



1997 SENATE BILL 30

January 28, 1997 - Introduced by Senators A. LASEE, FITZGERALD, DRZEWIECKI, HUELSMAN, ZIEN, WELCH and BUETTNER, cosponsored by Representatives KAUFERT, LADWIG, BRANDEMUEHL, MUSSER, FOTI, HANDRICK, OWENS, GREEN, DOBYNS, KREIBICH, HOVEN and OTT. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

1 **AN ACT to renumber** 939.50 (1) (a), 939.50 (3) (a) and 973.015; **to renumber and**
2 **amend** 940.01 (1); **to amend** 301.048 (2) (b), 302.11 (1m), 303.065 (1), 304.02
3 (5), 304.06 (1) (b), 304.071 (2), 939.30 (2), 939.31, 939.32 (1) (a), 939.50 (2),
4 939.60, 939.624 (2), 939.625 (1) (b) 2., 939.63 (1) (a) 2., 961.335 (1), 971.17 (1),
5 972.03, 972.13 (6), 973.013 (1) (b), 973.0135 (3), 973.032 (2) (b), 973.09 (1) (c) and
6 978.07 (1) (c) 1.; and **to create** 301.046 (3) (cm), 304.06 (1t), 939.22 (7), 939.50
7 (1) (ag), 939.50 (3) (ag), 940.01 (1) (b), 940.01 (1) (c), 940.01 (1) (d), 961.335 (1m),
8 967.02 (1m), 973.015, 973.016 and 973.017 of the statutes; **relating to:**
9 providing a penalty of either death or life imprisonment for the first-degree
10 intentional homicide of a child younger than 16 years old, affecting parole
11 eligibility and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, no state crime is punishable by the death penalty. This bill provides for either a death penalty (by lethal injection) or life imprisonment (with or without parole eligibility restrictions) for any first-degree intentional homicide committed by a person who is 16 years old or older against a child who is younger

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than 16 years old. Other first-degree homicides remain punishable by life imprisonment.

The procedure for determining whether or not the death penalty would be imposed is the subject of a proceeding that is separate from the regular trial. After a conviction finding that a first-degree homicide of a child younger than 16 years old had occurred, the court reconvenes the trial jury, or, if there was no jury trial or the trial jury is unable to continue, a new jury is summoned. The defendant may waive the right to a jury. Evidence is then presented regarding various aggravating or mitigating circumstances relating to the crime and the defendant.

The jury hears the evidence and then gives an advisory sentence to the court of either life imprisonment or death. If the jury recommends life imprisonment, it may further recommend a complete or substantial restriction of the defendant's parole eligibility. The court, not bound by the advisory sentence, then weighs the aggravating and mitigating circumstances and enters the sentence of either life imprisonment or death. If life imprisonment is imposed, the court may completely or substantially restrict the defendant's parole eligibility. If the court chooses the death sentence it must set forth its findings in writing. Any death sentence is subject to automatic appellate review by the supreme court.

The court that imposes the death sentence sets the execution date. The secretary of corrections designates the executioner. Twelve citizen witnesses must be present at the execution.

This bill applies only to those offenses committed on or after its effective date (the day after publication).

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 301.046 (3) (cm) of the statutes is created to read:

2 301.046 (3) (cm) The prisoner is not awaiting imposition of a death sentence.

3 **SECTION 2.** 301.048 (2) (b) of the statutes is amended to read:

4 301.048 (2) (b) He or she is a prisoner serving a felony sentence for a felony not
5 punishable by death or life imprisonment and the department directs him or her to
6 participate in the program.

7 **SECTION 3.** 302.11 (1m) of the statutes is amended to read:

8 302.11 (1m) An inmate serving a life term is not entitled to mandatory release.

9 Except as provided in ss. 304.06 (1t), 939.62 (2m) and 973.014, the parole commission

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1 may parole the inmate as specified in s. 304.06 (1). An inmate awaiting imposition
2 of a death sentence is not eligible for parole.

3 **SECTION 4.** 303.065 (1) of the statutes is amended to read:

4 303.065 (1) The department may grant work release privileges to any person
5 incarcerated within the state prisons, except that no person serving a life sentence
6 may be considered for work release until he or she has reached parole eligibility
7 under s. 304.06 (1) (b) or (1t) or 973.014 (1) (a) or (b), whichever is applicable, and no
8 person serving a life sentence under s. 939.62 (2m) or 973.014 (1) (c) or awaiting
9 imposition of a death sentence may be considered for work release.

