

1 971.65 (7) EVIDENCE OF PERSONAL OR MEDICAL HISTORY. In actions under s.
2 940.22, the court may determine the admissibility of evidence under s. ~~972.11~~ 940.22
3 (6) only upon a pretrial motion.

4 **SECTION 910.** 971.31 (13) of the statutes is renumbered 971.77, and 971.77 (2),
5 as renumbered, is amended to read:

6 971.77 (2) The court shall retain jurisdiction unless the juvenile proves by a
7 preponderance of the evidence that he or she did not commit the violation under the
8 circumstances described in s. 938.183 (1) (b) or (c), whichever is applicable, or that
9 transfer would be appropriate because all of the factors specified in ~~par. (a) 1., 2. and~~
10 ~~3.~~ sub. (1) (a), (b), and (c) are met.

11 **SECTION 911.** 971.315 of the statutes is renumbered 970.10 (2) and amended
12 to read:

13 970.10 (2) ~~INQUIRY UPON DISMISSAL~~. Before a court dismisses a criminal charge
14 against a person under sub. (1), the court shall inquire of the district attorney
15 whether he or she has complied with s. 971.095 (2).

16 **SECTION 912.** 971.32 of the statutes is renumbered 970.21.

17 **SECTION 913.** 971.34 of the statutes is renumbered 970.22.

18 **SECTION 914.** 971.36 of the statutes is renumbered 970.23.

19 **SECTION 915.** 971.365 of the statutes is renumbered 970.24.

20 **SECTION 916.** 971.38 (1) of the statutes is amended to read:

21 971.38 (1) Except as provided in s. ~~967.055~~ 970.25 (3), the district attorney may
22 require as a condition of any deferred prosecution program for any crime that the
23 defendant perform community service work for a public agency or a nonprofit
24 charitable organization. The number of hours of work required may not exceed what
25 would be reasonable considering the seriousness of the alleged offense. An order may

1 only apply if agreed to by the defendant and the organization or agency. The district
2 attorney shall ensure that the defendant is provided a written statement of the terms
3 of the community service order and that the community service order is monitored.

4 **SECTION 917.** 971.39 (1) (intro.) of the statutes is amended to read:

5 971.39 (1) (intro.) Except as provided in s. ~~967.055~~ 970.25 (3), in counties
6 having a population of less than 100,000, if a defendant is charged with a crime, the
7 district attorney, the department and a defendant may all enter into a deferred
8 prosecution agreement which includes, but is not limited to, the following conditions:

9 **SECTION 918.** Subchapter IV (title) of chapter 971 [precedes 971.42] of the
10 statutes is created to read:

11 **CHAPTER 971**

12 **SUBCHAPTER IV**

13 **DISCOVERY**

14 **SECTION 919.** 971.42 of the statutes is created to read:

15 **971.42 Purposes.** Discovery under this subchapter and s. 971.035 is intended,
16 consistent with the constitutional rights of the defendant, to do all of the following:

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

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

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

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

25 (5) Minimize inequities among similarly situated defendants.

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

4 **(7)** Minimize the burden upon victims and witnesses.

5 **SECTION 920.** 971.43 (title) and (1) of the statutes are created to read:

6 **971.43 (title) Disclosure by district attorney. (1) TIME OF DISCLOSURE.**
7 Except as provided in subs. (5) and (8), the district attorney shall make all disclosures
8 under this section within a reasonable time before the pretrial conference or at a time
9 set in the scheduling order.

10 **SECTION 921.** 971.43 (2) (b) of the statutes is created to read:

11 971.43 **(2)** (b) Any written or recorded statement concerning the alleged crime
12 made by a codefendant, including the testimony of the codefendant at an inquest, in
13 a John Doe proceeding under s. 968.105, or before a grand jury, and the names of
14 witnesses to the codefendant's written statements.

15 **SECTION 922.** 971.43 (2) (br) of the statutes is created to read:

16 971.43 **(2)** (br) Any record or testimony taken from a John Doe proceeding
17 under s. 968.105 that the district attorney intends to use at trial and the names of
18 witnesses to the defendant's written statements.

19 **SECTION 923.** 971.43 (2) (e) of the statutes is created to read:

20 971.43 **(2)** (e) Any written or recorded statement of a person whom the district
21 attorney intends to call as a trial witness that concerns the subject matter of the
22 witness's intended testimony, that has been electronically recorded or reduced to
23 writing and signed or otherwise approved or adopted by the witness, and that is
24 within the possession or control of the state.

25 **SECTION 924.** 971.43 (2) (f) of the statutes is created to read:

1 971.43 (2) (f) Any audiovisual recording of an oral statement of a child under
2 s. 908.08.

3 **SECTION 925.** 971.43 (2) (h) of the statutes is created to read:

4 971.43 (2) (h) After the defendant has obtained or waived legal representation,
5 copies of all law enforcement investigative reports relating to the case.

6 **SECTION 926.** 971.43 (3) of the statutes is created to read:

7 971.43 (3) CHARACTER, REPUTATION, OR OTHER ACTS EVIDENCE. If the district
8 attorney intends to use evidence of character or reputation or evidence of other
9 crimes or acts under s. 904.04 (2), he or she shall notify the defense of that intention
10 and of the substance of the evidence to be used.

11 **SECTION 927.** 971.43 (4) of the statutes is created to read:

12 971.43 (4) ELECTRONIC SURVEILLANCE. If the defendant's conversations or
13 premises have been subjected to electronic surveillance, including wiretapping, in
14 connection with the investigation or prosecution of the case, the district attorney
15 shall inform the defense of that fact.

16 **SECTION 928.** 971.43 (6) of the statutes is created to read:

17 971.43 (6) MATERIAL POSSESSED BY INVESTIGATIVE PERSONNEL. The district
18 attorney shall make reasonable efforts to ensure that investigative personnel
19 provide material and information relevant to the crime charged to the district
20 attorney's office.

21 **SECTION 929.** 971.43 (7) of the statutes is created to read:

22 971.43 (7) MATERIAL POSSESSED BY OTHER AGENCIES. If the district attorney
23 knows that material and information that would be discoverable if in his or her
24 possession is in the possession or control of a government agency not reporting

1 directly to the district attorney, the district attorney shall disclose the fact of the
2 existence of such material or information to the defense.

3 **SECTION 930.** 971.43 (8) of the statutes is created to read:

4 **971.43 (8) NOTICE OF INTENT TO USE CODEFENDANT'S STATEMENT.** If the district
5 attorney intends to use the statement of a codefendant to implicate the defendant in
6 the crime charged, he or she shall inform the defendant before trial.

7 **SECTION 931.** 971.44 (title) and (1) of the statutes are created to read:

8 **971.44 (title) Defense disclosure. (1) TIME OF DISCLOSURE.** The defense shall
9 make all disclosures under this section within a reasonable time before the pretrial
10 conference or at a time set in the scheduling order.

11 **SECTION 932.** 971.44 (2) (a) of the statutes is created to read:

12 **971.44 (2) (a)** Any written or recorded statement of a person whom the defense
13 intends to call as a trial witness that concerns the subject matter of the witness's
14 intended testimony, that has been electronically recorded or reduced to writing and
15 signed or otherwise approved or adopted by the witness, and that is within the
16 possession or control of the defense.

17 **SECTION 933.** 971.44 (3) of the statutes is created to read:

18 **971.44 (3) CHARACTER, REPUTATION, OR OTHER ACTS EVIDENCE.** If the defense
19 intends to use evidence of character or reputation or evidence of other crimes or acts
20 under s. 904.04 (2) not relating to the defendant, the defense shall notify the district
21 attorney of that intention and of the substance of the evidence to be used.

22 **SECTION 934.** 971.46 (intro.) and (1) of the statutes are created to read:

23 **971.46 Expert witnesses.** (intro.) Any party who intends to call an expert
24 witness at trial shall, not less than 15 days before the trial or at the time set in the
25 scheduling order, do all of the following:

at another time set by the court

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

3 **SECTION 935.** 971.48 (title) of the statutes is created to read:

4 **971.48 (title) Scientific testing; preservation of evidence.**

5 **SECTION 936.** 971.48 (2) of the statutes is created to read:

6 971.48 (2) If before trial either party intends to destroy or permanently
7 transfer out of its possession any material discoverable under this subchapter, the
8 party shall give the other party advance notice sufficient to afford that party an
9 opportunity to object or take other appropriate action.

