



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2853/P
MGD&JEO:wlj:jf

P2

D-Note

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

TODAY

Regen

1 **AN ACT to renumber** 51.37 (11), 157.02 (1) and 976.06; **to renumber and**
2 **amend** 252.14 (1) (ad), 252.15 (1) (ad) and 801.02 (7) (b); **to amend** 16.385 (7),
3 19.32 (le), 19.35 (1) (am) 2. c., 19.35 (3) (f), 20.410 (1) (kc), 20.903 (2) (c), 29.199,
4 38.04 (12), 38.14 (3) (a), 38.24 (1m) (d), 46.011 (2), 49.32 (7) (d), 49.47 (6) (c) 3.,
5 51.20 (1) (ar) (intro.), 51.20 (7) (b), 51.20 (7) (c), 51.20 (11) (a), 51.20 (13) (a) 3.,
6 51.20 (13) (a) 4., 51.20 (13) (a) 5., 51.20 (13) (g) 2m., 51.20 (19) (b) l., 51.30 (4)
7 (b) 10. (intro.), 51.30 (4) (b) 12., 51.35 (1) (a), 51.35 (6) (a), 51.37 (5) (a), 51.37
8 (5) (b), 51.37 (5) (b), 51.37 (8) (a), 51.37 (8) (b), 51.39, 51.42 (3) (as) l., 51.45 (15)
9 (b), 51.61 (1) (c), 59.29 (1) (b), 77.996 (2) (f), 101.123 (4) (bm), 115.762 (4),
10 115.787 (6) (a) l., 115.787 (6) (a) 2., 115.787 (6) (b), 165.84 (4), 165.84 (5), 227.43
11 (1) (bg), 252.02 (4), 252.02 (5), 252.06 (6) (b), 252.14 (2) (intro.), 252.14 (2) (am),
12 252.14 (2) (bm), 252.15 (1) (ab), 252.15 (2) (a) 7. a., 301.03 (12), 301.035 (2),
13 301.035 (4), 301.105 (intro.), 301.287, 301.33 (2), 301.33 (3), 301.36 (1) and (6),
14 301.372, 301.373 (9) (a), 302.01, 302.02 (5) (a), 302.02 (5) (b), 302.055, 302.07,
15 302.09, 302.095 (2), 302.12 (1), 302.13, 302.14, 302.18 (l), 302.27, 303.063 (1),

1 303.069 (title), 304.06 (1) (b), 447.06 (2) (a) 4., 782.01 (l), 782.45 (title), 801.02
2 (7) (a) 1., 801.02 (7) (a) 3., 801.02 (7) (bm) (intro.), 806.025 (l), 807.15 (l), 813.40
3 (1) (b) 3. (intro.), 814.29 (lm) (c) 2., 814.29 (lm) (e), 893.735 (l), 898.01, 940.20
4 (l), 940.29, 941.237 (1) (b), 941.29 (6), 946.43, 946.44 (2) (c), 946.44 (2) (d),
5 946.45 (2) (c), 946.45 (2) (d), 946.47 (2) (b), 948.50 (4) (a), 968.255 (7) (a), 971.11
6 (title), 971.11 (l), 971.11 (6) and 973.15 (4) (a); **to repeal and recreate 302.095**
7 (2); and **to create** 20.410 (1) (hq), 20.410 (1) (hv), 20.903 (2) (bs), 51.37 (11) (b),
8 101.123 (1) (dq), 101.123 (1) (ds), 101.123 (2) (a) 6m., 101.123 (4) (am) 2m.,
9 157.02 (1) (b), 252.14 (1) (ad) 1. and 2., 252.14 (1) (e), 252.14 (1) (f), 252.15 (1)
10 (ad) 1. and 2., 252.15 (1) (au), 301.01 (2) (e), 301.01 (2g) and (2m), 301.03 (8m),
11 301.371, 301.372, 301.373, 301.374, 301.376, 301.378, 301.379, 302.11 (ll),
12 302.386 (5) (e), 782.45 (3), 782.47, 801.02 (7) (a) 4., 801.02(7)(a)5., 801.02(7)
13 (b) 2., 806.025 (3), 961.01 (12m) (g), 976.01 (4m), 976.05 (16) and 976.06 (2) of
14 the statutes; **relating to:** construction and operation of private prisons,
15 requiring the exercise of rule-making authority and making an appropriation.

Analysis by the Legislative Reference Bureau

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

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

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

16 **SECTION 1.** 16.385 (7) of the statutes is amended to read:

17 16.385 (7) **INDIVIDUALS IN STATE PRISONS.** No payment under sub. (6) may be
18 made to a prisoner who is imprisoned in a state prison under s. 302.01 or, to a person
19 placed at a secured correctional facility, as defined in s. 938.02 (15m), or a secured

1 child caring institution, as defined in s. 938.02 (15g), ~~prisoner confined in a~~
2 private prison, as defined in s. 301.01 (2g).

3 **SECTION 2.** 19.32 (1e) of the statutes is amended to read:

4 19.32 (le) "Penal facility" means a state prison under s. 302.01, private prison,
5 as defined in s. 301.01 (2g), county jail, county house of correction or other state,
6 county or municipal correctional or detention facility.

7 **SECTION 3.** 19.35 (1) (am) 2. c. of the statutes is amended to read:

8 19.35 (1) (am) 2. c. Endanger the security of any state correctional institution,
9 as defined in s. 301.01 (4), private prison, as defined in s. 301.01 (2g), jail, as defined
10 in s. 165.85 (2) (bg), secured correctional facility, as defined in s. 938.02 (15m),
11 secured child caring institution, as defined in s. 938.02 (15g), mental health
12 institute, as defined in s. 51.01 (12), center for the developmentally disabled, as
13 defined in s. 51.01 (3), or the population or staff of any of these institutions, facilities
14 or jails.

15 **SECTION 4.** 19.35 (3) (f) of the statutes is amended to read:

16 19.35 (3) (f) An authority may require prepayment by a requester of any fee or
17 fees imposed under this subsection if the total amount exceeds \$5. If the requester
18 is a prisoner, as defined in s. 301.01 (2), or is a person confined in a federal
19 correctional institution or private prison, as defined in s. 301.01 (2g), located in this
20 state, and he or she has failed to pay any fee that was imposed by the authority for
21 a request made previously by that requester, the authority may require prepayment
22 both of the amount owed for the previous request and the amount owed for the
23 current request.

24 **SECTION 5.** 20.410 (1) (hq) of the statutes is created to read:

1 20.410 (1) (hq) *Private prison regulation.* All moneys received from private
2 prisons under s. 301.373 (9) for the costs of regulating the construction and operation
3 of private prisons.

4 **SECTION 6.** 20.410 (1) (hv) of the statutes is created to read:

5 20.410 (1) (hv) *Training private prison employes.* All moneys received from
6 private prison employes under s. 301.373 (3) (a) for the costs of their training.

7 **SECTION 7.** 20.410 (1) (kc) of the statutes is amended to read:

8 20.410 (1) (kc) *Correctional institution enterprises; inmate activities and*
9 *employment.* All moneys received from state correctional institution enterprises
10 involving the activities of inmates, excluding moneys received from canteen
11 operations, prison industries and correctional farms, to conduct state correctional
12 institution enterprises and inmate employment projects.

13 **SECTION 8.** 20.903 (2) (bs) of the statutes is created to read:

14 20.903 (2) (bs) Notwithstanding sub. (l), liabilities may be created and moneys
15 expended from the appropriations under s. 20.410 (1) (hq) in an additional amount
16 not to exceed the amount of money anticipated to be received during the remainder
17 of the biennium.

18 **SECTION 9.** 20.903 (2) (c) of the statutes is amended to read:

19 20.903 (2) (c) All expenditures authorized by this subsection are subject to the
20 estimate approval procedure provided in s. 16.50 (2). Notwithstanding pars. (a), (b)
21 ~~and~~, (bn) and (bs), the maximum amounts that may be expended from a program
22 revenue or program revenue-service appropriation which is limited to the amounts
23 in the schedule are the amounts in the schedule, except as authorized by the
24 department of administration under s. 16.515 or the joint committee on finance
25 under s. 13.101.

1 **SECTION 10.** 29.199 of the statutes is amended to read:

2 **29.199 Authorizations for certain patients and institutionalized**
3 **persons to fish.** The department shall issue an authorization without charge to a
4 county hospital, state or federal mental hospital, ~~state~~ correctional institution or
5 nonprofit institution located in this state for rehabilitation purposes upon request
6 of the superintendent of the institution. The authorization permits a resident of the
7 hospital or institution who is supervised by an employe of the hospital or institution
8 to fish for fish subject to all other provisions of law.

9 **SECTION 11.** 38.04 (12) of the statutes is amended to read:

10 38.04 (12) **PRISON INMATE EDUCATIONAL PROGRAM.** The board may establish
11 vocational educational programs for inmates ~~within the state correctional system of~~
12 correctional facilities and contract with the departments of corrections and health
13 and family services and private prisons, as defined in s. 301.01 (2g), for
14 reimbursement of that portion of the district program costs which exceeds amounts
15 received as state and federal aid.

16 **SECTION 12.** 38.14 (3) (a) of the statutes is amended to read:

17 38.14 (3) (a) The district board may enter into contracts to provide educational
18 services to public and private educational institutions, federal and state agencies,
19 local governmental bodies, private prisons, as defined in s. 301.01 (2g), industries
20 and businesses.

21 **SECTION 13.** 38.24 (lm) (d) of the statutes is amended to read:

22 38.24 (**1m**) (d) *Programs for inmates.* Uniform fees, for vocational programs
23 or courses offered at a district facility to state prison inmates ~~at a district facility~~ by
24 the department of corrections or the department of health and family services in
25 cooperation with a district board or to inmates of a private prison, as defined in s.

1 301.01 (2g), under ss. 38.04 (12) and 38.14 (3) (a), equal to the fees established under
2 par. (b).

3 **SECTION 14.** 46.011 (2) of the statutes is amended to read:

4 46.011 (2) "Prisoner" means any person who is either arrested, incarcerated,
5 imprisoned or otherwise detained in excess of 12 hours by any law enforcement
6 agency of this state, except when detention is pursuant to s. 51.15, 51.20, 51.45 (11)
7 (b) or 55.06 (11) ~~or~~ ch. 980. "Prisoner" does not include any person who is serving
8 a sentence of detention under s. 973.03 (4) unless the person is in the county jail
9 under s. 973.03 (4) (c) and does not include an inmate of a private prison, as defined
10 in s. 301.01 (2g).

11 **SECTION 15.** 49.32 (7) (d) of the statutes is amended to read:

12 49.32 (7) (d) The department, with assistance from the department of
13 corrections, shall conduct a program to periodically match the records of persons
14 confined in state correctional facilities with the records of recipients of medical
15 assistance under s. 49.46, 49.468 or 49.47, aid to families with dependent children
16 under s. 49.19 and the food stamp program under 7 USC 2011 to 2029 to identify
17 recipients who may be ineligible for benefits.

18 **SECTION 16.** 49.47 (6) (c) 3. of the statutes is amended to read:

19 49.47 (6) (c) 3. Care or services for an individual who is an inmate of a private
20 prison, as defined in s. 301.01 (2g), or a public institution, except as a patient in a
21 medical institution or a resident in an intermediate care facility.

22 **SECTION 17.** 51.20 (1) (ar) (intro.) of the statutes is amended to read:

23 51.20 (1) (ar) If the individual is an inmate of a ~~state~~ prison, the petition may
24 allege that the inmate is mentally ill, is a proper subject for treatment and is in need
25 of treatment. The petition shall allege that appropriate less restrictive forms of

1 treatment have been attempted with the individual and have been unsuccessful and
2 it shall include a description of the less restrictive forms of treatment that were
3 attempted. The petition shall also allege that the individual has been fully informed
4 about his or her treatment needs, the mental health services available to him or her
5 and his or her rights under this chapter and that the individual has had an
6 opportunity to discuss his or **her needs**, the services available to him or her and his
7 or her rights with a licensed physician or a licensed psychologist. The petition shall
8 include the inmate's sentence and his or her expected date of release ~~as determined~~
9 ~~under s. 302.11 or 302.112, whichever is applicable.~~ The petition shall have attached
10 to it a signed statement by a licensed physician or a licensed psychologist of a state
11 prison or, if the individual is a private nrison inmate, by anp licensed psychologist
12 or the prison's medical director, and a signed statement by a licensed physician or a
13 licensed psychologist of a state treatment facility attesting either of the following:

14 **SECTION 18.** 51.20 (7) (b) of the statutes is amended to read:

15 51.20 (7) (b) If the subject individual is not detained or is an inmate of a ~~state~~
16 prison, county jail or house of correction, the court shall hold a hearing within a
17 reasonable time of the filing of the petition, to determine whether there is probable
18 cause to believe the allegations made under sub. (1).

19 **SECTION 19.** 51.20 (7) (c) of the statutes is amended to read:

20 51.20 (7) (c) If the court determines that there is probable cause to believe the
21 allegations made under sub. (1), it shall schedule the matter for a hearing within 14
22 days from the time of detention of the subject individual, except as provided in sub.
23 (8) (bg) or (bm) or (11) (a>. If a postponement has been granted under par. (a), the
24 matter shall be scheduled for hearing within 21 days from the time of detention of
25 the subject individual. If the subject individual is not detained under s. 51.15 or this

1 section or is an inmate of a state prison, county jail or house of correction, the hearing
2 shall be scheduled within 30 days of the hearing to determine probable cause for
3 commitment. In the event that the subject individual fails to appear for the hearing
4 to determine probable cause for commitment, the court may issue an order for the
5 subject individual's detention and shall hold the hearing to determine probable cause
6 for commitment within 48 hours, exclusive of Saturdays, Sundays and legal
7 holidays, from the time that the individual is detained.

8 **SECTION 20.** 51.20 (11) (a) of the statutes is amended to read:

9 51.20 (11) (a) If before involuntary commitment a jury is demanded by the
10 individual against whom a petition has been filed under sub. (1) or by the individual's
11 counsel if the individual does not object, the court shall direct that a jury of 6 people
12 be selected to determine if the allegations specified in sub. (1) (a), (ar) or (av) are true.
13 A jury trial is deemed waived unless demanded at least 48 hours in advance of the
14 time set for final hearing, if notice of that time has been previously provided to the
15 subject individual or his or her counsel. If a jury trial demand is filed within 5 days
16 of detention, the final hearing shall be held within 14 days of detention. If a jury trial
17 demand is filed later than 5 days after detention, the final hearing shall be held
18 within 14 days of the date of demand. If an inmate of a state prison, county jail or
19 house of correction demands a jury trial within 5 days after the probable cause
20 hearing, the final hearing shall be held within 28 days of the probable cause hearing.
21 If an inmate of a state prison, county jail or house of correction demands a jury trial
22 later than 5 days after the probable cause hearing, the final hearing shall be held
23 within 28 days of the date of demand.

24 **SECTION 21.** 51.20 (13) (a) 3. of the statutes is amended to read:

1 51.20 (13) (a) 3. If the individual is not an inmate of a state prison, county jail
2 or house of correction and the allegations specified in sub. (1) (a) are proven, order
3 commitment to the care and custody of the appropriate county department under s.
4 51.42 or 51.437, or if inpatient care is not required order commitment to outpatient
5 treatment under care of such county department; or

6 **SECTION 22.** 51.20 (13) (a) 4. of the statutes is amended to read:

7 51.20 (13) (a) 4. If the individual is an inmate of a ~~state~~ prison and the
8 allegations under sub. (1) (a) or (ar) are proven, order commitment to the department
9 and either authorize the transfer of the inmate to a state treatment facility or if
10 inpatient care is not needed authorize treatment on an outpatient basis in the prison;
11 or

12 **SECTION 23.** 51.20 (13) (a) 5. of the statutes is amended to read:

13 51.20 (13) (a) 5. If the allegations specified in sub. (1) (a) are proven and the
14 subject individual is a nonresident who is not an inmate of a nrison, order
15 commitment to the department.

16 **SECTION 24.** 51.20 (13) (g) 2m. of the statutes is amended to read:

17 51.20 (13) (g) 2m. In addition to the provisions under subds. l., 2. and 2g., no
18 commitment ordered under par. (a) 4. or 4m. may continue beyond the inmate's date
19 of release ~~en parole or extend supervision, as determined under s. 302.11 or~~
20 ~~302.113, whichever is applicable.~~

21 **SECTION 25.** 51.20 (19) (b) 1. of the statutes is amended to read:

22 51.20 (19) (b) 1. Establishing standards for the use of psychotropic drugs on
23 ~~prisoners in a state~~ inmates of a prison and inmates committed under sub. (1) (ar).

24 **SECTION 26.** 51.30 (4) (b) 10. (intro.) of the statutes is amended to read:

1 51.30 (4) (b) 10. (intro.) To a correctional facility or to a probation, extended
2 supervision and parole agent who is responsible for the supervision of an individual
3 who is receiving inpatient or outpatient evaluation or treatment under this chapter
4 in a program that is operated by, or is under contract with, the department or a
5 county department under s. 51.42 or 51.437, or in a treatment facility, as a condition
6 of the probation, extended supervision and parole supervision plan, or whenever
7 such an individual is transferred from a state or local correctional facility or a private
8 prison to such a treatment program and is then transferred back to the correctional
9 facility. Every probationer, parolee or person on extended supervision who receives
10 evaluation or treatment under this chapter shall be notified of the provisions of this
11 subdivision by the individual's probation, extended supervision and parole agent.
12 Release of records under this subdivision is limited to:

13 **SECTION 27.** 51.30 (4) (b) 12. of the statutes is amended to read:

14 51.30 (4) (b) 12. To a correctional officer of the department of corrections or an
15 employee of a private prison who has custody of or is responsible for the supervision
16 of an individual who is transferred or discharged from a treatment facility. Records
17 released under this subdivision are limited to notice of the subject individual's
18 change in status.

