

1 948.03 (3) (c) Whoever recklessly causes bodily harm to a child by conduct
2 which creates a high probability of great bodily harm is guilty of a Class ~~D~~ H felony.

3 **SECTION 790.** 948.03 (4) (a) of the statutes is amended to read:

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

11 **SECTION 791.** 948.03 (4) (b) of the statutes is amended to read:

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

19 **SECTION 792.** 948.03 (5) of the statutes is repealed.

20 **SECTION 793.** 948.04 (1) of the statutes is amended to read:

21 948.04 (1) Whoever is exercising temporary or permanent control of a child and
22 causes mental harm to that child by conduct which demonstrates substantial
23 disregard for the mental well-being of the child is guilty of a Class ~~C~~ F felony.

24 **SECTION 794.** 948.04 (2) of the statutes is amended to read:

1 948.04 (2) A person responsible for the child's welfare is guilty of a Class C F
2 felony if that person has knowledge that another person has caused, is causing or will
3 cause mental harm to that child, is physically and emotionally capable of taking
4 action which will prevent the harm, fails to take that action and the failure to act
5 exposes the child to an unreasonable risk of mental harm by the other person or
6 facilitates the mental harm to the child that is caused by the other person.

7 **SECTION 795.** 948.05 (1) (intro.) of the statutes is amended to read:

8 948.05 (1) (intro.) Whoever does any of the following with knowledge of the
9 character and content of the sexually explicit conduct involving the child is guilty of
10 a Class C F felony:

11 **SECTION 796.** 948.05 (1m) of the statutes, as affected by 2001 Wisconsin Act 16,
12 is amended to read:

13 948.05 (1m) Whoever produces, performs in, profits from, promotes, imports
14 into the state, reproduces, advertises, sells, distributes, or possesses with intent to
15 sell or distribute, any recording of a child engaging in sexually explicit conduct is
16 guilty of a Class C F felony if the person knows the character and content of the
17 sexually explicit conduct involving the child and if the person knows or reasonably
18 should know that the child engaging in the sexually explicit conduct has not attained
19 the age of 18 years.

20 **SECTION 797.** 948.05 (2) of the statutes is amended to read:

21 948.05 (2) A person responsible for a child's welfare who knowingly permits,
22 allows or encourages the child to engage in sexually explicit conduct for a purpose
23 proscribed in sub. (1) (a) or (b) or (1m) is guilty of a Class C F felony.

24 **SECTION 798.** 948.055 (2) (a) of the statutes is amended to read:

1 948.055 (2) (a) A Class ~~C~~ F felony if the child has not attained the age of 13
2 years.

3 **SECTION 799.** 948.055 (2) (b) of the statutes is amended to read:

4 948.055 (2) (b) A Class ~~D~~ H felony if the child has attained the age of 13 years
5 but has not attained the age of 18 years.

6 **SECTION 800.** 948.06 (intro.) of the statutes is amended to read:

7 **948.06 Incest with a child.** (intro.) Whoever does any of the following is
8 guilty of a Class ~~BC~~ C felony:

9 **SECTION 801.** 948.07 (intro.) of the statutes is amended to read:

10 **948.07 Child enticement.** (intro.) Whoever, with intent to commit any of the
11 following acts, causes or attempts to cause any child who has not attained the age
12 of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class
13 ~~BC~~ D felony:

14 **SECTION 802.** 948.08 of the statutes is amended to read:

15 **948.08 Soliciting a child for prostitution.** Whoever intentionally solicits
16 or causes any child to practice prostitution or establishes any child in a place of
17 prostitution is guilty of a Class ~~BC~~ D felony.

18 **SECTION 803.** 948.095 (2) (intro.) of the statutes is amended to read:

19 948.095 (2) (intro.) Whoever has sexual contact or sexual intercourse with a
20 child who has attained the age of 16 years and who is not the defendant's spouse is
21 guilty of a Class ~~D~~ H felony if all of the following apply:

22 **SECTION 804.** 948.11 (2) (a) (intro.) of the statutes, as affected by 2001
23 Wisconsin Act 16, is amended to read:

24 948.11 (2) (a) (intro.) Whoever, with knowledge of the character and content of
25 the material, sells, rents, exhibits, plays, distributes, or loans to a child any harmful

1 material, with or without monetary consideration, is guilty of a Class ~~E~~ I felony if any
2 of the following applies:

3 **SECTION 805.** 948.11 (2) (am) (intro.) of the statutes, as affected by 2001
4 Wisconsin Act 16, is amended to read:

5 948.11 (2) (am) (intro.) Any person who has attained the age of 17 and who, with
6 knowledge of the character and content of the description or narrative account,
7 verbally communicates, by any means, a harmful description or narrative account
8 to a child, with or without monetary consideration, is guilty of a Class ~~E~~ I felony if
9 any of the following applies:

10 **SECTION 806.** 948.12 (1m) (intro.) of the statutes, as affected by 2001 Wisconsin
11 Act 16, is amended to read:

12 948.12 (1m) (intro.) Whoever possesses any undeveloped film, photographic
13 negative, photograph, motion picture, videotape, or other recording of a child
14 engaged in sexually explicit conduct under all of the following circumstances is guilty
15 of a Class ~~E~~ I felony:

16 **SECTION 807.** 948.12 (2m) (intro.) of the statutes, as created by 2001 Wisconsin
17 Act 16, is amended to read:

18 948.12 (2m) (intro.) Whoever exhibits or plays a recording of a child engaged
19 in sexually explicit conduct, if all of the following apply, is guilty of a Class ~~E~~ I felony:

20 **SECTION 808.** 948.13 (2) of the statutes is amended to read:

21 948.13 (2) Whoever has been convicted of a serious child sex offense and
22 subsequently engages in an occupation or participates in a volunteer position that
23 requires him or her to work or interact primarily and directly with children under
24 16 years of age is guilty of a Class ~~C~~ F felony. This subsection does not apply to a
25 person who is exempt under a court order issued under sub. (2m).

1 **SECTION 809.** 948.20 of the statutes is amended to read:

2 **948.20 Abandonment of a child.** Whoever, with intent to abandon the child,
3 leaves any child in a place where the child may suffer because of neglect is guilty of
4 a Class D G felony.

5 **SECTION 810.** 948.21 (1) of the statutes is amended to read:

6 **948.21 (1)** Any person who is responsible for a child's welfare who, through his
7 or her actions or failure to take action, intentionally contributes to the neglect of the
8 child is guilty of a Class A misdemeanor or, if death is a consequence, a Class C D
9 felony.

10 **SECTION 811.** 948.22 (2) of the statutes is amended to read:

11 **948.22 (2)** Any person who intentionally fails for 120 or more consecutive days
12 to provide spousal, grandchild or child support which the person knows or reasonably
13 should know the person is legally obligated to provide is guilty of a Class E I felony.
14 A prosecutor may charge a person with multiple counts for a violation under this
15 subsection if each count covers a period of at least 120 consecutive days and there is
16 no overlap between periods.

17 **SECTION 812.** 948.23 of the statutes is amended to read:

18 **948.23 Concealing death of child.** Any person who conceals the corpse of
19 any issue of a woman's body with intent to prevent a determination of whether it was
20 born dead or alive is guilty of a Class E I felony.

21 **SECTION 813.** 948.24 (1) (intro.) of the statutes is amended to read:

22 **948.24 (1) (intro.)** Whoever does any of the following is guilty of a Class D H
23 felony:

24 **SECTION 814.** 948.30 (1) (intro.) of the statutes is amended to read:

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

3 **SECTION 815.** 948.30 (2) (intro.) of the statutes is amended to read:

4 948.30 (2) (intro.) Any person who, for any unlawful purpose, does any of the
5 following is guilty of a Class B C felony:

6 **SECTION 816.** 948.31 (1) (b) of the statutes is amended to read:

7 948.31 (1) (b) Except as provided under chs. 48 and 938, whoever intentionally
8 causes a child to leave, takes a child away or withholds a child for more than 12 hours
9 beyond the court-approved period of physical placement or visitation period from a
10 legal custodian with intent to deprive the custodian of his or her custody rights
11 without the consent of the custodian is guilty of a Class C F felony. This paragraph
12 is not applicable if the court has entered an order authorizing the person to so take
13 or withhold the child. The fact that joint legal custody has been awarded to both
14 parents by a court does not preclude a court from finding that one parent has
15 committed a violation of this paragraph.

16 **SECTION 817.** 948.31 (2) of the statutes is amended to read:

17 948.31 (2) Whoever causes a child to leave, takes a child away or withholds a
18 child for more than 12 hours from the child's parents or, in the case of a nonmarital
19 child whose parents do not subsequently intermarry under s. 767.60, from the child's
20 mother or, if he has been granted legal custody, the child's father, without the consent
21 of the parents, the mother or the father with legal custody, is guilty of a Class F I
22 felony. This subsection is not applicable if legal custody has been granted by court
23 order to the person taking or withholding the child.

24 **SECTION 818.** 948.31 (3) (intro.) of the statutes is amended to read:

1 948.31 (3) (intro.) Any parent, or any person acting pursuant to directions from
2 the parent, who does any of the following is guilty of a Class C F felony:

3 **SECTION 819.** 948.35 of the statutes is repealed.

4 **SECTION 820.** 948.36 of the statutes is repealed.

5 **SECTION 821.** 948.40 (4) (a) of the statutes is amended to read:

6 948.40 (4) (a) If death is a consequence, the person is guilty of a Class C D
7 felony; or

8 **SECTION 822.** 948.40 (4) (b) of the statutes is amended to read:

9 948.40 (4) (b) If the child's act which is encouraged or contributed to is a
10 violation of a state or federal criminal law which is punishable as a felony, the person
11 is guilty of a Class D H felony.

12 **SECTION 823.** 948.51 (3) (b) of the statutes is amended to read:

13 948.51 (3) (b) A Class E H felony if the act results in great bodily harm ~~or death~~
14 to another.

15 **SECTION 824.** 948.51 (3) (c) of the statutes is created to read:

16 948.51 (3) (c) A Class G felony if the act results in the death of another.

17 **SECTION 825.** 948.60 (2) (b) of the statutes is amended to read:

18 948.60 (2) (b) Except as provided in par. (c), any person who intentionally sells,
19 loans or gives a dangerous weapon to a person under 18 years of age is guilty of a
20 Class E I felony.

21 **SECTION 826.** 948.60 (2) (c) of the statutes is amended to read:

22 948.60 (2) (c) Whoever violates par. (b) is guilty of a Class D H felony if the
23 person under 18 years of age under par. (b) discharges the firearm and the discharge
24 causes death to himself, herself or another.

25 **SECTION 827.** 948.605 (2) (a) of the statutes is amended to read:

1 948.605 (2) (a) Any individual who knowingly possesses a firearm at a place
2 that the individual knows, or has reasonable cause to believe, is a school zone is
3 guilty of a Class ~~A misdemeanor~~ I felony.