10 **SECTION 5.** 304.02 (5) of the statutes is amended to read:

11 304.02 (5) Notwithstanding subs. (1) to (3), a prisoner who is serving a life
12 sentence under s. 939.62 (2m) or 973.014 (1) (c) or awaiting imposition of a death
13 sentence is not eligible for release to parole supervision under this section.

14 **SECTION 6.** 304.06 (1) (b) of the statutes is amended to read:

15 304.06 (1) (b) Except as provided in sub. (1m) or s. 302.045 (3), 961.49 (2) or
16 973.0135, the parole commission may parole an inmate of the Wisconsin state
17 prisons or any felon or any person serving at least one year or more in a county house
18 of correction or a county reforestation camp organized under s. 303.07, when he or
19 she has served 25% of the sentence imposed for the offense, or 6 months, whichever
20 is greater. Except as provided in sub. (1t) or s. 939.62 (2m) or 973.014, the parole
21 commission may parole an inmate serving a life term when he or she has served 20
22 years, as modified by the formula under s. 302.11 (1) and subject to extension using
23 the formulas under s. 302.11 (2). The person serving the life term shall be given
24 credit for time served prior to sentencing under s. 973.155, including good time under
25 s. 973.155 (4). The secretary may grant special action parole releases under s.

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1 304.02. The department or the parole commission shall not provide any convicted
2 offender or other person sentenced to the department's custody any parole eligibility
3 or evaluation until the person has been confined at least 60 days following
4 sentencing. The parole commission may not parole an inmate who is awaiting
5 imposition of a death sentence.

6 **SECTION 7.** 304.06 (1t) of the statutes is created to read:

7 304.06 (1t) If the prisoner is serving a life term imposed under s. 973.015, the
8 prisoner is eligible for parole only when authorized by the sentencing court under s.
9 973.015 (3) (c).

10 **SECTION 8.** 304.071 (2) of the statutes is amended to read:

11 304.071 (2) If a prisoner is not eligible for parole under s. 304.06 (1) (b) or (1t),
12 939.62 (2m), 961.49 (2), 973.014 (1) (c) or 973.032 (5), he or she is not eligible for
13 parole under this section.

14 **SECTION 9.** 939.22 (7) of the statutes is created to read:

15 939.22 (7) "Crime punishable by death or life imprisonment" means a crime for
16 which one or more of the possible penalties is death or life imprisonment.

17 **SECTION 10.** 939.30 (2) of the statutes is amended to read:

18 939.30 (2) For a solicitation to commit a crime ~~for which the penalty is~~
19 punishable by death or life imprisonment, the actor is guilty of a Class C felony. For
20 a solicitation to commit a Class E felony, the actor is guilty of a Class E felony.

21 **SECTION 11.** 939.31 of the statutes is amended to read:

22 **939.31 Conspiracy.** Except as provided in ss. 161.41 (1x), 940.43 (4) and
23 940.45 (4), whoever, with intent that a crime be committed, agrees or combines with
24 another for the purpose of committing that crime may, if one or more of the parties
25 to the conspiracy does an act to effect its object, be fined or imprisoned or both not

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1 to exceed the maximum provided for the completed crime; except that for a
2 conspiracy to commit a crime for which the penalty is punishable by death or life
3 imprisonment, the actor is guilty of a Class B felony.

4 **SECTION 12.** 939.32 (1) (a) of the statutes is amended to read:

5 939.32 (1) (a) Whoever attempts to commit a crime for which the penalty is
6 punishable by death or life imprisonment is guilty of a Class B felony.

7 **SECTION 13.** 939.50 (1) (a) of the statutes is renumbered 939.50 (1) (am).

8 **SECTION 14.** 939.50 (1) (ag) of the statutes is created to read:

9 939.50 (1) (ag) Class AA felony.

10 **SECTION 15.** 939.50 (2) of the statutes is amended to read:

11 939.50 (2) A felony is a Class AA, A, B, BC, C, D or E felony when it is so
12 specified in chs. 939 to 951.

13 **SECTION 16.** 939.50 (3) (a) of the statutes is renumbered 939.50 (3) (am).

