



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-2002/1  
PJH&CMH:kjf:wj

## 2015 SENATE BILL 82

March 23, 2015 - Introduced by Senators WANGGAARD and RISSER, cosponsored by Representatives J. OTT and HEBL, by request of Wisconsin Judicial Council. Referred to Committee on Judiciary and Public Safety.

1     **AN ACT to repeal** 346.74 (5) (e), 758.19 (5) (a) 5., 940.49, 967.02 (title), 967.02 (3)  
2             and (4), 967.02 (8), 967.03, 967.05 (1) (b) and (c), 967.05 (2) and (3), 967.06 (title),  
3             967.06 (2) (b), 967.07, 968.01 (1) (c), 968.02 (2), 968.02 (3), 968.02 (4), 968.03  
4             (title) and (3), 968.03 (1), 968.04 (1) (a), 968.04 (2) (title), 968.04 (2) (c), 968.04  
5             (3) (title), 968.04 (3) (a) 8., 968.04 (3) (b) 3. a., 968.04 (3) (b) 3. b. (intro.), 968.04  
6             (3) (b) 4., 968.06, 968.085 (2) (a) to (f), 968.09 (2), 968.12 (3) (e), 969.001 (2),  
7             969.01 (2) (title), 969.02 (title), (1), (2), (3) (a), (b), (c) and (d), (4), (4m), (5), (7),  
8             (7m) and (8), 969.03, 969.05, 969.08 (1), (2), (3) and (4), 969.09 (title), (1) and  
9             (3), 969.13, 969.14, 970.01 (title), 970.01 (2), 970.02 (title), 970.02 (1) (intro.),  
10            970.02 (3), 970.02 (4), 970.032 (title), 971.04 (1) (a), 971.06 (1) (d), 971.06 (2),  
11            971.06 (3), 971.07, 971.08 (3), 971.14 (title), 971.14 (1g), 971.14 (1r) (title),  
12            971.14 (2) (title), 971.14 (2) (am), 971.14 (3) (dm) 1. and 2., 971.14 (4) (title),  
13            971.14 (4) (b), 971.14 (4) (c), 971.14 (4) (d), 971.14 (5) (title), 971.14 (6) (title),  
14            971.14 (6) (a), 971.16 (1), 971.16 (3) (a), 971.16 (3) (b), 971.17 (1j) (title), 971.17

**SENATE BILL 82**

1 (1m) (title), 971.17 (2) (title), 971.17 (3) (title), 971.17 (4m), 971.17 (6m) (title),  
2 971.17 (6m) (a) 1., 971.17 (6m) (b), 971.17 (6m) (c), 971.17 (7) (d), 971.225 (1) (b),  
3 971.23 (title), 971.23 (2m) (a), 971.23 (2m) (am), 971.23 (5c) (title), 971.23 (6c)  
4 (title), 971.23 (7m) (b), 971.23 (8) (b), 971.23 (8) (c), 971.23 (8) (e), 971.23 (10)  
5 (title), 971.29 (3), 971.30 (title) and (1), 971.31 (title), 971.31 (1), 971.31 (5) (a),  
6 971.31 (7), 971.31 (8), 972.02 (title), 972.04 (2), 972.09, 972.10 (1) (a) (intro.),  
7 972.10 (1) (a) 2., 972.10 (2), 972.10 (3), 972.10 (4), 972.10 (6), 972.115 (title),  
8 972.13 (title), 972.13 (6), 972.13 (7), 972.14 (1) (ag), 973.049 (1) (b), 973.20 (1g),  
9 974.05 (3), 975.001, 975.01, 975.06, 975.07, 975.08, 975.09, 975.10, 975.11,  
10 975.12, 975.15, 975.16, 975.17, 975.18, 977.076 (1), 979.05 (title), 979.06 (title),  
11 (1), (2) and (5), 979.07 and 979.08 (2); **to renumber** 967.02 (intro.), 967.02 (5),  
12 967.057, 967.08 (title), 967.10, 967.11, 968.01 (1) (intro.), (a) and (b), 968.01 (4),  
13 968.04 (2) (b), 968.04 (3) (b) (title), 968.075 (title), 968.075 (1), 968.075 (2) (ar),  
14 968.075 (2) (b), 968.075 (3), 968.075 (4), 968.075 (6) to (9), 968.085 (3) (intro.),  
15 968.085 (3) (c), 968.085 (6), 968.12 (4), 968.13 (1) (b), (c) and (d), 968.135 (title),  
16 968.17, 968.18, 968.20 (title), 968.20 (1r), 968.21, 968.22, 968.23, 968.24,  
17 968.255 (title), 968.255 (2) (intro.), 968.255 (5), 968.265, 968.27 (2), 968.27 (5),  
18 968.27 (8), 968.27 (10), 968.27 (12) and (13), 968.27 (14), 968.27 (14g), 968.27  
19 (15), 968.27 (17), 968.33, 968.373, 968.505 (title), 969.01 (title), 969.08 (5) (a),  
20 969.08 (5) (b) 2., 969.08 (5) (b) 5., 969.08 (6), 969.08 (9), 969.08 (10), 969.12,  
21 970.03 (title), 970.03 (2), (3), (4), (5) and (6), 970.032 (2) (a), (b) and (c), 970.04,  
22 970.05, 971.03, 971.04 (title), 971.12 (title), 971.14 (1r) (a), 971.14 (2) (f), 971.14  
23 (3) (a) and (b), 971.16 (title), 971.165 (title), 971.17 (title), 971.17 (1j) (a), 971.17  
24 (4) (title), 971.17 (5) (title), 971.17 (6m) (a) 2., 971.17 (6m) (a) 3., 971.17 (7)  
25 (title), 971.17 (7m), 971.225 (title), 971.23 (1) (c), 971.23 (1) (h), 971.23 (5c),

**SENATE BILL 82**

1 971.23 (8) (title), 971.23 (10), 971.26, 971.32, 971.34, 971.36, 971.365, 972.10  
2 (title), 972.11 (title), 972.13 (4), 973.18 (title), 973.18 (5), 973.19 (title) and  
3 979.08 (title); **to renumber and amend** 801.50 (5t), 967.02 (1), 967.02 (2),  
4 967.02 (6), 967.02 (7), 967.04 (title), (1), (2), (3), (4), (5) and (6), 967.04 (7) (a),  
5 967.04 (7) (b), 967.04 (8), 967.04 (9), 967.04 (10), 967.05 (title), 967.055, 967.06  
6 (3), 967.08 (1), 967.08 (2) (intro.), 967.08 (2) (a) to (d), 967.08 (3) (intro.), 967.08  
7 (3) (a) to (f), 967.09, 968.01 (title), 968.01 (2), 968.01 (3), 968.02 (title) and (1),  
8 968.03 (2), 968.04 (title), 968.04 (1) (intro.), 968.04 (1) (b), 968.04 (1) (c), 968.04  
9 (1) (d), 968.04 (2) (a), 968.04 (3) (a) (intro.), 968.04 (3) (a) 1. to 6., 968.04 (3) (a)  
10 7., 968.04 (3) (b) 1., 968.04 (3) (b) 2., 968.04 (3) (b) 3. (intro.), 968.04 (3) (b) 3. b.  
11 (form), 968.04 (4), 968.05, 968.07, 968.073, 968.075 (2) (a), 968.075 (2) (am),  
12 968.075 (2m), 968.075 (5), 968.08, 968.085 (title), 968.085 (1), 968.085 (2)  
13 (intro.), 968.085 (3) (a), 968.085 (3) (b), 968.085 (3) (d), 968.085 (4), 968.085 (5),  
14 968.085 (7), 968.085 (8), 968.09 (title), 968.09 (1), 968.10, 968.11, 968.12 (title),  
15 968.12 (1), 968.12 (3) (title), 968.12 (3) (b), 968.13 (title), 968.13 (1) (intro.),  
16 968.13 (1) (a), 968.13 (2), 968.135, 968.14, 968.15, 968.16, 968.19, 968.20 (1),  
17 968.20 (1m), 968.20 (2), 968.20 (3) and (4), 968.205, 968.25, 968.255 (1), 968.255  
18 (2) (ag), (am), (ar), (b), (c), (d) and (e), 968.255 (3), 968.255 (4), 968.255 (6),  
19 968.255 (7), 968.256, 968.26, 968.27 (intro.), 968.27 (1), 968.27 (3), 968.27 (4),  
20 968.27 (6), 968.27 (7), 968.27 (9), 968.27 (11), 968.28, 968.29, 968.30, 968.31,  
21 968.32, 968.34, 968.35, 968.36, 968.37, 968.38, 968.40 (title), 968.40 (1), 968.40  
22 (3), 968.40 (4), 968.40 (6), (7) and (8), 968.41, 968.42, 968.43, 968.44, 968.45  
23 (title), 968.45 (1), 968.45 (2), 968.46, 968.47, 968.48, 968.49, 968.50, 968.505,  
24 968.51, 968.52, 968.53, 969.001 (intro.), 969.001 (1), 969.01 (1), 969.01 (2) (a),  
25 969.01 (2) (d), 969.01 (2) (e), 969.01 (3), 969.01 (4), 969.02 (2m), 969.02 (3) (e),

**SENATE BILL 82**

1 969.02 (6), 969.035, 969.04, 969.065, 969.07, 969.08 (title), 969.08 (5) (b) 1.,  
2 969.08 (5) (b) 3., 969.08 (5) (b) 4., 969.08 (7), 969.08 (8), 969.08 (9m), 969.09 (2),  
3 969.11, 970.01 (1), 970.02 (1) (a), 970.02 (2), 970.02 (7), 970.02 (8), 970.03 (1),  
4 970.03 (7), (8) and (9), 970.03 (10), (12), (13) and (14), 970.032 (1), 970.032 (2)  
5 (intro.), 970.035, 970.038, 971.01, 971.02, 971.04 (1) (intro.), 971.04 (1) (b), (c),  
6 (d), (e), (f), (g) and (h), 971.04 (2), 971.04 (3), 971.05, 971.08 (1) (a), 971.10 (1),  
7 971.10 (2) (a), 971.10 (2) (b), 971.10 (3) (a), 971.10 (4), 971.12 (1) and (2), 971.12  
8 (3), 971.12 (4), 971.13, 971.14 (1r) (b), 971.14 (1r) (c), 971.14 (2) (a), 971.14 (2)  
9 (b), 971.14 (2) (c), 971.14 (2) (d), 971.14 (2) (e), 971.14 (2) (g), 971.14 (3) (intro.),  
10 971.14 (3) (c), 971.14 (3) (d), 971.14 (3) (dm) (intro.), 971.14 (3) (e), 971.14 (4) (a),  
11 971.14 (5) (a) 1., 2. and 3., 971.14 (5) (a) 4., 971.14 (5) (am), 971.14 (5) (b), 971.14  
12 (5) (c), 971.14 (5) (d), 971.14 (6) (b), 971.14 (6) (c), 971.14 (6) (d), 971.15, 971.16  
13 (2), 971.16 (3) (intro.), 971.16 (4), 971.16 (5), 971.16 (6), 971.165 (1), 971.165 (2),  
14 971.165 (3) (a), 971.165 (3) (b), 971.17 (1), 971.17 (1g), 971.17 (1h), 971.17 (1j)  
15 (b), 971.17 (1m) (a), 971.17 (1m) (b) 1m. a., 971.17 (1m) (b) 1m. b., 971.17 (1m)  
16 (b) 2m., 971.17 (1m) (b) 3., 971.17 (1m) (b) 4., 971.17 (1m) (b) 5., 971.17 (2) (a),  
17 971.17 (2) (b), 971.17 (2) (c), 971.17 (2) (d), 971.17 (2) (e), 971.17 (2) (f), 971.17  
18 (2) (g), 971.17 (3) (a), 971.17 (3) (b), 971.17 (3) (c), 971.17 (3) (d), 971.17 (3) (e),  
19 971.17 (4) (a), 971.17 (4) (b), 971.17 (4) (c), 971.17 (4) (d), 971.17 (4) (e), 971.17  
20 (5), 971.17 (6), 971.17 (6m) (a) (intro.), 971.17 (6m) (d), 971.17 (7) (a), 971.17 (7)  
21 (b), 971.17 (7) (c), 971.17 (8), 971.18, 971.19, 971.20, 971.22, 971.223, 971.225  
22 (1) (intro.), (a) and (c), 971.225 (2), 971.23 (1) (intro.), 971.23 (1) (a), 971.23 (1)  
23 (b), 971.23 (1) (bm), 971.23 (1) (d), 971.23 (1) (e), 971.23 (1) (f), 971.23 (1) (g),  
24 971.23 (2m) (intro.), 971.23 (2m) (b), 971.23 (2m) (c), 971.23 (3), 971.23 (5),  
25 971.23 (6) (title), 971.23 (6), 971.23 (6c), 971.23 (6m), 971.23 (7), 971.23 (7m) (a),

**SENATE BILL 82**

1           971.23 (8) (a), 971.23 (8) (d), 971.23 (9), 971.23 (11), 971.27, 971.29 (title), 971.29  
2           (1), 971.29 (2), 971.31 (2), 971.31 (3), 971.31 (4), 971.31 (6), 971.31 (9), 971.31  
3           (10), 971.31 (11), 971.31 (12), 971.31 (13), 971.315, 972.02 (1), 972.02 (2), 972.02  
4           (3), 972.02 (4), 972.03, 972.07, 972.08, 972.085, 972.10 (1) (a) 1., 972.10 (1) (b),  
5           972.10 (5), 972.10 (7), 972.11 (1), 972.11 (2), 972.11 (2m) (a) (intro.) and 1.,  
6           972.11 (2m) (b), 972.11 (2m) (bm), 972.11 (2m) (c) (intro.), 1m., 2m. and 3m.,  
7           972.11 (3), 972.11 (3m), 972.11 (4), 972.115 (1), 972.115 (2), 972.115 (4) and (5),  
8           972.12, 972.13 (1), 972.13 (2), 972.13 (3), 972.13 (5), 972.14 (title), (2), (2m) and  
9           (3), 972.15, 973.18 (1), 973.18 (2), (3) and (4), 973.19 (1) (a), 973.19 (1) (b), 973.19  
10          (2), (3), (4) and (5), 977.076 (2), 979.04, 979.05 (1), 979.05 (2), 979.05 (3), 979.05  
11          (4), 979.05 (5), (6) and (7), 979.06 (3), (4) and (6), 979.08 (1), 979.08 (3) (a), 979.08  
12          (3) (b), 979.08 (5), 979.08 (6) and 979.08 (7); **to consolidate, renumber and**  
13          **amend** 967.05 (1) (intro.) and (a), 967.06 (1) and (2) (a), 968.12 (2) and (3) (a)  
14          and (d), 968.12 (3) (c) and (f), 968.27 (16) (intro.), (a) and (b), 969.01 (2) (b) and  
15          (c), 970.02 (1) (b) and (6), 970.02 (1) (c) and (5), 971.11 (2) and (3), 971.30 (2)  
16          (intro.), (a), (b) and (c), 971.31 (5) (b) and (c), 972.11 (2m) (a) 2. (intro.), a. and  
17          b., 972.14 (1) (intro.) and (b), 973.049 (1) (intro.) and (a) and 979.08 (3) (intro.)  
18          and (4); **to amend** 6.10 (7m) (a) (intro.), 6.10 (7m) (a) 2., 13.35 (2), 16.84 (2),  
19          17.16 (7) (b), 19.32 (1b), 20.435 (2) (bj), 20.435 (2) (gk), 20.550 (1) (f), 23.33 (4c)  
20          (b) 3., 23.56 (1), 23.65 (2), 29.921 (6), 29.938 (2), 29.972 (1) (a), 29.972 (1) (c),  
21          30.681 (2) (c), 46.10 (2), 46.90 (6) (bt) 8., 48.31 (2), 48.396 (2) (dr), 48.78 (2) (d)  
22          1., 48.981 (1) (b), 48.981 (7) (a) 14m., 49.138 (1m) (c), 49.19 (4) (d) 3., 51.05 (2),  
23          51.20 (1) (am), 51.20 (16) (j), 51.30 (3) (b), 51.30 (4) (b) 8m., 51.30 (4) (b) 9., 51.30  
24          (4) (b) 11., 51.30 (4) (b) 12m., 51.30 (4) (b) 16., 51.30 (7), 51.37 (1), 51.37 (3), 51.37  
25          (4), 51.37 (9), 51.37 (10) (am), 51.375 (1) (a), 51.39, 51.42 (3) (as) 1m., 51.42 (3)

**SENATE BILL 82**

1 (as) 1r., 51.42 (3) (aw) 1. d., 51.437 (4rm) (a), 51.61 (1) (intro.), 51.61 (1) (e), 51.61  
2 (1) (i) 1., 51.87 (3), 55.043 (6) (bt) 8., 55.075 (intro.), 59.34 (2) (a), 66.0113 (3) (e),  
3 66.0114 (1) (a), 66.0139 (4) and (5), 69.18 (2) (f) 3., 71.78 (4) (n), 77.61 (12) (b),  
4 93.17 (2), 102.13 (5), 103.005 (20), 103.10 (1m) (b) 1., 110.001 (1m), 110.07 (2m),  
5 110.07 (4), 111.07 (2) (b) 2., 128.16 (2), 133.15 (2), 134.43 (3), 139.20 (2), 139.39  
6 (5) (b), 146.81 (4), 146.82 (2) (c), 154.30 (3) (a) 2., 165.76 (1) (bm), 165.76 (1) (br),  
7 165.76 (1) (g), 165.76 (1m), 165.76 (2m) (g), 165.76 (4) (a) and (b), 165.76 (4) (c),  
8 165.765 (1m), 165.765 (2) (a) 1., 165.77 (2) (b), 165.77 (2m) (c), 165.77 (3), 165.77  
9 (4) (am) 1., 165.77 (4) (am) 2. (intro.), 165.77 (4) (am) 2. a., b. and d., 165.79 (1),  
10 165.81 (1), 165.81 (3) (a) 1. and 2., (b) and (f), 165.84 (7) (am) 1m. c., 167.10 (8)  
11 (b), 169.42 (2) (b), 173.10, 173.12 (1m), 175.55 (2), 175.60 (3) (d), 175.60 (3) (e),  
12 175.60 (9g) (a) 2., 175.60 (11) (a) 2. b., 175.60 (11) (a) 2. c., 175.60 (11) (a) 2. g.,  
13 175.60 (11) (a) 2. i., 175.60 (14) (am), 195.048 (2), 196.207 (3) (e), 196.48 (1) (b),  
14 230.81 (2), 251.16, 252.11 (5m), 252.11 (7), 252.15 (2m) (b) 3., (3m) (d) 14. and  
15 (4) (c), 301.03 (3c), 301.03 (7m), 301.035 (2), 301.035 (4), 301.45 (1g) (c), 301.45  
16 (1g) (d), 301.45 (1g) (dd), 301.45 (1g) (dp), 301.45 (1g) (e), 301.45 (1m) (b), 301.45  
17 (1m) (be), 301.45 (1m) (bm), 301.45 (1m) (bv), 301.45 (1m) (d) 1., 301.45 (1m) (e)  
18 (intro.), 301.45 (1p) (b), 301.45 (3) (a) 3., 301.45 (3) (a) 3g., 301.45 (3) (b) 3.,  
19 301.45 (5) (a) 3., 301.45 (5) (a) 3m., 301.45 (5) (b) 3., 301.45 (6) (a) 2. a., 301.45  
20 (6) (ag) 2. a., 301.45 (6) (bm), 301.45 (7) (f) 4., 301.46 (3) (d), 301.47 (3) (b) 1.,  
21 301.48 (2) (a) 4., 301.48 (2) (a) 5., 301.48 (2) (b) 3., 302.113 (9) (e), 302.114 (9) (d),  
22 304.06 (3), 322.0767 (1) (a), 322.0767 (1) (b), 322.0767 (1) (c), 322.0767 (1) (d),  
23 322.0767 (2) (a), 322.0767 (2) (b), 322.0767 (2) (c), 322.0767 (2) (d), 322.0767 (2)  
24 (e), 343.305 (9) (c), 345.20 (1) (a), 345.20 (2) (c), 345.28 (3) (a), 345.28 (5) (b) 1.,  
25 345.31, 346.63 (2) (am), 346.63 (6) (b), 350.101 (2) (c), 551.602 (5) (b), 553.55 (3)

**SENATE BILL 82**

1 (b), 601.62 (5) (b), 631.95 (1) (c), 704.16 (1) (b) 4., 704.16 (1) (b) 7., 704.16 (3) (b)  
2 2. d., 704.16 (3) (b) 2. g., 756.06 (2) (a), 756.06 (2) (c), 757.54 (2) (a) 1., 757.54 (2)  
3 (a) 2., 757.69 (1) (b), 757.69 (1) (i), 758.171, 767.87 (4) (b), 781.04 (1), 785.03 (1)  
4 (b), 800.035 (8), 801.02 (7) (a) 2. c., 801.02 (7) (a) 2. e., 801.52, 807.05, 808.04 (3),  
5 808.04 (4), 808.075 (4) (b) 4., 808.075 (4) (g) 1., 808.075 (4) (g) 2., 808.075 (4) (g)  
6 7., subchapter III (title) of chapter 809 [precedes 809.30], 809.30 (title), 809.30  
7 (1) (a), 809.30 (1) (b) 4., 809.30 (1) (c), 809.30 (1) (e), 809.30 (2) (a), 809.30 (2) (d),  
8 809.31 (6), 814.22 (1) (intro.), 814.69 (1) (a), 885.01 (2), 885.15 (2), 885.24 (2),  
9 885.25 (2m), 885.365 (1), 885.64 (2), 891.39 (1) (b), 891.39 (2) (b), 893.93 (1) (d),  
10 895.01 (1) (am) 7., 895.34, 895.446 (4), 895.45 (1) (a), 895.46 (9) (a) (intro.) and  
11 2. and (b) (intro.) and 2., 895.54, 901.01, 901.04 (1), 901.04 (3) (cm), 901.05 (3),  
12 904.04 (1) (b), 904.04 (2) (b) 1., 904.06 (1), 906.08 (1) (intro.), 906.08 (2), 907.06  
13 (5), 908.08 (5) (am), 908.08 (5) (b), 908.08 (6), 911.01 (1), 911.01 (4) (b), 911.01  
14 (4) (c), 938.183 (1) (ar), 938.183 (1m) (b), 938.195 (1) (a), 938.293 (2), 938.30 (2),  
15 938.30 (3), 938.30 (5) (c) (intro.), 938.30 (5) (d) (intro.), 938.30 (5) (e) 1. (intro.),  
16 938.31 (2), 938.31 (3) (a) 4., 938.31 (3) (d), 938.315 (2), 938.35 (1) (cm), 938.396  
17 (1) (a), 938.396 (2g) (dr), 938.535, 938.78 (2) (d) 1., 939.60, 939.615 (2) (a),  
18 939.615 (3) (d), 939.621 (1) (a), 939.621 (2), 939.74 (1), 939.74 (3), 939.74 (4),  
19 940.09 (1m) (a), 940.09 (1m) (b), 940.225 (4) (intro.), 940.25 (1m) (b), 940.32 (2m)  
20 (d), 940.48 (intro.), 941.28 (5), 941.29 (3), 943.245 (3m), 943.51 (3r), 946.42 (3)  
21 (g), 946.49 (1) (intro.), 946.49 (2), 946.52, 946.60 (1), 946.86 (2), 946.87 (2) (am),  
22 948.015 (9), 948.31 (5), 948.50 (4) (c), 948.50 (5), 949.165 (1) (a), 949.165 (9),  
23 950.04 (1v) (b), 950.04 (1v) (d), 950.04 (1v) (dL), 950.04 (1v) (do), 950.04 (1v) (e),  
24 950.04 (1v) (em), 950.04 (1v) (er), 950.04 (1v) (g), 950.04 (1v) (L), 950.04 (1v) (m),  
25 950.04 (1v) (p), 950.04 (1v) (pd), 950.04 (1v) (qm), 950.04 (1v) (s), 950.04 (1v)

**SENATE BILL 82**

1 (um), 950.04 (1v) (x), 950.04 (2w) (f), 950.055 (2) (b), 950.08 (2g) (c), 950.08 (2g)  
2 (e), 950.08 (2g) (h), 950.08 (2r) (intro.), 950.08 (2w), 951.01 (4), 961.48 (2m) (a),  
3 961.48 (2m) (b) (intro.), 967.01, 968.375 (4), 969.10, 971.06 (1) (a), (b) and (c),  
4 971.08 (title), 971.08 (1) (d), 971.095 (2) and (3), 971.10 (3) (b) (intro.), 1. and 2.,  
5 971.10 (3) (c), 971.105, 971.11 (1), 971.11 (5), 971.11 (6), 971.11 (7), 971.38 (1),  
6 971.39 (1) (intro.), 972.01, 972.03 (title), 972.04 (1), 972.06, 973.013 (4), 973.015  
7 (2m) (c) (intro.), 973.017 (6m) (a) 2., 973.03 (3) (b), 973.03 (3) (e) 2., 973.03 (4)  
8 (d), 973.03 (5) (a) 1., 973.03 (5) (a) 2., 973.042 (4), 973.043 (2), 973.045 (2),  
9 973.046 (2), 973.048 (5), 973.05 (3) (b), 973.05 (4) (b), 973.05 (4) (c), 973.05 (5)  
10 (a) 1., 973.05 (5) (a) 2., 973.05 (5) (c), 973.05 (5) (d), 973.05 (5) (e), 973.055 (2)  
11 (a), 973.06 (1) (av) 2. a. and b., 973.06 (1) (h), 973.076 (1) (b) 1., 973.076 (2m) (b),  
12 973.08 (5), 973.09 (2) (a) 1. b., 973.09 (3) (b), 973.09 (3) (bg) 2. and 4., 973.09 (3)  
13 (bm) 4., 973.09 (7m) (a), 973.10 (2m), 973.135 (3), 973.20 (1r), 973.20 (9m),  
14 973.20 (11) (a), 973.20 (12) (c), 974.02, 974.05 (1) (intro.), 974.05 (1) (a), (b), (c)  
15 and (d) (intro.), 1. and 2., 974.05 (2), 974.06 (title), (1), (2) and (3) (intro.), (a),  
16 (b) and (d), 974.06 (4), 974.06 (5), (6), (7) and (8), 974.07 (4) (b), 974.07 (7) (b)  
17 1., 974.07 (9) (a), 974.07 (10) (a) 4., 977.02 (2m), 977.02 (3) (intro.), 977.02 (4r),  
18 977.03 (2m), 977.05 (4) (gm), 977.05 (4) (h), 977.05 (4) (j), 977.05 (6) (b) 2., 977.05  
19 (6) (e) (intro.) and 2., 977.06 (2) (a), 977.06 (2) (am), 977.06 (3) (b), 977.07 (1) (a),  
20 977.07 (1) (c), 977.07 (2m), 977.08 (2) (intro.), 978.045 (1r) (intro.), 978.045 (1r)  
21 (i), 978.05 (3), 978.05 (4), 978.05 (6) (a), 978.08 (1) (a) and (b) and (2), 979.02,  
22 979.025 (1), 979.025 (2), 979.09, 979.10 (2), 979.11, 979.22, 980.015 (2) (c),  
23 980.015 (2) (d), 980.031 (4), 980.036 (2) (c), 980.036 (6) and 995.50 (7); **to repeal**  
24 **and recreate** chapter 969 (title), chapter 970 (title), chapter 971 (title), 971.08  
25 (1) (b), 971.09, 972.04 (title) and chapter 975 (title); and **to create** 48.315 (4),



**SENATE BILL 82**

1           175.27 (title), 809.30 (2) (m), 904.045 (title), 938.18 (10), 938.21 (2) (f), 950.04  
2           (1v) (gn) and (go), 967.025 (title), 967.025 (2), 967.025 (3), 967.025 (5), 967.025  
3           (7), 967.025 (8), 967.025 (10), 967.025 (11), 967.025 (14), 967.025 (15), 967.025  
4           (16), 967.025 (17), 967.12 (3), 967.13 (1) (a) and (b), 967.13 (1) (i), 967.14 (1)  
5           (dm), 967.14 (2), 967.14 (4), 967.21 (2) (title), 967.21 (3) (title), 967.21 (4) (title),  
6           967.21 (5) (title), 967.21 (6) (title), 967.22 (title), subchapter I (title) of chapter  
7           968 [precedes 968.015], 968.025 (title), 968.025 (3), 968.025 (4) (title), 968.025  
8           (4) (e), 968.035 (title), subchapter II (title) of chapter 968 [precedes 968.105],  
9           subchapter III (title) of chapter 968 [precedes 968.155], subchapter IV (title) of  
10          chapter 968 [precedes 968.305], subchapter V (title) of chapter 968 [precedes  
11          968.455], subchapter VI (title) of chapter 968 [precedes 968.465], 968.465 (5)  
12          and (6), 968.475 (2) (a), 968.475 (2) (e), 968.475 (3), 968.485 (title) and (1),  
13          968.585 (4m), 968.585 (7) (cm), subchapter VII (title) of chapter 968 [precedes  
14          968.605], subchapter VIII (title) of chapter 968 [precedes 968.705], 968.705 (2),  
15          (3) and (6), 968.71, subchapter I (title) of chapter 969 [precedes 969.15], 969.15,  
16          969.19, 969.20 (2), 969.20 (6), 969.20 (7) (title), 969.21 (title), 969.24 (2m),  
17          969.26 (title), 969.26 (3), subchapter II (title) of chapter 969 [precedes 969.30],  
18          969.30 (3) to (7), 969.31 (3), 969.31 (4), 969.32, 969.33 (title), 969.33 (1) (L),  
19          969.33 (2), 969.33 (3), 969.33 (4), 969.33 (5) to (7), 969.37, 969.38, 969.41,  
20          969.42, subchapter III (title) of chapter 969 [precedes 969.50], 969.50 (2) and  
21          (3), subchapter I (title) of chapter 970 [precedes 970.06], 970.06 (2), 970.06 (3),  
22          970.06 (4), 970.08 (2), 970.09 (2), 970.10 (title), (1) and (3), 970.13 (3), 970.14  
23          (13), 970.15, subchapter II (title) of chapter 970 [precedes s. 970.21], subchapter  
24          I (title) of chapter 971 [precedes 971.013], 971.015 (title), 971.015 (1) (title),  
25          971.015 (1) (b), 971.015 (2), 971.015 (4), 971.027 (intro.), 971.027 (1m) and (4),

**SENATE BILL 82**

1 971.035, 971.038, 971.042 (7) (intro.), subchapter II (title) of chapter 971  
2 [precedes 971.06], 971.06 (1) (title), 971.06 (4), 971.065, 971.08 (1) (ag), 971.08  
3 (1) (am), 971.085 (title) and (1) (intro.), 971.085 (1) (b), 971.085 (2), 971.093,  
4 subchapter III (title) of chapter 971 [precedes 971.098], 971.098, 971.10 (1)  
5 (title), 971.10 (1) (b), 971.10 (2r), 971.10 (3) (title), subchapter IV (title) of  
6 chapter 971 [precedes 971.42], 971.42, 971.43 (title) and (1), 971.43 (2) (b),  
7 971.43 (2) (br), 971.43 (2) (e), 971.43 (2) (f), 971.43 (2) (h), 971.43 (3), 971.43 (4),  
8 971.43 (6), 971.43 (7), 971.43 (8), 971.44 (title) and (1), 971.44 (2) (a), 971.44 (3),  
9 971.46 (intro.) and (1), 971.48 (title), 971.48 (2), 971.49, 971.51 (title) and (1),  
10 971.51 (3), 971.52 (3), 971.56, 971.57, 971.58 (title), subchapter V (title) of  
11 chapter 971 [precedes 971.65], 971.65 (title), 971.65 (2) (title) and (a), 971.66,  
12 971.68 (title), (1) and (3), subchapter VI (title) of chapter 971 [precedes 971.75],  
13 971.75 (title), 971.75 (2), 971.75 (4), 971.75 (6), 971.75 (7), 971.75 (9), 971.76,  
14 971.77 (title), 972.005 (title), 972.005 (2), 972.025 (title) and (1), 972.04 (3),  
15 972.075, 972.16 (1) and (2), 972.18 (title), 972.19, 972.20 (title), 972.22 (title),  
16 972.23 (title), 972.23 (2) and (3), 972.24, 972.25, 972.26, 972.28 (title), 974.08  
17 (title), 974.08 (1), 974.08 (2) and (3), 974.09 (title), subchapter I (title) of chapter  
18 975 [precedes 975.20], 975.20, subchapter II (title) of chapter 975 [precedes  
19 975.30], 975.31 (title), 975.31 (4), 975.32 (title), 975.32 (2), 975.32 (4), 975.32  
20 (7), 975.32 (10), 975.33 (title), 975.33 (1) (f) and (3), 975.34, 975.36 (title), 975.36  
21 (2), 975.36 (4), 975.37, 975.38 (title), 975.39, subchapter III (title) of chapter 975  
22 [precedes 975.50], 975.51 (4) (b), 975.51 (5) (b), 975.52 (1), 975.52 (4) (title),  
23 975.53 (title), 975.54 (title), 975.56 (title), 975.57 (2) (e), 975.57 (3), 975.57 (4)  
24 (title), 975.57 (4) (b) and (c), 975.57 (5) (title), 975.59 (5) (title), 975.59 (5) (b) and

**SENATE BILL 82**

- 1 (c), 975.61 (1) (d), 975.62 (title), 975.62 (1) (d), 975.62 (2), (3) and (4) and 975.63  
2 (3) of the statutes; **relating to:** criminal procedure and providing penalties.
- 

***Analysis by the Legislative Reference Bureau***

This bill reorganizes each chapter of the criminal procedure code, with the exception of chapter 973, Sentencing. This analysis is organized in the ascending order of the chapters, as reorganized in the bill. This bill creates subchapters in long chapters, separates long statutes into shorter statutes, reorganizes individual statutes, and provides titles for some provisions. This bill also creates new authority for courts and codifies some current practices.

Under this bill, chapter 967 contains definitions of terms used throughout the criminal procedure code and general provisions that, under current law, appear throughout the criminal procedure code. The bill also adds definitions for certain terms including “complaint,” “district attorney,” “felony,” “misdemeanor,” “motion,” and “sentencing.”

This bill moves to chapter 968 all current law provisions relating to investigative procedures such as inquests, John Doe proceedings, grand juries, wiretapping, and search and seizure provisions.

This bill creates a process that requires a court, upon the request of a district attorney and a showing that the information requested is relevant to a criminal investigation, to order a financial institution to disclose to the district attorney whether a specified person has or had an account at the financial institution.

Chapter 969, as reorganized under this bill, contains provisions addressing arrest and release, identifies ways to secure the appearance of a defendant, and includes provisions that allow expediting the processing of misdemeanors. Under current law, a citation issued by a law enforcement officer directs a person to appear in court and answer criminal charges. The citation may not be used as a criminal complaint. This bill allows a citation for a misdemeanor that is issued by a law enforcement officer to be used as a criminal complaint if the district attorney endorses it. The bill specifies that a citation must contain the crime the person allegedly committed, the time and place of the alleged commission, and the maximum penalty for the charged crime. The bill requires a law enforcement officer citing a person for a misdemeanor to release the person without a cash bond unless certain circumstances apply, including if the person does not provide proper identification or appears to pose a danger to a person or property.

Under current law, a law enforcement officer generally may release a person who is arrested without a warrant without requiring the person to appear before a judge if the law enforcement officer is satisfied that there are insufficient grounds to issue a criminal complaint against the person. Under this bill, a law enforcement officer may release such a person without determining that there are insufficient grounds to issue a criminal complaint.

If the court allows the release of a defendant before conviction or the release of a convicted person prior to sentencing, this bill specifies that the court may either

**SENATE BILL 82**

release the person to return on a specific date without conditions or release the person on a personal recognizance bond, an unsecured appearance bond, or a secured appearance bond. This bill also allows a third party who has deposited cash for the release of a person on a secured appearance bond to apply to the court for an order to return the deposit before the entry of a judgment of conviction or forfeiture. The court then may determine whether to remit the deposit and whether to modify the conditions of release.

This bill generally requires a court to release a person who is arrested without a warrant within 48 hours of the arrest unless the court has determined there is probable cause to arrest the person.

Under this bill, chapter 970 contains provisions relating to the commencement of prosecutions.

This bill replaces several statutes governing deferred prosecution agreements in specific cases with one general statute defining and authorizing deferred and suspended prosecution agreements. The bill provides that the same standards that govern a district attorney's charging authority also govern the district attorney's authority to enter into a deferred prosecution agreement and that the same standards that apply to a court's authority to schedule cases and grant continuances apply to a court's authority to suspend prosecution under a suspended prosecution agreement. Under this bill, both a deferred prosecution agreement and a suspended prosecution agreement are enforceable in the same manner as a plea agreement. The bill further notes that consenting to a deferred prosecution or suspended prosecution agreement is not an admission of guilt nor is the consent admissible in a trial relating to the charge to which the agreement pertains. This bill makes generally applicable a provision in current law that grants immunity from civil liability in excess of \$25,000 for acts or omissions by an organization or individual for whom an agreement assigns an individual to work.

Under this bill, chapter 971 addresses pretrial procedures and contains subchapters for commencement of proceedings, pleas, and provisions to expedite proceedings, discovery, motions, and juveniles in adult court. This bill creates one general statute for plea agreements. The bill provides that the district attorney and the defendant, without the court's participation, may reach a plea agreement. The agreement may require the district attorney, if the defendant enters a plea of guilty or no contest, to take certain actions, including moving to dismiss or amend any charge; recommending the defendant's request for a particular disposition; or agreeing that a specific disposition is appropriate. The bill also creates a single statute to clarify, and explain the consequences of, the different pleas available to the defendant.

Under current law, before a court may dismiss a criminal case, the court must inquire if the district attorney has offered all of the victims an opportunity to confer with the district attorney concerning the prosecution and outcome of the case. This bill codifies case law by adding that, if the district attorney moves to dismiss a complaint, the trial court must grant the motion unless the court finds that dismissal is contrary to the public interest or, if the motion is made during the trial, unless the defendant has not consented.

**SENATE BILL 82**

Under the bill, unless the district attorney establishes substantial prejudice, the court must grant a motion, made before sentencing, to withdraw a plea of guilty or no contest if a fair and just reason for doing so is established. Under this bill, the court must grant such a motion, made after sentencing, if the defendant did not knowingly, voluntarily, and understandingly enter the plea or if withdrawal is required to prevent a manifest injustice. Finally, the bill specifies that a withdrawal of a plea of guilty or no contest vacates the judgment, reinstates any original charge, and restores the parties to the position they were in before the plea was accepted.

This bill specifies that discovery is intended to do all of the following: promote fair and expeditious disposition of criminal charges, provide the defendant with sufficient information to make an informed plea, permit thorough preparation for and minimize surprise at trial, reduce interruptions and complications during trial and avoid unnecessary trials by resolving any issues before trial, minimize inequities among similarly situated defendants, effect economies, and minimize the burden upon victims and witnesses.

Current law requires a district attorney, upon demand and within a reasonable time before trial, to disclose to the defendant any relevant expert reports or statements or, if an expert does not prepare a report or statement, a written summary of the expert's findings or the subject of his or her testimony, and the results of any examination, scientific test, experiment, or comparison that the district attorney intends to offer in evidence. This bill requires any party who intends to call an expert witness to, not less than 30 days before trial, notify the other party of the expert's name, address, and qualifications and furnish any relevant expert reports or statements or, if none, a written summary of the expert's findings or the subject matter of his or her testimony, and the results of any mental examination, scientific test, experiment, or comparison that the first party intends to offer in evidence.

Under this bill, before trial and upon motion by either party, the court may issue a subpoena to require the production of documents and other tangible objects if the evidence may be material to the determination of issues. The motion and the subpoena must specify who must produce the material, whether certified copies of documents may be submitted in lieu of appearance, and other conditions.

Under this bill, the disclosure of discoverable material may be accomplished in any manner mutually agreeable to the parties. If the parties do not agree, the party that has the duty to disclose must either provide a copy of the material to be disclosed or notify the other party that the material may be inspected, copied, or photographed during specified reasonable times and provide suitable machinery for making copies.

This bill codifies the authority of courts to issue and amend scheduling orders.

Under this bill, the court may, upon motion by the district attorney, order a defendant to participate in a reasonable procedure to obtain nontestimonial evidence. Such procedures include appearing, moving, or speaking for identification in a lineup; trying on clothing or other articles; providing handwriting or voice exemplars; being photographed; having fingerprints or other body impressions taken; providing samples of blood, urine, saliva, semen, skin, breath, hair, or nails or materials under the nails; submitting to body measurements or other reasonable body surface examinations; and submitting to physical or medical inspection.

**SENATE BILL 82**

Under this bill, the court may, upon motion of a defendant, require an individual to participate in a reasonable procedure to obtain nontestimonial evidence if an affidavit or testimony shows probable cause to believe that the individual committed the crime with which the defendant is charged and that the evidence sought is necessary to an adequate defense and cannot practicably be obtained from other sources.

Under this bill, the district attorney may provide discovery before the initial appearance. Also, this bill requires the district attorney to disclose, at the initial appearance after the defendant has obtained or waived legal representation, any pertinent law enforcement investigative reports the district attorney has and a copy of the defendant's criminal record.

Under current law, the procedure for asserting that a statute is unconstitutional is located in the civil procedure statutes. This bill moves to the criminal procedure code the provision that, if a defendant moves to dismiss a criminal prosecution by asserting that the statute under which he or she is charged is unconstitutional, the defendant must serve the motion on the attorney general and the district attorney.

This bill specifies that, if a defendant moves for severance because a codefendant's out-of-court statement refers to, but is not admissible against, the defendant and the court determines that the state intends to offer the statement in evidence, the court must require the district attorney to elect one of the following: 1) a joint trial at which the statement is not received in evidence; 2) a joint trial at which the statement is received in evidence only after all references to the defendant have been deleted, if admission of such a statement will not cause prejudice; 3) a separate trial for the defendant; or 4) if the court approves, a single trial with a separate jury for the defendant and the codefendant.

Under this bill, chapter 972 contains statutes relating to criminal trials. Under this bill, if the court at a criminal trial authorizes the jurors to ask questions of witnesses, the court must instruct the jury to ask only questions that clarify information already presented and must instruct the jury of the procedure to be used. The procedure provides that the question must be submitted in writing to the judge who will show the question to the parties. The parties may object to the question without the jury knowing. If the judge, upon reviewing the question and any objections, determines that the question is legally proper, the judge may ask it of the witness.

This bill clarifies procedures for jury selection and handling alternate jurors. Under current law, if the number of jurors, including any additional jurors selected, exceeds the required number when the case is submitted to the jury, the court must discharge by lot jurors that will not participate in deliberations. Under this bill, the court may, for good cause, discharge additional jurors other than by lot. Moreover, this bill allows the court to determine which jurors will not participate in deliberations but retain those jurors as alternates after the jury retires to deliberate. If a juror who is participating in deliberations becomes unavailable due to severe illness or extraordinary circumstances, the judge may replace the unavailable juror

**SENATE BILL 82**

with a retained alternate juror. If an alternate replaces a juror after deliberations have begun, the court must instruct the jury to begin its deliberations anew.

This bill defines “stipulation” as an agreement between the parties that a specified fact is taken as established without need for proof. Further, a stipulation must be set forth on the record when the court accepts it, and, in a jury trial, the court must instruct the jury to take stipulated facts as conclusively proved.

This bill specifies that a verdict must be unanimous and returned in open court. Under current case law, a defendant in a criminal case has the right to poll the jury, and refusal to permit the defendant to do so is an error for which the verdict will be set aside. This bill requires a court to ask each juror individually whether the verdict as returned was and is the juror’s verdict. This bill requires the court to accept the verdict if it is in proper form and confirmed by the poll.

Under this bill, chapter 975 addresses mental health issues affecting a criminal prosecution such as competency to stand trial and mental responsibility, commonly known as the “insanity defense.” Under current law, when there is reason to doubt a defendant’s competency to proceed in a criminal action, the court must appoint an examiner to submit a report on the condition of the defendant that contains specified findings. This bill adds that, if the examiner reports that the defendant is not competent to proceed and that the defendant is not likely to become competent within the maximum period of commitment under the competency statutes, the examiner must provide his or her opinion on whether the defendant meets the criteria for civil commitment.

The bill reorganizes the competency hearing statutes and makes certain changes to burdens of persuasion. Under current law, at the outset of the competency hearing, if the defendant claims to be incompetent or is silent, the defendant must be found incompetent unless the state proves by the greater weight of the credible evidence that the defendant is competent. Under current law, if the defendant claims to be competent, the defendant must be found competent unless the state proves by clear and convincing evidence that the defendant is incompetent. Under the bill, the state has the burden of going forward with evidence at a competency hearing, and the court may find the defendant competent to proceed only if the court finds by the greater weight of the evidence that the defendant is competent to proceed. The bill specifies the following: 1) if the defendant is not competent and the court finds by the greater weight of the evidence that the defendant is not likely to become competent within the maximum period of commitment, the court must order the defendant be released or delivered to a facility; 2) if the defendant is not competent and the court finds by the greater weight of the evidence that the defendant is likely to become competent within the maximum period of commitment without inpatient treatment, the court must order that the defendant be released and may require the defendant to participate in outpatient treatment, or undergo periodic reexaminations to determine whether the defendant has become competent to proceed, for a period that does not exceed the maximum period of commitment; or 3) if the defendant is not competent and the court finds by clear and convincing evidence that the defendant is likely to become competent within the maximum period of commitment if provided appropriate inpatient treatment, the court must commit the

**SENATE BILL 82**

defendant to the custody of the Department of Health Services (DHS) for treatment. Finally, if the defendant is committed to DHS and the state proves by clear and convincing evidence that the defendant is not competent to refuse medication or treatment, the court must find that the defendant is not competent to refuse medication or treatment and must order whoever administers medication or treatment to the defendant to observe appropriate medical standards.

Under current law, if the defendant is committed to the custody of DHS for treatment following a competency proceeding, the days spent in commitment are given credit toward the service of his or her sentence for the same course of conduct. This bill requires the court to include in the commitment order a specific finding of the number of days spent in precommitment custody.

Current law requires DHS to periodically reexamine the defendant and to submit to the court a written report on the defendant's mental condition at three months, six months, and nine months after commitment. This bill requires an additional report if DHS determines that the defendant has become competent or that the defendant is not likely to become competent within the remaining commitment period and requires the court to schedule a review of this additional report within 14 days.

This bill creates a process for the court to follow whenever the court determines there is reason to doubt a defendant's competency to proceed when seeking an appeal or a motion for postconviction relief. Pending the determination or after a finding of incompetency, the circuit court may allow proceedings on any issue raised by the defendant's attorney that rests on the records, does not require the defendant to assist counsel or make a decision, and involves no risk to the defendant and the court of appeals may grant the defendant a continuance or lengthen the time for filing necessary notices or motions for postconviction relief. If the court finds that the defendant lacks competency, the court may appoint a guardian to make decisions or may order treatment to restore the defendant to competency to pursue postconviction relief. Finally, the bill provides that a defendant who lacks competency to pursue postconviction relief may, after regaining competency, raise any issue at a later proceeding that he or she did not raise earlier because of incompetency.

Under current law, if a defendant is found not guilty by reason of mental disease or defect, the court must enter a judgment of not guilty by reason of mental disease or defect and proceed to commitment. The judgment is interlocutory to the commitment order and reviewable upon appeal. Under this bill, the court must proceed to a dispositional hearing and the commitment order is the final order and is appealable as a matter of right. Upon appeal, this bill provides that all properly preserved issues, including those relating to the guilt phase of the trial, may be raised.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***



**SENATE BILL 82**

1           **SECTION 1.** 6.10 (7m) (a) (intro.) of the statutes is amended to read:

2           6.10 (**7m**) (a) (intro.) The residence of a person who is detained, or committed  
3 and institutionalized, under s. 51.20, ~~971.14, or 971.17~~ or ch. 975 or 980 shall be  
4 determined by applying the standards under sub. (1) to whichever of the following  
5 dates is applicable to the circumstances of the person:

6           **SECTION 2.** 6.10 (7m) (a) 2. of the statutes is amended to read:

7           6.10 (**7m**) (a) 2. For a person committed under s. ~~971.14 or 971.17~~ ch. 975, the  
8 date of the offense or alleged offense that resulted in the person's commitment.

9           **SECTION 3.** 13.35 (2) of the statutes is amended to read:

10           13.35 (**2**) The immunity provided under sub. (1) is subject to the restrictions  
11 under s. ~~972.085~~ 967.18.

12           **SECTION 4.** 16.84 (2) of the statutes is amended to read:

13           16.84 (**2**) Appoint such number of police officers as is necessary to safeguard  
14 all public property placed by law in the department's charge, and provide, by  
15 agreement with any other state agency, police and security services at buildings and  
16 facilities owned, controlled, or occupied by the other state agency. The governor or  
17 the department may, to the extent it is necessary, authorize police officers employed  
18 by the department to safeguard state officers, state employees, or other persons. A  
19 police officer who is employed by the department and who is performing duties that  
20 are within the scope of his or her employment as a police officer has the powers of a  
21 peace officer under s. 59.28, except that the officer has the arrest powers of a law  
22 enforcement officer under s. ~~968.07~~ 969.16 regardless of whether the violation is  
23 punishable by forfeiture or criminal penalty. The officer may exercise the powers of  
24 a peace officer and the arrest powers of a law enforcement officer while located  
25 anywhere within this state. Nothing in this subsection limits or impairs the duty of

**SENATE BILL 82**

1 the chief and each police officer of the police force of the municipality in which the  
2 property is located to arrest and take before the proper court or magistrate persons  
3 found in a state of intoxication or engaged in any disturbance of the peace or violating  
4 any state law in the municipality in which the property is located, as required by s.  
5 62.09 (13).

6 **SECTION 5.** 17.16 (7) (b) of the statutes is amended to read:

7 17.16 (7) (b) The immunity provided under par. (a) is subject to the restrictions  
8 under s. ~~972.085~~ 967.18.

9 **SECTION 6.** 19.32 (1b) of the statutes is amended to read:

10 19.32 (1b) "Committed person" means a person who is committed under ch.  
11 975, 2013 stats., or ch. 51, 971, 975, or 980 and who is placed in an inpatient  
12 treatment facility, during the period that the person's placement in the inpatient  
13 treatment facility continues.

14 **SECTION 7.** 20.435 (2) (bj) of the statutes is amended to read:

15 20.435 (2) (bj) *Competency examinations and treatment, and conditional*  
16 *release, supervised release, and community supervision services.* Biennially, the  
17 amounts in the schedule for outpatient competency examinations and treatment  
18 services; and for payment by the department of costs for treatment and services for  
19 persons released under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s.  
20 ~~971.17 (3) (d) or (4) (e)~~ 975.57, 975.59, or 980.08 (4) (g) or for persons who are inmates  
21 of the department of corrections who are released on community supervision, for  
22 which the department has contracted with county departments under s. 51.42 (3)  
23 (aw) 1. d., with other public agencies, or with private agencies to provide the  
24 treatment and services.

25 **SECTION 8.** 20.435 (2) (gk) of the statutes is amended to read:

**SENATE BILL 82**

1           20.435 (2) (gk) *Institutional operations and charges.* The amounts in the  
2 schedule for care, other than under s. 51.06 (1r), provided by the centers for the  
3 developmentally disabled, to reimburse the cost of providing the services and to  
4 remit any credit balances to county departments that occur on and after  
5 July 1, 1978, in accordance with s. 51.437 (4rm) (c); for care, other than under s.  
6 46.043, provided by the mental health institutes, to reimburse the cost of providing  
7 the services and to remit any credit balances to county departments that occur on and  
8 after January 1, 1979, in accordance with s. 51.42 (3) (as) 2.; for maintenance of  
9 state-owned housing at centers for the developmentally disabled and mental health  
10 institutes; for repair or replacement of property damaged at the mental health  
11 institutes or at centers for the developmentally disabled; and for reimbursing the  
12 total cost of using, producing, and providing services, products, and care. All moneys  
13 received as payments from medical assistance on and after August 1, 1978; as  
14 payments from all other sources including other payments under s. 46.10 and  
15 payments under s. 51.437 (4rm) (c) received on and after July 1, 1978; as medical  
16 assistance payments, other payments under s. 46.10, and payments under s. 51.42  
17 (3) (as) 2. received on and after January 1, 1979; as payments for the rental of  
18 state-owned housing and other institutional facilities at centers for the  
19 developmentally disabled and mental health institutes; for the sale of electricity,  
20 steam, or chilled water; as payments in restitution of property damaged at the  
21 mental health institutes or at centers for the developmentally disabled; for the sale  
22 of surplus property, including vehicles, at the mental health institutes or at centers  
23 for the developmentally disabled; and for other services, products, and care shall be  
24 credited to this appropriation, except that any payment under s. 46.10 received for  
25 the care or treatment of patients admitted under s. 51.10, 51.15, or 51.20 for which

**SENATE BILL 82**

1 the state is liable under s. 51.05 (3), of forensic patients committed under ch. ~~971~~ 975,  
2 2013 stats., or ch. 975, admitted under ch. 975, 2013 stats., or transferred under s.  
3 51.35 (3), or of patients transferred from a state prison under s. 51.37 (5), to the  
4 Mendota Mental Health Institute or the Winnebago Mental Health Institute shall  
5 be treated as general purpose revenue — earned, as defined under s. 20.001 (4); and  
6 except that moneys received under s. 51.06 (6) may be expended only as provided in  
7 s. 13.101 (17).

8 **SECTION 9.** 20.550 (1) (f) of the statutes is amended to read:

9 20.550 (1) (f) *Transcripts, discovery, and interpreters.* The amounts in the  
10 schedule for the costs of interpreters and discovery materials and for the  
11 compensation of court reporters or clerks of circuit court for preliminary  
12 examination, trial, and appeal transcripts, and the payment of related costs under  
13 s. ~~967.06 (3)~~ 977.072.

14 **SECTION 10.** 23.33 (4c) (b) 3. of the statutes is amended to read:

15 23.33 (4c) (b) 3. ‘Related charges.’ A person may be charged with and a  
16 prosecutor may proceed upon a complaint based upon a violation of any combination  
17 of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the  
18 person is charged with violating any combination of subd. 1., 2., or 2m. in the  
19 complaint, the crimes shall be joined under s. ~~971.12~~ 970.13. If the person is found  
20 guilty of any combination of subd. 1., 2., or 2m. for acts arising out of the same  
21 incident or occurrence, there shall be a single conviction for purposes of sentencing  
22 and for purposes of counting convictions under sub. (13) (b) 2. and 3. Subdivisions  
23 1., 2., and 2m. each require proof of a fact for conviction which the others do not  
24 require.

25 **SECTION 11.** 23.56 (1) of the statutes is amended to read:

**SENATE BILL 82**

1           23.56 (1) A person may be arrested for a violation of those statutes enumerated  
2           in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the  
3           Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances  
4           enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77, after  
5           a warrant that substantially complies with s. ~~968.04~~ 969.20 has been issued. Except  
6           as provided in sub. (2), the person arrested shall be brought without unreasonable  
7           delay before a court having jurisdiction to try the action.

8           **SECTION 12.** 23.65 (2) of the statutes is amended to read:

9           23.65 (2) The complaint shall be prepared in the form specified in s. 23.55.  
10          After a complaint is prepared, it shall be filed with the judge and a summons shall  
11          be issued or the complaint shall be dismissed pursuant to s. ~~968.03~~ 969.20. Such  
12          filing commences the action.

13          **SECTION 13.** 29.921 (6) of the statutes is amended to read:

14          29.921 (6) SEARCH WARRANTS; SUBPOENAS. In executing search warrants and  
15          subpoenas under this chapter where the penalty for the violation is a forfeiture, the  
16          department shall use procedures which comply with ss. ~~968.12~~ 968.465, 968.485,  
17          968.495, 968.506, 968.605, 968.615, and ~~968.135 to 968.19~~ 968.705.

18          **SECTION 14.** 29.938 (2) of the statutes is amended to read:

19          29.938 (2) Property turned over to the department under s. ~~968.20 (3)~~ 175.27  
20          (1).

21          **SECTION 15.** 29.972 (1) (a) of the statutes is amended to read:

22          29.972 (1) (a) Fails to respond to a summons under s. 23.66 (3) or 23.67 (4), or  
23          a warrant or summons under s. ~~968.04~~ 969.20.

24          **SECTION 16.** 29.972 (1) (c) of the statutes is amended to read:

**SENATE BILL 82**

1           29.972 (1) (c) Fails to appear before the court and is subject to a bench warrant  
2 under s. ~~968.09~~ 969.50.

3           **SECTION 17.** 30.681 (2) (c) of the statutes is amended to read:

4           30.681 (2) (c) *Related charges.* A person may be charged with and a prosecutor  
5 may proceed upon a complaint based upon a violation of any combination of par. (a)  
6 or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person  
7 is charged with violating any combination of par. (a) or (b) 1., 1m., or 2. in the  
8 complaint, the crimes shall be joined under s. ~~971.12~~ 970.13. If the person is found  
9 guilty of any combination of par. (a) or (b) 1., 1m., or 2. for acts arising out of the same  
10 incident or occurrence, there shall be a single conviction for purposes of sentencing  
11 and for purposes of counting convictions under s. 30.80 (6) (a) 2. and 3. Paragraphs  
12 (a) and (b) 1., 1m., and 2. each require proof of a fact for conviction which the others  
13 do not require.

14           **SECTION 18.** 46.10 (2) of the statutes is amended to read:

15           46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,  
16 including but not limited to a person admitted, committed, protected, or placed under  
17 s. 975.01, 1977 stats., s. 975.02, 1977 stats., s. 975.17, 1977 stats., s. 55.05 (5), 2003  
18 stats., and s. 55.06, 2003 stats., and ss. or s. 975.06, 2013 stats., or s. 51.10, 51.13,  
19 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.055, 55.12,  
20 55.13, 55.135, 971.14 (2) and (5), 971.17 (1), 975.06 and or 980.06, or ch. 975,  
21 receiving care, maintenance, services and supplies provided by any institution in  
22 this state including University of Wisconsin Hospitals and Clinics, in which the state  
23 is chargeable with all or part of the person's care, maintenance, services and  
24 supplies, any person receiving care and services from a county department  
25 established under s. 51.42 or 51.437 or from a facility established under s. 49.73, and

**SENATE BILL 82**

1 any person receiving treatment and services from a public or private agency under  
2 s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s. ~~971.17 (3) (d) or (4) (e)~~  
3 975.57 (4), 975.59, or 980.08 (4) (g) and the person's property and estate, including  
4 the homestead, and the spouse of the person, and the spouse's property and estate,  
5 including the homestead, and, in the case of a minor child, the parents of the person,  
6 and their property and estates, including their homestead, and, in the case of a  
7 foreign child described in s. 48.839 (1) who became dependent on public funds for his  
8 or her primary support before an order granting his or her adoption, the resident of  
9 this state appointed guardian of the child by a foreign court who brought the child  
10 into this state for the purpose of adoption, and his or her property and estate,  
11 including his or her homestead, shall be liable for the cost of the care, maintenance,  
12 services and supplies in accordance with the fee schedule established by the  
13 department under s. 46.03 (18). If a spouse, widow or minor, or an incapacitated  
14 person may be lawfully dependent upon the property for their support, the court  
15 shall release all or such part of the property and estate from the charges that may  
16 be necessary to provide for those persons. The department shall make every  
17 reasonable effort to notify the liable persons as soon as possible after the beginning  
18 of the maintenance, but the notice or the receipt thereof is not a condition of liability.

19 **SECTION 19.** 46.90 (6) (bt) 8. of the statutes is amended to read:

20 46.90 (6) (bt) 8. To the attorney or guardian ad litem for the elder adult at risk  
21 who is the alleged victim named in the record, to assist in preparing for any  
22 proceeding under ch. 975, 2013 stats., or ch. 48, 51, 54, 55, 813, ~~971~~, or 975 pertaining  
23 to the alleged victim.

24 **SECTION 20.** 48.31 (2) of the statutes is amended to read:

**SENATE BILL 82**

1           48.31 (2) The hearing shall be to the court unless the child, the child's parent,  
2 guardian, or legal custodian, the unborn child's guardian ad litem, or the expectant  
3 mother of the unborn child exercises the right to a jury trial by demanding a jury trial  
4 at any time before or during the plea hearing. If a jury trial is demanded in a  
5 proceeding under s. 48.13 or 48.133, the jury shall consist of 6 persons. If a jury trial  
6 is demanded in a proceeding under s. 48.42, the jury shall consist of 12 persons unless  
7 the parties agree to a lesser number. Chapters 756 and 805 shall govern the selection  
8 of jurors. If the hearing involves a child victim or witness, as defined in s. 950.02,  
9 the court may order that a deposition be taken by audiovisual means and allow the  
10 use of a recorded deposition under s. ~~967.04 (7) to (10) and, with the district attorney,~~  
11 ~~shall comply with s. 971.105~~ 967.22. At the conclusion of the hearing, the court or  
12 jury shall make a determination of the facts, except that in a case alleging a child or  
13 an unborn child to be in need of protection or services under s. 48.13 or 48.133, the  
14 court shall make the determination under s. 48.13 (intro.) or 48.133 relating to  
15 whether the child or unborn child is in need of protection or services that can be  
16 ordered by the court. If the court finds that the child or unborn child is not within  
17 the jurisdiction of the court or, in a case alleging a child or an unborn child to be in  
18 need of protection or services under s. 48.13 or 48.133, that the child or unborn child  
19 is not in need of protection or services that can be ordered by the court, or if the court  
20 or jury finds that the facts alleged in the petition have not been proved, the court shall  
21 dismiss the petition with prejudice.

22           **SECTION 21.** 48.315 (4) of the statutes is created to read:

23           48.315 (4) The court and the representative of the public under s. 48.09 shall  
24 take appropriate action to ensure a speedy fact-finding and dispositional hearing in  
25 order to minimize the time during which any victim of the abuse or neglect addressed



**SENATE BILL 82**

1 at the hearing or any witness, as defined in s. 950.02 (5), who is a child must endure  
2 the stress of his or her involvement in the proceeding. In ruling on any motion or  
3 other request for any continuance or delay of the proceedings, the court shall consider  
4 and give weight to any adverse impact the delay or continuance may have on the  
5 well-being of the victim or any child witness.

6 **SECTION 22.** 48.396 (2) (dr) of the statutes is amended to read:

7 48.396 (2) (dr) Upon request of the department of corrections or any other  
8 person preparing a presentence investigation under s. ~~972.15~~ 973.004 to review court  
9 records for the purpose of preparing the presentence investigation, the court shall  
10 open for inspection by any authorized representative of the requester the records of  
11 the court relating to any child who has been the subject of a proceeding under this  
12 chapter.

13 **SECTION 23.** 48.78 (2) (d) 1. of the statutes is amended to read:

14 48.78 (2) (d) 1. The subject of a presentence investigation under s. ~~972.15~~  
15 973.004.

16 **SECTION 24.** 48.981 (1) (b) of the statutes is amended to read:

17 48.981 (1) (b) "Community placement" means probation; extended supervision;  
18 parole; aftercare; conditional transfer into the community under s. 51.35 (1);  
19 conditional transfer or discharge under s. 51.37 (9); placement in a Type 2 residential  
20 care center for children and youth or a Type 2 juvenile correctional facility  
21 authorized under s. 938.539 (5); conditional release under s. ~~971.17~~ 975.57 or 975.59;  
22 supervised release under s. 980.06 or 980.08; participation in the community  
23 residential confinement program under s. 301.046, the intensive sanctions program  
24 under s. 301.048, the corrective sanctions program under s. 938.533, the intensive  
25 supervision program under s. 938.534, or the serious juvenile offender program

**SENATE BILL 82**

1 under s. 938.538; or any other placement of an adult or juvenile offender in the  
2 community under the custody or supervision of the department of corrections, the  
3 department of health services, a county department under s. 46.215, 46.22, 46.23,  
4 51.42, or 51.437 or any other person under contract with the department of  
5 corrections, the department of health services or a county department under s.  
6 46.215, 46.22, 46.23, 51.42, or 51.437 to exercise custody or supervision over the  
7 offender.

8 **SECTION 25.** 48.981 (7) (a) 14m. of the statutes is amended to read:

9 48.981 (7) (a) 14m. A judge conducting proceedings under s. ~~968.26~~ 968.105.

10 **SECTION 26.** 49.138 (1m) (c) of the statutes is amended to read:

11 49.138 (1m) (c) A member of the family was a victim of domestic abuse, as  
12 defined in s. ~~968.075~~ 969.27 (1) (a).

13 **SECTION 27.** 49.19 (4) (d) 3. of the statutes is amended to read:

14 49.19 (4) (d) 3. Is the wife of a husband who has been committed to the  
15 department pursuant to ch. 975, 2013 stats., irrespective of the probable period of  
16 such commitment; or

17 **SECTION 28.** 51.05 (2) of the statutes is amended to read:

18 51.05 (2) ADMISSIONS AUTHORIZED BY COUNTIES. The department may not accept  
19 for admission to a mental health institute any resident person, except in an  
20 emergency, unless the county department under s. 51.42 in the county where the  
21 person has residence authorizes the care under s. 51.42 (3) (as). Patients who are  
22 committed to the department under s. 975.01, 1977 stats., or s. 975.02, 1977 stats.,  
23 or s. 975.06, 2013 stats., or s. ~~971.14, 971.17, 975.06,~~ or 980.06, or ch. 975, admitted  
24 by the department under s. 975.17, 1977 stats., or are transferred from a juvenile  
25 correctional facility or a secured residential care center for children and youth to a

**SENATE BILL 82**

1 state treatment facility under s. 51.35 (3) or from a jail or prison to a state treatment  
2 facility under s. 51.37 (5) are not subject to this section.

3 **SECTION 29.** 51.20 (1) (am) of the statutes is amended to read:

4 51.20 (1) (am) If the individual has been the subject of inpatient treatment for  
5 mental illness, developmental disability, or drug dependency immediately prior to  
6 commencement of the proceedings as a result of a voluntary admission, a  
7 commitment or protective placement ordered by a court under this section ~~or~~, s.  
8 55.06, 2003 stats., ~~s. 971.17~~ ch. 975, 2013 stats., or ch. 975, or a protective placement  
9 or protective services ordered under s. 55.12, or if the individual has been the subject  
10 of outpatient treatment for mental illness, developmental disability, or drug  
11 dependency immediately prior to commencement of the proceedings as a result of a  
12 commitment ordered by a court under this section, ~~s. 971.17~~ ch. 975, 2013 stats., or  
13 ch. 975, the requirements of a recent overt act, attempt or threat to act under par.  
14 (a) 2. a. or b., pattern of recent acts or omissions under par. (a) 2. c. or e., or recent  
15 behavior under par. (a) 2. d. may be satisfied by a showing that there is a substantial  
16 likelihood, based on the subject individual's treatment record, that the individual  
17 would be a proper subject for commitment if treatment were withdrawn. If the  
18 individual has been admitted voluntarily to an inpatient treatment facility for not  
19 more than 30 days prior to the commencement of the proceedings and remains under  
20 voluntary admission at the time of commencement, the requirements of a specific  
21 recent overt act, attempt or threat to act, or pattern of recent acts or omissions may  
22 be satisfied by a showing of an act, attempt or threat to act, or pattern of acts or  
23 omissions which took place immediately previous to the voluntary admission. If the  
24 individual is committed under s. ~~971.14 (2) or (5)~~ 975.32 or 975.34 at the time  
25 proceedings are commenced, or has been discharged from the commitment

**SENATE BILL 82**

1 immediately prior to the commencement of proceedings, acts, attempts, threats,  
2 omissions, or behavior of the subject individual during or subsequent to the time of  
3 the offense shall be deemed recent for purposes of par. (a) 2.

4 **SECTION 30.** 51.20 (16) (j) of the statutes is amended to read:

5 51.20 (16) (j) This subsection applies to petitions for reexamination that are  
6 filed under ch. 971, ~~but not s. 971.17, and ch. 975, 2013 stats., and subch. II of ch. 975,~~  
7 except that the petitions shall be filed with the committing court.

8 **SECTION 31.** 51.30 (3) (b) of the statutes is amended to read:

9 51.30 (3) (b) An individual's attorney or guardian ad litem and the corporation  
10 counsel shall have access to the files and records of the court proceedings under this  
11 chapter without the individual's consent and without modification of the records in  
12 order to prepare for involuntary commitment or recommitment proceedings,  
13 reexaminations, appeals, or other actions relating to detention, admission, or  
14 commitment under this chapter, ch. 975, 2013 stats., or ch. 971, 975, or 980.

15 **SECTION 32.** 51.30 (4) (b) 8m. of the statutes is amended to read:

16 51.30 (4) (b) 8m. To appropriate examiners and facilities in accordance with s.  
17 54.36 (3), 971.17 (2) (e), (4) (e), and (7) (e) 975.56 (2), 975.59 (3), or 975.63 (4). The  
18 recipient of any information from the records shall keep the information confidential  
19 except as necessary to comply with ~~s. 971.17~~ subch. III of ch. 975.

20 **SECTION 33.** 51.30 (4) (b) 9. of the statutes is amended to read:

21 51.30 (4) (b) 9. To a facility which is to receive an individual who is involuntarily  
22 committed under this chapter, ch. 975, 2013 stats., or ch. 48, 938, ~~971,~~ or 975 upon  
23 transfer of the individual from one treatment facility to another. Release of records  
24 under this subdivision shall be limited to such treatment records as are required by  
25 law, a record or summary of all somatic treatments, and a discharge summary. The

**SENATE BILL 82**

1 discharge summary may include a statement of the patient's problem, the treatment  
2 goals, the type of treatment which has been provided, and recommendation for future  
3 treatment, but it may not include the patient's complete treatment record. The  
4 department shall promulgate rules to implement this subdivision.

5 **SECTION 34.** 51.30 (4) (b) 11. of the statutes is amended to read:

6 51.30 (4) (b) 11. To the subject individual's counsel or guardian ad litem and  
7 the corporation counsel, without modification, at any time in order to prepare for  
8 involuntary commitment or recommitment proceedings, reexaminations, appeals, or  
9 other actions relating to detention, admission, commitment, or patients' rights under  
10 this chapter, ch. 975, 2013 stats., or ch. 48, ~~971~~, 975, or 980.

11 **SECTION 35.** 51.30 (4) (b) 12m. of the statutes is amended to read:

12 51.30 (4) (b) 12m. To any person if the patient was admitted under s. ~~971.14,~~  
13 ~~971.17~~ or 980.06, ch. 975, 2013 stats., or ch. 975 or transferred under s. 51.35 (3) or  
14 51.37 and is on unauthorized absence from a treatment facility. Information released  
15 under this subdivision is limited to information that would assist in the  
16 apprehension of the patient.

17 **SECTION 36.** 51.30 (4) (b) 16. of the statutes is amended to read:

18 51.30 (4) (b) 16. If authorized by the secretary or his or her designee, to a law  
19 enforcement agency upon request if the individual was admitted under ch. ~~971~~ 975,  
20 2013 stats., or ch. 975 or transferred under s. 51.35 (3) or 51.37. Information released  
21 under this subdivision is limited to the individual's name and other identifying  
22 information, including photographs and fingerprints, the branch of the court that  
23 committed the individual, the crime that the individual is charged with, found not  
24 guilty of by reason of mental disease or defect or convicted of, whether or not the  
25 individual is or has been authorized to leave the grounds of the institution and

**SENATE BILL 82**

1 information as to the individual's whereabouts during any time period. In this  
2 subdivision "law enforcement agency" has the meaning provided in s. 165.83 (1) (b).

3 **SECTION 37.** 51.30 (7) of the statutes is amended to read:

4 51.30 (7) CRIMINAL COMMITMENTS. Except as otherwise specifically provided,  
5 this section applies to the treatment records of persons who are committed under ~~chs.~~  
6 ~~971 and ch. 975, 2013 stats., or ch. 975.~~

7 **SECTION 38.** 51.37 (1) of the statutes is amended to read:

8 51.37 (1) All commitments under s. 975.01, 1977 stats., and s. 975.02, 1977  
9 stats., and under ~~ss. 971.14 (5), 971.17 s. 975.06, 2013 stats., and 975.06 ss. 975.34,~~  
10 ~~975.55, and 975.57~~ shall be to the department.

11 **SECTION 39.** 51.37 (3) of the statutes is amended to read:

12 51.37 (3) The Mendota and Winnebago mental health institutes may be used  
13 for the custody, care and treatment of persons committed or transferred thereto  
14 pursuant to this section ~~and chs. 971 and, ch. 975, 2013 stats., or ch. 975.~~

15 **SECTION 40.** 51.37 (4) of the statutes is amended to read:

16 51.37 (4) The department may, with the approval of the committing court and  
17 the county department under s. 51.42 or 51.437, and subject to s. 51.35, transfer to  
18 the care and custody of a county department under s. 51.42 or 51.437 any person in  
19 an institution of the department committed under ~~s. 971.14 or 971.17~~ ch. 975, if in  
20 its opinion, the mental condition of the person is such that further care is required  
21 and can be properly provided under the direction of the county department under s.  
22 51.42 or 51.437.

23 **SECTION 41.** 51.37 (9) of the statutes is amended to read:

24 51.37 (9) If in the judgment of the director of Mendota Mental Health Institute,  
25 Winnebago Mental Health Institute or the Milwaukee County Mental Health

**SENATE BILL 82**

1       Complex, any person who is committed under s. ~~971.14 or 971.17~~ ch. 975 is not in  
2       such condition as warrants his or her return to the court but is in a condition to  
3       receive a conditional transfer or discharge under supervision, the director shall  
4       report to the department of health services, the committing court and the district  
5       attorney of the county in which the court is located his or her reasons for the  
6       judgment. If the court does not file objection to the conditional transfer or discharge  
7       within 60 days of the date of the report, the director may, with the approval of the  
8       department of health services, conditionally transfer any person to a legal guardian  
9       or other person, subject to the rules of the department of health services. Before a  
10      person is conditionally transferred or discharged under supervision under this  
11      subsection, the department of health services shall so notify the municipal police  
12      department and county sheriff for the area where the person will be residing. The  
13      notification requirement does not apply if a municipal department or county sheriff  
14      submits to the department of health services a written statement waiving the right  
15      to be notified. The department of health services may contract with the department  
16      of corrections for the supervision of persons who are transferred or discharged under  
17      this subsection.

18           **SECTION 42.** 51.37 (10) (am) of the statutes is amended to read:

19           51.37 **(10)** (am) The director of a state treatment facility may grant to any  
20      patient admitted to the facility as a result of a commitment under ch. 971 975, 2013  
21      stats., or ch. 975, a home visit for up to 15 days, or a leave for employment or  
22      education purposes in which the patient is not absent from the facility for more than  
23      15 days.

24           **SECTION 43.** 51.375 (1) (a) of the statutes is amended to read:

**SENATE BILL 82**

1           51.375 (1) (a) "Community placement" means conditional transfer into the  
2 community under s. 51.35 (1), conditional release under s. ~~971.17~~ 975.57 or 975.59,  
3 parole from a commitment for specialized treatment under ch. ~~975, 2013 stats.~~, or  
4 supervised release under ch. 980.

5           **SECTION 44.** 51.39 of the statutes is amended to read:

6           **51.39 Resident patients on unauthorized absence.** If any patient who is  
7 admitted, transferred, or placed under s. 55.06, 2003 stats., ~~or s. 51.13, 51.15, 51.20,~~  
8 ~~51.35 (3), 51.37, or 51.45 (11) (b), (12) or (13), ch. 975, 2013 stats.,~~ or ch. 55, ~~971, 975,~~  
9 or 980 is on unauthorized absence from a treatment facility, the sheriff or any other  
10 law enforcement agency in the county in which the patient is found or in which it is  
11 believed the patient may be present, upon the request of the director, shall take  
12 charge of and return the patient to the facility. The costs incident to the return shall  
13 be paid out of the facility's operating funds and be charged back to the patient's  
14 county of residence.

15           **SECTION 45.** 51.42 (3) (as) 1m. of the statutes is amended to read:

16           51.42 (3) (as) 1m. A county department shall reimburse a mental health  
17 institute at the institute's daily rate for custody of any person who is ordered by a  
18 court located in that county to be examined at the mental health institute under s.  
19 ~~971.14 (2)~~ 975.32 for all days that the person remains in custody at the mental health  
20 institute, beginning 48 hours, not including Saturdays, Sundays, and legal holidays,  
21 after the sheriff and county department receive notice under s. ~~971.14 (2) (d)~~ 975.32  
22 (5) that the examination has been completed.

23           **SECTION 46.** 51.42 (3) (as) 1r. of the statutes is amended to read:

24           51.42 (3) (as) 1r. A county department shall authorize all care of any patient  
25 in a state, local, or private facility under a contractual agreement between the county



**SENATE BILL 82**

1 department and the facility, unless the county department governs the facility. The  
2 need for inpatient care shall be determined by the program director or designee in  
3 consultation with and upon the recommendation of a licensed physician trained in  
4 psychiatry and employed by the county department or its contract agency. In cases  
5 of emergency, a facility under contract with any county department shall charge the  
6 county department having jurisdiction in the county where the patient is found. The  
7 county department shall reimburse the facility for the actual cost of all authorized  
8 care and services less applicable collections under s. 46.036, unless the department  
9 of health services determines that a charge is administratively infeasible, or unless  
10 the department of health services, after individual review, determines that the  
11 charge is not attributable to the cost of basic care and services. Except as provided  
12 in subd. 1m., a county department may not reimburse any state institution or receive  
13 credit for collections for care received in a state institution by nonresidents of this  
14 state, interstate compact clients, transfers under s. 51.35 (3), transfers from  
15 Wisconsin state prisons under s. 51.37 (5) (a), commitments under s. 975.01, 1977  
16 stats., ~~or s. 975.02, 1977 stats., or s. 975.06, 2013 stats., or s. 971.14, 971.17 or 975.06~~  
17 ch. 975 or admissions under s. 975.17, 1977 stats., or children placed in the  
18 guardianship of the department of children and families under s. 48.427 or 48.43 or  
19 under the supervision of the department of corrections under s. 938.183 or 938.355.  
20 The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs  
21 that are attributable to care and treatment of the client.

22 **SECTION 47.** 51.42 (3) (aw) 1. d. of the statutes is amended to read:

23 51.42 (3) (aw) 1. d. Provide treatment and services that are specified in a  
24 conditional release plan approved by a court for a person who is a county resident and  
25 is conditionally released under s. ~~971.17 (3) or (4)~~ 975.57 (4) or 975.59 or that are

**SENATE BILL 82**

1 specified in a supervised release plan approved by a court under s. 980.06 (2) (c), 1997  
2 stats., s. 980.08 (5), 2003 stats., or s. 980.08 (4) (g). If the county department provides  
3 treatment and services under this subdivision, the department of health services  
4 shall, from the appropriation under s. 20.435 (2) (bj), pay the county department for  
5 the costs of the treatment and services.

6 **SECTION 48.** 51.437 (4rm) (a) of the statutes is amended to read:

7 51.437 (**4rm**) (a) A county department of developmental disabilities services  
8 shall authorize all care of any patient in a state, local, or private facility under a  
9 contractual agreement between the county department of developmental disabilities  
10 services and the facility, unless the county department of developmental disabilities  
11 services governs the facility. The need for inpatient care shall be determined by the  
12 program director or designee in consultation with and upon the recommendation of  
13 a licensed physician trained in psychiatry and employed by the county department  
14 of developmental disabilities services or its contract agency prior to the admission  
15 of a patient to the facility except in the case of emergency services. In cases of  
16 emergency, a facility under contract with any county department of developmental  
17 disabilities services shall charge the county department of developmental  
18 disabilities services having jurisdiction in the county where the individual receiving  
19 care is found. The county department of developmental disabilities services shall  
20 reimburse the facility, except as provided under par. (c), for the actual cost of all  
21 authorized care and services less applicable collections under s. 46.036, unless the  
22 department of health services determines that a charge is administratively  
23 infeasible, or unless the department of health services, after individual review,  
24 determines that the charge is not attributable to the cost of basic care and services.  
25 The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs

**SENATE BILL 82**

1 which are attributable to care and treatment of the client. County departments of  
2 developmental disabilities services may not reimburse any state institution or  
3 receive credit for collections for care received in a state institution by nonresidents  
4 of this state, interstate compact clients, transfers under s. 51.35 (3) (a), commitments  
5 under s. 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. ~~971.14, 971.17 or~~ 975.06,  
6 2013 stats., or ch. 975, admissions under s. 975.17, 1977 stats., children placed in the  
7 guardianship of the department of children and families under s. 48.427 or 48.43 or  
8 juveniles under the supervision of the department of corrections under s. 938.183 or  
9 938.355.

10 **SECTION 49.** 51.61 (1) (intro.) of the statutes is amended to read:

11 51.61 (1) (intro.) In this section, “patient” means any individual who is  
12 receiving services for mental illness, developmental disabilities, alcoholism or drug  
13 dependency, including any individual who is admitted to a treatment facility in  
14 accordance with this chapter or ch. 48 or 55 or who is detained, committed or placed  
15 under this chapter, ch. 975, 2013 stats., or ch. 48, 55, ~~971,~~ 975, or 980, or who is  
16 transferred to a treatment facility under s. 51.35 (3) or 51.37 or who is receiving care  
17 or treatment for those conditions through the department or a county department  
18 under s. 51.42 or 51.437 or in a private treatment facility. “Patient” does not include  
19 persons committed under ch. 975, 2013 stats., who are transferred to or residing in  
20 any state prison listed under s. 302.01. In private hospitals and in public general  
21 hospitals, “patient” includes any individual who is admitted for the primary purpose  
22 of treatment of mental illness, developmental disability, alcoholism or drug abuse  
23 but does not include an individual who receives treatment in a hospital emergency  
24 room nor an individual who receives treatment on an outpatient basis at those

**SENATE BILL 82**

1 hospitals, unless the individual is otherwise covered under this subsection. Except  
2 as provided in sub. (2), each patient shall:

3 **SECTION 50.** 51.61 (1) (e) of the statutes is amended to read:

4 51.61 (1) (e) Except in the case of a patient who is admitted or transferred under  
5 s. 51.35 (3) or 51.37 ~~or under ch. 971, ch. 975, 2013 stats., or ch. 975~~, have the right  
6 to the least restrictive conditions necessary to achieve the purposes of admission,  
7 commitment or protective placement, under programs, services and resources that  
8 the county board of supervisors or the Milwaukee County mental health board, as  
9 applicable, is reasonably able to provide within the limits of available state and  
10 federal funds and of county funds required to be appropriated to match state funds.

