

1993 Senate Bill 826

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1993 WISCONSIN ACT 486

AN ACT relating to revising various provisions of the statutes for the purpose of deleting, replacing or otherwise modifying language that discriminates on the basis of sex (Revisor's Correction Bill).

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

PREFATORY NOTE: The revisor of statutes is permitted by s. 13.93 (1) (m), stats., to make corrections to the statutes to ensure that the statutory language does not discriminate on the basis of sex. Section 13.93 (1) (m), stats., provides that the corrections shall have no substantive effect.

This bill, prepared pursuant to s. 13.93 (1) (m), stats., deletes, replaces or otherwise modifies language that discriminates on the basis of sex to ensure that the language of the affected statutes does not discriminate on the basis of sex.

Revisions are also made to otherwise affected provisions for the purpose of correcting errors, supplying omissions, clarifying language and correcting and clarifying references; those revisions are explained in NOTES provided by the revisor of statutes in the body of the bill.

SECTION 1. 700.08 of the statutes is amended to read:

700.08 Estate tail becomes fee simple; effect of gift over after attempted estate tail. The use of language in an instrument appropriate to create a present or future interest in fee tail (such as to a named person "and the heirs of his body" or "and the heirs of her body" or "and his issue" or "and her issue") creates a present or future interest in fee simple; if the same instrument attempts to create a future interest after the interest which is made a fee simple by reason of this section, the future interest is valid.

SECTION 2. 701.19 (10) of the statutes is amended to read:

701.19 (10) RESTRICTION ON EXERCISE OF POWERS. Unless the creating instrument negates application of this subsection, a power conferred upon a person in his the person's capacity as trustee to make discretionary dis-

tributions of principal or income to himself or herself or to make discretionary allocations in his own the trustee's favor of receipts or expenses as between principal and income, cannot be exercised by him the trustee. If the power is conferred on 2 or more trustees, it may be exercised by the trustees who are not so disqualified. If there is no trustee qualified to exercise the power, it may be exercised by a special trustee appointed by the court. This subsection shall not apply to living trusts created prior to July 1, 1971, or to testamentary trusts contained in wills executed or last republished prior to that date.

SECTION 3. 701.19 (11) of the statutes is amended to read:

701.19 (11) PROTECTION OF THIRD PARTIES. With respect to a third person dealing with a trustee or assisting a trustee in the conduct of a transaction, the existence of trust power and its proper exercise by the trustee may be assumed without inquiry. The third person is not bound to inquire whether the trustee has power to act or is properly exercising the power; and a third person, without actual knowledge that the trustee is exceeding his the trustee's powers or improperly exercising them, is fully protected in dealing with the trustee as if the trustee possessed and properly exercised the powers he the trustee purports to exercise. A third person is not bound to assure the proper application of trust property paid or delivered to the trustee.

SECTION 4. 701.23 (2) of the statutes is amended to read:

701.23 (2) REMOVAL TO THIS STATE. Unless the creating instrument contains an express prohibition against removal or provides a method for removal, a court may,

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upon the petition of a foreign trustee or beneficiary with the consent of the trustee, appoint a local trustee to receive and administer trust property presently being administered in another state. Such The local trustee may be required to give bond conditioned on the faithful performance of his or her duties or to meet any other conditions required by a court in the other state before permitting removal of the trust to this state.

SECTION 5. 702.01 (3) of the statutes is amended to read:

702.01 (3) “General power” means a power exercisable in favor of the donee, his the donee’s estate, his the donee’s creditors or the creditors of his the donee’s estate, whether or not it is exercisable in favor of others. A power to appoint to any person or a power which is not expressly restricted as to appointees may be exercised in favor of the donee or his the donee’s creditors if exercisable during lifetime, and in favor of the donee’s estate or the creditors of his the donee’s estate if exercisable by will.

SECTION 6. 702.01 (4) of the statutes is amended to read:

702.01 (4) “Power” means a power of appointment over legal or equitable interests in real or personal property. A power of appointment is a power created or reserved by a person having property subject to his or her disposition which enables the donee of the power to designate, within such limits as may be prescribed, the transferees of the property or the shares or the interests in which it shall be received; it does not include a power of sale, a power of attorney, a power of revocation or a power exercisable by a trustee or other fiduciary in his or her fiduciary capacity.

SECTION 7. 702.01 (5) of the statutes is amended to read:

702.01 (5) “Special power” means a power exercisable only in favor of one or more persons not including the donee, his the donee’s estate, his the donee’s creditors or the creditors of his the donee’s estate and, when exercisable in favor of a class, so limited in size by description of the class that in the event of nonexercise of the power a court can make distribution to persons within the class if the donor has failed to provide for this contingency.

SECTION 8. 702.09 (1) (a) of the statutes is amended to read:

702.09 (1) (a) At any time completely release his the donee’s power;

SECTION 9. 702.09 (1) (b) (intro.) of the statutes is amended to read:

702.09 (1) (b) (intro.) At any time or times release his the donee’s power in any one or more of the following respects:

SECTION 10. 702.15 (3) of the statutes is amended to read:

702.15 (3) If the creating instrument contains no express gift in default and clearly indicates that the per-

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missible appointees are to take only if the donee exercises the power, then by reversion to the donor or his the donor’s estate. But if the creating instrument expressly states that there is no reversion in the donor, then any language in the creating instrument indicating or stating that the permissible appointees are to take only if the donee exercises the power is to be disregarded and the interests shall pass in accordance with sub. (2).

SECTION 11. 702.17 (1) of the statutes is amended to read:

702.17 (1) **GENERAL POLICY.** If the donee has either a general power or an unclassified power which is unlimited as to permissible appointees except for exclusion of the donee, his the donee’s estate, his the donee’s creditors and the creditors of his the donee’s estate, or a substantially similar exclusion, any interest which the donee has power to appoint or has appointed is to be treated as property of the donee for purposes of satisfying claims of his the donee’s creditors, as provided in this section.

SECTION 12. 702.17 (3) of the statutes is amended to read:

702.17 (3) **AT DEATH OF THE DONEE.** If the donee has at the time of his or her death a power of the kinds specified in sub. (1), whether or not he the donee exercises the power, any creditor of the donee may reach any interest which the donee could have appointed or has appointed, to the extent that the claim of the creditor has been filed and allowed in the donee’s estate but not paid because the assets of the estate are insufficient.

SECTION 13. 702.17 (4) of the statutes is amended to read:

702.17 (4) **ASSIGNMENT FOR BENEFIT OF CREDITORS.** Under a general assignment by the donee for the benefit of his the donee’s creditors, the assignee may exercise any right which a creditor of the donee would have under sub. (2).

SECTION 14. 704.01 (5) of the statutes is amended to read:

704.01 (5) “Tenant at will” means any tenant holding with the permission of his the tenant’s landlord without a valid lease and under circumstances not involving periodic payment of rent; but a person holding possession of real property under a contract of purchase or an employment contract is not a tenant under this chapter.

SECTION 15. 704.03 (2) of the statutes is amended to read:

704.03 (2) **ENTRY UNDER UNENFORCEABLE LEASE.** If a tenant enters into possession under a lease for more than one year which does not meet the requirements of sub. (1), and the tenant pays rent on a periodic basis, he the tenant becomes a periodic tenant. If the premises in such case are used for residential purposes and the rent is payable monthly, he the tenant becomes a month-to-month tenant; but if the use is agricultural or nonresidential, the tenant becomes a year-to-year tenant without regard to the rent-payment periods. Except for duration of the ten-

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ancy and matters within the scope of ss. 704.05 and 704.07, the tenancy is governed by the terms and conditions agreed upon. Notice as provided in s. 704.19 is necessary to terminate such a periodic tenancy.

SECTION 16. 704.05 (4) of the statutes is amended to read:

704.05 (4) **TENANT'S FIXTURES.** At the termination of the tenancy, the tenant may remove any fixtures installed by him the tenant if he the tenant either restores the premises to their condition prior to the installation or pays to the landlord the cost of such restoration. Where such fixtures were installed to replace similar fixtures which were part of the premises at the time of the commencement of the tenancy, and the original fixtures cannot be restored the tenant may remove fixtures installed by him the tenant only if he the tenant replaces them with fixtures at least comparable in condition and value to the original fixtures. The tenant's right to remove fixtures is not lost by an extension or renewal of a lease without reservation of such right to remove. This subsection applies to any fixtures added by the tenant for his convenience as well as those added for purposes of trade, agriculture or business; but this subsection does not govern the rights of parties other than the landlord and tenant.

SECTION 17. 704.07 (2) (a) 1. of the statutes is amended to read:

704.07 (2) (a) 1. Keep in reasonable state of repair portions of the premises over which he the landlord maintains control;

SECTION 18. 704.07 (2) (a) 2. of the statutes, as affected by 1993 Wisconsin Act 213, is amended to read:

704.07 (2) (a) 2. Keep in a reasonable state of repair all equipment under his the landlord's control necessary to supply services which he the landlord has expressly or impliedly agreed to furnish to the tenant, such as heat, water, elevator or air-conditioning;

SECTION 19. 704.07 (2) (b) of the statutes is amended to read:

704.07 (2) (b) If the premises are part of a building, other parts of which are occupied by one or more other tenants, negligence or improper use by one tenant does not relieve the landlord from his the landlord's duty as to the other tenants to make repairs as provided in par. (a).

SECTION 20. 704.07 (4) of the statutes is amended to read:

704.07 (4) **UNTENANTABILITY.** If the premise becomes premises become untenantable because of damage by fire, water or other casualty or because of any condition hazardous to health, or if there is a substantial violation of sub. (2) materially affecting the health or safety of the tenant, the tenant may remove from the premises unless the landlord proceeds promptly to repair or rebuild or eliminate the health hazard or the substantial violation of sub. (2) materially affecting the health or safety of the tenant; or the tenant may remove if the inconvenience to the tenant by reason of the nature and

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period of repair, rebuilding or elimination would impose undue hardship on him the tenant. If the tenant remains in possession, rent abates to the extent the tenant is deprived of the full normal use of the premises. This section does not authorize rent to be withheld in full, if the tenant remains in possession. If the tenant justifiably moves out under this subsection, the tenant is not liable for rent after the premises become untenantable and the landlord must repay any rent paid in advance apportioned to the period after the premises become untenantable. This subsection is inapplicable if the damage or condition is caused by negligence or improper use by the tenant.

SECTION 21. 704.09 (2) of the statutes is amended to read:

704.09 (2) **EFFECT OF TRANSFER ON LIABILITY OF TRANSFEROR.** In the absence of an express release or a contrary provision in the lease, transfer or consent to transfer does not relieve the transferring party of his any contractual obligations under the lease, except in the special situation governed by s. 704.25 (5).

SECTION 22. 704.09 (3) of the statutes is amended to read:

704.09 (3) **COVENANTS WHICH APPLY TO TRANSFeree.** All covenants and provisions in a lease which are not either expressly or by necessary implication personal to the original parties are enforceable by or against the successors in interest of any party to the lease. However, a successor in interest is liable in damages, or entitled to recover damages, only for a breach which occurs during the period when such the successor holds his or her interest, unless he the successor has by contract assumed greater liability; a personal representative may also recover damages for a breach for which his the personal representative's decedent could have recovered.

SECTION 23. 704.13 of the statutes is amended to read:

704.13 Acts of tenant not to affect rights of landlord. No act of a tenant in acknowledging as landlord a person other than his the tenant's original landlord or the latter's successors in interest can prejudice the right of the original landlord or his the original landlord's successors to possession of the premises.

SECTION 24. 704.15 of the statutes is amended to read:

704.15 Requirement that landlord notify tenant of automatic renewal clause. A provision in a lease of residential property that the lease shall be automatically renewed or extended for a specified period unless the tenant or either party gives notice to the contrary prior to the end of the lease is not enforceable against the tenant unless the lessor, at least 15 days but not more than 30 days prior to the time specified for the giving of such notice to him the lessor, gives to the tenant written notice in the same manner as specified in s. 704.21 calling the attention of the tenant to the existence of the provision in the lease for automatic renewal or extension.

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SECTION 25. 704.17 (1) (a) of the statutes is amended to read:

704.17(1) (a) If a month-to-month tenant or a week-to-week tenant fails to pay rent when due, his the tenant's tenancy is terminated if the landlord gives the tenant notice requiring the tenant to pay rent or vacate on or before a date at least 5 days after the giving of the notice and if the tenant fails to pay accordingly. A month-to-month tenancy is terminated if the landlord, while the tenant is in default in payment of rent, gives the tenant notice requiring him the tenant to vacate on or before a date at least 14 days after the giving of the notice.

SECTION 26. 704.17 (1) (b) of the statutes is amended to read:

704.17 (1) (b) If a month-to-month tenant commits waste or a material violation of s. 704.07 (3) or breaches any covenant or condition of his the tenant's agreement (other than for payment of rent), the tenancy can be terminated if the landlord gives the tenant notice requiring him the tenant to vacate on or before a date at least 14 days after the giving of the notice.

NOTE: Deletes parentheses for consistency with current drafting style.

SECTION 27. 704.17 (2) (a) of the statutes is amended to read:

704.17 (2) (a) If a tenant under a lease for a term of one year or less, or a year-to-year tenant, fails to pay any instalment of rent when due, his the tenant's tenancy is terminated if the landlord gives the tenant notice requiring him the tenant to pay rent or vacate on or before a date at least 5 days after the giving of the notice and if the tenant fails to pay accordingly. If a tenant has been given such a notice and has paid his the rent on or before the specified date, or been permitted by the landlord to remain in possession contrary to such notice, and if within one year of any prior default in payment of rent for which notice was given the tenant fails to pay a subsequent instalment of rent on time, his the tenant's tenancy is terminated if the landlord, while the tenant is in default in payment of rent, gives the tenant notice to vacate on or before a date at least 14 days after the giving of the notice.

SECTION 28. 704.17 (2) (b) of the statutes is amended to read:

704.17 (2) (b) If such a tenant under a lease for a term of one year or less, or a year-to-year tenant, commits waste or a material violation of s. 704.07 (3) or breaches any covenant or condition of his the tenant's lease (other than for payment of rent), his the tenant's tenancy is terminated if the landlord gives the tenant a notice requiring the tenant to remedy the default or vacate the premises on or before a date at least 5 days after the giving of the notice, and if the tenant fails to comply with such notice. A tenant is deemed to be complying with the notice if promptly upon receipt of such notice he the tenant takes reasonable steps to remedy the default and proceeds with

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reasonable diligence, or if damages are adequate protection for the landlord and the tenant makes a bona fide and reasonable offer to pay the landlord all damages for his the tenant's breach. If within one year from the giving of any such notice, the tenant again commits waste or breaches the same or any other covenant or condition of his the tenant's lease (other than for payment of rent), his the tenant's tenancy is terminated if the landlord, prior to the tenant's remedying the waste or breach, gives the tenant notice to vacate on or before a date at least 14 days after the giving of the notice.

NOTE: Replaces "such" with specific reference for clarity and deletes parentheses for consistency with current drafting style.

SECTION 29. 704.17 (3) (a) of the statutes, as affected by 1993 Wisconsin Act 139, is amended to read:

704.17 (3) (a) If a tenant under a lease for more than one year fails to pay rent when due, or commits waste, or breaches any other covenant or condition of his the tenant's lease, the tenancy is terminated if the landlord gives the tenant notice requiring him the tenant to pay the rent, repair the waste, or otherwise comply with the lease on or before a date at least 30 days after the giving of the notice, and if the tenant fails to comply with the notice. A tenant is deemed to be complying with the notice if promptly upon receipt of such the notice he the tenant takes reasonable steps to remedy the default and proceeds with reasonable diligence, or if damages are adequate protection for the landlord and the tenant makes a bona fide and reasonable offer to pay the landlord all damages for his the tenant's breach; but in case of failure to pay rent, all rent due must be paid on or before the date specified in the notice.

SECTION 30. 704.19 (5) of the statutes is amended to read:

704.19 (5) **EFFECT OF INACCURATE TERMINATION DATE IN NOTICE.** If a notice provides that a periodic tenancy is to terminate on the first day of a succeeding rental period rather than the last day of a rental period, and the notice was given in sufficient time to terminate the tenancy at the end of the rental period, the notice is valid; if the notice was given by the tenant, the landlord may require him the tenant to remove on the last day of the rental period, but if the notice was given by the landlord the tenant may remove on the last day specified in the notice. If a notice specified any other inaccurate termination date, because it does not allow the length of time required under sub. (3) or because it does not correspond to the end of a rental period in the case of a periodic tenancy, the notice is valid but not effective until the first date which could have been properly specified in such notice subsequent to the date specified in the notice, but the party to whom the notice is given may elect to treat the date specified in the notice as the legally effective date. If a notice by a tenant fails to specify any termination date, the

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notice is valid but not effective until the first date which could have been properly specified in such notice as of the date the notice is given.

SECTION 31. 704.19 (6) of the statutes is amended to read:

704.19 (6) TENANT MOVING OUT WITHOUT NOTICE. If any periodic tenant vacates the premises without notice to the landlord and fails to pay rent when due for any period, such tenancy is terminated as of the first date on which it would have terminated had the landlord been given proper notice on the day he the landlord learns of such the removal.

SECTION 32. 704.21 (1) (intro.) of the statutes is amended to read:

704.21 (1) NOTICE BY LANDLORD. (intro.) Notice by the landlord or a person in his the landlord's behalf must be given under this chapter by one of the following methods:

SECTION 33. 704.21 (1) (a) of the statutes is amended to read:

704.21 (1) (a) By giving a copy of the notice personally to the tenant or by leaving a copy at his the tenant's usual place of abode in the presence of some competent member of his the tenant's family at least 14 years of age, who is informed of the contents of the notice;

SECTION 34. 704.21 (1) (d) of the statutes is amended to read:

704.21 (1) (d) By mailing a copy of the notice by registered or certified mail to the tenant at his the tenant's last-known address;

SECTION 35. 704.21 (2) (intro.) of the statutes is amended to read:

704.21 (2) NOTICE BY TENANT. (intro.) Notice by the tenant or a person in his the tenant's behalf must be given under this chapter by one of the following methods:

SECTION 36. 704.21 (2) (a) of the statutes is amended to read:

704.21 (2) (a) By giving a copy of the notice personally to the landlord or to any person who has been receiving rent or managing the property as the landlord's agent, or by leaving a copy at the landlord's usual place of abode in the presence of some competent member of his the landlord's family at least 14 years of age, who is informed of the contents of the notice;

SECTION 37. 704.21 (2) (c) of the statutes is amended to read:

704.21 (2) (c) By mailing a copy by registered or certified mail to the landlord at his the landlord's last-known address or to the person who has been receiving rent or managing the property as the landlord's agent at his that person's last-known address;

SECTION 38. 704.21 (3) of the statutes is amended to read:

704.21 (3) CORPORATION OR PARTNERSHIP. If notice is to be given to a corporation notice may be given by any method provided in sub. (1) or (2) except that notice

under sub. (1) (a) or (2) (a) may be given only to an officer, director, registered agent or managing agent, or left with an employe in the office of such officer or agent during regular business hours. If notice is to be given to a partnership, notice may be given by any method in sub. (1) or (2) except that notice under sub. (1) (a) or (2) (a) may be given only to a general partner or managing agent of the partnership, or left with an employe in the office of such partner or agent during regular business hours, or left at the usual place of abode of a general partner in the presence of some competent member of his the general partner's family at least 14 years of age, who is informed of the contents of the notice.

SECTION 39. 704.23 of the statutes is amended to read:

704.23 Removal of tenant on termination of tenancy. If a tenant remains in possession without consent of his the tenant's landlord after termination of his the tenant's tenancy, the landlord may in every case proceed in any manner permitted by law to remove the tenant and recover damages for such holding over.

SECTION 40. 704.27 of the statutes is amended to read:

704.27 Damages for failure of tenant to vacate at end of lease or after notice. If a tenant remains in possession without consent of his the tenant's landlord after expiration of a lease or termination of a tenancy by notice given by either the landlord or the tenant, or after termination by valid agreement of the parties, the landlord may recover from the tenant damages suffered by the landlord because of the failure of the tenant to vacate within the time required. In absence of proof of greater damages, the landlord may recover as minimum damages twice the rental value apportioned on a daily basis for the time the tenant remains in possession. As used in this section, rental value means the amount for which the premises might reasonably have been rented, but not less than the amount actually paid or payable by the tenant for the prior rental period, and includes the money equivalent of any obligations undertaken by the tenant as part of the rental agreement, such as payment of taxes, insurance and repairs.

SECTION 41. 704.29 (1) of the statutes is amended to read:

704.29 (1) SCOPE OF SECTION. If a tenant unjustifiably removes from the premises prior to the effective date for termination of his the tenant's tenancy and defaults in payment of rent, or if the tenant is removed for failure to pay rent or any other breach of a lease, the landlord can recover rent and damages except amounts which he the landlord could mitigate in accordance with this section, unless he the landlord has expressly agreed to accept a surrender of the premises and end the tenant's liability. Except as the context may indicate otherwise, this section applies to the liability of a tenant under a lease, a periodic tenant, or an assignee of either.

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SECTION 42. 704.29 (2) of the statutes is amended to read:

704.29 (2) MEASURE OF RECOVERY. In any claim against a tenant for rent and damages, or for either, the amount of recovery is reduced by the net rent obtainable by reasonable efforts to rerent the premises. Reasonable efforts mean those steps which the landlord would have taken to rent the premises if they had been vacated in due course, provided that such steps are in accordance with local rental practice for similar properties. In the absence of proof that greater net rent is obtainable by reasonable efforts to rerent the premises, the tenant is credited with rent actually received under a rerental agreement minus expenses incurred as a reasonable incident of acts under sub. (4), including a fair proportion of any cost of remodeling or other capital improvements. In any case the landlord can recover, in addition to rent and other elements of damage, all reasonable expenses of listing and advertising incurred in rerenting and attempting to rerent (except as taken into account in computing the net rent under the preceding sentence). If the landlord has used the premises as part of reasonable efforts to rerent, under sub. (4) (c), the tenant is credited with the reasonable value of the use of the premises, which is presumed to be equal to the rent recoverable from the defendant unless the landlord proves otherwise. If the landlord has other similar premises for rent and receives an offer from a prospective tenant not obtained by the defendant, it is reasonable for the landlord to rent the other premises for his the landlord's own account in preference to those vacated by the defaulting tenant.

SECTION 43. 704.29 (3) of the statutes is amended to read:

704.29 (3) BURDEN OF PROOF. The landlord must allege and prove that he the landlord has made efforts to comply with this section. The tenant has the burden of proving that the efforts of the landlord were not reasonable, that the landlord's refusal of any offer to rent the premises or a part thereof was not reasonable, that any terms and conditions upon which the landlord has in fact rerented were not reasonable, and that any temporary use by the landlord was not part of reasonable efforts to mitigate in accordance with sub. (4) (c); the tenant also has the burden of proving the amount that could have been obtained by reasonable efforts to mitigate by rerenting.

SECTION 44. 704.29 (4) (intro.) of the statutes is amended to read:

704.29 (4) ACTS PRIVILEGED IN MITIGATION OF RENT OR DAMAGES. (intro.) The following acts by the landlord do not defeat his the landlord's right to recover rent and damages and do not constitute an acceptance of surrender of the premises:

SECTION 45. 704.29 (4) (c) of the statutes is amended to read:

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704.29 (4) (c) Use of the premises by the landlord until such time as rerenting at a reasonable rent is practical, not to exceed one year, if the landlord gives prompt written notice to the tenant that the landlord is using the premises pursuant to this section and that he the landlord will credit the tenant with the reasonable value of the use of the premises to the landlord for such a period;

SECTION 46. 704.31 (1) of the statutes is amended to read:

704.31 (1) If there is a default in the conditions in any lease or a breach of the covenants thereof and such lease provides for a term of 30 years or more and requires the tenant to erect or construct improvements or buildings upon the land demised at his the tenant's own cost and exceeding in value the sum of \$50,000, and such improvements have been made and the landlord desires to terminate the lease and recover possession of the property described therein freed from all liens, claims or demands of such lessee, the landlord may, in case of any breach or default, commence an action against the tenant and all persons claiming under him the tenant to recover the possession of the premises leased and proceed in all respects as if the action was brought under the statute to foreclose a mortgage upon real estate, except that no sale of the premises shall be ordered.

SECTION 47. 704.31 (2) of the statutes is amended to read:

704.31 (2) The judgment shall determine the breach or default complained of, fix the amount due the landlord at such time, and state the several amounts to become due within one year from the entry thereof, and provide that unless the amount adjudged to be due from the tenant, with interest thereon as provided in the lease or by law, shall be paid to the landlord within one year from the entry thereof and the tenant shall, within such period, fully comply with the judgment requiring him the tenant to make good any default in the conditions of the lease, that said the tenant and those claiming under him the tenant shall be forever barred and foreclosed of any title or interest in the premises described in the lease and that in default of payment thereof within such one year from the entry of the judgment the tenant shall be personally liable for the amount thereof. During said year the one-year period ensuing the date of the entry of such the judgment the possession of the demised premises shall remain in the tenant and he the tenant shall receive the rents, issues and profits thereof; but if he the tenant fails to comply with the terms of the judgment and the same is not fully satisfied, and refuses to surrender the possession of the demised premises at the expiration of said year, the landlord shall be entitled to a writ of assistance or execution to be issued and executed as provided by law.

NOTE: Replaces "such" and "said" for clarity and conformance with current drafting style.

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SECTION 48. 704.40 (2) (a) of the statutes is amended to read:

704.40 (2) (a) If the occupant has no lease for a term, upon terminating his the occupant's tenancy by giving notice as provided in s. 704.19;

SECTION 49. 704.40 (3) of the statutes is amended to read:

704.40 (3) The occupant must promptly after written demand give information as to the nature of his the occupant's possession. If he the occupant fails to do so, the reversioner or remainderman may treat the occupant as a tenant from month-to-month.

SECTION 50. 705.01 (5) of the statutes is amended to read:

705.01 (5) "Net contribution" of a party to a joint account as of any given time is the sum of all deposits made by or for him the party, less all withdrawals made by or for him the party which have not been paid to or applied for the use of any other party, plus a proportional share of any interest or dividends included in the current balance as adjusted to reflect time of deposit. It includes any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question.

SECTION 51. 705.01 (6) of the statutes is amended to read:

705.01 (6) "Party" means a person who, by the terms of an account, has a present right, subject to request, to payment therefrom other than as agent. A beneficiary of a P.O.D. account is a party only after the account becomes payable to him the beneficiary by reason of his the beneficiary's surviving the original payee. A minor may be a party to an account, subject to the withdrawal restrictions of s. 705.04 (2). Unless the context indicates otherwise, "party" includes a guardian, conservator, personal representative or assignee, including an attaching creditor, of a party.

SECTION 52. 705.01 (8) of the statutes is amended to read:

705.01 (8) "P.O.D. Account account" means an account payable on request to one person during lifetime and on his the person's death to one or more P.O.D. beneficiaries, or to one or more persons during their lifetimes and on the death of all of them to one or more P.O.D. beneficiaries. It includes an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account. It includes a marital account for which a party named one or more P.O.D. beneficiaries for that party's interest.

SECTION 53. 705.03 (2) of the statutes is amended to read:

705.03 (2) A P.O.D. account belongs to the original payee during his the original payee's lifetime and not to

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the P.O.D. beneficiary or beneficiaries. If 2 or more parties are named as original payees, during their lifetimes rights as between them are governed by sub. (1); and a surviving original payee may revoke or amend the P.O.D. beneficiary designation at will.

SECTION 54. 705.05 (2) of the statutes is amended to read:

705.05 (2) The uses and purposes for which withdrawals may be made by an agent to an account shall be governed by agency principles of general application. The application of any sum withdrawn from an account shall only be subject to inquiry by a party to the account, and such party shall have the burden of proving breach of the agency relationship. A minor party may not disaffirm the appointment of an agent, but the period within which he the minor party may inquire into the propriety of any withdrawal shall be governed by s. 893.16 or 893.18. Unless there is clear and convincing evidence of a different intent, if the agent is a spouse of a party, the sums so withdrawn may be used, but not by way of limitation, for the support and maintenance of either spouse or any common minor children.

SECTION 55. 706.01 (6) of the statutes is amended to read:

706.01 (6) "Grantor" means the person from whom an interest in lands passes by conveyance and includes, without limitation, lessors, vendors, mortgagors, optionors, releasors, assignors and trust settlors of interest in lands. "Grantee" means the person to whom such interest passes. Whenever consistent with the context, reference to the interest of a party includes the interest of his the party's heirs, successors, personal representatives and assigns.

SECTION 56. 706.04 (3) (intro.) of the statutes is amended to read:

706.04 (3) (intro.) The party against whom enforcement is sought is equitably estopped from asserting the deficiency. A party may be so estopped whenever, pursuant to the transaction and in good faith reliance thereon, the party claiming estoppel has changed his or her position to his the party's substantial detriment under circumstances such that the detriment so incurred may not be effectively recovered otherwise than by enforcement of the transaction, and either:

SECTION 57. 706.05 (4) of the statutes is amended to read:

706.05 (4) Any person who anticipates that he may become becoming a party to a number of conveyances of a given form may cause a prototype of such form to be recorded, accompanied by a certificate declaring the intention of the recording party to incorporate the terms of such prototype in future recorded conveyances by reference.

SECTION 58. 706.06 (2) of the statutes is amended to read:

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706.06 (2) Any public officer entitled by virtue of his or her office to administer oaths, and any member in good standing of the state bar of Wisconsin, may authenticate one or more of the signatures on an instrument relating to lands in this state, by indorsing the instrument “Acknowledged”, “Authenticated” or “Signatures Guaranteed”, or other words to similar effect, adding the date of authentication, his or her own signature, and his or her official or professional title. Such indorsement, unless expressly limited, shall operate as an authentication of all signatures on the instrument; and shall constitute a certification that each authenticated signature is the genuine signature of the person represented; and, as to signatures made in a representative capacity, that the signer purported, and was believed, to be such representative.

SECTION 59. 706.08 (5) of the statutes is amended to read:

706.08 (5) When a conveyance purports to be absolute in terms, but is made or intended to be made defeasible by force of another instrument for that purpose, the original conveyance shall not be thereby defeated or affected as against any person other than the maker of the defeasance or his the maker's heirs or devisees or persons having actual notice thereof, unless the instrument of defeasance has been recorded in the office of the register of deeds of the county where the lands lie.

SECTION 60. 706.08 (7) of the statutes is amended to read:

706.08 (7) No letter of attorney or other instrument containing a power to convey lands, when executed and recorded under this chapter, shall be deemed to be revoked by any act of the party by whom it was executed unless the instrument containing such revocation is also recorded in the same office in which the instrument containing the power was recorded, and such record shall import notice to all persons, including the agent named in said letter of attorney of the contents thereof. The death of the party executing such letter of attorney shall not operate as a revocation thereof as to the attorney or agent until he the attorney or agent has notice of the death, or as to one who without notice of such death in good faith deals with the attorney or agent.

SECTION 61. 706.09 (1) (intro.) of the statutes is amended to read:

706.09 (1) WHEN CONVEYANCE IS FREE OF PRIOR ADVERSE CLAIM. (intro.) A purchaser for a valuable consideration, without notice as defined in sub. (2), and his the purchaser's successors in interest, shall take and hold the estate or interest purported to be conveyed to such purchaser free of any claim adverse to or inconsistent with such estate or interest, if such adverse claim is dependent for its validity or priority upon:

SECTION 62. 706.10 (5) of the statutes is amended to read:

706.10 (5) A conveyance by which the grantor contracts to warrant the land or its title shall be construed

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according to its terms, under rules of law for construction of contracts. A conveyance by which the grantor warrants the land or its title shall be construed, except as the terms of such the conveyance may otherwise provide, to include covenants, for the benefit of the grantee, his the grantee's heirs, successors and assigns, that the grantor at the time of conveyance is lawfully seized of the land; has good right to convey the same land or its title; that the same land or its title is free from all encumbrance; and that the grantor, his the grantor's heirs and personal representatives will forever guarantee and defend the title and quiet possession of the land against all lawful claims whatever originating prior to such the conveyance, except as the same claims may arise out of open and notorious rights of easement, or out of public building, zoning or use restrictions.

NOTE: Inserts “the” and replaces “such” and “same” for improved clarity and readability.

SECTION 63. 706.12 (1) (a) of the statutes is amended to read:

706.12 (1) (a) If, when neither the legal title nor the possession of the subject matter of the contract has been transferred, all or a material part thereof is destroyed without fault of the purchaser or is taken by eminent domain, the vendor cannot enforce the contract, and the purchaser is entitled to recover any portion of the price that he the purchaser has paid.

SECTION 64. 706.12 (1) (b) of the statutes is amended to read:

706.12 (1) (b) If, when either the legal title or the possession of the subject matter of the contract has been transferred, all or any part thereof is destroyed without fault of the vendor or is taken by eminent domain, the purchaser is not thereby relieved from a duty to pay the price, nor is he the purchaser entitled to recover any portion thereof that he the purchaser has paid.

SECTION 65. 708.01 of the statutes is amended to read:

708.01 Effect of mortgage. A mortgage on real property creates a lien on the property mortgaged; except for the lien, the mortgagor retains the interest he that the mortgagor had at the time of mortgage until that interest is divested by some later act.

SECTION 66. 708.04 of the statutes is amended to read:

708.04 Removal of buildings from mortgaged premises. The removal, without the consent of the mortgagee or his the mortgagee's assigns, of any building from any real estate upon which there is an unsatisfied mortgage, properly recorded, shall not destroy the lien of such mortgage upon such removed building, but the mortgagee or his the mortgagee's assigns shall be entitled to recover the possession of the same in an action of replevin, from any person, and wherever the same may be situated, without regard to the question of the adequacy of the real estate remaining to pay the mortgage debt. If

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such removal be made by the mortgagor or with his the mortgagor's consent, all reasonable expense incurred in recovering such building shall be added to, and collected as a part of, the mortgage debt.

SECTION 67. 710.01 of the statutes is amended to read:

710.01 Aliens may acquire lands. Subject to the limitations of s. 710.02 an alien may acquire and hold lands or any right thereto or interest therein by purchase, devise or descent, and he the alien may convey, mortgage and devise the same; and if he the alien shall die intestate the same shall descend to his the alien's heirs; and in all cases such lands shall be held, conveyed, mortgaged or devised or shall descend in like manner and with like effect as if such alien were a native citizen of the state or of the United States.

SECTION 68. 710.07 of the statutes is amended to read:

710.07 Conveyances by life tenant. A conveyance made by a tenant for life or years purporting to grant a greater estate than he the tenant possessed or could lawfully convey shall not work a forfeiture of his the tenant's estate, but shall pass to the grantees all the estate which such tenant could lawfully convey.

SECTION 69. 710.10 (3) of the statutes is amended to read:

710.10 (3) A possessor of property which has been sold upon foreclosure of a mortgage if his the possessor's rights were extinguished by the foreclosure.

SECTION 70. 756.098 (2) of the statutes is amended to read:

756.098 (2) OATH OF OFFICER IN CHARGE OF JURY. When the issues have been submitted to the jury the jurors shall be under the charge of a proper officer subject to the direction of the court until they agree upon a verdict or are discharged by the court; the officer shall be sworn for that purpose and the following oath may be administered to him the officer: You do swear that you will, to the utmost of your ability, keep all jurors sworn on this trial together in some private and convenient place, subject to the direction of the court, until they have agreed on their verdict or are discharged by the court, and that you will not, before they render their verdict, communicate to any person the state of their deliberations or the verdict they have agreed upon, so help you God.

SECTION 71. 765.30 (4) (a) of the statutes is amended to read:

765.30 (4) (a) *Penalty for failure to file marriage certificate.* Every officiating person, or persons marrying without the presence of an officiating person, as provided by s. 765.16 (3), who neglect or refuse to transmit the original marriage certificate, solemnized by him or them the officiating person or the persons marrying, to the register of deeds of the county in which the marriage was performed within 3 days after the date of the marriage.

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SECTION 72. 767.22 (2) of the statutes is amended to read:

767.22 (2) Proof that a person obtaining a divorce in another jurisdiction was (a) domiciled in this state within 12 months prior to the commencement of the proceeding therefor, and resumed residence in this state within 18 months after the date of his the person's departure therefrom, or (b) at all times after his the person's departure from this state, and until his the person's return maintained a place of residence within this state, shall be prima facie evidence that the person was domiciled in this state when the divorce proceeding was commenced.

SECTION 73. 777.41 of the statutes is amended to read:

777.41 Rights and liabilities of posthumous child and witness to will. A child born after the making of a will who is entitled to succeed to a portion of the real or personal property or both of the testator, or a witness to a will who is entitled to recover any portion of such property from the legatees or devisees, shall have the same rights and remedies to compel a distribution of the personal property and partition of the real estate or to recover of the legatees or devisees such portion of the property as belongs to him or her, or to compel a contribution from other persons interested in the estate, or to gain possession of the property, as any other persons who are entitled to any part of such estate and shall be equally liable to the creditors of the decedent under the provisions of this chapter.

SECTION 74. 779.03 (1) of the statutes is amended to read:

779.03 (1) NO AGREEMENT BY OTHER THAN CLAIMANT MAY INVALIDATE LIEN. Subject to s. 779.05, a lien claimant may waive the lien given by s. 779.01 by a writing signed by him the lien claimant, but no action by nor agreement between any other persons shall invalidate the lien, other than payment in full to the claimant for the labor or materials to which the lien claim relates.

SECTION 75. 779.07 (1) (intro.) of the statutes is amended to read:

779.07 (1) (intro.) Every clerk of the circuit court shall keep a separate docket, entitled "lien docket," in which shall be entered, immediately upon its filing, the proper entries under the appropriate headings specified in this subsection, relative to each claim for lien filed with him the clerk of court, opposite the names of the persons against whom the lien is claimed. The names shall be entered alphabetically, or an alphabetical index shall be kept as judgment dockets are required by law to be kept. Each page of the docket shall be divided into 9 columns, with headings in the following sequence to the respective columns, as follows:

SECTION 76. 779.155 (3) of the statutes is amended to read:

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779.155 (3) PAYMENT TO JUDGMENT CREDITOR; EXCEPTION. Except as to contractors on public works, the proper officers of the state or municipality shall pay the judgment out of moneys due the contractor or which become due to him the contractor, but no payment shall be made until 30 days after the creditor has filed with such officers proof that the contractor had been notified of the filing of a copy of the judgment against him the contractor.

SECTION 77. 779.37 of the statutes is amended to read:

779.37 Satisfaction of lien. If an attachment, execution or similar writ shall be issued against any person or corporation engaged in such a business as is within s. 779.35, any miner, laborer, mechanic or other person who is entitled to claim a lien thereon may give notice in writing of such the lien claim and the amount thereof, verified by affidavit, to the officer holding any such the writ at any time before the actual sale of the property affected thereby, and such the officer shall retain out of the proceeds of such the sale a sufficient sum to satisfy all such claims, which sum shall be held by him the officer, subject to such order as the court may make.

NOTE: Replaces “such” for clarity and conformity with current drafting style.

SECTION 78. 779.98 (3) of the statutes is amended to read:

779.98 (3) Such payments Payments made under sub. (1) shall be proved by the affidavit of the person making the same, his payment or the person's agent or attorney, giving the items paid, the dates when paid and the description of the real estate on which the lien is claimed, shall have priority over any liens which were subsequent to the lien of the person making the payment at the date of such payments, and shall also have priority over any lien filed after such affidavit is recorded with the register of deeds of the county where the land is located. Said payments shall also be prior to any liens filed before the recording of such affidavit if such filing was made with knowledge of such payments.

NOTE: “Such” and “same” are replaced for clarity and conformity with current drafting style.

SECTION 79. 780.04 (1) of the statutes is amended to read:

780.04 (1) That the defendant in such the action is indebted to the plaintiff or has a claim or demand against him the plaintiff in a sum named, over and above all legal set-offs.

NOTE: “Such” is replaced for clarity and conformity with current drafting style.

SECTION 80. 782.08 (2) of the statutes is amended to read:

782.08 (2) If the person who is directed to be produced be designated by name, or if his the person's name be uncertain or unknown, he or she may be described in any other way so as to designate the person intended.

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SECTION 81. 782.22 (1) (e) of the statutes is amended to read:

782.22 (1) (e) Where the person having the custody of the prisoner is not empowered by law to detain him the prisoner; or

SECTION 82. 782.35 of the statutes is amended to read:

782.35 Warrant, how executed. Any officer or person to whom such warrant shall be directed shall execute the same by bringing the prisoner therein named and the person who detained him the prisoner, if so commanded by the warrant, before the officer issuing the same; and thereupon the person detaining such prisoner shall make return in like manner and the like proceedings shall be had as if a writ of habeas corpus had been issued in the first instance.

SECTION 83. 782.37 of the statutes is amended to read:

782.37 Penalty for refusing papers. Any officer or other person refusing to deliver a copy of any order, warrant, process or other authority by which he the officer or other person shall detain any person to any one who shall demand such copy and tender the fees therefor shall be liable to the person so detained in the sum of two hundred dollars \$200 damages, to be recovered in an action.

SECTION 84. 786.25 (2) of the statutes is amended to read:

786.25 (2) Upon such filing of the appointment under sub. (1) and proper application such, the foreign guardian or conservator may be licensed by the court or presiding judge to lease, mortgage, or sell the real estate of his or her ward in said the county under sub. (1), or any portion thereof, or interest therein, in the same manner and upon the same terms and conditions and for the same purposes as prescribed in this chapter in the case of a guardian appointed in this state. And such The court, or the presiding judge thereof, may, upon the petition of such foreign guardian or conservator, appoint some suitable person residing in this state, special guardian of such the minor or incompetent person to make such the lease, mortgage or sale in the manner provided by this chapter.