14 **SECTION 17.** 939.50 (3) (ag) of the statutes is created to read:

15 939.50 (3) (ag) For a Class AA felony, life imprisonment or death, as determined
16 under s. 973.015.

17 **SECTION 18.** 939.60 of the statutes is amended to read:

18 **939.60 Felony and misdemeanor defined.** A crime punishable by death or
19 imprisonment in the Wisconsin state prisons is a felony. Every other crime is a
20 misdemeanor.

21 **SECTION 19.** 939.624 (2) of the statutes is amended to read:

22 939.624 (2) If a person has one or more prior convictions for a serious violent
23 crime or a crime punishable by death or life imprisonment and subsequently
24 commits a serious violent crime, the court shall sentence the person to not less than
25 5 years' imprisonment, but otherwise the penalties for the crime apply, subject to any

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1 applicable penalty enhancement. The court shall not place the defendant on
2 probation.

3 **SECTION 20.** 939.625 (1) (b) 2. of the statutes is amended to read:

4 939.625 (1) (b) 2. If the maximum term of imprisonment for a felony is more
5 than 5 years or is a life term or the felony is punishable by death, the maximum term
6 of imprisonment for the felony may be increased by not more than 5 years.

7 **SECTION 21.** 939.63 (1) (a) 2. of the statutes is amended to read:

8 939.63 (1) (a) 2. If the maximum term of imprisonment for a felony is more than
9 5 years or is a life term or the felony is punishable by death, the maximum term of
10 imprisonment for the felony may be increased by not more than 5 years.

11 **SECTION 22.** 940.01 (1) of the statutes is renumbered 940.01 (1) (a) and
12 amended to read:

13 940.01 (1) (a) Except as provided in par. (b) and sub. (2), whoever causes the
14 death of another human being with intent to kill that person or another is guilty of
15 a Class A felony.

16 **SECTION 23.** 940.01 (1) (b) of the statutes is created to read:

17 940.01 (1) (b) Except as provided in pars. (c) and (d) and sub. (2), whoever
18 causes the death of another human being with intent to kill that person or another
19 is guilty of a Class AA felony if the victim has not attained the age of 16 years.

20 **SECTION 24.** 940.01 (1) (c) of the statutes is created to read:

21 940.01 (1) (c) Notwithstanding s. 939.05, a person is subject to par. (b) as a party
22 to a crime only if that person had intended that a person be killed.

23 **SECTION 25.** 940.01 (1) (d) of the statutes is created to read:

24 940.01 (1) (d) A person is subject to par. (b) only if the person is 16 years old
25 or older when he or she commits the offense.

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1 **SECTION 26.** 961.335 (1) of the statutes is amended to read:

2 961.335 (1) ~~Upon~~ Except as provided in sub. (1m), upon application, the
3 controlled substances board may issue a permit authorizing a person to
4 manufacture, obtain, possess, use, administer or dispense a controlled substance for
5 purposes of scientific research, instructional activities, chemical analysis or other
6 special uses, without restriction because of enumeration. No person ~~shall~~ may
7 engage in any such activity without a permit issued under this section, except that
8 an individual may be designated and authorized to receive the permit for a college
9 or university department, research unit or similar administrative organizational
10 unit and students, laboratory technicians, research specialists or chemical analysts
11 under his or her supervision may be permitted possession and use of controlled
12 substances for these purposes without obtaining an individual permit.

13 **SECTION 27.** 961.335 (1m) of the statutes is created to read:

14 961.335 (1m) Upon application of the secretary of corrections for a permit to
15 obtain a controlled substance for purposes of an execution under s. 973.017, the
16 controlled substances board shall issue a permit under this section.

17 **SECTION 28.** 967.02 (1m) of the statutes is created to read:

18 967.02 (1m) "Crime punishable by death or life imprisonment" has the
19 meaning given in s. 939.22 (7).

20 **SECTION 29.** 971.17 (1) of the statutes is amended to read:

21 971.17 (1) COMMITMENT PERIOD. When a defendant is found not guilty by reason
22 of mental disease or mental defect, the court shall commit the person to the
23 department of health and family services for a specified period not exceeding
24 two-thirds of the maximum term of imprisonment that could be imposed under s.
25 973.15 (2) (a) against an offender convicted of the same crime or crimes, including

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1 imprisonment authorized by ss. 346.65 (2) (f), (2j) (d) or (3m), 939.62, 939.621,
2 939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b) and 940.25 (1b) and 961.48
3 and other penalty enhancement statutes, as applicable, subject to the credit
4 provisions of s. 973.155. If the ~~maximum term of imprisonment is~~ crime is
5 punishable by death or life imprisonment, the commitment period specified by the
6 court may be life, subject to termination under sub. (5).

