

2001 Jr2 DRAFTING REQUEST

Senate Amendment (SA-SSA1-AB1)

Received: **03/28/2002**

Received By: **rmarchan**

Wanted: **Soon**

Identical to LRB:

For: **Senate Democratic Caucus**

By/Representing: **Engel**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Adl. Drafters: **rryan
rmarchan**

Subject: **Criminal Law - victims**

Extra Copies:

Submit via email: **NO**

Pre Topic:

SCC:.....Engel - CN7905,

Topic:

Crime victim compensation; victim statement at sentencing or disposition

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 03/28/2002	gilfokm 03/28/2002 gilfokm 03/28/2002 gilfokm 03/29/2002	jfrantze 03/28/2002	_____			
/1			haugeca 03/29/2002	_____	lrb_docadmin 04/01/2002		
/2	mdsida	gilfokm	rschluet	_____	lrb_docadmin		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	04/01/2002	04/01/2002	04/01/2002	_____	04/01/2002		

FE Sent For:

<END>

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SA (crime victim compensation and notices) to SSA1 (JFC sub) to AB1 (budget adjustment bill)

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		gilfokm 03/28/2002		_____			
		gilfokm 03/29/2002		_____			
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Page 2

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1?	mdsida	3/29 King	CH 3-29	CH 3-29 CH			

FE Sent For:

<END>

DATE: March 27, 2002

RE: Caucus Budget Request

Adopt LRB 5064/1, related to crime victims (see attached).

This proposal is paid for by additional federal dollars with no cost to the state. It is supported by WCASA, WCADV, parents of murdered children, etc.

CN 7905

MGD

2001

Date (time) needed

LRB b 2923, 1

CAUCUS BUDGET AMENDMENT
[CAUCUS AMDTS. ONLY]

MCD/RLR/RSM/KMG

See form AMENDMENTS — COMPONENTS & ITEMS.

Amend

CAUCUS AMENDMENT
TO SENATE SUBSTITUTE AMENDMENT 1
TO 2001 SPECIAL SESSION ASSEMBLY BILL 1

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated; amend the substitute amendment as follows:

✓ #. Page 275, line 22: after line:

INSERT A

✓ #. Page 293, line 3: after line:

INSERT B

✓ #. Page 293, line 4: after "statutes" insert "as affected by 2001 Wisconsin Act.... (this Act)"

✓ #. Page 293, line 10: after "948.04," insert "948.055, 948.06,"

✓ #. Page 293, line 10: after "948.07," insert "948.08, 948.09,"

✓ #. Page 293, line 11: delete lines 11 to 14 and substitute: P
INSERT C

2001

Date (time)
needed _____

LRB b _____ / _____

CAUCUS BUDGET AMENDMENT
[CAUCUS AMDTS. ONLY]

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**CAUCUS AMENDMENT
TO SENATE SUBSTITUTE AMENDMENT 1
TO 2001 SPECIAL SESSION ASSEMBLY BILL 1**

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

- ✓ #. Page 293, line 18... after the!
INSERT ✓
- ✓ #. Page 328, line 7... after line!
INSERT E ✓
- ✓ #. Page 442, line 8... after "949.03(1)(b)" insert "(by ^(CS) SECTION 938)". ✓
- ✓ #. Page 453, line 11... after "⁹949.03³(1)(b)" insert "(by ^(CS) SECTION 938)". ✓
- ✓ #. Page 455, line 4... after line!
INSERT F ✓
- #. Page, line:

⚡
(envis)

2001 BILL

1 **AN ACT** *to repeal* 949.06 (5) (b), (c), (d) and (e); *to renumber and amend* 949.01
2 (5), 949.06 (5) (a), 949.11 (3) and 949.16; *to amend* 938.335 (3m) (b), 949.01 (4),
3 949.01 (6), 949.02, 949.03 (1) (a), 949.03 (1) (b), 949.05 (1) (intro.), 949.06 (1) (d),
4 950.04 (1v) (g), 950.08 (2g) (c) and 972.14 (3) (b); and *to create* 949.01 (5) (b),
5 949.01 (5) (c), 949.03 (1) (d), 949.03 (2), 949.03 (3), 949.05 (2), 949.05 (3), 949.06
6 (1) (bf), 949.06 (1) (g), 949.06 (1c), 949.06 (1e) and 949.16 (2) of the statutes;
7 **relating to:** awards for crime victims and their families, persons witnessing
8 certain crimes, and children hearing or observing acts of domestic violence; and
9 notice to a victim of the right to make a statement at sentencing or disposition.

Analysis by the Legislative Reference Bureau***Crime victim compensation***

Under current law, the department of justice (DOJ) compensates victims of certain crimes (including persons injured or killed while trying to prevent a crime, assisting the police in responding to a crime, or aiding another victim), their caretakers, and, in cases in which the victim dies, their family members, for medical expenses, lost wages, funeral and burial expenses, and other expenses that result from the victim's injury or death. The crimes to which this program applies include

BILL

violent crimes, certain property crimes, certain crimes against children, and drunk-driving offenses in which another person is injured or killed. This bill makes a number of changes to this program.

1. The bill adds terrorism and the following crimes relating to children to the list of crimes that may lead to the payment of an award: causing a child to view or listen to sexual activity; incest with a child; soliciting a child for prostitution; and sexual intercourse with a child age 16 or older.

