



State of Wisconsin  
1999 - 2000 LEGISLATURE

MGD

LRB-0590/P3

JEO:kmg:ijs

r.m.r.

by 7/15  
if possible

Note

4

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

regenerate

1 **AN ACT to repeal 948.35 and 948.36; to renumber and amend 948.025 (1); to**  
 2 **amend 301.26 (4) (cm) 1., 302.11 (1g) (a) 2., 938.34 (4h) (a), 939.30 (1), 939.62**  
 3 **(2m) (a) 2m. b., 939.632 (1) (e) 1., 939.72 (1), 941.327 (2) (a) (intro.), 941.327 (2)**  
 4 **(b) 4., 948.13 (1) (a), 948.13 (2m) (a) (intro.), 948.13 (2m) (a) 1., 961.455 (3),**  
 5 **969.08 (10) (a), 973.0135 (1) (b) 2. and 973.034; and to create 948.025 (1) (b) of**  
 6 **the statutes; relating to: classification and elements of ~~criminal~~ felony offenses**  
 7 **and providing penalties.**

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version of the draft.

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

INS  
1-8

8 **SECTION 1.** 301.26 (4) (cm) 1. of the statutes is amended to read:  
 9 301.26 (4) (cm) 1. Notwithstanding pars. (a), (b) and (bm), the department shall  
 10 transfer funds from the appropriation under s. 20.410 (3) (cg) to the appropriations

1 under s. 20.410 (3) (hm), (ho) and (hr) for the purpose of reimbursing juvenile  
 2 correctional institutions, secured child caring institutions, as defined in s. 938.02  
 3 (15g), alternate care providers, aftercare supervision providers and corrective  
 4 sanctions supervision providers for costs incurred beginning on July 1, 1996, for the  
 5 care of any juvenile 14 years of age or over who has been placed in a juvenile  
 6 correctional facility based on a delinquent act that is a violation of s. 939.31, 939.32  
 7 (1) (a), 940.03, 940.21, 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10  
 8 (2), 943.23 (1g), <sup>or</sup> (1m) ~~or (1r)~~, 943.32 (2), 948.02 (1), 948.025, ~~(1) 948.30 (2),~~  
 9 ~~948.35 (1) (b) or 948.36~~ and for the care of any juvenile 10 years of age or over who  
 10 has been placed in a juvenile correctional institution or a secured child caring  
 11 institution for attempting or committing a violation of s. 940.01 or for committing a  
 12 violation of s. 940.02 or 940.05.

13 SECTION 2. 302.11 (lg) (a) 2. of the statutes is amended to read: <sup>(lc)</sup>  
 14 302.11 (lg) (a) 2. Any felony under s. 940.02, 940.03, 940.05, 940.09 ~~(1)~~, 940.19  
 15 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305 (2), 940.31 (1) or (2) (b), 943.02,  
 16 943.10 (2), 943.23 (lg) or (lm), 943.32 (2), 946.43, 948.02 (1) or (2), 948.025, 948.03  
 17 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, or 948.30 (2) & ~~1-8.35 (1) (b) or (c) or~~

INS  
2-18

18 a n .  
 19 SECTION 3. 938.34 (4h) (a) of the statutes is amended to read:

20 938.34 (4h) (a) The juvenile is 14 years of age or over and has been adjudicated  
 21 delinquent for committing a violation of s. 939.31, 939.32 (1) (a), 940.03, 940.21,  
 22 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10(2), 943.23 <sup>or</sup>  
 23 ~~or (1r)~~ 940.225 (1), 943.32(2), 948.02 (1) 948.025, ~~(1)(a) or 948.3(2), 948.35 (1) (b) or 948.36.~~  
 24 or the juvenile is 10 years of age or over and has been adjudicated delinquent for

INS  
3-2

1 attempting or committing a violation of s. 940.01 or for committing a violation of  
2 940.02 or 940.05.

3 **SECTION 4.** 939.30 (1) of the statutes is amended to read:

4 939.30 (1) Except as provided in sub. (2) and ~~ss. 948.35 and s. 961.455~~, whoever,  
5 with intent that a felony be committed, advises another to commit that crime under  
6 circumstances that indicate unequivocally that he or she has the intent is guilty of  
7 a Class ~~D~~ felony. <sup>H</sup>

INS  
3-7

8 **SECTION 5.** 939.62 (2m) (a) 2m. b. of the statutes is amended to read:

9 939.62 (2m) (a) 2m. b. Any felony under s. 940.01, 940.02, 940.03, 940.05,  
10 940.09 ~~(1)~~, <sup>(1c)</sup> 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,  
11 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), <sup>or</sup> (1m) ~~or (1r)~~, 943.32 (2), 946.43,  
12 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, or  
13 948.30 (2), ~~948.35 (1) (b) or (c) or 948.36.~~

14 **SECTION 6.** 939.632 (1) (e) 1. of the statutes is amended to read:

15 939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09 ~~(1)~~, <sup>(1c)</sup>  
16 940.19 (2), (3), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.305, 940.31, 941.20,  
17 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), <sup>or</sup> (1n) ~~or (1r)~~, 943.32 (2), 948.02 (1) or  
18 (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.055, 948.07, 948.08, or 948.30 (2), ~~948.35~~  
19 (1) (b) or (c) or ~~948.36.~~

20 **SECTION 7.** 939.72 (1) of the statutes is amended to read:

21 939.72 (1) Section 939.30, ~~948.35 or 948.36~~ for solicitation and s. 939.05 as a  
22 party to a crime which is the objective of the solicitation; or

23 **SECTION 8.** 941.327 (2) (a) (intro.) of the statutes is amended to read:

24 941.327 (2) (a) (intro.) Whoever, with intent to ~~kill~~, injure or otherwise  
25 endanger the health or safety of any person or to cause significant injury or damage

INS  
3-22

1 to the business of any person or entity, does either of the following may be punished  
2 under par. (b):

\*\*\*\*NOTE: The word "kill" is eliminated because it makes the offense duplicative of first degree intentional homicide.

INS  
4-3

3 SECTION 9. 941.327 (2) (b) 4. of the statutes is amended to read:

4 941.327 (2) (b) 4. If the act under par. (a) causes death to another, a person is

5 guilty of a Class ~~A~~ <sup>C</sup> felony.

\*\*\*\*NOTE: Because the word "kill" is eliminated from the language specifying the elements of this crime, the committee thinks it proper to reduce the penalty for the crime to a Class B felony so as to reserve Class A felonies for the most serious crimes against persons and state. Because, after the amendment to the elements of the crime, the statute no longer punishes acts undertaken with the intent to kill, classification as a Class ~~B~~ <sup>C</sup> felony provides sufficient punishment.

INS  
4-6

6 SECTION 10. 948.025 (1) of the statutes is renumbered 948.025 (1) (a) and  
7 amended to read:

8 948.025 (1) (a) ~~Whoever commits 3 or more violations under s. 948.02 (1) or (2)~~  
9 within a specified period of time involving the same child is guilty of a Class B felony.

10 SECTION 11. 948.025 (1) (b) of the statutes is created to read:

11 948.025 (1) (b) ~~Whoever commits 3 or more violations under s. 948.02 (2) within~~  
12 a specified period of time involving the same child is guilty of a Class BC felony.

\*\*\*\*NOTE: Because s. 948.025, ~~stats.~~, provides an alternative method of proving violations of s. 948.02 (1) and (2), ~~stats.~~ (first and second degree sexual assault of a child), acts of second degree sexual assault of a child prosecuted under s. 948.025 should be treated as a Class BC felony, which is the classification given to second degree sexual assault of a child under s. 948.02 (2), ~~stats.~~

13 SECTION 12. 948.13 (1) (a) of the statutes is amended to read:

14 948.13 (1) (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim  
15 is under 18 years of age at the time of the offense, or a crime under s. 948.02 (1),  
16 948.025 (1) (a), 948.05 (1), 948.06 or 948.07 (l), (2), (3) or (4).

17 SECTION 13. 948.13 (2m) (a) (intro.) of the statutes is amended to read:

1 948.13 (2m) (a) (intro.) A person who has been convicted of a crime under s.  
 2 948.025 (1), 1997 stats., may petition the court in which he or she was convicted to  
 3 order that the person be exempt from sub. (2) and permitted to engage in an  
 4 occupation or participate in a volunteer position that requires the person to work or  
 5 interact primarily and directly with children under 16 years of age. The court may  
 6 grant a petition filed under this paragraph if the court finds that all of the following  
 7 apply:

8 SECTION 14. 948.13 (2m) (a) 1. of the statutes is amended to read:  
 9 948.13 (2m) (a) 1. At the time of the commission of the crime under s. 948.025  
 10 (1), 1997 stats., the person had not attained the age of 19 years and was not more than  
 11 4 years older or not more than 4 years younger than the child with whom the person  
 12 had sexual contact or sexual intercourse.

\*\*\*\*NOTE: Amending s. 948.13 (1) (a), stats., to cover only repeated sexual assaults  
 of a child who has not attained the age of 13 years will make the exemption under s. 948.13  
 (2m), stats., inapplicable in the future because the criterion under s. 948.13 (2m) (a) 1.,  
 stats., will never be met. However, instead of simply repealing s. 948.13 (2m), stats., this  
 draft amends the exemption language to refer to the current version of s. 948.025 (1),  
 stats., in order to preserve any exemptions already granted and to keep the exemption  
 available for persons convicted under the current version of s. 948.025 (1), stats. Okay?

13 SECTION 15. 948.35 of the statutes is repealed.

→ \*\*\*\*NOTE: The offense of soliciting a child to commit a ~~Class A~~ felony is repealed  
 because it is duplicative of the statute imposing criminal liability for being party to a  
 crime (s. 939.05, stats.).

14 SECTION 16. 948.36 of the statutes is repealed.

\*\*\*\*NOTE: The offense of using a child to commit a Class A felony is repealed because  
 it is duplicative of the statute imposing criminal liability for being party to a crime (s.  
 939.05, stats.) and because it has never been prosecuted.

15 SECTION 17. 961.455 (3) of the statutes is amended to read:

16 961.455 (3) Solicitation under sub. (1) occurs in the manner described under  
 17 s. 939.30, but the penalties under sub. (1) apply instead of the penalties under s.  
 18 939.30 or 948.35.

INS  
5-15

INS  
6-1

1 SECTION 18. 969.08 (10) (a) of the statutes is amended to read:

2 969.08 (10) (a) "Commission of a serious crime" includes a solicitation,  
3 conspiracy or attempt, under s. 939.30, 939.31, or 939.32 ~~or 948.35~~, to commit a  
4 serious crime.

INS  
6-4

5 SECTION 19. 973.0135 (1) (b) 2. of the statutes is amended to read:

6 973.0135 (1) (b) 2. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09  
7 ~~(1)~~ <sup>(1c) ✓</sup> 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,  
8 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), <sup>or</sup> (1m) ~~or (1r)~~, 943.32 (2), 946.43,  
9 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, or  
10 948.30 (2), ~~948.35 (1) (b) or (c) or 948.36.~~

INS  
6-10

11 SECTION 20. 973.034 of the statutes is amended to read:

12 **973.034 Sentencing; restriction on child sex offender working with**  
13 **children.** Whenever a court imposes a sentence ~~or places~~ a defendant on probation  
14 regarding a conviction under s. ~~940.22~~ (2) or 940.225 (2) (c) ~~or (cm)~~, if the victim is  
15 under 18 years of age at the time of the offense, or a conviction under s. 948.02 (1),  
16 948.025 (1) (a), 948.05 (1), 948.06 or 948.07 (1), (2), (3) or (4), the court shall inform  
17 the defendant of the requirements and penalties under s. 948.13.

18 SECTION 21. Initial applicability.

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

INS  
6-20

(END)

**INSERT 1-8:** ✓

SECTION 1. 48.685 (5) (bm) 3. of the statutes is amended to read:

48.685 (5) (bm) 3. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.21, 940.225 (1), (2) or (3), 940.23, 940.305, 940.31, 941.20 (2) or (3), 941.21, 943.10 (2), 943.23 (1g); or (1m) ~~or (1r)~~ or 943.32 (2).

History: 1997 a. 27,237, 281; s. 13.93 (2) (c).

SECTION 2. 49.95 (1) of the statutes, as affected by 1997 Wisconsin Act 283, is amended to read:

49.95 (1) Any person who, with intent to secure public assistance under this chapter, whether for himself or herself or for some other person, wilfully makes any false representations may, if the value of the assistance so secured does not exceed \$300, be required to forfeit not more than \$1,000; if the value of the assistance exceeds \$300 but does not exceed \$1,000, be fined not more than \$250 or imprisoned for not more than 6 months or both; if the value of the assistance exceeds \$1,000 but does not exceed \$2,500, be fined not more than \$500 or imprisoned for not more than 7 years and 6 months or both; and if the value of the assistance exceeds \$2,500, be ~~punished as prescribed under s. 943.20 (3) (c)~~ fined not more than \$10,000 or imnrisoned for not more than 15 years or both.

NOTE: NOTE: Sub. (1) is amended ~~eff. 12-31-99~~ by 1997 Wis. Act 283 to read:NOTE:

History: 1971 c. 182; 1977 c. 303; ~~1981 c. 20~~; 1981 c. 79 s. 17; 1981 c. 390 s. 252; 1983 a. 368; 1985 a. 29 ss. 1002 to 1004, 3200 (23); 1987 a. 27,403; 1991 a. 39, 316, 322; 1995 a. 27 ss. 2771 to 2779, 2781 to 2784, 3220; Stats. 1995 s. 49.95; 1995 a. 289; 1997 a. 283.

SECTION 3. 115.31 (2g) of the statutes is amended to read:

115.31 (2g) Notwithstanding subch. II of ch. 111, the state superintendent shall revoke a license. granted by the state superintendent, without a hearing, if the licensee is convicted of any Class A, B, C ~~or D, E, F, G or H~~ felony under ch. 940 or

*scored  
comma;  
no striking*

*Effect  
12-31-99*

1 948, except ss. 940.08 and 940.205, for a violation that occurs on or after September  
2 12, 1991.

History: 1991 a. 42 ss 1 to 3, 4r; 1993 a. 16.98; 1995 a 27 s. 9145 (1); 1995 a. 77; 1997 a. 27,237.

3 **SECTION 4.** 118.19 (4) (a) of the statutes is amended to read:

4 118.19 (4) (a) Notwithstanding subch. II of ch. 111, the state superintendent  
5 may not grant a license to any person who has been convicted of any Class A, B, C  
6 ~~or~~, D, E, F, G or H felony under ch. 940 or 948, except ss. 940.08 and 940.205, or of  
7 an equivalent crime in another state or country, for a violation that occurs on or after  
8 September 12, 1991, for 6 years following the date of the conviction, and may grant  
9 the license only if the person establishes by clear and convincing evidence that he or  
10 she is entitled to the license.

History: 1971 c. 154; 1975 c. 39, 95, 1979 c. 346; 1981 c. 314s. 146; 1985 a. 29,207; 1989 a. 31; 1991 a. 42, 108, 164, 315; 1993 a. 16, 334, 339, 454, 491; 1995 a. 27 ss.

11 3951m, 9145 (1); 1995 a. 299; 1997 a. 27, 113, 191, 237.

**[End of Insert 1-8]** ✓

**INSERT 2-18:**

13 **SECTION 5.** 346.04 (2t) of the statutes is created to read:

14 346.04 (2t) **No** operator of a vehicle, after having received a visible or audible  
15 signal from a traffic officer or marked police vehicle, shall knowingly flee or attempt  
16 to elude any traffic officer by wilful or wanton disregard of such signal.

17 **SECTION 6.** 346.17 (2t) of the statutes is created to read:

18 346.17 (2t) Any person violating s. 346.04 (2t) ✓ may be fined not more than  
19 \$10,000 or imprisoned for not more than 9 months or both.

\*\*\*\*NOTE: Proposed ss. 346.04 (2t) and 346.17 (2t) are a stab at creating a misdemeanor fleeing offense. The subcommittee should review them carefully to determine what changes it wants to make to ~~them~~.

*those proposed statutes*

20 **SECTION 7.** 346.17 (3) (a) of the statutes, as affected by 1997 Wisconsin Act 283, ✓  
21 is amended to read:



1 346.17 (3) (a) Except as provided in par. (b), (c) or (d), any person violating s.  
2 346.04 (3) ~~shall be fined not less than \$600 nor more than \$10,000 and may be~~  
3 ~~imprisoned for not more than 3 years~~ is guilty of a Class I felony.

NOTE: NOTE: Par. (a) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

History: 1971 c. 278; 1973 c. 182; 1977 c. 208; 1981 c. 324; 1983 a. 27; 1985 a. 82; 1993 a. 189,198; 1997 a. 32, 88, 237, 277, 283.

4 **SECTION 8.** 346.17 (3) (b) of the statutes, as affected by 1997 Wisconsin Act 283, ✓

5 is amended to read:

6 346.17 (3) (b) If the violation results in bodily harm, as defined in s. 939.22 (4),  
7 to another, or causes damage to the property of another, as defined in s. 939.22 (28),  
8 the person ~~shall be fined not less than \$1,000 nor more than \$10,000 and may be~~  
9 ~~imprisoned for not more than 3 years~~ is guilty of a Class H felony.

NOTE: NOTE: Par. (b) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

History: 1971 c. 278; 1973 c. 182; 1977 c. 208; 1981 c. 324; 1983 a. 27; 1985 a. 82; 1993 a. 189, 198; 1997 a. 32, 88, 237, 277, 283.

10 **SECTION 9.** 346.17 (3) (c) of the statutes, as affected by 1997 Wisconsin Act 283, ✓

11 is amended to read:

12 346.17 (3) (c) If the violation results in great bodily harm, as defined in s. 939.22  
13 (14), to another, the person ~~shall be fined not less than \$1,100 nor more than \$10,000~~  
14 ~~and may be imprisoned for not more than 3 years~~ is guilty of a Class F felony.

NOTE: NOTE: Par. (c) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

History: 1971 c. 278; 1973 c. 182; 1977 c. 208; 1981 c. 324; 1983 a. 27; 1985 a. 82; 1993 a. 189,198; 1997 a. 32, 88, 237, 277, 283.

15 **SECTION 10.** 346.17 (3) (d) of the statutes, as affected by 1997 Wisconsin Act

16 283, is amended to read:

17 346.17 (3) (d) If the violation results in the death of another, the person ~~shall~~  
18 ~~be fined not less than \$1,100 nor more than \$10,000 and may be imprisoned for not~~  
19 ~~more than 7 years and 6 months~~ is guilty of a Class E felony.

NOTE: NOTE: Par. (d) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

History: 1971 c. 278; 1973 c. 182; 1977 c. 208; 1981 c. 324; 1983 a. 27; 1985 a. 82; 1993 a. 189,198; 1997 a. 32, 88, 237, 277, 283.

20 **SECTION 11.** 753.061 (2m) of the statutes is amended to read:

21 753.061 (2m) The chief judge of the 1st judicial administrative district is  
22 authorized to designate 4 circuit court branches to primarily handle violent crime

1 cases that involve a violation of s. 939.63, if a felony is committed while armed, and  
 2 of ss. 940.01 to 940.03, 940.05, 940.06, 940.225, 943.23 (1g), and (lm) ~~and (1r)~~ and  
 3 943.32 (2). If the circuit court branches are designated under this subsection, 2 shall  
 4 begin to primarily handle violent crime cases on September 1, 1991, and 2 shall begin  
 5 to primarily handle violent crime cases on August 1, 1992.

History: 1977 c. 449; 1979 c. 175; 1989 a. 121,122; 1991 a. 39; 1993 a. 92; 1995 a. 27,448.

6 **SECTION 12. 938.208 (1) (a)** of the statutes is amended to read:

7 938.208 (1) (a) Probable cause exists to believe that the juvenile has committed  
 8 a delinquent act that would be a felony under s. 940.01, 940.02, 940.03, 940.05,  
 9 940.19 (2) to (6), 940.21, 940.225 (l), 940.31, 941.20 (3), 943.02 (i), 943.23 (1g), or  
 10 (1m) ~~or (1r)~~, 943.32 (2), 947.013 (It), (1v) or (lx), 948.02 (1) or (2), 948.025 or 948.03  
 11 if committed by an adult.

History: 1995 a. 77,352.

12 **[End of Insert 2-18]**

13 **INSERT 3-2:**

14 **SECTION 13. 938.34 (4m) (b) 1.** of the statutes is amended to read:

15 938.34 (4m) (b) 1. The juvenile has committed a delinquent act that would be  
 16 a felony under s. 940.01, 940.02, 940.03, 940.05, 940.19 (2) to (6), 940.21, 940.225 (l),  
 17 940.31, 941.20 (3), 943.02 (1), 943.23 (1g), or (1m) ~~or (1r)~~, 943.32 (2), 947.013 (It), (Iv)  
 18 or (lx), 948.02 (1) or (2), 948.025 or 948.03 if committed by an adult.

History: 1995 a. 77, 352, 440, 448; 1997 a. 27,35, 36, 84, 130, 164, 183, 205; s. 13.93 (2) (c).

19 **SECTION 14. 938.355 (4) (b)** of the statutes is amended to read:

20 938.355 (4) (b) An order under s. 938.34 (4d), (4h) or (4m) for which a juvenile  
 21 has been adjudicated delinquent is subject to par. (a), except that the judge may make  
 22 an order under s. 938.34 (4d) or (4m) apply for up to 2 years or until the juvenile's 18th  
 23 birthdate, whichever is earlier and the judge shall make an order under s. 938.34 (4h)  
 24 apply for 5 years, if the juvenile is adjudicated delinquent for committing an act that

1 would be punishable as a Class B or C felony if committed by an adult, or until the  
2 juvenile reaches 25 years of age, if the juvenile is adjudicated delinquent for  
3 committing an act that would be punishable as a Class A felony if committed by an  
4 adult.

\*\*\*\*NOTE: Should this paragraph refer to felonies other than those in Classes A, B  
and C?

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; s. 13.93 (2) (c).

5 **SECTION 15. 938.78 (3)** of the statutes is amended to read:

6 938.78 (3) If a juvenile adjudged delinquent under s. 48.12, 1993 stats., or s.  
7 938.12 or found to be in need of protection or services under s. 48.13 (12), 1993 stats.,  
8 or s. 48.13 (14), 1993 stats., or s. 938.13 (12) or (14) on the basis of a violation of s.  
9 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28,  
10 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2)  
11 (a), 943.23 (1g), or (1m) ~~or (1r)~~<sup>✓</sup>, 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055,  
12 948.60, 948.605 or 948.61 or any crime specified in ch. 940 has escaped from a secured  
13 correctional facility, child caring institution, inpatient facility, as defined in s. 51.01  
14 (10), secure detention facility or juvenile portion of a county jail, or from the custody  
15 of a peace officer or a guard of such a facility, institution or jail, or has been allowed  
16 to leave a secured correctional facility, child caring institution, inpatient facility,  
17 secure detention facility or juvenile portion of a county jail for a specified time period  
18 and is absent from the facility, institution or jail for more than 12 hours after the  
19 expiration of the specified period, the department or county department having  
20 supervision over the juvenile may release the juvenile's name and any information  
21 about the juvenile that is necessary for the protection of the public or to secure the  
22 juvenile's return to the facility, institution or jail. The department of corrections

1 shall promulgate rules establishing guidelines for the release of the juvenile's name  
2 or information about the juvenile to the public.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205207,283.

3 **[End of Insert 3-2]**

4 **INSERT 3-7: ✓**

5 **SECTION 16.** 939.30 (2) of the statutes is amended to read:

6 939.30 (2) For a solicitation to commit a crime for which the penalty is life  
7 imprisonment, the actor is guilty of a Class ~~C~~ **F** felony. For a solicitation to commit  
8 a Class ~~E~~ **I** felony, the actor is guilty of a Class ~~E~~ **I** felony.

History: 1977 c. 173; 1989 a. 121; 1991 a. 153; 1995 a. 448.

9 **SECTION 17.** 939.50 (1) (intro.) of the statutes is amended to read:

10 939.50 (1) (intro.) ~~Except as provided in ss. 946.82 and 946.85, felonies~~ Felonies  
11 in chs. 939 to 951 the statutes are classified as follows:

History: 1977 c. 173; 1981 c. 280; 1987 a. 332 s. 64; 1993 a. 194; 1995 a. 69; 1997 a. 283.

12 **SECTION 18.** 939.50 (1) (bc) of the statutes is repealed.

13 **SECTION 19.** 939.50 (1) (f) of the statutes is created to read:

14 939.50 (1) (f) Class F felony.

15 **SECTION 20.** 939.50 (1) (g) of the statutes is created to read:

16 939.50 (1) (g) Class G felony.

17 **SECTION 21.** 939.50 (1) (h) of the statutes is created to read:

18 939.56 (1) (h) Class H felony.

19 **SECTION 22.** 939.50 (1) (i) of the statutes is created to read:

20 939.50 (1) (i) Class I felony.

21 **SECTION 23.** 939.50 (2) of the statutes is amended to read:

22 939.50 (2) A felony is a Class A, B, ~~BC~~, C, D ~~or~~, E, F, G, H or I felony when it  
23 is so specified in ~~chs. 939 to 951~~ the statutes.

History: 1977 c. 173; 1981 c. 280; 1987 a. 332 s. 64; 1993 a. 194; 1995 a. 69; 1997 a. 283.

1 SECTION 24. 939.50 (3) (bc) of the statutes, as affected by 1997 Wisconsin Act  
2 283, is repealed.

3 SECTION 25. 939.50 (3) (c) of the statutes, as affected by 1997 Wisconsin Act 283,  
4 is amended to read:

5 939.50 (3) (c) For a Class C felony, a fine not to exceed ~~\$10,000~~ \$50,000 or  
6 imprisonment not to exceed ~~15~~ 40 years, or both.

NOTE: NOTE: Par. (c) is amended eff. ~~12-31-99~~ by 1997 Wis. Act 283 to read:NOTE:

History: 1977 c. 173; 1981 c. 280; 1987 a. 332 s. 64; 1993 a. 194; 1995 a. 69; 1997 a. 283.

7 SECTION 26. 939.50 (3) (d) of the statutes, as affected by 1997 Wisconsin Act  
8 283, is amended to read:

9 939.50 (3) (d) For a Class D felony, a fine not to exceed ~~\$10,000~~ \$50,000 or  
10 imprisonment not to exceed ~~10~~ 25 years, or both.

NOTE: NOTE: Par. (d) is amended eff. ~~12-31-99~~ by 1997 Wk. Act 283 to read:NOTE:

History: 1977 c. 173; 1981 c. 280; 1987 a. 332 s. 64; 1993 a. 194; 1995 a. 69; 1997 a. 283.