11 **SECTION 51.** 51.61 (1) (i) 1. of the statutes is amended to read:

12 51.61 (1) (i) 1. Except as provided in subd. 2., have a right to be free from  
13 physical restraint and isolation except for emergency situations or when isolation or  
14 restraint is a part of a treatment program. Isolation or restraint may be used only  
15 when less restrictive measures are ineffective or not feasible and shall be used for  
16 the shortest time possible. When a patient is placed in isolation or restraint, his or  
17 her status shall be reviewed once every 30 minutes. Each facility shall have a written  
18 policy covering the use of restraint or isolation that ensures that the dignity of the  
19 individual is protected, that the safety of the individual is ensured, and that there  
20 is regular, frequent monitoring by trained staff to care for bodily needs as may be  
21 required. Isolation or restraint may be used for emergency situations only when it  
22 is likely that the patient may physically harm himself or herself or others. The  
23 treatment director shall specifically designate physicians who are authorized to  
24 order isolation or restraint, and shall specifically designate licensed psychologists  
25 who are authorized to order isolation. If the treatment director is not a physician,

**SENATE BILL 82**

1 the medical director shall make the designation. In the case of a center for the  
2 developmentally disabled, use shall be authorized by the director of the center. The  
3 authorization for emergency use of isolation or restraint shall be in writing, except  
4 that isolation or restraint may be authorized in emergencies for not more than one  
5 hour, after which time an appropriate order in writing shall be obtained from the  
6 physician or licensed psychologist designated by the director, in the case of isolation,  
7 or the physician so designated in the case of restraint. Emergency isolation or  
8 restraint may not be continued for more than 24 hours without a new written order.  
9 Isolation may be used as part of a treatment program if it is part of a written  
10 treatment plan, and the rights specified in this subsection are provided to the  
11 patient. The use of isolation as a part of a treatment plan shall be explained to the  
12 patient and to his or her guardian, if any, by the person who provides the treatment.  
13 A treatment plan that incorporates isolation shall be evaluated at least once every  
14 2 weeks. Patients who have a recent history of physical aggression may be restrained  
15 during transport to or from the facility. Persons who are committed or transferred  
16 under s. 51.35 (3) or 51.37, under ch. 975, 2013 stats., or under ch. ~~971~~ or 975, or who  
17 are detained or committed under ch. 980, and who, while under this status, are  
18 transferred to a hospital, as defined in s. 50.33 (2), for medical care may be isolated  
19 for security reasons within locked facilities in the hospital. Patients who are  
20 committed or transferred under ch. 975, 2013 stats., under s. 51.35 (3) or 51.37, or  
21 under ch. ~~971~~ or 975, or who are detained or committed under ch. 980, may be  
22 restrained for security reasons during transport to or from the facility.

23 **SECTION 52.** 51.87 (3) of the statutes is amended to read:

24 51.87 (3) PURCHASE OF SERVICES. A county department under s. 46.23, 51.42,  
25 or 51.437 may contract as provided under this section with public or private agencies

**SENATE BILL 82**

1 in states bordering on Wisconsin to secure services under this chapter for persons  
2 who receive services through the county department, except that services may not  
3 be secured for persons committed under ~~s. 971.14 or 971.17~~ ch. 975. Section 46.036  
4 (1) to (6) applies to contracts entered into under this section by county departments  
5 under s. 46.23, 51.42, or 51.437.

6 **SECTION 53.** 55.043 (6) (bt) 8. of the statutes is amended to read:

7 55.043 (6) (bt) 8. To the attorney or guardian ad litem for the adult at risk who  
8 is the alleged victim named in the record, to assist in preparing for any proceeding  
9 under this chapter, ch. 975, 2013 stats., or ch. 48, 51, 54, 813, ~~971~~, or 975 pertaining  
10 to the alleged victim.

11 **SECTION 54.** 55.075 (intro.) of the statutes is amended to read:

12 **55.075 Protective services or protective placement; petition.** (intro.)

13 Except as provided in s. ~~971.14 (6) (b)~~ 975.38:

14 **SECTION 55.** 59.34 (2) (a) of the statutes is amended to read:

15 59.34 (2) (a) Notwithstanding s. ~~979.04 968.015~~ (3) and except as provided in  
16 par. (b), any person holding office under sub. (1) may also serve as an emergency  
17 medical technician, first responder or fire fighter.

18 **SECTION 56.** 66.0113 (3) (e) of the statutes is amended to read:

19 66.0113 (3) (e) A judgment may be entered under par. (d) if the summons or  
20 citation was served as provided under s. ~~968.04 (3) (b) 2.~~ 969.22 (2) or by personal  
21 service by a county, town, city, village, town sanitary district or public inland lake  
22 protection and rehabilitation district employee.

23 **SECTION 57.** 66.0114 (1) (a) of the statutes is amended to read:

24 66.0114 (1) (a) An action for violation of an ordinance or bylaw enacted by a city,  
25 village, town sanitary district or public inland lake protection and rehabilitation

**SENATE BILL 82**

1 district is a civil action. All forfeitures and penalties imposed by an ordinance or  
2 bylaw of the city, village, town sanitary district or public inland lake protection and  
3 rehabilitation district, except as provided in ss. 345.20 to 345.53, may be collected in  
4 an action in the name of the city or village before the municipal court or in an action  
5 in the name of the city, village, town sanitary district or public inland lake protection  
6 and rehabilitation district before a court of record. If the action is in municipal court,  
7 the procedures under ch. 800 apply and the procedures under this section do not  
8 apply. If the action is in a court of record, it shall be commenced by warrant or  
9 summons under s. ~~968.04~~ 969.20 or, if applicable, by citation under s. 778.25 or  
10 778.26. A law enforcement officer may arrest the offender in all cases without  
11 warrant under s. ~~968.07~~ 969.16. If the action is commenced by warrant the affidavit  
12 may be the complaint. The affidavit or complaint is sufficient if it alleges that the  
13 defendant has violated an ordinance or bylaw, specifying the ordinance or bylaw by  
14 section, chapter, title or otherwise with sufficient plainness to identify the ordinance  
15 or bylaw. The judge may release a defendant without a cash deposit or may permit  
16 him or her to execute an unsecured appearance bond upon arrest. In arrests without  
17 a warrant or summons a statement on the records of the court of the offense charged  
18 is the complaint unless the court directs that a formal complaint be issued. In all  
19 actions under this paragraph the defendant's plea shall be guilty, not guilty or no  
20 contest and shall be entered as not guilty on failure to plead. A plea of not guilty on  
21 failure to plead puts all matters in the case at issue, any other provision of law  
22 notwithstanding. The defendant may enter a not guilty plea by certified mail.

23 **SECTION 58.** 66.0139 (4) and (5) of the statutes are amended to read:

24 66.0139 (4) Except as provided in s. ~~968.20~~ (3) 175.27 (1), a 1st class city shall  
25 dispose of abandoned or unclaimed dangerous weapons or ammunition without a

**SENATE BILL 82**

1 public auction 12 months after taking possession of them if the owner has not  
2 requested their return. Disposal procedures shall be established by ordinance or  
3 resolution and may include provisions authorizing an attempt to return to the  
4 rightful owner any dangerous weapons or ammunition which appear to be stolen or  
5 are reported stolen. If enacted, a disposal procedure shall include a presumption that  
6 if the dangerous weapons or ammunition appear to be or are reported stolen an  
7 attempt will be made to return the dangerous weapons or ammunition to the rightful  
8 owner. The dangerous weapons or ammunition are subject to sub. (5).

9 (5) A political subdivision may retain or dispose of any abandoned, unclaimed,  
10 or seized dangerous weapon or ammunition only under ~~s. 968.20~~ ss. 175.27 and  
11 968.625.

12 **SECTION 59.** 69.18 (2) (f) 3. of the statutes is amended to read:

13 69.18 (2) (f) 3. A person signing a medical certification under par. (b), (c), or (d)  
14 shall note on the certificate if the cause of death of the subject of the certificate is  
15 unknown, or undetermined or if the determination of the cause of death is pending  
16 and shall submit to the state registrar within 30 days after the pronouncement of  
17 death an amendment to the medical certification which satisfies the requirements  
18 of subd. 1., except that such amendment may exclude information which is  
19 unavailable pending the determination of an inquest under s. ~~979.04~~ 968.015.

20 **SECTION 60.** 71.78 (4) (n) of the statutes is amended to read:

21 71.78 (4) (n) The state public defender and the department of administration  
22 for the purpose of collecting payment ordered under s. 48.275 (2), 757.66, 973.06 (1)  
23 (e), or 977.076 (1).

24 **SECTION 61.** 77.61 (12) (b) of the statutes is amended to read:



**SENATE BILL 82**

1           77.61 (12) (b) The immunity provided under par. (a) is subject to the  
2 restrictions under s. ~~972.085~~ 967.18.

3           **SECTION 62.** 93.17 (2) of the statutes is amended to read:

4           93.17 (2) The immunity provided under sub. (1) is subject to the restrictions  
5 under s. ~~972.085~~ 967.18.

6           **SECTION 63.** 102.13 (5) of the statutes is amended to read:

7           102.13 (5) The department may refuse to receive testimony as to conditions  
8 determined from an autopsy if it appears that the party offering the testimony had  
9 procured the autopsy and had failed to make reasonable effort to notify at least one  
10 party in adverse interest or the department at least 12 hours before the autopsy of  
11 the time and place it would be performed, or that the autopsy was performed by or  
12 at the direction of the coroner or medical examiner or at the direction of the district  
13 attorney for purposes not authorized by subch. I of ch. 968 or ch. 979. The  
14 department may withhold findings until an autopsy is held in accordance with its  
15 directions.

16           **SECTION 64.** 103.005 (20) of the statutes is amended to read:

17           103.005 (20) The department shall establish a procedure for the department  
18 to provide to the state public defender and the department of administration any  
19 information that the department may have concerning an individual's wages to  
20 assist the state public defender and the department of administration in collecting  
21 payment ordered under s. 48.275 (2), 757.66, 973.06 (1) (e), or 977.076 (1).

22           **SECTION 65.** 103.10 (1m) (b) 1. of the statutes is amended to read:

23           103.10 (1m) (b) 1. "Domestic abuse" has the meaning given in s. ~~968.075~~ 969.27  
24 (1) (a).

25           **SECTION 66.** 110.001 (1m) of the statutes is amended to read:

**SENATE BILL 82**

1           110.001 **(1m)** “Law enforcement officer” has the meaning given in s. ~~967.02 (5)~~  
2           967.025 (13).

3           **SECTION 67.** 110.07 (2m) of the statutes is amended to read:

4           110.07 **(2m)** In addition to the primary powers granted by subs. (1) and (2), any  
5           officer of the state traffic patrol shall have the powers of a peace officer under s. 59.28,  
6           except that the officer shall have the arrest powers of a law enforcement officer under  
7           s. ~~968.07~~ 969.16, regardless of whether the violation is punishable by forfeiture or  
8           criminal penalty. A state traffic officer shall at all times be available as a witness for  
9           the state but may not conduct investigations for crimes under chs. 939 to 948 other  
10          than crimes relating to the use or operation of vehicles. The primary duty of a state  
11          traffic officer shall be the enforcement of chs. 340 to 351 or of any other law relating  
12          to the use or operation of vehicles upon the highway. No state traffic officer shall be  
13          used in or take part in any dispute or controversy between employer or employee  
14          concerning wages, hours, labor or working conditions; nor shall any such officer be  
15          required to serve civil process. The department may assign state traffic officers to  
16          safeguard state officers or other persons.

17          **SECTION 68.** 110.07 (4) of the statutes is amended to read:

18          110.07 **(4)** In addition to the primary powers granted by sub. (3), any inspector  
19          shall have the powers of a peace officer under s. 59.28, except that the inspector shall  
20          have the arrest powers of a law enforcement officer under s. ~~968.07~~ 969.16,  
21          regardless of whether the violation is punishable by forfeiture or criminal penalty.  
22          An inspector shall at all times be available as a witness for the state but may not  
23          conduct investigations for crimes under chs. 939 to 948 other than crimes relating  
24          to the use or operation of vehicles. The primary duty of an inspector shall be the  
25          enforcement of the provisions specified in sub. (3). No inspector may be used in or

**SENATE BILL 82**

1 take part in any dispute or controversy between employer or employee concerning  
2 wages, hours, labor or working conditions; nor may an inspector be required to serve  
3 civil process. The department may assign inspectors to safeguard state officers or  
4 other persons.

5 **SECTION 69.** 111.07 (2) (b) 2. of the statutes is amended to read:

6 111.07 (2) (b) 2. The immunity provided under subd. 1. is subject to the  
7 restrictions under s. ~~972.085~~ 967.18.

8 **SECTION 70.** 128.16 (2) of the statutes is amended to read:

9 128.16 (2) The immunity provided under sub. (1) is subject to the restrictions  
10 under s. ~~972.085~~ 967.18.

11 **SECTION 71.** 133.15 (2) of the statutes is amended to read:

12 133.15 (2) The immunity provided under sub. (1) is subject to the restrictions  
13 under s. ~~972.085~~ 967.18.

14 **SECTION 72.** 134.43 (3) of the statutes is amended to read:

15 134.43 (3) Any person who is the victim of an intrusion of privacy under this  
16 section is entitled to relief under s. 995.50 (1) and (4) unless the act is permissible  
17 under ~~ss. 968.27 to 968.373~~ subch. IV of ch. 968.

18 **SECTION 73.** 139.20 (2) of the statutes is amended to read:

19 139.20 (2) The immunity provided under sub. (1) is subject to the restrictions  
20 under s. ~~972.085~~ 967.18.

21 **SECTION 74.** 139.39 (5) (b) of the statutes is amended to read:

22 139.39 (5) (b) The immunity provided under par. (a) is subject to the restrictions  
23 under s. ~~972.085~~ 967.18.

24 **SECTION 75.** 146.81 (4) of the statutes is amended to read:

**SENATE BILL 82**

1           146.81 (4) "Patient health care records" means all records related to the health  
2 of a patient prepared by or under the supervision of a health care provider; and all  
3 records made by an ambulance service provider, as defined in s. 256.01 (3), an  
4 emergency medical technician, as defined in s. 256.01 (5), or a first responder, as  
5 defined in s. 256.01 (9), in administering emergency care procedures to and handling  
6 and transporting sick, disabled, or injured individuals. "Patient health care records"  
7 includes billing statements and invoices for treatment or services provided by a  
8 health care provider and includes health summary forms prepared under s. 302.388  
9 (2). "Patient health care records" does not include those records subject to s. 51.30,  
10 reports collected under s. 69.186, records of tests administered under s. 252.15 (5g)  
11 or (5j), 343.305, 938.296 (4) or (5), or ~~968.38~~ 968.725 (4) or (5), records related to sales  
12 of pseudoephedrine products, as defined in s. 961.01 (20c), that are maintained by  
13 pharmacies under s. 961.235, fetal monitor tracings, as defined under s. 146.817 (1),  
14 or a pupil's physical health records maintained by a school under s. 118.125.

15           **SECTION 76.** 146.82 (2) (c) of the statutes is amended to read:

16           146.82 (2) (c) Notwithstanding sub. (1), patient health care records shall be  
17 released to appropriate examiners and facilities in accordance with s. ~~971.17 (2) (e),~~  
18 ~~(4) (e), and (7) (e)~~ 975.56 (2), 975.59 (3), and 975.63 (4). The recipient of any  
19 information from the records shall keep the information confidential except as  
20 necessary to comply with s. ~~971.17 subch. III of ch. 975~~.

21           **SECTION 77.** 154.30 (3) (a) 2. of the statutes is amended to read:

22           154.30 (3) (a) 2. Any power or duty of a coroner, medical examiner, or other  
23 physician licensed to perform autopsies with respect to the reporting of certain  
24 deaths, and the performance of autopsies, under ch. 979 and with respect to inquests  
25 under subch. I of ch. 979 968.

**SENATE BILL 82**

1           **SECTION 78.** 165.76 (1) (bm) of the statutes, as affected by 2013 Wisconsin Act  
2           20, is amended to read:

3           165.76 (1) (bm) Has been found not guilty or not responsible by reason of  
4           mental disease or defect on or after August 12, 1993, and committed under s. 51.20  
5           or 971.17 subch. III of ch. 975 for any violation of s. 940.225 (1) or (2), 948.02 (1) or  
6           (2), 948.025, or 948.085.

7           **SECTION 79.** 165.76 (1) (br) of the statutes, as affected by 2013 Wisconsin Act  
8           20, is amended to read:

9           165.76 (1) (br) Has been found not guilty or not responsible by reason of mental  
10          disease or defect on or after January 1, 2000, and committed under s. 51.20 or 971.17  
11          subch. III of ch. 975, for any felony or a violation of s. 165.765 (1), 2011 stats., or of  
12          s. 940.225 (3m), 944.20, 946.52, or 948.10 (1) (b).

13          **SECTION 80.** 165.76 (1) (g) of the statutes, as affected by 2013 Wisconsin Act 20,  
14          is amended to read:

15          165.76 (1) (g) Has been required by a court under s. 51.20 (13) (cr), 938.21 (1m),  
16          938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2)  
17          (a), or 980.063 to provide a biological specimen to the state crime laboratories for  
18          deoxyribonucleic acid analysis.

19          **SECTION 81.** 165.76 (1m) of the statutes, as affected by 2013 Wisconsin Act 20,  
20          is amended to read:

21          165.76 (1m) If a person is required to provide a biological specimen under sub.  
22          (1) (a) to (gm) and the department of justice does not have the data obtained from  
23          analysis of a biological specimen from the person that the department is required to  
24          maintain in the data bank under s. 165.77 (3), the department may require the  
25          person to provide a biological specimen, regardless of whether the person previously

**SENATE BILL 82**

1 provided a biological specimen under this section or s. 51.20 (13) (cr), 165.84 (7),  
2 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7),  
3 973.047, 975.54 (2) (a), or 980.063. The department of justice, the department of  
4 corrections, a district attorney, or a county sheriff, shall notify any person whom the  
5 department of justice requires to provide a biological specimen under this subsection.

6 **SECTION 82.** 165.76 (2m) (g) of the statutes is amended to read:

7 165.76 (2m) (g) If the person has been committed to the department of health  
8 services under s. 51.20 or ~~971.17 subch. III of ch. 975~~ or found to be a sexually violent  
9 person under ch. 980, as directed by the department of health services.

10 **SECTION 83.** 165.76 (4) (a) and (b) of the statutes, as created by 2013 Wisconsin  
11 Act 20, are amended to read:

12 165.76 (4) (a) Establish procedures and time limits for obtaining and  
13 submitting biological specimens under this section and ss. 51.20 (13) (cr), 165.84 (7),  
14 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7),  
15 973.047, 975.54 (2) (a), and 980.063.

16 (b) Specify whether an individual who is required under this section or s. 51.20  
17 (13) (cr), 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~  
18 971.027 (7), 973.047, 975.54 (2) (a), or 980.063 to provide a biological specimen for  
19 deoxyribonucleic acid analysis must provide a new biological specimen if the crime  
20 laboratories already have a biological specimen from the individual or if data  
21 obtained from deoxyribonucleic acid analysis of the individual's biological specimen  
22 are already included in the data bank under s. 165.77 (3).

23 **SECTION 84.** 165.76 (4) (c) of the statutes, as affected by 2013 Wisconsin Act 214,  
24 is amended to read:

**SENATE BILL 82**

1           165.76 (4) (c) Allow a biological specimen, or data obtained from analysis of a  
2 biological specimen, obtained under this section, under s. 51.20 (13) (cr), 938.21 (1m),  
3 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2)  
4 (a), or 980.063, or, if the specimen is required to be analyzed under s. 165.84 (7) (am)  
5 1m., under s. 165.84 (7) (ah), to be submitted for inclusion in an index established  
6 under 42 USC 14132 (a) or in another national index system.

7           **SECTION 85.** 165.765 (1m) of the statutes, as created by 2013 Wisconsin Act 20,  
8 is amended to read:

9           165.765 (1m) A law enforcement officer; a jail officer; a tribal officer; a  
10 correctional officer; a probation, extended supervision, or parole officer; or an  
11 employee of the department of health services may use reasonable force to obtain a  
12 biological specimen from a person who intentionally refuses to provide a biological  
13 specimen that is required under s. 165.76 (1), 165.84 (7), 938.21 (1m), 938.30 (2m),  
14 938.34 (15), or ~~970.02 (8)~~ 971.027 (7).

15           **SECTION 86.** 165.765 (2) (a) 1. of the statutes, as affected by 2013 Wisconsin Act  
16 20, is amended to read:

17           165.765 (2) (a) 1. Any physician, registered nurse, medical technologist,  
18 physician assistant, or person acting under the direction of a physician who obtains  
19 a biological specimen under s. 51.20 (13) (cr), 165.76, 165.84 (7), 938.21 (1m), 938.30  
20 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2) (a), or  
21 980.063 is immune from any civil or criminal liability for the act, except for civil  
22 liability for negligence in the performance of the act.

23           **SECTION 87.** 165.77 (2) (b) of the statutes, as affected by 2013 Wisconsin Act 20,  
24 is amended to read:

**SENATE BILL 82**

1           165.77 (2) (b) Paragraph (a) does not apply to specimens received under s. 51.20  
2           (13) (cr), 165.76, 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17~~  
3           ~~(1m) (a) 971.027 (7), 973.047, 975.54 (2) (a),~~ or 980.063.

4           **SECTION 88.** 165.77 (2m) (c) of the statutes, as affected by 2013 Wisconsin Act  
5           20, is amended to read:

6           165.77 (2m) (c) Paragraph (b) does not apply to specimens received under s.  
7           51.20 (13) (cr), 165.76, 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8),~~  
8           ~~971.17 (1m) (a) 971.027 (7), 973.047, 975.54 (2) (a),~~ or 980.063.

9           **SECTION 89.** 165.77 (3) of the statutes, as affected by 2013 Wisconsin Act 214,  
10          is amended to read:

11          165.77 (3) If the laboratories receive a human biological specimen under s.  
12          51.20 (13) (cr), 165.76, 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m)~~  
13          ~~(a) 971.027 (7), 973.047, 975.54 (2) (a),~~ or 980.063, the laboratories shall analyze the  
14          deoxyribonucleic acid in the specimen. If the laboratories receive a human biological  
15          specimen under s. 165.84 (7) (ah), the laboratories shall analyze the deoxyribonucleic  
16          acid in the specimen as provided under s. 165.84 (7) (am) 1m. The laboratories shall  
17          maintain a data bank based on data obtained from deoxyribonucleic acid analysis of  
18          those specimens. The laboratories may compare the data obtained from one  
19          specimen with the data obtained from other specimens. The laboratories may make  
20          data obtained from any analysis and comparison available to law enforcement  
21          agencies in connection with criminal or delinquency investigations and, upon  
22          request, to any prosecutor, defense attorney or subject of the data. The data may be  
23          used in criminal and delinquency actions and proceedings.

24          **SECTION 90.** 165.77 (4) (am) 1. of the statutes, as created by 2013 Wisconsin Act  
25          20, is amended to read:



**SENATE BILL 82**

1           165.77 (4) (am) 1. If the person was required to submit a biological specimen  
2           under s. 51.20 (13) (cr), 165.76, 938.34 (15), ~~971.17 (1m) (a)~~, 973.047, 975.54 (2) (a),  
3           or 980.063, all convictions, findings, or adjudications for which the person was  
4           required to submit a biological specimen under s. 51.20 (13) (cr), 165.76, 938.34 (15),  
5           ~~971.17 (1m) (a)~~, 973.047, 975.54 (2) (a), or 980.063 have been reversed, set aside, or  
6           vacated.

7           **SECTION 91.** 165.77 (4) (am) 2. (intro.) of the statutes, as created by 2013  
8           Wisconsin Act 20, is amended to read:

9           165.77 (4) (am) 2. (intro.) If the person was required to provide a biological  
10          specimen under s. 165.84 (7) in connection with an arrest or under s. ~~970.02 (8)~~  
11          971.027 (7), one of the following applies:

12          **SECTION 92.** 165.77 (4) (am) 2. a., b. and d. of the statutes, as affected by 2013  
13          Wisconsin Act 214, are amended to read:

14          165.77 (4) (am) 2. a. All charges for which the person was required to provide  
15          a biological specimen under s. 165.84 (7) or ~~970.02 (8)~~ 971.027 (7) have been  
16          dismissed.

17          b. The trial court reached final disposition for all charges for which the person  
18          was required to provide a biological specimen under s. 165.84 (7) or ~~970.02 (8)~~  
19          971.027 (7), and the person was not adjudged guilty of a violent crime in connection  
20          with any such charge.

21          d. The person was adjudged guilty of a violent crime in connection with any  
22          charge for which the person was required to provide a biological specimen under s.  
23          165.84 (7) or ~~970.02 (8)~~ 971.027 (7), and all such convictions for a violent crime have  
24          been reversed, set aside, or vacated.

25          **SECTION 93.** 165.79 (1) of the statutes is amended to read:

**SENATE BILL 82**

1           165.79 (1) Evidence, information, and analyses of evidence obtained from law  
2 enforcement officers by the laboratories is privileged and not available to persons  
3 other than law enforcement officers nor is the defendant entitled to an inspection of  
4 information and evidence submitted to the laboratories by the state or of a  
5 laboratory's findings, or to examine laboratory personnel as witnesses concerning  
6 the same, prior to trial, except to the extent that the same is used by the state at a  
7 preliminary hearing and except as provided in s. ~~971.23~~ subch. IV of ch. 971. Upon  
8 request of a defendant in a felony action, approved by the presiding judge, the  
9 laboratories shall conduct analyses of evidence on behalf of the defendant. No  
10 prosecuting officer is entitled to an inspection of information and evidence submitted  
11 to the laboratories by the defendant, or of a laboratory's findings, or to examine  
12 laboratory personnel as witnesses concerning the same, prior to trial, except to the  
13 extent that the same is used by the accused at a preliminary hearing and except as  
14 provided in s. ~~971.23~~ subch. IV of ch. 971. Employees who made examinations or  
15 analyses of evidence shall attend the criminal trial as witnesses, without subpoena,  
16 upon reasonable written notice from either party requesting the attendance.

17           **SECTION 94.** 165.81 (1) of the statutes is amended to read:

18           165.81 (1) Whenever the department is informed by the submitting officer or  
19 agency that physical evidence in the possession of the laboratories is no longer  
20 needed the department may, except as provided in sub. (3) or unless otherwise  
21 provided by law, destroy the evidence, retain it in the laboratories, return it to the  
22 submitting officer or agency, or turn it over to the University of Wisconsin upon the  
23 request of the head of any department of the University of Wisconsin. If the  
24 department returns the evidence to the submitting officer or agency, any action  
25 taken by the officer or agency with respect to the evidence shall be in accordance with

**SENATE BILL 82**

1 ~~s. 968.20~~ ss. 175.27 and 968.625. Except as provided in sub. (3), whenever the  
2 department receives information from which it appears probable that the evidence  
3 is no longer needed, the department may give written notice to the submitting agency  
4 and the appropriate district attorney, by registered mail, of the intention to dispose  
5 of the evidence. If no objection is received within 20 days after the notice was mailed,  
6 it may dispose of the evidence.

7 **SECTION 95.** 165.81 (3) (a) 1. and 2., (b) and (f) of the statutes are amended to  
8 read:

9 165.81 (3) (a) 1. "Custody" has the meaning given in s. ~~968.205~~ 968.645 (1) (a).

10 2. "Discharge date" has the meaning given in s. ~~968.205~~ 968.645 (1) (b).

11 (b) Except as provided in par. (c), if physical evidence that is in the possession  
12 of the laboratories includes any biological material that was collected in connection  
13 with a criminal investigation that resulted in a criminal conviction, a delinquency  
14 adjudication, or commitment under s. ~~971.17 or 980.06~~ and the biological material  
15 is from a victim of the offense that was the subject of the criminal investigation or  
16 may reasonably be used to incriminate or exculpate any person for the offense or  
17 subch. III of ch. 975, the laboratories shall preserve the physical evidence until every  
18 person in custody as a result of the conviction, adjudication, or commitment has  
19 reached his or her discharge date.

20 (f) Unless otherwise provided in a court order issued under s. 974.07 (9) (a) or  
21 (b) or (10) (a) 5., nothing in this subsection prohibits the laboratories from returning  
22 evidence that must be preserved under par. (b) or (e) to the agency that submitted  
23 the evidence to the laboratories. If the laboratories return evidence that must be  
24 preserved under par. (b) or (e) to a submitting agency, any action taken by the agency  
25 with respect to the evidence shall be in accordance with s. ~~968.205~~ 968.645.

**SENATE BILL 82**

1           **SECTION 96.** 165.84 (7) (am) 1m. c. of the statutes, as affected by 2013 Wisconsin  
2 Act 214, is amended to read:

3           165.84 (7) (am) 1m. c. The individual failed to appear at the initial appearance  
4 or preliminary examination or the person waived the preliminary examination  
5 under s. 971.042.

6           **SECTION 97.** 167.10 (8) (b) of the statutes is amended to read:

7           167.10 (8) (b) Fireworks stored, handled, sold, possessed, or used by a person  
8 who violates this section, an ordinance adopted under sub. (5), or a court order under  
9 par. (a) may be seized and held as evidence of the violation. Except as provided in  
10 s. ~~968.20 (4)~~ 175.27 (2), only the fireworks that are the subject of a violation of this  
11 section, an ordinance adopted under sub. (5), or a court order under par. (a) may be  
12 destroyed after conviction for a violation. Except as provided in s. ~~968.20 (4)~~ 175.27  
13 (2), fireworks that are seized as evidence of a violation for which no conviction results  
14 shall be returned to the owner in the same condition as they were when seized to the  
15 extent practicable.

16           **SECTION 98.** 169.42 (2) (b) of the statutes is amended to read:

17           169.42 (2) (b) A conservation warden and the department shall comply with the  
18 applicable procedures under ss. 29.931, 29.934, and ~~968.20~~ 968.625 as they relate to  
19 seized and confiscated wild animals, carcasses, vehicles, boats, or other objects or  
20 property.

21           **SECTION 99.** 173.10 of the statutes is amended to read:

22           **173.10 Investigation of cruelty complaints.** A person may apply for a  
23 search warrant under s. ~~968.12~~ 968.465 if there is reason to believe that a violation  
24 of ch. 951 has taken place or is taking place. If the court is satisfied that probable  
25 cause exists, it shall issue a search warrant directing a law enforcement officer in the

**SENATE BILL 82**

1 county to proceed immediately to the location of the alleged violation with a doctor  
2 of veterinary medicine, if the court determines that a veterinarian is necessary for  
3 purposes of the search, and directing the law enforcement officer to search the place  
4 designated in the warrant, retaining in his or her custody subject to the order of the  
5 court such property or things as are specified in the warrant, including any animal.  
6 If the person applying for the search warrant is a humane officer, the warrant shall  
7 direct that the humane officer accompany the law enforcement officer who is directed  
8 to perform the search. The warrant shall be executed and returned to the court which  
9 issued the warrant in accordance with ss. ~~968.15~~ 968.495 and ~~968.17~~ 968.506. This  
10 section does not affect other powers and duties of law enforcement officers.

11 **SECTION 100.** 173.12 (1m) of the statutes is amended to read:

12 173.12 **(1m)** If an animal has been seized because it is alleged that the animal  
13 has been used in or constitutes evidence of any crime specified in s. 951.08, the  
14 animal may not be returned to the owner by an officer under s. ~~968.20~~ 968.625 (2).  
15 In any hearing under s. ~~968.20~~ 968.625 (1), the court shall determine if the animal  
16 is needed as evidence or there is reason to believe that the animal has participated  
17 in or been trained for fighting. If the court makes such a finding, the animal shall  
18 be retained in custody.

19 **SECTION 101.** 175.27 (title) of the statutes is created to read:

20 **175.27 (title) Seized dangerous property.**

21 **SECTION 102.** 175.55 (2) of the statutes is amended to read:

22 175.55 **(2)** No Wisconsin law enforcement agency may use a drone to gather  
23 evidence or other information in a criminal investigation from or at a place or location  
24 where an individual has a reasonable expectation of privacy without first obtaining  
25 a search warrant under s. ~~968.12~~ 968.465. This subsection does not apply to the use

**SENATE BILL 82**

1 of a drone in a public place or to assist in an active search and rescue operation, to  
2 locate an escaped prisoner, to surveil a place or location for the purpose of executing  
3 an arrest warrant, or if a law enforcement officer has reasonable suspicion to believe  
4 that the use of a drone is necessary to prevent imminent danger to an individual or  
5 to prevent imminent destruction of evidence.

6 **SECTION 103.** 175.60 (3) (d) of the statutes is amended to read:

7 175.60 (3) (d) The court has prohibited the individual from possessing a  
8 dangerous weapon under s. ~~969.02 (3) (e) or 969.03 (1) (e)~~ 969.33 (5) (b).

9 **SECTION 104.** 175.60 (3) (e) of the statutes is amended to read:

10 175.60 (3) (e) The individual is on release under s. ~~969.01~~ 969.31 and the  
11 individual may not possess a dangerous weapon as a condition of the release.

12 **SECTION 105.** 175.60 (9g) (a) 2. of the statutes is amended to read:

13 175.60 (9g) (a) 2. The department shall conduct a criminal history record  
14 search and shall search its records and conduct a search in the national instant  
15 criminal background check system to determine whether the applicant is prohibited  
16 from possessing a firearm under federal law; whether the applicant is prohibited  
17 from possessing a firearm under s. 941.29; whether the applicant is prohibited from  
18 possessing a firearm under s. 51.20 (13) (cv) 1., 2007 stats.; whether the applicant  
19 has been ordered not to possess a firearm under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1.,  
20 54.10 (3) (f) 1., or 55.12 (10) (a); whether the applicant is subject to an injunction  
21 under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued  
22 by a court established by any federally recognized Wisconsin Indian tribe or band,  
23 except the Menominee Indian tribe of Wisconsin, that includes notice to the  
24 respondent that he or she is subject to the requirements and penalties under s.  
25 941.29 and that has been filed with the circuit court under s. 806.247 (3); and

**SENATE BILL 82**

1 whether the applicant is prohibited from possessing a firearm under s. 813.123 (5m)  
2 or 813.125 (4m); and to determine if the court has prohibited the applicant from  
3 possessing a dangerous weapon under s. ~~969.02 (3) (e) or 969.03 (1) (e)~~ 969.33 (5) (b)  
4 and if the applicant is prohibited from possessing a dangerous weapon as a condition  
5 of release under s. ~~969.01~~ 969.31.

6 **SECTION 106.** 175.60 (11) (a) 2. b. of the statutes is amended to read:

7 175.60 (11) (a) 2. b. The individual is found incompetent under s. ~~971.14~~ 975.34  
8 (6) (b).

9 **SECTION 107.** 175.60 (11) (a) 2. c. of the statutes is amended to read:

10 175.60 (11) (a) 2. c. The individual is found not guilty of any crime by reason  
11 of mental disease or mental defect ~~under s. 971.17~~.

12 **SECTION 108.** 175.60 (11) (a) 2. g. of the statutes is amended to read:

13 175.60 (11) (a) 2. g. A court has prohibited the individual from possessing a  
14 dangerous weapon under s. ~~969.02 (3) (e) or 969.03 (1) (e)~~ 969.33 (5) (b).

15 **SECTION 109.** 175.60 (11) (a) 2. i. of the statutes is amended to read:

16 175.60 (11) (a) 2. i. The individual is on release under s. ~~969.01~~ 969.31 and the  
17 individual may not possess a dangerous weapon as a condition of the release.

18 **SECTION 110.** 175.60 (14) (am) of the statutes is amended to read:

19 175.60 (14) (am) The department shall suspend a license issued under this  
20 section if a court has prohibited the licensee from possessing a dangerous weapon  
21 under s. ~~969.02 (3) (e) or 969.03 (1) (e)~~ 969.33 (5) (b). If the individual whose license  
22 was suspended is no longer subject to the prohibition under s. ~~969.02 (3) (e) or 969.03~~  
23 ~~(1) (e), whichever is applicable~~ 969.33 (5) (b), sub. (3) (b), (c), (d), (e), (f), or (g) does  
24 not apply to the individual, and the suspended license would not have expired under  
25 sub. (15) (a) had it not been suspended, the department shall restore the license

**SENATE BILL 82**

1 within 5 business days of notification that the licensee is no longer subject to the  
2 prohibition.

3 **SECTION 111.** 195.048 (2) of the statutes is amended to read:

4 195.048 (2) The immunity provided under sub. (1) is subject to the restrictions  
5 under s. ~~972.085~~ 967.18.

6 **SECTION 112.** 196.207 (3) (e) of the statutes is amended to read:

7 196.207 (3) (e) A trap and trace device as authorized under ss. ~~968.34~~ 968.376  
8 to ~~968.37~~ 968.405.

9 **SECTION 113.** 196.48 (1) (b) of the statutes is amended to read:

10 196.48 (1) (b) The immunity provided under par. (a) is subject to the restrictions  
11 under s. ~~972.085~~ 967.18.

12 **SECTION 114.** 230.81 (2) of the statutes is amended to read:

13 230.81 (2) Nothing in this section prohibits an employee from disclosing  
14 information to an appropriate law enforcement agency, a state or federal district  
15 attorney in whose jurisdiction the crime is alleged to have occurred, a state or federal  
16 grand jury, or a judge in a proceeding commenced under s. ~~968.26~~ 968.105, or  
17 disclosing information pursuant to any subpoena issued by any person authorized  
18 to issue subpoenas under s. 885.01. Any such disclosure of information is a lawful  
19 disclosure under this section and is protected under s. 230.83.

20 **SECTION 115.** 251.16 of the statutes is amended to read:

21 **251.16 Local health department; evidence.** The reports and employees of  
22 a local health department are subject to s. ~~970.03 (12) (b)~~ ss. 971.042 (9) (b) and  
23 971.75 (7) (b).

24 **SECTION 116.** 252.11 (5m) of the statutes is amended to read:



**SENATE BILL 82**

1           252.11 **(5m)** A health care professional, as defined in s. ~~968.38~~ 968.725 (1) (a),  
2           acting under an order of a court under s. 938.296 (4) or ~~968.38~~ 968.725 (4) may,  
3           without first obtaining informed consent to the testing, subject an individual to a test  
4           or a series of tests to ascertain whether that individual is infected with a sexually  
5           transmitted disease. No sample used for performance of a test under this subsection  
6           may disclose the name of the test subject.

7           **SECTION 117.** 252.11 (7) of the statutes is amended to read:

8           252.11 **(7)** Reports, examinations, and inspections and all records concerning  
9           sexually transmitted diseases are confidential and not open to public inspection, and  
10          may not be divulged except as may be necessary for the preservation of the public  
11          health, in the course of commitment proceedings under sub. (5), or as provided under  
12          s. 938.296 (4) or ~~968.38~~ 968.725 (4). If a physician, physician assistant, or advanced  
13          practice nurse prescriber has reported a case of sexually transmitted disease to the  
14          department under sub. (4), information regarding the presence of the disease and  
15          treatment is not privileged when the patient, physician, physician assistant, or  
16          advanced practice nurse prescriber is called upon to testify to the facts before any  
17          court of record.

18          **SECTION 118.** 252.15 (2m) (b) 3., (3m) (d) 14. and (4) (c) of the statutes are  
19          amended to read:

20          252.15 **(2m)** (b) 3. HIV testing by a health care professional acting under an  
21          order of the court under sub. (5j) or s. 938.296 (4) or (5) or ~~968.38~~ 968.725 (4) or (5).  
22          No sample used for laboratory test purposes under this subdivision may disclose the  
23          name of the HIV test subject, and the HIV test results may not be made part of the  
24          individual's permanent medical record.

**SENATE BILL 82**

1           **(3m)** (d) 14. To a person under s. 938.296 (4) (a) to (e) as specified in s. 938.296  
2 (4); to a person under s. 938.296 (5) (a) to (e) as specified in s. 938.296 (5); to a person  
3 under s. ~~968.38~~ 968.725 (4) (a) to (c) as specified in s. ~~968.38~~ 968.725 (4); or to a person  
4 under s. ~~968.38~~ 968.725 (5) (a) to (c) as specified in s. ~~968.38~~ 968.725 (5).

5           **(4)** (c) A record of the results of an HIV test administered to the person, except  
6 that results of an HIV test administered under sub. (5g) or (5j) or s. 938.296 (4) or  
7 (5) or ~~968.38~~ 968.725 (4) or (5) that include the identity of the test subject may not  
8 be maintained without the consent of the test subject.

9           **SECTION 119.** 301.03 (3c) of the statutes is amended to read:

10           301.03 **(3c)** If requested by the department of health services, contract with  
11 that department to supervise and provide services to persons who are conditionally  
12 transferred or discharged under s. 51.37 (9), conditionally released under s. ~~971.17~~  
13 ~~(3)~~ 975.57 (4) or 975.59, or placed on supervised release under s. 980.06 (2), 1997  
14 stats., or s. 980.08.

15           **SECTION 120.** 301.03 (7m) of the statutes is amended to read:

16           301.03 **(7m)** Supervise criminal defendants accepted into the custody of the  
17 department under s. ~~969.02 (3) (a) or 969.03 (1) (a)~~ ch. 969. The department shall  
18 charge the county that is prosecuting the defendant a fee for providing this  
19 supervision. The department shall set the fee by rule.

20           **SECTION 121.** 301.035 (2) of the statutes is amended to read:

21           301.035 **(2)** Assign hearing examiners from the division to preside over  
22 hearings under s. 975.10 (2), 2013 stats., ss. 302.11 (7), 302.113 (9), 302.114 (9),  
23 938.357 (5), and 973.10 ~~and 975.10 (2)~~, and ch. 304.

24           **SECTION 122.** 301.035 (4) of the statutes is amended to read:

**SENATE BILL 82**

1           301.035 (4) Supervise employees in the conduct of the activities of the division  
2           and be the administrative reviewing authority for decisions of the division under s.  
3           975.10 (2), 2013 stats., ss. 302.11 (7), 302.113 (9), 302.114 (9), 938.357 (5), 973.10, and  
4           973.155 (2) ~~and 975.10 (2)~~, and ch. 304.

5           **SECTION 123.** 301.45 (1g) (c) of the statutes is amended to read:

6           301.45 (1g) (c) Is found not guilty or not responsible by reason of mental disease  
7           or defect on or after December 25, 1993, and committed under s. 51.20 or 971.17  
8           subch. III of ch. 975 for a sex offense.

9           **SECTION 124.** 301.45 (1g) (d) of the statutes is amended to read:

10          301.45 (1g) (d) Is in institutional care or on conditional transfer under s. 51.35  
11          (1) or conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 on or after  
12          December 25, 1993, for a sex offense.

13          **SECTION 125.** 301.45 (1g) (dd) of the statutes is amended to read:

14          301.45 (1g) (dd) Is in institutional care or on conditional transfer under s. 51.35  
15          (1) or conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 on or after  
16          December 25, 1993, for a violation, or for the solicitation, conspiracy or attempt to  
17          commit a violation, of a law of this state that is comparable to a sex offense.

18          **SECTION 126.** 301.45 (1g) (dp) of the statutes is amended to read:

19          301.45 (1g) (dp) Is in institutional care under, or on parole from, a commitment  
20          for specialized treatment under ch. 975, 2013 stats., on or after December 25, 1993.

21          **SECTION 127.** 301.45 (1g) (e) of the statutes is amended to read:

22          301.45 (1g) (e) Is ordered by a court under s. 51.20 (13) (ct) 1m., 938.34 (15m)  
23          (am), 938.345 (3), ~~971.17 (1m) (b) 1m. or 973.048 (1m), or 975.54 (3) (a)~~ to comply with  
24          the reporting requirements under this section.

25          **SECTION 128.** 301.45 (1m) (b) of the statutes is amended to read:

**SENATE BILL 82**

1           301.45 (1m) (b) If a person believes that he or she is not required under par.  
2 (a) to comply with the reporting requirements under this section and the person is  
3 not before the court under s. 51.20 (13) (ct), 938.34 (15m), ~~971.17 (1m) (b) or 973.048,~~  
4 or 975.54 (3), the person may move a court to make a determination of whether the  
5 person satisfies the criteria specified in par. (a). A motion made under this  
6 paragraph shall be filed with the circuit court for the county in which the person was  
7 convicted, adjudicated delinquent or found not guilty or not responsible by reason of  
8 mental disease or defect.

9           **SECTION 129.** 301.45 (1m) (be) of the statutes is amended to read:

10           301.45 (1m) (be) A person who files a motion under par. (b) or s. 51.20 (13) (ct)  
11 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or 973.048 (2m), or 975.54 (3) (b)~~  
12 requesting a determination of whether the person is required to comply with the  
13 reporting requirements under this section shall send a copy of the motion to the  
14 district attorney for the county in which the motion is filed. The district attorney  
15 shall make a reasonable attempt to contact the victim of the crime that is the subject  
16 of the person's motion to inform the victim of his or her right to make or provide a  
17 statement under par. (bv).

18           **SECTION 130.** 301.45 (1m) (bm) of the statutes is amended to read:

19           301.45 (1m) (bm) A court shall hold a hearing on a motion made by a person  
20 under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or~~  
21 973.048 (2m), or 975.54 (3) (b) requesting a determination of whether the person is  
22 required to comply with the reporting requirements under this section. The district  
23 attorney who receives a copy of a motion under par. (be) may appear at the hearing.

24           **SECTION 131.** 301.45 (1m) (bv) of the statutes is amended to read:

**SENATE BILL 82**

1           301.45 **(1m)** (bv) Before deciding a motion filed under par. (b) or s. 51.20 (13)  
2           (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or 973.048 (2m), or 975.54 (3) (b)~~  
3           requesting a determination of whether the person is required to comply with the  
4           reporting requirements under this section, the court shall allow the victim of the  
5           crime that is the subject of the motion to make a statement in court at the hearing  
6           under par. (bm) or to submit a written statement to the court. A statement under this  
7           paragraph must be relevant to whether the person satisfies the criteria specified in  
8           par. (a).

9           **SECTION 132.** 301.45 (1m) (d) 1. of the statutes is amended to read:

10           301.45 **(1m)** (d) 1. Before deciding a motion filed by a person under par. (b) or  
11           s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or 973.048 (2m), or~~  
12           975.54 (3) (b) requesting a determination of whether the person is required to comply  
13           with the reporting requirements under this section, a court may request the person  
14           to be examined by a physician, psychologist, or other expert approved by the court.  
15           If the person refuses to undergo an examination requested by the court under this  
16           subdivision, the court shall deny the person's motion without prejudice.

17           **SECTION 133.** 301.45 (1m) (e) (intro.) of the statutes is amended to read:

18           301.45 **(1m)** (e) (intro.) At the hearing held under par. (bm), the person who  
19           filed the motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m)~~  
20           ~~(b) 2m. or 973.048 (2m), or 975.54 (3) (b)~~ has the burden of proving by clear and  
21           convincing evidence that he or she satisfies the criteria specified in par. (a). In  
22           deciding whether the person has satisfied the criterion specified in par. (a) 3., the  
23           court may consider any of the following:

24           **SECTION 134.** 301.45 (1p) (b) of the statutes is amended to read:

**SENATE BILL 82**

1           301.45 (1p) (b) If a person is covered under sub. (1g) based solely on an order  
2 that was entered under s. 971.17 (1m) (b) 1m., 2013 stats., or under s. 51.20 (13) (ct)  
3 1m., 938.34 (15m) (am), 938.345 (3) (a), ~~971.17 (1m) (b) 1m., or, 973.048 (1m), or~~  
4 975.54 (3) (a) in connection with a violation, or the solicitation, conspiracy, or attempt  
5 to commit a violation, of s. 942.09, and the court provided in the order that the person  
6 be released from the requirement to comply with the reporting requirements under  
7 this section upon satisfying the conditions of the court order under s. 51.20 (13) (ct)  
8 1m. or the dispositional order under subch. VI of ch. 938, upon the termination or  
9 expiration of a commitment order under s. 971.17, 2013 stats., or under s. 975.54 (3)  
10 (a), or upon successful completion of the sentence or probation as provided under s.  
11 973.048 (1m) (b), whichever is applicable, and the person satisfies the conditions of  
12 the court order under s. 51.20 (13) (ct) 1m. or the dispositional order under subch. VI  
13 of ch. 938, the commitment order under s. 971.17, 2013 stats., or under s. 975.54 (3)  
14 (a) is terminated or expires, or the person successfully completes the sentence or  
15 probation, whichever is applicable, the person is no longer required to comply with  
16 the reporting requirements under this section.

17           **SECTION 135.** 301.45 (3) (a) 3. of the statutes is amended to read:

18           301.45 (3) (a) 3. If the person has been committed under s. 51.20 or ~~971.17~~  
19 subch. II of ch. 975, he or she is subject to this subsection upon being placed on  
20 conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 or on a conditional transfer  
21 under s. 51.35 (1) or, if he or she was not placed on conditional release or on a  
22 conditional transfer, before he or she is terminated under s. ~~971.17 (5)~~ 975.60 or  
23 discharged under s. 51.35 (4) or ~~971.17 (6)~~ 975.61.

24           **SECTION 136.** 301.45 (3) (a) 3g. of the statutes is amended to read:

**SENATE BILL 82**

1           301.45 (3) (a) 3g. If the person has been committed for specialized treatment  
2           under ch. 975, 2013 stats., he or she is subject to this subsection upon being released  
3           on parole under s. 975.10, 2013 stats., or, if he or she was not released on parole,  
4           before being discharged from the commitment under s. 975.09, 2013 stats., or s.  
5           975.12, 2013 stats.

6           **SECTION 137.** 301.45 (3) (b) 3. of the statutes is amended to read:

7           301.45 (3) (b) 3. The department of health services shall notify a person who  
8           is being placed on conditional release, supervised release, conditional transfer or  
9           parole, or is being terminated or discharged from a commitment, under s. 51.20, or  
10          51.35 or ~~971.17~~ or, subch. III of ch. 975, or ch. 975, 2013 stats., or ch. 980 and who  
11          is covered under sub. (1g) of the need to comply with the requirements of this section.

12          **SECTION 138.** 301.45 (5) (a) 3. of the statutes is amended to read:

13          301.45 (5) (a) 3. If the person has been committed to the department of health  
14          services under s. 51.20 or ~~971.17~~ subch. III of ch. 975 and is in institutional care or  
15          on conditional transfer under s. 51.35 (1) or conditional release under s. ~~971.17~~  
16          975.57 (4) or 975.59 for a sex offense, 15 years after termination of the commitment  
17          for the sex offense under s. ~~971.17 (5)~~ 975.60 or discharge from the commitment for  
18          the sex offense under s. 51.35 (4) or ~~971.17 (6)~~ 975.61.

19          **SECTION 139.** 301.45 (5) (a) 3m. of the statutes is amended to read:

20          301.45 (5) (a) 3m. If the person has been committed for specialized treatment  
21          under ch. 975, 2013 stats., 15 years after discharge from the commitment under s.  
22          975.09, 2013 stats., or s. 975.12, 2013 stats.

23          **SECTION 140.** 301.45 (5) (b) 3. of the statutes is amended to read:

24          301.45 (5) (b) 3. The court that ordered the person to comply with the reporting  
25          requirements of this section under s. 51.20 (13) (ct), 938.34 (15m), 938.345 (3), ~~971.17~~

**SENATE BILL 82**

1 ~~(1m) (b) or 973.048, or 975.54 (3)~~ also ordered the person to comply with the  
2 requirements until his or her death.

3 **SECTION 141.** 301.45 (6) (a) 2. a. of the statutes is amended to read:

4 301.45 (6) (a) 2. a. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34  
5 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m., or 973.048 (1m), or 975.54 (3) (a)~~ to  
6 comply with the reporting requirements under this section based on a finding that  
7 he or she committed or solicited, conspired, or attempted to commit a misdemeanor.

8 **SECTION 142.** 301.45 (6) (ag) 2. a. of the statutes is amended to read:

9 301.45 (6) (ag) 2. a. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34  
10 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m., or 973.048 (1m), or 975.54 (3) (a)~~ to  
11 comply with the reporting requirements under this section based on a finding that  
12 he or she committed or solicited, conspired, or attempted to commit a misdemeanor.

13 **SECTION 143.** 301.45 (6) (bm) of the statutes is amended to read:

14 301.45 (6) (bm) Subject to s. ~~971.19~~ 970.14 (9), a district attorney or, upon the  
15 request of a district attorney, the department of justice may prosecute a knowing  
16 failure to comply with any requirement to provide information under subs. (2) to (4).  
17 If the department of corrections determines that there is probable cause to believe  
18 that a person has knowingly failed to comply with any requirement to provide  
19 information under subs. (2) to (4) or has intentionally violated sub. (4r), the  
20 department shall forward a certified copy of all pertinent departmental information  
21 to the applicable district attorney. The department shall certify the copy in  
22 accordance with s. 889.08.

23 **SECTION 144.** 301.45 (7) (f) 4. of the statutes is amended to read:

24 301.45 (7) (f) 4. If the person was ordered by a court under s. 971.17 (1m) (b)  
25 1m., 2013 stats., or under s. 975.54 (3) (a) to comply with the reporting requirements



**SENATE BILL 82**

1 under this section, when the department receives notice under s. ~~971.17 (6m) (b) 2.~~  
2 subch. III of ch. 975 that the commitment order under s. 971.17, 2013 stats., or under  
3 s. 975.54 (3) (a) is terminated or has expired.

4 **SECTION 145.** 301.46 (3) (d) of the statutes is amended to read:

5 301.46 (3) (d) The department of health services shall provide the department  
6 with access to the names of victims or the family members of victims who have  
7 completed cards requesting notification under s. ~~971.17 (6m)~~ 975.62 or 980.11.

8 **SECTION 146.** 301.47 (3) (b) 1. of the statutes is amended to read:

9 301.47 (3) (b) 1. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34  
10 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m., or 973.048 (1m), or 975.54 (3) (a)~~ to  
11 comply with the reporting requirements under s. 301.45 based on a finding that he  
12 or she committed or solicited, conspired, or attempted to commit a misdemeanor.

13 **SECTION 147.** 301.48 (2) (a) 4. of the statutes is amended to read:

14 301.48 (2) (a) 4. A court that found the person not guilty of a serious child sex  
15 offense by reason of mental disease or mental defect places the person on conditional  
16 release.

17 **SECTION 148.** 301.48 (2) (a) 5. of the statutes is amended to read:

18 301.48 (2) (a) 5. A court that found the person not guilty of a serious child sex  
19 offense by reason of mental disease or mental defect discharges the person under s.  
20 ~~971.17 (6)~~ 975.61. This subdivision does not apply if the person was on conditional  
21 release immediately before being discharged.

22 **SECTION 149.** 301.48 (2) (b) 3. of the statutes is amended to read:

23 301.48 (2) (b) 3. The department of health services places the person on parole  
24 or discharges the person under ch. 975, 2013 stats. This subdivision does not apply

**SENATE BILL 82**

1 unless the person's commitment was based on his or her commission of a serious child  
2 sex offense.

3 **SECTION 150.** 302.113 (9) (e) of the statutes is amended to read:

4 302.113 (9) (e) If a hearing is to be held under par. (am) before the division of  
5 hearings and appeals in the department of administration, the hearing examiner  
6 may order that a deposition be taken by audiovisual means and allow the use of a  
7 recorded deposition under s. ~~967.04 (7) to (10)~~ 967.22.

8 **SECTION 151.** 302.114 (9) (d) of the statutes is amended to read:

9 302.114 (9) (d) If a hearing is to be held under par. (am) before the division of  
10 hearings and appeals in the department of administration, the hearing examiner  
11 may order that a deposition be taken by audiovisual means and allow the use of a  
12 recorded deposition under s. ~~967.04 (7) to (10)~~ 967.22.

13 **SECTION 152.** 304.06 (3) of the statutes is amended to read:

14 304.06 (3) Every paroled prisoner remains in the legal custody of the  
15 department unless otherwise provided by the department. If the department alleges  
16 that any condition or rule of parole has been violated by the prisoner, the department  
17 may take physical custody of the prisoner for the investigation of the alleged  
18 violation. If the department is satisfied that any condition or rule of parole has been  
19 violated it shall afford the prisoner such administrative hearings as are required by  
20 law. Unless waived by the parolee, the final administrative hearing shall be held  
21 before a hearing examiner from the division of hearings and appeals in the  
22 department of administration who is licensed to practice law in this state. The  
23 hearing examiner shall enter an order revoking or not revoking parole. Upon request  
24 by either party, the administrator of the division of hearings and appeals shall review  
25 the order. The hearing examiner may order that a deposition be taken by audiovisual

**SENATE BILL 82**

1 means and allow the use of a recorded deposition under s. ~~967.04 (7) to (10)~~ 967.22.  
2 If the parolee waives the final administrative hearing, the secretary of corrections  
3 shall enter an order revoking or not revoking parole. If the examiner, the  
4 administrator upon review, or the secretary in the case of a waiver finds that the  
5 prisoner has violated the rules or conditions of parole, the examiner, the  
6 administrator upon review, or the secretary in the case of a waiver, may order the  
7 prisoner returned to prison to continue serving his or her sentence, or to continue on  
8 parole. If the prisoner claims or appears to be indigent, the department shall refer  
9 the prisoner to the authority for indigency determinations specified under s. 977.07  
10 (1).

11 **SECTION 153.** 322.0767 (1) (a) of the statutes is amended to read:

12 322.0767 (1) (a) If a person subject to a general court-martial is found to lack  
13 substantial mental capacity to understand the proceedings or assist in his or own  
14 defense and the military judge determined that the person is likely to become  
15 competent within the maximum period specified under s. ~~971.14 (5) (a)~~ of  
16 commitment, as defined in s. 975.34 (6) (a), the court-martial convening authority  
17 for the person shall commit the person to the custody of the department of health  
18 services ~~under as provided in s. 971.14 (5)~~ 975.34 (7). If the military judge determines  
19 that the defendant is not likely to become competent ~~in~~ within the ~~time~~ maximum  
20 ~~period specified under s. 971.14 (5)~~ of commitment, the military judge shall suspend  
21 or terminate the general court-martial.

22 **SECTION 154.** 322.0767 (1) (b) of the statutes is amended to read:

23 322.0767 (1) (b) The department of health services shall submit all reports that  
24 are required under s. ~~971.14 (5) (b)~~ 975.36 and that pertain to a person subject to a  
25 commitment order under par. (a) to the court-martial.

**SENATE BILL 82**

1           **SECTION 155.** 322.0767 (1) (c) of the statutes is amended to read:

2           322.0767 (1) (c) Upon receiving a report under s. ~~971.14 (5) (b)~~ 975.36, the  
3 court-martial shall make a determination as to whether the person has become  
4 competent. If the court-martial determines that the defendant has become  
5 competent, the court-martial shall terminate the commitment to the department of  
6 health services and resume the general court-martial. If the court-martial  
7 determines that the person is making sufficient progress toward becoming  
8 competent, the commitment shall continue. If the court-martial determines that the  
9 person is not likely to become competent to proceed ~~in~~ within the time maximum  
10 period specified under s. 971.14 (5) (a) of commitment, as defined under s. 971.34 (6)  
11 (a), the court-martial shall suspend or terminate the commitment order under this  
12 subsection.

13           **SECTION 156.** 322.0767 (1) (d) of the statutes is amended to read:

14           322.0767 (1) (d) If a person who has been restored to competency again becomes  
15 incompetent, the maximum commitment period under ~~s. 971.14 (5) (a) of~~  
16 commitment shall be as provided under s. ~~971.14 (5) (d)~~ 975.36 (6).

17           **SECTION 157.** 322.0767 (2) (a) of the statutes is amended to read:

18           322.0767 (2) (a) If a court-martial finds a person not guilty by reason of mental  
19 disease or defect, the court-martial shall commit the person to the custody of the  
20 department of health services for a period not to exceed that described under s.  
21 ~~971.17 (1)~~ 975.57 (2).

22           **SECTION 158.** 322.0767 (2) (b) of the statutes is amended to read:

23           322.0767 (2) (b) Using the standard under s. ~~971.17 (3) (a)~~ 975.57 (1), the  
24 court-martial shall determine whether the commitment order under par. (a) shall  
25 specify institutional care or conditional release.

**SENATE BILL 82**

1           **SECTION 159.** 322.0767 (2) (c) of the statutes is amended to read:

2           322.0767 (2) (c) The court-martial has the same authority as a circuit court has  
3           under s. ~~971.17 (2)~~ 975.55 to order the department of health services to conduct a  
4           predisposition investigation using the procedure in s. ~~972.15~~ 973.004 or a mental  
5           examination as provided under s. ~~971.17 (2) (b), (c), and (e)~~ 975.56 to assist the  
6           court-martial in determining whether to place the person in institutional care or to  
7           conditionally release the person.

8           **SECTION 160.** 322.0767 (2) (d) of the statutes is amended to read:

9           322.0767 (2) (d) If the court-martial specifies institutional care, the  
10          department of health services shall place the person in an institution as provided  
11          under s. ~~971.17 (3) (e)~~ 975.57 (3). If the court-martial specifies conditional release,  
12          the department of health services, in conjunction with the person's county of  
13          residence, shall develop a plan for conditional release as provided under s. ~~971.17 (3)~~  
14          ~~(d)~~ 975.57 (4).

15          **SECTION 161.** 322.0767 (2) (e) of the statutes is amended to read:

16          322.0767 (2) (e) After the court-martial enters an order under this subsection  
17          and transfers custody of a person to the department of health services, the person  
18          shall be subject to s. ~~971.17~~ subch. III of ch. 975 and the circuit court for the county  
19          in which the person is institutionalized or where the person is placed on conditional  
20          release shall have jurisdiction in proceedings under s. ~~971.17~~ subch. III of ch. 975.

21          **SECTION 162.** 343.305 (9) (c) of the statutes is amended to read:

22          343.305 (9) (c) If a law enforcement officer informs the circuit or municipal  
23          court that a person has refused to submit to a test under sub. (3) (a), (am), or (ar), the  
24          court shall be prepared to hold any requested hearing to determine if the refusal was

**SENATE BILL 82**

1 proper. The scope of the hearing shall be limited to the issues outlined in par. (a) 5.  
2 or (am) 5. Section ~~967.055~~ 970.25 applies to any hearing under this subsection.

3 **SECTION 163.** 345.20 (1) (a) of the statutes is amended to read:

4 345.20 (1) (a) "Judge" ~~has the meaning specified in s. 967.02 (6)~~ means a judge  
5 of a court of record.

6 **SECTION 164.** 345.20 (2) (c) of the statutes is amended to read:

7 345.20 (2) (c) ~~Sections 967.055 and 972.11 (3m) apply~~ Section 970.25 applies  
8 to traffic forfeiture actions for violations of s. 346.63 (1) or (5) or a local ordinance in  
9 conformity therewith.

10 **SECTION 165.** 345.28 (3) (a) of the statutes is amended to read:

11 345.28 (3) (a) If the person does not pay the forfeiture or appear in court in  
12 response to the citation for a nonmoving traffic violation on the date specified in the  
13 citation or, if no date is specified in the citation, within 28 days after the citation is  
14 issued, the authority that issued the citation may issue a summons under s. ~~968.04~~  
15 ~~(3) (b)~~ 969.22 to the person and, in lieu of or in addition to issuing the summons, may  
16 proceed under sub. (4) or (5) but, except as provided in this section, no warrant may  
17 be issued for the person. If the person does not pay towing and storage charges  
18 associated with a citation for a nonmoving traffic violation, the authority that issued  
19 the citation may proceed under sub. (4).

20 **SECTION 166.** 345.28 (5) (b) 1. of the statutes is amended to read:

21 345.28 (5) (b) 1. If a person fails to respond to the notices under par. (a) within  
22 the time specified in the notice, a warrant that substantially complies with the  
23 mandatory provisions under s. ~~968.04 (3) (a)~~ 969.21 (1) may be issued for the person,  
24 except that the warrant shall direct the officer to accept the person's deposit of money

**SENATE BILL 82**

1 or his or her valid Wisconsin operator's license, as provided under subd. 2. a., in lieu  
2 of serving the warrant and arresting the person.

3 **SECTION 167.** 345.31 of the statutes is amended to read:

4 **345.31 Venue in traffic regulation actions.** Section ~~971.19~~ on place 970.14  
5 on venue of trial in criminal actions applies to actions for the violation of traffic  
6 regulations and nonmoving traffic violations except that, in the case of a violation of  
7 an ordinance of a municipality which is located in more than one county, the action  
8 may be brought in any court sitting in that municipality even though in another  
9 county. As an alternative, the plaintiff may bring the action in the county where the  
10 defendant resides.

11 **SECTION 168.** 346.63 (2) (am) of the statutes is amended to read:

12 346.63 (2) (am) A person may be charged with and a prosecutor may proceed  
13 upon a complaint based upon a violation of any combination of par. (a) 1., 2., or 3. for  
14 acts arising out of the same incident or occurrence. If the person is charged with  
15 violating any combination of par. (a) 1., 2., or 3. in the complaint, the crimes shall be  
16 joined under s. ~~971.12~~ 970.13. If the person is found guilty of any combination of par.  
17 (a) 1., 2., or 3. for acts arising out of the same incident or occurrence, there shall be  
18 a single conviction for purposes of sentencing and for purposes of counting  
19 convictions under ss. 343.30 (1q) and 343.305. Paragraph (a) 1., 2., and 3. each  
20 require proof of a fact for conviction which the others do not require.

21 **SECTION 169.** 346.63 (6) (b) of the statutes is amended to read:

22 346.63 (6) (b) A person may be charged with and a prosecutor may proceed upon  
23 a complaint based upon a violation of par. (a) or sub. (2) (a) 1. or both for acts arising  
24 out of the same incident or occurrence. If the person is charged with violating both  
25 par. (a) and sub. (2) (a) 1. in the complaint, the crimes shall be joined under s. ~~971.12~~

**SENATE BILL 82**

1 970.13. If the person is found guilty of violating both par. (a) and sub. (2) (a) 1. for  
2 acts arising out of the same incident or occurrence, there shall be a single conviction  
3 for purposes of sentencing and for purposes of counting convictions. Paragraph (a)  
4 and sub. (2) (a) 1. each require proof of a fact for conviction which the other does not  
5 require.

6 **SECTION 170.** 346.74 (5) (e) of the statutes is repealed.

7 **SECTION 171.** 350.101 (2) (c) of the statutes is amended to read:

8 350.101 (2) (c) *Related charges*. A person may be charged with and a prosecutor  
9 may proceed upon a complaint based upon a violation of any combination of par. (a),  
10 (b), or (bm) for acts arising out of the same incident or occurrence. If the person is  
11 charged with violating any combination of par. (a), (b), or (bm) in the complaint, the  
12 crimes shall be joined under s. ~~971.12~~ 970.13. If the person is found guilty of any  
13 combination of par. (a), (b), or (bm) for acts arising out of the same incident or  
14 occurrence, there shall be a single conviction for purposes of sentencing and for  
15 purposes of counting convictions under s. 350.11 (3) (a) 2. and 3. Paragraphs (a), (b),  
16 and (bm) each require proof of a fact for conviction which the others do not require.

17 **SECTION 172.** 551.602 (5) (b) of the statutes is amended to read:

18 551.602 (5) (b) The immunity provided under par. (a) is subject to the  
19 restrictions under s. ~~972.085~~ 967.18.

20 **SECTION 173.** 553.55 (3) (b) of the statutes is amended to read:

21 553.55 (3) (b) The immunity provided under par. (a) is subject to the restrictions  
22 under s. ~~972.085~~ 967.18.

23 **SECTION 174.** 601.62 (5) (b) of the statutes is amended to read:

24 601.62 (5) (b) The immunity provided under par. (a) is subject to the restrictions  
25 under s. ~~972.085~~ 967.18.



**SENATE BILL 82**

1           **SECTION 175.** 631.95 (1) (c) of the statutes is amended to read:

2           631.95 (1) (c) “Domestic abuse” has the meaning given in s. ~~968.075 (1) (a)~~  
3           969.27 (1) (a).

4           **SECTION 176.** 704.16 (1) (b) 4. of the statutes is amended to read:

5           704.16 (1) (b) 4. A condition of release under s. 974.09 or ch. 969 ordering the  
6           person not to contact the tenant.

7           **SECTION 177.** 704.16 (1) (b) 7. of the statutes is amended to read:

8           704.16 (1) (b) 7. A criminal complaint that was filed against the person as a  
9           result of the person being arrested for committing a domestic abuse offense against  
10          the tenant under s. ~~968.075~~ 969.27.

11          **SECTION 178.** 704.16 (3) (b) 2. d. of the statutes is amended to read:

12          704.16 (3) (b) 2. d. A condition of release under s. 974.09 or ch. 969 ordering the  
13          offending tenant not to contact the other tenant.

14          **SECTION 179.** 704.16 (3) (b) 2. g. of the statutes is amended to read:

15          704.16 (3) (b) 2. g. A criminal complaint that was filed against the offending  
16          tenant as a result of the offending tenant being arrested for committing a domestic  
17          abuse offense against the other tenant under s. ~~968.075~~ 969.27.

18          **SECTION 180.** 756.06 (2) (a) of the statutes is amended to read:

19          756.06 (2) (a) A jury in a criminal case shall consist of 12 persons unless both  
20          parties agree on a lesser number as provided in s. ~~972.02~~ 972.025 (2).

21          **SECTION 181.** 756.06 (2) (c) of the statutes is amended to read:

22          756.06 (2) (c) A jury in a case involving an offense for which a forfeiture may  
23          be imposed or in an inquest under s. ~~979.05~~ 968.025 shall consist of 6 persons.

24          **SECTION 182.** 757.54 (2) (a) 1. of the statutes is amended to read:

25          757.54 (2) (a) 1. “Custody” has the meaning given in s. ~~968.205~~ 968.645 (1) (a).

**SENATE BILL 82**

1           **SECTION 183.** 757.54 (2) (a) 2. of the statutes is amended to read:

2           757.54 (2) (a) 2. "Discharge date" has the meaning given in s. ~~968.205~~ 968.645  
3 (1) (b).

4           **SECTION 184.** 757.69 (1) (b) of the statutes is amended to read:

5           757.69 (1) (b) In criminal matters issue summonses, arrest warrants, or search  
6 warrants, determine probable cause to support a warrantless arrest, conduct  
7 perform the duties of the court at an initial appearances of persons arrested  
8 appearance under s. 971.027, set bail, ~~inform the defendant in accordance with s.~~  
9 ~~970.02 (1)~~, refer the person to the authority for indigency determinations specified  
10 under s. 977.07 (1), conduct the preliminary examination and arraignment, and,  
11 with the consent of both the state and the defendant, accept a guilty plea. If a court  
12 refers a disputed restitution issue under s. 973.20 (13) (c) 4., the circuit court  
13 commissioner shall conduct the hearing on the matter in accordance with s. 973.20  
14 (13) (c) 4.

15           **SECTION 185.** 757.69 (1) (i) of the statutes is amended to read:

16           757.69 (1) (i) Conduct inquests under subch. I of ch. 979 968.

17           **SECTION 186.** 758.171 of the statutes is amended to read:

18           **758.171 Judicial conference: uniform citation.** The judicial conference  
19 shall adopt a uniform citation form for use as authorized under s. ~~968.085~~ 969.24.  
20 A duly authenticated copy of this form shall be furnished to the secretary of state and  
21 kept on file in his or her office. The secretary of state shall transmit a copy of this  
22 form to the clerks of circuit court.

23           **SECTION 187.** 758.19 (5) (a) 5. of the statutes is repealed.

24           **SECTION 188.** 767.87 (4) (b) of the statutes is amended to read:

**SENATE BILL 82**

1           767.87 (4) (b) The immunity provided under par. (a) is subject to the restrictions  
2 under s. ~~972.085~~ 967.18.

3           **SECTION 189.** 781.04 (1) of the statutes is amended to read:

4           781.04 (1) In an action or proceeding seeking the remedy available by habeas  
5 corpus, the court may admit the prisoner to bail in accordance with s. 974.09 or ch.  
6 969.

7           **SECTION 190.** 785.03 (1) (b) of the statutes is amended to read:

8           785.03 (1) (b) *Punitive sanction.* The district attorney of a county, the attorney  
9 general or a special prosecutor appointed by the court may seek the imposition of a  
10 punitive sanction by issuing a complaint charging a person with contempt of court  
11 and reciting the sanction sought to be imposed. The district attorney, attorney  
12 general or special prosecutor may issue the complaint on his or her own initiative or  
13 on the request of a party to an action or proceeding in a court or of the judge presiding  
14 in an action or proceeding. The complaint shall be processed under chs. 967 to 973  
15 and 975. If the contempt alleged involves disrespect to or criticism of a judge, that  
16 judge is disqualified from presiding at the trial of the contempt unless the person  
17 charged consents to the judge presiding at the trial.

18           **SECTION 191.** 800.035 (8) of the statutes is amended to read:

19           800.035 (8) If the defendant does not appear, but has made a deposit in the  
20 amount set for the violation, he or she is deemed to have tendered a plea of no contest  
21 and submits to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814,  
22 not exceeding the amount of the deposit. The court may impose any other penalties  
23 allowed by law. The court may either accept the plea of no contest and enter  
24 judgment accordingly, or reject the plea and issue a summons. If the court finds that  
25 the violation meets the conditions in s. 800.093 (1), the court may summon the

**SENATE BILL 82**

1 alleged violator into court to determine if restitution shall be ordered under s.  
2 800.093. If the defendant fails to appear in response to the summons, the court may  
3 issue a warrant under s. ~~968.09~~ 969.50. If the defendant has made a deposit but does  
4 appear, the court shall allow the defendant to withdraw the plea of no contest.

5 **SECTION 192.** 801.02 (7) (a) 2. c. of the statutes is amended to read:

6 801.02 (7) (a) 2. c. A person bringing an action seeking relief from a judgment  
7 of conviction or a sentence of a court, including an action for an extraordinary writ  
8 or a supervisory writ seeking relief from a judgment of conviction or a sentence of a  
9 court or an action under s. 809.30, 809.40, ~~973.19~~ 974.03, 974.06 or 974.07.

10 **SECTION 193.** 801.02 (7) (a) 2. e. of the statutes is amended to read:

11 801.02 (7) (a) 2. e. A person who is not serving a sentence for the conviction of  
12 a crime but who is detained, admitted or committed under ch. 51 or 55 or s. ~~971.14~~  
13 ~~(2) or (5)~~ 975.32 or 975.34.

14 **SECTION 194.** 801.50 (5t) of the statutes is renumbered 801.50 (5t) (a) and  
15 amended to read:

16 801.50 (5t) (a) Except as otherwise provided in ss. 801.52 and ~~971.223~~ 971.72  
17 (1) and (2), venue in a civil action to impose a forfeiture upon a resident of this state  
18 for a violation of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or for a  
19 violation of any other law arising from or in relation to the official functions of the  
20 subject of the investigation or any matter that involves elections, ethics, or lobbying  
21 regulation under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, shall be in  
22 circuit court for the county where the defendant resides. For purposes of this  
23 ~~subsection~~ paragraph, a person other than a natural person resides within a county  
24 if the person's principal place of operation is located within that county. This  
25 ~~subsection~~

**SENATE BILL 82**

1           **(b) Paragraph (a)** does not affect which prosecutor has responsibility under s.  
2           978.05 (2) to prosecute civil actions ~~arising from violations under s. 971.223 (1)~~  
3           described under par. (a).

4           **SECTION 195.** 801.52 of the statutes is amended to read:

5           **801.52 Discretionary change of venue.** The court may at any time, upon  
6           its own motion, the motion of a party or the stipulation of the parties, change the  
7           venue to any county in the interest of justice or for the convenience of the parties or  
8           witnesses, except that venue in a civil action to impose a forfeiture for a violation of  
9           chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 or for a violation of any other  
10          law arising from or in relation to the official functions of the subject of the  
11          investigation or any matter that involves elections, ethics, or lobbying regulation  
12          under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, may be changed only  
13          as provided in s. ~~971.223~~ 971.72 (1) and (2) or in the same manner that is authorized  
14          for a change in the venue of a criminal trial under s. ~~971.22~~ 971.70. This section does  
15          not apply to proceedings under ch. 980.

16          **SECTION 196.** 807.05 of the statutes is amended to read:

17          **807.05 Stipulations.** No agreement, stipulation, or consent between the  
18          parties or their attorneys, in respect to the proceedings in an action or special  
19          proceeding shall be binding unless made in court or during a proceeding conducted  
20          under s. 807.13 or ~~967.08~~ 967.14 and entered in the minutes or recorded by the  
21          reporter, or made in writing and subscribed by the party to be bound thereby or the  
22          party's attorney.

23          **SECTION 197.** 808.04 (3) of the statutes is amended to read:

24          808.04 (3) Except as provided in subs. (4) and (7), an appeal in a proceeding  
25          under s. ~~971.17~~ subch. III of ch. 975, a criminal case, or a case under ch. 48, 51, 55,

**SENATE BILL 82**

1 938, or 980 shall be initiated within the time period specified in s. 809.30 (2) or 809.32  
2 (2), whichever is applicable.

3 **SECTION 198.** 808.04 (4) of the statutes is amended to read:

4 808.04 (4) Except as provided in sub. (7m), an appeal by the state in a  
5 proceeding under ~~s. 971.17~~ subch. III of ch. 975, a criminal case under s. 974.05, or  
6 a case under ch. 48, 938, or 980 shall be initiated within 45 days of entry of the  
7 judgment or order appealed from.

8 **SECTION 199.** 808.075 (4) (b) 4. of the statutes is amended to read:

9 808.075 (4) (b) 4. Commitment, conditional release, recommitment, and  
10 discharge under s. ~~971.17~~ subch. III of ch. 975 of a person found not guilty by reason  
11 of mental disease or defect.

12 **SECTION 200.** 808.075 (4) (g) 1. of the statutes is amended to read:

13 808.075 (4) (g) 1. Release on ~~bond~~ conditions under s. 809.31 or ~~969.01 (2)~~  
14 974.09 or ch. 969.

15 **SECTION 201.** 808.075 (4) (g) 2. of the statutes is amended to read:

16 808.075 (4) (g) 2. Modification or revocation of ~~bond~~ under s. 969.01 (2) (e) or  
17 969.08 conditions of release under s. 974.09 (2) or ch. 969.

18 **SECTION 202.** 808.075 (4) (g) 7. of the statutes is amended to read:

19 808.075 (4) (g) 7. Commitment, conditional release, recommitment, and  
20 discharge under s. ~~971.17~~ subch. III of ch. 975 of a person found not guilty by reason  
21 of mental disease or defect.

22 **SECTION 203.** Subchapter III (title) of chapter 809 [precedes 809.30] of the  
23 statutes is amended to read:

24 **CHAPTER 809**

25 **SUBCHAPTER III**

**SENATE BILL 82**

1 APPEAL PROCEDURE IN COURT OF  
2 APPEALS IN S. 971.17 PROCEEDINGS  
3 UNDER SUBCH. III OF CH. 975 AND  
4 IN CRIMINAL AND CH. 48, 51, 55, 938,  
5 AND 980 CASES

6 **SECTION 204.** 809.30 (title) of the statutes is amended to read:

7 **809.30 (title) Rule (Appeals in s. 971.17 proceedings under subch. III of**  
8 **ch. 975 and in criminal, ch. 48, 51, 55, 938, and 980 cases).**

9 **SECTION 205.** 809.30 (1) (a) of the statutes is amended to read:

10 809.30 (1) (a) "Final adjudication" means the entry of a final judgment or order  
11 by the circuit court in a s. 971.17 proceeding under subch. III of ch. 975, in a criminal  
12 case, or in a ch. 48, 51, 55, 938, or 980 case, other than a termination of parental rights  
13 case under s. 48.43 or a parental consent to abortion case under s. 48.375 (7).

14 **SECTION 206.** 809.30 (1) (b) 4. of the statutes is amended to read:

15 809.30 (1) (b) 4. A subject individual or ward seeking postdisposition relief in  
16 a s. 971.17 proceeding under subch. III of ch. 975 or a case under ch. 51, 55, or 980.

17 **SECTION 207.** 809.30 (1) (c) of the statutes is amended to read:

18 809.30 (1) (c) "Postconviction relief" means an appeal or a motion for  
19 postconviction relief in a criminal case, other than an appeal, motion, or petition  
20 under ss. 302.113 (7m) or (9g), ~~973.19~~, 973.195, 973.198, 974.03, 974.06, or 974.07  
21 (2). In a ch. 980 case, the term means an appeal or a motion for postcommitment  
22 relief under s. 980.038 (4).

23 **SECTION 208.** 809.30 (1) (e) of the statutes is amended to read:

24 809.30 (1) (e) "Prosecutor" means a district attorney, corporation counsel, or  
25 other attorney authorized by law to represent the state in a criminal case, a

**SENATE BILL 82**

1 proceeding under ~~s. 971.17~~ subch. III of ch. 975, or a case under ch. 48, 51, 55, 938,  
2 or 980.

3 **SECTION 209.** 809.30 (2) (a) of the statutes is amended to read:

4 809.30 (2) (a) *Appeal procedure; counsel to continue.* A person seeking  
5 postconviction relief in a criminal case; a person seeking postdisposition relief in a  
6 case under ch. 48 other than a termination of parental rights case under s. 48.43 or  
7 a parental consent to abortion case under s. 48.375 (7); or a person seeking  
8 postdisposition relief in a ~~s. 971.17~~ proceeding under subch. III of ch. 975 or in a case  
9 under ch. 51, 55, 938, or 980 shall comply with this section. Counsel representing  
10 the person at sentencing or at the time of the final adjudication shall continue  
11 representation by filing a notice under par. (b) if the person desires to pursue  
12 postconviction or postdisposition relief unless counsel is discharged by the person or  
13 allowed to withdraw by the circuit court before the notice must be filed.

14 **SECTION 210.** 809.30 (2) (d) of the statutes is amended to read:

15 809.30 (2) (d) *Indigency redetermination.* Except as provided in this  
16 paragraph, whenever a person whose trial counsel is appointed by the state public  
17 defender files a notice under par. (b) requesting public defender representation for  
18 purposes of postconviction or postdisposition relief, the prosecutor may, within 5  
19 days after the notice is served and filed, file in the circuit court and serve upon the  
20 state public defender a request that the person's indigency be redetermined before  
21 counsel is appointed or transcripts are requested. This paragraph does not apply to  
22 a child who is entitled to be represented by counsel under s. 48.23 or 938.23 or to a  
23 person who is entitled to be represented by counsel under s. 48.23, 51.60 (1), or  
24 55.105, or 938.23.

25 **SECTION 211.** 809.30 (2) (m) of the statutes is created to read:



**SENATE BILL 82**

1           809.30 (2) (m) *Entry after filing notice.* If the record discloses that the judgment  
2 or order appealed from was entered after the notice under this section was filed, the  
3 notice shall be treated as filed after that entry on the day of the entry.

4           **SECTION 212.** 809.31 (6) of the statutes is amended to read:

5           809.31 (6) The court ordering release shall require the defendant to post a bond  
6 in accordance with s. ~~969.09~~ 974.09 (2) and may impose other terms and conditions.  
7 The defendant shall file the bond in the trial court.

8           **SECTION 213.** 814.22 (1) (intro.) of the statutes is amended to read:

9           814.22 (1) (intro.) In all proceedings, including criminal actions, if a change of  
10 venue is had (~~), except in cases where the change of venue is made because the action~~  
11 ~~was not brought in the proper county), if the jury is selected for use in another county~~  
12 ~~under s. ~~971.225~~ 971.71, or if an action, occupying a day or more, is tried outside the~~  
13 ~~county wherein pending, the county in which the action was commenced shall pay~~  
14 ~~to the county in which the action is tried or the jury is selected the following expenses~~  
15 ~~arising out of the change of venue or jury selection:~~

16           **SECTION 214.** 814.69 (1) (a) of the statutes is amended to read:

17           814.69 (1) (a) For a transcript under SCR 71.04, a fee at the rate of \$1.50 per  
18 25-line page for the original and 50 cents per 25-line page for the duplicate. Except  
19 as provided in s. ~~967.06 (3)~~ 977.072, the fee shall be paid by the county treasurer upon  
20 the certificate of the clerk of court.

