

~~\$1,000 nor more than \$50,000 and shall be imprisoned for not less than 3 months nor more than 7 years and 6 months is guilty of a Class H felony.~~

SECTION 980. 961.41 (1) (h) 3. of the statutes is amended to read:

961.41 (1) (h) 3. More than ~~2,500~~ 1,000 grams ~~but not more than 2,500 grams,~~ or more than ~~50~~ 20 plants containing tetrahydrocannabinols ~~but not more than 50 plants containing tetrahydrocannabinols,~~ the person shall be fined not less than \$1,000 nor more than \$100,000 and shall be imprisoned for not less than one year nor more than 15 years is guilty of a Class G felony.

SECTION 981. 961.41 (1) (h) 4. of the statutes is created to read:

961.41 (1) (h) 4. More than 2,500 grams but not more than 10,000 grams, or more than 50 plants containing tetrahydrocannabinols but not more than 200 plants containing tetrahydrocannabinols, the person is guilty of a Class F felony.

SECTION 982. 961.41 (1) (h) 5. of the statutes is created to read:

961.41 (1) (h) 5. More than 10,000 grams, or more than 200 plants containing tetrahydrocannabinols, the person is guilty of a Class E felony.

SECTION 983. 961.41 (1) (hm) (intro.) of the statutes, as affected by 2001 Wisconsin Act 16, is amended to read:

961.41 (1) (hm) Certain other schedule I controlled substances and ketamine.
(intro.) ~~Gamma-hydroxybutyric~~ If the person violates this subsection with respect
to gamma-hydroxybutyric acid, gamma-butyrolactone,
3,4-methylenedioxymethamphetamine,
4-bromo-2,5-dimethoxy-beta-phenylethylamine, 4-methylthioamphetamine,
ketamine, or a controlled substance analog of gamma-hydroxybutyric acid,
gamma-butyrolactone, 3,4-methylenedioxymethamphetamine,
4-bromo-2,5-dimethoxy-beta-phenylethylamine, or 4-methylthioamphetamine ~~is~~

subject to the following penalties if and the amount manufactured, distributed, or delivered is:

SECTION 984. 961.41 (1) (hm) 1. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1) (hm) 1. Three grams or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and 6 months is guilty of a Class F felony.

SECTION 985. 961.41 (1) (hm) 2. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1) (hm) 2. More than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 7 years and 6 months is guilty of a Class E felony.

SECTION 986. 961.41 (1) (hm) 3. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1) (hm) 3. More than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 22 years and 6 months is guilty of a Class D felony.

SECTION 987. 961.41 (1) (hm) 4. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1) (hm) 4. More than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 22 years and 6 months is guilty of a Class C felony.

SECTION 988. 961.41 (1) (hm) 5. of the statutes, as created by 2001 Wisconsin Act 16, is repealed.

SECTION 989. 961.41 (1) (hm) 6. of the statutes, as created by 2001 Wisconsin Act 16, is repealed.

SECTION 990. 961.41 (1) (i) of the statutes is amended to read:

961.41 (1) (i) Schedule IV drugs generally. Except as provided in par. (im), if a person violates this subsection with respect to a substance included in schedule IV, may be fined not more than \$10,000 or imprisoned for not more than 4 years and 6 months or both the person is guilty of a Class H felony.

SECTION 991. 961.41 (1) (im) (intro.) of the statutes, as affected by 2001 Wisconsin Act 16, is amended to read:

961.41 (1) (im) Flunitrazepam. (intro.) ~~Flunitrazepam is subject to the following penalties if~~ If a person violates this subsection with respect to flunitrazepam and the amount manufactured, distributed, or delivered is:

SECTION 992. 961.41 (1) (im) 1. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1) (im) 1. ~~Three grams or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and 6 months~~ is guilty of a Class F felony.

SECTION 993. 961.41 (1) (im) 2. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1) (im) 2. ~~More than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 7 years and 6 months~~ is guilty of a Class E felony.

SECTION 994. 961.41 (1) (im) 3. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1) (im) 3. More than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 22 years and 6 months is guilty of a Class D felony.

SECTION 995. 961.41 (1) (im) 4. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1) (im) 4. More than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 22 years and 6 months is guilty of a Class C felony.

SECTION 996. 961.41 (1) (im) 5. of the statutes, as created by 2001 Wisconsin Act 16, is repealed.

SECTION 997. 961.41 (1) (im) 6. of the statutes, as created by 2001 Wisconsin Act 16, is repealed.

SECTION 998. 961.41 (1) (j) of the statutes is amended to read:

961.41 (1) (j) Schedule V drugs. ~~A. If a person violates this subsection with respect to a substance included in schedule V, may be fined not more than \$5,000 or imprisoned for not more than 2 years or both the person is guilty of a Class I felony.~~

SECTION 999. 961.41 (1m) (intro.) of the statutes is amended to read:

961.41 (1m) POSSESSION WITH INTENT TO MANUFACTURE, DISTRIBUTE OR DELIVER. (intro.) Except as authorized by this chapter, it is unlawful for any person to possess, with intent to manufacture, distribute or deliver, a controlled substance or a controlled substance analog. Intent under this subsection may be demonstrated by,

without limitation because of enumeration, evidence of the quantity and monetary value of the substances possessed, the possession of manufacturing implements or paraphernalia, and the activities or statements of the person in possession of the controlled substance or a controlled substance analog prior to and after the alleged violation. Any person who violates this subsection ~~with respect to~~ is subject to the following penalties:

SECTION 1000. 961.41 (1m) (a) of the statutes is amended to read:

961.41 (1m) (a) Schedule I and II narcotic drugs generally. Except as provided in par. (d), if a person violates this subsection with respect to a controlled substance included in schedule I or II which is a narcotic drug or a controlled substance analog of a controlled substance included in schedule I or II which is a narcotic drug, may be fined not more than \$25,000 or imprisoned for not more than 22 years and 6 months or both the person is guilty of a Class E felony.

SECTION 1001. 961.41 (1m) (b) of the statutes, as affected by 2001 Wisconsin Act 16, is amended to read:

961.41 (1m) (b) Schedule I, II, and III nonnarcotic drugs generally. Except as provided in pars. (cm) and (e) to (hm), if a person violates this subsection with respect to any other controlled substance included in schedule I, II, or III, or a controlled substance analog of any other controlled substance included in schedule I or II, may be fined not more than \$15,000 or imprisoned for not more than 7 years and 6 months or both the person is guilty of a Class H felony.

SECTION 1002. 961.41 (1m) (cm) (intro.) of the statutes is amended to read:

961.41 (1m) (cm) Cocaine and cocaine base. (intro.) ~~Cocaine~~ If a person violates this subsection with respect to cocaine or cocaine base, or a controlled substance

analog of cocaine or cocaine base, ~~is subject to the following penalties if and the~~
amount possessed, with intent to manufacture, distribute or deliver, is:

SECTION 1003. 961.41 (1m) (cm) 1. of the statutes is renumbered 961.41 (1m)
(cm) 1r. and amended to read:

961.41 (1m) (cm) 1r. ~~Five grams or less~~ More than one gram but not more than
5 grams, the person shall be fined not more than \$500,000 and may be imprisoned
for not more than 15 years is guilty of a Class F felony.

SECTION 1004. 961.41 (1m) (cm) 1g. of the statutes is created to read:

961.41 (1m) (cm) 1g. One gram or less, the person is guilty of a Class G felony.

SECTION 1005. 961.41 (1m) (cm) 2. of the statutes is amended to read:

961.41 (1m) (cm) 2. More than 5 grams but not more than 15 grams, the person
shall be fined not more than \$500,000 and shall be imprisoned for not less than one
year ~~nor more than 22 years and 6 months~~ is guilty of a Class E felony.

SECTION 1006. 961.41 (1m) (cm) 3. of the statutes is amended to read:

961.41 (1m) (cm) 3. More than 15 grams but not more than 40 grams, the
person shall be fined not more than \$500,000 and shall be imprisoned for not less
than 3 years ~~nor more than 30 years~~ is guilty of a Class D felony.

SECTION 1007. 961.41 (1m) (cm) 4. of the statutes is amended to read:

961.41 (1m) (cm) 4. More than 40 grams ~~but not more than 100 grams~~, the
person shall be fined not more than \$500,000 and shall be imprisoned for not less
than 5 years ~~nor more than 45 years~~ is guilty of a Class C felony.

SECTION 1008. 961.41 (1m) (cm) 5. of the statutes is repealed.

SECTION 1009. 961.41 (1m) (d) (intro.) of the statutes is amended to read:

961.41 (1m) (d) Heroin. (intro.) Heroin If a person violates this subsection with
respect to heroin or a controlled substance analog of heroin ~~is subject to the following~~

penalties if and the amount possessed, with intent to manufacture, distribute or deliver, is:

SECTION 1010. 961.41 (1m) (d) 1. of the statutes is amended to read:

961.41 (1m) (d) 1. Three grams or less, the person ~~shall be fined not less than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 22 years and 6 months~~ is guilty of a Class F felony.

SECTION 1011. 961.41 (1m) (d) 2. of the statutes is amended to read:

961.41 (1m) (d) 2. More than 3 grams but not more than 10 grams, the person ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than 6 months nor more than 22 years and 6 months~~ is guilty of a Class E felony.

SECTION 1012. 961.41 (1m) (d) 3. of the statutes is amended to read:

961.41 (1m) (d) 3. More than 10 grams but not more than 50 grams, the person ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 22 years and 6 months~~ is guilty of a Class D felony.

SECTION 1013. 961.41 (1m) (d) 4. of the statutes is amended to read:

961.41 (1m) (d) 4. More than 50 grams ~~but not more than 200 grams~~, the person ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 22 years and 6 months~~ is guilty of a Class C felony.

SECTION 1014. 961.41 (1m) (d) 5. of the statutes is repealed.

SECTION 1015. 961.41 (1m) (d) 6. of the statutes is repealed.

SECTION 1016. 961.41 (1m) (e) (intro.) of the statutes is amended to read:

961.41 (1m) (e) Phencyclidine, amphetamine, methamphetamine, and methcathinone. (intro.) Phencyclidine If a person violates this subsection with respect to phencyclidine, amphetamine, methamphetamine, or methcathinone, or a controlled substance analog of phencyclidine, amphetamine, methamphetamine, or methcathinone, is subject to the following penalties if and the amount possessed, with intent to manufacture, distribute, or deliver, is:

SECTION 1017. 961.41 (1m) (e) 1. of the statutes is amended to read:

961.41 (1m) (e) 1. Three grams or less, the person ~~shall be fined not less than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 7 years and 6 months~~ is guilty of a Class F felony.

SECTION 1018. 961.41 (1m) (e) 2. of the statutes is amended to read:

961.41 (1m) (e) 2. More than 3 grams but not more than 10 grams, the person ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than 6 months nor more than 7 years and 6 months~~ is guilty of a Class E felony.

