

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

2015

PART A: BACKGROUND INFORMATION

1. What is “PAT sentence adjustment”?

Effective August 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. The provisions of Act 28 and Act 38 relating to PAT are discussed below.

Act 38 only made this change prospective (going forward). This means that inmates can still request early release based on PAT that they earned before August 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 Wis. Stat. § 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.

Note: As of November 2015 the Wisconsin Supreme Court agreed to review a Court of Appeals decision that considered challenges to the Act 38 changes to PAT. The Court of Appeals held that denying the Act 28 PAT early release opportunities to persons who committed their offense while Act 28’s provisions were in effect increased the penalty for the offense and therefore violated the *ex post facto* clause of the United States Constitution. The Court of Appeals therefore held that inmates eligible for PAT who committed an offense or were convicted or sentenced during Act 28 are entitled to earn PAT on their entire period of confinement. The Court of Appeals also held that the change in procedure for granting PAT release did not violate the *ex post facto clause*. Both issues will be reviewed by the Wisconsin Supreme Court. *State ex rel. Singh v. Kemper*, 2014 WI App 43, 353 Wis. 2d 520, 846 N.W.2d 820.

These materials are based on the ACT 38 changes. If you want to file for PAT adjustment, be sure to find out if the Wisconsin Supreme Court has issued a decision in its review of the above Court of Appeals decision.

If the Wisconsin Supreme Court agrees with the Court of Appeals that ACT 38 violated the *ex post facto clause*, and if you committed an offense during Act 28 and/or were convicted or sentenced during Act 28, you may wish to ask for PAT time on your entire period of confinement in prison, rather than just on the portion you served in prison between October 1, 2009 and August 2, 2011. However, none of the court forms (Court Forms 281 and 282) nor the form DOC uses to calculate the number of days you have served for which you might be eligible for PAT (DOC-2638, “Positive Adjustment Time Computation) were changed as a result of the Court of Appeals decision. These forms only refer to how many days you served in prison from October 1, 2009 through August 2, 2011. You would have to file a supplemental request, attached to the petition, asking for PAT on your entire period of confinement.

This *pro se* packet is designed to assist you in representing yourself. It is not intended to provide legal advice to any individual. Your case may involve circumstances that are not taken into account by this packet. This material was drafted in 2015, so you should check to see if the law or procedures have changed.

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 October 1, 2009 through August 2, 2011. **If you were not in prison during that time period, you are not eligible for “PAT sentence adjustment.”**

Even for inmates who were incarcerated between October 1, 2009 and August 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.”

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

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

There were three different levels of PAT reductions, depending on the felony classification and

This *pro se* packet is designed to assist you in representing yourself. It is not intended to provide legal advice to any individual. Your case may involve circumstances that are not taken into account by this packet. This material was drafted in 2015, so you should check to see if the law or procedures have changed.

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 October 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 October 1, 2009 or the date that the inmate arrived in the prison system.

2011 Wisconsin Act 38 repealed PAT release as of August 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 August 3, 2011. As a result, the maximum PAT that an inmate could earn would be for the period from October 1, 2009 through August 2, 2011. If the inmate was sentenced after October 1, 2009, or if the inmate arrived in the prison system after October 1, 2009, 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 38, this authority was transferred to the sentencing judge for all eligible inmates. Act 38 created the “PAT sentence adjustment” process under Wis. Stat. § 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.

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).

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,” the inmate can file for § 973.198 “PAT sentence adjustment” afterward. See our reasons below.

- “PAT sentence adjustment” is available *only* to inmates who were serving time between October 1, 2009 and August 3, 2011. If you were not incarcerated during this period, you

¹ Presumably, Act 38 retained PAT for these inmates to avoid violating the Constitution's *ex post facto* clause. See *State v. Carroll*, 2012 WI App 83, ¶12, 343 Wis. 2d 509, 819 N.W.2d 343 (rejecting an inmate's claim that the repeal of PAT was a “new factor” warranting sentence modification *and* indirectly dismissing the argument that the repeal of PAT increased the inmate's sentence).