2. The bill authorizes DOJ to provide awards to children who observe or hear an act of domestic abuse.

3. The bill authorizes DOJ to provide awards for mental health treatment for persons who witness violent criminal acts involving death or great bodily harm, if the mental health treatment is directly related to their reaction to witnessing the crime.

4. Under current law, if a person is responsible for the maintenance of another individual who dies or suffers personal injury as a result of a crime committed by a third party, the person may receive an award if he or she incurs expenses as a result of the other individual's death or injury. This bill specifies that, if a child has been the victim of sexual or physical abuse, the child's custodial parent or legal guardian may receive reimbursement for the cost of mental health treatment that the parent or guardian obtains for himself or herself in response to the offense. The bill also specifies that, if a family member or guardian of a victim takes unpaid leave from his or her job to care for the victim, he or she may receive up to one week of his or her net salary, up to a maximum of \$500.

5. Under current law, a person's death or personal injury triggers DOJ's authority to provide an award. Under current law, "personal injury" means actual bodily harm and includes pregnancy and mental or nervous shock." This bill eliminates the reference to "mental or nervous shock" and specifies that emotional trauma constitutes personal injury.

6. Current law defines "medical treatment" to include medical, surgical, dental, optometric, chiropractic, podiatric, and hospital care; medicines; medical, dental, and surgical supplies; crutches; artificial members; appliances; and training in the use of artificial members and appliances. This bill specifies that "medical treatment" includes mental health treatment. Current law also specifies that "medical treatment" includes any Christian Science treatment for cure or relief from the effects of injury. This bill specifies that the term covers other recognized treatment.

7. Under current law, the family of a crime victim who dies as a result of the crime may receive up to \$2,000 for reasonable funeral and burial expenses. This bill increases that amount to \$3,000.

8. Current law provides for hearings in cases in which a person disagrees with a decision by DOJ regarding an award. Hearings are generally open to the public, and records of hearings are considered public records, but any record or report that is obtained by DOJ or a hearing examiner remains confidential if its confidentiality is required by any other law or rule. This bill requires the hearing examiner and DOJ to keep confidential the address, the electronic address, and the telephone number of a victim, a person applying for an award, and members of the victim's family or household.

BILL

9. Current law does not permit state funds to be used for paying certain parts of crime victim awards. Federal funding is used in such cases. Under this bill, either state or federal funding may be used to pay for any part of a crime victim award.

Victim notice of right to make statement

Under current law, a victim of a crime of which a defendant is convicted or any other crime to be considered by the court at sentencing has the right to make or provide a statement prior to the court imposing sentence. Current law also requires the prosecutor to make a reasonable attempt to contact any known victim to inform him or her of that right. Similarly, current law entitles a victim of a juvenile's delinquent act to make a statement prior to the court entering a dispositional order and requires the prosecutor to make a reasonable attempt after the court finds the juvenile delinquent or in need of protection or services to inform the victim of his or her right to make a statement.

This bill revises the prosecutor's obligation to provide a known victim notice of his or her right to make a statement with respect to the time at which that obligation must be met. Specifically, the bill eliminates the requirement that the notice be provided after a conviction or after the court finds a juvenile delinquent or in need of protection or services. Thus, under the bill, the prosecutor may provide the victim notice of his or her right at any time during the proceedings.

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

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

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"SECTION 1. 938.335 (3m) (b) of the statutes is amended to read:

529P 938.335 (3m) (b) After a finding that a juvenile is delinquent under s. 938.12 or is found to be in need of protection or services under s. 938.13 (12), the The district attorney or corporation counsel shall make a reasonable attempt to contact any known victim to inform that person of the right to make a statement under par. (a). Any failure to comply with this paragraph is not a ground for an appeal of a dispositional order or for any court to reverse or modify a dispositional order."

IMS
B

- 8

"SECTION 2. 949.01 (4) of the statutes is amended to read:

937dc 949.01 (4) "Medical treatment" includes medical, surgical, dental, optometric, chiropractic, podiatric, mental health, and hospital care; medicines; medical, dental,

BILL

1 and surgical supplies; crutches; artificial members; appliances and training in the
2 use of artificial members and appliances. "Medical treatment" includes any
3 Christian Science treatment or other recognized treatment for cure or relief from the
4 effects of injury.

937de

5 SECTION 3. 949.01 (5) of the statutes is renumbered 949.01 (5) (intro.) and
6 amended to read:

7 949.01 (5) (intro.) "Personal injury" means actual any of the following:

8 (a) Actual bodily harm ~~and includes pregnancy and mental or nervous shock.~~

937g

9 SECTION 4. 949.01 (5) (b) of the statutes is created to read:

10 949.01 (5) (b) Pregnancy resulting from sexual assault.

937dj

11 SECTION 5. 949.01 (5) (c) of the statutes is created to read:

12 949.01 (5) (c) Emotional trauma.

937dl

13 SECTION 6. 949.01 (6) of the statutes is amended to read:

14 949.01 (6) "Victim" means a person who is injured or killed by an incident
15 specified in s. 949.03 (1) (a), ~~or~~ by any act or omission of any other person that is
16 within the description of any of the offenses listed in s. 949.03 (1) (b) or within the
17 description of the offense listed and the condition provided in s. 949.03 (1) (c), or as
18 a result of a crime described in s. 949.03 (1) (d). This definition does not apply to s.

