

For: 3420/P1

Please compare the following:

99-0590/P5

99-2889/P3

99-3265/P1

99-3266/P1

99-3361/P2

99-3370/P2

Sorted Item List

<u>Store File Name</u>	<u>Text</u>
-3266.1	6.18 of the statutes is amended to read:
-3266.2	11.61 (1) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.3	11.61 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.4	12.60 (1) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.5	13.05 of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.6	13.06 of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.7	13.69 (6m) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3361.1	15.01 (2) of the statutes is amended to read:
-3361.2	15.105 (26) of the statutes is created to read:
-3361.3	19.42 (10) (o) of the statutes is created to read:
-3361.4	19.42 (13) (n) of the statutes is created to read:
-3361.5	20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:
-3361.6	20.505 (4) (dr) of the statutes is created to read:
-3361.7	20.505 (4) (mr) of the statutes is created to read:
-3361.8	20.923 (4) (b) 7. of the statutes is created to read:
-3361.9	20.923 (6) (hr) of the statutes is created to read:
-3266.8	23.33 (13) (cg) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.9	26.14 (8) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.10	29.971 (1) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.11	29.971 (1m) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.12	29.971 (1 1m) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

- 3266.13 29.971 (11p) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.14 30.80 (2g) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.15 30.80 (2g) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.16 30.80 (2g) (d) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.17 30.80 (3m) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.18 36.25 (6) (d) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.19 47.03 (3) (d) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 0590.1 48.355 (2d) (b) 3. of the statutes is amended to read:
- 0590.2 48.415 (9m) (b) 2. of the statutes is amended to read:
- 0590.3 48.417 (1) (d) of the statutes is amended to read:
- 0590.4 48.57 (3p) (g) 2. of the statutes is amended to read:
- 0590.5 48.685 (5) (bm) 2. of the statutes is amended to read:
- 0590.6 48.685 (5) (bm) 3. of the statutes is amended to read:
- 0590.7 48.685 (5) (bm) 4. of the statutes is amended to read:
- 3266.20 49.127 (8) (a) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.2 1 49.127 (8) (b) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.22 49.127 (8) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.23 49.141 (7) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.24 49.141 (7) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.25 49.141 (9) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.26 49.141 (9) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.27 49.141 (10) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

- 3266.28 49.49 (1) (b) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.29 49.49 (2) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.30 49.49 (2) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.31 49.49 (3) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.32 49.49 (3m) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- ~~-3266.33~~ 49.49 (4) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 0590.8 49.95 (1) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.34 49.95 (1) of the statutes, as affected by 1997 Wisconsin Act 283, is renumbered 49.95 (1) (intro.) and amended to read:
- 3266.35 51.15 (12) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.36 55.06 (11) (am) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.37 66.4025 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.38 66.4025 (1) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.39 69.24 (1) (intro.) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.40 70.47 (18) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.41 71.83 (2) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.42 86.192 (4) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.43 97.43 (4) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.44 97.45 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.45 100.171 (7) (b) of the statutes is amended to read:
- 3266.46 100.2095 (6) (d) of the statutes is amended to read:


-3266.47
-3266.48
-3265.1
-3266.49
-3266.50
-3266.5 1
-3266.52
-3266.53
-3266.54
-3266.55
-3266.56
-0590.9
-3266.57
-0590.10
-0590.11
-3266.58
-3266.59
-3266.60
-3266.61
-3266.62
-3266.63

100.26 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

100.26 (5) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

100.26 (7) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

100.26 (7) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

101.143 (10) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

101.94 (8) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

102.835 (11) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

102.835 (18) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

102.85 (3) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

108.225 (11) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

108.225 (18) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

110.07 (5) (a) of the statutes is amended to read:

114.20 (18) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

115.3 1 (2g) of the statutes is amended to read:

118.19 (4) (a) of the statutes is amended to read:

125.075 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is renumbered 125.075 (2) (a) and amended to read:

125.075 (2) (b) of the statutes is created to read:

125.085 (3) (a) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

125.105 (2) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

125.66 (3) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

125.68 (12) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

- 3266.64 125.68 (12) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.65 132.20 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.66 133.03 (1) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.67 133.03 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.68 134.05 (4) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.69 134.16 of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.70 134.20 (1) (intro.) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.71 134.205 (4) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.72 134.58 of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.73 139.44 (1) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.74 139.44 (1m) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.75 139.44 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.76 139.44 (8) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.77 139.95 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.78 139.95 (3) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.79 146.345 (3) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.80 146.35 (5) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.8 1 146.60 (9) (am) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.82 146.70 (10) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

- 3266.83 154.15 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.84 154.29 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.85 166.20 (11) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.86 167.10 (9) (g) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.87 175.20 (3) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.88 180.0129 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.89 181.0129 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.90 185.825 of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.91 200.09 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.92 214.93 of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.93 215.02 (6) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.94 215.12 of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.95 215.21 (21) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.96 218.21 (7) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.97 220.06 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.98 221.0625 (2) (intro.) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3 266.99 221.0636 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.100 221.0637 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.101 221.1004 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

-3361.10	227.01 (13) (sm) of the statutes is created to read:
-3361.11	230.08 (2) (L) 6. of the statutes is created to read:
-3361.12	230.08 (2) (of) of the statutes is created to read:
-3266.102	253.06 (4) (b) of the statutes is amended to read:
-3266.103	285.87 (2) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.104	291.97 (2) (b) (intro.) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.105	291.97 (2) (c) 1. and 2. of the statutes, as affected by 1997 Wisconsin Act 283, are amended to read:
-3266.106	299.53 (4) (c) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-2889.1	301.035 (2) of the statutes is amended to read:
-2889.2	301.035 (4) of the statutes is amended to read:
-0590.12	301.26 (4) (cm) 1. of the statutes is amended to read:
-3266.107	302.095 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-0590.13	302.11 (lg) (a) 2. of the statutes is amended to read:
-3265.2	302.11 (lp) of the statutes is amended to read:
-3370.1	302.113 (2) of the statutes is amended to read:
-3370.2	302.113 (7) of the statutes is amended to read:
-3370.3	302.113 (7m) of the statutes is created to read:
-2889.3	302.113 (9) of the statutes is amended to read:
-2889.4	302.113 (9) (am) of the statutes is created to read:
-2889.5	302.113 (9) (d) of the statutes is created to read:
-3370.4	302.113 (9g) of the statutes is created to read:
-2889.6	302.114 (6) (b) of the statutes is amended to read:
-2889.7	302.114 (6) (c) of the statutes is amended to read:
-2889.8	302.114 (9) of the statutes is amended to read:
-2889.9	302.114 (9) (d) of the statutes is created to read:
-2889.10	303.065 (1) (b) 1. of the statutes is amended to read:
-3265.3	304.06 (1) (b) of the statutes is amended to read:
-3265.4	304.071 (2) of the statutes is amended to read:
-3266.108	341.605 (3) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

- 3266.109 342.06 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.110 342.065 (4) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.111 342.155 (4) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.112 342.156 (6) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.113 342.30 (3) (a) of the statutes is amended to read:
- 3266.114 342.32 (3) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.115 343.44 (2) (b) (intro.) of the statutes, as affected by 1997 Wisconsin Act 84, is amended to read:
- 3266.116 344.48 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 0590.14 346.04 (2t) of the statutes is created to read:
- 0590.15 346.04 (4) of the statutes is created to read:
- 0590.16 346.17 (2t) of the statutes is created to read:
- ~~-0590.17~~ 346.17 (3) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- ~~-3266.117~~ 346.17 (3) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- ~~-0590.18~~ 346.17 (3) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- ~~-3266.118~~ 346.17 (3) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- ~~-0590.19~~ 346.17 (3) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- ~~-3266.119~~ 346.17 (3) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- ~~-0590.20~~ 346.17 (3) (d) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- ~~-3266.120~~ 346.17 (3) (d) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 0590.21 346.175 (1) (a) of the statutes is amended to read:
- 0590.22 346.175 (1) (b) of the statutes is amended to read:
- 0590.23 346.175 (4) (b) of the statutes is amended to read:

- 0590.24 346.175 (4) (c) of the statutes is amended to read:
- 0590.25 346.175 (4) (d) of the statutes is amended to read:
- 0590.26 346.175 (5) (intro.) of the statutes is amended to read:
- 0590.27 346.175 (5) (a) of the statutes is amended to read:
- 3266.121 346.65 (2) (e) of the statutes is amended to read:
- 3266.122 346.65 (5) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.123 346.74 (5) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.124 346.74 (5) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.125 346.74 (5) (d) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.126 350.11 (2m) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.127 446.07 of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.128 447.09 of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.129 450.11 (9) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.130 450.14 (5) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.131 450.15 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.132 551.58 (1) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.133 552.19 (1) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.134 553.52 (1) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.135 553.52 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.136 562.13 (3) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.137 562.13 (4) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3266.138 565.50 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

-3266.139 565.50 (3) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

-3266.140 601.64 (4) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

-3266.141 641.19 (4) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

-3266.142 641.19 (4) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

-0590.28 753.061 (2m) of the statutes is amended to read:

-3266.143 765.30 (1) (intro.) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

-3266.144 765.30 (2) (intro.) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

-3 266.145 768.07 of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

-3266.146 783.07 of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

-2889.11 801.50 (5) of the statutes is amended to read:

-2889.12 801.50 (5c) of the statutes is created to read:

-3370.5 911.01 (4) (c) of the statutes is amended to read:

-0590.29 938.208 (1) (a) of the statutes is amended to read:

-0590.30 938.34 (4h) (a) of the statutes is amended to read:

-0590.3 1 938.34 (4m) (b) 1. of the statutes is amended to read:

-0590.32 938.355 (2d) (b) 3. of the statutes is amended to read:

-0590.33 938.355 (4) (b) of the statutes is amended to read:

-0590.34 938.78 (3) of the statutes is amended to read:

-0590.35 939.30 (1) of the statutes is amended to read:

-0590.36 939.30 (2) of the statutes is amended to read:

-0590.37 939.50 (1) (intro.) of the statutes is amended to read:

-0590.38 939.50 (1) (bc) of the statutes is repealed.

-0590.39 939.50 (1) (f) of the statutes is created to read:

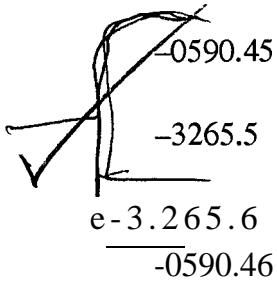
-0590.40 939.50 (1) (g) of the statutes is created to read:

-0590.41 939.50 (1) (h) of the statutes is created to read:

-0590.42 939.50 (1) (i) of the statutes is created to read:

-0590.43 939.50 (2) of the statutes is amended to read:

-0590.44 939.50 (3) (bc) of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.



-0590.45
-3265.5
e - 3.265.6
-0590.46

-0590.47

-0590.48

-0590.49

-0590.50

-0590.51

-0590.52

-0590.53

-0590.54

-0590.55

-0590.56

-0590.57

-0590.58

-0590.59

-0590.60

-0590.61

-0590.62

-0590.63

-0590.64

-0590.65

-0590.66

-0590.67

-0590.68

-0590.69

-0590.70

-0590.71

-0590.72

-0590.73

939.50 (3) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

939.50 (3) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is renumbered 939.50 (3) (c) 1. and amended to read:

939.50 (3) (c) 2. of the statutes is created to read:

939.50 (3) (d) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

939.50 (3) (e) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

939.50 (3) (f) of the statutes is created to read:

939.50 (3) (g) of the statutes is created to read:

939.50 (3) (h) of the statutes is created to read:

939.50 (3) (i) of the statutes is created to read:

939.615 (7) (b) 2. of the statutes is amended to read:

939.615 (7) (c) of the statutes is repealed.

939.62, (1) (a) of the statutes is amended to read:

939.62 (1) (b) of the statutes is amended to read:

939.62 (1) (c) of the statutes is amended to read:

939.62 (2m) (a) 2m. a. of the statutes is amended to read:

939.62 (2m) (a) 2m. b. of the statutes is amended to read:

939.622 of the statutes is repealed.

939.623 of the statutes is repealed.

939.624 of the statutes is repealed.

939.625 of the statutes is repealed.

939.632 (1) (e) 1. of the statutes is amended to read:

939.635 of the statutes is repealed.

939.64 of the statutes is repealed.

939.641 of the statutes is repealed.

939.646 of the statutes is repealed.

939.647 of the statutes is repealed.

939.648 of the statutes is repealed.

939.72 (1) of the statutes is amended to read:

939.75 (1) of the statutes is amended to read:

940.02 (2) (intro.) of the statutes is amended to read:

940.03 of the statutes is amended to read:

-0590.74	940.04 (1) of the statutes is amended to read:
-0590.75	940.04 (2) (intro.) of the statutes is amended to read:
-0590.76	940.04 (4) of the statutes is amended to read:
-0590.77	940.06 (1) of the statutes is amended to read:
-0590.78	940.06 (2) of the statutes is amended to read:
-0590.79	940.07 of the statutes is amended to read:
-0590.80	940.08 (1) of the statutes is amended to read:
-0590.8 1	940.08 (2) of the statutes is amended to read:
-0590.82	940.09 (1) (intro.) of the statutes is amended to read:
-0590.83	940.09 (1b) of the statutes is repealed.
-0590.84	940.09 (1c) of the statutes is created to read:
-0590.85	940.10 (1) of the statutes is amended to read:
-0590.86	940.10 (2) of the statutes is amended to read:
-0590.87	940.11 (1) of the statutes is amended to read:
-0590.88	940.11 (2) of the statutes is amended to read:
-0590.89	940.12 of the statutes is amended to read:
-0590.90	940.15 (2) of the statutes is amended to read:
-0590.91	940.15 (5) of the statutes is amended to read:
-0590.92	940.15 (6) of the statutes is amended to read:
-0590.93	940.19 (2) of the statutes is amended to read:
-0590.94	940.19 (3) of the statutes is repealed.
-0590.95	940.19 (4) of the statutes is amended to read:
-0590.96	940.19 (5) of the statutes is amended to read:
-0590.97	940.19 (6) (intro.) of the statutes is amended to read:
-0590.98	940.195 (2) of the statutes is amended to read:
-0590.99	940.195 (3) of the statutes is repealed.
-0590.100	940.195 (4) of the statutes is amended to read:
-0590.101	940.195 (5) of the statutes is amended to read:
-0590.102	940.195 (6) of the statutes is repealed.
-0590.103	940.20 (1) of the statutes is amended to read:
-0590.104	940.20 (1m) of the statutes is amended to read:
-0590.105	940.20 (2) of the statutes is amended to read:
-0590.106	940.20 (2m) (b) of the statutes is amended to read:
-0590.107	940.20 (3) of the statutes is amended to read:

-0590.108	940.20 (4) of the statutes is amended to read:
-0590.109	940.20 (5) (b) of the statutes is amended to read:
-0590.110	940.20 (6) (b) (intro.) of the statutes is amended to read:
-0590.111	940.20 (7) (b) of the statutes is amended to read:
-0590.112	940.201 (2) (intro.) of the statutes is amended to read:
-0590.113	940.203 (2) (intro.) of the statutes is amended to read:
-0590.114	940.205 (2) (intro.) of the statutes is amended to read:
-0590.115	940.207 (2) (intro.) of the statutes is amended to read:
-0590.116	940.21 of the statutes is amended to read:
-0590.117	940.22 (2) of the statutes is amended to read:
-0590.118	940.225 (2) (intro.) of the statutes is amended to read:
-0590.119	940.225 (3) of the statutes is amended to read:
-0590.120	940.23 (1) (a) of the statutes is amended to read:
-0590.121	940.23 (1) (b) of the statutes is amended to read:
-0590.122	940.23 (2) (a) of the statutes is amended to read:
-0590.123	940.23 (2) (b) of the statutes is amended to read:
-0590.124	940.24 (1) of the statutes is amended to read:
-0590.125	940.24 (2) of the statutes is amended to read:
-0590.126	940.25 (1) (intro.) of the statutes is amended to read:
-0590.127	940.25 (1b) of the statutes is repealed.
-0590.128	940.285 (2) (b) lg. of the statutes is amended to read:
-0590.129	940.285 (2) (b) lm. of the statutes is amended to read:
-0590.130	940.285 (2) (b) lr. of the statutes is amended to read:
-0590.131	940.285 (2) (b) 2. of the statutes is amended to read:
-0590.132	940.285 (2) (b) 3. of the statutes is repealed.
-0590.133	940.29 of the statutes is amended to read:
-0590.134	940.295 (3) (b) lg. of the statutes is amended to read:
-0590.135	940.295 (3) (b) lm. of the statutes is amended to read:
-0590.136	940.295 (3) (b) lr. of the statutes is amended to read:
-0590.137	940.295 (3) (b) 2. of the statutes is amended to read:
-0590.138	940.295 (3) (b) 3. of the statutes is amended to read:
-0590.139	940.30 of the statutes is amended to read:
-0590.140	940.305 (1) of the statutes is amended to read:
-0590.141	940.305 (2) of the statutes is amended to read:

-0590.142	940.3 1 (1) (intro.) of the statutes is amended to read:
-0590.143	940.31 (2) (a) of the statutes is amended to read:
-0590.144	940.31 (2) (b) of the statutes is amended to read:
-0590.145	940.32 (2) (intro.) of the statutes is amended to read:
-0590.146	940.32 (2m) of the statutes is amended to read:
-0590.147	940.32 (3) (intro.) of the statutes is amended to read:
-0590.148	940.32 (3m) (intro.) of the statutes is amended to read:
-0590.149	940.43 (intro.) of the statutes is amended to read:
-0590.150	940.45 (intro.) of the statutes is amended to read:
-0590.151	941.11 (intro.) of the statutes is amended to read:
-0590.152	941.12 (1) of the statutes is amended to read:
-0590.153	941.20 (2) (intro.) of the statutes is amended to read:
-0590.154	941.20 (3) (a) (intro.) of the statutes is amended to read:
-0590.155	941.21 of the statutes is amended to read:
-0590.156	941.235 (1) of the statutes is amended to read:
-0590.157	941.26 (2) (a) of the statutes is amended to read:
-0590.158	941.26 (2) (b) of the statutes is amended to read:
-0590.159	941.26 (2) (e) of the statutes is amended to read:
-0590.160	941.26 (2) (f) of the statutes is amended to read:
-0590.161	941.26 (2) (g) of the statutes is amended to read:
-0590.162	941.26 (4) (d) of the statutes is amended to read:
-0590.163	941.26 (4) (e) of the statutes is amended to read:
-0590.164	941.28 (3) of the statutes is amended to read:
-0590.165	941.29 (2) (intro.) of the statutes is amended to read:
-0590.166	941.29 (2m) of the statutes is repealed.
-0590.167	941.295 (1) of the statutes is amended to read:
-0590.168	941.296 (2) (intro.) of the statutes is amended to read:
-0590.169	941.296 (3) of the statutes is repealed.
-0590.170	941.298 (2) of the statutes is amended to read:
-0590.171	941.30 (1) of the statutes is amended to read:
-0590.172	941.30 (2) of the statutes is amended to read:
-0590.173	941.3 1 (1) of the statutes is amended to read:
-0590.174	941.31 (2) (b) of the statutes is amended to read:
-0590.175	941.32 of the statutes is amended to read:

-0590.176	941.325 of the statutes is amended to read:
-0590.177	941.327 (2) (a) (intro.) of the statutes is amended to read:
-4590.178	941.327 (2) (b) 1. of the statutes is amended to read:
-0590.179	941.327 (2) (b) 2. of the statutes is amended to read:
-0590.180	941.327 (2) (b) 3. of the statutes is amended to read:
-0590.181	941.327 (2) (b) 4. of the statutes is amended to read:
-0590.182	941.327 (3) of the statutes is amended to read:
-0590.183	941.37 (3) of the statutes is amended to read:
-0590.184	941.37 (4) of the statutes is amended to read:
-0590.185	941.38 (2) of the statutes is amended to read:
-0590.186	943.01 (2) (intro.) of the statutes is amended to read:
-0590.187	943.01 (2) (d) of the statutes is amended to read:
-0590.188	943.01 (2g) of the statutes is repealed.
-0590.189	943.011 (2) (intro.) of the statutes is amended to read:
-0590.190	943.012 (intro.) of the statutes is amended to read:
-0590.191	943.013 (2) (intro.) of the statutes is amended to read:
-0590.192	943.014 (2) of the statutes is amended to read:
-0590.193	943.015 (2) (intro.) of the statutes is amended to read:
-0590.194	943.017 (2) (intro.) of the statutes is amended to read:
-0590.195	943.017 (2) (d) of the statutes is amended to read:
-0590.196	943.017 (2m) (b) (intro.) of the statutes is amended to read:
-0590.197	943.02 (1) (intro.) of the statutes is amended to read:
-0590.198	943.03 of the statutes is amended to read:
-0590.199	943.04 of the statutes is amended to read:
-0590.200	943.06 (2) of the statutes is amended to read:
-0590.201	943.07 (1) of the statutes is amended to read:
-0590.202	943.07 (2) of the statutes is amended to read:
-0590.203	943.10 (1) (intro.) of the statutes is amended to read:
-0590.204	943.10 (2) (intro.) of the statutes is amended to read:
-0590.205	943.12 of the statutes is amended to read:
-0590.206	943.20 (3) (a) of the statutes is amended to read:
-0590.207	943.20 (3) (b) of the statutes is amended to read:
-0590.208	943.20 (3) (bm) of the statutes is created to read:
-0590.209	943.20 (3) (c) of the statutes is amended to read:

