

1           971.44 (2) (a) Any written or recorded statement of a person whom the defense  
2 intends to call as a trial witness that concerns the subject matter of the witness's  
3 intended testimony, that has been electronically recorded or reduced to writing and  
4 signed or otherwise approved or adopted by the witness, and that is within the  
5 possession or control of the defense.

6           **SECTION 917.** 971.44 (3) of the statutes is created to read:

7           971.44 (3) CHARACTER, REPUTATION, OR OTHER ACTS EVIDENCE. If the defense  
8 intends to use evidence of character or reputation or evidence of other crimes or acts  
9 under s. 904.04 (2) not relating to the defendant, the defense shall notify the district  
10 attorney of that intention and of the substance of the evidence to be used.

11           **SECTION 918.** 971.46 (intro.) and (1) of the statutes are created to read:

12           **971.46 Expert witnesses.** (intro.) Any party who intends to call an expert  
13 witness at trial shall, not less than 15 days before the trial or at the time set in the  
14 scheduling order, do all of the following:

15           (1) Notify the other party in writing of the expert witness's name, address, and  
16 qualifications.

17           **SECTION 919.** 971.48 (title) of the statutes is created to read:

18           **971.48 (title) Scientific testing; preservation of evidence.**

19           **SECTION 920.** 971.48 (2) of the statutes is created to read:

20           971.48 (2) If before trial either party intends to destroy or permanently  
21 transfer out of its possession any material discoverable under this subchapter, the  
22 party shall give the other party advance notice sufficient to afford that party an  
23 opportunity to object or take other appropriate action.

24           **SECTION 921.** 971.49 of the statutes is created to read:

1           **971.49 Motion to obtain evidence before trial.** (1) Notwithstanding s.  
2 908.03 (6m) (c), before trial and upon motion by either party, the court may issue a  
3 subpoena to require the production of documents and other tangible objects if it finds  
4 that the evidence sought may be material to the determination of issues in the case.

5           (2) A motion and subpoena under sub. (1) shall specify who shall produce the  
6 material, whether certified copies of documents may be submitted in lieu of  
7 appearance, and other conditions under which the evidence shall be produced.

8           (3) Any party, or any person subpoenaed under this section, may move to quash  
9 the subpoena if the movant under sub. (1) has not shown grounds for the subpoena  
10 or if compliance would subject the person subpoenaed to an undue burden, require  
11 the disclosure of information that is privileged or otherwise protected from  
12 disclosure, or otherwise be unreasonable.

13           **SECTION 922.** 971.51 (title) and (1) of the statutes are created to read:

14           **971.51 (title) Manner of performing disclosure.** (1) Disclosure may be  
15 accomplished in any manner mutually agreeable to the parties. Absent agreement,  
16 the party having the duty to disclose shall do one of the following:

17           (a) Provide a copy of the material to be disclosed.

18           (b) Notify the other party that the material may be inspected, copied, or  
19 photographed during specified reasonable times and make the material available to  
20 the other party at the time specified. The party having the duty to disclose shall,  
21 unless it provides copies, make available suitable machinery for making copies.

22           **SECTION 923.** 971.52 (3) of the statutes is created to read:

23           971.52 (3) If anything is deleted from discoverable material under a claim of  
24 privilege or other exemption, the party to whom the discovery is made shall be  
25 notified and may move the court for an order requiring its disclosure. The court may

1 require the deleted information to be furnished to the court under seal for  
2 determination of its discoverability. If the court determines that the material is  
3 exempt from disclosure, an appropriate sealed copy of the material shall be kept in  
4 the court record.

5 **SECTION 924.** 971.56 of the statutes is created to read:

6 **971.56 Obtaining nontestimonial information from defendant. (1)** IN  
7 GENERAL. Upon motion by the district attorney, the court may order a defendant  
8 charged with a crime to participate in a procedure to obtain nontestimonial evidence  
9 relevant to whether the defendant committed the crime if the procedure is  
10 reasonable and does not involve an unreasonable intrusion into the body or an  
11 unreasonable detention of the defendant. An order under this subsection may direct  
12 the defendant to do any of the following:

13 (a) Appear, move, or speak for identification in a lineup or, if a lineup is not  
14 practicable, through some other reasonable procedure.

15 (b) Try on clothing and other articles.

16 (c) Provide handwriting and voice exemplars.

17 (d) Permit the taking of his or her photograph.

18 (e) Permit the taking of fingerprints, palm prints, footprints, and other body  
19 impression.

20 (f) Permit the taking of samples of blood, urine, saliva, semen, skin, breath,  
21 hair, or nails or materials under the nails.

22 (g) Submit to body measurements and other reasonable body surface  
23 examinations.

24 (h) Submit to reasonable physical and medical inspection, including X-rays,  
25 of the body.

1 (i) Participate in other procedures that comply with the requirements of sub.  
2 (1) (intro.).

3 (2) CONTENTS OF ORDER. An order under this section shall specify with  
4 particularity the authorized procedure; the scope of the defendant's participation in  
5 the procedure; the time, duration, and place of the procedure and other conditions  
6 under which it is to be conducted; and who may conduct the procedure. It may also  
7 direct the defendant not to alter substantially any identifying physical  
8 characteristics to be examined or destroy any evidence sought. The order shall  
9 specify that the defendant may not be subjected to investigative interrogation while  
10 participating in or present for the procedure and that the defendant may be held in  
11 contempt of court if he or she fails to appear and participate in the procedure as  
12 directed.

13 (3) SERVICE. The order shall be served by mailing or delivering a copy to the  
14 defendant's counsel and by delivering a copy of the order to the defendant personally.

15 (4) IMPLEMENTATION. (a) Counsel may accompany the defendant at a procedure  
16 ordered under this section, but the court may bar other individuals from attending.

17 (b) If the procedure involves an intrusion into the body, it shall be conducted  
18 by a qualified health care professional. Upon timely request by the defendant and  
19 approval by the court, a qualified health care professional designated by the  
20 defendant may observe any procedure involving intrusion of the body.

21 (c) The defendant may not be subjected to investigative interrogation at the  
22 procedure. No statement of the defendant made at the procedure is admissible  
23 against the defendant if made in the absence of the defendant's counsel.

24 **SECTION 925.** 971.57 of the statutes is created to read:

1           **971.57 Nontestimonial discovery from 3rd parties.** (1) Upon motion of  
2 a defendant, the court may issue a subpoena requiring an individual to participate  
3 in a procedure to obtain nontestimonial evidence under s. 971.56 (1) if an affidavit  
4 or testimony shows probable cause to believe that the individual to be subpoenaed  
5 committed the crime with which the defendant is charged and that the evidence  
6 sought is necessary to an adequate defense and cannot practicably be obtained from  
7 other sources.

8           (2) A motion and order under sub. (1) shall specify with particularity the  
9 following information if appropriate:

10           (a) The authorized procedure.

11           (b) The scope of the 3rd party's participation.

12           (c) The time, duration, and place of the procedure and other conditions under  
13 which it is to be conducted.

14           (d) The name or job title of the person who is to conduct the procedure.

15           (3) Any party or any person subpoenaed under this section may move to quash  
16 the subpoena if the defendant has not shown grounds for the subpoena or if  
17 compliance would subject the person subpoenaed to an undue burden, require the  
18 disclosure of information that is privileged or otherwise protected from disclosure,  
19 or otherwise be unreasonable.

20           **SECTION 926.** 971.58 (title) of the statutes is created to read:

21           **971.58 (title) Compelling certain examinations prohibited.**

22           \*\*\*\*NOTE: This bill creates a new section for s. 971.23 (5c) and (6c), which were  
23           created by 2009 Wisconsin Act 138.

22           **SECTION 927.** Subchapter V (title) of chapter 971 [precedes 971.65] of the  
23 statutes is created to read:

1 **CHAPTER 971**

2 **SUBCHAPTER V**

3 **MOTIONS**

4 **SECTION 928.** 971.65 (title) of the statutes is created to read:

5 **971.65 (title) Pretrial motions.**

6 **SECTION 929.** 971.65 (2) of the statutes is created to read:

7 971.65 (2) **TIME FOR FILING.** A motion under this section shall be filed within  
8 the time set in the scheduling order. If there is no scheduling order, the motion shall  
9 be filed not later than 15 days before trial, unless otherwise permitted by the court.

