State of Wisconsin
2015 - 2016 LEGISLATURE

LRB–0227/1
PJH&CMH:kjf:jm

2015 ASSEMBLY BILL 90

March 12, 2015 – Introduced by Representatives J. OTT and HEBL, cosponsored by Senator WANGGAARD, by request of Wisconsin Judicial Council. Referred to Committee on Judiciary.

AN ACT ***to repeal*** 346.74 (5) (e), 758.19 (5) (a) 5., 940.49, 967.02 (title), 967.02 (3) and (4), 967.02 (8), 967.03, 967.05 (1) (b) and (c), 967.05 (2) and (3), 967.06 (title), 967.06 (2) (b), 967.07, 968.01 (1) (c), 968.02 (2), 968.02 (3), 968.02 (4), 968.03 (title) and (3), 968.03 (1), 968.04 (1) (a), 968.04 (2) (title), 968.04 (2) (c), 968.04 (3) (title), 968.04 (3) (a) 8., 968.04 (3) (b) 3. a., 968.04 (3) (b) 3. b. (intro.), 968.04 (3) (b) 4., 968.06, 968.085 (2) (a) to (f), 968.09 (2), 968.12 (3) (e), 969.001 (2), 969.01 (2) (title), 969.02 (title), (1), (2), (3) (a), (b), (c) and (d), (4), (4m), (5), (7), (7m) and (8), 969.03, 969.05, 969.08 (1), (2), (3) and (4), 969.09 (title), (1) and (3), 969.13, 969.14, 970.01 (title), 970.01 (2), 970.02 (title), 970.02 (1) (intro.), 970.02 (3), 970.02 (4), 970.032 (title), 971.04 (1) (a), 971.06 (1) (d), 971.06 (2), 971.06 (3), 971.07, 971.08 (3), 971.14 (title), 971.14 (1g), 971.14 (1r) (title), 971.14 (2) (title), 971.14 (2) (am), 971.14 (3) (dm) 1. and 2., 971.14 (4) (title), 971.14 (4) (b), 971.14 (4) (c), 971.14 (4) (d), 971.14 (5) (title), 971.14 (6) (title), 971.14 (6) (a), 971.16 (1), 971.16 (3) (a), 971.16 (3) (b), 971.17 (1j) (title), 971.17

(1m) (title), 971.17 (2) (title), 971.17 (3) (title), 971.17 (4m), 971.17 (6m) (title), 971.17 (6m) (a) 1., 971.17 (6m) (b), 971.17 (6m) (c), 971.17 (7) (d), 971.225 (1) (b), 971.23 (title), 971.23 (2m) (a), 971.23 (2m) (am), 971.23 (5c) (title), 971.23 (6c) (title), 971.23 (7m) (b), 971.23 (8) (b), 971.23 (8) (c), 971.23 (8) (e), 971.23 (10) (title), 971.29 (3), 971.30 (title) and (1), 971.31 (title), 971.31 (1), 971.31 (5) (a), 971.31 (7), 971.31 (8), 972.02 (title), 972.04 (2), 972.09, 972.10 (1) (a) (intro.), 972.10 (1) (a) 2., 972.10 (2), 972.10 (3), 972.10 (4), 972.10 (6), 972.115 (title), 972.13 (title), 972.13 (6), 972.13 (7), 972.14 (1) (ag), 973.049 (1) (b), 973.20 (1g), 974.05 (3), 975.001, 975.01, 975.06, 975.07, 975.08, 975.09, 975.10, 975.11, 975.12, 975.15, 975.16, 975.17, 975.18, 977.076 (1), 979.05 (title), 979.06 (title), (1), (2) and (5), 979.07 and 979.08 (2); ***to renumber*** 967.02 (intro.), 967.02 (5), 967.057, 967.08 (title), 967.10, 967.11, 968.01 (1) (intro.), (a) and (b), 968.01 (4), 968.04 (2) (b), 968.04 (3) (b) (title), 968.075 (title), 968.075 (1), 968.075 (2) (ar), 968.075 (2) (b), 968.075 (3), 968.075 (4), 968.075 (6) to (9), 968.085 (3) (intro.), 968.085 (3) (c), 968.085 (6), 968.12 (4), 968.13 (1) (b), (c) and (d), 968.135 (title), 968.17, 968.18, 968.20 (title), 968.20 (1r), 968.21, 968.22, 968.23, 968.24, 968.255 (title), 968.255 (2) (intro.), 968.255 (5), 968.265, 968.27 (2), 968.27 (5), 968.27 (8), 968.27 (10), 968.27 (12) and (13), 968.27 (14), 968.27 (14g), 968.27 (15), 968.27 (17), 968.33, 968.373, 968.505 (title), 969.01 (title), 969.08 (5) (a), 969.08 (5) (b) 2., 969.08 (5) (b) 5., 969.08 (6), 969.08 (9), 969.08 (10), 969.12, 970.03 (title), 970.03 (2), (3), (4), (5) and (6), 970.032 (2) (a), (b) and (c), 970.04, 970.05, 971.03, 971.04 (title), 971.12 (title), 971.14 (1r) (a), 971.14 (2) (f), 971.14 (3) (a) and (b), 971.16 (title), 971.165 (title), 971.17 (title), 971.17 (1j) (a), 971.17 (4) (title), 971.17 (5) (title), 971.17 (6m) (a) 2., 971.17 (6m) (a) 3., 971.17 (7) (title), 971.17 (7m), 971.225 (title), 971.23 (1) (c), 971.23 (1) (h), 971.23 (5c),

971.23 (8) (title), 971.23 (10), 971.26, 971.32, 971.34, 971.36, 971.365, 972.10 (title), 972.11 (title), 972.13 (4), 973.18 (title), 973.18 (5), 973.19 (title) and 979.08 (title); ***to renumber and amend*** 801.50 (5t), 967.02 (1), 967.02 (2), 967.02 (6), 967.02 (7), 967.04 (title), (1), (2), (3), (4), (5) and (6), 967.04 (7) (a), 967.04 (7) (b), 967.04 (8), 967.04 (9), 967.04 (10), 967.05 (title), 967.055, 967.06 (3), 967.08 (1), 967.08 (2) (intro.), 967.08 (2) (a) to (d), 967.08 (3) (intro.), 967.08 (3) (a) to (f), 967.09, 968.01 (title), 968.01 (2), 968.01 (3), 968.02 (title) and (1), 968.03 (2), 968.04 (title), 968.04 (1) (intro.), 968.04 (1) (b), 968.04 (1) (c), 968.04 (1) (d), 968.04 (2) (a), 968.04 (3) (a) (intro.), 968.04 (3) (a) 1. to 6., 968.04 (3) (a) 7., 968.04 (3) (b) 1., 968.04 (3) (b) 2., 968.04 (3) (b) 3. (intro.), 968.04 (3) (b) 3. b. (form), 968.04 (4), 968.05, 968.07, 968.073, 968.075 (2) (a), 968.075 (2) (am), 968.075 (2m), 968.075 (5), 968.08, 968.085 (title), 968.085 (1), 968.085 (2) (intro.), 968.085 (3) (a), 968.085 (3) (b), 968.085 (3) (d), 968.085 (4), 968.085 (5), 968.085 (7), 968.085 (8), 968.09 (title), 968.09 (1), 968.10, 968.11, 968.12 (title), 968.12 (1), 968.12 (3) (title), 968.12 (3) (b), 968.13 (title), 968.13 (1) (intro.), 968.13 (1) (a), 968.13 (2), 968.135, 968.14, 968.15, 968.16, 968.19, 968.20 (1), 968.20 (1m), 968.20 (2), 968.20 (3) and (4), 968.205, 968.25, 968.255 (1), 968.255 (2) (ag), (am), (ar), (b), (c), (d) and (e), 968.255 (3), 968.255 (4), 968.255 (6), 968.255 (7), 968.256, 968.26, 968.27 (intro.), 968.27 (1), 968.27 (3), 968.27 (4), 968.27 (6), 968.27 (7), 968.27 (9), 968.27 (11), 968.28, 968.29, 968.30, 968.31, 968.32, 968.34, 968.35, 968.36, 968.37, 968.38, 968.40 (title), 968.40 (1), 968.40 (3), 968.40 (4), 968.40 (6), (7) and (8), 968.41, 968.42, 968.43, 968.44, 968.45 (title), 968.45 (1), 968.45 (2), 968.46, 968.47, 968.48, 968.49, 968.50, 968.505, 968.51, 968.52, 968.53, 969.001 (intro.), 969.001 (1), 969.01 (1), 969.01 (2) (a), 969.01 (2) (d), 969.01 (2) (e), 969.01 (3), 969.01 (4), 969.02 (2m), 969.02 (3) (e),

969.02 (6), 969.035, 969.04, 969.065, 969.07, 969.08 (title), 969.08 (5) (b) 1., 969.08 (5) (b) 3., 969.08 (5) (b) 4., 969.08 (7), 969.08 (8), 969.08 (9m), 969.09 (2), 969.11, 970.01 (1), 970.02 (1) (a), 970.02 (2), 970.02 (7), 970.02 (8), 970.03 (1), 970.03 (7), (8) and (9), 970.03 (10), (12), (13) and (14), 970.032 (1), 970.032 (2) (intro.), 970.035, 970.038, 971.01, 971.02, 971.04 (1) (intro.), 971.04 (1) (b), (c), (d), (e), (f), (g) and (h), 971.04 (2), 971.04 (3), 971.05, 971.08 (1) (a), 971.10 (1), 971.10 (2) (a), 971.10 (2) (b), 971.10 (3) (a), 971.10 (4), 971.12 (1) and (2), 971.12 (3), 971.12 (4), 971.13, 971.14 (1r) (b), 971.14 (1r) (c), 971.14 (2) (a), 971.14 (2) (b), 971.14 (2) (c), 971.14 (2) (d), 971.14 (2) (e), 971.14 (2) (g), 971.14 (3) (intro.), 971.14 (3) (c), 971.14 (3) (d), 971.14 (3) (dm) (intro.), 971.14 (3) (e), 971.14 (4) (a), 971.14 (5) (a) 1., 2. and 3., 971.14 (5) (a) 4., 971.14 (5) (am), 971.14 (5) (b), 971.14 (5) (c), 971.14 (5) (d), 971.14 (6) (b), 971.14 (6) (c), 971.14 (6) (d), 971.15, 971.16 (2), 971.16 (3) (intro.), 971.16 (4), 971.16 (5), 971.16 (6), 971.165 (1), 971.165 (2), 971.165 (3) (a), 971.165 (3) (b), 971.17 (1), 971.17 (1g), 971.17 (1h), 971.17 (1j) (b), 971.17 (1m) (a), 971.17 (1m) (b) 1m. a., 971.17 (1m) (b) 1m. b., 971.17 (1m) (b) 2m., 971.17 (1m) (b) 3., 971.17 (1m) (b) 4., 971.17 (1m) (b) 5., 971.17 (2) (a), 971.17 (2) (b), 971.17 (2) (c), 971.17 (2) (d), 971.17 (2) (e), 971.17 (2) (f), 971.17 (2) (g), 971.17 (3) (a), 971.17 (3) (b), 971.17 (3) (c), 971.17 (3) (d), 971.17 (3) (e), 971.17 (4) (a), 971.17 (4) (b), 971.17 (4) (c), 971.17 (4) (d), 971.17 (4) (e), 971.17 (5), 971.17 (6), 971.17 (6m) (a) (intro.), 971.17 (6m) (d), 971.17 (7) (a), 971.17 (7) (b), 971.17 (7) (c), 971.17 (8), 971.18, 971.19, 971.20, 971.22, 971.223, 971.225 (1) (intro.), (a) and (c), 971.225 (2), 971.23 (1) (intro.), 971.23 (1) (a), 971.23 (1) (b), 971.23 (1) (bm), 971.23 (1) (d), 971.23 (1) (e), 971.23 (1) (f), 971.23 (1) (g), 971.23 (2m) (intro.), 971.23 (2m) (b), 971.23 (2m) (c), 971.23 (3), 971.23 (5), 971.23 (6) (title), 971.23 (6), 971.23 (6c), 971.23 (6m), 971.23 (7), 971.23 (7m) (a),

971.23 (8) (a), 971.23 (8) (d), 971.23 (9), 971.23 (11), 971.27, 971.29 (title), 971.29 (1), 971.29 (2), 971.31 (2), 971.31 (3), 971.31 (4), 971.31 (6), 971.31 (9), 971.31 (10), 971.31 (11), 971.31 (12), 971.31 (13), 971.315, 972.02 (1), 972.02 (2), 972.02 (3), 972.02 (4), 972.03, 972.07, 972.08, 972.085, 972.10 (1) (a) 1., 972.10 (1) (b), 972.10 (5), 972.10 (7), 972.11 (1), 972.11 (2), 972.11 (2m) (a) (intro.) and 1., 972.11 (2m) (b), 972.11 (2m) (bm), 972.11 (2m) (c) (intro.), 1m., 2m. and 3m., 972.11 (3), 972.11 (3m), 972.11 (4), 972.115 (1), 972.115 (2), 972.115 (4) and (5), 972.12, 972.13 (1), 972.13 (2), 972.13 (3), 972.13 (5), 972.14 (title), (2), (2m) and (3), 972.15, 973.18 (1), 973.18 (2), (3) and (4), 973.19 (1) (a), 973.19 (1) (b), 973.19 (2), (3), (4) and (5), 977.076 (2), 979.04, 979.05 (1), 979.05 (2), 979.05 (3), 979.05 (4), 979.05 (5), (6) and (7), 979.06 (3), (4) and (6), 979.08 (1), 979.08 (3) (a), 979.08 (3) (b), 979.08 (5), 979.08 (6) and 979.08 (7); ***to consolidate, renumber and amend*** 967.05 (1) (intro.) and (a), 967.06 (1) and (2) (a), 968.12 (2) and (3) (a) and (d), 968.12 (3) (c) and (f), 968.27 (16) (intro.), (a) and (b), 969.01 (2) (b) and (c), 970.02 (1) (b) and (6), 970.02 (1) (c) and (5), 971.11 (2) and (3), 971.30 (2) (intro.), (a), (b) and (c), 971.31 (5) (b) and (c), 972.11 (2m) (a) 2. (intro.), a. and b., 972.14 (1) (intro.) and (b), 973.049 (1) (intro.) and (a) and 979.08 (3) (intro.) and (4); ***to amend*** 6.10 (7m) (a) (intro.), 6.10 (7m) (a) 2., 13.35 (2), 16.84 (2), 17.16 (7) (b), 19.32 (1b), 20.435 (2) (bj), 20.435 (2) (gk), 20.550 (1) (f), 23.33 (4c) (b) 3., 23.56 (1), 23.65 (2), 29.921 (6), 29.938 (2), 29.972 (1) (a), 29.972 (1) (c), 30.681 (2) (c), 46.10 (2), 46.90 (6) (bt) 8., 48.31 (2), 48.396 (2) (dr), 48.78 (2) (d) 1., 48.981 (1) (b), 48.981 (7) (a) 14m., 49.138 (1m) (c), 49.19 (4) (d) 3., 51.05 (2), 51.20 (1) (am), 51.20 (16) (j), 51.30 (3) (b), 51.30 (4) (b) 8m., 51.30 (4) (b) 9., 51.30 (4) (b) 11., 51.30 (4) (b) 12m., 51.30 (4) (b) 16., 51.30 (7), 51.37 (1), 51.37 (3), 51.37 (4), 51.37 (9), 51.37 (10) (am), 51.375 (1) (a), 51.39, 51.42 (3) (as) 1m., 51.42 (3)

(as) 1r., 51.42 (3) (aw) 1. d., 51.437 (4rm) (a), 51.61 (1) (intro.), 51.61 (1) (e), 51.61 (1) (i) 1., 51.87 (3), 55.043 (6) (bt) 8., 55.075 (intro.), 59.34 (2) (a), 66.0113 (3) (e), 66.0114 (1) (a), 66.0139 (4) and (5), 69.18 (2) (f) 3., 71.78 (4) (n), 77.61 (12) (b), 93.17 (2), 102.13 (5), 103.005 (20), 103.10 (1m) (b) 1., 110.001 (1m), 110.07 (2m), 110.07 (4), 111.07 (2) (b) 2., 128.16 (2), 133.15 (2), 134.43 (3), 139.20 (2), 139.39 (5) (b), 146.81 (4), 146.82 (2) (c), 154.30 (3) (a) 2., 165.76 (1) (bm), 165.76 (1) (br), 165.76 (1) (g), 165.76 (1m), 165.76 (2m) (g), 165.76 (4) (a) and (b), 165.76 (4) (c), 165.765 (1m), 165.765 (2) (a) 1., 165.77 (2) (b), 165.77 (2m) (c), 165.77 (3), 165.77 (4) (am) 1., 165.77 (4) (am) 2. (intro.), 165.77 (4) (am) 2. a., b. and d., 165.79 (1), 165.81 (1), 165.81 (3) (a) 1. and 2., (b) and (f), 165.84 (7) (am) 1m. c., 167.10 (8) (b), 169.42 (2) (b), 173.10, 173.12 (1m), 175.55 (2), 175.60 (3) (d), 175.60 (3) (e), 175.60 (9g) (a) 2., 175.60 (11) (a) 2. b., 175.60 (11) (a) 2. c., 175.60 (11) (a) 2. g., 175.60 (11) (a) 2. i., 175.60 (14) (am), 195.048 (2), 196.207 (3) (e), 196.48 (1) (b), 230.81 (2), 251.16, 252.11 (5m), 252.11 (7), 252.15 (2m) (b) 3., (3m) (d) 14. and (4) (c), 301.03 (3c), 301.03 (7m), 301.035 (2), 301.035 (4), 301.45 (1g) (c), 301.45 (1g) (d), 301.45 (1g) (dd), 301.45 (1g) (dp), 301.45 (1g) (e), 301.45 (1m) (b), 301.45 (1m) (be), 301.45 (1m) (bm), 301.45 (1m) (bv), 301.45 (1m) (d) 1., 301.45 (1m) (e) (intro.), 301.45 (1p) (b), 301.45 (3) (a) 3., 301.45 (3) (a) 3g., 301.45 (3) (b) 3., 301.45 (5) (a) 3., 301.45 (5) (a) 3m., 301.45 (5) (b) 3., 301.45 (6) (a) 2. a., 301.45 (6) (ag) 2. a., 301.45 (6) (bm), 301.45 (7) (f) 4., 301.46 (3) (d), 301.47 (3) (b) 1., 301.48 (2) (a) 4., 301.48 (2) (a) 5., 301.48 (2) (b) 3., 302.113 (9) (e), 302.114 (9) (d), 304.06 (3), 322.0767 (1) (a), 322.0767 (1) (b), 322.0767 (1) (c), 322.0767 (1) (d), 322.0767 (2) (a), 322.0767 (2) (b), 322.0767 (2) (c), 322.0767 (2) (d), 322.0767 (2) (e), 343.305 (9) (c), 345.20 (1) (a), 345.20 (2) (c), 345.28 (3) (a), 345.28 (5) (b) 1., 345.31, 346.63 (2) (am), 346.63 (6) (b), 350.101 (2) (c), 551.602 (5) (b), 553.55 (3)

(b), 601.62 (5) (b), 631.95 (1) (c), 704.16 (1) (b) 4., 704.16 (1) (b) 7., 704.16 (3) (b) 2. d., 704.16 (3) (b) 2. g., 756.06 (2) (a), 756.06 (2) (c), 757.54 (2) (a) 1., 757.54 (2) (a) 2., 757.69 (1) (b), 757.69 (1) (i), 758.171, 767.87 (4) (b), 781.04 (1), 785.03 (1) (b), 800.035 (8), 801.02 (7) (a) 2. c., 801.02 (7) (a) 2. e., 801.52, 807.05, 808.04 (3), 808.04 (4), 808.075 (4) (b) 4., 808.075 (4) (g) 1., 808.075 (4) (g) 2., 808.075 (4) (g) 7., subchapter III (title) of chapter 809 [precedes 809.30], 809.30 (title), 809.30 (1) (a), 809.30 (1) (b) 4., 809.30 (1) (c), 809.30 (1) (e), 809.30 (2) (a), 809.30 (2) (d), 809.31 (6), 814.22 (1) (intro.), 814.69 (1) (a), 885.01 (2), 885.15 (2), 885.24 (2), 885.25 (2m), 885.365 (1), 885.64 (2), 891.39 (1) (b), 891.39 (2) (b), 893.93 (1) (d), 895.01 (1) (am) 7., 895.34, 895.446 (4), 895.45 (1) (a), 895.46 (9) (a) (intro.) and 2. and (b) (intro.) and 2., 895.54, 901.01, 901.04 (1), 901.04 (3) (cm), 901.05 (3), 904.04 (1) (b), 904.04 (2) (b) 1., 904.06 (1), 906.08 (1) (intro.), 906.08 (2), 907.06 (5), 908.08 (5) (am), 908.08 (5) (b), 908.08 (6), 911.01 (1), 911.01 (4) (b), 911.01 (4) (c), 938.183 (1) (ar), 938.183 (1m) (b), 938.195 (1) (a), 938.293 (2), 938.30 (2), 938.30 (3), 938.30 (5) (c) (intro.), 938.30 (5) (d) (intro.), 938.30 (5) (e) 1. (intro.), 938.31 (2), 938.31 (3) (a) 4., 938.31 (3) (d), 938.315 (2), 938.35 (1) (cm), 938.396 (1) (a), 938.396 (2g) (dr), 938.535, 938.78 (2) (d) 1., 939.60, 939.615 (2) (a), 939.615 (3) (d), 939.621 (1) (a), 939.621 (2), 939.74 (1), 939.74 (3), 939.74 (4), 940.09 (1m) (a), 940.09 (1m) (b), 940.225 (4) (intro.), 940.25 (1m) (b), 940.32 (2m) (d), 940.48 (intro.), 941.28 (5), 941.29 (3), 943.245 (3m), 943.51 (3r), 946.42 (3) (g), 946.49 (1) (intro.), 946.49 (2), 946.52, 946.60 (1), 946.86 (2), 946.87 (2) (am), 948.015 (9), 948.31 (5), 948.50 (4) (c), 948.50 (5), 949.165 (1) (a), 949.165 (9), 950.04 (1v) (b), 950.04 (1v) (d), 950.04 (1v) (dL), 950.04 (1v) (do), 950.04 (1v) (e), 950.04 (1v) (em), 950.04 (1v) (er), 950.04 (1v) (g), 950.04 (1v) (L), 950.04 (1v) (m), 950.04 (1v) (p), 950.04 (1v) (pd), 950.04 (1v) (qm), 950.04 (1v) (s), 950.04 (1v)

(um), 950.04 (1v) (x), 950.04 (2w) (f), 950.055 (2) (b), 950.08 (2g) (c), 950.08 (2g) (e), 950.08 (2g) (h), 950.08 (2r) (intro.), 950.08 (2w), 951.01 (4), 961.48 (2m) (a), 961.48 (2m) (b) (intro.), 967.01, 968.375 (4), 969.10, 971.06 (1) (a), (b) and (c), 971.08 (title), 971.08 (1) (d), 971.095 (2) and (3), 971.10 (3) (b) (intro.), 1. and 2., 971.10 (3) (c), 971.105, 971.11 (1), 971.11 (5), 971.11 (6), 971.11 (7), 971.38 (1), 971.39 (1) (intro.), 972.01, 972.03 (title), 972.04 (1), 972.06, 973.013 (4), 973.015 (2m) (c) (intro.), 973.017 (6m) (a) 2., 973.03 (3) (b), 973.03 (3) (e) 2., 973.03 (4) (d), 973.03 (5) (a) 1., 973.03 (5) (a) 2., 973.042 (4), 973.043 (2), 973.045 (2), 973.046 (2), 973.048 (5), 973.05 (3) (b), 973.05 (4) (b), 973.05 (4) (c), 973.05 (5) (a) 1., 973.05 (5) (a) 2., 973.05 (5) (c), 973.05 (5) (d), 973.05 (5) (e), 973.055 (2) (a), 973.06 (1) (av) 2. a. and b., 973.06 (1) (h), 973.076 (1) (b) 1., 973.076 (2m) (b), 973.08 (5), 973.09 (2) (a) 1. b., 973.09 (3) (b), 973.09 (3) (bg) 2. and 4., 973.09 (3) (bm) 4., 973.09 (7m) (a), 973.10 (2m), 973.135 (3), 973.20 (1r), 973.20 (9m), 973.20 (11) (a), 973.20 (12) (c), 974.02, 974.05 (1) (intro.), 974.05 (1) (a), (b), (c) and (d) (intro.), 1. and 2., 974.05 (2), 974.06 (title), (1), (2) and (3) (intro.), (a), (b) and (d), 974.06 (4), 974.06 (5), (6), (7) and (8), 974.07 (4) (b), 974.07 (7) (b) 1., 974.07 (9) (a), 974.07 (10) (a) 4., 977.02 (2m), 977.02 (3) (intro.), 977.02 (4r), 977.03 (2m), 977.05 (4) (gm), 977.05 (4) (h), 977.05 (4) (j), 977.05 (6) (b) 2., 977.05 (6) (e) (intro.) and 2., 977.06 (2) (a), 977.06 (2) (am), 977.06 (3) (b), 977.07 (1) (a), 977.07 (1) (c), 977.07 (2m), 977.08 (2) (intro.), 978.045 (1r) (intro.), 978.045 (1r) (i), 978.05 (3), 978.05 (4), 978.05 (6) (a), 978.08 (1) (a) and (b) and (2), 979.02, 979.025 (1), 979.025 (2), 979.09, 979.10 (2), 979.11, 979.22, 980.015 (2) (c), 980.015 (2) (d), 980.031 (4), 980.036 (2) (c), 980.036 (6) and 995.50 (7); ***to repeal and recreate*** chapter 969 (title), chapter 970 (title), chapter 971 (title), 971.08 (1) (b), 971.09, 972.04 (title) and chapter 975 (title); and ***to create*** 48.315 (4),

175.27 (title), 809.30 (2) (m), 904.045 (title), 938.18 (10), 938.21 (2) (f), 950.04 (1v) (gn) and (go), 967.025 (title), 967.025 (2), 967.025 (3), 967.025 (5), 967.025 (7), 967.025 (8), 967.025 (10), 967.025 (11), 967.025 (14), 967.025 (15), 967.025 (16), 967.025 (17), 967.12 (3), 967.13 (1) (a) and (b), 967.13 (1) (i), 967.14 (1) (dm), 967.14 (2), 967.14 (4), 967.21 (2) (title), 967.21 (3) (title), 967.21 (4) (title), 967.21 (5) (title), 967.21 (6) (title), 967.22 (title), subchapter I (title) of chapter 968 [precedes 968.015], 968.025 (title), 968.025 (3), 968.025 (4) (title), 968.025 (4) (e), 968.035 (title), subchapter II (title) of chapter 968 [precedes 968.105], subchapter III (title) of chapter 968 [precedes 968.155], subchapter IV (title) of chapter 968 [precedes 968.305], subchapter V (title) of chapter 968 [precedes 968.455], subchapter VI (title) of chapter 968 [precedes 968.465], 968.465 (5) and (6), 968.475 (2) (a), 968.475 (2) (e), 968.475 (3), 968.485 (title) and (1), 968.585 (4m), 968.585 (7) (cm), subchapter VII (title) of chapter 968 [precedes 968.605], subchapter VIII (title) of chapter 968 [precedes 968.705], 968.705 (2), (3) and (6), 968.71, subchapter I (title) of chapter 969 [precedes 969.15], 969.15, 969.19, 969.20 (2), 969.20 (6), 969.20 (7) (title), 969.21 (title), 969.24 (2m), 969.26 (title), 969.26 (3), subchapter II (title) of chapter 969 [precedes 969.30], 969.30 (3) to (7), 969.31 (3), 969.31 (4), 969.32, 969.33 (title), 969.33 (1) (L), 969.33 (2), 969.33 (3), 969.33 (4), 969.33 (5) to (7), 969.37, 969.38, 969.41, 969.42, subchapter III (title) of chapter 969 [precedes 969.50], 969.50 (2) and (3), subchapter I (title) of chapter 970 [precedes 970.06], 970.06 (2), 970.06 (3), 970.06 (4), 970.08 (2), 970.09 (2), 970.10 (title), (1) and (3), 970.13 (3), 970.14 (13), 970.15, subchapter II (title) of chapter 970 [precedes s. 970.21], subchapter I (title) of chapter 971 [precedes 971.013], 971.015 (title), 971.015 (1) (title), 971.015 (1) (b), 971.015 (2), 971.015 (4), 971.027 (intro.), 971.027 (1m) and (4),

971.035, 971.038, 971.042 (7) (intro.), subchapter II (title) of chapter 971 [precedes 971.06], 971.06 (1) (title), 971.06 (4), 971.065, 971.08 (1) (ag), 971.08 (1) (am), 971.085 (title) and (1) (intro.), 971.085 (1) (b), 971.085 (2), 971.093, subchapter III (title) of chapter 971 [precedes 971.098], 971.098, 971.10 (1) (title), 971.10 (1) (b), 971.10 (2r), 971.10 (3) (title), subchapter IV (title) of chapter 971 [precedes 971.42], 971.42, 971.43 (title) and (1), 971.43 (2) (b), 971.43 (2) (br), 971.43 (2) (e), 971.43 (2) (f), 971.43 (2) (h), 971.43 (3), 971.43 (4), 971.43 (6), 971.43 (7), 971.43 (8), 971.44 (title) and (1), 971.44 (2) (a), 971.44 (3), 971.46 (intro.) and (1), 971.48 (title), 971.48 (2), 971.49, 971.51 (title) and (1), 971.51 (3), 971.52 (3), 971.56, 971.57, 971.58 (title), subchapter V (title) of chapter 971 [precedes 971.65], 971.65 (title), 971.65 (2) (title) and (a), 971.66, 971.68 (title), (1) and (3), subchapter VI (title) of chapter 971 [precedes 971.75], 971.75 (title), 971.75 (2), 971.75 (4), 971.75 (6), 971.75 (7), 971.75 (9), 971.76, 971.77 (title), 972.005 (title), 972.005 (2), 972.025 (title) and (1), 972.04 (3), 972.075, 972.16 (1) and (2), 972.18 (title), 972.19, 972.20 (title), 972.22 (title), 972.23 (title), 972.23 (2) and (3), 972.24, 972.25, 972.26, 972.28 (title), 974.08 (title), 974.08 (1), 974.08 (2) and (3), 974.09 (title), subchapter I (title) of chapter 975 [precedes 975.20], 975.20, subchapter II (title) of chapter 975 [precedes 975.30], 975.31 (title), 975.31 (4), 975.32 (title), 975.32 (2), 975.32 (4), 975.32 (7), 975.32 (10), 975.33 (title), 975.33 (1) (f) and (3), 975.34, 975.36 (title), 975.36 (2), 975.36 (4), 975.37, 975.38 (title), 975.39, subchapter III (title) of chapter 975 [precedes 975.50], 975.51 (4) (b), 975.51 (5) (b), 975.52 (1), 975.52 (4) (title), 975.53 (title), 975.54 (title), 975.56 (title), 975.57 (2) (e), 975.57 (3), 975.57 (4) (title), 975.57 (4) (b) and (c), 975.57 (5) (title), 975.59 (5) (title), 975.59 (5) (b) and

1 (c), 975.61 (1) (d), 975.62 (title), 975.62 (1) (d), 975.62 (2), (3) and (4) and 975.63
2 (3) of the statutes; **relating to:** criminal procedure and providing penalties.

Analysis by the Legislative Reference Bureau

This bill reorganizes each chapter of the criminal procedure code, with the exception of chapter 973, Sentencing. This analysis is organized in the ascending order of the chapters, as reorganized in the bill. This bill creates subchapters in long chapters, separates long statutes into shorter statutes, reorganizes individual statutes, and provides titles for some provisions. This bill also creates new authority for courts and codifies some current practices.

Under this bill, chapter 967 contains definitions of terms used throughout the criminal procedure code and general provisions that, under current law, appear throughout the criminal procedure code. The bill also adds definitions for certain terms including "complaint," "district attorney," "felony," "misdemeanor," "motion," and "sentencing."

This bill moves to chapter 968 all current law provisions relating to investigative procedures such as inquests, John Doe proceedings, grand juries, wiretapping, and search and seizure provisions.

This bill creates a process that requires a court, upon the request of a district attorney and a showing that the information requested is relevant to a criminal investigation, to order a financial institution to disclose to the district attorney whether a specified person has or had an account at the financial institution.

Chapter 969, as reorganized under this bill, contains provisions addressing arrest and release, identifies ways to secure the appearance of a defendant, and includes provisions that allow expediting the processing of misdemeanors. Under current law, a citation issued by a law enforcement officer directs a person to appear in court and answer criminal charges. The citation may not be used as a criminal complaint. This bill allows a citation for a misdemeanor that is issued by a law enforcement officer to be used as a criminal complaint if the district attorney endorses it. The bill specifies that a citation must contain the crime the person allegedly committed, the time and place of the alleged commission, and the maximum penalty for the charged crime. The bill requires a law enforcement officer citing a person for a misdemeanor to release the person without a cash bond unless certain circumstances apply, including if the person does not provide proper identification or appears to pose a danger to a person or property.

Under current law, a law enforcement officer generally may release a person who is arrested without a warrant without requiring the person to appear before a judge if the law enforcement officer is satisfied that there are insufficient grounds to issue a criminal complaint against the person. Under this bill, a law enforcement officer may release such a person without determining that there are insufficient grounds to issue a criminal complaint.

If the court allows the release of a defendant before conviction or the release of a convicted person prior to sentencing, this bill specifies that the court may either

release the person to return on a specific date without conditions or release the person on a personal recognizance bond, an unsecured appearance bond, or a secured appearance bond. This bill also allows a third party who has deposited cash for the release of a person on a secured appearance bond to apply to the court for an order to return the deposit before the entry of a judgment of conviction or forfeiture. The court then may determine whether to remit the deposit and whether to modify the conditions of release.

This bill generally requires a court to release a person who is arrested without a warrant within 48 hours of the arrest unless the court has determined there is probable cause to arrest the person.

Under this bill, chapter 970 contains provisions relating to the commencement of prosecutions.

This bill replaces several statutes governing deferred prosecution agreements in specific cases with one general statute defining and authorizing deferred and suspended prosecution agreements. The bill provides that the same standards that govern a district attorney's charging authority also govern the district attorney's authority to enter into a deferred prosecution agreement and that the same standards that apply to a court's authority to schedule cases and grant continuances apply to a court's authority to suspend prosecution under a suspended prosecution agreement. Under this bill, both a deferred prosecution agreement and a suspended prosecution agreement are enforceable in the same manner as a plea agreement. The bill further notes that consenting to a deferred prosecution or suspended prosecution agreement is not an admission of guilt nor is the consent admissible in a trial relating to the charge to which the agreement pertains. This bill makes generally applicable a provision in current law that grants immunity from civil liability in excess of $25,000 for acts or omissions by an organization or individual for whom an agreement assigns an individual to work.

Under this bill, chapter 971 addresses pretrial procedures and contains subchapters for commencement of proceedings, pleas, and provisions to expedite proceedings, discovery, motions, and juveniles in adult court. This bill creates one general statute for plea agreements. The bill provides that the district attorney and the defendant, without the court's participation, may reach a plea agreement. The agreement may require the district attorney, if the defendant enters a plea of guilty or no contest, to take certain actions, including moving to dismiss or amend any charge; recommending the defendant's request for a particular disposition; or agreeing that a specific disposition is appropriate. The bill also creates a single statute to clarify, and explain the consequences of, the different pleas available to the defendant.

Under current law, before a court may dismiss a criminal case, the court must inquire if the district attorney has offered all of the victims an opportunity to confer with the district attorney concerning the prosecution and outcome of the case. This bill codifies case law by adding that, if the district attorney moves to dismiss a complaint, the trial court must grant the motion unless the court finds that dismissal is contrary to the public interest or, if the motion is made during the trial, unless the defendant has not consented.

Under the bill, unless the district attorney establishes substantial prejudice, the court must grant a motion, made before sentencing, to withdraw a plea of guilty or no contest if a fair and just reason for doing so is established. Under this bill, the court must grant such a motion, made after sentencing, if the defendant did not knowingly, voluntarily, and understandingly enter the plea or if withdrawal is required to prevent a manifest injustice. Finally, the bill specifies that a withdrawal of a plea of guilty or no contest vacates the judgment, reinstates any original charge, and restores the parties to the position they were in before the plea was accepted.

This bill specifies that discovery is intended to do all of the following: promote fair and expeditious disposition of criminal charges, provide the defendant with sufficient information to make an informed plea, permit thorough preparation for and minimize surprise at trial, reduce interruptions and complications during trial and avoid unnecessary trials by resolving any issues before trial, minimize inequities among similarly situated defendants, effect economies, and minimize the burden upon victims and witnesses.

Current law requires a district attorney, upon demand and within a reasonable time before trial, to disclose to the defendant any relevant expert reports or statements or, if an expert does not prepare a report or statement, a written summary of the expert's findings or the subject of his or her testimony, and the results of any examination, scientific test, experiment, or comparison that the district attorney intends to offer in evidence. This bill requires any party who intends to call an expert witness to, not less than 30 days before trial, notify the other party of the expert's name, address, and qualifications and furnish any relevant expert reports or statements or, if none, a written summary of the expert's findings or the subject matter of his or her testimony, and the results of any mental examination, scientific test, experiment, or comparison that the first party intends to offer in evidence.

Under this bill, before trial and upon motion by either party, the court may issue a subpoena to require the production of documents and other tangible objects if the evidence may be material to the determination of issues. The motion and the subpoena must specify who must produce the material, whether certified copies of documents may be submitted in lieu of appearance, and other conditions.

Under this bill, the disclosure of discoverable material may be accomplished in any manner mutually agreeable to the parties. If the parties do not agree, the party that has the duty to disclose must either provide a copy of the material to be disclosed or notify the other party that the material may be inspected, copied, or photographed during specified reasonable times and provide suitable machinery for making copies.

This bill codifies the authority of courts to issue and amend scheduling orders.

Under this bill, the court may, upon motion by the district attorney, order a defendant to participate in a reasonable procedure to obtain nontestimonial evidence. Such procedures include appearing, moving, or speaking for identification in a lineup; trying on clothing or other articles; providing handwriting or voice exemplars; being photographed; having fingerprints or other body impressions taken; providing samples of blood, urine, saliva, semen, skin, breath, hair, or nails or materials under the nails; submitting to body measurements or other reasonable body surface examinations; and submitting to physical or medical inspection.

Under this bill, the court may, upon motion of a defendant, require an individual to participate in a reasonable procedure to obtain nontestimonial evidence if an affidavit or testimony shows probable cause to believe that the individual committed the crime with which the defendant is charged and that the evidence sought is necessary to an adequate defense and cannot practicably be obtained from other sources.

Under this bill, the district attorney may provide discovery before the initial appearance. Also, this bill requires the district attorney to disclose, at the initial appearance after the defendant has obtained or waived legal representation, any pertinent law enforcement investigative reports the district attorney has and a copy of the defendant's criminal record.

Under current law, the procedure for asserting that a statute is unconstitutional is located in the civil procedure statutes. This bill moves to the criminal procedure code the provision that, if a defendant moves to dismiss a criminal prosecution by asserting that the statute under which he or she is charged is unconstitutional, the defendant must serve the motion on the attorney general and the district attorney.

This bill specifies that, if a defendant moves for severance because a codefendant's out–of–court statement refers to, but is not admissible against, the defendant and the court determines that the state intends to offer the statement in evidence, the court must require the district attorney to elect one of the following: 1) a joint trial at which the statement is not received in evidence; 2) a joint trial at which the statement is received in evidence only after all references to the defendant have been deleted, if admission of such a statement will not cause prejudice; 3) a separate trial for the defendant; or 4) if the court approves, a single trial with a separate jury for the defendant and the codefendant.

Under this bill, chapter 972 contains statutes relating to criminal trials. Under this bill, if the court at a criminal trial authorizes the jurors to ask questions of witnesses, the court must instruct the jury to ask only questions that clarify information already presented and must instruct the jury of the procedure to be used. The procedure provides that the question must be submitted in writing to the judge who will show the question to the parties. The parties may object to the question without the jury knowing. If the judge, upon reviewing the question and any objections, determines that the question is legally proper, the judge may ask it of the witness.

This bill clarifies procedures for jury selection and handling alternate jurors. Under current law, if the number of jurors, including any additional jurors selected, exceeds the required number when the case is submitted to the jury, the court must discharge by lot jurors that will not participate in deliberations. Under this bill, the court may, for good cause, discharge additional jurors other than by lot. Moreover, this bill allows the court to determine which jurors will not participate in deliberations but retain those jurors as alternates after the jury retires to deliberate. If a juror who is participating in deliberations becomes unavailable due to severe illness or extraordinary circumstances, the judge may replace the unavailable juror

with a retained alternate juror. If an alternate replaces a juror after deliberations have begun, the court must instruct the jury to begin its deliberations anew.

This bill defines "stipulation" as an agreement between the parties that a specified fact is taken as established without need for proof. Further, a stipulation must be set forth on the record when the court accepts it, and, in a jury trial, the court must instruct the jury to take stipulated facts as conclusively proved.

This bill specifies that a verdict must be unanimous and returned in open court. Under current case law, a defendant in a criminal case has the right to poll the jury, and refusal to permit the defendant to do so is an error for which the verdict will be set aside. This bill requires a court to ask each juror individually whether the verdict as returned was and is the juror's verdict. This bill requires the court to accept the verdict if it is in proper form and confirmed by the poll.

Under this bill, chapter 975 addresses mental health issues affecting a criminal prosecution such as competency to stand trial and mental responsibility, commonly known as the "insanity defense." Under current law, when there is reason to doubt a defendant's competency to proceed in a criminal action, the court must appoint an examiner to submit a report on the condition of the defendant that contains specified findings. This bill adds that, if the examiner reports that the defendant is not competent to proceed and that the defendant is not likely to become competent within the maximum period of commitment under the competency statutes, the examiner must provide his or her opinion on whether the defendant meets the criteria for civil commitment.

The bill reorganizes the competency hearing statutes and makes certain changes to burdens of persuasion. Under current law, at the outset of the competency hearing, if the defendant claims to be incompetent or is silent, the defendant must be found incompetent unless the state proves by the greater weight of the credible evidence that the defendant is competent. Under current law, if the defendant claims to be competent, the defendant must be found competent unless the state proves by clear and convincing evidence that the defendant is incompetent. Under the bill, the state has the burden of going forward with evidence at a competency hearing, and the court may find the defendant competent to proceed only if the court finds by the greater weight of the evidence that the defendant is competent to proceed. The bill specifies the following: 1) if the defendant is not competent and the court finds by the greater weight of the evidence that the defendant is not likely to become competent within the maximum period of commitment, the court must order the defendant be released or delivered to a facility; 2) if the defendant is not competent and the court finds by the greater weight of the evidence that the defendant is likely to become competent within the maximum period of commitment without inpatient treatment, the court must order that the defendant be released and may require the defendant to participate in outpatient treatment, or undergo periodic reexaminations to determine whether the defendant has become competent to proceed, for a period that does not exceed the maximum period of commitment; or 3) if the defendant is not competent and the court finds by clear and convincing evidence that the defendant is likely to become competent within the maximum period of commitment if provided appropriate inpatient treatment, the court must commit the

defendant to the custody of the Department of Health Services (DHS) for treatment. Finally, if the defendant is committed to DHS and the state proves by clear and convincing evidence that the defendant is not competent to refuse medication or treatment, the court must find that the defendant is not competent to refuse medication or treatment and must order whoever administers medication or treatment to the defendant to observe appropriate medical standards.

Under current law, if the defendant is committed to the custody of DHS for treatment following a competency proceeding, the days spent in commitment are given credit toward the service of his or her sentence for the same course of conduct. This bill requires the court to include in the commitment order a specific finding of the number of days spent in precommitment custody.

Current law requires DHS to periodically reexamine the defendant and to submit to the court a written report on the defendant's mental condition at three months, six months, and nine months after commitment. This bill requires an additional report if DHS determines that the defendant has become competent or that the defendant is not likely to become competent within the remaining commitment period and requires the court to schedule a review of this additional report within 14 days.

This bill creates a process for the court to follow whenever the court determines there is reason to doubt a defendant's competency to proceed when seeking an appeal or a motion for postconviction relief. Pending the determination or after a finding of incompetency, the circuit court may allow proceedings on any issue raised by the defendant's attorney that rests on the records, does not require the defendant to assist counsel or make a decision, and involves no risk to the defendant and the court of appeals may grant the defendant a continuance or lengthen the time for filing necessary notices or motions for postconviction relief. If the court finds that the defendant lacks competency, the court may appoint a guardian to make decisions or may order treatment to restore the defendant to competency to pursue postconviction relief. Finally, the bill provides that a defendant who lacks competency to pursue postconviction relief may, after regaining competency, raise any issue at a later proceeding that he or she did not raise earlier because of incompetency.

Under current law, if a defendant is found not guilty by reason of mental disease or defect, the court must enter a judgment of not guilty by reason of mental disease or defect and proceed to commitment. The judgment is interlocutory to the commitment order and reviewable upon appeal. Under this bill, the court must proceed to a dispositional hearing and the commitment order is the final order and is appealable as a matter of right. Upon appeal, this bill provides that all properly preserved issues, including those relating to the guilt phase of the trial, may be raised.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 6.10 (7m) (a) (intro.) of the statutes is amended to read:

6.10 **(7m)** (a) (intro.) The residence of a person who is detained, or committed and institutionalized, under s. 51.20~~, 971.14, or 971.17~~ or ch. 975 or 980 shall be determined by applying the standards under sub. (1) to whichever of the following dates is applicable to the circumstances of the person:

SECTION 2. 6.10 (7m) (a) 2. of the statutes is amended to read:

6.10 **(7m)** (a) 2. For a person committed under ~~s. 971.14 or 971.17~~ ch. 975, the date of the offense or alleged offense that resulted in the person's commitment.

SECTION 3. 13.35 (2) of the statutes is amended to read:

13.35 **(2)** The immunity provided under sub. (1) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 4. 16.84 (2) of the statutes is amended to read:

16.84 **(2)** Appoint such number of police officers as is necessary to safeguard all public property placed by law in the department's charge, and provide, by agreement with any other state agency, police and security services at buildings and facilities owned, controlled, or occupied by the other state agency. The governor or the department may, to the extent it is necessary, authorize police officers employed by the department to safeguard state officers, state employees, or other persons. A police officer who is employed by the department and who is performing duties that are within the scope of his or her employment as a police officer has the powers of a peace officer under s. 59.28, except that the officer has the arrest powers of a law enforcement officer under s. ~~968.07~~ 969.16 regardless of whether the violation is punishable by forfeiture or criminal penalty. The officer may exercise the powers of a peace officer and the arrest powers of a law enforcement officer while located anywhere within this state. Nothing in this subsection limits or impairs the duty of

the chief and each police officer of the police force of the municipality in which the property is located to arrest and take before the proper court or magistrate persons found in a state of intoxication or engaged in any disturbance of the peace or violating any state law in the municipality in which the property is located, as required by s. 62.09 (13).

SECTION 5. 17.16 (7) (b) of the statutes is amended to read:

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

SECTION 6. 19.32 (1b) of the statutes is amended to read:

19.32 **(1b)** "Committed person" means a person who is committed under ch. 975, 2013 stats., or ch. 51, ~~971,~~ 975, or 980 and who is placed in an inpatient treatment facility, during the period that the person's placement in the inpatient treatment facility continues.

SECTION 7. 20.435 (2) (bj) of the statutes is amended to read:

20.435 **(2)** (bj) *Competency examinations and treatment, and conditional release, supervised release, and community supervision services.* Biennially, the amounts in the schedule for outpatient competency examinations and treatment services; and for payment by the department of costs for treatment and services for persons released under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s. ~~971.17 (3) (d) or (4) (e)~~ 975.57, 975.59, or 980.08 (4) (g) or for persons who are inmates of the department of corrections who are released on community supervision, for which the department has contracted with county departments under s. 51.42 (3) (aw) 1. d., with other public agencies, or with private agencies to provide the treatment and services.

SECTION 8. 20.435 (2) (gk) of the statutes is amended to read:

20.435 **(2)** (gk) *Institutional operations and charges.* The amounts in the schedule for care, other than under s. 51.06 (1r), provided by the centers for the developmentally disabled, to reimburse the cost of providing the services and to remit any credit balances to county departments that occur on and after July 1, 1978, in accordance with s. 51.437 (4rm) (c); for care, other than under s. 46.043, provided by the mental health institutes, to reimburse the cost of providing the services and to remit any credit balances to county departments that occur on and after January 1, 1979, in accordance with s. 51.42 (3) (as) 2.; for maintenance of state–owned housing at centers for the developmentally disabled and mental health institutes; for repair or replacement of property damaged at the mental health institutes or at centers for the developmentally disabled; and for reimbursing the total cost of using, producing, and providing services, products, and care. All moneys received as payments from medical assistance on and after August 1, 1978; as payments from all other sources including other payments under s. 46.10 and payments under s. 51.437 (4rm) (c) received on and after July 1, 1978; as medical assistance payments, other payments under s. 46.10, and payments under s. 51.42 (3) (as) 2. received on and after January 1, 1979; as payments for the rental of state–owned housing and other institutional facilities at centers for the developmentally disabled and mental health institutes; for the sale of electricity, steam, or chilled water; as payments in restitution of property damaged at the mental health institutes or at centers for the developmentally disabled; for the sale of surplus property, including vehicles, at the mental health institutes or at centers for the developmentally disabled; and for other services, products, and care shall be credited to this appropriation, except that any payment under s. 46.10 received for the care or treatment of patients admitted under s. 51.10, 51.15, or 51.20 for which

the state is liable under s. 51.05 (3), of forensic patients committed under ch. ~~971~~ 975, 2013 stats., or ch. 975, admitted under ch. 975, 2013 stats., or transferred under s. 51.35 (3), or of patients transferred from a state prison under s. 51.37 (5), to the Mendota Mental Health Institute or the Winnebago Mental Health Institute shall be treated as general purpose revenue — earned, as defined under s. 20.001 (4); and except that moneys received under s. 51.06 (6) may be expended only as provided in s. 13.101 (17).

SECTION 9. 20.550 (1) (f) of the statutes is amended to read:

20.550 **(1)** (f) *Transcripts, discovery, and interpreters.* The amounts in the schedule for the costs of interpreters and discovery materials and for the compensation of court reporters or clerks of circuit court for preliminary examination, trial, and appeal transcripts, and the payment of related costs under s. ~~967.06 (3)~~ 977.072.

SECTION 10. 23.33 (4c) (b) 3. of the statutes is amended to read:

23.33 **(4c)** (b) 3. 'Related charges.' A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of subd. 1., 2., or 2m. in the complaint, the crimes shall be joined under s. ~~971.12~~ 970.13. If the person is found guilty of any combination of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under sub. (13) (b) 2. and 3. Subdivisions 1., 2., and 2m. each require proof of a fact for conviction which the others do not require.

SECTION 11. 23.56 (1) of the statutes is amended to read:

23.56 **(1)** A person may be arrested for a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77, after a warrant that substantially complies with s. ~~968.04~~ 969.20 has been issued. Except as provided in sub. (2), the person arrested shall be brought without unreasonable delay before a court having jurisdiction to try the action.

SECTION 12. 23.65 (2) of the statutes is amended to read:

23.65 **(2)** The complaint shall be prepared in the form specified in s. 23.55. After a complaint is prepared, it shall be filed with the judge and a summons shall be issued or the complaint shall be dismissed pursuant to s. ~~968.03~~ 969.20. Such filing commences the action.

SECTION 13. 29.921 (6) of the statutes is amended to read:

29.921 **(6)** SEARCH WARRANTS; SUBPOENAS. In executing search warrants and subpoenas under this chapter where the penalty for the violation is a forfeiture, the department shall use procedures which comply with ss. ~~968.12~~ 968.465, 968.485, 968.495, 968.506, 968.605, 968.615, and ~~968.135 to 968.19~~ 968.705.

SECTION 14. 29.938 (2) of the statutes is amended to read:

29.938 **(2)** Property turned over to the department under s. ~~968.20 (3)~~ 175.27 (1).

SECTION 15. 29.972 (1) (a) of the statutes is amended to read:

29.972 **(1)** (a) Fails to respond to a summons under s. 23.66 (3) or 23.67 (4), or a warrant or summons under s. ~~968.04~~ 969.20.

SECTION 16. 29.972 (1) (c) of the statutes is amended to read:

29.972 **(1)** (c) Fails to appear before the court and is subject to a bench warrant under s. ~~968.09~~ 969.50.

SECTION 17. 30.681 (2) (c) of the statutes is amended to read:

30.681 **(2)** (c) *Related charges.* A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of par. (a) or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of par. (a) or (b) 1., 1m., or 2. in the complaint, the crimes shall be joined under s. ~~971.12~~ 970.13. If the person is found guilty of any combination of par. (a) or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under s. 30.80 (6) (a) 2. and 3. Paragraphs (a) and (b) 1., 1m., and 2. each require proof of a fact for conviction which the others do not require.

SECTION 18. 46.10 (2) of the statutes is amended to read:

46.10 **(2)** Except as provided in subs. (2m) and (14) (b) and (c), any person, including but not limited to a person admitted, committed, protected, or placed under s. 975.01, 1977 stats., s. 975.02, 1977 stats., s. 975.17, 1977 stats., s. 55.05 (5), 2003 stats., ~~and~~ s. 55.06, 2003 stats., ~~and ss.~~ or s. 975.06, 2013 stats., or s. 51.10, 51.13, 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.055, 55.12, 55.13, 55.135, ~~971.14 (2) and (5), 971.17 (1), 975.06 and~~ or 980.06, or ch. 975, receiving care, maintenance, services and supplies provided by any institution in this state including University of Wisconsin Hospitals and Clinics, in which the state is chargeable with all or part of the person's care, maintenance, services and supplies, any person receiving care and services from a county department established under s. 51.42 or 51.437 or from a facility established under s. 49.73, and

any person receiving treatment and services from a public or private agency under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s. ~~971.17 (3) (d) or (4) (e)~~ 975.57 (4), 975.59, or 980.08 (4) (g) and the person's property and estate, including the homestead, and the spouse of the person, and the spouse's property and estate, including the homestead, and, in the case of a minor child, the parents of the person, and their property and estates, including their homestead, and, in the case of a foreign child described in s. 48.839 (1) who became dependent on public funds for his or her primary support before an order granting his or her adoption, the resident of this state appointed guardian of the child by a foreign court who brought the child into this state for the purpose of adoption, and his or her property and estate, including his or her homestead, shall be liable for the cost of the care, maintenance, services and supplies in accordance with the fee schedule established by the department under s. 46.03 (18). If a spouse, widow or minor, or an incapacitated person may be lawfully dependent upon the property for their support, the court shall release all or such part of the property and estate from the charges that may be necessary to provide for those persons. The department shall make every reasonable effort to notify the liable persons as soon as possible after the beginning of the maintenance, but the notice or the receipt thereof is not a condition of liability.

SECTION 19. 46.90 (6) (bt) 8. of the statutes is amended to read:

46.90 **(6)** (bt) 8. To the attorney or guardian ad litem for the elder adult at risk who is the alleged victim named in the record, to assist in preparing for any proceeding under ch. 975, 2013 stats., or ch. 48, 51, 54, 55, 813, ~~971,~~ or 975 pertaining to the alleged victim.

SECTION 20. 48.31 (2) of the statutes is amended to read:

48.31 **(2)** The hearing shall be to the court unless the child, the child's parent, guardian, or legal custodian, the unborn child's guardian ad litem, or the expectant mother of the unborn child exercises the right to a jury trial by demanding a jury trial at any time before or during the plea hearing. If a jury trial is demanded in a proceeding under s. 48.13 or 48.133, the jury shall consist of 6 persons. If a jury trial is demanded in a proceeding under s. 48.42, the jury shall consist of 12 persons unless the parties agree to a lesser number. Chapters 756 and 805 shall govern the selection of jurors. If the hearing involves a child victim or witness, as defined in s. 950.02, the court may order that a deposition be taken by audiovisual means and allow the use of a recorded deposition under s. ~~967.04 (7) to (10) and, with the district attorney, shall comply with s. 971.105~~ 967.22. At the conclusion of the hearing, the court or jury shall make a determination of the facts, except that in a case alleging a child or an unborn child to be in need of protection or services under s. 48.13 or 48.133, the court shall make the determination under s. 48.13 (intro.) or 48.133 relating to whether the child or unborn child is in need of protection or services that can be ordered by the court. If the court finds that the child or unborn child is not within the jurisdiction of the court or, in a case alleging a child or an unborn child to be in need of protection or services under s. 48.13 or 48.133, that the child or unborn child is not in need of protection or services that can be ordered by the court, or if the court or jury finds that the facts alleged in the petition have not been proved, the court shall dismiss the petition with prejudice.

SECTION 21. 48.315 (4) of the statutes is created to read:

48.315 **(4)** The court and the representative of the public under s. 48.09 shall take appropriate action to ensure a speedy fact–finding and dispositional hearing in order to minimize the time during which any victim of the abuse or neglect addressed

at the hearing or any witness, as defined in s. 950.02 (5), who is a child must endure the stress of his or her involvement in the proceeding. In ruling on any motion or other request for any continuance or delay of the proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well–being of the victim or any child witness.

SECTION 22. 48.396 (2) (dr) of the statutes is amended to read:

48.396 **(2)** (dr) Upon request of the department of corrections or any other person preparing a presentence investigation under s. ~~972.15~~ 973.004 to review court records for the purpose of preparing the presentence investigation, the court shall open for inspection by any authorized representative of the requester the records of the court relating to any child who has been the subject of a proceeding under this chapter.

SECTION 23. 48.78 (2) (d) 1. of the statutes is amended to read:

48.78 **(2)** (d) 1. The subject of a presentence investigation under s. ~~972.15~~ 973.004.

SECTION 24. 48.981 (1) (b) of the statutes is amended to read:

48.981 **(1)** (b) "Community placement" means probation; extended supervision; parole; aftercare; conditional transfer into the community under s. 51.35 (1); conditional transfer or discharge under s. 51.37 (9); placement in a Type 2 residential care center for children and youth or a Type 2 juvenile correctional facility authorized under s. 938.539 (5); conditional release under s. ~~971.17~~ 975.57 or 975.59; supervised release under s. 980.06 or 980.08; participation in the community residential confinement program under s. 301.046, the intensive sanctions program under s. 301.048, the corrective sanctions program under s. 938.533, the intensive supervision program under s. 938.534, or the serious juvenile offender program

under s. 938.538; or any other placement of an adult or juvenile offender in the community under the custody or supervision of the department of corrections, the department of health services, a county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437 or any other person under contract with the department of corrections, the department of health services or a county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437 to exercise custody or supervision over the offender.

SECTION 25. 48.981 (7) (a) 14m. of the statutes is amended to read:

48.981 **(7)** (a) 14m. A judge conducting proceedings under s. ~~968.26~~ 968.105.

SECTION 26. 49.138 (1m) (c) of the statutes is amended to read:

49.138 **(1m)** (c) A member of the family was a victim of domestic abuse, as defined in s. ~~968.075~~ 969.27 (1) (a).

SECTION 27. 49.19 (4) (d) 3. of the statutes is amended to read:

49.19 **(4)** (d) 3. Is the wife of a husband who has been committed to the department pursuant to ch. 975, 2013 stats., irrespective of the probable period of such commitment; or

SECTION 28. 51.05 (2) of the statutes is amended to read:

51.05 **(2)** ADMISSIONS AUTHORIZED BY COUNTIES. The department may not accept for admission to a mental health institute any resident person, except in an emergency, unless the county department under s. 51.42 in the county where the person has residence authorizes the care under s. 51.42 (3) (as). Patients who are committed to the department under s. 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. 975.06, 2013 stats., or s. ~~971.14, 971.17, 975.06, or~~ 980.06, or ch. 975, admitted by the department under s. 975.17, 1977 stats., or are transferred from a juvenile correctional facility or a secured residential care center for children and youth to a

state treatment facility under s. 51.35 (3) or from a jail or prison to a state treatment facility under s. 51.37 (5) are not subject to this section.