-0590.210 943.20 (3) (d) (intro.) of the statutes is amended to read:
-0590.211 943.20 (3) (d) 1. of the statutes is amended to read:
-0590.212 943.20 (3) (d) 2. of the statutes is renumbered 943.20 (3) (e) and amended
to read:
-0590.213 943.20 (3) (d) 3. of the statutes is amended to read:
-0590.214 943.20 (3) (d) 4. of the statutes is amended to read:
-0590.215 943.201 (2) of the statutes is amended to read:
-0590.216 943.205 (3) of the statutes is amended to read:
-0590.217 943.21 (3) (a) of the statutes is amended to read:
-0590.218 943.21 (3) (b) of the statutes is amended to read:
-0590.219 943.23 (lg) of the statutes is amended to read:
-0590.220 943.23 (lm) of the statutes is repealed.
-0590.221 943.23 (lr) of the statutes is repealed.
-0590.222 943.23 (2) of the statutes is amended to read:
-0590.223 943.23 (3) of the statutes is amended to read:
-0590.224 943.23 (3m) of the statutes is created to read:
-0590.225 943.23 (4m) of the statutes is amended to read:
-0590.226 943.23 (5) of the statutes is amended to read:
-0590.227 943.24 (1) of the statutes is amended to read:
-0590.228 943.24 (2) of the statutes is amended to read:
-0590.229 943.25 (1) of the statutes is amended to read:
-0590.230 943.25 (2) (intro.) of the statutes is amended to read:
-0590.231 943.26 (2) of the statutes is amended to read:
-0590.232 943.27 of the statutes is amended to read:
-0590.233 943.28 (2) of the statutes is amended to read:
-0590.234 943.28 (3) of the statutes is amended to read:
-0590.235 943.28 (4) of the statutes is amended to read:
-0590.236 943.30 (1) of the statutes is amended to read:
-0590.237 943.30 (2) of the statutes is amended to read:
-0590.238 943.30 (3) of the statutes is amended to read:
-0590.239 943.30 (4) of the statutes is amended to read:
-0590.240 943.30 (5) (b) of the statutes is amended to read:
-0590.241 , 943.31 of the statutes is amended to read:
-0590.242 943.32 (1) (intro.) of the statutes is amended to read:

-0590.243	943.32 (2) of the statutes is amended to read:
-0590.244	943.34 (1) (a) of the statutes is amended to read:
-0590.245	943.34 (1) (b) of the statutes is amended to read:
-0590.246	943.34 (1) (bm) of the statutes is created to read:
-0590.247	943.34 (1) (c) of the statutes is amended to read:
-0590.248	943.38 (1) (intro.) of the statutes is amended to read:
-0590.249	943.38 (2) of the statutes is amended to read:
-0590.250	943.39 (intro.) of the statutes is amended to read:
-0590.25 1	943.395 (2) (a) of the statutes is amended to read:
-0590.252	943.395 (2) (b) of the statutes is amended to read:
-0590.253	943.40 (intro.) of the statutes is amended to read:
-0590.254	943.41 (8) (b) of the statutes is amended to read:
-0590.255	943.41 (8) (c) of the statutes is amended to read:
-0590.256	943.45 (3) (c) of the statutes is amended to read:
-0590.257	943.45 (3) (d) of the statutes is amended to read:
-0590.258	943.455 (4) (c) of the statutes is amended to read:
-0590.259	943.455 (4) (d) of the statutes is amended to read:
-0590.260	943.46 (4) (c) of the statutes is amended to read:
-0590.261	943.46 (4) (d) of the statutes is amended to read:
-0590.262	943.47 (3) (c) of the statutes is amended to read:
-0590.263	943.47 (3) (d) of the statutes is amended to read:
-0590.264	943.50 (4) (a) of the statutes is amended to read:
-4590.265	943.50 (4) (b) of the statutes is amended to read:
-0590.266	943.50 (4) (bm) of the statutes is created to read:
-0590.267	943.50 (4) (c) of the statutes is amended to read:
-0590.268	943.60 (1) of the statutes is amended to read:
-0590.269	943.61 (5) (b) of the statutes is amended to read:
-0590.270	943.61 (5) (c) of the statutes is amended to read:
-0590.27 1	943.62 (4) (b) of the statutes is amended to read:
-0590.272	943.62 (4) (c) of the statutes is amended to read:
-0590.273	943.70 (2) (b) 2. of the statutes is amended to read:
-0590.274	943.70 (2) (b) 3. of the statutes is amended to read:
-0590.275	943.70 (2) (b) 4. of the statutes is amended to read:
-0590.276	943.70 (3) (b) 2. of the statutes is amended to read:

-0590.277 943.70 (3) (b) 3. of the statutes is amended to read:
-0590.278 943.75 (2) of the statutes is amended to read:
-0590.279 944.05 (1) (intro.) of the statutes is amended to read:
-0590.280 944.15 (title) of the statutes is repealed and recreated to read:
-0590.28 1 944.16 (intro.) of the statutes is amended to read:
-0590.282 944.205 (2) (intro.) of the statutes is amended to read:
-0590.283 944.21 (5) (c) of the statutes is amended to read:
-0590.284 944.21 (5) (e) of the statutes is amended to read:
-0590.285 944.32 of the statutes is amended to read:
-0590.286 944.33 (2) of the statutes is amended to read:
-0590.287 944.34 (intro.) of the statutes is amended to read:
- 0 5 9 0 . 2 8 8 945.03 (intro.) of the statutes is amended to read:
-0590.289 945.05 (1) (intro.) of the statutes is amended to read:
-0590.290 945.08 (1) of the statutes is amended to read:
-0590.291 946.02 (1) (intro.) of the statutes is amended to read:
-0590.292 946.03 (1) (intro.) of the statutes is amended to read:
-0590.293 946.03 (2) of the statutes is amended to read:
-0590.294 946.05 (1) of the statutes is amended to read:
-0590.295 946.10 (intro.) of the statutes is amended to read:
-0590.296 946.11 (1) (intro.) of the statutes is amended to read:
-0590.297 946.12 (intro.) of the statutes is amended to read:
-0590.298 946.13 (1) (intro.) of the statutes is amended to read:
-0590.299 946.14 of the statutes is amended to read:
-0590.300 946.15 (1) of the statutes is amended to read:
-0590.301 946.15 (3) of the statutes is amended to read:
-0590.302 946.31 (1) (intro.) of the statutes is amended to read:
-0590.303 946.32 (1) (intro.) of the statutes is amended to read:
-0590.304 946.41 (2m) (intro.) of the statutes is amended to read:
-0590.305 946.415 (2) (intro.) of the statutes is amended to read:
-0590.306 946.42 (3) (intro.) of the statutes is amended to read:
-0590.307 946.42 (4) of the statutes is repealed.
-0590.308 946.425 (1) of the statutes is amended to read:
-0590.309 946.425 (lm) (b) of the statutes is amended to read:
-0590.310 946.425 (lr) (b) of the statutes is amended to read:

-0590.3 11	946.425 (2) of the statutes is repealed.
-0590.312	946.43 (intro.) of the statutes is amended to read:
-0590.313	946.44 (1) (intro.) of the statutes is amended to read:
-0590.314	946.44 (1g) of the statutes is amended to read:
-0590.3 15	946.44 (1m) of the statutes is amended to read:
-0590.3 16	946.47 (1) (intro.) of the statutes is amended to read:
-0590.317	946.48 (1) of the statutes is amended to read:
-0590.318	946.49 (1) (b) of the statutes is amended to read:
-0590.319	946.49 (2) of the statutes is amended to read:
-0590.320	946.50 (5d) of the statutes is created to read:
-0590.321	946.50 (5h) of the statutes is created to read:
-0590.322	946.50 (5p) of the statutes is created to read:
-0590.323	946.50 (5t) of the statutes is created to read:
-0590.324	946.60 (1) of the statutes is amended to read:
-0590.325	946.60 (2) of the statutes is amended to read:
-0590.326	946.61 (1) (intro.) of the statutes is amended to read:
-0590.327	946.64 of the statutes is amended to read:
-0590.328	946.65 (1) of the statutes is amended to read:
-0590.329	946.68 (1r) (a) of the statutes is amended to read:
-0590.330	946.68 (1r) (b) of the statutes is amended to read:
-0590.33 1	946.68 (1r) (c) of the statutes is amended to read:
-0590.332	946.69 (2) (intro.) of the statutes is amended to read:
-0590.333	946.70 (2) of the statutes is amended to read:
-0590.334	946.72 (1) of the statutes is amended to read:
-0590.335	946.74 (2) of the statutes is amended to read:
-0590.336	946.76 of the statutes is amended to read:
-0590.337	946.82 (4) of the statutes is amended to read:
-0590.338	946.84 (1) of the statutes is amended to read:
-0590.339	946.85 (1) of the statutes, as affected by 1997 Wisconsin Act 283, is , amended to read:
-3266.147	946.85 (1) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-0590.340	947.013 (1t) of the statutes is amended to read:
-0590.341	947.013 (1v) of the statutes is amended to read:
-0590.342	947.013 (1x) (intro.) of the statutes is amended to read:

-0590.343	947.015 of the statutes is amended to read:
-0590.344	948.02 (2) of the statutes is amended to read:
-0590.345	948.02 (3) of the statutes is amended to read:
-0590.346	948.02 (3m) of the statutes is repealed.
-0590.347	948.025 (1) of the statutes is renumbered 948.025 (1) (intro.) and amended to read:
-0590.348	948.025 (1) (b) of the statutes is created to read:
-0590.349	948.025 (2) of the statutes is renumbered 948.025 (2) (b) and amended to read:
-0590.350	948.025 (2) (a) of the statutes is created to read:
- 0 5 9 0 . 3 5 1	948.025 (2m) of the statutes is repealed.
-0590.352	948.03 (2) (a) of the statutes is amended to read:
-0590.353	948.03 (2) (b) of the statutes is amended to read:
-0590.354	948.03 (2) (c) of the statutes is amended to read:
-0590.355	948.03 (3) (a) of the statutes is amended to read:
- 0 5 9 0 . 3 5 6	948.03 (3) (b) of the statutes is amended to read:
-0590.357	948.03 (3) (c) of the statutes is amended to read:
-0590.358	948.03 (4) (a) of the statutes is amended to read:
-0590.359	948.03 (4) (b) of the statutes is amended to read:
-0590.360	948.04 (1) of the statutes is amended to read:
-0590.361	948.04 (2) of the statutes is amended to read:
-0590.362	948.05 (1) (intro.) of the statutes is amended to read:
-0590.363	948.05 (1m) of the statutes, as affected by 1999 Wisconsin Act 3, is amended to read:
-0590.364	948.05 (2) of the statutes, as affected by 1999 Wisconsin Act 3, is amended to read:
-0590.365	948.055 (2) (a) of the statutes is amended to read:
-0590.366	948.055 (2) (b) of the statutes is amended to read:
-0590.367	948.06 (intro.) of the statutes is amended to read:
-0590.368	948.07 (intro.) of the statutes is amended to read:
-0590.369	948.08 of the statutes is amended to read:
-0590.370	948.095 (2) (intro.) of the statutes is amended to read:
-0590.371	948.11 (2) (a) of the statutes is amended to read:
-0590.372	948.11 (2) (am) of the statutes is amended to read:
-0590.373	948.12 (intro.) of the statutes is amended to read:

-0590.374	948.13 (2) of the statutes is amended to read:
-0590.375	948.20 of the statutes is amended to read:
-0590.376	948.21 (1) of the statutes is amended to read:
-0590.377	948.22 (2) of the statutes is amended to read:
-0590.378	948.23 of the statutes is amended to read:
-0590.379	948.24 (1) (intro.) of the statutes is amended to read:
-0590.380	948.30 (1) (intro.) of the statutes is amended to read:
-0590.38 1	948.30 (2) (intro.) of the statutes is amended to read:
-0590.382	948.31 (1) (b) of the statutes is amended to read:
-0590.383	948.31 (2) of the statutes is amended to read:
-0590.384	948.31 (3) (intro.) of the statutes is amended to read:
-0590.385	948.35 of the statutes is repealed.
-0590.386	948.36 of the statutes is repealed.
-0590.387	948.40 (4) (a) of the statutes is amended to read:
-0590.388	948.40 (4) (b) of the statutes is amended to read:
-0590.389	948.51 (3) (b) of the statutes is amended to read:
-0590.390	948.51 (3) (c) of the statutes is created to read:
-0590.391	948.60 (2) (b) of the statutes is amended to read:
-0590.392	948.60 (2) (c) of the statutes is amended to read:
-0590.393	948.605 (2) (a) of the statutes is amended to read:
-0590.394	948.605 (3) (a) of the statutes is amended to read:
-0590.395	948.605 (4) of the statutes is repealed.
-0590.396	948.61 (2) (b) of the statutes is amended to read:
-0590.397	948.62 (1) (a) of the statutes is amended to read:
-0590.398	948.62 (1) (b) of the statutes is amended to read:
-0590.399	948.62 (1) (bm) of the statutes is created to read:
-0590.400	948.62 (1) (c) of the statutes is amended to read:
-0590.401	949.03 (1) (b) of the statutes is amended to read:
-3370.6	950.04 (1v) (g) of the statutes is amended to read:
-3370.7	950.04 (1v) (nt) of the statutes is created to read:
-0590.402	951.18 (1) of the statutes, as affected by 1997 Wisconsin Act 192, is amended to read:
-0590.403	95 1.18 (2) of the statutes is amended to read:
-0590.404	95 1.18 (2m) of the statutes is amended to read:

- 3265.7 961.41 (1) (intro.) of the statutes is amended to read:
- 3265.8 961.41 (1) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.9 961.41 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read: .
- 3265.10 961.41 (1) (cm) (intro.) of the statutes is amended to read:
- 3265.11 961.41 (1) (cm) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is renumbered 961.41 (1) (cm) 1r. and amended to read:
- 3265.12 961.41 (1) (cm) 1g. of the statutes is created to read:
- 3265.13 961.41 (1) (cm) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.14 961.41 (1) (cm) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.15 961.41 (1) (cm) 4. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.16 961.41 (1) (cm) 5. of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.
- 3265.17 961.41 (1) (d) (intro.) of the statutes is amended to read:
- 3265.18 961.41 (1) (d) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.19 961.41 (1) (d) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.20 961.41 (1) (d) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.21 961.41 (1) (d) 4. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.22 961.41 (1) (d) 5. of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.
- 3265.23 961.41 (1) (d) 6. of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.
- 3265.24 961.41 (1) (e) (intro.) of the statutes is amended to read:
- 3265.25 961.41 (1) (e) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.26 961.41 (1) (e) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.27 961.41 (1) (e) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.28 961.41 (1) (e) 4. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

- 3265.29 961.41 (1) (e) 5. of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.
- 3265.30 961.41 (1) (e) 6. of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.
- 3265.31 961.41 (1) (f) (intro.) of the statutes is amended to read:
- 3265.32 961.41 (1) (f) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.33 961.41 (1) (f) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.34 961.41 (1) (f) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.35 961.41 (1) (g) (intro.) of the statutes is amended to read:
- 3265.36 961.41 (1) (g) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.37 961.41 (1) (g) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.38 961.41 (1) (g) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.39 961.41 (1) (h) (intro.) of the statutes is amended to read:
- 3265.40 961.41 (1) (h) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.41 961.41 (1) (h) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.42 961.41 (1) (h) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.43 961.41 (1) (h) 4. of the statutes is created to read:
- 3265.44 961.41 (1) (h) 5. of the statutes is created to read:
- 3265.45 961.41 (1) (i) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.46 961.41 (1) (j) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.47 961.41 (1m) (intro.) of the statutes is amended to read:
- 3265.48 961.41 (1m) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.49 961.41 (1m) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.50 961.41 (1m) (cm) (intro.) of the statutes is amended to read:

- 3265.51 961.41 (lm) (cm) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is renumbered 961.41 (lm) (cm) lr. and amended to read:
- 3265.52 961.41 (lm) (cm) lg. of the statutes is created to read:
- 3265.53 961.41 (lm) (cm) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.54 961.41 (lm) (cm) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.55 961.41 (lm) (cm) 4. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.56 961.41 (lm) (cm) 5. of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.
- 3265.57 961.41 (lm) (d) (intro.) of the statutes is amended to read:
- 3265.58 961.41 (lm) (d) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.59 961.41 (lm) (d) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.60 961.41(1m) (d) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.61 961.41 (lm) (d) 4. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.62 961.41 (lm) (d) 5. of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.
- 3265.63 961.41 (lm) (d) 6. of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.
- 3265.64 961.41 (lm) (e) (intro.) of the statutes is amended to read:
- 3265.65 961.41 (lm)(e) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.66 961.41 (lm) (e) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.67 961.41 (lm) (e) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.68 961.41 (lm) (e) 4. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.69 961.41 (lm) (e) 5. of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.
- 3265.70 961.41 (lm) (e) 6. of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.
- 3265.71 961.41 (lm) (f) (intro.) of the statutes is amended to read:

- 3265.72 961.41 (lm) (f) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.73 961.41 (lm) (f) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.74 961.41 (lm) (f) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.75 961.41 (lm) (g) (intro.) of the statutes is amended to read:
- 3265.76 961.41 (lm) (g) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.77 961.41 (lm) (g) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.78 961.41 (lm) (g) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.79 961.41 (lm) (h) (intro.) of the statutes is amended to read:
- 3265.80 961.41 (lm) (h) 1. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.81 961.41 (lm) (h) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.82 961.41 (lm) (h) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.83 961.41 (lm) (h) 4. of the statutes is created to read:
- 3265.84 961.41 (lm) (h) 5. of the statutes is created to read:
- 3265.85 961.41 (lm) (i) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.86 961.41 (lm) (j) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.87 961.41 (1n) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.88 961.41 (lq) of the statutes is amended to read:
- 3265.89 961.41 (lr) of the statutes is amended to read:
- 3265.90 961.41 (2) (intro.) of the statutes is amended to read:
- 3265.91 961.41 (2) (a) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.92 961.41 (2) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.93 961.41 (2) (c) of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.

- 3265.94 961.41 (2) (d) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.95 961.41 (3g) (a) 1. of the statutes, as affected by 1999 Wisconsin Act 283, is renumbered 961.41 (3g) (am) and amended to read:
- 3265.96 961.41 (3g) (a) 2. of the statutes, as affected by 1997 Wisconsin Act 283, is repealed.
- 3265.97 961.41 (3g) (a) 3. of the statutes is repealed.
- 3265.98 961.41 (3g) (b) (title) of the statutes is created to read:
- 3265.99 961.41 (3g) (c) of the statutes is amended to read:
- 3265.100 961.41 (3g) (d) of the statutes is amended to read:
- 3265.101 961.41 (3g) (e) of the statutes is amended to read:
- 3265.102 961.41 (3g) (f) of the statutes is amended to read:
- 3265.103 961.41 (4) (am) 3. of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.104 961.42 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.105 961.43 (2) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 3265.106 961.438 of the statutes is repealed.
- 3265.107 961.455 (1) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
- 0590.405 961.455 (3) of the statutes is amended to read:
- 3265.108 961.46 (1) of the statutes is renumbered 961.46 and amended to read:
- 3265.109 961.46 (2) of the statutes is repealed.
- 3265.110 961.46 (3) of the statutes is repealed.
- 3265.111 961.465 of the statutes is repealed.
- 3265.112 961.472 (2) of the statutes is amended to read:
- 3265.113 96 1.48 (1) of the statutes is renumbered 961.48 (1) (intro.) and amended to read:
- 3265.114 961.48 (1) (a) and (b) of the statutes are created to read:
- 3265.115 961.48 (2) of the statutes is repealed.
- 3265.116 961.48 (2m) (a) of the statutes is amended to read:
- 3265.117 961.48 (3) of the statutes is amended to read:
- 3265.118 961.48 (4) of the statutes is repealed.
- 3265.119 961.49 (1) of the statutes is renumbered 961.49.
- 3265.120 961.49 (2) of the statutes is repealed.

-3265.121 961.49 (3) of the statutes is repealed.
-3265.122 961.492 of the statutes is repealed.
-0590.406 968.255 (1) (a) 2. of the statutes is amended to read:
-3266.148 968.31 (1) (intro.) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.149 968.34 (3) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-3266.150 968.43 (3) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-0590.407 969.08 (10) (a) of the statutes is amended to read:
-0590.408 969.08 (10) (b) of the statutes is amended to read:
-0590.409 971.17 (1) of the statutes is renumbered 971.17 (1) (a) and amended to read:
-0590.410 97 1.17 (1) (b) of the statutes is created to read:
-0590.411 971.17 (1) (d) of the statutes is created to read:
-3265.123 97 1.365 (1) (c) of the statutes is amended to read:
-3265.124 971.365 (2) of the statutes is amended to read:
-0590.412 973.01 (1) of the statutes is amended to read:
-0590.413 973.01 (2) (a) of the statutes is amended to read:
-0590.414 973.01 (2) (b) (intro.) of the statutes is amended to read:
-0590.415 973.01 (2) (b) 1. of the statutes is amended to read:
-0590.416 973.01 (2) (b) 2. of the statutes is repealed.
-0590.417 973.01 (2) (b) 3. of the statutes is amended to read:
-0590.418 973.01 (2) (b) 4. of the statutes is amended to read:
-0590.419 973.01 (2) (b) 5. of the statutes is amended to read:
-0590.420 973.01 (2) (b) 6. of the statutes'is renumbered 973.01 (2) (b) 10. and amended to read:
-0590.421 973.01 (2) (b) 6m. of the statutes is created to read:
-0590.422 973.01 (2) (b) 7. of the statutes is created to read:
-0590.423 973.01 (2) (b) 8. of the statutes is created to read:
-0590.424 973.01 (2) (b) 9. of the statutes is created to read:
-0590.425 973.01 (2) (c) of the statutes is repealed.
-0590.426 973.01 (2) (d) of the statutes is renumbered 973.01 (2) (d) (intro.) and amended to read:
-0590.427 973.01 (2) (d) 1. to 6. of the statutes are created to read:

-3361.13	973.01 (2m) of the statutes is created to read:
-3370.8	973.01 (4) of the statutes is amended to read:
-0590.428	973.0135 (1) (b) 2. of the statutes is amended to read:
-0590.429	973.017 of the statutes is created to read:
-0590.430	973.03 (3) (e) 1. and 2. of the statutes are amended to read:
-0590.43 1	973.03 (3) (e) 3. of the statutes is repealed.
-0590.432	973.032 (4) (c) 2. of the statutes is amended to read:
-0590.433	973.075 (1) (b) lm. e. of the statutes is amended to read:
-0590.434	973.075 (2) (d) of the statutes is amended to read:
-0590.435	973.09 (2) (b) 1. of the statutes is amended to read:
-3361.14	973.30 of the statutes is created to read:
-3370.9	977.05 (4) (jm) of the statutes is created to read:
-3266.151	977.06 (2) (b) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:
-0590.436	978.13 (1) (c) of the statutes is amended to read:
-3361.15	Nonstatutory provisions.
-3265.125	Effective date.
-3266.152	Effective dates. This act takes effect on December 31, 1999, or on the day after publication, whichever is later, except as follows:
-0590.437	Initial applicability.
-0590.438	Effective date.

