**(5)** (intro.) The court shall set a time for a hearing on the matter under sub. (2m) during the preliminary examination, if sub. (3) (a) applies; after the defendant is bound over for trial and before a verdict is rendered, if sub. (3) (b) applies; after conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3) (c) applies; or, subject to s. ~~971.13~~ 975.30 (4), after the determination that the defendant is not competent, if sub. (3) (d) applies. The court shall give the district attorney and the defendant notice of the hearing at least 72 hours prior to the hearing. The defendant may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe that the act or alleged act of the defendant that constitutes a violation of s. 946.43 (2m) carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the defendant's blood, semen, vomit, saliva, urine or feces or other bodily substance of the defendant, the court shall order the defendant to submit to a test or a series of tests administered by a health care professional to detect the presence of any communicable disease that was potentially transmitted by the act or alleged act of the defendant. The court shall require the health care professional who performs the test to disclose the test results to the defendant. The court shall require the health care professional who performs the test to refrain from making the test results part of the defendant's permanent medical record and to disclose the results of the test to any of the following:

****NOTE: This section reconciles -0228/P2 and -4635/P1.

**SECTION 511.** 968.40 (title) of the statutes is renumbered 968.155 (title) and amended to read:

**968.155** (title) ~~**Grand**~~ **Convening a grand jury; duration.**

**SECTION 512.** 968.40 (1) of the statutes is renumbered 968.155 (1) and amended to read:

968.155 **(1)** SELECTION OF PROSPECTIVE GRAND ~~JURY LIST~~ JURORS. Any judge may, in writing, order the clerk ~~of circuit court~~ to ~~select~~ compile a grand jury list within a specified reasonable time. The clerk shall select from the prospective juror list for the county the names of not fewer than ~~75~~ 35 nor more than 150 persons to constitute the prospective grand juror list. The list shall be kept secret.

**SECTION 513.** 968.40 (3) of the statutes is renumbered 968.155 (2) and amended to read:

968.155 **(2)** EXAMINATION OF PROSPECTIVE GRAND JURORS. ~~At the time set for~~ When the prospective grand jurors ~~to~~ appear, the judge shall and the district attorney ~~or other prosecuting officer~~ may examine ~~the prospective jurors~~ them under oath or affirmation relative to their qualifications to serve as grand jurors ~~and the~~. The judge shall excuse those who are disqualified~~,~~ and may excuse others for any reason ~~which~~ that seems proper to the judge.

**SECTION 514.** 968.40 (4) of the statutes is renumbered 968.155 (3) and amended to read:

968.155 **(3)** ADDITIONAL GRAND JURORS. If, after ~~such~~ the examination described in sub. (2), fewer than 17 grand jurors remain, additional prospective grand jurors shall be selected, summoned and examined until there are at least 17 qualified grand jurors on the grand jury.

**SECTION 515.** 968.40 (6), (7) and (8) of the statutes are renumbered 968.155 (4), (5) and (6) and amended to read:

968.155 **(4)** TIME GRAND JURORS TO SERVE. ~~Grand~~ The judge may discharge the grand jury at any time. Otherwise, grand jurors shall serve for a period of 31

consecutive days unless more days are necessary to complete service in a particular proceeding. ~~The judge may discharge the grand jury at any time.~~

**(5)** ORDERS FILED WITH CLERK. All orders ~~mentioned in~~ under this section shall be filed with the clerk ~~of court~~.

**(6)** INTERCOUNTY RACKETEERING AND CRIME. When a grand jury is convened ~~pursuant to~~ under this section to investigate unlawful activity under s. 165.70, and ~~such~~ the activity involves more than one county, including the county where the petition for such grand jury is filed, then if the attorney general approves, all expenses of such proceeding shall be charged to the appropriation under s. 20.455 (1) (d).

**SECTION 516.** 968.41 of the statutes is renumbered 968.165 and amended to read:

**968.165 Oath or affirmation of grand jurors.** Grand jurors shall, before they begin ~~performance of~~ their duties, solemnly swear or affirm that they will diligently inquire as to all matters and things ~~which~~ that come before the grand jury; that they will keep all matters ~~which~~ that come before the grand jury secret; that they will indict no person for envy, hatred, or malice; that they will not leave any person unindicted for love, fear, favor, affection, or hope of reward; and that they will indict truly, according to the best of their understanding.

**SECTION 517.** 968.42 of the statutes is renumbered 968.175 and amended to read:

**968.175 Presiding juror and clerk.** The grand jury shall select from their number a presiding juror and a clerk. The clerk of the grand jury shall preserve the minutes of the proceedings before ~~them~~ the grand jury and all exhibits.

**SECTION 518.** 968.43 of the statutes is renumbered 968.185 and amended to read:

**968.185 Reporter; oath; salary; assistant. (1)** Every grand jury shall, when ordered by the judge ordering ~~such~~ the grand jury, employ one or more reporters to attend ~~their~~ its sessions and to ~~make~~ record and transcribe ~~a~~ verbatim ~~record of~~ all proceedings had before ~~them~~ it.

**(2)** Before assuming the duties under this section, each reporter shall make and file an oath or affirmation ~~faithfully~~ to record and transcribe faithfully all of the proceedings before the grand jury and to keep secret the matters ~~relative~~ related to the proceedings. Each reporter shall be paid out of the county treasury of the county in which the service is rendered ~~such~~ a sum for compensation and expenses ~~as shall be~~ audited and allowed as reasonable by the court ordering the grand jury. Each reporter may employ on his or her own account a person to transcribe the testimony and proceedings of the grand jury, but before entering upon the duties under this subsection, the person shall be required to make and file an oath or affirmation similar to that required of each reporter.

**(3)** ~~Any~~ Except as provided in s. 968.295, any person who violates an oath or affirmation required by sub. (2) is guilty of a Class H felony.

**SECTION 519.** 968.44 of the statutes is renumbered 968.195 and amended to read:

**968.195 ~~Witnesses~~ Oaths to witnesses.** The presiding juror of every grand jury and the district attorney ~~or other prosecuting officer~~ who is before the grand jury may administer all oaths and affirmations in the manner prescribed by law to witnesses who appear before the grand jury for the purpose of testifying in any matter of which the witnesses have cognizance. At the request of the court, the

presiding juror shall return to the court a list, under his or her hand, of all witnesses who are sworn before the grand jury. That list shall be filed by the clerk of ~~circuit~~ court.

**SECTION 520.** 968.45 (title) of the statutes is renumbered 968.203 (title) and amended to read:

**968.203** (title) ~~**Witness rights**~~ **Counsel for witnesses; transcripts.**

**SECTION 521.** 968.45 (1) of the statutes is renumbered 968.203 (1) (a) and amended to read:

968.203 **(1)** (a) Any witness appearing before a grand jury may have counsel present, but the counsel shall not be allowed to examine his or her client, cross-examine other witnesses, or argue before the judge. Counsel may consult with his or her client while before a grand jury. ~~If the prosecuting officer,~~

(b) A district attorney, an attorney for a witness, or a grand juror who believes that a conflict of interest exists for an attorney ~~or attorneys~~ to represent more than one witness before a grand jury~~, the person so believing~~ may make a motion before the presiding judge to disqualify the attorney from representing more than one witness before the grand jury. ~~A~~ The court shall hold a hearing ~~shall be held~~ upon notice with the burden ~~upon~~ on the moving party to establish the conflict.

**SECTION 522.** 968.45 (2) of the statutes is renumbered 968.203 (2) and amended to read:

968.203 **(2)** No grand jury transcript may be made public until the trial of ~~anyone~~ a person indicted by the grand jury, and then only that portion of the transcript that is relevant and material to the case at hand may be made public. This subsection does not limit the defendant's rights to discovery under s. ~~971.23~~ 971.43 (2) (a).

