

**POSITIVE ADJUSTMENT TIME (PAT)
SENTENCE ADJUSTMENT
PRO SE PACKET**

Includes 2011 Wisconsin Act 38 changes

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4/2012

PART A: BACKGROUND INFORMATION

1) What is "PAT sentence adjustment"?

Effective 8/3/2011, 2011, Wisconsin Act 38 discontinued the opportunity to earn Positive Adjustment Time (PAT), which had been created by an earlier law, 2009 Wisconsin Act 28.

Act 38 only made this change prospective (going forward). This means that inmates can still request early release based on PAT that they already earned before 8/3/2011.

Act 38 also changed the way that inmates can request early release based on PAT. Under Act 38, an inmate must now file a petition for "PAT sentence adjustment" with the sentencing court. Wis. Stat. § 973.198. A copy of § 973.198 is included in this *pro se* packet.

You must file a *separate* petition for "PAT sentence adjustment" for each sentence on which you earned PAT.

2) How do I know if I may be eligible for "PAT sentence adjustment"?

"PAT sentence adjustment" is only available to inmates who were incarcerated in the Wisconsin Prison System while 2009 Wisconsin Act 28 was in effect. Act 28 was in effect from 10/1/2009 through 8/2/2011. **If you were not in prison during that time period, then you are not eligible for "PAT sentence adjustment."**

Even for inmates who were incarcerated between 10/1/2009 and 8/2/2011, there are many statutory exclusions that may make them ineligible to earn PAT. See the "exclusions" chart in this packet to determine whether you are eligible for "PAT sentence adjustment."

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3) Can LAIP help me with my “PAT sentence adjustment” petition?

Probably not. LAIP provides direct legal assistance to many Wisconsin inmates, including representing them in court. LAIP sometimes helps inmates prepare petitions for “PAT sentence adjustment” under § 973.198.

However, LAIP is a student-based educational program, with limited resources and long wait lists for assistance. As we will explain below, many inmates who are serving TIS sentences will have only a small “window of opportunity” – usually only a few months – in which to file a “PAT sentence adjustment: petition with the court. It is unlikely that LAIP would have a student available to help you at the right time.

Thus, you should not count on LAIP to assist you. Instead, if you decide to file a “PAT sentence adjustment petition,” you will probably have to proceed *pro se* (on your own).

The purpose of this packet is to explain how the “PAT sentence adjustment” process works, and to give you information so that you can file a *pro se* petition. We suggest that you read through the entire packet before you decide how to proceed.

4) Can I apply for both 973.195 sentence adjustment and “PAT sentence adjustment” under § 973.198?

Yes, you can. However, the LAIP attorneys have concluded that inmates are almost always better off filing for “regular” sentence adjustment under § 973.195 first. A “§ 973.195 Sentence Adjustment *Pro Se* Packet” is included in Chapter 4 of the *LAIP Desk Book*.

If your § 973.195 petition is denied, you can still file for “PAT sentence adjustment” under § 973.198 afterward.

The reason it is usually better to file first for regular sentence adjustment requires a little history lesson. 2009 Wisconsin Act 28 created several early release mechanisms, including Positive Adjustment Time (PAT). PAT was somewhat like the “good time” that was used to calculate mandatory release for parolable inmates before 2000. In other words, the PAT law authorized possible reduction of a TIS inmate’s confinement time for good behavior.

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There were three different levels of PAT reductions, depending on the felony classification and the inmate's history, conduct, and likelihood of reoffending:

- "1 for 2 days" PAT
- "1 for 3 days" PAT
- "1 for 5.7" days PAT

The PAT law also excluded PAT consideration for many categories of offenders and offenses.

The PAT law took effect on 10/1/2009, and it only applied to inmates who showed good behavior *in prison*. Time spent in presentence custody in jail does not count toward PAT. Wis. Stat. § 302.113(2)(b) (2009). In effect, this meant that a TIS inmate could earn PAT for the confinement period of a sentence beginning on the latest of the following dates: date of sentencing or 10/1/2009 or the date that the inmate arrived in the prison system.

2011 Wisconsin Act 38 repealed PAT release as of 8/3/2011, but only prospectively (going forward). Inmates who were incarcerated when Act 28 was in effect still have the possibility of early release based on PAT.¹

Thus, under Act 38, inmates stopped earning PAT on 8/3/2011. As a result, the maximum PAT that an inmate could earn would be for the period from 10/1/2009 through 8/2/2011. If the inmate was sentenced after 10/1/2009, or if the inmate arrived in the prison system after 10/1/2009, then the period would be even shorter.

Under Act 38, the authority to release an inmate early based on PAT was changed. Under Act 28, either the DOC or the Earned Release Review Commission (now renamed the Parole Commission) had the authority to release an inmate early based on PAT. Under Act 28, this authority was transferred to the sentencing judge for all eligible inmates. Act 38 created the "PAT sentence adjustment" process under § 973.198, as a way for inmates to ask the judge to grant early release based on PAT that they earned while Act 28 was in effect.

¹ Presumably, Act 38 retained PAT for these inmates to avoid violating the constitution's *ex post facto* clause.

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It is important to understand that the court's decision on a petition for "PAT sentence adjustment," like the decision on § 973.195 sentence adjustment, is discretionary. The judge is not required to grant a "PAT sentence adjustment" petition. Wis. Stat. § 973.198(5).

The LAIP attorneys believe that most inmates should file for § 973.195 sentence adjustment **first**. If sentence adjustment is denied and the inmate is eligible for "PAT sentence adjustment," then the inmate can file for § 973.198 "PAT sentence adjustment" afterward. Our reasons are outlined below.

1. "PAT sentence adjustment" is available *only* to inmates who were serving time between 10/1/2009 and 8/3/2011. If you were not incarcerated during this period, then you cannot file for "PAT sentence adjustment" at all.
2. PAT *excludes* many offenders and specific felonies that are not excluded under § 973.195. Thus, many inmates who are not eligible for § 973.198 "PAT sentence adjustment" will be eligible for § 973.195 sentence adjustment.
3. Most inmates will have *more time* available for adjustment under § 973.195 than under § 973.198. PAT is calculated differently than eligibility for § 973.195 sentence adjustment. As a result, it appears that nearly all inmates will be eligible for more time off with § 973.195 sentence adjustment than with § 973.198 "PAT sentence adjustment."

Over the years, the courts have determined a way to calculate the 75% or 85% eligibility date for § 973.195 sentence adjustment. This eligibility date is based on the inmate's entire confinement period, beginning with the "date sentence began" and ending with the "release to Extended Supervision (ES)" date. This means that the eligibility period includes jail credit.

In contrast, the time available to earn PAT only includes [at most] the period from 10/1/2009 through 8/2/2011, not the whole confinement period. Furthermore, PAT is based on good behavior *in prison*. This means that the PAT eligibility period does not include jail credit.

EXAMPLE:

Assume that an inmate was sentenced on 10/1/2009 to 4 years of confinement and 2 years of ES for a violent Class F felony.

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Assume that the inmate entered the prison system the same day. Assume that the inmate spent a year in jail before being sentenced. The inmate can apply for § 973.195 sentence adjustment after serving 3 years (75%) of the confinement period. The inmate's jail credit counts toward the 75%, so the "date sentence began" is actually 10/1/2008. Thus, the inmate was eligible for § 973.195 sentence adjustment on 10/1/2011, after serving 1 year in jail and 2 years in prison.

Now assume that the same inmate wants to apply for § 973.198 "PAT sentence adjustment." PAT applies only to time in prison, so the inmate's year of jail credit will not count. The inmate will earn PAT at a rate of "1 for 3 days" from 10/1/2009 through 8/2/2011, a period of 671 days. The inmate can earn 1/3 of those days as PAT, which amounts to 223 days.² The inmate's PAT eligibility date would be the release date (10/1/2012) minus 223 days, or 2/18/12. This is considerably later than eligibility date of 10/1/2011 that the inmate would have for § 973.195 sentence adjustment.