STATE OF WISCONSIN
CRIMINAL PENALTIES STUDY COMMITTEE

MEMORANDUM

DATE: AUGUST 11, 1999

TO: CRIMINAL PENALTIES STUDY COMMITTEE

RE: **ADDENDUM TO FINAL REPORT**

Dear Colleagues,

Today or tomorrow you will be receiving the most recent draft of our Committee's Final Report. As we have been preparing the document, our legislative drafters have identified a few issues (most of the them relating to the classification of crimes) that are yet to be resolved. They are too few in number to call a special meeting of the Code Reclassification Subcommittee before forwarding them on to the whole Committee. Accordingly I am submitting them directly to the whole Committee with my recommendations and hope we can act on them next Monday.

✓ **Classification of Wis. Stat. sec. 253.06(4)(b) - Fraudulent Practices re: State Supplemental Food Program for Women, Infants and Children.** This offense is currently punishable by a fine of not more than \$10,000 or imprisonment for not more than 2 years or both for the first offense. A second or subsequent offense is punishable by a fine of not more than \$10,000 or imprisonment for not more than 5 years or both.

Recommendation: Classify the first offense at a Class I felony and the second or subsequent offense as a Class H felony.

✓ **Classification of Wis. Stat. sec. 100.2095 (6)(d) - Violations Relating to Labeling of Bedding.** This offense is punishable by a fine of not less than \$100 nor more than \$1,000 and by imprisonment for not more than one year or both. Each day of violation constitutes a separate offense.

Recommendation: Apply Class A misdemeanor penalties (9 months imprisonment or \$10,000 fine or both.)

✓ **Classification of Wis. Stat. sec. 343.44(2)(b) (intro) - Operating After Revocation or While Disqualified.** New penalties in the OAR/OAS context are in the process of being implemented. When that is accomplished, OAR will be punishable by a fine of not more than ~~\$2,000~~ or imprisonment for not more than one year or both.

\$2,500

Recommendation: Make OAR punishable by a fine of not more than \$2,500 or imprisonment for not more than one year in the county jail. This will make it a misdemeanor rather than a felony offense but otherwise keep the penalty the same.

✓ **Wis. Stat. sec. 49.95(1) - Public Assistance Fraud.** Under current law this offense is punishable according to the amount of fraud as follows:

\$ 1 - 300 = Forfeiture of not more than \$1,000
\$301 -1,000 = Fine of not more than \$250 or imprisonment for not more than 6 months or both
\$ 1,001 - 2,500 = Fine of not more than \$500 or imprisonment for not more than 5 years or both.
\$2,501 + = Fine of not more than \$10,000 or imprisonment for not more than 10 years or both (Class C felony).

Recommendation:

✓ ~~\$ 1 - 300 = Forfeiture of not more than \$1,000~~
✓ ~~\$ 301-1,000 = Fine of not more than \$250 or imprisonment for not more than 6 months or both~~
✓ ~~\$1,001 - 2,000 = Class A misdemeanor penalties~~
✓ ~~\$2,001 - 5,000 = Class I felony~~
✓ ~~\$5,001 - 10,000 = Class H felony~~
✓ ~~\$10,000 + = Class G felony~~

Note: This brings the penalties for offenses in \$1,000 + ranges into conformity with proposed penalties for theft.

✓ **Wis. Stat. sec. 115.31(2g) - Revocation of Licensing by State Superintendent of Instruction.** Current law requires revocation if licensee is convicted of a Class A, B, C or D felony.

Recommendation: Require revocation if licensee is convicted of a Class A, B, C, D, E, F, G or H felony. This is based on the application of the mandatory release converter.

✓ **Wis. Stat. sec. 118.19(4)(a) - Refusal of Licensing by State Superintendent of Instruction.** This provision tracks the one immediately above.

Recommendation: Same as for 115.31(2g)

Thank you very much.

Thomas J. Hammer
Committee Reporter

73

Geriatric Prisoners.---Any person serving a sentence imposed upon a conviction for a felony offense, other than a Class A felony, committed on or after December 31, 1999, (i) who has reached the age of sixty-five or older and who has served at least five years of incarceration on the sentence imposed or (ii) who has reached the age of sixty or older and who has served at least ten years of incarceration on the sentence imposed may petition the Program Review Board of the Department of Corrections for return to the sentencing court for modification of sentence. The person, or the department on behalf of the person, may apply to the state public defender for determination of indigency and appointment of counsel under s. 977.05(4)(j). If the person files a petition without counsel, the court shall refer the matter to the state public defender for determination of indigency and appointment of counsel under s. 977.05(4)(j). If the Program Review Board determines that the public interest would be served by modifying the remainder of the incarcerative sentence to extended supervision, the Program Review Board shall so advise the sentencing court. The sentencing court shall give notice to the district attorney and the sentenced person and shall conduct a hearing to determine if the public interest would be served by modifying the remainder of the person's incarcerative sentence to extended supervision.

The sentenced person and any victim of the crime shall be entitled to be present at the hearing. Pursuant to s. 911.01 (4)(c), the rules of evidence shall not apply at the hearing. The sentenced person has the burden to prove by the greater weight of the credible evidence that the modification of sentence would serve the public interest. If

the court determines that the public interest would be served by modifying the remainder of the incarcerative portion of the sentence to extended supervision, the court may so modify the sentence adding much modified portion of the sentence to whatever remains of the already imposed period of extended supervision. If the motion for modification of the sentenced person is denied by the court, such person may appeal to the Court of Appeals. Any decision of the sentencing court denying modification of sentence can be reversed only upon a finding of an abuse of judicial discretion. No subsequent petition may be filed less than one year after the date of the denial of a prior petition by the Program Review Board or the sentencing court.

Alternative to the last three sentences:

Appeal of the order of the sentencing court shall be to the Court of Appeals. Any decision of the sentencing court denying or granting modification can be reversed only upon a finding of an abuse of judicial discretion. No subsequent petition may be filed less than one year after the date of the denial of a prior petition by the Program Review Board or the sentencing court.

Motion *advised*

Either party may ~~the~~ appeal
granting / denied
①
erroneous exercise of discretion
Also see 392.114(5)(f)

Racial basis of sentencing

~~McLean's
language
defeated~~

- Statistical ev. est. inference
- Inference can be rebutted by state
- If not, inference sufficient

McCleskey & Disparity

Can a pattern of disparity explain
a sentence imposed in a given case?

Give duties to sent. comm. re: studying disparity

DRAFT

~~***~~ Notes

✓ P. 25: See Hammer's 8/11 memo treating 49.95

✓ P. 76: Talk to Hammer?

~~cf. p. 80 / l. 21~~

✓ P. 101: l. 6 (3)
l. 22 (?)

✓ P. 139: ll. 16 & 17 (?)

~~P. 168 - l. 18~~

✓ P. 184: l. 5

Report/Draft check

Sentencing guidelines

MGD

✓ "conversion table" - clearly referred to in nonstat / stat provision?

✓ Appendix

ES

P. 124 ✓ "Strict supervision" model - need stat language?

MGD P. 128/130 - "Time out" - need stat. language? **PROBABLY?**

✓ Confinement sanction

P. 106 of report ✓ Max period of ES for misdemeanors? (Probably ok b/c max. short, unlike, say, B felony)

Crime classification

✓ List of crimes: "from _____" ^{under} means "natural" placement under new class system? (p. 32)

✓ Battery in draft will look differently than battery in report. They'll change Report

✓ Misd. fleeing - new stat.
- P. 64 of report ≠ version in draft
- P. 64: "a provision should be crafted" → "Comm. recommends...."

ALSO: p. 66

✓ Instead of "NEW" in list, cite to proposed statute?

✓ Double-check fleeing ~~AMAR~~ listings

Conf w/ Brennan & Hammer 8/16
✓ RP; 939.63 (2)

✓ 941.315 (3) Class H (Del. nitrous oxide)

✓ 943.41 (8) Add 6 mos. period for J felony

✓ 943.70 (3)(b)4. - Class F felony

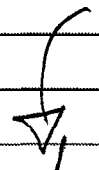
✓ 944.06 - Class F felony

2 Kings

✓ RP; 948.03 (5); add to agg. factor statute

✓ 973.017 (3) All crimes

✓ 2889/P3 §. 2, l. 18 - refer to revoc. under that sentence



& other relevant places

✓ Suspension (revoc. for fleeing) → tell Hammer

* ✓ 939.32 (1) (intro.) → refer to max prison & max ES

✓ RP; 939.32 (1) (b)

✓ Add chem. castration to ES. (304.06 (1))

✓ ~~Secs~~ 939.22 (21) (2) "Battery"

267.9320

✓ & 941 gang offense

do for new... [Repeal doubling of revocation for kid in car]

→ check on process 346.65 (2) (f)

P-2

✓ 946.85 (1) - E felony

✓ 346.04 (2b) → intentionally?
purposefully?

✓ 343.94 (2) (b) Felony - intent?

~~Keywords~~

✓ FIX "max term of imprisonment" language

8/16 CPSC mtg.

✓ 1) Hammer 8/11/99 memo re: penalties subcommittee
"clean-up"; approved.

2) Guidelines discussion

a) → Say ~~the~~ in stats. that use/de-
parture from guidelines not basis
for appellate review → abuse
of discretion only

b) Should state require D. of State Cts.
(or sentencing comm.) to provide
copies of guidelines to judges?

temporary

c) 973.017 should be clearer that list
of agg. factors not exclusive; can con-
sider others, e.g. enhancer facts not
pleaded/proven (. . . .); & that consideration
doesn't dictate certain result & or that
factor ~~may~~ be given certain weight.

✓ 3) "periatric" clause → Either party may appeal
3370 - p. 6 / l. 11

✓ "improperly" → "erroneous" (NB also: 392.114
Also p. 3, l. 3 (5)(f))

✓ Clarify: Cert. from P.R.C. → to ctg. of conviction

Changes/Checks for 1st compile

- ✓ 1. Check x-ref to "notwithstanding" 939.50 fines for accuracy etc.
- ✓ 2. P. 180 → 2.9 "crim code". but 2.10 goes with ch. 973!
- ✓ 3. 946.50 → RP. "BC" ? (Is there one?)
Search "BC felony" in current stat
4. Search "Class" & "felony" TO DO FOR NEXT VERSION
- ✓ 5. RN; 939.63 (1) to be 939.63
RP; 939.63 (2)
- ✓ 6. 302.113 (9)(c) → remaining ES time
work in ~~notion~~ notion of total periods of incarceration from all previous revocations

August 10, 1999 DRAFT



CRIMINAL PENALTIES STUDY COMMITTEE FINAL REPORT

Respectfully Submitted,
August 31, 1999, by:

Thomas Barland, *Chair*
Thomas Hammer, *Reporter*
Nicholas Chiarkis
Walter Dickey
Greg Everts
Matt Frank
Patrick Fiedler
Brad Gehring
Joanne Huelsman
Stephen Hurley
William Jenkins
Elsa Lamelas
Michael Malmstadt
Michael McCann
Barbara Powell
Linda Pugh
Diane Sykes
Lee Wells

Staff:

Michael Brennan, *Counsel*
Jennifer Dubberstein, *Program and Planning Analyst*

FORWARD AND ACKNOWLEDGEMENTS

The magnitude of the tasks given this Committee and the short time limits within which to accomplish them have resulted in an extraordinary effort by many highly qualified and capable people. While we relied greatly upon the experience of other states who have preceded us in Truth-in-Sentencing, we believe we have produced a product that is unique to Wisconsin and which will tide the state over the transition from determinate to indeterminate sentencing without bankrupting the state. Our work, if adopted by the legislature, should give the sentencing commission which we propose sufficient time to carry out its initial organizational work and begin to undertake the promulgation of permanent sentencing guidelines.

An issue that has been present throughout our Committee's work is the ever-increasing corrections population. We cannot guarantee that there will not be a continued increase in the number of prisoners in the state prison system, but we are confident that such increases as may occur can, with adequate education of the prosecution, public defenders, the judiciary and especially the public, be made more gradual, provided that community corrections is greatly strengthened.

There are two critical components to solving the burgeoning prison population in Wisconsin. One is reducing the extent of social dysfunction in Milwaukee County. The County has just 18.3% of the state's population, but produces 47% of the state's prisoners. Milwaukee's problems are truly the problems of the state. More attention needs to be given by the state to assisting Milwaukee in reducing drug related crimes.

In doing that, we cannot overlook the problem of racial disparity in our society. Fifty-seven percent of our state prisoners are members of racial minorities. Three percent of all African-Americans in Wisconsin are now in prison. The comparable figure for whites is .17% - a shocking difference which compels us to ask "Why has this occurred?" Neither I nor this Committee can answer that question, but if the state wishes to further reduce crime and the prison population it must be willing to undertake a study of that "Why" question and then attempt to ameliorate the causes.

The second critical component is the need to strengthen community corrections. Those states which have succeeded in putting the lid on their prison populations have done so in major part by creating an alternative to prison known as intermediate sanctions. This approach involves short term incarceration with strict monitoring and supervision once one is released from incarceration. Wisconsin's traditional system of probation is not an appropriate disposition option for many criminals who are not so violent or dangerous that they must be locked up for many years in the prison system. Yet they need some term of lock-up coupled with treatment, usually drug and alcohol, and strict controls when released from incarceration and treatment. Only with such a system in place and working well, will judges then consider probation for those many defendants who do not now truly fit in prison or traditional probation. Until the perception that incarcerative probation is effective will judges cease to send defendants to prison in such numbers that our prison population is

increasing at the present rate of approximately 65 offenders per week' or which has tripled in 10 years under our present indeterminate sentencing system.

These are the conclusions of the chair of this Committee, who has been immersed in these problems the past 13 months.

I am confident that the transition measures we recommend, if adopted by the legislature, will work. That it will, will be due to the devotion to duty and the teamwork of the very capable members of this committee, each of whom has brought a unique talent or insight to our work. First to be acknowledged are our two full-time staff persons Mike Brennan, Committee Counsel, and Jennifer Dubberstein, Research Analyst. Mike brought an incisive mind and a wide range of experience in the criminal and civil law, besides computer knowledge and good writing ability. Jennifer showed a strong ability to analyze raw data, organize it and then present it intelligibly through computer generated charts and graphs.

Each of our committee members devoted many ours of unpaid time to our work. A special commendation must be given to our unpaid Reporter, Professor Tom Hammer of the Marquette Law School. He chaired the Code Reclassification Subcommittee which had the difficult and painstaking task of bringing rational order to the 585 felonies and Class A misdemeanors now on the statute books. This required extensive research and detailed analytical work on his part, much of which was done on weekends and late at night. Finally, he drafted part II of this report which was only slightly revised by the Committee.

Judge Elsa Lamelas of Milwaukee County had the difficult task of chairing the Sentencing Guidelines Subcommittee. This proved to be the most difficult area of our work in which to obtain consensus because of the competing philosophical approaches to sentencing guidelines and the nebulous nature of the subject matter. She ably carried through with grace and patience until consensus was reached all the while spending many hours and weekends preparing the detail for the guidelines.

Judge Patrick Fiedler of Dane County chaired the Extended Supervision Subcommittee which carefully worked through the complex revocation process, streamlining it and preparing statutory and administrative code changes necessary to do so. He brought his broad experience as a criminal sentencing judge and past head of the Department of Corrections.

Professor Walter Dickey of the University of Wisconsin Law School chaired the Computer Modeling Committee. It had the nearly impossible task of coming up with a computer population and cost analysis program in a short time. He brought vast insight in criminal behavior to the committee. He also served on the Sentencing Guidelines Subcommittee. He was ably assisted by Professor Michael Smith, also of the University of Wisconsin Law School, who is a research genius and specialist in criminal sentencing. It was his insights that permitted us to come up with a workable computer cost model. He also

¹ Average of Department of Corrections adult institutions for 5 week period from July 9, 1999 through August 6, 1999.

sat in for Professor Dickey when he was called to Washington for his national committee work.

Judge Diane Sykes of Milwaukee County chaired the Education Subcommittee which made several presentations at judicial and prosecution education seminars. Her committee's work has just begun. In addition she sat in on both the Code Reclassification Subcommittee. She brought a considerably deep knowledge of the criminal law and much experience in sentencing some of Milwaukee's toughest criminals.

Several members of our Committee served on more than one subcommittee. These included criminal defense attorney Steve Hurley, who was ever mindful of costs and who was especially helpful in working through the sentencing guideline problem. He served on three committees. Assistant Attorney General Matthew Frank served on the Code Reclassification and Computer Modeling Subcommittees. To each he brought a strong analytical ability and the means to often suggest solutions troubling the committees. Bill Jenkins, a health organization executive, served on two committees. He was our only public member not having had any relationship with the court system. That proved valuable when he acted to bring the Committee back to earth in its discussions.

Attorney Greg Everts of Madison ably assisted Judge Lamelas in developing sentencing guidelines and in working through the Committee's differences. Milwaukee County District Attorney E. Michael McCann graphically set forth for the committee the problems of law enforcement in Milwaukee and its impact upon the state. Assisting in that effort were Linda Pugh of the Milwaukee Women's Center and Barbara Powell head of the Robert Ellsworth Correction Center and representative of the DOC.

Judges Michael Malmstadt and Lee Wells, both of Milwaukee County, brought many years of experience on the criminal bench as well and considerable prosecution experience. Each made enormous contributions at critical times.

Sheriff Bradley Gehring of Outagamie County was our only law enforcement officer. He proved valuable in giving us considerable insight into how the state's actions effect county jails.

State Public Defender Nicholas Chiarkas called the Committee's attention to a number of effective treatment programs that should be considered by the state when it enhances community corrections. He was ably represented by Mike Tobin at Code Reclassification Subcommittee meetings as well as full committee meetings.

This Committee would not have been able to successfully complete its work, if it were not for the critical insights furnished by Senator Joanne Huelsman of Waukesha County. She was our only legislator. She conscientiously attended all meetings, including those of the Code Reclassification Subcommittee, except when she could not because of the legislature, and then she sent one of her staff members. She had the knack of being able to suggest problem solving compromises at critical times.

The Committee had the assistance of many Wisconsin public servants, some of whom attended nearly all meetings and provided valuable information and insight. Further, the committee had the full cooperation of the Departments of Corrections and Administration. Those who deserve special mention include:

Governor Tommy G. Thompson, as well as Stewart Simonson, and Mark Grapentine of the Governor's office.

Secretary Mark Bugher, Linda Seemeyer, George Lightbourn, Ed Main, and Patti Reardon, all of the Department of Administration.

Secretary Mike Sullivan, Secretary Jon Litscher, Bill Grosshans, **Shiva** Sathisvam, Mark Loder, Rick Geithman, David Albino, and Bob Pultz all of the Department of Corrections.

Jefren Olsen and Mike Dsida of the Legislative Reference Bureau.
Jere Bauer, Jr. of the Legislative Fiscal Bureau.

Ed Eberle of Rep. Dean Kaufert's office, formerly of Rep. Scott Walker's office.
Ray Sobocinski of Sen. Joanne Huelsman's office.

David **Schwarz** and William Lundstrom of the Department of Administration division of hearings and appeals.

Lee Pray and Chuck Hoornstra of the State Attorney General's office

Robert Brick of the director of state court's office.

Jean Bosquet and Ken **McKelvey** of the Circuit Court Automation Project.

Alison Poe & Pete Nelson of the Department of Administration, Bureau of Justice Information Services.

Pat Kenney and Karen Loebel of the Milwaukee County District Attorney's office.

Jim Gleason, Therese Dick, and Kim Heller-Marotta of the Milwaukee unit of the State Public Defender's office.

Gwen **McCutcheon** of Premium Business Services

Hari Hariharan, Russ Lutz, and Bob Tyllo of Systems Seminar Consultants, Madison, Wisconsin.

Respectfully submitted,

Thomas H. Barland, Chair

<p style="text-align: center;">Criminal Penalties Study Committee Final Report</p>

Executive Summary

Conclusions:

Code Reclassification:

1. The current 6 class classification scheme in Wisconsin (A, B, BC, C, D, and E) does not provide sufficient variety in penalties for Wisconsin's 484 felonies. See pp. x-y.
2. To consolidate all crimes into a single criminal code would result in unnecessary confusion. See pp. x-y.
3. The maximum fines in the current penalty structure are too low. See pp. x-y.
4. Act 283 permits offenders to receive periods of extended supervision ("ES") longer than necessary to supervise an offender properly upon release from prison. See pp. x-y.
5. Certain penalty enhancer statutes, which must be pleaded and proved to add extra prison time to the end of a crime's statutory maximum, are rarely if ever used, and others are better considered as aggravating factors at sentencing. See pp. x-y.
6. Mandatory and presumptive minimum sentences should be repealed because they reduce judicial and prosecutorial discretion. See pp. x-y.
7. There is no benefit to continue to incarcerate in prison certain elderly, unhealthy criminals who prove no risk to the community. See pp. x-y.