****NOTE: This section reconciles -0228/P2 and -0012/P2.

**SECTION 523.** Subchapter V (title) of chapter 968 [precedes 968.455] of the statutes is created to read:

**CHAPTER 968**

SUBCHAPTER V

SEARCH AND SEIZURE

**SECTION 524.** 968.46 of the statutes is renumbered 968.215 and amended to read:

**968.215 Secrecy of motions.** Notwithstanding s. 757.14, all motions, including but not limited to those for immunity or a privilege, brought by a ~~prosecuting officer~~ district attorney or witness appearing before a grand jury shall be made, heard, and decided in complete secrecy and not in open court if the ~~prosecuting officer or witness~~ person bringing the motion or exercising the immunity or privilege so requests.

**SECTION 525.** Subchapter VI (title) of chapter 968 [precedes 968.465] of the statutes is created to read:

**CHAPTER 968**

SUBCHAPTER VI

SEARCH WARRANTS

**SECTION 526.** 968.465 (5) and (6) of the statutes are created to read:

968.465 **(5)** SEALED WARRANT. A judge may order that a search warrant and supporting documents be held under seal for a specified period of time. The judge shall make the decision in his or her discretion, after balancing the reasons for secrecy against the defendant's and the public's right of access.

and may extend or reduce the period for good cause shown

**(6)** PERMITTING EXECUTION WITHOUT ANNOUNCEMENT. A search warrant may authorize the executing officer to enter the premises designated in the warrant without announcement and delay under s. 968.485 (1) when the applicant shows that there is a reasonable suspicion that, in the particular circumstances, announcement and delay would be dangerous or futile or would inhibit the effective investigation of the crime by any means including but not limited to the destruction of evidence.

**SECTION 527.** 968.47 of the statutes is renumbered 968.225 and amended to read:

**968.225 ~~District~~ Duties of district attorney~~, when to attend~~.** Whenever required by the grand jury ~~it shall be the duty of~~, the district attorney of the county ~~to~~ shall attend ~~them~~ grand jury proceedings for the purpose of examining witnesses in ~~their~~ the presence ~~or of giving them~~ of the grand jury, give the grand jury advice upon any legal matter, and ~~to~~ issue subpoenas and other process to bring ~~up~~ witnesses before the grand jury.

**SECTION 528.** 968.475 (2) (a) of the statutes is created to read:

968.475 **(2)** (a) Contraband.

**SECTION 529.** 968.475 (2) (e) of the statutes is created to read:

968.475 **(2)** (e) A designated person.

INS 167-19

**SECTION 530.** 968.48 of the statutes is renumbered 968.235 and amended to read:

**968.235 ~~Attendance; absence; excuse~~ Grand jury attendance; number required for ~~grand jury~~ session~~; number required to concur in~~ and indictment.** Each grand juror shall attend every session of the grand jury unless excused by the presiding juror. The presiding juror may excuse a grand juror from attending a grand jury session only for a reason which appears to the presiding juror

in his or her discretion as good and sufficient cause for the ~~excuse~~ juror's absence. No business may be transacted at any session of the grand jury ~~at which less~~ if fewer than 14 members of the grand jury are in attendance, and no ~~indictment may be found by any~~ grand jury may indict unless at least 12 ~~of their number shall~~ grand jurors concur in the indictment.

**SECTION 531.** 968.485 (title) and (1) of the statutes are created to read:

**968.485** (title) **Execution of a search warrant. (1)** KNOCK AND ANNOUNCE REQUIREMENT AND EXCEPTIONS. When seeking to enter a dwelling to execute a search warrant, a law enforcement officer shall first announce the purpose and authority to enter and allow a reasonable time for the door to be opened, unless one of the following applies:

(a) The search warrant authorizes the entry of the premises without announcement and delay and the reasonable suspicion under s. 968.465 (6) justifying the authorizing provision continues to exist at the time the warrant is executed.

(b) Under the particular circumstances that the warrant is executed, the law enforcement officer has reasonable suspicion, that was not, or reasonably could not have been, known when the warrant was requested, that announcement and delay would be dangerous or futile or would inhibit the effective investigation of the crime by any means including but not limited to the destruction of evidence.

**SECTION 532.** 968.49 of the statutes is renumbered 968.245 and amended to read:

**968.245 Fine for nonattendance.** Any person lawfully summoned to attend as a grand juror who fails to attend without ~~any~~ sufficient excuse shall ~~pay a fine not exceeding~~ be fined not more than $40, which ~~shall be imposed by~~ the court to which

the person was summoned shall impose and which shall be paid into the county treasury.

**SECTION 533.** 968.50 of the statutes is renumbered 968.252 and amended to read:

**968.252 Report progress and return indictments.** A grand jury may report progress and return indictments to the court from time to time during its session ~~and until discharged~~.

**SECTION 534.** 968.505 (title) of the statutes is renumbered 968.262 (title).

**SECTION 535.** 968.505 of the statutes is renumbered 968.262 (1) and amended to read:

968.262 **(1)** When the grand jury is discharged, the clerk of the grand jury shall collect all transcripts of testimony, minutes of proceedings, exhibits, and other records of the grand jury~~,~~ and, except as provided in sub. (2), shall deliver them as the jury directs either to the attorney general or to the district attorney~~, or upon~~.

(2) Upon approval of the court, the grand jury may direct its clerk to deliver ~~them~~ grand jury materials collected under sub. (1) to the clerk of the court, who shall impound them subject to ~~the~~ further ~~order or~~ orders of the court.

**SECTION 536.** 968.51 of the statutes is renumbered 968.275 and amended to read:

**968.275 Indictment not to be disclosed.** ~~No grand juror or officer of the court, if~~ If the court ~~shall~~ so ~~order, shall~~ orders, no grand juror or officer of the court may disclose ~~the fact that any indictment for a felony has been found against~~ that the grand jury has indicted any person not in custody or under recognizance, otherwise than by issuing or executing process on such indictment, until ~~such~~ the person has been arrested.

**SECTION 537.** 968.52 of the statutes is renumbered 968.285 and amended to read:

**968.285 Votes not to be disclosed.** No grand juror may ~~be allowed to state or testify~~ disclose in any court ~~in what manner~~ how he or she or any other ~~member of the jury~~ grand juror voted or what opinion any grand juror expressed on any question before ~~them, or what opinion was expressed by any juror in relation to the question~~ the grand jury.

**SECTION 538.** 968.53 of the statutes is renumbered 968.295 and amended to read:

**968.295 When testimony may be disclosed.** ~~Members of the grand jury and any grand jury reporter may be required by any court~~ Notwithstanding any oath or affirmation required under s. 968.165 or 968.185 (2), any court may require grand jurors and grand jury reporters to testify whether the testimony of a witness examined before the jury is consistent with or different from the evidence given by the witness before the court~~; and they~~. Notwithstanding any oath or affirmation required under s. 968.165 or 968.185 (2), the court may ~~also be required~~ require grand jurors and grand jury reporters also to disclose the testimony given before the grand jury by any person upon a complaint against the person for perjury~~,~~ or upon trial for the offense. ~~Any~~ If the court receives in evidence any transcript of testimony taken before the grand jury ~~and certified by a~~ , the grand jury ~~reporter to have~~ reporter's certification that the transcript has been carefully compared by the reporter with his or her minutes of testimony ~~so taken~~ and ~~to be~~ is a true and correct transcript of all or a specified portion of the transcript~~, may be received in evidence with~~ shall have the same effect as the oral testimony of the reporter to the facts so certified, but the reporter may be cross-examined by any party as to the matter.

1 **SECTION 539.** 968.585 (2) (ag) of the statutes is created to read:

2 968.585 **(2)** (ag) The subject of the strip search is a detained person.

3 **SECTION 540.** 968.585 (4m) of the statutes is created to read:

4 968.585 **(4m)** Any evidence obtained by a strip search in violation of sub. (2)
5 or (3) is not admissible as evidence at trial.