4 **SECTION 828.** 948.605 (3) (a) of the statutes is amended to read:

5 948.605 (3) (a) Any individual who knowingly, or with reckless disregard for
6 the safety of another, discharges or attempts to discharge a firearm at a place the
7 individual knows is a school zone is guilty of a Class ~~D~~ G felony.

8 **SECTION 829.** 948.605 (4) of the statutes is repealed.

9 **SECTION 830.** 948.61 (2) (b) of the statutes is amended to read:

10 948.61 (2) (b) A Class ~~E~~ I felony, if the violation is the person's 2nd or
11 subsequent violation of this section within a 5-year period, as measured from the
12 dates the violations occurred.

13 **SECTION 831.** 948.62 (1) (a) of the statutes is amended to read:

14 948.62 (1) (a) A Class ~~E~~ A misdemeanor, if the value of the property does
15 not exceed \$500.

16 **SECTION 832.** 948.62 (1) (b) of the statutes is amended to read:

17 948.62 (1) (b) A Class ~~D~~ I felony, if the value of the property exceeds \$500 but
18 does not exceed \$2,500.

19 **SECTION 833.** 948.62 (1) (bm) of the statutes is created to read:

20 948.62 (1) (bm) A Class H felony, if the value of the property exceeds \$2,500 but
21 does not exceed \$5,000.

22 **SECTION 834.** 948.62 (1) (c) of the statutes is amended to read:

23 948.62 (1) (c) A Class ~~C~~ G felony, if the value of the property exceeds ~~\$2,500~~
24 \$5,000.

25 **SECTION 835.** 949.03 (1) (b) of the statutes is amended to read:

1 949.03 (1) (b) The commission or the attempt to commit any crime specified in
2 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
3 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
4 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,
5 943.04, 943.10, 943.20, 943.23 (1g), ~~(1m) or (1r)~~, 943.32, 948.02, 948.025, 948.03,
6 948.04, 948.07, 948.095, 948.20, 948.30 or 948.51.

7 **SECTION 836.** 950.04 (1v) (g) of the statutes is amended to read:

8 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
9 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),
10 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and 972.14 (3) (b).

11 **SECTION 837.** 950.04 (1v) (nt) of the statutes is created to read:

12 950.04 (1v) (nt) To attend a hearing on a petition for modification of a
13 bifurcated sentence and provide a statement concerning modification of the
14 bifurcated sentence, as provided under s. 302.113 (9g) (d).

15 **SECTION 838.** 951.18 (1) of the statutes is amended to read:

16 951.18 (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05,
17 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a
18 Class C forfeiture. Any person who violates any of these provisions within 3 years
19 after a humane officer issues an abatement order under s. 173.11 prohibiting the
20 violation of that provision is subject to a Class A forfeiture. Any person who
21 intentionally or negligently violates any of those sections is guilty of a Class A
22 misdemeanor. Any person who intentionally violates s. 951.02, resulting in the
23 mutilation, disfigurement or death of an animal, is guilty of a Class ~~E~~ I felony. Any
24 person who intentionally violates s. 951.02 or 951.06, knowing that the animal that

1 is the victim is used by a law enforcement agency to perform agency functions or
2 duties and causing injury to the animal, is guilty of a Class ~~E~~ I felony.

3 **SECTION 839.** 951.18 (2) of the statutes is amended to read:

4 951.18 (2) Any person who violates s. 951.08 (2m) or (3) is guilty of a Class A
5 misdemeanor. Any person who violates s. 951.08 (1) or (2) is guilty of a Class ~~E~~ I
6 felony for the first violation and is guilty of a Class ~~D~~ H felony for the 2nd or
7 subsequent violation.

8 **SECTION 840.** 951.18 (2m) of the statutes is amended to read:

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

20 **SECTION 841.** 961.41 (1) (intro.) of the statutes is amended to read:

21 961.41 (1) MANUFACTURE, DISTRIBUTION OR DELIVERY. (intro.) Except as
22 authorized by this chapter, it is unlawful for any person to manufacture, distribute
23 or deliver a controlled substance or controlled substance analog. Any person who
24 violates this subsection with respect to is subject to the following penalties:

25 **SECTION 842.** 961.41 (1) (a) of the statutes is amended to read:

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

7 **SECTION 843.** 961.41 (1) (b) of the statutes, as affected by 2001 Wisconsin Act
8 16, is amended to read:

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

15 **SECTION 844.** 961.41 (1) (cm) (intro.) of the statutes is amended to read:

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

20 **SECTION 845.** 961.41 (1) (cm) 1. of the statutes is renumbered 961.41 (1) (cm)
21 1r. and amended to read:

22 961.41 (1) (cm) 1r. ~~Five grams or less~~ More than one gram but not more than
23 5 grams, the person shall be fined not more than \$500,000 and may be imprisoned
24 for not more than 15 years is guilty of a Class F felony.

25 **SECTION 846.** 961.41 (1) (cm) 1g. of the statutes is created to read:

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

2 **SECTION 847.** 961.41 (1) (cm) 2. of the statutes is amended to read:

3 961.41 (1) (cm) 2. More than 5 grams but not more than 15 grams, the person
4 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than one~~
5 ~~year nor more than 22 years and 6 months~~ is guilty of a Class E felony.

6 **SECTION 848.** 961.41 (1) (cm) 3. of the statutes is amended to read:

7 961.41 (1) (cm) 3. More than 15 grams but not more than 40 grams, the person
8 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than 3~~
9 ~~years nor more than 30 years~~ is guilty of a Class D felony.

10 **SECTION 849.** 961.41 (1) (cm) 4. of the statutes is amended to read:

11 961.41 (1) (cm) 4. More than 40 grams ~~but not more than 100 grams~~, the person
12 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than 5~~
13 ~~years nor more than 45 years~~ is guilty of a Class C felony.

14 **SECTION 850.** 961.41 (1) (cm) 5. of the statutes is repealed.

15 **SECTION 851.** 961.41 (1) (d) (intro.) of the statutes is amended to read:

16 961.41 (1) (d) Heroin. (intro.) ~~Heroin~~ If the person violates this subsection with
17 respect to heroin or a controlled substance analog of heroin is subject to the following
18 penalties if and the amount manufactured, distributed or delivered is:

19 **SECTION 852.** 961.41 (1) (d) 1. of the statutes is amended to read:

20 961.41 (1) (d) 1. Three grams or less, the person ~~shall be fined not less than~~
21 ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than 22 years~~
22 ~~and 6 months~~ is guilty of a Class F felony.

23 **SECTION 853.** 961.41 (1) (d) 2. of the statutes is amended to read:

24 961.41 (1) (d) 2. More than 3 grams but not more than 10 grams, the person
25 ~~shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned~~

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

3 **SECTION 854.** 961.41 (1) (d) 3. of the statutes is amended to read:

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

8 **SECTION 855.** 961.41 (1) (d) 4. of the statutes is amended to read:

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

13 **SECTION 856.** 961.41 (1) (d) 5. of the statutes is repealed.

14 **SECTION 857.** 961.41 (1) (d) 6. of the statutes is repealed.

15 **SECTION 858.** 961.41 (1) (e) (intro.) of the statutes is amended to read:

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

22 **SECTION 859.** 961.41 (1) (e) 1. of the statutes is amended to read:

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

1 **SECTION 860.** 961.41 (1) (e) 2. of the statutes is amended to read:

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

6 **SECTION 861.** 961.41 (1) (e) 3. of the statutes is amended to read:

7 961.41 (1) (e) 3. More than 10 grams but not more than 50 grams, the person
8 shall be fined not less than ~~\$1,000 nor more than \$500,000~~ and shall be imprisoned
9 for not less than ~~one year nor more than 22 years and 6 months~~ is guilty of a Class
10 D felony.

11 **SECTION 862.** 961.41 (1) (e) 4. of the statutes is amended to read:

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

16 **SECTION 863.** 961.41 (1) (e) 5. of the statutes is repealed.

17 **SECTION 864.** 961.41 (1) (e) 6. of the statutes is repealed.

18 **SECTION 865.** 961.41 (1) (em) of the statutes is repealed.

19 **SECTION 866.** 961.41 (1) (f) (intro.) of the statutes is amended to read:

20 961.41 (1) (f) Lysergic acid diethylamide. (intro.) Lysergie If the person violates
21 this subsection with respect to lysergic acid diethylamide or a controlled substance
22 analog of lysergic acid diethylamide is subject to the following penalties if and the
23 amount manufactured, distributed, or delivered is:

24 **SECTION 867.** 961.41 (1) (f) 1. of the statutes is amended to read:

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

4 **SECTION 868.** 961.41 (1) (f) 2. of the statutes is amended to read:

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

8 **SECTION 869.** 961.41 (1) (f) 3. of the statutes is amended to read:

9 961.41 (1) (f) 3. More than 5 grams, the person shall be fined not less than
10 \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year
11 nor more than 22 years and 6 months is guilty of a Class E felony.

12 **SECTION 870.** 961.41 (1) (g) (intro.) of the statutes is amended to read:

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

17 **SECTION 871.** 961.41 (1) (g) 1. of the statutes is amended to read:

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

21 **SECTION 872.** 961.41 (1) (g) 2. of the statutes is amended to read:

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

1 **SECTION 873.** 961.41 (1) (g) 3. of the statutes is amended to read:

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

5 **SECTION 874.** 961.41 (1) (h) (intro.) of the statutes is amended to read:

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

11 **SECTION 875.** 961.41 (1) (h) 1. of the statutes is amended to read:

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

16 **SECTION 876.** 961.41 (1) (h) 2. of the statutes is amended to read:

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

22 **SECTION 877.** 961.41 (1) (h) 3. of the statutes is amended to read:

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

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

3 **SECTION 878.** 961.41 (1) (h) 4. of the statutes is created to read:

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

7 **SECTION 879.** 961.41 (1) (h) 5. of the statutes is created to read:

8 961.41 (1) (h) 5. More than 10,000 grams, or more than 200 plants containing
9 tetrahydrocannabinols, the person is guilty of a Class E felony.

10 **SECTION 880.** 961.41 (1) (hm) (intro.) of the statutes, as affected by 2001
11 Wisconsin Act 16, is amended to read:

12 961.41 (1) (hm) Certain other schedule I controlled substances and ketamine.
13 (intro.) ~~Gamma-hydroxybutyric~~ If the person violates this subsection with respect
14 to ~~gamma-hydroxybutyric~~ acid, ~~gamma-butyrolactone,~~
15 ~~3,4-methylenedioxymethamphetamine,~~
16 ~~4-bromo-2,5-dimethoxy-beta-phenylethylamine,~~ ~~4-methylthioamphetamine,~~
17 ~~ketamine,~~ or a controlled substance analog of ~~gamma-hydroxybutyric acid,~~
18 ~~gamma-butyrolactone,~~ ~~3,4-methylenedioxymethamphetamine,~~
19 ~~4-bromo-2,5-dimethoxy-beta-phenylethylamine,~~ or ~~4-methylthioamphetamine~~ is
20 ~~subject to the following penalties if~~ and the amount manufactured, distributed, or
21 delivered is:

22 **SECTION 881.** 961.41 (1) (hm) 1. of the statutes, as created by 2001 Wisconsin
23 Act 16, is amended to read:

1 961.41 (1) (hm) 1. ~~Three grams or less, the person shall be fined not less than~~
2 ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and~~
3 ~~6 months~~ is guilty of a Class F felony.

