

Appendix F

Wisconsin Sentencing Guidelines

Notes

Introduction

The Wisconsin Sentencing Guidelines (Guidelines) are advisory, and are to be applied consistent with case¹ and applicable statutory authority, specifically Wis. Stat. 973.01 9(l)(b), for the following offenses if committed on or after December 31, 1999:

- burglary, Wis. Stat. 943.10 (1)
- first degree sexual assault, Wis. Stat. 940.225 (1)
- second degree sexual assault, Wis. Stat. 940.225 (2)
- first degree child sexual assault, Wis. Stat. 948.02 (2)
- second degree child sexual assault, Wis. Stat. 948.02 (1)
- armed robbery, Wis. Stat. 943.32 (2)
- robbery, Wis. Stat. 943.32 (1)
- possession with intent to deliver cocaine-under 1 gram
Wis. Stat. 961.41 (l)(cm) 2
- possession with intent to deliver marijuana-200 to 1000 grams
Wis. Stat. 961.41 (lm) (h) 2
- theft- less than \$10,000, Wis. Stat. 943.20
- forgery, Wis. Stat. 943.38 (2)

These Guidelines remain effective until the Wisconsin Sentencing Commission (Commission) issues permanent advisory guidelines or otherwise determines.

The Guidelines consist of two parts: the Wisconsin Sentencing Guidelines Worksheets (Worksheets), with a separate Worksheet for each of the offenses listed above, and the Wisconsin Sentencing Guidelines Notes (Notes). While the Worksheets and Notes reference many factors frequently considered at sentencing, they are not intended to preclude consideration of additional or alternative factors. Furthermore, the sentencing court is not required to address each of the factors listed in the Worksheet, or addressed in the Notes, but is encouraged to weigh relevant factors. Omission of consideration of the Guidelines factors is not, in and of itself, abuse of discretion. The standard for appellate review is not affected by the Guidelines.

The Worksheets serve a dual purpose. They are designed to guide the sentencing court and the parties at sentencing, and to gather information for the Commission. Since information recorded in the Worksheets may be used in formulating permanent advisory guidelines, the court should record accurately those factors it relied upon at sentencing. Worksheets should not be used in a mechanical fashion inconsistent with the exercise of judicial discretion.

Use of the pronoun “he” in the Notes is a matter of convention and convenience.

¹ See generally, Harris v. State, 75 Wis. 2d 513 (1977); Bastian v. State, 54 Wis. 2d 240 (1972); McLeary v. State, 49 Wis. 2d 263 (1971).

Worksheet Format

The top portion of each Worksheet contains a box requesting statistical information. This portion should be filled out by the pre-sentence investigation report (PSI) writer or by another person designated by the court in advance of sentencing.

The substantive portions of the Worksheet is divided into five principal sections, which are as follows:

- I-Offense severity level
- II-Risk assessment
- III-Specific offense chart
- IV-Adjustments to indicated sentence
- V-Imposition of sentence

The Guidelines are premised in part on the notion that many, though not all, factors that are appropriate to consider at sentencing are associated primarily with offense severity (the vertical axis of the chart) or risk assessment (the horizontal axis). The concept of offense severity pertains to the character of the offense itself. Offense severity is described as mitigated, intermediate and aggravated. The risk assessment of the horizontal axis refers to the risk to public safety or to re-offend posed by the defendant. Risk assessment is described as lesser, medium or high.

Many of the appropriate considerations necessary to evaluate offense severity and risk are listed in Sections I and II respectively of the Worksheets, and are further described in the corresponding portions of this Notes. After making determinations associated with offense severity and risk, the specific offense chart found at Section III of each Worksheet provides guidance on appropriate sentencing ranges. The Guidelines recognize that some factors, while difficult to identify as directly related to offense severity or future risk are nevertheless valid sentencing considerations and may support adjustment of the sentence. These factors are found at Section IV. Finally, Section V refers to the actual imposition of sentence.

Notes format

The Notes are to be used with the Worksheets, defining some terms and enlarging an understanding of the concepts referenced in each Worksheet. The structure of the Notes follows that of the Worksheets. Litigants are encouraged to consult the Notes and to direct the sentencing court's attention to sections that are applicable to a particular case.

Section I-Offense severity assessment

Section I of the Worksheet addresses issues related to offense severity, the vertical axis of the chart. In assessing offense severity, the court evaluates the gravity of the offense that the defendant committed and determines whether the offense should be treated as mitigated, intermediate or aggravated. This may include weighing various factors, such as the character of the act itself, its actual or intended impact upon the victim and the community, the defendant's role in the offense, and other factors. *Since the offense severity reflects the wrongfulness of the defendant's conduct, the offense severity axis of the chart reflects punishment of the offense.*

Section I-A pertains to factors associated with a specific offense, and is different for each offense. Sections I-C to I-E refer to factors that are generally relevant to most offenses.

Section I-A Determine factors affecting the severity of the specific statutory offense

Consult the specific offense section below:

Burglary - Wis. Stat. 943.10 (1)

Analysis should include factors such as harm to the individual victim, the value of items taken or damaged, and damage to the burgled premises.

Harm to the victim is more fully described in Section I-B below, but with respect to burglary, the court may consider specifically the type of premises burgled, and the crime intended upon entry, if known. Burglary of a dwelling is ordinarily considered more serious than burglary of a garage or commercial structure. This is because burglaries of dwellings ordinarily have a stronger and longer lasting impact on the victim. Burglary of a dwelling, the purpose of which was to steal or to assault sexually may make the victim feel unsafe, even at home, for many years to come. By contrast, burglary of an open garage and the theft of an item of small value may have little or no long-lasting effect on the victim.

Burglary of a commercial structure is often treated as less severe than of a dwelling. However, the nature of the burglary of a commercial structure or of a garage may in some instances cause substantial harm. For instance, the burglary of a business that was vandalized or otherwise incapacitated from functioning may cause the business severe economic and other consequences far beyond the value of stolen items.

Burglaries that involve a confrontation with occupants may be more traumatic to the victim than the burglary of an unoccupied structure. The judge may consider the nature of the confrontation, and related concepts, such as whether the confrontation was intended or reasonably certain to occur, and the circumstances of the confrontation.

The court may also consider whether the defendant abandoned the burglary after unlawful entry. For example, the burglar, who, upon entry, discovered that the premises were occupied and left, may have caused less harm than the burglar who, upon discovery of the occupants, persisted in his crime.

Sexual offenses

Worksheets are available for four sexual offenses: first and second sexual assault and first and second degree sexual assault of a child. The following portion of the Notes discusses factors that may be relevant to these offenses. In some respects, the factors the court should consider in imposing sentence on these four offenses are similar. These offenses all involve a sexual assault, which involves consideration of the harm suffered by the victim. Of course, some factors are quite different. Depending on the circumstances of a particular case, the court may find that a factor discussed in the Notes in connection with one form of sexual assault is applicable to another form.

First degree sexual assault -Wis. Stat. 940.225 (1)

To assess offense severity, the court should consider the nature of the assault itself. The offense of first degree sexual assault encompasses a range of conduct from sexual contact to sexual intercourse. The court should examine the nature of the conduct itself to determine the nature of the assault. Ordinarily, touching the victim over clothing is considered a less aggravated form of this offense than sexual intercourse. In evaluating the character of this offense, the court may consider the duration of the assault, and whether it involved multiple acts, even if only one count was charged.

In evaluating the severity of this offense, the sentencing court should also consider:

- bodily harm beyond the assault itself
- other forms of harm
- transmission of disease, and the actual disease transmitted
- pregnancy
- the degree of force used
- threats to the victim
- abduction or restraint of the victim
- location of the assault
- the kind of weapon involved, if any, and the manner in which it was used
- degradation of the victim

The court may consider the relationship between the defendant and the victim, but an assault in which the victim and the defendant know each other should not, for that reason alone, be treated less seriously. This issue must be considered carefully in the context of specific facts.

Under the Guidelines, the court must determine whether the particular offense is mitigated, intermediate or aggravated. The presence or absence of any factor in and of itself does not mean that the offense should be classified as more or less severe. The sentencing court should bear in mind that the victim of a sexual assault may suffer long-lasting psychological consequences, which may or may not be apparent at the time of sentencing. The opinions of treatment providers may be helpful to the judge in assessing harm. In sum, because of the variety of factors that may be present in connection with a particular offense, determination of the offense severity of a sexual assault is particularly delicate and complex. The opinions of treatment providers may be of assistance to the court in assessing harm. The Guidelines are intended to assist in this complex task.

Second degree sexual assault - Wis. Stat. 94940.225 (2)

Many of the offense severity factors described in connection with first degree sexual assault are appropriate to consider in connection with second degree sexual assault. However, the elements of these offenses are different, and this must guide the manner in which the factors are weighed.

For instance, the use of a toy weapon where the defendant was convicted of first degree sexual assault based on the use of a weapon may indicate that the offense is a less severe form of first degree sexual assault. However, the use of a toy gun where the defendant was charged and convicted with second degree sexual assault may be evaluated to determine whether the use of the weapon, albeit a toy, warrants a higher offense severity level.

Under the Guidelines, the court must determine whether the particular offense is mitigated, intermediate or aggravated. The presence or absence of any factor in and of itself does not mean that the offense should be classified as more or less severe. The sentencing court should bear in mind that the victim of a sexual assault may suffer long-lasting psychological consequences, which may or may not be apparent at the time of sentencing. The opinions of treatment providers may be of assistance to the court in assessing harm. In sum, because of the variety of factors that may be present in connection with a particular offense, determination of the offense severity of a sexual assault is particularly delicate and complex. The Guidelines are intended to assist in this complex task.

First degree sexual assault of a child - Wis. Stat. 948.02 (1)

As in first and second degree sexual assault, determination of offense severity requires analysis of the nature of the assault itself. Generally, sexual intercourse or bodily intrusion may cause more harm than sexual contact. A touching over the victim's clothing may cause less harm. This factor should be carefully considered, however, in the context of factors, including:

- age of the victim
- bodily harm beyond the assault itself
- other forms of harm
- transmission of disease, and the actual disease transmitted
- the degree of force used, if any
- threats to the victim
- abduction or restraint of the victim
- location of the assault
- the kind of weapon involved, if any, and the manner in which it was used
- efforts to preserve the assault by the use of photographs or videotapes

With respect to the age of the victim, the court should consider that, by its nature, this offense involves an assault upon a victim whom the defendant knows is vulnerable. While younger children are ordinarily considered more dependent than older children, and hence arguably more vulnerable, age alone is not a true measure of the child's degree of vulnerability or of the harm done to the child.

The court should examine information available at sentencing in connection with psychological, emotional, bodily or other harm to the victim. Some victims may suffer lifelong from this offense; others may recover more quickly. The time between the offense and sentencing may not be sufficient to assess long term harm. The court should consider impact to the individual victim; this may be demonstrated by the victim's statements as well as information regarding the victim's response to the crime. Some victims feel the need to move, others are no longer free to go certain places, or engage in certain activities. Yet others may be unable to work, have a relationship, or engage in other social contacts. Reports, if any, of health care providers and family members, or others who know the victim well, may provide valuable insights.

Another factor the court may consider is whether the defendant ordered or advised the victim to maintain silence; threatened the victim, abducted or restrained the victim. The court should also consider whether force was used, and the degree of force.

In some sexual assault of a child cases, there are reliable indicators that the victim has suffered multiple sexual assaults over a long period of time. Even if the defendant is convicted of only one count, the court may consider the duration of sexual abuse. The court may consider the relationship

between the defendant and the victim, but should not conclude from this fact alone that an offense between persons who know each other is necessarily less harmful.

Given the age of the victim of first degree sexual assault, pregnancy of the victim is unusual, and therefore it is not a factor that the court is likely to encounter. However, the court is not precluded from considering pregnancy in a case where the victim became pregnant as a result of the assault, and the harm this may cause to her and to her family.

Under the Guidelines, the court must determine whether the particular offense is mitigated, intermediate or aggravated. The presence or absence of any factor in and of itself does not mean that the offense should be classified as more or less severe. As in a sexual assault involving adult victims, the court should bear in mind that the victim of a sexual assault may suffer long-lasting psychological consequences. The opinions of treatment providers may be of assistance to the court in assessing harm. In sum, because of the variety of factors that may be present in connection with a particular offense, determination of the offense severity of child sexual assault is particularly delicate and complex. The Guidelines are intended to assist in this complex task.

Second degree sexual assault of a child - Wis. Stat. 948.02 (2)

The distinction between first and second degree sexual assault is based on the age of the victim. Therefore, offense severity factors for second degree sexual assault are often similar to those associated with first degree sexual assault of a child. While the discussion of offense severity factors associated with first degree sexual assault of a child is not repeated here in its entirety, the court should turn to that section (above) for guidance.

Some second degree sexual assault offenses involve a defendant who is relatively close in age to a victim at the upper ranges of the definition of a child. The court may consider the age of the defendant and of the victim, whether the victim acted voluntarily though legal consent was impossible, and whether the defendant and the victim were adolescents involved in a voluntary sexual relationship. A related issue is that victims of second degree sexual assault may become pregnant as a result of the assault, and that pregnancy at an early age has long-term consequences for the victim and the community.

Under the Guidelines, the court must determine whether the particular offense is mitigated, intermediate or aggravated. The presence or absence of any factor in and of itself does not mean that the offense should be classified as more or less severe. As in a sexual assault involving adult victims, the court should bear in mind that the victim of a sexual assault may suffer long-lasting psychological consequences. The opinions of treatment providers may be of assistance to the court in assessing harm. In sum, because of the variety of factors that may be present in connection with a particular offense, determination of the offense severity of child sexual assault is particularly delicate and complex. The Guidelines are intended to assist in this complex task.

Armed robbery - Wis. Stat. 943.32 (2)

In assessing the severity of an armed robbery, the court should consider the character of the specific crime. To the extent this can be determined, the court should determine the manner and nature in which a weapon was used, and the duration and location of the robbery. The court may consider the value of items taken, though many times the value of items lost is less consequential than the traumatic impact of this offense to the victim.

The court may consider the type of weapon used. An armed robbery may involve the use of a toy or pretend weapon, such as a hand in the pocket. When a toy or pretend weapon is used, in some sense the actual danger posed is less than when a real firearm is used, but the degree of anxiety suffered by a victim may be just as great. And, depending on the circumstances, there is always the risk that even when a toy weapon is used, the degree of actual danger will vary based upon others' response. Therefore, the court should weigh related factors, such as the degree and duration of force or threat of force, and whether any threats were made.

Generally speaking, aggravated robberies may involve one or more of the following characteristics: the use of a loaded firearm, perhaps an illegal weapon such as a sawed-off shotgun; the firing of the weapon; a mask; or a great degree of force.

Robbery - Wis. Stat. 943.32 (1)

The severity of a robbery is related to the degree and nature of the force used, its duration and location. While it is appropriate to consider the value of items taken, the value of items taken may be less consequential than the traumatic impact of this offense to the victim.

The degree of force involved and its duration are relevant to offense severity. A robbery carried out by verbal threats of force in order to take a relatively small amount of money, such as a student's lunch money, is of a different character than one in which the victim is beaten. In other words, a mitigated robbery ordinarily involves minimal force and duration and no injury; an intermediate robbery involves a greater degree of force; and aggravated forms of robbery involve the use of a weapon, a mask, or a greater degree of force or injury.

Possession with intent to deliver cocaine- under one gram - Wis. Stat. 961 (1)cm) 2

A mitigated offense is possession with intent to deliver without any indicia of dealing for profit. The intended delivery is to friends and acquaintances, or an accommodation or favor to others.

An intermediate offense is one of possession with intent to distribute for profit, albeit the profit margin may be small. Indicia of dealing and profit have historically included beepers and cell phones, but with the proliferation of these items in society, they have become, in and of themselves, much less reliable indicators of dealing. Beepers and cell phones may be analyzed with caution in the context of reasons given for their possession and the manner in which they were purchased.

An aggravated offense is an offense associated with a fortified drug house, or possession in the presence of children, or in a location where there are other kinds of controlled substances, luxury items or weapons.

Association with gangs is an important consideration when assessing the offense severity of a drug offense. The impact of a gang in a particular neighborhood may be weighed in assessing offense severity.

Possession with intent to deliver marijuana (200 - 500 grams)- Wis. Stat. 961.41 (1m)(h)2

Considerations associated with offense severity for possession with intent to deliver marijuana are similar to those for possession with offense severity for possession with intent to deliver less than one gram of cocaine, and the court may turn to that section of the Notes (above) for guidance.

Theft- less than \$10,000 - Wis. Stat. 943.20 Elsa has to do

Forgery - Wis. Stat. 943.38 (2) Elsa has to do

Section I-B Assess harm caused by the offense

The sentencing court should address the impact of the crime upon the victim, and the individual victim's statement and needs. These factors may bear not only upon the offense severity assessment, but also upon conditions of probation or extended supervision.

To the extent that it has not already been fully considered in connection with Section I-A above, the court should address any vulnerabilities of the victim, how these may have affected the harm done to the victim, and whether the defendant was aware of the vulnerabilities.

Again, to the extent that it has not already been considered fully in connection with Section I-A above, the court should evaluate the impact of the crime on the victim. This includes consideration of any harm suffered by the victim. It may be bodily harm, as defined in Wis. Stat. Section, as well as the psychological, physical, and financial impact of the crime on the victim's person, family or property.

The court may also take into account whether a neighborhood or community has suffered harm as a result of the defendant's conduct.

Section I-C Defendant's role in the offense

In assessing the severity of an offense involving more than one offender, the court may consider the defendant's role in the offense. Generally a finding that a defendant was a leader or organizer, or was in a position of authority suggests that the defendant's offense severity level should be increased. Similarly, a finding that the defendant's role was minimal, or that the defendant was pressured or manipulated by others suggests that the defendant be placed in a lower offense severity level. However, this determination should be made in the context of all factors bearing upon the severity of the offense.

Section I-D Statutory aggravating factors

Since they represent legislative will, statutory aggravating factors are entitled to the most careful consideration by the sentencing court. The presence of a statutory aggravating factor, though uncharged or dismissed, generally should result in placing the offense at a higher offense severity level.

In order to assist the court, Section I-B of the Worksheet lists some of the statutory aggravating factors set forth in Wis. Stat. Section. ____ The court should consult the statute to make sure that all applicable statutory aggravating factors have been identified and considered.

Section I-E Other factors related to offense severity

Other factors related to offense severity include:

Weapon used

The use of a weapon not considered a statutory aggravator, such as when a knife is used, is a factor that may increase the severity of the offense

Abuse of a position of trust or authority

The abuse of a position of trust, taking advantage of a position of authority, or making use of a special skill or license in order to commit the crime are factors that may increase the severity of the offense

Offense was gang-related or associated with a criminal enterprise

Facts demonstrating that the offense was related to gang activity or other forms of organized criminal activity may increase the severity of the offense. Association with a gang may affect the impact of the crime on the victim and the community. This factor should be evaluated in the context of the offense. However, the offense should not be treated as more severe simply because, unrelated to the offense and its impact on the community, the defendant was associated with a gang.

Conduct reflects more serious conduct than the offense of conviction

At times, the underlying conduct reflects conduct more serious than the offense of conviction. For instance, as a result of plea negotiations, the defendant may have been convicted of second degree sexual assault of a child although the child victim was under the age of 13. The court may consider this in assessing offense severity.

Section II- Risk assessment evaluation

Section II of the Worksheet contains factors that are useful in assessing the risk that the defendant poses to public safety or to re-offend. Risk assessment involves valuation of factors indicative of risk and of criminal history. *The risk axis of the chart reflects incapacitation from re-offending and from harming the public.*

To assess future risk, the court may evaluate the character of the offense itself, just as the offense itself was analyzed to determine offense severity. Using burglary as an example, the court may consider that there are different kinds of burglaries, and their different characteristics may reveal information relevant to assessing whether the defendant will commit another burglary or re-offend in another way. For instance, a burglary may have been opportunistic, as when a defendant, not having planned to commit the crime, passes by an open garage door, sees a bicycle and impulsively steals it. Depending on other factors known about the defendant, the court may determine that this impulsive act may or may not be a fair predictor of re-offense.

On the other hand, factors related to the manner in which the burglary was executed, or to the defendant's background and history may suggest that the burglary was professional. A professional burglar poses a significant risk to re-offend.

The reason why a defendant entered the premises may itself be indicative of future risk. A burglary may be retaliatory, that is aimed at a particular victim to get even, to intimidate or to coerce. Depending on the particular circumstances, a defendant involved in this kind of offense may pose no

risk to commit another burglary, but may pose a risk to commit another, perhaps even more serious offense. The defendant may be involved in a volatile relationship where there is future risk of violence. On the other hand, when viewed in the context of other factors, the court may conclude that the burglary represents anomalous conduct, and that the defendant is unlikely to re-offend.

A crime may be mischievous or thrill-seeking, with no purposes other than to cause damage. Depending on other circumstances, this may be a predictor of re-offense. A defendant who enters premises for the purpose of committing a sexual assault may be a significant risk for future offense, though not necessarily burglary. An examination of factors affecting the risk for future sex offenses may be more appropriate in such a situation.

In other words, the court may evaluate the character of a particular offense, whether it is burglary or another offense, to determine what it reveals about future risk to public safety or to re-offend. With respect to the horizontal axis of the chart, the purpose of evaluating the character of the offense, of the offender, of the factors listed below, including criminal history, is to assess the degree and nature of the risk that the defendant poses to individual victims and to the community. The court ultimately must decide whether the defendant poses a lesser, medium or high risk to public safety or to re-offend.

Section II-A Factors that may suggest heightened/lesser risk

Section II-A lists factors that may be considered in assessing risk.

Prior acts

The court may consider wrongful conduct even if it did not result in conviction. However, the court should bear in mind that conduct that fell short of conviction might be insufficiently reliable to reflect on future risk.

Consider whether a defendant's prior wrongs affect the risk that the defendant will re-offend or cause harm of the public in the future. At times, previous acts have resulted in arrest but not conviction. The court should evaluate the number and reason for the arrests. A court may conclude that it is appropriate to treat misconduct that has resulted in arrest as more serious than misconduct that has gone undetected. This is because, depending on the circumstances, the fact of arrest may fairly constitute a warning to the defendant that his conduct is wrongful and should stop. When conduct has gone undetected, the effect of arrest or conviction on future risk has not been demonstrated. It may be that arrest itself will reduce future risk to re-offend. However, this is not to suggest that the court should never consider previous undetected misconduct.

Prior acts may also include previous read-in offenses if indicative of future risk, or may have little to add to the risk analysis. For instance, if the defendant has a burglary conviction and there was a read-in for the theft of items stolen at the time of the burglary, the read-in for the theft has relatively little to add in predicting risk; the burglary conviction already reflects the conduct. However, a read-in for criminal damage to property for vandalism during the course of the robbery may be informative of future risk.

Age

The defendant's age is frequently related to the risk to re-offend. With the exception of sexual offenses, adolescents and young adults commit most crimes. That is, as persons age, they tend to stop committing crimes. Therefore, a burglar in his late thirties or forties, may pose a great risk to re-offend; aging has not stopped him from breaking the law.

The effect of age on criminal behavior is not as clear when a sexual assault is involved. For instance, pedophiles tend to pose a risk to re-offend throughout their lives.

Employment history

Evidence of employment that enables the defendant to support himself and his family is generally an indication of reduced risk of re-offend. This is particularly true when the offense had a financial motive.