10 **SECTION 930.** 971.66 of the statutes is created to read:

11 **971.66 Motions to dismiss asserting that a statute is unconstitutional.**

12 If a defendant moves to dismiss a criminal prosecution by asserting that the statute  
13 under which he or she is charged is unconstitutional, the defendant must serve a copy  
14 of the motion on the attorney general under s. 806.04 (11) as well as on the district  
15 attorney.

*Handwritten:* 8/11/11  
286-13

16 **SECTION 931.** 971.68 (title), (1) and (3) of the statutes are created to read:

17 **971.68 (title) Joinder and severance motions. (1) IN GENERAL.** Either party  
18 may move for joinder or relief from misjoinder or prejudicial joinder under s. 970.13.

19 **\*\*\*\*NOTE:** Please review this section, including the cross-reference.

*Handwritten asterisk:* \*

20 **(3) CODEFENDANT'S STATEMENTS.** If a defendant moves for severance because a  
21 codefendant's out-of-court statement refers to, but is not admissible against, the  
22 movant, the court shall determine whether the state intends to offer the statement  
23 in evidence as part of its case in chief. If so, the court shall require the district  
24 attorney to elect one of the following:

(a) A joint trial at which the statement is not received in evidence.

1 (b) A joint trial at which the statement is received in evidence only after all  
2 references to the movant have been deleted, if admission of the statement with the  
3 deletions made will not prejudice the movant.

4 (c) A separate trial for the movant.

5 (d) With the approval of the court, a separate jury for each defendant sitting  
6 in a single trial.

7 **SECTION 932.** 971.69 of the statutes is created to read:

8 **971.69 Pretrial dismissal of complaint.** (1) A defendant may move for  
9 pretrial dismissal of the complaint or of any count in the complaint. The defendant  
10 may provide one or more affidavits in support of the motion. The motion shall state  
11 with particularity the grounds upon which it is based and shall specify all of the  
12 following:

13 (a) The elements of the crime charged or other facts the state is required to  
14 prove at trial that the defendant believes the state cannot prove because there is no  
15 genuine issue as to any material fact.

16 (b) The evidence or absence of evidence, including any statement of a witness,  
17 that the defendant believes is uncontroverted and that establishes the grounds  
18 stated in the motion.

19 (c) If applicable, any crime included within the crime charged, as provided in  
20 s. 939.66, that the defendant also believes, for the grounds specified, the state cannot  
21 prove at trial because there is no genuine issue as to any material fact.

22 (2) If the grounds stated in the motion, if true, would not justify granting the  
23 dismissal motion, or if the allegations in the complaint demonstrate that there is a  
24 genuine issue of material fact as to those grounds, the court shall deny the motion.



## 1 SUBCHAPTER VI

## 2 JUVENILES IN ADULT COURT

3 **SECTION 934.** 971.75 (title) of the statutes is created to read:4 **971.75 (title) Probable cause and retention hearings; juvenile under**  
5 **original adult court jurisdiction.**6 **SECTION 935.** 971.75 (2) of the statutes is created to read:7 **971.75 (2) TIME FOR PROBABLE CAUSE HEARING.** The court shall conduct a  
8 probable cause hearing that is required under sub. (1) within 10 days after the initial  
9 appearance. On stipulation of the parties, or upon motion and for cause, the court  
10 may extend that time.11 **SECTION 936.** 971.75 (4) of the statutes is created to read:12 **971.75 (4) TIME FOR RETENTION HEARING.** The court shall conduct any hearing  
13 on retention of jurisdiction that is required under sub. (3) (b) within 20 days of the  
14 probable cause finding under sub. (3) (b).15 **SECTION 937.** 971.75 (6) (title) and (a) of the statutes are created to read:16 **971.75 (6) (title) WITNESSES AT PROBABLE CAUSE AND RETENTION HEARINGS. (a)**  
17 Both the district attorney and the juvenile may call and cross-examine witnesses at  
18 any hearing under this section. All witnesses shall be sworn and their testimony  
19 reported by a court reporter.20 **SECTION 938.** 971.75 (7) (title) of the statutes is created to read:21 **971.75 (7) (title) ADMISSIBILITY OF REPORTS.**22 **SECTION 939.** 971.75 (9) (title) of the statutes is created to read:23 **971.75 (9) (title) CLOSURE ORDERS.**24 **SECTION 940.** 971.76 of the statutes is created to read:

1           **971.76 Pretrial dismissal of complaint against juvenile. (1) WAIVER**  
2 CASES. If the court has jurisdiction over a juvenile as a result of a waiver under s.  
3 938.18 (1) (a) or (b), the juvenile may move the court to dismiss the complaint on the  
4 ground that the state cannot prove that he or she committed any of the offenses listed  
5 in s. 938.18 (1) (a) or (b) on which the waiver was based. The motion shall comply  
6 with the requirements of s. 971.69 (1) and the court shall review the motion under  
7 the procedures set forth in s. 971.69 (2) to (4). If the court grants a motion to dismiss  
8 under this subsection, the court shall order that the juvenile be discharged, but  
9 proceedings may be brought regarding the juvenile under ch. 938.

10           **(2) CASES INVOLVING ORIGINAL ADULT COURT JURISDICTION.** A juvenile subject to  
11 the court's original jurisdiction under s. 938.183 (1) may move the court to dismiss  
12 the complaint on the ground that the state cannot prove that he or she committed any  
13 of the offenses charged under s. 938.183 (1) (a), (am), (b), or (c) under the  
14 circumstances described in those provisions. The motion shall comply with the  
15 requirements of s. 971.69 (1), and the court shall review the motion under the  
16 procedures set forth in s. 971.69 (2) to (4). If the court grants a motion to dismiss  
17 under this subsection, the court shall order that the juvenile be discharged, but  
18 proceedings may be brought regarding the juvenile under ch. 938.

19           **SECTION 941.** 971.77 (title) of the statutes is created to read:

20           **971.77 (title) Motion to transfer jurisdiction in misdemeanors.**

21           **SECTION 942.** 972.005 (title) of the statutes is created to read:

22           **972.005 (title) Right to jury; waiver.**

23           **SECTION 943.** 972.005 (2) of the statutes is created to read:

24           **972.005 (2) PARTIAL JURY TRIAL WAIVER.** The parties may agree, with the  
25 approval of the court, that the jury be instructed that an element of the crime is

1 established. The court shall address the defendant personally to assure that the  
2 defendant understands his or her right to trial by jury as to that element and  
3 voluntarily waives that right.

4 **SECTION 944.** 972.01 of the statutes is amended to read:

5 **972.01 Jury; civil rules applicable.** The Except as otherwise provided in  
6 this chapter, the summoning of jurors, the, selection, and qualifications of the jury  
7 jurors, the challenge of jurors for cause, and the duty of the court in charging the jury  
8 and, giving instructions, and discharging the jury when it is unable to agree shall be  
9 the same in criminal as in civil actions, except that s. 805.08 (3) shall not apply.

10 **SECTION 945.** 972.02 (title) of the statutes is repealed.

11 **SECTION 946.** 972.02 (1) of the statutes is renumbered 972.005 (1) and amended  
12 to read:

13 972.005 (1) WAIVER. ~~Except as otherwise provided in this chapter, criminal~~  
14 Criminal cases shall be tried by a jury selected as prescribed in s. 805.08, unless the  
15 defendant waives ~~a his or her right to trial by jury in writing or by statement in open~~  
16 court or under s. 967.08 (2) (b), on the record, with the approval of the court and the  
17 consent of the state. Before approving a waiver of the right to trial by jury, the court  
18 shall address the defendant personally to assure that the defendant understands his  
19 or her right to trial by jury and that the defendant voluntarily waives that right.



\*\*\*\*NOTE: This section reconciles -0068/P2 and -3257/P2.

20 **SECTION 947.** 972.02 (2) of the statutes is renumbered 972.025 (2) and amended  
21 to read:

22 972.025 (2) JURY OF LESS THAN 12. At any time before the verdict is returned in  
23 a felony criminal case, the parties may ~~stipulate in writing or by statement in open~~  
24 court, on the record agree, with the approval of the court, that the jury shall consist

1 of any number less than 12 persons. If the case is a misdemeanor case, the jury shall  
2 consist of 6 persons parties agree to a jury of less than 12, the court shall address the  
3 defendant personally to assure that the defendant understands his or her right to a  
4 jury of 12 and that the defendant voluntarily waives that right.