SECTION 29. 51.20 (1) (am) of the statutes is amended to read:

51.20 **(1)** (am) If the individual has been the subject of inpatient treatment for mental illness, developmental disability, or drug dependency immediately prior to commencement of the proceedings as a result of a voluntary admission, a commitment or protective placement ordered by a court under this section ~~or~~, s. 55.06, 2003 stats., ~~s. 971.17~~ ch. 975, 2013 stats., or ch. 975, or a protective placement or protective services ordered under s. 55.12, or if the individual has been the subject of outpatient treatment for mental illness, developmental disability, or drug dependency immediately prior to commencement of the proceedings as a result of a commitment ordered by a court under this section, ~~s. 971.17~~ ch. 975, 2013 stats., or ch. 975, the requirements of a recent overt act, attempt or threat to act under par. (a) 2. a. or b., pattern of recent acts or omissions under par. (a) 2. c. or e., or recent behavior under par. (a) 2. d. may be satisfied by a showing that there is a substantial likelihood, based on the subject individual's treatment record, that the individual would be a proper subject for commitment if treatment were withdrawn. If the individual has been admitted voluntarily to an inpatient treatment facility for not more than 30 days prior to the commencement of the proceedings and remains under voluntary admission at the time of commencement, the requirements of a specific recent overt act, attempt or threat to act, or pattern of recent acts or omissions may be satisfied by a showing of an act, attempt or threat to act, or pattern of acts or omissions which took place immediately previous to the voluntary admission. If the individual is committed under s. ~~971.14 (2) or (5)~~ 975.32 or 975.34 at the time proceedings are commenced, or has been discharged from the commitment

immediately prior to the commencement of proceedings, acts, attempts, threats, omissions, or behavior of the subject individual during or subsequent to the time of the offense shall be deemed recent for purposes of par. (a) 2.

SECTION 30. 51.20 (16) (j) of the statutes is amended to read:

51.20 **(16)** (j) This subsection applies to petitions for reexamination that are filed under ch. ~~971, but not s. 971.17, and ch.~~ 975, 2013 stats., and subch. II of ch. 975, except that the petitions shall be filed with the committing court.

SECTION 31. 51.30 (3) (b) of the statutes is amended to read:

51.30 **(3)** (b) An individual's attorney or guardian ad litem and the corporation counsel shall have access to the files and records of the court proceedings under this chapter without the individual's consent and without modification of the records in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, or commitment under this chapter, ch. 975, 2013 stats., or ch. ~~971,~~ 975~~,~~ or 980.

SECTION 32. 51.30 (4) (b) 8m. of the statutes is amended to read:

51.30 **(4)** (b) 8m. To appropriate examiners and facilities in accordance with s. 54.36 (3), ~~971.17 (2) (e), (4) (c), and (7) (c)~~ 975.56 (2), 975.59 (3), or 975.63 (4). The recipient of any information from the records shall keep the information confidential except as necessary to comply with ~~s. 971.17~~ subch. III of ch. 975.

SECTION 33. 51.30 (4) (b) 9. of the statutes is amended to read:

51.30 **(4)** (b) 9. To a facility which is to receive an individual who is involuntarily committed under this chapter, ch. 975, 2013 stats., or ch. 48, 938, ~~971,~~ or 975 upon transfer of the individual from one treatment facility to another. Release of records under this subdivision shall be limited to such treatment records as are required by law, a record or summary of all somatic treatments, and a discharge summary. The

discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but it may not include the patient's complete treatment record. The department shall promulgate rules to implement this subdivision.

SECTION 34. 51.30 (4) (b) 11. of the statutes is amended to read:

51.30 **(4)** (b) 11. To the subject individual's counsel or guardian ad litem and the corporation counsel, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patients' rights under this chapter, ch. 975, 2013 stats., or ch. 48, ~~971,~~ 975, or 980.

SECTION 35. 51.30 (4) (b) 12m. of the statutes is amended to read:

51.30 **(4)** (b) 12m. To any person if the patient was admitted under s. ~~971.14, 971.17 or~~ 980.06, ch. 975, 2013 stats., or ch. 975 or transferred under s. 51.35 (3) or 51.37 and is on unauthorized absence from a treatment facility. Information released under this subdivision is limited to information that would assist in the apprehension of the patient.

SECTION 36. 51.30 (4) (b) 16. of the statutes is amended to read:

51.30 **(4)** (b) 16. If authorized by the secretary or his or her designee, to a law enforcement agency upon request if the individual was admitted under ch. ~~971~~ 975, 2013 stats., or ch. 975 or transferred under s. 51.35 (3) or 51.37. Information released under this subdivision is limited to the individual's name and other identifying information, including photographs and fingerprints, the branch of the court that committed the individual, the crime that the individual is charged with, found not guilty of by reason of mental disease or defect or convicted of, whether or not the individual is or has been authorized to leave the grounds of the institution and

information as to the individual's whereabouts during any time period. In this subdivision "law enforcement agency" has the meaning provided in s. 165.83 (1) (b).

SECTION 37. 51.30 (7) of the statutes is amended to read:

51.30 **(7)** CRIMINAL COMMITMENTS. Except as otherwise specifically provided, this section applies to the treatment records of persons who are committed under ~~chs. 971 and~~ ch. 975, 2013 stats., or ch. 975.

SECTION 38. 51.37 (1) of the statutes is amended to read:

51.37 **(1)** All commitments under s. 975.01, 1977 stats., ~~and~~ s. 975.02, 1977 stats., and ~~under ss. 971.14 (5), 971.17~~ s. 975.06, 2013 stats., and ~~975.06~~ ss. 975.34, 975.55, and 975.57 shall be to the department.

SECTION 39. 51.37 (3) of the statutes is amended to read:

51.37 **(3)** The Mendota and Winnebago mental health institutes may be used for the custody, care and treatment of persons committed or transferred thereto pursuant to this section ~~and chs. 971 and~~, ch. 975, 2013 stats., or ch. 975.

SECTION 40. 51.37 (4) of the statutes is amended to read:

51.37 **(4)** The department may, with the approval of the committing court and the county department under s. 51.42 or 51.437, and subject to s. 51.35, transfer to the care and custody of a county department under s. 51.42 or 51.437 any person in an institution of the department committed under ~~s. 971.14 or 971.17~~ ch. 975, if in its opinion, the mental condition of the person is such that further care is required and can be properly provided under the direction of the county department under s. 51.42 or 51.437.

SECTION 41. 51.37 (9) of the statutes is amended to read:

51.37 **(9)** If in the judgment of the director of Mendota Mental Health Institute, Winnebago Mental Health Institute or the Milwaukee County Mental Health

Complex, any person who is committed under ~~s. 971.14 or 971.17~~ ch. 975 is not in such condition as warrants his or her return to the court but is in a condition to receive a conditional transfer or discharge under supervision, the director shall report to the department of health services, the committing court and the district attorney of the county in which the court is located his or her reasons for the judgment. If the court does not file objection to the conditional transfer or discharge within 60 days of the date of the report, the director may, with the approval of the department of health services, conditionally transfer any person to a legal guardian or other person, subject to the rules of the department of health services. Before a person is conditionally transferred or discharged under supervision under this subsection, the department of health services shall so notify the municipal police department and county sheriff for the area where the person will be residing. The notification requirement does not apply if a municipal department or county sheriff submits to the department of health services a written statement waiving the right to be notified. The department of health services may contract with the department of corrections for the supervision of persons who are transferred or discharged under this subsection.

SECTION 42. 51.37 (10) (am) of the statutes is amended to read:

51.37 **(10)** (am) The director of a state treatment facility may grant to any patient admitted to the facility as a result of a commitment under ch. ~~971~~ 975, 2013 stats., or ch. 975, a home visit for up to 15 days, or a leave for employment or education purposes in which the patient is not absent from the facility for more than 15 days.

SECTION 43. 51.375 (1) (a) of the statutes is amended to read:

51.375 **(1)** (a) "Community placement" means conditional transfer into the community under s. 51.35 (1), conditional release under s. ~~971.17~~ 975.57 or 975.59, parole from a commitment for specialized treatment under ch. 975, 2013 stats., or supervised release under ch. 980.

SECTION 44. 51.39 of the statutes is amended to read:

51.39 Resident patients on unauthorized absence. If any patient who is admitted, transferred, or placed under s. 55.06, 2003 stats., ~~or~~ s. 51.13, 51.15, 51.20, 51.35 (3), 51.37, or 51.45 (11) (b), (12) or (13), ch. 975, 2013 stats., or ch. 55, ~~971,~~ 975, or 980 is on unauthorized absence from a treatment facility, the sheriff or any other law enforcement agency in the county in which the patient is found or in which it is believed the patient may be present, upon the request of the director, shall take charge of and return the patient to the facility. The costs incident to the return shall be paid out of the facility's operating funds and be charged back to the patient's county of residence.

SECTION 45. 51.42 (3) (as) 1m. of the statutes is amended to read:

51.42 **(3)** (as) 1m. A county department shall reimburse a mental health institute at the institute's daily rate for custody of any person who is ordered by a court located in that county to be examined at the mental health institute under s. ~~971.14 (2)~~ 975.32 for all days that the person remains in custody at the mental health institute, beginning 48 hours, not including Saturdays, Sundays, and legal holidays, after the sheriff and county department receive notice under s. ~~971.14 (2) (d)~~ 975.32 (5) that the examination has been completed.

SECTION 46. 51.42 (3) (as) 1r. of the statutes is amended to read:

51.42 **(3)** (as) 1r. A county department shall authorize all care of any patient in a state, local, or private facility under a contractual agreement between the county

department and the facility, unless the county department governs the facility. The need for inpatient care shall be determined by the program director or designee in consultation with and upon the recommendation of a licensed physician trained in psychiatry and employed by the county department or its contract agency. In cases of emergency, a facility under contract with any county department shall charge the county department having jurisdiction in the county where the patient is found. The county department shall reimburse the facility for the actual cost of all authorized care and services less applicable collections under s. 46.036, unless the department of health services determines that a charge is administratively infeasible, or unless the department of health services, after individual review, determines that the charge is not attributable to the cost of basic care and services. Except as provided in subd. 1m., a county department may not reimburse any state institution or receive credit for collections for care received in a state institution by nonresidents of this state, interstate compact clients, transfers under s. 51.35 (3), transfers from Wisconsin state prisons under s. 51.37 (5) (a), commitments under s. 975.01, 1977 stats., ~~or~~ s. 975.02, 1977 stats., <u>or s. 975.06, 2013 stats.,</u> or ~~s. 971.14, 971.17 or 975.06~~ <u>ch. 975</u> or admissions under s. 975.17, 1977 stats., or children placed in the guardianship of the department of children and families under s. 48.427 or 48.43 or under the supervision of the department of corrections under s. 938.183 or 938.355. The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs that are attributable to care and treatment of the client.

SECTION 47. 51.42 (3) (aw) 1. d. of the statutes is amended to read:

51.42 **(3)** (aw) 1. d. Provide treatment and services that are specified in a conditional release plan approved by a court for a person who is a county resident and is conditionally released under s. ~~971.17 (3) or (4)~~ <u>975.57 (4) or 975.59</u> or that are

specified in a supervised release plan approved by a court under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s. 980.08 (4) (g). If the county department provides treatment and services under this subdivision, the department of health services shall, from the appropriation under s. 20.435 (2) (bj), pay the county department for the costs of the treatment and services.

SECTION 48. 51.437 (4rm) (a) of the statutes is amended to read:

51.437 **(4rm)** (a) A county department of developmental disabilities services shall authorize all care of any patient in a state, local, or private facility under a contractual agreement between the county department of developmental disabilities services and the facility, unless the county department of developmental disabilities services governs the facility. The need for inpatient care shall be determined by the program director or designee in consultation with and upon the recommendation of a licensed physician trained in psychiatry and employed by the county department of developmental disabilities services or its contract agency prior to the admission of a patient to the facility except in the case of emergency services. In cases of emergency, a facility under contract with any county department of developmental disabilities services shall charge the county department of developmental disabilities services having jurisdiction in the county where the individual receiving care is found. The county department of developmental disabilities services shall reimburse the facility, except as provided under par. (c), for the actual cost of all authorized care and services less applicable collections under s. 46.036, unless the department of health services determines that a charge is administratively infeasible, or unless the department of health services, after individual review, determines that the charge is not attributable to the cost of basic care and services. The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs

which are attributable to care and treatment of the client. County departments of developmental disabilities services may not reimburse any state institution or receive credit for collections for care received in a state institution by nonresidents of this state, interstate compact clients, transfers under s. 51.35 (3) (a), commitments under s. 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. ~~971.14, 971.17 or~~ 975.06, 2013 stats., or ch. 975, admissions under s. 975.17, 1977 stats., children placed in the guardianship of the department of children and families under s. 48.427 or 48.43 or juveniles under the supervision of the department of corrections under s. 938.183 or 938.355.

SECTION 49. 51.61 (1) (intro.) of the statutes is amended to read:

51.61 **(1)** (intro.) In this section, "patient" means any individual who is receiving services for mental illness, developmental disabilities, alcoholism or drug dependency, including any individual who is admitted to a treatment facility in accordance with this chapter or ch. 48 or 55 or who is detained, committed or placed under this chapter, ch. 975, 2013 stats., or ch. 48, 55, ~~971,~~ 975, or 980, or who is transferred to a treatment facility under s. 51.35 (3) or 51.37 or who is receiving care or treatment for those conditions through the department or a county department under s. 51.42 or 51.437 or in a private treatment facility. "Patient" does not include persons committed under ch. 975, 2013 stats., who are transferred to or residing in any state prison listed under s. 302.01. In private hospitals and in public general hospitals, "patient" includes any individual who is admitted for the primary purpose of treatment of mental illness, developmental disability, alcoholism or drug abuse but does not include an individual who receives treatment in a hospital emergency room nor an individual who receives treatment on an outpatient basis at those

hospitals, unless the individual is otherwise covered under this subsection. Except as provided in sub. (2), each patient shall:

SECTION 50. 51.61 (1) (e) of the statutes is amended to read:

51.61 **(1)** (e) Except in the case of a patient who is admitted or transferred under s. 51.35 (3) or 51.37 ~~or under ch. 971~~, ch. 975, 2013 stats., or ch. 975, have the right to the least restrictive conditions necessary to achieve the purposes of admission, commitment or protective placement, under programs, services and resources that the county board of supervisors or the Milwaukee County mental health board, as applicable, is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds.

SECTION 51. 51.61 (1) (i) 1. of the statutes is amended to read:

51.61 **(1)** (i) 1. Except as provided in subd. 2., have a right to be free from physical restraint and isolation except for emergency situations or when isolation or restraint is a part of a treatment program. Isolation or restraint may be used only when less restrictive measures are ineffective or not feasible and shall be used for the shortest time possible. When a patient is placed in isolation or restraint, his or her status shall be reviewed once every 30 minutes. Each facility shall have a written policy covering the use of restraint or isolation that ensures that the dignity of the individual is protected, that the safety of the individual is ensured, and that there is regular, frequent monitoring by trained staff to care for bodily needs as may be required. Isolation or restraint may be used for emergency situations only when it is likely that the patient may physically harm himself or herself or others. The treatment director shall specifically designate physicians who are authorized to order isolation or restraint, and shall specifically designate licensed psychologists who are authorized to order isolation. If the treatment director is not a physician,

the medical director shall make the designation. In the case of a center for the developmentally disabled, use shall be authorized by the director of the center. The authorization for emergency use of isolation or restraint shall be in writing, except that isolation or restraint may be authorized in emergencies for not more than one hour, after which time an appropriate order in writing shall be obtained from the physician or licensed psychologist designated by the director, in the case of isolation, or the physician so designated in the case of restraint. Emergency isolation or restraint may not be continued for more than 24 hours without a new written order. Isolation may be used as part of a treatment program if it is part of a written treatment plan, and the rights specified in this subsection are provided to the patient. The use of isolation as a part of a treatment plan shall be explained to the patient and to his or her guardian, if any, by the person who provides the treatment. A treatment plan that incorporates isolation shall be evaluated at least once every 2 weeks. Patients who have a recent history of physical aggression may be restrained during transport to or from the facility. Persons who are committed or transferred under s. 51.35 (3) or 51.37, under ch. 975, 2013 stats., or under ch. ~~971 or~~ 975, or who are detained or committed under ch. 980, and who, while under this status, are transferred to a hospital, as defined in s. 50.33 (2), for medical care may be isolated for security reasons within locked facilities in the hospital. Patients who are committed or transferred under ch. 975, 2013 stats., under s. 51.35 (3) or 51.37, or under ch. ~~971 or~~ 975, or who are detained or committed under ch. 980, may be restrained for security reasons during transport to or from the facility.

SECTION 52. 51.87 (3) of the statutes is amended to read:

51.87 **(3)** PURCHASE OF SERVICES. A county department under s. 46.23, 51.42, or 51.437 may contract as provided under this section with public or private agencies

in states bordering on Wisconsin to secure services under this chapter for persons who receive services through the county department, except that services may not be secured for persons committed under ~~s. 971.14 or 971.17~~ ch. 975. Section 46.036 (1) to (6) applies to contracts entered into under this section by county departments under s. 46.23, 51.42, or 51.437.

SECTION 53. 55.043 (6) (bt) 8. of the statutes is amended to read:

55.043 **(6)** (bt) 8. To the attorney or guardian ad litem for the adult at risk who is the alleged victim named in the record, to assist in preparing for any proceeding under this chapter, ch. 975, 2013 stats., or ch. 48, 51, 54, 813, ~~971,~~ or 975 pertaining to the alleged victim.

SECTION 54. 55.075 (intro.) of the statutes is amended to read:

55.075 Protective services or protective placement; petition. (intro.) Except as provided in s. ~~971.14 (6) (b)~~ 975.38:

SECTION 55. 59.34 (2) (a) of the statutes is amended to read:

59.34 **(2)** (a) Notwithstanding s. ~~979.04~~ 968.015 (3) and except as provided in par. (b), any person holding office under sub. (1) may also serve as an emergency medical technician, first responder or fire fighter.

SECTION 56. 66.0113 (3) (e) of the statutes is amended to read:

66.0113 **(3)** (e) A judgment may be entered under par. (d) if the summons or citation was served as provided under s. ~~968.04 (3) (b) 2.~~ 969.22 (2) or by personal service by a county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district employee.

SECTION 57. 66.0114 (1) (a) of the statutes is amended to read:

66.0114 **(1)** (a) An action for violation of an ordinance or bylaw enacted by a city, village, town sanitary district or public inland lake protection and rehabilitation

district is a civil action. All forfeitures and penalties imposed by an ordinance or bylaw of the city, village, town sanitary district or public inland lake protection and rehabilitation district, except as provided in ss. 345.20 to 345.53, may be collected in an action in the name of the city or village before the municipal court or in an action in the name of the city, village, town sanitary district or public inland lake protection and rehabilitation district before a court of record. If the action is in municipal court, the procedures under ch. 800 apply and the procedures under this section do not apply. If the action is in a court of record, it shall be commenced by warrant or summons under s. ~~968.04~~ 969.20 or, if applicable, by citation under s. 778.25 or 778.26. A law enforcement officer may arrest the offender in all cases without warrant under s. ~~968.07~~ 969.16. If the action is commenced by warrant the affidavit may be the complaint. The affidavit or complaint is sufficient if it alleges that the defendant has violated an ordinance or bylaw, specifying the ordinance or bylaw by section, chapter, title or otherwise with sufficient plainness to identify the ordinance or bylaw. The judge may release a defendant without a cash deposit or may permit him or her to execute an unsecured appearance bond upon arrest. In arrests without a warrant or summons a statement on the records of the court of the offense charged is the complaint unless the court directs that a formal complaint be issued. In all actions under this paragraph the defendant's plea shall be guilty, not guilty or no contest and shall be entered as not guilty on failure to plead. A plea of not guilty on failure to plead puts all matters in the case at issue, any other provision of law notwithstanding. The defendant may enter a not guilty plea by certified mail.

SECTION 58. 66.0139 (4) and (5) of the statutes are amended to read:

66.0139 **(4)** Except as provided in s. ~~968.20 (3)~~ 175.27 (1), a 1st class city shall dispose of abandoned or unclaimed dangerous weapons or ammunition without a

public auction 12 months after taking possession of them if the owner has not requested their return. Disposal procedures shall be established by ordinance or resolution and may include provisions authorizing an attempt to return to the rightful owner any dangerous weapons or ammunition which appear to be stolen or are reported stolen. If enacted, a disposal procedure shall include a presumption that if the dangerous weapons or ammunition appear to be or are reported stolen an attempt will be made to return the dangerous weapons or ammunition to the rightful owner. The dangerous weapons or ammunition are subject to sub. (5).

(5) A political subdivision may retain or dispose of any abandoned, unclaimed, or seized dangerous weapon or ammunition only under ~~s. 968.20~~ ss. 175.27 and 968.625.

SECTION 59. 69.18 (2) (f) 3. of the statutes is amended to read:

69.18 **(2)** (f) 3. A person signing a medical certification under par. (b), (c), or (d) shall note on the certificate if the cause of death of the subject of the certificate is unknown~~,~~ or undetermined or if the determination of the cause of death is pending and shall submit to the state registrar within 30 days after the pronouncement of death an amendment to the medical certification which satisfies the requirements of subd. 1., except that such amendment may exclude information which is unavailable pending the determination of an inquest under s. ~~979.04~~ 968.015.

SECTION 60. 71.78 (4) (n) of the statutes is amended to read:

71.78 **(4)** (n) The state public defender and the department of administration for the purpose of collecting payment ordered under s. 48.275 (2), 757.66, 973.06 (1) (e), or 977.076 ~~(1)~~.

SECTION 61. 77.61 (12) (b) of the statutes is amended to read:

77.61 **(12)** (b) The immunity provided under par. (a) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 62. 93.17 (2) of the statutes is amended to read:

93.17 **(2)** The immunity provided under sub. (1) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 63. 102.13 (5) of the statutes is amended to read:

102.13 **(5)** The department may refuse to receive testimony as to conditions determined from an autopsy if it appears that the party offering the testimony had procured the autopsy and had failed to make reasonable effort to notify at least one party in adverse interest or the department at least 12 hours before the autopsy of the time and place it would be performed, or that the autopsy was performed by or at the direction of the coroner or medical examiner or at the direction of the district attorney for purposes not authorized by subch. I of ch. 968 or ch. 979. The department may withhold findings until an autopsy is held in accordance with its directions.

SECTION 64. 103.005 (20) of the statutes is amended to read:

103.005 **(20)** The department shall establish a procedure for the department to provide to the state public defender and the department of administration any information that the department may have concerning an individual's wages to assist the state public defender and the department of administration in collecting payment ordered under s. 48.275 (2), 757.66, 973.06 (1) (e), or 977.076 ~~(1)~~.

SECTION 65. 103.10 (1m) (b) 1. of the statutes is amended to read:

103.10 **(1m)** (b) 1. "Domestic abuse" has the meaning given in s. ~~968.075~~ 969.27 (1) (a).

SECTION 66. 110.001 (1m) of the statutes is amended to read:

110.001 **(1m)** "Law enforcement officer" has the meaning given in s. ~~967.02 (5)~~ 967.025 (13).

SECTION 67. 110.07 (2m) of the statutes is amended to read:

110.07 **(2m)** In addition to the primary powers granted by subs. (1) and (2), any officer of the state traffic patrol shall have the powers of a peace officer under s. 59.28, except that the officer shall have the arrest powers of a law enforcement officer under s. ~~968.07~~ 969.16, regardless of whether the violation is punishable by forfeiture or criminal penalty. A state traffic officer shall at all times be available as a witness for the state but may not conduct investigations for crimes under chs. 939 to 948 other than crimes relating to the use or operation of vehicles. The primary duty of a state traffic officer shall be the enforcement of chs. 340 to 351 or of any other law relating to the use or operation of vehicles upon the highway. No state traffic officer shall be used in or take part in any dispute or controversy between employer or employee concerning wages, hours, labor or working conditions; nor shall any such officer be required to serve civil process. The department may assign state traffic officers to safeguard state officers or other persons.

SECTION 68. 110.07 (4) of the statutes is amended to read:

110.07 **(4)** In addition to the primary powers granted by sub. (3), any inspector shall have the powers of a peace officer under s. 59.28, except that the inspector shall have the arrest powers of a law enforcement officer under s. ~~968.07~~ 969.16, regardless of whether the violation is punishable by forfeiture or criminal penalty. An inspector shall at all times be available as a witness for the state but may not conduct investigations for crimes under chs. 939 to 948 other than crimes relating to the use or operation of vehicles. The primary duty of an inspector shall be the enforcement of the provisions specified in sub. (3). No inspector may be used in or

take part in any dispute or controversy between employer or employee concerning wages, hours, labor or working conditions; nor may an inspector be required to serve civil process. The department may assign inspectors to safeguard state officers or other persons.

SECTION 69. 111.07 (2) (b) 2. of the statutes is amended to read:

111.07 **(2)** (b) 2. The immunity provided under subd. 1. is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 70. 128.16 (2) of the statutes is amended to read:

128.16 **(2)** The immunity provided under sub. (1) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 71. 133.15 (2) of the statutes is amended to read:

133.15 **(2)** The immunity provided under sub. (1) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 72. 134.43 (3) of the statutes is amended to read:

134.43 **(3)** Any person who is the victim of an intrusion of privacy under this section is entitled to relief under s. 995.50 (1) and (4) unless the act is permissible under ~~ss. 968.27 to 968.373~~ subch. IV of ch. 968.

SECTION 73. 139.20 (2) of the statutes is amended to read:

139.20 **(2)** The immunity provided under sub. (1) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 74. 139.39 (5) (b) of the statutes is amended to read:

139.39 **(5)** (b) The immunity provided under par. (a) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 75. 146.81 (4) of the statutes is amended to read:

146.81 **(4)** "Patient health care records" means all records related to the health of a patient prepared by or under the supervision of a health care provider; and all records made by an ambulance service provider, as defined in s. 256.01 (3), an emergency medical technician, as defined in s. 256.01 (5), or a first responder, as defined in s. 256.01 (9), in administering emergency care procedures to and handling and transporting sick, disabled, or injured individuals. "Patient health care records" includes billing statements and invoices for treatment or services provided by a health care provider and includes health summary forms prepared under s. 302.388 (2). "Patient health care records" does not include those records subject to s. 51.30, reports collected under s. 69.186, records of tests administered under s. 252.15 (5g) or (5j), 343.305, 938.296 (4) or (5), or ~~968.38~~ 968.725 (4) or (5), records related to sales of pseudoephedrine products, as defined in s. 961.01 (20c), that are maintained by pharmacies under s. 961.235, fetal monitor tracings, as defined under s. 146.817 (1), or a pupil's physical health records maintained by a school under s. 118.125.

SECTION 76. 146.82 (2) (c) of the statutes is amended to read:

146.82 **(2)** (c) Notwithstanding sub. (1), patient health care records shall be released to appropriate examiners and facilities in accordance with s. ~~971.17 (2) (e), (4) (c), and (7) (c)~~ 975.56 (2), 975.59 (3), and 975.63 (4). The recipient of any information from the records shall keep the information confidential except as necessary to comply with ~~s. 971.17~~ subch. III of ch. 975.

SECTION 77. 154.30 (3) (a) 2. of the statutes is amended to read:

154.30 **(3)** (a) 2. Any power or duty of a coroner, medical examiner, or other physician licensed to perform autopsies with respect to the reporting of certain deaths~~,~~ and the performance of autopsies~~,~~ under ch. 979 and with respect to inquests under subch. I of ch. ~~979~~ 968.

SECTION 78. 165.76 (1) (bm) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

165.76 **(1)** (bm) Has been found not guilty or not responsible by reason of mental disease or defect on or after August 12, 1993, and committed under s. 51.20 or ~~971.17~~ subch. III of ch. 975 for any violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.085.

SECTION 79. 165.76 (1) (br) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

165.76 **(1)** (br) Has been found not guilty or not responsible by reason of mental disease or defect on or after January 1, 2000, and committed under s. 51.20 or ~~971.17~~ subch. III of ch. 975, for any felony or a violation of s. 165.765 (1), 2011 stats., or of s. 940.225 (3m), 944.20, 946.52, or 948.10 (1) (b).

SECTION 80. 165.76 (1) (g) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

165.76 **(1)** (g) Has been required by a court under s. 51.20 (13) (cr), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2) (a), or 980.063 to provide a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis.

SECTION 81. 165.76 (1m) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

165.76 **(1m)** If a person is required to provide a biological specimen under sub. (1) (a) to (gm) and the department of justice does not have the data obtained from analysis of a biological specimen from the person that the department is required to maintain in the data bank under s. 165.77 (3), the department may require the person to provide a biological specimen, regardless of whether the person previously

provided a biological specimen under this section or s. 51.20 (13) (cr), 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2) (a), or 980.063. The department of justice, the department of corrections, a district attorney, or a county sheriff, shall notify any person whom the department of justice requires to provide a biological specimen under this subsection.

SECTION 82. 165.76 (2m) (g) of the statutes is amended to read:

165.76 **(2m)** (g) If the person has been committed to the department of health services under s. 51.20 or ~~971.17~~ subch. III of ch. 975 or found to be a sexually violent person under ch. 980, as directed by the department of health services.

SECTION 83. 165.76 (4) (a) and (b) of the statutes, as created by 2013 Wisconsin Act 20, are amended to read:

165.76 **(4)** (a) Establish procedures and time limits for obtaining and submitting biological specimens under this section and ss. 51.20 (13) (cr), 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2) (a), and 980.063.

(b) Specify whether an individual who is required under this section or s. 51.20 (13) (cr), 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2) (a), or 980.063 to provide a biological specimen for deoxyribonucleic acid analysis must provide a new biological specimen if the crime laboratories already have a biological specimen from the individual or if data obtained from deoxyribonucleic acid analysis of the individual's biological specimen are already included in the data bank under s. 165.77 (3).

SECTION 84. 165.76 (4) (c) of the statutes, as affected by 2013 Wisconsin Act 214, is amended to read:

165.76 **(4)** (c) Allow a biological specimen, or data obtained from analysis of a biological specimen, obtained under this section, under s. 51.20 (13) (cr), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2) (a), or 980.063, or, if the specimen is required to be analyzed under s. 165.84 (7) (am) 1m., under s. 165.84 (7) (ah), to be submitted for inclusion in an index established under 42 USC 14132 (a) or in another national index system.

SECTION 85. 165.765 (1m) of the statutes, as created by 2013 Wisconsin Act 20, is amended to read:

165.765 **(1m)** A law enforcement officer; a jail officer; a tribal officer; a correctional officer; a probation, extended supervision, or parole officer; or an employee of the department of health services may use reasonable force to obtain a biological specimen from a person who intentionally refuses to provide a biological specimen that is required under s. 165.76 (1), 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), or ~~970.02 (8)~~ 971.027 (7).

SECTION 86. 165.765 (2) (a) 1. of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

165.765 **(2)** (a) 1. Any physician, registered nurse, medical technologist, physician assistant, or person acting under the direction of a physician who obtains a biological specimen under s. 51.20 (13) (cr), 165.76, 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2) (a), or 980.063 is immune from any civil or criminal liability for the act, except for civil liability for negligence in the performance of the act.

SECTION 87. 165.77 (2) (b) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

165.77 **(2)** (b) Paragraph (a) does not apply to specimens received under s. 51.20 (13) (cr), 165.76, 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2) (a), or 980.063.

SECTION 88. 165.77 (2m) (c) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

165.77 **(2m)** (c) Paragraph (b) does not apply to specimens received under s. 51.20 (13) (cr), 165.76, 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2) (a), or 980.063.

SECTION 89. 165.77 (3) of the statutes, as affected by 2013 Wisconsin Act 214, is amended to read:

165.77 **(3)** If the laboratories receive a human biological specimen under s. 51.20 (13) (cr), 165.76, 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2) (a), or 980.063, the laboratories shall analyze the deoxyribonucleic acid in the specimen. If the laboratories receive a human biological specimen under s. 165.84 (7) (ah), the laboratories shall analyze the deoxyribonucleic acid in the specimen as provided under s. 165.84 (7) (am) 1m. The laboratories shall maintain a data bank based on data obtained from deoxyribonucleic acid analysis of those specimens. The laboratories may compare the data obtained from one specimen with the data obtained from other specimens. The laboratories may make data obtained from any analysis and comparison available to law enforcement agencies in connection with criminal or delinquency investigations and, upon request, to any prosecutor, defense attorney or subject of the data. The data may be used in criminal and delinquency actions and proceedings.

SECTION 90. 165.77 (4) (am) 1. of the statutes, as created by 2013 Wisconsin Act 20, is amended to read:

165.77 **(4)** (am) 1. If the person was required to submit a biological specimen under s. 51.20 (13) (cr), 165.76, 938.34 (15), ~~971.17 (1m) (a),~~ 973.047, 975.54 (2) (a), or 980.063, all convictions, findings, or adjudications for which the person was required to submit a biological specimen under s. 51.20 (13) (cr), 165.76, 938.34 (15), ~~971.17 (1m) (a),~~ 973.047, 975.54 (2) (a), or 980.063 have been reversed, set aside, or vacated.

SECTION 91. 165.77 (4) (am) 2. (intro.) of the statutes, as created by 2013 Wisconsin Act 20, is amended to read:

165.77 **(4)** (am) 2. (intro.) If the person was required to provide a biological specimen under s. 165.84 (7) in connection with an arrest or under s. ~~970.02 (8)~~ 971.027 (7), one of the following applies:

SECTION 92. 165.77 (4) (am) 2. a., b. and d. of the statutes, as affected by 2013 Wisconsin Act 214, are amended to read:

165.77 **(4)** (am) 2. a. All charges for which the person was required to provide a biological specimen under s. 165.84 (7) or ~~970.02 (8)~~ 971.027 (7) have been dismissed.

b. The trial court reached final disposition for all charges for which the person was required to provide a biological specimen under s. 165.84 (7) or ~~970.02 (8)~~ 971.027 (7), and the person was not adjudged guilty of a violent crime in connection with any such charge.

d. The person was adjudged guilty of a violent crime in connection with any charge for which the person was required to provide a biological specimen under s. 165.84 (7) or ~~970.02 (8)~~ 971.027 (7), and all such convictions for a violent crime have been reversed, set aside, or vacated.

SECTION 93. 165.79 (1) of the statutes is amended to read:

165.79 **(1)** Evidence, information, and analyses of evidence obtained from law enforcement officers by the laboratories is privileged and not available to persons other than law enforcement officers nor is the defendant entitled to an inspection of information and evidence submitted to the laboratories by the state or of a laboratory's findings, or to examine laboratory personnel as witnesses concerning the same, prior to trial, except to the extent that the same is used by the state at a preliminary hearing and except as provided in ~~s. 971.23~~ subch. IV of ch. 971. Upon request of a defendant in a felony action, approved by the presiding judge, the laboratories shall conduct analyses of evidence on behalf of the defendant. No prosecuting officer is entitled to an inspection of information and evidence submitted to the laboratories by the defendant, or of a laboratory's findings, or to examine laboratory personnel as witnesses concerning the same, prior to trial, except to the extent that the same is used by the accused at a preliminary hearing and except as provided in ~~s. 971.23~~ subch. IV of ch. 971. Employees who made examinations or analyses of evidence shall attend the criminal trial as witnesses, without subpoena, upon reasonable written notice from either party requesting the attendance.

SECTION 94. 165.81 (1) of the statutes is amended to read:

165.81 **(1)** Whenever the department is informed by the submitting officer or agency that physical evidence in the possession of the laboratories is no longer needed the department may, except as provided in sub. (3) or unless otherwise provided by law, destroy the evidence, retain it in the laboratories, return it to the submitting officer or agency, or turn it over to the University of Wisconsin upon the request of the head of any department of the University of Wisconsin. If the department returns the evidence to the submitting officer or agency, any action taken by the officer or agency with respect to the evidence shall be in accordance with

~~s. 968.20~~ ss. 175.27 and 968.625. Except as provided in sub. (3), whenever the department receives information from which it appears probable that the evidence is no longer needed, the department may give written notice to the submitting agency and the appropriate district attorney, by registered mail, of the intention to dispose of the evidence. If no objection is received within 20 days after the notice was mailed, it may dispose of the evidence.

SECTION 95. 165.81 (3) (a) 1. and 2., (b) and (f) of the statutes are amended to read:

165.81 **(3)** (a) 1. "Custody" has the meaning given in s. ~~968.205~~ 968.645 (1) (a).

2. "Discharge date" has the meaning given in s. ~~968.205~~ 968.645 (1) (b).

(b) Except as provided in par. (c), if physical evidence that is in the possession of the laboratories includes any biological material that was collected in connection with a criminal investigation that resulted in a criminal conviction, a delinquency adjudication, or commitment under s. ~~971.17 or~~ 980.06 ~~and the biological material is from a victim of the offense that was the subject of the criminal investigation or may reasonably be used to incriminate or exculpate any person for the offense~~ or subch. III of ch. 975, the laboratories shall preserve the physical evidence until every person in custody as a result of the conviction, adjudication, or commitment has reached his or her discharge date.

(f) Unless otherwise provided in a court order issued under s. 974.07 (9) (a) or (b) or (10) (a) 5., nothing in this subsection prohibits the laboratories from returning evidence that must be preserved under par. (b) or (e) to the agency that submitted the evidence to the laboratories. If the laboratories return evidence that must be preserved under par. (b) or (e) to a submitting agency, any action taken by the agency with respect to the evidence shall be in accordance with s. ~~968.205~~ 968.645.

SECTION 96. 165.84 (7) (am) 1m. c. of the statutes, as affected by 2013 Wisconsin Act 214, is amended to read:

165.84 **(7)** (am) 1m. c. The individual failed to appear at the initial appearance or preliminary examination or the person waived the preliminary examination under s. 971.042.

SECTION 97. 167.10 (8) (b) of the statutes is amended to read:

167.10 **(8)** (b) Fireworks stored, handled, sold, possessed, or used by a person who violates this section, an ordinance adopted under sub. (5), or a court order under par. (a) may be seized and held as evidence of the violation. Except as provided in s. ~~968.20 (4)~~ 175.27 (2), only the fireworks that are the subject of a violation of this section, an ordinance adopted under sub. (5), or a court order under par. (a) may be destroyed after conviction for a violation. Except as provided in s. ~~968.20 (4)~~ 175.27 (2), fireworks that are seized as evidence of a violation for which no conviction results shall be returned to the owner in the same condition as they were when seized to the extent practicable.

SECTION 98. 169.42 (2) (b) of the statutes is amended to read:

169.42 **(2)** (b) A conservation warden and the department shall comply with the applicable procedures under ss. 29.931, 29.934, and ~~968.20~~ 968.625 as they relate to seized and confiscated wild animals, carcasses, vehicles, boats, or other objects or property.

SECTION 99. 173.10 of the statutes is amended to read:

173.10 Investigation of cruelty complaints. A person may apply for a search warrant under s. ~~968.12~~ 968.465 if there is reason to believe that a violation of ch. 951 has taken place or is taking place. If the court is satisfied that probable cause exists, it shall issue a search warrant directing a law enforcement officer in the

county to proceed immediately to the location of the alleged violation with a doctor of veterinary medicine, if the court determines that a veterinarian is necessary for purposes of the search, and directing the law enforcement officer to search the place designated in the warrant, retaining in his or her custody subject to the order of the court such property or things as are specified in the warrant, including any animal. If the person applying for the search warrant is a humane officer, the warrant shall direct that the humane officer accompany the law enforcement officer who is directed to perform the search. The warrant shall be executed and returned to the court which issued the warrant in accordance with ss. ~~968.15~~ 968.495 and ~~968.17~~ 968.506. This section does not affect other powers and duties of law enforcement officers.

SECTION 100. 173.12 (1m) of the statutes is amended to read:

173.12 **(1m)** If an animal has been seized because it is alleged that the animal has been used in or constitutes evidence of any crime specified in s. 951.08, the animal may not be returned to the owner by an officer under s. ~~968.20~~ 968.625 (2). In any hearing under s. ~~968.20~~ 968.625 (1), the court shall determine if the animal is needed as evidence or there is reason to believe that the animal has participated in or been trained for fighting. If the court makes such a finding, the animal shall be retained in custody.

SECTION 101. 175.27 (title) of the statutes is created to read:

175.27 (title) **Seized dangerous property.**

SECTION 102. 175.55 (2) of the statutes is amended to read:

175.55 **(2)** No Wisconsin law enforcement agency may use a drone to gather evidence or other information in a criminal investigation from or at a place or location where an individual has a reasonable expectation of privacy without first obtaining a search warrant under s. ~~968.12~~ 968.465. This subsection does not apply to the use

of a drone in a public place or to assist in an active search and rescue operation, to locate an escaped prisoner, to surveil a place or location for the purpose of executing an arrest warrant, or if a law enforcement officer has reasonable suspicion to believe that the use of a drone is necessary to prevent imminent danger to an individual or to prevent imminent destruction of evidence.

SECTION 103. 175.60 (3) (d) of the statutes is amended to read:

175.60 **(3)** (d) The court has prohibited the individual from possessing a dangerous weapon under s. ~~969.02 (3) (c) or 969.03 (1) (c)~~ 969.33 (5) (b).

SECTION 104. 175.60 (3) (e) of the statutes is amended to read:

175.60 **(3)** (e) The individual is on release under s. ~~969.01~~ 969.31 and the individual may not possess a dangerous weapon as a condition of the release.

SECTION 105. 175.60 (9g) (a) 2. of the statutes is amended to read:

175.60 **(9g)** (a) 2. The department shall conduct a criminal history record search and shall search its records and conduct a search in the national instant criminal background check system to determine whether the applicant is prohibited from possessing a firearm under federal law; whether the applicant is prohibited from possessing a firearm under s. 941.29; whether the applicant is prohibited from possessing a firearm under s. 51.20 (13) (cv) 1., 2007 stats.; whether the applicant has been ordered not to possess a firearm under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a); whether the applicant is subject to an injunction under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he or she is subject to the requirements and penalties under s. 941.29 and that has been filed with the circuit court under s. 806.247 (3); and

whether the applicant is prohibited from possessing a firearm under s. 813.123 (5m) or 813.125 (4m); and to determine if the court has prohibited the applicant from possessing a dangerous weapon under s. ~~969.02 (3) (c) or 969.03 (1) (c)~~ 969.33 (5) (b) and if the applicant is prohibited from possessing a dangerous weapon as a condition of release under s. ~~969.01~~ 969.31.

SECTION 106. 175.60 (11) (a) 2. b. of the statutes is amended to read:

175.60 **(11)** (a) 2. b. The individual is found incompetent under s. ~~971.14~~ 975.34 (6) (b).

SECTION 107. 175.60 (11) (a) 2. c. of the statutes is amended to read:

175.60 **(11)** (a) 2. c. The individual is found not guilty of any crime by reason of mental disease or mental defect ~~under s. 971.17~~.

SECTION 108. 175.60 (11) (a) 2. g. of the statutes is amended to read:

175.60 **(11)** (a) 2. g. A court has prohibited the individual from possessing a dangerous weapon under s. ~~969.02 (3) (c) or 969.03 (1) (c)~~ 969.33 (5) (b).

SECTION 109. 175.60 (11) (a) 2. i. of the statutes is amended to read:

175.60 **(11)** (a) 2. i. The individual is on release under s. ~~969.01~~ 969.31 and the individual may not possess a dangerous weapon as a condition of the release.

SECTION 110. 175.60 (14) (am) of the statutes is amended to read:

175.60 **(14)** (am) The department shall suspend a license issued under this section if a court has prohibited the licensee from possessing a dangerous weapon under s. ~~969.02 (3) (c) or 969.03 (1) (c)~~ 969.33 (5) (b). If the individual whose license was suspended is no longer subject to the prohibition under s. ~~969.02 (3) (c) or 969.03 (1) (c), whichever is applicable~~ 969.33 (5) (b), sub. (3) (b), (c), (d), (e), (f), or (g) does not apply to the individual, and the suspended license would not have expired under sub. (15) (a) had it not been suspended, the department shall restore the license

within 5 business days of notification that the licensee is no longer subject to the prohibition.

SECTION 111. 195.048 (2) of the statutes is amended to read:

195.048 **(2)** The immunity provided under sub. (1) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 112. 196.207 (3) (e) of the statutes is amended to read:

196.207 **(3)** (e) A trap and trace device as authorized under ss. ~~968.34~~ 968.376 to ~~968.37~~ 968.405.

SECTION 113. 196.48 (1) (b) of the statutes is amended to read:

196.48 **(1)** (b) The immunity provided under par. (a) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 114. 230.81 (2) of the statutes is amended to read:

230.81 **(2)** Nothing in this section prohibits an employee from disclosing information to an appropriate law enforcement agency, a state or federal district attorney in whose jurisdiction the crime is alleged to have occurred, a state or federal grand jury, or a judge in a proceeding commenced under s. ~~968.26~~ 968.105, or disclosing information pursuant to any subpoena issued by any person authorized to issue subpoenas under s. 885.01. Any such disclosure of information is a lawful disclosure under this section and is protected under s. 230.83.

SECTION 115. 251.16 of the statutes is amended to read:

251.16 Local health department; evidence. The reports and employees of a local health department are subject to ~~s. 970.03 (12) (b)~~ ss. 971.042 (9) (b) and 971.75 (7) (b).

SECTION 116. 252.11 (5m) of the statutes is amended to read:

252.11 **(5m)** A health care professional, as defined in s. ~~968.38~~ 968.725 (1) (a), acting under an order of a court under s. 938.296 (4) or ~~968.38~~ 968.725 (4) may, without first obtaining informed consent to the testing, subject an individual to a test or a series of tests to ascertain whether that individual is infected with a sexually transmitted disease. No sample used for performance of a test under this subsection may disclose the name of the test subject.

SECTION 117. 252.11 (7) of the statutes is amended to read:

252.11 **(7)** Reports, examinations, and inspections and all records concerning sexually transmitted diseases are confidential and not open to public inspection, and may not be divulged except as may be necessary for the preservation of the public health, in the course of commitment proceedings under sub. (5), or as provided under s. 938.296 (4) or ~~968.38~~ 968.725 (4). If a physician, physician assistant, or advanced practice nurse prescriber has reported a case of sexually transmitted disease to the department under sub. (4), information regarding the presence of the disease and treatment is not privileged when the patient, physician, physician assistant, or advanced practice nurse prescriber is called upon to testify to the facts before any court of record.

SECTION 118. 252.15 (2m) (b) 3., (3m) (d) 14. and (4) (c) of the statutes are amended to read:

252.15 **(2m)** (b) 3. HIV testing by a health care professional acting under an order of the court under sub. (5j) or s. 938.296 (4) or (5) or ~~968.38~~ 968.725 (4) or (5). No sample used for laboratory test purposes under this subdivision may disclose the name of the HIV test subject, and the HIV test results may not be made part of the individual's permanent medical record.

(3m) (d) 14. To a person under s. 938.296 (4) (a) to (e) as specified in s. 938.296 (4); to a person under s. 938.296 (5) (a) to (e) as specified in s. 938.296 (5); to a person under s. ~~968.38~~ 968.725 (4) (a) to (c) as specified in s. ~~968.38~~ 968.725 (4); or to a person under s. ~~968.38~~ 968.725 (5) (a) to (c) as specified in s. ~~968.38~~ 968.725 (5).

(4) (c) A record of the results of an HIV test administered to the person, except that results of an HIV test administered under sub. (5g) or (5j) or s. 938.296 (4) or (5) or ~~968.38~~ 968.725 (4) or (5) that include the identity of the test subject may not be maintained without the consent of the test subject.

SECTION 119. 301.03 (3c) of the statutes is amended to read:

301.03 **(3c)** If requested by the department of health services, contract with that department to supervise and provide services to persons who are conditionally transferred or discharged under s. 51.37 (9), conditionally released under s. ~~971.17 (3)~~ 975.57 (4) or 975.59, or placed on supervised release under s. 980.06 (2), 1997 stats., or s. 980.08.

SECTION 120. 301.03 (7m) of the statutes is amended to read:

301.03 **(7m)** Supervise criminal defendants accepted into the custody of the department under ~~s. 969.02 (3) (a) or 969.03 (1) (a)~~ ch. 969. The department shall charge the county that is prosecuting the defendant a fee for providing this supervision. The department shall set the fee by rule.

SECTION 121. 301.035 (2) of the statutes is amended to read:

301.035 **(2)** Assign hearing examiners from the division to preside over hearings under s. 975.10 (2), 2013 stats., ss. 302.11 (7), 302.113 (9), 302.114 (9), 938.357 (5), and 973.10 ~~and 975.10 (2)~~, and ch. 304.

SECTION 122. 301.035 (4) of the statutes is amended to read:

301.035 **(4)** Supervise employees in the conduct of the activities of the division and be the administrative reviewing authority for decisions of the division under s. 975.10 (2), 2013 stats., ss. 302.11 (7), 302.113 (9), 302.114 (9), 938.357 (5), 973.10, and 973.155 (2) ~~and 975.10 (2)~~, and ch. 304.

SECTION 123. 301.45 (1g) (c) of the statutes is amended to read:

301.45 **(1g)** (c) Is found not guilty or not responsible by reason of mental disease or defect on or after December 25, 1993, and committed under s. 51.20 or ~~971.17~~ subch. III of ch. 975 for a sex offense.

SECTION 124. 301.45 (1g) (d) of the statutes is amended to read:

301.45 **(1g)** (d) Is in institutional care or on conditional transfer under s. 51.35 (1) or conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 on or after December 25, 1993, for a sex offense.

SECTION 125. 301.45 (1g) (dd) of the statutes is amended to read:

301.45 **(1g)** (dd) Is in institutional care or on conditional transfer under s. 51.35 (1) or conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 on or after December 25, 1993, for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of a law of this state that is comparable to a sex offense.

SECTION 126. 301.45 (1g) (dp) of the statutes is amended to read:

301.45 **(1g)** (dp) Is in institutional care under, or on parole from, a commitment for specialized treatment under ch. 975, 2013 stats., on or after December 25, 1993.

SECTION 127. 301.45 (1g) (e) of the statutes is amended to read:

301.45 **(1g)** (e) Is ordered by a court under s. 51.20 (13) (ct) 1m., 938.34 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m. or~~ 973.048 (1m), or 975.54 (3) (a) to comply with the reporting requirements under this section.

SECTION 128. 301.45 (1m) (b) of the statutes is amended to read:

301.45 **(1m)** (b) If a person believes that he or she is not required under par. (a) to comply with the reporting requirements under this section and the person is not before the court under s. 51.20 (13) (ct), 938.34 (15m), ~~971.17 (1m) (b) or~~ 973.048, or 975.54 (3), the person may move a court to make a determination of whether the person satisfies the criteria specified in par. (a). A motion made under this paragraph shall be filed with the circuit court for the county in which the person was convicted, adjudicated delinquent or found not guilty or not responsible by reason of mental disease or defect.

SECTION 129. 301.45 (1m) (be) of the statutes is amended to read:

301.45 **(1m)** (be) A person who files a motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or~~ 973.048 (2m), or 975.54 (3) (b) requesting a determination of whether the person is required to comply with the reporting requirements under this section shall send a copy of the motion to the district attorney for the county in which the motion is filed. The district attorney shall make a reasonable attempt to contact the victim of the crime that is the subject of the person's motion to inform the victim of his or her right to make or provide a statement under par. (bv).

SECTION 130. 301.45 (1m) (bm) of the statutes is amended to read:

301.45 **(1m)** (bm) A court shall hold a hearing on a motion made by a person under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or~~ 973.048 (2m), or 975.54 (3) (b) requesting a determination of whether the person is required to comply with the reporting requirements under this section. The district attorney who receives a copy of a motion under par. (be) may appear at the hearing.

SECTION 131. 301.45 (1m) (bv) of the statutes is amended to read:

301.45 **(1m)** (bv) Before deciding a motion filed under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or~~ 973.048 (2m), or 975.54 (3) (b) requesting a determination of whether the person is required to comply with the reporting requirements under this section, the court shall allow the victim of the crime that is the subject of the motion to make a statement in court at the hearing under par. (bm) or to submit a written statement to the court. A statement under this paragraph must be relevant to whether the person satisfies the criteria specified in par. (a).

SECTION 132. 301.45 (1m) (d) 1. of the statutes is amended to read:

301.45 **(1m)** (d) 1. Before deciding a motion filed by a person under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or~~ 973.048 (2m), or 975.54 (3) (b) requesting a determination of whether the person is required to comply with the reporting requirements under this section, a court may request the person to be examined by a physician, psychologist, or other expert approved by the court. If the person refuses to undergo an examination requested by the court under this subdivision, the court shall deny the person's motion without prejudice.

SECTION 133. 301.45 (1m) (e) (intro.) of the statutes is amended to read:

301.45 **(1m)** (e) (intro.) At the hearing held under par. (bm), the person who filed the motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or~~ 973.048 (2m), or 975.54 (3) (b) has the burden of proving by clear and convincing evidence that he or she satisfies the criteria specified in par. (a). In deciding whether the person has satisfied the criterion specified in par. (a) 3., the court may consider any of the following:

SECTION 134. 301.45 (1p) (b) of the statutes is amended to read:

301.45 **(1p)** (b) If a person is covered under sub. (1g) based solely on an order that was entered under s. 971.17 (1m) (b) 1m., 2013 stats., or under s. 51.20 (13) (ct) 1m., 938.34 (15m) (am), 938.345 (3) (a), ~~971.17 (1m) (b) 1m., or~~, 973.048 (1m), or 975.54 (3) (a) in connection with a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09, and the court provided in the order that the person be released from the requirement to comply with the reporting requirements under this section upon satisfying the conditions of the court order under s. 51.20 (13) (ct) 1m. or the dispositional order under subch. VI of ch. 938, upon the termination or expiration of a commitment order under s. 971.17, 2013 stats., or under s. 975.54 (3) (a), or upon successful completion of the sentence or probation as provided under s. 973.048 (1m) (b), whichever is applicable, and the person satisfies the conditions of the court order under s. 51.20 (13) (ct) 1m. or the dispositional order under subch. VI of ch. 938, the commitment order under s. 971.17, 2013 stats., or under s. 975.54 (3) (a) is terminated or expires, or the person successfully completes the sentence or probation, whichever is applicable, the person is no longer required to comply with the reporting requirements under this section.

SECTION 135. 301.45 (3) (a) 3. of the statutes is amended to read:

301.45 **(3)** (a) 3. If the person has been committed under s. 51.20 or ~~971.17~~ subch. II of ch. 975, he or she is subject to this subsection upon being placed on conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 or on a conditional transfer under s. 51.35 (1) or, if he or she was not placed on conditional release or on a conditional transfer, before he or she is terminated under s. ~~971.17 (5)~~ 975.60 or discharged under s. 51.35 (4) or ~~971.17 (6)~~ 975.61.

SECTION 136. 301.45 (3) (a) 3g. of the statutes is amended to read:

301.45 **(3)** (a) 3g. If the person has been committed for specialized treatment under ch. 975, 2013 stats., he or she is subject to this subsection upon being released on parole under s. 975.10, 2013 stats., or, if he or she was not released on parole, before being discharged from the commitment under s. 975.09, 2013 stats., or s. 975.12, 2013 stats.

SECTION 137. 301.45 (3) (b) 3. of the statutes is amended to read:

301.45 **(3)** (b) 3. The department of health services shall notify a person who is being placed on conditional release, supervised release, conditional transfer or parole, or is being terminated or discharged from a commitment, under s. 51.20~~,~~ or 51.35 ~~or 971.17 or~~, subch. III of ch. 975, or ch. 975, 2013 stats., or ch. 980 and who is covered under sub. (1g) of the need to comply with the requirements of this section.

SECTION 138. 301.45 (5) (a) 3. of the statutes is amended to read:

301.45 **(5)** (a) 3. If the person has been committed to the department of health services under s. 51.20 or ~~971.17~~ subch. III of ch. 975 and is in institutional care or on conditional transfer under s. 51.35 (1) or conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 for a sex offense, 15 years after termination of the commitment for the sex offense under s. ~~971.17 (5)~~ 975.60 or discharge from the commitment for the sex offense under s. 51.35 (4) or ~~971.17 (6)~~ 975.61.

SECTION 139. 301.45 (5) (a) 3m. of the statutes is amended to read:

301.45 **(5)** (a) 3m. If the person has been committed for specialized treatment under ch. 975, 2013 stats., 15 years after discharge from the commitment under s. 975.09, 2013 stats., or s. 975.12, 2013 stats.

SECTION 140. 301.45 (5) (b) 3. of the statutes is amended to read:

301.45 **(5)** (b) 3. The court that ordered the person to comply with the reporting requirements of this section under s. 51.20 (13) (ct), 938.34 (15m), 938.345 (3), ~~971.17~~

~~(1m) (b) or~~ 973.048, or 975.54 (3) also ordered the person to comply with the requirements until his or her death.

SECTION 141. 301.45 (6) (a) 2. a. of the statutes is amended to read:

301.45 **(6)** (a) 2. a. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m., or~~ 973.048 (1m), or 975.54 (3) (a) to comply with the reporting requirements under this section based on a finding that he or she committed or solicited, conspired, or attempted to commit a misdemeanor.

SECTION 142. 301.45 (6) (ag) 2. a. of the statutes is amended to read:

301.45 **(6)** (ag) 2. a. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m., or~~ 973.048 (1m), or 975.54 (3) (a) to comply with the reporting requirements under this section based on a finding that he or she committed or solicited, conspired, or attempted to commit a misdemeanor.

SECTION 143. 301.45 (6) (bm) of the statutes is amended to read:

301.45 **(6)** (bm) Subject to s. ~~971.19~~ 970.14 (9), a district attorney or, upon the request of a district attorney, the department of justice may prosecute a knowing failure to comply with any requirement to provide information under subs. (2) to (4). If the department of corrections determines that there is probable cause to believe that a person has knowingly failed to comply with any requirement to provide information under subs. (2) to (4) or has intentionally violated sub. (4r), the department shall forward a certified copy of all pertinent departmental information to the applicable district attorney. The department shall certify the copy in accordance with s. 889.08.

SECTION 144. 301.45 (7) (f) 4. of the statutes is amended to read:

301.45 **(7)** (f) 4. If the person was ordered by a court under s. 971.17 (1m) (b) 1m., 2013 stats., or under s. 975.54 (3) (a) to comply with the reporting requirements

under this section, when the department receives notice under ~~s. 971.17 (6m) (b) 2.~~ subch. III of ch. 975 that the commitment order under s. 971.17, 2013 stats., or under s. 975.54 (3) (a) is terminated or has expired.

SECTION 145. 301.46 (3) (d) of the statutes is amended to read:

301.46 **(3)** (d) The department of health services shall provide the department with access to the names of victims or the family members of victims who have completed cards requesting notification under s. ~~971.17 (6m)~~ 975.62 or 980.11.

SECTION 146. 301.47 (3) (b) 1. of the statutes is amended to read:

301.47 **(3)** (b) 1. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m., or~~ 973.048 (1m), or 975.54 (3) (a) to comply with the reporting requirements under s. 301.45 based on a finding that he or she committed or solicited, conspired, or attempted to commit a misdemeanor.

SECTION 147. 301.48 (2) (a) 4. of the statutes is amended to read:

301.48 **(2)** (a) 4. A court that found the person not guilty of a serious child sex offense by reason of mental disease or ~~mental~~ defect places the person on conditional release.

SECTION 148. 301.48 (2) (a) 5. of the statutes is amended to read:

301.48 **(2)** (a) 5. A court that found the person not guilty of a serious child sex offense by reason of mental disease or ~~mental~~ defect discharges the person under s. ~~971.17 (6)~~ 975.61. This subdivision does not apply if the person was on conditional release immediately before being discharged.

SECTION 149. 301.48 (2) (b) 3. of the statutes is amended to read:

301.48 **(2)** (b) 3. The department of health services places the person on parole or discharges the person under ch. 975, 2013 stats. This subdivision does not apply

unless the person's commitment was based on his or her commission of a serious child sex offense.

SECTION 150. 302.113 (9) (e) of the statutes is amended to read:

302.113 **(9)** (e) If a hearing is to be held under par. (am) before the division of hearings and appeals in the department of administration, the hearing examiner may order that a deposition be taken by audiovisual means and allow the use of a recorded deposition under s. ~~967.04 (7) to (10)~~ 967.22.

SECTION 151. 302.114 (9) (d) of the statutes is amended to read:

302.114 **(9)** (d) If a hearing is to be held under par. (am) before the division of hearings and appeals in the department of administration, the hearing examiner may order that a deposition be taken by audiovisual means and allow the use of a recorded deposition under s. ~~967.04 (7) to (10)~~ 967.22.

SECTION 152. 304.06 (3) of the statutes is amended to read:

304.06 **(3)** Every paroled prisoner remains in the legal custody of the department unless otherwise provided by the department. If the department alleges that any condition or rule of parole has been violated by the prisoner, the department may take physical custody of the prisoner for the investigation of the alleged violation. If the department is satisfied that any condition or rule of parole has been violated it shall afford the prisoner such administrative hearings as are required by law. Unless waived by the parolee, the final administrative hearing shall be held before a hearing examiner from the division of hearings and appeals in the department of administration who is licensed to practice law in this state. The hearing examiner shall enter an order revoking or not revoking parole. Upon request by either party, the administrator of the division of hearings and appeals shall review the order. The hearing examiner may order that a deposition be taken by audiovisual

means and allow the use of a recorded deposition under s. ~~967.04 (7) to (10)~~ 967.22. If the parolee waives the final administrative hearing, the secretary of corrections shall enter an order revoking or not revoking parole. If the examiner, the administrator upon review, or the secretary in the case of a waiver finds that the prisoner has violated the rules or conditions of parole, the examiner, the administrator upon review, or the secretary in the case of a waiver, may order the prisoner returned to prison to continue serving his or her sentence, or to continue on parole. If the prisoner claims or appears to be indigent, the department shall refer the prisoner to the authority for indigency determinations specified under s. 977.07 (1).