19 949.165.

20 SECTION 7. 949.02 of the statutes is amended to read:

937dn

21 **949.02 Administration.** The department shall administer this chapter. The
22 department shall appoint a program director to assist in administering this chapter.
23 The department shall promulgate rules for the implementation and operation of this
24 chapter. The rules shall include procedures to ensure that any limitation of an award
25 under s. 949.06 (5) (e) is calculated in a fair and equitable manner.

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SECTION 8. 949.03 (1) (a) of the statutes is amended to read:

949.03 (1) (a) Preventing or attempting to prevent the commission of a crime; apprehending or attempting to apprehend a suspected criminal; aiding or attempting to aid a police officer to apprehend or arrest a suspected criminal; aiding or attempting to aid a victim of a crime specified in par. (b); ~~or~~ aiding or attempting to aid a victim of the crime specified and the condition provided in par. (c); or aiding or attempting to aid a victim of a crime specified in par. (d).

937dr

SECTION 9. 949.03 (1) (b) of the statutes is amended to read:

949.03 (1) (b) The commission or the attempt to commit any crime specified in s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24, 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03, 943.04, 943.10, 943.20, 943.23 (1g), (1m) ^{ve} or (1r), 943.32, 948.02, 948.025, 948.03, 948.04, 948.055, 948.06, 948.07, 948.08, 948.09, 948.095, 948.20, 948.30, or 948.51.

INSER C

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938cc

SECTION 10. 949.03 (1) (d) of the statutes is created to read:

949.03 (1) (d) The commission of any crime if the maximum penalty for the crime is increased under s. 939.648.

938cc
938cc

SECTION 11. 949.03 (2) of the statutes is created to read:

949.03 (2) The department may order the payment of an award to a child who observes or hears an act of domestic abuse, as defined in s. 813.12 (1) (a).

938cc
938cc

SECTION 12. 949.03 (3) of the statutes is created to read:

949.03 (3) The department may order the payment of an award to a person who witnesses a violent crime involving death or great bodily harm, as defined in s. 939.22

(14).

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938cc

SECTION 13. 949.05 (1) (intro.) of the statutes is amended to read:

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1 949.05 (1) (intro.) In any case in which a person is injured or killed by an
2 incident specified in s. 949.03 (1) (a), by any act or omission of any other person that
3 is within the description of crimes under s. 949.03 (1) (b) or (d), or by any act or
4 omission of any person that is within the description of the crime listed and the
5 condition provided under s. 949.03 (1) (c), the department may order the payment of
6 an award: 938cL

7 SECTION 14. 949.05 (2) of the statutes is created to read:

8 949.05 (2) The department may order the payment of an award to a child under
9 s. 949.03 (2). 938cn

10 SECTION 15. 949.05 (3) of the statutes is created to read:

11 949.05 (3) The department may order the payment of an award to a person who
12 witnesses a crime described in s. 949.03 (3). 938cp

13 SECTION 16. 949.06 (1) (bf) of the statutes is created to read:

14 949.06 (1) (bf) Up to one week of net salary for a person taking unpaid leave
15 from work to care for a victim who has suffered personal injury as a result of conduct
16 described in s. 949.03, if the victim is one of the person's family members, as defined
17 in sub. (1m) (a), or if the person is the legal guardian for the victim. This benefit may
18 not exceed \$500 per incident. 938cr

19 SECTION 17. 949.06 (1) (d) of the statutes is amended to read:

20 949.06 (1) (d) Reasonable funeral and burial expenses, not to exceed \$2,000
21 \$3,000. The funeral and burial award may not be considered by the department
22 under sub. (2). 938ct

23 SECTION 18. 949.06 (1) (g) of the statutes is created to read:

24 949.06 (1) (g) If a child has been the victim of a crime under s. 940.225, 948.02,
25 948.025, 948.03, 948.055, 948.06, 948.07, 948.08, 948.09, or 948.095, mental health

BILL

1 treatment for the child's custodial parent or legal guardian that the parent or
2 guardian obtains for himself or herself in response to the offense.

3 ^{CV} 938cl SECTION 19. 949.06 (1c) of the statutes is created to read:

4 949.06 (1c) The department may order the payment of an award to a person
5 under s. 949.03 (2) for mental health treatment directly related to the child's reaction
6 to observing or hearing an act of domestic abuse, as defined in s. 813.12 (1) (a). The
7 department shall establish limits to awards under this subsection.

8 ^{CV} 938cl SECTION 20. 949.06 (1e) of the statutes is created to read:

9 949.06 (1e) The department may order the payment of an award to a person
10 under s. 949.03 (3) for mental health treatment directly related to the person's
11 reaction to witnessing the crime to which that section relates. The department shall
12 establish limits to awards under this subsection.

13 ^{EC} 938ec SECTION 21. 949.06 (5) (a) of the statutes is renumbered 949.06 (5) and
14 amended to read:

15 949.06 (5) ~~Except as provided in pars. (b) to (e), the~~ The department shall make
16 awards under this section from the appropriations under s. 20.455 (5) (b), (kj), and
17 (m).

