

1 ***-0590/P5.373*** SECTION 571. 948.12 (intro.) of the statutes is amended to
2 read:

3 **948.12 Possession of child pornography.** (intro.) Whoever possesses any
4 undeveloped film, photographic negative, photograph, motion picture, videotape or
5 other pictorial reproduction or audio recording of a child engaged in sexually explicit
6 conduct under all of the following circumstances is guilty of a Class **E I** felony:

7 ***-0590/P5.374*** SECTION 572. 948.13 (2) of the statutes is amended to read:

8 948.13 (2) Whoever has been convicted of a serious child sex offense and
9 subsequently engages in an occupation or participates in a volunteer position that
10 requires him or her to work or interact primarily and directly with children under
11 16 years of age is guilty of a Class **E F** felony. This subsection does not apply to a
12 person who is exempt under a court order issued under sub. (2m).

13 ***-0590/P5.375*** SECTION 573. 948.20 of the statutes is amended to read:

14 **948.20 Abandonment of a child.** Whoever, with intent to abandon the child,
15 leaves any child in a place where the child may suffer because of neglect is guilty of
16 a Class **D G** felony.

17 ***-0590/P5.376*** SECTION 574. 948.21 (1) of the statutes is amended to read:

18 948.21 (1) Any person who is responsible for a child's welfare who, through his
19 or her actions or failure to take action, intentionally contributes to the neglect of the
20 child is guilty of a Class A misdemeanor or, if death is a consequence, a Class **E D**
21 felony.

22 ***-0590/P5.377*** SECTION 575. 948.22 (2) of the statutes is amended to read:

23 948.22 (2) Any person who intentionally fails for 120 or more consecutive days
24 to provide spousal, grandchild or child support which the person knows or reasonably
25 should know the person is legally obligated to provide is guilty of a Class **E I** felony.

1 A prosecutor may charge a person with multiple counts for a violation under this
2 subsection if each count covers a period of at least 120 consecutive days and there is
3 no overlap between periods.

4 ***-0590/P5.378*** SECTION 576. 948.23 of the statutes is amended to read:

5 **948.23 Concealing death of child.** Any person who conceals the corpse of
6 any issue of a woman's body with intent to prevent a determination of whether it was
7 born dead or alive is guilty of a Class ~~E~~ I felony.

8 ***-0590/P5.379*** SECTION 577. 948.24 (1) (intro.) of the statutes is amended to
9 read:

10 948.24 (1) (intro.) Whoever does any of the following is guilty of a Class ~~D~~ H
11 felony:

12 ***-0590/P5.380*** SECTION 578. 948.30 (1) (intro.) of the statutes is amended to
13 read:

14 948.30 (1) (intro.) Any person who, for any unlawful purpose, does any of the
15 following is guilty of a Class ~~C~~ E felony:

16 ***-0590/P5.381*** SECTION 579. 948.30 (2) (intro.) of the statutes is amended to
17 read:

18 948.30 (2) (intro.) Any person who, for any unlawful purpose, does any of the
19 following is guilty of a Class ~~B~~ C felony:

20 ***-0590/P5.382*** SECTION 580. 948.31 (1) (b) of the statutes is amended to read:

21 948.31 (1) (b) Except as provided under chs. 48 and 938, whoever intentionally
22 causes a child to leave, takes a child away or withholds a child for more than 12 hours
23 beyond the court-approved period of physical placement or visitation period from a
24 legal custodian with intent to deprive the custodian of his or her custody rights
25 without the consent of the custodian is guilty of a Class ~~C~~ F felony. This paragraph

1 is not applicable if the court has entered an order authorizing the person to so take
2 or withhold the child. The fact that joint legal custody has been awarded to both
3 parents by a court does not preclude a court from finding that one parent has
4 committed a violation of this paragraph.

5 ***-0590/P5.383*** SECTION 581. 948.31 (2) of the statutes is amended to read:

6 948.31 (2) Whoever causes a child to leave, takes a child away or withholds a
7 child for more than 12 hours from the child's parents or, in the case of a nonmarital
8 child whose parents do not subsequently intermarry under s. 767.60, from the child's
9 mother or, if he has been granted legal custody, the child's father, without the consent
10 of the parents, the mother or the father with legal custody, is guilty of a Class ~~E~~ I
11 felony. This subsection is not applicable if legal custody has been granted by court
12 order to the person taking or withholding the child.

13 ***-0590/P5.384*** SECTION 582. 948.31 (3) (intro.) of the statutes is amended to
14 read:

15 948.31 (3) (intro.) Any parent, or any person acting pursuant to directions from
16 the parent, who does any of the following is guilty of a Class ~~C~~ F felony:

17 ***-0590/P5.385*** SECTION 583. 948.35 of the statutes is repealed.

18 ***-0590/P5.386*** SECTION 584. 948.36 of the statutes is repealed.

19 ***-0590/P5.387*** SECTION 585. 948.40 (4) (a) of the statutes is amended to read:

20 948.40 (4) (a) If death is a consequence, the person is guilty of a Class ~~C~~ D
21 felony; or

22 ***-0590/P5.388*** SECTION 586. 948.40 (4) (b) of the statutes is amended to read:

23 948.40 (4) (b) If the child's act which is encouraged or contributed to is a
24 violation of a state or federal criminal law which is punishable as a felony, the person
25 is guilty of a Class ~~D~~ H felony.

1 ***-0590/P5.389* SECTION 587.** 948.51 (3) (b) of the statutes is amended to read:
2 948.51 (3) (b) A Class ~~E~~ H felony if the act results in great bodily harm ~~or death~~
3 to another.

4 ***-0590/P5.390* SECTION 588.** 948.51 (3) (c) of the statutes is created to read:
5 948.51 (3) (c) A Class G felony if the act results in the death of another.

6 ***-0590/P5.391* SECTION 589.** 948.60 (2) (b) of the statutes is amended to read:
7 948.60 (2) (b) Except as provided in par. (c), any person who intentionally sells,
8 loans or gives a dangerous weapon to a person under 18 years of age is guilty of a
9 Class ~~E~~ I felony.

10 ***-0590/P5.392* SECTION 590.** 948.60 (2) (c) of the statutes is amended to read:
11 948.60 (2) (c) Whoever violates par. (b) is guilty of a Class ~~D~~ H felony if the
12 person under 18 years of age under par. (b) discharges the firearm and the discharge
13 causes death to himself, herself or another.

14 ***-0590/P5.393* SECTION 591.** 948.605 (2) (a) of the statutes is amended to
15 read:
16 948.605 (2) (a) Any individual who knowingly possesses a firearm at a place
17 that the individual knows, or has reasonable cause to believe, is a school zone is
18 guilty of a Class 4 I felony.

19 ***-0590/P5.394* SECTION 592.** 948.605 (3) (a) of the statutes is amended to
20 read:
21 948.605 (3) (a) Any individual who knowingly, or with reckless disregard for
22 the safety of another, discharges or attempts to discharge a firearm at a place the
23 individual knows is a school zone is guilty of a Class ~~D~~ G felony.

24 ***-0590/P5.395* SECTION 593.** 948.605 (4) of the statutes is repealed.

25 ***-0590/P5.396* SECTION 594.** 948.61 (2) (b) of the statutes is amended to read:

1 **948.61** (2) (b) A Class ~~E~~ I felony, if the violation is the person's 2nd or
2 subsequent violation of this section within a 5-year period, as measured from the
3 dates the violations occurred.

4 *~~0590/P5.397~~* SECTION 595. 948.62 (1) (a) of the statutes is amended to read:
5 948.62 (1) (a) A Class ~~E~~ felony A misdemeanor, if the value of the property does
6 not exceed \$500.

7 *~~0590/P5.398~~* SECTION 596. 948.62 (1) (b) of the statutes is amended to read:
8 948.62 (1) (b) A Class ~~D~~ I felony, if the value of the property exceeds \$500 but
9 does not exceed ~~\$2,500~~ \$2,000.

10 *~~0590/P5.399~~* SECTION 597. 948.62 (1) (bm) of the statutes is created to read:
11 948.62 (1) (bm) A Class H felony, if the value of the property exceeds \$2,000 but
12 does not exceed \$5,000.

13 *~~0590/P5.400~~* SECTION 598. 948.62 (1) (c) of the statutes is amended to read:
14 948.62 (1) (c) A Class ~~C~~ G felony, if the value of the property exceeds ~~\$2,500~~
15 \$5,000.

16 *~~0590/P5.401~~* SECTION 599. 949.03 (1) (b) of the statutes is amended to read:
17 949.03 (1) (b) The commission or the attempt to commit any crime specified in
18 s. ~~346.62(4), 346.63(2) or (6)~~, 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
19 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
20 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,
21 943.04, 943.10, 943.20, 943.23 (lg), ~~(1m) or (1r)~~, 943.32, 948.02, 948.025, 948.03,
22 948.04, 948.07, 948.095, 948.20, 948.30 or 948.51.

23 *~~3370/P2.6~~* SECTION 600. 950.04 (1v) (g) of the statutes is amended to read:

1 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
2 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2.. 302.114 (6),
3 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and 972.14 (3) (b).

4 ***-3370/P2.7*** SECTION 601. 950.04 (1v) (nt) of the statutes is created to read:

5 950.04 (1v) (nt) To attend a hearing on a petition for modification of a
6 bifurcated sentence and provide a statement concerning modification of the
7 bifurcated sentence, as provided under s. 302.113 (9g) (d).

8 ***-0590/P5.402*** SECTION 602. 951.18 (1) of the statutes, as affected by 1997
9 Wisconsin Act 192, is amended to read:

10 951.18 (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05,
11 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a
12 Class C forfeiture. Any person who violates any of these provisions within 3 years
13 after a humane officer issues an abatement order under s. 173.11 prohibiting the
14 violation of that provision is subject to a Class A forfeiture. Any person who
15 intentionally or negligently violates any of those sections is guilty of a Class A
16 misdemeanor. Any person who intentionally violates s. 951.02, resulting in the
17 mutilation, disfigurement or death of an animal, is guilty of a Class ~~E~~ I felony. Any
18 person who intentionally violates s. 951.02 or 951.06, knowing that the animal that
19 is the victim is used by a law enforcement agency to perform agency functions or
20 duties and causing injury to the animal, is guilty of a Class ~~E~~ I felony.

21 ***-0590/P5.403*** SECTION 603. 951.18 (2) of the statutes is amended to read:

22 951.18 (2) Any person who violates s. 951.08 (2m) or (3) is guilty of a Class A
23 misdemeanor. Any person who violates s. 951.08 (1) or (2) is guilty of a Class ~~E~~ I
24 felony for the first violation and is guilty of a Class ~~D~~ H felony for the 2nd or
25 subsequent violation.

1 ***-0590/P5.404*** SECTION 604. 951.18 (2m) of the statutes is amended to read:

2 951.18 (2m) Any person who violates s. 951.095 is subject to a Class B
3 forfeiture. Any person who intentionally or negligently violates s. 951.095, knowing
4 that the animal that is the victim is used by a law enforcement agency or fire
5 department to perform agency or department functions or duties, is guilty of a Class
6 A misdemeanor. Any person who intentionally violates s. 951.095, knowing that the
7 animal that is the victim is used by a law enforcement agency or fire department to
8 perform agency or department functions or duties and causing injury to the animal,
9 is guilty of a Class ~~E~~ I felony. Any person who intentionally violates s. 951.095,
10 knowing that the animal that is the victim is used by a law enforcement agency or
11 fire department to perform agency or department functions or duties and causing
12 death to the animal, is guilty of a Class ~~D~~ H felony.

13 ***-3265/P1.7*** SECTION 605. 961.41 (1) (intro.) of the statutes is amended to
14 read:

15 961.41 (1) ~~MANUFACTURE, DISTRIBUTION OR DELIVERY.~~ (intro.) Except as
16 authorized by this chapter, it is unlawful for any person to manufacture, distribute
17 or deliver a controlled substance or controlled substance analog. Any person who
18 violates this subsection ~~with respect to~~ is subject to the following penalties:

19 ***-3265/P1.8*** SECTION 606. 961.41 (1) (a) of the statutes, as affected by 1997
20 Wisconsin Act 283, is amended to read:

21 961.41 (1)(a) Schedule I and II narcotic drugs generally. Except as provided
22 in par. (d), if a person violates this subsection with respect to a controlled substance
23 included in schedule I or II which is a narcotic drug, or a controlled substance analog
24 of a controlled substance included in schedule I or II which is a narcotic drug, ~~may~~

1 ~~be fined not more than \$25,000 or imprisoned for not more than 22 years and 6~~
2 ~~months or both~~ the person is guilty of a Class E felony

3 ***-3265/P1.9*** SECTION 607. 961.41 (1) (b) of the statutes, as affected by 1997
4 Wisconsin Act 283, is amended to read:

5 961.41 (1) (b) Schedule ~~H, II and III nonnarcotic drugs~~ generally. a s
6 provided in pars. (cm) and (e) to (h), if a person violates this subsection with respect
7 to any other controlled substance included in schedule I, II or III, or a controlled
8 substance analog of any other controlled substance included in schedule I or II, may
9 ~~be fined not more than \$15,000 or imprisoned for not more than 7 years and 6 months~~
10 ~~or both~~ the person is guilty of a Class H felony.