Some inmates are eligible for "1 for 2 days" PAT (the most generous form of PAT). Depending on whether or not they had much jail credit, it is possible that these inmates might be eligible for § 973.198 "PAT sentence adjustment" before they are eligible for § 973.195 sentence adjustment. But, for the reasons stated above, it does not seem like this will be true for most inmates, even inmates who are eligible for "1 for 2 days" PAT.

² To determine PAT under Act 28, the DOC's previous formula multiplied available days as follows:

- "1 for 2" PAT: multiply by 1/3
- "1 for 3" PAT: multiply by 1/4
- "1 for 4" PAT: multiply by 1/6.7

However, because PAT under Act 38 only covers a very limited period, the DOC has determined that available days should be multiplied differently, as follows:

- "1 for 2" PAT: multiply by 1/2
- "1 for 3" PAT: multiply by 1/3
- "1 for 4" PAT: multiply by 1/5.7

In addition, the "30-day month" formula is not used to determine the PAT eligibility date. Instead, calendar days are used. See "PAT Estimation Form" included in this *pro se* packet.

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4. If an inmate files for § 973.198 “PAT sentence adjustment” and gets denied, the inmate must then wait a year before filing for § 973.195 sentence adjustment on the same sentence. Wis. Stat. § 973.198(6). The opposite is not true. That is, if you file for § 973.195 sentence adjustment and your petition is denied, you can still file for § 973.198 “PAT sentence adjustment” as soon as you reach your PAT eligibility date.

It is possible that some courts will view “PAT sentence adjustment” as more “automatic” than § 973.195 sentence adjustment, so that the courts may be more willing to grant “PAT sentence adjustment.” But § 973.198(5) states clearly that “PAT sentence adjustment” is a discretionary decision by the court. Thus, even if the court determines that an inmate has earned PAT based on good behavior in prison, the court “may”—but is not required to—adjust the sentence.

In any case, since inmates will generally be eligible to apply for § 973.195 sentence adjustment earlier, there seems to be no down side to applying under § 973.195; then, if the petition is denied, applying again under § 973.198. The “§ 973.195 ‘PAT Sentence Adjustment’ *Pro Se* Packet” is included in Chapter 4 of the *LAIP Desk Book*.

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PART B: DETERMINING YOUR ELIGIBILITY DATE FOR "PAT SENTENCE ADJUSTMENT"

Remember that you must file a separate "PAT sentence adjustment" petition for each sentence you are serving.

Although Act 38 repealed PAT going forward, § 973.198 refers to the PAT eligibility requirements under the now-repealed 2009 statutes, § 302.113 and § 304.06. Therefore, these statutes are still referred to in this *pro se* packet, and copies are included at the end of this packet.

First, you need to determine whether you are eligible for PAT on the sentence; and, if so, what kind of PAT. To do so, you need to determine whether your sentence was based on TIS 1 or TIS 2 felony classifications. Look at the date that you *committed* the offense for which the sentence was imposed. Offenses occurring between 12/31/1999 and 1/31/2003 have TIS 1 felony classifications. Offenses occurring between 2/1/2003 and the present have TIS 2 felony classifications.

Although § 973.198 does not say so explicitly, the DOC's process for calculating PAT under Act 28 was based on **TIS 2** felony classifications. It is fair to assume that this approach will continue. Thus, if you have a TIS 1 sentence, you will need to look up the TIS 2 classification for your offense, in order to know how much PAT time you could have earned.

Once you know your felony classification on this sentence, you can figure out much PAT time you may be eligible for:

- "1 for 2 days" PAT: This form of release is limited to inmates serving sentences for *misdemeanors nonviolent Class F-I felonies*. § 302.113(2)(b) (2009).
- "1 for 3 days" PAT: This form of release is limited to inmates serving sentences for *violent Class F-I felonies*. § 304.06(1)(bg)1 (2009).
- \$ 1 for 5.7" days PAT: This form of release is limited to inmates serving sentences for *Class C-E felonies*. § 304.06(1)(bg)(1) (2009).

However, there are many statutory exclusions for each form of PAT, which are listed in the following statutes:

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- § 302.113(2)(b) (2009): exclusions for “1 for 2 days” PAT
- § 304.06(1)(bg)(1)(am)-(o) (2009): exclusions for “1 for 3 days” PAT
- § 304.06(1)(bg)(2)(am)-(n) (2009): exclusions for “1 for 5.7 days” PAT

These exclusions are also summarized on the “exclusions chart” included in this *pro se* packet.

In addition, a concurrent or consecutive sentence can make you ineligible for a particular form of PAT. For example, if you are serving a sentence for a violent Class F-I felony, then you would ordinarily be eligible to apply for “1 for 3 days” PAT. But if you have a concurrent or consecutive sentence for a Class C felony, or for an offense that would be excluded for “1 for 3 days” PAT, then you are only eligible for “1 for 5.7 days” PAT.

In other words, the *highest* felony classification or *excluded offense* for any sentence that you are serving will control your PAT eligibility on all your sentences.

Finally, PAT can be reduced by major conduct reports and segregation time. Section 302.113(3)(a) (2009) provides a schedule of how much PAT can be lost.

Second, once you know what kind of PAT you are eligible for, you need to determine how much actual time—if any—is eligible for adjustment on the sentence. Remember that § 973.198 only allows for PAT during the period 10/1/09 through 8/2/11. If you were not incarcerated in prison during that period, then you are **not** eligible for “PAT sentence adjustment.”

Assuming that you were incarcerated between 10/1/09 and 8/2/11, this *pro se* packet includes a form that you can use to calculate the time available for PAT. The “estimation form” also includes a sample calculation for a hypothetical sentence, so that you can see how the process works.

Remember, your PAT time started at the *latest* of the following dates:

- the date you were sentenced [or, if you are serving a consecutive sentence, the date that this sentence started]
- 10/1/09
- the date you entered the prison system

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All TIS inmates have a relatively small window of opportunity to file a petition for "PAT sentence adjustment." The shorter the sentence, the smaller the window of opportunity. Thus, it is important that you file your sentence adjustment petition as soon as you reach the eligibility date for "PAT sentence adjustment. Remember, however, that--if possible--we advise you apply **first** for regular sentence adjustment under § 973.195.

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PART C: FORMS AND INSTRUCTIONS

1) Filing Procedures

Section 973.198 does not have a specific set of statutory procedures to follow for a "PAT sentence adjustment" petition. However, the courts and the Department of Corrections (DOC) have developed procedures that are similar to those for § 973.195 sentence adjustment. Remember that you must follow these procedures exactly if you want your petition to be considered "properly filed." The procedures are outlined below.

1. **You should complete Court Form CR-281, "Petition for Positive Adjustment Time Sentence Adjustment § 973.198."** This is a mandatory court form, and you must use it.
 - a. You will need a separate petition form for each count on which you are applying for PAT. For example, if you have concurrent sentences on multiple counts and you are asking for PAT on all of them, you will need to complete a separate petition for each count. A copy of **Court Form CR-281** is included in this manual, and the form is also available in your institution library.
 - b. **Court Form CR-281** is fairly simple. Under # 1, tell what offense you were sentenced for, your total sentence length, and your confinement time and ES time. Remember, that all of this information is for this count. Under # 6, check all that boxes that you think apply. Then sign and date the petition at the bottom. Be sure to give the name and mailing address of your institution.
 - c. It is a good idea to include attachments with the petition. These attachments will be discussed below in Part C(2).
2. **One week before your eligibility date, give the completed petition, with your attachments, to the institution records office.** If you submit the materials a week early, this will give the DOC time to process the petition and mail all necessary documents by your eligibility date.
 - a. You must provide an envelope that has enough postage for the petition and your attachments, and also for the additional attachments that the records office will include (these are described below).

