

1           \***-3265/P1.16\*** SECTION 598. 961.41 (1) (cm) 5. of the statutes, as affected by  
2 1997 Wisconsin Act 283, is repealed.

3           \***-3265/P1.17\*** SECTION 599. 961.41 (1) (d) (intro.) of the statutes is amended  
4 to read:

5           961.41 (1) (d) Heroin. (intro.) ~~Heroin~~ If the person violates this subsection with  
6 respect to heroin or a controlled substance analog of heroin is ~~subject to the following~~  
7 ~~penalties if~~ and the amount manufactured, distributed or delivered is:

8           \***-3265/P1.18\*** SECTION 600. 961.41 (1) (d) 1. of the statutes, as affected by  
9 1997 Wisconsin Act 283, is amended to read:

10           961.41 (1) (d) 1. Three grams or less, the person ~~shall be fined not less than~~  
11 ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than~~ 22 years  
12 and 6 months is guilty of a Class F felony.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB 0520,~~  
~~with which this draft will ultimately be compiled.~~

13           \***-3265/P1.19\*** SECTION 601. 961.41 (1) (d) 2. of the statutes, as affected by  
14 1997 Wisconsin Act 283, is amended to read:

15           961.41 (1) (d) 2. More than 3 grams but not more than 10 grams, the person  
16 ~~shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned~~  
17 ~~for not less than 6 months nor more than 22 years and 6 months~~ is guilty of a Class  
18 E felony.

19           \***-3265/P1.20\*** SECTION 602. 961.41 (1) (d) 3. of the statutes, as affected by  
20 1997 Wisconsin Act 283, is amended to read:

21           961.41 (1) (d) 3. More than 10 grams but not more than 50 grams, the person  
22 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~

1 ~~for not less than one year nor more than 22 years and 6 months~~ is guilty of a Class  
2 D felony.

3 **\*-3265/P1.21\*** SECTION 603. 961.41 (1) (d) 4. of the statutes, as affected by  
4 1997 Wisconsin Act 283, is amended to read:

5 961.41 (1) (d) 4. More than 50 grams ~~but not more than 200 grams~~, the person  
6 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
7 ~~for not less than 3 years nor more than 22 years and 6 months~~ is guilty of a Class C  
8 felony.

9 **\*-3265/P1.22\*** SECTION 604. 961.41 (1) (d) 5. of the statutes, as affected by  
10 1997 Wisconsin Act 283, is repealed.

11 **\*-3265/P1.23\*** SECTION 605. 961.41 (1) (d) 6. of the statutes, as affected by  
12 1997 Wisconsin Act 283, is repealed.

13 **\*-3265/P1.24\*** SECTION 606. 961.41 (1) (e) (intro.) of the statutes is amended  
14 to read:

15 961.41 (1) (e) *Phencyclidine, amphetamine, methamphetamine and*  
16 *methcathinone.* (intro.) ~~Phencyclidine~~ If the person violates this subsection with  
17 respect to *phencyclidine, amphetamine, methamphetamine or methcathinone*, or a  
18 controlled substance analog of *phencyclidine, amphetamine, methamphetamine or*  
19 *methcathinone*, ~~is subject to the following penalties if~~ and the amount  
20 manufactured, distributed or delivered is:

21 **\*-3265/P1.25\*** SECTION 607. 961.41 (1)(e) 1. of the statutes, as affected by 1997  
22 Wisconsin Act 283, is amended to read:

23 961.41 (1) (e) 1. Three grams or less, the person ~~shall be fined not less than~~  
24 ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and~~  
25 ~~6 months~~ is guilty of a Class F felony.



~~\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.~~

1           \*~~-3265/P1.26~~\* SECTION 608. 961.41 (1) (e) 2. of the statutes, as affected by 1997  
2 Wisconsin Act 283, is amended to read:

3           961.41 (1) (e) 2. More than 3 grams but not more than 10 grams, the person  
4 shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned  
5 for not less than 6 months nor more than 7 years and 6 months is guilty of a Class  
6 E felony.

7           \*~~-3265/P1.27~~\* SECTION 609. 961.41 (1) (e) 3. of the statutes, as affected by 1997  
8 Wisconsin Act 283, is amended to read:

9           961.41 (1) (e) 3. More than 10 grams but not more than 50 grams, the person  
10 shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned  
11 for not less than one year nor more than 22 years and 6 months is guilty of a Class  
12 D felony.

13           \*~~-3265/P1.28~~\* SECTION 610. 961.41 (1) (e) 4. of the statutes, as affected by 1997  
14 Wisconsin Act 283, is amended to read:

15           961.41 (1) (e) 4. More than 50 grams but not more than 200 grams, the person  
16 shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned  
17 for not less than 3 years nor more than 22 years and 6 months is guilty of a Class C  
18 felony.

19           \*~~-3265/P1.29~~\* SECTION 611. 961.41 (1) (e) 5. of the statutes, as affected by 1997  
20 Wisconsin Act 283, is repealed.

21           \*~~-3265/P1.30~~\* SECTION 612. 961.41 (1) (e) 6. of the statutes, as affected by 1997  
22 Wisconsin Act 283, is repealed.

1           \***-3265/P1.31\*** SECTION 613. 961.41 (1) (f) (intro.) of the statutes is amended  
2 to read:

3           961.41 (1)(f) Lysergic acid diethylamide. (intro.) Lysergie If the person violates  
4 this subsection with respect to lysergic acid diethylamide or a controlled substance  
5 analog of lysergic acid diethylamide is subject to the following penalties and the  
6 amount manufactured, distributed or delivered is:

7           \***-3265/P1.32\*** SECTION 614. 961.41 (1) (f) 1. of the statutes, as affected by 1997  
8 Wisconsin Act 283, is amended to read:

9           961.41 (1)(f) 1. One gram or less, the person ~~shall be fined not less than \$1,000~~  
10 ~~nor more than \$200,000 and may be imprisoned for not more than 7 years and 6~~  
11 ~~months~~ is ailty of a Class G felony.

→ ~~\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

12           \***-3265/P1.33\*** SECTION 615. 961.41 (1) (f) 2. of the statutes, as affected by 1997  
13 Wisconsin Act 283, is amended to read:

14           961.41 (1) (f) 2. More than one gram but not more than 5 grams, the person ~~shall~~  
15 ~~be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not~~  
16 ~~less than 6 months nor more than 7~~ are and 6 months is guilty of a Class F felony.

→ ~~\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0896,  
with which this draft will ultimately be compiled.~~

17           \***-3265/P1.34\*** SECTION 616. 961.41 (1) (f) 3. of the statutes, as affected by 1997  
18 Wisconsin Act 283, is amended to read:

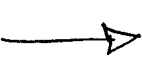
19           961.41 (1) (f) 3. More than 5 grams, the person ~~shall be fined not less than~~  
20 ~~\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year~~  
21 ~~nor more than 22 years and 6 months~~ is ailty of a Class E felony.

1           \***-3265/P1.35\*** SECTION 617. 961.41 (1) (g) (intro.) of the statutes is amended  
2 to read:

3           961.41 (1) (g) Psilocin and psilocybin. (intro.) ~~Psilocin~~ If the person violates  
4 this subsection with respect to nsilocin or psilocybin, or a controlled substance analog  
5 of psilocin or psilocybin, ~~is subject to the following penalties if~~ and the amount  
6 manufactured, distributed or delivered is:

7           \***-3265/P1.36\*** SECTION 618. 961.41 (1) (g) 1. of the statutes, as affected by 1997  
8 Wisconsin Act 283, is amended to read:

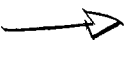
9           961.41 (1)(g) 1. One hundred grams or less, the person ~~shall be fined not less~~  
10 ~~than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7~~  
11 ~~years and 6 months~~ is guilty of a Class G felony.



~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

12           \***-3265/P1.37\*** SECTION 619. 961.41 (1)(g) 2. of the statutes, as affected by 1997  
13 Wisconsin Act 283, is amended to read:

14           961.41 (1) (g) 2. More than 100 grams but not more than 500 grams, the person  
15 ~~shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned~~  
16 ~~for not less than 6 months nor more than 7 years and 6 months~~ is guilty of a Class  
17 F felony.



~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

18           \***-3265/P1.38\*** SECTION 620. 961.41 (1)(g) 3. of the statutes, as affected by 1997  
19 Wisconsin Act 283, is amended to read:

20           961.41 (1) (g) 3. More than 500 grams, the person ~~shall be fined not less than~~  
21 ~~\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year~~  
22 ~~nor more than 99 years and 6 months~~ is guilty of a Class E felony.

1           **\*-3265/P1.39\*** SECTION 621. 961.41 (1) (h) (intro.) of the statutes is amended  
2 to read:

3           961.41 (1) (h) Tetrahydrocannabinols. (intro.) ~~Tetrahydrocannabinols~~ If the  
4 person violates this subsection with respect to tetrahydrocannabinols, included  
5 under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, i-s  
6 ~~subject to the following penalties if~~ and the amount manufactured, distributed or  
7 delivered is:

8           **\*-3265/P1.40\*** SECTION 622. 961.41 (1) (h) 1. of the statutes, as affected by  
9 1997 Wisconsin Act 283, is amended to read:

10           961.41 (1) (h) 1. ~~Five~~ Two hundred grams or less, or ~~10~~ 4 or fewer plants  
11 containing tetrahydrocannabinols, the person ~~shall be fined not less than \$500 nor~~  
12 ~~more than \$25,000 and may be imprisoned for not more than 4 years and 6 months~~  
13 is guilty of a Class I felony.

→           \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

14           **\*-3265/P1.41\*** SECTION 623. 961.41 (1) (h) 2. of the statutes, as affected by  
15 1997 Wisconsin Act 283, is amended to read:

16           961.41 (1) (h) 2. More than ~~500~~ 200 grams but not more than ~~2,500~~ 1,000 grams,  
17 or more than ~~10~~ 4 plants containing tetrahydrocannabinols but not more than ~~50~~ 20  
18 plants containing tetrahydrocannabinols, the person ~~shall be fined not less than~~  
19 ~~\$1,000 nor more than \$50,000 and shall be imprisoned for not less than 2 months nor~~  
20 ~~more than 7 years and 6 months~~ is guilty of a Class H felony.

→           \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

21           **\*-3265/P1.42\*** SECTION 624. 961.41 (1) (h) 3. of the statutes, as affected by  
22 1997 Wisconsin Act 283, is amended to read:

1 961.410) (h) 3. More than ~~2,500~~ 1,000 grams but not more than 2,500 grams,  
 2 or more than ~~50~~ 20 plants containing tetrahydrocannabinols but not more than 50  
 3 plants containing tetrahydrocannabinols, the person shall be fined ~~not less than~~  
 4 ~~\$1,000 nor more than \$100,000 and shall be imprisoned for not less than one year~~  
 5 ~~nor more than 15 years~~ is guilty of a Class G felony.

→ \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
 with which this draft will ultimately be compiled.

6 **\*-3265/P1.43\*** SECTION 625. 961.41 (1) (h) 4. of the statutes is created to read:  
 7 961.41 (1) (h) 4. More than 2,500 grams but not more than 10,000 grams, or  
 8 more than 50 plants containing tetrahydrocannabinols but not more than 200 plants  
 9 containing tetrahydrocannabinols, the person is guilty of a Class F felony.

→ \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
 with which this draft will ultimately be compiled.

10 **\*-3265/P1.44\*** SECTION 626. 961.41 (1) (h) 5. of the statutes is created to read:  
 11 961.41 (1) (h) 5. More than 10,000 grams, or more than 200 plants containing  
 12 tetrahydrocannabinols, the person is guilty of a Class E felony.

13 **\*-3265/P1.45\*** SECTION 627. 961.41 (1) (i) of the statutes, as affected by 1997  
 14 Wisconsin Act 283, is amended to read:

15 961.41 (1) (i) Schedule IV drugs.-A- If a person violates this subsection with  
 16 respect to a substance included in schedule IV, may be fined not more than \$10,000  
 17 or imprisoned for not more than 4 years and 6 months or both the person is guilty  
 18 of a Class H felony.

→ \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
 with which this draft will ultimately be compiled.

19 **\*-3265/P1.46\*** SECTION 628. 961.41 (1) (j) of the statutes, as affected by 1997  
 20 Wisconsin Act 283, is amended to read:

1            961.41 (1) (j) Schedule V drugs. ~~A~~ If a person violates this subsection with  
2 respect to a substance included in schedule V, may be fined not more than \$5,000 or  
3 imprisoned for not more than 2 years or both the person is guilty of a Class I felony.