SECTION 1019. 961.41 (1m) (e) 3. of the statutes is amended to read:

961.41 (1m) (e) 3. More than 10 grams but not more than 50 grams, the person ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 22 years and 6 months~~ is guilty of a Class D felony.

SECTION 1020. 961.41 (1m) (e) 4. of the statutes is amended to read:

961.41 (1m) (e) 4. More than 50 grams ~~but not more than 200 grams,~~ the person ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 22 years and 6 months~~ is guilty of a Class C felony.

SECTION 1021. 961.41 (1m) (e) 5. of the statutes is repealed.

SECTION 1022. 961.41 (1m) (e) 6. of the statutes is repealed.

SECTION 1023. 961.41 (1m) (em) of the statutes is repealed.

SECTION 1024. 961.41 (1m) (f) (intro.) of the statutes is amended to read:

961.41 (1m) (f) Lysergic acid diethylamide. (intro.) ~~Lysergie~~ If a person violates this subsection with respect to lysergic acid diethylamide or a controlled substance analog of lysergic acid diethylamide is subject to the following penalties if and the amount possessed, with intent to manufacture, distribute or deliver, is:

SECTION 1025. 961.41 (1m) (f) 1. of the statutes is amended to read:

961.41 (1m) (f) 1. One gram or less, the person shall be fined not less than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 7 years and 6 months is guilty of a Class G felony.

SECTION 1026. 961.41 (1m) (f) 2. of the statutes is amended to read:

961.41 (1m) (f) 2. More than one gram but not more than 5 grams, the person shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than 6 months nor more than 7 years and 6 months is guilty of a Class F felony.

SECTION 1027. 961.41 (1m) (f) 3. of the statutes is amended to read:

961.41 (1m) (f) 3. More than 5 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 22 years and 6 months is guilty of a Class E felony.

SECTION 1028. 961.41 (1m) (g) (intro.) of the statutes is amended to read:

961.41 (1m) (g) Psilocin and psilocybin. (intro.) ~~Psilocin~~ If a person violates this subsection with respect to psilocin or psilocybin, or a controlled substance analog

of psilocin or psilocybin, ~~is subject to the following penalties if~~ and the amount possessed, with intent to manufacture, distribute or deliver, is:

SECTION 1029. 961.41 (1m) (g) 1. of the statutes is amended to read:

961.41 (1m) (g) 1. One hundred grams or less, the person ~~shall be fined not less than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 7 years and 6 months~~ is guilty of a Class G felony.

SECTION 1030. 961.41 (1m) (g) 2. of the statutes is amended to read:

961.41 (1m) (g) 2. More than 100 grams but not more than 500 grams, the person ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than 6 months nor more than 7 years and 6 months~~ is guilty of a Class F felony.

SECTION 1031. 961.41 (1m) (g) 3. of the statutes is amended to read:

961.41 (1m) (g) 3. More than 500 grams, the person ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 22 years and 6 months~~ is guilty of a Class E felony.

SECTION 1032. 961.41 (1m) (h) (intro.) of the statutes is amended to read:

961.41 (1m) (h) Tetrahydrocannabinols. (intro.) ~~Tetrahydrocannabinols~~ If a person violates this subsection with respect to tetrahydrocannabinols, included under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, is subject to the following penalties if and the amount possessed, with intent to manufacture, distribute, or deliver, is:

SECTION 1033. 961.41 (1m) (h) 1. of the statutes is amended to read:

961.41 (1m) (h) 1. ~~Five~~ Two hundred grams or less, or ~~10~~ 4 or fewer plants containing tetrahydrocannabinols, the person ~~shall be fined not less than \$500 nor~~

~~more than \$25,000 and may be imprisoned for not more than 4 years and 6 months is guilty of a Class I felony.~~

SECTION 1034. 961.41 (1m) (h) 2. of the statutes is amended to read:

961.41 (1m) (h) 2. More than ~~500~~ 200 grams but not more than ~~2,500~~ 1,000 grams, or more than ~~10~~ 4 plants containing tetrahydrocannabinols but not more than ~~50~~ 20 plants containing tetrahydrocannabinols, the person shall be ~~fined not less than \$1,000 nor more than \$50,000 and shall be imprisoned for not less than 3 months nor more than 7 years and 6 months~~ is guilty of a Class H felony.

SECTION 1035. 961.41 (1m) (h) 3. of the statutes is amended to read:

961.41 (1m) (h) 3. More than ~~2,500~~ 1,000 grams but not more than 2,500 grams, or more than ~~50~~ 20 plants containing tetrahydrocannabinols but not more than 50 plants containing tetrahydrocannabinols, the person shall be ~~fined not less than \$1,000 nor more than \$100,000 and shall be imprisoned for not less than one year nor more than 15 years~~ is guilty of a Class G felony.

SECTION 1036. 961.41 (1m) (h) 4. of the statutes is created to read:

961.41 (1m) (h) 4. More than 2,500 grams but not more than 10,000 grams, or more than 50 plants containing tetrahydrocannabinols but not more than 200 plants containing tetrahydrocannabinols, the person is guilty of a Class F felony.

SECTION 1037. 961.41 (1m) (h) 5. of the statutes is created to read:

961.41 (1m) (h) 5. More than 10,000 grams, or more than 200 plants containing tetrahydrocannabinols, the person is guilty of a Class E felony.

SECTION 1038. 961.41 (1m) (hm) (intro.) of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1m) (hm) Certain other schedule I controlled substances and ketamine.
(intro.) ~~Gamma-hydroxybutyric~~ If the person violates this subsection with respect

to gamma-hydroxybutyric acid, gamma-butyrolactone,
3,4-methylenedioxymethamphetamine
4-bromo-2,5-dimethoxy-beta-phenylethylamine, 4-methylthioamphetamine,
ketamine, or a controlled substance analog of gamma-hydroxybutyric acid,
gamma-butyrolactone, 3,4-methylenedioxymethamphetamine
4-bromo-2,5-dimethoxy-beta-phenylethylamine, or 4-methylthioamphetamine is
subject to the following penalties if the amount possessed, with intent to
manufacture, distribute, or deliver is:

SECTION 1039. 961.41 (1m) (hm) 1. of the statutes, as created by 2001
Wisconsin Act 16, is amended to read:

961.41 (1m) (hm) 1. Three grams or less, the person shall be ~~fined not less than
\$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and
6 months is guilty of a Class F felony.~~

SECTION 1040. 961.41 (1m) (hm) 2. of the statutes, as created by 2001
Wisconsin Act 16, is amended to read:

961.41 (1m) (hm) 2. More than 3 grams but not more than 10 grams, the person
shall be ~~fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned
for not less than 6 months nor more than 7 years and 6 months is guilty of a Class
E felony.~~

SECTION 1041. 961.41 (1m) (hm) 3. of the statutes, as created by 2001
Wisconsin Act 16, is amended to read:

961.41 (1m) (hm) 3. More than 10 grams but not more than 50 grams, the
person shall be ~~fined not less than \$1,000 nor more than \$500,000 and shall be
imprisoned for not less than one year nor more than 22 years and 6 months is guilty
of a Class D felony.~~

SECTION 1042. 961.41 (1m) (hm) 4. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1m) (hm) 4. More than 50 grams ~~but not more than 200 grams~~, the person ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 22 years and 6 months~~ is guilty of a Class C felony.

SECTION 1043. 961.41 (1m) (hm) 5. of the statutes, as created by 2001 Wisconsin Act 16, is repealed.

SECTION 1044. 961.41 (1m) (hm) 6. of the statutes, as created by 2001 Wisconsin Act 16, is repealed.

SECTION 1045. 961.41 (1m) (i) of the statutes is amended to read:

961.41 (1m) (i) Schedule IV drugs generally. Except as provided in par. (im), if a person violates this subsection with respect to a substance included in schedule IV, may be fined not more than \$10,000 or imprisoned for not more than 4 years and 6 months or both the person is guilty of a Class H felony.

SECTION 1046. 961.41 (1m) (im) (intro.) of the statutes, as affected by 2001 Wisconsin Act 16, is amended to read:

961.41 (1m) (im) Flunitrazepam. (intro.) ~~Flunitrazepam is subject to the following penalties if~~ If a person violates this subsection with respect to flunitrazepam and the amount possessed, with intent to manufacture, distribute, or deliver, is:

SECTION 1047. 961.41 (1m) (im) 1. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1m) (im) 1. Three grams or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and 6 months is guilty of a Class F felony.

SECTION 1048. 961.41 (1m) (im) 2. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1m) (im) 2. More than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 7 years and 6 months is guilty of a Class E felony.

SECTION 1049. 961.41 (1m) (im) 3. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1m) (im) 3. More than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 22 years and 6 months is guilty of a Class D felony.

SECTION 1050. 961.41 (1m) (im) 4. of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

961.41 (1m) (im) 4. More than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 22 years and 6 months is guilty of a Class C felony.

SECTION 1051. 961.41 (1m) (im) 5. of the statutes, as created by 2001 Wisconsin Act 16, is repealed.

SECTION 1052. 961.41 (1m) (im) 6. of the statutes, as created by 2001 Wisconsin Act 16, is repealed.

SECTION 1053. 961.41 (1m) (j) of the statutes is amended to read:

961.41 (1m) (j) Schedule V drugs. ~~A- If a person violates this subsection with respect to a substance included in schedule V, may be fined not more than \$5,000 or imprisoned for not more than 2 years or both~~ the person is guilty of a Class I felony.

SECTION 1054. 961.41 (1n) (c) of the statutes is amended to read:

961.41 (1n) (c) A person who violates par. (a) or (b) ~~may be fined not more than \$250,000 or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony.

SECTION 1055. 961.41 (1q) of the statutes is amended to read:

961.41 (1q) PENALTY RELATING TO TETRAHYDROCANNABINOLS IN CERTAIN CASES. Under s. 961.49 (2), 1999 stats., and subs. (1) (h) and (1m) (h) ~~and s. 961.49 (2),~~ if different penalty provisions apply to a person depending on whether the weight of tetrahydrocannabinols or the number of plants containing tetrahydrocannabinols is considered, the greater penalty provision applies.

SECTION 1056. 961.41 (1r) of the statutes is amended to read:

961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE. In determining amounts under s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m) ~~and s. 961.49 (2) (b),~~ an amount includes the weight of cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, methcathinone or tetrahydrocannabinols or any controlled substance analog of any of these substances together with any compound, mixture, diluent, plant material or other substance mixed or combined with the controlled substance or controlled substance analog. In addition, in determining amounts under subs. (1) (h) and (1m) (h), the amount of tetrahydrocannabinols means anything included under s. 961.14 (4) (t) and includes the weight of any marijuana.