This *pro se* packet is designed to assist you in representing yourself. It is not intended to provide legal advice to any individual. Your case may involve circumstances that are not taken into account by this packet. This material was drafted in 2015, so you should check to see if the law or procedures have changed.

cannot file for “PAT sentence adjustment” at all.

- PAT excludes many offenders and specific felonies that are not excluded under Wis. Stat. § 973.195. Thus, many inmates who are not eligible for § 973.198 “PAT sentence adjustment” will be eligible for § 973.195 sentence adjustment.
- Most inmates will have more time available for adjustment under Wis. Stat. § 973.195 than under § Wis. Stat. 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 includes, at most, the period from October 1, 2009 through August 2, 2011, not the whole confinement time. In addition, PAT is based on good behavior *in prison*. Thus, the PAT eligibility period does not include jail credit.

EXAMPLE:

Assume that an inmate was sentenced on October 1, 2009, to 4 years of confinement and 2 years of ES for a violent Class F felony. 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 October 1, 2008. Thus, the inmate was eligible for § 973.195 sentence adjustment on October 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.”² PAT applies only to time in prison, so the inmate’s year of jail

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.

This *pro se* packet is designed to assist you in representing yourself. It is not intended to provide legal advice to any individual. Your case may involve circumstances that are not taken into account by this packet. This material was drafted in 2015, so you should check to see if the law or procedures have changed.

credit will not count. The inmate will earn PAT at a rate of “1 for 3 days” from October 1, 2009 through August 2, 2011, a period of 671 days. The inmate can earn 1/3 of those days as PAT, which amounts to 223 days. The inmate’s PAT eligibility date would be the release date (October 1, 2012) minus 223 days, or February 18, 2012. This is considerably later than eligibility date of October 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.

- If an inmate files for § 973.198 “PAT sentence adjustment” and gets denied, the inmate must 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 Wis. Stat. § 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 Wis. Stat. § 973.195. If the petition is denied, the inmate can apply again under Wis. Stat. § 973.198. The “§ 973.195 Sentence Adjustment *Pro Se* Packet” is included in Chapter 4 of the *LAIP Desk Book*.

This *pro se* packet is designed to assist you in representing yourself. It is not intended to provide legal advice to any individual. Your case may involve circumstances that are not taken into account by this packet. This material was drafted in 2015, so you should check to see if the law or procedures have changed.

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, Wis. Stat. § 973.198 refers to the PAT eligibility requirements under the now-repealed 2009 statutes, Wis. Stat. §§ 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 December 31, 1999, and January 31, 2003, have **TIS 1** felony classifications. Offenses occurring between February 1, 2003, and the present have **TIS 2** felony classifications.

Although Wis. Stat. § 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 and nonviolent Class F-I felonies*. Wis. Stat. § 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*. Wis. Stat. § 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*. Wis. Stat. § 304.06(1)(bg)2 (2009).

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

- Wis. Stat. § 302.113(2)(b) (2009): exclusions for “1 for 2 days” PAT
- Wis. Stat. § 304.06(1)(bg)(1)(am)-(o) (2009): exclusions for “1 for 3 days” PAT
- Wis. Stat. § 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 following this information sheet.

This *pro se* packet is designed to assist you in representing yourself. It is not intended to provide legal advice to any individual. Your case may involve circumstances that are not taken into account by this packet. This material was drafted in 2015, so you should check to see if the law or procedures have changed.

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, 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, 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. A schedule of how much PAT can be lost is in Wis. Stat. § 302.113(3)(a) (2009), a copy of which is included at the end of this packet.

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 Wis. Stat. § 973.198 only allows for PAT during the period October 1, 2009, through August 2, 2011. If you were not incarcerated *in prison* during that period, you are **not** eligible for “PAT sentence adjustment.”

Assuming that you were incarcerated between October 1, 2009, and August 2, 2011, 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];
- October 1, 2009;
- The date you entered the prison system.