4 **SECTION 882.** 961.41 (1) (hm) 2. of the statutes, as created by 2001 Wisconsin
5 Act 16, is amended to read:

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

10 **SECTION 883.** 961.41 (1) (hm) 3. of the statutes, as created by 2001 Wisconsin
11 Act 16, is amended to read:

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

16 **SECTION 884.** 961.41 (1) (hm) 4. of the statutes, as created by 2001 Wisconsin
17 Act 16, is amended to read:

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

22 **SECTION 885.** 961.41 (1) (hm) 5. of the statutes, as created by 2001 Wisconsin
23 Act 16, is repealed.

24 **SECTION 886.** 961.41 (1) (hm) 6. of the statutes, as created by 2001 Wisconsin
25 Act 16, is repealed.

1 **SECTION 887.** 961.41 (1) (i) of the statutes is amended to read:

2 961.41 (1) (i) Schedule IV drugs generally. Except as provided in par. (im), if
3 a person violates this subsection with respect to a substance included in schedule IV,
4 may be fined not more than \$10,000 or imprisoned for not more than 4 years and 6
5 months or both the person is guilty of a Class H felony.

6 **SECTION 888.** 961.41 (1) (im) (intro.) of the statutes, as affected by 2001
7 Wisconsin Act 16, is amended to read:

8 961.41 (1) (im) Flunitrazepam. (intro.) ~~Flunitrazepam is subject to the~~
9 ~~following penalties if~~ If a person violates this subsection with respect to
10 flunitrazepam and the amount manufactured, distributed, or delivered is:

11 **SECTION 889.** 961.41 (1) (im) 1. of the statutes, as created by 2001 Wisconsin
12 Act 16, is amended to read:

13 961.41 (1) (im) 1. Three grams or less, the person ~~shall be fined not less than~~
14 ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and~~
15 ~~6 months~~ is guilty of a Class F felony.

16 **SECTION 890.** 961.41 (1) (im) 2. of the statutes, as created by 2001 Wisconsin
17 Act 16, is amended to read:

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

22 **SECTION 891.** 961.41 (1) (im) 3. of the statutes, as created by 2001 Wisconsin
23 Act 16, is amended to read:

24 961.41 (1) (im) 3. More than 10 grams but not more than 50 grams, the person
25 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~

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

3 **SECTION 892.** 961.41 (1) (im) 4. of the statutes, as created by 2001 Wisconsin
4 Act 16, is amended to read:

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

9 **SECTION 893.** 961.41 (1) (im) 5. of the statutes, as created by 2001 Wisconsin
10 Act 16, is repealed.

11 **SECTION 894.** 961.41 (1) (im) 6. of the statutes, as created by 2001 Wisconsin
12 Act 16, is repealed.

13 **SECTION 895.** 961.41 (1) (j) of the statutes is amended to read:

14 961.41 (1) (j) Schedule V drugs. ~~-A- If a person violates this subsection with~~
15 ~~respect to a substance included in schedule V, may be fined not more than \$5,000 or~~
16 ~~imprisoned for not more than 2 years or both the person is guilty of a Class I felony.~~

17 **SECTION 896.** 961.41 (1m) (intro.) of the statutes is amended to read:

18 961.41 (1m) POSSESSION WITH INTENT TO MANUFACTURE, DISTRIBUTE OR DELIVER.
19 (intro.) Except as authorized by this chapter, it is unlawful for any person to possess,
20 with intent to manufacture, distribute or deliver, a controlled substance or a
21 controlled substance analog. Intent under this subsection may be demonstrated by,
22 without limitation because of enumeration, evidence of the quantity and monetary
23 value of the substances possessed, the possession of manufacturing implements or
24 paraphernalia, and the activities or statements of the person in possession of the
25 controlled substance or a controlled substance analog prior to and after the alleged

1 violation. Any person who violates this subsection ~~with respect to~~ is subject to the
2 following penalties:

3 SECTION 897. 961.41 (1m) (a) of the statutes is amended to read:

4 961.41 (1m) (a) Schedule I and II narcotic drugs generally. Except as provided
5 in par. (d), if a person violates this subsection with respect to a controlled substance
6 included in schedule I or II which is a narcotic drug or a controlled substance analog
7 of a controlled substance included in schedule I or II which is a narcotic drug, ~~may~~
8 ~~be fined not more than \$25,000 or imprisoned for not more than 22 years and 6~~
9 ~~months or both~~ the person is guilty of a Class E felony.

10 SECTION 898. 961.41 (1m) (b) of the statutes, as affected by 2001 Wisconsin Act
11 16, is amended to read:

12 961.41 (1m) (b) Schedule I, II, and III nonnarcotic drugs generally. Except as
13 provided in pars. (cm) and (e) to (hm), if a person violates this subsection with respect
14 to any other controlled substance included in schedule I, II, or III, or a controlled
15 substance analog of any other controlled substance included in schedule I or II, may
16 ~~be fined not more than \$15,000 or imprisoned for not more than 7 years and 6 months~~
17 ~~or both~~ the person is guilty of a Class H felony.

18 SECTION 899. 961.41 (1m) (cm) (intro.) of the statutes is amended to read:

19 961.41 (1m) (cm) Cocaine and cocaine base. (intro.) ~~Cocaine~~ If a person violates
20 this subsection with respect to cocaine or cocaine base, or a controlled substance
21 analog of cocaine or cocaine base, ~~is subject to the following penalties if~~ and the
22 amount possessed, with intent to manufacture, distribute or deliver, is:

23 SECTION 900. 961.41 (1m) (cm) 1. of the statutes is renumbered 961.41 (1m)
24 (cm) 1r. and amended to read:

1 961.41 (1m) (cm) 1r. ~~Five grams or less~~ More than one gram but not more than
2 5 grams, the person shall be ~~fined not more than \$500,000 and may be imprisoned~~
3 ~~for not more than 15 years~~ is guilty of a Class F felony.

4 **SECTION 901.** 961.41 (1m) (cm) 1g. of the statutes is created to read:

5 961.41 (1m) (cm) 1g. One gram or less, the person is guilty of a Class G felony.

6 **SECTION 902.** 961.41 (1m) (cm) 2. of the statutes is amended to read:

7 961.41 (1m) (cm) 2. More than 5 grams but not more than 15 grams, the person
8 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than one~~
9 ~~year nor more than 22 years and 6 months~~ is guilty of a Class E felony.

10 **SECTION 903.** 961.41 (1m) (cm) 3. of the statutes is amended to read:

11 961.41 (1m) (cm) 3. More than 15 grams but not more than 40 grams, the
12 ~~person shall be fined not more than \$500,000 and shall be imprisoned for not less~~
13 ~~than 3 years nor more than 30 years~~ is guilty of a Class D felony.

14 **SECTION 904.** 961.41 (1m) (cm) 4. of the statutes is amended to read:

15 961.41 (1m) (cm) 4. More than 40 grams ~~but not more than 100 grams~~, the
16 ~~person shall be fined not more than \$500,000 and shall be imprisoned for not less~~
17 ~~than 5 years nor more than 45 years~~ is guilty of a Class C felony.

18 **SECTION 905.** 961.41 (1m) (cm) 5. of the statutes is repealed.

19 **SECTION 906.** 961.41 (1m) (d) (intro.) of the statutes is amended to read:

20 961.41 (1m) (d) Heroin. (intro.) ~~Heroin~~ If a person violates this subsection with
21 respect to heroin or a controlled substance analog of heroin ~~is subject to the following~~
22 ~~penalties if~~ and the amount possessed, with intent to manufacture, distribute or
23 deliver, is:

24 **SECTION 907.** 961.41 (1m) (d) 1. of the statutes is amended to read:

1 961.41 (1m) (d) 1. Three grams or less, the person ~~shall be fined not less than~~
2 ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 22 years~~
3 ~~and 6 months~~ is guilty of a Class F felony.

4 **SECTION 908.** 961.41 (1m) (d) 2. of the statutes is amended to read:

5 961.41 (1m) (d) 2. More than 3 grams but not more than 10 grams, the person
6 ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~
7 ~~for not less than 6 months nor more than 22 years and 6 months~~ is guilty of a Class
8 E felony.

9 **SECTION 909.** 961.41 (1m) (d) 3. of the statutes is amended to read:

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

14 **SECTION 910.** 961.41 (1m) (d) 4. of the statutes is amended to read:

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

19 **SECTION 911.** 961.41 (1m) (d) 5. of the statutes is repealed.

20 **SECTION 912.** 961.41 (1m) (d) 6. of the statutes is repealed.

21 **SECTION 913.** 961.41 (1m) (e) (intro.) of the statutes is amended to read:

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

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

3 **SECTION 914.** 961.41 (1m) (e) 1. of the statutes is amended to read:

4 961.41 (1m) (e) 1. Three grams or less, the person shall be fined not less than
5 \$1,000 nor more than \$100,000 and may be imprisoned for not more than 7 years and
6 6 months is guilty of a Class F felony.

7 **SECTION 915.** 961.41 (1m) (e) 2. of the statutes is amended to read:

8 961.41 (1m) (e) 2. More than 3 grams but not more than 10 grams, the person
9 shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned
10 for not less than 6 months nor more than 7 years and 6 months is guilty of a Class
11 E felony.

12 **SECTION 916.** 961.41 (1m) (e) 3. of the statutes is amended to read:

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

17 **SECTION 917.** 961.41 (1m) (e) 4. of the statutes is amended to read:

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

22 **SECTION 918.** 961.41 (1m) (e) 5. of the statutes is repealed.

23 **SECTION 919.** 961.41 (1m) (e) 6. of the statutes is repealed.

24 **SECTION 920.** 961.41 (1m) (em) of the statutes is repealed.

25 **SECTION 921.** 961.41 (1m) (f) (intro.) of the statutes is amended to read:

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

5 **SECTION 922.** 961.41 (1m) (f) 1. of the statutes is amended to read:

6 961.41 (1m) (f) 1. One gram or less, the person ~~shall be fined not less than~~
7 ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 7 years and~~
8 ~~6 months~~ is guilty of a Class G felony.

9 **SECTION 923.** 961.41 (1m) (f) 2. of the statutes is amended to read:

10 961.41 (1m) (f) 2. More than one gram but not more than 5 grams, the person
11 ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~
12 ~~for not less than 6 months nor more than 7 years and 6 months~~ is guilty of a Class
13 F felony.

