A. All inmates will participate in mandatory Electronic Monitoring Program (EMP).
- B. DIS staff will control inmate funds.
- C. Inmates pay an EMP fee.
- D. Inmates will be allowed travel from their residence for pre-approved work, school or treatment only. A weekly schedule is required.
- E. A case plan must be developed within thirty (30) days.
- F. After thirty (30) days, inmates may apply for recreation time of four (4) hours/week, which must be pre-approved (three days in advance); must be used in four (4) hour blocks of time; and can only be used between the hours of 8 a.m. - 8 p.m. (NOTE: The supervisor may approve an increased recreation time to eight (8) hours/week, if appropriate, but this time must be pre-approved (3 days) and used in four (4) hour blocks of time between the hours of 8 a.m. - 8 p.m.)
- G. Mandatory full-time programming (employment, school, treatment or community service).
- H. Mandatory community service (20 hours per week) when not in programming. (i.e. work at food pantry or Humane Society, clean city or county parks)
- I. A minimum of three (3) months in Phase II.
- J. Mandatory agent/supervisor reviews every thirty (30) days.

SUPERVISION STANDARDS:

- A. Minimum of eighteen (18) face-to-face contacts with the inmate each month.
 1. Six (6) per month are by DIS staff
 - must be one per week
 - must be two home visits per month
 - must be two during non-traditional work hours or weekends
 - one may be a surveillance contact
 2. Twelve (12) per month are by law enforcement, treatment providers, employers, school and landlords.
 - must be verified by DIS staff weekly (phone/face-to-face)
 - verification must be with more than one (1) collateral contact
- B. Monthly program/employment verification required. (phone/face-to-face)
- C. Weekly verification of employment seeking required. (written/phone/face-to-face)
- D. Four (4) random urine and/or alcohol screens each month.
- E. One collateral contact each month with inmate's significant other, family member, friend or roommate.

COMPLETION:

- A. Mandatory agent/supervisor review with supervisory approval required.
- B. Objectives in case plan met.
- C. No major violations, including no positive urine/alcohol screens for ninety (90) days.
- D. Other factors to consider:
 1. Stable employment/education
 2. Financial stability
 3. Positive program adjustment

PHASE III

REQUIREMENTS:

- A. Electronic Monitoring Program is optional.
- B. Inmate controls own funds, unless EMP is continued.
- C. Inmate pays EMP fee, if appropriate.
- D. Curfew - Inmate will be allowed travel from their residence for pre-approved work, school or treatment programs only (weekly schedule required).
- E. New case plan is developed.
- F. Hours for recreation time may be eight (8) hours/week; but hours of use increased to 8 a.m. - 10 p.m.
- G. Mandatory agent/supervisor reviews every thirty (30) days.
- H. Minimum of three (3) months in Phase II.
- I. Mandatory full-time programming (employment, school, treatment or community service).
- J. Mandatory community service (20 hours per week) when not in programming.

SUPERVISION STANDARDS:

- A. Minimum of ten (10) face-to-face contacts with inmate each month.
 - 1. Four (4) per month are by DIS staff
 - must be one per week
 - must be one home visit per month
 - must be one contact during non-traditional work hours or on weekend
 - one may be a surveillance contact
 - 2. Six (6) per month are by law enforcement, treatment provider, employer, school or landlord
 - must be verified by DIS staff
 - verification must be with more than one (1) collateral contact
- B. Weekly verification of employment seeking required (written/phone/face-to-face).
- C. Monthly program/employment verification required (phone/face-to-face).
- D. Two (2) random urine and/or alcohol screens each month.
- E. One collateral contact each month with client's significant other, family member, friend or roommate.

COMPLETION:

- A. Mandatory agent/supervisor review (supervisory approval required).
- B. Objectives in case plan met.
- C. No major violations, including no positive drug/alcohol screens for ninety (90) days.
- D. Other factors to be considered:
 - 1. Stable employment/education
 - 2. Financial stability
 - 3. Positive program adjustment

PHASE IV - PRE-TRANSFER

REQUIREMENTS:

- A. Electronic Monitoring Program discontinued.
- B. Inmate controls own funds.
- C. Curfew at agent's discretion.
- D. New case plan developed.
- E. Minimum of (2) months in Phase III.
- F. Mandatory agent/supervisor reviews every thirty (30) days.

