

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

3 (b) *Felonies committed on or after July 30, 2002.* Except as provided in par. (c),
4 when a defendant person is found not guilty by reason of mental disease or mental
5 defect of a felony committed on or after July 30, 2002, the court shall commit the
6 person to the department of health services for a specified period not exceeding the
7 maximum term of confinement in prison, plus imprisonment authorized by any
8 applicable penalty enhancement statutes, that could be imposed under ss. 973.01 (2)
9 and 973.15 (2) (a) on an offender convicted of the same felony, plus imprisonment
10 authorized by any applicable penalty enhancement statutes, subject to the credit
11 provisions of s. 973.155 or felonies.

12 (c) *Felonies punishable by life imprisonment.* If a defendant person is found not
13 guilty by reason of mental disease or mental defect of a felony that is punishable by
14 life imprisonment, the commitment period specified by the court may be life, subject
15 to termination under ~~sub. (5)~~ s. 975.60.

16 (d) *Misdemeanors.* When a defendant person is found not guilty by reason of
17 mental disease or mental defect of a misdemeanor, the court shall commit the person
18 to the department of health services for a specified period not exceeding two-thirds
19 of the maximum term of imprisonment that could be imposed under s. 973.15 (2)
20 against an offender convicted of the same misdemeanor or misdemeanors, including
21 imprisonment authorized by any applicable penalty enhancement statutes, subject
22 to the credit provisions of s. 973.155.

23 **SECTION 774.** 971.17 (1g) of the statutes is renumbered 975.53 (1) and amended
24 to read:

NOTICE OF RESTRICTION
ON FIREARM
POSSESSION.

1

975.53 (1) POSSESSION OF FIREARMS. If the defendant under sub. (1) a person is found not guilty of a felony by reason of mental disease or defect, the court shall inform the defendant person of the requirements and penalties under s. 941.29.

SECTION 775. 971.17 (1h) of the statutes is renumbered 975.53 (2) and amended to read:

975.53 (2) ~~NOTICE OF RESTRICTIONS ON POSSESSION~~ POSSESSION OF BODY ARMOR. If the defendant under sub. (1) a person is found not guilty of a violent felony, as defined in s. 941.291 (1) (b), by reason of mental disease or defect, the court shall inform the defendant person of the requirements and penalties under s. 941.291.

SECTION 776. 971.17 (1j) (title) of the statutes is repealed.

SECTION 777. 971.17 (1j) (a) of the statutes is renumbered 975.54 (1) (a).

SECTION 778. 971.17 (1j) (b) of the statutes is renumbered 975.54 (1) (b) and amended to read:

975.54 (1) (b) If a person is found not guilty by reason of mental disease or defect of a serious sex offense, the court may, in addition to committing the person to the department of health services under sub. (1) s. 975.57, place the person on lifetime supervision under s. 939.615 if notice concerning lifetime supervision was given to the person under s. 973.125 and if the court determines that lifetime supervision of the person is necessary to protect the public.

SECTION 779. 971.17 (1m) (title) of the statutes is repealed.

SECTION 780. 971.17 (1m) (a) of the statutes is renumbered 975.54 (2) and amended to read:

975.54 (2) If the defendant under sub. (1) a person is found not guilty by reason of mental disease or defect for a felony or a violation of s. 165.765 (1), 940.225 (3m),

1 944.20, or 948.10, the court shall require the person to provide a biological specimen
2 to the state crime laboratories for deoxyribonucleic acid analysis.

3 **SECTION 781.** 971.17 (1m) (b) 1m. a. of the statutes is renumbered 975.54 (3)
4 (a) 1. and amended to read:

5 975.54 (3) (a) 1. Except as provided in ~~subd. 2m. par. (b)~~, if the defendant under
6 ~~sub. (1)~~ a person is found not guilty by reason of mental disease or defect for any
7 violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch.
8 940, 944, or 948 or s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require
9 the defendant person to comply with the reporting requirements under s. 301.45 if
10 the court determines that the underlying conduct was sexually motivated, as defined
11 in s. 980.01 (5), and that it would be in the interest of public protection to have the
12 defendant person report under s. 301.45.

13 **SECTION 782.** 971.17 (1m) (b) 1m. b. of the statutes is renumbered 975.54 (3)
14 (a) 2. and amended to read:

15 975.54 (3) (a) 2. If a court under subd. ~~1m. a. 1.~~ orders a person to comply with
16 the reporting requirements under s. 301.45 in connection with a finding of not guilty
17 by reason of mental disease or defect for a violation, or the solicitation, conspiracy,
18 or attempt to commit a violation, of s. 942.09 and the person was under the age of 21
19 when he or she committed the offense, the court may provide that upon termination
20 of the commitment order under ~~sub. (5)~~ s. 975.60 or expiration of the order under ~~sub.~~
21 ~~(6)~~ s. 975.61 the person be released from the requirement to comply with the
22 reporting requirements under s. 301.45.

23 **SECTION 783.** 971.17 (1m) (b) 2m. of the statutes is renumbered 975.54 (3) (b)
24 and amended to read:

1 975.54 (3) (b) If ~~the defendant under sub. (1)~~ a person is found not guilty by
2 reason of mental disease or defect for a violation, or for the solicitation, conspiracy,
3 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02
4 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,
5 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2)
6 if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim was a minor and
7 the ~~defendant~~ person was not the victim's parent, the court shall require the
8 ~~defendant~~ person to comply with the reporting requirements under s. 301.45 unless
9 the court determines, after a hearing on a motion made by the ~~defendant~~ person, that
10 the ~~defendant~~ person is not required to comply under s. 301.45 (1m).

11 **SECTION 784.** 971.17 (1m) (b) 3. of the statutes is renumbered 975.54 (3) (c), and
12 975.54 (3) (c) (intro.), 1., 2. and 5., as renumbered, are amended to read:

13 975.54 (3) (c) (intro.) In determining under ~~subd. 1m. a. par. (a) 1.~~ whether it
14 would be in the interest of public protection to have the ~~defendant~~ person report
15 under s. 301.45, the court may consider any of the following:

16 1. The ages, at the time of the violation, of the ~~defendant~~ person and the victim
17 of the violation.

18 2. The relationship between the ~~defendant~~ person and the victim of the
19 violation.

20 5. The probability that the ~~defendant~~ person will commit other violations in the
21 future.

22 **SECTION 785.** 971.17 (1m) (b) 4. of the statutes is renumbered 975.54 (3) (d) and
23 amended to read:

1 975.54 (3) (d) If the court orders a ~~defendant~~ person to comply with the
2 reporting requirements under s. 301.45, the court may order the ~~defendant~~ person
3 to continue to comply with the reporting requirements until his or her death.

4 **SECTION 786.** 971.17 (1m) (b) 5. of the statutes is renumbered 975.54 (3) (e) and
5 amended to read:

6 975.54 (3) (e) If the court orders a ~~defendant~~ person to comply with the
7 reporting requirements under s. 301.45, the clerk ~~of the court in which the order is~~
8 ~~entered~~ shall promptly forward a copy of the order to the department of corrections.
9 If the finding of not guilty by reason of mental disease or defect on which the order
10 is based is reversed, set aside, or vacated, the clerk ~~of the court~~ shall promptly
11 forward to the department of corrections a certificate stating that the finding has
12 been reversed, set aside, or vacated.

13 **SECTION 787.** 971.17 (2) (title) of the statutes is repealed.

14 **SECTION 788.** 971.17 (2) (a) of the statutes is renumbered 975.55 and amended
15 to read:

16 **975.55 Disposition of person found not guilty by reason of mental**
17 **disease or defect.** ~~The court shall enter an initial commitment order under this~~
18 ~~section pursuant to a hearing held as~~ As soon as practicable after the entering a
19 judgment of finding a person not guilty by reason of mental disease or mental defect
20 is entered, the court shall hold a dispositional hearing and commit the person to the
21 department as provided in s. 975.57. If the court lacks sufficient information to ~~make~~
22 ~~the determination required by sub. (3)~~ enter a commitment order under s. 975.57
23 immediately after trial, it may adjourn the dispositional hearing, enter an interim
24 order committing the person to the department, and order the department of health
25 services to conduct a predisposition investigation using the procedure ~~in~~ under s.