11 SECTION 27. 939.50 (3) (e) of the statutes, as affected by 1997 Wisconsin Act  
12 283, is amended to read:

13 939.50 (3) (e) For a Class E felony, a fine not to exceed ~~\$10,000~~ \$50,000 or  
14 imprisonment not to exceed ~~5~~ 15 years, or both.

NOTE: NOTE: Par. (e) is amended eff. ~~12-31-99~~ by 1997 Wis. Act 283 to read:NOTE:

History: 1977 c. 173; 1981 c. 280; 1987 a. 332 s. 64; 1993 a. 194; 1995 a. 69; 1997 a. 283.

15 SECTION 28. 939.50 (3) (f) of the statutes is created to read:

16 939.50 (3) (f) For a Class F felony, a fine not to exceed \$25,000 or imprisonment  
17 not to exceed 12 years and 6 months, or both.

18 SECTION 29. 939.50 (3) (g) of the statutes is created to read:

19 939.50 (3) (g) For a Class G felony, a fine not to exceed \$25,000 or imprisonment  
20 not to exceed 10 years, or both.

21 SECTION 30. 939.50 (3) (h) of the statutes is created to read:



1 940.04 (1) Any person, other than the mother, who intentionally destroys the  
2 life of an unborn child ~~may be fined not more than \$5,000 or imprisoned not more~~  
3 ~~than 3 years or both~~ is guilty of a Class H felony.

4 **SECTION 36.** 940.04 (2) (intro.) of the statutes is amended to read:

5 940.04 (2) (intro.) Any person, other than the mother, who does either of the  
6 following ~~may be imprisoned not more than 15 years~~ is guilty of a Class E felony:

7 **SECTION 37.** 940.04 (4) of the statutes is amended to read:

8 940.04 (4) Any pregnant woman who intentionally destroys the life of her  
9 unborn quick child or who consents to such destruction by another ~~may be~~  
10 ~~imprisoned not more than 2 years~~ is guilty of a Class I felony.

11 **SECTION 38.** 940.05 (1) (intro.) of the statutes is amended to read:

12 940.05 (1) (intro.) Whoever causes the death of another human being with  
13 intent to kill that person or another is guilty of a Class ~~B~~ C felony if:

14 History: 1981 a. 399; 1997 a. 295.

**SECTION 39.** 940.05 (2g) (intro.) of the statutes is amended to read:

15 940.05 (2g) (intro.) Whoever causes the death of an unborn child with intent  
16 to kill that unborn child, kill the woman who is pregnant with that unborn child or  
17 kill another is guilty of a Class ~~B~~ C felony if:

18 History: 1987 a. 399; 1991 a. 295.

**SECTION 40.** 940.06 (1) of the statutes is amended to read:

19 940.06 (1) Whoever recklessly causes the death of another human being is  
20 guilty of a Class ~~C~~ D felony.

21 History: 1987 a. 399; 1997 a. 295.

**SECTION 41.** 940.06 (2) of the statutes is amended to read:

22 940.06 (2) Whoever recklessly causes the death of an unborn child is guilty of  
23 a Class ~~C~~ D felony.

History: 1987 a. 399; 1997 a. 295

1           **SECTION 42.** 940.07 of the statutes is amended to read:

2           **940.07 Homicide resulting from negligent control of vicious animal.**

3           Whoever knowing the vicious propensities of any animal intentionally allows it to go  
4           at large or keeps it without ordinary care, if such animal, while so at large or not  
5           confined, kills any human being who has taken all the precautions which the  
6           circumstances may permit to avoid such animal, is guilty of a Class ~~C~~ G felony.

7           <sup>History: 1977 c 173.</sup>

7           **SECTION 43.** 940.08 (1) of the statutes is amended to read:

8           940.08 **(1)** Whoever causes the death of another human being by the negligent  
9           operation or handling of a dangerous weapon, explosives or fire is guilty of a Class  
10          ~~D~~ G felony.

11          <sup>History: 1977 c. 173; 1985 a. 293; 1987 a. 399; 1997 a. 295.</sup>

11          **SECTION 44.** 940.08 (2) of the statutes is amended to read:

12          940.08 (2) Whoever causes the death of an unborn child by the negligent  
13          operation or handling of a dangerous weapon, explosives or fire is guilty of a Class ~~D~~  
14          G felony.

15          <sup>History: 1977 c. 173; 1985 a. 293; 1987 a. 399; 1997 a. 295.</sup>

15          **SECTION 45.** 940.09 (1) (intro.) of the statutes is amended to read:

16          940.09 **(1)** (intro.) Any person who does any of the following ~~is guilty of a Class~~  
17          ~~B~~ felony may be nenalized as nrovided in sub. (1c):

18          <sup>History: 1977 c. 173; 1981 c. 20, 184, 314, 391; 1983 a. 459; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359, 1991 a. 32,277; 1993 a. 317; 1995 a. 425, 436; 1997 a. 237, 295, 338; 13.93 (2) (c).</sup>

18          **SECTION 46.** 940.09 (lb) of the statutes is repealed.

~~939.45 (1)~~

19          **SECTION 47.** 940.09 (lc) of the statutes is created to read:

20          940.09 **(lc)** (a) Except as provided in par. (b), a person who violates sub. (1) is  
21          guilty of a Class D felony.



1 (b) A person who violates sub. (1) is guilty of a Class C felony if the person has  
2 one or more prior convictions, suspensions or revocations, as counted under s.  
3 343.307 (2).

4 **SECTION 48.** 940.10 (1) of the statutes is amended to read:

5 940.10 **(1)** Whoever causes the death of another human being by the negligent  
6 operation or handling of a vehicle is guilty of a Class **E G** felony.

7 History: 1987 a. 399; 1997 a. 295.

7 **SECTION 49.** 940.10 (2) of the statutes is amended to read:

8 940.10 (2) Whoever causes the death of an unborn child by the negligent  
9 operation or handling of a vehicle is guilty of a Class **E G** felony.

10 History: 1987 a. 399; 1997 a. 295.

10 **SECTION 50.** 940.11 (1) of the statutes is amended to read:

11 940.11 **(1)** Whoever mutilates, disfigures or dismembers a corpse, with intent  
12 to conceal a crime or avoid apprehension, prosecution or conviction for a crime, is  
13 guilty of a Class **C F** felony.

14 History: 1991 a. 205.

14 **SECTION 51.** 940.11 (2) of the statutes is amended to read:

15 940.11 (2) Whoever hides or buries a corpse, with intent to conceal a crime or  
16 avoid apprehension, prosecution or conviction for a crime, is guilty of a Class **D G**  
17 felony.

18 History: 1991 a. 205.

18 **SECTION 52.** 940.12 of the statutes is amended to read:

19 **940.12 Assisting suicide.** Whoever with intent that another take his or her  
20 own life assists such person to commit suicide is guilty of a Class **D H** felony.

21 History: 1977 c. 173.

21 **SECTION 53.** 940.15 (2) of the statutes is amended to read:

1           940.15 (2) Whoever intentionally performs an abortion after the fetus or  
2           unborn child reaches viability, as determined by reasonable medical judgment of the  
3           woman’s attending physician, is guilty of a Class ~~E~~ I felony.

History: 1985 a. 56.

4           **SECTION 54.** 940.15 (5) of the statutes is amended to read:

5           940.15 (5) Whoever intentionally performs an abortion and who is not a  
6           physician is guilty of a Class ~~E~~ I felony.

History: 1985 a. 56.

7           **SECTION 55.** 940.15 (6) of the statutes is amended to read:

8           940.15 (6) Any physician who intentionally performs an abortion under sub.  
9           (3) shall use that method of abortion which, of those he or she knows to be available,  
10          is in his or her medical judgment most likely to preserve the life and health of the  
11          fetus or unborn child. Nothing in this subsection requires a physician performing  
12          an abortion to employ a method of abortion which, in his or her medical judgment  
13          based on the particular facts of the case before him or her, would increase the risk  
14          to the woman. Any physician violating this subsection is guilty of a Class ~~E~~ I felony.

History: 1985 a. 56.

15          **SECTION 56.** 940.19 (2) of the statutes is amended to read;

16          940.19 (2) Whoever causes substantial bodily harm to another by an act done  
17          with intent to cause bodily harm to that person or another is guilty of a Class ~~E~~ I  
18          felony.

History: 1977 c. 173; 1979 c. 111,113; 1987 a. 399; 1993 a. 441,483.

19          **SECTION 57.** 940.19 (4) of the statutes is amended to read:

20          940.19 (4) Whoever causes great bodily harm to another by an act done with  
21          intent to cause bodily harm to that person or another is guilty of a Class ~~D~~ H felony.

History: 1977 c. 173; 1979 c. 111, 113; 1987 a. 399; 1993 a. 441,483.

22          **SECTION 58.** 940.19 (5) of the statutes is amended to read:

1           940.19 (5) Whoever causes great bodily harm to another by an act done with  
2 intent to cause ~~either substantial bodily harm or~~ great bodily harm to that person  
3 or another is guilty of a Class ~~C~~ E felony

      \*\*\***NOTE:** This is a tentative change based on language contained in the  
subcommittee's 5/29/99 draft. It is subject to further subcommittee review and alteration.

History: 1977 c. 173; 1979 c. 111,113; 1987 a. 399; 1993 a. 441,483.

4           **SECTION 59.** 940.19 (6) (intro.) of the statutes is amended to read:

5           940.19 (6) (intro.) Whoever intentionally causes bodily harm to another by  
6 conduct that creates a substantial risk of great bodily harm is guilty of a Class ~~D~~ H  
7 felony. A rebuttable presumption of conduct creating a substantial risk of great  
8 bodily harm arises:

History: 1977 c. 173; 1979 c. 111,113; 1987 a. 399; 1993 a. 441,483.

9           **SECTION 60.** 940.195 (2) of the statutes is amended to read:

10          940.195 (2) Whoever causes substantial bodily harm to an unborn child by an  
11 act done with intent to cause bodily harm to that unborn child, to the woman who is  
12 pregnant with that unborn child or another is guilty of a Class ~~E~~ I felony.

History: 1997 a. 295;

13          **SECTION 61.** 940.195 (4) of the statutes is amended to read:

14          940.195 (4) Whoever causes great bodily harm to an unborn child by an act  
15 done with intent to cause bodily harm to that unborn child, to the woman who is  
16 pregnant with that unborn child or another is guilty of a Class ~~D~~ H felony.

History: 1997 a. 295.

17          **SECTION 62.** 940.195 (5) of the statutes is amended to read:

18          940.195 (5) Whoever causes great bodily harm to an unborn child by an act  
19 done with intent to cause ~~either substantial bodily harm or~~ great bodily harm to that  
20 unborn child, to the woman who is pregnant with that unborn child or another is  
21 guilty of a Class ~~C~~ E felony.

\*\*\*\*NOTE: This is a tentative change based on language contained in the subcommittee's 5/29/99 draft. It is subject to further subcommittee review and alteration.

History: 1997 a. 295.

1 SECTION 63. 940.20 (1) of the statutes is amended to read:

2 940.20 (1) BATTERY BY PRISONERS. Any prisoner confined to a state prison or  
3 other state, county or municipal detention facility who intentionally causes bodily  
4 harm to an officer, employe, visitor or another inmate of such prison or institution,  
5 without his or her consent, is guilty of a Class D H felony.

History: 1977 c. 173; 1979 c. 30, 113, 221; 1981 c. 118 s. 9; 1983 a. 189 s. 329 (4); 1989 a. 336; 1993 a. 54, 164, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 145, 225, 343; 1997 a. 35, 143, 283.

6 SECTION 64. 940.20 (2) of the statutes is amended to read:

7 940.20 (2) BATTERY TO LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS. Whoever  
8 intentionally causes bodily harm to a law enforcement officer or fire fighter, as those  
9 terms are defined in s. 102.475 (8) (b) and (c), acting in an official capacity and the  
10 person knows or has reason to know that the victim is a law enforcement officer or  
11 fire fighter, by an act done without the consent of the person so injured, is guilty of  
12 a Class D H felony.

History: 1977 c. 173; 1979 c. 30, 113, 221; 1981 c. 118 s. 9; 1983 a. 189 s. 329 (4); 1989 a. 336; 1993 a. 54, 164, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 145, 225, 343; 1997 a. 35, 143, 283.

13 SECTION 65. 940.20 (2m) (b) of the statutes is amended to read:

14 940.20 (2m) (b) Whoever intentionally causes bodily harm to a probation,  
15 extended supervision and parole agent or an aftercare agent, acting in an official  
16 capacity and the person knows or has reason to know that the victim is a probation,  
17 extended supervision and parole agent or an aftercare agent, by an act done without  
18 the consent of the person so injured, is guilty of a Class D H felony.

History: 1977 c. 173; 1979 c. 30, 113, 221; 1981 c. 118 s. 9; 1983 a. 189 s. 329 (4); 1989 a. 336; 1993 a. 54, 164, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 145, 225, 343; 1997 a. 35, 143, 283.

19 SECTION 66. 940.20 (3) of the statutes is amended to read:

20 940.20 (3) BATTERY TO JURORS. Whoever intentionally causes bodily harm to a  
21 person who he or she knows or has reason to know is or was a grand or petit juror,

1 and by reason of any verdict or indictment assented to by the person, without the  
2 consent of the person injured, is guilty of a Class **D H** felony.

History: 1977 c. 173; 1979 c. 30, 113, 221; 1981 c. 118 s. 9; 1983 a. 189 s. 329 (4); 1989 a. 336; 1993 a. 54, 164, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 145, 225, 343; 1997 a. 35, 143, 283.

3 **SECTION 67.** 940.20 (7) (b) of the statutes is amended to read:

4 940.20 (7) (b) Whoever intentionally causes bodily harm to an emergency  
5 department worker, an emergency medical technician, a first responder or an  
6 ambulance driver who is acting in an official capacity and who the person knows or  
7 has reason to know is an emergency department worker, an emergency medical  
8 technician, a first responder or an ambulance driver, by an act done without the  
9 consent of the person so injured, is guilty of a Class **D H** felony.

History: 1977 c. 173; 1979 c. 30, 113, 221; 1981 c. 118 s. 9; 1983 a. 189 s. 329 (4); 1989 a. 336; 1993 a. 54, 164, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 145, 225, 343; 1997 a. 35, 143, 283.

10 **SECTION 68.** 940.201 (2) (intro.) of the statutes is amended to read:

11 940.201 (2) (intro.) Whoever does any of the following is guilty of a Class **D H**  
12 felony:

History: 1997 a. 143.

13 **SECTION 69.** 940.203 (2) (intro.) of the statutes is amended to read:

14 940.203 (2) (intro.) Whoever intentionally causes bodily harm or threatens to  
15 cause bodily harm to the person or family member of any judge under all of the  
16 following circumstances is guilty of a Class **D H** felony:

History: 1993 a. S0, 446.

17 **SECTION 70.** 940.205 (2) (intro.) of the statutes is amended to read:

18 940.205 (2) (intro.) Whoever intentionally causes bodily harm or threatens to  
19 cause bodily harm to the person or family member of any department of revenue  
20 official, employe or agent under all of the following circumstances is guilty of a Class  
21 **D H** felony:

History: 1985 a. 29; 1993 a. 446.

22 **SECTION 71.** 940.207 (2) (intro.) of the statutes is amended to read:

1 940.207 (2) (intro.) Whoever intentionally causes bodily harm or threatens to  
2 cause bodily harm to the person or family member of any department of commerce  
3 or department of workforce development official, employe or agent under all of the  
4 following circumstances is guilty of a Class ~~D~~ H felony:

History: 1993 a. 86,446; 1995 a. 27 ss. 7227 to 7229, 9116(5), 9130 (4); 1997 a. 3.

5 **SECTION 72.** 940.21 of the statutes is amended to read:

6 **940.21 Mayhem.** Whoever, with intent to disable or disfigure another, cuts or  
7 mutilates the tongue, eye, ear, nose, lip, limb or other bodily member of another, <sup>strike</sup> is <sup>comma</sup>  
8 guilty of a Class ~~B~~ C felony.

History: 1977 c. 173.

9 **SECTION 73.** 940.22 (2) of the statutes is amended to read:

10 940.22 (2) ~~SEXUAL CONTACT PROHIBITED.~~ Any person who is or who holds himself  
11 or herself out to be a therapist and who intentionally has sexual contact with a  
12 patient or client during any ongoing therapist-patient or therapist-client  
13 relationship, regardless of whether it occurs during any treatment, consultation,  
14 interview or examination, is guilty of a Class ~~C~~ F felony. Consent is not an issue in  
15 an action under this subsection.

History: 1983 a. 434; 1985 a. 275; 1987 a. 352,380; 1991 a. 160; 1993 a. 107; 1995 a. 300.

16 **SECTION 74.** 940.225 (2) (intro.) of the statutes is amended to read:

17 940.225 (2) ~~SECOND DEGREE SEXUAL ASSAULT.~~ (intro.) Whoever does any of the  
18 following is guilty of a Class ~~BC~~ C felony:

History: 1975 c. 184,421; 1977 c. 173; 1979 c. 24, 25, 175, 221; 1981 c. 89, 308, 309, 310, 311; 1985 a. 134; 1987 a. 245, 332, 352; 1987 a. 403 ss. 235, 236, 256; 1993 a. 445; 1995 a. 69; 1997 a. 220.

19 **SECTION 75.** 940.225 (3) of the statutes is amended to read:

20 940.225 (3) ~~THIRD DEGREE SEXUAL ASSAULT.~~ Whoever has sexual intercourse  
21 with a person without the consent of that person is guilty of a Class ~~D~~ G felony.

1       Whoever has sexual contact in the manner described in sub. (5) (b) 2. with a person  
2       without the consent of that person is guilty of a Class ~~D~~ G felony.

History: 1975 c. 184,421; 1977 c. 173; 1979 c. 24, 25, 175, 221; 1981 c. 89, 308, 309, 310, 311; 1985 a. 134; 1987 a. 245, 332, 352; 1987 a. 403 ss 235, 236, 256; 1993 a. 445; 1995 a. 69; 1997 a 220.

3       **SECTION 76.** 940.23 (1) (a) of the statutes is amended to read:

4             940.23 (1) (a) Whoever recklessly causes great bodily harm to another human  
5       being under circumstances which show utter disregard for human life is guilty of a  
6       Class ~~C~~ D felony.

History: 1987 a. 399, 1991 a. 295.

7       **SECTION 77.** 940.23 (1) (b) of the statutes is amended to read:

8             940.23 (1) (b) Whoever recklessly causes great bodily harm to an unborn child  
9       under circumstances that show utter disregard for the life of that unborn child, the  
10       woman who is pregnant with that unborn child or another is guilty of a Class ~~C~~ D  
11       felony.

History: 1987 a. 399; 1997 a. 295.

12       **SECTION 78.** 940.23 (2) (a) of the statutes is amended to read:

13             940.23 (2) (a) Whoever recklessly causes great bodily harm to another human  
14       being is guilty of a Class ~~D~~ F felony.

History: 1987 a. 399; 1997 a. 295.

15       **SECTION 79.** 940.23 (2) (b) of the statutes is amended to read:

16             940.23 (2) (b) Whoever recklessly causes great bodily harm to an unborn child  
17       is guilty of a Class ~~D~~ F felony.

History: 1987 a. 399; 1997 a. 295.

18       **SECTION 80.** 940.24 (1) of the statutes is amended to read:

19             940.24 (1) Whoever causes bodily harm to another by the negligent operation  
20       or handling of a dangerous weapon, explosives or fire is guilty of a Class ~~E~~ I felony.

History: 1977 c. 173; 1987 a. 399; 1997 a. 295.

21       **SECTION 81.** 940.24 (2) of the statutes is amended to read:

1            940.24 (2) Whoever causes bodily harm to an unborn child by the negligent  
2            operation or handling of a dangerous weapon, explosives or fire is guilty of a Class ~~E~~  
3            I felony

History: 1917 c. 173; 1987 a. 399; 1997 a. 295.

4            **SECTION 82.** 940.25 (1) (intro.) of the statutes is amended to read:

5            940.25 (1) (intro.) Any person who does any of the following is guilty of a Class  
6            ~~D~~ F felony:

History: 1977 c. 193,272; 1981 c. 20,184; 1983 a. 459; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 277; 1993 a. 317, 428, 478; 1995 a. 425, 436; 1997 a. 237, 295; s. 13.93 (2) (c).

7            **SECTION 83.** 940.25 (lb) of the statutes is repealed.

8            **SECTION 84.** 940.285 (2) (b) lg. of the statutes is amended to read:

9            940.285 (2) (b) lg. Any person violating par. (a) 1. or 2. under circumstances  
10           that cause death is guilty of a Class ~~B~~ C felony. Any person violating par. (a) 3. under  
11           circumstances that cause death is guilty of a Class D felony.

History: 1985 a. 306; 1993 a. 445; 1997 a. 180.

12           **SECTION 85.** 940.285 (2) (b) lm. of the statutes is amended to read:

13           940.285 (2) (b) lm. Any person violating par. (a) under circumstances that  
14           cause great bodily harm is guilty of a Class ~~C~~ F felony.

History: 1985 a. 306; 1993 a. 445; 1997 a. 180.

15           **SECTION 86.** 940.285 (2) (b) lr. of the statutes is amended to read:

16           940.285 (2) (b) lr. Any person violating par. (a) 1. under circumstances that are  
17           likely to cause great bodily harm is guilty of a Class ~~D~~ G felony. Any person violating  
18           par. (a) 2. or 3. under circumstances that are likely to cause great bodily harm is  
19           guilty of a Class I felony.

History: 1985 a. 306; 1993 a. 445; 1997 a. 180.

20           **SECTION 87.** 940.285 (2) (b) 2. of the statutes is amended to read:

21           940.285 (2) (b) 2. Any person violating par. (a) 1. under circumstances that  
22           cause ~~or are likely to cause~~ bodily harm is guilty of a Class ~~E~~ H felony. Any person



1 violating par. (a) 1. under circumstances that are likely to cause bodily harm is guilty  
2 of a Class I felony.

History: 1985 a. 306; 1993 a. 445; 1997 a. 180.

3 **SECTION 88.** 940.285 (2) (b) 3. of the statutes is repealed.

4 **SECTION 89.** 940.29 of the statutes is amended to read:

5 **940.29 Abuse of residents of penal facilities.** Any person in charge of or  
6 employed in a penal or correctional institution or other place of confinement who  
7 abuses, neglects or ill-treats any person confined in or a resident of any such  
8 institution or place or who knowingly permits another person to do so is guilty of a  
9 Class ~~E~~ I felony.

History: 1975 c. 119, 1975 c. 413 s. 18; 1977 c. 173; 1979 c. 124; 1981 c. 20; 1987 a. 161 ss. 12, 13m; 1987 a. 332; 1993 a. 445.

10 **SECTION 90.** 940.295 (3) (b) lg. of the statutes is amended to read:

11 940.295 (3) (b) lg. Any person violating par. (a) 1. or 2. under circumstances  
12 that cause death to a vulnerable person is guilty of a Class ~~B~~ C felony. Any person  
13 violating nar. (a) 3. under circumstances that cause death to a vulnerable person is  
14 guilty of a Class D felony.

History: 1993 a. 445; 1995 a. 225; 1997 a. 180.

15 **SECTION 91. 940.295 (3)** (b) lm. of the statutes is amended to read:

16 940.295 (3) (b) lm. Any person violating par. (a) under circumstances that  
17 cause great bodily harm to a vulnerable person is guilty of a Class ~~C~~ E felony.

History: 1993 a. 445; 1995 a. 225; 1997 a. 180.

18 **SECTION 92.** 940.295 (3) (b) lr. of the statutes is amended to read:

19 940.295 (3) (b) lr. Except as provided in subd. lm., any person violating par.  
20 (a) 1. under circumstances that cause ~~or are likely to cause~~ great bodily harm is guilty  
21 of a Class ~~D~~ F felony. Any person violating nar. (a) 1. under circumstances that are  
22 likely to cause great bodily harm is guilty of a Class G felony.

History: 1993 a. 445; 1995 a. 225; 1997 a. 180.

23 **SECTION 93.** 940.295 (3) (b) 2. of the statutes is amended to read:

1            940.295 (3) (b) 2. Any person violating par. (a) 1. under circumstances that  
2            cause ~~or are likely to cause~~ bodily harm is guilty of a Class ~~E~~ H felony. Any person  
3            violating par. (a) 1. under circumstances that are likely to cause bodily harm is guilty  
4            of a Class I felony.

History: 1993 a. 445; 1995 a. 225; 1997 a. 180.

5            **SECTION 94.** 940.295 (3) (b) 3. of the statutes is amended to read:

6            940.295 (3) (b) 3. Except as provided in subd. lm., any person violating par. (a)  
7            2. or 3. under circumstances that cause ~~or are likely to cause~~ great bodily harm is  
8            guilty of a Class ~~E~~ H felony. Any person violating par. (a) 2. or 3. under circumstances  
9            that are likely to cause great bodily harm is guilty of a Class I felony.

History: 1993 a. 445; 1995 a. 225; 1997 a. 180.

10           **SECTION 95.** 940.30 of the statutes is amended to read:

11           **940.30 False imprisonment.** Whoever intentionally confines or restrains  
12           another without the person's consent and with knowledge that he or she has no  
13           lawful authority to do so is guilty of a Class E H felony.

History: 1977 c. 173.

14           **SECTION 96.** 940.305 (1) of the statutes is amended to read:

15           940.305 **(1)** Except as provided in sub. (2), whoever by force or threat of  
16           imminent force seizes, confines or restrains a person without the person's consent  
17           and with the intent to use the person as a hostage in order to influence a person to  
18           perform or not to perform some action demanded by the actor is guilty of a Class ~~E~~  
19           B felony.

*strike space?*

History: 1979 c. 118; 1993 a. 194.

20           **SECTION 97.** 940.305 (2) of the statutes is amended to read:

21           940.305 (2) Whoever commits a violation specified under sub. (1) is guilty of  
22           a Class ~~B~~ C felony if, before the time of the actor's arrest, each person who is held as  
23           **a hostage is released without bodily harm.**

History: 1979 c. 118; 1993 a. 194.

1           **SECTION 98.** 940.31 (1) (intro.) of the statutes is amended to read:  
2           940.31 (1) (intro.) Whoever does any of the following is guilty of a Class ~~B~~ C  
3           felony:

History: 1977 c.173; 1993 a. 194,486.

4           **SECTION 99.** 940.31 (2) (a) of the statutes is amended to read:  
5           940.31 (2) (a) Except as provided in par. (b), whoever violates sub. (1) with  
6           intent to cause another to transfer property in order to obtain the release of the victim  
7           is guilty of a Class ~~A~~ B felony.