10 **SECTION 937.** 971.49 of the statutes is created to read:

11 **971.49 Motion to obtain evidence before trial.** (1) Notwithstanding s.
12 908.03 (6m) (c), before trial and upon motion by either party, the court may issue a
13 subpoena to require the production of documents and other tangible objects if it finds
14 that the evidence sought may be material to the determination of issues in the case.

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

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

23 **SECTION 938.** 971.51 (title) and (1) of the statutes are created to read:

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

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

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

9 **SECTION 939.** 971.52 (3) of the statutes is created to read:

10 971.52 (3) If anything is deleted from discoverable material under a claim of
11 privilege or other exemption, the party to whom the discovery is made shall be
12 notified and may move the court for an order requiring its disclosure. The court may
13 require the deleted information to be furnished to the court under seal for
14 determination of its discoverability. If the court determines that the material is
15 exempt from disclosure, an appropriate sealed copy of the material shall be kept in
16 the court record.

17 **SECTION 940.** 971.56 of the statutes is created to read:

18 **971.56 Obtaining nontestimonial information from defendant.** (1) IN
19 GENERAL. Upon motion by the district attorney, the court may order a defendant
20 charged with a crime to participate in a procedure to obtain nontestimonial evidence
21 relevant to whether the defendant committed the crime if the procedure is
22 reasonable and does not involve an unreasonable intrusion into the body or an
23 unreasonable detention of the defendant. An order under this subsection may direct
24 the defendant to do any of the following:

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

3 (b) Try on clothing and other articles.

4 (c) Provide handwriting and voice exemplars.

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

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

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

10 (g) Submit to body measurements and other reasonable body surface
11 examinations.

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

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

16 **(2) CONTENTS OF ORDER.** An order under this section shall specify with
17 particularity the authorized procedure; the scope of the defendant's participation in
18 the procedure; the time, duration, and place of the procedure and other conditions
19 under which it is to be conducted; and who may conduct the procedure. It may also
20 direct the defendant not to alter substantially any identifying physical
21 characteristics to be examined or destroy any evidence sought. The order shall
22 specify that the defendant may not be subjected to investigative interrogation while
23 participating in or present for the procedure and that the defendant may be held in
24 contempt of court if he or she fails to appear and participate in the procedure as
25 directed.

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

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

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

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

12 **SECTION 941.** 971.57 of the statutes is created to read:

13 **971.57 Nontestimonial discovery from 3rd parties.** (1) Upon motion of
14 a defendant, the court may issue a subpoena requiring an individual to participate
15 in a procedure to obtain nontestimonial evidence under s. 971.56 (1) if an affidavit
16 or testimony shows probable cause to believe that the individual to be subpoenaed
17 committed the crime with which the defendant is charged and that the evidence
18 sought is necessary to an adequate defense and cannot practicably be obtained from
19 other sources.

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

22 (a) The authorized procedure.

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

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

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

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

7 **SECTION 942.** 971.58 (title) of the statutes is created to read:

8 **971.58 (title) Compelling certain examinations prohibited.**

9 **SECTION 943.** Subchapter V (title) of chapter 971 [precedes 971.65] of the
10 statutes is created to read:

11 **CHAPTER 971**

12 **SUBCHAPTER V**

13 **MOTIONS**

14 **SECTION 944.** 971.65 (title) of the statutes is created to read:

15 **971.65 (title) Pretrial motions.**

16 **SECTION 945.** 971.65 (2) of the statutes is created to read:

17 **971.65 (2) TIME FOR FILING.** A motion under this section shall be filed within
18 the time set in the scheduling order. If there is no scheduling order, the motion shall
19 be filed not later than 15 days before trial, unless otherwise permitted by the court.

20 **SECTION 946.** 971.66 of the statutes is created to read:

21 **971.66 Motions to dismiss asserting that a statute is unconstitutional.**

22 If a defendant moves to dismiss a criminal prosecution by asserting that the statute
23 under which he or she is charged violates the United States or Wisconsin
24 Constitution, the defendant must serve a copy of the motion on the attorney general
25 under s. 806.04 (11) as well as on the district attorney.

1 **SECTION 947.** 971.68 (title), (1) and (3) of the statutes are created to read:

2 **971.68 (title) Joinder and severance motions. (1) IN GENERAL.** Either party
3 may move for joinder or relief from misjoinder or prejudicial joinder under s. 970.13.

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

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

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

13 (c) A separate trial for the movant.

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

16 **SECTION 948.** 971.69 of the statutes is created to read:

17 **971.69 Pretrial dismissal of complaint. (1)** A defendant may move for
18 pretrial dismissal of the complaint or of any count in the complaint. The defendant
19 may provide one or more affidavits in support of the motion. The motion shall state
20 with particularity the grounds upon which it is based and shall specify all of the
21 following:

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

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

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

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

10 (3) If the grounds stated in the motion, if true, would justify granting the
11 dismissal motion and the allegations in the complaint do not demonstrate that there
12 is a genuine issue of material fact as to those grounds, the court shall allow the
13 district attorney to file a written response presenting any facts or expert opinions
14 that the district attorney believes establish the elements or other facts that the state
15 is required to prove at trial. The court may request that the district attorney and
16 defense counsel present arguments and may allow testimony where it would resolve
17 the questions whether a genuine issue of material fact exists.

18 (4) Unless the court denies the motion under sub. (2), the court shall rule on
19 the motion based on the complaint, the material submitted by the defendant in
20 support of the motion, and material, testimony, or argument presented under sub.

21 (3). The court shall rule on the motion as to the crime charged and any included crime
22 specified in the motion. If the court concludes, for the reasons specified in the motion,
23 that there is no genuine issue as to any material fact, the court shall do one of the
24 following:

25 (a) Grant the motion.

1 (b) Allow the district attorney to amend the complaint.

2 (5) A complaint or charge dismissed under this section may not be reissued
3 unless the district attorney has or discovers additional evidence supporting the
4 complaint or charge.

5 (6) The defendant shall raise all grounds that can be raised under this section
6 in a single motion, unless good cause is shown.

7 **SECTION 949.** Subchapter VI (title) of chapter 971 [precedes 971.75] of the
8 statutes is created to read:

9 **CHAPTER 971**

10 **SUBCHAPTER VI**

11 **JUVENILES IN ADULT COURT**

12 **SECTION 950.** 971.75 (title) of the statutes is created to read:

13 **971.75 (title) Probable cause and retention hearings; juvenile under**
14 **original adult court jurisdiction.**

15 **SECTION 951.** 971.75 (2) of the statutes is created to read:

16 971.75 (2) TIME FOR PROBABLE CAUSE HEARING. The court shall conduct a
17 probable cause hearing that is required under sub. (1) within 10 days after the initial
18 appearance. On stipulation of the parties, or upon motion and for cause, the court
19 may extend that time.

20 **SECTION 952.** 971.75 (4) of the statutes is created to read:

21 971.75 (4) TIME FOR RETENTION HEARING. The court shall conduct any hearing
22 on retention of jurisdiction that is required under sub. (3) (b) within 20 days of the
23 probable cause finding under sub. (3) (b).

24 **SECTION 953.** 971.75 (6) (title) and (a) of the statutes are created to read:

1 971.75 (6) (title) WITNESSES AT PROBABLE CAUSE AND RETENTION HEARINGS. (a)
2 Both the district attorney and the juvenile may call and cross-examine witnesses at
3 any hearing under this section. All witnesses shall be sworn and their testimony
4 reported by a court reporter.

5 **SECTION 954.** 971.75 (7) (title) of the statutes is created to read:

6 971.75 (7) (title) ADMISSIBILITY OF REPORTS.

7 **SECTION 955.** 971.75 (9) (title) of the statutes is created to read:

8 971.75 (9) (title) CLOSURE ORDERS.

9 **SECTION 956.** 971.76 of the statutes is created to read:

10 **971.76 Pretrial dismissal of complaint against juvenile. (1) WAIVER**
11 **CASES.** If the court has jurisdiction over a juvenile as a result of a waiver under s.
12 938.18 (1) (a) or (b), the juvenile may move the court to dismiss the complaint on the
13 ground that the state cannot prove that he or she committed any of the offenses listed
14 in s. 938.18 (1) (a) or (b) on which the waiver was based. The motion shall comply
15 with the requirements of s. 971.69 (1) and the court shall review the motion under
16 the 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 **(2) CASES INVOLVING ORIGINAL ADULT COURT JURISDICTION.** A juvenile subject to
20 the court's original jurisdiction under s. 938.183 (1) may move the court to dismiss
21 the complaint on the ground that the state cannot prove that he or she committed any
22 of the offenses charged under s. 938.183 (1) (a), (am), (b), or (c) under the
23 circumstances described in those provisions. The motion shall comply with the
24 requirements of s. 971.69 (1), and the court shall review the motion under the
25 procedures set forth in s. 971.69 (2) to (4). If the court grants a motion to dismiss

1 under this subsection, the court shall order that the juvenile be discharged, but
2 proceedings may be brought regarding the juvenile under ch. 938.