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- b. Be sure to submit a larger envelope (e.g. 9" x 12") if you have multiple sentences or if you are attaching supporting documents to the petition. Your petition and all documents must fit into the envelope you provide. If you fail to include a large enough envelope, this will result in delays in filing your petition.
 - c. You must also submit a disbursement request (**Form DOC-184**) to pay for a copy of your offender conduct report and for copies of the Judgments of Convictions (JOCs) for all sentences you are now or will be serving on this incarceration. The records office will include these documents when it mails your materials to the court.
3. The records office will complete form **DOC-2638, "Positive Adjustment Time Computation."** This form only lists how many days you served in prison from 10/1/2009 through 8/2/2011. It does not tell how many days of PAT you are eligible for. This form is not sent to the court. Instead, it is placed in your legal file at the institution.

The records office will also determine whether, based on its records, you appear to be statutorily eligible for PAT on this count. To do this, the records office will use **Court Form CR-282, "Verification of Eligibility for Positive Adjustment Time § 973.198."** A sample of **Court Form CR-282** is included in this packet. You should **not** give this document to the records office; they have their own copy.

Court Form CR-282 is a little complicated. The records office will complete Items 1-6 on the form. Then, if it appears from completing Items 1-6 that you are not eligible for PAT, the records office will check the box labeled "preliminary" in the caption of the form, and will not complete Items 7-12.

On the other hand, if it appears that you may be eligible for PAT, the records office will complete all of the items (1-12) on **Court Form CR-282** and will check the box labeled "full" in the caption of the form.

4. If the records office checks "full" on **Court Form CR-282**, the records office will email your name to your social worker and to the Sex Offender Registry Program (SORP).
5. Within 3 working days, the social worker must complete a COMPAS risk assessment for you. The social worker must then complete a **Form DOC-2522, "Determination of Eligibility for Positive Adjustment Time**

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Under Section 302.113(2)(b)6, 2009 WI STATS,” and return this form to the records office.³

6. Also within 3 working days, SORP must complete a SORP screening and notify the records office by email of the outcome—specifically, whether you are excluded from PAT eligibility based on a previous sex offense or because you are subject to a special bulletin under Wis. Stat. § 301.46(2m).
7. After receiving the requested information back from the social worker and SORP, the records office will mail the following documents to the court, in the envelope you have provided:
 - a. Your petition (**Court Form CR-281**), with all of your attachments.
 - b. A signed and notarized copy of **Court Form CR-282**, the “Verification of Eligibility” form. This form will be checked either “preliminary” or “full” in the caption.
 - c. A signed and notarized copy of **Form DOC-173, “Offender Conduct Record.”**
 - d. The COMPAS risk assessment recommendation page, but only if **Court Form CR-282** is checked “full” in the caption.
 - e. JOCs for all sentences you are currently serving.

Be sure to make your own copy of your petition, plus any attachments, before the records office mails the documents to the court.

2) What attachments should I include with my “PAT sentence adjustment” petition?

It is important to assume that the judge is going to approach your “PAT sentence adjustment” petition with skepticism. It will be your job to convince the judge to grant the petition.

Furthermore, the standard one-page petition form (**Court Form CR-281**) is not adequate to inform the judge of reasons why he or she should grant your

³ Under Act 28, a “risk of reoffending” assessment was required only inmates who petitioned for “1 for 2 PAT. See Wis. Stat. § 302.113(2)(b)6 (2009). However, the DOC policy that implements § 973.198 “PAT sentence adjustment” (DAI Policy # 302.00.18) requires a COMP AS assessment for all inmates who are petitioning the court for PAT.

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petition. Thus, it is important that you attach documentation that explains why the judge should grant your petition.

We suggest that you write, and attach, a document entitled “Supplemental Petition for PAT Sentence Adjustment.” The Supplemental Petition does not have to be a fancy legal document. Rather, it should simply be a paper in which you explain, in the briefest and clearest way you can, why the court should adjust your sentence.

Remember that “PAT sentence adjustment” is a *discretionary* decision of the judge. The judge is not required to grant PAT. So if you want the judge to reward your good conduct and rehabilitation in prison, you can explain that you have completed specific educational, vocational, and/or treatment programs, and that you have a good disciplinary record.

If you have not completed required AODA or other treatment by the time you are eligible for “PAT sentence adjustment,” you may want to suggest that the judge consider community-based treatment after your release. If possible, give the judge the name and address of a specific treatment program that would be available to you upon release.

If you have had disciplinary problems in the past, you can explain that you had adjustment problems earlier in your prison stay, but that they have now gotten better. If you have had major conduct reports in the recent past, your “PAT sentence adjustment” petition is unlikely to succeed.

Besides rehabilitation, the Supplemental Petition should also provide any other reasons that you can think of to convince the judge to adjust your sentence. For example, if you have a detainer for a prison sentence in another jurisdiction, or a deportation detainer from the immigration service, you could ask the judge to release you to the detainer.

In addition, if a successful sentence adjustment would result in your release from confinement, it is **very important** that your Supplemental Petition state clearly where you plan to live if you are released from prison.⁴ You also

⁴However, not all “PAT sentence adjustment” petitions will result in the inmate’s release, so in some cases there will be no reason to talk about a release plan.

For example, there is no point in talking about a release plan if you will be deported or transferred to a prison in another jurisdiction.

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need to tell the judge what plans you have for work, treatment programs, vocational training, or school after you are released.

This advice is based on conversations that LAIP attorneys have had with judges around the state. Many judges feel that the sentence adjustment statutes put them in the same position as a “parole commission” for TIS offenders. And, like the Wisconsin Parole Commission, the judges want to know where you will live and what you will be doing if they do release you, as well as what kind of risks you pose to the public. So it is crucial for the Supplemental Petition to provide a realistic and accurate “release plan” to the sentencing judge.

Please understand that the court will be looking for indications that you have fully accepted responsibility for the offense and sentence. Thus, it is **not** a good idea to include any language in the Supplemental Petition complaining about any unfairness in your court proceedings or imprisonment. Such complaints are likely to be held against you.

In other words, the Supplemental Petition is **not** the appropriate place to re-try your case or complain about your incarceration. Rather, it should focus on the positive – how well you’ve done in prison and why the judge should want to grant your petition.

In addition to the Supplemental Petition, you should attach any supporting documentation showing that you have met one or more of the statutory criteria for sentence adjustment. For example, you could attach certificates showing that you have completed educational, vocational or

The same may be true for inmates who are serving multiple consecutive TIS sentences. For example, if you have two consecutive TIS sentences, your petition can ask the judge to shorten your confinement time on the first sentence based on PAT. If your petition were granted, you would not be released from prison. Rather, you would simply start the confinement time on your second sentence earlier.

If you do request “PAT sentence adjustment” under these circumstances, you should emphasize to the judge that, even if you may not already have completed your DOC treatment programs, you will still have an opportunity to complete them while you are serving your next consecutive sentence. You should also emphasize to the court that granting the petition would not result in your being released to the street right away.

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treatment programs; work performance reports; positive Program Review Committee evaluations; and evidence that you have a good disciplinary record.

You could also attach documents showing that you have a detainer for a prison sentence in another jurisdiction, or a deportation detainer from the immigration authorities.

3) What will happen to my “PAT sentence adjustment” petition after it is filed?

Under § 973.198(2), the court must do one of the following within 60 days of receiving the petition:

- deny the petition or
- hold a hearing on the petition.

In other words, the court *must* hold a hearing in order to be allowed to grant the petition.

If the records office had provided a “preliminary” version (Items 1-6) of the verification form (**Court Form CR-282**) and the court wants a “full” verification (Items 7-12), the court can order the records office to submit a full verification. The court will then consider your petition after receiving the full verification, and grant or deny it.

If the judge does hold a hearing, the judge is unlikely to allow you to appear at the hearing in person, but may allow you to appear by telephone. If you are notified that the judge has scheduled a hearing, you should write a short letter to the judge asking to appear at the hearing by telephone. This will give you an opportunity to present testimony that might be helpful – for example to talk about your post-release plans in greater detail, or to explain prior conduct reports to the judge.

Section 973.198 does not require the court to notify the District Attorney and/or victim(s) about your petition. However, if the court grants a hearing, the court will probably notify the DA, who may appear at the hearing.