1 ~~972.15 973.004~~, or order a supplementary mental examination ~~or both~~, to assist the
2 court in framing the commitment order of the person. If the court enters an interim
3 commitment order, the person is subject to any conditions set by the court and to the
4 rules of the department.

5 SECTION 789. 971.17 (2) (b) of the statutes is renumbered 975.56 (1) and
6 amended to read:

7 975.56 (1) If ~~a~~ the court orders a supplementary mental examination is
8 ~~ordered under par. (a) s. 975.55~~, the court may appoint one or more examiners having
9 the specialized knowledge determined by the court to be appropriate to ~~examine and~~
10 ~~report upon the condition of the person~~. In lieu thereof, conduct an outpatient
11 examination of the person or the court may commit the person to an appropriate
12 mental health facility for the period specified in par. (c), which shall an inpatient
13 examination. Days spent in a mental health facility for an inpatient examination
14 under this subsection count as days spent in custody under s. 973.155.

15 SECTION 790. 971.17 (2) (c) of the statutes is renumbered 975.56 (3) (a) and
16 amended to read:

17 975.56 (3) (a) An examiner ordered to conduct an inpatient examination under
18 this section shall complete ~~an inpatient~~ the examination under par. (b) and file the
19 a report of the examination within 15 days after the examination is ordered ~~unless,~~
20 ~~for good cause,~~ If the examiner cannot complete the examination within 15 days and
21 requests an extension. ~~In that case,~~ the court may for good cause allow one 15-day
22 extension of the examination period.

23 (b) An examiner ordered to conduct an outpatient examination under this
24 section shall complete ~~an outpatient~~ the examination and file the a report of the
25 examination within ~~15~~ 30 days after the examination is ordered.

1 **SECTION 791.** 971.17 (2) (d) of the statutes is renumbered 975.56 (4) and
2 amended to read:

3 975.56 (4) If the court orders an inpatient examination under ~~par. (b)~~ sub. (1),
4 it shall arrange for the transportation of the person to the examining facility within
5 a reasonable time after the examination is ordered and for the person to be returned
6 to the jail or court within a reasonable time after the examination has been
7 completed.

8 **SECTION 792.** 971.17 (2) (e) of the statutes is renumbered 975.56 (2) and
9 amended to read:

10 975.56 (2) The examiner ~~appointed under par. (b)~~ ordered to conduct an
11 examination under this section shall personally observe and examine the person.
12 The examiner ~~or facility~~ shall have access to the person's past or present treatment
13 records, as defined in s. 51.30 (1) (b), and patient health care records, as provided
14 under s. 146.82 (2) (c). If the examiner believes that the person is appropriate for
15 conditional release, the examiner shall report on the type of treatment and services
16 that the person may need while in the community on conditional release.

17 **SECTION 793.** 971.17 (2) (f) of the statutes is renumbered 975.56 (5) and
18 amended to read:

19 975.56 (5) ~~The costs of an examination ordered under par. (a) shall be paid by~~
20 ~~the county upon~~ Upon the order of the court as part of the costs of the action, the
21 county shall pay the costs of an examination ordered under this section.

22 **SECTION 794.** 971.17 (2) (g) of the statutes is renumbered 975.56 (6) and
23 amended to read:

1 975.56 (6) Within 10 days after the examiner's report is filed under ~~par. (e) sub.~~
2 (3), the court shall hold a hearing to determine ~~whether the terms of the commitment~~
3 ~~shall take the form of institutional care or conditional release order under s. 975.57.~~

4 **SECTION 795.** 971.17 (3) (title) of the statutes is repealed.

5 **SECTION 796.** 971.17 (3) (a) of the statutes is renumbered 975.57 (1) and
6 amended to read:

7 975.57 (1) COMMITMENT ORDER. An order for commitment under this section
8 shall specify either institutional care or conditional release. The court shall order
9 institutional care only if it finds by clear and convincing evidence that ~~conditional~~
10 ~~release of the person, if conditionally released,~~ would pose a significant risk of
11 causing bodily harm to himself or herself or to others or of causing serious property
12 damage. If the court does not make this finding, it shall order conditional release.
13 In determining whether commitment shall be for institutional care or conditional
14 release, the court may consider, without limitation because of enumeration, the
15 nature and circumstances of the crime, the person's mental history and present
16 mental condition, where the person will live, how the person will support himself or
17 herself, what arrangements are available to ensure that the person has access to and
18 will take necessary medication, and what arrangements are possible for treatment
19 beyond medication.

20 **SECTION 797.** 971.17 (3) (b) of the statutes is renumbered 975.57 (5) (a) and
21 amended to read:

22 975.57 (5) (a) If the state proves by clear and convincing evidence that the
23 person is not competent to refuse medication or treatment ~~for the person's mental~~
24 ~~condition, under the standard specified in s. 971.16 (3),~~ the court shall issue, as part
25 of the commitment order, an order that the person is not competent to refuse

1 medication or treatment ~~for the person's mental condition~~ and that whoever
2 administers the medication or treatment to the person shall observe appropriate
3 medical standards.

4 **SECTION 798.** 971.17 (3) (c) of the statutes is renumbered 975.57 (5) (b) and
5 amended to read:

6 975.57 (5) (b) ~~If the court order specifies institutional care, the department of~~
7 ~~health services shall place the person in an institution under s. 51.37 (3) that the~~
8 ~~department considers appropriate in light of the rehabilitative services required by~~
9 ~~the person and the protection of public safety. If the a person placed in an institution~~
10 ~~under this section is not subject to a court order determining finding the person to~~
11 ~~be not competent to refuse medication or treatment for the person's mental condition~~
12 ~~and if the institution in which the person is placed department determines that the~~
13 ~~person should be subject to such a court an order, the institution department may~~
14 ~~file a motion with the court, with notice to the person and his or her counsel and the~~
15 ~~district attorney, a motion as provided in s. 975.35 for a hearing, under the standard~~
16 ~~specified in s. 971.16 (3), on to determine whether the person is not competent to~~
17 ~~refuse medication or treatment. A report on which the motion is based shall~~
18 ~~accompany the motion and notice of motion and shall include a statement signed by~~
19 ~~a licensed physician that asserts that the person needs medication or treatment and~~
20 ~~that the person is not competent to refuse medication or treatment, based on an~~
21 ~~examination of the person by a licensed physician. Within 10 days after a motion is~~
22 ~~filed under this paragraph, the court shall determine the person's competency to~~
23 ~~refuse medication or treatment for the person's mental condition. At the request of~~
24 ~~the person, his or her counsel attorney, or the district attorney, the hearing may be~~
25 ~~postponed, but in no case may the postponed hearing shall be held more than within~~

1 20 days after a motion is filed under this paragraph. If the district attorney, the
2 person, and his or her ~~counsel~~ attorney waive their respective opportunities to
3 present other evidence on the issue, the court shall determine the person's
4 competency to refuse medication or treatment on the basis of the report
5 accompanying the motion. In the absence of these waivers, the court shall hold an
6 evidentiary hearing on the issue. If the state proves by ~~evidence that is~~ clear and
7 convincing evidence that the person is not competent to refuse medication or
8 treatment, ~~under the standard specified in s. 971.16 (3),~~ the court shall ~~order~~ find
9 that the person is not competent to refuse medication or treatment ~~for the person's~~
10 ~~mental condition~~ and order that whoever administers the medication or treatment
11 to the person shall observe appropriate medical standards.

12 **SECTION 799.** 971.17 (3) (d) of the statutes is renumbered 975.57 (4) (a) and
13 amended to read:

14 975.57 (4) (a) If the court finds that the person is appropriate for conditional
15 release, ~~the court shall notify the department of health services. The department of~~
16 ~~health services~~ and the county department under s. 51.42 in the county of residence
17 of the person shall prepare a plan that identifies the treatment and services, if any,
18 that the person will receive in the community. The plan shall address the person's
19 need, if any, for supervision, medication, community support services, residential
20 services, vocational services, and alcohol or other drug abuse treatment. ~~The~~
21 ~~department of health services may contract with a county department, under s. 51.42~~
22 ~~(3) (aw) 1. d., with another public agency or with a private agency to provide the~~
23 ~~treatment and services identified in the plan.~~ The plan shall specify who will be
24 responsible for providing the treatment and services identified in the plan. ~~The plan~~
25 department and the county department shall be presented present the plan to the

1 court for its approval within ~~21~~ 14 days after the court ~~finding~~ finds that the person
2 is appropriate for conditional release, unless the department, county department,
3 ~~department of health services~~ and person to be released request additional time to
4 develop the plan. ~~If the~~ The county department of ~~the person's county of residence~~
5 ~~declines to prepare a plan, the department of health services~~ may arrange for
6 another county to prepare the plan if ~~that county agrees to prepare the plan and if~~
7 the individual will be living in ~~that~~ another county.