5 **SECTION 948.** 972.02 (3) of the statutes is renumbered 972.27 and amended to  
6 read:

7 **972.27 Findings in a trial to the court.** In a case tried without a jury, the  
8 court shall make a general finding and may in addition find the facts specially. If the  
9 charge includes a provision that increases the maximum penalty for the charged  
10 crime, the court shall make a specific finding as to the proof of that provision.

11 **SECTION 949.** 972.02 (4) of the statutes is renumbered 972.04 (5) and amended  
12 to read:

13 972.04 (5) No A member of the a grand jury which found the indictment shall  
14 that indicted a defendant may not be a juror for the defendant's trial of the  
15 indictment.

16 **SECTION 950.** 972.025 (title) and (1) of the statutes are created to read:

17 **972.025 (title) Jury size. (1) TWELVE-PERSON JURY.** A jury in a criminal case  
18 shall consists of 12 persons unless the parties agree to a lesser number as provided  
19 in sub. (2).

20 **SECTION 951.** 972.03 (title) of the statutes is amended to read:

21 **972.03 (title) Peremptory Number of peremptory challenges.**

22 **SECTION 952.** 972.03 of the statutes is renumbered 972.03 (1) and amended to  
23 read:

1           972.03 (1) GENERALLY. Each Except as provided in subs. (2), (3), (4), and (5), in  
2 a criminal case, each side is entitled to only 4 peremptory challenges except as  
3 otherwise provided in this section. When,

4           (4) LIFE IMPRISONMENT. If the crime charged in a case is punishable by life  
5 imprisonment, the state is each side shall be entitled to 6 peremptory challenges and  
6 the defendant is entitled to 6 peremptory challenges. If there is, except, if the case  
7 involves 2 defendants, the defense shall be entitled to 12 peremptory challenges, and  
8 if the case involves more than 2 defendants, the defense shall be entitled to 18  
9 peremptory challenges.

10           (3) DIVIDING CHALLENGES AMONG DEFENDANTS. In a criminal case involving more  
11 than one defendant, the court shall divide the peremptory challenges for the defense  
12 as equally as practicable among them the defendants; and if their defenses are  
13 adverse and the court is satisfied that the protection of their rights so requires, the  
14 court may allow the defendants additional peremptory challenges. If the crime is  
15 punishable by life imprisonment, the total peremptory challenges allowed the  
16 defense shall not exceed 12 if there are only 2 defendants and 18 if there are more  
17 than 2 defendants; in other felony cases the defendants are allowed additional  
18 peremptory challenges under this subsection, the courts may, if the interest of justice  
19 requires, allow the state additional peremptory challenges.

20           (2) MORE THAN ONE DEFENDANT. Except as provided in subs. (3) and (4), in a  
21 criminal case involving 2 defendants, the defense shall be entitled to 6 peremptory  
22 challenges if there are only, and in a criminal case involving more than 2 defendants  
23 and, the defense shall be entitled to 9 peremptory challenges if there are more than  
24 2. In misdemeanor cases, the state is entitled to 3 peremptory challenges and the  
25 defendant is entitled to 3 peremptory challenges, except that if there are 2

1 ~~defendants, the court shall allow the defense 4 peremptory challenges, and if there~~  
2 ~~are more than 2 defendants, the court shall allow the defense 6 peremptory~~  
3 ~~challenges.~~

4 (5) ADDITIONAL CHALLENGES. Each side shall be allowed at least one additional  
5 peremptory challenge if the court orders that additional jurors are to be selected  
6 under s. 972.04 (1).

7 **SECTION 953.** 972.04 (title) of the statutes is repealed and recreated to read:

8 **972.04 (title) Jury selection.**

9 **SECTION 954.** 972.04 (1) of the statutes is amended to read:

10 972.04 (1) The number of jurors selected in a criminal case shall be prescribed  
11 in s. 756.06 (2) (a) or (am), whichever is applicable, 12 unless a lesser number has  
12 been stipulated agreed to and approved under s. 972.02 972.025 (2) or the. The court  
13 orders may order that additional jurors be selected. That number, plus the number  
14 of peremptory challenges available to all the parties, shall be called initially and  
15 maintained in the jury box by calling others to replace jurors excused for cause until  
16 all jurors have been examined. The to assure that the required number of jurors will  
17 be available for deliberation.

18 (6) After the jurors have been examined and the court has determined whether  
19 to excuse any juror for cause, the parties shall thereupon exercise in their order their  
20 peremptory challenges alternately, the state beginning, the peremptory challenges  
21 available to them, and if. If any party declines to exercise a peremptory challenge,  
22 the challenge shall be made by the clerk shall make the challenge by lot.

23 **SECTION 955.** 972.04 (2) of the statutes is repealed.

24 **SECTION 956.** 972.04 (3) of the statutes is created to read:

1           972.04 (3) The court shall call and maintain the number of jurors provided in  
2 sub. (1), plus the number of peremptory challenges available to the parties. If a juror  
3 is excused for cause, the court shall replace that juror with another.

4           **SECTION 957.** 972.04 (4) of the statutes is created to read:

5           972.04 (4) The court shall order the parties to disclose the identity of potential  
6 witnesses during jury selection if knowledge of the identity of potential witnesses is  
7 necessary for selection of an impartial jury.

8           **SECTION 958.** 972.06 of the statutes is amended to read:

9           **972.06 View Jury view.** The court may order a view by the jury to view a  
10 location or object whenever the court concludes that viewing the location or object  
11 would assist the jury in understanding the evidence introduced in court or assist the  
12 jury in weighing and applying that evidence.

13           **SECTION 959.** 972.07 of the statutes is renumbered 967.12 and amended to  
14 read:

15           **967.12 Jeopardy.** Jeopardy attaches when one of the following occurs:

16           (1) In a trial to the court without a jury, when ~~a witness is sworn;~~ the first  
17 witness assents to the oath or affirmation or answers the first question if no oath or  
18 affirmation is administered.

19           (2) In a jury trial, when the selection of the jury has been completed and the  
20 jury sworn.

\*           \*\*\*\*NOTE: This section reconciles -0068/P2 and -3257/P2.

21           **SECTION 960.** 972.075 of the statutes is created to read:

22           **972.075 Questioning of witnesses by jurors.** (1) Before trial and after  
23 affording counsel the opportunity to be heard, the court may authorize the jurors to  
24 ask questions of witnesses.

1           (2) If the court authorizes juror questions, the court shall instruct the jury to  
2 propose only questions that tend to clarify information already presented and shall  
3 instruct the jury of the following procedure that shall be used for juror questions:

4           (a) After the parties have questioned a witness and before the witness leaves  
5 the stand, the court shall ask the jurors if they have any questions for the witness.

6           (b) If a juror has a question, he or she shall submit the question in writing to  
7 the judge.

8           (c) The judge shall show the question to the parties and allow the parties to  
9 object to the question without the knowledge of the jury.

10          (d) The judge shall review the question and any objections made by the parties  
11 and determine if the question is legally proper.

12          (e) If the question is legally proper, the judge may ask it of the witness.

13          (f) The court shall allow the parties to ask follow-up questions to any juror  
14 questions that are posed to a witness.

15          **SECTION 961.** 972.08 of the statutes is renumbered 967.17, and 967.17 (1) and  
16 (2), as renumbered, are amended to read:

17          967.17 (1) (a) Whenever any person refuses to testify or to produce books,  
18 papers, or documents when required to do so before any grand jury, in a John Doe  
19 proceeding under s. ~~968.26~~ 968.105, at an inquest under s. 968.015, or at a  
20 ~~preliminary examination~~, criminal hearing or trial for the reason that the testimony  
21 or evidence required of him or her may tend to incriminate him or her or subject him  
22 or her to a forfeiture or penalty, the person may nevertheless be compelled to testify  
23 or produce the evidence by order of the court on motion of the district attorney. No  
24 person who testifies or produces evidence in obedience to the command of the court  
25 in that case may be liable to any forfeiture or penalty for or on account of testifying

1 or producing evidence, but no person may be exempted from prosecution and  
2 punishment for perjury or false swearing committed in so testifying.

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

5 (2) Whenever a witness attending in any court trial or appearing before any  
6 grand jury ~~or, John Doe investigation proceeding~~ under s. ~~968.26~~ 968.105, or inquest  
7 under s. 968.015 fails or refuses without just cause to comply with an order of the  
8 court under this section to give testimony in response to a question or with respect  
9 to any matter, the court, upon such failure or refusal, or when such failure or refusal  
10 is duly brought to its attention, may summarily order the witness's confinement at  
11 a suitable place until such time as the witness is willing to give such testimony or  
12 until such the trial, grand jury term, ~~or John Doe investigation under s. 968.26~~  
13 proceeding, or inquest is concluded but in no case exceeding one year. No person  
14 confined under this section shall be ~~admitted to bail~~ released on conditions pending  
15 the determination of an appeal taken by the person from the order of confinement.