18 ^{938ee} SECTION 22. 949.06 (5) (b), (c), (d) and (e) of the statutes are repealed.

19 ^{938es} SECTION 23. 949.11 (3) of the statutes is renumbered 949.11 (3) (a) and
20 amended to read:

21 949.11 (3) (a) ~~All Except as provided in par. (b), all~~ hearings shall be open to
22 the public ~~unless, but the examiner and the department shall comply with s. 949.16~~
23 (2).

24 (b) ~~The hearing examiner may close a hearing or a portion of a hearing in a~~
25 particular case ~~the examiner determines that the hearing, or a portion thereof, shall~~

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1 be held in private having with regard to the fact that the offender has not been
2 convicted or to the interest of the victim of an alleged sexual offense. (938ej)

3 SECTION 24. 949.16 of the statutes is renumbered 949.16 (1) and amended to
4 read:

5 949.16 (1) ~~The Except as provided in sub. (2), the~~ record of a proceeding before
6 an examiner or the department under this chapter is a public record. Any record or
7 report obtained by an examiner or the department, the confidentiality of which is
8 protected by sub. (2) or any other law or rule, shall remain confidential.

9 SECTION 25. 949.16 (2) of the statutes is created to read: (938el)

10 949.16 (2) The examiner and the department shall keep confidential the
11 address, the electronic address, and the telephone number of each victim, applicant,
12 and member of the victim's family or household. (938en)

13 SECTION 26. 950.04 (1v) (g) of the statutes is amended to read: (302.113 (g) (g) 2.1, 302.114 (e))

14 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
15 hearings or court proceedings, as provided under ss. 938.27 (4m) and (6), 938.273 (2),
16 and 971.095 (3) and 972.14 (3) (b).

17 SECTION 27. 950.08 (2g) (c) of the statutes is amended to read: (940)

18 950.08 (2g) (c) The address and telephone number of the intake worker,
19 corporation counsel, or district attorney whom the victim may contact to obtain
20 information concerning the rights of victims and to request notice of court
21 proceedings under ss. 938.27 (4m) and (6), 938.273 (2), and 938.299 (1) (am) and
22 938.335 (3m) (b) or ss. or under s. 971.095 (3) and 972.14 (3) (b), whichever is
23 applicable, and to request the opportunity to confer under ss. s. 938.245 (1m),
24 938.265, or 938.32 (1) (am) or under s. 971.095 (2), whichever is applicable. (1129)

25 SECTION 28. 972.14 (3) (b) of the statutes is amended to read:

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1 972.14 (3) (b) ~~After a conviction, if~~ If the district attorney knows of a victim of
 2 a crime to be considered at sentencing, the district attorney shall make a reasonable
 3 attempt to contact that person to inform him or her of the right to make or provide
 4 a statement under par. (a). Any failure to comply with this paragraph is not a ground
 5 for an appeal of a judgment of conviction or for any court to reverse or modify a
 6 judgment of conviction. "

7 ~~Section 29. Effective dates. This act takes effect on the day after publication,~~
 8 ~~except as follows:~~

210822
F

9 (1) The treatment of sections 949.03 (2), 949.05 (2), and 949.06 (1c) of the
 10 statutes takes effect on October 1, 2002. (CS) PAYMENTS CONCERNING CHILD WITNESSES OF DOMESTIC ABUSE.

11 (2) The treatment of sections 949.03 (3), 949.05 (3), and 949.06 (1) (hf), (d), and
 12 (g) and (1e) of the statutes takes effect on October 1, 2003. (CS) PAYMENTS CONCERNING CERTAIN VICTIMS AND
 13 WITNESSES OF VIOLENT CRIME.

(END)

lvk



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2923/D
MGD/RLR/RJM:kmg:ch

SCC:.....Engel - CN7905, SA (crime victim compensation and notices) to
SSA1 (JFC sub) to AB1 (budget adjustment bill)

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT ,

TO SENATE SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 225, line 22: after that line insert:

3 “SECTION 529p. 938.335 (3m) (b) of the statutes is amended to read:

4 938.335 (3m) (b) ~~After a finding that a juvenile is delinquent under s. 938.12~~

5 ~~or is found to be in need of protection or services under s. 938.13 (12), the~~ The district

6 attorney or corporation counsel shall make a reasonable attempt to contact any

7 known victim to inform that person of the right to make a statement under par. (a).

8 Any failure to comply with this paragraph is not a ground for an appeal of a

9 dispositional order or for any court to reverse or modify a dispositional order.”.

10 **2.** Page 293, line 3: after that line insert:

1 **SECTION 937dc.** 949.01 (4) of the statutes is amended to read:

2 949.01 (4) “Medical treatment” includes medical, surgical, dental, optometric,
3 chiropractic, podiatric, mental health, and hospital care; medicines; medical, dental,
4 and surgical supplies; crutches; artificial members; appliances and training in the
5 use of artificial members and appliances. “Medical treatment” includes any
6 Christian Science treatment or other recognized treatment for cure or relief from the
7 effects of injury.

8 **SECTION 937de.** 949.01 (5) of the statutes is renumbered 949.01 (5) (intro.) and
9 amended to read:

10 949.01 (5) (intro.) “Personal injury” means ~~actual~~ any of the following:

11 (a) Actual bodily harm ~~and includes pregnancy and mental or nervous shock.~~

12 **SECTION 937dg.** 949.01 (5) (b) of the statutes is created to read:

13 949.01 (5) (b) Pregnancy resulting from sexual assault.

