

2001-02
Wisconsin State Budget

Drafting File For:
Enrolled SB-55

Part **N**

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LPS: check all pages, not just clipped ones

KMG

1 under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the court
2 enters an order regarding operating privilege restriction or enters an order
3 regarding immobilization.

4 SECTION 3938p. 940.25 (1d) (b) of the statutes, as affected by 2001 Wisconsin
5 Act ... (this act), is amended to read:

6 940.25 (1d) (b) If the person who committed an offense under sub. (1) (a), (b),
7 (c), or (d) has 2 or more prior convictions, suspensions, or revocations, counting
8 convictions under sub. (1) and s. 940.09 (1) in the person's lifetime, plus other
9 convictions, suspensions, or revocations counted under s. 343.307 (1), the procedure
10 under s. 346.65 (6) ~~may shall~~ be followed regarding the immobilization or if the court
11 orders the seizure and forfeiture of a the motor vehicle owned by the person who
12 committed the offense ~~or the equipping of a motor vehicle owned by the person with~~
13 an ignition interlock device and used in the violation.

(M)
(N) PSH

~~14~~ SECTION 3938r. 942.06 (2m) (b) of the statutes is amended to read:

15 942.06 (2m) (b) An employee or agent of the department of health and family
16 services who conducts a lie detector test of a person under the rules promulgated
17 under s. 51.375.

18 SECTION 3938s. 942.06 (2q) (b) (intro.) of the statutes is amended to read:

19 942.06 (2q) (b) (intro.) An employee or agent of the department of health and
20 family services who discloses, to any of the following, the fact that a person has had
21 a lie detector test under the rules promulgated under s. 51.375 or the results of such
22 a lie detector test:

23 SECTION 3938t. 942.06 (2q) (b) 1. of the statutes is amended to read:

1 942.06 (2q) (b) 1. Another employee or agent of the department of health and
2 family services or another person to whom disclosure is permitted under s. 51.375
3 (2) (b).

4 **SECTION 3938s.** 940.295 (2) (j) of the statutes is amended to read:

5 940.295 (2) (j) The Wisconsin School Educational Services Program for the
6 Deaf and Hard of Hearing under s. 115.52 and the Wisconsin Center for the Blind and
7 Visually Impaired under s. 115.525.

8 **SECTION 3938u.** 943.01 (2) (d) of the statutes is amended to read:

9 943.01 (2) (d) If the total property damaged in violation of sub. (1) is reduced
10 in value by more than \$1,000 \$2,500. For the purposes of this paragraph, property
11 is reduced in value by the amount which it would cost either to repair or replace it,
12 whichever is less.

13 **SECTION 3938up.** 943.01 (2d) of the statutes is created to read:

14 943.01 (2d) (a) In this subsection, “plant research and development” means
15 research regarding plants or development of plants, if the research or development
16 is undertaken in conjunction or coordination with the state, a federal or local
17 government agency, a university, or a private research facility.

18 (b) Any person violating sub. (1) under all of the following circumstances is
19 guilty of a Class E felony:

20 1. The property damaged is a plant, material taken, extracted, or harvested
21 from a plant, or a seed or other plant material that is being used or that will be used
22 to grow or develop a plant.

23 2. The plant referred to in subd. 1. is or was being grown as feed for animals
24 being used or to be used for commercial purposes, for other commercial purposes, or
25 in conjunction with plant research and development.

1 **SECTION 3938v.** 943.01 (2g) (c) of the statutes is amended to read:

2 943.01 (2g) (c) The total property damaged in violation of sub. (1) is reduced
3 in value by more than \$500 but not more than ~~\$1,000~~ \$2,500. For purposes of this
4 paragraph, property is reduced in value by the amount that it would cost to repair
5 or replace it, whichever is less, plus other monetary losses associated with the
6 damage.