SUPERVISION STANDARDS:

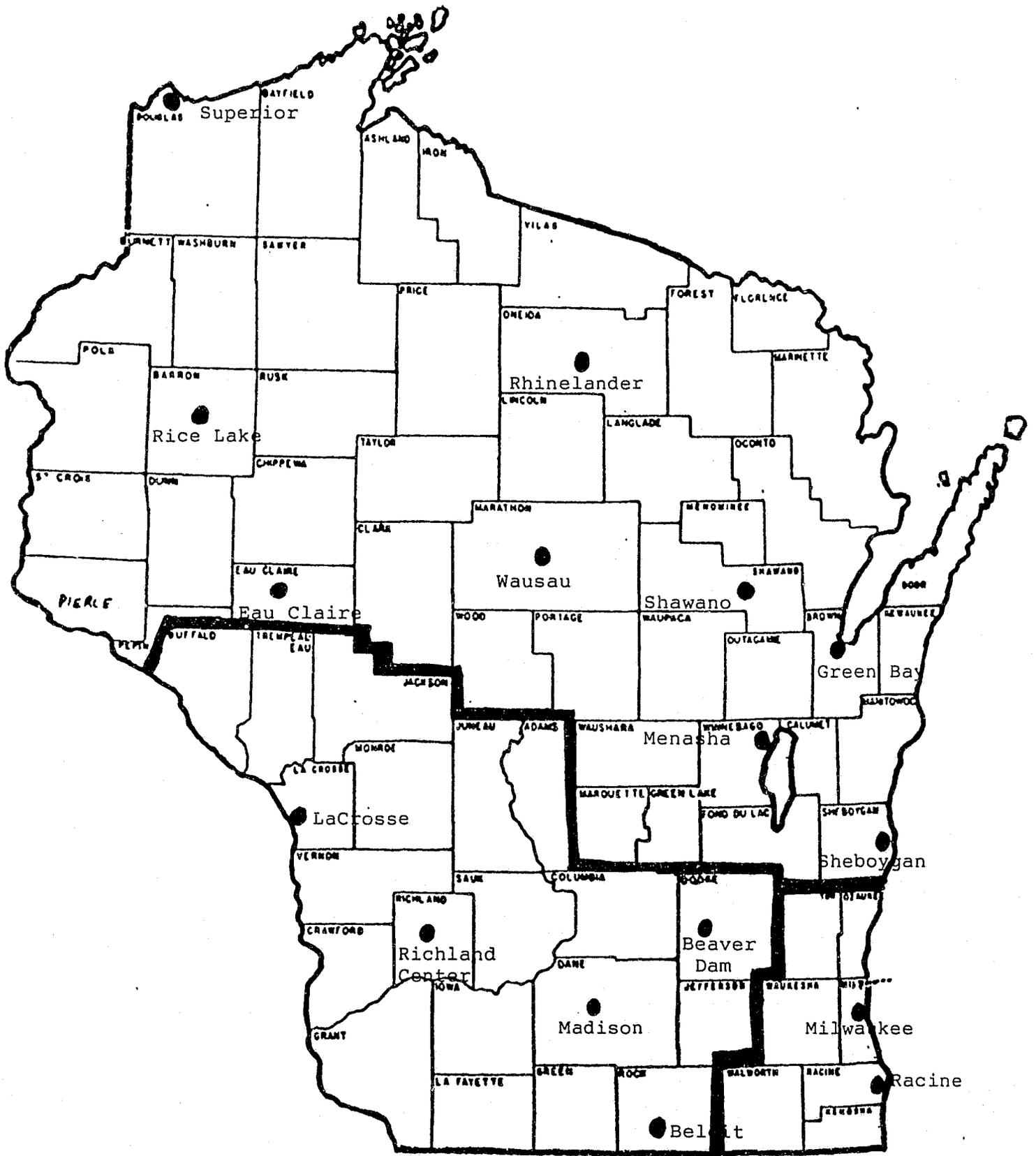
- A. Minimum of two (2) face-to-face contacts per month.
 - one must be a home visit
- B. Minimum of two (2) collateral contacts per month.
- C. Monthly employment/programming verification required.
- D. Urine/alcohol screens at agent's discretion.