Temporary Advisory Sentencing Guidelines

8. No other state's sentencing guideline system satisfied the Committee as best for Wisconsin. See pp. x-y.
9. Given time constraints, the Committee developed sentencing guidelines for only those 11 crimes that consume the majority of corrections resources. See pp. x-y.
10. For those crimes for which there are not sentencing guidelines, a conversion table is necessary to understand the relationship between current indeterminate

sentence lengths and Truth-in-Sentencing determinate sentence lengths. See pp. x-y.

Sentencing Commission

11. Various state departments and agencies do not communicate well regarding corrections and criminal justice issues. Communication on these issues also must be improved between the legislature and the Department of Corrections (“DOC”). See pp. x-y.
12. A Sentencing Commission is needed to bridge the gaps among various state departments and agencies concerning corrections and criminal justice issues and to act as a central clearing house for and to do research on such issues. See pp. x-y.

Extended Supervision and its Revocation

13. In the “new world” of Truth-in-Sentencing, ES should consist of differing levels of supervision based upon an offender’s behavior. See pp. x-y.
14. A greater panoply of sanctions is necessary for violations of the conditions of ES. See pp. x-y.
15. There should be a sanction which includes incarceration, but which is more punitive than an alternative-to-revocation but less punitive than full revocation. See pp. x-y.
16. The parole and extended supervision revocation process should be shortened. See pp. x-y.
17. The current revocation system, in which administrative law judges (ALJ’s) make the revocation decision, adjudicates hundreds of cases per year, relieving circuit courts of that burden. See pp. x-y.

Computer Modeling

18. Wisconsin’s law enforcement and corrections computer systems are inadequate tools to use when discussing criminal justice and corrections policies. The Committee found it difficult to get answers to basic statistical questions. These computer systems are not linked, as they should be, and no offender identifying number exists across these systems. See pp. x-y.
19. Wisconsin uses an overly simplistic, inaccurate method to forecast corrections population. See pp. x-y.

20 . A corrections population projection mechanism is necessary to consider the impact of different criminal justice and corrections policies. See pp. x-y.

21. **[Inserts tentative #'s concerning population projections and costs?]** See pp. x-y.

Education of the Bench, the Bar, and the Public

22. Educating the bench, the bar, and the public about Truth-in-Sentencing is most important to ensure that Truth-in-Sentencing succeeds. See pp. x-y.

Issues for Further Study

23. Milwaukee judges and prosecutors do not have confidence in the effectiveness of probation and parole supervision. See pp. x-y.

24. The DOC-Division of Community Corrections has implemented experimental programs in Racine and Dane Counties which could be of use to address this problem. See pp. x-y.

25. States that have implemented Truth-in-Sentencing, imprisoned violent and dangerous offenders for longer periods of time, but also addressed their prison overcrowding problems, have increased state funding of probation and parole supervision, as well as funded and implemented alternatives-to-incarceration. See pp. x-y.

Recommendations:

Code Reclassification

1. The present system of 6 classes should be expanded to 9 classes (A through I). This will allow for closure of the large gaps between classes that exist in the current system. It also will allow for more precise and discriminating classification of the several hundred felonies which occupy the middle and lower ranges of the spectrum. See pp. x-y.
2. The 484 felonies within the criminal code, outside of the criminal code, and in the drug code, should be classified in the Class A-Class I system as recommended. See pp. x-y.
3. All felonies in the Wisconsin statutes should remain in their current locations in the statutes, rather than be consolidated into a single criminal code. See pp. x-y.
4. The new, higher maximum fines in the recommended Class A-Class I system should be adopted. See pp. x-y.

5. ES terms should be capped as recommended. See pp. x-y.
6. The current 19 penalty enhancers, which must be pleaded and proved to add extra prison time to a crime's statutory maximum, should be reduced to 5 penalty enhancers. The remaining penalty enhancers should become aggravating factors considered at sentencing and be repealed, as respectively recommended. See pp. x-y.
7. Statutes mandating minimum and presumptive mandatory sentences should be repealed (except for those contained in operating a vehicle while intoxicated crimes) to give judges and prosecutors maximum discretion in resolving such cases. See pp. x-y.
8. A geriatric clause should be enacted which, if strict criteria are met, would allow certain elderly prisoners to be released from prison but remain on ES for the remainder of their sentences. See pp. x-y.

Temporary Advisory Sentencing Guidelines

9. Rather than adopt another state's sentencing guidelines system, the Committee recommends using the sentencing guideline worksheets and notes it has developed for statewide use for the 11 crimes that consume a majority of the state's corrections resources. See pp. x-y.
10. The conversion table that the Committee has developed should be used when there is no sentencing guideline for a crime. See pp. x-y.

Sentencing Commission

11. The new Sentencing Commission should:
 - a. monitor sentencing practices to modify sentencing guidelines according to public safety needs and changes in sentencing practices, and to compile data regarding anticipated needs;
 - b. inform the legislature and other agencies of anticipated needs in corrections;
 - c. work with the state legislature's budget office to cost out the impact of any proposed new criminal laws and changes such that the legislature make an informed decision on same;
 - d. teach the new sentencing guidelines;
 - e. issue statistics publishing what sentences offenders received, on which crimes, both statewide, and by geographic area, which reports should be distributed to all judges. See pp. x-y.

12. The new Sentencing Commission should have 17 voting members, and 3 ~~ex~~ Afficio members. Service on the Sentencing Commission should be for 3 years, the terms should be staggered, and there should be no limit on the number of terms that a member may serve. See pp. x-y.
13. The new Sentencing Commission should have a staff of 6 and a budget of approximately \$400,000 per annum. See pp. x-y.

Extended Supervision and its Revocation

14. The strict supervision model recommended by the Governor's Intensive Sanctions Review Panel should be adopted for the initial stage of ES, and offenders may earn their way into lesser degrees of supervision as a result of good behavior. See pp. x-y.
15. Sanctions for violations of ES conditions should include: (a) alternatives-to-revocation, (b) "Time out," and (c) revocation. See pp. x-y.
16. "Time out" will involve confinement for a period of time not to exceed 90 days in an ES regional detention facility, if available, or if not available, county jail. Regional ES detention facilities should be constructed to house such offenders. See pp. x-y.
17. The revocation process should be shortened from an average of 84 days to an average of 71 days. See pp. x-y.
18. The administrative law judge ("ALJ"), who currently conducts revocation hearings and makes the revocation decision, should continue in that capacity. If the ALJ decides the offender on supervision should be revoked, a circuit judge should determine an appropriate time period for the offender to return to prison. See pp. x-y.
19. The current writ of certiorari process to challenge a revocation decision should not be altered. See pp. x-y.
20. Judges should be able to change the conditions of ES. See pp. x-y.

Computer Modeling

21. The new Sentencing Commission should use and build upon the computer model which this Committee developed to discuss policy and forecast corrections population and costs. See pp. x-y.

Education of the Bench, the Bar, and the Public

- 22.** The Committee should continue its planned education efforts throughout the state before and after December 31, 1999, the effective date of Truth-in-Sentencing. See pp. x-y.

Issues for Further Study

- 23.** The DOC-Division of Community Corrections' Racine and Dane County experiments strengthening probation and parole supervision should be implemented in Milwaukee. See pp. x-y.
- 24.** Increased corrections resources should be directed toward strengthening probation and parole supervision. See pp. x-y.
- 25.** Alternatives-to-incarceration should be developed, funded, and implemented to relieve prison overcrowding and to decrease corrections costs. See pp. x-y.
- 26.** Corrections costs may be controlled in the "new world" of Truth-in-Sentencing through:
- a. education of the bench and the bar such that proper "new world" sentences are given;
 - b. strengthening probation and parole supervision and creating alternatives to prison to reduce the number of offenders sentenced to prison due to a lack of confidence in probation supervision; and
 - c. use of sentencing guidelines to funnel cases into their proper sentencing ranges. See pp. x-y.
- 27.** The state should examine the racial misrepresentation within the corrections system. See pp. x-y.

I. The Legislation that enacted Truth-in-Sentencing, this Committee's Charges, and this Committee's Working Structure

A. 1997 Act 283, the original "Truth-in-Sentencing" law

Truth-in-Sentencing became law in Wisconsin on June 15, 1998 through 1997 Act 283. Act 283 does a number of things. The act:

1. Establishes a truthful system of sentencing (e.g., a 1 year sentence means 1 year in prison).
2. Abolishes parole.
3. Establishes extended supervision ("ES") for all offenders released from prison, and expands the penalty ranges to allow for ES.
4. Directs that prompt action be taken against those who violate conditions of their ES.
5. Eliminates intensive sanctions as a prison option.
6. Calls for the creation of a sentencing commission.
7. Establishes the Criminal Penalties Study Committee to make recommendations to the legislature and the governor necessary to implement Truth-in-Sentencing.

Act 283 also does not affect a number of things. The act:

1. Does not affect those offenders who commit crimes before December 31, 1999. They will be sentenced under the current law and be eligible for parole.
2. Does not affect probation as an option for criminal offenses.*
3. Does not redefine crimes.
4. Does not address fines, surcharges, and assessments.

Certain legislative policies are clear from Act 283. Wisconsin desires:

1. Truthful sentences (e.g., a 1 year sentence means 1 year in prison).

² Current law remains that probation is not an option for violation of a Class A felony.

2. Stricter supervision of every inmate upon release from prison.
3. Prompt action when those on extended supervision violate their terms of supervision.
4. A uniform system for classifying all Wisconsin felonies, including those in the criminal code, those not in the criminal code, and those in the drug code.

Some major changes to Wisconsin’s criminal law by Act 283 are:

1. A new, bifurcated sentence structure has been created. Sentences will consist of a term of confinement in prison, followed by a term of extended supervision (“ES”) in the community.
2. The maximum sentence lengths for all felonies is increased by 50%, or 1 year, whichever is greater, and the maximum term of confinement and extended supervision for all felonies under a bifurcated sentence is set as follows:

<u>Class</u>	<u>Maximum Confinement</u>	<u>Maximum Extended Supervision</u>	<u>Statutory Maximum</u>
A			Life
B	40	20	60
BC	20	10	30
C	10	5	15
D	5	5	10
E	2	3	5

3. The extended supervision portion of the bifurcated sentence may not be less than 25% of the length of the term of confinement in prison. The court may impose conditions on the ES term. An offender serving a bifurcated sentence is not eligible for parole, and must serve the entire term of confinement in prison without reduction for good behavior.

It is important to note that until Act 283 passed, Wisconsin operated under an “**indeterminate**” sentencing system. Under such a system, the sentence length imposed by a judge includes both time in prison and on parole. Offenders sentenced to prison, other than those sentenced to life, must serve a minimum of the greater of six months or 25% of the court-imposed sentence before becoming eligible for parole (“parole eligibility date”). The use of “good time” credit also affects the length of time an offender is imprisoned. The decision to grant discretionary parole (release from prison at any time between the parole eligibility date and the mandatory release date) is made by the Parole Commission. If discretionary parole is granted, the parolee is placed under DOC supervision for a period not to exceed the court-imposed sentence, less time already

served. Offenders who reach their mandatory release date without being paroled are also placed under parole supervision for a period not to exceed the court-imposed sentence.³

When Act 283 was enacted, a “**determinate**” sentencing system was implemented. Under the new structure, courts impose a bifurcated (two-part) sentence. The sentence will consist of a term of confinement in prison followed by a term of extended supervision in the community. The offender must serve the entire length of the bifurcated sentence, and is not eligible for parole.⁴

This 18-member Criminal Penalties Study Committee was created and charged with making recommendations concerning six topics:

- a. Creation of a uniform classification system for all felonies, including felonies outside of the criminal code.
- b. Classification of each felony and Class A misdemeanor in a manner that places crimes of similar severity into the same classification,
- c. Consolidation of all felonies into a single criminal code.
- d. Creation of a sentencing commission to promulgate advisory sentencing guidelines for use by judges when imposing a bifurcated sentence.
- e. Development of temporary advisory sentencing guidelines for use by judges when imposing a bifurcated sentence.
- f. Changing the administrative rules of the Department of Corrections to ensure that a person who violates a condition of ES is returned to prison promptly and for an appropriate period of time.⁵

Originally, this Committee was required to submit its report and recommendations to the legislature in the manner provided under Wis. Stat. sec. 13.172(2), and to the governor, no later than April 30, 1999. The report was to include any proposed legislation that is necessary to implement the recommendations made by the committee in its report.

The Committee found the original deadline unrealistic in light of the magnitude of the tasks assigned to it. There were a total of 585 crimes to be reclassified: 264 felonies within the criminal code; 220 felonies outside the criminal code; and 101 Class A

³ See Legislative Fiscal Bureau Informational Paper # 55 pp. 2-4.

⁴ *Id.* at pp. 4-7.

⁵ A synopsis of 1997 Act 283 may be found at Wisconsin Legislative Council Information Memorandum 98-1 1, and Wisconsin Legislative Fiscal Bureau Informational Paper # 55, “Felony Sentencing and Probation,” pp. 4-8

misdemeanors. Temporary sentencing guidelines took considerable time to develop; indeed, the former Wisconsin Sentencing Commission had taken more than five years to develop guidelines for 16 crimes. Further, it took other states between two and five years to do what this committee was asked to do in nine months, with a much smaller staff. Moreover, the committee had great difficulty in securing adequate and reliable data from the Department of Corrections (“DOC”) and the Circuit Court Automation Project (“CCAP”) to use as the committee studied. Finally, predicting the effect of changes to criminal classifications and sentencing guidelines was extremely complex. It took until late June 1999 to develop a satisfactory working computer model to predict the future number of prisoners, probationers, parolees, offenders on extended and the cost of incarceration and supervision.

For all of these reasons, the Committee requested a deadline extension from April 30th to August 31st, 1999. This request became Assembly Bill 200. On March 16, 1999, AB 200 passed the Assembly by a vote of 89 to 8. On May 27, 1999, AB 200 was recommended for approval by the Joint Finance Committee by a vote of 16 to 0. The Senate has not yet considered AB 200.

B. The Committee’s Working Structure

To fulfill its statutory charges, the Committee was subdivided into five subcommittees:

- Code Reclassification
- Sentencing Guidelines
- Extended Supervision Revocation
- Computer Modeling
- Education

Some Committee members served on more than one subcommittee.⁶

The purpose of the subcommittee structure was to efficiently complete the Committee’s work. The first three subcommittees were formed to do the work to fulfill the six legislative charges. The **Code Reclassification Subcommittee** worked on creating a new classification system and arraying within that scheme crimes from the criminal code, the drug code, and crimes outside of the criminal code. The **Sentencing Guidelines Subcommittee** developed temporary advisory guidelines for the most litigated crimes, and recommended the format for a sentencing commission. The **Extended Supervision Revocation Subcommittee** studied the revocation process, and recommended how it can be improved and streamlined.

The last two subcommittees were formed to address challenges which arose during the committee’s work. The **Computer Modeling Subcommittee** worked to develop computer software to accurately forecast the impact of certain policies on prison

⁶ A list of which committee members served on each subcommittee is found at Appendix A.

population and cost. The **Education Subcommittee** has presented and will be presenting programs to government leaders, judges, the bar, and the public about Truth-in-Sentencing and this committee's report and recommendations.

At the second full Committee meeting in October 1998, it was agreed that the subcommittees would do the initial work on each charge, and bring back their recommendations to the full Committee for review and consideration. The full Committee would either approve the subcommittee's work or direct the subcommittee to continue its work given the full Committee's reactions. This process continued throughout the Committee's one year existence.

The full Committee met 19 times, including three 2-day meetings. Full committee meeting time totaled approximately 115 hours. The full Committee always met in person, usually in Madison, Wisconsin at the State Capitol.⁷ Each full Committee meeting was transcribed, and minutes of each meeting were prepared and distributed to the committee members and any other interested persons.*

The subcommittees met individually, some more than others, depending on the scope of their task. At least 40 subcommittee meetings were held, often in person, but sometimes via videoconference or telephone conference call.

Each full Committee and subcommittee meeting was properly noticed pursuant to the open meetings law, Wis. Stat. ch. 19. An opportunity for public comment was provided for at each meeting. The Committee heard from some members of the public concerning its statutory charges, including law enforcement officials, representatives of the public defender's office, and victim's rights representatives.

The Committee employed one full-time attorney and one program and planning analyst. Employees from all areas of state government, including the Governor's office, the Legislative Reference and Fiscal Bureaus, individual legislators and their staffs, the Department of Administration, especially its Division of Hearings and Appeals, the Department of Corrections, especially its Bureau of Technology Management, the State Public Defender's Office, and the Department of Justice helped the Committee complete its work. Numerous outside consultants, paid by the Committee as well as paid for by federal grants, also helped the Committee complete its work. Without the help of these individuals, the Committee could not have fulfilled its statutory charges.

In the first stages of the Committee's work, it heard from representatives of a variety of different states about their experience in implementing Truth-in-Sentencing. These states included Minnesota, North Carolina, Virginia, Delaware, and Ohio.⁹ These presentations educated Committee members on the ways other states had implemented

⁷ A list of the full Committee meeting dates and places can be found at Appendix B.

⁸ The transcripts of the Committee's meetings and copies of the committee's minutes are available for review in the Committee's offices at 819 N. 6th St., Rm. 834, Milwaukee, WI 53202, and will be transmitted to the State Historical Society.

⁹ The vast majority of the cost and expenses associated with these visits were paid for through a federal technical assistance grant.

their versions of Truth-in-Sentencing. These reports took place at the Committee's October and November 1998 meetings. The Committee also heard special presentations concerning Wisconsin's drug code in December 1998, on probation and parole revocation procedures in January 1999, and on strengthening community corrections and what extended supervision should look like in July 1999.

At Committee meetings from February through July, subcommittees reported back on their work to the full Committee for review and consideration by **Committee** members. The conclusions of the Committee's study and its recommendations are related in subsequent sections of this report.

II. The Classification of Crimes

Statutory charges:

“a. Creation of a uniform classification system for all felonies, including felonies outside of the criminal code.

b. Classification of each felony and Class A misdemeanor in a manner that places crimes of similar severity into the same classification.

c. Consolidation of all felonies into a single criminal code.”¹⁰

A. The History of Crime Classification in Wisconsin

1. 1977 Penalty Classification Legislation

The State of Wisconsin first undertook the process of uniform crime classification more than twenty years ago.¹¹ In legislation which was passed in 1977 and which took effect on June 1, 1978, crimes and forfeiture offenses codified in the Wisconsin Criminal Code were placed in one of several uniform penalty classes.¹² Offenses codified elsewhere in the Statutes were not affected by the law.¹³

The 1977 law created five classes of felonies, three classes of misdemeanors, and four classes of forfeitures. The penalty structure for felony and misdemeanor classes was as follows:¹⁴

CLASS	MAXIMUM TERM OF IMPRISONMENT	MAXIMUM AMOUNT OF FINE
Class A Felony	Life	---
Class B Felony	20 years	---
Class C Felony	10 years	---
Class D Felony	5 years	\$ 10,000
Class E Felony	2 years	\$ 10,000
Class A Misd.	9 months	\$ 10,000
Class B Misd.	90 days	\$ 10,000
Class C Misd.	30 days	\$500

¹⁰ See 1997 Wis. Act 283 sec. (1)(e)1-3.

¹¹ See 1977 Wis. Laws 173.

¹² The 1977 legislation classified all Criminal Code offenses with the exception of abortion (Wis. Stat. sec. 940.04) and removal of shopping cart (Wis. Stat. sec. 943.55). The latter was a new forfeiture offense that had been enacted earlier in the 1977 legislative session. Both of these offenses remain unclassified to this day.

¹³ To this day Wisconsin Statutes employs a classified crime system for Criminal Code felonies and misdemeanors and a non-classified system for the scores of crimes codified elsewhere in the Statutes.

¹⁴ See Wis. Stat. secs. 939.50 to 939.52 (1977).

The Legislative Council Notes to the 1977 penalty classification bill¹⁵ articulate the organizing principles used to place crimes and forfeitures into the new penalty classes. Critical to the placement process was the degree of actual or potential harm involved in the commission of crime:

Persons guilty of crimes resulting in death or serious physical harm to others are subject to heavy punishments. Other offenses involving less serious harm to persons have generally been considered more serious than crimes against property alone. However, given an equal degree of physical harm to persons, crimes involving actual or potential harm to both persons and property are punished more severely than offenses resulting in harm only to persons. Also, crimes involving actual or potential harm to a number of people or to the general public have been considered more serious than other offenses with a similar degree of harm but more limited in scope or application.¹⁶

2. Attributes of Classified Crimes

When the attributes of the 1977 crime classification system are analyzed, several features of that system may be observed:

- In each class provision is made for a maximum period of incarceration.
- Except for Class A and Class B felonies, provision is made in each class for a maximum fine.
- Except for Class A felonies, there are no mandatory penalties.
- There are no minimum penalties (presumptive or otherwise).¹⁷
- Except for Class A felonies, probation is an option for all felonies and misdemeanors.

An examination of the 1977 Criminal Code further reveals that, when the legislature enacted the penalty classification bill, there were no Chapter 939 penalty enhancers except for habitual criminality.¹⁸ Aggravating circumstances attending the

¹⁵ S.B. 14 (1977).

¹⁶ S.B. 14 at 4-5 (1977).

¹⁷ The 1977 legislation specifically ridded **the** Criminal Code of minimum penalties. *See, e. g.*, Wis. Stat. sec. 940.02 (1975) (penalty expressed as imprisonment for not less than five nor more than 25 years).

¹⁸ Wis. Stat. sec. 939.62 (1977). Concealing identity existed but was codified at Wis. Stat. sec. 946.62 (1977) and classified as a crime.

commission of any crime were matters argued by the prosecutor and considered by the court when imposing sentences within the statutory maximum for the crime of conviction.