A record of stable employment is of even greater significance than employment at the moment of sentencing. A history of employment, depending on other factors, may indicate a lesser risk to re-offend. The defendant's employment history may also be relevant when setting conditions of probation or extended supervision.

Character

In assessing risk, the court may consider whether the nature of the defendant's character suggests that the offense of conviction is an anomaly. It is generally preferable to evaluate character in the context of a demonstrated history of good conduct.

Ties to family and community

The presence of a strong and stable relationship with family, as well as strong ties to the community in which the defendant lives and works, may be considered when assessing risk. A supportive and committed family may reduce the risk posed by the defendant. This factor may also be relevant when setting conditions of probation or extended supervision.

Physical condition

Consider whether the defendant's physical condition affects the ability to supervise him. For instance, a person who is confined to a wheelchair may pose a lesser risk of violent conduct.

Mental health, treatment and counseling

Issues related to mental health merit careful consideration. If previously untreated, a defendant's commitment to a course of treatment and medication may be an indicator of lesser risk. However, at times a history of mental illness, particularly if coupled to violent conduct, may reveal heightened risk. These factors may be considered when setting conditions of probation or extended supervision.

Alcohol or drug dependence and treatment

The court may consider whether the defendant committed the offense while under the influence of an intoxicant or a controlled substance, whether the defendant is dependent on alcohol or controlled substances, or whether there is a history of alcohol or drug abuse. Anecdotal and statistical evidence reveals a high correlation between many crimes and a dependence on alcohol or drug dependence. The defendant may remain a significant future risk unless his alcohol or drug dependence has been; or can and will be effectively addressed.

Performance on bail

Performance on bail may be treated as an indicator of future risk. The defendant's conduct may indicate that he can be supervised adequately in the community. Obviously, evidence of negative urine screens and of compliance with conditions of pre-trial release, if any, tend to reflect favorably.

Whether the offense for which the defendant is being sentenced was committed while he was on bail on other charges is a factor that the court may consider. For instance, the fact that a defendant is released on bail for operating a motor vehicle while under the influence of an intoxicant, and then commits a sexual assault, also while under the influence of an intoxicant, is reflective of high risk. However, if, while on bail release for sexual assault a defendant is arrested for operating a motor vehicle without a driver's license, the bail violation is less closely associated with risk.

Section II-B Criminal History

This section requires that all of the defendant's previous convictions, whether felonies or misdemeanors, be listed on the Worksheet or attached. This section should be prepared before sentencing by the PSI writer or another person designated by the court. The PSI writer may copy and attach the portion of the PSI that lists previous convictions and adjudication of delinquency.

Definition of "conviction" includes adjudications of delinquency

For purposes of these Guidelines, the word "conviction" means a criminal conviction or an adjudication of delinquency for an act that would have been a crime if committed by an adult. Similarly, any reference to a "felony" or a "misdemeanor" includes crimes so classified by statute as well as any adjudication of juvenile delinquency that would have been a felony or misdemeanor if committed by an adult.

Section II-C Assessing criminal history

The Guidelines direct that criminal history be treated objectively in a manner consistent with the groupings found in the Worksheet and described below under Sections II-C-1, II-C-2 and II-C-3. However, in those cases where criminal history understates or overstates the defendant's risk to public safety or to re-offend, the sentencing court should make appropriate adjustments to the risk assessment axis. Included among factors that may distort criminal history and warrant adjustment of the groupings described at Sections II-C-1, II-C-2 and II-C-3 are:

- Absence of criminal history
- Age of convictions

- Intervening events
- Unrelated convictions
- Multiple offenses for closely-related crimes

Absence of criminal history

Criminal history is an important consideration in assessing future risk to public safety or to re-offend. The absence of a criminal history does not, in and of itself, lead to an inevitable conclusion that the defendant should be placed in the lesser risk category. In some instances, a bare reference to criminal history may be an inadequate indicator of risk. For instance, prior acts and read-in offenses not resulting in conviction (discussed in Section II-A above) may be predictive of future risk. In the case of a burglary where the defendant entered for the purpose of committing a sexual assault, the burglary conviction may be an inadequate indicator of the risk posed by the defendant.

Age of convictions

The age of the prior convictions, as well as the age of the defendant at the time of the past and present conviction, affect the risk assessment. As already stated, the age of the defendant in itself affects the risk to re-offend. Generally, the more distant the past conviction or behavior is from the present offense, the less reliable indicator it is of future risk to re-offend or to public safety. (A significant exception to this are sexual assault offenses, which must be very carefully treated no matter how old the conviction or the offender.) Of course, lapse of time between the previous offense and the present crime is less meaningful in those situations where the defendant has been incarcerated and thus unable to re-offend outside of a correctional institution. In those instances, it is more appropriate to evaluate the lapse of time from release to the community and re-offense.

Intervening events

Events intervening between earlier convictions or conduct and the present offense may affect the risk assessment. Consider whether the defendant, since his previous crimes has availed himself of rehabilitative resources successfully, continued with his education, obtained an educational degree, established a history of stable employment, and lived in a manner consistent with the public good.

Unrelated conduct

The sentencing court should examine the defendant's criminal history in the context of the present offense to determine whether prior convictions are relevant predictors of future risk. For instance, when imposing sentence for a burglary, the fact that the defendant recently committed another burglary or burglaries is highly relevant to the risk to re-offend. In certain circumstances, a recent conviction for a controlled substance offense, even a misdemeanor or citation, may be more indicative of risk because, depending on the circumstances, it may be a reliable indication of risk to re-offend. This is so because of the correlation between substance abuse and burglary. By the same token, conviction for a violent offense may in some instances be a less reliable indicator of future risk. A burglary defendant who has a battery conviction might be at a lower risk to re-offend than a person with a recent misdemeanor conviction. For example, if the battery was the result of a schoolyard fight many years before, when the defendant was an adolescent, the felony battery conviction might not be a reliable indicator of future risk. This is not to say that the felony battery conviction should be wholly

disregarded, rather, that it should be weighed carefully to determine whether it is predictive of future risk.

Multiple convictions for closely related crimes

Where the defendant has multiple previous convictions, the court should be informed whether these were the product of a single event or course of conduct; or were distinct, discrete occurrences. This does not mean that simply because multiple crimes are closely related in time they should be disregarded. For example, four armed robbery convictions that resulted from a single occurrence where four victims were present, may be viewed differently than four convictions that resulted from four separate armed robberies occurring over four consecutive days, or even during the course of the same day. In sum, the court should analyze convictions flowing from closely related conduct to insure that the convictions are not used in a manner that overstates risk.

Definition of violent offenses

Violent offenses include any misdemeanor or felony (or juvenile offense for an act that would have been a misdemeanor or felony if committed by an adult) that involved:

1. the use or threat of use of force. This definition of “violent” assumes a person-to-person confrontation; or
2. the sexual assault of a child; or
3. the use or possession of a dangerous weapon as defined in Wis. Stat.

Definition of legal status

Legal status means that at the time of the offense, the defendant was:

1. on probation for any felony or violent misdemeanor (as defined above); or
2. on parole; or
3. on extended supervision; or
4. subject to juvenile supervision following adjudication for an act that would have been a felony or a violent misdemeanor if committed by an adult; or
5. an escapee; or
6. an absconder

The court may consider whether or not the defendant was on bail at the time of the offense, but bail release does not fall within the definition of legal status. See Notes Section II-A, Performance on bail. The significance of legal status is that, since at the time of the offense the defendant was on (or absconded from) some form of supervision; and that supervision was **insufficient** to control the defendant’s risk to re-offend. In light of this, the court should consider whether a correctional agency could adequately supervise the defendant in a manner consistent with public safety. A person who has been the subject of close supervision in the community, but who nevertheless re-offends, may have demonstrated that no degree of community supervision will suffice to protect the community

Section II-C-1 Lesser risk

Generally, lesser risk assessment is strongly suggested when at the time of the offense the defendant had no legal status and no criminal history; or no legal status and convictions for non-violent misdemeanors only; or no legal status and a conviction for one non-violent felony.

Section II-C-2 Medium risk

Generally, medium risk assessment is strongly suggested when the defendant is being sentenced for a non-violent felony committed while the defendant was on legal status; or when the defendant has been convicted once before for the same or a closely related offense; or when the defendant has a criminal history for two or three violent misdemeanors, or for two or three non-violent felonies, or one violent felony

Section II-C-3 High risk

Generally, high risk assessment is strongly suggested when a defendant is being sentenced for a violent felony committed while the defendant was on legal status; or when the defendant has been convicted two or more times for the same or a close related offense; or when the defendant has a criminal a history for two or more violent felonies or four violent misdemeanors.

The descriptions of lesser, medium and high risk are not an exhaustive compilation of the varieties of criminal history records that a sentencing court might encounter. In those circumstances where a defendant's criminal history is not precisely reflected in any of the descriptions embodied in Sections II-C-1, II-C-2 and 11-C-3, the court may analogize to these descriptions of risk to determine whether the defendant should be placed in the lesser, medium or high risk categories.

Sexual offenses-additional Notes needed on risk analysis for sexual offenders, Steve-hopefully-to do

Section III- Specific offense chart

Section III of the Worksheet includes a chart with nine cells. The offense severity level is the vertical axis of the chart and the horizontal axis represents future risk to public safety or to re-offend. The structure of the chart is not intended to indicate that the total number of offenders should be distributed equally among the nine cells. The distribution of offenders will vary by offense. It may be that in connection with one offense, almost all defendants will fall within the low risk/mitigated offense category. Similarly, it may be that few defendants will be placed with the aggravated offense severity/high risk offender cell. The aggravated offense severity level/high risk offender cell accommodates the highest sentence possible for the worst case offender.

Section III of the Worksheet also includes information regarding the percentage of defendants placed on probation for the specific offense during the previous five years. This information is

included in order to provide information regarding the frequency with which probation has been used for the particular offense.²

After determining whether the offense severity level is properly described as mitigated, intermediate or aggravated; and whether the defendant presents a lesser, medium or high risk to public safety or to re-offend, the court places the defendant in the corresponding cell of the specific offense chart. This provides the sentencing court with a sentencing range.

Section IV- Adjustments to ranges in the sentencing chart

The Guidelines envision analysis of most factors relevant to sentencing as related either to offense severity or risk assessment. However, some factors that may be legitimately argued and considered at sentencing are difficult to describe as related to either of these considerations. Section IV references factors that may warrant adjustment of the sentence indicated by the specific offense chart.

A-Punishment is needed in the form of incarceration

Though a defendant may otherwise be a candidate for probation, considerations of retribution or deterrence not fully accommodated by the preceding sections of the Guidelines may lead the sentencing court to impose a term of incarceration, either as condition or probation or in prison. The court should state the reasons for deviation from the sentencing range indicated in the sentencing chart.

B-Additional factors that may warrant adjustment of the sentence

The following factors are not always related to offense severity level or future risk. They may nevertheless lead a court to adjust the sentence.

Effect of multiple counts

Imposition of sentence on multiple counts may require upward adjustment if the sentences are imposed concurrently or downward reduction if sentences are imposed consecutively.

Read-in offenses

Read-in offenses may cause the sentencing court to deviate upward, or to set different conditions of probation or extended supervision.

Acceptance of responsibility; co-operation with authorities

The court may find it appropriate to reduce the sentence when the defendant accepts responsibility for the offense; or expresses heartfelt remorse, to the extent that this can be determined; or demonstrates that he has learned a lesson from the experience; or has provided valuable services to law enforcement authorities.

Attorneys' recommendations

² Cautionary note: Statistics regarding the number of defendants placed on probation are derived from Department of Corrections database. They do not incorporate the C-CAP database, and may be incomplete.

The court may give weight to the recommendation given by the attorney, particularly if the reasons for the recommendation are set forth at sentencing and the court finds that they are well founded.

Restitution paid at great sacrifice

The payment of restitution is related to acceptance of responsibility and to remorse. When restitution is paid before sentencing, the court may give favorable consideration. However, care should be taken to analyze the financial resources of the defendant. At times, restitution is paid by family members whose financial resources are so great that payment means less than a smaller payment by an individual with limited resources.

Collateral consequences

At times, defendants suffer collateral sources of punishment from having been charged or convicted of an offense. Collateral punishment may take the form of the loss of a job or professional license or certification with long-lasting financial consequences, public humiliation, and loss of property (as in a forfeiture action). The collateral consequences of conviction may be considered by the court and may mitigate a sentence. However, undue weight to collateral consequences could have the unintended effect of unfairly benefiting wealthier defendants.

Section V- Imposition of sentence

Extended supervision

When a sentence of incarceration is imposed, or imposed and stayed, the court must impose a term of extended supervision of at least one quarter of the period of incarceration. The length and conditions of extended supervision, if the court deems that special conditions in addition standard conditions of supervision are appropriate, must be determined as part of the sentence.

The length of extended supervision should be sufficient to protect the community and may also serve to punish the defendant. Considerations related to the re-integration of the defendant into the community, payment of restitution, rehabilitation and other special needs, such as the need for treatment or counseling that might not be met in a correctional setting, may influence the court's decisions regarding extended supervision. Sentencing courts should not automatically impose a maximum term of extended supervision. In many circumstances, a term of extended supervision of one year or one quarter the term of incarceration, whichever is greater, may suffice to serve the proper ends of extended supervision. However, with certain kinds of offenses, such as child sexual assault, the sentencing court may wish to set a longer period of extended supervision. Ordinarily, the length of extended supervision should be no less than one year or one quarter of the term of incarceration, whichever is greater.

Boot camp

In order for the defendant to qualify for boot camp, the court must announce this at the time of sentencing. Boot camp has the effect of reducing the period of incarceration.

Appendix G

Recommended Administrative Law Changes:

A. Wis. Admin. Code DOC 33 1.03(3) would be revised as follows:

DOC 331.03 Revocation of probation and parole. (1) Revocation. A client's probation or parole may be revoked and the client transported to a correctional institution or court if the client violates a rule or condition of supervision.

(2) Investigation. A client's agent shall investigate the facts underlying an alleged violation and shall meet with the client to discuss the allegation within a reasonable period of time after becoming aware of the allegation.

(3) Recommendation. After investigation and discussion under sub. (2), the agent shall decide whether to:

(a) Take no action because the allegation is unfounded;

(b) Except as provided in par. c, resolve alleged violations by:

1. A review of the rules of supervision followed by changes in them where necessary or desirable, including return to court;

2. A formal or informal counseling session with the client to reemphasize the necessity of compliance with the rules or conditions; or

3. An informal or formal warning that further violation may result in a recommendation for revocation; or

(c) ~~Recommend revocation for an alleged violation. Nothing in par. b. prevents the agent from recommending revocation when the behavior of the offender precludes implementation of alternatives. Neither is the agent obligated to implement every alternative available.~~

(d) Recommend revocation for an alleged violation.

B. Wis. Admin. Code HA 2.05(7) would be revised as follows:

HA 2.05 Revocation hearing

(7) DECISION. (a) The administrative law judge shall consider only the evidence presented in making the decision.

(b) The administrative law judge shall:

1. Decide whether the client committed the conduct underlying the alleged violation;

2. Decide, if the client committed the conduct, whether the conduct constitutes a violation of the rules or conditions of supervision;

3. Decide, if the client violated the rules or conditions of supervision, whether, within the administrative law judge's discretion, revocation should result or whether an alternative to revocation may be appropriate. ~~revocation should result or whether there are appropriate alternatives to revocation.~~ Violation of a rule or condition is both a necessary and a sufficient ground for revocation of supervision. Revocation may ~~not~~ be ordered the disposition, however, if unless the administrative law judge finds on the basis of the original offense, the offender's criminal history, juvenile delinquency referrals and/or correctional history, and the intervening conduct of the client that:

a. Confinement is necessary to protect the public from further criminal activity by the client; or

- b. The client is in need of correctional treatment which can most effectively be provided if confined; or
- c. It would unduly depreciate the seriousness of the violation if supervision were not revoked.

C. DOC would be allowed to seek certiorari review of the ALJ's decision not to revoke. Wis. Stat. s. 801.50(5) would be revised as follows:

(5) Venue of an action to review a probation, a decision to revoke or not to revoke extended supervision, or parole revocation or a refusal of parole by certiorari, and for all decisions by an administrative law judge if adverse to the Department of Corrections, shall be the county in which the relator was last convicted of an offense for which the relator was on probation, extended supervision or parole or for which the relator is currently incarcerated.

D. The circuit court would specify the time period of revocation of extended supervision.

The subcommittee recommends that at the time of resentencing, the trial court has authority to specify a new bifurcated sentence which may not be longer than but may be equal to or less than the ES period in the offender's original sentence.

Wis. Stat. s. 302.113(9) to be revised as follows:

(9)(a) If a person released to extended supervision under this section violates a condition of extended supervision, the division of hearings and appeals in the department of administration, upon proper notice and hearing, or the department of corrections, if the person on extended supervision waives a hearing, may revoke the extended supervision of the person and return the person to ~~prison~~ the court for disposition of the violation. The court shall ~~return the person to extended supervision~~ order ~~that if~~ the person ~~is~~ be returned to prison, ~~he or she shall be returned to prison~~ for any specified period of time that does not exceed the time remaining on the bifurcated sentence. The time remaining on the bifurcated sentence is the total length of the bifurcated sentence, less time served by the person in custody before release to extended supervision. The ~~revocation court~~ order shall provide the person on extended supervision with credit in accordance with ss. 304.072 and 973.155.

(b) A person who is returned to prison after revocation of extended supervision shall be incarcerated for the entire period of time specified by the ~~department of corrections in the case of a waiver or by the division of hearings and appeals in the department of administration in the case of a hearing under par. (a)~~ court. The period of time specified under par. (a) may be extended in accordance with sub. (3).

(c) A person who is subsequently released to extended supervision after service of the period of time specified by the ~~department of corrections in the case of a waiver or by the division of hearings and appeals in the department of administration in the case of a hearing~~ court under par. (a) is subject to all conditions and rules under sub. (7) until the expiration of the term of extended supervision portion of the bifurcated sentence.

Appendix H

Comparison of Median Sentences from Judicial Survey in Eau Claire on May 20, 1999

	Current Law			Truth-In-Sentencing				
	Probation		Prison Years	Probation			Prison	
	Stayed Prison	Withheld Probation		Stayed Prison Years	E.S. Years	Withheld Probation Years	Prison Years	E.S. Years
Burglary 1;Defendant 1	3 ⁹	5 ³⁵	4 ³	2.5 ⁸	3 ⁸	4 ³⁹	2 ⁴	5 ⁴
Burglary 1;Defendant 2	5 ³	5 ³	5 ³⁵	4 ³	5 ³	6 ²	3 ⁴⁴	4 ⁴⁴
Burglary 1;Defendant 3			8 ³⁹				6 ⁴⁸	5 ⁴⁸
Burglary 2;Defendant 1	3 ⁸	5 ²⁹	4 ¹⁰	3 ¹⁴	3 ¹⁴	5 ²⁸	2.5 ⁸	4.5 ⁸
Burglary 2;Defendant 2	5 ²	5 ²	5 ³⁷	4 ³	5 ³	6 ³	3 ⁴³	4 ⁴³
Burglary 2;Defendant 3		9 ¹	8 ³⁸	5 ¹	5 ¹	3 ¹	7 ⁴⁴	5 ⁴⁴
Burglary 3;Defendant 1	3 ¹⁰	4 ³³	3 ⁴	3 ⁷	3 ⁷	3 ⁴⁰	1 ⁴	4 ⁴
Burglary 3;Defendant 2	4 ⁶	5 ⁶	4 ³⁰	4 ³	4 ³	6 ³	2 ⁴³	4 ⁴³
Burglary 3;Defendant 3		3 ¹	7 ³⁷	4 ¹	4 ¹		5 ⁴⁷	5 ⁴⁷
Armed Robbery 1;Defendant 1	5 ⁶	8 ¹⁷	6 ²⁰	4.5 ¹⁰	4 ⁹	6 ²¹	3 ²⁴	6.5 ²⁴
Armed Robbery 1;Defendant 2	5 ³	5 ¹	8 ³⁵	3 ³	3 ³	6 ⁵	5 ⁴²	5 ⁴²
Armed Robbery 1;Defendant 3	5 ¹		15 ³⁶				10 ⁴⁸	10 ⁴⁸
Armed Robbery 2;Defendant 1	8 ³	10 ²	10 ³⁵	7 ²	8 ²	5 ²	5 ⁴⁶	8 ⁴⁶
Armed Robbery 2;Defendant 2	12 ¹		15 ³⁷				10 ⁴⁸	10 ⁴⁸
Armed Robbery 2;Defendant 3			20 ³⁹				15 ⁴⁷	10 ⁴⁷
Armed Robbery 3;Defendant 1	9 ²		14 ³⁶				9.5 ⁴⁸	10 ⁴⁸
Armed Robbery 3;Defendant 2	12 ¹		20 ³⁷			25	12 ⁴⁸	10 ⁴⁸
Armed Robbery 3;Defendant 3			30 ³⁹				20 ⁴⁷	10 ⁴⁷
Sexual Assault 1;Defendant 1	3 ⁸	4 ⁴⁹	5 ²	3 ⁷	2 ⁷	5 ²⁵	2 ⁹	6.5 ⁹
Sexual Assault 1;Defendant 2	4 ¹⁰	5 ¹⁵	5 ³⁵	4.5 ⁶	3.5 ⁶	6 ⁴	3.5 ²⁹	5 ²⁹
Sexual Assault 1;Defendant 3	8 ³	7.5 ²	8 ⁴⁹	4 ¹			8 ³⁶	10 ³⁶
Sexual Assault 2;Defendant 1	5 ³	5 ⁷	6 ⁴⁵	10 ¹	5 ¹	10 ¹	5 ³⁵	7 ³⁵
Sexual Assault 2;Defendant 2	3 ¹	5 ¹	10 ⁵¹	3 ¹	4 ¹		10 ³⁷	10 ³⁷
Sexual Assault 2;Defendant 3			15 ⁵²				15 ³⁷	10 ³⁷
Sexual Assault 3;Defendant 1	7 ¹⁵	8 ³⁶	5 ¹³	5 ⁵	5 ⁵	8 ¹²	5 ²¹	10 ²¹
Sexual Assault 3;Defendant 2	4 ³	8 ⁴	6.5 ⁴⁸	6.5 ²	4.5 ²		6 ³⁵	10 ³⁵
Sexual Assault 3;Defendant 3	10 ³	10 ²	12 ⁴⁹				15 ³⁷	15 ³⁷
Street Level Drug Dealer 1	5 ⁶	4 ⁴⁹	2 ²	3 ⁸	4 ⁸	5 ²⁵	1 ⁸	5 ⁸
Street Level Drug Dealer 2	3 ²⁰	5 ³⁴	3 ¹¹	3 ⁹	5 ¹⁰	5 ¹²	2 ¹⁹	5 ¹⁹
Street Level Drug Dealer 3	5 ³	5 ⁵	5 ⁴⁶	3 ¹	5 ¹	7.5 ²	4 ³⁵	5 ³⁵
Drug House Dealer 1	5 ¹¹	5 ²⁰	4.5 ³⁰	3 ⁵	5 ⁵	5 ⁹	3 ²⁷	5 ²⁷
Drug House Dealer 2			10 ⁵¹	4 ¹	6 ¹	5 ¹	7 ³⁶	5 ³⁶
Drug Dealer 1			10 ⁵¹			8 ¹	10 ³⁷	10 ³⁷

The figures in this table are based on the responses of 87-90 judges surveyed.

The difference in responses reflects a small number of forms that were completed incorrectly.

The bold numbers represent median length of sentences.