14 **SECTION 924.** 961.41 (1m) (f) 3. of the statutes is amended to read:

15 961.41 (1m) (f) 3. More than 5 grams, the person ~~shall be fined not less than~~
16 ~~\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year~~
17 ~~nor more than 22 years and 6 months~~ is guilty of a Class E felony.

18 **SECTION 925.** 961.41 (1m) (g) (intro.) of the statutes is amended to read:

19 961.41 (1m) (g) Psilocin and psilocybin. (intro.) Psileein If a person violates
20 this subsection with respect to psilocin or psilocybin, or a controlled substance analog
21 of psilocin or psilocybin, is subject to the following penalties if and the amount
22 possessed, with intent to manufacture, distribute or deliver, is:

23 **SECTION 926.** 961.41 (1m) (g) 1. of the statutes is amended to read:

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

4 **SECTION 927.** 961.41 (1m) (g) 2. of the statutes is amended to read:

5 961.41 (1m) (g) 2. More than 100 grams but not more than 500 grams, the
6 person shall be fined not less than ~~\$1,000 nor more than \$200,000 and shall be~~
7 ~~imprisoned for not less than 6 months nor more than 7 years and 6 months~~ is guilty
8 of a Class F felony.

9 **SECTION 928.** 961.41 (1m) (g) 3. of the statutes is amended to read:

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

13 **SECTION 929.** 961.41 (1m) (h) (intro.) of the statutes is amended to read:

14 961.41 (1m) (h) Tetrahydrocannabinols. (intro.) Tetrahydrocannabinols if a
15 person violates this subsection with respect to tetrahydrocannabinols, included
16 under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, is
17 subject to the following penalties if and the amount possessed, with intent to
18 manufacture, distribute, or deliver, is:

19 **SECTION 930.** 961.41 (1m) (h) 1. of the statutes is amended to read:

20 961.41 (1m) (h) 1. ~~Five~~ Two hundred grams or less, or ~~10~~ 4 or fewer plants
21 containing tetrahydrocannabinols, the person shall be fined not less than ~~\$500 nor~~
22 ~~more than \$25,000 and may be imprisoned for not more than 4 years and 6 months~~
23 is guilty of a Class I felony.

24 **SECTION 931.** 961.41 (1m) (h) 2. of the statutes is amended to read:

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

6 **SECTION 932.** 961.41 (1m) (h) 3. of the statutes is amended to read:

7 961.41 (1m) (h) 3. More than ~~2,500~~ 1,000 grams but not more than ~~2,500~~ grams,
8 or more than ~~50~~ 20 plants containing tetrahydrocannabinols but not more than ~~50~~
9 ~~plants containing tetrahydrocannabinols~~, the person shall be fined not less than
10 ~~\$1,000 nor more than \$100,000~~ and shall be imprisoned for not less than ~~one year~~
11 ~~nor more than 15 years~~ is guilty of a Class G felony.

12 **SECTION 933.** 961.41 (1m) (h) 4. of the statutes is created to read:

13 961.41 (1m) (h) 4. More than 2,500 grams but not more than 10,000 grams, or
14 more than 50 plants containing tetrahydrocannabinols but not more than 200 plants
15 containing tetrahydrocannabinols, the person is guilty of a Class F felony.

16 **SECTION 934.** 961.41 (1m) (h) 5. of the statutes is created to read:

17 961.41 (1m) (h) 5. More than 10,000 grams, or more than 200 plants containing
18 tetrahydrocannabinols, the person is guilty of a Class E felony.

19 **SECTION 935.** 961.41 (1m) (hm) (intro.) of the statutes, as created by 2001
20 Wisconsin Act 16, is amended to read:

21 961.41 (1m) (hm) Certain other schedule I controlled substances and ketamine.
22 (intro.) ~~Gamma-hydroxybutyric~~ If the person violates this subsection with respect
23 to gamma-hydroxybutyric acid, gamma-butyrolactone,
3,4-methylenedioxymethamphetamine
24 4-bromo-2,5-dimethoxy-beta-phenylethylamine, 4-methylthioamphetamine,

1 ketamine, or a controlled substance analog of gamma-hydroxybutyric acid,
2 gamma-butyrolactone, 3,4-methylenedioxymethamphetamine
3 4-bromo-2,5-dimethoxy-beta-phenylethylamine, or 4-methylthioamphetamine is
4 subject to the following penalties if the amount possessed, with intent to
5 manufacture, distribute, or deliver is:

6 **SECTION 936.** 961.41 (1m) (hm) 1. of the statutes, as created by 2001 Wisconsin
7 Act 16, is amended to read:

8 961.41 (1m) (hm) 1. Three grams or less, the person shall be fined not less than
9 \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and
10 6 months is guilty of a Class F felony.

11 **SECTION 937.** 961.41 (1m) (hm) 2. of the statutes, as created by 2001 Wisconsin
12 Act 16, is amended to read:

13 961.41 (1m) (hm) 2. More than 3 grams but not more than 10 grams, the person
14 shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned
15 for not less than 6 months nor more than 7 years and 6 months is guilty of a Class
16 E felony.

17 **SECTION 938.** 961.41 (1m) (hm) 3. of the statutes, as created by 2001 Wisconsin
18 Act 16, is amended to read:

19 961.41 (1m) (hm) 3. More than 10 grams but not more than 50 grams, the
20 person shall be fined not less than \$1,000 nor more than \$500,000 and shall be
21 imprisoned for not less than one year nor more than 22 years and 6 months is guilty
22 of a Class D felony.

23 **SECTION 939.** 961.41 (1m) (hm) 4. of the statutes, as created by 2001 Wisconsin
24 Act 16, is amended to read:

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

5 **SECTION 940.** 961.41 (1m) (hm) 5. of the statutes, as created by 2001 Wisconsin
6 Act 16, is repealed.

7 **SECTION 941.** 961.41 (1m) (hm) 6. of the statutes, as created by 2001 Wisconsin
8 Act 16, is repealed.

9 **SECTION 942.** 961.41 (1m) (i) of the statutes is amended to read:

10 961.41 (1m) (i) Schedule IV drugs generally. Except as provided in par. (im),
11 if a person violates this subsection with respect to a substance included in schedule
12 IV, may be fined not more than \$10,000 or imprisoned for not more than 4 years and
13 6 months or both the person is guilty of a Class H felony.

14 **SECTION 943.** 961.41 (1m) (im) (intro.) of the statutes, as affected by 2001
15 Wisconsin Act 16, is amended to read:

16 961.41 (1m) (im) Flunitrazepam. (intro.) ~~Flunitrazepam is subject to the~~
17 ~~following penalties if~~ If a person violates this subsection with respect to
18 flunitrazepam and the amount possessed, with intent to manufacture, distribute, or
19 deliver, is:

20 **SECTION 944.** 961.41 (1m) (im) 1. of the statutes, as created by 2001 Wisconsin
21 Act 16, is amended to read:

22 961.41 (1m) (im) 1. Three grams or less, the person ~~shall be fined not less than~~
23 ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and~~
24 ~~6 months is guilty of a Class F felony.~~

1 **SECTION 945.** 961.41 (1m) (im) 2. of the statutes, as created by 2001 Wisconsin
2 Act 16, is amended to read:

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

7 **SECTION 946.** 961.41 (1m) (im) 3. of the statutes, as created by 2001 Wisconsin
8 Act 16, is amended to read:

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

13 **SECTION 947.** 961.41 (1m) (im) 4. of the statutes, as created by 2001 Wisconsin
14 Act 16, is amended to read:

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

19 **SECTION 948.** 961.41 (1m) (im) 5. of the statutes, as created by 2001 Wisconsin
20 Act 16, is repealed.

21 **SECTION 949.** 961.41 (1m) (im) 6. of the statutes, as created by 2001 Wisconsin
22 Act 16, is repealed.

23 **SECTION 950.** 961.41 (1m) (j) of the statutes is amended to read:

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

4 **SECTION 951.** 961.41 (1n) (c) of the statutes is amended to read:

5 961.41 (1n) (c) A person who violates par. (a) or (b) ~~may be fined not more than~~
6 ~~\$250,000 or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony.

7 **SECTION 952.** 961.41 (1q) of the statutes is amended to read:

8 961.41 (1q) PENALTY RELATING TO TETRAHYDROCANNABINOLS IN CERTAIN CASES.
9 Under s. 961.49 (2), 1999 stats., and subs. (1) (h) and (1m) (h) ~~and s. 961.49 (2),~~ if
10 different penalty provisions apply to a person depending on whether the weight of
11 tetrahydrocannabinols or the number of plants containing tetrahydrocannabinols is
12 considered, the greater penalty provision applies.

13 **SECTION 953.** 961.41 (1r) of the statutes is amended to read:

14 961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE. In determining amounts under
15 s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m) ~~and s. 961.49 (2) (b),~~ an amount
16 includes the weight of cocaine, cocaine base, heroin, phencyclidine, lysergic acid
17 diethylamide, psilocin, psilocybin, amphetamine, methamphetamine,
18 methcathinone or tetrahydrocannabinols or any controlled substance analog of any
19 of these substances together with any compound, mixture, diluent, plant material
20 or other substance mixed or combined with the controlled substance or controlled
21 substance analog. In addition, in determining amounts under subs. (1) (h) and (1m)
22 (h), the amount of tetrahydrocannabinols means anything included under s. 961.14
23 (4) (t) and includes the weight of any marijuana.

24 **SECTION 954.** 961.41 (2) (intro.) of the statutes is amended to read:

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

5 **SECTION 955.** 961.41 (2) (a) of the statutes is amended to read:

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

11 **SECTION 956.** 961.41 (2) (b) of the statutes, as affected by 2001 Wisconsin Act
12 16, is amended to read:

13 961.41 (2) (b) Counterfeit schedule I, II, III, and IV drugs. Except as provided
14 in pars. (a) and (bm), and (cm), if a person violates this subsection with respect to any
15 other counterfeit substance included in schedule I, II or, III, may be fined not more
16 than \$15,000 or imprisoned for not more than 7 years and 6 months or both or IV, the
17 person is guilty of a Class H felony.

18 **SECTION 957.** 961.41 (2) (c) of the statutes is repealed.

19 **SECTION 958.** 961.41 (2) (cm) (title) of the statutes is created to read:

20 961.41 (2) (cm) (title) Counterfeit flunitrazepam.

21 **SECTION 959.** 961.41 (2) (d) of the statutes is amended to read:

22 961.41 (2) (d) Counterfeit schedule V drugs. ~~A~~ If a person violates this
23 subsection with respect to a counterfeit substance included in schedule V, may be
24 fined not more than \$5,000 or imprisoned for not more than 2 years or both the person
25 is guilty of a Class I felony.