\* \*\*\*\*NOTE: This SECTION reconciles the treatment of s. 972.08 in 09-3257/P2 and  
09-0228/P2.

16 **SECTION 962.** 972.085 of the statutes is renumbered 967.18 and amended to  
17 read:

18 **967.18 Immunity; use standard.** Immunity from criminal or forfeiture  
19 prosecution under ss. 13.35, 17.16 (7), 77.61 (12), 93.17, 111.07 (2) (b), 128.16, 133.15,  
20 139.20, 139.39 (5), 195.048, 196.48, 551.602 (5), 553.55 (3), 601.62 (5), 767.87 (4),  
21 885.15, 885.24, 885.25 (2), 891.39 (2), ~~968.26, 972.08 (1)~~ 967.17 (1), and ~~979.07 (1)~~  
22 968.105 and ch. 769, provides immunity only from the use of the compelled testimony

1 or evidence in subsequent criminal or forfeiture proceedings, as well as immunity  
2 from the use of evidence derived from that compelled testimony or evidence.

X \*\*\*\*NOTE: This section reconciles -0228/P2 and -3257/P2.

3 **SECTION 963.** 972.09 of the statutes is repealed.

4 **SECTION 964.** 972.10 (title) of the statutes is renumbered 972.16 (title).

5 **SECTION 965.** 972.10 (1) (a) (intro.) of the statutes is repealed.

6 **SECTION 966.** 972.10 (1) (a) 1. of the statutes is renumbered 972.065 and  
7 amended to read:

8 **972.065 Note-taking by jurors.** The court may authorize note-taking by  
9 jurors. If the court authorizes note-taking, the court shall instruct the jurors that  
10 they may make written notes of any portion of the proceedings, except the opening  
11 statements and closing arguments, ~~if they so desire~~ and that the court will provide  
12 materials for ~~that purpose if they so request~~ note-taking. The court shall stress the  
13 ~~confidentiality of the notes to~~ inform the jurors that the notes are confidential. The  
14 jurors may refer to their notes during the proceedings and ~~deliberation~~ their  
15 deliberations. The notes may not be the basis for or the object of any motion by any  
16 party. After the jury has ~~rendered~~ returned its verdict, the court shall ensure that  
17 the notes are promptly collected and destroyed.

18 **SECTION 967.** 972.10 (1) (a) 2. of the statutes is repealed.

19 **SECTION 968.** 972.10 (1) (b) of the statutes is renumbered 972.095 and amended  
20 to read:

21 **972.095 Preliminary jury instructions.** The court may give additional  
22 preliminary instructions to assist the jury in understanding its duty and the  
23 evidence it will hear. ~~The preliminary instructions may include, without limitation,~~  
24 ~~the elements of any offense charged, what constitutes evidence and what does not,~~

1 ~~guidance regarding the burden of proof and the credibility of witnesses, and~~  
2 ~~directions not to discuss the case until deliberations begin. The additional~~  
3 ~~instructions shall be disclosed to the parties before they are given and either party~~  
4 ~~may object to any specific instruction or propose instructions of its own to be given~~  
5 ~~prior to trial. The court shall advise the parties of the content of the instructions to~~  
6 ~~be given. The parties may propose instructions of their own. All objections shall be~~  
7 ~~on the record and shall specify with particularity how the instruction is insufficient~~  
8 ~~or does not correctly state the law.~~

9 **SECTION 969.** 972.10 (2) of the statutes is repealed.

10 **SECTION 970.** 972.10 (3) of the statutes is repealed.

11 **SECTION 971.** 972.10 (4) of the statutes is repealed.

12 **SECTION 972.** 972.10 (5) of the statutes is renumbered 972.22 (1) and amended  
13 to read:

14 ~~972.22 (1) When the evidence is concluded and the testimony closed, if either~~  
15 ~~party desires special instructions to be given to the jury, the instructions shall be~~  
16 ~~reduced to writing, signed by the party or his or her attorney and filed with the clerk,~~  
17 ~~unless the court otherwise directs. Counsel for the parties, or the defendant if he or~~  
18 ~~she is without counsel, shall be allowed. The court shall allow the parties reasonable~~  
19 ~~opportunity to request final jury instructions, to examine the any instructions~~  
20 ~~requested by any other party, and to present and argue to the court objections to the~~  
21 ~~adoption or rejection of any instructions requested by counsel the parties.~~

22 **(2)** ~~The court shall advise the parties of the content of the instructions to be~~  
23 ~~given. No instruction regarding the failure to call a witness at the trial shall be made~~  
24 ~~or given if the sole basis for such instruction is the fact the name of the witness~~  
25 ~~appears upon a list furnished pursuant to s. 971.23. Counsel, or the defendant if he~~

1 or she is not represented by counsel, shall specify and state the particular ground on  
 2 which the instruction is objected to, and it shall not be sufficient to object generally  
 3 that the instruction does not state the law, or is against the law, but the objection  
 4 shall specify with particularity how the instruction is insufficient or does not state  
 5 the law or to what particular language there is an objection. All objections before  
 6 giving the instructions to the jury. If a party objects to the adoption or rejection of  
 7 an instruction, the objection shall be made with particularity and shall be on the  
 8 record.

9 (3) The court shall provide the jury with one or more complete set sets of written  
 10 instructions providing defining the burden of proof and the substantive law to be  
 11 applied to the case to be decided.

\* \*\*\*\*NOTE: This section reconciles -0012/P2 and -0068/P2.

12 SECTION 973. 972.10 (6) of the statutes is repealed.

13 SECTION 974. 972.10 (7) of the statutes is renumbered 972.23 and amended to  
 14 read:

15 **972.23 Dismissal of additional jurors.** If the court required selection of  
 16 additional jurors have been selected under s. 972.04 (1) and the number remains  
 17 more than required at, at the time the case is ready for final submission of the cause  
 18 to the jury, the number of jurors remains greater than the number of jurors required  
 19 for deliberation, the court shall determine by lot which jurors shall not participate  
 20 in deliberations and discharge them those jurors. For good cause and with the  
 21 agreement of the parties, the court may discharge additional jurors other than by lot.  
 22 Once discharged, a juror may not participate further in the case.

23 SECTION 975. 972.11 (title) of the statutes is renumbered 967.24 (title).

1           **SECTION 976.** 972.11 (1) of the statutes is renumbered 967.24 and amended to  
2 read:

3           **967.24** ~~Except as provided in subs. (2) to (4), the~~ The rules of evidence and  
4 practice in civil actions, ~~except the rules under ss. 804.02 to 804.07,~~ shall be  
5 applicable in all criminal proceedings unless the context of a section or rule  
6 manifestly requires a different construction. No guardian ad litem need be  
7 appointed for a defendant in a criminal action. Chapters 885 to 895 and 995, except  
8 ss. ~~804.02 to 804.07 and 887.23 to 887.26,~~ shall apply in all criminal proceedings.

9           **SECTION 977.** 972.11 (2) of the statutes is renumbered 904.045, and 904.045 (1),  
10 (2) (intro.), (3) and (4) (b), as renumbered, are amended to read:

11           904.045 (1) In this ~~subsection~~ section, “sexual conduct” means any conduct or  
12 behavior relating to sexual activities of the complaining witness, including but not  
13 limited to prior experience of sexual intercourse or sexual contact, use of  
14 contraceptives, living arrangement and life-style. 948.07, 948.08,

15           (2) (intro.) If the defendant is accused of a crime under s. 940.225, 948.02,  
16 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s. 940.302 (2), if the  
17 court finds that the crime was sexually motivated, as defined in s. 980.01 (5), any  
18 evidence concerning the complaining witness's ~~prior sexual~~ 948.09, conduct or opinions of  
19 the witness's prior sexual conduct and reputation as to prior sexual conduct shall not  
20 be admitted into evidence during the course of the hearing or trial, nor shall any  
21 reference to such conduct be made in the presence of the jury, except the following,  
22 subject to s. ~~971.31 (11)~~ 971.65 (6):

23           (3) Notwithstanding s. 901.06, the limitation on the admission of evidence of  
24 or reference to the prior sexual conduct of the complaining witness in ~~par. (b)~~ sub. (2)

1 applies regardless of the purpose of the admission or reference unless the admission  
2 is expressly permitted under ~~par. (b) 1., 2. or 3~~ sub. (2) (a), (b), or (c).