6 **SECTION 541.** 968.585 (7) (cm) of the statutes is created to read:

7 968.585 **(7)** (cm) The person is committed under ch. 980.

8 **SECTION 542.** Subchapter VII (title) of chapter 968 [precedes 968.605] of the
9 statutes is created to read:

10 **CHAPTER 968**

11 SUBCHAPTER VII

12 SEIZED PROPERTY

13 **SECTION 543.** Subchapter VIII (title) of chapter 968 [precedes 968.705] of the
14 statutes is created to read:

15 **CHAPTER 968**

16 SUBCHAPTER VIII

17 MISCELLANEOUS

18 **SECTION 544.** 968.705 (1) and (3) of the statutes are created to read:

19 968.705 **(1)** In this section, "documents" has the meaning given in s. 968.475
20 (1) (b).

21 **(3)** Documents seized by or delivered to an officer pursuant to a subpoena under
22 this section shall be deemed seized property for the purposes of ss. 968.615 and
23 968.625.

24 **SECTION 545.** 968.71 of the statutes is created to read:

25 **968.71 Disclosure of depositor status. (1)** In this section:

(a) "Depository account" includes any monetary interest that a person maintains at a financial institution.

(b) "Financial institution" has the meaning given in s. 214.01 (1) (jn).

**(2)** Upon the request of the district attorney and a showing that the information requested is relevant to a criminal investigation, the court shall issue an order requiring any financial institution to disclose to the district attorney whether the person named in the order has a depository account with the financial institution or whether the person had a depository account with the financial institution at a prior specified time. Any person who unlawfully violates such an order may be compelled to do so under ch. 785.

**SECTION 546.** Chapter 969 (title) of the statutes is repealed and recreated to read:

OK

~~**CHAPTER 969**~~

**SECURING A DEFENDANT'S APPEARANCE; RELEASE**

**SECTION 547.** ~~969.001 (intro.)~~ of the statutes is ~~renumbered~~ 969.30 (intro.).

**SECTION 548.** 969.001 (1) of the statutes is renumbered 967.025 (1) and amended to read:

967.025 **(1)** "Bail" means monetary conditions of release <u>on bond</u>.

**SECTION 549.** 969.001 (2) of the statutes is repealed.

**SECTION 550.** 969.01 (title) of the statutes is renumbered 969.31 (title).

**SECTION 551.** 969.01 (1) of the statutes is renumbered 969.31 (1) and amended to read:

969.31 **(1)** BEFORE CONVICTION. ~~Before conviction, except~~ <u>Except</u> as provided in ~~ss. 969.035 and 971.14 (1r)~~ <u>s. 969.43 or 975.32</u>, a defendant arrested for a ~~criminal~~

~~offense~~ crime is eligible for release before conviction under reasonable conditions designed to ~~assure~~ ensure his or her appearance in court, protect members of the community from serious bodily harm, or prevent the intimidation of witnesses. ~~Bail may be imposed at or after the initial appearance only upon a finding by the court that there is a reasonable basis to believe that bail is necessary to assure appearance in court. In determining whether any conditions of release are appropriate, the judge shall first consider the likelihood of the defendant appearing for trial if released on his or her own recognizance.~~

****NOTE: This section reconciles -0071/P2 and -4635/P1.

**SECTION 552.** 969.01 (2) (title) of the statutes is repealed.

**SECTION 553.** 969.01 (2) (a) of the statutes is renumbered 969.31 (2) and amended to read:

969.31 **(2)** AFTER CONVICTION. ~~Release pursuant to s. 969.02 or 969.03 may be allowed in the discretion of~~ In its discretion the trial court may allow release on conditions after conviction and prior to sentencing ~~or the granting of probation~~. This paragraph does not apply to a conviction for a 3rd or subsequent violation that is counted as a suspension, revocation, or conviction under s. 343.307, or under s. 940.09 (1) or 940.25 in the person's lifetime, or a combination thereof.

**SECTION 554.** 969.01 (2) (b) and (c) of the statutes are consolidated, renumbered 974.09 (1) (a) and amended to read:

974.09 **(1)** (a) In misdemeanors~~, release may be allowed upon appeal in the discretion of the trial court. (c) In~~ and felonies, release may be allowed upon appeal in the discretion of the ~~trial~~ court pursuant to s. 809.31.

****NOTE: Possible cross-reference issues--now that these provisions are out of ch. 969, should s. 704.16 (1) (b) 4. and (3) (b) 2. d. reference s. 974.09--conditions of release pending appeal? How about 781.04 (1), 911.01 (4) (c), 938.18 (8), 938.35 (1) (cm), 938.396 (2g) (d), 946.49 (1) (intro.), 950.08 (2g) (e), and 967.08 (1) and (3) (a)? And with the change

of chapters, the "this chapter" in ss. 969.08 (8), 969.09 (3), 969.12 (1) and (2), and 969.13 (5) (a), will need to be looked at, too.

**SECTION 555.** 969.01 (2) (d) of the statutes is renumbered 974.09 (1) (b) and amended to read:

974.09 **(1)** (b) The supreme court or a justice thereof or the court of appeals or a judge thereof may allow release ~~after conviction~~ pending appeal.

**SECTION 556.** 969.01 (2) (e) of the statutes is renumbered 974.09 (1) (c).

**SECTION 557.** 969.01 (3) of the statutes is renumbered ~~967.19~~ 969.52 and amended to read:

969.52

**~~967.19~~ ~~Bail for witness~~ Arrest of a witness and release on bond.** ~~If~~ A judge may issue a warrant for the arrest of a person who is not in court, other than the defendant, if it appears ~~by~~ from an affidavit or examination under oath that there is probable cause to believe that the person's testimony ~~of a person~~ is material in ~~any felony~~ a criminal proceeding and that it may become impracticable to secure the person's presence by subpoena~~, the judge may require such person to give bail for~~. Upon return of the warrant, the court may set conditions of release to secure the person's appearance as a witness. ~~If the witness is not in court, a warrant for the person's arrest may be issued and upon return thereof the court may require the person to give bail as provided in s. 969.03 for the person's appearance as a witness.~~ If the person fails to ~~give bail, the person may be committed~~ satisfy the conditions of release, the court may commit the person to the custody of the sheriff for a period not to exceed 15 days, within which time the person's deposition shall be taken ~~as provided in~~, upon notice to the parties under s. ~~967.04~~ 967.21. After the deposition has been subscribed, the court shall discharge the witness.

1 **SECTION 558.** 969.01 (4) of the statutes is renumbered 969.33 (1) (intro.) and
2 amended to read:

3 969.33 **(1)** CONSIDERATIONS IN SETTING CONDITIONS OF RELEASE. (intro.) ~~If bail is~~
4 ~~imposed, it shall be only in the amount found necessary to assure the appearance of~~
5 ~~the defendant. Conditions of release, other than monetary conditions, may be~~
6 ~~imposed for the purpose of protecting members of the community from serious bodily~~
7 ~~harm or preventing intimidation of witnesses. Proper considerations in~~ In
8 determining whether to release the defendant without ~~bail,~~ monetary conditions, in
9 fixing monetary conditions in a reasonable amount ~~of bail or~~, or in imposing other
10 reasonable conditions ~~of release are: the~~, the court, judge, or justice may consider,
11 without limitation, any of the following:

12 (a) The ability of the arrested person to give bail~~, the~~.

13 (b) The nature, number, and gravity of the alleged offenses and the potential
14 penalty the defendant faces~~, whether~~.

15 (c) Whether the alleged acts were violent in nature~~, the~~.

16 (d) The defendant's prior ~~record of criminal convictions and delinquency~~
17 ~~adjudications~~ criminal record, if any~~, the~~.

18 (e) The character, health, residence, and reputation of the defendant~~, the~~.

19 (f) The character and strength of the evidence which has been presented to the
20 judge~~, whether~~.