1 **SECTION 960.** 961.41 (3g) (a) 1. of the statutes is renumbered 961.41 (3g) (am)
2 and amended to read:

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

11 **SECTION 961.** 961.41 (3g) (a) 2. of the statutes is repealed.

12 **SECTION 962.** 961.41 (3g) (a) 3. of the statutes is repealed.

13 **SECTION 963.** 961.41 (3g) (b) of the statutes is amended to read:

14 961.41 (3g) (b) Other drugs generally. Except as provided in pars. (c), (d), ~~(dm)~~,
15 (e) and (f), if the person possesses or attempts to possess a controlled substance or
16 controlled substance analog, other than a controlled substance included in schedule
17 I or II that is a narcotic drug or a controlled substance analog of a controlled
18 substance included in schedule I or II that is a narcotic drug, the person is guilty of
19 a misdemeanor, punishable under s. 939.61.

20 **SECTION 964.** 961.41 (3g) (c) of the statutes is amended to read:

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

1 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the
2 offense, the offender has at any time been convicted of any felony or misdemeanor
3 under this chapter or under any statute of the United States or of any state relating
4 to controlled substances, controlled substance analogs, narcotic drugs, marijuana,
5 or depressant, stimulant, or hallucinogenic drugs.

6 **SECTION 965.** 961.41 (3g) (d) of the statutes is amended to read:

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

20 **SECTION 966.** 961.41 (3g) (dm) of the statutes is repealed.

21 **SECTION 967.** 961.41 (3g) (e) of the statutes is amended to read:

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

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

7 **SECTION 968.** 961.41 (3g) (f) of the statutes is amended to read:

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

13 **SECTION 969.** 961.41 (4) (am) 3. of the statutes is amended to read:

14 961.41 (4) (am) 3. A person ~~convicted of violating who violates~~ this paragraph
15 ~~may be fined not more than \$5,000 or imprisoned for not more than 2 years or both~~
16 ~~is guilty of a Class I felony.~~

17 **SECTION 970.** 961.42 (2) of the statutes is amended to read:

18 961.42 (2) Any person who violates this section ~~may be fined not more than~~
19 ~~\$25,000 or imprisoned not more than 2 years or both~~ is guilty of a Class I felony.

20 **SECTION 971.** 961.43 (2) of the statutes is amended to read:

21 961.43 (2) Any person who violates this section ~~may be fined not more than~~
22 ~~\$30,000 or imprisoned not more than 6 years or both~~ is guilty of a Class H felony.

23 **SECTION 972.** 961.437 (4) (a) of the statutes is amended to read:

1 961.437 (4) (a) For a first offense, the person shall be fined not less than \$1,000
2 nor more than \$100,000 or imprisoned for not more than 7 years and 6 months or both
3 is guilty of a Class H felony.

4 **SECTION 973.** 961.437 (4) (b) of the statutes is amended to read:

5 961.437 (4) (b) For a 2nd or subsequent offense, the person shall be fined not
6 less than \$5,000 nor more than \$150,000 or imprisoned for not more than 15 years
7 or both is guilty of a Class F felony.

8 **SECTION 974.** 961.438 of the statutes is repealed.

9 **SECTION 975.** 961.455 (1) of the statutes is amended to read:

10 961.455 (1) Any person who has attained the age of 17 years who knowingly
11 solicits, hires, directs, employs or uses a person who is under the age of 17 years of
12 age or under for the purpose of violating s. 961.41 (1) may be fined not more than
13 \$50,000 or imprisoned for not more than 15 years or both is guilty of a Class F felony.

14 **SECTION 976.** 961.455 (3) of the statutes is amended to read:

15 961.455 (3) Solicitation under sub. (1) occurs in the manner described under
16 s. 939.30, but the penalties under sub. (1) apply instead of the penalties under s.
17 939.30 or 948.35.

18 **SECTION 977.** 961.46 (1) of the statutes is renumbered 961.46 and amended to
19 read:

20 **961.46 Distribution to persons under age 18.** ~~Except as provided in sub.~~
21 ~~(3), any~~ If a person 17 years of age or over who violates s. 961.41 (1) by distributing
22 or delivering a controlled substance included in schedule I or II which is a narcotic
23 drug or a controlled substance analog of a controlled substance included in schedule
24 I or II which is a narcotic drug to a person 17 years of age or under who is at least
25 3 years his or her junior is punishable by the fine authorized by s. 961.41 (1) (a) or

1 a term of imprisonment of up to twice that authorized by s. 961.41 (1) (a), or both, the
2 applicable maximum term of imprisonment prescribed under s. 961.41 (1) for the
3 offense may be increased by not more than 5 years.

4 **SECTION 978.** 961.46 (2) of the statutes is repealed.

5 **SECTION 979.** 961.46 (3) of the statutes is repealed.

6 **SECTION 980.** 961.465 of the statutes is repealed.

7 **SECTION 981.** 961.472 (2) of the statutes is amended to read:

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

20 **SECTION 982.** 961.48 (1) of the statutes is renumbered 961.48 (1) (intro.) and
21 amended to read:

22 961.48 (1) (intro.) ~~Except as provided in subs. (2) and (4), any~~ If a person who
23 is charged under sub. (2m) with a felony offense under this chapter that is a 2nd or
24 subsequent offense as provided under this chapter sub. (3) and the person is
25 convicted of that 2nd or subsequent offense may be fined an amount up to twice that

1 otherwise authorized or imprisoned for a term up to twice the term otherwise
2 authorized or both, the maximum term of imprisonment for the offense may be
3 increased as follows:

4 **SECTION 983.** 961.48 (1) (a) and (b) of the statutes are created to read:

5 961.48 (1) (a) By not more than 6 years, if the offense is a Class C or D felony.

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

7 **SECTION 984.** 961.48 (2) of the statutes is repealed.

8 **SECTION 985.** 961.48 (2m) (a) of the statutes is amended to read:

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

17 **SECTION 986.** 961.48 (3) of the statutes is amended to read:

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

24 **SECTION 987.** 961.48 (4) of the statutes is repealed.

1 **SECTION 988.** 961.49 (1) of the statutes is renumbered 961.49, and 961.49
2 (intro.), as renumbered, is amended to read:

3 **961.49 Distribution of or possession with intent to deliver a controlled**
4 **substance on or near certain places.** (intro.) If any person violates s. 961.41 (1)
5 (cm), (d), (e), ~~(em)~~, (f), (g) or (h) by delivering or distributing, or violates s. 961.41 (1m)
6 (cm), (d), (e), ~~(em)~~, (f), (g) or (h) by possessing with intent to deliver or distribute,
7 cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin,
8 psilocybin, amphetamine, methamphetamine, methcathinone or any form of
9 tetrahydrocannabinols or a controlled substance analog of any of these substances
10 and the delivery, distribution or possession takes place under any of the following
11 circumstances, the maximum term of imprisonment prescribed by law for that crime
12 may be increased by 5 years:

13 **SECTION 989.** 961.49 (2) of the statutes is repealed.

14 **SECTION 990.** 961.49 (3) of the statutes is repealed.

15 **SECTION 991.** 961.492 of the statutes is repealed.

16 **SECTION 992.** 961.55 (1) (d) 3. of the statutes is amended to read:

17 961.55 (1) (d) 3. A vehicle is not subject to forfeiture for a violation of s. 961.41
18 (3g) (b), (c), (d), ~~(dm)~~, (e) or (f); and

19 **SECTION 993.** 961.573 (3) of the statutes is amended to read:

20 961.573 (3) No person may use, or possess with the primary intent to use, drug
21 paraphernalia to manufacture, compound, convert, produce, process, prepare, test,
22 analyze, pack, repack or store methamphetamine or a controlled substance analog
23 of methamphetamine in violation of this chapter. Any person who violates this
24 subsection ~~may be fined not more than \$10,000 or imprisoned for not more than 5~~
25 ~~years or both~~ is guilty of a Class H felony.

1 **SECTION 994.** 961.574 (3) of the statutes is amended to read:

2 961.574 (3) No person may deliver, possess with intent to deliver, or
3 manufacture with intent to deliver, drug paraphernalia, knowing that it will be
4 primarily used to manufacture, compound, convert, produce, process, prepare, test,
5 analyze, pack, repack or store methamphetamine or a controlled substance analog
6 of methamphetamine in violation of this chapter. Any person who violates this
7 subsection ~~may be fined not more than \$10,000 or imprisoned for not more than 5~~
8 ~~years or both~~ is guilty of a Class H felony.

9 **SECTION 995.** 961.575 (3) of the statutes is amended to read:

10 961.575 (3) Any person 17 years of age or over who violates s. 961.574 (3) by
11 delivering drug paraphernalia to a person 17 years of age or under ~~may be fined not~~
12 ~~more than \$50,000 or imprisoned for not more than 10 years or both~~ is guilty of a
13 Class G felony.

14 **SECTION 996.** 967.04 (9) of the statutes is amended to read:

15 967.04 (9) In any criminal prosecution or juvenile fact-finding hearing under
16 s. 48.31 or 938.31, the court may admit into evidence a videotaped deposition taken
17 under subs. (7) and (8) without an additional hearing under s. 908.08. In any
18 proceeding under s. 302.113 (9) (am), 302.114 (9) (am), 304.06 (3), or 973.10 (2), the
19 hearing examiner may order and preside at the taking of a videotaped deposition
20 using the procedure provided in subs. (7) and (8) and may admit the videotaped
21 deposition into evidence without an additional hearing under s. 908.08.

22 **SECTION 997.** 968.255 (1) (a) 2. of the statutes is amended to read:

23 968.255 (1) (a) 2. Arrested for any misdemeanor under s. 167.30, 940.19, 941.20
24 (1), 941.23, 941.237, 941.24, 948.60, ~~948.605 (2) (a)~~ or 948.61.

25 **SECTION 998.** 968.31 (1) (intro.) of the statutes is amended to read:

1 968.31 (1) (intro.) Except as otherwise specifically provided in ss. 196.63 or
2 968.28 to 968.30, whoever commits any of the acts enumerated in this section ~~may~~
3 ~~be fined not more than \$10,000 or imprisoned for not more than 7 years and 6 months~~
4 ~~or both~~ is guilty of a Class H felony:

5 **SECTION 999.** 968.34 (3) of the statutes is amended to read:

6 968.34 (3) Whoever knowingly violates sub. (1) ~~shall~~ may be fined not more
7 than \$10,000 or imprisoned for not more than ~~2 years~~ 9 months or both.

8 **SECTION 1000.** 968.43 (3) of the statutes is amended to read:

9 968.43 (3) Any person who violates an oath or affirmation required by sub. (2)
10 ~~may be imprisoned for not more than 7 years and 6 months~~ is guilty of a Class H
11 felony.