History: 1977 c. 173; 1993 a. 194,486.

8           **SECTION 100.** 940.31 (2) (b) of the statutes is amended to read:  
9           940.31 (2) (b) Whoever violates sub. (1) with intent to cause another to transfer  
10          property in order to obtain the release of the victim is guilty of a Class ~~B~~ C felony if  
11          the victim is released without permanent physical injury prior to the time the first  
12          witness is sworn at the trial.

History: 1977 c. 173; 1993 a. 194,486.

13          **SECTION 101.** 940.32 (2) (intro.) of the statutes is amended to read:  
14          940.32 (2) (intro.) Whoever meets all of the following criteria is guilty of a Class  
15          ~~A misdemeanor~~ I felony:

History: 1993 a. 96,496.

*strike  
space?*

16          **SECTION 102.** 940.32 (2m) of the statutes is amended to read:  
17          940.32 (2m) Whoever violates sub. (2) is guilty of a Class ~~D~~ G felony if he or she  
18          intentionally gains access to a record in electronic format that contains personally  
19          identifiable information regarding the victim in order to facilitate the violation  
20          under sub. (2).

History: 1993 a. 96,496.

21          **SECTION 103.** 940.32 (3) (intro.) of the statutes is amended to read:

1           940.32 (3) (intro.) Whoever violates sub. (2) under any of the following  
2           circumstances is guilty of a Class ~~E~~ H felony:

History: 1993 a. 96,496.

3           **SECTION 104.** 940.32 (3m) (intro.) of the statutes is amended to read:

4           940.32 (**3m**) (intro.) Whoever violates sub. (3) under all of the following  
5           circumstances is guilty of a Class ~~D~~ G felony:

History: 1993 a. 96, 496.

6           **SECTION 105.** 940.43 (intro.) of the statutes is amended to read:

7           **940.43 Intimidation of witnesses; felony.** (intro.) Whoever violates s.  
8           940.42 under any of the following circumstances is guilty of a Class ~~D~~ G felony:

History: 1981 c. 118; 1997 a. 143.

9           **SECTION 106.** 940.45 (intro.) of the statutes is amended to read:

10          **940.45 Intimidation of victims; felony.** (intro.) Whoever violates s. 940.44  
11          under any of the following circumstances is guilty of a Class ~~D~~ G felony:

History: 1981 c. 118; 1997 a. 143.

12          **SECTION 107.** 941.11 (intro.) of the statutes is amended to read:

13          **941.11 Unsafe burning of buildings.** (intro.) Whoever does either of the  
14          following is guilty of a Class ~~D~~ H felony:

History: 1977 c. 173; 1993 a. 486; 1995 a. 417.

15          **SECTION 108.** 941.12 (1) of the statutes is amended to read:

16          941.12 (**1**) Whoever intentionally interferes with the proper functioning of a  
17          fire alarm system or the lawful efforts of fire fighters to extinguish a fire is guilty of  
18          a Class ~~E~~ I felony.

History: 1977 c. 173.

19          **SECTION 109.** 941.20 (2) (intro.) of the statutes is amended to read:

20          941.20 (2) (intro.) Whoever does any of the following is guilty of a Class ~~E~~ G  
21          felony:

History: 1977 c. 173; 1987 a. 399; 1989 a. 131; 1993 a. 94,486; 1997 a. 248, 249; s. 13.93 (2) (c).

22          **SECTION 110.** 941.20 (3) (a) (intro.) of the statutes is amended to read:

1           941.20' (3) (a) (intro.) Whoever intentionally discharges a firearm from a  
2 vehicle while on a highway, as defined in s. 340.01 (22), or on a vehicle parking lot  
3 that is open to the public under any of the following circumstances is guilty of a Class  
4 C F felony:

History: '1977 c. 173; 1987 a. 399; 1989 a 131; 1993 a. 94,486; 1997 a. 248,249; s. 13.93 (2) (c).

5           **SECTION 111.** 941.21 of the statutes is amended to read:

6           **941.21 Disarming a peace officer.** Whoever intentionally disarms a peace  
7 officer who is acting in his or her official capacity by taking a dangerous weapon or  
8 a device or container described under s. 941.26 (1) (b) or (4) (a) from the offker  
9 without his or her consent is guilty of a Class E H felony. This section applies to any  
10 dangerous weapon or any device or container described under s. 941.26 (1) (b) or (4)  
11 (a) that the offker is carrying or that is in an area within the officer's immediate  
12 presence.

History: 1983 a. 262; 1993 a. 98; 1995 a. 339.

13           **SECTION 112.** 941.235 (1) of the statutes is amended to read:

14           941.235 (1) Any person who goes armed with a firearm in any building owned  
15 or leased by the state or any political subdivision of the state is guilty of a Class B  
16 A misdemeanor.

History: 1979 c. 221; 1991 a. 172; 1993 a 246.

17           **SECTION 113.** 941.26 (2) (a) of the statutes is amended to read:

18           941.26 (2) (a) Any person violating sub. (1) (a) is guilty of a Class E H felony.

History: 1977 c. 173; 1987 a. 234; 1991 a 137; 1993 a. 91; 1995 a 25.

19           **SECTION 114.** 941.26 (2) (b) of the statutes is amended to read:

20           941.26 (2) (b) Any person violating sub. (1m) is guilty of a Class C F felony.

History: 1977 c. 173; 1987 a. 234; 1991 a. 137; 1993 a. 91; 1995 a. 2.5.

21           **SECTION 115.** 941.26 (2) (e) of the statutes is amended to read:

1           941.26 (2) (e) Any person who violates sub. (1) (b) regarding the sale or  
2 commercial transportation of the bomb, grenade, projectile, shell or container under  
3 sub. (1) (b) is guilty of a Class ~~E~~ H felony.

History: 1977 c. 173; 1987 a. 234; 1991 a. 137; 1993 a. 91; 1995 a. 25.

4           **SECTION 116 .** 941.26 (2) (f) of the statutes is amended to read:

5           941.26 (2) (f) Any person who violates sub. (1) (b) regarding the use of the bomb,  
6 grenade, projectile, shell or container under sub. (1) (b) to cause bodily harm or bodily  
7 discomfort to a person who the actor knows, or has reason to know, is a peace officer  
8 who is acting in an official capacity is guilty of a Class ~~D~~ H felony.

History: 1977 c. 173; 1987 a. 234; 1991 a. 137; 1993 a. 91; 1995 a. 25.

9           **SECTION 117 .** 941.26 (2) (g) of the statutes is amended to read:

10           941.26 (2) (g) Any person who violates sub. (1) (b) regarding the use of the bomb,  
11 grenade, projectile, shell or container under sub. (1) (b) during his or her commission  
12 of another crime to cause bodily harm or bodily discomfort to another or who  
13 threatens to use the bomb, grenade, projectile, shell or container during his or her  
14 commission of another crime to incapacitate another person is guilty of a Class ~~E~~ H  
15 felony.

History: 1977 c. 173; 1987 a. 234; 1991 a. 137; 1993 a. 91; 1995 a. 25.

16           **SECTION 118 .** 941.26 (4) (d) of the statutes is amended to read:

17           941.26(4)(d) Whoever intentionally uses a device or container described under  
18 par. (a) to cause bodily harm or bodily discomfort to a person who the actor knows,  
19 or has reason to know, is a peace officer who is acting in an official capacity is guilty  
20 of a Class ~~D~~ H felony.

History: 1977 c. 173; 1987 a. 234; 1991 a. 137; 1993 a. 91; 1995 a. 25.

21           **SECTION 119 .** 941.26 (4) (e) of the statutes is amended to read:

22           941.26 (4) (e) Whoever uses a device or container described under par. (a)  
23 during his or her commission of another crime to cause bodily harm or bodily

1       discomfort to another or who threatens to use the device or container during his or  
2       her commission of another crime to incapacitate another person is guilty of a Class  
3       **E H** felony.

History: 1977 c. 173; 1987 a. 234; 1991 a. 137; 1993 a. 91; 1995 a. 25.

4       **SECTION 120.** 941.28 (3) of the statutes is amended to read:

5       941.28 (3) Any person violating this section is guilty of a Class **E H** felony.

History: 1979 c. 115.

6       **SECTION 121.** 941.29 (2) (intro.) of the statutes is amended to read:

7       941.29 (2) (intro.) A person specified in sub. (1) is guilty of a Class **E G** felony  
8       if he or she possesses a firearm under any of the following circumstances:

History: 1981 c. 141,317; 1983 a. 269; 1985 a. 259; 1993 a 195, 196, 45,491; 1995 a. 71, 77, 306, 417.

9       **SECTION 122.** 941.29 (2m) of the statutes is repealed.

10       **SECTION 123.** 941.295 (1) of the statutes is amended to read:

11       941.295 (1) Whoever sells, transports, manufactures, possesses or goes armed  
12       with any electric weapon is guilty of a Class **E H** felony.

History: 1981 c. 348; 1985 a. 29 s. 3200 (35); 1989 a. 31, 56.

13       **SECTION 124.** 941.296 (2) (intro.) of the statutes is amended to read:

14       941.296 (2) (intro.) Whoever uses or possesses a handgun during the  
15       commission of a crime under chs. 939 to 948 or 961 is guilty of a Class **E H** felony  
16       under any of the following circumstances.

History: 1993 a. 98; 1995 a. 448.

17       **SECTION 125.** 941.298 (2) of the statutes is amended to read:

18       941.298 (2) Whoever sells, delivers or possesses a firearm silencer is guilty of  
19       a Class **E H** felony.

History: 1991 a. 39.

20       **SECTION 126.** 941.30 (1) of the statutes is amended to read:

1           **941.30 (1) FIRST-DEGREE** RECKLESSLY ENDANGERING SAFETY. Whoever recklessly  
2           endangers another's safety under circumstances which show utter disregard for  
3           human life is guilty of a Class ~~D~~ F felony.

History: 1987 a. 399.

4           **SECTION 127.** 941.30 (2) of the statutes is amended to read:

5           **941.30 (2) SECOND-DEGREE** RECKLESSLY ENDANGERING SAFETY. Whoever  
6           recklessly endangers another's safety is guilty of a Class ~~E~~ G felony.

History: 1987 a. 399.

7           **SECTION 128.** 941.31 (1) of the statutes is amended to read:

8           **941.31 (1)** Whoever makes, buys, transports, possesses, or transfers any  
9           explosive compound or offers to do the same, either with intent to use such explosive  
10          to commit a crime or knowing that another intends to use it to commit a crime, is  
11          guilty of a Class ~~C~~ F felony.

History: 1977 c. 173; 1987 a. 234.

12          **SECTION 129.** 941.31 (2) (b) of the statutes is amended to read:

13          **941.31 (2) (b)** Whoever makes, buys, sells, transports, possesses, uses or  
14          transfers any improvised explosive device, or possesses materials or components  
15          with intent to assemble any improvised explosive device, is guilty of a Class ~~E~~ H  
16          felony.

History: 1977 c. 173; 1987 a. 234.

17          **SECTION 130.** 94.1.32 of the statutes is amended to read:

18          **941.32 Administering dangerous or stupefying drug.** Whoever  
19          administers to another or causes another to take any poisonous, stupefying,  
20          overpowering, narcotic; <sup>strike comma</sup> or anesthetic substance with intent thereby to facilitate the  
21          commission of a crime is guilty of a Class ~~C~~ F felony.

History: 1977 c 173.

22          **SECTION 131.** 941.325 of the statutes is amended to read:





1 and who has reasonable grounds to believe that the interference may endanger  
2 another's safety is guilty of a Class ~~E~~ I felony.

3 History: 1983 a. 515; 1989 a. 102.

**SECTION 137.** 941.37 (4) of the statutes is amended to read:

4 941.37 (4) Any person who violates sub. (3) and thereby contributes to the  
5 death of another is guilty of a Class ~~C~~ E felony.

6 History: 1983 a. 515; 1989 a. 102.

**SECTION 138.** 941.38 (2) of the statutes is amended to read:

7 941.38 (2) Whoever intentionally solicits a child to participate in criminal gang  
8 activity is guilty of a Class ~~E~~ I felony.

9 History: 1993 a. 98, 221; 1995 a. 448; 1997 a. 143,295.

**SECTION 139.** 943.01 (2) (intro.) of the statutes is amended to read:

10 943.01 (2) (intro.) Any person violating sub. (1) under any of the following  
11 circumstances is guilty of a Class ~~D~~ I felony:

12 History: 1977 c. 173; 1981 c. 118 s. 9; 1987 a. 399; 1993 a. 262,486; 1995 a. 133,208; 1997 a. 143.

**SECTION 140.** 943.01 (2) (d) of the statutes is amended to read:

13 943.01 (2) (d) If the total property damaged in violation of sub. (1) is reduced  
14 in value by more than ~~\$1,000~~ \$2,000 the purposes of this paragraph, property  
15 is reduced in value by the amount which it would cost either to repair or replace it,  
16 whichever is less.

17 History: 1977 c. 173; 1981 c. 118 s. 9; 1987 a. 399; 1993 a. 262, 486; 1995 a. 133,208; 1997 a. 143.

**SECTION 141.** 943.01 (2g) of the statutes is repealed.

18 **SECTION 142.** 943.011 (2) (intro.) of the statutes is amended to read:

19 943.011 (2) (intro.) Whoever does any of the following is guilty of a Class ~~D~~ I  
20 felony:

21 History: 1997 a. 143.

**SECTION 143.** 943.012 (intro.) of the statutes is amended to read:

22 **943.012 Criminal damage to or graffiti on religious and other property.**

23 (intro.) Whoever intentionally causes damage to, intentionally marks, draws or

1 writes with ink or another substance on or intentionally etches into any physical  
2 property of another, without the person's consent and with knowledge of the  
3 character of the property, is guilty of a Class ~~E~~ I felony if the property consists of one  
4 or more of the following:

History: 1987 a. 348; 1995 a. 24.

5 **SECTION 144.** 943.013 (2) (intro.) of the statutes is amended to read:

6 943.013 (2) (intro.) Whoever intentionally causes or threatens to cause damage  
7 to any physical property that belongs to a judge or his or her family member under  
8 all of the following circumstances is guilty of a Class ~~D~~ I felony:

History: 1993 a. 50,446.

9 **SECTION 145.** 943.014 (2) of the statutes is amended to read:

10 943.014 (2) whoever intentionally demolishes a historic building without a  
11 permit issued by a city, village, town or county or without an order issued under s.  
12 ~~66.05 shall be fined an amount equal to 2 times the fair market value of the historic~~  
13 ~~building and the land upon which the building is located immediately prior to~~  
14 ~~demolition and may be imprisoned for not more than 9 months~~ is guilty of a Class A  
15 misdemeanor.

History: 1995 a. 466.

16 **SECTION 146.** 943.015 (2) (intro.) of the statutes is amended to read:

17 943.015 (2) (intro.) Whoever intentionally causes or threatens to cause damage  
18 to any physical property which belongs to a department of revenue official, employe  
19 or agent or his or her family member under all of the following circumstances is guilty  
20 of a Class ~~D~~ I felony:

History: 1985 a. 29; 1993 a. 446.

21 **SECTION 147.** 943.017 (2) (intro.) of the statutes is amended to read:

22 943.017 (2) (intro.) Any person violating sub. (1) under any of the following  
23 circumstances is guilty of a Class ~~D~~ I felony:

History: 1995 a. 24; 1997 a. 35. 143.

1           **SECTION 148.** 943.017 (2) (d) of the statutes is amended to read:

2           943.017 (2) (d) If the total property affected in violation of sub. (1) is reduced  
3 in value by more than ~~\$1,000~~ ~~E2,000~~ the purposes of this paragraph, property  
4 is reduced in value by the amount which it would cost to repair or replace it or to  
5 remove the marking, drawing, writing or etching, whichever is less.

History: 1995 a. 24; 1997 a. 35, 143.

6           **SECTION 149.** 943.017 (2m) (b) (intro.) of the statutes is amended to read:

7           943.017 **(2m)** (b) (intro.) Whoever does any of the following is guilty of a Class ~~D~~  
8 I felony:

History: 1995 a. 24; 1997 a. 35,143.

9           **SECTION 150.** 943.02 (1) (intro.) of the statutes is amended to read:

10           943.02 **(1)** (intro.) Whoever does any of the following is guilty of a Class ~~B~~ C  
11 felony:

History: 1977 c. 173; 1993 a. 486.

12           **SECTION 151.** 943.03 of the statutes is amended to read:

13           **943.03 Arson of property other than building.** Whoever, by means of fire,  
14 intentionally damages any property (other than a building) of another without the  
15 person's consent, if the property is of the value of \$100 or more, is guilty of a Class  
16 ~~E~~ I felony.

History: 1977 c. 173.

17           **SECTION 152.** 943.04 of the statutes is amended to read:

18           **943.04 Arson with intent to defraud.** Whoever, by means of fire, damages  
19 any property (other than a building) with intent to defraud an insurer of that  
20 property is guilty of a Class ~~D~~ H felony. Proof that the actor recovered or attempted  
21 to recover on a policy of insurance by reason of the fire is relevant but not essential  
22 to establish the actor's intent to defraud the insurer.

History: 1977 c. 173.

23           **SECTION 153.** 943.06 (2) of the statutes is amended to read:

1           943.06 (2) Whoever possesses, manufactures, sells, offers for sale, gives or  
2 transfers a fire bomb is guilty of a Class ~~E~~ H felony.

3 **History:** 1977 c. 173; 1985 a 135 s. 83 (3).

**SECTION 154.** 943.07 (1) of the statutes is amended to read:

*strike  
space*

4           943.07 (1) Whoever intentionally causes damage or who causes another person  
5 to damage, tamper, change or destroy any railroad track, switch, bridge, trestle,  
6 tunnel or signal or any railroad property used in providing rail services, which could  
7 cause an injury, accident or derailment is guilty of a Class ~~A misdemeanor~~ I felony.

8 **History:** 1975 c. 314; 1977 c. 173.

**SECTION 155.** 943.07 (2) of the statutes is amended to read:

9           943.07 (2) Whoever intentionally shoots a firearm at any portion of a railroad  
10 train, car, caboose or engine is guilty of a Class ~~A mis~~ ~~emeanor~~ I felony

11 **History:** 1975 c. 314; 1977 c. 173.

**SECTION 156.** 943.10 (1) (intro.) of the statutes is amended to read:

12           943.10 (1) (intro.) Whoever intentionally enters any of the following places  
13 without the consent of the person in lawful possession and with intent to steal or  
14 commit a felony in such place is guilty of a Class ~~C~~ F felony:

15 **History:** 1977 c. 173,332; 1995 a. 288.

**SECTION 157.** 943.10 (2) (intro.) of the statutes is amended to read:

16           943.10 (2) (intro.) Whoever violates sub. (1) under any of the following  
17 circumstances is guilty of a Class ~~B~~ E felony:

18 **History:** 1977 c. 173,332; 1995 a. 288. ✓

**SECTION 158.** 943.12 of the statutes is amended to read:

19           **943.12 Possession of burglarious tools.** Whoever has in personal  
20 possession any device or instrumentality intended, designed or adapted for use in  
21 breaking into any depository designed for the safekeeping of any valuables or into

1 any building or room, with intent to use such device or instrumentality to break into  
2 a depository, building or room, and to steal therefrom, is guilty of a Class ~~E~~ I felony.

3 History: 1977 c. 173.

**SECTION 159.** 943.20 (3) (a) of the statutes is amended to read:

4 943.20 (3) (a) If the value of the property does not exceed ~~\$1,000~~ \$2,000, is  
5 guilty of a Class A misdemeanor.

6 History: 1977 c. 173, 255, 447; 1983 a. 189; 1987 a. 266; 1991 a. 39; 1993 a. 213, 445, 486.

**SECTION 160.** 943.20 (3) (b) of the statutes is amended to read:

7 943.20 (3) (b) If the value of the property exceeds ~~\$1,000~~ \$2,000 but does not  
8 \$2,500 exceed \$5,000, is guilty of a Class ~~E~~ I felony.

9 History: 1977 c. 173, 255, 447; 1983 a. 189; 1987 a. 266; 1991 a. 39; 1993 a. 213, 445, 486.

**SECTION 161.** 943.20 (3) (bm) of the statutes is created to read:

10 943.20 (3) (bm) If the value of the property exceeds \$5,000 but does not exceed  
11 \$10,000, is guilty of a Class H felony.

12 **SECTION 162.** 943.20 (3) (c) of the statutes is amended to read:

13 943.20 (3) (c) If the value of the property exceeds ~~\$2,500~~ \$10,000, is guilty of  
14 a Class ~~C~~ G felony.

15 History: 1977 c. 173, 255, 447; 1983 a. 189; 1987 a. 266; 1991 a. 39; 1993 a. 213, 445, 486.

**SECTION 163.** 943.20 (3) (d) (intro.) of the statutes is amended to read:

16 943.20 (3) (d) (intro.) ~~If the value of the property does not exceed \$2,500 and~~  
17 any of the following circumstances ~~exist~~, <sup>exists</sup> is guilty of a Class ~~D~~ H felony:

18 History: 1977 c. 173, 255, 447; 1983 a. 189; 1987 a. 266; 1991 a. 39; 1993 a. 213, 445, 486.

**SECTION 164.** 943.20 (3) (d) 1. of the statutes is amended to read:

19 943.20 (3) (d) 1. The property is a domestic animal; ~~or,~~

20 History: 1977 c. 173, 255, 447; 1983 a. 189; 1987 a. 266; 1991 a. 39; 1993 a. 213, 445, 486.

**SECTION 165.** 943.20 (3) (d) 2. of the statutes is renumbered 943.20 (3) (e) and

21 amended to read:

1                    943.20 (3) (e) ~~The~~ <sup>a</sup> ~~If the~~ property is taken from the person of another or from  
 2 a corpse; ~~or, is guilty of Class G felony.~~

History: 1977 c. 173, 255, 447; 1983 a. 189; 1987 a. 266; 1991 a. 39; 1993 a. 213, 445, 486.

3                    **SECTION 166.** 943.20 (3) (d) 3. of the statutes is amended to read:

4                    943.20 (3) (d) 3. The property is taken from a building which has been destroyed  
 5 or left unoccupied because of physical disaster, riot, bombing or the proximity of  
 6 battle; ~~or,~~

History: 1977 c. 173, 255, 447; 1983 a. 189; 1987 a. 266; 1991 a. 39; 1993 a. 213, 445, 486.

7                    **SECTION 167.** 943.20 (3) (d) 4. of the statutes is amended to read:

8                    943.20 (3) (d) 4. The property is taken after physical disaster, riot, bombing or  
 9 the proximity of battle has necessitated its removal from a building; ~~or,~~

History: 1977 c. 173, 255, 447; 1983 a. 189; 1987 a. 266; 1991 a. 39; 1993 a. 213, 445, 486.

10                  **SECTION 168.** 943.205 (3) of the statutes is amended to read:

11                  943.205 (3) Anyone who violates this section is guilty of a Class ~~E~~ I felony.

History: 1977 c. 173, 1983 a. 189; 1985 a. 236; 1993 a. 213, 486; 1997 a. 254.

12                  **SECTION 169.** 943.21 (3) (a) of the statutes is amended to read:

13                  943.21 (3) (a) Is guilty of a Class A misdemeanor when the value of any  
 14 beverage, food, lodging, accommodation, transportation or other service is ~~\$1,000~~  
 15 \$2,000 or less.

History: 1977 c. 173; 1979 c. 239, 242; 1991 a. 39, 65, 189; 1995 a. 160.

16                  **SECTION 170.** 943.21 (3) (b) of the statutes is amended to read:

17                  943.21 (3) (b) Is guilty of a Class ~~E~~ I felony when the value of any beverage,  
 18 food, lodging, accommodation, transportation or other service exceeds ~~\$1,000~~ \$2,000.

History: 1977 c. 173; 1979 c. 239, 242; 1991 a. 39, 65, 189; 1995 a. 160.

19                  **SECTION 171.** 943.23 (lg) of the statutes is amended to read:

20                  943.23 (lg) Whoever, while possessing a dangerous weapon and by the use of,  
 21 or the threat of the use of, force or the weapon against another, intentionally takes  
 22 any vehicle without the consent of the owner is guilty of a Class ~~B~~ C felony.

History: 1977 c. 173; 1987 a. 349; 1989 a. 359, 1993 a. 92.

23                  **SECTION 172.** 943.23 (lm) of the statutes is amended to read:

1            943.23 **(lm)** Whoever violates sub. (lg) and causes great bodily harm to  
 2 another is guilty of a Class ~~B~~ C felony and shall be sentenced to not less than 10 years  
 '3 of imprisonment, unless the sentencing court otherwise provides. If the court places  
 ④ the person on probation or imposes a sentence <sup>less than</sup> ~~less than~~ the 10-year presumptive  
 5 minimum sentence, it shall place its reasons for doing so on the record.

History: 1977 c. 173; 1987 a. 349; 1989 a. 359; 1993 a. 92. ✓

6            **SECTION 173.** 943.23 (lr) of the statutes is repealed. ✓

7            **SECTION 174.** 943.23 (2) of the statutes is amended to read:

8            943.23 (2) Whoever intentionally takes and drives any vehicle without the  
 9 consent of the owner is guilty of a Class ~~D~~ H felony.

History: 1977 c. 173; 1987 n. 349; 1989 a. 359; 1993 a. 92.

10           **SECTION 175.** 943.23 (3) of the statutes is amended to read:

11           943.23 (3) Whoever intentionally drives or operates any vehicle without the  
 12 consent of the owner is guilty of a Class ~~E~~ I felony.

History: 1977 c. 173; 1987 a. 349; 1989 a. 359; 1993 a. 92.

13           **SECTION 176.** 943.23 (4m) of the statutes is amended to read:

14           943.23 (4m) Whoever knows that the owner does not consent to the driving or  
 15 operation of a vehicle and intentionally accompanies, as a passenger in the vehicle,  
 16 a person while he or she violates sub. (lg), (1m), ~~(1r)~~, (2) or (3) is guilty of a Class A  
 17 misdemeanor.

History: 1977 c. 173; 1987 a. 349; 1989 a. 359; 1993 a. 92.

18           **SECTION 177.** 943.23 (5) of the statutes is amended to read:

19           943.23 (5) Whoever intentionally removes a major part of a vehicle without the  
 20 consent of the owner is guilty of a Class ~~E~~ I felony. Whoever intentionally removes  
 21 any other part or component of a vehicle without the consent of the owner is guilty  
 22 of a Class A misdemeanor.

History: 1977 c. 173; 1987 a. 349; 1989 a. 359; 1993 a. 92.