21           **SECTION 215.** 885.01 (2) of the statutes is amended to read:

22           885.01 (2) By an attorney of record in a criminal action, or by the attorney  
23 general or any district attorney or person acting in his or her stead, to require the  
24 attendance of witnesses, ~~in behalf of the state,~~ a witness for a deposition, or for a  
25 hearing or trial in any court or before any magistrate, and from any part of the state.

**SENATE BILL 82**

1           **SECTION 216.** 885.15 (2) of the statutes is amended to read:

2           885.15 (2) The immunity provided under sub. (1) is subject to the restrictions  
3 under s. ~~972.085~~ 967.18.

4           **SECTION 217.** 885.24 (2) of the statutes is amended to read:

5           885.24 (2) The immunity provided under sub. (1) is subject to the restrictions  
6 under s. ~~972.085~~ 967.18.

7           **SECTION 218.** 885.25 (2m) of the statutes is amended to read:

8           885.25 (2m) The immunity provided under sub. (2) is subject to the restrictions  
9 under s. ~~972.085~~ 967.18.

10          **SECTION 219.** 885.365 (1) of the statutes is amended to read:

11          885.365 (1) Evidence obtained as the result of the use of voice recording  
12 equipment for recording of telephone conversations, by way of interception of a  
13 communication or in any other manner, shall be totally inadmissible in the courts of  
14 this state in civil actions, except as provided in ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405.

15          **SECTION 220.** 885.64 (2) of the statutes is amended to read:

16          885.64 (2) All circuit court proceedings, with the exception of proceedings  
17 pursuant to s. ~~972.11 (2m)~~ 972.20, that are conducted by videoconference, interactive  
18 video and audio transmission, audiovisual means, live audiovisual means,  
19 closed-circuit audiovisual, or other interactive electronic communication with a  
20 video component, shall be conducted in accordance with the provisions of this  
21 subchapter.

22          **SECTION 221.** 891.39 (1) (b) of the statutes is amended to read:

23          891.39 (1) (b) In actions affecting the family, in which the question of paternity  
24 is raised, and in paternity proceedings, the court, upon being satisfied that the  
25 parties to the action are unable to adequately compensate any such guardian ad

**SENATE BILL 82**

1 litem for the guardian ad litem's services and expenses, shall then make an order  
2 specifying the guardian ad litem's compensation and expenses, which compensation  
3 and expenses shall be paid as provided in s. ~~967.06~~ 767.407 (6). If the court orders  
4 a county to pay the compensation of the guardian ad litem, the amount ordered may  
5 not exceed the compensation paid to private attorneys under s. 977.08 (4m) (b).

6 **SECTION 222.** 891.39 (2) (b) of the statutes is amended to read:

7 891.39 (2) (b) The immunity provided under par. (a) is subject to the restrictions  
8 under s. ~~972.085~~ 967.18.

9 **SECTION 223.** 893.93 (1) (d) of the statutes is amended to read:

10 893.93 (1) (d) An action under s. ~~968.31~~ 968.345.

11 **SECTION 224.** 895.01 (1) (am) 7. of the statutes is amended to read:

12 895.01 (1) (am) 7. Causes of action for a violation of s. ~~968.31~~ 968.345 (2m) or  
13 other damage to the person.

14 **SECTION 225.** 895.34 of the statutes is amended to read:

15 **895.34 Renewal of sureties upon becoming insufficient and effects**  
16 **thereof.** If any bail bond, recognizance, undertaking or other bond or undertaking  
17 given in any civil or criminal action or proceeding, becomes at any time insufficient,  
18 the court or judge thereof, municipal judge or any magistrate before whom such  
19 action or proceeding is pending, may, upon notice, require the plaintiff or defendant  
20 to give a new bond, recognizance or undertaking. Every person becoming surety on  
21 any such new bond, recognizance or undertaking is liable from the time the original  
22 was given, the same as if he or she had been the original surety. If any person fails  
23 to comply with the order made in the case the adverse party is entitled to any order,  
24 judgment, remedy or process to which he or she would have been entitled had no

**SENATE BILL 82**

1 bond, recognizance or undertaking been given at any time. This section does not  
2 apply to a modification of a condition of release under s. 969.33 (7).

3 **SECTION 226.** 895.446 (4) of the statutes is amended to read:

4 895.446 (4) Any recovery under this section shall be reduced by the amount  
5 recovered as restitution under ss. 800.093 and 973.20 and ch. 938 for the same act  
6 or as recompense under s. ~~969.13 (5) (a)~~ 969.42 for the same act.

7 **SECTION 227.** 895.45 (1) (a) of the statutes is amended to read:

8 895.45 (1) (a) “Abusive conduct” means domestic abuse, as defined under s.  
9 49.165 (1) (a), 813.12 (1) (am), or ~~968.075~~ 969.27 (1) (a), harassment, as defined under  
10 s. 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault  
11 under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under  
12 ss. 948.02 to 948.11.

13 **SECTION 228.** 895.46 (9) (a) (intro.) and 2. and (b) (intro.) and 2. of the statutes  
14 are amended to read:

15 895.46 (9) (a) (intro.) The state shall reimburse a state officer or state employee  
16 for reasonable attorney fees and costs incurred by the officer or employee in  
17 connection with a John Doe proceeding under s. ~~968.26~~ 968.105 (2) arising from the  
18 officer’s or employee’s conduct in the performance of official duties if all the following  
19 apply:

20 2. The officer or employee is not convicted of a crime arising from the conduct  
21 that is the subject of any criminal complaint issued under s. ~~968.26~~ 968.105 (2) (d).

22 (b) (intro.) The state shall reimburse a state officer or state employee for  
23 reasonable attorney fees and costs incurred by the officer or employee in defending  
24 a criminal complaint issued under s. ~~968.26~~ 968.105 (2) (d) arising from the officer’s  
25 or employee’s conduct in the performance of official duties if all of the following apply:

**SENATE BILL 82**

1           2. The officer or employee is not convicted of a crime arising from the conduct  
2 that is the subject of the criminal complaint issued under s. ~~968.26~~ 968.105 (2) (d).

3           **SECTION 229.** 895.54 of the statutes is amended to read:

4           **895.54 Liability exemption; notification of release.** A person is immune  
5 from any liability regarding any act or omission regarding the notification of any  
6 applicable office or person under s. 51.37 (10), 304.06 (1), ~~971.17 (4m) or (6m)~~ 975.62,  
7 or 980.11. This section does not apply to willful or wanton acts or omissions.

8           **SECTION 230.** 901.01 of the statutes is amended to read:

9           **901.01 Scope.** Chapters 901 to 911 govern proceedings in the courts of the  
10 state of Wisconsin except as provided in ss. 911.01 and ~~972.11~~ 967.24.

11           **SECTION 231.** 901.04 (1) of the statutes is amended to read:

12           901.04 (1) **QUESTIONS OF ADMISSIBILITY GENERALLY.** Preliminary questions  
13 concerning the qualification of a person to be a witness, the existence of a privilege,  
14 or the admissibility of evidence shall be determined by the judge, subject to sub. (2)  
15 and ss. ~~971.31 (11) and 972.11 (2)~~ 346.63 (8), 904.045, 940.22 (6), and 971.65 (6). In  
16 making the determination the judge is bound by the rules of evidence only with  
17 respect to privileges and as provided in s. 901.05.

18           **SECTION 232.** 901.04 (3) (cm) of the statutes is amended to read:

19           901.04 (3) (cm) Admissibility of evidence specified in s. ~~972.11 (2) (d)~~ 904.045  
20 (4).

21           **SECTION 233.** 901.05 (3) of the statutes is amended to read:

22           901.05 (3) The results of a test or tests under s. 938.296 (4) or (5) or ~~968.38~~  
23 968.725 (4) or (5) and the fact that a person has been ordered to submit to such a test  
24 or tests under s. 938.296 (4) or (5) or ~~968.38~~ 968.725 (4) or (5) are not admissible

**SENATE BILL 82**

1 during the course of a civil or criminal action or proceeding or an administrative  
2 proceeding.

3 **SECTION 234.** 904.04 (1) (b) of the statutes is amended to read:

4 904.04 (1) (b) *Character of victim.* Except as provided in s. ~~972.11 (2)~~ 904.045,  
5 evidence of a pertinent trait of character of the victim of the crime offered by an  
6 accused, or by the prosecution to rebut the same, or evidence of a character trait of  
7 peacefulness of the victim offered by the prosecution in a homicide case to rebut  
8 evidence that the victim was the first aggressor;

9 **SECTION 235.** 904.04 (2) (b) 1. of the statutes is amended to read:

10 904.04 (2) (b) 1. In a criminal proceeding alleging a violation of s. 940.302 (2)  
11 or of ch. 948, alleging the commission of a serious sex offense, as defined in s. 939.615  
12 (1) (b), or of domestic abuse, as defined in s. ~~968.075~~ 969.27 (1) (a), or alleging an  
13 offense that, following a conviction, is subject to the surcharge in s. 973.055, evidence  
14 of any similar acts by the accused is admissible, and is admissible without regard to  
15 whether the victim of the crime that is the subject of the proceeding is the same as  
16 the victim of the similar act.

17 **SECTION 236.** 904.045 (title) of the statutes is created to read:

18 **904.045 (title) Evidence of sexual conduct.**

19 **SECTION 237.** 904.06 (1) of the statutes is amended to read:

20 904.06 (1) **ADMISSIBILITY.** Except as provided in s. ~~972.11 (2)~~ 904.045, evidence  
21 of the habit of a person or of the routine practice of an organization, whether  
22 corroborated or not and regardless of the presence of eyewitnesses, is relevant to  
23 prove that the conduct of the person or organization on a particular occasion was in  
24 conformity with the habit or routine practice.

25 **SECTION 238.** 906.08 (1) (intro.) of the statutes is amended to read:

**SENATE BILL 82**

1           906.08 (1) OPINION AND REPUTATION EVIDENCE OF CHARACTER. (intro.) Except as  
2           provided in s. ~~972.11 (2)~~ 904.045, the credibility of a witness may be attacked or  
3           supported by evidence in the form of reputation or opinion, but subject to the  
4           following limitations:

5           **SECTION 239.** 906.08 (2) of the statutes is amended to read:

6           906.08 (2) SPECIFIC INSTANCES OF CONDUCT. Specific instances of the conduct of  
7           a witness, for the purpose of attacking or supporting the witness's credibility, other  
8           than a conviction of a crime or an adjudication of delinquency as provided in s.  
9           906.09, may not be proved by extrinsic evidence. They may, however, subject to s.  
10          ~~972.11 (2)~~ 904.045, if probative of truthfulness or untruthfulness and not remote in  
11          time, be inquired into on cross-examination of the witness or on cross-examination  
12          of a witness who testifies to his or her character for truthfulness or untruthfulness.

13          **SECTION 240.** 907.06 (5) of the statutes is amended to read:

14          907.06 (5) APPOINTMENT IN CRIMINAL CASES. This section shall not apply to the  
15          appointment of experts as provided by s. ~~971.16~~ 975.51.

16          **SECTION 241.** 908.08 (5) (am) of the statutes is amended to read:

17          908.08 (5) (am) The testimony of a child under par. (a) may be taken in  
18          accordance with s. ~~972.11 (2m)~~ 972.20, if applicable.

19          **SECTION 242.** 908.08 (5) (b) of the statutes is amended to read:

20          908.08 (5) (b) If a recorded statement under this section is shown at a  
21          preliminary examination under s. ~~970.03~~ 971.042 or 971.75 (2) and the party who  
22          offers the statement does not call the child to testify, the court may not order under  
23          par. (a) that the child be produced for cross-examination at the preliminary  
24          examination.

25          **SECTION 243.** 908.08 (6) of the statutes is amended to read:

**SENATE BILL 82**

1           908.08 (6) Recorded oral statements of children under this section in the  
2 possession, custody, or control of the state are discoverable under ss. 48.293 (3),  
3 304.06 (3d), ~~971.23 (1) (e)~~ 971.43 (2) (f), and 973.10 (2g).

4           **SECTION 244.** 911.01 (1) of the statutes is amended to read:

5           911.01 (1) COURTS AND COURT COMMISSIONERS. Chapters 901 to 911 apply to the  
6 courts of the state of Wisconsin, including municipal courts and circuit,  
7 supplemental, and municipal court commissioners, in the proceedings and to the  
8 extent hereinafter set forth except as provided in s. ~~972.11~~ 967.24. The word “judge”  
9 in chs. 901 to 911 means judge of a court of record, municipal judge, or circuit,  
10 supplemental, or municipal court commissioner.

11           **SECTION 245.** 911.01 (4) (b) of the statutes is amended to read:

12           911.01 (4) (b) *Grand jury; John Doe proceedings.* Proceedings before grand  
13 juries or a John Doe proceeding under s. ~~968.26~~ 968.105.

14           **SECTION 246.** 911.01 (4) (c) of the statutes is amended to read:

15           911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or  
16 rendition; sentencing, granting or revoking probation, modification of a bifurcated  
17 sentence under s. 302.113 (9g), or adjustment of a bifurcated sentence under s.  
18 973.195 (1r) or 973.198; issuance of subpoenas or warrants under s. 968.375, arrest  
19 warrants, criminal summonses, and search warrants; hearings under s. 980.09 (2);  
20 proceedings under s. ~~971.14 (1r) (e)~~ 975.31 (2); proceedings with respect to pretrial  
21 release under ch. 969 except where habeas corpus is utilized with respect to release  
22 on ~~bail or conditions~~ as otherwise provided in ch. 969; proceedings with respect to  
23 release on bond under s. 974.09 pending appeal; or proceedings under s. 165.76 (6)  
24 to compel provision of a biological specimen for deoxyribonucleic acid analysis.

25           **SECTION 247.** 938.18 (10) of the statutes is created to read:



**SENATE BILL 82**

1           938.18 (10) DISPOSITION OPTIONS; CERTAIN JUVENILES YOUNGER THAN 15. If a court  
2 of criminal jurisdiction has jurisdiction over a juvenile for a violation as a result of  
3 a waiver under sub. (1) (a) or (b) and the juvenile is alleged to have committed the  
4 violation before he or she has attained the age of 15, the court shall proceed as  
5 follows:

6           (a) If the juvenile is convicted of an offense for which jurisdiction over the  
7 juvenile could not have been waived under sub. (1) (a) or (b), the court shall adjudge  
8 the juvenile to be delinquent and impose a disposition specified in s. 938.34.

9           (b) If the juvenile is convicted of an offense other than the offense charged and  
10 the offense for which the juvenile is convicted is an offense for which jurisdiction over  
11 the juvenile may be waived under sub. (1) (a) or (b) and the court, after considering  
12 the criteria specified in sub. (5), determines that the juvenile has proved by clear and  
13 convincing evidence that it would be in the best interests of the juvenile and of the  
14 public to adjudge the juvenile to be delinquent, the court may impose a disposition  
15 specified in s. 938.34.

16           **SECTION 248.** 938.183 (1) (ar) of the statutes is amended to read:

17           938.183 (1) (ar) A juvenile specified in par. (a) or (am) who is alleged to have  
18 attempted or committed a violation of any state criminal law in addition to the  
19 violation alleged under par. (a) or (am) if the violation alleged under this paragraph  
20 and the violation alleged under par. (a) or (am) may be joined under s. ~~971.12 (1)~~  
21 970.13.

22           **SECTION 249.** 938.183 (1m) (b) of the statutes is amended to read:

23           938.183 (1m) (b) If a court of criminal jurisdiction transfers jurisdiction under  
24 s. ~~970.032~~ 971.75 (5) or ~~971.31 (13)~~ 971.77 to a court assigned to exercise jurisdiction

**SENATE BILL 82**

1 under this chapter and ch. 48, the juvenile is subject to the procedures and  
2 dispositions specified in ~~subch.~~ subchs. IV to VI.

3 **SECTION 250.** 938.195 (1) (a) of the statutes is amended to read:

4 938.195 (1) (a) "Custodial interrogation" has the meaning given in s. ~~968.073~~  
5 969.165 (1) (a).

6 **SECTION 251.** 938.21 (2) (f) of the statutes is created to read:

7 938.21 (2) (f) At a hearing under this section, the representative of the public  
8 designated under s. 938.09 shall disclose, if in his or her possession, law enforcement  
9 investigative reports relating to the case.

10 **SECTION 252.** 938.293 (2) of the statutes is amended to read:

11 938.293 (2) RECORDS RELATING TO JUVENILE. All records relating to a juvenile  
12 which are relevant to the subject matter of a proceeding under this chapter shall be  
13 open to inspection by a guardian ad litem or counsel for any party, upon demand and  
14 upon presentation of releases where necessary, at least 48 hours before the  
15 proceeding. Persons entitled to inspect the records may obtain copies of the records  
16 with the permission of the custodian of the records or with the permission of the  
17 court. The court may instruct counsel not to disclose specified items in the materials  
18 to the juvenile or the parent if the court reasonably believes that the disclosure would  
19 be harmful to the interests of the juvenile. ~~Section 971.23~~ Subchapter IV of ch. 971  
20 shall be applicable in all delinquency proceedings under this chapter, except that the  
21 court shall establish the timetable for the disclosures required under s. ~~971.23 (1),~~  
22 ~~(2m), (8), and (9)~~ ss. 971.43, 971.44, 971.45, 971.46, and 971.47.

23 **SECTION 253.** 938.30 (2) of the statutes is amended to read:

24 938.30 (2) INFORMATION TO JUVENILE AND PARENTS; BASIC RIGHTS; SUBSTITUTION.  
25 At or before the commencement of the hearing under this section the juvenile and

**SENATE BILL 82**

1 the parent, guardian, legal custodian, or Indian custodian shall be advised of their  
2 rights as specified in s. 938.243 and shall be informed that the hearing shall be to the  
3 court and that a request for a substitution of judge under s. 938.29 must be made  
4 before the end of the plea hearing or is waived. At the hearing, the district attorney  
5 shall disclose, if in his or her possession, law enforcement investigative reports  
6 relating to the case. Nonpetitioning parties, including the juvenile, shall be granted  
7 a continuance of the plea hearing if they wish to consult with an attorney on the  
8 request for a substitution of a judge.

9 **SECTION 254.** 938.30 (3) of the statutes is amended to read:

10 938.30 (3) JUVENILE IN NEED OF PROTECTION OR SERVICES PROCEEDING; POSSIBLE  
11 PLEAS. If a petition alleges that a juvenile is in need of protection or services under  
12 s. 938.13 (4), (6), (6m), (7) or (14), the nonpetitioning parties and the juvenile, if he  
13 or she is ~~12~~ 10 years of age or older ~~or~~ and is otherwise competent to do so, shall state  
14 whether they desire to contest the petition.

15 **SECTION 255.** 938.30 (5) (c) (intro.) of the statutes is amended to read:

16 938.30 (5) (c) (intro.) If the court finds that the juvenile was not responsible by  
17 reason of mental disease or defect, as described under s. ~~971.15~~ 975.50 (1) and (2),  
18 the court shall dismiss the petition with prejudice and do one of the following:

19 **SECTION 256.** 938.30 (5) (d) (intro.) of the statutes is amended to read:

20 938.30 (5) (d) (intro.) If the court finds that the juvenile is not competent to  
21 proceed, as described in s. ~~971.13~~ 975.30 (1) and (2), the court shall suspend  
22 proceedings on the petition and do one of the following:

23 **SECTION 257.** 938.30 (5) (e) 1. (intro.) of the statutes is amended to read:

24 938.30 (5) (e) 1. (intro.) A juvenile who is not competent to proceed, as described  
25 in s. ~~971.13~~ 975.30 (1) and (2), but who is likely to become competent to proceed

**SENATE BILL 82**

1 within 12 months or within the time period of the maximum sentence that may be  
2 imposed on an adult for the most serious delinquent act with which the juvenile is  
3 charged, whichever is less, and who is committed under s. 51.20 following an order  
4 under par. (d) 1. or who is placed under a dispositional order following an order under  
5 par. (d) 2., shall be periodically reexamined with written reports of those  
6 reexaminations to be submitted to the court every 3 months and within 30 days  
7 before the expiration of the juvenile's commitment or dispositional order. Each  
8 report shall indicate one of the following:

9 **SECTION 258.** 938.31 (2) of the statutes is amended to read:

10 938.31 (2) HEARING TO THE COURT; PROCEDURES. The hearing shall be to the court.  
11 If the hearing involves a child victim, as defined in s. 938.02 (20m) (a) 1., or a child  
12 witness, as defined in s. 950.02 (5), the court may order that a deposition be taken  
13 by audiovisual means and allow the use of a recorded deposition under s. 967.04 (7)  
14 to (10) and, with the district attorney, shall comply with s. 971.105 967.22. At the  
15 conclusion of the hearing, the court shall make a determination of the facts. If the  
16 court finds that the juvenile is not within the jurisdiction of the court or the court  
17 finds that the facts alleged in the petition or citation have not been proved, the court  
18 shall dismiss the petition or citation with prejudice.

19 **SECTION 259.** 938.31 (3) (a) 4. of the statutes is amended to read:

20 938.31 (3) (a) 4. "Statement" has the meaning given in s. ~~972.115~~ 972.18 (1) (d).

21 **SECTION 260.** 938.31 (3) (d) of the statutes is amended to read:

22 938.31 (3) (d) Notwithstanding ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a  
23 juvenile's lack of consent to having an audio or audio and visual recording made of  
24 a custodial interrogation does not affect the admissibility in evidence of an audio or

**SENATE BILL 82**

1 audio and visual recording of a statement made by the juvenile during the  
2 interrogation.

3 **SECTION 261.** 938.315 (2) of the statutes is amended to read:

4 938.315 (2) CONTINUANCE FOR GOOD CAUSE. A continuance may be granted by  
5 the court only upon a showing of good cause in open court or during a telephone  
6 conference under s. 807.13 on the record and only for so long as is necessary, taking  
7 into account the request or consent of the representative of the public under s. 938.09  
8 or the parties, the interests of the victims, and the interest of the public in the prompt  
9 disposition of cases. In ruling on any motion or other request for a continuance or  
10 delay of the proceedings, the court shall also consider and give weight to any adverse  
11 impact the delay or continuance may have on the well-being of a victim or a witness,  
12 as defined in s. 950.02 (5), if the victim or witness is a child. In addition, if a victim  
13 or a witness is a child, the court and the representative of the public under s. 938.09  
14 shall take appropriate action to ensure speedy proceedings in order to minimize the  
15 time during which the child must endure the stress of his or her involvement in the  
16 proceedings.

17 **SECTION 262.** 938.35 (1) (cm) of the statutes is amended to read:

18 938.35 (1) (cm) In a court of civil or criminal jurisdiction for purposes of setting  
19 bail under s. 974.09 or ch. 969 or impeaching a witness under s. 906.09.

20 **SECTION 263.** 938.396 (1) (a) of the statutes is amended to read:

21 938.396 (1) (a) *Confidentiality.* Law enforcement agency records of juveniles  
22 shall be kept separate from records of adults. Law enforcement agency records of  
23 juveniles may not be open to inspection or their contents disclosed except under par.  
24 (b) or (c), sub. (1j), (2m) (c) 1p., or (10), or s. 938.21 (2) (f), 938.293, or 938.30 (2) or  
25 by order of the court.

**SENATE BILL 82**

1           **SECTION 264.** 938.396 (2g) (dr) of the statutes is amended to read:

2           938.396 **(2g)** (dr) *Presentence investigation.* Upon request of the department  
3 of corrections or any other person preparing a presentence investigation under s.  
4 ~~972.15~~ 973.004 to review court records for the purpose of preparing the presentence  
5 investigation, the court shall open for inspection by any authorized representative  
6 of the requester the records of the court relating to any juvenile who has been the  
7 subject of a proceeding under this chapter.

8           **SECTION 265.** 938.535 of the statutes is amended to read:

9           **938.535 Early release and intensive supervision program; limits.** The  
10 department may establish a program for the early release and intensive supervision  
11 of juveniles who have been placed in a juvenile correctional facility or a secured  
12 residential care center for children and youth under s. 938.183 or 938.34 (4m). The  
13 program may not include any juveniles who have been placed in a juvenile  
14 correctional facility or a secured residential care center for children and youth as a  
15 result of a delinquent act involving the commission of a violent crime as defined in  
16 s. ~~969.035~~ 969.43, but not including the crime specified in s. 948.02 (1).

17           **SECTION 266.** 938.78 (2) (d) 1. of the statutes is amended to read:

18           938.78 **(2)** (d) 1. The subject of a presentence investigation under s. ~~972.15~~  
19 973.004.

20           **SECTION 267.** 939.60 of the statutes is amended to read:

21           **939.60 Felony and misdemeanor defined.** ~~—A crime punishable by~~  
22 ~~imprisonment in the Wisconsin state prisons is a felony~~ “Felony” has the meaning  
23 given in s. 967.025 (11). Every other crime is a misdemeanor.

24           **SECTION 268.** 939.615 (2) (a) of the statutes is amended to read:

**SENATE BILL 82**

1           939.615 (2) (a) Except as provided in par. (b), if a person is convicted of a serious  
2 sex offense or found not guilty of a serious sex offense by reason of mental disease  
3 or defect, the court may, in addition to sentencing the person, placing the person on  
4 probation or, if applicable, committing the person under ~~s. 971.17~~ subch. III of ch.  
5 975, place the person on lifetime supervision by the department if notice concerning  
6 lifetime supervision was given to the person under s. 973.125 and if the court  
7 determines that lifetime supervision of the person is necessary to protect the public.

8           **SECTION 269.** 939.615 (3) (d) of the statutes is amended to read:

9           939.615 (3) (d) If the person has been committed to the department of health  
10 services under ~~s. 971.17~~ subch. III of ch. 975 for the serious sex offense, upon the  
11 termination of his or her commitment under s. ~~971.17 (5)~~ 975.60 or his or her  
12 discharge from the commitment under s. ~~971.17 (6)~~ 975.61, whichever is applicable.

13           **SECTION 270.** 939.621 (1) (a) of the statutes is amended to read:

14           939.621 (1) (a) A person who commits, during the 72 hours immediately  
15 following an arrest for a domestic abuse incident as set forth in s. ~~968.075~~ 969.27 (5),  
16 an act of domestic abuse, as defined in s. ~~968.075~~ 969.27 (1) (a) that constitutes the  
17 commission of a crime. For the purpose of the definition under this paragraph, the  
18 72-hour period applies whether or not there has been a waiver by the victim under  
19 s. ~~968.075~~ 969.27 (5) (c).

20           **SECTION 271.** 939.621 (2) of the statutes is amended to read:

21           939.621 (2) If a person commits an act of domestic abuse, as defined in s.  
22 ~~968.075~~ 969.27 (1) (a) and the act constitutes the commission of a crime, the  
23 maximum term of imprisonment for that crime may be increased by not more than  
24 2 years if the person is a domestic abuse repeater. The victim of the domestic abuse  
25 crime does not have to be the same as the victim of the domestic abuse incident that

**SENATE BILL 82**

1 resulted in the prior arrest or conviction. The penalty increase under this section  
2 changes the status of a misdemeanor to a felony.

3 **SECTION 272.** 939.74 (1) of the statutes is amended to read:

4 939.74 (1) Except as provided in subs. (2) and (2d) and s. 946.88 (1), prosecution  
5 for a felony must be commenced within 6 years and prosecution for a misdemeanor  
6 or for adultery within 3 years after the commission thereof. Within the meaning of  
7 this section, a prosecution has commenced when ~~a warrant or summons is issued,~~  
8 an indictment is found, or ~~an information~~ a complaint is filed.

9 **SECTION 273.** 939.74 (3) of the statutes is amended to read:

10 939.74 (3) In computing the time limited by this section, the time during which  
11 the actor was not publicly a resident within this state or during which a prosecution  
12 against the actor for the same act was pending shall not be included. A prosecution  
13 is pending when ~~a warrant or a summons has been issued,~~ an indictment has been  
14 found, or ~~an information~~ a complaint has been filed.

15 **SECTION 274.** 939.74 (4) of the statutes is amended to read:

16 939.74 (4) In computing the time limited by this section, the time during which  
17 an alleged victim under s. 940.22 (2) is unable to seek the issuance filing of a  
18 complaint under s. ~~968.02~~ 970.08 due to the effects of the sexual contact or due to any  
19 threats, instructions or statements from the therapist shall not be included.

20 **SECTION 275.** 940.09 (1m) (a) of the statutes is amended to read:

21 940.09 (1m) (a) A person may be charged with and a prosecutor may proceed  
22 upon an information based upon a violation of any combination of sub. (1) (a), (am),  
23 or (b); any combination of sub. (1) (a), (am), or (bm); any combination of sub. (1) (c),  
24 (cm), or (d); any combination of sub. (1) (c), (cm), or (e); any combination of sub. (1g)



**SENATE BILL 82**

1 (a), (am), or (b) ~~or~~; or any combination of sub. (1g) (c), (cm), or (d) for acts arising out  
2 of the same incident or occurrence.

3 **SECTION 276.** 940.09 (1m) (b) of the statutes is amended to read:

4 940.09 **(1m)** (b) If a person is charged in an information with any of the  
5 combinations of crimes referred to in par. (a), the crimes shall be joined under s.  
6 ~~971.12~~ 970.13. If the person is found guilty of more than one of the crimes so charged  
7 for acts arising out of the same incident or occurrence, there shall be a single  
8 conviction for purposes of sentencing and for purposes of counting convictions under  
9 s. 23.33 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under s. 343.307 (1) or under  
10 s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bm), (c), (cm), (d), and (e) each  
11 require proof of a fact for conviction which the others do not require, and sub. (1g)  
12 (a), (am), (b), (c), (cm), and (d) each require proof of a fact for conviction which the  
13 others do not require.

14 **SECTION 277.** 940.225 (4) (intro.) of the statutes is amended to read:

15 940.225 **(4)** CONSENT. (intro.) “Consent”, as used in this section, means words  
16 or overt actions by a person who is competent to give informed consent indicating a  
17 freely given agreement to have sexual intercourse or sexual contact. Consent is not  
18 an issue in alleged violations of sub. (2) (c), (cm), (d), (g), (h), and (i). The following  
19 persons are presumed incapable of consent but the presumption may be rebutted by  
20 competent evidence, subject to the provisions of s. ~~972.11 (2)~~ 904.045:

21 **SECTION 278.** 940.25 (1m) (b) of the statutes is amended to read:

22 940.25 **(1m)** (b) If a person is charged in an information with any of the  
23 combinations of crimes referred to in par. (a), the crimes shall be joined under s.  
24 ~~971.12~~ 970.13. If the person is found guilty of more than one of the crimes so charged  
25 for acts arising out of the same incident or occurrence, there shall be a single

**SENATE BILL 82**

1 conviction for purposes of sentencing and for purposes of counting convictions under  
2 s. 23.33 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q) and  
3 343.305 or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bm), (c), (cm),  
4 (d), and (e) each require proof of a fact for conviction which the others do not require.

5 **SECTION 279.** 940.32 (2m) (d) of the statutes is amended to read:

6 940.32 (2m) (d) The person violates s. ~~968.31~~ 968.345 (1) or ~~968.34~~ 968.376 (1)  
7 in order to facilitate the violation.

8 **SECTION 280.** 940.48 (intro.) of the statutes is amended to read:

9 **940.48 Violation of court orders.** (intro.) Whoever violates an order issued  
10 under s. 940.47 or violates any condition of a bond required under s. 969.33 (4) (d)  
11 may be punished as follows:

12 **SECTION 281.** 940.49 of the statutes is repealed.

13 **SECTION 282.** 941.28 (5) of the statutes is amended to read:

14 941.28 (5) Any firearm seized under this section is subject to s. ~~968.20 (3)~~  
15 175.27 (1) and is presumed to be contraband.

16 **SECTION 283.** 941.29 (3) of the statutes is amended to read:

17 941.29 (3) Any firearm involved in an offense under sub. (2) is subject to s.  
18 ~~968.20 (3)~~ 175.27 (1).

19 **SECTION 284.** 943.245 (3m) of the statutes is amended to read:

20 943.245 (3m) Any recovery under this section shall be reduced by the amount  
21 recovered as restitution for the same act under ss. 800.093 and 973.20 or as  
22 recompense under s. ~~969.13 (5) (a)~~ 969.42 for the same act and by any amount  
23 collected in connection with the act and paid to the plaintiff under a deferred  
24 prosecution agreement under s. 971.41.

25 **SECTION 285.** 943.51 (3r) of the statutes is amended to read:

**SENATE BILL 82**

1           943.51 **(3r)** Any recovery under this section shall be reduced by the amount  
2           recovered as restitution for the same act under ss. 800.093 and 973.20 or as  
3           recompense under s. ~~969.13 (5) (a)~~ 969.42 for the same act.

4           **SECTION 286.** 946.42 (3) (g) of the statutes is amended to read:

5           946.42 **(3)** (g) Committed to the department of health services under ch. ~~971~~  
6           975, 2013 stats., or ch. 975.

7           **SECTION 287.** 946.49 (1) (intro.) of the statutes is amended to read:

8           946.49 **(1)** (intro.) Whoever, having been released from custody under s. 974.09  
9           or ch. 969, intentionally fails to comply with the terms of his or her bond is:

10          **SECTION 288.** 946.49 (2) of the statutes is amended to read:

11          946.49 **(2)** A witness for whom ~~bail has been required~~ conditions of release have  
12          been set under s. ~~969.01 (3)~~ 969.52 is guilty of a Class I felony for failure to appear  
13          as provided.

14          **SECTION 289.** 946.52 of the statutes, as affected by 2013 Wisconsin Act 20,  
15          section 1922, is amended to read:

16          **946.52 Failure to submit biological specimen.** Whoever intentionally fails  
17          to comply with a requirement to submit a biological specimen under s. 165.76, 165.84  
18          (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8)~~ 971.027 (7), 973.047, or 980.063  
19          is guilty of a Class A misdemeanor.

20          **SECTION 290.** 946.60 (1) of the statutes is amended to read:

21          946.60 **(1)** Whoever intentionally destroys, alters, mutilates, conceals,  
22          removes, withholds, or transfers possession of a document or other object, knowing  
23          that a subpoena has been issued for the document ~~has been subpoenaed~~ or other  
24          object by a court ~~or~~, by or at the request of a district attorney or the attorney general,

**SENATE BILL 82**

1 or by an attorney of record in a criminal case or a case under ch. 938 or 980, is guilty  
2 of a Class I felony.

3 **SECTION 291.** 946.86 (2) of the statutes is amended to read:

4 946.86 (2) Any criminal complaint alleging violation of s. 946.83 or 946.85 shall  
5 allege the extent of property subject to forfeiture under this section. At trial, the trier  
6 of fact shall return a special verdict determining the extent of property, if any, to be  
7 subject to forfeiture under this section. When a special verdict contains a finding of  
8 property subject to a forfeiture under this section, a judgment of criminal forfeiture  
9 shall be entered along with the judgment of conviction under s. ~~972.13~~ 972.28.

10 **SECTION 292.** 946.87 (2) (am) of the statutes is amended to read:

11 946.87 (2) (am) Notwithstanding par. (a), property described in par. (a) is  
12 subject to forfeiture if the person who violated s. 946.83 or 946.85 has not been  
13 convicted, but he or she is a defendant in a criminal proceeding, is released, pending  
14 trial, ~~on bail, as defined in s. 969.001~~ conditions under ch. 969, and fails to appear  
15 in court regarding the criminal proceeding. However, before making the final  
16 determination of any action under this section, the court must determine that the  
17 party bringing the action can prove the person committed the violation of s. 946.83  
18 or 946.85.

19 **SECTION 293.** 948.015 (9) of the statutes is amended to read:

20 948.015 (9) A crime that involves an act of domestic abuse, as defined in s.  
21 ~~968.075~~ 969.27 (1) (a), if the court includes in its reasoning under s. 973.017 (10m)  
22 for its sentencing decision the aggravating factor under s. 973.017 (6m).

23 **SECTION 294.** 948.31 (5) of the statutes is amended to read:

24 948.31 (5) The venue of an action under this section is prescribed in s. ~~971.19~~  
25 970.14 (8).

**SENATE BILL 82**

1           **SECTION 295.** 948.50 (4) (c) of the statutes is amended to read:

2           948.50 (4) (c) Is committed, transferred, or admitted under ch. 975, 2013 stats.,  
3 or ch. 51, 971 or 975.

4           **SECTION 296.** 948.50 (5) of the statutes is amended to read:

5           948.50 (5) This section does not apply to any law enforcement officer  
6 conducting a strip search under s. ~~968.255~~ 968.585.

7           **SECTION 297.** 949.165 (1) (a) of the statutes is amended to read:

8           949.165 (1) (a) "Serious crime" has the meaning designated in s. ~~969.08 (10)~~  
9 969.51 (7) (b) and includes solicitation, conspiracy or attempt to commit a serious  
10 crime.

11           **SECTION 298.** 949.165 (9) of the statutes is amended to read:

12           949.165 (9) INTERPLEADER. If a court determines that a person accused of a  
13 serious crime is incompetent to proceed under s. ~~971.14~~ 975.34 or if the charges are  
14 dismissed without prejudice, the department shall bring an action of interpleader to  
15 determine the disposition of the escrow account.

16           **SECTION 299.** 950.04 (1v) (b) of the statutes is amended to read:

17           950.04 (1v) (b) To attend court proceedings in the case, subject to ss. 906.15 and  
18 938.299 (1). The court may require the victim to exercise his or her right under this  
19 paragraph using telephone or live audiovisual means, if available, if the victim is  
20 under arrest, incarcerated, imprisoned or otherwise detained by any law  
21 enforcement agency or is admitted or committed on an inpatient basis to a treatment  
22 facility under ch. 51, ~~971~~ 975, or 980, and the victim does not have a person specified  
23 in s. 950.02 (4) (a) 3. to exercise the victim's right under this paragraph.

24           **SECTION 300.** 950.04 (1v) (d) of the statutes is amended to read:

**SENATE BILL 82**

1           950.04 (1v) (d) To request an order for, and to be given the results of, testing  
2 to determine the presence of a communicable disease, as provided under ~~ss. s.~~  
3 938.296 or ~~968.38~~ 968.725.

4           **SECTION 301.** 950.04 (1v) (dL) of the statutes is amended to read:

5           950.04 (1v) (dL) To not be the subject of a law enforcement officer's or district  
6 attorney's order, request, or suggestion that he or she submit to a test using a lie  
7 detector, as defined in s. 111.37 (1) (b), if he or she claims to have been the victim of  
8 a sexual assault under s. 940.22 (2), 940.225, 948.02 (1) or (2), or 948.085, except as  
9 permitted under s. ~~968.265~~ 968.595.

10          **SECTION 302.** 950.04 (1v) (do) of the statutes is amended to read:

11          950.04 (1v) (do) To be informed about the process by which he or she may file  
12 a complaint under s. ~~968.02 or 968.26~~ 968.105 (2) and about the process of an inquest  
13 under s. ~~979.05~~ 968.025 if he or she is the victim of an officer-involved death, as  
14 defined in s. 175.47 (1) (c).

15          **SECTION 303.** 950.04 (1v) (e) of the statutes is amended to read:

16          950.04 (1v) (e) To be provided a waiting area under ss. 938.2965 and ~~967.10~~  
17 967.23.

18          **SECTION 304.** 950.04 (1v) (em) of the statutes is amended to read:

19          950.04 (1v) (em) To have his or her interests considered by the court in  
20 determining whether to exclude persons from a preliminary examination, as  
21 provided under s. 971.042 (4), or a probable cause or retention hearing concerning  
22 a juvenile, as provided under s. ~~970.03 (4)~~ 971.75.

23          **SECTION 305.** 950.04 (1v) (er) of the statutes is amended to read:

**SENATE BILL 82**

1           950.04 (1v) (er) To not be compelled to submit to a pretrial interview or  
2 deposition by a defendant or his or her attorney as provided under s. ~~971.23 (6e)~~  
3 971.58 (2).

4           **SECTION 306.** 950.04 (1v) (g) of the statutes is amended to read:

5           950.04 (1v) (g) To have reasonable attempts made to notify the victim of  
6 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),  
7 938.27 (4m) and (6), 938.273 (2), 971.095 (3), and ~~972.14~~ 973.003 (3) (b).

8           **SECTION 307.** 950.04 (1v) (gn) and (go) of the statutes are created to read:

9           950.04 (1v) (gn) To have a reasonable attempt made to notify the victim of a  
10 conditional release, as provided under s. 975.62 (2).

11           (g) To have a reasonable attempt made to notify the victim of the termination  
12 of a commitment order or a discharge, as provided under s. 975.62 (3).

13           **SECTION 308.** 950.04 (1v) (L) of the statutes is amended to read:

14           950.04 (1v) (L) To have the district attorney or corporation counsel, whichever  
15 is applicable, make a reasonable attempt to contact the victim concerning the  
16 victim's right to make a statement, as provided under ss. 938.32 (1) (b) 2., 938.335  
17 (3m) (b) and ~~972.14~~ 973.003 (3) (b).

18           **SECTION 309.** 950.04 (1v) (m) of the statutes is amended to read:

19           950.04 (1v) (m) To provide statements concerning sentencing, disposition, or  
20 parole, as provided under ss. 304.06 (1) (e), 938.32 (1) (b) 1g., 938.335 (3m) (ag), and  
21 ~~972.14~~ 973.003 (3) (a).

22           **SECTION 310.** 950.04 (1v) (p) of the statutes is amended to read:

23           950.04 (1v) (p) To have the person preparing a presentence investigation under  
24 s. ~~972.15~~ 973.004 make a reasonable attempt to contact the victim, as provided in s.  
25 ~~972.15~~ 973.004 (2m), and to view the sentence recommendation and any victim

**SENATE BILL 82**

1 information included on the presentence investigation report, as provided in s.  
2 ~~972.15~~ 973.004 (4m).

3 **SECTION 311.** 950.04 (1v) (pd) of the statutes is amended to read:

4 950.04 (1v) (pd) Subject to the limits set forth in s. ~~972.15~~ 973.004 (4r), to view  
5 portions of a presentence investigation report prepared under s. ~~972.15~~ 973.004 that  
6 relate to the crime upon the victim.

7 **SECTION 312.** 950.04 (1v) (qm) of the statutes is amended to read:

8 950.04 (1v) (qm) To recompense as provided under s. ~~969.13 (5) (a)~~ 969.42.

9 **SECTION 313.** 950.04 (1v) (s) of the statutes is amended to read:

10 950.04 (1v) (s) To have any stolen or other personal property expeditiously  
11 returned by law enforcement agencies when no longer needed as evidence, subject  
12 to s. ~~968.205~~ 968.645. If feasible, all such property, except weapons, currency,  
13 contraband, property subject to evidentiary analysis, property subject to  
14 preservation under s. ~~968.205~~ 968.645, and property the ownership of which is  
15 disputed, shall be returned to the person within 10 days of being taken.

16 **SECTION 314.** 950.04 (1v) (um) of the statutes is amended to read:

17 950.04 (1v) (um) To have district attorneys make a reasonable attempt to notify  
18 the victim under s. ~~971.17 (4m)~~ 975.62 (2) regarding conditional releases under s.  
19 ~~971.17~~ 975.57 (4) or 975.59.

20 **SECTION 315.** 950.04 (1v) (x) of the statutes is amended to read:

21 950.04 (1v) (x) To have the department of health services make a reasonable  
22 attempt to notify the victim under s. ~~971.17 (6m)~~ 975.62 (3) regarding termination  
23 or discharge under s. ~~971.17~~ 975.60 or 975.61 and under s. 51.37 (10) regarding home  
24 visits under s. 51.37 (10).

25 **SECTION 316.** 950.04 (2w) (f) of the statutes is amended to read:



**SENATE BILL 82**

1           950.04 (**2w**) (f) To be provided a waiting area under ss. 938.2965 and ~~967.10~~  
2           967.23.

3           **SECTION 317.** 950.055 (2) (b) of the statutes is amended to read:

4           950.055 (**2**) (b) Advice to the judge, when appropriate and as a friend of the  
5           court, regarding the child's ability to understand proceedings and questions. The  
6           services may include providing assistance in determinations concerning the taking  
7           of depositions by audiovisual means under s. 908.08 or ~~967.04 (7) and (8)~~ 967.22 and  
8           the duty to expedite proceedings under ~~s. ss. 938.315 (2) and~~ 971.105.

9           **SECTION 318.** 950.08 (2g) (c) of the statutes is amended to read:

10          950.08 (**2g**) (c) The address and telephone number of the intake worker,  
11          corporation counsel, or district attorney whom the victim may contact to obtain  
12          information concerning the rights of victims and to request notice of court  
13          proceedings under ss. 938.27 (4m) and (6), 938.273 (2), 938.299 (1) (am) and 938.335  
14          (3m) (b) or ss. 971.095 (3) and ~~972.14~~ 973.003 (3) (b), whichever is applicable, and to  
15          request the opportunity to confer under ~~ss. s.~~ 938.245 (1m), 938.265, or 938.32 (1)  
16          (am) or s. 971.095 (2), whichever is applicable.

17          **SECTION 319.** 950.08 (2g) (e) of the statutes is amended to read:

18          950.08 (**2g**) (e) The address and telephone number of the custodial agency that  
19          the victim may contact for information concerning release under s. 938.20 ~~or~~, 938.21,  
20          or 974.09 or ch. 969, whichever is appropriate, of a person arrested or taken into  
21          custody for the crime of which he or she is a victim.

22          **SECTION 320.** 950.08 (2g) (h) of the statutes is amended to read:

23          950.08 (**2g**) (h) If the victim is a victim of an officer-involved death, as defined  
24          in s. 175.47 (1) (c), information about the process by which he or she may file a

**SENATE BILL 82**

1 complaint under s. ~~968.02 or 968.26~~ 968.105 (2) and about the process of an inquest  
2 under s. ~~979.05~~ 968.025.

3 **SECTION 321.** 950.08 (2r) (intro.) of the statutes is amended to read:

4 950.08 (2r) INFORMATION TO BE PROVIDED BY A DISTRICT ATTORNEY IN CRIMINAL  
5 CASES. (intro.) As soon as practicable, but in no event later than 10 days after the  
6 initial appearance under s. ~~970.01~~ 971.015 or 24 hours before a preliminary  
7 examination under s. ~~970.03~~ 971.042, whichever is earlier, of a person charged with  
8 a crime in a court of criminal jurisdiction, a district attorney shall make a reasonable  
9 attempt to provide to each victim of the crime written information on all of the  
10 following:

11 **SECTION 322.** 950.08 (2w) of the statutes is amended to read:

12 950.08 (2w) INFORMATION TO BE PROVIDED BY DISTRICT ATTORNEYS TO SCHOOLS IN  
13 CRIMINAL CASES. If a criminal complaint is issued under s. ~~968.02~~ 970.08 or if a  
14 petition for waiver is granted pursuant to s. 938.18, and the district attorney  
15 reasonably believes the person charged is a pupil enrolled in a school district, a  
16 private school, or a charter school established pursuant to 118.40 (2r), the district  
17 attorney shall make a reasonable attempt to notify the school board, governing body  
18 of the private school, as defined in s. 115.001 (3d), or charter school governing body  
19 of the charges pending against the pupil. The district attorney shall also notify the  
20 school board, governing body of the private school, or charter school governing body  
21 of the final disposition of the charges.

22 **SECTION 323.** 951.01 (4) of the statutes is amended to read:

23 951.01 (4) "Law enforcement officer" has the meaning assigned under s. ~~967.02~~  
24 ~~(5)~~ 967.025 (13) but does not include a conservation warden appointed under s. 23.10.

25 **SECTION 324.** 961.48 (2m) (a) of the statutes is amended to read:

**SENATE BILL 82**

1           961.48 (2m) (a) Whenever a person charged with a felony offense under this  
2 chapter may be subject to a conviction for a 2nd or subsequent offense, he or she is  
3 not subject to an enhanced penalty under sub. (1) unless any applicable prior  
4 convictions are alleged in the complaint, indictment, or information or in an  
5 amended complaint, indictment, or information that is filed under par. (b) 1. A  
6 person is not subject to an enhanced penalty under sub. (1) for an offense if an  
7 allegation of applicable prior convictions is withdrawn by an amended complaint  
8 indictment, or information filed under par. (b) 2.

9           **SECTION 325.** 961.48 (2m) (b) (intro.) of the statutes is amended to read:

10           961.48 (2m) (b) (intro.) Notwithstanding s. ~~971.29~~ 970.09 (1), at any time before  
11 entry of a guilty or no contest plea or the commencement of a trial, a district attorney  
12 may file without leave of the court an amended complaint, information, or indictment  
13 that does any of the following:

14           **SECTION 326.** 967.01 of the statutes is amended to read:

15           **967.01 Title and effective date.** Chapters 967 to 979 may be referred to as  
16 the criminal procedure code and shall be interpreted as a unit. Chapters 967 to 979  
17 shall govern all criminal proceedings and is effective on July 1, 1970. ~~Chapters 967~~  
18 ~~to 979 apply in all prosecutions commenced on or after that date. Prosecutions~~  
19 ~~commenced prior to July 1, 1970, shall be governed by the law existing prior thereto.~~

20           **SECTION 327.** 967.02 (title) of the statutes is repealed.

21           **SECTION 328.** 967.02 (intro.) of the statutes is renumbered 967.025 (intro.).

22           **SECTION 329.** 967.02 (1) of the statutes is renumbered 967.025 (4) and amended  
23 to read:

24           967.025 (4) "Clerk" means the clerk of circuit court of the county including and  
25 includes the clerk's deputies.

**SENATE BILL 82**

1           **SECTION 330.** 967.02 (2) of the statutes is renumbered 967.025 (9) and amended  
2 to read:

3           967.025 (9) “Department” means the department of corrections, except as  
4 provided in ~~ss. 971.14 and 975.001~~ s. 975.20 (1) for purposes of ch. 975.

5           **SECTION 331.** 967.02 (3) and (4) of the statutes are repealed.

6           **SECTION 332.** 967.02 (5) of the statutes is renumbered 967.025 (13).

7           **SECTION 333.** 967.02 (6) of the statutes is renumbered 967.025 (12) and  
8 amended to read:

9           967.025 (12) “Judge” means judge of ~~a~~ the court of record and includes a court  
10 commissioner acting within the scope of authority conferred under s. 757.69.

11           **SECTION 334.** 967.02 (7) of the statutes is renumbered 967.025 (6) and amended  
12 to read:

13           967.025 (6) “Court” means the circuit court unless otherwise indicated and  
14 includes a court commissioner acting within the scope of authority conferred under  
15 s. 757.69.

16           **SECTION 335.** 967.02 (8) of the statutes is repealed.

17           **SECTION 336.** 967.025 (title) of the statutes is created to read:

18           **967.025 (title) Definitions.**

19           **SECTION 337.** 967.025 (2) of the statutes is created to read:

20           967.025 (2) “Bond” means a promise by a person in custody to appear in court  
21 as required and to comply with other conditions.

22           **SECTION 338.** 967.025 (3) of the statutes is created to read:

23           967.025 (3) “Citation” means a directive, issued by a law enforcement officer,  
24 that a person appear in court or the district attorney’s office.

25           **SECTION 339.** 967.025 (5) of the statutes is created to read:

**SENATE BILL 82**

1           967.025 (5) “Complaint” or “criminal complaint” means the written statement  
2 of the essential facts constituting the crime charged that is issued by a district  
3 attorney. “Complaint” or “criminal complaint” includes a citation endorsed by a  
4 district attorney under s. 969.24 (5).

5           **SECTION 340.** 967.025 (7) of the statutes is created to read:

6           967.025 (7) “Crime” means conduct that is prohibited by state law and  
7 punishable by fine or imprisonment or both. Conduct punishable only by a forfeiture  
8 is not a crime.

9           **SECTION 341.** 967.025 (8) of the statutes is created to read:

10           967.025 (8) “Crime considered at sentencing” means any crime for which the  
11 defendant was convicted and any read-in crime.

12           **SECTION 342.** 967.025 (10) of the statutes is created to read:

13           967.025 (10) “District attorney” includes any duly qualified deputies and  
14 assistants and includes a special prosecutor under s. 978.045, a person assisting  
15 under s. 978.05 (8) (b), and the attorney general in cases in which he or she is  
16 authorized to investigate or prosecute.

17           **SECTION 343.** 967.025 (11) of the statutes is created to read:

18           967.025 (11) “Felony” means a crime punishable by imprisonment in the  
19 Wisconsin state prisons, but does not include a crime that is punishable by  
20 imprisonment in prison only as a result of the application of a penalty increase  
21 provision that does not specifically provide that application of the penalty increase  
22 makes the crime a felony.

23           **SECTION 344.** 967.025 (14) of the statutes is created to read:

24           967.025 (14) “Misdemeanor” means a crime other than a felony.

25           **SECTION 345.** 967.025 (15) of the statutes is created to read:

**SENATE BILL 82**

1           967.025 (15) “Motion” means an application for an order.

2           **SECTION 346.** 967.025 (16) of the statutes is created to read:

3           967.025 (16) “Read-in crime” means any crime that is uncharged or that is  
4 dismissed as part of a plea agreement, that the defendant agrees to have considered  
5 by the court at the time of sentencing, and that the court considers at the time of  
6 sentencing the defendant for the crime for which the defendant was convicted.

7           **SECTION 347.** 967.025 (17) of the statutes is created to read:

8           967.025 (17) “Sentencing” means the imposition of a sentence, fine, or  
9 probation.

10          **SECTION 348.** 967.03 of the statutes is repealed.

11          **SECTION 349.** 967.04 (title), (1), (2), (3), (4), (5) and (6) of the statutes are  
12 renumbered 967.21 (title), (1), (2), (3), (4), (5) and (6), and 967.21 (title), (1) and (4)  
13 (a), as renumbered, are amended to read:

14          **967.21 (title) Depositions in criminal proceedings generally. (1)**  
15 CIRCUMSTANCE UNDER WHICH PERMITTED. If it appears that a prospective witness may  
16 be unable to attend or prevented from attending a criminal trial or hearing, that the  
17 prospective witness’s testimony is material and that it is necessary to take the  
18 prospective witness’s deposition in order to prevent a failure of justice, the court at  
19 any time after the filing of an indictment or information may upon motion and notice  
20 to the parties order that the prospective witness’s testimony be taken by deposition  
21 and that any designated books, papers, documents, or tangible objects, not  
22 privileged, be produced at the same time and place. If a witness is committed  
23 pursuant to s. ~~969.01 (3)~~ 969.52, the court shall direct that the witness’s deposition  
24 be taken upon notice to the parties. ~~After the deposition has been subscribed, the~~  
25 ~~court shall discharge the witness.~~

**SENATE BILL 82**

1           (4) (a) If the state or a witness procures such an order under sub. (1), the notice  
2 shall inform the defendant that the defendant is required to personally attend at the  
3 taking of the deposition and that the defendant's failure so to do is a waiver of the  
4 defendant's right to face the witness whose deposition is to be taken. Failure to  
5 attend shall constitute a waiver unless the defendant was physically unable to  
6 attend.

7           **SECTION 350.** 967.04 (7) (a) of the statutes is renumbered 967.22 (1) and  
8 amended to read:

9           967.22 (1) CIRCUMSTANCE UNDER WHICH PERMITTED. In any criminal prosecution  
10 or any proceeding under ch. 48 or 938, any party may move the court to order that  
11 a deposition of a child who has been or is likely to be called as a witness be taken by  
12 audiovisual means. Upon notice and hearing, the court may issue an order for such  
13 a deposition if the trial or hearing in which the child may be called will commence  
14 before one of the following:

15           (a) ~~Prior to the~~ The child's 12th birthday; ~~or,~~

16           (b) ~~Prior to the~~ The child's 16th birthday ~~and if the court finds~~ under sub. (2)  
17 that the interests of justice warrant that the child's testimony be prerecorded for use  
18 at the trial or hearing ~~under par. (b).~~

19           **SECTION 351.** 967.04 (7) (b) of the statutes is renumbered 967.22 (2), and 967.22  
20 (2) (intro.), (a), (c), (f) and (g), as renumbered, are amended to read:

21           967.22 (2) DETERMINING INTERESTS OF JUSTICE. (intro.) Among the factors ~~which~~  
22 that the court may consider in determining the interests of justice are any of the  
23 following:

**SENATE BILL 82**

1 (a) The child's chronological age, level of development and capacity to  
2 comprehend the significance of the events about which the child will testify and to  
3 verbalize about them.

4 (c) Whether the events about which the child will testify constituted criminal  
5 or antisocial conduct against the child or a person with whom the child had a close  
6 emotional relationship and, if the conduct constituted a battery or a sexual assault,  
7 its duration and the extent of physical or emotional injury thereby caused by the  
8 battery or sexual assault.

9 (f) The child's behavior at or reaction to previous interviews concerning the  
10 events involved about which the child will testify.

11 (g) Whether the child blames himself or herself for the events involved about  
12 which the child will testify or has ever been told by any person not to disclose them;  
13 whether the child's prior reports to associates or authorities of the events have been  
14 disbelieved or not acted upon; and the child's subjective belief regarding what  
15 consequences to himself or herself, or persons with whom the child has a close  
16 emotional relationship, will ensue from providing testimony.

17 **SECTION 352.** 967.04 (8) of the statutes is renumbered 967.22 (3), and 967.22  
18 (3) (a) and (b) (intro.) and 4., as renumbered, are amended to read:

19 967.22 (3) PROCEDURES. (a) If the court orders a deposition under sub. ~~(7)~~ (1),  
20 the judge shall preside at the taking of the deposition and enforce compliance with  
21 the applicable provisions of ss. 885.44 to 885.47. Notwithstanding s. 885.44 (5),  
22 counsel may make objections and the judge shall make rulings thereon as at trial.  
23 The clerk of court shall keep the certified original recording of a deposition taken  
24 under sub. ~~(7)~~ (1) in a secure place. No person may inspect or copy the deposition  
25 except by order of the court upon a showing that inspection or copying is required for



**SENATE BILL 82**

1 editing under s. 885.44 (12) or for the investigation, prosecution, or defense of the  
2 action in which it was authorized or the provision of services to the child.

3 (b) (intro.) If the court orders that a deposition be taken by audiovisual means  
4 under sub. (7) (1), the court shall do all of the following:

5 4. ~~Determine that the child understands that it is wrong to tell a lie and will~~  
6 ~~testify truthfully if~~ If the child's developmental level or verbal skills are such that  
7 administration of an oath or affirmation in the usual form would be inappropriate,  
8 determine that the child understands that it is wrong to tell a lie and will testify  
9 truthfully.

10 **SECTION 353.** 967.04 (9) of the statutes is renumbered 967.22 (4) and amended  
11 to read:

12 967.22 (4) USE AT TRIAL, HEARING, OR OTHER PROCEEDING. In any criminal  
13 prosecution or juvenile fact-finding hearing under s. 48.31 or 938.31, the court may  
14 admit into evidence a recorded deposition taken under subs. (7) and (8) this section  
15 without an additional hearing under s. 908.08. In any proceeding under s. 302.113  
16 (9) (am), 302.114 (9) (am), 304.06 (3), or 973.10 (2), the hearing examiner may order  
17 that a deposition be taken by audiovisual means and preside at the taking of the  
18 deposition using the procedure provided in subs. (7) and (8) this section and may  
19 admit the recorded deposition into evidence without an additional hearing under s.  
20 908.08.

21 **SECTION 354.** 967.04 (10) of the statutes is renumbered 967.22 (5) and amended  
22 to read:

23 967.22 (5) SUBSEQUENT TESTIMONY. If a court or hearing examiner admits a  
24 recorded deposition into evidence under sub. (9) (4), the child may not be called as  
25 a witness at the proceeding in which it was admitted unless the court or hearing

**SENATE BILL 82**

1 examiner so orders upon a showing that additional testimony by the child is required  
2 in the interest of fairness for reasons neither known nor with reasonable diligence  
3 discoverable at the time of the deposition by the party seeking to call the child. The  
4 testimony of a child who is required to testify under this subsection may be taken in  
5 accordance with s. ~~972.11 (2m)~~ 972.20, if applicable.

6 **SECTION 355.** 967.05 (title) of the statutes is renumbered 970.06 (title) and  
7 amended to read:

8 **970.06 (title) Methods of commencing prosecution.**

9 **SECTION 356.** 967.05 (1) (intro.) and (a) of the statutes are consolidated,  
10 renumbered 970.06 (1) and amended to read:

11 970.06 (1) A prosecution ~~may be~~ is commenced by the filing of: ~~(a) A~~ a  
12 complaint;.

13 **SECTION 357.** 967.05 (1) (b) and (c) of the statutes are repealed.

14 **SECTION 358.** 967.05 (2) and (3) of the statutes are repealed.

15 **SECTION 359.** 967.055 of the statutes is renumbered 970.25, and 970.25 (2) (a)  
16 and (b), as renumbered, are amended to read:

17 970.25 (2) (a) Notwithstanding s. ~~971.29~~ 970.09, if the prosecutor seeks to  
18 dismiss or amend a charge under s. 346.63 (1) or (5) or a local ordinance in conformity  
19 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the  
20 use of a vehicle or an improper refusal under s. 343.305, the prosecutor shall apply  
21 to the court. The application shall state the reasons for the proposed amendment or  
22 dismissal. The court may approve the application only if the court finds that the  
23 proposed amendment or dismissal is consistent with the public's interest in deterring  
24 the operation of motor vehicles by persons who are under the influence of an  
25 intoxicant, a controlled substance, a controlled substance analog or any combination

**SENATE BILL 82**

1 of an intoxicant, controlled substance and controlled substance analog, under the  
2 influence of any other drug to a degree which renders him or her incapable of safely  
3 driving, or under the combined influence of an intoxicant and any other drug to a  
4 degree which renders him or her incapable of safely driving, in deterring the  
5 operation of motor vehicles by persons with a detectable amount of a restricted  
6 controlled substance in his or her blood, or in deterring the operation of commercial  
7 motor vehicles by persons with an alcohol concentration of 0.04 or more. The court  
8 may not approve an application to amend the vehicle classification from a  
9 commercial motor vehicle to a noncommercial motor vehicle unless there is evidence  
10 in the record that the motor vehicle being operated by the defendant at the time of  
11 his or her arrest was not a commercial motor vehicle.

12 (b) Notwithstanding s. ~~971.29~~ 970.09, if the prosecutor seeks to dismiss or  
13 amend a charge under s. 30.681 (1) or a local ordinance in conformity therewith, a  
14 charge under s. 30.681 (2), a charge under s. 30.684 (5) or a local ordinance in  
15 conformity therewith or a charge under s. 940.09 or 940.25 if the offense involved the  
16 use of a motorboat, except a sailboat operating under sail alone, the prosecutor shall  
17 apply to the court. The application shall state the reasons for the proposed  
18 amendment or dismissal. The court may approve the application only if the court  
19 finds that the proposed amendment or dismissal is consistent with the public's  
20 interest in deterring the operation of motorboats by persons who are under the  
21 influence of an intoxicant, a controlled substance, a controlled substance analog or  
22 any combination of an intoxicant, controlled substance and controlled substance  
23 analog, under the influence of any other drug to a degree which renders him or her  
24 incapable of operating a motorboat safely, or under the combined influence of an

**SENATE BILL 82**

1 intoxicant and any other drug to a degree which renders him or her incapable of  
2 operating a motorboat safely.

3 **SECTION 360.** 967.057 of the statutes is renumbered 970.15 (6).

4 **SECTION 361.** 967.06 (title) of the statutes is repealed.

5 **SECTION 362.** 967.06 (1) and (2) (a) of the statutes are consolidated,  
6 renumbered 971.013 and amended to read:

7 **971.013 Determination of indigency; appointment of counsel.** As soon  
8 as practicable after a person has been detained or arrested in connection with any  
9 offense that is punishable by incarceration, ~~or in connection with any civil~~  
10 ~~commitment proceeding,~~ or in any other situation in which a person is entitled to  
11 counsel regardless of ability to pay under the constitution or laws of the United  
12 States or this state, the person shall be informed of his or her right to counsel. ~~(2)~~  
13 ~~(a) Except as provided in par. (b), a~~ A person entitled to counsel under sub. (1) who  
14 indicates at any time that he or she wants to be represented by a lawyer, and who  
15 claims that he or she is not able to pay in full for a lawyer's services, shall  
16 immediately be permitted to contact the authority for indigency determinations  
17 specified under s. 977.07 (1). The authority for indigency determination in each  
18 county shall have daily telephone access to the county jail in order to identify all  
19 persons who are being held in the jail. The jail personnel shall provide by phone  
20 information requested by the authority.

21 **SECTION 363.** 967.06 (2) (b) of the statutes is repealed.

22 **SECTION 364.** 967.06 (3) of the statutes is renumbered 977.072 and amended  
23 to read:

24 **977.072 Transcript or court record; costs.** In any case in which the state  
25 public defender provides representation to an indigent person, the public defender

**SENATE BILL 82**

1 may request that the applicable court reporter or clerk of circuit court prepare and  
2 transmit any transcript or court record. The request shall be complied with. The  
3 state public defender shall, from the appropriation under s. 20.550 (1) (f),  
4 compensate the court reporter or clerk of circuit court for the cost of preparing,  
5 handling, duplicating, and mailing the documents.

6 **SECTION 365.** 967.07 of the statutes is repealed.

7 **SECTION 366.** 967.08 (title) of the statutes is renumbered 967.14 (title).

8 **SECTION 367.** 967.08 (1) of the statutes is renumbered 967.14 (1) (intro.) and  
9 amended to read:

10 967.14 (1) PROCEEDINGS COVERED. (intro.) Unless good cause to the contrary is  
11 shown, the court may permit any of the following proceedings referred to in this  
12 section may to be conducted by telephone or live audiovisual means, if available. If  
13 the proceeding is required to be reported under SCR 71.01 (2), the on the request of  
14 either party:

15 **(5) PROCEDURES.** A proceeding conducted under this section shall be reported  
16 recorded by a court reporter who is in simultaneous voice communication with all  
17 parties to the proceeding. Regardless of the physical location of any party to the call,  
18 any plea, waiver, stipulation, motion, objection, decision, order or other action taken  
19 by the court or any party shall have the same effect as if made in open court. With  
20 the exceptions of scheduling conferences, pretrial conferences, and, during hours the  
21 court is not in session, setting, review, modification of bail and other conditions of  
22 release under ch. 969, the if it is required to be reported under SCR 71.01 (2). The  
23 proceeding shall be conducted in a courtroom or other place reasonably accessible to  
24 the public, with the exception of scheduling conferences, pretrial conferences, and,  
25 when the court is not in session, the setting, review, or modification of the conditions

**SENATE BILL 82**

1 of release. Simultaneous access to the proceeding shall be provided to persons  
2 entitled to attend by means of a loudspeaker or, upon request to the court, by making  
3 a person party to the telephone call without charge.

4 **SECTION 368.** 967.08 (2) (intro.) of the statutes is renumbered 967.14 (3) and  
5 amended to read:

6 967.14 (3) REQUESTS AND OBJECTIONS. ~~The court may permit the following~~  
7 ~~proceedings to be conducted under sub. (1) on the request of either party. The request~~  
8 ~~and the opposing party's showing of good cause for not conducting the proceeding A~~  
9 ~~party may make a request under sub. (1) may be made by telephone. The opposing~~  
10 ~~party may show good cause by telephone for not conducting the proceeding under this~~  
11 ~~section.~~

12 **SECTION 369.** 967.08 (2) (a) to (d) of the statutes are renumbered 967.14 (1) (a)  
13 to (d) and amended to read:

14 967.14 (1) (a) Initial appearance under s. ~~970.01~~ subch. I of ch. 971 or pretrial  
15 conference.

16 (b) Waiver of preliminary examination under s. ~~970.03~~, 971.042.

17 (e) Waiver of a competency hearing under s. ~~971.14 (4) or 975.34.~~

18 (f) Waiver of a jury trial under s. ~~972.02~~ 972.005 (1).

19 (c) Motions for extension of time ~~under ss. 970.03 (2), 971.10 or other statutes.~~

20 (d) Arraignment under s. ~~971.05~~ 970.17, if the defendant intends to plead not  
21 guilty or to refuse to plead.

22 **SECTION 370.** 967.08 (3) (intro.) of the statutes is renumbered 967.14 (1) (g)  
23 (intro.) and amended to read:

24 967.14 (1) (g) (intro.) Non-evidentiary proceedings on the following matters  
25 ~~may be conducted under sub. (1) on request of either party. The request and the~~

**SENATE BILL 82**

1 opposing party's showing of good cause for not conducting the proceeding under sub-  
2 (1) may be made by telephone.;

3 **SECTION 371.** 967.08 (3) (a) to (f) of the statutes are renumbered 967.14 (1) (g)  
4 1. to 6. and amended to read:

5 967.14 (1) (g) 1. Setting, review, and modification of ~~bail and other~~ conditions  
6 of release under s. 974.09 or ch. 969.

7 2. Motions for severance under s. ~~971.12 (3)~~ 971.68 (2) or ~~consolidation joint~~  
8 trial of charges under s. ~~971.12 (4)~~ 971.67.

9 3. Motions for ~~testing of physical evidence under s. 971.23 (5)~~ discovery or for  
10 protective orders under s. ~~971.23 (6)~~ subch. IV of ch. 971.

11 4. Motions ~~under s. 971.31~~ directed to the sufficiency of the complaint or the  
12 affidavits supporting basis for the issuance of a warrant for arrest or search.

13 5. Motions in limine, ~~including those under s. 972.11 (2) (b)~~.

14 6. Motions to postpone, ~~including those under s. 971.29~~ related to scheduling  
15 under subch. III of ch. 971.

16 **SECTION 372.** 967.09 of the statutes is renumbered 967.14 (6), and 967.14 (6)  
17 (title), as renumbered, is amended to read:

18 967.14 (6) (title) ~~INTERPRETERS MAY SERVE BY TELEPHONE OR VIDEO.~~

19 **SECTION 373.** 967.10 of the statutes is renumbered 967.23.

20 **SECTION 374.** 967.11 of the statutes is renumbered 970.16.

21 **SECTION 375.** 967.12 (3) of the statutes is created to read:

22 967.12 (3) If trial is waived, when the court accepts the defendant's plea of  
23 guilty or no contest.

24 **SECTION 376.** 967.13 (1) (a) and (b) of the statutes are created to read:

25 967.13 (1) (a) The initial appearance.

**SENATE BILL 82**

1 (b) Any proceeding at which a plea is entered or withdrawn.

2 **SECTION 377.** 967.13 (1) (i) of the statutes is created to read:

3 967.13 (1) (i) Sentencing.

4 **SECTION 378.** 967.14 (1) (dm) of the statutes is created to read:

5 967.14 (1) (dm) Entry of a plea other than one that results in a finding of guilt.

6 **SECTION 379.** 967.14 (2) of the statutes is created to read:

7 967.14 (2) CRITERIA FOR GOOD CAUSE. In determining good cause under sub. (1),  
8 the court may consider the criteria under s. 885.56 (1).

9 **SECTION 380.** 967.14 (4) of the statutes is created to read:

10 967.14 (4) PLEAS OF GUILTY OR NO CONTEST AND SENTENCING. If the district  
11 attorney, the defendant, and defense counsel consent, the court may permit any of  
12 the following proceedings to be conducted by telephone:

13 (a) A proceeding to accept a plea of guilty or no contest.

14 (b) A sentencing proceeding.

15 **SECTION 381.** 967.21 (2) (title) of the statutes is created to read:

16 967.21 (2) (title) PROCEDURE.

17 **SECTION 382.** 967.21 (3) (title) of the statutes is created to read:

18 967.21 (3) (title) APPLICABILITY OF CIVIL RULES.

19 **SECTION 383.** 967.21 (4) (title) of the statutes is created to read:

20 967.21 (4) (title) ATTENDANCE BY DEFENDANT.

21 **SECTION 384.** 967.21 (5) (title) of the statutes is created to read:

22 967.21 (5) (title) USE AT TRIAL OR HEARING.

23 **SECTION 385.** 967.21 (6) (title) of the statutes is created to read:

24 967.21 (6) (title) OBJECTIONS.

25 **SECTION 386.** 967.22 (title) of the statutes is created to read:



**SENATE BILL 82**

1           **967.22** (title) **Deposition of a child by audiovisual means.**

2           **SECTION 387.** 968.01 (title) of the statutes is renumbered 970.07 (title) and  
3 amended to read:

4           **970.07** (title) **Complaint; contents and oath.**

5           **SECTION 388.** 968.01 (1) (intro.), (a) and (b) of the statutes are renumbered  
6 970.07 (1) (intro.), (a) and (b).

7           **SECTION 389.** 968.01 (1) (c) of the statutes is repealed.

8           **SECTION 390.** 968.01 (2) of the statutes is renumbered 970.07 (2) and amended  
9 to read:

10           970.07 (2) The complaint ~~is a written statement of the~~ shall specify the time  
11 and place each crime charged was committed, the section of the statutes alleged to  
12 have been violated, and the maximum penalty prescribed for each crime charged.  
13 The complaint shall include a statement of the essential facts constituting the  
14 offense crime charged. ~~A person may make a complaint on, signed by the person on~~  
15 whose knowledge, information, and belief the statement is based.

16           **(3)** Except as provided in sub. ~~(3) or (4) or (5),~~ the complaint shall be made upon  
17 oath before a district attorney ~~or judge as provided in this chapter.~~

18           **SECTION 391.** 968.01 (3) of the statutes is renumbered 970.07 (4) and amended  
19 to read:

20           970.07 (4) A person may comply with sub. (2) if he or she makes the oath by  
21 telephone contact with the district attorney ~~or judge,~~ signs the statement, and  
22 immediately thereafter transmits a copy facsimile of the signed statement to the  
23 district attorney ~~or judge using a facsimile machine.~~ The person shall also transmit  
24 the original signed statement, ~~without using a facsimile machine,~~ to the district

**SENATE BILL 82**

1 attorney ~~or judge, who shall file it with the clerk.~~ If the complaint is filed, both the  
2 original and the copy facsimile shall be filed under s. ~~968.02 (2)~~ 970.08.

3 **SECTION 392.** 968.01 (4) of the statutes is renumbered 970.07 (5).

4 **SECTION 393.** Subchapter I (title) of chapter 968 [precedes 968.015] of the  
5 statutes is created to read:

**CHAPTER 968**

**SUBCHAPTER I**

**INQUESTS**

6  
7  
8  
9 **SECTION 394.** 968.02 (title) and (1) of the statutes are renumbered 970.08 (title)  
10 and (1) and amended to read:

11 **970.08** (title) ~~Issuance and filing of complaints~~ Filing the complaint.

12 (1) ~~Except as otherwise provided in this section, a complaint charging a person with~~  
13 ~~an offense shall be issued only by a~~ Only the district attorney of the county where  
14 the a crime is alleged to have been committed. ~~A complaint is issued when it is~~  
15 ~~approved for filing by the district attorney. The approval shall be in the form of a~~  
16 ~~written endorsement on the complaint~~ may be tried under s. 970.14 may file a  
17 complaint.

18 **SECTION 395.** 968.02 (2) of the statutes is repealed.

19 **SECTION 396.** 968.02 (3) of the statutes is repealed.

20 **SECTION 397.** 968.02 (4) of the statutes is repealed.

21 **SECTION 398.** 968.025 (title) of the statutes is created to read:

22 **968.025** (title) **Inquest procedures.**

23 **SECTION 399.** 968.025 (3) of the statutes is created to read:

**SENATE BILL 82**

1           968.025 (3) WHERE CONDUCTED. An inquest may be held in any county in this  
2 state in which venue would lie for the trial of any offense that could be charged as  
3 the result of or involving the death.

4           **SECTION 400.** 968.025 (4) (title) of the statutes is created to read:

5           968.025 (4) (title) JURY SELECTION.

6           **SECTION 401.** 968.025 (4) (e) of the statutes is created to read:

7           968.025 (4) (e) The court shall select the inquest jury by lot once a panel of at  
8 least 12 potential jurors has been qualified. If the inquest is likely to be protracted,  
9 the judge may select also one or more alternate jurors by lot. If more than 6 jurors  
10 remain after all of the evidence is presented, the court shall determine by lot which  
11 jurors will not participate in deliberations and discharge them.

12          **SECTION 402.** 968.03 (title) and (3) of the statutes are repealed.

13          **SECTION 403.** 968.03 (1) of the statutes is repealed.

14          **SECTION 404.** 968.03 (2) of the statutes is renumbered 969.20 (8) and amended  
15 to read:

16          969.20 (8) WITHDRAWAL OF WARRANT OR SUMMONS AND COMPLAINT. An unserved  
17 warrant or summons and complaint in a case in which an initial appearance has not  
18 been held shall, at the request of the district attorney, be returned to the judge who  
19 may dismiss the action. Such court, and the court shall dismiss the action. The  
20 request shall be in writing, it and shall state the reasons therefor in writing and shall  
21 be filed with the clerk for which it is made.

22          **SECTION 405.** 968.035 (title) of the statutes is created to read:

23          **968.035** (title) **Witnesses.**

24          **SECTION 406.** 968.04 (title) of the statutes is renumbered 969.20 (title) and  
25 amended to read:

**SENATE BILL 82**

1           **969.20** (title) **Warrant Issuance of arrest warrant or summons on**  
2 **complaint.**

3           **SECTION 407.** 968.04 (1) (intro.) of the statutes is renumbered 969.20 (1) and  
4 amended to read:

5           969.20 (1) WARRANTS IN GENERAL. ~~If it appears from the complaint, or from an~~  
6 ~~affidavit or affidavits filed with the complaint or after an examination under oath of~~  
7 ~~the complainant or witnesses, when the a judge determines that this is necessary,~~  
8 ~~that there is probable cause to believe that an offense has been committed and that~~  
9 ~~the accused has committed it, the judge shall issue a warrant for the arrest of the~~  
10 ~~defendant accused or a summons in lieu thereof. The probable cause determination~~  
11 ~~may be based on a criminal complaint, an affidavit filed with the criminal complaint,~~  
12 ~~or if the judge determines it is necessary, after an examination under oath of the~~  
13 ~~complainant or witness. The warrant or summons shall be delivered forthwith to a~~  
14 ~~law enforcement officer for service. If the judge does not find probable cause to~~  
15 ~~believe that an offense has been committed or that the accused has committed it, the~~  
16 ~~judge shall record that finding on the complaint, file the complaint with the clerk,~~  
17 ~~and dismiss the action without prejudice.~~

18           **SECTION 408.** 968.04 (1) (a) of the statutes is repealed.

19           **SECTION 409.** 968.04 (1) (b) of the statutes is renumbered 969.20 (4) and  
20 amended to read:

21           969.20 (4) ISSUANCE BY JUDGE FROM ANOTHER COUNTY. ~~A warrant or summons~~  
22 ~~may be issued by a judge in another county may issue a warrant or summons when~~  
23 ~~there is no available judge of the county in which the complaint is issued. The~~  
24 ~~warrant or summons shall be returnable before a judge to a court in the county in~~  
25 ~~which the offense alleged in the complaint was committed, and the summons shall~~

**SENATE BILL 82**

1 be returnable before the circuit court of the county in which the offense alleged in the  
2 complaint was committed issued.

3 **SECTION 410.** 968.04 (1) (c) of the statutes is renumbered 969.20 (5) and  
4 amended to read:

5 969.20 (5) GEOGRAPHICAL LIMITS. A judge issuing an arrest warrant may specify  
6 geographical limits for its enforcement of a warrant.

7 **SECTION 411.** 968.04 (1) (d) of the statutes is renumbered 969.20 (3) and  
8 amended to read:

9 969.20 (3) EXAMINATION OF COMPLAINANT OR WITNESS. ~~An~~ A judge shall place  
10 each complainant or witness under oath and arrange for all sworn testimony to be  
11 recorded, either by a stenographic reporter or by means of a voice recording device.  
12 A judge may permit an examination of the complainant or witness under sub. (1) may  
13 or (2) to take place by telephone on request of the person seeking the warrant or  
14 summons unless good cause to the contrary appears. ~~The judge shall place each~~  
15 ~~complainant or witness under oath and arrange for all sworn testimony to be~~  
16 ~~recorded, either by a stenographic reporter or by means of a voice recording device.~~  
17 ~~The judge shall~~ may have the record transcribed. ~~The~~ If the record is transcribed,  
18 the transcript, certified as accurate by the judge or reporter, as appropriate, shall be  
19 filed with the court. If the testimony was recorded by means of a voice recording  
20 device, the judge shall also file the original recording with the court.

21 **SECTION 412.** 968.04 (2) (title) of the statutes is repealed.

22 **SECTION 413.** 968.04 (2) (a) of the statutes is renumbered 969.20 (7) (a) and  
23 amended to read:

24 969.20 (7) (a) ~~In~~ After issuing a complaint in any case, the district attorney,  
25 ~~after the issuance of a complaint,~~ may issue a summons in lieu of requesting the

**SENATE BILL 82**

1 issuance of a warrant. The ~~complaint~~ district attorney shall then ~~be filed~~ file the  
2 complaint with the clerk.

3 **SECTION 414.** 968.04 (2) (b) of the statutes is renumbered 969.20 (7) (b).

4 **SECTION 415.** 968.04 (2) (c) of the statutes is repealed.

5 **SECTION 416.** 968.04 (3) (title) of the statutes is repealed.

6 **SECTION 417.** 968.04 (3) (a) (intro.) of the statutes is renumbered 969.21 (1)  
7 (intro.) and amended to read:

8 969.21 (1) ~~WARRANT MANDATORY PROVISIONS.~~ (intro.) ~~The~~ An arrest warrant  
9 shall meet all of the following requirements:

10 **SECTION 418.** 968.04 (3) (a) 1. to 6. of the statutes are renumbered 969.21 (1)  
11 (a) to (f) and amended to read:

12 969.21 (1) (a) ~~Be~~ The warrant shall be in writing and signed by the judge.

13 (b) ~~State~~ The warrant shall state the name of the crime the defendant allegedly  
14 committed and the number of the statutory section charged ~~and number of the~~  
15 ~~section alleged to have been~~ that the defendant allegedly violated.

16 (c) ~~Have~~ The warrant shall have attached to it a copy of the complaint.

17 (d) ~~State~~ The warrant shall state the name of the person to be arrested, if  
18 known, or if not known, designate the person to be arrested by any description by  
19 which the person to be arrested can be identified with reasonable certainty.

20 (e) ~~State~~ The warrant shall state the date when it was issued ~~and,~~ the name  
21 of the judge who issued it ~~together with,~~ and the title of the judge's office.

22 (f) ~~Command~~ The warrant shall command that the person ~~against whom the~~  
23 ~~complaint was made~~ alleged to have committed the crime in par. (b) be arrested and,  
24 except as provided in s. 969.20 (4), be brought before the judge issuing the warrant,  
25 or, if the judge is absent or unable to act, before some other judge in the same county.



**SENATE BILL 82**

1           969.22 (1) MANDATORY PROVISIONS. The summons shall command the defendant  
2 to appear before a court at a certain time and place and shall be in substantially the  
3 form set forth in ~~subd. 3. s. 969.26 (2).~~ The complaint and summons may be on the  
4 same form. If they are, the complaint shall be beneath the summons. If separate  
5 forms are used, a copy of the complaint shall be attached to the summons.