COMPLETION:

- A. Mandatory agent/supervisor review (supervisory approval required).
- B. All objectives in case plan met.
- C. No major violations, including no positive drug/alcohol screens for sixty (60) days.
- D. Other factors to be considered:
 - 1. Stable employment/education
 - 2. Financial stability

9. ORGANIZATIONAL STRUCTURE

The Division is comprised of three sectors; Southern, Northern and Southeastern. The Southern Sector has two units of agents and correctional officers, the Northern Sector has three units and the Southeastern has four units. All units are supervised by Social Service Supervisors and each sector has a Sector Chief/Institution Superintendent. The sectors are overseen by the Division Administrator and Deputy Administrator located in Madison. The map on the next page outlines the sectors and identifies the office locations.



10. PROGRAM RESOURCES

The Division of Intensive Sanctions budget provides \$15.5 million for the development and implementation of the program during 1991-93. For fiscal year 92-93, there is \$2.5 million available for purchase of services for clients. This money provides the Division of Intensive Sanctions with \$2,400 per DIS slot each year and will be used to provide inmates with the treatment necessary to meet their rehabilitation needs.

Trained and experienced intensive supervision agents and correctional officers have been designated to supervise offenders. There is sufficient program staff allocated to allow for agent caseloads to be capped at 25 offenders. Correctional officers are available to assist the agents in providing surveillance, home visits and searches, community/collateral contacts, transport and custody.

11. POST-SENTENCING COMPONENTS

Modifications/Extensions - s. 973.032(4)

The Department may request that the court extend the maximum period of the sentence provided by the court and/or extend the period of confinement. The court may not extend beyond the maximum sentence for the offense and may not extend beyond the maximum period for confinement which is a total of two (2) years or two-thirds of the maximum term of imprisonment, whichever is less. Unless a hearing is voluntarily waived by the offender, the court shall hold a hearing on the matter.

Escape - s. 301.048(5)

An intentional failure of a DIS participant to remain within the extended limits of his or her placement of confinement or to return within the time prescribed by the administrator of the Division, is considered an escape under s. 946.42(3)(a).

Discharge - s. 301.048(6)

The Department may discharge a participant from the program and from Departmental custody and control at any time.

Revocation

Offenders sentenced to Intensive Sanctions are statutorily assigned to a prison and may not be revoked from the program. Those offenders that enter the program as an alternative to revocation or as a parole to DIS are the only inmates that may be revoked and returned to a Type 1 prison.

Parole/Mandatory Release - s. 302.11

An inmate serving a sentence to Intensive Sanctions is entitled to mandatory release. The mandatory release day is established at two-thirds of the sentence.

Any inmate released on parole is subject to all conditions and rules of parole until the expiration of the sentence or until discharged from the program by the Department.

Any inmate sentenced to Intensive Sanctions who is released on Mandatory Release remains in the program unless discharged by the Department.

Notification to Courts - DOC Policy

The sentencing court will be notified in writing every six (6) months by the DIS staff of the sentenced offender's adjustment and progress in Intensive Sanctions.

12. INTENSIVE SANCTIONS LEGISLATION

The following selected statutes relate to the development and implementation of Intensive Sanctions:

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46.22 COUNTY SOCIAL SERVICES.

2. Subdivision 1 does not authorize the county department of social services to make investigations regarding admission to or release from the Waupun correctional institution, the Columbia correctional institution, the Racine correctional institution, the correctional institution authorized under s. 301.046 (1), the correctional institution authorized under s.

301.048 (4) (b), the Oshkosh correctional institution, the Green Bay correctional institution, the Dodge correctional institution, the Taycheedah correctional institution, county houses of correction, jails, detention homes or reforestation camps.

301.01 DEFINITIONS.

(5) "Type 1 prison" means a state prison under s. 302.01, but excludes any institution that meets the criteria under s. 302.01 solely because of its status under s. 301.048 (4) (b).

(6) "Type 2 prison" means a state prison under s. 302.01 that meets the criteria under s. 302.01 solely because of its status under s. 301.048 (4) (b).

301.03 GENERAL CORRECTIONS AUTHORITY. The department shall:

(2m) Provide alcohol or other drug abuse treatment at each state prison except a Type 2 prison, the correctional institution authorized under s. 301.046, a minimum security correctional institution authorized under s. 301.13 or a state-local shared correctional facility established under s. 301.14.

