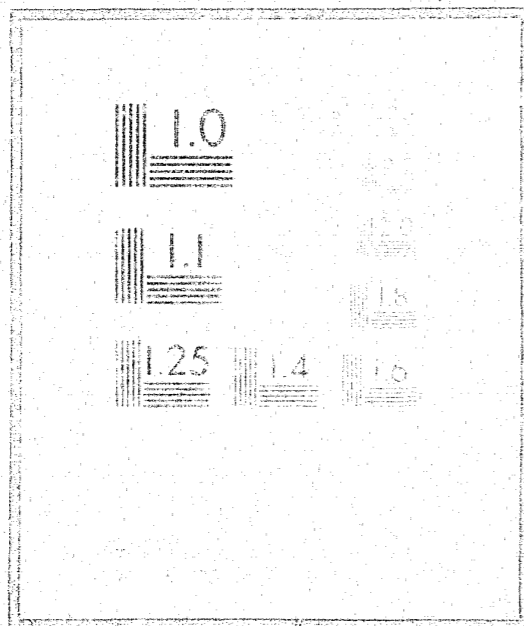


# NCJRS

This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101 11.504

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U.S. Department of Justice.

U.S. DEPARTMENT OF JUSTICE  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE  
WASHINGTON, D.C. 20531

8/1/77

i i m e d



WISCONSIN LEGISLATIVE COUNCIL  
REPORT NO. 6 TO THE 1977 LEGISLATURE



### LEGISLATION RELATING TO CREDIT FOR TIME IN BAIL

Senate Bill 159, Granting Credit to Convicted Offenders for Time Spent in Jail Prior to Sentencing

42317

Wisconsin Legislative Council  
March 3, 1977

RL 77-6

State Capitol  
Madison, Wisconsin

March 3, 1977

WISCONSIN LEGISLATIVE COUNCIL

OFFICERS

Chairman  
HENRY NORMAN  
Senator  
Racine

Vice-Chairman  
ED JACKSON  
Speaker  
Waukesha

Secretary  
CLIFFORD W. KRUEGER  
Senator  
Merrill

SENATORS

WILLIAM A. BARLITCH  
Stevens Point

GERALD D. LORGE  
Bear Creek

WALTER JOHN CHILSEN  
Mausau

JEROME A. MARTIN\*  
Manitowoc

TIMOTHY F. CULLEN  
Janesville

FRED A. RISSER  
Madison

REPRESENTATIVES

HARVEY L. DIEHOLM  
Luck

EARL F. MC ESSY  
Fond du Lac

MICHAEL P. EARLY  
River Falls

JOHN R. PLEWA  
Milwaukee

R. MICHAEL FERRALL  
Racine

ROBERT L. QUACKENBUSH  
Sparta

GARY K. JOHNSON  
Beloit

JOHN C. SHABAZ  
New Berlin

BERNARD M. LEWISON  
Viroqua

JAMES W. WAHNER  
Milwaukee

\*Deceased

BOBBIE REESE, Executive Secretary, Legislative Council, 147 North, Capitol

115207

1975-77  
CRIMINAL PENALTIES, SPECIAL COMMITTEE ON

OFFICERS

Chairman  
 FRED A. RISSER  
 Senator  
 Madison

Vice-Chairman  
 (Vacancy)

Secretary  
 (Vacancy)

SENATORS

JAMES T. FLYNN  
 West Allis

ROGER P. MURPHY  
 Elm Grove

REPRESENTATIVES

MICHAEL P. EARLY  
 River Falls

THOMAS A. HAUKE  
 West Allis

JOHN C. GOWER  
 Green Bay

PUBLIC MEMBERS

JUDGE EDWIN C. DAHLBERG  
 Beloit

JAMES W. MATHEWS  
 Waupun

THOMAS P. DOHERTY  
 Milwaukee

FRANK NIKOLAY  
 Colby

DAVID GEARY  
 Milwaukee

CLIFTON G. OWENS  
 Milwaukee

ESTHER HEFFERNAN  
 Madison

FRANK REMINGTON  
 Madison

PAUL IMLER  
 Irma

FRANK SARAFIN  
 Thorp

JUDGE HAROLD B. JACKSON, JR.  
 Milwaukee

GENE ZANGL  
 Mayville

DANIEL LA ROCQUE  
 Wausau

---

Committee Staff: Dan Fernbach, Council Senior Staff Attorney, and Kathy Wolff, Council Secretarial Staff.