~~\*\*\*NOTE: The class of felony referred to in this provision is created in LRB 0590, with which this draft will ultimately be compiled.~~

4            **\*-3265/P1.47\*** SECTION 629. 961.41 (1m) (intro.) of the statutes is amended to  
5 read:

6            961.41 (1m) POSSESSIONWITHINTENTTO MANUFACTURE, DISTRIBUTE ORDELIVER.  
7 (intro.) Except as authorized by this chapter, it is unlawful for any person to possess,  
8 with intent to manufacture, distribute or deliver, a controlled substance or a  
9 controlled substance analog. Intent under this subsection may be demonstrated by,  
10 without limitation because of enumeration, evidence of the quantity and monetary  
11 value of the substances possessed, the possession of manufacturing implements or  
12 paraphernalia, and the activities or statements of the person in possession of the  
13 controlled substance or a controlled substance analog prior to and after the alleged  
14 violation. Any person who violates this subsection ~~with respect to~~ is subject to the  
15 following penalties:

16            **\*-3265/P1.48\*** SECTION 630. 961.41 (1m) (a) of the statutes, as affected by 1997  
17 Wisconsin Act 283, is amended to read:

18            961.41 (1m) (a) Schedule I and II narcotic drug generally. Except as provided  
19 in par. (d), if a person violates this subsection with respect to a controlled substance  
20 included in schedule I or II which is a narcotic drug or a controlled substance analog  
21 of a controlled substance included in schedule I or II which is a narcotic drug, may  
22 be fined not more than \$25,000 or imprisoned for not more than 22 years and 6  
23 months or both the person is guilty of a Class E felony.



1           \***-3265/P1.49\*** SECTION 631. 961.41 (lm) (b) of the statutes, as affected by 1997  
2 Wisconsin Act 283, is amended to read:

3           961.41 (lm) (b) Schedule I, II and III nonnarcotic drugs generally. Except as  
4 provided in pars. (cm) and (e) to (h), ~~if a person violates this subsection with respect~~  
5 ~~to any other controlled substance included in schedule I, II or III, or a controlled~~  
6 ~~substance analog of any other controlled substance included in schedule I or II, may~~  
7 ~~be fined not more than \$15,000 or imprisoned for not more than 7 years and 6 months~~  
8 ~~or both the person is guilty of a Class H felony.~~

→ ~~\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

9           \***-3265/P1.50\*** SECTION 632. 961.41 (lm) (cm) (intro.) of the statutes is  
10 amended to read:

11           961.41 (lm) (cm) Cocaine and cocaine base, (intro.) ~~Cocaine~~ ~~If a person violates~~  
12 ~~this subsection with respect to cocaine~~ or cocaine base, or a controlled substance  
13 analog of cocaine or cocaine base, ~~is subject to the following penalties if and~~ the  
14 amount possessed, with intent to manufacture, distribute or deliver, is:

15           \***-3265/P1.51\*** SECTION 633. 961.41 (lm) (cm) 1. of the statutes, as affected by  
16 1997 Wisconsin Act 283, is renumbered 961.41 (lm) (cm) lr. and amended to read:

17           961.41 (lm) (cm) lr. ~~Five grams or less~~ More than one gram but not more than  
18 5 grams, the person ~~shall be fined not more than \$500,000 and may be imprisoned~~  
19 ~~for not more than 15 years~~ is guilty of a Class F felony.

→ ~~\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

20           \***-3265/P1.52\*** SECTION 634. 961.41 (lm) (cm) lg. of the statutes is created to  
21 read:

22           961.41 (lm) (cm) lg. One gram or less, the person is guilty of a Class G felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

1           \***-3265/P1.53\*** SECTION 635. 961.41 (lm) (cm) 2. of the statutes, as affected by  
2 1997 Wisconsin Act 283, is amended to read:

3           961.41 (lm) (cm) 2. More than 5 grams but not more than 15 grams, the person  
4 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than one~~  
5 ~~year nor more than 22 years and 6 months~~ is guilty of a Class E felony.

6           \***-3265/P1.54\*** SECTION 636. 961.41 (lm) (cm) 3. of the statutes, as affected by  
7 1997 Wisconsin Act 283, is amended to read:

8           961.41 (lm) (cm) 3. More than 15 grams but not more than 40 grams, the  
9 person ~~shall be fined not more than \$500,000 and shall be imprisoned for not less~~  
10 ~~than 3 years nor more than 30 years~~ is guilty of a Class D felony.

11           \***-3265/P1.55\*** SECTION 637. 961.41 (lm) (cm) 4. of the statutes, as affected by  
12 1997 Wisconsin Act 283, is amended to read:

13           961.41 (lm) (cm) 4. More than 40 grams but ~~not more than~~ 100 grams, the  
14 person ~~shall be fined not more than \$500,000 and shall be imprisoned for not less~~  
15 ~~than 5 years nor more than 15 years~~ is guilty of a Class C felony.

16           \***-3265/P1.56\*** SECTION 638. 961.41 (lm) (cm) 5. of the statutes, as affected by  
17 1997 Wisconsin Act 283, is repealed.

18           \***-3265/P1.57\*** SECTION 639. 961.41 (1m) (d) (intro.) of the statutes is amended  
19 to read:

20           961.41 (lm) (d) Heroin. (intro.) ~~Heroin~~ If a person violates this subsection with  
21 respect to heroin or a controlled substance analog of heroin ~~is subject to the following~~  
22 ~~penalties if~~ and the **amount** possessed, with intent to manufacture, distribute or  
23 deliver, is:

1           \***-3265/P1.58\*** SECTION 640. 961.41 (1m) (d) 1. of the statutes, as affected by  
2           1997 Wisconsin Act 283, is amended to read:

3           961.41 (1m) (d) 1. Three grams or less, the person ~~shall be fined not less than~~  
4           ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 22 years~~  
5           ~~and 6 months~~ is aulvty of a Class F felony.

→ ~~\*\*\*\* NOTE: The class of felony referred to in this provision is created in LRB-05907  
with which this draft will ultimately be compiled.~~

6           \***-3265/P1.59\*** SECTION 641. 961.41 (1m) (d) 2. of the statutes, as affected by  
7           1997 Wisconsin Act 283, is amended to read:

8           961.41 (1m) (d) 2. More than 3 grams but not more than 10 grams, the person  
9           ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~  
10          ~~for not less than 6 months nor more than 22 years and 6 months~~ is guilty of a Class  
11          E felony.

12          \***-3265/P1.60\*** SECTION 642. 961.41 (1m) (d) 3. of the statutes, as affected by  
13          1997 Wisconsin Act 283, is amended to read:

14          961.41 (1m) (d) 3. More than 10 grams but not more than 50 grams, the person  
15          ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
16          ~~for not less than one year nor more than 22 years and 6 months~~ is aulvty of a Class  
17          D felony.

18          \***-3265/P1.61\*** SECTION 643. 961.41 (1m) (d) 4. of the statutes, as affected by  
19          1997 Wisconsin Act 283, is amended to read:

20          961.41 (1m) (d) 4. More than 50 grams ~~but not more than 200 grams~~, the person  
21          ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
22          ~~for not less than 3 years nor more than 22 years and 6 months~~ is aulvty of a Class C  
23          felony.

1           \***-3265/P1.62\*** SECTION 644. 961.41 (1m) (d) 5. of the statutes, as affected by  
2 1997 Wisconsin Act 283, is repealed.

3           \***-3265/P1.63\*** SECTION 645. 961.41 (1m) (d) 6. of the statutes, as affected by  
4 1997 Wisconsin Act 283, is repealed.

5           \***-3265/P1.64\*** SECTION 646. 961.41 (1m) (e) (intro.) of the statutes is amended  
6 to read:

7           961.41 (1m) (e) **Phencyclidine, amphetamine, methamphetamine and**  
8 **methcathinone.** (intro.) ~~Phencyclidine~~ If a person violates this subsection with  
9 respect to ~~phencyclidine~~, amphetamine, methamphetamine or methcathinone, or a  
10 controlled substance analog of phencyclidine, amphetamine, methamphetamine or  
11 methcathinone, is subject to the following penalties if and the amount possessed,  
12 with intent to manufacture, distribute or deliver, is:

13           \***-3265/P1.65\*** SECTION 647. 961.41 (1m) (e) 1. of the statutes, as affected by  
14 1997 Wisconsin Act 283, is amended to read:

15           961.41 (1m) (e) 1. Three grams or less, the person ~~shall be fined not less than~~  
16 ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 7 years and~~  
17 ~~6 months is guilty of a Class F felony.~~

→ ~~\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,~~  
~~with which this draft will ultimately be compiled.~~

18           \***-3265/P1.66\*** SECTION 648. 961.41 (1m) (e) 2. of the statutes, as affected by  
19 1997 Wisconsin Act 283, is amended to read:

20           961.41 (1m) (e) 2. More than 3 grams but not more than 10 grams, the person  
21 ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~  
22 ~~for not less than 6 months nor more than 7 years and 6 months is guilty of a Class~~  
23 E felony.

1           \***-3265/P1.67\*** SECTION 649. 961.41 (1m) (e) 3. of the statutes, as affected by  
2 1997 Wisconsin Act 283, is amended to read:

3           961.41 (1m) (e) 3. More than 10 grams but not more than 50 grams, the person  
4 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
5 ~~for not less than one year nor more than 22 years and 6 months~~ is guilty of a Class  
6 D felony.

7           \***-3265/P1.68\*** SECTION 650. 961.41 (1m) (e) 4. of the statutes, as affected by  
8 1997 Wisconsin Act 283, is amended to read:

9           961.41 (1m) (e) 4. More than 50 grams ~~but not more than 200 grams~~, the person  
10 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
11 ~~for not less than 3 years nor more than 22 years and 6 months~~ is guilty of a Class C  
12 felony.

13           \***-3265/P1.69\*** SECTION 651. 961.41 (1m) (e) 5. of the statutes, as affected by  
14 1997 Wisconsin Act 283, is repealed.

15           \***-3265/P1.70\*** SECTION 652. 961.41 (1m) (e) 6. of the statutes, as affected by  
16 1997 Wisconsin Act 283, is repealed.

17           \***-3265/P1.71\*** SECTION 653. 961.41 (1m) (f) (intro.) of the statutes is amended  
18 to read:

19           961.41 (1m) (f) Lysergic acid diethylamide. (intro.) ~~Lysergie~~ If a person violates  
20 this subsection with respect to lyseraic acid diethylamide or a controlled substance  
21 analog of lysergic acid diethylamide is subj ~~to the following penalties if~~ and the  
22 amount possessed, with intent to manufacture, distribute or deliver, is:

23           \***-3265/P1.72\*** SECTION 654. 961.41 (1m) (f) 1. of the statutes, as affected by  
24 1997 Wisconsin Act 283, is amended to read:

1           **961.41 (lm)** (f) 1. One gram or less, the person ~~shall be fined~~ ~~not less than~~  
2           \$1,000 ~~nor more than \$100,000 and may be imprisoned for not more than 7 years and~~  
3           ~~6 months~~ is ailty of a Class G felony.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590  
with which this draft will ultimately be compiled.~~

4           \***-3265/P1.73**\* SECTION 655. 961.41 (lm) (f) 2. of the statutes, as affected by  
5           1997 Wisconsin Act 283, is amended to read:

6           961.41 (lm) (f) 2. More than one gram but not more than 5 grams, the person  
7           ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~  
8           ~~for not less than 6 months nor more than 7 years and 6 months~~ is guilty of a Class  
9           F felony.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590  
with which this draft will ultimately be compiled.~~

10          \***-3265/P1.74**\* SECTION 656. 961.41 (1m) (f) 3. of the statutes, as affected by  
11          1997 Wisconsin Act 283, is amended to read:

12          961.41 (lm) (f) 3. More than 5 grams, the person ~~shall be fined~~ ~~not less than~~  
13          \$1,000 ~~nor more than \$500,000 and shall be imprisoned for not less than one year~~  
14          ~~nor more than 22 years and 6 months~~ is ailty of a Class E felony.

15          \***-3265/P1.75**\* SECTION 657. 961.41 (1m) (g) (intro.) of the statutes is amended  
16          to read:

17          961.41 (lm) (g) Psilocin and psilocybin. (intro.) ~~Psilocin~~ If a person violates  
18          this subsection with respect to nsilocin or psilocybin, or a controlled substance analog  
19          of psilocin or psilocybin, ~~is subject to the following penalties if~~ and the amount  
20          possessed, with intent to manufacture, distribute or deliver, is:

21          \***-3265/P1.76**\* SECTION 658. 961.41 (1m) (g) 1. of the statutes, as affected by  
22          1997 Wisconsin Act 283, is amended to read:

1           961.41 (1m) (g) 1. One hundred grams or less, the person ~~shall be fined not less~~  
2 ~~than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 7~~  
3 ~~years and 6 months~~ is guilty of a Class G felony.