301.048 INTENSIVE SANCTIONS PROGRAM. (1) PROGRAM ADMINISTRATION AND DESIGN. The department shall administer an intensive sanctions program. The department shall design the program to provide all of the following:

(a) Punishment that is less costly than ordinary imprisonment and more restrictive than ordinary probation or parole supervision.

(b) Component phases that are intensive and highly structured.

(c) A series of component phases for each participant that is based on public safety considerations and the participant's needs for punishment and treatment.

(2) ELIGIBILITY. A person enters the intensive sanctions program only if he or she has been convicted of a felony and only under one of the following circumstances:

(a) A court sentences him or her to the program under s. 973.032.

(b) He or she is a prisoner serving a felony sentence not punishable by life imprisonment and the department directs him or her to participate in the program.

(c) The parole commission grants him or her parole under s. 304.06 and requires his or her participation in the program as a condition of parole under s. 304.06 (1x).

(d) The department and the person agree to his or her participation in the program as an alternative to revocation of probation or parole.

(3) COMPONENT PHASES. (a) The department shall provide each participant with one or more of the following sanctions:

1. Placement in a Type 1 prison or a jail, county reforestation camp, residential treatment facility or community-based residential facility. The department may not place a participant under this paragraph for more than one year or, if applicable, the period specified by the court under s. 973.032 (3) (b), whichever is shorter, except as provided in s. 973.032 (4).

2. Intensive or other field supervision.

3. Electronic monitoring.

4. Alcohol or other drug abuse outpatient treatment and services.

5. Mental health treatment and services.

6. Community service.

7. Restitution.

8. Other programs as prescribed by the department.

(b) The department may provide the sanctions under par. (a) in any order and may provide more than one sanction at a time. Subject to the cumulative time restrictions under par.

(a) 1, the department may return to a sanction that was used previously for a participant. A participant is not entitled to a hearing regarding the department's exercise of authority under this subsection unless the department provides for a hearing by rule.

(4) STATUS. (a) A participant is in the custody and under the control of the department, subject to its rules and discipline. A participant entering the program under sub. (2) (a) or (b) is a prisoner, except as provided in s. 302.11 (6). A participant entering the program under sub. (2) (c) is a parolee. A participant entering the program under sub. (2) (d) remains a probationer or parolee, whichever is applicable.

(b) The department shall operate the program as a correctional institution. The secretary may allocate and reallocate existing and future facilities as part of the institution. The institution is subject to s. 301.02 and is a state prison as defined in s. 302.01. Construction or establishment of the institution shall be in compliance with all state laws except s. 32.035 and ch. 91. In addition to the exemptions under s. 13.48 (13), construction or establishment of facilities for the institution are not subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and municipality in which the construction or establishment takes place and are exempt from inspections required under s. 301.36.

(5) ESCAPE. Any intentional failure of a participant to remain within the extended limits of his or her placement under sub. (3) (a) 1 or to return within the time prescribed by the administrator of the division is considered an escape under s. 946.42 (3) (a).

(6) DISCHARGE. The department may discharge a participant from participation in the program and from departmental custody and control at any time.

(7) REIMBURSEMENT. The department shall provide reimbursement to counties and others for the actual costs incurred under sub. (3), as authorized by the department, from the appropriations under s. 20.410 (1) (ai) and (dt).

(8) EDUCATION. The department and the director of state courts shall educate judges, district attorneys, criminal defense attorneys, county sheriffs, jail administrators and members of the public regarding the intensive sanctions program.

(9) INFORMATION FOR THE SENTENCING COMMISSION. The department shall provide the sentencing commission with information to assist the commission in promulgating rules under s. 973.011 (2). The department shall charge the commission for the actual costs of providing the information.

(10) RULES. The department shall promulgate rules to implement this section.

301.055 PRISONER POPULATION LIMITS; ALL STATE PRISONS.

(1) PRISONER POPULATION LIMIT. Beginning May 1, 1990, there is a prisoner population limit applicable to the number of prisoners at all state prisons. For calculations under this section, the number of prisoners includes all prisoners physically located at a state prison, but does not include any prisoner who is confined in the institution authorized under s. 301.046 (1) or in a Type 2 prison. From May 1, 1990, to May 31, 1991, the prisoner population limit is 6,360 and thereafter the limit is 6,386, except the department may modify the limit by rule to reflect changes in prison population capacity.