NOTE: “Such” and “said” are replaced for clarity and conformity with current drafting style.

SECTION 85. 788.09 of the statutes is amended to read:

788.09 Court confirmation award, time limit. At any time within one year after the award is made any party to the arbitration may apply to the court in and for the county within which such award was made for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified or corrected under s. 788.10 or 788.11. Notice in writing of the application shall be served upon the adverse party or his the adverse party's attorney 5 days before the hearing thereof.

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SECTION 86. 799.07 of the statutes is amended to read:

799.07 File of summons; forfeiture tickets; warrants. The clerk shall keep a file of summons issued by him the clerk, of forfeiture tickets filed with him the clerk, and of warrants for arrests issued by him the clerk.

SECTION 87. 799.45 (3) (c) of the statutes is amended to read:

799.45 (3) (c) When, in the exercise of ordinary care, the sheriff determines that property removed from premises described in the writ is without monetary value, he the sheriff may deliver or cause the same to be delivered to some appropriate place established for the collection, storage and disposal of refuse. In such case he the sheriff shall notify the defendant as specified in sub. (4) of the place to which the goods have been delivered within 3 days of the removal of the goods. The exercise of ordinary care by the sheriff under this subsection does not include searching apparently valueless property for hidden or secreted articles of value.

SECTION 88. 801.05 (12) of the statutes is amended to read:

801.05 (12) PERSONAL REPRESENTATIVE. In any action against a personal representative to enforce a claim against the deceased person represented where one or more of the grounds stated in subs. (2) to (11) would have furnished a basis for jurisdiction over the deceased had he the deceased been living and it is immaterial under this subsection whether the action had been commenced during the lifetime of the deceased.

SECTION 89. 801.09 (2) (a) of the statutes, as affected by 1993 Wisconsin Act 365, is amended to read:

801.09 (2) (a) Within 20 days, or within 45 days if the defendant is the state or an officer, agent, employee or agency of the state in an action or special proceeding brought within the purview of s. 893.82 or 895.46, exclusive of the day of service, after the summons has been served personally upon the defendant or served by substitution personally upon another authorized to accept service of the summons for him the defendant; or

SECTION 90. 802.02 (5) (b) of the statutes is amended to read:

802.02 (5) (b) A party may set forth 2 or more statements of a claim or defense alternatively or hypothetically, either in one claim or defense or in separate claims or defenses. When 2 or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he the party has regardless of consistency and whether based on legal or equitable grounds. All statements shall be made subject to the obligations set forth in s. 802.05.

SECTION 91. 802.10 (3) (b) of the statutes is amended to read:

802.10 (3) (b) *Scheduling order.* The judge shall issue a written order which recites the schedules established. Such order when entered shall control the course of the action, unless modified as herein provided. If at any time it appears that such schedules cannot reasonably be met, the judge may amend the order upon timely motion of any party. Whenever the judge shall determine that he or she cannot reasonably meet the pretrial date or trial date established, he the judge may amend the order on his or her own motion.

SECTION 92. 803.10 (2) of the statutes is amended to read:

803.10 (2) INCOMPETENCY. If a party becomes incompetent, the court upon motion served as provided in sub. (1) may allow the action to be continued by or against his the incompetent party's representative.

SECTION 93. 804.01 (5) (a) of the statutes is renumbered 804.01 (5) (a) (intro.) and amended to read:

804.01 (5) (a) (intro.) A party is under a duty seasonably to supplement his the party's response with respect to any question directly addressed to all of the following:

1. the The identity and location of persons having knowledge of discoverable matters, and,

2. the The identity of each person expected to be called as an expert witness at trial.

NOTE: Conforms numbering to current style.

SECTION 94. 804.02 (2) of the statutes is amended to read:

804.02 (2) (a) If an appeal has been taken from a judgment of a court of this state or before the taking of an appeal if the time therefor has not expired, the court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the court.

(b) In such case, the party who desires to perpetuate the testimony may make a motion in the court for leave to take the depositions, upon the same notice and service thereof as if the action was pending in the court. The motion shall show (a) the all of the following:

1. The names and addresses of persons to be examined and the substance of the testimony which he the moving party expects to elicit from each; and (b) the of those persons.

2. The reasons for perpetuating their the testimony of the persons under subd. 1.

(c) If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken and may make orders of the character provided for by ss. 804.09 and 804.10 and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in this chapter for depositions taken in actions pending in the court.

NOTE: Conforms numbering to current style.

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SECTION 95. 804.06 (1) (a) of the statutes is amended to read:

804.06 (1) (a) After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon written questions. The attendance of witnesses may be compelled by subpoena as provided in s. 805.07. The attendance of a party deponent or of an officer, director, or managing agent of a party may be compelled by notice to him the person to be deposed or his or her attorney meeting the requirements of s. 804.05 (2) (a). The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes, except when the person seeking to take the deposition is the state agency or officer to whose custody the prisoner has been committed.

SECTION 96. 805.17 (1) of the statutes is amended to read:

805.17 (1) MOTION AT CLOSE OF PLAINTIFF'S EVIDENCE. After the plaintiff, in an action tried by the court without a jury, has completed the presentation of his or her evidence, the defendant, without waiving his or her right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. The court as trier of the facts may then determine them and render judgment against the plaintiff on that ground or may decline to render any judgment until the close of all the evidence. If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in sub. (2). Unless the court in its order for dismissal otherwise specifies, a dismissal under this section operates as an adjudication upon the merits.

SECTION 97. 807.08 of the statutes is amended to read:

807.08 Borrowing court files regulated. The clerk shall not permit any paper filed in his the clerk's office to be taken therefrom unless upon written order of a judge of the court. The clerk shall take a written receipt for all papers so taken and preserve the same until such papers are returned. Papers so taken shall be returned at once upon request of the clerk or presiding judge, and no paper shall be kept longer than 10 days.

SECTION 98. 809.19 (3) (b) of the statutes is amended to read:

809.19 (3) (b) The respondent may file with his or her brief a supplemental appendix in conformity with sub. (2).

SECTION 99. 809.41 (2) of the statutes is amended to read:

809.41 (2) The chief judge may change or modify his or her decision on a motion that the matter be decided by a 3-judge panel at any time prior to a decision on the merits of the appeal or petition.

SECTION 100. 810.02 (3) of the statutes is amended to read:

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810.02 (3) The alleged cause of detention according to his the plaintiff's best knowledge, information and belief;

SECTION 101. 810.08 (1) of the statutes is amended to read:

810.08 (1) The sureties, under this chapter, shall append to their bond their affidavits in which each shall swear that he or she is a resident freeholder and is worth the sum stated in the bond above his or her liabilities in property in this state not exempt from execution.

SECTION 102. 810.08 (2) of the statutes is amended to read:

810.08 (2) The justification of sureties under this chapter shall be before a judge on not less than two 2 nor more than six 6 days' notice. Each surety must swear that he or she is a resident freeholder in this state and is worth the sum stated in his the surety's bond above his the surety's liabilities in property in this state not exempt from execution. But if there are more than two 2 sureties on any bond they may be accepted if they shall justify severally in sums which aggregate double the sum named in the bond.

SECTION 103. 810.10 of the statutes is amended to read:

810.10 Property, how kept. The sheriff shall keep the property taken in a secure place and deliver it to the party entitled thereto upon receiving his the sheriff's lawful fees for taking and his the sheriff's necessary expenses for keeping the same.

SECTION 104. 810.14 of the statutes is amended to read:

810.14 Judgment in replevin. In any action of replevin judgment for the plaintiff may be for the possession or for the recovery of possession of the property, or the value thereof in case a delivery cannot be had, and of damages for the detention; and when the property shall have been delivered to the defendant, under s. 810.06, judgment may be as aforesaid or absolutely for the value thereof at the plaintiff's option, and damages for the detention. If the property shall have been delivered to the plaintiff under ss. 810.01 to 810.13 and the defendant prevails, judgment for the defendant may be for a return of the property or the value thereof, at his the defendant's option, and damages for taking and withholding the same.

SECTION 105. 810.15 of the statutes is amended to read:

810.15 Judgment in replevin against principal and sureties. The judgment in replevin may be entered both against the principal and the sureties on his the principal's bond for a return or delivery of the property, as prescribed in ss. 810.01 to 810.13; and where the officer, to whom the execution thereon is directed, cannot find sufficient property of the principal to satisfy the same, he execution, the officer shall satisfy it out of the property of such sureties; and the execution shall so direct.

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NOTE: “Same” is replaced for clarity and conformity with current drafting style.

SECTION 106. 811.001 (2) of the statutes is amended to read:

811.001 (2) “Property of his or her debtor” and “property of the defendant” include the marital property interest of the spouse or former spouse of the debtor or defendant if the action against the debtor or defendant is in connection with an obligation described under s. 766.55 (2).

SECTION 107. 811.01 of the statutes is amended to read:

811.01 Attachment; municipal corporation. Any creditor may attach the property of his or her debtor, in the cases, upon the conditions, and in the manner prescribed in this chapter. No writ of attachment shall be issued against a municipal corporation, as defined in s. 67.01 or to recover the price or value of intoxicating liquors sold at retail.

SECTION 108. 811.03 (1) (a) of the statutes is amended to read:

811.03 (1) (a) That the defendant is absent from this state, or is concealed therein so that summons cannot be served on him the defendant; or

SECTION 109. 811.03 (1) (b) of the statutes is amended to read:

811.03 (1) (b) That the defendant has disposed of or concealed or is about to dispose of or conceal his the defendant's property or some part thereof with intent to defraud his the defendant's creditors; or

SECTION 110. 811.03 (1) (c) of the statutes is amended to read:

811.03 (1) (c) That the defendant has removed or is about to remove property out of this state with intent to defraud his the defendant's creditors; or

SECTION 111. 811.03 (2) (a) of the statutes is amended to read:

811.03 (2) (a) That the defendant is not a resident of this state; or that his the defendant's residence is unknown and cannot with due diligence be ascertained; or

SECTION 112. 811.07 of the statutes is amended to read:

811.07 Additional security. In case the defendant is not satisfied with the amount specified in the bond or with the surety he the defendant may, upon 5 days' notice to the plaintiff, apply to a judge for additional security and such the judge may require the plaintiff to give and file another bond, to be approved by him the judge, in such sum as he the judge shall deem consider proper, not exceeding the appraised value of the property attached. The surety shall justify as provided in s. 811.06; but if there be more than one surety they the sureties may be accepted if they are jointly responsible for the required sum.

NOTE: “Deem” is replaced for conformity with current drafting style.

SECTION 113. 811.08 of the statutes is amended to read:

811.08 Officer's return. The officer executing the writ shall return thereon all his of the officer's proceedings and within 10 days from receipt of the bond shall file the writ, affidavit and bond with the clerk of the court.

SECTION 114. 811.10 (1) of the statutes is amended to read:

811.10 (1) The sheriff shall without delay seize so much of the property of the defendant, in his the sheriff's county, as will satisfy the demand of the plaintiff, with costs and expenses, and make an inventory thereof; he the sheriff shall cause all personal property attached by him the sheriff to be appraised by two 2 disinterested residents of the county, who shall be first sworn by him the sheriff to make a true appraisement thereof, which appraisement shall be signed by them, and the appraisement and inventory shall be returned with the writ; he the sheriff shall serve copies of the writ, affidavit and bond, and inventory, upon the defendant in the same manner as a summons. In case of a nonresident or a foreign corporation the sheriff shall serve such the copies of the writ, affidavit and bond, and inventory, on any agent of such defendant in the county, if any be known to him the sheriff.

NOTE: “Such” is replaced for conformity with current drafting style.

SECTION 115. 811.10 (2) of the statutes is amended to read:

811.10 (2) If two 2 or more writs against the same defendant shall be executed on the same property an inventory and appraisement shall be made in but one of the actions, and the sheriff shall indorse on the copy served upon the defendant in the other action a notice that the property seized is the property seized in the action in which the inventory and appraisement are made, giving the title of such the action; and such the officer shall state in his or her return the fact of such indorsement.

NOTE: “Such” is replaced for conformity with current drafting style.

SECTION 116. 811.13 of the statutes is amended to read:

811.13 Indemnity to sheriff. If there is reasonable doubt as to the ownership of the property or as to its liability to be attached the sheriff may require sufficient security to indemnify him the sheriff for attaching such property.

SECTION 117. 811.15 of the statutes is amended to read:

811.15 Care of property; collection of debts. The officer shall keep the property seized by him the officer and the proceeds of such property as shall have been sold to answer any judgment which may be recovered in such action; and shall, subject to the direction of the court or judge, collect and receive into his the officer's possession

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all the debts, credits and effects of the defendant. The officer may also take such legal proceedings, either in his the officer's own name or in the name of such defendant, as may be necessary for that purpose and discontinue the same at such times and on such terms as the court or judge may direct.

SECTION 118. 811.21 of the statutes is amended to read:

811.21 Damages, defendant when to recover. If the defendant prevails in the action or if the action be discontinued the damages sustained by him the defendant by reason of the taking and detention or sale of any property attached by reason of any injury thereto shall be assessed and he the defendant shall have judgment therefor.

SECTION 119. 811.23 (3) of the statutes is amended to read:

811.23 (3) If any of the attached property belonging to the defendant shall have passed out of the hands of the sheriff without having been sold or converted into money such, the sheriff shall repossess himself of the same the attached property, and for that purpose shall have all the authority which he the sheriff had to seize the same property under the writ of attachment; and any person who shall wilfully conceal or withhold such the attached property from the sheriff shall be liable to double damages at the suit of the party injured.

NOTE: "Such" and "same" are replaced for clarity and conformity with current drafting style.

SECTION 120. 811.23 (4) of the statutes is amended to read:

811.23 (4) Until the judgment against the defendant shall be paid the sheriff may proceed to collect the evidences of debt that may have been seized or attached by virtue of the writ of attachment or that may have been delivered up by any person summoned as garnishee, and to prosecute any bond he the sheriff may have taken in the course of such the proceedings, and apply the proceeds thereof to the payment of the judgment and costs. When the judgment and all costs of the proceedings shall have been paid, the sheriff, upon reasonable demand, shall deliver over to the defendant the residue of the property attached or that may have been received from any garnishee, or the proceeds thereof.

NOTE: "Such" is replaced for clarity and conformity with current drafting style.

SECTION 121. 811.24 of the statutes is amended to read:

811.24 Action by sheriff, who to prosecute. The actions herein authorized to be brought by the sheriff or officer may be prosecuted by the plaintiff or under his the plaintiff's direction, upon the delivery by him the plaintiff to the sheriff or officer of an undertaking, with two 2 sufficient sureties, to the effect that the plaintiff will indemnify him the sheriff or officer for all damages, costs and expenses thereon not exceeding two hundred and fifty dollars \$250 in any one action; such sureties shall,

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when required by the sheriff or officer, justify by making an affidavit that each is a householder and worth double the amount of the penalty named in the undertaking over and above all debts and exemptions.

SECTION 122. 811.26 of the statutes is amended to read:

811.26 Stranger may intervene. Any person not a party to the action, whose property is attached, may, at any time, either before or after judgment, be made a party upon his the person's application for the purpose of removing or discharging the attachment. The court may grant such summary relief as shall be just, and may in proper cases award an issue for trial by jury.

SECTION 123. 812.01 (3) of the statutes is amended to read:

812.01 (3) An individual may commence a garnishment action in his the individual's own person and in his the individual's own behalf, or by an attorney licensed to practice in the courts of this state, but not otherwise. Garnishment actions on behalf of any other party shall be commenced only by attorneys licensed to practice in the courts of this state.

SECTION 124. 812.02 (3) of the statutes, as affected by 1993 Wisconsin Act 80, is amended to read:

812.02 (3) The plaintiff may, in like manner, subsequently proceed against other garnissees and, if he the plaintiff has reason to believe they have subsequently become liable, against the same garnishee more than once.

SECTION 125. 812.08 (1) of the statutes is amended to read:

812.08 (1) No judgment in the principal action shall be entered against the defendant for an amount in excess of the liability of the garnishee to the principal defendant, unless the defendant makes a general appearance or is personally served and defaults or unless he the defendant appears without objecting to the jurisdiction of the court over his or her person. An in rem judgment shall not bar another action for any unpaid balance of the claim.

SECTION 126. 812.11 (intro.) of the statutes is amended to read:

812.11 Garnishee answer. (intro.) The garnishee shall, within 20 days from the service of a garnishee summons and complaint, exclusive of the day of service, serve upon the attorney for the plaintiff, and file with the clerk of court, an answer in which he the garnishee shall state:

SECTION 127. 812.11 (1) of the statutes is amended to read:

812.11 (1) Whether he the garnishee was, at the time of the service of the garnishee summons, indebted or under any liability to the defendant, naming him the defendant, in any manner or upon any account, specifying, if indebted or liable, the amount, the interest thereon, the manner in which evidenced, when payable, whether an absolute or contingent liability and the facts necessary

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to a complete understanding of such indebtedness or liability. When the garnishee is in doubt respecting any such liability or indebtedness he to the defendant, the garnishee may set forth the facts concerning the same possible liability or indebtedness.

NOTE: "Such" and "same" are replaced for clarity and conformity with current drafting style.

SECTION 128. 812.11 (2) of the statutes is amended to read:

812.11 (2) Whether he the garnishee held, at the time aforesaid the of the service of the garnishee summons, title or to, possession of or any other interest in any land or of any personal property or any instruments or papers relating to any such land or personal property belonging to the defendant or in which he the defendant is interested. If he the garnishee admits holding any such interest in property described in this subsection or is in doubt respecting the same he whether the garnishee holds an interest in property described in this subsection, the garnishee shall set forth a description of such the property and the facts concerning the same property, and the title, interest or claim of the defendant in or to the same property.

NOTE: "Such" is replaced for clarity and conformity with current drafting style.

SECTION 129. 812.11 (3) of the statutes is amended to read:

812.11 (3) If he the garnishee claims any setoff or defense to any debt or liability or any lien or claim to such property he described in sub. (2), the garnishee shall allege the facts.

SECTION 130. 812.11 (4) of the statutes is amended to read:

812.11 (4) He The garnishee may state any claim of exemption from execution on the part of the defendant or other objection, known to him the garnishee, against the right of the plaintiff to apply upon his the plaintiff's demand the debt or property disclosed.

SECTION 131. 812.11 (5) of the statutes is amended to read:

812.11 (5) If he the garnishee discloses any debt or the possession of any property to which the defendant and other persons make claim he, the garnishee may allege the names and residences of such other claimants and, so far as known, the nature of their claims.

SECTION 132. 812.11 (8) of the statutes is amended to read:

812.11 (8) Service upon the attorney for the plaintiff may be effected by mailing a copy of the garnishee answer to the attorney for the plaintiff at his the attorney's post-office address as shown on the summons.

SECTION 133. 812.13 (3) of the statutes is amended to read:

812.13 (3) If the garnishee fails to pay such sum within 5 days after receipt of such request, the plaintiff shall be entitled to judgment against the garnishee for the

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amount disclosed, when due, either before or after judgment in the original action and may collect the same by execution; but in case no judgment has been rendered in the principal action the execution against the garnishee shall require the sheriff to pay the money collected into court to abide the event of the principal action. Moneys paid into court shall be paid to the plaintiff when final judgment is rendered in his the plaintiff's favor, and to the extent of satisfying the same, upon order of the court, and any balance to the party entitled thereto.

SECTION 134. 812.15 (1) of the statutes is amended to read:

812.15 (1) The defendant may, within 20 days from the service of the garnishee summons and complaint on him the defendant, answer the garnishee complaint and defend the garnishment action upon any ground upon which a garnishee might defend, and may participate in the trial of any issue between the plaintiff and garnishee. And the The garnishee may, at his the garnishee's option, defend the principal action for the defendant, if the latter does not defend.

SECTION 135. 812.15 (2) of the statutes is amended to read:

812.15 (2) When any garnishee defends the principal action, he the garnishee shall thereby become a party defendant in said action and shall be so entered of record by the clerk, but shall be liable only for the costs in said action.

SECTION 136. 812.16 (2) of the statutes is amended to read:

812.16 (2) The court may adjudge the recovery of any debt, the conveyance, transfer or delivery to the sheriff or any officer appointed by the judgment of any real estate or personal property disclosed or found to be liable to be applied to the plaintiff's demand; or by the judgment pass the title thereto; and may therein or by its order direct the manner of making sale and of disposing of the proceeds thereof, or of any money or other thing paid or delivered to the clerk or officer. The judgment against a garnishee shall discharge him the garnishee from all demands by the defendant for all property paid, delivered or accounted for by the garnishee, by force of such judgment.

SECTION 137. 812.17 of the statutes is amended to read:

812.17 Impleader. When the answer of the garnishee discloses that any 3rd person claims the debt or property in his the garnishee's hands and the name and residence of such claimant the court may order that such claimant be impleaded as a defendant in the garnishment action and that notice thereof, setting forth the facts, with a copy of such order and answer be served upon him the 3rd person claimant, and that after such service is made the garnishee may pay or deliver to the officer or the clerk such debt or property and have a receipt therefor, which shall be a complete discharge from all liability for the

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amount so paid or property so delivered. Such notice shall be served as required for service of a summons. Upon such service being made such claimant shall be deemed a defendant in the garnishee action, and within 20 days shall answer setting forth his the claimant's claim or any defense which the garnishee might have made.

SECTION 138. 812.21 (2) of the statutes is amended to read:

812.21 (2) The sureties shall justify their responsibility by affidavit annexed, stating a sum which each is worth in property within this state, above all his the surety's liabilities and exclusive of property exempt from execution, the aggregate of which sums shall be double the amount specified in the bond. The defendant shall serve on the plaintiff a copy of such bond with a notice of where the same was filed. Within 3 days after the receipt thereof the plaintiff may notify the defendant that he the plaintiff excepts to the sufficiency of the sureties, otherwise he the plaintiff waives all objections to them. When the plaintiff excepts, the sureties shall justify in like manner as bail on arrest, and ss. 818.17, 818.18 and 818.19 shall be applicable thereto. Thereafter the garnishee shall be discharged and the garnishment proceedings shall be deemed discontinued, and any money or property paid or delivered to any officer shall be surrendered to the person entitled thereto, and the costs shall be taxable as disbursements of the plaintiff in the action if he the plaintiff recovers.

SECTION 139. 813.02 (1) (a) of the statutes is amended to read:

813.02 (1) (a) When it appears from his a party's pleading that a the party is entitled to judgment and any part thereof consists in restraining some act, the commission or continuance of which during the litigation would injure him the party, or when during the litigation it shall appear that a party is doing or threatens or is about to do, or is procuring or suffering some act to be done in violation of the rights of another party and tending to render the judgment ineffectual, a temporary injunction may be granted to restrain such act.

SECTION 140. 813.02 (2) of the statutes is amended to read:

813.02 (2) If, after the commencement of any action for waste or to restrain waste, or any action for the recovery of land or the possession or partition thereof or after any real estate has been levied upon by execution, any party to such action or execution shall commit waste or shall threaten or make preparations to commit waste upon the lands, tenements, or anything appertaining thereto, he that party may be restrained by injunction from committing any waste or further waste thereto. Such injunction may be issued in any of said actions or in cases of the levy above mentioned by the court from which the execution issued.

SECTION 141. 813.026 of the statutes is amended to read:

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813.026 Remedy against heirs and legatees; temporary injunction; receivership; judgment. In an action, in a court of record, for damages founded upon contract or upon a judgment, when it appears that the defendant is interested, as heir, legatee or devisee, in the estate of a decedent and that the defendant's property liable to execution is probably insufficient to satisfy the plaintiff's claim for damages, the defendant may be enjoined by the court, pending the action, from assigning or otherwise disposing of his the defendant's interest in such estate; and a receiver therefor may be appointed. The judgment may compel the defendant to transfer sufficient of his the defendant's interest to satisfy the judgment or may adjudge such transfer. The remedy given by this section is in addition to that given by proceedings supplementary to execution under ch. 816. If a receiver is appointed, he or she shall give prompt notice thereof to the administrator or executor.

SECTION 142. 813.03 of the statutes is amended to read:

813.03 When granted defendant. A temporary injunction may also be granted on the application of the defendant, when it shall appear that the plaintiff is doing, or threatens, or is about to do, or is procuring or suffering to be done some act in violation of the defendant's rights respecting the subject of the action and tending to his the defendant's injury or to render ineffectual such judgment as may be rendered in his the defendant's favor.

SECTION 143. 813.07 of the statutes is amended to read:

813.07 Assessment of damages; bill of particulars; costs. Upon an assessment of the damages caused by an injunction the defendant may be required to serve upon the plaintiff and his the plaintiff's sureties, within such time and in such manner as the court or referee shall direct, a bill of particulars. The plaintiff or the sureties may within ten 10 days after such service offer in writing to permit the court or referee to assess the defendant's damages at a specified sum together with the costs of such proceeding incurred up to the time of such offer. If such offer be not accepted in writing within five 5 days after it is made, it shall be deemed considered withdrawn, and cannot be given in evidence; and if If the defendant fail fails to obtain a more favorable assessment of damages he the defendant cannot recover costs, but must pay the costs of the opposite party from the time of the offer.

SECTION 144. 813.11 of the statutes is amended to read:

813.11 Injunction, additional security. The party enjoined may, upon notice, apply for additional security and may combine such application with one to vacate or modify the injunction, and the presiding judge may require a further bond, in a sum and with sureties to be approved by him the presiding judge, as a condition of the continuance of the injunction.

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SECTION 145. 813.13 of the statutes is amended to read:

813.13 Writ of ne exeat. The court or a judge may grant the writ of ne exeat to prevent any defendant from going out of the state until he the defendant shall give security. It may be granted at any time before judgment.

SECTION 146. 813.15 of the statutes is amended to read:

813.15 Same; discharge of. If the defendant shall satisfy the court or judge granting such writ that there is no reason for his the defendant's restraint or shall give security for the performance of the judgment in the action, the writ shall be discharged.

SECTION 147. 813.16 (1) of the statutes is amended to read:

813.16 (1) On the application of either party, when he the applying party establishes an apparent right to or interest in property which is the subject of the action and which is in the possession of an adverse party, and the property or its rents and profits are in danger of being lost or materially impaired.

SECTION 148. 813.16 (3) of the statutes is amended to read:

813.16 (3) To preserve the property during the pendency of an appeal; or when an execution has been returned unsatisfied and the judgment debtor refuses to apply his the judgment debtor's property in satisfaction of the judgment or in an action by a creditor under ch. 816.

SECTION 149. 813.16 (6) of the statutes is amended to read:

813.16 (6) The receiver shall give to and file with the clerk of the court a bond, conditioned in the usual manner, with sureties to be approved by the judge making the appointment sufficient to cover all property likely to come into his the receiver's hands.

SECTION 150. 813.17 of the statutes is amended to read:

813.17 Receiver; payment of employees' wages. Whenever a receiver shall be appointed to manage or close up any business, he the receiver shall immediately report to the court the amount due the employees in such business; and said court shall order him the receiver to pay out of the first receipts of said business, after the payment of costs, debts due the United States or this state, taxes and assessments and the current expenses of carrying on or closing said business, the wages, including pension, welfare and vacation benefits, of such employees earned during the last 3 months of employment and within one year prior to his the receiver's appointment.

SECTION 151. 813.23 (1) (a) of the statutes is amended to read:

813.23 (1) (a) When a person domiciled in this state and having an interest in any form of property disappears and is absent from his the person's place of residence without being heard of after diligent inquiry, upon

application for a finding of such disappearance and absence and of the necessity for the appointment of a receiver to the circuit court of the county of the absentee's domicile by any person who would have an interest in said property were said absentee deceased or by an insurer or surety or creditor of such absentee, after notice as provided in s. 813.24, and upon good cause being shown, the court may find that he the absentee was last heard of as of a date certain and may appoint a receiver to take charge of his the absentee's estate. The absentee shall be made a party to said proceeding; and any other person who would have an interest in said property were said absentee deceased, upon direction by the court, may be made a party to said proceeding.

SECTION 152. 813.23 (1) (b) of the statutes is amended to read:

813.23 (1) (b) When a person is a member of the armed forces of the United States without this state, or is serving as a merchant seaman outside of the limits of the United States included within the 50 states and the District of Columbia, or is outside such limits by permission, assignment or direction of any department or official of the United States government in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged, and has an interest in any form of property in this state and no adequate power of attorney on his or her behalf has been recorded in the office of the register of deeds of the county of his or her domicile or of the county where such property is situated, upon application for findings establishing the foregoing and the necessity for appointment of a receiver, to the circuit court of the county of such person's domicile or of the county where such property is situated, by any person who would have an interest in said property were such person deceased, or by an insurer or surety or creditor of such person, or by any other person or on the court's own motion, after notice as provided in s. 813.24, and upon good cause being shown, the court may, on making such findings, appoint a receiver to take charge of such person's estate. Such person should be made a party to such proceedings; and any other person who would have an interest in said property were said person deceased, upon direction by the court, may be made a party to said proceedings. Such person shall be deemed an "absentee" within the meaning of ss. 813.23 to 813.34.

SECTION 153. 813.23 (2) of the statutes is renumbered 813.23 (2) (a) (intro.) and amended to read:

813.23 (2) (a) (intro.) The receiver, upon giving bond to be fixed in amount and with surety to be approved by the court and upon such conditions as will insure the conservation of such property, shall under the direction of said court administer said property as an equity receivership with power (a) to:

1. To take possession of all property of the absentee wherever situated, (b) to,

2. To collect all debts due the absentee, (e) to,

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3. To bring and defend suits, (d) to,
4. To pay insurance premiums, (e) with,
5. With the approval of the court in each case, to pay all debts due by the absentee, and (f) to,
6. To pay over the proceeds of such part or all of said property, or the income thereof as may be necessary for the maintenance and support of the absentee's dependents; and if,

(b) If the personal property of said the absentee be is not sufficient to pay all his of the absentee's debts, and to provide for the maintenance and support of his the absentee's dependents, the receiver may apply to the court for an order to sell or mortgage so much of the real estate as may be necessary therefor; said sale or mortgage to be reported to, approved and confirmed by the court and said receiver to be ordered to make deed conveying or mortgaging said real property to the purchaser or lender upon his the purchaser's or lender's complying with the terms of sale or mortgage.

SECTION 154. 813.23 (3) of the statutes is amended to read:

813.23 (3) Upon the filing of the application referred to in sub. (1), the court may for cause shown appoint a temporary receiver to take charge of the property of the absentee and conserve it pending hearing upon the application. Such temporary receiver shall qualify by giving bond in an amount and with surety to be approved by the court and shall exercise only the powers named by the court. Should a permanent receiver be appointed, the temporary receiver shall turn over all property in his the temporary receiver's possession, less such as may be necessary to cover his the temporary receiver's expenses and compensation as allowed by the court, to the permanent receiver, shall file his the temporary receiver's final account and upon its approval be discharged. Should the application for permanent receiver be denied, the temporary receiver shall restore to those from whom it may have been obtained, all property in his the temporary receiver's possession, less such only as may be necessary to cover his the temporary receiver's expenses and compensation as allowed by the court, shall file his the temporary receiver's final account and be discharged. Where the application is denied, the expenses of the temporary receivership and the compensation of the temporary receiver may in the discretion of the court be taxed as costs of the proceeding to be paid by the applicant and shall be enforceable by the temporary receiver against him the applicant.

SECTION 155. 813.26 (2) of the statutes is amended to read:

813.26 (2) After the lapse of 5 years from the date of the finding provided for in s. 813.23 (1), if the absentee has not appeared, the court may proceed to take further evidence and thereafter make a final finding and enter a decree declaring that all interest of the absentee in his the absentee's property has ceased and devolved upon others

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by reason of his the absentee's failure to appear and make claim.

SECTION 156. 813.28 (3) of the statutes is amended to read:

813.28 (3) In both cases by requiring the receiver's account and upon its approval discharging him the receiver and his the receiver's bondsmen and entering a final decree terminating the receivership.

SECTION 157. 813.29 of the statutes is amended to read:

813.29 Distribution of property of absentee. The property remaining for distribution in accordance with s. 813.28 (2) (c) shall be distributed among those persons who would be entitled thereto under the laws of descent and distribution of this state had the absentee died intestate as of the date determined by the court in its final finding and decree; or in case the absentee leaves a document which, had he the absentee died, would under the laws of this state be entitled to probate as his the absentee's will, the distribution shall be according to the terms of that document as of that date. The validity and effect of the distribution of said property shall be determined by the court administering the receivership and shall be final and binding upon all persons including the absentee.

SECTION 158. 813.30 (4) of the statutes is amended to read:

813.30 (4) If in any proceeding under subs. (1) and (2) the absentee is not found to be deceased and the policy provides for a surrender value, the beneficiary may request the receiver, acting for the insured, to demand the payment of surrender value. The receiver's receipt for such payment shall be a release to the insurer of all claims under the policy. The receiver shall pay over to the beneficiary (if he the beneficiary survives the insured, otherwise to the estate of the absentee), the sum thus received, reserving only an amount allowed by the court as costs of the proceedings under this section.

NOTE: Replaces parentheses for conformity with current style.

SECTION 159. 813.30 (5) of the statutes is amended to read:

813.30 (5) Payment by an insurer hereunder shall be in full discharge of all contractual liability. No action shall be brought by an absentee to recover any portion of the proceeds, or any other benefits or values, arising out of contracts of life insurance issued upon his the absentee's life, after any distribution of such property pursuant to this section.

SECTION 160. 814.02 (1) of the statutes is amended to read:

814.02 (1) When several actions are brought against parties who might have been joined as defendants and the actions are consolidated under s. 805.05 (1) no costs, other than disbursements, shall be allowed to the plaintiff in excess of what he the plaintiff would be entitled to had he the plaintiff brought but one action.

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SECTION 161. 814.03 (2) of the statutes is amended to read:

814.03 (2) Where there are several defendants who are not united in interest and who make separate defenses by separate answers, if the plaintiff recovers against some but not all of such defendants, the court may award costs to any defendant who has judgment in his the defendant's favor.

SECTION 162. 814.04 (7) of the statutes is amended to read:

814.04 (7) JUDGMENT OFFER NOT ACCEPTED. If the offer of judgment pursuant to s. 807.01 is not accepted and the plaintiff fails to recover a more favorable judgment he the plaintiff shall not recover costs but the defendant shall have full costs to be computed on the demand of the complaint.

SECTION 163. 814.04 (8) of the statutes is amended to read:

814.04 (8) ACTIONS FOR MUNICIPAL CORPORATIONS. In all actions brought for the benefit of any county, town, village, city or other municipal corporation of this state by a citizen taxpayer, the plaintiff shall be entitled to recover for his the plaintiff's own use, in case he the plaintiff shall prevail, the taxable costs of such action and such part of the recovery as the court shall deem considers reasonable, as attorney's attorney fees, not to exceed 20 per cent % of such recovery, and not to exceed \$500.

SECTION 164. 814.10 (3) of the statutes is amended to read:

814.10 (3) OBJECTIONS, PROOFS, ADJOURNMENT. The party opposing such taxation, or the taxation of any particular item shall file with the clerk a particular statement of his the party's objections, and he the party may produce proof in support thereof and the clerk may adjourn such taxation, upon cause shown, a reasonable time to enable either party to produce such proof.

SECTION 165. 814.14 of the statutes is amended to read:

814.14 Fiduciary; liability for costs limited; bond premium. In any action or proceeding prosecuted or defended in any court in Wisconsin by an executor, administrator, guardian ad litem, trustee of an express trust, general guardian or a person expressly authorized by statute, unless otherwise specially provided, costs shall be recovered as in an action by and against a person prosecuting or defending in his the person's own right; but such costs shall be chargeable only upon or collected of the estate, fund or party represented, unless the court shall direct the same to be paid by the plaintiff or defendant personally, for mismanagement or bad faith in such action, proceeding or defense. In all actions or proceedings in which any receiver, assignee, guardian, guardian ad litem, executor, administrator, or other fiduciary may be entitled to recover costs he the fiduciary may recover in addition to other costs, such sum paid a company authorized by the laws of this state, so to do for becoming

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his the fiduciary surety upon any bond or other obligation given by him the fiduciary in his the fiduciary's representative capacity, in such action or proceeding, pursuant to law or the order of any court or judge, as may be allowed by the court or judge, in which or before whom he the fiduciary accounts, not exceeding two per centum 2% per year on the amount secured by such obligation, or any less amount which he the fiduciary may have paid any such company for such purpose.

SECTION 166. 814.15 of the statutes is amended to read:

814.15 Assignee's liability for costs. In actions in which the cause of action shall, by assignment, after the commencement of the action or in any other manner become the property of a person not a party to the action such the person shall be liable for the costs in the same manner as if he the person were a party; and payment thereof may be enforced by attachment.

SECTION 167. 814.22 (1) (a) of the statutes is amended to read:

814.22 (1) (a) The per diem fees of the clerk or his the clerk's deputies, all the taxable costs, disbursements and fees of such clerk on any proceeding or action.

SECTION 168. 814.27 of the statutes is amended to read:

814.27 Security for costs. Except as provided in s. 655.27 (5) (a) 3., in all cases where it shall appear reasonable and proper the court may require the plaintiff to give sufficient security for such costs as may be awarded against him the plaintiff.

SECTION 169. 814.33 of the statutes is amended to read:

814.33 Additional security for costs. If any surety on any undertaking given under s. 814.28 shall remove from the state or be deemed at any time insufficient the court or presiding judge may require the plaintiff to give a new undertaking, and every person becoming surety thereon shall be liable for all costs, from the commencement of the action, in like manner as if he the successor surety had been the original surety.

SECTION 170. 814.34 of the statutes is amended to read:

814.34 Attorney for plaintiff liable for costs. In any case in which the defendant, at the time of the commencement of the action, may require security for costs the attorney for the plaintiff shall be liable for such costs not exceeding \$100, until security therefor is filed, whether such security shall have been required by the defendant or not; but such attorney may relieve himself is relieved from such liability by filing an undertaking as prescribed by s. 814.28, and giving notice thereof.

SECTION 171. 814.46 of the statutes is amended to read:

814.46 Taxation after settlement. Upon the settlement of an execution by a defendant or upon settling any action or demand the sheriff or attorney claiming any fees

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which shall not have been taxed shall, upon being required by the defendant and on his or her paying the expenses thereof, have his or her fees taxed by some proper officer authorized to tax costs in the court in which the action may be pending or from which the execution shall have been issued.

SECTION 172. 814.48 of the statutes is amended to read:

814.48 Duty of officers taxing costs. Every officer authorized to tax costs in any court for services in any proceeding shall examine the bills presented for taxation, whether such taxation be opposed or not, and must be satisfied that the items charged are correct and legal, and shall strike out all charges for services which, in his the officer's judgment, were not necessary.

SECTION 173. 814.49 (1) of the statutes is amended to read:

814.49 (1) COSTS ON DISMISSAL FOR LACK OF PERSONAL JURISDICTION. If on objection of any defendant made pursuant to s. 802.06 (2) the action is dismissed as to that defendant on the ground that the court lacks jurisdiction over his the defendant's person, the court when entering judgment dismissing the action against the defendant may order the plaintiff to pay to the defendant all reasonable actual costs, disbursements and expenses of the action up to the judgment of dismissal, but the amount so recovered can in no case exceed the sum of \$500.

SECTION 174. 815.02 of the statutes is amended to read:

815.02 Judgments, enforced by execution. A judgment which requires the payment of money or the delivery of property may be enforced in those respects by execution. Where it requires the performance of any other act a certified copy of the judgment may be served upon the party, person or officer who is required to obey the same, and if he or she refuse he or she may be punished for contempt, and his or her obedience enforced.

SECTION 175. 815.03 of the statutes is amended to read:

815.03 Executions, kinds. There are three 3 kinds of executions: One one against the property of the judgment debtor, another against his the judgment debtor's person, and the third 3rd for the delivery of property, or such delivery with damages for withholding the same. They are the process of the court, and shall be as prescribed by s. 815.05.

SECTION 176. 815.04 (2) of the statutes is amended to read:

815.04 (2) When the sheriff holds an execution against property any person indebted to the judgment debtor may pay to the sheriff the amount of his the indebted person's debt not exempt from execution or so much thereof as shall be necessary to satisfy the execution, and the sheriff's receipt shall be a sufficient discharge for the amount so paid.

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SECTION 177. 815.05 (1) of the statutes is amended to read:

815.05 (1) If it be against the property of the judgment debtor, to satisfy the judgment out of the personal property of such debtor, and if sufficient personal property cannot be found, out of the real property belonging to him the judgment debtor on the day when the judgment was docketed in the county or at any time thereafter.

SECTION 178. 815.05 (5) of the statutes is amended to read:

815.05 (5) If it be against the person of the judgment debtor, to arrest him the judgment debtor and commit him the judgment debtor to the county jail until he the judgment debtor shall pay the judgment or be discharged according to law.

SECTION 179. 815.05 (6) of the statutes is amended to read:

815.05 (6) If it is for the delivery of property, to deliver the possession of the same, particularly describing it, to the party entitled thereto, and may require the officer to satisfy any costs, damages or rents and profits covered by the judgment out of the personal property of the party against whom it was rendered, and shall specify the value of the property for which the judgment was recovered; if a delivery of the property cannot be had and if sufficient personal property cannot be found, then out of the real property belonging to him the person against whom the execution was rendered on the day when the judgment was docketed or at any time thereafter. When a judgment in replevin is entered against the principal and also against his the principal's sureties under s. 810.15, the execution shall direct that the property of the surety shall not be levied on unless the property found, belonging to the principal, is not sufficient to satisfy the judgment.