3 **SECTION 957.** 971.77 (title) of the statutes is created to read:

4 **971.77 (title) Motion to transfer jurisdiction in misdemeanors.**

5 **SECTION 958.** 972.005 (title) of the statutes is created to read:

6 **972.005 (title) Right to jury; waiver.**

7 **SECTION 959.** 972.005 (2) of the statutes is created to read:

8 972.005 (2) PARTIAL JURY TRIAL WAIVER. The parties may agree, with the
9 approval of the court, that the jury be instructed that an element of the crime is
10 established. The court shall address the defendant personally to assure that the
11 defendant understands his or her right to trial by jury as to that element and
12 voluntarily waives that right.

13 **SECTION 960.** 972.01 of the statutes is amended to read:

14 **972.01 Jury; civil rules applicable.** The Except as otherwise provided in
15 this chapter, the summoning of jurors, the, selection, and qualifications of the jury
16 jurors, the challenge of jurors for cause, and the duty of the court in charging the jury
17 and, giving instructions, and discharging the jury when it is unable to agree shall be
18 the same in criminal as in civil actions, except that s. 805.08 (3) shall not apply.

19 **SECTION 961.** 972.02 (title) of the statutes is repealed.

20 **SECTION 962.** 972.02 (1) of the statutes is renumbered 972.005 (1) and amended
21 to read:

22 972.005 (1) WAIVER. ~~Except as otherwise provided in this chapter, criminal~~
23 Criminal cases shall be tried by a jury selected as prescribed in s. 805.08, unless the
24 defendant waives ~~a his or her right to trial by jury in writing or by statement in open~~
25 ~~court or under s. 967.08 (2) (b), on the record,~~ with the approval of the court and the

1 consent of the state. Before approving a waiver of the right to trial by jury, the court
2 shall address the defendant personally to assure that the defendant understands his
3 or her right to trial by jury and that the defendant voluntarily waives that right.

4 SECTION 963. 972.02 (2) of the statutes is renumbered 972.025 (2) and amended
5 to read:

6 972.025 (2) JURY OF LESS THAN 12. At any time before the verdict is returned in
7 a felony ~~criminal~~ case, the parties may stipulate in writing or by statement in open
8 court, on the record agree, with the approval of the court, that the jury shall consist
9 of ~~any number~~ less than 12 persons. ~~If the case is a misdemeanor case, the jury shall~~
10 ~~consist of 6 persons~~ parties agree to a jury of less than 12, the court shall address the
11 defendant personally to assure that the defendant understands his or her right to a
12 jury of 12 and that the defendant voluntarily waives that right.

13 SECTION 964. 972.02 (3) of the statutes is renumbered 972.27 and amended to
14 read:

15 972.27 **Findings in a trial to the court.** In a case tried without a jury, the
16 court shall make a general finding and may in addition find the facts specially. If the
17 charge includes a provision that increases the maximum penalty for the charged
18 crime, the court shall make a specific finding as to the proof of that provision.

19 SECTION 965. 972.02 (4) of the statutes is renumbered 972.04 (5) and amended
20 to read:

21 972.04 (5) ~~No~~ A member of the a grand jury ~~which found the indictment shall~~
22 that indicted a defendant may not be a juror for the defendant's trial of the
23 indictment.

24 SECTION 966. 972.025 (title) and (1) of the statutes are created to read:

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

4 **SECTION 967.** 972.03 (title) of the statutes is amended to read:

5 **972.03** (title) **Peremptory Number of peremptory challenges.**

6 **SECTION 968.** 972.03 of the statutes is renumbered 972.03 (1) and amended to
7 read:

8 972.03 (1) GENERALLY. ~~Each~~ Except as provided in subs. (2), (3), (4), and (5), in
9 a criminal case, each side is entitled to only 4 peremptory challenges except as
10 otherwise provided in this section. ~~When,~~

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

17 (3) DIVIDING CHALLENGES AMONG DEFENDANTS. In a criminal case involving more
18 than one defendant, the court shall divide the peremptory challenges for the defense
19 as equally as practicable among ~~them~~ the defendants; and if their defenses are
20 adverse and the court is satisfied that the protection of their rights so requires, the
21 court may allow the defendants additional peremptory challenges. ~~If the crime is~~
22 ~~punishable by life imprisonment, the total peremptory challenges allowed the~~
23 ~~defense shall not exceed 12 if there are only 2 defendants and 18 if there are more~~
24 ~~than 2 defendants; in other felony cases the defendants are allowed additional~~

1 peremptory challenges under this subsection, the courts may, if the interest of justice
2 requires, allow the state additional peremptory challenges.

3 (2) MORE THAN ONE DEFENDANT. Except as provided in subs. (3) and (4), in a
4 criminal case involving 2 defendants, the defense shall be entitled to 6 peremptory
5 challenges if there are only, and in a criminal case involving more than 2 defendants
6 and, the defense shall be entitled to 9 peremptory challenges if there are more than
7 2. In misdemeanor cases, the state is entitled to 3 peremptory challenges and the
8 defendant is entitled to 3 peremptory challenges, except that if there are 2
9 defendants, the court shall allow the defense 4 peremptory challenges, and if there
10 are more than 2 defendants, the court shall allow the defense 6 peremptory
11 challenges.

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

15 **SECTION 969.** 972.04 (title) of the statutes is repealed and recreated to read:

16 **972.04 (title) Jury selection.**

17 **SECTION 970.** 972.04 (1) of the statutes is amended to read:

18 **972.04 (1)** The number of jurors selected in a criminal case shall be prescribed
19 in s. 756.06 (2) (a) or (am), whichever is applicable, 12 unless a lesser number has
20 been stipulated agreed to and approved under s. ~~972.02~~ 972.025 (2) or the. The court
21 orders may order that additional jurors be selected. That number, plus the number
22 of peremptory challenges available to all the parties, shall be called initially and
23 maintained in the jury box by calling others to replace jurors excused for cause until
24 all jurors have been examined. The to assure that the required number of jurors will
25 be available for deliberation.

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

6 **SECTION 971.** 972.04 (2) of the statutes is repealed.

7 **SECTION 972.** 972.04 (3) of the statutes is created to read:

8 **972.04 (3)** The court shall call and maintain the number of jurors provided in
9 sub. (1), plus the number of peremptory challenges available to the parties. If a juror
10 is excused for cause, the court shall replace that juror with another.

11 **SECTION 973.** 972.06 of the statutes is amended to read:

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

16 **SECTION 974.** 972.07 of the statutes is renumbered 967.12 and amended to
17 read:

18 **967.12 Jeopardy.** Jeopardy attaches when one of the following occurs:

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

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

24 **SECTION 975.** 972.075 of the statutes is created to read:

1 **972.075 Questioning of witnesses by jurors. (1) Before trial and after**

2 affording counsel the opportunity to be heard, the court may authorize the jurors to
3 ask questions of witnesses. *After selection of a jury*

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

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

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

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

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

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

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

18 **SECTION 976.** 972.08 of the statutes is renumbered 967.17, and 967.17 (1) and
19 (2), as renumbered, are amended to read:

20 967.17 (1) (a) Whenever any person refuses to testify or to produce books,
21 papers, or documents when required to do so before any grand jury, in a John Doe
22 proceeding under s. ~~968.26~~ 968.105, at an inquest under s. 968.015, or at a
23 preliminary examination, criminal hearing or trial for the reason that the testimony
24 or evidence required of him or her may tend to incriminate him or her or subject him
25 or her to a forfeiture or penalty, the person may nevertheless be compelled to testify

1 or produce the evidence by order of the court on motion of the district attorney. No
2 person who testifies or produces evidence in obedience to the command of the court
3 in that case may be liable to any forfeiture or penalty for or on account of testifying
4 or producing evidence, but no person may be exempted from prosecution and
5 punishment for perjury or false swearing committed in so testifying.