SECTION 153. 322.0767 (1) (a) of the statutes is amended to read:

322.0767 **(1)** (a) If a person subject to a general court–martial is found to lack substantial mental capacity to understand the proceedings or assist in his or own defense and the military judge determined that the person is likely to become competent within the maximum period ~~specified under s. 971.14 (5) (a)~~ of commitment, as defined in s. 975.34 (6) (a), the court–martial convening authority for the person shall commit the person to the custody of the department of health services ~~under~~ as provided in s. ~~971.14 (5)~~ 975.34 (7). If the military judge determines that the defendant is not likely to become competent ~~in~~ within the ~~time~~ maximum period ~~specified under s. 971.14 (5)~~ of commitment, the military judge shall suspend or terminate the general court–martial.

SECTION 154. 322.0767 (1) (b) of the statutes is amended to read:

322.0767 **(1)** (b) The department of health services shall submit all reports that are required under s. ~~971.14 (5) (b)~~ 975.36 and that pertain to a person subject to a commitment order under par. (a) to the court–martial.

SECTION 155. 322.0767 (1) (c) of the statutes is amended to read:

322.0767 **(1)** (c) Upon receiving a report under s. ~~971.14 (5) (b)~~ 975.36, the court–martial shall make a determination as to whether the person has become competent. If the court–martial determines that the defendant has become competent, the court–martial shall terminate the commitment to the department of health services and resume the general court–martial. If the court–martial determines that the person is making sufficient progress toward becoming competent, the commitment shall continue. If the court–martial determines that the person is not likely to become competent to proceed ~~in~~ within the ~~time~~ maximum period ~~specified under s. 971.14 (5) (a)~~ of commitment, as defined under s. 971.34 (6) (a), the court–martial shall suspend or terminate the commitment order under this subsection.

SECTION 156. 322.0767 (1) (d) of the statutes is amended to read:

322.0767 **(1)** (d) If a person who has been restored to competency again becomes incompetent, the maximum ~~commitment~~ period ~~under s. 971.14 (5) (a)~~ of commitment shall be as provided under s. ~~971.14 (5) (d)~~ 975.36 (6).

SECTION 157. 322.0767 (2) (a) of the statutes is amended to read:

322.0767 **(2)** (a) If a court–martial finds a person not guilty by reason of mental disease or defect, the court–martial shall commit the person to the custody of the department of health services for a period not to exceed that described under s. ~~971.17 (1)~~ 975.57 (2).

SECTION 158. 322.0767 (2) (b) of the statutes is amended to read:

322.0767 **(2)** (b) Using the standard under s. ~~971.17 (3) (a)~~ 975.57 (1), the court–martial shall determine whether the commitment order under par. (a) shall specify institutional care or conditional release.

SECTION 159. 322.0767 (2) (c) of the statutes is amended to read:

322.0767 **(2)** (c) The court–martial has the same authority as a circuit court has under s. ~~971.17 (2)~~ 975.55 to order the department of health services to conduct a predisposition investigation using the procedure in s. ~~972.15~~ 973.004 or a mental examination as provided under s. ~~971.17 (2) (b), (c), and (e)~~ 975.56 to assist the court–martial in determining whether to place the person in institutional care or to conditionally release the person.

SECTION 160. 322.0767 (2) (d) of the statutes is amended to read:

322.0767 **(2)** (d) If the court–martial specifies institutional care, the department of health services shall place the person in an institution as provided under s. ~~971.17 (3) (c)~~ 975.57 (3). If the court–martial specifies conditional release, the department of health services, in conjunction with the person's county of residence, shall develop a plan for conditional release as provided under s. ~~971.17 (3) (d)~~ 975.57 (4).

SECTION 161. 322.0767 (2) (e) of the statutes is amended to read:

322.0767 **(2)** (e) After the court–martial enters an order under this subsection and transfers custody of a person to the department of health services, the person shall be subject to ~~s. 971.17~~ subch. III of ch. 975 and the circuit court for the county in which the person is institutionalized or where the person is placed on conditional release shall have jurisdiction in proceedings under ~~s. 971.17~~ subch. III of ch. 975.

SECTION 162. 343.305 (9) (c) of the statutes is amended to read:

343.305 **(9)** (c) If a law enforcement officer informs the circuit or municipal court that a person has refused to submit to a test under sub. (3) (a), (am), or (ar), the court shall be prepared to hold any requested hearing to determine if the refusal was

proper. The scope of the hearing shall be limited to the issues outlined in par. (a) 5. or (am) 5. Section ~~967.055~~ 970.25 applies to any hearing under this subsection.

SECTION 163. 345.20 (1) (a) of the statutes is amended to read:

345.20 **(1)** (a) "Judge" ~~has the meaning specified in s. 967.02 (6)~~ means a judge of a court of record.

SECTION 164. 345.20 (2) (c) of the statutes is amended to read:

345.20 **(2)** (c) ~~Sections 967.055 and 972.11 (3m) apply~~ Section 970.25 applies to traffic forfeiture actions for violations of s. 346.63 (1) or (5) or a local ordinance in conformity therewith.

SECTION 165. 345.28 (3) (a) of the statutes is amended to read:

345.28 **(3)** (a) If the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation is issued, the authority that issued the citation may issue a summons under s. ~~968.04 (3) (b)~~ 969.22 to the person and, in lieu of or in addition to issuing the summons, may proceed under sub. (4) or (5) but, except as provided in this section, no warrant may be issued for the person. If the person does not pay towing and storage charges associated with a citation for a nonmoving traffic violation, the authority that issued the citation may proceed under sub. (4).

SECTION 166. 345.28 (5) (b) 1. of the statutes is amended to read:

345.28 **(5)** (b) 1. If a person fails to respond to the notices under par. (a) within the time specified in the notice, a warrant that substantially complies with the mandatory provisions under s. ~~968.04 (3) (a)~~ 969.21 (1) may be issued for the person, except that the warrant shall direct the officer to accept the person's deposit of money

or his or her valid Wisconsin operator's license, as provided under subd. 2. a., in lieu of serving the warrant and arresting the person.

SECTION 167. 345.31 of the statutes is amended to read:

345.31 Venue in traffic regulation actions. Section ~~971.19 on place~~ 970.14 on venue of trial in criminal actions applies to actions for the violation of traffic regulations and nonmoving traffic violations except that, in the case of a violation of an ordinance of a municipality which is located in more than one county, the action may be brought in any court sitting in that municipality even though in another county. As an alternative, the plaintiff may bring the action in the county where the defendant resides.

SECTION 168. 346.63 (2) (am) of the statutes is amended to read:

346.63 **(2)** (am) A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of par. (a) 1., 2., or 3. for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of par. (a) 1., 2., or 3. in the complaint, the crimes shall be joined under s. ~~971.12~~ 970.13. If the person is found guilty of any combination of par. (a) 1., 2., or 3. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under ss. 343.30 (1q) and 343.305. Paragraph (a) 1., 2., and 3. each require proof of a fact for conviction which the others do not require.

SECTION 169. 346.63 (6) (b) of the statutes is amended to read:

346.63 **(6)** (b) A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of par. (a) or sub. (2) (a) 1. or both for acts arising out of the same incident or occurrence. If the person is charged with violating both par. (a) and sub. (2) (a) 1. in the complaint, the crimes shall be joined under s. ~~971.12~~

970.13. If the person is found guilty of violating both par. (a) and sub. (2) (a) 1. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions. Paragraph (a) and sub. (2) (a) 1. each require proof of a fact for conviction which the other does not require.

SECTION 170. 346.74 (5) (e) of the statutes is repealed.

SECTION 171. 350.101 (2) (c) of the statutes is amended to read:

350.101 **(2)** (c) *Related charges.* A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of par. (a), (b), or (bm) for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of par. (a), (b), or (bm) in the complaint, the crimes shall be joined under s. ~~971.12~~ 970.13. If the person is found guilty of any combination of par. (a), (b), or (bm) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under s. 350.11 (3) (a) 2. and 3. Paragraphs (a), (b), and (bm) each require proof of a fact for conviction which the others do not require.

SECTION 172. 551.602 (5) (b) of the statutes is amended to read:

551.602 **(5)** (b) The immunity provided under par. (a) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 173. 553.55 (3) (b) of the statutes is amended to read:

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

SECTION 174. 601.62 (5) (b) of the statutes is amended to read:

601.62 **(5)** (b) The immunity provided under par. (a) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 175. 631.95 (1) (c) of the statutes is amended to read:

631.95 **(1)** (c) "Domestic abuse" has the meaning given in s. ~~968.075 (1) (a)~~ 969.27 (1) (a).

SECTION 176. 704.16 (1) (b) 4. of the statutes is amended to read:

704.16 **(1)** (b) 4. A condition of release under s. 974.09 or ch. 969 ordering the person not to contact the tenant.

SECTION 177. 704.16 (1) (b) 7. of the statutes is amended to read:

704.16 **(1)** (b) 7. A criminal complaint that was filed against the person as a result of the person being arrested for committing a domestic abuse offense against the tenant under s. ~~968.075~~ 969.27.

SECTION 178. 704.16 (3) (b) 2. d. of the statutes is amended to read:

704.16 **(3)** (b) 2. d. A condition of release under s. 974.09 or ch. 969 ordering the offending tenant not to contact the other tenant.

SECTION 179. 704.16 (3) (b) 2. g. of the statutes is amended to read:

704.16 **(3)** (b) 2. g. A criminal complaint that was filed against the offending tenant as a result of the offending tenant being arrested for committing a domestic abuse offense against the other tenant under s. ~~968.075~~ 969.27.

SECTION 180. 756.06 (2) (a) of the statutes is amended to read:

756.06 **(2)** (a) A jury in a criminal case shall consist of 12 persons unless both parties agree on a lesser number as provided in s. ~~972.02~~ 972.025 (2).

SECTION 181. 756.06 (2) (c) of the statutes is amended to read:

756.06 **(2)** (c) A jury in a case involving an offense for which a forfeiture may be imposed or in an inquest under s. ~~979.05~~ 968.025 shall consist of 6 persons.

SECTION 182. 757.54 (2) (a) 1. of the statutes is amended to read:

757.54 **(2)** (a) 1. "Custody" has the meaning given in s. ~~968.205~~ 968.645 (1) (a).

SECTION 183. 757.54 (2) (a) 2. of the statutes is amended to read:

757.54 **(2)** (a) 2. "Discharge date" has the meaning given in s. ~~968.205~~ 968.645 (1) (b).

SECTION 184. 757.69 (1) (b) of the statutes is amended to read:

757.69 **(1)** (b) In criminal matters issue summonses, arrest warrants, or search warrants, determine probable cause to support a warrantless arrest, ~~conduct~~ perform the duties of the court at an initial ~~appearances of persons arrested~~ appearance under s. 971.027, set bail, ~~inform the defendant in accordance with s. 970.02 (1),~~ refer the person to the authority for indigency determinations specified under s. 977.07 (1), conduct the preliminary examination and arraignment, and, with the consent of both the state and the defendant, accept a guilty plea. If a court refers a disputed restitution issue under s. 973.20 (13) (c) 4., the circuit court commissioner shall conduct the hearing on the matter in accordance with s. 973.20 (13) (c) 4.

SECTION 185. 757.69 (1) (i) of the statutes is amended to read:

757.69 **(1)** (i) Conduct inquests under subch. I of ch. ~~979~~ 968.

SECTION 186. 758.171 of the statutes is amended to read:

758.171 Judicial conference: uniform citation. The judicial conference shall adopt a uniform citation form for use as authorized under s. ~~968.085~~ 969.24. A duly authenticated copy of this form shall be furnished to the secretary of state and kept on file in his or her office. The secretary of state shall transmit a copy of this form to the clerks of circuit court.

SECTION 187. 758.19 (5) (a) 5. of the statutes is repealed.

SECTION 188. 767.87 (4) (b) of the statutes is amended to read:

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

SECTION 189. 781.04 (1) of the statutes is amended to read:

781.04 **(1)** In an action or proceeding seeking the remedy available by habeas corpus, the court may admit the prisoner to bail in accordance with s. 974.09 or ch. 969.

SECTION 190. 785.03 (1) (b) of the statutes is amended to read:

785.03 **(1)** (b) *Punitive sanction.* The district attorney of a county, the attorney general or a special prosecutor appointed by the court may seek the imposition of a punitive sanction by issuing a complaint charging a person with contempt of court and reciting the sanction sought to be imposed. The district attorney, attorney general or special prosecutor may issue the complaint on his or her own initiative or on the request of a party to an action or proceeding in a court or of the judge presiding in an action or proceeding. The complaint shall be processed under chs. 967 to 973 and 975. If the contempt alleged involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial of the contempt unless the person charged consents to the judge presiding at the trial.

SECTION 191. 800.035 (8) of the statutes is amended to read:

800.035 **(8)** If the defendant does not appear, but has made a deposit in the amount set for the violation, he or she is deemed to have tendered a plea of no contest and submits to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not exceeding the amount of the deposit. The court may impose any other penalties allowed by law. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons. If the court finds that the violation meets the conditions in s. 800.093 (1), the court may summon the

alleged violator into court to determine if restitution shall be ordered under s. 800.093. If the defendant fails to appear in response to the summons, the court may issue a warrant under s. ~~968.09~~ 969.50. If the defendant has made a deposit but does appear, the court shall allow the defendant to withdraw the plea of no contest.

SECTION 192. 801.02 (7) (a) 2. c. of the statutes is amended to read:

801.02 **(7)** (a) 2. c. A person bringing an action seeking relief from a judgment of conviction or a sentence of a court, including an action for an extraordinary writ or a supervisory writ seeking relief from a judgment of conviction or a sentence of a court or an action under s. 809.30, 809.40, ~~973.19~~ 974.03, 974.06 or 974.07.

SECTION 193. 801.02 (7) (a) 2. e. of the statutes is amended to read:

801.02 **(7)** (a) 2. e. A person who is not serving a sentence for the conviction of a crime but who is detained, admitted or committed under ch. 51 or 55 or s. ~~971.14 (2) or (5)~~ 975.32 or 975.34.

SECTION 194. 801.50 (5t) of the statutes is renumbered 801.50 (5t) (a) and amended to read:

801.50 **(5t)** (a) Except as otherwise provided in ss. 801.52 and ~~971.223~~ 971.72 (1) and (2), venue in a civil action to impose a forfeiture upon a resident of this state for a violation of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or for a violation of any other law arising from or in relation to the official functions of the subject of the investigation or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, shall be in circuit court for the county where the defendant resides. For purposes of this ~~subsection~~ paragraph, a person other than a natural person resides within a county if the person's principal place of operation is located within that county. ~~This subsection~~

(b) Paragraph (a) does not affect which prosecutor has responsibility under s. 978.05 (2) to prosecute civil actions ~~arising from violations under s. 971.223 (1)~~ described under par. (a).

SECTION 195. 801.52 of the statutes is amended to read:

801.52 Discretionary change of venue. The court may at any time, upon its own motion, the motion of a party or the stipulation of the parties, change the venue to any county in the interest of justice or for the convenience of the parties or witnesses, except that venue in a civil action to impose a forfeiture for a violation of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 or for a violation of any other law arising from or in relation to the official functions of the subject of the investigation or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, may be changed only as provided in s. ~~971.223~~ 971.72 (1) and (2) or in the same manner that is authorized for a change in the venue of a criminal trial under s. ~~971.22~~ 971.70. This section does not apply to proceedings under ch. 980.

SECTION 196. 807.05 of the statutes is amended to read:

807.05 Stipulations. No agreement, stipulation, or consent between the parties or their attorneys, in respect to the proceedings in an action or special proceeding shall be binding unless made in court or during a proceeding conducted under s. 807.13 or ~~967.08~~ 967.14 and entered in the minutes or recorded by the reporter, or made in writing and subscribed by the party to be bound thereby or the party's attorney.

SECTION 197. 808.04 (3) of the statutes is amended to read:

808.04 **(3)** Except as provided in subs. (4) and (7), an appeal in a proceeding under ~~s. 971.17~~ subch. III of ch. 975, a criminal case, or a case under ch. 48, 51, 55,

938, or 980 shall be initiated within the time period specified in s. 809.30 (2) or 809.32 (2), whichever is applicable.

SECTION 198. 808.04 (4) of the statutes is amended to read:

808.04 **(4)** Except as provided in sub. (7m), an appeal by the state in a proceeding under ~~s. 971.17~~ subch. III of ch. 975, a criminal case under s. 974.05, or a case under ch. 48, 938, or 980 shall be initiated within 45 days of entry of the judgment or order appealed from.

SECTION 199. 808.075 (4) (b) 4. of the statutes is amended to read:

808.075 **(4)** (b) 4. Commitment, conditional release, recommitment, and discharge under s. ~~971.17~~ subch. III of ch. 975 of a person found not guilty by reason of mental disease or defect.

SECTION 200. 808.075 (4) (g) 1. of the statutes is amended to read:

808.075 **(4)** (g) 1. Release on ~~bond~~ conditions under s. 809.31 or ~~969.01 (2)~~ 974.09 or ch. 969.

SECTION 201. 808.075 (4) (g) 2. of the statutes is amended to read:

808.075 **(4)** (g) 2. Modification or revocation of ~~bond under s. 969.01 (2) (e) or 969.08~~ conditions of release under s. 974.09 (2) or ch. 969.

SECTION 202. 808.075 (4) (g) 7. of the statutes is amended to read:

808.075 **(4)** (g) 7. Commitment, conditional release, recommitment, and discharge under ~~s. 971.17~~ subch. III of ch. 975 of a person found not guilty by reason of mental disease or defect.

SECTION 203. Subchapter III (title) of chapter 809 [precedes 809.30] of the statutes is amended to read:

CHAPTER 809

SUBCHAPTER III

APPEAL PROCEDURE IN COURT OF
APPEALS IN ~~S. 971.17~~ PROCEEDINGS
UNDER SUBCH. III OF CH. 975 AND
IN CRIMINAL AND CH. 48, 51, 55, 938,
AND 980 CASES

SECTION 204. 809.30 (title) of the statutes is amended to read:

809.30 (title) **Rule (Appeals in ~~s. 971.17~~ proceedings under subch. III of ch. 975 and in criminal, ch. 48, 51, 55, 938, and 980 cases).**

SECTION 205. 809.30 (1) (a) of the statutes is amended to read:

809.30 **(1)** (a) "Final adjudication" means the entry of a final judgment or order by the circuit court in a ~~s. 971.17~~ proceeding under subch. III of ch. 975, in a criminal case, or in a ch. 48, 51, 55, 938, or 980 case, other than a termination of parental rights case under s. 48.43 or a parental consent to abortion case under s. 48.375 (7).

SECTION 206. 809.30 (1) (b) 4. of the statutes is amended to read:

809.30 **(1)** (b) 4. A subject individual or ward seeking postdisposition relief in a ~~s. 971.17~~ proceeding under subch. III of ch. 975 or a case under ch. 51, 55, or 980.

SECTION 207. 809.30 (1) (c) of the statutes is amended to read:

809.30 **(1)** (c) "Postconviction relief" means an appeal or a motion for postconviction relief in a criminal case, other than an appeal, motion, or petition under ss. 302.113 (7m) or (9g), ~~973.19,~~ 973.195, 973.198, 974.03, 974.06, or 974.07 (2). In a ch. 980 case, the term means an appeal or a motion for postcommitment relief under s. 980.038 (4).

SECTION 208. 809.30 (1) (e) of the statutes is amended to read:

809.30 **(1)** (e) "Prosecutor" means a district attorney, corporation counsel, or other attorney authorized by law to represent the state in a criminal case, a

proceeding under ~~s. 971.17~~ subch. III of ch. 975, or a case under ch. 48, 51, 55, 938, or 980.

SECTION 209. 809.30 (2) (a) of the statutes is amended to read:

809.30 **(2)** (a) *Appeal procedure; counsel to continue.* A person seeking postconviction relief in a criminal case; a person seeking postdisposition relief in a case under ch. 48 other than a termination of parental rights case under s. 48.43 or a parental consent to abortion case under s. 48.375 (7); or a person seeking postdisposition relief in a ~~s. 971.17~~ proceeding under subch. III of ch. 975 or in a case under ch. 51, 55, 938, or 980 shall comply with this section. Counsel representing the person at sentencing or at the time of the final adjudication shall continue representation by filing a notice under par. (b) if the person desires to pursue postconviction or postdisposition relief unless counsel is discharged by the person or allowed to withdraw by the circuit court before the notice must be filed.

SECTION 210. 809.30 (2) (d) of the statutes is amended to read:

809.30 **(2)** (d) *Indigency redetermination.* Except as provided in this paragraph, whenever a person whose trial counsel is appointed by the state public defender files a notice under par. (b) requesting public defender representation for purposes of postconviction or postdisposition relief, the prosecutor may, within 5 days after the notice is served and filed, file in the circuit court and serve upon the state public defender a request that the person's indigency be redetermined before counsel is appointed or transcripts are requested. This paragraph does not apply to a child who is entitled to be represented by counsel under s. 48.23 or 938.23 or to a person who is entitled to be represented by counsel under s. ~~48.23,~~ 51.60 (1)~~,~~ or 55.105~~, or 938.23~~.

SECTION 211. 809.30 (2) (m) of the statutes is created to read:

809.30 **(2)** (m) *Entry after filing notice.* If the record discloses that the judgment or order appealed from was entered after the notice under this section was filed, the notice shall be treated as filed after that entry on the day of the entry.

SECTION 212. 809.31 (6) of the statutes is amended to read:

809.31 **(6)** The court ordering release shall require the defendant to post a bond in accordance with s. ~~969.09~~ 974.09 (2) and may impose other terms and conditions. The defendant shall file the bond in the trial court.

SECTION 213. 814.22 (1) (intro.) of the statutes is amended to read:

814.22 **(1)** (intro.) In all proceedings, including criminal actions, if a change of venue is had ~~(~~, except in cases where the change of venue is made because the action was not brought in the proper county~~)~~, if the jury is selected for use in another county under s. ~~971.225~~ 971.71, or if an action~~,~~ occupying a day or more~~,~~ is tried outside the county wherein pending, the county in which the action was commenced shall pay to the county in which the action is tried or the jury is selected the following expenses arising out of the change of venue or jury selection:

SECTION 214. 814.69 (1) (a) of the statutes is amended to read:

814.69 **(1)** (a) For a transcript under SCR 71.04, a fee at the rate of $1.50 per 25–line page for the original and 50 cents per 25–line page for the duplicate. Except as provided in s. ~~967.06 (3)~~ 977.072, the fee shall be paid by the county treasurer upon the certificate of the clerk of court.

SECTION 215. 885.01 (2) of the statutes is amended to read:

885.01 **(2)** By an attorney of record in a criminal action, or by the attorney general or any district attorney or person acting in his or her stead, to require the attendance of ~~witnesses, in behalf of the state,~~ a witness for a deposition, or for a hearing or trial in any court or before any magistrate, and from any part of the state.

SECTION 216. 885.15 (2) of the statutes is amended to read:

885.15 **(2)** The immunity provided under sub. (1) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 217. 885.24 (2) of the statutes is amended to read:

885.24 **(2)** The immunity provided under sub. (1) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 218. 885.25 (2m) of the statutes is amended to read:

885.25 **(2m)** The immunity provided under sub. (2) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 219. 885.365 (1) of the statutes is amended to read:

885.365 **(1)** Evidence obtained as the result of the use of voice recording equipment for recording of telephone conversations, by way of interception of a communication or in any other manner, shall be totally inadmissible in the courts of this state in civil actions, except as provided in ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405.

SECTION 220. 885.64 (2) of the statutes is amended to read:

885.64 **(2)** All circuit court proceedings, with the exception of proceedings pursuant to s. ~~972.11 (2m)~~ 972.20, that are conducted by videoconference, interactive video and audio transmission, audiovisual means, live audiovisual means, closed–circuit audiovisual, or other interactive electronic communication with a video component, shall be conducted in accordance with the provisions of this subchapter.

SECTION 221. 891.39 (1) (b) of the statutes is amended to read:

891.39 **(1)** (b) In actions affecting the family, in which the question of paternity is raised, and in paternity proceedings, the court, upon being satisfied that the parties to the action are unable to adequately compensate any such guardian ad

litem for the guardian ad litem's services and expenses, shall then make an order specifying the guardian ad litem's compensation and expenses, which compensation and expenses shall be paid as provided in s. ~~967.06~~ 767.407 (6). If the court orders a county to pay the compensation of the guardian ad litem, the amount ordered may not exceed the compensation paid to private attorneys under s. 977.08 (4m) (b).

SECTION 222. 891.39 (2) (b) of the statutes is amended to read:

891.39 **(2)** (b) The immunity provided under par. (a) is subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 223. 893.93 (1) (d) of the statutes is amended to read:

893.93 **(1)** (d) An action under s. ~~968.31~~ 968.345.

SECTION 224. 895.01 (1) (am) 7. of the statutes is amended to read:

895.01 **(1)** (am) 7. Causes of action for a violation of s. ~~968.31~~ 968.345 (2m) or other damage to the person.

SECTION 225. 895.34 of the statutes is amended to read:

895.34 Renewal of sureties upon becoming insufficient and effects thereof. If any bail bond, recognizance, undertaking or other bond or undertaking given in any civil or criminal action or proceeding, becomes at any time insufficient, the court or judge thereof, municipal judge or any magistrate before whom such action or proceeding is pending, may, upon notice, require the plaintiff or defendant to give a new bond, recognizance or undertaking. Every person becoming surety on any such new bond, recognizance or undertaking is liable from the time the original was given, the same as if he or she had been the original surety. If any person fails to comply with the order made in the case the adverse party is entitled to any order, judgment, remedy or process to which he or she would have been entitled had no

bond, recognizance or undertaking been given at any time. This section does not apply to a modification of a condition of release under s. 969.33 (7).

SECTION 226. 895.446 (4) of the statutes is amended to read:

895.446 **(4)** Any recovery under this section shall be reduced by the amount recovered as restitution under ss. 800.093 and 973.20 and ch. 938 for the same act or as recompense under s. ~~969.13 (5) (a)~~ 969.42 for the same act.

SECTION 227. 895.45 (1) (a) of the statutes is amended to read:

895.45 **(1)** (a) "Abusive conduct" means domestic abuse, as defined under s. 49.165 (1) (a), 813.12 (1) (am), or ~~968.075~~ 969.27 (1) (a), harassment, as defined under s. 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss. 948.02 to 948.11.

SECTION 228. 895.46 (9) (a) (intro.) and 2. and (b) (intro.) and 2. of the statutes are amended to read:

895.46 **(9)** (a) (intro.) The state shall reimburse a state officer or state employee for reasonable attorney fees and costs incurred by the officer or employee in connection with a John Doe proceeding under s. ~~968.26~~ 968.105 (2) arising from the officer's or employee's conduct in the performance of official duties if all the following apply:

2. The officer or employee is not convicted of a crime arising from the conduct that is the subject of any criminal complaint issued under s. ~~968.26~~ 968.105 (2) (d).

(b) (intro.) The state shall reimburse a state officer or state employee for reasonable attorney fees and costs incurred by the officer or employee in defending a criminal complaint issued under s. ~~968.26~~ 968.105 (2) (d) arising from the officer's or employee's conduct in the performance of official duties if all of the following apply:

2. The officer or employee is not convicted of a crime arising from the conduct that is the subject of the criminal complaint issued under s. ~~968.26~~ 968.105 (2) (d).

SECTION 229. 895.54 of the statutes is amended to read:

895.54 Liability exemption; notification of release. A person is immune from any liability regarding any act or omission regarding the notification of any applicable office or person under s. 51.37 (10), 304.06 (1), ~~971.17 (4m) or (6m)~~ 975.62, or 980.11. This section does not apply to willful or wanton acts or omissions.

SECTION 230. 901.01 of the statutes is amended to read:

901.01 Scope. Chapters 901 to 911 govern proceedings in the courts of the state of Wisconsin except as provided in ss. 911.01 and ~~972.11~~ 967.24.

SECTION 231. 901.04 (1) of the statutes is amended to read:

901.04 **(1)** QUESTIONS OF ADMISSIBILITY GENERALLY. Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the judge, subject to sub. (2) and ss. ~~971.31 (11) and 972.11 (2)~~ 346.63 (8), 904.045, 940.22 (6), and 971.65 (6). In making the determination the judge is bound by the rules of evidence only with respect to privileges and as provided in s. 901.05.

SECTION 232. 901.04 (3) (cm) of the statutes is amended to read:

901.04 **(3)** (cm) Admissibility of evidence specified in s. ~~972.11 (2) (d)~~ 904.045 (4).

SECTION 233. 901.05 (3) of the statutes is amended to read:

901.05 **(3)** The results of a test or tests under s. 938.296 (4) or (5) or ~~968.38~~ 968.725 (4) or (5) and the fact that a person has been ordered to submit to such a test or tests under s. 938.296 (4) or (5) or ~~968.38~~ 968.725 (4) or (5) are not admissible

during the course of a civil or criminal action or proceeding or an administrative proceeding.

SECTION 234. 904.04 (1) (b) of the statutes is amended to read:

904.04 **(1)** (b) *Character of victim.* Except as provided in s. ~~972.11 (2)~~ 904.045, evidence of a pertinent trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;

SECTION 235. 904.04 (2) (b) 1. of the statutes is amended to read:

904.04 **(2)** (b) 1. In a criminal proceeding alleging a violation of s. 940.302 (2) or of ch. 948, alleging the commission of a serious sex offense, as defined in s. 939.615 (1) (b), or of domestic abuse, as defined in s. ~~968.075~~ 969.27 (1) (a), or alleging an offense that, following a conviction, is subject to the surcharge in s. 973.055, evidence of any similar acts by the accused is admissible, and is admissible without regard to whether the victim of the crime that is the subject of the proceeding is the same as the victim of the similar act.

SECTION 236. 904.045 (title) of the statutes is created to read:

904.045 (title) **Evidence of sexual conduct.**

SECTION 237. 904.06 (1) of the statutes is amended to read:

904.06 **(1)** ADMISSIBILITY. Except as provided in s. ~~972.11 (2)~~ 904.045, evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

SECTION 238. 906.08 (1) (intro.) of the statutes is amended to read:

906.08 **(1)** OPINION AND REPUTATION EVIDENCE OF CHARACTER. (intro.) Except as provided in s. ~~972.11 (2)~~ 904.045, the credibility of a witness may be attacked or supported by evidence in the form of reputation or opinion, but subject to the following limitations:

SECTION 239. 906.08 (2) of the statutes is amended to read:

906.08 **(2)** SPECIFIC INSTANCES OF CONDUCT. Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness's credibility, other than a conviction of a crime or an adjudication of delinquency as provided in s. 906.09, may not be proved by extrinsic evidence. They may, however, subject to s. ~~972.11 (2)~~ 904.045, if probative of truthfulness or untruthfulness and not remote in time, be inquired into on cross–examination of the witness or on cross–examination of a witness who testifies to his or her character for truthfulness or untruthfulness.

SECTION 240. 907.06 (5) of the statutes is amended to read:

907.06 **(5)** APPOINTMENT IN CRIMINAL CASES. This section shall not apply to the appointment of experts as provided by s. ~~971.16~~ 975.51.

SECTION 241. 908.08 (5) (am) of the statutes is amended to read:

908.08 **(5)** (am) The testimony of a child under par. (a) may be taken in accordance with s. ~~972.11 (2m)~~ 972.20, if applicable.

SECTION 242. 908.08 (5) (b) of the statutes is amended to read:

908.08 **(5)** (b) If a recorded statement under this section is shown at a preliminary examination under s. ~~970.03~~ 971.042 or 971.75 (2) and the party who offers the statement does not call the child to testify, the court may not order under par. (a) that the child be produced for cross–examination at the preliminary examination.

SECTION 243. 908.08 (6) of the statutes is amended to read:

908.08 **(6)** Recorded oral statements of children under this section in the possession, custody, or control of the state are discoverable under ss. 48.293 (3), 304.06 (3d), ~~971.23 (1) (e)~~ 971.43 (2) (f), and 973.10 (2g).

SECTION 244. 911.01 (1) of the statutes is amended to read:

911.01 **(1)** COURTS AND COURT COMMISSIONERS. Chapters 901 to 911 apply to the courts of the state of Wisconsin, including municipal courts and circuit, supplemental, and municipal court commissioners, in the proceedings and to the extent hereinafter set forth except as provided in s. ~~972.11~~ 967.24. The word "judge" in chs. 901 to 911 means judge of a court of record, municipal judge, or circuit, supplemental, or municipal court commissioner.

SECTION 245. 911.01 (4) (b) of the statutes is amended to read:

911.01 **(4)** (b) *Grand jury; John Doe proceedings.* Proceedings before grand juries or a John Doe proceeding under s. ~~968.26~~ 968.105.

SECTION 246. 911.01 (4) (c) of the statutes is amended to read:

911.01 **(4)** (c) *Miscellaneous proceedings.* Proceedings for extradition or rendition; sentencing, granting or revoking probation, modification of a bifurcated sentence under s. 302.113 (9g), or adjustment of a bifurcated sentence under s. 973.195 (1r) or 973.198; issuance of subpoenas or warrants under s. 968.375, arrest warrants, criminal summonses, and search warrants; hearings under s. 980.09 (2); proceedings under s. ~~971.14 (1r) (c)~~ 975.31 (2); proceedings with respect to pretrial release under ch. 969 except where habeas corpus is utilized with respect to release on ~~bail or~~ conditions as ~~otherwise~~ provided in ch. 969; proceedings with respect to release on bond under s. 974.09 pending appeal; or proceedings under s. 165.76 (6) to compel provision of a biological specimen for deoxyribonucleic acid analysis.

SECTION 247. 938.18 (10) of the statutes is created to read:

938.18 **(10)** DISPOSITION OPTIONS; CERTAIN JUVENILES YOUNGER THAN 15. If a court of criminal jurisdiction has jurisdiction over a juvenile for a violation as a result of a waiver under sub. (1) (a) or (b) and the juvenile is alleged to have committed the violation before he or she has attained the age of 15, the court shall proceed as follows:

(a) If the juvenile is convicted of an offense for which jurisdiction over the juvenile could not have been waived under sub. (1) (a) or (b), the court shall adjudge the juvenile to be delinquent and impose a disposition specified in s. 938.34.

(b) If the juvenile is convicted of an offense other than the offense charged and the offense for which the juvenile is convicted is an offense for which jurisdiction over the juvenile may be waived under sub. (1) (a) or (b) and the court, after considering the criteria specified in sub. (5), determines that the juvenile has proved by clear and convincing evidence that it would be in the best interests of the juvenile and of the public to adjudge the juvenile to be delinquent, the court may impose a disposition specified in s. 938.34.

SECTION 248. 938.183 (1) (ar) of the statutes is amended to read:

938.183 **(1)** (ar) A juvenile specified in par. (a) or (am) who is alleged to have attempted or committed a violation of any state criminal law in addition to the violation alleged under par. (a) or (am) if the violation alleged under this paragraph and the violation alleged under par. (a) or (am) may be joined under s. ~~971.12 (1)~~ 970.13.

SECTION 249. 938.183 (1m) (b) of the statutes is amended to read:

938.183 **(1m)** (b) If a court of criminal jurisdiction transfers jurisdiction under s. ~~970.032~~ 971.75 (5) or ~~971.31 (13)~~ 971.77 to a court assigned to exercise jurisdiction

under this chapter and ch. 48, the juvenile is subject to the procedures and dispositions specified in ~~subch.~~ subchs. IV to VI.

SECTION 250. 938.195 (1) (a) of the statutes is amended to read:

938.195 **(1)** (a) "Custodial interrogation" has the meaning given in s. ~~968.073~~ 969.165 (1) (a).

SECTION 251. 938.21 (2) (f) of the statutes is created to read:

938.21 **(2)** (f) At a hearing under this section, the representative of the public designated under s. 938.09 shall disclose, if in his or her possession, law enforcement investigative reports relating to the case.

SECTION 252. 938.293 (2) of the statutes is amended to read:

938.293 **(2)** RECORDS RELATING TO JUVENILE. All records relating to a juvenile which are relevant to the subject matter of a proceeding under this chapter shall be open to inspection by a guardian ad litem or counsel for any party, upon demand and upon presentation of releases where necessary, at least 48 hours before the proceeding. Persons entitled to inspect the records may obtain copies of the records with the permission of the custodian of the records or with the permission of the court. The court may instruct counsel not to disclose specified items in the materials to the juvenile or the parent if the court reasonably believes that the disclosure would be harmful to the interests of the juvenile. ~~Section 971.23~~ Subchapter IV of ch. 971 shall be applicable in all delinquency proceedings under this chapter, except that the court shall establish the timetable for the disclosures required under ~~s. 971.23 (1), (2m), (8), and (9)~~ ss. 971.43, 971.44, 971.45, 971.46, and 971.47.

SECTION 253. 938.30 (2) of the statutes is amended to read:

938.30 **(2)** INFORMATION TO JUVENILE AND PARENTS; BASIC RIGHTS; SUBSTITUTION. At or before the commencement of the hearing under this section the juvenile and

the parent, guardian, legal custodian, or Indian custodian shall be advised of their rights as specified in s. 938.243 and shall be informed that the hearing shall be to the court and that a request for a substitution of judge under s. 938.29 must be made before the end of the plea hearing or is waived. At the hearing, the district attorney shall disclose, if in his or her possession, law enforcement investigative reports relating to the case. Nonpetitioning parties, including the juvenile, shall be granted a continuance of the plea hearing if they wish to consult with an attorney on the request for a substitution of a judge.

SECTION 254. 938.30 (3) of the statutes is amended to read:

938.30 **(3)** JUVENILE IN NEED OF PROTECTION OR SERVICES PROCEEDING; POSSIBLE PLEAS. If a petition alleges that a juvenile is in need of protection or services under s. 938.13 (4), (6), (6m), (7) or (14), the nonpetitioning parties and the juvenile, if he or she is ~~12~~ 10 years of age or older ~~or~~ and is otherwise competent to do so, shall state whether they desire to contest the petition.

SECTION 255. 938.30 (5) (c) (intro.) of the statutes is amended to read:

938.30 **(5)** (c) (intro.) If the court finds that the juvenile was not responsible by reason of mental disease or defect, as described under s. ~~971.15~~ 975.50 (1) and (2), the court shall dismiss the petition with prejudice and do one of the following:

SECTION 256. 938.30 (5) (d) (intro.) of the statutes is amended to read:

938.30 **(5)** (d) (intro.) If the court finds that the juvenile is not competent to proceed, as described in s. ~~971.13~~ 975.30 (1) and (2), the court shall suspend proceedings on the petition and do one of the following:

SECTION 257. 938.30 (5) (e) 1. (intro.) of the statutes is amended to read:

938.30 **(5)** (e) 1. (intro.) A juvenile who is not competent to proceed, as described in s. ~~971.13~~ 975.30 (1) and (2), but who is likely to become competent to proceed

within 12 months or within the time period of the maximum sentence that may be imposed on an adult for the most serious delinquent act with which the juvenile is charged, whichever is less, and who is committed under s. 51.20 following an order under par. (d) 1. or who is placed under a dispositional order following an order under par. (d) 2., shall be periodically reexamined with written reports of those reexaminations to be submitted to the court every 3 months and within 30 days before the expiration of the juvenile's commitment or dispositional order. Each report shall indicate one of the following:

SECTION 258. 938.31 (2) of the statutes is amended to read:

938.31 **(2)** HEARING TO THE COURT; PROCEDURES. The hearing shall be to the court. If the hearing involves a child victim, as defined in s. 938.02 (20m) (a) 1., or a child witness, as defined in s. 950.02 (5), the court may order that a deposition be taken by audiovisual means and allow the use of a recorded deposition under s. ~~967.04 (7) to (10) and, with the district attorney, shall comply with s. 971.105~~ 967.22. At the conclusion of the hearing, the court shall make a determination of the facts. If the court finds that the juvenile is not within the jurisdiction of the court or the court finds that the facts alleged in the petition or citation have not been proved, the court shall dismiss the petition or citation with prejudice.

SECTION 259. 938.31 (3) (a) 4. of the statutes is amended to read:

938.31 **(3)** (a) 4. "Statement" has the meaning given in s. ~~972.115~~ 972.18 (1) (d).

SECTION 260. 938.31 (3) (d) of the statutes is amended to read:

938.31 **(3)** (d) Notwithstanding ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a juvenile's lack of consent to having an audio or audio and visual recording made of a custodial interrogation does not affect the admissibility in evidence of an audio or

audio and visual recording of a statement made by the juvenile during the interrogation.

SECTION 261. 938.315 (2) of the statutes is amended to read:

938.315 **(2)** CONTINUANCE FOR GOOD CAUSE. A continuance may be granted by the court only upon a showing of good cause in open court or during a telephone conference under s. 807.13 on the record and only for so long as is necessary, taking into account the request or consent of the representative of the public under s. 938.09 or the parties, the interests of the victims, and the interest of the public in the prompt disposition of cases. In ruling on any motion or other request for a continuance or delay of the proceedings, the court shall also consider and give weight to any adverse impact the delay or continuance may have on the well–being of a victim or a witness, as defined in s. 950.02 (5), if the victim or witness is a child. In addition, if a victim or a witness is a child, the court and the representative of the public under s. 938.09 shall take appropriate action to ensure speedy proceedings in order to minimize the time during which the child must endure the stress of his or her involvement in the proceedings.

SECTION 262. 938.35 (1) (cm) of the statutes is amended to read:

938.35 **(1)** (cm) In a court of civil or criminal jurisdiction for purposes of setting bail under s. 974.09 or ch. 969 or impeaching a witness under s. 906.09.

SECTION 263. 938.396 (1) (a) of the statutes is amended to read:

938.396 **(1)** (a) *Confidentiality.* Law enforcement agency records of juveniles shall be kept separate from records of adults. Law enforcement agency records of juveniles may not be open to inspection or their contents disclosed except under par. (b) or (c), sub. (1j), (2m) (c) 1p., or (10), or s. 938.21 (2) (f), 938.293, or 938.30 (2) or by order of the court.

SECTION 264. 938.396 (2g) (dr) of the statutes is amended to read:

938.396 **(2g)** (dr) *Presentence investigation.* Upon request of the department of corrections or any other person preparing a presentence investigation under s. ~~972.15~~ 973.004 to review court records for the purpose of preparing the presentence investigation, the court shall open for inspection by any authorized representative of the requester the records of the court relating to any juvenile who has been the subject of a proceeding under this chapter.

SECTION 265. 938.535 of the statutes is amended to read:

938.535 Early release and intensive supervision program; limits. The department may establish a program for the early release and intensive supervision of juveniles who have been placed in a juvenile correctional facility or a secured residential care center for children and youth under s. 938.183 or 938.34 (4m). The program may not include any juveniles who have been placed in a juvenile correctional facility or a secured residential care center for children and youth as a result of a delinquent act involving the commission of a violent crime as defined in s. ~~969.035~~ 969.43, but not including the crime specified in s. 948.02 (1).

SECTION 266. 938.78 (2) (d) 1. of the statutes is amended to read:

938.78 **(2)** (d) 1. The subject of a presentence investigation under s. ~~972.15~~ 973.004.

SECTION 267. 939.60 of the statutes is amended to read:

939.60 Felony and misdemeanor defined. ~~A crime punishable by imprisonment in the Wisconsin state prisons is a felony~~ "Felony" has the meaning given in s. 967.025 (11). Every other crime is a misdemeanor.

SECTION 268. 939.615 (2) (a) of the statutes is amended to read:

939.615 **(2)** (a) Except as provided in par. (b), if a person is convicted of a serious sex offense or found not guilty of a serious sex offense by reason of mental disease or defect, the court may, in addition to sentencing the person, placing the person on probation or, if applicable, committing the person under ~~s. 971.17~~ subch. III of ch. 975, place the person on lifetime supervision by the department if notice concerning lifetime supervision was given to the person under s. 973.125 and if the court determines that lifetime supervision of the person is necessary to protect the public.

SECTION 269. 939.615 (3) (d) of the statutes is amended to read:

939.615 **(3)** (d) If the person has been committed to the department of health services under ~~s. 971.17~~ subch. III of ch. 975 for the serious sex offense, upon the termination of his or her commitment under s. ~~971.17 (5)~~ 975.60 or his or her discharge from the commitment under s. ~~971.17 (6)~~ 975.61, whichever is applicable.

SECTION 270. 939.621 (1) (a) of the statutes is amended to read:

939.621 **(1)** (a) A person who commits, during the 72 hours immediately following an arrest for a domestic abuse incident as set forth in s. ~~968.075~~ 969.27 (5), an act of domestic abuse, as defined in s. ~~968.075~~ 969.27 (1) (a) that constitutes the commission of a crime. For the purpose of the definition under this paragraph, the 72–hour period applies whether or not there has been a waiver by the victim under s. ~~968.075~~ 969.27 (5) (c).

SECTION 271. 939.621 (2) of the statutes is amended to read:

939.621 **(2)** If a person commits an act of domestic abuse, as defined in s. ~~968.075~~ 969.27 (1) (a) and the act constitutes the commission of a crime, the maximum term of imprisonment for that crime may be increased by not more than 2 years if the person is a domestic abuse repeater. The victim of the domestic abuse crime does not have to be the same as the victim of the domestic abuse incident that

resulted in the prior arrest or conviction. The penalty increase under this section changes the status of a misdemeanor to a felony.

SECTION 272. 939.74 (1) of the statutes is amended to read:

939.74 **(1)** Except as provided in subs. (2) and (2d) and s. 946.88 (1), prosecution for a felony must be commenced within 6 years and prosecution for a misdemeanor or for adultery within 3 years after the commission thereof. Within the meaning of this section, a prosecution has commenced when ~~a warrant or summons is issued,~~ an indictment is found~~,~~ or ~~an information~~ a complaint is filed.

SECTION 273. 939.74 (3) of the statutes is amended to read:

939.74 **(3)** In computing the time limited by this section, the time during which the actor was not publicly a resident within this state or during which a prosecution against the actor for the same act was pending shall not be included. A prosecution is pending when ~~a warrant or a summons has been issued,~~ an indictment has been found~~,~~ or ~~an information~~ a complaint has been filed.

SECTION 274. 939.74 (4) of the statutes is amended to read:

939.74 **(4)** In computing the time limited by this section, the time during which an alleged victim under s. 940.22 (2) is unable to seek the ~~issuance~~ filing of a complaint under s. ~~968.02~~ 970.08 due to the effects of the sexual contact or due to any threats, instructions or statements from the therapist shall not be included.

SECTION 275. 940.09 (1m) (a) of the statutes is amended to read:

940.09 **(1m)** (a) A person may be charged with and a prosecutor may proceed upon an information based upon a violation of any combination of sub. (1) (a), (am), or (b); any combination of sub. (1) (a), (am), or (bm); any combination of sub. (1) (c), (cm), or (d); any combination of sub. (1) (c), (cm), or (e); any combination of sub. (1g)

(a), (am), or (b) ~~or;~~; or any combination of sub. (1g) (c), (cm), or (d) for acts arising out of the same incident or occurrence.

SECTION 276. 940.09 (1m) (b) of the statutes is amended to read:

940.09 **(1m)** (b) If a person is charged in an information with any of the combinations of crimes referred to in par. (a), the crimes shall be joined under s. ~~971.12~~ 970.13. If the person is found guilty of more than one of the crimes so charged for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under s. 23.33 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bm), (c), (cm), (d), and (e) each require proof of a fact for conviction which the others do not require, and sub. (1g) (a), (am), (b), (c), (cm), and (d) each require proof of a fact for conviction which the others do not require.

SECTION 277. 940.225 (4) (intro.) of the statutes is amended to read:

940.225 **(4)** CONSENT. (intro.) "Consent", as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. Consent is not an issue in alleged violations of sub. (2) (c), (cm), (d), (g), (h), and (i). The following persons are presumed incapable of consent but the presumption may be rebutted by competent evidence, subject to the provisions of s. ~~972.11 (2)~~ 904.045:

SECTION 278. 940.25 (1m) (b) of the statutes is amended to read:

940.25 **(1m)** (b) If a person is charged in an information with any of the combinations of crimes referred to in par. (a), the crimes shall be joined under s. ~~971.12~~ 970.13. If the person is found guilty of more than one of the crimes so charged for acts arising out of the same incident or occurrence, there shall be a single

conviction for purposes of sentencing and for purposes of counting convictions under s. 23.33 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q) and 343.305 or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bm), (c), (cm), (d), and (e) each require proof of a fact for conviction which the others do not require.

SECTION 279. 940.32 (2m) (d) of the statutes is amended to read:

940.32 **(2m)** (d) The person violates s. ~~968.31~~ 968.345 (1) or ~~968.34~~ 968.376 (1) in order to facilitate the violation.

SECTION 280. 940.48 (intro.) of the statutes is amended to read:

940.48 Violation of court orders. (intro.) Whoever violates an order issued under s. 940.47 or violates any condition of a bond required under s. 969.33 (4) (d) may be punished as follows:

SECTION 281. 940.49 of the statutes is repealed.

SECTION 282. 941.28 (5) of the statutes is amended to read:

941.28 **(5)** Any firearm seized under this section is subject to s. ~~968.20 (3)~~ 175.27 (1) and is presumed to be contraband.

SECTION 283. 941.29 (3) of the statutes is amended to read:

941.29 **(3)** Any firearm involved in an offense under sub. (2) is subject to s. ~~968.20 (3)~~ 175.27 (1).

SECTION 284. 943.245 (3m) of the statutes is amended to read:

943.245 **(3m)** Any recovery under this section shall be reduced by the amount recovered as restitution for the same act under ss. 800.093 and 973.20 or as recompense under s. ~~969.13 (5) (a)~~ 969.42 for the same act and by any amount collected in connection with the act and paid to the plaintiff under a deferred prosecution agreement under s. 971.41.

SECTION 285. 943.51 (3r) of the statutes is amended to read:

943.51 **(3r)** Any recovery under this section shall be reduced by the amount recovered as restitution for the same act under ss. 800.093 and 973.20 or as recompense under s. ~~969.13 (5) (a)~~ 969.42 for the same act.

SECTION 286. 946.42 (3) (g) of the statutes is amended to read:

946.42 **(3)** (g) Committed to the department of health services under ch. ~~971~~ 975, 2013 stats., or ch. 975.

SECTION 287. 946.49 (1) (intro.) of the statutes is amended to read:

946.49 **(1)** (intro.) Whoever, having been released from custody under s. 974.09 or ch. 969, intentionally fails to comply with the terms of his or her bond is:

SECTION 288. 946.49 (2) of the statutes is amended to read:

946.49 **(2)** A witness for whom ~~bail has been required~~ conditions of release have been set under s. ~~969.01 (3)~~ 969.52 is guilty of a Class I felony for failure to appear as provided.

SECTION 289. 946.52 of the statutes, as affected by 2013 Wisconsin Act 20, section 1922, is amended to read:

946.52 Failure to submit biological specimen. Whoever intentionally fails to comply with a requirement to submit a biological specimen under s. 165.76, 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8)~~ 971.027 (7), 973.047, or 980.063 is guilty of a Class A misdemeanor.

SECTION 290. 946.60 (1) of the statutes is amended to read:

946.60 **(1)** Whoever intentionally destroys, alters, mutilates, conceals, removes, withholds, or transfers possession of a document or other object, knowing that a subpoena has been issued for the document ~~has been subpoenaed~~ or other object by a court ~~or~~, by or at the request of a district attorney or the attorney general,

or by an attorney of record in a criminal case or a case under ch. 938 or 980, is guilty of a Class I felony.

SECTION 291. 946.86 (2) of the statutes is amended to read:

946.86 **(2)** Any criminal complaint alleging violation of s. 946.83 or 946.85 shall allege the extent of property subject to forfeiture under this section. At trial, the trier of fact shall return a special verdict determining the extent of property, if any, to be subject to forfeiture under this section. When a special verdict contains a finding of property subject to a forfeiture under this section, a judgment of criminal forfeiture shall be entered along with the judgment of conviction under s. ~~972.13~~ 972.28.

SECTION 292. 946.87 (2) (am) of the statutes is amended to read:

946.87 **(2)** (am) Notwithstanding par. (a), property described in par. (a) is subject to forfeiture if the person who violated s. 946.83 or 946.85 has not been convicted, but he or she is a defendant in a criminal proceeding, is released, pending trial, on ~~bail, as defined in s. 969.001~~ conditions under ch. 969, and fails to appear in court regarding the criminal proceeding. However, before making the final determination of any action under this section, the court must determine that the party bringing the action can prove the person committed the violation of s. 946.83 or 946.85.

SECTION 293. 948.015 (9) of the statutes is amended to read:

948.015 **(9)** A crime that involves an act of domestic abuse, as defined in s. ~~968.075~~ 969.27 (1) (a), if the court includes in its reasoning under s. 973.017 (10m) for its sentencing decision the aggravating factor under s. 973.017 (6m).

SECTION 294. 948.31 (5) of the statutes is amended to read:

948.31 **(5)** The venue of an action under this section is prescribed in s. ~~971.19~~ 970.14 (8).

SECTION 295. 948.50 (4) (c) of the statutes is amended to read:

948.50 **(4)** (c) Is committed, transferred, or admitted under ch. 975, 2013 stats., or ch. 51~~, 971~~ or 975.

SECTION 296. 948.50 (5) of the statutes is amended to read:

948.50 **(5)** This section does not apply to any law enforcement officer conducting a strip search under s. ~~968.255~~ 968.585.

SECTION 297. 949.165 (1) (a) of the statutes is amended to read:

949.165 **(1)** (a) "Serious crime" has the meaning designated in s. ~~969.08 (10)~~ 969.51 (7) (b) and includes solicitation, conspiracy or attempt to commit a serious crime.

SECTION 298. 949.165 (9) of the statutes is amended to read:

949.165 **(9)** INTERPLEADER. If a court determines that a person accused of a serious crime is incompetent to proceed under s. ~~971.14~~ 975.34 or if the charges are dismissed without prejudice, the department shall bring an action of interpleader to determine the disposition of the escrow account.

SECTION 299. 950.04 (1v) (b) of the statutes is amended to read:

950.04 **(1v)** (b) To attend court proceedings in the case, subject to ss. 906.15 and 938.299 (1). The court may require the victim to exercise his or her right under this paragraph using telephone or live audiovisual means, if available, if the victim is under arrest, incarcerated, imprisoned or otherwise detained by any law enforcement agency or is admitted or committed on an inpatient basis to a treatment facility under ch. 51, ~~971~~ 975, or 980, and the victim does not have a person specified in s. 950.02 (4) (a) 3. to exercise the victim's right under this paragraph.

SECTION 300. 950.04 (1v) (d) of the statutes is amended to read:

950.04 **(1v)** (d) To request an order for, and to be given the results of, testing to determine the presence of a communicable disease, as provided under ~~ss.~~ s. 938.296 or ~~968.38~~ 968.725.

SECTION 301. 950.04 (1v) (dL) of the statutes is amended to read:

950.04 **(1v)** (dL) To not be the subject of a law enforcement officer's or district attorney's order, request, or suggestion that he or she submit to a test using a lie detector, as defined in s. 111.37 (1) (b), if he or she claims to have been the victim of a sexual assault under s. 940.22 (2), 940.225, 948.02 (1) or (2), or 948.085, except as permitted under s. ~~968.265~~ 968.595.

SECTION 302. 950.04 (1v) (do) of the statutes is amended to read:

950.04 **(1v)** (do) To be informed about the process by which he or she may file a complaint under s. ~~968.02 or 968.26~~ 968.105 (2) and about the process of an inquest under s. ~~979.05~~ 968.025 if he or she is the victim of an officer–involved death, as defined in s. 175.47 (1) (c).

SECTION 303. 950.04 (1v) (e) of the statutes is amended to read:

950.04 **(1v)** (e) To be provided a waiting area under ss. 938.2965 and ~~967.10~~ 967.23.

SECTION 304. 950.04 (1v) (em) of the statutes is amended to read:

950.04 **(1v)** (em) To have his or her interests considered by the court in determining whether to exclude persons from a preliminary examination, as provided under s. 971.042 (4), or a probable cause or retention hearing concerning a juvenile, as provided under s. ~~970.03 (4)~~ 971.75.

SECTION 305. 950.04 (1v) (er) of the statutes is amended to read:

950.04 **(1v)** (er) To not be compelled to submit to a pretrial interview or deposition by a defendant or his or her attorney as provided under s. ~~971.23 (6c)~~ 971.58 (2).

SECTION 306. 950.04 (1v) (g) of the statutes is amended to read:

950.04 **(1v)** (g) To have reasonable attempts made to notify the victim of hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6), 938.27 (4m) and (6), 938.273 (2), 971.095 (3), and ~~972.14~~ 973.003 (3) (b).

SECTION 307. 950.04 (1v) (gn) and (go) of the statutes are created to read:

950.04 **(1v)** (gn) To have a reasonable attempt made to notify the victim of a conditional release, as provided under s. 975.62 (2).

(go) To have a reasonable attempt made to notify the victim of the termination of a commitment order or a discharge, as provided under s. 975.62 (3).

SECTION 308. 950.04 (1v) (L) of the statutes is amended to read:

950.04 **(1v)** (L) To have the district attorney or corporation counsel, whichever is applicable, make a reasonable attempt to contact the victim concerning the victim's right to make a statement, as provided under ss. 938.32 (1) (b) 2., 938.335 (3m) (b) and ~~972.14~~ 973.003 (3) (b).

SECTION 309. 950.04 (1v) (m) of the statutes is amended to read:

950.04 **(1v)** (m) To provide statements concerning sentencing, disposition, or parole, as provided under ss. 304.06 (1) (e), 938.32 (1) (b) 1g., 938.335 (3m) (ag), and ~~972.14~~ 973.003 (3) (a).

SECTION 310. 950.04 (1v) (p) of the statutes is amended to read:

950.04 **(1v)** (p) To have the person preparing a presentence investigation under s. ~~972.15~~ 973.004 make a reasonable attempt to contact the victim, as provided in s. ~~972.15~~ 973.004 (2m), and to view the sentence recommendation and any victim

information included on the presentence investigation report, as provided in s. ~~972.15~~ 973.004 (4m).

SECTION 311. 950.04 (1v) (pd) of the statutes is amended to read:

950.04 **(1v)** (pd) Subject to the limits set forth in s. ~~972.15~~ 973.004 (4r), to view portions of a presentence investigation report prepared under s. ~~972.15~~ 973.004 that relate to the crime upon the victim.

SECTION 312. 950.04 (1v) (qm) of the statutes is amended to read:

950.04 **(1v)** (qm) To recompense as provided under s. ~~969.13 (5) (a)~~ 969.42.

SECTION 313. 950.04 (1v) (s) of the statutes is amended to read:

950.04 **(1v)** (s) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence, subject to s. ~~968.205~~ 968.645. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, property subject to preservation under s. ~~968.205~~ 968.645, and property the ownership of which is disputed, shall be returned to the person within 10 days of being taken.

SECTION 314. 950.04 (1v) (um) of the statutes is amended to read:

950.04 **(1v)** (um) To have district attorneys make a reasonable attempt to notify the victim under s. ~~971.17 (4m)~~ 975.62 (2) regarding conditional releases under s. ~~971.17~~ 975.57 (4) or 975.59.

SECTION 315. 950.04 (1v) (x) of the statutes is amended to read:

950.04 **(1v)** (x) To have the department of health services make a reasonable attempt to notify the victim under s. ~~971.17 (6m)~~ 975.62 (3) regarding termination or discharge under s. ~~971.17~~ 975.60 or 975.61 and under s. 51.37 (10) regarding home visits under s. 51.37 (10).

SECTION 316. 950.04 (2w) (f) of the statutes is amended to read:

950.04 **(2w)** (f) To be provided a waiting area under ss. 938.2965 and ~~967.10~~ 967.23.

SECTION 317. 950.055 (2) (b) of the statutes is amended to read:

950.055 **(2)** (b) Advice to the judge, when appropriate and as a friend of the court, regarding the child's ability to understand proceedings and questions. The services may include providing assistance in determinations concerning the taking of depositions by audiovisual means under s. 908.08 or ~~967.04 (7) and (8)~~ 967.22 and the duty to expedite proceedings under ~~s.~~ ss. 938.315 (2) and 971.105.

SECTION 318. 950.08 (2g) (c) of the statutes is amended to read:

950.08 **(2g)** (c) The address and telephone number of the intake worker, corporation counsel, or district attorney whom the victim may contact to obtain information concerning the rights of victims and to request notice of court proceedings under ss. 938.27 (4m) and (6), 938.273 (2), 938.299 (1) (am) and 938.335 (3m) (b) or ss. 971.095 (3) and ~~972.14~~ 973.003 (3) (b), whichever is applicable, and to request the opportunity to confer under ~~ss.~~ s. 938.245 (1m), 938.265, or 938.32 (1) (am) or s. 971.095 (2), whichever is applicable.