3 (4) (b) The court shall determine the admissibility of evidence under ~~subd. 1.~~  
4 par. (a) upon pretrial motion before it may be introduced at trial.

\* \*\*\*\*NOTE: This section reconciles -0012/P2 and -0068/P2.

5 **SECTION 978.** 972.11 (2m) (a) (intro.) and 1. of the statutes are renumbered  
6 972.20 (1) (intro.) and (a), and 972.20 (1) (a) 1., as renumbered, is amended to read:

7 972.20 (1) (a) 1. That the presence of the defendant during the ~~taking of the~~  
8 child's testimony will result in the child suffering serious emotional distress such  
9 that the child cannot reasonably communicate.

10 **SECTION 979.** 972.11 (2m) (a) 2. (intro.), a. and b. of the statutes are  
11 consolidated, renumbered 972.20 (1) (b) and amended to read:

12 972.20 (1) (b) The trial in which the child may be called as a witness will  
13 commence: ~~a. Prior to before~~ before the child's 12th birthday; or ~~b. Prior to the child's 16th~~  
14 ~~birthday and, in addition to its finding under subd. 1.,~~ if the court finds that the  
15 interests of justice warrant that the child's testimony be taken in a room other than  
16 the courtroom and simultaneously televised in the courtroom by means of  
17 closed-circuit audiovisual equipment, before the child's 16th birthday.

18 **SECTION 980.** 972.11 (2m) (b) of the statutes is renumbered 972.20 (2), and  
19 972.20 (2) (intro.), (a), (c), (d), (e), (f), (g) and (h), as renumbered, are amended to read:

20 972.20 (2) (intro.) ~~Among the factors which~~ Factors that the court may consider  
21 in determining the interests of justice under ~~par. (a) 2. b. are any of~~ sub. (1) (b) include  
22 the following:

1 (a) The child's chronological age, level of development, and capacity to  
2 comprehend the significance of the events about which the child will testify and to  
3 verbalize about them.

4 (c) Whether the events about which the child will testify constituted criminal  
5 or antisocial conduct against the child or a person with whom the child had a close  
6 emotional relationship and, if the conduct constituted a battery or a sexual assault,  
7 its duration and the extent of physical or emotional injury ~~thereby caused by the~~  
8 battery or sexual assault.

9 (d) The child's custodial situation and the attitude of other household members  
10 to the events about which the child will testify and ~~to the underlying proceeding~~  
11 towards the trial.

12 (e) The child's familial or emotional relationship to those involved in the  
13 ~~underlying proceeding~~ trial.

14 (f) The child's behavior at or reaction to previous interviews concerning the  
15 events ~~involved~~ about which the child will testify.

16 (g) Whether the child blames himself or herself for the events ~~involved~~ about  
17 which the child will testify or has ever been told by any person not to disclose them;  
18 whether the child's prior reports to associates or authorities of the events have been  
19 disbelieved or not acted upon; and the child's subjective belief regarding what  
20 consequences to himself or herself, or persons with whom the child has a close  
21 emotional relationship, will ensue from providing testimony.

22 (h) Whether the child manifests or has manifested symptoms associated with  
23 posttraumatic stress disorder or other mental disorders, including, ~~without~~  
24 ~~limitation,~~ reexperiencing the events, fear of their repetition, withdrawal,  
25 regression, guilt, anxiety, stress, nightmares, enuresis, lack of self-esteem, mood

1 changes, compulsive behaviors, school problems, delinquent or antisocial behavior,  
2 phobias, or changes in interpersonal relationships.

3 **SECTION 981.** 972.11 (2m) (bm) of the statutes is renumbered 972.20 (3), and  
4 972.20 (3) (intro.), (a) and (d), as renumbered, are amended to read:

5 972.20 (3) (intro.) If a court orders the testimony of a child to be taken under  
6 ~~par. (a) sub. (1)~~, the court shall do all of the following:

7 (a) To the extent it is practical and subject to s. ~~972.10 (3)~~ 972.16 (1), schedule  
8 the testimony on a date when the child's recollection is likely to be fresh and at a time  
9 of day when the child's energy and attention span are likely to be greatest.

10 (d) ~~Determine that the child understands that it is wrong to tell a lie and will~~  
11 ~~testify truthfully if~~ If the child's developmental level or verbal skills are such that  
12 administration of an oath or affirmation in the usual form would be inappropriate,  
13 determine that the child understands that it is wrong to tell a lie and will testify  
14 truthfully.

15 **SECTION 982.** 972.11 (2m) (c) (intro.), 1m., 2m. and 3m. of the statutes are  
16 renumbered 972.20 (4) (intro.), (a), (b) and (c), and 972.20 (4) (intro.), as renumbered,  
17 is amended to read:

18 972.20 (4) (intro.) Only the following persons may be present in the room in  
19 which the child is giving testimony under ~~par. (a) sub. (1)~~:

20 **SECTION 983.** 972.11 (3) of the statutes is renumbered 940.22 (6), and 940.22  
21 (6) (a) (intro.) and 1., as renumbered, are amended to read:

22 940.22 (6) (a) (intro.) In a prosecution under s. ~~940.22~~ involving a therapist and  
23 ~~a patient or client~~ for a violation of sub. (2), (3) (d), or (4) (d), evidence of the patient's  
24 or client's personal or medical history is not admissible except if all of the following  
25 apply:

1 1. The defendant requests a hearing prior to trial and makes an offer of proof  
2 of the relevancy of the evidence; ~~and~~.

3 SECTION 984. 972.11 (3m) of the statutes is renumbered 346.63 (8) and  
4 amended to read:

5 346.63 (8) A court may not exclude evidence in any criminal action or traffic  
6 forfeiture action for violation of ~~s. 346.63 sub.~~ (1) or (5), or a local ordinance in  
7 conformity with ~~s. 346.63 sub.~~ (1) or (5), on the ground that the evidence existed or  
8 was obtained outside of this state.

9 SECTION 985. 972.11 (4) of the statutes is renumbered 972.29, and 972.29  
10 (intro.), as renumbered, is amended to read:

11 **972.29 Return of evidence.** (intro.) Upon the motion of any party or its own  
12 motion, a court may order that any exhibit or evidence be delivered to the party or  
13 the owner ~~prior to~~ before or after the final determination of the action or proceeding  
14 if all of the following requirements are met:

15 SECTION 986. 972.115 (title) of the statutes is repealed.

*fix component*

16 SECTION 987. 972.115 (1) of the statutes is renumbered 972.18 (1)

*and 972.18 (1) (a) as renumbered is amended to read:*

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17 SECTION 988. 972.115 (2) of the statutes is renumbered 972.18 (3), and 972.18  
18 (3) (a) (intro.), as renumbered, is amended to read:

19 972.18 (3) (a) (intro.) If a statement made by a defendant during a custodial  
20 interrogation is admitted into evidence in a trial for a felony before a jury and if an  
21 audio or audio and visual recording of the interrogation is not available, upon a  
22 request made by the defendant ~~as provided in s. 972.10 (5)~~ and unless the state  
23 asserts and the court finds that one of the following conditions applies or that good  
24 cause exists for not providing an instruction, the court shall instruct the jury that it  
25 is the policy of this state to make an audio or audio and visual recording of a custodial

1 interrogation of a person suspected of committing a felony and that the jury may  
2 consider the absence of an audio or audio and visual recording of the interrogation  
3 in evaluating the evidence relating to the interrogation and the statement in the  
4 case:

5 **SECTION 989.** 972.115 (4) and (5) of the statutes are renumbered 972.18 (3) (c)  
6 and (d), and 972.18 (3) (c), as renumbered, is amended to read:

7 972.18 (3) (c) Notwithstanding ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a  
8 defendant's lack of consent to having an audio or audio and visual recording made  
9 of a custodial interrogation does not affect the admissibility in evidence of an audio  
10 or audio and visual recording of a statement made by the defendant during the  
11 interrogation.

\*

\*\*\*\*NOTE: This section reconciles -0068/P2 and -0228/P2.