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

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

19 **SECTION 977.** 972.085 of the statutes is renumbered 967.18 and amended to
20 read:

21 **967.18 Immunity; use standard.** Immunity from criminal or forfeiture
22 prosecution under ss. 13.35, 17.16 (7), 77.61 (12), 93.17, 111.07 (2) (b), 128.16, 133.15,
23 139.20, 139.39 (5), 195.048, 196.48, 551.602 (5), 553.55 (3), 601.62 (5), 767.87 (4),
24 885.15, 885.24, 885.25 (2), 891.39 (2), ~~968.26, 972.08 (1)~~ 967.17 (1), and ~~979.07 (1)~~
25 968.105 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.

3 **SECTION 978.** 972.09 of the statutes is repealed.

4 **SECTION 979.** 972.10 (title) of the statutes is renumbered 972.16 (title).

5 **SECTION 980.** 972.10 (1) (a) (intro.) of the statutes is repealed.

6 **SECTION 981.** 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 982.** 972.10 (1) (a) 2. of the statutes is repealed.

19 **SECTION 983.** 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,~~
25 ~~guidance regarding the burden of proof and the credibility of witnesses, and~~

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

8 **SECTION 984.** 972.10 (2) of the statutes is repealed.

9 **SECTION 985.** 972.10 (3) of the statutes is repealed.

10 **SECTION 986.** 972.10 (4) of the statutes is repealed.

11 **SECTION 987.** 972.10 (5) of the statutes is renumbered 972.22 (1) and amended
12 to read:

13 972.22 (1) ~~When the evidence is concluded and the testimony closed, if either~~
14 ~~party desires special instructions to be given to the jury, the instructions shall be~~
15 ~~reduced to writing, signed by the party or his or her attorney and filed with the clerk,~~
16 ~~unless the court otherwise directs. Counsel for the parties, or the defendant if he or~~
17 ~~she is without counsel, shall be allowed. The court shall allow the parties reasonable~~
18 ~~opportunity to request final jury instructions, to examine the any instructions~~
19 ~~requested by any other party, and to present and argue to the court objections to the~~
20 ~~adoption or rejection of any instructions requested by counsel the parties.~~

21 **(2)** ~~The court shall advise the parties of the content of the instructions to be~~
22 ~~given. No instruction regarding the failure to call a witness at the trial shall be made~~
23 ~~or given if the sole basis for such instruction is the fact the name of the witness~~
24 ~~appears upon a list furnished pursuant to s. 971.23. Counsel, or the defendant if he~~
25 ~~or she is not represented by counsel, shall specify and state the particular ground on~~

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

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

11 **SECTION 988.** 972.10 (6) of the statutes is repealed.

12 **SECTION 989.** 972.10 (7) of the statutes is renumbered 972.23 (1) and amended
13 to read:

14 972.23 (1) If the court required selection of additional jurors have been selected
15 under s. 972.04 (1) so that alternates may be available, and, at the time the case is
16 submitted to the jury for deliberation, the number of jurors remains ~~more~~ greater
17 than the number of jurors required at final submission of the cause for deliberation,
18 the court shall determine by lot which jurors shall not participate in deliberations
19 and discharge them. For good cause, the court may discharge additional jurors other
20 than by lot.

21 **SECTION 990.** 972.11 (title) of the statutes is renumbered 967.24 (title).

22 **SECTION 991.** 972.11 (1) of the statutes is renumbered 967.24 and amended to
23 read:

24 **967.24** ~~Except as provided in subs. (2) to (4), the~~ The rules of evidence and
25 practice in civil actions, except the rules under ss. 804.02 to 804.07, shall be

1 applicable in all criminal proceedings unless the context of a section or rule
2 manifestly requires a different construction. No guardian ad litem need be
3 appointed for a defendant in a criminal action. Chapters 885 to 895 and 995, except
4 ss. ~~804.02 to 804.07 and 887.23 to 887.26~~, shall apply in all criminal proceedings.

5 **SECTION 992.** 972.11 (2) of the statutes is renumbered 904.045, and 904.045 (1),
6 (2) (intro.), (3) and (4) (b), as renumbered, are amended to read:

7 904.045 (1) In this ~~subsection~~ section, “sexual conduct” means any conduct or
8 behavior relating to sexual activities of the complaining witness, including but not
9 limited to prior experience of sexual intercourse or sexual contact, use of
10 contraceptives, living arrangement and life-style.

11 (2) (intro.) If the defendant is accused of a crime under s. 940.225, 948.02,
12 948.025, 948.05, 948.051, 948.06, 948.07, 948.08, 948.085, 948.09, or 948.095, or
13 under s. 940.302 (2), if the court finds that the crime was sexually motivated, as
14 defined in s. 980.01 (5), any evidence concerning the complaining witness’s prior
15 sexual conduct or opinions of the witness’s prior sexual conduct and reputation as to
16 prior sexual conduct shall not be admitted into evidence during the course of the
17 hearing or trial, nor shall any reference to such conduct be made in the presence of
18 the jury, except the following, subject to s. ~~971.31 (11)~~ 971.65 (6):

19 (3) Notwithstanding s. 901.06, the limitation on the admission of evidence of
20 or reference to the prior sexual conduct of the complaining witness in ~~par. (b)~~ sub. (2)
21 applies regardless of the purpose of the admission or reference unless the admission
22 is expressly permitted under ~~par. (b) 1., 2. or 3~~ sub. (2) (a), (b), or (c).

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

1 **SECTION 993.** 972.11 (2m) (a) (intro.) and 1. of the statutes are renumbered
2 972.20 (1) (intro.) and (a), and 972.20 (1) (a) 1., as renumbered, is amended to read:

3 972.20 (1) (a) 1. That the presence of the defendant during the ~~taking of the~~
4 child's testimony will result in the child suffering serious emotional distress such
5 that the child cannot reasonably communicate.

6 **SECTION 994.** 972.11 (2m) (a) 2. (intro.), a. and b. of the statutes are
7 consolidated, renumbered 972.20 (1) (b) and amended to read:

8 972.20 (1) (b) The trial in which the child may be called as a witness will
9 commence: ~~a. Prior to before the child's 12th birthday; or b. Prior to the child's 16th~~
10 ~~birthday and, in addition to its finding under subd. 1., if~~ the court finds that the
11 interests of justice warrant that the child's testimony be taken in a room other than
12 the courtroom and simultaneously televised in the courtroom by means of
13 closed-circuit audiovisual equipment, before the child's 16th birthday.

14 **SECTION 995.** 972.11 (2m) (b) of the statutes is renumbered 972.20 (2), and
15 972.20 (2) (intro.), (a), (c), (d), (e), (f), (g) and (h), as renumbered, are amended to read:

16 972.20 (2) (intro.) ~~Among the factors which~~ Factors that the court may consider
17 in determining the interests of justice under ~~par. (a) 2. b. are any of sub. (1) (b) include~~
18 the following:

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

22 (c) Whether the events about which the child will testify constituted criminal
23 or antisocial conduct against the child or a person with whom the child had a close
24 emotional relationship and, if the conduct constituted a battery or a sexual assault,

1 its duration and the extent of physical or emotional injury ~~thereby~~ caused by the
2 battery or sexual assault.

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

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

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

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

16 (h) Whether the child manifests or has manifested symptoms associated with
17 posttraumatic stress disorder or other mental disorders, including, ~~without~~
18 ~~limitation,~~ reexperiencing the events, fear of their repetition, withdrawal,
19 regression, guilt, anxiety, stress, nightmares, enuresis, lack of self-esteem, mood
20 changes, compulsive behaviors, school problems, delinquent or antisocial behavior,
21 phobias, or changes in interpersonal relationships.

