

CHAPTER 301

CORRECTIONS

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301.001 Purposes of chapters. The purposes of this chapter and chs. 302 to 304 are to prevent delinquency and crime by an attack on their causes; to provide a just, humane and efficient program of rehabilitation of offenders; and to coordinate and integrate corrections programs with other social services. In creating the department of corrections, chs. 301 to 304, the legislature intends that the state continue to avoid sole reliance on incarceration of offenders and continue to develop, support and maintain professional community programs and placements.

History: 1989 a. 31, 107; 1995 a. 27.

301.01 Definitions. In this chapter and chs. 302 to 304:

(1) “Department” means the department of corrections.

(2) “Prisoner” means any person who is either arrested, incarcerated, imprisoned or otherwise detained in excess of 12 hours by any law enforcement agency of this state, except when detention is pursuant to s. 51.15, 51.20, 51.45 (11) (b) or 55.06 (11) (a) or ch. 980. “Prisoner” does not include any of the following:

(a) Any person who is serving a sentence of detention under s. 973.03 (4) unless the person is in the county jail under s. 973.03 (4) (c).

(b) Any resident of a secured correctional facility, as defined in s. 938.02 (15m), or of a secured child caring institution, as defined in s. 938.02 (15g).

(c) Any child held in custody under ss. 48.19 to 48.21.

(d) Any child participating in the mother–young child care program under s. 301.049.

(3) “Secretary” means the secretary of corrections.

(4) “State correctional institution” means a state prison under s. 302.01 or a secured correctional facility, as defined in s. 938.02 (15m).

(5) “Type 1 prison” means a state prison under s. 302.01, but excludes any institution that meets the criteria under s. 302.01 solely because of its status under s. 301.048 (4) (b).

(6) “Type 2 prison” means a state prison under s. 302.01 that meets the criteria under s. 302.01 solely because of its status under s. 301.048 (4) (b).

History: 1989 a. 31, 107; 1991 a. 39; 1993 a. 479; 1995 a. 27, 77.

301.02 Institutions governed. The department shall maintain and govern the state correctional institutions.

History: 1989 a. 31.

301.025 Division of juvenile corrections. The division of juvenile corrections shall exercise the powers and perform the duties of the department that relate to juvenile correctional services and institutions, juvenile offender review, aftercare, corrective sanctions, the juvenile boot camp program under s. 938.532, the serious juvenile offender program under s. 938.538 and youth aids.

History: 1995 a. 27, 77.

301.026 Gang violence prevention. The gang violence prevention council shall conduct public hearings and surveys to solicit the opinions and recommendations of citizens and public officials regarding strategies and programs to prevent children from becoming influenced by and involved with gangs and, based on those opinions and recommendations, submit an annual report to the appropriate standing committees of the legislature under s. 13.172 (3), the cochairpersons of the joint committee on finance and the secretary, and otherwise provide information and recommendations to interested persons, on ways to improve those existing strategies and programs and ways to establish new strategies and programs to prevent children from becoming influenced by and involved with gangs.

History: 1995 a. 27.

301.027 Treatment program at one or more juvenile correctional institutions. The department shall maintain a

cottage-based intensive alcohol and other drug abuse program at one or more juvenile correctional institutions.

History: 1995 a. 27.

301.03 General corrections authority. The department shall:

(1) Supervise, manage, preserve and care for the buildings, grounds and other property pertaining to the state correctional institutions and promote the objectives for which they are established.

(2) Supervise the custody and discipline of all prisoners and the maintenance of state correctional institutions and the prison industries under s. 303.01.

(2g) Provide alcohol or other drug abuse assessments so that a prisoner can receive such an assessment either during his or her initial assessment and evaluation period in the state prison system or at the prison where he or she is placed after the initial assessment and evaluation period.

(2m) Provide alcohol or other drug abuse treatment at each state prison except a Type 2 prison, the correctional institution authorized under s. 301.046, a minimum security correctional institution authorized under s. 301.13 or a state-local shared correctional facility established under s. 301.14.

(2r) Conduct drug testing of prospective parolees who have undergone treatment while in state prison.

(3) Administer parole and probation matters, except that the decision to grant or deny parole to inmates shall be made by the parole commission and the decision to revoke probation or parole in cases in which there is no waiver of the right to a hearing shall be made by the division of hearings and appeals in the department of administration. The secretary may grant special action parole releases under s. 304.02. The department shall promulgate rules establishing a drug testing program for probationers and parolees. The rules shall provide for assessment of fees upon probationers and parolees to partially offset the costs of the program.

(3c) If requested by the department of health and family services, contract with that department to supervise and provide services to persons who are conditionally transferred or discharged under s. 51.37 (9), conditionally released under s. 971.17 (3) or placed on supervised release under s. 980.06 (2) or 980.08.

(3d) If requested by the department of health and family services, contract with that department to provide a secure mental health unit or facility under s. 980.065 (2).

(3g) Provide treatment for alcoholics and intoxicated persons on parole.

(3m) Monitor compliance with deferred prosecution agreements under s. 971.39.

(3r) If any restitution ordered under s. 973.20 (1r) remains unpaid at the time that a person's probation or sentence expires, or he or she is discharged by the department, give to the person upon release, or send to the person at his or her last-known address, written notification that a civil judgment may be issued against the person for the unpaid restitution.

(4) If requested by the governor, make recommendations as to pardons or commutations of sentence.

(5) Examine all institutions authorized by law to receive and detain witnesses, prisoners or convicted persons, and inquire into all matters relating to their management, including the management of witnesses, prisoners or convicted persons, and the condition of buildings and grounds and other property connected with the institutions.

(6) Direct the correctional psychiatric service in all state correctional institutions.

(6m) On or before January 30 of each year, after consultation with the department of health and family services, report to the joint committee on finance and to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3), on all of the following:

(a) The number of prisoners transferred to a mental health institute under s. 51.20 (13) (a) 4. and their average length of stay and the number of prisoners transferred to a mental health institute on a voluntary basis and their average length of stay.

(b) The number of prisoners being treated with psychotropic drugs on both a voluntary and involuntary basis and the types of drugs being used.

(c) A description of the mental health services available to prisoners on both a voluntary and involuntary basis.

(6r) By January 30 of each year, submit a report to the joint committee on finance and to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3), on the number of prisoners that the department considers to be violent and the total number of prisoners.

(7) Direct the educational programs, including an adult basic education program, in all state correctional institutions. The department shall test the reading ability of each prisoner.

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

(9) Supervise all persons placed under s. 48.366 (8) or 938.183 in a state prison.

(9r) Supervise all persons placed in the serious juvenile offender program under s. 938.538.

(10) (a) Execute the laws relating to the detention, reformation and correction of delinquents.

(b) Direct the aftercare of and supervise all delinquents under its jurisdiction and exercise such functions as it deems appropriate for the prevention of delinquency.

(c) Promote the enforcement of laws for the protection of delinquent children. To this end, the department shall cooperate with courts assigned to exercise jurisdiction under chs. 48 and 938, county departments under s. 46.215, 46.22 and 46.23 and licensed child welfare agencies and institutions in providing community-based programming, including in-home programming and intensive supervision, for delinquent children. The department shall also establish and enforce standards for the development and delivery of services provided by the department under ch. 938 in regard to children who have been adjudicated delinquent.

(d) Administer the juvenile offender review program in the division of juvenile corrections in the department. The program shall be responsible for decisions regarding case planning and the release of juvenile offenders from juvenile correctional institutions to aftercare and corrective sanctions placements.

(e) Provide educational programs in all secured correctional facilities, as defined in s. 938.02 (15m).

(f) Provide health services and psychiatric services for residents of all secured correctional facilities, as defined in s. 938.02 (15m).

(g) Keep statistics, by race, age and gender, of the number of juveniles over whom the court assigned to exercise jurisdiction under chs. 48 and 938 waives its jurisdiction under s. 938.18 as well as the nature of the waiver was ordered and annually report those statistics to the governor, and to the appropriate standing committees under s. 13.172 (3).

(12) Cooperate and coordinate its activities with other state and local agencies to provide educational, social, health and other services to offenders, except as provided in s. 302.386 (5).

History: 1989 a. 31, 107, 121, 188, 336; 1991 a. 39; 1993 a. 16, 377, 479; 1995 a. 27 ss. 6355, 6356m, 6356p, 9126 (19); 1995 a. 77, 141.

301.031 County youth corrections budget and contract. (1) BUDGET. (a) Each county department under s. 46.215, 46.22 or 46.23 shall submit to the department by December 31

annually its final budget for services directly provided or purchased.

NOTE: Par. (a) is shown as affected by two acts of the 1995 legislature and as merged by the revisor under s. 13.93 (2) (c).

(b) The department shall submit a model of the contract under sub. (2g) (a) to each county department under ss. 46.215, 46.22 and 46.23 by May 1 annually.

(2) ASSESSMENT OF NEEDS. Before developing and submitting a proposed budget to the county executive or county administrator or the county board, the county departments listed in sub. (1) shall assess needs and inventory resources and services, using an open public participation process.

(2g) CONTRACT. (a) The department shall annually submit to the county board of supervisors in a county with a single–county department or the county boards of supervisors in counties with a multicounty department a proposed written contract containing the allocation of funds and such administrative requirements as necessary. The contract as approved may contain conditions of participation consistent with federal and state law. The contract may also include provisions necessary to ensure uniform cost accounting of services. Any changes to the proposed contract shall be mutually agreed upon. The county board of supervisors in a county with a single–county department or the county boards of supervisors in counties with a multicounty department shall approve the contract before January 1 of the year in which it takes effect unless the department grants an extension. The county board of supervisors in a county with a single–county department or the county boards of supervisors in counties with a multicounty department may designate an agent to approve addenda to any contract after the contract has been approved.

(b) The department may not approve contracts for amounts in excess of available revenues. The county board of supervisors in a county with a single–county department or the county boards of supervisors in counties with a multicounty department may appropriate funds for juvenile delinquency–related services. Actual expenditure of county funds shall be reported in compliance with procedures developed by the department, and shall comply with standards guaranteeing quality of care comparable to similar facilities.

(c) The joint committee on finance may require the department to submit contracts between county departments under ss. 46.215, 46.22 and 46.23 and providers of service to the committee for review and approval.

(2r) WITHHOLDING FUNDS. (a) The department, after reasonable notice, may withhold a portion of the appropriation allocated to a county department under s. 46.215, 46.22 or 46.23 if the department determines that that portion of the allocated appropriation:

1. Is for services which duplicate or are inconsistent with services being provided or purchased by the department or other county departments receiving grants–in–aid or reimbursement from the department.

2. Is inconsistent with state or federal statutes, rules or regulations, in which case the department may also arrange for provision of services by an alternate agency. The department may not arrange for provision of services by an alternate agency unless the joint committee on finance or a review body designated by the committee reviews and approves the department’s determination.

3. Is for the treatment of alcoholics in treatment facilities which have not been approved by the department of health and family services in accordance with s. 51.45 (8).

4. Is for inpatient treatment in excess of an average of 21 days, as provided in s. 51.423 (12), excluding care for patients at the centers for the developmentally disabled.

5. Is inconsistent with the provisions of the county department’s contract under sub. (2g).

(b) If the department withholds a portion of the allocable appropriation under par. (a), the county department affected by the action of the department may submit to the county board of super-

visors in a county with a single–county department or to its designated agent or the county boards of supervisors in counties with a multicounty department or their designated agents a plan to rectify the deficiency found by the department. The county board of supervisors or its designated agent in a county with a single–county department or the county boards of supervisors in counties with a multicounty department or their designated agents may approve or amend the plan and may submit for departmental approval the plan as adopted. If a multicounty department is administering a program, the plan may not be submitted unless each county board of supervisors which participated in the establishment of the multicounty department, or its designated agent, adopts it.

(3) OPEN PUBLIC PARTICIPATION PROCESS. (a) *Citizen advisory committee.* 1. Except as provided in par. (b), the county board of supervisors of each county or the county boards of supervisors of 2 or more counties jointly shall establish, in accordance with subd. 2. or 3., a citizen advisory committee to the county departments under ss. 46.215, 46.22 and 46.23. The citizen advisory committee shall advise in the formulation of the budget under sub. (1).

2. The citizen advisory committee established under s. 46.031 (3) (a) may also serve as the citizen advisory committee under subd. 1.

3. If the citizen advisory committee established under s. 46.031 (3) (a) does not also serve as the citizen advisory committee under subd. 1., membership on the committee under subd. 1. shall be determined by the county board of supervisors in a county with a single–county committee or by the county boards of supervisors in counties with a multicounty committee and shall include representatives of those persons receiving services, providers of service and citizens. A majority of the members of the committee shall be citizen and service consumers. The committee’s membership may not consist of more than 25% county supervisors, nor of more than 20% service providers. The chairperson of the committee shall be appointed by the county board of supervisors establishing it. In the case of a multicounty committee, the chairperson shall be nominated by the committee and approved by the county boards of supervisors establishing it. The county board of supervisors in a county with a single–county committee or the county boards of supervisors in counties with a multicounty committee may designate an agent to determine the membership of the committee and to appoint the committee chairperson or approve the nominee.

(b) *Alternate process.* The county board of supervisors or the boards of 2 or more counties acting jointly may submit a report to the department on the open public participation process used under sub. (2). The county board of supervisors may designate an agent, or the boards of 2 or more counties acting jointly may designate an agent, to submit the report. If the department approves the report, establishment of a citizen advisory committee under par. (a) is not required.

(c) *Yearly report.* The county board of supervisors or its designated agent, or the boards of 2 or more counties acting jointly or their designated agent, shall submit to the department a list of members of the citizen advisory committee under par. (a) or a report on the open public participation process under par. (b) on or before July 1 of each year.

History: 1995 a. 27 ss. 6356r, 9126 (19); 1995 a. 77, 225; s. 13.93 (2) (c).

301.032 Juvenile delinquency–related services; supervisory functions of state department. (1) (a) The department shall supervise the administration of juvenile delinquency–related services. The department shall submit to the federal authorities state plans for the administration of juvenile delinquency–related services in such form and containing such information as the federal authorities require, and shall comply with all requirements prescribed to ensure their correctness.