8 **SECTION 800.** 971.17 (3) (e) of the statutes is renumbered 975.58 and amended
9 to read:

10 **975.58 Petition for revocation of conditional release.** ~~An order for~~
11 ~~conditional release places the person in the custody and control of the department~~
12 ~~of health services. A conditionally released person is subject to the conditions set by~~
13 ~~the court and to the rules of the department of health services. Before a person is~~
14 ~~conditionally released by the court under this subsection, the court shall so notify the~~
15 ~~municipal police department and county sheriff for the area where the person will~~
16 ~~be residing. The notification requirement under this paragraph does not apply if a~~
17 ~~municipal department or county sheriff submits to the court a written statement~~
18 ~~waiving the right to be notified. If the department of health services alleges that a~~
19 ~~released person~~ conditionally released under s. 975.57 (4) or 975.59 has violated any
20 condition or rule of release, or that the safety of the person or others requires ~~that~~
21 ~~conditional release be revoked, he or she may be taken into custody under the rules~~
22 ~~of revocation of release, the department may detain the person in a facility specified~~
23 in s. 51.15 (2) or in a jail. The department of health services shall submit a statement
24 showing probable cause ~~of~~ for the detention and a petition to revoke the order for
25 conditional release to the committing court and the regional office of the state public

1 defender responsible for handling cases in the county where the committing court is
2 located within 72 hours after the detention, excluding Saturdays, Sundays, and legal
3 holidays. The court shall hear the petition within 30 days, after detention unless the
4 hearing or time deadline is waived by the detained person. ~~Pending the revocation~~
5 ~~hearing, the department of health services may detain the person in a jail or in a~~
6 ~~hospital, center or facility specified by s. 51.15 (2).~~ Before the hearing, the
7 department shall provide the detained person written notice of the claimed violation
8 and a summary of the evidence against the person. The department may withdraw
9 the petition without the consent of the court. If the department withdraws the
10 petition, the person shall be immediately released from detention. At a hearing
11 under this section, the state has the burden of proving by clear and convincing
12 evidence that any the person violated a rule or condition of release has been violated,
13 or that the safety of the person or others requires that conditional release be revoked
14 revocation of release. If the court determines after hearing that any the person
15 violated a rule or condition of release has been violated, or that the safety of the
16 person or others requires ~~that conditional release be revoked~~ revocation of release,
17 it may revoke the order for conditional release and order that the released person be
18 placed in an appropriate institution under s. 51.37 (3) until the expiration of the
19 commitment or until again conditionally released under ~~this section~~ s. 975.59. If the
20 court determines that the person violated a rule or condition of release, it may modify
21 the order for conditional release. The court shall set forth on the record the evidence
22 relied upon and reasons for the revocation or modification of conditional release.

23 **SECTION 801.** 971.17 (4) (title) of the statutes is renumbered 975.59 (title).

24 **SECTION 802.** 971.17 (4) (a) of the statutes is renumbered 975.59 (1) and
25 amended to read:

1 975.59 (1) PETITION. Any person who is committed for institutional care to the
2 department and institutionalized under s. 975.57 or 975.58 may petition the
3 committing court to modify its the commitment order by authorizing conditional
4 release if at least 6 months have elapsed since the initial commitment order was
5 entered, the most recent release petition for conditional release, if any, was denied
6 or withdrawn, and the most recent order for conditional release, if any, was revoked.
7 The director of the facility at which the person is placed may file a petition under this
8 paragraph subsection on the person's behalf at any time.

9 **SECTION 803.** 971.17 (4) (b) of the statutes is renumbered 975.59 (2) and
10 amended to read:

11 975.59 (2) SERVICE: APPOINTMENT OF COUNSEL. If the person files a timely
12 petition under sub. (1) without counsel, the court shall serve a copy of the petition
13 on the district attorney and, subject to sub. (7) (b) s. 975.63 (2), refer the matter to
14 the state public defender for determination of indigency and appointment of counsel
15 under s. 977.05 (4) (j). If ~~the a person petitions through counsel, his or her~~ files a
16 petition under sub. (1) with the assistance of an attorney, the person's attorney shall
17 serve a copy of the petition on the district attorney.

18 **SECTION 804.** 971.17 (4) (c) of the statutes is renumbered 975.59 (3) and
19 amended to read:

20 975.59 (3) EXAMINATION. Within 20 days after receipt of the petition under sub.
21 (1), the court shall appoint one or more examiners having the specialized knowledge
22 determined by the court to be appropriate, ~~who shall~~ to examine the person and
23 furnish a written report of the examination to the court within 30 days after
24 appointment. The examiners shall have reasonable access to the person for purposes
25 of examination and to the person's past and present treatment records, as defined in

1 s. 51.30 (1) (b), and patient health care records, as provided under s. 146.82 (2) (c).
2 If ~~any such~~ an examiner believes that the person is appropriate for conditional
3 release, the examiner shall report on the type of treatment and services that the
4 person may need while in the community on conditional release.

5 **SECTION 805.** 971.17 (4) (d) of the statutes is renumbered 975.59 (4) and
6 amended to read:

7 975.59 (4) HEARING. The court, ~~without a jury,~~ shall hear the petition within
8 30 days after the report of the court-appointed examiner is filed with the court,
9 unless the ~~petitioner~~ person waives this time limit. Expenses of proceedings under
10 this subsection shall be paid as provided under s. 51.20 (18). The court shall grant
11 the petition unless it finds by clear and convincing evidence that the person would
12 pose a significant risk of causing bodily harm to himself or herself or to others or of
13 causing serious property damage if conditionally released. In making this
14 determination, the court may consider, ~~without limitation because of enumeration,~~
15 ~~the nature and circumstances of the crime, the person's mental history and present~~
16 ~~mental condition, where the person will live, how the person will support himself or~~
17 ~~herself, what arrangements are available to ensure that the person has access to and~~
18 ~~will take necessary medication, and what arrangements are possible for treatment~~
19 ~~beyond medication~~ the factors under s. 975.57 (1).

20 **SECTION 806.** 971.17 (4) (e) of the statutes is renumbered 975.59 (5) (a), and
21 975.59 (5) (a) 1., as renumbered, is amended to read:

22 975.59 (5) (a) 1. If the court finds that the person is appropriate for conditional
23 release, the court shall notify the department of health services. ~~Subject and, subject~~
24 ~~to subd. subds. 2. and 3., the department of health services and the county~~
25 department under s. 51.42 in the county of residence of the person shall prepare a

1 plan that identifies the treatment and services, if any, that the person will receive
2 in the community. The plan shall address the person's need, if any, for supervision,
3 medication, community support services, residential services, vocational services,
4 and alcohol or other drug abuse treatment. ~~The department of health services may~~
5 ~~contract with a county department, under s. 51.42 (3) (aw) 1. d., with another public~~
6 ~~agency or with a private agency to provide the treatment and services identified in~~
7 ~~the plan.~~ The plan shall specify who will be responsible for providing the treatment
8 and services identified in the plan. ~~The plan shall be presented~~ department and the
9 county department shall present the plan to the court for its approval within ~~60~~ 14
10 days after the court finding that the person is appropriate for conditional release,
11 unless the department, county department, ~~department of health services~~ and
12 person to be released request additional time to develop the plan.

13 **SECTION 807.** 971.17 (4m) of the statutes is repealed.

14 **SECTION 808.** 971.17 (5) (title) of the statutes is renumbered 975.60 (title).

15 **SECTION 809.** 971.17 (5) of the statutes is renumbered 975.60 (1) and amended
16 to read:

17 975.60 (1) A person on conditional release, or the department of health services
18 on his or her behalf, may petition the committing court to terminate the an order of
19 commitment if at least 6 months have elapsed since the person was last placed on
20 conditional release and since the most recent petition under this section, if any, was
21 denied.