Within 60 days of when the petition is filed, the court must “issue an order relating to the inmate's sentence adjustment and release to extended supervision.” The court will use **Court Form CR-283, “Order Concerning**

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Positive Adjustment Time § 973.198.” and will check the boxes explaining why the petition is granted or denied. A sample of **Court Form CR-283** is included with this packet, just so that you can see what it looks like.

On **Court Form CR-283**, the court can order one of three things:

- (1) grant the petition.
- (2) deny the petition.
- (3) As noted above, the court can order the records office to submit a “full” version of the **Court Form CR-282**, the verification form.

If the court grants your petition, the time subtracted from confinement is added to ES. § 973.198(4).

Finally, if your petition is denied, you cannot apply for regular sentence adjustment of the same sentence under § 973.195 for a period of one year from the date of the “PAT sentence adjustment” petition. § 973.198(5). There is no similar limitation if you first file a sentence adjustment petition under § 973.195. This is why the LAIP attorneys believe that most inmates are better off filing for § 973.195 sentence adjustment first.

CONCLUSION

Because § 973.198 is new, it is likely that “PAT sentence adjustment” will be the subject of appellate cases. It is also likely that trial judges’ responses to “PAT sentence adjustment” petitions will evolve over time. So it is important to research the case law to see if additional cases discussing sentence adjustment have been published.

Wis. Stat. § 973.198. Sentence adjustment; positive adjustment time

(1) When an inmate who is serving a sentence imposed under s. 973.01 and who has earned positive adjustment time under s. 302.113, 2009 stats., or under s. 304.06, 2009 stats., has served the confinement portion of his or her sentence less positive adjustment time earned between October 1, 2009, and August 3, 2011, he or she may petition the sentencing court to adjust the sentence under this section, based on the number of days of positive adjustment time the inmate claims that he or she has earned.

(3) Within 60 days of receipt of a petition filed under sub. (1), the sentencing court shall either deny the petition or hold a hearing and issue an order relating to the inmate's sentence adjustment and release to extended supervision.

(5) If the court determines that the inmate has earned positive adjustment time, the court may reduce the term of confinement in prison by the amount of time remaining in the term of confinement in prison portion of the sentence, less up to 30 days, and shall lengthen the term of extended supervision so that the total length of the bifurcated sentence originally imposed does not change.

(6) An inmate who submits a petition under this section may not apply for adjustment of the same sentence under s. 973.195 for a period of one year from the date of the petition.

Source: 2011 Act 38, § 96, eff. Aug. 3, 2011.

Wis. Stat. § 302.113(1)-(3) (2009)

Release to extended supervision for felony offenders not serving life sentences.

(1) An inmate is subject to this section if he or she is serving a bifurcated sentence imposed under s. 973.01. An inmate convicted of a misdemeanor or of a Class F to Class I felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1., and who is eligible for positive adjustment time under sub. (2) (b) pursuant to s. 973.01 (3d) (b) may be released to extended supervision under sub. (2) (b) or (9h). An inmate convicted of a Class C to Class E felony or a Class F to Class I felony that is a violent offense, as defined in s. 301.048 (2) (bm) 1., or a Class F to Class I felony that is not a violent offense, as defined under s. 301.048 (2) (bm) 1., but who is ineligible for positive adjustment time under sub. (2) (b) pursuant to s. 973.01 (3d) (b) may be released to extended supervision only under sub. (2) (a) or (9h) or s. 304.06.

(2)

(a) Except as provided in par. (b) and subs. (3) and (9) and s. 304.06, an inmate subject to this section is entitled to release to extended supervision after he or she has served the term of confinement in prison portion of the sentence imposed under s. 973.01, as modified by the department under sub. (9h), as modified under s. 302.1135 by the earned release review commission in the manner specified in s. 302.1135 (6) (a), or as modified by the sentencing court under s. 302.045 (3m) (b) 1., 302.05 (3) (c) 2. a., or 973.195 (1r), if applicable.

(b) An inmate sentenced under s. 973.01 for a misdemeanor or for a Class F to Class I felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1., may earn one day of positive adjustment time for every 2 days served that he or she does not violate any regulation of the prison or does not refuse or neglect to perform required or assigned duties. An inmate convicted of a misdemeanor or a Class F to Class I felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1., shall be released to extended supervision when he or she has served the term of confinement in prison portion of his or her bifurcated sentence, as modified by the sentencing court under s. 302.045 (3m) (b) 1. or 302.05 (3) (c) 2. a., if applicable, less positive adjustment time he or she has earned. This paragraph does not apply to any of the following:

- 1m. A person who is the subject of a bulletin issued under s. 301.46 (2m).
2. A person who has, in his or her lifetime, been convicted of or found not guilty by reason of mental disease or defect of a sex offense, as defined in s. 301.45 (1d) (b).
3. A person who has, in his or her lifetime, been found to have committed a sex offense in another jurisdiction, as defined in s. 301.45 (1d) (am).
4. A person who is required to register under s. 301.45.
5. A person who has, in his or her lifetime, been committed under ch. 975.
6. A violent offender, as defined in s. 16.964 (12) (a).
7. A person who is serving, begins to serve, or who has served during his or her current period of confinement, a sentence for a Class F to Class I felony that is a violent offense, as defined in s. 301.048 (2) (bm) 1.
8. A person who is serving, begins to serve, or who has served during his or her current period of confinement, a sentence for a Class C to Class E felony.
9. A person who is ineligible for positive adjustment time under this paragraph pursuant to s. 973.01 (3d) (b).
10. A person who is serving a sentence for an offense against an elderly or vulnerable person, as defined in s. 939.22 (20d).

11. A person who is serving a sentence for an offense related to ethical government, as defined in s. 939.22 (20m).

12. A person who is serving a sentence for an offense related to school safety, as defined in s. 939.22 (20s).

13. A person who is serving a sentence for a felony murder under s. 940.03.

14. A person who is serving a sentence for a violation of s. 940.11 (1).

15. A person who is serving a sentence for a violation of s. 940.235.

16. A person who is serving a sentence for a violation of s. 940.32 (3).

17. A person who is serving a sentence for a violation of s. 941.21.

18. A person who is serving a sentence for a violation of s. 946.465.

(c)

1. When an inmate is within 90 days of release to extended supervision under par. (b), the department shall notify the sentencing court that it intends to modify the inmate's sentence and release the inmate to extended supervision under par. (b), and the court may hold a review hearing. If the court does not schedule a review hearing within 30 days after notification under this subsection, the department may proceed under par. (b).

2.

a. If the sentencing court opts to conduct a review, it shall hold the hearing and issue an order relating to the inmate's sentence modification and release to extended supervision within 60 days of its notification under subd. 1.

b. At the hearing, the court may consider the inmate's conduct in prison, his or her level of risk of reoffending, based on a verified, objective instrument, and the nature of the offense committed by the inmate. The court may accept the department's determination that the inmate has earned positive adjustment time under par. (b), reject the department's determination that the inmate has earned positive adjustment time under par. (b), or order the inmate to remain in prison for a period that does not exceed the time remaining on the inmate's term of confinement.

(3)

(a) The warden or superintendent shall keep a record of the conduct of each inmate subject to this section, specifying each infraction of the rules. If an inmate subject to this section violates any regulation of the prison or refuses or neglects to perform required or assigned duties, the department may extend the term of confinement in prison portion of the inmate's bifurcated sentence as follows:

1. Ten days for the first offense.

2. Twenty days for the 2nd offense.

3. Forty days for the 3rd or each subsequent offense.

(b) In addition to the sanctions under par. (a), if an inmate subject to this section is placed in adjustment, program or controlled segregation status, the department may extend his or her term of confinement in prison portion of the bifurcated sentence by a number of days equal to 50% of the number of days spent in segregation status. In administering this paragraph, the department shall use the definition of adjustment, program or controlled segregation status under departmental rules in effect at the time an inmate is placed in that status.