21 (g) Whether the defendant is currently on probation, extended supervision or
22 parole~~, whether~~.

23 (h) Whether the defendant is already ~~on bail or~~ subject to other release
24 conditions in other pending cases~~, whether the defendant has been bound over for~~
25 ~~trial after a preliminary examination, whether~~.

(i) Whether the defendant has in the past forfeited ~~bail~~ bond or violated a condition of release or was a fugitive from justice at the time of arrest~~, and the~~.

(j) The policy against unnecessary detention of ~~the defendant's~~ a defendant pending trial.

(title), (1), (2), (2m), (3)(a), (b), (c) and (d), (4), (4m), (5), (6), (7), (7m) and (8)

**SECTION 559.** 969.02 of the statutes ~~is~~ are repealed.

**SECTION 560.** 969.03 of the statutes is repealed.

INS 176-6

**SECTION 561.** 969.035 of the statutes is renumbered 969.43, and 969.43 (4), (5), (7), (8) and (10), as renumbered, are amended to read:

969.43 **(4)** If the court determines that the district attorney has complied with sub. (3), the court may order that the detention of a person who is currently in custody be continued or may issue a warrant commanding any law enforcement officer to bring the defendant without unnecessary delay before the court. When the defendant is brought before the court, he or she shall be given a copy of the documents specified in sub. (3) and informed of his or her rights under this section and s. ~~970.02 (1) and (6)~~ 971.027.

****NOTE: This section reconciles 09-0071/P2 and 0012/P2.

**(5)** A pretrial detention hearing is a hearing before a court for the purpose of determining if the continued detention of the defendant is justified. A pretrial detention hearing may be held in conjunction with a ~~preliminary examination under s. 970.03 or a~~ conditional release revocation hearing under s. ~~969.08~~ 969.44 (5) (b), but separate findings shall be made by the court relating to the pretrial detention~~,~~ ~~preliminary examination~~ and conditional release revocation. The pretrial detention hearing shall be commenced within 10 days from the date the defendant is detained or brought before the court under sub. (4). The defendant may not be denied release

from custody ~~in accordance with s. 969.03~~ for more than 10 days prior to the hearing required by this subsection.

**(7)** If the court does not make the findings under sub. (6) (a) and (b) and the defendant is otherwise eligible, the defendant shall be released from custody with or without conditions in accordance with ~~s. 969.03~~ ss. 969.31 to 969.33.

**(8)** If the court makes the findings under sub. (6) (a) and (b), the court may deny bail to the defendant for an additional period not to exceed 60 days following the hearing. If the time period passes and the defendant is otherwise eligible, he or she shall be released from custody with or without conditions in accordance with s. ~~s. 969.03~~ ss. 969.31 to 969.33.

**(10)** The defendant may petition the court to be released from custody with or without conditions in accordance with ~~s. 969.03~~ ss. 969.31 to 969.33 at any time.

**SECTION 562.** 969.04 of the statutes is renumbered 969.40 and amended to read:

**969.40 Surety may satisfy default.** ~~Any~~ If a defendant fails to comply with the conditions of his or her bond, any surety may~~, after default,~~ pay to the clerk ~~of the court~~ the amount for which the surety was bound, or such lesser sum as the court, after notice and hearing, may direct, and thereupon be discharged.

**SECTION 563.** 969.05 of the statutes is repealed.

**SECTION 564.** 969.065 of the statutes is renumbered 969.34 and amended to read:

**969.34 ~~Judicial conference; bail alternatives~~ Bail schedule.** The judicial conference shall develop guidelines, which the supreme court shall adopt by rule, for ~~cash bail for~~ releasing on bond persons accused of misdemeanors ~~which the supreme~~

~~court shall adopt by rule~~. The guidelines shall relate primarily to individuals~~. The guidelines~~ and may be revised from time to time ~~under this section~~.

**SECTION 565.** 969.07 of the statutes is renumbered 969.36 and amended to read:

**969.36 Taking of ~~bail~~ cash deposit by law enforcement officer.** When ~~bail has~~ monetary conditions of release have been set before the initial appearance for a particular defendant, any law enforcement officer may take ~~bail in accordance with s. 969.02~~ a cash deposit and release the defendant to appear at a specified time and place in accordance with the conditions ~~of the appearance~~ stated in the bond. ~~Bail shall not be required of a defendant who has been cited for commission of a misdemeanor in accordance with s. 968.085.~~ The law enforcement officer shall give a receipt to the defendant for the ~~bail so taken~~ deposit and within a reasonable time deposit ~~the bail~~ it with the clerk of the court ~~before whom~~ where the defendant is to appear. ~~Bail taken by a law enforcement officer may be taken~~ A law enforcement officer may take a cash deposit only at a sheriff's office or police station. ~~The receipts shall be numbered serially and shall be in triplicate, one copy for the defendant, one copy to be filed with the clerk and one copy to be filed with the police or sheriff's department which takes the bail.~~ This section does not require the release of a defendant from custody when an officer is of the opinion that the defendant is not in a fit condition to care for his or her own safety or would constitute, because of his or her physical condition, a danger to the safety of others. If a defendant is not released under this section, s. ~~970.01~~ 971.015 (1) shall apply.

****NOTE: This section reconciles 0070/P2, 0071/P2, and 0012/P2.

**SECTION 566.** 969.08 (title) of the statutes is renumbered 969.51 (title) and amended to read:

1 **969.51** (title) ~~**Grant, reduction, increase or revocation**~~ **Violations of**
2 ~~**conditions of**~~ **release.**

3 **SECTION 567.** 969.08 (1), (2), (3) and (4) of the statutes are repealed.

4 **SECTION 568.** 969.08 (5) (a) of the statutes is renumbered 969.51 (1) (a).

5 **SECTION 569.** 969.08 (5) (b) 1. of the statutes is renumbered 969.51 (1) (b) 1. and
6 amended to read:

7 969.51 **(1)** (b) 1. If the court determines that the state has complied with par.
8 (a), the court may issue a warrant commanding any law enforcement officer to bring
9 the defendant without unnecessary delay before the court. When the defendant is
10 brought before the court, he or she shall be given a copy of the documents specified
11 in par. (a) and informed of his or her rights under s. ~~970.02 (1) and (6)~~ 971.027. The
12 court may hold the defendant in custody and suspend the previously imposed
13 conditions of release pending a hearing on the alleged breach. ~~The hearing under~~
14 ~~this paragraph and the preliminary examination under s. 970.03, if required, shall~~
15 ~~be a combined hearing, with the court making the separate findings required under~~
16 ~~this paragraph and s. 970.03 at the conclusion of the combined hearing.~~ The hearing
17 shall be commenced within 7 days from the date the defendant is taken into custody.
18 The defendant may not be held without setting conditions of release for more than
19 7 days unless a hearing is held and the findings required by this paragraph are
20 established.

****NOTE: This section reconciles -0070/P2, -0071/P2 and -0012/P2.

21 **SECTION 570.** 969.08 (5) (b) 2. of the statutes is renumbered 969.51 (1) (b) 2.

22 **SECTION 571.** 969.08 (5) (b) 3. of the statutes is renumbered 969.51 (1) (b) 3. and
23 amended to read:

969.51 **(1)** (b) 3. Upon a finding by the court that the state has established by clear and convincing evidence that the defendant has committed a serious crime while on conditional release, the court may revoke the release of the defendant and hold the defendant for trial without setting conditions of release. No reference may be made during the trial of the offense to the court's finding in the hearing. No reference may be made in the trial to any testimony of the defendant at the hearing, except if the testimony is used for impeachment purposes. If the court does not find that the state has established by clear and convincing evidence that the defendant has committed a serious crime while on conditional release, the defendant shall be released on ~~bail or other~~ conditions deemed appropriate by the court.