SECTION 180. 815.06 of the statutes is amended to read:

815.06 Execution, when returnable. Every execution shall be made returnable, within sixty 60 days after its receipt by the officer, to the clerk of the court from which it issued but if the officer has levied upon property previous to the expiration of said sixty the 60 days he the officer may retain such execution until he the officer has sold the property. The officer shall state in his the officer's return how he the officer executed the writ.

SECTION 181. 815.08 of the statutes is amended to read:

815.08 Sheriff to indorse date of receipt. Upon receipt of any execution the sheriff or other officer shall indorse thereon the year, month, day and hour of the day when he the sheriff or other officer received the same.

SECTION 182. 815.09 of the statutes is amended to read:

815.09 Execution against debtor's person. If the action be one in which the defendant might have been arrested, as provided in ch. 818, an execution against the

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person of the judgment debtor may be issued after the return of an execution against his the defendant's property unsatisfied in whole or in part; but if the defendant be imprisoned on execution in another action, or upon mesne process in the same action, an execution may issue against his the defendant's body without any previous execution against his the defendant's property.

SECTION 183. 815.10 of the statutes is amended to read:

815.10 Execution against body only remedy, exception. When a party shall have been arrested on an execution no other execution upon the same judgment can be issued against him the party or his the party's property except as provided by s. 898.10; but if he the party shall escape he the party may be retaken by a new execution against his the party's body or an execution against his the party's property may be issued in the same manner as if he the party had never been arrested on execution.

SECTION 184. 815.12 of the statutes is amended to read:

815.12 Execution; death of person arrested. If any person arrested on execution shall die while under arrest a new execution may issue against his the deceased's property in the same manner as if he the deceased had never been arrested; but such new execution shall not be levied upon any real estate which the deceased shall have sold in good faith nor upon any real estate which shall have been sold under any other judgment against him the deceased.

SECTION 185. 815.14 of the statutes is amended to read:

815.14 Execution after debtor's death. After the expiration of one year from the death of a judgment debtor execution may be issued against any property upon which the judgment was a lien at the time of the debtor's death, and may be executed in the same manner and with the same effect as if he the debtor were still living; but no such execution shall issue except upon an order, made upon sufficient cause shown. If such judgment be against such deceased debtor and others jointly execution may issue against surviving judgment debtors without delay.

SECTION 186. 815.15 of the statutes is amended to read:

815.15 Execution after judgment creditor's death. If the judgment creditor dies before satisfaction of the judgment an execution may be issued by his the judgment creditor's attorney of record in the name of such decedent or in the name of his the judgment creditor's executor or administrator. Before an execution shall issue in the name of an executor or administrator he the executor or administrator shall file with the clerk a copy of his or her letters testamentary or of administration, and the clerk shall file such papers with the other papers in the action or proceeding and enter at the foot of the judgment, in the judgment record, the fact of the death of such credi-

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tor, the name and date of appointment of such executor or administrator. The moneys collected thereon shall be paid to the executors or administrators of such creditor; but if there be none then the moneys so collected shall be paid to the clerk of the court.

SECTION 187. 815.17 of the statutes is amended to read:

815.17 Execution; who acts on sheriff's death or removal. If any sheriff shall die or be removed from office before the execution be returned, his the deceased sheriff's undersheriff or deputy shall proceed thereon in the same manner as the sheriff might have done.

SECTION 188. 815.20 (2) of the statutes is amended to read:

815.20 (2) Any owner of an exempt homestead against whom a judgment has been rendered and docketed, and any heir, devisee or grantee of such owner, or any mortgagee of such homestead, may proceed under s. 806.04 for declaratory relief if such homestead is less than \$40,000 in value and the owner of such judgment shall fail, for 10 days after demand, to execute a recordable release of such homestead from his the judgment owner's judgment lien.

SECTION 189. 815.21 (1) of the statutes is amended to read:

815.21 (1) Whenever a levy shall be made upon lands of any person, he the landowner may notify the officer making such levy, at any time before the sale, that he the landowner claims an exempt homestead in such lands, giving a description thereof, and his the landowner's estimate of the value thereof; and the remainder alone shall be subject to sale under such levy, unless the plaintiff in the execution shall deny the right to such exemption or be dissatisfied with the quantity or estimate of the value of the land selected.

SECTION 190. 815.21 (2) of the statutes is amended to read:

815.21 (2) If such plaintiff is dissatisfied with the quantity selected or the estimate of the value thereof, the officer shall cause such lands to be surveyed, beginning at a point to be designated by the owner and set off in compact form. After the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be of greater value than \$40,000, the officer may still advertise and sell the premises so set off, and out of the proceeds of such sale pay to the exempt homestead claimant the sum of \$40,000 and apply the balance of the proceeds of such sale on the execution; but no sale shall be made in the case last mentioned unless a greater sum than \$40,000 is paid for said premises. The expenses of such survey and sale shall be collected on the execution if the owner claimed as his the owner's homestead a greater quantity of land or land of greater value than he the owner was entitled to; otherwise such expenses shall be borne by the plaintiff.

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SECTION 191. 815.21 (3) of the statutes is amended to read:

815.21 (3) If such survey be made the land not exempt shall be sold, but if any person shall neglect or refuse to select his the person's exempt homestead and notify such officer, such officer shall, upon request of the plaintiff, and may without such request, give notice to such person that at a time and place to be therein named he such officer will survey and locate the exempt homestead; and unless such person shall on or before the time so fixed select such exempt homestead, such officer shall survey and locate and set the same off in a compact form. If the owner after such notice selects his the owner's exempt homestead, then the provisions of this section shall apply the same as if he the owner had selected it before such notice.

SECTION 192. 815.21 (4) of the statutes is amended to read:

815.21 (4) A homestead so selected and set apart by such officer shall be the exempt homestead of such person. The costs of such notice and survey shall be collected upon the execution. A failure of the officer to set apart such homestead shall affect such levy, only as to such homestead; and the failure of such person to select his that person's homestead shall not impair his that person's right thereto, but only his that person's right to select the same when such selection is lawfully made by such officer. After such homestead is thus set off by such officer, if, in his the officer's opinion or in the opinion of the plaintiff, the premises are of greater value than \$40,000 he the officer may sell the same as where the owner makes the selection.

SECTION 193. 815.21 (5) of the statutes is amended to read:

815.21 (5) If the land claimed as an exempt homestead exceeds in value \$40,000, the officer shall not be bound to set off any portion thereof but may sell the same, unless the debtor shall make his the debtor's selection of such a portion thereof as shall not exceed \$40,000 in value.

SECTION 194. 815.24 of the statutes is amended to read:

815.24 Indemnity may be required. If there is any reasonable doubt as to the ownership of the property or as to its liability to be taken on the execution the officer may require sufficient security to indemnify him the officer for levying upon such property.

SECTION 195. 815.25 of the statutes is amended to read:

815.25 Money applied; negotiable instruments sold. Upon executions against property the officer shall levy upon any current money of the United States and shall pay and return the same without exposing it for sale, and he the officer may also levy upon and sell any evidences of debt circulated as money, or a bond or other

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instrument for the payment of money which is negotiable or payable to the bearer or holder.

SECTION 196. 815.26 of the statutes is amended to read:

815.26 Equities sold. When personal property is subject to a security interest, the right and interest of the debtor in such property may be sold on execution against him the debtor, subject to the rights, if any, of the secured party.

SECTION 197. 815.31 (3) of the statutes is amended to read:

815.31 (3) If there be no newspaper published in the county and the premises are not occupied by any person against whom the execution is issued or by some person holding as tenant or purchaser under him the person against whom the execution is issued, such notice shall be so published in a paper printed at Madison.

SECTION 198. 815.31 (5) of the statutes is amended to read:

815.31 (5) If at the time appointed for any such sale the sheriff shall deem considers it for in the interest of all persons concerned he the sheriff may adjourn the sale from time to time, not exceeding in all three 3 months. In case of such adjournment public notice thereof shall be given at the time and place fixed for the sale. If the adjournment shall be for more than one day further notice shall be given by posting or publishing the same, or both, as the time and circumstances may admit.

SECTION 199. 815.37 of the statutes is amended to read:

815.37 Execution sale; officer not to purchase.

The officer to whom any execution shall be directed and his the officer's deputy holding any execution and conducting any sale in pursuance thereof shall not, directly or indirectly, purchase any property at such sale; and every purchase made by such officer or deputy, or to his the officer's or deputy's use, shall be void.

SECTION 200. 815.39 of the statutes is amended to read:

815.39 Execution sale; redemption of real estate.

Within one year after an execution sale the real estate sold or any lot, tract or portion that was separately sold may be redeemed by the payment to the purchaser, his to the purchaser's personal representatives or assigns, or to the then sheriff of the county where such real estate is situated, for the use of such purchaser, of the sum paid on the sale thereof, together with the interest from the time of the sale.

SECTION 201. 815.40 (1) of the statutes is amended to read:

815.40 (1) Redemption from execution sale of real estate may be made by a person whose right and title was sold or, if such the person be is dead, by his the person's devisee of the premises sold, and if the same shall not have been devised, by his the deceased's heirs; or, by any

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grantee of such person who shall have acquired an absolute title to the premises sold, or to any lot, parcel or portion separately sold.

SECTION 202. 815.40 (2) of the statutes is amended to read:

815.40 (2) Any such heir or devisee or grantee who shall have acquired an absolute title to a portion of the estate sold or a portion of any lot, tract or parcel that shall have been separately sold may redeem the portion on the same terms and in the same manner as if he the heir, devisee or grantee were grantee of the whole lot or parcel, and shall have the same remedy to enforce contributions from those who shall own the residue thereof as if the sum required to be paid by him the heir, devisee or grantee to effect such redemption had been collected by a sale of the portion belonging to such grantee, heir or devisee.

SECTION 203. 815.40 (3) of the statutes is amended to read:

815.40 (3) If there be joint tenants or tenants in common in premises sold each tenant may redeem the share or interest belonging to him that tenant by paying to the purchaser or officer, a sum that will bear the same proportion to the whole sum bid therefor as the redeemed share bears to the whole number of shares in such premises together with the interest.

SECTION 204. 815.48 (1) of the statutes is amended to read:

815.48 (1) By paying to such first creditor, his the first creditor's personal representatives or assigns the sum which he the first creditor paid to acquire such title, together with interest thereon from the time of his the first creditor's payment.

SECTION 205. 815.48 (2) of the statutes is amended to read:

815.48 (2) If the judgment or mortgage by virtue of which the first creditor acquired the title of the original purchaser be prior to the judgment or mortgage of such second 2nd creditor and is still a lien as to such second 2nd creditor he the 2nd creditor shall also pay to such first creditor the amount due on his the first creditor's judgment or mortgage.

SECTION 206. 815.48 (4) of the statutes is amended to read:

815.48 (4) If the original purchaser of any premises shall also be a creditor of the defendant against whom the execution issued, and as such might acquire the title of any purchaser according to the preceding provisions, he the original purchaser may avail himself or herself of his or her judgment or mortgage, in the manner and on the terms prescribed, to acquire the title which any creditor may have obtained.

SECTION 207. 815.52 of the statutes is amended to read:

815.52 Payment on acquisition of purchaser's or creditor's interest. The sums required to be paid to acquire the title of the original purchaser at the execution

sale or to become a purchaser from any creditor may be paid to such purchaser or creditor, his to the purchaser's or creditor's representative or assigns or to the then sheriff of the county where the real estate is situated; upon such payment being made the title of the original purchaser shall be thereby transferred to the creditor acquiring the same and from such creditor to any other creditor becoming a purchaser thereof.

SECTION 208. 815.53 (intro.) of the statutes is amended to read:

815.53 Execution sale; evidences of right of creditor to acquire title. (intro.) To entitle any creditor to acquire the title of the original purchaser on the execution sale or to become a purchaser from any other creditor he, the creditor shall exhibit to such purchaser or other creditor or to the sheriff the following evidences of his the creditor's right:

SECTION 209. 815.53 (1) of the statutes is amended to read:

815.53 (1) A certified copy of the docket of his the creditor's judgment or of the record of his the creditor's mortgage.

SECTION 210. 815.53 (2) of the statutes is amended to read:

815.53 (2) A certified copy of all assignments of such judgment or mortgage which are necessary to establish his the creditor's claim.

SECTION 211. 815.53 (3) of the statutes is amended to read:

815.53 (3) A certified copy of his the creditor's letters of administration or letters testamentary, in case of an administrator or executor.

SECTION 212. 815.57 of the statutes is amended to read:

815.57 Sheriff's deed, recovery of purchase price on eviction. If the purchaser of real estate sold on execution, his the purchaser's heirs or assigns shall be evicted from such real estate, or if in an action for the recovery thereof judgment shall be rendered against him or them the purchaser or the purchaser's heirs or assigns in consequence of any irregularity in such sale, or of the judgment upon which such execution issued being vacated or reversed, he or they the purchaser or the purchaser's heirs or assigns may recover of the party for whose benefit such real estate was sold the amount paid on the purchase thereof, with interest.

SECTION 213. 815.58 of the statutes is amended to read:

815.58 Execution sale; judgment, creditor's further remedy. The party for whose benefit real estate was sold on execution and his the party's personal representatives, upon recovery being had against him or her under s. 815.57 in consequence of any irregularity in such sale, may have further execution upon the judgment to levy the sum paid on such sale, with interest. Such judgment shall be effectual for that purpose against the defendant, his the

defendant's personal representative, heirs and devisees; but not against any purchaser in good faith or any incumbrancer whose title or whose incumbrance accrued before the levy of such execution.

SECTION 214. 815.59 (2) (c) of the statutes is amended to read:

815.59 (2) (c) If there be lands so liable, which were conveyed by the defendant in execution, and also lands which were sold under execution against him ~~they the defendant the lands~~ are liable in succession, according to the order herein prescribed.

SECTION 215. 815.64 of the statutes is amended to read:

815.64 Judgment lien, how discharged on redemption. When any judgment debtor or person claiming under him the judgment debtor shall have redeemed the lands or any part thereof or interest therein sold on execution the person or officer to whom the redemption money was paid shall execute, acknowledge and deliver to the redeemer a certificate, attested by two witnesses, stating the fact of such redemption, the date thereof, the amount of money paid, with a description of the lands or interests therein so redeemed. Such certificates may be recorded in the office of the register of deeds of the county in which the lands are situated, and shall be presumptive evidence of the redemption of the lands therein described from such sale and from the lien of the judgment by virtue of which such sale was made.

SECTION 216. 816.03 (1) (a) of the statutes is amended to read:

816.03 (1) (a) When an execution against property has, within 5 years, been returned unsatisfied in whole or in part or the officer holding the execution certifies that he the officer is unable to levy upon property sufficient to satisfy the judgment or the judgment creditor by affidavit satisfies the court or judge that the judgment debtor, whether an individual, firm, corporation or other association, has property which he the judgment debtor unlawfully refuses to apply towards the satisfaction of the judgment, the court or a judge of the county to which the execution was issued shall, upon motion of the judgment creditor, order such judgment debtor, whether an individual, firm, corporation or other association, to appear before him the court or judge and answer concerning his the judgment debtor's property at a time and place specified in the order, within said county.

SECTION 217. 816.03 (1) (b) of the statutes is amended to read:

816.03 (1) (b) A court commissioner upon application of a judgment creditor shall order any judgment debtor to appear before him the court commissioner and answer concerning his the judgment debtor's property at a time and place specified in the order, within said county, in lieu of the procedure set forth in par. (a).

SECTION 218. 816.05 of the statutes is amended to read:

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816.05 Warrant against debtor. Upon satisfactory proof by affidavit that there is danger of the judgment debtor's leaving the state or concealing himself or herself and that there is reason to believe that he the judgment debtor has property which he the judgment debtor unjustly refuses to apply to such judgment, the court or judge may issue a warrant requiring the sheriff to arrest him and bring him the judgment debtor before such court or judge to answer concerning his the judgment debtor's property.

SECTION 219. 816.07 of the statutes is amended to read:

816.07 Bond; commitment. If it shall appear upon or pending any such examination that there is danger of the debtor leaving the state and that he the debtor has property which he the debtor has unjustly refused to apply to such judgment he, the judgment debtor may be ordered to give a bond with one or more sureties, that he the judgment debtor will from time to time attend before the court or judge, as he the court or judge shall direct, and that he the judgment debtor will not, during the pendency of the proceedings, dispose of any property not exempt from execution. In default of such bond he the judgment debtor may be committed to prison as for a contempt.

SECTION 220. 816.08 of the statutes is amended to read:

816.08 Property to be applied to judgment. The court or judge may order any property of the judgment debtor or due to the judgment debtor, not exempt from execution, to be applied toward the satisfaction of the judgment; but if it appear that any person alleged to have property of the judgment debtor or to be indebted to him the judgment debtor claims an adverse interest in the property or denies the debt, such interest or debt shall be recoverable only in an action against such person by the receiver; and a transfer or other disposition of such property or interest may be restrained till a sufficient opportunity be given to the receiver to commence the action and prosecute the same to judgment and execution or until security therefor shall be given as ordered.

SECTION 221. 818.02 (1) (b) of the statutes is amended to read:

818.02 (1) (b) In an action for fine or penalty, or for money received, or for property embezzled or fraudulently misappropriated by a public officer or by an attorney, solicitor or counsel, or by an officer or agent of a corporation or banking association, in the course of his or her employment as such, or by any factor, agent, broker or any person in a fiduciary capacity, or for any misconduct or neglect in office or in a professional employment.

SECTION 222. 818.05 of the statutes is amended to read:

818.05 Bond, liability of plaintiff for support. Before making the order for arrest the court or judge shall require a bond of the plaintiff, with or without sureties, to the effect that if the plaintiff fails to recover, he the

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plaintiff will pay all costs that may be awarded to the defendant and all damages which he the defendant may sustain by reason of the arrest, not exceeding the sum specified in the bond, which shall be at least \$100. If the bond be executed by the plaintiff without sureties he the plaintiff shall annex thereto an affidavit that he the plaintiff is a resident and householder or freeholder within the state and worth double the sum specified in the bond above all his of the plaintiff's debts and liabilities in property in this state not exempt from execution. The plaintiff shall be liable for support of the defendant while he the defendant is in jail, as specified in s. 898.14 (1). This section does not apply to an order for arrest in an action to determine paternity or to any action under ch. 767 brought by the state or its designee.

SECTION 223. 818.06 of the statutes is amended to read:

818.06 Order for arrest, what to contain. The order for arrest may be made at any time before judgment. It shall direct the sheriff of a particular county or generally the sheriff of any county where the defendant may be found, and require him the sheriff forthwith to arrest the defendant and hold him the defendant to bail in a specified sum.

SECTION 224. 818.07 of the statutes is amended to read:

818.07 Execution of order of arrest. The affidavit, bond and order of arrest shall be delivered to the sheriff who, upon arresting the defendant, shall deliver to him the defendant copies thereof; and the sheriff shall, within five 5 days after such arrest, indorse his the sheriff's return on and file the originals with the clerk of the court in which the action is brought. The sheriff shall promptly notify the plaintiff's attorney of the execution of the order of arrest.

SECTION 225. 818.11 of the statutes is amended to read:

818.11 Deposit in lieu of bail. The defendant may, instead of giving a bond, deposit with the sheriff the amount mentioned in the order. The sheriff shall thereupon give the defendant a certificate of the deposit, and release him the defendant.

SECTION 226. 818.12 of the statutes is amended to read:

818.12 Payment of deposit. The sheriff shall, within five 5 days after the deposit, deliver it to clerk of the court, and shall take from him the clerk duplicate certificates of deposit one of which he the sheriff shall deliver to the plaintiff and the other to the defendant.

SECTION 227. 818.15 of the statutes is amended to read:

818.15 Sheriff's return to plaintiff; notice of non-acceptance. The sheriff shall, at the time he the sheriff notifies the plaintiff or his the plaintiff's attorney of his the sheriff's execution of the order of arrest, deliver to him the plaintiff or the plaintiff's attorney a certified copy

of the bail bond. The plaintiff, within ten 10 days thereafter, may serve upon the sheriff a notice that he the plaintiff does not accept the bail, or he the plaintiff shall be deemed to have accepted it, and the sheriff shall be exonerated from liability.

SECTION 228. 818.16 of the statutes is amended to read:

818.16 Notice of justification of bail. On receipt of such notice by the sheriff he the sheriff or the defendant may, within 10 days thereafter, give to the plaintiff or attorney by whom the order of arrest is subscribed notice of justification of the same or other bail (specifying the places of residence and occupation of the latter), before a judge of the court at a specified time and place; the time to be not less than 5 nor more than 10 days thereafter. In case other bail be given there shall be a new undertaking in the form prescribed in s. 818.10.

NOTE: Replaces parentheses for conformity with current style.

SECTION 229. 818.17 of the statutes is amended to read:

818.17 Qualification of bail. Each surety must be a resident and freeholder within the state and be worth the amount specified in the order of arrest, above all his the surety's liabilities, in property within this state, not exempt from execution; but a judge, on justification, may allow more than two 2 sureties to justify severally in amounts less than that expressed in the order, if the whole justification equals twice the sum specified in the bond.

SECTION 230. 818.18 of the statutes is amended to read:

818.18 Justification of bail. For the purpose of justification each surety shall attend before the judge at the time and place mentioned in the notice, and may be examined on oath, on the part of the plaintiff, touching his the surety's sufficiency. The examination shall be reduced to writing and subscribed by the surety, if required by the plaintiff.

SECTION 231. 818.19 of the statutes is amended to read:

818.19 Proceedings on justification. If the judge find the bail sufficient he the judge shall annex the examination to the bond, indorse his the judge's allowance thereon and file them with the court. In such case, if the sureties annexed to their bond, at the time of its delivery to the sheriff, their affidavit showing sufficient qualifications as bail, according to s. 818.17, the judge may, by order, require the costs of the justification before him the judge, including fees to the sureties as witnesses, to be forthwith paid by the plaintiff.

SECTION 232. 818.20 of the statutes is amended to read:

818.20 Surrender of principal. At any time before a failure to comply with their bond the sureties may surrender the defendant in their exoneration or he the defendant may surrender himself to the sheriff of the county

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where he the defendant was arrested. A certified copy of the bail bond shall be delivered to the sheriff, who shall detain the defendant in his the sheriff's custody, as upon an order of arrest, and shall, in writing, acknowledge the surrender. Upon the production of a copy of the bond and the sheriff's certificate a judge may, upon 8 days' notice to the plaintiff, order that the bail be exonerated. But this section shall not apply to the arrest for the causes mentioned in s. 818.02 (1) (c).

SECTION 233. 818.21 of the statutes is amended to read:

818.21 Arrest of principal by bail. For the purpose of surrendering the defendant the sureties, at any time before they are finally charged, may arrest him the defendant or by a written authority indorsed on a certified copy of the bond may empower any discreet person to do so.

SECTION 234. 818.22 of the statutes is amended to read:

818.22 Custody of principal. Every person surrendered in exoneration of his the person's bail shall be kept in safe custody until he the person shall satisfy the judgment rendered against him the person or be discharged according to law.

SECTION 235. 818.25 of the statutes is amended to read:

818.25 Sheriff's liability. If, after being arrested, the defendant escape or be rescued, or bail be not given or justified, or a deposit be not made instead thereof the sheriff shall himself or herself be liable as bail. But he the sheriff may discharge himself or herself from such liability by the giving and justification of bail as provided in ss. 818.16 to 818.19, at any time before process against the person of the defendant to enforce an order or judgment in the action.

SECTION 236. 818.26 of the statutes is amended to read:

818.26 Proceedings against sheriff. If a judgment be recovered against a sheriff upon his the sheriff's liability as bail and an execution thereon be returned unsatisfied in whole or in part the same proceedings may be had on the official bond of the sheriff, to collect the delinquency, as in other cases of delinquency.

SECTION 237. 818.27 of the statutes is amended to read:

818.27 Bail liable to sheriff. The bail taken upon the arrest shall, unless they justify or other bail be given or justified, be liable to the sheriff by action for damages which he the sheriff may sustain by reason of such omission.

SECTION 238. 820.01 of the statutes is amended to read:

820.01 Complaint; trial, how had. When any of the owners of personal property in common shall desire to have a division and they are unable to agree upon the same an action may be commenced for that purpose. Such action shall be tried by the court and if in its opinion

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a division of such property can be had without a sale thereof judgment shall be given accordingly and the property shall be divided, in accordance with the interest of the parties therein, and each owner shall be vested with the full title of his the share awarded to the owner by the judgment in severalty. The court may appoint a receiver, enter an interlocutory or final judgment in order to do complete justice.

SECTION 239. 820.02 of the statutes is amended to read:

820.02 Sale, how conducted. When a division cannot be had without injury to some of the parties interested the court shall order a sale and the sheriff of the county or some other person appointed by said court, shall sell said property, after giving ten 10 days' notice by posting notices of such sale in three 3 public places in the town, city or village where such property is found, at public auction, and the bill of sale of such sheriff or person so appointed shall convey to the purchaser such title, interest and estate in said property as the respective tenants in common had, and the sheriff or person appointed shall forthwith report to the court all his or her proceedings, and the court on confirming the sale shall order the payment to each tenant in common of his or her ratable share of the proceeds of such sale.

SECTION 240. 820.03 of the statutes is amended to read:

820.03 Costs of sale. The sheriff or other person appointed to make a sale shall be entitled to compensation for his or her services to be fixed by the court and taxed in the bill of costs against the defendant in such action where the court shall find that such defendant unreasonably refused to divide or sell said property and divide the proceeds thereof upon the application of the plaintiff, otherwise such sheriff or other person shall be paid out of the common proceeds of such sale.

SECTION 241. 823.03 of the statutes is amended to read:

823.03 Judgment. In such actions, when the plaintiff prevails, he the plaintiff shall, in addition to judgment for damages and costs, also have judgment that the nuisance be abated unless the court shall otherwise order.

SECTION 242. 823.04 of the statutes is amended to read:

823.04 Execution and warrant. In case of judgment that the nuisance be abated and removed the plaintiff shall have execution in the common form for his the plaintiff's damages and costs and a separate warrant to the proper officer requiring him the officer to abate and remove the nuisance at the expense of the defendant.

SECTION 243. 823.05 of the statutes is amended to read:

823.05 Warrant may be stayed. The court may, on the application of the defendant, order a stay of such warrant for such time as may be necessary, not exceeding six 6 months, to give him the defendant an opportunity to

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remove the nuisance, upon his the defendant's giving satisfactory security to do so within the time specified in the order.

SECTION 244. 823.11 of the statutes is amended to read:

823.11 Evidence; dismissal of action; costs. In actions begun under s. 823.10 the existence of any nuisance defined by s. 823.09 shall constitute prima facie evidence that the owner of the premises affected has permitted the same to be used as a nuisance; and evidence of the general reputation of the place shall be admissible to prove the existence of such nuisance. If the complaint is filed by a citizen, it shall not be dismissed, except upon a sworn statement made by the complainant and his the complainant's attorney, setting forth the reasons why the action should be dismissed, and the dismissal shall be approved by the district attorney of the county in writing or in open court. If the court is of the opinion that the action ought not to be dismissed it may direct the district attorney of the county to prosecute said action to judgment. If the action is brought by a citizen, and the court finds that there was no reasonable ground or cause for said action the costs shall be taxed to such citizen.

SECTION 245. 823.13 of the statutes is amended to read:

823.13 Judgment and execution; sale of fixtures. If the existence of the nuisance be established in an action under s. 823.09, or in a criminal proceeding, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all fixtures, furniture, musical instruments, or movable property used in conducting the nuisance, and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of one year, unless sooner released. If any person shall break and enter or use a building, erection, or place so directed to be closed he the person shall be punished as for contempt, as provided in s. 823.12.

SECTION 246. 823.16 of the statutes is amended to read:

823.16 Remedy of lessor of place of prostitution. If the lessee of a place has been convicted of keeping that place as a place of prostitution or if such place has been adjudged a nuisance under this chapter, the lease by which such place is held is void and the lessor shall have the same remedies for regaining possession of the premises as he the lessor would have against a tenant holding over his the tenant's term.

SECTION 247. 823.20 (3) of the statutes is amended to read:

823.20 (3) If the lessee of the place has been convicted of the crime of commercial gambling because of having operated that place as a gambling place or if such place has been adjudged a nuisance under this chapter,

the lease by which such place is held is void and the lessor shall have the same remedies for regaining possession of the premises as he the lessor would have against a tenant holding over his the tenant's term.

SECTION 248. 840.03 (1) (intro.) of the statutes is amended to read:

840.03 (1) (intro.) Any person having an interest in real property may bring an action relating to that interest, in which he the person may demand the following remedies singly, or in any combination, or in combination with other remedies not listed, unless the use of a remedy is denied in a specified situation:

SECTION 249. 840.10 (1) of the statutes is amended to read:

840.10 (1) In an action where relief is demanded affecting described real property which relief might confirm or change interests in the real property, after the filing of the complaint the plaintiff shall file in the office of the register of deeds of each county where any part thereof is situated, a lis pendens containing the names of the parties, the object of the action and a description of the land in that county affected thereby. In any action if the defendant asks relief on a counterclaim or cross-complaint, which contains a legal description of the real estate and seeks such relief, after the filing of the counterclaim or cross-complaint he the defendant shall file a lis pendens. From the time of such filing every purchaser or encumbrancer whose conveyance or encumbrance is not recorded or filed shall be deemed a subsequent purchaser or encumbrancer and shall be bound by the proceedings in the action to the same extent and in the same manner as if he the purchaser or encumbrancer were a party thereto. In any such action in which a lis pendens has been filed, if the party filing the same fails for one year after the filing thereof to serve and file proof of service of the summons or the counterclaim or cross-complaint on one or more of the adverse parties, the lis pendens shall be void, and upon motion and proof the court may order it discharged. Judgment shall not be entered in favor of the party required to file lis pendens until 20 days after the lis pendens has been filed.

SECTION 250. 840.11 (1) of the statutes is amended to read:

840.11 (1) Every person who makes an application to any court, county board, common council, or village or town board for laying out, widening, vacating or extending any street, alley, water channel, park, highway or other public place shall, at or prior to the time of filing the same with the proper officer, file a notice of the pendency of such application, containing his the person's name and a brief statement of the object thereof and a map and description of the land to be affected thereby in the office of the register of deeds of each county in which any such land is situated. Neglect to comply with these provisions shall render all proceedings based upon such application void, but no order vacating, or proceedings

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for the vacation of, any street, alley, water channel, park, highway or other public place, made or had before May 25, 1905, shall be void solely by reason of the failure to file such notice of the pendency of such application, map and description.

SECTION 251. 840.12 of the statutes is amended to read:

840.12 Survey may be ordered. In all actions relating to real property the court may by order give any party thereto leave to make any survey of any premises affected by such action, or of any boundary line of such premises, or between the lands of any of the parties and the lands of other persons, when satisfied that such survey is necessary or expedient to enable either party to prepare his that party's pleadings in the action. The order for such survey shall specify the premises or boundary lines to be surveyed, and a copy thereof shall be served upon the owner or occupant before any entry is made to make such survey. After such service the party obtaining such order may, with the necessary surveyors and assistants, enter the premises specified in such order at any reasonable time and make such survey without being liable to any action therefor except for injury or damages unnecessarily caused thereby.

SECTION 252. 840.18 of the statutes is amended to read:

840.18 Deeds by sheriffs' successors. In all cases where any sale has been made or is hereafter made by any sheriff under or in pursuance of any order, judgment or decree of any court and the sheriff did not, or does not, before the expiration of his the sheriff's term of office, execute a deed to carry the sale into effect, the deed may be executed by the successor of the sheriff in office at the time of the application for the deed, and any deed so executed by any successor of the sheriff making the sale while in office shall have the same effect as though it had been executed by the sheriff making the sale.

SECTION 253. 841.02 of the statutes is amended to read:

841.02 Complaint. The complaint shall describe the real property, the interest of the plaintiff, and how the plaintiff acquired his the interest, the interest of each person claiming an interest known to be adverse to the plaintiff, including unborn and unknown persons, and demand that the interest of the plaintiff be established against adverse claims.

SECTION 254. 842.02 (2) of the statutes is amended to read:

842.02 (2) The plaintiff in his the plaintiff's complaint may demand judgment of partition and, in the alternative, if partition is impossible, judicial sale of the land or interest, and division of the proceeds.

SECTION 255. 842.05 (1) of the statutes is amended to read:

842.05 (1) The complaint shall describe the lands to be partitioned and the interests of all parties as far as the

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same are known to the plaintiff. If a lienholder is made a defendant, his the lienholder's lien shall be described.

SECTION 256. 842.06 of the statutes is amended to read:

842.06 Water power referee. In an action concerning declaration or partition of rights to water power, the court may appoint a referee and empower him the referee to examine into any matters complained of, and upon reasonable notice to the owners or occupants of water power to enter upon and take control of the mills, machinery, flumes, gates, wheels and other appurtenances of such water power and to exercise such reasonable control of the same for such reasonable time and in such reasonable manner as will enable him the referee to ascertain the respective rights of the parties and to determine the manner of using, applying and preserving the same.

SECTION 257. 842.09 of the statutes is amended to read:

842.09 Referee's expenses. The referee's expenses, including those of a surveyor and assistants, shall be subject to the approval of the court and, with the compensation allowed by the court for his the referee's services, shall be paid by the plaintiff and allowed as part of the costs to be taxed.

SECTION 258. 842.10 (1) of the statutes is amended to read:

842.10 (1) If the referee determines that partition can be made without prejudice to the owners, he the referee shall submit to the court his the referee's findings, indicating how partition is to be made. In making partition the referee shall divide the real estate and allot the several portions to the respective parties, quality and quantity relatively considered, according to the respective rights and interests of the parties as declared in the court's findings and conclusions.

SECTION 259. 842.11 (1) of the statutes is amended to read:

842.11 (1) If the referee determines that partition cannot be made without prejudice to the owners, he the referee shall so report to the court, recommending sale.

SECTION 260. 842.14 (2) of the statutes is amended to read:

842.14 (2) Such judgment shall not affect the interests of lienholders or tenants, except that if a tenant obtained a lease from less than all of the cotenant owners, his the tenant's lease shall be extinguished by the judgment, and he the tenant shall have judgment for damages against the cotenant who granted the lease.

SECTION 261. 842.16 of the statutes is amended to read:

842.16 Costs and charges. The judgment shall adjudge that each of the parties, other than the plaintiff, pay a proportion of the costs of the proceedings, to be ascertained by the court; and the proportion of such costs adjudged to be paid by the unknown owners shall be adjudged to be a charge upon the part remaining undi-

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vided. Execution may issue for such costs as in other cases and may be levied upon the property of the parties respectively charged therewith, and a sale of the premises allotted to such unknown owner, upon such execution, shall be as valid as if he the unknown owner had been named in the proceedings and in such execution. If the complaint is dismissed or the action discontinued, the plaintiff shall be adjudged to pay costs as in other cases. He The plaintiff shall also pay the costs when the defendant does not appear, unless the complaint asks partition or sale of all the lands owned by the parties of which partition may be had or unless the defendant is personally served in the action.

SECTION 262. 842.17 (2) of the statutes is amended to read:

842.17 (2) If a lienholder or tenant consents to sale of his the lienholder's or tenant's interest or is unknown, the value of his the lienholder's or tenant's interest shall be paid to him the lienholder or tenant or set aside for him the lienholder or tenant from the proceeds of the sale before any distribution is made to the partitioning cotenants.

SECTION 263. 842.17 (4) of the statutes is amended to read:

842.17 (4) If a nonconsenting tenant derived his or her interest from less than all of the cotenant owners, a sale may be ordered without his the nonconsenting tenant's consent, and his the nonconsenting tenant's interest sold; the value of his the nonconsenting tenant's interest shall be paid to him the nonconsenting tenant from the proceeds of sale owing to his the nonconsenting tenant's lessor.

SECTION 264. 842.19 (1) of the statutes is amended to read:

842.19 (1) The sheriff shall promptly report the sale to the court, with a description of the land sold to each purchaser, the name of such purchaser and the price bid by him the purchaser.

SECTION 265. 842.21 of the statutes is amended to read:

842.21 Costs, how paid. Unless the court otherwise directs, the costs of every party to the action, with reasonable attorney's attorney fees to be allowed by the court upon notice served personally or by mail, on the parties who are known to be residents of this state, must be deducted from the proceeds of the sale and paid to his the party's attorney; but the court may direct the costs of any trial, reference or other proceeding in the action to be paid out of the share of any party in such proceeds or may render judgment against any party therefor.

SECTION 266. 842.22 of the statutes is amended to read:

842.22 Distribution of proceeds of sale. The proceeds of every sale shall be brought into court by the sheriff with his the sheriff's report, and after deducting costs, shall be divided according to provisions of the judgment,

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or by order of the court among the parties in proportion to their respective rights.

SECTION 267. 842.25 of the statutes is amended to read:

842.25 Incompetent's share. The share of any ward shall be paid to the general guardian of his the ward's estate, except under s. 880.04 (2).

SECTION 268. 842.26 of the statutes is amended to read:

842.26 Investment of share of absentee. When a party whose interest has been sold is absent from the state, without legal representatives in this state and has not appeared in the action, or is unknown, or not named in the proceedings, the court shall direct his that party's share to be invested in securities, at interest, for his the party's benefit until claimed by him the party or his the party's legal representatives.

SECTION 269. 842.27 of the statutes is amended to read:

842.27 Security to refund. The court may require any party, before he the party receives any share of the moneys arising from such sales, to give security to the satisfaction of such court to refund his the party's share, with interest thereon, in case it thereafter appears that such party was not entitled thereto.

SECTION 270. 842.28 of the statutes is amended to read:

842.28 Securities, how taken. When any security is directed to be taken by the court or any investment to be made, or any security taken by a sheriff on the sale of any real estate, as heretofore directed, except where provision is made for taking the same in the name of any known owner, the bonds, mortgages or other evidences thereof shall be taken in the name of the clerk of the court in whose office the original complaint was filed and his the clerk's successors in office, who shall hold the same by virtue of his or her office and shall deliver them to his or her successor.

SECTION 271. 842.29 of the statutes is amended to read:

842.29 Receipt and application of payments; account. Such clerk shall receive the interest or principal of any sums as they become due and apply or reinvest the same according to the circumstances of the case, as the court directs, and shall, once every year, render to the court an account in writing and on oath of all moneys received by him the clerk and of the application thereof.

SECTION 272. 843.03 of the statutes is amended to read:

843.03 Complaint, what to allege. The complaint shall describe the property, allege the plaintiff's interest in the property, allege his the plaintiff's right to possession stating the reasons therefor, state the time at which he the plaintiff is entitled to possession, allege that the defendant unlawfully withholds possession, demand

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possession, and if damages are demanded, state the amount.

SECTION 273. 843.06 (1) of the statutes is amended to read:

843.06 (1) If any plaintiff dies before judgment, his the plaintiff's heir or devisee, or his the plaintiff's personal representative for the benefit of the heir, devisee or creditors, may prosecute in place of the plaintiff.

SECTION 274. 843.08 of the statutes is amended to read:

843.08 Defense; condemnation; how pleaded. If the defendant is entitled to have the lands described in the complaint or any part thereof condemned for public use, the defendant shall set forth the facts and the purpose for which the lands are required. If no proceedings for condemnation have been instituted and the defendant is authorized to condemn such lands and intends to condemn, the court may stay proceedings until the defendant can, with due diligence, institute and complete condemnation proceedings; if the plaintiff is entitled to judgment, he the plaintiff shall have costs.

SECTION 275. 843.09 of the statutes is amended to read:

843.09 Counterclaim for improvements. In any action brought for a declaration of right to possession or to recover possession of real property or to remove claimed encroachments, a defendant in addition to defending against plaintiff's claim may by counterclaim allege that he the defendant or a person under whom he the defendant claims, while holding adversely by color of title asserted in good faith, has made permanent and valuable improvements on or by permanent and valuable building has encroached on such property and may demand the value to the plaintiff of such improvements and taxes paid. The plaintiff may amend his the plaintiff's complaint to set off against such claim for improvements and taxes any claim for rents and profits enjoyed by the defendant or those under whom he the defendant claims during any period occurring prior to and terminating 6 years before the commencement of such action and which he the plaintiff might have recovered but for the limitation of s. 843.13 (1).

SECTION 276. 843.10 of the statutes is amended to read:

843.10 Counterclaim that plaintiff be required to sell land to defendant. In an action in which the plaintiff demands the relief specified in s. 843.09, and in which the defendant makes the allegations specified in that section and in addition alleges that the building is partly on plaintiff's land and partly on land in which the plaintiff has no interest and that the portion of the building built or encroaching on plaintiff's land cannot be removed or separated from the remaining portion without serious injury to both parts, the defendant may demand judgment that the plaintiff be required to sell him the defendant the land on which such building stands or encroaches,

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together with such additional land as may be necessary or equitable in the circumstances.

SECTION 277. 843.12 of the statutes is amended to read:

843.12 Plaintiff's proof; ouster. If the action for recovery of possession is brought by a tenant in common or a joint tenant against a cotenant, the plaintiff must prove that the defendant ousted him the plaintiff or did some other act amounting to a total denial of his the plaintiff's right as cotenant.

SECTION 278. 843.13 (1) of the statutes is amended to read:

843.13 (1) WITHHOLDING RENTS AND PROFITS. Damages for the withholding of rents and profits are limited to those accruing in the 6 years before the commencement of the action. In estimating such damages the value of the use of any improvements made by the defendant or those under whom he the defendant claims shall not be allowed.

SECTION 279. 843.13 (3) of the statutes is amended to read:

843.13 (3) DEFENDANT'S BUILDING CANNOT BE REMOVED WITHOUT LOSS. If the defendant counterclaims under s. 843.10, the value of plaintiff's land to be sold to the defendant shall be determined at the time when its value was highest between the time of defendant's encroachment or taking of possession and the time of trial; value may be determined either in regard to the separate parcel, or in connection with other lands owned by the plaintiff; the plaintiff shall also recover damages for detention including any lost rent; value to the plaintiff shall not include improvements made by the defendant or those under whom he the defendant claims.