7 **SECTION 30.** 972.03 of the statutes is amended to read:

8 **972.03 Peremptory challenges.** Each side is entitled to only 4 peremptory
9 challenges except as otherwise provided in this section. When the crime charged is
10 punishable by death or life imprisonment the state is entitled to 6 peremptory
11 challenges and the defendant is entitled to 6 peremptory challenges. If there is more
12 than one defendant, the court shall divide the challenges as equally as practicable
13 among them; and if their defenses are adverse and the court is satisfied that the
14 protection of their rights so requires, the court may allow the defendants additional
15 challenges. If the crime is punishable by death or life imprisonment, the total
16 peremptory challenges allowed the defense shall not exceed 12 if there are only 2
17 defendants and 18 if there are more than 2 defendants; in other felony cases 6
18 challenges if there are only 2 defendants and 9 challenges if there are more than 2.
19 In misdemeanor cases, the state is entitled to 3 peremptory challenges and the
20 defendant is entitled to 3 peremptory challenges, except that if there are 2
21 defendants, the court shall allow the defense 4 peremptory challenges, and if there
22 are more than 2 defendants, the court shall allow the defense 6 peremptory
23 challenges. Each side shall be allowed one additional peremptory challenge if
24 additional jurors are to be impaneled under s. 972.04 (1).

25 **SECTION 31.** 972.13 (6) of the statutes is amended to read:

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1 972.13 (6) The following forms may be used for judgments:

2 STATE OF WISCONSIN

3 County

4 In Court

5 The State of Wisconsin

6 vs.

7 (Name of defendant)

8 UPON ALL THE FILES, RECORDS AND PROCEEDINGS,

9 IT IS ADJUDGED That the defendant has been convicted upon the defendant's
10 plea of guilty (not guilty and a verdict of guilty) (not guilty and a finding of guilty)
11 (no contest) on the day of, 19.., of the crime of in violation of s.; and the
12 court having asked the defendant whether the defendant has anything to state why
13 sentence should not be pronounced, and no sufficient grounds to the contrary being
14 shown or appearing to the court.

15 *IT IS ADJUDGED That the defendant is guilty as convicted.

16 *IT IS ADJUDGED That the defendant shall be executed by lethal injection.

17 *IT IS ADJUDGED That the defendant is hereby committed to the Wisconsin
18 state prisons (county jail of county) for an indeterminate term of not more than....

19 *IT IS ADJUDGED That the defendant is placed in the intensive sanctions
20 program subject to the limitations of section 973.032 (3) of the Wisconsin Statutes
21 and the following conditions:....

22 *IT IS ADJUDGED That the defendant is hereby committed to detention in
23 (the defendant's place of residence or place designated by judge) for a term of not
24 more than....

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1 *IT IS ADJUDGED That the defendant is ordered to pay a fine of \$.... (and the
2 costs of this action).

3 *IT IS ADJUDGED That the defendant pay restitution to....

4 *IT IS ADJUDGED That the defendant is restricted in his or her use of
5 computers as follows:....

6 *The at is designated as the Reception Center to which the defendant
7 shall be delivered by the sheriff.

8 *IT IS ORDERED That the clerk deliver a duplicate original of this judgment
9 to the sheriff who shall forthwith execute the same and deliver it to the warden.

10 Dated this day of, 19...

11 BY THE COURT

12 Date of Offense,

13 District Attorney,

14 Defense Attorney

15 *Strike inapplicable paragraphs.

16 STATE OF WISCONSIN

17 County

18 In Court

19 The State of Wisconsin

20 vs.

21(Name of defendant)

22 On the day of, 19.., the district attorney appeared for the state and the
23 defendant appeared in person and by the defendant's attorney.

24 UPON ALL THE FILES, RECORDS AND PROCEEDINGS

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1 IT IS ADJUDGED That the defendant has been found not guilty by the verdict
2 of the jury (by the court) and is therefore ordered discharged forthwith.