→ ~~\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

4           \***-3265/P1.77\*** SECTION 659. 961.41 (1m) (g) 2. of the statutes, as affected by  
5 1997 Wisconsin Act 283, is amended to read:

6           961.41 (1m) (g) 2. More than 100 grams but not more than 500 grams, the  
7 person ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be~~  
8 ~~imprisoned for not less than 6 months nor more than 7 years and 6 months~~ is guilty  
9 of a Class F felony

—V ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

10           \***-3265/P1.78\*** SECTION 660. 961.41 (1m) (g) 3. of the statutes, as affected by  
11 1997 Wisconsin Act 283, is amended to read:

12           961.41 (1m) (g) 3. More than 500 grams, the person ~~shall be fined not less than~~  
13 ~~\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year~~  
14 ~~nor more than 22 years and 6 months~~ is guilty of a Class E felony.

15           \***-3265/P1.79\*** SECTION 661. 961.41 (1m) (h) (intro.) of the statutes is amended  
16 to read:

17           961.41 (1m) (h) Tetrahydrocannabinols. (intro.) ~~Tetrahydrocannabinols~~ If  
18 person violates this subsection with respect to tetrahydrocannabinols, included  
19 under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, is  
20 ~~subject to the following penalties if~~ and the amount possessed, with intent to  
21 manufacture, distribute or deliver, is:

1           \***-3265/P1.80\*** SECTION 662. 961.41 (lm) (h) 1. of the statutes, as affected by  
2           1997 Wisconsin Act 283, is amended to read:

3           961.41 (lm) (h) 1. ~~Five~~ Two hundred grams or less, or ~~10~~ 4 or fewer plants  
4           containing tetrahydrocannabinols, the person ~~shall be fined not less than \$500 nor~~  
5           ~~more than \$25,000 and may be imprisoned for not more than 4 years and 6 months~~  
6           is guilty of a Class I felony

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

7           \***-3265/P1.81\*** SECTION 663. 961.41 (1m) (h) 2. of the statutes, as affected by  
8           1997 Wisconsin Act 283, is amended to read:

9           961.41 (lm) (h) 2. More than ~~500~~ 200 grams but not more than ~~2,500~~ 1,000  
10          grams, or more than ~~10~~ 4 plants containing tetrahydrocannabinols but not more than  
11          ~~50~~ 20 plants containing tetrahydrocannabinols, the person ~~shall be fined not less~~  
12          ~~than \$1,000 nor more than \$50,000 and shall be imprisoned for not less than 3~~  
13          ~~months nor more than 7 years and 6 months~~ is guilty of a Class H felony.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

14          \***-3265/P1.82\*** SECTION 664. 961.41 (lm) (h) 3. of the statutes, as affected by  
15          1997 Wisconsin Act 283, is amended to read:

16          961.41 (lm) (h) 3. More than ~~2,500~~ 1,000 grams but not more than 2,500 grams,  
17          or more than ~~50~~ 20 plants containing tetrahydrocannabinols but not more than 50  
18          plants containing tetrahydrocannabinols, the person ~~shall be fined not less than~~  
19          ~~\$1,000 nor more than \$100,000 and shall be imprisoned for not less than one year~~  
20          ~~nor more than 15 years~~ is guilty of a Class G felony.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~



1           **\*-3265/P1.83\*** SECTION 665. 961.41 (lm) (h) 4. of the statutes is created to  
2 read:

3           961.41 (lm) (h) 4. More than 2,500 grams but not more than 10,000 grams, or  
4 more than 50 plants containing tetrahydrocannabinols but not more than 200 plants  
5 containing tetrahydrocannabinols, the person is guilty of a Class F felony.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

6           **\*-3265/P1.84\*** SECTION 666. 961.41 (lm) (h) 5. of the statutes is created to  
7 read:

8           961.41 (lm) (h) 5. More than 10,000 grams, or more than 200 plants containing  
9 tetrahydrocannabinols, the person is guilty of a Class E felony.

10           **\*-3265/P1.85\*** SECTION 667. 961.41 (1m)(i) of the statutes, as affected by 1997  
11 Wisconsin Act 283, is amended to read:

12           961.41 (lm) (i) Schedule IV drugs. A If a person violates this subsection with  
13 respect to a substance included in schedule IV, may be fined not more than \$10,000  
14 or imprisoned for not more than 4 years and 6 months or both the person is guilty  
15 of a Class H felony.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

16           **\*-3265/P1.86\*** SECTION 668. 961.41 (1m)(j) of the statutes, as affected by 1997  
17 Wisconsin Act 283, is amended to read:

18           961.41 (lm) (j) Schedule V drugs. 4 If a person violates this subsection with  
19 respect to a substance included in schedule V, may be fined not more than \$5,000 or  
20 imprisoned for not more than 2 years or both the person is guilty of a Class I felony.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

1           \***-3265/P1.87\*** SECTION 669. 961.41 (1n) (c) of the statutes, as affected by 1997  
2 Wisconsin Act 283, is amended to read:

3           961.41 (1n) (c) A person who violates par. (a) or (b) ~~may be fined not more than~~  
4 ~~\$250,000 or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony

→ ~~\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0500,  
with which this draft will ultimately be compiled.~~

5           \***-3265/P1.88\*** SECTION 670. 961.41 (1q) of the statutes is amended to read:

6           961.41 (1q) **PENALTY RELATING TO TETRAHYDROCANNABINOLS IN CERTAIN CASES.**  
7 Under s. 961.49 (2), 1997 stats., and subs. (1) (h) and (1m) (h) ~~and s. 961.49 (2)~~, if  
8 different penalty provisions apply to a person depending on whether the weight of  
9 tetrahydrocannabinols or the number of plants containing tetrahydrocannabinols is  
10 considered, the greater penalty provision applies.

11           \***-3265/P1.89\*** SECTION 671. 961.41 (1r) of the statutes is amended to read:

12           961.41 (1r) **DETERMINING WEIGHT OF SUBSTANCE.** In determining amounts under  
13 s. 961.49 (2) (b), 1997 stats., and subs. (1) and (1m) ~~and s. 961.49 (2) (b)~~, an amount  
14 includes the weight of cocaine, cocaine base, heroin, phencyclidine, lysergic acid  
15 diethylamide, psilocin, psilocybin, amphetamine, methamphetamine,  
16 methcathinone or tetrahydrocannabinols or any controlled substance analog of any  
17 of these substances together with any compound, mixture, diluent, plant material  
18 or other substance mixed or combined with the controlled substance or controlled  
19 substance analog. In addition, in determining amounts under subs. (1) (h) and (1m)  
20 (h), the amount of tetrahydrocannabinols means anything included under s. 961.14  
21 (4) (t) and includes the weight of any marijuana.

22           \***-3265/P1.90\*** SECTION 672. 961.41 (2) (intro.) of the statutes is amended to  
23 read:

1           961.41 (2) COUNTERFEIT SUBSTANCES. (intro.) Except as authorized by this  
2 chapter, it is unlawful for any person to create, manufacture, distribute, deliver or  
3 possess with intent to distribute or deliver, a counterfeit substance. Any person who  
4 violates this subsection ~~with respect to~~ is subject to the following penalties:

5           \***-3265/P1.91\*** SECTION 673. 961.41 (2) (a) of the statutes, as affected by 1997  
6 Wisconsin Act 283, is amended to read:

7           961.41 (2) (a) **Counterfeit schedule I and II narcotic drug.** ~~A~~ If a person  
8 violates this subsection with respect to a counterfeit substance included in schedule  
9 I or II which is a narcotic drug, ~~may be fined not more than \$25,000 or imprisoned~~  
10 ~~for not more than 22 years and 6 months or both~~ the person is guilty of a Class E  
11 felony.

12           \***-3265/P1.92\*** SECTION 674. 961.41 (2) (b) of the statutes, as affected by 1997  
13 Wisconsin Act 283, is amended to read:

14           961.41 (2) (b) **Counterfeit schedule I, II, III and IV drugs.** ~~Any~~ If a person  
15 violates this subsection with respect to any other counterfeit substance included in  
16 schedule I, II ~~or, III or IV,~~ ~~may be fined not more than \$15,000 or imprisoned for not~~  
17 ~~more than 7 years and 6 months or both~~ the person is ailty of a Class H felony.

→ ~~\*\*\*\*NOTE. The class of felony referred to in this provision is created in DRB-0590,~~  
~~with which this draft will ultimately be compiled.~~

18           \***-3265/P1.93\*** SECTION 675. 961.41 (2) (c) of the statutes, as affected by 1997  
19 Wisconsin Act 283, is repealed.

20           \***-3265/P1.94\*** SECTION 676. 961.41 (2) (d) of the statutes, as affected by 1997  
21 Wisconsin Act 283, is amended to read:

22           961.41 (2) (d) **Counterfeit schedule V drugs.** ~~A~~ If a nerson violates this  
23 subsection with respect to a counterfeit substance included in schedule V, may-be

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1 fined not more than \$5,000 or imprisoned for not more than 2 years or both the person  
2 is guilty of a Class I felony.

\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

3 \***-3265/P1.95\*** SECTION 677. 961.41 (3g) (a) 1. of the statutes, as affected by  
4 1999 Wisconsin Act 283, is renumbered 961.41 (3g) (am) and amended to read:

5 961.41 (3g) (am) ~~Schedule I and II narcotic drugs. Except as provided in subd.~~  
6 a., ~~if the~~ If a person possesses a controlled substance included in schedule I or II  
7 which is a narcotic drug, or possesses a controlled substance analog of a controlled  
8 substance included in schedule I or II which is a narcotic drug, the person ~~may, upon~~  
9 ~~a first conviction, be fined not more than \$5,000 or imprisoned for not more than 2~~  
10 ~~or both, and for a 2nd or subsequent offense, the person may be fined not more than~~  
11 ~~\$10,000 or imprisoned for not more than 3 years or both~~ is guilty of a Class I felony

\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

12 \***-3265/P1.96\*** SECTION 678. 961.41 (3g) (a) 2. of the statutes, as affected by  
13 1997 Wisconsin Act 283, is repealed.

14 \***-3265/P1.97\*** SECTION 679. 961.41 (3g) (a) 3. of the statutes is repealed.

15 \***-3265/P1.98\*** SECTION 680. 961.41 (3g) (b) (title) of the statutes is created to  
16 read:

17 961.41 (3g) (b) (title) **Other drugs generally.**

18 \***-3265/P1.99\*** SECTION 681. 961.41 (3g) (c) of the statutes is amended to read:

19 961.41 (3g) (c) **Cocaine and cocaine base.** If a person possess ~~or attempts to~~  
20 possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine  
21 base, the person shall be fined not more than \$5,000 and may be imprisoned for not  
22 more than one year in the county jail upon a first conviction and is guilty of a Class

1 I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense  
 2 is considered a 2nd or subseauent offense if, prior to the offender's conviction of the  
 3 offense, the offender has at anp time been convicted of any felony or misdemeanor  
 4 under this chanter or under any statute of the United States or of any state relating  
 5 to controlled substances, controlled substance analogs, narcotic drugs, marijuana or  
 6 denressant, stimulant or hallucinogenic drugs.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.~~

7 **\*-3265/P1.100\*** SECTION 682. 961.41 (3g) (d) of the statutes is amended to  
 8 read:

9 961.41 (3g) (d) **Certain hallucinogenic and stimulant drugs.** If a person  
 10 possesses <sup>↓</sup> ~~or attempts to possess~~ <sup>↓</sup> lysergic acid diethylamide, phencyclidine,  
 11 amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, or a  
 12 controlled substance analog of lysergic acid diethylamide, phencyclidine,  
 13 amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, the person  
 14 may be fined not more than \$5,000 or imprisoned for not more than one year in the  
 15 county jail or both upon a first conviction and is ~~classified as~~ a Class I felony for a 2nd  
 16 or subseauent offense. For nurnoses of this paragraph, an offense is considered a 2nd  
 17 or subseauent offense if, prior to the offender's conviction of the offense, the offender  
 18 has at any time been convicted of any felony or misdemeanor under this chapter or  
 19 under any statute of the United States or of any state relating to controlled  
 20 substances, controlled substance analogs, narcotic drugs, mariiuana or denressant,  
 21 stimulant or hallucinogenic drugs.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.~~