SECTION 280. 843.14 (1) of the statutes is amended to read:

843.14 (1) The judgment shall award the relief, legal or equitable, to which the plaintiff is entitled. Specifically, and without limitation, the defendant may be enjoined from remaining on the property, be required to remove structures or encroachments which interfere with plaintiff's right to possession, or the sheriff may be ordered to abate structures or encroachments. If the plaintiff in his the plaintiff's complaint demanded the physical ouster of persons on the premises, and if the plaintiff proves his the plaintiff's right to immediate physical possession of the land, the judgment may provide that the plaintiff be given immediate physical possession.

SECTION 281. 843.14 (2) of the statutes is amended to read:

843.14 (2) If the court determines that the defendant is entitled to purchase plaintiff's property, it shall so adjudge, and the amount found as the value shall be paid within 30 days after entry of judgment. Upon payment, plaintiff's interest in the property described shall vest in the defendant, and the judgment shall serve as the con-

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veyance. If the amount is not paid in 30 days, plaintiff may have execution of the judgment in his the plaintiff's favor.

SECTION 282. 843.15 of the statutes is amended to read:

843.15 Possession under judgment; contempt. If any party or his the party's legal representative withholds possession of land from the party adjudged to be entitled thereto or his or her legal representatives, he the party withholding possession may be punished as for a contempt.

SECTION 283. 843.16 of the statutes is amended to read:

843.16 Possession unaffected by vacating judgment. If the plaintiff has taken possession by virtue of his the plaintiff's judgment, such possession shall not be affected by the vacation of the judgment on the ground that the defaulting defendant was incapacitated at the time of rendition of the judgment; but if the defendant thereafter recovers judgment, he the defendant is entitled to judgment for immediate physical possession.

SECTION 284. 844.01 (1) of the statutes is amended to read:

844.01 (1) Any person owning or claiming an interest in real property may bring an action claiming physical injury to, or interference with, the property or his the person's interest therein; the action may be to redress past injury, to restrain further injury, to abate the source of injury, or for other appropriate relief.

SECTION 285. 844.05 (2) (intro.) of the statutes is amended to read:

844.05 (2) NO WASTE. (intro.) Any person entitled to the possession of lands sold under sub. (1) may, until the expiration of the time given by law for his the person's possession, use and enjoy the same without being liable to an action of waste therefor, as follows:

SECTION 286. 844.05 (2) (a) of the statutes is amended to read:

844.05 (2) (a) He The person may use and enjoy the premises sold in like manner and for the like purposes in and for which they were used and applied prior to such sale, doing no permanent injury to the freehold.

SECTION 287. 844.05 (2) (b) of the statutes is amended to read:

844.05 (2) (b) If the premises sold were buildings, fences or any other structures, he the person may make necessary repairs thereto, but he the person shall make no alterations in the form or structure thereof so as to impair or lessen their value.

SECTION 288. 844.05 (2) (c) of the statutes is amended to read:

844.05 (2) (c) He The person may use and improve the land so sold in the ordinary course of husbandry or mining, and he the person shall be entitled to any crop growing thereon at the expiration of the period of redemption.

SECTION 289. 844.05 (2) (d) of the statutes is amended to read:

844.05 (2) (d) He The person may apply any wood or timber on such land to the necessary repairs of any fences, buildings or structures existing thereon at the time of such sale.

SECTION 290. 844.05 (2) (e) of the statutes is amended to read:

844.05 (2) (e) If the land sold is actually occupied by such person he the person may take the necessary firewood therefrom for the use of himself the person or the person's family.

SECTION 291. 844.06 (1) of the statutes is amended to read:

844.06 (1) (title) TENANT LIABLE AFTER GRANTING ESTATE. Any tenant who lets or grants his the tenant's estate and still retains possession thereof and commits waste is liable for the waste.

SECTION 292. 844.06 (2) of the statutes is amended to read:

844.06 (2) JOINT TENANTS, LIABLE. If one joint tenant or tenant in common commits waste of the estate held in joint tenancy or in common he the tenant committing waste shall be subject to an action at the suit of his the tenant's cotenant or cotenants.

SECTION 293. 844.15 (2) of the statutes is amended to read:

844.15 (2) A person claiming injury or interference, who does not have possession, may bring an action under this chapter only by alleging that the person with the right to possession refuses to bring the action, and by alleging the efforts which have been made to induce him the person with the right to possession to bring the action. The person with right to possession shall be joined as a defendant. This subsection does not apply to actions for waste only.

SECTION 294. 844.17 (2) of the statutes is amended to read:

844.17 (2) A defendant may defend on the ground that the plaintiff has no interest in the property, or that his the plaintiff's interest is insufficient to entitle him the plaintiff to the relief demanded.

SECTION 295. 844.18 of the statutes is amended to read:

844.18 Intervenors. Any person claiming an interest in the property described in the complaint, and claiming that he or she has been, or will be, injured by a defendant's activity may intervene in the action.

SECTION 296. 844.21 (1) of the statutes is amended to read:

844.21 (1) WARRANT MAY BE STAYED. The court, on the application of the defendant, may order a stay of execution of a judgment under s. 844.20 (2) ordering abatement for such time as may be necessary, not exceeding 6 months, to give him the defendant an opportunity to remove the nuisance, structure or encroachment upon his

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the defendant's giving satisfactory security to do so within the time specified in the order.

SECTION 297. 846.02 (1) of the statutes is amended to read:

846.02 (1) In a mortgage foreclosure action, any defendant may upon payment to the plaintiff or his the plaintiff's attorney, of the amount then owing thereon for principal, together with interest and all costs up to such time, demand the assignment of such mortgage to him the defendant. The plaintiff shall upon such demand and a tender of the amount owing for principal, interest and costs, assign the mortgage to such defendant and he the plaintiff shall be barred from further prosecuting such action. If dispute shall arise over the amount due for costs, application to fix the costs accrued shall be made to the court in which such action is pending.

SECTION 298. 846.02 (2) of the statutes is amended to read:

846.02 (2) If such demand and tender is made after judgment, the plaintiff or his the plaintiff's assignee shall assign such judgment to such defendant.

SECTION 299. 846.04 of the statutes is amended to read:

846.04 Deficiency, judgment for. The plaintiff may in his the plaintiff's complaint demand judgment for any deficiency which may remain due to him the plaintiff after sale of the mortgaged premises against every party who is personally liable for the debt secured by the mortgage and judgment for any such deficiency remaining after applying the proceeds of sale to the amount due may in such case be rendered. Such judgment for deficiency shall be ordered in the original judgment and separately rendered against the party liable on or after the coming in and confirmation of the report of sale, and be docketed and enforced as in other cases.

SECTION 300. 846.08 of the statutes is amended to read:

846.08 Judgment for sale of whole; adjustment of parties' rights. If, in any case mentioned in ss. 846.06 and 846.07 it shall appear that the mortgaged premises are so situated that they cannot be sold in parcels without injury to the interests of the parties or that the sale of the whole will be most beneficial to them the court may adjudge the sale of the whole in which case the proceeds of sale, after deducting the costs of the action and of sale, shall be applied to the payment of the sums due and to become due deducting from all sums not due, which do not bear interest, interest from the time of payment to the time when the same are payable or the court may direct the balance of the proceeds of sale, after paying the sum then due with such costs, to be placed at interest for the benefit of the plaintiff, to be paid to him the plaintiff as such subsequent payments or instalments shall become due, with the interest thereon. The surplus, after paying the amount due the plaintiff and costs, shall be paid to the party entitled thereto on the order of the court.

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SECTION 301. 846.09 of the statutes is amended to read:

846.09 Amendments as to parties; process and pleading. In any action for the foreclosure of a mortgage, at any time after judgment and before a sale pursuant thereto, the plaintiff may be granted leave to amend the summons, complaint and all the proceedings in the action by making as defendant any person who is a proper or necessary party thereto. Such person so made a party shall be served with the summons in like manner as if originally a party, and may answer and defend, and all matters and proceedings as to him the person shall be had and taken in like manner as if he the person had been originally made a party thereto. After such person has been thus made a party and served, and his the person's rights adjudicated upon, the original judgment may be so amended as to bar and foreclose him the person thereby, or to make any provisions in regard to his the person's rights and interests in like manner as it could have done had he the person been made originally a party.

SECTION 302. 846.10 (1) of the statutes is amended to read:

846.10 (1) If the plaintiff recovers the judgment shall describe the mortgaged premises and fix the amount of the mortgage debt then due and also the amount of each instalment thereafter to become due, and the time when it will become due, and whether the mortgaged premises can be sold in parcels and whether any part thereof is a homestead, and shall adjudge that the mortgaged premises be sold for the payment of the amount then due and of all instalments which shall become due before the sale, or so much thereof as may be sold separately without material injury to the parties interested, and be sufficient to pay such principal, interest and costs; and when demanded in the complaint, direct that judgment shall be rendered for any deficiency against the parties personally liable and, if the sale is to be by referee, he the referee must be named therein.

SECTION 303. 846.10 (3) of the statutes is amended to read:

846.10 (3) The proceeds of every sale shall be applied to the discharge of the debt adjudged to be due and the costs awarded; and if there shall be any surplus it shall be subject to the order of the court. If any surplus remains in the court for three 3 months, without being applied for, the court shall direct the same to be put out at interest for the benefit of the party entitled thereto to be paid to him the party upon the order of such court.

SECTION 304. 846.13 of the statutes is amended to read:

846.13 Redemption from and satisfaction of judgment. The mortgagor, his the mortgagor's heirs, personal representatives or assigns may redeem the mortgaged premises at any time before the sale by paying to the clerk of the court in which the judgment was rendered, or to the plaintiff, or any assignee thereof, the

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amount of such judgment, interest thereon and costs, and any costs subsequent to such judgment, and any taxes paid by the plaintiff subsequent to the judgment upon the mortgaged premises, with interest thereon from the date of payment, at the same rate. On payment to such clerk or on filing the receipt of the plaintiff or his the plaintiff's assigns for such payment in the office of said clerk he the clerk shall thereupon discharge such judgment, and a certificate of such discharge, duly recorded in the office of the register of deeds, shall discharge such mortgage of record to the extent of the sum so paid.

SECTION 305. 846.14 of the statutes is amended to read:

846.14 Redemption of part. In case the mortgagor, his the mortgagor's heirs, representatives or assigns shall desire to pay a portion of such judgment, taxes, interest and costs, so as to relieve any distinct lot or parcel of the premises which can be sold separately under such judgment from the lien thereof and of such mortgage thereon, the court, on application of such person and on notice to the parties to the action, may, if the amount to be paid therefor is not agreed upon, ascertain and adjudge the proportion of such judgment, taxes, interest and costs to be paid for the purpose aforesaid; and when the amount so adjudged shall be paid as aforesaid it shall relieve such distinct lot or parcel from such judgment and the lien of such mortgage thereon and shall satisfy such judgment to the amount so paid. Any heir, devisee, grantee or assignee of the mortgagor, owning an undivided interest in the mortgaged premises, subject to the lien of the mortgage, may redeem such undivided interest from such judgment and the lien of the mortgage thereon by paying as aforesaid a sum that will bear the same proportion to the whole of such judgment, taxes, costs and interest as the interest proposed to be redeemed bears to the whole of the mortgaged premises.

SECTION 306. 846.15 of the statutes is amended to read:

846.15 Plaintiff's rights acquired by junior lienor. Any person having a junior lien upon the mortgaged premises or any part thereof or interest therein, may, at any time before such sale, pay to the clerk of court, or the plaintiff or his the plaintiff's assignee, the amount of such judgment, taxes, interest and costs, and costs subsequent to judgment, and shall thereupon be subrogated to all the rights of the plaintiff as to such judgment.

SECTION 307. 846.16 (2) of the statutes is amended to read:

846.16 (2) If the judgment creditor is the purchaser he the judgment creditor may give his or her receipt to the sheriff or referee for any sum not exceeding his the judgment creditor's judgment and such receipt shall be deemed a down payment, but in every case the purchaser shall pay the cost of sale; and if the sum due the creditor is less than the purchase price, he the creditor shall pay the difference at the time of sale.

SECTION 308. 846.162 of the statutes is amended to read:

846.162 Disposition of surplus. If there shall be any surplus paid into court by the sheriff or referee, any party to the action or any person not a party who had a lien on the mortgaged premises at the time of sale, may file with the clerk of court into which the surplus was paid, a notice stating that he the party or person is entitled to such surplus money or some part thereof, together with the nature and extent of his the party's or person's claim. The court shall determine the rights of all persons in such surplus fund by reference or by testimony taken in open court, but no such hearing shall be had in court or before a referee except upon 8 days' notice to all persons that have appeared in the action or filed notice of claim to such surplus money. If any such claimant shall not have appeared by attorney, notice of such hearing may be served by mail directed to the claimant at the place of his the claimant's residence as stated in his the claimant's notice of claim.

SECTION 309. 846.17 of the statutes is amended to read:

846.17 Deed, execution and effect of. Upon any such sale being made the sheriff or referee making the same, on compliance with its terms, shall make and execute to the purchaser, his the purchaser's assigns or personal representatives, a deed of the premises sold, setting forth each parcel of land sold to him the purchaser and the sum paid therefor, which deed, upon confirmation of such sale, shall vest in the purchaser, his the purchaser's assigns or personal representatives, all the right, title and interest of the mortgagor, his the mortgagor's heirs, personal representatives and assigns in and to the premises sold and shall be a bar to all claim, right of equity of redemption therein, of and against the parties to such action, their heirs and personal representatives, and also against all persons claiming under them subsequent to the filing of the notice of the pendency of the action in which such judgment was rendered; and the purchaser, his the purchaser's heirs or assigns shall be let into the possession of the premises so sold on production of such deed or a duly certified copy thereof, and the court may, if necessary, issue a writ of assistance to deliver such possession. Such deed or deeds so made and executed by the sheriff as above set forth shall be forthwith delivered by him the sheriff to the clerk of the court to be held by the clerk until the confirmation of the sale, and upon the confirmation thereof the clerk of the court shall thereupon pay to the parties entitled thereto, or to their attorneys, the proceeds of the sale, and shall deliver to the purchaser, his the purchaser's assigns or personal representatives, at the sale such deed upon compliance by such purchaser with the terms of such sale, and the payment of any balance of the sale price to be paid. In the event of the failure of such purchaser to pay any part of the purchase price remaining to be paid within 10 days after the confirmation of such sale, the amount so deposited shall be forfeited and paid

to the parties who would be entitled to the proceeds of such sale as ordered by the court, and a resale shall be had of said premises, and in such event such deed so executed to the defaulting purchaser shall be destroyed by said clerk, and shall be of no effect. In the event that such sale is not confirmed by the court, the clerk shall forthwith refund to the purchaser at such sale the amount so paid or deposited by him the purchaser, and shall likewise destroy such sheriff's deed so executed, and the same shall be of no effect, and a resale of the premises shall be had upon due notice thereof.

SECTION 310. 846.18 of the statutes is amended to read:

846.18 Tardy confirmation of sale. In all cases where a mortgage foreclosure sale has been made but not confirmed and the purchaser or his the purchaser's successor or assign has taken possession of the land by virtue of said sale, and occupied it for 6 years from and after said sale, he the purchaser may apply for and the court may enter an order confirming said foreclosure sale with the same force and effect as if said confirmation was made as otherwise provided by law.

SECTION 311. 847.03 (4) of the statutes is amended to read:

847.03 (4) Any property owner affected by the removal of the restrictions may petition in the action, to be allowed actual damages to compensate him the owner for any actual damages he the owner may sustain by such removal. No damages may flow automatically from the removal and damages shall be allowed by the court only upon a showing of actual injury. The court in granting or denying same shall take into consideration the development of the surrounding area including the commercial development in the immediate neighborhood.

SECTION 312. 847.05 of the statutes is amended to read:

847.05 Actions between cotenants. One joint tenant or tenant in common and his or her executors or administrators may maintain an action for money had and received against his the tenant's cotenant for receiving more than his the cotenant's just proportion of the rents or profits of the estate owned by them as joint tenants or tenants in common.

SECTION 313. 851.07 of the statutes is amended to read:

851.07 Distributee. "Distributee" means any person to whom property of a decedent is distributed other than in payment of a claim, or who is entitled to property of a decedent under his the decedent's will or under the statutes of intestate succession.

SECTION 314. 851.09 of the statutes is amended to read:

851.09 Heir. "Heir" means any person, including the surviving spouse, who is entitled under the statutes of intestate succession to an interest in property of a decedent. The state is an heir of the decedent and a person

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interested under s. 45.37 (10) and (11) when the decedent was a member of the Wisconsin veterans home at the time of his the decedent's death.

SECTION 315. 851.21 (2) (c) of the statutes is amended to read:

851.21 (2) (c) A person named as personal representative or testamentary trustee in the will of the decedent, upon his the person's failure to be appointed, the denial of letters by the court, or upon his the person's discharge.

SECTION 316. 851.21 (3) of the statutes is amended to read:

851.21 (3) ADDITIONAL PERSONS INTERESTED. In any proceedings in which the interest of a trustee of an inter vivos or testamentary trust, including a trust under documents offered for probate, conflicts with his the trustee's duty as a personal representative, or in which the trustee or competent beneficiary of the trust cannot represent the interest of the beneficiary under the doctrine of virtual representation, the beneficiary is a person interested in the proceedings.

SECTION 317. 851.51 (1) of the statutes is amended to read:

851.51 (1) INHERITANCE RIGHTS BETWEEN ADOPTED PERSON AND ADOPTIVE RELATIVES. A legally adopted person is treated as a natural child of his the person's adoptive parents for purposes of intestate succession by, through and from the adopted person and for purposes of any statute conferring rights upon children, issue or relatives in connection with the law of intestate succession or wills.

SECTION 318. 851.51 (2) (intro.) of the statutes is amended to read:

851.51 (2) INHERITANCE RIGHTS BETWEEN ADOPTED PERSON AND NATURAL RELATIVES. (intro.) A legally adopted person ceases to be treated as a child of his the person's natural parents for the same purposes, except:

SECTION 319. 851.51 (2) (a) of the statutes is amended to read:

851.51 (2) (a) If a natural parent marries or remarries and the child is adopted by the stepparent, the child is treated as the child of his the child's natural parent for all purposes;

SECTION 320. 851.51 (3) of the statutes is renumbered 851.51 (3) (a) (intro.) and amended to read:

851.51 (3) (a) (intro.) A gift of property by will, deed or other instrument to a class of persons described as issue, lawful issue, children, grandchildren, descendants, heirs, heirs of the body, next of kin, distributees or the like includes a person adopted by a person whose natural child would be a member of the class or issue of the adopted person, if (a) the:

1. The instrument does not expressly exclude adopted persons; (b) the:

2. The conditions for membership in the class are otherwise satisfied; and (e) the

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3. The adopted person was a minor at the time of adoption, or was adopted after having been raised as a member of the household by the adoptive parent from the child's 15th birthday or before.

(b) Unless the instrument expressly provides otherwise such a gift excludes a natural child and his the natural child's issue otherwise within the class if the child has been adopted and would cease to be a child of his the child's natural parents under sub. (2) for purposes of inheritance from the testator. This subsection applies to all wills, deeds, trusts or other instruments executed on or after April 1, 1971.

SECTION 321. 851.55 (2) of the statutes is amended to read:

851.55 (2) If property is so disposed of that the right of a beneficiary to succeed to any interest therein is conditional upon his the beneficiary surviving another person, and both persons die, and there is no sufficient evidence that the 2 have died otherwise than simultaneously, the beneficiary shall be deemed not to have survived. If there is no sufficient evidence that 2 or more beneficiaries have died otherwise than simultaneously and property has been disposed of in such a way that at the time of their death each of such beneficiaries would have been entitled to the property if he the beneficiary had survived the others, the property shall be divided into as many equal portions as there were such beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each of such beneficiaries had survived.

SECTION 322. 852.01 (1) (intro.) of the statutes is amended to read:

852.01 (1) WHO ARE HEIRS. (intro.) The net estate of a decedent which he the decedent has not disposed of by will, whether he the decedent dies without a will, or with a will which does not completely dispose of his the decedent's estate, passes to his the decedent's surviving heirs as follows:

SECTION 323. 852.03 (1) of the statutes is amended to read:

852.03 (1) MEANING OF REPRESENTATION. When representation is called for by s. 852.01 (1) (b), (d) or (e), succession is accomplished as follows: the estate is divided into as many shares as there are surviving heirs in the nearest degree of kinship and deceased persons in the same degree who left issue who survive decedent, each surviving heir in the nearest degree receiving one share and the share of each deceased person in the same degree being divided among his the deceased person's issue in the same manner until each part passes to a surviving heir.

SECTION 324. 852.05 (2) of the statutes is amended to read:

852.05 (2) Property of a nonmarital child passes in accordance with s. 852.01 except that the father or his the father's kindred can inherit only if the father has been

adjudicated to be the father in a paternity proceeding under ch. 767.

SECTION 325. 852.09 (2) of the statutes is amended to read:

852.09 (2) Home means any dwelling in the estate of the decedent which at the time of his the decedent's death the surviving spouse occupies or intends to occupy; if there are several such dwellings, any one may be selected by the surviving spouse. It includes but is not limited to any of the following: a house, a mobile home, a duplex or multiple apartment building one unit of which is occupied by the surviving spouse, or a building used in part for a dwelling and in part for commercial or business purposes. The home includes all of the surrounding land, unless the court in its discretion sets off part of the land as severable from the remaining land. On petition of the surviving spouse or of any interested person that part of the land is not necessary for dwelling purposes and that it would be inappropriate to assign all of the surrounding land as the home, the court may set off for the home so much of the land as is necessary for a dwelling. In determining whether to allow a division of the land and in determining how much land should be set off, the court shall take into account the use and marketability of the parcels set off as the home and the remaining land. The court shall deny a petition for division unless division is clearly appropriate under the circumstances and can be made without prejudice to the rights of all persons interested in the estate.

SECTION 326. 852.11 (1) of the statutes is amended to read:

852.11 (1) WHEN GIFT IS AN ADVANCE. A gift by the decedent during his the decedent's lifetime to an heir is an advance against his the heir's intestate share to be taken into account by the court in the final judgment only if:

(a) there There is a writing by the decedent clearly stating that the gift is an advance whether or not such writing is contemporaneous with the gift; or

(b) the The heir states by writing or in court that the gift was an advance.

NOTE: Conforms numbering to current style.

SECTION 327. 853.03 (1) of the statutes is amended to read:

853.03 (1) It must be signed (a) by the testator, or (b) in the testator's name by one of the witnesses or some other person at the testator's express direction and in his the testator's presence, such a proxy signing either to take place or to be acknowledged by the testator in the presence of the witnesses; and

NOTE: Eliminates letters which do not designate statute paragraphs.

SECTION 328. 853.09 (3) of the statutes is amended to read:

853.09 (3) WITHDRAWAL. A testator may withdraw his the testator's will during his the testator's lifetime, but

the register in probate shall deliver the will only to the testator personally or to a person duly authorized to withdraw it for the testator, by a writing signed by the testator and 2 witnesses other than the person authorized.

SECTION 329. 853.11 (1) (b) of the statutes is amended to read:

853.11 (1) (b) Burning, tearing, canceling or obliterating the will or part, with the intent to revoke, by the testator or by some person in the testator's presence and by his the testator's direction.

SECTION 330. 853.11 (2) (intro.) of the statutes is amended to read:

853.11 (2) SUBSEQUENT MARRIAGE. (intro.) A will is revoked by the subsequent marriage of the testator if the testator is survived by his the testator's spouse, unless:

SECTION 331. 853.15 (2) (a) of the statutes is amended to read:

853.15 (2) (a) The court may by order set a time within which the beneficiary is required to file with the court a written election either to take under the will and forego, waive or transfer his the beneficiary's property interest in favor of the other person to whom it is given by the will, or to retain such property interest and not take under the will. The time set shall be not earlier than one month after the necessity for such an election and the nature of the interest given to the beneficiary under the will have been determined.

SECTION 332. 853.15 (2) (b) of the statutes is amended to read:

853.15 (2) (b) If a written election by the beneficiary to take under the will and transfer his the beneficiary's property interest in accordance with the will has not been filed with the court within the time set by order, or if no order setting a time has been entered, then prior to the final judgment, the beneficiary is deemed to have elected not to take under the will.

SECTION 333. 853.19 (1) of the statutes is renumbered 853.19 (1) (intro.) and amended to read:

853.19 (1) WHEN GIFT DURING LIFE IS DEDUCTED FROM WILL. (intro.) If a testator by his will makes a provision for a beneficiary and later makes a gift during lifetime to that beneficiary, the gift is not to be deducted from the provision in the will as an advance unless:

(a) the The testator by his will provides for deduction of the gift; or

(b) the The testator by writing clearly states that the gift is an advance, whether or not such writing is contemporaneous with the gift; or

(c) the The beneficiary states by writing or in court that the gift was an advance.

NOTE: Conforms numbering to current style.

SECTION 334. 853.25 (1) of the statutes is renumbered 853.25 (1) (a) (intro.) and amended to read:

853.25 (1) (a) (intro.) If a testator fails to provide in his the testator's will for any child born or adopted after the making of the will, that child is entitled to receive a

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share in the estate of the testator equal in value to the share which the child would have received if the testator had died intestate, unless: (a) the

1. The testator left all or substantially all of his the testator's estate to the mother of the child, or (b) the

2. The testator eliminated all of his the testator's children known to him the testator to be living at the time of execution of the will from any share under the will, or (e) the;

3. The testator provided for the subsequently born or adopted child by transfers outside the will and the intent that the transfers be in lieu of a testamentary gift is either shown by statements of the testator or inferred from the amount of the transfers and other circumstances; or (d) in

4. In any other case it appears from the will or evidence outside the will that the omission was intentional.

(b) If a child entitled to a share under this section dies before the testator, and the child leaves issue who survive the testator, the issue who represent the deceased child are entitled to his the deceased child's share.

NOTE: Conforms numbering to current style.

SECTION 335. 853.25 (2) of the statutes is amended to read:

853.25 (2) LIVING ISSUE OMITTED BY MISTAKE. If clear and convincing evidence proves that by mistake or accident the testator failed to provide in his the testator's will for a child living at the time of making of the will, or for the issue of any then deceased child, the child or issue is entitled to receive a share in the estate of the testator equal in value to the share which he or they the child or issue would have received if the testator had died intestate. But failure to mention a child or issue in the will is not in itself evidence of mistake or accident.

SECTION 336. 853.27 (1) of the statutes is amended to read:

853.27 (1) Unless a contrary intent is indicated by the will, if provision in the will is made for any relative of the testator and the relative dies before the testator and leaves issue who survive the testator, then the issue as represent the deceased relative are substituted for him the deceased relative under the will and take the same interest as he the deceased relative would have taken had he the deceased relative survived the testator.

SECTION 337. 853.27 (2) (a) of the statutes is amended to read:

853.27 (2) (a) A gift to an individual whether he the individual is dead at the time of the making of the will or dies after the making of the will;

SECTION 338. 853.29 of the statutes is amended to read:

853.29 After-acquired property. A will is presumed to pass all property which the testator owns at his the testator's death and which he the testator has power to transmit by will, including property acquired after the execution of the will.

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SECTION 339. 853.35 (1) of the statutes is amended to read:

853.35 (1) SCOPE OF SECTION. It is the intent of this section to abolish the common law doctrine of ademption by extinction in the situations governed by this section. This section is inapplicable if the intent that the gift fail under the particular circumstances appear in the will, or if the testator during his the testator's lifetime gives property to the specific beneficiary with the intent of satisfying the specific gift. Whenever the subject of the specific gift is property only part of which is destroyed, damaged, sold or condemned, the specific gift of any remaining interest in the property owned by the testator at the time of his the testator's death is not affected by this section; but this section applies to the part which would have been deemed under the common law by the destruction, damage, sale or condemnation.

SECTION 340. 853.35 (2) of the statutes is renumbered 853.35 (2) (intro.) and amended to read:

853.35 (2) PROCEEDS OF INSURANCE ON PROPERTY. (intro.) If insured property which is the subject of a specific gift is destroyed, damaged, lost, stolen or otherwise subject to any casualty compensable by insurance, the specific beneficiary has the right to the following amounts reduced by any amount expended or incurred by the testator in restoration or repair of the property:

(a) any Any insurance proceeds paid to the personal representative after death of the testator, with the incidents of the specific gift; and

(b) a A general pecuniary legacy equivalent to any insurance proceeds paid to the testator within one year of his the testator's death; but the amount hereunder is reduced by any amount expended or incurred by the testator in restoration or repair of the property.

NOTE: Conforms numbering to current style.

SECTION 341. 853.35 (3) of the statutes is renumbered 853.35 (3) (a) (intro.) and amended to read:

853.35 (3) (a) (intro.) If property which is the subject of a specific gift is sold by the testator within 2 years of his the testator's death, the specific beneficiary has the right to: (a) any

1. Any balance of the purchase price unpaid at the time of death (including any security interest in the property and interest accruing before death), if part of the estate, with the incidents of the specific gift; and (b) a

2. A general pecuniary legacy equivalent to the amount of the purchase price paid to the testator within one year of his the testator's death.

(b) Acceptance of a promissory note of the purchaser or a 3rd party is not considered payment, but payment on the note is payment on the purchase price; and for purposes of this section property is considered sold as of the date when a valid contract of sale is made. Sale by an agent of the testator or by a trustee under a revocable living trust created by the testator, the principal of which is to be paid to the personal representative or estate of the

testator on his the testator's death, is a sale by the testator for purposes of this section.

NOTE: Conforms numbering to current style.

SECTION 342. 853.35 (4) of the statutes is renumbered 853.35 (4) (a) (intro.) and amended to read:

853.35 (4) (a) (intro.) If property which is the subject of a specific gift is taken by condemnation prior to the testator's death, the specific beneficiary has the right to: (a) any

1. Any amount of the condemnation award unpaid at the time of death, with the incidents of the specific gift; and (b) a

2. A general pecuniary legacy equivalent to the amount of an award paid to the testator within one year of his the testator's death.

(b) In the event of an appeal in a condemnation proceeding, the award is for purposes of this section limited to the amount established on the appeal. Acceptance of an agreed price or a jurisdictional offer is a sale within the meaning of sub. (3).

NOTE: Conforms numbering to current style.

SECTION 343. 853.35 (6) of the statutes is amended to read:

853.35 (6) SECURITIES. If securities are specifically willed to a beneficiary, and subsequent to execution of the will, other securities in the same or another entity are distributed to the testator by reason of his the testator's ownership of the specifically bequeathed securities and as a result of a partial liquidation, stock dividend, stock split, merger, consolidation, reorganization, recapitalization, redemption, exchange, or any other similar transaction, and if such other securities are part of testator's estate at death, the specific gift is deemed to include the additional or substituted securities. "Securities" has the same meaning as in s. 853.33.

SECTION 344. 853.35 (7) of the statutes is amended to read:

853.35 (7) REDUCTION OF RECOVERY BY REASON OF EXPENSES AND TAXES. Throughout this section the amount the specific beneficiary receives is reduced by any expenses of the sale or of collection of proceeds of insurance, sale, or condemnation award and by any amount by which the income tax of the decedent or his the decedent's estate is increased by reason of items covered by this section. Expenses include legal fees paid or incurred.

SECTION 345. 856.01 (1) of the statutes is amended to read:

856.01 (1) If the decedent was domiciled in this state, in the county in this state where the decedent had his domicile was domiciled at the time of his the decedent's death.

SECTION 346. 856.09 (6) of the statutes is amended to read:

856.09 (6) The name and post-office address of the person for whom letters are asked and the facts which

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show his the person's eligibility for appointment as personal representative.

SECTION 347. 856.11 of the statutes is amended to read:

856.11 Notice of hearing on petition for administration. When a petition for administration is filed, the court shall set a time for proving the will, if any, for determination of heirship and for the appointment of a personal representative. Notice of hearing on the petition shall be given as provided in s. 879.03 with the additional requirement that when any person interested is represented by a guardian ad litem, notice shall be given to both the person interested and his the person's guardian ad litem. A copy of the will which is being presented for proof shall be sent to all persons interested, except those whose only interest is as a beneficiary of a monetary bequest or a bequest or devise of specific property. To those persons a notice of the nature and amount of the devise or bequest shall be sent.

SECTION 348. 856.21 (2) of the statutes is amended to read:

856.21 (2) Any person interested in the estate or his the person's nominee within the discretion of the court.

SECTION 349. 856.23 of the statutes is renumbered 856.23 (1) (intro.) and amended to read:

856.23 (1) (intro.) A person including the executor named in the will is not entitled to receive letters if: (1) he is under the person is any of the following:

(a) Under 18 years of age, or (2) of.

(b) Of unsound mind, or (3) a.

(c) A corporation not authorized to act as a fiduciary in this state, or (4) a.

(d) A nonresident of this state who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate and filed the appointment with the court, or (5) a.

(e) A person whom the court deems unsuitable for good cause shown.

(2) Nonresidency may be a sufficient cause for non-appointment or removal of a person in the court's discretion.

SECTION 350. 856.25 (1) of the statutes is amended to read:

856.25 (1) **GENERALLY.** A person shall not act as personal representative, nor shall letters be issued to him the person until he the person has given a bond in accordance with ch. 878, with one or more sureties, conditioned on the faithful performance of his the person's duties, to the judge of the court, or until the court has ordered that he the person be appointed without being required to give bond. If the court does not require a personal representative to give bond prior to his the personal representative's letters being issued, the court may require him the personal representative to give bond at any later time. The requirement of a bond and the amount of the bond is solely within the discretion of the court, except that no

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bond shall be required of any trust company bank, state bank or national banking association which is authorized to exercise trust powers and which has complied with s. 220.09 or 223.02.

SECTION 351. 856.25 (3) of the statutes is amended to read:

856.25 (3) **SHARE OF ESTATE CAN STAND AS EXCESS SURETY.** If any distributee, including one serving as personal representative, stipulates to a reduction of the bond and that his the distributee's share of the estate stand as excess surety to the extent of the reduction, the judge may reduce the bond by an amount equal to the estimated share of such distributee.

SECTION 352. 857.07 of the statutes is amended to read:

857.07 Allowances to personal representative for costs. When costs are allowed against a personal representative in any action or proceeding the same shall be allowed him the personal representative in his the personal representative's administration account unless it appears that the action or proceeding in which the costs were taxed was prosecuted or resisted without just cause on his the personal representative's part; and the court may determine, in rendering the judgment, whether the costs shall be paid out of the estate or by the personal representative. The court may allow as costs the sum paid by a personal representative on any bond or undertaking given by him the personal representative in the case.

SECTION 353. 857.11 of the statutes is amended to read:

857.11 Ordering personal representative to appear; costs. Whenever the court issues an order directed to the sheriff requiring the personal representative to appear before it, all costs incurred by the court in the proceeding may be charged to the personal representative personally and may be deducted from the fees which he the personal representative may receive for his the personal representative's services as personal representative.

SECTION 354. 857.15 of the statutes is amended to read:

857.15 When personal representative removed, resigns. The judge may accept the written resignation of any personal representative. When a personal representative becomes incompetent, disqualified, unsuitable, incapable of discharging his the personal representative's duties or is a nonresident of this state who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate and caused such appointment to be filed with the court, the court shall remove him the personal representative. When any personal representative has failed to perform any duty imposed by law or by any lawful order of the court or has ceased to be a resident of the state, the court may remove him the personal representative. When grounds for removal appear to exist, the court on its own

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motion or on the petition of any person interested, shall order the personal representative to appear and show cause why he the personal representative should not be removed.

SECTION 355. 857.17 of the statutes is amended to read:

857.17 Validity of acts of personal representative prior to removal. The resignation, removal or death of a personal representative after letters have been issued to him the personal representative do not invalidate his the personal representative's official acts performed prior to his the resignation, death or removal.

SECTION 356. 857.21 of the statutes is amended to read:

857.21 Appointment of successor personal representative. When a personal representative dies, is removed by the court, or resigns and the resignation is accepted by the court, the court may, and if he the personal representative was the sole or last surviving personal representative and administration is not completed, the court shall appoint another personal representative in his the personal representative's place.

SECTION 357. 857.23 of the statutes is amended to read:

857.23 Rights and powers of successor personal representative. A successor personal representative has all the rights and powers of his or her predecessor except that he the successor may not exercise powers given in a will which by its terms are personal to the personal representative therein designated.

SECTION 358. 857.29 of the statutes is amended to read:

857.29 Personal representative may plat land. The court may by order authorize the personal representative to plat land which is a part of the estate, either alone or together with other owners of the real estate. The personal representative must comply with the same statutes, ordinances and rules which apply to a person who is platting his the person's own land.

SECTION 359. 858.03 of the statutes is amended to read:

858.03 Persons interested may be informed of inventory. Not more than 5 days after filing an inventory with the court the personal representative shall mail or deliver to the surviving spouse and to all other persons interested, except those whose only interest is as a beneficiary of a monetary bequest or a bequest or devise of specific property, a statement indicating that the inventory has been filed and that a copy of the inventory, or a summary indicating the value of each item of property in which the person has an interest, will be sent to him the person upon his the person's written request to the personal representative. If any person to whom the statement is required to be sent makes a request, the personal representative shall comply within 5 days after receipt of the request. If a person interested to whom the statement

is required to be sent is represented by a guardian of the estate or by a guardian ad litem, the statement shall be mailed or delivered to the guardian of the estate or the guardian ad litem but not to the person interested. If the person interested is in the military service and is represented by an attorney or an attorney-in-fact, the statement shall be sent to both the attorney or the attorney-in-fact and the person interested. Failure of the personal representative to comply with this section does not affect the jurisdiction of the court as to persons interested.

SECTION 360. 858.05 of the statutes is amended to read:

858.05 Order to file inventory. If any personal representative neglects to file his the inventory under s. 858.01 when required by law, the court shall call his the personal representative's attention to his the neglect. If he the personal representative still neglects to file, the court shall order him the personal representative to file his the inventory. If, without reasonable cause shown, he the personal representative refuses or neglects to comply with the order for 20 days after service of the order upon him he the personal representative, the personal representative may be held in contempt of court.

SECTION 361. 858.15 of the statutes is amended to read:

858.15 When appraisal not necessary. Assets, the value of which is readily ascertainable without the exercise of judgment on the part of an appraiser, shall not be appraised. The value of these assets shall be shown in the inventory and verified by the personal representative, and he the personal representative shall provide evidence of value as the court requires. Where evidence satisfactory to the court is produced to establish the value of any inventoried assets, no appraisal shall be required of the assets, unless a formal appraisal is requested by persons interested, the department of revenue, or by the court on its own motion.

SECTION 362. 858.17 of the statutes is amended to read:

858.17 Supplemental inventory and appraisal. If any property not included in the inventory comes to the knowledge of the personal representative, he the personal representative shall file a supplemental inventory or include the same in his the personal representative's accounting. He The personal representative shall have the property appraised unless it is of the type described in s. 858.15.

SECTION 363. 859.21 (2) of the statutes is amended to read:

859.21 (2) The court may order the personal representative to make distribution of the estate but to retain in his hands sufficient funds to pay the claim if and when the same becomes absolute; but for this purpose the estate shall not be kept open longer than 2 years after distribution of the remainder of the estate has been made; and if the claim has not become absolute within that time, dis-

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tribution shall be made to the distributees of the retained funds, after paying any costs and expenses accruing during such period but the distributees shall be liable to the creditor to the extent provided in s. 859.23, if the contingent claim thereafter becomes absolute. When distribution is so made to distributees, the court may require the distributees to give bond for the satisfaction of their liability to the contingent creditor.

SECTION 364. 859.25 (1) (d) of the statutes is amended to read:

859.25 (1) (d) Reasonable and necessary expenses of the last sickness of the decedent, including compensation of persons attending him the decedent.

SECTION 365. 859.39 of the statutes is amended to read:

859.39 Delay of payment of claims when funds are insufficient. If it appears at any time that an estate is or may be insolvent, that there are insufficient funds on hand for payment of claims in full or that there is other good cause for delaying payment, the personal representative may report that fact to the court and apply for any order that he the personal representative deems necessary.

SECTION 366. 859.40 of the statutes is amended to read:

859.40 Creditor's action for property not inventoried. Whenever there is reason to believe that the estate of a decedent as set forth in the inventory may be insufficient to pay his the decedent's debts, a creditor whose claim has been allowed may, on behalf of all, bring an action to reach and subject to sale any property or interest therein not included in the inventory, which is liable for the payment of debts. The creditor's action shall not be brought to trial until the insufficiency of the estate in the hands of the personal representative is ascertained; if found likely that the assets may be insufficient, the action shall be brought to trial. If the action is tried, any property or interest therein which ought to be subjected to the payment of the debts of the decedent shall be sold in the action and the net proceeds used to pay such debts and to reimburse the creditor for the reasonable expenses and attorney's attorney fees incurred by him the creditor in the action as approved by the court.

SECTION 367. 859.41 of the statutes is amended to read:

859.41 Creditor's action for property fraudulently sold by decedent. Whenever there is reason to believe that the estate of a decedent as set forth in the inventory may be insufficient to pay his the decedent's debts, and the decedent conveyed any property or any interest therein with intent to defraud his the decedent's creditors or to avoid any duty, or executed conveyances void as against creditors, any creditor whose claim has been allowed may, on behalf of all, bring an action to reach and subject to sale any property or interest therein. The creditor's action shall not be brought to trial until the

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insufficiency of the estate in the hands of the personal representative is ascertained; if found likely that the assets may be insufficient, the action shall be brought to trial. If the action is tried any property or interest therein which ought to be subjected to the payment of the debts of the decedent shall be sold in the action and the net proceeds used to pay such debts and to reimburse the creditor for the reasonable expenses and attorney's attorney fees incurred by him the creditor in such action as approved by the court.