14 **SECTION 937dj.** 949.01 (5) (c) of the statutes is created to read:

15 949.01 (5) (c) Emotional trauma.

16 **SECTION 937dL.** 949.01 (6) of the statutes is amended to read:

17 949.01 (6) “Victim” means a person who is injured or killed by an incident
18 specified in s. 949.03 (1) (a), ~~or~~ by any act or omission of any other person that is
19 within the description of any of the offenses listed in s. 949.03 (1) (b) or within the
20 description of the offense listed and the condition provided in s. 949.03 (1) (c), or as
21 a result of a crime described in s. 949.03 (1) (d). This definition does not apply to s.
22 949.165.

23 **SECTION 937dn.** 949.02 of the statutes is amended to read:

24 **949.02 Administration.** The department shall administer this chapter. The
25 department shall appoint a program director to assist in administering this chapter.

1 The department shall promulgate rules for the implementation and operation of this
2 chapter. The rules shall include procedures to ensure that any limitation of an award
3 ~~under s. 949.06 (5) (e)~~ is calculated in a fair and equitable manner.

4 **SECTION 937dp.** 949.03 (1) (a) of the statutes is amended to read:

5 949.03 (1) (a) Preventing or attempting to prevent the commission of a crime;
6 apprehending or attempting to apprehend a suspected criminal; aiding or
7 attempting to aid a police officer to apprehend or arrest a suspected criminal; aiding
8 or attempting to aid a victim of a crime specified in par. (b); ~~or~~ aiding or attempting
9 to aid a victim of the crime specified and the condition provided in par. (c); or aiding
10 or attempting to aid a victim of a crime specified in par. (d).

11 **SECTION 937dr.** 949.03 (1) (b) of the statutes is amended to read:

12 949.03 (1) (b) The commission or the attempt to commit any crime specified in
13 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
14 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
15 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,
16 943.04, 943.10, 943.20, 943.23 (1g), (1m) or (1r), 943.32, 948.02, 948.025, 948.03,
17 948.04, 948.055, 948.06, 948.07, 948.08, 948.09, 948.095, 948.20, 948.30, or 948.51.”.

18 **3.** Page 293, line 4: after “statutes” insert “, as affected by 2001 Wisconsin Act
19 (this act),”.

20 **4.** Page 293, line 10: after “948.04,” insert “948.055, 948.06,”.

21 **5.** Page 293, line 10: after “948.07,” insert “948.08, 948.09,”.

22 **6.** Page 293, line 11: delete lines 11 to 14 and substitute:

23 **“SECTION 938cc.** 949.03 (1) (d) of the statutes is created to read:

1 949.03 (1) (d) The commission of any crime ~~if the maximum penalty for the~~
2 ~~crime is increased under s. 939.048.~~ *described in s. 973.017(3)(e)* ✓

3 **SECTION 938ce.** 949.03 (2) of the statutes is created to read:

4 949.03 (2) The department may order the payment of an award to a child who
5 observes or hears an act of domestic abuse, as defined in s. 813.12 (1) (a).

6 **SECTION 938cg.** 949.03 (3) of the statutes is created to read:

7 949.03 (3) The department may order the payment of an award to a person who
8 witnesses a violent crime involving death or great bodily harm, as defined in s. 939.22
9 (14).

10 **SECTION 938cj.** 949.05 (1) (intro.) of the statutes is amended to read:

11 949.05 (1) (intro.) In any case in which a person is injured or killed by an
12 incident specified in s. 949.03 (1) (a), by any act or omission of any other person that
13 is within the description of crimes under s. 949.03 (1) (b) or (d), or by any act or
14 omission of any person that is within the description of the crime listed and the
15 condition provided under s. 949.03 (1) (c), the department may order the payment of
16 an award:

17 **SECTION 938cL.** 949.05 (2) of the statutes is created to read:

18 949.05 (2) The department may order the payment of an award to a child under
19 s. 949.03 (2).

20 **SECTION 938cn.** 949.05 (3) of the statutes is created to read:

21 949.05 (3) The department may order the payment of an award to a person who
22 witnesses a crime described in s. 949.03 (3).

23 **SECTION 938cp.** 949.06 (1) (bf) of the statutes is created to read:

24 949.06 (1) (bf) Up to one week of net salary for a person taking unpaid leave
25 from work to care for a victim who has suffered personal injury as a result of conduct

1 described in s. 949.03, if the victim is one of the person's family members, as defined
2 in sub. (1m) (a), or if the person is the legal guardian for the victim. This benefit may
3 not exceed \$500 per incident.

4 **SECTION 938cr.** 949.06 (1) (d) of the statutes is amended to read:

5 949.06 (1) (d) Reasonable funeral and burial expenses, not to exceed \$2,000
6 \$3,000. The funeral and burial award may not be considered by the department
7 under sub. (2).

8 **SECTION 938ct.** 949.06 (1) (g) of the statutes is created to read:

9 949.06 (1) (g) If a child has been the victim of a crime under s. 940.225, 948.02,
10 948.025, 948.03, 948.055, 948.06, 948.07, 948.08, 948.09, or 948.095, mental health
11 treatment for the child's custodial parent or legal guardian that the parent or
12 guardian obtains for himself or herself in response to the offense.