301.27 MEAL AND OTHER CHARGES; VENDING STANDS; COMMISSARY; AND BUTTER AND CHEESE.

(4) BUTTER AND CHEESE. No butter or cheese not made wholly and directly from pure milk or cream, salt and harmless coloring matter may be used in any of the institutions of the department, except for the institution authorized under s. 301.046 (1) or a Type 2 prison.

302.02 JURISDICTION AND EXTENT OF STATE CORRECTIONAL INSTITUTIONS; SERVICE OF PROCESS THEREIN.

(4y) CORRECTIONAL INSTITUTION; INTENSIVE SANCTIONS PROGRAM. For all purposes of discipline and judicial proceedings the correctional institution under s. 301.048 (4) (b) and precincts thereof shall be deemed, as to each inmate, to be in the county in which the inmate is assigned, and the courts of that county shall have jurisdiction of all crimes committed within the same. Every activity conducted under the jurisdiction of and by the institution under s. 301.048 (4) (b) wherever located is a precinct of the institution.

302.06 DELIVERY OF PERSONS TO PRISONS. The sheriff shall deliver to the reception center designated by the department every person convicted in the county and sentenced to the Wisconsin state prisons or to the intensive sanctions program as soon as may be after sentence, together with a copy of the judgment of conviction. The warden or superintendent shall deliver to the sheriff a receipt acknowledging receipt of the person, naming the person, which receipt the sheriff shall file in the office of the clerk who issued the copy of the judgment of conviction. When transporting or delivering the person to any of the Wisconsin state prisons the sheriff shall be accompanied by an adult of the same sex as the person. If the sheriff and the person are of the same sex, this requirement is satisfied and a 3rd person is not required.

302.11 MANDATORY RELEASE.

(1i) An inmate serving a sentence to the intensive sanctions program is entitled to mandatory release. The mandatory release date under sub. (1) is established at two-thirds of the sentence under s. 973.032 (3) (a).

(6) Any inmate released on parole under sub. (1) or s. 304.02 or 304.06 (1) is subject to all conditions and rules of parole until the expiration of the sentence or until he or she is discharged by the department. Except as provided in ch. 304, releases from prison shall be on the Tuesday or Wednesday preceding the release date. The department may discharge a parolee on or after his or her mandatory release date or after 2 years of supervision. Any inmate sentenced to the intensive sanctions program who is released on parole under sub. (1) remains in the program unless discharged by the department under s. 301.048 (6).

302.31 USE OF JAILS. The county jail may be used for the detention of persons charged with crime and committed for trial; for the detention of persons committed to secure their attendance as witnesses; to imprison persons committed pursuant to a sentence or held in custody by the sheriff for any cause authorized by law; for the detention of persons sentenced to imprisonment in state penal institutions or the Milwaukee county house of correction, until they are removed to said institutions; for the detention of persons participating in the intensive sanctions program; for the temporary detention of persons in the custody of the department; and for other detentions authorized by law. The county jail may be used for the temporary placement of persons in the custody of the department, and persons who have attained the age of 18 years but have not attained the age of 25 years who are in the legal custody of the department of health and social services under s. 48.355 (4) or 48.366 and who have been taken into custody pending revocation of aftercare under s. 48.357 (5) or 48.366 (5).

302.33 MAINTENANCE OF PRISONERS IN COUNTY JAIL. (1) The maintenance of persons who have been sentenced to the state penal institutions; persons in the custody of the department, except as provided in sub. (2) and s. 301.048 (7); persons accused of crime and committed for trial; persons committed for the nonpayment of fines and expenses; and persons sentenced to imprisonment therein, while in the county jail, shall be paid out of the county treasury. No claim may be allowed to any sheriff for keeping or boarding any person in the county jail unless the person was lawfully detained therein.

302.425 HOME DETENTION PROGRAMS.

(2m) INTENSIVE SANCTIONS PROGRAM PARTICIPANTS. Notwithstanding the agreement requirements under sub. (3), the department may place any intensive sanctions program participant in a home detention program.

303.065 WORK RELEASE PLAN FOR PRISON INMATES.

(b) The wages of inmates gainfully employed shall be collected by the prison responsible for his or her care. The wages are not subject to garnishment either in the hands of the employer or the prison during the inmate's term and shall be disbursed only as provided in this section, but for tax purposes they are income of the prisoner. This paragraph does not apply to wages of inmates participating in the intensive sanctions program.