---

---

WISCONSIN LEGISLATIVE COUNCIL  
REPORT NO. 6 TO THE 1977 LEGISLATURE

LEGISLATION RELATING TO CREDIT FOR TIME IN JAIL\*

---

BACKGROUND OF COMMITTEE STUDY  
AND DEVELOPMENT OF SENATE BILL 159

The Special Committee on Criminal Penalties was created by the Legislative Council at its meeting of April 13, 1972. Subsequently, the Council continued the Special Committee through the 1973-75 and 1975-77 interims.

The Special Committee has completed its review and reclassification of penalties in the Criminal Code. The reclassification proposal, originally introduced as 1973 Senate Bill 522, has been reintroduced by the Legislative Council in both the 1975 and 1977 Sessions (as Senate Bill 14 in both cases). [For detailed information, see Wisconsin Legislative Council Report No. 1 to the 1977 Legislature, dated February 2, 1977.]

Prior to the 1975-77 interim, the Special Committee on Criminal Penalties discussed the need for state legislation which would grant credit for time spent in confinement prior to incarceration pursuant to the sentence imposed. However, the issue became more immediate upon the handing down of Kubart v. State (1975), 70 Wis. 2d 94. In that case, the Wisconsin Supreme Court invited the Legislature to eliminate due process problems caused by the statutory prohibition against crediting time spent in jail after sentencing but prior to arrival at the prison.

In addition, the Court recently held in State ex rel. Solie v. Schmidt (1976), 73 Wis. 2d 76, that a period of 82 days jail time, spent while awaiting probation revocation proceedings, must, on due process grounds, be credited against the sentence to be served following revocation. The Court did not provide a clear rule but alluded to a previous, and similar, case where 2-1/2 weeks of confinement was held not to be so unreasonable as to require granting of credit.

At its meeting on December 16, 1976, the Special Committee unanimously recommended a bill draft to the Legislative Council, which the Council, at its February 11, 1977 meeting, voted to introduce in the 1977 Legislative Session. Upon introduction, this proposal became 1977 SENATE BILL 159.

---

\* Prepared by Dan Fernbach, Senior Staff Attorney.

Senate Bill 159 would establish clear statutory guidelines for handling and crediting all time spent in confinement, regardless of the status of the person involved at the time of confinement. If enacted, the Bill would clarify a currently unclear and chaotic area of law, as discussed above, and would bring Wisconsin law into conformity with the recommended minimum criminal justice sentencing standards of the American Bar Association, Section 7.09 of the American Law Institute's Model Penal Code, federal criminal sentencing procedures as set forth in 18 U.S.C. s. 3568 and the laws of many other states.

PROVISIONS OF 1977 SENATE BILL 159

Senate Bill 159 changes the method of computing credits against the time a convicted offender must spend in confinement pursuant to a criminal sentence. If enacted, the credits provided under S.B. 159 will apply retroactively to all persons in custody or on parole or probation prior to the effective date of the Bill. This proposal requires that all time spent in confinement prior to the imposition of sentence must be credited toward the service of the sentence imposed. Specifically, credit must be given for time spent in custody while the convicted offender was:

1. Awaiting trial;
2. Being tried; and
3. Awaiting imposition of sentence after trial.

The credit required to be given by S.B. 159 is in addition to the time credited under current law pursuant to various "good time" statutes. The Bill retains current law which does not recognize "industrial good time" under s. 53.12 in computing parole eligibility for persons serving life terms.

Other changes made by S.B. 159 include:

1. A provision is deleted which prohibits the crediting of jail time served after sentencing as part of the offender's term of imprisonment.
2. Convicted offenders made available to authorities of another jurisdiction will receive credit for the time spent in custody in the other jurisdiction.
3. All credits earned under Wisconsin statutes will apply to convicted offenders serving a sentence to a Wisconsin institution but confined to a federal institution or an institution in another state.
4. Certain housekeeping provisions are included to provide consistent standards in granting statutory "good time" credits to all inmates incarcerated in state institutions, county jails and municipal houses of correction.

DF:sem;plj

**END**

*1/20/1900*