(bm) An inmate subject to this section who files an action or special proceeding, including a petition for a common law writ of certiorari, to which s. 807.15 applies shall have his or her term of confinement extended by the number of days specified in the court order prepared under s. 807.15 (3). Upon receiving a court order issued under s. 807.15, the department shall recalculate

the date on which the inmate to whom the order applies will be entitled to release to extended supervision and shall inform the inmate of that date.

(c) No extension of a term of confinement in prison under this subsection may require an inmate to serve more days in prison than the total length of the bifurcated sentence imposed under s. 973.01.

(d) If the term of confinement in prison portion of a bifurcated sentence for a Class B felony is increased under this subsection, the term of extended supervision is reduced so that the total length of the bifurcated sentence does not change.

(e) If an inmate is released to extended supervision under sub. (2) (b) after he or she has served less than his or her entire confinement in prison portion of the sentence imposed under s. 973.01, the term of extended supervision is increased so that the total length of the bifurcated sentence does not change.

Wis. Stat. § 304.06(1)(a) & (1)(bg)(1-2) (2009)

Release to parole or extended supervision from state prisons and house of correction.

(1)

(a) In this subsection:

1. "Member of the family" means spouse, domestic partner under ch. 770, child, sibling, parent or legal guardian.

2. "Victim" means a person against whom a crime has been committed.

(b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or s. 302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the earned release review commission may parole an inmate of the Wisconsin state prisons or any felon or any person serving at least one year or more in a 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. 939.62 (2m) (c) or 973.014 (1) (b) or (c), (1g) or (2), the earned release review 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 under s. 302.11 (1q) and (2), if applicable. 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 earned release review commission shall not provide any convicted offender or other person sentenced to the department's custody any eligibility or evaluation for parole or release to extended supervision until the person has been confined at least 60 days following sentencing.

(bg)

1. A person sentenced under s. 973.01 for a Class F to Class I felony or a misdemeanor that is not a violent offense, as defined in s. 301.048 (2) (bm) 1., and who is ineligible for positive adjustment time under s. 302.113 (2) (b) pursuant to s. 973.01 (3d) (b) or for a Class F to Class I felony that is a violent offense, as defined in s. 301.048 (2) (bm) 1., may earn one day of positive adjustment time for every 3 days served that he or she does not violate any regulation of the prison or does not refuse or neglect to perform required or assigned duties. The person may petition the earned release review commission for release to extended supervision when he or she has served the term of confinement in prison portion of his or her bifurcated sentence, as modified by the sentencing court under s. 302.045 (3m) (b) 1. or 302.05 (3) (c) 2. a., less positive adjustment time he or she has earned. This subdivision does not apply to any of the following:

am. A person who is the subject of a bulletin issued under s. 301.46 (2m).

b. A person who has, in his or her lifetime, been convicted of or found not guilty by reason of mental disease or defect of a sex offense, as defined in s. 301.45 (1d) (b).

c. A person who has, in his or her lifetime, been found to have committed a sex offense in another jurisdiction, as defined in s. 301.45 (1d) (am).

d. A person who is required to register under s. 301.45.

e. A person who has, in his or her lifetime, been committed under ch. 975.

f. A person who is serving, begins to serve, or who has served during his or her current period of confinement, a sentence for a Class C to Class E felony.

g. A person who is serving a sentence for an offense against an elderly or vulnerable person, as defined in s. 939.22 (20d).

h. A person who is serving a sentence for an offense related to ethical government, as defined in s. 939.22 (20m).

- i. A person who is serving a sentence for an offense related to school safety, as defined in s. 939.22 (20s).
 - j. A person who is serving a sentence for a felony murder under s. 940.03.
 - k. A person who is serving a sentence for a violation of s. 940.11 (1).
 - L. A person who is serving a sentence for a violation of s. 940.235.
 - m. A person who is serving a sentence for a violation of s. 940.32 (3).
 - n. A person who is serving a sentence for a violation of s. 941.21.
 - o. A person who is serving a sentence for a violation of s. 946.465.
2. A person sentenced under s. 973.01 for a Class C to Class E felony may earn one day of positive adjustment time for every 5.7 days served that he or she does not violate any regulation of the prison or does not refuse or neglect to perform required or assigned duties. An inmate convicted of a Class C to Class E felony may petition the earned release review commission for release to extended supervision when he or she has served the term of confinement in prison portion of his or her bifurcated sentence, as modified by the sentencing court under s. 302.045 (3m) (b) 1. or 302.05 (3) (c) 2. a., less positive adjustment time he or she has earned. This subdivision does not apply to any of the following:
- am. A person who is the subject of a bulletin issued under s. 301.46 (2m).
 - b. A person who has, in his or her lifetime, been convicted of or found not guilty by reason of mental disease or defect of a sex offense, as defined in s. 301.45 (1d) (b).
 - c. A person who has, in his or her lifetime, been found to have committed a sex offense in another jurisdiction, as defined in s. 301.45 (1d) (am).
 - d. A person who is required to register under s. 301.45.
 - e. A person who has, in his or her lifetime, been committed under ch. 975.
 - f. A person who is serving a sentence for an offense against an elderly or vulnerable person, as defined in s. 939.22 (20d).
 - g. A person who is serving a sentence for an offense related to ethical government, as defined in s. 939.22 (20m).
 - h. A person who is serving a sentence related to school safety, as defined in s. 939.22 (20s).
 - i. A person who is serving a sentence for a felony murder under s. 940.03.
 - j. A person who is serving a sentence for a violation of s. 940.06.
 - k. A person who is serving a sentence for a violation of s. 940.302.
 - L. A person who is serving a sentence for a violation of s. 940.31 (1).
 - m. A person who is serving a sentence for a violation of s. 948.03 (2) (a).
 - n. A person who is serving a sentence for a violation of s. 948.40 (4) (a).

**Positive Adjustment Time Exclusions for TIS Sentences
(as modified by 2011 Wisconsin Act 38)**

The categories below are not eligible to apply for "PAT sentence adjustment" under Wis. Stat. § 973.198

PAT "1 for 2 days" exclusions	PAT "1 for 3 days" exclusions	PAT "1 for 5.7 days" exclusions
<ol style="list-style-type: none"> 1. SBN § 301.46(2m) 2. Sex offense § 301.45(1d)(b) 3. Sex offense other jurisdiction § 301.45(1d)(am) 4. SORP registration required § 301.45 5. Ch. 975 commitment 6. Is serving or has served Class F-I <u>violent offense</u> § 301.048(2)(bm)(1) 7. Is serving, begins to serve, or has served Class C-E felony during current incarceration. 8. Serving sentence against elderly/vulnerable –ofns § 940.285(2)(a) or § 940.295(3)(b) 9. Serving sentence related to ethical government –ofns §13.69(6m), § 19.58(1)(b), or § 946.12 10. Serving sentence related to school safety–ofns § 948.605 or § 948.61(2)(b) 11. Serving § 940.03 felony murder 12. Serving § 940.11(1) sentence for mutilating/hiding corpse–Class F 13. Serving § 940.235 sentence for strangulation/suffocation–Class H 14. Serving § 940.32(3) sentence for stalking w/weapon, resulting in bodily harm, or previous conviction for violent crime–Class F 15. Serving § 941.21 sentence for disarming police officer–Class H 16. Serving § 946.465 sentence for tampering with GPS–Class I 	<ol style="list-style-type: none"> 1. SBN § 301.46(2m) 2. Sex offense § 301.45(1d)(b) 3. Sex offense other jurisdiction § 301.45(1d)(am) 4. SORP registration required § 301.45 5. Ch. 975 commitment 6. Is serving, begins to serve, or has served Class C-E felony during current incarceration. 7. Serving sentence against elderly/vulnerable –ofns § 940.285(2)(a) or § 940.295(3)(b) 8. Serving sentence related to ethical government –ofns §13.69(6m), § 19.58(1)(b), or § 946.12 9. Serving sentence related to school safety–ofns § 948.605 or § 948.61(2)(b) 10. Serving § 940.03 felony murder 11. Serving § 940.11(1) sentence for mutilating/hiding corpse–Class F 12. Serving § 940.235 sentence for strangulation/suffocation–Class H 13. Serving § 940.32(3) sentence for stalking w/weapon, results in bodily harm, or previous conviction for violent crime–Class F 14. Serving § 941.21 sentence for disarming police officer–Class H 15. Serving § 946.465 sentence for tampering with GPS–Class I 	<ol style="list-style-type: none"> 1. SBN § 301.46(2m) 2. Sex offense § 301.45(1d)(b) 3. Sex offense other jurisdiction § 301.45(1d)(am) 4. SORP registration required § 301.45 5. Ch. 975 commitment 6. Serving sentence against elderly/vulnerable –ofns § 940.285(2)(a) or § 940.295(3)(b) 7. Serving sentence related to ethical government –ofns §13.69(6m), § 19.58(1)(b), or § 946.12 8. Serving sentence related to school safety–ofns § 948.605 or § 948.61(2)(b) 9. Serving § 940.03 felony murder 10. Serving § 940.06 sentence for second-degree reckless homicide–Class D 11. Serving § 940.302 sentence for human trafficking–Class D 12. Serving § 940.31(1) sentence for kidnapping–Class C 13. Serving § 948.03(2)(a) sentence for physical abuse of a child w/great bodily harm to child–Class C 14. Serving § 948.40(4)(a) sentence for contributing to delinquency of child, which causes death–Class D