3. Impact of Subsequent Legislation on the 1977 Crime Classification System ,

The Criminal Code today looks very different from that which was classified in 1977. In the twenty-plus years since Wisconsin first undertook the process of classification, a surge of criminal law legislation has been enacted which has greatly increased the number of crimes that have had to be placed into the relatively few classes of felonies and misdemeanors. While it is true that a new felony class was added to the original five (Class BC), it has been used to classify but five offenses.

Beyond the exponential growth in the number of crimes, the Criminal Code today looks very different from that into which crime classification was introduced in 1977 on a number of additional fronts. Wisconsin has participated in the national trend of enacting countless penalty enhancers which increase the maximum punishment for the underlying crime. Add to that the introduction (or in some cases reintroduction) of provisions for minimum mandatory penalties, presumptive minimum penalties, “three strikes,” “two strikes,” penalty doublers, mandatory consecutive sentences, parole eligibility determinations made by the court, lifetime supervision of certain sex offenders, etc. and the conclusion is inescapable that the world of penalties today is vastly different and enormously more complex than that envisioned when crime classification first came to Wisconsin. It is in this context that the legislature enacted Act 283 and gave to the Criminal Penalties Study Committee the task of bringing some uniformity to the process of crime classification and the penalty structures that attach to the various classifications.

B. Act 283 Mandates for Crime Classification

Among the charges given to the Criminal Penalties Study Committee by the Wisconsin legislature are the following:

- Creating a uniform classification system for all felonies, including felonies outside of the criminal code.¹⁹
- Classifying each felony and Class A misdemeanor in a manner that places crimes of similar severity into the same classification.²⁰

In the text which follows the Committee responds to these legislative mandates. First, it proposes a whole new system for classifying felony offenses. Next it describes the method used to convert almost 600 crimes to the new system. Finally, it proposes a specific crime classification for each of these offenses.

¹⁹ 1997 Wis. Act 283 sec. 454(1)(e)1.

²⁰ 1997 Wis. Act 283 sec. 454(1)(e)2.

With regard to misdemeanor offenses, the limitations of Act 283's mandates should be noted. The legislature directed the Committee to study the penalties "for all felonies and Class A misdemeanors."²¹ Further, it charged the committee to classify "each felony and Class A misdemeanor in a manner that places crimes of similar severity into the same classification."²² However, it did not speak to the classification of misdemeanors that are presently unclassified. The latter, which constitute a large number of offenses, are scattered throughout the Wisconsin Statutes other than in the Criminal Code.

Given the magnitude of its other duties and a challenging time frame within which to conclude them, the Committee did not venture beyond its charge to explore the classification of unclassified misdemeanors. This means that even if all of the Committee's recommendations regarding the classification of crimes are implemented, there will still be a considerable number of offenses (non-Criminal Code misdemeanors) that will remain unclassified. Classifying them may be a worthy endeavor for the future so that all Wisconsin crimes (wherever codified in the Statutes) are classified in a uniform system of crime classification.

C. Proposal for a New Felony Classification System

1. The Need for a New Classification System

As the Committee undertook the process of classifying nearly 500 felony offenses, it quickly became clear that current law does not have enough felony classes. There are only six felony categories (A, B, BC, C, D and E) and, as a practical matter, the vast majority of Criminal Code felonies are classified in only four of them (B, C, D and E). Given the number of crimes that must be placed in these few classes, the result is that a given category will have felonies classified within it which address considerably different kinds of behavior causing (or potentially causing) considerably different harm. For example, the present Class C category (10 years or \$10,000 or both) contains robbery, burglary and forgery.

Another problem with the present classification system is that the penalty differences among them are too great. As a result of various changes enacted since the original penalty classification system was adopted in 1977,²³ the structure of felony classes (before treatment by 1997 Act 283) now appears as follows:

²¹ 1997 Wis. Act 283 sec. 454(1)(e).

²² 1997 Wis. Act 283 sec. 454(1)(e)2.

²³ [Need to list these changes.]

CLASS	MAXIMUM TERM OF IMPRISONMENT	MAXIMUM AMOUNT OF FINE
Class A Felony	Life	---
Class B Felony	40 years	---
Class BC Felony	20 years	\$ 10,000
Class C Felony	10 years	\$ 10,000
Class D Felony	5 years	\$ 10,000
Class E Felony	2 years	\$ 10,000

While it may appear that this system has a nicely graduated approach to felony penalties, some of its infirmities become clear when the allocation of offenses to each category are examined. Under current law only five felonies are assigned to Class BC. As a practical matter this means that for purposes of classifying mid-level and more serious felonies (not including those for which life imprisonment is the penalty), there is a 30-year gap between the maximum for Class C and that for Class B.

The five-year gap between Class D and C may not seem unreasonable in the current world of indeterminate sentencing; however, as the move is made to the determinate approach of Truth-in-Sentencing, this gap too is considerable. The classification system needs more categories in order to fill these gaps and allow the legislature's charge to "place crimes of similar severity into the same classification"²⁴ to be fulfilled.

Finally, given the legislature's charge to classify the more than 200 felonies which are codified other than in the Criminal Code, the need for more classifications becomes even starker. For example, drug delivery and possession with intent to deliver are penalized according to the amount of the drug delivered or possessed. The legislature has created numerous amount categories and assigned specific penalties for each. To classify these numerous graduated offenses in a uniform classification system requires more felony classes than are available under present law. Beyond drug offenses are the more than 150 miscellaneous felonies scattered throughout the Statutes. Most of these are lower end felonies but the need to distinguish severity among them requires more felony categories on the lower end of the classification system.

For all of these reasons the Committee recommends that the present system of six felony classes be expanded to nine classes. This allows for closure of the large gaps that exist in present law. It also allows for the more precise and discriminating classification of the several hundred felonies that occupy the middle and lower ranges of the spectrum. In the chart which follows the proposed penalties for each class are presented.

²⁴ 1997 Wis. Act 283 sec. 454(1)(e)2.

2. Proposed Penalty Structure:

THE A-I FELONY CLASSIFICATION SYSTEM

In the terminology of 1997 Act 283, the maximum term of confinement plus the maximum period of extended supervision equals the maximum period of time that a person could be imprisoned on a sentence.

FELONY CLASS	MAXIMUM TERM OF CONFINEMENT	MAXIMUM EXTENDED SUPERVISION	MAXIMUM FINE	MAXIMUM PROBATION
A	Life		---	---
B	40 years	20 years	---	40 years
C	25 years	15 years	\$100,000	25 years
D	15 years	10 years	\$100,000	15 years
E	10 years	5 years	\$50,000	10 years
F	7.5 years	5 years	\$25,000	7.5 years
G	5 years	5 years	\$25,000	5 years
H	3 years	3 years	\$10,000	3 years
I	18 mos.	2 years	\$10,000	3 years

3. Observations About the New A-I Classification System

Terms of Confinement. Whenever a court sentences a person to prison for a felony committed on or after December 31, 1999, it must (except in the case of a life imprisonment felony or one involving application of the persistent repeater law²⁵) bifurcate the sentence, specifying both a term of confinement and a term of extended supervision. In the system proposed by the Committee, the maximum terms of confinement are graduated rather evenly through the spectrum of felony offenses. With the exception of Class A felonies, there is no minimum period of confinement in any category. This means that in the exercise of judicial discretion probation is an option in Classes B through I. However, if the court sentences the defendant to prison, the minimum period of confinement is one year.²⁶

Fines. When the Wisconsin legislature classified Criminal Code felonies and misdemeanors in 1977, it provided for \$10,000 maximum fines for felonies in Class C, D and E and for misdemeanors in Class A. No fines were established for felonies in Class A and B. When the new BC felony class was added years later, the same maximum fine was made applicable to it as well. The \$10,000 maximum has never been adjusted.

The Committee recommends that maximum fines in the A-I classification system be established in the following amounts:

Class A felony	No provision for a fine
Class B felony	No provision for a fine
Class C felony	\$100,000 maximum fine
Class D felony	\$100,000 maximum fine
Class E felony	\$50,000 maximum fine
Class F felony	\$25,000 maximum fine
Class G felony	\$25,000 maximum fine
Class H felony	\$10,000 maximum fine
Class I felony	\$10,000 maximum fine
Class A misdemeanor	\$10,000 maximum fine

The Committee acknowledges that fines play no role in the disposition of most felony cases. However, it believes that the schedule depicted above should be implemented for several reasons. First, it acknowledges the differing severity of the crimes in the various felony categories. Second, it reflects the changing value of money over time. Third, it addresses concerns that a \$10,000 fine for certain more serious crimes is simply not enough for certain offenders, for example, corporations convicted of reckless or negligent homicide (of which there have been several). Finally, it recognizes

²⁵ Wis. Stat. sec. _____ (not to be confused with regular repeater law).

²⁶ Wis. Stat. sec. 973.01(2)(b).

739.62
(2m)

that with the classification of drug offenses, it is necessary to have sufficient fine exposure for higher-end offenses.

Certain felonies codified outside the Criminal Code have much higher fines than those in the proposed schedule. In specific instances the Committee has recommended that those higher fines be **maintained**.²⁷

Extended Supervision. The Committee recommends that statutory caps be placed on the maximum amount of extended supervision time the judge may impose at sentencing as follows:

Class A felony	--- 28
Class B felony	20 years
Class C felony	15 years
Class D felony	10 years
Class E felony	5 years
Class F felony	5 years
Class G felony	5 years
Class H felony	3 years
Class I felony	2 years

The Committee believes that a fair reading of Act 283 would in some instances allow for much longer periods of extended supervision. Class B felonies are a useful example. Under Act 283 the maximum possible imprisonment for these felonies is 60 years in prison, but not more than 40 years of initial confinement absent **revocation**.²⁹ While at first blush this appears to leave 20 years for extended supervision, the act does not limit extended supervision to 20 years. Thus a court could theoretically sentence a person to one year in prison followed by 59 years of extended supervision.

This possibility may not have been intended; yet Act 283 seemingly permits it. The Committee suggests that limits be placed on extended supervision that allow for sufficient supervision given the nature of the crimes proposed for inclusion in each of the felony classes and the public safety and offender rehabilitation goals that underlie the notion of supervision upon release from prison. The Committee believes these purposes of extended supervision can realistically be accomplished within the proposed limits without consuming the resources of supervision so far into the future that no one knows what they will even be.

²⁷ See, e.g., Part II.F.2, pp. - .

²⁸ When a court sentences a person for a Class A felony, it must make an extended supervision eligibility date determination. See 1997 Wis. Act 283 sec. 424. However, no such determination will be made for persons sentenced under the persistent repeater law (Wis. Stat. sec. 939.62(2m)) because they are not eligible for extended supervision. See 1997 Wis. Act 283 sec. _____

²⁹ See 1997 Wis. Act 283 secs. 322 and 419.

Act 283 makes no provision for extended supervision for misdemeanants who are sentenced to prison. The Committee believes that those misdemeanants who are dangerous enough to be sent to prison should be subject to supervision upon release from prison. Both community safety and offender rehabilitation goals would be advanced by such supervised transitioning upon release from prison. Correcting legislation is attached to this report.

Probation. Current law provides that the original term of probation for a person convicted of a felony shall be for not less than one year nor more than either the statutory maximum term of imprisonment for the crime or three years, whichever is **greater**.³⁰ If the defendant is convicted at the same time of two or more crimes, including at least one felony, the maximum original term of probation may be increased by one year for each felony **conviction**.³¹ There is also a specific schedule of original terms of probation for those convicted of one or more **misdemeanors**.³²

Act 283 did not amend the statutes regulating maximum original terms of probation. The Committee has considered them and recommends that the maximum original term of probation for Class B, C, D, E, F, G, and H felonies be linked to the maximum term of confinement for crimes in those classes. Probation is not an option for Class A felonies and therefore Class A is omitted from the list in the preceding sentence. With regard to Class I felonies, the Committee recommends that that the maximum original term of probation be three years.³³ No change is recommended in the statute requiring that a term of probation in a felony case be for a minimum of one year. Nor is there any recommendation for amending the statutes governing the length of probation in misdemeanor cases.

If the Committee's recommendations are adopted, the maximum original term of probation for a single felony would be as follows:

Class A felony	--- ³⁴
Class B felony	40 years
Class C felony	25 years
Class D felony	15 years
Class E felony	10 years
Class F felony	7.5 years
Class G felony	5 years
Class H felony	3 years
Class I felony	3 years

³⁰ Wis. Stat. sec. 973.09(2)(b)1.

³¹ Wis. Stat. sec. 973.09(2)(b)2.

³² See Wis. Stat. sec. 973.09(2)(a).

³³ This recommendation is consistent with current law which provides that the maximum original term of probation shall be for not more than the maximum period of imprisonment for the crime of conviction or three years, whichever is greater. See Wis. Stat. sec. 973.09(2)(b)1.

³⁴ Probation is not an available disposition for Class A felony offenses. See Wis. Stat. sec. 973.09(1)(c).

Having considered the recommended assignment of felonies in the new A-I felony classification system, the Committee believes that the dual objectives of probation (rehabilitation of the offender and protection of the state and community interest)³⁵ can be achieved within the time periods described above.

4. Method of Converting Crimes to the New A-I Classification System and Factors Influencing the Classification of Crimes

Crimes were initially placed in the new A-I classification system by determining the mandatory release (M.R.) date under current law when a court imposes the maximum sentence. As a general rule M.R. is fixed by statute at two-thirds of the sentence actually imposed.³⁶ For the offender who receives the maximum sentence, M.R. is two-thirds of that maximum. Service of the sentence to M.R. reflects the longest period the defendant can be held in prison before being mandatorily paroled.³⁷ That parole is subject to revocation and the defendant may be returned to prison if conditions of parole are violated.

The Committee concluded that the maximum sentence of incarceration for each crime in the new Truth-in-Sentencing system ought to roughly parallel the maximum the person could serve in prison under the current indeterminate sentencing law before reaching M.R. To allow for the worst case scenario of a prisoner who under current law is held to M.R., the Committee applied the M.R. converter to the maximum possible sentence under current law before classifying each crime in the new A-I classification system. Once this initial calculation using M.R. was accomplished, the Committee then applied the criteria described below to determine whether any class adjustments were necessary.

The Committee believes that use of the M.R. converter to locate crimes in the new A-I classification system in no way conflicts with its understanding of the legislative intent underlying the movement to Truth-in-Sentencing. The clear message of Act 283 is that the legislature wants “absolute truth” in the sentencing process such that everyone (judges, prosecutors, defense attorneys, defendants, victims, witnesses, corrections officials and the public) knows that the offender will serve the entirety of the prison sentence and subsequent period of extended supervision as ordered by the court at sentencing. Act 283 does not require the imposition of longer prison sentences nor does it suggest that offenders should be held in confinement for periods of time longer than under current law. What it requires is “truth” in the meaning of sentences and the Committee believes its method for classifying crimes is fully compatible with that requirement. In its view use of present law mandatory release to classify crimes in the new A-I classification system maintains consistency in the maximum time an inmate can

³⁵ See State v. Miller, 175 Wis. 2d 204, 499 N.W.2d 215 (Ct. App. 1993).

³⁶ Wis. Stat. sec. 302.11(1). There is no mandatory release for persons sentenced to life imprisonment. See Wis. Stat. sec. 302.11(1m).

³⁷ For certain serious felonies mandatory release upon service of 2/3rds of the sentence is presumptive but may be denied by the parole commission. See Wis. Stat. sec. 302.11(1g).

serve in prison prior to first release as Wisconsin moves from an indeterminate sentencing system to a Truth-in-Sentencing system.

Example: Under current law the offense of burglary is classified as a Class C felony for which the maximum possible sentence of incarceration is 10 years. If the judge sentences the defendant to the full 10-year term and he or she is held in custody until M.R., release to parole will occur after 6 2/3rds years. Using 6 2/3rds as the “M.R. converter,” the closest felony class in the new A-I system is Class F, for which the maximum period of incarceration is 7.5 years. Thus, as an initial matter, burglary would be categorized in Class F and the defendant sentenced to the maximum could actually serve slightly more time in prison than a burglar sentenced to the maximum under current law who serves to M.R. Following release from the institution, the defendant will be subject to extended supervision for up to 5 years for this Class F offense. Under the old law, parole supervision was a maximum of 3 1/3 years, but ES supervision maximum of 5 years under the new law. Thus, under this proposal, the maximum possible period of time of imprisonment for burglary has been increased.

Felony Class Adjustments. After application of the M.R. converter to initially place a crime in one of the new A-I classes, the Committee then considered whether an adjustment up or down was necessary so that crimes of similar severity are classified together.³⁸ This was done in response to a specific charge from the legislature.³⁹ In making its final determination about the classification of offenses, the Committee also endeavored to:

- Allow enough incarceration exposure for the “worst case-worst offender” scenario in the single count context.⁴⁰ In making this assessment the Committee recognizes that the vast majority of crimes are less serious than the “worst case” and are committed by someone other than the “worst offender.” For these situations the appropriate disposition within the statutory maximum for the crime of conviction is left to judicial discretion (as assisted by sentencing guidelines to the extent guidelines are available). However, the Committee also recommends preservation of the habitual criminality statute⁴¹ and certain penalty enhancers to allow for those cases where the maximum penalty for the underlying crime is insufficient.

³⁸ The Committee utilized numerous tables to depict the flow of crimes through the proposed A-I classification system. Some of these are included in this report. The tables allowed the Committee to verify that related crimes are properly positioned in the classification system according to severity and to fulfill its charge to classify crimes of like severity in the same felony class.

³⁹ See 1997 Wis. Act 283 sec. 454(1)(e)2.

⁴⁰ The Committee recognizes that in many cases the defendant faces sentencing on multiple counts. However, in the process of classifying offenses, it had to determine the appropriate maximum sentence for each felony and Class A misdemeanor in the context of the defendant who faces sentencing on a single count. As a practical matter, there was no other way to approach the classification task.

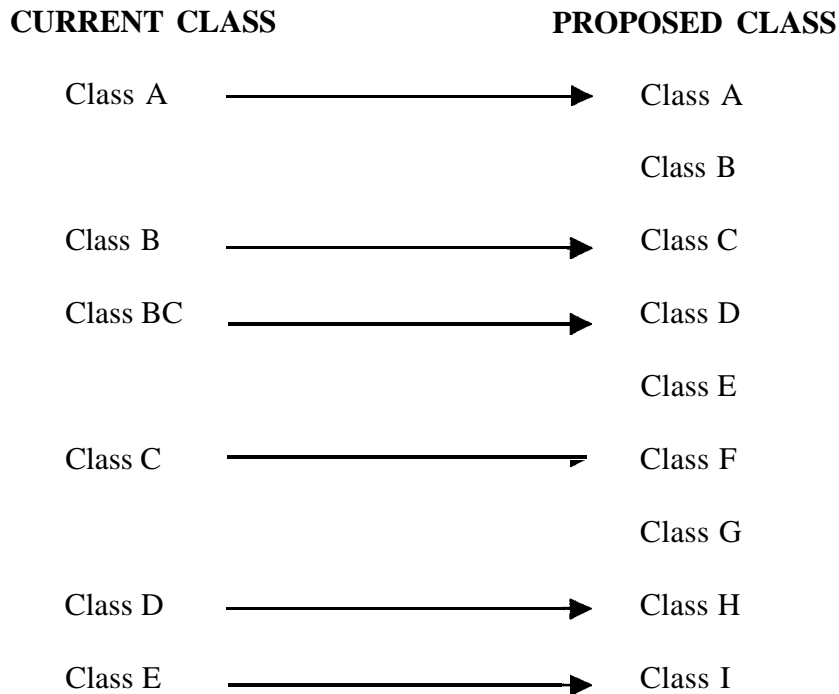
⁴¹ Wis. Stat. sec. 939.62.

- Show proper deference to judgments already made by the legislature about the relative severity of offenses.
- Classify crimes that involve death or serious injury (or the potential for such harm) in higher categories than those involving offenses against property or other non-violent behavior.
- Classify crimes involving similar harms according to the state of mind of the actor at the time of the criminal act.
- Consider data about sentencing patterns and time actually served for offenses under current law when such data was available and when the Committee had some measure of confidence in its reliability.
- Account for the political reality that its recommendations must ultimately survive the scrutiny of both the legislature and the governor in order to become law.

D. Classification of Criminal Code Felonies

1. Introduction

When the mandatory release (M.R.) converter is applied to move crimes from the six felony classes under current law to the proposed nine-class system, the natural flow of crimes may be depicted as follows:



Application of the M.R. converter thus means that current Class A felonies flow naturally to proposed Class A, current Class B felonies flow naturally to proposed Class C, current Class BC felonies flow naturally to proposed Class D, current Class C felonies flow naturally to proposed class F, current Class E felonies flow naturally to proposed Class H, and current Class E felonies flow naturally to proposed Class I. Although a crime in the new system may have a class designation different from present law, the impact of the natural flow depicted above is that the maximum time of confinement in prison until first release is roughly the same.

As a result of applying the M.R. converter, no existing Criminal Code crimes have a natural placement in proposed Class B, E or G. These “empty” categories were thus available to the Committee when application of its classification criteria suggested that a crime needed an upward or downward adjustment from wherever the M.R. converter naturally placed it. These “empty” categories were also very useful when the Committee undertook the task of classifying drug crimes and other felonies that are presently unclassified.

Before presenting its proposal for the classification of Criminal Code felonies (and all other felonies for that matter), the Committee makes one further introductory observation. The classification of a felony offense establishes the maximum incarceration, maximum fine, and maximum period of extended supervision when the court sentences a defendant on a **single count**. If a criminal episode involves the commission of several crimes, the defendant will upon conviction face multiple sentences which may either be concurrent with or consecutive to one another.