6           **SECTION 423.** 968.04 (3) (b) 2. of the statutes is renumbered 969.22 (2) and  
7 amended to read:

8           969.22 (2) SERVICE. A summons may be served anywhere in the state and it  
9 shall be served by delivering a copy to the defendant personally ~~or,~~ by leaving a copy  
10 at the defendant's his or her usual place of abode with a person of discretion residing  
11 ~~therein there,~~ or by mailing a copy to the defendant's last-known address. ~~It shall~~  
12 ~~be served by a law enforcement officer.~~

13           **SECTION 424.** 968.04 (3) (b) 3. (intro.) of the statutes is renumbered 969.26 (2)  
14 (intro.) and amended to read:

15           969.26 (2) SUMMONS. (intro.) The A summons shall be in substantially the  
16 following form:

17           **SECTION 425.** 968.04 (3) (b) 3. a. of the statutes is repealed.

18           **SECTION 426.** 968.04 (3) (b) 3. b. (intro.) of the statutes is repealed.

19           **SECTION 427.** 968.04 (3) (b) 3. b. (form) of the statutes is renumbered 969.26  
20 (2) (form) and amended to read:

21           969.26 (2) (form)

22           STATE OF WISCONSIN,

23           .... County

24           State of Wisconsin

25           vs.



**SENATE BILL 82**

1           .... (Defendant)

2           THE STATE OF WISCONSIN TO SAID DEFENDANT:

3           ~~A complaint, copy of which is attached, having been made before me accusing~~  
4           ~~the defendant of committing the crime of .... contrary to sec. ...., Stats.~~

5           You, ....., ~~are, therefore, summoned to must appear before Branch .... of the ....~~  
6           ~~court Circuit Court of .... County at the courthouse .... in the City of .... to answer said~~  
7           ~~complaint, on ....., .... (year), at .... o'clock in the .... noon, and in case of your failure~~  
8           ~~to appear, (date), ....., at .... a.m./p.m. If you do not appear, a warrant for your arrest~~  
9           ~~may be issued.~~

10           You have been charged with committing the crime of .... in violation of section  
11           .... of the Wisconsin Statutes. A copy of the complaint charging you with that crime  
12           is attached.

13           Dated ....., .... (year)

14           ..... (Signature)

15           ..... District Attorney (Title)

16           **SECTION 428.** 968.04 (3) (b) 4. of the statutes is repealed.

17           **SECTION 429.** 968.04 (4) of the statutes is renumbered 969.21 (2), and 969.21  
18           (2) (a) to (d), as renumbered, are amended to read:

19           969.21 (2) (a) The Unless otherwise specified under s. 969.20 (5), an arrest  
20           warrant issued under this section shall be directed to all law enforcement officers of  
21           the state. ~~A warrant and may be served anywhere in the state.~~

22           (b) A warrant is served by arresting the defendant and informing the defendant  
23           as soon as practicable of the nature of the crime with which ~~the defendant~~ he or she  
24           is charged.

**SENATE BILL 82**

1 (c) An arrest may be made by a law enforcement officer without a warrant in  
2 the law enforcement officer's possession when the law enforcement officer has  
3 ~~knowledge~~ reasonably believes that a warrant has been issued. In such case, the  
4 officer shall inform the defendant as soon as practicable of the nature of the crime  
5 with which the defendant is charged.

6 (d) The law enforcement officer arresting a defendant shall endorse record  
7 upon the warrant the time and place of the arrest and ~~the law enforcement officer's~~  
8 ~~fees and mileage therefor.~~

9 **SECTION 430.** 968.05 of the statutes is renumbered 969.23, and 969.23 (1) and  
10 (2), as renumbered, are amended to read:

11 969.23 (1) When a corporation or limited liability company is charged with the  
12 ~~commission of~~ committing a criminal offense, the judge or district attorney shall  
13 issue a summons setting forth the nature of the offense and commanding the  
14 corporation or limited liability company to appear before a court at a specific time  
15 and place. The corporation or limited liability company shall appear by a corporate  
16 officer or an authorized agent other than defense counsel.

17 (2) The summons for the appearance of a corporation or limited liability  
18 company may be served as ~~provided for service of a summons~~ in the same way that  
19 a summons is served upon a corporation or limited liability company in a civil action  
20 under s. 801.11 (5). The summons ~~shall be returnable not less than~~ may not be  
21 returnable until at least 10 days after service.

22 **SECTION 431.** 968.06 of the statutes is repealed.

23 **SECTION 432.** 968.07 of the statutes is renumbered 969.16, and 969.16 (1) to  
24 (3), as renumbered, are amended to read:

**SENATE BILL 82**

1           969.16 (1) ~~A~~ Except as provided in sub. (3), a law enforcement officer may  
2       arrest a person when:

3           (a) The law enforcement officer has a warrant commanding that such person  
4       be arrested; ~~or,~~

5           (b) The law enforcement officer reasonably believes, ~~on reasonable grounds,~~  
6       that a warrant for the person's arrest has been issued in this state; ~~or,~~

7           (c) The law enforcement officer reasonably believes, ~~on reasonable grounds,~~  
8       that a felony warrant for the person's arrest has been issued in another state; ~~or,~~

9           (d) ~~There are reasonable grounds~~ The law enforcement officer has probable  
10      cause to believe that the person is committing or has committed a crime.

11          **(1m)** Notwithstanding sub. (1), a law enforcement officer shall arrest a person  
12      when required to do so under s. 813.12 (7), 813.122 (10), 813.125 (6), 813.128 (1) (b),  
13      or ~~968.075 (2) (a)~~ 969.27 (2) (a) or (5) (e).

14          **(2)** A law enforcement officer making a lawful arrest may command the aid of  
15      any person, and such person shall have the same power as ~~that of the law~~  
16      enforcement officer.

17          **(3)** ~~If the alleged violator under~~ No law enforcement officer may arrest a person  
18      alleged to have violated s. 948.55 (2) or 948.60 (2) (c) until at least 7 days after the  
19      date of the shooting, if the person is or was the parent or guardian of a child who is  
20      injured or dies as a result of ~~an accidental~~ the shooting, ~~no law enforcement officer~~  
21      ~~may arrest the alleged violator until at least 7 days after the date of the shooting.~~

22          **SECTION 433.** 968.073 of the statutes is renumbered 969.165, and 969.165 (2),  
23      as renumbered, is amended to read:

24          969.165 **(2)** It is the policy of this state to make an audio or audio and visual  
25      recording of a custodial interrogation of a person suspected of committing a felony

**SENATE BILL 82**

1 unless a condition under s. ~~972.115 (2)~~ 972.18 (3) (a) 1. to 6. applies or good cause is  
2 shown for not making an audio or audio and visual recording of the interrogation.

3 **SECTION 434.** 968.075 (title) of the statutes is renumbered 969.27 (title).

4 **SECTION 435.** 968.075 (1) of the statutes is renumbered 969.27 (1).

5 **SECTION 436.** 968.075 (2) (a) of the statutes is renumbered 969.27 (2) (a), and  
6 969.27 (2) (a) (intro.), as renumbered, is amended to read:

7 969.27 (2) (a) (intro.) Notwithstanding s. ~~968.07 (1)~~ 969.16 (1) and except as  
8 provided in pars. (am) and (b), a law enforcement officer shall arrest and take a  
9 person into custody if:

10 **SECTION 437.** 968.075 (2) (am) of the statutes is renumbered 969.27 (2) (am)  
11 and amended to read:

12 969.27 (2) (am) Notwithstanding s. ~~968.07 (1)~~ 969.16 (1), unless the person's  
13 arrest is required under s. 813.12 (7), 813.122 (10), 813.125 (6), or 813.128 (1) (b) or  
14 sub. (5) (e), if a law enforcement officer identifies the predominant aggressor, it is  
15 generally not appropriate for a law enforcement officer to arrest anyone under par.  
16 (a) other than the predominant aggressor.

17 **SECTION 438.** 968.075 (2) (ar) of the statutes is renumbered 969.27 (2) (ar).

18 **SECTION 439.** 968.075 (2) (b) of the statutes is renumbered 969.27 (2) (b).

19 **SECTION 440.** 968.075 (2m) of the statutes is renumbered 969.27 (2m) and  
20 amended to read:

21 969.27 (2m) IMMEDIATE RELEASE PROHIBITED. Unless s. ~~968.08~~ 969.17 applies,  
22 a law enforcement officer may not release a person whose arrest was required under  
23 sub. (2) until the person ~~posts bail~~ remits a cash deposit under s. ~~969.07~~ 969.36 or  
24 appears before a judge under s. ~~970.01 (1)~~ subch. I of ch. 971.

25 **SECTION 441.** 968.075 (3) of the statutes is renumbered 969.27 (3).

**SENATE BILL 82**

1           **SECTION 442.** 968.075 (4) of the statutes is renumbered 969.27 (4).

2           **SECTION 443.** 968.075 (5) of the statutes is renumbered 969.27 (5), and 969.27  
3 (5) (e), as renumbered, is amended to read:

4           969.27 (5) (e) Notwithstanding s. ~~968.07 (1)~~ 969.16 (1), a law enforcement  
5 officer shall arrest and take a person into custody if the officer has reasonable  
6 grounds to believe that the person has violated par. (a).

7           **SECTION 444.** 968.075 (6) to (9) of the statutes are renumbered 969.27 (6) to (9).

8           **SECTION 445.** 968.08 of the statutes is renumbered 969.17 and amended to  
9 read:

10           **969.17 Release by law enforcement officer of arrested person.** ~~A Except~~  
11 ~~as provided in s. 969.27 (5) (b) 1., a law enforcement officer having custody of a person~~  
12 ~~arrested without a warrant may release the person arrested with or without~~  
13 ~~requiring the person to appear before a judge if the law enforcement officer is~~  
14 ~~satisfied that there are insufficient grounds for the issuance of a criminal complaint~~  
15 ~~against the person arrested or the district attorney.~~

16           **SECTION 446.** 968.085 (title) of the statutes is renumbered 969.24 (title) and  
17 amended to read:

18           **969.24 (title) ~~Citation; nature; issuance; release of accused for~~**  
19 **misdemeanor.**

20           **SECTION 447.** 968.085 (1) of the statutes is renumbered 969.24 (1) and amended  
21 to read:

22           969.24 (1) NATURE. A citation under this section is a directive, issued by a law  
23 enforcement officer, that a person appear in court ~~and answer criminal charges.~~ ~~A~~  
24 ~~citation is not~~ or the district attorney's office. The citation may be used as a criminal

**SENATE BILL 82**

1 complaint and may not be used as a substitute for a criminal complaint if endorsed  
2 by the district attorney as provided in sub. (5).

3 **SECTION 448.** 968.085 (2) (intro.) of the statutes is renumbered 969.24 (2) and  
4 amended to read:

5 969.24 (2) AUTHORITY TO ISSUE; EFFECT. ~~Except as provided in sub. (8), a~~ A law  
6 enforcement officer may issue a citation to any person whom he or she has reasonable  
7 grounds probable cause to believe has committed a misdemeanor. A citation may be  
8 issued in the field or at the headquarters or precinct station of the officer instead of  
9 or subsequent to at any time after a lawful arrest. If a citation is issued, the person  
10 cited shall be released on his or her own recognizance. In determining whether to  
11 issue a citation, the law enforcement officer may consider whether:

12 **SECTION 449.** 968.085 (2) (a) to (f) of the statutes are repealed.

13 **SECTION 450.** 968.085 (3) (intro.) of the statutes is renumbered 969.24 (3)  
14 (intro.).

15 **SECTION 451.** 968.085 (3) (a) of the statutes is renumbered 969.24 (3) (a) and  
16 amended to read:

17 969.24 (3) (a) ~~Identify the offense and section which~~ State essential facts  
18 constituting the crime the person is alleged to have allegedly committed and the  
19 statutory section that the person allegedly violated, including the date, and if  
20 material, identify the property and other persons involved of the offense and the  
21 maximum penalty for the offense.

22 **SECTION 452.** 968.085 (3) (b) of the statutes is renumbered 969.24 (3) (b) and  
23 amended to read:

24 969.24 (3) (b) ~~Contain~~ State the name and address of the person cited, or other  
25 identification if ~~that~~ the person's name or address cannot be ascertained.

**SENATE BILL 82**

1           **SECTION 453.** 968.085 (3) (c) of the statutes is renumbered 969.24 (3) (c).

2           **SECTION 454.** 968.085 (3) (d) of the statutes is renumbered 969.24 (3) (d) and  
3 amended to read:

4           969.24 (3) (d) Direct the person cited to appear ~~for his or her initial appearance~~  
5 ~~in a designated court, at a designated~~ at a specified location and at a specified time  
6 and date.

7           **SECTION 455.** 968.085 (4) of the statutes is renumbered 969.24 (4) and amended  
8 to read:

9           969.24 (4) SERVICE. ~~A~~ The officer issuing the citation shall give a copy of the  
10 ~~citation shall be delivered to the person cited, and file the original must be filed with~~  
11 ~~the district attorney.~~

12           **SECTION 456.** 968.085 (5) of the statutes is renumbered 969.24 (5) and amended  
13 to read:

14           969.24 (5) REVIEW BY DISTRICT ATTORNEY. The district attorney shall review the  
15 citation and may issue a complaint by endorsing the citation with his or her signature  
16 or issue a separate complaint charging the cited person. If the district attorney  
17 reviews the case before the return date and declines to prosecute, he or she shall  
18 notify the law enforcement agency ~~which~~ that issued the citation. The law  
19 enforcement agency shall attempt to notify the person cited that he or she will not  
20 be charged and is not required to appear as directed in the citation.

21           **SECTION 457.** 968.085 (6) of the statutes is renumbered 969.24 (6).

22           **SECTION 458.** 968.085 (7) of the statutes is renumbered 969.24 (7) and amended  
23 to read:

**SENATE BILL 82**

1           969.24 (7) ~~PREPARATION OF FORM.~~ The judicial conference shall prescribe the  
2 form and content of the citation under s. ~~758.171~~ shall be in substantially the same  
3 form set forth in s. 969.26 (3).

4           **SECTION 459.** 968.085 (8) of the statutes is renumbered 969.24 (8) and amended  
5 to read:

6           969.24 (8) **INAPPLICABILITY TO CERTAIN DOMESTIC ABUSE CASES.** A law enforcement  
7 officer may not issue a citation to a person for an offense if the officer is required to  
8 arrest the person for that offense under s. ~~968.075~~ 969.27 (2).

9           **SECTION 460.** 968.09 (title) of the statutes is renumbered 969.50 (title) and  
10 amended to read:

11           **969.50 (title) Warrant Bench warrant for defendant or witness on**  
12 **failure to appear.**

13           **SECTION 461.** 968.09 (1) of the statutes is renumbered 969.50 (1) and amended  
14 to read:

15           969.50 (1) When a defendant or a witness fails to appear before the court as  
16 required, or violates a ~~term of the defendant's or witness's bond or the defendant's~~  
17 ~~or witness's probation, if any~~ condition of release, the court may issue a bench  
18 warrant for the defendant's or witness's arrest which shall direct that the defendant  
19 or witness be brought before the court without unreasonable delay. The court shall  
20 state on the record at the time of issuance of the bench warrant the reason therefor.

21           **SECTION 462.** 968.09 (2) of the statutes is repealed.

22           **SECTION 463.** 968.10 of the statutes is renumbered 968.455, and 968.455  
23 (intro.), (1), (2), (3), (4) and (5), as renumbered, are amended to read:





**SENATE BILL 82**

1           (4) Discovering and seizing any instruments, articles, or things which may  
2 have been used in the commission of, or which may constitute evidence of, the  
3 offense.

4           **SECTION 466.** 968.12 (title) of the statutes is renumbered 968.465 (title) and  
5 amended to read:

6           **968.465 (title) Search Application for and issuance of search warrant.**

7           **SECTION 467.** 968.12 (1) of the statutes is renumbered 968.465 (1) and amended  
8 to read:

9           **968.465 (1) DESCRIPTION AND ISSUANCE.** A search warrant is an order signed by  
10 a judge directing a law enforcement officer to conduct a search of a designated person,  
11 a designated object, or a designated place for the purpose of seizing designated  
12 property or kinds of property. A judge shall issue a search warrant if probable cause  
13 is shown.

14           **SECTION 468.** 968.12 (2) and (3) (a) and (d) of the statutes are consolidated,  
15 renumbered 968.465 (2) and amended to read:

16           **968.465 (2) WARRANT UPON AFFIDAVIT PROCEDURE GENERALLY.** ~~A search warrant~~  
17 ~~may be based upon sworn complaint or Probable cause may be shown by an affidavit,~~  
18 ~~or by oral testimony, or by a combination of an affidavit and oral testimony. The~~  
19 ~~affidavit or testimony shall be sworn to or affirmed and may be upon information and~~  
20 ~~belief. Oral testimony shall be recorded by a phonographic stenographic reporter or~~  
21 ~~under sub. (3) (d), showing probable cause therefor. The complaint, affidavit or~~  
22 ~~testimony may be upon information and belief. (3) (a) General rule. A search~~  
23 ~~warrant may be based upon sworn oral testimony voice recording device and may be~~  
24 ~~communicated to the judge in person or by telephone, radio, or other reliable means~~  
25 ~~of electronic communication, under the procedure prescribed in this subsection. (d)~~

**SENATE BILL 82**

1 ~~Recording and certification of testimony.~~ When a caller informs the judge that the  
2 purpose of the call is to request a warrant, the judge shall place under oath each  
3 person whose testimony forms a basis of the application and each person applying  
4 for the warrant. The judge or requesting person shall arrange for all sworn  
5 testimony to be recorded either by a stenographic reporter or by means of a voice  
6 recording device. The judge shall have the record transcribed. The. A transcript of  
7 the testimony, certified as accurate by the judge or reporter, as appropriate, shall be  
8 filed with the court. If the testimony was recorded by means of a voice recording  
9 device, ~~the judge shall also file~~ and the original recording of any testimony recorded  
10 by a voice recording device shall be filed with the court.

11 **SECTION 469.** 968.12 (3) (title) of the statutes is renumbered 968.465 (3) (title)  
12 and amended to read:

13 968.465 (3) (title) ~~WARRANT UPON ORAL~~ TELEPHONE AND OTHER REMOTE TESTIMONY;  
14 DUPLICATE WARRANT PROCEDURE.

15 **SECTION 470.** 968.12 (3) (b) of the statutes is renumbered 968.465 (3) (a) and  
16 amended to read:

17 968.465 (3) (a) ~~Application.~~ The person who is requesting the warrant When  
18 the applicant for a search warrant is testifying outside the presence of the judge, the  
19 judge shall place the applicant under oath or affirmation and arrange for all  
20 testimony to be recorded. The applicant shall prepare a duplicate original warrant  
21 and read the duplicate original warrant, verbatim, to the judge. The judge shall  
22 enter, verbatim, what is read on the original warrant. The Thereafter, but before  
23 signing the original warrant, the judge may direct that the warrant be modified.

24 **SECTION 471.** 968.12 (3) (c) and (f) of the statutes are consolidated, renumbered  
25 968.465 (3) (b) and amended to read:

**SENATE BILL 82**

1           968.465 (3) (b) *Issuance.* If the judge determines that there is probable cause  
2 for the warrant, the judge shall ~~order the issuance of a~~ issue the warrant by directing  
3 ~~the person requesting the warrant to sign the judge's name on the duplicate original~~  
4 ~~warrant. In addition, the person shall sign his or her own name on the duplicate~~  
5 ~~original warrant. The judge shall immediately sign~~ signing the original warrant and  
6 enter on the face of the original warrant the exact time when the warrant was  
7 ordered to be issued. ~~The finding of probable cause for a warrant upon oral testimony~~  
8 ~~shall be based on the same kind of evidence as is sufficient for a warrant upon~~  
9 ~~affidavit.~~ (f) *Entry of time of execution.* The judge shall direct the applicant to sign  
10 the judge's name on the duplicate warrant. In addition the applicant shall sign his  
11 or her own name on the duplicate warrant. The person who executes the warrant  
12 shall enter the exact time of execution on the face of the duplicate ~~original~~ warrant.

13           **SECTION 472.** 968.12 (3) (e) of the statutes is repealed.

14           **SECTION 473.** 968.12 (4) of the statutes is renumbered 968.465 (7).

15           **SECTION 474.** 968.13 (title) of the statutes is renumbered 968.475 (title) and  
16 amended to read:

17           **968.475 (title) Search warrant; property** Property subject to seizure.

18           **SECTION 475.** 968.13 (1) (intro.) of the statutes is renumbered 968.475 (2)  
19 (intro.) and amended to read:

20           968.475 (2) (intro.) A search warrant may authorize the seizure of any of the  
21 following:

22           **SECTION 476.** 968.13 (1) (a) of the statutes is renumbered 968.475 (1) (a) and  
23 amended to read:

24           968.475 (1) (a) "Contraband, which" includes ~~without limitation because of~~  
25 ~~enumeration, but is not limited to,~~ lottery tickets, gambling machines, or other

**SENATE BILL 82**

1 gambling devices; lewd, obscene, or indecent written matter, pictures, sound  
2 recordings, or motion picture films; forged money or written instruments and the  
3 tools, dies, machines, or materials for making them; and controlled substances, as  
4 defined in s. 961.01 (4), and controlled substance analogs, as defined in s. 961.01  
5 (4m), and the implements for smoking or injecting them. Gambling "Contraband"  
6 does not include machines or other gambling devices possessed by a shipbuilding  
7 business that complies with s. 945.095 ~~are not subject to this section.~~

8 **SECTION 477.** 968.13 (1) (b), (c) and (d) of the statutes are renumbered 968.475  
9 (2) (b), (c) and (d).

10 **SECTION 478.** 968.13 (2) of the statutes is renumbered 968.475 (1) (intro.) and  
11 amended to read:

12 968.475 (1) (intro.) In this section, "~~documents~~";

13 (b) "Documents" includes, but is not limited to, books, papers, records,  
14 recordings, tapes, photographs, films, or computer or electronic data.

15 **SECTION 479.** 968.135 (title) of the statutes is renumbered 968.705 (title).

16 **SECTION 480.** 968.135 of the statutes is renumbered 968.705 (1) and amended  
17 to read:

18 968.705 (1) Upon the request of the attorney general or a district attorney and  
19 upon a showing of probable cause under s. ~~968.12~~ 968.465, a court shall issue a  
20 subpoena requiring the production of documents, as ~~specified~~ defined in s. ~~968.13 (2).~~  
21 ~~The documents shall be returnable to the court which issued the subpoena. Motions~~  
22 ~~to the court, including, but not limited to,~~ 968.475 (1) (b), within a reasonable time  
23 set by the court and set forth in the subpoena.

24 (4) The person to whom the subpoena is directed may make motions to quash  
25 or limit the subpoena, ~~shall be addressed to the court which issued the subpoena.~~

**SENATE BILL 82**

1           **(5)** Any person who unlawfully refuses to produce the documents under sub.  
2 (1) may be compelled to do so as ~~provided in~~ under ch. 785.

3           **(7)** This section does not limit or affect any other subpoena authority provided  
4 by law.

5           **SECTION 481.** 968.14 of the statutes is renumbered 968.485 (2) and amended  
6 to read:

7           968.485 **(2)** USE OF FORCE. All necessary force may be used to execute a search  
8 warrant or to ~~effect any entry into~~ enter any building or property or part thereof to  
9 execute a search warrant.

10           **SECTION 482.** 968.15 of the statutes is renumbered 968.495, and 968.495 (1),  
11 as renumbered, is amended to read:

12           968.495 **(1)** A search warrant ~~must~~ may not be executed ~~and returned not~~ more  
13 than 5 days after the date of issuance.

14           **SECTION 483.** Subchapter III (title) of chapter 968 [precedes 968.155] of the  
15 statutes is created to read:

**CHAPTER 968**

**SUBCHAPTER III**

**GRAND JURIES**

16           **SECTION 484.** 968.16 of the statutes is renumbered 968.485 (3) and amended  
17 to read:

18           968.485 **(3)** ~~DETENTION AND SEARCH OF PERSONS ON PREMISES PRESENT.~~ ~~The person~~  
19 While executing the search warrant, a law enforcement officer may reasonably  
20 detain any occupant of the premises and may reasonably detain and search any  
21 person on the premises ~~at the time to protect himself or herself~~ the law enforcement  
22  
23  
24

**SENATE BILL 82**

1 officer from attack or to prevent the disposal or concealment of any item particularly  
2 described in the search warrant.

3 **SECTION 485.** 968.17 of the statutes is renumbered 968.506.

4 **SECTION 486.** 968.18 of the statutes is renumbered 968.605.

5 **SECTION 487.** 968.19 of the statutes is renumbered 968.615 and amended to  
6 read:

7 **968.615 Custody of property seized.** Property A law enforcement officer  
8 shall safely keep property seized under a search warrant or validly seized without  
9 a warrant ~~shall be safely kept by the officer, who~~ and may leave it in the custody of  
10 the sheriff and take a receipt ~~therefor, for it.~~ The property shall be kept so long as  
11 necessary for the purpose of being produced as evidence on any trial.

12 **SECTION 488.** 968.20 (title) of the statutes is renumbered 968.625 (title).

13 **SECTION 489.** 968.20 (1) of the statutes is renumbered 968.625 (1), and 968.625  
14 (1) (intro.) and (a), as renumbered, are amended to read:

15 968.625 (1) (intro.) Any person claiming the right to possession of property  
16 seized pursuant to a search warrant or seized without a search warrant may apply  
17 for its return to the ~~circuit~~ court for the county in which the property was seized or  
18 where the search warrant was returned. The court shall order such notice as it  
19 deems adequate to be given the district attorney and all persons who have or may  
20 have an interest in the property and shall hold a hearing to hear all claims to its true  
21 ownership. If the right to possession is proved to the court's satisfaction, it shall  
22 order the property, other than contraband or property covered under sub. (1m) or (1r)  
23 or s. 173.12 (1m), 173.21 (4) (1), or ~~968.205~~ 968.645, returned if any of the following  
24 applies:

**SENATE BILL 82**

1 (a) The property is not needed as evidence or, if needed, satisfactory  
2 arrangements can be made for its return for subsequent use as evidence; ~~or,~~

3 **SECTION 490.** 968.20 (1m) of the statutes is renumbered 968.625 (1m), and  
4 968.625 (1m) (b), as renumbered, is amended to read:

5 968.625 (1m) (b) If the seized property is a dangerous weapon or ammunition,  
6 the property shall not be returned to any person who committed a crime involving  
7 the use of the dangerous weapon or the ammunition. The property may be returned  
8 to the rightful owner under this section if the owner had no prior knowledge of and  
9 gave no consent to the commission of the crime. Property which may not be returned  
10 to an owner under this subsection shall be disposed of under ~~subs. (3) and (4) s.~~  
11 175.27.

12 **SECTION 491.** 968.20 (1r) of the statutes is renumbered 968.625 (1r).

13 **SECTION 492.** 968.20 (2) of the statutes is renumbered 968.625 (2) and amended  
14 to read:

15 968.625 (2) Property not required for evidence or use in further investigation,  
16 unless contraband or property covered under sub. (1m) or (1r) or s. 173.12 (1m),  
17 173.21 (1), or 968.205 968.645, may be returned by the officer to the person from  
18 whom it was seized without the requirement of a hearing.

19 **SECTION 493.** 968.20 (3) and (4) of the statutes are renumbered 175.27 (1) and  
20 (2) and amended to read:

21 175.27 (1) (a) ~~First~~ Unless the dangerous weapons or ammunition may be  
22 returned to the owner under s. 968.625 (1m) (b), first class cities shall dispose of  
23 dangerous weapons or ammunition seized 12 months after taking possession of them  
24 if the owner, authorized under sub. (1m), has not requested their return and if the  
25 dangerous weapon or ammunition is not required for evidence or use in further



**SENATE BILL 82**

1 investigation and has not been disposed of pursuant to a court order at the  
2 completion of a criminal action or proceeding. Disposition procedures shall be  
3 established by ordinance or resolution and may include provisions authorizing an  
4 attempt to return to the rightful owner any dangerous weapons or ammunition  
5 which appear to be stolen or are reported stolen. If enacted, any such provision shall  
6 include a presumption that, if the dangerous weapons or ammunition appear to be  
7 or are reported stolen, an attempt will be made to return the dangerous weapons or  
8 ammunition to the authorized rightful owner. If the return of a seized dangerous  
9 weapon other than a firearm is not requested by its rightful owner under ~~sub. s.~~  
10 968.625 (1) and is not returned by the officer under ~~sub. s. 968.625~~ (2), the city shall  
11 safely dispose of the dangerous weapon or, if the dangerous weapon is a motor  
12 vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure  
13 under s. 973.075 (4) or authorize a law enforcement agency to retain and use the  
14 motor vehicle. If the return of a seized firearm or ammunition is not requested by  
15 its authorized rightful owner under ~~sub. s. 968.625~~ (1) and is not returned by the  
16 officer under ~~sub. s. 968.625~~ (2), the seized firearm or ammunition shall be shipped  
17 to and become property of the state crime laboratories. A person designated by the  
18 department of justice may destroy any material for which the laboratory has no use  
19 or arrange for the exchange of material with other public agencies. In lieu of  
20 destruction, shoulder weapons for which the laboratories have no use shall be turned  
21 over to the department of natural resources for sale and distribution of proceeds  
22 under s. 29.934 or for use under s. 29.938.

23 (b) Except as provided in par. (a) ~~or, sub. (1m) (2), or (4) s. 968.625 (1m)~~, a city,  
24 village, town, or county or other custodian of a seized dangerous weapon or  
25 ammunition, if the dangerous weapon or ammunition is not required for evidence or

**SENATE BILL 82**

1 use in further investigation and has not been disposed of pursuant to a court order  
2 at the completion of a criminal action or proceeding, shall make reasonable efforts  
3 to notify all persons who have or may have an authorized rightful interest in the  
4 dangerous weapon or ammunition of the application requirements under ~~sub. s.~~ 968.625  
5 968.625 (1). If, within 30 days after the notice, an application under ~~sub. s.~~ 968.625  
6 (1) is not made and the seized dangerous weapon or ammunition is not returned by  
7 the officer under ~~sub. s.~~ 968.625 (2), the city, village, town, or county or other  
8 custodian may retain the dangerous weapon or ammunition and authorize its use by  
9 a law enforcement agency, except that a dangerous weapon used in the commission  
10 of a homicide or a handgun, as defined in s. 175.35 (1) (b), may not be retained. If  
11 a dangerous weapon other than a firearm is not so retained, the city, village, town,  
12 or county or other custodian shall safely dispose of the dangerous weapon or, if the  
13 dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell the motor  
14 vehicle following the procedure under s. 973.075 (4). If a firearm or ammunition is  
15 not so retained, the city, village, town, or county or other custodian shall ship it to  
16 the state crime laboratories and it is then the property of the laboratories. A person  
17 designated by the department of justice may destroy any material for which the  
18 laboratories have no use or arrange for the exchange of material with other public  
19 agencies. In lieu of destruction, shoulder weapons for which the laboratory has no  
20 use shall be turned over to the department of natural resources for sale and  
21 distribution of proceeds under s. 29.934 or for use under s. 29.938.

22 (2) Any property seized, other than property covered under s. ~~968.205~~ 968.645,  
23 that poses a danger to life or other property in storage, transportation, or use and  
24 that is not required for evidence or further investigation shall be safely disposed of  
25 upon command of the person in whose custody they are committed. The city, village,

**SENATE BILL 82**

1 town, or county shall by ordinance or resolution establish disposal procedures.  
2 Procedures may include provisions authorizing an attempt to return to the rightful  
3 owner substances which have a commercial value in normal business usage and do  
4 not pose an immediate threat to life or property. If enacted, any such provision shall  
5 include a presumption that if the substance appears to be or is reported stolen an  
6 attempt will be made to return the substance to the rightful owner.

7 **SECTION 494.** 968.205 of the statutes is renumbered 968.645, and 968.645 (1)  
8 (a) and (b), (2) and (3) (b) 2., as renumbered, are amended to read:

9 968.645 (1) (a) "Custody" means actual custody of a person under a sentence  
10 of imprisonment, custody of a probationer, parolee, or person on extended  
11 supervision by the department of corrections, actual or constructive custody of a  
12 person pursuant to a dispositional order under ch. 938, supervision of a person,  
13 whether in institutional care or on conditional release, pursuant to a commitment  
14 order under ~~s. 971.17 subch. III of ch. 975~~, and supervision of a person under ch. 980,  
15 whether in detention before trial or while in institutional care or on supervised  
16 release pursuant to a commitment order.

17 (b) "Discharge date" means the date on which a person is released or discharged  
18 from custody that resulted from a criminal action, a delinquency proceeding under  
19 ch. 938, or a commitment proceeding under ~~s. 971.17 subch. III of ch. 975~~ or ch. 980  
20 or, if the person is serving consecutive sentences of imprisonment, the date on which  
21 the person is released or discharged from custody under all of the sentences.

22 (2) Except as provided in sub. (3), if physical evidence that is in the possession  
23 of a law enforcement agency includes any biological material that was collected in  
24 connection with a criminal investigation that resulted in a criminal conviction,  
25 delinquency adjudication, or commitment under ~~s. 971.17 subch. III of ch. 975~~ or ~~s.~~

**SENATE BILL 82**

1 980.06 and the biological material is from a victim of the offense that was the subject  
2 of the criminal investigation or may reasonably be used to incriminate or exculpate  
3 any person for the offense, the law enforcement agency shall preserve the physical  
4 evidence until every person in custody as a result of the conviction, adjudication, or  
5 commitment has reached his or her discharge date.

6 (3) (b) 2. Submits a written request for retention of the evidence to the law  
7 enforcement agency or district attorney.

8 **SECTION 495.** 968.21 of the statutes is renumbered 968.465 (4).

9 **SECTION 496.** 968.22 of the statutes is renumbered 968.515.

10 **SECTION 497.** 968.23 of the statutes is renumbered 968.525.

11 **SECTION 498.** 968.24 of the statutes is renumbered 968.555.

12 **SECTION 499.** 968.25 of the statutes is renumbered 968.565 and amended to  
13 read:

14 **968.565 Search during temporary questioning.** When a law enforcement  
15 officer has stopped a person for temporary questioning pursuant to under s. 968.24  
16 968.555 and reasonably suspects that ~~he or she~~ the law enforcement officer or  
17 another individual is in danger of physical injury, the law enforcement officer may  
18 search ~~such~~ the person for weapons or any instrument ~~or,~~ , article, or substance  
19 readily capable of causing physical injury and of a sort not ordinarily carried in public  
20 places by law abiding persons. If the law enforcement officer finds such a weapon  
21 or instrument, or any other property possession of which the law enforcement officer  
22 reasonably believes may constitute the commission of a crime, or which may  
23 constitute a threat to ~~his or her~~ the safety of the law enforcement officer, the law  
24 enforcement officer may take it and keep it until the completion of the questioning,

**SENATE BILL 82**

1 at which time the law enforcement officer shall either return it, if lawfully possessed,  
2 or arrest the person so questioned.

3 **SECTION 500.** 968.255 (title) of the statutes is renumbered 968.585 (title).

4 **SECTION 501.** 968.255 (1) of the statutes is renumbered 968.585 (1), and  
5 968.585 (1) (a) 3., as renumbered, is amended to read:

6 968.585 (1) (a) 3. A person taken into custody under s. 938.19 and there are  
7 reasonable grounds to believe the juvenile has committed an act which if committed  
8 by an adult would be covered a misdemeanor under subd. 1. ~~or 2.~~ or a felony.

9 **SECTION 502.** 968.255 (2) (intro.) of the statutes is renumbered 968.585 (2)  
10 (intro.).

11 **SECTION 503.** 968.255 (2) (ag), (am), (ar), (b), (c), (d) and (e) of the statutes are  
12 renumbered 968.585 (2) (ag), (am), (ar), (b), (c), (d) and (e), and 968.585 (2) (b), (d) and  
13 (e), as renumbered, are amended to read:

14 968.585 (2) (b) The detainee is not exposed to the view of any person whose  
15 presence is not reasonably needed for conducting the search.

16 (d) A person conducting the search has obtained the prior written ~~permission~~  
17 authorization of the chief, or ~~sheriff or law enforcement administrator~~ of the  
18 jurisdiction where the person is detained, or his or her designee, unless there is  
19 probable cause to believe that the detainee is concealing a weapon.

20 (e) ~~A~~ The person conducting the search prepares a report identifying the  
21 person detained, all persons conducting the search, the time, date, and place of the  
22 search, and the written authorization required by par. (d), and provides a copy of the  
23 report to the detainee.

24 **SECTION 504.** 968.255 (3) of the statutes is renumbered 968.585 (3) and  
25 amended to read:

**SENATE BILL 82**

1           968.585 (3) No person other than a physician, physician assistant, or  
2 registered nurse licensed to practice in this state may conduct a body cavity search.

3           **SECTION 505.** 968.255 (4) of the statutes is renumbered 946.77 and amended  
4 to read:

5           **946.77 Improper search of a detained person.** ~~A person who~~ Whoever  
6 intentionally violates this section may be fined not more than \$1,000 or imprisoned  
7 ~~not more than 90 days or both~~ s. 968.585 is guilty of a Class B misdemeanor.

8           **SECTION 506.** 968.255 (5) of the statutes is renumbered 968.585 (5).

9           **SECTION 507.** 968.255 (6) of the statutes is renumbered 968.585 (6) and  
10 amended to read:

11           968.585 (6) Each law enforcement agency, as defined in s. 165.83 (1) (b), and  
12 each facility where a strip search may be conducted pursuant to this section, shall  
13 establish written policies and procedures concerning strip searches ~~which at least~~  
14 that, at a minimum, meet the ~~minimum~~ requirements of this section and shall  
15 provide annual training regarding the policies and procedures to any employee or  
16 agent of the agency or facility who may conduct a strip search.

17           **SECTION 508.** 968.255 (7) of the statutes is renumbered 968.585 (7) and  
18 amended to read:

19           968.585 (7) This section does not apply to a search of any person who meets any  
20 of the following criteria:

21           (a) Is The person is serving a sentence, pursuant to a conviction, in a jail, state  
22 prison, or house of correction.

23           (b) Is The person is placed in or transferred to a juvenile correctional facility,  
24 as defined in s. 938.02 (10p), or a secured residential care center for children and  
25 youth, as defined in s. 938.02 (15g).

**SENATE BILL 82**

1           (c) ~~Is The person is~~ committed, transferred, or admitted under ch. 975, 2013  
2 stats., or ch. 51, 971 or 975.

3           (d) ~~Is The person is~~ confined as a condition of probation under s. 973.09 (4).

4           **SECTION 509.** 968.256 of the statutes is renumbered 968.59 and amended to  
5 read:

6           **968.59 Search of ~~physically disabled person~~ persons with a physical**  
7 **disability.** (1) In this section, ~~“physically disabled “person with a physical~~  
8 ~~disability”~~ means a person who requires an assistive device for mobility, including,  
9 but not limited to, a wheelchair, brace, crutch, or artificial limb.

10           (2) A search of a ~~physically disabled person~~ with a physical disability shall be  
11 conducted in a careful manner. If a search of a ~~physically disabled person~~ with a  
12 physical disability requires the removal of an assistive device or involves a person  
13 lacking sensation in some portion of his or her body, the search shall be conducted  
14 with extreme care by a person who has had training in handling ~~physically disabled~~  
15 ~~persons~~ with a physical disability.

16           **SECTION 510.** 968.26 of the statutes is renumbered 968.105, and 968.105 (3),  
17 as renumbered, is amended to read:

18           968.105 (3) The extent to which the judge may proceed in an examination  
19 under sub. (1) or (2) is within the judge’s discretion. The examination ~~may be~~  
20 ~~adjourned and may~~ shall be secret unless the judge orders otherwise. Unless the  
21 judge orders the proceeding not to be secret, the record and the testimony taken is  
22 not open to public inspection. The record and testimony taken is open to inspection  
23 by the district attorney, and, if a criminal prosecution follows, it is subject to  
24 discovery under s. 971.43 (2) (br). Any witness examined under this section may  
25 have counsel present at the examination but the counsel shall not be allowed to

**SENATE BILL 82**

1 examine his or her client, cross-examine other witnesses, or argue before the judge.  
2 Subject to s. ~~971.23~~ 971.43, if the proceeding is secret, the record of the proceeding  
3 and the testimony taken shall not be open to inspection by anyone except the district  
4 attorney unless it is used by the prosecution at the preliminary hearing or the trial  
5 of the accused and then only to the extent that it is so used. A court, on the motion  
6 of a district attorney, may compel a person to testify or produce evidence under s.  
7 ~~972.08~~ 967.17 (1). The person is immune from prosecution as provided in s. ~~972.08~~  
8 967.17 (1), subject to the restrictions under s. ~~972.085~~ 967.18.

9 **SECTION 511.** 968.265 of the statutes is renumbered 968.595.

10 **SECTION 512.** 968.27 (intro.) of the statutes is renumbered 968.305 (intro.) and  
11 amended to read:

12 **968.305 Definitions.** (intro.) In ~~ss. 968.28 to 968.375~~ this subchapter:

13 **SECTION 513.** 968.27 (1) of the statutes is renumbered 968.305 (1) and amended  
14 to read:

15 968.305 (1) “Aggrieved person” means a person who was a party to any  
16 intercepted wire, electronic, or oral communication or a person against whom the  
17 interception was directed.

18 **SECTION 514.** 968.27 (2) of the statutes is renumbered 968.305 (2).

19 **SECTION 515.** 968.27 (3) of the statutes is renumbered 968.305 (3) and amended  
20 to read:

21 968.305 (3) “Contents” when used with respect to any wire, electronic, or oral  
22 communication, includes any information concerning the substance, purport, or  
23 meaning of that communication.

24 **SECTION 516.** 968.27 (4) of the statutes is renumbered 968.305 (4), and 968.305  
25 (4) (intro.), as renumbered, is amended to read:



**SENATE BILL 82**

1           968.305 (4) (intro.) “Electronic communication” means any transfer of signs,  
2           signals, writing, images, sounds, data, or intelligence of any nature wholly or  
3           partially transmitted by a wire, radio, electromagnetic, photoelectronic, or  
4           photooptical system. “Electronic communication” does not include any of the  
5           following:

6           **SECTION 517.** 968.27 (5) of the statutes is renumbered 968.305 (5).

7           **SECTION 518.** 968.27 (6) of the statutes is renumbered 968.305 (6) and amended  
8           to read:

9           968.305 (6) “Electronic communications system” means any wire, radio,  
10          electromagnetic, photooptical, or photoelectronic facilities for the transmission of  
11          electronic communications, and any computer facilities or related electronic  
12          equipment for the electronic storage of those communications.

13          **SECTION 519.** 968.27 (7) of the statutes is renumbered 968.305 (7), and 968.305  
14          (7) (intro.) and (a) (intro.) and 1., as renumbered, are amended to read:

15          968.305 (7) (intro.) “Electronic, mechanical, or other device” means any device  
16          or apparatus which can be used to intercept a wire, electronic, or oral communication  
17          other than one of the following:

18          (a) (intro.) Any telephone or telegraph instrument, equipment, or facilities, or  
19          any component thereof, ~~which is of a telephone or telegraph instrument, equipment,~~  
20          or facilities, that is any of the following:

21                1. Furnished to the subscriber or user by a provider of electronic or wire  
22                communication service in the ordinary course of its business and being used by the  
23                subscriber or user in the ordinary course of its business or furnished by the  
24                subscriber or user for connection to the facilities of the service and used in the  
25                ordinary course of its business; ~~or,~~

**SENATE BILL 82**

1           **SECTION 520.** 968.27 (8) of the statutes is renumbered 968.305 (8).

2           **SECTION 521.** 968.27 (9) of the statutes is renumbered 968.305 (9) and amended  
3 to read:

4           968.305 (9) “Intercept” means the aural or other acquisition of the contents of  
5 any wire, electronic, or oral communication through the use of any electronic,  
6 mechanical, or other device.

7           **SECTION 522.** 968.27 (10) of the statutes is renumbered 968.305 (10).

8           **SECTION 523.** 968.27 (11) of the statutes is renumbered 968.305 (11) and  
9 amended to read:

10           968.305 (11) “Judge” means the judge sitting at the time an application is made  
11 under s. ~~968.30~~ 968.335 or his or her successor.

12           **SECTION 524.** 968.27 (12) and (13) of the statutes are renumbered 968.305 (12)  
13 and (13).

14           **SECTION 525.** 968.27 (14) of the statutes is renumbered 968.305 (14).

15           **SECTION 526.** 968.27 (14g) of the statutes is renumbered 968.305 (14g).

16           **SECTION 527.** 968.27 (15) of the statutes is renumbered 968.305 (15).

17           **SECTION 528.** 968.27 (16) (intro.), (a) and (b) of the statutes are consolidated,  
18 renumbered 968.305 (16) and amended to read:

19           968.305 (16) “User” means any person ~~who or entity that:~~ (a) ~~Uses~~ uses an  
20 electronic communication service; and (b) ~~Is duly~~ is authorized by the provider of the  
21 service to engage in that use.

22           **SECTION 529.** 968.27 (17) of the statutes is renumbered 968.305 (17).

23           **SECTION 530.** 968.28 of the statutes is renumbered 968.315 and amended to  
24 read:

**SENATE BILL 82**

1           **968.315 Application for court order to intercept communications.** The  
2 attorney general together with the district attorney of any county may approve a  
3 request of an investigative or law enforcement officer to apply to the chief judge of  
4 the judicial administrative district for the county where the interception is to take  
5 place for an order authorizing or approving the interception of wire, electronic, or  
6 oral communications. The chief judge may under s. ~~968.30~~ 968.335 grant an order  
7 authorizing or approving the interception of wire, electronic, or oral communications  
8 by investigative or law enforcement officers having responsibility for the  
9 investigation of the offense for which the application is made. The authorization  
10 shall be permitted only if the interception may provide or has provided evidence of  
11 the commission of the offense of homicide, felony murder, kidnapping, commercial  
12 gambling, bribery, extortion, dealing in controlled substances or controlled  
13 substance analogs, a computer crime that is a felony under s. 943.70, sexual  
14 exploitation of a child under s. 948.05, trafficking of a child under s. 948.051, child  
15 enticement under s. 948.07, use of a computer to facilitate a child sex crime under  
16 s. 948.075, or soliciting a child for prostitution under s. 948.08, or any conspiracy to  
17 commit any of the foregoing offenses.

18           **SECTION 531.** 968.29 of the statutes is renumbered 968.325 and amended to  
19 read:

20           **968.325 Authorization for disclosure and use of intercepted wire,**  
21 **electronic, or oral communications.** (1) Any investigative or law enforcement  
22 officer who, by any means authorized by ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 or 18  
23 USC 2510 to 2520, has obtained knowledge of the contents of any wire, electronic,  
24 or oral communication, or evidence derived therefrom, may disclose the contents to  
25 another investigative or law enforcement officer only to the extent that the disclosure

**SENATE BILL 82**

1 is appropriate to the proper performance of the official duties of the officer making  
2 or receiving the disclosure.

3 (2) Any investigative or law enforcement officer who, by any means authorized  
4 by ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 or 18 USC 2510 to 2520, has obtained  
5 knowledge of the contents of any wire, electronic, or oral communication or evidence  
6 derived therefrom may use the contents only to the extent the use is appropriate to  
7 the proper performance of the officer's official duties.

8 (3) (a) Any person who has received, by any means authorized by ss. ~~968.28~~  
9 968.315 to ~~968.37~~ 968.405 or 18 USC 2510 to 2520 or by a like statute of any other  
10 state, any information concerning a wire, electronic, or oral communication or  
11 evidence derived therefrom intercepted in accordance with ss. ~~968.28~~ 968.315 to  
12 ~~968.37~~ 968.405, may disclose the contents of that communication or that derivative  
13 evidence only while giving testimony under oath or affirmation in any proceeding in  
14 any court or before any magistrate or grand jury in this state, or in any court of the  
15 United States or of any state, or in any federal or state grand jury proceeding.

16 (b) In addition to the disclosure provisions of par. (a), any person who has  
17 received, in the manner described under s. ~~968.31~~ 968.345 (2) (b), any information  
18 concerning a wire, electronic, or oral communication or evidence derived therefrom,  
19 may disclose the contents of that communication or that derivative evidence while  
20 giving testimony under oath or affirmation in any proceeding described in par. (a) in  
21 which a person is accused of any act constituting a felony, and only if the party who  
22 consented to the interception is available to testify at the proceeding or if another  
23 witness is available to authenticate the recording.

**SENATE BILL 82**

1           (4) No otherwise privileged wire, electronic, or oral communication intercepted  
2           in accordance with, or in violation of, ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 or 18 USC  
3           2510 to 2520, may lose its privileged character.

4           (5) When an investigative or law enforcement officer, while engaged in  
5           intercepting wire, electronic, or oral communications in the manner authorized,  
6           intercepts wire, electronic, or oral communications relating to offenses other than  
7           those specified in the order of authorization or approval, the contents thereof, and  
8           evidence derived therefrom, may be disclosed or used as provided in subs. (1) and (2).  
9           The contents and any evidence derived therefrom may be used under sub. (3) when  
10          authorized or approved by the judge who acted on the original application where the  
11          judge finds on subsequent application, made as soon as practicable but no later than  
12          48 hours, that the contents were otherwise intercepted in accordance with ss. ~~968.28~~  
13          968.315 to ~~968.37~~ 968.405 or 18 USC 2510 to 2520 or by a like statute.

14          **SECTION 532.** 968.30 of the statutes is renumbered 968.335, and 968.335 (title),  
15          (1) (intro.), (b) (intro.), 1., 2. and 3. and (e), (3) (intro.), (a) and (d), (4) (intro.), (a), (b),  
16          (c) and (d), (5), (6), (7) (a) and (b), (8), (9) and (10), as renumbered, are amended to  
17          read:

18          **968.335 (title) Procedure for interception of wire, electronic, or oral**  
19          **communications.** (1) (intro.) Each application for an order authorizing or  
20          approving the interception of a wire, electronic, or oral communication shall be made  
21          in writing upon oath or affirmation to the court and shall state the applicant's  
22          authority to make the application and may be upon personal knowledge or  
23          information and belief. Each application shall include the following information:

**SENATE BILL 82**

1 (b) (intro.) A full and complete statement of the facts and circumstances relied  
2 upon by the applicant, to justify the applicant's belief that an order should be issued,  
3 including all of the following:

4 1. Details of the particular offense that has been, is being, or is about to be  
5 committed;

6 2. A particular description of the nature and location of the facilities from which  
7 or the place where the communication is to be intercepted;

8 3. A particular description of the type of communications sought to be  
9 intercepted; ~~and~~.

10 (e) A full and complete statement of the facts concerning all previous  
11 applications known to the individual authorizing and making the application, made  
12 to any court for authorization to intercept, or for approval of interceptions of, wire,  
13 electronic, or oral communications involving any of the same persons, facilities, or  
14 places specified in the application, and the action taken by the court on each such  
15 application; ~~and~~.

16 **(3)** (intro.) Upon the application the court may enter an ex parte order, as  
17 requested or as modified, authorizing or approving interception of wire, electronic,  
18 or oral communications, if the court determines on the basis of the facts submitted  
19 by the applicant that all of the following exist:

20 (a) There is probable cause for belief that an individual is committing, has  
21 committed, or is about to commit a particular offense enumerated in s. ~~968.28~~  
22 968.315.

23 (d) There is probable cause for belief that the facilities from which, or the place  
24 where, the wire, electronic, or oral communications are to be intercepted are being

**SENATE BILL 82**

1 used, or are about to be used, in connection with the commission of the offense, or are  
2 leased to, listed in the name of, or commonly used by the person.

3 (4) (intro.) Each order authorizing or approving the interception of any wire,  
4 electronic, or oral communication shall specify all of the following:

5 (a) The identity of the person, if known, whose communications are to be  
6 intercepted;

7 (b) The nature and location of the communications facilities which, or the place  
8 where authority to intercept is granted and the means by which such interceptions  
9 shall be made;

10 (c) A particular description of the type of communication sought to be  
11 intercepted and a statement of the particular offense to which it relates;

12 (d) The identity of the agency authorized to intercept the communications and  
13 of the person authorizing the application; ~~and~~.

14 (5) No order entered under this section may authorize or approve the  
15 interception of any wire, electronic, or oral communication for any period longer than  
16 is necessary to achieve the objective of the authorization, nor in any event longer  
17 than 30 days. The 30-day period begins on the earlier of the day on which the  
18 investigative or law enforcement officer first begins to conduct an interception under  
19 the order or 10 days after the order is entered. Extensions of an order may be  
20 granted, but only upon application for an extension made in accordance with sub. (1)  
21 and the court making the findings required by sub. (3). The period of extension shall  
22 be no longer than the authorizing judge deems necessary to achieve the purposes for  
23 which it was granted and in no event be for longer than 30 days. Every order and  
24 extension thereof shall contain a provision that the authorization to intercept shall  
25 be executed as soon as practicable, shall be conducted in such a way as to minimize

**SENATE BILL 82**

1 the interception of communications not otherwise subject to interception under this  
2 chapter, and must terminate upon attainment of the authorized objective, or in any  
3 event in 30 days. In the event the intercepted communication is in a code or foreign  
4 language, and an expert in that foreign language or code is not reasonably available  
5 during the interception period, minimization may be accomplished as soon as  
6 practicable after the interception.

7 (6) Whenever an order authorizing interception is entered pursuant to ss.  
8 ~~968.28~~ 968.315 to ~~968.33~~ 968.365, the order may require reports to be made to the  
9 court which issued the order showing what progress has been made toward  
10 achievement of the authorized objective and the need for continued interception.  
11 Such reports shall be made at such intervals as the court requires.

12 (7) (a) The contents of any wire, electronic, or oral communication intercepted  
13 by any means authorized by ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 shall, if possible,  
14 be recorded on tape or wire or other comparable device. The recording of the contents  
15 of any wire, electronic, or oral communication under this subsection shall be done in  
16 such way as will protect the recording from editing or other alterations. Immediately  
17 upon the expiration of the period of the order or extensions thereof all such  
18 recordings and records of an intercepted wire, electronic, or oral communication  
19 shall be filed with the court issuing the order and the court shall order the same to  
20 be sealed. Custody of the recordings and records shall be wherever the judge  
21 handling the application shall order. They shall not be destroyed except upon an  
22 order of the issuing or denying judge and in any event shall be properly kept and  
23 preserved for 10 years. Duplicate recordings and other records may be made for use  
24 or disclosure pursuant to the provisions for investigations under s. ~~968.29~~ 968.325  
25 (1) and (2). The presence of the seal provided for by this subsection, or a satisfactory



**SENATE BILL 82**

1 explanation for the absence thereof, shall be a prerequisite for the use or disclosure  
2 of the contents of any wire, electronic, or oral communication or evidence derived  
3 therefrom under s. ~~968.29~~ 968.325 (3).

4 (b) Applications made and orders granted under ss. ~~968.28~~ 968.315 to ~~968.33~~  
5 968.365 together with all other papers and records in connection therewith shall be  
6 ordered sealed by the court. Custody of the applications, orders, and other papers  
7 and records shall be wherever the judge shall order. Such applications and orders  
8 shall be disclosed only upon a showing of good cause before the judge and shall not  
9 be destroyed except on order of the issuing or denying judge, and in any event shall  
10 be kept for 10 years.

11 (8) The contents of any intercepted wire, electronic, or oral communication or  
12 evidence derived therefrom shall not be received in evidence or otherwise disclosed  
13 in any trial, hearing, or other proceeding in any court of this state unless each party,  
14 not less than 10 days before the trial, hearing, or proceeding, has been furnished with  
15 a copy of the court order, and accompanying application, under which the  
16 interception was authorized or approved. This 10-day period may be waived by the  
17 judge if he or she finds that it was not possible to furnish the party with the above  
18 information 10 days before the trial, hearing, or proceeding and that the party will  
19 not be prejudiced by the delay in receiving the information.

20 (9) (a) Any aggrieved person in any trial, hearing, or proceeding in or before  
21 any court, department, officer, agency, regulatory body, or other authority of this  
22 state, or a political subdivision thereof, may move before the trial court or the court  
23 granting the original warrant to suppress the contents of any intercepted wire,  
24 electronic, or oral communication, or evidence derived therefrom, on the grounds  
25 that the communication was unlawfully intercepted; the order of authorization or

**SENATE BILL 82**

1 approval under which it was intercepted is insufficient on its face; or the interception  
2 was not made in conformity with the order of authorization or approval. The motion  
3 shall be made before the trial, hearing, or proceeding unless there was no  
4 opportunity to make the motion or the person was not aware of the grounds of the  
5 motion. If the motion is granted, the contents of the intercepted wire, electronic, or  
6 oral communication, or evidence derived therefrom, shall be treated as having been  
7 obtained in violation of ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405. The judge may, upon  
8 the filing of the motion by the aggrieved person, make available to the aggrieved  
9 person or his or her counsel for inspection such portions of the intercepted  
10 communication or evidence derived therefrom as the judge determines to be in the  
11 interest of justice.

12 (b) In addition to any other right to appeal, the state shall have the right to  
13 appeal from any of the following:

14 1. ~~From an~~ An order granting a motion to suppress made under par. (a) if the  
15 attorney general or district attorney certifies to the judge or other official granting  
16 such motion that the appeal is not entered for purposes of delay and shall be  
17 diligently prosecuted as in the case of other interlocutory appeals or under such rules  
18 as the supreme court adopts; ~~or,~~

19 2. ~~From an~~ An order denying an application for an order of authorization or  
20 approval, and such an appeal shall be ex parte and shall be in camera in preference  
21 to all other pending appeals in accordance with rules promulgated by the supreme  
22 court.

23 (10) Nothing in ss. ~~968.28~~ 968.315 to ~~968.375~~ 968.405 shall be construed to  
24 allow the interception of any wire, electronic, or oral communication between an  
25 attorney and a client.

**SENATE BILL 82**

1           **SECTION 533.** Subchapter IV (title) of chapter 968 [precedes 968.305] of the  
2 statutes is created to read:

**CHAPTER 968****SUBCHAPTER IV****INTERCEPTION OF ELECTRONIC****COMMUNICATION**

3  
4  
5  
6  
7           **SECTION 534.** 968.31 of the statutes is renumbered 968.345, and 968.345 (title),  
8 (1), (2) (intro.), (a), (b), (c), (e), (f), (i) and (j), (2m) (intro.), (a) and (b) and (3), as  
9 renumbered, are amended to read:

10           **968.345 (title) Interception and disclosure of wire, electronic, or oral**  
11 **communications prohibited. (1)** Except as otherwise specifically provided in ss.  
12 196.63 or ~~968.28~~ 968.315 to ~~968.30~~ 968.335, whoever commits any of the following  
13 acts ~~enumerated in this section~~ is guilty of a Class H felony:

14           (a) Intentionally intercepts, attempts to intercept, or procures any other person  
15 to intercept or attempt to intercept, any wire, electronic, or oral communication.

16           (b) Intentionally uses, attempts to use, or procures any other person to use or  
17 attempt to use any electronic, mechanical, or other device to intercept any oral  
18 communication.

19           (c) Discloses, or attempts to disclose, to any other person the contents of any  
20 wire, electronic, or oral communication, knowing or having reason to know that the  
21 information was obtained through the interception of a wire, electronic, or oral  
22 communication in violation of this ~~section~~ subsection or under circumstances  
23 constituting violation of this ~~section~~ subsection.

24           (d) Uses, or attempts to use, the contents of any wire, electronic, or oral  
25 communication, knowing or having reason to know that the information was

**SENATE BILL 82**

1 obtained through the interception of a wire, electronic, or oral communication in  
2 violation of this section subsection or under circumstances constituting violation of  
3 this section subsection.

4 (e) Intentionally discloses the contents of any oral, electronic, or wire  
5 communication obtained by authority of ss. ~~968.28, 968.29~~ 968.315, 968.325, and  
6 ~~968.30~~ 968.335, except as therein provided.

7 (f) Intentionally alters any wire, electronic, or oral communication intercepted  
8 on tape, wire, or other device.

9 **(2)** (intro.) It is not unlawful under ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405:

10 (a) For an operator of a switchboard, or an officer, employee, or agent of any  
11 provider of a wire or electronic communication service, whose facilities are used in  
12 the transmission of a wire or electronic communication to intercept, disclose, or use  
13 that communication in the normal course of his or her employment while engaged  
14 in any activity which is a necessary incident to the rendition of his or her service or  
15 to the protection of the rights or property of the provider of that service, except that  
16 a provider of a wire or electronic communication service shall not utilize service  
17 observing or random monitoring except for mechanical or service quality control  
18 checks.

19 (b) For a person acting under color of law to intercept a wire, electronic, or oral  
20 communication, where the person is a party to the communication or one of the  
21 parties to the communication has given prior consent to the interception.

22 (c) For a person not acting under color of law to intercept a wire, electronic, or  
23 oral communication where the person is a party to the communication or where one  
24 of the parties to the communication has given prior consent to the interception unless  
25 the communication is intercepted for the purpose of committing any criminal or

**SENATE BILL 82**

1 tortious act in violation of the constitution or laws of the United States or of any state  
2 or for the purpose of committing any other injurious act.

3 (e) For any person to intercept any radio communication that is transmitted  
4 by any of the following:

5 1. ~~By any~~ Any station for the use of the general public, or that relates to ships,  
6 aircraft, vehicles, or persons in distress;

7 2. ~~By any~~ Any governmental, law enforcement, civil defense, private land  
8 mobile, or public safety communications system, including police and fire, readily  
9 accessible to the general public;

10 3. ~~By a~~ A station operating on an authorized frequency within the bands  
11 allocated to the amateur, citizens band, or general mobile radio services;

12 4. ~~By any~~ Any marine or aeronautical communications system.

13 (f) For any person to engage in any conduct that is any of the following:

14 1. ~~Is prohibited~~ Prohibited by section 633 of the communications act of 1934;  
15 ~~or,~~

16 2. ~~Is excepted~~ Excepted from the application of section 705 (a) of the  
17 communications act of 1934 by section 705 (b) of that act.

18 (i) ~~To use a pen register or a trap and trace device as authorized under ss. 968.34~~  
19 968.376 to 968.37; or 968.405.

20 (j) For a provider of electronic communication service to record the fact that a  
21 wire or electronic communication was initiated or completed in order to protect the  
22 provider, another provider furnishing service toward the completion of the wire or  
23 electronic communication, or a user of that service, from fraudulent, unlawful, or  
24 abusive use of the service.

**SENATE BILL 82**

1           **(2m)** (intro.) Any person whose wire, electronic, or oral communication is  
2 intercepted, disclosed, or used in violation of ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405  
3 shall have a civil cause of action against any person who intercepts, discloses, or uses,  
4 or procures any other person to intercept, disclose, or use, the communication, and  
5 shall be entitled to recover from any such person all of the following:

6           (a) Actual damages, but not less than liquidated damages computed at the rate  
7 of \$100 a day for each day of violation or \$1,000, whichever is higher;

8           (b) Punitive damages; ~~and~~.

9           **(3)** Good faith reliance on a court order or on s. ~~968.30~~ 968.335 (7) shall  
10 constitute a complete defense to any civil or criminal action brought under ss. ~~968.28~~  
11 968.315 to ~~968.37~~ 968.405.

12           **SECTION 535.** 968.32 of the statutes is renumbered 968.355 and amended to  
13 read:

14           **968.355 Forfeiture of contraband devices.** Any electronic, mechanical, or  
15 other intercepting device used in violation of s. ~~968.31~~ 968.345 (1) may be seized as  
16 contraband by any peace officer and forfeited to this state in an action by the  
17 department of justice under ch. 778.

18           **SECTION 536.** 968.33 of the statutes is renumbered 968.365.

19           **SECTION 537.** 968.34 of the statutes is renumbered 968.376, and 968.376 (1)  
20 and (2), as renumbered, are amended to read:

21           968.376 **(1)** Except as provided in this section, no person may install or use a  
22 pen register or a trap and trace device without first obtaining a court order under s.  
23 ~~968.36~~ 968.395 or 18 USC 3123 or 50 USC 1801 to 1811.

**SENATE BILL 82**

1           (2) The prohibition of sub. (1) does not apply with respect to the use of a pen  
2 register or a trap and trace device by a provider of electronic or wire communication  
3 service if any of the following applies:

4           (a) ~~Relating~~ The use relates to the operation, maintenance, and testing of a wire  
5 or electronic communication service or to the protection of the rights or property of  
6 the provider, or to the protection of users of that service from abuse of service or  
7 unlawful use of service;

8           (b) ~~To~~ The use is to record the fact that a wire or electronic communication was  
9 initiated or completed in order to protect the provider, another provider furnishing  
10 service toward the completion of the wire communication, or a user of that service,  
11 from fraudulent, unlawful, or abusive use of service; ~~or.~~

12           (c) ~~Where the~~ The consent of the user of that service has been obtained.

13           **SECTION 538.** 968.35 of the statutes is renumbered 968.385, and 968.385 (1),  
14 as renumbered, is amended to read:

15           968.385 (1) The attorney general or a district attorney may make application  
16 for an order or an extension of an order under s. ~~968.36~~ 968.395 authorizing or  
17 approving the installation and use of a pen register or a trap and trace device, in  
18 writing under oath or equivalent affirmation, to a ~~circuit~~ court for the county where  
19 the device is to be located.

20           **SECTION 539.** 968.36 of the statutes is renumbered 968.395, and 968.395 (1),  
21 (2) (e), (4) and (5), as renumbered, are amended to read:

22           968.395 (1) Upon an application made under s. ~~968.35~~ 968.385, the court shall  
23 enter an ex parte order authorizing the installation and use of a pen register or a trap  
24 and trace device within the jurisdiction of the court if the court finds that the

**SENATE BILL 82**

1 applicant has certified to the court that the information likely to be obtained by the  
2 installation and use is relevant to an ongoing criminal investigation.

3 (2) (e) Direct, upon the request of the applicant, the furnishing of information,  
4 facilities and technical assistance necessary to accomplish the installation of the pen  
5 register or trap and trace device under s. ~~968.37~~ 968.405.

6 (4) Extensions of the order may be granted, but only upon an application for  
7 an order under s. ~~968.35~~ 968.385 and upon the judicial finding required by sub. (1).  
8 The period of extension shall be for a period not to exceed 60 days.

9 (5) An order authorizing or approving the installation and use of a pen register  
10 or a trap and trace device shall direct ~~that~~ all of the following:

11 (a) ~~The~~ That the order be sealed until otherwise ordered by the court; ~~and,~~

12 (b) ~~The~~ That the person owning or leasing the line to which the pen register or  
13 a trap and trace device is attached, or who has been ordered by the court to provide  
14 assistance to the applicant, not disclose the existence of the pen register or trap and  
15 trace device or the existence of the investigation to the listed subscriber, or to any  
16 other person, unless or until otherwise ordered by the court.

17 **SECTION 540.** 968.37 of the statutes is renumbered 968.405, and 968.405 (1),  
18 (2), (3), (4) and (5), as renumbered, are amended to read:

19 968.405 (1) Upon the request of the attorney general, a district attorney, or an  
20 officer of a law enforcement agency authorized to install and use a pen register under  
21 ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a provider of wire or electronic communication  
22 service, landlord, custodian, or other person shall furnish the investigative or law  
23 enforcement officer forthwith all information, facilities, and technical assistance  
24 necessary to accomplish the installation of the pen register unobtrusively and with  
25 a minimum of interference with the services that the person so ordered by the court



**SENATE BILL 82**

1        accords the party with respect to whom the installation and use is to take place, if  
2        the assistance is directed by a court order under s. ~~968.36~~ 968.395 (5) (b).

3            (2) Upon the request of the attorney general, a district attorney, or an officer  
4        of a law enforcement agency authorized to receive the results of a trap and trace  
5        device under ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a provider of a wire or electronic  
6        communication service, landlord, custodian, or other person shall install the device  
7        ~~forthwith~~ immediately on the appropriate line and shall furnish the investigative or  
8        law enforcement officer all additional information, facilities, and technical  
9        assistance including installation and operation of the device unobtrusively and with  
10       a minimum of interference with the services that the person so ordered by the court  
11       accords the party with respect to whom the installation and use is to take place, if  
12       the installation and assistance is directed by a court order under s. ~~968.36~~ 968.395  
13       (5) (b). Unless otherwise ordered by the court, the results of the trap and trace device  
14       shall be furnished to the officer of a law enforcement agency, designated by the court,  
15       at reasonable intervals during regular business hours for the duration of the order.

16            (3) A provider of a wire or electronic communication service, landlord,  
17        custodian, or other person who furnishes facilities or technical assistance under this  
18        section shall be reasonably compensated for the reasonable expenses incurred in  
19        providing the facilities and assistance.

20            (4) No cause of action may lie in any court against any provider of a wire or  
21        electronic communication service, its officers, employees, or agents or other specified  
22        persons for providing information, facilities, or assistance in accordance with the  
23        terms of a court order under s. ~~968.36~~ 968.395.

**SENATE BILL 82**

1           **(5)** A good faith reliance on a court order, a legislative authorization, or a  
2 statutory authorization is a complete defense against any civil or criminal action  
3 brought under ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405.

4           **SECTION 541.** 968.373 of the statutes is renumbered 968.410.

5           **SECTION 542.** 968.375 (4) of the statutes is amended to read:

6           968.375 **(4)** BASIS, APPLICATION FOR, AND ISSUANCE OF SUBPOENA OR WARRANT.

7           Section ~~968.12~~ 968.465 (2) and (3) applies to the basis and application for, and  
8 issuance of, a subpoena under sub. (2) or a warrant under sub. (3) as it applies to the  
9 basis and application for, and issuance of, a search warrant under s. ~~968.12~~ 968.465.

10           **SECTION 543.** 968.38 of the statutes is renumbered 968.725, and 968.725 (2)  
11 (intro.), (2m) (intro.), (3) (d), (4) (intro.) and (5) (intro.), as renumbered, are amended  
12 to read:

13           968.725 **(2)** (intro.) In a criminal action under s. 940.225, 948.02, 948.025,  
14 948.05, 948.06, 948.085, or 948.095, if all of the following apply, the district attorney  
15 shall apply to the circuit court for his or her county to order the defendant to submit  
16 to an HIV test and to a test or a series of tests to detect the presence of a sexually  
17 transmitted disease, each of which tests shall be administered by a health care  
18 professional, and to disclose the results of the test or tests as specified in sub. (4) (a)  
19 to (c):

20           **(2m)** (intro.) In a criminal action under s. 946.43 (2m), the district attorney  
21 shall apply to the circuit court for his or her county for an order requiring the  
22 defendant to submit to a test or a series of tests administered by a health care  
23 professional to detect the presence of communicable diseases and to disclose the  
24 results of the test or tests as specified in sub. (5) (a) to (c), if all of the following apply:

**SENATE BILL 82**

1           **(3)** (d) If the court has determined that the defendant is not competent to  
2 proceed under s. ~~971.14~~ (4) 975.34 and suspended the criminal proceedings, at any  
3 time after the determination that the defendant is not competent to proceed.

4           **(4)** (intro.) The court shall set a time for a hearing on the matter under sub. (2)  
5 during the preliminary examination, if sub. (3) (a) applies; after the defendant is  
6 bound over for trial and before a verdict is rendered, if sub. (3) (b) applies; after  
7 conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3)  
8 (c) applies; or, subject to s. ~~971.13~~ 975.30 (4), after the determination that the  
9 defendant is not competent, if sub. (3) (d) applies. The court shall give the district  
10 attorney and the defendant notice of the hearing at least 72 hours prior to the  
11 hearing. The defendant may have counsel at the hearing, and counsel may examine  
12 and cross-examine witnesses. If the court finds probable cause to believe that the  
13 victim or alleged victim has had contact with body fluid of the defendant that  
14 constitutes a significant exposure, the court shall order the defendant to submit to  
15 an HIV test and to a test or a series of tests to detect the presence of a sexually  
16 transmitted disease. The test shall be performed by a health care professional. The  
17 court shall require the health care professional who performs the test to disclose the  
18 test results to the defendant, to refrain from making the test results part of the  
19 defendant's permanent medical record, and to disclose the results of the test to any  
20 of the following:

21           **(5)** (intro.) The court shall set a time for a hearing on the matter under sub. (2m)  
22 during the preliminary examination, if sub. (3) (a) applies; after the defendant is  
23 bound over for trial and before a verdict is rendered, if sub. (3) (b) applies; after  
24 conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3)  
25 (c) applies; or, subject to s. ~~971.13~~ 975.30 (4), after the determination that the

**SENATE BILL 82**

1 defendant is not competent, if sub. (3) (d) applies. The court shall give the district  
2 attorney and the defendant notice of the hearing at least 72 hours prior to the  
3 hearing. The defendant may have counsel at the hearing, and counsel may examine  
4 and cross-examine witnesses. If the court finds probable cause to believe that the  
5 act or alleged act of the defendant that constitutes a violation of s. 946.43 (2m) carried  
6 a potential for transmitting a communicable disease to the victim or alleged victim  
7 and involved the defendant's blood, semen, vomit, saliva, urine or feces or other  
8 bodily substance of the defendant, the court shall order the defendant to submit to  
9 a test or a series of tests administered by a health care professional to detect the  
10 presence of any communicable disease that was potentially transmitted by the act  
11 or alleged act of the defendant. The court shall require the health care professional  
12 who performs the test to disclose the test results to the defendant. The court shall  
13 require the health care professional who performs the test to refrain from making the  
14 test results part of the defendant's permanent medical record and to disclose the  
15 results of the test to any of the following:

16 **SECTION 544.** 968.40 (title) of the statutes is renumbered 968.155 (title) and  
17 amended to read:

18 **968.155 (title) Grand Convening a grand jury; duration.**

19 **SECTION 545.** 968.40 (1) of the statutes is renumbered 968.155 (1) and amended  
20 to read:

21 968.155 (1) SELECTION OF PROSPECTIVE GRAND JURY LIST JURORS. Any judge may,  
22 in writing, order the clerk of circuit court to select compile a grand jury list within  
23 a specified reasonable time. The clerk shall select from the prospective juror list for  
24 the county the names of not fewer than ~~75~~ 35 nor more than 150 persons to constitute  
25 the prospective grand juror list. The list shall be kept secret.

**SENATE BILL 82**

1           **SECTION 546.** 968.40 (3) of the statutes is renumbered 968.155 (2) and amended  
2 to read:

3           968.155 (2) EXAMINATION OF PROSPECTIVE GRAND JURORS. ~~At the time set for~~  
4 When the prospective grand jurors ~~to~~ appear, the judge shall and the district  
5 attorney ~~or other prosecuting officer~~ may examine the prospective jurors them under  
6 oath or affirmation relative to their qualifications to serve as grand jurors ~~and the~~.  
7 The judge shall excuse those who are disqualified, and may excuse others for any  
8 reason ~~which~~ that seems proper to the judge.

9           **SECTION 547.** 968.40 (4) of the statutes is renumbered 968.155 (3) and amended  
10 to read:

11           968.155 (3) ADDITIONAL GRAND JURORS. If, after ~~such~~ the examination described  
12 in sub. (2), fewer than 17 grand jurors remain, additional prospective grand jurors  
13 shall be selected, summoned and examined until there are at least 17 qualified grand  
14 jurors on the grand jury.

15           **SECTION 548.** 968.40 (6), (7) and (8) of the statutes are renumbered 968.155 (4),  
16 (5) and (6) and amended to read:

17           968.155 (4) TIME GRAND JURORS TO SERVE. ~~Grand~~ The judge may discharge the  
18 grand jury at any time. Otherwise, grand jurors shall serve for a period of 31  
19 consecutive days unless more days are necessary to complete service in a particular  
20 proceeding. ~~The judge may discharge the grand jury at any time.~~

21           (5) ORDERS FILED WITH CLERK. All orders mentioned in under this section shall  
22 be filed with the clerk ~~of court~~.

23           (6) INTERCOUNTY RACKETEERING AND CRIME. When a grand jury is convened  
24 ~~pursuant to~~ under this section to investigate unlawful activity under s. 165.70, and  
25 ~~such~~ the activity involves more than one county, including the county where the

**SENATE BILL 82**

1 petition for such grand jury is filed, then if the attorney general approves, all  
2 expenses of such proceeding shall be charged to the appropriation under s. 20.455 (1)  
3 (d).

4 **SECTION 549.** 968.41 of the statutes is renumbered 968.165 and amended to  
5 read:

6 **968.165 Oath or affirmation of grand jurors.** Grand jurors shall, before  
7 they begin performance of their duties, solemnly swear or affirm that they will  
8 diligently inquire as to all matters and things ~~which~~ that come before the grand jury;  
9 that they will keep all matters ~~which~~ that come before the grand jury secret; that they  
10 will indict no person for envy, hatred, or malice; that they will not leave any person  
11 unindicted for love, fear, favor, affection, or hope of reward; and that they will indict  
12 truly, according to the best of their understanding.

13 **SECTION 550.** 968.42 of the statutes is renumbered 968.175 and amended to  
14 read:

15 **968.175 Presiding juror and clerk.** The grand jury shall select from their  
16 number a presiding juror and a clerk. The clerk of the grand jury shall preserve the  
17 minutes of the proceedings before ~~them~~ the grand jury and all exhibits.

18 **SECTION 551.** 968.43 of the statutes is renumbered 968.185 and amended to  
19 read:

20 **968.185 Reporter; oath; salary; assistant.** (1) Every grand jury shall, when  
21 ordered by the judge ordering such the grand jury, employ one or more reporters to  
22 attend ~~their~~ its sessions and to ~~make~~ record and transcribe ~~a~~ verbatim ~~record~~ of all  
23 proceedings had before ~~them~~ it.

24 (2) Before assuming the duties under this section, each reporter shall make  
25 and file an oath or affirmation ~~faithfully~~ to record and transcribe faithfully all of the

**SENATE BILL 82**

1 proceedings before the grand jury and to keep secret the matters ~~relative~~ related to  
2 the proceedings. Each reporter shall be paid out of the county treasury of the county  
3 in which the service is rendered ~~such a~~ a sum for compensation and expenses as ~~shall~~  
4 ~~be~~ audited and allowed as reasonable by the court ordering the grand jury. Each  
5 reporter may employ on his or her own account a person to transcribe the testimony  
6 and proceedings of the grand jury, but before entering upon the duties under this  
7 subsection, the person shall be required to make and file an oath or affirmation  
8 similar to that required of each reporter.

9 **(3)** ~~Any~~ Except as provided in s. 968.295, any person who violates an oath or  
10 affirmation required by sub. (2) is guilty of a Class H felony.

11 **SECTION 552.** 968.44 of the statutes is renumbered 968.195 and amended to  
12 read:

13 **968.195 Witnesses Oaths to witnesses.** The presiding juror of every grand  
14 jury and the district attorney ~~or other prosecuting officer~~ who is before the grand jury  
15 may administer all oaths and affirmations in the manner prescribed by law to  
16 witnesses who appear before the grand jury for the purpose of testifying in any  
17 matter of which the witnesses have cognizance. At the request of the court, the  
18 presiding juror shall return to the court a list, under his or her hand, of all witnesses  
19 who are sworn before the grand jury. That list shall be filed by the clerk of ~~circuit~~  
20 court.

21 **SECTION 553.** 968.45 (title) of the statutes is renumbered 968.203 (title) and  
22 amended to read:

23 **968.203** (title) ~~Witness rights~~ Counsel for witnesses; transcripts.

24 **SECTION 554.** 968.45 (1) of the statutes is renumbered 968.203 (1) (a) and  
25 amended to read:

**SENATE BILL 82**

1           968.203 (1) (a) Any witness appearing before a grand jury may have counsel  
2 present, but the counsel shall not be allowed to examine his or her client,  
3 cross-examine other witnesses, or argue before the judge. Counsel may consult with  
4 his or her client while before a grand jury. ~~If the prosecuting officer,~~

5           **(b)** ~~A district attorney, an attorney for a witness, or a grand juror who~~ believes  
6 that a conflict of interest exists for an attorney ~~or attorneys~~ to represent more than  
7 one witness before a grand jury, ~~the person so believing~~ may make a motion before  
8 the presiding judge to disqualify the attorney from representing more than one  
9 witness before the grand jury. ~~A~~ The court shall hold a hearing shall be held upon  
10 notice with the burden ~~upon~~ on the moving party to establish the conflict.

11           **SECTION 555.** 968.45 (2) of the statutes is renumbered 968.203 (2) and amended  
12 to read:

13           968.203 (2) No grand jury transcript may be made public until the trial of  
14 ~~anyone~~ a person indicted by the grand jury, and then only that portion of the  
15 transcript that is relevant and material to the case at hand may be made public. This  
16 subsection does not limit the defendant's rights to discovery under s. ~~971.23~~ 971.43  
17 (2) (a).

18           **SECTION 556.** Subchapter V (title) of chapter 968 [precedes 968.455] of the  
19 statutes is created to read:

**CHAPTER 968**

## SUBCHAPTER V

## SEARCH AND SEIZURE

22  
23           **SECTION 557.** 968.46 of the statutes is renumbered 968.215 and amended to  
24 read:





**SENATE BILL 82**

1           **968.225 District Duties of district attorney, when to attend.** Whenever  
2 required by the grand jury it shall be the duty of, the district attorney of the county  
3 to shall attend them grand jury proceedings for the purpose of examining witnesses  
4 in their the presence or of giving them of the grand jury, give the grand jury advice  
5 upon any legal matter, and to issue subpoenas and other process to bring up  
6 witnesses before the grand jury.

7           **SECTION 561.** 968.475 (2) (a) of the statutes is created to read:

8           968.475 (2) (a) Contraband.

9           **SECTION 562.** 968.475 (2) (e) of the statutes is created to read:

10           968.475 (2) (e) A designated person.

11           **SECTION 563.** 968.475 (3) of the statutes is created to read:

12           968.475 (3) Section 968.705 applies to documents to be subpoenaed if the  
13 documents are under the control of a person not reasonably suspected to be  
14 concerned in the commission of a crime.

15           **SECTION 564.** 968.48 of the statutes is renumbered 968.235 and amended to  
16 read:

17           **968.235 Attendance; absence; excuse Grand jury attendance; number**  
18 **required for grand jury session; number required to concur in and**  
19 **indictment.** Each grand juror shall attend every session of the grand jury unless  
20 excused by the presiding juror. The presiding juror may excuse a grand juror from  
21 attending a grand jury session only for a reason which appears to the presiding juror  
22 in his or her discretion as good and sufficient cause for the excuse juror's absence.  
23 No business may be transacted at any session of the grand jury at which less if fewer  
24 than 14 members of the grand jury are in attendance, and no indictment may be

**SENATE BILL 82**

1 found by any grand jury may indict unless at least 12 of their number shall grand  
2 jurors concur in the indictment.

3 **SECTION 565.** 968.485 (title) and (1) of the statutes are created to read:

4 **968.485 (title) Execution of a search warrant. (1) KNOCK AND ANNOUNCE**  
5 **REQUIREMENT AND EXCEPTIONS.** When seeking to enter a dwelling to execute a search  
6 warrant, a law enforcement officer shall first announce the purpose and authority  
7 to enter and allow a reasonable time for the door to be opened, unless one of the  
8 following applies:

9 (a) The search warrant authorizes the entry of the premises without  
10 announcement and delay and the reasonable suspicion under s. 968.465 (6)  
11 justifying the authorizing provision continues to exist at the time the warrant is  
12 executed.

13 (b) Under the particular circumstances that the warrant is executed, the law  
14 enforcement officer has reasonable suspicion, that was not, or reasonably could not  
15 have been, known when the warrant was requested, that announcement and delay  
16 would be dangerous or futile or would inhibit the effective investigation of the crime  
17 by any means including but not limited to the destruction of evidence.