22 **SECTION 996.** 972.11 (2m) (bm) of the statutes is renumbered 972.20 (3), and
23 972.20 (3) (intro.), (a) and (d), as renumbered, are amended to read:

24 972.20 (3) (intro.) If a court orders the testimony of a child to be taken under
25 ~~par. (a)~~ sub. (1), the court shall do all of the following:

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

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

9 **SECTION 997.** 972.11 (2m) (c) (intro.), 1m., 2m. and 3m. of the statutes are
10 renumbered 972.20 (4) (intro.), (a), (b) and (c), and 972.20 (4) (intro.), as renumbered,
11 is amended to read:

12 972.20 (4) (intro.) Only the following persons may be present in the room in
13 which the child is giving testimony under ~~par. (a)~~ sub. (1):

14 **SECTION 998.** 972.11 (3) of the statutes is renumbered 940.22 (6), and 940.22
15 (6) (a) (intro.) and 1., as renumbered, are amended to read:

16 940.22 (6) (a) (intro.) In a prosecution ~~under s. 940.22 involving a therapist and~~
17 ~~a patient or client~~ for a violation of sub. (2), (3) (d), or (4) (d), evidence of the patient's
18 or client's personal or medical history is not admissible except if all of the following
19 apply:

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

22 **SECTION 999.** 972.11 (3m) of the statutes is renumbered 346.63 (8) and
23 amended to read:

24 346.63 (8) A court may not exclude evidence in any criminal action or traffic
25 forfeiture action for violation of s. ~~346.63~~ sub. (1) or (5), or a local ordinance in

1 conformity with ~~s. 346.63~~ sub. (1) or (5), on the ground that the evidence existed or
2 was obtained outside of this state.

3 **SECTION 1000.** 972.11 (4) of the statutes is renumbered 972.29, and 972.29
4 (intro.), as renumbered, is amended to read:

5 **972.29 Return of evidence.** (intro.) Upon the motion of any party or its own
6 motion, a court may order that any exhibit or evidence be delivered to the party or
7 the owner ~~prior to~~ before or after the final determination of the action or proceeding
8 if all of the following requirements are met:

9 **SECTION 1001.** 972.115 (title) of the statutes is repealed.

10 **SECTION 1002.** 972.115 (1) of the statutes is renumbered 972.18 (1), and 972.18
11 (1) (a), as renumbered, is amended to read:

12 972.18 (1) (a) "Custodial interrogation" has the meaning given in s. ~~968.073~~
13 969.165 (1) (a).

14 **SECTION 1003.** 972.115 (2) of the statutes is renumbered 972.18 (3), and 972.18
15 (3) (a) (intro.), as renumbered, is amended to read:

16 972.18 (3) (a) (intro.) If a statement made by a defendant during a custodial
17 interrogation is admitted into evidence in a trial for a felony before a jury and if an
18 audio or audio and visual recording of the interrogation is not available, upon a
19 request made by the defendant ~~as provided in s. 972.10 (5)~~ and unless the state
20 asserts and the court finds that one of the following conditions applies or that good
21 cause exists for not providing an instruction, the court shall instruct the jury that it
22 is the policy of this state to make an audio or audio and visual recording of a custodial
23 interrogation of a person suspected of committing a felony and that the jury may
24 consider the absence of an audio or audio and visual recording of the interrogation

1 in evaluating the evidence relating to the interrogation and the statement in the
2 case:

3 **SECTION 1004.** 972.115 (4) and (5) of the statutes are renumbered 972.18 (3)
4 (c) and (d), and 972.18 (3) (c), as renumbered, is amended to read:

5 972.18 (3) (c) Notwithstanding ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a
6 defendant's lack of consent to having an audio or audio and visual recording made
7 of a custodial interrogation does not affect the admissibility in evidence of an audio
8 or audio and visual recording of a statement made by the defendant during the
9 interrogation.

10 **SECTION 1005.** 972.12 of the statutes is renumbered 972.05 and amended to
11 read:

12 **972.05 Sequestration of jurors.** The At any stage of the proceedings, the
13 court may direct that the jurors who have been sworn be kept together or be
14 permitted to separate. The court may appoint an officer of the court to keep the jurors
15 together and to prevent communication between the jurors and others. After the case
16 has been submitted to the jurors, the court may permit them to separate, but shall
17 instruct the jurors to suspend deliberations while separated.

18 **SECTION 1006.** 972.13 (title) of the statutes is repealed.

19 **SECTION 1007.** 972.13 (1) of the statutes is renumbered 972.28 (1) and amended
20 to read:

21 972.28 (1) ~~A~~ The court shall grant a judgment of conviction shall be entered
22 upon accepting a jury verdict of guilty by the jury, a, upon finding of the defendant
23 guilty by the court in cases in a case where a jury is waived, or upon finding the
24 defendant guilty after accepting a plea of guilty or no contest.

1 **SECTION 1008.** 972.13 (2) of the statutes is renumbered 972.28 (2) and amended
2 to read:

3 972.28 (2) ~~Except in cases where ch. 975 is applicable~~ Unless entry of judgment
4 is deferred, upon granting a judgment of conviction, the court shall proceed under ch.
5 973. The court may adjourn the case ~~from time to time for the purpose of before~~
6 pronouncing sentence.

7 **SECTION 1009.** 972.13 (3) of the statutes is renumbered 972.28 (3) and amended
8 to read:

9 972.28 (3) ~~A~~ When a judgment of conviction is entered, it shall set forth the
10 plea, the verdict or finding, the adjudication and sentence, and a finding as to the
11 specific number of days for which sentence credit is to be granted under s. 973.155.

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

14 **SECTION 1010.** 972.13 (4) of the statutes is renumbered 972.28 (6).

15 **SECTION 1011.** 972.13 (5) of the statutes is renumbered 972.28 (4) and amended
16 to read:

17 972.28 (4) A copy of the judgment of conviction shall constitute authority for
18 the sheriff to execute the sentence.

19 **SECTION 1012.** 972.13 (6) of the statutes is repealed.

20 **SECTION 1013.** 972.13 (7) of the statutes is repealed.

21 **SECTION 1014.** 972.14 (title), (2), (2m) and (3) of the statutes are renumbered
22 973.003 (title), (2), (2m) and (3), and 973.003 (2), as renumbered, is amended to read:

23 973.003 (2) Before pronouncing sentence, the court shall ask the defendant
24 why sentence should not be pronounced upon him or her and allow the district
25 attorney, defense counsel, and defendant an opportunity to make a statement with

1 respect to any matter relevant to the sentence. In addition, if the defendant is under
2 21 years of age and if the court has not ordered a presentence investigation under
3 s. ~~972.15~~ 973.004, the court shall ask the defendant if he or she has been adjudged
4 delinquent under ch. 48, 1993 stats., or ch. 938, or has had a similar adjudication in
5 any other state in the 4 years immediately preceding the date the criminal complaint
6 relating to the present offense was issued.

7 **SECTION 1015.** 972.14 (1) (intro.) and (b) of the statutes are consolidated,
8 renumbered 973.003 (1) and amended to read:

9 973.003 (1) (intro.) In this section: ~~(b) “Victim”, “victim”~~ has the meaning
10 specified in s. 950.02 (4).

11 **SECTION 1016.** 972.14 (1) (ag) of the statutes is repealed.

12 **SECTION 1017.** 972.15 of the statutes is renumbered 973.004, and 973.004 (5)
13 (intro.), as renumbered, is amended to read:

14 973.004 (5) (intro.) The department may use the presentence investigation
15 report for correctional programming, parole consideration or care and treatment of
16 any person sentenced to imprisonment or the intensive sanctions program, placed
17 on probation, released on parole or extended supervision or committed to the
18 department under ch. 51 or ~~971~~ 975 or any other person in the custody of the
19 department or for research purposes. The department may make the report
20 available to other agencies or persons to use for purposes related to correctional
21 programming, parole consideration, care and treatment, or research. Any use of the
22 report under this subsection is subject to the following conditions:

23 **SECTION 1018.** 972.16 (1) and (2) of the statutes are created to read:

24 972.16 (1) Unless the court for cause otherwise permits, the parties shall
25 proceed with statements and presentation of evidence in the following order:

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

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

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

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

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

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

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

17 (h) After the state and the defense have rested, the defense may move to
18 dismiss. The court shall grant the motion to dismiss if it appears that, viewing all
19 of the evidence, including evidence presented by the defense, in the light most
20 favorable to the state and drawing all reasonable inferences therefrom, a reasonable
21 jury could not find the defendant guilty beyond a reasonable doubt of the charged
22 crime or an included crime under s. 939.66. If the jury could find the defendant guilty
23 beyond a reasonable doubt of an included crime but not the charged crime, the court
24 shall order the complaint amended accordingly.

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

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

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

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

6 **SECTION 1019.** 972.18 (title) of the statutes is created to read:

7 **972.18 (title) Admissibility of a defendant's statement.**

8 **SECTION 1020.** 972.19 of the statutes is created to read:

9 **972.19 Stipulations.** (1) In this section, "stipulation" means an agreement
10 between the parties that a specified fact is or shall be taken as established without
11 need for proof.

12 (2) A stipulation shall be set forth on the record at the time the court accepts
13 it.