12 **SECTION 1001.** 969.08 (10) (a) of the statutes is amended to read:

13 969.08 (10) (a) “Commission of a serious crime” includes a solicitation,
14 conspiracy or attempt, under s. 948.35, 1999 stats., or s. 939.30, 939.31, or 939.32 ~~or~~
15 ~~948.35~~, to commit a serious crime.

16 **SECTION 1002.** 969.08 (10) (b) of the statutes is amended to read:

17 969.08 (10) (b) “Serious crime” means any crime specified in s. 943.23 (1m),
18 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03,
19 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201,
20 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g.,
21 1m., 1r., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c),
22 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), (1m) or (1r),
23 943.30, 943.32, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03,
24 948.04, 948.05, 948.06, 948.07 or 948.30.

1 **SECTION 1003.** 971.17 (1) of the statutes is renumbered 971.17 (1) (a) and
2 amended to read:

3 971.17 (1) (a) *Felonies committed before the effective date of this paragraph*
4 *[revisor inserts date].* ~~When~~ Except as provided in par. (c), when a defendant is found
5 not guilty by reason of mental disease or mental defect of a felony committed before
6 the effective date of this paragraph [revisor inserts date], the court shall commit
7 the person to the department of health and family services for a specified period not
8 exceeding two-thirds of the maximum term of imprisonment that could be imposed
9 ~~under s. 973.15 (2) (a) against an offender convicted of the same crime or crimes~~
10 felony, including imprisonment authorized by ss. 346.65 (2) (f), (2j) (d) or (3m),
11 939.62, 939.621, 939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b), 940.25 (1b)
12 and 961.48 and other any applicable penalty enhancement statutes, as applicable,
13 subject to the credit provisions of s. 973.155.

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

18 **SECTION 1004.** 971.17 (1) (b) of the statutes is created to read:

19 971.17 (1) (b) *Felonies committed on or after the effective date of this paragraph*
20 *.... [revisor inserts date].* Except as provided in par. (c), when a defendant is found
21 not guilty by reason of mental disease or mental defect of a felony committed on or
22 after the effective date of this paragraph [revisor inserts date], the court shall
23 commit the person to the department of health and family services for a specified
24 period not exceeding the maximum term of confinement in prison that could be
25 imposed on an offender convicted of the same felony, plus imprisonment authorized

1 by any applicable penalty enhancement statutes, subject to the credit provisions of
2 s. 973.155.

3 **SECTION 1005.** 971.17 (1) (d) of the statutes is created to read:

4 971.17 (1) (d) *Misdemeanors.* When a defendant is found not guilty by reason
5 of mental disease or mental defect of a misdemeanor, the court shall commit the
6 person to the department of health and family services for a specified period not
7 exceeding two-thirds of the maximum term of imprisonment that could be imposed
8 against an offender convicted of the same misdemeanor, including imprisonment
9 authorized by any applicable penalty enhancement statutes, subject to the credit
10 provisions of s. 973.155.

11 **SECTION 1006.** 971.365 (1) (a) of the statutes is amended to read:

12 971.365 (1) (a) In any case under s. 961.41 (1) (em), 1999 stats., or s. 961.41 (1)
13 (cm), (d), (e), (em), (f), (g) or (h) involving more than one violation, all violations may
14 be prosecuted as a single crime if the violations were pursuant to a single intent and
15 design.

16 **SECTION 1007.** 971.365 (1) (b) of the statutes is amended to read:

17 971.365 (1) (b) In any case under s. 961.41 (1m) (em), 1999 stats., or s. 961.41
18 (1m) (cm), (d), (e), (em), (f), (g) or (h) involving more than one violation, all violations
19 may be prosecuted as a single crime if the violations were pursuant to a single intent
20 and design.

21 **SECTION 1008.** 971.365 (1) (c) of the statutes is amended to read:

22 971.365 (1) (c) In any case under s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41
23 (3g) (dm), 1999 stats., or s. 961.41 (3g) (a) 2. (am), (c), (d), (dm) or (e) involving more
24 than one violation, all violations may be prosecuted as a single crime if the violations
25 were pursuant to a single intent and design.

1 **SECTION 1009.** 971.365 (2) of the statutes is amended to read:

2 971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent
3 prosecution for any acts in violation of s. 961.41 (1) (em), 1999 stats., s. 961.41 (1m)
4 (em), 1999 stats., s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41 (3g) (dm), 1999 stats.,
5 or s. 961.41 (1) (cm), (d), (e), (~~em~~), (f), (g), or (h), (1m) (cm), (d), (e), (~~em~~), (f), (g), or (h)
6 or (3g) (~~a~~)-2. (am), (c), (d), (~~dm~~) or (e) on which no evidence was received at the trial
7 on the original charge.

8 **SECTION 1010.** 972.15 (2c) of the statutes is amended to read:

9 972.15 (2c) If the defendant is subject to being sentenced under s. 973.01 and
10 he or she satisfies the criteria under s. 302.045 (2) (b) and (c), the person preparing
11 the presentence investigation report shall include in the report a recommendation
12 as to whether the defendant should be eligible for the challenge incarceration
13 program under s. 302.045.

14 **SECTION 1011.** 973.01 (1) of the statutes is amended to read:

15 973.01 (1) BIFURCATED SENTENCE REQUIRED. Except as provided in sub. (3),
16 whenever a court sentences a person to imprisonment in the Wisconsin state prisons
17 for a felony committed on or after December 31, 1999, or a misdemeanor committed
18 on or after the effective date of this subsection ... [revisor inserts date], the court
19 shall impose a bifurcated sentence that consists of a term of confinement in prison
20 followed by a term of extended supervision under s. 302.113 this section.

21 **SECTION 1012.** 973.01 (2) (intro.) of the statutes is amended to read:

22 973.01 (2) STRUCTURE OF BIFURCATED SENTENCES. (intro.) ~~The court shall ensure~~
23 ~~that a~~ A bifurcated sentence is a sentence that consists of a term of confinement in
24 prison followed by a term of extended supervision under s. 302.113. The total length
25 of a bifurcated sentence equals the length of the term of confinement in prison plus

1 the length of the term of extended supervision. An order imposing a bifurcated
2 sentence imposed under sub. (1) complies this section shall comply with all of the
3 following:

4 **SECTION 1013.** 973.01 (2) (a) of the statutes is amended to read:

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

11 **SECTION 1014.** 973.01 (2) (b) (intro.) of the statutes is amended to read:

12 973.01 (2) (b) *Imprisonment Confinement portion of bifurcated sentence.*
13 (intro.) The portion of the bifurcated sentence that imposes a term of confinement
14 in prison may not be less than one year, ~~subject to any minimum sentence prescribed~~
15 ~~for the felony,~~ and, except as provided in par. (c), ~~may not exceed~~ is subject to
16 whichever of the following limits is applicable:

17 **SECTION 1015.** 973.01 (2) (b) 2. of the statutes is repealed.

18 **SECTION 1016.** 973.01 (2) (b) 3. of the statutes is amended to read:

19 973.01 (2) (b) 3. For a Class C felony, the term of confinement in prison may
20 not exceed ~~10~~ 25 years.

21 **SECTION 1017.** 973.01 (2) (b) 4. of the statutes is amended to read:

22 973.01 (2) (b) 4. For a Class D felony, the term of confinement in prison may
23 not exceed ~~5~~ 15 years.

24 **SECTION 1018.** 973.01 (2) (b) 5. of the statutes is amended to read:

1 973.01 (2) (b) 5. For a Class E felony, the term of confinement in prison may
2 not exceed ~~2~~ 10 years.

3 **SECTION 1019.** 973.01 (2) (b) 6. of the statutes is renumbered 973.01 (2) (b) 10.
4 (intro.) and amended to read:

5 973.01 (2) (b) 10. (intro.) For any felony crime other than ~~a felony specified in~~
6 ~~subds. 1. to 5. one of the following~~, the term of confinement in prison may not exceed
7 75% of the total length of the bifurcated sentence;

8 **SECTION 1020.** 973.01 (2) (b) 6m. of the statutes is created to read:

9 973.01 (2) (b) 6m. For a Class F felony, the term of confinement in prison may
10 not exceed 7 years and 6 months.

11 **SECTION 1021.** 973.01 (2) (b) 7. of the statutes is created to read:

12 973.01 (2) (b) 7. For a Class G felony, the term of confinement in prison may
13 not exceed 5 years.

14 **SECTION 1022.** 973.01 (2) (b) 8. of the statutes is created to read:

15 973.01 (2) (b) 8. For a Class H felony, the term of confinement in prison may
16 not exceed 3 years.

17 **SECTION 1023.** 973.01 (2) (b) 9. of the statutes is created to read:

18 973.01 (2) (b) 9. For a Class I felony, the term of confinement in prison may not
19 exceed one year and 6 months.

20 **SECTION 1024.** 973.01 (2) (b) 10. a. and b. of the statutes are created to read:

21 973.01 (2) (b) 10. a. A felony specified in subds. 1. to 9.

22 b. An attempt to commit a classified felony if the attempt is punishable under
23 s. 939.32 (1) (intro.).

24 **SECTION 1025.** 973.01 (2) (c) of the statutes is renumbered 973.01 (2) (c) 1. and
25 amended to read:

1 973.01 (2) (c) 1. The Subject to the minimum period of extended supervision
2 required under par. (d), the maximum term of confinement in prison specified in par.
3 (b) may be increased by any applicable penalty enhancement statute. If the
4 maximum term of confinement in prison specified in par. (b) is increased under this
5 paragraph, the total length of the bifurcated sentence that may be imposed is
6 increased by the same amount.

7 **SECTION 1026.** 973.01 (2) (c) 2. of the statutes is created to read:

8 973.01 (2) (c) 2. If more than one of the following penalty enhancement statutes
9 apply to a crime, the court shall apply them in the order listed in calculating the
10 maximum term of imprisonment for that crime:

11 a. Sections 939.621, 939.632, 939.645, 961.46, and 961.49.

12 b. Section 939.63.

13 c. Section 939.62 (1) or 961.48.

14 **SECTION 1027.** 973.01 (2) (d) of the statutes is renumbered 973.01 (2) (d) (intro.)
15 and amended to read:

16 973.01 (2) (d) *Minimum and maximum term of extended supervision.* (intro.)

17 The term of extended supervision ~~that follows the term of confinement in prison~~ may
18 not be less than 25% of the length of the term of confinement in prison imposed under
19 par. (b) and, for a classified felony, is subject to whichever of the following limits is
20 applicable:

21 **SECTION 1028.** 973.01 (2) (d) 1. to 6. of the statutes are created to read:

22 973.01 (2) (d) 1. For a Class B felony, the term of extended supervision may not
23 exceed 20 years.

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

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

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

5 5. For a Class H felony, the term of extended supervision may not exceed 3
6 years.

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

8 **SECTION 1029.** 973.01 (4) of the statutes is amended to read:

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

14 **SECTION 1030.** 973.01 (6) of the statutes is amended to read:

15 973.01 (6) NO PAROLE. A person serving a bifurcated sentence imposed under
16 sub. (1) is not eligible for release on parole under that sentence.