7 **SECTION 3938w.** 943.017 (2) (d) of the statutes is amended to read:

8 943.017 (2) (d) If the total property affected in violation of sub. (1) is reduced
9 in value by more than ~~\$1,000~~ \$2,500. For the purposes of this paragraph, property
10 is reduced in value by the amount which it would cost to repair or replace it or to
11 remove the marking, drawing, writing or etching, whichever is less.

12 **SECTION 3939.** 943.20 (1) (e) of the statutes is amended to read:

13 943.20 (1) (e) Intentionally fails to return any personal property which is in his
14 or her possession or under his or her control by virtue of a written lease or written
15 rental agreement, ~~within 10 days~~ after the lease or rental agreement has expired.
16 This paragraph does not apply to a person who returns personal property, except a
17 motor vehicle, which is in his or her possession or under his or her control by virtue
18 of a written lease or written rental agreement, within 10 days after the lease or rental
19 agreement expires.

20 **SECTION 3939b.** 943.20 (3) (a) of the statutes is amended to read:

21 943.20 (3) (a) If the value of the property does not exceed ~~\$1,000~~ \$2,500, is
22 guilty of a Class A misdemeanor.

23 **SECTION 3939c.** 943.20 (3) (b) of the statutes is repealed.

24 **SECTION 3939d.** 943.21 (3) (a) of the statutes is amended to read:

1 943.21 (3) (a) Is guilty of a Class A misdemeanor when the value of any
2 beverage, food, lodging, accommodation, transportation or other service is ~~\$1,000~~
3 \$2,500 or less.

4 **SECTION 3939e.** 943.21 (3) (b) of the statutes is amended to read:

5 943.21 (3) (b) Is guilty of a Class E felony when the value of any beverage, food,
6 lodging, accommodation, transportation or other service exceeds ~~\$1,000~~ \$2,500.

7 **SECTION 3939f.** 943.24 (1) of the statutes is amended to read:

8 943.24 (1) Whoever issues any check or other order for the payment of not more
9 than ~~\$1,000~~ \$2,500 which, at the time of issuance, he or she intends shall not be paid
10 is guilty of a Class A misdemeanor.

11 **SECTION 3939g.** 943.24 (2) of the statutes is amended to read:

12 943.24 (2) Whoever issues any single check or other order for the payment of
13 more than ~~\$1,000~~ \$2,500 or whoever within a 15-day period issues more than one
14 check or other order amounting in the aggregate to more than ~~\$1,000~~ \$2,500 which,
15 at the time of issuance, the person intends shall not be paid is guilty of a Class E
16 felony.

17 **SECTION 3939h.** 943.34 (1) (a) of the statutes is amended to read:

18 943.34 (1) (a) A Class A misdemeanor, if the value of the property does not
19 exceed ~~\$1,000~~ \$2,500.

20 **SECTION 3939i.** 943.34 (1) (b) of the statutes is repealed.

21 **SECTION 3939j.** 943.395 (2) (a) of the statutes is amended to read:

22 943.395 (2) (a) Is guilty of a Class A misdemeanor if the value of the claim or
23 benefit does not exceed ~~\$1,000~~ \$2,500.

24 **SECTION 3939k.** 943.395 (2) (b) of the statutes is amended to read:

1 943.395 (2) (b) Is guilty of a Class E felony if the value of the claim or benefit
2 exceeds ~~\$1,000~~ \$2,500.

3 **SECTION 3939L.** 943.41 (8) (c) of the statutes is amended to read:

4 943.41 (8) (c) Any person violating any provision of sub. (5) or (6) (a), (b) or (d),
5 if the value of the money, goods, services or property illegally obtained does not
6 exceed ~~\$1,000~~ \$2,500 is guilty of a Class A misdemeanor; ~~if the value of the money,~~
7 ~~goods, services or property exceeds \$1,000 but does not exceed \$2,500, in a single~~
8 ~~transaction or in separate transactions within a period not exceeding 6 months, the~~
9 ~~person is guilty of a Class E felony; or if.~~ If the value of the money, goods, services
10 or property exceeds \$2,500, the person is guilty of a Class C felony.