11 ***-3265/P1.10*** SECTION 608. 961.41 (1) (cm) (intro.) of the statutes is amended
12 to read:

13 961.41 (1) (cm) **Cocaine and cocaine base.** (intro.) ~~Cocaine~~ If the person violates
14 this subsection with respect to cocaine or cocaine base, or a controlled substance
15 analog of cocaine or cocaine base, is subject to the following penalties if and
16 the amount manufactured, distributed or delivered is:

17 ***-3265/P1.11*** SECTION 609. 961.41 (1) (cm) 1. of the statutes, as affected by
18 1997 Wisconsin Act 283, is renumbered 961.41 (1) (cm) lr. and amended to read:

19 961.41 (1) (cm) lr. ~~Five grams or less~~ More than one gram but not more than
20 5 grams, the person shall be fined not more than \$500,000 and may be imprisoned
21 ~~for not more than 15 years~~ is guilty of a Class F felony.

22 ***-3265/P1.12*** SECTION 610. 961.41 (1) (cm) lg. of the statutes is created to
23 read:

24 961.41 (1) (cm) lg. One gram or less, the person is guilty of a Class G felony.

1 ***-3265/P1.13*** SECTION 611. 961.41 (1) (cm) 2. of the statutes, as affected by
2 1997 Wisconsin Act 283, is amended to read:

3 961.41 (1) (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/P1.14*** SECTION 612. 961.41 (1) (cm) 3. of the statutes, as affected by
7 1997 Wisconsin Act 283, is amended to read:

8 961.41 (1) (cm) 3. More than 15 grams but not more than 40 grams, the person
9 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than 3~~
10 ~~years nor more than 20 years~~ is guilty of a Class D felony

11 ***-3265/P1.15*** SECTION 613. 961.41 (1) (cm) 4. of the statutes, as affected by
12 1997 Wisconsin Act 283, is amended to read:

13 . 961.41 (1) (cm) 4. More than 40 grams ~~but not more than 100 grams~~, the person
14 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than 5~~
15 ~~years nor more than 15 years~~ is guilty of a Class C felony.

16 ***-3265/P1.16*** SECTION 614. 961.41 (1) (cm) 5. of the statutes, as affected by
17 1997 Wisconsin Act 283, is repealed.

18 ***-3265/P1.17*** SECTION 615. 961.41 (1) (d) (intro.) of the statutes is amended
19 to read:

20 961.41 (1) (d) **Heroin.** (intro.) ~~Heroin~~ If the 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 manufactured, distributed or delivered is:

23 ***-3265/P1.18*** SECTION 616. 961.41 (1) (d) 1. of the statutes, as affected by
24 1997 Wisconsin Act 283, is amended to read:

1 961.41 (1) (d) 1. Three grams or less, the person ~~shall be fined not less than~~
2 ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than 22 years~~
3 ~~and 6 months~~ is guilty of a Class F felony.

4 ***-3265/P1.19*** SECTION 617. 961.41 (1) (d) 2. of the statutes, as affected by
5 1997 Wisconsin Act 283, is amended to read:

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

10 ***-3265/P1.20*** SECTION 618. 961.41 (1) (d) 3. of the statutes, as affected by
11 1997 Wisconsin Act 283, is amended to read:

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

16 ***-3265/P1.21*** SECTION 619. 961.41 (1) (d) 4. of the statutes, as affected by
17 1997 Wisconsin Act 283, is amended to read:

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

22 ***-3265/P1.22*** SECTION 620. 961.41 (1) (d) 5. of the statutes, as affected by
23 1997 Wisconsin Act 283, is repealed.

24 ***-3265/P1.23*** SECTION 621. 961.41 (1) (d) 6. of the statutes, as affected by
25 1997 Wisconsin Act 283, is repealed.

1 ***-3265/P1.24*** SECTION 622. 961.41 (1) (e) (intro.) of the statutes is amended
2 to read:

3 961.41 (1) (e) Phencyclidine, amphetamine, methamphetamine and
4 methcathinone, (intro.) ~~Phencyclidine~~ If the person violates this subsection with
5 respect to phencyclidine, amphetamine, methamphetamine or methcathinone, or a
6 controlled substance analog of phencyclidine, amphetamine, methamphetamine or
7 methcathinone, is subject to the following penalties if and the amount
8 manufactured, distributed or delivered is:

9 ***-3265/P1.25*** SECTION 623. 961.41 (1)(e) 1. of the statutes, as affected by 1997
10 Wisconsin Act 283, is amended to read:

11 961.41 (1) (e) 1. Three grams or less, the person ~~shall be fined not less than~~
12 ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and~~
13 ~~6 months~~ is guilty of a Class F felony.

14 ***-3265/P1.26*** SECTION 624. 961.41 (1)(e) 2. of the statutes, as affected by 1997
15 Wisconsin Act 283, is amended to read:

16 961.41 (1) (e) 2. More than 3 grams but not more than 10 grams, the person
17 ~~shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned~~
18 ~~for not less than 6 months nor more than 7 years and 6 months~~ is guilty of a Class
19 E felony.

20 ***-3265/P1.27*** SECTION 625. 961.41 (1)(e) 3. of the statutes, as affected by 1997
21 Wisconsin Act 283, is amended to read:

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

1 ***-3265/P1.28*** SECTION 626. 961.41 (1) (e) 4. of the statutes, as affected by 1997
2 Wisconsin Act 283, is amended to read:

3 961.41 (1) (e) 4. More than 50 grams but ~~not more than 200 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 3 years nor~~ ~~than 22 years and 6 months~~ is ailty of a Class C
6 felony

7 ***-3265/P1.29*** SECTION 627. 961.41 (1)(e) 5. of the statutes, as affected by 1997
8 Wisconsin Act 283, is repealed.

9 ***-3265/P1.30*** SECTION 628. 961.41 (1) (e) 6. of the statutes, as affected by 1997
10 Wisconsin Act 283, is repealed.

11 ***-3265/P1.31*** SECTION 629. 961.41 (1) (f) (intro.) of the statutes is amended
12 to read:

13 961.41 (1) (f) Lysergic acid diethylamide. (intro.) Lysergie If the person violates
14 this subsection with respect to lysergic acid diethylamide or a controlled substance
15 analog of lysergic acid diethylamide is subject to the following penalties and the
16 amount manufactured, distributed or delivered is:

17 ***-3265/P1.32*** SECTION 630. 961.41 (1)(f) 1. of the statutes, as affected by 1997
18 Wisconsin Act 283, is amended to read:

19 961.41 (1)(f) 1. One gram or less, the person shall be fined ~~not less than \$1,000~~
20 ~~nor more than \$200,000 and may be imprisoned for not more than 7 years and 6~~
21 ~~months~~ is guilty of a Class G felony.

22 ***-3265/P1.33*** SECTION 631. 961.41 (1) (f) 2. of the statutes, as affected by 1997
23 Wisconsin Act 283, is amended to read:

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

4 ***-3265/P1.34*** SECTION 632. 961.41 (1) (f) 3. of the statutes, as affected by 1997
5 Wisconsin Act 283, is amended to read:

6 961.41 (1) (f) 3. More than 5 grams, the person shall be fii
7 \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year
8 nor more than ~~22~~ years and 6 months is guilty of a Class E felony.

9 ***-3265/P1.35*** SECTION 633. 961.41 (1) (g) (intro.) of the statutes is amended
10 to read:

11 961.41 (1) (g) Psilocin and psilocybin. (intro.) ~~Psilocin~~ If the person violates
12 this subsection with respect to psilocin or psilocybin, or a controlled substance analog
13 of psilocin or psilocybin, is subject to the following penalties if and the amount
14 manufactured, distributed or delivered is:

15 ***-3265/P1.36*** SECTION 634. 961.41 (1) (g) 1. of the statutes, as affected by 1997
16 Wisconsin Act 283, is amended to read:

17 961.41 (1) (g) 1. One hundred grams or less, the person shall be fined not less
18 than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7
19 years and 6 months is guilty of a Class G felony.

20 ***-3265/P1.37*** SECTION 635. 961.41 (1) (g) 2. of the statutes, as affected by 1997
21 Wisconsin Act 283, is amended to read:

22 961.41 (1) (g) 2. More than 100 grams but not more than 500 grams, the person
23 shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned
24 for not less than 6 months nor more than 7 years and 6 months is guilty of a Class
25 F felony.

1 *~~3265/P1.38~~* SECTION 636. 961.41 (1)(g) 3. of the statutes, as affected by 1997
2 Wisconsin Act 283, is amended to read:

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

6 *~~3265/P1.39~~* SECTION 637. 961.41 (1) (h) (intro.) of the statutes is amended
7 to read:

8 961.41 (1) (h) Tetrahydrocannabinols. (intro.) ~~Tetrahydrocannabinols~~ If the
9 person violates this subsection with respect to tetrahydrocannabinols, included
10 under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, i-s
11 ~~subject to the followi~~ penalties if and the amount manufactured, distributed or
12 delivered is:

13 *~~3265/P1.40~~* SECTION 638. 961.41 (1) (h) 1. of the statutes, as affected by
14 1997 Wisconsin Act 283, is amended to read:

15 961.41 (1) (h) 1. ~~Five~~ Two hundred grams or less, or ~~10~~ 4 or fewer plants
16 containing tetrahydrocannabinols, the person ~~shall be fined not less than \$500 nor~~
17 ~~more than \$25,000 and may be imprisoned for not more than 4 years and 6 months~~
18 is guilty of a Class I felony.

19 *~~3265/P1.41~~* SECTION 639. 961.41 (1) (h) 2. of the statutes, as affected by
20 1997 Wisconsin Act 283, is amended to read:

21 961.41 (1)(h) 2. More than ~~500~~ 200 grams but not more than ~~2,500~~ 1,000 grams,
22 or more than ~~10~~ 4 plants containing tetrahydrocannabinols but not more than ~~50~~ 20
23 plants containing tetrahydrocannabinols, the person ~~shall be fined not less than~~
24 ~~\$1,000 nor more than \$50,000 and shall be imprisoned for not less than 3 months nor~~
25 ~~more than 7 years and 6 months~~ is guilty of a Class H felony.

1 ***-3265/P1.42*** SECTION 640. 961.41 (1) (h) 3. of the statutes, as affected by
2 1997 Wisconsin Act 283, is amended to read:

3 961.41 (1) (h) 3. More than ~~2,500~~ 1,000 grams ~~but not more than 2,500 grams,~~
4 or more than ~~50~~ 20 plants containing tetrahydrocannabinols ~~but not more than 50~~
5 plants containing tetrahydrocannabinols, the ~~person shall be fii~~
6 ~~\$1,000 nor more than \$100,000 and shall be imprisoned for not less than one year~~
7 ~~nor more than 15 years~~ is guilty of a Class G felony.

8 ***-3265/P1.43*** SECTION 641. 961.41 (1) (h) 4. of the statutes is created to read:

9 961.41 (1) (h) 4. More than 2,500 grams but not more than 10,000 grams, or
10 more than 50 plants containing tetrahydrocannabinols but not more than 200 plants
11 containing tetrahydrocannabinols, the person is guilty of a Class F felony.

12 ***-3265/P1.44*** SECTION 642. 961.41 (1) (h) 5. of the statutes is created to read:

13 961.41 (1) (h) 5. More than 10,000 grams, or more than 200 plants containing
14 tetrahydrocannabinols, the person is guilty of a Class E felony.

15 ***-3265/P1.45*** SECTION 643. 961.41 (1) (i) of the statutes, as affected by 1997
16 Wisconsin Act 283, is amended to read:

17 9 6 1 . 4 1 (1) (i) S c h e d u l e I V d r u g s . ~~A I f~~
18 respect to a substance included in schedule IV, may be fined not more than \$10,000
19 ~~or imprisoned for not more than 4 years and 6 months or both~~ the person is guilty
20 o _____ f

21 ***-3265/P1.46*** SECTION 644. 961.41 (1) (j) of the statutes, as affected by 1997
22 Wisconsin Act 283, is amended to read:

23 961.41 (1) (j) Schedule V drugs. ~~A~~ If a person violates this subsection with
24 respect to a substance included in schedule V, may be fined not more than \$5,000 or
25 ~~imprisoned for not more than 2 years or both~~ the person is guilty of a Class I felony.

1 ***-3265/P1.47*** SECTION 645. 961.41 (1m) (intro.) of the statutes is amended to
2 read:

3 961.41 (1m) **POSSESSION WITH INTENT TO MANUFACTURE, DISTRIBUTE OR DELIVER.**
4 (intro.) Except as authorized by this chapter, it is unlawful for any person to possess,
5 with intent to manufacture, distribute or deliver, a controlled substance or a
6 controlled substance analog. Intent under this subsection may be demonstrated by,
7 without limitation because of enumeration, evidence of the quantity and monetary
8 value of the substances possessed, the possession of manufacturing implements or
9 paraphernalia, and the activities or statements of the person in possession of the
10 controlled substance or a controlled substance analog prior to and after the alleged
11 violation. Any person who violates this subsection ~~with respect to~~ is subject to the
12 following penalties:

13 ***-3265/P1.48*** SECTION 646. '961.41 (1m) (a) of the statutes, as affected by 1997
14 Wisconsin Act 283, is amended to read:

15 961.41 (1m) (a) Schedule I and II narcotic drugs generally. Except as provided
16 in par. (d), if a person violates this subsection with respect to a controlled substance
17 included in schedule I or II which is a narcotic drug or a controlled substance analog
18 of a controlled substance included in schedule I or II which is a narcotic drug, ~~may~~
19 ~~be fined not more than \$25,000 or imprisoned for not more than 33 years and 6~~
20 ~~months~~ both the person is guilty of a Class E felony.