SECTION 368. 859.43 (2) of the statutes is amended to read:

859.43 (2) PAYMENT. When any property in the estate is encumbered by mortgage, pledge, lien or other security agreement, the personal representative may pay the encumbrance or any part thereof, renew or extend any obligation secured by the encumbrance or may convey or transfer the encumbered assets to the creditor in satisfaction of his the creditor's lien, in whole or in part, whether or not the holder of the encumbrance has filed a claim.

SECTION 369. 860.07 of the statutes is amended to read:

860.07 No warranties. Except as under s. 860.09 (2), a personal representative has no power to give warranties in any sale, mortgage or lease of property which are binding on himself the personal representative personally or on the estate of the decedent.

SECTION 370. 860.09 (2) of the statutes is amended to read:

860.09 (2) WARRANTIES. If the contract for a conveyance required the decedent to give warranties, any instrument given by the personal representative or order by the court shall contain the warranties required. The warranties are binding on the estate as though made by the decedent during his the decedent's lifetime but do not bind the personal representative personally.

SECTION 371. 860.11 (1) of the statutes is amended to read:

860.11 (1) RESTRICTION. Except as under sub. (4) if the will of the decedent contains provisions which restrict the freedom of the personal representative to sell, mortgage or lease property, the personal representative breaches his the personal representative's duty to the persons interested if he the personal representative sells, mortgages or leases the property other than in accordance with the restrictions.

SECTION 372. 860.11 (2) of the statutes is amended to read:

860.11 (2) SPECIFIC BEQUEST. Except as under sub. (4) if the will of the decedent contains a specific bequest of property, the personal representative breaches his the personal representative's duty to the specific beneficiary if he the personal representative makes a lease of the property for a period which exceeds one year or mortgages or sells the property unless the specific beneficiary joins in the lease, mortgage or sale.

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SECTION 373. 860.11 (3) of the statutes is amended to read:

860.11 (3) PROHIBITION. Except as under sub. (4) if the will of the decedent contains provisions which prohibit the sale, mortgage or lease of property by the personal representative, the personal representative breaches his the personal representative's duty to the persons interested if he the personal representative sells, mortgages or leases such property.

SECTION 374. 861.17 (4) of the statutes is amended to read:

861.17 (4) The surviving spouse has no rights against any person dealing with the property without actual knowledge, or receipt of written notice, of the claim of the spouse. A person who has knowledge of facts and circumstances sufficient to put him the person on inquiry as to a claim by the spouse does not have actual knowledge and is not required to make further inquiry. This subsection does not protect a gratuitous donee from the original beneficiary of the fraudulent arrangement.

SECTION 375. 862.01 (intro.) of the statutes is amended to read:

862.01 When personal representative shall account. (intro.) Except where final settlement is by sworn statement under s. 865.16, every personal representative shall file in the court a verified account of his the personal representative's administration:

SECTION 376. 862.01 (1) of the statutes is amended to read:

862.01 (1) When he the personal representative files a petition for final settlement;

SECTION 377. 862.01 (2) of the statutes is amended to read:

862.01 (2) Upon the revocation of his the personal representative's letters;

SECTION 378. 862.01 (3) of the statutes is amended to read:

862.01 (3) When he the personal representative submits his an application to resign as personal representative;

SECTION 379. 862.03 (1) of the statutes is amended to read:

862.03 (1) INCOMPETENT PERSONAL REPRESENTATIVE. If a personal representative is adjudged incompetent, his the account under s. 862.01 shall be filed by his the personal representative's guardian, or if his the personal representative's guardian fails to file then by his the personal representative's bondsman. If neither the guardian nor the bondsman files an account, the court shall appoint a special administrator to file the account of the incompetent personal representative.

SECTION 380. 862.03 (2) of the statutes is amended to read:

862.03 (2) DECEASED PERSONAL REPRESENTATIVE. If a personal representative dies, his the account under s. 862.01 shall be filed by the personal representative of his

the deceased personal representative's estate, or if his the deceased personal representative's personal representative fails to file then by a special administrator of his the deceased personal representative's estate or by his the deceased personal representative's bondsman.

SECTION 381. 862.03 (3) of the statutes is amended to read:

862.03 (3) REMOVED PERSONAL REPRESENTATIVE. If a personal representative is removed and fails to file his the account under s. 862.01, his the removed personal representative's account shall be filed by his the removed personal representative's bondsman. If the bondsman fails to file, the court shall appoint a special administrator to file the account of the personal representative who has been removed.

SECTION 382. 862.03 (4) of the statutes is amended to read:

862.03 (4) PAYMENT FOR PREPARATION. The person who prepares and files an account in accordance with this section shall be allowed the reasonable value of his the person's services to be paid out of the estate, and the fees of the incompetent, deceased or removed personal representative shall be reduced accordingly.

SECTION 383. 862.05 of the statutes is amended to read:

862.05 What charged to personal representative. Every personal representative shall be charged in his the personal representative's accounts with all the property of the decedent which comes to his the personal representative's possession; with all profit and income which comes to his the personal representative's possession from the estate and with the proceeds of all property of the estate sold by him the personal representative.

SECTION 384. 862.07 of the statutes is amended to read:

862.07 Value at which to account; what accounts to contain. The personal representative shall account for the property of the decedent at the value at which it is shown in the inventory. Accounts rendered to the court by a personal representative shall be for a period distinctly stated and shall show by debit and credit each item with which he the personal representative is chargeable. The account shall first show the total value of the property with which he the personal representative is chargeable according to the inventory or, if there has been a prior accounting, the amount of the balance of the prior account; it shall show all income or other property received and gains or losses from the sale of any property; and it shall show all payments, charges and losses. The final account shall itemize all property available for distribution and all property previously distributed and show its inventory value or if acquired by the personal representative during administration, its acquisition value.

SECTION 385. 862.15 of the statutes is amended to read:

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862.15 Settlement of account. The court must be satisfied of the correctness and legality of the account before allowing it. If the personal representative is present at the hearing, he the personal representative may be examined on oath upon any matter relating to his the personal representative's account and the settlement of the estate. The court may refuse to approve the account unless the personal representative is present at the hearing.

SECTION 386. 862.17 of the statutes is amended to read:

862.17 Accounts; failure of personal representative to file. If any personal representative fails to file his the personal representative's account as required by law or ordered by the court, the court may, upon its own motion or upon the petition of any person interested, either order the personal representative to file his the account by a day certain or the court may proceed under s. 857.09. If after having been ordered to file his the account by a day certain, the personal representative fails to comply with the order, the court shall proceed under s. 857.09.

SECTION 387. 863.01 of the statutes is amended to read:

863.01 Distribution of specific property to distributee and partial distribution before final judgment. Before final judgment has been rendered the personal representative may deliver to any distributee possession of any specific property to which he the distributee is entitled under the terms of the will or any statute. The personal representative may make one or more partial distributions of the estate, provided that other distributees and claimants are not prejudiced thereby. The personal representative may require the distributees to give security for the return of such property.

SECTION 388. 863.13 (2) of the statutes is amended to read:

863.13 (2) JOINT TENANCY. If all or any part of a debt which is secured by a mortgage, lien, pledge or other security agreement which constitutes an encumbrance on property in which the decedent at the time of his the decedent's death had an interest as a joint tenant, is paid out of assets in the estate as the result of a claim being allowed against the estate, the estate is subrogated to all rights which the claimant had against the property, unless the will of the decedent provides to the contrary.

SECTION 389. 863.15 of the statutes is amended to read:

863.15 Right of retention. When a distributee of an estate is indebted to the estate, the amount of the indebtedness if due, or the present worth of the indebtedness, if not due, shall be treated as an offset by the personal representative against property of the estate to which the distributee is entitled. In contesting the offset the distributee shall have the benefit of any defense which would be available to him the distributee in a direct

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proceeding by the personal representative for the recovery of the debt.

SECTION 390. 863.31 (2) of the statutes is amended to read:

863.31 (2) AS TO PURCHASERS FOR VALUE FROM DISTRIBUTEES. After the final judgment has been recorded in the office of the register of deeds in the county in which the real estate is located, purchasers for value of real estate which is described in the final judgment from distributees or their successors in title may rely on the final judgment as conclusive insofar as it purports to transfer to the distributees any title which the decedent held in the real estate at the time of his the decedent's death, except to the extent that there has been a transfer of an interest in the real estate by the personal representative under ch. 860 or s. 863.01 of which the purchaser has actual notice or of which he the purchaser has constructive notice because of recording in the office of the register of deeds in the county in which the real estate is located.

SECTION 391. 863.39 (2) of the statutes is amended to read:

863.39 (2) FOREIGN DISTRIBUTEE. If notice is given to a distributee domiciled in a foreign country under s. 879.03 and he the distributee is not heard from within 120 days after entry of final judgment of distribution (, or within a longer time designated in such the judgment), the property which he the distributee would take shall not escheat, but shall descend as intestate property.

SECTION 392. 863.43 of the statutes is amended to read:

863.43 Distribution to ward; notice. At least 10 days prior to distribution of a share or legacy for the benefit of a minor or incompetent for whom a guardian of his the minor's or incompetent's estate has been appointed, the personal representative shall notify the court appointing the guardian of the estate, in writing, the total property to be distributed to the guardian of the estate for the benefit of his the guardian's ward. An affidavit of mailing the notice shall be filed before making the distribution.

SECTION 393. 863.47 of the statutes is amended to read:

863.47 Order of discharge of personal representative. Upon proof of the recording of certified copies of the final judgment or abridgments thereof, if required by s. 863.29, and upon the filing of receipts from the distributees for all other property assigned in the final judgment, or other evidence of transfer satisfactory to the court, the court shall enter an order finding those facts, discharging the personal representative and canceling his the personal representative's bond.

SECTION 394. 865.031 of the statutes is amended to read:

865.031 Effect of fraud and evasion. Whenever fraud has been perpetrated in connection with any proceeding or in any statement filed under this chapter, or if

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fraud is used to avoid or circumvent the provisions or purposes of this chapter, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud, including restitution from any person, other than a bona fide purchaser, benefiting from the fraud, whether innocent or not. Any proceeding must be commenced within 2 years after the discovery of the fraud, but no proceeding may be brought against one not a perpetrator of the fraud later than 5 years after the time of commission of the fraud. This section has no bearing on remedies relating to fraud practiced on a decedent during his the decedent's lifetime which affects the succession of his the decedent's estate.

SECTION 395. 865.06 (2) (b) of the statutes is amended to read:

865.06 (2) (b) That the applicant believes the will to have been executed properly and to be valid and that he the applicant has made diligent inquiry and is unaware of any subsequent revocation of the will.

SECTION 396. 865.08 (3) of the statutes is amended to read:

865.08 (3) If the probate registrar is not satisfied that a will is entitled to be probated or that a requested appointment of a personal representative should not be made because of failure to meet the requirements of s. 856.23, 865.02 or 865.07, or for any other reason, he the probate registrar shall deny the application. Denial of an application is not an adjudication and does not preclude proceeding formally.

SECTION 397. 865.08 (5) of the statutes is amended to read:

865.08 (5) Within 10 days of his the personal representative's appointment the personal representative shall, where the estate is testate, provide a copy of the will and a list of all interested persons to each interested person; and, where the estate is intestate, the personal representative shall furnish a list of all interested persons to each interested person.

SECTION 398. 865.09 (2) of the statutes is amended to read:

865.09 (2) The duties and powers of a personal representative appointed under this chapter commence upon his the personal representative's appointment. His The personal representative's powers relate back in time to acts by him the personal representative prior to appointment which are beneficial to the estate.

SECTION 399. 865.12 of the statutes is amended to read:

865.12 Employment of appraisers. The personal representative may employ a qualified and disinterested appraiser to assist in ascertaining values of any assets where valuation is subject to reasonable doubt. The name and address of any appraiser so employed shall be indicated on the inventory with the item or items appraised by him the appraiser, notwithstanding the omission from the inventory of the value thereof. Any interested person

may invoke the jurisdiction of the court to require an appraisal or to contest said appraisals.

SECTION 400. 865.14 of the statutes is amended to read:

865.14 Improper distribution; liability of distributee. A distributee of property which was distributed or paid improperly and a claimant who was paid improperly are liable to return the property or assets so distributed or paid together with all income received thereon, unless the distribution or payment cannot be questioned because of an adjudication, estoppel, limitation or other bar. If the distributee or claimant no longer has the property or assets, he the distributee or claimant is liable to return the value thereof as of the date of distribution together with all income and gain received thereon.

SECTION 401. 865.16 (1) (c) of the statutes is amended to read:

865.16 (1) (c) Sent a copy of the statement to all distributees of the estate and to all creditors or other claimants of whom he the personal representative is aware whose claims are neither paid nor barred and has furnished a full account in writing of his the personal representative's administration to the distributees whose interests are affected thereby.

SECTION 402. 865.17 of the statutes is amended to read:

865.17 Liability of distributees to claimants. After assets of an estate have been distributed, and subject to s. 865.19, an undischarged claim not barred by notice under s. 859.07 or otherwise may be prosecuted in a proceeding against one or more distributees of property from an estate administered under this chapter. No distributee shall be liable to claimants for amounts in excess of the value of his the distributee's distribution as of the time of distribution. As among distributees, each shall bear the cost of satisfaction of unbarred claims as if the claim had been satisfied in the course of administration.

SECTION 403. 867.01 (3) (a) 3. of the statutes is amended to read:

867.01 (3) (a) 3. The names and post-office addresses of all persons interested, so far as known to the petitioner or ascertainable by him the petitioner with reasonable diligence. The petition shall indicate those who are minors or otherwise under disability and the names and post-office addresses of their guardians.

SECTION 404. 867.02 (2) (a) 4. of the statutes is amended to read:

867.02 (2) (a) 4. The names and post-office addresses of all creditors of the decedent or his the decedent's estate of whom the petitioner has knowledge and the amount claimed by each.

SECTION 405. 867.02 (2) (a) 5. of the statutes is amended to read:

867.02 (2) (a) 5. The names and post-office addresses of all persons interested, so far as known to petitioner or ascertainable by him the petitioner with rea-

sonable diligence. The petition shall indicate those who are minors or otherwise under disability and the names and post-office addresses of their guardians.

SECTION 406. 867.02 (4) of the statutes is amended to read:

867.02 (4) RIGHTS OF CREDITORS AND PERSONS INTERESTED; STATUTES OF LIMITATION. Creditors and persons interested in the estate who were not assigned the property to which they were entitled from the estate may recover against those assignees, or their respective bondsmen whose assigned shares have been increased by reason of the fact that the creditor or person interested was not assigned the share of the estate to which he the creditor or person interested was entitled. No assignee or his assignee's bondsman shall be liable for an amount greater than the value of the property which was assigned to him the assignee from the estate, the value to be determined as of the time of the assignment. No action for the recovery of any property assigned in the proceeding or for the value of such property shall be brought by any creditor more than 3 months after the publication. No action for the recovery of any property assigned in the proceeding or for the value of such property may be brought by any person interested more than 3 months after a copy of the order assigning the estate was mailed or delivered to him the person, or if his the person's name or post-office address could not have been ascertained by the exercise of reasonable diligence on the part of the petitioner, then more than 3 months after a copy of the order assigning the estate was mailed or delivered to any person interested.

SECTION 407. 867.07 (6) of the statutes is amended to read:

867.07 (6) A cause of action exists for or against the decedent or his the decedent's estate and that it is necessary that some act be performed before letters can be issued to a personal representative.

SECTION 408. 867.13 of the statutes is amended to read:

867.13 Bond of special administrator. If it appears that anything of value will come into the hands of the special administrator, the court may require him the special administrator to give bond in the amount the court deems reasonable, except that no bond shall be required of any trust company bank, state bank or national banking association which is authorized to exercise trust powers and which has complied with s. 220.09 or 223.02. If the person appointed special administrator is subsequently appointed personal representative, his the person's bond given as special administrator continues in effect as his the person's bond as personal representative unless otherwise ordered by the court. Section 895.345 does not apply to bonds of special administrators.

SECTION 409. 867.17 of the statutes is amended to read:

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867.17 Powers, duties and liabilities of special administrator. A special administrator who is appointed without notice of hearing shall have only those powers and duties that are specifically granted to him the special administrator by order of the court. The court may, following a hearing on notice to or waiver of notice by all interested parties, grant the special administrator by general order the same powers, duties and liabilities as a personal representative, except as expressly limited by the order of the court. By order the court may expressly grant him the special administrator powers and impose duties in addition to those granted by statute to personal representatives as may be necessary to accomplish the purpose for which he the special administrator is appointed.

SECTION 410. 867.19 of the statutes is amended to read:

867.19 Compensation of special administrator. The special administrator shall be allowed all necessary expenses incurred in the care and management of the estate and the performance of his the special administrator's duties; for his the special administrator's services he the special administrator shall be allowed the compensation the court deems reasonable. If a special administrator is subsequently appointed personal representative, his or her compensation as special administrator may be considered and fixed at the time his or her compensation as personal representative is determined.

SECTION 411. 867.21 (1) of the statutes is amended to read:

867.21 (1) WHEN NO PERSONAL REPRESENTATIVE IS TO BE APPOINTED. The special administrator shall be discharged whenever the court is satisfied that he the special administrator has properly performed his or her duties. Before discharging the special administrator the court may require him the special administrator to file any accounts or reports which the court deems necessary. Discharge may be granted with or without notice as the court determines. If notice of hearing upon the application for discharge is required, it shall be given under s. 879.03.

SECTION 412. 867.21 (2) of the statutes is amended to read:

867.21 (2) UPON GRANTING LETTERS TO A PERSONAL REPRESENTATIVE. Upon the granting of letters to a personal representative of the estate of the decedent, the power of the special administrator ceases and he the special administrator shall forthwith file his the special administrator's account and deliver to the personal representative all property of the estate which he the special administrator has in his or her possession. The court may accept the written receipt of the personal representative as evidence of delivery and upon approving his the special administrator's account shall discharge the special administrator. If the special administrator is appointed personal representative, he the special administrator need

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not file an account as special administrator unless his the special administrator's bond is not continued as his or her bond as personal representative. If no accounting as special administrator is made he the special administrator shall account for the special administration in his or her account as personal representative.

SECTION 413. 868.01 (6) of the statutes is amended to read:

868.01 (6) PROOF OF WILL BY PROBATE IN NONDOMICILIARY JURISDICTION. If a testator dies domiciled outside this state, an authenticated copy of his the testator's will and of the probate or establishment thereof in a jurisdiction other than the one in which he testator died domiciled shall be sufficient proof of the contents and legal sufficiency of the will to authorize the admission of the will to probate under sub. (5) if no objection is made thereto. This subsection does not authorize the probate of any will which would not be admissible to probate under sub. (5), nor, in case objection is made to the will, to relieve proponent from offering proof of the contents and legal sufficiency of the will except that the original will need not be produced unless the court so orders.

SECTION 414. 868.01 (7) of the statutes is amended to read:

868.01 (7) AUTHENTICATION AND TRANSLATION. Proof contemplated by this section may be made by authenticated copies of the will and the records of judicial proceedings with reference thereto. If the will has not been probated but is otherwise established under the laws of the jurisdiction where the testator died domiciled, its contents and establishment may be proved by the authenticated certificate of the notary or other official having custody of the will or having authority in connection with its establishment. If the respective documents or any part thereof are not in the English language, verified translations may be attached thereto and shall be regarded as sufficient proof of the contents of the documents unless objection is made thereto. If any person in good faith relies upon probate under this section he the person shall not thereafter be prejudiced because of inaccuracy of such translations, or because of proceedings to set aside or modify the probate on that ground.

SECTION 415. 868.03 (1) (b) of the statutes is amended to read:

868.03 (1) (b) "Foreign representative" means any representative who has been appointed by the court of another jurisdiction in which the decedent was domiciled at the time of his the decedent's death, or in which the ward is domiciled, and who has not also been appointed by a court of this state.

SECTION 416. 868.03 (2) (c) of the statutes is amended to read:

868.03 (2) (c) *Notice to foreign representative.* When application is made for issuance of ancillary letters to any person other than the foreign representative, the applicant shall send notice of the application by registered

mail to the foreign representative if the latter's name and address are known and to the court which appointed him the foreign representative if the court is known. These notices shall be mailed upon filing the application if the necessary facts are then known, or as soon thereafter as the facts are known. If notices are not given prior to the appointment of the local representative, he the local representative shall give similar notices of his or her appointment as soon as the necessary facts are known to him the local representative. Notice by ordinary mail is sufficient if it is impossible to send the notice by registered mail. Notice under this paragraph is not jurisdictional.

SECTION 417. 868.03 (4) of the statutes is amended to read:

868.03 (4) BOND. No nonresident shall be granted ancillary letters unless he the nonresident gives an administration bond.

SECTION 418. 868.03 (6) (a) of the statutes is amended to read:

868.03 (6) (a) *Application and procedure.* If any other person has been appointed local representative, the foreign representative, not later than 14 days after the mailing of notice to him the foreign representative under sub. (2), unless this period is extended by the court because the foreign representative resides outside the continental United States or in Alaska, or for other cause which the court deems adequate, may apply for revocation of the appointment and for grant of ancillary letters to himself or herself. Ten days' written notice of hearing shall be given to the local representative. If the court finds that it is for the best interests of the estate, it may grant the application and direct the local representative to deliver all the assets, documents, books and papers pertaining to the estate in his the local representative's possession and make a full report of his or her administration to the local and foreign representative as soon as the letters are issued and he the local and foreign representative is qualified. The local representative shall also account to the court. The hearing on the account may be forthwith or upon such notice as the court directs. Upon compliance with the court's directions, the local representative shall be discharged.

NOTE: Inserts missing "the".

SECTION 419. 868.03 (6) (b) of the statutes is amended to read:

868.03 (6) (b) *Effect of substitution.* Upon qualification, the local and foreign representative shall be substituted in all actions and proceedings brought by or against the local representative in his the local representative's representative capacity, and shall be entitled to all the rights and be subject to all the burdens arising out of the uncompleted administration in all respects as if it had been continued by the local representative. If the latter has served or been served with any process or notice, no

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further service shall be necessary nor shall the time within which any steps may or must be taken be changed unless the court in which the action or proceedings are pending so orders.

SECTION 420. 868.03 (8) of the statutes is amended to read:

868.03 (8) EFFECT OF ADJUDICATIONS FOR OR AGAINST REPRESENTATIVES. A prior adjudication rendered in any jurisdiction for or against any representative of the estate shall be as conclusive as to the local or the local and foreign representative as if he the local or the local and foreign representative were a party to the adjudication unless it resulted from fraud or collusion of the party representative to the prejudice of the estate. This subsection shall not apply to adjudications in another jurisdiction admitting or refusing to admit a will to probate.

SECTION 421. 868.03 (11) (a) of the statutes is amended to read:

868.03 (11) (a) *Equality subject to preferences and security.* If the estate either in this state or as a whole is insolvent, it shall be disposed of so that, as far as possible, each creditor whose claim has been allowed, either in this state or elsewhere, shall receive an equal proportion of his the creditor's claim subject to preferences and priorities and to any security which a creditor has as to particular assets. If a preference, priority or security is allowed in another jurisdiction but not in this state, the creditor so benefited shall receive dividends from local assets only upon the balance of his the creditor's claim after deducting the amount of such benefit. Creditors who have security claims upon property not exempt from the claims of general creditors, and who have not released or surrendered them, shall have the value of the security determined by converting it to money according to the terms of the security agreement, or by such creditor and the personal representative by agreement, arbitration, compromise or litigation, as the court directs, and the value so determined shall be credited upon the claim, and dividends shall be computed and paid only on the unpaid balance. Such determination shall be under the supervision and control of the court.

SECTION 422. 878.01 (2) of the statutes is amended to read:

878.01 (2) SURETIES. When individuals act as sureties, each must be a resident of this state, and shall give satisfactory evidence as to his or her financial responsibility, and, when required, shall do so before the judge, or some other officer designated by him the judge.

SECTION 423. 878.07 (1) (a) of the statutes is amended to read:

878.07 (1) (a) A creditor when the amount due him the creditor has been ascertained and ordered paid by the court, if the personal representative, special administrator, guardian or trustee neglects to pay the same when demanded;

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SECTION 424. 878.07 (1) (b) of the statutes is amended to read:

878.07 (1) (b) A distributee to recover his the distributee's share of the estate, after the court has declared the amount due to him the distributee, and ordered it paid or delivered if the personal representative, special administrator or trustee fails to pay or deliver the same when demanded; and

SECTION 425. 878.07 (1) (c) of the statutes is amended to read:

878.07 (1) (c) A creditor, distributee, or other person aggrieved by any maladministration, when it appears that the personal representative, special administrator, guardian or trustee has failed to perform his or her duty in any other particular.

SECTION 426. 878.07 (3) of the statutes is amended to read:

878.07 (3) LIMITATION AS TO LIABILITY OF SURETY ON FIDUCIARY'S BOND. An action may not be maintained against the sureties on any bond given by a personal representative, special administrator, guardian or trustee unless it is commenced within 6 years from the time when he or she was discharged.

SECTION 427. 879.03 (3) of the statutes is amended to read:

879.03 (3) DOMICILIARY OF A FOREIGN COUNTRY. If the petition for administration shows, or if it appears, that any person interested is a domiciliary of a foreign country and the address of the person is unknown, the court shall cause the notice of hearing of the petition or of any subsequent proceeding that may then be pending to be given the consul, vice consul or consular agent of the foreign country by mailing a copy of the notice in a sealed envelope, postage prepaid, addressed to the consul, vice consul or consular agent at his or her post-office address, at least 20 days before the hearing. If it is shown to the court that there is no consul, vice consul or consular agent of the foreign country, the court may direct that the notice be so mailed to the attorney general.

SECTION 428. 879.07 (1) of the statutes is amended to read:

879.07 (1) MAIL. Proof of service by mail shall be by the affidavit of the person who mailed the notice showing when and to whom he the person mailed it and how it was addressed.

SECTION 429. 879.11 of the statutes is amended to read:

879.11 Notice requirement satisfied by appearance. An appearance by a person who is not a minor or incompetent is equivalent to timely service of notice upon him the person. An appearance by a guardian of the estate is equivalent to timely service of notice upon him the guardian and upon his the guardian's ward. An appearance by a guardian ad litem is equivalent to timely service of notice upon him the guardian ad litem and

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except at a hearing to prove a will or for administration is equivalent to timely service of notice upon those whom he the guardian ad litem represents. An appearance by an attorney, or an attorney-in-fact, for a person in the military service is equivalent to timely service of notice upon the attorney or attorney-in-fact but does not satisfy a requirement for notice to the person in the military service.

SECTION 430. 879.13 of the statutes is amended to read:

879.13 Delayed service of notice. If for any reason notice to any person, including a minor or incompetent, is insufficient, the court may at any time order service of notice together with documents required under ss. 858.03 and 862.09 and, where required, appoint a guardian ad litem under s. 879.23 and require the person or his the person's guardian ad litem to show cause why he the person should not be bound by the action already taken in the proceedings as though he the person had been timely served with notice. Such person may consent in writing to be bound.

SECTION 431. 879.19 of the statutes is amended to read:

879.19 Attorney, notice to. Except for a person in the military service, as provided in s. 879.09, if a person interested who is not a minor or incompetent has retained an attorney to represent him or her and the attorney has mailed a notice of retainer and request for service to the attorney for the personal representative and filed a copy with the court, any notice which would be given to the person interested shall instead be given to the attorney, and the attorney may waive notice for the person interested under s. 879.09.

SECTION 432. 879.21 of the statutes is amended to read:

879.21 Appearance for person domiciled in foreign country. When notice has been given to the attorney general under s. 879.03 (3) that a person domiciled in a foreign country, not represented by a consul, vice consul or consular agent, is interested in an estate, the attorney general shall appear for the person and be allowed his compensation and necessary expenditures in the same manner as a guardian ad litem.

SECTION 433. 879.23 (1) of the statutes is amended to read:

879.23 (1) VIRTUAL REPRESENTATION. A guardian ad litem shall be appointed for any person interested who is a minor or incompetent and has no guardian of his or her estate, or where the guardian of his the minor's or incompetent's estate fails to appear on his the minor's or incompetent's behalf or where the interest of the minor or incompetent is adverse to that of the guardian of his the minor's or incompetent's estate. A guardian ad litem may be appointed for persons not in being or presently unascertainable. A guardian ad litem shall not be

appointed or appear in the same matter for different persons whose interest are conflicting.

SECTION 434. 879.23 (3) of the statutes is amended to read:

879.23 (3) DURATION OF APPOINTMENT. The guardian ad litem shall continue to act throughout the proceeding in relation to the same estate or matter until proper distribution has been made to or for the benefit of the person he the guardian ad litem represents, unless earlier discharged by the court. A guardian ad litem shall be discharged by the court when it appears that the minority or incompetency has terminated or when it appears that the person he the guardian ad litem represents no longer has an interest in the estate or matter. If a will creates a trust, a guardian ad litem appointed in the administration of the estate has no responsibility in regard to the administration of the testamentary trust unless reappointed for that purpose.

SECTION 435. 879.26 of the statutes is amended to read:

879.26 Waiver of right to certain documents. Any person who is not a minor or incompetent may in writing waive his the person's right to be given (1) a statement that the inventory has been filed under s. 858.03, and (2) a copy of accounts under s. 862.11.

NOTE: Deletes numbers for conformity with current style.

SECTION 436. 879.27 (4) of the statutes is amended to read:

879.27 (4) WHO MAY APPEAL ON BEHALF OF MINOR OR INCOMPETENT. In all cases the appeal on behalf of any minor or incompetent person may be taken and prosecuted by the guardian of his the minor's or incompetent's estate or by a guardian ad litem.

SECTION 437. 879.35 of the statutes is amended to read:

879.35 Costs in will contests. Costs may be awarded out of the estate to an unsuccessful proponent of a will if he the unsuccessful proponent is named as an executor therein and propounded the document in good faith, and to the unsuccessful contestant of a will if he the unsuccessful contestant is named as an executor in another document propounded by him the unsuccessful contestant in good faith as the last will of the decedent.

SECTION 438. 879.37 of the statutes is amended to read:

879.37 Attorney fees in contests. Reasonable attorney fees may be awarded out of the estate to the prevailing party in all appealable contested matters, to an unsuccessful proponent of a will if he the unsuccessful proponent is named as an executor therein and propounded the document in good faith, and to the unsuccessful contestant of a will if he the unsuccessful contestant is named as an executor in another document

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propounded by him the unsuccessful contestant in good faith as the last will of the decedent.

SECTION 439. 879.59 (3) of the statutes is amended to read:

879.59 (3) PARTIES SUBJECT TO GUARDIANSHIP. Where a person subject to guardianship is a necessary party to a compromise under this section he the person shall be represented in the proceedings by his the person's guardian or by a special guardian appointed by the court, who shall in the name and on behalf of the party he the guardian represents make all proper instruments necessary to carry into effect any compromise sanctioned by the court.

SECTION 440. 879.63 of the statutes is amended to read:

879.63 Action by person interested to secure property for estate. Whenever there is reason to believe that the estate of a decedent as set forth in the inventory does not include property which should be included in the estate, and the personal representative has failed to secure the property or to bring an action to secure the property, any person interested may, on behalf of the estate, bring an action in the court in which the estate is being administered to reach the property and make it a part of the estate. If the action is successful, the person interested shall be reimbursed from the estate for the reasonable expenses and attorney's attorney fee incurred by him the person in the action as approved by the court but not in excess of the value of the property secured for the estate.

SECTION 441. 880.01 (4) of the statutes is amended to read:

880.01 (4) "Incompetent" means a person adjudged by a court of record to be substantially incapable of managing his or her property or caring for himself or herself by reason of infirmities of aging, developmental disabilities, or other like incapacities. Physical disability without mental incapacity is not sufficient to establish incompetence.

SECTION 442. 880.01 (5) of the statutes is amended to read:

880.01 (5) "Infirmities of aging" means organic brain damage caused by advanced age or other physical degeneration in connection therewith to the extent that the person so afflicted is substantially impaired in his or her ability to adequately provide for his or her own care or custody.

SECTION 443. 880.01 (6) of the statutes is amended to read:

880.01 (6) "Interested person" means any adult relative or friend of a person to be protected under this subchapter; or any official or representative of a public or private agency, corporation or association concerned with his the welfare of the person who is to be protected.

SECTION 444. 880.01 (8) of the statutes is amended to read:

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880.01 (8) "Other like incapacities" means those conditions incurred at any age which are the result of accident, organic brain damage, mental or physical disability, continued consumption or absorption of substances, producing a condition which substantially impairs an individual from providing for his the individual's own care or custody.

SECTION 445. 880.01 (9) of the statutes is amended to read:

880.01 (9) "Spendthrift" means a person who because of the use of intoxicants or drugs or of gambling, idleness or debauchery or other wasteful course of conduct is unable to attend to business or thereby is likely to affect the health, life or property of himself the person or others so as to endanger the support of himself the person and his the person's dependents or expose the public to such support.

SECTION 446. 880.03 of the statutes is amended to read:

880.03 Persons and estates subject to guardianship. All minors, incompetents and spendthrifts are subject to guardianship. The court may appoint a guardian of the person of anyone subject to guardianship who is also a resident of the county, or of a nonresident found in the county, under extraordinary circumstances requiring medical aid or the prevention of harm to his or her person or property found in the county. The court may appoint a guardian of the estate of anyone subject to guardianship, whether a resident of the state or not, if any of the estate is located within the county. Separate guardians of the person and of the estate of a ward may be appointed.

SECTION 447. 880.04 (1) of the statutes is amended to read:

880.04 (1) EMANCIPATION OF MARRIED MINORS. Except for minors found to be incompetent, upon marriage, a minor shall no longer be a proper subject for guardianship of the person and a guardianship of the person is revoked by the marriage of a minor ward. Upon application, the court may release in whole or in part the estate of a minor ward to him the ward upon his the ward's marriage. Upon marriage, the guardianship of an incompetent is subject to review under s. 880.34.

SECTION 448. 880.04 (2) (d) of the statutes is amended to read:

880.04 (2) (d) Payment to the person having actual or legal custody of the incompetent or to the person providing for his the incompetent's care and maintenance for the benefit of the incompetent.

SECTION 449. 880.07 (1) (b) of the statutes is amended to read:

880.07 (1) (b) The nature of his the proposed ward's incapacity with specification of the incompetency or spendthrift habits.

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SECTION 450. 880.07 (1) (c) of the statutes is amended to read:

880.07 (1) (c) The approximate value of his the proposed ward's property and a general description of its nature.

SECTION 451. 880.07 (1) (e) of the statutes is amended to read:

880.07 (1) (e) Any other claim, income, compensation, pension, insurance or allowance to which he the proposed ward may be entitled.

SECTION 452. 880.08 (3) (a) of the statutes is amended to read:

880.08 (3) (a) To his the proposed ward's spouse;

SECTION 453. 880.09 (4) of the statutes is amended to read:

880.09 (4) GUARDIAN OF THE PERSON NOMINATED BY WILL. Subject to the rights of a surviving parent, a parent may by will nominate a guardian of the person of his or her minor child.

SECTION 454. 880.09 (5) of the statutes is amended to read:

880.09 (5) GUARDIAN OF THE ESTATE NOMINATED BY WILL. A parent may by will nominate a guardian of the estate of his the parent's minor child and may waive the requirement of a bond as to such estate derived through the will.

SECTION 455. 880.09 (6) of the statutes is amended to read:

880.09 (6) TESTAMENTARY GUARDIANSHIP OF CERTAIN PERSONS. Subject to the rights of a surviving parent, a parent may by will nominate a guardian and successor guardian of the person or estate of any of his or her minor children who are in need of guardianship. For a person over the age of 18 found to be in need of guardianship under s. 880.33 by reason of a developmental disability or other like incapacity, a parent may by will nominate a testamentary guardian.

SECTION 456. 880.09 (7) of the statutes is amended to read:

880.09 (7) ANTICIPATORY NOMINATION; PREFERENCE. Any person other than a minor may, at such time as he the person has sufficient capacity to form an intelligent preference, execute a written instrument, in the same manner as the execution of a will under s. 853.03, nominating a person to be appointed as guardian of his or her person or property or both in the event that a guardian is in the future appointed. Such nominee shall be appointed as guardian by the court unless the court finds that the appointment of such nominee is not in the best interests of the person for whom, or for whose property, the guardian is to be appointed.

SECTION 457. 880.10 of the statutes is amended to read:

880.10 Notice of appointment. If for any reason the court fails to appoint as guardian the nominee of the minor, the guardian who qualifies shall give notice of his

the guardian's appointment to the minor by certified mail addressed to his the minor's last-known post-office address and an affidavit of such mailing shall be filed with the court within 10 days after the issuance of letters.

SECTION 458. 880.14 of the statutes is amended to read:

880.14 When letters to be issued. When a guardian has given bond as required and the bond has been approved by the judge, letters under the seal of the court shall be issued to him the guardian.

SECTION 459. 880.16 (1) of the statutes is amended to read:

880.16 (1) NOMINATION BY MINOR. When a minor ward has attained the age of 14 years a guardian of his the minor ward's person, upon notice as required by the court, may be removed on petition of the ward for the purpose of having another person appointed guardian if it is for the best interest of the ward.

SECTION 460. 880.16 (2) of the statutes is amended to read:

880.16 (2) REMOVAL FOR CAUSE. When any guardian fails or neglects to discharge his the guardian's trust the court may remove him the guardian after such notice as the court shall direct to such guardian and all others interested.

SECTION 461. 880.16 (4) of the statutes is amended to read:

880.16 (4) FRAUD AS TO WARD'S ESTATE. Upon complaint made to the circuit court by any guardian or ward, or by any creditor or other person interested in the estate, or by any person having any prospective interest therein, as heir or otherwise, against any person suspected of having concealed, stolen or conveyed away any of the money, goods, effects or instruments in writing belonging to the ward the court may cite and examine such suspected person and proceed with him the person as to such charge in the same manner as is provided with respect to persons suspected of concealing or stealing the effects of a deceased person in s. 879.61.

SECTION 462. 880.17 of the statutes is amended to read:

880.17 Appointment of successor guardian. When a guardian dies, is removed by order of the court, or resigns and such resignation is accepted by the court, the court may appoint another guardian in his or her place in the same manner and subject to the same requirements as are herein provided for an original appointment of a guardian.

SECTION 463. 880.19 (1) of the statutes is amended to read:

880.19 (1) GENERAL DUTIES. The guardian of the estate shall take possession of all of the ward's real and personal property, and of rents, income, issues and benefits therefrom, whether accruing before or after his the guardian's appointment, and of the proceeds arising from the sale, mortgage, lease or exchange thereof. Subject to

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such possession the title of all such estate and to the increment and proceeds thereof shall be in the ward and not in the guardian. It is the duty of the guardian of the estate to protect and preserve it, to retain, sell and invest it as hereinafter provided, to account for it faithfully, to perform all other duties required of him the guardian by law and at the termination of the guardianship to deliver the assets of the ward to the persons entitled thereto.

SECTION 464. 880.19 (4) (a) of the statutes is amended to read:

880.19 (4) (a) The guardian of the estate may, without approval of the court, invest and reinvest the proceeds of sale of any guardianship assets and any other moneys in his the guardian's possession in accordance with ch. 881.

SECTION 465. 880.19 (4) (b) of the statutes is amended to read:

880.19 (4) (b) The guardian of the estate may, with the approval of the court, after such notice as the court directs, invest the proceeds of sale of any guardianship assets and any other moneys in his the guardian's possession in such real or personal property as the court determines to be in the best interests of the guardianship estate, without regard to ch. 881.

SECTION 466. 880.19 (4) (c) of the statutes is amended to read:

880.19 (4) (c) No guardian shall lend guardianship funds to himself or herself.

SECTION 467. 880.19 (5) (b) of the statutes is amended to read:

880.19 (5) (b) The court, on the application of the guardian of the estate or of any other person interested in the estate of any ward, after such notice if any, as the court directs, may authorize or require the guardian to sell, mortgage, pledge, lease or exchange any property of the guardianship estate upon such terms as the court may order, for the purpose of paying the ward's debts, providing for his the ward's care, maintenance and education and the care, maintenance and education of his the ward's dependents, investing the proceeds or for any other purpose which is in the best interest of the ward.

SECTION 468. 880.191 (1) of the statutes is amended to read:

880.191 (1) **VERIFICATION, EXAMINATION IN COURT.** Every guardian shall verify by his the guardian's oath every inventory required of him the guardian and verification shall be to the effect that the inventory is true of all property which belongs to his or her decedent's estate or his or her ward, which has come to his the guardian's possession or knowledge, and that upon diligent inquiry he the guardian has not been able to discover any property belonging to the estate or ward which is not included therein. The court, at the request of any party interested, or on its own motion, may examine him the guardian on oath in relation thereto, or in relation to any supposed omission.

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SECTION 469. 880.21 (1) of the statutes is amended to read:

880.21 (1) **APPLICATION OF PERSONAL PROPERTY AND INCOME.** Every guardian shall apply the personal property or the income therefrom or from the real estate, as far as may be necessary for the suitable education, maintenance and support of the ward and of his the ward's family, if there be any legally dependent upon him the ward for support, and for the care and protection of his the ward's real estate. The parents, brothers and sisters of incompetent veterans of all wars are declared members of his the incompetent veteran's family, and all payments heretofore made pursuant to court order to any dependent member of the family of any such incompetent, as herein defined, are ratified and approved.