11 **SECTION 3939m.** 943.50 (4) (a) of the statutes is amended to read:

12 943.50 (4) (a) A Class A misdemeanor, if the value of the merchandise does not
13 exceed ~~\$1,000~~ \$2,500.

14 **SECTION 3939n.** 943.50 (4) (b) of the statutes is repealed.

15 **SECTION 3939p.** 943.61 (5) (a) of the statutes is amended to read:

16 943.61 (5) (a) A Class A misdemeanor, if the value of the library materials does
17 not exceed ~~\$1,000~~ \$2,500.

18 **SECTION 3939q.** 943.61 (5) (b) of the statutes is repealed.

19 **SECTION 3939r.** 943.62 (4) (a) of the statutes is amended to read:

20 943.62 (4) (a) A Class A misdemeanor, if the value of the advance payment or
21 required refund, as applicable, does not exceed ~~\$500~~ \$2,500.

22 **SECTION 3939s.** 943.62 (4) (b) of the statutes is repealed.

23 **SECTION 3940.** 943.70 (1) (a) of the statutes is renumbered 943.70 (1) (am).

24 **SECTION 3941.** 943.70 (1) (ag) of the statutes is created to read:

1 943.70 (1) (ag) “Access” means to instruct, communicate with, interact with,
2 intercept, store data in, retrieve data from, or otherwise use the resources of.

3 **SECTION 3942.** 943.70 (1) (gm) of the statutes is created to read:

4 943.70 (1) (gm) “Interruption in service” means inability to access a computer,
5 computer program, computer system, or computer network, or an inability to
6 complete a transaction involving a computer.

7 **SECTION 3943.** 943.70 (2) (a) (intro.) of the statutes is amended to read:

8 943.70 (2) (a) (intro.) Whoever ~~wilfully~~ willfully, knowingly and without
9 authorization does any of the following may be penalized as provided in ~~par.~~ pars. (b)
10 and (c):

11 **SECTION 3944.** 943.70 (2) (a) 3. of the statutes is amended to read:

12 943.70 (2) (a) 3. Accesses ~~data,~~ computer programs or supporting
13 documentation.

14 **SECTION 3945.** 943.70 (2) (am) of the statutes is created to read:

15 943.70 (2) (am) Whoever intentionally causes an interruption in service by
16 submitting a message, or multiple messages, to a computer, computer program,
17 computer system, or computer network that exceeds the processing capacity of the
18 computer, computer program, computer system, or computer network may be
19 penalized as provided in pars. (b) and (c).

20 **SECTION 3946.** 943.70 (2) (b) (intro.) of the statutes is amended to read:

21 943.70 (2) (b) (intro.) Whoever violates ~~this subsection~~ par. (a) or (am) is guilty
22 of:

23 **SECTION 3947.** 943.70 (2) (b) 1. of the statutes is amended to read:

24 943.70 (2) (b) 1. A Class A misdemeanor unless ~~subd. any of subds. 2., 3. or to~~
25 4. applies.

1 **SECTION 3948.** 943.70 (2) (b) 3. of the statutes is amended to read:

2 943.70 (2) (b) 3. A Class ~~D E~~ felony if the offense results in damage is greater
3 valued at more than \$1,000 but not more than \$2,500 ~~or if it causes an interruption~~
4 ~~or impairment of governmental operations or public communication, of~~
5 ~~transportation or of a supply of water, gas or other public service.~~

6 **SECTION 3949.** 943.70 (2) (b) 3g. of the statutes is created to read:

7 943.70 (2) (b) 3g. A Class C felony if the offense results in damage valued at
8 more than \$2,500.

9 **SECTION 3950.** 943.70 (2) (b) 3r. of the statutes is created to read:

10 943.70 (2) (b) 3r. A Class C felony if the offense causes an interruption or
11 impairment of governmental operations or public communication, of transportation,
12 or of a supply of water, gas, or other public service.