22 **(2)** ~~If the a~~ person files a timely petition under sub. (1) without counsel, the
23 court shall serve a copy of the petition on the district attorney and, subject to ~~sub. (7)~~
24 ~~(b)~~ s. 975.63 (2), refer the matter to the state public defender for determination of
25 indigency and appointment of counsel under s. 977.05 (4) (j). If the person petitions

1 ~~through counsel, his or her~~ files a petition under sub. (1) with the assistance of an
2 attorney, the person's attorney shall serve a copy of the petition on the district
3 attorney.

4 (3) The court shall rule on the petition ~~shall be determined~~ as promptly as
5 practicable ~~by the court without a jury.~~

6 (4) The court shall terminate the order of commitment unless it finds by clear
7 and convincing evidence that further supervision is necessary to prevent a
8 significant risk of bodily harm to the person or to others or of serious property
9 damage. In making this determination, the court may consider, without limitation
10 because of enumeration, the nature and circumstances of the crime, the person's
11 mental history and current mental condition, the person's behavior while on
12 conditional release, and plans for the person's living arrangements, support,
13 treatment, and other required services after termination of the commitment order.
14 ~~A petition under this subsection may not be filed unless at least 6 months have~~
15 ~~elapsed since the person was last placed on conditional release or since the most~~
16 ~~recent petition under this subsection was denied.~~

17 **SECTION 810.** 971.17 (6) of the statutes is renumbered 975.61, and 975.61 (1)
18 (intro.) and (2), as renumbered, are amended to read:

19 975.61 (1) (intro.) At least 60 days prior to the expiration of a commitment order
20 issued under sub. (1) s. 975.57, the department of health services shall notify all of
21 the following of the expiration of the order:

22 (2) Upon the expiration of a commitment order ~~under sub. (1),~~ the court shall
23 discharge the person, subject to the right of the department of health services or the
24 appropriate county department under s. 51.60 or 51.437 to proceed against the

1 person under ch. 51 or 55. ~~If none of those departments proceeds against the person~~
2 ~~under ch. 51 or 55, the court may order the proceeding.~~

3 **SECTION 811.** 971.17 (6m) (title) of the statutes is repealed.

4 **SECTION 812.** 971.17 (6m) (a) (intro.) of the statutes is renumbered 975.62 (1)
5 (intro.) and amended to read:

6 975.62 (1) (intro.) In this subsection ~~subsection~~ section:

7 **SECTION 813.** 971.17 (6m) (a) 1. of the statutes is repealed.

8 **SECTION 814.** 971.17 (6m) (a) 2. of the statutes is renumbered 975.62 (1) (a).

9 **SECTION 815.** 971.17 (6m) (a) 3. of the statutes is renumbered 975.62 (1) (b).

10 **SECTION 816.** 971.17 (6m) (b) of the statutes is repealed.

11 **SECTION 817.** 971.17 (6m) (c) of the statutes is repealed.

12 **SECTION 818.** 971.17 (6m) (d) of the statutes is renumbered 975.62 (5) and
13 amended to read:

14 975.62 (5) The department of health services shall design and prepare cards
15 for persons specified in par. (b) 1. a victim's representative to send to the department.
16 The cards shall have space for ~~these persons~~ a victim's representative to provide their
17 names his or her name and addresses address, the name of the ~~applicable defendant~~
18 person committed under this subchapter, and any other information the department
19 determines is necessary. The department shall provide the cards, without charge,
20 to district attorneys. District attorneys shall provide the cards, without charge, to
21 ~~persons specified in par. (b) 1.~~ These persons victims' representatives. A victim's
22 representative may send completed cards to the department. ~~All departmental~~
23 ~~records or~~ Records and portions of records of the department that relate to mailing
24 addresses of ~~these persons~~ a victim's representative are not subject to inspection or

1 copying under s. 19.35 (1), except as needed to comply with a request under ~~sub. (4m)~~
2 ~~(d)~~ or s. 301.46 (3) (d).

3 **SECTION 819.** 971.17 (7) (title) of the statutes is renumbered 975.63 (title).

4 **SECTION 820.** 971.17 (7) (a) of the statutes is renumbered 975.63 (1) and
5 amended to read:

6 975.63 (1) The committing court shall conduct all hearings under ~~this section~~
7 ss. 975.55 to 975.61. The committed person shall be given reasonable notice of the
8 time and place of each such hearing. The court may designate additional persons to
9 receive these notices.

10 **SECTION 821.** 971.17 (7) (b) of the statutes is renumbered 975.63 (2), and 975.63
11 (2) (intro.), as renumbered, is amended to read:

12 975.63 (2) (intro.) Without limitation by enumeration, at any hearing under
13 ~~this section~~ ss. 975.55 to 975.61, the person subject of the hearing has the right to:

14 **SECTION 822.** 971.17 (7) (c) of the statutes is renumbered 975.63 (4) and
15 amended to read:

16 975.63 (4) If ~~the~~ a person who is subject to proceedings under ss. 975.55 to
17 975.61 wishes to be examined by a physician, ~~as defined in s. 971.16 (1) (a), or a~~
18 ~~psychologist, as defined in s. 971.16 (1) (b),~~ or other expert of his or her choice, the
19 procedure under ~~s. 971.16~~ 975.51 (4) shall apply. Upon motion of an indigent
20 person, the court shall appoint a qualified and available examiner for the person at
21 public expense. Examiners for the person or the district attorney shall have
22 reasonable access to the person for purposes of examination, and to the person's past
23 and present treatment records, as defined in s. 51.30 (1) (b), and patient health care
24 records, as provided under s. 146.82 (2) (c).

25 **SECTION 823.** 971.17 (7) (d) of the statutes is repealed.

1 SECTION 824. 971.17 (7m) of the statutes is renumbered 975.64.

X X (2)

SECTION 825. 971.17 (8) of the statutes is repealed.

INS 259

3 SECTION 826. 971.18 of the statutes is renumbered 975.21 and amended to
4 read:

5 **975.21 Inadmissibility of statements made for purposes of**
6 **examination.** A statement made by a person subjected who is subject to a
7 psychiatric examination or to treatment pursuant to under this chapter that is made
8 for the purposes purpose of such the examination or treatment shall is not be
9 admissible in evidence against the person in any criminal proceeding on any issue
10 other than that of the person's mental condition.

11 SECTION 827. 971.19 of the statutes is renumbered 970.14, and 970.14 (title),
12 (1), (2), (3), (4), (5), (6), (8), (9) (intro.), (10), (11) and (12), as renumbered, are amended
13 to read:

14 **970.14 Place of trial Venue.** (1) ~~Criminal actions~~ Trials shall be tried in the
15 county where the crime was committed, except as ~~otherwise provided~~ in this section
16 or in s. 971.09.

17 (2) ~~Where 2 or more acts are requisite to the commission of any offense~~ crime
18 requires 2 or more acts, the trial may be in any county in which any of such acts
19 occurred. In a case involving a charge of conspiracy under s. 939.31, the trial may
20 be in any county in which a conspiratorial act took place.

21 (3) ~~Where an offense~~ a crime is committed on or within one-fourth of a mile of
22 the boundary of 2 or more counties, the ~~defendant may be tried~~ trial may be in any
23 of such counties.

24 (4) If a crime is committed in, on, by use of, or against any vehicle passing
25 through or within this state, and it cannot readily be determined in which county the

1 crime was committed, the ~~defendant may be tried~~ trial may be in any county through
2 ~~which such vehicle has passed or in the county where the defendant's travel~~
3 ~~commenced or terminated~~ in which the vehicle has traveled.

4 (5) If the act causing death is in one county and the death ensues in another,
5 the ~~defendant may be tried~~ trial may be in either county. If neither location can
6 readily be determined, the ~~defendant may be tried~~ trial may be in the county where
7 the body is found.

8 (6) If an offense is commenced outside the state and is consummated within
9 the state, the ~~defendant may be tried~~ trial may be in the county where the offense
10 was consummated.

11 (8) In an action for a violation of s. 948.31, the ~~defendant may be tried~~ trial may
12 be in the county where the crime was committed or the county of lawful residence of
13 the child.