SECTION 470. 880.22 (1) of the statutes is amended to read:

880.22 (1) **PAYMENT.** Every general guardian shall pay the just debts of the ward out of the ward's personal estate and the income of his the ward's real estate, if sufficient, and if not, then out of his the ward's real estate upon selling the same as provided by law. But a temporary guardian shall pay the debts of his or her ward only on order of the court.

SECTION 471. 880.24 (1) of the statutes is amended to read:

880.24 (1) **FEES AND EXPENSES OF GUARDIAN.** Every guardian shall be allowed the amount of his the guardian's reasonable expenses incurred in the execution of his the guardian's trust including necessary compensation paid to attorneys, accountants, brokers and other agents and servants. He The guardian shall also have such compensation for his the guardian's services as the court, in which his the guardian's accounts are settled, deems to be just and reasonable.

SECTION 472. 880.25 (3) of the statutes is amended to read:

880.25 (3) **SMALL ESTATES.** When the whole estate of a ward or of several wards jointly, under the same guardianship, does not exceed \$1,000 in value, the guardian shall be required to render account only upon the termination of his the guardian's guardianship, unless otherwise ordered by the court.

SECTION 473. 880.252 of the statutes is amended to read:

880.252 Accounts; failure of guardian to file. If a guardian fails to file his the guardian's account as required by law or ordered by the court, the court may, upon its own motion or upon the petition of any party interested, issue an order to the sheriff ordering the guardian to show cause before the court why he the guardian should not immediately make and file his the guardian's reports or accounts. If a guardian fails, neglects or refuses to make and file any report or account after having been cited by the court so to do, or if he the

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guardian fails to appear in court as directed by a citation issued under direction and by authority of the court, the court may, upon its own motion or upon the petition of any interested party, issue a warrant directed to the sheriff ordering that the guardian be brought before the court to show cause why he the guardian should not be punished for contempt. If the court finds that the failure, refusal or neglect is wilful or inexcusable, the guardian may be fined not to exceed \$50 or imprisoned not to exceed 10 days or both.

SECTION 474. 880.26 (1) (a) of the statutes is amended to read:

880.26 (1) (a) When a minor ward attains his or her majority, unless the minor is incompetent.

SECTION 475. 880.26 (2) (a) of the statutes is amended to read:

880.26 (2) (a) When a minor ward attains his or her majority.

SECTION 476. 880.26 (2) (c) of the statutes is amended to read:

880.26 (2) (c) When the court adjudicates a former incompetent or a spendthrift to be capable of handling his or her property.

SECTION 477. 880.27 of the statutes is amended to read:

880.27 Settlement of accounts. Upon termination of a guardianship, or upon resignation, removal or death of a guardian, such guardian or his the guardian's personal representative shall forthwith render his the guardian's final account to the court and to the former ward, the successor guardian or the deceased ward's personal representative as the case may be. Upon approval of the account and filing proper receipts the guardian shall be discharged and his the guardian's bond released.

SECTION 478. 880.295 (2) of the statutes is amended to read:

880.295 (2) Any guardian heretofore or hereafter appointed for any such inmate, who, having property of his or her ward in his or her possession or control exceeding \$200 in value, fails to pay within 3 months after receipt of any bill thereof for the ward's care and support from the department of health and social services or the agency established pursuant to s. 46.21, shall, upon application of the collection and deportation counsel of said department or in counties having a population of 500,000 or more, the district attorney, forthwith be removed.

SECTION 479. 880.31 (2) of the statutes is amended to read:

880.31 (2) At the time of such hearing the applicant shall be personally examined and if the court is satisfied that the applicant desires a conservator and that the fiduciary nominated is suitable, the court may appoint him the nominee as such conservator and issue letters of conservatorship to him the nominee upon the filing of a bond in the amount fixed by the court.

SECTION 480. 880.31 (5) of the statutes is amended to read:

880.31 (5) If the court shall upon such hearing determine that the person whose estate is administered by a conservator may be incapable of handling his or her estate, the court shall order the conservatorship continued, or if the applicant so desires and the nominee is suitable, the court may appoint a successor conservator.

SECTION 481. 880.34 (3) of the statutes is amended to read:

880.34 (3) A ward of the age of 18 or over, any interested person on his the ward's behalf, or his the ward's guardian may petition the court which made such appointment or the court in his the ward's county of residence to have the guardian discharged and a new guardian appointed, or to have the guardian of his the ward's property designated as a limited guardian.

SECTION 482. 880.34 (4) of the statutes is amended to read:

880.34 (4) A ward who is 18 years of age or older, any interested person acting on his the ward's behalf, or his the ward's guardian may petition for a review of incompetency. Upon such a petition for review, the court shall conduct a hearing at which the ward shall be present and shall have the right to a jury trial, if demanded. The ward shall also have the right to counsel and the court shall appoint counsel if he the ward is unable to obtain counsel. If the ward is indigent, counsel shall be provided at the expense of his the ward's county of legal settlement.

SECTION 483. 880.36 (3) of the statutes is amended to read:

880.36 (3) A standby guardianship of a minor is not applicable so long as a person has living one of his natural or adoptive parents parent who is willing and capable of exercising legal guardianship. Upon the death of the surviving parent, or upon a determination that the parents or surviving parent are incapable of exercising legal guardianship of the person, the standby guardian of the person or property or both shall automatically assume the duties of guardian, subject only to confirmation by the court within 60 days following assumption of his the standby guardian's duties of office.

SECTION 484. 880.37 (3) (a) of the statutes is amended to read:

880.37 (3) (a) Receive and expend any and all wages or other earnings from his the person's employment; and

SECTION 485. 880.37 (3) (b) of the statutes is amended to read:

880.37 (3) (b) Contract and legally bind himself or herself for any sum of money not exceeding \$300 or one month's wages or earnings, whichever is greater.

SECTION 486. 880.60 (1) (a) of the statutes is amended to read:

880.60 (1) (a) "Administrator" means the administrator of veterans' affairs of the United States or his the administrator's successor.

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SECTION 487. 880.60 (9) (a) of the statutes is amended to read:

880.60 (9) (a) Upon the appointment of a guardian, he the guardian shall execute and file a bond to be approved by the court in an amount not less than the estimated value of the personal estate and anticipated income of the ward during the ensuing year. The bond shall be in the form and be conditioned as required of guardians appointed under the general guardianship law. The court may from time to time require the guardian to file an additional bond.

SECTION 488. 880.60 (9) (b) of the statutes is amended to read:

880.60 (9) (b) Where a bond is tendered by a guardian with personal sureties, there shall be at least 2 such sureties and they shall file with the court a certificate under oath which shall describe the property owned, both real and personal, and shall state that each is worth the sum named in the bond as the penalty thereof over and above all his the surety's debts and liabilities and the aggregate of other bonds on which he the surety is principal or surety and exclusive of property exempt from execution. The court may require additional security or may require a corporate surety bond, the premium thereon to be paid from the ward's estate.

SECTION 489. 880.60 (10) (a) of the statutes is amended to read:

880.60 (10) (a) Every guardian shall file his or her accounts as required by this chapter and shall be excused from filing accounts in the case as provided by s. 880.25 (3).

SECTION 490. 880.60 (10) (b) of the statutes is amended to read:

880.60 (10) (b) The guardian, at the time of filing any account, shall exhibit all securities or investments held by him the guardian to an officer of the bank or other depository wherein said securities or investments are held for safekeeping or to an authorized representative of the corporation which is surety on his the guardian's bond, or to the judge or clerk of a court of record, or, upon request of the guardian or other interested party, to any other reputable person designated by the court, who shall certify in writing that he or she has examined the securities or investments and identified them with those described in the account, and shall note any omissions or discrepancies. If the depository is the guardian, the certifying officer shall not be the officer verifying the account. The guardian may exhibit the securities or investments to the judge of the court, who shall indorse on the account and copy thereof a certificate that the securities or investments shown therein as held by the guardian were each in fact exhibited to him the judge and that those exhibited to him the judge were the same as those shown in the account, and noting any omission or discrepancy. That certificate and the certificate of an official of the bank in which are deposited any funds for which the guardian is

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accountable, showing the amount on deposit, shall be prepared and signed in duplicate and one of each be filed by the guardian with his the guardian's account.

SECTION 491. 880.60 (15) (b) of the statutes is amended to read:

880.60 (15) (b) Before authorizing such investment the court shall require written evidence of value and of title and of the advisability of acquiring such real estate. Title shall be taken in the ward's name. This subsection does not limit the right of the guardian on behalf of his the guardian's ward to bid and to become the purchaser of real estate at a sale thereof pursuant to decree of foreclosure of lien held by the ward, or at a trustee's sale, to protect the ward's right in the property so foreclosed or sold; nor does it limit the right of the guardian, if such be necessary to protect the ward's interest and upon prior order of the court in which the guardianship is pending, to agree with cotenants of the ward for a partition in kind, or to purchase from cotenants the entire undivided interests held by them, or to bid and purchase the same at a sale under a partition decree, or to compromise adverse claims of title to the ward's realty.

SECTION 492. 880.75 (2) of the statutes is amended to read:

880.75 (2) **SECURITY TRANSACTIONS INVOLVING MINORS; LIABILITY.** A bank, broker, issuer, third-party or transfer agent incurs no liability by reason of his or her treating a minor as having capacity to transfer a security, to receive or to empower others to receive dividends, interest, principal, or other payments or distributions, to vote or give consent in person or by proxy, or to make elections or exercise rights relating to the security, unless prior to acting in the transaction the bank, broker, issuer, third-party or transfer agent had received written notice in the office acting in the transaction that the specific security is held by a minor or unless an individual conducting the transaction for the bank, broker, issuer, third-party or transfer agent had actual knowledge of the minority of the holder of the security. Except as otherwise provided in this section, such a bank, broker, issuer, third-party or transfer agent may assume without inquiry that the holder of a security is not a minor.

SECTION 493. 880.76 (2) of the statutes is amended to read:

880.76 (2) **SECURITY TRANSACTIONS INVOLVING INCOMPETENT OR SPENDTHRIFT; LIABILITY.** A bank, broker, issuer, third-party or transfer agent incurs no liability by reason of his or her treating an incompetent or spendthrift as having capacity to transfer a security, to receive or to empower others to receive dividends, interest, principal, or other payments or distributions, to vote or give consent in person or by proxy, or to make elections or exercise rights relating to the security, unless prior to acting in the transaction the bank, broker, issuer, third-party or transfer agent had received written notice in the office acting in the transaction that the specific security is held by a

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person who has been adjudicated an incompetent or a spendthrift or unless an individual conducting the transaction for the bank, broker, issuer, third-party or transfer agent had actual knowledge that the holder of the security is a person who has been adjudicated an incompetent or a spendthrift, or actual knowledge of filing of lis pendens as provided in s. 880.215. Except as otherwise provided in this section, such a bank, broker, issuer, third-party or transfer agent may assume without inquiry that the holder of a security is not an incompetent or spendthrift.

SECTION 494. 885.01 (2) of the statutes is amended to read:

885.01 (2) By the attorney general or any district attorney or person acting in his or her stead, to require the attendance of witnesses, in behalf of the state, in any court or before any magistrate and from any part of the state.

SECTION 495. 885.03 of the statutes is amended to read:

885.03 Service of subpoena. Any subpoena may be served by any person by exhibiting and reading it to the witness, or by giving him the witness a copy thereof, or by leaving such copy at his the witness's abode.

SECTION 496. 885.07 of the statutes is amended to read:

885.07 State witnesses in civil actions and municipal witnesses in forfeiture actions, how paid. Every witness on behalf of the state in any civil action or proceeding may file with the clerk of the court where the same is pending his the witness's affidavit of attendance and travel, and his the witness's fees shall, upon the certificate of such clerk, countersigned by the attorney general, district attorney, or acting state's attorney, be paid out of the state treasury, and shall be charged to the legal expense appropriation to the attorney general. In forfeiture actions by municipalities the clerk shall tax witness fees; however witness fees for police officers of any such municipality when collected shall be paid by the clerk to the treasurer of the municipality.

SECTION 497. 885.08 of the statutes is amended to read:

885.08 State witnesses in criminal cases, how paid. The fees of witnesses on the part of the state in every criminal action or proceeding, and of every person who is committed to jail in default of security for his the person's appearance as a witness, shall be paid by the county in which the action or proceeding is had. The clerk of the court upon proof of his the witness's or committed person's attendance, travel or confinement shall give each such witness or person a certificate of the number of days' attendance or confinement, the number of miles traveled, and the amount of compensation due him the witness or committed person, which certificate shall be received for by such witness or person, and the county treasurer shall pay the amount thereof on surrender of the certificate.

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SECTION 498. 885.11 (1) of the statutes is amended to read:

885.11 (1) **DAMAGES RECOVERABLE.** If any person obliged to attend as a witness shall fail to do so without any reasonable excuse, he the person shall be liable to the aggrieved party for all damages occasioned by such failure, to be recovered in an action.

SECTION 499. 885.11 (4) of the statutes is amended to read:

885.11 (4) **SAME.** Unexcused failure to attend a court not of record shall be a contempt, and the witness shall be fined all the costs of his the witness's apprehension, unless he the witness shall show reasonable cause for his or her failure; in which case the party procuring him the witness to be apprehended shall pay said costs.

SECTION 500. 885.11 (5) of the statutes is amended to read:

885.11 (5) **STRIKING OUT PLEADING.** If any party to an action or proceeding shall unlawfully refuse or neglect to appear or testify or depose therein (, either within or without the state), the court may, also, strike out his the party's pleading, and give judgment against him the party as upon default or failure of proof.

SECTION 501. 885.12 of the statutes is amended to read:

885.12 Coercing witnesses before officers and boards. If any person, without reasonable excuse, fails to attend as a witness, or to testify as lawfully required before any arbitrator, coroner, medical examiner, board, commission, commissioner, examiner, committee, or other officer or person authorized to take testimony, or to produce a book or paper which he the person was lawfully directed to bring, or to subscribe his the person's deposition when correctly reduced to writing, any judge of a court of record or court commissioner in the county where the person was obliged to attend may, upon sworn proof of the facts, issue an attachment for him the person, and unless he the person shall purge the contempt and go and testify or do such other act as required by law, may commit him the person to close confinement in the county jail until he the person shall so testify or do such act, or be discharged according to law. The sheriff of the county shall execute the commitment.

SECTION 502. 885.16 of the statutes is amended to read:

885.16 Transactions with deceased or insane persons. No party or person in his the party's or person's own behalf or interest, and no person from, through or under whom a party derives his the party's interest or title, shall be examined as a witness in respect to any transaction or communication by him the party or person personally with a deceased or insane person in any civil action or proceeding, in which the opposite party derives his or her title or sustains his or her liability to the cause of action from, through or under such deceased or insane person, or in any action or proceeding in which such

insane person is a party prosecuting or defending by guardian, unless such opposite party shall first, in his or her own behalf, introduce testimony of himself or herself or some other person concerning such transaction or communication, and then only in respect to such transaction or communication of which testimony is so given or in respect to matters to which such testimony relates. And no stockholder, officer or trustee of a corporation in its behalf or interest, and no stockholder, officer or trustee of a corporation from, through or under whom a party derives his or its the party's interest or title, shall be so examined, except as aforesaid.

SECTION 503. 885.17 of the statutes is amended to read:

885.17 Transactions with deceased agent. No party, and no person from, through or under whom a party derives his the party's interest or title, shall be examined as a witness in respect to any transaction or communication by him the party or person personally with an agent of the adverse party or an agent of the person from, through or under whom such adverse party derives his or her interest or title, when such agent is dead or insane, or otherwise legally incompetent as a witness unless the opposite party shall first be examined or examine some other witness in his or her behalf in respect to some transaction or communication between such agent and such other party or person; or unless the testimony of such agent, at any time taken, be first read or given in evidence by the opposite party; and then, in either case respectively, only in respect to such transaction or communication of which testimony is so given or to the matters to which such testimony relates.

SECTION 504. 885.205 (2) of the statutes is amended to read:

885.205 (2) This prohibition does not include communications which such dean needs to divulge for his the dean's own protection, or the protection of those with whom he the dean deals, or which were made to him the dean for the express purpose of being communicated to another, or of being made public.

SECTION 505. 887.01 (3) of the statutes is amended to read:

887.01 (3) OFFICER IN ARMED FORCES. In every instance where an officer in the armed forces is authorized by s. 706.07 (5) to take an acknowledgment, he the officer may administer an oath.

SECTION 506. 887.02 (2) of the statutes is amended to read:

887.02 (2) No fee shall be charged by any officer for administering or certifying any official oath, or any oath to any person relative to his the person's right to be registered or to vote.

SECTION 507. 887.24 of the statutes is amended to read:

887.24 Deposition; for use in other states. Any witness may be subpoenaed and compelled to attend and

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give his the witness's deposition before any person authorized to take depositions in this state, or before any commissioner appointed under the authority of any other state, territory or country, or any court thereof, in any action, cause or proceeding pending in such other state, territory or country; provided, its laws contain provisions similar to this section, requiring persons within its borders to give their testimony by deposition in actions pending in Wisconsin.

SECTION 508. 887.25 (1) of the statutes is amended to read:

887.25 (1) Upon presentation to any judge of a court of record in Wisconsin of the certificate of the judge or the clerk of any foreign court of record, under seal, stating that any person being or residing in Wisconsin is believed to be a necessary witness in any civil action pending in that court, such the judge (, if satisfied by such proof as he the judge shall require that the testimony of such the witness is necessary to the trial of such the action), shall issue and attach to such the certificate a subpoena commanding such the witness to appear in the court where such the action is pending, at the time and place stated therein, or show cause, before such the judge, at a time and place fixed in such the subpoena, why he the witness should not appear as therein commanded. Such The judge may refuse to issue a subpoena or may vacate the subpoena after it is issued, if it appear that compliance will cause undue hardship to the witness.

NOTE: Replaces "such" for improved readability and conformity with current style.

SECTION 509. 887.26 (5) (a) of the statutes is amended to read:

887.26 (5) (a) The party desiring a commission shall prepare interrogatories and state in the caption thereof the name of the commissioner proposed by him the party, the name of the witness and the residence of each with particularity, and shall serve a copy thereof on the opposite party, with a notice that, at the expiration of 10 days from the date of such service, a commission will be issued to take the deposition of the witness, specifying the reason for taking the same. Within such time the opposite party may file with the clerk and serve upon the other his or her objections, to the interrogatories proposed and to the competency of the witness and to the issuance of the commission and serve his or her cross-interrogatories; and state the name and residence of any person whom he the opposite party desires to act as an additional commissioner, who must reside in the county in which the commissioner first named resides.

SECTION 510. 887.26 (5) (b) of the statutes is amended to read:

887.26 (5) (b) At the expiration of the time limited, the moving party may file the notice and interrogatories, with proof of service thereof and his the moving party's objections to the cross-interrogatories. He The moving party may also serve redirect interrogatories on the oppo-

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site party, who may, within 3 days after such service, file objections to such redirect interrogatories. Thereupon the commission shall be issued, with the interrogatories, direct, cross and redirect, and all objections, and transmitted to the commissioner first named by mail or express at the expense of the moving party. But when any defendant shall not have appeared and the time for him the defendant to plead has expired, no notice is required to be given such defendant, and the commission may issue on filing the direct interrogatories. No commission shall issue if the residences are not given as required.

SECTION 511. 887.26 (6) (b) of the statutes is amended to read:

887.26 (6) (b) One of the commissioners shall publicly administer an oath or affirmation to each witness that the answers which he the witness shall make to each of the interrogatories propounded to him the witness shall be the truth, the whole truth, and nothing but the truth. His The witness's answers to each interrogatory shall be reduced to writing. Each witness shall subscribe his the witness's name at the end of his the witness's answer and the commissioners shall subscribe their names at the foot of each page of the testimony. If any exhibit is produced and proved or referred to in the answer of any witness, it shall be marked as an exhibit, either by letter or number, by a commissioner, and referred to in the testimony of the witness, and annexed to and returned with the deposition. If the paper be a record or other document not in the control of either party, it shall be sufficient to annex a copy, stated by the witness in his the witness's answers to be a true copy thereof. The commissioners shall certify in their return that each witness, before giving his the witness's evidence, was duly sworn or affirmed, and shall state the time when the testimony was taken.

SECTION 512. 887.26 (6) (d) of the statutes is amended to read:

887.26 (6) (d) Upon the receipt of such package, the clerk shall indorse the time and manner in which he the clerk received the same, and open it and file the contents thereof and give notice of the receipt of the same to the attorneys for the respective parties.

SECTION 513. 887.26 (8) of the statutes is amended to read:

887.26 (8) TRANSLATIONS. When the witness is unable to speak the English language, the judge of the court from which the commission issues may appoint some competent and disinterested person to translate the commission, rules, interrogatories and cross-interrogatories, or such part thereof as may be necessary, from the English into the language spoken by the witness; and such translation shall be sent to the commissioner in place of the original papers that have been translated. Upon the return of the commission and deposition, such judge shall in like manner cause the answers of the witness and the exhibits to be translated into English, as well as all other

proceedings in a foreign language, and such translation to be filed. The translator shall append to all translations his the translator's affidavit that he the translator knows the English and such foreign language, and that in making such translation he the translator carefully and truly translated such proceedings from the English into such foreign language or from the latter into English, and that such translation is correct. Such translation shall have the same effect as if all the proceedings were in English, but the trial court, upon the deposition being offered in evidence, may admit the testimony of witnesses learned in such foreign language for the purpose of correcting errors therein; and, if it shall appear that the first translation was in any respect so incorrect as to mislead the witness, the court may, in discretion, continue the cause for the further taking of testimony.

SECTION 514. 889.08 (1) of the statutes is amended to read:

889.08 (1) Whenever a certified copy is allowed by law to be evidence, such the copy shall be certified by the legal custodian of the original to have been compared by him the custodian with the original, and to be a true copy thereof or a correct transcript therefrom, or to be a photograph of the original; such. The certificate must be under his the custodian's official seal or under the seal of the court, public body or board, whose custodian he the custodian is, when he or it the custodian, court, body or board is required to have or keep such seal.

NOTE: Replaces "such" for improved readability and conformity with current style.

SECTION 515. 889.08 (2) of the statutes is amended to read:

889.08 (2) The executive officer, secretary or chief clerk of any state agency, and in agencies headed by one person, the head of the agency or his or her deputy, are, for the purposes of this section and s. 889.09, the legal custodians of the files and records of their agencies. In agencies having divisions, the heads of divisions are also legal custodians of the files and records of their divisions. "State agency" as used herein means the legislature, any officer, board, commission, department or bureau of the state government and the state historical society.

SECTION 516. 889.09 (1) of the statutes is amended to read:

889.09 (1) Whenever any officer to whom the legal custody of any document belongs, shall certify (under his or her official seal, if he or she shall have any), that he the officer has made diligent examination in his or her office for such the document, and that it cannot be found or that the same document had not been filed or recorded in his or her office, such the certificate shall be presumptive evidence of the fact so certified.

NOTE: Replaces "such" and "same" for improved readability and conformity with current style.

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SECTION 517. 889.09 (2) of the statutes is amended to read:

889.09 (2) The certificate of the legal custodian of the records of any public licensing officer, board or body that he the custodian has made diligent examination of the files and records of his the custodian's office and that he the custodian can find no record of a license issued to a named person or that none has been issued to such person, specifying the kind of license in question, shall be evidence that none has been issued.

SECTION 518. 889.10 of the statutes is amended to read:

889.10 Official certificates, etc. When a public officer is required or authorized by law to make a certificate or affidavit touching an act performed by him the officer or to a fact ascertained by him the officer in the course of his the officer's official duty and to file or deposit it in a public office such certificate or affidavit when so filed or deposited shall be received as presumptive evidence of the facts therein stated unless its effect is declared by some special provision of law.

SECTION 519. 889.11 of the statutes is amended to read:

889.11 Reporter's transcript as evidence. Any writing certified by the official reporter of any court to have been carefully compared by him the reporter with his the reporter's minutes of testimony and proceedings taken on any trial or hearing in such court, and to be a true and correct transcript of all or a specified portion of such minutes, and to be a correct statement of the evidence and proceedings had on such trial or hearing, shall be received in evidence with the same effect as the oral testimony of such reporter to the facts so certified.

SECTION 520. 889.24 of the statutes is amended to read:

889.24 Conveyance, how proved. When any grantor shall die or depart from or reside out of this state, not having acknowledged his the grantor's conveyance, the due execution thereof may be proved by any competent subscribing witness thereto before any court of record; if all the subscribing witnesses to such deed shall be dead or out of this state the same may be proved before any such court by proving the handwriting of the grantor and of any subscribing witness thereto.

SECTION 521. 889.242 of the statutes is amended to read:

889.242 How, when witnesses dead. If any grantor residing in this state refuses to acknowledge his the grantor's conveyance and all the subscribing witnesses thereto are dead or out of the state, it may be proved before any court of record by proving the handwriting of the grantor or of any subscribing witness, upon the court first summoning the grantor to hear the testimony as provided in s. 889.241.

SECTION 522. 891.09 (2) of the statutes is amended to read:

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891.09 (2) CHURCH AND DOCTOR'S RECORDS. Any church, parish or baptismal record, and any record of a physician or a person authorized to solemnize marriages, in which record are preserved the facts relating to any birth, stillbirth, fetal death, marriage or death, including the names of the persons, dates, places and other material facts, may be admitted as *prima facie* evidence of any fact aforesaid. But such record must be produced by its proper custodian and be supported by his the custodian's oath that it is such a record as it purports to be and is genuine to the best of his the custodian's knowledge and belief.

SECTION 523. 891.12 of the statutes is amended to read:

891.12 Land office receipt. The receiver's receipt or certificate of purchase of public lands, signed by the receiver, and the official certificate of any register or receiver of the entry or purchase of any land or the location of any land by any land warrant shall be received, when held by the original claimant, his or the original claimant's heirs or assigns, as presumptive evidence that the title to the lands therein described passed to and is vested in the person therein named, his or the named person's heirs or assigns, except when, at the time of such entry or purchase, the land was owned or occupied by any person as mineral ground on which discoveries of mineral ores had been made.

SECTION 524. 891.16 of the statutes is amended to read:

891.16 Certificate of land transfers. A certificate by the secretary of state, under the great (or lesser) seal, to any facts which appear from the books, files and records in his the secretary of state's office or the office of the commissioners of public lands in regard to the grant, conveyance or transfer of any land by the United States to the territory or state of Wisconsin, and also in regard to the sale, conveyance or transfer of any such land by said territory or state shall be received as presumptive evidence of the facts so certified.

SECTION 525. 891.17 of the statutes is amended to read:

891.17 Certificate of adjutant general. A certificate by the adjutant general to any facts which appear from the books, files and records in his the adjutant general's office shall be received as presumptive evidence of the facts so certified.

SECTION 526. 891.33 of the statutes is amended to read:

891.33 Proof of malice in slander and libel. If the defendant in any action for slander or libel shall set up in his the defendant's answer that the words spoken or published were true, such answer shall not be proof of the malice alleged in the complaint.

SECTION 527. 891.35 of the statutes is amended to read:

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891.35 Execution of official bond. In every action upon any official bond the original bond or a certified copy thereof shall be presumptive evidence of the due execution thereof by the officer and his the officer's sureties.

SECTION 528. 891.38 of the statutes is amended to read:

891.38 Officer's certificate as evidence. The certificate of the sheriff or other proper officer indorsed upon the summons, stating the time when he or she received the same for service, shall be presumptive evidence that he or she did receive the summons for service on the day in such certificate named.

SECTION 529. 891.39 (1) (b) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

891.39 (1) (b) In actions affecting the family, in which the question of paternity is raised, and in paternity proceedings, the court, upon being satisfied that the parties to the action are unable to adequately compensate any such guardian ad litem for his the guardian ad litem's services and expenses, shall then make an order specifying the guardian's compensation and expenses, which compensation and expenses shall be paid as provided in s. 967.06. If the court orders a county to pay the compensation of the guardian ad litem, the amount ordered may not exceed the compensation paid to private attorneys under s. 977.08 (4m).

SECTION 530. 895.031 of the statutes is amended to read:

895.031 Recovery from estate of wrongdoer. Whenever the death of a person shall be caused by a wrongful act, neglect or default and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then in every such case, the wrongdoer who would have been liable if death had not ensued, although such wrongdoer shall die prior to the time of death of such injured person, shall be liable to an action for damages notwithstanding his the wrongdoer's prior death and notwithstanding the death of the person injured; provided that such action shall be brought for a death caused in this state. Any right of action which may accrue by such injury to the person of another although the death of the wrongdoer occurred prior thereto shall be enforced by bringing an action against the executor or administrator or personal representative of such deceased wrongdoer.

SECTION 531. 895.045 of the statutes is amended to read:

895.045 Contributory negligence. Contributory negligence shall not bar recovery in an action by any person or his the person's legal representative to recover damages for negligence resulting in death or in injury to person or property, if such negligence was not greater than the negligence of the person against whom recovery is sought, but any damages allowed shall be diminished

in the proportion to the amount of negligence attributable to the person recovering.

SECTION 532. 895.05 (1) of the statutes is amended to read:

895.05 (1) The proprietor, publisher, editor, writer or reporter upon any newspaper published in this state shall not be liable in any civil action for libel for the publication in such newspaper of a true and fair report of any judicial, legislative or other public official proceeding authorized by law or of any public statement, speech, argument or debate in the course of such proceeding. This section shall not be construed to exempt any such proprietor, publisher, editor, writer or reporter from liability for any libelous matter contained in any headline or headings to any such report, or to libelous remarks or comments added or interpolated in any such report or made and published concerning the same, which remarks or comments were not uttered by the person libeled or spoken concerning him the person libeled in the course of such proceeding by some other person.

SECTION 533. 895.05 (2) of the statutes is amended to read:

895.05 (2) Before any civil action shall be commenced on account of any libelous publication in any newspaper, magazine or periodical, the libeled person shall first give those alleged to be responsible or liable for the publication a reasonable opportunity to correct the libelous matter. Such opportunity shall be given by notice in writing specifying the article and the statements therein which are claimed to be false and defamatory and a statement of what are claimed to be the true facts. The notice may also state the sources, if any, from which the true facts may be ascertained with definiteness and certainty. The first issue published after the expiration of one week from the receipt of such notice shall be within a reasonable time for correction. To the extent that the true facts are, with reasonable diligence, ascertainable with definiteness and certainty, only a retraction shall constitute a correction; otherwise the publication of the libeled person's statement of the true facts, or so much thereof as shall not be libelous of another, scurrilous, or otherwise improper for publication, published as his the libeled person's statement, shall constitute a correction within the meaning of this section. A correction, timely published, without comment, in a position and type as prominent as the alleged libel, shall constitute a defense against the recovery of any damages except actual damages, as well as being competent and material in mitigation of actual damages to the extent the correction published does so mitigate them.

SECTION 534. 895.056 of the statutes, as affected by 1993 Wisconsin Act 174, is amended to read:

895.056 Recovery of money wagered. Any person who, by playing at any game or by betting or wagering on any game, election, horse or other race, ball playing, cock fighting, fight, sport or pastime or on the issue or event

thereof, or on any future contingent or unknown occurrence or result in respect to anything whatever, shall have put up, staked or deposited with any stakeholder or 3rd person any money, property or thing in action, or shall have lost and delivered the same to any winner thereof may, within 3 months after such putting up, staking or depositing, sue for and recover the same from such stakeholder or 3rd person whether such money, property or thing in action has been lost or won or whether it has been delivered over by such stakeholder or 3rd person to the winner or not, and may, within 6 months after any such delivery by such person or stakeholder, sue for and recover such money, property or thing in action from the winner thereof if the same has been delivered over to such winner; and if ~~he the betting or wagering person~~ shall not so sue for and recover such money, property or thing in action within the time above limited then any other person may, in ~~his the person's~~ behalf and in ~~his the person's~~ name, sue for and recover the same for the use and benefit of ~~his the person's~~ family or ~~his the person's~~ heirs, in case of ~~his the person's~~ death, from such stakeholder or 3rd person if the same is still held by ~~him the person~~, within 6 months after such putting up, staking or depositing, or from the winner thereof within one year from the delivery thereof to such winner. This section does not apply to any money, property or thing in action that is permitted to be played, bet or wagered under chs. 561 to 569 or under state or federal laws relating to the conduct of gaming on Indian lands.

SECTION 535. 895.057 of the statutes is amended to read:

895.057 Action against judicial officer for loss caused by misconduct. Any judicial officer who causes to be brought in a court over which ~~he the judicial officer~~ presides any action or proceeding upon a claim placed in ~~his the judicial officer's~~ hands as agent or attorney for collection shall be liable in a civil action to the person against whom such action or proceeding was brought for the full amount of damages and costs recovered on such claim.

SECTION 536. 895.06 of the statutes is amended to read:

895.06 Recovery of divisible personality. When personal property is divisible and owned by tenants in common and one tenant in common shall claim and hold possession of more than ~~his the tenant's~~ share or proportion thereof ~~his or her~~ cotenant, after making a demand in writing, may sue for and recover ~~his the cotenant's~~ share or the value thereof; ~~and the~~. The court may direct the jury, if necessary, in any such action to find what specific articles or what share or interest belongs to the respective parties, and the court shall enter up judgment in form for one or both of the parties against the other, according to ~~such the~~ verdict.

SECTION 537. 895.345 (2) (intro.) of the statutes is amended to read:

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895.345 (2) (intro.) Before any such bond or undertaking shall be approved, there shall be attached thereto and made a part of such bond or undertaking a statement under oath in duplicate by the surety that ~~he the surety~~ is the sole owner of the property offered by ~~him the surety~~ as security and containing the following additional information:

SECTION 538. 895.345 (2) (b) of the statutes is amended to read:

895.345 (2) (b) That ~~he the surety~~ is a resident of this state.

SECTION 539. 895.35 of the statutes, as affected by 1993 Wisconsin Act 399, is amended to read:

895.35 Expenses in actions against municipal and other officers. Whenever in any city, town, village, school district, technical college district or county charges of any kind are filed or an action is brought against any officer thereof in ~~his the officer's~~ official capacity, or to subject any such officer, whether or not ~~he the officer~~ is being compensated on a salary basis, to a personal liability growing out of the performance of official duties, and such charges or such action is discontinued or dismissed or such matter is determined favorably to such officer, or such officer is reinstated, or in case such officer, without fault on ~~his the officer's~~ part, is subjected to a personal liability as aforesaid, such city, town, village, school district, technical college district or county may pay all reasonable expenses which such officer necessarily expended by reason thereof. Such expenses may likewise be paid, even though decided adversely to such officer, where it appears from the certificate of the trial judge that the action involved the constitutionality of a statute, not theretofore construed, relating to the performance of the official duties of said officer.

SECTION 540. 895.37 (1) (intro.) of the statutes is amended to read:

895.37 (1) (intro.) In any action to recover damages for a personal injury sustained within this state by an employe while engaged in the line of ~~his the employe's~~ duty as ~~such an employe~~, or for death resulting from personal injury so sustained, in which recovery is sought upon the ground of want of ordinary care of the employer, or of any officer, agent, or servant of the employer, it shall not be a defense:

NOTE: Replaces "such" for clarity and conformity with current style.

SECTION 541. 895.38 (3) of the statutes is amended to read:

895.38 (3) If at the time appointed the principal shall fail to file a new bond satisfactory to the court or judge, an order shall be made requiring the principal to file a new bond within 5 days. When such new bond shall be filed, the court or judge shall make an order requiring the principal to account for all ~~his of the principal's~~ acts to and including the date of the order, and to file such account within a time fixed not exceeding 20 days; and

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shall discharge the surety making such application from liability for any act or default of the principal subsequent to the date of such order.

SECTION 542. 895.38 (4) of the statutes is amended to read:

895.38 (4) If the principal shall fail to file a new bond within the time specified, an order shall be made removing him the principal from office, and requiring him the principal to file his the principal's account within 20 days. If he the principal shall fail to file his the principal's account as required, the surety may make and file such account; and upon settlement thereof and upon the trust fund or estate being found or made good and paid over or properly secured, credit shall be given for all commissions, costs, disbursements and allowances to which the principal would be entitled were he the principal accounting.

SECTION 543. 895.38 (6) of the statutes is amended to read:

895.38 (6) Any such fiduciary may institute and conduct proceedings for the discharge of his the fiduciary's surety and for the filing of a new bond; and the procedure shall in all respects conform substantially to the practice prescribed by this section in cases where the proceeding is instituted by a surety, and with like effect.

SECTION 544. 895.41 (3) of the statutes is amended to read:

895.41 (3) In case of the death of such employe before such cash bond is withdrawn in the manner provided in sub. (1) such accounting and withdrawal may be effected not less than 5 days after such death and before the filing of a petition for letters testamentary or of administration in the matter of the decedent's estate, by the employer with the decedent's surviving spouse; and if there be no surviving spouse with his the decedent's children; and if he the decedent shall leave no children, his the decedent's father or mother; and if he the decedent shall leave no father or mother, his the decedent's brother or sister, in the same manner and with like effect as if such accounting and withdrawal were accomplished by and between the employer and employe as provided in sub. (1). The amount of such cash bond, together with principal and interest, to which the deceased employe would have been entitled had he the decedent lived, shall, as soon as paid out by the depository, be turned over to such relative of the deceased employe effecting such accounting and withdrawal with the employer, and such turning over shall be a discharge and release of the employer to the amount of such payment. If no such relatives survive, the employer may apply such cash bond, or so much thereof as may be necessary, to paying creditors of the decedent in the order of preference prescribed in s. 859.25 for satisfaction of debts by executors and administrators and the making of payment in such manner shall be a discharge and release of the employer to the amount of such payment.

SECTION 545. 895.42 (1) of the statutes is amended to read:

895.42 (1) In case in any proceeding in any court of record it is (a) determined that moneys or other personal property in the custody of or under the control of any administrator, executor, trustee, receiver or other officer of the court, belongs to a natural person if he the person is alive, or to an artificial person if it is in existence and entitled to receive, otherwise to some other person, and the court or judge making such determination finds that there is not sufficient evidence showing that the natural person first entitled to take is alive, or that the artificial person is in existence and entitled to receive, or (b) in case such money or other personal property, including any legacy or share of intestate property cannot be delivered to the legatee or heir or person entitled thereto because of the fact that such person is a member of the military or naval forces of the United States or any of its allies or is engaged in any of the armed forces abroad or with the American Red Cross society or other body or other similar business, then in either or any of such cases, the court or judge may direct that the officer having custody or control of such money or other personal property, deposit the same in any trust company, or any state or national bank within the state of Wisconsin authorized to exercise trust powers, taking its receipt therefor, and the said receipt shall, to the extent of the deposit so made, constitute a complete discharge of the said officer in any accounting by him the officer made in said proceeding.

NOTE: Deletes letters for consistency with current numbering style.

SECTION 546. 898.03 of the statutes is amended to read:

898.03 Notice, how served. Such notice shall be served by delivering a copy thereof to the plaintiff, his the plaintiff's agent or attorney 24 hours before the time for the hearing of such application, if he the plaintiff lives within 20 miles of the place designated for the hearing; and for every additional 20 miles or part thereof that he the plaintiff resides from such place 24 hours shall be added to the time of such service.

SECTION 547. 898.06 (intro.) of the statutes is amended to read:

898.06 Oath on discharge. (intro.) If upon such examination such officer shall be satisfied that the prisoner is entitled to his or her discharge he the officer shall administer to him the prisoner the following oath:

SECTION 548. 898.07 (1) of the statutes is amended to read:

898.07 (1) After administering the oath the officer before whom such examination shall be held shall make a certificate under his the officer's hand as follows:

To the sheriff or jailer of the county of: I do hereby certify that, confined in your jail upon an execution at the suit of, is entitled to be discharged from imprisonment, if he or she be imprisoned for no other cause.

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SECTION 549. 898.07 (2) of the statutes is amended to read:

898.07 (2) The sheriff, or jailer, upon receiving such certificate, shall forthwith discharge the prisoner, if he the prisoner be imprisoned for no other cause.

SECTION 550. 898.08 of the statutes is amended to read:

898.08 Other applications for discharge. If upon such examination aforesaid the prisoner be not discharged he the prisoner shall be entitled to apply for his or her discharge at the end of every succeeding 10 days, in the same manner as above provided, and the same proceeding shall thereupon be had.

SECTION 551. 898.09 of the statutes is amended to read:

898.09 Effect of discharge. The prisoner, after being so discharged, shall be forever exempt from arrest or imprisonment for the same debt unless he the prisoner shall be convicted for having wilfully sworn falsely upon his or her examination aforesaid or in taking the oath before prescribed.

SECTION 552. 898.10 of the statutes is amended to read:

898.10 Judgment to remain in force. The judgment against any prisoner who is discharged as aforesaid shall remain in full force against any estate which may then or at any time afterwards belong to him the prisoner; and the plaintiff in the action may take out a new execution against the goods and estate of the prisoner in like manner as if he the prisoner had never been committed on the execution.

SECTION 553. 898.12 of the statutes is amended to read:

898.12 Payment and discharge. If the debtor shall satisfy the execution he the debtor shall not be entitled to his or her discharge until he the debtor has paid all the charges for his or her support in prison, in addition to the sum due on the execution, and the costs and charges thereon.

SECTION 554. 898.13 of the statutes is amended to read:

898.13 Discharge by plaintiff. The plaintiff in the action may, at any time, order the prisoner to be discharged, and he the prisoner shall not thereafter be liable to imprisonment for the same cause.

SECTION 555. 898.16 of the statutes is amended to read:

898.16 When prisoner to have. Every person who shall be in the custody of the sheriff of any county by virtue of an order of arrest, or writ of ne exeat or surrender by his the person's bail upon an order of arrest, execution (except when issued in a civil action for the recovery of a forfeiture or penalty), or attachment in proceedings for contempts, not criminal, issued for nonpayment of costs or of any sum of money ordered to be paid in a civil action

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shall be entitled to be admitted to such jail liberties upon executing the bond prescribed in s. 898.17.