304.02 SPECIAL ACTION PAROLE RELEASE.

(4) Notwithstanding subs. (1) to (3), if a person is sentenced under s. 973.032, he or she is not eligible for a release to parole supervision under this section.

304.06 PAROLES FROM STATE PRISONS AND HOUSE OF CORRECTION.

(b) Except as provided in sub. (1m) or s. 161.49 (2), 302.045 (3) or 973.032 (5), the parole commission may parole an inmate of the Wisconsin state prisons or any felon or any person serving at least one year or more in the Milwaukee county house of correction or a county reforestation camp organized under s. 303.07, when he or she has served 25% of the sentence imposed for the offense, or 6 months, whichever is greater. Except as provided in s. 973.014, the parole commission may parole an inmate serving a life term when he or she has served 20 years, as modified by the formula under s. 302.11 (1) and subject to extension using the formulas under s. 302.11 (2). The person serving the life term shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The secretary may grant special action parole releases under s. 304.02. The department or the parole commission shall not provide any convicted offender or other person sentenced to the department's custody any parole eligibility or evaluation until the person has been confined at least 60 days following sentencing.

(c) 1. The office of the court that participated in the trial or that accepted the inmate's plea of guilty or no contest, whichever is applicable.

(1m) The parole commission may waive the 25% or 6-month service of sentence requirement under sub. (1) (b) under any of the following circumstances:

(a) If it determines that extraordinary circumstances warrant an early release and the sentencing court has been notified and permitted to comment upon the proposed recommendation.

(1m) (b) If the department recommends that the person be placed on parole that includes the condition under sub. (1x) and the commission orders that condition.

NOTE: The amendment of (1) and the creation of (1m) by 1983 Wisconsin Act 64 first applies to crimes committed on November 3, 1983.

(1x) The parole commission may require as a condition of parole that the person is placed in the intensive sanctions program under s. 301.048. In that case, the person is in the legal custody of the department under that section and is subject to revocation of parole under sub. (3).

304.071 MILITARY PAROLE.

(2) If a prisoner is not eligible for parole under s. 161.49 (2) or s. 973.032 (5), he or she is not eligible for parole under this section.

972.13 JUDGMENT.

(6) The following forms may be used for judgments:
STATE OF WISCONSIN.... County In.... Court
The State of Wisconsin vs.....(Name of defendant)
UPON ALL THE FILES, RECORDS AND PROCEEDINGS,
IT IS ADJUDGED That the defendant has been convicted upon the defendant's plea of guilty (not guilty and a verdict of guilty) (not guilty and a finding of guilty) (no contest) on the.... day of....., 19.., of the crime of.... in violation of s.....; and the court having asked the defendant whether the defendant has anything to state why sentence should not

be pronounced, and no sufficient grounds to the contrary being shown or appearing to the court.

*IT IS ADJUDGED That the defendant is guilty as convicted.

*IT IS ADJUDGED That the defendant is hereby committed to the Wisconsin state prisons (county jail of.... county) for an indeterminate term of not more than.....

*IT IS ADJUDGED That the defendant is placed in the intensive sanctions program subject to the limitations of section 973.032 (3) of the Wisconsin Statutes and the following conditions:.....

*IT IS ADJUDGED That the defendant is hereby committed to detention in (the defendant's place of residence or place designated by judge) for a term of not more than....

*IT IS ADJUDGED That the defendant is ordered to pay a fine of \$.... (and the costs of this action).

*IT IS ADJUDGED That the defendant pay restitution to....

*IT IS ADJUDGED That the defendant is restricted in his or her use of computers as follows:.....

*The.... at.... is designated as the Reception Center to which the defendant shall be delivered by the sheriff.

*IT IS ORDERED That the clerk deliver a duplicate original of this judgment to the sheriff who shall forthwith execute the same and deliver it to the warden.

Dated this.... day of....., 19... BY THE COURT.... Date of Offense....

District Attorney...., Defense Attorney....

*Strike inapplicable paragraphs.

STATE OF WISCONSIN.... County In.... Court

The State of Wisconsin vs.....(Name of defendant)

On the.... day of....., 19.., the district attorney appeared for the state and the defendant appeared in person and by.... the defendant's attorney.