21 ***-3265/P1.49*** SECTION 647. 961.41 (1m) (b) of the statutes, as affected by 1997
22 Wisconsin Act 283, is amended to read:

23 961.41 (1m) (b) Schedule I, II and III nonnarcotic drugs generally. Except as
24 provided *in* pars. (cm) and (e) to (h), if a person violates this subsection with respect
25 to any other controlled substance included in schedule I, II or III, or a controlled

1 substance analog of any other controlled substance included in schedule I or II, ~~may~~
2 ~~be fined not more than \$15,000 or imprisoned for not more than 7 years and 6 months~~
3 ~~or both the penalties of~~ a Class H felony.

4 ***-3265/P1.50*** SECTION 648. 961.41 (lm) (cm) (intro.) of the statutes is
5 amended to read:

6 961.41 (lm) (cm) ~~Cocaine and cocaine base.~~ & e & - n - e -
7 ~~this section with respect to cocaine or cocaine base, or a controlled substance~~
8 analog of cocaine or cocaine base, ~~is subject to the following penalties if and the~~
9 amount possessed, with intent to manufacture, distribute or deliver, is:

10 ***-3265/P1.51*** SECTION 649. 961.41 (lm) (cm) 1. of the statutes, as affected by
11 1997 Wisconsin Act 283, is renumbered 961.41 (lm) (cm) lr. and amended to read:

12 961.41 (1m) (cm) lr. ~~Five grams or less~~ More than one gram but not more than
13 5 grams, the person shall be fined not more than \$500,000 and may be imprisoned
14 ~~for not more than 15 years~~ is guilty of a Class F felony

15 ***-3265/P1.52*** SECTION 650. 961.41 (lm) (cm) lg. of the statutes is created to
16 read:

17 961.41 (lm) (cm) lg. One gram or less, the person is guilty of a Class G felony.

18 ***-3265/P1.53*** SECTION 651. 961.41 (lm) (cm) 2. of the statutes, as affected by
19 1997 Wisconsin Act 283, is amended to read:

20 961.41 (lm) (cm) 2. More than 5 grams but not more than 15 grams, the person
21 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than one~~
22 ~~year nor more than 22 years and 6 months~~ is guilty of a Class E felony.

23 ***-3265/P1.54*** SECTION 652. 961.41 (lm) (cm) 3. of the statutes, as affected by
24 1997 Wisconsin Act 283, is amended to read:

1 961.41 (Im) (cm) 3. More than 15 grams but not more than 40 grams, the
2 person ~~shall be fined not more than \$500,000 and shall be imprisoned for not less~~
3 ~~than 3 years nor more than 30 years~~ is guilty of a Class D felony.

4 ***-3265/P1.55*** SECTION 653. 961.41 (Im) (cm) 4. of the statutes, as affected by
5 1997 Wisconsin Act 283, is amended to read:

6 961.41 (Im) (cm) 4. More than 40 grams ~~but not more than 100 grams~~, the
7 person ~~shall be fined not more than \$500,000 and shall be imprisoned for not less~~
8 ~~than 3 years nor more than 30 years~~ is guilty of a Class C felony.

9 ***-3265/P1.56*** SECTION 654. 961.41 (Im) (cm) 5. of the statutes, as affected by
10 1997 Wisconsin Act 283, is repealed.

11 ***-3265/P1.57*** SECTION 655. 961.41 (Im) (d) (intro.) of the statutes is amended
12 to read:

13 961.41 (Im) (d) Heroin. (intro.) ~~Heroin~~ If a person violates this subsection with
14 respect to heroin or a controlled substance analog of heroin ~~is subject to the following~~
15 ~~penalties if~~ and the amount possessed, with intent to manufacture, distribute or
16 deliver, is:

17 ***-3265/P1.58*** SECTION 656. 961.41 (Im) (d) 1. of the statutes, as affected by
18 1997 Wisconsin Act 283, is amended to read:

19 961.41 (Im) (d) 1. Three grams or less, the person ~~shall be fined not less than~~
20 ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 20 years~~
21 ~~and 6 months~~ is guilty of a Class F felony.

22 ***-3265/P1.59*** SECTION 657. 961.41 (Im) (d) 2. of the statutes, as affected by
23 1997 Wisconsin Act 283, is amended to read:

24 961.41 (Im) (d) 2. More than 3 grams but not more than 10 grams, the person
25 ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~

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

3 ***-3265/P1.60*** SECTION 658. 961.41 (1m) (d) 3. of the statutes, as affected by
4 1997 Wisconsin Act 283, is amended to read:

5 961.41 (1m) (d) 3. More than 10 grams but not more than 50 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 one year nor more than 22 years and 6 months~~ is guilty of a Class
8 D felony.

9 ***-3265/P1.61*** SECTION 659. 961.41 (1m) (d) 4. of the statutes, as affected by
10 1997 Wisconsin Act 283, is amended to read:

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

15 ***-3265/P1.62*** SECTION 660. 961.41 (1m) (d) 5. of the statutes, as affected by
16 1997 Wisconsin Act 283, is repealed.

17 ***-3265/P1.63*** SECTION 661. 961.41 (1m) (d) 6. of the statutes, as affected by
18 1997 Wisconsin Act 283, is repealed.

19 ***-3265/P1.64*** SECTION 662. 961.41 (1m) (e) (intro.) of the statutes is amended
20 to read:

21 **961.41 (1m) (e)** Phencyclidine, amphetamine, methamphetamine and
22 methcathinone. (intro.) ~~Phencyclidine~~ If a person violates this subsection with
23 respect to phencyclidine, amphetamine, methamphetamine or methcathinone, or a
24 controlled substance analog of phencyclidine, amphetamine, methamphetamine or

1 methcathinone, ~~is subject to the following penalties if~~ and the amount possessed,
2 with intent to manufacture, distribute or deliver, is:

3 ***-3265/P1.65* SECTION 663.** 961.41 (1m) (e) 1. of the statutes, as affected by
4 1997 Wisconsin Act 283, is amended to read:

5 961.41 **(1m)** (e) 1. Three grams or less, the person ~~shall be fined not less than~~
6 ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 7 years and~~
7 ~~6 months~~ is guilty of a Class F felony.

8 ***-3265/P1.66* SECTION 664.** 961.41 (1m) (e) 2. of the statutes, as affected by
9 1997 Wisconsin Act 283, is amended to read:

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

14 ***-3265/P1.67* SECTION 665.** 961.41 (1m) (e) 3. of the statutes, as affected by
15 1997 Wisconsin Act 283, is amended to read:

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

20 ***-3265/P1.68* SECTION 666.** 961.41 (1m) (e) 4. of the statutes, as affected by
21 1997 Wisconsin Act 283, is amended to read:

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

1 ***-3265/P1.69*** SECTION 667. 961.41 (1m)(e) 5. of the statutes, as affected by
2 1997 Wisconsin Act 283, is repealed.

3 ***-3265/P1.70*** SECTION 668. 961.41 (1m) (e) 6. of the statutes, as affected by
4 1997 Wisconsin Act 283, is repealed.

5 ***-3265/P1.71*** SECTION 669. 961.41 (1m) (f) (intro.) of the statutes is amended
6 to read:

7 961.41 (1m) (f) Lysergic acid diethylamide. (intro.) ~~Lysergie~~ If a person violates
8 this subsection with respect to lysergic acid diethylamide or a controlled substance
9 analog of lysergic acid diethylamide is subject to the following penalties if and the
10 amount possessed, with intent to manufacture, distribute or deliver, is:

11 ***-3265/P1.72*** SECTION 670. 961.41 (1m) (f) 1. of the statutes, as affected by
12 1997 Wisconsin Act 283, is amended to read:

13 961.41 (1m) (f) 1. One gram or less, the person ~~shall be fined not less than~~
14 ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 7 years and~~
15 ~~6 months is guilty of a Class C felony.~~

16 ***-3265/P1.73*** SECTION 671. 961.41 (1m) (f) 2. of the statutes, as affected by
17 1997 Wisconsin Act 283, is amended to read:

18 961.41 (1m) (f) 2. More than one gram but not more than 5 grams, the person
19 ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~
20 ~~for not less than 6 months nor more than 7 years and 6 months is guilty of a Class~~
21 F felony.

22 ***-3265/P1.74*** SECTION 672. 961.41 (1m) (f) 3. of the statutes, as affected by
23 1997 Wisconsin Act 283, is amended to read:

1 961.41 (Im) (f) 3. More than 5 grams, the person ~~shall be fined not less than~~
2 \$1,000 ~~nor more than \$500,000 and shall be imprisoned for not less than one year~~
3 ~~nor more than 22 years and 6 months~~ is guilty of a Class E felony.

4 ***-3265/P1.75*** SECTION 673. 961.41 (Im) (g) (intro.) of the statutes is amended
5 to read:

6 961.41 (Im) (g) *Psilocin and psilocybin.* (intro.) ~~Psilocin~~ If a person violates
7 this subsection with respect to psilocin or psilocybin, or a controlled substance analog
8 of psilocin or psilocybin, ~~is subject to the following penalties if~~ and the amount
9 possessed, with intent to manufacture, distribute or deliver, is:

10 ***-3265/P1.76*** SECTION 674. 961.41 (Im) (g) 1. of the statutes, as affected by
11 1997 Wisconsin Act 283, is amended to read:

12 961.41 (Im) (g) 1. One hundred grams or less, the person ~~shall be fined not less~~
13 ~~than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 7~~
14 ~~years and 6 months~~ is guilty of a Class G felony.

15 ***-3265/P1.77*** SECTION 675. 961.41 (Im) (g) 2. of the statutes, as affected by
16 1997 Wisconsin Act 283, is amended to read:

17 961.41 (Im) (g) 2. More than 100 grams but not more than 500 grams, the
18 person ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be~~
19 ~~imprisoned for not less than 6 months nor more than 7 years and 6 months~~ is guilty
20 of a Class F felony.

21 ***-3265/P1.78*** SECTION 676. 961.41 (Im) (g) 3. of the statutes, as affected by
22 1997 Wisconsin Act 283, is amended to read:

23 961.41 (Im) (g) 3. More than 500 grams, the person ~~shall be fined not less than~~
24 \$1,000 ~~nor more than \$500,000 and shall be imprisoned for not less than one year~~
25 ~~nor more than 22 years and 6 months~~ is guilty of a Class E felony.

1 ***-3265/P1.79*** SECTION 677. 961.41 (lm) (h) (intro.) of the statutes is amended
2 to read:

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

8 ***-3265/P1.80*** SECTION 678. 961.41 (lm) (h) 1. of the statutes, as affected by
9 1997 Wisconsin Act 283, is amended to read:

10 961.41 (1m) (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.

14 ***-3265/P1.81*** SECTION 679. 961.41 (lm) (h) 2. of the statutes, as affected by
15 1997 Wisconsin Act 283, is amended to read:

16 961.41 (1m) (h) 2. More than ~~500~~ 200 grams but not more than ~~2,500~~ 1,000
17 grams, or more than ~~10~~ 4 plants containing tetrahydrocannabinols but not more than
18 ~~50~~ 20 plants containing tetrahydrocannabinols, the person ~~shall be fined not less~~
19 ~~than \$1,000 nor more than \$50,000 and shall be imprisoned for not less than 3~~
20 ~~months nor more than 7~~ are ~~and 6 months~~ is guilty of a Class H felony.

21 ***-3265/P1.82*** SECTION 680. 961.41 (lm) (h) 3. of the statutes, as affected by
22 1997 Wisconsin Act 283, is amended to read:

23 961.41 (1m) (h) 3. More than ~~2,500~~ 1,000 grams but not more than 2,500 grams,
24 or more than ~~50~~ 20 plants containing tetrahydrocannabinols but not more than 50
25 plants containing tetrahydrocannabinols, the person ~~shall be fined not less than~~

1 ~~\$1,000 nor more than \$100,000 and shall be imprisoned for not less than one year~~
2 ~~nor more than 15 years~~ is guilty of a Class G felony

3 ***-3265/P1.83*** SECTION 681. 961.41 (lm) (h) 4. of the statutes is created to
4 read:

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

8 ***-3265/P1.84*** SECTION 682. 961.41 (lm) (h) 5. of the statutes is created to
9 read:

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

12 ***-3265/P1.85*** SECTION 683. 961.41 (1m) (i) of the statutes, as affected by 1997
13 Wisconsin Act 283, is amended to read:

14 961.41 (Im) (i) Schedule IV drugs. -A- If a person violates this subsection with
15 respect to a substance included in schedule IV, may be, fii
16 or imprisoned for not more than 4 years and 6 months or both the person is guilty
17 of a Class H felony.

18 ***-3265/P1.86*** SECTION 684. 961.41 (lm) (j) of the statutes, as affected by 1997
19 Wisconsin Act 283, is amended to read:

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

23 ***-3265/P1.87*** SECTION 685. 961.41 (1n) (c) of the statutes, as affected by 1997
24 Wisconsin Act 283, is amended to read:

1 961.41 (1n) (c) A person who violates par. (a) or (b) ~~may be fined not more than~~
2 ~~\$250,000 or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony.

3 *~~-3265/P1.88~~* SECTION 686. 961.41 (lq) of the statutes is amended to read:

4 961.41 (lq) **PENALTY RELATING TO TETRAHYDROCANNABINOLS IN CERTAIN CASES.**
5 Under ~~s. 961.49 (2), 1997 stats., and~~ subs. (1) (h) and (1m) (h) ~~and s. 961.49 (2), if~~
6 different penalty provisions apply to a person depending on whether the weight of
7 tetrahydrocannabinols or the number of plants containing tetrahydrocannabinols is
8 considered, the greater penalty provision applies.