12 **SECTION 990.** 972.12 of the statutes is renumbered 972.05 and amended to  
13 read:

14 **972.05 Sequestration of jurors.** ~~The~~ At any stage of the proceedings, the  
15 court may direct that the jurors who have been sworn be kept together or be  
16 permitted to separate. The court may appoint an officer of the court to keep the jurors  
17 together and to prevent communication between the jurors and others. After the case  
18 has been submitted to the jurors, the court may permit them to separate, but shall  
19 instruct the jurors to suspend deliberations while separated.

20 **SECTION 991.** 972.13 (title) of the statutes is repealed.

21 **SECTION 992.** 972.13 (1) of the statutes is renumbered 972.28 (1) and amended  
22 to read:

23 972.28 (1) ~~A~~ The court shall grant a judgment of conviction shall be entered  
24 upon accepting a jury verdict of guilty by the jury, a, upon finding of the defendant

1 guilty ~~by the court in cases~~ in a case where a jury is waived, or upon finding the  
2 defendant guilty after accepting a plea of guilty or no contest.

3 **SECTION 993.** 972.13 (2) of the statutes is renumbered 972.28 (2) and amended  
4 to read:

5 972.28 (2) ~~Except in cases where ch. 975 is applicable~~ Unless entry of judgment  
6 is deferred, upon granting a judgment of conviction, the court shall proceed under ch.  
7 973. The court may adjourn the case ~~from time to time for the purpose of~~ before  
8 pronouncing sentence.

9 ~~✱~~ \*\*\*\*NOTE: This section reconciles -0068/P2 and -4635/P1.

9 **SECTION 994.** 972.13 (3) of the statutes is renumbered 972.28 (3) and amended  
10 to read:

11 972.28 (3) ~~A~~ When a judgment of conviction is entered, it shall set forth the  
12 plea, the verdict or finding, the adjudication and sentence, and a finding as to the  
13 specific number of days for which sentence credit is to be granted under s. 973.155.

14 (5) If the defendant is acquitted, the court shall grant a judgment shall be  
15 entered accordingly of acquittal.

16 **SECTION 995.** 972.13 (4) of the statutes is renumbered 972.28 (6).

17 **SECTION 996.** 972.13 (5) of the statutes is renumbered 972.28 (4) and amended  
18 to read:

19 972.28 (4) A copy of the judgment of conviction shall constitute authority for  
20 the sheriff to execute the sentence.

21 **SECTION 997.** 972.13 (6) of the statutes is repealed.

22 **SECTION 998.** 972.13 (7) of the statutes is repealed.

23 **SECTION 999.** 972.14 (title), (2), (2m) and (3) of the statutes are renumbered  
24 973.003 (title), (2), (2m) and (3), and 973.003 (2), as renumbered, is amended to read:

1           973.003 (2) Before pronouncing sentence, the court shall ask the defendant  
2 why sentence should not be pronounced upon him or her and allow the district  
3 attorney, defense counsel, and defendant an opportunity to make a statement with  
4 respect to any matter relevant to the sentence. In addition, if the defendant is under  
5 21 years of age and if the court has not ordered a presentence investigation under  
6 s. ~~972.15~~ 973.004, the court shall ask the defendant if he or she has been adjudged  
7 delinquent under ch. 48, 1993 stats., or ch. 938, or has had a similar adjudication in  
8 any other state in the 4 years immediately preceding the date the criminal complaint  
9 relating to the present offense was issued.

10           **SECTION 1000.** 972.14 (1) (intro.) and (b) of the statutes are consolidated,  
11 renumbered 973.003 (1) and amended to read:

12           973.003 (1) (intro.) In this section: ~~(b) “Victim”,~~ “victim” has the meaning  
13 specified in s. 950.02 (4).

14           **SECTION 1001.** 972.14 (1) (ag) of the statutes is repealed.

15           **SECTION 1002.** 972.15 of the statutes is renumbered 973.004, and 973.004 (5)  
16 (intro.), as renumbered, is amended to read:

17           973.004 (5) (intro.) The department may use the presentence investigation  
18 report for correctional programming, parole consideration or care and treatment of  
19 any person sentenced to imprisonment or the intensive sanctions program, placed  
20 on probation, released on parole or extended supervision or committed to the  
21 department under ch. 51 or ~~971~~ 975 or any other person in the custody of the  
22 department or for research purposes. The department may make the report  
23 available to other agencies or persons to use for purposes related to correctional  
24 programming, parole consideration, care and treatment, or research. Any use of the  
25 report under this subsection is subject to the following conditions:



\*\*\*\*NOTE: This section reconciles -0068/P2 and -4635/P1.

1           **SECTION 1003.** 972.16 (1) and (2) of the statutes are created to read:

2           972.16 (1) Unless the court for cause otherwise permits, the parties shall  
3 proceed with statements and presentation of evidence in the following order:

4           (a) The state may make an opening statement.

5           (b) The defense may make an opening statement or reserve the right to make  
6 an opening statement until after the state rests its case in chief.

7           (c) The state shall present its case in chief.

8           (d) At the close of the state's case in chief, the defense may move to dismiss.  
9 The court shall grant the motion to dismiss if it appears that, viewing the evidence  
10 in the light most favorable to the state and drawing all reasonable inferences  
11 therefrom, a reasonable jury could not find the defendant guilty beyond a reasonable  
12 doubt. The court shall decide the motion before the defense presents its case in chief.

13           (e) The defense may present a case in chief. If a defendant presents evidence,  
14 the defendant waives the right to appeal the denial of a motion for dismissal made  
15 under par. (d).

16           (f) The state and the defense may present rebuttal evidence.

17           (g) The court for cause may permit a party to present further evidence in chief.  
18 If the court permits the state to present further evidence in chief, the defense may  
19 also present further evidence in chief.

20           (h) After the state and the defense have rested, the defense may move to  
21 dismiss. The court shall grant the motion to dismiss if it appears that, viewing all  
22 of the evidence, including evidence presented by the defense, in the light most  
23 favorable to the state and drawing all reasonable inferences therefrom, a reasonable  
24 jury could not find the defendant guilty beyond a reasonable doubt of the charged

1 crime or an included crime under s. 939.66. If the jury could find the defendant guilty  
2 beyond a reasonable doubt of an included crime but not the charged crime, the court  
3 shall order the complaint amended accordingly.

4 (i) The state may make a closing argument.

5 (j) The defense may make a closing argument.

6 (k) The state may make a rebuttal argument.

7 **(2)** If there are 2 or more defendants and they do not agree on the order in which  
8 the defendants will proceed under sub. (1), the court shall determine the order in  
9 which the defendants will proceed.

10 **SECTION 1004.** 972.18 (title) of the statutes is created to read:

11 **972.18 (title) Admissibility of a defendant's statement.**

12 **SECTION 1005.** 972.19 of the statutes is created to read:

13 **972.19 Stipulations. (1)** In this section, "stipulation" means an agreement  
14 between the parties that a specified fact is or shall be taken as established without  
15 need for proof.

16 **(2)** The court shall place <sup>g</sup>any <sup>g</sup>stipulation <sup>g</sup>that the court accepts <sup>g</sup>on the record  
17 at the time the court accepts it. Shall be  
set  
forth

18 **(3)** In a trial before a jury, the court shall instruct the jury that it is to take  
19 stipulated facts as conclusively proved.

20 **(4)** If stipulated facts establish an element of the crime, the court shall proceed  
21 as provided in s. 972.005 (2).

22 **SECTION 1006.** 972.20 (title) of the statutes is created to read:

23 **972.20 (title) Child testimony by closed-circuit audiovisual means.**

24 **SECTION 1007.** 972.22 (title) of the statutes is created to read:

25 **972.22 (title) Final jury instructions.**

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1           **SECTION 1008.** 972.24 of the statutes is created to read:

2           **972.24 Return of verdict.** A verdict must be unanimous and returned in open  
3 court.

4           **SECTION 1009.** 972.25 of the statutes is created to read:

5           **972.25 Polling the jury.** The court shall poll the jury when a verdict proper  
6 in form is returned. The court or the clerk shall conduct the poll by asking each juror  
7 individually whether the verdict as returned was and is in the juror's verdict.

8           **SECTION 1010.** 972.26 of the statutes is created to read:

9           **972.26 Accepting the verdict. (1)** The court shall accept the verdict if it is  
10 proper in form and confirmed by the jury poll. When the verdict is accepted, the jury  
11 shall be discharged.

12           **(2)** After the verdict is accepted, the complaint shall be deemed amended as to  
13 technical variances to conform to the proof if no objection to the relevance of the  
14 evidence was timely raised.