Estimating Positive Adjustment Time Eligibility

The calculation procedure provided below can only give you an estimate of the maximum possible PAT available for a specific sentence. The format below is based discussions with the DOC records supervisor. However, it is not an official form. The format assumes the maximum possible PAT for a sentence, and does not take into account conduct reports.

Case Number: _____
Count Number: _____
Date sentence imposed: _____ Date received in prison _____
Sentence: _____ years confinement and _____ years ES
Projected ES date on this count: _____
Positive Adjustment Time (check one): <div style="display: inline-block; vertical-align: middle; margin-right: 10px;">_____</div> 1 for 2 <div style="display: inline-block; vertical-align: middle; margin-right: 10px;">_____</div> 1 for 3 <div style="display: inline-block; vertical-align: middle; margin-right: 10px;">_____</div> 1 for 5.7


August 3, 2011	effective date of 2011 Wisconsin Act 38
-	(-) subtract calculation start date. This is the <u>latest</u> of: <ul style="list-style-type: none"> • October 1, 2009 (effective date of Act 28) • date sentenced • date received in prison system For consecutive sentences, the calculation start date is the MR/ES date for the previous sentence use a <u>calendar</u> to subtract days in other words, do <u>not</u> use a 30-day month calculation in any of the calculations on this form
=	= total days available for PAT reduction
	divide available days by 2 ("1 for 2" PAT) <u>or</u> 3 ("1 for 3" PAT) <u>or</u> 5.7 ("1 for 5.7" PAT) if a fraction of a day is left over, round down
=	= anticipated PAT earned, expressed in days
	ES date (on this count)
-	(-) subtract anticipated PAT earned , expressed in days use a <u>calendar</u> to count backwards the total number of days anticipated for PAT
=	= projected eligibility date for PAT sentence adjustment

Sample PAT Calculation

sample calculations are in bold

Case Number: 2009CF1234
Count Number: 1
Date sentence imposed: <u>10/1/2009</u> Date received in prison <u>10/1/2009</u>
Sentence: <u>4</u> years confinement and <u>2</u> years ES
Projected ES date on this count: <u>10/1/2013</u>
Positive Adjustment Time:: <u>1</u> for 2 <u>X</u> <u>1</u> for 3 <u>1</u> for 5.7 (check appropriate box)

August 3, 2011	effective date of 2011 Wisconsin Act 38
October 1, 2009	(-) subtract calculation start date. This is the <u>latest</u> of: <ul style="list-style-type: none"> • October 1, 2009 (effective date of Act 28) • date sentenced • date received in prison system <p>For consecutive sentences, the calculation start date is the MR/ES date for the previous sentence</p> <p>use a <u>calendar</u> to count total days available for PAT</p> <p>in other words, do <u>not</u> use a 30-day month calculation for any of the calculations on this form</p>
= 671	= total days available for PAT reduction
divide by 3	divide available days by 2 ("1 for 2" PAT) <u>or</u> 3 ("1 for 3" PAT) <u>or</u> 5.7 ("1 for 5.7" PAT)
= 223	= anticipated PAT earned, expressed in days
October 1, 2013	ES date (on this count)
- 223	(-) subtract anticipated PAT earned, expressed in days
= February 18, 2013	= projected eligibility date for PAT sentence adjustment

 <p style="text-align: center;">DIVISION OF ADULT INSTITUTIONS</p> <p style="text-align: center;">POLICY AND PROCEDURES</p>	DAI Policy #: 302.00.18	Page 1 of 6
	Original Effective Date: 04/23/12	New Effective Date: 05/08/12
	Supersedes: 302.00.18	Dated: 04/23/12
	Administrator's Approval: Cathy A. Jess, Administrator	
	Required Posting or Restricted: <input checked="" type="checkbox"/> Inmate <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted	
Chapter: 302 Assessment and Evaluation, Security Classification and Sentence Computation		
Subject: Positive Adjustment Time – Petition of Sentence Adjustment to Court		

POLICY

Inmates serving a sentence imposed under Wisconsin Statutes s. 973.01 and who have earned positive adjustment time may petition the court for modifications of bifurcated sentence.

REFERENCES

2009 WI Act 28 – Relating to state finances and appropriations, constituting the executive budget act of the 2009 legislature
2011 WI Act 38 – An act to repeal and amend portions of 2009 WI Act 28 and certain WI statutes; an act to create new statutes related to corrections and sentencing.
Wisconsin Statutes s. 16.964(12)(a), 2009 stats – Violent Offender definition
Wisconsin Statutes s. 301.46(2m), 2009 stats – Bulletins to Law Enforcement Agencies
Wisconsin Statutes s. 302.113(2)(b), 2009 stats – Release to Extended Supervision for felony offenders not serving life sentences
Wisconsin Statutes s. 304.06(1)(bg), 2009 stats – Release to parole or extended supervision from state prisons and house of correction
Wisconsin Statutes s. 973.01 – Bifurcated sentence of imprisonment and extended supervision
Wisconsin Statutes s. 973.195 – Sentence Adjustment, 75 and 85%
Wisconsin Statutes s. 973.198 – Sentence Adjustment; Positive Adjustment Time
Wisconsin Administrative Code s. DOC 302.33 – Positive Adjustment Time
Wisconsin Administrative Code s. DOC 303 – Discipline
Records Office Procedure 045 – Amended – Modified Sentence

DEFINITIONS, ACRONYMS, AND FORMS

BOCM – Bureau of Offender Classification and Movement

COMPAS® – Validated risk, needs and case management system

CR-281 – Petition for Positive Adjustment Time §973.198

CR-282 – Verification of Eligibility for Positive Adjustment Time §973.198

CR-283 – Order Concerning Positive Adjustment Time §973.198

DAI – Division of Adult Institutions

DOC – Department of Corrections

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DOC-173 – Offender Conduct Record

DOC-184 – Disbursement Request

DOC-2522 – Determination of Eligibility for Positive Adjustment Time Under Section 302.113(2)(b) 6., 2009 WI STATS

DOC-2638 – Positive Adjustment Time Computation (s. 973.198)

JOC – Judgment of Conviction

PAT – Positive Adjustment Time

SORP – Sex Offender Registry Program

Preliminary Verification – If completing #1 through #6 on the CR-282 indicates the inmate may not be eligible for positive adjustment time, the form will be submitted to the court without completing #7 through #12, unless otherwise ordered by the court.

Full Verification – If completing #1 through #6 on the CR-282 indicates that the inmate may be eligible for positive adjustment time, the form will be submitted to the court after completing #7 through #12.