(b) All records of the department and all county records relating to juvenile delinquency–related services shall be open to inspection at all reasonable hours by authorized representatives of

the federal government. Notwithstanding s. 938.396 (2), all county records relating to the administration of such services shall be open to inspection at all reasonable hours by authorized representatives of the department.

(c) The department may at any time audit all county records relating to the administration of juvenile delinquency-related services and may at any time conduct administrative reviews of county departments under ss. 46.215, 46.22 and 46.23. If the department conducts such audit or administrative review in a county, the department shall furnish a copy of the audit or administrative review report to the chairperson of the county board of supervisors and the county clerk in a county with a single-county department or to the county boards of supervisors and the county clerks in counties with a multicounty department, and to the director of the county department under s. 46.21, 46.22 or 46.23.

(2) The county administration of all laws relating to juvenile delinquency-related services shall be vested in the officers and agencies designated in the statutes.

History: 1995 a. 27, 77.

301.035 Division of hearings and appeals; administrator's general duties. The administrator of the division of hearings and appeals in the department of administration shall:

(1) Serve as the appointing authority of the employees of the division under s. 230.06.

(2) Assign hearing examiners from the division to preside over hearings under ss. 302.11 (7), 938.357 (5), 973.10 and 975.10 (2) and ch. 304.

(4) Supervise employes in the conduct of the activities of the division and be the administrative reviewing authority for decisions of the division under ss. 302.11 (7), 938.357 (5), 973.10, 973.155 (2) and 975.10 (2) and ch. 304.

(5) After consultation with the department of corrections, promulgate rules relating to the exercise of the administrator's and the division's powers and duties.

History: 1989 a. 31, 107; 1995 a. 77.

301.04 Legal actions. The department may sue and be sued.

History: 1989 a. 31.

301.045 Investigations. The secretary may inquire into any matter affecting corrections and hold hearings, subpoena witnesses and make recommendations on such matters to the appropriate public or private agencies.

History: 1989 a. 31.

301.046 Community residential confinement.

(1) INSTITUTION STATUS. The department shall establish and operate a community residential confinement program as a correctional institution under the charge of a superintendent. Under the program, the department shall confine prisoners in their places of residence or other places designated by the department. The secretary may allocate and reallocate existing and future facilities as part of the institution. The institution is subject to s. 301.02 and is a state prison as defined in s. 302.01. Construction or establishment of the institution shall be in compliance with all state laws except s. 32.035 and ch. 91. In addition to the exemptions under s. 13.48 (13), construction or establishment of facilities for the institution are not subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and municipality in which the construction or establishment takes place and are exempt from inspections required under s. 301.36.

(2) INMATE, OFFICER AND EMPLOYEE STATUS. Inmates confined under sub. (1) are under the care and control of the institution, subject to its rules and discipline and subject to all laws pertaining to inmates of other correctional institutions. Courts may not directly commit persons to the institution under sub. (1). Officers and employees of the institution are subject to the same laws pertaining to other correctional institutions.

(3) ELIGIBILITY. The department shall determine those prisoners who are confined under sub. (1). Except as provided in sub.

(3m), a prisoner is eligible for this confinement only under all of the following conditions:

(c) The prisoner is not serving a life sentence.

(d) The prisoner is eligible for parole under s. 304.06 (1) (b) or is serving a sentence that is not longer than 3 years.

(3m) INTENSIVE SANCTIONS PROGRAM PARTICIPANTS. The department may confine any intensive sanctions program participant under sub. (1).

(4) NOTIFICATION. (a) In this subsection:

1. "Member of the family" means spouse, child, sibling, parent or legal guardian.

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

(b) Before a prisoner is confined under sub. (1) for a violation of s. 940.03, 940.05, 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06 or 948.07, the department shall make a reasonable effort to notify all of the following persons, if they can be found, in accordance with par. (c) and after receiving a completed card under par. (d):

1. The victim of the crime committed by the prisoner or, if the victim died as a result of the crime, an adult member of the victim's family or, if the victim is younger than 18 years old, the victim's parent or legal guardian.

2. Any witness who testified against the prisoner in any court proceeding involving the offense.

(c) The department shall make a reasonable effort to send the notice, postmarked at least 7 days before a prisoner is confined under sub. (1), to the last-known address of the persons under par. (b).

(d) The department shall design and prepare cards for any person specified in par. (b) to send to the department. The cards shall have space for any such person to provide his or her name and address, the name of the applicable prisoner and any other information the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in par. (b). These persons may send completed cards to the department. All department records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35 (1).

(e) Before a prisoner is confined under sub. (1), the department shall notify the police chief of any community and the sheriff and district attorney of any county where the prisoner will be confined.

(5) ELECTRONIC SURVEILLANCE. The department shall monitor any prisoner's confinement under sub. (1) by the use of an electronic device worn continuously on the prisoner's person or by the confinement of the prisoner in supervised places designated by the department. The department may permit the prisoner to leave confinement for employment, education or other rehabilitative activities.

(5m) FEE. The prisoner shall pay any fee charged under s. 301.135 (3).

(6) ESCAPE. Any intentional failure of a prisoner to remain within the extended limits of his or her confinement or to return within the time prescribed by the superintendent is considered an escape under s. 946.42 (3) (a).

History: 1989 a. 31 ss. 961m, 961mb; Stats. 1989 s. 301.046; 1989 a. 251; 1991 a. 39; 1993 a. 97, 227, 479.

Read together, ss. 301.045 and 301.048 permit an escape charge when a prisoner in community residential confinement cuts off an electronic bracelet and fails to return. *State v. Holliman*, 180 W (2d) 73 (Ct. App. 1993).

Except as provided in s. 301.048 (7), counties are responsible for the provision of medical and dental services, including psychiatric and alcohol and drug abuse services to persons in the community residential confinement program. 81 Atty. Gen. 156.

301.048 Intensive sanctions program. (1) PROGRAM ADMINISTRATION AND DESIGN. The department shall administer an intensive sanctions program. The department shall design the program to provide all of the following:

(a) Punishment that is less costly than ordinary imprisonment and more restrictive than ordinary probation or parole supervision.

(b) Component phases that are intensive and highly structured.

(c) A series of component phases for each participant that is based on public safety considerations and the participant's needs for punishment and treatment.

(2) ELIGIBILITY. A person enters the intensive sanctions program only if he or she has been convicted of a felony and only under one of the following circumstances:

(a) A court sentences him or her to the program under s. 973.032.

(b) He or she is a prisoner serving a felony sentence not punishable by life imprisonment and the department directs him or her to participate in the program.

(c) The parole commission grants him or her parole under s. 304.06 and requires his or her participation in the program as a condition of parole under s. 304.06 (1x).

(d) The department and the person agree to his or her participation in the program as an alternative to revocation of probation or parole.

(3) COMPONENT PHASES. (a) The department shall provide each participant with one or more of the following sanctions:

1. Placement in a Type 1 prison or a jail, county reforestation camp, residential treatment facility or community-based residential facility. The department may not place a participant under this paragraph for more than one year or, if applicable, the period specified by the court under s. 973.032 (3) (b), whichever is shorter, except as provided in s. 973.032 (4).

2. Intensive or other field supervision.

3. Electronic monitoring.

4. Community service.

5. Restitution.

6. Other programs as prescribed by the department.

(b) The department may provide the sanctions under par. (a) in any order and may provide more than one sanction at a time. Subject to the cumulative time restrictions under par. (a) 1., the department may return to a sanction that was used previously for a participant. A participant is not entitled to a hearing regarding the department's exercise of authority under this subsection unless the department provides for a hearing by rule.

(c) The department may provide a participant with alcohol or other drug abuse outpatient treatment and services or mental health treatment and services.

(d) A person may seek review of a final decision of the department of corrections, or of the division of hearings and appeals in the department of administration acting under s. 304.06 (3), relating to sanctions, discipline or revocation under or termination from the intensive sanctions program only by the common law writ of certiorari.

(4) STATUS. (a) A participant is in the custody and under the control of the department, subject to its rules and discipline. A participant entering the program under sub. (2) (a) or (b) is a prisoner. A participant entering the program under sub. (2) (c) is a prisoner, except that he or she is a parolee for purposes of revocation. A participant entering the program under sub. (2) (d) is a prisoner, except that he or she remains a probationer or parolee, whichever is applicable, for purposes of revocation.

(am) A participant who is a parolee for purposes of revocation is subject to revocation for violation of any condition of parole or any rule or condition applicable because he or she is a program participant. A participant who is a probationer for purposes of revocation is subject to revocation for violation of any condition of probation or any rule or condition applicable because he or she is a program participant.

(b) The department shall operate the program as a correctional institution. The secretary may allocate and reallocate existing and

future facilities as part of the institution. The institution is subject to s. 301.02 and is a state prison as defined in s. 302.01. Construction or establishment of the institution shall be in compliance with all state laws except s. 32.035 and ch. 91. In addition to the exemptions under s. 13.48 (13), construction or establishment of facilities for the institution are not subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and municipality in which the construction or establishment takes place and are exempt from inspections required under s. 301.36.

(4m) NOTIFICATION. (a) In this subsection:

1. "Member of the family" means spouse, child, sibling, parent or legal guardian.

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

(b) As soon as possible after a prisoner, probationer or parolee who has violated s. 940.03, 940.05, 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06 or 948.07 enters the intensive sanctions program, the department shall make a reasonable effort to notify all of the following persons, if they can be found, in accordance with par. (c) and after receiving a completed card under par. (d):

1. The victim of the crime committed by the prisoner, probationer or parolee or, if the victim died as a result of the crime, an adult member of the victim's family or, if the victim is younger than 18 years old, the victim's parent or legal guardian.

2. Any witness who testified against the prisoner, probationer or parolee in any court proceeding involving the offense.

(c) The department shall make a reasonable effort to send the notice to the last-known address of the persons under par. (b).

(d) The department shall design and prepare cards for any person specified in par. (b) to send to the department. The cards shall have space for any such person to provide his or her name and address, the name of the applicable participant and any other information the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in par. (b). These persons may send completed cards to the department. All department records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35 (1).

(5) ESCAPE. Any intentional failure of a participant to remain within the extended limits of his or her placement or confinement under sub. (3) (a) or to return within the time prescribed by the administrator of the division is considered an escape under s. 946.42 (3) (a).

(6) DISCHARGE. The department may discharge a participant from participation in the program and from departmental custody and control at any time.

(7) REIMBURSEMENT. The department shall provide reimbursement to counties and others for the actual costs incurred under sub. (3), as authorized by the department, from the appropriations under s. 20.410 (1) (ab) and (ai).

(8) EDUCATION. The department and the director of state courts shall educate judges, district attorneys, criminal defense attorneys, county sheriffs, jail administrators and members of the public regarding the intensive sanctions program.

(10) RULES. The department shall promulgate rules to implement this section.

History: 1991 a. 39; 1993 a. 79, 97, 227, 437, 479; 1995 a. 27.

Intensive Sanctions: A New Sentencing Option. Fiedler. Wis. Law. June 1992.

Read together, ss. 301.046 and 301.048 permit an escape charge when a prisoner in community residential confinement cuts off an electronic bracelet and fails to return. *State v. Holliman*, 180 W (2d) 348, 509 NW (2d) 73 (Ct. App. 1993).

The extension under s. 973.032 of an intensive sanctions program placement period must be based on public safety considerations and the participant's need for punishment and treatment. All that needs to be shown at an extension hearing is that the participant has not made sufficient progress in the program and more time is required to meet those concerns. *State v. Turner*, 200 W (2d) 168, 546 NW (2d) 880 (Ct. App. 1996).

Except as provided in s. 301.048 (7), counties are responsible for the provision of medical and dental services, including psychiatric and alcohol and drug abuse services to persons in the intensive sanctions program. 81 Atty. Gen. 156.

The extension under s. 973.032 of an intensive sanctions program placement period must be based on public safety considerations and the participant's need for punishment and treatment. All that needs to be shown at an extension hearing is that the participant has not made sufficient progress in the program and more time is required to meet those concerns. *State v. Turner*, 200 W (2d) 168, 546 NW (2d) 880 (Ct. App. 1996).

301.049 Mother–young child care program. (1) PROGRAM. The department shall administer a mother–young child care program allowing females to retain, during participation in the program, the physical custody of their children.

(2) ELIGIBILITY. (a) The department shall provide the program for females who are:

1. Prisoners; or
2. On probation or parole and who, if approved by the department under par. (b), would participate in the program as an alternative to revocation of probation or parole.

(b) A female covered under par. (a) and her child may enter the program if all of the following conditions are met:

1. The female covered under par. (a) consents to participate.
2. The department approves and the female covered under par. (a) is pregnant or has a child who has not attained the age of one year.

(3) SERVICES. The department shall do all of the following under the program:

(a) Place program participants in the least restrictive placement consistent with community safety and correctional needs and objectives.

(b) Provide a stable, safe and stimulating environment for each child participating in the program.

(d) Provide program services with the goal of achieving a stable relationship between each mother and her child during and after participation in the program.

(e) Prepare each mother to be able to live in a safe, lawful and stable manner in the community upon parole or discharge.

(4) PURCHASE OF SERVICES. The department shall purchase the services of a private, nonprofit organization to administer the mother–young child care program.

History: 1991 a. 39, 189.

301.05 Gifts; trustee duty. The department may:

(1) Accept gifts, grants or donations of money or property from private sources to be administered by the department for the execution of its functions. All moneys so received shall be paid into the general fund and are appropriated as provided in s. 20.410 (1) (i).

(2) Take and hold in trust all property transferred to the state to be applied to any specified purpose, use or benefit pertaining to any of the institutions under its control or the inmates thereof, and apply the same in accordance with the trust.

History: 1989 a. 31.

301.055 Prisoner population limits. The department shall promulgate rules providing limits on the number of prisoners at all state prisons, but excluding those prisoners confined in the institution authorized under s. 301.046 (1) or in a Type 2 prison. The rules shall provide systemwide limits and limits for each state prison, except the department may provide a single limit for the Wisconsin correctional center system. The rules may provide procedures allowing the department to exceed any systemwide, institution or center system limit in an emergency situation.