18 **SECTION 566.** 968.49 of the statutes is renumbered 968.245 and amended to  
19 read:

20 **968.245 Fine for nonattendance.** Any person lawfully summoned to attend  
21 as a grand juror who fails to attend without any sufficient excuse shall ~~pay a fine not~~  
22 ~~exceeding~~ be fined not more than \$40, which ~~shall be imposed by the court to which~~  
23 the person was summoned shall impose and which shall be paid into the county  
24 treasury.

**SENATE BILL 82**

1           **SECTION 567.** 968.50 of the statutes is renumbered 968.252 and amended to  
2 read:

3           **968.252 Report progress and return indictments.** A grand jury may  
4 report progress and return indictments to the court from time to time during its  
5 session and until discharged.

6           **SECTION 568.** 968.505 (title) of the statutes is renumbered 968.262 (title).

7           **SECTION 569.** 968.505 of the statutes is renumbered 968.262 (1) and amended  
8 to read:

9           968.262 (1) When the grand jury is discharged, the clerk of the grand jury shall  
10 collect all transcripts of testimony, minutes of proceedings, exhibits, and other  
11 records of the grand jury, and, except as provided in sub. (2), shall deliver them as  
12 the jury directs either to the attorney general or to the district attorney, ~~or upon,~~

13           (2) Upon approval of the court, the grand jury may direct its clerk to deliver  
14 them grand jury materials collected under sub. (1) to the clerk of the court, who shall  
15 impound them subject to the further order or orders of the court.

16           **SECTION 570.** 968.51 of the statutes is renumbered 968.275 and amended to  
17 read:

18           **968.275 Indictment not to be disclosed.** ~~No grand juror or officer of the~~  
19 ~~court, if~~ If the court shall so order, shall orders, no grand juror or officer of the court  
20 may disclose the fact that any indictment for a felony has been found against that  
21 the grand jury has indicted any person not in custody or under recognizance,  
22 otherwise than by issuing or executing process on such indictment, until such ~~the~~  
23 person has been arrested.

24           **SECTION 571.** 968.52 of the statutes is renumbered 968.285 and amended to  
25 read:

**SENATE BILL 82**

1           **968.285 Votes not to be disclosed.** No grand juror may be allowed to state  
2 or testify disclose in any court in what manner how he or she or any other member  
3 of the jury grand juror voted or what opinion any grand juror expressed on any  
4 question before them, ~~or what opinion was expressed by any juror in relation to the~~  
5 question the grand jury.

6           **SECTION 572.** 968.53 of the statutes is renumbered 968.295 and amended to  
7 read:

8           **968.295 When testimony may be disclosed.** ~~Members of the grand jury and~~  
9 ~~any grand jury reporter may be required by any court~~ Notwithstanding any oath or  
10 affirmation required under s. 968.165 or 968.185 (2), any court may require grand  
11 jurors and grand jury reporters to testify whether the testimony of a witness  
12 examined before the jury is consistent with or different from the evidence given by  
13 the witness before the court; ~~and they.~~ Notwithstanding any oath or affirmation  
14 required under s. 968.165 or 968.185 (2), the court may also be required require  
15 grand jurors and grand jury reporters also to disclose the testimony given before the  
16 grand jury by any person upon a complaint against the person for perjury, or upon  
17 trial for the offense. ~~Any~~ If the court receives in evidence any transcript of testimony  
18 taken before the grand jury and certified by a, ~~the grand jury reporter to have~~  
19 reporter's certification that the transcript has been carefully compared by the  
20 reporter with his or her minutes of testimony ~~so taken and to be~~ is a true and correct  
21 transcript of all or a specified portion of the transcript, ~~may be received in evidence~~  
22 ~~with~~ shall have the same effect as the oral testimony of the reporter to the facts so  
23 certified, but the reporter may be cross-examined by any party as to the matter.

24           **SECTION 573.** 968.585 (4m) of the statutes is created to read:



**SENATE BILL 82**

1 that compliance with the subpoena has occurred and including a brief description of  
2 the nature and quantity of the documents received under the subpoena. The person  
3 designated in the subpoena to receive the documents shall maintain the original  
4 documents received and shall produce the documents, or any portion of the  
5 documents, to the court upon the court's order.

6 (3) A subpoena issued under sub. (1) shall be issued with all practicable secrecy  
7 and the request for the subpoena, any affidavit in support of the subpoena, any  
8 testimony in support of the request, and any other supporting documents may not  
9 be filed with the clerk or made public until the subpoena has been executed and  
10 returned to the court. The court that issued the subpoena may issue an order sealing  
11 the subpoena and the request for the subpoena, the affidavit in support of the  
12 subpoena, any testimony in support of the request, and any supporting documents  
13 upon which it is based. The court that issued the subpoena may issue an order  
14 prohibiting the person to which the subpoena is directed from disclosing the  
15 existence of the subpoena to any person other than the lawyer for the person.

16 (6) Documents seized by or delivered to a law enforcement agency or officer  
17 under a subpoena under this section are considered seized property for the purposes  
18 of ss. 968.615 and 968.625.

19 **SECTION 578.** 968.71 of the statutes is created to read:

20 **968.71 Disclosure of depositor status. (1)** In this section:

21 (a) "Depository account" includes any monetary interest that a person  
22 maintains at a financial institution.

23 (b) "Financial institution" has the meaning given in s. 214.01 (1) (jn).

24 (2) Upon the request of the district attorney and a showing that the information  
25 requested is relevant to a criminal investigation, the court shall issue an order

**SENATE BILL 82**

1 requiring any financial institution to disclose to the district attorney whether the  
2 person named in the order has a depository account with the financial institution or  
3 whether the person had a depository account with the financial institution at a prior  
4 specified time. Any person who unlawfully violates such an order may be compelled  
5 to do so under ch. 785.

6 **SECTION 579.** Chapter 969 (title) of the statutes is repealed and recreated to  
7 read:

**CHAPTER 969****SECURING A DEFENDANT'S****APPEARANCE; RELEASE**

11 **SECTION 580.** 969.001 (intro.) of the statutes is renumbered 969.30 (intro.) and  
12 amended to read:

13 **969.30 Definitions.** (intro.) In this ~~chapter~~ subchapter:

14 **SECTION 581.** 969.001 (1) of the statutes is renumbered 967.025 (1) and  
15 amended to read:

16 967.025 (1) "Bail" means monetary conditions of release on bond.

17 **SECTION 582.** 969.001 (2) of the statutes is repealed.

18 **SECTION 583.** 969.01 (title) of the statutes is renumbered 969.31 (title).

19 **SECTION 584.** 969.01 (1) of the statutes is renumbered 969.31 (1) and amended  
20 to read:

21 969.31 (1) BEFORE CONVICTION. ~~Before conviction, except~~ Except as provided in  
22 ~~ss. 969.035 and 971.14 (1r) s. 969.43 or 975.32~~, a defendant arrested for a ~~criminal~~  
23 ~~offense~~ crime is eligible for release before conviction under reasonable conditions  
24 designed to assure ensure his or her appearance in court, protect members of the  
25 community from serious bodily harm, or prevent the intimidation of witnesses. ~~Bail~~



**SENATE BILL 82**

1 may be imposed at or after the initial appearance only upon a finding by the court  
2 that there is a reasonable basis to believe that bail is necessary to assure appearance  
3 in court. In determining whether any conditions of release are appropriate, the judge  
4 shall first consider the likelihood of the defendant appearing for trial if released on  
5 his or her own recognizance.

6 **SECTION 585.** 969.01 (2) (title) of the statutes is repealed.

7 **SECTION 586.** 969.01 (2) (a) of the statutes is renumbered 969.31 (2) and  
8 amended to read:

9 969.31 (2) AFTER CONVICTION. Release pursuant to s. 969.02 or 969.03 may be  
10 allowed in the discretion of In its discretion the trial court may allow release on  
11 conditions after conviction and prior to sentencing or the granting of probation. This  
12 paragraph does not apply to a conviction for a 3rd or subsequent violation that is  
13 counted as a suspension, revocation, or conviction under s. 343.307, or under s.  
14 940.09 (1) or 940.25 in the person's lifetime, or a combination thereof.

15 **SECTION 587.** 969.01 (2) (b) and (c) of the statutes are consolidated, renumbered  
16 974.09 (1) (a) and amended to read:

17 974.09 (1) (a) In misdemeanors, ~~release may be allowed upon appeal in the~~  
18 ~~discretion of the trial court.~~ (e) In and felonies, release may be allowed upon appeal  
19 in the discretion of the trial court pursuant to ss. 809.31, 969.32, 969.33, 969.37,  
20 969.38, 969.39, 969.40, 969.41, and 969.42.

21 **SECTION 588.** 969.01 (2) (d) of the statutes is renumbered 974.09 (1) (b) and  
22 amended to read:

23 974.09 (1) (b) The supreme court or a justice thereof or the court of appeals or  
24 a judge thereof may allow release ~~after conviction~~ pending appeal.

## SENATE BILL 82

1           **SECTION 589.** 969.01 (2) (e) of the statutes is renumbered 974.09 (1) (c) and  
2 amended to read:

3           974.09 (1) (c) Any court or judge or any justice authorized to grant release after  
4 conviction for a misdemeanor or felony may, in addition to the powers granted in s.  
5 ~~969.08~~ 969.51, revoke the order releasing a defendant.

6           **SECTION 590.** 969.01 (3) of the statutes is renumbered 969.52 and amended to  
7 read:

8           **969.52 ~~Bail for witness~~ Arrest of a witness and release on bond.** If A  
9 judge may issue a warrant for the arrest of a person who is not in court, other than  
10 the defendant, if it appears by from an affidavit or examination under oath that there  
11 is probable cause to believe that the person's testimony of a person is material in any  
12 felony a criminal proceeding and that it may become impracticable to secure the  
13 person's presence by subpoena, the judge may require such person to give bail for.  
14 Upon return of the warrant, the court may set conditions of release to secure the  
15 person's appearance as a witness. If the witness is not in court, a warrant for the  
16 person's arrest may be issued and upon return thereof the court may require the  
17 person to give bail as provided in s. 969.03 for the person's appearance as a witness.  
18 If the person fails to give bail, the person may be committed satisfy the conditions  
19 of release, the court may commit the person to the custody of the sheriff for a period  
20 not to exceed 15 days, within which time the person's deposition shall be taken as  
21 provided in, upon notice to the parties under s. 967.04 967.21. After the deposition  
22 has been subscribed, the court shall discharge the witness.

23           **SECTION 591.** 969.01 (4) of the statutes is renumbered 969.33 (1) (intro.) and  
24 amended to read:

**SENATE BILL 82**

1           969.33 (1) CONSIDERATIONS IN SETTING CONDITIONS OF RELEASE. (intro.) ~~If bail is~~  
2 ~~imposed, it shall be only in the amount found necessary to assure the appearance of~~  
3 ~~the defendant. Conditions of release, other than monetary conditions, may be~~  
4 ~~imposed for the purpose of protecting members of the community from serious bodily~~  
5 ~~harm or preventing intimidation of witnesses. Proper considerations in In~~  
6 ~~determining whether to release the defendant without bail, monetary conditions, in~~  
7 ~~fixing monetary conditions in a reasonable amount of bail ~~or, or in~~ imposing other~~  
8 ~~reasonable conditions of release are: the, the court, judge, or justice may consider,~~  
9 ~~without limitation, any of the following:~~

10           (a) The ability of the arrested person to give bail,~~the.~~

11           (b) The nature, number, and gravity of the alleged offenses and the potential  
12 ~~penalty the defendant faces, whether.~~

13           (c) Whether the alleged acts were violent in nature,~~the.~~

14           (d) The defendant's prior criminal record of ~~criminal convictions~~ and  
15 ~~delinquency adjudications, if any, the.~~

16           (e) The character, health, residence, and reputation of the defendant,~~the.~~

17           (f) The character and strength of the evidence which has been presented to the  
18 ~~judge, whether.~~

19           (g) Whether the defendant is currently on probation, extended supervision or  
20 ~~parole, whether.~~

21           (h) Whether the defendant is already ~~on bail or~~ subject to other release  
22 ~~conditions in other pending cases, whether.~~

23           (i) Whether the defendant has been bound over for trial after a preliminary  
24 ~~examination, whether.~~

**SENATE BILL 82**

1           (j) Whether the defendant has in the past forfeited bail bond or violated a  
2 condition of release or was a fugitive from justice at the time of arrest, ~~and the.~~

3           (k) The policy against unnecessary detention of the defendant's a defendant  
4 pending trial.

5           **SECTION 592.** 969.02 (title), (1), (2), (3) (a), (b), (c) and (d), (4), (4m), (5), (7), (7m)  
6 and (8) of the statutes are repealed.

7           **SECTION 593.** 969.02 (2m) of the statutes is renumbered 969.33 (8) and  
8 amended to read:

9           969.33 (8) CREDIT CARDS ACCEPTED. ~~The~~ If the court imposes monetary  
10 conditions of release under this section, the clerk of circuit court may accept, instead  
11 of cash, a credit card or debit card, as defined in s. 59.40 (5) (a) and 1. and 2., ~~instead~~  
12 ~~of cash under sub. (2).~~

13           **SECTION 594.** 969.02 (3) (e) of the statutes is renumbered 969.33 (5) (g) and  
14 amended to read:

15           969.33 (5) (g) If the person defendant is charged with violating a restraining  
16 order or injunction issued under s. 813.12 or 813.125, ~~may require the person~~  
17 requiring the defendant to participate in mental health treatment, a batterer's  
18 intervention program, or individual counseling. The judge court shall consider a  
19 request by the district attorney or the petitioner, as defined in s. 301.49 (1) (c), in  
20 determining whether to issue an order under this paragraph.

21           **SECTION 595.** 969.02 (6) of the statutes is renumbered 969.38 (1) (a) and  
22 amended to read:

23           969.38 (1) (a) When ~~a~~ the court enters a judgment of conviction is entered in  
24 a prosecution for a fine or costs or both in a case in which a cash deposit had been  
25 ~~made in accordance with sub. (2),~~ on a secured appearance bond, the court shall apply

**SENATE BILL 82**

1 the balance of such ~~the~~ deposit, after ~~deduction of~~ deducting the bond costs, shall be  
2 applied first to the payment of any restitution ordered under s. 973.20 and then, if  
3 ordered restitution is satisfied in full, to the payment of the judgment. The court  
4 shall then return any remaining balance of the deposit to the person who made the  
5 deposit.

6 **SECTION 596.** 969.03 of the statutes is repealed.

7 **SECTION 597.** 969.035 of the statutes is renumbered 969.43, and 969.43 (4), (5),  
8 (7), (8) and (10), as renumbered, are amended to read:

9 969.43 (4) If the court determines that the district attorney has complied with  
10 sub. (3), the court may order that the detention of a person who is currently in custody  
11 be continued or may issue a warrant commanding any law enforcement officer to  
12 bring the defendant without unnecessary delay before the court. When the  
13 defendant is brought before the court, he or she shall be given a copy of the documents  
14 specified in sub. (3) and informed of his or her rights under this section and s. 970.02  
15 (1) and (6) 971.027.

16 (5) A pretrial detention hearing is a hearing before a court for the purpose of  
17 determining if the continued detention of the defendant is justified. A pretrial  
18 detention hearing may be held in conjunction with a preliminary examination under  
19 s. 970.03 971.042 or a conditional release revocation hearing under s. 969.08 (5) (b)  
20 969.51 (1), but separate findings shall be made by the court relating to the pretrial  
21 detention, preliminary examination, and conditional release revocation. The  
22 pretrial detention hearing shall be commenced within 10 days from the date the  
23 defendant is detained or brought before the court under sub. (4). The defendant may  
24 not be denied release from custody ~~in accordance with s. 969.03~~ for more than 10 days  
25 prior to the hearing required by this subsection.

## SENATE BILL 82

1 (7) If the court does not make the findings under sub. (6) (a) and (b) and the  
2 defendant is otherwise eligible, the defendant shall be released from custody with or  
3 without conditions in accordance with ~~s. 969.03~~ ss. 969.31 to 969.33.

4 (8) If the court makes the findings under sub. (6) (a) and (b), the court may deny  
5 bail to the defendant for an additional period not to exceed 60 days following the  
6 hearing. If the time period passes and the defendant is otherwise eligible, he or she  
7 shall be released from custody with or without conditions in accordance with s. ~~s.~~  
8 ~~969.03~~ ss. 969.31 to 969.33.

9 (10) The defendant may petition the court to be released from custody with or  
10 without conditions in accordance with ~~s. 969.03~~ ss. 969.31 to 969.33 at any time.

11 SECTION 598. 969.04 of the statutes is renumbered 969.40 and amended to  
12 read:

13 **969.40 Surety may satisfy default.** ~~Any~~ If a defendant fails to comply with  
14 the conditions of his or her bond, any surety may, ~~after default,~~ pay to the clerk of the  
15 court the amount for which the surety was bound, or such lesser sum as the court,  
16 after notice and hearing, may direct, and thereupon be discharged.

17 SECTION 599. 969.05 of the statutes is repealed.

18 SECTION 600. 969.065 of the statutes is renumbered 969.34 and amended to  
19 read:

20 **969.34 Judicial conference; bail alternatives Bail schedule.** The judicial  
21 conference shall develop guidelines, which the supreme court shall adopt by rule, for  
22 cash bail for releasing on bond persons accused of misdemeanors ~~which the supreme~~  
23 court shall adopt by rule. The guidelines shall relate primarily to individuals. ~~The~~  
24 guidelines and may be revised from time to time ~~under this section~~.

**SENATE BILL 82**

1           **SECTION 601.** 969.07 of the statutes is renumbered 969.36 and amended to  
2 read:

3           **969.36 Taking of bail cash deposit by law enforcement officer.** When  
4 bail has monetary conditions of release have been set before the initial appearance  
5 for a particular defendant, any law enforcement officer may take bail in accordance  
6 with ~~s. 969.02~~ a cash deposit and release the defendant to appear at a specified time  
7 and place in accordance with the conditions of the appearance stated in the bond.  
8 Bail shall not be required of a defendant who has been cited for commission of a  
9 misdemeanor in accordance with ~~s. 968.085~~. The law enforcement officer shall give  
10 a receipt to the defendant for the ~~bail so taken~~ deposit and within a reasonable time  
11 deposit the bail it with the clerk of the court ~~before whom~~ where the defendant is to  
12 appear. ~~Bail taken by a law enforcement officer may be taken~~ A law enforcement  
13 officer may take a cash deposit only at a sheriff's office or police station. ~~The receipts~~  
14 ~~shall be numbered serially and shall be in triplicate, one copy for the defendant, one~~  
15 ~~copy to be filed with the clerk and one copy to be filed with the police or sheriff's~~  
16 ~~department which takes the bail.~~ This section does not require the release of a  
17 defendant from custody when an officer is of the opinion that the defendant is not in  
18 a fit condition to care for his or her own safety or would constitute, because of his or  
19 her physical condition, a danger to the safety of others. If a defendant is not released  
20 under this section, ~~s. 970.01~~ 971.015 (1) shall apply.

21           **SECTION 602.** 969.08 (title) of the statutes is renumbered 969.51 (title) and  
22 amended to read:

23           **969.51 (title) ~~Grant, reduction, increase or revocation~~ Revocations of**  
24 **conditions of defendant's release.**

25           **SECTION 603.** 969.08 (1), (2), (3) and (4) of the statutes are repealed.

**SENATE BILL 82**

1           **SECTION 604.** 969.08 (5) (a) of the statutes is renumbered 969.51 (1) (a).

2           **SECTION 605.** 969.08 (5) (b) 1. of the statutes is renumbered 969.51 (1) (b) 1. and  
3 amended to read:

4           969.51 (1) (b) 1. If the court determines that the state has complied with par.  
5 (a), the court may issue a warrant commanding any law enforcement officer to bring  
6 the defendant without unnecessary delay before the court. When the defendant is  
7 brought before the court, he or she shall be given a copy of the documents specified  
8 in par. (a) and informed of his or her rights under s. ~~970.02 (1) and (6)~~ 971.027. The  
9 court may hold the defendant in custody and suspend the previously imposed  
10 conditions of release pending a hearing on the alleged breach. The hearing under  
11 this paragraph and the preliminary examination under s. ~~970.03~~ 971.042, if  
12 required, shall be a combined hearing, with the court making the separate findings  
13 required under this paragraph and s. ~~970.03~~ 971.042 at the conclusion of the  
14 combined hearing. The hearing shall be commenced within 7 days from the date the  
15 defendant is taken into custody. The defendant may not be held without setting  
16 conditions of release for more than 7 days unless a hearing is held and the findings  
17 required by this paragraph are established.

18           **SECTION 606.** 969.08 (5) (b) 2. of the statutes is renumbered 969.51 (1) (b) 2.

19           **SECTION 607.** 969.08 (5) (b) 3. of the statutes is renumbered 969.51 (1) (b) 3. and  
20 amended to read:

21           969.51 (1) (b) 3. Upon a finding by the court that the state has established by  
22 clear and convincing evidence that the defendant has committed a serious crime  
23 while on conditional release, the court may revoke the release of the defendant and  
24 hold the defendant for trial without setting conditions of release. No reference may  
25 be made during the trial of the offense to the court's finding in the hearing. No



**SENATE BILL 82**

1 reference may be made in the trial to any testimony of the defendant at the hearing,  
2 except if the testimony is used for impeachment purposes. If the court does not find  
3 that the state has established by clear and convincing evidence that the defendant  
4 has committed a serious crime while on conditional release, the defendant shall be  
5 released on ~~bail or other~~ conditions deemed appropriate by the court.

6 **SECTION 608.** 969.08 (5) (b) 4. of the statutes is renumbered 969.51 (1) (b) 4. and  
7 amended to read:

8 969.51 (1) (b) 4. If the release of any defendant is revoked under subd. 3., the  
9 defendant may demand and shall be entitled to be brought to trial on the offense with  
10 respect to which he or she was formerly released on conditions within 60 days after  
11 the date on which he or she appeared before the court under subd. 1. If the defendant  
12 is not brought to trial within the 60-day period he or she shall not be held longer  
13 without setting conditions of release and shall be released on ~~bail or other~~ conditions  
14 deemed appropriate by the court. In computing the 60-day period, the court shall  
15 omit any period of delay if the court finds that the delay results from a continuance  
16 granted at the exclusive request of the defendant.

17 **SECTION 609.** 969.08 (5) (b) 5. of the statutes is renumbered 969.51 (1) (b) 5.

18 **SECTION 610.** 969.08 (6) of the statutes is renumbered 969.51 (2).

19 **SECTION 611.** 969.08 (7) of the statutes is renumbered 969.51 (3) and amended  
20 to read:

21 969.51 (3) If a person is charged with the commission of a serious crime in a  
22 county other than the county in which the person was released on conditions, the  
23 district attorney and court may proceed under sub. ~~(6)~~ (1) and certify the findings to  
24 the ~~circuit~~ court for the county in which the person was released on conditions. That

**SENATE BILL 82**

1 circuit court shall make the release revocation decision based on the certified  
2 findings.

3 **SECTION 612.** 969.08 (8) of the statutes is renumbered 969.51 (4) and amended  
4 to read:

5 969.51 (4) Information stated in, or offered in connection with, any order  
6 entered under this chapter setting ~~bail or other~~ conditions of release need not  
7 conform to the rules of evidence, except as provided under sub. ~~(5)~~ (1) (b) 2. or s.  
8 901.05.

9 **SECTION 613.** 969.08 (9) of the statutes is renumbered 969.51 (5).

10 **SECTION 614.** 969.08 (9m) of the statutes is renumbered 969.51 (6) and  
11 amended to read:

12 969.51 (6) A person who has had ~~bail~~ bond revoked under this section is entitled  
13 to placement of his or her case on an expedited trial calendar and his or her trial shall  
14 be given priority.

15 **SECTION 615.** 969.08 (10) of the statutes is renumbered 969.51 (7).

16 **SECTION 616.** 969.09 (title), (1) and (3) of the statutes are repealed.

17 **SECTION 617.** 969.09 (2) of the statutes is renumbered 974.09 (2) and amended  
18 to read:

19 974.09 (2) If the defendant is ~~admitted to bail upon~~ released on conditions  
20 pending appeal, the conditions of the bond shall be that the defendant will duly  
21 prosecute the defendant's appeal, that the defendant will appear at such the time  
22 and place as that the court directs, and that, if the judgment is affirmed or reversed  
23 and remanded for a new trial or further proceedings upon notice after remittitur, the  
24 defendant will surrender to the sheriff of the county in which the defendant was  
25 tried.

**SENATE BILL 82**

1           **SECTION 618.** 969.10 of the statutes is amended to read:

2           **969.10 Notice of change of address.** A person who has been released on bail  
3 ~~or other~~ conditions shall give written notice to the clerk of any change in his or her  
4 address within 48 hours after the change. This requirement shall be printed on all  
5 bonds.

6           **SECTION 619.** 969.11 of the statutes is renumbered 969.35 and amended to  
7 read:

8           **969.35 Release upon arrest in another county.** (1) If the defendant is  
9 arrested in a county other than the county in which the offense ~~was committed~~ may  
10 be tried under s. 970.14, he or she shall, without unreasonable delay, ~~either be~~  
11 ~~brought before a judge of the county in which arrested~~ and for the purpose of setting  
12 ~~bail or other conditions of release, be brought before a judge of either the county~~  
13 where he or she was arrested or ~~be returned to the county in which~~ where the offense  
14 ~~was committed. The~~ may be tried under s. 970.14. If the defendant is brought before  
15 a judge in the county where he or she was arrested, the judge shall release him or  
16 her on conditions imposed in accordance with this chapter to appear before a court  
17 in the county in which the offense was committed at a specified time and place.

18           (2) If the defendant is released on bail or other conditions pursuant to a judge  
19 of a county other than the county where the offense may be tried under s. 970.14  
20 released the defendant under sub. (1), the judge shall make a record of the  
21 proceedings ~~and~~, shall certify his or her minutes ~~thereof~~ of the proceedings, and shall  
22 forward the bond ~~and bail~~ to the court before whom the defendant is bound to appear.

23           **SECTION 620.** 969.12 of the statutes is renumbered 969.39.

24           **SECTION 621.** 969.13 of the statutes is repealed.

25           **SECTION 622.** 969.14 of the statutes is repealed.

**SENATE BILL 82**

1           **SECTION 623.** Subchapter I (title) of chapter 969 [precedes 969.15] of the  
2 statutes is created to read:

**CHAPTER 969****SUBCHAPTER I****ARRESTS, SUMMONSES, AND CITATIONS**

6           **SECTION 624.** 969.15 of the statutes is created to read:

7           **969.15 Securing the defendant's initial appearance.** The initial  
8 appearance of a person charged with a crime may be secured in any of the following  
9 ways:

10           (1) By the person's voluntary appearance.

11           (2) By the person's appearance in response to a citation.

12           (3) By the person's appearance in response to a summons.

13           (4) By the person's arrest, with or without a warrant.

14           (5) By the person's appearance in response to a condition of release from  
15 custody.

16           (6) By the person's appearance in response to a judicial order to produce a  
17 person already in custody.

18           **SECTION 625.** 969.19 of the statutes is created to read:

19           **969.19 Probable cause determination for warrantless arrests.** For any  
20 person who is arrested without a warrant and not sooner released from custody,  
21 within 48 hours after the arrest a judge shall determine whether there was probable  
22 cause to arrest the person. After 48 hours, including weekends and holidays, have  
23 elapsed from the arrest of the person with no judicial determination of probable  
24 cause the person shall be released under s. 969.32 (1) unless the delay is excused by  
25 the existence of a bona fide emergency or other extraordinary circumstance.

**SENATE BILL 82**

1           **SECTION 626.** 969.20 (2) of the statutes is created to read:

2           969.20 (2) **WARRANT WITHOUT A CRIMINAL COMPLAINT.** Upon the request of the  
3           district attorney and subject to sub. (8), a judge may issue an arrest warrant without  
4           a criminal complaint if the judge determines, based on an affidavit filed with the  
5           court or an examination under oath of a person, that there is probable cause to  
6           believe that an offense has been committed and that the person named in the  
7           warrant has committed it.

8           **SECTION 627.** 969.20 (6) of the statutes is created to read:

9           969.20 (6) **CONDITIONS OF RELEASE ON WARRANT.** A judge issuing a warrant may  
10          specify conditions of release.

11          **SECTION 628.** 969.20 (7) (title) of the statutes is created to read:

12          969.20 (7) (title) **SUMMONS IN LIEU OF WARRANT.**

13          **SECTION 629.** 969.21 (title) of the statutes is created to read:

14          **969.21 (title) Arrest warrants.**

15          **SECTION 630.** 969.24 (2m) of the statutes is created to read:

16          969.24 (2m) **RELEASE AFTER CITATION.** A law enforcement officer citing a person  
17          for a misdemeanor shall release the person without a cash bond unless any of the  
18          following apply:

19               (a) The accused has not given proper identification.

20               (b) The accused is not willing to sign the citation.

21               (c) The accused appears to represent a danger of harm to himself or herself,  
22          another person or property.

23               (d) The accused cannot show sufficient evidence of ties to the community.

24               (e) The accused has previously failed to appear in response to a citation,  
25          subpoena, summons, or order of the court.

**SENATE BILL 82**

1 (f) Arrest or further detention appears necessary to carry out legitimate  
2 investigative action in accordance with law enforcement agency policies.

3 **SECTION 631.** 969.26 (title) of the statutes is created to read:

4 **969.26 (title) Forms.**

5 **SECTION 632.** 969.26 (3) of the statutes is created to read:

6 **969.26 (3) CITATION.** A citation shall be in substantially the following form:

7 MISDEMEANOR CITATION

8 Section 969.26 Wis. Stats.

9 Deposit Permitted: \$ ...

10 Circuit Court for ... County

11 The undersigned complains for and on behalf of the State of Wisconsin upon  
12 information and belief that on or about ... (day), ... (date of violation), at ...  
13 (time); in ... County, town/ village/ city of ...; ... (defendant's name); ... (date of  
14 birth), ... (sex), ... (street address, city, state, zip code), ... (race), ... (eye color), ...  
15 (hair color), ... (weight), ... (height); did the following ... (state facts of violation)  
16 in violation of section(s) ... of the ... (year) Wisconsin Statutes and requests that  
17 the defendant may be held to answer for the violation.

18 Dated ..., ... (year)

19 .... (Signature of officer)

20 Signed by ... (Name), ... (Dept./Agency)

21 .... (Title), ... (Badge Number)

22 You are hereby notified to appear in the

23 ( ) Circuit Court named above

24 ( ) District Attorney's Office

25 located at ... (street address, city)

**SENATE BILL 82**

1 on .... (date), at .... (time).

2 The maximum penalty for this violation is:

3 ( ) Fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both  
4 (Class A Misdemeanor).

5 ( ) Fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both  
6 (Class B Misdemeanor).

7 ( ) Fine not to exceed \$500 or imprisonment not to exceed 30 days, or both (Class  
8 C Misdemeanor).

9 ( ) Other

10 **PROMISE TO APPEAR**

11 I have received a copy of this citation. I promise to appear in court at the  
12 time and place specified. Signing this citation is not an admission of guilt.

13 .... (Defendant's signature)

14 .... (Defendant's address)

15 .... (Defendant's phone number)

16 **ENDORSEMENT BY DISTRICT ATTORNEY**

17 I have reviewed this citation and approve its use as a criminal complaint  
18 under s. 969.24 (5).

19 Dated ....., .... (year)

20 .... (District Attorney's signature)

21 .... (Title)

22 **SECTION 633.** Subchapter II (title) of chapter 969 [precedes 969.30] of the  
23 statutes is created to read:

24 **CHAPTER 969**

**SENATE BILL 82**

SUBCHAPTER II

COURT-ORDERED RELEASE

**SECTION 634.** 969.30 (3) to (7) of the statutes are created to read:

969.30 (3) "Personal recognizance bond" means a bond without monetary conditions of release.

(4) "Secured appearance bond" means a bond with monetary conditions of release that require the depositing of cash or the pledging of property as security. The court may order that the bond be secured by the defendant or by a surety.

(5) "Serious bodily harm" means bodily injury that causes or contributes to the death of a human being; bodily injury that creates a substantial risk of death; bodily injury that causes serious permanent disfigurement; bodily injury that causes a permanent or protracted loss or impairment of the function of any bodily member or organ; or other serious bodily injury.

(6) "Surety" means a person who guarantees payment of the amount specified in a monetary condition of release if the defendant does not appear in court as required.

(7) "Unsecured appearance bond" means a bond with monetary conditions of release that do not require the depositing of cash or the pledging of property as security.

**SECTION 635.** 969.31 (3) of the statutes is created to read:

969.31 (3) AFTER SENTENCING. After sentencing and before service of the sentence begins, the trial court may continue the conditions of release or impose new conditions of release.

**SECTION 636.** 969.31 (4) of the statutes is created to read:



**SENATE BILL 82**

1           969.31 (4) PENDING APPEAL. Release after sentencing, pending appeal, is  
2 governed by ss. 809.31 and 974.08.

3           **SECTION 637.** 969.32 of the statutes is created to read:

4           **969.32 Types of release.** In any case where release is allowed, the court shall  
5 do one of the following:

6           (1) Release the defendant to return on a date certain, without conditions.

7           (2) Release the defendant on a personal recognizance bond.

8           (3) Release the defendant on an unsecured appearance bond.

9           (4) Release the defendant on a secured appearance bond.

10          **SECTION 638.** 969.33 (title) of the statutes is created to read:

11          **969.33 (title) Conditions of release.**

12          **SECTION 639.** 969.33 (1) (L) of the statutes is created to read:

13          969.33 (1) (L) The results of a validated risk assessment.

14          **SECTION 640.** 969.33 (2) of the statutes is created to read:

15          969.33 (2) RULES OF EVIDENCE DO NOT APPLY. Information stated in or offered in  
16 connection with any order entered under this chapter setting conditions of release  
17 need not conform to the rules of evidence, except as provided under s. 901.05 or  
18 969.51.

19          **SECTION 641.** 969.33 (3) of the statutes is created to read:

20          969.33 (3) MONETARY CONDITIONS. The court may impose monetary conditions  
21 of release only if it finds that there is a reasonable basis to believe that they are  
22 necessary to ensure the defendant's appearance in court. In a misdemeanor case the  
23 amount of money specified in a monetary condition of release may not exceed the  
24 maximum fine provided for the crime charged.

25          **SECTION 642.** 969.33 (4) of the statutes is created to read:

**SENATE BILL 82**

1           969.33 (4) MANDATORY CONDITIONS. The following conditions shall be imposed  
2 as terms of any bond under s. 969.32 (2) to (4) and shall be printed on the bond:

3           (a) The defendant shall appear in the court having jurisdiction on a day certain  
4 and thereafter as ordered until discharged on final order of the court and shall  
5 submit to the orders and process of the court.

6           (b) The defendant shall give written notice to the clerk of any change in his or  
7 her address within 48 hours after the change.

8           (c) The defendant may not commit any crime.

9           (d) The defendant shall not violate, cause any person to violate, or permit any  
10 person to violate on the defendant's behalf ss. 940.22 to 940.45.

11           **SECTION 643.** 969.33 (5) to (7) of the statutes are created to read:

12           969.33 (5) OTHER CONDITIONS. Whenever a defendant is released on bond under  
13 s. 969.32 (2) to (4), the court may impose reasonable conditions other than those  
14 required under sub. (4), including conditions doing any of the following:

15           (a) Prohibiting the defendant from contacting, directly or indirectly, specified  
16 persons or going to specified places.

17           (b) Prohibiting the defendant from possessing any dangerous weapon.

18           (c) Prohibiting the defendant from consuming alcohol beverages.

19           (d) Restricting the travel, association, or place of residence of the defendant.

20           (e) Requiring that the defendant return to custody after specified hours. The  
21 charges authorized by s. 303.08 (4) and (5) do not apply under this paragraph.

22           (f) Placing the defendant under the supervision of a designated person or  
23 organization agreeing to supervise the defendant.

24           **(6) COPY OF BOND TO DEFENDANT.** The court shall provide the defendant a copy  
25 of his or her bond.

**SENATE BILL 82**

1           **(7) MODIFYING CONDITIONS OF RELEASE.** Upon motion by the state or the  
2 defendant, the court before which the action is pending may, following a hearing,  
3 modify conditions of release or grant release if it has been previously revoked under  
4 s. 969.51. Reasonable notice of the hearing shall be given to all parties.

5           **SECTION 644.** 969.37 of the statutes is created to read:

6           **969.37 Return of cash deposit to a 3rd party.** A person other than the  
7 defendant who has deposited cash to obtain the release of the defendant on a secured  
8 appearance bond, may, prior to the entry of a judgment of conviction or a judgment  
9 of forfeiture under s. 969.42, apply to the court for an order returning the deposit.  
10 After notice to the parties, the court shall hold a hearing at which the defendant must  
11 be present. The court shall determine whether to remit the cash deposit in whole or  
12 in part and may review and modify the conditions of release.

13           **SECTION 645.** 969.38 of the statutes is created to read:

14           **969.38 Disposition of cash deposits. (1) DEPOSIT APPLIED TO FINE OR COSTS.**

15           (b) All secured appearance bonds shall include notice of the requirements of  
16 par. (a).

17           **(2) RETURN OF DEPOSIT.** If the complaint against the defendant is dismissed or  
18 the defendant is acquitted in a case in which a cash deposit has been made on a  
19 secured appearance bond, the entire sum deposited shall be returned. A deposit by  
20 a surety shall be returned to the person who made the deposit.

21           **(3) FORFEITURE EXCEPTION.** Subsections (1) (a) and (2) do not apply if a cash  
22 deposit is forfeited under s. 969.42.

23           **SECTION 646.** 969.41 of the statutes is created to read:

24           **969.41 Discharge of surety.** When a surety desires to be discharged from the  
25 obligations of his or her bond, he or she may apply to the court for an order to that

**SENATE BILL 82**

1 effect. After notice to the parties, the court shall hold a hearing at which the  
2 defendant must be present. The court shall determine whether to discharge the  
3 surety and may review and modify the conditions of release.

4 **SECTION 647.** 969.42 of the statutes is created to read:

5 **969.42 Forfeiture. (1)** If the defendant does not comply with the conditions  
6 of the bond, the court may order the bail forfeited and a judgment of bail forfeiture  
7 entered. Immediately after the order is entered, the clerk shall mail notice of the  
8 order of judgment of bail forfeiture to the defendant and the defendant's sureties.  
9 No other notice is required.

10 **(2)** By entering into a bond, the defendant and any sureties submit to the  
11 jurisdiction of the court for the purposes of determining their liability under the  
12 bond. Their obligations under the bond may be enforced without the necessity of an  
13 independent action.

14 **(3)** If the court enters a judgment of bail forfeiture, any cash deposit made with  
15 the clerk pursuant to this subchapter shall be applied to the payment of costs. If any  
16 amount of the deposit remains after the payment of costs, it shall be applied to the  
17 payment of the judgment of bail forfeiture.

18 **(4)** Within 30 days after the entry of a judgment of bail forfeiture, the court may  
19 order the judgment set aside upon such conditions as the court imposes if it appears  
20 that justice does not require the enforcement of the judgment of bail forfeiture.

21 **SECTION 648.** Subchapter III (title) of chapter 969 [precedes 969.50] of the  
22 statutes is created to read:

23 **CHAPTER 969**

24 **SUBCHAPTER III**

**SENATE BILL 82**

1 ENFORCEMENT OF APPEARANCE  
2 REQUIREMENTS AND CONDITIONS OF  
3 RELEASE

4 **SECTION 649.** 969.50 (2) and (3) of the statutes are created to read:

5 969.50 (2) A court issuing a bench warrant under this section may specify  
6 monetary conditions of release on the warrant.

7 (3) If monetary conditions of release are not specified on the bench warrant,  
8 a defendant or witness arrested pursuant to the warrant is not eligible for release  
9 before appearing in court.

10 **SECTION 650.** Chapter 970 (title) of the statutes is repealed and recreated to  
11 read:

12 **CHAPTER 970**

13 **COMMENCEMENT OF PROSECUTION**

14 **SECTION 651.** 970.01 (title) of the statutes is repealed.

15 **SECTION 652.** 970.01 (1) of the statutes is renumbered 971.015 (1) (a) and  
16 amended to read:

17 971.015 (1) (a) ~~Any~~ Except as provided in par. (b), any person who is arrested  
18 and not sooner released from custody shall be taken within a reasonable time before  
19 a judge in brought before the court for the county in which the offense was alleged  
20 to have been committed. The may be tried under s. 970.14 for an initial appearance  
21 may be conducted on the record by telephone or live audiovisual means under s.  
22 967.08. If the within a reasonable time after the day of arrest. In no event shall an  
23 arrested person be held for more than 96 hours, including weekends and holidays,  
24 without a court determination regarding conditions of release under s. 969.33.

**SENATE BILL 82**

1            (3) TELEPHONE PROCEEDINGS. When an initial appearance is conducted by  
2 telephone or live audiovisual means under s. 967.14 or video conferencing under  
3 subch. III of ch. 885, the person may waive physical appearance. Waiver of physical  
4 appearance shall be placed on the record of the initial appearance and does not waive  
5 other grounds for challenging the court's personal jurisdiction. If the person does not  
6 wave physical appearance, conducting the initial appearance by telephone or live  
7 audiovisual means under s. 967.08 defendant does not waive any grounds ground  
8 that the person defendant has for challenging the court's personal jurisdiction.

9            **SECTION 653.** 970.01 (2) of the statutes is repealed.

10           **SECTION 654.** 970.02 (title) of the statutes is repealed.

11           **SECTION 655.** 970.02 (1) (intro.) of the statutes is repealed.

12           **SECTION 656.** 970.02 (1) (a) of the statutes is renumbered 971.027 (3) and  
13 amended to read:

14           971.027 **(3) NOTICE OF THE CHARGES AND PENALTIES.** ~~Of the charge against the~~  
15 ~~defendant and shall furnish~~ The court shall ensure that the district attorney has  
16 furnished the defendant with a copy of the complaint which shall contain the possible  
17 penalties for the offenses set forth therein. In the case of a felony, the judge shall also  
18 inform the defendant of the and ensure that the defendant has been informed of the  
19 nature of the charge and the penalties for the felony each crime with which the  
20 defendant is charged. The district attorney shall read the complaint to the defendant  
21 at the defendant's request. If no criminal complaint is filed at the initial appearance,  
22 the defendant shall be released without monetary conditions unless the court  
23 excuses the delay due to the existence of a bona fide emergency or other  
24 extraordinary circumstances.

**SENATE BILL 82**

1           **SECTION 657.** 970.02 (1) (b) and (6) of the statutes are consolidated,  
2           renumbered 971.027 (1) and amended to read:

3           971.027 (1) RIGHT TO COUNSEL. ~~Of If the defendant is not represented by~~  
4           ~~counsel, the court shall inform the defendant of his or her right to counsel and, in any~~  
5           ~~case required by the U.S. or Wisconsin constitution, that an attorney will be~~  
6           ~~appointed to represent him or her if he or she is financially unable to employ counsel.~~  
7           ~~(6) In all cases in which the defendant is entitled to legal representation under the~~  
8           ~~constitution or laws of the United States or this state, the judge or magistrate shall~~  
9           ~~inform the defendant of his or her right to counsel and, if the defendant claims or~~  
10          ~~appears to be indigent, shall refer the person defendant to the authority for indigency~~  
11          ~~determinations specified under s. 977.07 (1). Unless the defendant knowingly and~~  
12          ~~voluntarily waives the right to counsel, the court may not permit an unrepresented~~  
13          ~~defendant to enter a plea other than not guilty.~~

14          **SECTION 658.** 970.02 (1) (c) and (5) of the statutes are consolidated, renumbered  
15          971.027 (2) and amended to read:

16          971.027 (2) RIGHT TO A PRELIMINARY EXAMINATION. ~~That~~ The court shall inform  
17          the defendant that he or she is entitled to a preliminary examination if when the  
18          defendant is charged with a felony in any complaint, including a complaint issued  
19          under s. 968.26, or when the defendant has been returned to this state for  
20          prosecution through extradition proceedings under ch. 976, or any indictment,  
21          unless waived in writing or in open court, or unless the defendant is a corporation  
22          or limited liability company. ~~(5)~~ If the defendant does not waive preliminary  
23          examination, the judge ~~court~~ shall ~~forthwith~~ set the action for a preliminary  
24          examination under s. 970.03 971.042.

**SENATE BILL 82**

1           **SECTION 659.** 970.02 (2) of the statutes is renumbered 971.027 (5) and amended  
2 to read:

3           971.027 (5) CONDITIONS OF RELEASE. The judge court shall ~~admit the defendant~~  
4 ~~to bail in accordance with~~ establish, modify, or continue the conditions of the  
5 defendant's release under ch. 969.

6           **SECTION 660.** 970.02 (3) of the statutes is repealed.

7           **SECTION 661.** 970.02 (4) of the statutes is repealed.

8           **SECTION 662.** 970.02 (7) of the statutes is renumbered 971.027 (6) and amended  
9 to read:

10           971.027 (6) OBTAINING IDENTIFICATION DATA. If the offense charged is one  
11 specified under s. 165.83 (2) (a), the judge court shall determine if the defendant's  
12 fingerprints, photographs and other identifying data have been taken and, if not, the  
13 judge court shall direct that this information be obtained.

14           **SECTION 663.** 970.02 (8) of the statutes, as affected by 2013 Wisconsin Act 214,  
15 is renumbered 971.027 (7) and amended to read:

16           971.027 (7) OBTAINING BIOLOGICAL SPECIMEN. If the offense charged is a violent  
17 crime, as defined in s. 165.84 (7) (ab), the judge court shall determine if a biological  
18 specimen has been obtained from the defendant under s. 165.84 (7), and, if not, the  
19 judge court shall direct that a law enforcement agency or tribal law enforcement  
20 agency obtain a biological specimen from the defendant and submit it to the state  
21 crime laboratories as specified in rules promulgated by the department of justice  
22 under s. 165.76 (4). If the judge court requires the defendant to provide a specimen  
23 under this subsection or if a biological specimen has already been obtained from the  
24 defendant, the judge court shall inform the defendant that he or she may request  
25 expungement under s. 165.77 (4).



**SENATE BILL 82**

1           **SECTION 664.** 970.03 (title) of the statutes is renumbered 971.042 (title).

2           **SECTION 665.** 970.03 (1) of the statutes is renumbered 971.042 (1) and amended  
3 to read:

4           971.042 (1) A preliminary examination is a hearing before a court for the  
5 purpose of determining if there is probable cause to believe a felony has been  
6 committed by the defendant. A preliminary examination may be held in conjunction  
7 with a bail revocation hearing under s. ~~969.08 (5)~~ 969.51 (1) (b), but separate findings  
8 shall be made by the judge relating to the preliminary examination and to the bail  
9 revocation.

10           **SECTION 666.** 970.03 (2), (3), (4), (5) and (6) of the statutes are renumbered  
11 971.042 (2), (3), (4), (5) and (6).

12           **SECTION 667.** 970.03 (7), (8) and (9) of the statutes are renumbered 971.042 (7)  
13 (a), (b) and (c) and amended to read:

14           971.042 (7) (a) If the court finds probable cause to believe that a felony has been  
15 committed by the defendant, ~~it shall~~ bind the defendant over for trial.

16           (b) If the court finds that it is probable that only a misdemeanor has been  
17 committed by the defendant, ~~it shall~~ amend the complaint to conform to the evidence.  
18 The action shall then proceed as though it had originated as a misdemeanor action.

19           (c) If the court does not find probable cause to believe that a crime has been  
20 committed by the defendant, ~~it shall~~ order the defendant discharged ~~forthwith~~  
21 immediately.

22           **SECTION 668.** 970.03 (10), (12), (13) and (14) of the statutes are renumbered  
23 971.042 (8), (9), (10) and (11), and 971.042 (8) and (9) (a) 1., as renumbered, are  
24 amended to read:

**SENATE BILL 82**

1           971.042 (8) In multiple count complaints, the court shall order dismissed any  
2 count for which it finds there is no probable cause. The facts arising out of any count  
3 ordered dismissed shall not be the basis for a count in any information filed pursuant  
4 to ch. 971. ~~Section 970.04~~ under this chapter. Subsection (13) shall apply to any  
5 dismissed count.

6           (9) (a) 1. "Hospital" has the meaning designated given in s. 50.33 (2).

7           **SECTION 669.** 970.032 (title) of the statutes is repealed.

8           **SECTION 670.** 970.032 (1) of the statutes is renumbered 971.75 (1) and amended  
9 to read:

10           971.75 (1) PROBABLE CAUSE HEARING. Notwithstanding s. ~~970.03~~ 971.042, if a  
11 preliminary examination is held regarding a juvenile who is subject to the original  
12 jurisdiction of the court of criminal jurisdiction under s. 938.183 (1), the court shall  
13 first conduct an evidentiary hearing to determine whether if there is probable cause  
14 to believe that the juvenile ~~has~~ committed the violation of which he or she is accused  
15 under the circumstances specified in s. 938.183 (1) (a), (am), (ar), (b), or (c), whichever  
16 is applicable.

17           (3) FINDINGS AT PROBABLE CAUSE HEARING. (a) If the court does not ~~make that~~  
18 finding find that there is probable cause to believe the juvenile committed the  
19 violation of which he or she is accused under the circumstances specified in s. 938.183  
20 (1) (a), (am), (ar), (b), or (c), whichever is applicable, the court shall order that the  
21 juvenile be discharged, but proceedings may be brought regarding the juvenile under  
22 ch. 938.

23           **SECTION 671.** 970.032 (2) (intro.) of the statutes is renumbered 971.75 (3) (b)  
24 and amended to read:

**SENATE BILL 82**

1           971.75 (3) (b) If the court finds probable cause to believe that the juvenile has  
2 committed the violation of which he or she is accused under the circumstances  
3 specified in s. 938.183 (1) (a), (am), (ar), (b), or (c), the court shall conduct a hearing  
4 under sub. (5) to determine whether to retain jurisdiction or to transfer jurisdiction  
5 to the court assigned to exercise jurisdiction under chs. 48 and 938. The court may  
6 base its finding of probable cause in whole or in part on hearsay.

7           **(5) FINDINGS AT RETENTION HEARING.** The If the court finds probable cause under  
8 sub. (3) (b), it shall retain jurisdiction unless the juvenile proves by a preponderance  
9 of the evidence all of the following:

10           **SECTION 672.** 970.032 (2) (a), (b) and (c) of the statutes are renumbered 971.75  
11 (5) (a), (b) and (c).

12           **SECTION 673.** 970.035 of the statutes is renumbered 971.046 and amended to  
13 read:

14           **971.046 Preliminary examination; juvenile younger than 15 years old.**  
15 Notwithstanding s. ~~970.03~~ 971.042, if a preliminary examination under s. ~~970.03~~  
16 971.042 is held regarding a juvenile who was waived under s. 938.18 for a violation  
17 which is alleged to have occurred prior to his or her 15th birthday, the court may bind  
18 the juvenile over for trial only if there is probable cause to believe that a crime under  
19 s. 940.03, 940.06, 940.225 (1) or (2), 940.305, 940.31 or 943.10 (2), 943.32 (2) or 961.41  
20 (1) has been committed or that a crime that would constitute a felony under chs. 939  
21 to 948 or 961 if committed by an adult has been committed at the request of or for  
22 the benefit of a criminal gang, as defined in s. 939.22 (9). If the court does not make  
23 any of those findings, the court shall order that the juvenile be discharged but  
24 proceedings may be brought regarding the juvenile under ch. 938.



**SENATE BILL 82**

1           **SECTION 682.** 970.09 (2) of the statutes is created to read:

2           970.09 (2) The court may allow the district attorney to amend the complaint  
3 after the defendant enters a plea but within a reasonable time before trial if the  
4 amendment does not prejudice the defendant.

5           **SECTION 683.** 970.10 (title), (1) and (3) of the statutes are created to read:

6           **970.10 (title) Dismissing the complaint. (1)** If the district attorney moves  
7 to dismiss a complaint, the trial court shall grant the motion unless the court finds  
8 that dismissal is contrary to the public interest. The motion may not be granted  
9 during the trial without the consent of the defendant.

10          **(3)** Granting a motion made under sub. (1) dismisses the action, and the clerk  
11 shall enter an order to that effect.

12          **SECTION 684.** 970.13 (3) of the statutes is created to read:

13          970.13 **(3) RELIEF FROM PREJUDICIAL JOINDER.** Relief from prejudicial joinder  
14 may be sought under s. 971.68 (2).

15          **SECTION 685.** 970.14 (13) of the statutes is created to read:

16          970.14 **(13)** In an action where the state asserts jurisdiction under s. 939.03 (1)  
17 (b) or (c) and where the place of trial cannot readily be determined under this section,  
18 the trial may be in the county where the defendant intended that the crime be  
19 committed, the county of residence of the intended victims, or, if neither of these  
20 applies, Dane County.

21          **SECTION 686.** 970.15 of the statutes is created to read:

22          **970.15 Deferred and suspended prosecution agreements. (1)**

23          DEFINITIONS. In this section:

24          (a) “Deferred prosecution agreement” means an agreement under which a  
25 prosecutor does not file a criminal complaint but may do so in the future.

**SENATE BILL 82**

1 (b) "Suspended prosecution agreement" means an agreement under which  
2 further prosecution against a person is suspended after a prosecutor files a criminal  
3 complaint against the person.

4 (2) DEFERRED PROSECUTION AGREEMENTS. The same standards that apply to a  
5 district attorney's charging authority govern the district attorney's authority to  
6 enter into a deferred prosecution agreement. A deferred prosecution agreement is  
7 enforceable in the same manner as a plea agreement.

8 (3) SUSPENDED PROSECUTION AGREEMENTS. The same standards that apply to a  
9 court's authority to schedule cases and grant continuances apply to a court's  
10 authority to suspend prosecution when the parties have reached a suspended  
11 prosecution agreement. The court's authority to suspend prosecution includes the  
12 authority to defer or delay the acceptance of a plea or to withhold entry of judgment.  
13 A suspended prosecution agreement is enforceable in the same manner as a plea  
14 agreement.

15 (4) ADMISSIONS AND STATEMENTS. Consent to, or participation in, a deferred  
16 prosecution agreement or a suspended prosecution agreement is not an admission  
17 of guilt and is not admissible in any trial relating to the charge to which the  
18 agreement pertains. No statement made by a person in connection with a deferred  
19 prosecution agreement or a suspended prosecution agreement is admissible in any  
20 trial relating to the charge to which the agreement pertains.

21 (5) IMMUNITY. Any organization, agency, or individual acting in good faith for  
22 which or for whom a person is assigned to work pursuant to a deferred prosecution  
23 agreement or a suspended prosecution agreement has immunity from any civil  
24 liability in excess of \$25,000 for acts or omissions by the person or affecting the  
25 person.

**SENATE BILL 82**

1           **SECTION 687.** Subchapter II (title) of chapter 970 [precedes s. 970.21] of the  
2 statutes is created to read:

**CHAPTER 970****SUBCHAPTER II****PARTICULAR OFFENSES**

3  
4  
5  
6           **SECTION 688.** Chapter 971 (title) of the statutes is repealed and recreated to  
7 read:

**CHAPTER 971****PRETRIAL PROCEDURES**

8  
9  
10           **SECTION 689.** 971.01 of the statutes is renumbered 971.051, and 971.051 (1),  
11 as renumbered, is amended to read:

12           971.051 (1) The district attorney shall examine all facts and circumstances  
13 connected with any preliminary examination touching the commission of any crime  
14 if the defendant has been bound over for trial and, subject to s. ~~970.03 (10)~~ 971.042  
15 (8), shall file an information according to the evidence on such examination  
16 subscribing his or her name thereto.

17           **SECTION 690.** Subchapter I (title) of chapter 971 [precedes 971.013] of the  
18 statutes is created to read:

**CHAPTER 971****SUBCHAPTER I****COMMENCEMENT OF PROCEEDINGS**

19  
20  
21  
22           **SECTION 691.** 971.015 (title) of the statutes is created to read:

23           **971.015 (title) Initial court appearance.**

24           **SECTION 692.** 971.015 (1) (title) of the statutes is created to read:

25           971.015 (1) (title) PERSONS IN CUSTODY.

**SENATE BILL 82**

1           **SECTION 693.** 971.015 (1) (b) of the statutes is created to read:

2           971.015 (1) (b) A person in custody outside the county in which the offense was  
3 alleged to have been committed shall have an initial appearance in the court for the  
4 county in which the offense was alleged to have been committed as soon as  
5 practicable. Conditions of release may be set under s. 969.33.

6           **SECTION 694.** 971.015 (2) of the statutes is created to read:

7           971.015 (2) PERSONS NOT IN CUSTODY. A person who is arrested and released or  
8 who is issued a citation is entitled to an initial appearance within a reasonable time  
9 after being arrested or cited.

10          **SECTION 695.** 971.015 (4) of the statutes is created to read:

11          971.015 (4) DISCOVERY BEFORE THE INITIAL APPEARANCE. The district attorney  
12 may provide discovery before the initial appearance.

13          **SECTION 696.** 971.02 of the statutes is renumbered 971.052, and 971.052 (1)  
14 and (2) (intro.), (a), (b) and (c), as renumbered, are amended to read:

15          971.052 (1) If the defendant is charged with a felony in any complaint,  
16 including a complaint issued under s. ~~968.26~~ 968.105, or when the defendant has  
17 been returned to this state for prosecution through extradition proceedings under ch.  
18 976, or any indictment, no information or indictment shall be filed until the  
19 defendant has had a preliminary examination, unless the defendant waives such  
20 examination in writing or in open court or unless the defendant is a corporation or  
21 limited liability company. The omission of the preliminary examination shall not  
22 invalidate any information unless the defendant moves to dismiss prior to the entry  
23 of a plea.

24          (2) (intro.) Upon motion and for cause shown, the trial court may remand the  
25 case for a preliminary examination. "Cause" means all of the following:



**SENATE BILL 82**

- 1 (a) The preliminary examination was waived; ~~and,~~  
2 (b) Defendant did not have advice of counsel prior to such waiver; ~~and,~~  
3 (c) Defendant denies that probable cause exists to hold him or her for trial; ~~and,~~

4 **SECTION 697.** 971.027 (intro.) of the statutes is created to read:

5 **971.027 Duties at the initial appearance.** (intro.) All of the following shall  
6 occur at the initial appearance:

7 **SECTION 698.** 971.027 (1m) and (4) of the statutes are created to read:

8 **971.027 (1m) PROBABLE CAUSE DETERMINATION.** The court shall determine  
9 whether the facts alleged in the complaint establish probable cause to believe that  
10 the defendant committed the crime charged. If probable cause exists as to at least  
11 one count of the complaint, the court may set a date for further proceedings and, if  
12 the defendant requests, shall set a date for trial. Notwithstanding a finding of  
13 probable cause under this subsection, the defendant may move to dismiss a  
14 complaint or any count in a complaint based on lack of probable cause by filing a  
15 motion under s. 971.65.

16 **(4) REQUEST FOR AND ENTRY OF PLEA.** The court shall ask for the defendant's plea  
17 to the charges in the complaint. If the defendant stands mute or refuses to plead to  
18 any charge, the court shall direct the entry of a plea of not guilty on the defendant's  
19 behalf.

20 **SECTION 699.** 971.03 of the statutes is renumbered 971.053.

21 **SECTION 700.** 971.035 of the statutes is created to read:

22 **971.035 Discovery at the initial appearance. (1) MATERIAL IN THE DISTRICT**  
23 **ATTORNEY'S POSSESSION.** At the initial appearance, the district attorney shall disclose,  
24 if in the district attorney's possession, law enforcement investigative reports relating  
25 to the case and a copy of the defendant's criminal record.

**SENATE BILL 82**

1           **(2) TIME OF DISCLOSURE.** Disclosure under this section shall be made after the  
2 defendant has obtained or waived legal representation.

3           **(3) MANNER OF DISCLOSURE.** Disclosure under this section shall be made in the  
4 manner provided in s. 971.51.

5           **(4) DELAY FOR GOOD CAUSE SHOWN.** For good cause shown, the court may allow  
6 a delay in disclosure under this section.

7           **SECTION 701.** 971.038 of the statutes is created to read:

8           **971.038 Time limits for motions and requests for substitution.** No later  
9 than 10 days after the initial appearance, the defendant may file any motions that  
10 might otherwise be waived by the entry of the plea or a request for substitution of  
11 a judge under s. 967.16.

12           **SECTION 702.** 971.04 (title) of the statutes is renumbered 967.13 (title).

13           **SECTION 703.** 971.04 (1) (intro.) of the statutes is renumbered 967.13 (1) (intro.)  
14 and amended to read:

15           967.13 (1) (intro.) Except as provided in subs. (2) and (3), ~~the or s. 967.14, or~~  
16 ~~subch. III of ch. 885, a defendant who is an individual shall be present for all of the~~  
17 ~~following:~~

18           **SECTION 704.** 971.04 (1) (a) of the statutes is repealed.

19           **SECTION 705.** 971.04 (1) (b), (c), (d), (e), (f), (g) and (h) of the statutes are  
20 renumbered 967.13 (1) (c), (d), (e), (f), (g), (h) and (j) and amended to read:

21           967.13 (1) (c) ~~At The trial;~~

22           (d) ~~During The voir dire of the trial jury;~~

23           (e) ~~At any Any evidentiary hearing;~~

24           (f) ~~At any Any view by the jury;~~

25           (g) ~~When the jury returns its The return of the jury's verdict;~~

**SENATE BILL 82**

1           (h) ~~At the pronouncement~~ The granting of judgment and the imposition of  
2 sentence;

3           (j) ~~At any~~ Any other proceeding when ordered by the court.

4           **SECTION 706.** 971.04 (2) of the statutes is renumbered 967.13 (2) and amended  
5 to read:

6           967.13 (2) A defendant charged with a misdemeanor may authorize his or her  
7 attorney in writing to act on ~~his or her~~ the defendant's behalf in any manner and,  
8 with leave of the court, and may be excused from ~~attendance at~~ attending any ~~or all~~  
9 proceedings proceeding except entry of a plea of guilty or no contest, sentencing, or  
10 a proceeding at which a right personal to the defendant is waived.

11           **SECTION 707.** 971.04 (3) of the statutes is renumbered 967.13 (3) and amended  
12 to read:

13           967.13 (3) If the defendant is present ~~at the beginning of the trial~~ when  
14 jeopardy attaches and thereafter, during the progress of the trial or before the verdict  
15 of the jury has been returned into court, voluntarily absents himself or herself from  
16 the presence of the court without leave of the court, the trial or return of verdict of  
17 the jury in the case shall not thereby be postponed or delayed, ~~but~~ and the trial or  
18 submission of said the case to the jury for verdict and the return of verdict thereon,  
19 if required, shall proceed in all respects as though the defendant were present in  
20 court at all times. ~~A defendant need not be present at the pronouncement or entry~~  
21 ~~of an order granting or denying relief under s. 974.02, 974.06, or 974.07. If the~~  
22 ~~defendant is not present, the time for appeal from any order under ss. 974.02, 974.06,~~  
23 ~~and 974.07 shall commence after a copy has been served upon the attorney~~  
24 ~~representing the defendant, or upon the defendant if he or she appeared without~~  
25 ~~counsel. Service of such an order shall be complete upon mailing. A defendant~~

**SENATE BILL 82**

1 ~~appearing without counsel shall supply the court with his or her current mailing~~  
2 ~~address. If the defendant fails to supply the court with a current and accurate~~  
3 ~~mailing address, failure to receive a copy of the order granting or denying relief shall~~  
4 ~~not be a ground for tolling the time in which an appeal must be taken.~~

5 **SECTION 708.** 971.042 (7) (intro.) of the statutes is created to read:

6 971.042 (7) (intro.) At the preliminary examination, the court shall do one of  
7 the following:

8 **SECTION 709.** 971.05 of the statutes is renumbered 970.17, and 970.17 (2) and  
9 (4), as renumbered, are amended to read:

10 970.17 (2) If the defendant appears for arraignment without counsel, the court  
11 shall advise the defendant of the defendant's right to counsel as provided in s. 970.02  
12 971.027 (1).

13 (4) The defendant then shall plead unless in accordance with s. ~~971.31~~ 971.65  
14 the defendant has filed a motion which requires determination before the entry of  
15 a plea. The court may extend the time for the filing of such motion.

16 **SECTION 710.** Subchapter II (title) of chapter 971 [precedes 971.06] of the  
17 statutes is created to read:

**CHAPTER 971**

## SUBCHAPTER II

## PLEAS

21 **SECTION 711.** 971.06 (1) (title) of the statutes is created to read:

22 971.06 (1) (title) TYPES OF PLEAS.

23 **SECTION 712.** 971.06 (1) (a), (b) and (c) of the statutes are amended to read:

24 971.06 (1) (a) Guilty, which means that the defendant admits the facts  
25 necessary to constitute the crime.

**SENATE BILL 82**

1           (b) Not guilty, which means that the defendant denies the facts necessary to  
2 constitute the crime. A plea of not guilty requires the state to prove the facts  
3 necessary to constitute the crime beyond a reasonable doubt.

4           (c) ~~No contest, subject to the approval of the court~~ which means that the  
5 defendant does not contest the state's ability to prove the facts necessary to  
6 constitute the crime. The court may refuse to allow the entry of a no contest plea after  
7 consideration of the views of the parties and the public interest in the administration  
8 of justice.

9           **SECTION 713.** 971.06 (1) (d) of the statutes is repealed.

10          **SECTION 714.** 971.06 (2) of the statutes is repealed.

11          **SECTION 715.** 971.06 (3) of the statutes is repealed.

12          **SECTION 716.** 971.06 (4) of the statutes is created to read:

13          **971.06 (4) JOINING A PLEA OF NOT GUILTY BY REASON OF MENTAL DISEASE OR DEFECT**  
14 **WITH ANOTHER PLEA.** (a) A defendant may enter a plea of not guilty by reason of mental  
15 disease or defect, which means that at the time of the crime, as a result of mental  
16 disease or defect, the defendant lacked substantial capacity either to appreciate the  
17 wrongfulness of his or her conduct or to conform his or her conduct to the  
18 requirements of law. A defendant who enters a plea of not guilty by reason of mental  
19 disease or defect shall join the plea of not guilty by reason of mental disease or defect  
20 with one of the pleas under sub. (1).

21          (b) If a defendant joins a plea of not guilty by reason of mental disease or defect  
22 with a plea of not guilty, there shall be a separation of the trial of the issues of guilt  
23 and responsibility as provided in s. 975.52 (2) (a).

24          (c) If the defendant joins a plea of not guilty by reason of mental disease or  
25 defect with a plea of guilty or no contest, the court shall first determine whether to

**SENATE BILL 82**

1 accept the plea of guilty or no contest under s. 975.52 (1). If the plea of guilty or no  
2 contest is accepted, the court shall withhold entry of a judgment of conviction  
3 pending determination of the issue of responsibility, by the court or by a jury, under  
4 s. 975.52 (2). Judgment shall be entered as provided in s. 975.52 (4).

5 **SECTION 717.** 971.065 of the statutes is created to read:

6 **971.065 Plea agreements. (1)** The district attorney and the defendant may  
7 participate in discussions to reach an agreement that if the defendant enters a plea  
8 of guilty or no contest the district attorney shall take or refrain from taking certain  
9 actions, including one or more of the following:

10 (a) Moving to dismiss or amend one or more charges.

11 (b) Reading in any crime that is uncharged or that is dismissed as part of the  
12 agreement.

13 (c) Recommending, or agreeing not to oppose the defendant's request for, a  
14 particular disposition.

15 (d) Agreeing that a specific disposition is appropriate.

16 **(2)** The court may not participate in discussions to reach an agreement under  
17 this section.

18 **SECTION 718.** 971.07 of the statutes is repealed.

19 **SECTION 719.** 971.08 (title) of the statutes is amended to read:

20 **971.08** (title) **Pleas Accepting pleas of guilty and or no contest;**  
21 **withdrawal thereof.**

22 **SECTION 720.** 971.08 (1) (a) of the statutes is renumbered 971.08 (1) (ar) and  
23 amended to read:

24 971.08 **(1)** (ar) Address the defendant personally and determine that the  
25 defendant is making the plea is made knowingly, voluntarily, and with

**SENATE BILL 82**

1 understanding of the meaning and effect of the plea, the nature of the charge crime  
2 to which the plea is entered, and the potential punishment if convicted.

3 **SECTION 721.** 971.08 (1) (ag) of the statutes is created to read:

4 971.08 (1) (ag) Require the parties to disclose any plea agreement in open court  
5 or, on a showing of good cause, in camera. Before accepting the plea, the court may  
6 express any reservations it has concerning the appropriateness of any recommended  
7 disposition and shall advise the defendant personally that the court is not bound by  
8 the terms of the plea agreement.

9 **SECTION 722.** 971.08 (1) (am) of the statutes is created to read:

10 971.08 (1) (am) Ask the defendant to state his or her plea on the record.

11 **SECTION 723.** 971.08 (1) (b) of the statutes is repealed and recreated to read:

12 971.08 (1) (b) Make an inquiry sufficient to satisfy the court that there is a  
13 factual basis for a judgment of conviction of the crime to which the plea is entered.

14 **SECTION 724.** 971.08 (1) (d) of the statutes is amended to read:

15 971.08 (1) (d) Inquire of the district attorney whether he or she has complied  
16 with s. 971.095 (2) and (3).

17 **SECTION 725.** 971.08 (3) of the statutes is repealed.

18 **SECTION 726.** 971.085 (title) and (1) (intro.) of the statutes are created to read:

19 **971.085 (title) Effect of a plea of guilty or no contest. (1) (intro.)** A plea  
20 of guilty or no contest forfeits all nonjurisdictional defects and defenses that occur  
21 prior to the plea except that the following may be reviewed upon appeal from a final  
22 order or judgment:

23 **SECTION 727.** 971.085 (1) (b) of the statutes is created to read:

**SENATE BILL 82**

1           971.085 (1) (b) An order denying a motion to dismiss asserting that the statute  
2 under which the defendant is charged violates the United States or the Wisconsin  
3 constitution.

4           **SECTION 728.** 971.085 (2) of the statutes is created to read:

5           971.085 (2) The court shall permit a defendant who prevails on an appeal of  
6 an order under sub. (1) (a) or (b) to withdraw his or her plea.

7           **SECTION 729.** 971.09 of the statutes is repealed and recreated to read:

8           **971.09 Consolidation; plea to or read-in of crimes committed in several**  
9 **counties. (1) IN GENERAL.** Consolidation refers to the process by which charged or  
10 uncharged crimes pending in more than one county are resolved in a single  
11 proceeding in one county. Consolidation is a voluntary procedure, requiring the  
12 consent of the defendant and the district attorneys for all counties whose charges are  
13 resolved. Consolidated charged or uncharged crimes shall be resolved by the entry  
14 of a plea of guilty or no contest or by an agreement that charged or uncharged crimes  
15 be treated as read-in crimes. A defendant who has already been convicted of but not  
16 sentenced for a crime may apply for consolidation of any pending or uncharged crime  
17 committed.

18           **(2) APPLICATION FOR CONSOLIDATION.** A defendant may apply to the district  
19 attorney for a county in which a charge against the defendant is pending to resolve  
20 in a single proceeding in one county any pending cases. In the application, the  
21 defendant shall describe with particularity all the crimes that the defendant seeks  
22 to resolve in the single proceeding, indicate the county in which each of the crimes  
23 was committed, and indicate the county in which the defendant requests final  
24 disposition.



**SENATE BILL 82**

1           **(3) NOTICE AND CONSENT.** A district attorney who receives an application under  
2 sub. (2) shall send a copy of the application to the district attorney for each county  
3 in which a crime indicated in the application was committed. A district attorney who  
4 receives a copy of the application may execute a written consent to having any crime  
5 indicated in the application that is subject to disposition in his or her county resolved  
6 in a proceeding in another county. If a district attorney does not consent to having  
7 a crime that is subject to disposition in his or her county resolved in another county,  
8 the crime may not be resolved under this section.

9           **(4) AMENDING THE CHARGE; PLEA; READ-IN CRIMES.** (a) If the district attorney to  
10 whom the defendant submitted the application under sub. (2) consents to resolving  
11 a case that is subject to disposition in his or her county in a single proceeding under  
12 this section, the district attorney shall file an amended complaint that charges the  
13 defendant with all crimes identified in consents executed under sub. (3) that are not  
14 to be treated as read-in crimes.

15           (b) To resolve crimes charged in the amended complaint under par. (a) in a  
16 single proceeding, the defendant shall waive in writing or on the record any right to  
17 be tried in the county in which a crime charged in the amended complaint was  
18 committed and enter a plea of guilty or no contest to each crime charged in the  
19 amended complaint.

20           (c) To resolve read-in crimes under this section, the defendant shall affirm his  
21 or her agreement to having the crimes considered at sentencing.

22           (d) A district attorney who executed a consent under sub. (3) need not be  
23 present when the defendant enters his or her plea but the district attorney's written  
24 consent shall be filed with the court.

**SENATE BILL 82**

1 (e) A charge that originated in a county may not be amended or dismissed  
2 without prior written approval of the district attorney for the county in which the  
3 charge originated.

4 (5) JUDGMENT. If it accepts the defendant's plea, the court shall enter judgment  
5 and sentence the defendant as though all crimes charged in the amended complaint  
6 were alleged to have been committed in the county where judgment is entered and  
7 may consider at sentencing any read-in crimes affirmed under sub. (4) (c). The clerk  
8 of the court for the county in which judgment is entered shall file a copy of the  
9 judgment of conviction with the clerk of the court for each other county in which  
10 charges addressed in the judgment or treated as read-in crimes originated. The  
11 district attorney for each of the other counties shall then move to dismiss any charges  
12 that are pending in his or her county against the defendant for charges addressed  
13 in the judgment or as treated as read-in crimes.

14 (6) RIGHTS OF CRIME VICTIMS. The duties of the district attorney under ch. 950  
15 and s. 971.095 shall be discharged by the district attorney for the county in which the  
16 crimes occurred, unless otherwise agreed to by the participating district attorneys.

17 (7) PROSECUTION COSTS. The county in which the plea is made shall pay the costs  
18 of prosecution if the defendant does not pay them, and is entitled to retain fees for  
19 receiving and paying to the state any fine that the defendant may pay. The clerk  
20 where the plea is made shall file a copy of the judgment of conviction with the clerk  
21 in each county where a crime covered by the plea was committed. The district  
22 attorney shall then move to dismiss any charges covered by the plea of guilty, which  
23 are pending against the defendant in the district attorney's county, and the charges  
24 shall be dismissed.

25 **SECTION 730.** 971.093 of the statutes is created to read:

**SENATE BILL 82**

1           **971.093 Withdrawal of a plea of guilty or no contest. (1)** BEFORE  
2 SENTENCING. Unless the district attorney establishes substantial prejudice, the court  
3 shall grant a motion that is made before sentencing to withdraw a plea of guilty or  
4 no contest if a fair and just reason for doing so is established.

5           **(2) AFTER SENTENCING.** The court shall grant a motion that is made after  
6 sentencing to withdraw a plea of guilty or no contest if the defendant did not  
7 knowingly, voluntarily, and understandingly enter the plea or if withdrawal is  
8 required to prevent manifest injustice.

9           **(3) REMEDY.** When the court grants a motion to withdraw a plea of guilty or no  
10 contest under this section, the judgment of conviction is vacated, the original charge  
11 or charges reinstated, and the parties are restored to the position they were in before  
12 the plea and any related plea agreement was accepted.

13           **SECTION 731.** 971.095 (2) and (3) of the statutes are amended to read:

14           **971.095 (2)** In any case in which a defendant has been charged with a crime,  
15 the district attorney shall, as soon as practicable, offer all of the victims in the case  
16 who have so requested ~~the opportunity~~ an opportunity to confer with the district  
17 attorney concerning the prosecution of the case and the possible outcomes of the  
18 prosecution, including potential plea agreements and sentencing recommendations.  
19 The duty to confer under this subsection does not limit the obligation of the district  
20 attorney to exercise his or her discretion concerning the handling of any criminal  
21 charge against the defendant.

22           **(3)** At the request of a victim, a district attorney shall make a reasonable  
23 attempt to provide the victim with notice of the date, time, and place of scheduled  
24 court proceedings ~~in a case involving~~ relating to the prosecution of a crime of which  
25 he or she is a victim and any changes in the date, time, or place of a scheduled court

**SENATE BILL 82**

1 proceeding for which the victim has received notice. This subsection does not apply  
2 to a proceeding held before the initial appearance to set conditions of release under  
3 ch. 969.

4 **SECTION 732.** Subchapter III (title) of chapter 971 [precedes 971.098] of the  
5 statutes is created to read:

**CHAPTER 971****SUBCHAPTER III****SCHEDULING AND EXPEDITION****OF PROCEEDINGS**

6  
7  
8  
9  
10 **SECTION 733.** 971.098 of the statutes is created to read:

11 **971.098 Scheduling orders; pretrial conferences.** After the defendant  
12 enters a plea, the court may issue a scheduling order and may amend it as  
13 circumstances require. The order shall be in writing and may specify times for  
14 discovery, pretrial motions, notices of intent to offer an alibi or another defense  
15 required to be disclosed, pretrial conferences, trial, or other proceedings.

16 **SECTION 734.** 971.10 (1) (title) of the statutes is created to read:

17 971.10 (1) (title) MISDEMEANORS.

18 **SECTION 735.** 971.10 (1) of the statutes is renumbered 971.10 (1) (a) and  
19 amended to read:

20 971.10 (1) (a) In Subject to sub. (3), the trial of a defendant who is in custody  
21 and is charged only with a misdemeanor actions trial shall commence within 60 45  
22 days from the date of the defendant's initial appearance in court.

23 **SECTION 736.** 971.10 (1) (b) of the statutes is created to read:

24 971.10 (1) (b) Subject to sub. (3), the trial of a defendant who is not in custody  
25 and is charged only with a misdemeanor shall commence within 60 days from the

**SENATE BILL 82**

1 date on which any party demands a speedy trial in writing or on the record. A party  
2 who makes a demand in writing shall serve a copy upon the opposing party.

3 **SECTION 737.** 971.10 (2) (a) of the statutes is renumbered 971.10 (2) and  
4 amended to read:

5 971.10 (2) FELONIES. The Subject to sub. (3), the trial of a defendant who is  
6 charged with a felony shall commence within 90 days from the date trial is demanded  
7 by any party on which any party demands a speedy trial in writing or on the record.  
8 If the A party who makes a demand is made in writing, a copy shall be served serve  
9 a copy upon the opposing party. The demand may not be made until at any time after  
10 the filing of the information or indictment.

11 **SECTION 738.** 971.10 (2) (b) of the statutes is renumbered 971.10 (2g) and  
12 amended to read:

13 971.10 (2g) ASSIGNMENT OF ANOTHER JUDGE. If the court is unable to schedule  
14 a timely trial pursuant to par. (a) under sub. (1) or (2), the court shall request  
15 assignment of another judge pursuant to under s. 751.03.

16 **SECTION 739.** 971.10 (2r) of the statutes is created to read:

17 971.10 (2r) INAPPLICABILITY TO DETAINERS. Subsections (1) to (2m) do not apply  
18 to inmates of a state prison.

19 **SECTION 740.** 971.10 (3) (title) of the statutes is created to read:

20 971.10 (3) (title) CONTINUANCES.

21 **SECTION 741.** 971.10 (3) (a) of the statutes is renumbered 971.10 (3) (a) (intro.)  
22 and amended to read:

23 971.10 (3) (a) (intro.) A court may grant a continuance in a case, upon its own  
24 motion or the motion of any party, if all of the following apply:

**SENATE BILL 82**

1           1. ~~The ends of justice served by taking action a continuance~~ outweigh the best  
2 interest of the public and the defendant in a speedy trial. ~~A continuance shall not~~  
3 ~~be granted under this paragraph unless the~~

4           2. ~~The court sets forth, in on the record of the case, either orally or in writing,~~  
5 its reasons for finding that ~~the ends of justice served by the granting of the~~  
6 ~~continuance outweigh the best interests of the public and the defendant in a speedy~~  
7 ~~trial subd. 1. applies.~~

8           **SECTION 742.** 971.10 (3) (b) (intro.), 1. and 2. of the statutes are amended to  
9 read:

10           971.10 (3) (b) (intro.) ~~The factors, among others, which the court shall~~  
11 ~~consider in In~~ determining whether to grant a continuance under par. (a) ~~are, the~~  
12 court shall consider at least the following factors:

13           1. Whether the failure to grant the a continuance in the proceeding would be  
14 likely to make ~~a continuation of the proceeding~~ it impossible to continue the  
15 proceeding or result in a miscarriage of justice.

16           2. Whether the case taken as a whole is so unusual and so complex, due to the  
17 number of defendants ~~or~~, the nature of the prosecution, or otherwise, that it is  
18 unreasonable to expect adequate preparation within the periods of time established  
19 by this section.

20           **SECTION 743.** 971.10 (3) (c) of the statutes is amended to read:

21           971.10 (3) (c) ~~No~~ A court may not grant a continuance under par. (a) ~~may be~~  
22 ~~granted~~ because of general congestion of the court's calendar ~~or~~, the state's lack of  
23 diligent preparation, or the state's failure to obtain available witnesses ~~on the part~~  
24 ~~of the state.~~

**SENATE BILL 82**

1           **SECTION 744.** 971.10 (4) of the statutes is renumbered 971.10 (2m) and  
2 amended to read:

3           971.10 (2m) REMEDY. ~~Every~~ If a defendant is not tried in accordance with on  
4 time under this section, the court shall be discharged release him or her from custody  
5 ~~but the obligations of the bond or other~~ and remove any monetary conditions of  
6 release of a defendant imposed as a result of the charge for which the time limit is  
7 exceeded. Nonmonetary conditions shall continue until modified or until the bond  
8 is released or the conditions removed or may be imposed.

9           **SECTION 745.** 971.105 of the statutes is amended to read:

10           **971.105 Child victims and witnesses; duty to expedite proceedings.** In  
11 all criminal and delinquency cases, ~~juvenile fact-finding hearings under s. 48.31 and~~  
12 ~~juvenile dispositional hearings involving a child~~ as a victim, as defined in s. 950.02  
13 (4), or as a witness, as defined in s. 950.02 (5), the court and the district attorney shall  
14 take appropriate action to ensure a speedy trial in order to minimize the length of  
15 time the child must endure the stress of the child's his or her involvement in the  
16 proceeding. In ruling on any motion or other request for a delay or continuance of  
17 proceedings, the court shall consider and give weight to any adverse impact the delay  
18 or continuance may have on the well-being of a child victim or witness.

19           **SECTION 746.** 971.11 (1) of the statutes is amended to read:

20           971.11 (1) Whenever the warden or superintendent of a state prison receives  
21 notice of an untried criminal case pending in this state against an inmate of ~~a state~~  
22 the prison, the warden or superintendent shall, at the request of the inmate, send  
23 by certified mail a written request to the district attorney for prompt disposition of  
24 the case. The request shall state the sentence then being served, and the date of the  
25 inmate's parole eligibility, ~~if applicable, or the date of release~~ on which the inmate

**SENATE BILL 82**

1 will be released to extended supervision, or the approximate discharge or conditional  
2 release date, and prior decision relating to parole date on which the inmate will be  
3 discharged. If the inmate is already eligible for parole, the request shall describe any  
4 prior decision relating to parole. If there has been no preliminary examination on  
5 the pending case, the request shall state whether the inmate waives such the  
6 preliminary examination, and, if so, shall be accompanied by a written waiver signed  
7 by the inmate.