Violent Offender – Wisconsin Statutes s. 16.964 (12) (a) In this subsection “violent offender” means a person to whom one of the following applies: (1) The person has been charged with or convicted of an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm. (2) The person has one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm.

PROCEDURE

I. Wisconsin Statutes s. 973.198 Requirements

- A. When an inmate who is serving a sentence imposed under Wisconsin Statutes s. 973.01 and who has earned positive adjustment time under Wisconsin Statutes s. 302.113, 2009, or under Wisconsin Statutes s. 304.06, 2009, has served the confinement portion of his or her sentence less positive adjustment time earned between October 1, 2009 and August 3, 2011, he or she may petition the sentencing court to adjust the sentence under this section, based on the number of days of positive adjustment time the inmate claims that he or she has earned.
- B. If an inmate is subject to more than one sentence, the sentences shall be treated individually for purpose of sentence adjustment.

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- C. An inmate who submits a petition under Wisconsin Statutes s. 973.198 may not apply for adjustment of the same sentence under Wisconsin Statutes s. 973.195 for a period of one year from the date of the petition.

II. Inmate Shall:

- A. Petition for PAT must be on form CR-281 which is available in the library.
- B. A completed CR-281 must be provided for each count or each case if there is more than one that is being petitioned.
- C. Obtain required forms from the institution library.
- D. Complete petition and forward to the Records Office.
1. Must include a sufficiently stamped envelope addressed to the court.
 2. Submit a DOC-184 for a copy of the DOC-173 and copy(ies) of JOC(s) of all sentence(s) served during this incarceration period to be mailed to the court.
 - a. A DOC-173 is required by the court.
 - b. Form CR-282 requires that copies of JOC(s) of all sentence(s) served during this incarceration period be attached.
 - c. Records will copy and submit the DOC-173 and JOC(s) for all sentences served during this incarceration period with the petition.
 3. Submit a separate DOC-184 for any additional postage costs.
 4. Supporting documentation may be attached to the petition such as prison programs, education, and/or treatment certificates; other justification documentation.
- E. For Milwaukee County Cases only, the petitions should be addressed to:

(Insert Name), Milwaukee County Staff Attorney
Room 117, Safety Building
821 W. State Street
Milwaukee, WI 53233

III. Librarian Shall:

- A. Maintain CR-281 in library.
- B. Collect photocopy fee from inmate for copies.

IV. Records Office Shall:

- A. Receive from the inmate:
1. Completed CR-281 for each count.
 2. Sufficiently stamped envelope that is properly addressed to the court.
 3. Any documentation that the inmate includes along with the petition.

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4. DOC-184 for a copy of the DOC-173 and copy(ies) of JOC(s) of all sentence(s) served during this incarceration period.
 5. A separate DOC-184 for any additional postage costs if necessary.
- B. Complete DOC-2638 and file on the left side of the legal file in reverse chronological order in the computation section.
- C. Determine if verification will be preliminary or full.
- D. If full verification is appropriate, forward inmate's name via e-mail to:
1. Social Worker for completion of COMPAS® Reentry Risk Assessment and DOC-2522.
 2. SORP (DOC BOPADMIN mailbox) for screening.
- E. If information was previously requested, receive the:
1. COMPAS® Reentry Risk Assessment Supervision Recommendation page from Social Worker and attach to completed CR-282.
 2. DOC-2522 from Social Worker and file on right side of Legal File.
 3. SORP screening information.
- F. Complete and notarize CR-282.
- G. Copy the DOC-173 and have it stamped with a notary seal to ensure the court knows that the document came from DOC. Even if the inmate has no conduct reports, a copy of the DOC-173 must be included.
- H. Mail all documents to the sentencing court in the envelope provided by the inmate, to include:
1. CR-281 (with any supporting documents submitted by inmate).
 2. CR-282.
 3. DOC-173 (with notary seal).
 4. Copies of JOC(s).
 5. COMPAS® Reentry Risk Assessment Supervision Recommendation page, if full verification.
- I. Receive the CR-283 from the court.
1. If a full verification is requested, Records Office shall forward completed CR-282 to court.
 2. If the petition has been granted, refer to Records Office Procedure 045.
 3. If the petition has been denied, file the CR-283 on the left side of the legal file with the JOCs in reverse chronological order.
- V. **Social Worker Shall:**
- A. Receive from Records Office via e-mail, notification of inmates who are petitioning for PAT.

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- B. Within three working days:
1. Complete a COMPAS® Reentry Risk Assessment and provide Records Office the Supervision Recommendation page via e-mail.
 2. Complete DOC-2522 and forward to Records Office via e-mail.

VI. SORP Shall:

- A. Receive from Records Office via e-mail, notification of inmates who are petitioning for PAT.
- B. Within three working days, complete SORP screening.
- C. Notify requesting Records Office via e-mail of outcome. Response must separately indicate yes or no to address each of the following:
1. Inmate has/has not been convicted or found guilty by reason of mental disease or defect of a sex offense or found to have committed a sex offense in another jurisdiction or been committed under Chapter 975.
 2. Inmate is/is not the subject of a bulletin issued under 301.46(2m), stat. (Special Bulletin Notice).

Administrator's Approval: _____ **Date Signed:** _____
 Cathy Jess, Administrator

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

Facility: Name		
Original Effective Date:	DAI Policy Number: 302.00.18	Page 6 of 6
New Effective Date: 00/00/00	Supersedes Number:	Dated:
Chapter: 302 Assessment and Evaluation, Security Classification and Sentence Computation		
Subject: Positive Adjustment Time – Petition of Sentence Adjustment to Court		
Will Implement <input type="checkbox"/> As written <input type="checkbox"/> With below procedures for facility implementation		
Warden's/Center Superintendent's Approval:		

REFERENCES

DEFINITIONS, ACRONYMS, AND FORMS

FACILITY PROCEDURE

- I.
 - A.
 - B.
 - 1.
 - 2.
 - a.
 - b.
 - c.
 - 3.
 - C.

II.

III.

RESPONSIBILITY

I. Staff

II. Inmate

III. Other

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

For Official Use

State of Wisconsin
-vs-

Amended

**Petition for Sentence
Adjustment
(Positive Adjustment Time)
§973.198**

_____, Defendant
Name

Date of Birth

Case No. _____

Count No. _____

1. I was sentenced for a crime of _____, on (Date) _____.
 - The total length of my bifurcated sentence on this count is _____ years, _____ months.
 - My initial term of confinement on this count is _____ years, _____ months.
 - My initial term of extended supervision on this count is _____ years, _____ months.
2. My sentence on this count is not for a Class A or a Class B felony.
3. My sentence on this count was imposed prior to August 3, 2011.
4. I have earned positive adjustment time because I served some or all of the confinement portion on this count between October 1, 2009 and August 2, 2011. Attached is the Verification of Confinement Time Eligible for Positive Adjustment Time form (CR-282) completed by the Department of Corrections.
5. I have filed this petition after serving the confinement portion on this count less the positive adjustment time that I have earned.
6. The following are the ground(s) for filing this petition: (Check all that apply)
 - A. My conduct, efforts at and progress in rehabilitation, or participation and progress in education, treatment, or other correctional programs since being sentenced supports my request (See attached copy(ies) of my prison program certifications(s)).
 - B. My risk of re-offending is low based on a verified, objective instrument (See attachment).
 - C. Other: _____

I request a hearing within sixty (60) days of the date this petition is filed. If the court grants this petition, I understand that the unserved confinement portion will be added to the extended supervision portion on this count. The total length of sentence on this count will not change.

I am at the following address: _____

Facility name

Facility address



Petitioner

Name Typed or Printed

Date

DISTRIBUTION:
1. Court – Original

POSITIVE ADJUSTMENT TIME COMPUTATION (s. 973.198)

OFFENDER NAME	DOC NUMBER	DATE RECEIVED
COURT CASE NUMBER	COUNT NUMBER	DATE SENTENCED

POSITIVE ADJUSTMENT TIME (PAT)

2011-08-03 -	Effective Date of 2011 WI ACT 38
	(-) Date PAT Starts*
	= Total days eligible for PAT (Use Julian calendar to calculate days) **

* PAT Start Date = Effective date of 2009 WI Act 28, which is 10-01-2009, date received in prison, or sentence date (whichever is later).