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

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

18 **SECTION 1021.** 972.20 (title) of the statutes is created to read:

19 **972.20 (title) Child testimony by closed-circuit audiovisual means.**

20 **SECTION 1022.** 972.22 (title) of the statutes is created to read:

21 **972.22 (title) Final jury instructions.**

22 **SECTION 1023.** 972.23 (title) of the statutes is created to read:

23 **972.23 (title) Dismissal of alternate jurors.**

24 **SECTION 1024.** 972.23 (2) of the statutes is created to read:

1 972.23 (2) The court may retain alternate jurors after the jury retires to
2 deliberate. The court shall ensure that a retained alternate does not discuss the case
3 with anyone until that alternate replaces a juror or is discharged. If an alternate
4 replaces a juror after deliberations have begun, the court shall instruct the jury to
5 begin its deliberations anew.

6 **SECTION 1025.** 972.24 of the statutes is created to read:

7 **972.24 Return of verdict.** A verdict must be unanimous and returned in open
8 court.

9 **SECTION 1026.** 972.25 of the statutes is created to read:

10 **972.25 Polling the jury.** The court shall poll the jury when a verdict proper
11 in form is returned. The court or the clerk shall conduct the poll by asking each juror
12 individually whether the verdict as returned was and is in the juror's verdict.

13 **SECTION 1027.** 972.26 of the statutes is created to read:

14 **972.26 Accepting the verdict.** (1) The court shall accept the verdict if it is
15 proper in form and confirmed by the jury poll. When the verdict is accepted, the jury
16 shall be discharged.

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

20 **SECTION 1028.** 972.28 (title) of the statutes is created to read:

21 **972.28 (title) Granting judgment.**

22 **SECTION 1029.** 973.013 (4) of the statutes is amended to read:

23 973.013 (4) If information under s. ~~972.15~~ 973.004 (2m) has been provided in
24 a presentence investigation report, the court shall consider that information when
25 sentencing the defendant.

1 **SECTION 1030.** 973.017 (6m) (a) 2. of the statutes is amended to read:

2 973.017 **(6m)** (a) 2. "Domestic abuse" has the meaning given in s. ~~968.075~~
3 969.27 (1) (a).

4 **SECTION 1031.** 973.03 (3) (b) of the statutes is amended to read:

5 973.03 **(3)** (b) The court may require that the defendant perform community
6 service work for a public agency or a nonprofit charitable organization. The number
7 of hours of work required may not exceed what would be reasonable considering the
8 seriousness of the offense and any ~~other offense which is read into the record at the~~
9 ~~time of conviction~~ read-in crimes. An order may only apply if agreed to by the
10 defendant and the organization or agency. The court shall ensure that the defendant
11 is provided a written statement of the terms of the community service order and that
12 the community service order is monitored.

13 **SECTION 1032.** 973.03 (3) (e) 2. of the statutes is amended to read:

14 973.03 **(3)** (e) 2. A crime which is a Class D, E, F, or G felony listed in s. ~~969.08~~
15 ~~(10)~~ 969.51 (7) (b), but not including any crime specified in s. 943.10.

16 **SECTION 1033.** 973.03 (4) (d) of the statutes is amended to read:

17 973.03 **(4)** (d) A sentence under this subsection is not a sentence of
18 imprisonment, except for purposes of ss. 973.04, 973.15 (8) (a) and ~~973.19~~ 974.03.

19 **SECTION 1034.** 973.03 (5) (a) 1. of the statutes is amended to read:

20 973.03 **(5)** (a) 1. "Commission of a serious crime" has the meaning given under
21 s. ~~969.08~~ ~~(10)~~ 969.51 (7) (a).

22 **SECTION 1035.** 973.03 (5) (a) 2. of the statutes is amended to read:

23 973.03 **(5)** (a) 2. "Serious crime" has the meaning given under s. ~~969.08~~ ~~(10)~~
24 969.51 (7) (b).

25 **SECTION 1036.** 973.042 (4) of the statutes is amended to read:

1 973.042 (4) After determining the amount due, the clerk of court shall collect
2 and transmit the amount to the county treasurer under s. 59.40 (2) (m). The county
3 treasurer shall then make payment to the secretary of administration under s. 59.25
4 (3) (f) 2.

5 **SECTION 1037.** 973.043 (2) of the statutes is amended to read:

6 973.043 (2) After determining the amount due, the clerk of court shall collect
7 and transmit the amount to the county treasurer under s. 59.40 (2) (m). The county
8 treasurer shall then make payment to the secretary of administration under s. 59.25
9 (3) (f) 2.

10 **SECTION 1038.** 973.045 (2) of the statutes is amended to read:

11 973.045 (2) After the clerk determines the amount due, the clerk of court shall
12 collect and transmit the amount to the county treasurer under s. 59.40 (2) (m). The
13 county treasurer shall then make payment to the secretary of administration under
14 s. 59.25 (3) (f) 2.

15 **SECTION 1039.** 973.046 (2) of the statutes is amended to read:

16 973.046 (2) After the clerk of court determines the amount due, the clerk shall
17 collect and transmit the amount to the county treasurer under s. 59.40 (2) (m). The
18 county treasurer shall then make payment to the secretary of administration under
19 s. 59.25 (3) (f) 2.

20 **SECTION 1040.** 973.048 (5) of the statutes is amended to read:

21 973.048 (5) If the court orders a person to comply with the reporting
22 requirements under s. 301.45, the clerk of the court in which the order is entered
23 shall promptly forward a copy of the order to the department of corrections. If the
24 conviction on which the order is based is reversed, set aside or vacated, the clerk of

INS
317-15

1 ~~the court~~ shall promptly forward to the department of corrections a certificate stating
2 that the conviction has been reversed, set aside or vacated.

3 **SECTION 1041.** 973.049 (1) (b) of the statutes is repealed.

4 **SECTION 1042.** 973.05 (3) (b) of the statutes is amended to read:

5 973.05 (3) (b) The court may require that the defendant perform community
6 service work for a public agency or a nonprofit charitable organization. The number
7 of hours of work required may not exceed what would be reasonable considering the
8 seriousness of the offense and any ~~other offense which is read into the record at the~~
9 ~~time of conviction~~ read-in crimes. An order may only apply if agreed to by the
10 defendant and the organization or agency. The court shall ensure that the defendant
11 is provided a written statement of the terms of the community service order and that
12 the community service order is monitored.

13 **SECTION 1043.** 973.05 (4) (b) of the statutes is amended to read:

14 973.05 (4) (b) Issue an order assigning not more than 25% of the defendant's
15 commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102, and
16 other money due or to be due in the future to the clerk of ~~circuit court~~ for payment
17 of the unpaid fine, surcharge, costs, or fees. In this paragraph, "employer" includes
18 the state and its political subdivisions.

19 **SECTION 1044.** 973.05 (4) (c) of the statutes is amended to read:

20 973.05 (4) (c) Issue an order assigning lottery prizes won by a defendant whose
21 name is on the list supplied to the clerk of ~~circuit court~~ under s. 565.30 (5r) (a), for
22 payment of the unpaid fine, surcharge, costs, or fees.

23 **SECTION 1045.** 973.05 (5) (a) 1. of the statutes is amended to read:

24 973.05 (5) (a) 1. Upon entry of the assignment under sub. (4) (b), unless the
25 court finds that income withholding is likely to cause the defendant irreparable

1 harm, the court shall provide notice of the assignment by regular mail to the
2 last-known address of the person from whom the defendant receives or will receive
3 money. If the clerk of ~~circuit court~~ does not receive the money from the person
4 notified, the court shall provide notice of the assignment to any other person from
5 whom the defendant receives or will receive money. Notice of an assignment under
6 sub. (4) (b) shall inform the intended recipient that, if a prior assignment under sub.
7 (4) (b) has been received relating to the same defendant, the recipient is required to
8 notify the clerk of ~~circuit court~~ that sent the subsequent notice of assignment that
9 another assignment has already been received. A notice of assignment shall include
10 a form permitting the recipient to designate on the form that another assignment has
11 already been received.