8 **SECTION 747.** 971.11 (2) and (3) of the statutes are consolidated, renumbered  
9 971.11 (2) and amended to read:

10 971.11 (2) If the crime charged in the pending case is a felony, the district  
11 attorney shall either move to dismiss the ~~pending~~ case or arrange a date for  
12 preliminary examination as soon as convenient and notify the warden or  
13 superintendent of the ~~prison thereof~~, date unless ~~such the preliminary~~ examination  
14 has already been held or has been waived. After the preliminary examination or  
15 upon waiver ~~thereof~~ of the preliminary examination, the district attorney shall file  
16 an information, unless it has already been filed, and mail a copy ~~thereof~~ of the  
17 information to the warden or superintendent for service on the inmate. The district  
18 attorney shall bring the case on for trial within 120 days after ~~receipt of~~ receiving the  
19 request, subject to s. 971.10. ~~(3) (3)~~. If the crime charged in the pending case is a  
20 misdemeanor, the district attorney shall either move to dismiss the ~~charge~~ case or  
21 bring it on for trial within 90 days after ~~receipt of~~ receiving the request.

22 **SECTION 748.** 971.11 (5) of the statutes is amended to read:

23 971.11 (5) If the defendant wishes to plead guilty to cases pending in more than  
24 one county, the ~~several~~ district attorneys involved may agree with the defendant and



**SENATE BILL 82**

1 among themselves for all such pleas to be received in the appropriate court of one of  
2 such counties, and s. 971.09 shall govern the procedure thereon so far as applicable.

3 **SECTION 749.** 971.11 (6) of the statutes is amended to read:

4 971.11 (6) The prisoner shall be delivered warden or superintendent of the  
5 prison shall deliver the inmate into the custody of the sheriff of the county in which  
6 the charge is pending for transportation to the court, and the prisoner shall be  
7 retained in that sheriff shall retain custody of the inmate during all proceedings  
8 under this section. The sheriff shall return the prisoner inmate to the prison upon  
9 the completion of the proceedings and during any adjournments or continuances and  
10 between the preliminary examination and the trial, except that, if the department  
11 of corrections certifies a jail as being suitable to detain the prisoner inmate, he or she  
12 may be detained there until the court disposes of the case. The prisoner's inmate's  
13 existing sentence continues to run and he or she receives time credit under s. 302.11  
14 while in custody.

15 **SECTION 750.** 971.11 (7) of the statutes is amended to read:

16 971.11 (7) If the district attorney moves to dismiss any pending case ~~or if it is~~  
17 ~~not brought on for trial to which a request under sub. (1) relates or does not bring the~~  
18 case on for trial within the time specified in sub. (2) ~~or (3)~~, the case court shall be  
19 ~~dismissed~~ dismiss the case unless the defendant has escaped or otherwise prevented  
20 the trial, in which case the request for disposition of the case shall be deemed  
21 withdrawn and of no further legal effect. ~~Nothing in this section prevents a trial after~~  
22 ~~the period specified in sub. (2) or (3) if a trial commenced within such period~~  
23 ~~terminates in a mistrial or a new trial is granted.~~

24 **SECTION 751.** 971.12 (title) of the statutes is renumbered 970.13 (title).

**SENATE BILL 82**

1           **SECTION 752.** 971.12 (1) and (2) of the statutes are renumbered 970.13 (1)  
2 (intro.) and (2) and amended to read:

3           970.13 (1) JOINDER OF CRIMES. (intro.) Two or more crimes may be charged in  
4 the same complaint, or information or indictment in a separate count for each crime  
5 if the crimes charged, whether felonies or misdemeanors, or both, if each is described  
6 in a separate count and if any of the following applies:

7           (a) The crimes are of the same or similar character ~~or,~~

8           (b) The crimes are based on the same act or transaction ~~or on 2.~~

9           (c) The crimes are based on 2 or more acts or transactions connected together  
10 or constituting parts of a common scheme or plan. ~~When a misdemeanor is joined~~  
11 ~~with a felony, the trial shall be in the court with jurisdiction to try the felony.~~

12           **(2) JOINDER OF DEFENDANTS.** Two or more defendants may be charged in the  
13 same complaint, or information or indictment if they are alleged to have participated  
14 in the same act or transaction or in the same series of acts or transactions  
15 constituting one or more crimes. Such defendants may be charged in one or more  
16 counts together or separately ~~and all of the defendants need not be charged in each~~  
17 ~~count.~~

18           **SECTION 753.** 971.12 (3) of the statutes is renumbered 971.68 (2) and amended  
19 to read:

20           971.68 (2) RELIEF FROM PREJUDICIAL JOINDER. If it appears that a defendant or  
21 the state is prejudiced by a joinder of crimes or of defendants ~~in a complaint,~~  
22 ~~information or indictment or by such joinder for trial together,~~ the court may order  
23 separate trials of counts, ~~grant a severance of~~ charges or defendants or provide  
24 whatever other relief justice requires. ~~The district attorney shall advise the court~~  
25 ~~prior to trial if the district attorney intends to use the statement of a codefendant~~

**SENATE BILL 82**

1 ~~which implicates another defendant in the crime charged. Thereupon, the judge~~  
2 ~~shall grant a severance as to any such defendant.~~

3 **SECTION 754.** 971.12 (4) of the statutes is renumbered 971.67, and 971.67  
4 (title), as renumbered, is amended to read:

5 **971.67** (title) ~~Trial together~~ **Joint trial of separate charges.**

6 **SECTION 755.** 971.13 of the statutes is renumbered 975.30, and 975.30 (3) and  
7 (4), as renumbered, are amended to read:

8 975.30 (3) The fact that a defendant is not competent to proceed does not  
9 preclude any legal objection to the prosecution under s. ~~971.31 which~~ 971.65 that is  
10 susceptible of fair determination prior to trial and without the personal participation  
11 of the defendant.

12 (4) The fact that a defendant is not competent to proceed does not preclude a  
13 hearing under s. ~~968.38~~ 968.725 (4) or (5) unless the court cannot fairly make the  
14 probable cause finding required to be made at the hearing cannot be fairly made  
15 under s. 968.725 (4) or (5), whichever is applicable, without the personal  
16 participation of the defendant.

17 **SECTION 756.** 971.14 (title) of the statutes is repealed.

18 **SECTION 757.** 971.14 (1g) of the statutes is repealed.

19 **SECTION 758.** 971.14 (1r) (title) of the statutes is repealed.

20 **SECTION 759.** 971.14 (1r) (a) of the statutes is renumbered 975.31 (1).

21 **SECTION 760.** 971.14 (1r) (b) of the statutes is renumbered 975.31 (3) and  
22 amended to read:

23 975.31 (3) If reason to doubt a defendant's competency to proceed arises after  
24 ~~the defendant has been bound over for trial after a preliminary examination, or after~~  
25 ~~a finding of guilty has been rendered by the jury or made by the court, a~~ guilt, no

**SENATE BILL 82**

1 probable cause determination shall not be finding is required and the court shall  
2 proceed order an examination of the defendant under sub. (2) s. 975.32.

3 **SECTION 761.** 971.14 (1r) (c) of the statutes is renumbered 975.31 (2) and  
4 amended to read:

5 975.31 (2) Except as provided in ~~par. (b)~~ sub. (3), the court shall not proceed  
6 under ~~sub. (2)~~ s. 975.32 until it has found that it is probable that the defendant  
7 committed the offense charged. The finding may be based upon the complaint or, if  
8 the defendant submits an affidavit alleging with particularity that the averments of  
9 the complaint are materially false, upon the complaint and the evidence presented  
10 at a hearing ordered by the court. The defendant may call and cross-examine  
11 witnesses at a hearing under this ~~paragraph~~ subsection but the court shall limit the  
12 issues and witnesses to those required for determining probable cause. Upon a  
13 showing by the proponent of good cause under s. 807.13 (2) (c), testimony may be  
14 received into the record of the hearing by telephone or live audiovisual means. If the  
15 court finds that any charge lacks probable cause, it shall dismiss the charge without  
16 prejudice and release the defendant except as provided in s. ~~971.31 (6)~~ 971.65 (5).

17 **SECTION 762.** 971.14 (2) (title) of the statutes is repealed.

18 **SECTION 763.** 971.14 (2) (a) of the statutes is renumbered 975.32 (1) and  
19 amended to read:

20 975.32 (1) If an examination of a defendant is required under s. 975.31, the  
21 court shall order an examination into competency. The court shall may order the  
22 department to conduct the examination or may appoint one or more examiners  
23 having the specialized knowledge determined by the court to be appropriate to  
24 examine and report upon the condition of the defendant. ~~If an inpatient examination~~  
25 ~~is determined by the court to be necessary, the defendant may be committed to a~~

**SENATE BILL 82**

1 ~~suitable mental health facility for the examination period specified in par. (c), which~~  
2 ~~shall be deemed days spent in custody under s. 973.155. If the examination is to be~~  
3 ~~conducted by the department, the court shall order the individual to the facility~~  
4 ~~designated by the department~~ the court orders the department to conduct an  
5 examination, the department may select the examiner.

6 **SECTION 764.** 971.14 (2) (am) of the statutes is repealed.

7 **SECTION 765.** 971.14 (2) (b) of the statutes is renumbered 975.32 (3) and  
8 amended to read:

9 975.32 (3) If the defendant has been released on bail from custody, the court  
10 shall order an outpatient examination, except that the court may not order an  
11 involuntary inpatient examination unless if the defendant consents to an inpatient  
12 examination, the defendant fails to cooperate in the an outpatient examination, or  
13 the examiner informs the court that inpatient observation is necessary for an  
14 adequate examination.

15 **SECTION 766.** 971.14 (2) (c) of the statutes is renumbered 975.32 (6) (a) and  
16 amended to read:

17 975.32 (6) (a) ~~Inpatient examinations shall be completed and the report of~~  
18 ~~examination filed~~ An examiner ordered to conduct an inpatient examination under  
19 this section shall complete the examination and file a report of the examination  
20 within 15 days after the examination is ordered or as specified in par. (am),  
21 whichever is applicable, unless, for good cause, the facility or examiner appointed by  
22 the court cannot complete the examination within this period and requests an  
23 extension. In that case, if the department is the examiner, within 15 days after the  
24 defendant arrives at the inpatient facility. If the examiner cannot complete the  
25 examination within 15 days and requests an extension, the court may for good cause

**SENATE BILL 82**

1 allow one 15-day extension of the examination period. ~~Outpatient examinations~~  
2 ~~shall be completed and the report of examination filed~~

3 (b) An examiner ordered to conduct an outpatient examination under this  
4 section shall complete the examination and file a report of the examination within  
5 30 days after the examination is ordered.

6 **SECTION 767.** 971.14 (2) (d) of the statutes is renumbered 975.32 (5) and  
7 amended to read:

8 975.32 (5) ~~If the court orders that the examination be conducted on an inpatient~~  
9 ~~basis~~ a defendant in custody is subject to an inpatient examination ordered under  
10 this section, the sheriff of the county in which the court that ordered the examination  
11 is located shall transport any the defendant ~~not free on bail~~ to the examining facility  
12 where the examination will take place within a reasonable time after the  
13 examination is ordered and shall transport return the defendant ~~to the jail~~ within  
14 a reasonable time after the examination is completed. The examining facility shall  
15 notify the sheriff and county the department of community programs of for the  
16 county in which the court is located receive notice from the examining facility that  
17 when the examination has been is completed.

18 **SECTION 768.** 971.14 (2) (e) of the statutes is renumbered 975.32 (8) and  
19 amended to read:

20 975.32 (8) The An examiner shall personally observe and examine the  
21 defendant and shall have access to his or her the defendant's past or and present  
22 treatment records, as defined under s. 51.30 (1) (b).

23 **SECTION 769.** 971.14 (2) (f) of the statutes is renumbered 975.32 (9).

24 **SECTION 770.** 971.14 (2) (g) of the statutes is renumbered 975.32 (11) and  
25 amended to read:

**SENATE BILL 82**

1           975.32 (11) The defendant also may be examined for competency purposes at  
2           any stage of the competency proceedings by ~~physicians or other experts~~ designated  
3           by the court or chosen by the defendant or ~~by~~ the district attorney, who shall be  
4           permitted reasonable access to the defendant for purposes of the examination. Any  
5           party who intends to call an expert designated or chosen under this subsection as a  
6           witness shall furnish a copy of the expert's report to the opposing party within a  
7           reasonable period of time.

8           **SECTION 771.** 971.14 (3) (intro.) of the statutes is renumbered 975.33 (1) (intro.)  
9           and amended to read:

10           975.33 (1) ~~REPORT~~ CONTENTS. (intro.) The Each court-appointed examiner  
11           shall submit to the court a written report ~~which shall include~~ that includes all of the  
12           following:

13           **SECTION 772.** 971.14 (3) (a) and (b) of the statutes are renumbered 975.33 (1)  
14           (a) and (b).

15           **SECTION 773.** 971.14 (3) (c) of the statutes is renumbered 975.33 (1) (c) and  
16           amended to read:

17           975.33 (1) (c) The examiner's opinion regarding the defendant's present mental  
18           capacity to understand the criminal proceedings and assist in his or her defense.

19           **SECTION 774.** 971.14 (3) (d) of the statutes is renumbered 975.33 (1) (d) (intro.)  
20           and amended to read:

21           975.33 (1) (d) (intro.) If the examiner reports that the defendant ~~lacks~~  
22           ~~competency, the~~ is not competent to proceed, all of the following:

23           1. The examiner's opinion regarding the likelihood that the defendant, if  
24           provided treatment, may ~~be restored to competency~~ become competent within the

**SENATE BILL 82**

1 ~~time maximum period permitted under sub. (5) (a). The examiner shall provide an~~  
2 ~~of commitment, as defined in s. 975.34 (6) (a).~~

3 ~~2. The examiner's opinion as to whether the defendant's treatment should~~  
4 ~~occur be provided in an inpatient facility designated by the department, in a~~  
5 ~~community-based treatment program under the supervision of the department, or~~  
6 ~~in a jail or a locked unit of a facility that has entered into a voluntary agreement with~~  
7 ~~the state to serve as a location for treatment.~~

8 **SECTION 775.** 971.14 (3) (dm) (intro.) of the statutes is renumbered 975.33 (1)  
9 (e) and amended to read:

10 975.33 (1) (e) If sufficient information is available to the examiner to reach an  
11 opinion, the examiner's opinion on whether the defendant needs medication or  
12 treatment and whether the defendant is not competent to refuse medication or  
13 treatment. ~~The defendant is not competent to refuse medication or treatment if,~~  
14 ~~because of mental illness, developmental disability, alcoholism or drug dependence,~~  
15 ~~and after the advantages and disadvantages of and alternatives to accepting the~~  
16 ~~particular medication or treatment have been explained to the defendant, one of the~~  
17 ~~following is true:~~

18 **SECTION 776.** 971.14 (3) (dm) 1. and 2. of the statutes are repealed.

19 **SECTION 777.** 971.14 (3) (e) of the statutes is renumbered 975.33 (1) (g) and  
20 amended to read:

21 975.33 (1) (g) The facts and reasoning, in reasonable detail, upon which the  
22 required findings and opinions ~~under pars. (b) to (dm)~~ are based.

23 **SECTION 778.** 971.14 (4) (title) of the statutes is repealed.

24 **SECTION 779.** 971.14 (4) (a) of the statutes is renumbered 975.33 (2) and  
25 amended to read:



**SENATE BILL 82**

1           975.33 (2) DISCLOSURE. The court shall cause copies of the examiner's report  
2 to be delivered forthwith immediately to the district attorney and the defense  
3 counsel, to the defendant's attorney or the defendant personally if not represented  
4 by counsel. Upon the request of the sheriff or jailer charged with care and control  
5 of the jail in which the defendant is being held pending or during a trial or sentencing  
6 proceeding, the court shall cause a copy of the report to be delivered to the sheriff or  
7 jailer. The sheriff or jailer may provide a copy of the report to the person who is  
8 responsible for maintaining medical records for inmates of the jail, or to a nurse  
9 licensed under ch. 441, or to a physician or physician assistant licensed under subch.  
10 II of ch. 448 who is a health care provider for the defendant or who is responsible for  
11 providing health care services to inmates of the jail. The report shall not be otherwise  
12 disclosed ~~prior to~~ before the hearing under ~~this subsection~~ s. 975.34.

13           **SECTION 780.** 971.14 (4) (b) of the statutes is repealed.

14           **SECTION 781.** 971.14 (4) (c) of the statutes is repealed.

15           **SECTION 782.** 971.14 (4) (d) of the statutes is repealed.

16           **SECTION 783.** 971.14 (5) (title) of the statutes is repealed.

17           **SECTION 784.** 971.14 (5) (a) 1., 2. and 3. of the statutes are renumbered 975.34

18 (7) (a), (b) and (c) and amended to read:

19           975.34 (7) (a) ~~If the court determines that the defendant is not competent but~~  
20 ~~is likely to become competent within the period specified in this paragraph if~~  
21 ~~provided with appropriate treatment~~ sub. (6) (b) 3. applies, the court shall suspend  
22 ~~the proceedings and~~ commit the defendant to the custody of the department for  
23 treatment for a period not to exceed ~~12 months, or the maximum sentence specified~~  
24 ~~for the most serious offense with which the defendant is charged, whichever is less~~  
25 the maximum period of commitment, as defined in sub. (6) (a). The department shall

**SENATE BILL 82**

1 determine whether the defendant will receive treatment in an appropriate  
2 institution designated by the department, while under the supervision of the  
3 department in a community-based treatment program under contract with the  
4 department, or in a jail or a locked unit of a facility that has entered into a voluntary  
5 agreement with the state to serve as a location for treatment. The sheriff shall  
6 transport the defendant to the institution, program, jail, or facility, as determined  
7 by the department.

8 (b) If, under ~~subd. 1. par. (a)~~, the department commences ~~services~~ treatment  
9 to a defendant in jail or in a locked unit, the department shall, as soon as possible,  
10 transfer the defendant to an institution or provide ~~services~~ treatment to the  
11 defendant in a community-based treatment program consistent with this  
12 subsection. The court shall order a defendant who is committed under this  
13 subsection to undergo periodic reexaminations as provided in s. 975.36.

14 (c) Days spent in commitment under this ~~paragraph~~ subsection are considered  
15 days spent in custody under s. 973.155. The court shall make and enter a specific  
16 finding of the number of days spent in custody and include that finding in the  
17 commitment order.

18 **SECTION 785.** 971.14 (5) (a) 4. of the statutes is renumbered 975.34 (7) (d) and  
19 amended to read:

20 975.34 (7) (d) A defendant under the supervision of the department placed  
21 under this ~~paragraph~~ subsection in a community-based treatment program is in the  
22 custody and control of the department, subject to any conditions set by the  
23 department. If the department believes that the defendant under supervision has  
24 violated a condition, or that permitting the defendant to remain in the community  
25 jeopardizes the safety of the defendant or another person, the department may

**SENATE BILL 82**

1 designate an institution at which the treatment shall occur and may request that the  
2 court reinstate the proceedings, order the defendant transported by the sheriff to the  
3 designated institution, and ~~suspend proceedings~~ commit the defendant to custody  
4 consistent with subd. 1. par. (a).

5 **SECTION 786.** 971.14 (5) (am) of the statutes is renumbered 975.35 and  
6 amended to read:

7 **975.35 Post-commitment motion on capacity to refuse medication or**  
8 **treatment.** ~~If the a defendant committed under s. 975.34 (7) is not subject to a court~~  
9 ~~order determining finding the defendant to be not competent to refuse medication or~~  
10 ~~treatment for the defendant's mental condition and if the department determines~~  
11 ~~that the defendant should be subject to such a court order, the department may file~~  
12 ~~a motion with the court, with notice to the counsel for the defendant, the defendant,~~  
13 ~~and the district attorney, a motion for a hearing, under the standard specified in sub.~~  
14 ~~(3) (dm), on to determine whether the defendant is not competent to refuse~~  
15 ~~medication or treatment. A report on which the motion is based shall accompany~~  
16 ~~the motion and notice of motion and shall include a statement The department shall~~  
17 ~~submit with the motion a report that is based on an examination of the defendant by~~  
18 ~~a licensed physician, that is signed by a licensed physician, and that asserts that the~~  
19 ~~defendant needs medication or treatment and that the defendant is not competent~~  
20 ~~to refuse medication or treatment, based on an examination of the defendant by a~~  
21 ~~licensed physician. The department shall provide notice of any motion filed under~~  
22 ~~this section, and a copy of the report submitted with the motion, to the defendant,~~  
23 ~~the defendant's attorney, and the district attorney. Within 10 days after the~~  
24 ~~department files a motion is filed under this paragraph section, the court shall, under~~  
25 ~~the procedures and standards specified in sub. (4) (b), hold a hearing without a jury~~

**SENATE BILL 82**

1 ~~to determine whether the defendant's competency~~ defendant is not competent to  
2 ~~refuse medication or treatment for the defendant's mental condition. At the hearing,~~  
3 the department must prove by clear and convincing evidence that the defendant is  
4 not competent to refuse medication or treatment. At the request of the defendant,  
5 the defendant's ~~counsel~~ attorney, or the district attorney, the hearing may be  
6 postponed, but in no case may the postponed hearing be held more than 20 days after  
7 a motion is filed under this ~~paragraph~~ section.

8 **SECTION 787.** 971.14 (5) (b) of the statutes is renumbered 975.36 (1) and  
9 amended to read:

10 975.36 (1) REEXAMINATION TIME LIMITS. The ~~defendant~~ department shall be  
11 periodically reexamined ~~by the department examiners.~~ Written reports of  
12 examination shall be furnished to the court reexamine a defendant who remains  
13 committed under s. 975.34 (7), and at 3 months after commitment, 6 months after  
14 commitment, and 9 months after commitment and within 30 days prior to before the  
15 expiration of the commitment. ~~Each order shall submit a written report to the court~~  
16 on the defendant's mental condition. In each report, the department shall indicate  
17 either that whether the defendant has become competent, that the defendant  
18 remains incompetent but that attainment of competency to proceed and, if the  
19 defendant has not become competent, whether the defendant is likely to become  
20 competent within the remaining commitment period, or that the defendant has not  
21 made such progress that attainment of competency is likely within the remaining  
22 commitment period. Any report indicating such a lack of sufficient progress shall  
23 include the examiner's opinion regarding whether the defendant is mentally ill,  
24 alcoholic, drug dependent, developmentally disabled or infirm because of aging or  
25 other like incapacities. If the defendant is not likely to become competent within the

**SENATE BILL 82**

1 remaining commitment period, the department shall also report whether the  
2 defendant meets the criteria for commitment under ch. 51 or 55. The court shall  
3 schedule a date certain for the review of the reports. If the department indicates in  
4 the report that the defendant has become competent or that the defendant is not  
5 competent and is unlikely to become competent within the remaining commitment  
6 period, the court shall hold the review within 14 days after the court receives the  
7 report.

8 **SECTION 788.** 971.14 (5) (c) of the statutes is renumbered 975.36 (3) and  
9 amended to read:

10 975.36 (3) DETERMINING COMPETENCY. Upon receiving a report under par. (b)  
11 ~~indicating the defendant has regained competency or is not competent and unlikely~~  
12 ~~to become competent in the remaining commitment period, the court shall hold a~~  
13 ~~hearing within 14 days of receipt of the report and sub. (1) or (2), the court shall~~  
14 ~~proceed under sub. (4) s. 975.34. At or before the scheduled hearing, unless good~~  
15 ~~cause is shown, the court may, at the request of the defendant or the district attorney,~~  
16 ~~delay the hearing for no more than 28 days to allow for the completion of an~~  
17 ~~independent evaluation and then the court shall proceed under s. 975.34. If the court~~  
18 ~~determines that the defendant has become competent, the defendant shall be~~  
19 ~~discharged from commitment and the criminal proceeding shall be resumed. If the~~  
20 ~~court determines that the defendant is making sufficient progress toward becoming~~  
21 ~~competent, the commitment shall continue.~~

22 **SECTION 789.** 971.14 (5) (d) of the statutes is renumbered 975.36 (5) and  
23 amended to read:

24 975.36 (5) MEDICATION TO MAINTAIN COMPETENCY. If the defendant is receiving  
25 medication, the court may make appropriate orders for the continued administration

**SENATE BILL 82**

1 of the medication in order to maintain the competence of the defendant for the  
2 duration of the proceedings.

3 **(6) SUBSEQUENT INCOMPETENCY.** If a defendant who has been restored to  
4 competency thereafter again becomes incompetent, the maximum commitment  
5 period under ~~par. (a) s. 975.34 (6)~~ shall be 18 months minus the days spent in previous  
6 commitments under ~~this subsection s. 975.34~~, or 12 months, whichever is less.

7 **SECTION 790.** 971.14 (6) (title) of the statutes is repealed.

8 **SECTION 791.** 971.14 (6) (a) of the statutes is repealed.

9 **SECTION 792.** 971.14 (6) (b) of the statutes is renumbered 975.38 (1) and  
10 amended to read:

11 975.38 (1) When the court finds under s. 975.34 (6) (b) 1. that a defendant is  
12 not likely to become competent, or discharges a defendant from commitment under  
13 ~~par. (a) s. 975.36 (4)~~, it may order that the defendant be taken immediately into  
14 custody by a law enforcement official and promptly delivered to a facility specified  
15 in s. 51.15 (2), an approved public treatment facility under s. 51.45 (2) (c), or an  
16 appropriate medical or protective placement facility. Thereafter, detention of the  
17 defendant shall be governed by s. 51.15, 51.45 (11), or 55.135, as appropriate. The  
18 district attorney or corporation counsel may prepare a statement meeting that  
19 satisfies the requirements of s. 51.15 (4) or (5), 51.45 (13) (a), or 55.135 based on the  
20 allegations of the criminal complaint and the evidence in the case. ~~This statement~~  
21 ~~shall be given~~ If an attorney prepares such a statement, he or she shall provide a copy  
22 of the statement to the director of the facility to which the defendant is delivered and  
23 ~~filed~~ file the statement with the branch of circuit court assigned to exercise criminal  
24 jurisdiction in the county in which the criminal charges are pending, ~~where it shall.~~  
25 The filed statement shall suffice, without corroboration by other petitioners, as a

**SENATE BILL 82**

1 petition for commitment under s. 51.20 or 51.45 (13) or a petition for protective  
2 placement under s. 55.075. This ~~section~~ subsection does not restrict the power of the  
3 branch of ~~circuit~~ court in which the ~~petition~~ statement is filed to transfer the matter  
4 to the branch of ~~circuit~~ court assigned to exercise jurisdiction under ch. 51 in the  
5 county. Days spent in commitment or protective placement pursuant to a petition  
6 under this ~~paragraph~~ shall not be deemed subsection do not count as days spent in  
7 custody under s. 973.155.

8 **SECTION 793.** 971.14 (6) (c) of the statutes is renumbered 975.38 (2) and  
9 amended to read:

10 975.38 (2) If a ~~person~~ defendant is committed under s. 51.20 pursuant to a  
11 petition under ~~par. (b)~~ sub. (1), the county department under s. 51.42 or 51.437 to  
12 whose care and custody the ~~person~~ defendant is committed shall notify the court  
13 which that released the defendant under s. 975.34 (6) (b) 1. or discharged the ~~person~~  
14 defendant under ~~par. (a)~~ s. 975.36 (4), the district attorney for the county in which  
15 that court is located, and the ~~person's~~ defendant's attorney of record in the prior  
16 suspended criminal proceeding at least 14 days ~~prior to~~ before transferring or  
17 discharging the defendant from an inpatient treatment facility and at least 14 days  
18 ~~prior to~~ before the expiration of the order of commitment or any subsequent  
19 consecutive order, unless the department or county department ~~or the department~~  
20 ~~of health services~~ has applied for an extension of the order.

21 **SECTION 794.** 971.14 (6) (d) of the statutes is renumbered 975.38 (3) and  
22 amended to read:

23 975.38 (3) Counsel who ~~have received~~ receive notice under ~~par. (e)~~ sub. (2) or  
24 who otherwise obtain information that a defendant released under s. 975.34 (6) (b)  
25 1. or discharged under ~~par. (a)~~ s. 975.36 (4) may have become competent to proceed

**SENATE BILL 82**

1 in a criminal case may move the court to order that the defendant undergo a  
2 competency examination under sub. (2) s. 975.32. If the court so orders, a report shall  
3 ~~be filed under sub. (3) and a hearing held under sub. (4)~~ orders an examination under  
4 s. 975.32, the examiner shall file a report under s. 975.33 and the court shall proceed  
5 under s. 975.34. If the court determines that the defendant is competent to proceed,  
6 the court shall resume the criminal proceeding shall be resumed. If the court  
7 determines that the defendant is not competent to proceed, it shall release ~~him or her~~  
8 the defendant but may impose such reasonable nonmonetary conditions as will on  
9 the defendant to protect the public and enable the court and district attorney to  
10 discover whether the ~~person~~ defendant subsequently becomes competent.

11 **SECTION 795.** 971.15 of the statutes is renumbered 975.50, and 975.50 (2), as  
12 renumbered, is amended to read:

13 975.50 (2) As used in this chapter, the terms term “mental disease or defect”  
14 ~~do~~ does not include an abnormality manifested only by repeated criminal or  
15 otherwise antisocial conduct.

16 **SECTION 796.** 971.16 (title) of the statutes is renumbered 975.51 (title).

17 **SECTION 797.** 971.16 (1) of the statutes is repealed.

18 **SECTION 798.** 971.16 (2) of the statutes is renumbered 975.51 (1) and amended  
19 to read:

20 975.51 (1) If the ~~a~~ defendant has entered enters a plea of not guilty by reason  
21 of mental disease or defect or there is other reason to believe that the defendant has  
22 a mental disease or defect ~~of the defendant will otherwise~~ that will become an issue  
23 in the case, the court may appoint at least one ~~physician or at least one~~ psychologist,  
24 ~~but~~ and not more than 3 physicians or psychologists or a combination thereof, to  
25 examine the defendant and to testify at the trial. If the court appoints a physician



**SENATE BILL 82**

1 or psychologist under this section, the court shall inform the jury, if there is one, that  
2 the court appointed the physician or psychologist and shall permit both parties to  
3 cross-examine the physician or psychologist.

4 ~~(2) (a)~~ The compensation of the physicians or psychologists shall be fixed by the  
5 court and paid by court shall set the fee for an examination conducted by a physician  
6 or psychologist appointed under sub. (1) and the county, upon the order of the court,  
7 shall pay the fee as part of the costs of the action. The receipt by any

8 ~~(b)~~ A physician or psychologist summoned under this section of any other  
9 compensation than that so fixed by the court and paid by the county, or the offer or  
10 promise by any person to pay such other compensation, is unlawful and may not  
11 accept compensation other than the fee under par. (a), for conducting an examination  
12 under sub. (1) and no person may offer or promise to pay the physician or psychologist  
13 other compensation for the examination. Violation of this paragraph is punishable  
14 as contempt of court. The fact that the physician or psychologist has been appointed  
15 by the court shall be made known to the jury and the physician or psychologist shall  
16 be subject to cross-examination by both parties.

17 **SECTION 799.** 971.16 (3) (intro.) of the statutes is renumbered 975.51 (3) and  
18 amended to read:

19 975.51 (3) Not less than 10 days before trial, or at ~~any other time that the court~~  
20 directs a different time if directed by the court, any physician or psychologist  
21 appointed under sub. ~~(2)~~ (1) shall file a written report of his or her examination of  
22 the defendant with the judge, ~~who court, and the court~~ shall cause copies of the report  
23 to be transmitted to the district attorney and to ~~counsel for the defendant.~~ The  
24 contents of the report shall be confidential until the physician or psychologist has  
25 testified or at the completion of the trial the defendant's attorney. The report shall

**SENATE BILL 82**

1 contain ~~an~~ the physician's or psychologist's opinion regarding the ability of the  
2 defendant to appreciate the wrongfulness of the defendant's conduct or to conform  
3 the defendant's conduct with the requirements of law at the time of the commission  
4 of the criminal offense charged and, if sufficient information is available to the  
5 physician or psychologist to reach an opinion, his or her opinion on whether the  
6 defendant needs medication or treatment and whether the defendant is not  
7 competent to refuse medication or treatment. ~~The defendant is not competent to~~  
8 ~~refuse medication or treatment if, because of mental illness, developmental~~  
9 ~~disability, alcoholism or drug dependence, and after the advantages and~~  
10 ~~disadvantages of and alternatives to accepting the particular medication or~~  
11 ~~treatment have been explained to the defendant, one of the following is true: contents~~  
12 ~~of the report shall be confidential until the physician or psychologist has testified or~~  
13 ~~until the completion of the trial.~~

14 **SECTION 800.** 971.16 (3) (a) of the statutes is repealed.

15 **SECTION 801.** 971.16 (3) (b) of the statutes is repealed.

16 **SECTION 802.** 971.16 (4) of the statutes is renumbered 975.51 (4) (a) and  
17 amended to read:

18 975.51 (4) (a) If the defendant wishes to be examined by a physician,  
19 psychologist, or other expert of his or her ~~own~~ choice, the examiner shall be permitted  
20 ~~to have~~ reasonable access to the defendant for the purposes of examination. ~~No~~  
21 ~~testimony~~ An examiner selected by the defendant may not testify at trial regarding  
22 the mental condition of the defendant ~~shall be received from a physician,~~  
23 ~~psychologist or expert witness summoned by the defendant unless not less than the~~  
24 ~~examiner provides a report of his or her examination of the defendant to the district~~  
25 ~~attorney at least 15 days before trial~~ attorney at least 15 days before trial ~~a report of the examination has been~~

**SENATE BILL 82**

1 ~~transmitted to the district attorney and unless the prosecution state has been~~  
2 ~~afforded an opportunity, if it requests one within a reasonable time before trial, to~~  
3 ~~examine and observe the defendant if the opportunity has been seasonably~~  
4 ~~demanded. The state may summon a physician, psychologist or other expert to~~  
5 ~~testify, but that witness shall not give testimony unless not less than 15 days before~~  
6 ~~trial a written report of his or her examination of the defendant has been transmitted~~  
7 ~~to counsel for the defendant.~~

8 **SECTION 803.** 971.16 (5) of the statutes is renumbered 975.51 (5) (a) and  
9 amended to read:

10 975.51 (5) (a) If Except as provided in par. (b), if a physician, psychologist, or  
11 other expert who has examined the defendant testifies concerning regarding the  
12 defendant's mental condition, he or she shall be permitted to make a statement as  
13 to the nature of his or her examination, his or her diagnosis of the mental condition  
14 of the defendant at the time of the commission of the offense charged, his or her  
15 opinion as to the ability of the defendant to appreciate the wrongfulness of the  
16 defendant's conduct or to conform to the requirements of law and, if sufficient  
17 information is available to the physician, psychologist, or expert to reach an opinion,  
18 his or her opinion on whether the defendant needs medication or treatment and  
19 whether the defendant is not competent to refuse medication or treatment ~~for the~~  
20 ~~defendant's mental condition. Testimony concerning the defendant's need for~~  
21 ~~medication or treatment and competence to refuse medication or treatment may not~~  
22 ~~be presented before the jury that is determining the ability of the defendant to~~  
23 ~~appreciate the wrongfulness of his or her conduct or to conform his or her conduct~~  
24 ~~with the requirements of law at the time of the commission of the criminal offense~~  
25 charged. The physician, psychologist, or other expert shall be permitted to make an

**SENATE BILL 82**

1 explanation ~~reasonably serving~~ that reasonably serves to clarify his or her diagnosis  
2 and opinion and may be cross-examined as to any matter bearing on his or her  
3 competency or credibility or the validity of his or her diagnosis or opinion.

4 **SECTION 804.** 971.16 (6) of the statutes is renumbered 975.51 (6) and amended  
5 to read:

6 975.51 (6) Nothing in this section shall ~~require the attendance at the trial of~~  
7 any requires a physician, psychologist, or other expert witness to attend the trial for  
8 any purpose other than ~~the giving of~~ to give his or her testimony.

9 **SECTION 805.** 971.165 (title) of the statutes is renumbered 975.52 (title).

10 **SECTION 806.** 971.165 (1) of the statutes is renumbered 975.52 (2), and 975.52  
11 (2) (intro.) and (c) (intro.), 2. and 3., as renumbered, are amended to read:

12 975.52 (2) JOINED WITH A PLEA OF NOT GUILTY. (intro.) If a defendant ~~couples~~ joins  
13 a plea of not guilty with a plea of not guilty by reason of mental disease or defect, all  
14 of the following apply:

15 (c) (intro.) If both pleas are tried to a jury, that jury shall be the same, except  
16 that all of the following apply:

17 2. If the jury is discharged prior to reaching a verdict on the 2nd plea, the  
18 defendant shall not ~~solely~~ on that account be entitled to a redetermination of the first  
19 plea and a different jury of 12 may be selected to determine the 2nd plea only.

20 3. If an appellate court reverses a judgment as to the 2nd plea but not as to the  
21 first plea and remands for further proceedings, or if the ~~trial~~ circuit court vacates the  
22 judgment as to the 2nd plea but not as to the first plea, the 2nd plea may be  
23 determined by a different jury selected for this purpose.

24 **SECTION 807.** 971.165 (2) of the statutes is renumbered 975.52 (3) and amended  
25 to read:

**SENATE BILL 82**

1           975.52 (3) INFORMING JURY OF EFFECT OF VERDICT. If the plea of not guilty by  
2           reason of mental disease or defect is tried to a jury, the court shall inform the jury  
3           that the effect of a verdict of not guilty by reason of mental disease or defect is that,  
4           in lieu of criminal sentence or probation, the defendant will be committed to the  
5           custody of the department of health services and will be placed in an appropriate  
6           institution unless the court determines that the defendant would not pose a danger  
7           to himself or herself or to others if released under conditions ordered by the court.  
8           No A verdict on the a plea of not guilty by reason of mental disease or defect may be  
9           that is tried by a jury is not valid or and may not be received unless agreed to by at  
10          least five-sixths of the jurors.

11          **SECTION 808.** 971.165 (3) (a) of the statutes is renumbered 975.52 (4) (a) and  
12          amended to read:

13          975.52 (4) (a) If a defendant is not found not guilty by reason of mental disease  
14          or defect, the court shall enter grant a judgment of conviction and shall either impose  
15          or withhold sentence under s. ~~972.13 (2)~~ 972.28 (1).

16          **SECTION 809.** 971.165 (3) (b) of the statutes is renumbered 975.52 (4) (b) and  
17          amended to read:

18          975.52 (4) (b) If a defendant is found not guilty by reason of mental disease or  
19          defect, the court shall enter a judgment of not guilty by reason of mental disease or  
20          defect. ~~The court shall thereupon~~ and proceed under s. ~~971.17~~ 975.55. A judgment  
21          entered under this paragraph is interlocutory to the commitment order entered  
22          under s. ~~971.17~~ and reviewable upon appeal therefrom 975.57 is the final order in  
23          the case and is appealable as a matter of right under s. 808.03 (1). Upon appeal of  
24          the commitment order, all properly preserved issues may be raised, including those  
25          relating to the guilt phase of the trial.

**SENATE BILL 82**

1           **SECTION 810.** 971.17 (title) of the statutes is renumbered 975.57 (title).

2           **SECTION 811.** 971.17 (1) of the statutes is renumbered 975.57 (2), and 975.57  
3 (2) (a) to (d), as renumbered, are amended to read:

4           975.57 (2) (a) *Felonies committed before July 30, 2002.* Except as provided in  
5 par. (c), when a defendant person is found not guilty by reason of mental disease or  
6 ~~mental~~ defect of a felony committed before July 30, 2002, the court shall commit the  
7 person to the department of ~~health services~~ for a specified period not exceeding  
8 two-thirds of the maximum term of imprisonment that could be imposed under s.  
9 973.15 (2) against an offender convicted of the same felony or felonies, including  
10 imprisonment authorized by any applicable penalty enhancement statutes, ~~subject~~  
11 ~~to the credit provisions of s. 973.155.~~

12           (b) *Felonies committed on or after July 30, 2002.* Except as provided in par. (c),  
13 when a defendant person is found not guilty by reason of mental disease or ~~mental~~  
14 defect of a felony committed on or after July 30, 2002, the court shall commit the  
15 person to the department of ~~health services~~ for a specified period not exceeding the  
16 maximum term of confinement in prison, plus imprisonment authorized by any  
17 applicable penalty enhancement statutes, that could be imposed under ss. 973.01 (2)  
18 and 973.15 (2) (a) on an offender convicted of the same felony, ~~plus imprisonment~~  
19 ~~authorized by any applicable penalty enhancement statutes, subject to the credit~~  
20 ~~provisions of s. 973.155 or felonies.~~

21           (c) *Felonies punishable by life imprisonment.* If a defendant person is found not  
22 guilty by reason of mental disease or ~~mental~~ defect of a felony that is punishable by  
23 life imprisonment, the commitment period specified by the court may be life, subject  
24 to termination under ~~sub. (5)~~ s. 975.60.

**SENATE BILL 82**

1           (d) *Misdemeanors*. When a defendant person is found not guilty by reason of  
2           mental disease or mental defect of a misdemeanor, the court shall commit the person  
3           to the department of health services for a specified period not exceeding two-thirds  
4           of the maximum term of imprisonment that could be imposed under s. 973.15 (2)  
5           against an offender convicted of the same misdemeanor or misdemeanors, including  
6           imprisonment authorized by any applicable penalty enhancement statutes, subject  
7           to the credit provisions of s. 973.155.

8           **SECTION 812.** 971.17 (1g) of the statutes is renumbered 975.53 (1) and amended  
9           to read:

10           975.53 (1) NOTICE OF RESTRICTION ON FIREARM POSSESSION. ~~If the defendant~~  
11           ~~under sub. (1)~~ a person is found not guilty of a felony by reason of mental disease or  
12           defect, the court shall inform the defendant person of the requirements and penalties  
13           under s. 941.29.

14           **SECTION 813.** 971.17 (1h) of the statutes is renumbered 975.53 (2) and amended  
15           to read:

16           975.53 (2) ~~NOTICE OF RESTRICTIONS ON POSSESSION~~ POSSESSION OF BODY ARMOR.  
17           ~~If the defendant under sub. (1)~~ a person is found not guilty of a violent felony, as  
18           defined in s. 941.291 (1) (b), by reason of mental disease or defect, the court shall  
19           inform the defendant person of the requirements and penalties under s. 941.291.

20           **SECTION 814.** 971.17 (1j) (title) of the statutes is repealed.

21           **SECTION 815.** 971.17 (1j) (a) of the statutes is renumbered 975.54 (1) (a).

22           **SECTION 816.** 971.17 (1j) (b) of the statutes is renumbered 975.54 (1) (b) and  
23           amended to read:

24           975.54 (1) (b) If a person is found not guilty by reason of mental disease or defect  
25           of a serious sex offense, the court may, in addition to committing the person to the

**SENATE BILL 82**

1 department of health services under ~~sub. (1) s. 975.57~~, place the person on lifetime  
2 supervision under s. 939.615 if notice concerning lifetime supervision was given to  
3 the person under s. 973.125 and if the court determines that lifetime supervision of  
4 the person is necessary to protect the public.

5 **SECTION 817.** 971.17 (1m) (title) of the statutes is repealed.

6 **SECTION 818.** 971.17 (1m) (a) of the statutes, as affected by 2013 Wisconsin Act  
7 362, is renumbered 975.54 (2) and amended to read:

8 975.54 (2) (a) ~~If the defendant under sub. (1)~~ a person is found not guilty by  
9 reason of mental disease or defect for a felony or a violation of s. 165.765 (1), 2011  
10 stats., or of s. 940.225 (3m), 941.20 (1), 944.20, 944.30 (1m), 944.31, 944.33, 946.52,  
11 or 948.10 (1) (b), the court shall require the person to provide a biological specimen  
12 to the state crime laboratories for deoxyribonucleic acid analysis. The judge shall  
13 inform the person that he or she may request expungement under s. 165.77 (4).

14 (b) Biological specimens required under ~~subd. 1. par. (a)~~ shall be obtained and  
15 submitted as specified in rules promulgated by the department of justice under s.  
16 165.76 (4).

17 **SECTION 819.** 971.17 (1m) (b) 1m. a. of the statutes is renumbered 975.54 (3)  
18 (a) 1. and amended to read:

19 975.54 (3) (a) 1. Except as provided in ~~subd. 2m. par. (b)~~, if the defendant under  
20 ~~sub. (1)~~ a person is found not guilty by reason of mental disease or defect for any  
21 violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch.  
22 940, 944, or 948 or s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require  
23 the ~~defendant~~ person to comply with the reporting requirements under s. 301.45 if  
24 the court determines that the underlying conduct was sexually motivated, as defined



**SENATE BILL 82**

1 in s. 980.01 (5), and that it would be in the interest of public protection to have the  
2 defendant person report under s. 301.45.

3 **SECTION 820.** 971.17 (1m) (b) 1m. b. of the statutes is renumbered 975.54 (3)  
4 (a) 2. and amended to read:

5 975.54 (3) (a) 2. If a court under subd. ~~1m. a. 1.~~ 1. orders a person to comply with  
6 the reporting requirements under s. 301.45 in connection with a finding of not guilty  
7 by reason of mental disease or defect for a violation, or the solicitation, conspiracy,  
8 or attempt to commit a violation, of s. 942.09 and the person was under the age of 21  
9 when he or she committed the offense, the court may provide that upon termination  
10 of the commitment order under sub. ~~(5)~~ s. 975.60 or expiration of the order under sub.  
11 ~~(6)~~ s. 975.61 the person be released from the requirement to comply with the  
12 reporting requirements under s. 301.45.

13 **SECTION 821.** 971.17 (1m) (b) 2m. of the statutes is renumbered 975.54 (3) (b)  
14 and amended to read:

15 975.54 (3) (b) If ~~the defendant under sub. (1)~~ a person is found not guilty by  
16 reason of mental disease or defect for a violation, or for the solicitation, conspiracy,  
17 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02  
18 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,  
19 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2)  
20 if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim was a minor and  
21 the defendant person was not the victim's parent, the court shall require the  
22 defendant person to comply with the reporting requirements under s. 301.45 unless  
23 the court determines, after a hearing on a motion made by the defendant person, that  
24 the defendant person is not required to comply under s. 301.45 (1m).

**SENATE BILL 82**

1           **SECTION 822.** 971.17 (1m) (b) 3. of the statutes is renumbered 975.54 (3) (c), and  
2           975.54 (3) (c) (intro.), 1., 2. and 5., as renumbered, are amended to read:

3           975.54 (3) (c) (intro.) In determining under ~~subd. 1m. a. par. (a) 1.~~ whether it  
4           would be in the interest of public protection to have the defendant person report  
5           under s. 301.45, the court may consider any of the following:

6           1. The ages, at the time of the violation, of the defendant person and the victim  
7           of the violation.

8           2. The relationship between the defendant person and the victim of the  
9           violation.

10          5. The probability that the defendant person will commit other violations in the  
11          future.

12          **SECTION 823.** 971.17 (1m) (b) 4. of the statutes is renumbered 975.54 (3) (d) and  
13          amended to read:

14          975.54 (3) (d) If the court orders a defendant person to comply with the  
15          reporting requirements under s. 301.45, the court may order the defendant person  
16          to continue to comply with the reporting requirements until his or her death.

17          **SECTION 824.** 971.17 (1m) (b) 5. of the statutes is renumbered 975.54 (3) (e) and  
18          amended to read:

19          975.54 (3) (e) If the court orders a defendant person to comply with the  
20          reporting requirements under s. 301.45, the clerk of the court in which the order is  
21          entered shall promptly forward a copy of the order to the department of corrections.  
22          If the finding of not guilty by reason of mental disease or defect on which the order  
23          is based is reversed, set aside, or vacated, the clerk of the court shall promptly  
24          forward to the department of corrections a certificate stating that the finding has  
25          been reversed, set aside, or vacated.

## SENATE BILL 82

1           **SECTION 825.** 971.17 (2) (title) of the statutes is repealed.

2           **SECTION 826.** 971.17 (2) (a) of the statutes is renumbered 975.55 and amended  
3 to read:

4           **975.55 Disposition of person found not guilty by reason of mental**  
5 **disease or defect.** ~~The court shall enter an initial commitment order under this~~  
6 ~~section pursuant to a hearing held as As soon as practicable after the entering a~~  
7 ~~judgment of finding a person not guilty by reason of mental disease or mental defect~~  
8 ~~is entered, the court shall hold a dispositional hearing and commit the person to the~~  
9 ~~department as provided in s. 975.57. If the court lacks sufficient information to make~~  
10 ~~the determination required by sub. (3) enter a commitment order under s. 975.57~~  
11 ~~immediately after trial, it may adjourn the dispositional hearing, enter an interim~~  
12 ~~order committing the person to the department, and order the department of health~~  
13 ~~services to conduct a predisposition investigation using the procedure in under s.~~  
14 ~~972.15 973.004, or order a supplementary mental examination or both, to assist the~~  
15 ~~court in framing the commitment order of the person. If the court enters an interim~~  
16 ~~commitment order, the person is subject to any conditions set by the court and to the~~  
17 ~~rules of the department.~~

18           **SECTION 827.** 971.17 (2) (b) of the statutes is renumbered 975.56 (1) and  
19 amended to read:

20           975.56 (1) If ~~a~~ the court orders a supplementary mental examination is  
21 ordered under ~~par. (a) s. 975.55,~~ the court may appoint one or more examiners having  
22 the specialized knowledge determined by the court to be appropriate to ~~examine and~~  
23 ~~report upon the condition of the person.~~ In lieu thereof, conduct an outpatient  
24 examination of the person or the court may commit the person to an appropriate  
25 mental health facility for the ~~period specified in par. (e), which shall~~ an inpatient

**SENATE BILL 82**

1 examination. Days spent in a mental health facility for an inpatient examination  
2 under this subsection count as days spent in custody under s. 973.155.

3 **SECTION 828.** 971.17 (2) (c) of the statutes is renumbered 975.56 (3) (a) and  
4 amended to read:

5 975.56 (3) (a) An examiner ordered to conduct an inpatient examination under  
6 this section shall complete ~~an inpatient~~ the examination under ~~par. (b)~~ and file ~~the~~  
7 a report of the examination within 15 days after the examination is ordered ~~unless,~~  
8 ~~for good cause,.~~ If the examiner cannot complete the examination within 15 days and  
9 requests an extension. ~~In that case,~~ the court may for good cause allow one 15-day  
10 extension of the examination period.

11 (b) An examiner ordered to conduct an outpatient examination under this  
12 section shall complete ~~an outpatient~~ the examination and file ~~the~~ a report of the  
13 examination within ~~15~~ 30 days after the examination is ordered.

14 **SECTION 829.** 971.17 (2) (d) of the statutes is renumbered 975.56 (4) and  
15 amended to read:

16 975.56 (4) If the court orders an inpatient examination under ~~par. (b)~~ sub. (1),  
17 it shall arrange for the transportation of the person to the examining facility within  
18 a reasonable time after the examination is ordered and for the person to be returned  
19 to the jail or court within a reasonable time after the examination has been  
20 completed.

21 **SECTION 830.** 971.17 (2) (e) of the statutes is renumbered 975.56 (2) and  
22 amended to read:

23 975.56 (2) The examiner ~~appointed under par. (b)~~ ordered to conduct an  
24 examination under this section shall personally observe and examine the person.  
25 The examiner ~~or facility~~ shall have access to the person's past or present treatment

**SENATE BILL 82**

1 records, as defined in s. 51.30 (1) (b), and patient health care records, as provided  
2 under s. 146.82 (2) (c). If the examiner believes that the person is appropriate for  
3 conditional release, the examiner shall report on the type of treatment and services  
4 that the person may need while in the community on conditional release.

5 **SECTION 831.** 971.17 (2) (f) of the statutes is renumbered 975.56 (5) and  
6 amended to read:

7 975.56 (5) ~~The costs of an examination ordered under par. (a) shall be paid by~~  
8 ~~the county upon~~ Upon the order of the court as part of the costs of the action, the  
9 county shall pay the costs of an examination ordered under this section.

10 **SECTION 832.** 971.17 (2) (g) of the statutes is renumbered 975.56 (6) and  
11 amended to read:

12 975.56 (6) Within 10 days after the examiner's report is filed under ~~par. (e)~~ sub.  
13 (3), the court shall hold a hearing to determine whether the terms of the commitment  
14 shall take the form of institutional care or conditional release order under s. 975.57.

15 **SECTION 833.** 971.17 (3) (title) of the statutes is repealed.

16 **SECTION 834.** 971.17 (3) (a) of the statutes is renumbered 975.57 (1) and  
17 amended to read:

18 975.57 (1) COMMITMENT ORDER. An order for commitment under this section  
19 shall specify either institutional care or conditional release. The court shall order  
20 institutional care if it finds by clear and convincing evidence that ~~conditional release~~  
21 ~~of the person, if conditionally released,~~ would pose a significant risk of causing bodily  
22 harm to himself or herself or to others or of causing serious property damage. If the  
23 court does not make this finding, it shall order conditional release. In determining  
24 whether commitment shall be for institutional care or conditional release, the court  
25 may consider, without limitation because of enumeration, the nature and

**SENATE BILL 82**

1 circumstances of the crime, the person's mental history and present mental  
2 condition, where the person will live, how the person will support himself or herself,  
3 what arrangements are available to ensure that the person has access to and will  
4 take necessary medication, and what arrangements are possible for treatment  
5 beyond medication.

6 **SECTION 835.** 971.17 (3) (b) of the statutes is renumbered 975.57 (5) (a) and  
7 amended to read:

8 975.57 (5) (a) If the state proves by clear and convincing evidence that the  
9 person is not competent to refuse medication or treatment ~~for the person's mental~~  
10 ~~condition, under the standard specified in s. 971.16 (3),~~ the court shall issue, as part  
11 of the commitment order, an order that the person is not competent to refuse  
12 medication or treatment ~~for the person's mental condition~~ and that whoever  
13 administers the medication or treatment to the person shall observe appropriate  
14 medical standards.

15 **SECTION 836.** 971.17 (3) (c) of the statutes is renumbered 975.57 (5) (b) and  
16 amended to read:

17 975.57 (5) (b) ~~If the court order specifies institutional care, the department of~~  
18 ~~health services shall place the person in an institution under s. 51.37 (3) that the~~  
19 ~~department considers appropriate in light of the rehabilitative services required by~~  
20 ~~the person and the protection of public safety. If the a person placed in an institution~~  
21 under this section is not subject to a court order determining finding the person to  
22 be not competent to refuse medication or treatment ~~for the person's mental condition~~  
23 and if the ~~institution in which the person is placed~~ department determines that the  
24 person should be subject to such ~~a court~~ an order, the institution department may  
25 file a motion with the court, ~~with notice to the person and his or her counsel and the~~

**SENATE BILL 82**

1 ~~district attorney, a motion as provided in s. 975.35 for a hearing, under the standard~~  
2 ~~specified in s. 971.16 (3), on to determine~~ whether the person is not competent to  
3 refuse medication or treatment. ~~A report on which the motion is based shall~~  
4 ~~accompany the motion and notice of motion and shall include a statement signed by~~  
5 ~~a licensed physician that asserts that the person needs medication or treatment and~~  
6 ~~that the person is not competent to refuse medication or treatment, based on an~~  
7 ~~examination of the person by a licensed physician.~~ Within 10 days after a motion is  
8 filed under this paragraph, the court shall determine the person's competency to  
9 refuse medication or treatment ~~for the person's mental condition.~~ At the request of  
10 the person, his or her counsel attorney, or the district attorney, the hearing may be  
11 postponed, but ~~in no case may~~ the postponed hearing shall be held ~~more than~~ within  
12 20 days after a motion is filed under this paragraph. If the district attorney, the  
13 person, and his or her counsel attorney waive their respective opportunities to  
14 present other evidence on the issue, the court shall determine the person's  
15 competency to refuse medication or treatment on the basis of the report  
16 accompanying the motion. In the absence of these waivers, the court shall hold an  
17 evidentiary hearing on the issue. If the state proves by ~~evidence that is clear and~~  
18 convincing evidence that the person is not competent to refuse medication or  
19 treatment, ~~under the standard specified in s. 971.16 (3),~~ the court shall order find  
20 that the person is not competent to refuse medication or treatment ~~for the person's~~  
21 ~~mental condition~~ and order that whoever administers the medication or treatment  
22 to the person shall observe appropriate medical standards.

23 **SECTION 837.** 971.17 (3) (d) of the statutes is renumbered 975.57 (4) (a) and  
24 amended to read:

**SENATE BILL 82**

1           975.57 (4) (a) If the court finds that the person is appropriate for conditional  
2 release, the court shall notify the department of health services. The department of  
3 health services and the county department under s. 51.42 in the county of residence  
4 of the person shall prepare a plan that identifies the treatment and services, if any,  
5 that the person will receive in the community. The plan shall address the person's  
6 need, if any, for supervision, medication, community support services, residential  
7 services, vocational services, and alcohol or other drug abuse treatment. The  
8 department of health services may contract with a county department, under s. 51.42  
9 (3) (aw) 1. d., with another public agency or with a private agency to provide the  
10 treatment and services identified in the plan. The plan shall specify who will be  
11 responsible for providing the treatment and services identified in the plan. The plan  
12 department and the county department shall be presented present the plan to the  
13 court for its approval within 21 14 days after the court finding finds that the person  
14 is appropriate for conditional release, unless the department, county department,  
15 department of health services and person to be released request additional time to  
16 develop the plan. If the The county department of the person's county of residence  
17 declines to prepare a plan, the department of health services may arrange for  
18 another county to prepare the plan if that county agrees to prepare the plan and if  
19 the individual will be living in that another county.

20           **SECTION 838.** 971.17 (3) (e) of the statutes is renumbered 975.58 and amended  
21 to read:

22           **975.58 Petition for revocation of conditional release.** ~~An order for~~  
23 ~~conditional release places the person in the custody and control of the department~~  
24 ~~of health services. A conditionally released person is subject to the conditions set by~~  
25 ~~the court and to the rules of the department of health services. Before a person is~~



**SENATE BILL 82**

1 conditionally released by the court under this subsection, the court shall so notify the  
2 municipal police department and county sheriff for the area where the person will  
3 be residing. ~~The notification requirement under this paragraph does not apply if a~~  
4 ~~municipal department or county sheriff submits to the court a written statement~~  
5 ~~waiving the right to be notified. If the department of health services alleges that a~~  
6 ~~released person conditionally released under s. 975.57 (4) or 975.59 has violated any~~  
7 ~~condition or rule of release, or that the safety of the person or others requires that~~  
8 ~~conditional release be revoked, he or she may be taken into custody under the rules~~  
9 ~~of revocation of release, the department may detain the person in a facility specified~~  
10 ~~in s. 51.15 (2) or in a jail. The department of health services shall submit a statement~~  
11 ~~showing probable cause of for the detention and a petition to revoke the order for~~  
12 ~~conditional release to the committing court and the regional office of the state public~~  
13 ~~defender responsible for handling cases in the county where the committing court is~~  
14 ~~located within 72 hours after the detention, excluding Saturdays, Sundays, and legal~~  
15 ~~holidays. The court shall hear the petition within 30 days, after detention unless the~~  
16 ~~hearing or time deadline is waived by the detained person. Pending the revocation~~  
17 ~~hearing, the department of health services may detain the person in a jail or in a~~  
18 ~~hospital, center or facility specified by s. 51.15 (2). The Before the hearing, the~~  
19 ~~department shall provide the detained person written notice of the claimed violation~~  
20 ~~and a summary of the evidence against the person. The department may withdraw~~  
21 ~~the petition without the consent of the court. If the department withdraws the~~  
22 ~~petition, the person shall be immediately released from detention. At a hearing~~  
23 ~~under this section, the state has the burden of proving by clear and convincing~~  
24 ~~evidence that any the person violated a rule or condition of release has been violated,~~  
25 ~~or that the safety of the person or others requires that conditional release be revoked~~

**SENATE BILL 82**

1 revocation of release. If the court determines ~~after hearing that any the person~~  
2 violated a rule or condition of release has been violated, or that the safety of the  
3 person or others requires ~~that conditional release be revoked~~ revocation of release,  
4 it may revoke the order for conditional release and order ~~that the released person be~~  
5 placed in an appropriate institution under s. 51.37 (3) until the expiration of the  
6 commitment or until again conditionally released under ~~this section~~ s. 975.59. If the  
7 court determines that the person violated a rule or condition of release, it may modify  
8 the order for conditional release. The court shall set forth on the record the evidence  
9 relied upon and reasons for the revocation or modification of conditional release.

10 **SECTION 839.** 971.17 (4) (title) of the statutes is renumbered 975.59 (title).

11 **SECTION 840.** 971.17 (4) (a) of the statutes is renumbered 975.59 (1) and  
12 amended to read:

13 975.59 (1) PETITION. Any person who is committed ~~for institutional care to the~~  
14 department and institutionalized under s. 975.57 or 975.58 may petition the  
15 committing court to modify its the commitment order by authorizing conditional  
16 release if at least 6 months have elapsed since the initial commitment order was  
17 entered, the most recent release petition for conditional release, if any, was denied  
18 or withdrawn, and the most recent order for conditional release, if any, was revoked.  
19 The director of the facility at which the person is placed may file a petition under this  
20 paragraph subsection on the person's behalf at any time.

21 **SECTION 841.** 971.17 (4) (b) of the statutes is renumbered 975.59 (2) and  
22 amended to read:

23 975.59 (2) SERVICE; APPOINTMENT OF COUNSEL. If the person files a timely  
24 petition under sub. (1) without counsel, the court shall serve a copy of the petition  
25 on the district attorney and, subject to ~~sub. (7) (b)~~ s. 975.63 (2), refer the matter to

**SENATE BILL 82**

1 the state public defender for determination of indigency and appointment of counsel  
2 under s. 977.05 (4) (j). If ~~the a person petitions through counsel, his or her~~ files a  
3 petition under sub. (1) with the assistance of an attorney, the person's attorney shall  
4 serve a copy of the petition on the district attorney.

5 **SECTION 842.** 971.17 (4) (c) of the statutes is renumbered 975.59 (3) and  
6 amended to read:

7 975.59 (3) EXAMINATION. Within 20 days after receipt of the petition under sub.  
8 (1), the court shall appoint one or more examiners having the specialized knowledge  
9 determined by the court to be appropriate, ~~who shall~~ to examine the person and  
10 furnish a written report of the examination to the court within 30 days after  
11 appointment. The examiners shall have reasonable access to the person for purposes  
12 of examination and to the person's past and present treatment records, as defined in  
13 s. 51.30 (1) (b), and patient health care records, as provided under s. 146.82 (2) (c).  
14 If ~~any such~~ an examiner believes that the person is appropriate for conditional  
15 release, the examiner shall report on the type of treatment and services that the  
16 person may need while in the community on conditional release.

17 **SECTION 843.** 971.17 (4) (d) of the statutes is renumbered 975.59 (4) and  
18 amended to read:

19 975.59 (4) HEARING. The court, ~~without a jury,~~ shall hear the petition within  
20 30 days after the report of the court-appointed examiner is filed with the court,  
21 unless the ~~petitioner~~ person waives this time limit. Expenses of proceedings under  
22 this subsection shall be paid as provided under s. 51.20 (18). The court shall grant  
23 the petition unless it finds by clear and convincing evidence that the person would  
24 pose a significant risk of causing bodily harm to himself or herself or to others or of  
25 causing serious property damage if conditionally released. In making this

**SENATE BILL 82**

1 determination, the court may consider, ~~without limitation because of enumeration,~~  
2 ~~the nature and circumstances of the crime, the person's mental history and present~~  
3 ~~mental condition, where the person will live, how the person will support himself or~~  
4 ~~herself, what arrangements are available to ensure that the person has access to and~~  
5 ~~will take necessary medication, and what arrangements are possible for treatment~~  
6 ~~beyond medication~~ the factors under s. 975.57 (1).

7 **SECTION 844.** 971.17 (4) (e) of the statutes is renumbered 975.59 (5) (a), and  
8 975.59 (5) (a) 1., as renumbered, is amended to read:

9 975.59 (5) (a) 1. If the court finds that the person is appropriate for conditional  
10 release, the court shall notify the department of health services. ~~Subject and, subject~~  
11 ~~to subd. subds. 2. and 3., the department of health services and the county~~  
12 ~~department under s. 51.42 in the county of residence of the person shall prepare a~~  
13 ~~plan that identifies the treatment and services, if any, that the person will receive~~  
14 ~~in the community. The plan shall address the person's need, if any, for supervision,~~  
15 ~~medication, community support services, residential services, vocational services,~~  
16 ~~and alcohol or other drug abuse treatment. The department of health services may~~  
17 ~~contract with a county department, under s. 51.42 (3) (aw) 1. d., with another public~~  
18 ~~agency or with a private agency to provide the treatment and services identified in~~  
19 ~~the plan. The plan shall specify who will be responsible for providing the treatment~~  
20 ~~and services identified in the plan. The plan shall be presented~~ department and the  
21 county department shall present the plan to the court for its approval within ~~60~~ 30  
22 days after the court finding that the person is appropriate for conditional release,  
23 unless the department, county department, ~~department of health services~~ and  
24 person to be released request additional time to develop the plan.

25 **SECTION 845.** 971.17 (4m) of the statutes is repealed.

**SENATE BILL 82**

1           **SECTION 846.** 971.17 (5) (title) of the statutes is renumbered 975.60 (title).

2           **SECTION 847.** 971.17 (5) of the statutes is renumbered 975.60 (1) and amended  
3 to read:

4           975.60 (1) A person on conditional release, or the department of health services  
5 on his or her behalf, may petition the committing court to terminate ~~the~~ an order of  
6 commitment if at least 6 months have elapsed since the person was last placed on  
7 conditional release and since the most recent petition under this section, if any, was  
8 denied.

9           **(2)** ~~If the~~ a person files a timely petition under sub. (1) without counsel, the  
10 court shall serve a copy of the petition on the district attorney and, subject to ~~sub. (7)~~  
11 ~~(b)~~ s. 975.63 (2), refer the matter to the state public defender for determination of  
12 indigency and appointment of counsel under s. 977.05 (4) (j). If the person petitions  
13 ~~through counsel, his or her~~ files a petition under sub. (1) with the assistance of an  
14 attorney, the person's attorney shall serve a copy of the petition on the district  
15 attorney.

16           **(3)** The court shall rule on the petition ~~shall be determined~~ as promptly as  
17 practicable ~~by the court without a jury.~~

18           **(4)** The court shall terminate the order of commitment unless it finds by clear  
19 and convincing evidence that further supervision is necessary to prevent a  
20 significant risk of bodily harm to the person or to others or of serious property  
21 damage. In making this determination, the court may consider, without limitation  
22 because of enumeration, the nature and circumstances of the crime, the person's  
23 mental history and current mental condition, the person's behavior while on  
24 conditional release, and plans for the person's living arrangements, support,  
25 treatment, and other required services after termination of the commitment order.

**SENATE BILL 82**

1 ~~A petition under this subsection may not be filed unless at least 6 months have~~  
2 ~~elapsed since the person was last placed on conditional release or since the most~~  
3 ~~recent petition under this subsection was denied.~~

4 **SECTION 848.** 971.17 (6) of the statutes is renumbered 975.61, and 975.61 (1)  
5 (intro.) and (2), as renumbered, are amended to read:

6 975.61 (1) (intro.) At least 60 days prior to the expiration of a commitment order  
7 issued under ~~sub. (1) s. 975.57~~, the department of health services shall notify all of  
8 the following of the expiration of the order:

9 (2) Upon the expiration of a commitment order ~~under sub. (1)~~, the court shall  
10 discharge the person, subject to the right of the department of ~~health services~~ or the  
11 appropriate county department under s. 51.60 or 51.437 to proceed against the  
12 person under ch. 51 or 55. ~~If none of those departments proceeds against the person~~  
13 ~~under ch. 51 or 55, the court may order the proceeding.~~

14 **SECTION 849.** 971.17 (6m) (title) of the statutes is repealed.

15 **SECTION 850.** 971.17 (6m) (a) (intro.) of the statutes is renumbered 975.62 (1)  
16 (intro.) and amended to read:

17 975.62 (1) (intro.) In this subsection section:

18 **SECTION 851.** 971.17 (6m) (a) 1. of the statutes is repealed.

19 **SECTION 852.** 971.17 (6m) (a) 2. of the statutes is renumbered 975.62 (1) (a).

20 **SECTION 853.** 971.17 (6m) (a) 3. of the statutes is renumbered 975.62 (1) (b).

21 **SECTION 854.** 971.17 (6m) (b) of the statutes is repealed.

22 **SECTION 855.** 971.17 (6m) (c) of the statutes is repealed.

23 **SECTION 856.** 971.17 (6m) (d) of the statutes is renumbered 975.62 (5) and  
24 amended to read:

**SENATE BILL 82**

1           975.62 (5) The department of health services shall design and prepare cards  
2 for persons specified in par. (b) 1. a victim's representative to send to the department.  
3 The cards shall have space for ~~these persons~~ a victim's representative to provide their  
4 names his or her name and addresses address, the name of the ~~applicable defendant~~  
5 person committed under this subchapter, and any other information the department  
6 determines is necessary. The department shall provide the cards, without charge,  
7 to district attorneys. District attorneys shall provide the cards, without charge, to  
8 ~~persons specified in par. (b) 1.~~ These persons victims' representatives. A victim's  
9 representative may send completed cards to the department. ~~All departmental~~  
10 ~~records or~~ Records and portions of records of the department that relate to mailing  
11 addresses of ~~these persons~~ a victim's representative are not subject to inspection or  
12 copying under s. 19.35 (1), except as needed to comply with a request under ~~sub. (4m)~~  
13 ~~(d) or~~ s. 301.46 (3) (d).

14           **SECTION 857.** 971.17 (7) (title) of the statutes is renumbered 975.63 (title).

15           **SECTION 858.** 971.17 (7) (a) of the statutes is renumbered 975.63 (1) and  
16 amended to read:

17           975.63 (1) The committing court shall conduct all hearings under ~~this section~~  
18 ss. 975.55 to 975.61. The committed person shall be given reasonable notice of the  
19 time and place of each ~~such~~ hearing. The court may designate additional persons to  
20 receive these notices.

21           **SECTION 859.** 971.17 (7) (b) of the statutes is renumbered 975.63 (2), and 975.63  
22 (2) (intro.), as renumbered, is amended to read:

23           975.63 (2) (intro.) Without limitation by enumeration, at any hearing under  
24 ~~this section~~ ss. 975.55 to 975.61, the ~~person~~ subject of the hearing has the right to:

**SENATE BILL 82**

1           **SECTION 860.** 971.17 (7) (c) of the statutes is renumbered 975.63 (4) and  
2 amended to read:

3           975.63 (4) If ~~the~~ a person who is subject to proceedings under ss. 975.55 to  
4 975.61 wishes to be examined by a physician, ~~as defined in s. 971.16 (1) (a), or a~~  
5 ~~psychologist, as defined in s. 971.16 (1) (b),~~ or other expert of his or her choice, the  
6 procedure under s. ~~971.16~~ 975.51 (4) shall apply. Upon motion of an indigent  
7 person, the court shall appoint a qualified and available examiner for the person at  
8 public expense. Examiners for the person or the district attorney shall have  
9 reasonable access to the person for purposes of examination, and to the person's past  
10 and present treatment records, as defined in s. 51.30 (1) (b), and patient health care  
11 records, as provided under s. 146.82 (2) (c).

12           **SECTION 861.** 971.17 (7) (d) of the statutes is repealed.

13           **SECTION 862.** 971.17 (7m) of the statutes is renumbered 975.64.

14           **SECTION 863.** 971.17 (8) of the statutes is renumbered 975.49 and amended to  
15 read:

16           **975.49 Applicability of ss. 975.57 to 975.64.** This ~~section~~ subchapter  
17 governs the commitment, release, and discharge of persons adjudicated not guilty by  
18 reason of mental disease or mental defect for offenses committed on or after January  
19 1, 1991. The commitment, release, and discharge of persons adjudicated not guilty  
20 by reason of mental disease or mental defect for offenses committed prior to January  
21 1, 1991, ~~shall be~~ are governed by s. 971.17, 1987 stats., as affected by 1989 Wisconsin  
22 Act 31.

23           **SECTION 864.** 971.18 of the statutes is renumbered 975.21 and amended to  
24 read:



**SENATE BILL 82**

1           **975.21 Inadmissibility of statements made for purposes of**  
2 **examination.** A statement made by a person subjected who is subject to a  
3 psychiatric examination or to treatment pursuant to under this chapter that is made  
4 for the purposes purpose of such the examination or treatment shall is not be  
5 admissible in evidence against the person in any criminal proceeding on any issue  
6 other than that of the person's mental condition.

7           **SECTION 865.** 971.19 of the statutes is renumbered 970.14, and 970.14 (title),  
8 (1), (2), (3), (4), (5), (6), (8), (9) (intro.), (10), (11) and (12), as renumbered, are amended  
9 to read:

10           **970.14 (title) ~~Place of trial~~ Venue. (1) ~~Criminal actions~~ Trials shall be tried**  
11 **in the county where the crime was committed, except as otherwise provided in this**  
12 **section or in s. 971.09.**

13           **(2) ~~Where 2 or more acts are requisite to the commission of any offense~~ crime**  
14 **requires 2 or more acts, the trial may be in any county in which any of such acts**  
15 **occurred. In a case involving a charge of conspiracy under s. 939.31, the trial may**  
16 **be in any county in which a conspiratorial act took place.**

17           **(3) ~~Where an offense~~ a crime is committed on or within one-fourth of a mile of**  
18 **the boundary of 2 or more counties, the ~~defendant may be tried~~ trial may be in any**  
19 **of such counties.**

20           **(4) If a crime is committed in, on, by use of, or against any vehicle passing**  
21 **through or within this state, and it cannot readily be determined in which county the**  
22 **crime was committed, the ~~defendant may be tried~~ trial may be in any county through**  
23 **which such vehicle has passed or in the county where the defendant's travel**  
24 **commenced or terminated in which the vehicle has traveled.**

**SENATE BILL 82**

1           (5) If the act causing death is in one county and the death ensues in another,  
2 the defendant ~~may be tried~~ trial may be in either county. If neither location can  
3 readily be determined, the defendant ~~may be tried~~ trial may be in the county where  
4 the body is found.

5           (6) If an offense is commenced outside the state and is consummated within  
6 the state, the defendant ~~may be tried~~ trial may be in the county where the offense  
7 was consummated.

8           (8) In an action for a violation of s. 948.31, the defendant ~~may be tried~~ trial may  
9 be in the county where the crime was committed or the county of lawful residence of  
10 the child.

11           (9) (intro.) In an action under s. 301.45 (6) (a) or (ag), the defendant ~~may be tried~~  
12 trial may be in the defendant's county of residence at the time that the complaint is  
13 filed. If the defendant does not have a county of residence in this state at the time  
14 that the complaint is filed, or if the defendant's county of residence is unknown at the  
15 time that the complaint is filed, defendant ~~may be tried~~ trial may be in any of the  
16 following counties:

17           (10) In an action under s. 30.547 for intentionally falsifying an application for  
18 a certificate of number, a registration or a certificate of title, the defendant ~~may be~~  
19 ~~tried~~ trial may be in the defendant's county of residence at the time that the  
20 complaint is filed, in the county where the defendant purchased the boat if purchased  
21 from a dealer, or the county where the department of natural resources received the  
22 application.

23           (11) In an action under s. 943.201, the defendant ~~may be tried~~ trial may be in  
24 the county where the victim or intended victim resided at the time of the offense or  
25 in any other county designated under this section. In an action under s. 943.203, the

**SENATE BILL 82**

1     ~~defendant may be tried~~ trial may be in the county where the victim or intended victim  
2     was located at the time of the offense or in any other county designated under this  
3     section.

4           **(12)** Except as provided in s. ~~971.223~~ 971.72, in an action for a violation of chs.  
5     5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or for a violation of any other law  
6     arising from or in relation to the official functions of the subject of the investigation  
7     or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to  
8     12, subch. III of ch. 13, or subch. III of ch. 19 a ~~defendant who is~~ trial for a resident  
9     of this state shall be ~~tried~~ in circuit the court for the county where the ~~defendant~~  
10    person resides. For purposes of this subsection, a person other than a natural person  
11    resides within a county if the person's principal place of operation is located within  
12    that county.

13           **SECTION 866.** 971.20 of the statutes is renumbered 967.16, and 967.16 (9) and  
14    (10), as renumbered, are amended to read:

15           **967.16 (9) JUDGE'S AUTHORITY TO ACT.** Upon the filing of a request for  
16    substitution in proper form and within the proper time, the judge whose substitution  
17    has been requested has no authority to act further in the action except to conduct the  
18    initial appearance, accept pleas, and set bail conditions of release.

19           **(10) FORM OF REQUEST.** A request for substitution of a judge may be made in the  
20    following form:

21           STATE OF WISCONSIN

22           CIRCUIT COURT

23           .... County

24           State of Wisconsin

25           vs.

**SENATE BILL 82**

1           ....(Defendant)

2           Pursuant to s. 971.20 967.16 the defendant (or defendants) request (s) a  
3 substitution for the Hon. .... as judge in the above entitled action.

4           Dated ...., .... (year)

5           ....(Signature of defendant or defendant's attorney)

6           **SECTION 867.** 971.22 of the statutes is renumbered 971.70, and 971.22 (2) and  
7 (3), as renumbered, are amended to read:

8           971.70 (2) The motion shall be in writing and supported by an affidavit ~~which~~  
9 ~~shall state~~ stating evidentiary facts showing the nature of the prejudice alleged. The  
10 district attorney may file counter affidavits.

11           (3) If the court determines that ~~there exists~~ prejudice in the county where the  
12 action is pending such ~~prejudice that will prevent~~ a fair trial ~~cannot be had~~, it shall  
13 order that conduct the trial be held in any county where an impartial a fair trial can  
14 be had. ~~Only one change may be granted under this subsection. The judge who~~  
15 ~~orders the change in the place of trial shall preside at the trial. Preliminary matters~~  
16 ~~prior to trial may be conducted in either county at the discretion of the court. The~~  
17 ~~judge or, if the requirements under s. 971.71 (1) are satisfied, order the selection of~~  
18 a jury from another county under s. 971.71 (2). If the court conducts the trial in  
19 another county, it shall determine where the defendant, if he or she is in custody,  
20 shall be held and where the record shall be kept. ~~If the criteria under s. 971.225 (1)~~  
21 ~~(a) to (c) exist, the court may proceed under s. 971.225 (2) The court, in its discretion,~~  
22 may conduct pretrial matters in either county.

23           **SECTION 868.** 971.223 of the statutes is renumbered 971.72, and 971.72 (3) and  
24 (4), as renumbered, are amended to read:

**SENATE BILL 82**

1           971.72 (3) This section does not affect which prosecutor has responsibility  
2           under s. 978.05 (1) to prosecute criminal actions arising from violations described  
3           under sub. (1).

4           (4) This section does not affect the application of s. ~~971.22~~ 971.70. In actions  
5           described under sub. (1), the court may enter an order under s. ~~971.225~~ 971.71 only  
6           if the order is agreed to by the defendant.

7           **SECTION 869.** 971.225 (title) of the statutes is renumbered 971.71 (title).

8           **SECTION 870.** 971.225 (1) (intro.), (a) and (c) of the statutes are renumbered  
9           971.71 (1) (intro.), (a) and (b), and 971.71 (1) (intro.) and (a), as renumbered, are  
10          amended to read:

11          971.71 (1) (intro.) ~~In lieu of~~ If there are grounds for changing the place of trial  
12          under s. ~~971.22 (3) or 971.223~~ 971.70 (3) or 971.72 and all of the following conditions  
13          are satisfied, the court may require the selection of a jury under sub. (2) if:

14          (a) The court has decided to sequester the jurors after the commencement of  
15          the trial, as provided in s. ~~972.12;~~ 972.05.

16          **SECTION 871.** 971.225 (1) (b) of the statutes is repealed.

17          **SECTION 872.** 971.225 (2) of the statutes is renumbered 971.71 (2) and amended  
18          to read:

19          971.71 (2) If the court decides to proceed under this section it shall follow the  
20          procedure under s. ~~971.22~~ 971.70 until the jury is chosen in the 2nd county. At that  
21          time, the proceedings shall return to the original county using the jurors selected in  
22          the 2nd county. The original county shall reimburse the 2nd county for all applicable  
23          costs under s. 814.22.

24          **SECTION 873.** 971.23 (title) of the statutes is repealed.

**SENATE BILL 82**

1           **SECTION 874.** 971.23 (1) (intro.) of the statutes is renumbered 971.43 (2) (intro.)  
2 and amended to read:

3           971.43 (2) ~~WHAT A DISTRICT ATTORNEY MUST DISCLOSE TO A DEFENDANT~~ MATERIAL  
4 TO BE DISCLOSED. (intro.) ~~Upon demand, the~~ The district attorney shall, ~~within a~~  
5 ~~reasonable time before trial,~~ disclose to the defendant or his or her attorney defense  
6 the following material and information, not previously disclosed before or at the  
7 initial appearance, and permit the defendant or his or her attorney to inspect and  
8 copy or photograph all of the following materials and information, if it is within the  
9 possession, custody or control of the state inspection, copying, and photographing of  
10 disclosed documents or tangible objects:

11           **SECTION 875.** 971.23 (1) (a) of the statutes is renumbered 971.43 (2) (a) and  
12 amended to read:

13           971.43 (2) (a) Any written or recorded statement concerning the alleged crime  
14 made by the defendant, including the testimony of the defendant in a ~~secret~~ John Doe  
15 proceeding under s. ~~968.26~~ 968.105, at an inquest, or before a grand jury, and the  
16 names of witnesses to the defendant's written or recorded statements.

17           **SECTION 876.** 971.23 (1) (b) of the statutes is renumbered 971.43 (2) (c) and  
18 amended to read:

19           971.43 (2) (c) A written summary of all oral statements of the defendant ~~which~~  
20 that the district attorney plans to use ~~in the course of the~~ at trial and the names of  
21 witnesses to the defendant's oral statements.

22           **SECTION 877.** 971.23 (1) (bm) of the statutes is renumbered 971.43 (2) (d) and  
23 amended to read:

24           971.43 (2) (d) Evidence obtained in the manner described under s. ~~968.31~~  
25 968.345 (2) (b), if the district attorney intends to use the evidence at trial.

**SENATE BILL 82**

1           **SECTION 878.** 971.23 (1) (c) of the statutes is renumbered 971.43 (2) (g).

2           **SECTION 879.** 971.23 (1) (d) of the statutes is renumbered 971.45 and amended  
3 to read:

4           **971.45 Witness lists.** ~~A~~ Upon demand by the other party, a party shall  
5 provide a list of all witnesses and their addresses whom the district attorney he or  
6 she intends to call at the trial. The list shall include each witness's name and address  
7 and shall be provided not less than 10 days before trial or at another time set by the  
8 court. This paragraph section does not apply to rebuttal witnesses or those witnesses  
9 called for impeachment only.