History: 1989 a. 31 ss. 968r, 968rc; Stats. 1989 s. 301.055; 1989 a. 107; 1991 a. 39; 1993 a. 16.

301.06 Education and prevention. The department may do all of the following:

(1) Develop and maintain education and prevention programs.

(2) Study causes and methods of prevention and treatment of juvenile delinquency and related social problems. The department may utilize all powers provided by the statutes, including the

authority to accept grants of money or property from federal, state or private sources, and enlist the cooperation of other agencies and state departments.

History: 1989 a. 31, 107; 1995 a. 27.

301.07 Cooperation with federal government. The department may cooperate with the federal government in carrying out federal acts concerning adult corrections and youth corrections.

History: 1989 a. 31, 107; 1995 a. 27.

301.075 Disbursement of funds and facsimile signatures. Withdrawal or disbursement of moneys deposited in a public depository, as defined in s. 34.01 (5), to the credit of the department or any of its divisions or agencies shall be by check, share draft or other draft signed by the secretary or by one or more persons in the department designated by written authorization of the secretary. The checks, share drafts and other drafts shall be signed personally or by use of a mechanical device adopted by the secretary or the secretary's designees for affixing a facsimile signature. Any public depository shall be fully warranted and protected in making payment on any check, share draft or other draft bearing the facsimile signature notwithstanding that the facsimile signature may have been placed on the check, share draft or other draft without the authority of the secretary or the designees.

History: 1989 a. 31.

301.08 Purchase of care and services. (1) AUTHORIZATION. (a) The department may contract with public or voluntary agencies or others to:

1. Purchase in full or in part care and services which it is authorized by any statute to provide as an alternative to providing such care and services itself.

2. Purchase or provide in full or in part the care and services which county agencies may provide or purchase under any statute and to sell to county agencies such portions thereof as the county agency may desire to purchase.

3. Sell services, under contract, which the department is authorized to provide by statute, to any federally recognized tribal governing body.

(b) The department may:

1. Contract with public, private or voluntary agencies for the purchase of goods, care and services for persons committed or sentenced to a state correctional or penal institution, placed on probation to the department by a court of record, or released from a state correctional or penal institution. Services shall include, but are not limited to, diagnostic services, evaluation, treatment, counseling, referral and information, day care, inpatient hospitalization, transportation, recreation, special education, vocational training, work adjustment, sheltered employment, special living arrangements and legal and protective services.

2. Contract with one public, private or voluntary agency for the supervision, maintenance and operation of one minimum security correctional institution in a county having a population of 500,000 or more. To be eligible, an agency must have prior relevant experience.

3. Contract with public, private or voluntary agencies for the supervision, maintenance and operation of secured correctional facilities, as defined in s. 938.02 (15m), child caring institutions, as defined in s. 938.02 (2c), and secured child caring institutions, as defined in s. 938.02 (15g), for the placement of juveniles who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.34 (4d), (4h) or (4m). The department may designate a secured correctional facility, child caring institution or a secured child caring institution contracted for under this subdivision as a Type 2 secured correctional facility, as defined in s. 938.02 (20), and may designate a child caring institution or secured child caring institution contracted for under this subdivision as a Type 2 child caring institution, as defined in s. 938.02 (19r).

(c) 1. In this paragraph:

a. “Administrative supervision” means the supervision of a probationer or parolee in which the department requires that a minimum of one face-to-face contact occur every 6 months between the probationer or parolee and a representative of the department and that the probationer or parolee submit a monthly report to the department.

b. “Minimum supervision” means the supervision of a probationer or parolee in which the department requires that a minimum of one face-to-face contact occur every 90 days between the probationer or parolee and a representative of the department and that the probationer or parolee submit a monthly report to the department.

2. Beginning on January 1, 1996, the department may contract with public, private or voluntary vendors for the supervision of probationers and parolees who are under minimum supervision or administrative supervision. The contract shall authorize any such vendor to charge a fee to probationers and parolees sufficient to cover the cost of supervision and administration of the contract. If the department collects any moneys from a vendor under the contract, the department shall credit those moneys to the appropriation account under s. 20.410 (1) (ge). The department shall promulgate rules for fees, collections, reporting and verification regarding probationers and parolees supervised by the vendor.

(2) **RESTRICTIONS.** (a) All care and services purchased by the department and all care and services relating to juvenile delinquency purchased by a county department under s. 46.215, 46.22 or 46.23 shall be authorized and contracted for under the standards established under this subsection. For purchases of \$10,000 or less the requirement for a written contract may be waived by the department. No contract is required for care provided by foster homes required to be licensed under s. 48.62. If the department directly contracts for services, it shall follow the procedures in this subsection in addition to meeting purchasing requirements established in s. 16.75.

(b) All care and services purchased shall meet standards established by the department and other requirements specified by purchaser in the contract. Based on these standards the department shall establish standards for cost accounting and management information systems that shall monitor the utilization of those services, and document the specific services in meeting the service plan for the client and the objective of the service.

(c) 1. Purchase of service contracts shall be written in accordance with rules and procedures established by the department. Contracts for client services shall show the total dollar amount to be purchased and for each service the number of clients to be served, number of client service units, the unit rate per client service and the total dollar amount for each service.

2. Payments under a contract may be made on the basis of actual allowable costs or on the basis of a unit rate per client service multiplied by the actual client units furnished each month. The contract may be renegotiated when units vary from the contracted number. The purchaser shall determine actual marginal costs for each service unit less than or in addition to the contracted number.

3. For proprietary agencies, contracts may include a percentage add-on for profit according to rules promulgated by the department.

4. Reimbursement to an agency may be based on total costs agreed to by the parties regardless of the actual number of service units to be furnished, when the agency is entering into a contract for a new or expanded service that the purchaser recognizes will require a start-up period not to exceed 180 days. The reimbursement applies only if identified client needs necessitate the establishment of a new service or expansion of an existing service.

5. If the purchaser finds it necessary to terminate a contract prior to the contract expiration date for reasons other than nonperformance by the provider, actual cost incurred by the provider

may be reimbursed for an amount determined by mutual agreement of the parties.

6. Advance payments of up to one-twelfth of an annual contract may be allowed under the contract. If the advance payment exceeds \$10,000, the provider shall supply a surety bond for an amount equal to the amount of the advance payment applied for. No surety bond is required if the provider is a state agency. The cost of the surety bond shall be allowable as an expense.

(d) For purposes of this subsection and as a condition of reimbursement, each provider under contract shall:

1. Except as provided in s. 46.036 (4) (a), maintain a uniform double entry accounting system and a management information system which are compatible with cost accounting and control systems prescribed by the department.

2. Cooperate with the department and purchaser in establishing costs for reimbursement purposes.

3. Unless waived by the department, biennially, or annually if required under federal law, provide the purchaser with a certified financial and compliance audit report. The audit shall follow standards that the department prescribes. A purchaser may waive the requirements of this subdivision as provided in s. 46.036 (4) (c).

4. Transfer a client from one category of care or service to another only with the approval of the purchaser.

5. Charge a uniform schedule of fees established under s. 46.03 (18) unless waived by the purchaser with approval of the department. Whenever providers recover funds attributed to the client, the funds shall offset the amount paid under the contract.

(e) The purchaser shall recover from provider agencies money paid in excess of the conditions of the contract from subsequent payments made to the provider.

(f) Contracts may be renegotiated by the purchaser under conditions specified in the contract.

(g) The service provider under this section may appeal decisions of the purchaser in accordance with terms and conditions of the contract and ch. 68 or 227.

History: 1989 a. 31, 107; 1995 a. 27, 352.

301.085 Payment of benefits. (1) The department may make payments of benefits directly to persons who are authorized to receive those payments in accordance with law and rules of the department on behalf of the counties. The department may charge the counties for the cost of making those payments.

(2) The department may make juvenile delinquency-related payments directly to recipients, vendors or providers in accordance with law and rules of the department on behalf of the counties which have contracts to have such payments made on their behalf.

(3) The county department under s. 46.215, 46.22 or 46.23 shall provide the department with information which the department shall use to determine each person’s eligibility and amount of payment. The county department under s. 46.215, 46.22 or 46.23 shall provide the department all necessary information in the manner prescribed by the department.

(4) The department shall disburse from state or federal funds or both the entire amount and charge the county for its share under s. 301.26.

History: 1995 a. 27.

301.09 Grants for pilot programs or demonstration projects. Whenever the department provides a grant after August 15, 1991, for a pilot program or demonstration project, the department shall do all of the following:

(1) State on the grant application that the funding for the program or project will be provided by the department once or for a limited period of time, whichever is applicable.

(2) Require the applicant to provide, as part of the grant application, a plan that describes:

(a) How activities funded by the grant will be phased out or how the program or project will be eliminated; or

(b) What other funding sources will be available to support the program or project when state funding is eliminated.

History: 1991 a. 39.

301.10 Purchases, bills, audits, payments. (1) STEWARD AS BUSINESS MANAGER. The steward of each institution under the control of the department of corrections shall be the local business manager and requisitioning officer, subject to the direction and rules of the department, and within the limits of the approved monthly estimates shall purchase all necessary materials and supplies, as provided in ss. 16.70 to 16.82. The steward shall have the immediate charge of all books, accounts, papers and records relating to the institution's financial management, shall keep detailed accounts of all receipts and expenditures, and shall be responsible for the safekeeping and economical use of all stores and supplies.

(2) CORRECTIONS INSTITUTIONS PREAUDIT; PAYMENTS. Unless otherwise provided by law, no bills may be incurred in the management of the institutions nor be paid until they have been audited by the department of corrections under the supervision of the department of administration. All payments shall be made on the warrant of the department of administration drawn in accordance with the certificate of the proper designated officer of the department of corrections. All claims and accounts, before being certified to the department of administration by the department of corrections, shall be verified and approved as provided in s. 16.53.

History: 1989 a. 31.

301.105 Telephone company commissions. The department shall collect moneys for commissions from telephone companies for contracts to provide telephone services to inmates. The department shall transmit those moneys to the state treasurer. The state treasurer shall do all of the following:

(1) Deposit two-thirds of all moneys collected under this section in the general fund as general purpose revenue — earned.

(2) Credit one-third of all moneys collected under this section to the appropriation account under s. 20.410 (1) (gt).

History: 1993 a. 16.

301.11 Reports of corrections institutions.

(1) MONTHLY REPORT. The officer in charge of each state institution under the control of the department shall report monthly to the department an itemized statement of all receipts and disbursements and of the daily number of inmates, officers, teachers and employes, and of the wages paid to each.

(2) BIENNIAL REPORT. On July 1 in each even-numbered year, the officer in charge of each state institution under the control of the department shall submit a report to the department, covering the preceding biennial fiscal term, which includes a summarized statement of the management of every department of the institution and of all receipts and disbursements, and any other information the department requires.

History: 1989 a. 31.

301.12 Uniform fee schedule; collections. The department of corrections shall establish fees for juvenile correctional services provided by that department which shall be included in the uniform system of fees established by the department of health and family services under s. 46.03 (18). Collections and liability enforcement of fee chargeable services for the department of corrections shall be performed by the department of health and family services under ss. 46.03 (18), 46.10 and 938.36.

History: 1995 a. 27 ss. 6361, 9126 (19); 1995 a. 77.

301.13 Minimum security correctional institutions. The department may establish and operate minimum security correctional institutions. The secretary may allocate and reallocate existing and future facilities as part of these institutions. The institutions are subject to s. 301.02 and are state prisons as defined in s. 302.01. Inmates from Wisconsin state prisons may be transferred to these institutions and they shall be subject to all laws per-

taining to inmates of other penal institutions of the state. Officers and employes of the institutions shall be subject to the same laws as pertain to other penal institutions. Inmates shall not be received on direct commitment from the courts. In addition to the exemptions under s. 13.48 (13), construction or establishment of facilities at institutions which are community correctional residential centers initially established prior to July 2, 1983, shall not be subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and municipality in which the construction or establishment takes place. The department shall establish a procedure for soliciting responses from interested communities and persons regarding potential sites for the institutions under this section, except the procedure does not apply to the 125-bed community correctional center in the city of Waupun. The department shall consider locations proposed under this procedure and may consider any other locations on its own initiative. The department need not promulgate rules regarding the site consideration procedures under this section.

History: 1977 c. 418; 1983 a. 27; 1985 a. 29; 1987 a. 5; 1989 a. 31 s. 961; Stats. 1989 s. 301.13.

301.132 Honesty testing of sex offenders. (1) In this section:

(a) "Lie detector" has the meaning given in s. 111.37 (1) (b).

(b) "Polygraph" has the meaning given in s. 111.37 (1) (c).

(c) "Sex offender" means a person in the custody of the department who meets any of the criteria specified in s. 301.45 (1).

NOTE: Par. (c) is shown as amended eff. 6-1-97 by 1995 Wis. Act 440. Prior to 6-1-97 it reads:

(c) "Sex offender" means a person in the custody of the department who meets any of the criteria specified in s. 175.45 (1), regardless of whether he or she is required to register under s. 175.45 (3).

(2) The department may require, as a condition of probation or parole, that a probationer or parolee who is a sex offender submit to a lie detector test when directed to do so by the department.

(3) The department shall promulgate rules establishing a lie detector test program for probationers and parolees who are sex offenders. The rules shall provide for assessment of fees upon probationers and parolees to partially offset the costs of the program.

History: 1995 a. 440.

301.135 Electronic monitoring. (1) The department may contract with counties to provide electronic monitoring services relating to criminal offenders. The department shall charge a fee to counties for providing these services.

(2) The department may charge a fee to offenders under its supervision to cover the costs associated with electronic monitoring. The department may charge a fee under this subsection or the department or the attorney general may collect under s. 301.325, but the state may not collect for the same expenses twice.

(3) The department may charge a fee to offenders who are confined under s. 301.046 or who are in the intensive sanctions program under s. 301.048.