13 **SECTION 3951.** 943.70 (2) (c) of the statutes is created to read:

14 943.70 (2) (c) If a person disguises the identity or location of the computer at
15 which he or she is working while committing an offense under par. (a) or (am) with
16 the intent to make it less likely that he or she will be identified with the crime, the
17 penalties under par. (b) may be increased as follows:

18 1. In the case of a misdemeanor, the maximum fine prescribed by law for the
19 crime may be increased by not more than \$1,000 and the maximum term of
20 imprisonment prescribed by law for the crime may be increased so that the revised
21 maximum term of imprisonment is 12 months.

22 2. In the case of a felony, the maximum fine prescribed by law for the crime may
23 be increased by not more than \$2,500 and the maximum term of imprisonment
24 prescribed by law for the crime may be increased by not more than 2 years.

~~25~~ **SECTION 3951n.** 943.76 of the statutes is created to read:

1 **943.76 Infecting animals with a contagious disease.** (1) In this section,
2 “livestock” means cattle, horses, swine, sheep, goats, farm–raised deer, as defined in
3 s. 95.001 (1) (a), and other animals used or to be used in the production of food, fiber,
4 or other commercial products.

5 (2) (a) Whoever intentionally introduces a contagious or infectious disease into
6 livestock without the consent of the owner of the livestock is guilty of a Class C felony.

7 (b) Whoever intentionally introduces a contagious or infectious disease into
8 wild deer without the consent of the department of natural resources is guilty of a
9 Class C felony.

10 **SECTION 3952.** 944.205 (title) of the statutes is amended to read:

11 **944.205** (title) ~~Photographs, motion pictures, videotapes or other~~
12 ~~visual representations~~ **Recordings showing nudity.**

13 **SECTION 3953.** 944.205 (1) of the statutes is renumbered 944.205 (1) (intro.)
14 and amended to read:

15 944.205 (1) (intro.) In this section, ~~“nudity”~~:

16 (b) “Nudity” has the meaning given in s. 948.11 (1) (d).

17 **SECTION 3954.** 944.205 (1) (a) of the statutes is created to read:

18 944.205 (1) (a) “Exhibit” has the meaning given in s. 948.01 (1d).

19 **SECTION 3955.** 944.205 (1) (c) of the statutes is created to read:

20 944.205 (1) (c) “Recording” has the meaning given in 948.01 (3r).

21 **SECTION 3956.** 944.205 (2) (a) of the statutes is amended to read:

22 944.205 (2) (a) ~~Takes a photograph or makes a motion picture, videotape or~~
23 ~~other visual representation or reproduction that depicts~~ Records an image of nudity
24 without the knowledge and consent of the person who is depicted nude while that
25 person is nude in a place and circumstance in which he or she has a reasonable

1 expectation of privacy, if the person recording the image knows or has reason to know
2 that the person who is depicted nude does not know of and consent to the taking or
3 making of the photograph, motion picture, videotape or other visual representation
4 or reproduction recording.

5 **SECTION 3957.** 944.205 (2) (b) of the statutes is repealed and recreated to read:

6 944.205 (2) (b) Copies, possesses, exhibits, stores, or distributes a recording of
7 an image if all of the following apply:

8 1. The recording was done in violation of par. (a) or was previously copied in
9 violation of this paragraph.

10 2. The actor knows or has reason to know that the violation described under
11 subd. 1. has occurred.

12 3. The person depicted nude in the recording did not consent to the copying,
13 possession, exhibition, storage, or distribution of the recording under par. (b) (intro.).

14 4. The recording depicts the same nudity recorded in violation of par. (a).

15 **SECTION 3958.** 944.205 (3) of the statutes is amended to read:

16 944.205 (3) Notwithstanding sub. (2) (a) and (b), if the person depicted in a
17 photograph, motion picture, videotape or other visual representation or reproduction
18 recording of an image is a child and the making recording, copying, possession,
19 exhibition, storage, or distribution of the photograph, motion picture, videotape or
20 other visual representation or reproduction recording does not violate s. 948.05 or
21 948.12, a parent, guardian, or legal custodian of the child may do any of the following:

22 (a) Make and Record, copy, possess, exhibit, or store the photograph, motion
23 picture, videotape or other visual representation reproduction of the child recording.