SECTION 1057. 961.41 (2) (intro.) of the statutes is amended to read:

961.41 (2) COUNTERFEIT SUBSTANCES. (intro.) Except as authorized by this chapter, it is unlawful for any person to create, manufacture, distribute, deliver or possess with intent to distribute or deliver, a counterfeit substance. Any person who violates this subsection ~~with respect to~~ is subject to the following penalties:

SECTION 1058. 961.41 (2) (a) of the statutes is amended to read:

961.41 (2) (a) Counterfeit schedule I and II narcotic drugs. ~~-A- If a person violates this subsection with respect to a counterfeit substance included in schedule I or II which is a narcotic drug, may be fined not more than \$25,000 or imprisoned for not more than 22 years and 6 months or both~~ the person is guilty of a Class E felony.

SECTION 1059. 961.41 (2) (b) of the statutes, as affected by 2001 Wisconsin Act 16, is amended to read:

961.41 (2) (b) Counterfeit schedule I, II, III, and IV drugs. Except as provided in pars. (a) and (bm), and (cm), if a person violates this subsection with respect to any other counterfeit substance included in schedule I, II or, III, may be fined not more than \$15,000 or imprisoned for not more than 7 years and 6 months or both or IV, the person is guilty of a Class H felony.

SECTION 1060. 961.41 (2) (c) of the statutes is repealed.

SECTION 1061. 961.41 (2) (cm) (title) of the statutes is created to read:

961.41 (2) (cm) (title) *Counterfeit flunitrazepam.*

SECTION 1062. 961.41 (2) (d) of the statutes is amended to read:

961.41 (2) (d) Counterfeit schedule V drugs. ~~-A- If a person violates this subsection with respect to a counterfeit substance included in schedule V, may be fined not more than \$5,000 or imprisoned for not more than 2 years or both~~ the person is guilty of a Class I felony.

SECTION 1063. 961.41 (3g) (a) 1. of the statutes is renumbered 961.41 (3g) (am) and amended to read:

961.41 (3g) (am) Schedule I and II narcotic drugs. ~~Except as provided in subd. 2., if the~~ If a person possesses a controlled substance included in schedule I or II which is a narcotic drug, or possesses a controlled substance analog of a controlled substance included in schedule I or II which is a narcotic drug, the person may, upon a first conviction, be fined not more than \$5,000 or imprisoned for not more than 2 years or both, and, for a 2nd or subsequent offense, the person may be fined not more than \$10,000 or imprisoned for not more than 3 years or both is guilty of a Class I felony.

SECTION 1064. 961.41 (3g) (a) 2. of the statutes is repealed.

SECTION 1065. 961.41 (3g) (a) 3. of the statutes is repealed.

SECTION 1066. 961.41 (3g) (b) of the statutes is amended to read:

961.41 (3g) (b) Other drugs generally. ~~Except as provided in pars. (c), (d), (dm),~~ (e) and (f), if the person possesses or attempts to possess a controlled substance or controlled substance analog, other than a controlled substance included in schedule I or II that is a narcotic drug or a controlled substance analog of a controlled substance included in schedule I or II that is a narcotic drug, the person is guilty of a misdemeanor, punishable under s. 939.61.

SECTION 1067. 961.41 (3g) (c) of the statutes is amended to read:

961.41 (3g) (c) Cocaine and cocaine base. If a person possess or attempts to possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine base, the person shall be fined not more than \$5,000 and may be imprisoned for not more than one year in the county jail upon a first conviction and is guilty of a Class I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense

is considered a 2nd or subsequent offense if, prior to the offender's conviction of the offense, the offender has at any time been convicted of any felony or misdemeanor under this chapter or under any statute of the United States or of any state relating to controlled substances, controlled substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or hallucinogenic drugs.

SECTION 1068. 961.41 (3g) (d) of the statutes is amended to read:

961.41 (3g) (d) *Certain hallucinogenic and stimulant drugs.* If a person possesses or attempts to possess lysergic acid diethylamide, phencyclidine, amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, or a controlled substance analog of lysergic acid diethylamide, phencyclidine, amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, the person may be fined not more than \$5,000 or imprisoned for not more than one year in the county jail or both upon a first conviction and is guilty of a Class I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense is considered a 2nd or subsequent offense if, prior to the offender's conviction of the offense, the offender has at any time been convicted of any felony or misdemeanor under this chapter or under any statute of the United States or of any state relating to controlled substances, controlled substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or hallucinogenic drugs.

SECTION 1069. 961.41 (3g) (dm) of the statutes is repealed.

SECTION 1070. 961.41 (3g) (e) of the statutes is amended to read:

961.41 (3g) (e) *Tetrahydrocannabinols.* If a person possesses or attempts to possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, the person may be fined not more than \$1,000 or imprisoned for not more than 6 months or both upon a first conviction and

is guilty of a Class I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense is considered a 2nd or subsequent offense if, prior to the offender's conviction of the offense, the offender has at any time been convicted of any felony or misdemeanor under this chapter or under any statute of the United States or of any state relating to controlled substances, controlled substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or hallucinogenic drugs.

SECTION 1071. 961.41 (3g) (f) of the statutes is amended to read:

961.41 (3g) (f) *Gamma-hydroxybutyric acid, gamma-butyrolactone, ketamine, or flunitrazepam.* If a person possesses or attempts to possess gamma-hydroxybutyric acid, gamma-butyrolactone, ketamine or flunitrazepam, the person may be fined not more than \$5,000 or imprisoned for not more than 2 years or both is guilty of a Class H felony.

SECTION 1072. 961.41 (4) (am) 3. of the statutes is amended to read:

961.41 (4) (am) 3. A person ~~convicted of violating~~ who violates this paragraph may be fined not more than \$5,000 or imprisoned for not more than 2 years or both is guilty of a Class I felony.

SECTION 1073. 961.42 (2) of the statutes is amended to read:

961.42 (2) Any person who violates this section ~~may be fined not more than \$25,000 or imprisoned not more than 2 years or both~~ is guilty of a Class I felony.

SECTION 1074. 961.43 (2) of the statutes is amended to read:

961.43 (2) Any person who violates this section ~~may be fined not more than \$30,000 or imprisoned not more than 6 years or both~~ is guilty of a Class H felony.

SECTION 1075. 961.437 (4) (a) of the statutes is amended to read:

961.437 (4) (a) For a first offense, the person ~~shall be fined not less than \$1,000 nor more than \$100,000 or imprisoned for not more than 7 years and 6 months or both~~ is guilty of a Class H felony.

SECTION 1076. 961.437 (4) (b) of the statutes is amended to read:

961.437 (4) (b) For a 2nd or subsequent offense, the person shall be fined not less than \$5,000 ~~nor more than \$150,000 or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony.

SECTION 1077. 961.438 of the statutes is repealed.

SECTION 1078. 961.455 (1) of the statutes is amended to read:

961.455 (1) Any person who has attained the age of 17 years who knowingly solicits, hires, directs, employs or uses a person who is under the age of 17 years of age or under for the purpose of violating s. 961.41 (1) ~~may be fined not more than \$50,000 or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony.

SECTION 1079. 961.455 (3) of the statutes is amended to read:

961.455 (3) Solicitation under sub. (1) occurs in the manner described under s. 939.30, but the penalties under sub. (1) apply instead of the penalties under s. 939.30 ~~or 948.35.~~

SECTION 1080. 961.46 (1) of the statutes is renumbered 961.46 and amended to read:

961.46 Distribution to persons under age 18. ~~Except as provided in sub. (3), any~~ If a person 17 years of age or over who violates s. 961.41 (1) by distributing or delivering a controlled substance included in schedule I or II which is a narcotic drug or a controlled substance analog of a controlled substance included in schedule I or II which is a narcotic drug to a person 17 years of age or under who is at least 3 years his or her junior is punishable by the fine authorized by s. 961.41 (1) (a) or

a term of imprisonment of up to twice that authorized by s. 961.41 (1) (a), or both, the applicable maximum term of imprisonment prescribed under s. 961.41 (1) for the offense may be increased by not more than 5 years.

SECTION 1081. 961.46 (2) of the statutes is repealed.

SECTION 1082. 961.46 (3) of the statutes is repealed.

SECTION 1083. 961.465 of the statutes is repealed.

SECTION 1084. 961.472 (2) of the statutes is amended to read:

961.472 (2) Except as provided in sub. (5), if a person pleads guilty or is found guilty of possession or attempted possession of a controlled substance or controlled substance analog under s. 961.41 (3g) ~~(a) 2, (am), (c), or (d) or (dm)~~, the court shall order the person to comply with an assessment of the person's use of controlled substances. The court's order shall designate a facility that is operated by or pursuant to a contract with the county department established under s. 51.42 and that is certified by the department of health and family services to provide assessment services to perform the assessment and, if appropriate, to develop a proposed treatment plan. The court shall notify the person that noncompliance with the order limits the court's ability to determine whether the treatment option under s. 961.475 is appropriate. The court shall also notify the person of the fee provisions under s. 46.03 (18) (fm).

SECTION 1085. 961.48 (1) of the statutes is renumbered 961.48 (1) (intro.) and amended to read:

961.48 (1) (intro.) ~~Except as provided in subs. (2) and (4), any~~ If a person who is charged under sub. (2m) with a felony offense under this chapter that is a 2nd or subsequent offense as provided under this chapter sub. (3) and the person is convicted of that 2nd or subsequent offense ~~may be fined an amount up to twice that~~

~~otherwise authorized or imprisoned for a term up to twice the term otherwise authorized or both.~~ the maximum term of imprisonment for the offense may be increased as follows:

SECTION 1086. 961.48 (1) (a) and (b) of the statutes are created to read:

961.48 (1) (a) By not more than 6 years, if the offense is a Class C or D felony.

(b) By not more than 4 years, if the offense is a Class E, F, G, H, or I felony.

SECTION 1087. 961.48 (2) of the statutes is repealed.

SECTION 1088. 961.48 (2m) (a) of the statutes is amended to read:

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

SECTION 1089. 961.48 (3) of the statutes is amended to read:

961.48 (3) For purposes of this section, ~~an~~ a felony offense under this chapter is considered a 2nd or subsequent offense if, prior to the offender's conviction of the offense, the offender has at any time been convicted of any felony or misdemeanor offense under this chapter or under any statute of the United States or of any state relating to controlled substances or controlled substance analogs, narcotic drugs, marijuana or depressant, stimulant or hallucinogenic drugs.

SECTION 1090. 961.48 (4) of the statutes is repealed.

SECTION 1091. 961.49 (1) of the statutes is renumbered 961.49, and 961.49 (intro.), as renumbered, is amended to read:

961.49 Distribution of or possession with intent to deliver a controlled substance on or near certain places. (intro.) If any person violates s. 961.41 (1) (cm), (d), (e), ~~(em)~~, (f), (g) or (h) by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (e), ~~(em)~~, (f), (g) or (h) by possessing with intent to deliver or distribute, cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, methcathinone or any form of tetrahydrocannabinols or a controlled substance analog of any of these substances and the delivery, distribution or possession takes place under any of the following circumstances, the maximum term of imprisonment prescribed by law for that crime may be increased by 5 years:

SECTION 1092. 961.49 (2) of the statutes is repealed.