UPON ALL THE FILES, RECORDS AND PROCEEDINGS

IT IS ADJUDGED That the defendant has been found not guilty by the verdict of the jury (by the court) and is therefore ordered discharged forthwith.

Dated this.... day of....., 19... BY THE COURT....

972.15 PRESENTENCE INVESTIGATION.

(5) The department may use the presentence investigation report for correctional programming, parole consideration or care and treatment of any person sentenced to imprisonment or the intensive sanctions program, placed on probation, released on parole or committed to the department under ch. 51 or 971 or any other person in the custody of the department or for research purposes. The department may make the report available to other agencies or persons to use for purposes related to correctional programming, parole consideration, care and treatment, or research. Any use of the report under this subsection is subject to the following conditions:

973.01 SENTENCING COMMISSION; DUTIES.

(d) Cooperate with the supreme court in developing instructional programs for judges relating to sentencing, including the intensive sanctions program, restitution policies and community service alternatives to incarceration and probation.

973.011 SENTENCING RULES; GUIDELINES FOR JUDGES. (1) The sentencing commission shall promulgate rules under this subsection. Any such rules shall provide guidelines for use by judges for sentencing defendants convicted of felonies, but shall not provide guidelines for determinations under s. 973.014. The rules shall:

(a) Be based primarily on sentencing experience in this state to the extent sufficient data is available. The rules shall set forth the methodology for calculating recommended sentence lengths for terms of confinement or intensive sanctions but need not include the actual recommended sentence lengths. The commission shall determine, periodically revise and make available to the public actual recommended sentence lengths calculated using the methodology set forth in the rules. The rules shall indicate the likelihood that the offender would be placed on probation, sentenced to the intensive sanctions program or incarcerated according to sentencing experience in this state.

(b) Include consideration of previous criminal history; status relating to incarceration, intensive sanctions, probation, parole or pretrial release; and severity of the present offense.

(2) Beginning July 1, 1992, the sentencing commission shall provide guideline matrices for judges for sentencing defendants convicted of felonies identifying cases in which the presumptively appropriate sentence is to the intensive sanctions program. The commission shall design the guideline matrices to encourage the use of that sentence for offenders who show a low risk of assaultive behavior and to limit the use of that sentence for persons who would be placed on probation if the intensive sanctions program did not exist.

973.02 PLACE OF IMPRISONMENT WHEN NONE EXPRESSED. Except as provided in s. 973.032, if a statute authorizes imprisonment for its violation but does not prescribe the place of imprisonment, a sentence of less than one year shall be to the county jail, a sentence of more than one year shall be to the Wisconsin state prisons and the minimum under the indeterminate sentence law shall be one year, and a sentence of one year may be to either the Wisconsin state prisons or the county jail. In any proper case, sentence and commitment may be to the department or any house of correction or other institution as provided by law or to detention under s. 973.03 (4).

973.032 SENTENCE TO INTENSIVE SANCTIONS PROGRAM. (1) SENTENCE. Beginning July 1, 1992, a court may sentence a person who is convicted of a felony occurring on or after August 15, 1991, to participate in the intensive sanctions program under s. 301.048.

(2) ELIGIBILITY. (a) A court may sentence a person under sub. (1) if the department provides a presentence investigation report recommending that the person be sentenced to the program. If the department does not make the recommendation, a court may order the department to assess and evaluate the person. After that assessment and evaluation, the court may sentence the person to the program unless the department objects on the ground that the presumptively appropriate sentence under the sentencing guideline matrices is probation.

(b) Notwithstanding par. (a), the court may not sentence a person under sub. (1) if he or she is convicted of a felony punishable by life imprisonment.

(3) LIMITATIONS. The following apply to a sentence under sub. (1):

(a) The court shall provide a maximum period for the sentence, which may not exceed the maximum term of imprisonment that could be imposed on the person, including imprisonment authorized by any penalty enhancement statute.

(b) The court shall provide a maximum period for placements under s. 301.048 (3) (a) 1, which may not exceed one year unless the defendant waives this requirement.

(c) 1. In this paragraph, "Type 1 prison" has the meaning given in s. 301.01 (5).