**SECTION 572.** 969.08 (5) (b) 4. of the statutes is renumbered 969.51 (1) (b) 4. and amended to read:

969.51 **(1)** (b) 4. If the release of any defendant is revoked under subd. 3., the defendant may demand and shall be entitled to be brought to trial on the offense with respect to which he or she was formerly released on conditions within 60 days after the date on which he or she appeared before the court under subd. 1. If the defendant is not brought to trial within the 60-day period he or she shall not be held longer without setting conditions of release and shall be released on ~~bail or other~~ conditions deemed appropriate by the court. In computing the 60-day period, the court shall omit any period of delay if the court finds that the delay results from a continuance granted at the exclusive request of the defendant.

**SECTION 573.** 969.08 (5) (b) 5. of the statutes is renumbered 969.51 (1) (b) 5.

**SECTION 574.** 969.08 (6) of the statutes is renumbered 969.51 (2).

**SECTION 575.** 969.08 (7) of the statutes is renumbered 969.51 (3) and amended to read:

969.51 **(3)** If a person is charged with the commission of a serious crime in a county other than the county in which the person was released on conditions, the district attorney and court may proceed under sub. ~~(6)~~ (1) and certify the findings to the ~~circuit~~ court for the county in which the person was released on conditions. That ~~circuit~~ court shall make the release revocation decision based on the certified findings.

**SECTION 576.** 969.08 (8) of the statutes is renumbered 969.51 (4) and amended to read:

969.51 **(4)** Information stated in, or offered in connection with, any order entered under this chapter setting ~~bail or other~~ conditions of release need not conform to the rules of evidence, except as provided under sub. ~~(5)~~ (1) (b) 2. or s. 901.05.

**SECTION 577.** 969.08 (9) of the statutes is renumbered 969.51 (5).

**SECTION 578.** 969.08 (9m) of the statutes is renumbered 969.51 (6) and amended to read:

969.51 **(6)** A person who has had ~~bail~~ bond revoked under this section is entitled to placement of his or her case on an expedited trial calendar and his or her trial shall be given priority.

**SECTION 579.** 969.08 (10) of the statutes is renumbered 969.51 (7).

**SECTION 580.** 969.09 (title), (1) and (3) of the statutes are repealed.

**SECTION 581.** 969.09 (2) of the statutes is renumbered 974.09 (2) and amended to read:

974.09 **(2)** If the defendant is ~~admitted to bail upon~~ released on conditions pending appeal, the conditions of the bond shall be that the defendant will duly prosecute the defendant's appeal, that the defendant will appear at ~~such~~ the time

and place ~~as~~ that the court directs, and that, if the judgment is affirmed or reversed and remanded for a new trial or further proceedings upon notice after remittitur, the defendant will surrender to the sheriff of the county in which the defendant was tried.

**SECTION 582.** 969.10 of the statutes is amended to read:

**969.10 Notice of change of address.** A person who has been released on ~~bail or other~~ conditions shall give written notice to the clerk of any change in his or her address within 48 hours after the change. This requirement shall be printed on all bonds.

**SECTION 583.** 969.11 of the statutes is renumbered 969.35 and amended to read:

**969.35 Release upon arrest in another county. (1)** If the defendant is arrested in a county other than the county in which the offense ~~was committed~~ may be tried under s. 970.14, he or she shall, without unreasonable delay~~, either be brought before a judge of the county in which arrested~~ and for the purpose of setting ~~bail or other~~ conditions of release, be brought before a judge either of the county where he or she was arrested or ~~be returned to~~ the county ~~in which~~ where the offense ~~was committed. The~~ may be tried under s. 970.14. If the defendant is brought before a judge in the county where he or she was arrested, the judge shall release him or her on conditions imposed in accordance with this chapter to appear before a court in the county in which the offense was committed at a specified time and place.

****NOTE: This section reconciles -0071/P2 and -3257/P2.

**(2)** If ~~the defendant is released on bail or other conditions pursuant to~~ a judge of a county other than the county where the offense may be tried under s. 970.14 released the defendant under sub. (1), the judge shall make a record of the

1 proceedings ~~and,~~ shall certify his or her minutes ~~thereof~~ of the proceedings, and shall
2 forward the bond ~~and bail~~ to the court before whom the defendant is bound to appear.
3 **SECTION 584.** 969.12 of the statutes is renumbered 969.39.
4 **SECTION 585.** 969.13 of the statutes is repealed.
5 **SECTION 586.** 969.14 of the statutes is repealed.
6 **SECTION 587.** Subchapter I (title) of chapter 969 [precedes 969.15] of the
7 statutes is created to read:

8 **CHAPTER 969**

9 SUBCHAPTER I

10 ARRESTS, SUMMONSES, AND CITATIONS

11 **SECTION 588.** 969.15 of the statutes is created to read:
12 **969.15 Securing the defendant's initial appearance.** The initial
13 appearance of a person charged with a crime may be secured in any of the following
14 ways:
15 **(1)** By the person's voluntary appearance.
16 **(2)** By the person's appearance in response to a citation.
17 **(3)** By the person's appearance in response to a summons.
18 **(4)** By the person's arrest, with or without a warrant.
19 **(5)** By the person's appearance in response to a condition of release from
20 custody.
21 **(6)** By the person's appearance in response to a judicial order to produce a
22 person already in custody.
23 **SECTION 589.** 969.19 of the statutes is created to read:
24 **969.19 Probable cause determination for warrantless arrests.** For any
25 person who is arrested without a warrant and not sooner released from custody,

1 within 48 hours after the arrest a judge shall determine whether there was probable
2 cause to arrest the person. After 48 hours, including weekends and holidays, have
3 elapsed from the arrest of the person with no judicial determination of probable
4 cause the person shall be released under s. 969.32 (1) unless the delay is excused by
5 the existence of a bona fide emergency or other extraordinary circumstance.

6 **SECTION 590.** 969.20 (2) of the statutes is created to read:

7 969.20 **(2)** WARRANT WITHOUT A CRIMINAL COMPLAINT. Upon the request of the
8 district attorney and subject to sub. (8), a judge may issue an arrest warrant without
9 a criminal complaint if the judge determines, based on an affidavit filed with the
10 court or an examination under oath of a person, that there is probable cause to
11 believe that an offense has been committed and that the person named in the
12 warrant has committed it.

****NOTE: 01-0495 contained sub. (3) WARRANT UNNECESSARY AFTER ARREST, which was renumbered and amended s. 968.04 (1) (a). Judicial council notes requested that this subsection be deleted from this draft.

13 **SECTION 591.** 969.20 (6) of the statutes is created to read:

14 969.20 **(6)** CONDITIONS OF RELEASE ON WARRANT. A judge issuing a warrant may
15 specify conditions of release.

16 **SECTION 592.** 969.20 (7) (title) of the statutes is created to read:

17 969.20 **(7)** (title) SUMMONS IN LIEU OF WARRANT.

18 **SECTION 593.** 969.21 (title) of the statutes is created to read:

19 **969.21** (title) **Arrest warrants.**

20 **SECTION 594.** 969.24 (2m) of the statutes is created to read:

21 969.24 **(2m)** RELEASE AFTER CITATION. A law enforcement officer citing a person
22 for a misdemeanor shall release the person without a cash bond unless any of the
23 following apply:

1 (a) The accused has not given proper identification.

2 (b) The accused is not willing to sign the citation.

3 (c) The accused appears to represent a danger of harm to himself or herself,
4 another person or property.

5 (d) The accused cannot show sufficient evidence of ties to the community.

6 (e) The accused has previously failed to appear in response to a citation,
7 subpoena, summons, or order of the court.

8 (f) Arrest or further detention appears necessary to carry out legitimate
9 investigative action in accordance with law enforcement agency policies.