The italic numbers represent number of responses.

Appendix I

Current Law

	Probation Years			Prison Years
	Withheld	Stayed Probation	Prison	
Burglary 1;Defendant 1	<i>57</i> 4	<i>39</i> 4	4	<i>9</i> 3
Burglary 1;Defendant 2	<i>0</i>	<i>4</i> 4	7	<i>100</i> 7
Burglary 2;Defendant 1	<i>61</i> 4	<i>38</i> 4	3	<i>4</i> 4
Burglary 2;Defendant 2	<i>0</i>	<i>5</i> 5	5	<i>99</i> 6
Armed Robbery 1;Defendant 1	<i>9</i> 8	<i>14</i> 8	7.5	<i>84</i> 6
Armed Robbery 1;Defendant 2	<i>0</i>	<i>3</i> 10	20	<i>103</i> 15
Armed Robbery 2;Defendant 1	<i>0</i>	<i>3</i> 10	20	<i>103</i> 12
Armed Robbery 2;Defendant 2	<i>0</i>	<i>2</i> 15	35	<i>101</i> 24
Sexual Assault 1;Defendant 1	<i>69</i> 5	<i>31</i> 5	5	<i>4</i> 5
Sexual Assault 1;Defendant 2	<i>3</i> 10	<i>11</i> 5	8	<i>93</i> 8
Sexual Assault 2;Defendant 1	<i>29</i> 10	<i>19</i> 10	6	<i>56</i> 8
Sexual Assault 2;Defendant 2	<i>1</i> 10	<i>5</i> 15	12	<i>99</i> 20

Truth-In-Sentencing

Probation Years				Prison Years	
Withheld	Stayed Probation	Prison	E.S	Prison	E.S.
<i>54</i> 4	<i>40</i> 4	2.75	2.5	<i>10</i> 1	2
<i>0</i>	<i>2</i> 4.5	3.5	4	<i>103</i> 5	4
<i>54</i> 4	<i>43</i> 4	3	2	<i>7</i> 2	5
<i>0</i>	<i>3</i> 5	4	3	<i>102</i> 4	3
<i>8</i> 8	<i>11</i> 5	5	5	<i>89</i> 4	5
<i>0</i>	<i>0</i>			<i>107</i> 10	<i>7</i>
<i>0</i>	<i>4</i> 5	7	6	<i>102</i> 7	5
<i>0</i>	<i>1</i> 10	17	10	<i>103</i> 15	10
<i>68</i> 5	<i>31</i> 5	3	3	<i>5</i> 3	3
<i>5</i> 10	<i>6</i> 5	4.5	5	<i>94</i> 5	5
<i>24</i> 10	<i>18</i> 10	3.5	5	<i>63</i> 5	6
<i>1</i> 10	<i>3</i> 10	30	20	<i>101</i> 10	10

The figures in this table are based on 107 responses of prosecutors surveyed.

Bold numbers are median sentence lengths. Italicized numbers are number of responses in each cell.

Appendix J

Truth in Sentencing Media Plan *Draft #1*

Press Conferences (7 statewide)

Media Market	Counties (press conference location in bold)
Duluth/Superior	Ashland, Bayfield, Douglas , Iron, Sawyer, Washburn
Wausau/Rhineland	Adams, Clark, Forest, Langlade, Lincoln, Marathon , Oneida, Portage, Price, Taylor, Vilas , Wood
Green Bay/Appleton	Brown , Calumet, Door, Florence, Fond du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Menominee, Oconto, Outagamie, Shawano, Waupaca, Waushara, Winnebago
Mpls/St. Paul	Barron , Burnett, Dunn, Pepin , Pierce, Polk, St. Croix
La Crosse/Eau Claire	Buffalo, Chippewa, Crawford, Eau Claire , Jackson, La Crosse, Monroe, Rusk, Trempealeau, Vernon
Madison	Adams, Columbia, Dane , Dodge, Grant, Green, Iowa, Juneau, Lafayette, Marquette, Richland, Rock, Sauk
Milwaukee	Dodge, Jefferson, Kenosha, Milwaukee , Ozaukee, Racine , Sheboygan, Walworth, Washington

Needs:

Press kit materials

- . speaking points;
- plain-English (graphic) summary of key changes;
- . case scenarios then/now;
- list of contacts, areas of expertise, **phone/fax/emails**;
- . video graphics for TV?

Press conference presenters

- . committee experts;
- local judge (others?)

Press conference locations

- . courthouses (need courtroom or other indoor space)

To coincide with press conferences³

- . radio shows;
- . editorial board visits or guest columns;
- morning/noon/Live at Five talk shows

³ Note: These would take place on the same day as the press conference, but in other counties in the AD1 to minimize cannibalism.

**For ease of review, the CPSC Draft
Legislation is temporarily contained in 6 draft
pieces:**

1. # 0590 - Criminal Code Felonies

2. # 2889 - Extended Supervision Revocation

3. # 3265 - Drug Code Felonies

4. # 3266 - Non-criminal code felonies

5. # 3361 – Sentencing Commission

6. # 3370 - ES modification

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT to repeal 939.50 (1) (bc), 939.50 (3) (bc), 939.615 (7) (c), 939.622, 939.623,
2 939.624, 939.625, 939.635, 939.64, 939.641, 939.646, 939.647, 939.648, 940.09
3 (lb), 940.19 (3), 940.195 (3), 940.195 (6), 940.25 (lb), 940.285 (2) (b) 3., 941.29
4 (2m), 941.296 (3), 943.01 (2g), 943.23 (lm), 943.23 (lr), 946.42 (4), 946.425 (2),
5 948.02 (3m), 948.025 (2m), 948.35, 948.36, 948.605 (4), 973.01 (2) (b) 2., 973.01
6 (2) (c) and 973.03 **(3) (e) 3.; to renumber and amend 943.20 (3)** (d) 2., 948.025
7 (l), 948.025 (2), 971.17 (l), 973.01 (2) (b) 6. and 973.01 **(2)** (d); **to amend 48.355**
8 **(2d) (b) 3., 48.415 (9m) (b) 2., 48.417 (1) (d), 48.57 (3p) (g) 2., 48.685 (5) (bm) 2.,**
9 **48.685 (5) (bm) 3., 48.685 (5) (bm) 4., 49.95 (l), 110.07 (5) (a), 115.31 (2g), 118.19**
10 **(4) (a), 301.26 (4) (cm) 1., 302.11 (lg) (a) 2., 346.17 (3) (a), 346.17 (3) (b), 346.17**
11 **(3) (c), 346.17 (3) (d), 346.175 (1) (a), 346.175 (1) (b), 346.175 (4) (b), 346.175 (4)**
12 **(c), 346.175 (4) (d), 346.175 (5) (intro.), 346.175 (5) (a), 753.061 (2m), 938.208**
13 **(1) (a), 938.34 (4h) (a), 938.34 (4m) (b) 1., 938.355 (2d) (b) 3., 938.355 (4) (b),**
14 **938.78 (3), 939.30 (1), 939.30 (2), 939.50 (1) (intro.), 939.50 (2), 939.50 (3) (c),**
15 **939.50 (3) (d), 939.50 (3) (e), 939.615 (7) (b) 2., 939.62 (1) (a), 939.62 (1) (b),**

939.62 (1) (c), 939.62 (2m) (a) 2m. a., 939.62 (2m) (a) 2m. b., 939.632 (1) (e) 1.,
939.72 (l), 939.75 (l), 940.02 (2) (intro.), 940.03, 940.04 (l), 940.04 (2) (intro.),
940.04 (4), 940.06 (l), 940.06 (2), 940.07, 940.08 (l), 940.08 (2), 940.09 (1)
(intro.), 940.10 (1), 940.10 (2), 940.11 (l), 940.11 (2), 940.12, 940.15 (2), 940.15
(5), 940.15 (6), 940.19 (2), 940.19 (4), 940.19 (5), 940.19 (6) (intro.), 940.195 (2),
940.195 (4), 940.195 (5), 940.20 (l), 940.20 (lm), 940.20 (2), 940.20 (2m) (b),
940.20 (3), 940.20 (4), 940.20 (5) (b), 940.20 (6) (b) (intro.), 940.20 (7) (b), 940.201
(2) (intro.), 940.203 (2) (intro.), 940.205 (2) (intro.), 940.207 (2) (intro.), 940.21,
940.22 (2), 940.225 (2) (intro.), 940.225 (3), 940.23 (1) (a), 940.23 (1) (b), 940.23
(2) (a), 940.23 (2) (b), 940.24 (l), 940.24 (2), 940.25 (1) (intro.), 940.285 (2) (b)
lg., 940.285 (2) (b) 1m., 940.285 (2) (b) lr., 940.285 (2) (b) 2., 940.29, 940.295 (3)
(b) lg., 940.295 (3) (b) 1m., 940.295 (3) (b) lr., 940.295 (3) (b) 2., 940.295 (3) (b)
3., 940.30, 940.305 (l), 940.305 (2), 940.31 (1) (intro.), 940.31 (2) (a), 940.31 (2)
(b), 940.32 (2) (intro.), 940.32 (2m), 940.32 (3) (intro.), 940.32 (3m) (intro.),
940.43 (intro.), 940.45 (intro.), 941.11 (intro.), 941.12 (l), 941.20 (2) (intro.),
941.20 (3) (a) (intro.), 941.21, 941.235 (l), 941.26 (2) (a), 941.26 (2) (b), 941.26
(2) (e), 941.26 (2) (f), 941.26 (2) (g), 941.26 (4) (d), 941.26 (4) (e), 941.28 (3),
941.29 (2) (intro.), 941.295 (l), 941.296 (2) (intro.), 941.298 (2), 941.30 (l),
941.30 (2), 941.31 (l), 941.31 (2) (b), 941.32, 941.325, 941.327 (2) (a) (intro.),
941.327 (2) (b) 1., 941.327 (2) (b) 2., 941.327 (2) (b) 3., 941.327 (2) (b) 4., 941.327
(3), 941.37 (3), 941.37 (4), 941.38 (2), 943.01 (2) (intro.), 943.01 (2) (d), 943.011
(2) (intro.), 943.012 (intro.), 943.013 (2) (intro.), 943.014 (2), 943.015 (2) (intro.),
943.017 (2) (intro.), 943.017 (2) (d), 943.017 (2m) (b) (intro.), 943.02 (1) (intro.),
943.03, 943.04, 943.06 (2), 943.07 (l), 943.07 (2), 943.10 (1) (intro.), 943.10 (2)
(intro.), 943.12, 943.20 (3) (a), 943.20 (3) (b), 943.20 (3) (c), 943.20 (3) (d) (intro.),

1 943.20 (3) (d) 1., 943.20 (3) (d) 3., 943.20 (3) (d) 4., 943.201 (2), 943.205 (3),
2 943.21 (3) (a), 943.21 (3) (b), 943.23 (lg), 943.23 (2), 943.23 (3), 943.23 (4m),
3 943.23 (5), 943.24 (1), 943.24 (2), 943.25 (l), 943.25 (2) (intro.), 943.26 (2),
4 943.27, 943.28 (2), 943.28 (3), 943.28 (4), 943.30 (1), 943.30 (2), 943.30 (3),
5 943.30 (4), 943.30 (5) (b), 943.31, 943.32 (1) (intro.), 943.32 (2), 943.34 (1) (a),
6 943.34 (1) (b), 943.34 (1) (c), 943.38 (1) (intro.), 943.38 (2), 943.39 (intro.),
7 943.395 (2) (a), 943.395 (2) (b), 943.40 (intro.), 943.41 (8) (b), 943.41 (8) (c),
8 943.45 (3) (c), 943.45 (3) (d), 943.455 (4) (c), 943.455 (4) (d), 943.46 (4) (c), 943.46
9 (4) (d), 943.47 (3) (c), 943.47 (3) (d), 943.50 (4) (a), 943.50 (4) (b), 943.50 (4) (c),
10 943.60 (1), 943.61 (5) (b), 943.61 (5) (c), 943.62 (4) (b), 943.62 (4) (c), 943.70 (2)
11 (b) 2., 943.70 (2) (b) 3., 943.70 (2) (b) 4., 943.70 (3) (b) 2., 943.70 (3) (b) 3., 943.75
12 (2), 944.05 (1) (intro.), 944.16 (intro.), 944.205 (2) (intro.), 944.21 (5) (c), 944.21
13 (5) (e), 944.32, 944.33 (2), 944.34 (intro.), 945.03 (intro.), 945.05 (1) (intro.),
14 945.08 (1), 946.02 (1) (intro.), 946.03 (1) (intro.), 946.03 (2), 946.05 (l), 946.10
15 (intro.), 946.11 (1) (intro.), 946.12 (intro.), 946.13 (1) (intro.), 946.14, 946.15 (l),
16 946.15 (3), 946.31 (1) (intro.), 946.32 (1) (intro.), 946.41 (2m) (intro.), 946.415
17 (2) (intro.), 946.42 (3) (intro.), 946.425 (l), 946.425 (lm) (b), 946.425 (lr) (b),
18 946.43 (intro.), 946.44 (1) (intro.), 946.44 (lg), 946.44 (lm), 946.47 (1) (intro.),
19 946.48 (1), 946.49 (1) (b), 946.49 (2), 946.60 (l), 946.60 (2), 946.61 (1) (intro.),
20 946.64, 946.65 (l), 946.68 (lr) (a), 946.68 (lr) (b), 946.68 (lr) (c), 946.69 (2)
21 (intro.), 946.70 (2), 946.72 (1), 946.74 (2), 946.76, 946.82 (4), 946.84 (l), 946.85
22 (1), 947.013 (1t), 947.013 (lv), 947.013 (lx) (intro.), 947.015, 948.02 (2), 948.02
23 (3), 948.03 (2) (a), 948.03 (2) (b), 948.03 (2) (c), 948.03 (3) (a), 948.03 (3) (b),
24 948.03 (3) (c), 948.03 (4) (a), 948.03 (4) (b), 948.04 (1), 948.04 (2), 948.05 (1)
25 (intro.), 948.05 (1m), 948.05 (2), 948.055 (2) (a), 948.055 (2) (b), 948.06 (intro.),

948.07 (intro.), 948.08, 948.095 (2) (intro.), 948.11 (2) (a), 948.11 (2) (am), 948.12 (intro.), 948.13 (2), 948.20, 948.21 (l), 948.22 (2), 948.23, 948.24 (1) (intro.), 948.30 (1) (intro.), 948.30 (2) (intro.), 948.31 (1) (b), 948.31 (2), 948.31 (3) (intro.), 948.40 (4) (a), 948.40 (4) (b), 948.51 (3) (b), 948.60 (2) (b), 948.60 (2) (c), 948.605 (2) (a), 948.605 (3) (a), 948.61 (2) (b), 948.62 (1) (a), 948.62 (1) (b), 948.62 (1) (c), 949.03 (1) (b), 951.18 (1), 951.18 (2), 951.18 (2m), 961.455 (3), 968.255 (1) (a) 2., 969.08 (10) (a), 969.08 (10) (b), 973.01 (l), 973.01 (2) (a), 973.01 (2) (b) (intro.), 973.01 (2) (b) 1., 973.01 (2) (b) 3., 973.01 (2) (b) 4., 973.01 (2) (b) 5., 973.0135 (1) (b) 2., 973.03 (3) (e) 1. and 2., 973.032 (4) (c) 2., 973.075 (1) (b) lm. e., 973.075 (2) (d), 973.09 (2) (b) 1. and 978.13 (1) (c); **to repeal and recreate** 944.15 (title); and **to create 346.04** (2t), 346.04 (4), 346.17 (2t), 939.50 (1) (f), 939.50 (1) (g), 939.50 (1) (h), 939.50 (1) (i), 939.50 (3) (f), 939.50 (3) (g), 939.50 (3) (h), 939.50 (3) (i), 940.09 (1c), 943.20 (3) (bm), 943.23 (3m), 943.34 (1) (bm), 943.50 (4) (bm), 946.50 (5d), 946.50 (5h), 946.50 (5p), 946.50 (5t), 948.025 (1) (b), 948.025 (2) (a), 948.51 (3) (c), 948.62 (1) (bm), 971.17 (1) (b), 971.17 (1) (d), 973.01 (2) (b) 6m., **973.01** (2) (b) 7., 973.01 (2) (b) 8., 973.01 (2) (b) 9., 973.01 (2) (d) 1. to 6. and 973.0 17 of the statutes; **relating to:** classification and elements of felony offenses 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:

SECTION 1. 48.355 (2d) (b) 3. of the statutes is amended to read:

1 48.355 **(2d)** (b) 3. That the parent has committed a violation of s. 940.19 (2), ~~(3)~~,
2 **(4)** or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025 or 948.03 (2) (a) or (3) (a) or a
3 violation of the law of any other state or federal law, if that violation would be a
4 violation of s. 940.19 (2), ~~(3)~~, (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025 or
5 948.03 (2) (a) or (3) (a) if committed in this state, and that the violation resulted in
6 great bodily harm, as defined in s. 939.22 (14), or in substantial bodily harm, as
7 defined in s. 939.22 (38), to the child or another child of the parent.

8 **SECTION 2.** 48.415 (9m) (b) 2. of the statutes is amended to read:

9 48.415 **(9m)** (b) 2. The commission of a violation of s. 940.19 (2), ~~(3)~~, (4) or (5),
10 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), 948.05, 948.06
11 or 948.08 or a violation of the law of any other state or federal law, if that violation
12 would be a violation of s. 940.19 (2), ~~(3)~~, (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2),
13 948.025, 948.03 (2) (a) or (3) (a), 948.05, 948.06 or 948.08 if committed in this state.

14 **SECTION 3.** 48.4 17 (1) (d) of the statutes is amended to read:

15 48.417 (1) (d) A court of competent jurisdiction has found that the parent has
16 committed a violation of s. 940.19 (2), ~~(3)~~, (4) or (5), 940.225 (1) or (2), 948.02 (1) or
17 (2), 948.025 or 948.03 (2) (a) or (3) (a) or a violation of the law of any other state or
18 federal law, if that violation would be a violation of s. 940.19 (2), ~~(3)~~, (4) or (5), 940.225
19 (1) or (2), 948.02 (1) or (2), 948.025 or 948.03 (2) (a) or (3) (a) if committed in this state,
20 and that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or
21 in substantial bodily harm, as defined in s. 939.22 (38), to the child or another child
22 of the parent.

23 **SECTION 4.** 48.57 (3p) (g) 2. of the statutes is amended to read:

24 48.57 **(3p)** (g) 2. The person has had imposed on him or her a penalty specified
25 in s. 939.62, 939.621, 939.63, ~~939.64, 939.641~~ or 939.645 or has been convicted of a

1 violation of the law of any other state or federal law under circumstances under
2 which the person would be subject to a penalty specified in any of those sections if
3 convicted in this state.

4 **SECTION 5.** 48.685 (5) (bm) 2. of the statutes is amended to read:

5 48.685 (5) (bm) 2. A violation of s. 940.19 (2), ~~(3)~~, (4), (5) or (6) or 940.20 (1) or
6 (lm) , if the victim is the spouse of the person.

7 **SECTION 6.** 48.685 (5) (bm) 3. of the statutes is amended to read:

8 48.685 (5) (bm) 3. A violation of s. 940.0 1, 940.02, 940.03, 940.05, 940.06,
9 940.21, 940.225 (1), (2) or (3), 940.23, 940.305, 940.31, 941.20 (2) or (3), 941.21,
10 943.10 (2), 943.23 (1g), ~~(1m) or (1r)~~ or 943.32 (2).

11 **SECTION 7.** 48.685 (5) (bm) 4. of the statutes is amended to read:

12 48.685 (5) (bm) 4. A violation of s. 940.19 (2), ~~(3)~~, (4), (5) or (6), 940.20, 940.203,
13 940.205 or 940.207 or an offense under ch. 961 that is a felony, if committed not more
14 than 5 years before the date of the investigation under sub. (2) (am).

15 **SECTION 8.** 49.95 (1) of the statutes, as affected by 1997 Wisconsin Act 283, is
16 amended to read:

17 49.95 (1) Any person who, with intent to secure public assistance under this
18 chapter, whether for himself or herself or for some other person, wilfully makes any
19 false representations may, if the value of the assistance so secured does not exceed
20 \$300, be required to forfeit not more than \$1,000; if the value of the assistance
21 exceeds \$300 but does not exceed \$1,000, be fined not more than \$250 or imprisoned
22 for not more than 6 months or both; if the value of the assistance exceeds \$1,000 but
23 does not exceed \$2,500, be fined not more than \$500 or imprisoned for not more than
24 7 years and 6 months or both; and if the value of the assistance exceeds \$2,500, be

1 ~~punished as prescribed under s. 943.20 (3) (c)~~ fined not more than \$10,000 or
2 imprisoned for not more than 15 years or both.

3 **SECTION 9.** 110.07 (5) (a) of the statutes is amended to read:

4 110.07 (5) (a) In this subsection, "bulletproof garment" has the meaning given
5 in s. ~~939.64 (1)~~ 973.017 (3) (c) 1.

6 **SECTION 10.** 115.31 (2g) of the statutes is amended to read:

7 115.31 (2g) Notwithstanding subch. II of ch. 111, the state superintendent shall
8 revoke a license granted by the state superintendent, without a hearing, if the
9 licensee is convicted of any Class A, B, C ~~or~~ D, E, F, G or H felony under ch. 940 or
10 948, except ss. 940.08 and 940.205, for a violation that occurs on or after September
11 12, 1991.

12 **SECTION 11.** 118.19 (4) (a) of the statutes is amended to read:

13 118.19 (4) (a) Notwithstanding subch. II of ch. 111, the state superintendent
14 may not grant a license to any person who has been convicted of any Class A, B, C
15 ~~or~~ D, E, F, G or H felony under ch. 940 or 948, except ss. 940.08 and 940.205, or of
16 an equivalent crime in another state or country, for a violation that occurs on or after
17 September 12, 1991, for 6 years following the date of the conviction, and may grant
18 the license only if the person establishes by clear and convincing evidence that he or
19 she is entitled to the license.

20 **SECTION 12.** 301.26 (4) (cm) 1. of the statutes is amended to read:

21 301.26 (4) (cm) 1. Notwithstanding pars. (a), (b) and (bm), the department shall
22 transfer funds from the appropriation under s. 20.410 (3) (cg) to the appropriations
23 under s. 20.410 (3) (hm), (ho) and (hr) for the purpose of reimbursing juvenile
24 correctional institutions, secured child caring institutions, as defined in s. 938.02
25 (15g), alternate care providers, aftercare supervision providers and corrective

sanctions supervision providers for costs incurred beginning on July 1, 1996, for the care of any juvenile 14 years of age or over who has been placed in a juvenile correctional facility based on a delinquent act that is a violation of s. 939.31, 939.32 (1) (a), 940.03, 940.21, 940.225 (l), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (lg), ~~(1m) or (1r)~~, 943.32 (2), 948.02 (l), 948.025, (1) (a) or 948.30 (2), ~~948.35 (1) (b) or 948.36~~ and for the care of any juvenile 10 years of age or over who has been placed in a juvenile correctional institution or a secured child caring institution for attempting or committing a violation of s. 940.0 1 or for committing a violation of s. 940.02 or 940.05.

SECTION 13. 302.11 (1 g) (a) 2. of the statutes is amended to read:

302.11 (lg) (a) 2. Any felony under s. 940.02, 940.03, 940.05, 940.09 ~~(1)~~ (1c), 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305 (2), 940.31 (1) or (2) (b), 943.02, 943.10 (2), 943.23 (lg) ~~or (1m)~~, 943.32 (2), 946.43, 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, or 948.30 (2) ~~& 948.35 (1) (b) or (c) or 948.36~~.

