

NOTICE ON RECENT LEGISLATIVE ACTION AND ITS IMPACT ON 2009 WI ACT 28

Legislation to Repeal 2009 WI Act 28 (Act 28) has now passed both the Senate and Assembly, and will be moving to Governor Walker for signature. The purpose of this notice is to provide a brief overview of this legislation as it relates to various earned release and early discharge provisions previously authorized under Act 28. The Department is in the process of updating policy and procedures to reflect these changes. More information will be shared as it becomes available.

- **EARNED RELEASE REVIEW COMMISSION (ERRC)** - Changes ERRC back to the Parole Commission with all responsibilities of pre-Act 28 law.
- **CERTAIN EARNED RELEASE (CER)** – Repeals this release track.
- **POSITIVE ADJUSTMENT TIME (PAT)** – Repeals these release tracks. Allows inmates who were eligible for and who may have earned PAT during their term of confinement, up to the point of the effective date of the Act, to petition the sentencing court for consideration for sentence adjustment. Upon the Act effective date, the Department and the ERRC will no longer have the authority to make the release decisions under these tracks.
- **SENTENCE ADJUSTMENT 75% / 85%** – Reverts to pre-Act 28 law requiring the inmate to petition the sentencing court for consideration for sentence adjustment. Upon the Act effective date, the ERRC will no longer have the authority to make release decisions under these tracks. Inmates who were previously scheduled to see ERRC under Act 28 (75%/85% and PAT tracks) or received a deferral on their TIS sentence hearing will need to petition the court.
- **EXTRAORDINARY HEALTH CONDITIONS / AGED** – Reverts to pre-Act 28 law, with the exception of keeping the broader definition of “Extraordinary Health Condition” versus the pre-Act 28 law using the “Terminal Illness” criteria. Upon the Act effective date, the ERRC will no longer have the authority to make release decisions under these tracks. Petitions for consideration for release under these tracks will go to the Program Review Committee and sentence modification decisions will be made by the sentencing court.
- **EARNED RELEASE PROGRAM / CHALLENGE INCARCERATION PROGRAM** – Reverts to pre-Act 28 law, which limits the sentencing court to determine eligibility for involvement in the program for only offenders who have a substance abuse treatment need. Inmates found eligible by the sentencing court for **non-AODA** CIP or ERP will no longer be enrolled in non-AODA ERP/CIP or released under this track. Inmates currently enrolled in these programs may continue their program efforts, however, will not be released upon program completion pursuant to this repealed track.
- **RISK REDUCTION SENTENCE (RRS)** – Repeals this sentencing option and release track. Inmates who have been sentenced under RRS up to the point of the effective date of the Act will remain RRS release eligible. Release decisions will be under the authority of the sentencing court, not the Department.
- **EXTENDED SUPERVISION EARLY DISCHARGE** – Repeals this authority.
- **PROBATION EARLY DISCHARGE** – Changes the authority for early discharge decisions from the Department to the sentencing court and establishes minimum eligibility criteria.
- **REVOCAION OF EXTENDED SUPERVISION** – Maintains Act 28 language where the Department or the Administrative Law Judge determines the term of re-confinement.


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Secretary

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