19 **SECTION 28.** 51.35 (1) (a) of the statutes is amended to read:

20 51.35 (1) (a) The department or the county department under s. 51.42 or 51.437
21 may transfer any patient or resident who is committed to it, or who is admitted to
22 a facility under its supervision or operating under an agreement with it, between
23 treatment facilities or, with the exception of a person committed under s. 51.20 (13)
24 (a) 4. or 4m., from a facility into the community if such transfer is consistent with
25 reasonable medical and clinical judgment and consistent with s. 51.22 (5). The

1 transfer shall be made in accordance with par. (e). Terms and conditions which will
2 benefit the patient or resident may be imposed as part of a transfer to a less
3 restrictive treatment alternative. A patient or resident who is committed to the
4 department or a county department under s. 51.42 or 51.437 may be required to take
5 medications and receive treatment, subject to the right of the patient or resident to
6 refuse medication and treatment under s. 51.61 (1) (g) and (h), through a community
7 support program as a term or condition of a transfer. The patient or resident shall
8 be informed at the time of transfer of the consequences of violating such terms and
9 conditions, including possible **transfer** back to a facility which imposes a greater
10 restriction on personal freedom of the patient or resident.

11 **SECTION 29.** 51.35 (6) (a) of the statutes is amended to read:

12 51.35 (6) (a) When the department has notice that any person other than a
13 prisoner or a private prison inmate is entitled to receive care and treatment in a U.S.
14 department of veterans affairs facility, the person may petition the department of
15 health and family services for a transfer to such facility, and that department may
16 procure admission to such facility in accordance with s. 45.30.

17 **SECTION 30.** 51.37 (5) (a) of the statutes is amended to read:

18 51.37 (5) (a) ~~When a~~ A licensed physician or licensed psychologist of a state
19 prison, of a county jail or of the department of corrections ~~reports in writing may~~
20 submit written reports regarding prisoners, and the prison's medical director or any
21 licensed psychologist may submit written reports regarding private prison inmates
22 to the officer in charge of a jail or institution. If the report states that any prisoner
23 or any private prison inmate is, in his or her the opinion of the medical director or
24 psychologist, mentally ill, drug dependent, or developmentally disabled and is
25 appropriate for treatment as described in s. 51.20 (l), or is an alcoholic and is

1 dangerous as described in s. 51.45 (13) (a) 1. and 2.; or that the prisoner or inmate
2 is mentally ill, drug dependent, developmentally disabled or is an alcoholic and is in
3 need of psychiatric or psychological treatment, and that the prisoner or inmate
4 voluntarily consents to a transfer for treatment, the officer shall make a written
5 report to the department of corrections which may transfer the prisoner or authorize
6 the transfer of the private orison inmate if a voluntary application is made and the
7 department of health and family services consents. ~~If voluntary application is not~~
8 ~~made~~ the prisoner does not voluntarily consent to a transfer for treatment, the
9 department of corrections may file a petition for involuntary commitment under s.
10 51.20 (1) or 51.45 (13). If the private prison inmate does not voluntarily consent to
11 a transfer for treatment, the nrison's medical director shall file a petition for
12 involuntary commitment under s. 51.20 (1) or 51.45 (13). Any time spent by a
13 prisoner in an institution designated under sub. (3) or s. 51.37 (2), 1983 stats., shall
14 be included as part of the individual's sentence.

15 **SECTION 31.** 51.37 (5) (b) of the statutes is amended to read:

16 51.37 (5) (b) The department of corrections or, if the individual is a private
17 prison inmate, the nrison's medical director may authorize an emergency transfer of
18 an individual from a prison, jail or other criminal detention facility to a state
19 treatment facility if there is cause to believe that the individual is mentally ill, drug
20 dependent or developmentally disabled and exhibits conduct which constitutes a
21 danger as described in s. 51.20 (1) (a) 2. a., b., c. or d. of physical harm to himself or
22 herself or to others, or is mentally ill and satisfies the standard under s. 51.20 (1) (a)
23 2. e. or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1. and 2. The
24 correctional custodian of the sending institution shall execute a statement of
25 emergency detention or petition for emergency commitment for the individual and

1 deliver it to the receiving state treatment facility. The department of health and
2 family services shall file the statement or petition with the court within 24 hours
3 after receiving the subject individual for detention. The statement or petition shall
4 conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made,
5 the director of the receiving facility may file a petition for continued commitment
6 under s. 51.20 (1) or 51.45 (13) or may return the individual to the institution from
7 which the transfer was made. As an alternative to this procedure, the emergency
8 detention procedure in s. 51.15 or 51.45 (12) may be used, except that no prisoner or
9 inmate may be released without the approval of the court which directed
10 confinement in the institution.

11 **SECTION 32.** 51.37 (5) (b) of the statutes, as affected by 1995 Wisconsin Act 292
12 and 1999 Wisconsin Act (this act), is amended to read:

13 51.37 (5) (b) The department of corrections or, if the individual is a private
14 prison inmate, the prison's medical director may authorize an emergency transfer of
15 an individual from a prison, jail **or other** criminal detention facility to a state
16 treatment facility if there is cause to believe that the individual is mentally ill, drug
17 dependent or developmentally disabled and exhibits conduct which constitutes a
18 danger as described in s. 51.20 (1) (a) 2. of physical harm to himself or herself or to
19 others, or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1. and 2.
20 The correctional custodian of the sending institution shall execute a statement of
21 emergency detention or petition for emergency commitment for the individual and
22 deliver it to the receiving state treatment facility. The department of health and
23 family services shall file the statement or petition with the court within 24 hours
24 after receiving the subject individual for detention. The statement or petition shall
25 conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made,

1 the director of the receiving facility may file a petition for continued commitment
2 under s. 51.20 (1) or 51.45 (13) or may return the individual to the institution from
3 which the transfer was made. As an alternative to this procedure, the emergency
4 detention procedure in s. 51.15 or 51.45 (12) may be used, except that no prisoner or
5 inmate may be released without the approval of the court which directed
6 confinement in the institution.

7 **SECTION 33.** 51.37 (8) (a) of the statutes is amended to read:

8 51.37 (8) (a) Rights to reexamination under s. 51.20 (16) apply to a prisoner or
9 inmate who is found to be mentally ill or drug dependent except that the petition
10 shall be made to the court that made the finding or, if the prisoner or inmate is
11 detained by transfer, to the circuit court of the county in which he or she is detained.
12 If upon rehearing it is found that the standards for recommitment under s. 51.20 (13)
13 (g) no longer apply to the prisoner or inmate or that he or she is not in need of
14 psychiatric or psychological treatment, the prisoner or inmate shall be returned to
15 the prison or county jail or house of correction unless i-t one of the following applies:

16 1. In the case of a prisoner, it is past his or her release date as determined under
17 s. 302.11 or 302.113, whichever is applicable, in which case he or she shall be
18 discharged.

19 2. In the case of a private prison inmate, it is past his or her release date or the
20 sending jurisdiction, as defined in s. 301.371 (4), is to transfer the inmate to another
21 facility, in which case the person will be returned to the sending jurisdiction.

22 **SECTION 34.** 51.37 (8) (b) of the statutes is amended to read:

23 51.37 (8) (b) If the condition of any prisoner ~~or inmate~~ committed or transferred
24 under this section requires psychiatric or psychological treatment after his or her
25 date of release as determined under s. 302.11 or 302.113, whichever is applicable, the

1 director of the state treatment facility shall, within a reasonable time before the
2 release date of the prisoner ~~or inmate~~, make a written application to the court which
3 committed the prisoner or inmate under sub. (5) (a). Thereupon, the proceeding shall
4 be upon application made under s. 51.20, but no physician or psychologist who is
5 connected with a state prison, Winnebago or Mendota mental health institute or any
6 county jail or house of correction may be appointed as an examiner. If the court does
7 not commit the prisoner ~~or inmate~~, it may dismiss the application and order the
8 prisoner ~~or inmate~~ returned to the institution from which he or she was transferred
9 until the release date of the prisoner ~~or inmate~~. If the court commits the prisoner ~~or~~
10 ~~inmate~~ for the period commencing upon his or her release date, the commitment
11 shall be to the care and custody of the county department under s. 51.42 or 51.437.

12 **SECTION 35.** 51.37 (11) of the statutes is renumbered 51.37 (11) (a).

13 **SECTION 36.** 51.37 (11) (b) of the statutes is created to read:

14 51.37 **(11)** (b) When an individual who is in the custody of a private prison is
15 transferred or discharged from a treatment facility, the treatment facility shall notify
16 the private prison and the department of corrections as soon as possible. When an
17 individual who is in the custody of a private prison is on unauthorized absence from
18 a treatment facility, the treatment facility shall notify the private prison, the
19 department of corrections, the sheriff of the county in which the treatment facility
20 is located and the local law enforcement agency for the city, village or town in which
21 the treatment facility is located as soon as it learns that the individual is on
22 unauthorized absence.

23 **SECTION 37.** 51.39 of the statutes is amended to read:

24 **51.39 Resident patients on unauthorized absence.** If any patient who is
25 admitted under s. 51.13, 51.15, 51.20, 51.45 (11) (b), (12) or (13) or 55.06 or ch. 971,

1 975 or 980 or transferred under s. 51.35 (3) or 51.37 is on unauthorized absence from
2 a treatment facility, the sheriff or any other law enforcement agency in the county
3 in which the patient is found or in which it is believed the patient may be present,
4 upon the request of the director, shall take charge of and return the patient to the
5 facility. T h e c o s t s i n c i d e n t t o t h e r e t u r n o f
6 i n m a t e shall be paid out of the facility's operating funds and be charged back to the
7 patient's county of residence. The costs incident to the return of an inmate of a
8 private prison shall be paid by the private prison.

9 **SECTION 38.** 51.42 (3) (as) 1. of the statutes is amended to read:

10 51.42 (3) (as) 1. A county department of community programs shall authorize
11 all care of any patient in a state, local or private facility under a contractual
12 agreement between the county department of community programs and the facility,
13 unless the county department of community programs governs the facility. The need
14 for inpatient care shall be determined by the program director or designee in
15 consultation with and upon the recommendation of a licensed physician trained in
16 psychiatry and employed by the county department of community programs or its
17 contract agency. In cases of emergency, a facility under contract with any county
18 department of community programs shall charge the county department of
19 community programs having jurisdiction in the county where the patient is found.
20 The county department of community programs shall reimburse the facility for the
21 actual cost of all authorized care and services less applicable collections under s.
22 46.036, unless the department of health and family services determines that a
23 charge is administratively infeasible, or unless the department of health and family
24 services, after individual review, determines that the charge is not attributable to the
25 cost of basic care and services. A county department of community programs may

1 not reimburse any state institution or receive credit for collections for care received
2 therein by nonresidents of this state, interstate compact clients, transfers under s.
3 51.35 (3), and transfers from ~~Wisconsin-state~~ prisons under s. 51.37 (5) (a),
4 commitments under s. 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. 971.14,
5 971.17 or 975.06 or admissions under s. 975.17, 1977 stats., or children placed in the
6 guardianship of the department of health and family services under s. 48.427 or
7 48.43 or under the supervision of the department of corrections under s. 938.183 or
8 938.355. The exclusionary provisions of s. 46.03 (18) do not apply to direct and
9 indirect costs which are attributable to care and treatment of the client.

10 SECTION 39. 51.45 (15) (b) of the statutes is amended to read:

11 51.45 (15) (b) No provisions of this section may be deemed to contradict any
12 rules or regulations governing the conduct of any inmate of a ~~state or county~~
13 correctional institution who is being treated in an alcoholic treatment program
14 within the institution.

15 SECTION 40. 51.61 (1) (c) of the statutes is amended to read:

16 51.61 (1) (c) Have an unrestricted right to send sealed mail and receive sealed
17 mail to or from legal counsel, the courts, governmental officials, private physicians
18 and licensed psychologists, and have reasonable access to letter writing materials
19 including postage stamps. A patient shall also have a right to send sealed mail and
20 receive sealed mail to or from other persons, subject to physical examination in the
21 patient's presence if there is reason to believe that such communication contains
22 contraband materials or objects which threaten the security of patients, prisoners,
23 inmates of a private orison or staff. Such reasons shall be written in the individual's
24 treatment record. The officers and staff of a facility may not read any mail covered
25 by this paragraph.

1 **SECTION 41.** 59.29 (1) (b) of the statutes is amended to read:

2 59.29 (1) (b) Whenever a person convicted of, or charged with, any felony, the
3 punishment for which is not less than 5 years' imprisonment, ~~shall escape, or~~
4 ~~escapes,~~ whenever any such felony ~~shall be~~ is committed by any unknown person or
5 persons or whenever a private prison inmate escapes, the sheriff of the county from
6 which such escape was made or in which such felony was committed may, with the
7 consent of the chairperson of the board of such county when such board is not in
8 session, and with the consent of the board when it is in session, offer such reward for
9 the apprehension and delivery of such escaped person, or the apprehension or
10 conviction of the perpetrator of such felony as the sheriff considers necessary, not
11 exceeding \$1,000 in any one case; but no such reward or any part thereof shall be paid
12 to any such sheriff, undersheriff or any deputy. The right to any such reward shall
13 be determined finally by such sheriff; and if more than one person claims the reward
14 the sheriff shall determine what portion, if any, the claimants are entitled to, and
15 shall certify the determination to the treasurer, and such certificate shall be the
16 treasurer's authority for paying the sum so certified.

17 **SECTION 42.** 77.996 (2) (f) of the statutes is amended to read:

18 77.996 (2) (f) Facilities that are located at a state prison or other state or county
19 penal institution.

20 **SECTION 43.** 101.123 (1) (dq) of the statutes is created to read:

21 101.123 (1) (dq) "Private prison" has the meaning given in s. 301.01 (2g).

22 **SECTION 44.** 101.123 (1) (ds) of the statutes is created to read:

23 101.123 (1) (ds) "Private prison operator" has the meaning given in s. 301.01
24 (2m).

25 **SECTION 45..** 101.123 (2) (a) 6m. of the statutes is created to read:

1 101.123 (2) (a) 6m. Private prisons.

2 **SECTION 46.** 101.123 (4) (am) 2m. of the statutes is created to read:

3 101.123 (4) (am) 2m. A private prison operator may designate areas where
4 smoking is permitted in a private prison, unless a fire marshal, law or resolution
5 prohibits smoking in the area. A private prison operator may designate an entire
6 room as a smoking area in a private prison.

7 **SECTION 47.** 101.123 (4) (bm) of the statutes is amended to read:

8 101.123 (4) (bm) The person in charge of a state institution, jail or lockup
9 facility, or his or her agent, or a private prison operator. in the case of a private prison.
10 shall post notice of the designation of a smoking area under par. (am) in or near the
11 area designated. If an entire room is designated a smoking area, the person in charge
12 or his or her agent or the private prison operator shall post notice of the designation
13 conspicuously on or near all normally used entrances to the room. If an entire
14 building in a prison, secured correctional facility, jail or lockup facility is designated
15 a smoking area, the person in charge, or his or her agent, or the private prison
16 operator shall post notice of the designation on or near all normally used entrances
17 to the building, but need not post notice of the designation on or near entrances to
18 rooms within the building.

19 **SECTION 48.** 115.762 (4) of the statutes is amended to read:

20 115.762 (4) **LIMITATION.** Nothing in this subchapter requires that special
21 education and related services be provided to a child with a disability who is at least
22 18 years old but not yet 22 years old and who, in the child's educational placement
23 before his or her incarceration in a ~~state~~ prison, was not identified as a child with a
24 disability or for whom an individualized education program was not developed.

25 **SECTION 49.** 115.787 (6) (a) 1. of the statutes is amended to read:

1 115.787 (6) (a) 1. The requirements relating to participation of children with
2 disabilities in general assessments under sub. (2) (e) do not apply to a child with a
3 disability who is convicted of a crime under state law and incarcerated in a state
4 prison or who is incarcerated in a private prison.

5 **SECTION 50.** 115.787 (6) (a) 2. of the statutes is amended to read:

6 115.787 (6) (a) 2. The requirements relating to transition planning and
7 transition services under sub. (2) (g) 1. and 2. do not apply with respect to a child with
8 a disability who is convicted of a crime under state law and incarcerated in a state
9 prison or who is incarcerated in a private prison and whose eligibility under this
10 subchapter will end, because of his or her age, before he or she will be released from
11 prison.

12 **SECTION 51.** 115.787 (6) (b) of the statutes is amended to read:

13 115.787 (6) (b) If a child with a disability is convicted of a crime and
14 incarcerated in a state prison or is incarcerated in a private prison, the child's
15 individualized education program team may modify the child's individualized
16 education program or placement notwithstanding the requirements of sub. (1) and
17 s. 115.79 (1) if the department of corrections or the private prison operator, as defined
18 in s. 301.01 (2m), has demonstrated a bona fide security or compelling penological
19 interest that cannot otherwise be accommodated.

20 **SECTION 52.** 157.02 (1) of the statutes is renumbered 157.02 (1) (a).

21 **SECTION 53.** 157.02 (1) (b) of the statutes is created to read:

22 157.02 (1) (b) When an inmate of a private prison, as defined in s. 301.01 (2g),
23 dies, the the private prison operator, as defined in s. 301.01 (2m), shall immediately
24 notify a relative of the decedent and the sending jurisdiction, as defined in s. 301.371
25 (4). A public officer having the possession or the disposition of a corpse shall

1 immediately notify a relative of the decedent and the sending jurisdiction. If no
2 relative is known, or discoverable by use of ordinary diligence, notice to a relative
3 may be dispensed with.

SECTION 54. 165.84 (4) of the statutes is amended to read:

5 165.84 (4) All persons in charge of state penal and correctional institutions
6 shall obtain fingerprints, according to the fingerprint system of identification
7 established by the director of the F.B.I., and full face and profile photographs of all
8 persons received on commitment to these institutions. The prints and photographs
9 so taken shall be forwarded to the department, together with any other identifying
10 data requested, within 10 days after the arrival at the institution of the person
11 committed. Full length photographs in release dress shall be taken immediately
12 prior to the release of these persons from these state penal and correctional
13 institutions. Immediately after release, these photographs shall be forwarded to the
14 department.