1           \***-3265/P1.101\*** SECTION 683. 961.41 (3g) (e) of the statutes is amended to  
2 read:

3           961.41 (3g) **(e) Iktrahydrocannabinols.** If a person<sup>+</sup> possesses-  
4 ~~possess~~ tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled  
5 substance analog of tetrahydrocannabinols, the person may be fined not more than  
6 \$1,000 or imprisoned for not more than 6 months or both upon a first conviction and  
7 is guilty of a Class I felony for a 2nd or subsequent offense. For purposes of this  
8 paragraph, an offense is considered a 2nd or subseauent offense if, prior to the  
9 offender's conviction of the offense, the offender has at any time been convicted of any  
10 felony or misdemeanor under this chanter or under any statute of the United States  
11 or of any state relating to controlled substances, controlled substance analogs,  
12 narcotic drugs, marijuana or depressant, stimulant or hallucinogenic drugs.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-05907 with which this draft will ultimately be compiled.~~

13           \***-3265/P1.102\*** SECTION 684. 961.41 (3g) (f) of the statutes is amended to read:

14           961.41 (3g) (f) **Gamma-hydroxybutyric acid, gamma-hydroxybutyrolactone,**  
15 **ketamine and flunitrazepam.** If a person possesses or attempts to possess  
16 gamma-hydroxybutyric acid, gamma-hydroxybutyrolactone, ketamine or  
17 flunitrazepam, the person ~~may be fined not more than \$1,000 or~~ imprisoned for not  
18 ~~more than 2 years or both~~ is guilty of a Class H felony

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-05907 with which this draft will ultimately be compiled.~~

19           \***-3265/P1.103\*** SECTION 685. 961.41 (4) (am) 3. of the statutes, as affected by  
20 1997 Wisconsin Act 283, is amended to read:

1            961.41 (4) (am) 3. A person ~~convicted of violating who violates~~ this paragraph  
2 ~~may be fined not more than \$5,000 or imprisoned for not more than 2 years or both~~  
3 ~~is guilty of a Class I felony.~~

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

4            \***-3265/P1.104\*** SECTION 686. 961.42 (2) of the statutes, as affected by 1997  
5 Wisconsin Act 283, is amended to read:

6            961.42 (2) Any person who violates this section ~~may be fined not more than~~  
7 ~~\$25,000 or imprisoned not more than 2 years or both~~ is guilty of a Class I felony.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

8            \***-3265/P1.105\*** SECTION 687. 961.43 (2) of the statutes, as affected by 1997  
9 Wisconsin Act 283, is amended to read:

10           961.43 (2) Any person who violates this section ~~may be fined not more than~~  
11 ~~\$30,000 or imprisoned not more than 6 years or both~~ is guilty of a Class H felony.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.~~

12           \***-3265/P1.106\*** SECTION 688. 961.438 of the statutes is repealed.

13           \***-3265/P1.107\*** SECTION 689. 961.455 (1) of the statutes, as affected by 1997  
14 Wisconsin Act 283, is amended to read:

15           961.455 (1) Any person who has attained the age of 17 years who knowingly  
16 solicits, hires, directs, employs or uses a person who is under the age of 17 years of  
17 ~~age or under~~ for the purpose of violating s. 961.41 (1) ~~may be fined not more than~~  
18 ~~\$50,000 or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony.

→ ~~\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled. In the first compile, compare the  
penalty here to the penalties under ss. 939.30 and 948.35.~~

19           \***-0590/P5.405\*** SECTION 690. 961.455 (3) of the statutes is amended to read:

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

4 **\*-3265/P1.108\* SECTION 691.** 961.46 (1) of the statutes is renumbered 961.46  
5 and amended to read:

6 **961.46 Distribution to persons under age 18.** ~~Except as provided in sub.~~  
7 ~~(3), any~~ If a person 17 years of age or over who violates s. 961.41 (1) by distributing  
8 or delivering a controlled substance included in schedule I or II which is a narcotic  
9 drug or a controlled substance analog of a controlled substance included in schedule  
10 I or II which is a narcotic drug to a person 17 years of age or under who is at least  
11 3 years his or her junior is punishable by the fine authorized by s. 961.41 (1)(a) or  
12 a term of imprisonment of up to twice that authorized by s. 961.41 (1)(c), or both, the  
13 applicable maximum term of imprisonment prescribed under s. 961.41 (1) for the  
14 offense may be increased by not more than 5 years.

15 **\*-3265/P1.109\* SECTION 692.** 961.46 (2) of the statutes is repealed.

16 **\*-3265/P1.110\* SECTION 693.** 961.46 (3) of the statutes is repealed.

17 **\*-3265/P1.111\* SECTION 694.** 961.465 of the statutes is repealed.

→ ~~\*\*\*NOTE: This is a penalty enhancer for distribution of controlled substances to  
prisoners. These provisions should be included in the sentencing factor statute that will  
be created in LRB 0500.~~

18 **\*-3265/P1.112\* SECTION 695.** 961.472 (2) of the statutes is amended to read:

19 961.472 (2) Except as provided in sub. (5), if a person pleads guilty or is found  
20 guilty of possession or attempted possession of a controlled substance or controlled  
21 substance analog under s. 961.41 (3g) ~~(a) 2.~~ (am), (c) or (d), the court shall order the  
22 person to comply with an assessment of the person's use of controlled substances.  
23 The court's order shall designate a facility that is operated by or pursuant to a



1 contract with the county department established under s. 51.42 and that is certified  
2 by the department of health and family services to provide assessment services to  
3 perform the assessment and, if appropriate, to develop a proposed treatment plan.  
4 The court shall notify the person that noncompliance with the order limits the court's  
5 ability to determine whether the treatment option under s. 961.475 is appropriate.  
6 The court shall also notify the person of the fee provisions under s. 46.03 (18) (fm).

7 \***-3265/P1.113\*** SECTION 696. 961.48 (1) of the statutes is renumbered 961.48  
8 (1) (intro.) and amended to read:

9 961.48 (1) (intro.) ~~Except as provided in subs. (2) and (4), any~~ If a person who  
10 is charged under sub. (2m) with a felony offense under this chapter that is a 2nd or  
11 subsequent offense ~~as provided under this chapter sub. (3) and the person is~~  
12 convicted of that 2nd or subsequent offense ~~may be fined an amount up to twice that~~  
13 ~~otherwise authorized or imprisoned for a term up to twice the term otherwise~~  
14 ~~authorized or both, the maximum term of imprisonment for the offense may be~~  
15 increased as follows:

16 \***-3265/P1.114\*** SECTION 697. 961.48 (1) (a) and (b) of the statutes are created  
17 to read:

- 18 961.48 (1) (a) By not more than 6 years, if the offense is a Class C or D felony.
- 19 (b) By not more than 4 years, if the offense is a Class E, F, G, H or I felony.

→ ~~\*\*\*NOTE: Class F, G, H and I felonies are created in LRB-0590, with which this draft will ultimately be compiled.~~

20 \***-3265/P1.115\*** SECTION 698. 961.48 (2) of the statutes is repealed.

21 \***-3265/P1.116\*** SECTION 699. 961.48 (2m) (a) of the statutes is amended to  
22 read:

1            961.48 (2m) (a) Whenever a person charged with ~~an a felony~~ offense under this  
 2 chapter may be subject to a conviction for a 2nd or subsequent offense, he or she is  
 3 not subject to an enhanced penalty under sub. (1) ~~or (2)~~ unless any applicable prior  
 4 convictions are alleged in the complaint, indictment or information or in an amended  
 5 complaint, indictment or information that is filed under par. (b) 1. A person is not  
 6 subject to an enhanced penalty under sub. (1) ~~or (2)~~ for an offense if an allegation of  
 7 applicable prior convictions is withdrawn by an amended complaint filed under par.  
 8 (b) 2.

9            **\*-3265/P1.117\*** SECTION 700. 961.48 (3) of the statutes is amended to read:

10            961.48 (3) For purposes of this section, an a felony offense under this chapter  
 11 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the  
 12 offense, the offender has at any time been convicted of any felony or misdemeanor  
 13 offense under this chapter or under any statute of the United States or of any state  
 14 relating to controlled substances or controlled substance analogs, narcotic drugs,  
 15 marijuana or depressant, stimulant or hallucinogenic drugs.

16            **\*-3265/P1.118\*** SECTION 701. 961.48 (4) of the statutes is repealed.

17            **\*-3265/P1.119\*** SECTION 702. 961.49 (1) of the statutes is renumbered 961.49.

18            **\*-3265/P1.120\*** SECTION 703. 961.49 (2) of the statutes is repealed.

19            **\*-3265/P1.121\*** SECTION 704. 961.49 (3) of the statutes is repealed.

20            **\*-3265/P1.122\*** SECTION 705. 961.492 of the statutes is repealed.

→ ~~\*\*\*\*NOTE: This is a penalty enhancer for distribution of controlled substances on public transit vehicles. These provisions should be included in the sentencing factor statute that will be created in LRB-0590~~

21            **\*-0590/P5.406\*** SECTION 706. 968.255 (1) (a) 2. of the statutes is amended to  
 22 read:

1 968.255 (1) (a) 2. Arrested for any misdemeanor under s.167.30, 940.19, 941.20  
2 (l), 941.23, 941.237, 941.24, 948.60, ~~948.605 (2) (a)~~ or 948.61.

3 **\*-3266/P1.148\*** SECTION 707. 968.31 (1) (intro.) of the statutes, as affected by  
4 1997 Wisconsin Act 283, is amended to read:

5 968.31 (1) (intro.) Except as otherwise specifically provided in ss. 196.63 or  
6 968.28 to 968.30, whoever commits any of the acts enumerated in this section ~~may~~  
7 ~~be fined not more than \$10,000 or imprisoned for not more than 7 years and 6 months~~  
8 ~~or both~~ is guilty of a Class H felony:

9 **\*-3266/P1.149\*** SECTION 708. 968.34 (3) of the statutes, as affected by 1997  
10 Wisconsin Act 283, is amended to read:

11 968.34 (3) Whoever knowingly violates sub. (1) ~~shall~~ may be fined not more  
12 than \$10,000 or imprisoned for not more than ~~2 years~~ 9 months or both.

13 **\*-3266/P1.150\*** SECTION 709. 968.43 (3) of the statutes, as affected by 1997  
14 Wisconsin Act 283, is amended to read:

15 968.43 (3) Any person who violates an oath or affirmation required by sub. (2)  
16 ~~may be imprisoned for not more than 7 years and 6 months~~ is guilty of a Class H  
17 felony.

18 **\*-0590/P5.407\*** SECTION 710. 969.08 (10) (a) of the statutes is amended to  
19 read:

20 969.08 (10) (a) "Commission of a serious crime" includes a solicitation,  
21 conspiracy or attempt, under s. 939.30, 939.31, or 939.32 ~~or 948.35~~, to commit a  
22 serious crime.

23 **\*-0590/P5.408\*** SECTION 711. 969.08 (10) (b) of the statutes is amended to  
24 read:

1 969.08 (10) (b) "Serious crime" means any crime specified in s. 346.62 (4),  
 2 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195  
 3 (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25,  
 4 940.29, 940.295 (3) (b) 11m., 1r., 2. o3., 940.31, 941.20 (2) or (3), 941.26, 941.30,  
 5 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10,  
 6 943.2 (1g), (1m) or (1r), 943.30, 943.32, 946.01, 946.02, 946.43, 947.015, 948.02 (1)  
 7 or(2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07 or 948.30.

8 **\*-0590/P5.409\*** SECTION 712. 971.17 (1) of the statutes is renumbered 971.17  
 9 (1) (a) and amended to read:

10 971.17 (1) (a) Felonies committed before December 31, 1999. ~~When~~ Except as  
 11 provided in nar. (c), when a defendant is found not guilty by reason of mental disease  
 12 or mental defect of a felony committed before December 31, 1999, the court shall  
 13 commit the person to the department of health and family services for a specified  
 14 period not exceeding two-thirds of the maximum term of imprisonment that could  
 15 be imposed under s. 973.15 (2) (a) against an offender convicted of the same ~~crime~~  
 16 ~~or crimes~~ felony or felonies, including imprisonment authorized by ~~ss. 346.65 (2) (f),~~  
 17 ~~(2j) / a, or, (3m), 939.62, 939.63, 939.635, 939.64, 939.641 a~~  
 18 ~~(1b), 940.25 (1b) and 961.48 and other~~ any applicable penalty enhancement statutes,  
 19 ~~as applicable,~~ subject to the credit provisions of s. 973.155.