SECTION 319. 950.08 (2g) (e) of the statutes is amended to read:

950.08 **(2g)** (e) The address and telephone number of the custodial agency that the victim may contact for information concerning release under s. 938.20 ~~or~~, 938.21, or 974.09 or ch. 969, whichever is appropriate, of a person arrested or taken into custody for the crime of which he or she is a victim.

SECTION 320. 950.08 (2g) (h) of the statutes is amended to read:

950.08 **(2g)** (h) If the victim is a victim of an officer–involved death, as defined in s. 175.47 (1) (c), information about the process by which he or she may file a

complaint under s. ~~968.02 or 968.26~~ 968.105 (2) and about the process of an inquest under s. ~~979.05~~ 968.025.

SECTION 321. 950.08 (2r) (intro.) of the statutes is amended to read:

950.08 **(2r)** INFORMATION TO BE PROVIDED BY A DISTRICT ATTORNEY IN CRIMINAL CASES. (intro.) As soon as practicable, but in no event later than 10 days after the initial appearance under s. ~~970.01~~ 971.015 or 24 hours before a preliminary examination under s. ~~970.03~~ 971.042, whichever is earlier, of a person charged with a crime in a court of criminal jurisdiction, a district attorney shall make a reasonable attempt to provide to each victim of the crime written information on all of the following:

SECTION 322. 950.08 (2w) of the statutes is amended to read:

950.08 **(2w)** INFORMATION TO BE PROVIDED BY DISTRICT ATTORNEYS TO SCHOOLS IN CRIMINAL CASES. If a criminal complaint is issued under s. ~~968.02~~ 970.08 or if a petition for waiver is granted pursuant to s. 938.18, and the district attorney reasonably believes the person charged is a pupil enrolled in a school district, a private school, or a charter school established pursuant to 118.40 (2r), the district attorney shall make a reasonable attempt to notify the school board, governing body of the private school, as defined in s. 115.001 (3d), or charter school governing body of the charges pending against the pupil. The district attorney shall also notify the school board, governing body of the private school, or charter school governing body of the final disposition of the charges.

SECTION 323. 951.01 (4) of the statutes is amended to read:

951.01 **(4)** "Law enforcement officer" has the meaning assigned under s. ~~967.02 (5)~~ 967.025 (13) but does not include a conservation warden appointed under s. 23.10.

SECTION 324. 961.48 (2m) (a) of the statutes is amended to read:

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

SECTION 325. 961.48 (2m) (b) (intro.) of the statutes is amended to read:

961.48 **(2m)** (b) (intro.) Notwithstanding s. ~~971.29~~ 970.09 (1), at any time before entry of a guilty or no contest plea or the commencement of a trial, a district attorney may file without leave of the court an amended complaint, information, or indictment that does any of the following:

SECTION 326. 967.01 of the statutes is amended to read:

967.01 Title ~~and effective date~~. Chapters 967 to 979 may be referred to as the criminal procedure code and shall be interpreted as a unit. Chapters 967 to 979 shall govern all criminal proceedings ~~and is effective on July 1, 1970. Chapters 967 to 979 apply in all prosecutions commenced on or after that date. Prosecutions commenced prior to July 1, 1970, shall be governed by the law existing prior thereto~~.

SECTION 327. 967.02 (title) of the statutes is repealed.

SECTION 328. 967.02 (intro.) of the statutes is renumbered 967.025 (intro.).

SECTION 329. 967.02 (1) of the statutes is renumbered 967.025 (4) and amended to read:

967.025 **(4)** "Clerk" means the clerk of ~~circuit~~ court of the county ~~including~~ and includes the clerk's deputies.

SECTION 330. 967.02 (2) of the statutes is renumbered 967.025 (9) and amended to read:

967.025 **(9)** "Department" means the department of corrections, except as provided in ~~ss. 971.14 and 975.001~~ s. 975.20 (1) for purposes of ch. 975.

SECTION 331. 967.02 (3) and (4) of the statutes are repealed.

SECTION 332. 967.02 (5) of the statutes is renumbered 967.025 (13).

SECTION 333. 967.02 (6) of the statutes is renumbered 967.025 (12) and amended to read:

967.025 **(12)** "Judge" means judge of ~~a~~ the court ~~of record~~ and includes a court commissioner acting within the scope of authority conferred under s. 757.69.

SECTION 334. 967.02 (7) of the statutes is renumbered 967.025 (6) and amended to read:

967.025 **(6)** "Court" means the circuit court unless otherwise indicated and includes a court commissioner acting within the scope of authority conferred under s. 757.69.

SECTION 335. 967.02 (8) of the statutes is repealed.

SECTION 336. 967.025 (title) of the statutes is created to read:

967.025 (title) **Definitions.**

SECTION 337. 967.025 (2) of the statutes is created to read:

967.025 **(2)** "Bond" means a promise by a person in custody to appear in court as required and to comply with other conditions.

SECTION 338. 967.025 (3) of the statutes is created to read:

967.025 **(3)** "Citation" means a directive, issued by a law enforcement officer, that a person appear in court or the district attorney's office.

SECTION 339. 967.025 (5) of the statutes is created to read:

967.025 **(5)** "Complaint" or "criminal complaint" means the written statement of the essential facts constituting the crime charged that is issued by a district attorney. "Complaint" or "criminal complaint" includes a citation endorsed by a district attorney under s. 969.24 (5).

SECTION 340. 967.025 (7) of the statutes is created to read:

967.025 **(7)** "Crime" means conduct that is prohibited by state law and punishable by fine or imprisonment or both. Conduct punishable only by a forfeiture is not a crime.

SECTION 341. 967.025 (8) of the statutes is created to read:

967.025 **(8)** "Crime considered at sentencing" means any crime for which the defendant was convicted and any read–in crime.

SECTION 342. 967.025 (10) of the statutes is created to read:

967.025 **(10)** "District attorney" includes any duly qualified deputies and assistants and includes a special prosecutor under s. 978.045, a person assisting under s. 978.05 (8) (b), and the attorney general in cases in which he or she is authorized to investigate or prosecute.

SECTION 343. 967.025 (11) of the statutes is created to read:

967.025 **(11)** "Felony" means a crime punishable by imprisonment in the Wisconsin state prisons, but does not include a crime that is punishable by imprisonment in prison only as a result of the application of a penalty increase provision that does not specifically provide that application of the penalty increase makes the crime a felony.

SECTION 344. 967.025 (14) of the statutes is created to read:

967.025 **(14)** "Misdemeanor" means a crime other than a felony.

SECTION 345. 967.025 (15) of the statutes is created to read:

967.025 **(15)** "Motion" means an application for an order.

SECTION 346. 967.025 (16) of the statutes is created to read:

967.025 **(16)** "Read–in crime" means any crime that is uncharged or that is dismissed as part of a plea agreement, that the defendant agrees to have considered by the court at the time of sentencing, and that the court considers at the time of sentencing the defendant for the crime for which the defendant was convicted.

SECTION 347. 967.025 (17) of the statutes is created to read:

967.025 **(17)** "Sentencing" means the imposition of a sentence, fine, or probation.

SECTION 348. 967.03 of the statutes is repealed.

SECTION 349. 967.04 (title), (1), (2), (3), (4), (5) and (6) of the statutes are renumbered 967.21 (title), (1), (2), (3), (4), (5) and (6), and 967.21 (title), (1) and (4) (a), as renumbered, are amended to read:

967.21 (title) **Depositions in criminal proceedings generally. (1)** CIRCUMSTANCE UNDER WHICH PERMITTED. If it appears that a prospective witness may be unable to attend or prevented from attending a criminal trial or hearing, that the prospective witness's testimony is material and that it is necessary to take the prospective witness's deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment or information may upon motion and notice to the parties order that the prospective witness's testimony be taken by deposition and that any designated books, papers, documents, or tangible objects, not privileged, be produced at the same time and place. If a witness is committed pursuant to s. ~~969.01 (3)~~ 969.52, the court shall direct that the witness's deposition be taken upon notice to the parties. ~~After the deposition has been subscribed, the court shall discharge the witness.~~

(4) (a) If the state or a witness procures ~~such~~ an order under sub. (1), the notice shall inform the defendant that the defendant is required to personally attend at the taking of the deposition and that the defendant's failure so to do is a waiver of the defendant's right to face the witness whose deposition is to be taken. Failure to attend shall constitute a waiver unless the defendant was physically unable to attend.

SECTION 350. 967.04 (7) (a) of the statutes is renumbered 967.22 (1) and amended to read:

967.22 **(1)** CIRCUMSTANCE UNDER WHICH PERMITTED. In any criminal prosecution or any proceeding under ch. 48 or 938, any party may move the court to order that a deposition of a child who has been or is likely to be called as a witness be taken by audiovisual means. Upon notice and hearing, the court may issue an order for such a deposition if the trial or hearing in which the child may be called will commence before one of the following:

(a) ~~Prior to the~~ The child's 12th birthday~~; or~~.

(b) ~~Prior to the~~ The child's 16th birthday ~~and~~ if the court finds under sub. (2) that the interests of justice warrant that the child's testimony be prerecorded for use at the trial or hearing ~~under par. (b)~~.

SECTION 351. 967.04 (7) (b) of the statutes is renumbered 967.22 (2), and 967.22 (2) (intro.), (a), (c), (f) and (g), as renumbered, are amended to read:

967.22 **(2)** DETERMINING INTERESTS OF JUSTICE. (intro.) Among the factors ~~which~~ that the court may consider in determining the interests of justice are any of the following:

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

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

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

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

SECTION 352. 967.04 (8) of the statutes is renumbered 967.22 (3), and 967.22 (3) (a) and (b) (intro.) and 4., as renumbered, are amended to read:

967.22 **(3)** PROCEDURES. (a) If the court orders a deposition under sub. ~~(7)~~ (1), the judge shall preside at the taking of the deposition and enforce compliance with the applicable provisions of ss. 885.44 to 885.47. Notwithstanding s. 885.44 (5), counsel may make objections and the judge shall make rulings thereon as at trial. The clerk ~~of court~~ shall keep the certified original recording of a deposition taken under sub. ~~(7)~~ (1) in a secure place. No person may inspect or copy the deposition except by order of the court upon a showing that inspection or copying is required for

editing under s. 885.44 (12) or for the investigation, prosecution, or defense of the action in which it was authorized or the provision of services to the child.

(b) (intro.) If the court orders that a deposition be taken by audiovisual means under sub. ~~(7)~~ (1), the court shall do all of the following:

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

SECTION 353. 967.04 (9) of the statutes is renumbered 967.22 (4) and amended to read:

967.22 **(4)** USE AT TRIAL, HEARING, OR OTHER PROCEEDING. In any criminal prosecution or juvenile fact–finding hearing under s. 48.31 or 938.31, the court may admit into evidence a recorded deposition taken under ~~subs. (7) and (8)~~ this section without an additional hearing under s. 908.08. In any proceeding under s. 302.113 (9) (am), 302.114 (9) (am), 304.06 (3), or 973.10 (2), the hearing examiner may order that a deposition be taken by audiovisual means and preside at the taking of the deposition using the procedure provided in ~~subs. (7) and (8)~~ this section and may admit the recorded deposition into evidence without an additional hearing under s. 908.08.

SECTION 354. 967.04 (10) of the statutes is renumbered 967.22 (5) and amended to read:

967.22 **(5)** SUBSEQUENT TESTIMONY. If a court or hearing examiner admits a recorded deposition into evidence under sub. ~~(9)~~ (4), the child may not be called as a witness at the proceeding in which it was admitted unless the court or hearing

examiner so orders upon a showing that additional testimony by the child is required in the interest of fairness for reasons neither known nor with reasonable diligence discoverable at the time of the deposition by the party seeking to call the child. The testimony of a child who is required to testify under this subsection may be taken in accordance with s. ~~972.11 (2m)~~ 972.20, if applicable.

SECTION 355. 967.05 (title) of the statutes is renumbered 970.06 (title) and amended to read:

970.06 (title) **Methods of commencing prosecution.**

SECTION 356. 967.05 (1) (intro.) and (a) of the statutes are consolidated, renumbered 970.06 (1) and amended to read:

970.06 **(1)** A prosecution ~~may be~~ is commenced by the filing of~~: (a) A~~ a complaint~~;~~.

SECTION 357. 967.05 (1) (b) and (c) of the statutes are repealed.

SECTION 358. 967.05 (2) and (3) of the statutes are repealed.

SECTION 359. 967.055 of the statutes is renumbered 970.25, and 970.25 (2) (a) and (b), as renumbered, are amended to read:

970.25 **(2)** (a) Notwithstanding s. ~~971.29~~ 970.09, if the prosecutor seeks to dismiss or amend a charge under s. 346.63 (1) or (5) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle or an improper refusal under s. 343.305, the prosecutor shall apply to the court. The application shall state the reasons for the proposed amendment or dismissal. The court may approve the application only if the court finds that the proposed amendment or dismissal is consistent with the public's interest in deterring the operation of motor vehicles by persons who are under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination

of an intoxicant, controlled substance and controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, in deterring the operation of motor vehicles by persons with a detectable amount of a restricted controlled substance in his or her blood, or in deterring the operation of commercial motor vehicles by persons with an alcohol concentration of 0.04 or more. The court may not approve an application to amend the vehicle classification from a commercial motor vehicle to a noncommercial motor vehicle unless there is evidence in the record that the motor vehicle being operated by the defendant at the time of his or her arrest was not a commercial motor vehicle.

(b) Notwithstanding s. ~~971.29~~ 970.09, if the prosecutor seeks to dismiss or amend a charge under s. 30.681 (1) or a local ordinance in conformity therewith, a charge under s. 30.681 (2), a charge under s. 30.684 (5) or a local ordinance in conformity therewith or a charge under s. 940.09 or 940.25 if the offense involved the use of a motorboat, except a sailboat operating under sail alone, the prosecutor shall apply to the court. The application shall state the reasons for the proposed amendment or dismissal. The court may approve the application only if the court finds that the proposed amendment or dismissal is consistent with the public's interest in deterring the operation of motorboats by persons who are under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination of an intoxicant, controlled substance and controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of operating a motorboat safely, or under the combined influence of an

intoxicant and any other drug to a degree which renders him or her incapable of operating a motorboat safely.

SECTION 360. 967.057 of the statutes is renumbered 970.15 (6).

SECTION 361. 967.06 (title) of the statutes is repealed.

SECTION 362. 967.06 (1) and (2) (a) of the statutes are consolidated, renumbered 971.013 and amended to read:

971.013 <u>Determination of indigency; appointment of counsel.</u> As soon as practicable after a person has been detained or arrested in connection with any offense that is punishable by incarceration~~, or in connection with any civil commitment proceeding,~~ or in any other situation in which a person is entitled to counsel regardless of ability to pay under the constitution or laws of the United States or this state, the person shall be informed of his or her right to counsel. ~~**(2)** (a) Except as provided in par. (b), a~~ <u>A</u> person ~~entitled to counsel under sub. (1)~~ who indicates at any time that he or she wants to be represented by a lawyer, and who claims that he or she is not able to pay in full for a lawyer's services, shall immediately be permitted to contact the authority for indigency determinations specified under s. 977.07 (1). The authority for indigency determination in each county shall have daily telephone access to the county jail in order to identify all persons who are being held in the jail. The jail personnel shall provide by phone information requested by the authority.

SECTION 363. 967.06 (2) (b) of the statutes is repealed.

SECTION 364. 967.06 (3) of the statutes is renumbered 977.072 and amended to read:

977.072 <u>Transcript or court record; costs.</u> In any case in which the state public defender provides representation to an indigent person, the public defender

may request that the applicable court reporter or clerk ~~of circuit court~~ prepare and transmit any transcript or court record. The request shall be complied with. The state public defender shall, from the appropriation under s. 20.550 (1) (f), compensate the court reporter or clerk ~~of circuit court~~ for the cost of preparing, handling, duplicating, and mailing the documents.

SECTION 365. 967.07 of the statutes is repealed.

SECTION 366. 967.08 (title) of the statutes is renumbered 967.14 (title).

SECTION 367. 967.08 (1) of the statutes is renumbered 967.14 (1) (intro.) and amended to read:

967.14 **(1)** PROCEEDINGS COVERED. (intro.) Unless good cause to the contrary is shown, the court may permit any of the following proceedings ~~referred to in this section may~~ to be conducted by telephone ~~or live audiovisual means, if available. If the proceeding is required to be reported under SCR 71.01 (2), the~~ on the request of either party:

(5) PROCEDURES. A proceeding conducted under this section shall be ~~reported~~ recorded by a court reporter ~~who is in simultaneous voice communication with all parties to the proceeding. Regardless of the physical location of any party to the call, any plea, waiver, stipulation, motion, objection, decision, order or other action taken by the court or any party shall have the same effect as if made in open court. With the exceptions of scheduling conferences, pretrial conferences, and, during hours the court is not in session, setting, review, modification of bail and other conditions of release under ch. 969, the~~ if it is required to be reported under SCR 71.01 (2). The proceeding shall be conducted in a courtroom or other place reasonably accessible to the public, with the exception of scheduling conferences, pretrial conferences, and, when the court is not in session, the setting, review, or modification of the conditions

of release. Simultaneous access to the proceeding shall be provided to persons entitled to attend by means of a loudspeaker or, upon request to the court, by making a person party to the telephone call without charge.

SECTION 368. 967.08 (2) (intro.) of the statutes is renumbered 967.14 (3) and amended to read:

967.14 **(3)** REQUESTS AND OBJECTIONS. ~~The court may permit the following proceedings to be conducted under sub. (1) on the request of either party. The request and the opposing party's showing of good cause for not conducting the proceeding~~ A party may make a request under sub. (1) ~~may be made~~ by telephone. The opposing party may show good cause by telephone for not conducting the proceeding under this section.

SECTION 369. 967.08 (2) (a) to (d) of the statutes are renumbered 967.14 (1) (a) to (d) and amended to read:

967.14 **(1)** (a) Initial appearance under ~~s. 970.01~~ subch. I of ch. 971 or pretrial conference.

(b) Waiver of preliminary examination under s. ~~970.03,~~ 971.042.

(e) Waiver of a competency hearing under s. ~~971.14 (4) or~~ 975.34.

(f) Waiver of a jury trial under s. ~~972.02~~ 972.005 (1).

(c) Motions for extension of time ~~under ss. 970.03 (2), 971.10 or other statutes~~.

(d) Arraignment under s. ~~971.05~~ 970.17, if the defendant intends to plead not guilty or to refuse to plead.

SECTION 370. 967.08 (3) (intro.) of the statutes is renumbered 967.14 (1) (g) (intro.) and amended to read:

967.14 **(1)** (g) (intro.) Non–evidentiary proceedings on the following matters ~~may be conducted under sub. (1) on request of either party. The request and the~~

~~opposing party's showing of good cause for not conducting the proceeding under sub. (1) may be made by telephone.~~:

SECTION 371. 967.08 (3) (a) to (f) of the statutes are renumbered 967.14 (1) (g) 1. to 6. and amended to read:

967.14 **(1)** (g) 1. Setting, review, and modification of ~~bail and other~~ conditions of release under s. 974.09 or ch. 969.

2. Motions for severance under s. ~~971.12 (3)~~ 971.68 (2) or ~~consolidation~~ joint trial of charges under s. ~~971.12 (4)~~ 971.67.

3. Motions for ~~testing of physical evidence under s. 971.23 (5)~~ discovery or ~~for~~ protective orders under ~~s. 971.23 (6)~~ subch. IV of ch. 971.

4. Motions ~~under s. 971.31~~ directed to the sufficiency of the complaint or the ~~affidavits supporting~~ basis for the issuance of a warrant for arrest or search.

5. Motions in limine~~, including those under s. 972.11 (2) (b)~~.

6. Motions ~~to postpone, including those under s. 971.29~~ related to scheduling under subch. III of ch. 971.

SECTION 372. 967.09 of the statutes is renumbered 967.14 (6), and 967.14 (6) (title), as renumbered, is amended to read:

967.14 **(6)** (title) INTERPRETERS ~~MAY SERVE BY TELEPHONE OR VIDEO~~.

SECTION 373. 967.10 of the statutes is renumbered 967.23.

SECTION 374. 967.11 of the statutes is renumbered 970.16.

SECTION 375. 967.12 (3) of the statutes is created to read:

967.12 **(3)** If trial is waived, when the court accepts the defendant's plea of guilty or no contest.

SECTION 376. 967.13 (1) (a) and (b) of the statutes are created to read:

967.13 **(1)** (a) The initial appearance.

(b) Any proceeding at which a plea is entered or withdrawn.

SECTION 377. 967.13 (1) (i) of the statutes is created to read:

967.13 **(1)** (i) Sentencing.

SECTION 378. 967.14 (1) (dm) of the statutes is created to read:

967.14 **(1)** (dm) Entry of a plea other than one that results in a finding of guilt.

SECTION 379. 967.14 (2) of the statutes is created to read:

967.14 **(2)** CRITERIA FOR GOOD CAUSE. In determining good cause under sub. (1), the court may consider the criteria under s. 885.56 (1).

SECTION 380. 967.14 (4) of the statutes is created to read:

967.14 **(4)** PLEAS OF GUILTY OR NO CONTEST AND SENTENCING. If the district attorney, the defendant, and defense counsel consent, the court may permit any of the following proceedings to be conducted by telephone:

(a) A proceeding to accept a plea of guilty or no contest.

(b) A sentencing proceeding.

SECTION 381. 967.21 (2) (title) of the statutes is created to read:

967.21 **(2)** (title) PROCEDURE.

SECTION 382. 967.21 (3) (title) of the statutes is created to read:

967.21 **(3)** (title) APPLICABILITY OF CIVIL RULES.

SECTION 383. 967.21 (4) (title) of the statutes is created to read:

967.21 **(4)** (title) ATTENDANCE BY DEFENDANT.

SECTION 384. 967.21 (5) (title) of the statutes is created to read:

967.21 **(5)** (title) USE AT TRIAL OR HEARING.

SECTION 385. 967.21 (6) (title) of the statutes is created to read:

967.21 **(6)** (title) OBJECTIONS.

SECTION 386. 967.22 (title) of the statutes is created to read:

967.22 (title) **Deposition of a child by audiovisual means.**

SECTION 387. 968.01 (title) of the statutes is renumbered 970.07 (title) and amended to read:

970.07 (title) **Complaint; contents and oath.**

SECTION 388. 968.01 (1) (intro.), (a) and (b) of the statutes are renumbered 970.07 (1) (intro.), (a) and (b).

SECTION 389. 968.01 (1) (c) of the statutes is repealed.

SECTION 390. 968.01 (2) of the statutes is renumbered 970.07 (2) and amended to read:

970.07 **(2)** The complaint ~~is a written statement of the~~ shall specify the time and place each crime charged was committed, the section of the statutes alleged to have been violated, and the maximum penalty prescribed for each crime charged. The complaint shall include a statement of the essential facts constituting the ~~offense~~ crime charged~~. A person may make a complaint on~~, signed by the person on whose knowledge, information, and belief the statement is based.

(3) Except as provided in sub. ~~(3) or~~ (4) or (5), the complaint shall be made upon oath before a district attorney ~~or judge as provided in this chapter~~.

SECTION 391. 968.01 (3) of the statutes is renumbered 970.07 (4) and amended to read:

970.07 **(4)** A person may comply with sub. (2) if he or she makes the oath by telephone contact with the district attorney ~~or judge~~, signs the statement, and immediately thereafter transmits a ~~copy~~ facsimile of the signed statement to the district attorney ~~or judge using a facsimile machine~~. The person shall also transmit the original signed statement~~, without using a facsimile machine,~~ to the district

attorney ~~or judge~~, who shall file it with the clerk. If the complaint is filed, both the original and the ~~copy~~ facsimile shall be filed under s. ~~968.02 (2)~~ 970.08.

SECTION 392. 968.01 (4) of the statutes is renumbered 970.07 (5).

SECTION 393. Subchapter I (title) of chapter 968 [precedes 968.015] of the statutes is created to read:

CHAPTER 968

SUBCHAPTER I

INQUESTS

SECTION 394. 968.02 (title) and (1) of the statutes are renumbered 970.08 (title) and (1) and amended to read:

970.08 (title) ~~**Issuance and filing of complaints**~~ **Filing the complaint.**

(1) ~~Except as otherwise provided in this section, a complaint charging a person with an offense shall be issued only by a~~ Only the district attorney of the county where ~~the~~ a crime ~~is alleged to have been committed. A complaint is issued when it is approved for filing by the district attorney. The approval shall be in the form of a written endorsement on the complaint~~ may be tried under s. 970.14 may file a complaint.

SECTION 395. 968.02 (2) of the statutes is repealed.

SECTION 396. 968.02 (3) of the statutes is repealed.

SECTION 397. 968.02 (4) of the statutes is repealed.

SECTION 398. 968.025 (title) of the statutes is created to read:

968.025 (title) **Inquest procedures.**

SECTION 399. 968.025 (3) of the statutes is created to read:

968.025 **(3)** WHERE CONDUCTED. An inquest may be held in any county in this state in which venue would lie for the trial of any offense that could be charged as the result of or involving the death.

SECTION 400. 968.025 (4) (title) of the statutes is created to read:

968.025 **(4)** (title) JURY SELECTION.

SECTION 401. 968.025 (4) (e) of the statutes is created to read:

968.025 **(4)** (e) The court shall select the inquest jury by lot once a panel of at least 12 potential jurors has been qualified. If the inquest is likely to be protracted, the judge may select also one or more alternate jurors by lot. If more than 6 jurors remain after all of the evidence is presented, the court shall determine by lot which jurors will not participate in deliberations and discharge them.

SECTION 402. 968.03 (title) and (3) of the statutes are repealed.

SECTION 403. 968.03 (1) of the statutes is repealed.

SECTION 404. 968.03 (2) of the statutes is renumbered 969.20 (8) and amended to read:

969.20 **(8)** WITHDRAWAL OF WARRANT OR SUMMONS AND COMPLAINT. An unserved warrant or summons and complaint in a case in which an initial appearance has not been held shall, at the request of the district attorney, be returned to the ~~judge who may dismiss the action. Such~~ court, and the court shall dismiss the action. The request shall be in writing~~, it~~ and shall state the reasons ~~therefor in writing and shall be filed with the clerk~~ for which it is made.

SECTION 405. 968.035 (title) of the statutes is created to read:

968.035 (title) **Witnesses.**

SECTION 406. 968.04 (title) of the statutes is renumbered 969.20 (title) and amended to read:

969.20 (title) **~~Warrant~~ Issuance of arrest warrant or summons ~~on complaint~~.**

SECTION 407. 968.04 (1) (intro.) of the statutes is renumbered 969.20 (1) and amended to read:

969.20 **(1)** ~~WARRANTS~~ IN GENERAL. If ~~it appears from the complaint, or from an affidavit or affidavits filed with the complaint or after an examination under oath of the complainant or witnesses, when the~~ a judge determines that ~~this is necessary, that~~ there is probable cause to believe that an offense has been committed and that the accused has committed it, the judge shall issue a warrant for the arrest of the ~~defendant~~ accused or a summons in lieu thereof. The probable cause determination may be based on a criminal complaint, an affidavit filed with the criminal complaint, or if the judge determines it is necessary, after an examination under oath of the complainant or witness. The warrant or summons shall be delivered ~~forthwith~~ to a law enforcement officer for service. If the judge does not find probable cause to believe that an offense has been committed or that the accused has committed it, the judge shall record that finding on the complaint, file the complaint with the clerk, and dismiss the action without prejudice.

SECTION 408. 968.04 (1) (a) of the statutes is repealed.

SECTION 409. 968.04 (1) (b) of the statutes is renumbered 969.20 (4) and amended to read:

969.20 **(4)** ISSUANCE BY JUDGE FROM ANOTHER COUNTY. A ~~warrant or summons may be issued by a~~ judge in another county may issue a warrant or summons when there is no available judge of the county in which the complaint is issued. The warrant or summons shall be returnable ~~before a judge~~ to a court in the county in which the ~~offense alleged in the~~ complaint was ~~committed, and the summons shall~~

~~be returnable before the circuit court of the county in which the offense alleged in the complaint was committed~~ issued.

SECTION 410. 968.04 (1) (c) of the statutes is renumbered 969.20 (5) and amended to read:

969.20 **(5)** GEOGRAPHICAL LIMITS. A judge issuing an arrest warrant may specify geographical limits for its enforcement ~~of a warrant~~.

SECTION 411. 968.04 (1) (d) of the statutes is renumbered 969.20 (3) and amended to read:

969.20 **(3)** EXAMINATION OF COMPLAINANT OR WITNESS. ~~An~~ A judge shall place each complainant or witness under oath and arrange for all sworn testimony to be recorded, either by a stenographic reporter or by means of a voice recording device. A judge may permit an examination of the complainant or witness under sub. (1) ~~may~~ or (2) to take place by telephone on request of the person seeking the warrant or summons unless good cause to the contrary appears. ~~The judge shall place each complainant or witness under oath and arrange for all sworn testimony to be recorded, either by a stenographic reporter or by means of a voice recording device.~~ The judge ~~shall~~ may have the record transcribed. ~~The~~ If the record is transcribed, the transcript, certified as accurate by the judge or reporter, as appropriate, shall be filed with the court. If the testimony was recorded by means of a voice recording device, the judge shall also file the original recording with the court.

SECTION 412. 968.04 (2) (title) of the statutes is repealed.

SECTION 413. 968.04 (2) (a) of the statutes is renumbered 969.20 (7) (a) and amended to read:

969.20 **(7)** (a) ~~In~~ After issuing a complaint in any case, the district attorney~~,~~ ~~after the issuance of a complaint,~~ may issue a summons in lieu of requesting the

issuance of a warrant. The ~~complaint~~ district attorney shall then ~~be filed~~ file the complaint with the clerk.

SECTION 414. 968.04 (2) (b) of the statutes is renumbered 969.20 (7) (b).

SECTION 415. 968.04 (2) (c) of the statutes is repealed.

SECTION 416. 968.04 (3) (title) of the statutes is repealed.

SECTION 417. 968.04 (3) (a) (intro.) of the statutes is renumbered 969.21 (1) (intro.) and amended to read:

969.21 **(1)** ~~WARRANT~~ MANDATORY PROVISIONS. (intro.) ~~The~~ An arrest warrant shall meet all of the following requirements:

SECTION 418. 968.04 (3) (a) 1. to 6. of the statutes are renumbered 969.21 (1) (a) to (f) and amended to read:

969.21 **(1)** (a) ~~Be~~ The warrant shall be in writing and signed by the judge.

(b) ~~State~~ The warrant shall state the name of the crime the defendant allegedly committed and the number of the statutory section ~~charged and number of the section alleged to have been~~ that the defendant allegedly violated.

(c) ~~Have~~ The warrant shall have attached to it a copy of the complaint.

(d) ~~State~~ The warrant shall state the name of the person to be arrested, if known, or if not known, designate the person to be arrested by any description by which the person to be arrested can be identified with reasonable certainty.

(e) ~~State~~ The warrant shall state the date when it was issued ~~and~~, the name of the judge who issued it ~~together with~~, and the title of the judge's office.

(f) ~~Command~~ The warrant shall command that the person ~~against whom the complaint was made~~ alleged to have committed the crime in par. (b) be arrested and, except as provided in s. 969.20 (4), be brought before the judge issuing the warrant, or, if the judge is absent or unable to act, before some other judge in the same county.

SECTION 419. 968.04 (3) (a) 7. of the statutes is renumbered 969.26 (1) and amended to read:

969.26 **(1)** ARREST WARRANT. ~~The~~ An arrest warrant shall be in substantially the following form:

STATE OF WISCONSIN,

.... County

State of Wisconsin

vs.

.... (Defendant(s))

THE STATE OF WISCONSIN TO ANY LAW ENFORCEMENT OFFICER:

A complaint or affidavit, copy of which is attached, ~~having~~ has been filed with me or testimony has been presented before me accusing the defendant(s) of committing the crime of .... contrary to sec. ...., Stats., and I ~~having~~ have found that there is probable cause ~~exists that the crime was committed by~~ to believe the defendant(s) committed that crime.

You are, therefore, commanded to arrest the defendant(s) and bring .... before ~~me, or, if I am not available, before some other~~ a judge of this county.

Dated ...., ... (year)

....(Signature)

....(Title)

SECTION 420. 968.04 (3) (a) 8. of the statutes is repealed.

SECTION 421. 968.04 (3) (b) (title) of the statutes is renumbered 969.22 (title).

SECTION 422. 968.04 (3) (b) 1. of the statutes is renumbered 969.22 (1) and amended to read:

969.22 **(1)** MANDATORY PROVISIONS. The summons shall command the defendant to appear before a court at a certain time and place and shall be in substantially the form set forth in ~~subd. 3.~~ s. 969.26 (2). The complaint and summons may be on the same form. If they are, the complaint shall be beneath the summons. If separate forms are used, a copy of the complaint shall be attached to the summons.

SECTION 423. 968.04 (3) (b) 2. of the statutes is renumbered 969.22 (2) and amended to read:

969.22 **(2)** SERVICE. A summons may be served anywhere in the state and ~~it~~ shall be served by delivering a copy to the defendant personally ~~or~~, by leaving a copy at ~~the defendant's~~ his or her usual place of abode with a person of discretion residing ~~therein~~ there, or by mailing a copy to the defendant's last–known address. ~~It shall be served by a law enforcement officer.~~

SECTION 424. 968.04 (3) (b) 3. (intro.) of the statutes is renumbered 969.26 (2) (intro.) and amended to read:

969.26 **(2)** SUMMONS. (intro.) ~~The~~ A summons shall be in substantially the following form:

SECTION 425. 968.04 (3) (b) 3. a. of the statutes is repealed.

SECTION 426. 968.04 (3) (b) 3. b. (intro.) of the statutes is repealed.

SECTION 427. 968.04 (3) (b) 3. b. (form) of the statutes is renumbered 969.26 (2) (form) and amended to read:

969.26 **(2)** (form)

STATE OF WISCONSIN,

.... County

State of Wisconsin

vs.

.... (Defendant)

THE STATE OF WISCONSIN TO SAID DEFENDANT:

~~A complaint, copy of which is attached, having been made before me accusing the defendant of committing the crime of .... contrary to sec. ...., Stats.~~

You, ..., ~~are, therefore, summoned to~~ must appear before Branch .... of the ~~.... court~~ Circuit Court of .... County at ~~the courthouse~~ .... in the City of .... ~~to answer said complaint,~~ on ~~...., ... (year), at .... o'clock in the .... noon, and in case of your failure to appear,~~ (date), ..., at .... a.m./p.m. If you do not appear, a warrant for your arrest may be issued.

You have been charged with committing the crime of .... in violation of section .... of the Wisconsin Statutes. A copy of the complaint charging you with that crime is attached.

Dated ...., ... (year)

.... (Signature)

.... ~~District Attorney~~ (Title)

SECTION 428. 968.04 (3) (b) 4. of the statutes is repealed.

SECTION 429. 968.04 (4) of the statutes is renumbered 969.21 (2), and 969.21 (2) (a) to (d), as renumbered, are amended to read:

969.21 **(2)** (a) ~~The~~ Unless otherwise specified under s. 969.20 (5), an arrest warrant issued under this section shall be directed to all law enforcement officers of the state~~. A warrant~~ and may be served anywhere in the state.

(b) A warrant is served by arresting the defendant and informing the defendant as soon as practicable of the nature of the crime with which ~~the defendant~~ he or she is charged.

(c) An arrest may be made by a law enforcement officer without a warrant in the law enforcement officer's possession when the law enforcement officer ~~has knowledge~~ reasonably believes that a warrant has been issued. In such case, the officer shall inform the defendant as soon as practicable of the nature of the crime with which the defendant is charged.

(d) The law enforcement officer arresting a defendant shall ~~endorse~~ record upon the warrant the time and place of the arrest ~~and the law enforcement officer's fees and mileage therefor~~.

SECTION 430. 968.05 of the statutes is renumbered 969.23, and 969.23 (1) and (2), as renumbered, are amended to read:

969.23 **(1)** When a corporation or limited liability company is charged with ~~the commission of~~ committing a criminal offense, the judge or district attorney shall issue a summons setting forth the nature of the offense and commanding the corporation or limited liability company to appear before a court at a specific time and place. The corporation or limited liability company shall appear by a corporate officer or an authorized agent other than defense counsel.

(2) The summons for the appearance of a corporation or limited liability company may be served ~~as provided for service of a summons~~ in the same way that a summons is served upon a corporation or limited liability company in a civil action under s. 801.11 (5). The summons ~~shall be returnable not less than~~ may not be returnable until at least 10 days after service.

SECTION 431. 968.06 of the statutes is repealed.

SECTION 432. 968.07 of the statutes is renumbered 969.16, and 969.16 (1) to (3), as renumbered, are amended to read:

969.16 **(1)** ~~A~~ Except as provided in sub. (3), a law enforcement officer may arrest a person when:

(a) The law enforcement officer has a warrant commanding that such person be arrested~~; or~~.

(b) The law enforcement officer reasonably believes~~, on reasonable grounds,~~ that a warrant for the person's arrest has been issued in this state~~; or~~.

(c) The law enforcement officer reasonably believes~~, on reasonable grounds,~~ that a felony warrant for the person's arrest has been issued in another state~~; or~~.

(d) ~~There are reasonable grounds~~ The law enforcement officer has probable cause to believe that the person is committing or has committed a crime.

(1m) Notwithstanding sub. (1), a law enforcement officer shall arrest a person when required to do so under s. 813.12 (7), 813.122 (10), 813.125 (6), 813.128 (1) (b), or ~~968.075 (2) (a)~~ 969.27 (2) (a) or (5) (e).

(2) A law enforcement officer making a lawful arrest may command the aid of any person, and such person shall have the same power as ~~that of~~ the law enforcement officer.

(3) ~~If the alleged violator under~~ No law enforcement officer may arrest a person alleged to have violated s. 948.55 (2) or 948.60 (2) (c) until at least 7 days after the date of the shooting, if the person is or was the parent or guardian of a child who is injured or dies as a result of ~~an accidental~~ the shooting~~, no law enforcement officer may arrest the alleged violator until at least 7 days after the date of the shooting~~.

SECTION 433. 968.073 of the statutes is renumbered 969.165, and 969.165 (2), as renumbered, is amended to read:

969.165 **(2)** It is the policy of this state to make an audio or audio and visual recording of a custodial interrogation of a person suspected of committing a felony

unless a condition under s. ~~972.115 (2)~~ 972.18 (3) (a) 1. to 6. applies or good cause is shown for not making an audio or audio and visual recording of the interrogation.

SECTION 434. 968.075 (title) of the statutes is renumbered 969.27 (title).

SECTION 435. 968.075 (1) of the statutes is renumbered 969.27 (1).

SECTION 436. 968.075 (2) (a) of the statutes is renumbered 969.27 (2) (a), and 969.27 (2) (a) (intro.), as renumbered, is amended to read:

969.27 **(2)** (a) (intro.) Notwithstanding s. ~~968.07 (1)~~ 969.16 (1) and except as provided in pars. (am) and (b), a law enforcement officer shall arrest and take a person into custody if:

SECTION 437. 968.075 (2) (am) of the statutes is renumbered 969.27 (2) (am) and amended to read:

969.27 **(2)** (am) Notwithstanding s. ~~968.07 (1)~~ 969.16 (1), unless the person's arrest is required under s. 813.12 (7), 813.122 (10), 813.125 (6), or 813.128 (1) (b) or sub. (5) (e), if a law enforcement officer identifies the predominant aggressor, it is generally not appropriate for a law enforcement officer to arrest anyone under par. (a) other than the predominant aggressor.

SECTION 438. 968.075 (2) (ar) of the statutes is renumbered 969.27 (2) (ar).

SECTION 439. 968.075 (2) (b) of the statutes is renumbered 969.27 (2) (b).

SECTION 440. 968.075 (2m) of the statutes is renumbered 969.27 (2m) and amended to read:

969.27 **(2m)** IMMEDIATE RELEASE PROHIBITED. Unless s. ~~968.08~~ 969.17 applies, a law enforcement officer may not release a person whose arrest was required under sub. (2) until the person ~~posts bail~~ remits a cash deposit under s. ~~969.07~~ 969.36 or appears before a judge under s. ~~970.01 (1)~~ subch. I of ch. 971.

SECTION 441. 968.075 (3) of the statutes is renumbered 969.27 (3).

SECTION 442. 968.075 (4) of the statutes is renumbered 969.27 (4).

SECTION 443. 968.075 (5) of the statutes is renumbered 969.27 (5), and 969.27 (5) (e), as renumbered, is amended to read:

969.27 **(5)** (e) Notwithstanding s. ~~968.07 (1)~~ 969.16 (1), a law enforcement officer shall arrest and take a person into custody if the officer has reasonable grounds to believe that the person has violated par. (a).

SECTION 444. 968.075 (6) to (9) of the statutes are renumbered 969.27 (6) to (9).

SECTION 445. 968.08 of the statutes is renumbered 969.17 and amended to read:

969.17 Release by law enforcement officer of arrested person. ~~A~~ Except as provided in s. 969.27 (5) (b) 1., a law enforcement officer having custody of a person arrested without a warrant may release the person arrested with or without requiring the person to appear before a judge ~~if the law enforcement officer is satisfied that there are insufficient grounds for the issuance of a criminal complaint against the person arrested~~ or the district attorney.

SECTION 446. 968.085 (title) of the statutes is renumbered 969.24 (title) and amended to read:

969.24 (title) **~~Citation; nature; issuance; release of accused~~ for misdemeanor.**

SECTION 447. 968.085 (1) of the statutes is renumbered 969.24 (1) and amended to read:

969.24 **(1)** NATURE. A citation under this section is a directive, issued by a law enforcement officer, that a person appear in court ~~and answer criminal charges. A citation is not~~ or the district attorney's office. The citation may be used as a criminal

complaint ~~and may not be used as a substitute for a criminal complaint~~ if endorsed by the district attorney as provided in sub. (5).

SECTION 448. 968.085 (2) (intro.) of the statutes is renumbered 969.24 (2) and amended to read:

969.24 **(2)** AUTHORITY TO ISSUE; EFFECT. ~~Except as provided in sub. (8), a~~ A law enforcement officer may issue a citation to any person whom he or she has ~~reasonable grounds~~ probable cause to believe has committed a misdemeanor. A citation may be issued in the field ~~or at the headquarters or precinct station of the officer instead of~~ or ~~subsequent to~~ at any time after a lawful arrest. ~~If a citation is issued, the person cited shall be released on his or her own recognizance. In determining whether to issue a citation, the law enforcement officer may consider whether:~~

SECTION 449. 968.085 (2) (a) to (f) of the statutes are repealed.

SECTION 450. 968.085 (3) (intro.) of the statutes is renumbered 969.24 (3) (intro.).

SECTION 451. 968.085 (3) (a) of the statutes is renumbered 969.24 (3) (a) and amended to read:

969.24 **(3)** (a) ~~Identify the offense and section which~~ State essential facts constituting the crime the person ~~is alleged to have~~ allegedly committed and the statutory section that the person allegedly violated, including the date~~, and if material, identify the property and other persons involved~~ of the offense and the maximum penalty for the offense.

SECTION 452. 968.085 (3) (b) of the statutes is renumbered 969.24 (3) (b) and amended to read:

969.24 **(3)** (b) ~~Contain~~ State the name and address of the person cited, or other identification if ~~that~~ the person's name or address cannot be ascertained.

SECTION 453. 968.085 (3) (c) of the statutes is renumbered 969.24 (3) (c).

SECTION 454. 968.085 (3) (d) of the statutes is renumbered 969.24 (3) (d) and amended to read:

969.24 **(3)** (d) Direct the person cited to appear ~~for his or her initial appearance in a designated court, at a designated~~ at a specified location and at a specified time and date.

SECTION 455. 968.085 (4) of the statutes is renumbered 969.24 (4) and amended to read:

969.24 **(4)** SERVICE. ~~A~~ The officer issuing the citation shall give a copy of the citation ~~shall be delivered~~ to the person cited, and file the original ~~must be filed~~ with the district attorney.

SECTION 456. 968.085 (5) of the statutes is renumbered 969.24 (5) and amended to read:

969.24 **(5)** REVIEW BY DISTRICT ATTORNEY. The district attorney shall review the citation and may issue a complaint by endorsing the citation with his or her signature or issue a separate complaint charging the cited person. If the district attorney reviews the case before the return date and declines to prosecute, he or she shall notify the law enforcement agency ~~which~~ that issued the citation. The law enforcement agency shall attempt to notify the person cited that he or she will not be charged and is not required to appear as directed in the citation.

SECTION 457. 968.085 (6) of the statutes is renumbered 969.24 (6).

SECTION 458. 968.085 (7) of the statutes is renumbered 969.24 (7) and amended to read:

969.24 **(7)** ~~PREPARATION OF~~ FORM. The ~~judicial conference shall prescribe the form and content of the~~ citation ~~under s. 758.171~~ shall be in substantially the same form set forth in s. 969.26 (3).

SECTION 459. 968.085 (8) of the statutes is renumbered 969.24 (8) and amended to read:

969.24 **(8)** INAPPLICABILITY TO CERTAIN DOMESTIC ABUSE CASES. A law enforcement officer may not issue a citation to a person for an offense if the officer is required to arrest the person for that offense under s. ~~968.075~~ 969.27 (2).

SECTION 460. 968.09 (title) of the statutes is renumbered 969.50 (title) and amended to read:

969.50 (title) ~~**Warrant**~~ **Bench warrant for defendant or witness on failure to appear.**

SECTION 461. 968.09 (1) of the statutes is renumbered 969.50 (1) and amended to read:

969.50 **(1)** When a defendant or a witness fails to appear before the court as required, or violates a ~~term of the defendant's or witness's bond or the defendant's or witness's probation, if any~~ condition of release, the court may issue a bench warrant for the defendant's or witness's arrest which shall direct that the defendant or witness be brought before the court without unreasonable delay. The court shall state on the record at the time of issuance of the bench warrant the reason therefor.

SECTION 462. 968.09 (2) of the statutes is repealed.

SECTION 463. 968.10 of the statutes is renumbered 968.455, and 968.455 (intro.), (1), (2), (3), (4) and (5), as renumbered, are amended to read:

968.455 Searches and seizures; when authorized. (intro.) A search of a person, object, or place may be made and things may be seized when the search is made under any of the following circumstances:

(1) Incident to a lawful arrest~~;~~.

(2) With consent~~;~~.

(3) Pursuant to a valid search warrant~~;~~.

(4) With the authority and within the scope of a right of lawful inspection~~;~~.

(5) Pursuant to a search during an authorized temporary questioning as provided in s. ~~968.25; or~~ 968.565.

SECTION 464. Subchapter II (title) of chapter 968 [precedes 968.105] of the statutes is created to read:

CHAPTER 968

SUBCHAPTER II

JOHN DOE PROCEEDINGS

SECTION 465. 968.11 of the statutes is renumbered 968.575 and amended to read:

968.575 Scope of search incident to lawful arrest. When a lawful arrest is made, a law enforcement officer may reasonably search the person arrested and an area within such person's immediate presence for any of the ~~purpose of~~ following purposes:

(1) Protecting the officer from attack~~;~~.

(2) Preventing the person from escaping~~;~~.

(3) Discovering and seizing the fruits of the crime~~;~~ or other offense.

(4) Discovering and seizing any instruments, articles, or things which may have been used in the commission of, or which may constitute evidence of, the offense.

SECTION 466. 968.12 (title) of the statutes is renumbered 968.465 (title) and amended to read:

968.465 (title) ~~**Search**~~ **Application for and issuance of search warrant.**

SECTION 467. 968.12 (1) of the statutes is renumbered 968.465 (1) and amended to read:

968.465 **(1)** DESCRIPTION AND ISSUANCE. A search warrant is an order signed by a judge directing a law enforcement officer to conduct a search of a designated person, a designated object, or a designated place for the purpose of seizing designated property or kinds of property. A judge shall issue a search warrant if probable cause is shown.

SECTION 468. 968.12 (2) and (3) (a) and (d) of the statutes are consolidated, renumbered 968.465 (2) and amended to read:

968.465 **(2)** ~~WARRANT UPON AFFIDAVIT~~ PROCEDURE GENERALLY. ~~A search warrant may be based upon sworn complaint or~~ Probable cause may be shown by an affidavit, ~~or~~ by oral testimony, or by a combination of an affidavit and oral testimony. The affidavit or testimony shall be sworn to or affirmed and may be upon information and belief. Oral testimony shall be recorded by a ~~phonographic~~ stenographic reporter or ~~under sub. (3) (d), showing probable cause therefor. The complaint, affidavit or testimony may be upon information and belief.~~ ~~**(3)** (a) *General rule.* A search warrant may be based upon sworn oral testimony~~ voice recording device and may be communicated to the judge in person or by telephone, radio, or other reliable means of electronic communication~~, under the procedure prescribed in this subsection. (d)~~

~~*Recording and certification of testimony.* When a caller informs the judge that the purpose of the call is to request a warrant, the judge shall place under oath each person whose testimony forms a basis of the application and each person applying for the warrant. The judge or requesting person shall arrange for all sworn testimony to be recorded either by a stenographic reporter or by means of a voice recording device. The judge shall have the record transcribed. The~~. A transcript of the testimony, certified as accurate by the judge or reporter, ~~as appropriate, shall be filed with the court. If the testimony was recorded by means of a voice recording device, the judge shall also file~~ and the original recording of any testimony recorded by a voice recording device shall be filed with the court.

SECTION 469. 968.12 (3) (title) of the statutes is renumbered 968.465 (3) (title) and amended to read:

968.465 **(3)** (title) ~~WARRANT UPON ORAL~~ TELEPHONE AND OTHER REMOTE TESTIMONY; DUPLICATE WARRANT PROCEDURE.

SECTION 470. 968.12 (3) (b) of the statutes is renumbered 968.465 (3) (a) and amended to read:

968.465 **(3)** (a) ~~*Application.* The person who is requesting the warrant~~ When the applicant for a search warrant is testifying outside the presence of the judge, the judge shall place the applicant under oath or affirmation and arrange for all testimony to be recorded. The applicant shall prepare a duplicate ~~original~~ warrant and read the duplicate ~~original~~ warrant, verbatim, to the judge. The judge shall enter, verbatim, what is read on the ~~original~~ warrant. ~~The~~ Thereafter, but before signing the original warrant, the judge may direct that the warrant be modified.

SECTION 471. 968.12 (3) (c) and (f) of the statutes are consolidated, renumbered 968.465 (3) (b) and amended to read:

968.465 **(3)** (b) ~~*Issuance.*~~ If the judge determines that there is probable cause for the warrant, the judge shall ~~order the issuance of a~~ issue the warrant by ~~directing the person requesting the warrant to sign the judge's name on the duplicate original warrant. In addition, the person shall sign his or her own name on the duplicate original warrant. The judge shall immediately sign~~ signing the original warrant and enter on the face of the original warrant the exact time when the warrant was ~~ordered to be~~ issued. ~~The finding of probable cause for a warrant upon oral testimony shall be based on the same kind of evidence as is sufficient for a warrant upon affidavit. (f) *Entry of time of execution.*~~ The judge shall direct the applicant to sign the judge's name on the duplicate warrant. In addition the applicant shall sign his or her own name on the duplicate warrant. The person who executes the warrant shall enter the exact time of execution on the face of the duplicate ~~original~~ warrant.

SECTION 472. 968.12 (3) (e) of the statutes is repealed.

SECTION 473. 968.12 (4) of the statutes is renumbered 968.465 (7).

SECTION 474. 968.13 (title) of the statutes is renumbered 968.475 (title) and amended to read:

968.475 (title) ~~**Search warrant; property**~~ **Property subject to seizure.**

SECTION 475. 968.13 (1) (intro.) of the statutes is renumbered 968.475 (2) (intro.) and amended to read:

968.475 **(2)** (intro.) A search warrant may authorize the seizure of any of the following:

SECTION 476. 968.13 (1) (a) of the statutes is renumbered 968.475 (1) (a) and amended to read:

968.475 **(1)** (a) "Contraband~~, which~~" includes ~~without limitation because of enumeration~~, but is not limited to, lottery tickets, gambling machines, or other

gambling devices~~,~~; lewd, obscene, or indecent written matter, pictures, sound recordings, or motion picture films~~,~~; forged money or written instruments and the tools, dies, machines, or materials for making them~~,~~; and controlled substances, as defined in s. 961.01 (4), and controlled substance analogs, as defined in s. 961.01 (4m), and the implements for smoking or injecting them. ~~Gambling~~ "Contraband" does not include machines or other gambling devices possessed by a shipbuilding business that complies with s. 945.095 ~~are not subject to this section~~.

SECTION 477. 968.13 (1) (b), (c) and (d) of the statutes are renumbered 968.475 (2) (b), (c) and (d).

SECTION 478. 968.13 (2) of the statutes is renumbered 968.475 (1) (intro.) and amended to read:

968.475 **(1)** (intro.) In this section~~, "documents"~~:

(b) "Documents" includes, but is not limited to, books, papers, records, recordings, tapes, photographs, films, or computer or electronic data.

SECTION 479. 968.135 (title) of the statutes is renumbered 968.705 (title).

SECTION 480. 968.135 of the statutes is renumbered 968.705 (1) and amended to read:

968.705 **(1)** Upon the request of the attorney general or a district attorney and upon a showing of probable cause under s. ~~968.12~~ 968.465, a court shall issue a subpoena requiring the production of documents~~,~~ as ~~specified~~ defined in s. ~~968.13 (2). The documents shall be returnable to the court which issued the subpoena. Motions to the court, including, but not limited to,~~ 968.475 (1) (b), within a reasonable time set by the court and set forth in the subpoena.

(4) The person to whom the subpoena is directed may make motions to quash or limit the subpoena~~, shall be~~ addressed to the court which issued the subpoena.

(5) Any person who unlawfully refuses to produce the documents under sub. (1) may be compelled to do so ~~as provided in~~ under ch. 785.

(7) This section does not limit or affect any other subpoena authority provided by law.

SECTION 481. 968.14 of the statutes is renumbered 968.485 (2) and amended to read:

968.485 **(2)** USE OF FORCE. All necessary force may be used to execute a search warrant or to ~~effect any entry into~~ enter any building or property or part thereof to execute a search warrant.

SECTION 482. 968.15 of the statutes is renumbered 968.495, and 968.495 (1), as renumbered, is amended to read:

968.495 **(1)** A search warrant ~~must~~ may not be executed ~~and returned not~~ more than 5 days after the date of issuance.

SECTION 483. Subchapter III (title) of chapter 968 [precedes 968.155] of the statutes is created to read:

CHAPTER 968

SUBCHAPTER III

GRAND JURIES

SECTION 484. 968.16 of the statutes is renumbered 968.485 (3) and amended to read:

968.485 **(3)** DETENTION AND SEARCH OF PERSONS ~~ON PREMISES~~ PRESENT. ~~The person~~ While executing the search warrant, a law enforcement officer may reasonably detain any occupant of the premises and may reasonably detain and search any person on the premises ~~at the time~~ to protect ~~himself or herself~~ the law enforcement

officer from attack or to prevent the disposal or concealment of any item particularly described in the search warrant.

SECTION 485. 968.17 of the statutes is renumbered 968.506.

SECTION 486. 968.18 of the statutes is renumbered 968.605.

SECTION 487. 968.19 of the statutes is renumbered 968.615 and amended to read:

968.615 Custody of property seized. ~~Property~~ A law enforcement officer shall safely keep property seized under a search warrant or validly seized without a warrant ~~shall be safely kept by the officer, who~~ and may leave it in the custody of the sheriff and take a receipt ~~therefor,~~ for it. The property shall be kept so long as necessary for the purpose of being produced as evidence on any trial.

SECTION 488. 968.20 (title) of the statutes is renumbered 968.625 (title).

SECTION 489. 968.20 (1) of the statutes is renumbered 968.625 (1), and 968.625 (1) (intro.) and (a), as renumbered, are amended to read:

968.625 **(1)** (intro.) Any person claiming the right to possession of property seized pursuant to a search warrant or seized without a search warrant may apply for its return to the ~~circuit~~ court for the county in which the property was seized or where the search warrant was returned. The court shall order such notice as it deems adequate to be given the district attorney and all persons who have or may have an interest in the property and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the property, other than contraband or property covered under sub. (1m) or (1r) or s. 173.12 (1m), 173.21 ~~(4)~~ (1), or ~~968.205~~ 968.645, returned if any of the following applies:

(a) The property is not needed as evidence or, if needed, satisfactory arrangements can be made for its return for subsequent use as evidence~~; or~~.

SECTION 490. 968.20 (1m) of the statutes is renumbered 968.625 (1m), and 968.625 (1m) (b), as renumbered, is amended to read:

968.625 **(1m)** (b) If the seized property is a dangerous weapon or ammunition, the property shall not be returned to any person who committed a crime involving the use of the dangerous weapon or the ammunition. The property may be returned to the rightful owner under this section if the owner had no prior knowledge of and gave no consent to the commission of the crime. Property which may not be returned to an owner under this subsection shall be disposed of under ~~subs. (3) and (4)~~ s. 175.27.

SECTION 491. 968.20 (1r) of the statutes is renumbered 968.625 (1r).

SECTION 492. 968.20 (2) of the statutes is renumbered 968.625 (2) and amended to read:

968.625 **(2)** Property not required for evidence or use in further investigation, unless contraband or property covered under sub. (1m) or (1r) or s. 173.12 (1m), 173.21 (1), or ~~968.205~~ 968.645, may be returned by the officer to the person from whom it was seized without the requirement of a hearing.

SECTION 493. 968.20 (3) and (4) of the statutes are renumbered 175.27 (1) and (2) and amended to read:

175.27 **(1)** (a) ~~First~~ Unless the dangerous weapons or ammunition may be returned to the owner under s. 968.625 (1m) (b), first class cities shall dispose of dangerous weapons or ammunition seized 12 months after taking possession of them ~~if the owner, authorized under sub. (1m), has not requested their return and~~ if the dangerous weapon or ammunition is not required for evidence or use in further

investigation and has not been disposed of pursuant to a court order at the completion of a criminal action or proceeding. Disposition procedures shall be established by ordinance or resolution and may include provisions authorizing an attempt to return to the rightful owner any dangerous weapons or ammunition which appear to be stolen or are reported stolen. If enacted, any such provision shall include a presumption that, if the dangerous weapons or ammunition appear to be or are reported stolen, an attempt will be made to return the dangerous weapons or ammunition to the authorized rightful owner. If the return of a seized dangerous weapon other than a firearm is not requested by its rightful owner under ~~sub.~~ s. 968.625 (1) and is not returned by the officer under ~~sub.~~ s. 968.625 (2), the city shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure under s. 973.075 (4) or authorize a law enforcement agency to retain and use the motor vehicle. If the return of a seized firearm or ammunition is not requested by its authorized rightful owner under ~~sub.~~ s. 968.625 (1) and is not returned by the officer under ~~sub.~~ s. 968.625 (2), the seized firearm or ammunition shall be shipped to and become property of the state crime laboratories. A person designated by the department of justice may destroy any material for which the laboratory has no use or arrange for the exchange of material with other public agencies. In lieu of destruction, shoulder weapons for which the laboratories have no use shall be turned over to the department of natural resources for sale and distribution of proceeds under s. 29.934 or for use under s. 29.938.

(b) Except as provided in par. (a) ~~or~~, sub. ~~(1m)~~ (2), or ~~(4)~~ s. 968.625 (1m), a city, village, town, or county or other custodian of a seized dangerous weapon or ammunition, if the dangerous weapon or ammunition is not required for evidence or

use in further investigation and has not been disposed of pursuant to a court order at the completion of a criminal action or proceeding, shall make reasonable efforts to notify all persons who have or may have an authorized rightful interest in the dangerous weapon or ammunition of the application requirements under ~~sub.~~ s. 968.625 (1). If, within 30 days after the notice, an application under ~~sub.~~ s. 968.625 (1) is not made and the seized dangerous weapon or ammunition is not returned by the officer under ~~sub.~~ s. 968.625 (2), the city, village, town, or county or other custodian may retain the dangerous weapon or ammunition and authorize its use by a law enforcement agency, except that a dangerous weapon used in the commission of a homicide or a handgun, as defined in s. 175.35 (1) (b), may not be retained. If a dangerous weapon other than a firearm is not so retained, the city, village, town, or county or other custodian shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure under s. 973.075 (4). If a firearm or ammunition is not so retained, the city, village, town, or county or other custodian shall ship it to the state crime laboratories and it is then the property of the laboratories. A person designated by the department of justice may destroy any material for which the laboratories have no use or arrange for the exchange of material with other public agencies. In lieu of destruction, shoulder weapons for which the laboratory has no use shall be turned over to the department of natural resources for sale and distribution of proceeds under s. 29.934 or for use under s. 29.938.

(2) Any property seized, other than property covered under s. ~~968.205~~ 968.645, that poses a danger to life or other property in storage, transportation, or use and that is not required for evidence or further investigation shall be safely disposed of upon command of the person in whose custody they are committed. The city, village,

town, or county shall by ordinance or resolution establish disposal procedures. Procedures may include provisions authorizing an attempt to return to the rightful owner substances which have a commercial value in normal business usage and do not pose an immediate threat to life or property. If enacted, any such provision shall include a presumption that if the substance appears to be or is reported stolen an attempt will be made to return the substance to the rightful owner.