(4) The department shall set the fees charged to offenders under subs. (2) and (3) by rule.

History: 1989 a. 31 ss. 958, 959; Stats. 1989 s. 301.135; 1991 a. 39; 1993 a. 98; 1995 a. 27.

301.14 State-local shared correctional facilities. In cooperation with any county or group of counties, the department may contract for the establishment and operation of state-local shared correctional facilities under s. 302.45. Except as provided in s. 302.45 (4), the secretary may allocate and reallocate existing and future facilities as state-local shared correctional facilities. The shared facilities shall be institutions under s. 301.02 and shall be prisons under s. 302.01. Inmates from Wisconsin state prisons may be transferred to these facilities and, except as to any separate rules established in the contract governing a shared facility, shall be subject to all laws pertaining to inmates of other penal institutions of this state. Officers and employes of the facilities shall be subject to the same laws as pertain to other penal institutions.

Inmates may not be received on direct commitment from the courts.

History: 1983 a. 332; 1989 a. 31 s. 967; Stats. 1989 s. 301.14.

NOTE: 1983 Wisconsin Act 332 s. 1, which created this section, contains a long prefatory note explaining the bill. See 1983 Session Laws.

301.15 Medium security prison. The department may construct a medium security prison to be known as the Fox Lake correctional institution on state-owned land known as prison farm 10 in Dodge county. Inmates from the Wisconsin state prisons may be transferred to this institution and they shall be subject to all laws pertaining to inmates of other penal institutions of this state. Officers and employees of the institutions shall be subject to the same laws as pertain to other penal institutions. Inmates shall not be received on direct commitment from the courts.

History: 1977 c. 418 s. 924 (18) (b); 1989 a. 31 s. 962; Stats. 1989 s. 301.15.

301.16 Construction or establishment of certain institutions. (1) The department shall construct or establish an adult medium/maximum security institution or an adult medium security institution or both.

(1m) The medium security institution under sub. (1) shall be the Oshkosh correctional institution and shall be located north of Oshkosh, north of Snell road and south of Sunnyview road at the site which, on July 31, 1981, is the site of the Winnebago correctional farm.

(1n) In addition to the institutions under sub. (1), the department shall establish a maximum security correctional institution that constitutes the prison expansion project enumerated in 1995 Wisconsin Act 27, section 9108 (1) (b), and that is located at a site selected by the building commission.

(1o) (a) In addition to the institutions under sub. (1), the department shall establish a correctional institution located at the St. Bonaventure site which is located between CTH “H” on the west and 90th street on the east in the village of Sturtevant in Racine county.

(b) In the selection of classified service employees of the institution specified in par. (a), the appointing authority shall, whenever possible, use the expanded certification program under rules of the administrator of the division of merit recruitment and selection in the department of employment relations to ensure that employees of the institution reflect the general population of either the county in which the institution is located or the most populous county contiguous to the county in which the institution is located, whichever population is greater. The administrator of the division of merit recruitment and selection in the department of employment relations shall provide guidelines for the administration of this selection procedure.

(1p) Inmates from the Wisconsin state prisons may be transferred to the institutions under this section and they shall be subject to all laws pertaining to inmates of other penal institutions of this state. Officers and employees of the institutions shall be subject to the same laws as pertain to other penal institutions. Inmates shall not be received on direct commitment from the courts.

(2) Construction or establishment of the institutions shall be in compliance with all state laws except s. 32.035 and ch. 91.

(3) In addition to the exemptions under s. 13.48 (13), construction or establishment of the institutions shall not be subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and municipality in which the construction or establishment takes place.

History: 1979 c. 221; 1981 c. 20, 317, 387; 1983 a. 16; 1983 a. 27 ss. 953p, 953r, 2200 (15); 1985 a. 29; 1987 a. 5; 1989 a. 31 ss. 964, 964m; Stats. 1989 s. 301.16; 1991 a. 39; 1995 a. 27.

See note to Art. IV, sec. 18, citing Milwaukee Brewers v. DH&SS, 130 W (2d) 79, 387 NW (2d) 254 (1986).

301.17 Minimum security corrections institutions. The department may, with the approval of the joint committee on finance, increase staffing levels at minimum security institutions sufficiently to allow temporary placement of medium security inmates at existing minimum security institutions as may be nec-

essary to relieve medium security overcrowding. The temporary placement under this section may constitute a partial use of the institution.

History: 1981 c. 20; 1989 a. 31 s. 973; Stats. 1989 s. 301.17.

301.18 Correctional and other institutions; expansion and establishment of facilities. (1) The department of corrections shall:

(a) Provide the facilities necessary for at least 25 additional beds at Camp Flambeau.

(b) Provide the facilities necessary for at least 45 additional beds for a corrections drug abuse treatment program on the grounds of the Winnebago mental health institute.

(bp) Provide the facilities necessary for not more than 400 beds at the correctional institution under s. 301.16 (1m).

(bw) Provide the facilities necessary for the correctional institution under s. 301.16 (1n).

(bx) Provide the facilities necessary for the Racine correctional institution.

(bz) Provide the facilities necessary for not more than 170 additional beds at the Kettle Moraine correctional institution for use associated with alcohol and other drug abuse treatment.

(d) Provide the facilities necessary for at least 40 additional beds at the Green Bay work release center.

(e) Provide the facilities necessary for at least 20 additional beds at Black river camp.

(f) Provide the facilities necessary for at least 20 additional beds at the Oregon camp.

(g) Provide the facilities necessary for housing to alleviate overcrowding.

(1m) The department of health and family services shall provide the facilities necessary to operate the Wisconsin resource center with 460 beds. The facilities may be used for persons transferred under ch. 302.

(2) In addition to the exemptions under s. 13.48 (13), construction or establishment of facilities necessary to comply with sub. (1) or (1m) shall not be subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and municipality in which the construction or establishment takes place.

(3) For compliance with this section, the department of corrections may expend moneys authorized under chapter 29, laws of 1977, section 1606c (1) (b) relating to the correctional system which have not been expended or encumbered or moneys available under residual existing general fund supported borrowing, not to exceed \$1,500,000.

(4) Any purchase, lease or construction of additional correctional facilities is subject to prior approval by the building commission and the joint committee on finance.

(5) This section constitutes enumeration in the authorized state building program for purposes of s. 20.924.

(6) The building commission is encouraged and authorized to utilize the most economical and expeditious construction alternatives available to effectuate completion of the construction projects.

History: 1989 a. 31, 122; 1991 a. 39; 1995 a. 27 ss. 6363h, 9126 (19); 1995 a. 416.

301.20 Training school for delinquent boys. The department, with the approval of the governor, may purchase or accept a gift of land for a suitable site for an additional training school for delinquent boys and erect and equip such buildings as it deems necessary at such time as funds may be allocated for that purpose by the building commission. The training school or other additional facilities for delinquent boys financed by the authorized 1965–67 building program shall be located north of a line between La Crosse and Manitowoc. The department shall operate and maintain the institution for the treatment of delinquent boys who are placed under the supervision of the department under s. 938.34 (4h) or (4m). All laws pertaining to the care of children received

under s. 938.34 shall apply. Officers and employees of the institution are subject to the same laws as apply to other facilities described in s. 938.52.

History: 1995 a. 27, 77.

301.205 Reimbursement to visiting families. The department may reimburse families visiting girls at a secured correctional facility, as defined in s. 938.02 (15m). If the department decides to provide the reimbursement, it shall establish criteria for the level of reimbursement, which shall include family income and size and other relevant factors.

History: 1995 a. 27, 77.

301.21 Contracts with other states. (1) The department may enter into one or more contracts with another state or a political subdivision of another state for the transfer and confinement in that state of prisoners who have been committed to the custody of the department. Any such contract shall provide for all of the following:

- (a) A termination date.
- (b) Provisions concerning the costs of prisoner maintenance, extraordinary medical and dental expenses and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment, including those costs not reasonably included as part of normal maintenance.
- (c) Provisions concerning any participation in programs of inmate employment if any, the disposition or crediting of any payments received by inmates on account of employment, and the crediting of proceeds from or disposal of any products resulting from employment.
- (d) Delivery and retaking of inmates.
- (e) Waiver of extradition by Wisconsin and the state to which the prisoners are transferred.
- (f) Retention of jurisdiction of the prisoners transferred by Wisconsin.
- (g) Regular reporting procedures concerning Wisconsin prisoners by officials of the state or political subdivision with which the department is contracting.
- (h) Provisions concerning procedures for probation, parole and discharge.
- (i) The same standards of reasonable and humane care as the prisoners would receive in an appropriate Wisconsin institution.
- (j) Any other matters as are necessary and appropriate to fix the obligations, responsibilities and rights of Wisconsin and the state or political subdivision with which the department is contracting.

(2) Inmates from Wisconsin state prisons while in an institution in another state are subject to all provisions of law and regulation concerning the confinement of persons committed for violations of the laws of that state, except as otherwise provided for by any contract entered into under sub. (1).

(3) Any hearing to consider parole to which an inmate confined under this contract may be entitled by the laws of Wisconsin will be conducted by the Wisconsin parole commission under rules of the department.

(4) Sections 16.75 and 301.08 (2) do not apply to contracts entered into under sub. (1).

(5) The provisions of this section are severable, as provided in s. 990.001 (11). The provisions of any contract entered into under sub. (1) are severable. If any provision of such a contract is invalid, or if the application of a provision of the contract to any person or circumstance is invalid, the invalidity does not affect other provisions or applications which can be given effect without the invalid provision or application.

(6) Contracts under this section are subject to approval under s. 302.26, except that for purposes of s. 302.26 this section consti-

tutes legislative approval of contracts between the department and the state of Minnesota.

History: 1981 c. 20; 1983 a. 27; 1989 a. 31 s. 965; Stats. 1989 s. 301.21; 1995 a. 344.

301.235 Structures, facilities and permanent improvements. (1) In this section unless the context requires otherwise:

(a) “Existing building”, in relation to any conveyance, lease or sublease made under sub. (2) (a) 1., 2. and 3., means all detention, treatment, administrative, recreational, infirmary, hospital, vocational and academic buildings; all dormitories and cottages; all storage facilities, heating plants, sewage disposal plants, and such other buildings, structures, facilities and permanent improvements as in the judgment of the secretary are needed or useful for the purposes of the department, and all equipment therefor and all improvements and additions thereto which were erected, constructed or installed prior to making the conveyance, lease or sublease.

(b) “New building”, in relation to any conveyance, lease or sublease made under sub. (2) (a) 1., 2. and 3., means all detention, treatment, administrative, recreational, infirmary, hospital, vocational and academic buildings; all dormitories and cottages; all storage facilities, heating plants, sewage disposal plants, and such other buildings, structures, facilities and permanent improvements as in the judgment of the secretary are needed or useful for the purposes of the department, and all improvements and additions thereto which are erected, constructed or installed after making the conveyance, lease or sublease.

(c) “Nonprofit corporation” means a nonstock, nonprofit corporation organized under ch. 181.

(2) The department shall have and may exercise the following powers and duties:

(a) In order to provide new buildings and to enable the construction and financing thereof, to refinance indebtedness created by a nonprofit corporation for the purpose of providing a new building or buildings or additions or improvements thereto which are located on land owned by, or owned by the state and held for, the department or on lands of the institutions under the jurisdiction of the department or owned by the nonprofit corporation, or for any one or more of those purposes, but for no other purpose unless authorized by law, the department has the following powers and duties:

1. Without limitation by reason of any other statute, the power to sell and to convey title in fee simple to a nonprofit corporation any land and any existing buildings thereon owned by, or owned by the state and held for, the department or any of the institutions under the jurisdiction of the department for such consideration and upon such terms and conditions as in the judgment of the secretary are in the public interest.

2. The power to lease to a nonprofit corporation for a term or terms not exceeding 50 years each any land and any existing buildings thereon owned by, or owned by the state and held for, the department or any of the institutions under the jurisdiction of the department upon such terms and conditions as in the judgment of the secretary are in the public interest.

3. The power to lease or sublease from the nonprofit corporation, and to make available for public use, any such land and existing buildings conveyed or leased to the nonprofit corporation under subs. 1. and 2., and any new buildings erected upon the land or upon any other land owned by such nonprofit corporation, upon such terms, conditions and rentals, subject to available appropriations, as the secretary determines are in the public interest. With respect to any property conveyed to the nonprofit corporation under subd. 1., the lease from the nonprofit corporation may be subject or subordinated to one or more mortgages of the property granted by the nonprofit corporation.

4. The duty to submit the plans and specifications for all such new buildings and all conveyances, leases and subleases made under this section to the department of administration and the governor for written approval before they are finally adopted, executed and delivered.

5. The power to pledge and assign all or any part of the revenues derived from the operation of the new buildings as security for the payment of rentals due and to become due under any lease or sublease of the new buildings under subd. 3.

6. The power to covenant and agree in any lease or sublease of the new buildings made under subd. 3. to impose fees, rentals or other charges for the use and occupancy or other operation of the new buildings in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under the lease or sublease.

7. The power to apply all or any part of the revenues derived from the operation of existing buildings to the payment of rentals due and to become due under any lease or sublease made under subd. 3.

8. The power to pledge and assign all or any part of the revenues derived from the operation of existing buildings to the payment of rentals due and to become due under any lease or sublease made under subd. 3.

9. The power to covenant and agree in any lease or sublease made under subd. 3. to impose fees, rentals or other charges for the use and occupancy or other operation of existing buildings in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under the lease or sublease.

10. The power and duty, upon receipt of notice of any assignment by any such nonprofit corporation of any lease or sublease made under subd. 3., or of any of its rights under any such sublease, to recognize and give effect to the assignment, and to pay to the assignee thereof rentals or other payments then due or which may become due under any such lease or sublease which has been so assigned by the nonprofit corporation.

(b) The state is liable for accrued rentals and for any other default under any lease or sublease made under par. (a) 3., and may be sued therefor on contract as in other contract actions under ch. 775, except that it is not necessary for the lessor under any such lease or sublease or any assignee of the lessor or any person or other legal entity proceeding on behalf of the lessor to file any claim with the legislature prior to the commencement of any such action.