20 (c) Felonies punishable by life imprisonment. ~~If the maximum term of~~  
 21 ~~imprisonment is~~ a defendant is found not guilty by reason of mental disease or  
 22 mental defect of a felony that is punishable by life imprisonment, the commitment  
 23 period specified by the court may be life, subject to termination under sub. (5).

24 **\*-0590/P5.410\*** SECTION 713. 971.17 (1) (b) of the statutes is created to read:

1           971.17 (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           \***-0590/P5.411\*** SECTION 714. 971.17 (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           \***-3265/P1.123\*** SECTION 715. 971.365 (1) (c) of the statutes is amended to  
18 read:

19           971.365 (1) (c) In any case under s. 961.41 (3g) ~~(a) 2. (am)~~, (c), (d) or (e) involving  
20 more than one violation, all violations may be prosecuted as a single crime if the  
21 violations were pursuant to a single intent and design.

22           \***-3265/P1.124\*** SECTION 716. 971.365 (2) of the statutes is amended to read:

23           971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent  
24 prosecution for any acts in violation of s. 961.41 (1) (cm), (d), (e), (f), (g) or (h), (1m)

1 (cm), (d), (e), (f), (g) or (h) or (3g) ~~(a) 2.~~ (am), (c), (d) or (e) on which no evidence was  
2 received at the trial on the original charge.

3 **\*-0590/P5.412\*** SECTION 717. 973.01 (1) of the statutes is amended to read:

4 973.01 ( 1 ) **BIFURCATED SENTENCE REQUIRED.** Except as provided in sub. (3),  
5 whenever a court sentences a person to imprisonment in the Wisconsin state prisons  
6 for a felony crime committed on or after December 31, 1999, the court shall impose  
7 a bifurcated sentence that consists of a term of confinement in prison followed by a  
8 term of extended supervision under s. 302.113.

9 **\*-0590/P5.413\*** SECTION 718. 973.01 (2) (a) of the statutes is amended to read:

10 973.01 (2) (a) *Total Length of bifurcated sentence.* ~~Except as provided in par. (c),~~

11 the The total length of the bifurcated sentence may not exceed the maximum period  
12 of imprisonment for the felony crime. term

13 **\*-0590/P5.414\*** SECTION 719. 973.01 (2) (b) (intro.) of the statutes is amended  
14 to read:

15 973.01 (2) (b) *Imprisonment portion of bifurcated sentence.* (intro.) The portion  
16 of the bifurcated sentence that imposes a term of confinement in prison may not be  
17 less than one year, subject to any minimum sentence prescribed for the felony crime,  
18 and, ~~except as provided in par. (c),~~ may not exceed whichever of the following is  
19 applicable:

20 **\*-0590/P5.415\*** SECTION 720. 973.01 (2) (b) 1. of the statutes is amended to  
21 read:

22 973.01 (2) (b) 1. For a Class B felony, the term of confinement in prison may  
23 not exceed 40 years, plus imprisonment authorized by any applicable penalty  
24 enhancement statutes.

25 **\*-0590/P5.416\*** SECTION 721. 973.01 (2) (b) 2. of the statutes is repealed.

1           \***-0590/P5.417\*** SECTION 722. 973.01 (2) (b) 3. of the statutes is amended to  
2 read:

3           973.01 (2) (b) 3. For a Class C felony, the term of confinement in prison may  
4 not exceed ~~10~~ 25 years, ~~plus imprisonment authorized by any applicable penalty~~  
5 ~~enhancement statutes.~~

6           \***-0590/P5.418\*** SECTION 723. 973.01 (2) (b) 4. of the statutes is amended to  
7 read:

8           973.01 (2) (b) 4. For a Class D felony, the term of confinement in prison may  
9 not exceed 5 15 years, ~~plus imprisonment authorized by any applicable penalty~~  
10 ~~enhancement statutes.~~

11          \***-0590/P5.419\*** SECTION 724. 973.01 (2) (b) 5. of the statutes is amended to  
12 read:

13          973.01 (2) (b) 5. For a Class E felony, the term of confinement in prison may  
14 not exceed 2 10 years, ~~plus imprisonment authorized by any applicable penalty~~  
15 ~~enhancement statutes.~~

16          \***-0590/P5.420\*** SECTION 725. 973.01 (2) (b) 6. of the statutes is renumbered  
17 973.01 (2) (b) 10. and amended to read:

18          973.01 (2) (b) 10. For any ~~felony crime~~ other than a felony specified in subds.  
19 1. to ~~5~~ 9, the term of confinement in prison may not exceed 75% of the total length  
20 of the bifurcated sentence.

21          \***-0590/P5.421\*** SECTION 726. 973.01 (2) (b) 6m. of the statutes is created to  
22 read:

23          973.01 **(2)** (b) 6m. For a Class F felony, the term of confinement in prison may  
24 not exceed 7 years and 6 months, plus imprisonment authorized by any applicable  
25 penalty enhancement statutes.

1           \***-0590/P5.422\*** SECTION 727. 973.01 (2) (b) 7. of the statutes is created to read:

2           973.01 (2) (b) 7. For a Class G felony, the term of confinement in prison may  
3 not exceed 5 years, plus imprisonment authorized by any applicable penalty  
4 enhancement statutes.

5           \***-0590/P5.423\*** SECTION 728. 973.01 (2) (b) 8. of the statutes is created to read:

6           973.01 (2) (b) 8. For a Class H felony, the term of confinement in prison may  
7 not exceed 3 years, plus imprisonment authorized by any applicable penalty  
8 enhancement statutes.

9           \***-0590/P5.424\*** SECTION 729. 973.01 (2) (b) 9. of the statutes is created to read:

10          973.01 (2) (b) 9. For a Class I felony, the term of confinement in prison may not  
11 exceed one year and 6 months, plus imprisonment authorized by any applicable  
12 penalty enhancement statutes.

13          \***-0590/P5.425\*** SECTION 730. 973.01 (2) (c) of the statutes is repealed.

14          \***-0590/P5.426\*** SECTION 731. 973.01 (2) (d) of the statutes is renumbered  
15 973.01 (2) (d) (intro.) and amended to read:

16          973.01 (2) (d) ***Minimum and maximum term of extended supervision.*** (intro.)  
17 The term of extended supervision that follows the term of confinement in prison may  
18 not be less than 25% of the length of the term of confinement in prison imposed under  
19 par. (b)- and, far a classified felony, may not exceed whichever of the following is  
20 applicable:

21          \***-0590/P5.427\*** SECTION 732. 973.01 (2) (d) 1. to 6. of the statutes are created  
22 to read:

23          973.01 (2) (d) 1. For a Class B felony, the term of extended supervision may not  
24 exceed 20 years.



1           2. For a Class C felony, the term of extended supervision may not exceed 15  
2 years.

3           3. For a Class D felony, the term of extended supervision may not exceed 10  
4 years.

5           4. For a Class E, F or G felony, the term of extended supervision may not exceed  
6 5 years.

7           5. For a Class H felony, the term of extended supervision may not exceed 3  
8 y e a r s .

9           6. For a Class I felony, the term of extended supervision may not exceed 2 years.

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10           \*~~3361/P2.13~~\* SECTION 733. 973.01 (2m) of the statutes is created to read:  
 11           973.01 (2m) SENTENCING GUIDELINES. (a) In making a sentencing decision, as  
 12 defined in s. 973.017 (1), the court shall consider the guidelines adopted by the  
 13 sentencing commission under s. 973.30 (1) (c). This paragraph does not apply after  
 14 December 31, 2004.

\*\*\*NOTE: Section 973.017 (1) will be created in LRB-0590, with which this draft  
 will ultimately be compiled.

(B) (10) NO RIGHT TO APPEAL.

(b) There shall be no right to appeal on the basis of the court's imposition of a  
 16 sentence that does not fall within the guidelines. *considered by the court under sub. (2) (a)*

17           \*~~3370/P2.8~~\* SECTION 734. 973.01 (4) of the statutes is amended to read:

18           973.01 (4) No GOOD TIME; EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT. A  
 19 person sentenced to a bifurcated sentence under sub. (1) shall serve the term of  
 20 confinement in prison portion of the sentence without reduction for good behavior.  
 21 The term of confinement in prison portion is subject to extension under s. 302.113 (3)  
 22 and, if applicable, to reduction under s. 302.045 (3m) or 302.113 (9g).

1           \***-0590/P5.428\*** SECTION 735. 973.0135 (1) (b) 2. of the statutes is amended to  
2 read:

3           973.0135 (1) (b) 2. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09  
4 ~~(1) (1c)~~, 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,  
5 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (lg), ~~(1m) or (1r)~~, 943.32 (2), 946.43,  
6 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, or  
7 948.30 (2), ~~948.35 (1) (b) or (c)~~ or an

8           \***-0590/P5.429\*** SECTION 736. 973.017 of the statutes is created to read:

9           **973.017 Sentencing; use of guidelines; consideration of aggravating**  
10 **and mitigating factors. (1) DEFINITION.** In this section, "sentencing decision"

11 means a decision as to whether to impose a sentence or place a person on probation  
12 and a decision as to the length of a sentence <sup>comma stays</sup> ~~of imprisonment~~, the amount of a fine  
13 and the length of a term of probation.

including, for a bifurcated sentence, the length of each component of the bifurcated sentence  
comma

14           (2) **GENERAL REQUIREMENT.** When a court makes a sentencing decision  
15 concerning a person convicted of a criminal offense, the court shall consider all of the  
16 following:

17           (a) If the offense is a felony that was committed on or after December 31, 1999,  
18 the sentencing guidelines adopted by the sentencing commission under s. 973.30 or,  
19 if the sentencing commission has not adopted a guideline for the offense, any  
20 applicable temporary sentencing guideline adopted by the criminal penalties study

21 committee, as specified in 1999 Wisconsin Act ... (this act), section XXX.

in its August 13, 1999, report

\*\*\*\*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-3351, which will be compiled with this draft.

22 (b) Any applicable ~~aggravating and~~ mitigating factors

and any applicable aggravating factors, including ~~but not limited to~~ the aggravating factors specified in subs. (3) to (8)

1

(3) **AGGRAVATING FACTORS; GENERALLY.** ~~When making a sentencing~~

2

decision for any crime, the court shall consider all of the following as aggravating

3

factors:

4

(a) ~~1.~~ The fact that the person committed the crime while his or her usual

5

appearance was concealed, disguised or altered, with the intent to make it less likely

6

that he or she would be identified with the crime.

7

(b) ~~1.~~ The fact that the person committed the crime using information that was

8

disclosed to him or her under s. 301.46.

9

~~(b) Crimes in the criminal code and Uniform Controlled Substances Act. When~~

10

~~making a sentencing decision concerning any crime under chs. 939 to 948 or 961, the~~

11

~~court shall consider as an aggravating factor the fact that the person committed the~~

12

~~crime for the benefit of, at the direction of or in association with any criminal gang,~~

13

~~with the specific intent to promote, further or assist in any criminal conduct by~~

14

~~criminal gang members.~~

15

~~(c) All felonies. 1. In this paragraph, "bulletproof garment" means a vest or~~

16

~~other garment designed, redesigned or adapted to prevent bullets from penetrating~~

17

~~the garment.~~

18

~~2. When making a sentencing decision concerning any felony, the court shall~~

19

~~consider as an aggravating factor the fact that the person committed the felony while~~

20

~~wearing a bulletproof garment.~~

e 21

~~(d) Felonies in the criminal code. 1. When making a sentencing decision~~

22

~~concerning any felony under chs. 939 to 951, the court shall consider as an~~

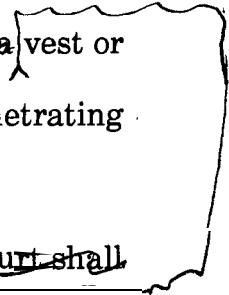
23

~~aggravating factor the fact that the person committed the felony with the intent to~~

24

~~influence the policy of a governmental unit or to punish a governmental unit for a~~

no 7 1. Subject to subd. 2,



1 prior policy decision, if any of the following circumstances also applies to the felony  
2 committed by the person:

3 a. The person caused bodily harm, great bodily harm or death to another.

4 b. The person caused damage to the property of another and the total property  
5 damaged is reduced in value by \$25,000 or more. For the purposes of this subd. 1.  
6 b., property is reduced in value by the amount that it would cost either to repair or  
7 to replace it, whichever is less.