SECTION 494. 968.205 of the statutes is renumbered 968.645, and 968.645 (1) (a) and (b), (2) and (3) (b) 2., as renumbered, are amended to read:

968.645 **(1)** (a) "Custody" means actual custody of a person under a sentence of imprisonment, custody of a probationer, parolee, or person on extended supervision by the department of corrections, actual or constructive custody of a person pursuant to a dispositional order under ch. 938, supervision of a person, whether in institutional care or on conditional release, pursuant to a commitment order under ~~s. 971.17~~ subch. III of ch. 975, and supervision of a person under ch. 980, whether in detention before trial or while in institutional care or on supervised release pursuant to a commitment order.

(b) "Discharge date" means the date on which a person is released or discharged from custody that resulted from a criminal action, a delinquency proceeding under ch. 938, or a commitment proceeding under ~~s. 971.17~~ subch. III of ch. 975 or ch. 980 or, if the person is serving consecutive sentences of imprisonment, the date on which the person is released or discharged from custody under all of the sentences.

(2) Except as provided in sub. (3), if physical evidence that is in the possession of a law enforcement agency includes any biological material that was collected in connection with a criminal investigation that resulted in a criminal conviction, delinquency adjudication, or commitment under ~~s. 971.17~~ subch. III of ch. 975 or s.

980.06 ~~and the biological material is from a victim of the offense that was the subject of the criminal investigation or may reasonably be used to incriminate or exculpate any person for the offense~~, the law enforcement agency shall preserve the physical evidence until every person in custody as a result of the conviction, adjudication, or commitment has reached his or her discharge date.

(3) (b) 2. Submits a written request for retention of the evidence to the law enforcement agency or district attorney.

SECTION 495. 968.21 of the statutes is renumbered 968.465 (4).

SECTION 496. 968.22 of the statutes is renumbered 968.515.

SECTION 497. 968.23 of the statutes is renumbered 968.525.

SECTION 498. 968.24 of the statutes is renumbered 968.555.

SECTION 499. 968.25 of the statutes is renumbered 968.565 and amended to read:

968.565 Search during temporary questioning. When a law enforcement officer has stopped a person for temporary questioning ~~pursuant to~~ under s. ~~968.24~~ 968.555 and reasonably suspects that ~~he or she~~ the law enforcement officer or another individual is in danger of physical injury, the law enforcement officer may search ~~such~~ the person for weapons or any instrument ~~or~~, article, or substance readily capable of causing physical injury and of a sort not ordinarily carried in public places by law abiding persons. If the law enforcement officer finds such a weapon or instrument, or any other property possession of which the law enforcement officer reasonably believes may constitute the commission of a crime, or which may constitute a threat to ~~his or her~~ the safety of the law enforcement officer, the law enforcement officer may take it and keep it until the completion of the questioning,

at which time the law enforcement officer shall either return it, if lawfully possessed, or arrest the person so questioned.

SECTION 500. 968.255 (title) of the statutes is renumbered 968.585 (title).

SECTION 501. 968.255 (1) of the statutes is renumbered 968.585 (1), and 968.585 (1) (a) 3., as renumbered, is amended to read:

968.585 **(1)** (a) 3. A person taken into custody under s. 938.19 and there are reasonable grounds to believe the juvenile has committed an act which if committed by an adult would be ~~covered~~ a misdemeanor under subd. ~~1. or~~ 2. or a felony.

SECTION 502. 968.255 (2) (intro.) of the statutes is renumbered 968.585 (2) (intro.).

SECTION 503. 968.255 (2) (ag), (am), (ar), (b), (c), (d) and (e) of the statutes are renumbered 968.585 (2) (ag), (am), (ar), (b), (c), (d) and (e), and 968.585 (2) (b), (d) and (e), as renumbered, are amended to read:

968.585 **(2)** (b) The detainee is not exposed to the view of any person whose presence is not reasonably needed for conducting the search.

(d) A person conducting the search has obtained the prior written ~~permission~~ authorization of the chief~~,~~ or sheriff ~~or law enforcement administrator~~ of the jurisdiction where the person is detained, or his or her designee, unless there is probable cause to believe that the detainee is concealing a weapon.

(e) ~~A~~ The person conducting the search prepares a report identifying the person detained, all persons conducting the search, the time, date, and place of the search, and the written authorization required by par. (d), and provides a copy of the report to the detainee.

SECTION 504. 968.255 (3) of the statutes is renumbered 968.585 (3) and amended to read:

968.585 **(3)** No person other than a physician, physician assistant, or registered nurse licensed to practice in this state may conduct a body cavity search.

SECTION 505. 968.255 (4) of the statutes is renumbered 946.77 and amended to read:

946.77 Improper search of a detained person. ~~A person who~~ Whoever intentionally violates ~~this section may be fined not more than $1,000 or imprisoned not more than 90 days or both~~ s. 968.585 is guilty of a Class B misdemeanor.

SECTION 506. 968.255 (5) of the statutes is renumbered 968.585 (5).

SECTION 507. 968.255 (6) of the statutes is renumbered 968.585 (6) and amended to read:

968.585 **(6)** Each law enforcement agency, as defined in s. 165.83 (1) (b), and each facility where a strip search may be conducted pursuant to this section, shall establish written policies and procedures concerning strip searches ~~which at least~~ that, at a minimum, meet the ~~minimum~~ requirements of this section and shall provide annual training regarding the policies and procedures to any employee or agent of the agency or facility who may conduct a strip search.

SECTION 508. 968.255 (7) of the statutes is renumbered 968.585 (7) and amended to read:

968.585 **(7)** This section does not apply to a search of any person who meets any of the following criteria:

(a) ~~Is~~ The person is serving a sentence, pursuant to a conviction, in a jail, ~~state~~ prison, or house of correction.

(b) ~~Is~~ The person is placed in or transferred to a juvenile correctional facility, as defined in s. 938.02 (10p), or a secured residential care center for children and youth, as defined in s. 938.02 (15g).

(c) ~~Is~~ The person is committed, transferred, or admitted under ch. 975, 2013 stats., or ch. 51, 971 or 975.

(d) ~~Is~~ The person is confined as a condition of probation under s. 973.09 (4).

SECTION 509. 968.256 of the statutes is renumbered 968.59 and amended to read:

968.59 Search of ~~physically disabled person~~ persons with a physical disability. (1) In this section, "~~physically disabled~~ "person with a physical disability" means a person who requires an assistive device for mobility, including, but not limited to, a wheelchair, brace, crutch, or artificial limb.

(2) A search of a ~~physically disabled~~ person with a physical disability shall be conducted in a careful manner. If a search of a ~~physically disabled~~ person with a physical disability requires the removal of an assistive device or involves a person lacking sensation in some portion of his or her body, the search shall be conducted with extreme care by a person who has had training in handling ~~physically disabled~~ persons with a physical disability.

SECTION 510. 968.26 of the statutes is renumbered 968.105, and 968.105 (3), as renumbered, is amended to read:

968.105 **(3)** The extent to which the judge may proceed in an examination under sub. (1) or (2) is within the judge's discretion. The examination ~~may be adjourned and may~~ shall be secret unless the judge orders otherwise. Unless the judge orders the proceeding not to be secret, the record and the testimony taken is not open to public inspection. The record and testimony taken is open to inspection by the district attorney, and, if a criminal prosecution follows, it is subject to discovery under s. 971.43 (2) (br). Any witness examined under this section may have counsel present at the examination but the counsel shall not be allowed to

examine his or her client, cross–examine other witnesses, or argue before the judge. Subject to s. ~~971.23~~ 971.43, if the proceeding is secret, the record of the proceeding and the testimony taken shall not be open to inspection by anyone except the district attorney unless it is used by the prosecution at the preliminary hearing or the trial of the accused and then only to the extent that it is so used. A court, on the motion of a district attorney, may compel a person to testify or produce evidence under s. ~~972.08~~ 967.17 (1). The person is immune from prosecution as provided in s. ~~972.08~~ 967.17 (1), subject to the restrictions under s. ~~972.085~~ 967.18.

SECTION 511. 968.265 of the statutes is renumbered 968.595.

SECTION 512. 968.27 (intro.) of the statutes is renumbered 968.305 (intro.) and amended to read:

968.305 Definitions. (intro.) In ~~ss. 968.28 to 968.375~~ this subchapter:

SECTION 513. 968.27 (1) of the statutes is renumbered 968.305 (1) and amended to read:

968.305 **(1)** "Aggrieved person" means a person who was a party to any intercepted wire, electronic, or oral communication or a person against whom the interception was directed.

SECTION 514. 968.27 (2) of the statutes is renumbered 968.305 (2).

SECTION 515. 968.27 (3) of the statutes is renumbered 968.305 (3) and amended to read:

968.305 **(3)** "Contents" when used with respect to any wire, electronic, or oral communication, includes any information concerning the substance, purport, or meaning of that communication.

SECTION 516. 968.27 (4) of the statutes is renumbered 968.305 (4), and 968.305 (4) (intro.), as renumbered, is amended to read:

968.305 **(4)** (intro.) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature wholly or partially transmitted by a wire, radio, electromagnetic, photoelectronic, or photooptical system. "Electronic communication" does not include any of the following:

SECTION 517. 968.27 (5) of the statutes is renumbered 968.305 (5).

SECTION 518. 968.27 (6) of the statutes is renumbered 968.305 (6) and amended to read:

968.305 **(6)** "Electronic communications system" means any wire, radio, electromagnetic, photooptical, or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of those communications.

SECTION 519. 968.27 (7) of the statutes is renumbered 968.305 (7), and 968.305 (7) (intro.) and (a) (intro.) and 1., as renumbered, are amended to read:

968.305 **(7)** (intro.) "Electronic, mechanical, or other device" means any device or apparatus which can be used to intercept a wire, electronic, or oral communication other than one of the following:

(a) (intro.) Any telephone or telegraph instrument, equipment, or facilities, or any component ~~thereof, which is~~ of a telephone or telegraph instrument, equipment, or facilities, that is any of the following:

1. Furnished to the subscriber or user by a provider of electronic or wire communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by the subscriber or user for connection to the facilities of the service and used in the ordinary course of its business~~; or~~.

SECTION 520. 968.27 (8) of the statutes is renumbered 968.305 (8).

SECTION 521. 968.27 (9) of the statutes is renumbered 968.305 (9) and amended to read:

968.305 **(9)** "Intercept" means the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.

SECTION 522. 968.27 (10) of the statutes is renumbered 968.305 (10).

SECTION 523. 968.27 (11) of the statutes is renumbered 968.305 (11) and amended to read:

968.305 **(11)** "Judge" means the judge sitting at the time an application is made under s. ~~968.30~~ 968.335 or his or her successor.

SECTION 524. 968.27 (12) and (13) of the statutes are renumbered 968.305 (12) and (13).

SECTION 525. 968.27 (14) of the statutes is renumbered 968.305 (14).

SECTION 526. 968.27 (14g) of the statutes is renumbered 968.305 (14g).

SECTION 527. 968.27 (15) of the statutes is renumbered 968.305 (15).

SECTION 528. 968.27 (16) (intro.), (a) and (b) of the statutes are consolidated, renumbered 968.305 (16) and amended to read:

968.305 **(16)** "User" means any person ~~who or entity~~ that~~: (a) Uses~~ uses an electronic communication service~~;~~ and ~~(b) Is duly~~ is authorized by the provider of the service to engage in that use.

SECTION 529. 968.27 (17) of the statutes is renumbered 968.305 (17).

SECTION 530. 968.28 of the statutes is renumbered 968.315 and amended to read:

968.315 Application for court order to intercept communications. The attorney general together with the district attorney of any county may approve a request of an investigative or law enforcement officer to apply to the chief judge of the judicial administrative district for the county where the interception is to take place for an order authorizing or approving the interception of wire, electronic, or oral communications. The chief judge may under s. ~~968.30~~ 968.335 grant an order authorizing or approving the interception of wire, electronic, or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense for which the application is made. The authorization shall be permitted only if the interception may provide or has provided evidence of the commission of the offense of homicide, felony murder, kidnapping, commercial gambling, bribery, extortion, dealing in controlled substances or controlled substance analogs, a computer crime that is a felony under s. 943.70, sexual exploitation of a child under s. 948.05, trafficking of a child under s. 948.051, child enticement under s. 948.07, use of a computer to facilitate a child sex crime under s. 948.075, or soliciting a child for prostitution under s. 948.08, or any conspiracy to commit any of the foregoing offenses.

SECTION 531. 968.29 of the statutes is renumbered 968.325 and amended to read:

968.325 Authorization for disclosure and use of intercepted wire, electronic, or oral communications. (1) Any investigative or law enforcement officer who, by any means authorized by ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 or 18 USC 2510 to 2520, has obtained knowledge of the contents of any wire, electronic, or oral communication, or evidence derived therefrom, may disclose the contents to another investigative or law enforcement officer only to the extent that the disclosure

is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(2) Any investigative or law enforcement officer who, by any means authorized by ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 or 18 USC 2510 to 2520, has obtained knowledge of the contents of any wire, electronic, or oral communication or evidence derived therefrom may use the contents only to the extent the use is appropriate to the proper performance of the officer's official duties.

(3) (a) Any person who has received, by any means authorized by ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 or 18 USC 2510 to 2520 or by a like statute of any other state, any information concerning a wire, electronic, or oral communication or evidence derived therefrom intercepted in accordance with ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, may disclose the contents of that communication or that derivative evidence only while giving testimony under oath or affirmation in any proceeding in any court or before any magistrate or grand jury in this state, or in any court of the United States or of any state, or in any federal or state grand jury proceeding.

(b) In addition to the disclosure provisions of par. (a), any person who has received, in the manner described under s. ~~968.31~~ 968.345 (2) (b), any information concerning a wire, electronic, or oral communication or evidence derived therefrom, may disclose the contents of that communication or that derivative evidence while giving testimony under oath or affirmation in any proceeding described in par. (a) in which a person is accused of any act constituting a felony, and only if the party who consented to the interception is available to testify at the proceeding or if another witness is available to authenticate the recording.

(4) No otherwise privileged wire, electronic, or oral communication intercepted in accordance with, or in violation of, ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 or 18 USC 2510 to 2520, may lose its privileged character.

(5) When an investigative or law enforcement officer, while engaged in intercepting wire, electronic, or oral communications in the manner authorized, intercepts wire, electronic, or oral communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subs. (1) and (2). The contents and any evidence derived therefrom may be used under sub. (3) when authorized or approved by the judge who acted on the original application where the judge finds on subsequent application, made as soon as practicable but no later than 48 hours, that the contents were otherwise intercepted in accordance with ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 or 18 USC 2510 to 2520 or by a like statute.

SECTION 532. 968.30 of the statutes is renumbered 968.335, and 968.335 (title), (1) (intro.), (b) (intro.), 1., 2. and 3. and (e), (3) (intro.), (a) and (d), (4) (intro.), (a), (b), (c) and (d), (5), (6), (7) (a) and (b), (8), (9) and (10), as renumbered, are amended to read:

968.335 (title) **Procedure for interception of wire, electronic, or oral communications.** **(1)** (intro.) Each application for an order authorizing or approving the interception of a wire, electronic, or oral communication shall be made in writing upon oath or affirmation to the court and shall state the applicant's authority to make the application and may be upon personal knowledge or information and belief. Each application shall include the following information:

(b) (intro.) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify the applicant's belief that an order should be issued, including all of the following:

1. Details of the particular offense that has been, is being, or is about to be committed~~;~~.

2. A particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted~~;~~.

3. A particular description of the type of communications sought to be intercepted~~; and~~.

(e) A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any court for authorization to intercept, or for approval of interceptions of, wire, electronic, or oral communications involving any of the same persons, facilities, or places specified in the application, and the action taken by the court on each such application~~; and~~.

(3) (intro.) Upon the application the court may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire, electronic, or oral communications, if the court determines on the basis of the facts submitted by the applicant that all of the following exist:

(a) There is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in s. ~~968.28~~ 968.315.

(d) There is probable cause for belief that the facilities from which, or the place where, the wire, electronic, or oral communications are to be intercepted are being

used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by the person.

(4) (intro.) Each order authorizing or approving the interception of any wire, electronic, or oral communication shall specify all of the following:

(a) The identity of the person, if known, whose communications are to be intercepted~~;~~.

(b) The nature and location of the communications facilities which, or the place where authority to intercept is granted and the means by which such interceptions shall be made~~;~~.

(c) A particular description of the type of communication sought to be intercepted and a statement of the particular offense to which it relates~~;~~.

(d) The identity of the agency authorized to intercept the communications and of the person authorizing the application~~; and~~.

(5) No order entered under this section may authorize or approve the interception of any wire, electronic, or oral communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than 30 days. The 30–day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or 10 days after the order is entered. Extensions of an order may be granted, but only upon application for an extension made in accordance with sub. (1) and the court making the findings required by sub. (3). The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event be for longer than 30 days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize

the interception of communications not otherwise subject to interception under this chapter, and must terminate upon attainment of the authorized objective, or in any event in 30 days. In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after the interception.

(6) Whenever an order authorizing interception is entered pursuant to ss. ~~968.28~~ 968.315 to ~~968.33~~ 968.365, the order may require reports to be made to the court which issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the court requires.

(7) (a) The contents of any wire, electronic, or oral communication intercepted by any means authorized by ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire, electronic, or oral communication under this subsection shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order or extensions thereof all such recordings and records of an intercepted wire, electronic, or oral communication shall be filed with the court issuing the order and the court shall order the same to be sealed. Custody of the recordings and records shall be wherever the judge handling the application shall order. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be properly kept and preserved for 10 years. Duplicate recordings and other records may be made for use or disclosure pursuant to the provisions for investigations under s. ~~968.29~~ 968.325 (1) and (2). The presence of the seal provided for by this subsection, or a satisfactory

explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire, electronic, or oral communication or evidence derived therefrom under s. ~~968.29~~ 968.325 (3).

(b) Applications made and orders granted under ss. ~~968.28~~ 968.315 to ~~968.33~~ 968.365 together with all other papers and records in connection therewith shall be ordered sealed by the court. Custody of the applications, orders, and other papers and records shall be wherever the judge shall order. Such applications and orders shall be disclosed only upon a showing of good cause before the judge and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for 10 years.

(8) The contents of any intercepted wire, electronic, or oral communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in any court of this state unless each party, not less than 10 days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This 10–day period may be waived by the judge if he or she finds that it was not possible to furnish the party with the above information 10 days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving the information.

(9) (a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of this state, or a political subdivision thereof, may move before the trial court or the court granting the original warrant to suppress the contents of any intercepted wire, electronic, or oral communication, or evidence derived therefrom, on the grounds that the communication was unlawfully intercepted; the order of authorization or

approval under which it was intercepted is insufficient on its face; or the interception was not made in conformity with the order of authorization or approval. The motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make the motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire, electronic, or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405. The judge may, upon the filing of the motion by the aggrieved person, make available to the aggrieved person or his or her counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interest of justice.

(b) In addition to any other right to appeal, the state shall have the right to appeal from any of the following:

1. ~~From an~~ An order granting a motion to suppress made under par. (a) if the attorney general or district attorney certifies to the judge or other official granting such motion that the appeal is not entered for purposes of delay and shall be diligently prosecuted as in the case of other interlocutory appeals or under such rules as the supreme court adopts~~; or~~.

2. ~~From an~~ An order denying an application for an order of authorization or approval, and such an appeal shall be ex parte and shall be in camera in preference to all other pending appeals in accordance with rules promulgated by the supreme court.

(10) Nothing in ss. ~~968.28~~ 968.315 to ~~968.375~~ 968.405 shall be construed to allow the interception of any wire, electronic, or oral communication between an attorney and a client.

SECTION 533. Subchapter IV (title) of chapter 968 [precedes 968.305] of the statutes is created to read:

CHAPTER 968

SUBCHAPTER IV

INTERCEPTION OF ELECTRONIC

COMMUNICATION

SECTION 534. 968.31 of the statutes is renumbered 968.345, and 968.345 (title), (1), (2) (intro.), (a), (b), (c), (e), (f), (i) and (j), (2m) (intro.), (a) and (b) and (3), as renumbered, are amended to read:

968.345 (title) **Interception and disclosure of wire, electronic, or oral communications prohibited. (1)** Except as otherwise specifically provided in ss. 196.63 or ~~968.28~~ 968.315 to ~~968.30~~ 968.335, whoever commits any of the following acts ~~enumerated in this section~~ is guilty of a Class H felony:

(a) Intentionally intercepts, attempts to intercept, or procures any other person to intercept or attempt to intercept, any wire, electronic, or oral communication.

(b) Intentionally uses, attempts to use, or procures any other person to use or attempt to use any electronic, mechanical, or other device to intercept any oral communication.

(c) Discloses, or attempts to disclose, to any other person the contents of any wire, electronic, or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, electronic, or oral communication in violation of this ~~section~~ subsection or under circumstances constituting violation of this ~~section~~ subsection.

(d) Uses, or attempts to use, the contents of any wire, electronic, or oral communication, knowing or having reason to know that the information was

obtained through the interception of a wire, electronic, or oral communication in violation of this ~~section~~ subsection or under circumstances constituting violation of this ~~section~~ subsection.

(e) Intentionally discloses the contents of any oral, electronic, or wire communication obtained by authority of ss. ~~968.28, 968.29~~ 968.315, 968.325, and ~~968.30~~ 968.335, except as therein provided.

(f) Intentionally alters any wire, electronic, or oral communication intercepted on tape, wire, or other device.

(2) (intro.) It is not unlawful under ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405:

(a) For an operator of a switchboard, or an officer, employee, or agent of any provider of a wire or electronic communication service, whose facilities are used in the transmission of a wire or electronic communication to intercept, disclose, or use that communication in the normal course of his or her employment while engaged in any activity which is a necessary incident to the rendition of his or her service or to the protection of the rights or property of the provider of that service, except that a provider of a wire or electronic communication service shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

(b) For a person acting under color of law to intercept a wire, electronic, or oral communication, where the person is a party to the communication or one of the parties to the communication has given prior consent to the interception.

(c) For a person not acting under color of law to intercept a wire, electronic, or oral communication where the person is a party to the communication or where one of the parties to the communication has given prior consent to the interception unless the communication is intercepted for the purpose of committing any criminal or

tortious act in violation of the constitution or laws of the United States or of any state or for the purpose of committing any other injurious act.

(e) For any person to intercept any radio communication that is transmitted by any of the following:

1. ~~By any~~ Any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress~~;~~.

2. ~~By any~~ Any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public~~;~~.

3. ~~By a~~ A station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services~~; or~~.

4. ~~By any~~ Any marine or aeronautical communications system.

(f) For any person to engage in any conduct that is any of the following:

1. ~~Is prohibited~~ Prohibited by section 633 of the communications act of 1934~~; or~~.

2. ~~Is excepted~~ Excepted from the application of section 705 (a) of the communications act of 1934 by section 705 (b) of that act.

(i) To use a pen register or a trap and trace device as authorized under ss. ~~968.34~~ 968.376 to ~~968.37; or~~ 968.405.

(j) For a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect the provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful, or abusive use of the service.

(2m) (intro.) Any person whose wire, electronic, or oral communication is intercepted, disclosed, or used in violation of ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 shall have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use, the communication, and shall be entitled to recover from any such person all of the following:

(a) Actual damages, but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is higher~~;~~.

(b) Punitive damages~~; and~~.

(3) Good faith reliance on a court order or on s. ~~968.30~~ 968.335 (7) shall constitute a complete defense to any civil or criminal action brought under ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405.

SECTION 535. 968.32 of the statutes is renumbered 968.355 and amended to read:

968.355 Forfeiture of contraband devices. Any electronic, mechanical, or other intercepting device used in violation of s. ~~968.31~~ 968.345 (1) may be seized as contraband by any peace officer and forfeited to this state in an action by the department of justice under ch. 778.

SECTION 536. 968.33 of the statutes is renumbered 968.365.

SECTION 537. 968.34 of the statutes is renumbered 968.376, and 968.376 (1) and (2), as renumbered, are amended to read:

968.376 **(1)** Except as provided in this section, no person may install or use a pen register or a trap and trace device without first obtaining a court order under s. ~~968.36~~ 968.395 or 18 USC 3123 or 50 USC 1801 to 1811.

(2) The prohibition of sub. (1) does not apply with respect to the use of a pen register or a trap and trace device by a provider of electronic or wire communication service if any of the following applies:

(a) ~~Relating~~ The use relates to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights or property of the provider, or to the protection of users of that service from abuse of service or unlawful use of service~~;~~.

(b) ~~To~~ The use is to record the fact that a wire or electronic communication was initiated or completed in order to protect the provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful, or abusive use of service~~; or~~.

(c) ~~Where the~~ The consent of the user of that service has been obtained.

SECTION 538. 968.35 of the statutes is renumbered 968.385, and 968.385 (1), as renumbered, is amended to read:

968.385 **(1)** The attorney general or a district attorney may make application for an order or an extension of an order under s. ~~968.36~~ 968.395 authorizing or approving the installation and use of a pen register or a trap and trace device, in writing under oath or equivalent affirmation, to a ~~circuit~~ court for the county where the device is to be located.

SECTION 539. 968.36 of the statutes is renumbered 968.395, and 968.395 (1), (2) (e), (4) and (5), as renumbered, are amended to read:

968.395 **(1)** Upon an application made under s. ~~968.35~~ 968.385, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds that the

applicant has certified to the court that the information likely to be obtained by the installation and use is relevant to an ongoing criminal investigation.

(2) (e) Direct, upon the request of the applicant, the furnishing of information, facilities and technical assistance necessary to accomplish the installation of the pen register or trap and trace device under s. ~~968.37~~ 968.405.

(4) Extensions of the order may be granted, but only upon an application for an order under s. ~~968.35~~ 968.385 and upon the judicial finding required by sub. (1). The period of extension shall be for a period not to exceed 60 days.

(5) An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct ~~that~~ all of the following:

(a) ~~The~~ That the order be sealed until otherwise ordered by the court~~; and~~.

(b) ~~The~~ That the person owning or leasing the line to which the pen register or a trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

SECTION 540. 968.37 of the statutes is renumbered 968.405, and 968.405 (1), (2), (3), (4) and (5), as renumbered, are amended to read:

968.405 **(1)** Upon the request of the attorney general, a district attorney, or an officer of a law enforcement agency authorized to install and use a pen register under ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish the investigative or law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court

accords the party with respect to whom the installation and use is to take place, if the assistance is directed by a court order under s. ~~968.36~~ 968.395 (5) (b).

(2) Upon the request of the attorney general, a district attorney, or an officer of a law enforcement agency authorized to receive the results of a trap and trace device under ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install the device ~~forthwith~~ immediately on the appropriate line and shall furnish the investigative or law enforcement officer all additional information, facilities, and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if the installation and assistance is directed by a court order under s. ~~968.36~~ 968.395 (5) (b). Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated by the court, at reasonable intervals during regular business hours for the duration of the order.

(3) A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance under this section shall be reasonably compensated for the reasonable expenses incurred in providing the facilities and assistance.

(4) No cause of action may lie in any court against any provider of a wire or electronic communication service, its officers, employees, or agents or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under s. ~~968.36~~ 968.395.

(5) A good faith reliance on a court order, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405.

SECTION 541. 968.373 of the statutes is renumbered 968.410.

SECTION 542. 968.375 (4) of the statutes is amended to read:

968.375 **(4)** BASIS, APPLICATION FOR, AND ISSUANCE OF SUBPOENA OR WARRANT. Section ~~968.12~~ 968.465 (2) and (3) applies to the basis and application for, and issuance of, a subpoena under sub. (2) or a warrant under sub. (3) as it applies to the basis and application for, and issuance of, a search warrant under s. ~~968.12~~ 968.465.

SECTION 543. 968.38 of the statutes is renumbered 968.725, and 968.725 (2) (intro.), (2m) (intro.), (3) (d), (4) (intro.) and (5) (intro.), as renumbered, are amended to read:

968.725 **(2)** (intro.) In a criminal action under s. 940.225, 948.02, 948.025, 948.05, 948.06, 948.085, or 948.095, if all of the following apply, the district attorney shall apply to the ~~circuit~~ court for his or her county to order the defendant to submit to an HIV test and to a test or a series of tests to detect the presence of a sexually transmitted disease, each of which tests shall be administered by a health care professional, and to disclose the results of the test or tests as specified in sub. (4) (a) to (c):

(2m) (intro.) In a criminal action under s. 946.43 (2m), the district attorney shall apply to the ~~circuit~~ court for his or her county for an order requiring the defendant to submit to a test or a series of tests administered by a health care professional to detect the presence of communicable diseases and to disclose the results of the test or tests as specified in sub. (5) (a) to (c), if all of the following apply:

(3) (d) If the court has determined that the defendant is not competent to proceed under s. ~~971.14 (4)~~ 975.34 and suspended the criminal proceedings, at any time after the determination that the defendant is not competent to proceed.

(4) (intro.) The court shall set a time for a hearing on the matter under sub. (2) during the preliminary examination, if sub. (3) (a) applies; after the defendant is bound over for trial and before a verdict is rendered, if sub. (3) (b) applies; after conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3) (c) applies; or, subject to s. ~~971.13~~ 975.30 (4), after the determination that the defendant is not competent, if sub. (3) (d) applies. The court shall give the district attorney and the defendant notice of the hearing at least 72 hours prior to the hearing. The defendant may have counsel at the hearing, and counsel may examine and cross–examine witnesses. If the court finds probable cause to believe that the victim or alleged victim has had contact with body fluid of the defendant that constitutes a significant exposure, the court shall order the defendant to submit to an HIV test and to a test or a series of tests to detect the presence of a sexually transmitted disease. The test shall be performed by a health care professional. The court shall require the health care professional who performs the test to disclose the test results to the defendant, to refrain from making the test results part of the defendant's permanent medical record, and to disclose the results of the test to any of the following:

(5) (intro.) The court shall set a time for a hearing on the matter under sub. (2m) during the preliminary examination, if sub. (3) (a) applies; after the defendant is bound over for trial and before a verdict is rendered, if sub. (3) (b) applies; after conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3) (c) applies; or, subject to s. ~~971.13~~ 975.30 (4), after the determination that the

defendant is not competent, if sub. (3) (d) applies. The court shall give the district attorney and the defendant notice of the hearing at least 72 hours prior to the hearing. The defendant may have counsel at the hearing, and counsel may examine and cross–examine witnesses. If the court finds probable cause to believe that the act or alleged act of the defendant that constitutes a violation of s. 946.43 (2m) carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the defendant's blood, semen, vomit, saliva, urine or feces or other bodily substance of the defendant, the court shall order the defendant to submit to a test or a series of tests administered by a health care professional to detect the presence of any communicable disease that was potentially transmitted by the act or alleged act of the defendant. The court shall require the health care professional who performs the test to disclose the test results to the defendant. The court shall require the health care professional who performs the test to refrain from making the test results part of the defendant's permanent medical record and to disclose the results of the test to any of the following:

SECTION 544. 968.40 (title) of the statutes is renumbered 968.155 (title) and amended to read:

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

SECTION 545. 968.40 (1) of the statutes is renumbered 968.155 (1) and amended to read:

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

SECTION 546. 968.40 (3) of the statutes is renumbered 968.155 (2) and amended to read:

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

SECTION 547. 968.40 (4) of the statutes is renumbered 968.155 (3) and amended to read:

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

SECTION 548. 968.40 (6), (7) and (8) of the statutes are renumbered 968.155 (4), (5) and (6) and amended to read:

968.155 **(4)** TIME GRAND JURORS TO SERVE. ~~Grand~~ The judge may discharge the grand jury at any time. Otherwise, grand jurors shall serve for a period of 31 consecutive days unless more days are necessary to complete service in a particular proceeding. ~~The judge may discharge the grand jury at any time.~~

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

(6) INTERCOUNTY RACKETEERING AND CRIME. When a grand jury is convened ~~pursuant to~~ under this section to investigate unlawful activity under s. 165.70, and ~~such~~ the activity involves more than one county, including the county where the

petition for such grand jury is filed, then if the attorney general approves, all expenses of such proceeding shall be charged to the appropriation under s. 20.455 (1) (d).

SECTION 549. 968.41 of the statutes is renumbered 968.165 and amended to read:

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

SECTION 550. 968.42 of the statutes is renumbered 968.175 and amended to read:

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

SECTION 551. 968.43 of the statutes is renumbered 968.185 and amended to read:

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

(2) Before assuming the duties under this section, each reporter shall make and file an oath or affirmation ~~faithfully~~ to record and transcribe faithfully all of the

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

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

SECTION 552. 968.44 of the statutes is renumbered 968.195 and amended to read:

968.195 ~~Witnesses~~ Oaths to witnesses. The presiding juror of every grand jury and the district attorney ~~or other prosecuting officer~~ who is before the grand jury may administer all oaths and affirmations in the manner prescribed by law to witnesses who appear before the grand jury for the purpose of testifying in any matter of which the witnesses have cognizance. At the request of the court, the presiding juror shall return to the court a list, under his or her hand, of all witnesses who are sworn before the grand jury. That list shall be filed by the clerk ~~of circuit court~~.

SECTION 553. 968.45 (title) of the statutes is renumbered 968.203 (title) and amended to read:

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

SECTION 554. 968.45 (1) of the statutes is renumbered 968.203 (1) (a) and amended to read:

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

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

SECTION 555. 968.45 (2) of the statutes is renumbered 968.203 (2) and amended to read:

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

SECTION 556. Subchapter V (title) of chapter 968 [precedes 968.455] of the statutes is created to read:

CHAPTER 968

SUBCHAPTER V

SEARCH AND SEIZURE

SECTION 557. 968.46 of the statutes is renumbered 968.215 and amended to read:

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

SECTION 558. Subchapter VI (title) of chapter 968 [precedes 968.465] of the statutes is created to read:

CHAPTER 968

SUBCHAPTER VI

SEARCH WARRANTS

SECTION 559. 968.465 (5) and (6) of the statutes are created to read:

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

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

SECTION 560. 968.47 of the statutes is renumbered 968.225 and amended to read:

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

SECTION 561. 968.475 (2) (a) of the statutes is created to read:

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

SECTION 562. 968.475 (2) (e) of the statutes is created to read:

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

SECTION 563. 968.475 (3) of the statutes is created to read:

968.475 **(3)** Section 968.705 applies to documents to be subpoenaed if the documents are under the control of a person not reasonably suspected to be concerned in the commission of a crime.

SECTION 564. 968.48 of the statutes is renumbered 968.235 and amended to read:

968.235 ~~Attendance; absence; excuse~~ Grand jury attendance; number required for ~~grand jury~~ session; ~~number required to concur in~~ and indictment. Each grand juror shall attend every session of the grand jury unless excused by the presiding juror. The presiding juror may excuse a grand juror from attending a grand jury session only for a reason which appears to the presiding juror in his or her discretion as good and sufficient cause for the ~~excuse~~ juror's absence. No business may be transacted at any session of the grand jury ~~at which less~~ if fewer than 14 members of the grand jury are in attendance, and no ~~indictment may be~~

~~found by any~~ grand jury may indict unless at least 12 ~~of their number shall~~ grand jurors concur in the indictment.

SECTION 565. 968.485 (title) and (1) of the statutes are created to read:

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

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

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

SECTION 566. 968.49 of the statutes is renumbered 968.245 and amended to read:

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

SECTION 567. 968.50 of the statutes is renumbered 968.252 and amended to read:

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

SECTION 568. 968.505 (title) of the statutes is renumbered 968.262 (title).

SECTION 569. 968.505 of the statutes is renumbered 968.262 (1) and amended to read:

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

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

SECTION 570. 968.51 of the statutes is renumbered 968.275 and amended to read:

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

SECTION 571. 968.52 of the statutes is renumbered 968.285 and amended to read:

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

SECTION 572. 968.53 of the statutes is renumbered 968.295 and amended to read:

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

SECTION 573. 968.585 (4m) of the statutes is created to read:

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

SECTION 574. 968.585 (7) (cm) of the statutes is created to read:

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

SECTION 575. Subchapter VII (title) of chapter 968 [precedes 968.605] of the statutes is created to read:

CHAPTER 968

SUBCHAPTER VII

SEIZED PROPERTY

SECTION 576. Subchapter VIII (title) of chapter 968 [precedes 968.705] of the statutes is created to read:

CHAPTER 968

SUBCHAPTER VIII

MISCELLANEOUS

SECTION 577. 968.705 (2), (3) and (6) of the statutes are created to read:

968.705 **(2)** (a) The subpoena shall designate that the responsive documents be provided to one of the following:

1. The law enforcement agency or law enforcement officer named in the subpoena.

2. The attorney general, the district attorney, the assistant attorney general, or the assistant district attorney, whichever requested the subpoena.

3. The court.

(b) If the documents are not returnable to the court, the person who requested the documents shall, within 5 days of receiving the responsive documents, make a return of the subpoena to the issuing court in the form of a written notice to the court

that compliance with the subpoena has occurred and including a brief description of the nature and quantity of the documents received under the subpoena. The person designated in the subpoena to receive the documents shall maintain the original documents received and shall produce the documents, or any portion of the documents, to the court upon the court's order.

(3) A subpoena issued under sub. (1) shall be issued with all practicable secrecy and the request for the subpoena, any affidavit in support of the subpoena, any testimony in support of the request, and any other supporting documents may not be filed with the clerk or made public until the subpoena has been executed and returned to the court. The court that issued the subpoena may issue an order sealing the subpoena and the request for the subpoena, the affidavit in support of the subpoena, any testimony in support of the request, and any supporting documents upon which it is based. The court that issued the subpoena may issue an order prohibiting the person to which the subpoena is directed from disclosing the existence of the subpoena to any person other than the lawyer for the person.

(6) Documents seized by or delivered to a law enforcement agency or officer under a subpoena under this section are considered seized property for the purposes of ss. 968.615 and 968.625.

SECTION 578. 968.71 of the statutes is created to read:

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

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

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

(2) Upon the request of the district attorney and a showing that the information requested is relevant to a criminal investigation, the court shall issue an order

requiring any financial institution to disclose to the district attorney whether the person named in the order has a depository account with the financial institution or whether the person had a depository account with the financial institution at a prior specified time. Any person who unlawfully violates such an order may be compelled to do so under ch. 785.

SECTION 579. Chapter 969 (title) of the statutes is repealed and recreated to read:

CHAPTER 969

SECURING A DEFENDANT'S

APPEARANCE; RELEASE

SECTION 580. 969.001 (intro.) of the statutes is renumbered 969.30 (intro.) and amended to read:

969.30 Definitions. (intro.) In this ~~chapter~~ subchapter:

SECTION 581. 969.001 (1) of the statutes is renumbered 967.025 (1) and amended to read:

967.025 **(1)** "Bail" means monetary conditions of release on bond.

SECTION 582. 969.001 (2) of the statutes is repealed.

SECTION 583. 969.01 (title) of the statutes is renumbered 969.31 (title).

SECTION 584. 969.01 (1) of the statutes is renumbered 969.31 (1) and amended to read:

969.31 **(1)** BEFORE CONVICTION. ~~Before conviction, except~~ Except as provided in ~~ss. 969.035 and 971.14 (1r)~~ s. 969.43 or 975.32, a defendant arrested for a ~~criminal offense~~ crime is eligible for release before conviction under reasonable conditions designed to ~~assure~~ ensure his or her appearance in court, protect members of the community from serious bodily harm, or prevent the intimidation of witnesses. ~~Bail~~

~~may be imposed at or after the initial appearance only upon a finding by the court that there is a reasonable basis to believe that bail is necessary to assure appearance in court. In determining whether any conditions of release are appropriate, the judge shall first consider the likelihood of the defendant appearing for trial if released on his or her own recognizance.~~

SECTION 585. 969.01 (2) (title) of the statutes is repealed.

SECTION 586. 969.01 (2) (a) of the statutes is renumbered 969.31 (2) and amended to read:

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

SECTION 587. 969.01 (2) (b) and (c) of the statutes are consolidated, renumbered 974.09 (1) (a) and amended to read:

974.09 **(1)** (a) In misdemeanors~~, release may be allowed upon appeal in the discretion of the trial court. (c) In~~ and felonies, release may be allowed upon appeal in the discretion of the ~~trial~~ court pursuant to ss. 809.31, 969.32, 969.33, 969.37, 969.38, 969.39, 969.40, 969.41, and 969.42.

SECTION 588. 969.01 (2) (d) of the statutes is renumbered 974.09 (1) (b) and amended to read:

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

SECTION 589. 969.01 (2) (e) of the statutes is renumbered 974.09 (1) (c) and amended to read:

974.09 **(1)** (c) Any court or judge or any justice authorized to grant release after conviction for a misdemeanor or felony may, in addition to the powers granted in s. ~~969.08~~ 969.51, revoke the order releasing a defendant.

SECTION 590. 969.01 (3) of the statutes is renumbered 969.52 and amended to read:

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

SECTION 591. 969.01 (4) of the statutes is renumbered 969.33 (1) (intro.) and amended to read:

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

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

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

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

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

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

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

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

(h) Whether the defendant is already ~~on bail or~~ subject to other release conditions in other pending cases~~, whether~~.

(i) Whether the defendant has been bound over for trial after a preliminary examination~~, whether~~.

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

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

SECTION 592. 969.02 (title), (1), (2), (3) (a), (b), (c) and (d), (4), (4m), (5), (7), (7m) and (8) of the statutes are repealed.

SECTION 593. 969.02 (2m) of the statutes is renumbered 969.33 (8) and amended to read:

969.33 **(8)** CREDIT CARDS ACCEPTED. ~~The~~ If the court imposes monetary conditions of release under this section, the clerk ~~of circuit court~~ may accept, instead of cash, a credit card or debit card, as defined in s. 59.40 (5) (a) and 1. and 2.~~, instead of cash under sub. (2).~~

SECTION 594. 969.02 (3) (e) of the statutes is renumbered 969.33 (5) (g) and amended to read:

969.33 **(5)** (g) If the ~~person~~ defendant is charged with violating a restraining order or injunction issued under s. 813.12 or 813.125, ~~may require the person~~ requiring the defendant to participate in mental health treatment, a batterer's intervention program, or individual counseling. The ~~judge~~ court shall consider a request by the district attorney or the petitioner, as defined in s. 301.49 (1) (c), in determining whether to issue an order under this paragraph.

SECTION 595. 969.02 (6) of the statutes is renumbered 969.38 (1) (a) and amended to read:

969.38 **(1)** (a) When ~~a~~ the court enters a judgment ~~of conviction is entered in a prosecution~~ for a fine or costs or both in a case in which a cash deposit had been made ~~in accordance with sub. (2),~~ on a secured appearance bond, the court shall apply

the balance of ~~such~~ the deposit, after ~~deduction of~~ deducting the bond costs, ~~shall be applied first~~ to the payment of any restitution ordered under s. 973.20 and then, if ordered restitution is satisfied in full, to the payment of the judgment. The court shall then return any remaining balance of the deposit to the person who made the deposit.

SECTION 596. 969.03 of the statutes is repealed.

SECTION 597. 969.035 of the statutes is renumbered 969.43, and 969.43 (4), (5), (7), (8) and (10), as renumbered, are amended to read:

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

(5) A pretrial detention hearing is a hearing before a court for the purpose of determining if the continued detention of the defendant is justified. A pretrial detention hearing may be held in conjunction with a preliminary examination under s. ~~970.03~~ 971.042 or a conditional release revocation hearing under s. ~~969.08 (5) (b)~~ 969.51 (1), but separate findings shall be made by the court relating to the pretrial detention, preliminary examination, and conditional release revocation. The pretrial detention hearing shall be commenced within 10 days from the date the defendant is detained or brought before the court under sub. (4). The defendant may not be denied release from custody ~~in accordance with s. 969.03~~ for more than 10 days prior to the hearing required by this subsection.

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

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

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

SECTION 598. 969.04 of the statutes is renumbered 969.40 and amended to read:

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

SECTION 599. 969.05 of the statutes is repealed.

SECTION 600. 969.065 of the statutes is renumbered 969.34 and amended to read:

969.34 ~~Judicial conference; bail alternatives~~ Bail schedule. The judicial conference shall develop guidelines, which the supreme court shall adopt by rule, for ~~cash bail for~~ releasing on bond persons accused of misdemeanors ~~which the supreme court shall adopt by rule~~. The guidelines shall relate primarily to individuals~~. The guidelines~~ and may be revised from time to time ~~under this section~~.

SECTION 601. 969.07 of the statutes is renumbered 969.36 and amended to read:

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

SECTION 602. 969.08 (title) of the statutes is renumbered 969.51 (title) and amended to read:

969.51 (title) **~~Grant, reduction, increase or revocation~~ Revocations of ~~conditions of~~ defendant's release.**

SECTION 603. 969.08 (1), (2), (3) and (4) of the statutes are repealed.

SECTION 604. 969.08 (5) (a) of the statutes is renumbered 969.51 (1) (a).

SECTION 605. 969.08 (5) (b) 1. of the statutes is renumbered 969.51 (1) (b) 1. and amended to read:

969.51 **(1)** (b) 1. If the court determines that the state has complied with par. (a), the court may issue a warrant commanding any law enforcement officer to bring the defendant without unnecessary delay before the court. When the defendant is brought before the court, he or she shall be given a copy of the documents specified in par. (a) and informed of his or her rights under s. ~~970.02 (1) and (6)~~ 971.027. The court may hold the defendant in custody and suspend the previously imposed conditions of release pending a hearing on the alleged breach. The hearing under this paragraph and the preliminary examination under s. ~~970.03~~ 971.042, if required, shall be a combined hearing, with the court making the separate findings required under this paragraph and s. ~~970.03~~ 971.042 at the conclusion of the combined hearing. The hearing shall be commenced within 7 days from the date the defendant is taken into custody. The defendant may not be held without setting conditions of release for more than 7 days unless a hearing is held and the findings required by this paragraph are established.

SECTION 606. 969.08 (5) (b) 2. of the statutes is renumbered 969.51 (1) (b) 2.

SECTION 607. 969.08 (5) (b) 3. of the statutes is renumbered 969.51 (1) (b) 3. and amended to read:

969.51 **(1)** (b) 3. Upon a finding by the court that the state has established by clear and convincing evidence that the defendant has committed a serious crime while on conditional release, the court may revoke the release of the defendant and hold the defendant for trial without setting conditions of release. No reference may be made during the trial of the offense to the court's finding in the hearing. No

reference may be made in the trial to any testimony of the defendant at the hearing, except if the testimony is used for impeachment purposes. If the court does not find that the state has established by clear and convincing evidence that the defendant has committed a serious crime while on conditional release, the defendant shall be released on ~~bail or other~~ conditions deemed appropriate by the court.

SECTION 608. 969.08 (5) (b) 4. of the statutes is renumbered 969.51 (1) (b) 4. and amended to read:

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

SECTION 609. 969.08 (5) (b) 5. of the statutes is renumbered 969.51 (1) (b) 5.

SECTION 610. 969.08 (6) of the statutes is renumbered 969.51 (2).

SECTION 611. 969.08 (7) of the statutes is renumbered 969.51 (3) and amended to read:

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

~~circuit~~ court shall make the release revocation decision based on the certified findings.

SECTION 612. 969.08 (8) of the statutes is renumbered 969.51 (4) and amended to read:

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

SECTION 613. 969.08 (9) of the statutes is renumbered 969.51 (5).

SECTION 614. 969.08 (9m) of the statutes is renumbered 969.51 (6) and amended to read:

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

SECTION 615. 969.08 (10) of the statutes is renumbered 969.51 (7).

SECTION 616. 969.09 (title), (1) and (3) of the statutes are repealed.

SECTION 617. 969.09 (2) of the statutes is renumbered 974.09 (2) and amended to read:

974.09 **(2)** If the defendant is ~~admitted to bail upon~~ released on conditions pending appeal, the conditions of the bond shall be that the defendant will duly prosecute the defendant's appeal, that the defendant will appear at ~~such~~ the time and place ~~as~~ that the court directs, and that, if the judgment is affirmed or reversed and remanded for a new trial or further proceedings upon notice after remittitur, the defendant will surrender to the sheriff of the county in which the defendant was tried.

SECTION 618. 969.10 of the statutes is amended to read:

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

SECTION 619. 969.11 of the statutes is renumbered 969.35 and amended to read:

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

(2) If ~~the defendant is released on bail or other conditions pursuant to~~ a judge of a county other than the county where the offense may be tried under s. 970.14 released the defendant under sub. (1), the judge shall make a record of the proceedings ~~and~~, shall certify his or her minutes ~~thereof~~ of the proceedings, and shall forward the bond ~~and bail~~ to the court before whom the defendant is bound to appear.

SECTION 620. 969.12 of the statutes is renumbered 969.39.

SECTION 621. 969.13 of the statutes is repealed.

SECTION 622. 969.14 of the statutes is repealed.

SECTION 623. Subchapter I (title) of chapter 969 [precedes 969.15] of the statutes is created to read:

CHAPTER 969

SUBCHAPTER I

ARRESTS, SUMMONSES, AND CITATIONS

SECTION 624. 969.15 of the statutes is created to read:

969.15 Securing the defendant's initial appearance. The initial appearance of a person charged with a crime may be secured in any of the following ways:

(1) By the person's voluntary appearance.

(2) By the person's appearance in response to a citation.

(3) By the person's appearance in response to a summons.

(4) By the person's arrest, with or without a warrant.

(5) By the person's appearance in response to a condition of release from custody.

(6) By the person's appearance in response to a judicial order to produce a person already in custody.

SECTION 625. 969.19 of the statutes is created to read:

969.19 Probable cause determination for warrantless arrests. For any person who is arrested without a warrant and not sooner released from custody, within 48 hours after the arrest a judge shall determine whether there was probable cause to arrest the person. After 48 hours, including weekends and holidays, have elapsed from the arrest of the person with no judicial determination of probable cause the person shall be released under s. 969.32 (1) unless the delay is excused by the existence of a bona fide emergency or other extraordinary circumstance.

SECTION 626. 969.20 (2) of the statutes is created to read:

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

SECTION 627. 969.20 (6) of the statutes is created to read:

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

SECTION 628. 969.20 (7) (title) of the statutes is created to read:

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

SECTION 629. 969.21 (title) of the statutes is created to read:

969.21 (title) **Arrest warrants.**

SECTION 630. 969.24 (2m) of the statutes is created to read:

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

(a) The accused has not given proper identification.

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

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

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

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

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

SECTION 631. 969.26 (title) of the statutes is created to read:

969.26 (title) **Forms.**

SECTION 632. 969.26 (3) of the statutes is created to read:

969.26 **(3)** CITATION. A citation shall be in substantially the following form:

MISDEMEANOR CITATION

Section 969.26 Wis. Stats.

Deposit Permitted: $ ....

Circuit Court for .... County

The undersigned complains for and on behalf of the State of Wisconsin upon information and belief that on or about .... (day), ... (date of violation), at .... (time); in .... County, town/ village/ city of ....; .... (defendant's name); .... (date of birth), ... (sex), ... (street address, city, state, zip code), ... (race), ... (eye color), ... (hair color), ... (weight), ... (height); did the following .... (state facts of violation) in violation of section(s) .... of the .... (year) Wisconsin Statutes and requests that the defendant may be held to answer for the violation.

Dated ...., ... (year)

.... (Signature of officer)

Signed by .... (Name), ... (Dept./Agency)

.... (Title), ... (Badge Number)

You are hereby notified to appear in the

( ) Circuit Court named above

( ) District Attorney's Office

located at .... (street address, city)

on .... (date), at .... (time).

The maximum penalty for this violation is:

( ) Fine not to exceed $10,000 or imprisonment not to exceed 9 months, or both (Class A Misdemeanor).

( ) Fine not to exceed $1,000 or imprisonment not to exceed 90 days, or both (Class B Misdemeanor).

( ) Fine not to exceed $500 or imprisonment not to exceed 30 days, or both (Class C Misdemeanor).

( ) Other

PROMISE TO APPEAR

I have received a copy of this citation. I promise to appear in court at the time and place specified. Signing this citation is not an admission of guilt.

.... (Defendant's signature)

.... (Defendant's address)

.... (Defendant's phone number)

ENDORSEMENT BY DISTRICT ATTORNEY

I have reviewed this citation and approve its use as a criminal complaint under s. 969.24 (5).

Dated ...., ... (year)

.... (District Attorney's signature)

.... (Title)

SECTION 633. Subchapter II (title) of chapter 969 [precedes 969.30] of the statutes is created to read:

CHAPTER 969

SUBCHAPTER II

COURT–ORDERED RELEASE

SECTION 634. 969.30 (3) to (7) of the statutes are created to read:

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

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

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

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

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

SECTION 635. 969.31 (3) of the statutes is created to read:

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

SECTION 636. 969.31 (4) of the statutes is created to read:

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

SECTION 637. 969.32 of the statutes is created to read:

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

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

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

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

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

SECTION 638. 969.33 (title) of the statutes is created to read:

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

SECTION 639. 969.33 (1) (L) of the statutes is created to read:

969.33 **(1)** (L) The results of a validated risk assessment.

SECTION 640. 969.33 (2) of the statutes is created to read:

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

SECTION 641. 969.33 (3) of the statutes is created to read:

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

SECTION 642. 969.33 (4) of the statutes is created to read:

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

(a) The defendant shall appear in the court having jurisdiction on a day certain and thereafter as ordered until discharged on final order of the court and shall submit to the orders and process of the court.

(b) The defendant shall give written notice to the clerk of any change in his or her address within 48 hours after the change.

(c) The defendant may not commit any crime.

(d) The defendant shall not violate, cause any person to violate, or permit any person to violate on the defendant's behalf ss. 940.22 to 940.45.

SECTION 643. 969.33 (5) to (7) of the statutes are created to read:

969.33 **(5)** OTHER CONDITIONS. Whenever a defendant is released on bond under s. 969.32 (2) to (4), the court may impose reasonable conditions other than those required under sub. (4), including conditions doing any of the following:

(a) Prohibiting the defendant from contacting, directly or indirectly, specified persons or going to specified places.

(b) Prohibiting the defendant from possessing any dangerous weapon.

(c) Prohibiting the defendant from consuming alcohol beverages.

(d) Restricting the travel, association, or place of residence of the defendant.

(e) Requiring that the defendant return to custody after specified hours. The charges authorized by s. 303.08 (4) and (5) do not apply under this paragraph.

(f) Placing the defendant under the supervision of a designated person or organization agreeing to supervise the defendant.

(6) COPY OF BOND TO DEFENDANT. The court shall provide the defendant a copy of his or her bond.

(7) MODIFYING CONDITIONS OF RELEASE. Upon motion by the state or the defendant, the court before which the action is pending may, following a hearing, modify conditions of release or grant release if it has been previously revoked under s. 969.51. Reasonable notice of the hearing shall be given to all parties.

SECTION 644. 969.37 of the statutes is created to read:

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

SECTION 645. 969.38 of the statutes is created to read:

969.38 Disposition of cash deposits. (1) DEPOSIT APPLIED TO FINE OR COSTS.

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

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

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

SECTION 646. 969.41 of the statutes is created to read:

969.41 Discharge of surety. When a surety desires to be discharged from the obligations of his or her bond, he or she may apply to the court for an order to that

effect. After notice to the parties, the court shall hold a hearing at which the defendant must be present. The court shall determine whether to discharge the surety and may review and modify the conditions of release.

SECTION 647. 969.42 of the statutes is created to read:

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

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

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

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

SECTION 648. Subchapter III (title) of chapter 969 [precedes 969.50] of the statutes is created to read:

CHAPTER 969

SUBCHAPTER III

ENFORCEMENT OF APPEARANCE REQUIREMENTS AND CONDITIONS OF RELEASE

SECTION 649. 969.50 (2) and (3) of the statutes are created to read:

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

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

SECTION 650. Chapter 970 (title) of the statutes is repealed and recreated to read:

CHAPTER 970

COMMENCEMENT OF PROSECUTION

SECTION 651. 970.01 (title) of the statutes is repealed.

SECTION 652. 970.01 (1) of the statutes is renumbered 971.015 (1) (a) and amended to read:

971.015 **(1)** (a) ~~Any~~ Except as provided in par. (b), any person who is arrested and not sooner released from custody shall be ~~taken within a reasonable time before a judge in~~ brought before the court for the county in which the offense ~~was alleged to have been committed. The~~ may be tried under s. 970.14 for an initial appearance ~~may be conducted on the record by telephone or live audiovisual means under s. 967.08. If the~~ within a reasonable time after the day of arrest. In no event shall an arrested person be held for more than 96 hours, including weekends and holidays, without a court determination regarding conditions of release under s. 969.33.

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

SECTION 653. 970.01 (2) of the statutes is repealed.

SECTION 654. 970.02 (title) of the statutes is repealed.

SECTION 655. 970.02 (1) (intro.) of the statutes is repealed.

SECTION 656. 970.02 (1) (a) of the statutes is renumbered 971.027 (3) and amended to read:

971.027 **(3)** NOTICE OF THE CHARGES AND PENALTIES. ~~Of the charge against the defendant and shall furnish~~ The court shall ensure that the district attorney has furnished the defendant with a copy of the complaint ~~which shall contain the possible penalties for the offenses set forth therein. In the case of a felony, the judge shall also inform the defendant of the~~ and ensure that the defendant has been informed of the nature of the charge and the penalties for ~~the felony~~ each crime with which the defendant is charged. The district attorney shall read the complaint to the defendant at the defendant's request. If no criminal complaint is filed at the initial appearance, the defendant shall be released without monetary conditions unless the court excuses the delay due to the existence of a bona fide emergency or other extraordinary circumstances.

SECTION 657. 970.02 (1) (b) and (6) of the statutes are consolidated, renumbered 971.027 (1) and amended to read:

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

SECTION 658. 970.02 (1) (c) and (5) of the statutes are consolidated, renumbered 971.027 (2) and amended to read:

971.027 **(2)** RIGHT TO A PRELIMINARY EXAMINATION. ~~That~~ The court shall inform the defendant that he or she is entitled to a preliminary examination ~~if~~ when the defendant is charged with a felony in any complaint, including a complaint issued under s. 968.26, or when the defendant has been returned to this state for prosecution through extradition proceedings under ch. 976, or any indictment, unless waived in writing or in open court, or unless the defendant is a corporation or limited liability company. ~~**(5)**~~ If the defendant does not waive preliminary examination, the ~~judge~~ court shall ~~forthwith~~ set the action for a preliminary examination under s. ~~970.03~~ 971.042.

SECTION 659. 970.02 (2) of the statutes is renumbered 971.027 (5) and amended to read:

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

SECTION 660. 970.02 (3) of the statutes is repealed.

SECTION 661. 970.02 (4) of the statutes is repealed.

SECTION 662. 970.02 (7) of the statutes is renumbered 971.027 (6) and amended to read:

971.027 **(6)** OBTAINING IDENTIFICATION DATA. If the offense charged is one specified under s. 165.83 (2) (a), the ~~judge~~ court shall determine if the defendant's fingerprints, photographs and other identifying data have been taken and, if not, the ~~judge~~ court shall direct that this information be obtained.

SECTION 663. 970.02 (8) of the statutes, as affected by 2013 Wisconsin Act 214, is renumbered 971.027 (7) and amended to read:

971.027 **(7)** OBTAINING BIOLOGICAL SPECIMEN. If the offense charged is a violent crime, as defined in s. 165.84 (7) (ab), the ~~judge~~ court shall determine if a biological specimen has been obtained from the defendant under s. 165.84 (7), and, if not, the ~~judge~~ court shall direct that a law enforcement agency or tribal law enforcement agency obtain a biological specimen from the defendant and submit it to the state crime laboratories as specified in rules promulgated by the department of justice under s. 165.76 (4). If the ~~judge~~ court requires the defendant to provide a specimen under this subsection or if a biological specimen has already been obtained from the defendant, the ~~judge~~ court shall inform the defendant that he or she may request expungement under s. 165.77 (4).

SECTION 664. 970.03 (title) of the statutes is renumbered 971.042 (title).

SECTION 665. 970.03 (1) of the statutes is renumbered 971.042 (1) and amended to read:

971.042 **(1)** A preliminary examination is a hearing before a court for the purpose of determining if there is probable cause to believe a felony has been committed by the defendant. A preliminary examination may be held in conjunction with a bail revocation hearing under s. ~~969.08 (5)~~ 969.51 (1) (b), but separate findings shall be made by the judge relating to the preliminary examination and to the bail revocation.

SECTION 666. 970.03 (2), (3), (4), (5) and (6) of the statutes are renumbered 971.042 (2), (3), (4), (5) and (6).

SECTION 667. 970.03 (7), (8) and (9) of the statutes are renumbered 971.042 (7) (a), (b) and (c) and amended to read:

971.042 **(7)** (a) If the court finds probable cause to believe that a felony has been committed by the defendant, ~~it shall~~ bind the defendant over for trial.