NOTE: Deletes parentheses for conformity with current style.

SECTION 556. 898.18 of the statutes is amended to read:

898.18 Commitment if surety not good. If a sheriff who shall have taken any such bond shall discover that any surety to such bond is insufficient he the sheriff may commit the prisoner, who executed the same, to close confinement in such jail until other good and sufficient sureties shall be substituted.

SECTION 557. 898.19 of the statutes is amended to read:

898.19 Surrender of principal. The sureties in any such bond may surrender their principal at any time before judgment shall be rendered against them thereon by taking such principal and delivering him the principal to the keeper of the jail, when upon the written requirement of such sureties he the keeper of the jail shall indorse upon such bond an acknowledgment of the surrender of the principal and shall also, if required, give such sureties a certificate acknowledging such surrender; but such surrender shall not exonerate such sureties from any liability incurred by them previous to such surrender.

SECTION 558. 898.20 of the statutes is amended to read:

898.20 What is an escape. The going at large of any prisoner who shall have executed such bond or of any prisoner who would be entitled to the liberties of any jail, upon executing such bond, within the limits of the liberties of the jail of the county in which he the prisoner shall be in custody, shall not be deemed an escape of such prisoner; but in case any such prisoner shall go at large without the jail liberties of such county, without the assent of the party at whose suit such prisoner shall be in custody, the same shall be deemed an escape and forfeiture of the bond so executed; and the sheriff in whose custody such prisoner shall have been shall have the same authority to pursue and retake such prisoner as if such escape had been made from the jail.

SECTION 559. 898.21 of the statutes is amended to read:

898.21 Escape of prisoners. In case of the escape of any prisoner by reason of the insufficiency of the jail, whereby the sheriff or any other person shall be made liable to any party at whose suit such prisoner was committed or to whose use any forfeiture was adjudged against him the prisoner, the county shall reimburse and pay all sums of money recovered of the sheriff or such other person by such party by reason of such escape.

SECTION 560. 898.22 of the statutes is amended to read:

898.22 Voluntary return. In every suit brought by a sheriff on such bond the defendants may plead a volun-

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tary return of the prisoner to the jail from which he the prisoner escaped, or the liberties thereof, or the recapture of such prisoner by the sheriff from whose custody he the prisoner escaped before the commencement of such suit, and may give evidence thereof in mitigation of the damages or judgment claimed, but upon such answer of a voluntary return judgment shall be rendered against the defendant in the action for \$25 for each day or part of day such defendant was outside of such liberties, together with the costs of the action; and such defendants shall be entitled to make such or any other defense to such suit which might be made by such sheriff to an action against him the sheriff for such escape.

SECTION 561. 898.23 of the statutes is amended to read:

898.23 Effect of judgment against sheriff. But if an action shall have been brought against such sheriff for such escape and due notice thereof shall have been given to the prisoner and his the prisoner's sureties, who executed such bond, the judgment against such sheriff shall be conclusive evidence of his the sheriff's right to recover against such prisoner and his the prisoner's sureties as to all matters which were or might have been controverted in the action against the sheriff.

SECTION 562. 898.26 of the statutes is amended to read:

898.26 Evidence; costs. In every action brought by a sheriff on such bond the recovery of a judgment against him the sheriff for the escape of the prisoner shall be evidence of the damages sustained by him the sheriff in the same manner as if such judgment had been collected; and such sheriff shall be entitled to recover the costs and his the sheriff's reasonable expenses in defending the suit against him the sheriff as part of his the sheriff's damages.

SECTION 563. 898.27 of the statutes is amended to read:

898.27 Assignment of bond. If any such bond shall be forfeited the party at whose suit the person executing the same shall have been confined or, in case of his or her death, the executor or administrator of such party shall be entitled to an assignment thereof, which shall be made by the sheriff taking the same, or in case of a vacancy in his the sheriff's office by his the sheriff's undersheriff.

SECTION 564. 898.28 (2) of the statutes is amended to read:

898.28 (2) If the prisoner was confined by virtue of an order of arrest or writ of ne exeat, or upon a surrender by his the prisoner's bail upon an order of arrest, made before or after judgment rendered against him the prisoner, the plaintiff shall recover only the actual damages sustained by him the plaintiff.

SECTION 565. 898.31 of the statutes is amended to read:

898.31 When suit against sheriff stayed. In case the party at whose suit any person shall have been con-

fined to the liberties of a jail shall refuse or neglect to take an assignment of the bond executed by such person, as hereinbefore provided, and shall prosecute any sheriff for the escape of such person the court in which such action shall be pending shall, by order, stay all the proceedings upon the judgment against such sheriff until he the sheriff shall have had a reasonable time to prosecute the bond taken by him the sheriff and to collect the amount of any judgment he the sheriff may recover thereon. But this section shall not authorize such stay of proceedings in any action where the judgment shall have been recovered against any sheriff for any escape committed with the assent, aid or assistance of such sheriff.

SECTION 566. 939.03 (1) (a) of the statutes is amended to read:

939.03 (1) (a) He The person commits a crime, any of the constituent elements of which takes place in this state; or

SECTION 567. 939.03 (1) (b) of the statutes is amended to read:

939.03 (1) (b) While out of this state, he the person aids and abets, conspires with, or advises, incites, commands, or solicits another to commit a crime in this state; or

SECTION 568. 939.03 (1) (c) of the statutes is amended to read:

939.03 (1) (c) While out of this state, he the person does an act with intent that it cause in this state a consequence set forth in a section defining a crime; or

SECTION 569. 939.03 (1) (d) of the statutes is amended to read:

939.03 (1) (d) While out of this state, he the person steals and subsequently brings any of the stolen property into this state.

SECTION 570. 939.05 (1) of the statutes is amended to read:

939.05 (1) Whoever is concerned in the commission of a crime is a principal and may be charged with and convicted of the commission of the crime although he the person did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other degree of the crime or of some other crime based on the same act.

SECTION 571. 939.05 (2) (intro.) of the statutes is amended to read:

939.05 (2) (intro.) A person is concerned in the commission of the crime if he the person:

SECTION 572. 939.05 (2) (c) of the statutes is amended to read:

939.05 (2) (c) Is a party to a conspiracy with another to commit it or advises, hires, counsels or otherwise procures another to commit it. Such a party is also concerned in the commission of any other crime which is committed in pursuance of the intended crime and which under the circumstances is a natural and probable consequence of the intended crime. This paragraph does not apply to a

person who voluntarily changes his or her mind and no longer desires that the crime be committed and notifies the other parties concerned of his or her withdrawal within a reasonable time before the commission of the crime so as to allow the others also to withdraw.

SECTION 573. 939.22 (48) (a) of the statutes is amended to read:

939.22 (48) (a) Because the actor put the victim in fear by the use or threat of imminent use of physical violence on him the victim, or on a person in his the victim's presence, or on a member of his the victim's immediate family; or

SECTION 574. 939.22 (48) (c) of the statutes is amended to read:

939.22 (48) (c) Because the victim does not understand the nature of the thing to which he the victim consents, either by reason of ignorance or mistake of fact or of law other than criminal law or by reason of youth or defective mental condition, whether permanent or temporary.

SECTION 575. 939.23 (5) of the statutes is amended to read:

939.23 (5) Criminal intent does not require proof of knowledge of the existence or constitutionality of the section under which he the actor is prosecuted or the scope or meaning of the terms used in that section.

SECTION 576. 939.32 (3) of the statutes is amended to read:

939.32 (3) An attempt to commit a crime requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such crime and that he the actor does acts toward the commission of the crime which demonstrate unequivocally, under all the circumstances, that he the actor formed that intent and would commit the crime except for the intervention of another person or some other extraneous factor.

SECTION 577. 939.48 (1) of the statutes is amended to read:

939.48 (1) A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what he the person reasonably believes to be an unlawful interference with his or her person by such other person. The actor may intentionally use only such force or threat thereof as he the actor reasonably believes is necessary to prevent or terminate the interference. He The actor may not intentionally use force which is intended or likely to cause death or great bodily harm unless he the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.

SECTION 578. 939.48 (2) (a) of the statutes is amended to read:

939.48 (2) (a) A person who engages in unlawful conduct of a type likely to provoke others to attack him or her and thereby does provoke an attack is not entitled

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to claim the privilege of self-defense against such attack, except when the attack which ensues is of a type causing him the person engaging in the unlawful conduct to reasonably believe that he or she is in imminent danger of death or great bodily harm. In such a case, he the person engaging in the unlawful conduct is privileged to act in self-defense, but he the person is not privileged to resort to the use of force intended or likely to cause death to his the person's assailant unless he the person reasonably believes he or she has exhausted every other reasonable means to escape from or otherwise avoid death or great bodily harm at the hands of his or her assailant.

SECTION 579. 939.48 (2) (b) of the statutes is amended to read:

939.48 (2) (b) The privilege lost by provocation may be regained if the actor in good faith withdraws from the fight and gives adequate notice thereof to his or her assailant.

SECTION 580. 939.48 (2) (c) of the statutes is amended to read:

939.48 (2) (c) A person who provokes an attack, whether by lawful or unlawful conduct, with intent to use such an attack as an excuse to cause death or great bodily harm to his or her assailant is not entitled to claim the privilege of self-defense.

SECTION 581. 939.48 (4) of the statutes is amended to read:

939.48 (4) A person is privileged to defend a third person from real or apparent unlawful interference by another under the same conditions and by the same means as those under and by which he the person is privileged to defend himself or herself from real or apparent unlawful interference, provided that he the person reasonably believes that the facts are such that the third person would be privileged to act in self-defense and that his the person's intervention is necessary for the protection of the third person.

SECTION 582. 939.48 (5) of the statutes is amended to read:

939.48 (5) A person is privileged to use force against another if he the person reasonably believes that to use such force is necessary to prevent such person from committing suicide, but this privilege does not extend to the intentional use of force intended or likely to cause death.

SECTION 583. 939.49 (1) of the statutes is amended to read:

939.49 (1) A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what he the person reasonably believes to be an unlawful interference with his the person's property. Only such degree of force or threat thereof may intentionally be used as the actor reasonably believes is necessary to prevent or terminate the interference. It is not reasonable to intentionally use force intended or likely to cause death or great bodily harm for the sole purpose of defense of one's property.

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SECTION 584. 939.62 (2) of the statutes is amended to read:

939.62 (2) The actor is a repeater if he the actor was convicted of a felony during the 5-year period immediately preceding the commission of the crime for which he the actor presently is being sentenced, or if he the actor was convicted of a misdemeanor on 3 separate occasions during that same period, which convictions remain of record and unreversed. It is immaterial that sentence was stayed, withheld or suspended, or that he the actor was pardoned, unless such pardon was granted on the ground of innocence. In computing the preceding 5-year period, time which the actor spent in actual confinement serving a criminal sentence shall be excluded.

SECTION 585. 939.74 (3) of the statutes is amended to read:

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

SECTION 586. 940.31 (1) (a) of the statutes is amended to read:

940.31 (1) (a) By force or threat of imminent force carries another from one place to another without his or her consent and with intent to cause him or her to be secretly confined or imprisoned or to be carried out of this state or to be held to service against his or her will; or

SECTION 587. 940.31 (1) (b) of the statutes is amended to read:

940.31 (1) (b) By force or threat of imminent force seizes or confines another without his or her consent and with intent to cause him or her to be secretly confined or imprisoned or to be carried out of this state or to be held to service against his or her will; or

SECTION 588. 940.31 (1) (c) of the statutes is amended to read:

940.31 (1) (c) By deceit induces another to go from one place to another with intent to cause him or her to be secretly confined or imprisoned or to be carried out of this state or to be held to service against his or her will.

SECTION 589. 941.11 (1) of the statutes is amended to read:

941.11 (1) Intentionally burns his or her own building under circumstances in which he or she should realize he or she is creating an unreasonable risk of death or great bodily harm to another or serious damage to another's property; or

SECTION 590. 941.11 (2) of the statutes is amended to read:

941.11 (2) Intentionally burns a building of one who has consented to the destruction thereof but does so under circumstances in which he or she should realize he or she is creating an unreasonable risk of death or great bodily

harm to another or serious damage to a third person's property.

SECTION 591. 941.20 (1) (b) of the statutes is amended to read:

941.20 (1) (b) Operates or goes armed with a firearm while he or she is under the influence of an intoxicant; or

SECTION 592. 941.20 (2) (a) of the statutes is amended to read:

941.20 (2) (a) Intentionally discharges a firearm into a vehicle or building under circumstances in which he or she should realize there might be a human being present therein; or

NOTE: Inserts missing "a".

SECTION 593. 942.01 (2) of the statutes is amended to read:

942.01 (2) Defamatory matter is anything which exposes the other to hatred, contempt, ridicule, degradation or disgrace in society or injury in his the other's business or occupation.

SECTION 594. 942.05 (1) of the statutes is amended to read:

942.05 (1) Knowing that he or she does not have the consent of either the sender or the addressee, intentionally opens any sealed letter or package addressed to another; or

SECTION 595. 943.01 (2) (c) of the statutes is amended to read:

943.01 (2) (c) The property damaged belongs to a person who is or was a witness as defined in s. 940.41 (3) or a grand or petit juror and the damage was caused by reason of the owner's having attended or testified as a witness or by reason of any verdict or indictment assented to by him the owner.

SECTION 596. 943.02 (1) (a) of the statutes is amended to read:

943.02 (1) (a) By means of fire, intentionally damages any building of another without his the other's consent; or

SECTION 597. 943.02 (1) (c) of the statutes is amended to read:

943.02 (1) (c) By means of explosives, intentionally damages any property of another without his the other's consent.

SECTION 598. 943.02 (2) of the statutes is amended to read:

943.02 (2) In this section "building of another" means a building in which a person other than the actor has a legal or equitable interest which the actor has no right to defeat or impair, even though the actor may also have a legal or equitable interest in the building. Proof that the actor recovered or attempted to recover on a policy of insurance by reason of the fire is relevant but not essential to establish his the actor's intent to defraud the insurer.

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SECTION 599. 943.13 (5) of the statutes is amended to read:

943.13 (5) Any authorized occupant of employer-provided housing shall have the right to decide who may enter, confer and visit with him the occupant in the housing area he the occupant occupies.

SECTION 600. 943.20 (1) (a) of the statutes is amended to read:

943.20 (1) (a) Intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without his the other's consent and with intent to deprive the owner permanently of possession of such property.

SECTION 601. 943.20 (1) (b) of the statutes is amended to read:

943.20 (1) (b) By virtue of his or her office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally uses, transfers, conceals, or retains possession of such money, security, instrument, paper or writing without the owner's consent, contrary to his or her authority, and with intent to convert to his or her own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing, which is in his or her possession or custody by virtue of his or her office, business or employment, or as trustee or bailee, upon demand of the person entitled to receive it, or as required by law, is prima facie evidence of an intent to convert to his or her own use within the meaning of this paragraph.

SECTION 602. 943.20 (1) (d) of the statutes is amended to read:

943.20 (1) (d) Obtains title to property of another person by intentionally deceiving him the person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. “False representation” includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.

SECTION 603. 943.20 (1) (e) of the statutes is amended to read:

943.20 (1) (e) Intentionally fails to return any personal property which is in his or her possession or under his or her control by virtue of a written lease or written rental agreement, within 10 days after the lease or rental agreement has expired.

SECTION 604. 943.205 (1) (intro.) of the statutes is amended to read:

943.205 (1) (intro.) Whoever with intent to deprive or withhold from the owner thereof the control of a trade secret, or with intent to appropriate a trade secret to his or her own use or the use of another not the owner, and without authority of the owner, does any of the following may be penalized as provided in sub. (3):

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SECTION 605. 943.205 (4) of the statutes is amended to read:

943.205 (4) In a prosecution for a violation of this section it shall be no defense that the person charged returned or intended to return the property involved or that he the person charged destroyed all copies made.

SECTION 606. 943.25 (2) (a) of the statutes is amended to read:

943.25 (2) (a) Conceals, removes or transfers any personal property in which he or she knows another has a security interest; or

SECTION 607. 943.25 (3) of the statutes is amended to read:

943.25 (3) It is prima facie evidence of an intent to defraud within the meaning of sub. (2) (a) if a person, with knowledge that the security interest exists, removes or sells the property without either the consent of the secured party or authorization by the security agreement and fails within 72 hours after service of written demand for the return of the property either to return it or, in the event that return is not possible, to make full disclosure to the secured party of all the information he the person has concerning its disposition, location and possession.

SECTION 608. 943.32 (1) (a) of the statutes is amended to read:

943.32 (1) (a) By using force against the person of the owner with intent thereby to overcome his or her physical resistance or physical power of resistance to the taking or carrying away of the property; or

SECTION 609. 943.32 (3) of the statutes is amended to read:

943.32 (3) In this section “owner” means a person in possession of property whether his the person's possession is lawful or unlawful.

SECTION 610. 943.41 (2) of the statutes is amended to read:

943.41 (2) FALSE STATEMENTS. No person shall make or cause to be made, whether directly or indirectly, any false statements in writing, knowing it to be false and with intent that it be relied upon, respecting his the person's identity or that of any other person or his the other person's financial condition or that of any other person or other entity for the purpose of procuring the issuance of a financial transaction card.

SECTION 611. 943.41 (3) (a) of the statutes is amended to read:

943.41 (3) (a) No person shall acquire a financial transaction card from the person, possession, custody or control of another without the cardholder's consent or, with knowledge that it has been so acquired, receive the financial transaction card with intent to use it or sell it or to transfer it to a person other than the issuer. Acquiring a financial transaction card without consent includes obtaining it by conduct defined as statutory theft. If a person has in his or her possession or under his or her control

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financial transaction cards issued in the names of 2 or more other persons it is prima facie evidence that he the person acquired them in violation of this subsection.

SECTION 612. 943.41 (3) (b) of the statutes is amended to read:

943.41 (3) (b) No person shall receive a financial transaction card that he the person knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and retain possession thereof with intent to sell it, or to transfer it to a person other than the issuer or the cardholder, or to use it. The possession of such a financial transaction card for more than 7 days by a person other than the issuer or the cardholder is prima facie evidence that such person intended to sell, transfer or use it in violation of this subsection.

SECTION 613. 943.41 (4) (a) of the statutes is amended to read:

943.41 (4) (a) No person shall, with intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value or any other person, alter or counterfeit a financial transaction card or purported financial transaction card or possess a financial transaction card or purported financial transaction card with knowledge that it has been altered or counterfeited. The possession by a person other than the purported issuer of 2 or more financial transaction cards which have been altered or counterfeited is prima facie evidence that the person intended to defraud or that he the person knew the financial transaction cards to have been so altered or counterfeited.

SECTION 614. 943.41 (4) (b) of the statutes is amended to read:

943.41 (4) (b) No person other than the cardholder or a person authorized by him the cardholder shall, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value or any other person, sign a financial transaction card. Possession by a person other than the intended cardholder or one authorized by the intended cardholder of a financial transaction card signed by such person is prima facie evidence that such person intended to defraud in violation of this subsection.

SECTION 615. 943.41 (5) (a) of the statutes is renumbered 943.41 (5) (a) 1. (intro.) and amended to read:

943.41 (5) (a) 1. (intro.) No person shall, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value or any other person,1) use;

a. Use, for the purpose of obtaining money, goods, services or anything else of value, a financial transaction card obtained or retained in violation of sub. (3) or a financial transaction card which he the person knows is forged, expired or revoked; or 2) obtain

b. Obtain money, goods, services or anything else of value by representing without the consent of the cardholder that he the person is the holder of a specified card

or by representing that he the person is the holder of a card and such card has not in fact been issued.

2. Knowledge of revocation shall be presumed to have been received by a cardholder 4 days after it has been mailed to him the cardholder at the address set forth on the financial transaction card or at his the cardholder's last-known address by registered or certified mail, return receipt requested, and if the address is more than 500 miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone and Canada, notice shall be presumed to have been received 10 days after mailing by registered or certified mail.

NOTE: Conforms provision to current numbering style.

SECTION 616. 943.41 (5) (b) of the statutes is amended to read:

943.41 (5) (b) No cardholder shall use a financial transaction card issued to him the cardholder or allow another person to use a financial transaction card issued to him the cardholder with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value or any other person.

SECTION 617. 943.41 (6) (a) of the statutes is amended to read:

943.41 (6) (a) No person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a financial transaction card by the cardholder, or any agent or employe of such person, shall, with intent to defraud the issuer or the cardholder, furnish money, goods, services or anything else of value upon presentation of a financial transaction card obtained or retained under circumstances prohibited by sub. (3) or a financial transaction card which he the person knows is forged, expired or revoked.

SECTION 618. 943.41 (6) (b) of the statutes is amended to read:

943.41 (6) (b) No person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a financial transaction card by the cardholder, or any agent or employe of such person, shall, with intent to defraud, fail to furnish money, goods, services or anything else of value which he the person represents in writing to the issuer that he the person has furnished.

SECTION 619. 944.05 (1) (a) of the statutes is amended to read:

944.05 (1) (a) Contracts a marriage in this state with knowledge that his or her prior marriage is not dissolved; or

SECTION 620. 944.05 (1) (b) of the statutes is amended to read:

944.05 (1) (b) Contracts a marriage in this state with knowledge that the prior marriage of the person he or she marries is not dissolved; or

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SECTION 621. 944.05 (1) (c) of the statutes is amended to read:

944.05 (1) (c) Cohabits in this state with a person whom he or she married outside this state with knowledge that his or her own prior marriage had not been dissolved or with knowledge that the prior marriage of the person he or she married had not been dissolved.

SECTION 622. 944.16 (1) of the statutes is amended to read:

944.16 (1) A married person who has sexual intercourse with a person not his the married person's spouse; or

SECTION 623. 944.33 (3) of the statutes is amended to read:

944.33 (3) In a prosecution under this section, it is competent for the state to prove other similar acts by the accused for the purpose of showing his the accused's intent and disposition.

SECTION 624. 945.01 (5) (b) 1. of the statutes is amended to read:

945.01 (5) (b) 1. “Consideration” in this subsection means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant, but does not include any advantage to the promoter or disadvantage to any participant caused when any participant learns from newspapers, magazines and other periodicals, radio or television where to send his the participant's name and address to the promoter.

SECTION 625. 945.04 (1) of the statutes is amended to read:

945.04 (1) Permits any real estate owned or occupied by him or her or under his or her control to be used as a gambling place; or

SECTION 626. 945.04 (2) of the statutes is amended to read:

945.04 (2) Permits a gambling machine to be set up for use for the purpose of gambling in a place under his or her control.

SECTION 627. 945.041 (7) of the statutes is amended to read:

945.041 (7) Any proceeding instituted by a district attorney shall not be dismissed with his the district attorney's consent except upon the written approval of the circuit court.

SECTION 628. 945.041 (8) of the statutes is amended to read:

945.041 (8) Any officer or employe referred to in sub. (2) or any district attorney who shall without proper excuse neglect or refuse to perform the duties required of him or her herein within such times as may be specified shall be subject to removal. The governor may remove any such sheriff or district attorney under s. 17.16 by filing a complaint on his the governor's own motion.

SECTION 629. 945.05 (1) (a) of the statutes is amended to read:

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945.05 (1) (a) Anything which he or she knows evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet; or

SECTION 630. 945.05 (1) (b) of the statutes is amended to read:

945.05 (1) (b) Any device which he or she knows is designed exclusively for gambling purposes or anything which he or she knows is designed exclusively as a subassembly or essential part of such device. This includes without limitation gambling machines, numbers jars, punch boards and roulette wheels. Playing cards, dice and permanently disabled gambling machines shall not be considered devices primarily for gambling purposes.

SECTION 631. 946.01 (2) of the statutes is amended to read:

946.01 (2) No person may be convicted of treason except on the testimony of 2 witnesses to the same overt act, or on his the person's confession in open court.

SECTION 632. 946.02 (1) (a) of the statutes is amended to read:

946.02 (1) (a) Intentionally damages, interferes with, or tampers with any property with reasonable grounds to believe that his or her act will hinder, delay, or interfere with the prosecution of war or other military action or the preparation for defense, war, or other military action by the United States or its allies; or

SECTION 633. 946.10 (1) of the statutes is amended to read:

946.10 (1) Whoever, with intent to influence the conduct of any public officer or public employe in relation to any matter which by law is pending or might come before him the officer or employe in his the officer's or employe's capacity as such officer or employe or with intent to induce him the officer or employe to do or omit to do any act in violation of his the officer's or employe's lawful duty transfers or promises to him the officer or employe or on his the officer's or employe's behalf any property or any personal advantage which he the officer or employe is not authorized to receive; or

SECTION 634. 946.10 (2) of the statutes is amended to read:

946.10 (2) Any public officer or public employe who directly or indirectly accepts or offers to accept any property or any personal advantage, which he the officer or employe is not authorized to receive, pursuant to an understanding that he the officer or employe will act in a certain manner in relation to any matter which by law is pending or might come before him the officer or employe in his the officer's or employe's capacity as such officer or employe or that he the officer or employe will do or omit to do any act in violation of his the officer's or employe's lawful duty.

SECTION 635. 946.12 (1) of the statutes is amended to read:

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946.12 (1) Intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of his the officer's or employe's office or employment within the time or in the manner required by law; or

SECTION 636. 946.12 (2) of the statutes is amended to read:

946.12 (2) In his the officer's or employe's capacity as such officer or employe, does an act which he the officer or employe knows is in excess of his the officer's or employe's lawful authority or which he the officer or employe knows he the officer or employe is forbidden by law to do in his the officer's or employe's official capacity; or

SECTION 637. 946.12 (3) of the statutes is amended to read:

946.12 (3) Whether by act of commission or omission, in his the officer's or employe's capacity as such officer or employe exercises a discretionary power in a manner inconsistent with the duties of his the officer's or employe's office or employment or the rights of others and with intent to obtain a dishonest advantage for himself the officer or employe or another; or

SECTION 638. 946.12 (4) of the statutes is amended to read:

946.12 (4) In his the officer's or employe's capacity as such officer or employe, makes an entry in an account or record book or return, certificate, report or statement which in a material respect he the officer or employe intentionally falsifies; or

SECTION 639. 946.12 (5) of the statutes is amended to read:

946.12 (5) Under color of his the officer's or employe's office or employment, intentionally solicits or accepts for the performance of any service or duty anything of value which he the officer or employe knows is greater or less than is fixed by law.

SECTION 640. 946.13 (1) (a) of the statutes is amended to read:

946.13 (1) (a) In his the officer's or employe's private capacity, negotiates or bids for or enters into a contract in which he the officer or employe has a private pecuniary interest, direct or indirect, if at the same time he the officer or employe is authorized or required by law to participate in his the officer's or employe's capacity as such officer or employe in the making of that contract or to perform in regard to that contract some official function requiring the exercise of discretion on his the officer's or employe's part; or

SECTION 641. 946.13 (1) (b) of the statutes is amended to read:

946.13 (1) (b) In his the officer's or employe's capacity as such officer or employe, participates in the making of a contract in which he the officer or employe has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on his the officer's or employe's part.

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SECTION 642. 946.13 (5) of the statutes is amended to read:

946.13 (5) Subsection (1) (b) shall not apply to a public officer or public employe by reason of his or her holding not more than 2% of the outstanding capital stock of a corporate body involved in such contract.

SECTION 643. 946.13 (6) of the statutes is amended to read:

946.13 (6) Subsection (3) shall not apply to contracts creating a public debt, as defined in s. 18.01 (4), if the requirements of s. 18.14 (1) have been met. No evidence of indebtedness, as defined in s. 18.01 (3), shall be invalidated on account of a violation of this section by a public officer or public employe, but such officer or employe and the surety on his the officer's or employe's official bond shall be liable to the state for any loss to it occasioned by such violation.

SECTION 644. 946.13 (7) of the statutes is amended to read:

946.13 (7) Subsection (1) shall not apply to any public officer or public employe, who receives compensation for his the officer's or employe's services as such officer or employe, exclusive of advances or reimbursements for expenses, of less than \$10,000 per year, merely by reason of his or her being a director, officer, employe, agent or attorney of or for a state or national bank, savings bank or trust company, or any holding company thereof. This subsection shall not apply to any such person whose compensation by such financial institution is directly dependent upon procuring public business. Compensation determined by longevity, general quality of work or the overall performance and condition of such financial institution shall not be deemed compensation directly dependent upon procuring public business.

SECTION 645. 946.32 (1) (a) of the statutes is amended to read:

946.32 (1) (a) Under oath or affirmation makes or subscribes a false statement which he or she does not believe is true, when such oath or affirmation is authorized or required by law or is required by any public officer or governmental agency as a prerequisite to such officer or agency taking some official action.

SECTION 646. 946.41 (2) (b) of the statutes is amended to read:

946.41 (2) (b) "Officer" means a peace officer or other public officer or public employe having the authority by virtue of his the officer's or employe's office or employment to take another into custody.

SECTION 647. 946.41 (3) of the statutes is amended to read:

946.41 (3) Whoever by violating this section hinders, delays or prevents an officer from properly serving or executing any summons or civil process, is civilly liable to the person injured for any actual loss caused thereby and to the officer or his the officer's superior for any damages adjudged against either of them by reason thereof.

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SECTION 648. 946.44 (1) (a) of the statutes, as affected by 1993 Wisconsin Act 377, is amended, effective December 1, 1995, to read:

946.44 (1) (a) Any officer or employe of an institution where prisoners are detained or any officer or employe providing corrective sanctions supervision under s. 48.533 or youthful offender supervision under s. 48.537 who intentionally permits a prisoner in his the officer's or employee's custody to escape; or

SECTION 649. 946.47 (1) (a) of the statutes is amended to read:

946.47 (1) (a) With intent to prevent the apprehension of a felon, harbors or aids him or her; or

SECTION 650. 946.47 (3) of the statutes is amended to read:

946.47 (3) This section does not apply to the felon or his the felon's spouse, parent, grandparent, child, grandchild, brother or sister by consanguinity or affinity of such felon.

SECTION 651. 946.61 (1) (a) of the statutes is amended to read:

946.61 (1) (a) With intent to induce another to refrain from giving evidence or testifying in any civil or criminal matter before any court, judge, grand jury, magistrate, court commissioner, referee or administrative agency authorized by statute to determine issues of fact, transfers to him or her or on his or her behalf, any property or any pecuniary advantage; or

SECTION 652. 946.61 (1) (b) of the statutes is amended to read:

946.61 (1) (b) Accepts any property or any pecuniary advantage, knowing that such property or pecuniary advantage was transferred to him or her or on his or her behalf with intent to induce him or her to refrain from giving evidence or testifying in any civil or criminal matter before any court, judge, grand jury, magistrate, court commissioner, referee, or administrative agency authorized by statute to determine issues of fact.

SECTION 653. 946.61 (2) of the statutes is amended to read:

946.61 (2) This section does not apply to a person who is charged with a crime, or any person acting in his or her behalf, who transfers property to which he or she believes the other is legally entitled.

SECTION 654. 946.67 (2) of the statutes is amended to read:

946.67 (2) Subsection (1) does not apply if the act upon which the actual or supposed crime is based has caused a loss for which a civil action will lie and the person who has sustained such loss reasonably believes that he or she is legally entitled to the property received.

SECTION 655. 946.69 (2) (b) of the statutes, as affected by 1993 Wisconsin Act 146, is amended to read:

946.69 (2) (b) Exercises any function of a public office, knowing that he or she has not qualified so to act or that his or she right so to act has ceased.

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SECTION 656. 947.02 (4) of the statutes is amended to read:

947.02 (4) A person known to be a professional gambler or known as a frequenter of gambling places or who derives part of his or her support from begging or as a fortune teller or similar imposter.

SECTION 657. 947.04 (2) of the statutes is amended to read:

947.04 (2) The person in charge of a common carrier may take from any passenger found violating this section any intoxicant then in the possession of such passenger, giving him the passenger a receipt therefor, and shall keep the intoxicant until the passenger's point of destination is reached. Thereupon, he the person in charge of a common carrier shall either return the intoxicant to the passenger or turn it over to the station agent. At any time within 10 days after the intoxicant is turned over to the station agent, the passenger may recover the intoxicant by surrendering the receipt given him the passenger at the time the intoxicant was taken from him the passenger.

SECTION 658. 947.06 (4) of the statutes is amended to read:

947.06 (4) Whoever causes, attempts to cause, or participates in an unlawful assembly upon any property of a public institution of higher education or upon any highway abutting on such property, is punishable under sub. (3) if he or she fails to withdraw from the assembly promptly upon issuance of an order to disperse, if such order is given in such manner that such person can reasonably be expected to hear or read such order.

SECTION 659. 951.02 of the statutes is amended to read:

951.02 Mistreating animals. No person may treat any animal, whether belonging to himself the person or another, in a cruel manner. This section does not prohibit bona fide experiments carried on for scientific research or normal and accepted veterinary practices.

SECTION 660. 951.10 (1) of the statutes is amended to read:

951.10 (1) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl unless he the person provides proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in his the person's possession.

SECTION 661. 951.15 (4) of the statutes is amended to read:

951.15 (4) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he the owner shall prove that such killing was unwarranted.

SECTION 662. 967.02 (1) of the statutes is amended to read:

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967.02 (1) "Clerk" means clerk of circuit court of the county including his the clerk's deputies.

SECTION 663. 967.02 (3) of the statutes is amended to read:

967.02 (3) "Bail" means the amount of money set by the court which is required to be obligated and secured as provided by law for the release of a person in custody so that he the person will appear before the court in which his the person's appearance may be required and that he the person will comply with such conditions as are set forth in the bail bond.

SECTION 664. 967.02 (4) of the statutes is amended to read:

967.02 (4) "Bond" means an undertaking either secured or unsecured entered into by a person in custody by which he the person binds himself or herself to comply with such conditions as are set forth therein.

SECTION 665. 967.02 (5) of the statutes is amended to read:

967.02 (5) "Law enforcement officer" means any person who by virtue of his the person's office or public employment is vested by law with the duty to maintain public order or to make arrests for crimes while acting within the scope of his the person's authority.

SECTION 666. 967.04 (1) of the statutes is amended to read:

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

SECTION 667. 967.04 (4) (a) of the statutes is amended to read:

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

SECTION 668. 967.04 (4) (b) of the statutes is amended to read:

967.04 (4) (b) If the defendant is not in custody, he the defendant shall be paid witness fees for travel and attendance. If he the defendant is in custody, his the

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defendant's custodian shall, at county expense, produce him the defendant at the taking of the deposition. If the defendant is in custody, leave to take a deposition on motion of the state shall not be granted unless all states which the custodian will enter with the defendant in going to the place the deposition is to be taken have conferred upon the officers of this state the right to convey prisoners in and through them.

SECTION 669. 967.04 (5) (b) of the statutes is amended to read:

967.04 (5) (b) Any deposition may also be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness. If only part of a deposition is offered in evidence by a party, an adverse party may require him the offering party to offer all of it which is relevant to the part offered and any party may offer other parts.

SECTION 670. 968.03 (1) of the statutes is amended to read:

968.03 (1) If the judge does not find probable cause to believe that an offense has been committed or that the accused has committed it, he the judge shall indorse such finding on the complaint and file the complaint with the clerk.

SECTION 671. 968.04 (2) (b) of the statutes is amended to read:

968.04 (2) (b) In misdemeanor actions where the maximum imprisonment does not exceed 6 months, the judge shall issue a summons instead of a warrant unless he the judge believes that the defendant will not appear in response to a summons.

SECTION 672. 968.04 (2) (c) of the statutes is amended to read:

968.04 (2) (c) If a person summoned fails to appear in response to a summons issued by a district attorney, the district attorney may proceed to file the complaint as provided in s. 968.02 and, in addition to indorsing his or her approval on the complaint, shall indorse upon the complaint the fact that the accused failed to respond to a summons.

SECTION 673. 968.04 (3) (a) 4. of the statutes is amended to read:

968.04 (3) (a) 4. State the name of the person to be arrested, if known, or if not known, designate the person to be arrested by any description by which he the person to be arrested can be identified with reasonable certainty.

SECTION 674. 968.04 (3) (a) 5. of the statutes is amended to read:

968.04 (3) (a) 5. State the date when it was issued and the name of the judge who issued it together with the title of his the judge's office.

SECTION 675. 968.04 (3) (b) 2. of the statutes is amended to read:

968.04 (3) (b) 2. A summons may be served anywhere in the state and it shall be served by delivering a copy to the defendant personally or by leaving a copy at

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his the defendant's usual place of abode with a person of discretion residing therein or by mailing a copy to the defendant's last-known address. It shall be served by a law enforcement officer.

SECTION 676. 968.04 (4) (b) of the statutes is amended to read:

968.04 (4) (b) A warrant is served by arresting the defendant and informing him the defendant as soon as practicable of the nature of the crime with which he the defendant is charged.

SECTION 677. 968.04 (4) (c) of the statutes is amended to read:

968.04 (4) (c) An arrest may be made by a law enforcement officer without a warrant in his the law enforcement officer's possession when he the law enforcement officer has knowledge that a warrant has been issued. In such case, the officer shall inform the defendant as soon as practicable of the nature of the crime with which he the defendant is charged.

SECTION 678. 968.04 (4) (d) of the statutes is amended to read:

968.04 (4) (d) The law enforcement officer arresting a defendant shall indorse upon the warrant the time and place of the arrest and his the law enforcement officer's fees and mileage therefor.

SECTION 679. 968.07 (1) (a) of the statutes is amended to read:

968.07 (1) (a) He The law enforcement officer has a warrant commanding that such person be arrested; or

SECTION 680. 968.07 (1) (b) of the statutes is amended to read:

968.07 (1) (b) He The law enforcement officer believes, on reasonable grounds, that a warrant for the person's arrest has been issued in this state; or

SECTION 681. 968.07 (1) (c) of the statutes is amended to read:

968.07 (1) (c) He The law enforcement officer believes, on reasonable grounds, that a felony warrant for the person's arrest has been issued in another state; or

SECTION 682. 968.08 of the statutes is amended to read:

968.08 Release by law enforcement officer of arrested person. A law enforcement officer having custody of a person arrested without a warrant may release the person arrested without requiring him the person to appear before a judge if the law enforcement officer is satisfied that there are insufficient grounds for the issuance of a criminal complaint against the person arrested.

SECTION 683. 968.09 (1) of the statutes is amended to read:

968.09 (1) When a defendant or a witness fails to appear before the court as required, or violates a term of his the defendant's or witness's bond or his the defendant's or witness's probation, if any, the court may issue a bench warrant for his the defendant's or witness's arrest

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which shall direct that he the defendant or witness be brought before the court without unreasonable delay. The court shall state on the record at the time of issuance of the bench warrant the reason therefor.

SECTION 684. 968.09 (2) of the statutes is amended to read:

968.09 (2) Prior to the defendant's appearance in court after his the defendant's arrest under sub. (1), ch. 969 shall not apply.

SECTION 685. 968.16 of the statutes is amended to read:

968.16 Detention and search of persons on premises. The person executing the search warrant may reasonably detain and search any person on the premises at the time to protect himself or herself from attack or to prevent the disposal or concealment of any item particularly described in the search warrant.

SECTION 686. 968.24 of the statutes is amended to read:

968.24 Temporary questioning without arrest. After having identified himself or herself as a law enforcement officer, a law enforcement officer may stop a person in a public place for a reasonable period of time when the officer reasonably suspects that such person is committing, is about to commit or has committed a crime, and may demand the name and address of the person and an explanation of his the person's conduct. Such detention and temporary questioning shall be conducted in the vicinity where the person was stopped.

SECTION 687. 968.25 of the statutes is amended to read:

968.25 Search during temporary questioning. When a law enforcement officer has stopped a person for temporary questioning pursuant to s. 968.24 and reasonably suspects that he or she or another is in danger of physical injury, he the law enforcement officer may search such person for weapons or any instrument or article or substance readily capable of causing physical injury and of a sort not ordinarily carried in public places by law abiding persons. If he the law enforcement officer finds such a weapon or instrument, or any other property possession of which he the law enforcement officer reasonably believes may constitute the commission of a crime, or which may constitute a threat to his or her safety, he the law enforcement officer may take it and keep it until the completion of the questioning, at which time he the law enforcement officer shall either return it, if lawfully possessed, or arrest the person so questioned.

SECTION 688. 968.30 (1) (b) (intro.) of the statutes is amended to read:

968.30 (1) (b) (intro.) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his the applicant's belief that an order should be issued, including:

SECTION 689. 968.30 (7) (e) of the statutes is amended to read:

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968.30 (7) (e) The judge may, upon the filing of a motion, make available to such person or his the person's counsel for inspection in the manner provided in ss. 19.35 and 19.36 such portions of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to the issuing judge the serving of the inventory required by this subsection may be postponed. The judge shall review such postponement at the end of 60 days and good cause shall be shown prior to further postponement.

SECTION 690. 968.30 (7) (e) of the statutes is amended to read:

968.30 (7) (e) The judge may, upon the filing of a motion, make available to such person or his the person's counsel for inspection in the manner provided in ss. 19.35 and 19.36 such portions of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to the issuing judge the serving of the inventory required by this subsection may be postponed. The judge shall review such postponement at the end of 60 days and good cause shall be shown prior to further postponement.

SECTION 691. 969.01 (3) of the statutes is amended to read:

969.01 (3) **BAIL FOR WITNESS.** If it appears by affidavit that the testimony of a person is material in any felony criminal proceeding and that it may become impractical to secure his the person's presence by subpoena, the judge may require such person to give bail for his the person's appearance as a witness. If the witness is not in court, a warrant for his the person's arrest may be issued and upon return thereof the court may require him the person to give bail as provided in s. 969.03 for his the person's appearance as a witness. If he the person fails to give bail, he the person may be committed to the custody of the sheriff for a period not to exceed 15 days within which time his the person's deposition shall be taken as provided in s. 967.04.