9 *~~-3265/P1.89~~* SECTION 687. 961.41 (lr) of the statutes is amended to read:

10 961.41 (lr) **DETERMINING WEIGHT OF SUBSTANCE.** In determining amounts under
11 ~~s. 961.49 (2) (b), 1997 stats., and~~ subs. (1) and (1m) ~~and s. 961.49 (2) (b),~~ an amount
12 includes the weight of cocaine, cocaine base, heroin, phencyclidine, lysergic acid
13 diethylamide, psilocin, psilocybin, amphetamine, methamphetamine,
14 methcathinone or tetrahydrocannabinols or any controlled substance analog of any
15 of these substances together with any compound, mixture, diluent, plant material
16 or other substance mixed or combined with the controlled substance or controlled
17 substance analog. In addition, in determining amounts under subs. (1) (h) and (1m)
18 (h), the amount of tetrahydrocannabinols means anything included under s. 961.14
19 (4) (t) and includes the weight of any marijuana.

20 *~~-3265/P1.90~~* SECTION 688. 961.41 (2) (intro.) of the statutes is amended to
21 read:

22 961.41 (2) **COUNTERFEIT SUBSTANCES.** (intro.) Except as authorized by this
23 chapter, it is unlawful for any person to create, manufacture, distribute, deliver or
24 possess with intent to distribute or deliver, a counterfeit substance. Any person who
25 violates this subsection ~~with respect to~~ is subject to the following penalties:

1 ***-3265/P1.91*** SECTION 689. 961.41 (2) (a) of the statutes, as affected by 1997
2 Wisconsin Act 283, is amended to read:

3 **961.41 (2) (a)** Counterfeit schedule I and II narcotic drug. ~~-A-~~ If a person
4 violates this subsection with respect to a counterfeit substance included in schedule
5 I or II which is a narcotic drug, may be fined ~~more than \$25,000~~ or imprisoned
6 for not more than 22 years and 6 months or both the person is guilty of a Class E
7 felony.

8 ***-3265/P1.92*** SECTION 690. 961.41 (2) (b) of the statutes, as affected by 1997
9 Wisconsin Act 283, is amended to read:

10 **961.41 (2) (b)** Counterfeit schedule I, II, III and IV drugs. ~~Any~~ If a person
11 violates this subsection with respect to any other counterfeit substance included in
12 schedule I, II or, III or IV, may be fined not more than \$15,000 or imprisoned for not
13 more than 7 years and 6 months or both the person is guilty of a Class H felony.

14 ***-3265/P1.93*** SECTION 691. 961.41 (2) (c) of the statutes, as affected by 1997
15 Wisconsin Act 283, is repealed.

16 ***-3265/P1.94*** SECTION 692. 961.41 (2) (d) of the statutes, as affected by 1997
17 Wisconsin Act 283, is amended to read:

18 961.41 (2) (d) Counterfeit schedule V drug. ~~-A-~~ If a person violates this
19 subsection with respect to a counterfeit substance included in schedule V, may be
20 fined not more than \$5,000 or imprisoned for not more than 2 years or both the person
21 is guilty of a Class I felony.

22 SECTION 693. 961.41 (3g) (intro.) of the statutes is amended to read:

23 **961.41 (3g) POSSESSION** (intro.) ~~No person may possess or attempt to possess~~
24 ~~a controlled substance or a controlled substance analog unless the person obtains the~~
25 ~~substance or the analog directly from, or pursuant to a valid prescription or order of,~~

1 a practitioner who is acting in the course of his or her professional practice, or unless
2 the person is otherwise authorized by this chapter to possess the substance or the
3 analog. Any person who violates this subsection is subject to the following penalties:

4 ***-3265/P1.95*** SECTION 694. 961.41 (3g) (a) 1. of the statutes, as affected by
5 1999 Wisconsin Act 283, is renumbered 961.41 (3g) (am) and amended to read:

6 961.41 (3g) (am) Schedule I and II narcotic drug. ~~Except as provided in subd.~~
7 ~~2., if the~~ If person possesses a controlled substance included in schedule I or II
8 which is a narcotic drug, or possesses a controlled substance analog of a controlled
9 substance included in schedule I or II which is a narcotic drug, the person may, upon
10 ~~a first conviction, be fined not more than \$5,000 or imprisoned for not more than 2~~
11 ~~or both, and for a 2nd or subsequent offense, the person may be fined not more than~~
12 ~~\$10,000 or imprisoned for not more than 3 years or both~~ is guilty of a Class I felony.

13 ***-3265/P1.96*** SECTION 695. 961.41 (3g) (a) 2. of the statutes, as affected by
14 1997 Wisconsin Act 283, is repealed.

15 ***-3265/P1.97*** SECTION 696. 961.41 (3g) (a) 3. of the statutes is repealed.

16 ***-3265/P1.98*** SECTION 697. 961.41 (3g) (b) (title) of the statutes is created to
17 read:

18 961.41 (3g) (b) (title) Other drugs generally.

19 ***-3265/P1.99*** SECTION 698. 961.41 (3g) (c) of the statutes is amended to read:

20 961.41 (3g) (c) Cocaine and cocaine base. If a person possess or attempts to
21 possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine
22 base, the person shall be fined not more than \$5,000 and may be imprisoned for not
23 more than one year in the county jail upon a first conviction and is guilty of a Class
24 I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense
25 is considered a 2nd or subseauent offense if. prior to the offender's conviction of the

1 offense. the offender has at any time been convicted of any felony or misdemeanor
2 under this chapter or under any statute of the United States or of any state relating
3 to controlled substances, controlled substance analogs, narcotic drugs, marijuana or
4 denressant, stimulant or hallucinogenic drugs.

5 ***-3265/P1.100*** SECTION 699. 961.41 (3g) (d) of the statutes is amended to
6 read:

7 961.41 (3g) (d) *Certain hallucinogenic and stimulant drugs.* If a person
8 possesses ~~or attempts to possess~~ ^{PLAIN} lysergic acid diethylamide, phencyclidine,
9 amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, or a
10 controlled substance analog of lysergic acid diethylamide, phencyclidine,
11 amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, the person
12 may be fined not more than \$5,000 or imprisoned for not more than one year in the
13 county jail or both upon a first conviction and is guilty of a Class I felony for a 2nd
14 or subseautent offense. For purposes of this paragraph, an offense is considered a 2nd
15 or subseautent offense if, nrrior to the offender's conviction of the offense, the offender
16 has at any time been convicted of any felony or misdemeanor under this chapter or
17 under any statute of the United States or of any state relating to controlled
18 substances, controlled substance analogs, narcotic drugs, mariiuana or denressant,
19 stimulant or hallucinogenic drugs.

20 ***-3265/P1.101*** SECTION 700. 961.41 (3g) (e) of the statutes is amended to
21 read:

22 plain 961.41 (3g) (e) *Tetrahydrocannabinols.* If a person possesses ~~or attempts to~~ ^{PLAIN}
23 ~~possess~~ tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled
24 substance analog of tetrahydrocannabinols, the person may be fined not more than
25 \$1,000 or imprisoned for not more than 6 months or both upon a first conviction and

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

7 ***-3265/P1.102*** SECTION 701. 961.41 (3g) (f)of the statutes is amended to read:

8 961.41 (3g) (f) *Gamma-hydroxybutyric acid, gamma-hydroxybutyrolactone,*
9 *ketamine and flunitrazepam.* If a person possesses or attempts to possess
10 gamma-hydroxybutyric acid, gamma-hydroxybutyrolactone, ketamine or
11 flunitrazepam, the person ~~may be fined not more than \$5,000 or imprisoned for not~~
12 ~~more than 2 years or both~~ is guilty of a Class H felony.

13 ***-3265/P1.103*** SECTION 702. 961.41 (4) (am) 3. of the statutes, as affected by
14 1997 Wisconsin Act 283, is amended to read:

15 961.41 (4) (am) 3. A person ~~convicted of violating~~ who violates this paragraph
16 ~~may be fined not more than \$5,000 or imprisoned for not more than 2 years or both~~
17 is aulity of a Class I felov.

18 ***-3265/P1.104*** SECTION 703. 961.42 (2) of the statutes, as affected by 1997
19 Wisconsin Act 283, is amended to read:

20 961.42 (2) Any person who violates this section ~~may be fined not more than~~
21 ~~\$25,000 or imprisoned not more than 9 years or both~~ is aulity of a Class I felov.

22 ***-3265/P1.105*** SECTION 704. 961.43 (2) of the statutes, as affected by 1997
23 Wisconsin Act 283, is amended to read:

24 961.43 (2) Any person who violates this section ~~may be fined not more than~~
25 ~~\$30,000 or imprisoned not more than 6 years or both~~ is aulity of a Class H felov.

1 *~~-3265/P1.106~~* SECTION 705. 961.438 of the statutes is repealed.

2 *~~-3265/P1.107~~* SECTION 706. 961.455 (1) of the statutes, as affected by 1997
3 Wisconsin Act 283, is amended to read:

4 961.455 (1) Any person who has attained the age of 17 years who knowingly
5 solicits, hires, directs, employs or uses a person who is under the age of 17 years of
6 age or under for the purpose of violating s. 961.41 (1) ~~may be fined not more than~~
7 ~~\$50,000 or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony.

8 *~~-0590/P5.405~~* SECTION 707. 961.455 (3) of the statutes is amended to read:

9 961.455 (3) Solicitation under sub. (1) occurs in the-manner described under
10 s. 939.30, but the penalties under sub. (1) apply instead of the penalties under s.
11 939.30 ~~or 948.35.~~

12 *~~-3265/P1.108~~* SECTION 708. 961.46 (1) of the statutes is renumbered 961.46
13 and amended to read:

14 961.46 Distribution to persons under age 18. ~~Except as provided in sub.~~
15 ~~(3), any~~ If a person 17 years of age or over who violates s. 961.41 (1) by distributing
16 or delivering a controlled substance included in schedule I or II which is a narcotic
17 drug or a controlled substance analog of a controlled substance included in schedule
18 I or II which is a narcotic drug to a person 17 years of age or under who is at least
19 3 years his or her junior is punishable by the fine authorized by s. 961.41 (1) (a) or
20 a term of imprisonment of up to twice that authorized by s. 961.41 (1) (a), or both, the
21 annlicable maximum term of imprisonment txescribed under s. 961.41 (1) for the
22 offense may be increased by not more than 5 years.

23 *~~-3265/P1.109~~* SECTION 709. 961.46 (2) of the statutes is repealed.

24 *~~-3265/P1.110~~* SECTION 710. 961.46 (3) of the statutes is repealed.

25 *~~-3265/P1.111~~* SECTION 711. 961.465 of the statutes is repealed.

1 ***-3265/P1.112*** SECTION 712. 961.472 (2) of the statutes is amended to read:

2 961.472 (2) Except as provided in sub. (5), if a person pleads guilty or is found
3 guilty of possession or attempted possession of a controlled substance or controlled
4 substance analog under s. 961.41 (3g) ~~(a) 2.~~ (am), (c) or (d), the court shall order the
5 person to comply with an assessment of the person's use of controlled substances.
6 The court's order shall designate a facility that is operated by or pursuant to a
7 contract with the county department established under s. 51.42 and that is certified
8 by the department of health and family services to provide assessment services to
9 perform the assessment and, if appropriate, to develop a proposed treatment plan.
10 The court shall notify the person that noncompliance with the order limits the court's
11 ability to determine whether the treatment option under s. 961.475 is appropriate.
12 The court shall also notify the person of the fee provisions under s. 46.03 (18) (fm).

13 ***-3265/P1.113*** SECTION 713. 961.48 (1) of the statutes is renumbered 961.48

14 (1) (intro.) and amended to read:

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

22 ***-3265/P1.114*** SECTION 714. 961.48 (1) (a) and (b) of the statutes are created
23 to read:

24 961.48 (1) (a) By not more than 6 years, if the offense is a Class C or D felony.

25 (b) By not more than 4 years, if the offense is a Class E, F, G, H or I felony.

1 ***-3265/P1.115*** SECTION 715. 961.48 (2) of the statutes is repealed.

2 ***-3265/P1.116*** SECTION 716. 961.48 (2m) (a) of the statutes is amended to
3 read:

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

12 ***-3265/P1.117*** SECTION 717. 961.48 (3) of the statutes is amended to read:

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

19 ***-3265/P1.118*** SECTION 718. 961.48 (4) of the statutes is repealed.

20 ***-3265/P1.119*** SECTION 719. 961.49 (1) of the statutes is renumbered 961.49.

21 ***-3265/P1.120*** SECTION 720. 961.49 (2) of the statutes is repealed.

22 ***-3265/P1.121*** SECTION 721. 961.49 (3) of the statutes is repealed.

23 ***-3265/P1.122*** SECTION 722. 961.492 of the statutes is repealed.

24 ***-0590/P5.406*** SECTION 723. 968.255 (1) (a) 2. of the statutes is amended to
25 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 724. 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 725. 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 726. 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 727. 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 728. 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) lg., lm., lr., 2. or 3., 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 729. 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 par. (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) (d) or (3m), 939.62, 939.621, 939.63, 939.635, 939.64, 939.641, 939.645, 940.09~~
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 730. 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 ^{in prison} 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 731. 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 732. 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 733. 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), (lm)

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

-0590/P5.412 SECTION 734. 973.01 (1) of the statutes is amended to read:

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

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-0590/P5.413 SECTION 735. 973.01 (2) (a) of the statutes is amended to read:

~~973.01 (2) (a) *Total length of bifurcated sentence.* Except as provided in par. (c), the ~~total~~ total length of the bifurcated sentence may not exceed the maximum period term of imprisonment for the felony crime.~~

-0590/P5.414 SECTION 736. 973.01 (2) (b) (intro.) of the statutes is amended

to read:

973.01 (2) (b) *Imprisonment portion of bifurcated sentence.* (intro.) The portion

of the bifurcated sentence that imposes a term of confinement in prison may not be

less than one year, ~~subject to any minimum sentence prescribed for the felony~~

and, ~~except as provided in par. (c),~~ may not exceed whichever of the following is

applicable:

-0590/P5.415 SECTION 737. 973.01 (2) (b) 1. of the statutes is amended to

read:

973.01 (2) (b) 1. For a Class B felony, the term of confinement in prison may

not exceed 40 years, ~~plus imprisonment authorized by any applicable penalty~~

~~enhancement statutes.~~

-0590/P5.416 SECTION 738. 973.01 (2) (b) 2. of the statutes is repealed.