(c) Nothing in this section empowers the secretary or the department to incur any state debt.

(d) All conveyances, leases and subleases made under this section shall be made, executed and delivered in the name of the department and shall be signed by the secretary and sealed with the seal of the department.

(e) All laws, except ch. 150, conflicting with this section are, insofar as they conflict with this section and no further, superseded by this section.

History: 1989 a. 31.

301.24 Lands; condemnation, easements, leases, sales, purchases. (1) CONDEMNATION. When the department is authorized and desires to acquire land and is unable to agree with the owner upon the terms of purchase, or when agreement cannot be had without unreasonable delay, the department may condemn the land in the manner prescribed in ch. 32.

(2) EASEMENTS. The department may grant easements for the extension of municipal and public utilities onto the lands of the institutions under its jurisdiction, for the purpose of connecting railroads, roads, water systems, sewers, electric lines and similar facilities, to serve the institutions.

(3) LEASES. The department may lease additional lands for the operation of the institutions under its jurisdiction.

(4) SALES. The department, with the approval of the building commission, may sell and convey such lands under the jurisdiction

of the department as the secretary deems to be in excess of the present or future requirements of the department for either the operation of its facilities or programs, for the maintenance of buffer zones adjacent to its facilities or for other public purposes. The proceeds of the sales shall be credited to the state building trust fund.

(4m) CORRECTIONAL INSTITUTION PROPERTY DISPOSITION. In addition to any other requirements under this section, the department may sell or otherwise transfer or dispose of the property acquired for the correctional institution under s. 46.05 (1o), 1985 stats., only if the sale, transfer or disposition is approved by the joint committee on finance. The department shall submit a plan for any such proposed sale, transfer or disposition to the committee.

(5) PURCHASES. The department, with the approval of and release of state building trust funds by the building commission, may acquire by purchase such lands, together with such improvements as are situated thereon, as the secretary deems necessary for the department's farm programs, or for the purpose of providing adequate buffer zones to its existing facilities, or for the purpose of eliminating flexuous boundaries in cooperation with owners of lands adjoining lands under the department's jurisdiction.

(6) LEASE OF LANDS FOR RADIO RANGE STATION. The department may lease state owned lands under its control situated in section 16, township 24 north, range 18 east, town of Seymour, Outagamie county, not exceeding 2 acres in extent, to the United States of America, to be used by the civil aeronautics administration for a radio range station. The terms of the lease shall be determined by the department and may grant to the lessee authority to erect navigational aids and other structures on such lands. Such lease shall not be effective unless approved by the governor in writing.

History: 1989 a. 31 ss. 974, 975, 2569; 1989 a. 56 s. 84; 1995 a. 378.

301.25 Sewer system at Taycheedah correctional institution. The department, with the approval of the governor, may enter into an agreement containing terms, conditions and covenants approved by the building commission, to participate in the construction of a sanitary sewer system in the area adjacent to the Taycheedah correctional institution in the town of Taycheedah, Fond du Lac county; to connect the sewer system of the Taycheedah correctional institution thereto; to pay sewage disposal charges; and to grant easements or convey land to meet construction requirements.

History: 1975 c. 189 s. 99 (1); 1975 c. 224 s. 146m; 1989 a. 31 s. 1069; Stats. 1989 s. 301.25.

301.26 Community youth and family aids. (1) PROCEDURES. The department shall develop procedures for the implementation of this section and standards for the development and delivery of juvenile delinquency-related services under ch. 938, and shall provide consultation and technical assistance to aid counties in implementation and service delivery. The department shall establish information systems, monitoring and evaluation procedures to report periodically to the governor and legislature on the state impact of this section.

(2) RECEIPT OF FUNDS. (a) All funds to counties under this section shall be allocated to county departments under ss. 46.21, 46.22 and 46.23 subject to ss. 46.495 (2) and 301.031, except that monthly advance payments to the counties may be less than one-twelfth of the contracted amounts. No reimbursement may be made to any multicounty department until the counties which established the department have drawn up a detailed contractual agreement, approved by the secretary, setting forth the plans for joint sponsorship.

(b) Uniform fees collected or received by counties under s. 46.03 (18) for services provided under this section shall be applied to cover the cost of the services.

(c) All funds to counties under this section shall be used to purchase or provide juvenile delinquency-related services under ch. 938, except that no funds to counties under this section may be used for purposes of land purchase, building construction or main-

tenance of buildings under s. 46.17, 46.175 or 301.37, for reimbursement of costs under s. 938.209, for city lockups or for reimbursement of care costs in temporary shelter care under s. 938.22. Funds to counties under this section may be used for reimbursement of costs of program services, other than basic care and supervision costs, in juvenile secure detention facilities.

(2m) PUBLIC PARTICIPATION PROCESS. In determining the use of funds under this section, county departments under ss. 46.21, 46.22 and 46.23 shall assess needs using an open public participation process which involves representatives of those receiving services.

(3) GRANTS-IN-AID. (a) Receipt of funds under this subsection is contingent upon use of a public participation process required under sub. (2m).

(c) Within the limits of the appropriations under s. 20.410 (3) (cd) and (oo), the department shall allocate funds to each county for services under this section.

(dm) The department may carry forward for a county from one calendar year to another funds allocated under this subsection that are not spent or encumbered. The amount that the department may carry forward for a county under this paragraph may not exceed 5% of the amount allocated to the county for the 12-month period ending December 31. The funds carried forward under this paragraph do not affect a county's base allocation.

(e) The department may carry forward \$500,000 or 10% of its funds allocated under this subsection and not encumbered or carried forward under par. (dm) by counties by December 31, whichever is greater, to the next 2 calendar years. The department may transfer moneys from or within s. 20.410 (3) (cd) to accomplish this purpose. The department may allocate these transferred moneys to counties with persistently high rates of juvenile arrests for serious offenses during the next 2 calendar years to improve community-based juvenile delinquency-related services. The allocation does not affect a county's base allocation.

(em) The department may carry forward any emergency funds allocated under sub. (7) (e) and not encumbered or carried forward under par. (dm) by December 31 to the next 2 calendar years. The department may transfer moneys from or within s. 20.410 (3) (cd) to accomplish this purpose. The department may allocate these transferred moneys to counties that are eligible for emergency payments under sub. (7) (e). The allocation does not affect a county's base allocation.

(4) STATE SERVICES. (a) Except as provided in pars. (c) and (cm), the department of corrections shall bill counties or deduct from the allocations under s. 20.410 (3) (cd) for the costs of care, services and supplies purchased or provided by the department of corrections for each person receiving services under s. 48.366, 938.183 (2) or 938.34 or the department of health and family services for each person receiving services under s. 51.35 (3). The department of corrections may not bill a county for or deduct from a county's allocation the cost of care, services and supplies provided to a person subject to an order under s. 48.366 or 938.183 (2) after the person reaches 18 years of age. Payment shall be due within 60 days after the billing date. If any payment has not been received within 60 days, the department of corrections may withhold aid payments in the amount due from the appropriation under s. 20.410 (3) (cd).

(b) Assessment of costs under par. (a) shall be made periodically on the basis of the per person per day cost estimate specified in par. (d) 3m. and 4. Except as provided in pars. (bm), (c) and (cm), liability shall apply to county departments under s. 46.21, 46.22 or 46.23 in the county of the court exercising jurisdiction under chs. 48 and 938 for each person receiving services from the department of corrections under s. 48.366, 938.183 (2) or 938.34 or the department of health and family services under s. 51.35 (3). Except as provided in pars. (bm), (c) and (cm), in multicounty court jurisdictions, the county of residency within the jurisdiction shall be liable for costs under this subsection. Assessment of costs under par. (a) shall also be made according to the general place-

ment type or level of care provided, as defined by the department, and prorated according to the ratio of the amount designated under sub. (3) (c) to the total applicable estimated costs of care, services and supplies provided by the department of corrections under ss. 48.366, 938.183 (2) and 938.34 and the department of health and family services under s. 51.35 (3).

(bm) Notwithstanding par. (b), the county department under s. 46.21, 46.22 or 46.23 of the county of residency of a child who has been adjudicated delinquent by a court of another county or by a court of another multicounty jurisdiction may voluntarily assume liability for the costs payable under par. (a). A county department may assume liability under this paragraph by a written agreement signed by the director of the county department that assumes liability under this paragraph and the director of the county department that is otherwise liable under par. (b).

(c) Notwithstanding pars. (a), (b) and (bm), the department of corrections shall pay, from the appropriation under s. 20.410 (3) (hm), the costs of care, services and supplies provided for each person receiving services under s. 48.366, 51.35 (3), 938.183 (2) or 938.34 who was under the guardianship of the department of health and family services pursuant to an order under ch. 48 at the time that the person was adjudicated delinquent.

(cm) 1. Notwithstanding pars. (a), (b) and (bm), the department shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the appropriations under s. 20.410 (3) (hm), (ho) and (hr) for the purpose of reimbursing juvenile correctional institutions, secured child caring institutions, as defined in s. 938.02 (15g), alternate care providers, aftercare supervision providers and corrective sanctions supervision providers for costs incurred beginning on July 1, 1996, for the care of any child 14 years of age or over who has been placed in a juvenile correctional facility based on a delinquent act that is a violation of s. 939.31, 939.32 (1) (a), 940.03, 940.21, 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m) or (1r), 943.32 (2), 948.02 (1), 948.025, 948.30 (2), 948.35 (1) (b) or 948.36 and for the care of any child 10 years of age or over who has been placed in a juvenile correctional institution or a secured child caring institution for attempting or committing a violation of s. 940.01 or for committing a violation of s. 940.02 or 940.05.

2. Notwithstanding pars. (a), (b) and (bm), the department shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the appropriations under s. 20.410 (3) (hm), (ho) and (hr) for the purpose of reimbursing juvenile correctional institutions, secured child caring institutions, as defined in s. 938.02 (15g), alternate care providers, aftercare supervision providers and corrective sanctions supervision providers for costs incurred beginning on July 1, 1996, for the care of any child 14 years of age or over and under 18 years of age who has been placed in a juvenile correctional facility under s. 48.366 based on a delinquent act that is a violation of s. 940.01, 940.02, 940.05 or 940.225 (1).

3. The per person daily reimbursement rate for juvenile correctional services under this paragraph shall be equal to the per person daily cost assessment to counties under par. (d) 3m. and 4. for juvenile correctional services.

(d) 1. Except as provided in pars. (e) to (g), for services under s. 938.34, all payments and deductions made under this subsection and uniform fee collections made under s. 46.03 (18) shall be deposited in the appropriation under s. 20.410 (3) (hm).

1m. Except as provided in pars. (e) to (g), for services under ss. 48.366 and 938.183 (2), all payments and deductions made under this subsection and uniform fee collections made under s. 46.03 (18) shall be deposited in the appropriation under s. 20.410 (3) (hm).

3m. Beginning on July 1, 1996, and ending on December 31, 1996, the per person daily cost assessment to counties shall be \$133.82 for care in a Type 1 secured correctional facility, as defined in s. 938.02 (19), \$133.82 for care for children transferred from a juvenile correctional institution under s. 51.35 (3), \$153.98 for care in a child caring institution, including a secured

child caring institution, \$106.82 for care in a group home for children, \$23.80 for care in a foster home, \$68.58 for care in a treatment foster home, \$82.11 for departmental corrective sanctions services and \$14.95 for departmental aftercare services.

4. Beginning on January 1, 1997, and ending on June 30, 1997, the per person daily cost assessment to counties shall be \$133.82 for care in a Type 1 secured correctional facility, as defined in s. 938.02 (19), \$133.82 for care for children transferred from a juvenile correctional institution under s. 51.35 (3), \$157.08 for care in a child caring institution, including a secured child caring institution, \$108.98 for care in a group home for children, \$24.29 for care in a foster home, \$69.95 for care in a treatment foster home, \$82.11 for departmental corrective sanctions services and \$14.95 for departmental aftercare services.

(dt) For serious juvenile offender services, all uniform fee collections under s. 46.03 (18) shall be deposited in the appropriation account under s. 20.410 (3) (hm).

(e) For foster care, treatment foster care, group home care and institutional child care to delinquent children under ss. 49.19 (10) (d), 938.48 (4) and (14) and 938.52 all payments and deductions made under this subsection and uniform fee collections under s. 46.03 (18) shall be deposited in the appropriation under s. 20.410 (3) (ho).

(ed) For foster care, treatment foster care, group home care and institutional child care to serious juvenile offenders under ss. 49.19 (10) (d), 938.48 (4) and (14) and 938.52 all uniform fee collections under s. 46.03 (18) shall be deposited in the appropriation under s. 20.410 (3) (ho).

(eg) For corrective sanctions services under s. 938.533 (2), all payments and deductions made under this subsection and uniform fee collections under s. 46.03 (18) shall be deposited in the appropriation under s. 20.410 (3) (hr).

(f) For services under s. 51.35 (3), payments made under par. (d) for services to children who are ineligible for medical assistance under subch. IV of ch. 49 and uniform fee collections under s. 46.03 (18) shall be deposited in the appropriation under s. 20.435 (2) (gk) and all other payments made under this subsection shall be deposited in the general fund and treated as a nonappropriated receipt.

(g) For juvenile field and institutional aftercare services under ch. 938 and for the juvenile offender review program, all payments and deductions made under this subsection and uniform fee collections under s. 46.03 (18) shall be deposited in the general fund and shall be treated as a nonappropriated receipt.

(6) PERFORMANCE STANDARDS. (a) The intent of this subsection is to develop criteria to assist the legislature in allocating funding, excluding funding for base allocations, from the appropriations under s. 20.410 (3) (cd) and (oo) for purposes described in this section.

(b) The department shall submit recommendations to the joint committee on finance regarding performance standards criteria to be used to determine whether counties are successfully diverting juveniles from juvenile correctional institutions and into less restrictive community programs and are successfully rehabilitating children adjudged delinquent on or before December 31, 1987. Beginning on January 1, 1988, counties shall provide information requested by the department in order to apply the criteria and assess performances.