2. Proposed Classification of Criminal Code Felonies

COLOR CODES

ENTRIES IN GREEN REFLECT UPWARD CLASS ADJUSTMENT AFTER APPLICATION OF M.R. CONVERTER.

ENTRIES IN BLUE REFLECT NEW CRIMES RECOMMENDED FOR ENACTMENT BY THE LEGISLATURE OR EXISTING CRIMES FOR WHICH SIGNIFICANT AMENDMENTS ARE PROPOSED.

ENTRIES IN RED REFLECT DOWNWARD CLASS ADJUSTMENT AFTER APPLICATION OF M.R. CONVERTER.

ENTRIES IN BLACK REFLECT THE NATURAL PLACEMENT OF CRIMES IN A-I SYSTEM AFTER APPLICATION OF THE M.R. CONVERTER.

NOTE: Each entry in green and red is accompanied by a parenthetical which indicates "from." Red and green entries mean that an adjustment has been made either upward (green) or downward (red) from the felony class where a crime would naturally be placed by application of the M.R. converter. The "from" indicates where natural placement would be.

CLASS A FELONIES (LIFE)

1 st Degree Intentional Homicide	940.01(1)(a) & (b) ✓
Partial-Birth Abortion	940.16(2) ✓
Absconding after being adjudicated delinquent for a Class A felony ⁴²	946.50(1) ✓
Treason	946.01(1) ✓

⁴² This crime appears in each of the felony classes. It addresses the problem of the juvenile who has been adjudicated delinquent but then absconds before his/her dispositional hearing. See discussion of juvenile absconding at p. _____

CLASS B (40 MAX PRISON: 20 E.S.)

Absconding after being adjudicated delinquent for a Class B felony ⁴³	946.50(2) ✓
Conspiracy to commit a crime for which the penalty is life imprisonment (from C)	939.31 ✓
Attempt to commit a crime for which the penalty is life imprisonment (from C)	939.32(1)(a) ✓
1 st Degree Reckless Homicide (from C)	940.02(1) and (1m) ✓
2 nd Deg. Intentional Homicide (from C)	940.05(I) & (2g) ✓
1 st Degree Sexual Assault (from C)	940.225(1) ✓
1 st Deg. Sex Assault of a Child (from C) ⁴⁴	948.02(1) ✓
Repeated Sexual Assault of Same Child (from C) ⁴⁵	948.025 ✓
Kidnapping (Aggravated) (from A)	940.31(2)(a) ✓
Hostage Taking (Aggravated) (from A)	940.305(1) ✓

CLASS C (25 MAX PRISON: 15 E.S.)

1 st Deg. Reckless Homicide ("Len Bias" Law)	940.02(2) ✓
Mayhem	940.21 ✓
Abuse of Vulnerable Adult (intentional or reckless maltreatment resulting in death)	940.285(2)(b)1g. ✓
Abuse & Neglect of Patients & Residents (intentional or reckless abuse or neglect resulting in death of "vulnerable" person)	940.295(3)(b)1g ✓
Hostage Taking (Unaggravated)	940.305(2) ✓
Kidnapping (Unaggravated)	940.31(1) & (2)(b) ✓
Arson of buildings	943.02 ✓
Carjacking	943.23(1g) and (1m) ✓ <i>repeated</i>
Armed Robbery	943.32(2) ✓
Absconding after being adjudicated delinquent for a Class C felony ⁴⁶	946.50(3) ✓

⁴³ This crime appears in each of the felony classes. It addresses the problem of the juvenile who has been adjudicated delinquent but then absconds before his/her dispositional hearing. See discussion of juvenile absconding at p. _____

⁴⁴ This crime has a **5-year** enhancer if the defendant is a person responsible for the welfare of the child. The Committee recommends that this enhancer be recast as a statutory sentencing aggravator. The underlying offense is classified as a B felony and 40 years' exposure is sufficient to deal with circumstances where the aggravator is present.

⁴⁵ This crime should be a Class B felony only if the proof demonstrates that the repeated assaults all constituted violations of the First Degree Sexual Assault of a Child statute.

This crime has a 5-year enhancer if defendant is a person responsible for the welfare of the child. The Committee recommends that the enhancer be recast as a statutory sentencing aggravator. The underlying offense is classified as a B felony and 40 years' exposure is sufficient to deal with circumstances where the aggravator is present.

CLASS C (25 MAX PRISON: 15 E.S.) (continued)

Repeated Sexual Assault of Same Child ⁴⁷	948.025 ✓
Abduction of Another's Child by Force or Threat of Force	948.30(2) ✓
2 nd Degree Sexual Assault (from D)	940.225(2) ✓
2 nd Deg. Sex Assault of Child (from D) ⁴⁸	948.02(2) ✓
Incest (from D)	948.06 ✓
Tampering with Household Products (causing death) (from A)	941.327(2)(b)4 ✓
Homicide by Intoxicated Use of Vehicle (Repeater with 1 or more Prior OWI type convictions) NEW CRIME ⁴⁹	940.09 ✓

CLASS D (15 MAX PRISON: 10 E.S.)

Absconding after being adjudicated delinquent for a Class D felony ⁵⁰	946.50(4) ✓
Continuing Criminal Enterprise	946.85(1) ✓
Child Enticement	948.07 ✓
Soliciting a Child for Prostitution	948.08 ✓
2 nd Degree Reckless Homicide (from F)	940.06 ✓
Homicide by Intoxicated Use of Firearm (from H)	940.09(1g)
1 st Degree Reckless Injury (from F)	940.23(1)(a) & (b) ✓
Child Neglect Resulting in Death (from F)	948.21(1) ✓

conflicts w/c. 184

⁴⁶ This crime appears in each of the felony classes. It addresses the problem of the juvenile who has been adjudicated delinquent but then absconds before his/her dispositional hearing. See discussion of juvenile absconding at p. _____

⁴⁷ This crime should be a Class C felony if the evidence shows three or more violations of the Sexual Assault of a Child statute committed against the same victim within a specified period of time but fails to demonstrate that at least three of the repeated assaults all constituted violations of the First Degree Sexual Assault of a Child statute.

This statute has a 5-year enhancer if the defendant is a person responsible for the welfare of the child. The Committee recommends that this enhancer be recast as a statutory sentencing aggravator. The underlying offense is classified as a B felony under and 40 years' exposure is sufficient to deal with circumstances where the aggravator is present.

⁴⁸ This statute has a 5-year enhancer if the defendant is a person responsible for the welfare of the child. The Committee recommends that this enhancer be recast as a statutory sentencing aggravator. The underlying offense is classified as a C felony and 25 years' exposure is sufficient to deal with circumstances where the aggravator is present.

⁴⁹ See discussion of homicide crimes at p. for a description of this offense.

This statute has a penalty doubler if there was a minor passenger in vehicle at the time of the offense. The Committee recommends that this penalty doubler be recast as a statutory sentencing aggravator. The underlying offense is classified as a C felony and 25 years' exposure is sufficient to deal with circumstances where the aggravator is present.

⁵⁰ This crime appears in each of the felony classes. It addresses the problem of the juvenile who has been adjudicated delinquent but then absconds before his/her dispositional hearing. See discussion of juvenile absconding at p. _____

CLASS D (15 MAX PRISON: 10 E.S.) (continued)

Contributing to Delinquency of a Child (if death is a consequence (from F)	948.40(4)(a) ✓
Homicide by Intoxicated Use of Vehicle (No Prior OWI-Type Record) (from C) ⁵¹	940.09(1) ✓
Abuse of Vulnerable Adult (negligent maltreatment resulting in death)	940.285(2)(b)1g ⁵² ✓
Abuse & Neglect of Patients & Residents (negligent abuse or neglect resulting in death of “vulnerable” person)	940.295(3)(b)1g ⁵³ ✓

CLASS E (10 MAX PRISON: 5 E.S.)

Absconding after being adjudicated delinquent for a Class E felony ⁵⁴	946.50(5) ✓
Abortion	940.04(2) ⁵⁵ ✓
Fleeing an Officer Causing Death (from H)	346.04(3) & 346.17(3)(d) ⁵⁶ ✓
Abuse & Neglect of Patients & Residents (intentional, reckless or negligent abuse or neglect causing great bodily harm to a vulnerable person) (from F)	940.295(3)(b)1m ✓
Robbery (Unarmed) (from F)	943.32(1) ✓
Contributing to Death: Obstructing Emergency or Rescue Personnel (from F)	941.37(4) ✓
Engaging in Racketeering Activity (from F)	946.84(1) ✓
Physical Abuse of a Child (intentionally causing great bodily harm) (from F)	948.03(2)(a) ✓
Abduction of Another’s Child (from F)	948.30(1) ✓

⁵¹ See discussion of homicide crimes at p. for a description of this offense.

This statute has a penalty doubler if there was a minor passenger in vehicle at the time of the offense. The Committee recommends that this penalty doubler be recast as a statutory sentencing aggravator. The underlying offense is classified as a D felony and 15 years’ exposure is sufficient to deal with circumstances where the aggravator is present.

⁵² This crime is listed as “new” because it breaks out negligent maltreatment resulting in death and classifies it at a lower level than intentional or reckless maltreatment resulting in death.

⁵³ This crime is listed as “new” because it breaks out negligent abuse or neglect resulting in death and classifies it at a lower level than intentional or reckless abuse or neglect resulting in death.

⁵⁴ This crime appears in each of the felony classes. It addresses the problem of the juvenile who has been adjudicated delinquent but then absconds before his/her dispositional hearing. See discussion of juvenile absconding at p. _____

⁵⁵ Sec. 940.04(2) is part of the pre-Roe v. Wade statute. The form of the crimes codified in sec. 940.04 date back to the 1956 revision of the Criminal Code. When the legislature instituted a classification system for Criminal Code felonies and misdemeanors in 1977, it did not classify the crimes in sec. 940.04. 1997 Wisconsin Act 283 charges the Criminal Penalties Study Committee with classifying all felonies. Thus these crimes are now recommended for classification. However, the Committee recommends that the legislature independently study whether sec. 940.04 should be repealed given the fact that post-Roe v. Wade abortion statutes now exist at secs. 940.13 and 940.15.

⁵⁶ See discussion of Fleeing an Officer at p. _____

CLASS E (10 MAX PRISON: 5 E.S.) (continued)

Aggravated Burglary (from C)
Aggravated Battery
Aggravated Battery to Unborn Child

943.10(2) ✓
NEW⁵⁷
NEW⁵⁸ → check

CLASS F (7.5 MAX PRISON: 5 E.S.)

Solicitation: Crime for which Penalty is Life Imprisonment	939.30(2) ✓
Mutilating a Corpse	940.11(1) ✓
Endangering Safety: Discharge Firearm from Vehicle	941.20(3)(a) ✓
Sexual Exploitation by Therapist	940.22(2) ✓
Abuse of Vulnerable Adults (intentional, reckless or negligent maltreatment causing great bodily harm)	940.285(2)(b)1m ✓
Abuse & Neglect of Patients & Residents (intentional abuse or neglect causing great bodily harm)	940.295(3)(b)1r ✓
Modifying Firearm to Make It a Machine Gun	941.26(1m) & (2)(b) ✓
Possession of Explosives	941.31(1) ✓
Administering Dangerous/Stupefying Drug to Facilitate Crime	941.32 ✓
Tampering with Household Products (causing great bodily harm)	941.327(2)(b)3 ✓
Burglary (Unaggravated)	943.10(1) ✓
Loan Sharking	943.28 ✓
Unlawful Receipt of Payments to Obtain Loan for Another (~\$2500)	943.62(4)(c) /
Computer Crimes (risk of death or great bodily harm to another)	943.70(2)(b)4 ✓
Pandering (if compensated from earnings of prostitute)	944.33(2) ✓
Sabotage	946.02(1) ✓
Sedition	946.03(1) ✓
Assaults by Prisoners	946.43 ✓
Public Officer or Employee Assisting or Permitting Escape	946.44(1g) ✓
Bringing Firearm into Prison or Jail; Transferring Firearm to Prisoner	946.44(1m) ✓
Failure to Prevent Sexual Assault of a Child	948.02(3) ✓

⁵⁷ The proposed version of Aggravated Battery is similar to that codified in 940.19(5). The proposed statute would read as follows: "Whoever causes great bodily harm to another by an act done with intent to cause great bodily harm to that person or another is guilty of a Class E felony." See discussion of the general battery statutes at p. _____

⁵⁸ The proposed version of Aggravated Battery to Unborn Child is similar to that codified in 940.195(2). The proposed statute would read as follows: "Whoever causes great bodily harm to an unborn child by an act done with intent to cause great bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a Class E felony." See discussion of the general battery statutes at p. _____

CLASS F (7.5 MAX PRISON: 5 E.S.) (continued)

Physical Abuse of a Child (intentionally causing bodily by conduct which creates high probability of great bodily harm)	948.03(2)(c) ✓
Failure to Prevent Great Bodily Harm to a Child	948.03(4)(a) ✓
Causing Mental Harm to a Child	948.04 ✓
Sexual Exploitation of a Child	948.05(1), (1m) & (2) ⁵⁹ ✓
Causing a Child under 13 to View or Listen to Sexual Activity	948.055(2)(a) ✓
Child Sex Offender. Working with Children	948.13(2) ✓
Interference with Custody of Child with Intent to Deprive Custody Rights; Concealing Child	948.3 1(1)(b) & (3) ✓
Fleeing an Officer Causing Great Bodily Harm (from I)	346.04(3) & 346.17(3)(c) ⁶⁰
2 nd Degree Reckless Injury (from H)	940.23(2)(a) & (b) ✓
Injury by Intoxicated Use of Vehicle (from H) ⁶¹	940.25 ✓
1 st Deg. Reck. Endang. Safety (from H)	941.30(1) ✓
Absconding after being adjudicated delinquent for a Class F felony	NEW ⁶²

CLASS G (5 MAX PRISON: 5 E.S.)

Homicide:Neg. Use of Weapon (from H)	940.08(1) & (2) ✓
Homicide:Neg. Use of Vehicle (from I)	940.10(1) & (2) ✓
Hiding a Corpse (from H)	940.11(2) ✓
3 rd Degree Sexual Assault (from H)	940.225(3) ✓
Abuse of Vulnerable Adult (intentional maltreatment under circumstances likely to cause great bodily harm) (from H)	940.285(2)(b) 1r ✓
Abuse & Neglect of Patients & Residents (intentional abuse under circumstances that are likely to cause great bodily harm) (from H)	940.295(3)(b) 1r ✓
Stalking (aggravated) ⁶³ (from H)	940.32(2m) & (3m) ✓
Felony Intimidation of a Witness (from H)	940.43 ✓

⁵⁹ The classification of the crimes codified in sec. 948.05 includes amendments to that statute enacted in 1999 Wisconsin Act 3.

⁶⁰ See discussion of Fleeing an Officer at p. _____

⁶¹ This statute has a penalty doubler if there was a minor passenger in vehicle at the time of the offense. The Committee recommends that this penalty doubler be recast as a statutory sentencing aggravator. The underlying offense is classified as a F felony and 7.5 years' exposure is sufficient to deal with circumstances where the aggravator is present.

⁶² This crime appears in each of the felony classes. It addresses the problem of the juvenile who has been adjudicated delinquent but then absconds before his/her dispositional hearing. See discussion of juvenile absconding at p. _____

⁶³ The crime of stalking is aggravated if the defendant intentionally gains access to certain records in order to facilitate the violation or if defendant has a prior stalking or harassment conviction.

CLASS G (5 MAX PRISON: 5 E.S.) (continued)

Felony Intimidation of a Victim (from H)	940.45 ✓
Possession of Firearm by Felon (from I)	941.29 ✓
2 nd Deg. Reck. Endang. Safety (from I)	941.30(2) ✓
Endangering Safety: Firing into Vehicle or Bldg. (from I)	941.20(2) ✓
Theft from Person (from H) ⁶⁴	943.20(3)(d)2 ✓
Physical Abuse of Child (recklessly causing great bodily harm) (from H)	948.03(3)(a)/
Child abandonment (from H)	948.20 ✓
Discharge of Firearm in a School Zone (from A misd.)	948.605(3)(a) ✓
Homicide: Neg. Control of Vicious Animal (from F)	940.07 ✓
Theft (> \$10,000)	NEW ⁶⁵
Receiving Stolen Property (> \$10,000)	NEW ⁶⁶
Fraudulent Use of Financial Transaction Card (> \$10,000)	NEW ⁶⁷
Retail Theft (> \$10,000)	NEW ⁶⁸
Receiving Stolen Property from a Child (> \$5000)	NEW ⁶⁹
Hazing Resulting in Death	NEW ⁷⁰
Absconding after being adjudicated delinquent for a Class G felony	NEW ⁷¹

⁶⁴ Extracted from Wis. Stat. sec. 943.20(3)(d) but remove value requirement.

⁶⁵ The ordinary crime of Theft (sec. 943.20) is classified in Felony Classes G, H and I and in Misdemeanor Class A according to the value of the property stolen. The crimes are designated as “new” in the sense that the values used to differentiate the penalties are different than those used in present law.

⁶⁶ The crime of Receiving Stolen Property (sec. 943.34) is classified in Felony Classes G, H and I and in Misdemeanor Class A according to the value of the property involved. The crimes are designated as “new” in the sense that the values used to differentiate the penalties are different than those used in present law.

⁶⁷ The crime of Fraudulent Use of a Financial Transaction Card (penalty sec. 943.41(8)(c)) is classified in Felony Classes G, H and I and in Misdemeanor Class A according to the value of the money, goods, services or property illegally obtained. The crimes are designated as “new” in the sense that the values used to differentiate the penalties are different than those used in present law.

⁶⁸ The crime of Retail Theft (sec. 943.50) is classified in Felony Classes G, H and I and in Misdemeanor Class A, according to the value of the property involved. The crimes are designated as “new” in the sense that the values used to differentiate the penalties are different than those used in present law.

⁶⁹ The crime of Receiving Stolen Property from a Child (sec. 948.62) is classified in Felony Classes G, H and I and in Misdemeanor Class A according to the value of the property involved. The crimes are designated as “new” in the sense that the values used to differentiate the penalties are different than those used in present law. The value cutoffs are lower than those used in the Receiving Stolen Property statute (sec. 943.34) and other companion statutes like theft and retail theft to take into account the fact that the stolen property is received from a child.

The Committee recommends retaining the \$500 value codified in sec. 948.62(2)(a). It constitutes part of the prima facie proof that the property received from a child was stolen and that the person receiving the property knew it was stolen

⁷⁰ The Committee recommends classifying hazing resulting in death at the G felony level, thus providing for a greater penalty when death results and a lesser penalty (H felony) when great bodily harm results. See Wis. Stat. sec. 948.5 1(3)(b).

⁷¹ This crime appears in each of the felony classes. It addresses the problem of the juvenile who has been adjudicated delinquent but then absconds before his/her dispositional hearing. See discussion of juvenile absconding at p. _____

CLASS H (3 MAX PRISON: 3 E.S.)

Solicitation to Commit a Felony (other than A or I)	939.30(1)✓
Abortion	940.04(1) ⁷² ✓
Assisting Suicide	940.12✓
Battery (causing great bodily harm by an act done with intent to cause bodily harm)	940.19(4) ⁷³ ✓
Battery (intentionally causing bodily harm to another by conduct that creates substantial risk of great bodily harm)	940.19(6) ⁷⁴ ✓
Battery to Unborn Child (causing great bodily harm by an act done with intent to cause bodily harm)	940.195(4) ⁷⁵ ✓
Battery by Prisoners	940.20(1)✓
Battery to Law Enforcement Officers & Firefighters	940.20(2)✓
Battery to Probation and Parole Agents and Aftercare Agents	940.20(2m)(b)✓
Battery to Jurors	940.20(3)✓
Battery or Threat to Witnesses	940.201✓
Battery to Emergency Department Workers, EMT's, etc.	940.20(7)(b)✓
Battery or Threat to Judge	940.203(2)✓
Battery or Threat to Dep't of Revenue Employee	940.205(2)✓
Battery or Threat to Dep't of Commerce & Workforce Dev.	940.207(2)✓
Unsafe Burning of Buildings	941.11✓
Using Tear Gas Device: Bodily Harm to Peace Officer	941.26(2)(f)✓
Using Pepper Spray Device: Bodily Harm to Peace Officer	941.26(4)(d)✓
Tampering with Household Products (if act creates a high probability of great bodily harm to another)	941.327(2)(b)2✓
Arson with Intent to Defraud	943.04✓
Theft (agg. circumstances ⁷⁶)	943.20(3)(d)✓

⁷² Sec. 940.04(1) is part of the pre-Roe v. Wade statute. The form of the crimes codified in sec. 940.04 date back to the 1956 revision of the Criminal Code. When the legislature instituted a classification system for Criminal Code felonies and misdemeanors in 1977, it did not classify the crimes in sec. 940.04. 1997 Wisconsin Act 283 charges the Criminal Penalties Study Committee with classifying all felonies. Thus these crimes are now recommended for classification. However, the Committee recommends that the legislature independently study whether sec. 940.04 should be repealed given the fact that post-Roe v. Wade abortion statutes now exist at secs. 940.13 and 940.15.