13 **SECTION 938cv.** 949.06 (1c) of the statutes is created to read:

14 949.06 (1c) The department may order the payment of an award to a person
15 under s. 949.03 (2) for mental health treatment directly related to the child's reaction
16 to observing or hearing an act of domestic abuse, as defined in s. 813.12 (1) (a). The
17 department shall establish limits to awards under this subsection.

18 **SECTION 938cx.** 949.06 (1e) of the statutes is created to read:

19 949.06 (1e) The department may order the payment of an award to a person
20 under s. 949.03 (3) for mental health treatment directly related to the person's
21 reaction to witnessing the crime to which that section relates. The department shall
22 establish limits to awards under this subsection.

23 **SECTION 938ec.** 949.06 (5) (a) of the statutes is renumbered 949.06 (5) and
24 amended to read:

1 949.06 (5) ~~Except as provided in pars. (b) to (e), the~~ The department shall make
2 awards under this section from the appropriations under s. 20.455 (5) (b), (kj), and
3 (m).

4 **SECTION 938ee.** 949.06 (5) (b), (c), (d) and (e) of the statutes are repealed.

5 **SECTION 938eg.** 949.11 (3) of the statutes is renumbered 949.11 (3) (a) and
6 amended to read:

7 949.11 (3) (a) ~~All~~ Except as provided in par. (b), all hearings shall be open to
8 the public ~~unless, but the examiner and the department shall comply with s. 949.16~~
9 (2).

10 (b) The hearing examiner may close a hearing or a portion of a hearing in a
11 ~~particular case the examiner determines that the hearing, or a portion thereof, shall~~
12 ~~be held in private having~~ with regard to the fact that the offender has not been
13 convicted or to the interest of the victim of an alleged sexual offense.

14 **SECTION 938ej.** 949.16 of the statutes is renumbered 949.16 (1) and amended
15 to read:

16 949.16 (1) ~~The~~ Except as provided in sub. (2), the record of a proceeding before
17 an examiner or the department under this chapter is a public record. Any record or
18 report obtained by an examiner or the department, the confidentiality of which is
19 protected by sub. (2) or any other law or rule, shall remain confidential.

20 **SECTION 938eL.** 949.16 (2) of the statutes is created to read:

21 949.16 (2) The examiner and the department shall keep confidential the
22 address, the electronic address, and the telephone number of each victim, applicant,
23 and member of the victim's family or household.

24 **SECTION 938en.** 950.04 (1v) (g) of the statutes is amended to read:

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

4 **7.** Page 293, line 18: after that line insert:

5 **“SECTION 940f.** 950.08 (2g) (c) of the statutes is amended to read:

6 950.08 (2g) (c) The address and telephone number of the intake worker,
7 corporation counsel, or district attorney whom the victim may contact to obtain
8 information concerning the rights of victims and to request notice of court
9 proceedings under ss. 938.27 (4m) and (6), 938.273 (2), and 938.299 (1) (am) and
10 938.335 (3m) (b) or ss. or under s. 971.095 (3) and 972.14 (3) (b), whichever is
11 applicable, and to request the opportunity to confer under ss. s. 938.245 (1m),
12 938.265, or 938.32 (1) (am) or under s. 971.095 (2), whichever is applicable.”.

13 **8.** Page 328, line 7: after that line insert:

14 **“SECTION 1112p.** 972.14 (3) (b) of the statutes is amended to read:

15 972.14 (3) (b) ~~After a conviction, if~~ If the district attorney knows of a victim of
16 a crime to be considered at sentencing, the district attorney shall make a reasonable
17 attempt to contact that person to inform him or her of the right to make or provide
18 a statement under par. (a). Any failure to comply with this paragraph is not a ground
19 for an appeal of a judgment of conviction or for any court to reverse or modify a
20 judgment of conviction.”.

21 **9.** Page 442, line 8: after “949.03 (1) (b)” insert “(by SECTION 938)”.

22 **10.** Page 453, line 11: after “949.03 (1) (b)” insert “(by SECTION 938)”.

23 **11.** Page 455, line 4: after that line insert:



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2923/2
MGD/RLR/RJM:kmg:rs

SCC:.....Engel – CN7905, Crime victim compensation; victim statement at sentencing or disposition

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 225, line 22: after that line insert:

3 "SECTION 529p. 938.335 (3m) (b) of the statutes is amended to read:

4 938.335 (3m) (b) ~~After a finding that a juvenile is delinquent under s. 938.12~~
5 ~~or is found to be in need of protection or services under s. 938.13 (12), the~~ The district
6 attorney or corporation counsel shall make a reasonable attempt to contact any
7 known victim to inform that person of the right to make a statement under par. (a).
8 Any failure to comply with this paragraph is not a ground for an appeal of a
9 dispositional order or for any court to reverse or modify a dispositional order."