14 (9) (intro.) In an action under s. 301.45 (6) (a) or (ag), the defendant may be tried
15 trial may be in the defendant's county of residence at the time that the complaint is
16 filed. If the defendant does not have a county of residence in this state at the time
17 that the complaint is filed, or if the defendant's county of residence is unknown at the
18 time that the complaint is filed, ~~defendant may be tried~~ trial may be in any of the
19 following counties:

20 (10) In an action under s. 30.547 for intentionally falsifying an application for
21 a certificate of number, a registration or a certificate of title, the ~~defendant may be~~
22 ~~tried~~ trial may be in the defendant's county of residence at the time that the
23 complaint is filed, in the county where the defendant purchased the boat if purchased
24 from a dealer, or the county where the department of natural resources received the
25 application.

1 (11) In an action under s. 943.201, the ~~defendant may be tried~~ trial may be in
2 the county where the victim or intended victim resided at the time of the offense or
3 in any other county designated under this section. In an action under s. 943.203, the
4 ~~defendant may be tried~~ trial may be in the county where the victim or intended victim
5 was located at the time of the offense or in any other county designated under this
6 section.

7 (12) Except as provided in s. ~~971.223~~ 971.72, in an action for a violation of chs.
8 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or for a violation of any other law
9 arising from or in relation to the official functions of the subject of the investigation
10 or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to
11 12, subch. III of ch. 13, or subch. III of ch. 19 a ~~defendant who is~~ trial for a resident
12 of this state shall be ~~tried in circuit~~ the court for the county where the ~~defendant~~
13 person resides. For purposes of this subsection, a person other than a natural person
14 resides within a county if the person's principal place of operation is located within
15 that county.

16 **SECTION 828.** 971.20 (title), (1), (2), (4), (5), (6), (7), (8), (9), (10) and (11) of the
17 statutes are renumbered 967.16 (title), (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10),
18 and 967.16 (2), (3), (8) and (9), as renumbered, are amended to read:

19 967.16 (2) ONE SUBSTITUTION. In any criminal action, the defendant has a right
20 to only one substitution of a judge, except under sub. (7) (6). The right of substitution
21 shall be exercised as provided in this section.

22 (3) SUBSTITUTION OF TRIAL JUDGE ORIGINALLY ASSIGNED. A written request for the
23 substitution of a different judge for the judge originally assigned to the trial of the
24 action may be filed with the clerk before making any motions to the trial court and
25 before ~~arraignment~~ entry of a plea.

1 **(8) JUDGE'S AUTHORITY TO ACT.** Upon the filing of a request for substitution in
2 proper form and within the proper time, the judge whose substitution has been
3 requested has no authority to act further in the action except to conduct the initial
4 appearance, accept pleas, and set bail conditions of release.

5 **(9) FORM OF REQUEST.** A request for substitution of a judge may be made in the
6 following form:

7 STATE OF WISCONSIN

8 CIRCUIT COURT

9 County

10 State of Wisconsin

11 vs.

12 (Defendant)

13 Pursuant to s. ~~971.20~~ 967.16 the defendant (or defendants) request (s) a
14 substitution for the Hon. as judge in the above entitled action.

15 Dated, (year)

16 (Signature of defendant or defendant's attorney)

17 **SECTION 829.** 971.20 (3) of the statutes is repealed.

18 **SECTION 830.** 971.22 of the statutes is renumbered 971.70 and amended to
19 read:

20 **971.70 Change of place of trial.** (1) The defendant may move ~~for a~~ to change
21 ~~of~~ the place of trial on the ground that an impartial trial cannot be had in the county.
22 ~~The motion shall be made at arraignment, but it may be made thereafter for cause.~~

23 (2) The motion shall be in writing and supported by an affidavit ~~which shall~~
24 state stating evidentiary facts showing the nature of the prejudice alleged. The
25 district attorney may file counter affidavits.

1 (3) If the court determines that ~~there exists prejudice~~ in the county where the
2 action is pending ~~such prejudice that will prevent a fair trial cannot be had~~, it shall
3 order that conduct the trial be held in any county where ~~an impartial a fair trial can~~
4 be had. ~~Only one change may be granted under this subsection. The judge who~~
5 orders the change in the place of trial shall preside at the trial. Preliminary matters
6 prior to trial may be conducted in either county at the discretion of the court. The
7 judge or, if the requirements under s. 971.71 (1) are satisfied, order the selection of
8 a jury from another county under s. 971.71 (2). If the court conducts the trial in
9 another county, it shall determine where the defendant, if he or she is in custody,
10 shall be held and where the record shall be kept. ~~If the criteria under s. 971.225 (1)~~
11 ~~(a) to (c) exist, the court may proceed under s. 971.225 (2)~~ The court, in its discretion,
12 may conduct pretrial matters in either county.

13 **SECTION 831.** 971.223 of the statutes is renumbered 971.72, and 971.72 (3) and
14 (4), as renumbered, are amended to read:

15 971.72 (3) This section does not affect which prosecutor has responsibility
16 under s. 978.05 (1) to prosecute criminal actions ~~arising from violations described~~
17 under sub. (1).

18 (4) This section does not affect the application of s. ~~971.22~~ 971.70. In actions
19 described under sub. (1), the court may enter an order under s. ~~971.225~~ 971.71 only
20 if the order is agreed to by the defendant.

21 **SECTION 832.** 971.225 (title) of the statutes is renumbered 971.71 (title).

22 **SECTION 833.** 971.225 (1) (intro.), (a) and (c) of the statutes are renumbered
23 971.71 (1) (intro.), (a) and (b), and 971.71 (1) (intro.) and (a), as renumbered, are
24 amended to read:

1 971.71 (1) (intro.) ~~In lieu of~~ If there are grounds for changing the place of trial
2 under s. ~~971.22 (3) or 971.223~~ 971.70 (3) or 971.72 and all of the following conditions
3 are satisfied, the court may require the selection of a jury under sub. (2) if:

4 (a) The court has decided to sequester the jurors after the commencement of
5 the trial, as provided in s. ~~972.12;~~ 972.05.

6 **SECTION 834.** 971.225 (1) (b) of the statutes is repealed.

7 **SECTION 835.** 971.225 (2) of the statutes is renumbered 971.71 (2) and amended
8 to read:

9 971.71 (2) If the court decides to proceed under this section it shall follow the
10 procedure under s. ~~971.22~~ 971.70 until the jury is chosen in the 2nd county. At that
11 time, the proceedings shall return to the original county using the jurors selected in
12 the 2nd county. The original county shall reimburse the 2nd county for all applicable
13 costs under s. 814.22.

14 **SECTION 836.** 971.23 (title) of the statutes is repealed.

15 **SECTION 837.** 971.23 (1) (intro.) of the statutes is renumbered 971.43 (2) (intro.)
16 and amended to read:

17 971.43 (2) ~~WHAT A DISTRICT ATTORNEY MUST DISCLOSE TO A DEFENDANT~~ MATERIAL
18 TO BE DISCLOSED. (intro.) ~~Upon demand, the~~ The district attorney shall, ~~within a~~
19 ~~reasonable time before trial,~~ disclose to the defendant or his or her attorney defense
20 the following material and information, not previously disclosed before or at the
21 initial appearance, and permit the defendant or his or her attorney to inspect and
22 ~~copy or photograph all of the following materials and information, if it is within the~~
23 ~~possession, custody or control of the state~~ inspection, copying, testing, and
24 photographing of disclosed documents or tangible objects:

1 **SECTION 838.** 971.23 (1) (a) of the statutes is renumbered 971.43 (2) (a) and
2 amended to read:

3 971.43 (2) (a) Any written or recorded statement concerning the alleged crime
4 made by the defendant, including the testimony of the defendant ~~in a secret~~
5 ~~proceeding under s. 968.26~~ at an inquest or before a grand jury, and the names of
6 witnesses to the defendant's written statements.

7 **SECTION 839.** 971.23 (1) (b) of the statutes is renumbered 971.43 (2) (c) and
8 amended to read:

9 971.43 (2) (c) A written summary of all oral statements of the defendant ~~which~~
10 ~~that~~ the district attorney plans to use in the course of the ~~at~~ trial and the names of
11 witnesses to the defendant's oral statements.

12 **SECTION 840.** 971.23 (1) (bm) of the statutes is renumbered 971.43 (2) (d) and
13 amended to read:

14 971.43 (2) (d) Evidence obtained in the manner described under s. ~~968.31~~
15 ~~968.345~~ (2) (b), if the district attorney intends to use the evidence at trial.