23           **SECTION 178.** 943.24 (1) of the statutes is amended to read:



1           943.24 **(1)** Whoever issues any check or other order for the payment of not more  
2 than ~~\$1,000~~ \$2,000 which, at the time of issuance, he or she intends shall not be paid  
3 is guilty of a Class A misdemeanor.

History: 1977 c. 173; 1985 a. 179; 1987 a. 398; 1991 a. 39,40; 1993 a. 71.

4           **SECTION 179.** 943.24 (2) of the statutes is amended to read:

5           943.24 (2) Whoever issues any single check or other order for the payment of  
6 more than ~~\$1,000~~ \$2,000 or whoever within a 15-day period issues more than one  
7 check or other order amounting in the aggregate to more than ~~\$1,000~~ \$2,000 which,  
8 at the time of issuance, the person intends shall not be paid is guilty of a Class ~~E~~ I  
9 felony.

History: 1977 c. 173; 1985 a. 179; 1987 a. 398; 1991 a. 39, 40; 1993 a. 71.

10          **SECTION 180.** 943.25 (1) of the statutes is amended to read:

11          943.25 **(1)** Whoever, with intent to defraud, conveys real property which he or  
12 she knows is encumbered, without informing the grantee of the existence of the  
13 encumbrance is guilty of a Class ~~E~~ I felony.

History: 1977 c. 173; 1979 c. 144; 1993 a. 486.

14          **SECTION 181.** 943.25 (2) (intro.) of the statutes is amended to read:

15          943.25 (2) (intro.) Whoever, with intent to defraud, does any of the following  
16 is guilty of a Class ~~E~~ I felony:

History: 1977 c. 173; 1979 c. 144; 1993 a. 486.

17          **SECTION 182.** 943.26 (2) of the statutes is amended to read:

18          943.26 (2) If the security is impaired by more than ~~\$1,000~~ \$2,000, the  
19 mortgagor or vendee is guilty of a Class ~~E~~ I felony.

History: 1977 c. 173.

20          **SECTION 183.** 943.27 of the statutes is amended to read:

21          **943.27 Possession of records of certain usurious loans.** Any person who  
22 knowingly possesses any writing representing or constituting a record of a charge of,  
23 contract for, receipt of or demand for a rate of interest or consideration exceeding \$20

1 upon \$100 for one year computed upon the declining principal balance of the loan,  
2 use or forbearance of money, goods or things in action or upon the loan, use or sale  
3 of credit is, if the rate is prohibited by a law other than this section, guilty of a Class  
4 ~~E~~ I felony.

History: 1977 c. 173; 1979 c. 168.

5 **SECTION 184.** 943.28 (2) of the statutes is amended to read:

6 943.28 (2) Whoever makes any extortionate extension of credit, or conspires to  
7 do so, if one or more of the parties to the conspiracy does an act to effect its object,  
8 is guilty of a Class ~~C~~ F felony.

History: 1977 c. 173; 1995 a. 225.

9 **SECTION 185.** 943.28 (3) of the statutes is amended to read:

10 943.28 (3) Whoever advances money or property, whether as a gift, as a loan,  
11 as an investment, pursuant to a partnership or profit-sharing agreement, or  
12 otherwise, for the purpose of making extortionate extensions of credit, is guilty of a  
13 Class ~~C~~ F felony.

History: 1977 c. 173; 1995 a. 225.

14 **SECTION 186.** 943.28 (4) of the statutes is amended to read:

15 943.28 (4) Whoever knowingly participates in any way in the use of any  
16 extortionate means to collect or attempt to collect any extension of credit, or to punish  
17 any person for the nonrepayment thereof, is guilty of a Class ~~C~~ F felony.

History: 1977 c. 173; 1995 a. 225.

18 **SECTION 187.** 943.30 (1) of the statutes is amended to read:

19 943.30 (1) Whoever, either verbally or by any written or printed  
20 communication, maliciously threatens to accuse or accuses another of any crime or  
21 offense, or threatens or commits any injury to the person, property, business,  
22 profession, calling or trade, or the profits and income of any business, profession,  
23 calling or trade of another, with intent thereby to extort money or any pecuniary

1 advantage whatever, or with intent to compel the person so threatened to do any act  
2 against the person's will or omit to do any lawful act, is guilty of a Class D H felony.

History: 1977 c. 173; 1979 c. 110; 1981 c. 118; 1997 a. 231.

3 **SECTION 188. 943.30 (2)** of the statutes is amended to read:

4 943.30 (2) Whoever violates sub. (1) by obstructing, delaying or affecting  
5 commerce or business or the movement of any article or commodity in commerce or  
6 business is guilty of a Class D H felony.

History: 1977 c. 173; 1979 c. 110; 1981 c. 118; 1997 a. 231.

7 **SECTION 189. 943.30 (3)** of the statutes is amended to read:

8 943.30 (3) Whoever violates sub. (1) by attempting to influence any petit or  
9 grand juror, in the performance of his or her functions as such, is guilty of a Class D  
10 H felony.

History: 1977 c. 173; 1979 c. 110; 1981 c. 118; 1997 a. 231.

11 **SECTION 190. 943.30 (4)** of the statutes is amended to read:

12 943.30 (4) Whoever violates sub. (1) by attempting to influence the official  
13 action of any public officer is guilty of a Class D H felony.

History: 1977 c. 173; 1979 c. 110; 1981 c. 118; 1997 a. 231.

14 **SECTION 191. 943.30 (5) (b)** of the statutes is amended to read:

15 943.30 (5) (b) Whoever, orally or by any written or printed communication,  
16 maliciously uses, or threatens to use, the patient health care records of another  
17 person, **with intent thereby to extort money or any pecuniary advantage, or with**  
18 **intent to compel the person so threatened to do any act against the person's will or**  
19 **omit to do any lawful act, is guilty of a Class D H felony.**

History: 1977 c. 173; 1979 c. 110; 1981 c. 118; 1997 a. 231.

20 **SECTION 192. 943.31** of the statutes is amended to read:

21 **943.31 Threats to communicate derogatory information.** Whoever  
22 threatens to communicate to anyone information, whether true or false, which would  
23 injure the reputation of the threatened person or another unless the threatened

1 person transfers property to a person known not to be entitled to it is guilty of a Class  
2 ~~E I~~ felony.

3 History: 1977 c. 173.

**SECTION 193.** 943.32 (1) (intro.) of the statutes is amended to read:

4 943.32 (1) (intro.) Whoever, with intent to steal, takes property from the person  
5 or presence of the owner by either of the following means is guilty of a Class ~~C~~ E  
6 felony:

7 History: 1977 c. 173; 1979 c. 114; 1993 a. 486; 1995 a. 288.

**SECTION 194.** 943.32 (2) of the statutes is amended to read:

8 943.32 (2) Whoever violates sub. (1) by use or threat of use of a dangerous  
9 weapon, a device or container described under s. 941.26 (4) (a) or any article used or  
10 fashioned in a manner to lead the victim reasonably to believe that it is a dangerous  
11 weapon or such a device or container is guilty of a Class ~~B C~~ felony.

12 History: 1977 c. 173; 1979 c. 114; 1993 a. 486; 1995 a. 288.

**SECTION 195.** 943.34 (1) (a) of the statutes is amended to read:

13 943.34 (1) (a) A Class A misdemeanor, if the value of the property does not  
14 exceed ~~\$1,000~~ \$2,000.

15 History: 1977 c. 173; 1987 a. 266,332; 1991 a. 39.

**SECTION 196.** 943.34 (1) (b) of the statutes is amended to read:

16 943.34 (1) (b) A Class ~~E I~~ felony, if the value of the property exceeds ~~\$1,000~~  
17 \$2,000 but does not ~~more than \$2,500~~ exceed \$5,000.

18 History: 1977 c. 173; 1987 a. 266,332; 1991 a. 39.

**SECTION 197.** 943.34 (1) (bm) of the statutes is created to read:

19 19 943.34 (1) (bm) A class H felony, if the value of the property exceeds \$5,000 but  
20 does not exceed \$10,000.

21 **SECTION 198.** 943.34 (1) (c) of the statutes is amended to read:

1           **943.34 (1) (c) A Class ~~C~~ G felony**, if the value of the property exceeds ~~\$2,500~~  
2           \$10,000.

3 History: 1977 c. 173; 1987 a. 266,332; 1991 a. 39.

**SECTION 199. 943.38 (1)** (intro.) of the statutes is amended to read:

4           **943.38 (1)** (intro.) Whoever with intent to defraud falsely makes or alters a  
5           writing or object of any of the following kinds so that it purports to have been made  
6           by another, or at another time, or with different provisions, or by authority of one who  
7           did not give such authority, is guilty of a Class ~~C~~ H felony:

8 History: 1977 c. 173.

**SECTION 200. 943.38 (2)** of the statutes is amended to read:

9           **943.38 (2)** Whoever utters as genuine or possesses with intent to utter as false  
10          or as genuine any forged writing or object mentioned in sub. (1), knowing it to have  
11          been thus falsely made or altered, is guilty of a Class ~~C~~ H felony.

12 History: 1977 c. 173.

**SECTION 201. 943.39** (intro.) of the statutes is amended to read:

13          **943.39 Fraudulent writings.** (intro.) Whoever, with intent to injure or  
14          defraud, does any of the following is guilty of a Class ~~D~~ H felony:

15 History: 1977 c. 173; 1993 a. 112.

**SECTION 202. 943.395 (2) (a)** of the statutes is amended to read:

16          **943.395 (2) (a)** Is guilty of a Class A misdemeanor if the value of the claim or  
17          benefit does not exceed ~~\$1,000~~ \$2,000.

18 History: 1971 c. 214; 1975 c. 373,421; 1977 c. 173; 1979 c. 89; 1981 c. 96; 1987 a. 349; 1991 a. 39.

**SECTION 203. 943.395 (2) (b)** of the statutes is amended to read:

19          **943.395 (2) (b)** Is guilty of a Class ~~E~~ I felony if the value of the claim or benefit  
20          exceeds ~~\$1,000~~ \$2,000.

21 History: 1971 c. 214; 1975 c. 373,421; 1977 c. 173; 1979 c. 89; 1981 c. 96; 1987 a. 349; 1991 a. 39.

**SECTION 204. 943.40** (intro.) of the statutes is amended to read:

1           **943.40 Fraudulent destruction of certain writings.** (intro.) Whoever with  
2           intent to defraud does either of the following is guilty of a Class ~~D~~ H felony:

3           ~~History: 1977 c. 173.~~

3           **SECTION 205.** 943.41 (8) (b) of the statutes is amended to read:

4           943.41 (8) (b) Any person violating any provision of sub. (3) (e), (4) (a), (6) (c)  
5           or (6m) is guilty of a Class E I felony.

6           ~~History: 1973 c. 219; 1977 c. 173; 1981 c. 288; 1989 a. 321; 1991 a. 39; 1993 a. 486; 1995 a. 225.~~

6           **SECTION 206.** 943.41 (8) (c) of the statutes is amended to read:

7           943.41 (8) (c) Any person violating any provision of sub. (5) or (6) (a), (b) or (d),  
8           if the value of the money, goods, services or property illegally obtained does not  
9           exceed ~~\$1,000~~ \$2,000 is guilty of a Class A misdemeanor; if the value of the money,  
10          goods, services or property exceeds ~~\$1,000~~ \$2,000 but does not exceed ~~\$2,500~~ \$5,000,  
11          in a single transaction or in separate transactions within a period not exceeding 6  
12          months, the person is guilty of a Class ~~E~~ I felony; if the value of the money, goods,  
13          services or property exceeds \$5,000 but does not exceed \$10,000, in a single  
14          transaction or in separate transactions within a period not exceeding 6 months: the  
15          person is guilty of a Class H felony; or if the value of the money, goods, services or  
16          property exceeds ~~\$2,500~~ \$10,000, the person is guilty of a Class ~~C~~ G felony.

17          ~~History: 1973 c. 219; 1977 c. 173; 1981 c. 288; 1989 a. 321; 1991 a. 39; 1993 a. 486; 1995 a. 225.~~

17          **SECTION 207.** 943.45 (3) (c) of the statutes is amended to read:

18          943.45 (3) (c) Except as provided in par. (d), any person who violates sub. (1)  
19          for direct or indirect commercial advantage or private financial gain is guilty of a  
20          Class ~~E~~ felony A misdemeanor.

21          ~~History: 1977 c. 173; 1991 a. 39; 1993 a. 496.~~

21          **SECTION 208.** 943.45 (3) (d) of the statutes is amended to read:

1           943.45 (3) (d) Any person who violates sub. (1) for direct or indirect commercial  
2           advantage or private financial gain as a 2nd or subsequent offense is guilty of a Class  
3           D I felony.

4           History: 1917 c. 173; 1991 a. 39; 1993 a. 496.

4           **SECTION 209.** 943.455 (4) (c) of the statutes is amended to read:

5           943.455 (4) (c) Except as provided in par. (d), any person who violates sub. (2)  
6           (a) to (f) for direct or indirect commercial advantage or private financial gain is guilty  
7           of a Class ~~E felony~~ A misdemeanor.

8           History: 1991 a. 39; 1993 a. 496; 1997 a. 218.

8           **SECTION 210.** 943.455 (4) (d) of the statutes is amended to read:

9           943.455 (4) (d) Any person who violates sub. (2) (a) to (f) for direct or indirect  
10          commercial advantage or private financial gain as a 2nd or subsequent offense is  
11          guilty of a Class D I felony.

12          History: 1991 a. 39; 1993 a. 496; 1997 a. 218.

12          **SECTION 211.** 943.46 (4) (c) of the statutes is amended to read:

13          943.46 (4) (c) Except as provided in par. (d), any person who violates sub. (2)  
14          (a) to (g) for direct or indirect commercial advantage or private financial gain is guilty  
15          of a Class ~~E felony~~ A misdemeanor.

16          History: 1987 a. 345; 1993 a. 496.

16          **SECTION 212.** 943.46 (4) (d) of the statutes is amended to read:

17          943.46 (4) (d) Any person who violates sub. (2) (a) to (g) for direct or indirect  
18          commercial advantage or private financial gain as a 2nd or subsequent offense is  
19          guilty of a Class D I felony.

20          History: 1987 a. 345; 1993 a. 496.

20          **SECTION 213.** 943.47 (3) (c) of the statutes is amended to read:

1            943.47 (3) (c) Except as provided in par. (d), any person who violates sub. (2)  
2            for direct or indirect commercial advantage or private financial gain is guilty of a  
3            Class ~~E felony~~ A misdemeanor.

History: 1987 a. 345; 1993 a. 496.

4            **SECTION 214.** 943.47 (3) (d) of the statutes is amended to read:

5            943.47 (3) (d) Any person who violates sub. (2) for direct or indirect commercial  
6            advantage or private financial gain as a 2nd or subsequent offense is guilty of a Class  
7            ~~D I~~ I felony.

History: 1987 a. 345; 1993 a. 496.

8            **SECTION 215.** 943.50 (4) (a) of the statutes is amended to read:

9            943.50 (4) (a) A Class A misdemeanor, if the value of the merchandise does not  
10            exceed ~~\$1,000~~ \$2,000.

History: 1977 c. 173; 1981 c. 270; 1983 a. 189 s. 329 (24); 1985 a. 179; 1987 a. 398; 1991 a. 39, 40; 1993 a. 71; 1997 a. 262.

11            **SECTION 216.** 943.50 (4) (b) of the statutes is amended to read:

12            943.50 (4) (b) A Class ~~E I~~ I felony, if the value of the merchandise exceeds ~~\$1,000~~  
13            \$2,000 but does not ~~\$2,500~~ exceed \$5,000.

History: 1977 c. 173; 1981 c. 270; 1983 a. 189 s. 329 (24); 1985 a. 179; 1987 a. 398; 1991 a. 39, 40, 1993 a. 71; 1997 a. 262.

14            **SECTION 217.** 943.50 (4) (bm) of the statutes is created to read:

15            943.50 (4) (bm) A Class H felony, if the value of the merchandise exceeds \$5,000  
16            but does not exceed \$10,000.

17            **SECTION 218.** 943.50 (4) (c) of the statutes is amended to read:

18            943.50 (4) (c) A Class ~~C G~~ G felony, if the value of the merchandise exceeds ~~\$2,500~~  
19            \$10,000.

History: 1977 c. 173; 1981 c. 270; 1983 a. 189 s. 329 (24); 1985 a. 179; 1987 a. 398; 1991 a. 39, 40; 1993 a. 71; 1997 a. 262.

20            **SECTION 219.** 943.60 (1) of the statutes is amended to read:

21            943.60 (1) Any person who submits for filing, entering or recording any lien,  
22            claim of lien, lis pendens, writ of attachment, financing statement or any other  
23            instrument relating to a security interest in or title to real or personal property, and



1 who knows or should have known that the contents or any part of the contents of the  
2 instrument are false, a sham or frivolous, is guilty of a Class ~~D~~ H felony.

History: 1919 c. 221; 1995 a. 224; 1997 a. 27.

3 **SECTION 220.** 943.61 (5) (b) of the statutes is amended to read:

4 943.61 (5) (b) A Class ~~E~~ I felony, if the value of the library materials exceeds  
5 \$1,000 but does not exceed \$2,500.

History: 1979 c. 245; Stats. 1979 s. 943.60; 1979 c. 355 s. 232; Stats. 1979 s. 943.61; 1991 a. 39.

6 **SECTION 221.** 943.61 (5) (c) of the statutes is amended to read:

7 943.61 (5) (c) A Class ~~C~~ H felony, if the value of the library materials exceeds  
8 \$2,500.

History: 1919 c. 245; Stats. 1979 s. 943.60; 1979 c. 355 s. 232; Stats. 1979 s. 943.61; 1991 a. 39.

9 **SECTION 222.** 943.62 (4) (b) of the statutes is amended to read:

10 943.62 (4) (b) A Class ~~E~~ I felony, if the value of the advance payment or required  
11 refund, as applicable, exceeds \$500 but does not exceed \$2,500.

History: 1981 c. 20; 1983 a. 167; 1987 a. 359.1987 a. 403 s. 256; 1995 a. 27; 1997 a. 145.

12 **SECTION 223.** 943.62 (4) (c) of the statutes is amended to read:

13 943.62 (4) (c) A Class ~~C~~ F felony, if the value of the advance payment or required  
14 refund, as applicable, exceeds \$2,500.

History: 1981 c. 20; 1983 a. 167; 1987 a. 359; 1987 a. 403 s. 256; 1995 a. 27; 1997 a. 145.

15 **SECTION 224.** 943.70 (2) (b) 2. of the statutes is amended to read:

16 943.70 (2) (b) 2. A Class ~~E~~ I felony if the offense is committed to defraud or to  
17 obtain property.

History: 1981 c. 293; 1983 a. 438,541; 1987 a. 399.

18 **SECTION 225.** 943.70 (2) (b) 3. of the statutes is amended to read:

19 943.70 (2) (b) 3. A Class ~~D~~ H felony if the damage is greater than ~~\$2,500~~ \$5,000  
20 or if it causes an interruption or impairment of governmental operations or public  
21 communication, of transportation or of a supply of water, gas or other public service.

History: 1981 c. 293; 1983 a. 438,541; 1987 a. 399.

22 **SECTION 226.** 943.70 (2) (b) 4. of the statutes is amended to read:

1           943.70 (2) (b) 4. A Class ~~C~~ F felony if the offense creates a substantial and  
2           unreasonable risk of death or great bodily harm to another,

3           History: 1981 c. 293; 1983 a. 438,541; 1987 a. 399.

3           **SECTION 227.** 943.70 (3) (b) 2. of the statutes is amended to read:

4           943.70 (3) (b) 2. A Class ~~E~~ I felony if the offense is committed to defraud or  
5           obtain property.

6           History: 1981 c. 293; 1983 a. 438,541; 1987 a. 399.

6           **SECTION 228.** 943.70 (3) (b) 3. of the statutes is amended to read:

7           943.70 (3) (b) 3. A Class ~~D~~ H felony if the damage to the computer, computer  
8           system, computer network, equipment or supplies is greater than ~~\$2,500~~ \$5,000.

9           History: 1981 c. 293; 1983 a. 438,541; 1987 a. 399.

9           **SECTION 229.** 943.75 (2) of the statutes is amended to read:

10           943.75 (2) Whoever intentionally releases an animal that is lawfully confined  
11           for scientific, farming, companionship or protection of persons or property,  
12           recreation, restocking, research, exhibition, commercial or educational purposes,  
13           acting without the consent of the owner or custodian of the animal, is guilty of a Class  
14           C misdemeanor. A 2nd violation of this section by a person is a Class A misdemeanor.  
15           A 3rd or subsequent violation of this section by a person is a Class ~~E~~ I felony.

16           History: 1991 a. 20,269; 1993 a. 27; 1995 a. 79; 1997 a. 27, 192, 248.

16           **SECTION 230.** 944.05 (1) (intro.) of the statutes is amended to read:

17           944.05 (1) (intro.) · Whoever does any of the following is guilty of a Class ~~E~~ I  
18           felony:

19           History: 1977 c. 173; 1993 a. 486.

19           **SECTION 231.** 944.15 (title) of the statutes is repealed and recreated to read:

20           **944.15 (title) Public fornication.**

21           **SECTION 232.** 944.16 (intro.) of the statutes is amended to read:

1           **944.16 Adultery.** (intro.) Whoever does either of the following is guilty of a  
2           Class ~~E~~ I felony:

3           History: 1977 c. 173; 1993 a. 486.

**SECTION 233.** 944.205 (2) (intro.) of the statutes is amended to read:

4           944.205 (2) (intro.) Whoever does any of the following is guilty of a Class ~~E~~ I  
5           felony:

6           History: 1995 a. 249.

**SECTION 234.** 944.21 (5) (c) of the statutes is amended to read:

7           944.21 (5) (c) If the person violating sub. (3) or (4) has 2 or more prior  
8           convictions under this section, the person is guilty of a Class ~~D~~ H felony.

9           History: 1977 c. 173,212; 1987 a. 416; 1993 a. 399; 1995 a. 27 s. 9154 (1); 1997 a. 27.

**SECTION 235.** 944.21 (5) (e) of the statutes is amended to read:

10          944.21 (5) (e) Regardless of the number of prior convictions, if the violation  
11          under sub. (3) or (4) is for a wholesale transfer or distribution of obscene material,  
12          the person is guilty of a Class ~~D~~ H felony.

13          History: 1977 c. 173,272; 1987 a. 416; 1993 a. 399; 1995 a. 27 s. 9154 (1); 1997 a. 27.

**SECTION 236.** 944.32 of the statutes is amended to read:

14          **944.32 Soliciting prostitutes.** Except as provided under s. 948.08, whoever  
15          intentionally solicits or causes any person to practice prostitution or establishes any  
16          person in a place of prostitution is guilty of a Class ~~D~~ H felony.

17          History: 1977 c. 173; 1987 a. 332.

**SECTION 237.** 944.33 (2) of the statutes is amended to read:

18          944.33 (2) If the person received compensation from the earnings of the  
19          prostitute, such person is guilty of a Class ~~C~~ F felony.

20          History: 1977 c. 173; 1979 c. 221.355; 1983 a. 17; 1993 a. 486.

**SECTION 238.** 944.34 (intro.) of the statutes is amended to read:

21          **944.34 Keeping place of prostitution.** (intro.) Whoever intentionally does  
22          any of the following is guilty of a Class ~~D~~ H felony:

23          History: 1977 c. 173.

**SECTION 239.** 945.03 (intro.) of the statutes is amended to read:

1           **945.03 Commercial gambling.** (intro.) Whoever intentionally does any of  
2           the following is engaged in commercial gambling and is guilty of a Class ~~E~~ I felony:

3           History: 1977 c. 173.

3           **SECTION 240.** 945.05 (1) (intro.) of the statutes is amended to read:

4           945.05 (1) (intro.) Whoever manufactures, transfers commercially or possesses  
5           with intent to transfer commercially either of the following is guilty of a Class ~~E~~ I  
6           felony:

7           History: 1977 c. 173,297; 1979 c. 32 s. 92 (8); 1993 a. 486.

7           **SECTION 241.** 945.08 (1) of the statutes is amended to read:

8           945.08 (1) Any person who, with intent to influence any participant to refrain  
9           from exerting full skill, speed, strength or endurance, transfers or promises any  
10          property or any personal advantage to or on behalf of any participant in a contest of  
11          skill, speed, strength or endurance is guilty of a Class ~~D~~ H felony.

12          History: 1977 c. 173.

12          **SECTION 242.** 946.02 (1) (intro.) of the statutes is amended to read:

13          946.02 (1) (intro.) Whoever does any of the following is guilty of a Class ~~C~~ F  
14          felony:

15          History: 1977 c. 173; 1993 a. 486.

15          **SECTION 243.** 946.03 (1) (intro.) of the statutes is amended to read:

16          946.03 (1) (intro.) Whoever does any of the following is guilty of a Class ~~C~~ F  
17          felony:

18          History: 1977 c. 173.

18          **SECTION 244.** 946.03 (2) of the statutes is amended to read:

19          946.03 (2) Whoever permits any premises under his or her care, control or  
20          supervision to be used by an assembly with knowledge that the purpose of the  
21          assembly is to advocate or teach the duty, necessity, desirability or propriety of  
22          overthrowing the government of the United States or this state by the use or threat  
23          of physical violence with intent that such government be overthrown or, after

1 learning that the premises are being so used, permits such use to be continued is  
2 guilty of a Class ~~E~~ I felony.

3 History: 1977 c. 173.

**SECTION 245.** 946.05 (1) of the statutes is amended to read:

4 946.05 **(1)** Whoever intentionally and publicly mutilates, defiles, or casts  
5 contempt upon the flag is guilty of a Class ~~E~~ I felony.

6 History: 1977 c. 173.

**SECTION 246.** 946.10 (intro.) of the statutes is amended to read:

7 **946.10 Bribery of public officers and employes.** (intro.) Whoever does  
8 either of the following is guilty of a Class ~~D~~ H felony:

9 History: 1977 c 173; 1993 a. 486.

**SECTION 247.** 946.11 (1) (intro.) of the statutes is amended to read:

10 946.11 **(1)** (intro.) Whoever does the following is guilty of a Class ~~E~~ I felony:

11 History: 1975 c. 93; 1977 c. 173; 1985 a. 135; 1993 a. 496.

**SECTION 248.** 946.12 (intro.) of the statutes is amended to read:

12 **946.12 Misconduct in public office.** (intro.) Any public officer or public  
13 employe who does any of the following is guilty of a Class ~~E~~ I felony:

14 History: 1977 c. 173; 1993 a. 486.

**SECTION 249.** 946.13 (1) (intro.) of the statutes is amended to read:

15 946.13 **(1)** (intro.) Any public officer or public employe who does any of the  
16 following is guilty of a Class ~~E~~ I felony:

History: 1971 c. 40 s. 93; 1973 c. 12 s. 37; 1973 c. 50,265; 1977 c. 166,173; 1983 a. 282; 1987 a. 344, 378, 399; 1989 a. 31,232; 1993 a. 486; 1995 a. 27, 225, 227, 435; 1997 a. 35,248.