10 2. Page 293, line 3: after that line insert:

1 **SECTION 937dc.** 949.01 (4) of the statutes is amended to read:

2 949.01 (4) "Medical treatment" includes medical, surgical, dental, optometric,
3 chiropractic, podiatric, mental health, and hospital care; medicines; medical, dental,
4 and surgical supplies; crutches; artificial members; appliances and training in the
5 use of artificial members and appliances. "Medical treatment" includes any
6 Christian Science treatment or other recognized treatment for cure or relief from the
7 effects of injury.

8 **SECTION 937de.** 949.01 (5) of the statutes is renumbered 949.01 (5) (intro.) and
9 amended to read:

10 949.01 (5) (intro.) "Personal injury" means ~~actual~~ any of the following:

11 (a) Actual bodily harm ~~and includes pregnancy and mental or nervous shock.~~

12 **SECTION 937dg.** 949.01 (5) (b) of the statutes is created to read:

13 949.01 (5) (b) Pregnancy resulting from sexual assault.

14 **SECTION 937dj.** 949.01 (5) (c) of the statutes is created to read:

15 949.01 (5) (c) Emotional trauma.

16 **SECTION 937dL.** 949.01 (6) of the statutes is amended to read:

17 949.01 (6) "Victim" means a person who is injured or killed by an incident
18 specified in s. 949.03 (1) (a), ~~or~~ by any act or omission of any other person that is
19 within the description of any of the offenses listed in s. 949.03 (1) (b) or within the
20 description of the offense listed and the condition provided in s. 949.03 (1) (c), or as
21 a result of a crime described in s. 949.03 (1) (d). This definition does not apply to s.
22 949.165.

23 **SECTION 937dn.** 949.02 of the statutes is amended to read:

24 **949.02 Administration.** The department shall administer this chapter. The
25 department shall appoint a program director to assist in administering this chapter.

1 The department shall promulgate rules for the implementation and operation of this
2 chapter. The rules shall include procedures to ensure that any limitation of an award
3 ~~under s. 949.06 (5) (e)~~ is calculated in a fair and equitable manner.

4 **SECTION 937dp.** 949.03 (1) (a) of the statutes is amended to read:

5 949.03 (1) (a) Preventing or attempting to prevent the commission of a crime;
6 apprehending or attempting to apprehend a suspected criminal; aiding or
7 attempting to aid a police officer to apprehend or arrest a suspected criminal; aiding
8 or attempting to aid a victim of a crime specified in par. (b); ~~or~~ aiding or attempting
9 to aid a victim of the crime specified and the condition provided in par. (c); or aiding
10 or attempting to aid a victim of a crime specified in par. (d).

11 **SECTION 937dr.** 949.03 (1) (b) of the statutes is amended to read:

12 949.03 (1) (b) The commission or the attempt to commit any crime specified in
13 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
14 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
15 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,
16 943.04, 943.10, 943.20, 943.23 (1g), (1m) or (1r), 943.32, 948.02, 948.025, 948.03,
17 948.04, 948.055, 948.06, 948.07, 948.08, 948.09, 948.095, 948.20, 948.30, or 948.51.”.

18 **3.** Page 293, line 4: after “statutes” insert “, as affected by 2001 Wisconsin Act
19 (this act),”.

20 **4.** Page 293, line 10: after “948.04,” insert “948.055, 948.06,”.

21 **5.** Page 293, line 10: after “948.07,” insert “948.08, 948.09,”.

22 **6.** Page 293, line 11: delete lines 11 to 14 and substitute:

23 **“SECTION 938cc.** 949.03 (1) (d) of the statutes is created to read:

24 949.03 (1) (d) The commission of any crime described in s. 973.017 (3) (e).

1 **SECTION 938ce.** 949.03 (2) of the statutes is created to read:

2 949.03 (2) The department may order the payment of an award to a child who
3 observes or hears an act of domestic abuse, as defined in s. 813.12 (1) (a).

4 **SECTION 938cg.** 949.03 (3) of the statutes is created to read:

5 949.03 (3) The department may order the payment of an award to a person who
6 witnesses a violent crime involving death or great bodily harm, as defined in s. 939.22
7 (14).

8 **SECTION 938cj.** 949.05 (1) (intro.) of the statutes is amended to read:

9 949.05 (1) (intro.) In any case in which a person is injured or killed by an
10 incident specified in s. 949.03 (1) (a), by any act or omission of any other person that
11 is within the description of crimes under s. 949.03 (1) (b) or (d), or by any act or
12 omission of any person that is within the description of the crime listed and the
13 condition provided under s. 949.03 (1) (c), the department may order the payment of
14 an award:

15 **SECTION 938cL.** 949.05 (2) of the statutes is created to read:

16 949.05 (2) The department may order the payment of an award to a child under
17 s. 949.03 (2).

18 **SECTION 938cn.** 949.05 (3) of the statutes is created to read:

19 949.05 (3) The department may order the payment of an award to a person who
20 witnesscs a crime described in s. 949.03 (3).

21 **SECTION 938cp.** 949.06 (1) (bf) of the statutes is created to read:

22 949.06 (1) (bf) Up to one week of net salary for a person taking unpaid leave
23 from work to care for a victim who has suffered personal injury as a result of conduct
24 described in s. 949.03, if the victim is one of the person's family members, as defined

1 in sub. (1m) (a), or if the person is the legal guardian for the victim. This benefit may
2 not exceed \$500 per incident.