16 **SECTION 841.** 971.23 (1) (c) of the statutes is renumbered 971.43 (2) (g).

17 **SECTION 842.** 971.23 (1) (d) of the statutes is renumbered 971.45 and amended
18 to read:

19 **971.45 Witness lists.** ~~A~~ Upon demand by the other party, a party shall
20 provide a list of all witnesses and their addresses whom the district attorney he or
21 she intends to call at the trial. The list shall include each witness's name and address
22 and shall be provided not less than 10 days before trial or at another time set by the
23 court. This paragraph section does not apply to rebuttal witnesses or ~~these witnesses~~
24 called for impeachment only.

1 **SECTION 843.** 971.23 (1) (e) of the statutes is renumbered 971.46 (2) and
2 amended to read:

3 971.46 (2) ~~Any relevant written or recorded statements of a witness named on~~
4 ~~a list under par. (d), including any audiovisual recording of an oral statement of a~~
5 ~~child under s. 908.08, Furnish any reports or statements of experts made in~~
6 connection with the case or, if an expert does not prepare a report or statement, a
7 written summary of the expert's findings or the subject matter of his or her testimony,
8 and the results of any physical or mental examination, scientific test, experiment,
9 or comparison that the ~~district attorney~~ party intends to offer in evidence at trial.

10 **SECTION 844.** 971.23 (1) (f) of the statutes is renumbered 971.43 (2) (i) and
11 amended to read:

12 971.43 (2) (i) The criminal record of a ~~prosecution witness which is, and if~~
13 known to the district attorney, any pending charges against, any person whom the
14 district attorney intends to call as a trial witness.

15 **SECTION 845.** 971.23 (1) (g) of the statutes is renumbered 971.43 (2) (j) and
16 amended to read:

17 971.43 (2) (j) Any physical evidence that the district attorney intends to offer
18 ~~in evidence~~ at the trial.

19 **SECTION 846.** 971.23 (1) (h) of the statutes is renumbered 971.43 (2) (k).

20 **SECTION 847.** 971.23 (2m) (intro.) of the statutes is renumbered 971.44 (2)
21 (intro.) and amended to read:

22 971.44 (2) ~~WHAT A DEFENDANT MUST DISCLOSE TO THE DISTRICT ATTORNEY~~ MATERIAL
23 TO BE DISCLOSED. (intro.) ~~Upon demand, the defendant or his or her attorney~~ The
24 defense shall, within a reasonable time before trial, disclose to the district attorney
25 and permit the district attorney to inspect and copy or photograph all of the following

1 ~~materials material and information, if it is within the possession, custody or control~~
2 ~~of the defendant and permit inspection, copying, testing, and photographing of~~
3 ~~disclosed documents or tangible objects:~~

4 **SECTION 848.** 971.23 (2m) (a) of the statutes is repealed.

5 **SECTION 849.** 971.23 (2m) (am) of the statutes is repealed.

6 **SECTION 850.** 971.23 (2m) (b) of the statutes is renumbered 971.44 (2) (b) and
7 amended to read:

8 971.44 (2) (b) ~~The If known to the defense, the criminal record of ~~a~~ any person~~
9 ~~whom the defense intends to call as a trial witness, other than the defendant, which~~
10 ~~is known to the defense attorney.~~

11 **SECTION 851.** 971.23 (2m) (c) of the statutes is renumbered 971.44 (2) (c) and
12 amended to read:

13 971.44 (2) (c) Any physical evidence that the defendant defense intends to offer
14 ~~in evidence at the trial.~~

15 **SECTION 852.** 971.23 (3) of the statutes is renumbered 971.54 and amended to
16 read:

17 **971.54 ~~Comment or instruction on failure to call witness~~ Failure to use**
18 **disclosed material at trial.** ~~No comment or instruction~~ The fact that a party has
19 indicated during the discovery process an intention to offer specified evidence or to
20 call a specified witness is not admissible in evidence at a hearing or trial. If a party
21 fails to offer such evidence or call such a witness, neither the court nor any other
22 party or witness may make any statement regarding the ~~that~~ failure to call a witness
23 at the trial shall be made or given if the sole basis for such ~~comment or instruction~~
24 the statement is the fact ~~that~~ the evidence or name of the witness appears upon a list
25 furnished pursuant to this section was disclosed under this subchapter.

1 **SECTION 853.** 971.23 (5) of the statutes is renumbered 971.48 (1) and amended
2 to read:

3 971.48 (1) ~~SCIENTIFIC TESTING. On Upon motion of a by either party subject to~~
4 ~~s. 971.31 (5)~~, the court may order the production of any item of physical evidence
5 ~~which that~~ is intended to be introduced at the trial for scientific analysis under such
6 terms and conditions as the court prescribes.

7 **SECTION 854.** 971.23 (5c) (title) of the statutes is repealed.

8 **SECTION 855.** 971.23 (5c) of the statutes is renumbered 971.58 (1).

9 **SECTION 856.** 971.23 (6) (title) of the statutes is renumbered 971.52 (title) and
10 amended to read:

11 **971.52 (title) Protective order orders, other special procedures.**

12 **SECTION 857.** 971.23 (6) of the statutes is renumbered 971.52 (1) and amended
13 to read:

14 971.52 (1) Upon motion of a party, the court may at any time order that
15 discovery, ~~inspection or the listing of witnesses~~ required under this section
16 subchapter be denied, restricted, or deferred, or make other appropriate orders.

17 **(2)** If the district attorney or defense counsel certifies that ~~to list~~ listing a
18 witness under s. 971.45 may subject the witness or others to physical or economic
19 harm or coercion, the court may order that the deposition of the witness be taken
20 pursuant to s. ~~967.04 (2) to (6)~~ 967.21. The name of the witness need not be divulged
21 prior to the taking of such deposition. If the witness becomes unavailable or changes
22 his or her testimony, the deposition shall be admissible at trial as substantive
23 evidence.

24 **SECTION 858.** 971.23 (6c) (title) of the statutes is repealed.

1 **SECTION 859.** 971.23 (6c) of the statutes is renumbered 971.58 (2) and amended
2 to read:

3 971.58 (2) Except as provided in s. ~~967.04~~ 967.21, the defendant or his or her
4 attorney may not compel a victim of a crime to submit to a pretrial interview or
5 deposition.

6 **SECTION 860.** 971.23 (6m) of the statutes is renumbered 971.53 and amended
7 to read:

8 **971.53 In camera proceedings.** ~~Either~~ Upon motion of a party, the court may
9 ~~move for~~ conduct an in camera inspection ~~by the court~~ of any document required to
10 be disclosed under sub. (1) or (2m) ~~for the purpose of masking or deleting any~~
11 ~~material which is not relevant to the case being tried. The court shall mask or delete~~
12 ~~any irrelevant material~~ s. 971.035, 971.43, or 971.44. Any in camera proceeding shall
13 be reported and the court shall enter any order necessary to preserve the
14 confidentiality of the record. The original or a copy of any material that is not
15 disclosed shall be sealed and preserved as part of the record.

16 **SECTION 861.** 971.23 (7) of the statutes is renumbered 971.50 and amended to
17 read:

18 **971.50 Continuing duty to disclose.** ~~If, subsequent to compliance after~~
19 ~~complying~~ with a requirement of this section ~~chapter~~, and ~~prior to~~ before or during
20 trial, a party discovers additional material or the names of additional witnesses
21 ~~requested which~~ that are subject to discovery, inspection, or production under this
22 ~~section~~ subchapter, the party shall promptly notify the other party of the existence
23 of the additional material or names.

24 **SECTION 862.** 971.23 (7m) (a) of the statutes is renumbered 971.55 and
25 amended to read:

1 **971.55 Remedies for noncompliance.** The court shall exclude any witness
2 not listed, any expert as to whom the requirements of s. 971.46 were not met, or
3 evidence not presented for inspection, testing, or copying required by this section
4 subchapter, unless good cause is shown for failure to comply. ~~The court may in In~~
5 appropriate cases, the court may grant the opposing party a recess or a continuance.

6 **SECTION 863.** 971.23 (7m) (b) of the statutes is repealed.