24 (b) Distribute a photograph, motion picture, videotape or other visual
25 representation or reproduction made or recording that was recorded, copied,

1 possessed, exhibited, or stored under par. (a) if the distribution is not for commercial
2 purposes.

3 **SECTION 3959.** 944.205 (4) of the statutes is amended to read:

4 944.205 (4) This section does not apply to a person who receives a ~~photograph,~~
5 ~~motion picture, videotape or other visual representation or reproduction of~~ recording
6 of an image depicting a child from a parent, guardian, or legal custodian of the child
7 under sub. (3) (b), if the possession ~~and, copying, exhibition, storage, or distribution~~
8 ~~are~~ is not for commercial purposes.

9 **SECTION 3960.** 944.21 (2) (am) of the statutes is created to read:

10 944.21 (2) (am) “Exhibit” has the meaning given in s. 948.01 (1d).

11 **SECTION 3961.** 944.21 (2) (c) (intro.) of the statutes is amended to read:

12 944.21 (2) (c) (intro.) “Obscene material” means a writing, picture, ~~sound~~
13 ~~recording or film which, or other recording that:~~

14 **SECTION 3962.** 944.21 (2) (dm) of the statutes is created to read:

15 944.21 (2) (dm) “Recording” has the meaning given in s. 948.01 (3r).

16 **SECTION 3963.** 944.21 (3) (a) of the statutes is amended to read:

17 944.21 (3) (a) Imports, prints, sells, has in his or her possession for sale,
18 publishes, exhibits, ~~plays, or transfers~~ distributes any obscene material.

19 **SECTION 3964.** 944.21 (4) (a) and (b) of the statutes are amended to read:

20 944.21 (4) (a) ~~Transfers or~~ Distributes, exhibits, or plays any obscene material
21 to a person under the age of 18 years.

22 (b) Has in his or her possession with intent to ~~transfer or~~ distribute, exhibit,
23 or play to a person under the age of 18 years any obscene material.

24 **SECTION 3965.** 944.21 (9) of the statutes is amended to read:

1 944.21 (9) In determining whether material is obscene under sub. (2) (c) 1. and
2 3., a judge or jury shall examine individual pictures, recordings of images, or
3 passages in the context of the work in which they appear.

4 **SECTION 3966.** 944.25 of the statutes is created to read:

5 **944.25 Sending obscene or sexually explicit electronic messages. (1)**

6 In this section:

7 (a) “Electronic mail solicitation” means an electronic mail message, including
8 any attached program or document, that is sent for the purpose of encouraging a
9 person to purchase property, goods, or services.

10 (b) “Obscene material” has the meaning given in s. 944.21 (2) (c).

11 (c) “Sexually explicit conduct” has the meaning given in s. 948.01 (7).

12 (2) Whoever sends an unsolicited electronic mail solicitation to a person that
13 contains obscene material or a depiction of sexually explicit conduct without
14 including the words “ADULT ADVERTISEMENT” in the subject line of the
15 electronic mail solicitation is guilty of a Class A misdemeanor.

16 **SECTION 3966h.** 945.05 (1) (intro.) of the statutes is amended to read:

17 945.05 (1) (intro.) Except as provided in subs. (1e) (b) and (1m), whoever
18 manufactures, transfers commercially or possesses with intent to transfer
19 commercially either of the following is guilty of a Class E felony:

20 **SECTION 3966j.** 945.05 (1e) of the statutes is renumbered 945.05 (1e) (b) (intro.)
21 and amended to read:

22 945.05 (1e) (b) (intro.) Subsection (1) does not apply to a person who
23 manufactures, transfers commercially or possesses with intent to transfer
24 commercially gambling devices described in sub. (1) (a) and (b) to a any of the
25 following:

1 2. A nonprofit or public educational institution that provides an educational
2 program for which it awards a bachelor's or higher degree for the use in a casino
3 gaming management class.