12 **SECTION 1046.** 973.05 (5) (a) 2. of the statutes is amended to read:

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

22 **SECTION 1047.** 973.05 (5) (c) of the statutes is amended to read:

23 973.05 (5) (c) A person who receives notice of the assignment under sub. (4) (b)
24 shall withhold the amount specified in the notice from any money that person pays
25 to the defendant later than one week after receipt of the notice of assignment. Within

1 5 days after the day on which the person pays money to the defendant, the person
2 shall send the amount withheld to the clerk of ~~circuit~~ the court of the jurisdiction
3 providing notice. If the person has already received a notice of an assignment under
4 sub. (4) (b), the person shall retain the later assignment and withhold the amount
5 specified in that assignment after the last of any prior assignments is paid in full.
6 Within 10 days of receipt of the later notice, the person shall notify the clerk of ~~circuit~~
7 the court that sent the notice that the person has received a prior notice of an
8 assignment under sub. (4) (b). Section 241.09 does not apply to assignments under
9 this section.

10 **SECTION 1048.** 973.05 (5) (d) of the statutes is amended to read:

11 973.05 (5) (d) If after receipt of notice of assignment under par. (a) 1. the person
12 from whom the defendant receives money fails to withhold the money or send the
13 money to the clerk of ~~circuit court~~ as provided in this subsection, the person may be
14 proceeded against under the principal action under ch. 785 for contempt of court or
15 may be proceeded against under ch. 778 and be required to forfeit not less than \$50
16 nor more than an amount, if the amount exceeds \$50, that is equal to 1% of the
17 amount not withheld or sent.

18 **SECTION 1049.** 973.05 (5) (e) of the statutes is amended to read:

19 973.05 (5) (e) If an employer who receives notice of an assignment under sub.
20 (4) (b) fails to notify the clerk of ~~circuit court~~ within 10 days after an employee is
21 terminated or otherwise temporarily or permanently leaves the employer's
22 employment, the employer may be proceeded against under the principal action
23 under ch. 785 for contempt of court.

24 **SECTION 1050.** 973.055 (2) (a) of the statutes is amended to read:

1 973.055 (2) (a) If the surcharge is imposed by a court of record, after the court
2 determines the amount due, the clerk of ~~the court~~ shall collect and transmit the
3 amount to the county treasurer as provided in s. 59.40 (2) (m). The county treasurer
4 shall then make payment to the secretary of administration as provided in s. 59.25
5 (3) (f) 2.

6 **SECTION 1051.** 973.06 (1) (av) 2. a. and b. of the statutes are amended to read:

7 973.06 (1) (av) 2. a. The defendant was charged under s. 946.41 solely because
8 he or she recanted a report of abusive conduct, including interspousal battery, as
9 described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in s. 49.165 (1)
10 (a), 813.12 (1) (am), or ~~968.075~~ 969.27 (1) (a), harassment, as defined in s. 813.125
11 (1), sexual exploitation by a therapist under s. 940.22, sexual assault under s.
12 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss.
13 948.02 to 948.11.

14 b. The defendant was a victim of abusive conduct, including interspousal
15 battery, as described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in
16 s. 49.165 (1) (a), 813.12 (1) (am), or ~~968.075~~ 969.27 (1) (a), harassment, as defined in
17 s. 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault
18 under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under
19 ss. 948.02 to 948.11, and he or she was charged under s. 946.41 based on information
20 he or she omitted or false information he or she provided during the course of an
21 investigation into the crime committed against him or her.

22 **SECTION 1052.** 973.06 (1) (h) of the statutes is amended to read:

23 973.06 (1) (h) The cost of performance of a test under s. ~~968.38~~ 968.725, if
24 ordered by the court.

25 **SECTION 1053.** 973.076 (2) (a) of the statutes is amended to read:

1 973.076 (2) (a) The district attorney of the county within which the property
2 was seized or in which the defendant is convicted shall commence the forfeiture
3 action within 30 days after the seizure of the property or the date of conviction,
4 whichever is earlier, except that the defendant may request that the forfeiture
5 proceedings be adjourned until after adjudication of any charge concerning a crime
6 which was the basis for the seizure of the property. The request shall be granted.
7 The forfeiture action shall be commenced by filing a summons, complaint and
8 affidavit of the person who seized the property with the clerk of ~~circuit court~~,
9 provided service of authenticated copies of those papers is made in accordance with
10 ch. 801 within 90 days after filing upon the person from whom the property was
11 seized and upon any person known to have a bona fide perfected security interest in
12 the property.

13 **SECTION 1054.** 973.08 (5) of the statutes is amended to read:

14 973.08 (5) The clerk of ~~court~~ shall file or deliver a transcript under sub. (2), (3)
15 or (4).

16 **SECTION 1055.** 973.09 (2) (a) 1. b. of the statutes is amended to read:

17 973.09 (2) (a) 1. b. A misdemeanor that was an act of domestic abuse, as defined
18 in s. ~~968.075~~ 969.27 (1) (a).

19 **SECTION 1056.** 973.09 (3) (b) of the statutes is amended to read:

20 973.09 (3) (b) The department shall notify the sentencing court, any person to
21 whom unpaid restitution is owed and the district attorney of the status of the ordered
22 restitution payments unpaid at least 90 days before the probation expiration date.
23 If payment as ordered has not been made, the court shall hold a probation review
24 hearing prior to the expiration date, unless the hearing is voluntarily waived by the
25 probationer with the knowledge that waiver may result in an extension of the

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

10 **SECTION 1057.** 973.09 (3) (bm) 4. of the statutes is amended to read:

11 973.09 (3) (bm) 4. If the court does not extend or modify the terms of probation
12 under subd. 3., it shall issue a judgment for the unpaid fees and direct the clerk of
13 ~~circuit court~~ to file and enter the judgment in the judgment and lien docket, without
14 fee. If the court issues a judgment for the unpaid fees, the court shall send to the
15 department a written notification that a civil judgment has been issued for the
16 unpaid fees. The judgment has the same force and effect as judgments entered under
17 s. 806.10.

18 **SECTION 1058.** 973.09 (7m) (a) of the statutes is amended to read:

19 973.09 (7m) (a) Except as provided in s. 943.017 (3), the court may require as
20 a condition of probation that the probationer perform community service work for a
21 public agency or a nonprofit charitable organization. The number of hours of work
22 required may not exceed what would be reasonable considering the seriousness of the
23 offense and any ~~other offense which is read into the record at the time of conviction~~
24 read-in crimes. An order may only apply if agreed to by the probationer and the
25 organization or agency. The court shall ensure that the probationer is provided a

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

6 **SECTION 1059.** 973.10 (2m) of the statutes is amended to read:

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

10 **SECTION 1060.** 973.135 (3) of the statutes is amended to read:

11 973.135 (3) If a conviction under sub. (2) is reversed, set aside or vacated, the
12 clerk of the court shall promptly forward to the state superintendent a certificate
13 stating that the conviction has been reversed, set aside or vacated.

14 **SECTION 1061.** 973.18 (title) of the statutes is renumbered 973.25 (title).

15 **SECTION 1062.** 973.18 (1) of the statutes is renumbered 973.25 (1) and amended
16 to read:

17 973.25 (1) In this section, “postconviction relief” and “sentencing” have the
18 ~~meanings ascribed in s. 809.30 (1)~~ means an appeal or a motion for postconviction
19 relief in a criminal case, other than an appeal, motion, or petition under s. 302.113
20 (7m), 302.1135, 973.195, 974.03, 974.06, or 974.07 (2).

21 **SECTION 1063.** 973.18 (2), (3) and (4) of the statutes are renumbered 973.25 (2),
22 (3) and (4) and amended to read:

23 973.25 (2) ~~The trial judge~~ At the time of sentencing, the court shall personally
24 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 1064.** 973.18 (5) of the statutes is renumbered 973.25 (5).

17 **SECTION 1065.** 973.19 (title) of the statutes is renumbered 974.03 (title).

18 **SECTION 1066.** 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.

1 **SECTION 1067.** 973.19 (1) (b) of the statutes is renumbered 974.03 (2) and
2 amended to read:

3 974.03 (2) A ~~person~~ defendant who has requested transcripts under s. 809.30
4 (2) may move for modification of a sentence or fine under s. 809.30 (2) (h).

5 **SECTION 1068.** 973.19 (2), (3), (4) and (5) of the statutes are renumbered 974.03
6 (1) (b), (c), (d) and (e) and amended to read:

7 974.03 (1) (b) Within 90 days after a motion under ~~sub. (1) par.~~ par. (a) is filed, the
8 circuit court shall enter an order either determining the motion or, for cause,
9 extending the time for doing so by not more than 90 days ~~for cause~~.