SECTION 692. 969.02 (1) of the statutes is amended to read:

969.02 (1) A judge may release a defendant charged with a misdemeanor without bail or may permit him the defendant to execute an unsecured appearance bond in an amount specified by the judge.

SECTION 693. 969.03 (1) (a) of the statutes is amended to read:

969.03 (1) (a) Place the person in the custody of a designated person or organization agreeing to supervise him the person.

SECTION 694. 969.04 of the statutes is amended to read:

969.04 Surety may satisfy default. Any surety may, after default, pay to the clerk of the court the amount for which he the surety was bound, or such lesser sum as the

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court, after notice and hearing, may direct, and thereupon be discharged.

SECTION 695. 969.09 (1) of the statutes is amended to read:

969.09 (1) If a defendant is admitted to bail before sentencing the conditions of the bond shall include, without limitation, the requirements that he the defendant will appear in the court having jurisdiction on a day certain and thereafter as ordered until discharged on final order of the court and that he the defendant will submit himself to the orders and process of the court.

SECTION 696. 969.09 (2) of the statutes is amended to read:

969.09 (2) If the defendant is admitted to bail upon appeal, the conditions of the bond shall be that he the defendant will duly prosecute his the defendant's appeal, that he the defendant will appear at such time and place as the court directs, and that if the judgment is affirmed or reversed and remanded for a new trial or further proceedings upon notice after remittitur, he the defendant will surrender to the sheriff of the county in which he the defendant was tried.

SECTION 697. 969.09 (3) of the statutes is amended to read:

969.09 (3) A defendant shall receive a copy of the bond which he the defendant executes pursuant to this chapter.

SECTION 698. 969.12 (3) of the statutes is amended to read:

969.12 (3) A court may require a surety to justify by sworn affidavit that he the surety is worth the amount specified in the bond exclusive of property exempt from execution. The surety shall provide such evidence of financial responsibility as the judge requires. The court may at any time examine the sufficiency of the bail in such manner as it deems proper, and in all cases the state may challenge the sufficiency of the surety.

SECTION 699. 969.13 (4) of the statutes is amended to read:

969.13 (4) Notice of the order of forfeiture under sub. (1) shall be mailed forthwith by the clerk to the defendant and his the defendant's sureties at their last addresses. If the defendant does not appear and surrender to the court within 30 days from the date of the forfeiture and within such period he the defendant or his the defendant's sureties do not satisfy the court that appearance and surrender by the defendant at the time scheduled for his the defendant's appearance was impossible and without his the defendant's fault, the court shall upon motion of the district attorney enter judgment for the state against the defendant and any surety for the amount of the bail and costs of the court proceeding. Proceeds of the judgment shall be paid to the county treasurer. The motion and such notice of motion as the court prescribes may be served on the clerk who shall forthwith mail copies to the defen-

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dant and his the defendant's sureties at their last addresses.

SECTION 700. 969.14 (1) of the statutes is amended to read:

969.14 (1) When the sureties desire to be discharged from the obligations of their bond, they may arrest the principal and deliver him the principal to the sheriff of the county in which the action against him the principal is pending.

SECTION 701. 969.14 (2) of the statutes is amended to read:

969.14 (2) The sureties shall, at the time of surrendering the principal, deliver to the sheriff a certified copy of the original warrant and of the order admitting him the principal to bail and of the bond thereon; such delivery of these documents shall be sufficient authority for the sheriff to receive and retain the principal until he the principal is otherwise bailed or discharged.

SECTION 702. 970.02 (1) (a) of the statutes is amended to read:

970.02 (1) (a) Of the charge against him the defendant and shall furnish the defendant with a copy of the complaint which shall contain the possible penalties for the offenses set forth therein. In the case of a felony, the judge shall also inform the defendant of the penalties for the felony with which the defendant is charged.

SECTION 703. 970.02 (1) (c) of the statutes, as affected by 1993 Wisconsin Act 112, is amended to read:

970.02 (1) (c) That he the defendant is entitled to a preliminary examination if charged with a felony in any complaint, including a complaint issued under s. 968.26, or when the defendant has been returned to this state for prosecution through extradition proceedings under ch. 976, or any indictment, unless waived in writing or in open court, or unless he the defendant is a corporation or limited liability company.

SECTION 704. 970.03 (5) of the statutes is amended to read:

970.03 (5) All witnesses shall be sworn and their testimony reported by a phonographic reporter. The defendant may cross-examine witnesses against him the defendant, and may call witnesses on his the defendant's own behalf who then are subject to cross-examination.

SECTION 705. 970.04 of the statutes is amended to read:

970.04 Second examination. If a preliminary examination has been had and the defendant has been discharged, the district attorney may file another complaint if he the district attorney has or discovers additional evidence.

SECTION 706. 971.01 (1) of the statutes is amended to read:

971.01 (1) The district attorney shall examine all facts and circumstances connected with any preliminary examination touching the commission of any crime if the defendant has been bound over for trial and, subject to s.

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970.03 (10), shall file an information according to the evidence on such examination subscribing his or her name thereto.

SECTION 707. 971.02 (1) of the statutes, as affected by 1993 Wisconsin Act 112, is amended to read:

971.02 (1) If the defendant is charged with a felony in any complaint, including a complaint issued under s. 968.26, or when the defendant has been returned to this state for prosecution through extradition proceedings under ch. 976, or any indictment, no information or indictment shall be filed until the defendant has had a preliminary examination, unless he the defendant waives such examination in writing or in open court or unless he the defendant is a corporation or limited liability company. The omission of the preliminary examination shall not invalidate any information unless the defendant moves to dismiss prior to the entry of a plea.

SECTION 708. 971.02 (2) (c) of the statutes is amended to read:

971.02 (2) (c) Defendant denies that probable cause exists to hold him or her for trial; and

SECTION 709. 971.04 (2) of the statutes is amended to read:

971.04 (2) A defendant charged with a misdemeanor may authorize his or her attorney in writing to act on his or her behalf in any manner, with leave of the court, and be excused from attendance at any or all proceedings.

SECTION 710. 971.05 (2) of the statutes is amended to read:

971.05 (2) If the defendant appears for arraignment without counsel, the court shall advise him the defendant of his the defendant's right to counsel as provided in s. 970.02.

SECTION 711. 971.05 (4) of the statutes is amended to read:

971.05 (4) The defendant then shall plead unless in accordance with s. 971.31 he the defendant has filed a motion which requires determination before the entry of a plea. The court may extend the time for the filing of such motion.

SECTION 712. 971.06 (2) of the statutes is amended to read:

971.06 (2) If a defendant stands mute or refuses to plead, the court shall direct the entry of a plea of not guilty on his the defendant's behalf.

SECTION 713. 971.09 (2) of the statutes is amended to read:

971.09 (2) Upon receipt of the application the district attorney shall prepare an information charging all the admitted crimes and naming in each count the county where each was committed. He The district attorney shall send a copy of the information to the district attorney of each other county in which the defendant admits he or she committed crimes, together with a statement that the defendant has applied to plead guilty in the county of custody. Upon receipt of the information and

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statement, the district attorney of the other county may execute a consent in writing allowing the defendant to enter a plea of guilty in the county of custody, to the crime charged in the information and committed in the other county, and send it to the district attorney who prepared the information.

SECTION 714. 971.09 (3) of the statutes is amended to read:

971.09 (3) The district attorney shall file the information in any court of his the district attorney's county having jurisdiction to try or accept a plea of guilty to the most serious crime alleged therein as to which, if alleged to have been committed in another county, the district attorney of that county has executed a consent as provided in sub. (2). The defendant then may enter a plea of guilty to all offenses alleged to have been committed in the county where the court is located and to all offenses alleged to have been committed in other counties as to which the district attorney has executed a consent under sub. (2). Before entering his a plea of guilty, the defendant shall waive in writing any right to be tried in the county where the crime was committed. The district attorney of the county where the crime was committed need not be present when the plea is made but his the district attorney's written consent shall be filed with the court.

SECTION 715. 971.09 (5) of the statutes is amended to read:

971.09 (5) The county where the plea is made shall pay the costs of prosecution if the defendant does not pay them, and is entitled to retain fees for receiving and paying to the state any fine which may be paid by the defendant. The clerk where the plea is made shall file a copy of the judgment of conviction with the clerk in each county where a crime covered by the plea was committed. The district attorney shall then move to dismiss any charges covered by the plea of guilty, which are pending against the defendant in his the district attorney's county, and the same shall thereupon be dismissed.

SECTION 716. 971.11 (1) of the statutes is amended to read:

971.11 (1) Whenever the warden or superintendent receives notice of an untried criminal case pending in this state against an inmate of a state prison, he the warden or superintendent shall, at the request of the inmate, send by certified mail a written request to the district attorney for prompt disposition of the case. The request shall state the sentence then being served, the date of parole eligibility, the approximate discharge or conditional release date, and prior decision relating to parole. If there has been no preliminary examination on the pending case, the request shall state whether the inmate waives such examination, and, if so, shall be accompanied by a written waiver signed by the inmate.

SECTION 717. 971.11 (2) of the statutes is amended to read:

971.11 (2) If the crime charged is a felony, the district attorney shall either move to dismiss the pending case or arrange a date for preliminary examination as soon as convenient and notify the warden or superintendent of the prison thereof, unless such examination has already been held or has been waived. After the preliminary examination or upon waiver thereof, the district attorney shall file an information, unless it has already been filed, and mail a copy thereof to the warden or superintendent for service on the inmate. He The district attorney shall bring the case on for trial within 120 days after receipt of the request subject to s. 971.10.

SECTION 718. 971.11 (4) of the statutes is amended to read:

971.11 (4) If the defendant desires to plead guilty or no contest to the complaint or to the information served upon him, he or her, the defendant shall notify the district attorney thereof. The district attorney shall thereupon arrange for his the defendant's arraignment as soon as possible and the court may receive the plea and pronounce judgment.

SECTION 719. 971.11 (5) of the statutes is amended to read:

971.11 (5) If the defendant wishes to plead guilty to cases pending in more than one county, the several district attorneys involved may agree with him the defendant and among themselves for all such pleas to be received in the appropriate court of one of such counties, and s. 971.09 shall govern the procedure thereon so far as applicable.

SECTION 720. 971.12 (3) of the statutes is amended to read:

971.12 (3) RELIEF FROM PREJUDICIAL JOINDER. If it appears that a defendant or the state is prejudiced by a joinder of crimes or of defendants in a complaint, information or indictment or by such joinder for trial together, the court may order separate trials of counts, grant a severance of defendants or provide whatever other relief justice requires. The district attorney shall advise the court prior to trial if he the district attorney intends to use the statement of a codefendant which implicates another defendant in the crime charged. Thereupon, the judge shall grant a severance as to any such defendant.

SECTION 721. 971.15 (1) of the statutes is amended to read:

971.15 (1) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he the person lacked substantial capacity either to appreciate the wrongfulness of his or her conduct or conform his or her conduct to the requirements of law.

SECTION 722. 971.18 of the statutes is amended to read:

971.18 Inadmissibility of statements for purposes of examination. A statement made by a person subjected to psychiatric examination or treatment pursuant to this

chapter for the purposes of such examination or treatment shall not be admissible in evidence against him the person in any criminal proceeding on any issue other than that of his the person's mental condition.

SECTION 723. 971.19 (4) of the statutes is amended to read:

971.19 (4) If a crime is committed in, on or against any vehicle passing through or within this state, and it cannot readily be determined in which county the crime was committed, the defendant may be tried in any county through which such vehicle has passed or in the county where his the defendant's travel commenced or terminated.

SECTION 724. 971.23 (1) of the statutes is amended to read:

971.23 (1) DEFENDANT'S STATEMENTS. Upon demand, the district attorney shall permit the defendant within a reasonable time before trial to inspect and copy or photograph any written or recorded statement concerning the alleged crime made by the defendant which is within the possession, custody or control of the state including the testimony of the defendant in an s. 968.26 secret proceeding or before a grand jury. Upon demand, the district attorney shall furnish the defendant with a written summary of all oral statements of the defendant which he the district attorney plans to use in the course of the trial. The names of witnesses to the written and oral statements which the state plans to use in the course of the trial shall also be furnished.

SECTION 725. 971.23 (2) of the statutes is amended to read:

971.23 (2) PRIOR CRIMINAL RECORD. Upon demand prior to trial, the district attorney shall furnish the defendant a copy of his the defendant's criminal record which is within the possession, custody or control of the state.

SECTION 726. 971.23 (3) (a) of the statutes is amended to read:

971.23 (3) (a) A defendant may, not less than 15 days nor more than 30 days before trial, serve upon the district attorney an offer in writing to furnish the state a list of all witnesses the defendant intends to call at the trial, whereupon within 5 days after the receipt of such offer, the district attorney shall furnish the defendant a list of all witnesses and their addresses whom he the district attorney intends to call at the trial. Within 5 days after the district attorney furnishes such list, the defendant shall furnish the district attorney a list of all witnesses and their addresses whom the defendant intends to call at the trial. This section shall not apply to rebuttal witnesses or those called for impeachment only.

SECTION 727. 971.23 (6) of the statutes is amended to read:

971.23 (6) PROTECTIVE ORDER. Upon motion of a party, the court may at any time order that discovery, inspection or the listing of witnesses be denied, restricted or deferred, or make other appropriate orders. If the dis-

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trict attorney or defense counsel certifies that to list a witness may subject the witness or others to physical or economic harm or coercion, the court may order that the deposition of the witness be taken pursuant to s. 967.04 (2) to (6). The name of the witness need not be divulged prior to the taking of such deposition. If the witness becomes unavailable or changes his or her testimony, the deposition shall be admissible at trial as substantive evidence.

SECTION 728. 971.23 (7) of the statutes is amended to read:

971.23 (7) CONTINUING DUTY TO DISCLOSE; FAILURE TO COMPLY. If, subsequent to compliance with a requirement of this section, and prior to or during trial, a party discovers additional material or the names of additional witnesses requested which are subject to discovery, inspection or production hereunder, he the party shall promptly notify the other party of the existence of the additional material or names. The court shall exclude any witness not listed or evidence not presented for inspection or copying required by this section, unless good cause is shown for failure to comply. The court may in appropriate cases grant the opposing party a recess or a continuance.

SECTION 729. 971.31 (6) of the statutes is amended to read:

971.31 (6) If the court grants a motion to dismiss based upon a defect in the indictment, information or complaint, or in the institution of the proceedings, it may order that the defendant be held in custody or that his the defendant's bail be continued for not more than 72 hours pending issuance of a new summons or warrant or the filing of a new indictment, information or complaint.

SECTION 730. 971.31 (9) of the statutes is amended to read:

971.31 (9) A motion required to be served on a defendant may be served upon his the defendant's attorney of record.

SECTION 731. 971.36 (1) of the statutes is amended to read:

971.36 (1) In any criminal pleading for theft, it is sufficient to charge that the defendant did steal the property (describing it) of the owner (naming him the owner) of the value of (stating the value in money).

SECTION 732. 972.08 (2) of the statutes is amended to read:

972.08 (2) Whenever a witness attending in any court trial or appearing before any grand jury or John Doe investigation fails or refuses without just cause to comply with an order of the court under this section to give testimony in response to a question or with respect to any matter, the court, upon such failure or refusal, or when such failure or refusal is duly brought to its attention, may summarily order his the witness's confinement at a suitable place until such time as the witness is willing to give such testimony or until such trial, grand jury term or John

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Doe investigation is concluded but in no case exceeding one year. No person confined under this section shall be admitted to bail pending the determination of an appeal taken by him the person from the order of his confinement.

SECTION 733. 972.09 of the statutes is amended to read:

972.09 Hostile witness in criminal cases. Where testimony of a witness at any preliminary examination, hearing or trial in a criminal action is inconsistent with a statement previously made by him, he the witness, the witness may be regarded as a hostile witness and examined as an adverse witness, and the party producing him the witness may impeach him the witness by evidence of such prior contradictory statement. When called by the defendant, a law enforcement officer who was involved in the seizure of evidence shall be regarded as a hostile witness and may be examined as an adverse witness at any hearing in which the legality of such seizure may properly be raised.

SECTION 734. 972.10 (2) of the statutes is amended to read:

972.10 (2) In a trial where the issue is mental responsibility of a defendant, the defendant may make an opening statement on such issue prior to his the defendant's offer of evidence. The state may make its opening statement on such issue prior to the defendant's offer of evidence or reserve the right to make such statement until after the defendant has rested.

SECTION 735. 973.013 (1) (b) of the statutes is amended to read:

973.013 (1) (b) The sentence shall have the effect of a sentence at hard labor for the maximum term fixed by the court, subject to the power of actual release from confinement by parole by the department or by pardon as provided by law. If a person is sentenced for a definite time for an offense for which he the person may be sentenced under this section, he the person is in legal effect sentenced as required by this section, said definite time being the maximum period. A defendant convicted of a crime for which the minimum penalty is life shall be sentenced for life.

SECTION 736. 973.09 (5) of the statutes is amended to read:

973.09 (5) When the probationer has satisfied the conditions of his or her probation, he the probationer shall be discharged and the department shall issue him the probationer a certificate of final discharge, a copy of which shall be filed with the clerk.

SECTION 737. 973.16 of the statutes is amended to read:

973.16 Time out. If an order or judgment releasing a prisoner on habeas corpus is reversed, the time during which he the prisoner was at liberty thereunder shall not be counted as part of his the prisoner's term.

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SECTION 738. 974.05 (3) of the statutes is amended to read:

974.05 (3) Permission of the trial court is not required for the state to appeal, but the district attorney shall serve notice of such appeal or of the procurement of a writ of error upon the defendant or his the defendant's attorney.

SECTION 739. 975.07 (3) of the statutes is amended to read:

975.07 (3) If the committing court is of the opinion that the appeal was taken in good faith and that the question raised merits review by the appellate court, or when there has been filed with the court a certificate that a judge of an appellate court is of the opinion that questions have been raised that merit review, the judge of the court in which the person was convicted, or in the case of his the judge's incapacity to act, the judge by whom the certificate was filed, may direct that such person be released on bond under such conditions as, in the judge's opinion, will insure his the person's submission to the control of the department at the proper time if it is determined on the appeal that the department is entitled to custody.

SECTION 740. 975.08 (4) of the statutes is amended to read:

975.08 (4) Placement of a person by the department in any institution or agency, not operated by the department, or his the person's discharge by such institution or agency, shall not terminate the control of the department over him the person. No person placed in such institution or agency may be released therefrom except to the department or after approval of such release by the department.

SECTION 741. 975.11 of the statutes is amended to read:

975.11 Duration of control. The department shall keep every person committed to it under s. 975.06 under its control and shall retain him the person, subject to the limitations of s. 975.12 under supervision and control, so long as in its judgment such control is necessary for the protection of the public. The department shall discharge any such person as soon as in its opinion there is reasonable probability that he the person can be given full liberty without danger to the public, but no person convicted of a felony shall, without the written approval of the committing court, be discharged prior to 2 years after the date of his the person's commitment.

SECTION 742. 976.01 (2) of the statutes is amended to read:

976.01 (2) **SUMMONING WITNESS IN THIS STATE TO TESTIFY IN ANOTHER STATE.** A judge of a state court of record in another state, which by its laws has made provision for commanding persons confined in penal institutions within that state to attend and testify in this state, may certify a) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, b) that a person who is confined in a penal institution in

this state may be a material witness in the proceeding, investigation or action, and e) that his the person's presence will be required during a specified time. Upon presentation of the certificate to any judge having jurisdiction over the person confined, and upon notice to the attorney general, the judge in this state shall fix a time and place for a hearing and shall make an order directed to the person having custody of the prisoner requiring that the prisoner be produced before him the judge at the hearing.

SECTION 743. 976.01 (3) of the statutes is renumbered 976.01 (3) (intro.) and amended to read:

976.01 (3) COURT ORDER. (intro.) If at the hearing the judge determines a) that all of the following, the judge shall issue an order, with a copy of the certificate attached, directing the witness to attend and testify, directing the person having custody of the witness to produce the witness, in the court where the criminal action is pending, or where the grand jury investigation is pending, at a time and place specified in the order, and prescribing such conditions as the judge determines;

(a) That the witness may be material and necessary; b) that his,

(b) That the witness's attending and testifying are not adverse to the interests of this state or to the health or legal rights of the witness; e) that,

(c) That the laws of the state in which he the witness is requested to testify will give him the witness protection from arrest and the service of civil and criminal process because of any act committed prior to his the witness's arrival in the state under the order; and d) that,

(d) That as a practical matter the possibility is negligible that the witness may be subject to arrest or to the service of civil or criminal process in any state through which he the witness will be required to pass, the judge shall issue an order, with a copy of the certificate attached, directing the witness to attend and testify, directing the person having custody of the witness to produce him, in the court where the criminal action is pending, or where the grand jury investigation is pending, at a time and place specified in the order, and prescribing such conditions as the judge determines.

NOTE: Reorders text and creates paragraphs for conformity with current numbering style.

SECTION 744. 976.01 (4) of the statutes is amended to read:

976.01 (4) TERMS AND CONDITIONS. The order to the witness and to the person having custody of the witness shall provide for the return of the witness at the conclusion of his the witness's testimony, proper safeguards on his the witness's custody, and proper financial reimbursement or prepayment by the requesting jurisdiction for all expenses incurred in the production and return of the witness and may prescribe such other conditions as the judge thinks proper or necessary. The order shall not become effective until the judge of the state requesting the wit-

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ness enters an order directing compliance with the conditions prescribed.

SECTION 745. 976.01 (6) of the statutes is amended to read:

976.01 (6) PRISONER FROM ANOTHER STATE SUMMONED TO TESTIFY IN THIS STATE. If a person confined in a penal institution in any other state may be a material witness in a criminal action pending in a court of record or in a grand jury investigation in this state, a judge of the court may certify a) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, b) that a person who is confined in a penal institution in the other state may be a material witness in the proceeding, investigation or action, and e) that his the person's presence will be required during a specified time. The certificate shall be presented to a judge of a court of record in the other state having jurisdiction over the prisoner confined, and a notice shall be given to the attorney general of the state in which the prisoner is confined.

SECTION 746. 976.01 (8) of the statutes is amended to read:

976.01 (8) EXEMPTION FROM ARREST AND SERVICE OF PROCESS. If a witness from another state comes into or passes through this state under an order directing him the witness to attend and testify in this or another state, he the witness shall not while in this state pursuant to the order be subject to arrest or the service of process, civil or criminal, because of any act committed prior to his the witness's arrival in this state under the order.

SECTION 747. 976.02 (2) (a) of the statutes is amended to read:

976.02 (2) (a) If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within the state is a material witness in such prosecution or grand jury investigation, and that his the person's presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing and shall make an order directing the witness to appear at a time and place certain for the hearing.

SECTION 748. 976.02 (2) (c) of the statutes is amended to read:

976.02 (2) (c) If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his the witness's attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him the judge for said

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hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability, may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

SECTION 749. 976.02 (2) (d) of the statutes is amended to read:

976.02 (2) (d) If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of 10 cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$5 for each day that he the witness is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he the witness shall be punished as provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

SECTION 750. 976.02 (3) (a) of the statutes is amended to read:

976.02 (3) (a) If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this state, is a material witness in a prosecution pending in a court of record in this state, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure his the witness's attendance in this state. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

SECTION 751. 976.02 (3) (b) of the statutes is amended to read:

976.02 (3) (b) If the witness is summoned to attend and testify in this state he the witness shall be tendered the sum of 10 cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$5 for each day that he the witness is required to travel and attend as a witness. A witness who has appeared in accordance with the summons shall not be required to remain within this state a longer period of time than otherwise ordered by the court. If such witness, after coming into this state, fails without good cause to attend and testify as directed in the summons, he the witness shall be punished as provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

SECTION 752. 976.02 (4) (a) of the statutes is amended to read:

976.02 (4) (a) If a person comes into this state in obedience to a summons directing him the person to attend and testify in this state he the person shall not while in this state pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his the person's entrance into this state under the summons.

SECTION 753. 976.02 (4) (b) of the statutes is amended to read:

976.02 (4) (b) If a person passes through this state while going to another state in obedience to a summons to attend and testify in that state or while returning therefrom, he the person shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his the person's entrance to this state under the summons.

SECTION 754. 976.03 (3) of the statutes is amended to read:

976.03 (3) FORM OF DEMAND. No demand for the extradition of a person charged with a crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under sub. (6), that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he the accused fled from the state, and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his the person's bail, probation or parole. The indictment, information or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

NOTE: Inserts "a" for improved readability.

SECTION 755. 976.03 (4) of the statutes is amended to read:

976.03 (4) GOVERNOR MAY INVESTIGATE CASE. When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the governor the situation and circumstances of the person so demanded, and whether he the person ought to be surrendered.

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SECTION 756. 976.03 (5) (a) of the statutes is amended to read:

976.03 (5) (a) When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him the person in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his the person's term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

SECTION 757. 976.03 (7) of the statutes is amended to read:

976.03 (7) ISSUE OF GOVERNOR'S WARRANT OF ARREST; ITS RECITALS. If the governor shall decide that the demand should be complied with, he the governor shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to a sheriff, marshal, coroner or other person whom he the governor may think fit to entrust with the execution thereof; and the warrant must substantially recite the facts necessary to the validity of its issue.

SECTION 758. 976.03 (8) of the statutes is amended to read:

976.03 (8) MANNER AND PLACE OF EXECUTION. The warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where he the accused may be found within the state and to command the aid of all sheriffs and other peace officers in the execution of the warrant, and to deliver the accused subject to this section, to the duly authorized agent of the demanding state.

SECTION 759. 976.03 (10) of the statutes is amended to read:

976.03 (10) RIGHTS OF ACCUSED; APPLICATION FOR HABEAS CORPUS. No person arrested upon such warrant may be delivered over to the agent whom the executive authority demanding him the person shall have appointed to receive him the person unless he the person shall first be taken forthwith before a judge of a court of record in this state, who shall inform him the person of the demand made for his the person's surrender and of the crime with which he the person is charged, and that he the person has the right to demand and procure legal counsel; and if the prisoner or his the prisoner's counsel shall state that he or they desire the prisoner desires to test the legality of his the prisoner's arrest, the judge of such court of record shall fix a reasonable time to be allowed him the prisoner within which to commence an action for habeas corpus. When such action is commenced, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

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SECTION 760. 976.03 (11) of the statutes is amended to read:

976.03 (11) PENALTY FOR NONCOMPLIANCE WITH PRECEDING SECTION. Any officer who delivers to the agent for extradition of the demanding state a person in his the officer's custody under the governor's warrant in disobedience to sub. (10) shall be guilty of a misdemeanor, and on conviction shall be fined not more than \$1,000, or be imprisoned not more than 6 months or both.

SECTION 761. 976.03 (12) (a) of the statutes is amended to read:

976.03 (12) (a) The officer or person executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may when necessary confine the prisoner in the jail of any county or city through which he or she may pass; and the keeper of such jail must receive and safely keep the prisoner until the person having charge of him the prisoner is ready to proceed on his or her route, such person being chargeable with the expense of keeping.

SECTION 762. 976.03 (12) (b) of the statutes is amended to read:

976.03 (12) (b) The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he or she may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him the prisoner is ready to proceed on his or her route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he the officer or agent is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

SECTION 763. 976.03 (13) of the statutes is amended to read:

976.03 (13) ARREST PRIOR TO REQUISITION. Whenever any person within this state shall be charged on the oath of any credible person before any judge of this state with the commission of any crime in any other state and, except in cases arising under sub. (6), with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his or her bail, probation or parole, or whenever complaint shall have been made before any judge in this state setting forth on the affidavit

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of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under sub. (6), has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his or her bail, probation or parole, and is believed to be in this state, the judge shall issue a warrant directed to any peace officer commanding him the officer to apprehend the person named therein, wherever he the person may be found in this state, and to bring him the person before the same or any other judge or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit; and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

SECTION 764. 976.03 (14) of the statutes is amended to read:

976.03 (14) ARREST WITHOUT A WARRANT. The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year; but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made against him the accused under oath setting forth the ground for the arrest as in sub. (13); and thereafter his the accused's answer shall be heard as if he the accused had been arrested on a warrant.

SECTION 765. 976.03 (15) of the statutes is amended to read:

976.03 (15) COMMITMENT TO AWAIT REQUISITION; BAIL. If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under sub. (6), that he the person held has fled from justice, the judge must, by a warrant reciting the accusation, commit him the person held to the county jail for such a time not exceeding 30 days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in sub. (16), or until he the accused shall be legally discharged.

SECTION 766. 976.03 (16) of the statutes is amended to read:

976.03 (16) BAIL; IN WHAT CASES; CONDITIONS OF BOND. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he the judge deems proper, conditioned for

his the prisoner's appearance before him the judge at a time specified in such bond, and for his the prisoner's surrender, to be arrested upon the warrant of the governor of this state.

SECTION 767. 976.03 (17) of the statutes is amended to read:

976.03 (17) EXTENSION OF TIME OF COMMITMENT; ADJOURNMENT. If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge may discharge him the accused or may recommit him the accused for a further period not to exceed 60 days, or may again take bail for his the accused's appearance and surrender, as provided in sub. (16), but within a period not to exceed 60 days after the date of such new bond.

SECTION 768. 976.03 (18) of the statutes is amended to read:

976.03 (18) FORFEITURE OF BAIL. If the prisoner is admitted to bail, and fails to appear and surrender himself or herself according to the conditions of his or her bond, the judge, by proper order, shall declare the bond forfeited and order his the prisoner's immediate arrest without warrant if he the prisoner be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

SECTION 769. 976.03 (19) of the statutes is amended to read:

976.03 (19) IF A PROSECUTION HAS ALREADY BEEN INSTITUTED IN THIS STATE. If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor at his the governor's discretion either may surrender him the person on the demand of the executive authority of another state, or may hold him the person until he the person has been tried and discharged, or convicted and punished in this state.

SECTION 770. 976.03 (20) of the statutes is amended to read:

976.03 (20) GUILT OR INNOCENCE OF ACCUSED, WHEN INQUIRED INTO. The guilt or innocence of the accused as to the crime of which he the accused is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

SECTION 771. 976.03 (21) of the statutes is amended to read:

976.03 (21) GOVERNOR MAY RECALL WARRANT OR ISSUE ALIAS. The governor may recall his or her warrant of arrest, or may issue another warrant whenever he or she deems proper.

SECTION 772. 976.03 (22) of the statutes is amended to read:

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976.03 (22) FUGITIVES FROM THIS STATE, DUTY OF GOVERNOR. Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his or her bail, probation or parole in this state from the executive authority of any other state, or from the chief justice or an associate justice of the district court of the United States for the District of Columbia authorized to receive such demand under the laws of the United States, he the governor shall issue a warrant under the seal of this state, to some agent, commanding him the agent to receive the person so charged if delivered to him the agent and convey him the person to the proper officer of the county in this state in which the offense was committed.

SECTION 773. 976.03 (23) (a) of the statutes is amended to read:

976.03 (23) (a) When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor his or her written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him the person, and the approximate time, place and circumstances of its commission, the state in which he the person is believed to be, including the location of the accused therein, at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial, and that the proceeding is not instituted to enforce a private claim.

SECTION 774. 976.03 (24) of the statutes is amended to read:

976.03 (24) EXPENSES OF EXTRADITION. The compensation of the agent of the demanding state shall be \$8 per day for the time necessarily devoted to the performance of his the agent's duties, and his the agent's actual and necessary expenses, which compensation and expenses shall be allowed by the county board of the county in which the crime was committed, upon presentation to said board of a verified account, stating the number of days he the agent was engaged and the items of expense incurred while acting as such agent.

SECTION 775. 976.03 (26) of the statutes is amended to read:

976.03 (26) EXEMPTION FROM CIVIL PROCESS. A person brought into this state by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he the person is being or has been returned, until he the person has been convicted in the criminal proceeding, or, if acquitted, until he the person has had reasonable opportunity to return to the state from which he the person was extradited.

SECTION 776. 976.03 (27) (a) of the statutes is amended to read:

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976.03 (27) (a) Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his or her bail, probation or parole may waive the issuance and service of the warrant provided for in subs. (7) and (8) and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that he the person consents to return to the demanding state; however, before such waiver shall be executed or subscribed by such person the judge shall inform such person of his the person's rights to the issuance and service of a warrant of extradition and to commence an action for habeas corpus as provided in sub. (10).

SECTION 777. 976.03 (29) of the statutes is amended to read:

976.03 (29) NO RIGHT OF ASYLUM. After a person has been brought back to this state by, or after waiver of, extradition proceedings, he the person may be tried in this state for other crimes which he the person may be charged with having committed here, as well as that specified in the requisition for his the person's extradition.

SECTION 778. 976.04 (1) of the statutes is amended to read:

976.04 (1) Any member of a duly organized state, county or municipal peace unit of another state of the United States who enters this state in close pursuit, and continues within this state such close pursuit, of a person in order to arrest him the person on the grounds that he the person is believed to have committed a felony in such other state, shall have the same authority to arrest and hold in custody such person, as members of a duly organized state, county or municipal peace unit of this state have, to arrest and hold in custody a person on the grounds that he the person has committed a felony in this state.

SECTION 779. 976.04 (2) of the statutes is amended to read:

976.04 (2) If an arrest is made in this state by an officer of another state in accordance with sub. (1), he the officer shall without unnecessary delay take the person arrested before a judge of the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the judge determines that the arrest was lawful he the judge shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state or admit him the person to bail for such purpose. If the judge determines that the arrest was unlawful he the judge shall discharge the person arrested.

SECTION 780. 976.05 (2) (b) of the statutes is amended to read:

976.05 (2) (b) "Sending state" means a state in which a prisoner is incarcerated at the time that he the prisoner initiates a request for final disposition under sub. (3) or

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at the time that a request for custody or availability is initiated under sub. (4).

SECTION 781. 976.05 (3) (a) of the statutes is amended to read:

976.05 (3) (a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he the prisoner shall be brought to trial within 180 days after he the prisoner has caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his or her imprisonment and his or her request for a final disposition to be made of the indictment, information or complaint, but for good cause shown in open court, the prisoner or his the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decisions of the department relating to the prisoner.

SECTION 782. 976.05 (3) (b) of the statutes is amended to read:

976.05 (3) (b) The written notice and request for final disposition referred to in par. (a) shall be given or sent by the prisoner to the department, or warden, or other official having custody of him the prisoner, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

SECTION 783. 976.05 (3) (c) of the statutes is amended to read:

976.05 (3) (c) The department, or warden, or other official having custody of the prisoner shall promptly inform him the prisoner of the source and contents of any detainer lodged against him the prisoner and shall also inform him the prisoner of his the prisoner's right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

SECTION 784. 976.05 (3) (e) of the statutes is amended to read:

976.05 (3) (e) Any request for final disposition made by a prisoner under par. (a) shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of par. (d), and a waiver of extradition to the receiving state to serve any sentence there imposed upon him the prisoner after completion of his the prisoner's term of

imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his the prisoner's body in any court where his the prisoner's presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

SECTION 785. 976.05 (3) (f) of the statutes is amended to read:

976.05 (3) (f) Escape from custody by the prisoner subsequent to his the prisoner's execution of the request for final disposition referred to in par. (a) shall void the request.

SECTION 786. 976.05 (4) (a) of the statutes is amended to read:

976.05 (4) (a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he the officer has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with sub. (5) (a) upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated: provided that the court having jurisdiction of such indictment, information or complaint has duly approved, recorded and transmitted the request: and that there shall be a period of 30 days after receipt by the appropriate authorities before the request is honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his the governor's own motion or upon motion of the prisoner.

SECTION 787. 976.05 (4) (c) of the statutes is amended to read:

976.05 (4) (c) In respect to any proceeding made possible by this subsection, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

SECTION 788. 976.05 (4) (d) of the statutes is amended to read:

976.05 (4) (d) Nothing contained in this subsection shall be construed to deprive any prisoner of any right which he the prisoner may have to contest the legality of his the prisoner's delivery under par. (a), but such delivery may not be opposed or denied on the grounds that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

SECTION 789. 976.05 (5) (b) 1. of the statutes is amended to read:

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976.05 (5) (b) 1. Proper identification and evidence of his or her authority to act for the state into whose temporary custody the prisoner is to be given.

SECTION 790. 976.05 (5) (d) of the statutes is amended to read:

976.05 (5) (d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or for prosecution on any other charge or charges arising out of the same transaction. Except for his the prisoner's attendance at court and while being transported to or from any place at which his the prisoner's presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

SECTION 791. 979.01 (3) of the statutes is amended to read:

979.01 (3) In all cases of death reportable under sub. (1) where an autopsy is not performed, the coroner or medical examiner may take for analysis any and all specimens, body fluids and any other material which will assist him or her in determining the cause of death. The specimens, body fluids and other material taken under this subsection shall not be admissible in evidence in any civil action against the deceased or his the deceased's estate, as the result of any act of the deceased.

SECTION 792. 985.01 (2) (c) of the statutes is amended to read:

985.01 (2) (c) Every summons, order, citation, notice of sale or other notice which is intended to inform a person that he the person may or shall do an act or exercise a right within a designated period or upon or by a designated date.

SECTION 793. 985.065 (2) (d) of the statutes is amended to read:

985.065 (2) (d) Each bid shall be accompanied by a certificate of the county treasurer that the bidder has deposited with him the county treasurer a United States bond, corporate surety bond or certified check in the sum of \$500, or the cash deposit of a like amount, conditioned that said bidder will, if successful, enter into a contract as provided in the resolution of said board or invitation for such bids. The county clerk shall on the date named in said invitation for bids, in the presence of the committee on printing and stationery of said board, open all such proposals and enter upon his or her minutes a record thereof, all of which shall be reported to the board at its next meeting, together with the recommendations of said committee. The said board shall thereupon consider such proposals and by its resolution designate and award such advertising and printing to the lowest bidder or to the lower bidder based upon a rate per thousand of average daily circulation in such county, or said board may award such publication and printing to the lowest bidder and also to the lowest bidder per thousand of average daily

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circulation as aforesaid, or said board may award any division or classification of such publication and printing made under the provisions hereof, to the lowest bidder and award the remaining division or divisions, or classification, to the lowest bidder per thousand of circulation aforesaid. If the board elects to print its proceedings in pamphlet form only, the invitation for bids and the award may be made to the lowest responsible bidder, at a rate per standard line, or per page, or such other basis as the board determines.

SECTION 794. 985.08 (8) of the statutes is amended to read:

985.08 (8) Upon request, a tear sheet proof of a multiple insertion notice shall be mailed to the advertiser or his the advertiser's attorney within 72 hours after the first insertion, and an additional charge of \$1 for such tear sheet proof may be made.

SECTION 795. 985.12 (1) of the statutes is amended to read:

985.12 (1) **AFFIDAVIT OF PRINTING.** The affidavit of the editor, publisher, printer or proprietor of any newspaper, or of his or her foreman or principal clerk, of the publication of any legal notice, annexed to a copy of the notice clipped from the newspaper, and specifying the date of each insertion, and the paper in which it was published, shall be received in all cases as presumptive evidence of the publication and of the facts stated therein.

SECTION 796. 985.15 of the statutes is amended to read:

985.15 Forfeiture for refusal to publish. If the publisher or printer of a newspaper shall, after payment or tender of his the publisher's or printer's legal fees therefor, refuse or wilfully neglect to publish any legal notice required in pursuance of law or a lawful order of publication to be published in his the publisher's or printer's newspaper, being able to make such publication, he the publisher or printer shall forfeit \$25, one half one-half to the party prosecuting therefor.

SECTION 797. 990.001 (10) of the statutes is amended to read:

990.001 (10) **LIABILITY OF SURETIES.** If an officer is liable on his or her official bond for any act, the sureties on his the officer's bond are also liable.

SECTION 798. 990.01 (33) of the statutes is amended to read:

990.01 (33) **QUALIFIED.** "Qualified," when applied to any person elected or appointed to office, means that such person has done those things which he the person was by law required to do before entering upon the duties of his the person's office.

SECTION 799. 990.01 (38) of the statutes is amended to read:

990.01 (38) **SIGNATURE.** If the signature of any person is required by law it shall always be the handwriting of such person or, if he the person is unable to write, his the person's mark or his the person's name written by

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some other person at his the person's request and in his the person's presence.

SECTION 800. 992.06 (2) of the statutes is amended to read:

992.06 (2) Whenever in the organization of corporations under chapter 146, laws of 1872, articles of association were made and adopted and signed by the persons forming such corporation, and there may have been a failure to make and record a verified copy thereof in the office of the register of deeds of the county in which such corporation is located, and such association, organization or corporation has in good faith carried on business and acted as a corporation for 25 years or more, such failure to make and record a verified copy of the articles of association shall not affect the validity of the corporation, but the same shall be a body corporate from and after the date of the making, adopting and signing of the articles of association, the same as though a verified copy had been

duly made and recorded in the office of the register of deeds. Whenever any such corporation shall in good faith have attempted to change its corporate name, and shall in good faith have carried on and conducted its business under such changed name for a period of 25 years or more, and shall record its original articles of incorporation, or the copy thereof, with the register of deeds, of the county in which such corporation has its principal office, and in case the said original articles of incorporation, or a copy thereof, cannot be obtained, a certificate from the secretary of state showing that no such articles nor a copy thereof can be found in his the office of the secretary of state, its acts, doings and proceedings heretofore done or which shall hereafter be done in or under such changed name shall be as valid and binding and as good in law as though done in or under the name contained in its original articles of association.