(7) ALLOCATIONS OF FUNDS. Within the limits of the availability of federal funds and of the appropriations under s. 20.410 (3) (cd) and (oo), the department shall allocate funds for community youth and family aids for the period beginning on July 1, 1996, and ending on June 30, 1997, as provided in this subsection to county departments under ss. 46.215, 46.22 and 46.23 as follows:

(a) For community youth and family aids under this section, amounts not to exceed \$37,243,500 for the last 6 months of 1996 and \$37,347,600 for the first 6 months of 1997.

(e) For emergencies related to community youth and family aids under this section, amounts not to exceed \$125,000 for the

last 6 months of 1996 and \$125,000 for the first 6 months of 1997. A county is eligible for payments under this paragraph only if it has a population of not more than 45,000.

(h) For counties that are participating in the corrective sanctions program under s. 938.533 (2), \$1,062,400 in the last 6 months of 1996 and \$1,062,400 in the first 6 months of 1997 for the provision of corrective sanctions services for children from that county. In distributing funds to counties under this paragraph, the department shall determine a county's distribution by dividing the amount allocated under this paragraph by the number of slots authorized for the program under s. 938.533 (2) and multiplying the quotient by the number of slots allocated to that county by agreement between the department and the county. The department may transfer funds among counties as necessary to distribute funds based on the number of slots allocated to each county.

(8) ALCOHOL AND OTHER DRUG ABUSE TREATMENT. From the amount of the allocations specified in sub. (7) (a), the department shall allocate \$666,700 in the last 6 months of 1996 and \$666,700 in the first 6 months of 1997 for alcohol and other drug abuse treatment programs.

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417.

301.263 Community intervention program. **(1)** From the appropriation under s. 20.410 (3) (f), the department shall distribute \$3,750,000 in each year to counties for early intervention services for first offenders and for intensive community-based intervention services for seriously chronic offenders.

(2) To determine eligibility for a payment under sub. (1), the department shall require a county to submit a plan for the expenditure of that payment that ensures that the county targets the programs to be funded under that payment appropriately.

(3) The department shall distribute 33% of the amounts distributed under sub. (1) based on each county's proportion of the violent Part I juvenile arrests reported statewide under the uniform crime reporting system of the office of justice assistance in the department of administration, during the most recent 2-year period for which that information is available. The department shall distribute 33% of the amounts distributed under sub. (1) based on each county's proportion of the number of children statewide who are placed in a juvenile correctional institution or a secured child caring institution, as defined in s. 938.02 (15g), during the most recent 2-year period for which that information is available. The department shall distribute 34% of the amounts distributed under sub. (1) based on each county's proportion of the total Part I juvenile arrests reported statewide under the uniform crime reporting system of the office of justice assistance, during the most recent 2-year period for which that information is available.

History: 1995 a. 27, 77.

301.265 Diversion of youth from gang activities.

(1) From the appropriation under s. 20.410 (3) (jk), the department shall allocate \$250,000 in each fiscal year to enter into a contract with an organization to provide services in a county having a population of 500,000 or more for the diversion of youths from gang activities into productive activities, including placement in appropriate educational, recreational and employment programs. Notwithstanding s. 16.75, the department may enter into a contract under this subsection without soliciting bids or proposals and without accepting the lowest responsible bid or offer.

(2) From the appropriation under s. 20.410 (3) (p), the department shall allocate \$300,000 in each fiscal year to the organization that it has contracted with under sub. (1) for alcohol and other drug abuse education and treatment services for participants in that organization's youth diversion program.

(3) From the appropriation under s. 20.410 (3) (jk), the department shall allocate \$100,000 in each fiscal year to enter into a contract with an organization to provide services in Racine County, and \$100,000 in each fiscal year to enter into a contract with an organization to provide services in Kenosha County, for the diversion of youths from gang activities into productive activities,

including placement in appropriate educational, recreational and employment programs, and for alcohol or other drug abuse education and treatment services for participants in that organization's youth diversion program. Notwithstanding s. 16.75, the department may enter into a contract under this subsection without soliciting bids or proposals and without accepting the lowest responsible bid or offer.

History: 1995 a. 27.

301.27 Meal and other charges; vending stands; commissary; and butter and cheese. (1) **CHARGES.** In compliance with the compensation plan established under s. 230.12 (3), the department may make and determine charges for meals, living quarters, laundry and other services furnished to employes of the state correctional institutions and members of the employe's family maintained as such. All moneys received from each person on account of these services shall be used for operation of the institutions under s. 20.410 (1) (a) and (3) (a), (hm) and (j). If a chaplain employed in any institution administered by the department is not furnished a residence by the state, \$1,800 or 20% of the chaplain's salary, whichever is greater, is designated as his or her housing allowance.

(2) **VENDING STANDS.** The department shall establish and maintain a revolving fund not exceeding \$60,000 in any of the state institutions administered by the department, for the education, recreation and convenience of the patients, inmates and employes, to be used for the operation of vending stands, canteen operations, reading clubs, musical organizations, religious programs, athletics and similar projects. The funds are exempt from s. 20.906, but are subject to audit by the department and the legislative audit bureau in its discretion.

(3) **COMMISSARY.** With the approval of the governor and the director of personnel, the department, by rule, may provide employes in its institutions with laundry, food, housing and necessary furnishings.

(4) **BUTTER AND CHEESE.** No butter or cheese not made wholly and directly from pure milk or cream, salt and harmless coloring matter may be used in any of the institutions of the department, except for the institution authorized under s. 301.046 (1) or a Type 2 prison.

History: 1989 a. 31; 1991 a. 39; 1995 a. 27.

301.28 Training of correctional officers. (1) In this section, "correctional officer" means any person classified as a correctional officer employed by the state whose principal duty is the supervision of inmates at a prison, as defined in s. 302.01.

(2) (a) Correctional officers serving under permanent appointment prior to July 31, 1981 are not required to meet any requirement under par. (b) as a condition of continued employment. Failure of any such correctional officer to fulfill those requirements does not make that person ineligible for any promotional examination for which he or she is otherwise eligible. Those correctional officers may voluntarily participate in this program.

(b) No person may be permanently appointed as a correctional officer unless the person has satisfactorily completed a preservice training program approved by the department.

History: 1981 c. 20; 1989 a. 31 s. 970; Stats. 1989 s. 301.28; 1993 a. 377; 1995 a. 27.

301.285 In-service and work experience training. The department may conduct a program of in-service training and staff development and, in cooperation with educational institutions, provide facilities for work experience for students, including subsistence.

History: 1989 a. 31.

301.287 Correctional officer overtime. The department shall maintain a central monitoring system to record the amount of overtime worked by correctional officers.

History: 1991 a. 39.

301.29 Bonds of employes; police powers; investigation of complaints. (1) The steward of each institution under the jurisdiction of the department shall execute and file an official bond. The secretary shall prescribe the sum and sureties for the bond. The steward shall also require any other officer or other person having the possession or custody of any money or property belonging to the state or any institution under its control or supervision to give an official bond, and from time to time renew the bond. The secretary may require a position bond whenever it appears advisable to him or her. The position bond shall have the same coverage as the official bond.

(2) The superintendents of all the state correctional institutions, and the employes under them to whom they delegate police power, may arrest any person within or upon the grounds of the institutions whom they have reason to believe guilty of any offense against the laws or regulations governing the institutions; and for that purpose they shall possess the powers of constables.

(3) The department shall investigate complaints against any institution under its jurisdiction or against the officers or employes of the institutions. For that purpose, the secretary and such officers and employes as the secretary authorizes may summon and swear witnesses, take testimony and compel the production of books and papers. On its own initiative, the department may investigate the affairs of any institution. Any written communication or complaint addressed to the secretary by any inmate, employe or subordinate of an institution shall be immediately forwarded unopened to the addressee.

History: 1989 a. 31.

301.30 Inmate wages, allowances and release payments. The department may pay a wage or an allowance and a release payment to inmates at its institutions. The department shall prescribe the amounts of pay and such hours, health and other conditions in connection with employment as are reasonable.

History: 1989 a. 31.

301.31 Wages to prisoners. The department may provide for assistance of prisoners on their discharge; for the support of their families while the prisoners are in confinement; or for the payment, either in full or ratably, of their obligations acknowledged by them in writing or which have been reduced to judgment by the allowance of moderate wages, to be paid from the operation, maintenance, farm and construction appropriations of the institution in which they are confined. Until the prisoner's final discharge, the funds arising from the wages shall be under the control of the officer in charge of the institution and shall be used for the benefit of the prisoner, the prisoner's family and other obligations specified in this section. Earnings by inmates working in the prison industries and the retention and distribution thereof shall be governed by ss. 303.01 (4) and (8) and 303.06 (2).

History: 1989 a. 31; 1991 a. 269.

301.315 Corrections programs report. The department shall report to the joint committee on finance with a proposal to address negative cash balances associated with closed industries or other corrections programs through the use of moneys appropriated under s. 20.410 as of the date of the proposal.

History: 1989 a. 31.

301.32 Property of prisoners, residents and probationers. (1) **PROPERTY DELIVERED TO STEWARD; CREDIT AND DEBIT.** All money including wages and other property delivered to an officer or employe of any institution for the benefit of a prisoner or resident shall be delivered to the steward, who shall enter the property upon his or her books to the credit of the prisoner or resident. The property may be used only under the direction and with the approval of the superintendent or warden and for the crime victim and witness assistance surcharge under s. 973.045 (4), the deoxyribonucleic acid analysis surcharge under s. 973.046 (4) or the benefit of the prisoner or resident. If the money remains uncalled for for one year after the prisoner's or resident's death or

departure from the institution, the superintendent shall deposit it in the general fund. If any prisoner or resident leaves property, other than money, uncalled for at an institution for one year, the superintendent shall sell the property and deposit the proceeds in the general fund. If any person satisfies the department, within 5 years after the deposit, of his or her right to the deposit, the department shall direct the department of administration to draw its warrant in favor of the claimant and it shall charge the same to the appropriation made by s. 20.913 (3) (bm).

(2) CENTRAL RECEPTION UNIT; EXCEPTION. Notwithstanding sub. (1) and s. 302.13, an inmate account need not be opened or maintained for an inmate placed at the central reception unit at the Dodge correctional institution.

(3) PROPERTY DELIVERED TO EMPLOYEE. (a) All money or other property paid or delivered to a probation and parole agent or other employe of the department by or for the benefit of any person on probation or parole shall be immediately transmitted to the department and it shall enter the same upon its books to his or her credit. The property shall be used only under the direction of the department.

(b) If the person on probation or parole absconds, the money shall be credited to the revolving fund created by s. 304.075; and other property if not called for within one year shall be sold by the department and the proceeds shall be credited to the fund.

(c) If any person, within 5 years after such crediting of funds, satisfies the department that he or she is entitled thereto, the department shall certify the amount thereof to the department of administration for payment to the claimant from the appropriation made by s. 20.410 (1) (g).

History: 1989 a. 31 ss. 980, 981, 2569; 1991 a. 189, 315; 1993 a. 16; 1995 a. 27, 417.

This section does not create a property interest in items prohibited by administrative rule because these items have not been delivered to prison employes for the benefit of inmates. Prohibited items are contraband subject to seizure. *Escobar v. Landwehr*, 837 F Supp. 284 (1993).

301.325 Prisoner reimbursement to the state. The department may charge a prisoner for some or all of the costs to the department of the prisoner's incarceration. The department may collect from the inmate during his or her incarceration or after his or her release or both. Upon the request of the department, the attorney general may bring a civil action to recover costs under this section that the department has been unable to collect. The department may not recover under this section for any costs already recovered as otherwise provided in chs. 301 to 303. The department shall promulgate rules providing a method of charging under this section that is based on a prisoner's ability to pay and providing procedures for collection of the costs.

History: 1995 a. 27.

301.33 Freedom of worship; religious ministrations.

(1) Subject to reasonable exercise of the privilege, members of the clergy of all religious faiths shall have an opportunity, at least once each week, to conduct religious services within the state correctional institutions. Attendance at the services is voluntary.

(2) Every inmate shall receive, upon request, religious ministrations and sacraments according to the inmate's faith.

(3) Every inmate who requests it shall have the use of the Bible.

History: 1989 a. 31.

The state must make copies of the Quran available to prisoners to the same extent that Bibles are made available. *Pitts v. Knowles*, 339 F Supp. 1183.

301.335 Treatment records. Section 51.30 applies to treatment records, as defined in s. 51.30 (1) (b), maintained by the department of corrections in regard to children adjudged delinquent. The department has the same authority, including rule-making authority, with regard to treatment records maintained by the department that is granted to the department of health and family services under s. 51.30.

History: 1989 a. 31; 1995 a. 27 s. 9126 (19).

301.35 Law enforcement officer access to department records. (1) In this section:

(a) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

(b) "Record" has the meaning given in s. 19.32 (2).

(2) The department shall allow a law enforcement officer access to a departmental record if the record pertains to any of the following persons who resides or is planning to reside in the officer's territorial jurisdiction:

(a) A probationer.

(b) A parolee.

(c) A prisoner confined under s. 301.046.

(d) A participant in the intensive sanctions program under s. 301.048.

(e) A participant in the serious juvenile offender program under s. 938.538.

History: 1993 a. 98; 1995 a. 77.

301.36 General supervision and inspection by department. (1) GENERAL AUTHORITY. The department shall investigate and supervise all of the state correctional institutions and all secure detention facilities and familiarize itself with all of the circumstances affecting their management and usefulness.

(2) PRISONS. The department shall visit all places in which persons convicted or suspected of crime are confined, and ascertain their arrangement for the separation of the hardened criminals from juvenile offenders and persons suspected of crime or detained as witnesses; collect statistics concerning the inmates, their treatment, employment and reformation; and collect information of other facts and considerations affecting the increase or decrease of crime.