15           **SECTION 1011.** 972.28 (title) of the statutes is created to read:

16           **972.28 (title) Granting judgment.**

17           **SECTION 1012.** 973.013 (4) of the statutes is amended to read:

18           973.013 (4) If information under s. ~~972.15~~ 973.004 (2m) has been provided in  
19 a presentence investigation report, the court shall consider that information when  
20 sentencing the defendant.

21           **SECTION 1013.** 973.03 (3) (b) of the statutes is amended to read:

22           973.03 (3) (b) The court may require that the defendant perform community  
23 service work for a public agency or a nonprofit charitable organization. The number  
24 of hours of work required may not exceed what would be reasonable considering the  
25 seriousness of the offense and any ~~other offense which is read into the record at the~~

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1 ~~time of conviction~~ read-in crimes. An order may only apply if agreed to by the  
2 defendant and the organization or agency. The court shall ensure that the defendant  
3 is provided a written statement of the terms of the community service order and that  
4 the community service order is monitored.

5 **SECTION 1014.** 973.03 (3) (e) 2. of the statutes is amended to read:

6 973.03 (3) (e) 2. A crime which is a Class D, E, F, or G felony listed in s. ~~969.08~~  
7 ~~(10) 969.51 (7) (b)~~, but not including any crime specified in s. 943.10.

8 **SECTION 1015.** 973.03 (4) (d) of the statutes is amended to read:

9 973.03 (4) (d) A sentence under this subsection is not a sentence of  
10 imprisonment, except for purposes of ss. 973.04, 973.15 (8) (a) and ~~973.19~~ 974.03.

11 **SECTION 1016.** 973.03 (5) (a) 1. of the statutes is amended to read:

12 973.03 (5) (a) 1. "Commission of a serious crime" has the meaning given under  
13 s. ~~969.08 (10) 969.51 (7) (a)~~.

14 **SECTION 1017.** 973.03 (5) (a) 2. of the statutes is amended to read:

15 973.03 (5) (a) 2. "Serious crime" has the meaning given under s. ~~969.08 (10)~~  
16 969.51 (7) (b).

17 **SECTION 1018.** 973.042 (4) of the statutes is amended to read:

18 973.042 (4) After determining the amount due, the clerk of ~~court~~ shall collect  
19 and transmit the amount to the county treasurer under s. 59.40 (2) (m). The county  
20 treasurer shall then make payment to the secretary of administration under s. 59.25  
21 (3) (f) 2.

22 **SECTION 1019.** 973.043 (2) of the statutes is amended to read:

23 973.043 (2) After determining the amount due, the clerk of ~~court~~ shall collect  
24 and transmit the amount to the county treasurer under s. 59.40 (2) (m). The county

1 treasurer shall then make payment to the secretary of administration under s. 59.25  
2 (3) (f) 2.

3 **SECTION 1020.** 973.045 (2) of the statutes is amended to read:

4 973.045 (2) After the clerk determines the amount due, the clerk of court shall  
5 collect and transmit the amount to the county treasurer under s. 59.40 (2) (m). The  
6 county treasurer shall then make payment to the secretary of administration under  
7 s. 59.25 (3) (f) 2.

8 **SECTION 1021.** 973.046 (2) of the statutes is amended to read:

9 973.046 (2) After the clerk of court determines the amount due, the clerk shall  
10 collect and transmit the amount to the county treasurer under s. 59.40 (2) (m). The  
11 county treasurer shall then make payment to the secretary of administration under  
12 s. 59.25 (3) (f) 2.

13 **SECTION 1022.** 973.048 (5) of the statutes is amended to read:

14 973.048 (5) If the court orders a person to comply with the reporting  
15 requirements under s. 301.45, the clerk of the court in which the order is entered  
16 shall promptly forward a copy of the order to the department of corrections. If the  
17 conviction on which the order is based is reversed, set aside or vacated, the clerk of  
18 the court shall promptly forward to the department of corrections a certificate stating  
19 that the conviction has been reversed, set aside or vacated.

20 **SECTION 1023.** 973.049 (1) (b) of the statutes is repealed.

21 **SECTION 1024.** 973.05 (3) (b) of the statutes is amended to read:

22 973.05 (3) (b) The court may require that the defendant perform community  
23 service work for a public agency or a nonprofit charitable organization. The number  
24 of hours of work required may not exceed what would be reasonable considering the  
25 seriousness of the offense and any other offense which is read into the record at the

1 ~~time of conviction~~ read-in crimes. An order may only apply if agreed to by the  
2 defendant and the organization or agency. The court shall ensure that the defendant  
3 is provided a written statement of the terms of the community service order and that  
4 the community service order is monitored.

5 **SECTION 1025.** 973.05 (4) (b) of the statutes is amended to read:

6 973.05 (4) (b) Issue an order assigning not more than 25% of the defendant's  
7 commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102, and  
8 other money due or to be due in the future to the clerk of ~~circuit court~~ for payment  
9 of the unpaid fine, surcharge, costs, or fees. In this paragraph, "employer" includes  
10 the state and its political subdivisions.

11 **SECTION 1026.** 973.05 (4) (c) of the statutes is amended to read:

12 973.05 (4) (c) Issue an order assigning lottery prizes won by a defendant whose  
13 name is on the list supplied to the clerk of ~~circuit court~~ under s. 565.30 (5r) (a), for  
14 payment of the unpaid fine, surcharge, costs, or fees.

15 **SECTION 1027.** 973.05 (5) (a) 1. of the statutes is amended to read:

16 973.05 (5) (a) 1. Upon entry of the assignment under sub. (4) (b), unless the  
17 court finds that income withholding is likely to cause the defendant irreparable  
18 harm, the court shall provide notice of the assignment by regular mail to the  
19 last-known address of the person from whom the defendant receives or will receive  
20 money. If the clerk of ~~circuit court~~ does not receive the money from the person  
21 notified, the court shall provide notice of the assignment to any other person from  
22 whom the defendant receives or will receive money. Notice of an assignment under  
23 sub. (4) (b) shall inform the intended recipient that, if a prior assignment under sub.  
24 (4) (b) has been received relating to the same defendant, the recipient is required to  
25 notify the clerk of ~~circuit court~~ that sent the subsequent notice of assignment that

1 another assignment has already been received. A notice of assignment shall include  
2 a form permitting the recipient to designate on the form that another assignment has  
3 already been received.

4 **SECTION 1028.** 973.05 (5) (a) 2. of the statutes is amended to read:

5 973.05 (5) (a) 2. If, after receiving the annual list under s. 565.30 (5r) (a), the  
6 clerk of ~~circuit court~~ determines that a person identified in the list may be subject  
7 to an assignment under sub. (4) (c), the clerk shall inform the court of that  
8 determination. If the court issues an order under sub. (4) (c), the clerk of ~~circuit court~~  
9 shall send the notice of that order to the administrator of the lottery division of the  
10 department of revenue, including a statement of the amount owed under the  
11 judgment and the name and address of the person owing the judgment. The court  
12 shall notify the administrator of the lottery division of the department of revenue  
13 when the judgment that is the basis of the assignment has been paid in full.

14 **SECTION 1029.** 973.05 (5) (c) of the statutes is amended to read:

15 973.05 (5) (c) A person who receives notice of the assignment under sub. (4) (b)  
16 shall withhold the amount specified in the notice from any money that person pays  
17 to the defendant later than one week after receipt of the notice of assignment. Within  
18 5 days after the day on which the person pays money to the defendant, the person  
19 shall send the amount withheld to the clerk of ~~circuit~~ the court of the jurisdiction  
20 providing notice. If the person has already received a notice of an assignment under  
21 sub. (4) (b), the person shall retain the later assignment and withhold the amount  
22 specified in that assignment after the last of any prior assignments is paid in full.  
23 Within 10 days of receipt of the later notice, the person shall notify the clerk of ~~circuit~~  
24 the court that sent the notice that the person has received a prior notice of an

1 assignment under sub. (4) (b). Section 241.09 does not apply to assignments under  
2 this section.

3 **SECTION 1030.** 973.05 (5) (d) of the statutes is amended to read:

4 973.05 (5) (d) If after receipt of notice of assignment under par. (a) 1. the person  
5 from whom the defendant receives money fails to withhold the money or send the  
6 money to the clerk of ~~circuit court~~ as provided in this subsection, the person may be  
7 proceeded against under the principal action under ch. 785 for contempt of court or  
8 may be proceeded against under ch. 778 and be required to forfeit not less than \$50  
9 nor more than an amount, if the amount exceeds \$50, that is equal to 1% of the  
10 amount not withheld or sent.