(b) If the court finds that it is probable that only a misdemeanor has been committed by the defendant, ~~it shall~~ amend the complaint to conform to the evidence. The action shall then proceed as though it had originated as a misdemeanor action.

(c) If the court does not find probable cause to believe that a crime has been committed by the defendant, ~~it shall~~ order the defendant discharged ~~forthwith~~ immediately.

SECTION 668. 970.03 (10), (12), (13) and (14) of the statutes are renumbered 971.042 (8), (9), (10) and (11), and 971.042 (8) and (9) (a) 1., as renumbered, are amended to read:

971.042 **(8)** In multiple count complaints, the court shall order dismissed any count for which it finds there is no probable cause. The facts arising out of any count ordered dismissed shall not be the basis for a count in any information filed ~~pursuant to ch. 971. Section 970.04~~ under this chapter. Subsection (13) shall apply to any dismissed count.

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

SECTION 669. 970.032 (title) of the statutes is repealed.

SECTION 670. 970.032 (1) of the statutes is renumbered 971.75 (1) and amended to read:

971.75 **(1)** PROBABLE CAUSE HEARING. Notwithstanding s. ~~970.03~~ 971.042, if a preliminary examination is held regarding a juvenile who is subject to the original jurisdiction of the court of criminal jurisdiction under s. 938.183 (1), the court shall ~~first~~ conduct an evidentiary hearing to determine ~~whether~~ if there is probable cause to believe that the juvenile ~~has~~ committed the violation of which he or she is accused under the circumstances specified in s. 938.183 (1) (a), (am), (ar), (b), or (c), whichever is applicable.

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

SECTION 671. 970.032 (2) (intro.) of the statutes is renumbered 971.75 (3) (b) and amended to read:

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

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

SECTION 672. 970.032 (2) (a), (b) and (c) of the statutes are renumbered 971.75 (5) (a), (b) and (c).

SECTION 673. 970.035 of the statutes is renumbered 971.046 and amended to read:

971.046 Preliminary examination; juvenile younger than 15 years old. Notwithstanding s. ~~970.03~~ 971.042, if a preliminary examination under s. ~~970.03~~ 971.042 is held regarding a juvenile who was waived under s. 938.18 for a violation which is alleged to have occurred prior to his or her 15th birthday, the court may bind the juvenile over for trial only if there is probable cause to believe that a crime under s. 940.03, 940.06, 940.225 (1) or (2), 940.305, 940.31 or 943.10 (2), 943.32 (2) or 961.41 (1) has been committed or that a crime that would constitute a felony under chs. 939 to 948 or 961 if committed by an adult has been committed at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9). If the court does not make any of those findings, the court shall order that the juvenile be discharged but proceedings may be brought regarding the juvenile under ch. 938.

SECTION 674. 970.038 of the statutes is renumbered 971.043 and amended to read:

971.043 Preliminary examination; hearsay exception. (1) Notwithstanding s. 908.02, hearsay is admissible in a preliminary examination under ss. ~~970.03, 970.032, and 970.035~~ 971.042, 971.75 (2), and 971.046.

(2) A court may base its finding of probable cause under s. ~~970.03 (7) or (8), 970.032 (2), or 970.035~~ 971.042 (7) (a) or (b), 971.75 (3), or 971.046 in whole or in part on hearsay admitted under sub. (1).

SECTION 675. 970.04 of the statutes is renumbered 971.044.

SECTION 676. 970.05 of the statutes is renumbered 971.045.

SECTION 677. Subchapter I (title) of chapter 970 [precedes 970.06] of the statutes is created to read:

CHAPTER 970

SUBCHAPTER I

GENERAL PROVISIONS

SECTION 678. 970.06 (2) of the statutes is created to read:

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

SECTION 679. 970.06 (3) of the statutes is created to read:

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

SECTION 680. 970.06 (4) of the statutes is created to read:

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

SECTION 681. 970.08 (2) of the statutes is created to read:

970.08 **(2)** A complaint is filed when the district attorney signs it and files it with the clerk of the court for the county where the crime was committed.

SECTION 682. 970.09 (2) of the statutes is created to read:

970.09 **(2)** The court may allow the district attorney to amend the complaint after the defendant enters a plea but within a reasonable time before trial if the amendment does not prejudice the defendant.

SECTION 683. 970.10 (title), (1) and (3) of the statutes are created to read:

970.10 (title) **Dismissing the complaint. (1)** If the district attorney moves to dismiss a complaint, the trial court shall grant the motion unless the court finds that dismissal is contrary to the public interest. The motion may not be granted during the trial without the consent of the defendant.

(3) Granting a motion made under sub. (1) dismisses the action, and the clerk shall enter an order to that effect.

SECTION 684. 970.13 (3) of the statutes is created to read:

970.13 **(3)** RELIEF FROM PREJUDICIAL JOINDER. Relief from prejudicial joinder may be sought under s. 971.68 (2).

SECTION 685. 970.14 (13) of the statutes is created to read:

970.14 **(13)** In an action where the state asserts jurisdiction under s. 939.03 (1) (b) or (c) and where the place of trial cannot readily be determined under this section, the trial may be in the county where the defendant intended that the crime be committed, the county of residence of the intended victims, or, if neither of these applies, Dane County.

SECTION 686. 970.15 of the statutes is created to read:

970.15 Deferred and suspended prosecution agreements. (1) DEFINITIONS. In this section:

(a) "Deferred prosecution agreement" means an agreement under which a prosecutor does not file a criminal complaint but may do so in the future.

(b) "Suspended prosecution agreement" means an agreement under which further prosecution against a person is suspended after a prosecutor files a criminal complaint against the person.

(2) DEFERRED PROSECUTION AGREEMENTS. The same standards that apply to a district attorney's charging authority govern the district attorney's authority to enter into a deferred prosecution agreement. A deferred prosecution agreement is enforceable in the same manner as a plea agreement.

(3) SUSPENDED PROSECUTION AGREEMENTS. The same standards that apply to a court's authority to schedule cases and grant continuances apply to a court's authority to suspend prosecution when the parties have reached a suspended prosecution agreement. The court's authority to suspend prosecution includes the authority to defer or delay the acceptance of a plea or to withhold entry of judgment. A suspended prosecution agreement is enforceable in the same manner as a plea agreement.

(4) ADMISSIONS AND STATEMENTS. Consent to, or participation in, a deferred prosecution agreement or a suspended prosecution agreement is not an admission of guilt and is not admissible in any trial relating to the charge to which the agreement pertains. No statement made by a person in connection with a deferred prosecution agreement or a suspended prosecution agreement is admissible in any trial relating to the charge to which the agreement pertains.

(5) IMMUNITY. Any organization, agency, or individual acting in good faith for which or for whom a person is assigned to work pursuant to a deferred prosecution agreement or a suspended prosecution agreement has immunity from any civil liability in excess of $25,000 for acts or omissions by the person or affecting the person.

SECTION 687. Subchapter II (title) of chapter 970 [precedes s. 970.21] of the statutes is created to read:

CHAPTER 970

SUBCHAPTER II

PARTICULAR OFFENSES

SECTION 688. Chapter 971 (title) of the statutes is repealed and recreated to read:

CHAPTER 971

PRETRIAL PROCEDURES

SECTION 689. 971.01 of the statutes is renumbered 971.051, and 971.051 (1), as renumbered, is amended to read:

971.051 **(1)** The district attorney shall examine all facts and circumstances connected with any preliminary examination touching the commission of any crime if the defendant has been bound over for trial and, subject to s. ~~970.03 (10)~~ 971.042 (8), shall file an information according to the evidence on such examination subscribing his or her name thereto.

SECTION 690. Subchapter I (title) of chapter 971 [precedes 971.013] of the statutes is created to read:

CHAPTER 971

SUBCHAPTER I

COMMENCEMENT OF PROCEEDINGS

SECTION 691. 971.015 (title) of the statutes is created to read:

971.015 (title) **Initial court appearance.**

SECTION 692. 971.015 (1) (title) of the statutes is created to read:

971.015 **(1)** (title) PERSONS IN CUSTODY.

SECTION 693. 971.015 (1) (b) of the statutes is created to read:

971.015 **(1)** (b) A person in custody outside the county in which the offense was alleged to have been committed shall have an initial appearance in the court for the county in which the offense was alleged to have been committed as soon as practicable. Conditions of release may be set under s. 969.33.

SECTION 694. 971.015 (2) of the statutes is created to read:

971.015 **(2)** PERSONS NOT IN CUSTODY. A person who is arrested and released or who is issued a citation is entitled to an initial appearance within a reasonable time after being arrested or cited.

SECTION 695. 971.015 (4) of the statutes is created to read:

971.015 **(4)** DISCOVERY BEFORE THE INITIAL APPEARANCE. The district attorney may provide discovery before the initial appearance.

SECTION 696. 971.02 of the statutes is renumbered 971.052, and 971.052 (1) and (2) (intro.), (a), (b) and (c), as renumbered, are amended to read:

971.052 **(1)** If the defendant is charged with a felony in any complaint, including a complaint issued under s. ~~968.26~~ <u>968.105</u>, or when the defendant has been returned to this state for prosecution through extradition proceedings under ch. 976, or any indictment, no information or indictment shall be filed until the defendant has had a preliminary examination, unless the defendant waives such examination in writing or in open court or unless the defendant is a corporation or limited liability company. The omission of the preliminary examination shall not invalidate any information unless the defendant moves to dismiss prior to the entry of a plea.

(2) (intro.) Upon motion and for cause shown, the trial court may remand the case for a preliminary examination. "Cause" means <u>all of the following</u>:

(a) The preliminary examination was waived~~; and~~.

(b) Defendant did not have advice of counsel prior to such waiver~~; and~~.

(c) Defendant denies that probable cause exists to hold him or her for trial~~; and~~.

SECTION 697. 971.027 (intro.) of the statutes is created to read:

971.027 Duties at the initial appearance. (intro.) All of the following shall occur at the initial appearance:

SECTION 698. 971.027 (1m) and (4) of the statutes are created to read:

971.027 **(1m)** PROBABLE CAUSE DETERMINATION. The court shall determine whether the facts alleged in the complaint establish probable cause to believe that the defendant committed the crime charged. If probable cause exists as to at least one count of the complaint, the court may set a date for further proceedings and, if the defendant requests, shall set a date for trial. Notwithstanding a finding of probable cause under this subsection, the defendant may move to dismiss a complaint or any count in a complaint based on lack of probable cause by filing a motion under s. 971.65.

(4) REQUEST FOR AND ENTRY OF PLEA. The court shall ask for the defendant's plea to the charges in the complaint. If the defendant stands mute or refuses to plead to any charge, the court shall direct the entry of a plea of not guilty on the defendant's behalf.

SECTION 699. 971.03 of the statutes is renumbered 971.053.

SECTION 700. 971.035 of the statutes is created to read:

971.035 Discovery at the initial appearance. (1) MATERIAL IN THE DISTRICT ATTORNEY'S POSSESSION. At the initial appearance, the district attorney shall disclose, if in the district attorney's possession, law enforcement investigative reports relating to the case and a copy of the defendant's criminal record.

(2) TIME OF DISCLOSURE. Disclosure under this section shall be made after the defendant has obtained or waived legal representation.

(3) MANNER OF DISCLOSURE. Disclosure under this section shall be made in the manner provided in s. 971.51.

(4) DELAY FOR GOOD CAUSE SHOWN. For good cause shown, the court may allow a delay in disclosure under this section.

SECTION 701. 971.038 of the statutes is created to read:

971.038 Time limits for motions and requests for substitution. No later than 10 days after the initial appearance, the defendant may file any motions that might otherwise be waived by the entry of the plea or a request for substitution of a judge under s. 967.16.

SECTION 702. 971.04 (title) of the statutes is renumbered 967.13 (title).

SECTION 703. 971.04 (1) (intro.) of the statutes is renumbered 967.13 (1) (intro.) and amended to read:

967.13 **(1)** (intro.) Except as provided in subs. (2) and (3), ~~the~~ or s. 967.14, or subch. III of ch. 885, a defendant who is an individual shall be present for all of the following:

SECTION 704. 971.04 (1) (a) of the statutes is repealed.

SECTION 705. 971.04 (1) (b), (c), (d), (e), (f), (g) and (h) of the statutes are renumbered 967.13 (1) (c), (d), (e), (f), (g), (h) and (j) and amended to read:

967.13 **(1)** (c) ~~At~~ The trial~~;~~.

(d) ~~During~~ The voir dire of the trial jury~~;~~.

(e) ~~At any~~ Any evidentiary hearing~~;~~.

(f) ~~At any~~ Any view by the jury~~;~~.

(g) ~~When the jury returns its~~ The return of the jury's verdict~~;~~.

(h) ~~At the pronouncement~~ The granting of judgment ~~and the imposition of sentence;~~.

(j) ~~At any~~ Any other proceeding when ordered by the court.

SECTION 706. 971.04 (2) of the statutes is renumbered 967.13 (2) and amended to read:

967.13 **(2)** A defendant charged with a misdemeanor may authorize his or her attorney in writing to act on ~~his or her~~ the defendant's behalf in any manner and, with leave of the court, ~~and~~ may be excused from ~~attendance at~~ attending any ~~or all proceedings~~ proceeding except entry of a plea of guilty or no contest, sentencing, or a proceeding at which a right personal to the defendant is waived.

SECTION 707. 971.04 (3) of the statutes is renumbered 967.13 (3) and amended to read:

967.13 **(3)** If the defendant is present ~~at the beginning of the trial~~ when jeopardy attaches and ~~thereafter~~, during the progress of the trial or before the verdict of the jury has been returned into court, voluntarily absents himself or herself from the presence of the court without leave of the court, the trial or return of verdict of the jury in the case shall not thereby be postponed or delayed, ~~but~~ and the trial or submission of ~~said~~ the case to the jury for verdict and the return of verdict ~~thereon~~, if required, shall proceed in all respects as though the defendant were present in court at all times. ~~A defendant need not be present at the pronouncement or entry of an order granting or denying relief under s. 974.02, 974.06, or 974.07. If the defendant is not present, the time for appeal from any order under ss. 974.02, 974.06, and 974.07 shall commence after a copy has been served upon the attorney representing the defendant, or upon the defendant if he or she appeared without counsel. Service of such an order shall be complete upon mailing. A defendant~~

~~appearing without counsel shall supply the court with his or her current mailing address. If the defendant fails to supply the court with a current and accurate mailing address, failure to receive a copy of the order granting or denying relief shall not be a ground for tolling the time in which an appeal must be taken.~~

SECTION 708. 971.042 (7) (intro.) of the statutes is created to read:

971.042 **(7)** (intro.) At the preliminary examination, the court shall do one of the following:

SECTION 709. 971.05 of the statutes is renumbered 970.17, and 970.17 (2) and (4), as renumbered, are amended to read:

970.17 **(2)** If the defendant appears for arraignment without counsel, the court shall advise the defendant of the defendant's right to counsel as provided in s. ~~970.02~~ 971.027 (1).

(4) The defendant then shall plead unless in accordance with s. ~~971.31~~ 971.65 the defendant has filed a motion which requires determination before the entry of a plea. The court may extend the time for the filing of such motion.

SECTION 710. Subchapter II (title) of chapter 971 [precedes 971.06] of the statutes is created to read:

CHAPTER 971

SUBCHAPTER II

PLEAS

SECTION 711. 971.06 (1) (title) of the statutes is created to read:

971.06 **(1)** (title) TYPES OF PLEAS.

SECTION 712. 971.06 (1) (a), (b) and (c) of the statutes are amended to read:

971.06 **(1)** (a) Guilty, which means that the defendant admits the facts necessary to constitute the crime.

(b) Not guilty, which means that the defendant denies the facts necessary to constitute the crime. A plea of not guilty requires the state to prove the facts necessary to constitute the crime beyond a reasonable doubt.

(c) No contest, ~~subject to the approval of the court~~ which means that the defendant does not contest the state's ability to prove the facts necessary to constitute the crime. The court may refuse to allow the entry of a no contest plea after consideration of the views of the parties and the public interest in the administration of justice.

SECTION 713. 971.06 (1) (d) of the statutes is repealed.

SECTION 714. 971.06 (2) of the statutes is repealed.

SECTION 715. 971.06 (3) of the statutes is repealed.

SECTION 716. 971.06 (4) of the statutes is created to read:

971.06 **(4)** JOINING A PLEA OF NOT GUILTY BY REASON OF MENTAL DISEASE OR DEFECT WITH ANOTHER PLEA. (a) A defendant may enter a plea of not guilty by reason of mental disease or defect, which means that at the time of the crime, as a result of mental disease or defect, the defendant lacked substantial capacity either to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of law. A defendant who enters a plea of not guilty by reason of mental disease or defect shall join the plea of not guilty by reason of mental disease or defect with one of the pleas under sub. (1).

(b) If a defendant joins a plea of not guilty by reason of mental disease or defect with a plea of not guilty, there shall be a separation of the trial of the issues of guilt and responsibility as provided in s. 975.52 (2) (a).

(c) If the defendant joins a plea of not guilty by reason of mental disease or defect with a plea of guilty or no contest, the court shall first determine whether to

accept the plea of guilty or no contest under s. 975.52 (1). If the plea of guilty or no contest is accepted, the court shall withhold entry of a judgment of conviction pending determination of the issue of responsibility, by the court or by a jury, under s. 975.52 (2). Judgment shall be entered as provided in s. 975.52 (4).

SECTION 717. 971.065 of the statutes is created to read:

971.065 Plea agreements. (1) The district attorney and the defendant may participate in discussions to reach an agreement that if the defendant enters a plea of guilty or no contest the district attorney shall take or refrain from taking certain actions, including one or more of the following:

(a) Moving to dismiss or amend one or more charges.

(b) Reading in any crime that is uncharged or that is dismissed as part of the agreement.

(c) Recommending, or agreeing not to oppose the defendant's request for, a particular disposition.

(d) Agreeing that a specific disposition is appropriate.

(2) The court may not participate in discussions to reach an agreement under this section.

SECTION 718. 971.07 of the statutes is repealed.

SECTION 719. 971.08 (title) of the statutes is amended to read:

971.08 (title) **~~Pleas~~ <u>Accepting pleas</u> of guilty ~~and~~ <u>or</u> no contest; ~~withdrawal thereof~~.**

SECTION 720. 971.08 (1) (a) of the statutes is renumbered 971.08 (1) (ar) and amended to read:

971.08 **(1)** (ar) Address the defendant personally and determine that the <u>defendant is making the</u> plea ~~is made~~ <u>knowingly,</u> voluntarily<u>, and</u> with

understanding of the meaning and effect of the plea, the nature of the ~~charge~~ crime to which the plea is entered, and the potential punishment if convicted.

SECTION 721. 971.08 (1) (ag) of the statutes is created to read:

971.08 **(1)** (ag) Require the parties to disclose any plea agreement in open court or, on a showing of good cause, in camera. Before accepting the plea, the court may express any reservations it has concerning the appropriateness of any recommended disposition and shall advise the defendant personally that the court is not bound by the terms of the plea agreement.

SECTION 722. 971.08 (1) (am) of the statutes is created to read:

971.08 **(1)** (am) Ask the defendant to state his or her plea on the record.

SECTION 723. 971.08 (1) (b) of the statutes is repealed and recreated to read:

971.08 **(1)** (b) Make an inquiry sufficient to satisfy the court that there is a factual basis for a judgment of conviction of the crime to which the plea is entered.

SECTION 724. 971.08 (1) (d) of the statutes is amended to read:

971.08 **(1)** (d) Inquire of the district attorney whether he or she has complied with s. 971.095 (2) and (3).

SECTION 725. 971.08 (3) of the statutes is repealed.

SECTION 726. 971.085 (title) and (1) (intro.) of the statutes are created to read:

971.085 (title) **Effect of a plea of guilty or no contest. (1)** (intro.) A plea of guilty or no contest forfeits all nonjurisdictional defects and defenses that occur prior to the plea except that the following may be reviewed upon appeal from a final order or judgment:

SECTION 727. 971.085 (1) (b) of the statutes is created to read:

971.085 **(1)** (b) An order denying a motion to dismiss asserting that the statute under which the defendant is charged violates the United States or the Wisconsin constitution.

SECTION 728. 971.085 (2) of the statutes is created to read:

971.085 **(2)** The court shall permit a defendant who prevails on an appeal of an order under sub. (1) (a) or (b) to withdraw his or her plea.

SECTION 729. 971.09 of the statutes is repealed and recreated to read:

971.09 Consolidation; plea to or read-in of crimes committed in several counties. (1) IN GENERAL. Consolidation refers to the process by which charged or uncharged crimes pending in more than one county are resolved in a single proceeding in one county. Consolidation is a voluntary procedure, requiring the consent of the defendant and the district attorneys for all counties whose charges are resolved. Consolidated charged or uncharged crimes shall be resolved by the entry of a plea of guilty or no contest or by an agreement that charged or uncharged crimes be treated as read–in crimes. A defendant who has already been convicted of but not sentenced for a crime may apply for consolidation of any pending or uncharged crime committed.

(2) APPLICATION FOR CONSOLIDATION. A defendant may apply to the district attorney for a county in which a charge against the defendant is pending to resolve in a single proceeding in one county any pending cases. In the application, the defendant shall describe with particularity all the crimes that the defendant seeks to resolve in the single proceeding, indicate the county in which each of the crimes was committed, and indicate the county in which the defendant requests final disposition.

(3) NOTICE AND CONSENT. A district attorney who receives an application under sub. (2) shall send a copy of the application to the district attorney for each county in which a crime indicated in the application was committed. A district attorney who receives a copy of the application may execute a written consent to having any crime indicated in the application that is subject to disposition in his or her county resolved in a proceeding in another county. If a district attorney does not consent to having a crime that is subject to disposition in his or her county resolved in another county, the crime may not be resolved under this section.

(4) AMENDING THE CHARGE; PLEA; READ–IN CRIMES. (a) If the district attorney to whom the defendant submitted the application under sub. (2) consents to resolving a case that is subject to disposition in his or her county in a single proceeding under this section, the district attorney shall file an amended complaint that charges the defendant with all crimes identified in consents executed under sub. (3) that are not to be treated as read–in crimes.

(b) To resolve crimes charged in the amended complaint under par. (a) in a single proceeding, the defendant shall waive in writing or on the record any right to be tried in the county in which a crime charged in the amended complaint was committed and enter a plea of guilty or no contest to each crime charged in the amended complaint.

(c) To resolve read–in crimes under this section, the defendant shall affirm his or her agreement to having the crimes considered at sentencing.

(d) A district attorney who executed a consent under sub. (3) need not be present when the defendant enters his or her plea but the district attorney's written consent shall be filed with the court.

(e) A charge that originated in a county may not be amended or dismissed without prior written approval of the district attorney for the county in which the charge originated.

(5) JUDGMENT. If it accepts the defendant's plea, the court shall enter judgment and sentence the defendant as though all crimes charged in the amended complaint were alleged to have been committed in the county where judgment is entered and may consider at sentencing any read–in crimes affirmed under sub. (4) (c). The clerk of the court for the county in which judgment is entered shall file a copy of the judgment of conviction with the clerk of the court for each other county in which charges addressed in the judgment or treated as read–in crimes originated. The district attorney for each of the other counties shall then move to dismiss any charges that are pending in his or her county against the defendant for charges addressed in the judgment or as treated as read–in crimes.

(6) RIGHTS OF CRIME VICTIMS. The duties of the district attorney under ch. 950 and s. 971.095 shall be discharged by the district attorney for the county in which the crimes occurred, unless otherwise agreed to by the participating district attorneys.

(7) PROSECUTION COSTS. The county in which the plea is made shall pay the costs of prosecution if the defendant does not pay them, and is entitled to retain fees for receiving and paying to the state any fine that the defendant may pay. The clerk where the plea is made shall file a copy of the judgment of conviction with the clerk in each county where a crime covered by the plea was committed. The district attorney shall then move to dismiss any charges covered by the plea of guilty, which are pending against the defendant in the district attorney's county, and the charges shall be dismissed.

SECTION 730. 971.093 of the statutes is created to read:

971.093 Withdrawal of a plea of guilty or no contest. (1) BEFORE SENTENCING. Unless the district attorney establishes substantial prejudice, the court shall grant a motion that is made before sentencing to withdraw a plea of guilty or no contest if a fair and just reason for doing so is established.

(2) AFTER SENTENCING. The court shall grant a motion that is made after sentencing to withdraw a plea of guilty or no contest if the defendant did not knowingly, voluntarily, and understandingly enter the plea or if withdrawal is required to prevent manifest injustice.

(3) REMEDY. When the court grants a motion to withdraw a plea of guilty or no contest under this section, the judgment of conviction is vacated, the original charge or charges reinstated, and the parties are restored to the position they were in before the plea and any related plea agreement was accepted.

SECTION 731. 971.095 (2) and (3) of the statutes are amended to read:

971.095 **(2)** In any case in which a defendant has been charged with a crime, the district attorney shall, as soon as practicable, offer all of the victims in the case who have so requested ~~the opportunity~~ an opportunity to confer with the district attorney concerning the prosecution of the case and the possible outcomes of the prosecution, including potential plea agreements and sentencing recommendations. The duty to confer under this subsection does not limit the obligation of the district attorney to exercise his or her discretion concerning the handling of any criminal charge against the defendant.

(3) At the request of a victim, a district attorney shall make a reasonable attempt to provide the victim with notice of the date, time, and place of scheduled court proceedings ~~in a case involving~~ relating to the prosecution of a crime of which he or she is a victim and any changes in the date, time, or place of a scheduled court

proceeding for which the victim has received notice. This subsection does not apply to a proceeding held before the initial appearance to set conditions of release under ch. 969.

SECTION 732. Subchapter III (title) of chapter 971 [precedes 971.098] of the statutes is created to read:

CHAPTER 971

SUBCHAPTER III

SCHEDULING AND EXPEDITION

OF PROCEEDINGS

SECTION 733. 971.098 of the statutes is created to read:

971.098 Scheduling orders; pretrial conferences. After the defendant enters a plea, the court may issue a scheduling order and may amend it as circumstances require. The order shall be in writing and may specify times for discovery, pretrial motions, notices of intent to offer an alibi or another defense required to be disclosed, pretrial conferences, trial, or other proceedings.

SECTION 734. 971.10 (1) (title) of the statutes is created to read:

971.10 **(1)** (title) MISDEMEANORS.

SECTION 735. 971.10 (1) of the statutes is renumbered 971.10 (1) (a) and amended to read:

971.10 **(1)** (a) ~~In~~ Subject to sub. (3), the trial of a defendant who is in custody and is charged only with a misdemeanor ~~actions trial~~ shall commence within ~~60~~ 45 days from the date of the defendant's initial appearance in court.

SECTION 736. 971.10 (1) (b) of the statutes is created to read:

971.10 **(1)** (b) Subject to sub. (3), the trial of a defendant who is not in custody and is charged only with a misdemeanor shall commence within 60 days from the

date on which any party demands a speedy trial in writing or on the record. A party who makes a demand in writing shall serve a copy upon the opposing party.

SECTION 737. 971.10 (2) (a) of the statutes is renumbered 971.10 (2) and amended to read:

971.10 **(2)** FELONIES. ~~The~~ Subject to sub. (3), the trial of a defendant who is charged with a felony shall commence within 90 days from the date ~~trial is demanded by any party~~ on which any party demands a speedy trial in writing or on the record. ~~If the~~ A party who makes a demand ~~is made~~ in writing~~, a copy~~ shall ~~be served~~ serve a copy upon the opposing party. The demand may ~~not~~ be made ~~until~~ at any time after the filing of the information or indictment.

SECTION 738. 971.10 (2) (b) of the statutes is renumbered 971.10 (2g) and amended to read:

971.10 **(2g)** ASSIGNMENT OF ANOTHER JUDGE. If the court is unable to schedule a timely trial ~~pursuant to par. (a)~~ under sub. (1) or (2), the court shall request assignment of another judge ~~pursuant to~~ under s. 751.03.

SECTION 739. 971.10 (2r) of the statutes is created to read:

971.10 **(2r)** INAPPLICABILITY TO DETAINERS. Subsections (1) to (2m) do not apply to inmates of a state prison.

SECTION 740. 971.10 (3) (title) of the statutes is created to read:

971.10 **(3)** (title) CONTINUANCES.

SECTION 741. 971.10 (3) (a) of the statutes is renumbered 971.10 (3) (a) (intro.) and amended to read:

971.10 **(3)** (a) (intro.) A court may grant a continuance in a case, upon its own motion or the motion of any party, if all of the following apply:

1. The ends of justice served by ~~taking action~~ a continuance outweigh the best interest of the public and the defendant in a speedy trial. ~~A continuance shall not be granted under this paragraph unless the~~

2. The court sets forth, ~~in~~ on the record ~~of the case, either orally~~ or in writing, its reasons for finding that ~~the ends of justice served by the granting of the continuance outweigh the best interests of the public and the defendant in a speedy trial~~ subd. 1. applies.

SECTION 742. 971.10 (3) (b) (intro.), 1. and 2. of the statutes are amended to read:

971.10 **(3)** (b) (intro.) ~~The factors, among others, which the court shall consider in~~ In determining whether to grant a continuance under par. (a) ~~are~~, the court shall consider at least the following factors:

1. Whether the failure to grant ~~the~~ a continuance ~~in the proceeding~~ would be likely to make ~~a continuation of the proceeding~~ it impossible to continue the proceeding or result in a miscarriage of justice.

2. Whether the case taken as a whole is so unusual and so complex, due to the number of defendants ~~or~~, the nature of the prosecution, or otherwise, that it is unreasonable to expect adequate preparation within the periods of time established by this section.

SECTION 743. 971.10 (3) (c) of the statutes is amended to read:

971.10 **(3)** (c) ~~No~~ A court may not grant a continuance under par. (a) ~~may be granted~~ because of general congestion of the court's calendar ~~or~~, the state's lack of diligent preparation, or the state's failure to obtain available witnesses ~~on the part of the state~~.

SECTION 744. 971.10 (4) of the statutes is renumbered 971.10 (2m) and amended to read:

971.10 **(2m)** REMEDY. ~~Every~~ If a defendant is not tried ~~in accordance with~~ on time under this section, the court shall ~~be discharged~~ release him or her from custody ~~but the obligations of the bond or other~~ and remove any monetary conditions of release ~~of a defendant~~ imposed as a result of the charge for which the time limit is exceeded. Nonmonetary conditions shall continue ~~until modified or until the bond is released or the conditions removed~~ or may be imposed.

SECTION 745. 971.105 of the statutes is amended to read:

971.105 Child victims and witnesses; duty to expedite proceedings. In all criminal ~~and delinquency~~ cases~~, juvenile fact–finding hearings under s. 48.31 and juvenile dispositional hearings~~ involving a child as a victim, as defined in s. 950.02 (4), or as a witness, as defined in s. 950.02 (5), the court and the district attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of ~~the child's~~ his or her involvement in the proceeding. In ruling on any motion or other request for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well–being of a child victim or witness.

SECTION 746. 971.11 (1) of the statutes is amended to read:

971.11 **(1)** Whenever the warden or superintendent of a state prison receives notice of an untried criminal case pending in this state against an inmate of ~~a state~~ the prison, the warden or superintendent shall, at the request of the inmate, send by certified mail a written request to the district attorney for prompt disposition of the case. The request shall state the sentence then being served~~,~~ and the date of the inmate's parole eligibility, ~~if applicable, or~~ the date ~~of release~~ on which the inmate

will be released to extended supervision, or the approximate ~~discharge or conditional release date, and prior decision relating to parole~~ date on which the inmate will be discharged. If the inmate is already eligible for parole, the request shall describe any prior decision relating to parole. If there has been no preliminary examination on the pending case, the request shall state whether the inmate waives ~~such~~ the preliminary examination, and, if so, shall be accompanied by a written waiver signed by the inmate.

SECTION 747. 971.11 (2) and (3) of the statutes are consolidated, renumbered 971.11 (2) and amended to read:

971.11 **(2)** If the crime charged in the pending case is a felony, the district attorney shall either move to dismiss the ~~pending~~ case or arrange a date for preliminary examination as soon as convenient and notify the warden or superintendent of the ~~prison thereof,~~ date unless ~~such~~ the preliminary examination has already been held or has been waived. After the preliminary examination or upon waiver ~~thereof~~ of the preliminary examination, the district attorney shall file an information, unless it has already been filed, and mail a copy ~~thereof~~ of the information to the warden or superintendent for service on the inmate. The district attorney shall bring the case on for trial within 120 days after ~~receipt of~~ receiving the request, subject to s. 971.10. ~~**(3)**~~ (3). If the crime charged in the pending case is a misdemeanor, the district attorney shall either move to dismiss the ~~charge~~ case or bring it on for trial within 90 days after ~~receipt of~~ receiving the request.

SECTION 748. 971.11 (5) of the statutes is amended to read:

971.11 **(5)** If the defendant wishes to plead guilty to cases pending in more than one county, the ~~several~~ district attorneys involved may agree with the defendant and

among themselves for all such pleas to be received in the appropriate court of one of such counties, and s. 971.09 shall govern the procedure thereon so far as applicable.

SECTION 749. 971.11 (6) of the statutes is amended to read:

971.11 **(6)** The ~~prisoner shall be delivered~~ warden or superintendent of the prison shall deliver the inmate into the custody of the sheriff of the county in which the charge is pending for transportation to the court, and the ~~prisoner shall be retained in that~~ sheriff shall retain custody of the inmate during all proceedings under this section. The sheriff shall return the ~~prisoner~~ inmate to the prison upon the completion of the proceedings and during any adjournments or continuances and between the preliminary examination and the trial, except that, if the department of corrections certifies a jail as being suitable to detain the ~~prisoner~~ inmate, he or she may be detained there until the court disposes of the case. The ~~prisoner's~~ inmate's existing sentence continues to run and he or she receives time credit under s. 302.11 while in custody.

SECTION 750. 971.11 (7) of the statutes is amended to read:

971.11 **(7)** If the district attorney moves to dismiss any pending case ~~or if it is not brought on for trial~~ to which a request under sub. (1) relates or does not bring the case on for trial within the time specified in sub. (2) ~~or (3)~~, the ~~case~~ court shall ~~be dismissed~~ dismiss the case unless the defendant has escaped or otherwise prevented the trial, in which case the request for disposition of the case shall be deemed withdrawn and of no further legal effect. ~~Nothing in this section prevents a trial after the period specified in sub. (2) or (3) if a trial commenced within such period terminates in a mistrial or a new trial is granted.~~

SECTION 751. 971.12 (title) of the statutes is renumbered 970.13 (title).

SECTION 752. 971.12 (1) and (2) of the statutes are renumbered 970.13 (1) (intro.) and (2) and amended to read:

970.13 **(1)** JOINDER OF CRIMES. (intro.) Two or more crimes may be charged in the same complaint~~,~~ or information ~~or indictment in a separate count for each crime if the crimes charged, whether felonies or misdemeanors, or both,~~ if each is described in a separate count and if any of the following applies:

(a) The crimes are of the same or similar character ~~or~~.

(b) The crimes are based on the same act or transaction ~~or on 2~~.

(c) The crimes are based on 2 or more acts or transactions connected together or constituting parts of a common scheme or plan. ~~When a misdemeanor is joined with a felony, the trial shall be in the court with jurisdiction to try the felony.~~

(2) JOINDER OF DEFENDANTS. Two or more defendants may be charged in the same complaint~~,~~ or information ~~or indictment~~ if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting one or more crimes. Such defendants may be charged in one or more counts together or separately ~~and all of the defendants need not be charged in each count~~.

SECTION 753. 971.12 (3) of the statutes is renumbered 971.68 (2) and amended to read:

971.68 **(2)** RELIEF FROM PREJUDICIAL JOINDER. If it appears that a defendant or the state is prejudiced by a joinder of crimes or of defendants ~~in a complaint, information or indictment or by such joinder for trial together~~, the court may order separate trials of ~~counts, grant a severance of~~ charges or defendants or provide whatever other relief justice requires. ~~The district attorney shall advise the court prior to trial if the district attorney intends to use the statement of a codefendant~~

~~which implicates another defendant in the crime charged. Thereupon, the judge shall grant a severance as to any such defendant.~~

SECTION 754. 971.12 (4) of the statutes is renumbered 971.67, and 971.67 (title), as renumbered, IS amended to read:

971.67 (title) ~~**Trial together**~~ **Joint trial of separate charges.**

SECTION 755. 971.13 of the statutes is renumbered 975.30, and 975.30 (3) and (4), as renumbered, are amended to read:

975.30 **(3)** The fact that a defendant is not competent to proceed does not preclude any legal objection to the prosecution under s. ~~971.31 which~~ 971.65 that is susceptible of fair determination prior to trial and without the personal participation of the defendant.

(4) The fact that a defendant is not competent to proceed does not preclude a hearing under s. ~~968.38~~ 968.725 (4) or (5) unless the court cannot fairly make the probable cause finding required ~~to be made at the hearing cannot be fairly made~~ under s. 968.725 (4) or (5), whichever is applicable, without the personal participation of the defendant.

SECTION 756. 971.14 (title) of the statutes is repealed.

SECTION 757. 971.14 (1g) of the statutes is repealed.

SECTION 758. 971.14 (1r) (title) of the statutes is repealed.

SECTION 759. 971.14 (1r) (a) of the statutes is renumbered 975.31 (1).

SECTION 760. 971.14 (1r) (b) of the statutes is renumbered 975.31 (3) and amended to read:

975.31 **(3)** If reason to doubt a defendant's competency to proceed arises after ~~the defendant has been bound over for trial after a preliminary examination, or after~~ a finding of ~~guilty has been rendered by the jury or made by the court, a~~ guilt, no

probable cause ~~determination shall not be~~ finding is required and the court shall ~~proceed~~ order an examination of the defendant under ~~sub. (2)~~ s. 975.32.

SECTION 761. 971.14 (1r) (c) of the statutes is renumbered 975.31 (2) and amended to read:

975.31 **(2)** Except as provided in ~~par. (b)~~ sub. (3), the court shall not proceed under ~~sub. (2)~~ s. 975.32 until it has found that it is probable that the defendant committed the offense charged. The finding may be based upon the complaint or, if the defendant submits an affidavit alleging with particularity that the averments of the complaint are materially false, upon the complaint and the evidence presented at a hearing ordered by the court. The defendant may call and cross–examine witnesses at a hearing under this ~~paragraph~~ subsection but the court shall limit the issues and witnesses to those required for determining probable cause. Upon a showing by the proponent of good cause under s. 807.13 (2) (c), testimony may be received into the record of the hearing by telephone or live audiovisual means. If the court finds that any charge lacks probable cause, it shall dismiss the charge without prejudice and release the defendant except as provided in s. ~~971.31 (6)~~ 971.65 (5).

SECTION 762. 971.14 (2) (title) of the statutes is repealed.

SECTION 763. 971.14 (2) (a) of the statutes is renumbered 975.32 (1) and amended to read:

975.32 **(1)** If an examination of a defendant is required under s. 975.31, the court shall order an examination into competency. The court ~~shall~~ may order the department to conduct the examination or may appoint one or more examiners having the specialized knowledge determined by the court to be appropriate to examine and report upon the condition of the defendant. If ~~an inpatient examination is determined by the court to be necessary, the defendant may be committed to a~~

~~suitable mental health facility for the examination period specified in par. (c), which shall be deemed days spent in custody under s. 973.155. If the examination is to be conducted by the department, the court shall order the individual to the facility designated by the department~~ the court orders the department to conduct an examination, the department may select the examiner.

SECTION 764. 971.14 (2) (am) of the statutes is repealed.

SECTION 765. 971.14 (2) (b) of the statutes is renumbered 975.32 (3) and amended to read:

975.32 **(3)** If the defendant has been released ~~on bail~~ from custody, the court shall order an outpatient examination, except that the court may ~~not~~ order an ~~involuntary~~ inpatient examination ~~unless~~ if the defendant consents to an inpatient examination, the defendant fails to cooperate in ~~the~~ an outpatient examination, or the examiner informs the court that inpatient observation is necessary for an adequate examination.

SECTION 766. 971.14 (2) (c) of the statutes is renumbered 975.32 (6) (a) and amended to read:

975.32 **(6)** (a) ~~Inpatient examinations shall be completed and the report of examination filed~~ An examiner ordered to conduct an inpatient examination under this section shall complete the examination and file a report of the examination within 15 days after the examination is ordered or ~~as specified in par. (am), whichever is applicable, unless, for good cause, the facility or examiner appointed by the court cannot complete the examination within this period and requests an extension. In that case~~, if the department is the examiner, within 15 days after the defendant arrives at the inpatient facility. If the examiner cannot complete the examination within 15 days and requests an extension, the court may for good cause

allow one 15–day extension of the examination period. ~~Outpatient examinations shall be completed and the report of examination filed~~

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

SECTION 767. 971.14 (2) (d) of the statutes is renumbered 975.32 (5) and amended to read:

975.32 **(5)** If ~~the court orders that the examination be conducted on an inpatient basis~~ a defendant in custody is subject to an inpatient examination ordered under this section, the sheriff of the county in which the court that ordered the examination is located shall transport ~~any~~ the defendant ~~not free on bail~~ to the ~~examining~~ facility where the examination will take place within a reasonable time after the examination is ordered and shall ~~transport~~ return the defendant ~~to the jail~~ within a reasonable time after the examination is completed. The examining facility shall notify the sheriff and ~~county~~ the department of community programs ~~of~~ for the county ~~in which the court is located receive notice from the examining facility that~~ when the examination ~~has been~~ is completed.

SECTION 768. 971.14 (2) (e) of the statutes is renumbered 975.32 (8) and amended to read:

975.32 **(8)** ~~The~~ An examiner shall personally observe and examine the defendant and shall have access to ~~his or her~~ the defendant's past ~~or~~ and present treatment records, as defined under s. 51.30 (1) (b).

SECTION 769. 971.14 (2) (f) of the statutes is renumbered 975.32 (9).

SECTION 770. 971.14 (2) (g) of the statutes is renumbered 975.32 (11) and amended to read:

975.32 **(11)** The defendant also may be examined for competency purposes at any stage of the competency proceedings by ~~physicians or other~~ experts designated by the court or chosen by the defendant or ~~by~~ the district attorney, who shall be permitted reasonable access to the defendant for purposes of the examination. Any party who intends to call an expert designated or chosen under this subsection as a witness shall furnish a copy of the expert's report to the opposing party within a reasonable period of time.

SECTION 771. 971.14 (3) (intro.) of the statutes is renumbered 975.33 (1) (intro.) and amended to read:

975.33 **(1)** ~~REPORT~~ CONTENTS. (intro.) ~~The~~ Each court–appointed examiner shall submit to the court a written report ~~which shall include~~ that includes all of the following:

SECTION 772. 971.14 (3) (a) and (b) of the statutes are renumbered 975.33 (1) (a) and (b).

SECTION 773. 971.14 (3) (c) of the statutes is renumbered 975.33 (1) (c) and amended to read:

975.33 **(1)** (c) The examiner's opinion regarding the defendant's present mental capacity to understand the criminal proceedings and assist in his or her defense.

SECTION 774. 971.14 (3) (d) of the statutes is renumbered 975.33 (1) (d) (intro.) and amended to read:

975.33 **(1)** (d) (intro.) If the examiner reports that the defendant ~~lacks competency, the~~ is not competent to proceed, all of the following:

1. The examiner's opinion regarding the likelihood that the defendant, if provided treatment, may ~~be restored to competency~~ become competent within the

~~time~~ maximum period ~~permitted under sub. (5) (a). The examiner shall provide an~~ of commitment, as defined in s. 975.34 (6) (a).

2. The examiner's opinion as to whether ~~the defendant's~~ treatment should ~~occur~~ be provided in an inpatient facility designated by the department, in a community–based treatment program under the supervision of the department, or in a jail or a locked unit of a facility that has entered into a voluntary agreement with the state to serve as a location for treatment.

SECTION 775. 971.14 (3) (dm) (intro.) of the statutes is renumbered 975.33 (1) (e) and amended to read:

975.33 **(1)** (e) If sufficient information is available to the examiner to reach an opinion, the examiner's opinion on whether the defendant needs medication or treatment and whether the defendant is not competent to refuse medication or treatment. ~~The defendant is not competent to refuse medication or treatment if, because of mental illness, developmental disability, alcoholism or drug dependence, and after the advantages and disadvantages of and alternatives to accepting the particular medication or treatment have been explained to the defendant, one of the following is true:~~

SECTION 776. 971.14 (3) (dm) 1. and 2. of the statutes are repealed.

SECTION 777. 971.14 (3) (e) of the statutes is renumbered 975.33 (1) (g) and amended to read:

975.33 **(1)** (g) The facts and reasoning, in reasonable detail, upon which the required findings and opinions ~~under pars. (b) to (dm)~~ are based.

SECTION 778. 971.14 (4) (title) of the statutes is repealed.

SECTION 779. 971.14 (4) (a) of the statutes is renumbered 975.33 (2) and amended to read:

975.33 **(2)** DISCLOSURE. The court shall cause copies of the examiner's report to be delivered ~~forthwith~~ immediately to the district attorney and ~~the defense counsel,~~ to the defendant's attorney or the defendant personally if not represented by counsel. Upon the request of the sheriff or jailer charged with care and control of the jail in which the defendant is being held pending or during a trial or sentencing proceeding, the court shall cause a copy of the report to be delivered to the sheriff or jailer. The sheriff or jailer may provide a copy of the report to the person who is responsible for maintaining medical records for inmates of the jail, or to a nurse licensed under ch. 441, or to a physician or physician assistant licensed under subch. II of ch. 448 who is a health care provider for the defendant or who is responsible for providing health care services to inmates of the jail. The report shall not be otherwise disclosed ~~prior to~~ before the hearing under ~~this subsection~~ s. 975.34.

SECTION 780. 971.14 (4) (b) of the statutes is repealed.

SECTION 781. 971.14 (4) (c) of the statutes is repealed.

SECTION 782. 971.14 (4) (d) of the statutes is repealed.

SECTION 783. 971.14 (5) (title) of the statutes is repealed.

SECTION 784. 971.14 (5) (a) 1., 2. and 3. of the statutes are renumbered 975.34 (7) (a), (b) and (c) and amended to read:

975.34 **(7)** (a) If ~~the court determines that the defendant is not competent but is likely to become competent within the period specified in this paragraph if provided with appropriate treatment~~ sub. (6) (b) 3. applies, the court shall ~~suspend the proceedings and~~ commit the defendant to the custody of the department for treatment for a period not to exceed ~~12 months, or the maximum sentence specified for the most serious offense with which the defendant is charged, whichever is less~~ the maximum period of commitment, as defined in sub. (6) (a). The department shall

determine whether the defendant will receive treatment in an appropriate institution designated by the department, while under the supervision of the department in a community–based treatment program under contract with the department, or in a jail or a locked unit of a facility that has entered into a voluntary agreement with the state to serve as a location for treatment. The sheriff shall transport the defendant to the institution, program, jail, or facility, as determined by the department.

(b) If, under ~~subd. 1.~~ par. (a), the department commences ~~services~~ treatment to a defendant in jail or in a locked unit, the department shall, as soon as possible, transfer the defendant to an institution or provide ~~services~~ treatment to the defendant in a community–based treatment program consistent with this subsection. The court shall order a defendant who is committed under this subsection to undergo periodic reexaminations as provided in s. 975.36.

(c) Days spent in commitment under this ~~paragraph~~ subsection are considered days spent in custody under s. 973.155. The court shall make and enter a specific finding of the number of days spent in custody and include that finding in the commitment order.

SECTION 785. 971.14 (5) (a) 4. of the statutes is renumbered 975.34 (7) (d) and amended to read:

975.34 **(7)** (d) A defendant under the supervision of the department placed under this ~~paragraph~~ subsection in a community–based treatment program is in the custody and control of the department, subject to any conditions set by the department. If the department believes that the defendant under supervision has violated a condition, or that permitting the defendant to remain in the community jeopardizes the safety of the defendant or another person, the department may

designate an institution at which the treatment shall occur and may request that the court reinstate the proceedings, order the defendant transported by the sheriff to the designated institution, and ~~suspend proceedings~~ commit the defendant to custody consistent with ~~subd. 1.~~ par. (a).

SECTION 786. 971.14 (5) (am) of the statutes is renumbered 975.35 and amended to read:

975.35 Post-commitment motion on capacity to refuse medication or treatment. If ~~the~~ a defendant committed under s. 975.34 (7) is not subject to a court order ~~determining~~ finding the defendant ~~to be~~ not competent to refuse medication or treatment ~~for the defendant's mental condition~~ and if the department determines that the defendant should be subject to such a court order, the department may file a motion with the court~~, with notice to the counsel for the defendant, the defendant, and the district attorney, a motion~~ for a hearing~~, under the standard specified in sub. (3) (dm), on~~ to determine whether the defendant is not competent to refuse medication or treatment. ~~A report on which the motion is based shall accompany the motion and notice of motion and shall include a statement~~ The department shall submit with the motion a report that is based on an examination of the defendant by a licensed physician, that is signed by a licensed physician, and that asserts that the defendant needs medication or treatment and that the defendant is not competent to refuse medication or treatment~~, based on an examination of the defendant by a licensed physician~~. The department shall provide notice of any motion filed under this section, and a copy of the report submitted with the motion, to the defendant, the defendant's attorney, and the district attorney. Within 10 days after the department files a motion ~~is filed~~ under this ~~paragraph~~ section, the court shall~~, under the procedures and standards specified in sub. (4) (b),~~ hold a hearing without a jury

to determine whether the ~~defendant's competency~~ defendant is not competent to refuse medication or treatment ~~for the defendant's mental condition~~. At the hearing, the department must prove by clear and convincing evidence that the defendant is not competent to refuse medication or treatment. At the request of the defendant, the defendant's ~~counsel~~ attorney, or the district attorney, the hearing may be postponed, but in no case may the postponed hearing be held more than 20 days after a motion is filed under this ~~paragraph~~ section.

SECTION 787. 971.14 (5) (b) of the statutes is renumbered 975.36 (1) and amended to read:

975.36 **(1)** REEXAMINATION TIME LIMITS. The ~~defendant~~ department shall ~~be~~ periodically ~~reexamined by the department examiners. Written reports of examination shall be furnished to the court~~ reexamine a defendant who remains committed under s. 975.34 (7), and at 3 ~~months after commitment~~, 6 ~~months after commitment~~, and 9 months after commitment and within 30 days ~~prior to~~ before the expiration of the commitment~~. Each~~ order shall submit a written report to the court on the defendant's mental condition. In each report, the department shall indicate ~~either that~~ whether the defendant has become competent~~, that the defendant remains incompetent but that attainment of competency~~ to proceed and, if the defendant has not become competent, whether the defendant is likely to become competent within the remaining commitment period~~, or that the defendant has not made such progress that attainment of competency is likely within the remaining commitment period. Any report indicating such a lack of sufficient progress shall include the examiner's opinion regarding whether the defendant is mentally ill, alcoholic, drug dependent, developmentally disabled or infirm because of aging or other like incapacities~~. If the defendant is not likely to become competent within the

remaining commitment period, the department shall also report whether the defendant meets the criteria for commitment under ch. 51 or 55. The court shall schedule a date certain for the review of the reports. If the department indicates in the report that the defendant has become competent or that the defendant is not competent and is unlikely to become competent within the remaining commitment period, the court shall hold the review within 14 days after the court receives the report.

SECTION 788. 971.14 (5) (c) of the statutes is renumbered 975.36 (3) and amended to read:

975.36 **(3)** DETERMINING COMPETENCY. Upon receiving a report under ~~par. (b) indicating the defendant has regained competency or is not competent and unlikely to become competent in the remaining commitment period, the court shall hold a hearing within 14 days of receipt of the report and~~ sub. (1) or (2), the court shall proceed under ~~sub. (4)~~ s. 975.34. At or before the scheduled hearing, unless good cause is shown, the court may, at the request of the defendant or the district attorney, delay the hearing for no more than 28 days to allow for the completion of an independent evaluation and then the court shall proceed under s. 975.34. If the court determines that the defendant has become competent, the defendant shall be discharged from commitment and the criminal proceeding shall be resumed. If the court determines that the defendant is making sufficient progress toward becoming competent, the commitment shall continue.

SECTION 789. 971.14 (5) (d) of the statutes is renumbered 975.36 (5) and amended to read:

975.36 **(5)** MEDICATION TO MAINTAIN COMPETENCY. If the defendant is receiving medication, the court may make appropriate orders for the continued administration

of the medication in order to maintain the competence of the defendant for the duration of the proceedings.

(6) SUBSEQUENT INCOMPETENCY. If a defendant who has been restored to competency thereafter again becomes incompetent, the maximum commitment period under ~~par. (a)~~ s. 975.34 (6) shall be 18 months minus the days spent in previous commitments under ~~this subsection~~ s. 975.34, or 12 months, whichever is less.

SECTION 790. 971.14 (6) (title) of the statutes is repealed.

SECTION 791. 971.14 (6) (a) of the statutes is repealed.

SECTION 792. 971.14 (6) (b) of the statutes is renumbered 975.38 (1) and amended to read:

975.38 **(1)** When the court finds under s. 975.34 (6) (b) 1. that a defendant is not likely to become competent, or discharges a defendant from commitment under ~~par. (a)~~ s. 975.36 (4), it may order that the defendant be taken immediately into custody by a law enforcement official and promptly delivered to a facility specified in s. 51.15 (2), an approved public treatment facility under s. 51.45 (2) (c), or an appropriate medical or protective placement facility. Thereafter, detention of the defendant shall be governed by s. 51.15, 51.45 (11), or 55.135, as appropriate. The district attorney or corporation counsel may prepare a statement ~~meeting~~ that satisfies the requirements of s. 51.15 (4) or (5), 51.45 (13) (a), or 55.135 based on the allegations of the criminal complaint and the evidence in the case. ~~This statement shall be given~~ If an attorney prepares such a statement, he or she shall provide a copy of the statement to the director of the facility to which the defendant is delivered and ~~filed~~ file the statement with the branch of ~~circuit~~ court assigned to exercise criminal jurisdiction in the county in which the criminal charges are pending~~, where it shall~~. The filed statement shall suffice, without corroboration by other petitioners, as a

petition for commitment under s. 51.20 or 51.45 (13) or a petition for protective placement under s. 55.075. This ~~section~~ subsection does not restrict the power of the branch of ~~circuit~~ court in which the ~~petition~~ statement is filed to transfer the matter to the branch of ~~circuit~~ court assigned to exercise jurisdiction under ch. 51 in the county. Days spent in commitment or protective placement pursuant to a petition under this ~~paragraph shall not be deemed~~ subsection do not count as days spent in custody under s. 973.155.

SECTION 793. 971.14 (6) (c) of the statutes is renumbered 975.38 (2) and amended to read:

975.38 **(2)** If a ~~person~~ defendant is committed under s. 51.20 pursuant to a petition under ~~par. (b)~~ sub. (1), the county department under s. 51.42 or 51.437 to whose care and custody the ~~person~~ defendant is committed shall notify the court ~~which~~ that released the defendant under s. 975.34 (6) (b) 1. or discharged the ~~person~~ defendant under ~~par. (a)~~ s. 975.36 (4), the district attorney for the county in which that court is located, and the ~~person's~~ defendant's attorney of record in the ~~prior~~ suspended criminal proceeding at least 14 days ~~prior to~~ before transferring or discharging the defendant from an inpatient treatment facility and at least 14 days ~~prior to~~ before the expiration of the order of commitment or any subsequent consecutive order, unless the department or county department ~~or the department of health services~~ has applied for an extension of the order.

SECTION 794. 971.14 (6) (d) of the statutes is renumbered 975.38 (3) and amended to read:

975.38 **(3)** Counsel who ~~have received~~ receive notice under ~~par. (c)~~ sub. (2) or who otherwise obtain information that a defendant released under s. 975.34 (6) (b) 1. or discharged under ~~par. (a)~~ s. 975.36 (4) may have become competent to proceed

in a criminal case may move the court to order that the defendant undergo a competency examination under ~~sub. (2)~~ s. 975.32. If the court ~~so orders, a report shall be filed under sub. (3) and a hearing held under sub. (4)~~ orders an examination under s. 975.32, the examiner shall file a report under s. 975.33 and the court shall proceed under s. 975.34. If the court determines that the defendant is competent to proceed, the court shall resume the criminal proceeding ~~shall be resumed~~. If the court determines that the defendant is not competent to proceed, it shall release ~~him or her~~ the defendant but may impose ~~such~~ reasonable nonmonetary conditions ~~as will~~ on the defendant to protect the public and enable the court and district attorney to discover whether the ~~person~~ defendant subsequently becomes competent.

SECTION 795. 971.15 of the statutes is renumbered 975.50, and 975.50 (2), as renumbered, is amended to read:

975.50 **(2)** As used in this chapter, the ~~terms~~ term "mental disease or defect" ~~do~~ does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

SECTION 796. 971.16 (title) of the statutes is renumbered 975.51 (title).

SECTION 797. 971.16 (1) of the statutes is repealed.

SECTION 798. 971.16 (2) of the statutes is renumbered 975.51 (1) and amended to read:

975.51 **(1)** If ~~the~~ a defendant ~~has entered~~ enters a plea of not guilty by reason of mental disease or defect or there is other reason to believe that the defendant has a mental disease or defect ~~of the defendant will otherwise~~ that will become an issue in the case, the court may appoint at least one ~~physician or at least one psychologist, but~~ and not more than 3 physicians or psychologists or a combination thereof, to examine the defendant and to testify at the trial. If the court appoints a physician

or psychologist under this section, the court shall inform the jury, if there is one, that the court appointed the physician or psychologist and shall permit both parties to cross–examine the physician or psychologist.

(2) (a) The ~~compensation of the physicians or psychologists shall be fixed by the court and paid by~~ court shall set the fee for an examination conducted by a physician or psychologist appointed under sub. (1) and the county, upon the order of the court, shall pay the fee as part of the costs of the action. ~~The receipt by any~~

(b) A physician or psychologist ~~summoned under this section of any other compensation than that so fixed by the court and paid by the county, or the offer or promise by any person to pay such other compensation, is unlawful and~~ may not accept compensation other than the fee under par. (a), for conducting an examination under sub. (1) and no person may offer or promise to pay the physician or psychologist other compensation for the examination. Violation of this paragraph is punishable as contempt of court. ~~The fact that the physician or psychologist has been appointed by the court shall be made known to the jury and the physician or psychologist shall be subject to cross–examination by both parties.~~

SECTION 799. 971.16 (3) (intro.) of the statutes is renumbered 975.51 (3) and amended to read:

975.51 **(3)** Not less than 10 days before trial, or at ~~any other time that the court directs~~ a different time if directed by the court, any physician or psychologist appointed under sub. ~~(2)~~ (1) shall file a written report of his or her examination of the defendant with the ~~judge, who~~ court, and the court shall cause copies of the report to be transmitted to the district attorney and to ~~counsel for the defendant. The contents of the report shall be confidential until the physician or psychologist has testified or at the completion of the trial~~ the defendant's attorney. The report shall

contain ~~an~~ the physician's or psychologist's opinion regarding the ability of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct with the requirements of law at the time of the commission of the criminal offense charged and, if sufficient information is available to the physician or psychologist to reach an opinion, his or her opinion on whether the defendant needs medication or treatment and whether the defendant is not competent to refuse medication or treatment. The ~~defendant is not competent to refuse medication or treatment if, because of mental illness, developmental disability, alcoholism or drug dependence, and after the advantages and disadvantages of and alternatives to accepting the particular medication or treatment have been explained to the defendant, one of the following is true:~~ contents of the report shall be confidential until the physician or psychologist has testified or until the completion of the trial.

SECTION 800. 971.16 (3) (a) of the statutes is repealed.

SECTION 801. 971.16 (3) (b) of the statutes is repealed.

SECTION 802. 971.16 (4) of the statutes is renumbered 975.51 (4) (a) and amended to read:

975.51 **(4)** (a) If the defendant wishes to be examined by a physician, psychologist, or other expert of his or her ~~own~~ choice, the examiner shall be permitted ~~to have~~ reasonable access to the defendant for the purposes of examination. ~~No testimony~~ An examiner selected by the defendant may not testify at trial regarding the mental condition of the defendant ~~shall be received from a physician, psychologist or expert witness summoned by the defendant~~ unless ~~not less than~~ the examiner provides a report of his or her examination of the defendant to the district attorney at least 15 days before trial ~~a report of the examination has been~~

~~transmitted to the district attorney~~ and unless the ~~prosecution~~ state has been afforded an opportunity, if it requests one within a reasonable time before trial, to examine and observe the defendant ~~if the opportunity has been seasonably demanded. The state may summon a physician, psychologist or other expert to testify, but that witness shall not give testimony unless not less than 15 days before trial a written report of his or her examination of the defendant has been transmitted to counsel for the defendant~~.