SECTION 14. 346.04 (2t) of the statutes is created to read:

346.04 (2t) No operator of a vehicle, after having received a visible or audible signal to stop his or her vehicle from a traffic officer or marked police vehicle, shall intentionally resist the traffic officer by failing to stop his or her vehicle as promptly as safety reasonably permits.

SECTION 15. 346.04 (4) of the statutes is created to read:

346.04 (4) A person may not be convicted of violating both subs. (2t) and (3) for . acts arising out of the same incident or occurrence.

SECTION 16. 346.17 (2t) of the statutes is created to read:

1 346.17 (2t) Any person violating s. 346.04 (2t) may be fined not more than
2 \$10,000 or imprisoned for not more than 9 months or both.

3 **SECTION 17.** 346.17 (3) (a) of the statutes, as affected by 1997 Wisconsin Act
4 283, is amended to read:

5 346.17 (3) (a) Except as provided in par. (b), (c) or (d), any person violating s.
6 **346.04 (3) shall be fined not less than \$600 nor more than \$10,000 and may be**
7 ~~imprisoned for not more than 3 years is guilty of a Class I felony.~~

8 **SECTION 18.** 346.17 (3) (b) of the statutes, as affected by 1997 Wisconsin Act
9 283, is amended to read:

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

14 **SECTION 19.** 346.17 (3) (c) of the statutes, as affected by 1997 Wisconsin Act 283,
15 is amended to read:

16 346.17 (3) (c) If the violation results in great bodily harm, as defined in s. 939.22
17 (14), to another, the person ~~shall be fined not less than \$1,000 nor more than \$10,000~~
18 ~~and may be imprisoned for not more than 3 years is guilty of a Class F felony.~~

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

21 346.17 (3) (d) If the violation results in the death of another, the person ~~shall~~
22 ~~be fined not less than \$1,100 nor more than \$10,000 and may be imprisoned for not~~
23 ~~more than 7 years and 6 months is guilty of a Class E felony.~~

24 **SECTION 21.** 346.175 (1) (a) of the statutes is amended to read:

1 346.175 (1) (a) Subject to s. 346.01 (2), the owner of a vehicle involved in a
2 violation of s. 346.04 (2t) or (3) for fleeing a traffic officer shall be presumed liable for
3 the violation as provided in this section.

4 **SECTION 22.** 346.175 (1) (b) of the statutes is amended to read:

5 346.175 (1) (b) Notwithstanding par. (a), no owner of a vehicle involved in a
6 violation of s. 346.04 (2t) or (3) for fleeing a traffic officer may be convicted under this
7 section if the person operating the vehicle or having the vehicle under his or her
8 control at the time of the violation has been convicted for the violation under this
9 section or under s. 346.04 (2t) or (3).

10 **SECTION 23.** 346.175 (4) (b) of the statutes is amended to read:

11 346.175 (4) (b) If the owner of the vehicle provides a traffic officer employed by
12 the authority issuing the citation with the name and address of the person operating
13 the vehicle or having the vehicle under his or her control at the time of the violation
14 and sufficient information for the officer to determine that probable cause does not
15 exist to believe that the owner of the vehicle was operating the vehicle at the time
16 of the violation, then the owner of the vehicle shall not be liable under this section
17 or under s. 346.04 (2t) or (3).

18 **SECTION 24.** 346.175 (4) (c) of the statutes is amended to read:

19 346.175 (4) (c) If the vehicle is owned by a lessor of vehicles and at the time of
20 the violation the vehicle was in the possession of a lessee, and the lessor provides a
21 **traffic officer employed by the authority issuing the citation with the information**
22 required under s. 343.46 (3), then the lessee and not the lessor shall be liable under
23 this section or under s. 346.04 (2t) or (3).

24 **SECTION 25.** 346.175 (4) (d) of the statutes is amended to read:

1 346.175 (4) (d) If the vehicle is owned by a dealer, as defined in s. 340.01 (11)
2 (intro.) but including the persons specified in s. 340.01 (11) (a) to (d), and at the time
3 of the violation the vehicle was being operated by or was under the control of any
4 person on a trial run, and if the dealer provides a traffic officer employed by the
5 authority issuing the citation with the name, address and operator's license number
6 of the person operating the vehicle, then that person, and not the dealer, shall be
7 liable under this section or under s. 346.04 (2t) or (3).

8 **SECTION 26.** 346.175 (5) (intro.) of the statutes is amended to read:

9 346.175 (5) (intro.) Notwithstanding the penalty otherwise specified under s.
10 346.17 (2t) or (3) for a violation of s. 346.04 (2t) or (3):

11 **SECTION 27.** 346.175 (5) (a) of the statutes is amended to read:

12 346.175 (5) (a) A vehicle owner or other person found liable under this section
13 for a violation of s. 346.04 (2t) or (3) shall be required to forfeit not less than \$300 nor
14 more than \$1,000.

15 **SECTION 28.** 753.061 (2m) of the statutes is amended to read:

16 753.061 **(2m)** The chief judge of the 1st judicial administrative district is
17 authorized to designate 4 circuit court branches to primarily handle violent crime
18 cases that involve a violation of s. 939.63, if a felony is committed while armed, and
19 of ss. 940.01 to 940.03, 940.05, 940.06, 940.225, 943.23(1g), ~~(1m) and (1r)~~ and 943.32
20 (2). If the circuit court branches are designated under this subsection, 2 shall begin
21 to primarily handle violent crime cases on September 1, 199 1, and 2 shall begin to
22 primarily handle violent crime cases on August 1, 1992.

23 **SECTION 29.** 938.208 (1) (a) of the statutes is amended to read:

24 938.208 (1) (a) Probable cause exists to believe that the juvenile has committed
25 a delinquent act that would be a felony under s. 940.01, 940.02, 940.03, 940.05,

1 940.19 (2) to (6), 940.21, 940.225 (1), 940.31, 941.20 (3), 943.02 (1), 943.23 (lg), ~~(1m)~~
2 ~~or (1r)~~, 943.32 (2), 947.013 (1t), (1v) or (lx), 948.02 (1) or (2), 948.025 or 948.03 if
3 committed by an adult.

4 **SECTION 30.** 938.34 (4h) (a) of the statutes is amended to read:

5 938.34 (4h) (a) The juvenile is 14 years of age or over and has been adjudicated
6 delinquent for committing a violation of s. 939.31, 939.32 (1) (a), 940.03, 940.21,
7 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (lg), ~~(1m)~~
8 ~~or (1r)~~, 943.32 (2), 948.02 (l), 948.025, (1) (a) or 948.30 (2), ~~948.35 (1) (b) or 948.36~~
9 or the juvenile is 10 years of age or over and has been adjudicated delinquent for
10 attempting or committing a violation of s. 940.01 or for committing a violation of
11 940.02 or 940.05.

12 **SECTION 31.** 938.34 (4m) (b) 1. of the statutes is amended to read:

13 938.34 (4m) (b) 1. The juvenile has committed a delinquent act that would be
14 a felony under s. 940.01, 940.02, 940.03, 940.05, 940.19 (2) to (6), 940.21, 940.225 (l),
15 940.31, 941.20 (3), 943.02 (1), 943.23 (lg), ~~(1m) or (1r)~~, 943.32 (2), 947.013 (1t), (1v)
16 or (lx), 948.02 (1) or (2), 948.025 or 948.03 if committed by an adult.

17 **SECTION 32.** 938.355 (2d) (b) 3. of the statutes is amended to read:

18 938.355 (2d) (b) 3. That the parent has committed a violation of s. 940.19 (2),
19 ~~(3)~~, (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025 or 948.03 (2) (a) or (3) (a)
20 or a violation of the law of any other state or federal law, if that violation would be
21 a violation of s. 940.19 (2), ~~(3)~~, (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025
22 or 948.03 (2) (a) or (3) (a) if committed in this state, and that the violation resulted
23 in great bodily harm, as defined in s. ~~938.22~~ 939.22 (14), or in substantial bodily
24 harm, as defined in s. ~~938.22~~ 939.22 (38), to the juvenile or another child of the
25 parent.

1 **SECTION 33.** 938.355 (4) (b) of the statutes is amended to read:

2 938.355 (4) (b) An order under s. 938.34 (4d), (4h) or (4m) for which a juvenile
3 has been adjudicated delinquent is subject to par. (a), except that the judge may make
4 an order under s. 938.34 (4d) or (4m) apply for up to 2 years or until the juvenile's 18th
5 birthdate, whichever is earlier and the judge shall make an order under s. 938.34 (4h)
6 apply for 5 years, if the juvenile is adjudicated delinquent for committing an act that
7 would be punishable as a Class B or C felony if committed by an adult, or until the
8 juvenile reaches 25 years of age, if the juvenile is adjudicated delinquent for
9 committing an act that would be punishable as a Class A felony if committed by an
10 adult.

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

11 **SECTION 34.** 938.78 (3) of the statutes is amended to read:

12 938.78 (3) If a juvenile adjudged delinquent under s. 48.12, 1993 stats., or s.
13 938.12 or found to be in need of protection or services under s. 48.13 (12), 1993 stats.,
14 or s. 48.13 (14), 1993 stats., or s. 938.13 (12) or (14) on the basis of a violation of s.
15 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28,
16 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2)
17 (a), 943.23 (lg), ~~(1m) or (1r)~~, 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055,
18 948.60, 948.605 or 948.61 or any crime specified in ch. 940 has escaped from a secured
19 correctional facility, child caring institution, inpatient facility, as defined in s. 5 1 .0 1
20 (10) , secure detention facility or juvenile portion of a county jail, or from the custody
21 of a peace officer or a guard of such a facility, institution or jail, or has been allowed
22 to leave a secured correctional facility, child caring institution, inpatient facility,
23 secure detention facility or juvenile portion of a county jail for a specified time period

1 and is absent from the facility, institution or jail for more than 12 hours after the
2 expiration of the specified period, the department or county department having
3 supervision over the juvenile may release the juvenile's name and any information
4 about the juvenile that is necessary for the protection of the public or to secure the
5 juvenile's return to the facility, institution or jail. The department of corrections
6 shall promulgate rules establishing guidelines for the release of the juvenile's name
7 or information about the juvenile to the public.

8 **SECTION 35.** 939.30 (1) of the statutes is amended to read:

9 939.30 (1) Except as provided in sub. (2) and ~~ss. 948.35 and s. 96 1.455~~, whoever,
10 with intent that a felony be committed, advises another to commit that crime under
11 circumstances that indicate unequivocally that he or she has the intent is guilty of
12 a Class ~~D~~ H felony.

13 **SECTION 36.** 939.30 (2) of the statutes is amended to read:

14 939.30 (2) For a solicitation to commit a crime for which the penalty is life
15 imprisonment, the actor is guilty of a Class ~~C~~ F felony. For a solicitation to commit
16 a Class ~~E~~ I felony, the actor is guilty of a Class ~~E~~ I felony.

17 **SECTION 37.** 939.50 (1) (intro.) of the statutes is amended to read:

18 939.50 (1) (intro.) ~~Except as provided in ss. 948.35 and 946.85, felonies~~ Felonies
19 ~~in chs. 939 to 951 the statutes~~ are classified as follows:

20 **SECTION 38.** 939.50 (1) (bc) of the statutes is repealed.

21 **SECTION 39.** 939.50 (1) (f) of the statutes is created to read:

22 939.50 (1) (f) Class F felony.

23 **SECTION 40.** 939.50 (1) (g) of the statutes is created to read:

24 939.50 (1) (g) Class G felony.

25 **SECTION 41.** 939.50 (1) (h) of the statutes is created to read:

1 939.50 (1) (h) Class H felony.

2 **SECTION 42.** 939.50 (1) (i) of the statutes is created to read:

3 939.50 (1) (i) Class I felony.

4 **SECTION 43.** 939.50 (2) of the statutes is amended to read:

5 939.50 (2) A felony is a Class A, B, ~~BC~~, C, D ~~or~~ E, F, G, H or I felony when it
6 is so specified in ~~chs. 939 to 951~~ the statutes.

7 **SECTION 44.** 939.50 (3) (bc) of the statutes, as affected by 1997 Wisconsin Act
8 283, is repealed.

9 **SECTION 45.** 939.50 (3) (c) of the statutes, as affected by 1997 Wisconsin Act 283,
10 is amended to read:

11 939.50 (3) (c) For a Class C felony, a fine not to exceed ~~\$10,000~~ \$100,000 or
12 imprisonment not to exceed ~~15~~ 40 years, or both.

13 **SECTION 46.** 939.50 (3) (d) of the statutes, as affected by 1997 Wisconsin Act
14 283, is amended to read:

15 939.50 (3) (d) For a Class D felony, a fine not to exceed ~~\$10,000~~ \$100,000 or
16 imprisonment not to exceed ~~10~~ 25 years, or both.

17 **SECTION 47.** 939.50 (3) (e) of the statutes, as affected by 1997 Wisconsin Act
18 283, is amended to read:

19 939.50 (3) (e) For a Class E felony, a fine not to exceed ~~\$10,000~~ \$50,000 or
20 imprisonment not to exceed ~~5~~ 15 years, or both.

21 **SECTION 48.** 939.50 (3) (f) of the statutes is created to read:

22 939.50 (3) (f) For a Class F felony, a fine not to exceed \$25,000 or imprisonment
23 not to exceed 12 years and 6 months, or both.

24 **SECTION 49.** 939.50 (3) (g) of the statutes is created to read:

1 939.50 (3) (g) For a Class G felony, a fine not to exceed \$25,000 or imprisonment
2 not to exceed 10 years, or both.

3 **SECTION 50.** 939.50 (3) (h) of the statutes is created to read:

4 939.50 (3) (h) For a Class H felony, a fine not to exceed \$10,000 or imprisonment
5 not to exceed 6 years, or both.

6 **SECTION 51.** 939.50 (3) (i) of the statutes is created to read:

7 939.50 (3) (i) For a Class I felony, a fine not to exceed \$10,000 or imprisonment
8 not to exceed 3 years and 6 months, or both.

9 **SECTION 52.** 939.615 (7) (b) 2. of the statutes is amended to read:

10 939.615 (7) (b) 2. Whoever violates par. (a) is guilty of a Class ~~E~~ **I** felony if the
11 same conduct that violates par. (a) also constitutes a crime that is a felony.

12 **SECTION 53.** 939.615 (7) (c) of the statutes is repealed.

13 **SECTION 54.** 939.62 (1) (a) of the statutes is amended to read:

14 939.62 (1) (a) A maximum term of one year or less may be increased to not more
15 than ~~3~~ **2** years.

16 **SECTION 55.** 939.62 (1) (b) of the statutes is amended to read:

17 939.62 (1) (b) A maximum term of more than one year but not more than 10
18 years may be increased by not more than 2 years if the prior convictions were for
19 misdemeanors and by not more than ~~6~~ **4** years if the prior conviction was for a felony.

20 **SECTION 56.** 939.62 (1) (c) of the statutes is amended to read:

21 939.62 **(1) (c)** A maximum term of more than 10 years may be increased by not
22 more than 2 years if the prior convictions were for misdemeanors and by not more
23 than ~~10~~ **6** years if the prior conviction was for a felony.

24 **SECTION 57.** 939.62 (2m) (a) 2m. a. of the statutes is amended to read:

1 939.62 (2m) (a) 2m. a. Any Class A, B or C felony under s. 961.41 (l), (lm) or
2 (1x) ~~if the felony is punishable by a maximum prison term of 30 years or more.~~

3 **SECTION 58.** 939.62 (2m) (a) 2m. b. of the statutes is amended to read:

4 939.62 (2m) (a) 2m. b. Any felony under s. 940.01, 940.02, 940.03, 940.05,
5 940.09 ~~(1) (1c)~~, 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305,
6 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (lg), ~~(1m) or (1r)~~, 943.32 (2),
7 946.43, 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08,
8 or 948.30 (2), ~~948.35 (1) (b) or (c) or 948.36.~~

9 **SECTION 59.** 939.622 of the statutes is repealed.

10 **SECTION 60.** 939.623 of the statutes is repealed.

11 **SECTION 61.** 939.624 of the statutes is repealed.

12 **SECTION 62.** 939.625 of the statutes is repealed.

13 **SECTION 63.** 939.632 (1) (e) 1. of the statutes is amended to read:

14 939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09 ~~(1)~~
15 (1c), 940.19 (2), ~~(3)~~, (4) or (5), 940.21, 940.225 (l), (2) or (3), 940.305, 940.31, 941.20,
16 941.21, 943.02, 943.06, 943.10 (2), 943.23 (lg), ~~(1m) or (1r)~~, 943.32 (2), 948.02 (1) or
17 (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.055, 948.07, 948.08, or 948.30 (2), ~~948.35~~
18 ~~(1) (b) or (c) or 948.36.~~

19 **SECTION 64.** 939.635 of the statutes is repealed.

20 **SECTION 65.** 939.64 of the statutes is repealed.

21 **SECTION 66.** 939.641 of the statutes is repealed.

22 **SECTION 67.** 939.646 of the statutes is repealed.

23 **SECTION 68.** 939.647 of the statutes is repealed.

24 **SECTION 69.** 939.648 of the statutes is repealed.

25 **SECTION 70.** 939.72 (1) of the statutes is amended to read:

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

3 **SECTION 71.** 939.75 (1) of the statutes is amended to read:

4 939.75 **(1)** In this section and ss. 939.24 (l), 939.25 (l), 940.01 (1) (b), 940.02
5 (lm), 940.05 (2g) and (2h), 940.06 (2), 940.08 (2), 940.09 (1) (c) to (e), ~~(1b)~~ and (lg) (c)
6 and (d), 940.10 (2), 940.195, 940.23 (1) (b) and (2) (b), 940.24 (2) and 940.25 (1) (c) to
7 (e) ~~and (1b)~~, “unborn child” means any individual of the human species from
8 fertilization until birth that is gestating inside a woman.

9 **SECTION 72.** 940.02 (2) (intro.) of the statutes is amended to read:

10 940.02 (2) (intro.) Whoever causes the death of another human being under any
11 of the following circumstances is guilty of a Class ~~B~~ C felony:

12 **SECTION 73.** 940.03 of the statutes is amended to read:

13 **940.03 Felony murder.** Whoever causes the death of another human being
14 while committing or attempting to commit a crime specified in s. 940.225 (1) or (2)
15 (a), 943.02, 943.10 (2), 943.23 (1g) or 943.32 (2) may be imprisoned for not more than
16 ~~20~~ 15 years in excess of the maximum period of imprisonment provided by law for
17 that crime or attempt.

18 **SECTION 74.** 940.04 (1) of the statutes is amended to read:

19 940.04 **(1)** Any person, other than the mother, who intentionally destroys the
20 life of an unborn child ~~may be fined not more than \$5,000 or imprisoned not more~~
21 ~~than 3 years or both~~ is guilty of a Class H felony.

22 **SECTION 75.** 940.04 (2) (intro.) of the statutes is amended to read:

23 940.04 (2) (intro.) Any person, other than the mother, who does either of the
24 following ~~may be imprisoned not more than 15 years~~ is guilty of a Class E felony:

25 **SECTION 76.** 940.04 (4) of the statutes is amended to read:

1 940.04 (4) Any pregnant woman who intentionally destroys the life of her
2 unborn quick child or who consents to such destruction by another may be
3 imprisoned not ~~less than~~ less than 2 years is guilty of a Class I felony.

4 **SECTION 77.** 940.06 (1) of the statutes is amended to read:

5 940.06 (1) Whoever recklessly causes the death of another human being is
6 guilty of a Class ~~C~~ D felony.

7 **SECTION 78.** 940.06 (2) of the statutes is amended to read:

8 940.06 (2) Whoever recklessly causes the death of an unborn child is guilty of
9 a Class ~~C~~ D felony.

10 **SECTION 79.** 940.07 of the statutes is amended to read:

11 **940.07 Homicide resulting from negligent control of vicious animal.**

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

16 **SECTION 80.** 940.08 (1) of the statutes is amended to read:

17 940.08 (1) Whoever causes the death of another human being by the negligent
18 operation or handling of a dangerous weapon, explosives or fire is guilty of a Class
19 ~~D~~ G felony.

20 **SECTION 81.** 940.08 (2) of the statutes is amended to read:

21 940.08 (2) Whoever causes the death of an unborn child by the negligent
22 operation or handling of a dangerous weapon, explosives or fire is guilty of a Class ~~D~~
23 G felony.

24 **SECTION 82.** 940.09 (1) (intro.) of the statutes is amended to read:

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

3 **SECTION 83.** 940.09 (1b) of the statutes is' repealed.

4 **SECTION 84.** 940.09 (1c) of the statutes is created to read:

5 940.09 (1c) (a) Except as provided in par. (b), a person who violates sub. (1) is
6 guilty of a Class D felony.

7 (b) A person who violates sub. (1) is guilty of a Class C felony if the person has
8 one or more prior convictions, suspensions or revocations, as counted under s.
9 343.307 (2).

10 **SECTION 85.** 940.10 (1) of the statutes is amended to read:

11 940.10 (1) Whoever causes the death of another human being by the negligent
12 operation or handling of a vehicle is guilty of a Class ~~E~~ G felony.

13 **SECTION 86.** 940.10 (2) of the statutes is amended to read:

14 940.10 (2) Whoever causes the death of an unborn child by the negligent
15 operation or handling of a vehicle is guilty of a Class ~~E~~ G felony.

16 **SECTION 87.** 940.11 (1) of the statutes is amended to read:

17 940.11 (1) Whoever mutilates, disfigures or dismembers a corpse, with intent
18 to conceal a crime or avoid apprehension, prosecution or conviction for a crime, is
19 guilty of a Class ~~C~~ F felony.

20 **SECTION 88.** 940.11 (2) of the statutes is amended to read:

21 940.11 (2) Whoever hides or buries a corpse, with intent to conceal a crime or
22 avoid apprehension, prosecution or conviction for a crime, is guilty of a Class ~~D~~ G
23 felony.

24 **SECTION 89.** 940.12 of the statutes is amended to read:

1 **940.12 Assisting suicide.** Whoever with intent that another take his or her
2 own life assists such person to commit suicide is guilty of a Class ~~D~~ H felony

3 **SECTION 90.** 940.15 (2) of the statutes is amended to read:

4 940.15 (2) Whoever intentionally performs an abortion after the fetus or
5 unborn child reaches viability, as determined by reasonable medical judgment of the
6 woman's attending physician, is guilty of a Class ~~E~~ I felony

7 **SECTION 91.** 940.15 (5) of the statutes is amended to read:

8 940.15 (5) Whoever intentionally performs an abortion and who is not a
9 physician is guilty of a Class ~~E~~ I felony

10 **SECTION 92.** 940.15 (6) of the statutes is amended to read:

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

18 **SECTION 93.** 940.19 (2) of the statutes is amended to read:

19 940.19 (2) Whoever causes substantial bodily harm to another by an act done
20 with intent to cause bodily harm to that person or another is guilty of a Class ~~E~~ I
21 felony.

22 **SECTION 94.** 940.19 (3) of the statutes is repealed.

23 **SECTION 95.** 940.19 (4) of the statutes is amended to read:

24 940.19 (4) Whoever causes great bodily harm to another by an act done with
25 intent to cause bodily harm to that person or another is guilty of a Class ~~D~~ H felony.

SECTION 96. 940.19 (5) of the statutes is amended to read:

940.19 (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~~ E felony.