4 **SECTION 3966m.** 945.05 (1e) (a) of the statutes is created to read:

5 945.05 (1e) (a) In this subsection, “authorized gambling facility” means any of
6 the following:

7 1. An Indian gaming facility, as defined in s. 569.01 (1j).

8 2. A gaming establishment located on lands acquired after October 17, 1998,
9 by the U.S. secretary of the interior in trust for the benefit of an Indian tribe.

10 3. A facility at which gambling lawfully takes place.

11 **SECTION 3966q.** 945.05 (1e) (b) 1. of the statutes is created to read:

12 945.05 (1e) (b) 1. An authorized gambling facility.

13 **SECTION 3966r.** 946.82 (4) of the statutes is amended to read:

14 946.82 (4) “Racketeering activity” means any activity specified in 18 USC 1961
15 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission
16 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
17 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
18 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
19 940.19 (3) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20
20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 943.01 (2), ~~(2d)~~ or (2g), 943.011,
21 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) ~~(b) to (c)~~
22 and (d), 943.201, 943.23 (1g), (1m), (1r), (2) and (3), 943.24 (2), 943.25, 943.27, 943.28,
23 943.30, 943.32, 943.34 (1) ~~(b) and (c)~~, 943.38, 943.39, 943.40, 943.41 (8) (b) and (c),
24 943.50 (4) ~~(b) and (c)~~, 943.60, 943.70, 943.76, 944.205, 944.21 (5) (c) and (e), 944.32,
25 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11,

1 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72,
2 946.76, 947.015, 948.05, 948.08, 948.12, and 948.30.

3 **SECTION 3967.** 948.01 (1d) of the statutes is created to read:

4 948.01 (1d) “Exhibit,” with respect to a recording of an image that is not
5 viewable in its recorded form, means to convert the recording of the image into a form
6 in which the image may be viewed.

7 **SECTION 3968.** 948.01 (3r) of the statutes is created to read:

8 948.01 (3r) “Recording” includes the creation of a reproduction of an image or
9 a sound or the storage of data representing an image or a sound.

10 **SECTION 3969.** 948.05 (1) (a) of the statutes is amended to read:

11 948.05 (1) (a) Employs, uses, persuades, induces, entices, or coerces any child
12 to engage in sexually explicit conduct for the purpose of ~~photographing, filming,~~
13 ~~videotaping,~~ recording the sounds of or displaying in any way the conduct.

14 **SECTION 3970.** 948.05 (1) (b) of the statutes is amended to read:

15 948.05 (1) (b) ~~Photographs, films, videotapes, records the sounds of~~ Records or
16 displays in any way a child engaged in sexually explicit conduct.

17 **SECTION 3971.** 948.05 (1m) of the statutes is amended to read:

18 948.05 (1m) Whoever produces, performs in, profits from, promotes, imports
19 into the state, reproduces, advertises, sells, distributes, or possesses with intent to
20 sell or distribute, any undeveloped film, ~~photographic negative, photograph, motion~~
21 ~~picture, videotape, sound recording or other reproduction~~ of a child engaging in
22 sexually explicit conduct is guilty of a Class C felony if the person knows the
23 character and content of the sexually explicit conduct involving the child and if the
24 person knows or reasonably should know that the child engaging in the sexually
25 explicit conduct has not attained the age of 18 years.

1 **SECTION 3972.** 948.07 (4) of the statutes is amended to read:

2 948.07 (4) ~~Taking a picture or making an audio recording of~~ Recording the child
3 engaging in sexually explicit conduct.