SECTION 1093. 961.49 (3) of the statutes is repealed.

SECTION 1094. 961.492 of the statutes is repealed.

SECTION 1095. 961.55 (1) (d) 3. of the statutes is amended to read:

961.55 (1) (d) 3. A vehicle is not subject to forfeiture for a violation of s. 961.41 (3g) (b), (c), (d), ~~(dm)~~, (e) or (f); and

SECTION 1096. 961.573 (3) of the statutes is amended to read:

961.573 (3) No person may use, or possess with the primary intent to use, drug paraphernalia to manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack or store methamphetamine or a controlled substance analog of methamphetamine in violation of this chapter. Any person who violates this subsection ~~may be fined not more than \$10,000 or imprisoned for not more than 5 years or both~~ is guilty of a Class H felony.

SECTION 1097. 961.574 (3) of the statutes is amended to read:

961.574 (3) No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack or store methamphetamine or a controlled substance analog of methamphetamine in violation of this chapter. Any person who violates this subsection ~~may be fined not more than \$10,000 or imprisoned for not more than 5 years or both~~ is guilty of a Class H felony.

SECTION 1098. 961.575 (3) of the statutes is amended to read:

961.575 (3) Any person 17 years of age or over who violates s. 961.574 (3) by delivering drug paraphernalia to a person 17 years of age or under ~~may be fined not more than \$50,000 or imprisoned for not more than 10 years or both~~ is guilty of a Class G felony.

SECTION 1099. 967.04 (9) of the statutes is amended to read:

967.04 (9) In any criminal prosecution or juvenile fact-finding hearing under s. 48.31 or 938.31, the court may admit into evidence a videotaped deposition taken under subs. (7) and (8) without an additional hearing under s. 908.08. In any proceeding under s. ~~302.113 (9) (am), 302.114 (9) (am),~~ 304.06 (3), or 973.10 (2), the hearing examiner may order and preside at the taking of a videotaped deposition using the procedure provided in subs. (7) and (8) and may admit the videotaped deposition into evidence without an additional hearing under s. 908.08.

SECTION 1100. 968.255 (1) (a) 2. of the statutes is amended to read:

968.255 (1) (a) 2. Arrested for any misdemeanor under s. 167.30, 940.19, 941.20 (1), 941.23, 941.237, 941.24, 948.60, ~~948.605 (2) (a)~~ or 948.61.

SECTION 1101. 968.31 (1) (intro.) of the statutes is amended to read:

968.31 (1) (intro.) Except as otherwise specifically provided in ss. 196.63 or 968.28 to 968.30, whoever commits any of the acts enumerated in this section ~~may be fined not more than \$10,000 or imprisoned for not more than 7 years and 6 months or both~~ is guilty of a Class H felony:

SECTION 1102. 968.34 (3) of the statutes is amended to read:

968.34 (3) Whoever knowingly violates sub. (1) shall may be fined not more than \$10,000 or imprisoned for not more than ~~2 years~~ 9 months or both.

SECTION 1103. 968.43 (3) of the statutes is amended to read:

968.43 (3) Any person who violates an oath or affirmation required by sub. (2) ~~may be imprisoned for not more than 7 years and 6 months~~ is guilty of a Class H felony.

SECTION 1104. 969.08 (10) (a) of the statutes is amended to read:

969.08 (10) (a) "Commission of a serious crime" includes a solicitation, conspiracy or attempt, under ~~s. 948.35, 1999 stats., or s. 939.30, 939.31, or 939.32 or 948.35~~, to commit a serious crime.

SECTION 1105. 969.08 (10) (b) of the statutes is amended to read:

969.08 (10) (b) "Serious crime" means any crime specified in ~~s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), (1m) or (1r), 943.30, 943.32, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07 or 948.30.~~

SECTION 1106. 971.17 (1) of the statutes is renumbered 971.17 (1) (a) and amended to read:

971.17 (1) (a) Felonies committed before the effective date of this paragraph [revisor inserts date]. ~~When~~ Except as provided in par. (c), when a defendant is found not guilty by reason of mental disease or mental defect of a felony committed before the effective date of this paragraph [revisor inserts date], the court shall commit the person to the department of health and family services for a specified period not exceeding two-thirds of the maximum term of imprisonment that could be imposed under s. 973.15 (2) (a) against an offender convicted of the same crime or crimes felony, including imprisonment authorized by ~~ss. 346.65 (2) (f), (2j) (d) or (3m), 939.62, 939.621, 939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b), 940.25 (1b) and 961.48 and other~~ any applicable penalty enhancement statutes, as applicable, subject to the credit provisions of s. 973.155.

(c) Felonies punishable by life imprisonment. ~~If the maximum term of imprisonment is~~ a defendant is found not guilty by reason of mental disease or mental defect of a felony that is punishable by life imprisonment, the commitment period specified by the court may be life, subject to termination under sub. (5).

SECTION 1107. 971.17 (1) (b) of the statutes is created to read:

971.17 (1) (b) Felonies committed on or after the effective date of this paragraph [revisor inserts date]. Except as provided in par. (c), when a defendant is found not guilty by reason of mental disease or mental defect of a felony committed on or after the effective date of this paragraph [revisor inserts date], the court shall commit the person to the department of health and family services for a specified period not exceeding the maximum term of confinement in prison that could be imposed on an offender convicted of the same felony, plus imprisonment authorized

by any applicable penalty enhancement statutes, subject to the credit provisions of s. 973.155.

SECTION 1108. 971.17 (1) (d) of the statutes is created to read:

971.17 (1) (d) *Misdemeanors*. When a defendant is found not guilty by reason of mental disease or mental defect of a misdemeanor, the court shall commit the person to the department of health and family services for a specified period not exceeding two-thirds of the maximum term of imprisonment that could be imposed against an offender convicted of the same misdemeanor, including imprisonment authorized by any applicable penalty enhancement statutes, subject to the credit provisions of s. 973.155.

SECTION 1109. 971.365 (1) (a) of the statutes is amended to read:

971.365 (1) (a) In any case under s. 961.41 (1) (em), 1999 stats., or s. 961.41 (1) (cm), (d), (e), ~~(em)~~, (f), (g) or (h) involving more than one violation, all violations may be prosecuted as a single crime if the violations were pursuant to a single intent and design.

SECTION 1110. 971.365 (1) (b) of the statutes is amended to read:

971.365 (1) (b) In any case under s. 961.41 (1m) (em), 1999 stats., or s. 961.41 (1m) (cm), (d), (e), ~~(em)~~, (f), (g) or (h) involving more than one violation, all violations may be prosecuted as a single crime if the violations were pursuant to a single intent and design.

SECTION 1111. 971.365 (1) (c) of the statutes is amended to read:

971.365 (1) (c) In any case under s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41 (3g) (dm), 1999 stats., or s. 961.41 (3g) (a) 2. ~~(am)~~, (c), (d), ~~(dm)~~ or (e) involving more than one violation, all violations may be prosecuted as a single crime if the violations were pursuant to a single intent and design.

SECTION 1112. 971.365 (2) of the statutes is amended to read:

971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent prosecution for any acts in violation of s. 961.41 (1) (em), 1999 stats., s. 961.41 (1m) (em), 1999 stats., s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41 (3g) (dm), 1999 stats., or s. 961.41 (1) (cm), (d), (e), (em), (f), (g), or (h), (1m) (cm), (d), (e), (em), (f), (g), or (h) or (3g) (a) 2. (am), (c), (d), (dm) or (e) on which no evidence was received at the trial on the original charge.

SECTION 1113. 972.15 (2c) of the statutes is amended to read:

972.15 (2c) If the defendant is subject to being sentenced under s. 973.01 and he or she satisfies the criteria under s. 302.045 (2) (b) and (c), the person preparing the presentence investigation report shall include in the report a recommendation as to whether the defendant should be eligible for the challenge incarceration program under s. 302.045.

SECTION 1114. 973.01 (1) of the statutes is amended to read:

973.01 (1) BIFURCATED SENTENCE REQUIRED. Except as provided in sub. (3), whenever a court sentences a person to imprisonment in the Wisconsin state prisons for a felony committed on or after December 31, 1999, or a misdemeanor committed on or after the effective date of this subsection ... [revisor inserts date], the court shall impose a bifurcated sentence ~~that consists of a term of confinement in prison followed by a term of extended supervision under s. 302.113~~ this section.

SECTION 1115. 973.01 (2) (intro.) of the statutes is amended to read:

973.01 (2) STRUCTURE OF BIFURCATED SENTENCES. (intro.) ~~The court shall ensure that a~~ A bifurcated sentence is a sentence that consists of a term of confinement in prison followed by a term of extended supervision under s. 302.113. The total length of a bifurcated sentence equals the length of the term of confinement in prison plus

the length of the term of extended supervision. An order imposing a bifurcated sentence imposed under sub. (1) complies this section shall comply with all of the following:

SECTION 1116. 973.01 (2) (a) of the statutes is amended to read:

973.01 (2) (a) *Total length of bifurcated sentence.* Except as provided in par. (c), the total length of the bifurcated sentence may not exceed the maximum period of imprisonment for the specified in s. 939.50 (3), if the crime is a classified felony, or the maximum term of imprisonment provided by statute for the crime, if the crime is not a classified felony, plus additional imprisonment authorized by any applicable penalty enhancement statutes.

SECTION 1117. 973.01 (2) (b) (intro.) of the statutes is amended to read:

973.01 (2) (b) *Imprisonment Confinement portion of bifurcated sentence.* (intro.) The portion of the bifurcated sentence that imposes a term of confinement in prison may not be less than one year, ~~subject to any minimum sentence prescribed for the felony,~~ and, except as provided in par. (c), may not exceed is subject to whichever of the following limits is applicable:

SECTION 1118. 973.01 (2) (b) 2. of the statutes is repealed.

SECTION 1119. 973.01 (2) (b) 3. of the statutes is amended to read:

973.01 (2) (b) 3. For a Class C felony, the term of confinement in prison may not exceed ~~10~~ 25 years.

SECTION 1120. 973.01 (2) (b) 4. of the statutes is amended to read:

973.01 (2) (b) 4. For a Class D felony, the term of confinement in prison may not exceed ~~5~~ 15 years.

SECTION 1121. 973.01 (2) (b) 5. of the statutes is amended to read:

973.01 (2) (b) 5. For a Class E felony, the term of confinement in prison may not exceed 2 10 years.

SECTION 1122. 973.01 (2) (b) 6. of the statutes is renumbered 973.01 (2) (b) 10. (intro.) and amended to read:

973.01 (2) (b) 10. (intro.) For any felony crime other than ~~a felony specified in subds. 1. to 5. one of the following~~, the term of confinement in prison may not exceed 75% of the total length of the bifurcated sentence.;

SECTION 1123. 973.01 (2) (b) 6m. of the statutes is created to read:

973.01 (2) (b) 6m. For a Class F felony, the term of confinement in prison may not exceed 7 years and 6 months.

SECTION 1124. 973.01 (2) (b) 7. of the statutes is created to read:

973.01 (2) (b) 7. For a Class G felony, the term of confinement in prison may not exceed 5 years.

SECTION 1125. 973.01 (2) (b) 8. of the statutes is created to read:

973.01 (2) (b) 8. For a Class H felony, the term of confinement in prison may not exceed 3 years.

SECTION 1126. 973.01 (2) (b) 9. of the statutes is created to read:

973.01 (2) (b) 9. For a Class I felony, the term of confinement in prison may not exceed one year and 6 months.

SECTION 1127. 973.01 (2) (b) 10. a. and b. of the statutes are created to read:

973.01 (2) (b) 10. a. A felony specified in subds. 1. to 9.

b. An attempt to commit a classified felony if the attempt is punishable under s. 939.32 (1) (intro.).

SECTION 1128. 973.01 (2) (c) of the statutes is renumbered 973.01 (2) (c) 1. and amended to read:

973.01 (2) (c) 1. The Subject to the minimum period of extended supervision required under par. (d), the maximum term of confinement in prison specified in par. (b) may be increased by any applicable penalty enhancement statute. If the maximum term of confinement in prison specified in par. (b) is increased under this paragraph, the total length of the bifurcated sentence that may be imposed is increased by the same amount.

SECTION 1129. 973.01 (2) (c) 2. of the statutes is created to read:

973.01 (2) (c) 2. If more than one of the following penalty enhancement statutes apply to a crime, the court shall apply them in the order listed in calculating the maximum term of imprisonment for that crime:

- a. Sections 939.621, 939.632, 939.645, 961.46, and 961.49.
- b. Section 939.63.
- c. Section 939.62 (1) or 961.48.

SECTION 1130. 973.01 (2) (d) of the statutes is renumbered 973.01 (2) (d) (intro.) and amended to read:

973.01 (2) (d) *Minimum and maximum term of extended supervision.* (intro.)
The term of extended supervision ~~that follows the term of confinement in prison~~ may not be less than 25% of the length of the term of confinement in prison imposed under par. (b). and, for a classified felony, is subject to whichever of the following limits is applicable:

SECTION 1131. 973.01 (2) (d) 1. to 6. of the statutes are created to read:

973.01 (2) (d) 1. For a Class B felony, the term of extended supervision may not exceed 20 years.

2. For a Class C felony, the term of extended supervision may not exceed 15 years.

3. For a Class D felony, the term of extended supervision may not exceed 10 years.

4. For a Class E, F, or G felony, the term of extended supervision may not exceed 5 years.

5. For a Class H felony, the term of extended supervision may not exceed 3 years.

6. For a Class I felony, the term of extended supervision may not exceed 2 years.

SECTION 1132. 973.01 (4) of the statutes is amended to read:

973.01 (4) NO GOOD TIME; EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT. A person sentenced to a bifurcated sentence under sub. (1) shall serve the term of confinement in prison portion of the sentence without reduction for good behavior. The term of confinement in prison portion is subject to extension under s. 302.113 (3) and, if applicable, to reduction under s. 302.045 (3m), or 302.113 (9g).

SECTION 1133. 973.01 (6) of the statutes is amended to read:

973.01 (6) NO PAROLE. A person serving a bifurcated sentence imposed under sub. (1) is not eligible for release on parole under that sentence.

SECTION 1134. 973.0135 (1) (b) 2. of the statutes is amended to read:

973.0135 (1) (b) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m) or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., s. 940.01, 940.02, 940.03, 940.05, 940.09 (1) (1c), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m) or (1r), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, or 948.30 (2), 948.35 (1) (b) or (c) or 948.36.

SECTION 1135. 973.017 of the statutes is created to read:

973.017 Bifurcated sentences; use of guidelines; consideration of aggravating and mitigating factors. (1) DEFINITION. In this section, “sentencing decision” means a decision as to whether to impose a bifurcated sentence under s. 973.01 or place a person on probation and a decision as to the length of a bifurcated sentence, including the length of each component of the bifurcated sentence, the amount of a fine, and the length of a term of probation.

(2) GENERAL REQUIREMENT. When a court makes a sentencing decision concerning a person convicted of a criminal offense committed on or after the effective date of this subsection ... [revisor inserts date], the court shall consider all of the following:

(a) If the offense is a felony, the sentencing guidelines adopted by the sentencing commission under s. 973.30 or, if the sentencing commission has not adopted a guideline for the offense, any applicable temporary sentencing guideline adopted by the criminal penalties study committee created under 1997 Wisconsin Act 283.

(ad) The protection of the public.

(ag) The gravity of the offense.

(ak) The rehabilitative needs of the defendant.

(b) Any applicable mitigating factors and any applicable aggravating factors, including the aggravating factors specified in subs. (3) to (8).

(3) AGGRAVATING FACTORS; GENERALLY. When making a sentencing decision for any crime, the court shall consider all of the following as aggravating factors:

(a) The fact that the person committed the crime while his or her usual appearance was concealed, disguised, or altered, with the intent to make it less likely that he or she would be identified with the crime.

(b) The fact that the person committed the crime using information that was disclosed to him or her under s. 301.46.

(c) The fact that the person committed the crime for the benefit of, at the direction of, or in association with any criminal gang, as defined in s. 939.22 (9), with the specific intent to promote, further, or assist in any criminal conduct by criminal gang members, as defined in s. 939.22 (9g).

(d) The fact that the person committed the felony while wearing a vest or other garment designed, redesigned, or adapted to prevent bullets from penetrating the garment.

(e) 1. Subject to subd. 2., the fact that the person committed the felony with the intent to influence the policy of a governmental unit or to punish a governmental unit for a prior policy decision, if any of the following circumstances also applies to the felony committed by the person:

a. The person caused bodily harm, great bodily harm, or death to another.

b. The person caused damage to the property of another and the total property damaged is reduced in value by \$25,000 or more. For the purposes of this subd. 1. b., property is reduced in value by the amount that it would cost either to repair or to replace it, whichever is less.

c. The person used force or violence or the threat of force or violence.

2. a. In this subdivision, “labor dispute” includes any controversy concerning terms, tenure, or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

b. Subdivision 1. does not apply to conduct arising out of or in connection with a labor dispute.

(4) AGGRAVATING FACTORS; SERIOUS SEX CRIMES COMMITTED WHILE INFECTED WITH CERTAIN DISEASES. (a) In this subsection:

1. "HIV" means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.

2. "Serious sex crime" means a violation of s. 940.225 (1) or (2), 948.02 (1) or (2), or 948.025.

3. "Sexually transmitted disease" means syphilis, gonorrhea, hepatitis B, hepatitis C, or chlamydia.

4. "Significantly exposed" means sustaining a contact which carries a potential for transmission of a sexually transmitted disease or HIV by one or more of the following:

a. Transmission, into a body orifice or onto mucous membrane, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid; or other body fluid that is visibly contaminated with blood.

b. Exchange, during the accidental or intentional infliction of a penetrating wound, including a needle puncture, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid; or other body fluid that is visibly contaminated with blood.

c. Exchange, into an eye, an open wound, an oozing lesion, or other place where a significant breakdown in the epidermal barrier has occurred, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid; or other body fluid that is visibly contaminated with blood.

(b) When making a sentencing decision concerning a person convicted of a serious sex crime, the court shall consider as an aggravating factor the fact that the serious sex crime was committed under all of the following circumstances:

1. At the time that he or she committed the serious sex crime, the person convicted of committing the serious sex crime had a sexually transmitted disease or acquired immunodeficiency syndrome or had had a positive test for the presence of HIV, antigen, or nonantigenic products of HIV or an antibody to HIV.

2. At the time that he or she committed the serious sex crime, the person convicted of committing the serious sex crime knew that he or she had a sexually transmitted disease or acquired immunodeficiency syndrome or that he or she had had a positive test for the presence of HIV, antigen, or nonantigenic products of HIV or an antibody to HIV.

3. The victim of the serious sex crime was significantly exposed to HIV or to the sexually transmitted disease, whichever is applicable, by the acts constituting the serious sex crime.

(5) AGGRAVATING FACTORS; VIOLENT FELONY COMMITTED AGAINST ELDER PERSON. (a)

In this subsection:

1. “Elder person” means any individual who is 62 years of age or older.

2. “Violent felony” means any felony under s. 940.19 (2), (4), (5), or (6), 940.225 (1), (2), or (3), 940.23, or 943.32.

(b) When making a sentencing decision concerning a person convicted of a violent felony, the court shall consider as an aggravating factor the fact that the victim of the violent felony was an elder person. This paragraph applies even if the person mistakenly believed that the victim had not attained the age of 62 years.

(6) AGGRAVATING FACTORS; CHILD SEXUAL ASSAULT OR CHILD ABUSE BY CERTAIN PERSONS. (a) In this subsection, “person responsible for the welfare the child” includes the child’s parent, stepparent, guardian, foster parent, or treatment foster parent; an employee of a public or private residential home, institution, or agency; any other person legally responsible for the child’s welfare in a residential setting; or a person employed by one who is legally responsible for the child’s welfare to exercise temporary control or care for the child.

(b) When making a sentencing decision concerning a person convicted of a violation of s. 948.02 (1) or (2), 948.025 (1), or 948.03 (2) or (3), the court shall consider as an aggravating factor the fact that the person was a person responsible for the welfare of the child who was the victim of the violation.

(7) AGGRAVATING FACTORS; HOMICIDE OR INJURY BY INTOXICATED USE OF A VEHICLE. When making a sentencing decision concerning a person convicted of a violation of s. 940.09 (1) or 940.25 (1), the court shall consider as an aggravating factor the fact that, at the time of the violation, there was a minor passenger under 16 years of age or an unborn child in the person’s motor vehicle.

(8) AGGRAVATING FACTORS; CONTROLLED SUBSTANCES OFFENSES. (a) *Distribution or delivery to prisoners.* 1. In this paragraph, “precinct” means a place where any activity is conducted by a prison, jail, or house of correction.

2. When making a sentencing decision concerning a person convicted of violating s. 961.41 (1) or (1m), the court shall consider as an aggravating factor the fact that the violation involved delivering, distributing, or possessing with intent to deliver or distribute a controlled substance or controlled substance analog to a prisoner within the precincts of any prison, jail, or house of correction.

(b) *Distribution or delivery on public transit vehicles.* When making a sentencing decision concerning a person convicted of violating s. 961.41 (1) or (1m), the court shall consider as an aggravating factor the fact that the violation involved delivering, distributing, or possessing with intent to deliver or distribute a controlled substance included in schedule I or II or a controlled substance analog of any controlled substance included in schedule I or II and that the person knowingly used a public transit vehicle during the violation.

(9) AGGRAVATING FACTORS NOT AN ELEMENT OF THE CRIME. The aggravating factors listed in this section are not elements of any crime. A prosecutor is not required to charge any aggravating factor or otherwise allege the existence of an aggravating factor in any pleading for a court to consider the aggravating factor when making a sentencing decision.

(10) USE OF GUIDELINES; NO RIGHT TO OR BASIS FOR APPEAL. The requirement under sub. (2) (a) that a court consider sentencing guidelines adopted by the sentencing commission or the criminal penalties study committee does not require a court to make a sentencing decision that is within any range or consistent with a recommendation specified in the guidelines, and there is no right to appeal a court's sentencing decision based on the court's decision to depart in any way from any guideline. In any appeal from a court's sentencing decision, the appellate court may reverse the sentencing decision only if it determines that the sentencing court erroneously exercised its discretion in making the sentencing decision.

(10m) STATEMENT OF REASONS FOR SENTENCING DECISION. (a) The court shall state the reasons for its sentencing decision and, except as provided in par. (b), shall do so in open court and on the record.

(b) If the court determines that it is not in the interest of the defendant for it to state the reasons for its sentencing decision in the defendant's presence, the court shall state the reasons for its sentencing decision in writing and include the written statement in the record.

SECTION 1136. 973.03 (3) (e) 1. and 2. of the statutes are amended to read:

973.03 (3) (e) 1. A crime which is a Class A ~~or~~, B, or C felony.

2. A crime which is a Class C, D, E, F, or G felony listed in s. 969.08 (10) (b), but not including any crime specified in s. 943.10.

SECTION 1137. 973.03 (3) (e) 3. of the statutes is repealed.

SECTION 1138. 973.032 (4) (c) 2. of the statutes is amended to read:

973.032 (4) (c) 2. The person is sentenced for the escape ~~under s. 946.42 (4) (b)~~ to a sentence of imprisonment concurrent with the sentence to the intensive sanctions program.

SECTION 1141. 973.09 (2) (b) 1. of the statutes is amended to read:

973.09 (2) (b) 1. Except as provided in subd. 2., for felonies, not less than one year nor more than either the ~~statutory~~ maximum term of ~~imprisonment~~ confinement in prison for the crime or 3 years, whichever is greater.

SECTION 1142. 973.15 (2m) of the statutes is created to read:

973.15 (2m) (a) *Definitions.* In this subsection:

1. "Determinate sentence" means a bifurcated sentence imposed under s. 973.01 or a life sentence under which a person is eligible for release to extended supervision under s. 973.014 (1g) (a) 1. or 2.

2. "Indeterminate sentence" means a sentence to the Wisconsin state prisons other than one of the following:

a. A determinate sentence.

b. A sentence under which the person is not eligible for release on parole under s. 939.62 (2m) (c) or 973.014 (1) (c).

3. “Period of confinement in prison,” with respect to any sentence to the Wisconsin state prisons, means any time during which a person is incarcerated under that sentence, including any extensions imposed under s. 302.11 (3), 302.113 (3), or 302.114 (3) and any period of confinement in prison required to be served under s. 302.11 (7) (am), 302.113 (9) (am), or 302.114 (9) (am).

(b) *Determinate sentences imposed to run concurrent with or consecutive to determinate sentences.* 1. If a court provides that a determinate sentence is to run concurrent with another determinate sentence, the person sentenced shall serve the periods of confinement in prison under the sentences concurrently and the terms of extended supervision under the sentences concurrently.

2. If a court provides that a determinate sentence is to run consecutive to another determinate sentence, the person sentenced shall serve the periods of confinement in prison under the sentences consecutively and the terms of extended supervision under the sentences consecutively and in the order in which the sentences have been pronounced.

(c) *Determinate sentences imposed to run concurrent with or consecutive to indeterminate sentences.* 1. If a court provides that a determinate sentence is to run concurrent with an indeterminate sentence, the person sentenced shall serve the period of confinement in prison under the determinate sentence concurrent with the period of confinement in prison under the indeterminate sentence and the term of extended supervision under the determinate sentence concurrent with the parole portion of the indeterminate sentence.

2. If a court provides that a determinate sentence is to run consecutive to an indeterminate sentence, the person sentenced shall serve the period of confinement in prison under the determinate sentence consecutive to the period of confinement in prison under the indeterminate sentence and the parole portion of the indeterminate sentence consecutive to the term of extended supervision under the determinate sentence.

(d) *Indeterminate sentences imposed to run concurrent with or consecutive to determinate sentences.* 1. If a court provides that an indeterminate sentence is to run concurrent with a determinate sentence, the person sentenced shall serve the period of confinement in prison under the indeterminate sentence concurrent with the period of confinement in prison under the determinate sentence and the parole portion of the indeterminate sentence concurrent with the term of extended supervision required under the determinate sentence.

2. If a court provides that an indeterminate sentence is to run consecutive to a determinate sentence, the person sentenced shall serve the period of confinement in prison under the indeterminate sentence consecutive to the period of confinement in prison under the determinate sentence and the parole portion of the indeterminate sentence consecutive to the term of extended supervision under the determinate sentence.

(e) *Revocation in multiple sentence cases.* If a person is serving concurrent determinate sentences and extended supervision is revoked in each case, or if a person is serving a determinate sentence concurrent with an indeterminate sentence and both extended supervision and parole are revoked, the person shall concurrently serve any periods of confinement in prison required under those sentences under s. 302.11 (7) (am), 302.113 (9) (am), or 302.114 (9) (am).

SECTION 1143. 973.155 (1) (b) of the statutes is amended to read:

973.155 (1) (b) The categories in par. (a) include custody of the convicted offender which is in whole or in part the result of a probation, extended supervision or parole hold under s. 302.113 (8m), 302.114 (8m), 304.06 (3), or 973.10 (2) placed upon the person for the same course of conduct as that resulting in the new conviction.

SECTION 1144. 973.30 of the statutes is created to read:

973.30 Sentencing commission. (1) DUTIES. The sentencing commission shall do all of the following:

(a) Select an executive director having appropriate training and experience to study sentencing practices and prepare proposed sentencing guidelines.

(b) Monitor and compile data regarding sentencing practices in the state.

(c) Adopt advisory sentencing guidelines for felonies committed on or after the effective date of this paragraph [revisor inserts date], to promote public safety, to reflect changes in sentencing practices and to preserve the integrity of the criminal justice and correctional systems.

(d) Provide information to the legislature, state agencies, and the public regarding the costs to and other needs of the department which result from sentencing practices.

(e) Provide information to judges and lawyers about the sentencing guidelines.

(f) Publish and distribute to all circuit judges hearing criminal cases an annual report regarding its work, which shall include all sentencing guidelines and all changes in existing sentencing guidelines adopted during the 12 months preceding the report.

(g) Study whether race is a basis for imposing sentences in criminal cases and submit a report and recommendations on this issue to the governor, to each house of the legislature under s. 13.172 (2), and to the supreme court.

(h) Assist the legislature in assessing the cost of enacting new or revising existing statutes affecting criminal sentencing.

(i) At least semiannually, submit reports to all circuit judges, and to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3), containing statistics regarding criminal sentences imposed in this state. Each report shall have a different focus and need not contain statistics regarding every crime. Each report shall contain information regarding sentences imposed statewide and in each of the following geographic areas:

1. Milwaukee County.
2. Dane and Rock counties.
3. Brown, Outagamie, Calumet, and Winnebago counties.
4. Racine and Kenosha counties.
5. All other counties.

(j) Study how sentencing options affect various types of offenders and offenses.

(2) **STAFF.** Subject to authorization under s. 16.505, the sentencing commission may hire staff to assist it in the performance of its duties.

(3) **SUNSET.** This section does not apply after December 31, 2007.

SECTION 1145. 977.05 (4) (jm) of the statutes is created to read:

977.05 (4) (jm) At the request of an inmate determined by the state public defender to be indigent or upon referral of a court under s. 302.113 (9g) (j), represent the inmate in proceedings for modification of a bifurcated sentence under s. 302.113

(9g) before a program review committee and the sentencing court, if the state public defender determines the case should be pursued.

SECTION 1146. 977.06 (2) (b) of the statutes is amended to read:

977.06 (2) (b) A person who makes a false representation that he or she does not believe is true for purposes of qualifying for assignment of counsel ~~shall be fined not more than \$10,000 or imprisoned for not more than 7 years and 6 months or both~~ is guilty of a Class I felony.

SECTION 1147. 978.13 (1) (intro.) of the statutes is amended to read:

978.13 (1) (intro.) The Subject to sub. (1m), the state shall assume financial responsibility for all of the following:

SECTION 1148. 978.13 (1) (b) of the statutes is amended to read:

978.13 (1) (b) In counties having a population of 500,000 or more, the salary and fringe benefit costs of 2 clerk positions providing clerical services to the prosecutors in the district attorney's office handling cases involving felony violations under ch. 961. The state treasurer shall pay the amount authorized under this ~~paragraph subsection~~ to the county treasurer pursuant to a voucher submitted by the district attorney to the department of administration from the appropriation under s. 20.475 (1) (i). ~~The amount paid under this paragraph may not exceed \$75,200 in the 1999-2000 fiscal year and \$77,500 in the 2000-01 fiscal year.~~

SECTION 1149. 978.13 (1) (c) of the statutes is amended to read:

978.13 (1) (c) In counties having a population of 500,000 or more, the salary and fringe benefit costs of clerk positions in the district attorney's office necessary for the prosecution of violent crime cases primarily involving felony violations under s. 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05, 940.06, 940.225, 943.23 (1g), ~~(1m) and (1r)~~ and 943.32 (2). The state treasurer shall

pay the amount authorized under this ~~paragraph~~ subsection to the county treasurer pursuant to a voucher submitted by the district attorney to the secretary of administration from the appropriation under s. 20.475 (1) (i). ~~The amount paid under this paragraph may not exceed \$94,400 in the 1999-2000 fiscal year and \$97,200 in the 2000-01 fiscal year.~~

SECTION 1150. 978.13 (1) (d) of the statutes, as affected by 2001 Wisconsin Act 16, is amended to read:

978.13 (1) (d) In counties having a population of 500,000 or more, the salary and fringe benefit costs of 2 clerk positions providing clerical services to the prosecutors in the district attorney's office handling cases involving the unlawful possession or use of firearms. The state treasurer shall pay the amount authorized under this ~~paragraph~~ subsection to the county treasurer from the appropriation under s. 20.475 (1) (f) pursuant to a voucher submitted by the district attorney to the department of administration. ~~The amount paid under this paragraph may not exceed the amount appropriated under s. 20.475 (1) (f).~~

SECTION 1151. 978.13 (1m) of the statutes is created to read:

978.13 (1m) The amount paid under sub. (1) (b) and (c) combined may not exceed the amount appropriated under s. 20.475 (1) (i). The amount paid under sub. (1) (d) may not exceed the amount appropriated under s. 20.475 (1) (f).

SECTION 1157. 1997 Wisconsin Act 283, section 454 (1) (f) is amended to read:

[1997 Wisconsin Act 283] Section 454 (1) (f) ~~No later than April 30, 1999, the~~
The committee shall submit a report of its findings and recommendations to the legislature in the manner provided under section 13.172 (2) of the statutes and to the governor. The report shall include any proposed legislation that is necessary to implement the recommendations made by the committee in its report.

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SECTION 1158b. 1999 Wisconsin Act 113, section 32 (7) is repealed.

SECTION 1158a. 2001 Wisconsin Act 16, section 9315 (1k) is amended to read:

[2001 Wisconsin Act 16] Section 9315 (1k) TRAINING AND CERTIFICATION OF CHIEF INSPECTORS. The treatment of sections 7.03 (1) (a), 7.15 (1) (e), 7.30 (1) and (6) (b), and 7.31 (2) of the statutes first applies with respect to elections held on September 1, 2002 2004.

SECTION 1160m. 2001 Wisconsin Act 16, section 9137 (6f) is amended to read:

[2001 Wisconsin Act 16] Section 9137 (6f) STUDY ON WILD CRANES. From the appropriation under section 20.370 (1) (kk) of the statutes, as created by this act, the department of natural resources shall provide in fiscal year 2001-02 a total of \$20,000 \$30,000 and in fiscal year 2002-03 a total of \$30,000 to the University of Wisconsin System and the International Crane Foundation jointly for a study of crop damage caused in this state by wild cranes.

SECTION 9101. Nonstatutory provisions; administration.

(1) COMMISSION ON LOCAL GOVERNMENT.

(a) There is created a special committee to be called the commission on local government, which shall consist of members appointed by the governor.

(b) The governor shall appoint or determine the method of appointment of the officers of the commission and shall call the first meeting of the commission.

(c) The department of administration shall provide necessary administrative support services to the commission.

(d) The department of administration shall reimburse members of the commission for their actual and necessary expenses incurred in carrying out their functions from the appropriation under section 20.505 (4) (ba) of the statutes, within the budget of the committee authorized under section 16.40 (14) of the statutes.

(e) The commission shall:

1. Examine the organization, authority, and efficiency of local governments, the services provided by each type of local government, and the services required of local governments by the state.

2. Review the relationship of local governments with the state, examine spending by local governments, and identify ways to increase efficiency in the delivery of local governmental services.

(f) No later than February 1, 2003, the commission shall report its findings and recommendations to the governor, and to the legislature in the manner provided in section 13.172 (2) of the statutes. Upon submittal of its report, the commission ceases to exist.

(2) SENTENCING COMMISSION; INITIAL TERMS. Notwithstanding section 15.105 (27)

(c) 1. of the statutes, as created by this act, the initial members of the sentencing commission shall be appointed for the following terms:

(a) Two members appointed under section 15.105 (27) (a) 3. of the statutes, as created by this act, one of whom is not employed by any unit of federal, state, or local government, one circuit judge, and one prosecutor, for terms expiring on January 1, 2004.

(b) Three members appointed under section 15.105 (27) (a) 3. of the statutes, as created by this act, one of whom is not employed by any unit of federal, state, or local government, and one circuit judge, for terms expiring on January 1, 2005.

(c) Two members appointed under section 15.105 (27) (a) 3. of the statutes, as created by this act, one representative of crime victims, and one attorney in private practice, for terms expiring on January 1, 2006.

(3) POSITION AUTHORIZATION. There is authorized for the sentencing commission 1.0 FTE GPR executive director position, 1.0 FTE GPR deputy director position, and 4.0 FTE GPR other positions to be funded from the appropriation under section 20.505 (4) (dr) of the statutes, as created by this act.

(4) CRIMINAL PENALTIES STUDY COMMITTEE. Until the members of the sentencing commission created under section 973.30 of the statutes, as created by this act, are appointed, the criminal penalties study committee shall provide information to lawyers, judges, the legislature, and the public regarding changes made in the substance and structure of criminal penalties to be imposed under this act.

sketch (63) *sketch* (62) HOUSING GRANTS AND LOANS FUNDING DECREASE. Notwithstanding section 16.42 (1) (e) of the statutes, in submitting information under section 16.42 of the statutes for the purposes of the 2003-05 biennial budget bill, the department of administration shall submit information concerning the appropriation under section 20.505 (7) (b) of the statutes as though the decreases in that appropriation by SECTION 9201 (1) of this act had not been made.

(6v) REALLOCATION OF CERTAIN APPROPRIATION REDUCTIONS.

(a) In this subsection, "state operations" means any purpose other than aids to individuals and organizations.

(b) The secretary of administration may submit a request to the cochairpersons of the joint committee on finance to reallocate any portion of the appropriation reduction under SECTION 9201 (4v) of this act to one or more other appropriations to the department of administration for state operations made from general purpose revenue. If the committee approves such a request, the amounts in the schedule for the affected appropriations are adjusted to reflect the the approved reallocation.

(7) ELIMINATION OF CERTAIN UNFUNDED STATE AGENCY POSITIONS.

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(a) In this subsection:

1. "Secretary" means the secretary of administration.
2. "State agency" has the meaning given in section 20.001 (1) of the statutes.

(b) No later than September 30, 2002, the secretary shall determine the number of positions in each state agency that were not funded as a result of any reduction in state agency operations appropriations under 2001 Wisconsin Act 16 for the 2001-03 fiscal biennium and any reduction in such appropriations required under this act.

(c) After making the determination under paragraph (b), the secretary shall notify the joint committee on finance in writing of the determination. If the cochairpersons of the committee do not notify the secretary within 14 working days after the date of the secretary's notification that the committee has scheduled a meeting to review the determination, the secretary shall reduce each state agency's authorized positions for the 2002-03 fiscal year by the number of unfunded positions for that state agency as determined under paragraph (b). If, within 14 working days after the date of the secretary's notification, the cochairpersons of the committee notify the secretary that the committee has scheduled a meeting to review the determination, the secretary may make the reductions in the authorized positions only upon approval of the committee.

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~~(2)~~ FUNDING FOR CERTAIN PAY ADJUSTMENTS. Notwithstanding section 20.928 (1) of the statutes, during the 2001-03 fiscal biennium, no state agency, as defined in section 20.001 (1) of the statutes, may include in any certification to the department of administration under section 20.928 (1) of the statutes, and the department of administration may not include in any determination forwarded to the joint committee on finance under section 20.928 (2m) of the statutes, any sum to pay the

cost of a pay adjustment for an employee in a position that is at the higher end of the pay scale for state employee positions, as determined by the department of administration.

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FUNDING FOR LENGTH-OF-SERVICE PAYMENTS. Notwithstanding section 20.928 (1) of the statutes, during the 2001–03 fiscal biennium, no state agency, as defined in section 20.001 (1) of the statutes, may include in any certification to the department of administration under section 20.928 (1) of the statutes, and the department of administration may not include in any determination forwarded to the joint committee on finance under section 20.928 (2m) of the statutes, any sum to pay the cost of a length-of-service payment for classified employees.

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SALE OF CERTAIN STATE-OWNED AIRCRAFT. In addition to the aircraft that are directed to be sold under 2001 Wisconsin Act 16, section 9101 (2j), the department of administration shall, no later than June 30, 2003, offer for sale 21 aircraft selected by the department that are owned by the state on the effective date of this subsection. The department of administration shall credit the proceeds of any sales to offset any liabilities created for the aircraft under section 20.903 (2) (b) of the statutes. The department of administration shall deposit any remaining proceeds of the sales in the general fund as general purpose revenue — earned.

(8z) PRINTED PUBLICATIONS.

(a) In this subsection:

1. "Department" has the meaning given for "executive branch agency" in section 16.70 (4) of the statutes.
2. "Federal revenues" has the meaning given in section 20.001 (2) (e) of the statutes.

3. “General purpose revenues” has the meaning given in section 20.001 (2) (a) of the statutes.

4. “Program revenues” has the meaning given in section 20.001 (2) (b) or (c) of the statutes.

5. “Segregated fund revenues” has the meaning given in section 20.001 (2) (d) or (da) of the statutes.

(b) Notwithstanding section 16.50 (1) of the statutes, the secretary of administration shall require submission of an expenditure estimate under section 16.50 (2) of the statutes for each department that proposes to expend moneys that are not encumbered on the effective date of this paragraph from any revenue source other than federal revenues for printing of any publication during the 2001–03 fiscal biennium that is not required to be printed by the constitution or by law. Notwithstanding section 16.50 (2) of the statutes, the secretary shall disapprove any such estimate for printing of a publication unless the secretary finds that printing of the publication is essential.

(c) The secretary of administration shall, during the fiscal year for which an expenditure estimate is submitted under paragraph (b), lapse to the general fund the amount of any estimate disapproved under paragraph (b) for expenditure of moneys that are appropriated from any appropriation, other than a sum sufficient appropriation, made from general purpose revenues. The secretary shall, during the fiscal year for which an expenditure estimate is submitted under paragraph (b), transfer to the general fund the amount of any estimate disapproved under paragraph (b) for the expenditure of moneys that are appropriated from any appropriation, other than a sum sufficient appropriation, made from program revenues or segregated fund revenues. The secretary shall reestimate to subtract

from the expenditure estimate published in the acts of 2001 under section 20.005 (3) of the statutes the amount of any estimate disapproved under paragraph (b) for expenditure of moneys that are appropriated from any sum sufficient appropriation. The secretary shall include any reestimate under this paragraph in his or her submission under section 20.004 (2) of the statutes.

(d) If the secretary of administration disapproves an expenditure estimate for the printing of any publication under paragraph (b), the department submitting the estimate shall post the content of the publication that would have been printed on the Internet.

(e) The secretary of administration shall submit a report to the cochairpersons of the joint committee on finance no later than July 1, 2002, identifying the amount and sources of any savings achieved as a result of implementation of this subsection.

SECTION 9102. Nonstatutory provisions; adolescent pregnancy prevention and pregnancy services board.

SECTION 9103. Nonstatutory provisions; aging and long-term care board.

SECTION 9104. Nonstatutory provisions; agriculture, trade and consumer protection.

SECTION 9105. Nonstatutory provisions; arts board.

SECTION 9106. Nonstatutory provisions; boundary area commission, Minnesota-Wisconsin.

SECTION 9107. Nonstatutory provisions; building commission.

(1) PROCEEDS FROM THE SALE OF CERTAIN STATE OFFICE BUILDINGS.