SECTION 97. 940.19 (6) (intro.) of the statutes is amended to read:

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

SECTION 98. 940.195 (2) of the statutes is amended to read:

940.195 (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~~ I felony.

SECTION 99. 940.195 (3) of the statutes is repealed.

SECTION 100. 940.195 (4) of the statutes is amended to read:

940.195 (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~~ H felony.

SECTION 101. 940.195 (5) of the statutes is amended to read:

940.195 (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~~ E felony.

SECTION 102. 940.195 (6) of the statutes is repealed.

SECTION 103. 940.20 (1) of the statutes is amended to read:

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

5 **SECTION 104.** 940.20 (1m) of the statutes is amended to read:

6 940.20 (1m) **BATTERY BY PERSONS SUBJECT TO CERTAIN INJUNCTIONS.** (a) Any
7 person who is subject to an injunction under s. 813.12 or a tribal injunction filed
8 under s. 806.247 (3) and who intentionally causes bodily harm to the petitioner who
9 sought the injunction by an act done without the consent of the petitioner is guilty
10 of a Class ~~E~~ I felony.

11 (b) Any person who is subject to an injunction under s. 813.125 and who
12 intentionally causes bodily harm to the petitioner who sought the injunction by an
13 act done without the consent of the petitioner is guilty of a Class ~~E~~ I felony.

14 **SECTION 105.** 940.20 (2) of the statutes is amended to read:

15 940.20 (2) **BATTERYTOLAWENFORCEMENTOFFICERSANDFIREFIGHTERS.** Whoever
16 intentionally causes bodily harm to a law enforcement officer or fire fighter, as those
17 terms are defined in s. 102.475 (8) (b) and (c), acting in an official capacity and the
18 person knows or has reason to know that the victim is a law enforcement officer or
19 fire fighter, by an act done without the consent of the person so injured, is guilty of
20 a Class ~~D~~ H felony.

21 **SECTION 106.** 940.20 (2m) (b) of the statutes is amended to read:

22 940.20 (2m) (b) Whoever intentionally causes bodily harm to a probation,
23 extended supervision and parole agent or an aftercare agent, acting in an official
24 capacity and the person knows or has reason to know that the victim is a probation,

1 extended supervision and parole agent or an aftercare agent, by an act done without
2 the consent of the person so injured, is guilty of a Class ~~D~~ H felony.

3 **SECTION 107.** 940.20 (3) of the statutes is amended to read:

4 940.20 (3) BATTERY TO JURORS. Whoever intentionally causes bodily harm to a
5 person who he or she knows or has reason to know is or was a grand or petit juror,
6 and by reason of any verdict or indictment assented to by the person, without the
7 consent of the person injured, is guilty of a Class ~~D~~ H felony.

8 **SECTION 108.** 940.20 (4) of the statutes is amended to read:

9 940.20 (4) BATTERY TO PUBLIC OFFICERS. Whoever intentionally causes bodily
10 harm to a public officer in order to influence the action of such officer or as a result
11 of any action taken within an official capacity, without the consent of the person
12 injured, is guilty of a Class ~~E~~ I felony.

13 **SECTION 109.** 940.20 (5) (b) of the statutes is amended to read:

14 940.20 (5) (b) Whoever intentionally causes bodily harm to a technical college
15 district or school district officer or employee acting in that capacity, and the person
16 knows or has reason to know that the victim is a technical college district or school
17 district officer or employee, without the consent of the person so injured, is guilty of
18 a Class ~~E~~ I felony.

19 **SECTION 110.** 940.20 (6) (b) (intro.) of the statutes is amended to read:

20 940.20 (6) (b) (intro.) Whoever intentionally causes bodily harm to another
21 under any of the following circumstances is guilty of a Class ~~E~~ I felony:

22 **SECTION 111.** 940.20 (7) (b) of the statutes is amended to read:

23 940.20 (7) (b) Whoever intentionally causes bodily harm to an emergency
24 department worker, an emergency medical technician, a first responder or an
25 ambulance driver who is acting in an official capacity and who the person knows or

1 has reason to know is an emergency department worker, an emergency medical
2 technician, a first responder or an ambulance driver, by an act done without the
3 consent of the person so injured, is guilty of a Class ~~D~~ H felony.

4 **SECTION 112.** 940.201 (2) (intro.) of the statutes is amended to read:

5 940.201 (2) (intro.) Whoever does any of the following is guilty of a Class ~~D~~ H
6 felony:

7 **SECTION 113.** 940.203 (2) (intro.) of the statutes is amended to read:

8 940.203 (2) (intro.) Whoever intentionally causes bodily harm or threatens to
9 cause bodily harm to the person or family member of any judge under all of the
10 following circumstances is guilty of a Class ~~D~~ H felony:

11 **SECTION 114.** 940.205 (2) (intro.) of the statutes is amended to read:

12 940.205 (2) (intro.) Whoever intentionally causes bodily harm or threatens to
13 cause bodily harm to the person or family member of any department of revenue
14 official, employe or agent under all of the following circumstances is guilty of a Class
15 ~~D~~ H felony:

16 **SECTION 115.** 940.207 (2) (intro.) of the statutes is amended to read:

17 940.207 (2) (intro.) Whoever intentionally causes bodily harm or threatens to
18 cause bodily harm to the person or family member of any department of commerce
19 or department of workforce development official, employe or agent under all of the
20 following circumstances is guilty of a Class ~~D~~ H felony:

21 **SECTION 116.** 940.21 of the statutes is amended to read:

22 **940.21 Mayhem.** Whoever, with intent to disable or disfigure another, cuts or
23 mutilates the tongue, eye, ear, nose, lip, limb or other bodily member of another, is
24 guilty of a Class ~~B~~ C felony.

25 **SECTION 117.** 940.22 (2) of the statutes is amended to read:

1 940.22 (2) ~~SEXUAL CONTACT PROHIBITED.~~ Any person who is or who holds himself
2 or herself out to be a therapist and who intentionally has sexual contact with a
3 patient or client during any ongoing therapist-patient or therapist-client
4 relationship, regardless of whether it occurs during any treatment, consultation,
5 interview or examination, is guilty of a Class ~~C~~ F felony. Consent is not an issue in
6 an action under this subsection.

7 **SECTION 118.** 940.225 (2) (intro.) of the statutes is amended to read:

8 940.225 (2) ~~SECOND DEGREE SEXUAL ASSAULT.~~ (intro.) Whoever does any of the
9 following is guilty of a Class ~~BC~~ C felony:

10 **SECTION 119.** 940.225 (3) of the statutes is amended to read:

11 940.225 (3) ~~THIRD DEGREE SEXUAL ASSAULT.~~ Whoever has sexual intercourse
12 with a person without the consent of that person is guilty of a Class ~~D~~ G felony.
13 Whoever has sexual contact in the manner described in sub. (5) (b) 2. with a person
14 without the consent of that person is guilty of a Class ~~D~~ G felony.

15 **SECTION 120.** 940.23 (1) (a) of the statutes is amended to read:

16 940.23 (1) (a) Whoever recklessly causes great bodily harm to another human
17 being under circumstances which show utter disregard for human life is guilty of a
18 Class ~~C~~ D felony.

19 **SECTION 121.** 940.23 (1) (b) of the statutes is amended to read:

20 940.23 (1) (b) Whoever recklessly causes great bodily harm to an unborn child
21 under circumstances that show utter disregard for the life of that unborn child, the
22 woman who is pregnant with that unborn child or another is guilty of a Class ~~C~~ D
23 felony.

24 **SECTION 122.** 940.23 (2) (a) of the statutes is amended to read:

1 940.23 (2) (a) Whoever recklessly causes great bodily harm to another human
2 being is guilty of a Class ~~D~~ F felony.

3 **SECTION 123.** 940.23 (2) (b) of the statutes is amended to read:

4 940.23 (2) (b) Whoever recklessly causes great bodily harm to an unborn child
5 is guilty of a Class ~~D~~ F felony.

6 **SECTION 124.** 940.24 (1) of the statutes is amended to read:

7 940.24 (1) Whoever causes bodily harm to another by the negligent operation
8 or handling of a dangerous weapon, explosives or fire is guilty of a Class ~~E~~ I felony.

9 **SECTION 125.** 940.24 (2) of the statutes is amended to read:

10 940.24 (2) Whoever causes bodily harm to an unborn child by the negligent
11 operation or handling of a dangerous weapon, explosives or fire is guilty of a Class ~~E~~
12 I felony.

13 **SECTION 126.** 940.25 (1) (intro.) of the statutes is amended to read:

14 940.25 (1) (intro.) Any person who does any of the following is guilty of a Class
15 ~~D~~ F felony:

16 **SECTION 127.** 940.25 (lb) of the statutes is repealed.

17 **SECTION 128.** 940.285 (2) (b) lg. of the statutes is amended to read:

18 940.285 (2) (b) lg. Any person violating par. (a) 1. or 2. under circumstances
19 that cause death is guilty of a Class ~~B~~ C felony. ~~Any person violating Par. (a) 3. under~~
20 circumstances that cause death is guilty of a Class D felony.

21 **SECTION 129.** 940.285 (2) (b) lm. of the statutes is amended to read:

22 940.285 (2) (b) lm. Any person violating par. (a) under circumstances that
23 cause great bodily harm is guilty of a Class ~~C~~ F felony.

24 **SECTION 130.** 940.285 (2) (b) lr. of the statutes is amended to read:

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

5 **SECTION 131.** 940.285 (2) (b) 2. of the statutes is amended to read:

6 940.285 (2) (b) 2. Any person violating par. (a) 1. under circumstances that
7 cause ~~or are likely to cause~~ bodily harm is guilty of a Class ~~E~~ H felony. Any person
8 violating par. (a) 1. under circumstances that are likely to cause bodily harm is guilty
9 of a Class I felony.

10 **SECTION 132.** 940.285 (2) (b) 3. of the statutes is repealed.

11 **SECTION 133.** 940.29 of the statutes is amended to read:

12 **940.29 Abuse of residents of penal facilities.** Any person in charge of or
13 employed in a penal or correctional institution or other place of confinement who
14 abuses, neglects or ill-treats any person confined in or a resident of any such
15 institution or place or who knowingly permits another person to do so is guilty of a
16 Class ~~E~~ I felony.

17 **SECTION 134.** 940.295 (3) (b) lg. of the statutes is amended to read:

18 940.295 (3) (b) lg. Any person violating par. (a) 1. or 2. under circumstances
19 that cause death to a vulnerable person is guilty of a Class ~~B~~ C felony. Any person
20 violating par. (a) 3. under circumstances that cause death to a vulnerable person is
21 guilty of a Class D felony.

22 **SECTION 135.** 940.295 (3) (b) lm. of the statutes is amended to read:

23 940.295 (3) (b) 1 m. Any person violating par. (a) under circumstances that
24 cause great bodily harm to a vulnerable person is guilty of a Class ~~C~~ E felony.

25 **SECTION 136.** 940.295 (3) (b) lr. of the statutes is amended to read:

1 940.295 (3) (b) 1r. Except as provided iii subd. 1m., any person violating par.
2 (a) 1. under circumstances that cause ~~or are likely to cause~~ great bodily harm is guilty
3 of a Class ~~D~~ F felony. ~~Any person violating: par. (a) 1. under circumstances that are~~
4 likely to cause great bodily harm is guilty of a Class G felony.

5 **SECTION 137.** 940.295 (3) (b) 2. of the statutes is amended to read:

6 940.295 (3) (b) 2. Any person violating par. (a) 1. under circumstances that
7 cause ~~or are likely to cause~~ bodily harm is guilty of a Class ~~E~~ H felony. ~~Any person~~
8 violating par. (a) 1. under circumstances that are likely to cause bodily harm is guilty
9 of a Class I felony.

10 **SECTION 138.** 940.295 (3) (b) 3. of the statutes is amended to read:

11 940.295 (3) (b) 3. Except as provided in subd. 1m., any person violating par. (a)
12 2. or 3. under circumstances that cause ~~or are likely to cause~~ great bodily harm is
13 guilty of a Class ~~E~~ H felony. ~~Any person violating: par. (a) 2. or 3. under circumstances~~
14 that are likely to cause great bodily harm is guilty of a Class I felony.

15 **SECTION 139.** 940.30 of the statutes is amended to read:

16 **940.30 False imprisonment.** Whoever intentionally confines or restrains
17 another without the person's consent and with knowledge that he or she has no
18 lawful authority to do so is guilty of a Class ~~E~~ H felony.

19 **SECTION 140.** 940.305 (1) of the statutes is amended to read:

20 940.305 **(1)** Except as provided in sub. (2), whoever by force or threat of
21 imminent force seizes, confines or restrains a person without the person's consent
22 and with the intent to use the person as a hostage in order to influence a person to
23 perform or not to perform some action demanded by the actor is guilty of a Class -A
24 B felony

25 **SECTION 141. 940.305** (2) of the statutes is amended to read:

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

4 **SECTION 142.** 940.31 (1) (intro.) of the statutes is amended to read:

5 940.31 (1) (intro.) Whoever does any of the following is guilty of a Class ~~B~~ C
6 felony:

7 **SECTION 143.** 940.31 (2) (a) of the statutes is amended to read:

8 940.31 (2) (a) Except as provided in par. (b), whoever violates sub. (1) with
9 intent to cause another to transfer property in order to obtain the release of the victim
10 is guilty of a Class ~~A~~ B felony.

11 **SECTION 144.** 940.31 (2) (b) of the statutes is amended to read:

12 940.3 1 (2) (b) Whoever violates sub. (1) with intent to cause another to transfer
13 property in order to obtain the release of the victim is guilty of a Class ~~B~~ C felony if
14 the victim is released without permanent physical injury prior to the time the first
15 witness is sworn at the trial.

16 **SECTION 145.** 940.32 (2) (intro.) of the statutes is amended to read:

17 940.32 (2) (intro.) Whoever meets all of the following criteria is guilty of a Class
18 ~~A misdemeanor~~ I felony:

19 **SECTION 146.** 940.32 (2m) of the statutes is amended to read:

20 940.32 (2m) Whoever violates sub. (2) is guilty of a Class ~~D~~ G felony if he or she
21 intentionally gains access to a record in electronic format that contains personally
22 identifiable information regarding the victim in order to facilitate the violation
23 under sub. (2).

24 **SECTION 147.** 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:

3 **SECTION 148.** 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:

6 **SECTION 149. 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:

9 **SECTION 150.** 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:

12 **SECTION 151.** 94 1.11 (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:

15 **SECTION 152.** 94 1.12 (1) of the statutes is amended to read:

16 94 1.12 **(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.

19 **SECTION 153.** 94 1.20 (2) (intro.) of the statutes is amended to read:

20 94 1.20 (2) (intro.) Whoever does any of the following is guilty of a Class ~~E~~ G
21 felony:

22 **SECTION 154.** 94 1.20 (3) (a) (intro.) of the statutes is amended to read:

23 941.20 (3) (a) (intro.) Whoever intentionally discharges a firearm from a
24 vehicle while on a highway, as defined in s. 340.01 (22), or on a vehicle parking lot

1 that is open to the public under any of the following circumstances is guilty of a Class
2 ~~C~~ F felony:

3 **SECTION 155.** 941.21 of the statutes is amended to read:

4 **941.21 Disarming a peace** officer. Whoever intentionally disarms a peace
5 officer who is acting in his or her official capacity by taking a dangerous weapon or
6 a device or container described under s. 941.26 (1) (b) or (4) (a) from the officer
7 without his or her consent is guilty of a Class ~~E~~ H felony. This section applies to any
8 dangerous weapon or any device or container described under s. 94 1.26 (1) (b) or (4)
9 (a) that the officer is carrying or that is in an area within the officer's immediate
10 presence.

11 **SECTION 156.** 941.235 (1) of the statutes is amended to read:

12 94 1.235 **(1)** Any person who goes armed with a firearm in any building owned
13 or leased by the state or any political subdivision of the state is guilty of a Class ~~B~~
14 A misdemeanor.

15 **SECTION 157.** 94 1.26 (2) (a) of the statutes is amended to read:

16 941.26 (2) (a) Any person violating sub. (1) (a) is guilty of a Class ~~E~~ H felony.

17 **SECTION 158.** 941.26 (2) (b) of the statutes is amended to read:

18 941.26 (2) (b) Any person violating sub. (1m) is guilty of a Class ~~C~~ F felony.

19 **SECTION 159.** 941.26 (2) (e) of the statutes is amended to read:

20 941.26 (2) (e) Any person who violates sub. (1) (b) regarding the sale or
21 commercial transportation of the bomb, grenade, projectile, shell or container under
22 sub. (1) (b) is guilty of a Class ~~E~~ H felony.

23 **SECTION 160.** 941.26 (2) (f) of the statutes is amended to read:

24 94 1.26 (2) (f) Any person who violates sub. (1) (b) regarding the use of the bomb,
25 grenade, projectile, shell or container under sub. (1) (b) to cause bodily harm or bodily

1 discomfort to a person who the actor knows, or has reason to know, is a peace officer
2 who is acting in an official capacity is guilty of a Class ~~D~~ H felony.

3 **SECTION 161.** 941.26 (2) (g) of the statutes is amended to read:

4 94 1.26 (2) (g) Any person who violates sub. (1) (b) regarding the use of the bomb,
5 grenade, projectile, shell or container under sub. (1) (b) during his or her commission
6 of another crime to cause bodily harm or bodily discomfort to another or who
7 threatens to use the bomb, grenade, projectile, shell or container during his or her
8 commission of another crime to incapacitate another person is guilty of a Class ~~E~~ H
9 felony.

10 **SECTION 162.** 941.26 (4) (d) of the statutes is amended to read:

11 941.26 (4) (d) Whoever intentionally uses a device or container described under
12 par. (a) to cause bodily harm or bodily discomfort to a person who the actor knows,
13 or has reason to know, is a peace officer who is acting in an official capacity is guilty
14 of a Class ~~D~~ H felony.

15 **SECTION 163.** 94 1.26 (4) (e) of the statutes is amended to read:

16 941.26 (4) (e) Whoever uses a device or container described under par. (a)
17 during his or her commission of another crime to cause bodily harm or bodily
18 discomfort to another or who threatens to use the device or container during his or
19 her commission of another crime to incapacitate another person is guilty of a Class
20 ~~E~~ H felony

21 **SECTION 164.** 941.28 (3) of the statutes is amended to read:

22 941.28 (3) Any person violating this section is guilty of a Class ~~E~~ H felony.

23 **SECTION 165.** 941.29 (2) (intro.) of the statutes is amended to read:

24 941.29 (2) (intro.) A person specified in sub. (1) is guilty of a Class ~~E~~ G felony
25 if he or she possesses a firearm under any of the following circumstances:

1 **SECTION 166.** 94 1.29 (2m) of the statutes is repealed.

2 **SECTION 167.** 941.295 (1) of the statutes is amended to read:

3 941.295 (1) Whoever sells, transports, manufactures, possesses or goes armed
4 with any electric weapon is guilty of a Class ~~E~~ H felony.

5 **SECTION 168.** 941.296 (2) (intro.) of the statutes is amended to read:

6 941.296 (2) (intro.) Whoever uses or possesses a handgun during the
7 commission of a crime under chs. **939** to **948** or 961 is guilty of a Class ~~E~~ H felony
8 under any of the following circumstances.

9 **SECTION 169.** 941.296 (3) of the statutes is repealed.

10 **SECTION 170.** 941.298 (2) of the statutes is amended to read:

11 94 1.298 (2) Whoever sells, delivers or possesses a firearm silencer is guilty of
12 a Class ~~E~~ H felony.

13 **SECTION 171.** 94 1.30 (1) of the statutes is amended to read:

14 94 1.30 (1) FIRST-DEGREE RECKLESSLY ENDANGERING SAFETY. Whoever recklessly
15 endangers another's safety under circumstances which show utter disregard for
16 human life is guilty of a Class ~~D~~ F felony.

17 **SECTION 172.** 94 1.30 (2) of the statutes is amended to read:

18 941.30 (2) SECOND-DEGREE RECKLESSLY ENDANGERING SAFETY. Whoever
19 recklessly endangers another's safety is guilty of a Class ~~E~~ G felony.

20 **SECTION 173.** 941.31 (1) of the statutes is amended to read:

21 941.31 (1) Whoever makes, buys, transports, possesses, or transfers any
22 explosive compound or offers to do the same, either with intent to use such explosive
23 to commit a crime or knowing that another intends to use it to commit a crime, is
24 guilty of a Class ~~C~~ F felony.

25 **SECTION 174.** 941.31 (2) (b) of the statutes is amended to read:

1 941.31 (2) (b) Whoever makes, buys, sells, transports, possesses, uses or
2 transfers any improvised explosive device, or possesses materials or components
3 with intent to assemble any improvised explosive device, is guilty of a Class ~~E~~ H
4 felony.

5 **SECTION 175.** 941.32 of the statutes is amended to read:

6 **941.32 Administering dangerous or stupefying drug.** Whoever
7 administers to another or causes another to take any poisonous, stupefying,
8 overpowering, narcotic, or anesthetic substance with intent thereby to facilitate the
9 commission of a crime is guilty of a Class ~~C~~ F felony.

10 **SECTION 176.** 94 1.325 of the statutes is amended to read:

11 **941.325 Placing foreign objects in edibles.** Whoever places objects, drugs
12 or other substances in candy or other liquid or solid edibles with the intent to cause
13 bodily harm to another person is guilty of a Class ~~E~~ I felony

14 **SECTION 177.** 941.327 (2) (a) (intro.) of the statutes is amended to read:

15 941.327 (2) (a) (intro.) Whoever, with intent to ~~kill~~, injure or otherwise
16 endanger the health or safety of any person or to cause significant injury or damage
17 to the business of any person or entity, does either of the following may be punished
18 under par. (b) :

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

19 **SECTION 178.** 94 1.327 (2) (b) 1. of the statutes is amended to read:

20 941.327 (2) (b) 1. Except as provided in subds. 2. to 4., a person violating par.
21 (a) is guilty of a Class ~~E~~ I felony.

22 **SECTION 179.** 941.327 (2) (b) 2. of the statutes is amended to read:

1 94 1.38 (2) Whoever intentionally solicits a child to participate in criminal gang
2 activity is guilty of a Class ~~E~~ I felony.

3 **SECTION 186.** 943.01 (2) (intro.) of the statutes is amended to read:

4 943.01 (2) (intro.) Any person violating sub. (1) under any of the following
5 circumstances is guilty of a Class ~~D~~ I felony:

6 **SECTION 187.** 943.01 (2) (d) of the statutes is amended to read:

7 943.01 (2) (d) If the total property damaged in violation of sub. (1) is reduced
8 in value by more than ~~\$1,000~~ \$2,000 the purposes of this paragraph, property
9 is reduced in value by the amount which it would cost either to repair or replace it,
10 whichever is less.

11 **SECTION 188.** 943.01 (2g) of the statutes is repealed.