3 Dated this day of, 19...

4 BY THE COURT

5 **SECTION 32.** 973.013 (1) (b) of the statutes is amended to read:

6 973.013 (1) (b) The sentence shall have the effect of a sentence at hard labor
7 for the maximum term fixed by the court, subject to the power of actual release from
8 confinement by parole by the department or by pardon as provided by law. If a person
9 is sentenced for a definite time for an offense for which the person may be sentenced
10 under this section, the person is in legal effect sentenced as required by this section,
11 said definite time being the maximum period. ~~A~~ Except as provided in s. 973.015,
12 a defendant convicted of a crime for which the minimum penalty is life shall be
13 sentenced for life.

14 **SECTION 33** 973.0135 (3) of the statutes is amended to read:

15 973.0135 (3) A person is not subject to this section if the current serious felony
16 is punishable by death or life imprisonment.

17 **SECTION 34.** 973.015 of the statutes is renumbered 973.019.

18 **SECTION 35.** 973.015 of the statutes is created to read:

19 **973.015 Sentence of death or life imprisonment for Class AA felony. (1)**

20 (a) Upon conviction of a defendant of a Class AA felony, the court shall conduct a
21 separate sentencing proceeding to determine whether the defendant should be
22 sentenced to death or life imprisonment. The trial judge shall conduct the proceeding
23 before the trial jury, if there was a jury trial, as soon as practicable. If the trial jury
24 is unable to reconvene for a hearing on the issue of the penalty, the trial judge may
25 summon a new jury to determine the issue of the imposition of the penalty. If the trial

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1 jury has been waived, or if the defendant pleaded guilty, the court shall conduct the
2 sentencing proceeding before a jury summoned for that purpose unless the
3 defendant waives a jury.

4 (b) In the proceeding, the court shall admit any evidence that may be relevant
5 to the sentence regarding any mitigating circumstance. The court shall admit any
6 other evidence according to the rules of evidence applicable at a criminal trial. The
7 court shall provide the defendant with a fair opportunity to rebut any hearsay
8 statements. This paragraph does not authorize the introduction of any evidence
9 secured in violation of the state or federal constitution. The state has the burden of
10 proof, beyond a reasonable doubt, regarding the existence of aggravating
11 circumstances. The defendant has the burden of proof, by a preponderance of the
12 evidence, regarding mitigating circumstances. The court shall permit the state and
13 the defendant or his or her counsel to present arguments for or against a sentence
14 of death.

15 (2) (a) Unless the defendant waives the right to a jury, the jury shall deliberate
16 after hearing all of the evidence and, by a majority vote, shall render an advisory
17 sentence to the court of life imprisonment or death, based upon the following
18 matters:

- 19 1. The existence of aggravating circumstances under sub. (5).
- 20 2. The existence of mitigating circumstances under sub. (6).

21 (b) If the jury recommends life imprisonment, it may further recommend
22 restrictions on the defendant's eligibility for parole or recommend that the defendant
23 not be eligible for parole.

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1 (c) Upon the request of the defendant or the state, the court shall explain to the
2 jury the court's options under sub. (3) (c) to sentence the defendant to life without the
3 possibility of parole or with delayed parole eligibility.

4 **(3)** (a) Notwithstanding the recommendation of a majority of the jury, the court,
5 after weighing the aggravating and mitigating circumstances, shall enter a sentence
6 of life imprisonment or death, but if the court imposes a sentence of death, it shall
7 set forth in writing its findings upon which the sentence of death is based as to the
8 facts:

- 9 1. That sufficient aggravating circumstances exist under sub. (5); and
10 2. That there are insufficient mitigating circumstances under sub. (6) to
11 outweigh the aggravating circumstances.

12 (b) In each case in which the court imposes the death sentence, the court must
13 support its determination by specific written findings of fact based upon the
14 circumstances in subs. (5) and (6) and upon the records of the trial and the sentencing
15 proceedings.

16 (c) If the court does not make the findings requiring the death sentence, the
17 court shall impose a sentence of life imprisonment and shall make a parole eligibility
18 determination regarding the person by choosing an option under s. 973.014 (1).