10          **SECTION 880.** 971.23 (1) (e) of the statutes is renumbered 971.46 (2) and  
11 amended to read:

12           971.46 (2) ~~Any relevant written or recorded statements of a witness named on~~  
13 ~~a list under par. (d), including any audiovisual recording of an oral statement of a~~  
14 ~~child under s. 908.08, Furnish any reports or statements of experts made in~~  
15 ~~connection with the case or, if an expert does not prepare a report or statement, a~~  
16 ~~written summary of the expert's findings or the subject matter of his or her testimony,~~  
17 ~~and the results of any physical or mental examination, scientific test, experiment,~~  
18 ~~or comparison that the district attorney party intends to offer in evidence at trial.~~

19          **SECTION 881.** 971.23 (1) (f) of the statutes is renumbered 971.43 (2) (i) and  
20 amended to read:

21           971.43 (2) (i) The criminal record of ~~a prosecution witness which is, and if~~  
22 ~~known to the district attorney, any pending charges against, any person whom the~~  
23 ~~district attorney intends to call as a trial witness.~~

24          **SECTION 882.** 971.23 (1) (g) of the statutes is renumbered 971.43 (2) (j) and  
25 amended to read:

**SENATE BILL 82**

1           971.43 (2) (j) Any physical evidence that the district attorney intends to offer  
2 in evidence at the trial.

3           **SECTION 883.** 971.23 (1) (h) of the statutes is renumbered 971.43 (2) (k).

4           **SECTION 884.** 971.23 (2m) (intro.) of the statutes is renumbered 971.44 (2)  
5 (intro.) and amended to read:

6           971.44 (2) ~~WHAT A DEFENDANT MUST DISCLOSE TO THE DISTRICT ATTORNEY~~ MATERIAL  
7 TO BE DISCLOSED. (intro.) ~~Upon demand, the defendant or his or her attorney~~ The  
8 defense shall, within a reasonable time before trial, disclose to the district attorney  
9 and permit the district attorney to inspect and copy or photograph all of the following  
10 materials material and information, if it is within the possession, custody or control  
11 of the defendant and permit inspection, copying, and photographing of disclosed  
12 documents or tangible objects:

13           **SECTION 885.** 971.23 (2m) (a) of the statutes is repealed.

14           **SECTION 886.** 971.23 (2m) (am) of the statutes is repealed.

15           **SECTION 887.** 971.23 (2m) (b) of the statutes is renumbered 971.44 (2) (b) and  
16 amended to read:

17           971.44 (2) (b) ~~The~~ If known to the defense, the criminal record of ~~a~~ any person  
18 whom the defense intends to call as a trial witness, other than the defendant, ~~which~~  
19 ~~is known to the defense attorney.~~

20           **SECTION 888.** 971.23 (2m) (c) of the statutes is renumbered 971.44 (2) (c) and  
21 amended to read:

22           971.44 (2) (c) Any physical evidence that the ~~defendant~~ defense intends to offer  
23 in evidence at the trial.

24           **SECTION 889.** 971.23 (3) of the statutes is renumbered 971.54 and amended to  
25 read:



## SENATE BILL 82

1           **971.54 ~~Comment or instruction on failure to call witness~~ Failure to use**  
2           **disclosed material at trial.** ~~No comment or instruction~~ The fact that a party has  
3           indicated during the discovery process an intention to offer specified evidence or to  
4           call a specified witness is not admissible in evidence at a pretrial hearing or trial.  
5           If a party fails to offer such evidence or call such a witness, neither the court nor any  
6           other party or witness may make any statement regarding the ~~that~~ failure to call a  
7           witness at the trial shall be made or given if the sole basis for such ~~comment or~~  
8           ~~instruction~~ the statement is the fact ~~that~~ the evidence or name of the witness appears  
9           ~~upon a list furnished pursuant to this section~~ was disclosed under this subchapter.

10           **SECTION 890.** 971.23 (5) of the statutes is renumbered 971.48 (1) and amended  
11           to read:

12           971.48 (1) ~~SCIENTIFIC TESTING.~~ On Upon motion of a ~~by either~~ party subject to  
13           ~~s. 971.31 (5)~~, the court may order the production of any item of physical evidence  
14           ~~which~~ that is intended to be introduced at the trial for scientific analysis under such  
15           terms and conditions as the court prescribes.

16           **SECTION 891.** 971.23 (5c) (title) of the statutes is repealed.

17           **SECTION 892.** 971.23 (5c) of the statutes is renumbered 971.58 (1).

18           **SECTION 893.** 971.23 (6) (title) of the statutes is renumbered 971.52 (title) and  
19           amended to read:

20           **971.52 (title) ~~Protective order orders, other special procedures.~~**

21           **SECTION 894.** 971.23 (6) of the statutes is renumbered 971.52 (1) and amended  
22           to read:

23           971.52 (1) Upon motion of a party, the court may at any time order that  
24           ~~discovery, inspection or the listing of witnesses~~ required under this section  
25           subchapter be denied, restricted, or deferred, or make other appropriate orders.

**SENATE BILL 82**

1           **(2)** If the district attorney or defense counsel certifies that ~~to list~~ listing a  
2 witness under s. 971.45 may subject the witness or others to physical or economic  
3 harm or coercion, the court may order that the deposition of the witness be taken  
4 pursuant to s. ~~967.04 (2) to (6)~~ 967.21. The name of the witness need not be divulged  
5 prior to the taking of such deposition. If the witness becomes unavailable or changes  
6 his or her testimony, the deposition shall be admissible at trial as substantive  
7 evidence.

8           **SECTION 895.** 971.23 (6c) (title) of the statutes is repealed.

9           **SECTION 896.** 971.23 (6c) of the statutes is renumbered 971.58 (2) and amended  
10 to read:

11           971.58 **(2)** Except as provided in s. ~~967.04~~ 967.21, the defendant or his or her  
12 attorney may not compel a victim of a crime to submit to a pretrial interview or  
13 deposition.

14           **SECTION 897.** 971.23 (6m) of the statutes is renumbered 971.53 and amended  
15 to read:

16           **971.53 In camera proceedings.** ~~Either~~ Upon motion of a party, the court may  
17 ~~move for~~ conduct an in camera inspection by the court of any document required to  
18 be disclosed under sub. (1) or (2m) for the purpose of masking or deleting any  
19 material which is not relevant to the case being tried. ~~The court shall mask or delete~~  
20 ~~any irrelevant material~~ s. 971.035, 971.43, or 971.44. Any in camera proceeding shall  
21 be reported and the court shall enter any order necessary to preserve the  
22 confidentiality of the record. The original or a copy of any material that is not  
23 disclosed shall be sealed and preserved as part of the record.

24           **SECTION 898.** 971.23 (7) of the statutes is renumbered 971.50 and amended to  
25 read:

**SENATE BILL 82**

1           **971.50 Continuing duty to disclose.** If, ~~subsequent to compliance after~~  
2 ~~complying~~ with a requirement of this section ~~chapter~~, and ~~prior to before~~ or during  
3 trial, a party discovers additional material or the names of additional witnesses  
4 requested ~~which that~~ are subject to discovery, inspection, or production under this  
5 section ~~subchapter~~, the party shall promptly notify the other party of the existence  
6 of the additional material or names.

7           **SECTION 899.** 971.23 (7m) (a) of the statutes is renumbered 971.55 and  
8 amended to read:

9           **971.55 Remedies for noncompliance.** The court shall exclude any witness  
10 not listed, any expert as to whom the requirements of s. 971.46 were not met, or  
11 evidence not presented for inspection, testing, or copying required by this section  
12 subchapter, unless good cause is shown for failure to comply. ~~The court may in In~~  
13 appropriate cases, the court may grant the opposing party a recess ~~or~~, a continuance,  
14 or other appropriate remedy.

15           **SECTION 900.** 971.23 (7m) (b) of the statutes is repealed.

16           **SECTION 901.** 971.23 (8) (title) of the statutes is renumbered 971.44 (4) (title).

17           **SECTION 902.** 971.23 (8) (a) of the statutes is renumbered 971.44 (4) and  
18 amended to read:

19           971.44 (4) If the defendant defense intends to ~~rely upon an alibi as a defense~~,  
20 ~~the defendant shall give notice to~~ call witnesses other than the defendant to support  
21 a defense of alibi, the defense shall notify the district attorney of that intent at the  
22 arraignment or at least 30 days before trial, stating particularly the place where the  
23 defendant claims to have been when the crime is alleged to have been committed  
24 ~~together with and~~ the names and addresses of witnesses to the alibi, if known. ~~If at~~  
25 the close of the state's case the defendant ~~withdraws the alibi or if at the close of the~~

**SENATE BILL 82**

1 defendant's case the defendant does not call some or any of the alibi witnesses, the  
2 state shall not comment on the defendant's withdrawal or on the failure to call some  
3 or any of the alibi witnesses. ~~The state shall not call any alibi witnesses not called~~  
4 ~~by the defendant for the purpose of impeaching the defendant's credibility with~~  
5 ~~regard to the alibi notice. Nothing in this section may prohibit the state from calling~~  
6 ~~said alibi witnesses for any other purpose whom the defense intends to call at trial.~~

7 **SECTION 903.** 971.23 (8) (b) of the statutes is repealed.

8 **SECTION 904.** 971.23 (8) (c) of the statutes is repealed.

9 **SECTION 905.** 971.23 (8) (d) of the statutes is renumbered 971.43 (5) and  
10 amended to read:

11 971.43 (5) ALIBI REBUTTAL. ~~Within 20 days after receipt of the~~ If the defendant  
12 has provided notice of an alibi, ~~or such other time as the court orders~~ defense under  
13 s. 971.44 (4), the district attorney shall furnish the defendant notice in writing of,  
14 within 20 days after receipt of such notice unless otherwise provided in the  
15 scheduling order, disclose the names and addresses, if known, of any witnesses whom  
16 the state proposes to offer in rebuttal to discredit the defendant's alibi. ~~In default of~~  
17 ~~such notice, no rebuttal evidence on the alibi issue shall be received unless the court,~~  
18 ~~for cause, orders otherwise~~ district attorney intends to call in rebuttal to discredit the  
19 defendant's alibi.

20 **SECTION 906.** 971.23 (8) (e) of the statutes is repealed.

21 **SECTION 907.** 971.23 (9) of the statutes is renumbered 971.47 and amended to  
22 read:

23 **971.47 Deoxyribonucleic acid evidence.** (1) In this subsection section,  
24 "deoxyribonucleic acid profile" has the meaning given in s. 939.74 (2d) (a).

**SENATE BILL 82**

1           (2) Notwithstanding ~~sub. (1) (e) or (2m) (am)~~, if either s. 971.46, a party who  
2 intends to submit offer deoxyribonucleic acid profile evidence at a trial to prove or  
3 disprove the identity of a person, ~~the party seeking to introduce the evidence shall~~  
4 notify the other party ~~of the intent to introduce the evidence in writing by mail at~~  
5 least 45 days before the date set for trial; ~~and shall provide the other party of his or~~  
6 her intent to offer the evidence and, within 15 days of after receiving a request, ~~the~~  
7 from the other party, shall provide him or her the information and material identified  
8 ~~under sub. (1) (e) or (2m) (am), whichever is appropriate, described in s. 971.46 that~~  
9 relates to the evidence.

10           (3) The court shall exclude deoxyribonucleic acid profile evidence at trial, if the  
11 notice and production deadlines under ~~par. (b) sub. (2)~~ are not met, except the court  
12 may waive the 45 day notice requirement or may extend the 15 day production  
13 requirement upon stipulation of the parties, or for good cause, if the court finds that  
14 no party will be prejudiced by the waiver or extension. ~~The court may in In~~  
15 appropriate cases the court may grant the opposing party a recess or continuance.

16           **SECTION 908.** 971.23 (10) (title) of the statutes is repealed.

17           **SECTION 909.** 971.23 (10) of the statutes is renumbered 971.51 (2).

18           **SECTION 910.** 971.23 (11) of the statutes is renumbered 971.515, and 971.515  
19 (1) (intro.) and (a), (3) (a) and (b) and (4), as renumbered, are amended to read:

20           971.515 (1) (intro.) In this ~~subsection~~ section:

21           (a) “Defense” means the defendant, his or her attorney, and any individual  
22 retained by the defendant or his or her attorney for the purpose of providing  
23 testimony if the testimony is expert testimony that relates to an item or material  
24 included under ~~par. (b) sub. (2)~~.

**SENATE BILL 82**

1           (3) (a) Notwithstanding ~~sub. (1) (e) and (g) s. 971.43 (2) (j)~~, a court shall deny  
2 any request by the defense to provide, and a district attorney or law enforcement  
3 agency may not provide to the defense, any item or material required in ~~par. (b) sub.~~  
4 ~~(2)~~ to remain in the possession, custody, and control of a law enforcement agency or  
5 court, except that a court may order that a copy of an item or material included under  
6 ~~par. (b) sub. (2)~~ be provided to the defense if that court finds that a copy of the item  
7 or material has not been made reasonably available to the defense. The defense shall  
8 have the burden to establish that the item or material has not been made reasonably  
9 available.

10           (b) If a court orders under ~~subd. 1. par. (a)~~ a copy of an item or material included  
11 under ~~par. (b) sub. (2)~~ to be provided to the defense, the court shall enter a protective  
12 order under ~~sub. (6) s. 971.52 (1)~~ that includes an order that the copy provided to the  
13 defense may not be copied, printed, or disseminated by the defense and shall be  
14 returned to the court or law enforcement agency, whichever is appropriate, at the  
15 completion of the trial.

16           (4) Any item or material that is required under ~~par. (b) sub. (2)~~ to remain in  
17 possession, custody, and control of a law enforcement agency or court is not subject  
18 to the right of inspection or copying under s. 19.35 (1).

19           **SECTION 911.** 971.26 of the statutes is renumbered 970.11.

20           **SECTION 912.** 971.27 of the statutes is renumbered 970.12 and amended to  
21 read:

22           **970.12 Lost or destroyed information, or complaint or indictment.** In  
23 ~~the case of the loss or destruction of an information or complaint~~ If a complaint or  
24 information is lost or destroyed, the district attorney may file a copy, and ~~the~~  
25 ~~prosecution shall proceed without delay from that cause.~~ ~~In the case of the loss or~~

**SENATE BILL 82**

1 ~~destruction of an indictment, an information may be filed~~ which shall have the same  
2 effect as the original.

3 **SECTION 913.** 971.29 (title) of the statutes is renumbered 970.09 (title) and  
4 amended to read:

5 **970.09 (title) Amending the charge complaint or information.**

6 **SECTION 914.** 971.29 (1) of the statutes is renumbered 970.09 (1) and amended  
7 to read:

8 970.09 (1) ~~A complaint or information may be amended at any time prior to~~  
9 At any time before arraignment, the district attorney may amend the complaint or  
10 information without leave of the court.

11 **SECTION 915.** 971.29 (2) of the statutes is renumbered 970.09 (3) and amended  
12 to read:

13 970.09 (3) ~~At the trial, the~~ The court may allow amendment of the district  
14 attorney to amend the complaint, indictment or information at trial to conform to the  
15 proof where such amendment is not prejudicial to the defendant.

16 ~~(4)~~ (4) After verdict the ~~pleading~~ complaint shall be deemed amended as to  
17 technical variances to conform to the proof if no objection to the relevance of the  
18 evidence was timely raised upon the trial.

19 **SECTION 916.** 971.29 (3) of the statutes is repealed.

20 **SECTION 917.** 971.30 (title) and (1) of the statutes are repealed.

21 **SECTION 918.** 971.30 (2) (intro.), (a), (b) and (c) of the statutes are consolidated,  
22 renumbered 971.65 (1) and amended to read:

23 971.65 (1) GENERALLY. Any motion that is capable of determination before trial  
24 may be made before trial. Unless otherwise provided or ordered by the court, all  
25 motions the motion shall meet the following criteria: (a) ~~Be~~ be in writing. (b) ~~Contain~~

**SENATE BILL 82**

1 and contain a caption setting forth the name of the court, the venue, the title of the  
2 action, the file number, and a denomination of the party seeking the order or relief  
3 ~~and a brief description of the type of order or relief sought.~~ (c) ~~State.~~ The motion  
4 shall state with particularity the grounds for the motion and the order or relief  
5 sought.

6 **SECTION 919.** 971.31 (title) of the statutes is repealed.

7 **SECTION 920.** 971.31 (1) of the statutes is repealed.

8 **SECTION 921.** 971.31 (2) of the statutes is renumbered 971.65 (3) and amended  
9 to read:

10 971.65 (3) PARTICULAR ISSUES TO BE RAISED. Except as provided in sub. (5) (2)  
11 (b), defenses and objections based on defects in the institution of the proceedings,  
12 insufficiency of the complaint, information, or indictment, invalidity in whole or in  
13 part of the statute on which the prosecution is ~~founded~~ based, or the use of illegal  
14 means to secure evidence shall be raised before trial by a motion or be deemed  
15 waived. The court may, however, entertain such a motion at the trial, in which case  
16 the defendant waives any jeopardy that may have attached. ~~The motion to suppress~~  
17 ~~evidence shall be so entertained with waiver of jeopardy when it appears that the~~  
18 ~~defendant is surprised by the state's possession of such evidence.~~

19 **SECTION 922.** 971.31 (3) of the statutes is renumbered 972.18 (2) and amended  
20 to read:

21 972.18 (2) The admissibility of any statement of the defendant shall be  
22 determined at the trial by the court in an evidentiary hearing out of the presence of  
23 the jury, unless the defendant, ~~by motion, challenges the~~ court ruled on admissibility  
24 of such the statement before trial.



**SENATE BILL 82**

1           **SECTION 923.** 971.31 (4) of the statutes is renumbered 971.65 (4) and amended  
2 to read:

3           971.65 (4) DECIDING MOTIONS BEFORE AND AT TRIAL. ~~Except as provided in sub-~~  
4 ~~(3), a motion shall be determined before trial of the general issue~~ Before trial, the  
5 court shall determine each motion made under this section unless the court orders  
6 that it be deferred for determination at the trial. All issues of fact arising out of such  
7 the motion shall be tried determined by the court without a jury.

8           **SECTION 924.** 971.31 (5) (a) of the statutes is repealed.

9           **SECTION 925.** 971.31 (5) (b) and (c) of the statutes are consolidated, renumbered  
10 971.65 (2) (b) and amended to read:

11           971.65 (2) (b) In felony actions, motions to suppress evidence or motions under  
12 s. ~~971.23~~ 971.43 or objections to the admissibility of statements of a defendant ~~shall~~  
13 may not be made at a preliminary examination and not until an information has been  
14 filed. ~~(e) In felony actions, objections~~ Objections based on the insufficiency of the  
15 complaint shall be made prior to the preliminary examination or waiver thereof of  
16 the preliminary examination or be deemed waived.

17           **SECTION 926.** 971.31 (6) of the statutes is renumbered 971.65 (5) and amended  
18 to read:

19           971.65 (5) CUSTODY AFTER DISMISSAL. If the court grants a motion to dismiss  
20 based upon a defect in the ~~indictment, information~~ commencement of the prosecution  
21 or in the complaint, ~~or in the institution of the proceedings or information,~~ it may,  
22 upon a showing that probable cause exists to believe that the defendant has  
23 committed a crime, order that the defendant be held in custody ~~or that the~~  
24 ~~defendant's bail be continued for not more than 72~~ 48 hours pending issuance of a

**SENATE BILL 82**

1 ~~new summons or warrant~~ or that the conditions of release be continued for a specified  
2 time pending the filing of a new indictment, information or complaint.

3 **SECTION 927.** 971.31 (7) of the statutes is repealed.

4 **SECTION 928.** 971.31 (8) of the statutes is repealed.

5 **SECTION 929.** 971.31 (9) of the statutes is renumbered 967.15 and amended to  
6 read:

7 **967.15 Service upon defendant.** A pleading or motion required to be served  
8 on a defendant may be served upon the defendant's attorney of record.

9 **SECTION 930.** 971.31 (10) of the statutes is renumbered 971.085 (1) (a) and  
10 amended to read:

11 971.085 (1) (a) An order denying a motion to suppress evidence or a motion  
12 challenging the admissibility of a statement of a defendant ~~may be reviewed upon~~  
13 ~~appeal from a final judgment or order notwithstanding the fact that the judgment~~  
14 ~~or order was entered upon a plea of guilty or no contest to the information or criminal~~  
15 ~~complaint.~~

16 **SECTION 931.** 971.31 (11) of the statutes is renumbered 971.65 (6) and amended  
17 to read:

18 971.65 (6) PRIOR SEXUAL CONDUCT EVIDENCE. In actions under s. 940.225, 948.02,  
19 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s. 940.302 (2), if the  
20 court finds that the crime was sexually motivated, as defined in s. 980.01 (5),  
21 evidence ~~which~~ that is admissible under s. ~~972.11 (2)~~ 904.045 must be determined  
22 by the court upon pretrial motion to be material to a fact at issue in the case and of  
23 sufficient probative value to outweigh its inflammatory and prejudicial nature  
24 before it may be introduced at trial.

**SENATE BILL 82**

1           **SECTION 932.** 971.31 (12) of the statutes is renumbered 971.65 (7) and amended  
2 to read:

3           971.65 (7) EVIDENCE OF PERSONAL OR MEDICAL HISTORY. In actions under s.  
4 940.22, the court may determine the admissibility of evidence under s. ~~972.11~~ 940.22  
5 (6) only upon a pretrial motion.

6           **SECTION 933.** 971.31 (13) of the statutes is renumbered 971.77, and 971.77 (2),  
7 as renumbered, is amended to read:

8           971.77 (2) The court shall retain jurisdiction unless the juvenile proves by a  
9 preponderance of the evidence that he or she did not commit the violation under the  
10 circumstances described in s. 938.183 (1) (b) or (c), whichever is applicable, or that  
11 transfer would be appropriate because all of the factors specified in ~~par. (a) 1., 2. and~~  
12 ~~3.~~ sub. (1) (a), (b), and (c) are met.

13           **SECTION 934.** 971.315 of the statutes is renumbered 970.10 (2) and amended  
14 to read:

15           970.10 (2) ~~INQUIRY UPON DISMISSAL.~~ Before a court dismisses a criminal charge  
16 ~~against a person~~ under sub. (1), the court shall inquire of the district attorney  
17 whether he or she has complied with s. 971.095 (2).

18           **SECTION 935.** 971.32 of the statutes is renumbered 970.21.

19           **SECTION 936.** 971.34 of the statutes is renumbered 970.22.

20           **SECTION 937.** 971.36 of the statutes is renumbered 970.23.

21           **SECTION 938.** 971.365 of the statutes is renumbered 970.24.

22           **SECTION 939.** 971.38 (1) of the statutes is amended to read:

23           971.38 (1) Except as provided in s. ~~967.055~~ 970.25 (3), the district attorney may  
24 require as a condition of any deferred prosecution program for any crime that the  
25 defendant perform community service work for a public agency or a nonprofit

**SENATE BILL 82**

1 charitable organization. The number of hours of work required may not exceed what  
2 would be reasonable considering the seriousness of the alleged offense. An order may  
3 only apply if agreed to by the defendant and the organization or agency. The district  
4 attorney shall ensure that the defendant is provided a written statement of the terms  
5 of the community service order and that the community service order is monitored.

6 **SECTION 940.** 971.39 (1) (intro.) of the statutes is amended to read:

7 971.39 (1) (intro.) Except as provided in s. ~~967.055~~ 970.25 (3), in counties  
8 having a population of less than 100,000, if a defendant is charged with a crime, the  
9 district attorney, the department and a defendant may all enter into a deferred  
10 prosecution agreement which includes, but is not limited to, the following conditions:

11 **SECTION 941.** Subchapter IV (title) of chapter 971 [precedes 971.42] of the  
12 statutes is created to read:

13 **CHAPTER 971**

14 **SUBCHAPTER IV**

15 **DISCOVERY**

16 **SECTION 942.** 971.42 of the statutes is created to read:

17 **971.42 Purposes.** Discovery under this subchapter and s. 971.035 is intended,  
18 consistent with the constitutional rights of the defendant, to do all of the following:

19 (1) Promote fair and expeditious disposition of criminal charges, whether by  
20 deferred or suspended prosecution, plea, or trial.

21 (2) Provide the defendant with sufficient information to make an informed  
22 plea.

23 (3) Permit thorough preparation for and minimize surprise at trial.

**SENATE BILL 82**

1           (4) Reduce interruptions and complications during trial and avoid unnecessary  
2           and repetitious trials by identifying and resolving any procedural, collateral, or  
3           constitutional issues before trial.

4           (5) Minimize inequities among similarly situated defendants.

5           (6) Effect economies in time, money, judicial resources, and professional skills  
6           by minimizing paperwork, avoiding repetitious assertion of issues, and reducing the  
7           number of separate hearings.

8           (7) Minimize the burden upon victims and witnesses.

9           **SECTION 943.** 971.43 (title) and (1) of the statutes are created to read:

10          **971.43** (title) **Disclosure by district attorney. (1) TIME OF DISCLOSURE.**  
11          Except as provided in subs. (5) and (8), the district attorney shall make all disclosures  
12          under this section within a reasonable time before trial or at a time set in the  
13          scheduling order.

14          **SECTION 944.** 971.43 (2) (b) of the statutes is created to read:

15          971.43 (2) (b) Any written or recorded statement concerning the alleged crime  
16          made by a codefendant, including the testimony of the codefendant at an inquest, in  
17          a John Doe proceeding under s. 968.105, or before a grand jury, and the names of  
18          witnesses to the codefendant's written or recorded statements.

19          **SECTION 945.** 971.43 (2) (br) of the statutes is created to read:

20          971.43 (2) (br) Any record or testimony taken from a John Doe proceeding  
21          under s. 968.105 that the district attorney intends to use at trial and the names of  
22          witnesses to the defendant's written statements.

23          **SECTION 946.** 971.43 (2) (e) of the statutes is created to read:

24          971.43 (2) (e) Any written or recorded statement of a person whom the district  
25          attorney intends to call as a trial witness that concerns the subject matter of the

**SENATE BILL 82**

1 witness's intended testimony, that has been electronically recorded or reduced to  
2 writing and signed or otherwise approved or adopted by the witness, and that is  
3 within the possession or control of the state.

4 **SECTION 947.** 971.43 (2) (f) of the statutes is created to read:

5 971.43 (2) (f) Any audiovisual recording of an oral statement of a child under  
6 s. 908.08.

7 **SECTION 948.** 971.43 (2) (h) of the statutes is created to read:

8 971.43 (2) (h) After the defendant has obtained or waived legal representation,  
9 copies of all law enforcement investigative reports relating to the case.

10 **SECTION 949.** 971.43 (3) of the statutes is created to read:

11 971.43 (3) CHARACTER, REPUTATION, OR OTHER ACTS EVIDENCE. If the district  
12 attorney intends to use evidence of character or reputation or evidence of other  
13 crimes or acts under s. 904.04 (2), he or she shall notify the defense of that intention  
14 and of the substance of the evidence to be used.

15 **SECTION 950.** 971.43 (4) of the statutes is created to read:

16 971.43 (4) ELECTRONIC SURVEILLANCE. If the defendant's conversations or  
17 premises have been subjected to electronic surveillance, including wiretapping, in  
18 connection with the investigation or prosecution of the case, the district attorney  
19 shall inform the defense of that fact.

20 **SECTION 951.** 971.43 (6) of the statutes is created to read:

21 971.43 (6) MATERIAL POSSESSED BY INVESTIGATIVE PERSONNEL. The district  
22 attorney shall make reasonable efforts to ensure that investigative personnel  
23 provide material and information relevant to the crime charged to the district  
24 attorney's office.

25 **SECTION 952.** 971.43 (7) of the statutes is created to read:

**SENATE BILL 82**

1           971.43 (7) MATERIAL POSSESSED BY OTHER AGENCIES. If the district attorney  
2 knows that material and information that would be discoverable if in his or her  
3 possession is in the possession or control of a government agency not reporting  
4 directly to the district attorney, the district attorney shall disclose the fact of the  
5 existence of such material or information to the defense.

6           **SECTION 953.** 971.43 (8) of the statutes is created to read:

7           971.43 (8) NOTICE OF INTENT TO USE CODEFENDANT'S STATEMENT. If the district  
8 attorney intends to use the statement of a codefendant to implicate the defendant in  
9 the crime charged, he or she shall inform the defendant before trial.

10          **SECTION 954.** 971.44 (title) and (1) of the statutes are created to read:

11          **971.44 (title) Defense disclosure. (1) TIME OF DISCLOSURE.** The defense shall  
12 make all disclosures under this section within a reasonable time before the pretrial  
13 conference or at a time set in the scheduling order.

14          **SECTION 955.** 971.44 (2) (a) of the statutes is created to read:

15          971.44 (2) (a) Any written or recorded statement of a person whom the defense  
16 intends to call as a trial witness that concerns the subject matter of the witness's  
17 intended testimony, that has been electronically recorded or reduced to writing and  
18 signed or otherwise approved or adopted by the witness, and that is within the  
19 possession or control of the defense.

20          **SECTION 956.** 971.44 (3) of the statutes is created to read:

21          971.44 (3) CHARACTER, REPUTATION, OR OTHER ACTS EVIDENCE. If the defense  
22 intends to use evidence of character or reputation or evidence of other crimes or acts  
23 under s. 904.04 (2) not relating to the defendant, the defense shall notify the district  
24 attorney of that intention and of the substance of the evidence to be used.

25          **SECTION 957.** 971.46 (intro.) and (1) of the statutes are created to read:

**SENATE BILL 82**

1           **971.46 Expert witnesses.** (intro.) Any party who intends to call an expert  
2 witness at trial shall, not less than 30 days before the trial or at another time set by  
3 the court, do all of the following:

4           (1) Notify the other party in writing of the expert witness's name, address, and  
5 qualifications.

6           **SECTION 958.** 971.48 (title) of the statutes is created to read:

7           **971.48 (title) Scientific testing; preservation of evidence.**

8           **SECTION 959.** 971.48 (2) of the statutes is created to read:

9           971.48 (2) If before trial either party intends to destroy or permanently  
10 transfer out of its possession any material discoverable under this subchapter, the  
11 party shall give the other party advance notice sufficient to afford that party an  
12 opportunity to object or take other appropriate action.

13           **SECTION 960.** 971.49 of the statutes is created to read:

14           **971.49 Motion to obtain evidence before trial.** (1) Notwithstanding s.  
15 908.03 (6m) (c), before trial and upon motion by either party, the court may issue a  
16 subpoena to require the production of documents and other tangible objects if it finds  
17 that the evidence sought may be material to the determination of issues in the case.

18           (2) A motion and subpoena under sub. (1) shall specify who shall produce the  
19 material, whether certified copies of documents may be submitted in lieu of  
20 appearance, and other conditions under which the evidence shall be produced.

21           (3) Any party, or any person subpoenaed under this section, may move to quash  
22 the subpoena if the movant under sub. (1) has not shown grounds for the subpoena  
23 or if compliance would subject the person subpoenaed to an undue burden, require  
24 the disclosure of information that is privileged or otherwise protected from  
25 disclosure, or otherwise be unreasonable.



**SENATE BILL 82**

1           **SECTION 961.** 971.51 (title) and (1) of the statutes are created to read:

2           **971.51 (title) Manner of performing disclosure. (1)** Disclosure may be  
3 accomplished in any manner mutually agreeable to the parties. Absent agreement  
4 or order of the court, the party having the duty to disclose shall provide a copy of the  
5 material to be disclosed.

6           **SECTION 962.** 971.51 (3) of the statutes is created to read:

7           971.51 (3) Notwithstanding sub. (2), the fee for copies of disclosures may not  
8 exceed the actual, necessary, and direct cost of reproduction and transcription of the  
9 record.

10          **SECTION 963.** 971.52 (3) of the statutes is created to read:

11          971.52 (3) If anything is deleted from discoverable material under a claim of  
12 privilege or other exemption, the party to whom the discovery is made shall be  
13 notified and may move the court for an order requiring its disclosure. The court may  
14 require the deleted information to be furnished to the court under seal for  
15 determination of its discoverability. If the court determines that the material is  
16 exempt from disclosure, an appropriate sealed copy of the material shall be kept in  
17 the court record.

18          **SECTION 964.** 971.56 of the statutes is created to read:

19          **971.56 Obtaining nontestimonial information from defendant. (1)** IN  
20 GENERAL. Upon motion by the district attorney, the court may order a defendant  
21 charged with a crime to participate in a procedure to obtain nontestimonial evidence  
22 relevant to whether the defendant committed the crime if the procedure is  
23 reasonable and does not involve an unreasonable intrusion into the body or an  
24 unreasonable detention of the defendant. An order under this subsection may direct  
25 the defendant to do any of the following:

**SENATE BILL 82**

1 (a) Appear, move, or speak for identification in a lineup or, if a lineup is not  
2 practicable, through some other reasonable procedure.

3 (b) Try on clothing and other articles.

4 (c) Provide handwriting and voice exemplars.

5 (d) Permit the taking of his or her photograph.

6 (e) Permit the taking of fingerprints, palm prints, footprints, and other body  
7 impression.

8 (f) Permit the taking of samples of blood, urine, saliva, semen, skin, breath,  
9 hair, or nails or materials under the nails.

10 (g) Submit to body measurements and other reasonable body surface  
11 examinations.

12 (h) Submit to reasonable physical and medical inspection, including X-rays,  
13 of the body.

14 (i) Participate in other procedures that comply with the requirements of sub.  
15 (1) (intro.).

16 **(2) CONTENTS OF ORDER.** An order under this section shall specify with  
17 particularity the authorized procedure; the scope of the defendant's participation in  
18 the procedure; the time, duration, and place of the procedure and other conditions  
19 under which it is to be conducted; and who may conduct the procedure. It may also  
20 direct the defendant not to alter substantially any identifying physical  
21 characteristics to be examined or destroy any evidence sought. The order shall  
22 specify that the defendant may not be subjected to investigative interrogation while  
23 participating in or present for the procedure and that the defendant may be held in  
24 contempt of court if he or she fails to appear and participate in the procedure as  
25 directed.

**SENATE BILL 82**

1           **(3) SERVICE.** The order shall be served by mailing or delivering a copy to the  
2 defendant's counsel and by delivering a copy of the order to the defendant personally.

3           **(4) IMPLEMENTATION.** (a) Counsel may accompany the defendant at a procedure  
4 ordered under this section, but the court may bar other individuals from attending.

5           (b) If the procedure involves an intrusion into the body, it shall be conducted  
6 by a qualified health care professional. Upon timely request by the defendant and  
7 approval by the court, a qualified health care professional designated by the  
8 defendant may observe any procedure involving intrusion of the body.

9           (c) The defendant may not be subjected to investigative interrogation at the  
10 procedure. No statement of the defendant made at the procedure is admissible  
11 against the defendant if made in the absence of the defendant's counsel.

12           **SECTION 965.** 971.57 of the statutes is created to read:

13           **971.57 Nontestimonial discovery from 3rd parties.** (1) Upon motion of  
14 a defendant, the court may issue a subpoena requiring an individual to participate  
15 in a procedure to obtain nontestimonial evidence under s. 971.56 (1) if an affidavit  
16 or testimony shows probable cause to believe that the individual to be subpoenaed  
17 committed the crime with which the defendant is charged and that the evidence  
18 sought is necessary to an adequate defense and cannot practicably be obtained from  
19 other sources.

20           (2) A motion and order under sub. (1) shall specify with particularity the  
21 following information if appropriate:

22           (a) The authorized procedure.

23           (b) The scope of the 3rd party's participation.

24           (c) The time, duration, and place of the procedure and other conditions under  
25 which it is to be conducted.

**SENATE BILL 82**

1 (d) The name or job title of the person who is to conduct the procedure.

2 (3) Any party or any person subpoenaed under this section may move to quash  
3 the subpoena if the defendant has not shown grounds for the subpoena or if  
4 compliance would subject the person subpoenaed to an undue burden, require the  
5 disclosure of information that is privileged or otherwise protected from disclosure,  
6 or otherwise be unreasonable.

7 **SECTION 966.** 971.58 (title) of the statutes is created to read:

8 **971.58 (title) Compelling certain examinations prohibited.**

9 **SECTION 967.** Subchapter V (title) of chapter 971 [precedes 971.65] of the  
10 statutes is created to read:

11 **CHAPTER 971**

12 **SUBCHAPTER V**

13 **MOTIONS**

14 **SECTION 968.** 971.65 (title) of the statutes is created to read:

15 **971.65 (title) Pretrial motions.**

16 **SECTION 969.** 971.65 (2) (title) and (a) of the statutes are created to read:

17 971.65 (2) (title) TIME FOR FILING. (a) A motion under this section shall be filed  
18 within the time set in the scheduling order. If there is no scheduling order, the motion  
19 shall be filed not later than 15 days before trial, unless otherwise permitted by the  
20 court.

21 **SECTION 970.** 971.66 of the statutes is created to read:

22 **971.66 Motions to dismiss asserting that a statute is unconstitutional.**

23 If a defendant moves to dismiss a criminal prosecution by asserting that the statute  
24 under which he or she is charged violates the United States or Wisconsin

**SENATE BILL 82**

1 Constitution, the defendant must serve a copy of the motion on the attorney general  
2 under s. 806.04 (11) as well as on the district attorney.

3 **SECTION 971.** 971.68 (title), (1) and (3) of the statutes are created to read:

4 **971.68 (title) Joinder and severance motions. (1) IN GENERAL.** Either party  
5 may move for joinder or relief from misjoinder or prejudicial joinder under s. 970.13.

6 **(3) CODEFENDANT'S STATEMENTS.** If a defendant moves for severance because a  
7 codefendant's out-of-court statement refers to, but is not admissible against, the  
8 movant, the court shall determine whether the state intends to offer the statement  
9 in evidence as part of its case in chief. If so, the court shall require the district  
10 attorney to elect one of the following:

11 (a) A joint trial at which the statement is not received in evidence.

12 (b) A joint trial at which the statement is received in evidence only after all  
13 references to the movant have been deleted, if admission of the statement with the  
14 deletions made will not prejudice the movant.

15 (c) A separate trial for the movant.

16 (d) With the approval of the court, a separate jury for each defendant sitting  
17 in a single trial.

18 **SECTION 972.** Subchapter VI (title) of chapter 971 [precedes 971.75] of the  
19 statutes is created to read:

20 **CHAPTER 971**

21 **SUBCHAPTER VI**

22 **JUVENILES IN ADULT COURT**

23 **SECTION 973.** 971.75 (title) of the statutes is created to read:

24 **971.75 (title) Probable cause and retention hearings; juvenile under**  
25 **original adult court jurisdiction.**

**SENATE BILL 82**

1           **SECTION 974.** 971.75 (2) of the statutes is created to read:

2           **971.75 (2) TIME FOR PROBABLE CAUSE HEARING.** The court shall conduct a  
3 probable cause hearing that is required under sub. (1) within 10 days after the initial  
4 appearance. On stipulation of the parties, or upon motion and for cause, the court  
5 may extend that time.

6           **SECTION 975.** 971.75 (4) of the statutes is created to read:

7           **971.75 (4) TIME FOR RETENTION HEARING.** The court shall conduct any hearing  
8 on retention of jurisdiction that is required under sub. (3) (b) within 20 days of the  
9 probable cause finding under sub. (3) (b). On stipulation of the parties, or upon  
10 motion and for cause, the court may extend that time.

11           **SECTION 976.** 971.75 (6) of the statutes is created to read:

12           **971.75 (6) WITNESSES AT PROBABLE CAUSE AND RETENTION HEARINGS.** (a) Both the  
13 district attorney and the juvenile may call and cross-examine witnesses at any  
14 hearing under this section. All witnesses shall be sworn and their testimony  
15 reported by a court reporter.

16           (b) During any hearing under this section, the court may exclude witnesses  
17 until they are called to testify, may direct that persons who are expected to be called  
18 as witnesses be kept separate until called, and may prevent them from  
19 communicating with one another until they have been examined.

20           **SECTION 977.** 971.75 (7) of the statutes is created to read:

21           **971.75 (7) ADMISSIBILITY OF REPORTS.** (a) In this subsection:

22           1. "Hospital" has the meaning given in s. 50.33 (2).

23           2. "Local health department" has the meaning given in s. 250.01 (4).

24           (b) At any hearing under this section, a report of one of the crime laboratory's,  
25 the state laboratory of hygiene's, a federal bureau of investigation laboratory's, a

**SENATE BILL 82**

1 hospital laboratory's, or a local health department's findings with reference to all or  
2 any part of the evidence submitted, certified as correct by the attorney general, the  
3 director of the state laboratory of hygiene, the director of the federal bureau of  
4 investigation, the chief hospital administrator, the local health officer, as defined in  
5 s. 250.01 (5), or a person designated by any of them, shall, when offered by the state  
6 or the accused, be received as evidence of the facts and findings stated, if relevant.  
7 The expert who made the findings need not be called as a witness.

8 (c) At any hearing under this section in Milwaukee County, a latent fingerprint  
9 report of the city of Milwaukee police department bureau of identification division's  
10 latent fingerprint identification unit, certified as correct by the police chief or a  
11 person designated by the police chief, shall, when offered by the state or the accused,  
12 be received as evidence of the facts and findings stated, if relevant. The expert who  
13 made the findings need not be called as a witness.

14 **SECTION 978.** 971.75 (9) of the statutes is created to read:

15 971.75 (9) CLOSURE ORDERS. (a) If the juvenile is accused of a crime under s.  
16 940.225, 948.02, 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s.  
17 940.302 (2), if the court finds that the crime was sexually motivated, as defined in  
18 s. 980.01 (5), the court may exclude from any hearing under this section all persons  
19 who are not officers of the court, members of the complainant's or juvenile's families,  
20 or others considered by the court to be supportive of the complainant or juvenile, the  
21 service representative, as defined in s. 895.45 (1) (c), or other persons required to  
22 attend, if the court finds that the state or the juvenile has established a compelling  
23 interest that would likely be prejudiced if the persons were not excluded. The court  
24 may consider as a compelling interest, among others, the need to protect a  
25 complainant from undue embarrassment and emotional trauma.

**SENATE BILL 82**

1 (b) In making its order under this subsection, the court shall set forth specific  
2 findings sufficient to support the order. In making these findings, the court shall  
3 consider, and give substantial weight to, the desires, if any, of the complainant.  
4 Additional factors that the court may consider in making these findings include, but  
5 are not limited to, the complainant's age, psychological maturity, and understanding;  
6 the nature of the crime; and the desires of the complainant's family.

7 (c) The court shall make its order under this subsection no broader than is  
8 necessary to protect the compelling interest under par. (a) and shall consider any  
9 reasonable alternatives to full closure of the entire hearing.

10 **SECTION 979.** 971.76 of the statutes is created to read:

11 **971.76 Pretrial dismissal of complaint against juvenile. (1) WAIVER**  
12 **CASES.** If the court has jurisdiction over a juvenile as a result of a waiver under s.  
13 938.18 (1) (a) or (b), the juvenile may move the court to dismiss the complaint on the  
14 ground that the state cannot prove that he or she committed any of the offenses listed  
15 in s. 938.18 (1) (a) or (b) on which the waiver was based. If the court grants a motion  
16 to dismiss under this subsection, the court shall order that the juvenile be  
17 discharged, but proceedings may be brought regarding the juvenile under ch. 938.

18 **(2) CASES INVOLVING ORIGINAL ADULT COURT JURISDICTION.** A juvenile subject to  
19 the court's original jurisdiction under s. 938.183 (1) may move the court to dismiss  
20 the complaint on the ground that the state cannot prove that he or she committed any  
21 of the offenses charged under s. 938.183 (1) (a), (am), (b), or (c) under the  
22 circumstances described in those provisions. If the court grants a motion to dismiss  
23 under this subsection, the court shall order that the juvenile be discharged, but  
24 proceedings may be brought regarding the juvenile under ch. 938.

25 **SECTION 980.** 971.77 (title) of the statutes is created to read:



**SENATE BILL 82**

1           **971.77** (title) **Motion to transfer jurisdiction in misdemeanors.**

2           **SECTION 981.** 972.005 (title) of the statutes is created to read:

3           **972.005** (title) **Right to jury; waiver.**

4           **SECTION 982.** 972.005 (2) of the statutes is created to read:

5           972.005 (2) PARTIAL JURY TRIAL WAIVER. The parties may agree, with the  
6 approval of the court, that the jury be instructed that an element of the crime is  
7 established. The court shall address the defendant personally to assure that the  
8 defendant understands his or her right to trial by jury as to that element and  
9 voluntarily waives that right.

10          **SECTION 983.** 972.01 of the statutes is amended to read:

11          **972.01 Jury; civil rules applicable.** The Except as otherwise provided in  
12 this chapter, the summoning of jurors, the, selection, and qualifications of the jury  
13 jurors, the challenge of jurors for cause, and the duty of the court in charging the jury  
14 and, giving instructions, and discharging the jury when it is unable to agree shall be  
15 the same in criminal as in civil actions, except that s. 805.08 (3) shall not apply.

16          **SECTION 984.** 972.02 (title) of the statutes is repealed.

17          **SECTION 985.** 972.02 (1) of the statutes is renumbered 972.005 (1) and amended  
18 to read:

19          972.005 (1) WAIVER. ~~Except as otherwise provided in this chapter, criminal~~  
20 Criminal cases shall be tried by a jury selected as prescribed in s. 805.08, unless the  
21 defendant waives ~~a~~ his or her right to trial by jury in writing or by statement in open  
22 court or under s. 967.08 (2) (b), on the record, with the approval of the court and the  
23 consent of the state. Before approving a waiver of the right to trial by jury, the court  
24 shall address the defendant personally to assure that the defendant understands his  
25 or her right to trial by jury and that the defendant voluntarily waives that right.

**SENATE BILL 82**

1           **SECTION 986.** 972.02 (2) of the statutes is renumbered 972.025 (2) and amended  
2 to read:

3           972.025 (2) JURY OF LESS THAN 12. At any time before the verdict is returned,  
4 the parties may stipulate in writing or by statement in open court, on the record  
5 agree, with the approval of the court, that the jury shall consist of any number less  
6 than 12. If the parties agree to a number of jurors that is less than 12, the court shall  
7 address the defendant personally to ensure that the defendant understands his or  
8 her right to a jury of 12 and that the defendant voluntarily waives that right.

9           **SECTION 987.** 972.02 (3) of the statutes is renumbered 972.27 and amended to  
10 read:

11           **972.27 Findings in a trial to the court.** In a case tried without a jury, the  
12 court shall make a general finding and may in addition find the facts specially. If the  
13 charge includes a provision that increases the maximum penalty for the charged  
14 crime, the court shall make a specific finding as to the proof of that provision.

15           **SECTION 988.** 972.02 (4) of the statutes is renumbered 972.04 (5) and amended  
16 to read:

17           972.04 (5) No A member of the a grand jury which found the indictment shall  
18 that indicted a defendant may not be a juror for the defendant's trial of the  
19 indictment.

20           **SECTION 989.** 972.025 (title) and (1) of the statutes are created to read:

21           **972.025 (title) Jury size. (1) TWELVE-PERSON JURY.** A jury in a criminal case  
22 shall consist of 12 persons unless the parties agree to a lesser number as provided  
23 in sub. (2).

24           **SECTION 990.** 972.03 (title) of the statutes is amended to read:

25           **972.03 (title) Peremptory Number of peremptory challenges.**

**SENATE BILL 82**

1           **SECTION 991.** 972.03 of the statutes is renumbered 972.03 (1) and amended to  
2 read:

3           972.03 (1) GENERALLY. ~~Each~~ Except as provided in subs. (2), (3), (4), and (5), in  
4 a criminal case, each side is entitled to ~~only~~ 4 peremptory challenges ~~except as~~  
5 otherwise provided in this section. ~~When,~~

6           (4) LIFE IMPRISONMENT. If the crime charged in a case is punishable by life  
7 imprisonment, the state is each side shall be entitled to 6 peremptory challenges and  
8 the defendant is entitled to 6 peremptory challenges. ~~If there is, except, if the case~~  
9 involves 2 defendants, the defense shall be entitled to 12 peremptory challenges, and  
10 if the case involves more than 2 defendants, the defense shall be entitled to 18  
11 peremptory challenges.

12           (3) DIVIDING CHALLENGES AMONG DEFENDANTS. In a criminal case involving more  
13 than one defendant, the court shall divide the peremptory challenges for the defense  
14 as equally as practicable among them the defendants; and if their defenses are  
15 adverse and the court is satisfied that the protection of their rights so requires, the  
16 court may allow the defendants additional peremptory challenges. ~~If the crime is~~  
17 ~~punishable by life imprisonment, the total peremptory challenges allowed the~~  
18 ~~defense shall not exceed 12 if there are only 2 defendants and 18 if there are more~~  
19 ~~than 2 defendants; in other felony cases~~ the defendants are allowed additional  
20 peremptory challenges under this subsection, the courts may, if the interest of justice  
21 requires, allow the state additional peremptory challenges.

22           (2) MORE THAN ONE DEFENDANT. Except as provided in subs. (3) and (4), in a  
23 criminal case involving 2 defendants, the defense shall be entitled to 6 peremptory  
24 challenges if there are only, and in a criminal case involving more than 2 defendants  
25 and, the defense shall be entitled to 9 peremptory challenges if there are more than

**SENATE BILL 82**

1 ~~2. In misdemeanor cases, the state is entitled to 3 peremptory challenges and the~~  
2 ~~defendant is entitled to 3 peremptory challenges, except that if there are 2~~  
3 ~~defendants, the court shall allow the defense 4 peremptory challenges, and if there~~  
4 ~~are more than 2 defendants, the court shall allow the defense 6 peremptory~~  
5 ~~challenges.~~

6 (5) ADDITIONAL CHALLENGES. Each side shall be allowed at least one additional  
7 peremptory challenge if the court orders that additional jurors are to be selected  
8 under s. 972.04 (1).

9 **SECTION 992.** 972.04 (title) of the statutes is repealed and recreated to read:

10 **972.04 (title) Jury selection.**

11 **SECTION 993.** 972.04 (1) of the statutes is amended to read:

12 972.04 (1) The number of jurors selected in a criminal case shall be prescribed  
13 ~~in s. 756.06 (2) (a), 12~~ unless a lesser number has been stipulated agreed to and  
14 approved under s. ~~972.02~~ 972.025 (2) ~~or the.~~ The court orders may order that  
15 additional jurors be selected. ~~That number, plus the number of peremptory~~  
16 ~~challenges available to all the parties, shall be called initially and maintained in the~~  
17 ~~jury box by calling others to replace jurors excused for cause until all jurors have been~~  
18 ~~examined. The to assure that the required number of jurors will be available for~~  
19 deliberation.

20 (6) After the jurors have been examined and the court has determined whether  
21 to excuse any juror for cause, the parties shall thereupon exercise in their order their  
22 peremptory challenges alternately, the state beginning, the peremptory challenges  
23 ~~available to them, and if.~~ If any party declines to exercise a peremptory challenge,  
24 the challenge shall be made by the clerk shall make the challenge by lot.

25 **SECTION 994.** 972.04 (2) of the statutes is repealed.

**SENATE BILL 82**

1           **SECTION 995.** 972.04 (3) of the statutes is created to read:

2           972.04 (3) The court shall call and maintain the number of jurors provided in  
3 sub. (1), plus the number of peremptory challenges available to the parties. If a juror  
4 is excused for cause, the court shall replace that juror with another.

5           **SECTION 996.** 972.06 of the statutes is amended to read:

6           **972.06 View Jury view.** The court may order ~~a view~~ by the jury to view a  
7 location or object whenever the court concludes that viewing the location or object  
8 would assist the jury in understanding the evidence introduced in court or assist the  
9 jury in weighing and applying that evidence.

10          **SECTION 997.** 972.07 of the statutes is renumbered 967.12 and amended to  
11 read:

12          **967.12 Jeopardy.** Jeopardy attaches when one of the following occurs:

13          (1) In a trial to the court without a jury, when ~~a witness is sworn;~~ the first  
14 witness assents to the oath or affirmation or answers the first question if no oath or  
15 affirmation is administered.

16          (2) In a jury trial, when the selection of the jury has been completed and the  
17 jury sworn.

18          **SECTION 998.** 972.075 of the statutes is created to read:

19          **972.075 Questioning of witnesses by jurors.** (1) After the selection of a  
20 jury, the court may authorize the jurors to ask questions of witnesses.

21          (2) If the court authorizes juror questions, the court shall instruct the jury to  
22 propose only questions that tend to clarify information already presented and shall  
23 instruct the jury of the following procedure that shall be used for juror questions:

24          (a) After the parties have questioned a witness and before the witness leaves  
25 the stand, the court shall ask the jurors if they have any questions for the witness.

**SENATE BILL 82**

1 (b) If a juror has a question, he or she shall submit the question in writing to  
2 the judge.

3 (c) The judge shall show the question to the parties and allow the parties to  
4 object to the question without the knowledge of the jury.

5 (d) The judge shall review the question and any objections made by the parties  
6 and determine if the question is legally proper.

7 (e) If the question is legally proper, the judge may ask it of the witness.

8 (f) The court shall allow the parties to ask follow-up questions to any juror  
9 questions that are posed to a witness.

10 **SECTION 999.** 972.08 of the statutes is renumbered 967.17, and 967.17 (1) and  
11 (2), as renumbered, are amended to read:

12 967.17 (1) (a) Whenever any person refuses to testify or to produce books,  
13 papers, or documents when required to do so before any grand jury, in a John Doe  
14 proceeding under s. ~~968.26~~ 968.105, at an inquest under s. 968.015, or at a  
15 preliminary examination, criminal hearing, or trial for the reason that the testimony  
16 or evidence required of him or her may tend to incriminate him or her or subject him  
17 or her to a forfeiture or penalty, the person may nevertheless be compelled to testify  
18 or produce the evidence by order of the court on motion of the district attorney. No  
19 person who testifies or produces evidence in obedience to the command of the court  
20 in that case may be liable to any forfeiture or penalty for or on account of testifying  
21 or producing evidence, but no person may be exempted from prosecution and  
22 punishment for perjury or false swearing committed in so testifying.

23 (b) The immunity provided under par. (a) is subject to the restrictions under  
24 s. ~~972.085~~ 967.18.

**SENATE BILL 82**

1           (2) Whenever a witness attending in any court trial or appearing before any  
2 grand jury ~~or, John Doe investigation proceeding~~ under s. ~~968.26~~ 968.105, or inquest  
3 under s. 968.015 fails or refuses without just cause to comply with an order of the  
4 court under this section to give testimony in response to a question or with respect  
5 to any matter, the court, upon such failure or refusal, or when such failure or refusal  
6 is duly brought to its attention, may summarily order the witness's confinement at  
7 a suitable place until such time as the witness is willing to give such testimony or  
8 until such the trial, grand jury term, ~~or John Doe investigation under s. 968.26~~  
9 proceeding, or inquest is concluded but in no case exceeding one year. No person  
10 confined under this section shall be ~~admitted to bail~~ released on conditions pending  
11 the determination of an appeal taken by the person from the order of confinement.

12           **SECTION 1000.** 972.085 of the statutes is renumbered 967.18 and amended to  
13 read:

14           **967.18 Immunity; use standard.** Immunity from criminal or forfeiture  
15 prosecution under ss. 13.35, 17.16 (7), 77.61 (12), 93.17, 111.07 (2) (b), 128.16, 133.15,  
16 139.20, 139.39 (5), 195.048, 196.48, 551.602 (5), 553.55 (3), 601.62 (5), 767.87 (4),  
17 885.15, 885.24, 885.25 (2), 891.39 (2), ~~968.26, 972.08 (1)~~ 967.17 (1), and ~~979.07 (1)~~  
18 968.105 and ch. 769, provides immunity only from the use of the compelled testimony  
19 or evidence in subsequent criminal or forfeiture proceedings, as well as immunity  
20 from the use of evidence derived from that compelled testimony or evidence.

21           **SECTION 1001.** 972.09 of the statutes is repealed.

22           **SECTION 1002.** 972.10 (title) of the statutes is renumbered 972.16 (title).

23           **SECTION 1003.** 972.10 (1) (a) (intro.) of the statutes is repealed.

24           **SECTION 1004.** 972.10 (1) (a) 1. of the statutes is renumbered 972.065 and  
25 amended to read:

**SENATE BILL 82**

1           **972.065 Note-taking by jurors.** ~~The court may authorize note-taking by~~  
2 ~~jurors.~~ If the court authorizes note-taking, the court shall instruct the jurors that  
3 they may make written notes of any portion of the proceedings, except the opening  
4 statements and closing arguments, ~~if they so desire~~ and that the court will provide  
5 materials for ~~that purpose if they so request~~ note-taking. The court shall stress the  
6 ~~confidentiality of the notes to~~ inform the jurors that the notes are confidential. The  
7 jurors may refer to their notes during the proceedings and ~~deliberation~~ their  
8 deliberations. The notes may not be the basis for or the object of any motion by any  
9 party. After the jury has rendered ~~returned~~ its verdict, the court shall ensure that  
10 the notes are promptly collected and destroyed.

11           **SECTION 1005.** 972.10 (1) (a) 2. of the statutes is repealed.

12           **SECTION 1006.** 972.10 (1) (b) of the statutes is renumbered 972.095 and  
13 amended to read:

14           **972.095 Preliminary jury instructions.** The court may give additional  
15 preliminary instructions to assist the jury in understanding its duty and the  
16 evidence it will hear. ~~The preliminary instructions may include, without limitation,~~  
17 ~~the elements of any offense charged, what constitutes evidence and what does not,~~  
18 ~~guidance regarding the burden of proof and the credibility of witnesses, and~~  
19 ~~directions not to discuss the case until deliberations begin.~~ The additional  
20 instructions shall be disclosed to the parties before they are given and either party  
21 may object to any specific instruction or propose instructions of its own to be given  
22 prior to trial The court shall advise the parties of the content of the instructions to  
23 be given. The parties may propose instructions of their own. All objections shall be  
24 on the record and shall specify with particularity how the instruction is insufficient  
25 or does not correctly state the law.



**SENATE BILL 82**

1           **SECTION 1007.** 972.10 (2) of the statutes is repealed.

2           **SECTION 1008.** 972.10 (3) of the statutes is repealed.

3           **SECTION 1009.** 972.10 (4) of the statutes is repealed.

4           **SECTION 1010.** 972.10 (5) of the statutes is renumbered 972.22 (1) and amended  
5 to read:

6           972.22 (1) ~~When the evidence is concluded and the testimony closed, if either~~  
7 ~~party desires special instructions to be given to the jury, the instructions shall be~~  
8 ~~reduced to writing, signed by the party or his or her attorney and filed with the clerk,~~  
9 ~~unless the court otherwise directs. Counsel for the parties, or the defendant if he or~~  
10 ~~she is without counsel, shall be allowed~~ The court shall allow the parties reasonable  
11 opportunity to request final jury instructions, to examine the any instructions  
12 requested by any other party, and to present and argue to the court objections to the  
13 adoption or rejection of any instructions requested by counsel the parties.

14           **(2)** The court shall advise the parties of the content of the instructions to be  
15 given. ~~No instruction regarding the failure to call a witness at the trial shall be made~~  
16 ~~or given if the sole basis for such instruction is the fact the name of the witness~~  
17 ~~appears upon a list furnished pursuant to s. 971.23. Counsel, or the defendant if he~~  
18 ~~or she is not represented by counsel, shall specify and state the particular ground on~~  
19 ~~which the instruction is objected to, and it shall not be sufficient to object generally~~  
20 ~~that the instruction does not state the law, or is against the law, but the objection~~  
21 ~~shall specify with particularity how the instruction is insufficient or does not state~~  
22 ~~the law or to what particular language there is an objection. All objections~~ before  
23 giving the instructions to the jury. If a party objects to the adoption or rejection of  
24 an instruction, the objection shall be made with particularity and shall be on the  
25 record.

**SENATE BILL 82**

1           **(3)** The court shall provide the jury with one or more complete set ~~sets~~ of written  
2 instructions ~~providing~~ defining the burden of proof and the substantive law ~~to be~~  
3 ~~applied to the case to be decided.~~

4           **SECTION 1011.** 972.10 (6) of the statutes is repealed.

5           **SECTION 1012.** 972.10 (7) of the statutes is renumbered 972.23 (1) and amended  
6 to read:

7           972.23 (1) ~~If the court required selection of additional jurors have been selected~~  
8 ~~under s. 972.04 (1) so that alternates may be available, and, at the time the case is~~  
9 ~~submitted to the jury for deliberation, the number of jurors remains more greater~~  
10 ~~than the number of jurors required at final submission of the cause for deliberation,~~  
11 the court shall determine by lot which jurors shall not participate in deliberations  
12 ~~and discharge them. For good cause, the court may discharge additional jurors other~~  
13 ~~than by lot.~~

14           **SECTION 1013.** 972.11 (title) of the statutes is renumbered 967.24 (title).

15           **SECTION 1014.** 972.11 (1) of the statutes is renumbered 967.24 and amended  
16 to read:

17           **967.24** ~~Except as provided in subs. (2) to (4), the~~ The rules of evidence and  
18 practice in civil actions, ~~except the rules under ss. 804.02 to 804.07,~~ shall be  
19 applicable in all criminal proceedings unless the context of a section or rule  
20 manifestly requires a different construction. No guardian ad litem need be  
21 appointed for a defendant in a criminal action. Chapters 885 to 895 and 995, except  
22 ~~ss. 804.02 to 804.07 and 887.23 to 887.26,~~ shall apply in all criminal proceedings.

23           **SECTION 1015.** 972.11 (2) of the statutes is renumbered 904.045, and 904.045  
24 (1), (2) (intro.), (3) and (4) (b), as renumbered, are amended to read:

**SENATE BILL 82**

1           904.045 (1) In this ~~subsection~~ section, “sexual conduct” means any conduct or  
2 behavior relating to sexual activities of the complaining witness, including but not  
3 limited to prior experience of sexual intercourse or sexual contact, use of  
4 contraceptives, living arrangement and life-style.

5           (2) (intro.) If the defendant is accused of a crime under s. 940.225, 948.02,  
6 948.025, 948.05, 948.051, 948.06, 948.07, 948.08, 948.085, 948.09, or 948.095, or  
7 under s. 940.302 (2), if the court finds that the crime was sexually motivated, as  
8 defined in s. 980.01 (5), any evidence concerning the complaining witness’s prior  
9 sexual conduct or opinions of the witness’s prior sexual conduct and reputation as to  
10 prior sexual conduct shall not be admitted into evidence during the course of the  
11 hearing or trial, nor shall any reference to such conduct be made in the presence of  
12 the jury, except the following, subject to s. ~~971.31 (11)~~ 971.65 (6):

13           (3) Notwithstanding s. 901.06, the limitation on the admission of evidence of  
14 or reference to the prior sexual conduct of the complaining witness in ~~par. (b)~~ sub. (2)  
15 applies regardless of the purpose of the admission or reference unless the admission  
16 is expressly permitted under ~~par. (b) 1., 2. or 3~~ sub. (2) (a), (b), or (c).

17           (4) (b) The court shall determine the admissibility of evidence under ~~subd. 1.~~  
18 par. (a) upon pretrial motion before it may be introduced at trial.

19           **SECTION 1016.** 972.11 (2m) (a) (intro.) and 1. of the statutes are renumbered  
20 972.20 (1) (intro.) and (a), and 972.20 (1) (a) 1., as renumbered, is amended to read:

21           972.20 (1) (a) 1. That the presence of the defendant during the ~~taking of the~~  
22 child’s testimony will result in the child suffering serious emotional distress such  
23 that the child cannot reasonably communicate.

24           **SECTION 1017.** 972.11 (2m) (a) 2. (intro.), a. and b. of the statutes are  
25 consolidated, renumbered 972.20 (1) (b) and amended to read:

**SENATE BILL 82**

1           972.20 (1) (b) The trial in which the child may be called as a witness will  
2 commence: ~~a. Prior to before the child's 12th birthday; or b. Prior to the child's 16th~~  
3 ~~birthday and, in addition to its finding under subd. 1., if the court finds that the~~  
4 ~~interests of justice warrant that the child's testimony be taken in a room other than~~  
5 ~~the courtroom and simultaneously televised in the courtroom by means of~~  
6 ~~closed-circuit audiovisual equipment, before the child's 16th birthday.~~

7           **SECTION 1018.** 972.11 (2m) (b) of the statutes is renumbered 972.20 (2), and  
8 972.20 (2) (intro.), (a), (c), (d), (e), (f) and (g), as renumbered, are amended to read:

9           972.20 (2) (intro.) ~~Among the factors which~~ Factors that the court may consider  
10 in determining the interests of justice under ~~par. (a) 2. b. are any of~~ sub. (1) (b) include  
11 the following:

12           (a) The child's chronological age, level of development, and capacity to  
13 comprehend the significance of the events about which the child will testify and to  
14 verbalize about them.

15           (c) Whether the events about which the child will testify constituted criminal  
16 or antisocial conduct against the child or a person with whom the child had a close  
17 emotional relationship and, if the conduct constituted a battery or a sexual assault,  
18 its duration and the extent of physical or emotional injury ~~thereby caused by the~~  
19 battery or sexual assault.

20           (d) The child's custodial situation and the attitude of other household members  
21 to the events about which the child will testify ~~and to the underlying proceeding~~  
22 towards the trial.

23           (e) The child's familial or emotional relationship to those involved in the  
24 ~~underlying proceeding~~ trial.

**SENATE BILL 82**

1 (f) The child's behavior at or reaction to previous interviews concerning the  
2 events involved about which the child will testify.

3 (g) Whether the child blames himself or herself for the events involved about  
4 which the child will testify or has ever been told by any person not to disclose them;  
5 whether the child's prior reports to associates or authorities of the events have been  
6 disbelieved or not acted upon; and the child's subjective belief regarding what  
7 consequences to himself or herself, or persons with whom the child has a close  
8 emotional relationship, will ensue from providing testimony.

9 **SECTION 1019.** 972.11 (2m) (bm) of the statutes is renumbered 972.20 (3), and  
10 972.20 (3) (intro.), (a) and (d), as renumbered, are amended to read:

11 972.20 (3) (intro.) If a court orders the testimony of a child to be taken under  
12 ~~par. (a) sub. (1)~~, the court shall do all of the following:

13 (a) To the extent it is practical and subject to s. ~~972.10 (3)~~ 972.16 (1), schedule  
14 the testimony on a date when the child's recollection is likely to be fresh and at a time  
15 of day when the child's energy and attention span are likely to be greatest.

16 (d) ~~Determine that the child understands that it is wrong to tell a lie and will~~  
17 ~~testify truthfully if~~ If the child's developmental level or verbal skills are such that  
18 administration of an oath or affirmation in the usual form would be inappropriate,  
19 determine that the child understands that it is wrong to tell a lie and will testify  
20 truthfully.

21 **SECTION 1020.** 972.11 (2m) (c) (intro.), 1m., 2m. and 3m. of the statutes are  
22 renumbered 972.20 (4) (intro.), (a), (b) and (c), and 972.20 (4) (intro.), as renumbered,  
23 is amended to read:

24 972.20 (4) (intro.) Only the following persons may be present in the room in  
25 which the child is giving testimony under ~~par. (a) sub. (1)~~:

**SENATE BILL 82**

1           **SECTION 1021.** 972.11 (3) of the statutes is renumbered 940.22 (6), and 940.22  
2 (6) (a) (intro.) and 1., as renumbered, are amended to read:

3           940.22 **(6)** (a) (intro.) In a prosecution ~~under s. 940.22 involving a therapist and~~  
4 ~~a patient or client~~ for a violation of sub. (2), (3) (d), or (4) (d), evidence of the patient's  
5 or client's personal or medical history is not admissible except if all of the following  
6 apply:

7           1. The defendant requests a hearing prior to trial and makes an offer of proof  
8 of the relevancy of the evidence; ~~and,~~

9           **SECTION 1022.** 972.11 (3m) of the statutes is renumbered 346.63 (8) and  
10 amended to read:

11           346.63 **(8)** A court may not exclude evidence in any criminal action or traffic  
12 forfeiture action for violation of ~~s. 346.63~~ sub. (1) or (5), or a local ordinance in  
13 conformity with ~~s. 346.63~~ sub. (1) or (5), on the ground that the evidence existed or  
14 was obtained outside of this state.

15           **SECTION 1023.** 972.11 (4) of the statutes is renumbered 972.29, and 972.29  
16 (intro.), as renumbered, is amended to read:

17           **972.29 Return of evidence.** (intro.) Upon the motion of any party or its own  
18 motion, a court may order that any exhibit or evidence be delivered to the party or  
19 the owner ~~prior to~~ before or after the final determination of the action or proceeding  
20 if all of the following requirements are met:

21           **SECTION 1024.** 972.115 (title) of the statutes is repealed.

22           **SECTION 1025.** 972.115 (1) of the statutes is renumbered 972.18 (1), and 972.18  
23 (1) (a), as renumbered, is amended to read:

24           972.18 **(1)** (a) "Custodial interrogation" has the meaning given in s. ~~968.073~~  
25 969.165 (1) (a).

**SENATE BILL 82**

1           **SECTION 1026.** 972.115 (2) of the statutes is renumbered 972.18 (3), and 972.18  
2 (3) (a) (intro.), as renumbered, is amended to read:

3           972.18 **(3)** (a) (intro.) If a statement made by a defendant during a custodial  
4 interrogation is admitted into evidence in a trial for a felony before a jury and if an  
5 audio or audio and visual recording of the interrogation is not available, upon a  
6 request made by the defendant ~~as provided in s. 972.10 (5)~~ and unless the state  
7 asserts and the court finds that one of the following conditions applies or that good  
8 cause exists for not providing an instruction, the court shall instruct the jury that it  
9 is the policy of this state to make an audio or audio and visual recording of a custodial  
10 interrogation of a person suspected of committing a felony and that the jury may  
11 consider the absence of an audio or audio and visual recording of the interrogation  
12 in evaluating the evidence relating to the interrogation and the statement in the  
13 case:

14           **SECTION 1027.** 972.115 (4) and (5) of the statutes are renumbered 972.18 (3)  
15 (c) and (d), and 972.18 (3) (c), as renumbered, is amended to read:

16           972.18 **(3)** (c) Notwithstanding ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a  
17 defendant's lack of consent to having an audio or audio and visual recording made  
18 of a custodial interrogation does not affect the admissibility in evidence of an audio  
19 or audio and visual recording of a statement made by the defendant during the  
20 interrogation.

21           **SECTION 1028.** 972.12 of the statutes is renumbered 972.05 and amended to  
22 read:

23           **972.05 Sequestration of jurors.** ~~The~~ At any stage of the proceedings, the  
24 court may direct that ~~the~~ jurors who have been sworn be kept together or be  
25 permitted to separate. The court may appoint an officer of the court to keep the jurors

**SENATE BILL 82**

1 together and to prevent communication between the jurors and others. After the case  
2 has been submitted to the jurors, the court may permit them to separate, but shall  
3 instruct the jurors to suspend deliberations while separated.

4 **SECTION 1029.** 972.13 (title) of the statutes is repealed.

5 **SECTION 1030.** 972.13 (1) of the statutes is renumbered 972.28 (1) and amended  
6 to read:

7 972.28 (1) ~~A~~ The court shall grant a judgment of conviction shall be entered  
8 upon accepting a jury verdict of guilty by the jury, a, upon finding of the defendant  
9 guilty by the court in cases in a case where a jury is waived, or upon finding the  
10 defendant guilty after accepting a plea of guilty or no contest.

11 **SECTION 1031.** 972.13 (2) of the statutes is renumbered 972.28 (2) and amended  
12 to read:

13 972.28 (2) ~~Except in cases where ch. 975 is applicable~~ Unless entry of judgment  
14 is deferred, upon granting a judgment of conviction, the court shall proceed under ch.  
15 973. The court may adjourn the case from time to time for the purpose of before  
16 pronouncing sentence.

17 **SECTION 1032.** 972.13 (3) of the statutes is renumbered 972.28 (3) and amended  
18 to read:

19 972.28 (3) ~~A~~ When a judgment of conviction is entered, it shall set forth the  
20 plea, the verdict or finding, the adjudication and sentence, and a finding as to the  
21 specific number of days for which sentence credit is to be granted under s. 973.155.

22 **(5)** If the defendant is acquitted, the court shall grant a judgment shall be  
23 entered accordingly of acquittal.

24 **SECTION 1033.** 972.13 (4) of the statutes is renumbered 972.28 (6).



**SENATE BILL 82**

1           **SECTION 1034.** 972.13 (5) of the statutes is renumbered 972.28 (4) and amended  
2 to read:

3           972.28 (4) A copy of the judgment of conviction shall constitute authority for  
4 the sheriff to execute the sentence.

5           **SECTION 1035.** 972.13 (6) of the statutes is repealed.

6           **SECTION 1036.** 972.13 (7) of the statutes is repealed.

7           **SECTION 1037.** 972.14 (title), (2), (2m) and (3) of the statutes are renumbered  
8 973.003 (title), (2), (2m) and (3), and 973.003 (2), as renumbered, is amended to read:

9           973.003 (2) Before pronouncing sentence, the court shall ask the defendant  
10 why sentence should not be pronounced upon him or her and allow the district  
11 attorney, defense counsel, and defendant an opportunity to make a statement with  
12 respect to any matter relevant to the sentence. In addition, if the defendant is under  
13 21 years of age and if the court has not ordered a presentence investigation under  
14 s. ~~972.15~~ 973.004, the court shall ask the defendant if he or she has been adjudged  
15 delinquent under ch. 48, 1993 stats., or ch. 938, or has had a similar adjudication in  
16 any other state in the 4 years immediately preceding the date the criminal complaint  
17 relating to the present offense was issued.

18           **SECTION 1038.** 972.14 (1) (intro.) and (b) of the statutes are consolidated,  
19 renumbered 973.003 (1) and amended to read:

20           973.003 (1) (intro.) In this section: ~~(b) “Victim”,~~ “victim” has the meaning  
21 specified in s. 950.02 (4).

22           **SECTION 1039.** 972.14 (1) (ag) of the statutes is repealed.

23           **SECTION 1040.** 972.15 of the statutes is renumbered 973.004, and 973.004 (5)  
24 (intro.), as renumbered, is amended to read:

**SENATE BILL 82**

1           973.004 (5) (intro.) The department may use the presentence investigation  
2 report for correctional programming, parole consideration or care and treatment of  
3 any person sentenced to imprisonment or the intensive sanctions program, placed  
4 on probation, released on parole or extended supervision or committed to the  
5 department under ch. 51 or 971 975 or any other person in the custody of the  
6 department or for research purposes. The department may make the report  
7 available to other agencies or persons to use for purposes related to correctional  
8 programming, parole consideration, care and treatment, or research. Any use of the  
9 report under this subsection is subject to the following conditions:

10           **SECTION 1041.** 972.16 (1) and (2) of the statutes are created to read:

11           972.16 (1) Unless the court for cause otherwise permits, the parties shall  
12 proceed with statements and presentation of evidence in the following order:

13           (a) The state may make an opening statement.

14           (b) The defense may make an opening statement or reserve the right to make  
15 an opening statement until after the state rests its case in chief.

16           (c) The state shall present its case in chief.

17           (d) At the close of the state's case in chief, the defense may move to dismiss.  
18 The court shall grant the motion to dismiss if it appears that, viewing the evidence  
19 in the light most favorable to the state and drawing all reasonable inferences  
20 therefrom, a reasonable jury could not find the defendant guilty beyond a reasonable  
21 doubt. The court shall decide the motion before the defense presents its case in chief.

22           (e) The defense may present a case in chief. If a defendant presents evidence,  
23 the defendant waives the right to appeal the denial of a motion for dismissal made  
24 under par. (d).

25           (f) The state and the defense may present rebuttal evidence.

**SENATE BILL 82**

1 (g) The court for cause may permit a party to present further evidence in chief.  
2 If the court permits the state to present further evidence in chief, the defense may  
3 also present further evidence in chief.

4 (h) After the state and the defense have rested, the defense may move to  
5 dismiss. The court shall grant the motion to dismiss if it appears that, viewing all  
6 of the evidence, including evidence presented by the defense, in the light most  
7 favorable to the state and drawing all reasonable inferences therefrom, a reasonable  
8 jury could not find the defendant guilty beyond a reasonable doubt of the charged  
9 crime or an included crime under s. 939.66. If the jury could find the defendant guilty  
10 beyond a reasonable doubt of an included crime but not the charged crime, the court  
11 shall order the complaint amended accordingly.

12 (i) The state may make a closing argument.

13 (j) The defense may make a closing argument.

14 (k) The state may make a rebuttal argument.

15 **(2)** If there are 2 or more defendants and they do not agree on the order in which  
16 the defendants will proceed under sub. (1), the court shall determine the order in  
17 which the defendants will proceed.

18 **SECTION 1042.** 972.18 (title) of the statutes is created to read:

19 **972.18 (title) Admissibility of a defendant's statement.**

20 **SECTION 1043.** 972.19 of the statutes is created to read:

21 **972.19 Stipulations. (1)** In this section, "stipulation" means an agreement  
22 between the parties that a specified fact is or shall be taken as established without  
23 need for proof.

24 **(2)** A stipulation shall be set forth on the record at the time the court accepts  
25 it.

**SENATE BILL 82**

1           **(3)** In a trial before a jury, the court shall instruct the jury that it is to take  
2 stipulated facts as conclusively proved.

3           **(4)** If stipulated facts establish an element of the crime, the court shall proceed  
4 as provided in s. 972.005 (2).

5           **SECTION 1044.** 972.20 (title) of the statutes is created to read:

6           **972.20 (title) Child testimony by closed-circuit audiovisual means.**

7           **SECTION 1045.** 972.22 (title) of the statutes is created to read:

8           **972.22 (title) Final jury instructions.**

9           **SECTION 1046.** 972.23 (title) of the statutes is created to read:

10          **972.23 (title) Dismissal of alternate jurors.**

11          **SECTION 1047.** 972.23 (2) and (3) of the statutes are created to read:

12          **972.23 (2)** The court may retain alternate jurors after the jury retires to  
13 deliberate. The court shall ensure that a retained alternate does not discuss the case  
14 with anyone until that alternate replaces a juror or is discharged. If a juror who is  
15 participating in deliberations becomes unavailable due to severe illness or  
16 extraordinary circumstances, the judge may, after a hearing, replace that juror with  
17 a retained alternate juror.

18          **(3)** If an alternate replaces a juror after deliberations have begun, the court  
19 shall instruct the jury to begin its deliberations anew.

20          **SECTION 1048.** 972.24 of the statutes is created to read:

21          **972.24 Return of verdict.** A verdict must be unanimous and returned in open  
22 court.

23          **SECTION 1049.** 972.25 of the statutes is created to read:

**SENATE BILL 82**

1           **972.25 Polling the jury.** The court shall poll the jury when a verdict proper  
2 in form is returned. The court or the clerk shall conduct the poll by asking each juror  
3 individually whether the verdict as returned was and is the juror's verdict.

4           **SECTION 1050.** 972.26 of the statutes is created to read:

5           **972.26 Accepting the verdict. (1)** The court shall accept the verdict if it is  
6 proper in form and confirmed by the jury poll. When the verdict is accepted, the jury  
7 shall be discharged.

8           **(2)** After the verdict is accepted, the complaint shall be deemed amended as to  
9 technical variances to conform to the proof if no objection to the relevance of the  
10 evidence was timely raised.

11           **SECTION 1051.** 972.28 (title) of the statutes is created to read:

12           **972.28 (title) Granting judgment.**

13           **SECTION 1052.** 973.013 (4) of the statutes is amended to read:

14           973.013 **(4)** If information under s. ~~972.15~~ 973.004 (2m) has been provided in  
15 a presentence investigation report, the court shall consider that information when  
16 sentencing the defendant.

17           **SECTION 1053.** 973.015 (2m) (c) (intro.) of the statutes is amended to read:

18           973.015 **(2m)** (c) (intro.) The person submitted a motion that complies with s.  
19 ~~971.30~~ 971.65, that contains a statement of facts and, if applicable, the reason the  
20 person did not previously raise an affirmative defense under s. 939.46 or allege that  
21 the violation was committed as a result of being a victim of trafficking for the  
22 purposes of a commercial sex act, and that may include any of the following:

23           **SECTION 1054.** 973.017 (6m) (a) 2. of the statutes is amended to read:

24           973.017 **(6m)** (a) 2. "Domestic abuse" has the meaning given in s. ~~968.075~~  
25 969.27 (1) (a).

**SENATE BILL 82**

1           **SECTION 1055.** 973.03 (3) (b) of the statutes is amended to read:

2           973.03 (3) (b) The court may require that the defendant perform community  
3 service work for a public agency or a nonprofit charitable organization. The number  
4 of hours of work required may not exceed what would be reasonable considering the  
5 seriousness of the offense and any ~~other offense which is read into the record at the~~  
6 ~~time of conviction~~ read-in crimes. An order may only apply if agreed to by the  
7 defendant and the organization or agency. The court shall ensure that the defendant  
8 is provided a written statement of the terms of the community service order and that  
9 the community service order is monitored.

10           **SECTION 1056.** 973.03 (3) (e) 2. of the statutes is amended to read:

11           973.03 (3) (e) 2. A crime which is a Class D, E, F, or G felony listed in s. ~~969.08~~  
12 ~~(10) 969.51 (7)~~ (b), but not including any crime specified in s. 943.10.

13           **SECTION 1057.** 973.03 (4) (d) of the statutes is amended to read:

14           973.03 (4) (d) A sentence under this subsection is not a sentence of  
15 imprisonment, except for purposes of ss. 973.04, 973.15 (8) (a) and ~~973.19~~ 974.03.

16           **SECTION 1058.** 973.03 (5) (a) 1. of the statutes is amended to read:

17           973.03 (5) (a) 1. "Commission of a serious crime" has the meaning given under  
18 s. ~~969.08 (10) 969.51 (7)~~ (a).

19           **SECTION 1059.** 973.03 (5) (a) 2. of the statutes is amended to read:

20           973.03 (5) (a) 2. "Serious crime" has the meaning given under s. ~~969.08 (10)~~  
21 969.51 (7) (b).

22           **SECTION 1060.** 973.042 (4) of the statutes is amended to read:

23           973.042 (4) After determining the amount due, the clerk ~~of court~~ shall collect  
24 and transmit the amount to the county treasurer under s. 59.40 (2) (m). The county

**SENATE BILL 82**

1 treasurer shall then make payment to the secretary of administration under s. 59.25  
2 (3) (f) 2.

3 **SECTION 1061.** 973.043 (2) of the statutes is amended to read:

4 973.043 (2) After determining the amount due, the clerk of court shall collect  
5 and transmit the amount to the county treasurer under s. 59.40 (2) (m). The county  
6 treasurer shall then make payment to the secretary of administration under s. 59.25  
7 (3) (f) 2.

8 **SECTION 1062.** 973.045 (2) of the statutes is amended to read:

9 973.045 (2) After the clerk determines the amount due, the clerk of court shall  
10 collect and transmit the amount to the county treasurer under s. 59.40 (2) (m). The  
11 county treasurer shall then make payment to the secretary of administration under  
12 s. 59.25 (3) (f) 2. The secretary of administration shall credit to the appropriation  
13 account under s. 20.455 (5) (g) the amount paid to the secretary by the county  
14 treasurer under this subsection and any amount collected under sub. (4).

15 **SECTION 1063.** 973.046 (2) of the statutes is amended to read:

16 973.046 (2) After the clerk of court determines the amount due, the clerk shall  
17 collect and transmit the amount to the county treasurer under s. 59.40 (2) (m). The  
18 county treasurer shall then make payment to the secretary of administration under  
19 s. 59.25 (3) (f) 2.