12 **SECTION 189.** 943.011 (2) (intro.) of the statutes is amended to read:

13 943.011 (2) (intro.) Whoever does any of the following is guilty of a Class ~~D~~ I
14 felony:

15 **SECTION 190. 943.012 (intro.) of the statutes is amended to read:**

16 **943.012 Criminal damage to or graffiti on religious and other property.**

17 (intro.) Whoever intentionally causes damage to, intentionally marks, draws or
18 writes with ink or another substance on or intentionally etches into any physical
19 property of another, without the person's consent and with knowledge of the
20 character of the property, is guilty of a Class ~~E~~ I felony if the property consists of one
21 or more of the following:

22 **SECTION 191.** 943.013 (2) (intro.) of the statutes is amended to read:

23 943.0 13 (2) (intro.) Whoever intentionally causes or threatens to cause damage
24 to any physical property that belongs to a judge or his or her family member under
25 all of the following circumstances is guilty of a Class ~~D~~ I felony:

1 **SECTION 192.** 943.014 (2) of the statutes is amended to read:

2 943.014 (2) Whoever intentionally demolishes a historic building without a
3 permit issued by a city, village, town or county or without an order issued under s.
4 ~~66.05 shall be fined an amount equal to 2 times the fair market value of the historic~~
5 ~~building and the land upon which the building is located immediately prior to~~
6 ~~demolition and may be imprisoned for not more than 9 months~~ is guilty of a Class A
7 misdemeanor.

8 **SECTION 193.** 943.015 (2) (intro.) of the statutes is amended to read:

9 943.015 (2) (intro.) Whoever intentionally causes or threatens to cause damage
10 to any physical property which belongs to a department of revenue official, employee
11 or agent or his or her family member under all of the following circumstances is guilty
12 of a Class ~~D~~ I felony:

13 **SECTION 194.** 943.017 (2) (intro.) of the statutes is amended to read:

14 943.017 (2) (intro.) Any person violating sub. (1) under any of the following
15 circumstances is guilty of a Class ~~D~~ I felony:

16 **SECTION 195.** 943.017 (2) (d) of the statutes is amended to read:

17 943.017 (2) (d) If the total property affected in violation of sub. (1) is reduced
18 in value by more than ~~\$1,000~~ \$2,000 the purposes of this paragraph, property
19 is reduced in value by the amount which it would cost to repair or replace it or to
20 remove the marking, drawing, writing or etching, whichever is less.

21 **SECTION 196.** 943.017 (2m) (b) (intro.) of the statutes is amended to read:

22 943.0 17 **(2m)** (b) (intro.) Whoever does any of the following is guilty of a Class ~~D~~
23 I felony:

24 **SECTION 197.** 943.02 (1) (intro.) of the statutes is amended to read:

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

3 **SECTION 198. 943.03** of the statutes is amended to read:

4 **943.03 Arson of property other than building.** Whoever, by means of fire,
5 intentionally damages any property (other than a building) of another without the
6 person's consent, if the property is of the value of \$100 or more, is guilty of a Class
7 ~~E~~ I felony.

8 **SECTION 199. 943.04** of the statutes is amended to read:

9 **943.04 Arson with intent to defraud.** Whoever, by means of fire, damages
10 any property (other than a building) with intent to defraud an insurer of that
11 property is guilty of a Class ~~D~~ H felony Proof that the actor recovered or attempted
12 to recover on a policy of insurance by reason of the fire is relevant but not essential
13 to establish the actor's intent to defraud the insurer.

14 **SECTION ZOO. 943.06 (2)** of the statutes is amended to read:

15 943.06 (2) Whoever possesses, manufactures, sells, offers for sale, gives or
16 transfers a fire bomb is guilty of a Class ~~E~~ H felony.

17 **SECTION 201. 943.07 (1)** of the statutes is amended to read:

18 943.07 **(1)** Whoever intentionally causes damage or who causes another person
19 to damage, tamper, change or destroy any railroad track, switch, bridge, trestle,
20 tunnel or signal or any railroad property used in providing rail services, which could
21 cause an injury, accident or derailment is guilty of a Class ~~A-misdemeanor~~ I felony.

22 **SECTION 202. 943.07 (2)** of the statutes is amended to read:

23 943.07 (2) Whoever intentionally shoots a firearm at any portion of a railroad
24 train, car, caboose or engine is guilty of a Class ~~A-misdemeanor~~ I felony.

25 **SECTION 203. 943.10 (1) (intro.)** of the statutes is amended to read:

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

4 **SECTION 204.** 943.10 (2) (intro.) of the statutes is amended to read:

5 943.10 (2) (intro.) Whoever violates sub. (1) under any of the following
6 circumstances is guilty of a Class ~~B~~ E felony:

7 **SECTION 205.** 943.12 of the statutes is amended to read:

8 **943.12 Possession of burglarious tools.** Whoever has in personal
9 possession any device or instrumentality intended, designed or adapted for use in
10 breaking into any depository designed for the safekeeping of any valuables or into
11 any building or room, with intent to use such device or instrumentality to break into
12 a depository, building or room, and to steal therefrom, is guilty of a Class ~~E~~ I felony.

13 **SECTION 206.** 943.20 (3) (a) of the statutes is amended to read:

14 943.20 (3) (a) If the value of the property does not exceed ~~\$1,000~~ \$2,000, is
15 guilty of a Class A misdemeanor.

16 **SECTION 207.** 943.20 (3) (b) of the statutes is amended to read:

17 943.20 (3) (b) If the value of the property exceeds ~~\$1,000~~ \$2,000 but does not
18 ~~\$2,500~~ exceed \$5,000, is guilty of a Class ~~E~~ I felony.

19 **SECTION 208.** 943.20 (3) (bm) of the statutes is created to read:

20 943.20 (3) (bm) If the value of the property exceeds \$5,000 but does not exceed
21 \$10,000, is guilty of a Class H felony.

22 **SECTION 209.** 943.20 (3) (c) of the statutes is amended to read:

23 943.20 (3) (c) If the value of the property exceeds ~~\$2,500~~ \$10,000, is guilty of
24 a Class ~~C~~ G felony.

25 **SECTION 210.** 943.20 (3) (d) (intro.) of the statutes is amended to read:

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

4 **SECTION 218.** 943.21 (3) (b) of the statutes is amended to read:

5 943.21 (3) (b) Is guilty of a Class ~~E~~ I felony when the value of any beverage,
6 food, lodging, accommodation, transportation or other service exceeds ~~\$1,000~~ \$2,000.

7 **SECTION 2 19.** 943.23 (lg) of the statutes is amended to read:

8 943.23 (lg) Whoever, while possessing a dangerous weapon and by the use of,
9 or the threat of the use of, force or the weapon against another, intentionally takes
10 any vehicle without the consent of the owner is guilty of a Class ~~B~~ C felony.

11 **SECTION 220.** 943.23 (lm) of the statutes is repealed.

12 **SECTION 221.** 943.23 (lr) of the statutes is repealed.

13 **SECTION 222.** 943.23 (2) of the statutes is amended to read:

14 943.23 (2) ~~Whoever~~ Except as provided in sub. (3m), whoever intentionally
15 takes and drives any vehicle without the consent of the owner is guilty of a Class ~~D~~
16 H felony.

17 **SECTION 223.** 943.23 (3) of the statutes is amended to read:

18 943.23 (3) Whoever Except as provided in sub. (3m), whoever intentionally
19 drives or operates any vehicle without the consent of the owner is guilty of a Class
20 ~~E~~ I felony.

21 **SECTION 224. 943.23 (3m)** of the statutes is created to read:

22 943.23 (3m) It is an affirmative defense to a prosecution for a violation of sub.
23 (2) or (3) if the defendant abandoned the vehicle without damage within 24 hours
24 after the vehicle was taken. An affirmative defense under this subsection mitigates

1 the offense to a Class A misdemeanor. A defendant who raises this affirmative
2 defense has the burden of proving the defense by a preponderance of the evidence.

3 **SECTION 225.** 943.23 (4m) of the statutes is amended to read:

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

8 **SECTION 226.** 943.23 (5) of the statutes is amended to read:

9 943.23 (5) Whoever intentionally removes a major part of a vehicle without the
10 consent of the owner is guilty of a Class ~~E~~ I felony. Whoever intentionally removes
11 any other part or component of a vehicle without the consent of the owner is guilty
12 of a Class A misdemeanor.

13 **SECTION 227.** 943.24 (1) of the statutes is amended to read:

14 943.24 (1) Whoever issues any check or other order for the payment of not more
15 than ~~\$1,000~~ \$2,000 which, at the time of issuance, he or she intends shall not be paid
16 is guilty of a Class A misdemeanor.

17 **SECTION 228.** 943.24 (2) of the statutes is amended to read:

18 943.24 (2) Whoever issues any single check or other order for the payment of
19 more than ~~\$1,000~~ \$2,000 or whoever within a 15-day period issues more than one
20 check or other order amounting in the aggregate to more than ~~\$1,000~~ \$2,000 which,
21 at the time of issuance, the person intends shall not be paid is guilty of a Class ~~E~~ I
22 felony.

23 **SECTION 229.** 943.25 (1) of the statutes is amended to read:

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

4 **SECTION 230.** 943.25 (2) (intro.) of the statutes is amended to read:

5 943.25 (2) (intro.) Whoever, with intent to defraud, does any of the following
6 is guilty of a Class ~~E~~ I felony:

7 **SECTION 231.** 943.26 (2) of the statutes is amended to read:

8 943.26 (2) If the security is impaired by more than ~~\$1,000~~ \$2,000, the
9 mortgagor or vendee is guilty of a Class ~~E~~ I felony.

10 **SECTION 232.** 943.27 of the statutes is amended to read:

11 **943.27 Possession of records of certain usurious loans.** Any person who
12 knowingly possesses any writing representing or constituting a record of a charge of,
13 contract for, receipt of or demand for a rate of interest or consideration exceeding \$20
14 upon \$100 for one year computed upon the declining principal balance of the loan,
15 use or forbearance of money, goods or things in action or upon the loan, use or sale
16 of credit is, if the rate is prohibited by a law other than this section, guilty of a Class
17 ~~E~~ I felony.

18 **SECTION 233.** 943.28 (2) of the statutes is amended to read:

19 943.28 (2) Whoever makes any extortionate extension of credit, or conspires to
20 do so, if one or more of the parties to the conspiracy does an act to effect its object,
21 is guilty of a Class ~~E~~ F felony.

22 **SECTION 234.** 943.28 (3) of the statutes is amended to read:

23 943.28 (3) Whoever advances money or property, whether as a gift, as a loan,
24 as an investment, pursuant to a partnership or profit-sharing agreement, or

1 **SECTION 240.** 943.30 (5) (b) of the statutes is amended to read:

2 943.30 (5) (b) Whoever, orally or by any written or printed communication,
3 maliciously uses, or threatens to use, the patient health care records of another
4 person, with intent thereby to extort money or any pecuniary advantage, or with
5 intent to compel the person so threatened to do any act against the person's will or
6 omit to do any lawful act, is guilty of a Class ~~D~~ H felony.

7 **SECTION 241.** 943.31 of the statutes is amended to read:

8 **943.31 Threats to communicate derogatory information.** Whoever
9 threatens to communicate to anyone information, whether true or false, which would
10 injure the reputation of the threatened person or another unless the threatened
11 person transfers property to a person known not to be entitled to it is guilty of a Class
12 ~~E~~ I felony.

13 **SECTION 242.** 943.32 (1) (intro.) of the statutes is amended to read:

14 943.32 **(1)** (intro.) Whoever, with intent to steal, takes property from the person
15 or presence of the owner by either of the following means is guilty of a Class ~~C~~ E
16 felony:

17 **SECTION 243.** 943.32 (2) of the statutes is amended to read:

18 943.32 (2) Whoever violates sub. (1) by use or threat of use of a dangerous
19 weapon, a device or container described under s. 94 1.26 (4) (a) or any article used or
20 fashioned in a manner to lead the victim reasonably to believe that it is a dangerous
21 weapon or such a device or container is guilty of a Class ~~B~~ C felony.

22 **SECTION 244.** 943.34 (1) (a) of the statutes is amended to read:

23 943.34 **(1)** (a) A Class A misdemeanor, if the value of the property does not
24 exceed ~~\$1,000~~ \$2,000.

25 **SECTION 245.** 943.34 (1) (b) of the statutes is amended to read:

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

3 **SECTION 246.** 943.34 (1) (bm) of the statutes is created to read:

4 943.34 (1) (bm) A Class H felony, if the value of the property exceeds \$5,000 but
5 does not exceed \$10,000.

6 **SECTION 247.** 943.34 (1) (c) of the statutes is amended to read:

7 943.34 (1) (c) A Class ~~C~~ G felony, if the value of the property exceeds ~~\$2,500~~
8 \$10,000.

9 **SECTION 248.** 943.38 (1) (intro.) of the statutes is amended to read:

10 943.38 (1) (intro.) Whoever with intent to defraud falsely makes or alters a
11 writing or object of any of the following kinds so that it purports to have been made
12 by another, or at another time, or with different provisions, or by authority of one who
13 did not give such authority, is guilty of a Class ~~C~~ H felony:

14 **SECTION 249.** 943.38 (2) of the statutes is amended to read:

15 943.38 (2) Whoever utters as genuine or possesses with intent to utter as false
16 or as genuine any forged writing or object mentioned in sub. (l), knowing it to have
17 been thus falsely made or altered, is guilty of a Class ~~C~~ H felony.

18 **SECTION 250.** 943.39 (intro.) of the statutes is amended to read:

19 **943.39 Fraudulent writings.** (intro.) Whoever, with intent to injure or
20 defraud, does any of the following is guilty of a Class ~~D~~ H felony:

21 **SECTION 251. 943.395 (2)** (a) of the statutes is amended to read:

22 943.395 (2) (a) Is guilty of a Class A misdemeanor if the value of the claim or
23 benefit does not exceed ~~\$1,000~~ \$2,000.

24 **SECTION 252.** 943.395 (2) (b) of the statutes is amended to read:

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

3 SECTION 253. 943.40 (intro.) of the statutes is amended to read:

4 **943.40 Fraudulent destruction of certain writings.** (intro.) Whoever with
5 intent to defraud does either of the following is guilty of a Class ~~D~~ H felony:

6 SECTION 254. 943.41 (8) (b) of the statutes is amended to read:

7 943.4 1 (8) (b) Any person violating any provision of sub. (3) (e), (4) (a), (6) (c)
8 or (6m) is guilty of a Class ~~E~~ I felony.

9 SECTION 255. 943.41 (8) (c) of the statutes is amended to read:

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

20 SECTION 256. 943.45 (3) (c) of the statutes is amended to read:

21 943.45 (3) (c) Except as provided in par. (d), any person who violates sub. (1)
22 for direct or indirect commercial advantage or private financial gain is guilty of a
23 Class ~~E felony~~ A misdemeanor.

24 SECTION 257. 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 **SECTION 258.** 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 **SECTION 259.** 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 **SECTION 260.** 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 **SECTION 261.** 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 **SECTION 262.** 943.47 (3) (c) of the statutes is amended to read:

21 943.47 (3) (c) Except as provided in par. (d), any person who violates sub. (2)
22 for direct or indirect commercial advantage or private financial gain is guilty of a
23 Class ~~E felony~~ A misdemeanor.

24 **SECTION 263.** 943.47 (3) (d) of the statutes is amended to read:

1 943.47 (3) (d) Any person who violates sub. (2) 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 **SECTION 264.** 943.50 (4) (a) of the statutes is amended to read:

5 943.50 (4) (a) A Class A misdemeanor, if the value of the merchandise does not
6 exceed ~~\$1,000~~ \$2,000.

7 **SECTION 265.** 943.50 (4) (b) of the statutes is amended to read:

8 943.50 (4) (b) A Class ~~E~~ I felony, if the value of the merchandise exceeds ~~\$1,000~~
9 \$2,000 but does not ~~\$2,500~~ exceed \$5,000.

10 **SECTION 266.** 943.50 (4) (bm) of the statutes is created to read:

11 943.50 (4) (bm) A Class H felony, if the value of the merchandise exceeds \$5,000
12 but does not exceed \$10,000.

13 **SECTION 267.** 943.50 (4) (c) of the statutes is amended to read:

14 943.50 (4) (c) A Class ~~C~~ G felony, if the value of the merchandise exceeds ~~\$2,500~~
15 \$10,000.

16 **SECTION 268.** 943.60 (1) of the statutes is amended to read:

17 943.60 (1) Any person who submits for filing, entering or recording any lien,
18 claim of lien, lis pendens, writ of attachment, financing statement or any other
19 instrument relating to a security interest in or title to real or personal property, and
20 who knows or should have known that the contents or any part of the contents of the
21 instrument are false, a sham or frivolous, is guilty of a Class ~~D~~ H felony

22 **SECTION 269.** 943.61 (5) (b) of the statutes is amended to read:

23 943.61 (5) (b) A Class ~~E~~ I felony, if the value of the library materials exceeds
24 \$1,000 but does not exceed \$2,500.

25 **SECTION 270.** 943.61 (5) (c) of the statutes is amended to read:

1 943.61 (5) (c) A Class ~~C~~ H felony, if the value of the library materials exceeds
2 \$2,500.

3 **SECTION 271.** 943.62 (4) (b) of the statutes is amended to read:

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

6 **SECTION 272.** 943.62 (4) (c) of the statutes is amended to read:

7 943.62 (4) (c) A Class ~~C~~ F felony, if the value of the advance payment or required
8 refund, as applicable, exceeds \$2,500.

9 **SECTION 273.** 943.70 (2) (b) 2. of the statutes is amended to read:

10 943.70 (2) (b) 2. A Class ~~E~~ I felony if the offense is committed to defraud or to
11 obtain property.

12 **SECTION 274.** 943.70 (2) (b) 3. of the statutes is amended to read:

13 943.70 (2) (b) 3. A Class ~~D~~ H felony if the damage is greater than ~~\$2,500~~ \$5,000
14 or if it causes an interruption or impairment of governmental operations or public
15 communication, of transportation or of a supply of water, gas or other public service.

16 **SECTION 275.** 943.70 (2) (b) 4. of the statutes is amended to read:

17 943.70 (2) (b) 4. A Class ~~C~~ E felony if the offense creates a substantial and
18 unreasonable risk of death or great bodily harm to another.

19 **SECTION 276.** 943.70 (3) (b) 2. of the statutes is amended to read:

20 943.70 (3) (b) 2. A Class ~~E~~ I felony if the offense is committed to defraud or
21 obtain property.

22 **SECTION 277.** 943.70 (3) (b) 3. of the statutes is amended to read:

23 943.70 (3) (b) 3. A Class ~~D~~ H felony if the damage to the computer, computer
24 system, computer network, equipment or supplies is greater than 3 \$5,000.

25 **SECTION 278.** 943.75 (2) of the statutes is amended to read:

1 943.75 (2) Whoever intentionally releases an animal that is lawfully confined
2 for scientific, farming, companionship or protection of persons or property,
3 recreation, restocking, research, exhibition, commercial or educational purposes,
4 acting without the consent of the owner or custodian of the animal, is guilty of a Class
5 C misdemeanor. A 2nd violation of this section by a person is a Class A misdemeanor.
6 A 3rd or subsequent violation of this section by a person is a Class ~~E~~ I felony.

7 **SECTION 279.** 944.05 (1) (intro.) of the statutes is amended to read:

8 944.05 **(1)** (intro.) Whoever does any of the following is guilty of a Class ~~E~~ I
9 felony:

10 **SECTION 280.** 944.15 (title) of the statutes is repealed and recreated to read:

11 944.15 (title) **Public fornication.**

12 **SECTION 281.** 944.16 (intro.) of the statutes is amended to read:

13 **944.16 Adultery.** (intro.) Whoever does either of the following is guilty of a
14 Class ~~E~~ I felony:

15 **SECTION 282.** 944.205 (2) (intro.) of the statutes is amended to read:

16 944.205 (2) (intro.) Whoever does any of the following is guilty of a Class ~~E~~ I
17 felony:

18 **SECTION 283.** 944.21 (5) (c) of the statutes is amended to read:

19 944.21 (5) (c) If the person violating sub. (3) or (4) has 2 or more prior
20 convictions under this section, the person is guilty of a Class ~~D~~ H felony.

21 **SECTION 284.** 944.21 (5) (e) of the statutes is amended to read:

22 944.21 (5) (e) Regardless of the number of prior convictions, if the violation
23 under sub. (3) or (4) is for a wholesale transfer or distribution of obscene material,
24 the person is guilty of a Class ~~D~~ H felony.

25 **SECTION 285.** 944.32 of the statutes is amended to read:

1 946.03 **(1)** (intro.) Whoever does any of the following is guilty of a Class ~~C~~ E
2 felony:

3 **SECTION 293.** 946.03 (2) of the statutes is amended to read:

4 946.03 (2) Whoever permits any premises under his or her care, control or
5 supervision to be used by an assembly with knowledge that the purpose of the
6 assembly is to advocate or teach the duty, necessity, desirability or propriety of
7 overthrowing the government of the United States or this state by the use or threat
8 of physical violence with intent that such government be overthrown or, after
9 learning that the premises are being so used, permits such use to be continued is
10 guilty of a Class ~~E~~ I felony.

11 **SECTION 294.** 946.05 (1) of the statutes is amended to read:

12 946.05 **(1)** Whoever intentionally and publicly mutilates, defiles, or casts
13 contempt upon the flag is guilty of a Class ~~E~~ I felony.

14 **SECTION 295.** 946.10 (intro.) of the statutes is amended to read:

15 **946.10 Bribery of public officers and employees.** (intro.) Whoever does
16 either of the following is guilty of a Class ~~D~~ H felony:

17 **SECTION 296.** 946.11 (1) (intro.) of the statutes is amended to read:

18 946.11 **(1)** (intro.) Whoever does the following is guilty of a Class ~~E~~ I felony:

19 **SECTION 297.** 946.12 (intro.) of the statutes is amended to read:

20 **946.12 Misconduct in public office.** (intro.) Any public officer or public
21 employe who does any of the following is guilty of a Class ~~E~~ I felony:

22 **SECTION 298. 946.13** (1) (intro.) of the statutes is amended to read:

23 946.13 **(1)** (intro.) Any public officer or public employe who does any of the
24 following is guilty of a Class ~~E~~ I felony:

25 **SECTION 299.** 946.14 of the statutes is amended to read:

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

SECTION 302. 946.31 (1) (intro.) of the statutes is amended to read:

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

SECTION 303. 946.32 (1) (intro.) of the statutes is amended to read:

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

SECTION 304. 946.41 (2m) (intro.) of the statutes is amended to read:

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

SECTION 305. 946.415 (2) (intro.) of the statutes is amended to read:

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

SECTION 306. 946.42 (3) (intro.) of the statutes is amended to read:

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

SECTION 307. 946.42 (4) of the statutes is repealed.

SECTION 308. 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.

4 **SECTION 309.** 946.425 (lm) (b) of the statutes is amended to read:

5 946.425 **(lm)** (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 countyjail as required under the sentence is guilty
8 of a Class ~~D~~ H felony.

9 **SECTION 310.** 946.425 (lr) (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.

14 **SECTION 311. 946.425 (2)** of the statutes is repealed.

15 **SECTION 312.** 946.43 (intro.) of the statutes is amended to read:

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

19 **SECTION 313.** 946.44 (1) (intro.) of the statutes is amended to read:

20 946.44 **(1)** (intro.) Whoever does the following is guilty of a Class ~~D~~ H felony:

21 **SECTION 314. 946.44** (1g) of the statutes is amended to read:

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

24 **SECTION 315.** 946.44 (lm) of the statutes is amended to read:

1 946.44 **(lm)** 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.

5 **SECTION 316.** 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:

8 **SECTION 317.** 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.

13 **SECTION 318.** 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.

16 **SECTION 319.** 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.

19 **SECTION 320.** 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 321.** 946.50 (5h) of the statutes is created to read:

23 946.50 **(5h)** A Class G felony, if the person was adjudicated delinquent for
24 committing an act that would be a Class G felony if committed by an adult.