17 **SECTION 1031.** 973.0135 (1) (b) 2. of the statutes is amended to read:

18 973.0135 (1) (b) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m)
19 or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., s.
20 940.01, 940.02, 940.03, 940.05, 940.09 (1) (1c), 940.16, 940.19 (5), 940.195 (5), 940.21,
21 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g),
22 (1m) or (1r), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c),
23 948.05, 948.06, 948.07, 948.08, or 948.30 (2), 948.35 (1) (b) or (c) or 948.36.

24 **SECTION 1032.** 973.017 of the statutes is created to read:

1 **973.017 Bifurcated sentences; use of guidelines; consideration of**
2 **aggravating and mitigating factors. (1) DEFINITION.** In this section, “sentencing
3 decision” means a decision as to whether to impose a bifurcated sentence under s.
4 973.01 or place a person on probation and a decision as to the length of a bifurcated
5 sentence, including the length of each component of the bifurcated sentence, the
6 amount of a fine, and the length of a term of probation.

7 **(2) GENERAL REQUIREMENT.** When a court makes a sentencing decision
8 concerning a person convicted of a criminal offense committed on or after the
9 effective date of this subsection [revisor inserts date], the court shall consider all
10 of the following:

11 (a) If the offense is a felony, the sentencing guidelines adopted by the
12 sentencing commission under s. 973.30 or, if the sentencing commission has not
13 adopted a guideline for the offense, any applicable temporary sentencing guideline
14 adopted by the criminal penalties study committee created under 1997 Wisconsin
15 Act 283.

16 (ad) The protection of the public.

17 (ag) The gravity of the offense.

18 (ak) The rehabilitative needs of the defendant.

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

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

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

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

3 (c) The fact that the person committed the crime for the benefit of, at the
4 direction of, or in association with any criminal gang, as defined in s. 939.22 (9), with
5 the specific intent to promote, further, or assist in any criminal conduct by criminal
6 gang members, as defined in s. 939.22 (9g).

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

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

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

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

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

20 2. a. In this subdivision, “labor dispute” includes any controversy concerning
21 terms, tenure, or conditions of employment or concerning the association or
22 representation of persons in negotiating, fixing, maintaining, changing, or seeking
23 to arrange terms or conditions of employment, regardless of whether the disputants
24 stand in the proximate relation of employer and employee.

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

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

5 1. “HIV” means any strain of human immunodeficiency virus, which causes
6 acquired immunodeficiency syndrome.

7 2. “Serious sex crime” means a violation of s. 940.225 (1) or (2), 948.02 (1) or (2),
8 or 948.025.

9 3. “Sexually transmitted disease” means syphilis, gonorrhea, hepatitis B,
10 hepatitis C, or chlamydia.

11 4. “Significantly exposed” means sustaining a contact which carries a potential
12 for transmission of a sexually transmitted disease or HIV by one or more of the
13 following:

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

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

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

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

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

8 2. At the time that he or she committed the serious sex crime, the person
9 convicted of committing the serious sex crime knew that he or she had a sexually
10 transmitted disease or acquired immunodeficiency syndrome or that he or she had
11 had a positive test for the presence of HIV, antigen, or nonantigenic products of HIV
12 or an antibody to HIV.

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

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

18 1. “Elder person” means any individual who is 62 years of age or older.

19 2. “Violent felony” means any felony under s. 940.19 (2), (4), (5), or (6), 940.225
20 (1), (2), or (3), 940.23, or 943.32.

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

1 **(6) AGGRAVATING FACTORS; CHILD SEXUAL ASSAULT OR CHILD ABUSE BY CERTAIN**
2 **PERSONS.** (a) In this subsection, “person responsible for the welfare the child”
3 includes the child’s parent, stepparent, guardian, foster parent, or treatment foster
4 parent; an employee of a public or private residential home, institution, or agency;
5 any other person legally responsible for the child’s welfare in a residential setting;
6 or a person employed by one who is legally responsible for the child’s welfare to
7 exercise temporary control or care for the child.

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

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

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

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

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

8 **(9) AGGRAVATING FACTORS NOT AN ELEMENT OF THE CRIME.** The aggravating factors
9 listed in this section are not elements of any crime. A prosecutor is not required to
10 charge any aggravating factor or otherwise allege the existence of an aggravating
11 factor in any pleading for a court to consider the aggravating factor when making a
12 sentencing decision.

13 **(10) USE OF GUIDELINES; NO RIGHT TO OR BASIS FOR APPEAL.** The requirement
14 under sub. (2) (a) that a court consider sentencing guidelines adopted by the
15 sentencing commission or the criminal penalties study committee does not require
16 a court to make a sentencing decision that is within any range or consistent with a
17 recommendation specified in the guidelines, and there is no right to appeal a court's
18 sentencing decision based on the court's decision to depart in any way from any
19 guideline. In any appeal from a court's sentencing decision, the appellate court may
20 reverse the sentencing decision only if it determines that the sentencing court
21 erroneously exercised its discretion in making the sentencing decision.

22 **(10m) STATEMENT OF REASONS FOR SENTENCING DECISION.** (a) The court shall
23 state the reasons for its sentencing decision and, except as provided in par. (b), shall
24 do so in open court and on the record.

1 (b) If the court determines that it is not in the interest of the defendant for it
2 to state the reasons for its sentencing decision in the defendant's presence, the court
3 shall state the reasons for its sentencing decision in writing and include the written
4 statement in the record.

5 **SECTION 1033.** 973.03 (3) (e) 1. and 2. of the statutes are amended to read:

6 973.03 (3) (e) 1. A crime which is a Class A ~~or~~ B, or C felony.

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

9 **SECTION 1034.** 973.03 (3) (e) 3. of the statutes is repealed.

10 **SECTION 1035.** 973.032 (4) (c) 2. of the statutes is amended to read:

11 973.032 (4) (c) 2. The person is sentenced for the escape under ~~s. 946.42 (4) (b)~~
12 to a sentence of imprisonment concurrent with the sentence to the intensive
13 sanctions program.

14 **SECTION 1036.** 973.09 (2) (b) 1. of the statutes is amended to read:

15 973.09 (2) (b) 1. Except as provided in subd. 2., for felonies, not less than one
16 year nor more than either the ~~statutory~~ maximum term of ~~imprisonment~~
17 confinement in prison for the crime or 3 years, whichever is greater.

18 **SECTION 1037.** 973.15 (2m) of the statutes is created to read:

19 973.15 (2m) (a) *Definitions.* In this subsection:

20 1. "Determinate sentence" means a bifurcated sentence imposed under s.
21 973.01 or a life sentence under which a person is eligible for release to extended
22 supervision under s. 973.014 (1g) (a) 1. or 2.

23 2. "Indeterminate sentence" means a sentence to the Wisconsin state prisons
24 other than one of the following:

25 a. A determinate sentence.

1 b. A sentence under which the person is not eligible for release on parole under
2 s. 939.62 (2m) (c) or 973.014 (1) (c).

3 3. “Period of confinement in prison,” with respect to any sentence to the
4 Wisconsin state prisons, means any time during which a person is incarcerated
5 under that sentence, including any extensions imposed under s. 302.11 (3), 302.113
6 (3), or 302.114 (3) and any period of confinement in prison required to be served under
7 s. 302.11 (7) (am), 302.113 (9) (am), or 302.114 (9) (am).

8 (b) *Determinate sentences imposed to run concurrent with or consecutive to*
9 *determinate sentences.* 1. If a court provides that a determinate sentence is to run
10 concurrent with another determinate sentence, the person sentenced shall serve the
11 periods of confinement in prison under the sentences concurrently and the terms of
12 extended supervision under the sentences concurrently.

13 2. If a court provides that a determinate sentence is to run consecutive to
14 another determinate sentence, the person sentenced shall serve the periods of
15 confinement in prison under the sentences consecutively and the terms of extended
16 supervision under the sentences consecutively and in the order in which the
17 sentences have been pronounced.

18 (c) *Determinate sentences imposed to run concurrent with or consecutive to*
19 *indeterminate sentences.* 1. If a court provides that a determinate sentence is to run
20 concurrent with an indeterminate sentence, the person sentenced shall serve the
21 period of confinement in prison under the determinate sentence concurrent with the
22 period of confinement in prison under the indeterminate sentence and the term of
23 extended supervision under the determinate sentence concurrent with the parole
24 portion of the indeterminate sentence.

1 2. If a court provides that a determinate sentence is to run consecutive to an
2 indeterminate sentence, the person sentenced shall serve the period of confinement
3 in prison under the determinate sentence consecutive to the period of confinement
4 in prison under the indeterminate sentence and the parole portion of the
5 indeterminate sentence consecutive to the term of extended supervision under the
6 determinate sentence.

7 (d) *Indeterminate sentences imposed to run concurrent with or consecutive to*
8 *determinate sentences.* 1. If a court provides that an indeterminate sentence is to run
9 concurrent with a determinate sentence, the person sentenced shall serve the period
10 of confinement in prison under the indeterminate sentence concurrent with the
11 period of confinement in prison under the determinate sentence and the parole
12 portion of the indeterminate sentence concurrent with the term of extended
13 supervision required under the determinate sentence.

14 2. If a court provides that an indeterminate sentence is to run consecutive to
15 a determinate sentence, the person sentenced shall serve the period of confinement
16 in prison under the indeterminate sentence consecutive to the period of confinement
17 in prison under the determinate sentence and the parole portion of the
18 indeterminate sentence consecutive to the term of extended supervision under the
19 determinate sentence.

20 (e) *Revocation in multiple sentence cases.* If a person is serving concurrent
21 determinate sentences and extended supervision is revoked in each case, or if a
22 person is serving a determinate sentence concurrent with an indeterminate sentence
23 and both extended supervision and parole are revoked, the person shall concurrently
24 serve any periods of confinement in prison required under those sentences under s.
25 302.11 (7) (am), 302.113 (9) (am), or 302.114 (9) (am).

1 **SECTION 1038.** 973.155 (1) (b) of the statutes is amended to read:

2 973.155 (1) (b) The categories in par. (a) include custody of the convicted
3 offender which is in whole or in part the result of a probation, extended supervision
4 or parole hold under s. 302.113 (8m), 302.114 (8m), 304.06 (3), or 973.10 (2) placed
5 upon the person for the same course of conduct as that resulting in the new
6 conviction.

7 **SECTION 1039.** 973.30 of the statutes is created to read:

8 **973.30 Sentencing commission. (1) DUTIES.** The sentencing commission
9 shall do all of the following:

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

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

13 (c) Adopt advisory sentencing guidelines for felonies committed on or after the
14 effective date of this paragraph ... [revisor inserts date], to promote public safety, to
15 reflect changes in sentencing practices and to preserve the integrity of the criminal
16 justice and correctional systems.