20 **SECTION 1064.** 973.048 (5) of the statutes is amended to read:

21 973.048 (5) If the court orders a person to comply with the reporting  
22 requirements under s. 301.45, the clerk of the court in which the order is entered  
23 shall promptly forward a copy of the order to the department of corrections. If the  
24 conviction on which the order is based is reversed, set aside or vacated, the clerk of

**SENATE BILL 82**

1 the court shall promptly forward to the department of corrections a certificate stating  
2 that the conviction has been reversed, set aside or vacated.

3 **SECTION 1065.** 973.049 (1) (intro.) and (a) of the statutes are consolidated,  
4 renumbered 973.049 (1) and amended to read:

5 973.049 (1) In this section: (a) ~~“Co-actor”~~, “co-actor” means any individual who  
6 was a party to a crime considered at sentencing, whether or not the individual was  
7 charged with or convicted of the crime considered at sentencing.

8 **SECTION 1066.** 973.049 (1) (b) of the statutes is repealed.

9 **SECTION 1067.** 973.05 (3) (b) of the statutes is amended to read:

10 973.05 (3) (b) The court may require that the defendant perform community  
11 service work for a public agency or a nonprofit charitable organization. The number  
12 of hours of work required may not exceed what would be reasonable considering the  
13 seriousness of the offense and any ~~other offense which is read into the record at the~~  
14 ~~time of conviction~~ read-in crimes. An order may only apply if agreed to by the  
15 defendant and the organization or agency. The court shall ensure that the defendant  
16 is provided a written statement of the terms of the community service order and that  
17 the community service order is monitored.

18 **SECTION 1068.** 973.05 (4) (b) of the statutes is amended to read:

19 973.05 (4) (b) Issue an order assigning not more than 25% of the defendant's  
20 commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102, and  
21 other money due or to be due in the future to the clerk of circuit court for payment  
22 of the unpaid fine, surcharge, costs, or fees. In this paragraph, “employer” includes  
23 the state and its political subdivisions.

24 **SECTION 1069.** 973.05 (4) (c) of the statutes is amended to read:



**SENATE BILL 82**

1           973.05 (4) (c) Issue an order assigning lottery prizes won by a defendant whose  
2 name is on the list supplied to the clerk of ~~circuit court~~ under s. 565.30 (5r) (a), for  
3 payment of the unpaid fine, surcharge, costs, or fees.

4           **SECTION 1070.** 973.05 (5) (a) 1. of the statutes is amended to read:

5           973.05 (5) (a) 1. Upon entry of the assignment under sub. (4) (b), unless the  
6 court finds that income withholding is likely to cause the defendant irreparable  
7 harm, the court shall provide notice of the assignment by regular mail to the  
8 last-known address of the person from whom the defendant receives or will receive  
9 money. If the clerk of ~~circuit court~~ does not receive the money from the person  
10 notified, the court shall provide notice of the assignment to any other person from  
11 whom the defendant receives or will receive money. Notice of an assignment under  
12 sub. (4) (b) shall inform the intended recipient that, if a prior assignment under sub.  
13 (4) (b) has been received relating to the same defendant, the recipient is required to  
14 notify the clerk of ~~circuit court~~ that sent the subsequent notice of assignment that  
15 another assignment has already been received. A notice of assignment shall include  
16 a form permitting the recipient to designate on the form that another assignment has  
17 already been received.

18           **SECTION 1071.** 973.05 (5) (a) 2. of the statutes is amended to read:

19           973.05 (5) (a) 2. If, after receiving the annual list under s. 565.30 (5r) (a), the  
20 clerk of ~~circuit court~~ determines that a person identified in the list may be subject  
21 to an assignment under sub. (4) (c), the clerk shall inform the court of that  
22 determination. If the court issues an order under sub. (4) (c), the clerk of ~~circuit court~~  
23 shall send the notice of that order to the administrator of the lottery division of the  
24 department of revenue, including a statement of the amount owed under the  
25 judgment and the name and address of the person owing the judgment. The court

**SENATE BILL 82**

1 shall notify the administrator of the lottery division of the department of revenue  
2 when the judgment that is the basis of the assignment has been paid in full.

3 **SECTION 1072.** 973.05 (5) (c) of the statutes is amended to read:

4 973.05 (5) (c) A person who receives notice of the assignment under sub. (4) (b)  
5 shall withhold the amount specified in the notice from any money that person pays  
6 to the defendant later than one week after receipt of the notice of assignment. Within  
7 5 days after the day on which the person pays money to the defendant, the person  
8 shall send the amount withheld to the clerk of ~~circuit~~ the court of the jurisdiction  
9 providing notice. If the person has already received a notice of an assignment under  
10 sub. (4) (b), the person shall retain the later assignment and withhold the amount  
11 specified in that assignment after the last of any prior assignments is paid in full.  
12 Within 10 days of receipt of the later notice, the person shall notify the clerk of ~~circuit~~  
13 the court that sent the notice that the person has received a prior notice of an  
14 assignment under sub. (4) (b). Section 241.09 does not apply to assignments under  
15 this section.

16 **SECTION 1073.** 973.05 (5) (d) of the statutes is amended to read:

17 973.05 (5) (d) If after receipt of notice of assignment under par. (a) 1. the person  
18 from whom the defendant receives money fails to withhold the money or send the  
19 money to the clerk of ~~circuit court~~ as provided in this subsection, the person may be  
20 proceeded against under the principal action under ch. 785 for contempt of court or  
21 may be proceeded against under ch. 778 and be required to forfeit not less than \$50  
22 nor more than an amount, if the amount exceeds \$50, that is equal to 1% of the  
23 amount not withheld or sent.

24 **SECTION 1074.** 973.05 (5) (e) of the statutes is amended to read:

**SENATE BILL 82**

1           973.05 (5) (e) If an employer who receives notice of an assignment under sub.  
2           (4) (b) fails to notify the clerk of circuit court within 10 days after an employee is  
3           terminated or otherwise temporarily or permanently leaves the employer's  
4           employment, the employer may be proceeded against under the principal action  
5           under ch. 785 for contempt of court.

6           **SECTION 1075.** 973.055 (2) (a) of the statutes is amended to read:

7           973.055 (2) (a) If the surcharge is imposed by a court of record, after the court  
8           determines the amount due, the clerk of the court shall collect and transmit the  
9           amount to the county treasurer as provided in s. 59.40 (2) (m). The county treasurer  
10          shall then make payment to the secretary of administration as provided in s. 59.25  
11          (3) (f) 2.

12          **SECTION 1076.** 973.06 (1) (av) 2. a. and b. of the statutes are amended to read:

13          973.06 (1) (av) 2. a. The defendant was charged under s. 946.41 solely because  
14          he or she recanted a report of abusive conduct, including interspousal battery, as  
15          described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in s. 49.165 (1)  
16          (a), 813.12 (1) (am), or ~~968.075~~ 969.27 (1) (a), harassment, as defined in s. 813.125  
17          (1), sexual exploitation by a therapist under s. 940.22, sexual assault under s.  
18          940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss.  
19          948.02 to 948.11.

20          b. The defendant was a victim of abusive conduct, including interspousal  
21          battery, as described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in  
22          s. 49.165 (1) (a), 813.12 (1) (am), or ~~968.075~~ 969.27 (1) (a), harassment, as defined in  
23          s. 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault  
24          under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under  
25          ss. 948.02 to 948.11, and he or she was charged under s. 946.41 based on information

**SENATE BILL 82**

1 he or she omitted or false information he or she provided during the course of an  
2 investigation into the crime committed against him or her.

3 **SECTION 1077.** 973.06 (1) (h) of the statutes is amended to read:

4 973.06 (1) (h) The cost of performance of a test under s. ~~968.38~~ 968.725, if  
5 ordered by the court.

6 **SECTION 1078.** 973.076 (1) (b) 1. of the statutes is amended to read:

7 973.076 (1) (b) 1. The district attorney of the county within which the property  
8 was seized or in which the defendant is convicted shall commence the forfeiture  
9 action within 30 days after the seizure of the property or the date of conviction,  
10 whichever is earlier, except that the defendant may request that the forfeiture  
11 proceedings be adjourned until after adjudication of any charge concerning a crime  
12 which was the basis for the seizure of the property. The request shall be granted.  
13 The forfeiture action shall be commenced by filing a summons, complaint and  
14 affidavit of the person who seized the property with the clerk of ~~circuit court~~,  
15 provided service of authenticated copies of those papers is made in accordance with  
16 ch. 801 within 90 days after filing upon the person from whom the property was  
17 seized and upon any person known to have a bona fide perfected security interest in  
18 the property.

19 **SECTION 1079.** 973.076 (2m) (b) of the statutes is amended to read:

20 973.076 (2m) (b) A criminal complaint must allege the extent of property  
21 subject to forfeiture under this subsection. At trial, the court or the jury shall return  
22 a special verdict determining the extent of property, if any, that is subject to forfeiture  
23 under this subsection. When a special verdict contains a finding of property subject  
24 to a forfeiture under this subsection, a judgment of criminal forfeiture shall be  
25 entered along with the judgment of conviction under s. ~~972.13~~ 972.28.

**SENATE BILL 82**

1           **SECTION 1080.** 973.08 (5) of the statutes is amended to read:

2           973.08 (5) The clerk of court shall file or deliver a transcript under sub. (2), (3)  
3 or (4).

4           **SECTION 1081.** 973.09 (2) (a) 1. b. of the statutes is amended to read:

5           973.09 (2) (a) 1. b. A misdemeanor that was an act of domestic abuse, as defined  
6 in s. ~~968.075~~ 969.27 (1) (a).

7           **SECTION 1082.** 973.09 (3) (b) of the statutes is amended to read:

8           973.09 (3) (b) The department shall notify the sentencing court, any person to  
9 whom unpaid restitution is owed and the district attorney of the status of the ordered  
10 restitution payments unpaid at least 90 days before the probation expiration date.  
11 If payment as ordered has not been made, the court shall hold a probation review  
12 hearing prior to the expiration date, unless the hearing is voluntarily waived by the  
13 probationer with the knowledge that waiver may result in an extension of the  
14 probation period or in a revocation of probation. If the court does not extend  
15 probation, it shall issue a judgment for the unpaid restitution and direct the clerk  
16 of ~~circuit court~~ to file and enter the judgment in the judgment and lien docket,  
17 without fee, unless it finds that the victim has already recovered a judgment against  
18 the probationer for the damages covered by the restitution order. If the court issues  
19 a judgment for the unpaid restitution, the court shall send to the person at his or her  
20 last-known address written notification that a civil judgment has been issued for the  
21 unpaid restitution. The judgment has the same force and effect as judgments  
22 entered under s. 806.10.

23           **SECTION 1083.** 973.09 (3) (bg) 2. and 4. of the statutes are amended to read:

24           973.09 (3) (bg) 2. If the court does not extend probation, the court shall issue  
25 a judgment for the unpaid surcharge and direct the clerk of ~~circuit court~~ to file and

**SENATE BILL 82**

1 enter the judgment in the judgment and lien docket. The judgment has the same  
2 force and effect as judgments entered under s. 806.10.

3 4. If the court does not extend or modify the terms of probation under subd. 3.,  
4 the court shall issue a judgment for the unpaid surcharge and direct the clerk of  
5 ~~ircuit court~~ to file and enter the judgment in the judgment and lien docket without  
6 fee. If the court issues a judgment for the unpaid surcharge, the court shall send to  
7 the department a written notification that a civil judgment has been issued for the  
8 unpaid fees. The judgment has the same force and effect as judgments entered under  
9 s. 806.10.

10 **SECTION 1084.** 973.09 (3) (bm) 4. of the statutes is amended to read:

11 973.09 (3) (bm) 4. If the court does not extend or modify the terms of probation  
12 under subd. 3., it shall issue a judgment for the unpaid fees and direct the clerk of  
13 ~~ircuit court~~ to file and enter the judgment in the judgment and lien docket, without  
14 fee. If the court issues a judgment for the unpaid fees, the court shall send to the  
15 department a written notification that a civil judgment has been issued for the  
16 unpaid fees. The judgment has the same force and effect as judgments entered under  
17 s. 806.10.

18 **SECTION 1085.** 973.09 (7m) (a) of the statutes is amended to read:

19 973.09 (7m) (a) Except as provided in s. 943.017 (3), the court may require as  
20 a condition of probation that the probationer perform community service work for a  
21 public agency or a nonprofit charitable organization. The number of hours of work  
22 required may not exceed what would be reasonable considering the seriousness of the  
23 offense and any ~~other offense which is read into the record at the time of conviction~~  
24 read-in crimes. An order may only apply if agreed to by the probationer and the  
25 organization or agency. The court shall ensure that the probationer is provided a

**SENATE BILL 82**

1 written statement of the terms of the community service order and that the  
2 community service order is monitored. If the court requires the conditions provided  
3 in this subsection and sub. (4), the probationer reduces the period of confinement  
4 under sub. (4) at a rate of one day for each 3 days of work performed. A day of work  
5 equals 8 hours of work performed.

6 **SECTION 1086.** 973.10 (2m) of the statutes is amended to read:

7 973.10 (2m) In any administrative hearing under sub. (2), the hearing  
8 examiner may order that a deposition be taken by audiovisual means and allow the  
9 use of a recorded deposition under s. ~~967.04 (7) to (10)~~ 967.22.

10 **SECTION 1087.** 973.135 (3) of the statutes is amended to read:

11 973.135 (3) If a conviction under sub. (2) is reversed, set aside or vacated, the  
12 clerk of the court shall promptly forward to the state superintendent a certificate  
13 stating that the conviction has been reversed, set aside or vacated.

14 **SECTION 1088.** 973.18 (title) of the statutes is renumbered 973.25 (title).

15 **SECTION 1089.** 973.18 (1) of the statutes is renumbered 973.25 (1) and amended  
16 to read:

17 973.25 (1) In this section, “postconviction relief” and “sentencing” have the  
18 meanings ascribed in s. ~~809.30 (1)~~ means an appeal or a motion for postconviction  
19 relief in a criminal case, other than an appeal, motion, or petition under s. 302.113  
20 (7m), 973.195, 974.03, 974.06, or 974.07 (2).

21 **SECTION 1090.** 973.18 (2), (3) and (4) of the statutes are renumbered 973.25 (2),  
22 (3) and (4) and amended to read:

23 973.25 (2) ~~The trial judge~~ At the time of sentencing, the court shall personally  
24 inform the defendant at the time of sentencing, orally or in writing, of the defendant’s

**SENATE BILL 82**

1 right to ~~seek~~ pursue postconviction relief and, if the defendant is indigent, of the  
2 defendant's right to the assistance of the state public defender.

3 (3) Before ~~adjourning~~ concluding the sentencing proceeding, the judge court  
4 shall direct the defendant and defendant's trial counsel to sign a form to be entered  
5 in the record, indicating that the ~~lawyer~~ trial counsel has counseled the defendant  
6 regarding the decision to seek pursue postconviction relief, and that the defendant  
7 understands that a notice of intent to pursue postconviction relief must be filed in  
8 the trial court within 20 days after sentencing for ~~that~~ the right to pursue  
9 postconviction relief to be preserved. The court shall give the defendant a copy of the  
10 form.

11 (4) ~~The judge shall direct~~ court shall make appropriate orders to allow the  
12 ~~defendant's counsel~~ defendant to confer with ~~the defendant~~ before signing the form,  
13 during the proceeding or as soon thereafter as practicable, and may make  
14 appropriate orders to allow the defendant to confer with counsel before being  
15 transferred to the state prison. ~~The defendant shall be given a copy of the form.~~

16 **SECTION 1091.** 973.18 (5) of the statutes is renumbered 973.25 (5).

17 **SECTION 1092.** 973.19 (title) of the statutes is renumbered 974.03 (title).

18 **SECTION 1093.** 973.19 (1) (a) of the statutes is renumbered 974.03 (1) (a) and  
19 amended to read:

20 974.03 (1) (a) A ~~person~~ defendant sentenced to imprisonment or the intensive  
21 sanctions program or ordered to pay a fine who has not requested the preparation  
22 of transcripts under s. 809.30 (2) may, within 90 days after the sentence or order or  
23 fine is entered imposed, move the circuit court to modify the sentence or the amount  
24 of the fine.



**SENATE BILL 82**

1           **SECTION 1094.** 973.19 (1) (b) of the statutes is renumbered 974.03 (2) and  
2 amended to read:

3           974.03 (2) A ~~person~~ defendant who has requested transcripts under s. 809.30  
4 (2) may move for modification of a sentence or fine under s. 809.30 (2) (h).

5           **SECTION 1095.** 973.19 (2), (3), (4) and (5) of the statutes are renumbered 974.03  
6 (1) (b), (c), (d) and (e) and amended to read:

7           974.03 (1) (b) Within 90 days after a motion under ~~sub. (1) par. (a)~~ par. (a) is filed, the  
8 circuit court shall enter an order either determining the motion or, for cause,  
9 extending the time for doing so by not more than 90 days ~~for cause~~.

10           (c) If an order determining a motion under ~~sub. (1) par. (a)~~ par. (a) is not entered timely  
11 under ~~sub. (2) par. (b)~~ par. (b), the motion shall be considered denied and the clerk of the court  
12 shall immediately enter an order denying the motion.

13           (d) ~~An~~ The rules governing civil appeals govern an appeal from an order  
14 determining a motion under ~~sub. (1) par. (a)~~ par. (a) is ~~governed by the procedure for civil~~  
15 ~~appeals~~.

16           (e) By filing a motion under ~~sub. (1) par. (a)~~ par. (a) the defendant waives his or her  
17 right to file an appeal or postconviction motion under s. 809.30 (2).

18           **SECTION 1096.** 973.20 (1g) of the statutes is repealed.

19           **SECTION 1097.** 973.20 (1r) of the statutes is amended to read:

20           973.20 (1r) When imposing sentence or ordering probation for any crime, other  
21 than a crime involving conduct that constitutes domestic abuse under s. 813.12 (1)  
22 (am) or ~~968.075~~ 969.27 (1) (a), for which the defendant was convicted, the court, in  
23 addition to any other penalty authorized by law, shall order the defendant to make  
24 full or partial restitution under this section to any victim of a crime considered at  
25 sentencing or, if the victim is deceased, to his or her estate, unless the court finds

**SENATE BILL 82**

1 substantial reason not to do so and states the reason on the record. When imposing  
2 sentence or ordering probation for a crime involving conduct that constitutes  
3 domestic abuse under s. 813.12 (1) (am) or ~~968.075~~ 969.27 (1) (a) for which the  
4 defendant was convicted or that was considered at sentencing, the court, in addition  
5 to any other penalty authorized by law, shall order the defendant to make full or  
6 partial restitution under this section to any victim of a crime or, if the victim is  
7 deceased, to his or her estate, unless the court finds that imposing full or partial  
8 restitution will create an undue hardship on the defendant or victim and describes  
9 the undue hardship on the record. Restitution ordered under this section is a  
10 condition of probation, extended supervision, or parole served by the defendant for  
11 a crime for which the defendant was convicted. After the termination of probation,  
12 extended supervision, or parole, or if the defendant is not placed on probation,  
13 extended supervision, or parole, restitution ordered under this section is enforceable  
14 in the same manner as a judgment in a civil action by the victim named in the order  
15 to receive restitution or enforced under ch. 785.

16 **SECTION 1098.** 973.20 (9m) of the statutes is amended to read:

17 973.20 **(9m)** When restitution is ordered, the court shall inquire to see if  
18 recompense has been made under s. ~~969.13 (5) (a)~~ 969.42. If recompense has been  
19 made and the restitution ordered is less than or equal to the recompense, the  
20 restitution shall be applied to the payment of costs and, if any restitution remains  
21 after the payment of costs, to the payment of the judgment. If recompense has been  
22 made and the restitution ordered is greater than the recompense, the victim shall  
23 receive an amount equal to the amount of restitution less the amount of recompense  
24 and the balance shall be applied to the payment of costs and, if any restitution  
25 remains after the payment of costs, to the payment of the judgment. This subsection

**SENATE BILL 82**

1 applies without regard to whether the person who paid the recompense is the person  
2 who is convicted of the crime.

3 **SECTION 1099.** 973.20 (11) (a) of the statutes is amended to read:

4 973.20 (11) (a) Except as otherwise provided in this paragraph, the restitution  
5 order shall require the defendant to deliver the amount of money or property due as  
6 restitution to the department for transfer to the victim or other person to be  
7 compensated by a restitution order under this section. If the defendant is not placed  
8 on probation or sentenced to prison, the court may order that restitution be paid to  
9 the clerk of court for transfer to the appropriate person. The court shall impose on  
10 the defendant a restitution surcharge under ch. 814 equal to 5% of the total amount  
11 of any restitution, costs, attorney fees, court fees, fines, and surcharges ordered  
12 under s. 973.05 (1) and imposed under ch. 814, which shall be paid to the department  
13 or the clerk of court for administrative expenses under this section.

14 **SECTION 1100.** 973.20 (12) (c) of the statutes is amended to read:

15 973.20 (12) (c) If a defendant is subject to more than one order under this  
16 section and the financial obligations under any order total \$50 or less, the  
17 department or the clerk of court, whichever is applicable under sub. (11) (a), may pay  
18 these obligations first.

19 **SECTION 1101.** 974.02 of the statutes is amended to read:

20 **974.02 Appeals and postconviction relief in criminal cases Direct**  
21 **appeals.** (1) ~~A motion for postconviction relief other than under s. 974.06 or 974.07~~  
22 ~~(2) by the defendant in a criminal case shall be made in the time and manner~~  
23 ~~provided in s. 809.30. An appeal by the~~ The defendant in a criminal case may appeal  
24 from a judgment of conviction or from an order denying a postconviction motion or  
25 from both. A direct appeal from a judgment of conviction shall be taken in the time

**SENATE BILL 82**

1 and manner provided in ss. 808.04 (3) and 809.30 to 809.32. An appeal of an order  
2 or judgment on habeas corpus remanding to custody a prisoner committed for trial  
3 under s. ~~970.03~~ 971.042 shall be taken under ss. 808.03 (2) and 809.50, with notice  
4 to the attorney general and the district attorney and opportunity for them to be  
5 heard.

6 (2) An appellant is not required to file a postconviction motion in the ~~trial~~  
7 circuit court prior to an appeal if the grounds are sufficiency of the evidence or issues  
8 previously raised.

9 **SECTION 1102.** 974.05 (1) (intro.) of the statutes is amended to read:

10 974.05 (1) (intro.) Within the time period specified by s. 808.04 (4) and in the  
11 manner provided for civil appeals under chs. 808 and 809, ~~an appeal may be taken~~  
12 by the state from may appeal any of the following:

13 **SECTION 1103.** 974.05 (1) (a), (b), (c) and (d) (intro.), 1. and 2. of the statutes are  
14 amended to read:

15 974.05 (1) (a) ~~Final~~ A final order or judgment adverse to the state, whether  
16 following a trial or a plea of guilty or no contest, if the appeal would not be prohibited  
17 by constitutional protections against double jeopardy.

18 (b) ~~Order~~ An order granting postconviction relief under s. 974.02, 974.03,  
19 974.06, or 974.07.

20 (c) ~~Judgment~~ A judgment and sentence or order of probation not authorized by  
21 law.

22 (d) (intro.) ~~Order~~ An order or judgment the substantive effect of which results  
23 in any of the following:

- 24 1. Quashing an arrest warrant;<sub>;</sub>
- 25 2. Suppressing evidence;~~or.~~

**SENATE BILL 82**

1           **SECTION 1104.** 974.05 (2) of the statutes is amended to read:

2           974.05 (2) If the defendant appeals or prosecutes a writ of error, the state may  
3 ~~move to review rulings of which it complains~~ cross-appeal any order, judgment, or  
4 sentence described in sub. (1) (a) to (d), as provided by in s. 809.10 (2) (b).

5           **SECTION 1105.** 974.05 (3) of the statutes is repealed.

6           **SECTION 1106.** 974.06 (title), (1), (2) and (3) (intro.), (a), (b) and (d) of the  
7 statutes are amended to read:

8           **974.06 (title) ~~Postconviction~~ Collateral postconviction procedure. (1)**  
9 ~~After~~ At any time after the time for direct appeal or postconviction remedy provided  
10 in s. 974.02 has expired, a prisoner who is in custody under sentence of a court or a  
11 person convicted and placed with a volunteers in probation program under s. 973.11  
12 claiming and who claims the right to be released upon the ground that the sentence  
13 was imposed in violation of the U.S. constitution or the constitution or laws of this  
14 state, that the court was without lacked jurisdiction to impose such the sentence, or  
15 that the sentence was in excess of exceeded the maximum authorized by law or is  
16 otherwise subject to collateral attack review, may move the court which imposed the  
17 sentence to vacate, set aside, or correct the sentence.

18           **(2)** A copy of the motion for such relief is a part of the original criminal action,  
19 is not a separate proceeding and may be made at any time under sub. (1) must be  
20 served on the district attorney.

21           **(2m)** A motion under sub. (1) is part of the original criminal action, is not a  
22 separate proceeding, and may be made at any time. The supreme court may  
23 prescribe the form of the motion.

**SENATE BILL 82**

1           (3) (intro.) Unless the motion under sub. (1) and the files and records of the  
2 action conclusively show that the ~~person~~ prisoner is entitled to no relief, the court  
3 shall do all of the following:

4           (a) ~~Cause a copy of the notice to be served upon~~ Order the district attorney who  
5 shall to file a written response within the time prescribed by the court.

6           (b) If it appears that counsel is necessary and if the ~~defendant~~ prisoner claims  
7 or appears to be indigent, refer the ~~person~~ prisoner to the appellate division of the  
8 state public defender for an indigency determination and appointment of counsel  
9 under ch. 977. The court shall forward a copy of the motion and any response of the  
10 district attorney to the state public defender.

11           (d) Determine the issues and make findings of fact and conclusions of law. If  
12 the court finds that it rendered the judgment ~~was rendered~~ without jurisdiction, or  
13 that the sentence imposed was not authorized by law or is otherwise open to  
14 collateral ~~attaek~~ review, or that there has been such a denial or infringement of the  
15 constitutional rights of the ~~person~~ prisoner as to render the judgment vulnerable to  
16 collateral ~~attaek~~ review, the court shall vacate and set aside the judgment ~~aside~~ and  
17 shall discharge the ~~person~~ prisoner or resentence ~~him or her or~~ the prisoner, grant  
18 the prisoner a new trial, or correct the sentence as may appear appropriate.

19           **SECTION 1107.** 974.06 (4) of the statutes is amended to read:

20           974.06 (4) All grounds for relief available to a ~~person~~ prisoner under this  
21 section must be raised in his or her original, supplemental, or amended motion. Any  
22 ground finally adjudicated or not so raised, or knowingly, voluntarily, and  
23 intelligently waived in the proceeding that resulted in the conviction or sentence or  
24 in any other proceeding the ~~person~~ prisoner has taken to secure relief may not be the  
25 basis for a subsequent motion, unless the court finds a ground for relief asserted

**SENATE BILL 82**

1     ~~which that,~~ for sufficient reason, was not asserted or was inadequately raised in the  
2     original, supplemental, or amended motion.

3             **SECTION 1108.** 974.06 (5), (6), (7) and (8) of the statutes are amended to read:

4             974.06 (5) ~~A Subject to s. 974.08, a court may entertain and determine such~~  
5     a motion under sub. (1) without requiring the production of the prisoner at the  
6     hearing. The court may hear the motion may be heard by telephone or live  
7     audiovisual means under s. 807.13.

8             (6) Proceedings under this section shall be considered civil in nature, and the  
9     burden of proof shall be upon the ~~person~~ prisoner.

10            (7) ~~An A prisoner may appeal may be taken from the an~~ order entered on the  
11     motion under sub. (1) as ~~from if the order were~~ a final judgment.

12            (8) A court may not entertain a petition for a writ of habeas corpus or an action  
13     seeking that remedy ~~in on~~ behalf of a ~~person~~ prisoner who is authorized to apply for  
14     relief by motion under ~~this section shall not be entertained~~ sub. (1) if it appears that  
15     the applicant prisoner has failed to apply for relief, by file a motion, to under sub. (1)  
16     with the court which sentenced the ~~person~~ prisoner, or that the court has denied the  
17     ~~person relief motion~~, unless it also appears that the remedy by motion is inadequate  
18     or ineffective to test the legality of his or her the prisoner's detention.

19            **SECTION 1109.** 974.07 (4) (b) of the statutes is amended to read:

20            974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing  
21     addresses from completed information cards submitted by victims under ss. 51.37  
22     (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f),  
23     304.063 (4), 938.51 (2), ~~971.17 (6m) (d)~~ 975.62 (5), and 980.11 (4), the department of  
24     corrections, the parole commission, and the department of health services shall,  
25     upon request, assist clerks of court in obtaining information regarding the mailing

**SENATE BILL 82**

1 address of victims for the purpose of sending copies of motions and notices of hearings  
2 under par. (a).

3 **SECTION 1110.** 974.07 (7) (b) 1. of the statutes is amended to read:

4 974.07 (7) (b) 1. It is reasonably probable that the outcome of the proceedings  
5 that resulted in the conviction, the finding of not guilty by reason of mental disease  
6 or defect, or the delinquency adjudication for the offense at issue in the motion under  
7 sub. (2), or the terms of the sentence, the commitment under s. ~~971.17~~ subch. III of  
8 ch. 975, or the disposition under ch. 938, would have been more favorable to the  
9 movant if the results of deoxyribonucleic acid testing had been available before he  
10 or she was prosecuted, convicted, found not guilty by reason of mental disease or  
11 defect, or adjudicated delinquent for the offense.

12 **SECTION 1111.** 974.07 (9) (a) of the statutes is amended to read:

13 974.07 (9) (a) If a person other than the movant is in custody, as defined in s.  
14 ~~968.205~~ 968.645 (1) (a), the evidence is relevant to the criminal, delinquency, or  
15 commitment proceeding that resulted in the person being in custody, the person has  
16 not been denied deoxyribonucleic acid testing or postconviction relief under this  
17 section, and the person has not waived his or her right to preserve the evidence under  
18 s. 165.81 (3), 757.54 (2), ~~968.205~~ 968.645, or 978.08, the court shall order the evidence  
19 preserved until all persons entitled to have the evidence preserved are released from  
20 custody, and the court shall designate who shall preserve the evidence.

21 **SECTION 1112.** 974.07 (10) (a) 4. of the statutes is amended to read:

22 974.07 (10) (a) 4. An order discharging the movant from custody, as defined in  
23 s. ~~968.205~~ 968.645 (1) (a), if the movant is in custody.

24 **SECTION 1113.** 974.08 (title) of the statutes is created to read:

25 **974.08 (title) Defendant's presence at postconviction proceedings.**





**SENATE BILL 82**

1           **SECTION 1118.** 975.001 of the statutes is repealed.

2           **SECTION 1119.** 975.01 of the statutes is repealed.

3           **SECTION 1120.** 975.06 of the statutes is repealed.

4           **SECTION 1121.** 975.07 of the statutes is repealed.

5           **SECTION 1122.** 975.08 of the statutes is repealed.

6           **SECTION 1123.** 975.09 of the statutes is repealed.

7           **SECTION 1124.** 975.10 of the statutes is repealed.

8           **SECTION 1125.** 975.11 of the statutes is repealed.

9           **SECTION 1126.** 975.12 of the statutes is repealed.

10          **SECTION 1127.** 975.15 of the statutes is repealed.

11          **SECTION 1128.** 975.16 of the statutes is repealed.

12          **SECTION 1129.** 975.17 of the statutes is repealed.

13          **SECTION 1130.** 975.18 of the statutes is repealed.

14          **SECTION 1131.** Subchapter I (title) of chapter 975 [precedes 975.20] of the  
15 statutes is created to read:

16                                   **CHAPTER 975**

17                                   SUBCHAPTER I

18                                   GENERAL PROVISIONS

19          **SECTION 1132.** 975.20 of the statutes is created to read:

20          **975.20 Definitions.** In this chapter:

21           (1) “Department” means the department of health services, except as otherwise  
22 expressly provided.

23           (2) “Not competent to refuse medication or treatment” means that because of  
24 mental illness, developmental disability, alcoholism, or drug dependency, and after

**SENATE BILL 82**

1 the advantages and disadvantages of and alternatives to accepting a particular  
2 medication or treatment have been explained to a person, one of the following is true:

3 (a) The person is incapable of expressing an understanding of the advantages,  
4 disadvantages, and alternatives.

5 (b) The person is substantially incapable of applying an understanding of the  
6 advantages, disadvantages, and alternatives to his or her mental illness,  
7 developmental disability, alcoholism, or drug dependence in order to make an  
8 informed choice as to whether to accept or refuse medication or treatment.

9 (3) "Physician" has the meaning given in s. 448.01 (5).

10 (4) "Psychologist" means a person holding a valid license under s. 455.04.

11 **SECTION 1133.** Subchapter II (title) of chapter 975 [precedes 975.30] of the  
12 statutes is created to read:

13 **CHAPTER 975**

14 **SUBCHAPTER II**

15 **COMPETENCY**

16 **SECTION 1134.** 975.31 (title) of the statutes is created to read:

17 **975.31 (title) Raising the issue of competency.**

18 **SECTION 1135.** 975.31 (4) of the statutes is created to read:

19 975.31 (4) If competency is raised, the court may order that a guardian ad litem  
20 be appointed.

21 **SECTION 1136.** 975.32 (title) of the statutes is created to read:

22 **975.32 (title) Competency examination.**

23 **SECTION 1137.** 975.32 (2) of the statutes is created to read:

24 975.32 (2) Notwithstanding sub. (1), if the parties agree that a previously  
25 conducted mental examination provides a sufficient basis for the court to make the

**SENATE BILL 82**

1 determination under s. 975.34 and the court concurs, a new examination need not  
2 be ordered.

3 **SECTION 1138.** 975.32 (4) of the statutes is created to read:

4 975.32 (4) If the defendant is in custody, the court may order an inpatient or  
5 outpatient examination and all of the following apply:

6 (a) Any outpatient examination for a defendant in custody shall be conducted  
7 in a jail or locked unit of a facility.

8 (b) If an inpatient examination is determined by the court to be necessary for  
9 a defendant in custody, the defendant may be committed to a suitable mental health  
10 facility. If the examination is to be conducted by the department under par. (c), the  
11 court shall order the individual to the facility designated by the department.

12 (c) If the court orders a defendant in custody to be examined by the department  
13 or a department facility, the department shall determine where the examination will  
14 be conducted, who will conduct the examination, and whether the examination will  
15 be conducted on an inpatient or outpatient basis. If an outpatient examination is  
16 begun by or through the department, and the department later determines that  
17 inpatient examination is necessary, the sheriff shall transport the defendant to the  
18 inpatient facility designated by the department. In any case under this paragraph  
19 in which the department determines that an inpatient examination is necessary, the  
20 15-day period under sub. (6) (a) begins upon the arrival of the defendant at the  
21 inpatient facility.

22 **SECTION 1139.** 975.32 (7) of the statutes is created to read:

23 975.32 (7) Days spent in a mental health facility for an inpatient competency  
24 examination ordered under this section count as days spent in custody under s.  
25 973.155.

**SENATE BILL 82**

1           **SECTION 1140.** 975.32 (10) of the statutes is created to read:

2           975.32 (10) The court may order additional experts to examine the defendant  
3 at any stage of the proceedings to determine the defendant's competency to proceed.

4           **SECTION 1141.** 975.33 (title) of the statutes is created to read:

5           **975.33 (title) Examination report.**

6           **SECTION 1142.** 975.33 (1) (f) and (3) of the statutes are created to read:

7           975.33 (1) (f) If the examiner reports that the defendant is not competent to  
8 proceed and that the defendant is not likely to become competent within the  
9 maximum period of commitment, as defined in s. 975.34 (6) (a), the examiner's  
10 opinion on whether the defendant meets the criteria for commitment under ch. 51  
11 or 55.

12           **(3)** If competency is raised, the court may order that a guardian ad litem be  
13 appointed.

14           **SECTION 1143.** 975.34 of the statutes is created to read:

15           **975.34 Competency determination. (1) HEARING.** As soon as practicable  
16 after receiving the examiner's report under s. 975.33, the court shall hold a hearing  
17 on the defendant's competency to proceed and, if at issue, on the defendant's  
18 competency to refuse medication or treatment.

19           **(2) WAIVER OF HEARING.** Notwithstanding sub. (1), if the parties agree that a  
20 hearing is not necessary and the court concurs, the court may make a determination  
21 on the defendant's competency to proceed and, if relevant, the defendant's  
22 competency to refuse medication or treatment based on the court-ordered report and  
23 other information adduced.

24           **(3) BURDEN OF GOING FORWARD.** If a hearing is held under this section, the  
25 district attorney has the burden of going forward with the evidence.

**SENATE BILL 82**

1           **(4) BURDEN OF PERSUASION.** Regardless of who raised the issue of competency,  
2 the court may find the defendant competent to proceed only if, after hearing evidence  
3 or reviewing the reports submitted under s. 975.33, or both, the court finds by the  
4 greater weight of the evidence that the defendant is competent to proceed.

5           **(5) RESUMING PROCEEDINGS.** If the court finds the defendant competent to  
6 proceed, the court shall enter its finding on the record and shall resume the criminal  
7 proceedings.

8           **(6) SUSPENDING PROCEEDINGS; COMMITMENT FOR TREATMENT.** (a) In this  
9 subsection, “maximum period of commitment” means the greatest maximum  
10 sentence length for any crime for which the defendant is charged, including  
11 imprisonment authorized by any applicable penalty enhancement statutes, or 12  
12 months, whichever is less.

13           (b) If the court does not find by the greater weight of the evidence that the  
14 defendant is competent to proceed, the court shall find that the defendant is not  
15 competent, shall enter its finding on the record, shall suspend the criminal  
16 proceedings, and shall do one of the following:

17           1. If the court finds by the greater weight of the evidence that the defendant  
18 is not likely to become competent within the maximum period of commitment, the  
19 court shall order that the defendant be released, except as provided in s. 975.38.

20           2. If the court finds by the greater weight of the evidence that the defendant  
21 is likely to become competent within the maximum period of commitment without  
22 inpatient treatment, the court shall order that the defendant be released. The court  
23 may require the defendant to participate in outpatient treatment, undergo periodic  
24 reexaminations to determine whether the defendant has become competent to

**SENATE BILL 82**

1 proceed, or both, for a period that does not exceed the maximum period of  
2 commitment.

3 3. If the court finds by clear and convincing evidence that the defendant is likely  
4 to become competent within the maximum period of commitment if provided  
5 appropriate inpatient treatment, proceed under sub. (7).

6 **(7) COMMITMENT FOR TREATMENT.**

7 **(8) COMPETENCY TO REFUSE MEDICATION OR TREATMENT.** If the defendant is  
8 committed to the department under sub. (7) and the state proves by clear and  
9 convincing evidence that the defendant is not competent to refuse medication or  
10 treatment, the court shall find, without a jury, that the defendant is not competent  
11 to refuse medication or treatment, and order that whoever administers medication  
12 or treatment to the defendant shall observe appropriate medical standards.

13 **SECTION 1144.** 975.36 (title) of the statutes is created to read:

14 **975.36 (title) Reexamination of defendant's competency.**

15 **SECTION 1145.** 975.36 (2) of the statutes is created to read:

16 975.36 **(2) REPORTS AT OTHER TIMES.** The department shall furnish written  
17 reports of examination to the court whenever it determines that the defendant has  
18 become competent or that the defendant is not likely to become competent within the  
19 remaining commitment period. The reports shall comply with the requirements of  
20 sub. (1). The court shall schedule a review of a report under this subsection within  
21 14 days after the court receives the report.

22 **SECTION 1146.** 975.36 (4) of the statutes is created to read:

23 975.36 **(4) FINAL REEXAMINATION.** Before or at the end of the commitment, the  
24 court shall order the defendant discharged from the commitment and shall release  
25 the defendant, except as provided in s. 975.38.

**SENATE BILL 82**

1           **SECTION 1147.** 975.37 of the statutes is created to read:

2           **975.37 Involuntary medication to restore competency at trial.** The  
3 court may order involuntary medication to restore a defendant's competency to stand  
4 trial only if the court finds that there is a need for that medication sufficiently  
5 important to overcome the defendant's protected interest in refusing it. The court  
6 shall consider the effectiveness and side effects of the medication, the possible  
7 alternatives, and the medical appropriateness of the medication.

8           **SECTION 1148.** 975.38 (title) of the statutes is created to read:

9           **975.38 (title) Mental health commitment or protective placement.**

10          **SECTION 1149.** 975.39 of the statutes is created to read:

11          **975.39 Competency to pursue postconviction relief. (1) APPLICABILITY.**

12 The court shall proceed under this section whenever there is reason to doubt a  
13 defendant's competency to seek postconviction relief under s. 809.30.

14          **(2) STANDARD.** A defendant lacks competency to pursue postconviction relief  
15 under s. 809.30 if he or she is unable, with a reasonable degree of rational  
16 understanding, to assist counsel or to make decisions committed by law to the  
17 defendant.

18          **(3) DETERMINING COMPETENCY.** If the court determines that reason exists to  
19 doubt a defendant's competency to pursue postconviction relief under s. 809.30, it  
20 shall, as an exercise of its discretion, determine the method for evaluating a  
21 defendant's competency. A court may rely upon the affidavits of counsel, a  
22 stipulation, or the court's observation of the defendant. A court may order an  
23 examination of the defendant by a person with specialized knowledge. A court may,  
24 in its discretion, hold a hearing before determining a defendant's competency. Any



**SENATE BILL 82**

1 hearing conducted under this subsection shall be governed by s. 975.34 to the extent  
2 practicable.

3 **(4) ALTERNATIVES PENDING A COMPETENCY DETERMINATION.** Pending a  
4 determination of competency to pursue postconviction relief or after a finding that  
5 the defendant lacks competency, the applicable court may do any of the following:

6 (a) The circuit court may allow the initiation or continuation of proceedings on  
7 any issue raised by the defendant's attorney that rests on the records, does not  
8 require the defendant to assist counsel or make a decision, and involves no risk to  
9 the defendant.

10 (b) The court of appeals may grant the defendant a continuance or an  
11 enlargement of time for filing necessary notices or motions for postconviction relief.

12 **(5) APPOINTING A GUARDIAN; ORDERING TREATMENT.** If the court finds that the  
13 defendant lacks competency to pursue postconviction relief, the court may do any of  
14 following:

15 (a) Appoint a guardian to make decisions that the law requires the defendant  
16 to make.

17 (b) Order treatment to restore the defendant to competency to pursue  
18 postconviction relief.

19 **(6) RAISING ISSUES AFTER COMPETENCY IS REGAINED.** A defendant who lacks  
20 competency to pursue postconviction relief at the time he or she seeks postconviction  
21 relief may, after regaining competency, raise any issue at a later proceeding that he  
22 or she did not raise earlier because of incompetency.

23 **SECTION 1150.** Subchapter III (title) of chapter 975 [precedes 975.50] of the  
24 statutes is created to read:

25

**CHAPTER 975**

**SENATE BILL 82**

SUBCHAPTER III

MENTAL RESPONSIBILITY

**SECTION 1151.** 975.51 (4) (b) of the statutes is created to read:

975.51 (4) (b) If a physician, psychologist, or other expert examines the defendant at the request of the state, the examiner may not testify at trial regarding the mental condition of the defendant unless the examiner provides a report of his or her examination of the defendant to the defendant or defendant's attorney at least 15 days before trial.

**SECTION 1152.** 975.51 (5) (b) of the statutes is created to read:

975.51 (5) (b) A physician, psychologist, or other expert may not testify regarding the defendant's need for medication or treatment or competence to refuse medication or treatment before a jury that is determining the ability of the defendant to appreciate the wrongfulness of his or her conduct or to conform his or her conduct with the requirements of law at the time of the commission of the criminal offense charged.

**SECTION 1153.** 975.52 (1) of the statutes is created to read:

975.52 (1) JOINED WITH A PLEA OF GUILTY OR NO CONTEST. If a defendant joins a plea of guilty or no contest with a plea of not guilty by reason of mental disease or defect, the court shall first determine whether to accept the plea of guilty or no contest. If the plea is accepted, the court shall proceed under sub. (3).

**SECTION 1154.** 975.52 (4) (title) of the statutes is created to read:

975.52 (4) (title) ENTERING JUDGMENT.

**SECTION 1155.** 975.53 (title) of the statutes is created to read:

**975.53 (title) Notice of restrictions.**

**SECTION 1156.** 975.54 (title) of the statutes is created to read:

**SENATE BILL 82**

1           **975.54** (title) **Sexual assault; supervision, registration, and testing.**

2           **SECTION 1157.** 975.56 (title) of the statutes is created to read:

3           **975.56** (title) **Precommitment examination.**

4           **SECTION 1158.** 975.57 (2) (e) of the statutes is created to read:

5           975.57 (2) (e) *Commitment credit.* A person committed under par. (a), (b), or  
6 (d) shall be given credit for all days spent in custody in connection with the course  
7 of conduct for which the commitment is imposed. The standards in s. 973.155 for  
8 determining sentence credit for convicted persons apply to determining commitment  
9 credit under this section.

10          **SECTION 1159.** 975.57 (3) of the statutes is created to read:

11          975.57 (3) **INSTITUTIONALIZED CARE.** If the court orders the person  
12 institutionalized under this section, the department shall place the person in an  
13 institution under s. 51.37 (3) that the department considers appropriate in light of  
14 the rehabilitative services required by the person and the protection of public safety.

15          **SECTION 1160.** 975.57 (4) (title) of the statutes is created to read:

16          975.57 (4) (title) **CONDITIONAL RELEASE.**

17          **SECTION 1161.** 975.57 (4) (b) and (c) of the statutes are created to read:

18          975.57 (4) (b) An order for conditional release places the person in the custody  
19 and control of the department. A conditionally released person is subject to the  
20 conditions set by the court and to the rules of the department. The court, for cause  
21 and by order, may modify the conditions of release.

22          (c) Before a person is conditionally released by the court under this subsection,  
23 the court shall notify the municipal police department and county sheriff for the area  
24 where the person will be residing. The notification requirement does not apply if a

**SENATE BILL 82**

1 municipal department or county sheriff submits to the court a written statement  
2 waiving the right to be notified.

3 **SECTION 1162.** 975.57 (5) (title) of the statutes is created to read:

4 975.57 (5) (title) COMPETENCE TO REFUSE MEDICATION.

5 **SECTION 1163.** 975.59 (5) (title) of the statutes is created to read:

6 975.59 (5) (title) CONDITIONAL RELEASE.

7 **SECTION 1164.** 975.59 (5) (b) and (c) of the statutes are created to read:

8 975.59 (5) (b) An order for conditional release places the person in the custody  
9 and control of the department. A conditionally released person is subject to the  
10 conditions set by the court and to the rules of the department. The court, for cause  
11 and by order, may modify the conditions of release.

12 (c) Before a person is conditionally released by the court under this subsection,  
13 the court shall notify the municipal police department and county sheriff for the area  
14 where the person will be residing. The notification requirement does not apply if a  
15 municipal police department or county sheriff submits to the court a written  
16 statement waiving the right to be notified.

17 **SECTION 1165.** 975.61 (1) (d) of the statutes is created to read:

18 975.61 (1) (d) The corporation counsel in the municipality and county in which  
19 the commitment order was entered.

20 **SECTION 1166.** 975.62 (title) of the statutes is created to read:

21 **975.62 (title) Notice of change in status of committed person.**

22 **SECTION 1167.** 975.62 (1) (d) of the statutes is created to read:

23 975.62 (1) (d) "Victim's representative" means the victim or, if the victim died  
24 as a result of the crime, an adult member of the victim's family, or, if the victim is  
25 younger than 18 years old, the victim's parent or legal guardian.

**SENATE BILL 82**

1           **SECTION 1168.** 975.62 (2), (3) and (4) of the statutes are created to read:

2           975.62 (2) If the court conditionally releases a person under s. 975.57 (4) or  
3           975.59, the district attorney who prosecuted the crime for which the person was  
4           committed shall notify the department of corrections and make a reasonable attempt  
5           to notify the victim's representative of the conditional release.

6           (3) If the court terminates a person's commitment order under s. 975.60 or  
7           discharges a person under s. 975.61, the department shall notify the department of  
8           corrections and, if the victim's representative has submitted a card under sub. (5),  
9           the victim's representative of the termination or discharge.

10          (4) Notice under sub. (2) or (3) shall include the name of the person who is  
11          conditionally released or discharged or whose commitment order is terminated and  
12          the date of conditional release, termination, or discharge, whichever is applicable.  
13          The district attorney or the department, whichever is applicable, shall send the  
14          notice, postmarked no later than 7 days after the court orders the conditional release,  
15          termination, or discharge, to the department of corrections and to the last-known  
16          address of the victim's representative.

17          **SECTION 1169.** 975.63 (3) of the statutes is created to read:

18          975.63 (3) All hearings under ss. 975.55 to 975.61 shall be before a judge  
19          without a jury.

20          **SECTION 1170.** 977.02 (2m) of the statutes is amended to read:

21          977.02 (2m) Promulgate rules regarding eligibility for legal services under this  
22          chapter, including legal services for persons who are entitled to be represented by  
23          counsel without a determination of indigency, as provided in s. ~~48.23 (4)~~, 51.60, or  
24          55.105, ~~or~~ and for children who are entitled to be represented by counsel without a  
25          determination of indigency, as provided in s. 48.23 (4) or 938.23 (4).

**SENATE BILL 82**

1           **SECTION 1171.** 977.02 (3) (intro.) of the statutes is amended to read:

2           977.02 (3) (intro.) Promulgate rules regarding the determination of indigency  
3 of persons entitled to be represented by counsel, other than persons who are entitled  
4 to be represented by counsel under s. ~~48.23~~, 51.60, or 55.105, or children who are  
5 entitled to be represented by counsel without a determination of indigency under s.  
6 48.23 or 938.23, including the time period in which the determination must be made  
7 and the criteria to be used to determine indigency and partial indigency. The rules  
8 shall specify that, in determining indigency, the representative of the state public  
9 defender shall do all of the following:

10           **SECTION 1172.** 977.02 (4r) of the statutes is amended to read:

11           977.02 (4r) Promulgate rules that establish procedures to provide the  
12 department of administration with any information concerning the collection of  
13 payment ordered under s. 48.275 (2), 757.66, 938.275 (2), 973.06 (1) (e), ~~or 977.076~~  
14 ~~(1)~~.

15           **SECTION 1173.** 977.03 (2m) of the statutes is amended to read:

16           977.03 (2m) The board may promulgate rules that establish procedures to  
17 collect payment ordered under s. 48.275 (2), 757.66, 938.275 (2), 973.06 (1) (e), ~~or~~  
18 ~~977.076 (1)~~ from a prisoner's prison financial account.

19           **SECTION 1174.** 977.05 (4) (gm) of the statutes is amended to read:

20           977.05 (4) (gm) In accordance with the standards under pars. (h) and (i), accept  
21 referrals from judges and courts for the provision of legal services without a  
22 determination of indigency of persons who are entitled to be represented by counsel  
23 under s. ~~48.23~~, 51.60, or 55.105, or children who are entitled to be represented by  
24 counsel under s. 48.23 or 938.23, appoint counsel in accordance with contracts and

**SENATE BILL 82**

1 policies of the board, and inform the referring judge or court of the name and address  
2 of the specific attorney who has been assigned to the case.

3 **SECTION 1175.** 977.05 (4) (h) of the statutes is amended to read:

4 977.05 (4) (h) Accept requests for legal services from children who are entitled  
5 to be represented by counsel under s. 48.23 or 938.23, from persons who are entitled  
6 to be represented by counsel under s. ~~48.23~~, 51.60, or 55.105, ~~or 938.23~~ and from  
7 indigent persons who are entitled to be represented by counsel under s. ~~967.06~~  
8 971.013 or who are otherwise so entitled under the constitution or laws of the United  
9 States or this state and provide such persons with legal services when, in the  
10 discretion of the state public defender, such provision of legal services is appropriate.

11 **SECTION 1176.** 977.05 (4) (j) of the statutes is amended to read:

12 977.05 (4) (j) Subject to sub. (6) (e) and (f), at the request of any person  
13 determined by the state public defender to be indigent or upon referral of any court,  
14 prosecute a writ of error, appeal, action or proceeding for habeas corpus or other  
15 postconviction or post-commitment remedy on behalf of the person before any court,  
16 if the state public defender determines the case should be pursued. The state public  
17 defender must pursue the case of any indigent person entitled to counsel under s.  
18 ~~971.17 (7) (b) 1.~~ 975.63 (2) (a) or 980.03 (2) (a).

19 **SECTION 1177.** 977.05 (6) (b) 2. of the statutes is amended to read:

20 977.05 (6) (b) 2. The judge ~~or circuit court commissioner~~ before whom the  
21 proceedings shall be held certifies to the state public defender that the person will  
22 not be incarcerated if he or she is found in contempt of court.

23 **SECTION 1178.** 977.05 (6) (e) (intro.) and 2. of the statutes are amended to read:

24 977.05 (6) (e) (intro.) The state public defender may not provide legal services  
25 or assign counsel for a person who files a motion to modify sentence under s. ~~973.19~~

**SENATE BILL 82**

1 974.03 (1) (a), or for a person who appeals, under s. ~~973.19 (4)~~ 974.03 (1) (d), the denial  
2 of a motion to modify sentence filed under s. ~~973.19~~ 974.03 (1) (a), unless the person  
3 does one of the following:

4 2. Files the motion to modify sentence under s. ~~973.19~~ 974.03 (1) (a) within 20  
5 days after the sentence or order is entered.

6 **SECTION 1179.** 977.06 (2) (a) of the statutes is amended to read:

7 977.06 (2) (a) A person seeking to have counsel assigned for him or her under  
8 s. 977.08, other than a person who is entitled to be represented by counsel under s.  
9 ~~48.23, 51.60, or 55.105~~, or a child who is entitled to be represented by counsel under  
10 s. 48.23 or 938.23, shall sign a statement declaring that he or she has not disposed  
11 of any assets for the purpose of qualifying for that assignment of counsel. If the  
12 representative or authority making the indigency determination finds that any asset  
13 was disposed of for less than its fair market value for the purpose of obtaining that  
14 assignment of counsel, the asset shall be counted under rules promulgated under s.  
15 977.02 (3) at its fair market value at the time it was disposed of, minus the amount  
16 of compensation received for the asset.

17 **SECTION 1180.** 977.06 (2) (am) of the statutes is amended to read:

18 977.06 (2) (am) A person seeking to have counsel assigned for him or her under  
19 s. 977.08, other than a person who is entitled to be represented by counsel under s.  
20 ~~48.23, 51.60, or 55.105~~, or a child who is entitled to be represented by counsel under  
21 s. 48.23 or 938.23, shall sign a statement declaring that the information that he or  
22 she has given to determine eligibility for assignment of counsel he or she believes to  
23 be true and that he or she is informed that he or she is subject to the penalty under  
24 par. (b).

25 **SECTION 1181.** 977.06 (3) (b) of the statutes is amended to read:



**SENATE BILL 82**

1           977.06 (3) (b) The state public defender may petition a court that ordered  
2           payment under s. 757.66, 973.06 (1) (e), or 977.076 (1) to modify an order or judgment  
3           to adjust the amount of payment or the scheduled amounts at any time.

4           **SECTION 1182.** 977.07 (1) (a) of the statutes is amended to read:

5           977.07 (1) (a) Determination of indigency for persons entitled to counsel shall  
6           be made as soon as possible and shall be in accordance with the rules promulgated  
7           by the board under s. 977.02 (3) and the system established under s. 977.06. No  
8           determination of indigency is required for a person who is entitled to be represented  
9           by counsel under s. ~~48.23~~, 51.60, or 55.105, or for a child who is entitled to be  
10          represented by counsel under s. 48.23 or 938.23. The state public defender may also  
11          appoint counsel without a determination of indigency if the state public defender has  
12          reason to doubt the competency of a person who has been charged with a crime or who  
13          is pursuing postconviction relief in a criminal case.

14          **SECTION 1183.** 977.07 (1) (c) of the statutes is amended to read:

15          977.07 (1) (c) For all referrals made under ss. 809.107, 809.30, 974.06 (3) (b)  
16          and 974.07 (11), except a referral of a person who is entitled to be represented by  
17          counsel under s. ~~48.23~~, 51.60, or 55.105, or of a child who is entitled to be represented  
18          by counsel under s. 48.23 or 938.23, a representative of the state public defender  
19          shall determine indigency. For referrals made under ss. 809.107, 809.30 and 974.06  
20          (3) (b), except a referral of a person who is entitled to be represented by counsel under  
21          s. ~~48.23~~, 51.60, or 55.105, or of a child who is entitled to be represented by counsel  
22          under s. 48.23 or 938.23, the representative of the state public defender may, unless  
23          a request for redetermination has been filed under s. 809.30 (2) (d) or the person's  
24          request for representation states that his or her financial circumstances have

**SENATE BILL 82**

1 materially improved, rely upon a determination of indigency made for purposes of  
2 trial representation under this section.

3 **SECTION 1184.** 977.07 (2m) of the statutes is amended to read:

4 977.07 **(2m)** If the person is found to be indigent in full or in part, the person  
5 shall be promptly informed of the state's right to payment or recoupment under s.  
6 48.275 (2), 757.66, 938.275 (2), 973.06 (1) (e), or 977.076 ~~(1)~~, and the possibility that  
7 the payment of attorney fees may be made a condition of probation, should the person  
8 be placed on probation. Furthermore, if found to be indigent in part, the person shall  
9 be promptly informed of the extent to which he or she will be expected to pay for  
10 counsel, and whether the payment shall be in the form of a lump sum payment or  
11 periodic payments. The person shall be informed that the payment amount may be  
12 adjusted if his or her financial circumstances change by the time of sentencing. The  
13 payment and payment schedule shall be set forth in writing. This subsection does  
14 not apply to persons who have paid under s. 977.075 (3m).

15 **SECTION 1185.** 977.076 (1) of the statutes is repealed.

16 **SECTION 1186.** 977.076 (2) of the statutes is renumbered 977.076 and amended  
17 to read:

18 **977.076 Collections.** The department of administration may collect unpaid  
19 reimbursement payments to the state public defender ordered by a court under sub-  
20 ~~(1)~~ or s. 48.275 (2), 757.66, 938.275 (2) (a), or 973.06 (1) (e). The department may  
21 contract with a private collection agency to collect these payments. Section 16.705  
22 does not apply to a contract under this ~~subsection~~ section.

23 **SECTION 1187.** 977.08 (2) (intro.) of the statutes is amended to read:

24 977.08 **(2)** (intro.) All attorneys in a county shall be notified in writing by the  
25 state public defender that a set of lists is being prepared of attorneys willing to

**SENATE BILL 82**

1 represent persons referred under s. ~~48.23 (4)~~, 51.60, or 55.105, or children referred  
2 under s. 48.23 (4) or 938.23 (4) and indigent clients in the following:

3 **SECTION 1188.** 978.045 (1r) (intro.) of the statutes is amended to read:

4 978.045 (1r) (intro.) Any judge of a court of record, by an order entered in the  
5 record stating the cause for it, may appoint an attorney as a special prosecutor to  
6 perform, for the time being, or for the trial of the accused person, the duties of the  
7 district attorney. An attorney appointed under this subsection shall have all of the  
8 powers of the district attorney. The judge may appoint an attorney as a special  
9 prosecutor at the request of a district attorney to assist the district attorney in the  
10 prosecution of persons charged with a crime, in grand jury proceedings ~~or, in~~ John  
11 Doe proceedings under s. ~~968.26~~ 968.105, in proceedings under ch. 980, or in  
12 investigations. The judge may appoint an attorney as a special prosecutor if any of  
13 the following conditions exists:

14 **SECTION 1189.** 978.045 (1r) (i) of the statutes is amended to read:

15 978.045 (1r) (i) A judge determines that a complaint received under s. ~~968.26~~  
16 968.105 (2) (am) relates to the conduct of the district attorney to whom the judge  
17 otherwise would refer the complaint.

18 **SECTION 1190.** 978.05 (3) of the statutes is amended to read:

19 978.05 (3) JOHN DOE PROCEEDINGS. Participate in investigatory proceedings  
20 under s. ~~968.26~~ 968.105.

21 **SECTION 1191.** 978.05 (4) of the statutes is amended to read:

22 978.05 (4) GRAND JURY. When requested by a grand jury under s. ~~968.47~~  
23 968.225, attend the grand jury for the purpose of examining witnesses in their  
24 presence; give the grand jury advice in any legal matter; draw bills of indictment; and  
25 issue subpoenas and other processes to compel the attendance of witnesses.

**SENATE BILL 82**

1           **SECTION 1192.** 978.05 (6) (a) of the statutes is amended to read:

2           978.05 **(6)** (a) Institute, commence, or appear in all civil actions or special  
3 proceedings under and perform the duties set forth for the district attorney under ch.  
4 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 103.50 (8), 103.92  
5 (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),  
6 946.86, 946.87, 961.55 (5), ~~971.14~~ and 973.075 to 973.077 and subch. II of ch. 975,  
7 perform any duties in connection with court proceedings in a court assigned to  
8 exercise jurisdiction under chs. 48 and 938 as the judge may request and perform all  
9 appropriate duties and appear if the district attorney is designated in specific  
10 statutes, including matters within chs. 782, 976 and 979 and subch. I of ch. 968 and  
11 ss. 51.81 to 51.85. Nothing in this paragraph limits the authority of the county board  
12 to designate, under s. 48.09 (5), that the corporation counsel provide representation  
13 as specified in s. 48.09 (5) or to designate, under s. 48.09 (6) or 938.09 (6), the district  
14 attorney as an appropriate person to represent the interests of the public under s.  
15 48.14 or 938.14.

16           **SECTION 1193.** 978.08 (1) (a) and (b) and (2) of the statutes are amended to read:

17           978.08 **(1)** (a) “Custody” has the meaning given in s. ~~968.205~~ 968.645 (1) (a).

18           (b) “Discharge date” has the meaning given in s. ~~968.205~~ 968.645 (1) (b).

19           **(2)** Except as provided in sub. (3), if physical evidence that is in the possession  
20 of a district attorney includes any biological material that was collected in connection  
21 with a criminal investigation that resulted in a criminal conviction, delinquency  
22 adjudication, or commitment under s. ~~971.17~~ subch. III of ch. 975 or s. 980.06 and the  
23 biological material is from a victim of the offense that was the subject of the criminal  
24 investigation or may reasonably be used to incriminate or exculpate any person for  
25 the offense, the district attorney shall preserve the physical evidence until every

**SENATE BILL 82**

1 person in custody as a result of the conviction, adjudication, or commitment has  
2 reached his or her discharge date.

3 **SECTION 1194.** 979.02 of the statutes is amended to read:

4 **979.02 Autopsies.** The coroner, medical examiner or district attorney may  
5 order the conducting of an autopsy upon the body of a dead person any place within  
6 the state in cases where an inquest might be had as provided in s. 979.04 968.015  
7 notwithstanding the fact that no such inquest is ordered or conducted. The autopsy  
8 shall be conducted by a licensed physician who has specialized training in pathology.  
9 The district attorney may move the circuit court for the county in which the body is  
10 buried for an order disinterring the body for purposes of autopsy. The order shall be  
11 granted by the circuit court upon a reasonable showing that any of the criteria  
12 specified in s. 979.04 968.015 exists. This section does not prevent additional  
13 autopsies or examinations of the body if there are unanswered pathological  
14 questions concerning the death and the causes of death.

15 **SECTION 1195.** 979.025 (1) of the statutes is amended to read:

16 **979.025 (1) INMATE CONFINED TO AN INSTITUTION IN THIS STATE.** If an individual  
17 dies while he or she is in the legal custody of the department and confined to a  
18 correctional facility located in this state, the coroner or medical examiner of the  
19 county where the death occurred shall perform an autopsy on the deceased  
20 individual. If the coroner or medical examiner who performs the autopsy determines  
21 that the individual's death may have been the result of any of the situations that  
22 would permit the district attorney to order an inquest under s. 979.04 968.015 (1),  
23 the coroner or medical examiner shall follow the procedures under s. 979.04 968.015  
24 (2).

25 **SECTION 1196.** 979.025 (2) of the statutes is amended to read:

**SENATE BILL 82**

1           979.025 (2) INMATE CONFINED IN AN INSTITUTION IN ANOTHER STATE. If an  
2 individual dies while he or she is in the legal custody of the department and confined  
3 to a correctional facility in another state under a contract under s. 301.07, 301.21,  
4 or 302.25, the department shall have an autopsy performed by an appropriate  
5 authority in the other state or by the coroner or medical examiner of the county in  
6 which the circuit court is located that sentenced the individual to the custody of the  
7 department. If the coroner or medical examiner who performs the autopsy in this  
8 state determines that the individual's death may have been the result of any of the  
9 situations that would permit the district attorney to order an inquest under s. ~~979.04~~  
10 968.015 (1), the coroner or medical examiner shall forward the results of the autopsy  
11 to the appropriate authority in the other state.

12           **SECTION 1197.** 979.04 of the statutes is renumbered 968.015 and amended to  
13 read:

14           **968.015 Inquests: when When inquests may be called.** (1) If the district  
15 attorney has notice of the death of any person and there is reason to believe from the  
16 circumstances surrounding the death that the person was a victim of felony murder,  
17 first-degree or 2nd-degree intentional homicide, first-degree or 2nd-degree  
18 reckless homicide, homicide by negligent handling of dangerous weapon, explosives,  
19 or fire, homicide by negligent operation of vehicle, homicide resulting from negligent  
20 control of a vicious animal ~~or~~, homicide by intoxicated user use of a vehicle or firearm  
21 may have been committed, or that death may have been due to suicide or the person  
22 died under unexplained or suspicious circumstances, the district attorney may order  
23 that an inquest be conducted for the purpose of inquiring how the person died. ~~The~~  
24 ~~district attorney shall appear in any such inquest representing the state in~~  
25 ~~presenting all evidence which may be relevant or material to the inquiry of the~~

**SENATE BILL 82**

1 ~~inquest. The inquest may be held in any county in this state in which venue would~~  
2 ~~lie for the trial of any offense charged as the result of or involving the death.~~

3 ~~(4) An inquest may only be ordered only by the district attorney acting under~~  
4 ~~this subsection sub. (1) or by the circuit judge under sub. (2).~~

5 ~~(2) If the coroner or medical examiner has knowledge of the death of any knows~~  
6 ~~that a person has died in the manner or under the circumstances described under in~~  
7 ~~sub. (1), he or she shall immediately notify the district attorney. The notification~~  
8 ~~shall include information concerning the circumstances surrounding the death. The~~  
9 ~~coroner or medical examiner may request the district attorney to order an inquest~~  
10 ~~under sub. (1). If the district attorney refuses to order the inquest, ~~a~~ the coroner~~  
11 ~~or medical examiner may petition the circuit court to order an inquest. The court~~  
12 ~~may issue the order if it finds that the district attorney has abused his or her~~  
13 ~~discretion in not ordering an inquest.~~

14 ~~(3) Subsequent to receipt of After receiving notice of the death, the district~~  
15 ~~attorney may request the coroner or medical examiner to conduct a preliminary~~  
16 ~~investigation and report back to the district attorney. The district attorney may~~  
17 ~~determine the scope of the preliminary investigation. This subsection does not limit~~  
18 ~~or prevent any other investigation into the death by any law enforcement agency~~  
19 ~~with jurisdiction over the investigation.~~

20 **SECTION 1198.** 979.05 (title) of the statutes is repealed.

21 **SECTION 1199.** 979.05 (1) of the statutes is renumbered 968.025 (1) and  
22 amended to read:

23 968.025 (1) BY WHOM CONDUCTED. ~~An inquest shall be conducted by a circuit A~~  
24 ~~judge or a circuit court commissioner~~ shall conduct each inquest.

## SENATE BILL 82

1           **SECTION 1200.** 979.05 (2) of the statutes is renumbered 968.025 (2) and  
2 amended to read:

3           968.025 (2) BEFORE WHOM CONDUCTED. The inquest shall be conducted before  
4 a jury unless the district attorney, coroner, or medical examiner requests that the  
5 inquest be conducted before the judge ~~or circuit court commissioner~~ only.

6           (4) (a) If the inquest is to be conducted before a jury, the clerk shall select, in  
7 the manner provided in s. 756.06 (1), a sufficient number of names of prospective  
8 jurors ~~shall be selected from the prospective juror list for the county in which the~~  
9 ~~inquest is to be held by the clerk of circuit court in the manner provided in s. 756.06.~~  
10 ~~The judge or circuit court commissioner conducting the inquest shall summon the~~  
11 ~~prospective jurors to appear before the judge or circuit court commissioner at the~~  
12 ~~time fixed in the summons. The summons may be served by mail, or by personal~~  
13 ~~service if the judge, circuit court commissioner, or district attorney determines~~  
14 ~~personal service to be appropriate. The summons shall be in the form used to~~  
15 ~~summon petit jurors in the circuit courts of the county~~ to ensure that the jury consists  
16 of 6 members.

17           (b) Any person who fails to appear when summoned as an inquest juror is  
18 subject to a forfeiture of shall forfeit not more than \$40. ~~The inquest jury shall consist~~  
19 ~~of 6 jurors. If 6 jurors do not remain~~

20           (d) If, after all prospective jurors have been examined, fewer than 12 remain  
21 ~~from the number originally summoned after establishment of qualifications, the~~  
22 ~~judge or circuit court commissioner conducting the inquest may require~~ shall direct  
23 ~~the clerk of the circuit court to select~~ to draw sufficient additional jurors' names.  
24 ~~Those persons shall be summoned forthwith by the~~ The sheriff of the county shall  
25 summon those persons immediately.



**SENATE BILL 82**

1           **SECTION 1201.** 979.05 (3) of the statutes is renumbered 968.025 (4) (c) and  
2 amended to read:

3           968.025 (4) (c) The judge ~~or circuit court commissioner~~ shall examine on oath  
4 or affirmation each person who is called as a juror to discover whether the juror is  
5 related by blood, or marriage ~~or adoption~~ to the decedent, any member of the  
6 decedent's family, the district attorney, any other attorney appearing in the case, or  
7 any members of the office of the district attorney or of the office of any other attorney  
8 appearing in the case, has expressed or formed any opinion regarding the matters  
9 being inquired into in the inquest, or is aware of or has any bias or prejudice  
10 concerning the matters being inquired into in the inquest. ~~If any prospective juror~~  
11 ~~is found~~ The court shall excuse any prospective juror whom it finds to be not  
12 indifferent or is found to have formed an opinion ~~which~~ that cannot be laid aside, ~~that~~  
13 ~~juror shall be excused.~~ ~~The judge or circuit commissioner may select one or more~~  
14 ~~alternate jurors if the inquest is likely to be protracted.~~ This subsection paragraph  
15 does not limit the right of the district attorney to supplement the judge's ~~or circuit~~  
16 ~~commissioner's~~ examination of any prospective jurors as to qualifications.

17           **SECTION 1202.** 979.05 (4) of the statutes is renumbered 968.025 (5) and  
18 amended to read:

19           968.025 (5) OATH. ~~When 6~~ After the jurors have been selected, the judge ~~or~~  
20 ~~circuit court commissioner~~ shall administer to them an oath or affirmation which  
21 shall be substantially in the following form:

22           You do solemnly swear (affirm) that you will diligently inquire and determine  
23 on behalf of this state when, and in what manner and by what means, the person  
24 known as .... who is now dead came to his or her death and that you will return  
25 a true verdict thereon according to your knowledge, according to the evidence

**SENATE BILL 82**

1 presented, and according to the instructions given to you by the .... (judge) (circuit  
2 court commissioner).

3 **SECTION 1203.** 979.05 (5), (6) and (7) of the statutes are renumbered 968.025  
4 (6), (7) and (8) and amended to read:

5 968.025 (6) ROLE OF DISTRICT ATTORNEY. ~~Prior to the submission of evidence to~~  
6 ~~the jury, the judge or circuit court commissioner may instruct the jury on its duties~~  
7 ~~and on the substantive law regarding the issues which may be inquired into before~~  
8 ~~the jury~~ The district attorney shall appear in each inquest, represent the state, and  
9 present all evidence that may be relevant or material to the inquiry of the inquest.

10 The district attorney may, at any time during the course of the inquest, make  
11 statements to the jury relating to procedural or evidentiary matters he or she and  
12 the judge or circuit court commissioner deem appropriate. ~~Section 972.12 applies to~~  
13 ~~the conduct of the inquest jury.~~

14 (7) SECURITY AND SEQUESTRATION. ~~The judge or circuit court commissioner~~  
15 ~~conducting the inquest may order that proceedings be secret if the district attorney~~  
16 ~~so requests or concurs~~ and may sequester the inquest jury under s. 972.05.

17 (8) JUROR COMPENSATION. Inquest jurors shall receive the same compensation  
18 as jurors under s. 756.25.

19 **SECTION 1204.** 979.06 (title), (1), (2) and (5) of the statutes are repealed.

20 **SECTION 1205.** 979.06 (3), (4) and (6) of the statutes are renumbered 968.035  
21 (1), (2) and (3), and 968.035 (1) and (2), as renumbered, are amended to read:

22 968.035 (1) Any witness examined at an inquest may have counsel present  
23 during the examination of that witness. The counsel may consult with a client during  
24 the examination of that client. The counsel may not examine or cross-examine his

**SENATE BILL 82**

1 or her client, cross-examine or call other witnesses, or argue before the judge or  
2 circuit court commissioner holding the inquest.

3 (2) The judge or circuit court commissioner shall administer an oath or  
4 affirmation to each witness which shall be substantially in the following form:

5 You do solemnly swear (affirm) that the evidence and testimony you give to this  
6 inquest concerning the death of the person known as .... shall be the truth, the  
7 whole truth and nothing but the truth and shall cause the testimony given by all  
8 witnesses to be reduced to writing or recorded.

9 **SECTION 1206.** 979.07 of the statutes is repealed.

10 **SECTION 1207.** 979.08 (title) of the statutes is renumbered 968.055 (title).

11 **SECTION 1208.** 979.08 (1) of the statutes is renumbered 968.055 (1) and  
12 amended to read:

13 968.055 (1) When the Before submitting evidence is concluded and the  
14 testimony closed to the jury in an inquest, the judge or circuit court commissioner  
15 shall may instruct the jury on its duties and on the substantive law regarding the  
16 issues that may be inquired into before the jury. The

17 (2) After all of the evidence is presented, the district attorney shall prepare a  
18 written set of appropriate requested instructions and shall submit them to the judge  
19 or circuit court commissioner who, together with the district attorney, a written set  
20 of proposed instructions on the jury's duties and on the substantive law regarding  
21 the issues inquired into before the jury. The judge shall compile the final set of  
22 instructions which shall be given. The instructions shall include those instructions  
23 for criminal offenses for which the judge or circuit court commissioner believes a  
24 reasonable jury might return a verdict based upon a finding of probable cause. The

**SENATE BILL 82**

1 judge shall use the final instructions to instruct the jury and shall provide the jury  
2 with one complete set of them.

3 **SECTION 1209.** 979.08 (2) of the statutes is repealed.

4 **SECTION 1210.** 979.08 (3) (intro.) and (4) of the statutes are consolidated,  
5 renumbered 968.055 (3) (intro.) and amended to read:

6 968.055 (3) (intro.) The jury shall retire to consider its verdict after hearing all  
7 of the testimony and evidence, making all necessary inquiries, and having been  
8 instructed in the law. ~~The judge or circuit court commissioner shall provide the jury~~  
9 ~~with one complete set of written instructions providing the substantive law to be~~  
10 ~~applied to the issues to be decided. The verdict shall be in a form which permits the~~  
11 ~~following findings: (4) The jury shall render its verdict shall be based upon a finding~~  
12 ~~of probable cause, be unanimous, and be rendered in writing, signed by all of its~~  
13 ~~members of the jury. The verdict shall set forth its the jury's findings from the~~  
14 ~~evidence produced according to the instructions. The verdict shall be in a form that~~  
15 ~~permits the following findings:~~

16 **SECTION 1211.** 979.08 (3) (a) of the statutes is renumbered 968.055 (3) (b) and  
17 amended to read:

18 968.055 (3) (b) Whether the deceased ~~came to his or her death by criminal~~  
19 ~~means died as a result of a crime and, if so, the specific crimes committed and the~~  
20 ~~name of the person or persons, if known, having who committed the crimes.~~

21 **SECTION 1212.** 979.08 (3) (b) of the statutes is renumbered 968.055 (3) (a) and  
22 amended to read:

23 968.055 (3) (a) Whether the deceased came to his or her death by natural  
24 causes, accident, suicide, or an act privileged by law.

**SENATE BILL 82**

1           **SECTION 1213.** 979.08 (5) of the statutes is renumbered 968.055 (4) and  
2 amended to read:

3           968.055 (4) The inquest jury's verdict delivered by the inquest jury is advisory  
4 and does not preclude or require the issuance of any criminal charges by the district  
5 attorney.

6           **SECTION 1214.** 979.08 (6) of the statutes is renumbered 968.055 (5) and  
7 amended to read:

8           968.055 (5) Any verdict so rendered under sub. (4), after being validated and  
9 signed by the judge ~~or circuit court commissioner~~, together with the record of the  
10 inquest, shall be delivered to the district attorney for consideration. After  
11 considering the verdict and record, the district attorney may deliver the entire  
12 inquest record or any part thereof of the record to the coroner or medical examiner  
13 for safekeeping.

14           **SECTION 1215.** 979.08 (7) of the statutes is renumbered 968.055 (6) and  
15 amended to read:

16           968.055 (6) The Except as provided in s. 971.43, the record of a secret inquest  
17 proceeding ~~shall is~~ not be open for inspection unless so ordered by the judge ~~or circuit~~  
18 court commissioner conducting the inquest ~~upon petition by the district attorney~~.

19           **SECTION 1216.** 979.09 of the statutes is amended to read:

20           **979.09 Burial of body.** If any judge ~~or circuit court commissioner~~ conducts  
21 an inquest as to the death of a stranger or of a person whose identity is unknown or  
22 whose body is unclaimed or if the district attorney determines that no inquest into  
23 the death of such a person is necessary and the ~~circuit~~ judge has not ordered an  
24 inquest under s. ~~979.04~~ 968.015 (2), the coroner or medical examiner shall cause the  
25 body to be decently buried or cremated and shall certify to all the charges incurred

**SENATE BILL 82**

1 in taking any inquest by him or her and to the expenses of burial or cremation of the  
2 dead body. The charges and expenses shall be audited by the county board of the  
3 proper county and paid out of the county treasury.

4 **SECTION 1217.** 979.10 (2) of the statutes is amended to read:

5 979.10 (2) If a corpse is to be cremated, the coroner or medical examiner shall  
6 make a careful personal inquiry into the cause and manner of death, and conduct an  
7 autopsy or order the conducting of an autopsy, if in his or her or the district attorney's  
8 opinion it is necessary to determine the cause and manner of death. If the coroner  
9 or medical examiner determines that no further examination or judicial inquiry is  
10 necessary he or she shall certify that fact. Upon written request by the district  
11 attorney the coroner or medical examiner shall obtain the concurrence of the district  
12 attorney before issuing the certification. If the coroner or medical examiner  
13 determines that further examination or judicial inquiry is necessary, he or she shall  
14 notify the district attorney under s. 979.04 968.015 (2).

15 **SECTION 1218.** 979.11 of the statutes is amended to read:

16 **979.11 Compensation of officers.** The sole compensation of the coroner and  
17 deputy coroners for attendance at an inquest and for any preliminary investigation  
18 under ~~this chapter~~ ch. 968 at the direction of the district attorney shall be a  
19 reasonable sum set by the county board for each day actually and necessarily  
20 required for the purpose, and a sum set by the county board for each mile actually  
21 and necessarily traveled in performing the duty. Any coroner or deputy coroner may  
22 be paid an annual salary and allowance for traveling expenses to be established by  
23 the county board under s. 59.22 which shall be in lieu of all fees, per diem, and  
24 compensation for services rendered.

25 **SECTION 1219.** 979.22 of the statutes is amended to read:

**SENATE BILL 82**

1           **979.22 Autopsies and toxicological services by medical examiners.** A  
2 medical examiner may perform autopsies and toxicological services not required  
3 under this chapter or under subch. I of ch. 968 and may charge a fee established by  
4 the county board for such autopsies and services. The fee may not exceed an amount  
5 reasonably related to the actual and necessary cost of providing the service.

6           **SECTION 1220.** 980.015 (2) (c) of the statutes is amended to read:

7           980.015 (2) (c) The anticipated release of a person on conditional release under  
8 s. ~~971.17~~ 975.57 (4) or 975.59, the anticipated termination of a commitment order  
9 under ~~971.17~~ s. 975.60, or the anticipated discharge of a person from a commitment  
10 order under s. ~~971.17~~ 975.61, if the person has been found not guilty of a sexually  
11 violent offense by reason of mental disease or defect.

12           **SECTION 1221.** 980.015 (2) (d) of the statutes is amended to read:

13           980.015 (2) (d) The anticipated release on parole or discharge of a person  
14 committed under ch. 975, 2013 stats., for a sexually violent offense.

15           **SECTION 1222.** 980.031 (4) of the statutes is amended to read:

16           980.031 (4) If a party retains or the court appoints a licensed physician,  
17 licensed psychologist, or other mental health professional to conduct an examination  
18 under this chapter of the person's mental condition, the examiner shall have  
19 reasonable access to the person for the purpose of the examination, as well as to the  
20 person's past and present treatment records, as defined in s. 51.30 (1) (b), and patient  
21 health care records as provided under s. 146.82 (2) (cm), past and present juvenile  
22 records, as provided under ss. 48.396 (6), 48.78 (2) (e), 938.396 (10), and 938.78 (2)  
23 (e), and the person's past and present correctional records, including presentence  
24 investigation reports under s. ~~972.15~~ 973.004 (6).

25           **SECTION 1223.** 980.036 (2) (c) of the statutes is amended to read:

**SENATE BILL 82**

1           980.036 (2) (c) Evidence obtained in the manner described under s. ~~968.31~~  
2           968.345 (2) (b), if the prosecuting attorney intends to use the evidence at the trial or  
3           proceeding.

4           **SECTION 1224.** 980.036 (6) of the statutes is amended to read:

5           980.036 (6) PROTECTIVE ORDER. Upon motion of a party, the court may at any  
6           time order that discovery, inspection, or the listing of witnesses required under this  
7           section be denied, restricted, or deferred, or make other appropriate orders. If the  
8           prosecuting attorney or the attorney for a person subject to this chapter certifies that  
9           listing a witness under sub. (2) (e) or (3) (a) may subject the witness or others to  
10          physical or economic harm or coercion, the court may order that the deposition of the  
11          witness be taken under s. ~~967.04 (2) to (6)~~ 967.21. The name of the witness need not  
12          be divulged prior to the taking of such deposition. If the witness becomes unavailable  
13          or changes his or her testimony, the deposition shall be admissible at trial as  
14          substantive evidence.

15          **SECTION 1225.** 995.50 (7) of the statutes is amended to read:

16          995.50 (7) No action for invasion of privacy may be maintained under this  
17          section if the claim is based on an act which is permissible under ss. s. 196.63 or  
18          ~~968.27 to 968.373~~ under subch. IV of ch. 968.

19          **SECTION 1226. Initial applicability.**

20          (1) This act first applies to prosecutions commenced on the effective date of this  
21          subsection.

22          (2) This act first applies to proceedings, commitments, and requirements  
23          related to offenses committed on the effective date of this subsection.

24          **SECTION 1227. Effective date.**