7

1 ***-0590/P5.417*** SECTION 739. 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 740. 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 741. 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 742. 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 743. 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 744. 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 745. 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 746. 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 747. 973.01 (2) (c) of the statutes is repealed.~~

14 ***-0590/P5.426*** SECTION 748. 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 for a classified felony, may not exceed whichever of the following is

20 applicable:

21 ***-0590/P5.427*** SECTION 749. 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.

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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 years.

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

10 **SECTION 750. 973.01 (2) (e) of the statutes is created to read:**

11 **973.01 (2) (e) *Effect of certain penalty provisions.*** 1. If a court is imposing a
12 bifurcated sentence under this section on a person convicted of an attempt to commit
13 a classified felony and the attempt is punishable under s. 939.32 (1) (intro.) by
14 one-half the maximum penalty for the completed felony, the applicable maximum
15 term of confinement in prison specified for the felony under par. (b) and the
16 applicable maximum term of extended supervision specified for the felony under par.
17 (d) are each halved.

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

24 ***-3370/P2.8*** SECTION 751. 973.01 (4) of the statutes is amended to read:

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

6 *-0590/P5.428* SECTION 752. 973.0135 (1) (b) 2. of the statutes is amended to
7 read: 1997 stats., s. 940.09 (1), 943.23 (1m) or (1r), 948.35 (1) (b) or (c) or s. 948.36, 1997 stats., or

8 973.0135 (1) (b) 2. Any felony under/s. 940.01, 940.02, 940.03, 940.05, 940.09
9 (1) (1c), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,
10 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m) or (1r), 943.32 (2), 946.43,
11 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, or
12 948.30 (2), ~~948.35 (1) (b) or (c) or 948.36~~ 1997 stats.,

13 *-0590/P5.429* SECTION 753. 973.017 of the statutes is created to read:

14 Bifurcated Sentences
15 **973.017 Sentencing; use of guidelines; consideration of aggravating**
16 **and mitigating factors.** (1) DEFINITION. In this section, "sentencing decision"
17 means a decision as to whether to impose a bifurcated sentence or place a person on probation under s. 973.01
18 and a decision as to the length of a bifurcated sentence, including, for a bifurcated sentence, the
19 length of each component of the bifurcated sentence, the amount of a fine and the
20 length of a term of probation.

21 (2) GENERAL REQUIREMENT. When a court makes a sentencing decision
22 committed on or after December 31, 1999 concerning a person convicted of a criminal offense, the court shall consider all of the
23 following:

24 (a) If the offense is a felony that was committed on or after December 31, 1999, stays
25 the sentencing guidelines adopted by the sentencing commission under s. 973.30 or,
if the sentencing commission has not adopted a guideline for the offense, any

1 applicable temporary sentencing guideline adopted by the criminal penalties study
2 committee ~~(in its August 31, 1999, report)~~ created under 1997 Wisconsin Act 283 ✓

3 (b) Any applicable mitigating factors and any applicable aggravating factors,
4 including the aggravating factors specified in subs. (3) to (8).

5 **(3) AGGRAVATING FACTORS; GENERALLY.** When making a sentencing decision for
6 any crime, the court shall consider all of the following as aggravating factors:

7 (a) The fact that the person committed the crime while his or her usual
8 appearance was concealed, disguised or altered, with the intent to make it less likely
9 that he or she would be identified with the crime.

10 (b) The fact that the person committed the crime using information that was
11 disclosed to him or her under s. 301.46.

12 (c) The fact that the person committed the crime for the benefit of, at the
13 direction of or in association with any criminal gang, with the specific intent to
14 promote, further or assist in any criminal conduct by criminal gang members.

15 (d) The fact that the person committed the felony while wearing a vest or other
16 garment designed, redesigned or adapted to prevent bullets from penetrating the
17 garment.

18 (e) 1. Subject to subd. 2., the fact that the person committed the felony with the
19 intent to influence the policy of a governmental unit or to punish a governmental unit
20 for a prior policy decision, if any of the following circumstances also applies to the
21 felony committed by the person:

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

23 b. The person caused damage to the property of another and the total property
24 damaged is reduced in value by \$25,000 or more. For the purposes of this subd. 1.

1 b., property is reduced in value by the amount that it would cost either to repair or
2 to replace it, whichever is less.

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

4 2. a. In this subdivision, "labor dispute" includes any controversy concerning
5 terms, tenure or conditions of employment, or concerning the association or
6 representation of persons in negotiating, fixing, maintaining, changing or seeking
7 to arrange terms or conditions of employment, regardless of whether the disputants
8 stand in the proximate relation of employer and employe.

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

11 (4) ~~AGGRAVATING FACTORS ; SERIOUS SEXCRIMES COMMITTED WHILE INFECTED WITH~~
12 ~~CERTAIN DISEASES .~~ (a) In this subsection:

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

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

17 3. "Sexually transmitted disease" means syphilis, gonorrhea, hepatitis B,
18 hepatitis C or chlamydia.

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

22 a. Transmission, into a body orifice or onto mucous membrane, of blood; semen;
2 3 vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or
24 amniotic fluid; or other body fluid that is visibly contaminated with blood.

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

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

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

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

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

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

24 **(5) AGGRAVATING FACTORS; VIOLENT FELONY COMMITTED AGAINST ELDER PERSON.** (a)
25 In this subsection:

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

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

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

8 (6) **AGGRAVATING FACTORS; CHILD SEXUAL ASSAULT OR CHILD ABUSE BY CERTAIN**
9 **PERSONS.** (a) In this subsection, "person responsible for the welfare the child"
10 includes the child's parent, stepparent, guardian, foster parent or treatment foster
11 parent; an employe of a public or private residential home, institution or agency; any
12 other person legally responsible for the child's welfare in a residential setting; or a
13 person employed by one who is legally responsible for the child's welfare to exercise
14 temporary control or care for the child.

15 (b) When making a sentencing decision concerning a person convicted of a
16 violation of s. 948.02 (1) or (2), 948.025 (1) or 948.03 (2) or (3), the court shall consider
17 as an aggravating factor the fact that the person was a person responsible for the
18 welfare of the child who was the victim of the violation.

19 (7) **AGGRAVATING FACTORS; HOMICIDE OR INJURY BY INTOXICATED USE OF A VEHICLE.**
20 When making a sentencing decision concerning a person convicted of a violation of
21 s. 940.09 (1) or 940.25 (1), the court shall consider as an aggravating factor the fact
22 that, at the time of the violation, there was a minor passenger under 16 years of age
23 or an unborn child in the person's motor vehicle.

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

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

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

16 (9) AGGRAVATING FACTORS NOT AN ELEMENT OF THE CRIME. The aggravating factors
17 listed in this section are not elements of any crime, A prosecutor is not required to
18 charge any aggravating factor or otherwise allege the existence of an aggravating
19 factor in any pleading.

20 (10) LIMITATIONS; NO RIGHT TO OR BASIS FOR APPEAL. The requirement that a court
21 consider a particular aggravating factor listed in subs. (3) to (8) does not require a
22 court to give any specific weight to that factor in making a sentencing decision and
23 does not require a court to impose a greater or lesser sentence based on the presence
24 or absence of the factor. The requirement under sub. (2) (a) that a court consider
25 sentencing guidelines adopted by the sentencing commission or the criminal

1 penalties study committee does not require a court to make a sentencing decision
 2 that is within any range or consistent with a recommendation specified in the
 3 guidelines and there is no right to appeal a court's sentencing decision based on the
 4 court's decision to depart in any way from ^{any} ~~the~~ guidelines. In any appeal from a court's
 5 sentencing decision, the appellate court may reverse the sentencing decision only if
 6 it determines that the sentencing court erroneously exercised its discretion in
 7 making the sentencing decision.

8 ***-0590/P5.430* SECTION 754.** 973.03 (3) (e) 1. and 2. of the statutes are
 9 amended to read:

10 973.03 (3) (e) 1. A crime which is a Class A ~~or~~, B or C felony.

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

13 ***-0590/P5.431* SECTION 755.** 973.03 (3) (e) 3. of the statutes is repealed.

14 ***-0590/P5.432* SECTION 756.** 973.032 (4) (c) 2. of the statutes is amended to
 15 read:

16 973.032 (4) (c) 2. The person is sentenced for the escape ~~under s. 946.42 (4) (b)~~
 17 to a sentence of imprisonment concurrent with the sentence to the intensive
 18 sanctions program.

19 ***-0590/P5.433* SECTION 757.** 973.075 (1) (b) lm. e. of the statutes is amended
 20 to read:

21 973.075 (1) (b) lm. e. To cause more than ~~\$1,000~~ \$2,000 worth of criminal
 22 damage to cemetery property in violation of s. 943.01 (2) (d) or 943.012.

23 ***-0590/P5.434* SECTION 758.** 973.075 (2) (d) of the statutes is amended to
 24 read:

1 973.075 (2) (d) The officer has probable cause to believe that the property was
2 derived from or realized through a crime or that the property is a vehicle which was
3 used to transport any property or weapon used or to be used or received in the
4 commission of any felony, which was used in the commission of a crime relating to
5 a submerged cultural resource in violation of s. 44.47 or which was used to cause
6 more than ~~\$1,000~~ \$2,000 worth of criminal damage to cemetery property in violation
7 of s. 943.01 (2) (d) or 943.012.

8 ***-0590/P5.435*** SECTION 759. 973.09 (2) (b) 1. of the statutes is amended to
9 read:

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

14 ***-3361/P2.14*** SECTION 760. 973.30 of the statutes is created to read:

15 973.30 **Sentencing commission.** (1) DUTIES. The sentencing commission
16 shall do all of the following:

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

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

20 (c) Adopt ^{advisory} sentencing guidelines for felonies committed on or after December 31,
21 1999, to promote public safety, to reflect changes in sentencing practices and to
22 preserve the integrity of the criminal justice and correctional systems.

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

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

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

6 (g) ~~Review whether~~ ^{Study} race is a basis for imposing sentences in criminal cases and
7 submit a report and recommendations on this issue to the governor, to each house
8 of the legislature under s. 13.172 (2) and to the supreme court.

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

11 (i) At least semiannually, submit reports to all circuit judges, and to the chief
12 clerk of each house of the legislature for distribution to the appropriate standing
13 committees under s. 13.172 (3), containing statistics regarding criminal sentences
14 imposed in this state. Each report shall have a different focus and need not contain
15 statistics regarding every crime. Each report shall contain information regarding
16 sentences imposed statewide and in each of the following geographic areas:

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

22 (2) **STAFF.** Subject to authorization under s. 16.505, the sentencing commission
23 may hire staff to assist it in the performance of its duties.

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

25 *-3370/P2.9* SECTION 761. 977.05 (4) (jm) of the statutes is created to read:

1 977.05 (4) (jm) At the request of an inmate determined by the state public
2 defender to be indigent or upon referral of a court under s. 302.113 (9g) (j), represent
3 the inmate in proceedings for modification of a bifurcated sentence under s. 302.113
4 (9g) before a program review committee and the sentencing court, if the state public
5 defender determines the case should be pursued.

6 ***-3266/P1.151*** SECTION 762. 977.06 (2) (b) of the statutes, as affected by 1997
7 Wisconsin Act 283, is amended to read:

8 977.06 (2) (b) A person who makes a false representation that he or she does
9 not believe is true for purposes of qualifying for assignment of counsel ~~shall be fined~~
10 ~~not more than \$10,000 or imprisoned for not more than 7 years and 6 months or both~~
11 is guilty of a Class I felony

12 ***-0590/P5.436*** SECTION 763. 978.13 (1) (c) of the statutes is amended to read:

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

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23 ~~SECTION 764. 1997 Wisconsin Act 283, section 454 (1) (g) is created to read:~~
24 ~~[1997 Wisconsin Act 283] Section 454 (1) (g) Until the members of the~~
25 ~~sentencing commission created under section 973.30 of the statutes, as created by~~

1 ~~1999 Wisconsin Act ... (this act), are appointed, the committee shall provide~~
2 ~~information to lawyers, judges, the legislature and the public regarding the changes~~
3 ~~in the classification of crimes resulting from and the advisory sentencing guidelines~~
4 ~~adopted under 1999 Wisconsin Act ... (this act). [****NB: This needs to be~~
5 ~~redrafted.]~~

6 **SECTION 765.** 1997 Wisconsin Act 283, section 454 (2) is amended to read:

7 [1997 Wisconsin Act 283] Section 454 (2) **ATTORNEY PROJECT POSITION.** The
8 authorized FTE positions for the department of administration are increased by 1.0
9 GPR attorney project position, to be funded from the appropriation under section
10 20.505 (3) (c) of the statutes, for the purpose of providing legal services to the criminal
11 penalties study committee established under subsection (1), for the period ending on
12 ~~April 30, 1999~~ June 30, 2000.

13 ***-3361/P2.15*** **SECTION 766. Nonstatutory provisions.**

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

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

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

24 (c) Two members appointed under section 15.105 (26) (a) 3. of the statutes, as
25 created by this act, the member appointed under section 15.105 (26) (a) 5. of the

1 statutes, as created by this act, one representative of crime victims and one attorney
2 in private practice, for terms expiring on January 1, 2003.