15 **SECTION 55.** 165.84 (5) of the statutes is amended to read:

16 165.84 (5) All persons in charge of law enforcement and tribal law enforcement
17 agencies, all clerks of court, all municipal judges where they have no clerks, all
18 persons in charge of ~~state and county~~ state and county penal and correctional institutions, and all
19 persons in charge of state and county probation, extended supervision and parole
20 offices, shall supply the department with the information described in s. 165.83 (2)
21 (f) on the basis of the forms and instructions to be supplied by the department under
22 s. 165.83 (2) (g).

23 **SECTION 56.** 227.43 (1) (bg) of the statutes is amended to read:

24 227.43 (1) (bg) Assign a hearing examiner to preside over any hearing or review
25 under ss. 84.30(18), 84.31 (6) (a), 85.013(1), 86.073(3), 86.16(5), 86.195 (9) (b), 86.32

1 (l), 114.134 (4) (b), 114.135 (9), 114.20 (19), 175.05 (4) (b), 194.145 (l), 194.46, 218.01
2 (2) (bd) 2. and (c) 2., (3) (b), (c), (f) l., (fm) 1. and (h) and (3c) (d), 218.11 (7) (a) and
3 (b), 218.22 (4) (a) and (b), 218.32 (4) (a) and (b), 218.41 (4), 218.51 (5) (a) and (b),
4 301.373 (10) (a), 301.378 (7), 341.09 (2m) (d), 342.26, 343.69 and 348.25 (9).

5 **SECTION 57.** 252.02 (4) of the statutes is amended to read:

6 252.02 (4) The department may promulgate and enforce rules or issue orders
7 for guarding against the introduction of any communicable disease into the state, for
8 the control and suppression of communicable diseases, for the quarantine and
9 disinfection of persons, localities and things infected or suspected of being infected
10 by a communicable disease and for the sanitary care of jails, ~~state~~ prisons, mental
11 health institutions, schools, hotels and public buildings and connected premises.
12 Any rule or order may be made applicable to the whole or any specified part of the
13 state, or to any vessel or other conveyance. The department may issue orders for any
14 city, village or county by service upon the local health officer. Rules that are
15 promulgated and orders that are issued under this subsection supersede conflicting
16 or less stringent local regulations, orders or ordinances.

17 **SECTION 58.** 252.02 (5) of the statutes is amended to read:

18 252.02 (5) If any public officer or employe or any person in charge of any
19 building, vessel, conveyance, jail, state prison, mental health institution or school
20 fails to comply with a rule promulgated or order issued under sub. (4), the
21 department may appoint an agent to execute its rules or orders. Expenses that an
22 agent incurs shall be paid by the unit of government that employs the person or of
23 which the public officer is a member. If the building, vessel, conveyance, mental
24 health institution or school is privately owned the state shall pay the expenses that
25 the agent incurs.

1 **SECTION 59.** 252.06 (6) (b) of the statutes is amended to read:

2 252.06 (6) (b) When a person confined in a jail, state prison, mental health
3 institute or other public place of detention has a disease which the local health officer
4 or the director of health at the institution deems dangerous to the health of other
5 residents or the neighborhood, the local health officer or the director of health at the
6 institution shall order in writing the removal of the person to a hospital or other place
7 of safety, there to be provided for and securely kept. Upon recovery the person shall
8 be returned; and if the person was committed by a court or under process the removal
9 order or a copy shall be returned by the local health officer to the committing court
10 officer.

11 **SECTION 60.** 252.14 (1) (ad) of the statutes is renumbered 252.14 (1) (ad) (intro.)
12 and amended to read:

13 2 5 2 . 1 4 (1) (a d) (i n t r o .) “ C o r r e c t i o n a l o f f i c e r ” . f i
14 ~~(1)~~ means any of the following:

15 **SECTION 61.** 252.14 (1) (ad) 1. and 2. of the statutes are created to read:

16 252.14 (1) (ad) 1. A correctional officer, as defined in s. 301.28 (1).

17 2. An out-of-state correctional officer.

18 **SECTION 62.** 252.14 (1) (e) of the statutes is created to read:

19 252.14 (1) (e) “Out-of-state correctional officer” means a person employed by
20 the United States or one of its political subdivisions or a federally recognized
21 American Indian tribe or band, other than a person employed by this state or a
22 political subdivision of this state, as a guard or officer whose principal duties are
23 supervision and discipline of persons in custody for the commission or alleged
24 commission of a crime.

25 **SECTION 63.** 252.14 (1) (f) of the statutes is created to read:

1 252.14 (1) (f) "Private prison" has the meaning given in s. 301.01 (2g).

2 **SECTION 64.** 252.14 (2) (intro.) of the statutes is amended to read:

3 252.14 (2) (intro.) No health care provider, peace officer, fire fighter,
4 correctional officer, private prison emplove, state patrol officer, jailer or keeper of a
5 jail or person designated with custodial authority by thejailer or keeper, home health
6 agency, inpatient health care facility or person who has access to a validated test
7 result may do any of the following with respect to an individual who has acquired
8 immunodeficiency syndrome or has a positive test for the presence of HIV, antigen
9 or nonantigenic products of HIV or an antibody to HIV, solely because the individual
10 has HIV infection or an illness or medical condition that is caused by, arises from or
11 is related to HIV infection:

12 **SECTION 65.** 252.14 (2) (am) of the statutes is amended to read:

13 252.14 (2) (am) If a peace officer, fire fighter, correctional officer, private prison
14 emnllove, state patrol officer, jailer or keeper of a jail or person designated with
15 custodial authority by the jailer or keeper, refuse to provide services to the
16 individual.

17 **SECTION 66.** 252.14 (2) (bm) of the statutes is amended to read:

18 252.14 (2) (bm) If a peace officer, fire fighter, correctional officer, private prison
19 emnllove, state patrol officer, jailer or keeper of a jail or person designated with
20 custodial authority by the jailer or keeper, provide services to the individual at a
21 standard that is lower than that provided other individuals with like service needs.

22 **SECTION 67.** 252.15 (1) (ab) of the statutes is amended to read:

23 252.15 (1) (ab) "Affected person" means an emergency medical technician, first
24 responder, fire fighter, peace officer, correctional officer, person who is employed at
25 a secured correctional facility, as defined in s. 938.02 (15m), or at a secured child

1 caring institution, as defined in s. 938.02 (15g), private prison employe, state patrol
2 officer, jailer or keeper of a jail or person designated with custodial authority by the
3 jailer or keeper, health care provider, employe of a health care provider or staff
4 member of a state crime laboratory.

5 **SECTION 68.** 252.15 (1) (ad) of the statutes is renumbered 252.15 (1) (ad) (intro.)
6 and amended to read:

7 252.15 (1) (ad) (intro.) “Correctional officer” ~~has the meaning given in s. 301.28~~
8 ~~(1)~~ means any of the following:

9 **SECTION 69.** 252.15 (1) (ad) 1. and 2. of the statutes are created to read:

10 252.15 (1) (ad) 1. A correctional officer, as defined in s. 301.28 (1).

11 2. An out-of-state correctional officer, as defined in s. 252.14 (1) (e).

12 **SECTION 70.** 252.15 (1) (au) of the statutes is created to read:

13 252.15 (1) (au) “Private prison” has the meaning given in s. 301.01 (2g).

14 **SECTION 71.** 252.15 (2) (a) 7. a. of the statutes is amended to read:

15 252.15 (2) (a) 7. a. If all of the conditions under subd. 7. ai. to c. are met, an
16 emergency medical technician, first responder, fire fighter, peace officer, correctional
17 officer, person who is employed at a secured correctional facility, as defined in s.
18 938.02 (15m), or at a secured child caring institution, as defined in s. 938.02 (15g),
19 private orison employe, state patrol officer, jailer or keeper of a jail or person
20 designated with custodial authority by the jailer or keeper who, during the course
21 of providing care or services to an individual; or a peace officer, correctional officer,
22 private prison employe, state patrol officer, jailer or keeper of a jail or person
23 designated with custodial authority by the jailer or keeper who, while searching or
24 arresting an individual or while controlling or transferring an individual in custody;
25 or a health care provider or an employe of a health care provider who, during the

1 course of providing care or treatment to an individual or handling or processing
2 specimens of body fluids or tissues of an individual; or a staff member of a state crime
3 laboratory who, during the course of handling or processing specimens of body fluids
4 or tissues of an individual; is significantly exposed to the individual may subject the
5 individual's blood to a test or a series of tests for the presence of HIV, antigen or
6 nonantigenic products of HIV or an antibody to HIV and may receive disclosure of
7 the results.

8 **SECTION 72.** 301.01 (2) (e) of the statutes is created to read:

9 301.01 (2) (e) An inmate of a private prison.

10 **SECTION 73.** 301.01 (2g) and (2m) of the statutes are created to read:

11 301.01 (2g) "Private prison" means a building, structure or facility that is used
12 or is to be used for the confinement of one or more individuals who have been
13 sentenced to a term of imprisonment for the commission of a crime and that is or will
14 be operated in this state by a person other than the department, a law enforcement
15 agency, as defined in s. 165.83 (1) (b), a county, a group of counties acting under s.
16 302.44, this state and a county or group of counties acting under s. 302.45, the United
17 States or a federally recognized American Indian tribe or band in this state. "Private
18 prison" does not include a building, structure or facility used or to be used solely to
19 confine juveniles alleged or found to be delinquent or a building, structure or facility
20 supervised, maintained and operated by a public, private or voluntary agency under
21 contract with the department under s. 301.08 (1) (b) 2.

22 (2m) "Private prison operator" means a person licensed to operate a private
23 prison under s. 301.378.

24 **SECTION 74.** 301.03 (8m) of the statutes is created to read:

1 301.03 **(8m)** Supervise the design, construction and operation of private
2 prisons under ss. 301.372 to 301.379. The department shall promulgate rules
3 regarding the design, construction and operation of private prisons to ensure the
4 protection of private prison employes, inmates and the public and to help facilitate
5 the confinement, treatment and rehabilitation of inmates.

6 **SECTION 75.** 301.03 (12) of the statutes is amended to read:

7 301.03 (12) Cooperate and coordinate its activities with other state and local
8 agencies to provide educational, social, health and other services to offenders, other
9 than inmates of a private prison. and except as provided in s. 302.386 (5).

10 **SECTION 76.** 301.035 (2) of the statutes is amended to read:

11 301.035 (2) Assign hearing examiners from the division to preside over
12 hearings under ss. 301.373 (10) (a), 301.378 (7), 302.11 (7), 938.357 (5), 973.10 and
13 975.10 (2) and ch. 304.

14 **SECTION 77.** 301.035 (4) of the statutes is amended to read:

15 301.035 (4) Supervise employes in the conduct of the activities of the division
16 and be the administrative reviewing authority for decisions of the division under ss.
17 301.373 (10) (a), 301.378 (7), 302.11 (7), 938.357 (5), 973.10, 973.155 (2) and 975.10
18 (2) and ch. 304.

19 **SECTION 78.** 301.105 (intro.) of the statutes is amended to read:

20 **301.105 Telephone company commissions.** (intro.) The department shall
21 collect moneys for commissions from telephone companies for contracts to provide
22 telephone services to ~~inmates~~ prisoners. The department shall transmit those
23 moneys to the state treasurer. The state treasurer shall do all of the following:

24 **SECTION 79.** 301.287 of the statutes is amended to read:

1 **301.287 Correctional officer** overtime. The department shall maintain a
2 central monitoring system to record the amount of overtime worked by correctional
3 officers employed by the state.

4 **SECTION 80.** 301.33 (2) of the statutes is amended to read:

5 301.33 (2) Every ~~inmate~~ prisoner shall receive, upon request, religious
6 ministrations and sacraments according to the ~~inmate's~~ prisoner's faith.

7 **SECTION 81.** 301.33 (3) of the statutes is amended to read:

8 301.33 (3) Every ~~inmate~~ prisoner who requests it shall have the use of the
9 Bible.

10 **SECTION 82.** 301.36 (1) and (6) of the statutes are amended to read:

11 **301.36 General supervision and inspection by department. (1) GENERAL**
12 **AUTHORITY.** The department shall investigate and supervise all of the state
13 correctional institutions, and all secure detention facilities and all private prisons
14 and familiarize itself with all of the circumstances affecting their management and
15 usefulness.

16 (6) **OPPORTUNITY TO INSPECT.** All trustees, managers, directors, superintendents
17 and other officers or employees of the institutions shall at all times afford to every
18 member of the department and its agents, unrestrained facility for inspection of and
19 free access to all parts of the buildings and grounds and to all books and papers of
20 the institutions+ and, in the case of private prisons, the books and papers of the
21 private prison operator and shall give, either verbally or in writing, such information
22 as the department requires. Any person who violates this subsection shall forfeit not
23 less than \$10 nor more than \$100. A private prison operator may also be subject to
24 enforcement proceedings and sanctions under s. 301.373 (10) for violations of this
25 subsection.

1 **SECTION 83.** 301.371 of the statutes is created to read:

2 **301.371 Definitions.** In this section and ss. 301.372 to 301.378:

3 **(1)** “Division” means the division of hearings and appeals in the department
4 of administration.

5 **(2)** “Political subdivision of this state” means a city, village, town or county.

6 **(3)** “Security breach” means one of the following:

7 **(a)** A violation of s. 946.42 (3) by a person committed to a private prison by a
8 sending jurisdiction.

9 **(b)** A disturbance at a private prison that places any person at imminent risk
10 of great bodily harm, as defined in s. 939.22 (14).

11 **(4)** “Sending jurisdiction” means the United States or one of its political
12 subdivisions or a federally recognized American Indian tribe or band that contracts
13 with a private prison operator to confine persons in a private prison for the
14 commission of a crime.

15 **SECTION 84.** 301.372 of the statutes is created to read:

16 **301.372 Private prison construction.** No person may commence the
17 construction of a private prison or the conversion of an existing building into a
18 private prison without paying the license fee and any application fee set under 1999
19 Wisconsin Act (this act), section 151 (3), and obtaining a private prison
20 construction license under s. 301.378.

21 **SECTION 85.** 301.372 of the statutes, as created by 1999 Wisconsin Act (this
22 act), is amended to read:

23 **301.372 Private prison construction.** No person may commence the
24 construction of a private prison or the conversion of an existing building into a
25 private prison without paying the license fee and any application fee set under ~~1999~~

1 ~~Wisconsin Act ... (this act), section 151 (3), s. 301.379~~ and obtaining a private prison
2 construction license under s. 301.378.

3 SECTION 86. 301.373 of the statutes is created to read:

4 **301.373 Private prison operation.** No person may operate a private prison
5 unless the person complies with all of the following requirements:

6 **(1) COMPLIANCE WITH LICENSE AND APPLICABLE LAWS.** A private prison operator
7 shall maintain a private prison operating license and operate and maintain the
8 private prison in a manner consistent with the operating license. A private prison
9 operator shall comply with all laws relating to the design, construction and operation
10 of the private prison, all rules promulgated by the department, all orders issued by
11 the department under sub. (10) (a) 1. a. and all orders issued by the division.

12 **(2) INSURANCE, INDEMNIFICATION AND FINANCIAL STATUS REPORTS.** (a) A private
13 prison operator shall periodically provide the department satisfactory proof of
14 insurance or self-insurance in the form, manner and frequency required by the
15 department. The insurance shall be in an amount sufficient, as determined by the
16 department, to indemnify this state and its officers and employees and political
17 subdivisions of this state and their officers and employees for any expenses, property
18 damage, losses, liability, costs or attorney fees arising from acts or omissions of the
19 private prison operator, prison employees or inmates in relation to the operation of the
20 private prison.

21 (b) A private prison operator shall indemnify and hold harmless this state and
22 its officers and employees and political subdivisions of this state and their officers and
23 employees for any expenses, property damage, losses, liability, costs or attorney fees
24 arising from acts or omissions of the private prison operator, prison employees or
25 inmates in relation to the operation of the private prison.

1 (c) A private prison operator shall submit to the department financial status
2 reports in the form and manner required by the department.

3 (3) PRIVATE PRISON EMPLOYEES. (a) A private prison operator may not assign an
4 employe responsibility of supervising or disciplining inmates until the employe has
5 completed a training program approved or provided by the department. If the
6 department provides the training, the private prison operator shall pay a reasonable
7 fee, which the department shall set by rule.

8 (b) A private prison operator may not employ a person at a private prison until
9 the department of justice has completed a criminal history record search for the
10 person.

11 (c) Notwithstanding s. 111.322, a private prison operator may not employ a
12 person who has been convicted of a felony in this state or a violation of the law of
13 another jurisdiction which, if committed in this state, would have been a felony.

14 (4) SECURITYCLASSIFICATIONATPRIVATEPRISONS. A private prison operator may
15 not confine an inmate who would have a maximum security classification under the
16 department's security classification system.

17 (5) LIMITS ON SUBCONTRACTING. A private prison operator may not subcontract
18 with a person for the provision of goods or services on prison grounds without the
19 prior written approval of the department. As a condition of its approval, the
20 department may subject the subcontractor to any requirement of this section and s.
21 301.376 or to any department rule.

22 (6) INMATE LEAVE. A private prison operator may not permit an inmate to leave
23 the prison grounds during the time of the inmate's commitment to the private prison
24 unless otherwise ordered by a court, unless approved in writing by the department
25 or unless the inmate requires medical care unavailable within the private prison.

1 The department shall promulgate rules regarding security for inmates permitted to
2 leave the prison grounds under this subsection.

3 (7) REQUIRED PLANS; NOTICE. A private prison operator shall have written plans,
4 subject to department approval, regarding responding to security breaches,
5 providing medical care to inmates outside of the private prison and transporting
6 inmates to and from the private prison. A private prison operator shall provide
7 written notice to the department if a private prison inmate is returned to the sending
8 jurisdiction, is admitted to a state treatment facility, as defined in s. 51.01 (15), or
9 dies.