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

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

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

1 (g) Study whether race is a basis for imposing sentences in criminal cases and
2 submit a report and recommendations on this issue to the governor, to each house
3 of the legislature under s. 13.172 (2), and to the supreme court.

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

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

12 1. Milwaukee County.

13 2. Dane and Rock counties.

14 3. Brown, Outagamie, Calumet, and Winnebago counties.

15 4. Racine and Kenosha counties.

16 5. All other counties.

17 (j) Study how sentencing options affect various types of offenders and offenses.

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

20 (3) SUNSET. This section does not apply after December 31, 2007.

21 **SECTION 1040.** 977.05 (4) (jm) of the statutes is created to read:

22 977.05 (4) (jm) At the request of an inmate determined by the state public
23 defender to be indigent or upon referral of a court under s. 302.113 (9g) (j), represent
24 the inmate in proceedings for modification of a bifurcated sentence under s. 302.113

1 (9g) before a program review committee and the sentencing court, if the state public
2 defender determines the case should be pursued.

3 **SECTION 1041.** 977.06 (2) (b) of the statutes is amended to read:

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

8 **SECTION 1042.** 978.13 (1) (intro.) of the statutes is amended to read:

9 978.13 (1) (intro.) The Subject to sub. (1m), the state shall assume financial
10 responsibility for all of the following:

11 **SECTION 1043.** 978.13 (1) (b) of the statutes is amended to read:

12 978.13 (1) (b) In counties having a population of 500,000 or more, the salary
13 and fringe benefit costs of 2 clerk positions providing clerical services to the
14 prosecutors in the district attorney's office handling cases involving felony violations
15 under ch. 961. The state treasurer shall pay the amount authorized under this
16 ~~paragraph subsection~~ to the county treasurer pursuant to a voucher submitted by
17 the district attorney to the department of administration from the appropriation
18 under s. 20.475 (1) (i). ~~The amount paid under this paragraph may not exceed~~
19 ~~\$75,200 in the 1999–2000 fiscal year and \$77,500 in the 2000–01 fiscal year.~~

20 **SECTION 1044.** 978.13 (1) (c) of the statutes is amended to read:

21 978.13 (1) (c) In counties having a population of 500,000 or more, the salary and
22 fringe benefit costs of clerk positions in the district attorney's office necessary for the
23 prosecution of violent crime cases primarily involving felony violations under s.
24 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05,
25 940.06, 940.225, 943.23 (1g), ~~(1m)~~ and ~~(1r)~~ and 943.32 (2). The state treasurer shall

1 pay the amount authorized under this ~~paragraph subsection~~ to the county treasurer
2 pursuant to a voucher submitted by the district attorney to the secretary of
3 administration from the appropriation under s. 20.475 (1) (i). ~~The amount paid~~
4 ~~under this paragraph may not exceed \$94,400 in the 1999–2000 fiscal year and~~
5 ~~\$97,200 in the 2000–01 fiscal year.~~

6 **SECTION 1045.** 978.13 (1) (d) of the statutes, as affected by 2001 Wisconsin Act
7 16, is amended to read:

8 978.13 (1) (d) In counties having a population of 500,000 or more, the salary
9 and fringe benefit costs of 2 clerk positions providing clerical services to the
10 prosecutors in the district attorney's office handling cases involving the unlawful
11 possession or use of firearms. The state treasurer shall pay the amount authorized
12 under this ~~paragraph subsection~~ to the county treasurer from the appropriation
13 under s. 20.475 (1) (f) pursuant to a voucher submitted by the district attorney to the
14 department of administration. ~~The amount paid under this paragraph may not~~
15 ~~exceed the amount appropriated under s. 20.475 (1) (f).~~

16 **SECTION 1046.** 978.13 (1m) of the statutes is created to read:

17 978.13 (1m) The amount paid under sub. (1) (b) and (c) combined may not
18 exceed the amount appropriated under s. 20.475 (1) (i). The amount paid under sub.
19 (1) (d) may not exceed the amount appropriated under s. 20.475 (1) (f).

20 **SECTION 1047.** 1997 Wisconsin Act 283, section 454 (1) (f) is amended to read:

21 [1997 Wisconsin Act 283] Section 454 (1) (f) ~~No later than April 30, 1999, the~~
22 The committee shall submit a report of its findings and recommendations to the
23 legislature in the manner provided under section 13.172 (2) of the statutes and to the
24 governor. The report shall include any proposed legislation that is necessary to
25 implement the recommendations made by the committee in its report.

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SECTION 1158b. 1999 Wisconsin Act 113, section 32 (7) is repealed.

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SECTION 1159m. 2001 Wisconsin Act 16, section 9315 (1k) is amended to read:

4

[2001 Wisconsin Act 16] Section 9315 (1k) TRAINING AND CERTIFICATION OF CHIEF

5

INSPECTORS. The treatment of sections 7.03 (1) (a), 7.15 (1) (e), 7.30 (1) and (6) (b), and

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7.31 (2) of the statutes first applies with respect to elections held on September 1,

7

2002 2004.

8

SECTION 1160m. 2001 Wisconsin Act 16, section 9137 (6f) is amended to read:

9

[2001 Wisconsin Act 16] Section 9137 (6f) STUDY ON WILD CRANES. From the

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appropriation under section 20.370 (1) (kk) of the statutes, as created by this act, the

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department of natural resources shall provide in fiscal year 2001–02 a total of

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\$20,000 \$30,000 and in fiscal year 2002–03 a total of \$30,000 to the University of

13

Wisconsin System and the International Crane Foundation jointly for a study of crop

14

damage caused in this state by wild cranes.

15

SECTION 9101. Nonstatutory provisions; administration.

16

(1) COMMISSION ON LOCAL GOVERNMENT.

17

(a) There is created a special committee to be called the commission on local

18

government, which shall consist of members appointed by the governor.

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(b) The governor shall appoint or determine the method of appointment of the

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officers of the commission and shall call the first meeting of the commission.

21

(c) The department of administration shall provide necessary administrative

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support services to the commission.

23

(d) The department of administration shall reimburse members of the

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commission for their actual and necessary expenses incurred in carrying out their

1 functions from the appropriation under section 20.505 (4) (ba) of the statutes, within
2 the budget of the committee authorized under section 16.40 (14) of the statutes.

3 (e) The commission shall:

4 1. Examine the organization, authority, and efficiency of local governments, the
5 services provided by each type of local government, and the services required of local
6 governments by the state.

7 2. Review the relationship of local governments with the state, examine
8 spending by local governments, and identify ways to increase efficiency in the
9 delivery of local governmental services.

10 (f) No later than February 1, 2003, the commission shall report its findings and
11 recommendations to the governor, and to the legislature in the manner provided in
12 section 13.172 (2) of the statutes. Upon submittal of its report, the commission ceases
13 to exist.

14 (2) SENTENCING COMMISSION; INITIAL TERMS. Notwithstanding section 15.105 (27)

15 (c) 1. of the statutes, as created by this act, the initial members of the sentencing
16 commission shall be appointed for the following terms:

17 (a) Two members appointed under section 15.105 (27) (a) 3. of the statutes, as
18 created by this act, one of whom is not employed by any unit of federal, state, or local
19 government, one circuit judge, and one prosecutor, for terms expiring on January 1,
20 2004.

21 (b) Three members appointed under section 15.105 (27) (a) 3. of the statutes,
22 as created by this act, one of whom is not employed by any unit of federal, state, or
23 local government, and one circuit judge, for terms expiring on January 1, 2005.

1 (c) Two members appointed under section 15.105 (27) (a) 3. of the statutes, as
2 created by this act, one representative of crime victims, and one attorney in private
3 practice, for terms expiring on January 1, 2006.

4 (3) POSITION AUTHORIZATION. There is authorized for the sentencing commission
5 1.0 FTE GPR executive director position, 1.0 FTE GPR deputy director position, and
6 4.0 FTE GPR other positions to be funded from the appropriation under section
7 20.505 (4) (dr) of the statutes, as created by this act.

8 (4) CRIMINAL PENALTIES STUDY COMMITTEE. Until the members of the sentencing
9 commission created under section 973.30 of the statutes, as created by this act, are
10 appointed, the criminal penalties study committee shall provide information to
11 lawyers, judges, the legislature, and the public regarding changes made in the
12 substance and structure of criminal penalties to be imposed under this act.

13 (6z) HOUSING GRANTS AND LOANS FUNDING DECREASE. Notwithstanding section
14 16.42 (1) (e) of the statutes, in submitting information under section 16.42 of the
15 statutes for the purposes of the 2003–05 biennial budget bill, the department of
16 administration shall submit information concerning the appropriation under section
17 20.505 (7) (b) of the statutes as though the decreases in that appropriation by SECTION
18 9201 (1) of this act had not been made.

19 (6v) REALLOCATION OF CERTAIN APPROPRIATION REDUCTIONS.

20 (a) In this subsection, “state operations” means any purpose other than aids to
21 individuals and organizations.

22 (b) The secretary of administration may submit a request to the cochairpersons
23 of the joint committee on finance to reallocate any portion of the appropriation
24 reduction under SECTION 9201 (4v) of this act to one or more other appropriations to
25 the department of administration for state operations made from general purpose

7

Dends

hand number

1 revenue. If the committee approves such a request, the amounts in the schedule for
2 the affected appropriations are adjusted to reflect the the approved reallocation.

3 **(5) ELIMINATION OF CERTAIN UNFUNDED STATE AGENCY POSITIONS.**

4 (a) In this subsection:

5 1. "Secretary" means the secretary of administration.

6 2. "State agency" has the meaning given in section 20.001 (1) of the statutes.

7 (b) No later than September 30, 2002, the secretary shall determine the
8 number of positions in each state agency that were not funded as a result of any
9 reduction in state agency operations appropriations under 2001 Wisconsin Act 16 for
10 the 2001-03 fiscal biennium and any reduction in such appropriations required
11 under this act.

12 (c) After making the determination under paragraph (b), the secretary shall
13 notify the joint committee on finance in writing of the determination. If the
14 cochairpersons of the committee do not notify the secretary within 14 working days
15 after the date of the secretary's notification that the committee has scheduled a
16 meeting to review the determination, the secretary shall reduce each state agency's
17 authorized positions for the 2002-03 fiscal year by the number of unfunded positions
18 for that state agency as determined under paragraph (b). If, within 14 working days
19 after the date of the secretary's notification, the cochairpersons of the committee
20 notify the secretary that the committee has scheduled a meeting to review the
21 determination, the secretary may make the reductions in the authorized positions
22 only upon approval of the committee.

23 ~~(8X) FUNDING FOR CERTAIN PAY ADJUSTMENTS. Notwithstanding section 20.928 (1)~~
24 ~~of the statutes, during the 2001-03 fiscal biennium, no state agency, as defined in~~
25 ~~section 20.001 (1) of the statutes, may include in any certification to the department~~

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