(3) INSPECTIONS. The department shall inquire into the methods of treatment, instruction, government and management of inmates of the institutions mentioned in this section; the conduct of their trustees, managers, directors, superintendents and other officers and employes; the condition of the buildings, grounds and all other property pertaining to the institutions, and all other matters pertaining to their usefulness and management; and recommend to the officers in charge such changes and additional provisions as it deems proper.

(4) FREQUENCY OF INSPECTIONS. The department shall inspect and investigate each institution at least annually and, when directed by the governor, it shall conduct a special investigation into an institution's management, or anything connected with its management, and report to the governor the testimony taken, the facts found and conclusions drawn.

(5) ENFORCEMENT BY ATTORNEY GENERAL AND DISTRICT ATTORNEYS. Upon request of the department, the attorney general or the district attorney serving the proper county shall aid in any investigation, inspection, hearing or trial had under this chapter or those sections of ch. 938 relating to powers of the department, and shall institute and prosecute all necessary actions or proceedings for the enforcement of those provisions and for the punishment of violations of those provisions. The attorney general or district attorney so requested shall report or confer with the department regarding the request, within 30 days after receipt of the request.

(6) OPPORTUNITY TO INSPECT. All trustees, managers, directors, superintendents and other officers or employes of the institutions shall at all times afford to every member of the department and its agents, unrestrained facility for inspection of and free access to all parts of the buildings and grounds and to all books and papers of the institutions; and shall give, either verbally or in writing, such information as the department requires. Any person who violates this subsection shall forfeit not less than \$10 nor more than \$100.

(7) TESTIMONIAL POWER; EXPENSES. The director or any person delegated by the director may administer oaths, take testimony and cause depositions to be taken. All expenses of the investiga-

tions, including fees of officers and witnesses, shall be charged to the appropriation for the department.

(8) STATISTICS TO BE FURNISHED. Wherever the department is required to collect statistics, the person or agency shall furnish the required statistics on request.

History: 1989 a. 31, 107; 1995 a. 27, 77.

301.37 County buildings; establishment, approval, inspection. (1) The department shall fix reasonable standards and regulations for the design, construction, repair and maintenance of houses of correction, reforestation camps maintained under s. 303.07, jails as defined in s. 302.30, extensions of jails under s. 59.54 (14) (g), rehabilitation facilities under s. 59.53 (8), lockup facilities as defined in s. 302.30, work camps under s. 303.10, Huber facilities under s. 303.09 and, after consulting with the department of health and family services, secure detention facilities, with respect to their adequacy and fitness for the needs which they are to serve.

NOTE: Sub. (1) is shown as affected by two acts of the 1995 legislature and as merged by the revisor under s. 13.93 (2) (c).

(2) The selection and purchase of the site, and the plans, specifications and erection of buildings, for the institutions is subject to the review and approval of the department. Department review shall include review of the proposed program to be carried out by the institution.

(3) Before any such building is occupied, and at least annually thereafter, the department shall inspect each institution with respect to safety, sanitation, adequacy and fitness, report to the authorities conducting the institution any deficiency found and order the necessary work to correct it or a new building. If within 6 months thereafter the work is not commenced, or not completed within a reasonable period thereafter, to the satisfaction of the department, the department shall suspend the allowance of state aid for, and prohibit the use of, the building until the order is complied with.

(4) The department's standards and regulations under sub. (1) for county jails apply to tribal jails used under s. 302.445. At least annually, the department shall inspect each such tribal jail with respect to safety, sanitation, adequacy and fitness, report to the sheriff and the tribal jail authorities regarding any deficiency found and order the necessary work to correct it. If within 6 months thereafter the work is not commenced, or not completed within a reasonable period thereafter to the satisfaction of the department, the department shall prohibit the use of the tribal jail for purposes of s. 302.445 until the order is complied with.

History: 1989 a. 31, 107; 1993 a. 48; 1995 a. 27 s. 9126 (19); 1995 a. 201, 281; s. 13.93 (2) (c).

301.38 Notification of victims and witnesses about prisoner escapes. (1) In this section:

(a) "Member of the family" means spouse, child, sibling, parent or legal guardian.

(am) "Prisoner" has the meaning given in s. 301.01 (2), but does not include any person in the intensive sanctions program under s. 301.048 or any person who is imprisoned as an alternative to the revocation of probation or parole.

(b) "Victim" means a person against whom a crime has been committed.

(2) If a prisoner escapes from a Type 1 prison, the department shall make a reasonable effort to notify all of the following persons, if they can be found, in accordance with sub. (3) and after receiving a completed card under sub. (4):

(a) The victim of the crime committed by the prisoner or, if the victim died as a result of the crime, an adult member of the victim's family or, if the victim is younger than 18 years old, the victim's parent or legal guardian.

(b) Any witness who testified against the prisoner in any court proceeding involving the offense.

(3) The department shall make a reasonable effort to notify the person by telephone as soon as possible after the escape and after any subsequent apprehension of the prisoner.

(4) The department shall design and prepare cards for any person specified in sub. (2) to send to the department. The cards shall have space for any such person to provide his or her name, telephone number and mailing address, the name of the applicable prisoner and any other information that the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in sub. (2). These persons may send completed cards to the department. All department records or portions of records that relate to telephone numbers and mailing addresses of these persons are not subject to inspection or copying under s. 19.35 (1).

History: 1995 a. 74.

301.45 Sex offender registration. (1) WHO IS COVERED. A person shall comply with the reporting requirements under this section if he or she meets any of the following criteria:

(a) Is convicted, adjudicated delinquent or found in need of protection or services on or after December 25, 1993, for any violation, or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent.

(b) Is in prison, a secured correctional facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or on probation, parole, supervision or aftercare supervision on or after December 25, 1993, for any violation, for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent.

(bm) Is in prison, a secured correctional facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or on probation, parole, supervision or aftercare supervision on or after December 25, 1993, for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent.

(c) Is found not guilty or not responsible by reason of mental disease or defect on or after December 25, 1993, and committed under s. 51.20 or 971.17 for any violation, or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent.

(d) Is in institutional care or on conditional transfer under s. 51.35 (1) or conditional release under s. 971.17 on or after December 25, 1993, for any violation, or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent.

(dd) Is in institutional care or on conditional transfer under s. 51.35 (1) or conditional release under s. 971.17 on or after December 25, 1993, for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or

948.30 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent.

(dh) Is on parole or probation in this state from another state under s. 304.13 or 304.135 on or after December 25, 1993, for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of the law of another state that is comparable to a violation of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent.

(dp) Is in institutional care under, or on parole from, a commitment for specialized treatment under ch. 975 on or after December 25, 1993.

(dt) Is in institutional care or on conditional release under ch. 980 on or after June 2, 1994.

(e) Is ordered by a court under s. 51.20 (13) (ct), 938.34 (15m), 971.17 (1m) (b) 2. or 973.048 to comply with the reporting requirements under this section.

(2) WHAT INFORMATION MUST BE PROVIDED, BY WHOM AND WHEN. (a) The department shall maintain a registry of all persons subject to sub. (1). The registry shall contain all of the following with respect to each person:

1. The person's name, including any aliases used by the person.
2. Information sufficient to identify the person, including date of birth, gender, race, height, weight and hair and eye color.
3. The statute the person violated that subjects the person to the requirements of this section, the date of conviction, adjudication or commitment, and the county or, if the state is not this state, the state in which the person was convicted, adjudicated or committed.
4. Whichever of the following is applicable:
 - a. The date the person was placed on probation, supervision, conditional release, conditional transfer or supervised release.
 - b. The date the person was or is to be released from confinement, whether on parole or otherwise, or discharged or terminated from a sentence or commitment.
 - c. The date the person entered the state.
 - d. The date the person was ordered to comply with s. 301.45.
5. The address at which the person is or will be residing.
6. The name of the agency supervising the person, if applicable, and the office or unit and telephone number of the office or unit that is responsible for the supervision of the person.
7. A description of any motor vehicle that the person owns or that is registered in the person's name. The information provided under this paragraph shall include a description of the vehicle, including make, model, license number and any other information which the department may reasonably require for proper identification of the vehicle.
8. The name and address of the place at which the person is or will be employed.
9. The name and location of any school in which the person is or will be enrolled.
10. The most recent date on which the information in the registry was updated.

(b) If the department has supervision over a person subject to sub. (1), the department shall enter into the registry under this section the information specified in par. (a) concerning the person.

(c) If the department of health and family services has supervision over a person subject to sub. (1), that department, with the assistance of the person, shall provide the information specified in par. (a) to the department of corrections in accordance with the rules under sub. (8).

(d) A person subject to sub. (1) who is not under the supervision of the department of corrections or the department of health

and family services shall provide the information specified in par. (a) to the department of corrections in accordance with the rules under sub. (8). If the person is unable to provide an item of information specified in par. (a), the department of corrections may request assistance from a circuit court or the department of health and family services in obtaining that item of information. A circuit court and the department of health and family services shall assist the department of corrections when requested to do so under this paragraph.

(e) The department of health and family services shall provide the information required under par. (c) or the person subject to sub. (1) shall provide the information required under par. (d) in accordance with whichever of the following is applicable:

1. Within 10 days after the person being placed on parole, probation, supervision, aftercare supervision, conditional release or supervised release.

2. If the person is on parole or probation from another state under s. 304.13 or 304.135, within 10 days after the person enters this state.

3. No later than 10 days before the person is terminated or discharged from a commitment.

4. If the person is being released from prison because he or she has reached the expiration date of his or her sentence, no later than 10 days before being released from prison.

5. If subd. 1., 2., 3. or 4. does not apply, within 10 days after the person is sentenced or receives a disposition.

(3) ANNUAL REGISTRATION REQUIREMENTS. (a) A person covered under sub. (1) is subject to the annual registration requirements under par. (b) as follows:

1. If the person has been placed on probation or supervision, he or she is subject to this subsection upon being placed on probation or supervision.

1m. If the person is on parole or probation from another state under s. 304.13 or 304.135, he or she is subject to this subsection upon entering this state.

2. If the person has been sentenced to prison or placed in a secured correctional facility or a secured child caring institution, he or she is subject to this subsection upon being released on parole or aftercare supervision.

2m. If the person has been sentenced to prison and is being released from prison because he or she has reached the expiration date of his or her sentence, before being released from prison.

3. If the person has been committed under s. 51.20 or 971.17, he or she is subject to this subsection upon being placed on conditional release under s. 971.17 or on a conditional transfer under s. 51.35 (1) or, if he or she was not placed on conditional release or on a conditional transfer, before he or she is terminated under s. 971.17 (5) or discharged under s. 51.35 (4) or 971.17 (6).

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

3r. If the person has been committed under ch. 980, he or she is subject to this subsection upon being placed on supervised release under s. 980.06 (2) or 980.08 or, if he or she was not placed on supervised release, before being discharged under s. 980.09 or 980.10.

4. If subd. 1., 1m., 2., 2m., 3., 3g. or 3r. does not apply, the person is subject to this subsection after he or she is sentenced or receives a disposition.

(b) 1. Except as provided in subd. 1m., a person who is subject to par. (a) shall notify the department once each calendar year, as directed by the department, of his or her current information specified in sub. (2) (a). The department shall annually notify registrants of their need to comply with this requirement.

1m. A person who is subject to par. (a) because he or she is covered under sub. (1) (dt) shall notify the department once each

90 days, as directed by the department, of his or her current information specified in sub. (2) (a). Every 90 days, the department shall notify registrants subject to this subdivision of their need to comply with this requirement.

2. The department shall notify a person who is being released from prison because he or she has reached the expiration date of his or her sentence and who is covered under sub. (1) of the need to comply with this section. Also, probation and parole agents, aftercare agents and agencies providing supervision shall notify any client who is covered under sub. (1) of the need to comply with this section at the time the client is placed on probation, parole, supervision or aftercare supervision or, if the client is on probation or parole from another state under s. 304.13 or 304.135, when the client enters this state.

3. The department of health and family services shall notify a person who is being placed on conditional release, conditional transfer or parole, or is being terminated or discharged from a commitment, under s. 51.20, 51.35 or 971.17 or ch. 975 or 980 and who is covered under sub. (1) of the need to comply with this section.

3m. After notifying a person under subd. 2. or 3. of the need to comply with this section, the person who is providing the notification shall require the person who is covered under sub. (1) to read and sign a form stating that he or she has been informed of the requirements of this section.

4. Failure to receive notice under this paragraph from the department of health and family services, the department of corrections, a probation and parole agent, an aftercare agent or an agency providing supervision is not a defense to liability under sub. (6).

(4) UPDATED INFORMATION. In addition to the requirements under sub. (3), whenever any of the information under sub. (2) (a) changes, the person shall provide the department with the updated information within 10 days after the change occurs.

(4m) INFORMATION CONCERNING A MOVE TO ANOTHER STATE. In addition to the requirements under subs. (3) and (4), a person who is covered under sub. (1) and who is changing his or her residence from this state to another state shall, no later than 10 days before he or she moves out of this state, notify the department that he or she is changing his or her residence from this state and inform the department of the state to which he or she is moving his or her residence. Upon receiving notification from a person under this subsection, the department shall inform the person whether the state to which the person is moving has sex offender registration requirements to which the person may be subject and, if so, the name of the agency to contact in that state for information concerning those requirements.

(5) RELEASE FROM REQUIREMENTS. (a) Except as provided in par. (b), a person who is covered under sub. (1) no longer has to comply with this section when the following applicable criterion is met:

1. If the person has been placed on probation or supervision, 15 years after discharge from probation or supervision.

1m. If the person is on parole or probation from another state under s. 304.13 or 304.135, 15 years after discharge from that parole or probation.

2. If the person has been sentenced to prison or placed in a secured correctional facility or a secured child caring institution, 15 years after discharge from parole or aftercare supervision.

2m. If the person has been sentenced to prison and is being released from prison because he or she has reached the expiration date of his or her sentence, 15 years after being released from prison.

3. If the person has been committed to the department of health and family services under s. 51.20 or 971.17 and is in institutional care or on conditional transfer under s. 51.35 (1) or conditional release under s. 971.17, 15 years after termination under s. 971.17 (5) or discharge under s. 51.35 (4) or 971.17 (6).