10 (8) DESIGNATION OF MEDICAL DIRECTOR. A private prison operator shall designate
11 a licensed physician to act as the prison's medical director.

12 *a. Payments by private prison operator.*
13 (9) (a) A private prison operator shall pay the fee for its private prison
14 operating license and any application fee set under 1999 Wisconsin Act (this act),
15 section 151 (3), all forfeitures, attorney fees, costs and other sanctions imposed under
16 sub. (10), and all charges for which ^{reimbursement or} indemnification is required under ^{this paragraph or} par. (b)
17 or sub. (2). ^(b) The private prison operator shall reimburse this state, the political
18 subdivisions of this state and any local educational agency, as defined in s. 115.76
19 (10), for expenses they incur in connection with providing health, mental health or
20 educational services to inmates of private prisons.

21 (b) A private prison operator shall reimburse the state and the political
22 subdivisions of this state for all court costs incurred in connection with any judicial
23 or administrative proceeding involving the care and treatment of inmates of private
24 prisons if the state or the political subdivision is not a party to the proceeding or is
25 a prevailing party in the proceeding and the costs are not reimbursed by one of the
parties to the proceeding. If the state, a political subdivision of this state, or a local

1 educational agency, as defined in s. 115.76 (lo), is a prevailing party in such a
2 proceeding, the private prison shall also reimburse the state, the political
3 subdivision of this state or the local educational agency for attorney fees and all other
4 expenses incurred in connection with such a proceeding, if the attorney fees and
5 other expenses are not reimbursed by any other party to the proceeding.

6 (10) **ENFORCEMENT.** (a) 1. The department may investigate violations of the
7 terms of a private prison construction license or a private prison operating license,
8 this section, s. 301.374 or 301.376 or a department rule. If the department
9 determines that a violation has occurred, it may do one of the following:

10 a. File a petition with the division seeking appropriate relief.

11 b. With the agreement of the private prison operator, enter an order providing
12 an appropriate remedy for the violation.

13 2. If the division determines that a person issued a private prison construction
14 or operating license made a material misstatement in an application for a license or
15 for renewal of a license or that a person has failed to comply with the terms of a
16 private prison construction license or a private prison operating license, this section,
17 s. 301.374 or 301.376 or a department rule, the person shall forfeit not less than \$100
18 nor more than \$100,000 per violation, Each day of continued violation constitutes
19 a separate offense.

20 3. If the division determines that a violation of the terms of a private prison
21 construction license or a private prison operating license, this section, s. 301.374 or
22 301.376 or a department rule may jeopardize public safety or the health or safety of
23 prison staff or inmates, the division shall order the person to remedy the violation
24 by a specific date or deny, limit, suspend or revoke the prison's operating license or
25 both.

1 (b) If the department has reason to believe that any person is violating the
2 terms of a private prison construction license or a private prison operating license,
3 this section, s. 301.374 or 301.376 or any rule promulgated by the department, the
4 department, the attorney general or the district attorney of the proper county may,
5 in addition to any other remedies, bring an action in the name and on behalf of this
6 state to enjoin the person from committing the violation.

7 (c) If the department is the prevailing party in any proceeding under this
8 subsection, the person against whom the proceeding was brought shall pay all costs
9 incurred and all attorneys' fees expended by the department in connection with its
10 investigation and the proceedings.

11 SECTION 87. 301.373 (9) (a) of the statutes, as created by 1999 Wisconsin Act
12 (this act), is amended to read:

13

(c) Payments by private prison operator.

301.373 (9)(a) A private prison operator shall pay the fee for its private prison
14 operating license and any application fee set under ~~1999 Wisconsin Act (this act),~~
15 ~~section 151 (3) s. 301.379,~~ all forfeitures, attorney fees, costs and other sanctions
16 imposed under sub. (10), and all charges for which ^{reimbursement or} indemnification is required under,
17 par. ~~(a)~~ (b) or sub. (2) (b). The private prison operator shall reimburse this state,
18 the political subdivisions of this state and any local educational agency, as defined
19 in s. 115.76 (10), for expenses they incur in connection with providing health, mental
20 health or educational services to inmates of private prisons.

*to
this paragraph*

21 SECTION 88. 301.374 of the statutes is created to read:

22 **301.374 Private prison contracts.** No private prison may accept an inmate
23 except pursuant to a written contract meeting the requirements of this section. The
24 contract shall contain provisions regarding delivery and retaking of inmates and any
25 other matters necessary and appropriate to fix the obligations, responsibilities and

1 rights of the sending jurisdiction and the private prison operator. The contract shall
2 be subject to final approval by the department and shall contain substantially the
3 following provisions:

4 (1) The department shall be a third party beneficiary under the contract. If the
5 department assumes responsibility for the operation of the private prison under s.
6 301.378 (8), the department will assume the rights of the private prison operator
7 under the contract, **but no provisions of** the contract, other than the obligation to
8 provide care and treatment to inmates, shall be enforceable against the department.
9 The department may assign its rights under the contract to any other person.

10 (2) Neither the sending jurisdiction nor the private prison may bring an inmate
11 into this state without prior written notice to the department. The sending
12 jurisdiction and the private prison operator shall provide the department of justice
13 and the department of corrections all information requested regarding inmates
14 confined or to be confined in a private prison. The department may direct the return
15 of any inmate to the sending jurisdiction for any reason. The sending jurisdiction
16 shall also resume physical custody of an inmate if the private prison operator returns
17 the inmate to the sending jurisdiction because of a change in its licensed capacity
18 under s. 301.378 (6) or upon the termination of the contract applicable to the inmate.

19 (4) The courts of the sending jurisdiction shall exercise concurrent jurisdiction
20 over claims brought by inmates of private prisons regarding the conditions of
21 confinement or under the laws or regulations of the sending jurisdiction. The
22 sending jurisdiction shall provide a venue for such claims.

23 (5) If an inmate of a private prison files an action or special proceeding in this
24 state which, if filed by a prisoner, as defined in s. 806.025 (1), who committed an
25 offense after September 1, 1998, would subject the prisoner to sanctions under s.

1 807.15, or if an inmate of a private prison testifies falsely or otherwise knowingly
2 offers false evidence or provides false information to a court of this state, the sending
3 jurisdiction shall impose sanctions on the inmate of a private prison substantially
4 similar to the sanctions to which the prisoner would be subject under s. 807.15.

5 (6) Any provision of the contract that is in conflict with or inconsistent with
6 Wisconsin law or any order issued by or decision of the department or the division
7 shall be void.

8 **SECTION 89.** 301.376 of the statutes is created to read:

9 **301.376 Security and emergencies.** (1) **USE OF FIREARMS AND FORCE AT**
10 **PRIVATE PRISONS.** (a) The department shall promulgate rules regarding the
11 possession of firearms and the use of force by private prison employees. No person
12 may carry a firearm or use force at a private prison except in accordance with
13 department rules.

14 (b) If a security breach occurs or if a prison employe discharges a firearm, the
15 private prison operator shall immediately notify the department, the sheriff of the
16 county in which the security breach or discharge has occurred and the local law
17 enforcement agency for the city, village or town in which the security breach or
18 discharge has occurred.

19 (2) **TRANSPORTING INMATES.** The department shall promulgate rules regarding
20 the transportation of inmates to and from private prisons. No person may transport
21 an inmate to or from a private prison except in accordance with department rules.
22 If a person transporting an inmate between a sending jurisdiction and a private
23 prison discharges a firearm or if a person he or she is transporting escapes or causes
24 death or serious bodily harm, he or she shall immediately notify the department, the

1 sheriff of the county in which the incident occurs and the local law enforcement
2 agency for the city, village or town in which the incident occurs.

3 SECTION 90. 301.378 of the statutes is created to read:

4 **301.378 Private prison licensing. (1) APPLICATION PROCEDURES.** A person
5 seeking a private prison construction license or a private prison operating license
6 shall apply in the manner prescribed by the department. After applying for a license,
7 the person shall cooperate fully with all reasonable requests of the department. The
8 department may hold public hearings as part of its review of an application. The
9 department may not issue a license unless the applicant complies with all applicable
10 laws and department rules and pays the license fee and any application fee as set by
11 the department.

1 2 (2) INSPECTION OF PRIVATE PRISON. As part of its review of an application for a
13 private prison operating license, the department shall inspect the private prison
14 with respect to public, inmate and prison staff safety, sanitation, adequacy and
15 fitness for use as a prison and report any deficiency found to the applicant. The
16 department may condition the issuance of a license on the applicant remedying the
17 deficiency.

18 (3) SECURITY LEVEL AND CAPACITY. Each operating license shall set the security
19 levels at which the private prison may operate and the maximum number of inmates
20 to be confined there. The department's determinations regarding security level and
21 capacity shall be based on its review and investigation of the application for an
22 operating license.

23 (4) NON-TRANSFERABILITY. Licenses issued by the department under this section
24 are not transferable.

1 (5) RENEWAL OF PRIVATE PRISON OPERATING LICENSES. A private prison operating
2 license shall be valid for one year, unless the department establishes a shorter term.
3 The renewal of a private prison operating license is subject to the same requirements
4 as those applicable to the initial issuance of such a license.

5 (6) CHANGES IN LICENSED CAPACITY. If the department reduces the number of
6 inmates that a private prison may hold under its operating license, the private prison
7 operator shall return inmates in excess of that number to the relevant sending
8 jurisdictions within the time set by the department.

9 (7) APPEALS. Any person aggrieved by a decision by the department under this
10 section may appeal the order as a contested case under ch. 227 by filing with the
11 division a request for a hearing within 30 days after the date of the department's
12 written decision.

13 (8) DEPARTMENT TAKEOVER OF PRIVATE PRISON. If the division suspends or revokes
14 a private prison operating license or if the private prison operating license is not
15 renewed, the department shall assume responsibility for the operation of the prison.
16 If the department assumes responsibility for the operation of the prison for any
17 reason, the private prison operator shall be liable to the department for all costs
18 incurred by the department in managing or hiring another person to manage the
19 private prison, in addition to forfeitures, attorney fees, costs and other sanctions
20 imposed under s. 301.373 (10) and any charges for which reimbursement is required
21 under s. 301.373 (2) (b) or (9) (a) or (b).

22 **SECTION 91.** 301.379 of the statutes is created to read:

23 **301.379 License fee determination.** The department shall include all of the
24 following with each biennial budget request that it makes under s. 16.42:

1 (1) A recalculation of all costs the department includes in the budget request
2 that are attributable to the review of applications for and issuance of private prison
3 construction licenses, the review of applications for and issuance and renewals of
4 private prison operating licenses and the supervision of private prisons.

5 (2) The fees to be charged for private prison construction licenses and private
6 prison operating licenses, which shall reflect the approximate costs of the
7 department that are attributable to its review of applications, its issuance of licenses
8 and its regulation of private prisons. The department may recommend separate fees
9 for an initial private prison operating license and for the renewal of a private prison
10 operating license. The department may recommend variable fees for operating
11 licenses based on the size of the prison and the costs that the department has
12 incurred or anticipates it will incur in licensing or supervising individual licensees.
13 The department may recommend a separate application fee to be paid upon the
14 application for a private prison construction license or a private prison operating
15 license or both, to cover its approximate costs of reviewing such applications. If the
16 department 'imposes a separate application fee for either type of license, the
17 department shall not consider the costs of reviewing applications in determining the
18 relevant license fee.

19 **SECTION 92.** 302.01 of the statutes is amended to read:

20 **302.01 State prisons named and defined listed.** The ~~penitentiary~~
21 institution at Waupun is named "Waupun Correctional Institution". The
22 correctional treatment center at Waupun is named "Dodge Correctional Institution".
23 The ~~penitentiary~~ institution at Green Bay is named "Green Bay Correctional
24 Institution". The medium/maximum ~~penitentiary~~ institution at Portage is named
25 "Columbia Correctional Institution". The medium security institution at Oshkosh

1 is named "Oshkosh Correctional Institution". The medium security ~~penitentiary~~
2 institution near Fox Lake is named "Fox Lake Correctional Institution". The
3 ~~penitentiary~~ institution at Taycheedah is named "Taycheedah Correctional
4 Institution". The medium security ~~penitentiary~~ institution at Plymouth is named
5 "Kettle Moraine Correctional Institution". The ~~penitentiary~~ institution at the
6 village of Sturtevant in Racine county is named "Racine Correctional Institution".
7 The medium security ~~penitentiary~~ institution at Racine is named "Racine Youthful
8 Offender Correctional Facility". The resource facility at Oshkosh is named
9 "Wisconsin Resource Center". The institutions named in this section, the
10 correctional institution authorized under s. 301.16 (In), correctional institution
11 authorized under 1997 Wisconsin Act 4, section 4 (1) (a), correctional institution
12 authorized under s. 301.046 (1), correctional institution authorized under s. 301.048
13 (4) (b), minimum security correctional institutions authorized under s. 301.13, ~~and~~
14 state-local shared correctional facilities when established under s. 301.14, ~~and any~~
15 correctional institution that the department operates under s. 301.378 (8) are state
16 prisons.

17 **SECTION 93.** 302.02 (5) (a) of the statutes is amended to read:

18 302.02 (5) (a) Service of process may be made on the warden or superintendent
19 of any prison named in s. 302.01 ~~or a private nrison~~ as upon any other resident of this
20 state.

21 **SECTION 94.** 302.02 (5) (b) of the statutes is amended to read:

22 302.02 (5) (b) Except as provided in par. (a), service of process within any ~~such~~
23 state or private prison on any officer or employe or inmate thereof shall be made by
24 the warden or superintendent or some person appointed by the warden or
25 superintendent to serve process.

1 **SECTION 95.** 302.055 of the statutes is amended to read:

2 302.055 **Transfer of inmates to resource center.** The department may
3 transfer an inmate from a prison, jail or other criminal detention facility, other than
4 a private prison, to the Wisconsin resource center if there is reason to believe that
5 the inmate is in need of individualized care. The inmate is entitled to a transfer
6 hearing by the department on the transfer to the Wisconsin resource center.

7 **SECTION 96.** 302.07 of the statutes is amended to read:

8 **302.07 Maintenance of order.** The warden or superintendent shall maintain
9 order, enforce obedience, suppress riots and prevent escapes. For such purposes the
10 warden or superintendent of a state prison may command the aid of the officers of
11 the institution and of persons outside of the prison; and any person who fails to obey
12 such command shall be punished by imprisonment in the county jail not more than
13 one year or by a fine not exceeding \$500. The warden or superintendent of a state
14 prison may adopt proper means to capture escaped inmates.

15 **SECTION 97.** 302.09 of the statutes is amended to read:

16 **302.09 Labor and communications.** Inmates of a state prison shall be
17 employed as provided in ch. 303. Communication shall not be allowed between
18 inmates and any person outside the prison except as prescribed by the prison
19 regulations.

20 **SECTION 98.** 302.095 (2) of the statutes is amended to read:

21 302.095 (2) Any officer or other person who delivers or procures to be delivered
22 or has in his or her possession with intent to deliver to any inmate confined in a jail
23 or ~~state~~ prison, or who deposits or conceals in or about a jail or prison, or the precincts
24 of a jail or prison, or in any vehicle going into the premises belonging to a jail or
25 prison, any article or thing whatever, with intent that any inmate confined in the jail

1 or prison shall obtain or receive the same, or who receives from any inmate any
2 article or thing whatever with intent to convey the same out of a jail or prison,
3 contrary to the rules or regulations and without the knowledge or permission of the
4 sheriff or other keeper of the jail, in the case of a jail, or of the warden or
5 superintendent of the prison, in the case of a prison, shall be imprisoned for not more
6 than 2 years or fined not more than \$500.

7 **SECTION 99.** 302.095 (2) of the statutes, as affected by 1997 Wisconsin Act 283
8 and 1999 Wisconsin Act (this act), is repealed and recreated to read:

9 302.095 (2) Any officer or other person who delivers or procures to be delivered
10 or has in his or her possession with intent to deliver to any inmate confined in a jail
11 or prison, or who deposits or conceals in or about a jail or prison, or the precincts of
12 a jail or prison, or in any vehicle going into the premises belonging to a jail or prison,
13 any article or thing whatever, with intent that any inmate confined in the jail or
14 prison shall obtain or receive the same, or who receives from any inmate any article
15 or thing whatever with intent to convey the same out of a jail or prison, contrary to
16 the rules or regulations and without the knowledge or permission of the sheriff or
17 other keeper of the jail, in the case of a jail, or of the warden or superintendent of the
18 prison, in the case of a prison, shall be imprisoned for not more than 3 years or fined
19 not more than \$500.

20 **SECTION 100.** 302.11 (11) of the statutes is created to read:

21 302.11 (11) This section does not apply to an inmate of a private prison.

22 **SECTION 101.** 302.12 (1) of the statutes is amended to read:

23 302.12 (1) The department may provide by rule for the payment of money to
24 inmates of a state prison. The rate may vary for different prisoners in accordance
25 with the pecuniary value of the work performed, willingness, and good behavior. The

1 payment of money to inmates working in the prison industries shall be governed by
2 s. 303.01 (4).

3 SECTION 102. 302.13 of the statutes is amended to read:

4 **302.13 Preservation of property an inmate brings to prison.** The
5 department shall preserve money and effects, except clothes, in the possession of an
6 inmate when admitted to ~~the~~ a state prison and, subject to the crime victim and
7 witness assistance surcharge under s. 973.045 (4) and the deoxyribonucleic acid
8 analysis surcharge under s. 973.046, shall restore the money and effects to the
9 inmate when discharged.

10 SECTION 103. 302.14 of the statutes is amended to read:

11 **302.14 Property of deceased inmates, parolees, probationers or**
12 **persons on extended supervision, disposition.** When an inmate of a state
13 prison, a parolee of ~~an institution~~ a state prison, a person on extended supervision
14 or a person on probation to the department dies leaving an estate of \$150 or less in
15 the trust of the warden, superintendent or secretary, the warden, superintendent or
16 secretary shall try to determine whether or not the estate is to be probated. If probate
17 proceedings are not commenced within 90 days, the warden, superintendent or
18 secretary shall turn over the money or securities to the nearest of kin as evidenced
19 by the records of the institution and the department.

20 SECTION 104. 302.18 (1) of the statutes is amended to read:

21 302.18 (1) Inmates of a state prison may be transferred and retransferred to
22 another prison by the department.

23 SECTION 105. 302.27 of the statutes is amended to read:

24 **302.27 Contracts for temporary housing for or detention of prisoners,**
25 The department may contract with local governments for temporary housing or

1 detention in county jails or county houses of correction for persons sentenced to
2 imprisonment in state prisons or to the intensive sanctions program. The
3 denartment may contract with local governments for temporary housing or
4 detention in county jails or county houses of correction for persons confined in a
5 private nrison. if the denartment assumes responsibility for the operation of the
6 private nrison under s. 301.378 (8). The rate under any such contract may not exceed
7 \$60 per person per day. Nothing in this section limits the authority of the department
8 to place persons in jails under s. 301.048 (3) (a) 1.

9 **SECTION 106.** 302.386 (5) (e) of the statutes, is created to read:

10 302.386 (5) (e) An inmate of a private prison.

11 **SECTION 107.** 303.063 (1) of the statutes is amended to read:

12 303.063 (1) The department may establish a secure work program for inmates
13 of state nrisons in which the inmates are assigned to work away from the grounds
14 of the institution while appropriately restrained for security purposes.

15 **SECTION 108.** 303.069 (title) of the statutes is amended to read:

16 303.069 (title) **~~Correctional State correctional institution enterprises;~~**
17 **activities of inmates.**

18 **SECTION 109. 304.06** (1) (b) of the statutes is amended to read:

19 304.06 (1) (b) Except as provided in sub. (lm) or s. 302.045 (3), 961.49 (2),
20 973.01 (6) or 973.0135, the parole commission may parole an inmate of the Wisconsin
21 state prisons or any felon or any person serving at least one year or more in a county
22 house of correction or a county reforestation camp organized under s. 303.07, when
23 he or she has served 25% of the sentence imposed for the offense, or 6 months,
24 whichever is greater. Except as provided in s. 939.62 (2m) (c) or 973.014 (1) (b) or (c),
25 (lg) or (2), the parole commission may parole an inmate of a state prison serving a

1 life term when he or she has served 20 years, as modified by the formula under s.
2 302.11 (1) and subject to extension under s. 302.11 (lq) and (2), if applicable. The
3 person serving the life term shall be given credit for time served prior to sentencing
4 under s. 973.155, including good time under s. 973.155 (4). The secretary may grant
5 special action parole releases under s. 304.02. The department or the parole
6 commission shall not provide any convicted offender or other person sentenced to the
7 department's custody any parole eligibility or evaluation until the person has been
8 confined at least 60 days following sentencing.

9 **SECTION 110. 447.06** (2) (a) 4. of the statutes is amended to read:

10 447.06 (2) (a) 4. For a facility, as defined in s. 50.01 (1m), a hospital, as defined
11 in s. 50.33 (2), a ~~state or federal~~ prison, ~~county~~ jail or other ~~federal, state, county or~~
12 ~~municipal~~ correctional or detention facility, or a facility established to provide care
13 for terminally ill patients.

14 **SECTION 111. 782.01** (1) of the statutes is amended to read:

15 782.01 **(I)** Every person restrained of personal liberty may prosecute a writ of
16 habeas corpus to obtain relief from such restraint subject to ss. 782.02, 782.46, 782.47
17 and 974.06.

18 **SECTION 112. 782.45** (title) of the statutes is amended to read:

19 782.45 (title) **Witness fees, inmates of state institutions and mivate**
20 **prisons.**

21 **SECTION 113. 782.45** (3) of the statutes is created to read:

22 782.45 (3) If an inmate of a private prison, as defined in s. 301.01 (2g), is
23 brought into court in response to a writ of habeas corpus or subpoena in a civil action,
24 the party requesting the presence of the inmate shall reimburse the private prison
25 for the time of any private prison employe conducting the inmate and the actual and

1 necessary traveling expenses incurred in taking the inmate into court on the process
2 and returning the inmate to the institution.

3 **SECTION 114.** 782.47 of the statutes is created to read:

4 **782.47 Inapplicability to inmates of private prisons.** An inmate of a
5 private prison, as defined in s. 301.01 (2g), may not apply for or obtain relief from his
6 or her confinement in the private prison under this chapter.

7 **SECTION 115.** 801.02 (7) (a) 1. of the statutes is amended to read:

8 801.02 (7) (a) 1. "Correctional institution" means any state or local facility that
9 incarcerates or detains any adult accused of, charged with, convicted of, or sentenced
10 for any crime, or any private prison. A correctional institution includes a Type 1
11 prison, as defined in s. 301.01 (5), a Type 2 prison, as defined in s. 301.01 (6), a county
12 jail and a house of correction.

13 **SECTION 116.** 801.02 (7) (a) 3. of the statutes is amended to read:

14 801.02 (7) (a) 3. "Prison or jail conditions" means any matter related to the
15 conditions of confinement or to the effects of actions by government officers,
16 employes or agents, or in the case of private prisons, employes or agents of the private
17 prison, on the lives of prisoners.

18 **SECTION 117.** 801.02 (7) (a) 4. of the statutes is created to read:

19 801.02 (7) (a) 4. "Private prison" has the meaning given in s. 301.01 (2g).

20 **SECTION 118.** 801.02 (7) (a) 5. of the statutes is created to read:

21 801.02 (7) (a) 5. "Sending jurisdiction" has the meaning given in s. 301.371 (4).

22 **SECTION 119.** 801.02 (7) (b) of the statutes is renumbered 801.02 (7) (b) 1. and
23 amended to read:

24 801.02 (7) (b) 1. No prisoner who is an inmate of a state or local correctional
25 institution may commence a civil action or special proceeding, including a petition

1 for a common law writ of certiorari, with respect to the prison or jail conditions in the
2 facility in which he or she is or has been incarcerated, imprisoned or detained until
3 the person has exhausted all available administrative remedies that the department
4 of corrections has promulgated by rule or, in the case of prisoners not in the custody
5 of the department of corrections or a private prison, that the sheriff, superintendent
6 or other keeper of a jail or house of correction has reduced to writing and provided
7 reasonable notice of to the prisoners.

8 **SECTION 120.** 801.02 (7) (b) 2. of the statutes is created to read:

9 801.02 (7) (b) 2. No prisoner who is an inmate of a private prison may commence
10 a civil action or special proceeding, including a petition for a common law writ of
11 certiorari, with respect to the prison or jail conditions in the facility in which he or
12 she is or has been incarcerated, imprisoned or detained until the person has
13 exhausted all administrative remedies available under the law of the sending
14 jurisdiction.

15 **SECTION 121.** 801.02 (7) (bm) (intro.) of the statutes is amended to read:

16 801.02 (7) (bm) (intro.) A prisoner who is an inmate of a state or local
17 correctional institution commencing an action or special proceeding shall first
18 comply with the provisions of s. 893.80 or 893.82 unless one of the following applies:

19 **SECTION 122.** 806.025 (1) of the statutes is amended to read:

20 806.025 (1) In this section, "prisoner" has the meaning given in s. 801.02 (7)
21 (a) 2. but does not include an inmate of a private prison, as defined in s. 301.01 (2g).

22 **SECTION 123.** 806.025 (3) of the statutes is created to read:

23 806.025 (3) If a court enters a judgment for a monetary award on behalf of an
24 inmate of a private prison, as defined in s. 301.01 (2g), the court shall inform the

1 sending jurisdiction, as defined in s. 301.371 (4), of the judgment prior to any
2 payments being made to the inmate.

3 **SECTION 124.** 807.15 (1) of the statutes is amended to read:

4 807.15 (1) In this section, "prisoner" has the meaning given in s. ~~801.02(7)(a)~~
5 2. 806.025 (1).

6 **SECTION 125.** 813.40 (1) (b) 3. (intro.) of the statutes is amended to read:

7 813.40 (1) (b) 3. (intro.) Does not require or permit a government official,
8 employe or agent to exceed his or her authority or to violate a state law or local
9 ordinance and does not require or permit a government official, employe or agent of
10 the sending jurisdiction, as defined in s. 301.371(4), or a private prison, as defined
11 in s. 301.01 (2g), or any of its employes to violate a state law or local ordinance or to
12 violate any provision contained in a contract between the sending jurisdiction and
13 the private prison that is required to be included in the contract under s. 301.374,
14 unless all of the following apply:

15 **SECTION 126.** 814.29 (1m) (c) 2. of the statutes is amended to read:

16 814.29 (1m) (c) 2. The prisoner authorizes in writing the agency or person
17 having custody of the prisoner's prison trust fund or other such account to forward
18 payments from the prisoner's account to the clerk of court each time the amount in
19 the account exceeds \$10 until the fees or costs are paid in full.

20 **SECTION 127.** 814.29 (1m) (e) of the statutes is amended to read:

21 814.29 (1m) (e) The agency or person having custody of the prisoner shall
22 freeze the prisoner's trust fund or other such account until the deposits in that
23 account are sufficient to pay the balance owed for the costs and fees. When the
24 deposits in that account are sufficient to pay the balance owed for the court costs and
25 fees, the agency shall forward that amount to the court. This paragraph does not

1 prohibit the payment from the prisoner's trust fund account of court-ordered
2 payments for child or family support, restitution or federal court fees or for the
3 payments of debts owed to the department of corrections.

4 **SECTION 128.** 893.735 (1) of the statutes is amended to read:

5 893.735 **(1)** In this section, "prisoner" has the meaning given in s. ~~801.02(7)~~
6 ~~(a) 2.~~ 806.025(1).

7 **SECTION 129.** 898.01 of the statutes is amended to read:

8 **898.01 Discharge of persons confined for tort.** Every person confined in
9 jail on an execution issued on a judgment recovered in an action founded on a tort
10 shall be discharged therefrom upon the conditions hereinafter specified. This
11 chapter does not apply to persons confined in a private prison, as defined in s. 301.01
12 (2g).

13 **SECTION 130.** 940.20 (1) of the statutes is amended to read:

14 **940.20 (1) BATTERY BY PRISONERS.** Any prisoner confined to a state prison ~~or~~
15 ~~other, a~~ state, county or municipal detention facility or a private prison, as defined
16 in s. 301.01 (2g), who intentionally causes bodily harm to an officer, employe, visitor
17 or another inmate of such prison, facility or institution, without ~~his or her~~ the consent
18 of the person injured, is guilty of a Class D felony.

19 **SECTION 131.** 940.29 of the statutes is amended to read:

20 **940.29 Abuse of residents of penal facilities correctional institutions.**
21 Any person in charge of or employed in a ~~penal or~~ correctional institution or other
22 place of confinement who abuses, neglects or ill-treats any person confined in or a
23 resident of any such institution or place or who knowingly permits another person
24 to do so is guilty of a Class E felony.

25 **SECTION 132.** 941.237 (1) (b) of the statutes is amended to read:

1 941.237 (1) (b) "Correctional officer" means any person employed by the state
2 or any political subdivision as a guard or officer whose principal duties are the
3 supervision and discipline of inmates. "Correctional officer" includes an
4 out-of-state correctional officer, as defined in s. 252.14 (1) (e).

5 **SECTION 133.** 941.29 (6) of the statutes is amended to read:

6 941.29 (6) The prohibition against firearm possession under this section does
7 not apply to any correctional officer employed by the state or by a county, city, town
8 or village of this state before May 1, 1982, who is required to possess a firearm as a
9 condition of employment. This exemption applies if the officer is eligible to possess
10 a firearm under any federal law and applies while the officer is acting in an official
11 capacity.

12 **SECTION 134.** 946.43 of the statutes is amended to read:

13 **946.43 Assaults by prisoners.** Any prisoner confined to a state prison ~~or~~
14 ~~other, a~~ state, county or municipal detention facility or a private prison, as defined
15 in s. 301.01 (2g), who intentionally does any of the following is guilty of a Class C
16 felony:

17 (1) Places an officer, employe, visitor or another inmate of such prison, facility
18 or institution in apprehension of an immediate battery likely to cause death or great
19 bodily harm; or

20 (2) Confines or restrains an officer, employe, visitor or another inmate of such
21 prison, facility or institution without the person's consent.

22 **SECTION 135.** 946.44 (2) (c) of the statutes is amended to read:

23 946.44 (2) (c) "Institution" includes a private prison as defined in s. 301.01 (2g),
24 a secured correctional facility, as defined in s. 938.02 (15m), a secured child caring

1 institution, as defined in s. 938.02 (15g), and a Type 2 child caring institution, as
2 defined in s. 938.02 (19r).

3 **SECTION 136.** 946.44 (2) (d) of the statutes is amended to read:

4 946.44 (2) (d) "Prisoner" includes a person who is under the supervision of the
5 department of corrections under s. 938.34 (4h) or placed in a secured correctional
6 facility or secured child caring institution under s. 938.34 (4m) or 938.357 (4) or (5)
7 (e) or placed in a Type 2 child caring institution under s. 938.34 (4d) ~~or~~, who is subject
8 to an order under s. 48.366 or who is an inmate of a private prison, as defined in s.
9 301.01 (2g).

10 **SECTION 137.** 946.45 (2) (c) of the statutes is amended to read:

11 946.45 (2) (c) "Institution" includes a private prison, as defined in s. 301.01 (2g),
12 a secured correctional facility, as defined in s. 938.02 (15m), a secured child caring
13 institution, as defined in s. 938.02 (15g), and a Type 2 child caring institution, as
14 defined in s. 938.02 (19r).

15 **SECTION 138.** 946.45 (2) (d) of the statutes is amended to read:

16 946.45 (2) (d) "Prisoner" includes a person who is under the supervision of the
17 department of corrections under s. 938.34 (4h) or placed in a secured correctional
18 facility or secured child caring institution under s. 938.34 (4m) or 938.357 (4) or (5)
19 (e) or placed in a Type 2 child caring institution under s. 938.34 (4d) ~~or~~, who is subject
20 to an order under s. 48.366 or who is an inmate of a private prison, as defined in s.
21 301.01 (2g).

22 **SECTION 139.** 946.47 (2) (b) of the statutes is amended to read:

23 946.47 (2) (b) A person who commits an act within the jurisdiction of another
24 state which is punishable by imprisonment for one year or more in ~~a state prison or~~

1 ~~penitentiary~~ under the law of that state and would, if committed in this state,
2 constitute a felony under the law of this state.

3 **SECTION 140.** 948.50 (4) (a) of the statutes is amended to read:

4 948.50 (4) (a) Is serving a sentence, pursuant to a conviction, in a jail, ~~state~~
5 prison or house of correction.

6 **SECTION 141.** 961.01 (12m) (g) of the statutes is created to read:

7 **961.01 (12m) (g)** A private prison, as defined in s. 301.01 (2g).

8 **SECTION 142.** 968.255 (7) (a) of the statutes is amended to read:

9 968.255 (7) (a) Is serving a sentence, pursuant to a conviction, in a jail, ~~state~~
10 prison or house of correction.

11 **SECTION 143.** 971.11 (title) of the statutes is amended to read:

12 **971.11 (title) Prompt disposition of intrastate detainees.**

1 3 **SECTION 144.** 971.11 (1) of the statutes is amended to read:

14 **971.11 (1)** Whenever the warden or superintendent receives notice of an
15 untried criminal case pending in this state against an inmate of a ~~state~~ prison, the
16 warden or superintendent shall, at the request of the inmate, send by certified mail
17 a written request to the district attorney for prompt disposition of the case. The
18 request shall state the sentence then being served, the date of parole eligibility, if
19 applicable, or the date of release to extended supervision, the approximate discharge
20 or conditional release date, and prior decision relating to parole. If there has been
21 no preliminary examination on the pending case, the request shall state whether the
22 inmate waives such examination, and, if so, shall be accompanied by a written
23 waiver signed by the inmate.

24 **SECTION 145.** 971.11 (6) of the statutes is amended to read:

1 971.11 (6) The prisoner shall be delivered into the custody of the sheriff of the
2 county in which the charge is pending for transportation to the court, and the
3 prisoner shall be retained in that custody during all proceedings under this section.
4 The sheriff shall return the prisoner to the prison upon the completion of the
5 proceedings and during any adjournments or continuances and between the
6 preliminary examination and the trial, except that if the department certifies a jail
7 as being suitable to detain the prisoner, he or she may be detained there until the
8 court disposes of the case. ~~The~~ Unless the prisoner is an inmate of a private prison,
9 as defined in s. 301.01 (2g), the prisoner's existing sentence continues to run and he
10 or she receives time credit under s. 302.11 while in custody.

11 **SECTION 146.** 973.15 (4) (a) of the statutes is amended to read:

12 973.15 (4) (a) The court shall order the department to immediately inform the
13 appropriate authorities in the jurisdiction where that imposed the prior sentence ~~is~~
14 ~~to be served~~ that the convicted offender is presently available to commence or resume
15 serving that sentence; and

16 **SECTION 147.** 976.01 (4m) of the statutes is created to read:

17 976.01 **(4m)** JURISDICTION OVER PRIVATE PRISONERS. For the purposes of this
18 section, the circuit court of the county in which a private prison, as defined in s.
19 301.01 (2g), is located has jurisdiction over an inmate confined there.

20 **SECTION 148.** 976.05 (16) of the statutes is created to read:

21 976.05 (16) For the purposes of this section, an inmate of a private prison, as
22 defined in s. 301.01 (2g), is incarcerated in and by the sending jurisdiction, as defined
23 by s. 301.371 (4).

24 **SECTION 149.** 976.06 of the statutes is renumbered 976.06 (1).

25 **SECTION 150.** 976.06 (2) of the statutes is created to read:

1 976.06 (2) This section does not apply to inmates of a private prison, as defined
2 in s. 301.01 (2g).

3 **SECTION 151. Nonstatutory provisions.**

4 (1) In this section, “department” means the department of corrections.

5 (2) The department shall submit in proposed form the rules required under
6 section 301.03 (8m) of the statutes, as created by this act, to the legislative council
7 staff under section 227.15 (1) of the statutes no later than the first day of the 6th
8 month beginning after the effective date of this subsection.

9 (3) No later than the first day of the 6th month beginning after the effective date
10 of this subsection, the department shall establish fees for private prison construction
11 licenses and private prison operating licenses for the fiscal biennium during which
12 this act takes effect. The department shall base the fee for a private prison
13 construction license on its estimate of the direct and indirect costs it will incur in
14 reviewing the application for and issuing such a license. The department shall base
15 the fee for a private prison operating license on its estimate of the direct and indirect
16 costs it will incur in reviewing the application for and issuing such a license and its
17 supervision of the private prison. The department may set separate fees for an initial
18 private prison operating license and for the renewal of a private prison operating
19 license. The department may set variable fees for operating licenses based on the
20 size of the prison and the costs that the department has incurred in licensing or
21 supervising individual licensees. The department may set a separate application fee
22 to be paid upon the application for a private prison construction license or a private
23 prison operating license or both, to cover its anticipated costs of reviewing such
24 applications. If the department imposes a separate application fee for either type of

1 license, the department shall not consider the costs of reviewing applications in
2 determining the relevant license fee.

3 **SECTION 152. Effective dates.** This act takes effect on the day after
4 publication, except as follows:

5 (1) The amendment of sections 51.37 (5) (b) (by **SECTION 32**), 301.372 and
6 301.373 (9) (a) of the statutes takes effect on July 1, 2001.

7 (2) The repeal and recreation of section 302.095 (2) of the statutes takes effect
8 on December 31, 1999, or the day after publication, whichever is later.

9 **(END)**

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2853/P1dn
MGD:wljf

July 27, 1999

Rep. Walker:

1. Under the draft, costs incurred by the department of corrections (DOC) in overseeing private prisons will be funded by fees from construction and operating licenses. Since DOC will incur costs prior to the issuance of licenses, the draft authorizes it to incur expenses in anticipation of licensing revenue. If you want to fund DOC's start-up costs some other way, please let me know, and I will either redraft the proposal or draft an amendment, whichever is appropriate.

2. The definition of "private prison" does not include juvenile detention or correctional institutions or lockups or other facilities used to confine individuals who have not yet been sentenced, in large part because private prison companies are building prisons only to hold individuals who, as a result of criminal (as opposed to juvenile delinquency) proceedings, have been convicted and sentenced. Is this okay?

3. Do you want to include any limitations on where a private prison may be built? (Oklahoma, for example, prohibits private prisons from being built within a certain distance of a school.)

4. The draft prohibits a private prison from employing a person who has been convicted of a felony in any capacity. Is this okay?

5. The draft requires the private prison - rather than the sending jurisdiction - to pay for the costs of health care, education and other services provided by the state or by local government units, largely because the state and local government units will have more leverage over the private prison than another state. Is this okay? (Note that although contracts entered into under the draft require that the sending jurisdiction retain jurisdiction over conditions of confinement cases, Wisconsin courts would also remain open to prisoners. The private prison would be obligated to reimburse state and local government for the costs connected with such cases being heard in Wisconsin courts.)

6. The drafted version of s. 301.373 (10) provides for forfeitures of between \$100 and \$100,000 for violations of the terms of a license or violations of statutes or DOC rules relating to private prisons. Please let me know if you want to change the range of forfeitures.

7. Is there anything you want to include in the draft on the issue of prisoner employment programs at private prisons?

8. Apart from the license fees to be imposed under the nonstatutory provisions, the draft requires DOC to develop licensing fees biennially in conjunction with its budget request. As an alternative, you may want to consider requiring DOC to set its fees more frequently - perhaps annually by rule. If you would like to modify the provisions of the draft regarding this issue, please let me know.

9. For the purposes of s. 941.237, the draft treats out-of-state correctional officers in the same manner as Wisconsin correctional officers to enable them to transport prisoners from a sending jurisdiction to a private prison. Do you want to include an exception for employees of the private prison or employees of the private prison operator for the same purpose?

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2853/P2dn
MGD&JEO:wlj:mrc

August 2, 1999

Rep. Walker:

1. Under the draft, costs incurred by the department of corrections (DOC) in overseeing private prisons will be funded by fees from construction and operating licenses. Since DOC will incur costs prior to the issuance of licenses, the draft authorizes it to incur expenses in anticipation of licensing revenue. If you want to fund DOC's start-up costs some other way, please let me know, and I will either redraft the proposal or draft an amendment, whichever is appropriate.

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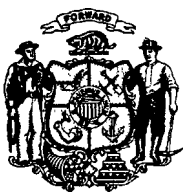
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Michael Dsida
Legislative Attorney
Phone: (608) 266-9867



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2853/P2
MGD&JEO:wlj:mrc

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SOON

No
CHANGES

Regen

1 AN ACT ~~to renumber~~ 51.37 (11), 157.02 (1) and 976.06; **to renumber and**
2 **amend** 252.14 (1) (ad), 252.15 (1) (ad) and 801.02 (7) (b) ; **to amend** 6.385 (7),
3 19.32 (1e), 19.35 (1) (am) 2. c., 19.35 (3) (f), 20.410 (1) (kc), 20.903 (2) (c), 29.199,
4 38.04 (12), 38.14 (3) (a), 38.24 (1m) (d), 46.011 (2), 49.32 (7) (d), 49.47 (6) (c),
5 51.20 (1) (ar) (intro.), 51.20 (7) (b), 51.20 (7) (c), 51.20 (11) (a), 51.20 (13) (3),
6 51.20 (13) (a) 4., 51.20 (13) (a) 5., 51.20 (13) (g) 2m., 51.20 (19) (b) 1., 51.30 (4)
7 (b) 10. (intro.), 51.30 (4) (b) 12., 51.35 (1) (a), 51.35 (6) (a), 51.37 (5) (a), 51.37
8 (5) (b), 51.37 (5) (b), 51.37 (8) (a), 51.37 (8) (b), 51.39, 51.42 (3) (as) 1., 51.45 (15)
9 (b), 51.61 (1) (c), 59.29 (1) (b), 77.996 (2) (f), 101.123 (4) (bm), 115.762 (4),
10 115.787 (6) (a) 1., 115.787 (6) (a) 2., 115.787 (6) (b), 165.84 (4), 165.84 (5), 227.43
11 (1) (bg), 252.02 (4), 252.02 (5), 252.06 (6) (b), 252.14 (2) (intro.), 252.14 (2) (am),
12 252.14 (2) (bm), 252.15 (1) (ab), 252.15 (2) (a) 7. a., 301.03 (12), 301.035 (2),
13 301.035 (4), 301.105 (intro.), 301.287, 301.33 (2), 301.33 (3), 301.36 (1) and (6),
14 301.372, 301.373 (9) (a), 302.01, 302.02 (5) (a), 302.02 (5) (b), 302.055, 302.07,
15 302.09, 302.095 (2), 302.12 (1), 302.13, 302.14, 302.18 (1), 302.27, 303.063 (1),

1 303.069 (title), 304.06 (1) (b), 447.06 (2) (a) 4., 782.01 (1), 782.45 (title), 801.02
2 (7) (a) 1., 801.02 (7) (a) 3., 801.02 (7) (bm) (intro.), 806.025 (l), 807.15 (1), 813.40
3 (1) (b) 3. (intro.), 814.29 (1m) (c) 2., 814.29 (1m) (e), 893.735 (1), 898.01, 940.20
4 (1), 940.29, 941.237 (1) (b), 941.29 (6), 946.43, 946.44 (2) (c), 946.44 (2) (d),
5 946.45 (2) (c), 946.45 (2) (d), 946.47 (2) (b), 948.50 (4) (a), 968.255 (7) (a), 971.11
6 (title), 971.11 (1), 971.11 (6) and 973.15 (4) (a); **to repeal and recreate 302.095**
7 (2); and **to create** 20.410 (1) (hq), 20.410 (1) (hv), 20.903 (2) (bs), 51.37 (11) (b),
8 101.123 (1) (dq), 101.123 (1) (ds), 101.123 (2) (a) 6m., 101.123 (4) (am) 2m.,
9 157.02 (1) (b), 252.14 (1) (ad) 1. and 2., 252.14 (1) (e), 252.14 (1) (f), 252.15 (1)
10 (ad) 1. and 2., 252.15 (1) (au), 301.01 (2) (e), 301.01 (2g) and (2m), 301.03 (8m),
11 301.371, 301.372, 301.373, 301.374, 301.376, 301.378, 301.379, 302.11 (11),
12 302.386 (5) (e), 782.45 (3), 782.47, 801.02 (7) (a) 4., 801.02 (7) (a) 5., 801.02 (7)
13 (b) 2., 806.025 (3), 961.01 (12m) (g), 976.01 (4m), 976.05 (16) and 976.06 (2) of
14 the statutes; **relating to:** construction and operation of private prisons,
15 requiring the exercise of rule-making authority and making an appropriation.

Analysis by the Legislative Reference Bureau

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

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

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

16 **SECTION 1.** 16.385 (7) of the statutes is amended to read:

17 16.385 (7) **INDIVIDUALS IN STATE PRISONS.** No payment under sub. (6) may be
18 made to a prisoner who is imprisoned in a state prison under s. 302.01 or, to a person
19 placed at a secured correctional facility, as defined in s. 938.02 (15m), or a secured

1 child caring institution, as defined in s. 938.02 (15g), or to a person confined in a
2 private prison, as defined in s. 301.01 (2g).

3 **SECTION 2.** 19.32 (le) of the statutes is amended to read:

4 19.32 (le), "Penal facility" means a state prison under s. 302.01, private prison,
5 as defined in s. 301.01 (2g), county jail, county house of correction or other state,
6 county or municipal correctional or detention facility.

7 **SECTION 3.** 19.35 (1) (am) 2. c. of the statutes is amended to read:

8 19.35 (1) (am) 2. c. Endanger the security of any state correctional institution,
9 as defined in s. 301.01 (4), private nrison, as defined in s. 301.01 (2g), jail, as defined
10 in s. 165.85 (2) (bg), secured correctional facility, as defined in s. 938.02 (15m),
11 secured child caring institution, as defined in s. 938.02 (15g), mental health
12 institute, as defined in s. 51.01 (12), center for the developmentally disabled, as
13 defined in s. 51.01 (3), or the population or staff of any of these institutions, facilities
14 or jails.

15 **SECTION 4.** 19.35 (3) (f) of the statutes is amended to read:

16 19.35 (3) (f) An authority may require prepayment by a requester of any fee or
17 fees imposed under this subsection if the total amount exceeds \$5. If the requester
18 is a prisoner, as defined in s. 301.01 (2), or is a person confined in a federal
19 correctional institution or private prison, as defined in s. 301.01 (2g), located in this
20 state, and he or she has failed to pay any fee that was imposed by the authority for
21 a request made previously by that requester, the authority may require prepayment
22 both of the amount owed for the previous request and the amount owed for the
23 current request.

24 **SECTION 5.** 20.410 (1) (hq) of the statutes is created to read:

1 20.410 (1) (hq) *Private prison regulation*. All moneys received from private
2 prisons under s. 301.373 (9) for the costs of regulating the construction and operation
3 of private prisons.

4 **SECTION 6.** 20.410 (1) (hv) of the statutes is created to read:

5 20.410 (1) (hv) *Training private prison employes*. All moneys received from
6 private prison employes under s. 301.373 (3) (a) for the costs of their training.

7 **SECTION 7.** 20.410 (1) (kc) of the statutes is amended to read:

8 20.410 (1) (kc) *Correctional institution enterprises; inmate activities and*
9 *employment*. All moneys received from state correctional institution enterprises
10 involving the activities of inmates, excluding moneys received from canteen
11 operations, prison industries and correctional farms, to conduct state correctional
12 institution enterprises and inmate employment projects.

13 **SECTION 8.** 20.903 (2) (bs) of the statutes is created to read:

14 20.903 (2) (bs) Notwithstanding sub. (1), liabilities may be created and moneys
15 expended from the appropriations under s. 20.410 (1) (hq) in an additional amount
16 not to exceed the amount of money anticipated to be received during the remainder
17 of the biennium.

18 **SECTION 9.** 20.903 (2) (c) of the statutes is amended to read:

19 20.903 (2) (c) All expenditures authorized by this subsection are subject to the
20 estimate approval procedure provided in s. 16.50 (2). Notwithstanding pars. (a), (b)
21 ~~and~~, (bn) and (bs), the maximum amounts that may be expended from a program
22 revenue or program revenue-service appropriation which is limited to the amounts
23 in the schedule are the amounts in the schedule, except as authorized by the
24 department of administration under s. 16.515 or the joint committee on finance
25 under s. 13.101.

1 **SECTION 10.** 29.199 of the statutes is amended to read:

2 **29.199 Authorizations for certain patients and institutionalized**
3 **persons to fish.** The department shall issue an authorization without charge to a
4 county hospital, state or federal mental hospital, state correctional institution or
5 nonprofit institution located in this state for rehabilitation purposes upon request
6 of the superintendent of the institution. The authorization permits a resident of the
7 hospital or institution who is supervised by an employe of the hospital or institution
8 to fish for fish subject to all other provisions of law.

9 **SECTION 11.** 38.04 (12) of the statutes is amended to read:

10 38.04 (12) **PRISON INMATE EDUCATIONAL PROGRAM.** The board may establish
11 vocational educational programs for inmates ~~within the state correctional system of~~
12 correctional facilities and contract with the departments of corrections and health
13 and family services and private prisons, as defined in s. 301.01 (2g), for
14 reimbursement of that portion of the district program costs which exceeds amounts
15 received as state and federal aid.

16 **SECTION 12.** 38.14 (3) (a) of the statutes is amended to read:

17 38.14 (3) (a) The district board may enter into contracts to provide educational
18 services to public and private educational institutions, federal and state agencies,
19 local governmental bodies, private prisons, as defined in s. 301.01 (2g), industries
20 and businesses.

21 **SECTION 13.** 38.24 (1m) (d) of the statutes is amended to read:

22 **38.24(1m) (d) Programs for inmates.** Uniform fees, for vocational programs
23 or courses offered at a district facility to state prison inmates ~~at a district facility~~ by
24 the department of corrections or the department of health and family services in
25 cooperation with a district board or to inmates of a private prison, as defined in s.

1 301.01 (2g), under ss. 38.04 (12) and 38.14 (3) (a), equal to the fees established under
2 par. (b).

3 **SECTION 14.** 46.011 (2) of the statutes is amended to read:

4 46.011 (2) "Prisoner" means any person who is either arrested, incarcerated,
5 imprisoned or otherwise detained in excess of 12 hours by any law enforcement
6 agency of this state, except when **detention** is pursuant to s. 51.15, 51.20, 51.45 (11)
7 (b) or 55.06 (11) (a) or ch. 980. "Prisoner" does not include any person who is serving
8 a sentence of detention under s. 973.03 (4) unless the person is in the county jail
9 under s. 973.03 (4) (c) and does not include an inmate of a private prison, as defined
10 in s. 301.01 (2g).

11 **SECTION 15.** 49.32 (7) (d) of the statutes is amended to read:

12 49.32 (7) (d) The department, with assistance from the department of
13 corrections, shall conduct a program to periodically match the records of persons
14 confined in state correctional facilities with the records of recipients of medical
15 assistance under s. 49.46, 49.468 or 49.47, aid to families with dependent children
16 under s. 49.19 and the food stamp program under 7 USC 2011 to 2029 to identify
17 recipients who may be ineligible for benefits.

18 **SECTION 16.** 49.47 (6) (c) 3. of the statutes is amended to read:

19 49.47 (6) (c) 3. Care or services for an individual who is an inmate of a private
20 prison, as defined in s. 301.01 (2g), or a public institution, except as a patient in a
21 medical institution or a resident in an intermediate care facility.

22 **SECTION 17.** 51.20 (1) (ar) (intro.) of the statutes is amended to read:

23 51.20 (1) (ar) If the individual is an inmate of a state prison, the petition may
24 allege that the inmate is mentally ill, is a proper subject for treatment and is in need
25 of treatment. The petition shall allege that appropriate less restrictive forms of

1 treatment have been attempted with the individual and have been unsuccessful and
2 it shall include a description of the less restrictive forms of treatment that were
3 attempted. The petition shall also allege that the individual has been fully informed
4 about his or her treatment needs, the mental health services available to him or her
5 and his or her rights under this chapter and that the individual has had an
6 opportunity to discuss **his or her needs**, the services available to him or her and his
7 or her rights with a licensed physician or a licensed psychologist. The petition shall
8 include the inmate's sentence and his or her expected date of release ~~as determined~~
9 ~~under 302.11 or 302.112, whichever is applicable.~~ The petition shall have attached
10 to it a signed statement by a licensed physician or a licensed psychologist of a state
11 prison or, if the individual is a private prison inmate, by any licensed psycholoaist
12 or the nrison's medical director, and a signed statement by a licensed physician or a
13 licensed psychologist of a state treatment facility attesting either of the following:

14 **SECTION 18.** 51.20 (7) (b) of the statutes is amended to read:

15 51.20 (7) (b) If the subject individual is not detained or is an inmate of a ~~state~~
16 prison, county jail or house of correction, the court shall hold a hearing within a
17 reasonable time of the filing of the petition, to determine whether there is probable
18 cause to believe the allegations made under sub. (1).

19 **SECTION 19.** 51.20 (7) (c) of the statutes is amended to read:

20 51.20 (7) (c) If the court determines that there is probable cause to believe the
21 allegations made under sub. (1), it shall schedule the matter for a hearing within 14
22 days from the time of detention of the subject individual, except as provided in sub.
23 (8) (bg) or (bm) or (11) (a). If a postponement has been granted under par. (a), the
24 matter shall be scheduled for hearing within 21 days from the time of detention of
25 the subject individual. If the subject individual is not detained under s. 51.15 or this

1 section or is an inmate of a ~~state~~ prison, county jail or house of correction, the hearing
2 shall be scheduled within 30 days of the hearing to determine probable cause for
3 commitment. In the event that the subject individual fails to appear for the hearing
4 to determine probable cause for commitment, the court may issue an order for the
5 subject individual's detention and shall hold the hearing to determine probable cause
6 for commitment within 48 hours, exclusive of Saturdays, Sundays and legal
7 holidays, from the time that **the individual is** detained.

8 **SECTION 20.** 51.20 (11) (a) of the statutes is amended to read:

9 51.20 (11) (a) If before involuntary commitment a jury is demanded by the
10 individual against whom a petition has been filed under sub. (1) or by the individual's
11 counsel if the individual does not object, the court shall direct that a jury of 6 people
12 be selected to determine if the allegations specified in sub. (1) (a), (ar) or (av) are true.
13 A jury trial is deemed waived unless demanded at least 48 hours in advance of the
14 time set for final hearing, if notice of that time has been previously provided to the
15 subject individual or his or her counsel. If a jury trial demand is filed within 5 days
16 of detention, the final hearing shall be held within 14 days of detention. If a jury trial
17 demand is filed later than 5 days after detention, the final hearing shall be held
18 within 14 days of the date of demand. If an inmate of a state prison, county jail or
19 house of correction demands a jury trial within 5 days after the probable cause
20 hearing, the final hearing shall be held within 28 days of the probable cause hearing.
21 If an inmate of a state prison, county jail or house of correction demands a jury trial
22 later than 5 days after the probable cause hearing, the final hearing shall be held
23 within 28 days of the date of demand.

24 **SECTION 21.** 51.20 (13) (a) 3. of the statutes is amended to read:

1 51.20 (13) (a) 3. If the individual is not an inmate of a ~~state~~ prison, county jail
2 or house of correction and the allegations specified in sub. (1) (a) are proven, order
3 commitment to the care and custody of the appropriate county department under s.
4 51.42 or 51.437, or if inpatient care is not required order commitment to outpatient
5 treatment under care of such county department; or

6 **SECTION 22.** 51.20 (13) (a) 4. of the statutes is amended to read:

7 51.20 (13) (a) 4. If the individual is an inmate of a ~~state~~ prison and the
8 allegations under sub. (1) (a) or (~~ar~~) are proven, order commitment to the department
9 and either authorize the transfer of the inmate to a state treatment facility or if
10 inpatient care is not needed authorize treatment on an outpatient basis in the prison;
11 or

12 **SECTION 23.** 51.20 (13) (a) 5. of the statutes is amended to read:

13 51.20 (13) (a) 5. If the allegations specified in sub. (1) (a) are proven and the
14 subject individual is a nonresident ~~who is an inmate of a prison,~~ r
15 commitment to the department.

16 **SECTION 24.** 51.20 (13) (g) 2m. of the statutes is amended to read:

17 51.20 (13) (g) 2m. In addition to the provisions under subds. 1., 2. and 2g., no
18 commitment ordered under par. (a) 4. or 4m. may continue beyond the inmate's date
19 of release ~~on parole or extended supervision, as determined under s. 302.11 or~~
20 ~~302.113, whichever is applicable.~~

21 **SECTION 25.** 51.20 (19) (b) 1. of the statutes is amended to read:

22 51.20 (19) (b) 1. Establishing standards for the use of psychotropic drugs on
23 ~~prisoners in a state~~ inmates of a prison and inmates committed under sub. (1) (ar).

24 **SECTION 26.** 51.30 (4) (b) 10. (intro.) of the statutes is amended to read:

1 51.30 (4) (b) **10.** (intro.) To a correctional facility or to a probation, extended
2 supervision and parole agent who is responsible for the supervision of an individual
3 who is receiving inpatient or outpatient evaluation or treatment under this chapter
4 in a program that is operated by, or is under contract with, the department or a
5 county department under s. 51.42 or 51.437, or in a treatment facility, as a condition
6 of the probation, extended supervision and parole supervision plan, or whenever
7 such an individual is transferred **from a state or local** correctional facility or a private
8 prison to such a treatment program and is then transferred back to the correctional
9 facility. Every probationer, parolee or person on extended supervision who receives
10 evaluation or treatment under this chapter shall be notified of the provisions of this
11 subdivision by the individual's probation, extended supervision and parole agent.
12 Release of records under this subdivision is limited to:

13 **SECTION 27.** 51.30 (4) (b) 12. of the statutes is amended to read:

14 51.30 (4) (b) 12. To a correctional officer of the department of corrections or an
15 employee of a private prison who has custody of or is responsible for the supervision
16 of an individual who is transferred or discharged from a treatment facility. Records
17 released under this subdivision are limited to notice of the subject individual's
18 change in status.

19 **SECTION 28.** 51.35 (1) (a) of the statutes is amended to read:

20 51.35 (1) (a) The department or the county department under s. 51.42 or 51.437
21 may transfer any patient or resident who is committed to it, or who is admitted to
22 a facility under its supervision or operating under an agreement with it, between
23 treatment facilities or, with the exception of a person committed under s. 51.20 (13)
24 (a) 4. or 4m., from a facility into the community if such transfer is consistent with
25 reasonable medical and clinical judgment and consistent with s. 51.22 (5). The

1 transfer shall be made in accordance with par. (e). Terms and conditions which will
2 benefit the patient or resident may be imposed as part of a transfer to a less
3 restrictive treatment alternative. A patient or resident who is committed to the
4 department or a county department under s. 51.42 or 51.437 may be required to take
5 medications and receive treatment, subject to the right of the patient or resident to
6 refuse medication and treatment under s. 51.61 (1) (g) and (h), through a community
7 support program as a term or condition of a transfer. The patient or resident shall
8 be informed at the time of transfer of the consequences of violating such terms and
9 conditions, including possible transfer back to a facility which imposes a greater
10 restriction on personal freedom of the patient or resident.

11 **SECTION 29.** 51.35 (6) (a) of the statutes is amended to read:

12 51.35 (6) (a) When the department has notice that any person other than a
13 prisoner or a private prison inmate is entitled to receive care and treatment in a U.S.
14 department of veterans affairs facility, the person may petition the department of
15 health and family services for a transfer to such facility, and that department may
16 procure admission to such facility in accordance with s. 45.30.

17 **SECTION 30.** 51.37 (5) (a) of the statutes is amended to read:

18 51.37 (5) (a) ~~When a~~ A licensed physician or licensed psychologist of a state
19 prison, of a county jail or of the department of corrections ~~reports in writing~~ may
20 submit written reports regarding prisoners, and the prison's medical director or any
21 licensed psychologist may submit written reports regarding private prison inmates
22 to the officer in charge of a jail or institution, If the report states that any prisoner
23 or any private prison inmate is, in his or her the opinion of the medical director or
24 psychologist, mentally ill, drug dependent, or developmentally disabled and is
25 appropriate for treatment as described in s. 51.20 (1), or is an alcoholic and is

1 dangerous as described in s. 51.45 (13) (a) 1. and 2.; or that the prisoner or inmate
2 is mentally ill, drug dependent, developmentally disabled or is an alcoholic and is in
3 need of psychiatric or psychological treatment, and that the prisoner or inmate
4 voluntarily consents to a transfer for treatment, the officer shall make a written
5 report to the department of corrections which may transfer the prisoner or authorize
6 the transfer of the private prison inmate if a voluntary application is made and the
7 department of health and family services consents. ~~If volunt application is not~~
8 ~~made~~ the prisoner does not voluntarily consent to a transfer for treatment, the
9 department of corrections may file a petition for involuntary commitment under s.
10 51.20 (1) or 51.45 (13). If the private prison inmate does not voluntarilp consent to
11 a transfer for treatment. the nrison's medical director shall file a netition for
12 involuntary commitment under s. 51.20 (1) or 51.45 (13). Any time spent by a
13 prisoner in an institution designated under sub. (3) or s. 51.37 (2), 1983 stats., shall
14 be included as part of the individual's sentence.

15 **SECTION 31.** 51.37 (5) (b) of the statutes is amended to read:

16 51.37 (5) (b) The department of corrections or, if the individual is a private
17 prison inmate. the nrison's medical director may authorize an emergency transfer of
18 an individual from a prison, jail or other criminal detention facility to a state
19 treatment facility if there is cause to believe that the individual is mentally ill, drug
20 dependent or developmentally disabled and exhibits conduct which constitutes a
21 danger as described in s. 51.20 (1) (a) 2. a., b., c. or d. of physical harm to himself or
22 herself or to others, or is mentally ill and satisfies the standard under s. 51.20 (1) (a)
23 2. e. or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1. and 2. The
24 correctional custodian of the sending institution shall execute a statement of
25 emergency detention or petition for emergency commitment for the individual and

1 deliver it to the receiving state treatment facility. The department of health and
2 family services shall file the statement or petition with the court within 24 hours
3 after receiving the subject individual for detention. The statement or petition shall
4 conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made,
5 the director of the receiving facility may file a petition for continued commitment
6 under s. 51.20 (1) or 51.45 (13) or may return the individual to the institution from
7 which the transfer was made. As an alternative to this procedure, the emergency
8 detention procedure in s. 51.15 or 51.45 (12) may be used, except that no prisoner or
9 inmate may be released without the approval of the court which directed
10 confinement in the institution.

11 **SECTION 32.** 51.37 (5) (b) of the statutes, as affected by 1995 Wisconsin Act 292
12 and 1999 Wisconsin Act (this act), is amended to read:

13 51.37 (5) (b) The department of corrections or, if the individual is a private
14 prison inmate, the prison's medical director may authorize an emergency transfer of
15 an individual from a prison, jail or other criminal detention facility to a state
16 treatment facility if there is cause to believe that the individual is mentally ill, drug
17 dependent or developmentally disabled and exhibits conduct which constitutes a
18 danger as described in s. 51.20 (1) (a) 2. of physical harm to himself or herself or to
19 others, or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1. and 2.
20 The correctional custodian of the sending institution shall execute a statement of
21 emergency detention or petition for emergency commitment for the individual and
22 deliver it to the receiving state treatment facility. The department of health and
23 family services shall file the statement or petition with the court within 24 hours
24 after receiving the subject individual for detention. The statement or petition shall
25 conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made,

1 the director of the receiving facility may file a petition for continued commitment
2 under s. 51.20 (1) or 51.45 (13) or may return the individual to the institution from
3 which the transfer was made. As an alternative to this procedure, the emergency
4 detention procedure in s. 51.15 or 51.45 (12) may be used, except that no prisoner or
5 inmate may be released without the approval of the court which directed
6 confinement in the institution.

7 **SECTION 33.** 51.37 (8) (a) of the statutes is amended to read:

8 51.37 (8) (a) Rights to reexamination under s. 51.20 (16) apply to a prisoner or
9 inmate who is found to be mentally ill or drug dependent except that the petition
10 shall be made to the court that made the finding or, if the prisoner or inmate is
11 detained by transfer, to the circuit court of the county in which he or she is detained.
12 If upon rehearing it is found that the standards for recommitment under s. 51.20 (13)
13 (g) no longer apply to the prisoner or inmate or that he or she is not in need of
14 psychiatric or psychological treatment, the prisoner or inmate shall be returned to
15 the prison or county jail or house of correction unless it one of the followinga applies:

16 1. In the case of a nrisoner. it is past his or her release date as determined under
17 s. 302.11 or 302.113, whichever is applicable, in which case he or she shall be
18 discharged.

19 2. In the case of a nprivate nrison inmate. it is past his or her release date or the
20 sending jurisdiction, as defined in s. 301.371 (4), is to transfer the inmate to another
21 facility, in which case the person will be returned to the sending jurisdiction.

22 **SECTION 34.** 51.37 (8) (b) of the statutes is amended to read:

23 51.37 (8) (b) If the condition of any prisoner ~~or inmate~~ committed or transferred
24 under this section requires psychiatric or psychological treatment after his or her
25 date of release as determined under s. 302.11 or 302.113, whichever is applicable, the

1 director of the state treatment facility shall, within a reasonable time before the
2 release date of the prisoner ~~or inmate~~, make a written application to the court which
3 committed the prisoner or inmate under sub. (5) (a). Thereupon, the proceeding shall
4 be upon application made under s. 51.20, but no physician or psychologist who is
5 connected with a state prison, Winnebago or Mendota mental health institute or any
6 county jail or house of correction may be appointed as an examiner. If the court does
7 not commit the prisoner ~~or inmate~~, it may dismiss the application and order the
8 prisoner ~~or inmate~~ returned to the institution from which he or she was transferred
9 until the release date of the prisoner ~~or inmate~~. If the court commits the prisoner ~~or~~
10 ~~inmate~~ for the period commencing upon his or her release date, the commitment
11 shall be to the care and custody of the county department under s. 51.42 or 51.437.

12 **SECTION 35.** 51.37 (11) of the statutes is renumbered 51.37 (11) (a).

13 **SECTION 36.** 51.37 (11) (b) of the statutes is created to read:

14 51.37 (11) (b) When an individual who is in the custody of a private prison is
15 transferred or discharged from a treatment facility, the treatment facility shall notify
16 the private prison and the department of corrections as soon as possible. When an
17 individual who is in the custody of a private prison is on unauthorized absence from
18 a treatment facility, the treatment facility shall notify the private prison, the
19 department of corrections, the sheriff of the county in which the treatment facility
20 is located and the local law enforcement agency for the city, village or town in which
21 the treatment facility is located as soon as it learns that the individual is on
22 unauthorized absence.

23 **SECTION 37.** 51.39 of the statutes is amended to read:

24 **51.39 Resident patients on unauthorized absence.** If any patient who is
25 admitted under s. 51.13, 51.15, 51.20, 51.45 (11) (b), (12) or (13) or 55.06 or ch. 971,

1 975 or 980 or transferred under s. 51.35 (3) or 51.37 is on unauthorized absence from
2 a treatment facility, the sheriff or any other law enforcement agency in the county
3 in which the patient is found or in which it is believed the patient may be present,
4 upon the request of the director, shall take charge of and return the patient to the
5 facility. The costs incident to the return of a person other than a private prison
6 inmate shall be paid out of the facility's operating funds and be charged back to the
7 patient's county of residence. The costs incident to the return of an inmate of a
8 private prison shall be paid by the private prison.

9 **SECTION 38.** 51.42 (3) (as) 1. of the statutes is amended to read:

10 51.42 (3) (as) 1. A county department of community programs shall authorize
11 all care of any patient in a state, local or private facility under a contractual
12 agreement between the county department of community programs and the facility,
13 unless the county department of community programs governs the facility. The need
14 for inpatient care shall be determined by the program director or designee in
15 consultation with and upon the recommendation of a licensed physician trained in
16 psychiatry and employed by the county department of community programs or its
17 contract agency. In cases of emergency, a facility under contract with any county
18 department of community programs shall charge the county department of
19 community programs having jurisdiction in the county where the patient is found.
20 The county department of community programs shall reimburse the facility for the
21 actual cost of all authorized care and services less applicable collections under s.
22 46.036, unless the department of health and family services determines that a
23 charge is administratively infeasible, or unless the department of health and family
24 services, after individual review, determines that the charge is not attributable to the
25 cost of basic care and services. A county department of community programs may

1 not reimburse any state institution or receive credit for collections for care received
2 therein by nonresidents of this state, interstate compact clients, transfers under s.
3 51.35 (3), and transfers from ~~Wisconsin state~~ prisons under s. 51.37 (5) (a),
4 commitments under s. 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. 971.14,
5 971.17 or 975.06 or admissions under s. 975.17, 1977 stats., or children placed in the
6 guardianship of the department of health and family services under s. 48.427 or
7 48.43 or under the supervision of the department of corrections under s. 938.183 or
8 938.355. The exclusionary provisions of s. 46.03 (18) do not apply to direct and
9 indirect costs which are attributable to care and treatment of the client.

10 **SECTION 39.** 51.45 (15) (b) of the statutes is amended to read:

11 51.45 (15) (b) No provisions of this section may be deemed to contradict any
12 rules or regulations governing the conduct of any inmate of a ~~state or county~~
13 correctional institution who is being treated in an alcoholic treatment program
14 within the institution.

15 **SECTION 40.** 51.61 (1) (c) of the statutes is amended to read:

16 51.61 (1) (c) Have an unrestricted right to send sealed mail and receive sealed
17 mail to or from legal counsel, the courts, governmental officials, private physicians
18 and licensed psychologists, and have reasonable access to letter writing materials
19 including postage stamps. A patient shall also have a right to send sealed mail and
20 receive sealed mail to or from other persons, subject to physical examination in the
21 patient's presence if there is reason to believe that such communication contains
22 contraband materials or objects which threaten the security of patients, prisoners,
23 inmates of a private prison or staff. Such reasons shall be written in the individual's
24 treatment record. The officers and staff of a facility may not read any mail covered
25 by this paragraph.

1 **SECTION 41.** 59.29 (1) (b) of the statutes is amended to read:

2 59.29 (1) (b) Whenever a person convicted of, or charged with, any felony, the
3 punishment for which is not less than 5 years' imprisonment, ~~shall escape, or~~
4 ~~escapes,~~ whenever any such felony ~~shall be~~ is committed by any unknown person or
5 persons or whenever a private prison inmate escapes, the sheriff of the county from
6 which such escape was made or in which such felony was committed may, with the
7 consent of the chairperson of the board of such county when such board is not in
8 session, and with the consent of the board when it is in session, offer such reward for
9 the apprehension and delivery of such escaped person, or the apprehension or
10 conviction of the perpetrator of such felony as the sheriff considers necessary, not
11 exceeding \$1,000 in any one case; but no such reward or any part thereof shall be paid
12 to any such sheriff, undersheriff or any deputy. The right to any such reward shall
13 be determined finally by such sheriff; and if more than one person claims the reward
14 the sheriff shall determine what portion, if any, the claimants are entitled to, and
15 shall certify the determination to the treasurer, and such certificate shall be the
16 treasurer's authority for paying the sum so certified.

17 **SECTION 42.** 77.996 (2) (fj) of the statutes is amended to read:

18 77.996 (2) (f) Facilities that are located at a state prison or other state or county
19 penal institution.

20 **SECTION 43.** 101.123 (1) (dq) of the statutes is created to read:

21 101.123 (1) (dq) "Private prison" has the meaning given in s. 301.01 (2g).

22 **SECTION 44.** 101.123 (1) (ds) of the statutes is created to read:

23 101.123 (1) (ds) "Private prison operator" has the meaning given in s. 301.01
24 (2m).

25 **SECTION 45.** 101.123 (2) (a) 6m. of the statutes is created to read:

1 101.123 (2) (a) 6m. Private prisons.

2 **SECTION 46.** 101.123 (4) (am) 2m. of the statutes is created to read:

3 101.123 (4) (am) 2m. A private prison operator may designate areas where
4 smoking is permitted in a private prison, unless a fire marshal, law or resolution
5 prohibits smoking in the area. A private prison operator may designate an entire
6 room as a smoking area in a private prison.

7 **SECTION 47.** 101.123 (4) (bm) of the statutes is amended to read:

8 101.123 (4) (bm) The person in charge of a state institution, jail or lockup
9 facility, or his or her agent, gr a private orison operator. in the case of a nprivate prison,
10 shall post notice of the designation of a smoking area under par. (am) in or near the
11 area designated. If an entire room is designated a smoking area, the person in charge
12 or his or her agent or the private prison operator shall post notice of the designation
13 conspicuously on or near all normally used entrances to the room. If an entire
14 building in a prison, secured correctional facility, jail or lockup facility is designated
15 a smoking area, the person in charge, or his or her agent, or the private orison
16 operator shall post notice of the designation on or near all normally used entrances
17 to the building, but need not post notice of the designation on or near entrances to
18 rooms within the building.

19 **SECTION 48.** 115.762 (4) of the statutes is amended to read:

20 115.762 (4) **LIMITATION.** Nothing in this subchapter requires that special
21 education and related services be provided to a child with a disability who is at least
22 18 years old but not yet 22 years old and who, in the child's educational placement
23 before his or her incarceration in a ~~state~~ prison, was not identified as a child with a
24 disability or for whom an individualized education program was not developed.

25 **SECTION 49.** 115.787 (6) (a) 1. of the statutes is amended to read:

1 115.787 (6) (a) 1. The requirements relating to participation of children with
2 disabilities in general assessments under sub. (2) (e) do not apply to a child with a
3 disability who is convicted of a crime under state law and incarcerated in a state
4 prison or who is incarcerated in a private prison.

5 **SECTION 50.** 115.787 (6) (a) 2. of the statutes is amended to read:

6 115.787 (6) (a) 2. The requirements relating to transition planning and
7 transition services under sub. (2) (g) 1. and 2. do not apply with respect to a child with
8 a disability who is convicted of a crime under state law and incarcerated in a state
9 prison or who is incarcerated in a private orison and whose eligibility under this
10 subchapter will end, because of his or her age, before he or she will be released from
11 prison.

12 **SECTION 51.** 115.787 (6) (b) of the statutes is amended to read:

13 115.787 (6) (b) If a child with a disability is convicted of a crime and
14 incarcerated in a state prison or is incarcerated in a private orison, the child's
15 individualized education program team may modify the child's individualized
16 education program or placement notwithstanding the requirements of sub. (1) and
17 s. 115.79 (1) if the department of corrections or the private prison operator, as defined
18 in s. 301.01 (2m), has demonstrated a bona fide security or compelling penological
19 interest that cannot otherwise be accommodated.

20 **SECTION 52.** 157.02 (1) of the statutes is renumbered 157.02 (1) (a).

21 **SECTION 53.** 157.02 (1) (b) of the statutes is created to read:

22 157.02 (1) (b) When an inmate of a private prison, as defined in s. 301.01 (2g),
23 dies, the the private prison operator, as defined in s. 301.01 (2m), shall immediately
24 notify a relative of the decedent and the sending jurisdiction, as defined in s. 301.371
25 (4). A public officer having the possession or the disposition of a corpse shall

1 immediately notify a relative of the decedent and the sending jurisdiction. If no
2 relative is known, or discoverable by use of ordinary diligence, notice to a relative
3 may be dispensed with.

4 **SECTION 54.** 165.84 (4) of the statutes is amended to read:

5 165.84 (4) All persons in charge of state penal and correctional institutions
6 shall obtain fingerprints, according to the fingerprint system of identification
7 established by the director of the F.B.I., and full face and profile photographs of all
8 persons received on commitment to these institutions. The prints and photographs
9 so taken shall be forwarded to the department, together with any other identifying
10 data requested, within 10 days after the arrival at the institution of the person
11 committed. Full length photographs in release dress shall be taken immediately
12 prior to the release of these persons from these state penal and correctional
13 institutions. Immediately after release, these photographs shall be forwarded to the
14 department.

15 **SECTION 55.** 165.84 (5) of the statutes is amended to read:

16 165.84 (5) All persons in charge of law enforcement and tribal law enforcement
17 agencies, all clerks of court, all municipal judges where they have no clerks, all
18 persons in charge of ~~state and county~~ penal and correctional institutions, and all
19 persons in charge of state and county probation, extended supervision and parole
20 offices, shall supply the department with the information described in s. 165.83 (2)
21 (f) on the basis of the forms and instructions to be supplied by the department under
22 s. 165.83 (2) (g).

23 **SECTION 56.** 227.43 (1) (bg) of the statutes is amended to read:

24 227.43 (1) (bg) Assign a hearing examiner to preside over any hearing or review
25 under ss. 84.30(18), 84.31(6)(a), 85.013(1), 86.073(3), 86.16(5), 86.195(9)(b), 86.32

1 (l), 114.134 (4) (b), 114.135 (9), 114.20 (19), 175.05 (4) (b), 194.145 (l), 194.46, 218.01
2 (2) (bd) 2. and (c) 2., (3) (b), (c), (f) l., (fm) 1. and (h) and (3c) (d), 218.11 (7) (a) and
3 (b), 218.22 (4) (a) and (b), 218.32 (4) (a) and (b), 218.41 (4), 218.51 (5) (a) and (b),
4 ~~301.373 (10) (a), 301.378 (7),~~ 341.09 (2m) (d), 342.26, 343.69 and 348.25 (9).

5 **SECTION 57.** 252.02 (4) of the statutes is amended to read:

6 252.02 (4) The department may promulgate and enforce rules or issue orders
7 for guarding against the introduction of any communicable disease into the state, for
8 the control and suppression of communicable diseases, for the quarantine and
9 disinfection of persons, localities and things infected or suspected of being infected
10 by a communicable disease and for the sanitary care of jails, state prisons, mental
11 health institutions, schools, hotels and public buildings and connected premises.
12 Any rule or order may be made applicable to the whole or any specified part of the
13 state, or to any vessel or other conveyance. The department may issue orders for any
14 city, village or county by service upon the local health officer. Rules that are
15 promulgated and orders that are issued under this subsection supersede conflicting
16 or less stringent local regulations, orders or ordinances.

17 **SECTION 58.** 252.02 (5) of the statutes is amended to read:

18 252.02 (5) If any public officer or employe or any person in charge of any
19 building, vessel, conveyance, jail, ~~state~~ prison, mental health institution or school
20 fails to comply with a rule promulgated or order issued under sub. (4), the
21 department may appoint an agent to execute its rules or orders. Expenses that an
22 agent incurs shall be paid by the unit of government that employs the person or of
23 which the public officer is a member. If the building, vessel, conveyance, mental
24 health institution or school is privately owned the state shall pay the expenses that
25 the agent incurs.

1 **SECTION 59.** 252.06 (6) (b) of the statutes is amended to read:

2 252.06 (6) (b) When a person confined in a jail, ~~state~~ prison, mental health
3 institute or other public place of detention has a disease which the local health officer
4 or the director of health at the institution deems dangerous to the health of other
5 residents or the neighborhood, the local health officer or the director of health at the
6 institution shall order in writing the removal of the person to a hospital or other place
7 of safety, there to be provided for and securely kept. Upon recovery the person shall
8 be returned; and if the person was committed by a court or under process the removal
9 order or a copy shall be returned by the local health officer to the committing court
10 officer.

11 **SECTION 60.** 252.14 (1) (ad) of the statutes is renumbered 252.14 (1) (ad) (intro.)
12 and amended to read:

13 252.14 (1) (ad) (intro.) > “Correctional officer” ~~has the meaning given in s. 301.28~~
14 (1) means any of the following:

15 **SECTION 61.** 252.14 (1) (ad) 1. and 2. of the statutes are created to read:

- 16 252.14 (1) (ad) 1. A correctional officer, as defined in s. 301.28 (1).
17 2. An out-of-state correctional officer.

18 **SECTION 62.** 252.14 (1) (e) of the statutes is created to read:

19 252.14 (1) (e) “Out-of-state correctional officer” means a person employed by
20 the United States or one of its political subdivisions or a federally recognized
21 American Indian. tribe or band, other than a person employed by this state or a
22 political subdivision of this state, as a guard or officer whose principal duties are
23 supervision and discipline of persons in custody for the commission or alleged
24 commission of a crime.

25 **SECTION 63.** 252.14 (1) (f) of the statutes is created to read:

1 252.14 (1) (f) "Private prison" has the meaning given in s. 301.01 (2g).

2 **SECTION 64.** 252.14 (2) (intro.) of the statutes is amended to read:

3 252.14 (2) (intro.) No health care provider, peace officer, fire fighter,
4 correctional officer, private nrison emnlove, state patrol officer, jailer or keeper of a
5 jail or person designated with custodial authority by thejailer or keeper, home health
6 agency, inpatient health care facility or person who has access to a validated test
7 result may do any of the following with respect to an individual who has acquired
8 immunodeficiency syndrome or has a positive test for the presence of HIV, antigen
9 or nonantigenic products of HIV or an antibody to HIV, solely because the individual
10 has HIV infection or an illness or medical condition that is caused by, arises from or
11 is related to HIV infection:

12 **SECTION 65.** 252.14 (2) (am) of the statutes is amended to read:

13 252.14 (2) (am) If a peace officer, fire fighter, correctional officer, private prison
14 emplye, state patrol officer, jailer or keeper of a jail or person designated with
15 custodial authority by the jailer or keeper, refuse to provide services to the
16 individual.

17 **SECTION 66.** 252.14 (2) (bm) of the statutes is amended to read:

18 252.14 (2) (bm) If a peace officer, fire fighter, correctional officer, private prison
19 emnlove, state patrol officer, jailer or keeper of a jail or person designated with
20 custodial authority by the jailer or keeper, provide services to the individual at a
21 standard that is lower than that provided other individuals with like service needs.

22 **SECTION 67.** 252.15 (1) (ab) of the statutes is amended to read:

23 252.15 (1) (ab) "Affected person" means an emergency medical technician, first
24 responder, fire fighter, peace officer, correctional officer, person who is employed at
25 a secured correctional facility, as defined in s. 938.02 (15m), or at a secured child

1 caring institution, as defined in s. 938.02 (15g), private prison employe, state patrol
2 officer, jailer or keeper of a jail or person designated with custodial authority by the
3 jailer or keeper, health care provider, employe of a health care provider or staff
4 member of a state crime laboratory.

5 **SECTION 68.** 252.15 (1) (ad) of the statutes is renumbered 252.15 (1) (ad) (intro.)
6 and amended to read:

7 252.15 (1) (ad) (intro.) "Correctional officer" ~~has the meaning given in s. 301.28~~
8 ~~(1)~~ means any of the following:

9 **SECTION 69.** 252.15 (1) (ad) 1. and 2. of the statutes are created to read:

10 252.15 (1) (ad) 1. A correctional officer, as defined in s. 301.28 (1).

11 2. An out-of-state correctional officer, as defined in s. 252.14 (1) (e).

12 **SECTION 70.** 252.15 (1) (au) of the statutes is created to read:

13 252.15 (1) (au) "Private prison" has the meaning given in s. 301.01 (2g).

14 **SECTION 71.** 252.15 (2) (a) 7. a. of the statutes is amended to read:

15 252.15 (2) (a) 7. a. If all of the conditions under subd. 7. ai. to c. are met, an
16 emergency medical technician, first responder, fire fighter, peace officer, correctional
17 officer, person who is employed at a secured correctional facility, as defined in s.
18 938.02 (15m), or at a secured child caring institution, as defined in s. 938.02 (15g),
19 private prison emnlove, state patrol officer, jailer or keeper of a jail or person
20 designated with custodial authority by the jailer or keeper who, during the course
21 of providing care or services to an individual; or a peace officer, correctional officer,
22 private prison emnlove, state patrol officer, jailer or keeper of a jail or person
23 designated with custodial authority by the jailer or keeper who, while searching or
24 arresting an individual or while controlling or transferring an individual in custody;
25 or a health care provider or an employe of a health care provider who, during the

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1 course of providing care or treatment to an individual or handling or processing
2 specimens of body fluids or tissues of an individual; or a staff member of a state crime
3 laboratory who, during the course of handling or processing specimens of body fluids
4 or tissues of an individual; is significantly exposed to the individual may subject the
5 individual's blood to a test or a series of tests for the presence of HIV, antigen or
6 nonantigenic products of HIV or an antibody to HIV and may receive disclosure of
7 the results.

8 **SECTION 72.** 301.01 (2) (e) of the statutes is created to read:

9 301.01 (2) (e) An inmate of a private prison.

10 **SECTION 73.** 301.01 (2g) and (2m) of the statutes are created to read:

11 301.01 (2g) "Private prison" means a building, structure or facility that is used
12 or is to be used for the confinement of one or more individuals who have been
13 sentenced to a term of imprisonment for the commission of a crime and that is or will
14 be operated in this state by a person other than the department, a law enforcement
15 agency, as defined in s. 165.83 (1) (b), a county, a group of counties acting under s.
16 302.44, this state and a county or group of counties acting under s. 302.45, the United
17 States or a federally recognized American Indian tribe or band in this state. "Private
18 prison" does not include a building, structure or facility used or to be used solely to
19 confine juveniles alleged or found to be delinquent or a building, structure or facility
20 supervised, maintained and operated by a public, private or voluntary agency under
21 contract with the department under s. 301.08 (1) (b) 2.

22 (2m) "Private prison operator" means a person licensed to operate a private
23 prison under s. 301.378.

24 **SECTION 74.** 301.03 (8m) of the statutes is created to read:

1 301.03 (**8m**) Supervise the design, construction and operation of private
2 prisons under ss. 301.372 to 301.379. The department shall promulgate rules
3 regarding the design, construction and operation of private prisons to ensure the
4 protection of private prison employes, inmates and the public and to help facilitate
5 the confinement, treatment and rehabilitation of inmates.

6 **SECTION 75.** 301.03 (12) of the statutes is amended to read:

7 301.03 (12) Cooperate and coordinate its activities with other state and local
8 agencies to provide educational, social, health and other services to offenders, other
9 than inmates of a private prison. and except as provided in s. 302.386 (5).

10 **SECTION 76.** 301.035 (2) of the statutes is amended to read:

11 301.035 (2) Assign hearing examiners from the division to preside over
12 hearings under ss. 301.373 (10) (a), 301.378 (7), 302.11 (7), 938.357 (5), 973.10 and
13 975.10 (2) and ch. 304.

14 **SECTION 77.** 301.035 (4) of the statutes is amended to read:

15 301.035 (4) Supervise employes in the conduct of the activities of the division
16 and be the administrative reviewing authority for decisions of the division under ss.
17 301.373 (10) (a), 301.378 (7), 302.11 (7), 938.357 (5), 973.10, 973.155 (2) and 975.10
18 (2) and ch. 304.

19 **SECTION 78.** 301.105 (intro.) of the statutes is amended to read:

20 **301.105 Telephone company commissions.** (intro.) The department shall
21 collect moneys for commissions from telephone companies for contracts to provide
22 telephone services to ~~inmates~~ prisoners. The department shall transmit those
23 moneys to the state treasurer. The state treasurer shall do all of the following:

24 **SECTION 79.** 301.287 of the statutes is amended to read:

1 **301.287 Correctional officer overtime.** The department shall maintain a
2 central monitoring system to record the amount of overtime worked by correctional
3 officers emnlved by the state.

4 **SECTION 80.** 301.33 (2) of the statutes is amended to read:

5 301.33 (2) Every ~~inmate~~ prisoner shall receive, upon request, religious
6 ministraton and sacraments according to the ~~inmate's~~ prisoner's faith.

7 **SECTION 81.** 301.33 (3) of the statutes is amended to read:

8 301.33 (3) Every ~~inmate~~ prisoner who requests it shall have the use of the
9 Bible.

10 **SECTION 82.** 301.36 (1) and (6) of the statutes are amended to read:

11 **301.36 General supervision and inspection by department. (1)** GENERAL
12 AUTHORITY. The department shall investigate and supervise all of the state
13 correctional institutions, ~~and~~ all secure detention facilities and all private nrison
14 and familiarize itself with all of the circumstances affecting their management and
15 usefulness.

16 (6) OPPORTUNITY TO INSPECT. All trustees, managers, directors, superintendents
17 and other officers or employes of the institutions shall at all times afford to every
18 member of the department and its agents, unrestrained facility for inspection of and
19 free access to all parts of the buildings and grounds and to all books and papers of
20 the institutions+ and, in the case of private nrison, the books and papers of the
21 private nrison operator and shall give, either verbally or in writing, such information
22 as the department requires. Any person who violates this subsection shall forfeit not
23 less than \$10 nor more than \$100. A private nrison operator may also be subject to
24 enforcement proceedings and sanctions under s. 301.373 (10) for violations of this
25 subsection.