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 Wis. Stat. § 973.195.

PART C: FORMS AND INSTRUCTIONS

1. Filing Procedures

Section 973.198 of the Wisconsin Statutes 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.

a. 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.

- 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 packet, and the form is also available in your institution library.
- **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 a single 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.
- It is a good idea to include attachments with the petition. These attachments will be discussed below in section 2.

b. 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 to the court by your eligibility date.

- 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).
- 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.
- You must also submit a disbursement request (**Form DOC-184**) to pay for a copy of your

This *pro se* packet is designed to assist you in representing yourself. It is not intended to provide legal advice to any individual. Your case may involve circumstances that are not taken into account by this packet. This material was drafted in 2015, so you should check to see if the law or procedures have changed.

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.

c. The records office will complete form DOC-2638, “Positive Adjustment Time Computation.”

This form only lists how many days you served in prison from October 1, 2009, through August 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.

d. Using form DOC-282, “Verification of Eligibility for Positive Adjustment Time § 973.198,” the records office will determine your eligibility for PAT

The records office will determine whether, based on its records, you appear to be statutorily eligible for PAT on this particular 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 complicated. The records office will complete Items 1-6 on the form. 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. It will, however, send the partially completed **Court Form CR-282**, and any other documents you submitted to the records office to the court (*see* section *h*, below). It is very unlikely the court will approve this PAT sentence adjustment if the records office does not deem you eligible for PAT.

On the other hand, if it appears from completing Items 1-6 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.

e. If the records office determines that you may be eligible for PAT, further review is undertaken.

If the records office has checked the box “full” on **Court Form CR-282**, it will email your name to your social worker and to the Sex Offender Registry Program (SORP).

f. Within 3 working days, the social worker must complete a COMPAS risk assessment for you.

The social worker must complete a **Form DOC-2522, “Determination of Eligibility for Positive Adjustment Time under Section 302.113(2)(b)6, 2009 WI STATS,”** and return this form to the records office within 3 working days of receiving the email from the records office.³

³ Under Act 28, a “risk of reoffending” assessment was required only for 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

This *pro se* packet is designed to assist you in representing yourself. It is not intended to provide legal advice to any individual. Your case may involve circumstances that are not taken into account by this packet. This material was drafted in 2015, so you should check to see if the law or procedures have changed.

g. Within 3 working days, SORP must complete a SORP screening.

When SORP completes its screening, it must 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).

h. The records office will mail the necessary documents to the court.

Once the records office has all the information it has requested, in the envelope you have provided, it will mail the following documents to the court:

- Your petition (**Court Form CR-281**), with all of your attachments.
- 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.
- A signed and notarized copy of **Form DOC-173, “Offender Conduct Record.”**
- The COMPAS risk assessment recommendation page, but only if **Court Form CR-282** is checked “full” in the caption.
- Judgments of Conviction (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 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

adjustment” (DAI Policy # 302.00.18) requires a COMPAS assessment for all inmates petitioning the court for PAT.

This *pro se* packet is designed to assist you in representing yourself. It is not intended to provide legal advice to any individual. Your case may involve circumstances that are not taken into account by this packet. This material was drafted in 2015, so you should check to see if the law or procedures have changed.

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 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.

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.

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.

This *pro se* packet is designed to assist you in representing yourself. It is not intended to provide legal advice to any individual. Your case may involve circumstances that are not taken into account by this packet. This material was drafted in 2015, so you should check to see if the law or procedures have changed.

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 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 Wis. Stat. § 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 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 of the Wisconsin Statutes 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 District Attorney, 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-**

This *pro se* packet is designed to assist you in representing yourself. It is not intended to provide legal advice to any individual. Your case may involve circumstances that are not taken into account by this packet. This material was drafted in 2015, so you should check to see if the law or procedures have changed.

283, “Order Concerning 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. 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 your extended supervision (ES). Wis. Stat. § 973.198(4).

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