⁷³ See discussion of the general battery statutes at p. _____

⁷⁴ See discussion of the general battery statutes at p. _____

⁷⁵ See discussion of the general battery statutes at p. _____

⁷⁶ See Wis. Stat. sec. 943.20(3)(d) but remove requirement that the value of the property stolen does not exceed \$2,500. The Committee recommends that when a theft is committed under aggravated circumstances (property taken is a domestic animal; property is taken from a building which has been destroyed or left unoccupied because of physical disaster, riot, bombing or the proximity of battle; property is taken after physical disaster, riot, bombing or the proximity of battle has necessitated its removal from a building; property taken is a firearm; or property is taken from a patient or resident of a facility or program under Wis. Stat. sec. 940.295(2) or from a vulnerable adult), the offense should be classified as a Class H felony. Normally this will be an upward adjustment of the what would otherwise be a lower level crime because the value of the property involved would put it in the Class I felony or Class A misdemeanor range. However, if the value of the property would put the theft in the Class H range (more than \$5,000

CLASS H (3 MAX PRISON: 3 E.S.) (continued)

Misappropriation of Personal Identifying Information or Personal Identification Documents	943.201 ✓
Operating Vehicle Without Owner's Consent ("take & drive")	943.23(2) ✓
Threats to Injure or Accuse of a Crime	943.30 ✓
Fraudulent Writings	943.39 ✓
Fraudulent Destruction of Certain Writings	943.40 ✓
Criminal Slander of Title	943.60(1) ✓
Crime against Computers ⁷⁷ (amend amt to > 5000)	943.70(2)(b)3 or (3)(b)3 ✓
Obscenity (if 2 or more prior obscenity violations or if crime involves wholesale transfer or distribution of obscene material)	944.21(5)(c) & (e) ✓
Soliciting Prostitutes	944.32 ✓
Keeping Place of Prostitution	944.34 ✓
Bribery of Participant in a Contest	945.08(1) ✓
Bribery of Public Officers and Employees	946.10 ✓
Perjury	946.31 ✓
False Swearing	946.32(1) ✓
Felony Escape	946.32(3) ✓
Obstructing Officer (by providing information or evidence that results in conviction of innocent person)	946.41(2m) ✓
Felony Failure to Report to Jail	946.425(1), (1m)(b) & (1r)(b) ✓
Assisting or Permitting Escape	946.44(1) ✓
False Information re: Kidnapped or Missing Persons	946.48(1) ✓
Bail Jumping	946.49(1)(b) ✓
Bribery of a Witness	946.61(1) ✓
Simulating Legal Process (if the act is meant to induce payment of claim or simulates criminal process)	946.68(1r)(b) & (c) ✓
Impersonating a Peace Officer (with intent to commit a Crime or aid & abet commission of a crime)	946.70(2) ✓
Tampering with Public Records	946.72(1) ✓
Aiding Escape from Mental Institution (with intent to commit crime against sexual morality with or upon the inmate of the institution)	946.74(2) ✓

but not exceeding \$10,000), the prosecutor could pursue either an aggravated theft charge under Wis. Stat. sec. 943.20(3)(d) or an ordinary Class H theft charge under proposed sec. 943.20(3)(bm) (no proof of aggravated circumstances required). And, of course, if the value of the property exceeds \$10,000, the prosecutor may proceed with a Class G felony under proposed sec. 943.20(3)(c) (no proof of aggravated circumstances required).

⁷⁷ This felony is committed if the damage is greater than \$2500 or if it causes an interruption or impairment of governmental operations or public communication, of transportation or of a supply of water, gas or other public service. The Committee recommends elevating the damage cutoff referred to in the preceding sentence to \$5000 in order to maintain consistency with other Class H felonies having a value level.

CLASS H (3 MAX PRISON: 3 E.S.) (continued)

Harassment (if defendant has prior conviction or intentionally gains access to certain records in order to facilitate the violation)	947.013(1v) & (1x) ✓
Physical Abuse of a Child (intentionally causing bodily harm)	94803(2)(b) ✓
Physical Abuse of a Child (recklessly causing bodily harm by conduct creating a high probability of great bodily harm)	948.03(3)(c) ✓
Failing to Act to Prevent Bodily Harm to a Child	948.03(4)(b) ✓
Causing Child between 13 and 17 to View or Listen to Sexual Activity	948055(2)(b),/
Sexual Assault of Student by a School Instructional Staff Person	948.095(2) ✓
Unauthorized Placement for Adoption	948.24(1) ✓
Contributing to Delinquency of a Child (if child's act which is encouraged or contributed to is a violation of criminal law punishable as a felony)	948.40(4)(b)/
Selling or Giving Dangerous Weapon to Person under 18 (if the person under 18 discharges the firearm and the discharge causes the death of any person)	948.60(2)(c) ✓
Instigating Fights between Animals (2 nd or subsequent violation)	951.18(2) ✓
Harassment of Police or Fire Department Animals (causing death to the animal)	951.18(2)(m) ✓ 2m
Fleeing an Officer Causing Bodily Harm (from I)	346.04(3) & 346.17(3)(b) ⁷⁸
Abuse of Vulnerable Adult (intentional maltreatment causing bodily harm) (from I)	940.285(2)(b)2 ✓
Abuse & Neglect of Patients & Residents (intentional abuse or neglect causing bodily harm) (from I)	940.295(3)(b)2 ✓
Abuse & Neglect of Patients & Residents (reckless or negligent abuse or neglect causing great bodily harm) (from I)	940.295(3)(b)3 ✓
False Imprisonment (from I)	940.30 ✓
Stalking (if victim suffers bodily harm or defendant has prior conviction against same victim)	940.32(3) ✓
Disarming a Peace Officer	941.214
Selling, Possessing, Using or Transporting Machine Gun (from I)	941.26(2)(a) ✓
Sale or Commercial Transportation of Tear Gas Device (from I)	941.26(2)(e) ✓

⁷⁸ See discussion of Fleeing an Officer at p. _____

CLASS H (3 MAX PRISON: 3 E.S.) (continued)

Using or Threatening to Use a Tear Gas or Pepper Spray Device during Commission of a Crime to Cause Bodily Harm or Bodily Discomfort to Another (from I)	941.26(2)(g) & (4)(e) ✓
Selling, Transporting or Possessing a Short-Barreled Shotgun or Rifle (from I)	941.28(3) ✓
Selling, Manufacturing or Possessing an Electric Weapon (from I)	941.295(1) ✓
Using or Possessing a Handgun with Armor Piercing Bullets during Commission of Certain Crimes (from I)	941.296(2) ✓
Selling, Delivering or Possessing a Firearm Silencer (from I)	941.298(2) ✓
Making, Transferring, Possessing or Using an Improvised Explosive Device or Possessing Materials or Components with Intent to Assemble an Improvised Explosive Device (from I)	941.31(2)(b) ✓
Possession, Manufacture or Transfer of a Fire Bomb (from I)	943.06(2) ✓
Hazing Resulting in Great Bodily Harm (from I) ⁷⁹	948.51(3)(b) ✓
Forgery and Forgery-Uttering (from F)	943.38(1) & (2) ✓
Theft of Library Material (> \$2500) (from F)	943.61(5)(c) ✓
Theft (> \$5000 but < \$10,000)	NEW ⁸⁰
Receiving Stolen Property (> \$5000 but < \$10,000)	NEW ⁸¹
Fraudulent Use of Financial Transaction Card (> \$5000 but < \$10,000)	NEW ⁸²
Retail Theft (> \$5000 but < \$10,000)	NEW ⁸³
Receiving Stolen Property from a Child (> \$2000 but < \$5000)	NEW ⁸⁴
Absconding after being adjudicated delinquent for a Class G felony	NEW ⁸⁵

⁷⁹ If death results from the hazing, the Committee recommends that the offense be classified as a G felony. This will necessitate amending the statute to provide penalties when a death is involved.

⁸⁰ See footnote to crime of Theft (943.20) in Class G list.

⁸¹ See footnote to crime of Receiving Stolen Property (943.34) in Class G list.

⁸² See footnote to crime of Fraudulent Use of Financial Transaction Card (943.41) in Class G list.

⁸³ See footnote to crime of Retail Theft (943.50) in Class G list.

⁸⁴ See footnote to crime of Receiving Stolen Property from a Child (948.62) in Class G list.

⁸⁵ This crime appears in each of the felony classes. It addresses the problem of the juvenile who has been adjudicated delinquent but then absconds before his/her dispositional hearing. See discussion of juvenile absconding at p. _____

CLASS I (18 mo. MAX PRISON: 2 yrs. E.S.)

Violation of a Condition of Lifetime Supervision of Serious Sex Offenders	939.615(7)(b)2 ⁸⁶ ✓
Abortion	940.04(4) ⁸⁷ ✓
Abortion (various provisions)	940.15(2),(5) & (6) ⁸⁸ ✓
Battery (causing substantial bodily harm by an act done with intent to cause bodily harm)	940.19(2) ⁸⁹ ✓
Battery to Unborn Child (causing substantial bodily harm by an act done with intent to cause bodily harm)	940.195(2) ⁹⁰ ✓
Injury by Negligent Handling of Dangerous Weapon, Explosives or Fire	940.24 ✓
Abuse of Vulnerable Adult (reckless or negligent maltreatment under circumstances likely to cause great bodily harm)	940.285(2)(b)3 ✓ <i>repealed; included in (2)(b)1 r.e. →</i>
Abuse of Residents of Penal Facilities	940.29 ✓
Interfering with Fire Fighting	941.11(2)(1) ✓
Placing Foreign Objects in Edibles	941.325 ✓
Tampering with Household Products	941.327(2)(b)1 ✓
False Information Concerning Act that Constitutes Tampering with Household Products	941.327(3) ✓
Obstructing Emergency or Medical Personnel with Reasonable Grounds to Believe the Interference May Endanger Another's Safety	941.37(3) ✓
Soliciting a Child to Participate in Criminal Gang Activity	941.38(2) ✓
Criminal Damage to or Graffiti on Religious and Other Property	943.012 ✓
Arson of Property other than Building	943.03 ✓
Possession of Burglariou Tools	943.12 ✓
Theft of Trade Secrets	943.205(3) ✓

⁸⁶ Under circumstances specified in this statute, the sentenced imposed for a violation thereof must be consecutive to the sentence for whatever crime constitutes a violation of lifetime supervision of serious sex offenders. The Committee recommends repeal of this mandatory consecutive sentencing provision just as it has recommended repeal of other mandatory consecutive sentencing provisions. While a consecutive sentence may be desirable in any given case, that decision should be left to the sound discretion of the judge.

⁸⁷ Sec. 940.04(4) is part of the pre-Roe v. Wade statute. The form of the crimes codified in sec. 940.04 date back to the 1956 revision of the Criminal Code. When the legislature instituted a classification system for Criminal Code felonies and misdemeanors in 1977, it did not classify the crimes in sec. 940.04. 1997 Wisconsin Act 283 charges the Criminal Penalties Study Committee with classifying all felonies. Thus these crimes are now recommended for classification. However, the Committee recommends that the legislature independently study whether sec. 940.04 should be repealed given the fact that post-Roe v. Wade abortion statutes now exist at secs. 940.13 and 940.15.

⁸⁸ 940.15 is the post-Roe v. Wade abortion statute.

⁸⁹ See discussion of the general battery statutes at p. _____

⁹⁰ See discussion of the general battery statutes at p. _____

CLASS I (18 mo. MAX PRISON: 2 yrs. E.S.)

Operating Vehicle Without Owner's Consent ("drive or operate")	943.23(3) ✓
Removing Major Part of a Vehicle without Consent	943.23(5) ✓
Transfer of Encumbered Property	943.25(1) and (2) ✓
Possession of Records of Usurious Loans	943.27 ✓
Threats to Communicate Derogatory Information	943.31 ✓
Certain Financial Transaction Card Crimes	943.41(8)(b) and (c) ✓
Theft of Library Material (> \$1000 but < \$2500)	943.61(5)(d) ✓
Unlawful Receipt of Payments to Obtain Loan for Another (if value of payment exceeds \$500 but does exceed \$2500)	943.62(4)(b) ✓
Computer Crime (committed to defraud or obtain property)	943.70(2)(b)2 and (3)(b)2 ✓
Unauthorized Release of Animals (3 rd or subsequent violation)	943.75(2) ✓
Bigamy	944.05(1) ✓
Adultery	944.16 ✓
Unlawful Visual Representations of Nudity	944.205(2) ✓
Commercial Gambling	945.03 ✓
Dealing in Gambling Devices	945.05(1) ✓
Permitting Seditious Assembly	946.03(2) ✓
Flag Desecration	946.05(1) ✓
Special Privileges from Public Utilities	946.11(1) ✓
Misconduct in Public Office	946.12 ✓
Private Interest in Public Contracts	946.13(1) ✓
Purchasing Claims at Less than Full Value	946.14 ✓
Public Construction Contracts at Less than Full Value	946.15(1) & (3) ✓
Failure to Comply with Officer's Attempt to Take Person	946.415(2) ✓
Harboring or Aiding Felons	946.47(1) ✓
Bail Jumping by a Witness	946.49(2) ✓
Destruction of Documents Subject to Subpoena	946.60(1) & (2) ✓
Communicating with Jurors	946.64 ✓
Obstructing Justice	946.65(1) ✓
Simulating Legal Process	946.68(1r)(a) ✓
Falsely Assuming to Act as a Public Officer or Employee	946.69(2) ✓
Premature Disclosure of Search Warrant	946.76 ✓
Harassment (if person has prior conviction for harassing same victim within last 7 years)	947.013(1t) ✓
Bomb Scares	947.015 ✓
Physical Abuse of a Child (recklessly causing bodily harm)	94803(3)(b) ✓
Exposing a Child to Harmful Material	948.11(2)(a) & (am) ✓
Possession of Child Pornography	948.12 ✓
Failure to Support (for 120 or more consecutive days)	948.22(2) ✓
Concealing Death of Child	948.23 ✓

CLASS I (18 mo. MAX PRISON: 2 yrs. E.S.)

Interference with Custody of a Child	948.31(2)✓
Giving Dangerous Weapon to Person under 18 Years	948.60(2)(b)✓
Possession of a Dangerous Weapon on School Premises (2 nd and subsequent convictions)	948.61(2)(b),/
Mistreating an Animal (if mistreatment results in mutilation disfigurement or death of animal or if the animal is police or fire department animal and the animal is injured)	951.18(1)
Exposing a Domestic Animal to Poisonous or Controlled Substances (if animal is a police or fire department animal and the animal is injured)	951.18(1) 3
Instigating Fights Between Animals (1 st offense)	951.18(2)
Harassment of Police or Fire Department Animal and Causing Injury to the Animal	951.18(2) m
Criminal Damage to Property (Aggravated) (from H) (Raise damage amount in (2)(d) from \$1000 to \$2000)	943.01(2) 2m
Damage or Threat to Property of Witness (from H)	943.011 ✓
Criminal Damage; Threat; Property of Judge (from H)	943.013 ✓
Criminal Damage; Threat: Property of Dep't of Revenue Employee (from H)	943.015 ✓
Graffiti to Certain Property (from H) (Raise damage amount in (2)(d) from \$1000 to \$2000)	943.017(2) ✓
Graffiti to Property of Witness (from H)	943.017(2m) ✓
Theft of Telecommunications Service ⁹¹ (from H)	943.45(3)(d) >/
Theft of Cellular Telephone Service ⁹² (from H)	943.455(4)(d) ✓
Theft of Cable Television Service ⁹³ (from H)	943.46(4)(d) ✓
Theft of Satellite Cable Programming ⁹⁴ (from H)	943.47(3)(d) ✓
Fleeing: Endangering (from H)	Traffic Code ✓
Stalking (from A misdemeanor)	940.32(2) ✓
Criminal Damage to Railroads (including shooting a firearm at a train) (from A misdemeanor)	943.07(1)& (2) ✓
Possession of Firearm in School Zone (from A misd.)	948.605(2)(a) ✓

⁹¹ This offense involves theft of telecommunications service for direct or indirect commercial advantage or private financial gain as a 2nd or subsequent offense.

⁹² This offense involves theft of cellular telephone service for direct or indirect commercial advantage or private financial gain as a 2nd or subsequent offense.

⁹³ This offense involves theft of cable television service for direct or indirect commercial advantage or private financial gain as a 2nd or subsequent offense.

⁹⁴ This offense involves theft of satellite cable programming for direct or indirect commercial advantage or private financial gain as a 2nd or subsequent offense.

CLASS I (18 mo. MAX PRISON: 2 yrs. E.S.)

Abuse of Vulnerable Adult (intentional maltreatment under circumstances likely to cause bodily harm)	940.285(2)(b)2 ⁹⁵ ✓
Abuse & Neglect of Patients & Residents (intentional abuse or neglect under circumstances likely to cause bodily harm)	940.295(3)(b)2 ⁹⁶ ✓
Abuse & Neglect of Patients & Residents (reckless or negligent abuse or neglect under circumstances likely to cause great bodily harm)	940.295(3)(b)3 ⁹⁷ ✓
Theft (> \$2000 but < \$5000)	NEW ⁹⁸
Receiving Stolen Property (> \$2000 but < \$5000)	NEW ⁹⁹
Fraudulent Use of Financial Transaction Card (> \$2000 but < \$5000)	NEW ¹⁰⁰
Retail Theft (> \$2000 but < \$5000)	NEW ¹⁰¹
Receiving Stolen Property from a Child (> \$500 but < \$2000)	NEW ¹⁰²
Fraud on Hotel or Restaurant Keeper or Taxicab Operator (if value of service > \$2000)	NEW ¹⁰³
Issuing Worthless Checks (> \$2000)	NEW ¹⁰⁴
Removing or Damaging Encumbered Real Property (if security is impaired by > \$2000)	NEW ¹⁰⁵
Fraudulent Insurance or Employee Benefit Claim (>\$2000)	NEW ¹⁰⁶

⁹⁵ This offense is “new” in the sense that it breaks out intentional maltreatment under circumstances likely to cause bodily harm and classifies it lower than the same conduct that actually causes bodily harm.

⁹⁶ This offense is “new” in the sense that it breaks out intentional abuse or neglect under circumstances likely to cause bodily harm and classifies it lower than the same conduct that actually causes bodily harm.

⁹⁷ This offense is “new” in the sense that it breaks out reckless or negligent abuse or neglect under circumstances likely to cause great bodily harm and classifies it lower than the same conduct that actually causes great bodily harm.

⁹⁸ See footnote to crime of Theft (943.20) in Class G list.

⁹⁹ See footnote to crime of Receiving Stolen Property (943.34) in Class G list.

¹⁰⁰ See footnote to crime of Fraudulent Use of Financial Transaction Card (943.41) in Class G list.

¹⁰¹ See footnote to crime of Retail Theft (943.50) in Class G list.

¹⁰² See footnote to crime of Receiving Stolen Property from a Child (948.62) in Class G list.

¹⁰³ The crime of Fraud on Hotel or Restaurant Keeper or Taxicab Operator (943.21) is listed as “new” because the fraud level has been raised from \$1000 to \$2000 in order for the crime to be classified as a felony. This is consistent with other “value” changes that are recommended.

“The crime of Issue of Worthless Check (943.24) is listed as “new” because the value level has been raised from \$1000 to \$2000 in order for the crime to be classified as a felony. This is consistent with other “value” changes that are recommended.

¹⁰⁵ The crime of Removing or Damaging Encumbered Real Property (943.26) is listed as “new” because the value of the security impaired has been raised from \$1000 to \$2000. This is consistent with other “value” changes that are recommended.

¹⁰⁶ The crime of Fraudulent Insurance or Employee Benefit Claim (943.395) is listed as “new” because the fraud level has been raised from \$1000 to \$2000. This is consistent with other “value” changes that are recommended.

CLASS I (18 mo. MAX PRISON: 2 yrs. E.S.)

Absconding after being adjudicated delinquent for
a Class I felony
Solicitation to Commit a Class I Felony

NEW¹⁰⁷
939.30(2) (amendment) ✓

¹⁰⁷ This crime appears in each of the felony classes. It addresses the problem of the juvenile who has been adjudicated delinquent but then absconds before **his/her** dispositional hearing. **See** discussion of juvenile absconding at p. _____

CLASS A MISDEMEANOR (9 MOS. MAX JAIL)

EXCEPT AS NOTED BELOW, ALL OFFENSES CURRENTLY CLASSIFIED AS CLASS A MISDEMEANORS REMAIN IN THAT CLASSIFICATION.

Theft of Telecommunications Service (from I felony)	943.45(3)(c)
Theft of Cellular Telephone Service (from I felony)	943.455(4)(c)
Theft of Cable Television Service (from T felony)	943.46(4)(c)
Theft of Satellite Cable Programming (from T felony)	943.47(3)(c)
Carrying Firearm in Public Building (from B misdemeanor)	941.235(1)
Theft (< \$2000)	NEW ¹⁰⁸
Receiving Stolen Property (< \$2000)	NEW ¹⁰⁹
Fraudulent Use of Financial Transaction Card (< \$2000)	NEW ¹¹⁰
Retail Theft (< \$2000)	NEW ¹¹¹
Receiving Stolen Property from a Child (< \$500)	NEW ¹¹²
Fraud on Hotel or Restaurant Keeper or Taxicab Operator (c \$2000)	NEW ¹¹³
Issuing Worthless Checks (< \$2000)	NEW ¹¹⁴
Removing or Damaging Encumbered Real Property (if security is impaired by < \$2000)	NEW ¹¹⁵
Fraudulent Insurance or Employee Benefit Claim (< \$2000)	NEW ¹¹⁶
Demolition of Historic Building without Authorization	NEW ¹¹⁷
Operating Vehicle Without Owner's Consent (new misdemeanor version)	NEW ¹¹⁸
Fleeing an Officer (new misdemeanor version)	NEW ¹¹⁹

¹⁰⁸ See footnote to crime of Theft (943.20) in the Class G list.

¹⁰⁹ See footnote to crime of Receiving Stolen Property (943.34) in the Class G list.

¹¹⁰ See footnote to crime of Fraudulent Use of Financial Transaction Card (943.41) in the Class G list.

¹¹¹ See footnote to crime of Retail Theft (943.50) in Class G list.

¹¹² See footnote to crime of Receiving Stolen Property from a Child (948.62) in the Class G list.

¹¹³ See footnote to crime of Fraud on Hotel or Restaurant Keeper or Taxicab Operator (943.21) in the Class I list.

¹¹⁴ See footnote to crime of Issue of Worthless Checks (943.24) in the Class I list.