7 **SECTION 864.** 971.23 (8) (title) of the statutes is renumbered 971.44 (4) (title).

8 **SECTION 865.** 971.23 (8) (a) of the statutes is renumbered 971.44 (4) and
9 amended to read:

10 971.44 (4) If the ~~defendant~~ defense intends to ~~rely upon an alibi as a defense,~~
11 ~~the defendant shall give notice to~~ call witnesses other than the defendant to support
12 a defense of alibi, the defense shall notify the district attorney ~~at the arraignment~~
13 ~~or of that intent~~ at least 30 days before trial, stating particularly the place where the
14 defendant claims to have been when the crime is alleged to have been committed
15 together with and the names and addresses of witnesses to the alibi, if known. If at
16 the close of the state's case the defendant withdraws the alibi or if at the close of the
17 defendant's case the defendant does not call some or any of the alibi witnesses, the
18 state ~~shall not comment on the defendant's withdrawal or on the failure to call some~~
19 ~~or any of the alibi witnesses.~~ The state shall not call any alibi witnesses not called
20 by the defendant for the purpose of impeaching the defendant's credibility with
21 regard to the alibi notice. Nothing in this section may prohibit the state from calling
22 ~~said alibi witnesses for any other purpose~~ whom the defense intends to call at trial.

23 **SECTION 866.** 971.23 (8) (b) of the statutes is repealed.

24 **SECTION 867.** 971.23 (8) (c) of the statutes is repealed.

1 **SECTION 868.** 971.23 (8) (d) of the statutes is renumbered 971.43 (5) and
2 amended to read:

3 971.43 (5) ALIBI REBUTTAL. ~~Within 20 days after receipt of the~~ If the defendant
4 has provided notice of an alibi, ~~or such other time as the court orders~~ defense under
5 s. 971.44 (4), the district attorney shall furnish the defendant notice in writing of,
6 within 20 days after receipt of such notice unless otherwise provided in the
7 scheduling order, disclose the names and addresses, if known, of any witnesses whom
8 the state proposes to offer in rebuttal to discredit the defendant's alibi. ~~In default of~~
9 ~~such notice, no rebuttal evidence on the alibi issue shall be received unless the court,~~
10 ~~for cause, orders otherwise~~ district attorney intends to call in rebuttal to discredit the
11 defendant's alibi.

12 **SECTION 869.** 971.23 (8) (e) of the statutes is repealed.

13 **SECTION 870.** 971.23 (9) of the statutes is renumbered 971.47 and amended to
14 read:

15 **971.47 Deoxyribonucleic acid evidence.** (1) In this subsection ~~section,~~
16 "deoxyribonucleic acid profile" has the meaning given in s. 939.74 (2d) (a).

17 (2) Notwithstanding sub. (1) (e) or (2m) (am), ~~if either s. 971.46, a party who~~
18 intends to ~~submit~~ offer deoxyribonucleic acid profile evidence at a trial to prove or
19 disprove the identity of a person, ~~the party seeking to introduce the evidence shall~~
20 notify the other party ~~of the intent to introduce the evidence in writing by mail at~~
21 least 45 days before the date set for trial; ~~and shall provide the other party of his or~~
22 her intent to offer the evidence and, within 15 days of after receiving a request, the
23 from the other party, shall provide him or her the information and material identified
24 under sub. (1) (e) or (2m) (am), whichever is appropriate, described in s. 971.46 that
25 relates to the evidence.

1 (3) The court shall exclude deoxyribonucleic acid profile evidence at trial, if the
2 notice and production deadlines under ~~par. (b) sub. (2)~~ are not met, except the court
3 may waive the 45 day notice requirement or may extend the 15 day production
4 requirement upon stipulation of the parties, or for good cause, if the court finds that
5 no party will be prejudiced by the waiver or extension. ~~The court may in~~ In
6 appropriate cases the court may grant the opposing party a recess or continuance.

7 **SECTION 871.** 971.23 (10) (title) of the statutes is repealed.

8 **SECTION 872.** 971.23 (10) of the statutes is renumbered 971.51 (2).

9 **SECTION 873.** 971.26 of the statutes is renumbered 970.11.

10 **SECTION 874.** 971.27 of the statutes is renumbered 970.12 and amended to
11 read:

12 **970.12 Lost information, or destroyed complaint or indictment.** In the
13 case of the loss or destruction of an information or complaint If a complaint is lost or
14 destroyed, the district attorney may file a copy, and the prosecution shall proceed
15 without delay from that cause. In the case of the loss or destruction of an indictment,
16 an information may be filed which shall have the same effect as the original.

17 **SECTION 875.** 971.29 (title) of the statutes is renumbered 970.09 (title) and
18 amended to read:

19 **970.09 (title) Amending the charge complaint.**

20 **SECTION 876.** 971.29 (1) of the statutes is renumbered 970.09 (1) and amended
21 to read:

22 **970.09 (1)** ~~A complaint or information may be amended at any time prior to~~
23 arraignment At any time before the defendant enters a plea, the district attorney
24 may amend the complaint without leave of the court.

1 **SECTION 877.** 971.29 (2) of the statutes is renumbered 970.09 (3) and amended
2 to read:

3 970.09 (3) ~~At the trial, the~~ The court may allow amendment of the district
4 attorney to amend the complaint, indictment or information at trial to conform to the
5 proof where such amendment is not prejudicial to the defendant.

6 **(4)** After verdict the ~~pleading~~ complaint shall be deemed amended as to
7 technical variances to conform to the proof if no objection to the relevance of the
8 evidence was timely raised upon the trial.

9 **SECTION 878.** 971.29 (3) of the statutes is repealed.

10 **SECTION 879.** 971.30 (title) and (1) of the statutes are repealed.

11 **SECTION 880.** 971.30 (2) (intro.), (a), (b) and (c) of the statutes are consolidated,
12 renumbered 971.65 (1) and amended to read:

13 971.65 (1) GENERALLY. Any motion that is capable of determination before trial
14 may be made before trial. Unless otherwise provided or ordered by the court, all
15 motions the motion shall meet the following criteria: ~~(a) Be~~ be in writing. ~~(b) Contain~~
16 and contain a caption setting forth the name of the court, the venue, the title of the
17 action, the file number, and a denomination of the party seeking the order or relief
18 ~~and a brief description of the type of order or relief sought.~~ ~~(c) State.~~ The motion
19 shall state with particularity the grounds for the motion and the order or relief
20 sought.

21 **SECTION 881.** 971.31 (title) of the statutes is repealed.

22 **SECTION 882.** 971.31 (1) of the statutes is repealed.

23 **SECTION 883.** 971.31 (2) of the statutes is renumbered 971.65 (3) and amended
24 to read:

1 971.65 (3) PARTICULAR ISSUES TO BE RAISED. ~~Except as provided in sub. (5),~~
2 ~~defenses~~ Defenses and objections based on defects in the institution of the
3 proceedings, insufficiency of the complaint, ~~information~~ or indictment, invalidity in
4 whole or in part of the statute on which the prosecution is ~~founded~~ based, or the use
5 of illegal means to secure evidence shall be raised before trial by a motion or be
6 deemed waived. The court may, however, entertain such a motion at the trial, in
7 which case the defendant waives any jeopardy that may have attached. ~~The motion~~
8 ~~to suppress evidence shall be so entertained with waiver of jeopardy when it appears~~
9 ~~that the defendant is surprised by the state's possession of such evidence.~~

10 **SECTION 884.** 971.31 (3) of the statutes is renumbered 972.18 (2) and amended
11 to read:

12 972.18 (2) The admissibility of any statement of the defendant shall be
13 determined at the trial by the court in an evidentiary hearing out of the presence of
14 the jury, unless the defendant, ~~by motion, challenges the~~ court ruled on admissibility
15 of ~~such~~ the statement before trial.

16 **SECTION 885.** 971.31 (4) of the statutes is renumbered 971.65 (4) and amended
17 to read:

18 971.65 (4) DECIDING MOTIONS BEFORE AND AT TRIAL. ~~Except as provided in sub.~~
19 ~~(3), a motion shall be determined before trial of the general issue~~ Before trial, the
20 court shall determine each motion made under this section unless the court orders
21 that it be deferred for determination at the trial. All issues of fact arising out of ~~such~~
22 the motion shall be ~~tried~~ determined by the court without a jury.