10 **SECTION 595.** 969.25 of the statutes is created to read:

11 **969.25 Release on bond by district attorney. (1)** (a) Except as provided
12 in s. 969.24, upon consent of the district attorney, an individual who has been
13 arrested and taken into custody may be released before the initial appearance upon
14 signing a bond, obligating the individual to appear in court for an initial appearance
15 at a time and place specified in the bond and to comply with any other specified
16 conditions required by the district attorney under sub. (2).

17 (b) In determining whether to consent to release on bond, the district attorney
18 may consider whether any of the following applies:

19 1. The defendant has provided proper identification.

20 2. The defendant is willing to comply with the conditions of the bond.

21 3. The defendant appears to pose a danger to himself or herself, another person,
22 or property.

23 4. The defendant can show sufficient evidence of ties to the community.

24 5. The defendant has previously failed to appear in response to a citation,
25 subpoena, summons, or order of court.

6. Further detention appears necessary to carry out legitimate investigative activities.

**(2)** The district attorney may not impose monetary conditions of release under this section. If he or she releases a defendant under this section, the district attorney shall impose the conditions mandated by ss. 969.3 (3) and 969.27 and may also impose any of the following conditions:

(a) The defendant shall report any change of address within 48 hours to the district attorney.

(b) The defendant shall appear at specified times and places for investigative purposes.

(c) The defendant may not contact, directly or indirectly, specified persons.

(d) The defendant may not possess any dangerous weapon.

(e) The defendant may not consume any alcoholic beverage.

(f) The defendant may not go to designated geographical areas or premises.

(g) The defendant shall submit to supervision by a qualified person or organization agreeing to supervise the defendant.

(h) Any other reasonable, nonmonetary condition.

**(3)** Any bond executed under this section shall include all of the following:

(a) The conditions of release.

(b) Notice that the violation of any condition of release is punishable under s. 946.49.

(c) Notice that the defendant is entitled to the assistance of counsel and instructions for obtaining such assistance if he or she is indigent.

(d) Notice that the defendant may move the court to modify the conditions of release.

1 **(4)** Conditions of release under this section expire upon the initial appearance
2 unless continued by the judge. Signing a bond under this section does not preclude
3 the individual from seeking judicial relief from its terms.
4 **(5)** A defendant shall be given a copy of the bond.
5 **SECTION 596.** 969.26 (title) of the statutes is created to read:
6 **969.26** (title) **Forms.**
7 **SECTION 597.** 969.26 (3) of the statutes is created to read:
8 969.26 **(3)** CITATION. A citation shall be in substantially the following form:
9 MISDEMEANOR CITATION
10 Section 969.26 Wis. Stats.
11 Deposit Permitted: $ ....
12 Circuit Court for .... County
13 The undersigned complains for and on behalf of the State of Wisconsin upon
14 information and belief that on or about .... (day), .... (date of violation), at ....
15 (time); in .... County, town/ village/ city of ....; .... (defendant's name); .... (date of
16 birth), .... (sex), .... (street address, city, state, zip code), .... (race), .... (eye color), ....
17 (hair color), .... (weight), .... (height); did the following .... (state facts of violation)
18 in violation of section(s) .... of the .... (year) Wisconsin Statutes and requests that
19 the defendant may be held to answer for the violation.
20 Dated ...., .... (year)
21 .... (Signature of officer)
22 Signed by .... (Name), .... (Dept./Agency)
23 .... (Title), .... (Badge Number)
24 You are hereby notified to appear in the
25 ( ) Circuit Court named above

1 ( ) District Attorney's Office
2 located at .... (street address, city)
3 on .... (date), at .... (time).
4 The maximum penalty for this violation is:
5 ( ) Fine not to exceed $10,000 or imprisonment not to exceed 9 months, or both
6 (Class A Misdemeanor).
7 ( ) Fine not to exceed $1,000 or imprisonment not to exceed 90 days, or both
8 (Class B Misdemeanor).
9 ( ) Fine not to exceed $500 or imprisonment not to exceed 30 days, or both (Class
10 C Misdemeanor).
11 PROMISE TO APPEAR
12 I have received a copy of this citation. I promise to appear in court at the
13 time and place specified. Signing this citation is not an admission of guilt.
14 .... (Defendant's signature)
15 .... (Defendant's address)
16 .... (Defendant's phone number)
17 ENDORSEMENT BY DISTRICT ATTORNEY
18 I have reviewed this citation and approve its use as a criminal complaint
19 under s. 696.10 (6).
20 Dated ...., .... (year)
21 .... (District Attorney's signature)
22 .... (Title)
23 **SECTION 598.** Subchapter II (title) of chapter 969 [precedes 969.30] of the
24 statutes is created to read:
25 **CHAPTER 969**

1 SUBCHAPTER II

2 COURT-ORDERED RELEASE

3 **SECTION 599.** 969.30 (3) to (7) of the statutes are created to read:

4 969.30 **(3)** "Personal recognizance bond" means a bond without monetary
5 conditions of release.

6 **(4)** "Secured appearance bond" means a bond with monetary conditions of
7 release that require the depositing of cash or the pledging of property as security.
8 The court may order that the bond be secured by the defendant or by a surety.

9 **(5)** "Serious bodily harm" means bodily injury that causes or contributes to the
10 death of a human being; bodily injury that creates a substantial risk of death; bodily
11 injury that causes serious permanent disfigurement; bodily injury that causes a
12 permanent or protracted loss or impairment of the function of any bodily member or
13 organ; or other serious bodily injury.

14 **(6)** "Surety" means a person who guarantees payment of the amount specified
15 in a monetary condition of release if the defendant does not appear in court as
16 required.

17 **(7)** "Unsecured appearance bond" means a bond with monetary conditions of
18 release that do not require the depositing of cash or the pledging of property as
19 security.

20 **SECTION 600.** 969.31 (3) of the statutes is created to read:

21 969.31 **(3)** AFTER SENTENCING. After sentencing and before service of the
22 sentence begins, the trial court may continue the conditions of release or impose new
23 conditions of release.

24 **SECTION 601.** 969.31 (4) of the statutes is created to read:

969.31 **(4)** PENDING APPEAL. Release after sentencing, pending appeal, is governed by ss. 809.31 and 974.08.

**SECTION 602.** 969.32 of the statutes is created to read:

**969.32 Types of release.** In any case where release is allowed, the court shall do one of the following:

**(1)** Release the defendant to return on a date certain, without conditions.

**(2)** Release the defendant on a personal recognizance bond.

**(3)** Release the defendant on an unsecured appearance bond.

**(4)** Release the defendant on a secured appearance bond.

**SECTION 603.** 969.33 (title) of the statutes is created to read:

**969.33** (title) **Conditions of release.**

**SECTION 604.** 969.33 (2) of the statutes is created to read:

969.33 **(2)** RULES OF EVIDENCE DO NOT APPLY. Information stated in or offered in connection with any order entered under this chapter setting conditions of release need not conform to the rules of evidence, except as provided under s. 901.05 or 969.51.

**SECTION 605.** 969.33 (3) of the statutes is created to read:

969.33 **(3)** MONETARY CONDITIONS. The court may impose monetary conditions of release only if it finds that there is a reasonable basis to believe that they are necessary to ensure the defendant's appearance in court. In a misdemeanor case the amount of money specified in a monetary condition of release may not exceed the maximum fine provided for the crime charged.