SECTION 803. 971.16 (5) of the statutes is renumbered 975.51 (5) (a) and amended to read:

975.51 **(5)** (a) ~~If~~ Except as provided in par. (b), if a physician, psychologist, or other expert who has examined the defendant testifies ~~concerning~~ regarding the defendant's mental condition, he or she shall be permitted to make a statement as to the nature of his or her examination, his or her diagnosis of the mental condition of the defendant at the time of the commission of the offense charged, his or her opinion as to the ability of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform to the requirements of law and, if sufficient information is available to the physician, psychologist, or expert to reach an opinion, his or her opinion on whether the defendant needs medication or treatment and whether the defendant is not competent to refuse medication or treatment ~~for the defendant's mental condition. Testimony concerning the defendant's need for medication or treatment and competence to refuse medication or treatment may not be presented before the jury that is determining the ability of the defendant to appreciate the wrongfulness of his or her conduct or to conform his or her conduct with the requirements of law at the time of the commission of the criminal offense charged~~. The physician, psychologist, or other expert shall be permitted to make an

explanation ~~reasonably serving~~ that reasonably serves to clarify his or her diagnosis and opinion and may be cross–examined as to any matter bearing on his or her competency or credibility or the validity of his or her diagnosis or opinion.

SECTION 804. 971.16 (6) of the statutes is renumbered 975.51 (6) and amended to read:

975.51 **(6)** Nothing in this section ~~shall require the attendance at the trial of any~~ requires a physician, psychologist, or other expert witness to attend the trial for any purpose other than ~~the giving of~~ to give his or her testimony.

SECTION 805. 971.165 (title) of the statutes is renumbered 975.52 (title).

SECTION 806. 971.165 (1) of the statutes is renumbered 975.52 (2), and 975.52 (2) (intro.) and (c) (intro.), 2. and 3., as renumbered, are amended to read:

975.52 **(2)** JOINED WITH A PLEA OF NOT GUILTY. (intro.) If a defendant ~~couples~~ joins a plea of not guilty with a plea of not guilty by reason of mental disease or defect, all of the following apply:

(c) (intro.) If both pleas are tried to a jury, that jury shall be the same, except that all of the following apply:

2. If the jury is discharged prior to reaching a verdict on the 2nd plea, the defendant shall not ~~solely~~ on that account be entitled to a redetermination of the first plea and a different jury of 12 may be selected to determine the 2nd plea only.

3. If an appellate court reverses a judgment as to the 2nd plea but not as to the first plea and remands for further proceedings, or if the ~~trial~~ circuit court vacates the judgment as to the 2nd plea but not as to the first plea, the 2nd plea may be determined by a different jury selected for this purpose.

SECTION 807. 971.165 (2) of the statutes is renumbered 975.52 (3) and amended to read:

975.52 **(3)** INFORMING JURY OF EFFECT OF VERDICT. If the plea of not guilty by reason of mental disease or defect is tried to a jury, the court shall inform the jury that the effect of a verdict of not guilty by reason of mental disease or defect is that, in lieu of criminal sentence or probation, the defendant will be committed to the custody of the department ~~of health services~~ and ~~will be~~ placed in an appropriate institution unless the court determines that the defendant would not pose a danger to himself or herself or to others if released under conditions ordered by the court. ~~No~~ A verdict on ~~the~~ a plea of not guilty by reason of mental disease or defect ~~may be~~ that is tried by a jury is not valid ~~or~~ and may not be received unless agreed to by at least five–sixths of the jurors.

SECTION 808. 971.165 (3) (a) of the statutes is renumbered 975.52 (4) (a) and amended to read:

975.52 **(4)** (a) If a defendant is not found not guilty by reason of mental disease or defect, the court shall ~~enter~~ grant a judgment of conviction ~~and shall either impose or withhold sentence~~ under s. ~~972.13 (2)~~ 972.28 (1).

SECTION 809. 971.165 (3) (b) of the statutes is renumbered 975.52 (4) (b) and amended to read:

975.52 **(4)** (b) If a defendant is found not guilty by reason of mental disease or defect, the court shall enter a judgment of not guilty by reason of mental disease or defect~~. The court shall thereupon~~ and proceed under s. ~~971.17~~ 975.55. A ~~judgment entered under this paragraph is interlocutory to the~~ commitment order entered under s. ~~971.17 and reviewable upon appeal therefrom~~ 975.57 is the final order in the case and is appealable as a matter of right under s. 808.03 (1). Upon appeal of the commitment order, all properly preserved issues may be raised, including those relating to the guilt phase of the trial.

SECTION 810. 971.17 (title) of the statutes is renumbered 975.57 (title).

SECTION 811. 971.17 (1) of the statutes is renumbered 975.57 (2), and 975.57 (2) (a) to (d), as renumbered, are amended to read:

975.57 **(2)** (a) *Felonies committed before July 30, 2002.* Except as provided in par. (c), when a ~~defendant~~ person is found not guilty by reason of mental disease or ~~mental~~ defect of a felony committed before July 30, 2002, the court shall commit the person to the department ~~of health services~~ for a specified period not exceeding two–thirds of the maximum term of imprisonment that could be imposed under s. 973.15 (2) against an offender convicted of the same felony or felonies, including imprisonment authorized by any applicable penalty enhancement statutes~~, subject to the credit provisions of s. 973.155~~.

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

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

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

SECTION 812. 971.17 (1g) of the statutes is renumbered 975.53 (1) and amended to read:

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

SECTION 813. 971.17 (1h) of the statutes is renumbered 975.53 (2) and amended to read:

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

SECTION 814. 971.17 (1j) (title) of the statutes is repealed.

SECTION 815. 971.17 (1j) (a) of the statutes is renumbered 975.54 (1) (a).

SECTION 816. 971.17 (1j) (b) of the statutes is renumbered 975.54 (1) (b) and amended to read:

975.54 **(1)** (b) If a person is found not guilty by reason of mental disease or defect of a serious sex offense, the court may, in addition to committing the person to the

department ~~of health services~~ under ~~sub. (1)~~ s. 975.57, place the person on lifetime supervision under s. 939.615 if notice concerning lifetime supervision was given to the person under s. 973.125 and if the court determines that lifetime supervision of the person is necessary to protect the public.

SECTION 817. 971.17 (1m) (title) of the statutes is repealed.

SECTION 818. 971.17 (1m) (a) of the statutes, as affected by 2013 Wisconsin Act 362, is renumbered 975.54 (2) and amended to read:

975.54 **(2)** (a) If ~~the defendant under sub. (1)~~ a person is found not guilty by reason of mental disease or defect for a felony or a violation of s. 165.765 (1), 2011 stats., or of s. 940.225 (3m), 941.20 (1), 944.20, 944.30 (1m), 944.31, 944.33, 946.52, or 948.10 (1) (b), the court shall require the person to provide a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis. The judge shall inform the person that he or she may request expungement under s. 165.77 (4).

(b) Biological specimens required under ~~subd. 1.~~ par. (a) shall be obtained and submitted as specified in rules promulgated by the department of justice under s. 165.76 (4).

SECTION 819. 971.17 (1m) (b) 1m. a. of the statutes is renumbered 975.54 (3) (a) 1. and amended to read:

975.54 **(3)** (a) 1. Except as provided in ~~subd. 2m.~~ par. (b), if ~~the defendant under sub. (1)~~ a person is found not guilty by reason of mental disease or defect for any violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch. 940, 944, or 948 or s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require the ~~defendant~~ person to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined

in s. 980.01 (5), and that it would be in the interest of public protection to have the ~~defendant~~ person report under s. 301.45.

SECTION 820. 971.17 (1m) (b) 1m. b. of the statutes is renumbered 975.54 (3) (a) 2. and amended to read:

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

SECTION 821. 971.17 (1m) (b) 2m. of the statutes is renumbered 975.54 (3) (b) and amended to read:

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

SECTION 822. 971.17 (1m) (b) 3. of the statutes is renumbered 975.54 (3) (c), and 975.54 (3) (c) (intro.), 1., 2. and 5., as renumbered, are amended to read:

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

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

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

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

SECTION 823. 971.17 (1m) (b) 4. of the statutes is renumbered 975.54 (3) (d) and amended to read:

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

SECTION 824. 971.17 (1m) (b) 5. of the statutes is renumbered 975.54 (3) (e) and amended to read:

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

SECTION 825. 971.17 (2) (title) of the statutes is repealed.

SECTION 826. 971.17 (2) (a) of the statutes is renumbered 975.55 and amended to read:

975.55 Disposition of person found not guilty by reason of mental disease or defect. ~~The court shall enter an initial commitment order under this section pursuant to a hearing held as~~ As soon as practicable after ~~the~~ entering a judgment ~~of~~ finding a person not guilty by reason of mental disease or ~~mental~~ defect ~~is entered~~, the court shall hold a dispositional hearing and commit the person to the department as provided in s. 975.57. If the court lacks sufficient information to ~~make the determination required by sub. (3)~~ enter a commitment order under s. 975.57 immediately after trial, it may adjourn the dispositional hearing, enter an interim order committing the person to the department, and order the department ~~of health services~~ to conduct a predisposition investigation using the procedure ~~in~~ under s. ~~972.15~~ 973.004, or order a supplementary mental examination ~~or both, to assist the court in framing the commitment order~~ of the person. If the court enters an interim commitment order, the person is subject to any conditions set by the court and to the rules of the department.

SECTION 827. 971.17 (2) (b) of the statutes is renumbered 975.56 (1) and amended to read:

975.56 **(1)** If ~~a~~ the court orders a supplementary mental examination ~~is ordered~~ under ~~par. (a)~~ s. 975.55, the court may appoint one or more examiners having the specialized knowledge determined by the court to be appropriate to ~~examine and report upon the condition of the person. In lieu thereof,~~ conduct an outpatient examination of the person or the court may commit the person to an appropriate mental health facility for ~~the period specified in par. (c), which shall~~ an inpatient

examination. Days spent in a mental health facility for an inpatient examination under this subsection count as days spent in custody under s. 973.155.

SECTION 828. 971.17 (2) (c) of the statutes is renumbered 975.56 (3) (a) and amended to read:

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

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

SECTION 829. 971.17 (2) (d) of the statutes is renumbered 975.56 (4) and amended to read:

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

SECTION 830. 971.17 (2) (e) of the statutes is renumbered 975.56 (2) and amended to read:

975.56 **(2)** The examiner ~~appointed under par. (b)~~ ordered to conduct an examination under this section shall personally observe and examine the person. The examiner ~~or facility~~ shall have access to the person's past or present treatment

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

SECTION 831. 971.17 (2) (f) of the statutes is renumbered 975.56 (5) and amended to read:

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

SECTION 832. 971.17 (2) (g) of the statutes is renumbered 975.56 (6) and amended to read:

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

SECTION 833. 971.17 (3) (title) of the statutes is repealed.

SECTION 834. 971.17 (3) (a) of the statutes is renumbered 975.57 (1) and amended to read:

975.57 **(1)** COMMITMENT ORDER. An order for commitment under this section shall specify either institutional care or conditional release. The court shall order institutional care if it finds by clear and convincing evidence that ~~conditional release of~~ the person, if conditionally released, would pose a significant risk of causing bodily harm to himself or herself or to others or of causing serious property damage. If the court does not make this finding, it shall order conditional release. In determining whether commitment shall be for institutional care or conditional release, the court may consider, without limitation because of enumeration, the nature and

circumstances of the crime, the person's mental history and present mental condition, where the person will live, how the person will support himself or herself, what arrangements are available to ensure that the person has access to and will take necessary medication, and what arrangements are possible for treatment beyond medication.

SECTION 835. 971.17 (3) (b) of the statutes is renumbered 975.57 (5) (a) and amended to read:

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

SECTION 836. 971.17 (3) (c) of the statutes is renumbered 975.57 (5) (b) and amended to read:

975.57 **(5)** (b) ~~If the court order specifies institutional care, the department of health services shall place the person in an institution under s. 51.37 (3) that the department considers appropriate in light of the rehabilitative services required by the person and the protection of public safety.~~ If ~~the~~ a person placed in an institution under this section is not subject to a court order ~~determining~~ finding the person ~~to be~~ not competent to refuse medication or treatment ~~for the person's mental condition~~ and ~~if~~ the ~~institution in which the person is placed~~ department determines that the person should be subject to such ~~a court~~ an order, the ~~institution~~ department may file a motion with the court~~, with notice to the person and his or her counsel and the~~

~~district attorney, a motion~~ as provided in s. 975.35 for a hearing~~, under the standard specified in s. 971.16 (3), on~~ to determine whether the person is not competent to refuse medication or treatment. ~~A report on which the motion is based shall accompany the motion and notice of motion and shall include a statement signed by a licensed physician that asserts that the person needs medication or treatment and that the person is not competent to refuse medication or treatment, based on an examination of the person by a licensed physician.~~ Within 10 days after a motion is filed under this paragraph, the court shall determine the person's competency to refuse medication or treatment ~~for the person's mental condition~~. At the request of the person, his or her ~~counsel~~ attorney, or the district attorney, the hearing may be postponed, but ~~in no case may~~ the postponed hearing shall be held ~~more than~~ within 20 days after a motion is filed under this paragraph. If the district attorney, the person, and his or her ~~counsel~~ attorney waive their respective opportunities to present other evidence on the issue, the court shall determine the person's competency to refuse medication or treatment on the basis of the report accompanying the motion. In the absence of these waivers, the court shall hold an evidentiary hearing on the issue. If the state proves by ~~evidence that is~~ clear and convincing evidence that the person is not competent to refuse medication or treatment, ~~under the standard specified in s. 971.16 (3),~~ the court shall ~~order~~ find that the person is not competent to refuse medication or treatment ~~for the person's mental condition~~ and order that whoever administers the medication or treatment to the person shall observe appropriate medical standards.

SECTION 837. 971.17 (3) (d) of the statutes is renumbered 975.57 (4) (a) and amended to read:

975.57 **(4)** (a) If the court finds that the person is appropriate for conditional release, the ~~court shall notify the department of health services. The~~ department ~~of health services~~ and the county department under s. 51.42 in the county of residence of the person shall prepare a plan that identifies the treatment and services, if any, that the person will receive in the community. The plan shall address the person's need, if any, for supervision, medication, community support services, residential services, vocational services, and alcohol or other drug abuse treatment. ~~The department of health services may contract with a county department, under s. 51.42 (3) (aw) 1. d., with another public agency or with a private agency to provide the treatment and services identified in the plan.~~ The plan shall specify who will be responsible for providing the treatment and services identified in the plan. The ~~plan~~ department and the county department shall ~~be presented~~ present the plan to the court for its approval within ~~21~~ 14 days after the court ~~finding~~ finds that the person is appropriate for conditional release, unless the department, county department, ~~department of health services~~ and person to be released request additional time to develop the plan. ~~If the~~ The county department ~~of the person's county of residence declines to prepare a plan, the department of health services~~ may arrange for another county to prepare the plan if ~~that county agrees to prepare the plan and if~~ the individual will be living in ~~that~~ another county.

SECTION 838. 971.17 (3) (e) of the statutes is renumbered 975.58 and amended to read:

975.58 Petition for revocation of conditional release. ~~An order for conditional release places the person in the custody and control of the department of health services. A conditionally released person is subject to the conditions set by the court and to the rules of the department of health services. Before a person is~~

~~conditionally released by the court under this subsection, the court shall so notify the municipal police department and county sheriff for the area where the person will be residing. The notification requirement under this paragraph does not apply if a municipal department or county sheriff submits to the court a written statement waiving the right to be notified.~~ If the department ~~of health services~~ alleges that a ~~released~~ person conditionally released under s. 975.57 (4) or 975.59 has violated any condition or rule of release, or that the safety of the person or others requires ~~that conditional release be revoked, he or she may be taken into custody under the rules of~~ revocation of release, the department may detain the person in a facility specified in s. 51.15 (2) or in a jail. The department ~~of health services~~ shall submit a statement showing probable cause ~~of~~ for the detention and a petition to revoke the order for conditional release to the committing court and the regional office of the state public defender responsible for handling cases in the county where the committing court is located within 72 hours after the detention, excluding Saturdays, Sundays, and legal holidays. The court shall hear the petition within 30 days~~,~~ after detention unless the hearing or time deadline is waived by the detained person. ~~Pending the revocation hearing, the department of health services may detain the person in a jail or in a hospital, center or facility specified by s. 51.15 (2). The~~ Before the hearing, the department shall provide the detained person written notice of the claimed violation and a summary of the evidence against the person. The department may withdraw the petition without the consent of the court. If the department withdraws the petition, the person shall be immediately released from detention. At a hearing under this section, the state has the burden of proving by clear and convincing evidence that ~~any~~ the person violated a rule or condition of release ~~has been violated~~, or that the safety of the person or others requires ~~that conditional release be revoked~~

revocation of release. If the court determines ~~after hearing~~ that ~~any~~ the person violated a rule or condition of release ~~has been violated~~, or that the safety of the person or others requires ~~that conditional release be revoked~~ revocation of release, it may revoke the order for conditional release and order ~~that~~ the ~~released~~ person ~~be~~ placed in an appropriate institution under s. 51.37 (3) until the expiration of the commitment or until again conditionally released under ~~this section~~ s. 975.59. If the court determines that the person violated a rule or condition of release, it may modify the order for conditional release. The court shall set forth on the record the evidence relied upon and reasons for the revocation or modification of conditional release.

SECTION 839. 971.17 (4) (title) of the statutes is renumbered 975.59 (title).

SECTION 840. 971.17 (4) (a) of the statutes is renumbered 975.59 (1) and amended to read:

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

SECTION 841. 971.17 (4) (b) of the statutes is renumbered 975.59 (2) and amended to read:

975.59 **(2)** SERVICE; APPOINTMENT OF COUNSEL. If the person files a timely petition under sub. (1) without counsel, the court shall serve a copy of the petition on the district attorney and, subject to ~~sub. (7) (b)~~ s. 975.63 (2), refer the matter to

the state public defender for determination of indigency and appointment of counsel under s. 977.05 (4) (j). If ~~the~~ a person ~~petitions through counsel, his or her~~ files a petition under sub. (1) with the assistance of an attorney, the person's attorney shall serve a copy of the petition on the district attorney.

SECTION 842. 971.17 (4) (c) of the statutes is renumbered 975.59 (3) and amended to read:

975.59 **(3)** EXAMINATION. Within 20 days after receipt of the petition under sub. (1), the court shall appoint one or more examiners having the specialized knowledge determined by the court to be appropriate~~, who shall~~ to examine the person and furnish a written report of the examination to the court within 30 days after appointment. The examiners shall have reasonable access to the person for purposes of examination and to the person's past and present treatment records, as defined in s. 51.30 (1) (b), and patient health care records, as provided under s. 146.82 (2) (c). If ~~any such~~ an examiner believes that the person is appropriate for conditional release, the examiner shall report on the type of treatment and services that the person may need while in the community on conditional release.

SECTION 843. 971.17 (4) (d) of the statutes is renumbered 975.59 (4) and amended to read:

975.59 **(4)** HEARING. The court~~, without a jury,~~ shall hear the petition within 30 days after the report of the court–appointed examiner is filed with the court, unless the ~~petitioner~~ person waives this time limit. Expenses of proceedings under this subsection shall be paid as provided under s. 51.20 (18). The court shall grant the petition unless it finds by clear and convincing evidence that the person would pose a significant risk of causing bodily harm to himself or herself or to others or of causing serious property damage if conditionally released. In making this

determination, the court may consider~~, without limitation because of enumeration, the nature and circumstances of the crime, the person's mental history and present mental condition, where the person will live, how the person will support himself or herself, what arrangements are available to ensure that the person has access to and will take necessary medication, and what arrangements are possible for treatment beyond medication~~ the factors under s. 975.57 (1).

SECTION 844. 971.17 (4) (e) of the statutes is renumbered 975.59 (5) (a), and 975.59 (5) (a) 1., as renumbered, is amended to read:

975.59 **(5)** (a) 1. If the court finds that the person is appropriate for conditional release, the court shall notify the department ~~of health services. Subject~~ and, subject to ~~subd.~~ subds. 2. and 3., the ~~department of health services and the~~ county department under s. 51.42 in the county of residence of the person shall prepare a plan that identifies the treatment and services, if any, that the person will receive in the community. The plan shall address the person's need, if any, for supervision, medication, community support services, residential services, vocational services, and alcohol or other drug abuse treatment. ~~The department of health services may contract with a county department, under s. 51.42 (3) (aw) 1. d., with another public agency or with a private agency to provide the treatment and services identified in the plan.~~ The plan shall specify who will be responsible for providing the treatment and services identified in the plan. The ~~plan shall be presented~~ department and the county department shall present the plan to the court for its approval within ~~60~~ 30 days after the court finding that the person is appropriate for conditional release, unless the department, county department, ~~department of health services~~ and person to be released request additional time to develop the plan.

SECTION 845. 971.17 (4m) of the statutes is repealed.

SECTION 846. 971.17 (5) (title) of the statutes is renumbered 975.60 (title).

SECTION 847. 971.17 (5) of the statutes is renumbered 975.60 (1) and amended to read:

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

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

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

(4) The court shall terminate the order of commitment unless it finds by clear and convincing evidence that further supervision is necessary to prevent a significant risk of bodily harm to the person or to others or of serious property damage. In making this determination, the court may consider, without limitation because of enumeration, the nature and circumstances of the crime, the person's mental history and current mental condition, the person's behavior while on conditional release, and plans for the person's living arrangements, support, treatment, and other required services after termination of the commitment order.

~~A petition under this subsection may not be filed unless at least 6 months have elapsed since the person was last placed on conditional release or since the most recent petition under this subsection was denied.~~

SECTION 848. 971.17 (6) of the statutes is renumbered 975.61, and 975.61 (1) (intro.) and (2), as renumbered, are amended to read:

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

(2) Upon the expiration of a commitment order ~~under sub. (1)~~, the court shall discharge the person, subject to the right of the department ~~of health services~~ or the appropriate county department under s. 51.60 or 51.437 to proceed against the person under ch. 51 or 55. ~~If none of those departments proceeds against the person under ch. 51 or 55, the court may order the proceeding.~~

SECTION 849. 971.17 (6m) (title) of the statutes is repealed.

SECTION 850. 971.17 (6m) (a) (intro.) of the statutes is renumbered 975.62 (1) (intro.) and amended to read:

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

SECTION 851. 971.17 (6m) (a) 1. of the statutes is repealed.

SECTION 852. 971.17 (6m) (a) 2. of the statutes is renumbered 975.62 (1) (a).

SECTION 853. 971.17 (6m) (a) 3. of the statutes is renumbered 975.62 (1) (b).

SECTION 854. 971.17 (6m) (b) of the statutes is repealed.

SECTION 855. 971.17 (6m) (c) of the statutes is repealed.

SECTION 856. 971.17 (6m) (d) of the statutes is renumbered 975.62 (5) and amended to read:

975.62 **(5)** The department ~~of health services~~ shall design and prepare cards for ~~persons specified in par. (b) 1.~~ a victim's representative to send to the department. The cards shall have space for ~~these persons~~ a victim's representative to provide ~~their names~~ his or her name and ~~addresses~~ address, the name of the ~~applicable defendant~~ person committed under this subchapter, and any other information the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to ~~persons specified in par. (b) 1. These persons~~ victims' representatives. A victim's representative may send completed cards to the department. ~~All departmental records or~~ Records and portions of records of the department that relate to mailing addresses of ~~these persons~~ a victim's representative are not subject to inspection or copying under s. 19.35 (1), except as needed to comply with a request under ~~sub. (4m) (d) or~~ s. 301.46 (3) (d).

SECTION 857. 971.17 (7) (title) of the statutes is renumbered 975.63 (title).

SECTION 858. 971.17 (7) (a) of the statutes is renumbered 975.63 (1) and amended to read:

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

SECTION 859. 971.17 (7) (b) of the statutes is renumbered 975.63 (2), and 975.63 (2) (intro.), as renumbered, is amended to read:

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

SECTION 860. 971.17 (7) (c) of the statutes is renumbered 975.63 (4) and amended to read:

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

SECTION 861. 971.17 (7) (d) of the statutes is repealed.

SECTION 862. 971.17 (7m) of the statutes is renumbered 975.64.

SECTION 863. 971.17 (8) of the statutes is renumbered 975.49 and amended to read:

975.49 Applicability of ss. 975.57 to 975.64. This ~~section~~ subchapter governs the commitment, release, and discharge of persons adjudicated not guilty by reason of mental disease or mental defect for offenses committed on or after January 1, 1991. The commitment, release, and discharge of persons adjudicated not guilty by reason of mental disease or mental defect for offenses committed prior to January 1, 1991, ~~shall be~~ are governed by s. 971.17, 1987 stats., as affected by 1989 Wisconsin Act 31.

SECTION 864. 971.18 of the statutes is renumbered 975.21 and amended to read:

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

SECTION 865. 971.19 of the statutes is renumbered 970.14, and 970.14 (title), (1), (2), (3), (4), (5), (6), (8), (9) (intro.), (10), (11) and (12), as renumbered, are amended to read:

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

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

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

(4) If a crime is committed in, on, by use of, or against any vehicle passing through or within this state, and it cannot readily be determined in which county the crime was committed, the ~~defendant may be tried~~ trial may be in any county ~~through which such vehicle has passed or in the county where the defendant's travel commenced or terminated~~ in which the vehicle has traveled.

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

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

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

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

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

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

~~defendant may be tried~~ trial may be in the county where the victim or intended victim was located at the time of the offense or in any other county designated under this section.

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

SECTION 866. 971.20 of the statutes is renumbered 967.16, and 967.16 (9) and (10), as renumbered, are amended to read:

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

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

STATE OF WISCONSIN

CIRCUIT COURT

.... County

State of Wisconsin

vs.

....(Defendant)

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

Dated ...., ... (year)

....(Signature of defendant or defendant's attorney)

SECTION 867. 971.22 of the statutes is renumbered 971.70, and 971.22 (2) and (3), as renumbered, are amended to read:

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

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

SECTION 868. 971.223 of the statutes is renumbered 971.72, and 971.72 (3) and (4), as renumbered, are amended to read:

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

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

SECTION 869. 971.225 (title) of the statutes is renumbered 971.71 (title).

SECTION 870. 971.225 (1) (intro.), (a) and (c) of the statutes are renumbered 971.71 (1) (intro.), (a) and (b), and 971.71 (1) (intro.) and (a), as renumbered, are amended to read:

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

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

SECTION 871. 971.225 (1) (b) of the statutes is repealed.

SECTION 872. 971.225 (2) of the statutes is renumbered 971.71 (2) and amended to read:

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

SECTION 873. 971.23 (title) of the statutes is repealed.

SECTION 874. 971.23 (1) (intro.) of the statutes is renumbered 971.43 (2) (intro.) and amended to read:

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

SECTION 875. 971.23 (1) (a) of the statutes is renumbered 971.43 (2) (a) and amended to read:

971.43 **(2)** (a) Any written or recorded statement concerning the alleged crime made by the defendant, including the testimony of the defendant in a ~~secret~~ John Doe proceeding under s. ~~968.26~~ 968.105, at an inquest, or before a grand jury, and the names of witnesses to the defendant's written or recorded statements.

SECTION 876. 971.23 (1) (b) of the statutes is renumbered 971.43 (2) (c) and amended to read:

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

SECTION 877. 971.23 (1) (bm) of the statutes is renumbered 971.43 (2) (d) and amended to read:

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

SECTION 878. 971.23 (1) (c) of the statutes is renumbered 971.43 (2) (g).

SECTION 879. 971.23 (1) (d) of the statutes is renumbered 971.45 and amended to read:

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

SECTION 880. 971.23 (1) (e) of the statutes is renumbered 971.46 (2) and amended to read:

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

SECTION 881. 971.23 (1) (f) of the statutes is renumbered 971.43 (2) (i) and amended to read:

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

SECTION 882. 971.23 (1) (g) of the statutes is renumbered 971.43 (2) (j) and amended to read:

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

SECTION 883. 971.23 (1) (h) of the statutes is renumbered 971.43 (2) (k).

SECTION 884. 971.23 (2m) (intro.) of the statutes is renumbered 971.44 (2) (intro.) and amended to read:

971.44 **(2)** ~~WHAT A DEFENDANT MUST DISCLOSE TO THE DISTRICT ATTORNEY~~ MATERIAL TO BE DISCLOSED. (intro.) ~~Upon demand, the defendant or his or her attorney~~ The defense shall~~, within a reasonable time before trial,~~ disclose to the district attorney ~~and permit the district attorney to inspect and copy or photograph all of~~ the following ~~materials~~ material and information~~, if it is within the possession, custody or control of the defendant~~ and permit inspection, copying, and photographing of disclosed documents or tangible objects:

SECTION 885. 971.23 (2m) (a) of the statutes is repealed.

SECTION 886. 971.23 (2m) (am) of the statutes is repealed.

SECTION 887. 971.23 (2m) (b) of the statutes is renumbered 971.44 (2) (b) and amended to read:

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

SECTION 888. 971.23 (2m) (c) of the statutes is renumbered 971.44 (2) (c) and amended to read:

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

SECTION 889. 971.23 (3) of the statutes is renumbered 971.54 and amended to read:

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

SECTION 890. 971.23 (5) of the statutes is renumbered 971.48 (1) and amended to read:

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

SECTION 891. 971.23 (5c) (title) of the statutes is repealed.

SECTION 892. 971.23 (5c) of the statutes is renumbered 971.58 (1).

SECTION 893. 971.23 (6) (title) of the statutes is renumbered 971.52 (title) and amended to read:

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

SECTION 894. 971.23 (6) of the statutes is renumbered 971.52 (1) and amended to read:

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

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

SECTION 895. 971.23 (6c) (title) of the statutes is repealed.

SECTION 896. 971.23 (6c) of the statutes is renumbered 971.58 (2) and amended to read:

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

SECTION 897. 971.23 (6m) of the statutes is renumbered 971.53 and amended to read:

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

SECTION 898. 971.23 (7) of the statutes is renumbered 971.50 and amended to read:

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

SECTION 899. 971.23 (7m) (a) of the statutes is renumbered 971.55 and amended to read:

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

SECTION 900. 971.23 (7m) (b) of the statutes is repealed.

SECTION 901. 971.23 (8) (title) of the statutes is renumbered 971.44 (4) (title).

SECTION 902. 971.23 (8) (a) of the statutes is renumbered 971.44 (4) and amended to read:

971.44 **(4)** If the ~~defendant~~ defense intends to ~~rely upon an alibi as a defense, the defendant shall give notice to~~ call witnesses other than the defendant to support a defense of alibi, the defense shall notify the district attorney of that intent at the arraignment or at least 30 days before trial, stating particularly the place where the defendant claims to have been when the crime is alleged to have been committed ~~together with~~ and the names and addresses of witnesses to the alibi~~, if known. If at the close of the state's case the defendant withdraws the alibi or if at the close of the~~

~~defendant's case the defendant does not call some or any of the alibi witnesses, the state shall not comment on the defendant's withdrawal or on the failure to call some or any of the alibi witnesses. The state shall not call any alibi witnesses not called by the defendant for the purpose of impeaching the defendant's credibility with regard to the alibi notice. Nothing in this section may prohibit the state from calling said alibi witnesses for any other purpose~~ whom the defense intends to call at trial.

SECTION 903. 971.23 (8) (b) of the statutes is repealed.

SECTION 904. 971.23 (8) (c) of the statutes is repealed.

SECTION 905. 971.23 (8) (d) of the statutes is renumbered 971.43 (5) and amended to read:

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

SECTION 906. 971.23 (8) (e) of the statutes is repealed.

SECTION 907. 971.23 (9) of the statutes is renumbered 971.47 and amended to read:

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

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

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

SECTION 908. 971.23 (10) (title) of the statutes is repealed.

SECTION 909. 971.23 (10) of the statutes is renumbered 971.51 (2).

SECTION 910. 971.23 (11) of the statutes is renumbered 971.515, and 971.515 (1) (intro.) and (a), (3) (a) and (b) and (4), as renumbered, are amended to read:

971.515 **(1)** (intro.) In this ~~subsection~~ section:

(a) "Defense" means the defendant, his or her attorney, and any individual retained by the defendant or his or her attorney for the purpose of providing testimony if the testimony is expert testimony that relates to an item or material included under ~~par. (b)~~ sub. (2).

(3) (a) Notwithstanding ~~sub. (1) (e) and (g)~~ s. 971.43 (2) (j), a court shall deny any request by the defense to provide, and a district attorney or law enforcement agency may not provide to the defense, any item or material required in ~~par. (b)~~ sub. (2) to remain in the possession, custody, and control of a law enforcement agency or court, except that a court may order that a copy of an item or material included under ~~par. (b)~~ sub. (2) be provided to the defense if that court finds that a copy of the item or material has not been made reasonably available to the defense. The defense shall have the burden to establish that the item or material has not been made reasonably available.

(b) If a court orders under ~~subd. 1.~~ par. (a) a copy of an item or material included under ~~par. (b)~~ sub. (2) to be provided to the defense, the court shall enter a protective order under ~~sub. (6)~~ s. 971.52 (1) that includes an order that the copy provided to the defense may not be copied, printed, or disseminated by the defense and shall be returned to the court or law enforcement agency, whichever is appropriate, at the completion of the trial.

(4) Any item or material that is required under ~~par. (b)~~ sub. (2) to remain in possession, custody, and control of a law enforcement agency or court is not subject to the right of inspection or copying under s. 19.35 (1).

SECTION 911. 971.26 of the statutes is renumbered 970.11.

SECTION 912. 971.27 of the statutes is renumbered 970.12 and amended to read:

970.12 Lost or destroyed information, or complaint ~~or indictment~~. ~~In the case of the loss or destruction of an information or complaint~~ If a complaint or information is lost or destroyed, the district attorney may file a copy, ~~and the prosecution shall proceed without delay from that cause. In the case of the loss or~~

~~destruction of an indictment, an information may be filed~~ which shall have the same effect as the original.

SECTION 913. 971.29 (title) of the statutes is renumbered 970.09 (title) and amended to read:

970.09 (title) **Amending the ~~charge~~ complaint or information.**

SECTION 914. 971.29 (1) of the statutes is renumbered 970.09 (1) and amended to read:

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

SECTION 915. 971.29 (2) of the statutes is renumbered 970.09 (3) and amended to read:

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

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

SECTION 916. 971.29 (3) of the statutes is repealed.

SECTION 917. 971.30 (title) and (1) of the statutes are repealed.

SECTION 918. 971.30 (2) (intro.), (a), (b) and (c) of the statutes are consolidated, renumbered 971.65 (1) and amended to read:

971.65 **(1)** GENERALLY. Any motion that is capable of determination before trial may be made before trial. Unless otherwise provided or ordered by the court, ~~all motions~~ the motion shall ~~meet the following criteria: (a) Be~~ be in writing. ~~(b) Contain~~

and contain a caption setting forth the name of the court, the venue, the title of the action, the file number, and a denomination of the party seeking the order or relief ~~and a brief description of the type of order or relief sought. (c) State~~. The motion shall state with particularity the grounds for the motion and the order or relief sought.

SECTION 919. 971.31 (title) of the statutes is repealed.

SECTION 920. 971.31 (1) of the statutes is repealed.

SECTION 921. 971.31 (2) of the statutes is renumbered 971.65 (3) and amended to read:

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

SECTION 922. 971.31 (3) of the statutes is renumbered 972.18 (2) and amended to read:

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

SECTION 923. 971.31 (4) of the statutes is renumbered 971.65 (4) and amended to read:

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

SECTION 924. 971.31 (5) (a) of the statutes is repealed.

SECTION 925. 971.31 (5) (b) and (c) of the statutes are consolidated, renumbered 971.65 (2) (b) and amended to read:

971.65 **(2)** (b) In felony actions, motions to suppress evidence or motions under s. ~~971.23~~ 971.43 or objections to the admissibility of statements of a defendant ~~shall~~ may not be made at a preliminary examination and not until an information has been filed. ~~(c) In felony actions, objections~~ Objections based on the insufficiency of the complaint shall be made prior to the preliminary examination or waiver ~~thereof~~ of the preliminary examination or be deemed waived.

SECTION 926. 971.31 (6) of the statutes is renumbered 971.65 (5) and amended to read:

971.65 **(5)** CUSTODY AFTER DISMISSAL. If the court grants a motion to dismiss based upon a defect in the ~~indictment, information~~ commencement of the prosecution or in the complaint~~, or in the institution of the proceedings~~ or information, it may, upon a showing that probable cause exists to believe that the defendant has committed a crime, order that the defendant be held in custody ~~or that the defendant's bail be continued~~ for not more than ~~72~~ 48 hours ~~pending issuance of a~~

~~new summons or warrant~~ or that the conditions of release be continued for a specified time pending the filing of a new ~~indictment,~~ information or complaint.

SECTION 927. 971.31 (7) of the statutes is repealed.

SECTION 928. 971.31 (8) of the statutes is repealed.

SECTION 929. 971.31 (9) of the statutes is renumbered 967.15 and amended to read:

967.15 Service upon defendant. A pleading or motion required to be served on a defendant may be served upon the defendant's attorney of record.

SECTION 930. 971.31 (10) of the statutes is renumbered 971.085 (1) (a) and amended to read:

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

SECTION 931. 971.31 (11) of the statutes is renumbered 971.65 (6) and amended to read:

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

SECTION 932. 971.31 (12) of the statutes is renumbered 971.65 (7) and amended to read:

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

SECTION 933. 971.31 (13) of the statutes is renumbered 971.77, and 971.77 (2), as renumbered, is amended to read:

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

SECTION 934. 971.315 of the statutes is renumbered 970.10 (2) and amended to read:

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

SECTION 935. 971.32 of the statutes is renumbered 970.21.

SECTION 936. 971.34 of the statutes is renumbered 970.22.

SECTION 937. 971.36 of the statutes is renumbered 970.23.

SECTION 938. 971.365 of the statutes is renumbered 970.24.

SECTION 939. 971.38 (1) of the statutes is amended to read:

971.38 **(1)** Except as provided in s. ~~967.055~~ 970.25 (3), the district attorney may require as a condition of any deferred prosecution program for any crime that the defendant perform community service work for a public agency or a nonprofit

charitable organization. The number of hours of work required may not exceed what would be reasonable considering the seriousness of the alleged offense. An order may only apply if agreed to by the defendant and the organization or agency. The district attorney shall ensure that the defendant is provided a written statement of the terms of the community service order and that the community service order is monitored.

SECTION 940. 971.39 (1) (intro.) of the statutes is amended to read:

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

SECTION 941. Subchapter IV (title) of chapter 971 [precedes 971.42] of the statutes is created to read:

CHAPTER 971

SUBCHAPTER IV

DISCOVERY

SECTION 942. 971.42 of the statutes is created to read:

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

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

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

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

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

(5) Minimize inequities among similarly situated defendants.

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

(7) Minimize the burden upon victims and witnesses.

SECTION 943. 971.43 (title) and (1) of the statutes are created to read:

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

SECTION 944. 971.43 (2) (b) of the statutes is created to read:

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

SECTION 945. 971.43 (2) (br) of the statutes is created to read:

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

SECTION 946. 971.43 (2) (e) of the statutes is created to read:

971.43 **(2)** (e) Any written or recorded statement of a person whom the district attorney intends to call as a trial witness that concerns the subject matter of the

witness's intended testimony, that has been electronically recorded or reduced to writing and signed or otherwise approved or adopted by the witness, and that is within the possession or control of the state.

SECTION 947. 971.43 (2) (f) of the statutes is created to read:

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

SECTION 948. 971.43 (2) (h) of the statutes is created to read:

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

SECTION 949. 971.43 (3) of the statutes is created to read:

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

SECTION 950. 971.43 (4) of the statutes is created to read:

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

SECTION 951. 971.43 (6) of the statutes is created to read:

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

SECTION 952. 971.43 (7) of the statutes is created to read:

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

SECTION 953. 971.43 (8) of the statutes is created to read:

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

SECTION 954. 971.44 (title) and (1) of the statutes are created to read:

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

SECTION 955. 971.44 (2) (a) of the statutes is created to read:

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

SECTION 956. 971.44 (3) of the statutes is created to read:

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

SECTION 957. 971.46 (intro.) and (1) of the statutes are created to read:

971.46 Expert witnesses. (intro.) Any party who intends to call an expert witness at trial shall, not less than 30 days before the trial or at another time set by the court, do all of the following:

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

SECTION 958. 971.48 (title) of the statutes is created to read:

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

SECTION 959. 971.48 (2) of the statutes is created to read:

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

SECTION 960. 971.49 of the statutes is created to read:

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

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

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

SECTION 961. 971.51 (title) and (1) of the statutes are created to read:

971.51 (title) **Manner of performing disclosure. (1)** Disclosure may be accomplished in any manner mutually agreeable to the parties. Absent agreement or order of the court, the party having the duty to disclose shall provide a copy of the material to be disclosed.

SECTION 962. 971.51 (3) of the statutes is created to read:

971.51 **(3)** Notwithstanding sub. (2), the fee for copies of disclosures may not exceed the actual, necessary, and direct cost of reproduction and transcription of the record.

SECTION 963. 971.52 (3) of the statutes is created to read:

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

SECTION 964. 971.56 of the statutes is created to read:

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

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

(b) Try on clothing and other articles.

(c) Provide handwriting and voice exemplars.

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

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

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

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

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

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

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

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

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

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

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

SECTION 965. 971.57 of the statutes is created to read:

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

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

(a) The authorized procedure.

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

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

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

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

SECTION 966. 971.58 (title) of the statutes is created to read:

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

SECTION 967. Subchapter V (title) of chapter 971 [precedes 971.65] of the statutes is created to read:

CHAPTER 971

SUBCHAPTER V

MOTIONS

SECTION 968. 971.65 (title) of the statutes is created to read:

971.65 (title) **Pretrial motions.**

SECTION 969. 971.65 (2) (title) and (a) of the statutes are created to read:

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

SECTION 970. 971.66 of the statutes is created to read:

971.66 Motions to dismiss asserting that a statute is unconstitutional. If a defendant moves to dismiss a criminal prosecution by asserting that the statute under which he or she is charged violates the United States or Wisconsin

Constitution, the defendant must serve a copy of the motion on the attorney general under s. 806.04 (11) as well as on the district attorney.

SECTION 971. 971.68 (title), (1) and (3) of the statutes are created to read:

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

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

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

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

(c) A separate trial for the movant.

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

SECTION 972. Subchapter VI (title) of chapter 971 [precedes 971.75] of the statutes is created to read:

CHAPTER 971

SUBCHAPTER VI

JUVENILES IN ADULT COURT

SECTION 973. 971.75 (title) of the statutes is created to read:

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

SECTION 974. 971.75 (2) of the statutes is created to read:

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

SECTION 975. 971.75 (4) of the statutes is created to read:

971.75 **(4)** TIME FOR RETENTION HEARING. The court shall conduct any hearing on retention of jurisdiction that is required under sub. (3) (b) within 20 days of the probable cause finding under sub. (3) (b). On stipulation of the parties, or upon motion and for cause, the court may extend that time.

SECTION 976. 971.75 (6) of the statutes is created to read:

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

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

SECTION 977. 971.75 (7) of the statutes is created to read:

971.75 **(7)** ADMISSIBILITY OF REPORTS. In this subsection:

1. "Hospital" has the meaning given in s. 50.33 (2).

2. "Local health department" has the meaning given in s. 250.01 (4).

(b) At any hearing under this section, a report of one of the crime laboratory's, the state laboratory of hygiene's, a federal bureau of investigation laboratory's, a

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

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

SECTION 978. 971.75 (9) of the statutes is created to read:

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

(b) In making its order under this subsection, the court shall set forth specific findings sufficient to support the order. In making these findings, the court shall consider, and give substantial weight to, the desires, if any, of the complainant. Additional factors that the court may consider in making these findings include, but are not limited to, the complainant's age, psychological maturity, and understanding; the nature of the crime; and the desires of the complainant's family.

(c) The court shall make its order under this subsection no broader than is necessary to protect the compelling interest under par. (a) and shall consider any reasonable alternatives to full closure of the entire hearing.

SECTION 979. 971.76 of the statutes is created to read:

971.76 Pretrial dismissal of complaint against juvenile. (1) WAIVER CASES. If the court has jurisdiction over a juvenile as a result of a waiver under s. 938.18 (1) (a) or (b), the juvenile may move the court to dismiss the complaint on the ground that the state cannot prove that he or she committed any of the offenses listed in s. 938.18 (1) (a) or (b) on which the waiver was based. If the court grants a motion to dismiss under this subsection, the court shall order that the juvenile be discharged, but proceedings may be brought regarding the juvenile under ch. 938.

(2) CASES INVOLVING ORIGINAL ADULT COURT JURISDICTION. A juvenile subject to the court's original jurisdiction under s. 938.183 (1) may move the court to dismiss the complaint on the ground that the state cannot prove that he or she committed any of the offenses charged under s. 938.183 (1) (a), (am), (b), or (c) under the circumstances described in those provisions. If the court grants a motion to dismiss under this subsection, the court shall order that the juvenile be discharged, but proceedings may be brought regarding the juvenile under ch. 938.

SECTION 980. 971.77 (title) of the statutes is created to read:

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

SECTION 981. 972.005 (title) of the statutes is created to read:

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

SECTION 982. 972.005 (2) of the statutes is created to read:

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

SECTION 983. 972.01 of the statutes is amended to read:

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

SECTION 984. 972.02 (title) of the statutes is repealed.

SECTION 985. 972.02 (1) of the statutes is renumbered 972.005 (1) and amended to read:

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

SECTION 986. 972.02 (2) of the statutes is renumbered 972.025 (2) and amended to read:

972.025 **(2)** JURY OF LESS THAN 12. At any time before the verdict is returned, the parties may ~~stipulate in writing or by statement in open court, on the record~~ agree, with the approval of the court, that the jury shall consist of any number less than 12. If the parties agree to a number of jurors that is less than 12, the court shall address the defendant personally to ensure that the defendant understands his or her right to a jury of 12 and that the defendant voluntarily waives that right.

SECTION 987. 972.02 (3) of the statutes is renumbered 972.27 and amended to read:

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

SECTION 988. 972.02 (4) of the statutes is renumbered 972.04 (5) and amended to read:

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

SECTION 989. 972.025 (title) and (1) of the statutes are created to read:

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

SECTION 990. 972.03 (title) of the statutes is amended to read:

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

SECTION 991. 972.03 of the statutes is renumbered 972.03 (1) and amended to read:

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

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

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

(2) MORE THAN ONE DEFENDANT. Except as provided in subs. (3) and (4), in a criminal case involving 2 defendants, the defense shall be entitled to 6 peremptory challenges ~~if there are only~~, and in a criminal case involving more than 2 defendants ~~and~~, the defense shall be entitled to 9 peremptory challenges ~~if there are more than~~

~~2. In misdemeanor cases, the state is entitled to 3 peremptory challenges and the defendant is entitled to 3 peremptory challenges, except that if there are 2 defendants, the court shall allow the defense 4 peremptory challenges, and if there are more than 2 defendants, the court shall allow the defense 6 peremptory challenges~~.

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

SECTION 992. 972.04 (title) of the statutes is repealed and recreated to read:

972.04 (title) **Jury selection.**

SECTION 993. 972.04 (1) of the statutes is amended to read:

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

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

SECTION 994. 972.04 (2) of the statutes is repealed.

SECTION 995. 972.04 (3) of the statutes is created to read:

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

SECTION 996. 972.06 of the statutes is amended to read:

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

SECTION 997. 972.07 of the statutes is renumbered 967.12 and amended to read:

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

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

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

SECTION 998. 972.075 of the statutes is created to read:

972.075 Questioning of witnesses by jurors. (1) After the selection of a jury, the court may authorize the jurors to ask questions of witnesses.

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

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

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

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

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

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

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

SECTION 999. 972.08 of the statutes is renumbered 967.17, and 967.17 (1) and (2), as renumbered, are amended to read:

967.17 **(1)** (a) Whenever any person refuses to testify or to produce books, papers, or documents when required to do so before any grand jury, in a John Doe proceeding under s. ~~968.26~~ 968.105, at an inquest under s. 968.015, or at a preliminary examination, criminal hearing, or trial for the reason that the testimony or evidence required of him or her may tend to incriminate him or her or subject him or her to a forfeiture or penalty, the person may nevertheless be compelled to testify or produce the evidence by order of the court on motion of the district attorney. No person who testifies or produces evidence in obedience to the command of the court in that case may be liable to any forfeiture or penalty for or on account of testifying or producing evidence, but no person may be exempted from prosecution and punishment for perjury or false swearing committed in so testifying.

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

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

SECTION 1000. 972.085 of the statutes is renumbered 967.18 and amended to read:

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

SECTION 1001. 972.09 of the statutes is repealed.

SECTION 1002. 972.10 (title) of the statutes is renumbered 972.16 (title).

SECTION 1003. 972.10 (1) (a) (intro.) of the statutes is repealed.

SECTION 1004. 972.10 (1) (a) 1. of the statutes is renumbered 972.065 and amended to read:

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

SECTION 1005. 972.10 (1) (a) 2. of the statutes is repealed.

SECTION 1006. 972.10 (1) (b) of the statutes is renumbered 972.095 and amended to read:

972.095 Preliminary jury instructions. The court may give ~~additional~~ preliminary instructions to assist the jury in understanding its duty and the evidence it will hear. ~~The preliminary instructions may include, without limitation, the elements of any offense charged, what constitutes evidence and what does not, guidance regarding the burden of proof and the credibility of witnesses, and directions not to discuss the case until deliberations begin. The additional instructions shall be disclosed to the parties before they are given and either party may object to any specific instruction or propose instructions of its own to be given prior to trial~~ The court shall advise the parties of the content of the instructions to be given. The parties may propose instructions of their own. All objections shall be on the record and shall specify with particularity how the instruction is insufficient or does not correctly state the law.

SECTION 1007. 972.10 (2) of the statutes is repealed.

SECTION 1008. 972.10 (3) of the statutes is repealed.

SECTION 1009. 972.10 (4) of the statutes is repealed.

SECTION 1010. 972.10 (5) of the statutes is renumbered 972.22 (1) and amended to read:

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

(2) The court shall advise the parties of the content of the instructions ~~to be given. No instruction regarding the failure to call a witness at the trial shall be made or given if the sole basis for such instruction is the fact the name of the witness appears upon a list furnished pursuant to s. 971.23. Counsel, or the defendant if he or she is not represented by counsel, shall specify and state the particular ground on which the instruction is objected to, and it shall not be sufficient to object generally that the instruction does not state the law, or is against the law, but the objection shall specify with particularity how the instruction is insufficient or does not state the law or to what particular language there is an objection. All objections~~ before giving the instructions to the jury. If a party objects to the adoption or rejection of an instruction, the objection shall be made with particularity and shall be on the record.

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

SECTION 1011. 972.10 (6) of the statutes is repealed.

SECTION 1012. 972.10 (7) of the statutes is renumbered 972.23 (1) and amended to read:

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

SECTION 1013. 972.11 (title) of the statutes is renumbered 967.24 (title).

SECTION 1014. 972.11 (1) of the statutes is renumbered 967.24 and amended to read:

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

SECTION 1015. 972.11 (2) of the statutes is renumbered 904.045, and 904.045 (1), (2) (intro.), (3) and (4) (b), as renumbered, are amended to read:

904.045 **(1)** In this ~~subsection~~ section, "sexual conduct" means any conduct or behavior relating to sexual activities of the complaining witness, including but not limited to prior experience of sexual intercourse or sexual contact, use of contraceptives, living arrangement and life–style.

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

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

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

SECTION 1016. 972.11 (2m) (a) (intro.) and 1. of the statutes are renumbered 972.20 (1) (intro.) and (a), and 972.20 (1) (a) 1., as renumbered, is amended to read:

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

SECTION 1017. 972.11 (2m) (a) 2. (intro.), a. and b. of the statutes are consolidated, renumbered 972.20 (1) (b) and amended to read:

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

SECTION 1018. 972.11 (2m) (b) of the statutes is renumbered 972.20 (2), and 972.20 (2) (intro.), (a), (c), (d), (e), (f) and (g), as renumbered, are amended to read:

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

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

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

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

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

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

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

SECTION 1019. 972.11 (2m) (bm) of the statutes is renumbered 972.20 (3), and 972.20 (3) (intro.), (a) and (d), as renumbered, are amended to read:

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

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

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

SECTION 1020. 972.11 (2m) (c) (intro.), 1m., 2m. and 3m. of the statutes are renumbered 972.20 (4) (intro.), (a), (b) and (c), and 972.20 (4) (intro.), as renumbered, is amended to read:

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

SECTION 1021. 972.11 (3) of the statutes is renumbered 940.22 (6), and 940.22 (6) (a) (intro.) and 1., as renumbered, are amended to read:

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

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

SECTION 1022. 972.11 (3m) of the statutes is renumbered 346.63 (8) and amended to read:

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

SECTION 1023. 972.11 (4) of the statutes is renumbered 972.29, and 972.29 (intro.), as renumbered, is amended to read:

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

SECTION 1024. 972.115 (title) of the statutes is repealed.

SECTION 1025. 972.115 (1) of the statutes is renumbered 972.18 (1), and 972.18 (1) (a), as renumbered, is amended to read:

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

SECTION 1026. 972.115 (2) of the statutes is renumbered 972.18 (3), and 972.18 (3) (a) (intro.), as renumbered, is amended to read:

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

SECTION 1027. 972.115 (4) and (5) of the statutes are renumbered 972.18 (3) (c) and (d), and 972.18 (3) (c), as renumbered, is amended to read:

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

SECTION 1028. 972.12 of the statutes is renumbered 972.05 and amended to read:

972.05 Sequestration of jurors. ~~The~~ At any stage of the proceedings, the court may direct that ~~the~~ jurors who have been sworn be kept together or be permitted to separate. The court may appoint an officer of the court to keep the jurors

together and to prevent communication between the jurors and others. After the case has been submitted to the jurors, the court may permit them to separate, but shall instruct the jurors to suspend deliberations while separated.

SECTION 1029. 972.13 (title) of the statutes is repealed.

SECTION 1030. 972.13 (1) of the statutes is renumbered 972.28 (1) and amended to read:

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

SECTION 1031. 972.13 (2) of the statutes is renumbered 972.28 (2) and amended to read:

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

SECTION 1032. 972.13 (3) of the statutes is renumbered 972.28 (3) and amended to read:

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

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

SECTION 1033. 972.13 (4) of the statutes is renumbered 972.28 (6).

SECTION 1034. 972.13 (5) of the statutes is renumbered 972.28 (4) and amended to read:

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

SECTION 1035. 972.13 (6) of the statutes is repealed.

SECTION 1036. 972.13 (7) of the statutes is repealed.

SECTION 1037. 972.14 (title), (2), (2m) and (3) of the statutes are renumbered 973.003 (title), (2), (2m) and (3), and 973.003 (2), as renumbered, is amended to read:

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

SECTION 1038. 972.14 (1) (intro.) and (b) of the statutes are consolidated, renumbered 973.003 (1) and amended to read:

973.003 **(1)** (intro.) In this section~~: (b) "Victim"~~, "victim" has the meaning specified in s. 950.02 (4).

SECTION 1039. 972.14 (1) (ag) of the statutes is repealed.

SECTION 1040. 972.15 of the statutes is renumbered 973.004, and 973.004 (5) (intro.), as renumbered, is amended to read:

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

SECTION 1041. 972.16 (1) and (2) of the statutes are created to read:

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

(a) The state may make an opening statement.

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

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

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

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

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

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

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

(i) The state may make a closing argument.

(j) The defense may make a closing argument.

(k) The state may make a rebuttal argument.

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

SECTION 1042. 972.18 (title) of the statutes is created to read:

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

SECTION 1043. 972.19 of the statutes is created to read:

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

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

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

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

SECTION 1044. 972.20 (title) of the statutes is created to read:

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

SECTION 1045. 972.22 (title) of the statutes is created to read:

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

SECTION 1046. 972.23 (title) of the statutes is created to read:

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

SECTION 1047. 972.23 (2) and (3) of the statutes are created to read:

972.23 **(2)** The court may retain alternate jurors after the jury retires to deliberate. The court shall ensure that a retained alternate does not discuss the case with anyone until that alternate replaces a juror or is discharged. If a juror who is participating in deliberations becomes unavailable due to severe illness or extraordinary circumstances, the judge may, after a hearing, replace that juror with a retained alternate juror.

(3) If an alternate replaces a juror after deliberations have begun, the court shall instruct the jury to begin its deliberations anew.

SECTION 1048. 972.24 of the statutes is created to read:

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

SECTION 1049. 972.25 of the statutes is created to read:

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

SECTION 1050. 972.26 of the statutes is created to read:

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

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

SECTION 1051. 972.28 (title) of the statutes is created to read:

972.28 (title) **Granting judgment.**

SECTION 1052. 973.013 (4) of the statutes is amended to read:

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

SECTION 1053. 973.015 (2m) (c) (intro.) of the statutes is amended to read:

973.015 **(2m)** (c) (intro.) The person submitted a motion that complies with s. ~~971.30~~ 971.65, that contains a statement of facts and, if applicable, the reason the person did not previously raise an affirmative defense under s. 939.46 or allege that the violation was committed as a result of being a victim of trafficking for the purposes of a commercial sex act, and that may include any of the following:

SECTION 1054. 973.017 (6m) (a) 2. of the statutes is amended to read:

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

SECTION 1055. 973.03 (3) (b) of the statutes is amended to read:

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

SECTION 1056. 973.03 (3) (e) 2. of the statutes is amended to read:

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

SECTION 1057. 973.03 (4) (d) of the statutes is amended to read:

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

SECTION 1058. 973.03 (5) (a) 1. of the statutes is amended to read:

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

SECTION 1059. 973.03 (5) (a) 2. of the statutes is amended to read:

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

SECTION 1060. 973.042 (4) of the statutes is amended to read:

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

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

SECTION 1061. 973.043 (2) of the statutes is amended to read:

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

SECTION 1062. 973.045 (2) of the statutes is amended to read:

973.045 **(2)** After the clerk determines the amount due, the clerk ~~of court~~ shall collect and transmit the amount to the county treasurer under s. 59.40 (2) (m). The county treasurer shall then make payment to the secretary of administration under s. 59.25 (3) (f) 2. The secretary of administration shall credit to the appropriation account under s. 20.455 (5) (g) the amount paid to the secretary by the county treasurer under this subsection and any amount collected under sub. (4).

SECTION 1063. 973.046 (2) of the statutes is amended to read:

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

SECTION 1064. 973.048 (5) of the statutes is amended to read:

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

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

SECTION 1065. 973.049 (1) (intro.) and (a) of the statutes are consolidated, renumbered 973.049 (1) and amended to read:

973.049 **(1)** In this section~~: (a) "Co–actor"~~, "co–actor" means any individual who was a party to a crime considered at sentencing, whether or not the individual was charged with or convicted of the crime considered at sentencing.

SECTION 1066. 973.049 (1) (b) of the statutes is repealed.

SECTION 1067. 973.05 (3) (b) of the statutes is amended to read:

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

SECTION 1068. 973.05 (4) (b) of the statutes is amended to read:

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

SECTION 1069. 973.05 (4) (c) of the statutes is amended to read:

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

SECTION 1070. 973.05 (5) (a) 1. of the statutes is amended to read:

973.05 **(5)** (a) 1. Upon entry of the assignment under sub. (4) (b), unless the court finds that income withholding is likely to cause the defendant irreparable harm, the court shall provide notice of the assignment by regular mail to the last–known address of the person from whom the defendant receives or will receive money. If the clerk ~~of circuit court~~ does not receive the money from the person notified, the court shall provide notice of the assignment to any other person from whom the defendant receives or will receive money. Notice of an assignment under sub. (4) (b) shall inform the intended recipient that, if a prior assignment under sub. (4) (b) has been received relating to the same defendant, the recipient is required to notify the clerk ~~of circuit court~~ that sent the subsequent notice of assignment that another assignment has already been received. A notice of assignment shall include a form permitting the recipient to designate on the form that another assignment has already been received.

SECTION 1071. 973.05 (5) (a) 2. of the statutes is amended to read:

973.05 **(5)** (a) 2. If, after receiving the annual list under s. 565.30 (5r) (a), the clerk ~~of circuit court~~ determines that a person identified in the list may be subject to an assignment under sub. (4) (c), the clerk shall inform the court of that determination. If the court issues an order under sub. (4) (c), the clerk ~~of circuit court~~ shall send the notice of that order to the administrator of the lottery division of the department of revenue, including a statement of the amount owed under the judgment and the name and address of the person owing the judgment. The court

shall notify the administrator of the lottery division of the department of revenue when the judgment that is the basis of the assignment has been paid in full.

SECTION 1072. 973.05 (5) (c) of the statutes is amended to read:

973.05 **(5)** (c) A person who receives notice of the assignment under sub. (4) (b) shall withhold the amount specified in the notice from any money that person pays to the defendant later than one week after receipt of the notice of assignment. Within 5 days after the day on which the person pays money to the defendant, the person shall send the amount withheld to the clerk of ~~circuit~~ the court of the jurisdiction providing notice. If the person has already received a notice of an assignment under sub. (4) (b), the person shall retain the later assignment and withhold the amount specified in that assignment after the last of any prior assignments is paid in full. Within 10 days of receipt of the later notice, the person shall notify the clerk of ~~circuit~~ the court that sent the notice that the person has received a prior notice of an assignment under sub. (4) (b). Section 241.09 does not apply to assignments under this section.