Note: In CS cases, this date would be the ES/MR of previous sentence.

** Maximum number of days possible is 671. Jail credit time is not included.

COMPLETED BY	DATE COMPLETED
--------------	----------------

DISTRIBUTION: Original - Legal File (left side)

State of Wisconsin
-vs-

Amended

Preliminary Full

**Verification of Eligibility for
Positive Adjustment Time
§973.198**

_____, Defendant

Case No. _____
Count No. _____

- Between October 1, 2009 and August 2, 2011 [inclusive of those dates with a maximum of 671 days], the inmate served _____ days in confinement on this count.
- As of the date of this verification the inmate's term of confinement on this count will be completed on [Date] _____.

Note: An inmate may petition for sentence adjustment only after s/he has served the confinement portion of the sentence less positive adjustment time earned. The petition cannot be filed any sooner than the following number of days prior to completion of the confinement term:

Conviction	Positive Adjustment Time that can be earned	Number of days prior to completion of confinement term that inmate can file petition
Misdemeanor or Class F to I felony that is not a violent offense	1 day for every 2 days served in confinement	Number of days listed in #1 divided by 2
Misdemeanor or Class F to I felony	1 day for every 3 days served in confinement	Number of days listed in #1 divided by 3
Class C to E felony	1 day for every 5.7 days served in confinement	Number of days listed in #1 divided by 5.7

- The inmate was was not convicted of a Class A or B felony on this count.
- The inmate is is not required to register under §301.45, Wis. Stats.
- The inmate is not serving and has not served another sentence during the current period of confinement on this count.
 is serving or has served another sentence during the current period of confinement on this count.
[All Judgment(s) of Conviction served during the current period of confinement attached.]

6. A summary of the inmate's prison conduct record is attached.

If #1 through #6 above indicates that the inmate may not be eligible for positive adjustment time, then check the "Preliminary" box in the heading and submit this verification without completing #7 through #12, unless otherwise ordered by the court. If not, then check the "Full" box in the heading and complete #7 through #12 below.

- The inmate has has not been convicted or found guilty by reason of mental disease or defect of a sex offense or found to have committed a sex offense in another jurisdiction or been committed under Chapter 975.
- The inmate has has not been determined by the Department of Corrections assessment to pose a high risk of reoffending. [See attachment]
- The inmate is is not the subject of a bulletin issued under §301.46(2m), Wis. Stats.
- The inmate will serve, is serving, or has served, during the current period of confinement, a sentence for a Class F to Class I felony that is a violent offense, as defined in §301.048(2)(bm)1, Wis. Stats. Yes No
[Checking "Yes" excludes the inmate from earning positive adjustment time under the 1 day for every 2 days served category.]
- The inmate is is not serving a sentence for an offense against an elderly or vulnerable person or an offense related to ethical government or school safety.
- The inmate is is not a violent offender under §16.964(12)(a), Wis. Stats.

State of _____
County of _____
Subscribed and sworn to before me on _____

My commission/term expires: _____

DISTRIBUTION:

1.Court – Original

(SEAL)

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

For Official Use

State of Wisconsin
-vs-

Amended

Name Defendant

**Order Concerning
Sentence Adjustment
(Positive Adjustment Time)
§973.198**

Date of Birth

Case No. _____
Count No. _____

A petition for sentence adjustment (positive adjustment time) was filed with the court.

THE COURT FINDS:

1. The inmate is serving a bifurcated sentence on this count imposed prior to August 3, 2011.
2. The inmate is not serving a sentence on this count for a Class A or Class B felony.
3. The Department of Corrections (DOC) or the Parole Commission has verified that the inmate earned positive adjustment time because the inmate served some or all of the confinement portion of this sentence between October 1, 2009 and August 2, 2011 and was convicted of

- a. a misdemeanor or a Class F to Class I felony that is not a violent offense, AND
- is not serving a sentence for an offense against an elderly or vulnerable person, an offense related to ethical government or school safety, felony murder, or a violation of §940.11(1), Wis. Stat. All subsequent references to the Wisconsin Statutes are to §940.235, or §940.32(3), §941.21, or §946.465;
 - has not during his/her current period of confinement served a sentence for a violent Class F to Class I felony;
 - has not during his/her current period of confinement served a sentence for a Class C to Class E felony;
 - was never convicted or found not guilty by reason of mental disease or defect of a sex offense;
 - was never found to have committed a sex offense in another jurisdiction;
 - is not required to register under §301.45, Wis. Stats. and is not the subject of a bulletin issued under §301.46(2m), Wis. Stats.;
 - was never committed under Chapter 975;
 - is not a violent offender under §16.964(12)(a), Wis. Stats., AND
 - was not determined by the Department of Corrections to pose a high risk of re-offending.

The inmate is therefore eligible for 1 day of positive adjustment time for every 2 days served in confinement between October 1, 2009 and August 2, 2011.

- b. a misdemeanor or a Class F to Class I felony, AND
- is not serving a sentence for an offense against an elderly or vulnerable person, an offense related to ethical government or school safety, felony murder, or a violation of §940.11(1), §940.235, or §940.32(3), §941.21, or §946.465, Wis. Stats.;
 - has not during his/her current period of confinement served a sentence for a Class C to Class E felony;
 - was never convicted or found not guilty by reason of mental disease or defect of a sex offense;
 - was never found to have committed a sex offense in another jurisdiction;
 - is not required to register under §301.45, Wis. Stats. and is not the subject of a bulletin issued under §301.46(2m), Wis. Stats., AND
 - was never committed under Chapter 975.

The inmate is therefore eligible for 1 day of positive adjustment time for every 3 days served in confinement between October 1, 2009 and August 2, 2011:

- c. a Class C to Class E felony, AND
 - is not serving a sentence for an offense against an elderly or vulnerable person, an offense related to ethical government or school safety, felony murder, of a violation of §940.06, §940.302, or §940.31(1), or §948.03(2)(a) or §948.40(4)(a), Wis. Stats.;
 - was never convicted or found not guilty by reason of mental disease or defect of a sex offense;
 - was never found to have committed a sex offense in another jurisdiction;
 - is not required to register under §301.45, Wis. Stats. and is not the subject of a bulletin issued under §301.46(2m), Wis. Stats., AND
 - was never committed under Chapter 975.

The inmate is therefore eligible for 1 day of positive adjustment time for every 5.7 days served in confinement between October 1, 2009 and August 2, 2011.

4. At the time the petition was filed, the inmate had served the confinement portion of the sentence less positive adjustment time that the inmate claims to have earned.
5. Within 60 days of the inmate filing the petition, the Court either denied or held a hearing on the petition and issued this order.

THE COURT CONSIDERED:

- the inmate's conduct in prison;
- the inmate's risk of re-offending based on a verified, objective instrument (if available);
- the nature of the inmate's offense, AND
- Other: _____

THE COURT ORDERS:

The Petition for Sentence Adjustment (Positive Adjustment Time) is

- 1. **GRANTED.** The confinement portion of the inmate's sentence is reduced by the amount of confinement time remaining, less up to 30 days. The unserved confinement portion of the defendant's sentence will be added to the extended supervision portion of the sentence. The total length of sentence will not change.
- 2. **DENIED.** The confinement portion of the defendant's sentence will not change.
- 3. Written reasons are attached.

THIS IS A FINAL ORDER FOR PURPOSES OF APPEAL.

BY THE COURT:

DISTRIBUTION:

1. Court – Original
2. Defendant/ Defendant's Attorney
3. District Attorney
4. Department of Corrections/Parole Commission
5. Victim
6. Other: _____

Circuit Court Judge

Name Printed or Typed

Date