8 c. The person used force or violence or the threat of force or violence.

9 2. a. In this subdivision, "labor dispute" includes any controversy concerning  
10 terms, tenure or conditions of employment, or concerning the association or  
11 representation of 'persons in negotiating, fixing, maintaining, changing or seeking  
12 to arrange terms or conditions of employment, regardless of whether the disputants  
13 stand in the proximate relation of employer and employe.

14 b. Subdivision 1 . does not apply to conduct arising out of or in connection with  
15 a labor dispute.

16 ( 4 ) **AGGRAVATING FACTORS; SERIOUS SEX CRIMES COMMITTED WHILE INFECTED WITH**  
17 **CERTAIN DISEASES.** (a) In this subsection:

18 1. "HIV" means any strain of human immunodeficiency virus, which causes  
19 acquired immunodeficiency syndrome.

20 2. "Serious sex crime" means a violation of s. 940.225 ( 1 ) or (2), 948.02 (1) or (2)  
21 or 948.025.

22 3. "Sexually transmitted disease" means syphilis, gonorrhea, hepatitis B,  
23 hepatitis C or chlamydia.

1           4. "Significantly exposed" means sustaining a contact which carries a potential  
2 for transmission of a sexually transmitted disease or HIV by one or more of the  
3 following:

4           a. Transmission, into a body orifice or onto mucous membrane, of blood; semen;  
5 vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or  
6 amniotic fluid; or other body fluid that is visibly contaminated with blood.

7           b. Exchange, during the accidental or intentional infliction of a penetrating  
8 wound, including a needle puncture, of blood; semen; vaginal secretions;  
9 cerebrospinal, synovial, pleural, peritoneal, pericardial or amniotic fluid; or other  
10 body fluid that is visibly contaminated with blood.

11           c. Exchange, into an eye, an open wound, an oozing lesion, or other place where  
12 a significant breakdown in the epidermal barrier has occurred, of blood; semen;  
13 vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or  
14 amniotic fluid; or other body fluid that is visibly contaminated with blood.

15           (b) When making a sentencing decision concerning a person convicted of a  
16 serious sex crime, the court shall consider as an aggravating factor the fact that the  
17 serious sex crime was committed under all of the following circumstances:

18           1. At the time that he or she committed the serious sex crime, the person  
19 convicted of committing the serious sex crime had a sexually transmitted disease or  
20 acquired immunodeficiency syndrome or had had a positive test for the presence of  
21 HIV, antigen or nonantigenic products of HIV or an antibody to HIV.

22           2. At the time that he or she committed the serious sex crime, the person  
23 convicted of committing the serious sex crime knew that he or she had a sexually  
24 transmitted disease or acquired immunodeficiency syndrome or that he or she had

1 had a positive test for the presence of HIV, antigen or nonantigenic products of HIV  
2 or an antibody to HIV.

3 3. The victim of the serious sex crime was significantly exposed to HIV or to the  
4 sexually transmitted disease, whichever is applicable, by the acts constituting the  
5 serious sex crime.

6 (5) AGGRAVATING FACTORS; VIOLENT FELONY COMMITTED AGAINST ELDER PERSON. (a)

7 In this subsection:

8 1. "Elder person" means any individual who is 62 years of age or older.

9 2. Violent felony" means any felony under s. 940.19 (2), (4), (5) or (6), 940.225  
10 (1), (2) or (3), 940.23 or 943.32.

11 (b) When making a sentencing decision concerning a person convicted of a  
12 violent felony, the court shall consider as an aggravating factor the fact that the  
13 victim of the violent felony was an elder person. This paragraph applies even if the  
14 person mistakenly believed that the victim had not attained the age of 62 years.

15 (6) AGGRAVATING FACTORS; CHILD SEXUAL ASSAULT <sup>OR CHILD ABUSE</sup> BY CERTAIN PERSONS. (a) In this

16 subsection, "person responsible for the welfare the child" includes the child's parent,  
17 stepparent, guardian, foster parent or treatment foster parent; an employe of a  
18 public or private residential home, institution or agency; any other person legally  
19 responsible for the child's welfare in a residential setting; or a person employed by  
20 one who is legally responsible for the child's welfare to exercise temporary control or  
21 care for the child.

22 (b) When making a sentencing decision concerning a person convicted of a  
23 violation of s. 948.02 (1) or (2) <sup>or 948.03 (2) or (3)</sup> ~~or~~ 948.025 (1), the court shall consider as an  
24 aggravating factor the fact that the person was a person responsible for the welfare  
25 of the child who was the victim of the violation.

1 (7) AGGRAVATING FACTORS; HOMICIDE OR INJURY BY INTOXICATED USE OF A VEHICLE.

2 When making a sentencing decision concerning a person convicted of a violation of  
3 s. 940.09 (1) or 940.25 (1), the court shall consider as an aggravating factor the fact  
4 that, at the time of the violation, there was a minor passenger under 16 years of age  
5 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?

6 (8) AGGRAVATING FACTORS; CONTROLLED SUBSTANCES OFFENSES. (a) **Distribution  
7 or delivery to prisoners.** 1. In this paragraph, "precinct" means a place where any  
8 activity is conducted by a prison, jail or house of correction.

9 2. When making a sentencing decision concerning a person convicted of  
10 violating s. 961.41 (1) or (1m), the court shall consider as an aggravating factor the  
11 fact that the violation involved delivering, distributing or possessing with intent to  
12 deliver or distribute a controlled substance or controlled substance analog to a  
13 prisoner within the precincts of any prison, jail or house of correction.

14 (b) **Distribution or delivery on public transit vehicles.** When making a  
15 sentencing decision concerning a person convicted of violating s. 961.41 (1) or (1m),  
16 the court shall consider as an aggravating factor the fact that the violation involved  
17 delivering, distributing or possessing with intent to deliver or distribute a controlled  
18 substance. included in schedule I or II or a controlled substance analog of any  
19 controlled substance included in schedule I or II and that the person knowingly used  
20 a public transit vehicle during the violation.

21 (9) AGGRAVATING FACTORS NOT AN ELEMENT OF THE CRIME. The aggravating factors  
22 listed in this section are not elements of any crime. A prosecutor is not required





1 charge any aggravating factor or otherwise allege the existence of an aggravating  
2 factor in any pleading. The existence of an aggravating factor does not have to be  
3 ~~proven~~ beyond a reasonable doubt for a court to use the existence of the aggravating  
4 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?

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5 **\*-0590/P5.430\*** SECTION 737. 973.03 (3) (e) 1. and 2. of the statutes are  
6 amended to read:

7 973.03 (3) (e) 1. A crime which is a Class A ~~or~~ B or C felony.

8 2. A crime which is a Class C, D, E, F or G felony listed in s. 969.08 (10) (b), but  
9 not including any crime specified in s. 943.10.

10 **\*-0590/P5.431\*** SECTION 738. 973.03 (3) (e) 3. of the statutes is repealed.

11 **\*-0590/P5.432\*** SECTION 739. 973.032 (4) (c) 2. of the statutes is amended to  
12 read:

13 973.032 (4) (c) 2. The person is sentenced for the escape ~~under s. 946.42(4)(b)~~  
14 to a sentence of imprisonment concurrent with the sentence to the intensive  
15 sanctions program.

16 **\*-0590/P5.433\*** SECTION 740. 973.075 (1) (b) lm. e. of the statutes is amended  
17 to read:

18 973.075 (1) (b) lm. e. To cause more than ~~\$1,000~~ \$2,000 worth of criminal  
19 damage to cemetery property in violation of s. 943.01 (2) (d) or 943.012.

20 **\*-0590/P5.434\*** SECTION 741. 973.075 (2) (d) of the statutes is amended to  
21 read:

22 973.075 (2) (d) The officer has probable cause to believe that the property was  
23 derived from or realized through a crime or that the property is a vehicle which was

1 used to transport any property or weapon used or to be used or received in the  
2 commission of any felony, which was used in the commission of a crime relating to  
3 a submerged cultural resource in violation of s. 44.47 or which was used to cause  
4 more than ~~\$1,000~~ \$2,000 worth of criminal damage to cemetery property in violation  
5 of s. 943.01 (2) (d) or 943.012.

6 **\*-0590/P5.435\*** SECTION 742. 973.09 (2) (b) 1. of the statutes is amended to  
7 read:

8 973.09 (2) (b) 1. Except as provided in subd. 2., for felonies, not less than one  
9 year nor more than either the ~~statutory~~ maximum term of ~~imprisonment~~  
10 confinement in prison for the crime, as specified in s. 973.01 (2)(b), or 3 years,  
11 whichever is greater.

12 **\*-3361/P2.14\*** SECTION 743. 973.30 of the statutes is created to read:

13 **973.30 Sentencing commission. (1) DUTIES.** The sentencing commission  
14 shall do all of the following:

15 (a) Select an executive director having appropriate training and experience to  
16 study sentencing practices and prepare proposed sentencing guidelines.

17 (b) Monitor and compile data regarding sentencing practices in the state.

18 (c) Adopt sentencing guidelines for felonies committed on or after December 31,  
19 1999, to promote public safety, to reflect changes in sentencing practices and to  
20 preserve the integrity of the criminal justice and correctional systems.

21 (d) Provide information to the legislature, state agencies and the public  
22 regarding the costs to and other needs of the department which result from  
23 sentencing practices.

24 (e) Provide information to judges and lawyers about the sentencing guidelines.

Insert  
187/0

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(2) ~~ADDITIONAL AUTHORITY~~ The sentencing commission may do any of the

following:

(a) Subject to authorization under s. 16.505, hire staff to assist it in the performance of its duties.

(b) Assist the legislature in assessing the cost of enacting new or revising existing statutes affecting criminal sentencing.

(c) Submit reports to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3), containing

statistics regarding criminal sentences imposed in this state. Each report shall have a different focus and need not contain statistics regarding every crime. Each report shall contain information regarding sentences imposed statewide and in each of the following geographic areas:

- 1. Milwaukee County.
- 2. Dane and Rock counties.
- 3. Brown, Outagamie, Calumet and Winnebago counties.
- 4. Racine and Kenosha counties.
- 5. All other counties.

(3) SUNSET. This section does not apply after December 31, 2004.

\*-3370/P2.9\* SECTION 744. 977.05 (4) (jm) of the statutes is created to read:

977.05 (4) (jm) At the request of an inmate determined by the state public defender to be indigent or upon referral of a court under s. 302.113 (9g) (j), represent the inmate in proceedings for modification of a bifurcated sentence under s. 302.113 (9g) before a program review committee and the sentencing court, if the state public defender determines the case should be pursued.

CS STAFF

no 9

to all circuit judges, and  
↑

At least semiannually

shall

1           \***-3266/P1.151**\* SECTION 745. 977.06 (2) (b) of the statutes, as affected by 1997  
2 Wisconsin Act 283, is amended to read:

3           977.06 (2) (b) A person who makes a false representation that he or she does  
4 not believe is true for purposes of qualifying for assignment of counsel ~~shall be fined~~  
5 ~~not more than \$10,000 or imprisoned for not more than 7 years and 6 months or both~~  
6 is guilty of a Class I felony.

7           \***-0590/P5.436**\* SECTION 746. 978.13 (1) (c) of the statutes is amended to read:

8           978.13 (1) (c) In counties having a population of 500,000 or more, the salary and  
9 fringe benefit costs of clerk positions in the district attorney's office necessary for the  
10 prosecution of violent crime cases primarily involving felony violations under s.  
11 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05,  
12 940.06, 940.225, 943.23 (1g), ~~(1m)~~ and ~~(1r)~~ and 943.32 (2). The state treasurer shall  
13 pay the amount authorized under this paragraph to the county treasurer pursuant  
14 to a voucher submitted by the district attorney to the secretary of administration  
15 from the appropriation under s. 20.475 (1) (i). The amount paid under this paragraph  
16 may not exceed \$88,500 in the 1997-98 fiscal year and \$91,600 in the 1998-99 fiscal  
17 year.

3  
Insert  
188-17  
→

18           \***-3361/P2.15**\* SECTION 747. **Nonstatutory provisions.**

19           (1) SENTENCING COMMISSION; INITIAL TERMS. Notwithstanding section 15.105 (26)  
20 (c) 1. of the statutes, as created by this act, the initial members of the sentencing  
21 commission shall be appointed for the following terms:

22           (a) Two members appointed under section 15.105 (26) (a) 3. of the statutes, as  
23 created by this act, one of whom is not employed by any unit of federal, state or local  
24 government, one circuit judge and one district attorney, for terms expiring on  
25 January 1, 2001.