3 **SECTION 938cr.** 949.06 (1) (d) of the statutes is amended to read:

4 949.06 (1) (d) Reasonable funeral and burial expenses, not to exceed ~~\$2,000~~
5 \$3,000. The funeral and burial award may not be considered by the department
6 under sub. (2).

7 **SECTION 938ct.** 949.06 (1) (g) of the statutes is created to read:

8 949.06 (1) (g) If a child has been the victim of a crime under s. 940.225, 948.02,
9 948.025, 948.03, 948.055, 948.06, 948.07, 948.08, 948.09, or 948.095, mental health
10 treatment for the child's custodial parent or legal guardian that the parent or
11 guardian obtains for himself or herself in response to the offense.

12 **SECTION 938cv.** 949.06 (1c) of the statutes is created to read:

13 949.06 (1c) The department may order the payment of an award to a person
14 under s. 949.03 (2) for mental health treatment directly related to the child's reaction
15 to observing or hearing an act of domestic abuse, as defined in s. 813.12 (1) (a). The
16 department shall establish limits to awards under this subsection.

17 **SECTION 938cx.** 949.06 (1e) of the statutes is created to read:

18 949.06 (1e) The department may order the payment of an award to a person
19 under s. 949.03 (3) for mental health treatment directly related to the person's
20 reaction to witnessing the crime to which that section relates. The department shall
21 establish limits to awards under this subsection.

22 **SECTION 938ec.** 949.06 (5) (a) of the statutes is renumbered 949.06 (5) and
23 amended to read:

1 949.06 (5) ~~Except as provided in pars. (b) to (e), the~~ The department shall make
2 awards under this section from the appropriations under s. 20.455 (5) (b), (kj), and
3 (m).

4 **SECTION 938ee.** 949.06 (5) (b), (c), (d) and (e) of the statutes are repealed.

5 **SECTION 938eg.** 949.11 (3) of the statutes is renumbered 949.11 (3) (a) and
6 amended to read:

7 949.11 (3) (a) ~~All~~ Except as provided in par. (b), all hearings shall be open to
8 the public ~~unless, but the examiner and the department shall comply with s. 949.16~~
9 (2).

10 **(b)** The hearing examiner may close a hearing or a portion of a hearing in a
11 particular case the examiner determines that the hearing, or a portion thereof, shall
12 be held in private having with regard to the fact that the offender has not been
13 convicted or to the interest of the victim of an alleged sexual offense.

14 **SECTION 938ej.** 949.16 of the statutes is renumbered 949.16 (1) and amended
15 to read:

16 949.16 (1) ~~The~~ Except as provided in sub. (2), the record of a proceeding before
17 an examiner or the department under this chapter is a public record. Any record or
18 report obtained by an examiner or the department, the confidentiality of which is
19 protected by sub. (2) or any other law or rule, shall remain confidential.

20 **SECTION 938eL.** 949.16 (2) of the statutes is created to read:

21 949.16 (2) The examiner and the department shall keep confidential the
22 address, the electronic address, and the telephone number of each victim, applicant,
23 and member of the victim's family or household.

24 **SECTION 938en.** 950.04 (1v) (g) of the statutes is amended to read:

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

4 **7.** Page 293, line 18: after that line insert:

5 “**SECTION 940f.** 950.08 (2g) (c) of the statutes is amended to read:

6 950.08 (2g) (c) The address and telephone number of the intake worker,
7 corporation counsel, or district attorney whom the victim may contact to obtain
8 information concerning the rights of victims and to request notice of court
9 proceedings under ss. 938.27 (4m) and (6), 938.273 (2), and 938.299 (1) (am) and
10 938.335 (3m) (b) or ss. or under s. 971.095 (3) and 972.14 (3) (b), whichever is
11 applicable, and to request the opportunity to confer under ss. s. 938.245 (1m),
12 938.265, or 938.32 (1) (am) or under s. 971.095 (2), whichever is applicable.”.

13 **8.** Page 328, line 7: after that line insert:

14 “**SECTION 1112p.** 972.14 (3) (b) of the statutes is amended to read:

15 972.14 (3) (b) ~~After a conviction, if~~ If the district attorney knows of a victim of
16 a crime to be considered at sentencing, the district attorney shall make a reasonable
17 attempt to contact that person to inform him or her of the right to make or provide
18 a statement under par. (a). Any failure to comply with this paragraph is not a ground
19 for an appeal of a judgment of conviction or for any court to reverse or modify a
20 judgment of conviction.”.

21 **9.** Page 442, line 8: after “949.03 (1) (b)” insert “(by SECTION 938)”.

22 **10.** Page 453, line 11: after “949.03 (1) (b)” insert “(by SECTION 938)”.

23 **11.** Page 455, line 4: after that line insert:

1 “(1vw) PAYMENTS CONCERNING CHILD WITNESSES OF DOMESTIC ABUSE. The
2 treatment of sections 949.03 (2), 949.05 (2), and 949.06 (1c) of the statutes takes
3 effect on October 1, 2002.

4 (1vx) PAYMENTS CONCERNING CERTAIN VICTIMS AND WITNESSES OF VIOLENT CRIME.
5 The treatment of sections 949.03 (3), 949.05 (3), and 949.06 (1) (bf), (d), and (g) and
6 (1e) of the statutes takes effect on October 1, 2003.”.

7

(END)