23 **SECTION 886.** 971.31 (5) of the statutes is repealed.

24 **SECTION 887.** 971.31 (6) of the statutes is renumbered 971.65 (5) and amended
25 to read:

1 971.65 (5) CUSTODY AFTER DISMISSAL. If the court grants a motion to dismiss
2 based upon a defect in the ~~indictment, information~~ commencement of the prosecution
3 or in the complaint, or in the institution of the proceedings, it may, upon a showing
4 that probable cause exists to believe that the defendant has committed a crime, order
5 that the defendant be held in custody ~~or that the defendant's bail be continued~~ for
6 not more than ~~72~~ 48 hours ~~pending issuance of a new summons or warrant~~ or that
7 the conditions of release be continued for a specified time pending the filing of a new
8 ~~indictment, information or~~ complaint.

9 **SECTION 888.** 971.31 (7) of the statutes is repealed.

10 **SECTION 889.** 971.31 (8) of the statutes is repealed.

11 **SECTION 890.** 971.31 (9) of the statutes is renumbered 967.15 and amended to
12 read:

13 **967.15 Service upon defendant.** A pleading, notice, motion, or other
14 document required to be served on a defendant may be served upon the defendant's
15 attorney of record.

16 **SECTION 891.** 971.31 (10) of the statutes is renumbered 971.085 (1) (a) and
17 amended to read:

18 971.085 (1) (a) An order denying a motion to suppress evidence or a motion
19 challenging the admissibility of a statement of a defendant ~~may be reviewed upon~~
20 ~~appeal from a final judgment or order notwithstanding the fact that the judgment~~
21 ~~or order was entered upon a plea of guilty or no contest to the information or criminal~~
22 ~~complaint.~~

****NOTE: Please review the treatment of s. 971.31 (10) in light of 2009 Wisconsin
Act 27. In proposed s. 971.085 (1) (intro.), do you want to add reference to appeal upon
a final order in addition to appeal from a judgment of conviction?

1 **SECTION 892.** 971.31 (11) of the statutes is renumbered 971.65 (6) and amended
2 to read:

3 971.65 (6) PRIOR SEXUAL CONDUCT EVIDENCE. In actions under s. 940.225, 948.02,
4 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s. 940.302 (2), if the
5 court finds that the crime was sexually motivated, as defined in s. 980.01 (5),
6 evidence ~~which~~ that is admissible under s. ~~972.11 (2)~~ 904.045 must be determined
7 by the court upon pretrial motion to be material to a fact at issue in the case and of
8 sufficient probative value to outweigh its inflammatory and prejudicial nature
9 before it may be introduced at trial.

10 **SECTION 893.** 971.31 (12) of the statutes is renumbered 971.65 (7) and amended
11 to read:

12 971.65 (7) EVIDENCE OF PERSONAL OR MEDICAL HISTORY. In actions under s.
13 940.22, the court may determine the admissibility of evidence under s. ~~972.11~~ 940.22
14 (6) only upon a pretrial motion.

15 **SECTION 894.** 971.31 (13) of the statutes is renumbered 971.77, and 971.77 (2),
16 as renumbered, is amended to read:

17 971.77 (2) The court shall retain jurisdiction unless the juvenile proves by a
18 preponderance of the evidence that he or she did not commit the violation under the
19 circumstances described in s. 938.183 (1) (b) or (c), whichever is applicable, or that
20 transfer would be appropriate because all of the factors specified in ~~par. (a) 1., 2. and~~
21 3. sub. (1) (a), (b), and (c) are met.

22 **SECTION 895.** 971.315 of the statutes is renumbered 970.10 (2) and amended
23 to read:

DISCOVERY

SECTION 903. 971.42 of the statutes is created to read:

971.42 Purposes. Discovery under this subchapter and s. 971.035 is intended, consistent with the constitutional rights of the defendant, to do all of the following:

(1) Promote fair and expeditious disposition of criminal charges, whether by deferred or suspended prosecution, plea, or trial.

(2) Provide the defendant with sufficient information to make an informed plea.

(3) Permit thorough preparation for and minimize surprise at trial.

(4) Reduce interruptions and complications during trial and avoid unnecessary and repetitious trials by identifying and resolving any procedural, collateral, or constitutional issues before trial.

(5) Minimize inequities among similarly situated defendants.

(6) Effect economies in time, money, judicial resources, and professional skills by minimizing paperwork, avoiding repetitious assertion of issues, and reducing the number of separate hearings.

(7) Minimize the burden upon victims and witnesses.

SECTION 904. 971.43 (title) and (1) of the statutes are created to read:

971.43 (title) Disclosure by district attorney. (1) TIME OF DISCLOSURE. Except as provided in subs. (5) and (8), the district attorney shall make all disclosures under this section within a reasonable time before the pretrial conference or at a time set in the scheduling order.

SECTION 905. 971.43 (2) (b) of the statutes is created to read:

971.43 (2) (b) Any written or recorded statement concerning the alleged crime made by a codefendant, including the testimony of the codefendant at an inquest, in

1 a John Doe proceeding under s. 968.105, or before a grand jury, and the names of
2 witnesses to the codefendant's written statements.

3 **SECTION 906.** 971.43 (2) (br) of the statutes is created to read:

4 971.43 (2) (br) Any record or testimony taken from a John Doe proceeding
5 under s. 968.105 that the district attorney intends to use at trial and the names of
6 witnesses to the defendant's written statements.

7 **SECTION 907.** 971.43 (2) (e) of the statutes is created to read:

8 971.43 (2) (e) Any written or recorded statement of a person whom the district
9 attorney intends to call as a trial witness that concerns the subject matter of the
10 witness's intended testimony, that has been electronically recorded or reduced to
11 writing and signed or otherwise approved or adopted by the witness, and that is
12 within the possession or control of the state.

13 **SECTION 908.** 971.43 (2) (f) of the statutes is created to read:

14 971.43 (2) (f) Any audiovisual recording of an oral statement of a child under
15 s. 908.08.

16 **SECTION 909.** 971.43 (2) (h) of the statutes is created to read:

17 971.43 (2) (h) After the defendant has obtained or waived legal representation,
18 copies of all law enforcement investigative reports relating to the case.

19 **SECTION 910.** 971.43 (3) of the statutes is created to read:

20 971.43 (3) CHARACTER, REPUTATION, OR OTHER ACTS EVIDENCE. If the district
21 attorney intends to use evidence of character or reputation or evidence of other
22 crimes or acts under s. 904.04 (2), he or she shall notify the defense of that intention
23 and of the substance of the evidence to be used.

24 **SECTION 911.** 971.43 (4) of the statutes is created to read:

1 **971.43 (4) ELECTRONIC SURVEILLANCE.** If the defendant's conversations or
2 premises have been subjected to electronic surveillance, including wiretapping, in
3 connection with the investigation or prosecution of the case, the district attorney
4 shall inform the defense of that fact.

5 **SECTION 912.** 971.43 (6) of the statutes is created to read:

6 **971.43 (6) MATERIAL POSSESSED BY INVESTIGATIVE PERSONNEL.** The district
7 attorney shall make reasonable efforts to ensure that investigative personnel
8 provide material and information relevant to the crime charged to the district
9 attorney's office.

10 **SECTION 913.** 971.43 (7) of the statutes is created to read:

11 **971.43 (7) MATERIAL POSSESSED BY OTHER AGENCIES.** If the district attorney
12 knows that material and information that would be discoverable if in his or her
13 possession is in the possession or control of a government agency not reporting
14 directly to the district attorney, the district attorney shall disclose the fact of the
15 existence of such material or information to the defense.

16 **SECTION 914.** 971.43 (8) of the statutes is created to read:

17 **971.43 (8) NOTICE OF INTENT TO USE CODEFENDANT'S STATEMENT.** If the district
18 attorney intends to use the statement of a codefendant to implicate the defendant in
19 the crime charged, he or she shall inform the defendant before trial.

20 **SECTION 915.** 971.44 (title) and (1) of the statutes are created to read:

21 **971.44 (title) Defense disclosure. (1) TIME OF DISCLOSURE.** The defense shall
22 make all disclosures under this section within a reasonable time before the pretrial
23 conference or at a time set in the scheduling order.

24 **SECTION 916.** 971.44 (2) (a) of the statutes is created to read: