CHAPTER 165

DEPARTMENT OF JUSTICE

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165.015 Duties. The attorney general shall:

(1) GIVE OPINION TO OFFICERS. Give his or her opinion in writing, when required, without fee, upon all questions of law submitted to him or her by the legislature, either house thereof or the senate or assembly committee on organization, or by the head of any department of state government.

(2) PROTECT TRUST FUNDS. Examine all applications for loans from any of the trust funds, and furnish to the commissioners of public lands his or her opinion in writing as to the regularity of each such application, and also of the validity of any bonds or other securities purchased for the benefit of such funds.

(3) CERTIFY BONDS. Examine a certified copy of all proceedings preliminary to any issue of state bonds or notes, and, if found regular and valid, endorse on each bond or note his or her certificate of such examination and validity. The attorney general shall also make similar examinations and certificates respecting municipal bonds in the cases specified in s. 67.025.

(4) KEEP STATEMENT OF FEES. Keep a detailed statement of all fees, including his or her fees as commissioner of public lands, received by him or her during the preceding year, and file such statement with the department of administration on or before June 30 in each year.

(5) REPORT TO LEGISLATURE. Upon request of the legislature or either house thereof, submit a report upon any matters pertaining to the duties of his or her office to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

(6) PERFORM OTHER DUTIES. Perform all other duties imposed upon the attorney general by law.

History: 1971 c. 40 s. 93; 1971 c. 125; 1983 a. 36 s. 96 (2); 1987 a. 186; 1993 a. 482.

The attorney general, absent a specific legislative grant of power, is devoid of the inherent power to initiate and prosecute litigation intended to protect or promote the interests of the state or its citizens and cannot act for the state as *parens patriae*. Estate of Sharp, 63 Wis. 2d 254, 217 N.W.2d 258 (1974).

The attorney general does not have authority to challenge the constitutionality of statutes. Any authority the attorney general has is found in the statutes. The attorney general's constitutional powers and statutory powers are one and the same. State v. City of Oak Creek, 2000 WI 9, 232 Wis. 2d 612, 605 N.W.2d 526, 97−2188.

The powers of the attorney general in Wisconsin. Van Alstyne, Roberts, 1974 WLR 721.

165.017 Review of certain detentions or petitions for commitment. (2) The attorney general or his or her designee shall review and approve or disapprove all proposed petitions for commitment of individuals as specified under s. 51.20 (1) (ad) 1.

(4) Subsection (2) does not apply if the attorney general makes a finding that a court of competent jurisdiction in this state, in a case in which the constitutionality of s. 51.20 (1) (a) 2. e. has been challenged, has upheld the constitutionality of s. 51.20 (1) (a) 2. e.

History: 1995 a. 292; 2001 a. 16.

165.02 Federal appropriations adjustments. (1) In this section, "the schedule" means the schedule under s. 20.005 (3) as published in the biennial budget act for the first fiscal year of a fiscal biennium and as approved by the joint committee on finance under s. 20.004 (2) for the 2nd fiscal year of a fiscal biennium.

(2) (a) Subject to par. (b), annually by December 1 or within 30 days after the applicable federal appropriation bill for that federal fiscal year has been enacted, whichever is later, the attorney general shall submit to the joint committee on finance a plan identifying how the attorney general proposes to adjust the federal appropriations for the department of justice for that state fiscal year to reflect the most recent estimate of the amount of federal funds that the department of justice will be appropriated in that state fiscal year.

(b) The attorney general is required to submit a plan under par. (a) only if the most recent estimate of the amount of federal funds that the department of justice will be appropriated under s. 20.455 in the current state fiscal year is less than 95 percent or more than

105 percent of the amount of federal revenue shown in the schedule for the appropriations under s. 20.455 in that fiscal year.

(3) After receiving a plan under sub. (2) (a), the cochairpersons of the joint committee on finance jointly shall determine whether the plan is complete. If the joint committee on finance meets and either approves or modifies and approves a plan submitted under sub. (2) (a) within 14 days after the cochairpersons determine that the plan is complete, the attorney general shall implement the plan as approved by the committee. If the joint committee on finance does not meet and either approve or modify and approve a plan submitted under sub. (2) (a) within 14 days after the cochairpersons determine that the plan is complete, the attorney general shall implement the proposed plan.

History: 1997 a. 86.

165.055 Appointments. (1) The attorney general may appoint a deputy attorney general and assistants each of whom shall be an attorney at law admitted to practice in this state. Such appointments shall be made in writing and filed in the office of the secretary of state, and such appointees shall take and subscribe the constitutional oath of office which shall also be filed. Appointees shall perform such duties as the attorney general prescribes.

(2) The deputy attorney general shall give a bond to the state in the sum of $5,000, with good and sufficient sureties, to be approved by the governor, conditioned for the faithful performance of the deputy attorney general's duties and the attorney general shall be responsible for all acts of the deputy attorney general.

(3) The attorney general may appoint, in the unclassified service, a solicitor general and no more than 3 deputy solicitors general, each of whom shall be an attorney at law licensed to practice in this state. The attorney general may assign assistant attorneys general to assist the solicitor general.

(4) The attorney general shall appoint, in the unclassified service, the administrator of the legal services division subject to s. 230.08 (4) (a).

History: 1973 c. 90; 1975 c. 39; 1977 c. 29, 44, 418; 1987 a. 27; 1993 a. 482; 2001 a. 16; 2015 a. 55.

165.065 Assistant attorney generals; antitrust. (1) At least one assistant attorney general shall be assigned to the investigation and prosecution of violations arising under ch. 133 and shall carry out the duties imposed on the attorney general by ch. 133. All apparent violations of ch. 133 which come to the attention of any officer or agency of state government shall be reported to one of such assistant attorneys general. All officers and agencies shall cooperate with and assist the department of justice in the investigation and prosecution of such apparent violations.

(2) The assistant attorney general in charge of antitrust investigations and prosecutions is to cooperate actively with the antitrust division of the U.S. department of justice in everything that concerns monopolistic practices in Wisconsin, and also to cooperate actively with the department of agriculture, trade and consumer protection in the work which this agency is carrying on under s. 100.20 of the marketing law with regard to monopolistic practices in the field of agriculture and with the federal trade commission on matters arising in or affecting Wisconsin which pertain to its jurisdiction.

History: 1977 c. 29 s. 1650m (4); 1977 c. 260.

165.066 Assistant attorney general; unemployment insurance law enforcement. The attorney general shall assign at least 0.5 assistant attorney general position to assist in the investigation and prosecution of noncompliance with ch. 108.

History: 2005 a. 86.

165.08 Power to compromise. Any civil action prosecuted by the department by direction of any officer, department, board or commission, shall be compromised or discontinued when so directed by such officer, department, board or commission. Any civil action prosecuted by the department on the initiative of the attorney general, or at the request of any individual may be compromised or discontinued with the approval of the governor. In any criminal action prosecuted by the attorney general, the department shall have the same powers with reference to such action as are vested in district attorneys.

History: 2007 a. 20; 2015 a. 55.

165.09 Removal of barriers to trade or movement of dairy products. The attorney general may take such action as he or she deems necessary in order to contest or oppose existing statutes, ordinances, regulations, orders or other trade barriers which may restrict the sale in other states of milk or other dairy products produced in Wisconsin; study and investigate problems concerning the free movement of milk and other dairy products in interstate commerce and present the results thereof to such legislative and executive agencies of the federal government and the several states, such studies, investigations and presentations to executive and legislative agencies to be made either individually or jointly with others.

History: 1993 a. 482.

165.25 Duties of department of justice. The department of justice shall:

(1) REPRESENT STATE IN APPEALS AND ON REMAND. Except as provided in ss. 5.05 (2m) (a), 19.49 (2) (a), and 978.05 (5), appear for the state and prosecute or defend all actions and proceedings, civil or criminal, in the court of appeals and the supreme court, in which the state is interested or a party, and attend to and prosecute or defend all civil cases sent or remanded to any circuit court in which the state is a party. Nothing in this subsection deprives or relieves the attorney general or the department of justice of any authority or duty under this chapter.

(1m) REPRESENT STATE IN OTHER MATTERS. If requested by the governor or either house of the legislature, appear for and represent the state, any state department, agency, official, employee or agent, whether required to appear as a party or witness in any civil or criminal matter, and prosecute or defend in any court or before any officer, any cause or matter, civil or criminal, in which the state or the people of this state may be interested. The public service commission may request under s. 196.497 (7) that the attorney general intervene in federal proceedings. All expenses of the proceedings shall be paid from the appropriation under s. 20.455 (1) (d).

(2) PROSECUTE BREACHES OF BONDS AND CONTRACTS. Prosecute, at the request of the governor, or of the head of any department of the state government any official bond or any contract in which the state is interested, deposited with any of them, upon a breach thereof, and prosecute or defend for the state all actions, civil or criminal, relating to any matter connected with any of their departments except in those cases where other provision is made.

(3) ADVISE DISTRICT ATTORNEYS. Consult and advise with the district attorneys when requested by them in all matters pertaining to the duties of their office.

(3m) REVIEW OBSCENITY CASES. Review obscenity cases submitted to the department by district attorneys under s. 944.21 (7). The attorney general shall determine whether a prosecution may be commenced.

(3r) AVOID CONFLICT OF INTEREST. Require that attorneys in different organizational subunits in the department prosecute violations of chs. 562 to 569 or Indian gaming compacts entered into under s. 14.035 and defend any department, agency, official, employee or agent under subs. (1), (1m), (4) (a) and (6).

(4) FURNISH LEGAL SERVICES; APPROPRIATION. (a) The department of justice shall furnish all legal services required by the investment board, the lottery division in the department of revenue, the public service commission, the department of transportation, the department of natural resources, the department of tourism and the department of employee trust funds, together with any other services, including stenographic and investigational, as are necessarily connected with the legal work.

(ag) The department of justice shall furnish legal services upon request of the department of safety and professional services under s. 167.35 (7).

(am) The department of justice shall furnish legal services to the department of safety and professional services in all proceedings under s. 440.21 (3), together with any other services, including stenographic and investigational, as are necessarily connected with the legal services.

(ar) The department of justice shall furnish all legal services required by the department of agriculture, trade and consumer protection relating to the enforcement of ss. 91.68, 93.73, 100.171, 100.173, 100.174, 100.175, 100.177, 100.18, 100.182, 100.195, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42, 100.50, 100.51, 100.55, and 846.45 and chs. 126, 136, 344, 704, 707, and 779, together with any other services as are necessarily connected to the legal services.

(as) The department of justice shall furnish legal services to the livestock facility siting review board in defending appeals under s. 93.90 (5) (e) of decisions of the board.

(b) The department of justice shall furnish bond counsel services to the building commission when the building commission contracts public debt under subch. I of ch. 18.

(bn) The department of justice shall provide legal services, other than those relating to civil actions or opinions, under ch. 150 to the department of health services.

(c) The department shall at the end of each fiscal year, except for programs financed out of the general fund and except for services required to be provided by statute other than this subsection, render to the respective agencies enumerated in this subsection an itemized statement of the total cost of the legal and other services including travel expenses and legal expenses enumerated in s. 20.455 (1) (d).

(d) Upon receipt of the statement, the respective agency head shall audit the statement and upon finding it to be correct shall certify the amount of the statement to the department of administration to be paid into the general fund out of the agency's proper appropriation.

(5) PREPARE FORMS. Whenever requested by the head of any department of the state government, the department of justice shall prepare proper drafts of forms for contracts and other writings which may be wanted for the use of the state.

(6) ATTORNEY FOR STATE. (a) At the request of the head of any department of state government, the attorney general may appear for and defend any state department, or any state officer, employee, or agent of the department in any civil action or other matter brought before a court or an administrative agency which is brought against the state department, or officer, employee, or agent for or on account of any act growing out of or committed in the lawful course of an officer's, employee's, or agent's duties. Witness fees or other expenses determined by the attorney general to be reasonable and necessary to the defense in the action or proceeding shall be paid as provided for in s. 885.07. The attorney general may compromise and settle the action as the attorney general determines to be in the best interest of the state. Members, officers, and employees of the Wisconsin state agencies building corporation and the Wisconsin state public building corporation are covered by this section. Members of the board of governors created under s. 619.04 (3), members of a committee or subcommittee of that board of governors, members of the injured patients and families compensation fund peer review council created under s. 655.275 (2), and persons consulting with that council under s. 655.275 (5) (b) are covered by this section with respect to actions, claims, or other matters arising before, on, or after April 25, 1990. The attorney general may compromise and settle claims asserted before such actions or matters formally are brought or may delegate such authority to the department of administration. This paragraph may not be construed as a consent to sue the state or any department thereof or as a waiver of state sovereign immunity.

(b) Volunteer health care providers who provide services under s. 146.89, except those described in s. 146.89 (5) (a), practitioners who provide services under s. 257.03, and health care facilities on whose behalf services are provided under s. 257.03 are, for the provision of those services, covered by this section and shall be considered agents of the department of health services for purposes of determining which agency head may request the attorney general to appear and defend them.

(c) Physicians under s. 251.07 or 252.04 (9) (b) are covered by this section and shall be considered agents of the department of health services for purposes of determining which agency head may request the attorney general to appear and defend them.

(e) The department of justice may appear for and defend the state or any state department, agency, official or employee in any civil action arising out of or relating to the assessment or collection of costs concerning environmental cleanup or natural resources damages including actions brought under 42 USC 9607. The action may be compromised and settled in the same manner as provided in par. (a). At the request of the department of natural resources, the department of justice may provide legal representation to the state or to the department of natural resources in the same matter in which the department of justice provides defense counsel, if the attorneys representing those interests are assigned from different organizational units within the department of justice. This paragraph may not be construed as a consent to sue the state or any department, agency, official or employee of the state or as a waiver of sovereign immunity.

(6m) ATTORNEY FOR STATE WITNESSES. At the request of the head of any department or agency of state government, the attorney general may appear for and represent any state official, employee or agent who is required to appear as a witness in any administrative or civil matter.

(7) KEEP RECORD OF ACTIONS. The department shall keep a record of all actions and demands prosecuted or defended by the department on behalf of the state and all related proceedings. The department may dispose of public records in accordance with s. 16.61.

(8) HISTORICAL SOCIETY CONTRACTS. In subs. (1), (1m), (6) and (6m), treat any nonprofit corporation operating a museum under a lease agreement with the state historical society as a department of state government and any official, employee or agent of such a corporation as a state official, employee or agent.

(8m) LOCAL EMERGENCY PLANNING COMMITTEES. In subs. (1), (1m), (6) and (6m), treat any local emergency planning committee appointed by a county board under s. 59.54 (8) (a) as a department of state government and any member of such a committee as a state official, employee or agent.

(9) PERFORM OTHER DUTIES. The department of justice shall perform all other duties imposed upon the department by law.

(10) REPORT ON RESTITUTION. Semiannually submit a report to the department of administration and the joint committee on finance regarding money received by the department of justice under a court order or a settlement agreement for providing restitution to victims. The report shall specify the amount of restitution received by the department of justice during the reporting period; the persons to whom the department of justice paid restitution and the amount that the department of justice paid to each recipient during the reporting period; and the department of justice's methodology for selecting recipients and determining the amount paid to each recipient.

(10m) REPORT ON GRANTS. Beginning on January 15, 2015, and annually thereafter, the department of justice shall submit a report to the legislature under s. 13.172 (2), regarding its administration of grant programs under ss. 165.95, 165.955, 165.96, 165.986, and 165.987. The report shall include, for each grant program, all of the following information:

(a) The amount of each grant awarded by the department of justice for the previous fiscal year.

(b) The grant recipient to whom each grant was awarded.

(c) The methodology used by the department of justice to choose grant recipients and to determine the level of grant funding for each grant recipient.

(d) Performance measures created by the department of justice for each grant program.

(e) Reported results from each grant recipient in each fiscal year as to the attainment of performance measures the department of justice developed for the grant recipient.

(12) REPRESENTATION ARISING FROM AGREEMENTS WITH MINNESOTA. Represent any employee of the state of Minnesota who is named as a defendant in any civil action brought under the laws of this state as a result of performing services for this state under a valid agreement between this state and the state of Minnesota providing for interchange of employees or services and any employee of this state who is named as a defendant as a result of performing services for the state of Minnesota under such an agreement in any action brought under the laws of this state. Witness fees in any action specified in this subsection shall be paid in the same manner as provided in s. 885.07. The attorney general may compromise and settle any action specified in this subsection to the same extent as provided in s. 165.25 (6) (a).

(13) JUVENILE JUSTICE IMPROVEMENT PLAN. Serve as the state planning agency under the juvenile justice and delinquency prevention act of 1974, P.L. 93−415. The department shall prepare a state comprehensive juvenile justice improvement plan. The plan shall be submitted to the governor, the joint committee on finance in accordance with s. 16.54, and to the appropriate standing committees of each house of the legislature as determined by the presiding officer of each house. The plan shall be updated periodically and shall be based on an analysis of the state's juvenile justice needs and problems.

(14) COOPERATION AND ASSISTANCE. Cooperate with and render technical assistance to state agencies and units of local government and public or private agencies relating to the criminal and juvenile justice system.

(15) CONTRACTS AND EXPENDITURES. Apply for contracts or receive and expend for its purposes any appropriation or grant from the state, a political subdivision of the state, the federal government or any other source, public or private, in accordance with the statutes.

(16) RULES REGARDING CONCEALED WEAPONS LICENSES. Promulgate by rule a list of states that issue a permit, license, approval, or other authorization to carry a concealed weapon if the permit, license, approval, or other authorization requires, or designates that the holder chose to submit to, a background search that is comparable to a background check as defined in s. 175.60 (1) (ac).

(17) INTEROPERABILITY. Provide staff support for the interoperability council under s. 16.9645 and oversight of the development and operation of a statewide public safety interoperable communication system. The department may do any of the following:

(am) Charge a public safety agency, as defined in s. 256.35 (1) (g), that is a state agency a fee for use of the statewide public safety interoperable communication system under this subsection.

(bm) Charge a person that is not a state agency a fee for use of the statewide public safety interoperable communication system under this subsection.

History: 1971 c. 125 s. 522 (1); 1971 c. 215; 1973 c. 333; 1975 c. 81, 199; 1977 c. 29 s. 1656 (27); 1977 c. 187, 260, 273, 344; 1981 c. 20, 62, 96; 1983 a. 27; 1983 a. 36 s. 96 (2), (3), (4); 1983 a. 192; 1985 a. 29, 66; 1987 a. 416; 1989 a. 31, 115, 187, 206, 359; 1991 a. 25, 39, 269; 1993 a. 27, 28, 365; 1995 a. 27 ss. 4453 to 4454m, 9126 (19); 1995 a. 201; 1997 a. 27, 111; 2001 a. 16; 2003 a. 111, 235; 2005 a. 96, 458; 2007 a. 1; 2007 a. 20 ss. 2904, 9121 (6) (a); 2007 a. 76, 79, 96, 130, 225; 2009 a. 2, 28, 42; 2011 a. 32, 35; 2013 a. 20 ss. 164, 166, 167, 180, 1904m; 2013 a. 166 s. 76; 2013 a. 173, 223, 241; 2015 a. 55, 118.

It would be nonsensical to interpret sub. (1m) as prohibiting the state from entering into a contract with special counsel under which litigation expenses that would normally be paid for with taxpayer dollars are instead paid for by special counsel who agrees to recover the expense only from defendants through an award of costs. State v. Abbott Laboratories, 2013 WI App 31, 346 Wis. 2d 565, 829 N.W.2d 753, 10−0232.

For the attorney general to prosecute violations of the election, lobby, and ethics laws, there must be a specific statute authorizing the attorney general to independently initiate the prosecution of civil and criminal actions involving violations of those laws unless there is a referral to the attorney general by the government accountability board under s. 5.05 (2m) (c) 16. or unless the attorney general or an assistant attorney general has been appointed as special prosecutor in lieu of the district attorney. OAG 10−08.

The powers of the attorney general in Wisconsin. Van Alstyne, Roberts, 1974 WLR 721.

165.255 Representation in sexually violent person commitment proceedings. The department of justice may, at the request of an agency under s. 980.02 (1), represent the state in sexually violent person commitment proceedings under ch. 980.

History: 1993 a. 479.

165.26 Department of justice may have cases printed. In all state cases to be argued in the supreme court by the department of justice, the department may require the printing by the state printer, when necessary, of the briefs and appendices of the department; and the account therefor shall be paid out of the state treasury and charged to the appropriation in s. 20.455 (1) (d).

History: 1971 c. 125 s. 522 (1); 1977 c. 29 s. 1656 (27); 1977 c. 187 s. 85; Stats. 1977 s. 165.26.

165.30 Collection of delinquent obligations. (1) DEFINITIONS. In this section:

(a) "Departments" has the meaning given in s. 16.002 (2).

(b) "Obligation" includes any amount payable to the state, including accounts, charges, claims, debts, fees, fines, forfeitures, interest, judgments, loans, penalties and taxes.

(2) BANKRUPTCY CASES. The department of justice shall monitor bankruptcy cases filed in bankruptcy courts in this state and other states, notify departments that may be affected by those bankruptcy cases, and represent the interests of the state in bankruptcy cases and related adversary proceedings.

(3) COLLECTION PROCEEDS. (a) All obligations collected by the department of justice under this section shall be paid to the secretary of administration and deposited in the appropriate fund.

(b) From the amount of obligations collected by the department of justice under this section, the secretary of administration shall credit an amount equal to the reasonable and necessary expenses incurred by the department of justice related to collecting those obligations to the appropriation account under s. 20.455 (1) (gs).

History: 1995 a. 27; 2003 a. 33.

165.40 Acquisition of hospitals. (1) DEFINITIONS. In this section:

(a) "Acquisition" means the long−term leasing of a hospital or a system of hospitals, or the acquiring by a person of an ownership or controlling interest in a hospital or a system of hospitals that results in one of the following:

1. A change of at least 20 percent ownership or control.

2. Possession by the person of at least 50 percent ownership or control.

(am) "Department" means the department of health services.

(b) "Hospital" has the meaning given in s. 50.33 (2).

(c) "Local agency" means an agency of a county, city, village or town.

(d) "Nonprofit corporation" has the meaning given in s. 181.0103 (17).

(dm) "Office" means the office of the commissioner of insurance.

(e) "Person" means an individual, sole proprietorship, partnership, association, limited liability company, corporation or joint stock company, lessee, trustee or receiver.

(f) "State agency" has the meaning given in s. 16.004 (12) (a), except that it includes the University of Wisconsin Hospitals and Clinics Authority.

(g) "Working day" has the meaning given in s. 227.01 (14).

(2) PROHIBITION; APPROVAL REQUIRED. (a) Except as provided in sub. (5), no person may engage in the acquisition of a hospital or a system of hospitals owned by any of the following unless the person has first received review and approval of an application concerning the acquisition under this section from the attorney general, the office and the department:

1. A nonprofit corporation.

2. A city.

3. A county.

4. The state.

5. The University of Wisconsin Hospitals and Clinics Authority.

(b) If the proposed acquisition under this subsection is for a system of hospitals, the person who proposes to engage in the acquisition shall provide notice of the impending acquisition to the attorney general, to the office and to the department at least 30 days before the offer to purchase or lease is made. The attorney general shall, within 5 days after receipt of the notice, determine and notify the person as to whether a single application for the system or an application for each hospital within the system shall be submitted for review. If the attorney general determines that an application for each hospital within the system shall be submitted, no submitted application is complete until all complete applications for the hospitals within the system are submitted to the attorney general, to the office and to the department.

(3) APPLICATION REVIEW BY THE ATTORNEY GENERAL, THE OFFICE AND THE DEPARTMENT; PROCEDURES. (a) An application for review by the attorney general, the office and the department that is required under sub. (2) shall, at the time the offer to purchase or lease is made, be submitted to the attorney general, to the office and to the department on a form that is provided by the attorney general. The application shall include all of the following:

1. The name of the seller or lessor.

2. The name of the purchaser or lessee and, if applicable, other parties to the acquisition.

3. The terms of the proposed agreement.

4. The sale price or rental charges.

5. A copy of the acquisition agreement.

6. A financial and economic analysis and report by an independent expert or consultant of the effect of the acquisition under the standards specified in sub. (4).

(b) An application and all documents related to the application, as specified in par. (a), are public records for the purposes of subch. II of ch. 19.

(c) 1. Within 5 working days after receipt of a completed application under par. (a), the attorney general shall do all of the following:

a. Have notice of the application published as a class 2 notice, under ch. 985, in a newspaper having general circulation in the community or communities in which the hospital or system of hospitals to be sold or leased is located.

b. Notify by 1st class mail any person who has requested that the attorney general provide notice of the filing of hospital acquisition review applications.

2. Notice or a notification under subd. 1. shall state all of the following:

a. That a hospital acquisition review application has been received.

b. The names of the parties to the acquisition.

c. The contents of the hospital acquisition review application.

d. The date by which a person may submit written comments about the hospital acquisition review application to the attorney general.

e. That a public meeting will be held on the acquisition proposed by the application, the time and location of the meeting and the fact that any person may file written comments or exhibits for the meeting or may appear and make a statement at the meeting.

(d) Not later than 30 days after receipt of a completed application under sub. (2) (a), or as soon as practicable but not more than 120 days after receipt of a completed application under sub. (2) (b), and after giving 10 working days' notice, the attorney general shall hold a public meeting at a location that, at a minimum, is in the community served by the hospital, on the acquisition proposed by the application. If the proposed acquisition is for a system of hospitals, a public meeting shall be held in each community served by the system. Any person may file written comments or exhibits for the meeting or may appear and make a statement at the meeting.

(e) The attorney general shall establish and maintain a summary of written and oral comments made for or at the public meeting, including all questions posed, and shall require answers of the appropriate parties. The attorney general shall in an expeditious manner provide the office and the department with a copy of the summary and answers. The summary and answers shall be filed in the office of the attorney general and in the public library of the public library system for the community served by the hospital and a copy shall be available upon request to the attorney general.

(f) The attorney general may subpoena additional information or witnesses, require and administer oaths, require sworn statements, take depositions and use related discovery procedures for purposes of the meeting under par. (d) and otherwise during performance of a review under this subsection. The attorney general shall in an expeditious manner provide the office and the department with copies of any information obtained by the attorney general under this paragraph.

(g) The attorney general shall provide the office and the department with any information about the application that is in addition to that which the attorney general has previously provided the office and the department. Within 60 days after receipt of a completed application under sub. (2) (a) or as soon as practicable but not more than 150 days after receipt of a completed application under sub. (2) (b), the attorney general, the office and the department shall each independently review the application in accordance with the standards specified in sub. (4) and shall approve or disapprove the application. The attorney general, the office and the department may not make a decision under this paragraph based on any condition that is not directly related to the standards under sub. (4). The attorney general, the office and the department shall jointly agree on a single release date for the decisions each has made under this paragraph and shall release their decisions on that date.

(h) If the attorney general, the office or the department disapproves an application under par. (g), any of the following may bring an action in circuit court for a declaratory judgment under s. 806.04 as to whether the proposed acquisition meets the standards under sub. (4):

1. The applicant.

2. Any person who submitted comments under par. (d) and who has a legal interest in a hospital for which acquisition is proposed or in another hospital that has contracted for the provision of essential health services with the hospital for which acquisition is proposed.

(4) APPLICATION REVIEW BY THE ATTORNEY GENERAL, THE OFFICE AND THE DEPARTMENT; STANDARDS. The attorney general shall approve an application if he or she finds and the office and the department shall approve an application if the office or the department finds that the following standards are met:

(a) That the acquisition is permitted under ch. 181 or any other statute that governs nonprofit entities.

(b) That the hospital exercised due diligence in deciding to sell or lease, selecting the purchaser or lessee and negotiating the terms and conditions of the sale or lease.

(c) That the procedure used by the seller or lessor in making its decision to sell or lease was adequate, including whether the seller or lessor used appropriate expert assistance. The attorney general may employ, at the purchaser's or lessee's expense, rea-

sonably necessary expert assistance in considering evidence under this paragraph.

(d) That conflict of interest was disclosed, including conflicts of interest related to members of the board of directors of, executives of or experts retained by the seller or lessor, the purchaser or lessee or other parties to the acquisition.

(e) That charitable funds are not placed at unreasonable risk, if the acquisition is a sale that is financed in part by the seller.

(f) That any management contract under the acquisition is for reasonably fair value.

(g) That the sale or rental proceeds will be used for appropriate charitable health care purposes, including health promotion, in the community affected by the acquisition and that the proceeds will be controlled as charitable funds independently of the purchaser or parties to the acquisition.

(h) That, if the hospital is sold, a right of first refusal is retained to repurchase the assets by a successor nonprofit corporation, by the city, county or state or by the University of Wisconsin Hospitals and Clinics Authority if the hospital is subsequently sold to, acquired by or merged with another entity.

(5) EXEMPTIONS. The acquisition, by one of the following, of a hospital or system of hospitals owned by a nonprofit corporation is exempt from the application of this section:

(a) A state agency.

(b) A local agency.

(c) Another nonprofit corporation, to which all of the following apply:

1. The nonprofit corporation has a charitable health care purpose that is substantially similar to the corporation that owns the hospital or system of hospitals.

2. The nonprofit corporation is an organization described in section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under section 501 (a) of the Internal Revenue Code.

3. The nonprofit corporation maintains on the board of directors of the acquired hospital or system of hospitals representation from the community affected by the acquisition.

(6) DENIAL, SUSPENSION OR REVOCATION OF CERTIFICATE OF APPROVAL. (a) No certificate of approval to maintain a hospital may be issued under s. 50.35 and a certificate of approval that has been issued under that section shall be suspended or revoked if any of the following occurs:

1. Acquisition of a hospital that is subject to sub. (2) is made without approval by the attorney general, the office or the department.

2. Acquisition of a hospital that is subject to sub. (2) is made after the attorney general, the office or the department has disapproved an application for the acquisition under sub. (4) and, if an action under s. 806.04 is brought, after a judicial determination is made under s. 806.04 that the proposed acquisition does not meet the standards specified in sub. (4) (a) to (h).

(b) If the attorney general or the office is aware that a violation of par. (a) 1. or 2. has occurred, the attorney general or the office shall notify the department for appropriate action under s. 50.35.

(7) ATTORNEY GENERAL; AUTHORITY. Nothing in this section or in s. 50.35 limits the authority of the attorney general to act with respect to an acquisition, including the authority of the attorney general to act under 15 USC 26, ch. 133 or other state law.

History: 1997 a. 93; 1999 a. 32; 2007 a. 20 s. 9121 (6) (a).

165.50 Criminal investigation. (1) The department of justice shall perform the following criminal investigatory functions for the state:

(a) Investigate crime that is statewide in nature, importance or influence.

(b) Conduct arson investigations.

(2) Special criminal investigation agents of the department shall have the same general police powers as are conferred upon peace officers.

(3) Except as provided in s. 20.001 (5), all moneys received as restitution payments reimbursing the department of justice for moneys expended in undercover investigations and operations shall be deposited as general purpose revenue — earned.

History: 1975 c. 39; 1985 a. 29; 1987 a. 27; 1993 a. 213.

165.505 Internet crimes against children; administrative subpoena. (1) In this section, "Internet crime against a child" means the commission of, or the solicitation, conspiracy, or attempt to commit, any of the following:

(a) A violation of s. 948.05, 948.075, 948.11, or 948.12.

(b) A violation of ch. 948 that involves the use of a device that permits the transmission of wire or electronic communications or images through an electronic communications service, as defined in s. 968.27 (5), or a remote computing service, as defined in s. 968.27 (14g).

(2) The attorney general or his or her designee may issue and cause to be served a subpoena, in substantially the form authorized under s. 885.02, upon a provider of an electronic communication service or a remote computing service to compel the production of any of the items listed in sub. (4) if all of the following apply:

(a) The information likely to be obtained is relevant to an ongoing investigation of an Internet crime against a child.

(b) The attorney general or his or her designee has reasonable cause to believe that an Internet or electronic service account provided by an electronic communication service or a remote computing service has been used in the crime.

(3) The attorney general or his or her designee issuing a subpoena under sub. (2) shall ensure that the subpoena describes each record or other information pertaining to a customer or subscriber of the service to be produced and prescribes a reasonable return date by which the person served with the subpoena must assemble each record or other information and make them available.

(4) A person who is duly served a subpoena issued under sub. (2) shall, if requested, provide the following information about the customer or subscriber:

(a) Name.

(b) Address.

(c) Duration, including the start date and end date, of the assignment of any Internet protocol address to the customer or subscriber.

(5) A person served with a subpoena under sub. (2) may, before the return date indicated under sub. (3), petition a circuit court in the county where the subpoena was issued for an order to modify or quash the subpoena or to prohibit disclosure of information by the court.

(6) If the investigation into an Internet crime against a child specified under sub. (2) does not result in a prosecution or other proceeding against a person, the attorney general or his or her designee shall either destroy, or return to the person who produced, the records and information requested by the subpoena.

(7) The attorney general or his or her designee may order a provider of an electronic communication service or remote computing service not to notify or disclose the existence of the subpoena to the customer or subscriber or any other person, except an attorney for the purpose of obtaining legal advice or a circuit court, for a period of 90 days after the provider produces the requested records and information or files a petition under sub. (5) if the attorney general or his or her designee has reason to believe that the victim of the Internet crime against a child investigated under sub. (2) is under 18 years of age, and that notification or disclosure of the existence of the subpoena will do any of the following:

(a) Endanger the life or physical safety of an individual.

(b) Lead to flight from prosecution.

(c) Lead to the destruction or tampering with evidence.

(d) Lead to the intimidation of a potential witness.

(e) Otherwise seriously jeopardize the investigation.

(8) Records and information produced in response to a subpoena issued under sub. (2) are not subject to inspection or copying under s. 19.35 (1), except that the attorney general or his or her designee may, upon request, disclose the records and information to another law enforcement agency, [an] Internet crimes against children task force, or a district attorney.

NOTE: A missing word is shown in brackets. Corrective legislation is pending.

History: 2015 a. 369.

165.51 State fire marshal. The attorney general shall designate an employee as the state fire marshal.

History: 1977 c. 260; 1985 a. 29.

165.55 Arson investigation. (1) The chief of the fire department or company of every city, village and town in which a fire department or company exists, and where no fire department or company exists, the city mayor, village president or town clerk shall investigate or cause to be investigated the cause, origin and circumstances of every fire occurring in his or her city, village or town by which property has been destroyed or damaged when the damage exceeds $500, and on fires of unknown origin he or she shall especially investigate whether the fire was the result of negligence, accident or design. Where any investigation discloses that the fire may be of incendiary origin, he or she shall report the same to the state fire marshal.

(2) The department of justice shall supervise and direct the investigation of fires of incendiary origin when the state fire marshal deems the investigation expedient.

(3) When, in the opinion of the state fire marshal, investigation is necessary, he or she shall take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have any means of knowledge in relation to any case of damage to property by fire or explosives. If the state fire marshal is of the opinion that there is evidence sufficient to charge any person with a crime under s. 941.11, 943.01, 943.012, 943.013, 943.02, 943.03 or 943.04 or with an attempt to commit any of those crimes, he or she shall cause the person to be prosecuted, and furnish the prosecuting attorney the names of all witnesses and all the information obtained by him or her, including a copy of all testimony taken in the investigation.

(4) The state fire marshal shall assign at least one deputy fire marshal exclusively to fire marshal duties for counties having a population of 500,000 or more.

(7) The state fire marshal and his or her subordinates shall each have the power to conduct investigations and hearings and take testimony regarding fires and the causes thereof, and compel the attendance of witnesses. The fees of witnesses shall be paid upon certificates signed by the officer before whom any witnesses shall have attended, and shall be charged to the appropriation for the state fire marshal.

(8) All investigations held by or under the direction of the state fire marshal, or his or her subordinates, may, in the fire marshal's discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept apart from each other, and not allowed to communicate with each other until they have been examined.

(9) The state fire marshal and his or her subordinates may at all reasonable hours in performance of their duties enter upon and examine any building or premises where any fire has occurred and other buildings or premises near the same, and seize any evidence found as a result of such examination which in the opinion of the officer finding the same may be used in any criminal action which may result from such examination or otherwise, and retain it for a reasonable time or until it becomes an exhibit in the action.

(10) The state fire marshal, deputy state fire marshals or chiefs of fire departments shall apply for and obtain special inspection warrants prior to the inspection or investigation of personal or real properties which are not public buildings or for the inspection of portions of public buildings which are not open to the public for the purpose of determining the cause, origin and circumstances of fires either upon showing that consent to entry for inspection purposes has been refused or upon showing that it is impractical to obtain the consent. The warrant may be in the form set forth in s. 66.0119 (3). The definition of a public building under s. 101.01 (12) applies to this subsection. No special inspection warrant is required:

(a) In cases of emergency when a compelling need for official action can be shown and there is no time to secure a warrant;

(b) For investigations which occur during or immediately after the fire fighting process; or

(c) For searches of public buildings which are open to the public.

(10m) Any investigation or inspection authorized under sub. (10) shall be conducted by the state fire marshal, deputy state fire marshals or chiefs of fire departments or their designees.

(11) All officers who perform any service at the request of the state fire marshal or the state fire marshal's subordinates shall receive fees determined by the state fire marshal and such fees shall be charged to the appropriation for the department of justice.

(13) Any officer named in subs. (1) and (2) who neglects to comply with any of the requirements of this section shall be fined not less than $25 nor more than $200 for each neglect or violation.

(14) The state fire marshal, any deputy fire marshal, any fire chief or his or her designee may require an insurer, including the state acting under ch. 619, to furnish any information in its possession relating to a fire loss involving property with respect to which a policy of insurance issued or serviced by the insurer may apply. Any insurer, including the state, may furnish to the state fire marshal, any deputy fire marshal, any fire chief or designee information in its possession relating to a fire loss to which insurance issued by it may apply. In the absence of fraud or malice, no insurer furnishing information under this subsection, state fire marshal, deputy fire marshal, fire chief or designee, and no person acting on behalf of the insurer, state fire marshal, deputy fire marshal, fire chief or designee, shall be liable in any civil or criminal action on account of any statement made, material furnished or action taken in regard thereto. Information furnished by an insurer under this subsection shall be held in confidence by the state fire marshal, deputy fire marshal, fire chief or designee and all subordinates until release or publication is required pursuant to a civil or criminal proceeding. Information obtained by the state fire marshal, any deputy fire marshal, fire chief or designee during their investigations of fires determined to be the result of arson may be available to the insurer of the property involved.

(15) The state fire marshal, any deputy fire marshal, any fire chief, or his or her designee may obtain information relating to a juvenile from a law enforcement agency, a court assigned to exercise jurisdiction under chs. 48 and 938 or an agency, as defined in s. 938.78 (1), as provided in ss. 938.396 (1) (c) 8. and (2g) (j) and 938.78 (2) (b) 1. and may obtain information relating to a pupil from a public school as provided in ss. 118.125 (2) (ch) and (L) and 938.396 (1) (d).

History: 1973 c. 333; 1975 c. 224; 1977 c. 260, 341; 1979 c. 133; 1981 c. 318; 1983 a. 189 s. 329 (4); 1985 a. 29; 1987 a. 348; 1993 a. 50, 482; 1995 a. 27; 1997 a. 205; 1999 a. 150 s. 672; 2005 a. 344.

The state fire marshall must establish proper discretionary reasons for exercising the privilege of secrecy under sub. (8). Black v. General Electric Co. 89 Wis. 2d 195, 278 N.W.2d 224 (Ct. App. 1979).

Under *Michigan v. Tyler,* the warrantless search of an entire building on the morning after a localized fire was reasonable as it was the continuation of the prior night's investigation that had been interrupted by heat and nighttime circumstances. State v. Monosso, 103 Wis. 2d 368, 308 N.W.2d 891 (Ct. App. 1981).

Arson investigations under subs. (9) and (10) are subject to search warrant requirements set forth in *Michigan v. Tyler.* Consent to search is discussed. 68 Atty. Gen. 225.

A burning building clearly presents an exigency rendering a warrantless entry reasonable, and fire officials need no warrant to remain in a building for a reasonable

time to investigate the cause of the fire after it is extinguished. Michigan v. Tyler, 436 U.S. 499 (1978)

165.60 Law enforcement. The department of justice is authorized to enforce ss. 101.123 (2), (2m), and (8), 175.60 (17) (e), 944.30 (1m), 944.31, 944.33, 944.34, 945.02 (2), 945.03 (1m), and 945.04 (1m) and ch. 108 and, with respect to a false statement submitted or made under s. 175.60 (7) (b) or (15) (b) 2. or as described under s. 175.60 (17) (c), to enforce s. 946.32, is authorized to assist the department of workforce development in the investigation and prosecution of suspected fraudulent activity related to worker's compensation as provided in s. 102.125, and is invested with the powers conferred by law upon sheriffs and municipal police officers in the performance of those duties. This section does not deprive or relieve sheriffs, constables, and other local police officers of the power and duty to enforce those sections, and those officers shall likewise enforce those sections.

History: 1975 c. 39; 1985 a. 29; 1989 a. 97; 2003 a. 33; 2005 a. 86; 2009 a. 12; 2011 a. 35; 2013 a. 362; 2015 a. 180.

165.63 Access to firearm prohibition orders. (1) DEFINITION. In this section, "department" means the department of justice.

(2) DEPARTMENT TO PROVIDE INFORMATION UPON REQUEST. Upon a request under sub. (3), (4), or (5), the department shall provide to the person making the request information regarding any of the following:

(a) Individuals 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).

(b) The cancellation under s. 51.20 (13) (cv) 1m. c., 51.45 (13) (i) 2. c., 54.10 (3) (f) 2. c., or 55.12 (10) (b) 3. of an order not to possess a firearm.

(2m) PROCESS; DATA CONFIDENTIALITY. The department, when providing information under sub. (2), may use the transaction information for the management of enforcement system or another method approved by the department to process requests and responses in a secure manner to ensure confidentiality of the data.

(3) REQUESTS FROM COURTS. In making a determination required under s. 813.1285 (7) (a) or 968.20 (1m) (d) 1., a judge or court commissioner shall request information under sub. (2) from the department or from a law enforcement agency or law enforcement officer as provided in sub. (4) (d).

(4) LAW ENFORCEMENT REQUESTS. A law enforcement agency or a law enforcement officer may request information under sub. (2) from the department to do any of the following:

(a) Enforce or investigate a violation of s. 941.29.

(b) Conduct a background check on an individual who is applying to become a law enforcement officer or on a current law enforcement officer.

(c) Make a determination under s. 175.48 (2) (a) or 175.49 (2) (b) 4. or (5).

(d) Aid the court in making a determination required under s. 813.1285 (7) (a) or 968.20 (1m) (d) 1. or aid an entity in making a determination required under s. 968.20 (1m) (d) 2.

(5) In making a determination required under s. 968.20 (1m) (d) 2., an entity holding a seized firearm shall request information under sub. (2) from the department or from a law enforcement agency or law enforcement officer as provided in sub. (4) (d).

History: 2013 a. 223, 321; 2015 a. 141.

165.65 Drug disposal program. (1) DEFINITIONS. In this section:

(a) "Authorized under federal law" means permitted under 21 USC 801 to 971 or 21 CFR 1300 to 1321.

(am) "Controlled substance" has the meaning given in s. 961.01 (4).

(b) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

(c) "Drug disposal program" means a program to receive household pharmaceutical items and to recycle, destroy, or otherwise dispose of those items. "Drug disposal program" does not include a sharps collection station operated in compliance with rules promulgated by the department of natural resources.

(d) 1. Except as provided under subd. 2., "household pharmaceutical item" means any of the following if lawfully possessed by an individual for the individual's own use, for the use of a member of the individual's household, or for the use of an animal owned by the individual or a member of the individual's household:

a. A drug, as defined in s. 450.01 (10); a prescription drug, as defined in s. 450.01 (20); or a controlled substance or controlled substance analog, if the drug, prescription drug, or controlled substance or controlled substance analog is located in or comes from a place where the individual, a member of the individual's household, an in−home hospice service, or an adult family home serving fewer than 5 adult members manages the use of the drug, prescription drug, or controlled substance or controlled substance analog.

b. A device, as defined in s. 450.01 (6), or an object used for administering a drug, if the device or object is located in or comes from a place where the individual, a member of the individual's household, an in−home hospice service, or an adult family home serving fewer than 5 adult members manages the use of the device or object.

2. "Household pharmaceutical item" does not include any of the following:

a. Any item that may be contaminated with antineoplastic chemotherapy drugs, including objects used to administer drugs, gloves, and other items that have come into contact with chemotherapy drugs.

b. Any item containing elemental mercury.

(e) "Political subdivision" means a city, village, town, or county.

(2) DEPARTMENT OF JUSTICE AUTHORIZATION TO OPERATE A DRUG DISPOSAL PROGRAM. (a) Except as provided under sub. (3), no person may receive household pharmaceutical items pursuant to a drug disposal program unless the department of justice grants written authorization for that program under par. (b) or the program is authorized under federal law.

(b) The department of justice may, without a hearing, grant written authorization to a person to operate a drug disposal program if all of the following conditions are satisfied:

1. The person adopts written policies and procedures that comply with sub. (5). The department of justice shall review and either approve or disapprove in writing those policies and procedures. The department of justice shall approve the policies and procedures if the department of justice determines that the policies and procedures do not violate the requirements of this section or any other applicable federal or state law, and shall disapprove them otherwise. If the department of justice disapproves the policies and procedures, the department of justice shall state the reasons for that disapproval in writing to the person. At any time, the person may resubmit revised policies and procedures to the department of justice for its review and approval under this subdivision.

2. If the drug disposal program will receive household pharmaceutical items in any manner other than the transfer of a household pharmaceutical item in person to the program by a person that lawfully possesses the household pharmaceutical item, the person demonstrates to the satisfaction of the department of justice that those transfers will comply with any federal or state law applicable to the transportation and delivery of household pharmaceutical items.

(c) A person may not revise policies and procedures approved by the department of justice under par. (b) 1. unless the department of justice approves the revisions under par. (b) 1.

(d) Any determination or action by the department of justice under par. (b) or (c) is not subject to judicial review.

(3) AUTHORIZATION BY A POLITICAL SUBDIVISION TO OPERATE A DRUG DISPOSAL PROGRAM. A political subdivision may operate or the governing body of a political subdivision may grant written authorization for a person to operate a drug disposal program only if all of the following apply:

(a) The political subdivision or the authorized person operates the drug disposal program only within the boundaries of the political subdivision, except as provided under sub. (4).

(b) The applicable requirements under sub. (5) are satisfied.

(c) The drug disposal program receives household pharmaceutical items only by means of delivery in person by a person that lawfully possesses the household pharmaceutical item, unless the drug disposal program is authorized under federal law to receive household pharmaceutical items by other means.

(4) MULTIJURISDICTIONAL DRUG DISPOSAL PROGRAM. A drug disposal program may operate within more than one political subdivision if the department of justice authorizes that program under sub. (2), all political subdivisions within which the drug disposal program operates authorize that program under sub. (3), or the program is authorized under federal law.

(5) OPERATION OF A DRUG DISPOSAL PROGRAM. (a) A person that operates a drug disposal program, except a drug disposal program that is authorized under federal law, shall establish and promptly update as appropriate written policies and procedures that do all of the following:

1. Describe in detail the manner in which the program operates, including an identification of the kinds of household pharmaceutical items that may be received under the program, whether the program may receive controlled substances and controlled substance analogs, whether household pharmaceutical items will be transferred by mail under the program, and the locations at which household pharmaceutical items may be transferred in person under the program.

2. List the name, address, telephone number, and 24−hour contact information for one or more persons in this state who are responsible for the operation of the program.

3. Ensure compliance with chs. 450 and 961; with any applicable provision under chs. 287, 289, and 291 and s. 299.51 relating to medical waste, solid waste, or hazardous waste; and with any other applicable federal or state law.

(b) 1. The policies and procedures for a drug disposal program authorized under sub. (2) and any changes to those policies and procedures are subject to review and approval under sub. (2) (b) 1.

2. Legal counsel for the political subdivision, or, at the discretion of the political subdivision, the department of justice if the political subdivision's legal counsel is not an employee of the political subdivision, shall review and either approve or disapprove the policies and procedures for a drug disposal program implemented or authorized under sub. (3) and any changes to those policies and procedures. Legal counsel, or the department of justice if appropriate, shall approve the policies and procedures or changes if it determines that the policies and procedures or changes do not violate the requirements of this section or any other applicable federal or state law, and shall disapprove them otherwise. Any approval under this subdivision shall be in writing. The political subdivision shall provide a copy of the approval and a copy of the policies and procedures or changes to the policies and procedures to the department of justice.

(c) The operation of a drug disposal program, including a drug disposal program that is authorized under federal law, shall immediately cease if a law enforcement officer, as defined in s. 165.85 (2) (c), a federal law enforcement officer, as defined in s. 175.40 (7) (a) 1., the department of justice, or another federal or state agency notifies a designated contact person for the program that the program is in violation of any federal or state law enforceable by the officer, department of justice, or other agency. That notification is not subject to judicial review. The program may resume operation only upon the program's receipt of written notice from the officer, department of justice, or other agency that the program is no longer in violation of the federal or state law.

(d) Each person that operates a drug disposal program in this state shall, within 30 days after the drug disposal program begins operation, notify and provide all of the following information to the department of natural resources:

1. The location and hours of operation of the drug disposal program.

2. The name, address, telephone number, and 24−hour contact information for one or more persons in this state who are responsible for the operation of the program.

3. A description of the household pharmaceutical items the drug disposal program may receive.

(6) TRANSFER AND RECEIPT OF HOUSEHOLD PHARMACEUTICAL ITEMS. (a) Notwithstanding ss. 450.03 (1) and 450.11 (7) (g) and (h) and (9) (b), a person that lawfully possesses a household pharmaceutical item may transfer, and it is not a crime for such a person to transfer, the household pharmaceutical item to a drug disposal program if the program is authorized under sub. (2) or (3) or is authorized under federal law.

(b) Notwithstanding s. 450.11 (7) (g) and (h) and (9) (b), a person may receive, and it is not a crime for a person to possess, a household pharmaceutical item pursuant to a drug disposal program if the receipt or possession is within the scope of the program and the program is authorized under sub. (2) or (3) or is authorized under federal law or, if the receipt or possession is not within the scope of the program, the receipt or possession is inadvertent and the program promptly notifies an appropriate law enforcement officer of the receipt or possession and complies with any instructions the law enforcement officer provides.

History: 2013 a. 198.

165.68 Address confidentiality program. (1) DEFINITIONS. In this section:

(a) "Abuse" means an act or threat of any of the following:

1. Child abuse under ss. 813.122 (1) (a) or 948.02 to 948.11.

2. Domestic abuse, as defined in s. 813.12 (1) (am).

3. Sexual abuse, as defined in s. 103.10 (1m) (b) 6.

4. Stalking under s. 940.32.

5. Trafficking under s. 940.302.

(b) "Actual address" means the residential street address, school address, or work address of a program participant.

(c) "Assigned address" means an address designated by the department and assigned to a program participant.

(d) "Department" means the department of justice.

(e) "Mail" means first class letters and flats delivered by the United States Postal Service, including priority, express, and certified mail. "Mail" does not include a package, parcel, periodical, or catalogue unless it is clearly identifiable as being sent by a state or local agency or unit of government or is clearly identifiable as containing a pharmaceutical or medical item.

(f) "Program assistant" means an individual designated by the department to assist a program participant. The department may designate as a program assistant an employee of the department or of a state or local agency that provides counseling, assistance, or support services to victims, or an employee of or a volunteer for an organization that provides counseling, assistance, or support services free of charge to victims.

(g) "Program participant" means a person who is certified by the department to participate in the confidentiality program established in this section.

(2) ELIGIBILITY. (a) A person is eligible for participation in the confidentiality program established in this section if he or she attests all of the following:

1. That he or she is a resident of this state.

2. That at least one of the following applies:

a. He or she is a victim of abuse, a parent or guardian of a person who is a victim of abuse, or a resident of a household in which a victim of abuse also resides.

b. He or she fears for his or her physical safety or for the physical safety of his or her child or ward.

3. That he or she resides or will reside at a location in this state that is not known by the person who committed the abuse against, or who threatens, the applicant or his or her child or ward.

4. That he or she will not disclose his or her actual address to the person who committed the abuse against, or who threatens, the applicant or his or her child or ward.

(b) A person is eligible under par. (a) regardless of whether any criminal charges have been brought relating to any act or threat against the person, whether the person has sought any restraining order or injunction relating to any act or threat against the person, or whether the person has reported any act or threat against him or her to a law enforcement officer or agency.

(3) ADMINISTRATION; APPLICATION. (a) The department shall provide an application form for participation in the confidentiality program established in this section. The department may not charge a fee for applying to, or participating in, the program.

(b) The application form shall include all of the following:

1. The applicant's name.

2. The applicant's actual address.

3. A place for the applicant to identify any state or local government agency that employs a person who committed an act of abuse against the applicant.

4. A statement certifying that the applicant understands and consents to all of the following program requirements:

a. A program participant remains enrolled in the program for 5 years, unless he or she cancels his or her participation under subd. 4. f. or is disenrolled under subd. 4. b.

b. A program participant is required to notify the department when he or she changes his or her actual address or legal name, and failure to update the information may result in the department disenrolling the applicant as a program participant.

c. A program participant is required to develop a safety plan with a program assistant.

d. A program participant authorizes the department to notify state or local agencies and units of government that the applicant is a program participant.

e. The department will notify a program participant if his or her participation will expire or if the department will disenroll the participant under subd. 4. b. A program participant who receives a notification under this subd. 4. e. may update his or her information or may reenroll in the program within 6 months from the date the department issues the notification.

f. A program participant may cancel his or her participation in the program at any time by submitting a written notice to the department.

g. A program participant certifies the department to be the program participant's designated agent for service of process.

(4) USE OF ASSIGNED ADDRESS; RELEASE OF INFORMATION. (a) The department shall provide to each person it approves as a program participant an assigned address and shall provide each program participant a notification form for use under sub. (5).

(b) The department shall forward all mail it receives at the assigned address for each program participant to the program participant's actual address.

(c) The department shall provide, at the request of a program participant or at the request of a state or local agency or unit of government, confirmation of the person's status as a program participant.

(d) 1. Except as provided under subd. 2., the department may not disclose a program participant's actual address to any person except pursuant to a court order. If a court order is requested for disclosure, the department shall request the court to keep any record containing the program participant's actual address sealed and confidential.

2. The department may disclose a program participant's actual address to a law enforcement officer for official purposes.

(5) USE OF ASSIGNED ADDRESS; CONFIDENTIALITY. (a) A program participant may use the assigned address provided to him or her under sub. (4) for all purposes.

(b) No state or local agency or unit of government may refuse to use a program participant's assigned address for any official business, unless a specific statutory duty requires the agency or unit of government to use the participant's actual address. A state or local agency or unit of government may confirm with the department a person's status as a program participant.

(c) No person who has received a notification form from a program participant may refuse to use the assigned address for the program participant, may require a program participant to disclose his or her actual address, or may intentionally disclose to another person the actual address of a program participant.

(d) Notwithstanding pars. (a), (b), and (c), a municipal clerk may require a program participant to provide his or her actual address for voter registration and voter verification purposes. A municipal clerk shall also require a program participant to disclose his or her actual address to enroll a program participant in the confidential voter program provided under s. 6.47. If a voter is enrolled in the confidential voter program under s. 6.47 the municipal clerk shall keep the program participant's actual address confidential as provided under s. 6.47.

(6) RULES. The department shall promulgate rules regarding administration of the program established under this section and regarding the retention and destruction of applications, records, and other documents received or generated under this section. The department may use the emergency rule procedures under s. 227.24 to promulgate the rules required under this subsection. Notwithstanding s. 227.24 (1) (a) and (3), the department may promulgate those rules as emergency rules without providing evidence that promulgating those rules as emergency rules is necessary to preserve the public peace, health, safety, or welfare and without a finding of emergency. Notwithstanding s. 227.24 (1) (e) 1d. and 1g., the department is not required to prepare a statement of the scope of those rules or to submit those rules in final draft form to the governor for approval.

NOTE: This section is created eff. 4−1−17 by 2015 Wis. Act 356.

History: 2015 a. 356; s. 35.17 correction in (3) (a).

165.70 Investigation of statewide crime. (1) The department of justice shall do all of the following:

(a) Investigate crime that is statewide in nature, importance or influence.

(b) Except as provided in sub. (1m), enforce chs. 945 and 961 and ss. 940.20 (3), 940.201, 941.25, 941.26, 943.01 (2) (c), 943.011, 943.27, 943.28, 943.30, 944.30 (1m), 944.31, 944.32, 944.33, 944.34, 946.65, 947.02 (3) and (4), 948.075, and 948.08.

(d) Enforce and administer s. 165.55.

(e) Investigate violations of ch. 563 that are statewide in nature, importance or influence.

(1m) The department may not investigate violations of or otherwise enforce s. 945.03 (2m) or 945.04 (2m).

(2) The attorney general shall appoint, under the classified service, investigative personnel to achieve the purposes set out in sub. (1) who shall have the powers of a peace officer. As many as are deemed necessary of the investigators so appointed shall be trained in drugs and narcotics law enforcement, or shall receive such training within one year of their appointment, and they shall assist, when appropriate, local law enforcement agencies to help them meet their responsibilities in this area.

(3) It is the intention of this section to give the attorney general responsibility for devising programs to control crime statewide in nature, importance or influence, drugs and narcotics abuse, commercial gambling other than what is described in s. 945.03 (2m)

or 945.04 (2m), prostitution, and arson. Nothing herein shall deprive or relieve local peace officers of the power and duty to enforce those provisions enumerated in sub. (1).

(4) District attorneys, sheriffs and chiefs of police shall cooperate and assist the personnel of the department in the performance of their duties.

History: 1971 c. 40, 211, 307; 1973 c. 156; 1975 c. 39; 1977 c. 173 s. 168; 1977 c. 215, 260; 1977 c. 272 s. 98; 1985 a. 29; 1987 a. 332; 1989 a. 31; 1991 a. 269; 1993 a. 213; 1995 a. 448; 1997 a. 27, 143; 1999 a. 83; 2001 a. 109; 2003 a. 33; 2011 a. 32; 2013 a. 362; 2015 a. 197.

165.71 Human trafficking resource center hotline poster. (1) The department of justice shall design a poster, or obtain a predesigned poster, that provides information regarding a human trafficking resource center hotline. The department shall ensure that the size of poster makes it legible and that the poster informs individuals what human trafficking is and provides a phone number that a victim or someone who knows a victim can call or text for help and services. The poster shall be in English and Spanish, and, for each county, in any other language required for voting materials in that county under federal law.

(2) The department of justice shall make the poster under sub. (1) available to others to print from its Internet site and shall encourage its display at each of the following places:

(a) Gas stations with signs visible from an interstate or state highway that offer amenities to commercial vehicles.

(b) Hotels.

(c) Adult entertainment establishments.

(d) Salons at which hair or nail services are provided.

(e) Places at which employers engage some employees to perform agricultural labor.

(f) Hospitals or other medical centers.

(g) Places at which athletic or sporting events occur.

(h) Establishments that operate as a massage parlor or spa, alternative health clinic, or similar entity.

(i) Expositions conducted by a county or agricultural society.

(j) Courthouses.

(k) Rest areas maintained by the department of transportation.

(L) Public and private transit stations.

History: 2015 a. 5.

165.72 Controlled substances hotline and rewards for controlled substances tips. (1) DEFINITIONS. In this section:

(aj) "Department" means the department of justice.

(b) "Jail officer" has the meaning given in s. 165.85 (2) (bn).

(bt) "Juvenile detention officer" has the meaning given in s. 165.85 (2) (bt).

(c) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

(d) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

(2) HOTLINE. The department of justice shall maintain a single toll−free telephone number during normal retail business hours, as determined by departmental rule, for all of the following:

(a) For persons to anonymously provide tips regarding suspected controlled substances violations.

(b) For pharmacists to report suspected controlled substances violations.

(3) REWARD PAYMENT PROGRAM. The department shall administer a reward payment program. Under the program, the department may offer and pay rewards from the appropriation under s. 20.455 (2) (m) for information under sub. (2) (a) leading to the arrest and conviction of a person for a violation of ch. 961.

(4) PAYMENT LIMITATIONS. A reward under sub. (3) may not exceed $1,000 for the arrest and conviction of any one person. The department may not make any reward payment to a law enforcement officer, jail officer, juvenile detention officer, pharmacist, or department employee.

(5) DEPARTMENT AUTHORITY. If a reward is claimed, the department shall make the final determination regarding any payment. The department may pay portions of a reward to 2 or more persons. The payment of a reward is not subject to a contested case proceeding under ch. 227. The offer of a reward under sub. (3) does not create any liability on the department or the state.

(6) RECORDS. The department may withhold any record under this section from inspection or copying under s. 19.35.

(7) PUBLICITY. The department shall cooperate with the department of public instruction in publicizing, in public schools, the use of the toll−free telephone number under sub. (2).

History: 1989 a. 122, 336; 1993 a. 16, 460; 1995 a. 27 ss. 4456, 4457, 9145 (1); 1995 a. 448; 1997 a. 27; 2001 a. 16; 2003 a. 33; 2007 a. 20, 97.

165.75 Crime laboratories. (1) In this section and ss. 165.77 to 165.81:

(a) "Department" means the department of justice.

(b) "Employee" means any person in the service of the laboratories. "Employee" does not include any division administrator.

(c) "Laboratories" means the crime laboratories.

(2) The personnel of the laboratories shall consist of such employees as are authorized under s. 20.922.

(3) (a) The purpose of the laboratories is to establish, maintain and operate crime laboratories to provide technical assistance to local law enforcement officers in the various fields of scientific investigation in the aid of law enforcement. Without limitation because of enumeration the laboratories shall maintain services and employ the necessary specialists, technical and scientific employees for the recognition and proper preservation, marking and scientific analysis of evidence material in the investigation and prosecution of crimes in such fields as firearms identification, the comparison and identification of toolmarks, chemistry, identification of questioned documents, metallurgy, comparative microscopy, instrumental detection of deception, the identification of fingerprints, toxicology, serology and forensic photography.

(b) The employees are not peace officers and have no power of arrest or to serve or execute criminal process. They shall not be appointed as deputy sheriffs and shall not be given police powers by appointment or election to any office. Employees shall not undertake investigation of criminal conduct except upon the request of a sheriff, coroner, medical examiner, district attorney, chief of police, warden or superintendent of any state prison, attorney general or governor. The head of any state agency may request investigations but in those cases the services shall be limited to the field of health, welfare and law enforcement responsibility which has by statute been vested in the particular state agency.

(c) Upon request under par. (b), the laboratories shall collaborate fully in the complete investigation of criminal conduct within their competence in the forensic sciences including field investigation at the scene of the crime and for this purpose may equip a mobile unit or units.

(d) The services of the laboratories available to such officer shall include appearances in court as expert witnesses.

(e) The department may decline to provide laboratory service in any case not involving a potential charge of felony.

(f) The services of the laboratories may be provided in civil cases in which the state or any department, bureau, agency or officer of the state is a party in an official capacity, when requested to do so by the attorney general.

(g) Deoxyribonucleic acid testing ordered under s. 974.07 shall have priority, consistent with the right of a defendant or the state to a speedy trial and consistent with the right of a victim to the prompt disposition of a case.

(4) The operation of the laboratories shall conform to the rules and policies established by the attorney general.

(5) Except as provided in s. 20.001 (5), all moneys received as restitution payments reimbursing the department for moneys

expended by the laboratories shall be deposited as general purpose revenue — earned.

History: 1973 c. 272; 1977 c. 260; 1981 c. 314; 1983 a. 189; 1985 a. 29 ss. 2000 to 2006, 3200 (35); 1987 a. 27; 1989 a. 65; 1991 a. 39; 1993 a. 16; 2005 a. 60; 2013 a. 20.

Sub. (1) (b) refers to employees as persons in the service of the laboratories. However, sub. (2) explicitly states that "the personnel of the laboratories shall consist of such employees as are authorized under s. 20.922." Section 20.922 authorizes state agencies to appoint employees. The Department of Justice is the state agency of which the crime laboratories are a part. Thus the crime laboratory is not a suable entity separate from the department. Odogba v. Wisconsin Department of Justice, 22 F. Supp. 3d 895 (2014).

An evaluation of drug testing procedures. Stein, Laessig, Indriksons, 1973 WLR 727.

165.755 Crime laboratories and drug law enforcement surcharge. (1) (a) Except as provided in par. (b), a court shall impose under ch. 814 a crime laboratories and drug law enforcement surcharge of $13 if the court imposes a sentence, places a person on probation, or imposes a forfeiture for a violation of state law or for a violation of a municipal or county ordinance.

(b) A court may not impose the crime laboratories and drug law enforcement surcharge under par. (a) for a violation of s. 101.123 (2) or (2m), for a financial responsibility violation under s. 344.62 (2), or for a violation of a state law or municipal or county ordinance involving a nonmoving traffic violation, a violation under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m).

(2) If the court under sub. (1) (a) imposes a sentence or forfeiture for multiple offenses or places a person on probation for multiple offenses, a separate crime laboratories and drug law enforcement surcharge shall be imposed under ch. 814 for each separate offense.

(3) Except as provided in sub. (4), after the court determines the amount due under sub. (1) (a), the clerk of the 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.

(4) If a municipal court imposes a forfeiture, after determining the amount due under sub. (1) (a) the court shall collect and transmit such amount to the treasurer of the county, city, town, or village, and that treasurer shall make payment to the secretary of administration as provided in s. 66.0114 (1) (bm).

(5) If any deposit of bail is made for a noncriminal offense to which sub. (1) (a) applies, the person making the deposit shall also deposit a sufficient amount to include the surcharge under sub. (1) (a) for forfeited bail. If bail is forfeited, the amount of the surcharge under sub. (1) (a) shall be transmitted monthly to the secretary of administration under this section. If bail is returned, the surcharge shall also be returned.

(6) If an inmate in a state prison or a person sentenced to a state prison has not paid the crime laboratories and drug law enforcement surcharge under sub. (1) (a), the department shall assess and collect the amount owed from the inmate's wages or other moneys. Any amount collected shall be transmitted to the secretary of administration.

(7) All moneys collected from crime laboratories and drug law enforcement surcharges under this section shall be deposited by the secretary of administration and used as specified in ss. 20.455 (2) (jb), (kd), and (Lm) and 20.475 (1) (km).

History: 1997 a. 27; 1999 a. 9, 72; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 30, 33, 139, 268, 326, 327; 2005 a. 25, 455; 2009 a. 12, 28, 100, 276; 2011 a. 260; 2015 a. 55.

165.76 Submission of human biological specimen. (1) A person shall provide a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis if he or she meets any of the following criteria:

(a) Is or was in 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), or on probation, extended supervision, parole, supervision, or aftercare supervision on or after August 12, 1993, for any violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.085.

(ag) Is or was in prison on or after August 12, 1993, and before January 1, 2000, for any violation of s. 940.225 (1) or (2), 948.02 (1) or (2), or 948.025.

(am) Is or was adjudicated delinquent for an act that if committed by an adult in this state would be a felony or for a violation of s. 940.225 (3m), 941.20 (1), 944.20, 944.30 (1m), 944.31, 944.33, 946.52, or 948.10 (1) (b).

(ar) Is or was in prison on or after January 1, 2000, for a felony committed in this state.

(as) Is or was found guilty of any misdemeanor on or after April 1, 2015.

(av) Is or was found guilty on or after January 1, 2000, of any of the following:

1. Any felony.

2. Before April 1, 2015, any violation of s. 165.765 (1), 2011 stats., 940.225 (3m), 944.20, or 948.10 (1) (b).

(aw) Is or was found guilty on or after January 1, 2000, and before April 1, 2015, of any violation of s. 940.225 (3m), 944.20, or 948.10.

(bg) Is or was sentenced or placed on probation on or after August 12, 1993, for a violation of s. 940.225, 948.02 (1) or (2), or 948.025.

(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 for any violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.085.

(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, 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).

(c) Is or was in institutional care on or after August 12, 1993, for any violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.085.

(cr) Is or was in institutional care on or after January 1, 2000, for a felony or any violation of s. 165.765 (1), 2011 stats., or of s. 940.225 (3m), 944.20, 946.52, or 948.10 (1) (b).

(d) Has been found to be a sexually violent person under ch. 980 on or after June 2, 1994.

(e) Is or was released on parole or extended supervision or placed on probation in another state before January 1, 2000, and is or was on parole, extended supervision, or probation in this state from the other state under s. 304.13 (1m), 304.135, or 304.16 on or after July 9, 1996, for a violation of the law of the other state that the department of corrections determines, under s. 304.137 (1), is comparable to a violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.085.

(f) Is or was released on parole or extended supervision or placed on probation in another state on or after January 1, 2000, and is or was on parole, extended supervision, or probation in this state from the other state under s. 304.13 (1m), 304.135, or 304.16 for a violation of the law of the other state that the department of corrections determines, under s. 304.137 (2), would constitute a felony if committed by an adult in this state.

(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), 973.047, or 980.063 to provide a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis.

(gm) Is arrested for a violent crime, as defined in s. 165.84 (7) (ab), or is taken into custody for a juvenile offense that would be a violent crime, as defined in s. 165.84 (7) (ab), if committed by an adult in this state.

(h) Is notified by the department of justice, the department of corrections, a district attorney, or a county sheriff under sub. (1m) that the person is required to provide a biological specimen.

(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), 973.047, 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.

(2r) Failure by a person who is required to provide a biological specimen under sub. (1) to provide the biological specimen in accordance with the rules promulgated under sub. (4) does not relieve the person of the obligation to provide a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis.

(4) The department of justice shall promulgate rules to do all of the following:

(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), 973.047, 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), 973.047, 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).

(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), 973.047, 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.

(d) Provide reimbursement from s. 20.455 (2) (Lm) to a person in charge of a law enforcement agency or tribal law enforcement agency at a rate of $10 per specimen except that, if the department already has a biological specimen, or data obtained from analysis of a biological specimen, from the individual, the department may not reimburse the person in charge of the agency.

(e) Carry out the department's duties under this section.

(5) The departments of corrections and health services, county departments under ss. 46.215, 46.22 and 46.23 and county sheriffs shall cooperate with the department of justice in obtaining specimens under this section.

(6) (a) If a person who is required to provide a biological specimen under sub. (1) refuses or fails to provide a biological specimen, a district attorney may file a petition with the circuit court for an order compelling the person to provide a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis. A petition under this paragraph shall establish reasonable cause to believe that the person is required to provide a biological specimen under sub. (1) and that the person's biological specimen is not included in the data bank under s. 165.77 (3).

(b) If the court determines that a district attorney's petition satisfies the conditions under par. (a), the court shall issue an order requiring the person to appear in court at a specified time for a hearing to show cause why he or she is not required to provide a biological specimen under sub. (1) or, instead of appearing at the hearing, to provide a biological specimen at the office of the county sheriff before the time for which the hearing is scheduled. The hearing shall be scheduled for not less than 10 and not more than 45 days after the date the court enters the order. The order, together with a copy of the petition and any supporting material, shall be served upon the person in the manner provided for serving a summons under s. 801.11. The order shall be in substantially the following form:

STATE OF WISCONSIN
CIRCUIT COURT: .... County

STATE OF WISCONSIN File No. .....
vs. ORDER
A.B.
Address
City, State, Zip Code
, Respondent

THE STATE OF WISCONSIN, To the Respondent named above:

Unless you choose to contest this Order, by appearing at the time, date, and place set forth below, you are ordered to present yourself to the .... county sheriff, [ADDRESS], no later than ...., between the hours of .... and ...., for the collection of a biological specimen, obtained by buccal swab, for deoxyribonucleic acid (DNA) analysis and inclusion of the results of that analysis in the state crime laboratory's DNA database. YOU MUST BRING A COPY OF THIS ORDER WITH YOU. YOU MUST ALSO BRING TWO FORMS OF IDENTIFICATION, INCLUDING ONE FORM OF GOVERNMENT−ISSUED, PHOTOGRAPHIC IDENTIFICATION. A copy of the petition submitted to obtain this order is attached.

If you wish to contest this order, you may do so by appearing in person at the time, date, and place set forth below, at which time you will have the opportunity to show cause to the court why you should not be required to provide a biological specimen for DNA analysis:

[Court information]

If you do not appear in person to contest this order at the time, date, and place set forth above, and you do not present yourself for collection of a biological specimen as directed, all of the following apply:

1. You may be held in contempt of court and be subject to sanctions as provided in chapter 785 of the Wisconsin Statutes.

2. The court will issue an order to facilitate collection of a biological specimen which, in the court's discretion, may authorize arrest or detention or use of reasonable force against you to collect the biological specimen.

Dated: ...., ... (year)

By the Court signed: ....

This Order is entered under section 165.76 (6) of the Wisconsin Statutes. A copy of that section is attached.

(c) At a hearing on a petition under par. (a), the person has the burden of rebutting the matters established in the petition by demonstrating that he or she is not required to submit a biological specimen under sub. (1).

(d) If the court determines after the hearing under par. (c) that the person is required to submit a biological specimen under sub. (1) and that the person's specimen is not included in the data bank under s. 165.77 (3), the court shall issue an order to facilitate collection of a biological specimen from the person, which may

authorize arrest or detention of the person or use of reasonable force against the person to collect the biological specimen.

History: 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 77, 440; 1997 a. 35, 283; 1999 a. 9; 2001 a. 96; 2005 a. 277, 344; 2007 a. 20 s. 9121 (6) (a); 2007 a. 97; 2009 a. 261; 2011 a. 257; 2011 a. 260 s. 81; 2013 a. 20, 166, 214, 362; 2015 a. 195.

When officers make an arrest supported by probable cause for a serious offense and bring the suspect to the station to be detained in custody, taking and analyzing a cheek swab of the arrestee's DNA is, like fingerprinting and photographing, a legitimate police booking procedure that is reasonable under the 4th amendment. In the context of a valid arrest supported by probable cause, the arrestee's expectations of privacy were not offended by the minor intrusion of a brief swab of his cheeks for DNA. That same context of arrest gives rise to significant state interests in identifying respondent not only so that the proper name can be attached to his charges but also so that the criminal justice system can make informed decisions concerning pretrial custody. Upon these considerations, DNA identification of arrestees is a reasonable search that can be considered part of a routine booking procedure. Maryland v. King, 569 U.S. ___, 133 S. Ct. 1236 185 L. Ed. 2d 171, (2013).

DNA sampling under this section is constitutional. Shelton v. Grudman, 934 F. Supp. 1048 (1996).

DNA Extraction on Arrest: *Maryland v. King* and Wisconsin's New Extraction Law. Dupuis. Wis. Law. Sept. 2013.

165.765 Biological specimen; force and immunity. (1g) In this section:

(a) "Correctional officer" has the meaning given in s. 301.28 (1).

(b) "Jail officer" has the meaning given in s. 165.85 (2) (bn).

(c) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

(d) "Tribal officer" has the meaning given in s. 165.85 (2) (g).

(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).

(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), 973.047, 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.

2. Any employer of the physician, nurse, technologist, assistant, or person under subd. 1. or any hospital where blood is withdrawn by that physician, nurse, technologist, assistant, or person is immune from any civil or criminal liability for the act, except for civil liability for negligence in the performance of the act.

(bm) 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, who is authorized to collect biological specimens, is immune from civil or criminal liability for collecting a biological specimen if the collection is in compliance with sub. (1m) and s. 165.76 and performed in good faith and in a reasonable manner.

History: 1993 a. 98; 1995 a. 77, 440; 2013 a. 20.

Cross−reference: See also ch. Jus 9, Wis. adm. code.

165.77 Deoxyribonucleic acid analysis and data bank. (1) In this section:

(a) "Health care professional" has the meaning given in s. 154.01 (3).

(b) "Law enforcement agency" means a governmental unit of one or more persons employed full time by the federal government, a state or a political subdivision of a state for the purpose of preventing and detecting crime and enforcing federal or state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(c) "Wisconsin law enforcement agency" means a governmental unit of one or more persons employed full time by this state or a political subdivision of this state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(2) (a) 1. If the laboratories receive a human biological specimen pursuant to any of the following requests, the laboratories shall analyze the deoxyribonucleic acid in the specimen:

a. A request from a law enforcement agency regarding an investigation.

b. A request, pursuant to a court order, from a defense attorney regarding his or her client's specimen.

c. A request, subject to the department's rules under sub. (8), from an individual regarding his or her own specimen.

2. The laboratories may compare the data obtained from the specimen with 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. The laboratories shall not include data obtained from deoxyribonucleic acid analysis of those specimens received under this paragraph in the data bank under sub. (3).

(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), 973.047, or 980.063.

(2m) (b) If the laboratories analyze biological material pursuant to an order issued under s. 974.07 (8), the laboratories may compare the data obtained from the material with 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. The laboratories shall not include data obtained from deoxyribonucleic acid analysis of material that is tested pursuant to an order under s. 974.07 (8) in the data bank under sub. (3).

(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), 973.047, or 980.063.

(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), 973.047, 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.

(4) (ag) In this subsection, "violent crime" has the meaning given in s. 165.84 (7) (ab).

(am) A person whose deoxyribonucleic acid analysis data have been included in the data bank under sub. (3) may request expungement on the grounds that any of the following conditions that apply to the person are satisfied:

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, 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, or 980.063 have been reversed, set aside, or vacated.

2. 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), one of the following applies:

a. All charges for which the person was required to provide a biological specimen under s. 165.84 (7) or 970.02 (8) 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), and the person was not adjudged guilty of a violent crime in connection with any such charge.

c. At least one year has passed since the arrest and the person has not been charged with a violent crime in connection with the arrest.

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), and all such convictions for a violent crime have been reversed, set aside, or vacated.

3. If the person was required to provide a biological specimen under s. 165.84 (7) in connection with being taken into custody under s. 938.19 or under s. 938.21 (1m) or 938.30 (2m), one of the following applies:

a. All criminal complaints or delinquency petitions that allege that the person committed a violation that would be a violent crime if committed by an adult in this state and that are in connection with the taking into custody have been dismissed.

b. The trial court reached final disposition for all allegations that the person committed a violation that would be a violent crime if committed by an adult in this state that are in connection with the taking into custody, and the person was not convicted or adjudged delinquent for a violation that would be a violent crime if committed by an adult in this state that is in connection with the taking into custody.

c. At least one year has passed since the person was taken into custody and no criminal complaint or delinquency petition alleging that the person committed a violation that would be a violent crime if committed by an adult in this state has been filed against the person in connection with the taking into custody.

d. The person was convicted or adjudged delinquent for a violation that would be a violent crime if committed by an adult in this state and that is in connection with the taking into custody, and the conviction or delinquency adjudication has been reversed, set aside, or vacated.

(bm) If the department determines that the conditions under par. (am) are satisfied, the laboratories shall purge all records and identifiable information in the data bank pertaining to the person and destroy all samples from the person upon receiving the person's written request for expungement and any documentation the department requires under rules promulgated under sub. (8).

(5) Any person who intentionally disseminates a specimen received under this section or any information obtained as a result of analysis or comparison under this section or from the data bank under sub. (3) in a manner not authorized under this section or the rules under sub. (8) may be fined not more than $500 or imprisoned for not more than 30 days or both.

(6) Except as necessary to administer this section or as provided under the department's rules under sub. (8), the department shall deny access to any record kept under this section.

(7) Whenever a Wisconsin law enforcement agency or a health care professional collects evidence in a case of alleged or suspected sexual assault, the agency or professional shall follow the procedures specified in the department's rules under sub. (8). The laboratories shall perform, in a timely manner, deoxyribonucleic acid analysis of specimens provided by law enforcement agencies under sub. (2). The laboratories shall not include data obtained from deoxyribonucleic acid analysis of those specimens in the data bank under sub. (3).

(7m) An entry in the data bank that is found to be erroneous does not prohibit the legitimate use of the entry to further a criminal investigation or prosecution. The failure of a law enforcement agency or the laboratories to comply with this section, s. 165.76, 165.765, or 165.84, or any rules or procedures adopted to administer those sections, is not grounds for challenging the validity of the data collection, for challenging the use of the sample as provided in those sections, or for the suppression of evidence based upon or derived from any entry in the data bank.

(8) The department shall promulgate rules to administer this section.

History: 1993 a. 16, 98; 1995 a. 77, 440; 2001 a. 16; 2005 a. 60; 2011 a. 32; 2013 a. 20, 214; 2015 a. 55.

Cross−reference: See also ch. Jus 9, Wis. adm. code.

The New Genetic World and the Law. Derse. Wis. Law. April 2001.

165.78 Information center; training activities. (1) The department shall act as a center for the clearance of information between law enforcement officers. In furtherance of this purpose it shall issue bulletins by mail or its telecommunication system. The department shall at all times collaborate and cooperate fully with the F.B.I. in exchange of information.

(2) The department shall cooperate and exchange information with other similar organizations in other states.

(3) The department may prepare and conduct informational and training activities for the benefit of law enforcement officers and professional groups.

History: 1977 c. 260; 1985 a. 29.

165.785 Crime alert network. (1) (a) In addition to its duties under ss. 165.50 and 165.78, the department shall develop, administer, and maintain an integrated crime alert network.

(b) 1. The department may use the network under par. (a) to provide information regarding known or suspected criminal activity, crime prevention, and missing or endangered persons to state agencies, law enforcement officers, and members of the private sector.

2. The department shall ensure that a law enforcement agency may access the network under par. (a) to disseminate a report under s. 175.51 (1m) to persons on the list maintained under sub. (2m) (c).

3. The department shall ensure that a law enforcement agency may access the network under par. (a) to disseminate a report under s. 175.51 (2m) to persons on the list maintained under sub. (2r).

(2) The department may charge a fee to members of the private sector who receive information under sub. (1) (b) 1. The department may not charge a fee to any person who receives information under sub. (1) (b) 2. or 3.

(2m) (a) 1. The department shall provide a form for reports of missing adults at risk under s. 175.51 (1m) that law enforcement agencies can access through the integrated crime alert network.

2. The department shall train law enforcement officers on identifying reports of adults at risk that are appropriate for dissemination under sub. (1) (b) 2., using the form provided under subd. 1., and accessing the network to disseminate the report.

(b) The department shall work directly with persons on the list maintained under par. (c) and with government agencies, broadcasters, and public and private organizations with missions focused on adults at risk to develop criteria for law enforcement officers to use to identify reports of missing adults at risk that are appropriate to disseminate under s. 175.51 (1m), to determine the most effective methods and guidelines for the persons on the list maintained under par. (c) to use to broadcast or make public reports of missing adults at risk, and to receive feedback on the forms provided under par. (a) 1. and on the list maintained under par. (c).

(c) The department shall maintain a list of persons that are engaged in broadcasting or outdoor advertising, that have agreed to be on the list, and that would be appropriate recipients of reports disseminated under sub. (1) (b) 2.

(2r) The department shall maintain a list of persons that can effectively broadcast or make public reports disseminated under s. 175.51 (2m). The department shall ensure that the list includes persons engaged in broadcasting or outdoor advertising.

(3) The department shall utilize only program revenue amounts credited and expended from the appropriation account under s. 20.455 (2) (gp) to develop, administer, and maintain the integrated crime alert network under sub. (1).

History: 2009 a. 358; 2013 a. 264; 2015 a. 315.

165.79 Evidence privileged. (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. 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. 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.

(2) Upon the termination or cessation of the criminal proceedings, the privilege of the findings obtained by a laboratory may be waived in writing by the department and the prosecutor involved in the proceedings. The employees may then be subpoenaed in civil actions in regard to any information and analysis of evidence previously obtained in the criminal investigation, but the laboratories shall not engage in any investigation requested solely for the preparation for trial of a civil matter. Upon appearance as a witness or receipt of a subpoena or notice to prepare for trial in a civil action, or appearance either with or without subpoena, the laboratories shall be compensated by the party at whose request the appearance or preparation was made in a reasonable amount to be determined by the trial judge, which fee shall be paid into the state treasury. In fixing the compensation the court may give consideration to the time spent in obtaining and analyzing the evidence for the purposes of criminal proceedings.

History: 1977 c. 260; 1979 c. 221; 1981 c. 20; 1983 a. 459; 1985 a. 29, 267; 1995 a. 387.

Whether to grant a defendant's request under sub. (1) that the crime lab perform tests on the defendant's behalf is a discretionary decision. State v. Lee, 192 Wis. 2d 260, 531 N.W.2d 351 (Ct. App. 1995). But see also State v. Lee, 197 Wis. 2d 960, 542 N.W.2d 143 (1996).

Under the facts of the case, the privilege in sub. (1) did not prevent the defendant from obtaining evidence he was entitled to under s. 971.23 when he received the physical evidence that the state intended to offer at trial and a copy of the crime lab report and was granted permission to submit the evidence for testing by his own expert. The defendant was entitled to examine the crime lab analyst at trial but not at an evidentiary hearing. State v. Franszczak, 2002 WI App 141, 256 Wis. 2d 68, 647 N.W.2d 396, 01−1393.

Cross−examination of a highly qualified witness who is familiar with the procedures used in performing the tests whose results are offered as evidence, who supervises or reviews the work of the testing analyst, and who renders his or her own expert opinion is sufficient to protect a defendant's right to confrontation, despite the fact that the expert was not the person who performed the mechanics of the original tests. State v. Williams, 2002 WI 58, 253 Wis. 2d 99, 644 N.W.2d 919, 00−3065.

Under *Crawford*, 541 U.S. 36, analysts' affidavits that certified that evidence was in fact cocaine were testimonial statements, and the analysts were "witnesses" for purposes of the 6th amendment confrontation clause. Absent a showing that the analysts were unavailable to testify at trial and that petitioner had a prior opportunity to cross−examine them, petitioner was entitled to be confronted with the analysts at trial. Melendez−Diaz v. Massachusetts, 557 U.S. 305, 174 L. Ed. 2d 314, 129 S. Ct. 2527 (2009).

165.80 Cooperation with other state departments. For the purpose of coordinating the work of the crime laboratories with the research departments located in the University of Wisconsin, the attorney general and the University of Wisconsin may agree for the use of university laboratories and university physical facilities and the exchange and utilization of personnel between the crime laboratories and the university.

History: 1985 a. 29; 1997 a. 27.

165.81 Disposal of evidence. (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. 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.

(2) Any electric weapon, as defined in s. 941.295 (1c) (a), in the possession of the laboratories shall either be destroyed or be turned over to an agency authorized to have electric weapons under s. 941.295 (2).

(3) (a) In this subsection:

1. "Custody" has the meaning given in s. 968.205 (1) (a).

2. "Discharge date" has the meaning given in s. 968.205 (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, 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.

(bm) The laboratories shall retain evidence to which par. (b) applies in an amount and manner sufficient to develop a deoxyribonucleic acid profile, as defined in s. 939.74 (2d) (a), from the biological material contained in or included on the evidence.

(c) Subject to par. (e), the department may destroy evidence that includes biological material before the expiration of the time period specified in par. (b) if all of the following apply:

1. The department sends a notice of its intent to destroy the evidence to all persons who remain in custody as a result of the criminal conviction, delinquency adjudication, or commitment, and to either the attorney of record for each person in custody or the state public defender.

2. No person who is notified under subd. 1. does either of the following within 90 days after the date on which the person received the notice:

a. Files a motion for testing of the evidence under s. 974.07 (2).

b. Submits a written request for retention of the evidence to the department.

3. No other provision of federal or state law requires the department to retain the evidence.

(d) A notice provided under par. (c) 1. shall clearly inform the recipient that the evidence will be destroyed unless, within 90

days after the date on which the person receives the notice, either a motion for testing of the evidence is filed under s. 974.07 (2) or a written request for retention of the evidence is submitted to the department.

(e) If, after providing notice under par. (c) 1. of its intent to destroy evidence, the department receives a written request for retention of the evidence, the department shall retain the evidence until the discharge date of the person who made the request or on whose behalf the request was made, subject to a court order issued under s. 974.07 (7), (9) (a), or (10) (a) 5., unless the court orders destruction or transfer of the evidence under s. 974.07 (9) (b) or (10) (a) 5.

(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.

History: 1981 c. 348; 1985 a. 29 ss. 2012, 3200 (35); 2001 a. 16; 2005 a. 60; 2011 a. 35.

165.82 Criminal history search fee. (1) Notwithstanding s. 19.35 (3), the department of justice shall impose the following fees, plus any surcharge required under sub. (1m), for criminal history searches for purposes unrelated to criminal justice or to s. 175.35, 175.49, or 175.60:

(am) For each record check, except a fingerprint card record check, $7.

(ar) For each fingerprint card record check requested by a governmental agency or nonprofit organization, $15.

(1m) The department of justice shall impose a $5 surcharge if a person requests a paper copy of the results of a criminal history search requested under sub. (1).

(2) The department of justice shall not impose fees for criminal history searches for purposes related to criminal justice.

History: 1987 a. 27; 1989 a. 122; 1991 a. 11; 1995 a. 27; 2003 a. 33; 2009 a. 28; 2011 a. 32, 35.

165.825 Information link. The department of justice shall cooperate with the departments of safety and professional services, health services, and financial institutions in developing and maintaining a computer linkup to provide access to the information obtained from a criminal history search.

History: 1997 a. 27; 2007 a. 20 s. 9121 (6) (a); 2011 a. 32; 2013 a. 20.

165.827 Transaction information for the management of enforcement system; fees. The department of justice shall administer a transaction information for the management of enforcement system to provide access to information concerning law enforcement. The department of justice may impose fees on law enforcement agencies and tribal law enforcement agencies, as defined in s. 165.83 (1) (e), for rentals, use of terminals and related costs and services associated with the system. All moneys collected under this section shall be credited to the appropriation account under s. 20.455 (2) (h).

History: 1991 a. 39; 1993 a. 407; 1995 a. 27.

165.8285 Transaction information for management of enforcement system; department of corrections records. (1) The department of justice shall, through the transaction information for management of enforcement system, provide local law enforcement agencies with access to the registry of sex offenders maintained by the department of corrections under s. 301.45.

(2) The department of justice shall provide the department of corrections with access to the transaction information for management of enforcement system administrative message process.

(3) Beginning on July 9, 1996, the department of justice and the department of corrections shall cooperate in using the transaction information for management of enforcement system, and in developing or using any other computerized or direct electronic data transfer system, in anticipation of the transfer of the sex offender registry from the department of justice to the department of corrections under 1995 Wisconsin Act 440 and for the purpose of providing access to or disseminating information from the sex offender registry under s. 301.45.

History: 1995 a. 440.

165.8287 Transaction information for management of enforcement system; department of transportation photographs. (1) In this section:

(a) "Administration of criminal justice" has the meaning given in 28 CFR 20.3 (b).

(b) "Federal law enforcement agency" has the meaning given in s. 343.237 (1) (ag).

(c) "Law enforcement agency of another state" has the meaning given in s. 343.237 (1) (ar).

(d) "Wisconsin law enforcement agency" has the meaning given in s. 175.46 (1) (f).

(2) Upon electronic request, the department of transportation shall make available to the department of justice, in a digital format, any photograph taken of an applicant under s. 343.14 (3) or 343.50 (4) that is maintained by the department of transportation. Updated photographs shall be available to the department of justice within 30 days of photograph capture.

(3) (a) The department of justice shall, through the transaction information for the management of enforcement system or another similar system operated by the department of justice, provide Wisconsin law enforcement agencies, federal law enforcement agencies, and law enforcement agencies of other states with electronic access to any photograph specified in sub. (2) for the administration of criminal justice and for traffic enforcement. Access to these photographs shall be available electronically if the law enforcement agency submits an electronic request bearing an electronic certification or other indicator of authenticity. For an electronic request made by a law enforcement agency of another state, the electronic certification or other indicator of authenticity shall include an electronic signature or verification of the agency making the request and a certification that the request is made for the purpose of administration of criminal justice or traffic enforcement.

(b) Any photograph electronically available under this subsection shall contain the notation: "This photograph is subject to the requirements and restrictions of section 165.8287 of the Wisconsin Statutes. The photograph shall not be used for any purpose other than the administration of criminal justice or traffic enforcement. Secondary dissemination is prohibited and the photograph shall be destroyed when no longer necessary for the purpose requested. The photograph shall not be used as part of a photo lineup or photo array."

(c) The provisions of s. 343.237 (5), (8), (9), and (10) shall apply to any photograph obtained electronically by a law enforcement agency under this subsection. Any photograph obtained electronically by a law enforcement agency under this subsection may not be used for a photo lineup or photo array. For purposes of this paragraph, any photograph obtained electronically by a law enforcement agency under this subsection shall be considered a copy of a photograph obtained under s. 343.237 (3) or (4) with respect to s. 343.237 (5), (8), (9), and (10).

(d) The department of justice shall maintain a record, which may be electronic, of each request by a law enforcement agency for a photograph under this subsection and of the response to the request. Except as provided in s. 343.237 (9), the department of justice may not disclose any record or other information concerning or relating to the request to any person other than a court, dis-

trict attorney, county corporation counsel, city, village, or town attorney, law enforcement agency, the applicant under s. 343.14 (3) or 343.50 (4), or, if the applicant is under 18 years of age, his or her parent or guardian. Records maintained under this paragraph shall be maintained for at least 12 months.

(e) The department of justice and the department of transportation shall ensure that, upon submission by law enforcement agencies of electronic requests meeting the requirements under this subsection, access to photographs under this subsection is promptly available to these requesting agencies.

History: 2009 a. 167.

165.83 Criminal identification, records and statistics. (1) DEFINITIONS. As used in this section and s. 165.84:

(b) "Law enforcement agency" means a governmental unit of one or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(c) "Offense" means any of the following:

1. An act that is committed by a person who has attained the age of 17 and that is a felony or a misdemeanor.

2. An act that is committed by a person who has attained the age of 10 but who has not attained the age of 17 and that would be a felony or misdemeanor if committed by an adult.

3. An act that is committed by any person and that is a violation of a city, county, village or town ordinance.

(d) "Reservation lands" has the meaning given in s. 165.92 (1) (a).

(e) "Tribal law enforcement agency" means any of the following:

1. An agency of a tribe that is established for the purpose of preventing and detecting crime on the reservation or trust lands of the tribe and enforcing the tribe's laws or ordinances, that employs full time one or more persons who are granted law enforcement and arrest powers under s. 165.92 (2) (a), and that was created by a tribe that agrees that its law enforcement agency will perform the duties required of the agency under this section and s. 165.84.

2. The Great Lakes Indian Fish and Wildlife Commission, if the Great Lakes Indian Fish and Wildlife Commission agrees to perform the duties required under this section and s. 165.84.

(f) "Tribe" has the meaning given in s. 165.92 (1) (c).

(g) "Trust lands" has the meaning given in s. 165.92 (1) (d).

(2) The department shall:

(a) Obtain and file fingerprints, descriptions, photographs and any other available identifying data on persons who have been arrested or taken into custody in this state:

1. For an offense which is a felony or which would be a felony if committed by an adult.

2. For an offense which is a misdemeanor, which would be a misdemeanor if committed by an adult or which is a violation of an ordinance, and the offense involves burglary tools, commercial gambling, dealing in gambling devices, contributing to the delinquency of a child, dealing in stolen property, controlled substances or controlled substance analogs under ch. 961, firearms, dangerous weapons, explosives, pandering, prostitution, sex offenses where children are victims, or worthless checks.

3. For an offense charged or alleged as disorderly conduct but which relates to an act connected with one or more of the offenses under subd. 2.

4. As a fugitive from justice.

5. For any other offense designated by the attorney general.

(b) Accept for filing fingerprints and other identifying data, taken at the discretion of the law enforcement or tribal law enforcement agency involved, on persons arrested or taken into custody for offenses other than those listed in par. (a).

(c) Obtain and file fingerprints and other available identifying data on unidentified human corpses found in this state.

(d) Obtain and file information relating to identifiable stolen or lost property.

(e) Obtain and file a copy or detailed description of each arrest warrant issued in this state for the offenses under par. (a) or s. 346.63 (1) or (5) but not served because the whereabouts of the person named on the warrant is unknown or because that person has left the state. All available identifying data shall be obtained with the copy of the warrant, including any information indicating that the person named on the warrant may be armed, dangerous or possessed of suicidal tendencies.

(f) Collect information concerning the legal action taken in connection with offenses committed in this state from the inception of the complaint to the final discharge of the defendant and such other information as may be useful in the study of crime and the administration of justice. The department may determine any other information to be obtained regarding crime records.

(g) Furnish all reporting officials with forms and instructions which specify in detail the nature of the information required under pars. (a) to (f) and any other matters which facilitate collection.

(h) Cooperate with and assist all law enforcement and tribal law enforcement agencies in the state in the establishment of a state system of criminal identification and in obtaining fingerprints and other identifying data on all persons described in pars. (a), (b) and (c).

(i) Offer assistance and, when practicable, instructions to all local and tribal law enforcement agencies in establishing efficient local and tribal bureaus of identification and records systems.

(j) Compare the fingerprints and descriptions that are received from law enforcement and tribal law enforcement agencies with the fingerprints and descriptions already on file and, if the person arrested or taken into custody is a fugitive from justice or has a criminal record, immediately notify the law enforcement and tribal law enforcement agencies concerned and supply copies of the criminal record to these agencies.

(k) Make available all statistical information obtained to the governor and the legislature.

(m) Prepare and publish reports and releases, at least once a year, containing the statistical information gathered under this section and presenting an accurate picture of the operation of the agencies of criminal justice.

(n) Make available upon request, to all local, state and tribal law enforcement agencies in this state, to all federal law enforcement and criminal identification agencies, and to state law enforcement and criminal identification agencies in other states, any information in the law enforcement files of the department which will aid these agencies in the performance of their official duties. For this purpose the department shall operate on a 24−hour a day basis, 7 days a week. The information may also be made available to any other agency of this state or political subdivision of this state, and to any other federal agency, upon assurance by the agency concerned that the information is to be used for official purposes only.

(p) Cooperate with other agencies of this state, tribal law enforcement agencies and the national crime information center systems of the F.B.I. in developing and conducting an interstate, national and international system of criminal identification, records and statistics.

History: 1971 c. 219; 1983 a. 27, 535; 1985 a. 29; 1993 a. 407; 1995 a. 448; 1997 a. 27; 2007 a. 27; 2009 a. 402.

NOTE: 1993 Wis. Act 407, which creates sub. (1) (d) to (g) and amends sub. (2), contains extensive explanatory notes.

Pursuant to sub. (2), identification records should be made by local law enforcement agencies of juveniles arrested or taken into custody for confidential reporting to the department of justice. 62 Atty. Gen. 45.

165.84 Cooperation in criminal identification, records and statistics. (1) All persons in charge of law enforcement and tribal law enforcement agencies shall obtain, or cause to be

obtained, the fingerprints in duplicate, according to the fingerprint system of identification established by the director of the F.B.I., full face, profile and full length photographs, and other available identifying data, of each person arrested or taken into custody for an offense of a type designated in s. 165.83 (2) (a), of all persons arrested or taken into custody as fugitives from justice, and fingerprints in duplicate and other identifying data of all unidentified human corpses in their jurisdictions, but photographs need not be taken if it is known that photographs of the type listed, taken within the previous year, are on file at the department. Fingerprints and other identifying data of persons arrested or taken into custody for offenses other than those designated in s. 165.83 (2) (a) may be taken at the discretion of the law enforcement or tribal law enforcement agency concerned. Any person arrested or taken into custody and subsequently released without charge, or cleared of the offense through court proceedings, shall have any fingerprint record taken in connection therewith returned upon request.

(2) Fingerprints and other identifying data required to be taken under sub. (1) shall be forwarded to the department within 24 hours after taking for filing and classification, but the period of 24 hours may be extended to cover any intervening holiday or weekend. Photographs taken shall be forwarded at the discretion of the law enforcement or tribal law enforcement agency concerned, but, if not forwarded, the fingerprint record shall be marked "Photo available" and the photographs shall be forwarded subsequently if the department so requests.

(3) All persons in charge of law enforcement and tribal law enforcement agencies shall forward to the department copies or detailed descriptions of the arrest warrants and the identifying data described in s. 165.83 (2) (e) immediately upon determination of the fact that the warrant cannot be served for the reasons stated. If the warrant is subsequently served or withdrawn, the law enforcement or tribal law enforcement agency concerned must immediately notify the department of the service or withdrawal. In any case, the law enforcement or tribal law enforcement agency concerned must annually, no later than January 31 of each year, confirm to the department all arrest warrants of this type which continue to be outstanding.

(4) All persons in charge of state penal and correctional institutions shall obtain fingerprints, according to the fingerprint system of identification established by the director of the F.B.I., and full face and profile photographs of all persons received on commitment to these institutions. The prints and photographs so taken shall be forwarded to the department, together with any other identifying data requested, within 10 days after the arrival at the institution of the person committed. Full length photographs in release dress shall be taken immediately prior to the release of these persons from these institutions. Immediately after release, these photographs shall be forwarded to the department.

(5) All persons in charge of law enforcement and tribal law enforcement agencies, all clerks of court, all municipal judges where they have no clerks, all persons in charge of state and county penal and correctional institutions, and all persons in charge of state and county probation, extended supervision and parole offices, shall supply the department with the information described in s. 165.83 (2) (f) on the basis of the forms and instructions to be supplied by the department under s. 165.83 (2) (g).

(6) All persons in charge of law enforcement and tribal law enforcement agencies in this state shall furnish the department with any other identifying data required in accordance with guidelines established by the department. All law enforcement and tribal law enforcement agencies and penal and correctional institutions in this state having criminal identification files shall cooperate in providing to the department copies of such items in these files as will aid in establishing the nucleus of the state criminal identification file.

(7) (ab) In this subsection, "violent crime" means any of the following:

1. A felony violation of s. 940.01, 940.05, 940.21, 940.225 (1), (2), or (3), 940.235, 940.30, 940.302 (2), 940.305, 940.31, 940.32 (2), (2e), or (2m), 940.43, 940.45, 941.20, 941.21, 941.327, 943.02, 943.06, 943.10, 943.23 (1g) or (2), 943.32, 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, 948.095, or 948.30 (2).

2. A felony violation of s. 940.02, 940.03, 940.06, 940.07, 940.08, 940.09 (1c), 940.10, 940.19 (2), (4), (5), or (6), 940.195 (2), (4), (5), or (6), 940.20, 940.201 (2), 940.203 (2), 940.205 (2), 940.207 (2), 940.208, 940.23, 941.30, or 948.03 (3) or (5) (a) 4.

3. A felony if a penalty enhancer specified in s. 939.621 could be imposed.

4. The solicitation, conspiracy, or attempt, under s. 939.30, 939.31, or 939.32, to commit a violation under subd. 1.

(ah) Subject to rules promulgated by the department of justice under s. 165.76 (4), all persons in charge of law enforcement and tribal law enforcement agencies shall obtain, when the individual's fingerprints or other identifying data are obtained, a biological specimen for deoxyribonucleic acid analysis from each individual arrested for a violent crime and each individual taken into custody for a juvenile offense that would be a violent crime if committed by an adult in this state. The law enforcement agency shall submit the biological specimen to the crime laboratories in a manner specified in the rules under s. 165.76 (4).

(am) After receiving an individual's specimen submitted under par. (ah), the crime laboratories shall do one of the following:

1m. If, within the time limit under subd. 2m., the court notifies the crime laboratories under par. (bm) that any of the following applies, analyze the deoxyribonucleic acid in the specimen and include the individual's deoxyribonucleic acid profile in the data bank under s. 165.77 (3):

a. The individual was arrested, or the juvenile was taken into custody, under a warrant.

b. The court has made a finding that there is probable cause that the individual committed a violent crime or that the juvenile committed an offense that would be a violent crime if committed by an adult in this state.

c. The individual failed to appear at the initial appearance or preliminary examination or the person waived the preliminary examination.

d. The individual failed to appear for a delinquency proceeding under ch. 938.

2m. If, one year after the date the biological sample was submitted under par. (ah), the court has not notified the crime laboratories under par. (bm) that subd. 1m. a., b., c., or d. applies to the individual, destroy the biological sample.

(bm) The court shall notify the crime laboratories if par. (am) 1m. a., b., c., or d. applies to an individual who has been arrested.

(c) 1. No biological specimen obtained under par. (ah) may be subject to analysis except by the crime laboratories as provided under s. 165.77.

2. Biological specimens obtained under this section may be used only as provided under s. 165.77.

History: 1977 c. 305 s. 64; 1985 a. 29; 1993 a. 407; 1997 a. 283; 2013 a. 20, 214; 2015 a. 366.

165.845 Collect crime data. (1) The department of justice shall:

(a) Collect information concerning the number and nature of offenses known to have been committed in this state and such other information as may be useful in the study of crime and the administration of justice. The department of justice may determine any other information to be obtained regarding crime and justice system statistics. The information shall include data

requested by the federal bureau of investigation under its system of uniform crime reports for the United States.

(b) Furnish all reporting officials with forms or instructions or both that specify the nature of the information required under par. (a), the time it is to be forwarded, the method of classifying and any other matters that facilitate collection and compilation.

(c) Maintain a statistical analysis center to serve as a clearing house of justice system data and information and conduct justice system research and data analysis under this section.

(2) All persons in charge of law enforcement agencies and other criminal and juvenile justice system agencies shall supply the department of justice with the information described in sub. (1) (a) on the basis of the forms or instructions or both to be supplied by the department under sub. (1) (a). The department may conduct an audit to determine the accuracy of the data and other information it receives from law enforcement agencies and other criminal and juvenile justice system agencies.

History: 2013 a. 20 ss. 168 to 170, 172, 1938, 1939.

165.85 Law enforcement standards board. (1) FINDINGS AND POLICY. The legislature finds that the administration of criminal justice is of statewide concern, and that law enforcement work is of vital importance to the health, safety, and welfare of the people of this state and is of such a nature as to require training, education, and the establishment of standards of a proper professional character. The public interest requires that these standards be established and that this training and education be made available to persons who seek to become law enforcement, tribal law enforcement, jail or juvenile detention officers, persons who are serving as these officers in a temporary or probationary capacity, and persons already in regular service.

(2) DEFINITIONS. In this section and in s. 165.86:

(ac) "Alzheimer's disease" has the meaning given in s. 46.87 (1) (a).

(ah) "Board" means the law enforcement standards board.

(bc) "Fiscal year" has the meaning given in s. 20.902.

(bg) "Jail" means a county jail, rehabilitation facility established by s. 59.53 (8) or county house of correction under s. 303.16.

(bn) "Jail officer" means any person employed by any political subdivision of the state for the purpose of supervising, controlling or maintaining a jail or the persons confined in a jail. "Jail officer" includes officers regardless of whether they have been sworn regarding their duties or whether they serve on a full−time basis.

(br) "Juvenile detention facility" has the meaning given in s. 48.02 (10r).

(bt) "Juvenile detention officer" means any person employed by any political subdivision of the state or by any private entity contracting under s. 938.222 to supervise, control, or maintain a juvenile detention facility or the persons confined in a juvenile detention facility. "Juvenile detention officer" includes officers regardless of whether they have been sworn regarding their duties or whether they serve on a full−time basis.

(bv) "Law enforcement agency" means a governmental unit of this state or a political subdivision of this state that employs one or more law enforcement officers.

(bx) "Law enforcement instructor" means a person who is certified by the board to deliver board−approved program outcomes, course competencies, performance standards, and learning objectives in training programs and training schools for law enforcement officers, tribal law enforcement officers, jail officers, and juvenile detention officers.

(c) "Law enforcement officer" means any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce. "Law enforcement officer" includes a university police officer, as defined in s. 175.42 (1) (b).

(cm) "Police pursuit" has the meaning given in s. 85.07 (8) (a).

(d) "Political subdivision" means counties, cities, villages, towns, town sanitary districts, public inland lake protection and rehabilitation districts, and technical college districts.

(e) "Preservice student" means any person who meets the minimum recruitment qualifications set by the board and who enrolls in preparatory training under sub. (4) (a) 1., (b) 1., or (c) 1. prior to employment as a law enforcement officer, tribal law enforcement officer, jail officer, or juvenile detention officer.

(f) "Recruit" means a law enforcement officer, tribal law enforcement officer, jail officer, or juvenile detention officer employed on a probationary or temporary basis, in compliance with the minimum recruitment qualifications set by the board.

(g) "Tribal law enforcement officer" means any of the following:

1. A person who is employed by a tribe for the purpose of detecting and preventing crime and enforcing the tribe's laws or ordinances, who is authorized by the tribe to make arrests of Indian persons for violations of the tribe's laws or ordinances, and who agrees to accept the duties of law enforcement officers under the laws of this state.

2. A conservation warden employed by the Great Lakes Indian Fish and Wildlife Commission who agrees to accept the duties of law enforcement officers under the laws of this state.

(3) POWERS. The board may:

(a) Promulgate rules for the administration of this section including the authority to require the submission of reports and information pertaining to the administration of this section by law enforcement and tribal law enforcement agencies in this state.

(b) Establish minimum educational and training standards for admission to employment as a law enforcement or tribal law enforcement officer in permanent positions and in temporary, probationary or part−time status. Educational and training standards for tribal law enforcement officers under this paragraph shall be identical to standards for other law enforcement officers.

(c) Except as provided under sub. (3m) (a), certify persons as being qualified under this section to be law enforcement, tribal law enforcement, jail or juvenile detention officers. Prior to being certified under this paragraph, a tribal law enforcement officer shall agree to accept the duties of law enforcement officers under the laws of this state.

(cm) Decertify law enforcement, tribal law enforcement, jail or juvenile detention officers who terminate employment or are terminated, who violate or fail to comply with a rule, policy, or order of the board relating to curriculum or training, who falsify information to obtain or maintain certified status, who are certified as the result of an administrative error, who are convicted of a felony or of any offense that, if committed in Wisconsin, could be punished as a felony, who are convicted of a misdemeanor crime of domestic violence, or who fail to pay court−ordered payments of child or family support, maintenance, birth expenses, medical expenses, or other expenses related to the support of a child or former spouse, or who fail to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings. The board shall establish procedures for decertification in compliance with ch. 227, except that decertification for failure to pay court−ordered payments of child or family support, maintenance, birth expenses, medical expenses, or other expenses related to the support of a child or former spouse or for failure to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings shall be done as provided under sub. (3m) (a).

(d) Establish minimum curriculum requirements for preparatory courses and programs, and recommend minimum curriculum requirements for recertification and advanced courses and programs, in schools approved by the board and operated by or for

this state or any political subdivision of the state for the specific purpose of training law enforcement recruits, law enforcement officers, tribal law enforcement recruits, tribal law enforcement officers, jail officer recruits, jail officers, juvenile detention officer recruits, or juvenile detention officers in areas of knowledge and ability necessary to the attainment of effective performance as an officer, and ranging from subjects such as first aid, patrolling, statutory authority, techniques of arrest, protocols for official action by off−duty officers, firearms, domestic violence investigations, and recording custodial interrogations to subjects designed to provide a better understanding of ever−increasing complex problems in law enforcement such as human relations, civil rights, constitutional law, and supervision, control, and maintenance of a jail or juvenile detention facility. The board shall appoint a curriculum advisory committee to advise the board in the establishment of the curriculum requirements. The curriculum advisory committee shall consist of 6 chiefs of police and 6 sheriffs to be appointed on a geographic basis, the director of training of the Wisconsin state patrol, and, if applicable, one or more representatives of colleges or universities as follows:

1. If any technical college in the state provides a course or program described in this paragraph, the board shall appoint to the curriculum advisory committee one person to represent technical colleges.

2. If any 2−year college in the state provides a course or program described in this paragraph, the board shall appoint to the curriculum advisory committee one person to represent 2−year colleges.

3. If any 4−year college or university in the state provides a course or program described in this paragraph, the board shall appoint to the curriculum advisory committee one person to represent 4−year colleges and universities.

(e) Consult and cooperate with counties, municipalities, agencies of this state, other governmental agencies and with universities, colleges, the technical college system board and other institutions concerning the development of law enforcement training schools, degree programs or specialized courses of instruction.

(g) Conduct and stimulate research which is designed to improve law enforcement administration and performance.

(h) Make recommendations concerning any matter within its purview.

(i) Make such evaluations as are necessary to determine if participating governmental units are complying with this section.

(j) Adopt rules under ch. 227 for its internal management, control and administration.

(3m) DUTIES RELATING TO SUPPORT ENFORCEMENT. The board shall do all of the following:

(a) As provided in a memorandum of understanding entered into with the department of children and families under s. 49.857, refuse certification to an individual who applies for certification under this section, refuse recertification to an individual certified under this section or decertify an individual certified under this section if the individual fails to pay court−ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse or if the individual fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings.

(b) 1. Request that an individual provide the board with his or her social security number when he or she applies for certification or recertification under this section. Except as provided in subd. 2., if an individual who is requested by the board to provide his or her social security number under this paragraph does not comply with the board's request, the board shall deny the individual's application for certification or recertification. The board may disclose a social security number provided by an individual under this paragraph only to the department of children and families as provided in a memorandum of understanding entered into with the department of children and families under s. 49.857.

2. As a condition of applying for certification or recertification, an individual who does not have a social security number shall submit a statement made or subscribed under oath or affirmation to the board that he or she does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A certification or recertification issued in reliance on a false statement submitted under this subdivision is invalid.

(4) REQUIRED STANDARDS. (a) *Law enforcement and tribal law enforcement officers.* 1. The board shall establish a preparatory program of law enforcement and tribal law enforcement officer training, which shall include not less than 600 hours of training. The board shall establish criteria for the general program outcomes for the preparatory program. Specifics of the training curriculum, competencies, student learning and performance objectives, particular subjects, and the minimum number of hours for each subject shall be established by written policy of the board. In establishing the preparatory training program, the board shall give due consideration to recommendations made by the curriculum advisory committee. The board may amend the criteria and policies governing the preparatory training program as needed to respond to technological changes affecting law enforcement, additional recommendations made by the curriculum advisory committee, or other conditions affecting the public interest in maintaining training standards of a proper professional character. Notwithstanding s. 227.10 (1), the criteria and policies established under this paragraph need not be promulgated as rules under ch. 227.

2. Except as provided in subd. 3. or 8., no person may be employed as a law enforcement or tribal law enforcement officer, except on a temporary or probationary basis, unless the person has satisfactorily completed the preparatory training program established under subd. 1. and has been certified by the board as being qualified to be a law enforcement or tribal law enforcement officer.

3. A recruit may exercise law enforcement powers during an original period of temporary or probationary employment that, except as provided in subd. 6. or as otherwise authorized by law, may not exceed 12 months from the recruit's first date of employment.

3h. A person may be certified by the board under subd. 2. only if the person has successfully completed the preparatory program established under subd. 1. within the person's original period of temporary or probationary employment established in subd. 3.

3m. Except as provided in sub. (3m) (a), and in addition to certification procedures under this paragraph, the board may certify any person as being a tribal law enforcement officer on the basis of the person's completion of the training requirements for law enforcement officer certification prior to May 6, 1994. The officer must also meet the agreement requirements under sub. (3) (c) prior to certification as a tribal law enforcement officer.

4. Preservice students taking part in the preparatory program of law enforcement or tribal law enforcement officer training established by the board under subd. 1. shall be fingerprinted on 2 fingerprint cards, each bearing a complete set of the student's fingerprints, or by other technologies approved by the department of justice. The fingerprints shall be submitted to the department of justice for verification of the identify of the person fingerprinted and to obtain records of his or her criminal arrests and convictions in Wisconsin. The department of justice shall provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purpose of verifying the person fingerprinted and obtaining records of his or her criminal arrests and convictions on file with the federal bureau of investigation.

5. No person who has been convicted of any federal felony, any crime of domestic violence, or of any offense that, if commit-

ted in Wisconsin, could be punished as a felony may take part in the preparatory training program established under subd. 1. unless he or she has been granted an absolute and unconditional pardon for the crime.

6. Upon a showing of good cause by a recruit or a recruit's employer, the board may extend the recruit's original period of temporary or probationary employment for a period of time it deems appropriate.

7. a. Except as provided in subd. 8., no person may continue as a certified law enforcement or tribal law enforcement officer unless that person maintains law enforcement or tribal law enforcement employment and completes annual recertification training. Any officer who is subject to this subdivision shall complete at least 24 hours of recertification training each fiscal year beginning in the fiscal year following the fiscal year in which he or she is certified as a law enforcement or tribal law enforcement officer by the board.

b. Each officer who is subject to this subdivision shall biennially complete at least 4 hours of training from curricula based upon model standards promulgated by the board under par. (d). Hours of training completed under this subd. 7. b. shall count toward the hours of training required under subd. 7. a.

c. Each officer who is subject to this subdivision shall annually complete a handgun qualification course from curricula based upon model standards established by the board under par. (e). Hours of training completed under this subd. 7. c. shall count toward the hours of training required under subd. 7. a.

8. Sheriffs are not required to satisfy the requirements under subd. 2., 3., or 7. as a condition of tenure or continued employment.

(b) *Jail officers.* 1. The board shall establish a preparatory program of jail officer training, which shall include not less than 160 hours of training. The board shall establish criteria for the general program outcomes for the preparatory program. Specifics of the training curriculum competencies, student learning and performance objectives, particular subjects, and the minimum number of hours for each subject shall be established by written policy of the board. In establishing the preparatory training program, the board shall give due consideration to recommendations made by the curriculum advisory committee. The board may amend the criteria and policies governing the preparatory training program as needed to respond to technological changes affecting jail administration, additional recommendations made by the curriculum advisory committee, or other conditions affecting the public interest in maintaining training standards of a proper professional character. The board may provide that any part of the training program under this subdivision and the training program under par. (c) 1. are identical and count toward either training requirement under this paragraph or par. (c). Notwithstanding s. 227.10 (1), the criteria and policies established under this paragraph need not be promulgated as rules under ch. 227.

2. Except as provided in subd. 7., no person may be employed as a jail officer, except on a temporary or probationary basis, unless the person has satisfactorily completed the preparatory training program established under subd. 1. and has been certified by the board as being qualified to be a jail officer.

3. A recruit may exercise jail officer powers only during an original period of temporary or probationary employment that, except as provided in subd. 5. or as otherwise authorized by law, may not exceed 12 months from the recruit's first date of employment.

4. A person may be certified by the board under subd. 2. only if the person has successfully completed the preparatory program established under subd. 1. within the person's original period of temporary or probationary employment established in subd. 3.

4g. Preservice students taking part in the preparatory program of jail officer training established by the board under subd. 1. shall be fingerprinted on 2 fingerprint cards, each bearing a complete set of the student's fingerprints, or by other technologies approved by the department of justice. The fingerprints shall be submitted to the department of justice for verification of the identity of the person fingerprinted and to obtain records of his or her criminal arrests and convictions in Wisconsin. The department of justice shall provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purpose of verifying the person fingerprinted and obtaining records of his or her criminal arrests and convictions on file with the federal bureau of investigation.

4r. No person who has been convicted of any federal felony or of any offense that, if committed in Wisconsin, could be punished as a felony may take part in the preparatory training program established under subd. 1. unless he or she has been granted an absolute and unconditional pardon for the crime.

5. Upon a showing of good cause by a recruit or a recruit's employer, the board may extend the recruit's original period of temporary or probationary employment for a period of time it deems appropriate.

6. No person may continue as a certified jail officer, unless that person maintains employment with a jail and completes annual recertification training. The officer shall complete at least 24 hours of recertification training each fiscal year beginning in the fiscal year following the fiscal year in which he or she is certified as a jail officer by the board.

7. Subdivision 2. does not apply to a jail officer serving under permanent appointment prior to July 2, 1983. The failure of any such officer to fulfill those requirements does not make that officer ineligible for any promotional examination for which he or she is otherwise eligible. Any such officer may voluntarily participate in programs to fulfill those requirements.

(c) *Juvenile detention officers.* 1. The board shall establish a preparatory program of juvenile detention officer training, which shall include not less than 160 hours of training. The board shall establish criteria for the general program outcomes for the preparatory program. Specifics of the training curriculum, competencies, student learning and performance objectives, particular subjects, and the minimum number of hours for each subject shall be established by written policy of the board. In establishing the preparatory training program, the board shall give due consideration to recommendations made by the curriculum advisory committee. The board may amend the criteria and policies governing the preparatory training program as needed to respond to technological changes affecting juvenile detention administration, additional recommendations made by the curriculum advisory committee, or other conditions affecting the public interest in maintaining training standards of a proper professional character. The board may provide that any part of the training program under this subdivision and the training program under par. (b) 1. are identical and count toward either training requirement under this paragraph or par. (b). Notwithstanding s. 227.10 (1), the criteria and policies established under this paragraph need not be promulgated as rules under ch. 227.

2. No person may be employed as a juvenile detention officer, except on a temporary or probationary basis, unless the person has satisfactorily completed the program established under subd. 1. and has been certified by the board as being qualified to be a juvenile detention officer.

3. A recruit may exercise juvenile detention officer powers only during an original period of temporary or probationary employment that, except as provided in subd. 5. or as otherwise authorized by law, may not exceed 12 months from the recruit's first date of employment.

4. A person may be certified by the board under subd. 2. only if the person has successfully completed the preparatory program established under subd. 1. within the person's original period of temporary or probationary employment established in subd. 3.

4g. Preservice students taking part in the preparatory program of juvenile detention officer training established by the board under subd. 1. shall be fingerprinted on 2 fingerprint cards, each

bearing a complete set of the student's fingerprints, or by other technologies approved by the department of justice. The fingerprints shall be submitted to the department of justice for verification of the identity of the person fingerprinted and to obtain records of his or her criminal arrests and convictions in Wisconsin. The department of justice shall provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purpose of verifying the person fingerprinted and obtaining records of his or her criminal arrests and convictions on file with the federal bureau of investigation.

4r. No person who has been convicted of any federal felony or of any offense that, if committed in Wisconsin, could be punished as a felony may take part in the preparatory training program established under subd. 1. unless he or she has been granted an absolute and unconditional pardon for the crime.

5. Upon a showing of good cause by a recruit or a recruit's employer, the board may extend the recruit's original period of temporary or probationary employment for a period of time it deems appropriate.

6. No person may continue as a certified juvenile detention officer, except on a temporary or probationary basis, unless that person maintains employment with a juvenile detention facility and completes annual recertification training. The officer shall complete at least 24 hours of recertification training each fiscal year beginning in the fiscal year following the fiscal year in which he or she is certified as a juvenile detention officer by the board.

7. Any person employed and certified as a jail officer on July 1, 1994, is certified as a juvenile detention officer and remains certified as a juvenile detention officer subject to annual recertification requirements under subd. 6. and the board's decertification authority under sub. (3) (cm).

(d) *Police pursuit.* The board shall promulgate rules that do all of the following:

1. Establish model standards that could be used by any law enforcement agency to determine whether to initiate or continue police pursuit, to establish police pursuit driving techniques employed by that agency, and to inform its officers of its written guidelines provided under s. 346.03 (6). The board shall review and, if considered appropriate by the board, revise the model standards established under this subdivision not later than June 30 of each odd−numbered year thereafter. The rules promulgated under this subdivision are advisory only, are not required to be included as a law enforcement training standard under this subsection, and are inadmissible as evidence, except to show compliance with this subdivision.

2. Establish the preparatory program and biennial recertification training curricula required under par. (a) relating to police pursuit standards, guidelines, and driving techniques.

(e) *Firearms.* The board shall establish criteria for firearm training. Notwithstanding s. 227.10 (1), the criteria need not be promulgated as rules under ch. 227 and shall do all of the following:

1. Establish model standards that could be used by any law enforcement agency to show handgun proficiency.

2. Establish the preparatory program and annual recertification training curricula required under par. (a) relating to an officer's ability to operate and fire a handgun.

(f) *Local or agency standards.* Nothing in this subsection shall preclude any law enforcement or tribal law enforcement agency or sheriff from setting recruit training, employment, and recertification training standards that are higher than the minimum standards set by the board.

(5) SCHOOLS AND PROGRAMS; TRAINING REIMBURSEMENTS. (a) All training programs and training schools for law enforcement, tribal law enforcement, jail, and juvenile detention officers and law enforcement instructors must be authorized and approved by the board as meeting standards established by the board. The board may authorize and approve a training program or training school only if it is operated by an agency of the state or of a political subdivision of the state. The authority granted in this paragraph does not authorize the board to select a site for a state police, jail, or juvenile detention officer academy or to expend funds thereon.

(b) The board shall authorize the reimbursement to each political subdivision of approved expenses incurred by recruits who satisfactorily complete training at schools certified by the board. Reimbursement of these expenses for law enforcement officer, jail officer and juvenile detention officer preparatory training shall be for board approved tuition, living, and travel expenses. Reimbursement of approved expenses for completion of annual recertification training under sub. (4) shall include at least $160 per officer thereafter. Funds may also be distributed for attendance at other training programs and courses or for training services on a priority basis to be decided by the department of justice.

(c) The board may provide grants as a reimbursement for actual expenses incurred by state agencies or political subdivisions for providing training programs to officers from other jurisdictions within the state.

(d) Any state agency which receives reimbursement for salary and fringe benefit costs under this subsection shall treat the reimbursement as revenue and deposit any such reimbursement in the appropriate program revenue account or segregated fund. If there is no such appropriate account or fund, the reimbursement shall be deposited as general purpose revenue — earned.

(5x) OFFICER TRAINING REIMBURSEMENT. Notwithstanding sub. (5), in each fiscal year, the department of justice shall determine the amount of additional costs, including but not limited to tuition, lodging, travel, meals, salaries and fringe benefits, to each political subdivision as a result of the enactment of 1993 Wisconsin Act 460. In each fiscal year, the department shall pay each political subdivision the amount determined under this subsection for that political subdivision from the appropriation under s. 20.455 (2) (am), subject to the limitations under s. 20.455 (2) (am).

(6) FINANCES. The board may accept for any of its purposes and functions under this section any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution or person, and may receive and utilize the same. Any arrangements pursuant to this subsection shall be detailed in any report of the board submitted under s. 15.07 (6), which shall include the identity of the donor, the nature of the transaction, and the conditions, if any.

History: 1973 c. 90, 333; 1975 c. 94 s. 91 (11); 1977 c. 29, 418; 1979 c. 111; 1981 c. 20; 1983 a. 27; 1985 a. 29, 260; 1987 a. 237, 366, 394; 1989 a. 31, 291; 1991 a. 39; 1993 a. 16, 167, 213, 399, 407, 460, 482, 491; 1995 a. 201, 225, 349; 1997 a. 27, 88, 191; 1999 a. 9; 2001 a. 16, 109; 2005 a. 60, 264, 344, 414; 2007 a. 20, 27, 97, 130; 2009 a. 28, 180; 2011 a. 29; 2013 a. 173, 214; 2015 a. 55; 2015 a. 195 s. 83.

NOTE: 1993 Wis. Act 407, which creates subs. (2) (e) and (4) (f) and amends subs. (1), (3) and (4), contains extensive explanatory notes.

Cross−reference: See also ch. LES 1, Wis. adm. code.

A rule adopted under this section properly barred a nonpardoned felon from holding a police job. Law Enforcement Standards Board v. Lyndon Station, 101 Wis. 2d 472, 305 N.W.2d 89 (1981).

Sub. (4) (b) governs the terms of employment of a probationary sheriff's deputy so that the discipline procedures under s. 59.21 (8) (b) [now s. 59.29 (8) (b)] do not apply and an applicable collective bargaining agreement controls. Hussey v. Outagamie County, 201 Wis. 2d 14, 548 N.W.2d 848 (Ct. App. 1996), 95−2948.

A police officer promoted to sergeant, subject to a one−year period of probation, could not be demoted without a just cause hearing under s. 62.13 (5) (em). An original appointment is on a probationary basis under sub. (4) (b). Once that period has passed, no promotion can be taken away without a hearing under s. 62.13 (5) (em). Antisdel v. City of Oak Creek Police and Fire Commission, 2000 WI 35, 234 Wis. 2d 154, 609 N.W.2d 464, 97−3818.

Sub. (4) (b) 2. does not preclude temporary assignment of uncertified persons to fill in as jail officers when necessary as a result of sickness, vacations, or scheduling conflicts. 78 Atty. Gen. 146.

Chief of police was entitled to hearing meeting due process requirements prior to discharge from office. Jessen v. Village of Lyndon Station, 519 F. Supp. 1183 (1981).

A probationary police officer had no protected property interest in his job. Ratliff v. City of Milwaukee, 608 F. Supp. 1109 (1985).

165.86 Law enforcement training. The department shall:

(1) (a) Supply the staffing needs of the law enforcement standards board.

(b) Identify state agencies and political subdivisions that employ law enforcement officers in the state, notify the appropri-

ate officials of the standards of employment and preparatory and recertification training established by the board, and develop appropriate procedures whereby acceptable evidence of compliance with the board's employment and preparatory and recertification training standards may be submitted.

(c) Identify state agencies and political subdivisions that employ law enforcement officers in the state and notify the appropriate officials of the model law enforcement pursuit standards established by the board under s. 165.85 (4) (d).

(2) (a) Identify and coordinate all preparatory and recertification training activities in law enforcement in the state, and expand the coordinated program to the extent necessary to supply the training required for all recruits in the state under the preparatory training standards and time limits set by the board and for law enforcement officers, jail officers and juvenile detention officers in this state.

(b) Organize a program of training, which shall encourage utilization of existing facilities and programs through cooperation with federal, state, and local agencies and institutions presently active in this field. Priority shall be given to the establishment of the statewide preparatory and recertification training programs described in sub. (1), but the department shall cooperate in the creation and operation of other advanced and special courses, including courses relating to emergency detention of persons under s. 51.15 and emergency protective placement under s. 55.135, that meet the curriculum standards recommended by the board. The department may satisfy the requirement for cooperating in the development of special courses relating to emergency detention and emergency protective placement by cooperating with county departments of community programs in the development of these courses under s. 51.42 (3) (ar) 4. d. The department shall keep appropriate records of all such training courses given in the state and the results thereof in terms of persons attending, agencies represented, and, where applicable, individual grades given.

History: 1985 a. 29; 1987 a. 366; 1989 a. 31; 1993 a. 460; 1997 a. 88; 2005 a. 264; 2007 a. 97; 2013 a. 214.

165.89 Grants to certain counties for law enforcement programs. (1) From the appropriation under s. 20.455 (2) (kq), the department shall provide grants to counties to fund county law enforcement services. The department may make a grant to a county under this section only if all of the following apply:

(a) The county borders one or more federally recognized Indian reservations.

(b) The county has not established a cooperative county−tribal law enforcement program under s. 165.90 with each federally recognized Indian tribe or band that has a reservation bordering the county.

(c) The county demonstrates a need for the law enforcement services to be funded with the grant.

(d) The county submits an application for a grant and a proposed plan that shows how the county will use the grant moneys to fund law enforcement services.

(2) The department shall review an application and plan submitted under sub. (1) (d) to determine if the application and plan meet the requirements of sub. (1) (a) to (c) and the criteria established under sub. (3). The department may not award an annual grant in excess of $50,000 to any county under this section.

(3) The department shall develop criteria and procedures for use in administering this section. Notwithstanding s. 227.10 (1), the criteria and procedures need not be promulgated as rules under ch. 227.

(4) Notwithstanding subs. (1) and (2) and any criteria and procedures developed under sub. (3), the department shall allocate $300,000 to Forest County each fiscal year from the appropriation account under s. 20.455 (2) (kq) to fund law enforcement services.

History: 2005 a. 25 ss. 88b, 2086s; Stats. 2005 s. 165.89.

165.90 County−tribal law enforcement programs. (1) Any county that has one or more federally recognized Indian reservations within or partially within its boundaries may enter into an agreement in accordance with s. 59.54 (12) with an Indian tribe located in the county to establish a cooperative county−tribal law enforcement program. To be eligible to receive aid under this section, a county and tribe shall develop and annually submit a joint program plan, by December 1 of the year prior to the year for which funding is sought, to the department of justice for approval. If funding is sought for the 2nd or any subsequent year of the program, the county and tribe shall submit the report required under sub. (4) (b) together with the plan.

(2) The joint program plan shall identify all of the following:

(a) A description of the proposed cooperative county−tribal law enforcement program for which funding is sought, including information on the population and geographic area or areas to be served by the program.

(b) The program's need for funding under this section and the amount of funding requested.

(c) The governmental unit that shall receive and administer aid and the method by which aid shall be disbursed. The joint program plan shall specify that either the tribe or the county shall receive and administer the full amount of the aid or that the tribe and the county each shall receive and administer specified portions of the aid.

(d) The types of law enforcement services to be performed on the reservation and the persons who shall perform those services.

(e) The person who shall exercise daily supervision and control over law enforcement officers participating in the program.

(f) The method by which county and tribal input into program planning and implementation shall be assured.

(g) The program's policies regarding deputization, training and insurance of law enforcement officers.

(h) The record−keeping procedures and types of data to be collected by the program.

(i) Any other information required by the department or deemed relevant by the county and tribe submitting the plan.

(3) Upon request, the department shall provide technical assistance to a county and tribe in formulating a joint program plan.

(3m) In determining whether to approve a program plan and, if approved, how much aid the program shall receive, the department shall consider the following factors:

(a) The population of the reservation area to be served by the program.

(b) The complexity of the law enforcement problems that the program proposes to address.

(c) The range of services that the program proposes to provide.

(4) If the department approves a plan, the department shall certify the program as eligible to receive aid under s. 20.455 (2) (kt). Prior to January 15 of the year for which funding is sought, the department shall distribute from the appropriations under s. 20.455 (2) (kt) to each eligible program the amount necessary to implement the plan. The department shall distribute the aid to the county, the tribe, or both, as specified in the joint program plan. Distribution of aid is subject to the following limitations:

(a) A program may use funds received under s. 20.455 (2) (kt) only for law enforcement operations.

(b) A program shall, prior to the receipt of funds under s. 20.455 (2) (kt) for the 2nd and any subsequent year, submit a report to the department regarding the performance of law enforcement activities on the reservation in the previous fiscal year.

(5) Annually, on or before January 15, the department shall report on the performance of cooperative county−tribal law enforcement programs receiving aid under this section to each of the following:

(a) The chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2).

(b) The governor.

(c) The special committee on state−tribal relations under s. 13.83 (3).

History: 1983 a. 523; 1987 a. 326; 1989 a. 31; 1995 a. 201; 1999 a. 9, 60; 2009 a. 74.

165.91 Grants to tribes for law enforcement programs. **(1)** In this section, "tribe" means a federally recognized American Indian tribe or band in this state.

(2) (a) From the appropriation under s. 20.455 (2) (kw), the department shall provide grants to tribes to fund tribal law enforcement operations. To be eligible for a grant under this subsection, a tribe must submit an application for a grant to the department that includes a proposed plan for expenditure of the grant moneys. The department shall review any application and plan submitted to determine whether that application and plan meet the criteria established under par. (b). The department shall review the use of grant money provided under this subsection to ensure that the money is used according to the approved plan.

(b) The department shall develop criteria and procedures for use in administering this subsection. The department may not consider the grant under s. 165.91 (4), 2011 stats., when determining grant awards under this subsection. Notwithstanding s. 227.10 (1), the criteria and procedures need not be promulgated as rules under ch. 227.

History: 2005 a. 25 ss. 87t to 87v, 2088m; Stats. 2005 s. 165.91; 2007 a. 20; 2013 a. 20, 173.

165.92 Tribal law enforcement officers; powers and duties. **(1)** DEFINITIONS. In this section:

(a) "Reservation lands" means all lands within the exterior boundaries of an Indian reservation in this state.

(b) "Tribal law enforcement officer" means a person who is employed by a tribe for the purpose of detecting and preventing crime and enforcing the tribe's laws or ordinances and who is authorized by the tribe to make arrests of Indian persons for violations of the tribe's laws or ordinances.

(c) "Tribe" means a federally recognized Indian tribe or band in this state.

(d) "Trust lands" means any lands in this state held in trust by the United States government for the benefit of a tribe or a member of a tribe.

(2) POWERS AND DUTIES. (a) A tribal law enforcement officer who meets the requirements of s. 165.85 (4) (a) 1., 2., and 7. shall have the same powers to enforce the laws of the state and to make arrests for violations of such laws that sheriffs have, including powers granted to sheriffs under ss. 59.27 and 59.28 and under the common law, and shall perform the duties accepted under s. 165.85 (3) (c).

(b) Except as provided in par. (c) and s. 175.40, the powers and duties described under par. (a) may be exercised or performed by a tribal law enforcement officer only on the reservation of the tribe or on trust lands held for the tribe or for a member of the tribe that employs the officer.

(c) Any tribal law enforcement officer making an arrest under the authority of this subsection may transport the arrested person to the jail or other detention facility of the county in which the arrest took place or to another jail or detention facility agreed upon by the tribe and the county in which the arrest took place.

(3) LIABILITY. Except as provided in s. 175.40 (6m) (c) 1. and unless otherwise provided in a joint program plan under s. 165.90 (2) or an agreement between a political subdivision of this state and a tribe, the tribe that employs a tribal law enforcement officer is liable for all acts and omissions of the officer while acting within the scope of his or her employment, and neither the state nor any political subdivision of the state may be held liable for any action of the officer taken under the authority of sub. (2).

(3m) REQUIREMENTS. No tribal law enforcement officer may exercise or perform the powers or duties described under sub. (2) (a) unless all of the following apply:

(a) One of the following:

1. The governing body of the tribe that employs the officer adopts and has in effect a resolution that includes a statement that the tribe waives its sovereign immunity to the extent necessary to allow the enforcement in the courts of this state of its liability under sub. (3) or another resolution that the department of justice determines will reasonably allow the enforcement in the courts of this state of the tribe's liability under sub. (3).

2. The tribe or tribal law enforcement agency that employs the officer maintains liability insurance that does all of the following:

a. Covers the tribal law enforcement agency for its liability under sub. (2) and s. 66.0513.

b. Has a limit of coverage not less than $2,000,000 for any occurrence.

c. Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to the limits of the policy.

(b) The tribe or tribal law enforcement agency that employs the officer has provided to the department of justice a copy of the resolution under par. (a) 1. or proof of insurance under par. (a) 2., and the department of justice has posted either a copy of the document or notice of the document on the Internet site it maintains for exchanging information with law enforcement agencies.

(4) DEPUTIZATION BY SHERIFF. Nothing in this section limits the authority of a county sheriff to depute a tribal law enforcement officer under s. 59.26 (5), including the authority to grant law enforcement and arrest powers outside the territory described in sub. (2) (b). Deputization of a tribal law enforcement officer by a sheriff shall not limit the powers and duties granted to the officer by sub. (2).

History: 1993 a. 407; 1995 a. 201; 2009 a. 232; 2013 a. 214.

NOTE: 1993 Wis. Act 407, which creates this section, contains extensive explanatory notes.

165.93 Sexual assault victim services; grants. **(1)** DEFINITIONS. In this section:

(a) "Department" means the department of justice.

(b) "Sexual assault" means conduct that is in violation of s. 940.225, 948.02, 948.025, 948.03, 948.055, 948.06, 948.07, 948.08, 948.085, 948.09 or 948.10.

(e) "Victim" means an individual who has been sexually assaulted, regardless of whether the sexual assault has been reported to any governmental agency.

(2) GRANTS. (a) The department shall provide grants to eligible organizations from the appropriations under s. 20.455 (5) (e) and (gj) to provide services for sexual assault victims.

(b) An organization is eligible to apply for and receive a grant under this section if the organization meets all of the following criteria:

1. The organization is a nonprofit corporation or a public agency.

2. The organization provides or proposes to provide, either directly or through a contract, subcontract, service agreement or collaborative agreement with other organizations, entities or individuals, all of the following for sexual assault victims:

a. Advocacy and counseling services.

b. Crisis telephone line services on a 24 hours per day and 7 days per week basis.

c. Professional education about intervention for sexual assault victims and community education programs for the prevention of sexual assault.

d. Services for persons living in rural areas, men, children, elderly persons, physically disabled persons, minority groups and other groups of victims that have special needs. This subdivision does not require the applicant to provide services to any group of persons that does not reside in the applicant's service area.

3. The organization does not receive more than 70 percent of its operating budget from grants under this section.

4. The organization does not provide all of its services under subd. 2. a. to d. by contract, subcontract, service agreement or collaborative agreement with other organizations, entities or individuals.

(c) Whenever the department reviews applications for grants under this section, the department shall consider all of the following:

1. The need for sexual assault victim services in the community in which the applicant provides services or proposes to provide services.

2. The degree to which the applicant's services or proposed services are coordinated with other resources in the community and state.

3. The needs of urban and rural communities.

4. The needs of existing and proposed programs and services.

(3) REPORTING REQUIREMENTS. An organization that receives a grant under this section shall report all of the following information to the department for each fiscal year covered by the grant:

(a) The total expenditures that the organization made on sexual assault victim services in the period for which the grant was provided during that fiscal year.

(b) The number of persons served by general type of sexual assault victim services provided in the period for which the grant was provided during that fiscal year. The department shall identify for organizations the general types of sexual assault services provided.

(c) The number of persons who requested sexual assault victim services in the period for which the grant was provided during that fiscal year but who did not receive the sexual assault victim services that they requested.

(4) LIST OF ELIGIBLE ORGANIZATIONS. (a) The department shall certify to the elections commission, on a continuous basis, a list containing the name and address of each organization that is eligible to receive grants under sub. (2).

(b) The department shall make available to law enforcement agencies a current list containing the name and address of each organization that is eligible to receive grants under sub. (2).

History: 1993 a. 16, 227; 1995 a. 225; 2005 a. 253, 277, 278; 2007 a. 1; 2013 a. 20, 323; 2015 a. 118.

165.94 Global positioning system pilot programs; grants. (1) From the appropriation under s. 20.455 (5) (br), the department of justice shall provide grants to counties to establish a global positioning system tracking program for persons who are subject to a temporary restraining order or injunction under s. 813.12 or 813.125.

(3) Two or more counties may jointly establish and administer a program and apply for and receive a grant under this section.

History: 2013 a. 20.

165.95 Alternatives to incarceration; grant program. (1) In this section, "violent offender" means a person to whom one of the following applies:

(a) The person has been charged with or convicted of an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm.

(b) The person has one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm.

(2) The department of justice shall make grants to counties to enable them to establish and operate programs, including suspended and deferred prosecution programs and programs based on principles of restorative justice, that provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs. The department of justice shall make the grants from the appropriations under s. 20.455 (2) (em), (kn), and (kv). The department of justice shall collaborate with the departments of corrections and health and family services in establishing this grant program.

(2r) Any county that receives a grant under this section on or after January 1, 2012, shall provide matching funds that are equal to 25 percent of the amount of the grant.

(3) A county shall be eligible for a grant under sub. (2) if all of the following apply:

(a) The county's program is designed to meet the needs of a person who abuses alcohol or other drugs and who may be or has been charged with or who has been convicted of a crime in that county related to the person's use or abuse of alcohol or other drugs.

(b) The program is designed to promote public safety, reduce prison and jail populations, reduce prosecution and incarceration costs, reduce recidivism, and improve the welfare of participants' families by meeting the comprehensive needs of participants.

(c) The program establishes eligibility criteria for a person's participation. The criteria shall specify that a violent offender is not eligible to participate in the program.

(cd) Subject to par. (cg), the program does not prohibit a person from beginning or continuing participation in the program because he or she uses a medication that is approved by the federal food and drug administration for the treatment of his or her substance use disorder.

(cg) The program allows a participant to use a medication that is approved by the federal food and drug administration if all of the following are true:

1. A licensed health care provider, acting in the scope of his or her practice, has examined the person and determined that the person's use of the medication is an appropriate treatment for the person's substance use disorder.

2. The medication was appropriately prescribed by a person authorized to prescribe medication in the state.

3. The person is using the medication as prescribed as part of treatment for a diagnosed substance use disorder.

(d) Services provided under the program are consistent with evidence−based practices in substance abuse and mental health treatment, as determined by the department of health services, and the program provides intensive case management.

(e) The program uses graduated sanctions and incentives to promote successful substance abuse treatment.

(f) The program provides holistic treatment to its participants and provides them services that may be needed, as determined under the program, to eliminate or reduce their use of alcohol or other drugs, improve their mental health, facilitate their gainful employment or enhanced education or training, provide them stable housing, facilitate family reunification, ensure payment of child support, and increase the payment of other court−ordered obligations.

(g) The program is designed to integrate all mental health services provided to program participants by state and local government agencies and other organizations. The program shall require regular communication among a participant's substance abuse treatment providers, other service providers, the case manager, and any person designated under the program to monitor the person's compliance with his or her obligations under the program and any probation, extended supervision, and parole agent assigned to the participant.

(h) The program provides substance abuse and mental health treatment services through providers that are certified by the department of health services.

(i) The program requires participants to pay a reasonable amount for their treatment, based on their income and available assets, and pursues and uses all possible resources available through insurance and federal, state, and local aid programs, including cash, vouchers, and direct services.

(j) The program is developed with input from, and implemented in collaboration with, one or more circuit court judges, the

district attorney, the state public defender, local law enforcement officials, county agencies responsible for providing social services, including services relating to alcohol and other drug addiction, child welfare, mental health, and the Wisconsin Works program, the departments of corrections, children and families, and health services, private social services agencies, and substance abuse treatment providers.

(k) The county complies with other eligibility requirements established by the department of justice to promote the objectives listed in pars. (a) and (b).

(4) In implementing a program that meets the requirements of sub. (3), a county department may contract with or award grants to a religious organization under s. 59.54 (27).

(5) (a) A county that receives a grant under this section shall create an oversight committee to advise the county in administering and evaluating its program. Each committee shall consist of a circuit court judge, the district attorney or his or her designee, the state public defender or his or her designee, a local law enforcement official, a representative of the county, a representative of each other county agency responsible for providing social services, including services relating to child welfare, mental health, and the Wisconsin Works program, representatives of the departments of corrections and health and family services, a representative from private social services agencies, a representative of substance abuse treatment providers, and other members to be determined by the county.

(b) A county that receives a grant under this section shall comply with state audits and shall submit an annual report to the department of justice and to the oversight committee created under par. (a) regarding the impact of the program on jail and prison populations and its progress in attaining the goals specified in sub. (3) (b) and (f).

(bg) A county that receives a grant under this section shall submit data requested by the department of justice to the department of justice each month. The department of justice may request any data regarding the project funded by the grant that is necessary to evaluate the project and prepare the reports under sub. (5p).

(5m) In a program funded by a grant under this section, if urine collection for the purposes of a drug test results in the exposure of a program participant's genitals, pubic area, buttock or anus, all of the following must apply:

(a) The person conducting the urine collection for purposes of a drug test is of the same sex as the program participant.

(b) During the urine collection, the program participant is not exposed to the view of any person not conducting the urine collection.

(c) The urine collection is not reproduced through a visual or sound recording.

(d) The program participant's genitals, pubic area, buttock, and anus are not subject to any physical inspection beyond observation of the urine collection.

(e) All staff of the program must strive to preserve the dignity of all program participants subject to urine collection for the purpose of drug testing.

(5p) (a) The department of justice shall, annually, analyze the data submitted under sub. (5) (bg) and prepare a progress report that evaluates the effectiveness of the grant program. The department of justice shall make the report available to the public.

(b) The department of justice shall, every 5 years, prepare a comprehensive report that analyzes the data it receives under sub. (5) (bg) and the annual reports it produces under par. (a). The department of justice shall include in this comprehensive report a cost benefit analysis of the grant program and shall submit the report to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2).

(6) Two or more counties may jointly apply for and receive a grant under this section. If counties submit a joint application, they shall include with their application a written agreement specifying each county department's role in developing, administering, and evaluating the program. The oversight committee established under sub. (5) (a) shall consist of representatives from each county.

(7) Grants provided under this section shall be provided on a calendar year basis beginning on January 1, 2007. If the department of justice decides to make a grant to a county under this section, the department of justice shall notify the county of its decision and the amount of the grant no later than September 1 of the year preceding the year for which the grant will be made.

(7m) Beginning in fiscal year 2012−13, the department of justice shall, every 5 years, make grants under this section available to any county on a competitive basis. A county may apply for a grant under this subsection regardless of whether the county has received a grant previously under this section.

(8) The department of justice shall assist a county receiving a grant under this section in obtaining funding from other sources for its program.

(9) The department of justice shall inform any county that is applying for a grant under this section whether the county meets the requirements established under sub. (3), regardless of whether the county receives a grant.

(10) The department of justice shall evaluate every 2 years, the grant program established under this section.

History: 2013 a. 20 ss. 177, 1944; 2013 a. 197; Stats. 2013 s. 165.95; 2015 a. 388.

165.955 Drug court; grant program. (1) In this section, "drug court" means a court that diverts a substance−abusing person from prison or jail into treatment by increasing direct supervision of the person, coordinating public resources, providing intensive community−based treatment, and expediting case processing.

(2) From the appropriation under s. 20.455 (2) (eg), the department of justice shall provide, to counties that have not established a drug court, grants to establish and operate drug courts.

History: 2013 a. 20.

165.957 Frequent testing for use of alcohol or a controlled substance; pilot program. (1) In this section:

(a) "Controlled substance" has the meaning given in s. 961.01 (4).

(b) "Testing" means a procedure for determining the presence and level of alcohol or a controlled substance in an individual's blood, breath, or urine, and includes any combination of the use of breath testing, drug patch testing, urinalysis, or continuous or transdermal alcohol monitoring.

(2) The department of justice may designate up to 5 counties to participate in a voluntary frequent sobriety testing program. If a county opts not to participate in the program, the department of justice may designate another county to replace it.

(3) The department of justice may, by rule, establish the following:

(a) A standard for frequent testing for the use of alcohol or a controlled substance that is an alternative to the testing described in sub. (4) (b) 1. This paragraph does not apply to testing required pursuant to an order under s. 343.301 (1g) (am) 2. that a court imposes on a person who meets the criteria under s. 343.301 (1g) (a) 2. b.

(b) A standard for setting fees that counties may collect under sub. (4) (d). The standard may include a component that allows the department of justice to recoup its costs under this section, and as provided in sub. (5) (a).

(c) A timeline and procedure for counties to submit to the department of justice the information required under sub. (6).

(4) Each frequent sobriety testing program shall meet all of the following criteria:

(a) The program limits participation to persons whose number of convictions under ss. 940.09 (1) and 940.25, plus the total num-

ber of suspensions, revocations, and other convictions counted under s. 343.307 (1) equals 2 or more, and to whom one of the following applies:

1. The person is ordered by a judge or by the department of corrections as a condition of bond, release under s. 969.01 (1), probation or deferred prosecution, release to parole, or release to extended supervision, to totally abstain from using alcohol or a controlled substance, and whose participation in the program is ordered by the judge or by the department of corrections as a condition of bond, release under s. 969.01 (1), probation, release to parole, or release to extended supervision.

2. The person agrees to totally abstain from using alcohol or a controlled substance while he or she is released on bond, on release under s. 969.01 (1), on probation, participating in a deferred prosecution agreement, or on parole or extended supervision and agrees to participate in the program even though his or her participation is not ordered by a judge or by the department of corrections as a condition of bond, release pursuant to s. 969.01 (1), probation or deferred prosecution, or release to parole or to extended supervision. This subdivision does not apply to any person who meets the criteria under s. 343.301 (1g) (a) 2. b. and who is subject to an order under s. 343.301 (1g) (am) 2.

(b) 1. Except as provided in subd. 2. or 2m., the program requires participants to be tested for the use of alcohol at least twice daily, at approximately 12−hour intervals, or for the use of a controlled substance as frequently as practicable.

2. If the standard for frequent testing described in subd. 1. creates an unreasonable hardship for the county administering the program, the program may utilize the standard established by the department of justice under sub. (3) (a). This subdivision does not apply to any person who meets the criteria under s. 343.301 (1g) (a) 2. b. and who is subject to an order under s. 343.301 (1g) (am) 2.

2m. Any person who meets the criteria under s. 343.301 (1g) (a) 2. b. and who is subject to an order under s. 343.301 (1g) (am) 2. shall be tested as required under 23 USC 405 (d) (7) (A) (ii) and regulations adopted thereunder.

(c) The program informs a participant that, if he or she fails to appear for a scheduled test or if his or her test results indicate that the participant used alcohol or a controlled substance, he or she may be placed under immediate arrest and referred to the department of corrections and to the appropriate prosecuting agency for violating a condition of his or her bond, release under s. 969.01 (1), probation or deferred prosecution, or of his or her release to parole or extended supervision.

(d) The program requires participants to pay a fee, except that a county may allow a participant to pay a reduced fee or no fee, subject to the participant's ability to pay. Each county may establish fees that are consistent with any standard established under sub. (3) (b) and that the county determines are sufficient to fund its frequent sobriety testing program. Except as provided in sub. (5), the county may retain the fees it collects pursuant to this paragraph to administer its program.

(5) (a) The department of justice may enter into an agreement with each designated county that requires the county to pay a portion of the fees the county collects under sub. (4) (d) to the department of justice to pay the actual costs of performing the analysis and reporting under sub. (7).

(b) The department of justice shall deposit in the state treasury for deposit into the general fund all moneys it collects under this subsection. These moneys shall be credited to the appropriation account under s. 20.455 (2) (gu).

(6) Each county that establishes a frequent sobriety testing program after being designated by the department of justice under sub. (2) shall, annually, provide the following information to the department of justice:

(a) The number of participants in the program.

(b) The costs associated with the program.

(c) The failure or dropout rate of participants.

(d) Other information requested by the department of justice.

(7) (a) Not later than June 30, 2016, the department of justice shall provide to the legislature under s. 13.172 (2) a list of counties it designated under sub. (2). For each county it designates, the department of justice shall inform the legislature of the reasons it chose the county for participation. If the department of justice designated a county to replace a different county, the department of justice shall include that information in the report.

(b) Beginning January 15, 2017, and annually thereafter until January 15, 2021, the department of justice shall analyze the information it receives pursuant to sub. (6) and shall submit a report to the legislature under s. 13.172 (2). The report shall include all of the following information relating to the prior year's frequent sobriety testing programs:

1. A list of counties designated under sub. (2) that established a frequent sobriety testing program.

2. The number of participants in each county's frequent sobriety testing program.

3. A description of each county's frequent sobriety testing program.

4. The recidivism rates for participants in each county's frequent sobriety testing program.

(c) By January 15, 2021, the department of justice shall submit a final report to the legislature under s. 13.172 (2) that includes all of the information required under par. (b) and contains a recommendation as to whether the frequent sobriety testing programs should be continued, discontinued, or modified.

(8) The department of justice may use the emergency rules procedure under s. 227.24 to promulgate rules specified in sub. (3). Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this section.

(9) This section does not apply after June 30, 2021.

History: 2015 a. 55, 389.

165.96 Child advocacy grants. Beginning in fiscal year 2011−2012, from the appropriation under s. 20.455 (5) (ke), the department of justice shall in each fiscal year provide $17,000 to each of the following child advocacy centers for education, training, medical advice, and quality assurance activities:

(1) Care House in Rock County.

(2) Child Protection Center in Milwaukee County.

(3) Safe Harbor in Dane County.

(4) Kenosha Child Advocacy Center in Kenosha County.

(5) Fox Valley Child Advocacy Center in Winnebago County.

(6) Stepping Stones in La Crosse County.

(7) CARE Center in Waukesha County.

(8) Child Advocacy Center of Northeastern Wisconsin in Marathon County.

(9) Chippewa County Child Advocacy Center in Chippewa County.

(10) A child advocacy center in Brown County.

(11) A child advocacy center in Racine County.

(12) A child advocacy center in Walworth County.

(13) CHAT Room in Green County.

(14) Marshfield Child Advocacy Center in Wood County.

History: 2013 a. 20 s. 179; Stats. 2013 s. 165.96.

165.967 Court appointed special advocates; grants. From the appropriation under s. 20.455 (5) (es), the department of justice shall in each fiscal year provide $80,000 to the Wisconsin Court Appointed Special Advocate Association.

NOTE: This section is repealed eff. 7−1−17 by 2015 Wis. Act 55.

History: 2015 a. 55.

165.982 Weed and seed project grants. (1) The department of justice may award grants from the appropriation under s. 20.455 (2) (dg) to any eligible city whose plan for the expenditure of funds is approved. The grant shall be used to carry out a comprehensive, multi−agency "weed and seed" project to restore safety and vitality to a targeted neighborhood that suffers from high levels of violent and drug−related crime. The grant moneys that a city receives under this section may not supplant existing local resources. A plan submitted for approval shall specify a strategy to achieve the goals of the grant and must include a concerted law enforcement effort to curb drug trafficking and related crime, a decentralized law enforcement and crime prevention effort in a targeted neighborhood, and a coordinated, community−based effort to strengthen the neighborhood's social base and revitalize the neighborhood. The department of justice, with the concurrence of the department of health services, shall develop criteria which, notwithstanding s. 227.10 (1), need not be promulgated as rules under ch. 227, for use in awarding grants under this section. The department of justice and department of health services shall jointly review any proposed plan and approve those plans that meet the criteria.

(2) To be eligible for the grant, a plan shall include all of the following:

(a) Oversight of the project by the mayor's office or by a steering committee appointed by the mayor.

(b) Written support by the chief of police and the superintendent of the school district.

(c) A law enforcement coordinating committee and a neighborhood revitalization coordinating committee to plan and implement project activities.

(3) The proposed site for the use of a grant shall be an identifiable neighborhood with high violent crime and drug arrest rates. The neighborhood shall have experience in neighborhood planning and organizing or, in lieu thereof, evidence shall be provided that such planning and organizing efforts would be supported by, and would be effective in, the neighborhood.

(4) Grant recipients shall provide a 25 percent match in funds or in−kind services. Grants shall be awarded for 3−year periods.

(5) The department of justice and the department of health services shall provide training and technical assistance to grant recipients. Both departments shall work with the steering committees and coordinating committees of the projects and participate in planning and implementing project initiatives as appropriate.

(6) A city shall submit a proposed plan for a grant under this section so that the plan is received by the department of justice on or before July 15, 1994.

History: 1993 a. 193; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a).

165.983 Law enforcement technology grants. The department of justice shall establish policies and procedures for the distribution of grants from the appropriation under s. 20.455 (2) (dg) to law enforcement agencies in cities with high levels of violent and drug−related crime to acquire law enforcement technology. Notwithstanding s. 227.10 (1), the department need not promulgate the required policies and procedures as rules under ch. 227. A law enforcement agency receiving a grant under this section shall provide matching funds equal to 50 percent of the grant awarded. The grant shall be used to acquire technology that is innovative to the applicant law enforcement agency and consistent with the technology, resources and operational procedures of the applicant law enforcement agency. A grant may not be used for the expansion or replacement of existing equipment or facilities. A law enforcement agency may apply to the department for a grant under this section and shall include a proposed plan of expenditure of the grant moneys. The department shall review each application and plan and may provide a grant to an eligible law enforcement agency.

History: 1993 a. 193.

165.986 Beat patrol officers; grant program. (1) The department of justice shall provide grants from the appropriation under s. 20.455 (2) (kb) to cities to employ additional uniformed law enforcement officers whose primary duty is beat patrolling. A city is eligible for a grant under this section in fiscal year 1994−95 if the city has a population of 25,000 or more. A city may receive a grant for a calendar year if the city applies for a grant before September 1 of the preceding calendar year. Grants shall be awarded to the 10 eligible cities submitting an application for a grant that have the highest rates of violent crime index offenses in the most recent full calendar year for which data is available under the uniform crime reporting system of the federal bureau of investigation.

(2) A city applying to the department of justice for a grant under this section shall include a proposed plan of expenditure of the grant moneys. The grant moneys that a city receives under this section may be used for salary and fringe benefits only. Except as provided in sub. (3), the positions for which funding is sought must be created on or after April 21, 1994, and result in a net increase in the number of uniformed law enforcement officers assigned to beat patrol duties.

(3) During the first 6 months of the first year of a grant, a city may, with the approval of the department, use part of the grant for the payment of salary and fringe benefits for overtime provided by uniformed law enforcement officers whose primary duty is beat patrolling. A city may submit a request to the department for a 3−month extension of the use of the grant for the payment of overtime costs. To be eligible to use part of the first year's grant for overtime costs, the city shall provide the department with all of the following:

(a) The reasons why uniformed law enforcement officers assigned to beat patrol duties need to work overtime.

(b) The status of the hiring and training of new uniformed law enforcement officers who will have beat patrol duties.

(c) Documentation that a sufficient amount of the grant for the first year will be available, during the period remaining after the payment of overtime costs, to pay the salary and fringe benefits of the same number of uniformed officers whose primary duty is beat patrolling that the grant originally planned to pay.

(4) The department shall develop criteria which, notwithstanding s. 227.10 (1), need not be promulgated as rules under ch. 227, for use in determining the amount to grant to cities under this section. The department may not award an annual grant in excess of $150,000 to any city. The department shall review any application and plan submitted under sub. (2) to determine if that application and plan meet the requirements of this section. The grant that a city receives under this section may not supplant existing local resources.

(5) A city may receive a grant for 3 consecutive years without submitting a new application each year. For each year that a city receives a grant, the city shall provide matching funds of at least 25 percent of the amount of the grant.

(6) The department may make grants to additional cities with a population of 25,000 or more after fiscal year 1994−95. Eligibility for grants under this subsection shall be determined and allocations made as provided in this section.

History: 2013 a. 20 ss. 174, 1946; Stats. 2013 s. 165.986.

165.987 Youth diversion programs; grant program. (1) From the appropriation under s. 20.455 (2) (kj), the department of justice shall allocate $500,000 in each fiscal year to enter into a contract with an organization to provide services in a county having a population of 500,000 or more for the diversion of youths from gang activities into productive activities, including placement in appropriate educational, recreational, and employment programs. Notwithstanding s. 16.75, the department may enter into a contract under this subsection without soliciting bids or proposals and without accepting the lowest responsible bid or offer.

(2) From the appropriation under s. 20.455 (2) (k), the department of justice may not distribute more than $300,000 in each fiscal year to the organization that it has contracted with under sub. (1) for alcohol and other drug abuse education and treatment services for participants in that organization's youth diversion program.

(3) From the appropriation under s. 20.455 (2) (kj) the department of justice shall allocate $150,000 in each fiscal year to enter into a contract with an organization to provide services in Racine County, $150,000 in each fiscal year to enter into a contract with an organization to provide services in Kenosha County, and $150,000 in each fiscal year to enter into a contract with an organization to provide services in Brown County, and from the appropriation under s. 20.455 (2) (kj), the department shall allocate $100,000 in each fiscal year to enter into a contract with an organization, for the diversion of youths from gang activities into productive activities, including placement in appropriate educational, recreational, and employment programs, and for alcohol or other drug abuse education and treatment services for participants in that organization's youth diversion program. Notwithstanding s. 16.75, the department may enter into a contract under this subsection without soliciting bids or proposals and without accepting the lowest responsible bid or offer.

History: 2013 a. 20 ss. 175, 1947; Stats. 2013 s. 165.987; 2015 a. 55; s. 35.17 correction in (1), (3).