3 (2) POSITION AUTHORIZATION. There is authorized for the sentencing commission
4 1.0 FTE GPR executive director position, 1.0 FTE GPR deputy director position and
5 4.0 FTE GPR other positions to be funded from the appropriation under section
6 **20.505 (4)** (dr) of the statutes, as created by this act.

7 **SECTION 767. Appropriation changes.**

8 (1) CRIMINAL PENALTIES STUDY COMMITTEE. In the schedule under section 20.005
9 (3) of the statutes for the appropriation to the department of administration under
10 section 20.505 (3) (c) of the statutes, as affected by the acts of 1999, the dollar amount
11 is increased by ~~\$30,000~~ \$112,500 for fiscal year 1999-00 to fund the activities of the criminal
12 penalties study committee created under 1997 Wisconsin Act 283, section 454 (1).

13 ***-0590/P5.437* SECTION 768. Initial applicability.**

14 (1) ~~This act~~ auto ref A first apply to offenses committed on the effective date of this
15 subsection. PENALTY PROVISIONS.

16 ***-3266/P1.152* SECTION 769. Effective dates.** This act takes effect on

17 ~~December 1, 1998~~ or on the day after publication, ~~whichever is later,~~

18 follows:

19 (1) OPERATING AFTER REVOCATION. The treatment of section 343.44 (2) (b) (intro.) of the statutes takes effect
20 on whichever of the following dates is later:

21 (a) The day after publication.

22 (b) May 1, 2000, or the date stated in the notice published by the secretary of
23 transportation in the Wisconsin Administrative Register under section 85.515 of the
24 statutes, whichever is earlier.

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on the day after publication
of this act or

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(2) SECTION 767 (1) of this act takes effect on the 2nd day after publication of the 1999-2001 biennial budget act.

(END)

, whichever is later

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CRIMINAL PENALTIES STUDY COMMITTEE APPROPRIATION. The treatment of section 20.505 (4) (dr) and (mr) of the statutes and

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ANALYSIS INSERT

1997 Wisconsin Act 283 (often called the “truth in sentencing” act) changed felony penalties and created a new structure for sentences for felony offenses. 1997 Wisconsin Act 283 also created a criminal penalties study committee, which was directed to study various issues related to the implementation of the act, make recommendations based on its study and submit a report concerning its study and recommendations. The report must include any proposed legislation that is necessary to implement the recommendations made by the committee in its report.

This bill is the proposed legislation necessary to implement the recommendations made by the committee. The rest of this analysis contains a general description of current law, the changes made to current law by 1997 Wisconsin Act 283, and some of the most significant changes recommended by the committee and incorporated into this bill.

Felony penalties

Current law provides various penalties for felonies, which are crimes punishable by imprisonment of more than one year. Virtually every felony created in the criminal code is put in one of six classes (Class A, B, BC, C, D or E) and each class has a specific maximum term of imprisonment and a maximum fine. Class A felonies are punishable by life imprisonment. For other classified felonies committed before December 31, 1999, the maximum terms of imprisonment are as follows:

Class B	40 years
Class BC	20 years
Class C	10 years
Class D	5 years
Class E	2 years

1997 Wisconsin Act 283 increased these maximum terms of imprisonment for felonies that are committed on or after December 31, 1999. The maximum terms of imprisonment for the classes of felonies under 1997 Wisconsin Act 283 are as follows:

Class B	60 years
Class BC	30 years
Class C	15 years
Class D	10 years
Class E	5 years

Except for Class A and Class B felonies, which are not punishable by a fine, each classified felony has a maximum fine of \$10,000. 1997 Wisconsin Act 283 did not change the maximum fines for any of the classified felonies.

1997 Wisconsin Act 283 also increased the maximum terms of imprisonment for all unclassified felony offenses committed on or after December 31, 1999. The terms

of imprisonment were increased by 50% or one year, whichever was greater. Thus, under 1997 Wisconsin Act 283, a maximum term of imprisonment of one year was increased to two years of imprisonment, while a maximum term of imprisonment of five years was increased to seven years and six months. 1997 Wisconsin Act 283 did not change any maximum fine provided for any unclassified felony.

This bill makes the following changes to penalties for offenses committed on or after December 31, 1999:

1. New *felony* classes. The bill expands the number of felony classes from six to nine and, except for Class A and Class B felonies, creates new maximum terms of imprisonment and new maximum fines. The felony classes under the bill and their respective maximum terms of imprisonment and maximum fines are as follows:

<u>Class of Felony</u>	<u>Maximum Imprisonment</u>	<u>Maximum Fine</u>
Class A	Life imprisonment	Not applicable
Class B	60 years	Not applicable
Class C	40 years	\$100,000
Class D	25 years	\$100,000
Class E	15 years	\$50,000
Class F	12 years, 6 months	\$25,000
Class G	10 years	\$25,000
Class H	6 years	\$10,000
Class I	3 years, 6 months	\$10,000

2. *Classification of felonies.* The bill places felony offenses that are classified under current law into the new felony classes, with the exception of a few classified felony offenses that are reduced to misdemeanor offenses. In addition, the bill places unclassified felony offenses into the new felony classes, with the exception of certain unclassified felony offenses that are reduced to misdemeanor offenses and offenses that are felonies only because of the application of a penalty enhancer.

As a general rule, the bill places a felony offense into a felony class based on the amount of time that a person who is given a maximum sentence for the offense under current law would serve in prison before being released on parole under the mandatory release law (see below, item 1 under *The structure of felony sentences*). However, in some cases a felony is placed in a higher or lower felony class than the one based on the current mandatory release date for a maximum sentence under current law. For those felony offenses that are reduced to misdemeanor offenses under the bill, the new penalty for the offense is a fine of not more than \$10,000 or imprisonment of not more than nine months or both.

3. *Changes in property offenses.* This bill changes penalties for certain crimes against property. Under current law, the penalties for certain crimes against property (such as theft, criminal damage to property, receiving stolen property, issuing worthless checks and various kinds of fraud) are based on the value of the property stolen, damaged or otherwise involved in the offense. Generally, the current threshold between misdemeanor and felony penalties for these crimes is

\$1,000. Thus, if the value of the property involved is \$1,000 or less, the crime is a misdemeanor. If the value of the property involved is more than \$1,000, the crime is a felony. This bill increases the threshold between misdemeanor and felony penalties to \$2,000 for property crimes cases in which the penalty depends on the value of the property involved in the offense.

In addition, the bill reduces the penalty for some theft offenses that are felonies regardless of the value of the property involved. Specifically, theft of telecommunications service, theft of cellular telephone service, theft of cable television service or theft of satellite cable programming is currently a felony if the theft is committed for commercial advantage or private financial gain. This bill provides that these types of theft are misdemeanors if the theft is committed for commercial advantage or private financial gain and is a first offense. A second or subsequent offense will remain a felony, as under current law. The new penalty for a first offense involving one of these types of theft is a fine of not more than \$10,000 or imprisonment for not more than nine months or both.

4. *&Felony murder.* Under current law, a person commits felony murder if he or she causes the death of another while committing or attempting to commit certain felonies (such as sexual assault, arson or armed robbery). If a person commits felony murder, the maximum period of imprisonment for the felony the person committed or attempted to commit is increased by not more 20 years. This bill ~~increases~~ provides that the maximum period of imprisonment for the felony the person committed or attempted to commit is increased by not more 15 years.

5. *Changes to the crime of carjacking resulting in death.* Under current law, a person is guilty of carjacking if he or she intentionally takes any vehicle without the consent of the owner while possessing a dangerous weapon and by using or threatening the use of force or the weapon against another. If a person causes the death of another while committing a carjacking, the person is guilty of a Class A felony. This bill provides that a person who commits a carjacking and causes the death of another commits felony murder. Carjacking is classified under the bill as a Class C felony, which carries a maximum bifurcated sentence of not more than 40 years. Thus, under the bill, the bifurcated sentence of a person who causes the death of another while committing or attempting to commit a carjacking could be increased by 15 years.

6. *Elimination of certain minimum penalty provisions.* Current law requires a court to impose a minimum sentence of imprisonment in certain cases. In other cases current law specifies a minimum sentence of imprisonment but also allows a court, in the exercise of its discretion, to impose a lesser sentence of imprisonment or no imprisonment at all. This bill eliminates both mandatory and presumptive minimum prison sentences for felony offenses, except for Class A felonies, which carry a mandatory sentence of life imprisonment (see below, Sentences of **life imprisonment**), and the persistent repeater penalty enhancers (often called the "three strikes, you're out" and "two strikes, you're out" laws), which require a sentence of life imprisonment without possibility of release. In addition, the bill does not change the minimum mandatory sentence of six months for ~~any~~ and subsequent offenses of operating a motor vehicle while intoxicated.

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7. ~~7.~~ **Elimination of mandatory consecutive sentences.** Under current law, a court sentencing a person convicted of a crime generally may provide that any sentence imposed run concurrent with or consecutive to any other sentence imposed at the same time or any sentence imposed previously. However, a court must impose a consecutive sentence if the person was convicted of certain escape offenses, possession or discharge of a firearm in a school zone, using or possessing a handgun and armor-piercing bullet while committing another crime or violating conditions of lifetime supervision by committing another crime. This bill eliminates the requirement that consecutive sentences be imposed in these cases. The bill also imposes new requirements relating to bifurcated sentences and sentences imposed under current law that are ordered to run consecutively to each other (see below, **The structure of felony sentences**, item 3-C).

8. ~~8.~~ **Increase in certain misdemeanor penalties.** The bill increases penalties for a few misdemeanor offenses by classifying them as felony offenses. The misdemeanor offenses that are changed to felony offenses by the bill (and the classification into which the offense is placed) are as follows:

- a) Stalking (Class I felony).
- b) Criminal damage to railroad property (Class I felony).
- c) Possession of a firearm in a school zone (Class I felony).
- d) Discharge of a firearm in a school zone (Class G felony).

Penalty enhancers

Current law contains various penalty enhancers that allow the penalties for a crime to be increased if the crime is committed under certain circumstances. For instance, current law provides penalty enhancers for committing a crime using a dangerous weapon, committing a crime while wearing a bulletproof garment, committing a crime against a victim chosen because of his or her race, religion, color, disability, sexual orientation, national origin or ancestry (the "hate crime" enhancer), committing certain violent crimes against an elder person and committing certain sex crimes while infected with a sexually transmitted disease. Current law also provides for penalty enhancers that may be triggered by the defendant's status at the time he or she committed the crime. For instance, current law provides a penalty enhancer for habitual criminals (persons who commit a crime after having been previously convicted of a crime) and for persons responsible for the welfare of a child who commit certain crimes against the child.

This bill eliminates most of the penalty enhancers contained in current law. Under the bill, the penalty enhancers that are eliminated are included in a list of aggravating factors that must be considered by a court when sentencing the person. The bill retains the penalty enhancers for: 1) habitual criminals; 2) using a dangerous weapon in the commission of a crime; 3) committing a violent crime in a school zone; 4) committing certain domestic abuse offenses within 72 hours after an arrest for a domestic abuse incident; 5) committing a "hate crime"; 6) distributing a controlled substance to a person under the age of 17; and 7) distributing a controlled substance within 1,000 feet of a school, park, correctional institution or certain other facilities.

In addition, under current law, if a person violates certain prohibitions relating to operating a motor vehicle while intoxicated and, at the time of the offense, a child under the age of 16 is in the vehicle, the penalties for the offense double. This bill retains this penalty enhancer for most of the offenses involving operating a motor vehicle while intoxicated, but the bill eliminates the enhancer for the crimes of homicide by intoxicated use of a vehicle and injury by intoxicated use of a vehicle.

The structure of felony sentences (other than life sentences)

1. ***The structure of prison sentences for felony offenses committed before December 31, 1999.*** If a person commits a felony before December 31, 1999, and is sentenced to prison, the person will usually have three possible ways of being released from prison on parole: discretionary parole granted by the parole commission (for which a person is usually eligible after serving 25% of the sentence or six months, whichever is greater)*, mandatory release on parole (usually granted automatically after the person serves two-thirds of the sentence); or special action parole release by the secretary of corrections (a program designed to relieve prison crowding). However, the person could be subject to more restrictive discretionary parole eligibility provisions or to restrictions on mandatory release under certain circumstances (for example, if the person has one or more prior convictions for certain serious felonies).

2. ***The structure of prison sentences for felony offenses committed on or after December 31, 1999.*** Under 1997 Wisconsin Act 283, if a court chooses to sentence a felony offender to a term of imprisonment in state prison for a felony committed on or after December 31, 1999, the court must do so by imposing a bifurcated sentence that includes a term of confinement in prison followed by a term of community supervision (called "extended supervision"). The offender is not eligible for parole. A bifurcated sentence imposed under 1997 Wisconsin Act 283 must be structured as follows:

A) The total length of the bifurcated sentence may not exceed the maximum term of imprisonment allowable for the felony

B) The court must set the term of confinement in prison portion of the sentence to be at least one year but not more than 40 years for a Class B felony, 20 years for a Class BC felony, ten years for a Class C felony, five years for a Class D felony, or two years for a Class E felony. If the person is being sentenced to prison for a felony that is not in one of these classes, the term of confinement in prison portion of the sentence must be at least one year but not more than 75% of the total length of the bifurcated sentence.