**SECTION 606.** 969.33 (4) of the statutes is created to read:

969.33 **(4)** MANDATORY CONDITIONS. The following conditions shall be imposed as terms of any bond under s. 969.32 (2) to (4) and shall be printed on the bond:

1 (a) The defendant shall appear in the court having jurisdiction on a day certain
2 and thereafter as ordered until discharged on final order of the court and shall
3 submit to the orders and process of the court.
4 (b) The defendant shall give written notice to the clerk of any change in his or
5 her address within 48 hours after the change.
6 (c) The defendant may not commit any crime.
7 (d) The defendant shall not violate, cause any person to violate, or permit any
8 person to violate on the defendant's behalf ss. 940.22 to 940.45.
9 **SECTION 607.** 969.33 (5) to (7) of the statutes are created to read:
10 969.33 **(5)** OTHER CONDITIONS. Whenever a defendant is released on bond under
11 s. 969.32 (2) to (4), the court may impose reasonable conditions other than those
12 required under sub. (4), including conditions doing any of the following:
13 (a) Prohibiting the defendant from contacting, directly or indirectly, specified
14 persons or going to specified places.
15 (b) Prohibiting the defendant from possessing any dangerous weapon.
16 (c) Prohibiting the defendant from consuming alcohol beverages.
17 (d) Restricting the travel, association, or place of residence of the defendant.
18 (e) Requiring that the defendant return to custody after specified hours. The
19 charges authorized by s. 303.08 (4) and (5) do not apply under this paragraph.
20 (f) Placing the defendant under the supervision of a designated person or
21 organization agreeing to supervise the defendant.
22 **(6)** COPY OF BOND TO DEFENDANT. The court shall provide the defendant a copy
23 of his or her bond.
24 **(7)** MODIFYING CONDITIONS OF RELEASE. Upon motion by the state or the
25 defendant, the court before which the action is pending may, following a hearing,

modify conditions of release or grant release if it has been previously revoked under s. 969.~~4~~5 1. Reasonable notice of the hearing shall be given to all parties.

**SECTION 608.** 969.37 of the statutes is created to read:

**969.37 Return of cash deposit to a 3rd party.** A person other than the defendant who has deposited cash to obtain the release of the defendant on a secured appearance bond, may, prior to the entry of a judgment of conviction or a judgment of forfeiture under s. 969.42, apply to the court for an order returning the deposit. After notice to the parties, the court shall hold a hearing at which the defendant must be present. The court shall determine whether to remit the cash deposit in whole or in part and may review and modify the conditions of release.

**SECTION 609.** 969.38 of the statutes is created to read:

**969.38 Disposition of cash deposits. (1)** DEPOSIT APPLIED TO FINE OR COSTS. (a) When the court enters a judgment for a fine or costs or both in a case in which a cash deposit has been made on a secured appearance bond, the court shall apply the balance of the deposit, after deducting the bond costs, to the payment of the judgment. The court shall then return any remaining balance of the deposit to the person who made the deposit.

(b) All secured appearance bonds shall include notice of the requirements of par. (a).

**(2)** RETURN OF DEPOSIT. If the complaint against the defendant is dismissed or the defendant is acquitted in a case in which a cash deposit has been made on a secured appearance bond, the entire sum deposited shall be returned. A deposit by a surety shall be returned to the person who made the deposit.

**(3)** FORFEITURE EXCEPTION. Subsections (1) (a) and (2) do not apply if a cash deposit is forfeited under s. 969.42.

1 **SECTION 610.** 969.41 of the statutes is created to read:

2 **969.41 Discharge of surety.** When a surety desires to be discharged from the
3 obligations of his or her bond, he or she may apply to the court for an order to that
4 effect. After notice to the parties, the court shall hold a hearing at which the
5 defendant must be present. The court shall determine whether to discharge the
6 surety and may review and modify the conditions of release.

7 **SECTION 611.** 969.42 of the statutes is created to read:

8 **969.42 Forfeiture. (1)** If the defendant does not comply with the conditions
9 of the bond, the court may order the bail forfeited and a judgment of bail forfeiture
10 entered. Immediately after the order is entered, the clerk shall mail notice of the
11 order of judgment of bail forfeiture to the defendant and the defendant's sureties.
12 No other notice is required.

13 **(2)** By entering into a bond, the defendant and any sureties submit to the
14 jurisdiction of the court for the purposes of determining their liability under the
15 bond. Their obligations under the bond may be enforced without the necessity of an
16 independent action.

17 **(3)** If the court enters a judgment of bail forfeiture, any cash deposit made with
18 the clerk pursuant to this subchapter shall be applied to the payment of costs. If any
19 amount of the deposit remains after the payment of costs, it shall be applied to the
20 payment of the judgment of bail forfeiture.

21 **(4)** Within 30 days after the entry of a judgment of bail forfeiture, the court may
22 order the judgment set aside upon such conditions as the court imposes if it appears
23 that justice does not require the enforcement of the judgment of bail forfeiture.

24 **SECTION 612.** Subchapter III (title) of chapter 969 [precedes 969.50] of the
25 statutes is created to read:

**CHAPTER 969**

SUBCHAPTER III

ENFORCEMENT OF APPEARANCE

REQUIREMENTS AND CONDITIONS OF

RELEASE

**SECTION 613.** 969.50 (2) and (3) of the statutes are created to read:

969.50 **(2)** A court issuing a bench warrant under this section may specify monetary conditions of release on the warrant.

**(3)** If monetary conditions of release are not specified on the bench warrant, a defendant arrested pursuant to the warrant is not eligible for release before appearing in court.

**SECTION 614.** Chapter 970 (title) of the statutes is repealed and recreated to read:

**CHAPTER 970**

**COMMENCEMENT OF PROSECUTION**

**SECTION 615.** 970.01 (title) of the statutes is repealed.

**SECTION 616.** 970.01 (1) of the statutes is renumbered 971.015 (1) (a) and amended to read:

971.015 **(1)** (a) ~~Any~~ Except as provided in par. (b), any person who is arrested and not sooner released from custody shall be ~~taken within a reasonable time before a judge in~~ brought before the court for the county in which the offense ~~was alleged to have been committed. The~~ may be tried under s. 970.14 for an initial appearance ~~may be conducted on the record by telephone or live audiovisual means under s. 967.08. If the~~ within a reasonable time after the day of arrest. In no event shall an

arrested person be held for more than 96 hours, including weekends and holidays, without a court determination regarding conditions of release under s. 969.33.

****NOTE: This section reconciles -0012/P2 and -3257/P2.

****NOTE: Please review cross-reference to s. 969.33.

**(3)** TELEPHONE PROCEEDINGS. When an initial appearance is conducted by telephone ~~or live audiovisual means~~ under s. 967.14 or video conferencing under subch. III of ch. 885, the ~~person may waive physical appearance. Waiver of physical appearance shall be placed on the record of the initial appearance and does not waive other grounds for challenging the court's personal jurisdiction. If the person does not waive physical appearance, conducting the initial appearance by telephone or live audiovisual means under s. 967.08~~ defendant does not waive any ~~grounds~~ ground that the ~~person~~ defendant has for challenging the court's personal jurisdiction.

****NOTE: Please note reference to videoconferencing under subch. III of ch. 885.

**SECTION 617.** 970.01 (2) of the statutes is repealed.

**SECTION 618.** 970.02 (title) of the statutes is repealed.

**SECTION 619.** 970.02 (1) (intro.) of the statutes is repealed.

**SECTION 620.** 970.02 (1) (a) of the statutes is renumbered 971.027 (3) and amended to read:

971.027 **(3)** NOTICE OF THE CHARGES AND PENALTIES. ~~Of the charge against the defendant and shall furnish~~ The court shall ensure that the district attorney has furnished the defendant with a copy of the complaint ~~which shall contain the possible penalties for the offenses set forth therein. In the case of a felony, the judge shall also inform the defendant of the~~ and ensure that the defendant has been informed of the nature of the charge and the penalties for ~~the felony~~ each crime with which the

defendant is charged. The district attorney shall read the complaint to the defendant at the defendant's request.