3m. If the person has been committed for specialized treatment under ch. 975, 15 years after discharge from the commitment under s. 975.09 or 975.12.

4. If subd. 1., 1m., 2., 2m., 3. or 3m. does not apply, 15 years after the date of conviction or disposition.

(b) A person who is covered under sub. (1) shall continue to comply with the requirements of this section until his or her death if any of the following apply:

1. The person has, on 2 or more separate occasions, been convicted or found not guilty or not responsible by reason of mental disease or defect for any violation, or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent, or for any violation, or for the solicitation, conspiracy or attempt to commit any violation, of a law of this state or any other state that is comparable to a violation of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30 or that is comparable to a violation of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent. A conviction that has been reversed, set aside or vacated is not a conviction for purposes of determining under this subdivision whether a person has been convicted on 2 or more separate occasions.

2. The person has been found to be a sexually violent person under ch. 980.

(6) PENALTY. (a) Whoever intentionally fails to comply with any requirement to provide information under subs. (2) to (4) may be fined not more than \$10,000 or imprisoned for not more than 9 months or both. Subject to s. 971.19 (9), a district attorney or, upon the request of a district attorney, the department of justice may prosecute a violation of this subsection. If the department of corrections determines that there is probable cause to believe that a person has intentionally failed to comply with any requirement to provide information under subs. (2) to (4), the department shall forward a certified copy of all pertinent departmental information to the applicable district attorney. The department shall certify the copy in accordance with s. 889.08.

(b) Whoever knowingly fails to keep information confidential as required under sub. (7) may be fined not more than \$500 or imprisoned for not more than 30 days or both.

(c) Notwithstanding pars. (a) and (b), a person who first became subject to subs. (2) to (4) under 1995 Wisconsin Act 440 and who was in prison or a secured correctional facility or a secured child caring institution, in institutional care, or on probation, parole, supervision, aftercare supervision, corrective sanctions supervision, conditional transfer or conditional release during the period beginning on December 25, 1993, and ending on May 30, 1997, shall be allowed until January 1, 1998, to comply with the requirements under subs. (2) to (4).

(7) INFORMATION MAINTENANCE AND EXPUNGEMENT. (a) The department shall maintain information provided under sub. (2). The department shall keep the information confidential except as provided in s. 301.46 and except as needed for law enforcement purposes.

(b) The department shall not charge a fee for providing information under this subsection.

(c) A person about whom information is maintained in the registry under sub. (2) may request expungement of all pertinent information in the registry on the grounds that his or her conviction, delinquency adjudication, finding of need of protection or services or commitment has been reversed, set aside or vacated. The department shall purge all of that information if the department receives all of the following:

1. The person's written request for expungement.

2. A certified copy of the court order reversing, setting aside or vacating the conviction, delinquency adjudication, finding of need of protection or services or commitment.

(8) RULES. The department shall promulgate rules necessary to carry out its duties under this section.

(9) COOPERATION. The department of health and family services, the department of industry, labor and job development, the department of transportation and all circuit courts shall cooperate with the department of corrections in obtaining information under this section.

NOTE: This section is shown as renumbered from s. 175.45 and affected by 1995 Wis. Act 440, all eff. 6–1–97.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45.

301.46 Access to information concerning sex offenders. (1) DEFINITIONS. In this section “agency with jurisdiction” means the state agency with the authority or duty to confine or supervise a person or release or discharge a person from confinement.

(2) ACCESS FOR LAW ENFORCEMENT AGENCIES. (a) When a person is registered with the department under s. 301.45 (2), the department shall immediately make the information specified in par. (b) available to the police chief of any community and the sheriff of any county in which the person is residing, is employed or is attending school. The department shall make information available under this paragraph through a direct electronic data transfer system.

(b) The department shall make all of the following information available under par. (a):

1. The person’s name, including any aliases used by the person.
2. Information sufficient to identify the person, including date of birth, gender, race, height, weight and hair and eye color.
3. The statute the person violated, the date of conviction, adjudication or commitment, and the county or, if the state is not this state, the state in which the person was convicted, adjudicated or committed.
4. Whichever of the following is applicable:
 - a. The date the person was placed on probation, supervision, conditional release, conditional transfer or supervised release.
 - b. The date the person was released from confinement, whether on parole or otherwise, or discharged or terminated from a sentence or commitment.
 - c. The date the person entered the state.
 - d. The date the person was ordered to comply with s. 301.45.
 - e. The address at which the person is residing.
5. The name of the agency supervising the person, if applicable, and the office or unit and telephone number of the office or unit that is responsible for the supervision of the person.
6. A description of any motor vehicle that the person owns or that is registered in the person’s name, including the information provided by the person under s. 301.45 (2) (a) 7.
7. The name and address of the place at which the person is employed.
8. The name and location of any school in which the person is enrolled.
9. The most recent date on which the information under s. 301.45 was updated.

(c) When a person who is registered under s. 301.45 (2) updates information under s. 301.45 (4), the department shall immediately make the updated information available to the police chief of any community and the sheriff of any county in which the person is residing, is employed or is attending school. The department shall make the updated information available under this paragraph through a direct electronic data transfer system.

(d) In addition to having access to information under pars. (a) and (c), a police chief or sheriff may request that the department

provide the police chief or sheriff with information concerning any person registered under s. 301.45.

(e) A police chief or sheriff may provide any of the information to which he or she has access under this subsection, other than information specified in subs. (4) (ag) and (5) (c), to an entity in the police chief’s community or the sheriff’s county that is entitled to request information under sub. (4) or to any person requesting information under sub. (5) if, in the opinion of the police chief or sheriff, providing that information is necessary to protect the public.

(2m) BULLETINS TO LAW ENFORCEMENT AGENCIES. (a) If an agency with jurisdiction confines a person under s. 301.046, provides a person entering the intensive sanctions program under s. 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases a person from confinement or institutional care, and the person has, on one occasion only, been convicted or found not guilty or not responsible by reason of mental disease or defect for any violation, or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim’s parent, or a law of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, or that is comparable to s. 940.30 or 940.31 if the victim was a minor and the person was not the victim’s parent, the agency with jurisdiction may notify the police chief of any community and the sheriff of any county in which the person will be residing, employed or attending school if the agency with jurisdiction determines that such notification is necessary to protect the public. Notification under this paragraph may be in addition to providing access to information under sub. (2) or to any other notification that an agency with jurisdiction is authorized to provide.

(am) If an agency with jurisdiction confines a person under s. 301.046, provides a person entering the intensive sanctions program under s. 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases a person from confinement or institutional care, and the person has been found to be a sexually violent person under ch. 980 or has, on 2 or more separate occasions, been convicted or found not guilty or not responsible by reason of mental disease or defect for any violation, or for the solicitation, conspiracy or attempt to commit any violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08 or 948.11 or a law of this state that is comparable to s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08 or 948.11, the agency with jurisdiction shall notify the police chief of any community and the sheriff of any county in which the person will be residing, employed or attending school. Notification under this paragraph shall be in addition to providing access to information under sub. (2) and to any other notification that an agency with jurisdiction is authorized to provide.

(b) The notification under par. (a) or (am) shall be in the form of a written bulletin to the police chief or sheriff that contains all of the following:

1. The information specified in sub. (2) (b).

2. Any other information that the agency with jurisdiction determines is necessary to assist law enforcement officers or to protect the public. Information under this subdivision may include a photograph of the person, other identifying information and a description of the person’s patterns of violation.

(c) A police chief or sheriff who receives a bulletin under this subsection may provide any of the information in the bulletin, other than information specified in subs. (4) (ag) and (5) (c), to an entity in the police chief’s community or the sheriff’s county that is entitled to request information under sub. (4) or to any person requesting information under sub. (5) if, in the opinion of the

police chief or sheriff, providing that information is necessary to protect the public.

(3) NOTIFICATION OF VICTIMS. (a) In this subsection:

1. “Member of the family” means spouse, child, parent, sibling or legal guardian.
2. “Victim” means a person against whom a crime has been committed.

(b) When a person is registered under s. 301.45 (2) or when the person informs the department of a change in information under s. 301.45 (4), the department shall notify the victim or a member of the victim’s family who has, according to the records of the department or the information provided under par. (d), requested to be notified about a person required to register under s. 301.45.

(c) The notice under par. (b) shall be a written notice to the victim or member of the victim’s family that the person required to register under s. 301.45 and specified in the information provided under par. (d) has been registered or, if applicable, has provided the department with updated information under s. 301.45 (4). The notice shall contain the information specified in sub. (2) (b) 1., 5., 6., 7. and 10. or, if applicable, the updated information.

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

(e) In addition to receiving the notice provided under par. (c), a person who receives notice under par. (b) may request that the department provide him or her with any of the information specified in sub. (2) (b) concerning the person required to register under s. 301.45.

(4) ACCESS TO INFORMATION FOR AGENCIES AND ORGANIZATIONS OTHER THAN LAW ENFORCEMENT AGENCIES. (a) Any of the following entities may request, in a form and manner specified by the department, information from the department concerning persons registered under s. 301.45:

1. A public or private elementary or secondary school.
2. A day care provider that holds a license under s. 48.65, that is certified under s. 48.651, that holds a probationary license under s. 48.69 or that is established or contracted for under s. 120.13 (14).
3. A child welfare agency licensed under s. 48.60.
4. A group home licensed under s. 48.625.
5. A shelter care facility licensed under s. 48.48.
6. A foster home or treatment foster home licensed under s. 48.62.
7. A county department under s. 46.21, 46.215, 46.22, 46.23, 51.42 or 51.437.
8. An agency providing child welfare services under s. 48.57 (2).
- 8m. The department of justice.
9. The department of public instruction.
10. The department of health and family services.
11. A neighborhood watch program authorized under s. 60.23 (17m) or by the law enforcement agency of a city or village.
12. An organized unit of the Boy Scouts of America, the Boys’ Clubs of America, the Girl Scouts of America or Camp Fire Girls.
13. The personnel office of a sheltered workshop, as defined in s. 104.01 (6).
14. Any other community–based public or private, nonprofit organization that the department determines should have access to information under this subsection in the interest of protecting the public.

(ag) The department may not provide any of the following in response to a request under par. (a):

1. Any information concerning a child who is required to register under s. 301.45.

2. If the person required to register under s. 301.45 is an adult, any information concerning a juvenile proceeding in which the person was involved.

(am) Subject to par. (ag), an entity may make a request under par. (a) for information concerning a specific person registered under s. 301.45.

(ar) Subject to par. (ag), an entity specified in par. (a) 11. may request the names of and information concerning all persons registered under s. 301.45 who reside, are employed or attend school in the entity’s community, district, jurisdiction or other applicable geographical area of activity.

(b) In response to a request under par. (a), the department shall, subject to par. (ag), provide all of the following information:

1. The name of the person who has registered under s. 301.45, including any aliases the person has used.
2. The date of the person’s conviction or commitment, and the county or, if the state is not this state, the state in which the person was convicted or committed.
3. The make, model and license number of any motor vehicle that the person owns or that is registered in the person’s name.
4. The most recent date on which the information under s. 301.45 was updated.

(c) On the request of a police chief or a sheriff, the department shall provide the police chief or sheriff with a list of entities in the police chief’s community or the sheriff’s county that have requested information under par. (a) for use by the police chief or sheriff under sub. (2) (e) or (2m) (c).

(5) ACCESS TO INFORMATION FOR GENERAL PUBLIC. (a) The department or a police chief or sheriff may provide the information specified in par. (b) concerning a specific person required to register under s. 301.45 to a person who is not provided notice or access under subs. (2) to (4) if, in the opinion of the department or the police chief or sheriff, providing the information is necessary to protect the public and if the person requesting the information does all of the following:

1. Submits a written request for information in a form and manner prescribed by the department or the police chief or sheriff. The department or a police chief or sheriff may require that a person state, in his or her written request under this subdivision, his or her purpose for requesting the information.
2. Specifies by name the person about whom he or she is requesting the information.
4. Provides any other information the police chief or sheriff considers necessary to determine accurately whether the person specified in subd. 2. is registered under s. 301.45.

(b) If the department or a police chief or sheriff provides information under par. (a), the department or police chief or sheriff shall, subject to par. (c), provide all of the following concerning the person specified in the request under par. (a) 2.:

1. The date of the person’s conviction or commitment, and the county or, if the state is not this state, the state in which the person was convicted or committed.
2. The make, model and license number of any motor vehicle that the person owns or that is registered in the person’s name.
3. The most recent date on which the information under s. 301.45 was updated.

(c) The department or a police chief or sheriff may not provide any of the following under par. (a):

1. Any information concerning a child who is required to register under s. 301.45.
2. If the person required to register under s. 301.45 is an adult, any information concerning a juvenile proceeding in which the person was involved.

(6) PERIOD OF NOTIFICATION OF AND ACCESS TO INFORMATION. (a) Except as provided in par. (b), the department or an agency with jurisdiction may provide notice of or access to information under subs. (2) to (5) concerning a person registered under s.

301.45 only during the period under s. 301.45 (5) for which the person is required to comply with s. 301.45.

(b) The department or an agency with jurisdiction may provide access to any information collected under s. 301.45, regardless of whether the person is still required to be registered, to a law enforcement agency for law enforcement purposes.

(7) IMMUNITY. A person acting under this section is immune from civil liability for any good faith act or omission regarding the release of information authorized under this section. The immunity under this subsection does not extend to a person whose act or omission constitutes gross negligence or involves reckless, wanton or intentional misconduct.

(8) RULES. The department shall promulgate rules necessary to carry out its duties under this section.

(9) EFFECT ON OPEN RECORDS REQUESTS. This section does not prohibit the department from providing to a person, in response to that person's request under s. 19.35 to inspect or copy records of the department, information that is contained in the sex offender registry under s. 301.45 concerning a person who is in the custody or under the supervision of the department if that information is also contained in records of the department, other than the sex offender registry, that are subject to inspection or copying under s. 19.35.

NOTE: This section is created eff. 6–1–97 by 1995 Wis. Act 440.
History: 1995 a. 440.