SECTION 1073. 973.05 (5) (d) of the statutes is amended to read:

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

SECTION 1074. 973.05 (5) (e) of the statutes is amended to read:

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

SECTION 1075. 973.055 (2) (a) of the statutes is amended to read:

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

SECTION 1076. 973.06 (1) (av) 2. a. and b. of the statutes are amended to read:

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

b. The defendant was a victim of abusive conduct, including interspousal battery, as described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in s. 49.165 (1) (a), 813.12 (1) (am), or ~~968.075~~ <u>969.27</u> (1) (a), harassment, as defined in s. 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss. 948.02 to 948.11, and he or she was charged under s. 946.41 based on information

he or she omitted or false information he or she provided during the course of an investigation into the crime committed against him or her.

SECTION 1077. 973.06 (1) (h) of the statutes is amended to read:

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

SECTION 1078. 973.076 (1) (b) 1. of the statutes is amended to read:

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

SECTION 1079. 973.076 (2m) (b) of the statutes is amended to read:

973.076 **(2m)** (b) A criminal complaint must allege the extent of property subject to forfeiture under this subsection. At trial, the court or the jury shall return a special verdict determining the extent of property, if any, that is subject to forfeiture under this subsection. When a special verdict contains a finding of property subject to a forfeiture under this subsection, a judgment of criminal forfeiture shall be entered along with the judgment of conviction under s. ~~972.13~~ 972.28.

SECTION 1080. 973.08 (5) of the statutes is amended to read:

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

SECTION 1081. 973.09 (2) (a) 1. b. of the statutes is amended to read:

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

SECTION 1082. 973.09 (3) (b) of the statutes is amended to read:

973.09 **(3)** (b) The department shall notify the sentencing court, any person to whom unpaid restitution is owed and the district attorney of the status of the ordered restitution payments unpaid at least 90 days before the probation expiration date. If payment as ordered has not been made, the court shall hold a probation review hearing prior to the expiration date, unless the hearing is voluntarily waived by the probationer with the knowledge that waiver may result in an extension of the probation period or in a revocation of probation. If the court does not extend probation, it shall issue a judgment for the unpaid restitution and direct the clerk ~~of circuit court~~ to file and enter the judgment in the judgment and lien docket, without fee, unless it finds that the victim has already recovered a judgment against the probationer for the damages covered by the restitution order. If the court issues a judgment for the unpaid restitution, the court shall send to the person at his or her last–known address written notification that a civil judgment has been issued for the unpaid restitution. The judgment has the same force and effect as judgments entered under s. 806.10.

SECTION 1083. 973.09 (3) (bg) 2. and 4. of the statutes are amended to read:

973.09 **(3)** (bg) 2. If the court does not extend probation, the court shall issue a judgment for the unpaid surcharge and direct the clerk ~~of circuit court~~ to file and

enter the judgment in the judgment and lien docket. The judgment has the same force and effect as judgments entered under s. 806.10.

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

SECTION 1084. 973.09 (3) (bm) 4. of the statutes is amended to read:

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

SECTION 1085. 973.09 (7m) (a) of the statutes is amended to read:

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

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

SECTION 1086. 973.10 (2m) of the statutes is amended to read:

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

SECTION 1087. 973.135 (3) of the statutes is amended to read:

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

SECTION 1088. 973.18 (title) of the statutes is renumbered 973.25 (title).

SECTION 1089. 973.18 (1) of the statutes is renumbered 973.25 (1) and amended to read:

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

SECTION 1090. 973.18 (2), (3) and (4) of the statutes are renumbered 973.25 (2), (3) and (4) and amended to read:

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

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

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

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

SECTION 1091. 973.18 (5) of the statutes is renumbered 973.25 (5).

SECTION 1092. 973.19 (title) of the statutes is renumbered 974.03 (title).

SECTION 1093. 973.19 (1) (a) of the statutes is renumbered 974.03 (1) (a) and amended to read:

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

SECTION 1094. 973.19 (1) (b) of the statutes is renumbered 974.03 (2) and amended to read:

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

SECTION 1095. 973.19 (2), (3), (4) and (5) of the statutes are renumbered 974.03 (1) (b), (c), (d) and (e) and amended to read:

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

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

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

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

SECTION 1096. 973.20 (1g) of the statutes is repealed.

SECTION 1097. 973.20 (1r) of the statutes is amended to read:

973.20 **(1r)** When imposing sentence or ordering probation for any crime, other than a crime involving conduct that constitutes domestic abuse under s. 813.12 (1) (am) or ~~968.075~~ 969.27 (1) (a), for which the defendant was convicted, the court, in addition to any other penalty authorized by law, shall order the defendant to make full or partial restitution under this section to any victim of a crime considered at sentencing or, if the victim is deceased, to his or her estate, unless the court finds

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

SECTION 1098. 973.20 (9m) of the statutes is amended to read:

973.20 **(9m)** When restitution is ordered, the court shall inquire to see if recompense has been made under s. ~~969.13 (5) (a)~~ 969.42. If recompense has been made and the restitution ordered is less than or equal to the recompense, the restitution shall be applied to the payment of costs and, if any restitution remains after the payment of costs, to the payment of the judgment. If recompense has been made and the restitution ordered is greater than the recompense, the victim shall receive an amount equal to the amount of restitution less the amount of recompense and the balance shall be applied to the payment of costs and, if any restitution remains after the payment of costs, to the payment of the judgment. This subsection

applies without regard to whether the person who paid the recompense is the person who is convicted of the crime.

SECTION 1099. 973.20 (11) (a) of the statutes is amended to read:

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

SECTION 1100. 973.20 (12) (c) of the statutes is amended to read:

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

SECTION 1101. 974.02 of the statutes is amended to read:

974.02 ~~**Appeals and postconviction relief in criminal cases**~~ **Direct appeals. (1)** ~~A motion for postconviction relief other than under s. 974.06 or 974.07 (2) by the defendant in a criminal case shall be made in the time and manner provided in s. 809.30. An appeal by the~~ The defendant ~~in a criminal case~~ may appeal from a judgment of conviction or from an order denying a postconviction motion or from both. A direct appeal from a judgment of conviction shall be taken in the time

and manner provided in ss. 808.04 (3) and 809.30 to 809.32. An appeal of an order or judgment on habeas corpus remanding to custody a prisoner committed for trial under s. ~~970.03~~ 971.042 shall be taken under ss. 808.03 (2) and 809.50, with notice to the attorney general and the district attorney and opportunity for them to be heard.

(2) An appellant is not required to file a postconviction motion in the ~~trial~~ circuit court prior to an appeal if the grounds are sufficiency of the evidence or issues previously raised.

SECTION 1102. 974.05 (1) (intro.) of the statutes is amended to read:

974.05 **(1)** (intro.) Within the time period specified by s. 808.04 (4) and in the manner provided for civil appeals under chs. 808 and 809, ~~an appeal may be taken by~~ the state ~~from~~ may appeal any of the following:

SECTION 1103. 974.05 (1) (a), (b), (c) and (d) (intro.), 1. and 2. of the statutes are amended to read:

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

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

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

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

1. Quashing an arrest warrant~~;~~.

2. Suppressing evidence~~; or~~.

SECTION 1104. 974.05 (2) of the statutes is amended to read:

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

SECTION 1105. 974.05 (3) of the statutes is repealed.

SECTION 1106. 974.06 (title), (1), (2) and (3) (intro.), (a), (b) and (d) of the statutes are amended to read:

974.06 (title) **~~Postconviction~~ Collateral postconviction procedure. (1)** ~~After~~ At any time after the time for direct appeal ~~or postconviction remedy~~ provided in s. 974.02 has expired, a prisoner who is in custody under sentence of a court ~~or a person convicted and placed with a volunteers in probation program under s. 973.11 claiming~~ and who claims the right to be released upon the ground that the sentence was imposed in violation of the U.S. constitution or the constitution or laws of this state, that the court ~~was without~~ lacked jurisdiction to impose ~~such~~ the sentence, or that the sentence ~~was in excess of~~ exceeded the maximum authorized by law or is otherwise subject to collateral ~~attack~~ review, may move the court which imposed the sentence to vacate, set aside, or correct the sentence.

(2) A copy of the motion ~~for such relief is a part of the original criminal action, is not a separate proceeding and may be made at any time~~ under sub. (1) must be served on the district attorney.

(2m) A motion under sub. (1) is part of the original criminal action, is not a separate proceeding, and may be made at any time. The supreme court may prescribe the form of the motion.

(3) (intro.) Unless the motion under sub. (1) and the files and records of the action conclusively show that the ~~person~~ prisoner is entitled to no relief, the court shall do all of the following:

(a) ~~Cause a copy of the notice to be served upon~~ Order the district attorney ~~who shall~~ to file a written response within the time prescribed by the court.

(b) If it appears that counsel is necessary and if the ~~defendant~~ prisoner claims or appears to be indigent, refer the ~~person~~ prisoner to the appellate division of the state public defender for an indigency determination and appointment of counsel under ch. 977. The court shall forward a copy of the motion and any response of the district attorney to the state public defender.

(d) Determine the issues and make findings of fact and conclusions of law. If the court finds that it rendered the judgment ~~was rendered~~ without jurisdiction, ~~or~~ that the sentence imposed was not authorized by law or is otherwise open to collateral ~~attack~~ review, or that there has been such a denial or infringement of the constitutional rights of the ~~person~~ prisoner as to render the judgment vulnerable to collateral ~~attack~~ review, the court shall vacate and set aside the judgment ~~aside~~ and shall discharge the ~~person~~ prisoner or resentence ~~him or her or~~ the prisoner, grant the prisoner a new trial, or correct the sentence as may appear appropriate.

SECTION 1107. 974.06 (4) of the statutes is amended to read:

974.06 **(4)** All grounds for relief available to a ~~person~~ prisoner under this section must be raised in his or her original, supplemental, or amended motion. Any ground finally adjudicated or not so raised, or knowingly, voluntarily, and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the ~~person~~ prisoner has taken to secure relief may not be the basis for a subsequent motion, unless the court finds a ground for relief asserted

~~which~~ that, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental, or amended motion.

SECTION 1108. 974.06 (5), (6), (7) and (8) of the statutes are amended to read:

974.06 **(5)** ~~A~~ Subject to s. 974.08, a court may entertain and determine ~~such~~ a motion under sub. (1) without requiring the production of the prisoner at the hearing. The court may hear the motion ~~may be heard~~ by telephone or live audiovisual means under s. 807.13.

(6) Proceedings under this section shall be considered civil in nature, and the burden of proof shall be upon the ~~person~~ prisoner.

(7) ~~An~~ A prisoner may appeal ~~may be taken from the~~ an order entered on the motion under sub. (1) as ~~from~~ if the order were a final judgment.

(8) A court may not entertain a petition for a writ of habeas corpus or an action seeking that remedy ~~in~~ on behalf of a ~~person~~ prisoner who is authorized to apply for relief by motion under ~~this section shall not be entertained~~ sub. (1) if it appears that the ~~applicant~~ prisoner has failed to ~~apply for relief, by~~ file a motion~~, to~~ under sub. (1) with the court which sentenced the ~~person~~ prisoner, or that the court has denied the ~~person relief~~ motion, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of ~~his or her~~ the prisoner's detention.

SECTION 1109. 974.07 (4) (b) of the statutes is amended to read:

974.07 **(4)** (b) Notwithstanding the limitation on the disclosure of mailing addresses from completed information cards submitted by victims under ss. 51.37 (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f), 304.063 (4), 938.51 (2), ~~971.17 (6m) (d)~~ 975.62 (5), and 980.11 (4), the department of corrections, the parole commission, and the department of health services shall, upon request, assist clerks of court in obtaining information regarding the mailing

address of victims for the purpose of sending copies of motions and notices of hearings under par. (a).

SECTION 1110. 974.07 (7) (b) 1. of the statutes is amended to read:

974.07 **(7)** (b) 1. It is reasonably probable that the outcome of the proceedings that resulted in the conviction, the finding of not guilty by reason of mental disease or defect, or the delinquency adjudication for the offense at issue in the motion under sub. (2), or the terms of the sentence, the commitment under ~~s. 971.17~~ subch. III of ch. 975, or the disposition under ch. 938, would have been more favorable to the movant if the results of deoxyribonucleic acid testing had been available before he or she was prosecuted, convicted, found not guilty by reason of mental disease or defect, or adjudicated delinquent for the offense.

SECTION 1111. 974.07 (9) (a) of the statutes is amended to read:

974.07 **(9)** (a) If a person other than the movant is in custody, as defined in s. ~~968.205~~ 968.645 (1) (a), the evidence is relevant to the criminal, delinquency, or commitment proceeding that resulted in the person being in custody, the person has not been denied deoxyribonucleic acid testing or postconviction relief under this section, and the person has not waived his or her right to preserve the evidence under s. 165.81 (3), 757.54 (2), ~~968.205~~ 968.645, or 978.08, the court shall order the evidence preserved until all persons entitled to have the evidence preserved are released from custody, and the court shall designate who shall preserve the evidence.

SECTION 1112. 974.07 (10) (a) 4. of the statutes is amended to read:

974.07 **(10)** (a) 4. An order discharging the movant from custody, as defined in s. ~~968.205~~ 968.645 (1) (a), if the movant is in custody.

SECTION 1113. 974.08 (title) of the statutes is created to read:

974.08 (title) **Defendant's presence at postconviction proceedings.**

SECTION 1114. 974.08 (1) of the statutes is created to read:

974.08 **(1)** A defendant has the right to be present at a postconviction proceeding when the hearing will address substantial issues of fact as to events in which the defendant participated and those issues are supported by more than mere allegations.

SECTION 1115. 974.08 (2) and (3) of the statutes are created to read:

974.08 **(2)** A defendant need not be present at the pronouncement or entry of an order granting or denying relief under s. 974.02, 974.03, 974.06, or 974.07. If the defendant is not present, the time for appealing the order shall commence after a copy has been served upon the defendant's counsel or, if he or she appeared without counsel, upon the defendant, except as provided in sub. (3). Service of such an order shall be complete upon mailing.

(3) A defendant appearing without counsel shall supply the court with his or her current mailing address. If the defendant fails to supply the court with a current and accurate mailing address, the defendant's failure to receive a copy of the order granting or denying relief shall not be a ground for tolling the time in which an appeal must be taken.

SECTION 1116. 974.09 (title) of the statutes is created to read:

974.09 (title) **Release pending appeal.**

SECTION 1117. Chapter 975 (title) of the statutes is repealed and recreated to read:

CHAPTER 975

MENTAL ISSUES IN CRIMINAL PROCEEDINGS: COMPETENCY AND RESPONSIBILITY

SECTION 1118. 975.001 of the statutes is repealed.

SECTION 1119. 975.01 of the statutes is repealed.

SECTION 1120. 975.06 of the statutes is repealed.

SECTION 1121. 975.07 of the statutes is repealed.

SECTION 1122. 975.08 of the statutes is repealed.

SECTION 1123. 975.09 of the statutes is repealed.

SECTION 1124. 975.10 of the statutes is repealed.

SECTION 1125. 975.11 of the statutes is repealed.

SECTION 1126. 975.12 of the statutes is repealed.

SECTION 1127. 975.15 of the statutes is repealed.

SECTION 1128. 975.16 of the statutes is repealed.

SECTION 1129. 975.17 of the statutes is repealed.

SECTION 1130. 975.18 of the statutes is repealed.

SECTION 1131. Subchapter I (title) of chapter 975 [precedes 975.20] of the statutes is created to read:

CHAPTER 975

SUBCHAPTER I

GENERAL PROVISIONS

SECTION 1132. 975.20 of the statutes is created to read:

975.20 Definitions. In this chapter:

(1) "Department" means the department of health services, except as otherwise expressly provided.

(2) "Not competent to refuse medication or treatment" means that because of mental illness, developmental disability, alcoholism, or drug dependency, and after

the advantages and disadvantages of and alternatives to accepting a particular medication or treatment have been explained to a person, one of the following is true:

(a) The person is incapable of expressing an understanding of the advantages, disadvantages, and alternatives.

(b) The person is substantially incapable of applying an understanding of the advantages, disadvantages, and alternatives to his or her mental illness, developmental disability, alcoholism, or drug dependence in order to make an informed choice as to whether to accept or refuse medication or treatment.

(3) "Physician" has the meaning given in s. 448.01 (5).

(4) "Psychologist" means a person holding a valid license under s. 455.04.

SECTION 1133. Subchapter II (title) of chapter 975 [precedes 975.30] of the statutes is created to read:

CHAPTER 975

SUBCHAPTER II

COMPETENCY

SECTION 1134. 975.31 (title) of the statutes is created to read:

975.31 (title) **Raising the issue of competency.**

SECTION 1135. 975.31 (4) of the statutes is created to read:

975.31 **(4)** If competency is raised, the court may order that a guardian ad litem be appointed.

SECTION 1136. 975.32 (title) of the statutes is created to read:

975.32 (title) **Competency examination.**

SECTION 1137. 975.32 (2) of the statutes is created to read:

975.32 **(2)** Notwithstanding sub. (1), if the parties agree that a previously conducted mental examination provides a sufficient basis for the court to make the

determination under s. 975.34 and the court concurs, a new examination need not be ordered.

SECTION 1138. 975.32 (4) of the statutes is created to read:

975.32 **(4)** If the defendant is in custody, the court may order an inpatient or outpatient examination and all of the following apply:

(a) Any outpatient examination for a defendant in custody shall be conducted in a jail or locked unit of a facility.

(b) If an inpatient examination is determined by the court to be necessary for a defendant in custody, the defendant may be committed to a suitable mental health facility. If the examination is to be conducted by the department under par. (c), the court shall order the individual to the facility designated by the department.

(c) If the court orders a defendant in custody to be examined by the department or a department facility, the department shall determine where the examination will be conducted, who will conduct the examination, and whether the examination will be conducted on an inpatient or outpatient basis. If an outpatient examination is begun by or through the department, and the department later determines that inpatient examination is necessary, the sheriff shall transport the defendant to the inpatient facility designated by the department. In any case under this paragraph in which the department determines that an inpatient examination is necessary, the 15–day period under sub. (6) (a) begins upon the arrival of the defendant at the inpatient facility.

SECTION 1139. 975.32 (7) of the statutes is created to read:

975.32 **(7)** Days spent in a mental health facility for an inpatient competency examination ordered under this section count as days spent in custody under s. 973.155.

SECTION 1140. 975.32 (10) of the statutes is created to read:

975.32 **(10)** The court may order additional experts to examine the defendant at any stage of the proceedings to determine the defendant's competency to proceed.

SECTION 1141. 975.33 (title) of the statutes is created to read:

975.33 (title) **Examination report.**

SECTION 1142. 975.33 (1) (f) and (3) of the statutes are created to read:

975.33 **(1)** (f) If the examiner reports that the defendant is not competent to proceed and that the defendant is not likely to become competent within the maximum period of commitment, as defined in s. 975.34 (6) (a), the examiner's opinion on whether the defendant meets the criteria for commitment under ch. 51 or 55.

(3) If competency is raised, the court may order that a guardian ad litem be appointed.

SECTION 1143. 975.34 of the statutes is created to read:

975.34 Competency determination. (1) HEARING. As soon as practicable after receiving the examiner's report under s. 975.33, the court shall hold a hearing on the defendant's competency to proceed and, if at issue, on the defendant's competency to refuse medication or treatment.

(2) WAIVER OF HEARING. Notwithstanding sub. (1), if the parties agree that a hearing is not necessary and the court concurs, the court may make a determination on the defendant's competency to proceed and, if relevant, the defendant's competency to refuse medication or treatment based on the court–ordered report and other information adduced.

(3) BURDEN OF GOING FORWARD. If a hearing is held under this section, the district attorney has the burden of going forward with the evidence.

(4) BURDEN OF PERSUASION. Regardless of who raised the issue of competency, the court may find the defendant competent to proceed only if, after hearing evidence or reviewing the reports submitted under s. 975.33, or both, the court finds by the greater weight of the evidence that the defendant is competent to proceed.

(5) RESUMING PROCEEDINGS. If the court finds the defendant competent to proceed, the court shall enter its finding on the record and shall resume the criminal proceedings.

(6) SUSPENDING PROCEEDINGS; COMMITMENT FOR TREATMENT. (a) In this subsection, "maximum period of commitment" means the greatest maximum sentence length for any crime for which the defendant is charged, including imprisonment authorized by any applicable penalty enhancement statutes, or 12 months, whichever is less.

(b) If the court does not find by the greater weight of the evidence that the defendant is competent to proceed, the court shall find that the defendant is not competent, shall enter its finding on the record, shall suspend the criminal proceedings, and shall do one of the following:

1. If the court finds by the greater weight of the evidence that the defendant is not likely to become competent within the maximum period of commitment, the court shall order that the defendant be released, except as provided in s. 975.38.

2. If the court finds by the greater weight of the evidence that the defendant is likely to become competent within the maximum period of commitment without inpatient treatment, the court shall order that the defendant be released. The court may require the defendant to participate in outpatient treatment, undergo periodic reexaminations to determine whether the defendant has become competent to

proceed, or both, for a period that does not exceed the maximum period of commitment.

3. If the court finds by clear and convincing evidence that the defendant is likely to become competent within the maximum period of commitment if provided appropriate inpatient treatment, proceed under sub. (7).

(7) COMMITMENT FOR TREATMENT.

(8) COMPETENCY TO REFUSE MEDICATION OR TREATMENT. If the defendant is committed to the department under sub. (7) and the state proves by clear and convincing evidence that the defendant is not competent to refuse medication or treatment, the court shall find, without a jury, that the defendant is not competent to refuse medication or treatment, and order that whoever administers medication or treatment to the defendant shall observe appropriate medical standards.

SECTION 1144. 975.36 (title) of the statutes is created to read:

975.36 (title) **Reexamination of defendant's competency.**

SECTION 1145. 975.36 (2) of the statutes is created to read:

975.36 **(2)** REPORTS AT OTHER TIMES. The department shall furnish written reports of examination to the court whenever it determines that the defendant has become competent or that the defendant is not likely to become competent within the remaining commitment period. The reports shall comply with the requirements of sub. (1). The court shall schedule a review of a report under this subsection within 14 days after the court receives the report.

SECTION 1146. 975.36 (4) of the statutes is created to read:

975.36 **(4)** FINAL REEXAMINATION. Before or at the end of the commitment, the court shall order the defendant discharged from the commitment and shall release the defendant, except as provided in s. 975.38.

SECTION 1147. 975.37 of the statutes is created to read:

975.37 Involuntary medication to restore competency at trial. The court may order involuntary medication to restore a defendant's competency to stand trial only if the court finds that there is a need for that medication sufficiently important to overcome the defendant's protected interest in refusing it. The court shall consider the effectiveness and side effects of the medication, the possible alternatives, and the medical appropriateness of the medication.

SECTION 1148. 975.38 (title) of the statutes is created to read:

975.38 (title) **Mental health commitment or protective placement.**

SECTION 1149. 975.39 of the statutes is created to read:

975.39 Competency to pursue postconviction relief. (1) APPLICABILITY. The court shall proceed under this section whenever there is reason to doubt a defendant's competency to seek postconviction relief under s. 809.30.

(2) STANDARD. A defendant lacks competency to pursue postconviction relief under s. 809.30 if he or she is unable, with a reasonable degree of rational understanding, to assist counsel or to make decisions committed by law to the defendant.

(3) DETERMINING COMPETENCY. If the court determines that reason exists to doubt a defendant's competency to pursue postconviction relief under s. 809.30, it shall, as an exercise of its discretion, determine the method for evaluating a defendant's competency. A court may rely upon the affidavits of counsel, a stipulation, or the court's observation of the defendant. A court may order an examination of the defendant by a person with specialized knowledge. A court may, in its discretion, hold a hearing before determining a defendant's competency. Any

hearing conducted under this subsection shall be governed by s. 975.34 to the extent practicable.

(4) ALTERNATIVES PENDING A COMPETENCY DETERMINATION. Pending a determination of competency to pursue postconviction relief or after a finding that the defendant lacks competency, the applicable court may do any of the following:

(a) The circuit court may allow the initiation or continuation of proceedings on any issue raised by the defendant's attorney that rests on the records, does not require the defendant to assist counsel or make a decision, and involves no risk to the defendant.

(b) The court of appeals may grant the defendant a continuance or an enlargement of time for filing necessary notices or motions for postconviction relief.

(5) APPOINTING A GUARDIAN; ORDERING TREATMENT. If the court finds that the defendant lacks competency to pursue postconviction relief, the court may do any of following:

(a) Appoint a guardian to make decisions that the law requires the defendant to make.

(b) Order treatment to restore the defendant to competency to pursue postconviction relief.

(6) RAISING ISSUES AFTER COMPETENCY IS REGAINED. A defendant who lacks competency to pursue postconviction relief at the time he or she seeks postconviction relief may, after regaining competency, raise any issue at a later proceeding that he or she did not raise earlier because of incompetency.

SECTION 1150. Subchapter III (title) of chapter 975 [precedes 975.50] of the statutes is created to read:

CHAPTER 975

SUBCHAPTER III

MENTAL RESPONSIBILITY

SECTION 1151. 975.51 (4) (b) of the statutes is created to read:

975.51 **(4)** (b) If a physician, psychologist, or other expert examines the defendant at the request of the state, the examiner may not testify at trial regarding the mental condition of the defendant unless the examiner provides a report of his or her examination of the defendant to the defendant or defendant's attorney at least 15 days before trial.

SECTION 1152. 975.51 (5) (b) of the statutes is created to read:

975.51 **(5)** (b) A physician, psychologist, or other expert may not testify regarding the defendant's need for medication or treatment or competence to refuse medication or treatment before a jury that is determining the ability of the defendant to appreciate the wrongfulness of his or her conduct or to conform his or her conduct with the requirements of law at the time of the commission of the criminal offense charged.

SECTION 1153. 975.52 (1) of the statutes is created to read:

975.52 **(1)** JOINED WITH A PLEA OF GUILTY OR NO CONTEST. If a defendant joins a plea of guilty or no contest with a plea of not guilty by reason of mental disease or defect, the court shall first determine whether to accept the plea of guilty or no contest. If the plea is accepted, the court shall proceed under sub. (3).

SECTION 1154. 975.52 (4) (title) of the statutes is created to read:

975.52 **(4)** (title) ENTERING JUDGMENT.

SECTION 1155. 975.53 (title) of the statutes is created to read:

975.53 (title) **Notice of restrictions.**

SECTION 1156. 975.54 (title) of the statutes is created to read:

975.54 (title) **Sexual assault; supervision, registration, and testing.**

SECTION 1157. 975.56 (title) of the statutes is created to read:

975.56 (title) **Precommitment examination.**

SECTION 1158. 975.57 (2) (e) of the statutes is created to read:

975.57 **(2)** (e) *Commitment credit.* A person committed under par. (a), (b), or (d) shall be given credit for all days spent in custody in connection with the course of conduct for which the commitment is imposed. The standards in s. 973.155 for determining sentence credit for convicted persons apply to determining commitment credit under this section.

SECTION 1159. 975.57 (3) of the statutes is created to read:

975.57 **(3)** INSTITUTIONALIZED CARE. If the court orders the person institutionalized under this section, the department shall place the person in an institution under s. 51.37 (3) that the department considers appropriate in light of the rehabilitative services required by the person and the protection of public safety.

SECTION 1160. 975.57 (4) (title) of the statutes is created to read:

975.57 **(4)** (title) CONDITIONAL RELEASE.

SECTION 1161. 975.57 (4) (b) and (c) of the statutes are created to read:

975.57 **(4)** (b) An order for conditional release places the person in the custody and control of the department. A conditionally released person is subject to the conditions set by the court and to the rules of the department. The court, for cause and by order, may modify the conditions of release.

(c) Before a person is conditionally released by the court under this subsection, the court shall notify the municipal police department and county sheriff for the area where the person will be residing. The notification requirement does not apply if a

municipal department or county sheriff submits to the court a written statement waiving the right to be notified.

SECTION 1162. 975.57 (5) (title) of the statutes is created to read:

975.57 **(5)** (title) COMPETENCE TO REFUSE MEDICATION.

SECTION 1163. 975.59 (5) (title) of the statutes is created to read:

975.59 **(5)** (title) CONDITIONAL RELEASE.

SECTION 1164. 975.59 (5) (b) and (c) of the statutes are created to read:

975.59 **(5)** (b) An order for conditional release places the person in the custody and control of the department. A conditionally released person is subject to the conditions set by the court and to the rules of the department. The court, for cause and by order, may modify the conditions of release.

(c) Before a person is conditionally released by the court under this subsection, the court shall notify the municipal police department and county sheriff for the area where the person will be residing. The notification requirement does not apply if a municipal police department or county sheriff submits to the court a written statement waiving the right to be notified.

SECTION 1165. 975.61 (1) (d) of the statutes is created to read:

975.61 **(1)** (d) The corporation counsel in the municipality and county in which the commitment order was entered.

SECTION 1166. 975.62 (title) of the statutes is created to read:

975.62 (title) **Notice of change in status of committed person.**

SECTION 1167. 975.62 (1) (d) of the statutes is created to read:

975.62 **(1)** (d) "Victim's representative" means the victim or, if the victim died as a result of the crime, an adult member of the victim's family, or, if the victim is younger than 18 years old, the victim's parent or legal guardian.

SECTION 1168. 975.62 (2), (3) and (4) of the statutes are created to read:

975.62 **(2)** If the court conditionally releases a person under s. 975.57 (4) or 975.59, the district attorney who prosecuted the crime for which the person was committed shall notify the department of corrections and make a reasonable attempt to notify the victim's representative of the conditional release.

(3) If the court terminates a person's commitment order under s. 975.60 or discharges a person under s. 975.61, the department shall notify the department of corrections and, if the victim's representative has submitted a card under sub. (5), the victim's representative of the termination or discharge.

(4) Notice under sub. (2) or (3) shall include the name of the person who is conditionally released or discharged or whose commitment order is terminated and the date of conditional release, termination, or discharge, whichever is applicable. The district attorney or the department, whichever is applicable, shall send the notice, postmarked no later than 7 days after the court orders the conditional release, termination, or discharge, to the department of corrections and to the last–known address of the victim's representative.

SECTION 1169. 975.63 (3) of the statutes is created to read:

975.63 **(3)** All hearings under ss. 975.55 to 975.61 shall be before a judge without a jury.

SECTION 1170. 977.02 (2m) of the statutes is amended to read:

977.02 **(2m)** Promulgate rules regarding eligibility for legal services under this chapter, including legal services for persons who are entitled to be represented by counsel without a determination of indigency, as provided in s. ~~48.23 (4),~~ 51.60~~,~~ <u>or</u> 55.105, ~~or~~ <u>and for children who are entitled to be represented by counsel without a determination of indigency, as provided in s. 48.23 (4) or</u> 938.23 (4).

SECTION 1171. 977.02 (3) (intro.) of the statutes is amended to read:

977.02 **(3)** (intro.) Promulgate rules regarding the determination of indigency of persons entitled to be represented by counsel, other than persons who are entitled to be represented by counsel under s. ~~48.23,~~ 51.60~~,~~ or 55.105~~,~~ or children who are entitled to be represented by counsel without a determination of indigency under s. 48.23 or 938.23, including the time period in which the determination must be made and the criteria to be used to determine indigency and partial indigency. The rules shall specify that, in determining indigency, the representative of the state public defender shall do all of the following:

SECTION 1172. 977.02 (4r) of the statutes is amended to read:

977.02 **(4r)** Promulgate rules that establish procedures to provide the department of administration with any information concerning the collection of payment ordered under s. 48.275 (2), 757.66, 938.275 (2), 973.06 (1) (e), or 977.076 ~~(1)~~.

SECTION 1173. 977.03 (2m) of the statutes is amended to read:

977.03 **(2m)** The board may promulgate rules that establish procedures to collect payment ordered under s. 48.275 (2), 757.66, 938.275 (2), 973.06 (1) (e), or 977.076 ~~(1)~~ from a prisoner's prison financial account.

SECTION 1174. 977.05 (4) (gm) of the statutes is amended to read:

977.05 **(4)** (gm) In accordance with the standards under pars. (h) and (i), accept referrals from judges and courts for the provision of legal services without a determination of indigency of persons who are entitled to be represented by counsel under s. ~~48.23,~~ 51.60~~,~~ or 55.105~~,~~ or children who are entitled to be represented by counsel under s. 48.23 or 938.23, appoint counsel in accordance with contracts and

policies of the board, and inform the referring judge or court of the name and address of the specific attorney who has been assigned to the case.

SECTION 1175. 977.05 (4) (h) of the statutes is amended to read:

977.05 **(4)** (h) Accept requests for legal services from children who are entitled to be represented by counsel under s. 48.23 or 938.23, from persons who are entitled to be represented by counsel under s. ~~48.23,~~ 51.60~~,~~ or 55.105, ~~or 938.23~~ and from indigent persons who are entitled to be represented by counsel under s. ~~967.06~~ 971.013 or who are otherwise so entitled under the constitution or laws of the United States or this state and provide such persons with legal services when, in the discretion of the state public defender, such provision of legal services is appropriate.

SECTION 1176. 977.05 (4) (j) of the statutes is amended to read:

977.05 **(4)** (j) Subject to sub. (6) (e) and (f), at the request of any person determined by the state public defender to be indigent or upon referral of any court, prosecute a writ of error, appeal, action or proceeding for habeas corpus or other postconviction or post–commitment remedy on behalf of the person before any court, if the state public defender determines the case should be pursued. The state public defender must pursue the case of any indigent person entitled to counsel under s. ~~971.17 (7) (b) 1.~~ 975.63 (2) (a) or 980.03 (2) (a).

SECTION 1177. 977.05 (6) (b) 2. of the statutes is amended to read:

977.05 **(6)** (b) 2. The judge ~~or circuit court commissioner~~ before whom the proceedings shall be held certifies to the state public defender that the person will not be incarcerated if he or she is found in contempt of court.

SECTION 1178. 977.05 (6) (e) (intro.) and 2. of the statutes are amended to read:

977.05 **(6)** (e) (intro.) The state public defender may not provide legal services or assign counsel for a person who files a motion to modify sentence under s. ~~973.19~~

974.03 (1) (a), or for a person who appeals, under s. ~~973.19 (4)~~ 974.03 (1) (d), the denial of a motion to modify sentence filed under s. ~~973.19~~ 974.03 (1) (a), unless the person does one of the following:

2. Files the motion to modify sentence under s. ~~973.19~~ 974.03 (1) (a) within 20 days after the sentence or order is entered.

SECTION 1179. 977.06 (2) (a) of the statutes is amended to read:

977.06 **(2)** (a) A person seeking to have counsel assigned for him or her under s. 977.08, other than a person who is entitled to be represented by counsel under s. ~~48.23,~~ 51.60~~,~~ or 55.105~~,~~ or a child who is entitled to be represented by counsel under s. 48.23 or 938.23, shall sign a statement declaring that he or she has not disposed of any assets for the purpose of qualifying for that assignment of counsel. If the representative or authority making the indigency determination finds that any asset was disposed of for less than its fair market value for the purpose of obtaining that assignment of counsel, the asset shall be counted under rules promulgated under s. 977.02 (3) at its fair market value at the time it was disposed of, minus the amount of compensation received for the asset.

SECTION 1180. 977.06 (2) (am) of the statutes is amended to read:

977.06 **(2)** (am) A person seeking to have counsel assigned for him or her under s. 977.08, other than a person who is entitled to be represented by counsel under s. ~~48.23,~~ 51.60~~,~~ or 55.105~~,~~ or a child who is entitled to be represented by counsel under s. 48.23 or 938.23, shall sign a statement declaring that the information that he or she has given to determine eligibility for assignment of counsel he or she believes to be true and that he or she is informed that he or she is subject to the penalty under par. (b).

SECTION 1181. 977.06 (3) (b) of the statutes is amended to read:

977.06 **(3)** (b) The state public defender may petition a court that ordered payment under s. 757.66, 973.06 (1) (e), or 977.076 ~~(1)~~ to modify an order or judgment to adjust the amount of payment or the scheduled amounts at any time.

SECTION 1182. 977.07 (1) (a) of the statutes is amended to read:

977.07 **(1)** (a) Determination of indigency for persons entitled to counsel shall be made as soon as possible and shall be in accordance with the rules promulgated by the board under s. 977.02 (3) and the system established under s. 977.06. No determination of indigency is required for a person who is entitled to be represented by counsel under s. ~~48.23,~~ 51.60~~,~~ or 55.105~~,~~ or for a child who is entitled to be represented by counsel under s. 48.23 or 938.23. The state public defender may also appoint counsel without a determination of indigency if the state public defender has reason to doubt the competency of a person who has been charged with a crime or who is pursuing postconviction relief in a criminal case.

SECTION 1183. 977.07 (1) (c) of the statutes is amended to read:

977.07 **(1)** (c) For all referrals made under ss. 809.107, 809.30, 974.06 (3) (b) and 974.07 (11), except a referral of a person who is entitled to be represented by counsel under s. ~~48.23,~~ 51.60~~,~~ or 55.105~~,~~ or of a child who is entitled to be represented by counsel under s. 48.23 or 938.23, a representative of the state public defender shall determine indigency. For referrals made under ss. 809.107, 809.30 and 974.06 (3) (b), except a referral of a person who is entitled to be represented by counsel under s. ~~48.23,~~ 51.60~~,~~ or 55.105~~,~~ or of a child who is entitled to be represented by counsel under s. 48.23 or 938.23, the representative of the state public defender may, unless a request for redetermination has been filed under s. 809.30 (2) (d) or the person's request for representation states that his or her financial circumstances have

materially improved, rely upon a determination of indigency made for purposes of trial representation under this section.

SECTION 1184. 977.07 (2m) of the statutes is amended to read:

977.07 **(2m)** If the person is found to be indigent in full or in part, the person shall be promptly informed of the state's right to payment or recoupment under s. 48.275 (2), 757.66, 938.275 (2), 973.06 (1) (e), or 977.076 ~~(1)~~, and the possibility that the payment of attorney fees may be made a condition of probation, should the person be placed on probation. Furthermore, if found to be indigent in part, the person shall be promptly informed of the extent to which he or she will be expected to pay for counsel, and whether the payment shall be in the form of a lump sum payment or periodic payments. The person shall be informed that the payment amount may be adjusted if his or her financial circumstances change by the time of sentencing. The payment and payment schedule shall be set forth in writing. This subsection does not apply to persons who have paid under s. 977.075 (3m).

SECTION 1185. 977.076 (1) of the statutes is repealed.

SECTION 1186. 977.076 (2) of the statutes is renumbered 977.076 and amended to read:

977.076 Collections. The department of administration may collect unpaid reimbursement payments to the state public defender ordered by a court under ~~sub. (1) or~~ s. 48.275 (2), 757.66, 938.275 (2) (a), or 973.06 (1) (e). The department may contract with a private collection agency to collect these payments. Section 16.705 does not apply to a contract under this ~~subsection~~ section.

SECTION 1187. 977.08 (2) (intro.) of the statutes is amended to read:

977.08 **(2)** (intro.) All attorneys in a county shall be notified in writing by the state public defender that a set of lists is being prepared of attorneys willing to

represent persons referred under s. ~~48.23 (4),~~ 51.60~~,~~ or 55.105~~,~~ or children referred under s. 48.23 (4) or 938.23 (4) and indigent clients in the following:

SECTION 1188. 978.045 (1r) (intro.) of the statutes is amended to read:

978.045 **(1r)** (intro.) Any judge of a court of record, by an order entered in the record stating the cause for it, may appoint an attorney as a special prosecutor to perform, for the time being, or for the trial of the accused person, the duties of the district attorney. An attorney appointed under this subsection shall have all of the powers of the district attorney. The judge may appoint an attorney as a special prosecutor at the request of a district attorney to assist the district attorney in the prosecution of persons charged with a crime, in grand jury proceedings ~~or~~, in John Doe proceedings under s. ~~968.26~~ 968.105, in proceedings under ch. 980, or in investigations. The judge may appoint an attorney as a special prosecutor if any of the following conditions exists:

SECTION 1189. 978.045 (1r) (i) of the statutes is amended to read:

978.045 **(1r)** (i) A judge determines that a complaint received under s. ~~968.26~~ 968.105 (2) (am) relates to the conduct of the district attorney to whom the judge otherwise would refer the complaint.

SECTION 1190. 978.05 (3) of the statutes is amended to read:

978.05 **(3)** JOHN DOE PROCEEDINGS. Participate in investigatory proceedings under s. ~~968.26~~ 968.105.

SECTION 1191. 978.05 (4) of the statutes is amended to read:

978.05 **(4)** GRAND JURY. When requested by a grand jury under s. ~~968.47~~ 968.225, attend the grand jury for the purpose of examining witnesses in their presence; give the grand jury advice in any legal matter; draw bills of indictment; and issue subpoenas and other processes to compel the attendance of witnesses.

SECTION 1192. 978.05 (6) (a) of the statutes is amended to read:

978.05 **(6)** (a) Institute, commence, or appear in all civil actions or special proceedings under and perform the duties set forth for the district attorney under ch. 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 103.50 (8), 103.92 (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a), 946.86, 946.87, 961.55 (5), ~~971.14~~ and 973.075 to 973.077 and subch. II of ch. 975, perform any duties in connection with court proceedings in a court assigned to exercise jurisdiction under chs. 48 and 938 as the judge may request and perform all appropriate duties and appear if the district attorney is designated in specific statutes, including matters within chs. 782, 976 and 979 and subch. I of ch. 968 and ss. 51.81 to 51.85. Nothing in this paragraph limits the authority of the county board to designate, under s. 48.09 (5), that the corporation counsel provide representation as specified in s. 48.09 (5) or to designate, under s. 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the interests of the public under s. 48.14 or 938.14.

SECTION 1193. 978.08 (1) (a) and (b) and (2) of the statutes are amended to read:

978.08 **(1)** (a) "Custody" has the meaning given in s. ~~968.205~~ 968.645 (1) (a).

(b) "Discharge date" has the meaning given in s. ~~968.205~~ 968.645 (1) (b).

(2) Except as provided in sub. (3), if physical evidence that is in the possession of a district attorney includes any biological material that was collected in connection with a criminal investigation that resulted in a criminal conviction, delinquency adjudication, or commitment under ~~s. 971.17~~ subch. III of ch. 975 or s. 980.06 ~~and the biological material is from a victim of the offense that was the subject of the criminal investigation or may reasonably be used to incriminate or exculpate any person for the offense~~, the district attorney shall preserve the physical evidence until every

person in custody as a result of the conviction, adjudication, or commitment has reached his or her discharge date.

SECTION 1194. 979.02 of the statutes is amended to read:

979.02 Autopsies. The coroner, medical examiner or district attorney may order the conducting of an autopsy upon the body of a dead person any place within the state in cases where an inquest might be had as provided in s. ~~979.04~~ 968.015 notwithstanding the fact that no such inquest is ordered or conducted. The autopsy shall be conducted by a licensed physician who has specialized training in pathology. The district attorney may move the ~~circuit~~ court for the county in which the body is buried for an order disinterring the body for purposes of autopsy. The order shall be granted by the ~~circuit~~ court upon a reasonable showing that any of the criteria specified in s. ~~979.04~~ 968.015 exists. This section does not prevent additional autopsies or examinations of the body if there are unanswered pathological questions concerning the death and the causes of death.

SECTION 1195. 979.025 (1) of the statutes is amended to read:

979.025 **(1)** INMATE CONFINED TO AN INSTITUTION IN THIS STATE. If an individual dies while he or she is in the legal custody of the department and confined to a correctional facility located in this state, the coroner or medical examiner of the county where the death occurred shall perform an autopsy on the deceased individual. If the coroner or medical examiner who performs the autopsy determines that the individual's death may have been the result of any of the situations that would permit the district attorney to order an inquest under s. ~~979.04~~ 968.015 (1), the coroner or medical examiner shall follow the procedures under s. ~~979.04~~ 968.015 (2).

SECTION 1196. 979.025 (2) of the statutes is amended to read:

979.025 **(2)** INMATE CONFINED IN AN INSTITUTION IN ANOTHER STATE. If an individual dies while he or she is in the legal custody of the department and confined to a correctional facility in another state under a contract under s. 301.07, 301.21, or 302.25, the department shall have an autopsy performed by an appropriate authority in the other state or by the coroner or medical examiner of the county in which the ~~circuit~~ court is located that sentenced the individual to the custody of the department. If the coroner or medical examiner who performs the autopsy in this state determines that the individual's death may have been the result of any of the situations that would permit the district attorney to order an inquest under s. ~~979.04~~ 968.015 (1), the coroner or medical examiner shall forward the results of the autopsy to the appropriate authority in the other state.

SECTION 1197. 979.04 of the statutes is renumbered 968.015 and amended to read:

968.015 ~~Inquests: when~~ When inquests may be called. (1) If the district attorney has notice of the death of any person and there is reason to believe from the circumstances surrounding the death that the person was a victim of felony murder, first–degree or 2nd–degree intentional homicide, first–degree or 2nd–degree reckless homicide, homicide by negligent handling of dangerous weapon, explosives, or fire, homicide by negligent operation of vehicle, homicide resulting from negligent control of a vicious animal ~~or~~, homicide by intoxicated ~~user~~ use of a vehicle or firearm ~~may have been committed~~, or ~~that death may have been due to~~ suicide or the person died under unexplained or suspicious circumstances, the district attorney may order that an inquest be conducted for the purpose of inquiring how the person died. ~~The district attorney shall appear in any such inquest representing the state in presenting all evidence which may be relevant or material to the inquiry of the~~

~~inquest. The inquest may be held in any county in this state in which venue would lie for the trial of any offense charged as the result of or involving the death.~~

(4) An inquest may ~~only~~ be ordered only by the district attorney acting under ~~this subsection~~ sub. (1) or by the ~~circuit~~ judge under sub. (2).

(2) If the coroner or medical examiner ~~has knowledge of the death of any~~ knows that a person has died in the manner or under the circumstances described ~~under~~ in sub. (1), he or she ~~shall immediately notify the district attorney. The notification shall include information concerning the circumstances surrounding the death. The coroner or medical examiner~~ may request the district attorney to order an inquest under sub. (1). If the district attorney refuses to order the inquest, ~~a~~ the coroner or medical examiner may petition the ~~circuit~~ court to order an inquest. The court may issue the order if it finds that the district attorney has abused his or her discretion in not ordering an inquest.

(3) ~~Subsequent to receipt of~~ After receiving notice of the death, the district attorney may request the coroner or medical examiner to conduct a preliminary investigation and report back to the district attorney. The district attorney may determine the scope of the preliminary investigation. This subsection does not limit or prevent any other investigation into the death by any law enforcement agency with jurisdiction over the investigation.

SECTION 1198. 979.05 (title) of the statutes is repealed.

SECTION 1199. 979.05 (1) of the statutes is renumbered 968.025 (1) and amended to read:

968.025 **(1)** BY WHOM CONDUCTED. ~~An inquest shall be conducted by a circuit~~ A judge ~~or a circuit court commissioner~~ shall conduct each inquest.

SECTION 1200. 979.05 (2) of the statutes is renumbered 968.025 (2) and amended to read:

968.025 **(2)** BEFORE WHOM CONDUCTED. The inquest shall be conducted before a jury unless the district attorney, coroner, or medical examiner requests that the inquest be conducted before the judge ~~or circuit court commissioner~~ only.

(4) (a) If the inquest is to be conducted before a jury, the clerk shall select, in the manner provided in s. 756.06 (1), a sufficient number of names of prospective jurors ~~shall be selected~~ from the prospective juror list for the county in which the inquest is to be held ~~by the clerk of circuit court in the manner provided in s. 756.06. The judge or circuit court commissioner conducting the inquest shall summon the prospective jurors to appear before the judge or circuit court commissioner at the time fixed in the summons. The summons may be served by mail, or by personal service if the judge, circuit court commissioner, or district attorney determines personal service to be appropriate. The summons shall be in the form used to summon petit jurors in the circuit courts of the county~~ to ensure that the jury consists of 6 members.

(b) Any person who fails to appear when summoned as an inquest juror ~~is subject to a forfeiture of~~ shall forfeit not more than $40. ~~The inquest jury shall consist of 6 jurors. If 6 jurors do not remain~~

(d) If, after all prospective jurors have been examined, fewer than 12 remain from the number originally summoned ~~after establishment of qualifications~~, the judge ~~or circuit court commissioner~~ conducting the inquest ~~may require~~ shall direct the clerk ~~of the circuit court to select~~ to draw sufficient additional jurors' names. ~~Those persons shall be summoned forthwith by the~~ The sheriff of the county shall summon those persons immediately.

SECTION 1201. 979.05 (3) of the statutes is renumbered 968.025 (4) (c) and amended to read:

968.025 **(4)** (c) The judge ~~or circuit court commissioner~~ shall examine on oath or affirmation each person who is called as a juror to discover whether the juror is related by blood~~,~~ or marriage ~~or adoption~~ to the decedent, any member of the decedent's family, the district attorney, any other attorney appearing in the case, or any members of the office of the district attorney or of the office of any other attorney appearing in the case, has expressed or formed any opinion regarding the matters being inquired into in the inquest, or is aware of or has any bias or prejudice concerning the matters being inquired into in the inquest. ~~If any prospective juror is found~~ The court shall excuse any prospective juror whom it finds to be not indifferent or ~~is found~~ to have formed an opinion ~~which~~ that cannot be laid aside~~, that juror shall be excused. The judge or circuit commissioner may select one or more alternate jurors if the inquest is likely to be protracted~~. This ~~subsection~~ paragraph does not limit the right of the district attorney to supplement the judge's ~~or circuit commissioner's~~ examination of any prospective jurors as to qualifications.

SECTION 1202. 979.05 (4) of the statutes is renumbered 968.025 (5) and amended to read:

968.025 **(5)** OATH. ~~When 6~~ After the jurors have been selected, the judge ~~or circuit court commissioner~~ shall administer to them an oath or affirmation which shall be substantially in the following form:

You do solemnly swear (affirm) that you will diligently inquire and determine on behalf of this state when, and in what manner and by what means, the person known as .... ~~who is now dead~~ came to his or her death and that you will return a true verdict thereon according to your knowledge, according to the evidence

presented, and according to the instructions given to you by the .... (judge) ~~(circuit court commissioner)~~.

SECTION 1203. 979.05 (5), (6) and (7) of the statutes are renumbered 968.025 (6), (7) and (8) and amended to read:

968.025 **(6)** ROLE OF DISTRICT ATTORNEY. ~~Prior to the submission of evidence to the jury, the judge or circuit court commissioner may instruct the jury on its duties and on the substantive law regarding the issues which may be inquired into before the jury~~ The district attorney shall appear in each inquest, represent the state, and present all evidence that may be relevant or material to the inquiry of the inquest. The district attorney may, at any time during the course of the inquest, make statements to the jury relating to procedural or evidentiary matters he or she and the judge ~~or circuit court commissioner~~ deem appropriate. ~~Section 972.12 applies to the conduct of the inquest jury.~~

(7) SECRECY AND SEQUESTRATION. The judge ~~or circuit court commissioner~~ conducting the inquest may order that proceedings be secret if the district attorney so requests or concurs and may sequester the inquest jury under s. 972.05.

(8) JUROR COMPENSATION. Inquest jurors shall receive the same compensation as jurors under s. 756.25.

SECTION 1204. 979.06 (title), (1), (2) and (5) of the statutes are repealed.

SECTION 1205. 979.06 (3), (4) and (6) of the statutes are renumbered 968.035 (1), (2) and (3), and 968.035 (1) and (2), as renumbered, are amended to read:

968.035 **(1)** Any witness examined at an inquest may have counsel present during the examination of that witness. The counsel may consult with a client during the examination of that client. The counsel may not examine or cross–examine his

or her client, cross–examine or call other witnesses, or argue before the judge ~~or circuit court commissioner~~ holding the inquest.

(2) The judge ~~or circuit court commissioner~~ shall administer an oath or affirmation to each witness ~~which shall be substantially in the following form:~~

~~You do solemnly swear (affirm) that the evidence and testimony you give to this inquest concerning the death of the person known as .... shall be the truth, the whole truth and nothing but the truth~~ and shall cause the testimony given by all witnesses to be reduced to writing or recorded.

SECTION 1206. 979.07 of the statutes is repealed.

SECTION 1207. 979.08 (title) of the statutes is renumbered 968.055 (title).

SECTION 1208. 979.08 (1) of the statutes is renumbered 968.055 (1) and amended to read:

968.055 **(1)** ~~When the~~ Before submitting evidence ~~is concluded and the testimony closed~~ to the jury in an inquest, the judge ~~or circuit court commissioner shall~~ may instruct the jury on its duties and on the substantive law regarding the issues that may be inquired into before the jury. ~~The~~

(2) After all of the evidence is presented, the district attorney ~~shall prepare a written set of appropriate requested instructions and~~ shall submit ~~them~~ to the judge ~~or circuit court commissioner who, together with the district attorney,~~ a written set of proposed instructions on the jury's duties and on the substantive law regarding the issues inquired into before the jury. The judge shall compile the final set of instructions which shall ~~be given. The instructions shall~~ include ~~those~~ instructions for criminal offenses for which the judge ~~or circuit court commissioner~~ believes a reasonable jury might return a verdict based upon a finding of probable cause. The

judge shall use the final instructions to instruct the jury and shall provide the jury with one complete set of them.

SECTION 1209. 979.08 (2) of the statutes is repealed.

SECTION 1210. 979.08 (3) (intro.) and (4) of the statutes are consolidated, renumbered 968.055 (3) (intro.) and amended to read:

968.055 **(3)** (intro.) The jury shall retire to consider its verdict after hearing all of the testimony and evidence, making all necessary inquiries, and having been instructed in the law. ~~The judge or circuit court commissioner shall provide the jury with one complete set of written instructions providing the substantive law to be applied to the issues to be decided. The verdict shall be in a form which permits the following findings: **(4)**~~ The ~~jury shall render its~~ verdict shall be based upon a finding of probable cause, be unanimous, and be rendered in writing, signed by all ~~of its~~ members of the jury. The verdict shall set forth ~~its~~ the jury's findings from the evidence produced according to the instructions. The verdict shall be in a form that permits the following findings:

SECTION 1211. 979.08 (3) (a) of the statutes is renumbered 968.055 (3) (b) and amended to read:

968.055 **(3)** (b) Whether the deceased ~~came to his or her death by criminal means~~ died as a result of a crime and, if so, the specific crimes committed and the name of the person or persons, if known, ~~having~~ who committed the crimes.

SECTION 1212. 979.08 (3) (b) of the statutes is renumbered 968.055 (3) (a) and amended to read:

968.055 **(3)** (a) Whether the deceased came to his or her death by natural causes, accident, suicide, or an act privileged by law.

SECTION 1213. 979.08 (5) of the statutes is renumbered 968.055 (4) and amended to read:

968.055 **(4)** The inquest jury's verdict ~~delivered by the inquest jury~~ is advisory and does not preclude or require the issuance of any criminal charges by the district attorney.

SECTION 1214. 979.08 (6) of the statutes is renumbered 968.055 (5) and amended to read:

968.055 **(5)** Any verdict ~~so~~ rendered under sub. (4), after being validated and signed by the judge ~~or circuit court commissioner~~, together with the record of the inquest, shall be delivered to the district attorney for consideration. After considering the verdict and record, the district attorney may deliver the entire inquest record or any part ~~thereof~~ of the record to the coroner or medical examiner for safekeeping.

SECTION 1215. 979.08 (7) of the statutes is renumbered 968.055 (6) and amended to read:

968.055 **(6)** ~~The~~ Except as provided in s. 971.43, the record of a secret inquest proceeding ~~shall~~ is not ~~be~~ open for inspection unless so ordered by the judge ~~or circuit court commissioner~~ conducting the inquest ~~upon petition by the district attorney~~.

SECTION 1216. 979.09 of the statutes is amended to read:

979.09 Burial of body. If any judge ~~or circuit court commissioner~~ conducts an inquest as to the death of a stranger or of a person whose identity is unknown or whose body is unclaimed or if the district attorney determines that no inquest into the death of such a person is necessary and the ~~circuit~~ judge has not ordered an inquest under s. ~~979.04~~ 968.015 (2), the coroner or medical examiner shall cause the body to be decently buried or cremated and shall certify to all the charges incurred

in taking any inquest by him or her and to the expenses of burial or cremation of the dead body. The charges and expenses shall be audited by the county board of the proper county and paid out of the county treasury.

SECTION 1217. 979.10 (2) of the statutes is amended to read:

979.10 **(2)** If a corpse is to be cremated, the coroner or medical examiner shall make a careful personal inquiry into the cause and manner of death, and conduct an autopsy or order the conducting of an autopsy, if in his or her or the district attorney's opinion it is necessary to determine the cause and manner of death. If the coroner or medical examiner determines that no further examination or judicial inquiry is necessary he or she shall certify that fact. Upon written request by the district attorney the coroner or medical examiner shall obtain the concurrence of the district attorney before issuing the certification. If the coroner or medical examiner determines that further examination or judicial inquiry is necessary, he or she shall notify the district attorney under s. ~~979.04~~ 968.015 (2).

SECTION 1218. 979.11 of the statutes is amended to read:

979.11 Compensation of officers. The sole compensation of the coroner and deputy coroners for attendance at an inquest and for any preliminary investigation under ~~this chapter~~ ch. 968 at the direction of the district attorney shall be a reasonable sum set by the county board for each day actually and necessarily required for the purpose, and a sum set by the county board for each mile actually and necessarily traveled in performing the duty. Any coroner or deputy coroner may be paid an annual salary and allowance for traveling expenses to be established by the county board under s. 59.22 which shall be in lieu of all fees, per diem, and compensation for services rendered.

SECTION 1219. 979.22 of the statutes is amended to read:

979.22 Autopsies and toxicological services by medical examiners. A medical examiner may perform autopsies and toxicological services not required under this chapter or under subch. I of ch. 968 and may charge a fee established by the county board for such autopsies and services. The fee may not exceed an amount reasonably related to the actual and necessary cost of providing the service.

SECTION 1220. 980.015 (2) (c) of the statutes is amended to read:

980.015 **(2)** (c) The anticipated release of a person on conditional release under s. ~~971.17~~ 975.57 (4) or 975.59, the anticipated termination of a commitment order under ~~971.17~~ s. 975.60, or the anticipated discharge of a person from a commitment order under s. ~~971.17~~ 975.61, if the person has been found not guilty of a sexually violent offense by reason of mental disease or defect.

SECTION 1221. 980.015 (2) (d) of the statutes is amended to read:

980.015 **(2)** (d) The anticipated release on parole or discharge of a person committed under ch. 975, 2013 stats., for a sexually violent offense.

SECTION 1222. 980.031 (4) of the statutes is amended to read:

980.031 **(4)** If a party retains or the court appoints a licensed physician, licensed psychologist, or other mental health professional to conduct an examination under this chapter of the person's mental condition, the examiner shall have reasonable access to the person for the purpose of the examination, as well as to the person's past and present treatment records, as defined in s. 51.30 (1) (b), and patient health care records as provided under s. 146.82 (2) (cm), past and present juvenile records, as provided under ss. 48.396 (6), 48.78 (2) (e), 938.396 (10), and 938.78 (2) (e), and the person's past and present correctional records, including presentence investigation reports under s. ~~972.15~~ 973.004 (6).

SECTION 1223. 980.036 (2) (c) of the statutes is amended to read:

980.036 **(2)** (c) Evidence obtained in the manner described under s. ~~968.31~~ 968.345 (2) (b), if the prosecuting attorney intends to use the evidence at the trial or proceeding.

SECTION 1224. 980.036 (6) of the statutes is amended to read:

980.036 **(6)** PROTECTIVE ORDER. Upon motion of a party, the court may at any time order that discovery, inspection, or the listing of witnesses required under this section be denied, restricted, or deferred, or make other appropriate orders. If the prosecuting attorney or the attorney for a person subject to this chapter certifies that listing a witness under sub. (2) (e) or (3) (a) may subject the witness or others to physical or economic harm or coercion, the court may order that the deposition of the witness be taken under s. ~~967.04 (2) to (6)~~ 967.21. The name of the witness need not be divulged prior to the taking of such deposition. If the witness becomes unavailable or changes his or her testimony, the deposition shall be admissible at trial as substantive evidence.

SECTION 1225. 995.50 (7) of the statutes is amended to read:

995.50 **(7)** No action for invasion of privacy may be maintained under this section if the claim is based on an act which is permissible under ~~ss.~~ s. 196.63 or ~~968.27 to 968.373~~ under subch. IV of ch. 968.

SECTION 1226. Initial applicability.

(1) This act first applies to prosecutions commenced on the effective date of this subsection.

(2) This act first applies to proceedings, commitments, and requirements related to offenses committed on the effective date of this subsection.

SECTION 1227. Effective date.

1 (1) This act takes effect on the first day of the 9th month beginning after
2 publication.

3 **(END)**