25 **SECTION 322.** 946.50 (5p) of the statutes is created to read:

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

3 **SECTION 323.** 946.50 (5t) of the statutes is created to read:

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

6 **SECTION 324.** 946.60 (1) of the statutes is amended to read:

7 **946.60 (1)** Whoever intentionally destroys, alters, mutilates, conceals,
8 removes, withholds or transfers possession of a document, knowing that the
9 document has been subpoenaed by a court or by or at the request of a district attorney
10 or the attorney general, is guilty of a Class ~~E~~ I felony.

11 **SECTION 325.** 946.60 (2) of the statutes is amended to read:

12 **946.60 (2)** Whoever uses force, threat, intimidation or deception, with intent
13 to cause or induce another person to destroy, alter, mutilate, conceal, remove,
14 withhold or transfer possession of a subpoenaed document, knowing that the
15 document has been subpoenaed by a court or by or at the request of a district attorney
16 or the attorney general, is guilty of a Class ~~E~~ I felony.

17 **SECTION 326.** 946.61 (1) (intro.) of the statutes is amended to read:

18 **946.61 (1)** (intro.) Whoever does any of the following is guilty of a Class ~~D~~ H
19 felony:

20 **SECTION 327.** 946.64 of the statutes is amended to read:

21 **946.64 Communicating with jurors.** Whoever, with intent to influence any
22 person, summoned or serving as a juror, in relation to any matter which is before that
23 person or which may be brought before that person, communicates with him or her
24 otherwise than in the regular course of proceedings in the trial or hearing of that
25 matter is guilty of a Class ~~E~~ I felony.

1 SECTION 328. 946.65 (1) of the statutes is amended to read:

2 946.65 (1) Whoever for a consideration knowingly gives false information to
3 any officer of any court with intent to influence the officer in the performance of
4 official functions is guilty of a Class ~~E~~ I felony.

5 SECTION 329. 946.68 (1r) (a) of the statutes is amended to read:

6 946.68 (1r) (a) Except as provided in pars. (b) and (c) , whoever sends or delivers
7 to another any document which simulates legal process is guilty of a Class ~~E~~ I felony.

8 SECTION 330. 946.68 (1r) (b) of the statutes is amended to read:

9 946.68 (~~1r~~) (b) If the document under par. (a) is sent or delivered with intent
10 to induce payment of a claim, the person is guilty of a Class ~~D~~ H felony.

11 SECTION 331. 946.68 (1r) (c) of the statutes is amended to read:

12 946.68 (1r) (c) If the document under par. (a) simulates any criminal process,
13 the person is guilty of a Class ~~D~~ H felony.

14 SECTION 332. 946.69 (2) (intro.) of the statutes is amended to read:

15 946.69 (2) (intro.) Whoever does any of the following is guilty of a Class ~~E~~ I
16 felony:

17 SECTION 333. 946.70 (2) of the statutes is amended to read:

18 946.70 (2) Any person violating sub. (1) with the intent to commit or aid or abet
19 the commission of a crime other than the crime under this section is guilty of a Class
20 ~~D~~ H felony.

21 SECTION 334. 946.72 (1) of the statutes is amended to read:

22 946.72 (1) Whoever with intent to injure or defraud destroys, damages,
23 removes or conceals any public record is guilty of a Class ~~D~~ H felony.

24 SECTION 335. 946.74 (2) of the statutes is amended to read:

1 946.74 (2) Whoever violates sub. (1) with intent to commit a crime against
2 sexual morality with or upon the inmate of the institution is guilty of a Class ~~D~~ H
3 felony.

4 **SECTION 336.** 946.76 of the statutes is amended to read:

5 **946.76 Search warrant; premature disclosure.** Whoever discloses prior
6 to its execution that a search warrant has been applied for or issued, except so far
7 as may be necessary to its execution, is guilty of a Class ~~E~~ I felony.

8 **SECTION 337.** 946.82 (4) of the statutes is amended to read:

9 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 196 1
10 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission
11 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (l),
12 180.0129, 181.0129, 185.825, 200.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
13 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
14 940.19 ~~(3)~~ (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20
15 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 943.01 (2) ~~or (2g)~~, 943.011,
16 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (b) to ~~(d)~~
17 (e), 943.201, 943.23 (lg), ~~(1m)~~, ~~(1r)~~, (2) and (3), 943.24 (2), 943.25, 943.27, 943.28,
18 943.30, 943.32, 943.34 (1) (b), (bm) and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and
19 (c), 943.50 (4) (b), (bm) and (c), 943.60, 943.70, 944.205, 944.21 (5) (c) and (e), 944.32,
20 944.33 (2), 944.34, 945.03, 945.04, 945.05, 945.08, 946.10, 946.11, 946.12, 946.13,
21 946.31, 946.32 (l), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 947.015,
22 948.05, 948.08, 948.12 and 948.30.

23 **SECTION 338.** 946.84 (1) of the statutes is amended to read:

24 946.84 **(1)** Any person convicted of engaging in racketeering activity in
25 violation of s. 946.83 is guilty of a Class ~~C~~ E felony.

1 **SECTION 339.** 946.85 (1) of the statutes, as affected by 1997 Wisconsin Act 283,
2 is amended to read:

3 946.85 (1) Any person who engages in a continuing criminal enterprise ~~shall~~
4 ~~be imprisoned not less than 10 years nor more than 30 years, and fined not more than~~
5 ~~\$10,000 or as provided in s. 946.84 (2).~~ If the court imposes a sentence less than the
6 presumptive minimum sentence, it shall place its reasons for doing so on the record
7 is guilty of a Class D felony, except that instead of imposing a fine as provided under
8 s. 939.50 (3) (d) a court may fine the person as provided in s. 946.84 (2).

9 **SECTION 340.** 947.0 13 (1 t) of the statutes is amended to read:

10 947.013 **(1t)** Whoever violates sub. (lr) is guilty of a Class ~~E~~ I felony if the
11 person has a prior conviction under this subsection or sub. (lr), (1v) or (lx) or s.
12 940.32 (2), (2m), (3) or (3m) involving the same victim and the present violation
13 occurs within 7 years of the prior conviction.

14 **SECTION 341.** 947.013 (1v) of the statutes is amended to read:

15 947.013 **(1v)** Whoever violates sub. (lr) is guilty of a Class ~~D~~ H felony if he or
16 she intentionally gains access to a record in electronic format that contains
17 personally identifiable information regarding the victim in order to facilitate the
18 violation under sub. (lr).

19 **SECTION 342.** 947.013 (lx) (intro.) of the statutes is amended to read:

20 947.013 **(lx)** (intro.) Whoever violates sub. (lr) under all of the following
21 circumstances is guilty of a Class ~~D~~ H felony:

22 **SECTION 343.** 947.015 of the statutes is amended to read:

23 **947.015 Bomb scares.** Whoever intentionally conveys or causes to be
24 conveyed any threat or false information, knowing such to be false, concerning an

1 attempt or alleged attempt being made or to be made to destroy any property by the
2 means of explosives is guilty of a Class ~~E~~ I felony.

3 **SECTION 344.** 948.02 (2) of the statutes is amended to read:

4 948.02 (2) SECOND DEGREE SEXUAL ASSAULT. Whoever has sexual contact or
5 sexual intercourse with a person who has not attained the age of 16 years is guilty
6 of a Class ~~B~~ C felony.

7 **SECTION 345.** 948.02 (3) of the statutes is amended to read:

8 948.02 (3) FAILURE TO ACT. A person responsible for the welfare of a child who
9 has not attained the age of 16 years is guilty of a Class ~~C~~ F felony if that person has
10 knowledge that another person intends to have, is having or has had sexual
11 intercourse or sexual contact with the child, is physically and emotionally capable
12 of taking action which will prevent the intercourse or contact from taking place or
13 being repeated, fails to take that action and the failure to act exposes the child to an
14 unreasonable risk that intercourse or contact may occur between the child and the
15 **other person or facilitates the intercourse or contact that does occur between the**
16 child and the other person.

17 **SECTION 346.** 948.02 (3m) of the statutes is repealed.

18 **SECTION 347.** 948.025 (1) of the statutes is renumbered 948.025 (1) (intro.) and
19 amended to read:

20 948.025 (1) (intro.) Whoever commits 3 or more violations under s. 948.02 (1)
21 **or (2) within a specified period of time involving the same child is guilty of a:**

22 **(a) Class B felony if at least 3 of the violations were violations of s. 948.02 (1).**

23 **SECTION 348.** 948.025 (1) (b) of the statutes is created to read:

24 948.025 (1) (b) A Class C felony if fewer than 3 of the violations were violations
25 of s. 948.02 (1).

1 **SECTION 349.** 948.025 (2) of the statutes is renumbered 948.025 (2) (b) and
2 amended to read:

3 948.025 **(2)** (b) If an action under sub. (1) (b) is tried to a jury, in order to find
4 the defendant guilty the members of the jury must unanimously agree that at least
5 3 violations of s. 948.02 (1) or (2) occurred within the time specified period ~~applicable~~
6 ~~under sub (1) of time~~ but need not agree on which acts constitute the requisite
7 number and need not agree on whether a particular violation was a violation of s.
8 948.02 (1) or (2).

9 **SECTION 350.** 948.025 **(2)** (a) of the statutes is created to read:

10 948.025 **(2)** (a) If an action under sub. (1) (a) is tried to a jury, in order to find
11 the defendant guilty the members of the jury must unanimously agree that at least
12 **3** violations of s. 948.02 (1) occurred within the specified period of time but need not
13 agree on which acts constitute the requisite number.

14 **SECTION 351.** 948.025 (2m) of the statutes is repealed.

15 **SECTION 352.** 948.03 (2) (a) of the statutes is amended to read:

16 948.03 (2) (a) Whoever intentionally causes great bodily harm to a child is
17 guilty of a Class ~~C~~ E felony.

18 **SECTION 353.** 948.03 (2) (b) of the statutes is amended to read:

19 948.03 (2) (b) Whoever intentionally causes bodily harm to a child is guilty of
20 a Class ~~D~~ H felony.

21 **SECTION 354.** 948.03 (2) (c) of the statutes is amended to read:

22 948.03 (2) (c) Whoever intentionally causes bodily harm to a child by conduct
23 which creates a high probability of great bodily harm is guilty of a Class ~~C~~ E felony.

24 **SECTION 355.** 948.03 (3) (a) of the statutes is amended to read:

1 948.03 (3) (a) Whoever recklessly causes great bodily harm to a child is guilty
2 of a Class ~~D~~ G felony.

3 **SECTION 356.** 948.03 (3) (b) of the statutes is amended to read:

4 948.03 (3) (b) Whoever recklessly causes bodily harm to a child is guilty of a
5 Class ~~E~~ I felony.

6 **SECTION 357.** 948.03 (3) (c) of the statutes is amended to read:

7 948.03 (3) (c) Whoever recklessly causes bodily harm to a child by conduct
8 which creates a high probability of great bodily harm is guilty of a Class ~~D~~ H felony.

9 **SECTION 358.** 948.03 (4) (a) of the statutes is amended to read:

10 948.03 (4) (a) A person responsible for the child's welfare is guilty of a Class
11 ~~C~~ F felony if that person has knowledge that another person intends to cause, is
12 causing or has intentionally or recklessly caused great bodily harm to the child and
13 is physically and emotionally capable of taking action which will prevent the bodily
14 harm from occurring or being repeated, fails to take that action and the failure to act
15 exposes the child to an unreasonable risk of great bodily harm by the other person
16 or facilitates the great bodily harm to the child that is caused by the other person.

17 **SECTION 359.** 948.03 (4) (b) of the statutes is amended to read:

18 948.03 (4) (b) A person responsible for the child's welfare is guilty of a Class
19 ~~D~~ H felony if that person has knowledge that another person intends to cause, is
20 causing or has intentionally or recklessly caused bodily harm to the child and is
21 physically and emotionally capable of taking action which will prevent the bodily
22 harm from occurring or being repeated, fails to take that action and the failure to act
23 exposes the child to an unreasonable risk of bodily harm by the other person or
24 facilitates the bodily harm to the child that is caused by the other person.

25 **SECTION 360.** 948.04 (1) of the statutes is amended to read:

1 948.04 (1) Whoever is exercising temporary or permanent control of a child and
2 causes mental harm to that child by conduct which demonstrates substantial
3 disregard for the mental well-being of the child is guilty of a Class C F felony.

4 SECTION 361. 948.04 (2) of the statutes is amended to read:

5 948.04 (2) A person responsible for the child's welfare is guilty of a Class C F
6 felony if that person has knowledge that another person has caused, is causing or will
7 cause mental harm to that child, is physically and emotionally capable of taking
8 action which will prevent the harm, fails to take that action and the failure to act
9 exposes the child to an unreasonable risk of mental harm by the other person or
10 facilitates the mental harm to the child that is caused by the other person.

11 SECTION 362. 948.05 (1) (intro.) of the statutes is amended to read:

12 948.05 (1) (intro.) Whoever does any of the following with knowledge of the
13 character and content of the sexually explicit conduct involving the child is guilty of
14 a Class C F felony:

15 SECTION 363. 948.05 (1m) of the statutes, as affected by 1999 Wisconsin Act 3,
16 is amended to read:

17 948.05 **(1m)** Whoever produces, performs in, profits from, promotes, imports
18 into the state, reproduces, advertises, sells, distributes or possesses with intent to
19 sell or distribute, any undeveloped film, photographic negative, photograph, motion
20 picture, videotape, sound recording or other reproduction of a child engaging in
21 sexually explicit conduct is guilty of a Class C F felony if the person knows the
22 character and content of the sexually explicit conduct involving the child and if the
23 person knows or reasonably should know that the child engaging in the sexually
24 explicit conduct has not attained the age of 18 years.

1 **SECTION 364.** 948.05 (2) of the statutes, as affected by 1999 Wisconsin Act 3,
2 is amended to read:

3 948.05 (2) A person responsible for a child's welfare who knowingly permits,
4 allows or encourages the child to engage in sexually explicit conduct for a purpose
5 proscribed in sub. (1) (a) or (b) or (lm) is guilty of a Class ~~C~~ F felony.

6 **SECTION 365.** 948.055 (2) (a) of the statutes is amended to read:

7 948.055 (2) (a) A Class ~~C~~ F felony if the child has not attained the age of 13
8 years.

9 **SECTION 366.** 948.055 (2) (b) of the statutes is amended to read:

10 948.055 (2) (b) A Class ~~D~~ H felony if the child has attained the age of 13 years
11 but has not attained the age of 18 years.

12 **SECTION 367.** 948.06 (intro.) of the statutes is amended to read:

13 **948.06 Incest with a child.** (intro.) Whoever does any of the following is
14 guilty of a Class ~~BC~~ C felony:

15 **SECTION 368.** 948.07 (intro.) of the statutes is amended to read:

16 **948.07 Child enticement.** (intro.) Whoever, with intent to commit any of the
17 following acts, causes or attempts to cause any child who has not attained the age
18 of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class
19 ~~BC~~ D felony:

20 **SECTION 369.** 948.08 of the statutes is amended to read:

21 **948.08 Soliciting a child for prostitution.** Whoever intentionally solicits
22 or causes any child to practice prostitution or establishes any child in a place of
23 prostitution is guilty of a Class ~~BC~~ D felony.

24 **SECTION 370.** 948.095 (2) (intro.) of the statutes is amended to read:

1 948.095 (2) (intro.) Whoever has sexual contact or sexual intercourse with a
2 child who has attained the age of 16 years and who is not the defendant's spouse is
3 guilty of a Class ~~D~~ H felony if all of the following apply:

4 **SECTION 371.** 948.11 (2) (a) of the statutes is amended to read:

5 948.11 (2) (a) Whoever, with knowledge of the nature of the material, sells,
6 rents, exhibits, transfers or loans to a child any harmful material, with or without
7 monetary consideration, is guilty of a Class ~~E~~ I felony.

8 **SECTION 372.** 948.11 (2) (am) of the statutes is amended to read:

9 948.11 (2) (am) Any person who has attained the age of 17 and who, with
10 knowledge of the nature of the description or narrative account, verbally
11 communicates, by any means, a harmful description or narrative account to a child,
12 with or without monetary consideration, is guilty of a Class ~~E~~ I felony.

13 **SECTION 373.** 948.12 (intro.) of the statutes is amended to read:

14 **948.12 Possession of child pornography.** (intro.) Whoever possesses any
15 undeveloped film, photographic negative, photograph, motion picture, videotape or
16 other pictorial reproduction or audio recording of a child engaged in sexually explicit
17 conduct under all of the following circumstances is guilty of a Class ~~E~~ I felony:

18 **SECTION 374.** 948.13 (2) of the statutes is amended to read:

19 948.13 (2) Whoever has been convicted of a serious child sex offense and
20 subsequently engages in an occupation or participates in a volunteer position that
21 requires him or her to work or interact primarily and directly with children under
22 16 years of age is guilty of a Class ~~C~~ F felony. This subsection does not apply to a
23 person who is exempt under a court order issued under sub. (2m).

24 **SECTION 375.** 948.20 of the statutes is amended to read:

1 **948.20 Abandonment of a child.** Whoever, with intent to abandon the child,
2 leaves any child in a place where the child may suffer because of neglect is guilty of
3 a Class ~~D~~ G felony.

4 **SECTION 376.** 948.21 (1) of the statutes is amended to read:

5 948.21 (1) Any person who is responsible for a child's welfare who, through his
6 or her actions or failure to take action, intentionally contributes to the neglect of the
7 child is guilty of a Class A misdemeanor or, if death is a consequence, a Class ~~C~~ D
8 felony.

9 **SECTION 377.** 948.22 (2) of the statutes is amended to read:

10 948.22 (2) Any person who intentionally fails for 120 or more consecutive days
11 to provide spousal, grandchild or child support which the person knows or reasonably
12 should know the person is legally obligated to provide is guilty of a Class ~~E~~ I felony.
13 A prosecutor may charge a person with multiple counts for a violation under this
14 subsection if each count covers a period of at least 120 consecutive days and there is
15 no overlap between periods.

16 **SECTION 378.** 948.23 of the statutes is amended to read:

17 **948.23 Concealing death of child.** Any person who conceals the corpse of
18 any issue of a woman's body with intent to prevent a determination of whether it was
19 born dead or alive is guilty of a Class ~~E~~ I felony.

20 **SECTION 379.** 948.24 (1) (intro.) of the statutes is amended to read:

21 948.24 (1) (intro.) Whoever does any of the following is guilty of a Class ~~D~~ H
22 felony:

23 **SECTION 380.** 948.30 (1) (intro.) of the statutes is amended to read:

24 948.30 (1) (intro.) Any person who, for any unlawful purpose, does any of the
25 following is guilty of a Class ~~C~~ E felony:

1 **SECTION 381.** 948.30 (2) (intro.) of the statutes is amended to read:

2 948.30 (2) (intro.) Any person who, for any unlawful purpose, does any of the
3 following is guilty of a Class ~~B~~ C felony:

4 **SECTION 382.** 948.31 (1) (b) of the statutes is amended to read:

5 948.31 (1) (b) Except as provided under chs. 48 and 938, whoever intentionally
6 causes a child to leave, takes a child away or withholds a child for more than 12 hours
7 beyond the court-approved period of physical placement or visitation period from a
8 legal custodian with intent to deprive the custodian of his or her custody rights
9 without the consent of the custodian is guilty of a Class ~~C~~ E felony. This paragraph
10 is not applicable if the court has entered an order authorizing the person to so take
11 or withhold the child. The fact that joint legal custody has been awarded to both
12 parents by a court does not preclude a court from finding that one parent has
13 committed a violation of this paragraph.

14 **SECTION 383.** 948.31 (2) of the statutes is amended to read:

15 948.31 (2) Whoever causes a child to leave, takes a child away or withholds a
16 child for more than 12 hours from the child's parents or, in the case of a nonmarital
17 child whose parents do not subsequently intermarry under s. 767.60, from the child's
18 mother or, if he has been granted legal custody, the child's father, without the consent
19 of the parents, the mother or the father with legal custody, is guilty of a Class ~~E~~ I
20 felony. This subsection is not applicable if legal custody has been granted by court
21 order to the person taking or withholding the child.

22 **SECTION 384.** 948.31 (3) (intro.) of the statutes is amended to read:

23 948.31 (3) (intro.) Any parent, or any person acting pursuant to directions from
24 the parent, who does any of the following is guilty of a Class ~~C~~ E felony:

25 **SECTION 385.** 948.35 of the statutes is repealed.

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

SECTION 386. 948.36 of the statutes is repealed.

****NOTE: The offense of using a child to commit Class A 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.

SECTION 387. 948.40 (4) (a) of the statutes is amended to read:

948.40 (4) (a) If death is a consequence, the person is guilty of a Class ~~C~~ D felony; or

SECTION 388. 948.40 (4) (b) of the statutes is amended to read:

948.40 (4) (b) If the child's act which is encouraged or contributed to is a violation of a state or federal criminal law which is punishable as a felony, the person is guilty of a Class ~~D~~ H felony.

SECTION 389. 948.51 (3) (b) of the statutes is amended to read:

948.5 1 (3) (b) A Class ~~E~~ H felony if the act results in great bodily harm ~~or death~~ to another.

SECTION 390. 948.51 (3) (c) of the statutes is created to read:

948.51 (3) (c) A Class G felony if the act results in the death of another.

SECTION 391. 948.60 (2) (b) of the statutes is amended to read:

948.60 (2) (b) Except as provided in par. (c), any person who intentionally sells, loans or gives a dangerous weapon to a person under 18 years of age is guilty of a Class ~~E~~ I felony.

SECTION 392. 948.60 (2) (c) of the statutes is amended to read:

948.60 (2) (c) Whoever violates par. (b) is guilty of a Class ~~D~~ H felony if the person under 18 years of age under par. (b) discharges the firearm and the discharge causes death to himself, herself or another.

1 SECTION 393. 948.605 (2) (a) of the statutes is amended to read:

2 948.605 (2) (a) Any individual who knowingly possesses a firearm at a place
3 that the individual knows, or has reasonable cause to believe, is a school zone is
4 guilty of a Class ~~A misdemeanor~~ I felony.

5 SECTION 394. 948.605 (3) (a) of the statutes is amended to read:

6 948.605 (3) (a) Any individual who knowingly, or with reckless disregard for
7 the safety of another, discharges or attempts to discharge a firearm at a place the
8 individual knows is a school zone is guilty of a Class ~~D~~ G felony.

9 SECTION 395. 948.605 (4) of the statutes is repealed.

10 SECTION 396. 948.61 (2) (b) of the statutes is amended to read:

11 948.61 (2) (b) A Class ~~E~~ I felony, if the violation is the person's 2nd or
12 subsequent violation of this section within a 5-year period, as measured from the
13 dates the violations occurred.

14 SECTION 397. 948.62 (1) (a) of the statutes is amended to read:

15 948.62 (1) (a) A Class ~~E felony~~ A misdemeanor, if the value of the property does
16 not exceed \$500.

17 SECTION 398. 948.62 (1) (b) of the statutes is amended to read:

18 948.62 (1) (b) A Class ~~D~~ I felony, if the value of the property exceeds \$500 but
19 does not exceed ~~\$2,500~~ \$2,000.

20 SECTION 399. 948.62 (1) (bm) of the statutes is created to read:

21 948.62 (1) (bm) A Class H felony, if the value of the property exceeds \$2,000 but
22 does not exceed \$5,000.

23 SECTION 400. 948.62 (1) (c) of the statutes is amended to read:

24 948.62 (1) (c) A Class ~~C~~ G felony, if the value of the property exceeds ~~\$2,500~~
25 \$5,000.