17 **SECTION 250.** 946.14 of the statutes is amended to read:

18 **946.14 Purchasing claims at less than full value.** Any public officer or  
19 public employe who in a private capacity directly or indirectly intentionally  
20 purchases for less than full value or discounts any claim held by another against the  
21 state or a political subdivision thereof or against any public fund is guilty of a Class  
22 ~~E~~ I felony.

History: 1977 c. 173.

**SECTION 251.** 946.15 (1) of the statutes is amended to read:

946.15 (1) Any employer, or any agent or employe of an employer, who induces any person who seeks to be or is employed pursuant to a public contract as defined in s. 66.29 (1) (c) or who seeks to be or is employed on a project on which a prevailing wage rate determination has been issued by the department of workforce development under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to give up, waive or return any part of the compensation to which that person is entitled under his or her contract of employment or under the prevailing wage rate determination issued by the department or local governmental unit, or who reduces the hourly basic rate of pay normally paid to an employe for work on a project on which a prevailing wage rate determination has not been issued under s. 66.293 (3) or (6), 103.49 (3) or 103.50 (3) during a week in which the employe works both on a project on which a prevailing wage rate determination has been issued and on a project on which a prevailing wage rate determination has not been issued, is guilty of a Class ~~E~~ I felony.

History: 1979 c. 269; 1995 a. 27 s. 9130 (4); 1995 a. 215; 1997 a. 3.

**SECTION 252.** 946.15 (3) of the statutes is amended to read:

946.15 (3) Any employer or labor organization, or any agent or employe of an employer or labor organization, who induces any person who seeks to be or is employed on a project on which a prevailing wage rate determination has been issue'd by the department of workforce development under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to permit any part of the wages to which that person is entitled under the prevailing wage rate determination issued by the department or local governmental unit to be deducted from the person's pay is guilty of a Class ~~E~~ I felony, unless the deduction

1 would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project  
2 that is subject to 40 USC 276c.

3 History: 1979 c. 269; 1995 a 27 s. 9130 (4); 1995 a. 215; 1997 a. 3.

**SECTION 253.** 946.31 (1) (intro.) of the statutes is amended to read:

4 946.31 (1) (intro.) Whoever under oath or affirmation orally makes a false  
5 material statement which the person does not believe to be true, in any matter, cause,  
6 action or proceeding, before any of the following, whether legally constituted or  
7 exercising powers as if legally constituted, is guilty of a Class ~~D~~ H felony:

8 History: 1977 c. 173; 1979 c. 110.

**SECTION 254.** 946.32 (1) (intro.) of the statutes is amended to read:

9 946.32 (1) (intro.) Whoever does either of the following is guilty of a Class ~~D~~  
10 H felony:

11 History: 1977 c. 173; 1993 a. 486.

**SECTION 255.** 946.41 (2m) (intro.) of the statutes is amended to read:

12 946.41 (2m) (intro.) Whoever violates sub. (1) under all of the following  
13 circumstances is guilty of a Class ~~D~~ H felony:

14 History: 1977 c. 173; 1983 a. 189; 1989 a. 121; 1993 a. 486.

**SECTION 256.** 946.415 (2) (intro.) of the statutes is amended to read:

15 946.415 (2) (intro.) Whoever intentionally does all of the following is guilty of  
16 a Class ~~E~~ I felony:

17 History: 1995 a. 93.

**SECTION 257.** 946.42 (3) (intro.) of the statutes is amended to read:

18 946.42 (3) (intro.) A person in custody who intentionally escapes from custody  
19 under any of the following circumstances is guilty of a Class ~~D~~ H felony:

20 History: 1971 c. 164 s. 89; 1975 c. 39; 1977 c. 173, 312, 354, 418; 1985 a. 320; 1987 a. 27, 238, 352; 1987 a. 403 ss. 238, 239, 256; 1989 a. 31; 1993 a. 16, 377, 385, 491;  
1995 a. 27 ss. 7233m, 7233p, 9126 (19); 1995 a. 77, 154, 352, 390; 1997 a 35,283.

**SECTION 258.** 946.425 (1) of the statutes is amended to read:

1           946.425 **(1)** Any person who is subject to a series of periods of imprisonment  
2           under s. 973.03 (5) (b) and who intentionally fails to report to the county jail as  
3           required under the sentence is guilty of a Class **D H** felony.

History: 1989 a. 85; 1993 a. 213; 1995 a. 154.

4           **SECTION 259.** 946.425 (1m) (b) of the statutes is amended to read:

5           946.425 **(1m)** (b) Any person who receives a stay of execution of a sentence of  
6           imprisonment of 10 or more days to a county jail under s. 973.15 (8) (a) and who  
7           intentionally fails to report to the county jail as required under the sentence is guilty  
8           of a Class **D H** felony.

History: 1989 a. 85; 1993 a. 213; 1995 a. 154.

9           **SECTION 260.** 946.425 (1r) (b) of the statutes is amended to read:

10          946.425 **(1r)** (b) Any person who is subject to a confinement order under s.  
11          973.09 (4) as the result of a conviction for a felony and who intentionally fails to  
12          report to the county jail or house of correction as required under the order is guilty  
13          of a Class **D H** felony.

History: 1989 a. 85; 1993 a. 273; 1995 a. 154.

14          **SECTION 261.** 946.43 (intro.) of the statutes is amended to read:

15          **946.43 Assaults by prisoners.** (intro.) Any prisoner confined to a state  
16          prison or other state, county or municipal detention facility who intentionally does  
17          any of the following is guilty of a Class **C F** felony:

History: 1917 c. 173,273.

18          **SECTION 262.** 946.44 (1) (intro.) of the statutes is amended to read:

19          946.44 **(1)** (intro.) Whoever does the following is guilty of a Class **D H** felony:

History: 1977 c. 173; 1985 a. 320; 1987 a. 27, 236, 238, 403; 1989 a. 31,107; 1993 a. 16, 377, 385, 486, 491; 1995 a. 27, 77, 352.

20          **SECTION 263.** 946.44 (lg) of the statutes is amended to read:

21          946.44 **(lg)** Any public officer or public employe who violates sub. (1) (a) or (b)  
22          is guilty of a Class **C F** felony.

History: 1977 c. 173; 1985 a. 320; 1987 a. 27, 236, 238, 403; 1989 a. 31,107; 1993 a. 16, 377, 385, 486, 491; 1995 a. 27, 77, 352.

23          **SECTION 264.** 946.44 (1m) of the statutes is amended to read:



✓  
1            946.44 **(Im)** Whoever intentionally introduces into an institution where  
2            prisoners are detained or transfers to a prisoner any firearm, whether loaded or  
3            unloaded, or any article used or fashioned in a manner to lead another person to  
4            believe it is a firearm, is guilty of a Class ~~C~~ F felony.

History: 1977 c. 173; 1985 a. 320; 1987 a. 27, 236, 238, 403; 1989 a. 31,107; 1993 a. 16, 377, 385, 486, 491; 1995 a. 27, 77, 352.

5            **SECTION 265.** 946.47 (1) (intro.) of the statutes is amended to read:

6            946.47 (1) (intro.) Whoever does either of the following is guilty of a Class ~~E~~ I  
7            felony:

History: 1977 c. 173; 1993 a. 486.

8            **SECTION 266.** 946.48 (1) of the statutes is amended to read:

9            946.48 (1) Whoever sends, delivers, or causes to be transmitted to another any  
10            written or oral communication with intent to induce a false belief that the sender has  
11            knowledge of the whereabouts, physical condition, or terms imposed upon the return  
12            of a kidnapped or missing person is guilty of a Class ~~D~~ H felony

History: 1977 c. 173.

13            **SECTION 267.** 946.49 (1) (b) of the statutes is amended to read:

14            946.49 **(1)** (b) If the offense with which the person is charged is a felony, guilty  
15            of a Class ~~D~~ H felony.

History: 1977 c. 173.

16            **SECTION 268.** 946.49 (2) of the statutes is amended to read:

17            946.49 (2) A witness for whom bail has been required under s. 969.01 (3) is  
18            guilty of a Class ~~E~~ I felony for failure to appear as provided.

History: 1977 c. 173.

19            **SECTION 269.** 946.50 (5d) of the statutes is created to read:

20            946.50 (5d) A Class F felony, if the person was adjudicated delinquent for  
21            committing an act that would be a Class F felony if committed by an adult.

22            **SECTION 270.** 946.50 (5h) of the statutes is created to read:

1           946.50 (5h) A Class G felony, if the person was adjudicated delinquent for  
2 committing an act that would be a Class G felony if committed by an adult.

3           **SECTION 271.** 946.50 (5p) of the statutes is created to read:

4           946.50 (5p) A Class H felony, if the person was adjudicated delinquent for  
5 committing an act that would be a Class H felony if committed by an adult.

6           **SECTION 272.** 946.50 (5t) of the statutes is created to read:

7           946.50 (5t) A Class I felony, if the person was adjudicated delinquent for  
8 committing an act that would be a Class I felony if committed by an adult.

9           **SECTION 273.** 946.60 (1) of the statutes is amended to read:

10          946.60 (1) Whoever intentionally destroys, alters, mutilates, conceals,  
11 removes, withholds or transfers possession of a document, knowing that the  
12 document has been subpoenaed by a court or by or at the request of a district attorney  
13 or the attorney general, is guilty of a Class ~~E~~ I felony.

History: 1981 c. 306.

14          **SECTION 274.** 946.60 (2) of the statutes is amended to read:

15          946.60 (2) Whoever uses force, threat, intimidation or deception, with intent  
16 to cause or induce another person to destroy, alter, mutilate, conceal, remove,  
17 withhold or transfer possession of a subpoenaed document, knowing that the  
18 document has been subpoenaed by a court or by or at the request of a district attorney  
19 or the attorney general, is guilty of a Class ~~E~~ I felony.

History: 1981 c. 306.

20          **SECTION 275.** 946.61 (1) (intro.) of the statutes is amended to read:

21          946.61 (1) (intro.) Whoever does any of the following is guilty of a Class ~~D~~ H  
22 felony:

History: 1977 c. 173; 1979 c. 175; 1993 a. 486.

23          **SECTION 276.** 946.64 of the statutes is amended to read:

1           **946.64 Communicating with jurors. Whoever**, with intent to influence any  
 2 person, summoned or serving as a juror, in relation to any matter which is before that  
 3 person or which may be brought before that person, communicates with him or her  
 4 otherwise than in the regular course of proceedings in the trial or hearing of that  
 5 matter is guilty of a Class ~~E~~ I felony.

History: 1977 c. 173.

6           **SECTION 277.** 946.65 (1) of the statutes is amended to read:

7           946.65 **(1)** Whoever for a consideration knowingly gives false information to  
 8 any officer of any court with intent to influence the officer in the performance of  
 9 official functions is guilty of a Class ~~E~~ I felony.

History: 1977 c. 173.

10          **SECTION 278.** 946.68 (1r) (a) of the statutes is amended to read:

11          946.68 **(1r)** (a) Except as provided in pars. (b) and (c), whoever sends or delivers  
 12 to another any document which simulates legal process is guilty of a Class ~~E~~ I felony.

History: 1917 c. 173; 1997 a. 27.

13          **SECTION 279.** 946.68 (1r) (b) of the statutes is amended to read:

14          946.68 **(1r)** (b) If the document under par. (a) is sent or delivered with intent  
 15 to induce payment of a claim, the person is guilty of a Class ~~D~~ H felony.

History: 1977 c. 173; 1997 a. 27.

16          **SECTION 280.** 946.68 (1r)(c) of the statutes is amended to read:

17          946.68 **(1r)** (c) If the document under par. (a) simulates any criminal process,  
 18 the person is guilty of a Class ~~D~~ H felony.

History: 1977 c. 173; 1997 a. 27.

19          **SECTION 281.** 946.69 (2) (intro.) of the statutes is amended to read:

20          946.69 (2) (intro.) Whoever does any of the following is guilty of a Class ~~E~~ I  
 21 felony:

History: 1977 c. 173; 1993 a. 146,486; 1995 a. 225; 1997 a. 27.

22          **SECTION 282.** 946.70 (2) of the statutes is amended to read:

1           946.70 (2) Any person violating sub. (1) with the intent to commit or aid or abet  
2 the commission of a crime other than the crime under this section is guilty of a Class  
3 **D H** felony.

History: 1977 c. 173; 1985 a. 97,332.

4           **SECTION 283.** 946.72 (1) of the statutes is amended to read:

5           946.72 **(1)** Whoever with intent to injure or defraud destroys, damages,  
6 removes or conceals any public record is guilty of a Class **D H** felony

History: 1977 c. 173; 1981 c. 335.

7           **SECTION 284.** 946.74 (2) of the statutes is amended to read:

8           946.74 (2) Whoever violates sub. (1) with intent to commit a crime against  
9 sexual morality with or upon the inmate of the institution is guilty of a Class **D H**  
10 felony.

History: 1977 c. 173.

11          **SECTION 285.** 946.76 of the statutes is amended to read:

12           **946.76 Search warrant; premature disclosure.** Whoever discloses prior  
13 to its execution that a search warrant has been applied for or issued, except so far  
14 as may be necessary to its execution, is guilty of a Class **E I** felony.

History: 1977 c. 173.

15          **SECTION 286.** 946.82 (4) of the statutes is amended to read:

16           946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961  
17 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission  
18 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (l),  
19 180.0129, 181.0129, 185.825, 200.09 (2), 215.12, 221.0625, 221.0636, 221.0637,  
20 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,  
21 940.19 (3) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20  
22 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 943.01 (2) ~~or (2g)~~<sup>✓</sup>, 943.011,  
23 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (b) to (d)

1 (e), 943.201, 943.23 (lg), (lm), ~~(lr)~~, (2) and (3), 943.24 (2), 943.25, 943.27, 943.28,  
 2 943.30, 943.32, 943.34 (1) (b), ~~(bm)~~ and(c), 943.38, 943.39, 943.40, 943.41 (8) (b) and  
 3 (c), 943.50 (4) (b), ~~(bm)~~ and (c), 943.60, 943.70, 944.205, 944.21 (5) (c) and (e), 944.32,  
 4 944.33 (2), 944.34, 945.03, 945.04, 945.05, 945.08, 946.10, 946.11, 946.12, 946.13,  
 5 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 947.015,  
 6 948.05, 948.08, 948.12 and 948.30.

History: 1981 c. 280, 1983 a. 438; 1985 a. 104; 1985 a. 236 s. 15; 1987 a. 266 s. 5; 1987 a. 332, 348, 349, 403; 1989 a. 121, 303, 1991 a. 32, 39, 189; 1993 a. 50, 92, 94, 112, 280, 441, 491; 1995 a. 133, 249, 336, 448; 1997 a. 35, 79, 101, 140, 143, 252.

7 **SECTION 287.** 946.84 (1) of the statutes is amended to read:

8 946.84 (1) Any person convicted of engaging in racketeering activity in  
 9 violation of s. 946.83 is guilty of a Class ~~C~~ E felony.

History: 1981 c. 280, 391.

10 **SECTION 288.** 946.85 (1) of the statutes, as affected by 1997 Wisconsin Act 283,  
 11 is amended to read:

12 946.85 (1) Any person who engages in a continuing criminal enterprise ~~shall~~  
 13 ~~be imprisoned not less than 10 years nor more than 30 years, and fined not more than~~  
 14 ~~\$10,000 or as provided in s. 946.84 (2). If the court imposes a sentence less than the~~  
 15 ~~presumptive minimum sentence, it shall place its reasons for doing so on the record~~  
 16 is guilty of a Class D felony. except that instead of imposing a fine as provided under  
 17 s. 939.50 (3) (d), a court may fine the person as provided in s. 946.84 (2).

NOTE: NOTE: Sub. (1) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

History: 1981 c. 280; 1997 a. 283.

18 **SECTION 289.** 947.013 (It) of the statutes is amended to read:

19 947.013 (1t) Whoever violates sub. (lr) is guilty of a Class ~~E~~ I felony if the  
 20 person has a prior conviction under this subsection or sub. (lr), (1v) or (lx) or s.  
 21 940.32 (2), (2m), (3) or (3m) involving the same victim and the present violation  
 22 occurs within 7 years of the prior conviction.

History: 1983 a. 336; 1991 a. 194; 1993 a. 496.

23 **SECTION 290.** 947.013 (1v) of the statutes is amended to read:

1           947.013 (1v) Whoever violates sub. (1r) is guilty of a Class **D H** felony if he or  
2 she intentionally gains access to a record in electronic format that contains  
3 personally identifiable information regarding the victim in order to facilitate the  
4 violation under sub. (1r).

History: 1983 a. 336; 1991 a. 194; 1993 a. 496.

5           **SECTION 291.** 947.013 (1x) (intro.) of the statutes is amended to read:

6           947.013 (1x) (intro.) Whoever violates sub. (1r) under all of the following  
7 circumstances is guilty of a Class **D H** felony:

History: 1983 a. 336; 1991 a. 194; 1993 a. 496.

8           **SECTION 292.** 947.015 of the statutes is amended to read:

9           **947.015 Bomb scares.** Whoever intentionally conveys or causes to be  
10 conveyed any threat or false information, knowing such to be false, concerning an  
11 attempt or alleged attempt being made or to be made to destroy any property by the  
12 means of explosives is guilty of a Class **E I** felony.

History: 1977 c. 173.

13           **SECTION 293.** 948.02 (2) of the statutes is amended to read:

14           948.02 (2) SECOND DEGREE SEXUAL ASSAULT. Whoever has sexual contact or  
15 sexual intercourse with a person who has not attained the age of 16 years is guilty  
16 of a Class **BC C** felony.

History: 1987 a. 332; 1989 a. 31; 1995 a. 14, 69.

17           **SECTION 294.** 948.02 (3) of the statutes is amended to read:

18           948.02 (3) **FAILURE TO ACT.** A person responsible for the welfare of a child who  
19 has not attained the age of 16 years is guilty of a Class **C F** felony if that person has  
20 knowledge that another person intends to have, is having or has had sexual  
21 intercourse or sexual contact with the child, is physically and emotionally capable  
22 of taking action which will prevent the intercourse or contact from taking place or  
23 being repeated, fails to take that action and the failure to act exposes the child to an

1 unreasonable risk that intercourse or contact may occur between the child and the  
2 other person or facilitates the intercourse or contact that does occur between the  
3 child and the other person.

History: 1987 a. 332; 1989 a. 31; 1995 a. 14, 69.

4 **SECTION 295.** 948.02 (3m) of the statutes is repealed. ✓

5 **SECTION 296.** 948.025 (1) of the statutes is renumbered 948.025 (1) (intro.) and  
6 amended to read:

7 948.025 (1) (intro.) Whoever commits 3 or more violations under s. 948.02 (1)  
8 or (2) within a specified period of time involving the same child is guilty of a:

9 (a) A Class B felony if at least 3 of the acts were violations of s. 948.02 (1).

History: 1993 a. 227; 1995 a. 14.

10 **SECTION 297.** 948.025 (1) (b) of the statutes is created to read:

11 948.025 (1) (b) A Class C felony if fewer than 3 of the acts were violations of  
12 s. 948.02 (1).

13 **SECTION 298.** 948.025 (2) of the statutes is renumbered 948.025 (2) (b) and  
14 amended to read:

15 948.025 (2) (b) If an action under sub. (1) (b) is tried to a jury, in order to find  
16 the defendant guilty the members of the jury must unanimously agree that at least  
17 3 violations of s. 948.02 (1) or (2) occurred within the time specified period applicable  
18 ~~under su—(1) of time~~ but need not agree on which acts constitute the requisite  
19 number.

History: 1993 a. 227; 1995 a. 14.

20 **SECTION 299.** 948.025 (2) (a) of the statutes is created to read:

21 948.025 (2) (a) If an action under sub. (1) (a) is tried to a jury, in order to find  
22 the defendant guilty the members of the jury must unanimously agree that at least  
23 3 violations of s. 948.02 (1) occurred within the specified period of time but need not  
24 agree on which acts constitute the requisite number.

1           **SECTION 300.** 948.025 (2m) of the statutes is repealed.

2           **SECTION 301.** 948.03 (2) (a) of the statutes is amended to read:

3           948.03 (2) (a) Whoever intentionally causes great bodily harm to a child is  
4 guilty of a Class ~~C~~ E felony.

5 History: 1987 a. 332.

6           **SECTION 302.** 948.03 (2) (b) of the statutes is amended to read:

7           948.03 (2) (b) Whoever intentionally causes bodily harm to a child is guilty of  
8 a Class ~~D~~ H felony.

9 History: 1987 a. 332.

10          **SECTION 303.** 948.03 (2) (c) of the statutes is amended to read:

11          948.03 (2) (c) Whoever intentionally causes bodily harm to a child by conduct  
12 which creates a high probability of great bodily harm is guilty of a Class ~~C~~ F felony.

13 History: 1987 a. 332.

14          **SECTION 304.** 948.03 (3) (a) of the statutes is amended to read:

15          948.03 (3) (a) Whoever recklessly causes great bodily harm to a child is guilty  
16 of a Class ~~D~~ G felony.

17 History: 1987 a. 332.

18          **SECTION 305.** 948.03 (3) (b) of the statutes is amended to read:

19          948.03 (3) (b) Whoever recklessly causes bodily harm to a child is guilty of a  
20 Class ~~E~~ I felony.

21 History: 1987 a. 332.

22          **SECTION 306.** 948.03 (3) (c) of the statutes is amended to read:

23          948.03 (3) (c) Whoever recklessly causes bodily harm to a child by conduct  
which creates a high probability of great bodily harm is guilty of a Class ~~D~~ H felony.

24 History: 1987 a. 332.

25          **SECTION 307.** 948.03 (4) (a) of the statutes is amended to read:

26          948.03 (4) (a) A person responsible for the child's welfare is guilty of a Class  
27 ~~C~~ F felony if that person has knowledge that another person intends to cause, is  
28 causing or has intentionally or recklessly caused great bodily harm to the child and



1 is physically and emotionally capable of taking action which will prevent the bodily  
2 harm from occurring or being repeated, fails to take that action and the failure to act  
3 exposes the child to an unreasonable risk of great bodily harm by the other person  
4 or facilitates the great bodily harm to the child that is caused by the other person.

History: 1987 a. 332.

5 **SECTION 308.** 948.03 (4) (b) of the statutes is amended to read:

6 948.03 (4) (b) A person responsible for the child's welfare is guilty of a Class  
7 ~~D~~ H felony if that person has knowledge that another person intends to cause, is  
8 causing or has intentionally or recklessly caused bodily harm to the child and is  
9 physically and emotionally capable of taking action which will prevent the bodily  
10 harm from occurring or being repeated, fails to take that action and the failure to act  
11 exposes the child to an unreasonable risk of bodily harm by the other person or  
12 facilitates the bodily harm to the child that is caused by the other person.

History: 1987 a. 332.

13 **SECTION 309.** 948.04 (1) of the statutes is amended to read:

14 948.04 (1) Whoever is exercising temporary or permanent control of a child and  
15 causes mental harm to that child by conduct which demonstrates substantial  
16 disregard for the mental well-being of the child is guilty of a Class ~~C~~ F felony.

History: 1987 a. 332.

17 **SECTION 310.** 948.04 (2) of the statutes is amended to read:

18 948.04 (2) A person responsible for the child's welfare is guilty of a Class ~~C~~ F  
19 felony if that person has knowledge that another person has caused, is causing or will  
20 cause mental harm to that child, is physically and emotionally capable of taking  
21 action which will prevent the harm, fails to take that action and the failure to act  
22 exposes the child to an unreasonable risk of mental harm by the other person or  
23 facilitates the mental harm to the child that is caused by the other person.

History: 1987 a. 332.

1           **SECTION 311.** 948.05 (1) (intro.) of the statutes is amended to read:

2           948.05 **(1)** (intro.) Whoever does any of the following with knowledge of the  
3 character and content of the sexually explicit conduct involving the child is guilty of  
4 a Class ~~C~~ F felony:

5           <sup>History: 1987 a. 332.</sup> **SECTION 312.** 948.05 **(1m)** of the statutes, as affected by 1999 Wisconsin Act 3,  
6 is amended to read:

7           948.05 **(1m)** Whoever produces, performs in, profits from, promotes, imports  
8 into the state, reproduces, advertises, sells, distributes or possesses with intent to  
9 sell or distribute, any undeveloped film, photographic negative, photograph, motion  
10 picture, videotape, sound recording or other reproduction of a child engaging in  
11 sexually explicit conduct is guilty of a Class ~~C~~ F felony if the person knows the  
12 character and content of the sexually explicit conduct involving the child and if the  
13 person knows or reasonably should know that the child engaging in the sexually  
14 explicit conduct has not attained the age of 18 years.

15           <sup>History: 1999 a. 3.</sup> **SECTION 313.** 948.05 (2) of the statutes, as affected by 1999 Wisconsin Act 3,  
16 is amended to read:

17           948.05 (2) A person responsible for a child's welfare who knowingly permits,  
18 allows or encourages the child to engage in sexually explicit conduct for a purpose  
19 proscribed in sub. (1) (a) or (b) or (1m) is guilty of a Class ~~C~~ F felony.

20           <sup>History: 1987 a. 332.</sup> **SECTION 314.** 948.055 (2) (a) of the statutes is amended to read:

21           948.055 (2) (a) A Class ~~C~~ F felony if the child has not attained the age of 13  
22 years.

23           <sup>History: 1987 a. 334; 1989 a. 359; 1993 a. 218 ss. 6, 7; Stats. 1993 s. 948.055; 1995 a. 67.</sup> **SECTION 315.** 948.055 (2) (b) of the statutes is amended to read:

1           948.055 (2) (b) A Class ~~D~~ H felony if the child has attained the age of 13 years  
2 but has not attained the age of 18 years.

History: 1987 a. 334; 1989 a. 359; 1993 a. 218 ss. 6, 7; Stats. 1993 s. 948.055; 1995 a. 67.

3           **SECTION 316.** 948.06 (intro.) of the statutes is amended to read:

4           **948.06 Incest with a child.** (intro.) Whoever does any of the following is  
5 guilty of a Class ~~BC~~ C felony:

History: 1987 a. 332; 1995 a. 69.