11 **SECTION 1031.** 973.05 (5) (e) of the statutes is amended to read:

12 973.05 (5) (e) If an employer who receives notice of an assignment under sub.  
13 (4) (b) fails to notify the clerk of ~~circuit court~~ within 10 days after an employee is  
14 terminated or otherwise temporarily or permanently leaves the employer's  
15 employment, the employer may be proceeded against under the principal action  
16 under ch. 785 for contempt of court.

17 **SECTION 1032.** 973.055 (2) (a) of the statutes is amended to read:

18 973.055 (2) (a) If the surcharge is imposed by a court of record, after the court  
19 determines the amount due, the clerk of ~~the court~~ shall collect and transmit the  
20 amount to the county treasurer as provided in s. 59.40 (2) (m). The county treasurer  
21 shall then make payment to the secretary of administration as provided in s. 59.25  
22 (3) (f) 2.

23 **SECTION 1033.** 973.06 (1) (h) of the statutes is amended to read:

24 973.06 (1) (h) The cost of performance of a test under s. ~~968.38~~ 968.725, if  
25 ordered by the court.

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1           **SECTION 1034.** 973.076 (2) (a) of the statutes is amended to read:

2           973.076 (2) (a) The district attorney of the county within which the property  
3 was seized or in which the defendant is convicted shall commence the forfeiture  
4 action within 30 days after the seizure of the property or the date of conviction,  
5 whichever is earlier, except that the defendant may request that the forfeiture  
6 proceedings be adjourned until after adjudication of any charge concerning a crime  
7 which was the basis for the seizure of the property. The request shall be granted.  
8 The forfeiture action shall be commenced by filing a summons, complaint and  
9 affidavit of the person who seized the property with the clerk of ~~circuit court~~,  
10 provided service of authenticated copies of those papers is made in accordance with  
11 ch. 801 within 90 days after filing upon the person from whom the property was  
12 seized and upon any person known to have a bona fide perfected security interest in  
13 the property.

14           **SECTION 1035.** 973.08 (5) of the statutes is amended to read:

15           973.08 (5) The clerk of ~~court~~ shall file or deliver a transcript under sub. (2), (3)  
16 or (4).

17           **SECTION 1036.** 973.09 (2) (a) 1. b. of the statutes is amended to read:

18           973.09 (2) (a) 1. b. A misdemeanor that was an act of domestic abuse, as defined  
19 in s. ~~968.075~~ 969.27 (1) (a).

20           **SECTION 1037.** 973.09 (3) (b) of the statutes is amended to read:

21           973.09 (3) (b) The department shall notify the sentencing court, any person to  
22 whom unpaid restitution is owed and the district attorney of the status of the ordered  
23 restitution payments unpaid at least 90 days before the probation expiration date.  
24 If payment as ordered has not been made, the court shall hold a probation review  
25 hearing prior to the expiration date, unless the hearing is voluntarily waived by the

1 probationer with the knowledge that waiver may result in an extension of the  
2 probation period or in a revocation of probation. If the court does not extend  
3 probation, it shall issue a judgment for the unpaid restitution and direct the clerk  
4 ~~of circuit court~~ to file and enter the judgment in the judgment and lien docket,  
5 without fee, unless it finds that the victim has already recovered a judgment against  
6 the probationer for the damages covered by the restitution order. If the court issues  
7 a judgment for the unpaid restitution, the court shall send to the person at his or her  
8 last-known address written notification that a civil judgment has been issued for the  
9 unpaid restitution. The judgment has the same force and effect as judgments  
10 entered under s. 806.10.

11 **SECTION 1038.** 973.09 (3) (bm) 4. of the statutes is amended to read:

12 973.09 (3) (bm) 4. If the court does not extend or modify the terms of probation  
13 under subd. 3., it shall issue a judgment for the unpaid fees and direct the clerk of  
14 ~~circuit court~~ to file and enter the judgment in the judgment and lien docket, without  
15 fee. If the court issues a judgment for the unpaid fees, the court shall send to the  
16 department a written notification that a civil judgment has been issued for the  
17 unpaid fees. The judgment has the same force and effect as judgments entered under  
18 s. 806.10.

19 **SECTION 1039.** 973.09 (7m) (a) of the statutes is amended to read:

20 973.09 (7m) (a) Except as provided in s. 943.017 (3), the court may require as  
21 a condition of probation that the probationer perform community service work for a  
22 public agency or a nonprofit charitable organization. The number of hours of work  
23 required may not exceed what would be reasonable considering the seriousness of the  
24 offense and any ~~other offense which is read into the record at the time of conviction~~  
25 read-in crimes. An order may only apply if agreed to by the probationer and the

1 organization or agency. The court shall ensure that the probationer is provided a  
2 written statement of the terms of the community service order and that the  
3 community service order is monitored. If the court requires the conditions provided  
4 in this subsection and sub. (4), the probationer reduces the period of confinement  
5 under sub. (4) at a rate of one day for each 3 days of work performed. A day of work  
6 equals 8 hours of work performed.

7 **SECTION 1040.** 973.10 (2m) of the statutes is amended to read:

8 973.10 (2m) In any administrative hearing under sub. (2), the hearing  
9 examiner may order that a deposition be taken by audiovisual means and allow the  
10 use of a recorded deposition under s. ~~967.04 (7) to (10)~~ 967.22.

11 **SECTION 1041.** 973.135 (3) of the statutes is amended to read:

12 973.135 (3) If a conviction under sub. (2) is reversed, set aside or vacated, the  
13 clerk of the court shall promptly forward to the state superintendent a certificate  
14 stating that the conviction has been reversed, set aside or vacated.

15 **SECTION 1042.** 973.18 (title) of the statutes is renumbered 973.25 (title).

16 **SECTION 1043.** 973.18 (1) of the statutes is renumbered 973.25 (1) and amended  
17 to read:

18 973.25 (1) In this section, “postconviction relief” and “sentencing” have the  
19 meanings ascribed in s. ~~809.30 (1)~~ means an appeal or a motion for postconviction  
20 relief in a criminal case, other than an appeal, motion, or petition under s. 302.113  
21 (7m), 302.1135, 973.195, 974.03, 974.06, or 974.07 (2).

22 **SECTION 1044.** 973.18 (2), (3) and (4) of the statutes are renumbered 973.25 (2),  
23 (3) and (4) and amended to read:

24 973.25 (2) ~~The trial judge~~ At the time of sentencing, the court shall personally  
25 inform the defendant at the time of sentencing, orally or in writing, of the defendant’s

1 right to ~~seek~~ pursue postconviction relief and, if the defendant is indigent, of the  
2 defendant's right to the assistance of the state public defender.

3 (3) Before ~~adjourning~~ concluding the sentencing proceeding, the judge court  
4 shall direct the defendant and defendant's trial counsel to sign a form to be entered  
5 in the record, indicating that the ~~lawyer~~ trial counsel has counseled the defendant  
6 regarding the decision to ~~seek~~ pursue postconviction relief, and that the defendant  
7 understands that a notice of intent to pursue postconviction relief must be filed in  
8 the trial court within 20 days after sentencing for ~~that~~ the right to pursue  
9 postconviction relief to be preserved. The court shall give the defendant a copy of the  
10 form.

11 (4) ~~The judge shall direct~~ court shall make appropriate orders to allow the  
12 ~~defendant's counsel~~ defendant to confer with ~~the defendant before signing the form,~~  
13 ~~during the proceeding or as soon thereafter as practicable, and may make~~  
14 ~~appropriate orders to allow the defendant to confer with~~ counsel before being  
15 transferred to the state prison. ~~The defendant shall be given a copy of the form.~~

16 **SECTION 1045.** 973.18 (5) of the statutes is renumbered 973.25 (5).

17 **SECTION 1046.** 973.19 (title) of the statutes is renumbered 974.03 (title).

18 **SECTION 1047.** 973.19 (1) (a) of the statutes is renumbered 974.03 (1) (a) and  
19 amended to read:

20 974.03 (1) (a) A ~~person~~ defendant sentenced to imprisonment or the intensive  
21 sanctions program or ordered to pay a fine who has not requested the preparation  
22 of transcripts under s. 809.30 (2) may, within 90 days after the sentence or order or  
23 fine is entered imposed, move the circuit court to modify the sentence or the amount  
24 of the fine.