¹¹⁵ See footnote to crime of Removing or Damaging Encumbered Real Property (943.26) in the Class I list.

¹¹⁶ See footnote to crime of Fraudulent Insurance or Employee Benefit Claim in the Class I list.

¹¹⁷ This crime is presently codified at sec. 943.014 but is not classified. Its penalty is currently imprisonment for not more than 9 months. The committee recommends classifying this offense as a Class A misdemeanor.

¹¹⁸ The Committee recommends the creation of a misdemeanor version of the operating vehicle without owner's consent offense to supplement the felonies that exist under current law. A discussion of the proposal is included in the text of this report.

¹¹⁹ The Committee recommends the creation of a misdemeanor version of the fleeing an officer offense to supplement the fleeing felonies that exist under current law. A discussion of the proposal is included in the text of this report at p. _____

3. Attributes of the New Felony Classes

When the crimes which have been assigned to the nine new felony classes are examined, several observations may be made about the kinds of crimes in each class and the way in which offenses cascade through the classes on the basis of severity.

Felony Class A is reserved for the most serious crimes against life and the state. Class B is restricted to the gravest of violent offenses against the person (other than those in Class A). In Class C most of the crimes involve violence against the person or the potential for grave harm to persons (for example, armed robbery, carjacking and arson of buildings); this class is also utilized for the most serious of drug offenses (which are classified later in this report). Classes D, E and F contain primarily offenses against the person that involve either lesser harms (or lesser potential for harm) or less culpable mental states than the felonies in the higher classes. Class G is somewhat transitional in that it contains numerous offenses against persons and their safety but also picks up some serious property offenses. Classes H and I are utilized for less serious offenses against the person and for the great majority of property crimes and crimes against government and its administration (most of which are already classified among the less serious felonies).

4. Recommendations Regarding New Statutes, Amendments to Existing Statutes, and the Repeal of Certain Statutes

Homicide. The Committee carefully scrutinized Wisconsin's homicide statutes to determine their proper placement in the new A-I felony classification system. Because the result is the same in each of these crimes, the legislature has generally classified them according to mental state. The Committee has maintained this approach in making its classification recommendations.

Of course first-degree intentional **homicide**¹²⁰ is retained as a Class A felony for which the penalty is life imprisonment.

First-degree reckless **homicide**¹²¹ and second-degree intentional **homicide**¹²² are both recommended for classification as B felonies. Under present law these offenses are both punishable by up to 40 years in prison and thus would naturally convert to Class C felonies when the mandatory release converter is applied to transfer them to the new A-I

¹²⁰ Wis. Stat. sec. 940.01(1).

¹²¹ Wis. Stat. sec. 940.02(1) (recklessly causing the death of another human being under circumstances that show utter disregard for human life and 940.02(1m) (recklessly causing the death of an unborn child under circumstances that show utter disregard for the life of that unborn child). The recommendation discussed in the text accompanying this note does not deal with the form of first-degree reckless homicide which involves the death of someone following the delivery of a controlled substance (the so-called "Len Bias" law). See Wis. Stat. sec. 940.02(2).

¹²² Wis. Stat. sec. 940.05. Second-degree intentional homicide is first-degree intentional homicide mitigated by imperfect self-defense, adequate provocation, coercion, necessity, and unreasonable prevention of a felony. See Wis. Stat. sec. 940.01(2).

classification system. The Code Reclassification Subcommittee and the Criminal Penalties Study Committee as a whole both debated¹²³ whether these two homicides should be placed in the same class¹²⁴ and whether that class should be Class B or Class C. The Committee ultimately concluded that placement in the same class should be maintained because that placement was the result of intricate revisions of the law of homicide as a whole that took place over a decade ago and because splitting these offenses into separate classes would undesirably upset the balance that was struck at that time. Further, after considering the seriousness of these offenses, the factual contexts in which they arise, and the kinds of other offenses that have been placed in the B and C classes, the Committee concluded that first-degree reckless homicide and second-degree reckless homicide should be classified as B felonies.

The Committee recommends that the crime of homicide by intoxicated use of a vehicle be split into two felony classes depending upon the offender's record of impaired driving offenses. Under current law this crime is punishable by up to 40 years in prison¹²⁵ and would thus naturally convert to a Class C felony in the new A-I classification system. But when compared with other homicides, placement in Class C appears to be one class too high. The offense has no mental state element and it is thus difficult to place in the cascade of other homicide offenses which have a mental state element. However, the Committee concluded that homicide by the intoxicated use of a vehicle is most closely akin to second-degree reckless homicide. In its view driving in a state of impairment is the rough equivalent of the conscious risk taking associated with the crime of reckless homicide. The latter is recommended for placement in Class D and thus the Committee recommends that homicide by intoxicated use of a vehicle be placed in that classification as well. For both the maximum term of confinement for one count¹²⁶ would thus be 15 years (which in the world of Truth-in-Sentencing means 15 years of real time not subject to parole or other forms of early release) followed by a maximum period of extended supervision in the amount of 10 years. However, if the defendant has a prior conviction for an impaired driving offense,¹²⁷ then the offense is

¹²³ Valuable assistance in this debate was provided by appellate lawyers from both the Wisconsin Department of Justice and the Wisconsin State Public Defender's Office.

¹²⁴ Until the Wisconsin homicide laws were revised in 1989 (see 1987 Wis. Act 399), second-degree murder (the equivalent of what is now first-degree reckless homicide) was punished more severely than manslaughter (the rough equivalent of what is now second-degree intentional homicide). See Wis. Stat. secs. 940.02 and 940.05 (198586).

¹²⁵ The history of punishing homicide by the intoxicated use of a vehicle in Wisconsin reveals a consistent pattern of escalating the severity of this offense. When this state first undertook the process of crime classification in 1978, the offense was punished as a Class D felony for which the maximum imprisonment was five years. See Wis. Stat. sec. 940.09 (1977). Since then its classification has been upgraded several times to the point where it is now classified as a Class B felony for which the maximum imprisonment is 40 years. This is doubtless the result of the great tragedy which accompanies the commission of this crime and the high visibility with which violations are publicly reported.

¹²⁶ The Wisconsin Supreme Court has concluded that a separate count of homicide by intoxicated use of a vehicle 'may be prosecuted for each death caused by the defendant's act of driving in an impaired state. See State v. Rabe, 96 Wis. 2d 48,291 N.W.2d 809 (1980).

¹²⁷ Prior convictions are determined by application of the "counting statute" codified at Wis. Stat. sec. 343.307(2).

graded as a Class C felony for which the maximum term of confinement is 25 years followed by a maximum period of extended supervision in the amount of 15 years.¹²⁸ The Committee believes that these classifications meet the legislative charge to classify crimes of like severity in the same class while at the same time providing sufficient real-time punishment for those who drive while impaired and take human life in the process of doing so.

The remaining homicides and other serious injury offenses are classified according to harm and mental state. They are depicted on the chart which follows. Only Classes A through G are used in the chart because homicides and other serious injury offenses are all classified at the G level or above. Commentary following the chart explains how harm and mental state compare for some of the more commonly prosecuted homicides and serious injury offenses.

¹²⁸ It is the intent of the Committee that in prosecutions for the Class C felony version of homicide by intoxicated use of a vehicle, the existence of the prior impaired driving offense be an element of the crime.

Needs to be checked against draft

August 10, 1999 DRAFT

DEPICTION OF HOMICIDES & SERIOUS INJURY FELONIES

GBH = GREAT BODILY HARM LGBH = LIKELIHOOD OF GREAT BODILY HARM

A	B	C	D	E	F	G
1 st Degree Intentional Homicide						
Partial-Birth Abortion	1 st Degree Reckless Homicide					
	2 nd Degree Intentional Homicide	Len Bias Homicide (Drugs)				
	Attempted 1 st Deg. Int. Homicide		2 nd Degree Reckless Homicide			
		Int/Reck Abuse of Vul. Adult: Death	1 st Degree Reckless Injury			
		Int/Reck Abuse of Patients/Res: Death	Neg. Abuse of Vul. Adult: Death		2 nd Degree Reckless Injury	
			Neg. Abuse of Patients/Res: Death		1 st Degree Reck.Endan. Safety	
		Tamper w/ Household Prod: Death	Child Neglect: Death		Abuse of Vul. Adult: GBH	2 nd Degree Reck.Endan. Safety
	1 st Degree Sexual Assault	OWI Homicide Repeater ¹²⁹		Abuse of Patients/Res: GBH ¹³⁰	Abuse of Patients/Res: Vul. Adult: GBH	Int.Abuse of Vul. Adult: LGBH
	1 st Degree Sex Assault of a Child	Mayhem	OWI Homicide ¹³¹		Tamper w/ Household Prod: GBH	Int.Abuse of Patients/Res: LGBH
		2 nd Degree Sexual Assault	Homicide: Intox. Use Of Firearm	Aggravated Battery (int. cause GBH)		Hazing: Death
		2 nd Degree Sex Assault of a Child		Child Abuse (int. causing GBH)		Homicide: Neg Use of Weapon
				Pleeing: Death	Injury by OWI	Homicide: Neg. Use of Vehicle
			3 rd Degree Sex Assault	Obstruct Rescue Pers: Death	Fleeing: Causing GBH	Homicide: Neg. Control of Animal

¹²⁹ OWI Repeater = 1 or more prior impaired driving convictions as counted under Wis. Stat. sec. 343.307(2).

¹³⁰ Victim must be a "vulnerable adult."

¹³¹ OWI Homicide with no impaired driving convictions as determined by application of Wis. Stat. sec. 343.307(2).

*DEPICTION OF HOMICIDES
AND SERIOUS INJURY FELONIES (continued)*

CHARACTERISTICS OF EACH FELONY CLASS

CLASS	CRIME	RESULT	MENS REA
A	1 ST Degree Int. Homicide	Death	Intent
A	Partial-Birth Abortion	Death	Intent
B	1 st Degree Reckless Homicide	Death	Aggravated Recklessness
C	2 nd Degree Int. Homicide	Death	Mitigated Intent
C	OWI Homicide – Repeater	Death	Akin to Reckless ¹³²
D	Child Neglect: Death	Death	Intent: Contr. To Neglect of Child Strict Liab: Death
D	2 nd Degree Reckless Homicide	Death	Recklessness
D	OWI Homicide	Death	Akin to Reckless ¹³³
D	1 st Degree Reckless Injury	Great Bodily Harm	Aggravated Recklessness ¹³⁴
E	Aggravated Battery	Great Bodily Harm	Intent
F	2 nd Degree Reckless Injury	Great Bodily Harm	Recklessness
F	Injury by OWI	Great Bodily Harm	Akin to Reckless ¹³⁵
F	1 st Degree Reck. Endan. Safety	Endanger Safety	Aggravated Recklessness
G	2 nd Degree Reck. Endan. Safety	Endanger Safety	Recklessness
G	Homicide: Neg. Use of Weapon	Death	Crim. Negligence
G	Homicide: Neg. Use of Veh.	Death	Crim. Negligence

¹³² OWI Homicide - Repeater is graded at the C level because defendant has prior impaired driving conviction as determined by application of Wis. Stat. sec. 343.307(2).

¹³³ Though the OWI homicide statute contains no mens rea, the committee concluded that driving a vehicle while under the influence of intoxicants (and/or other specified substances) represents the rough equivalent of the conscious risk taking associated with the crime of reckless homicide.

¹³⁴ Aggravated recklessness involves taking a conscious risk of causing death or great bodily harm. Thus 1st degree reckless injury is graded higher than aggravated battery which involves the same harm but involves a mental purpose to cause great bodily harm - not death.

¹³⁵ Though the OWI injury statute contains no mens rea, the committee concluded that driving a vehicle while under the influence of intoxicants (and/or other specified substances) represents the rough equivalent of the conscious risk taking associated with the crime of 2nd degree reckless injury.

Battery. The Wisconsin general battery statute is codified at Wis. Stat. sec. 940.19. A companion statute protecting the unborn from similar harms is codified in sec. 940.195. Beyond these general battery statutes, the Criminal Code contains a whole host of special circumstance batteries, offering protection to various groups by way of the greater penalties that attend these offenses. The list is long and includes such groups as law enforcement officers, firefighters, judges, witnesses, jurors, public officers, employees and visitors to prisons, employees of technical colleges and school districts, public transit drivers and passengers, employees of the Department of Revenue, employees of the Department of Workforce Development, etc. In some instances the protections of the special circumstance batteries are also extended to family members.

Proposed Revision of General Battery Statutes

When the State of Wisconsin last undertook a comprehensive revision of its criminal laws in the 1950's, the legislature addressed the crime of battery with two simple and straightforward statutes. The misdemeanor version of the crime prohibited the "caus[ing of] of bodily harm to another by an act done with intent to cause bodily harm to that person or another."¹³⁶ The felony version, known as "aggravated battery," prohibited "intentionally caus[ing] great bodily harm to another."¹³⁷

Since 1955 the legislature has made numerous additions to the general battery statute, creating several intermediate levels of the offense by mixing and matching harms and mental states. The result is a relatively confusing set of crimes about which the Committee heard several complaints from both within and without. At present the statute reads as follows:

- (1) Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed is guilty of a Class A misdemeanor.
- (2) Whoever causes substantial bodily harm to another by an act done with intent to cause bodily harm to that person or another is guilty of a Class E felony.
- (3) Whoever causes substantial bodily harm to another by an act done with intent to cause substantial bodily harm to that person or another is guilty of a Class D felony.
- (4) Whoever causes great bodily harm to another by an act done with intent to cause bodily harm to that person or another is guilty of a Class D felony.

¹³⁶ Wis. Stat. sec. 940.20 (1955).

¹³⁷ Wis. Stat. sec. 940.22 (1955). The 1955 aggravated battery statute was augmented by the mayhem statute which remains a part of the Criminal Code to this day. See Wis. Stat. sec. 940.21.

(5) Whoever causes great bodily harm to another by an act done with intent to cause either substantial bodily harm or great bodily harm to that person or another is guilty of a Class C felony.

(6) Whoever intentionally causes bodily harm to another by conduct that creates a substantial risk of great bodily harm is guilty of a Class D felony. A rebuttable presumption of conduct creating a substantial risk of great bodily harm arises:

- (a) If the person harmed is 62 years of age or older; or
- (b) If the person harmed has a physical disability, whether congenital or acquired by accident, injury or disease, that is discernible by an ordinary person viewing the physically disabled person, or that is actually known by the actor.

After careful review of the statute, the Committee proposes a revision which is designed to return simplicity and straightforwardness to the law of battery and which the Committee believes addresses the several concerns expressed about it. Preserved are traditional forms of misdemeanor battery (causing bodily harm with intent to cause bodily harm) and felony aggravated battery (causing great bodily harm with intent to cause great bodily harm). Also maintained are intermediate offenses of causing great bodily harm¹³⁸ or substantial bodily harm¹³⁹ by an act done with intent to cause bodily harm. Finally, the special provisions protecting those 62 years of age or older and those with a physical disability are preserved without change.

The proposed statute reads as follows:

940.19 Battery. (1) Whoever causes great bodily harm to another by an act done with intent to cause great bodily harm to that person or another is guilty of a Class E felony.¹⁴⁰

(2) Whoever causes great bodily harm to another by an act done with intent to cause bodily harm to that person or another is guilty of a Class H felony.¹⁴¹

¹³⁸ Wis. Stat. sec. 939.22(14) defines “great bodily harm” as “bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss of impairment of the function of any bodily member or organ or other serious bodily injury.”

¹³⁹ Wis. Stat. sec. 939.22(38) defines “substantial bodily harm” as “bodily injury that causes a laceration that requires stitches; any fracture of a bone; a burn; a temporary loss of consciousness, sight or hearing; a concussion; or a loss or fracture of a tooth.”

¹⁴⁰ Subsection 1 is derived from sec. 940.19 (5) (traditional aggravated battery) but limits this offense to the situation where the actor causes great bodily harm and intends this level of harm.

(3) Whoever causes substantial bodily harm to another by an act done with intent to cause bodily harm to that person or another is guilty of a Class I felony.¹⁴²

(4) Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed is guilty of a Class A misdemeanor.¹⁴³

(5) Whoever intentionally causes bodily harm to another by conduct that creates a substantial risk of great bodily harm is guilty of a Class H felony. A rebuttable presumption of conduct creating a substantial risk of great bodily harm arises:

- (a) If the person harmed is 62 years of age or older; or
- (b) If the person harmed has a physical disability, whether congenital or acquired by accident, injury or disease, that is discernible by an ordinary person viewing the physically disabled person, or that is actually known by the actor.¹⁴⁴

Using mental state and harm actually caused, the following chart depicts the relationship of the four principal offenses as they appear in subsections 1 through 4 of the proposed statute:

OFFENSE CLASS	INTENT	HARM CAUSED
Class E felony	Intent to Cause Great Bodily Harm	Great Bodily Harm
Class H felony	Intent to Cause Bodily Harm	Great Bodily Harm
Class I felony	Intent to Cause Bodily Harm	Substantial Bodily Harm
Class A misdemeanor	Intent to Cause Bodily Harm	Bodily Harm

¹⁴¹ Subsection 2 is the current sec. 940.19 (4).

¹⁴² Subsection 3 is the current sec. 940.19 (2).

¹⁴³ Subsection 4 is the current 940.19(1) (traditional misdemeanor battery).

¹⁴⁴ Subsection 5 preserves Wis. Stat. sec. 940.19(6) without change.

An understandable complaint about current law is that it is difficult to craft jury instructions when the court determines that the jury should be given the option of finding the defendant guilty of a lesser included battery offense.¹⁴⁵ The proposed four-tiered structure of crimes should simplify this part of the trial considerably. Examples:

- If the defendant is charged with the E felony but there is some dispute in the evidence as to whether the actor harbored the intent to cause great bodily harm but no dispute that great bodily harm was inflicted, the H felony (subsection 2) should be given to the jury as an option.
- If the defendant is charged with the E felony but there is some dispute in the evidence as to whether great bodily harm was inflicted but no dispute that the actor harbored the intent, the jury should be given the option of finding the defendant guilty of an attempt to commit the E felony.
- If the defendant is charged with the E felony but there is some dispute both as to whether the actor harbored the intent to cause great bodily harm and whether great bodily harm was inflicted, the jury should be given the option of finding the defendant guilty of either the I felony or the A misdemeanor (according to the evidence re: harm inflicted).
- If the defendant is charged with the H felony (subsection 2) but there is some dispute as to whether great bodily harm was inflicted, the jury should be given the option of finding the defendant guilty of either the I felony or the A misdemeanor (according to the evidence re: harm inflicted).
- If the defendant is charged with the I felony but there is some dispute as to whether substantial bodily harm was inflicted, the jury should be given the option of the finding the defendant guilty of the A misdemeanor.

The Committee believes that the range of variations involving harms and mental states that may realistically occur are comprehensively addressed by the proposed statute. It also notes that there are several other statutes which address related behavior, including the following:

¹⁴⁵ Wis. Stat. sec. 939.66 provides that an included crime may be any of the following: “(2) A crime which is a less serious or equally serious type of battery than the one charged.” The statute presents the anomaly of one crime being “included” within another when they have the same penalty.

First-degree Reckless Injury - Wis. Stat. sec. 940.23(1)
Second-degree Reckless Injury - Wis. Stat. sec. 940.23(2)
First-degree Recklessly Endangering Safety - Wis. Stat. sec. 941.30(1)
Second-degree Recklessly Endangering Safety - Wis. Stat. sec. 940.30(2)
Mayhem - Wis. Stat. sec. 940.21

A recent addition to the compendium of battery laws is the statute entitled **Battery to an Unborn Child; Substantial Battery to an Unborn Child; Aggravated Battery to an Unborn Child.**¹⁴⁶ This statute is codified at Wis. Stat. sec. 940.195 and currently provides as follows:

- (1) Whoever causes bodily harm to an unborn child by an act done with intent to cause bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a Class A misdemeanor.
- (2) Whoever causes substantial bodily harm to an unborn child by an act done with intent to cause bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a Class E felony.
- (3) Whoever causes substantial bodily harm to an unborn child by an act done with intent to cause substantial bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a Class D felony.
- (4) Whoever causes great bodily harm to an unborn child by an act done with intent to cause bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a Class D felony.
- (5) Whoever causes great bodily harm to an unborn child by an act done with intent to cause either substantial bodily harm or great bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a Class C felony.
- (6) Whoever intentionally causes bodily harm to an unborn child by conduct that creates a substantial risk of great bodily harm is guilty of a Class D felony.

¹⁴⁶ This statute was created by 1997 Wis. Act 295.

The Committee has reviewed this statute as well and recommends that it be repealed and recreated to read as follows:

940.195 Battery to an Unborn Child. (1) Whoever causes great bodily harm to an unborn child by an act done with intent to cause great bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a Class E felony.

(2) Whoever causes great bodily harm to an unborn child by an act done with intent to cause bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a Class H felony.

(3) Whoever causes substantial bodily harm to an unborn child by an act done with intent to cause bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a Class I felony.

(4) Whoever causes bodily harm to an unborn child by an act done with intent to cause bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a Class A misdemeanor.

The provisions of proposed sec. 940.195 track the first four subsections of proposed sec. 940.19. The same commentary to sec. 940.19 would be applicable here as well.

Abuse of Vulnerable Adults, Abuse and Neglect of Patients and Residents, Physical Abuse of a Child, Neglecting a Child, Causing Mental Harm to a Child, Tampering with Household Products, etc. The Wisconsin Statutes contain numerous offenses in the categories of crime listed in the title to this section. In many of these categories there are several offenses which mix and match harm, potential for harm, and culpability or mental state. The Committee attempted to bring some uniformity to the treatment of these offenses and recommends the classification system depicted on the chart which follows. Its rationale for the classifications suggested and for proposed changes to the statutes is discussed in the footnotes which accompany the chart.