10 (c) If an order determining a motion under ~~sub. (1) par.~~ par. (a) is not entered timely
11 under ~~sub. (2) par. (b)~~, the motion shall be considered denied and the clerk ~~of the court~~
12 shall immediately enter an order denying the motion.

13 (d) ~~An~~ The rules governing civil appeals govern an appeal from an order
14 determining a motion under ~~sub. (1) par.~~ par. (a) ~~is governed by the procedure for civil~~
15 ~~appeals~~.

16 (e) By filing a motion under ~~sub. (1) par.~~ par. (a) the defendant waives his or her
17 right to file an appeal or postconviction motion under s. 809.30 (2).

18 **SECTION 1069.** 973.195 (1r) (e) of the statutes is amended to read:

19 973.195 (1r) (e) Notwithstanding the confidentiality of victim address
20 information obtained under s. ~~302.1135 (7) (e)~~ 302.113 (9g) (g) 3., a district attorney
21 who is required to send notice to a victim under par. (d) may obtain from the clerk
22 ~~of the circuit court~~ victim address information that the victim provided to the clerk
23 under s. ~~302.1135 (7) (e)~~ 302.113 (9g) (g) 3.

24 **SECTION 1070.** 973.20 (1g) of the statutes is repealed.

25 **SECTION 1071.** 973.20 (1r) of the statutes is amended to read:

1 973.20 (1r) When imposing sentence or ordering probation for any crime, other
2 than a crime involving conduct that constitutes domestic abuse under s. 813.12 (1)
3 (am) or ~~968.075~~ 969.27 (1) (a), for which the defendant was convicted, the court, in
4 addition to any other penalty authorized by law, shall order the defendant to make
5 full or partial restitution under this section to any victim of a crime considered at
6 sentencing or, if the victim is deceased, to his or her estate, unless the court finds
7 substantial reason not to do so and states the reason on the record. When imposing
8 sentence or ordering probation for a crime involving conduct that constitutes
9 domestic abuse under s. 813.12 (1) (am) or ~~968.075~~ 969.27 (1) (a) for which the
10 defendant was convicted or that was considered at sentencing, the court, in addition
11 to any other penalty authorized by law, shall order the defendant to make full or
12 partial restitution under this section to any victim of a crime or, if the victim is
13 deceased, to his or her estate, unless the court finds that imposing full or partial
14 restitution will create an undue hardship on the defendant or victim and describes
15 the undue hardship on the record. Restitution ordered under this section is a
16 condition of probation, extended supervision, or parole served by the defendant for
17 a crime for which the defendant was convicted. After the termination of probation,
18 extended supervision, or parole, or if the defendant is not placed on probation,
19 extended supervision, or parole, restitution ordered under this section is enforceable
20 in the same manner as a judgment in a civil action by the victim named in the order
21 to receive restitution or enforced under ch. 785.

22 **SECTION 1072.** 973.20 (9m) of the statutes is amended to read:

23 973.20 (9m) When restitution is ordered, the court shall inquire to see if
24 recompense has been made under s. ~~969.13 (5) (a)~~ 969.42. If recompense has been
25 made and the restitution ordered is less than or equal to the recompense, the

1 restitution shall be applied to the payment of costs and, if any restitution remains
2 after the payment of costs, to the payment of the judgment. If recompense has been
3 made and the restitution ordered is greater than the recompense, the victim shall
4 receive an amount equal to the amount of restitution less the amount of recompense
5 and the balance shall be applied to the payment of costs and, if any restitution
6 remains after the payment of costs, to the payment of the judgment. This subsection
7 applies without regard to whether the person who paid the recompense is the person
8 who is convicted of the crime.

9 **SECTION 1073.** 973.20 (11) (a) of the statutes is amended to read:

10 973.20 (11) (a) Except as otherwise provided in this paragraph, the restitution
11 order shall require the defendant to deliver the amount of money or property due as
12 restitution to the department for transfer to the victim or other person to be
13 compensated by a restitution order under this section. If the defendant is not placed
14 on probation or sentenced to prison, the court may order that restitution be paid to
15 the clerk of court for transfer to the appropriate person. The court shall impose on
16 the defendant a restitution surcharge under ch. 814 equal to 5% of the total amount
17 of any restitution, costs, attorney fees, court fees, fines, and surcharges ordered
18 under s. 973.05 (1) and imposed under ch. 814, which shall be paid to the department
19 or the clerk of court for administrative expenses under this section.

20 **SECTION 1074.** 973.20 (12) (c) of the statutes is amended to read:

21 973.20 (12) (c) If a defendant is subject to more than one order under this
22 section and the financial obligations under any order total \$50 or less, the
23 department or the clerk of court, whichever is applicable under sub. (11) (a), may pay
24 these obligations first.

25 **SECTION 1075.** 974.01 (title) and (1) of the statutes are repealed.

1 **SECTION 1076.** 974.01 (2) of the statutes is renumbered 809.40 (4).

 ****NOTE: Please review the proposed renumbering. The statutory unit moves from
a section on misdemeanor appeals to a section on other specific appeals.

2 **SECTION 1077.** 974.02 of the statutes is amended to read:

3 **974.02 Appeals and postconviction relief in criminal cases Direct**

4 **appeals.** (1) ~~A motion for postconviction relief other than under s. 974.06 or 974.07~~

5 ~~(2) by the defendant in a criminal case shall be made in the time and manner~~

6 ~~provided in s. 809.30. An appeal by the~~ The defendant in a criminal case may appeal

7 ~~from a judgment of conviction or from an order denying a postconviction motion or~~

8 ~~from both.~~ A direct appeal from a judgment of conviction shall be taken in the time

9 ~~and manner provided in ss. 808.04 (3) and 809.30. An appeal of an order or judgment~~

10 ~~on habeas corpus remanding to custody a prisoner committed for trial under s. 970.03~~

11 ~~shall be taken under ss. 808.03 (2) and 809.50, with notice to the attorney general~~

12 ~~and the district attorney and opportunity for them to be heard to~~ 809.32.

13 (2) An appellant is not required to file a postconviction motion in the ~~trial~~

14 ~~circuit~~ court prior to an appeal if the grounds are sufficiency of the evidence or issues

15 previously raised.

16 **SECTION 1078.** 974.02 (3) of the statutes is created to read:

17 **974.02 (3)** Motions for postconviction relief made after the time for direct

18 appeal has expired are governed by ss. 974.06 and 974.07.

19 **SECTION 1079.** 974.05 (1) (intro.) of the statutes is amended to read:

20 **974.05 (1)** (intro.) Within the time period specified by s. 808.04 (4) and in the

21 manner provided for civil appeals under chs. 808 and 809, ~~an appeal may be taken~~

22 by the state ~~from~~ may appeal any of the following:

1 **SECTION 1080.** 974.05 (1) (a), (b), (c) and (d) (intro.), 1. and 2. of the statutes are
2 amended to read:

3 974.05 (1) (a) ~~Final~~ A final order or judgment adverse to the state, whether
4 following a trial or a plea of guilty or no contest, if the appeal would not be prohibited
5 by constitutional protections against double jeopardy.

6 (b) ~~Order~~ An order granting postconviction relief under s. 974.02, 974.03,
7 974.06, or 974.07.

8 (c) ~~Judgment~~ A judgment and sentence or order of probation not authorized by
9 law.

10 (d) (intro.) ~~Order~~ An order or judgment the substantive effect of which results
11 in any of the following:

- 12 1. Quashing an arrest warrant;~~;~~
- 13 2. Suppressing evidence; ~~or,~~

14 **SECTION 1081.** 974.05 (2) of the statutes is amended to read:

15 974.05 (2) If the defendant appeals or prosecutes a writ of error, the state may
16 ~~move to review rulings of which it complains~~ cross-appeal any order, judgment, or
17 sentence described in sub. (1) (a) to (d), as provided by in s. 809.10 (2) (b).

18 **SECTION 1082.** 974.05 (3) of the statutes is repealed.

19 **SECTION 1083.** 974.06 (title), (1), (2) and (3) (intro.), (a), (b) and (d) of the
20 statutes are amended to read:

21 **974.06** (title) **Postconviction Collateral postconviction procedure.** (1)
22 ~~After~~ At any time after the time for direct appeal ~~or postconviction remedy~~ provided
23 in s. 974.02 has expired, a prisoner who is in custody under sentence of a court ~~or a~~
24 ~~person convicted and placed with a volunteers in probation program under s. 973.11~~
25 ~~claiming and who claims~~ the right to be released upon the ground that the sentence