6           **SECTION 317.** 948.07 (intro.) of the statutes is amended to read:

7           **948.07 Child enticement.** (intro.) Whoever, with intent to commit any of the  
8 following acts, causes or attempts to cause any child who has not attained the age  
9 of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class  
10 ~~BC~~ D felony:

History: 1987 a. 332; 1995 a. 67, 69, 448, 456.

11          **SECTION 318.** 948.08 of the statutes is amended to read:

12          **948.08 Soliciting a child for prostitution.** Whoever intentionally solicits  
13 or causes any child to practice prostitution or establishes any child in a place of  
14 prostitution is guilty of a Class ~~BC~~ D felony.

History: 1987 a. 332; 1995 a. 69.

15          **SECTION 319.** 948.095 (2) (intro.) of the statutes is amended to read:

16          948.095 (2) (intro.) Whoever has sexual contact or sexual intercourse with a  
17 child who has attained the age of 16 years and who is not the defendant's spouse is  
18 guilty of a Class ~~D~~ H felony if all of the following apply:

History: 1995 a. 456.

19          **SECTION 320.** 948.11 (2) (a) of the statutes is amended to read:

20          948.11 (2) (a) Whoever, with knowledge of the nature of the material, sells,  
21 rents, exhibits, transfers or loans to a child any harmful material, with or without  
22 monetary consideration, is guilty of a Class ~~E~~ I felony.

History: 1987 a. 332; 1989 a. 31; 1993 a. 220, 399; 1995 a. 27 s. 91.54 (1); 1997 a. 27, 82.

23          **SECTION 321.** 948.11 (2) (am) of the statutes is amended to read:

1           948.11 (2) (am) Any person who has attained the age of 17 and who, with  
2 knowledge of the nature of the description or narrative account, verbally  
3 communicates, by any means, a harmful description or narrative account to a child,  
4 with or without monetary consideration, is guilty of a Class ~~E~~ I felony.

History: 1987 a. 332; 1989 a. 31; 1993 a. 220,399; 1995 a. 27 s. 9154 (1); 1997 a. 27.82.

5           **SECTION 322. 948.12 (intro.)** of the statutes is amended to read:

6           **948.12 Possession of child pornography.** (intro.) Whoever possesses any  
7 undeveloped film, photographic negative, photograph, motion picture, videotape or  
8 other pictorial reproduction or audio recording of a child engaged in sexually explicit  
9 conduct under all of the following circumstances is guilty of a Class ~~E~~ I felony:

History: 1987 a. 332; 1995 a. 67.

10          **SECTION 323. 948.13 (2)** of the statutes is amended to read:

11           948.13 (2) Whoever has been convicted of a serious child sex offense and  
12 subsequently engages in an occupation or participates in a volunteer position that  
13 requires him or her to work or interact primarily and directly with children under  
14 16 years of age is guilty of a Class ~~C~~ F felony. This subsection does not apply to a  
15 person who is exempt under a court order issued under sub. (2m).

History: 1995 a. 265; 1997 a. 130,220.

16          **SECTION 324. 948.20** of the statutes is amended to read:

17           **948.20 Abandonment of a child.** Whoever, with intent to abandon the child,  
18 leaves any child in a place where the child may suffer because of neglect is guilty of  
19 a Class ~~D~~ G felony.

History: 1977 c. 173; 1987 a. 332 s. 35; Stats. 1987 s. 948.20.

20          **SECTION 325. 948.21 (1)** of the statutes is amended to read:

21           948.21 (1) Any person who is responsible for a child's welfare who, through his  
22 or her actions or failure to take action, intentionally contributes to the neglect of the

1 child is guilty of a Class A misdemeanor or, if death is a consequence, a Class ~~C~~ D  
2 felony.

3 History: 1981 a. 332.

**SECTION 326.** 948.22 (2) of the statutes is amended to read:

4 948.22 (2) Any person who intentionally fails for 120 or more consecutive days  
5 to provide spousal, grandchild or child support which the person knows or reasonably  
6 should know the person is legally obligated to provide is guilty of a Class ~~E~~ I felony.  
7 A prosecutor may charge a person with multiple counts for a violation under this  
8 subsection if each count covers a period of at least 120 consecutive days and there is  
9 no overlap between periods.

10 History: 1985 a. 29, 56; 1987 a. 332 s. 33; Stats. 1987 s. 948.22; 1989 a. 31,212; 1993 a. 274,481; 1995 a. 289; 1991 a. 35, 191, 252.

**SECTION 327.** 948.23 of the statutes is amended to read:

11 **948.23 Concealing death of child.** Any person who conceals the corpse of  
12 any issue of a woman's body with intent to prevent a determination of whether it was  
13 born dead or alive is guilty of a Class ~~E~~ I felony.

14 History: 1977 c. 113; 1987 a. 332 s. 47; Stats. 1987 s. 948.23.

**SECTION 328.** 948.24 (1) (intro.) of the statutes is amended to read:

15 948.24 (1) (intro.) Whoever does any of the following is guilty of a Class ~~D~~ H  
16 felony:

17 History: 1981 c. 81; 1981 a. 332 s. 50; Stats. 1981 s. 948.24; 1989 a. 161; 1997 a. 104.

**SECTION 329.** 948.30 (1) (intro.) of the statutes is amended to read:

18 948.30 (1) (intro.) Any person who, for any unlawful purpose, does any of the  
19 following is guilty of a Class ~~C~~ E felony:

20 History: 1987 a. 332.

**SECTION 330.** 948.30 (2) (intro.) of the statutes is amended to read:

21 948.30 (2) (intro.) Any person who, for any unlawful purpose, does any of the  
22 following is guilty of a Class ~~B~~ C felony:

23 History: 1987 a. 332.

**SECTION 331.** 948.31 (1) (b) of the statutes is amended to read:

1            948.31 (1) (b) Except as provided under chs. 48 and 938, whoever intentionally  
 2 causes a child to leave, takes a child away or withholds a child for more than 12 hours  
 3 beyond the court-approved period of physical placement or visitation period from a  
 4 legal custodian with intent to deprive the custodian of his or her custody rights  
 5 without the consent of the custodian is guilty of a Class ~~C~~ F felony. This paragraph  
 6 is not applicable if the court has entered an order authorizing the person to so take  
 7 or withhold the child. The fact that joint legal custody has been awarded to both  
 8 parents by a court does not preclude a court from finding that one parent has  
 9 committed a violation of this paragraph.

History: 1987 a. 332; 1989 a. 31, 56, 107; 1993 a. 302; 1995 a. 27 ss. 7237, 9126 (19); 1995 a. 77; 1997 a. 290.

10            **SECTION 332. 948.31 (2) of the statutes is amended to read:**

11            948.31 (2) Whoever causes a child to leave, takes a child away or withholds a  
 12 child for more than 12 hours from the child's parents or, in the case of a nonmarital  
 13 child whose parents do not subsequently intermarry under s. 767.60, from the child's  
 14 mother or, if he has been granted legal custody, the child's father, without the consent  
 15 of the parents, the mother or the father with legal custody, is guilty of a Class ~~E~~ I  
 16 felony. This subsection is not applicable if legal custody has been granted by court  
 17 order to the person taking or withholding the child.

History: 1987 a. 332; 1989 a. 31.56, 107; 1993 a. 302; 1995 a. 27 ss. 7237, 9126 (19); 1995 a. 77; 1997 a. 290.

18            **SECTION 333. 948.31 (3) (intro.) of the statutes is amended to read:**

19            948.31 (3) (intro.) Any parent, or any person acting pursuant to directions from  
 20 the parent, who does any of the following is guilty of a Class ~~C~~ F felony:

History: 1987 a. 332; 1989 a. 31, 56, 107; 1993 a. 302; 1995 a. 27 ss. 7237, 9126(19); 1995 a. 77; 1997 a. <sup>a. 290.</sup> ~~4-6~~ ] 290. ✓

21            **[End of Insert**

22            **INSERT 5-15:** ✓

23            **SECTION 334. 948.40 (4) (b) of the statutes is amended to read:**

1            948.40 (4) (b) If the child's act which is encouraged or contributed to is a  
2 violation of a state or federal criminal law which is punishable as a felony, the person  
3 is guilty of a Class ~~D~~ H felony.

History: 1987 a. 332; 1989 a. 31; 1995 a. 77.

4            **SECTION 335.** 948.51 (3) (b) of the statutes is amended to read:

5            948.51 (3) (b) A Class ~~E~~ H felony if the act results in great bodily harm ~~or death~~  
6 to another.

History: 1983 a. 356; 1987 a. 332 s. 32; Stats. 1987 s. 948.51.

7            **SECTION 336.** 948.51 (3) (c) of the statutes is created to read:

8            948.51 (3) (c) A Class G felony if the act results in the death of another.

9            **SECTION 337.** 948.60 (2) (b) of the statutes is amended to read:

10           948.60 (2) (b) Except as provided in par. (c), any person who intentionally sells,  
11 loans or gives a dangerous weapon to a person under 18 years of age is guilty of a  
12 Class E I felony.

History: 1987 a. 332; 1991 a. 18,139; 1993 a. 98; 1995 a. 27,77; 1997 a. 248.

13           **SECTION 338.** 948.60 (2) (c) of the statutes is amended to read:

14           948.60 (2) (c) Whoever violates par. (b) is guilty of a Class ~~D~~ H felony if the  
15 person under 18 years of age under par. (b) discharges the firearm and the discharge  
16 causes death to himself, herself or another.

History: 1987 a. 332; 1991 a. 18, 139; 1993 a. 98; 1995 a. 27, 77; 1997 a. 248.

17           **SECTION 339.** 948.605 (2) (a) of the statutes is amended to read:

18           948.605 (2) (a) Any individual who knowingly possesses a firearm at a place  
19 that the individual knows, or has reasonable cause to believe, is a school zone is  
20 guilty of a Class ~~A misdemeanor~~ I felony. *strike space?*

History: 1991 a. 17; 1993 a. 336.

21           **SECTION 340.** 948.605 (3) (a) of the statutes is amended to read:

1           948.605 (3) (a) Any individual who knowingly, or with reckless disregard for  
2           the safety of another, discharges or attempts to discharge a firearm at a place the  
3           individual knows is a school zone is guilty of a Class ~~D~~ H felony.

History: 1991 a. 17; 1993 a. 336.

4           **SECTION 341.** 948.605 (4) of the statutes is repealed.

5           **SECTION 342.** 948.61 (2) (b) of the statutes is amended to read:

6           948.61 (2) (b) A Class ~~E~~ I felony, if the violation is the person's 2nd or  
7           subsequent violation of this section within a 5-year period, as measured from the  
8           dates the violations occurred.

History: 1987 a. 332; 1991 a. 17; 1993 a. 336; 1995 a. 27.77.

9           **SECTION 343.** 948.62 (1) (a) of the statutes is amended to read:

10          948.62 (1) (a) A Class ~~E~~ felony A misdemeanor, if the value of the property does  
11          not exceed \$500.

History: 1987 a. 332.

12          **SECTION 344.** 948.62 (1) (b) of the statutes is amended to read:

13          948.62 (1) (b) A Class ~~D~~ I felony, if the value of the property exceeds \$500 but  
14          does not exceed ~~\$2,500~~ \$2,000.

History: 1987 a. 332.

15          **SECTION 345.** 948.62 (1) (bm) of the statutes is created to read:

16          948.62 (1) (bm) A Class H felony, if the value of the property exceeds \$2,000 but  
17          does not exceed \$5,000.

18          **SECTION 346.** 948.62 (1) (c) of the statutes is amended to read:

19          948.62 (1) (c) A Class ~~C~~ G felony, if the value of the property exceeds ~~\$2,500~~  
20          \$5,000.

History: 1987 a. 332.

21          **SECTION 347.** 949.03 (1) (b) of the statutes is amended to read:

22          949.03 (1) (b) The commission or the attempt to commit any crime specified in  
23          s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,



1 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,  
2 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,  
3 943.04, 943.10, 943.20, 943.23 (1g), orm ) or ~~(1r)~~, 943.32, 948.02, 948.025, 948.03,  
4 948.04, 948.07, 948.095, 948.20, 948.30 or 948.51.

History: 1975 c. 224 s. 145za; 1975 c. 344.1977 c. 173,239; 1979 c 118; 1983 a. 199, 356, 538; 1985 a. 275; 1985 a. 293 s. 3; 1985 a. 306 s.1987 a. 403; 1989 a. 105, 140,359; 1993 a. 92,227; 1995 a. 153, 374, 456; 1997 a. 35, 143, 258

5 **SECTION 348. 951.18 (1) of the statutes** affected by 1997 Wisconsin Act, 192, 90, 332, 380, 399 ✓

6 is amended to read:

7 951.18 (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05,  
8 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a  
9 Class C forfeiture. Any person who violates any of these provisions within 3 years  
10 after a humane officer issues an abatement order under s. 173.11 prohibiting the  
11 violation of that provision is subject to a Class A forfeiture. Any person who  
12 intentionally or negligently violates any of those sections is guilty of a Class A  
13 misdemeanor. Any person who intentionally violates s. 951.02, resulting in the  
14 mutilation, disfigurement or death of an animal, is guilty of a Class ~~E~~ I felony. Any  
15 person who intentionally violates s. 951.02 or 951.06, knowing that the animal that  
16 is the victim is used by a law enforcement agency to perform agency functions or  
17 duties and causing injury to the animal, is guilty of a Class ~~E~~ I felony.

NOTE: NOTE: Sub. (1) is amended eff. 12-1-99 by 1997 Wis. Act 192 to read:NOTE:

History: 1973 c. 314; 1977 c. 173; 1981 c. 160; 1983 a. 95; 1985 a. 48 s. 2; 1985 a. 263; 1987 a. 248; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.18; 1987 a. 403 s. 256; 1989 a. 56 s. 259; 1989 a. 223; 1993 a. 192; 1997 a. 27,192.

18 **SECTION 349. 951.18 (2) of the statutes** is amended to read:

1 9 951.18 (2) Any person who violates s. 951.08 (2m) or (3) is guilty of a Class A  
20 misdemeanor. Any person who violates s. 951.08 (1) or (2) is guilty of a Class ~~E~~ I  
21 felony for the first violation and is guilty of a Class ~~D~~ H felony for the 2nd or  
22 subsequent violation.

History: 1973 c. 314; 1977 c. 173; 1981 c. 160; 1983 a. 95; 1985 a. 48 s. 2; 1985 a. 263; 1987 a. 248; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.18; 1987 a. 403 s. 256; 1989 a. 56 s. 259; 1989 a. 223; 1993 a. 192; 1997 a. 27,192.

SECTION 350. 951.18 (2m) of the statutes is amended to read:

951.18 (2m) Any person who violates s. 951.095 is subject to a Class B forfeiture. Any person who intentionally or negligently violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties, is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing injury to the animal, is guilty of a Class ~~E~~ I felony. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing death to the animal, is guilty of a Class ~~D~~ H felony.

History: 1973 c. 314; 1977 c. 173; 1981 c. 160; 1983 a. 95; 1985 a. 48 s. 2; 1985 a. 263; 1987 a. 248; 1987 a. 332 ss. 54, 64 Stats. 1987 s. 951.18; 1987 a. 403 s. 256; 1989 a. 56 s. 259; 1989 a. 223; 1993 a. 192; 1997 a. 27, 192.

**[End of Insert 5-15]**

**INSERT 6-1:**

SECTION 351. 968.255 (1) (a) 2. of the statutes is amended to read:

968.255 (1) (a) 2. Arrested for any misdemeanor under s. 167.30, 940.19, 941.20 (l), 941.23, 941.237, 941.24, 948.60, ~~948.605 (2) (a)~~ or 948.61.

History: 1979 c. 240, 1981 c. 297; 1987 a. 332; 1991 a 17; 1993 a. 95, 105; 1995 a. 77, 154; 1997 a. 35.

**[End of Insert 6-1]**

**INSERT 6-4:**

SECTION 352. 969.08 (10) (b) of the statutes is amended to read:

969.08 (10) (b) "Serious crime" means any crime specified in s. 346.62 (4), 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) lg., lm., lr., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30,

1 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10,  
2 943.23 (1g), or (1m) ~~or (1r)~~, 943.30, 943.32, 946.01, 946.02, 946.43, 947.015, 948.02  
3 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07 or 948.30.

NOTE: NOTE: Par. (b) is shown as affected by ~~three~~ acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:

History: 1971 c. 298; 1977 c. 449; 1979 c. 112; 1981 c. 183; 1985 a. 293 s. 3; 1987 a. 90, 332, 399, 403; 1991 a. 153,269; 1993 a. 50, 92, 94, 227, 441, 445, 491; 1997 a. 143, 180, 295; s 13.93 (2) (c).

4 SECTION 353. 971.17 (1) of the statutes is amended to read:

5 97 1.17 (1) COMMITMENT PERIOD. When a defendant is found not guilty by reason  
6 of mental disease or mental defect, the court shall commit the person to the  
7 department of health and family services for a specified period not exceeding  
8 two-thirds of the maximum term of imprisonment that could be imposed under s.  
9 973.15 (2) (a) against an offender convicted of the same crime or crimes, including  
10 imprisonment authorized by ~~ss. 346.65 (2) (f), (2j) (d) or (3m), 939.62, 939.621,~~  
11 ~~939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b), 940.25 (1b) and 961.48 and~~  
12 ~~other any applicable~~ penalty enhancement statutes, ~~as applicable~~, subject to the  
13 credit provisions of s. 973.155. If the maximum term of imprisonment is life, the  
14 commitment period specified by the court may be life, subject to termination under  
15 sub. (5).

(2d) History: 1990 73 99 130 399 782, 269; 1997 ac. 142, 98, 227; 1998 a. 259; 1999 Sup. Ct. Order, 1995 W. (2d) 4251 987; 448 790 739 435 989 4831, 142, 334, 359; Sup. Ct. Order, 158 W

16 SECTION 354. 973.01 (2) (b) 2. of the statutes is repealed.

17 SECTION 355. 973.01 (2) (b) 3. of the statutes is amended to read:

18 973.01 (2) (b) 3. For a Class C felony, the term of confinement in prison may  
19 not exceed ~~10~~ 25 years.

History: 1997 a. 283.

20 SECTION 356. 973.01 (2) (b) 4. of the statutes is amended to read:

21 973.01 (2) (b) 4. For a Class D felony, the term of confinement in prison may  
22 not exceed 5 15 years.

History: 1997 a. 283.

1           **SECTION 357.** 973.01 (2) (b) 5. of the statutes is amended to read:

2           973.01 (2) (b) 5. For a Class E felony, the term of confinement in prison may  
3 not exceed ~~2~~ 10 years.

①

④ History: 1997 a. 283. **SECTION 358.** 973.01 (2) (b) 6. of the statutes is renumbered ~~43.05~~ 973.01 (2) (b) 10.  
5 and amended to read:

⑥ ~~973.01~~ 973.01 (2) (b) 10. For any felony other than a felony specified in subds. 1. to ~~5.~~  
7 9., the term of confinement in prison may not exceed 75% of the total length of the  
8 bifurcated sentence.

History: 1997 a. 283.

9           **SECTION 359.** 973.01 (2) (b) 6m. of the statutes is created to read:

10          973.01 (2) (b) 6m. For a Class F felony, the term of confinement in prison may  
11 not exceed 7 years and 6 months.

12          **SECTION 360.** 973.01 (2) (b) 7. of the statutes is created to read:

13          973.01 (2) (b) 7. For a Class G felony, the term of confinement in prison may  
14 not exceed 5 years.

15          **SECTION 361.** 973.01 (2) (b) 8. of the statutes is created to read:

16          973.01 (2) (b) 8. For a Class H felony, the term of confinement in prison may  
17 not exceed 3 years,

18          **SECTION 362.** 973.01 (2) (b) 9. of the statutes is created to read:

19          973.01 (2) (b) 9. For a Class I felony, the term of confinement in prison may not  
20 exceed one year and 6 months.

② ~~SECTION 363.~~ 973.01 (2) (d) (title) of the statutes is amended to read:

② ~~973.01 (2) (d) (title)~~ *Minimum and maximum term of extended supervision.*

INS. 71-A

History: 1997 a. 283.

23          **SECTION 364.** 973.01 (2) (d) of the statutes is renumbered 973.01 (2) (d) (intro.)

24 and amended to read:

Ins 71-A [Sr. p. 70]

1

973.01 (2) (d) (intro.) The term of extended supervision that follows the term of confinement in prison may not be less than 25% of the length of the term of confinement in prison imposed under par. (b); and may not exceed whichever of the following is applicable:

5

History: 1991 a 283.

**SECTION 365.** 973.01 (2) (d) 1. to §. of the statutes are created to read:

6

973.01 (2) (d) 1. For a Class B felony, the term of extended supervision may not exceed 20 years.

8

2. For a Class C felony, the term of extended supervision may not exceed 15 years.

10

3. For a Class D felony, the term of extended supervision may not exceed 10 years.

12

4. For a Class E, F or G felony, the term of extended supervision may not exceed 5 years.

14

5. For a Class H felony, the term of extended supervision may not exceed 3 years.

16

6. For a Class I felony, the term of extended supervision may not exceed 2 years.

17

**[End of Insert 6-4]**

18

**INSERT 6-10:**

19

**SECTION 366.** 973.03 (3) (e) 1. and 2. of the statutes are amended to read:

20

973.03 (3) (e) 1. A crime which is a Class A ~~or~~ B or C felony.

21

2. A crime which is a Class C, D, E, F or G felony listed in s. 969.08 (10) (b), but

22

not including any crime specified in s. 943.10.

23

History: 1971 c. 298; 1983 a. 110, 192; 1985 a. 150; 1987 a. 27; 1987 a. 33~~2~~ s. 64; 1987 a. 398,399; 1989 a. 31.85; 1993 a. 48; 1995 a. 281,448.

**SECTION 367.** 973.03 (3) (e) 3. of the statutes is repealed.

24

**SECTION 368.** 973.075 (1) (b) lm. e. of the statutes is amended to read:

1           973.075 (1) (b) Im. e. To cause more than ~~\$1,000~~ \$2,000 worth of criminal  
2 damage to cemetery property in violation of s. 943.01 (2) (d) or 943.012.

3 History: 1981 c. 267; 1985 a. 245,258; 1987 a. 348; 1989 a. 263; 1993 a. 92, 169, 459, 491; 1995 a. 290,448; 1997 a. 35,285.

3           **SECTION 369.** 973.075 (2) (d) of the statutes is amended to read:

4           973.075 (2) (d) The officer has probable cause to believe that the property was  
5 derived from or realized through a crime or that the property is a vehicle which was  
6 used to transport any property or weapon used or to be used or received in the  
7 commission of any felony, which was used in the commission of a crime relating to  
8 a submerged cultural resource in violation of s. 44.47 or which was used to cause  
9 more than ~~\$1,000~~ \$2,000 worth of criminal damage to cemetery property in violation  
10 of s. 943.01 (2) (d) or 943.012.

11 History: 1981 c. 267; 1985 a. 245,258; 1987 a. 348; 1989 a. 263; 1993 a. 92, 169, 459, 491; 1995 a. 290,448; 1997 a. 35,285.

11           **SECTION 370.** 978.13 (1) (c) of the statutes is amended to read:

12           978.13 (1) (c) In counties having a population of 500,000 or more, the salary and  
13 fringe benefit costs of clerk positions in the district attorney's office necessary for the  
14 prosecution of violent crime cases primarily involving felony violations under s.  
15 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05,  
16 940.06, 940.225, 943.23 (1g), and (1m) ~~and~~ (1r) and 943.32 (2). The state treasurer  
17 shall pay the amount authorized under this paragraph to the county treasurer  
18 pursuant to a voucher submitted by the district attorney to the secretary of  
19 administration from the appropriation under s. 20.475 (1) (i). The amount paid  
20 under this paragraph may not exceed \$88,500 in the 1997-98 fiscal year and \$91,600  
21 in the 1998-99 fiscal year.

22 History: 1989 a. 31, 117, 122,336; 1991 a. 39; 1993 a. 16, 92; 1995 a. 27,448; 1997 a. 27.

22           **[End of Insert 6-10]**

23           INSERT 6-20: ✓

24           **SECTION 371. Effective date.**

1                   (1) This act takes effect on December 31, 1999, or on the day after publication,  
2                   whichever is later.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0590/P4dn  
JEO&MGD:/:....

*mg*

This draft is based on the code reclassification subcommittee's 5/28/99 memorandum (and attached material) concerning classification of offenses in the criminal code. Please note the following when reviewing the draft:

1. I could not find the following crimes in the material attached to the subcommittee's 5/28/99 memorandum: ss. 939.615 (7) (b) 2., 943.201, 944.06 and 948.40 (4) (a), stats. Do you want to change the classification of any of these offenses?

2. I understand that the battery statute changes are not yet finalized. This draft treats some of the battery offenses based on the material attached to the subcommittee's 5/28/99 memorandum. See ss. 940.19 (2), (4), (5) and (6), 940.195 (2) (4) and (5), 940.20 (1), (2), (2m), (3) and (7), 940.201, 940.203, 940.205 and 940.207: stats. Thus, the draft does *not* affect ss. 940.19 (1) and (3), 940.195 (1), (3) and (6) and 940.20 (1m), (4), (5) and (6), stats.

3. The draft changes s. 49.95 (1), stats., solely to eliminate the reference to s. 943.20 (3) (c), stats. In a later draft we will have to reconcile this treatment of s. 49.95 (1), stats., with the subcommittee's suggested classification of felonies outside the criminal code.

4. The draft takes a stab at creating a misdemeanor offense of fleeing or eluding an officer. See proposed ss. 346.04 (2t) and 346.17 (2t). The subcommittee should review the proposed language carefully to determine whether it does what they intend.

5. The draft provides a higher penalty for homicide by intoxicated use of a vehicle if the defendant has a prior OWI conviction. See proposed s. 940.09 (1c) (b). Note that it counts offenses using s. 343.307 (2), stats., instead of 343.307 (1), stats. The former is broader because it includes violations involving commercial motor vehicles. Is that your intent? (Note that s. 940.09 (1d), stats., uses s. 343.307 (1), stats.)

6. The draft repeals s. 943.23 (1r), stats. (carjacking causing death), and inserts a reference to s. 943.23 (1g), stats. (carjacking), into the felony murder statute. Okay?

7. The draft eliminates the presumptive minimum in s. 946.85 (1), stats., but not in s. 943.23 (1m), stats. Okay?

8. The draft amends s. 948.025 (2), stats., to provide that, in cases alleging 3 or more first degree sexual assaults of the same child, a jury need not unanimously agree which 3 offenses constituted first degree sexual assault. Is that your intent?