(a) Notwithstanding section 13.48 (14) (c) of the statutes, if the building commission sells any or all of the state office buildings located at 123 West

Washington Avenue, 121 East Wilson Street, and 149 East Wilson Street in the city of Madison, the commission shall deposit any net proceeds from the sale, after depositing any amount required to be deposited into the bond security and redemption fund, into the general fund.

(b) If the building commission sells any state office building specified in paragraph (a) during the period beginning on July 1, 2001, and ending on the day before the effective date of this paragraph, and any portion of the proceeds of that sale is transferred to the appropriation account under section 20.865 (4) (a) of the statutes, the lesser of the amount transferred or any unencumbered balance in that account is transferred on the effective date of this paragraph from the appropriation account under section 20.865 (4) (a) of the statutes to the general fund.

(c) This subsection does not apply after June 30, 2003.

SECTION 9108. Nonstatutory provisions; child abuse and neglect prevention board.

SECTION 9109. Nonstatutory provisions; circuit courts.

SECTION 9110. Nonstatutory provisions; commerce.

SECTION 9111. Nonstatutory provisions; corrections.

(2) EMERGENCY RULES REGARDING FEES FROM PERSONS ON PROBATION, PAROLE, OR EXTENDED SUPERVISION. Using the procedure under section 227.24 of the statutes, the department of corrections shall promulgate the rules that are required under section 304.074 (5) of the statutes and that set rates under section 304.074 (2) of the statutes. The rules shall take effect on July 1, 2002, but may not remain effective for longer than the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 304.074 (2) of the statutes, the rules shall require the department to have a goal of receiving at least \$2 per day, if appropriate, from each

person who is on probation, parole, or extended supervision and who is not under administrative supervision, as defined in section 304.74 (1) (a) of the statutes, or minimum supervision, as defined in section 304.74 (1) (b) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(3) **EMERGENCY RULES REGARDING PRISONER COPAYMENTS FOR MEDICAL AND DENTAL CARE.** Using the procedure under section 227.24 of the statutes, the department of corrections shall promulgate the rules that are required under section 302.386 (4) (a) of the statutes relating to the deductible, coinsurance, copayment, or similar charge that must be imposed under section 302.386 (3) (b) of the statutes. The rules shall take effect on July 1, 2002, but may not remain effective for longer than the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 302.386 (3) (b) of the statutes, the rules shall require the department to require that, subject to the exception and waiver provisions under section 302.386 (3) (c) of the statutes, each person to whom section 302.386 (1) of the statutes applies pay a deductible, coinsurance, copayment, or similar charge of at least \$7.50 for each request that the person makes for medical or dental services. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(4q) **SUPERMAX CONVERSION.** The department of corrections, in cooperation with the department of administration, shall conduct a study of the conversion of the correctional institution established under section 301.16 (1n) of the statutes from a supermax-level security institution to an institution with supermax-level security beds and maximum security beds. The study shall include a discussion of the operational costs for the redesigned institution. The department of corrections shall report its findings, conclusions, and recommendations to the building commission for potential inclusion in the commission's biennial budget recommendations under section 13.48 (7) of the statutes for 2003.

SECTION 9112. Nonstatutory provisions; court of appeals.

SECTION 9113. Nonstatutory provisions; district attorneys.

SECTION 9114. Nonstatutory provisions; educational communications board.

SECTION 9115. Nonstatutory provisions; elections board.

SECTION 9116. Nonstatutory provisions; employee trust funds.

SECTION 9117. Nonstatutory provisions; employment relations commission.

SECTION 9118. Nonstatutory provisions; employment relations department.

SECTION 9119. Nonstatutory provisions; ethics board.

SECTION 9120. Nonstatutory provisions; financial institutions.

SECTION 9121. Nonstatutory provisions; governor.

SECTION 9122. Nonstatutory provisions; Health and Educational Facilities Authority.

SECTION 9123. Nonstatutory provisions; health and family services.

(1) ENERGY COSTS. Of the moneys appropriated to the department of health and family services under section 20.435 (2) (f) of the statutes, \$600,000 for fiscal year 2002–03 may be encumbered or expended only upon approval of the secretary of administration.

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(2g) BIOTERRORISM RESPONSE AND PREPAREDNESS.

(a) In this subsection:

1. "Emergency medical technician" has the meaning given in section 146.50 (1) (e) of the statutes.

2. "Fire fighter" has the meaning given in section 38.24 (5) (a) 1m. of the statutes.

3. "First responder" has the meaning given in section 146.50 (1) (hm) of the statutes.

4. "Law enforcement officer" has the meaning given in section 165.85 (2) (c) of the statutes.

(b) By April 15, 2002, before submitting a plan for expenditure of federal funds for bioterrorism response and preparedness for which Wisconsin is eligible under Public Law 107–117, to the federal department of health and human services, the department of health and family services shall submit the plan to the joint committee on finance for review and approval.

(c) The plan specified under paragraph (b) shall include, to the extent permitted under Public Law 107–117, all of the following:

1. A proposal to allocate up to \$3,600,000 of Wisconsin's total allocation to fund all of the following:

a. Communications equipment.

b. Safety or protective equipment for law enforcement officers, fire fighters, emergency medical technicians, first responders, or local emergency response team members under section 166.22 of the statutes, who respond to emergencies.

c. Training related to investigation of, prevention of, or response to acts of terrorism that pose a threat to the environment.

d. Information systems, software, or computer equipment for investigating acts of terrorism that pose a threat to the environment.

e. Training for specific special events where heightened security risks exist.

f. Regional emergency response teams under section 166.215 (1) of the statutes or their expansion.

g. Volunteer emergency medical service entities under section 146.50 of the statutes ^{as affected by this act,} that are short of staff or are in need of additional training.

2. A proposal to fund all of the following:

a. An increase of 2.5 FED positions in the department of health and family services to perform surveillance of and respond to communicable and infectious diseases and biological and chemical potential threats to the state.

b. The statewide trauma care system under section 146.56 of the statutes ^{as affected by this act}

c. An increase of 1.0 FED microbiologist position for the state laboratory of hygiene and all bioterrorism-related laboratory expenses.

(2c) FEDERAL-STATE RELATIONS OFFICE. The authorized FTE positions for the department of health and family services, funded from the appropriation under section 20.435 (8) (pz) of the statutes, are decreased by 1.0 FED position on July 1, 2002, to eliminate staffing by the department of the federal-state relations office.

(3f) STUDY OF FEDERAL PRIMARY HEALTH CARE FUNDING.

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(a) In this subsection, “federally qualified health center” has the meaning given in 42 USC 1396d (L) (2) (B).

(b) The department of health and family services shall, in consultation with the Wisconsin Primary Health Care Association, Inc., study aspects of federal primary health care funding that is available to public and private nonprofit entities under 42 USC 254b. The study shall include all of the following:

1. A review of statutory, regulatory, and policy requirements for grantees and potential grant applicants.

2. Suggestions for expanding the number of federally qualified health centers in Wisconsin; the number of sites operated by entities currently funded under 42 USC 254b; and other ways to increase the amount of federal funding for Wisconsin health care clinics.

(c) By June 30, 2002, the department of health and family services shall submit a report of the study under paragraph (b) to the legislature in the manner provided under section 13.172 (3) of the statutes and to the joint committee on finance.

SECTION 9124. Nonstatutory provisions; higher educational aids board.

SECTION 9125. Nonstatutory provisions; historical society.

SECTION 9126. Nonstatutory provisions; Housing and Economic Development Authority.

SECTION 9127. Nonstatutory provisions; insurance.

SECTION 9128. Nonstatutory provisions; investment board.

SECTION 9129. Nonstatutory provisions; joint committee on finance.

SECTION 9130. Nonstatutory provisions; judicial commission.

SECTION 9131. Nonstatutory provisions; justice.

SECTION 9132. Nonstatutory provisions; legislature.

SECTION 9133. Nonstatutory provisions; lieutenant governor.

SECTION 9134. Nonstatutory provisions; lower Wisconsin state riverway board.

SECTION 9135. Nonstatutory provisions; Medical College of Wisconsin.

SECTION 9136. Nonstatutory provisions; military affairs.

(1) YOUTH CHALLENGE PROGRAM. The authorized FTE positions for the department of military affairs are decreased by 17.2 GPR positions on July 1, 2002, and increased by 17.2 PR positions on July, 2002, to be funded from the appropriations under section 20.465 (4) (j) and (ka) of the statutes, as affected by this act, for the Youth Challenge program.

(2) ENERGY COSTS. Of the moneys appropriated to the department of military affairs under section 20.465 (1) (f) of the statutes, \$427,400 for fiscal year 2002-03 may be encumbered or expended only upon approval of the secretary of administration.

SECTION 9137. Nonstatutory provisions; natural resources.

(1q) WHEELCHAIR RECYCLING PROJECT. From the appropriation under section 20.370 (6) (bw), as created by this act, the department of natural resources shall provide funding to the Wheelchair Recycling Project, of the Madison Chapter of the National Spinal Cord Injury Association, to provide recycled wheelchairs and other medical equipment to individuals and programs in need and for costs of equipment, parts, maintenance, and distribution.

(1x) COASTER BROOK TROUT STUDY AND REINTRODUCTION. Notwithstanding section 16.42 (1) (e) of the statutes, in submitting information under section 16.42 of the statutes for purposes of the 2003-2005 biennial budget bill, the department of

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natural resources shall submit information concerning the appropriation under section 20.370 (4) (mu) of the statutes as though the increase in the dollar amount of that appropriation by SECTION 9237 (27x) of this act had not been made.

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(1w) ANIMAL HEALTH PROTECTION. The department of natural resources and the department of agriculture, trade and consumer protection shall enter into a contract for the purpose of enhancing the protection of the health of wild and domestic animals in this state. Under the contract, the department of natural resources may provide the department of agriculture, trade and consumer protection with \$150,000 in fiscal year 2002-03 from the appropriation under section 20.370 (1) (mu) of the statutes, as affected by this act, for purposes related to animal health regulation, including improving its livestock farm location and livestock tracking databases and studying the implementation of an electronic system for certification of veterinary inspection.

SECTION 9138. Nonstatutory provisions; personnel commission.

SECTION 9139. Nonstatutory provisions; public defender board.

(1z) HIRING FREEZE EXEMPTION. Notwithstanding any action of the governor or the secretary of administration under section 16.505 (3) of the statutes during the 2001-03 fiscal biennium, the public defender board may fill any vacant position for trial or appellate representation that is authorized to the board under section 16.505 of the statutes during the 2001-03 fiscal biennium and for which funds have been appropriated.

SECTION 9140. Nonstatutory provisions; public instruction.

(1) REVENUE LIMIT.

(a) Notwithstanding section 121.91 (2m) (e) 2. and 3. of the statutes, in determining a school district's revenue limit for the 2002-03 school year, only \$210