19 **(4)** If a death sentence is imposed, the judgment of conviction and sentence of
20 death is subject to automatic review by the supreme court within 60 days after
21 certification by the sentencing court of the entire record, unless the supreme court,
22 for good cause shown, extends the time for an additional period not to exceed 30 days.
23 The review by the supreme court has priority over all other cases and shall be heard
24 in accordance with rules promulgated by the supreme court.

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1 **(5)** The court and jury shall consider one or more of the following as
2 aggravating circumstances:

3 (a) The Class AA felony was committed by a person under a sentence of
4 imprisonment.

5 (b) The defendant knowingly created a great risk of death to many persons.

6 (c) The Class AA felony was committed for the purpose of avoiding or
7 preventing a lawful arrest or effecting an escape from custody.

8 (d) The Class AA felony was committed to disrupt or hinder the lawful exercise
9 of any governmental function or the enforcement of laws.

10 (e) The defendant intentionally caused bodily harm or mental anguish to the
11 victim or another before the victim died.

12 (f) During the commission of the offense, the defendant enjoyed or was utterly
13 indifferent to the suffering of another.

14 **(6)** The court and jury shall consider as a mitigating factor any aspect of the
15 defendant's character, background or record or any of the circumstances of the
16 offense that the defendant offers as a basis for a sentence other than death.
17 Mitigating circumstances may include, but are not limited to, any of the following:

18 (a) The defendant has no significant history of prior criminal activity.

19 (b) The Class AA felony was committed while the defendant was under the
20 influence of extreme mental or emotional disturbance.

21 (c) The victim was a participant in the defendant's conduct or consented to the
22 act.

23 (d) The defendant was an accomplice in the Class AA felony committed by
24 another person and the defendant's participation was relatively minor.

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1 (e) The defendant acted under extreme duress or under the substantial
2 domination of another person.

3 (f) The capacity of the defendant to appreciate the criminality of his or her
4 conduct or to conform his or her conduct to the requirements of law was substantially
5 impaired.

6 (g) The age of the defendant at the time of the crime.

7 **(7)** The court that imposes a sentence of death shall set the date for execution.
8 The defendant shall be committed to the Wisconsin state prisons pending the
9 execution of the death sentence.

10 **(8)** The execution of a death sentence shall be by lethal injection.

11 **SECTION 36.** 973.016 of the statutes is created to read:

12 **973.016 Stay of execution of death sentence.** The execution of a death
13 sentence may be stayed only by the governor or incident to an appeal.

14 **SECTION 37.** 973.017 of the statutes is created to read:

15 **973.017 Execution of death sentence.** The secretary of corrections shall
16 designate the executioner who shall provide a person subject to a death sentence with
17 an intravenous injection of one or more substances in a lethal quantity. A person is
18 immune from civil or criminal liability for his or her acts or omissions, in good faith,
19 in regard to a lawful execution under this section. The secretary shall designate 12
20 citizens to witness the execution. The secretary may not direct a physician to be
21 present or require a physician to announce when death has occurred. A physician
22 may certify the death after a person, other than a physician, has determined or
23 pronounced death. The convicted person may request that certain additional people
24 be allowed to witness the execution. The secretary shall grant any such reasonable
25 request. The secretary may allow representatives of the news media to witness the

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1 execution under rules of the department. No other persons may be allowed to witness
2 the execution.

3 **SECTION 38.** 973.032 (2) (b) of the statutes is amended to read:

4 973.032 (2) (b) Notwithstanding par. (a), the court may not sentence a person
5 under sub. (1) if he or she is convicted of a felony punishable by death or life
6 imprisonment.

7 **SECTION 39.** 973.09 (1) (c) of the statutes is amended to read:

8 973.09 (1) (c) When a person is convicted of any crime ~~which~~ that is punishable
9 by death or life imprisonment, the court ~~shall~~ may not place the person on probation.

10 **SECTION 40.** 978.07 (1) (c) 1. of the statutes is amended to read:

11 978.07 (1) (c) 1. Any case record of a felony punishable by death or life
12 imprisonment or a related case, after the defendant's parole eligibility date under s.
13 304.06 (1) or 973.014 or 50 years after the commencement of the action, whichever
14 occurs later. If there is no parole eligibility date, the district attorney may destroy
15 the case record after the defendant's death.

16 **SECTION 41. Initial applicability.**

17 (1) This act first applies to offenses committed on the effective date of this
18 subsection.

19 (END)