*stet*

*on*

*stet*

*stet*





9. The material attached to the subcommittee's 5/28/99 memorandum listed s. 948.20, stats., as a Class G felony and as a Class H felony. This draft makes it a Class G felony because it was listed under the Class G list in green as an upward adjustment from Class H. Is that your intent? *the*

10. The material attached to the subcommittee's 5/28/99 memorandum listed s. 948.605 (3) (a) as a Class G felony **and as a** Class H felony. This draft makes it a Class H felony as that is closer to ~~time served~~ before MR under current law. Okay?

11. The draft repeals s. 948.605 (4), stats., which requires a court to impose a consecutive sentence of imprisonment for violations of the gun-free school zone law (if the court imposes a term of imprisonment). Do you want to repeal any other mandatory consecutive sentencing provisions? See ss. 939.615 (7) (c), 941.296 (3), 946.42 (4) and 946.425 (2), stats.

12. The draft repeals certain penalty enhancers (e.g., ss. 940.09 (1b) and 940.25 (1b), stats.). However, the draft does not include a proposed sentencing statute that incorporates current enhancers as aggravating circumstances for a judge to use in determining sentence. Such a sentencing statute will be included in a later version of the draft. *ca*

13. The draft treats a few statutes that refer to classified felonies. See ss. 115.31 (2g), 118.19 (4) (a), 938.355 (4) (b) **and** 973.03 (3) (e), stats. Please review the treatment of these statutes to make sure ~~it effects~~ your intent, *that*

14. The draft renumbers and amends s. 973.01 (2) (b) 6., stats., because it will still apply to misdemeanors that become felonies because of the application of a penalty enhancer. See, for instance, ss. 939.621 and 939.645 (2) (b), stats. However, the draft does not deal with bifurcated sentences for misdemeanants sentenced to prison under the repeater statute or other penalty enhancers.

Jefren E. Olsen  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: Jefren.Olsen@legis.state.wi.us



9. The material attached to the subcommittee's 5/28/99 memorandum listed s. 948.20, stats., as a Class G felony and as a Class H felony. This draft makes it a Class G felony because it was listed under the Class G list in green as an upward adjustment from Class H. Is that your intent?

ok

10. The material attached to the subcommittee's 5/28/99 memorandum listed s. 948.605 (3) (a) as a Class G felony and as a Class H felony. This draft makes it a Class H felony as that is closer to the time served before MR under current law. Okay?

Class G felony  
repeal all CS provisions

11. The draft repeals s. 948.605 (4), stats., which requires a court to impose a consecutive sentence of imprisonment for violations of the gun-free school zone law (if the court imposes a term of imprisonment). Do you want to repeal any other mandatory consecutive sentencing provisions? See ss. 939.615 (7) (c), 941.296 (3), 946.42 (4) and 946.425 (2), stats.

12. The draft repeals certain penalty enhancers (e.g., ss. 940.09 (1b) and 940.25 (1b), stats.). However, the draft does not include a proposed sentencing statute that incorporates current enhancers as aggravating circumstances for a judge to use in determining a sentence. Such a sentencing statute will be included in a later version of the draft.

hold off create one

13. The draft treats a few statutes that refer to classified felonies. See ss. 115.31 (2g), 118.19 (4) (a), 938.355 (4) (b) and 973.03 (3) (e), stats. Please review the treatment of these statutes to make sure that it effects your intent.

hold off

14. The draft renumbers and amends s. 973.01 (2) (b) 6., stats., because it will still apply to misdemeanors that become felonies because of the application of a penalty enhancer. See, for instance, ss. 939.621 and 939.645 (2) (b), stats. However, the draft does not deal with bifurcated sentences for misdemeanants sentenced to prison under the repeater statute or other penalty enhancers.

973.01 (1)

?  
(enough?)  
ss. (2)(a), (b), (c)

Jefren E. Olsen  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: Jefren.Olsen@legis.state.wi.us

#21 T.C. w/ Tom Hammer

Add to 0590

OK. ① ~~1st degree reckless homicide~~  
~~(+) & (Imm)~~

✓ ② 971.17 (1) - Max NGF commit.

What about misdemeanors?

= Max. term of confinement in prison available under bifurcated sentence

✓ ③ 939.62 (1) (a) - max of 2 yrs.

(b) 4 yrs for felony

(c) 6 yrs for felony

④ Keep: 939.62

.63 → remove presumptive min

.632

.621

.645

RP all other enhancements

✓ ⑤ Check x-ref on new fleeing crime

✓ ⑥ " " " 948.025 (1)

STATE OF WISCONSIN  
CRIMINAL PENALTIES STUDY COMMITTEE  
CODE RECLASSIFICATION SUBCOMMITTEE

*MISDEMEANOR FLEEING OPTION*

Wis. Stat. sec. 346.04(3) provides as follows:

**No operator of a vehicle, after having received a visual or audible signal from a traffic officer, or marked police vehicle, shall knowingly flee or attempt to elude any traffic officer by wilful or wanton disregard of such signal and as to interfere with or endanger the operation of the police vehicle, or the traffic officer or other vehicles or pedestrians, nor shall the operator increase the speed of the operator's vehicle or extinguish the lights of the vehicle in an attempt to elude or flee.**

This offense is a felony and the penalty varies according to harm done. There is no misdemeanor version of this offense.

If it is desirable that a misdemeanor version be created, the following might be considered:

**No operator of a vehicle, after having received a visual or audible signal from a traffic officer, or marked police vehicle, shall intentionally resist the officer by failing to stop his or her vehicle as promptly as safety reasonably permits.**

**NOTES**

The misdemeanor would not be a lesser included offense of the felony because it has elements in addition to the elements of the felony, i.e., a mens rea of "intentionally" and an actus reus element of "resists."

A provision should be crafted that indicates that one cannot be convicted of both the misdemeanor and the felony for the same act of fleeing.

This offense should be classified as a Class A misdemeanor.

7/30

More adds to 0570

✓ 1) 940.05 → to B not C  
3

✓ 2) NGI for TIS → max term of confinement for the felony  
973.01 (2) (b)

✓ 3) fines - data registry changes?

✓ 4) 973.09 - probation terms  
973.09 (2) (b) 1.

No felony less than 3 yrs ...  
→ Limit term to max term of confinement

✓ 5) Restore "joyriding" → tenor incl.?  
A risk. Aff. defense? Yes  
↳ Like 940.01  
No Abandonment  
Damage

Had off B  
943.10 (1) → F?  
G?

✓ 7) Come up w/ omnibus sentencing stat. in concert of enhancers treatment

STATE OF WISCONSIN  
CRIMINAL PENALTIES STUDY COMMITTEE  
CODE RECLASSIFICATION SUBCOMMITTEE

*More adds  
to 0590  
7/30*

**MEMORANDUM**

DATE: JULY 28, 1999

TO: CRIMINAL PENALTIES STUDY COMMITTEE MEMBERS

FROM: THOMAS J. HAMMER  
CHAIR, CODE RECLASSIFICATION SUBCOMMITTEE

RE: **ADDITIONAL RECOMMENDATIONS FROM CODE  
RECLASSIFICATION SUBCOMMITTEE**

At its final meeting last week the Code Reclassification Subcommittee considered numerous items of unfinished business and makes the following recommendations to the whole committee. If approved, they will be incorporated into the final report.

**Fleeing an Officer.** Under present law fleeing an officer' is a felony offense. It is codified in the Motor Vehicle Code and has a graduated penalty structure as follows:\*

| HARM   | IMPRISONMENT | FINE              |
|--|--------------|-------------------|
| No Bodily Harm;<br>No Property<br>Damage           | 2 years      | \$ 10,000         |
| Bodily Harm or<br>Damage to Property<br>of Another | 2 years      | \$1000 - \$10,000 |
| Great Bodily Harm                                  | 2 years      | \$1100 - \$10,000 |
| Death  | 5 years      | \$1100 - \$10,000 |

The Subcommittee notes several problems with this structure of penalties. First, the maximum term of imprisonment is the same (2 years) regardless of whether the harm caused by the act of fleeing is no bodily harm, bodily harm or great bodily harm. The term of imprisonment increases only if death is caused. Further, the only distinction between the penalty for an act of eluding that causes bodily harm and one that causes great bodily harm is a \$ 100 difference in the minimum fine.

<sup>1</sup> Wis. Stat. sec. 346.04(3).

<sup>2</sup> The penalties depicted in the chart accompanying this note are those established by the legislature prior to 1997 Wis. Act 283. See Wis. Stat. sec. 346.17(3)(a)-(d).



The Subcommittee recommends that the penalty structure for fleeing be revamped such that the terms of maximum possible imprisonment are graduated according to the level of harm caused by the actor. This would bring fleeing into line with a number of other crimes whose penalties are likewise staggered according to harm.

Using the A-I felony classification system the Subcommittee recommends the following classifications for fleeing offenses:

| HARM  | FELONY CLASS | MAXIMUM TERM OF INCARCERATION | MAXIMUM TERM OF EXTENDED SUPERVISION | MAXIMUM FINE |
|---|--------------|-------------------------------|--------------------------------------|--------------|
| No Bodily Harm;<br>No Property Damage                 | I            | 18 months                     | 2 years                              | \$ 10,000    |
| Bodily Harm or<br>Damage to<br>Property of<br>Another | H            | 3 years                       | 3 years                              | \$ 10,000    |
| Great<br>Bodily Harm to<br>Another                    | F            | 7.5 years                     | 5 years                              | \$25,000     |
| Death<br>of<br>Another                                | E            | 10 years                      | 5 years                              | \$ 50,000    |

OK

The Subcommittee further recommends that a **misdemeanor** fleeing offense be restored to Wisconsin law. Until 1994 an act of fleeing that did not result in injury or property damage was a misdemeanor offense.<sup>3</sup> In that year the misdemeanor was elevated to a 2-year felony.<sup>4</sup> Doubtless this occurred because some fleeing episodes, though not resulting in injury or property damage, nonetheless pose great threats to the safety of officers and others and thus deserve felony treatment.

However, the Committee learned that the total absence of a misdemeanor fleeing offense has caused an undesirable gap in the motor vehicle laws. Some episodes are short, don't involve high speed, don't seriously compromise public safety, etc. Some prosecutors are hesitant to pursue these cases as felonies and look for ways to resolve them other than at the felony level, sometimes resorting to non-traffic offenses like resisting an officer. Some judges, too, have expressed dissatisfaction with adjudication at the felony level when the actor's conduct, though technically in violation of the statute, is relatively minor in nature.

<sup>3</sup> Wis. Stat. secs. 346.04(3) and 346.17(3)(a) (1991-92).

<sup>4</sup> See 1993 Wis. Act 189.

The Subcommittee believes that a misdemeanor fleeing offense should be incorporated into the fleeing statute for use in those cases when the defendant's behavior is appropriately addressed with a conviction other than at the felony level. The Subcommittee further believes that the misdemeanor should be part of the motor vehicle laws so that a conviction is properly entered upon the actor's driving record and can appropriately affect the actor's driving privilege. The latter does not occur if a minor offense is pleaded out to a non-traffic offense like resisting an officer.

The Subcommittee searched for the most desirable way of describing the misdemeanor offense. It recommends the following:

**No operator of a vehicle, after having received a visual or audible signal from a traffic officer, or marked police vehicle, shall intentionally resist the officer by failing to stop his or her vehicle as promptly as safety reasonably permits.**

} OK

As proposed, the misdemeanor would not be a lesser included offense of the felony because it has elements in addition to the elements of the felony, i.e., a mental state of "intentionally" and an actus reus element of "resists." Neither of these is an element of felony fleeing.

A provision should be crafted that indicates that one cannot be convicted of both the misdemeanor and the felony for the same act of fleeing. As a practical matter the Subcommittee expects that the misdemeanor will probably be used most often - not as a charge to be tried - but as a way of resolving minor fleeing cases by way of a guilty plea. Nonetheless, in appropriate cases, the prosecutor may elect to proceed from the outset with the misdemeanor.

This offense should be punishable by fine or imprisonment or both. The Subcommittee recommends penalties at the Class A misdemeanor level, which would involve a 9-month maximum term of imprisonment or a \$10,000 fine, or both.

**General Battery Statutes.** 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."<sup>5</sup> The felony version, known as "aggravated battery," prohibited "intentionally caus[ing] great bodily harm to another."<sup>6</sup>

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.
- (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:

---

<sup>5</sup> Wis. Stat. sec. 940.20 (1955).

<sup>6</sup> 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.

- (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 Subcommittee proposes a revision which is designed to return simplicity and straightforwardness to the law of battery and which the Subcommittee 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 harm<sup>7</sup> or substantial bodily harm<sup>8</sup> 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.<sup>9</sup>

(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.<sup>10</sup>

(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.<sup>11</sup>

(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.<sup>12</sup>

OK

<sup>7</sup> 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.”

<sup>8</sup> 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.”

<sup>9</sup> 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.,

<sup>10</sup> Subsection 2 is the current sec. 940.19 (4).

<sup>11</sup> Subsection 3 is the current sec. 940.19 (2).

<sup>12</sup> Subsection 4 is the current 940.19(1) (traditional misdemeanor battery).

(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:

OK

- (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.<sup>13</sup>

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:

| <b>OFFENSE CLASS</b> | <b>INTENT</b>                     | <b>HARM CAUSED</b>      |
|----------------------|-----------------------------------|-------------------------|
| 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             |

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.<sup>14</sup> 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.

<sup>13</sup> Subsection 5 preserves Wis. Stat. sec. 940.19(6) without change.

<sup>14</sup> 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.

- 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 Subcommittee 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:

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.**<sup>15</sup> 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.

---

<sup>15</sup> This statute was created by 1997 Wis. Act 295.

(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.

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

comment  
(5)

**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.

(4)

(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)

(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.

OK

(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.

10K

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.

**Classification of First-Degree Reckless Homicide and Second-Degree Intentional Homicide.** Under current law both first-degree reckless homicide<sup>16</sup> and second-degree intentional homicide are classified as Class B felonies. The former involves the reckless causation of death under circumstances which show utter disregard for human life. The latter contains mitigated forms of first-degree intentional homicide (the mitigating factors being adequate provocation, unnecessary defensive force, coercion, necessity, and prevention of a felony).

Both  
B  
=

If the mandatory release (M.R.) converter were applied to these crimes to convert them to the proposed A-I felony classification system, both would naturally convert to Class C felonies with a maximum term of confinement of 25 years to be followed by a term of extended supervision for up to another 15 years.

After careful study of these two statutes, their legislative histories, and written and oral comments from both prosecutors and defense attorneys, and after application of the factors used to classify all other felonies, the Subcommittee recommends that:

- Second-degree intentional homicide remain as a Class C felony.
- First-degree reckless homicide be elevated to a Class B felony.

This classification of the crimes restores the gradation which was present in Wisconsin law prior to 1989. In that year a revision of Wisconsin's homicide laws took effect.<sup>17</sup> Prior to the revision second-degree murder (which is now first-degree reckless homicide) was classified as a B felony punishable by up to 20 years in prison; manslaughter (the rough equivalent of what is now second-degree intentional homicide) was classified as a C felony punishable by up to 10 years in prison. After the 1989 revision both of these offenses were classified as Class B felonies, which in 1989 meant that the maximum term of imprisonment was 20 years. Since then the penalty for Class B felonies has been elevated substantially but the classification of these two homicide offenses has not been changed.

<sup>16</sup> There are actually two forms of first-degree reckless homicide. Wis. Stat. sec. 940.02(1) and (1m) involve the reckless causation of death to another human or to an unborn child under circumstances which show utter disregard for human life. Wis. Stat. sec. 940.02(2), which is the so-called "Len Bias" law, involves the delivery of certain controlled substances and the subsequent death of the user. Only secs. 940.02(1) and (1m) are involved in the classification issues discussed in the text accompanying this note.

<sup>17</sup> See 1987 Wis. Act 399.



In recommending that the classification for first-degree reckless homicide be elevated from what would be its natural placement in Class C (by virtue of applying the mandatory release converter) to the higher level of Class B, the Subcommittee has taken note of the kinds of violent contexts in which this statute is often applied, for example, drive-by shootings in urban areas. This conduct is so dangerous and is so often committed with a mental state that is very close to “intent to kill” that the Subcommittee concluded that it should be punished in a felony class just below first-degree intentional homicide. This is not meant to diminish the seriousness of second-degree intentional homicide but, in the opinion of the Subcommittee, classification of mitigated intentional homicide as a Class C felony (25 years maximum confinement in the proposed A-I classification system) provides a court with enough confinement time to deal with the worst case-worst offender scenario prosecuted for this offense.

Present law provides that the mitigating circumstances listed above are affirmative defenses only to a prosecution for first-degree intentional homicide.<sup>18</sup> The Subcommittee recommends that this provision be retained.

The Subcommittee has considered the issue of lesser included homicide offenses and the track jury instructions might take if second-degree intentional homicide and first-degree reckless homicide are classified differently. Under present law these two offenses, while both lesser included of first-degree intentional homicide, have the same penalty and thus one cannot be a lesser included of the other.

The Subcommittee believes that, even though it is recommending that second-degree intentional homicide have a lesser penalty than first-degree reckless homicide and thus would technically be a lesser included offense thereof under the lesser included crimes statute,<sup>19</sup> the more specific provisions of the first-degree intentional homicide statute defining how the mitigating circumstances listed therein reduce first-degree intentional homicide to second degree intentional homicide would preclude treatment of second-degree intentional homicide as a lesser included offense of first-degree reckless homicide.<sup>20</sup> If this conclusion is desirable (the Subcommittee believes that it is) but there is concern that it is not as readily apparent as the Subcommittee thinks it is, then a specific provision should be drafted which achieves the desired level of clarity.

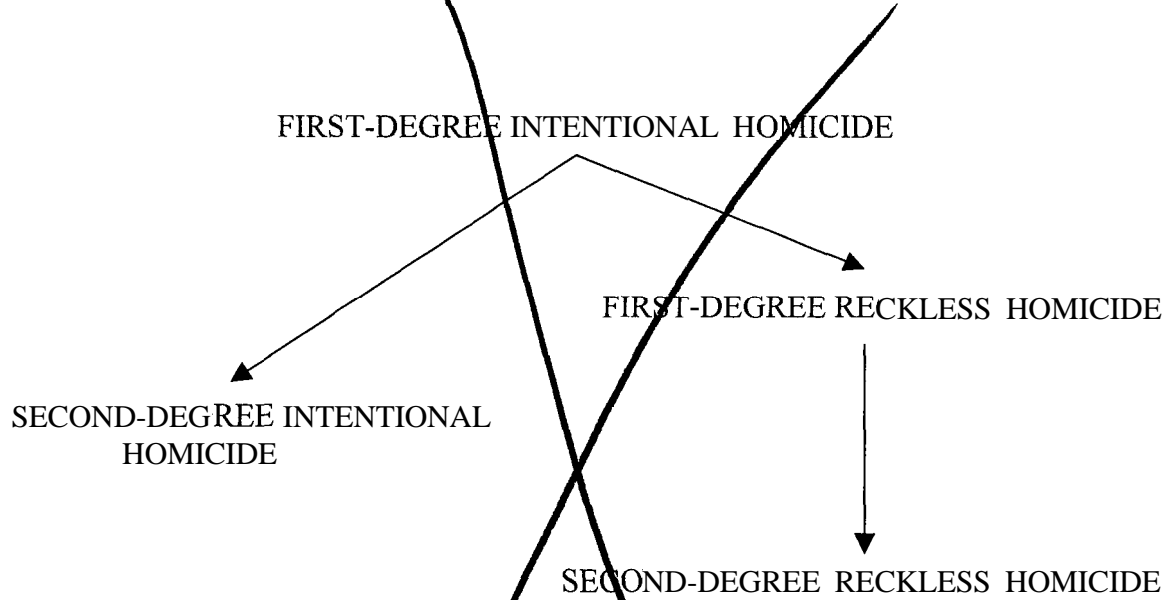
---

<sup>18</sup> Wis. Stat. sec. 940.01(2).

<sup>19</sup> See Wis. Stat. sec. 939.66(2).

<sup>20</sup> This is not to suggest that mitigating factors have no role to play in cases of first-degree reckless homicide. The pattern jury instructions discuss how the mitigating circumstances specified in the first-degree intentional homicide statute might operate in “the determination of whether recklessness exists - whether there was an unreasonable risk - and whether the circumstances show utter disregard for the life of another.” Wis JI-Criminal 1000 at 8 (“Introductory Comment: Wisconsin’s New Homicide Law) (1989).

The Subcommittee believes that the track of jury instructions in cases of first-degree intentional homicide when one or more lesser included offenses are submitted would ordinarily be one of the following:



There is no arrow going from first-degree reckless homicide to second-degree intentional homicide because, as explained above, the latter is not intended to be a lesser included of the former. If the case is charged as a first-degree reckless homicide, of course second-degree reckless homicide is a lesser included offense and the jury may be instructed about it if the evidence warrants a lesser included instruction.

**Juvenile Absconding Statutes.** Under current law each felony class has a provision dealing with the very specialized situation of a juvenile who absconds after being adjudicated delinquent and then fails to return to court for a dispositional hearing before attaining the age of 17.<sup>21</sup> This offense is punishable as a felony at the same level as the offense of which the actor would have been guilty had his or her conduct been committed by an adult. For example, it is a Class B felony to abscond after having been adjudicated delinquent for committing an act that would be a Class B felony if committed by an adult.

OK

The Subcommittee debated the classification of this absconding provision at length. It recognizes the anomaly that the juvenile who appears as required for a dispositional hearing before turning 17 is subject to a juvenile disposition, but if the very same juvenile fails to appear before turning 17, he or she may be prosecuted under the absconding statute and in some cases face an adult sentence of much greater length. But the Subcommittee also recognizes another anomaly in the law. If a juvenile absconds prior to adjudication and does not become adjudicated before turning 17, the prosecutor may waive him or her to adult court on the underlying charge,\*\* whereas if the same juvenile is adjudicated prior to turning 17 but is returned to custody after turning 17, he or she cannot be waived on the underlying charge and, except for a few very serious

<sup>21</sup> Wis. Stat. sec. 946.50.

<sup>22</sup> See Wis. Stat. 938.1 S(2).

felonies, would only to subject to a disposition lasting until his or her 18<sup>th</sup> birthday. The absconding statute attempts to deal with the latter situation.

Though there are to date very few cases in which this statute has been enforced, the Subcommittee recommends retaining it and extending its application to all classes of felonies in the new A-I classification system. Though not totally satisfied with this result because of the first anomaly described above, it appreciates the need to fill the gap which exists because of the second. Perhaps a better solution would be to allow the adjudication of the juvenile who absconds after adjudication and is not returned to court before turning 17 to be vacated and to thereafter permit the filing of an adult charge on the underlying offense. However, making such a change would require amendments to the Juvenile Code which should not be pursued until those with greater expertise in juvenile law have a chance to consider the matter.

**Habitual Criminality.** The Subcommittee recommends that the penalty section of the general repeater statute<sup>23</sup> (also known as habitual criminality) be amended to read as follows:

939.62 (1) If the actor is a repeater, as that term is defined in sub. (2), and the present conviction is for any crime for which imprisonment may be imposed (except for an escape under s. 946.42 or a failure to report under s. 946.425) the maximum term of imprisonment prescribed by law for that crime may be increased as follows:

- (a) A maximum term of one year or less may be increased to not more than 3 2 years.
- (b) A maximum term of more than one year but not more than 10 years may be increased by not more than 2 years if the prior convictions were for misdemeanors and by not more than 6 4 years if the prior conviction was for a felony.
- (c) A maximum term of more than 10 years may be increased by not more than 2 years if the prior convictions were for misdemeanors and by not more than 10 6 years if the prior conviction was for a felony.

OK

The Subcommittee arrived at these changes by applying the 2/3rds M.R. converter to arrive at the numbers recommended above. It does not recommend reducing the provisions for the 2-year increases specified in (b) and (c) which apply when the person is a habitual criminal because of prior misdemeanor convictions.

The Subcommittee recommends no changes for the persistent repeater (“three strikes” and “two strikes”) provisions of the habitual criminality statute.<sup>24</sup>

---

<sup>23</sup> Wis. Stat. sec. 939.62(1).

<sup>24</sup> See Wis. Stat. sec. 939.62(2m).

**Penalty Enhancers.** The last recodification of the Wisconsin Criminal Code occurred in the early 1950's.<sup>25</sup> At that time Chapter 939 had a habitual criminality provision but no other enhancers. Concealing identity during the commission of a crime was treated as a separate crime<sup>26</sup> and a few substantive crimes had aggravating circumstances built into them which elevated the severity of the offense.<sup>27</sup>

Since that time the enactment of penalty enhancers has become extremely popular with the Wisconsin legislature (and legislatures nationally). Today Chapter 939 by itself has at least 17 enhancer statutes and that number may reasonably be expected to rise. In addition to the Chapter 939 enhancers, numerous substantive crimes have enhancers and penalty doublers built into them. Further, the legislature has passed a significant number of special circumstances crimes which really amount to enhancers in the sense that they consist of ordinary crimes whose protections have been extended to special groups with concomitant increases in penalties.<sup>28</sup>

With the advent of truth in sentencing the Subcommittee considered whether some penalty enhancers (but not all of them) might be incorporated into an omnibus statute identifying aggravating circumstances which the judge must consider at sentencing. An aggravating circumstance may drive the judge to impose a heavier sentence but it does not affect the maximum possible sentence. However, the amount of real incarceration time available to the judge in the proposed A-I classification system leaves enough room for appropriately dealing with the offender who has committed most "aggravated" forms of the underlying offense.

The Subcommittee believes that if any enhancers are recharacterized as sentencing aggravators, a statute ~~should be enacted that lists the aggravators and directs the judge to consider them when imposing a sentence.~~ The statute should specify that aggravators are not elements of the crime.

The Subcommittee recommends that the following penalty enhancers found in Chapter 939 be recast as sentencing aggravators and codified in an omnibus sentencing statute:

- The defendant committed the crime while his or her usual appearance was concealed, disguised or altered, with intent to make it less likely that he or she would be identified with the crime;<sup>29</sup> — Agg

---

<sup>25</sup> See 1955 Wis. Laws 696.

<sup>26</sup> See Wis. Stat. sec. 946.62 (1955).

<sup>27</sup> See, e.g., Criminal Damage to Property (Wis. Stat. sec. 943.01(2)(1955)) and Burglary (Wis. Stat. sec. 943.10(2)(1955)).

<sup>28</sup> The numerous special circumstances battery statutes codified in Wis. Stat. ch. 940 are perhaps the best examples of ordinary crimes whose protections have been extended to special groups.