2. The court may prescribe reasonable and necessary conditions of the sentence in accordance with s. 301.048 (3), except the court may not specify a particular Type 1 prison, jail, camp or facility where the offender is to be placed under s. 301.048 (3) (a) and the court may not restrict the department's authority under s. 301.048 (3) (b).

(4) MODIFICATION. (a) The department may provide for placements under s. 301.048 (3) (a) for a shorter period than the maximum period specified by the court under sub. (3) (b).

(b) The department may request that the court extend the maximum period provided by the court under sub. (3) (a) or the maximum period provided by the court under sub. (3) (b) or both. Unless a hearing is voluntarily waived by the person, the court shall hold a hearing on the matter. The court may not extend the maximum period of the sentence beyond the amount allowable under sub. (3) (a). The court may not extend the maximum period for placements under s. 301.048 (3) (a) 1 beyond a total, including the original period and all extensions, of 2 years or two-thirds of the maximum term of imprisonment that could have been imposed on the person, whichever is less.

(5) PAROLE RESTRICTIONS. A person sentenced under sub. (1) is not eligible for parole except as provided in s. 302.11.

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

973.035 TRANSFER TO STATE-LOCAL SHARED CORRECTIONAL FACILITIES. Any person serving a sentence of imprisonment to the Wisconsin state prisons, a county jail, a county reforestation camp or a county house of correction or serving a sentence to the intensive sanctions program may be transferred to a state-local shared correctional facility under s. 302.45 (1).

973.09 PROBATION.

(e) The court may impose a sentence under s. 973.032, stay its execution and place the person on probation. A court may not provide that a condition of any probation involves participation in the intensive sanctions program.

973.15 SENTENCE, TERMS, ESCAPES. (1) Except as provided in s. 973.032, all sentences to the Wisconsin state prisons shall be for one year or more. Except as otherwise provided in this section, all sentences commence at noon on the day of sentence, but time which elapses after sentence while the convicted offender is at large on bail shall not be computed as any part of the term of imprisonment.

(2) (a) Except as provided in par. (b), the court may impose as many sentences as there are convictions and may provide that any such sentence be concurrent with or consecutive to any other sentence imposed at the same time or previously.

(b) The court may not impose a sentence to the intensive sanctions program consecutive to any other sentence. The court may not impose a sentence to the intensive sanctions program concurrent with a sentence imposing imprisonment. The court may impose concurrent intensive sanctions program sentences. The court may impose an intensive sanctions program sentence concurrent to any nonintensive sanctions program sentence that does not include any imprisonment or concurrent to probation.

(8) (a) The sentencing court may stay execution of a sentence of imprisonment or to the intensive sanctions program only:

973.19 MOTION TO MODIFY SENTENCE. (1) (a) A person sentenced to imprisonment or the intensive sanctions program or ordered to pay a fine who has not requested the preparation of transcripts under s. 809.30 (2) may, within 90 days after the sentence or order is entered, move the court to modify the sentence or the amount of the fine.

973.20 RESTITUTION.

(10) The court may require that restitution be paid immediately, within a specified period or in specified instalments. If the defendant is placed on probation or sentenced to imprisonment, the end of a specified period shall not be later than the end of any period of probation or parole. If the defendant is sentenced to the intensive sanctions program, the end of a specified period shall not be later than the end of the sentence under s. 973.032 (3) (a).

9112 NON-STATUTORY PROVISIONS; CORRECTIONS.

(1j) INTENSIVE SANCTIONS PROGRAM RULES.

(a) The department of corrections shall submit any proposed rules administering the intensive sanctions program under section 301.048 of the statutes, as created by this act, to the legislative council staff for review under section 227.15 (1) of the statutes during the 1991-93 fiscal biennium.

(b) Using the procedure under section 227.24 of the statutes, the department of corrections shall promulgate rules administering the intensive sanctions program under section 301.048 of the statutes, as created by this act, for the period prior to July 1, 1993. Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not required to make a finding of emergency. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the rules are in effect prior to July 1, 1993.

(2f) POSITION AUTHORIZATIONS; INTENSIVE SANCTIONS. The authorized FTE positions for the department of corrections are increased by 50.5 GPR positions on the effective date of this subsection and by an additional 66.5 GPR positions on July 1, 1992, for the intensive sanctions program, to be funded from the appropriation under section 20.410 (1) (ai) of the statutes.