1 **SECTION 401.** 949.03 (1) (b) of the statutes is amended to read:

2 949.03 (1) (b) The commission or the attempt to commit any crime specified in
3 s. **346.62** (4), **346.63** (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
4 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
5 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,
6 943.04, 943.10, 943.20, 943.23 (lg), ~~(1m) or (1r)~~, 943.32, 948.02, 948.025, 948.03,
7 948.04, 948.07, 948.095, 948.20, 948.30 or 948.51.

8 **SECTION 402.** 95 1.18 (1) of the statutes, as affected by 1997 Wisconsin Act 192,
9 is amended to read:

10 951.18 (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05,
11 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a
12 Class C forfeiture. Any person who violates any of these provisions within 3 years
13 after a humane officer issues an abatement order under s. 173.11 prohibiting the
14 violation of that provision is subject to a Class A forfeiture. Any person who
15 intentionally or negligently violates any of those sections is guilty of a Class A
16 misdemeanor. Any person who intentionally violates s. 951.02, resulting in the
17 mutilation, disfigurement or death of an animal, is guilty of a Class ~~E~~ I felony. Any
18 person who intentionally violates s. 95 1.02 or 95 1.06, knowing that the animal that
19 is the victim is used by a law enforcement agency to perform agency functions or
20 duties and causing injury to the animal, is guilty of a Class ~~E~~ I felony.

21 **SECTION 403.** 95 1.18 (2) of the statutes is amended to read:

22 951.18 (2) Any person who violates s. 951.08 (2m) or (3) is guilty of a Class A
23 misdemeanor. Any person who violates s. 951.08 (1) or (2) is guilty of a Class ~~E~~ I
24 felony for the first violation and is guilty of a Class ~~D~~ H felony for the 2nd or
25 subsequent violation.

1 **SECTION 404.** 95 1.18 (2m) of the statutes is amended to read:

2 951.18 (2m) Any person who violates s. 951.095 is subject to a Class B
3 forfeiture. Any person who intentionally or negligently violates s. 95 1.095, knowing
4 that the animal that is the victim is used by a law enforcement agency or fire
5 department to perform agency or department functions or duties, is guilty of a Class
6 A misdemeanor. Any person who intentionally violates s. 95 1.095, knowing that the
7 animal that is the victim is used by a law enforcement agency or fire department to
8 perform agency or department functions or duties and causing injury to the animal,
9 is guilty of a Class ~~E~~ I felony. Any person who intentionally violates s. 951.095,
10 knowing that the animal that is the victim is used by a law enforcement agency or
11 fire department to perform agency or department functions or duties and causing
12 death to the animal, is guilty of a Class ~~D~~ H felony.

13 **SECTION 405.** 961.455 (3) of the statutes is amended to read:

14 961.455 (3) Solicitation under sub. (1) occurs in the manner described under
15 s. 939.30, but the penalties under sub. (1) apply instead of the penalties under s.
16 9 3 9 . 3 0 n r .

17 **SECTION 406.** 968.255 (1) (a) 2. of the statutes is amended to read:

18 968.255 (1) (a) 2. Arrested for any misdemeanor under s. 167.30, 940.19, 94 1.20
19 (l), 941.23, 941.237, 941.24, 948.60, ~~948.605 (2) (a)~~ or 948.61.

20 **SECTION 407.** 969.08 (10) (a) of the statutes is amended to read:

21 969.08 (10) (a) "Commission of a serious crime" includes a solicitation,
22 conspiracy or attempt, under s. 939.30, 939.31, or 939.32 ~~or 948.35~~, to commit a
23 serious crime.

24 **SECTION 408.** 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, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), (1m) or (1r), 943.30, 943.32, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07 or 948.30.

SECTION 409. 971.17 (1) of the statutes is renumbered 97 1.17 (1) (a) and amended to read:

971.17 (1) (a) **Felonies committed before December 31, 1999.** ~~When~~ Except as provided in par. (c) , when a defendant is found not guilty by reason of mental disease or mental defect of a felony committed before December 31, 1999, the court shall commit the person to the department of health and family services for a specified period not exceeding two-thirds of the maximum term of imprisonment that could be imposed under s. 973.15 (2) (a) against an offender convicted of the same ~~crime~~ or crimes felony or felonies, including imprisonment authorized by ~~ss. 346.65 (2) (f), (2j) (d) or (3m), 939.62, 939.621, 939.63, 939.635, 939.64, 939.641, 939.645, a . . .~~ (1b), 940.25 (1b) and 961.48 and other any applicable penalty enhancement statutes, ~~as applicable~~, subject to the credit provisions of s. 973.155.

(c) **Felonies punishable by life imprisonment.** ~~If the maximum term of imprisonment is~~ a defendant is found not guilty by reason of mental disease or mental defect of a felony that is ounishable by life imprisonment, the commitment period specified by the court may be life, subject to termination under sub. (5).

SECTION 410. 97 1.17 (1) (b) of the statutes is created to read:

1 **97 1.17 (1) (b) *Felonies committed on or after December 31, 1999.*** Except as
2 provided in par. (c) , when a defendant is found not guilty by reason of mental disease
3 or mental defect of a felony committed on or after December 31, 1999, the court shall
4 commit the person to the department of health and family services for a specified
5 period not exceeding the maximum term of confinement that could be imposed on an
6 offender convicted of the same felony or felonies under ss. 973.01 (2) (b) and 973.15
7 (2) (a), plus imprisonment authorized by any applicable penalty enhancement
8 statutes, subject to the credit provisions of s. 973.155.

9 **SECTION 411.** 97 1.17 (1) (d) of the statutes is created to read:

10 **971.17 (1) (d) *Misdemeanors.*** When a defendant is found not guilty by reason
11 of mental disease or mental defect of a misdemeanor, the court shall commit the
12 person to the department of health and family services for a specified period not
13 exceeding two-thirds of the maximum term of imprisonment that could be imposed
14 under s. 973.15 (2) (a) against an offender convicted of the same misdemeanor or
15 misdemeanors, including imprisonment authorized by any applicable penalty
16 enhancement statutes, subject to the credit provisions of s. 973.155.

17 **SECTION 412.** 973.01 (1) of the statutes is amended to read:

18 **973.01 (1) BIFURCATED SENTENCE REQUIRED.** Except as provided in sub. (3),
19 whenever a court sentences a person to imprisonment in the Wisconsin state prisons
20 for a ~~felony crime~~ committed on or after December 31, 1999, the court shall impose
21 a bifurcated sentence that consists of a term of confinement in prison followed by a
22 term of extended supervision under s. 302.113.

23 **SECTION 413.** 973.01 (2) (a) of the statutes is amended to read:

1 **973.01 (2) (a) Total length of bifurcated sentence.** ~~Except as provided in par. (c),~~
2 the The total length of the bifurcated sentence may not exceed the maximum period
3 of imprisonment for the ~~felony~~ crime.

4 **SECTION 414.** 973.01 (2) (b) (intro.) of the statutes is amended to read:

5 973.01 **(2) (b) Imprisonment portion of bifurcated sentence.** (intro.) The portion
6 of the bifurcated sentence that imposes a term of confinement in prison may not be
7 less than one year, subject to any minimum sentence prescribed for the ~~felony~~ crime,
8 and, ~~except as provided in par. (c),~~ may not exceed whichever of the following is
9 applicable:

10 **SECTION 415.** 973.01 (2) (b) 1. of the statutes is amended to read:

11 973.01 (2) (b) 1. For a Class B felony, the term of confinement in prison may
12 not exceed 40 years, plus imprisonment authorized by any applicable Denalty
13 enhancement statutes.

14 **SECTION 416.** 973.01 (2) (b) 2. of the statutes is repealed.

15 **SECTION 417.** 973.01 (2) (b) **3.** of the statutes is amended to read:

16 973.01 (2) (b) **3.** For a Class C felony, the term of confinement in prison may
17 not exceed ~~40~~ 25 years, plus imprisonment authorized by any applicable Denalty
18 enhancement statutes.

19 **SECTION 418.** 973.01 (2) (b) **4.** of the statutes is amended to read:

20 973.01 (2) (b) **4.** For a Class D felony, the term of confinement in prison may
21 not exceed ~~5~~ 15 years, plus imprisonment authorized by any applicable Denalty
22 enhancement statutes.

23 **SECTION 419 .** 973.01 (2) (b) 5. of the statutes is amended to read:

1 973.01 (2) (b) 5. For a Class E felony, the term of confinement in prison may
2 not exceed 2 10 years, plus imprisonment authorized by any applicable penalty
3 enhancement statutes.

4 **SECTION 420.** 973.01 (2) (b) 6. of the statutes is renumbered 973.01 (2) (b) 10.
5 and amended to read:

6 973.01 (2) (b) 10. For any ~~felony crime~~ other than a felony specified in subds.
7 1. to ~~5~~, 9, the term of confinement in prison may not exceed 75% of the total length
8 of the bifurcated sentence.

9 **SECTION 421.** 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, plus imprisonment authorized by any applicable
12 penalty enhancement statutes.

13 **SECTION 422.** 973.01 (2) (b) 7. of the statutes is created to read:

14 973.01 (2) (b) 7. For a Class G felony, the term of confinement in prison may
15 not exceed 5 years, plus imprisonment authorized by any applicable penalty
16 enhancement statutes.

17 **SECTION 423.** 973.01 (2) (b) 8. of the statutes is created to read:

18 973.01 (2) (b) 8. For a Class H felony, the term of confinement in prison may
19 not exceed 3 years, plus imprisonment authorized by any applicable penalty
20 enhancement statutes.

21 **SECTION 424.** 973.01 (2) (b) 9. of the statutes is created to read:

22 973.01 (2) (b) 9. For a Class I felony, the term of confinement in prison may not
23 exceed one year and 6 months, plus imprisonment authorized by any applicable
24 penalty enhancement statutes.

25 **SECTION 425.** 973.01 (2) (c) of the statutes is repealed.

1 **SECTION 426.** 973.01 (2) (d) of the statutes is renumbered 973.01 (2) (d) (intro.)
2 and amended to read:

3 973.01 (2) (d) *Minimum and maximum term of extended supervision.* (intro.)
4 The term of extended supervision that follows the term of confinement in prison may
5 not be less than 25% of the length of the term of confinement in prison imposed under
6 par. (b); and, for a classified felony, may not exceed whichever of the following: is
7 applicable:

8 **SECTION 427.** 973.01 (2) (d) 1. to 6. of the statutes are created to read:

9 973.01 (2) (d) 1. For a Class B felony, the term of extended supervision may not
10 exceed 20 years.

11 2. For a Class C felony, the term of extended supervision may not exceed 15
12 years.

13 3. For a Class D felony, the term of extended supervision may not exceed 10
14 years.

15 4. For a Class E, F or G felony, the term of extended supervision may not exceed
16 5 years.

17 5. For a Class H felony, the term of extended supervision may not exceed 3
18 years.

19 6. For a Class I felony, the term of extended supervision may not exceed 2 years.

20 **SECTION 428.** 973.0135 (1) (b) 2. of the statutes is amended to read:

21 973.0135 (1) (b) 2. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
22 ~~(1)~~ (1c), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,
23 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (lg), ~~(1m) or (1r)~~, 943.32 (2), 946.43,
24 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, or
25 948.30 (2), 948.35 (1) (b) or (c) or 948.36.

1 **SECTION 429.** 973.017 of the statutes is created to read:

2 **973.017 Sentencing; use of guidelines; consideration of aggravating**
3 **and mitigating factors. (1) DEFINITION.** In this section, “sentencing decision”
4 means a decision as to whether to impose a sentence or place a person on probation
5 and a decision as to the length of a sentence of imprisonment, the amount of a fine
6 and the length of a term of probation.

7 **(2) GENERAL REQUIREMENT.** When a court makes a sentencing decision
8 concerning a person convicted of a criminal offense, the court shall consider all of the
9 following:

10 (a) If the offense is a felony that was committed on or after December 31, 1999,
11 the sentencing guidelines adopted by the sentencing commission under s. 973.30 or,
12 if the sentencing commission has not adopted a guideline for the offense, any
13 applicable temporary sentencing guideline adopted by the criminal penalties study
14 committee, as specified in 1999 Wisconsin Act (this act), section XXX.

*****NOTE:** In the first compile, insert an auto-reference to the nonstatutory section
that refers to the CPSC’s temporary sentencing guidelines. Section 973.30 is created in
LRB-3361, which will be compiled with this draft.

15 (b) Any applicable aggravating and mitigating factors.

16 **(3) AGGRAVATING FACTORS; GENERALLY.** (a) *All crimes.* When making a sentencing
17 decision for any crime, the a court shall consider all of the following as aggravating
18 factors:

19 1. The fact that the person committed the crime while his or her usual
20 appearance was concealed, disguised or altered, with the intent to make it less likely
21 that he or she would be identified with the crime.

22 2. The fact that the person committed the crime using information that was
23 disclosed to him or her under s. 301.46.

1 (b) **Crimes in the criminal code and Uniform Controlled Substances Act.** When
2 making a sentencing decision concerning any crime under chs. 939 to 948 or 961, the
3 court shall consider as an aggravating factor the fact that the person committed the
4 crime for the benefit of, at the direction of or in association with any criminal gang,
5 with the specific intent to promote, further or assist in any criminal conduct by
6 criminal gang members.

7 **(c) All felonies.** 1. In this paragraph, "bulletproof garment" means a vest or
8 other garment designed, redesigned or adapted to prevent bullets from penetrating
9 the garment.

10 2. When making a sentencing decision concerning any felony, the court shall
11 consider as an aggravating factor the fact that the person committed the felony while
12 wearing a bulletproof garment.

13 (d) **Felonies in the criminal code.** 1. When making a sentencing decision
14 concerning any felony under chs. 939 to 951, the court shall consider as an
15 aggravating factor the fact that the person committed the felony with the intent to
16 influence the policy of a governmental unit or to punish a governmental unit for a
17 prior policy decision, if any of the following circumstances also applies to the felony
18 committed by the person:

19 a. The person caused bodily harm, great bodily harm or death to another.

20 b. The person caused damage to the property of another and the total property
21 damaged is reduced in value by \$25,000 or more. For the purposes of this subd. 1.
22 b., property is reduced in value by the amount that it would cost either to repair or
23 to replace it, whichever is less.

24 c. The person used force or violence or the threat of force or violence.

1 2. a. In this subdivision, "labor dispute" includes any controversy concerning
2 terms, tenure or conditions of employment, or concerning the association or
3 representation of persons in negotiating, fixing, maintaining, changing or seeking
4 to arrange terms or conditions of employment, regardless of whether the disputants
5 stand in the proximate relation of employer and employee.

6 b. Subdivision 1. does not apply to conduct arising out of or in connection with
7 a labor dispute.

8 (4) AGGRAVATING FACTORS; SERIOUS SEX CRIMES COMMITTED WHILE INFECTED WITH
9 CERTAIN DISEASES. (a) In this subsection:

10 1. "HIV" means any strain of human immunodeficiency virus, which causes
11 acquired immunodeficiency syndrome.

12 2. "Serious sex crime" means a violation of s. 940.225 (1) or (2), 948.02 (1) or (2)
13 or 948.025.

14 3. "Sexually transmitted disease" means syphilis, gonorrhea, hepatitis B,
15 hepatitis C or chlamydia.

16 4. "Significantly exposed" means sustaining a contact which carries a potential
17 for transmission of a sexually transmitted disease or HIV by one or more of the
18 following:

19 a. Transmission, into a body orifice or onto mucous membrane, of blood; semen;
20 vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or
21 amniotic fluid; or other body fluid that is visibly contaminated with blood.

22 b. Exchange, during the accidental or intentional infliction of a penetrating
23 wound, including a needle puncture, of blood; semen; vaginal secretions;
24 cerebrospinal, synovial, pleural, peritoneal, pericardial or amniotic fluid; or other
25 body fluid that is visibly contaminated with blood.

1 c. Exchange, into an eye, an open wound, an oozing lesion, or other place where
2 a significant breakdown in the epidermal barrier has occurred, of blood; semen;
3 vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or
4 amniotic fluid; or other body fluid that is visibly contaminated with blood.

5 (b) When making a sentencing decision concerning a person convicted of a
6 serious sex crime, the court shall consider as an aggravating factor the fact that the
7 serious sex crime was committed under all of the following circumstances:

8 1. At the time that he or she committed the serious sex crime, the person
9 convicted of committing the serious sex crime had a sexually transmitted disease or
10 acquired immunodeficiency syndrome or had had a positive test for the presence of
11 HIV, antigen or nonantigenic products of HIV or an antibody to HIV.

12 2. At the time that he or she committed the serious sex crime, the person
13 convicted of committing the serious sex crime knew that he or she had a sexually
14 transmitted disease or acquired immunodeficiency syndrome or that he or she had
15 had a positive test for the presence of HIV, antigen or nonantigenic products of HIV
16 or an antibody to HIV

17 3. The victim of the serious sex crime was significantly exposed to HIV or to the
18 sexually transmitted disease, whichever is applicable, by the acts constituting the
19 serious sex crime.

20 (5) AGGRAVATING FACTORS; VIOLENT FELONY COMMITTED AGAINST ELDER PERSON. (a)
21 In this subsection:

22 1. "Elder person" means any individual who is 62 years of age or older.

23 2. "Violent felony" means any felony under s. 940.19 (2), (4), (5) or (6), 940.225
24 (1), (2) or (3), 940.23 or 943.32.

1 (b) When making a sentencing decision concerning a person convicted of a
2 violent felony, the court shall consider as an aggravating factor the fact that the
3 victim of the violent felony was an elder person. This paragraph applies even if the
4 person mistakenly believed that the victim had not attained the age of 62 years.

5 **(6) AGGRAVATING FACTORS; CHILD SEXUAL ASSAULT BY CERTAIN PERSONS.** (a) In this
6 subsection, "person responsible for the welfare the child" includes the child's parent,
7 stepparent, guardian, foster parent or treatment foster parent; an employe of a
8 public or private residential home, institution or agency; any other person legally
9 responsible for the child's welfare in a residential setting; or a person employed by
10 one who is legally responsible for the child's welfare to exercise temporary control or
11 care for the child.

12 (b) When making a sentencing decision concerning a person convicted of a
13 violation of s. 948.02 (1) or (2) or 948.025 (1), the court shall consider as an
14 aggravating factor the fact that the person was a person responsible for the welfare
15 of the child who was the victim of the violation.

16 **(7) AGGRAVATING FACTORS; HOMICIDE OR INJURY BY INTOXICATED USE OF A VEHICLE.**
17 When making a sentencing decision concerning a person convicted of a violation of
18 s. 940.09 (1) or 940.25 (1), the court shall consider as an aggravating factor the fact
19 **that, at the time of the violation, there was a minor passenger under 16 years of age**
20 or an unborn child in the [person's] motor vehicle.

****NOTE: The word "person's" is in brackets to alert you to the fact that the word does not appear in the current enhancers. Current law seems ambiguous on the issue of whether the child has to be in the defendant's vehicle, but in the context of ss. 940.09 and 940.25, stats., I think the enhancer probably is limited to such cases. Should this draft include the bracketed language?

1 **(8) AGGRAVATING FACTORS; CONTROLLED SUBSTANCES OFFENSES.** (a) ***Distribution***
2 ***or delivery to prisoners.*** 1. In this paragraph, "precinct" means a place where any
3 activity is conducted by a prison, jail or house of correction.

4 2. When making a sentencing decision concerning a person convicted of
5 violating s. 961.4 1 (1) or (lm) , the court shall consider as an aggravating factor the
6 fact that the violation involved delivering, distributing or possessing with intent to
7 deliver or distribute a controlled substance or controlled substance analog to a
8 prisoner within the precincts of any prison, jail or house of correction.

9 (b) ***Distribution or delivery on public transit vehicles.*** When making a
10 sentencing decision concerning a person convicted of violating s. 961.4 1 (1) or (lm) ,
11 the court shall consider as an aggravating factor the fact that the violation involved
12 delivering, distributing or possessing with intent to deliver or distribute a controlled
13 substance included in schedule I or II or a controlled substance analog of any
14 controlled substance included in schedule I or II and that the person knowingly used
15 a public transit vehicle during the violation.

16 **(9) AGGRAVATING FACTORS NOT AN ELEMENT OF THE CRIME.** The aggravating factors
17 listed in this section are not elements of any crime. A prosecutor is not required to
18 charge any aggravating factor or otherwise allege the existence of an aggravating
19 factor in any pleading. The existence of an aggravating factor does not have to be
20 proved beyond a reasonable doubt for a court to use the existence of the aggravating
21 factor in making a sentencing decision.

******NOTE:** Does this provision effect your intent? Do you want the draft to specify
 the standard of proof for aggravating factors?

22 **SECTION 430. 973.03 (3) (e) 1. and 2. of the statutes are amended to read:**

23 973.03 (3) (e) 1. A crime which is a Class A ~~or~~ B or C felony.

1 2. A crime which is a Class C, D, E, F or G felony listed in s. 969.08 (10) (b), but
2 not including any crime specified in s. 943.10.

3 SECTION 431. 973.03 (3) (e) 3. of the statutes is repealed.

4 SECTION 432. 973.032 (4) (c) 2. of the statutes is amended to read:

5 973.032 (4) (c) 2. The person is sentenced for the escape ~~under s. 946.42 (4) (b)~~
6 to a sentence of imprisonment concurrent with the sentence to the intensive
7 sanctions program.

8 SECTION 433. 973.075 (1) (b) lm. e. of the statutes is amended to read:

9 973.075 (1) (b) lm. e. To cause more than ~~\$1,000~~ \$2,000 worth of criminal
10 damage to cemetery property in violation of s. 943.01 (2) (d) or 943.012.

11 SECTION 434. 973.075 (2) (d) of the statutes is amended to read:

12 973.075 (2) (d) The officer has probable cause to believe that the property was
13 derived from or realized through a crime or that the property is a vehicle which was
14 used to transport any property or weapon used or to be used or received in the
15 commission of any felony, which was used in the commission of a crime relating to
16 a submerged cultural resource in violation of s. 44.47 or which was used to cause
17 more than ~~\$1,000~~ \$2,000 worth of criminal damage to cemetery property in violation
18 of s. 943.01 (2) (d) or 943.012.

19 SECTION 435. 973.09 (2) (b) 1. of the statutes is amended to read:

20 973.09 (2) (b) 1. Except as provided in subd. 2., for felonies, not less than one
21 year nor more than either the ~~statutory~~ maximum term of ~~imprisonment~~
22 confinement in orison for the crime, as specified in s. 973.01 (2) (b), or 3 years,
23 whichever is greater.

24 SECTION 436. 978.13 (1) (c) of the statutes is amended to read:

978.13 **(1) (c)** In counties having a population of 500,000 or more, the salary and fringe benefit costs of clerk positions in the district attorney's office necessary for the prosecution of violent crime cases primarily involving felony violations under s. 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05, 940.06, 940.225, 943.23 (lg), ~~(1m) and (1r)~~ and 943.32 (2). The state treasurer shall pay the amount authorized under this paragraph to the county treasurer pursuant to a voucher submitted by the district attorney to the secretary of administration from the appropriation under s. 20.475 (1) (i). The amount paid under this paragraph may not exceed \$88,500 in the 1997-98 fiscal year and \$91,600 in the 1998-99 fiscal year.

SECTION 437. Initial applicability.

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

SECTION 438. Effective date.

(1) This act takes effect on December 31, 1999, or on the day after publication, whichever is later.

(END)