<sup>29</sup> Currently codified at Wis. Stat. sec. 939.641.

- ✓ The defendant committed any felony while wearing a bulletproof garment;<sup>30</sup>
- ✓ The defendant committed a violation of secs. 940.19(2), (3), (4), (5) or (6), 940.225(1), (2) or (3), 940.23 or 943.32 against a person who at the time was 62 years of age or older;<sup>31</sup>
- ✓ The defendant committed the crime for the benefit of, at the direction of or in association with any criminal gang, with the specific intent to promote, further or assist in any criminal conduct by criminal gang members;<sup>32</sup>
- ✓ The defendant committed a violation of secs. 940.225(1) or (2), 948.02(1) or (2) 948.025 and at the time knew that he or she had syphilis, gonorrhea, hepatitis B, hepatitis C, chlamydia, or acquired immunodeficiency syndrome or has had a positive test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.<sup>33</sup>
- ✓ The defendant committed a crime using information that was disclosed to him or her under sec. 301.46.<sup>34</sup> (sex offender registry)
- ✓ Terrorism<sup>35</sup>

A99

The Subcommittee recommends that the following statutes should be maintained as presently codified without change:

- ✓ Wis. Stat. sec. 939.63 Penalties; Use of a Dangerous Weapon
- ✓ Wis. Stat. sec. 939.632 Penalties; Violent Crime in a School Zone
- ✓ Wis. Stat. sec. 939.621 Increased Penalty for Certain Domestic Abuse Offenses
- ✓ Wis. Stat. sec. 939.645 "Hate Crimes"

J  
 4 Enhancers  
 Keep 40  
 Change

The Subcommittee has previously recommended that the following enhancers codified other than in Chapter 939 be recast as sentencing aggravators:

<sup>30</sup> Currently codified at Wis. Stat. sec. 939.64.  
<sup>31</sup> Currently codified at Wis. Stat. sec. 939.647.  
<sup>32</sup> Currently codified at Wis. Stat. sec. 939.625.  
<sup>33</sup> Currently codified at Wis. Stat. sec. 939.622.  
<sup>34</sup> Currently codified at Wis. Stat. sec. 939.646.  
<sup>35</sup> Currently codified at Wis. Stat. sec. 939.648.

/The defendant committed a violation of secs. 948.02(1) or (2) against a child and at the time was a person responsible for the welfare of that child, as defined in sec. 948.01(3).<sup>36</sup>

• The defendant committed a violation of sec. 948.025 against a child and at the time was a person responsible for the welfare of that child, as defined in sec. 948.01(3).<sup>37</sup>

• The defendant committed a violation of sec. 940.09(1) or 940.25(1) and there was a minor passenger under 16 years of age in the motor vehicle at the time of the offense.<sup>38</sup>

• Various enhancers codified in Chapter 961.<sup>39</sup> [961.465  
961.492]

Agg

Finally, the Subcommittee recommends the repeal of the following enhancers because the underlying offenses already provide the court with sufficient maximum penalties to deal with the worst case-worst offender scenario:

• Wis. Stat. sec. 939.623 Increased Penalty; Repeat Serious Sex Crimes

• Wis. Stat. sec. 939.624 Increased Penalty; Repeat Serious Violent Crimes

• Wis. Stat. sec. 939.635 Penalties; Assault or Battery in Secured Juvenile Facilities or to Aftercare Agent<sup>40</sup>

• Wis. Stat. sec. 948.36 Use of a Child to Commit a Class A Felony

Repeal

**Criminal Code Statutes Not Previously Classified by the Subcommittee.** A few statutes were not considered by the Subcommittee when it made its first trek through the Criminal Code. Those statutes have now been evaluated and the Subcommittee makes the following classification recommendations:

Wis. Stat. sec. 939.615(7)(b)2 Violation of a Condition of Lifetime Supervision of Serious Sex Offenders Class I

OK

<sup>36</sup> Currently codified at Wis. Stat. sec. 948.02(3m).

<sup>37</sup> Currently codified at Wis. Stat. sec. 948.025(2m).

<sup>38</sup> Currently codified at Wis. Stat. sec. 940.09(1b) and 940.25(1b)

<sup>39</sup> Chapter 961 changes were recommended in a separate memorandum dealing with drug offenses.

<sup>40</sup> Though codified with the Chapter 939 penalty enhancers, this statute really amounts to a presumptive minimum sentencing statute. As indicated elsewhere in this report, the Subcommittee recommends repeal of all presumptive minimum sentencing provisions.

|                              |   |         |    |
|------------------------------|---|---------|----|
| Wis. Stat. sec. 948.40(4)(a) | Contributing to Delinquency of a Child (if death is a consequence)              | Class D |    |
| Wis. Stat. sec. 943.201      | Misappropriation of Personal Identifying Information                            | Class H |    |
| Wis. Stat. sec. 940.20(1m)   | Battery by Persons Subject to Certain Injunctions                               | Class I | OK |
| Wis. Stat. sec. 940.20(4)    | Battery to Public Officers  | Class I |    |
| Wis. Stat. sec. 940.20(5)    | Battery to Technical College District or School District Officers and Employees | Class I |    |
| Wis. Stat. sec. 940.20(6)    | Battery to Public Transit Vehicle Operator, Driver or Passenger                 | Class I |    |

**Minimum Sentences and Mandatory Consecutive Sentences.** Though addressed earlier in numerous specific contexts, the Subcommittee repeats here its general recommendation that provisions in criminal statutes establishing minimum sentences (presumptive or otherwise) or mandatory consecutive sentences be repealed. This allows the court maximum sentencing discretion to deal with the multitude of offenders who commit crimes and the multitude of ways in which they do so. Guided by sound judicial discretion and assisted by sentencing guidelines (when the crime of conviction is one for which a guideline has been established), the judge should have maximum flexibility to mete out the appropriate sentence in every case.

MSDs?

OK

The observations in the preceding paragraph are subject to a limited number of exceptions. There is no recommendation to change mandatory life imprisonment for Class A felonies, nor is there a recommendation to change the provisions of the persistent repeater (“three strikes” or “two strikes”) statute which, if invoked, mandate life imprisonment. Finally, the Subcommittee recommends maintaining the structure of minimum mandatory penalties for repeat 0 WI offenders.

**Maximum term of institutionalization for those found not guilty by reason of mental disease or defect.** Under present law the maximum term of institutionalization for persons found not guilty by reason of mental disease or defect (NGI acquittees) is set at two-thirds of the maximum sentence for the underlying offense (including any penalty enhancers).<sup>41</sup> If the underlying offense is punishable by life imprisonment, institutionalization may be for life, subject to termination as provided for by statute.<sup>42</sup>

OK

---

<sup>41</sup> Wis. Stat. sec. 971.17(1).

<sup>42</sup> Wis. Stat. sec. 971.17(1).

When the legislature specified that institutionalization of NGI acquittees may not exceed 2/3rds of the maximum imprisonment for the underlying offense, it was obviously pegging maximum institutionalization for these individuals to the maximum an ordinary offender would serve in prison prior to being mandatorily paroled on a maximum sentence. With the advent of truth in sentencing and the abolition of parole, the Subcommittee concluded that the period of maximum institutionalization should be adjusted accordingly. It recommends that the NGI statute be amended to provide that the maximum period of institutionalization for felonies not exceed the maximum term of confinement the court may impose for the underlying offense. The recommended maximum periods of institutionalization were therefore be as follows:

|                  |                  |
|------------------|------------------|
| Class A felonies | Life             |
| Class B felonies | <b>40</b> years  |
| Class C felonies | <b>25</b> years  |
| Class D felonies | 15 years         |
| Class E felonies | 10 years         |
| Class F felonies | <b>7.5</b> years |
| Class G felonies | <b>5</b> years   |
| Class H felonies | <b>3</b> years   |
| Class I felonies | 18 months        |

There is no recommendation to change the 2/3rds formula for misdemeanants. Nor is there a recommendation to change the statute addressing the interaction of NGI commitments with court orders for lifetime supervision of serious sex offenders.<sup>43</sup>

**Fines.** The Subcommittee has previously made a recommendation that the maximum fine for felonies be graduated through the various proposed felony classes. Upon further consideration at the request of some Committee members, the final recommendation of the Subcommittee is that the following fine structure be adopted:

|                     |                               |
|---------------------|-------------------------------|
| Class A felony      | No provision for a fine       |
| Class B felony      | No provision for a fine       |
| Class C felony      | <b>\$100,000</b> maximum fine |
| Class D felony      | <b>\$100,000</b> 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         |

This final proposal shows increases from \$50,000 to \$100,000 for Class C and Class D felonies. This allows courts more adequate discretion in dealing with the kinds

<sup>43</sup> See Wis. Stat. sec. 971.17(1j).



of offenses in those classes, for example, high-end drug felonies and the homicides for which corporations have been found guilty.

**Bifurcated Sentences for Misdemeanants Sentenced to State Prison.** There is serious doubt whether Act 283's requirement that felons sentenced to prison receive bifurcated sentences also applies to misdemeanants sentenced to prison. The Subcommittee has concluded that if a misdemeanant is dangerous enough and/or has committed offenses serious enough to warrant incarceration in prison, then that individual should receive a bifurcated sentence that includes both a term of incarceration and a term of extended supervision. The same philosophy of managed supervision upon release from prison that applies to convicted felons supports application of extended supervision to dangerous misdemeanants as well.

OK

Accordingly, the Subcommittee recommends that the relevant statutes be amended to require bifurcated sentences for all misdemeanants sentenced to prison and to further require that the extended supervision component of these sentences be at least 25% of the amount of confinement ordered by the court.

**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.<sup>44</sup> 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.<sup>45</sup> There is also a specific schedule of original terms of probation for those convicted of one or more misdemeanors.<sup>46</sup>

Act 283 did not amend the statutes regulating maximum original terms of probation. The Subcommittee has considered them and recommends that they remain unchanged. In doing so, it notes that the maximum original term of probation is linked to the "maximum term of imprisonment" for the crime of conviction. "Maximum term of imprisonment" in the world of truth in sentencing means the total arrived at by combining the maximum term of confinement plus the maximum term of extended supervision for the crime of conviction.

An illustration using the crime of burglary may be helpful in understanding the impact of this terminology. As recommended by the Subcommittee, burglary should be classified as a Class F felony. In the A-I felony classification system, Class F felonies have a maximum period of imprisonment of 12.5 years, of which the maximum term of confinement is 7.5 years and the maximum term of extended supervision 5 years. Thus the maximum original term of probation for the crime of burglary is 12.5 years.

MAX Prob = MAX CONF  
or 3

<sup>44</sup> Wis. Stat. sec. 973.09(2)(b)1.

<sup>45</sup> Wis. Stat. sec. 973.09(2)(b)2.

<sup>46</sup> See Wis. Stat. sec. 973.09(2)(a).

STATE OF WISCONSIN  
CRIMINAL PENALTIES STUDY COMMITTEE  
CODE RECLASSIFICATION SUBCOMMITTEE

*Handwritten:* ~~Full off~~  
DO - 7/30

***PENALTY ENHANCERS***

The last recodification of the Wisconsin Criminal Code occurred in the early 1950's.<sup>1</sup> At that time chapter 939 had a habitual criminality provision but no other enhancers. Concealing identity during the commission of a crime was treated as a separate crime<sup>2</sup> and a few substantive crimes had aggravating circumstances built into them which elevated the severity of the offense.<sup>3</sup>

Since that time the enactment of penalty enhancers has become extremely popular with the Wisconsin legislature (and legislatures nationally). Today chapter 939 by itself has at least 17 enhancer statutes and that number may reasonably be expected to rise. Beyond chapter 939 numerous substantive crimes have enhancers and penalty doublers built into them. Further, the legislature has passed a significant amount of special interest crimes which really amount to enhancers in the sense that they consist of ordinary crimes whose protections have been extended to special groups with concomitant increases in penalties.<sup>4</sup>

The Code Reclassification Subcommittee has under active debate the issue of whether some penalty enhancers (but not all of them) might be incorporated into an omnibus statute identifying aggravating circumstances which the judge must consider at sentencing. The amount of real incarceration time available to the judge in the proposed A-I classification system leaves enough room for appropriately dealing with the offender who has committed most "aggravated" forms of the underlying offense. The recharacterization of most enhancers as sentencing aggravators in a single statute could also have the benefit of checking the proliferation of enhancer laws which at this juncture are so numerous, scattered and complex as to befuddle even the most diligent students of the criminal law.

The subcommittee believes that if any enhancers are recharacterized as sentencing aggravators, a statute should be enacted that lists the aggravators and directs the judge to consider them when imposing a sentence. A prototype of such a statute follows. The subcommittee further believes that the legislature would insist upon such a statute if any of the present enhancement statutes are to be repealed.

---

<sup>1</sup> See 1955 Wis. Laws 696.

<sup>2</sup> See Wis. Stat. sec. 946.62 (1955).

<sup>3</sup> See, e.g., Criminal Damage to Property (Wis. Stat. sec. 943.01(2)(1955)) and Burglary (Wis. Stat. sec. 943.10(2)(1955)).

<sup>4</sup> The numerous special interest battery statutes codified in Wis. Stat. ch. 940 are perhaps the best examples of ordinary crimes whose protections have been extended to special groups.

The subcommittee has not yet reached a conclusion on the direction it should take with penalty enhancers. It appreciates the many benefits of recharacterizing enhancers as sentencing aggravators, but is uncertain how the evolving form of temporary sentencing guidelines would treat the aggravating circumstances. Would the statutory aggravators be printed on the form and scored? Or would they play a more amorphous role in arriving at a sentence? It is clear that the subcommittee's recommendations will depend upon the role statutory aggravators would occupy in the guideline process.

The prototype sentencing statute which follows is an example of how such a statute might look. It is only a prototype and has not yet been approved by the Code Reclassification Subcommittee.

### **PROTOTYPE SENTENCING STATUTE**

973.017

- (1) When pronouncing sentence, the court shall consider aggravating and mitigating factors.
- (2) Aggravating factors include but are not limited to the following circumstances when the court finds at sentencing that one or more of them attended the commission of the crime for which the defendant is being sentenced:
  - ✓(a) The defendant committed the crime while his or her usual appearance was concealed, disguised or altered, with intent to make it less likely that he or she would be identified with the crime;<sup>5</sup>
  - ✓(b) The defendant committed any felony while wearing a bulletproof garment;<sup>6</sup>
  - ✓(c) The defendant committed a violation of secs. 940.19(2), (3), (4), (5) or (6), 940.225(1), (2) or (3), 940.23 or 943.32 against a person who at the time was 62 years of age or older;<sup>7</sup>
  - ✓(d) The defendant committed the crime for the benefit of, at the direction of or in association with any criminal gang, with the specific intent to promote, further or assist in any criminal conduct by criminal gang members;\*

} separate

<sup>5</sup> Replaces Wis. Stat. sec. 939.641.

<sup>6</sup> Replaces Wis. Stat. sec. 939.64.

<sup>7</sup> Replaces Wis. Stat. sec. 939.647.

<sup>8</sup> Replaces Wis. Stat. sec. 939.625.

✓ (e) The defendant committed a violation of secs. 940.225(1) or (2), 948.02(1) or (2) 948.025 and at the time knew that he or she had syphilis, gonorrhea, hepatitis B, hepatitis C, chlamydia, or acquired immunodeficiency syndrome or has had a positive test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.<sup>9</sup>

Separate

✓ (f) The defendant committed a crime using information that was disclosed to him or her under sec. 301.46.”

✓ (g) Terrorism<sup>11</sup> (suggested text under development)

✓ (h) The defendant committed a violation of secs. 948.02(1) or (2) against a child and at the time was a person responsible for the welfare of that child, as defined in sec. 948.01(3).<sup>12</sup>

✓ (i) The defendant committed a violation of sec. 948.025 against a child and at the time was a person responsible for the welfare of that child, as defined in sec. 948.01(3).<sup>13</sup>

✓ (j) The defendant committed a violation of sec. 940.09(1) or 940.25(1) and there was a minor passenger under 16 years of age in the motor vehicle at the time of the offense.<sup>14</sup>

(3) The aggravating factors listed in sub. (2) are not elements of crimes . . . . .

**The subcommittee has tentatively agreed that, even if a statute like the prototype were to be enacted, the following statutes should be maintained as presently codified (with possible adjustment of incarceration impact):**

1. Wis. Stat. sec. 939.62 - Increased Penalty for Habitual Criminality<sup>4</sup>
2. Wis. Stat. sec. 939.63 - Penalties; Use of a Dangerous Weapon
3. Wis. Stat. sec. 939.632 - Penalties; Violent Crime in a School Zone
4. Wis. Stat. sec. 939.621 - Increased Penalty for Certain Domestic Abuse Offenses
5. Wis. Stat. sec. 939.645 - “Hate Crimes” Enhancer

Thomas J. Hammer  
Chair, Code Reclassification  
Subcommittee

<sup>9</sup> Replaces Wis. Stat. sec. 939.622.

<sup>10</sup> Replaces Wis. Stat. sec. 939.646.

<sup>11</sup> The terrorism enhancer is presently codified at Wis. Stat. sec. 939.648.

<sup>12</sup> Replaces Wis. Stat. sec. 948.02(3m).

<sup>13</sup> Replaces Wis. Stat. sec. 948.025(2m).

<sup>14</sup> Replaces Wis. Stat. sec. 940.09(1 b) and 940.25(1 b)

Section #. 940.19 of the statutes is amended to read:

*ok*  
**940.19 Battery; substantial battery; aggravated battery.,** (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.

*ok* (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.

**RP** (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.

*ok* (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 **H** felony.

*ok* (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 **E** felony.

*ok* (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.

**History: 1977 c. 173; 1979 c. 111, 113; 1987 a. 399; 1993 a. 441, 483.**

Section #. 940.195 of the statutes is amended to read:

**940.195 Battery to an unborn child; substantial battery to an unborn child; aggravated bat-**

**tery to an unborn child.** ✓(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~~<sup>F</sup> felony.

AP (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~~<sup>H</sup> 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 ~~D~~<sup>E</sup> felony.

CR (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.

**History:** 1997 a. 295.



1. The property is a domestic animal ; or
2. The property is taken from the person of another or **from** a corpse; or
3. The property is taken from a building which has been destroyed or left **unoccupied** because of physical disaster, riot, bombing or the proximity of battle; or
4. The property is taken after physical disaster, riot, bombing, or the proximity of battle **has** necessitated its removal from a building.

**History:** 1955 c. 696.

**Cross Reference:** For other prohibitions, relative to electricity, gas, water and steam, see 98.35 (2).

In a prosecution for larceny in violation of 343.17 (Stats. 1949) by taking 300 pounds of lead lining out of 2 vats which had been left by the owner in a public alley immediately behind an industrial building from which the owner was moving to a new location, the evidence was sufficient to support a verdict of guilty as against the defendant's claim that he had no felonious intent but thought that the vats had been abandoned so that he had a right to appropriate the property which he admittedly took. *Pleau v. State*, 359 W 105, 47 NW (2d) 330.

**943.21 Fraud on hotel or restaurant keeper.** Any person having obtained **any** food, lodging or other service or accommodation at any hotel, motel, boarding or lodging house, or restaurant, who intentionally absconds without paying for it may be fined not more than \$500 or imprisoned not more than one year or both.

**History:** 1956 c. 696.

**943.22 Use of cheating tokens.** Whoever obtains the property or services of another by depositing anything which he knows is not lawful money or an authorized token in any **receptable** used for the deposit of coins or tokens may be **fined** not more than \$50 or imprisoned not more than 60 days or both.

**History:** 1955 c. 696.

**943.23 Operating vehicle without owner's consent.** Whoever intentionally takes **and drives** any vehicle without the consent of the owner may be fined not more than \$1,000 or **imprisoned** not more than 5 years or both.

**History:** 1955 c. 696.

**943.24 Issue of worthless check. (1)** Whoever issues any check or other order for the payment of money which, at the time of issuance, he intends **shall** not be paid is guilty of a misdemeanor and may be fined not more than \$1,000 or imprisoned not more than one **year** or both.

(2) Any of the following is prima facie evidence that **the** person at the time he issued the check or other order for the payment of money, intended it should not be paid :

(a) Proof that, at the time of issuance, he did not have an account with the drawee; or

(b) Proof that, at the time of issuance, he did not have **sufficient** funds or credit with the drawee and that he failed within 5 days after receiving **notice** of nonpayment or dishonor **to** pay the check or other order; or

(c) Proof that, when presentment was made within a reasonable time, the issuer did not have sufficient funds or credit with the drawee and he failed within 5 days after receiving notice of nonpayment or dishonor to pay the check or other order.

(3) This section does not apply to a postdated check or **to** a check given for a past consideration, except a pay roll check.

**History:** 1955 c. 696.

**943.25 Transfer of encumbered property. (1)** Whoever, with intent to defraud, conveys real property which he knows is encumbered, without informing the grantee of the existence of the encumbrance may be **fined** not more than \$5,000 or imprisoned not more than 3 years or both.

(2) (a) Whoever, with intent to defraud, conceals, removes or transfers any personal **property** in which he knows another has a security interest may be fined not more than \$1,000 or imprisoned not more than 2 years or both. It is prima facie evidence of an intent to defraud if a person, with knowledge that the security interest exists, removes or sells the property without either the consent of the holder of the security interest or **authorization** by law or by the agreement creating the security interest., and fails within 72 hours after service of written demand for the return of the property either to return it or, in the event that return is not possible, to make full disclosure to the holder of the **security interest** of all the information he has concerning its disposition, location and **possession**.

(h) In this section "**security interest**" means an interest in property which **secures** payment or other performance of an obligation.

**History:** 1955 c. 696.

**943.26 Removing or damaging encumbered real property. (1)** Any mortgagor of real property or vendee under a land contract who, without the consent of the mortgagee

10

disc, master tape, master film or other device used for reproducing recorded sounds on phonograph records, discs, tapes, films or other articles on which sound is recorded, and from which the transferred recorded sounds are directly or indirectly derived.

(3) (a) Any person violating sub. (1) (a) is guilty of a Class B misdemeanor for the first offense, and for any subsequent offense is guilty of a Class A misdemeanor.

(b) Any person violating sub. (1) (b) is guilty of a Class B misdemeanor.

(c) Each unlawful transfer under sub. (1) (a) and each unlawful advertisement, offer or sale under sub. (1) (b) constitutes a separate offense.

(4) This section does not apply to:

(a) The transfer by a cable television operator or radio or television broadcaster of any recorded sounds, other than from the 'sound track of a motion picture, intended for, or in connection with, broadcast or other transmission or related uses, or for archival purposes.

(b) The transfer of any video tape or nonvideo audio tape intended for possible use in a civil or criminal action or special proceeding in a court of record.

History: 1975 c. 300; 1977 c. 173.

**943.21 Fraud on hotel or restaurant keeper.** (1) Whoever does either of the following may be penalized as provided in sub. (3):

(a) Having obtained any food, lodging or other service or accommodation at any hotel, motel, boarding or lodging house, or restaurant, intentionally absconds without paying for it.

(b) While a guest at any hotel, motel, boarding or lodging house, or restaurant, intentionally defrauds the keeper thereof in any transaction arising out of such relationship as guest.

(2) Under this section, prima facie evidence of an intent to defraud is shown by:

(a) The refusal of payment upon presentation when due, and the return unpaid of any bank check or order for the payment of money, given by any guest to any hotel, motel, boarding or lodging house, or restaurant, in payment of any obligation arising out of such relationship as guest. Such facts shall also be deemed prima facie evidence of an intent to abscond without payment.

(b) The failure or refusal of any guest at a hotel, motel, boarding or lodging house, or restaurant, to pay, upon written demand, the established charge for food, lodging or other service or accommodation actually rendered.

(c) The giving of false information on a lodging registration form or the presenting of false or fictitious credentials for the purpose of obtaining lodging or credit.

(d) The drawing, endorsing, issuing or delivering to any hotel, motel, boarding or lodging house, or restaurant, of any check, draft or order for payment of money upon any bank or other depository, in payment of established charges for food, lodging or other service or accommodation, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

(3) Whoever violates this section:

(a) Is guilty of a Class A misdemeanor when the value of any food, lodging, accommodation or other service is \$500 or less.

(b) Is guilty of a Class E felony when the value of any food, lodging, accommodation or other service exceeds \$500.

History: 1977 c. 173.

**943.22 Use of cheating tokens.** Whoever obtains the property or services of another by depositing anything which he or she knows is not lawful money or an authorized token in any receptacle used for the deposit of coins or tokens is subject to a Class C forfeiture.

History: 1977 c. 173.

**943.23 Operating vehicle without owner's consent.** (1) Whoever intentionally takes and drives any vehicle without the consent of the owner-is guilty of-a Class E felony.

(2) Whoever violates sub. (1) and abandons a vehicle without damage within 24 hours is guilty of a Class A misdemeanor.

History: 1977 c. 173.

To sustain a conviction of operating a car without the owner's consent it is not necessary that the driver be the person who actually took the car. Edwards v. State, 46 W (2d) 249, 174 NW (2d) 269.

**943.24 Issue of worthless check.** (1) Whoever issues any check or other order for the payment of money less than \$500 which, at the time of issuance, he or she intends shall not be paid is guilty of a Class A misdemeanor.

(2) Whoever issues any single check or other order for the payment of \$500 or more or whoever within a 15-day period issues more than one check or other order amounting in the aggregate to \$500 or more which, at the time of issuance, the person intends shall not be paid is guilty of a Class E felony.

(3) Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for the payment of money, intended it should not be paid:

(a) Proof that, at the time of issuance, the person did not have an account with the drawee; or

(b) Proof that, at the time of issuance, the person did not have sufficient funds or credit

*the vehicle was taken. X abandoned the vehicle within 24 hours of the time the vehicle was taken. Δ abandoned the vehicle w/o damage within 15 days of the time the vehicle was taken.*

*1977 Felony is mitigated to a Class A if Δ proves by a preponderance of the evidence that*

Susan Altman

X-ref

973.01 (1)

Maximum  
prison term  
✓

Felonies in drug code

→ Eg 959.62 (2m) (a) 2m-a.

30 yr...

B & Cs only

~~max~~

302.11 (1g) (a) 1.

973.0135 (1) (b) 1.

P.E.  
se ok?

978.07 (1) (c) 2.

Note this

Change to 973.01 (1) enough?

Need to affect (2) (c)?

ok

b/c it is enhancement  
that make it felony (misd)  
punishable by prison time

→ ~~9 mo~~ 9 mo → 2 yrs

Don't add enhancer again...

Deuter, 121 W2 118

Pernell, 165 W2 651

OK → AB: also 971.17 (1) misd treatment.