**SECTION 621.** 970.02 (1) (b) and (6) of the statutes are consolidated, renumbered 971.027 (1) and amended to read:

971.027 **(1)** RIGHT TO COUNSEL. ~~Of~~ If the defendant is not represented by counsel, the court shall inform the defendant of his or her right to counsel ~~and, in any case required by the U.S. or Wisconsin constitution, that an attorney will be appointed to represent him or her if he or she is financially unable to employ counsel. (6) In all cases in which the defendant is entitled to legal representation~~ under the constitution or laws of the United States or this state~~, the judge or magistrate shall inform the defendant of his or her right to counsel~~ and, if the defendant claims or appears to be indigent, shall refer the ~~person~~ defendant to the authority for indigency determinations specified under s. 977.07 (1). Unless the defendant knowingly and voluntarily waives the right to counsel, the court may not permit an unrepresented defendant to enter a plea other than not guilty.

**SECTION 622.** 970.02 (1) (c) of the statutes is repealed.

**SECTION 623.** 970.02 (2) of the statutes is renumbered 971.027 (5) and amended to read:

971.027 **(5)** CONDITIONS OF RELEASE. ~~The judge~~ At the initial appearance, the court shall ~~admit the defendant to bail in accordance with~~ establish, modify, or continue the conditions of the defendant's release under ch. 969.

**SECTION 624.** 970.02 (3) of the statutes is repealed.

**SECTION 625.** 970.02 (4) of the statutes is repealed.

**SECTION 626.** 970.02 (5) of the statutes is repealed.

1 **SECTION 627.** 970.02 (7) of the statutes is renumbered 971.027 (6) and amended
2 to read:

3 971.027 **(6)** OBTAINING IDENTIFICATION DATA. If the offense charged is one
4 specified under s. 165.83 (2) (a), ~~the judge shall determine if~~ and if law enforcement
5 officers have not obtained the defendant's fingerprints, photographs, and ~~other~~
6 identifying data ~~have been taken and, if not, the judge~~, the court shall at the initial
7 appearance direct that ~~this information be obtained~~ they do so.

8 **SECTION 628.** 970.03 (title), (1), (2), (3), (5), (7), (8), (9), (10), (13) and (14) of the
9 statutes are repealed.

10 **SECTION 629.** 970.03 (4) of the statutes is renumbered 971.75 (9), and 971.75
11 (9) (a), as renumbered, is amended to read:

12 971.75 **(9)** (a) If the ~~defendant~~ juvenile is accused of a crime under s. 940.225,
13 948.02, 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s. 940.302 (2),
14 if the court finds that the crime was sexually motivated, as defined in s. 980.01 (5),
15 the court may exclude from ~~the~~ any hearing under this section all persons who are
16 not officers of the court, members of the complainant's or defendant's families or
17 others considered by the court to be supportive of the complainant or defendant, the
18 service representative, as defined in s. 895.45 (1) (c), or other persons required to
19 attend, if the court finds that the state or the ~~defendant~~ juvenile has established a
20 compelling interest that would likely be prejudiced if the persons were not excluded.
21 The court may consider as a compelling interest, among others, the need to protect
22 a complainant from undue embarrassment and emotional trauma.

23 **SECTION 630.** 970.03 (6) of the statutes is renumbered 971.75 (6) (b) and
24 amended to read:

971.75 **(6)** (b) During ~~the preliminary examination~~ any hearing under this section, the court may exclude witnesses until they are called to testify, may direct that persons who are expected to be called as witnesses be kept separate until called, and may prevent them from communicating with one another until they have been examined.

**SECTION 631.** 970.03 (11) of the statutes is renumbered 971.75 (8) and amended to read:

971.75 **(8)** ADMISSIBILITY OF HEARSAY REGARDING PROPERTY OWNERSHIP. ~~The~~ At any hearing under this section, the court may ~~admit~~ a statement ~~which~~ that is hearsay and ~~which~~ that is not excluded from the hearsay rule under ~~ss.~~ 908.02 to 908.045 to prove ownership of property or lack of consent to entry to or possession or destruction of property or to prove any element under s. 943.201 (2) or 943.203 (2).

**SECTION 632.** 970.03 (12) of the statutes is renumbered 971.75 (7), and 971.75 (7) (a) 1., (b) and (c), as renumbered, are amended to read:

971.75 **(7)** (a) 1. "Hospital" has the meaning ~~designated~~ given in s. 50.33 (2).

(b) At any ~~preliminary examination~~ hearing under this section, a report of one of the crime laboratory's, the state laboratory of hygiene's, a federal bureau of investigation laboratory's, a hospital laboratory's, or a local health department's findings with reference to all or any part of the evidence submitted, certified as correct by the attorney general, the director of the state laboratory of hygiene, the director of the federal bureau of investigation, the chief hospital administrator, the local health officer, as defined in s. 250.01 (5), or a person designated by any of them, shall, when offered by the state or the accused, be received as evidence of the facts and findings stated, if relevant. The expert who made the findings need not be called as a witness.

(c) At any ~~preliminary examination~~ hearing under this section in Milwaukee County, a latent fingerprint report of the city of Milwaukee police department bureau of identification division's latent fingerprint identification unit, certified as correct by the police chief or a person designated by the police chief, shall, when offered by the state or the accused, be received as evidence of the facts and findings stated, if relevant. The expert who made the findings need not be called as a witness.

**SECTION 633.** 970.032 (title) of the statutes is repealed.

**SECTION 634.** 970.032 (1) of the statutes is renumbered 971.75 (1) and amended to read:

971.75 **(1)** PROBABLE CAUSE HEARING. ~~Notwithstanding s. 970.03, if a preliminary examination is held regarding a juvenile who is subject to the original jurisdiction of~~ If the court ~~of criminal~~ has original jurisdiction over a juvenile under s. 938.183 (1), the court shall ~~first~~ conduct an evidentiary hearing to determine ~~whether~~ if there is probable cause to believe that the juvenile ~~has~~ committed the violation of which he or she is accused under the circumstances specified in s. 938.183 (1) (a), (am), (ar), (b), or (c), whichever is applicable.

**(3)** FINDINGS AT PROBABLE CAUSE HEARING. (a) If the court does not ~~make that finding~~ find that there is probable cause to believe the juvenile committed the violation of which he or she is accused under the circumstances specified in s. 938.183 (1) (a), (am), (ar), (b), or (c), whichever is applicable, the court shall order that the juvenile be discharged, but proceedings may be brought regarding the juvenile under ch. 938.

**SECTION 635.** 970.032 (2) (intro.) of the statutes is renumbered 971.75 (3) (b) and amended to read:

971.75 **(3)** (b) If the court finds probable cause to believe that the juvenile ~~has~~ committed the violation of which he or she is accused under the circumstances specified in s. 938.183 (1) (a), (am), (ar), (b), or (c), the court shall conduct a hearing under sub. (5) to determine whether to retain jurisdiction or to transfer jurisdiction to the court assigned to exercise jurisdiction under chs. 48 and 938.

**(5)** FINDINGS AT RETENTION HEARING. ~~The~~ If the court finds probable cause under sub. (3) (b), it shall retain jurisdiction unless the juvenile proves by a preponderance of the evidence all of the following:

**SECTION 636.** 970.032 (2) (a), (b) and (c) of the statutes are renumbered 971.75 (5) (a), (b) and (c).

**SECTION 637.** 970.035 of the statutes is repealed.

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**SECTION 638.** 970.04 of the statutes is repealed.

**SECTION 639.** 970.05 of the statutes is repealed.

**SECTION 640.** Subchapter I (title) of chapter 970 [precedes 970.06] of the statutes is created to read:

**CHAPTER 970**

SUBCHAPTER I

GENERAL PROVISIONS

**SECTION 641.** 970.06 (2) of the statutes is created to read:

970.06 **(2)** When a grand jury indicts a person, a complaint shall be filed.

**SECTION 642.** 970.06 (3) of the statutes is created to read:

970.06 **(3)** The trial of a criminal action shall be upon the complaint.

**SECTION 643.** 970.06 (4) of the statutes is created to read:

970.06 **(4)** A complaint upon which a criminal action is tried is an information for the purposes of article I, section 7, of the constitution.