C) The term of extended supervision must equal at least 25% of the length of the term of confinement in prison. For example, if a person is convicted of a Class B felony committed on or after December 31, 1999, and a judge sentences the person to the maximum allowable 40-year term of confinement in prison, the term of extended supervision would have to be at least ten years. There is no limit on the length of the term of extended supervision, other than the limit that results from the requirements that the term of confinement in prison portion of a bifurcated sentence be at least one year and that the total bifurcated sentence not exceed the maximum term of imprisonment specified by law for the crime.

During the term of extended supervision, the person is subject to supervision by the department of corrections (DOC) and is subject to conditions set by both the court and DOC. If a person violates a condition of extended supervision or a rule promulgated by DOC relating to extended supervision, the person's extended supervision may be revoked in an administrative proceeding and the person may be returned to serve a period of time in prison. The length of time for which the person is returned to prison is determined by an administrative law judge or, if the person waives a revocation hearing, by DOC.

3. *The changes made by this bill.* This bill makes the following changes relating to the imposition of bifurcated sentences:

A) Like 1997 Wisconsin Act 283 does for the current felony classes, the bill establishes maximum terms of confinement in prison for the new felony classes. Unlike 1997 Wisconsin Act 283, the bill also establishes a maximum amount of extended supervision that a court can impose for classified felonies. The maximum term of confinement in prison and the maximum term of extended supervision for each classified felony is as follows:

<u>Class of Felony</u>	<u>Maximum Term of Confinement in Prison</u>	<u>Maximum Term of Extended Supervision</u>
Class B	40 years	20 years
Class C	25 years	15 years
Class D	15 years	10 years
Class E	10 years	5 years
Class F	7 years, 6 months	5 years
Class G	5 years	5 years
Class H	3 years	3 years
Class I	1 year, 6 months	2 years

B) Under the bill, when a court is imposing a bifurcated sentence it must consider any advisory sentencing guidelines for the offense adopted by the sentencing commission (*see* below, 'Sentencing **commission**) or, if the sentencing commission has not adopted guidelines for the offense, the temporary advisory guidelines adopted by the criminal penalties study committee in its report under 1997 Wisconsin Act 283. In addition, the bill requires the sentencing court to consider any applicable mitigating and aggravating circumstances. The bill includes a partial list of aggravating circumstances that a court must consider. The list incorporates the provisions of current penalty enhancers that are being eliminated by the bill (*see* above, **Penalty enhancers**).

C) Under the bill, when a court imposes a bifurcated sentence on a person who is also subject to a prison sentence for a crime committed before December 31, 1999 (a current law sentence), the court must specify all of the following: 1) whether the confinement in prison portion of the bifurcated sentence is to run concurrent with or consecutively to the imprisonment portion of the current law sentence; and 2) whether the period of parole under the current law sentence is to run concurrent with

or consecutively to the term of extended supervision portion of the bifurcated sentence. The court must also make the same specifications when imposing a current law sentence on a person who is also subject to a bifurcated sentence.

D) The bill allows DOC to take custody of a person who is on extended supervision in order to investigate an alleged violation of a condition of extended supervision. The bill also provides that if a person on extended supervision admits that he or she has violated a condition or rule of extended supervision, DOC may, as a sanction for the violation, confine the person for not more than 90 days in a DOC regional detention facility or, with the consent of the sheriff, in a county jail,

E) The bill changes the procedure for revoking extended supervision by requiring that a court determine how long to send a person back to prison after his or her extended supervision is revoked. Under the bill, DOC or the administrative law judge who made the revocation decision must make a recommendation to the court concerning the amount of time for which the person should be returned to prison. The court then reviews the recommendation and makes the final decision as to the amount of time for which the person is returned to prison.

F) The bill creates a procedure by which DOC or a person on extended supervision may petition a court to modify the conditions of extended supervision set by the court. The court may hold a hearing on a petition to modify extended supervision and may grant the petition if it determines that the requested modification would meet the needs of DOC and the public and would be consistent with the objectives of the person's bifurcated sentence.

G) The bill creates a procedure by which certain older prisoners who have been given a bifurcated sentence may petition the sentencing court for a modification of the terms of the sentence. The procedure is available to prisoners who are 65 years of age or older and have served at least five years of the term of confinement in prison portion of their bifurcated sentence and to prisoners who are 60 years of age or older and have served at least ten years of the term of confinement in prison portion of the bifurcated sentence.

Under the procedure, the prisoner files a petition with the prison's program review committee, which may then refer the petition to the sentencing court if it finds that the public interest would be served by a modification of the prisoner's bifurcated sentence. If a petition is referred to a sentencing court, the court must determine whether the public interest would be served by a modification of the prisoner's bifurcated sentence. The victim of the prisoner's crime has a right to provide a statement concerning the modification of the sentence.

If the court decides that the public interest would be served by such a modification, the court must modify the sentence by: 1) reducing the term of confinement in prison portion of the sentence to a number that provides for the release of the prisoner to extended supervision; and 2) increasing the term of extended supervision of the prisoner by the same number, so that the total length of the bifurcated sentence does not change.

H) The bill clarifies that, if a misdemeanor offender may be sentenced to prison because of the application of a sentence enhancer and the court decides to sentence the person to prison, the court must impose a bifurcated sentence. In sentencing a

person to prison in such a case, the term of confinement in prison portion of the sentence may not constitute more than 75% of the total bifurcated sentence.

Sentences of life imprisonment

If a person is sentenced to life imprisonment for an offense committed before December 31, 1999, the person usually must serve 20 years minus time calculated under the mandatory release formula before he or she is eligible for release on parole. If the person does not receive extensions due to violations of prison rules, he or she reaches parole eligibility after serving 13 years, four months. However, a court may set a parole eligibility date for a person serving a life sentence that is later than the usual parole eligibility date or may provide that the person is not eligible for parole. No person serving a life sentence of any kind is entitled to mandatory release on parole.

If a person is sentenced to life imprisonment for a crime committed on or after December 31, 1999, he or she is not eligible for parole. Instead, the court who is sentencing the person to life imprisonment must do one of the following: 1) provide that the person is eligible for release to extended supervision after serving 20 years; 2) set a date on which the person becomes eligible for extended supervision, as long as that date requires the person to serve at least 20 years; or 3) provide that the person is not eligible for extended supervision. If the court provides that the person is eligible for extended supervision, the person may petition the sentencing court for release to extended supervision on or after the extended supervision eligibility date. A person sentenced to life who is released to extended supervision is on extended supervision for the remainder of his or her life and, like a person on extended supervision under a bifurcated sentence (*see above, The structure of felony sentences*, item 2-C), may have his or her extended supervision revoked in an administrative proceeding and be returned to prison if he or she violates a condition of extended supervision or a rule promulgated by DOC relating to extended supervision. A person returned to prison after a revocation of extended supervision may not petition for rerelease to extended supervision until he or she has served a period of time back in prison. The time period, which must be at least five years, is determined by an administrative law judge or, if the person waived a revocation hearing, by DOC.

This bill allows DOC to take custody of a person who is on extended supervision under a life sentence in order to investigate an alleged violation of a condition of extended supervision. The bill also provides that if a person on extended supervision admits that he or she has violated a condition or rule of extended supervision, DOC may, as a sanction for the violation, confine the person for not more than 90 days in a DOC regional detention facility or, with the consent of the sheriff, in a county jail. In addition, the bill changes the procedure for revoking extended supervision by requiring that a court determine how long to send a person back to prison after his or her extended supervision is revoked. Under the bill, DOC or the administrative law judge who made the revocation decision must make a recommendation to the court concerning the amount of time for which the person should be returned to prison. The court then reviews the recommendation and makes the final decision as to the amount of time for which the person is returned to prison. Both the

recommendation and the court's final decision must provide for the person to be returned to prison for at least five years.

Sentencing commission

The bill creates a **sentencing** commission (commission) consisting of 17 voting members and three non-voting members, all of whom serve three year terms. Under the bill, the **commission** is responsible for studying sentencing practices throughout the state. Using the information it obtains, the commission must adopt advisory sentencing guidelines for use by judges when imposing sentences for felonies committed on or after December 31, 1999. The commission must also assist the legislature in assessing the cost of changes in statutes affecting criminal sentencing and provide information regarding sentencing to judges, lawyers, state agencies, the legislature. In addition, the commission must study whether race is a basis for imposing sentences in criminal cases and submit a report and recommendations on this issue to the governor, the legislature and the supreme court. The duties of the commission end on December 31, 2004.

For further information, see the August 31, 1999, report of the criminal penalties study committee created under 1997 Wisconsin Act 283.

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

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3420/P3ins
MGD&JEO:.....

1 **INSERT 65-9:**

2 **SECTION 1.** 343.31 (1) (i) of the statutes is amended to read:

3 343.31 (1) (i) Knowingly fleeing or attempting to elude a traffic officer under

4 s. 346.04 (3).

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, 448; 1997 a. 84, 237, 258, 295.

5 **SECTION 2.** 343.31 (3) (d) (intro.) of the statutes is amended to read:

6 343.31 (3) (d) (intro.) Any person convicted of knowingly fleeing or attempting

7 to elude a traffic officer under s. 346.04 (3) shall have his or her operating privilege

8 revoked as follows:

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.

9 **INSERT 70-14:**

10 **SECTION 3.** 351.07 (2) (a) of the statutes is renumbered 351.07 (2).

11 **INSERT 80-16:**

12 ~~SECTION 4.~~ 939.32 (1) (title) of the statutes is created to read:

13 ~~939.32 (1) (title)~~ **GENERALLY.** ← score

14 **SECTION 5.** 939.32 (1) (intro.) of the statutes is amended to read:

15 939.32 (1) (intro.) Whoever attempts to commit a felony or a crime specified in

16 s. 940.19, 940.195 or 943.20 may be fined or imprisoned or both ~~not to exceed one-half~~

17 ~~the maximum penalty for the completed crime; as provided under sub. (1g)~~, except:

History: 1977 c. 173; 1981 c. 118; 1983 a. 438; 1987 a. 332; 1989 a. 336; 1991 a. 17; 1993 a. 98, 486; 1997 a. 295.

18 **INSERT 80-17:**

19 **SECTION 6.** 939.32 (1) (bm) of the statutes is created to read:

20 939.32 (1) (bm) Whoever attempts to commit a Class I felony, other than one

21 to which a penalty enhancement statute listed in s. 973.01 (2) (c) 2. a. orb. is being

22 applied, is guilty of a Class A misdemeanor.

1 **SECTION 7.** 939.32 (lg) of the statutes is created to read:

2 939.32 (lg) **MAXIMUM PENALTY.** The maximum penalty for an attempt to commit
3 a crime that is punishable under sub. (1) (intro.) is as follows:

4 (a) The maximum fine is one-half the maximum fine for the completed crime.

5 (b) 1. If s. 939.62 is not being applied, the maximum term of imprisonment is
6 one-half the maximum term of imprisonment, as increased by any penalty
7 enhancement statute listed in s. 973.01 (2) (c) 2. a. and b., for the completed crime.

8 2. If s. 939.62 is being applied, the maximum term of imprisonment is
9 determined by the following method:

10 a. Multiplying by one-half the maximum term of imprisonment, as increased
11 by any penalty enhancement statute listed in s. 973.01 (2) (c) 2. a. and b., for the
12 completed crime.

13 b. Applying s. 939.62 to the product under subd. 2. a.

14 **SECTION 8.** 939.32 (1m) of the statutes is created to read:

15 939.32 (1m) **BIFURCATED SENTENCE** if the court imposes a bifurcated sentence
16 under s. 973.01 (1) for an attempt to commit a crime that is punishable under sub.
17 (1) (intro.), the following requirements apply:

18 (a) *Maximum term of confinement for attempt to commit classified felony.* 1.

19 Subject to the minimum term of extended supervision required under s. 973.01 (2)
20 (d), if the crime is a classified felony and s. 939.62 is not being applied, the maximum

21 term of confinement in prison is one-half the maximum term of confinement in
22 prison specified in s. 973.01 (2) (b), as increased by any penalty enhancement statute
23 listed in s. 973.01 (2) (c) 2. a. and b., for the classified felony.

24 2. Subject to the minimum term of extended supervision required under s.

25 973.01 (2) (d), if the crime is a classified felony and s. 939.62 is being applied, the

1 court shall determine the maximum term of confinement in prison by the following
2 method:

3 a. Multiplying by one-half ^{of} the maximum term of confinement in prison
4 specified in s. 973.01 (2) (b), as increased by any penalty enhancement statutes listed
5 in s. 973.01 (2) (c) 2. a. and b., for the classified felony.

6 b. Applying s. 939.62 to the product under subd. 2.a.

7 (b) **Maximum term of extended supervision for attempt to commit classified**
8 **felony.** The maximum term of extended supervision for an attempt to commit a
9 classified felony is one-half ^{of} the maximum term of extended supervision for the
10 completed crime under s. 973.01 (2) (d).

11 (c) **Maximum term of confinement for attempt to commit unclassified felony or**
12 **misdemeanor.** The court shall determine the maximum term of confinement in
13 prison for an attempt to commit a crime other than a classified felony by applying
14 s. 973.01 (2) (b) 10. to the maximum term of imprisonment calculated under sub. (lg)
15 (b).