1 (b) Three members appointed under section 15.105 (26) (a) 3. of the statutes,  
2 as created by this act, one of whom is not employed by any unit of federal, state or  
3 local government, and one circuit judge, for terms expiring on January 1, 2002.

4 (c) Two members appointed under section 15.105 (26) (a) 3. of the statutes, as  
5 created by this act, the member appointed under section 15.105 (26) (a) 5. of the  
6 statutes, as created by this act, one representative of crime victims and one attorney  
7 in private practice, for terms expiring on January 1, 2003.

8 (2) TEMPORARY SENTENCING GUIDELINES.

9 (a) In making a sentencing decision, as defined in section 973.017 (1) of the  
10 statutes, as created by this act, for a crime committed on or after December 31, 1999,  
11 and for which the sentencing commission has not promulgated sentencing guidelines  
12 under section 973.30 of the statutes, as created by this act, the court shall consider  
13 the guidelines attached as appendix XX to the August 31, 1999, report of the criminal  
14 penalties study committee. This paragraph does not apply after December 31, 2004.

\*\*\*NOTE: Section 973.017 (1) will be created in LRB-0590, with which this draft  
will ultimately be compiled.

15 (b) There shall be no right to appeal on the basis of the court's imposition of a  
16 sentence that does not fall within the criminal penalties study committee's  
17 temporary guidelines.

18 (3) POSITION AUTHORIZATION. There is authorized for the sentencing commission  
19 1.0 FTE GPR executive director position, 1.0 FTE GPR deputy director position and  
20 4.0 FTE GPR other positions to be funded from the appropriation under section  
21 20.505 (4) (dr) of the statutes, as created by this act.

22 \*-0590/P5.437\* SECTION 748. Initial applicability.

Insert 190-2:

Insert  
190-2

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

3 ~~\*-3265/P1.125\* SECTION 749. Effective date.~~  
4 (1) This act takes effect on December 31, 1999, or on the day after publication,  
5 whichever is later.

6 **\*-3266/P1.152\* SECTION 750. Effective dates.** This act takes effect on  
7 December 31, 1999, or on the day after publication, whichever is later, except as  
8 follows:

9 (1) The treatment of section 343.44 (2) (b) (intro.) of the statutes takes effect  
10 on whichever of the following dates is later:

- 11 (a) The day after publication.
- 12 (b) May 1, 2000, or the date stated in the notice published by the secretary of
- 13 transportation in the Wisconsin Administrative Register under section 85.515 of the
- 14 statutes, whichever is earlier.

15 ~~\*-0590/P5.438\* SECTION 751. Effective date.~~  
16 (1) This act takes effect on December 31, 1999, or on the day after publication,  
17 whichever is later.

18 (END)

Insert  
190-14 ✓

1           **INSERT 25-18:** ✓

2           **SECTION 1.** 49.95 (1) (e) and (f) of the statutes are created to read:

3           49.95 **(1)** (e) If the value of the assistance exceeds \$5,000 but does not exceed  
4           \$10,000, the person is guilty of a Class H felony.

5           (f) If the value of the assistance exceeds \$10,000, the person is guilty of a Class  
6           G felony.

7           **INSERT 32-22:** ✓

8           means a vest or other garment designed, redesigned or adapted to m-event bullets  
9           from penetrating through the garment

10           **INSERT 51-13:** ✓

11           **SECTION 2.** 302.113 (7g) of the statutes is created to read:

12           302.113 **(7g)** (a) In this subsection, “serious child sex offender” means a person  
13           who has been convicted of committing a crime specified in s. 948.02 (1) or **(2)** or  
14           948.025 (1) against a child who had not attained the age of 13 years.

15           (b) Subject to sub. (7), the department may require as a condition of extended  
16           supervision that a serious child sex offender undergo pharmacological treatment  
17           using an antiandrogen or the chemical equivalent of an antiandrogen. This  
18           paragraph does not prohibit the department from requiring pharmacological  
19           treatment using an antiandrogen or the chemical equivalent of an antiandrogen as  
20           a condition of probation.

21           **INSERT 52-17:** ✓

22           **SECTION 3.** 302.113 (8m) of the statutes is created to read:

1           302.113 (8m) (a) Every person released to extended supervision under this  
 2 section remains in the legal custody of the department. If the department alleges  
 3 that any condition or rule of extended supervision has been violated by the person,  
 4 the department may take physical custody of the person for the investigation of the  
 5 alleged violation.

6           (b) If a person released to extended supervision under this section signs a  
 7 statement admitting a violation of a condition of extended supervision, the  
 8 department may <sup>1</sup>as a sanction for the violation <sup>1</sup>confine the person for up to 90 days  
 9 in a regional detention facility or, with the approval of the sheriff, in a county jail.  
 10 If the department confines the person in a county jail, the department shall provide  
 11 reimbursement to the county for the actual costs incurred in confining the person,  
 12 as authorized by the department, from the appropriations under s. 20.410 (1) (ab) ✓  
 13 and (b). ✓ Notwithstanding s. 302.43, the person is not eligible to earn good time credit  
 14 on any period of confinement imposed under this subsection.

15           INSERT 57-16: ✓

16           The state may appeal a court's decision to grant an inmate's petition for a  
 17 modification of the inmate's bifurcated sentence.

18           INSERT 58-9: ✓

19           **SECTION 4.** 302.114 (5) (f) of the statutes is amended to read:

20           302.114 (5) (f) An inmate may appeal an order denying his or her petition for  
 21 release to extended supervision. In an appeal under this paragraph, the appellate  
 22 court may reverse an order denying a petition for release to extended supervision  
 23 only if it determines that the sentencing court ~~improperly~~ erroneously exercised its  
 24 discretion in denying the petition for release to extended supervision.



**INSERT 58-20:** ✓

**SECTION 5.** 302.114 (8g) of the statutes is created to read:

302.114 (8g) (a) In this subsection, "serious child sex offender" means a person who has been convicted of committing a crime specified in s. 948.02 (1) or (2) or 948.025 (1) against a child who had not attained the age of 13 years.

(b) Subject to sub. (8), the department may require as a condition of extended supervision that a serious child sex offender undergo pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen. This paragraph does not prohibit the department from requiring pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen as a condition of probation.

**SECTION 6.** 302.114 (8m) of the statutes is created to read:

302.114 (8m) (a) Every person released to extended supervision under this section remains in the legal custody of the department. If the department alleges that any condition or rule of extended supervision has been violated by the person, the department may take physical custody of the person for the investigation of the alleged violation.

(b) If a person released to extended supervision under this section signs a statement admitting a violation of a condition of extended supervision, the department may, as a sanction for the violation, confine the person for up to 90 days in a regional detention facility or, with the approval of the sheriff, in a county jail. If the department confines the person in a county jail, the department shall provide reimbursement to the county for the actual costs incurred in confining the person, as authorized by the department, from the appropriations under s. 20.410 (1) (ab) ✓

20

1 and (b). Notwithstanding s. 302.43, the person is not eligible to earn good time credit  
2 on any period of confinement imposed under this subsection.

3 **INSERT 60-12:**

4 **SECTION 7.** 302.33 (1) of the statutes is amended to read:

5 302.33 (1) The maintenance of persons who have been sentenced to the state  
6 penal institutions; persons in the custody of the department, except as provided in  
7 sub. (2) and ~~s.~~ ss. 301.048 (7), 302.113 (8m) and 302.114 (8m); persons accused of  
8 crime and committed for trial; persons committed for the nonpayment of fines and  
9 expenses; and persons sentenced to imprisonment therein, while in the county jail,  
10 shall be paid out of the county treasury. No claim may be allowed to any sheriff for  
11 keeping or boarding any person in the county jail unless the person was lawfully  
12 detained therein.

13 History: 1983 a. 27; 1985 a. 29; 1987 a. 27; 1989 a. 31 s. 1648; Stats. 1989 s. 302.33; 1989 a. 107,122; 1991 a. 39,269; 1993 a. 16, 48, 490; 1995 a. 27; 1997 a. 283.

13 **INSERT 60-19**

14 **SECTION 8.** 303.08 (1) (intro.) of the statutes is amended to read:

15 303.08 (1) (intro.) Any person sentenced to a county jail for crime, nonpayment  
16 of a fine or forfeiture, or contempt of court, or subject to a confinement sanction under  
17 s. 302.113 (8m) or 302.114 (8m) may be granted the privilege of leaving the jail during  
18 necessary and reasonable hours for any of the following purposes:

19 History: 1971 c. 92; 1975 c. 94; 1977 c. 126, 271, 449; 1981 c. 143; 1983 a. 254; 1985 a. 150,176; 1989 a. 31 s. 1689; Stats. 1989 s. 303.08; 1989 a. 56 ss. 104,105; 1989 a. 107 s. 153; 1991 a. 316; 1993 a. 89; 1995 a. 281; 1997 a. 39.

19 **SECTION 9.** 303.08 (2) of the statutes is amended to read:

20 **303.08 (2)** Unless such privilege is expressly granted by the court or, in the case  
21 of a person subject to a confinement sanction under s. 302.113 (8m) or 302.114 (8m),  
22 the department, the prisoner ~~The on~~ is sentenced to ordinary confinement. A  
23 prisoner, other than a person subject to a confinement sanction under s. 302.113 (8m)  
24 or 302.114 (8m), may petition the court for such privilege at the time of sentence or

1 thereafter, and in the discretion of the court may renew the prisoner's petition. The  
2 court may withdraw the privilege at any time by order entered with or without notice.

History: 1971 c. 92; 1975 c. 94; 1977 c. 126, 271, 449; 1981 c. 143; 1983 a. 254; 1985 a. 150,176; 1989 a. 31 s. 1689; Stats. 1989 s. 303.08; 1989 a. 56 ss. 104,105; 1989 a. 107 s. 153; 1991 a. 316; 1993 a. 89; 1995 a. 281; 1997 a. 39.

3 **SECTION 10. 303.08 (5)** (intro.) of the statutes is amended to read:

4 303.08 (5) (intro.) By order of the court or for a person subject to a confinement  
5 sanction under s. 302.113 (8m) or 302.114 (8m), by order of the denartment, the  
6 wages, salary and unemployment insurance and employment training benefits  
7 received by prisoners shall be disbursed by the sheriff for the following purposes, in  
8 the order stated:

History: 1971 c. 92; 1975 c. 94; 1977 c. 126, 271, 449; 1981 c. 143; 1983 a. 254; 1985 a. 150,176; 1989 a. 31 s. 1689; Stats. 1989 s. 303.08; 1989 a. 56 ss. 104, 105; 1989 a. 107 s. 153; 1991 a. 316; 1993 a. 89; 1995 a. 281; 1997 a. 39.

9 **SECTION 11. 303.08 (6)** of the statutes is amended to read:

10 303.08 (6) The department. for a person subject to a confinement sanction  
11 under s. 302.113 (8m) or 302.114 (8m), or the sentencing court may, by order, map  
12 authorize the sheriff to whom the prisoner is committed to arrange with another  
13 sheriff for the employment or employment training of the prisoner in the other's  
14 county, and while so employed or trained to be in the other's custody but in other  
15 respects to be and continue subject to the commitment.

History: 1971 c. 92; 1975 c. 94; 1977 c. 126, 271, 449; 1981 c. 143; 1983 a. 254; 1985 a. 150,176; 1989 a. 31 s. 1689; Stats. 1989 s. 303.08; 1989 a. 56 ss. 104,105; 1989 a. 107 s. 153; 1991 a. 316; 1993 a. 89; 1995 a. 281; 1997 a. 39.

16 **SECTION 12. 303.08 (12)** of the statutes is amended to read:

17 303.08 (12) In counties having a house of correction, any person violating the  
18 privilege granted under sub. (1) may be transferred by the county jailer to the house  
19 of correction for the remainder of the term of the person's sentence or, if applicable,  
20 the remainder of the person's confinement sanction under s. 302.113 (8m) or 302.114  
21 (8m).

History: 1971 c. 92; 1975 c. 94; 1977 c. 126, 271, 449; 1981 c. 143; 1983 a. 254; 1985 a. 150,176; 1989 a. 31 s. 1689; Stats. 1989 s. 303.08; 1989 a. 56 ss. 104, 105; 1989 a. 107 s. 153; 1991 a. 316; 1993 a. 89; 1995 a. 281; 1997 a. 39.

22 **INSERT 62-24:**

1           **SECTION 13. 343.31 (3) (c)** of the statutes is amended to read:

2           343.31 (3) (c) Any person convicted under s. 940.09 of causing the death of  
3 another or of an unborn child by the operation or handling of a motor vehicle shall  
4 have his or her operating privilege revoked for 5 years. ~~If there was a minor~~  
5 ~~passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1), in the~~  
6 ~~motor vehicle at the time of the violation that gave rise to the conviction under s.~~  
7 ~~940.09, the revocation period is 10 years.~~

History: 1971 c. 219; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193,447; 1979 c. 221; 1981 c. 20, 70; 1983 a. 192 s. 304; 1983 a. 459; 1985 a. 80, 82; 1985 a. 293 s. 3; 1987 a. 3,399; 1989 a. 31,105; 1991 a. 39, 277, 316; 1993 a. 317; 1995 a. 269, 425, 448; 1997 a. 84, 237, 258, 295.

8           **SECTION 14. 343.31 (3) (f)** of the statutes is amended to read:

9           343.31 (3) (f) Any person convicted under s. 940.25 shall have his or her  
10 operating privilege revoked for 2 years. ~~If there was a mi~~  
11 ~~years of age or an unborn child, as defined in s. 939.75 (1), in the motor vehicle at the~~  
12 ~~time of the violation that gave rise to the conviction under s. 940.25, the revocation~~  
13 ~~period is 4 years.~~

History: 1971 c. 219; 1975 c. 297; 1977 c. 29 s. 54 (7) (a), (e); 1977 c. 193,447; 1979 c. 221; 1981 c. 20, 70; 1983 a. 192 s. 304. 1983 a. 459; 1985 a. 80, 82; 1985 a. 293 s. 3; 1987 a. 3,399; 1989 a. 31,105; 1991 a. 39, 277, 316; 1993 a. 317; 1995 a. 269, 425, 448; 1997 a. 84, 237, 258, 295.

14           INSERT 08-16: ✓

15           **SECTION 15. 351.07 (2) (b)** of the statutes is amended to read:

16           351.07 (2) (b) In lieu of the otherwise applicable penalties for the commission  
17 of the offenses enumerated in s. 351.02 (1) (a) and (b), if a person who is issued an  
18 occupational license as provided by sub. (1) or (1m) ~~and who~~ is convicted of an offense  
19 under s. 351.02 (1) (a) or (b) as provided in par. (a) ~~may be required to pay not more~~  
20 ~~than 200% of,~~ the maximum forfeiture or fine applicable to the offense ~~or may be~~  
21 ~~imprisoned for not more than 2 ti~~ and the maximum period of imprisonment  
22 applicable to the offense ~~or both~~ are doubled.

History: 1983 a. 525; 1985 a. 71; 1987 a. 403; 1989 a. 105; 1995 a. 269; 1997 a. 35.

23           INSERT 77-19: ✓

1 SECTION 16. 939.22 (21) (d) of the statutes is amended to read:

2 939.22 (21) (d) Battery, ~~substantial battery or aggravated battery~~, as  
3 prohibited in s. 940.19 or 940.195.

History: 1971 c. 219; 1913 c. 336; 1977 c. 173; 1919 c. 89,221; 1981 c. 79 s. 17; 1981 c. 89,348; 1983 a. 17,459; 1985 a. 146 s. 8; 1987 a. 332,399; 1993 a. 98, 213, 227, 441,486; 1995 a. 69, 436, 448; 1997 a. 143, 295.

4 INSERT 78-3: ✓

5 SECTION 17. 939.32 (1) (b) of the statutes is repealed.

6 INSERT 81-11: ✓

6  
7

SECTION 18. 939.63 (1) of the statutes is renumbered 939.63<sup>3</sup> and 939.63 (1) (d),

3  
and  
)

8 (2) and (3), as renumbered, are amended to read:

9 939.63 (1) (d) The maximum term of imprisonment for a felony not specified  
10 in ~~subd. 2. or 3.~~ par (b) or (c) may be increased by not more than 3 years.

11 (2) The increased penalty provided in this ~~subsection~~ section does not apply if  
12 possessing, using or threatening to use a dangerous weapon is an essential element  
13 of the crime charged.

14 (3) This ~~subsection~~ section applies only to crimes specified under chs. 939 to  
15 951 and 961.

History: 1979 c. 114; 1981 c. 212; 1987 a. 332 s. 64; 1995 a. 448.

16 SECTION 19. 939.63 (2) of the statutes is repealed.

17 INSERT 81-18: ✓

18 SECTION 20. 939.632 (2) of the statutes is amended to read:

19 939.632 (2) If a person commits a violent crime in a school zone, the maximum  
20 period term of imprisonment is increased as follows:

21 (a) If the violent crime is a felony, the maximum period term of imprisonment  
22 is increased by 5 years.

1 (b) If the violent crime is a misdemeanor, the maximum ~~period~~ term of  
2 imprisonment is increased by 3 months and the place of imprisonment is the county  
3 jail.

History: 1995 a. 22.

4 **INSERT 81-21:** ✓

5 SECTION 21. 939.645 (2) of the statutes is amended to read:

6 939.645 (2) (a) If the crime committed under sub. (1) is ordinarily a  
7 misdemeanor other than a Class A misdemeanor, the revised maximum fine is  
8 \$10,000 and the revised maximum ~~period~~ term of imprisonment is one year in the  
9 county jail.

10 (b) If the crime committed under sub. (1) is ordinarily a Class A misdemeanor,  
11 the penalty increase under this section changes the status of the crime to a felony and  
12 the revised maximum fine is \$10,000 and the revised maximum ~~period~~ term of  
13 imprisonment is 2 years.

14 (c) If the crime committed under sub. (1) is a felony, the maximum fine  
15 prescribed by law for the crime may be increased by not more than \$5,000 and the  
16 maximum ~~period~~ term of imprisonment prescribed by law for the crime may be  
17 increased by not more than 5 years.

History: 1987 a. 348; 1991 a. 291.

18 **INSERT 100-16:** ✓

19 SECTION 22. 941.315 (3) (intro.) of the statutes is amended to read:

20 941.315 (3) (intro.) Whoever does any of the following is guilty of a Class ~~D~~ H  
21 felony:

History: 1997 a. 336

22 **INSERT 102-12:** ✓

23 SECTION 23. 941.38 (1) (b) 4. of the statutes is amended to read:

1           **941.38 (1)** (b) 4. Battery, ~~substantial battery or aggravated battery~~, as  
2 prohibited in s. 940.19 or 940.195.

3 History: 1993 a. 98,227; 1995 a. 448; 1997 a 143.295.

**INSERT 118-21:** ✓

4           **SECTION 24.** 943.70 (3) (b) 4. of the statutes is amended to read:

5           943.70 (3) (b) 4. A Class ~~C~~ **F** felony if the offense creates a substantial and  
6 unreasonable risk of death or great bodily harm to another.

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

8           **INSERT 119-7:** ✓

9           **SECTION 25.** 944.06 of the statutes is amended to read:

10           **944.06 Incest.** Whoever marries or has nonmarital sexual intercourse with  
11 a person he or she knows is a blood relative and such relative is in fact related in a  
12 degree within which the marriage of the parties is prohibited by the law of this state  
13 is guilty of a Class ~~C~~ **F** felony.

14 History: 1977 c. 173.

**INSERT 134-5:** ✓

15           **SECTION 26.** 948.03 (5) of the statutes is repealed.

16           **INSERT 165-2:** ✓

17           **SECTION 27.** 961.41 (3g) (intro.) of the statutes is amended to read:

18           961.41 (3g) **POSSESSION.** (intro.) No person may possess ~~or attempt to possess~~  
19 a controlled substance or a controlled substance analog unless the person obtains the  
20 substance or the analog directly from, or pursuant to a valid prescription or order of,  
21 a practitioner who is acting in the course of his or her professional practice, or unless  
22 the person is otherwise authorized by this chapter to possess the substance or the  
23 analog. Any person who violates this subsection is subject to the following penalties:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

**INSERT 178-9:**

**SECTION 28. 973.01 (2) (e)** of the statutes is created to read:

973.01 (2) (e) **Effect of certain penalty provisions.** 1. If a court is imposing a bifurcated sentence under this section on a person convicted of an attempt to commit a classified felony and the attempt is punishable under s. 939.32 (1) (intro.) by one-half the maximum penalty for the completed felony, the applicable maximum term of confinement in prison specified for the felony under par. (b) and the applicable maximum term of extended supervision specified for the felony under par. (d) are each halved.

2. If a court is imposing a bifurcated sentence under this section on a person convicted of a classified felony and a statute provides that a maximum term of imprisonment prescribed for the felony is doubled or otherwise multiplied, the applicable maximum term of confinement in prison specified for the felony under par. (b) and the applicable maximum term of extended supervision specified for the felony under par. (d) are each multiplied accordingly.

**INSERT 185-5:**

**(10) LIMITATIONS; NO RIGHT TO OR BASIS FOR APPEAL.** The requirement that a court consider a particular aggravating factor listed in subs. (3) to (8) does not require a court to give any specific weight to that factor in making a sentencing decision and does not require a court to impose a greater or lesser sentence based on the presence or absence of the factor. The requirement under sub. (2) (a) that a court consider sentencing guidelines adopted by the sentencing commission or the criminal penalties study committee does not require a court to make a sentencing decision that is within any range or consistent with a recommendation specified in the



1 guidelines and there is no right to appeal a court's sentencing decision based on the  
2 court's decision to depart in any way from the guidelines. In any appeal from a court's  
3 sentencing decision, the appellate court may reverse the sentencing decision only if  
4 it determines that the sentencing court erroneously exercised its discretion in  
5 making the sentencing decision.

6 ✓ **INSERT 187-O**

7 (f) Publish and distribute to all circuit judges hearing criminal cases an annual  
8 report regarding its work, which shall include all sentencing guidelines and all  
9 changes in existing sentencing guidelines adopted during the 12 months  
10 preceding the report.

11 (g) Review whether race is a basis for imposing sentences in criminal cases and  
12 submit a report and recommendations on this issue to the governor, <sup>to</sup> each house of the  
13 legislature <sup>to</sup> and the supreme court. *under s. 13.172 (2)*

14 **INSERT 188-17:**

15 **SECTION 29.** 1997 Wisconsin Act 283, section 454 (1) (g) is created to read:

16 [1997 Wisconsin Act 283] Section 454 (1) (g) Until the members of the  
17 sentencing commission created under section 97.30 of the statutes, as created by

18 ~~(1999 Wisconsin Act ...)~~ *(this act)*, are appointed, the committee shall provide  
19 information to lawyers, judges, the legislature and the public regarding the changes  
20 in the classification of crimes resulting from and the advisory sentencing guidelines  
21 adopted under ~~(1999 Wisconsin Act ...)~~ *(this act)*.

22 **SECTION 30.** 1997 Wisconsin Act 283, section 454 (2) is amended to read:

23 [1997 Wisconsin Act 283] Section 454 (2) ATTORNEY PROJECT POSITION. The  
24 authorized FTE positions for the department of administration are increased by 1.0  
25 GPR attorney project position, to be funded from the appropriation under section

*[XXXX NB: This needs to be redrafted.]*

*B*

*action: Act: 283*

*action: Act: amend*

*Should be 97.30*

*is this correct?*

*STET*

*STET*

1 20.505 (3) (c) of the statutes, for the purpose of providing legal services to the criminal  
2 penalties study committee established under subsection (1), for the period ending on  
3 April 30, 1999 June 30, 2000.

4 **INSERT 190-2:** ← Insert moved to p. 189  
← "AMN" auto ref  
5 **SECTION 31. Appropriation changes.**  
← "AR" auto ref.

6 (1) CRIMINAL PENALTIES STUDY COMMITTEE. In the schedule under section 20.005  
7 (3) of the statutes for the appropriation to the department of administration under  
8 section 20.505 (3) (c) of the statutes, as affected by the acts of 1999, the dollar amount  
9 is increased by ~~(\$\*\*\*\*NB: dollar amount to be determined)~~ <sup>\$30,000</sup> for fiscal year  
10 1999-00 to fund the activities of the criminal penalties study committee created  
11 under 1997 Wisconsin Act 283, section 454 (1).

12 **INSERT 190-14:**

13 (2) SECTION XX (1) of this act takes effect on the 2nd day after publication of the  
14 1999-2001 biennial budget act. "AR" auto ref.

Let's auto-ref line 5, above

"AM" auto ref

Karen -  
Please insert \$30,000  
as the dollar amount  
in p. 12/9 of this insert.  
Thanks.  
Midea