16 **SECTION 9.** 939.32 (2) (title) ^{of} the statutes is created to read:
17 939.32 (2) (title) **MISDEMEANORS.**

18 **SECTION 10.** 939.32 (3) (title) ^{of} the statutes is created to read:
19 939.32 (3) (title) **REQUIREMENTS.**

20 **INSERT 175-9:**

21 **SECTION 11.** 973.01 (2) (intro.) ^{of} the statutes is amended to read:
22 973.01 (2), **STRUCTURE OF BIFURCATED SENTENCES.** (intro.) ~~The court shall ensure~~
23 that a bifurcated sentence is a sentence that consists of a term of confinement in
24 prison followed by a term of extended sunervision under s. 302.113. The total length
25 of a bifurcatated sentence eauls the length of the term of confinement in orison plus

1 the length of the term of extended supervision. A bifurcated sentence imposed under
2 sub (1) complies this section shall comnly with all of the following:

3 History: 1997 a. 283.

SECTION 12. 973.01 (2) (a) ✓ of the statutes is amended to read:

4 973.01 (2) (a) **Total length of bifurcated sentence.** Except as provided in par. (c),
5 the total length of the bifurcated sentence may not exceed the maximum period of
6 imprisonment ~~for the~~ specified in s. 939.50 (3), if the crime is a classified felony, or
7 the maximum term of inmrisonment Provided by statute for the crime. if the crime
8 is not a classified felony, plus additional inmrisonment authorized by anv applicable
9 penalty enhancement statutes.

10 History: 1997 a. 283.

INSERT 177-13:

11 SECTION 13. 973.01 (2) (c) ✓ of the statutes is renumbered 973.01 (2) (c) 1. and
12 amended to read:

13 973.01 (2) (c) 1. The Subject to the minimum period of extended sunervision
14 required under nar. (d). ✓ the maximum term of confinement in prison specified in par.
15 (b) may be increased by any applicable penalty enhancement. If the maximum term
16 of confinement in prison specified in par. (b) is increased under this paragraph, the
17 total length of the bifurcated sentence that may be imposed is increased by the same
18 amount.

19 History: 1997 a. 283.

SECTION 14. 973.01 (2) (c) 2. ✓ of the statutes is created to read:

20 973.01 (2) (c) 2. If more than one of the following penalty enhancement statutes
21 apply to a crime, the court shall apply them in the order listed in calculating the
22 maximum term of imprisonment for that crime:

- 23 a. Sections 939.621, ✓ 9.632, ✓ 939.15, ✓ 961.46 ✓ and 961.49. ✓
- 24 b. Section 939.63. ✓

1 c. Section 939.62 or 961.48. ✓

2 **INSERT 186-13:**

3 **SECTION 15.** 973.15 (2) (am) ✓ of the statutes is created to read:

4 973.15 (2) (am) 1. If a court provides that a bifurcated sentence imposed under
5 s. 973.01 is to run concurrent with or consecutive to a sentence to the Wisconsin state
6 prisons other than another bifurcated sentence imposed under s. 973.01, the court
7 shall do ^{all of} the following:

8 a. Order the term of confinement in prison under the bifurcated sentence to be
9 concurrent with or consecutive to the term of confinement in prison required under
10 the non-bifurcated sentence.

11 b. Order the period of parole under the non-bifurcated sentence to be
12 concurrent with or consecutive to the term of extended supervision required under
13 the bifurcated sentence.

14 2. If a court imposes a sentence to the Wisconsin state prisons that is not a
15 bifurcated sentence imposed under s. 973.01 and provides that the non-bifurcated
16 sentence is to run concurrent with or consecutive to a bifurcated sentence under s.
17 973.01, the court shall do ^{all of} the following:

18 a. Order the term of confinement in prison under the non-bifurcated sentence
19 to be concurrent with or consecutive to the term of confinement in prison required
20 under the bifurcated sentence.

21 b. Order the period of parole under the non-bifurcated sentence to be
22 concurrent with or consecutive to the term of extended supervision required under
23 the bifurcated sentence.

24 **INSERT 188-22:**

25 **SECTION 16.** 1997 Wisconsin Act 283, section 454 (1) (f) ✓ is amended to read:

1 [1997 Wisconsin Act 283] Section 454 (1) (f) [✓] ~~No later than April 30, 1999, the~~
 2 The committee shall submit a report of its findings and recommendations to the
 3 legislature in the manner provided under section 13.172 (2) of the statutes and to the
 4 governor. The report shall include any proposed legislation that is necessary to
 5 implement the recommendations made by the committee in its report.

INSERT 190-6:

7 nonstat [#] ~~(9)~~ CRIMINALPENALTIESSTUDYCOMMITTEE. [✓] Until the members of the sentencing
 8 commission created under section 97³X.30 of the statutes, as created by this act, are
 9 appointed, the criminal penalties study committee shall provide information to
 10 lawyers, judges, the legislature and the public regarding this act.

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3420/P3insC
JEO:.....

INS 190-14

~~NO~~ The repeal of sections 351.07 (2) (6),

- 1 An Act to repeal 939.32 (1) (b), 939.50 (1) (bc), 939.50 (3) (bc), 939.615 (7) (c), 939.622,
- 2 939.623, 939.624, 939.625, 939.63 (2), 939.635, 939.64, 939.641, 939.646,
- 3 939.647, 939.648, 940.09 (1b), 940.19(3), 940.195(3), 940.195(6), 940.25 (1b) ,
- 4 940.285 (2) (b) 3., 941.29 (2m), 941.296 (3), 943.01 (2g), 943.23 (1m), 943.23 (1r),
- 5 946.42 (4), 946.425 (2), 948.02 (3m), 948.025 (2m), 948.03 (5), 948.35, 948.36,
- 6 948.605(4), 961.41 (1)(cm) 5., 961.41 (1) (d) 5., 961.41 (1) (d) 6., 961.41 (1) (e)
- 7 5., 961.41 (1) (e) 6., 961.41 (1m) (cm) 5., 961.41 (1m) (d) 5., 961.41 (1m) (d) 6.,
- 8 961.41 (1m) (e) 5., 961.41 (1m) (e) 6., 961.41 (2) (c), 961.41 (3g) (a) 2., 961.41 (3g)
- 9 (a) 3., 961.438, 961.46 (2), 961.46 (3), 961.465, 961.48 (2), 961.48 (4), 961.49 (2),
- 10 961.49 (3), 961.492, ~~973.01 (2) (b) 2., 973.01 (2) (a)~~ and 973.03 (3) (e) 3. *of the statutes*
- 11 *the renumbering of sections 351.67 (2) (a) and* ~~renumber 961.49 (1); to renumber and amend 49.95 (1), 125.075 (2), 939.63 (1),~~ *of the statutes* ~~and~~ *the renumbering and amendment of sections*
- 12 943.20 (3) (d) 2., 948.025 (1) 948.025 (2), 961.41 (1) (cm) 1., 961.41 (1m) (cm) 1.,
- 13 961.41 (3g) (a) 1., 961.46 (1), 961.48 (1), ~~973.01 (1), 973.01 (2) (b) 6 and 973.01~~ *and* *of the statutes;*
- 14 ~~to amend~~ *the amendment of sections* 6.18, 11.61 (1) (a), 11.61 (1) (b), 12.60 (1) (a), 13.05, 13.06, 13.69
- 15 (6m), ~~15.01 (2)~~ 23.33 (13) (cg), 26.14(8), 29.971 (1) (c), 29.971 (1m) (c), 29.971
- 16 (11m) (a), 29.971 (11p) (a), 30.80 (2g) (b), 30.80 (2g) (c), 30.80 (2g) (d), 30.80 (3m),
- 17 36.25(6) (d), 47.03 (3) (d) ~~48.355 (2) (b) 3., 48.355 (9m) 2., 48.417 (1) (d),~~
- 18 ~~48.355 (9m) 1., 48.685 (5) (b) 1., 48.685 (5) (b) 2., 48.685 (5) (b) 3., 48.685 (5) (b) 4.,~~
- 19 (8) (a) 2., 49.127 (8) (b) 2., 49.127 (8) (c), 49.141 (7) (a), 49.141 (7) (b), 49.141 (9)
- 20 (a), 49.141 (9) (b), 49.141 (10) (b), 49.49 (1) (b) 1., 49.49 (2) (a), 49.49 (2) (b), 49.49
- 21 (3), 49.49 (3m) (b), 49.49 (4) (b), 51.15 (12), 55.06 (11) (am), 66.4025 (1) (b),
- 22 66.4025 (1) (c), 69.24 (1) (intro.), 70.47 (18) (a), 71.83 (2) (b), 86.192(4), 97.43
- 23 (4), 97.45(2), 100.171 (7)(b), 100.2095 (6) (d), 100.26 (2), 100.26 (5), 100.26 (7),

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1 101.143(10) (b), 101.94 (8) (b), 102.835(11),102.835(18), 102.85(3), 108.225
 2 (11), 108.225 (18), ~~114.20 (18) (c), 115.31 (2g), 118.19 (4) (a),~~
 3 125.085 (3)(a) 2., 125.105 (2)(b), 125.66 (3), 125.68 (12)(b), 125.68 (12)(c),
 4 132.20 (2), 133.03 (1), 133.03 (2), 134.05 (4), 134.16, 134.20 (1) (intro.), 134.205
 5 (4), 134.58, 139.44 (1), 139.44 (1m), 139.44 (2), 139.44 (8) (c), 139.95 (2), 139.95
 6 (3), 146.345 (3), 146.35 (5), 146.60 (9) (am), 146.70 (10) (a), 154.15(2), 154.29
 7 (2), 166.20 (11)(b), 167.10 (9)(g), 175.20 (3), 180.0129 (2), 181.0129 (2), 185.825,
 8 200.09 (2), 214.93, 215.02 (6)(b), 215.12, 215.21(21), 218.21 (7), 220.06 (2),
 9 221.0625 (2) (intro.), 221.0636 (2), 221.0637 (2), 221.1004 (2), 253.06 (4) (b),
 10 285.87 (2)(b), 291.97 (2) (b) (intro.), 291.97 (2) (c) 1. and 2., 299.53 (4)(c) 2.,
 11 301.035 (2), 301.035 (4), ~~301.26(4)(cm) 1.,~~ 302.095 (2), 302.11 (1g) (a) 2., ~~302.11~~
 12 ~~(11g), 302.113 (2), 302.113 (7), 302.113 (9), 302.114 (5) (f), 302.114 (6) (b), 302.114~~
 13 ~~(6) (c), 302.114 (9),~~ 302.33 (1), 303.06(1) (b) 1., 303.08 (2),303.08(5) (intro.),
 14 303.08 (6), 303.08 (12), ~~304.07(1)(a), 304.07(1)(b), 304.07(1)(c), 304.07(1)(d),~~
 15 342.065 (4) (b), 342.155 (4) (b), 342.156 (6) (b), 342.30 (3) (a), 342.32 (3), ~~342.32~~
 16 ~~(3) (c), 342.32 (3) (d), 342.32 (3) (e), 342.32 (3) (f), 342.32 (3) (g), 342.32 (3) (h),~~
 17 343.44 (2) (b) (intro.), 344.48(2), 346.17(3) (a), 346.17 (3)
 18 (b), 346.17 (3) (c), 346.17 (3) (d), 346.175 (1)(a), 346.175 (1) (b), 346.175 (4) (b),
 19 346.175 (4) (c), 346.175 (4) (d), 346.175 (5) (intro.), 346.175 (5) (a), 346.65 (2) (e),
 20 346.65 (5), 346.74 (5) (b), 346.74 (5) (c), 346.74 (5) (d), 350.11 (2m), 351.07 (2)
 21 (b), 446.07, 447.09, 450.11 (9) (b), 450.14 (5), 450.15 (2), 551.58 (1), 552.19 (1),
 22 553.52 (1), 553.52 (2), 562.13 (3), 562.13(4), 565.50(2),565.50 (3), 601.64 (4),
 23 641.19 (4) (a), 641.19 (4) (b), 753.061 (2m), 765.30 (1) (intro.), 765.30 (2) (intro.),
 24 768.07, 783.07, ~~801.50(1)(a), 801.50(1)(b), 801.50(1)(c), 801.50(1)(d),~~
 25 938.208 (1) (a), 938.34 (4h) (a), 938.34
 (4m) (b) 1., ~~938.34(2)(b), 938.34(2)(c), 938.34(2)(d), 938.34(2)(e), 938.34(2)(f),~~
 938.355 (4) (b), ~~938.355(4)(c), 938.355(4)(d), 938.355(4)(e), 938.355(4)(f),~~
 939.22 (21) (d), 939.30
 (1), 939.30 (2), 939.50 (1) (intro.), 939.50 (2), 939.50 (3) (c), 939.50 (3) (d), 939.50

939.32 (1) (intro.), ✓

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(3) (e), 939.615 (7) (b) 2., 939.62 (1) (a), 939.62 (1) (b), 939.62 (1) (c), ~~939.62 (2) (a)~~
~~(b) 2m, 939.62 (2m) (a) 4m, b,~~ 939.632(1)(e) 1., 939.632(2), 939.645(2),
939.72 (1), 939.75 (1), 940.02 (2) (intro.), 940.03, 940.04 (1), 940.04 (2) (intro.),
940.04 (4), 940.06 (1), 940.06 (2), 940.07, 940.08 (1), 940.08 (2), 940.09 (1)
(intro.), 940.10 (1), 940.10 (2), 940.11 (1), 940.11 (2), 940.12, 940.15 (2), 940.15
(5), 940.15 (6), 940.19 (2), 940.19 (4), 940.19 (5), 940.19 (6) (intro.), 940.195 (2),
940.195 (4), 940.195 (5), 940.20 (1), 940.20 (1m), 940.20 (2), 940.20 (2m) (b),
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2 **948.055 (2) (b), 948.06 (intro.), 948.07 (intro.), 948.08, 948.095 (2) (intro.),**
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21 **(g) 1., 961.41 (1m) (g) 2., 961.41 (1m) (g) 3., 961.41 (1m) (h) (intro.), 961.41 (1m)**
22 **(h) 1., 961.41 (1m) (h) 2., 961.41 (1m) (h) 3., 961.41 (1m) (i), 961.41 (1m) (j),**
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