4 **SECTION 3973.** 948.11 (1) (ar) 2. of the statutes is amended to read:

5 948.11 (1) (ar) 2. Any book, pamphlet, magazine, printed matter however
6 reproduced or ~~sound~~ recording that contains any matter enumerated in subd. 1., or
7 explicit and detailed verbal descriptions or narrative accounts of sexual excitement,
8 sexually explicit conduct, sadomasochistic abuse, physical torture or brutality and
9 that, taken as a whole, is harmful to children.

10 **SECTION 3974.** 948.11 (1) (bm) of the statutes is repealed.

11 **SECTION 3975.** 948.11 (1) (c) of the statutes is repealed.

12 **SECTION 3976.** 948.11 (2) (a) of the statutes is renumbered 948.11 (2) (a) (intro.)
13 and amended to read:

14 948.11 (2) (a) (intro.) Whoever, with knowledge of the ~~nature~~^{*J*} character and
15 content of the material, sells, rents, exhibits, ~~transfers~~ plays, distributes, or loans to
16 a child any harmful material, with or without monetary consideration, is guilty of a
17 Class E felony: if any of the following applies:

18 **SECTION 3977.** 948.11 (2) (a) 1. and 2. of the statutes are created to read:

19 948.11 (2) (a) 1. The person knows or reasonably should know that the child
20 has not attained the age of 18 years.

21 2. The person has face-to-face contact with the child before or during the sale,
22 rental, exhibit, playing, distribution, or loan.

23 **SECTION 3978.** 948.11 (2) (am) of the statutes is renumbered 948.11 (2) (am)
24 (intro.) and amended to read:

1 948.11 (2) (am) (intro.) Any person who has attained the age of 17 and who, with
2 knowledge of the ~~nature character and content~~ of the description or narrative
3 account, verbally communicates, by any means, a harmful description or narrative
4 account to a child, with or without monetary consideration, is guilty of a Class E
5 felony: if any of the following applies:

6 **SECTION 3979.** 948.11 (2) (am) 1. and 2. of the statutes are created to read:

7 948.11 (2) (am) 1. The person knows or reasonably should know that the child
8 has not attained the age of 18 years.

9 2. The person has face-to-face contact with the child before or during the
10 communication.

11 **SECTION 3980.** 948.11 (2) (b) of the statutes is renumbered 948.11 (2) (b) (intro.)
12 and amended to read:

13 948.11 (2) (b) (intro.) Whoever, with knowledge of the ~~nature character and~~
14 ~~content~~ of the material, possesses harmful material with the intent to sell, rent,
15 exhibit, ~~transfer~~ play, distribute, or loan the material to a child is guilty of a Class A
16 misdemeanor: if any of the following applies:

17 **SECTION 3981.** 948.11 (2) (b) 1. and 2. of the statutes are created to read:

18 948.11 (2) (b) 1. The person knows or reasonably should know that the child
19 has not attained the age of 18 years.

20 2. The person has face-to-face contact with the child.

21 **SECTION 3982.** 948.11 (2) (c) of the statutes is amended to read:

22 948.11 (2) (c) It is an affirmative defense to a prosecution for a violation of ~~this~~
23 ~~section pars. (a) 2., (am) 2., and (b) 2.~~ if the defendant had reasonable cause to believe
24 that the child had attained the age of 18 years, and the child exhibited to the
25 defendant a draft card, driver's license, birth certificate or other official or

1 apparently official document purporting to establish that the child had attained the
2 age of 18 years. A defendant who raises this affirmative defense has the burden of
3 proving this defense by a preponderance of the evidence.

4 **SECTION 3983.** 948.12 of the statutes is renumbered 948.12 (1m), and 948.12
5 (1m) (intro.) and (b), as renumbered, are amended to read:

6 948.12 (1m) (intro.) Whoever possesses any undeveloped film, photographic
7 negative, photograph, motion picture, videotape, or other pictorial reproduction, or
8 audio recording of a child engaged in sexually explicit conduct under all of the
9 following circumstances is guilty of a Class E felony:

10 (b) The person knows the character and content of the sexually explicit conduct
11 shown in the material.

12 **SECTION 3984.** 948.12 (2m) of the statutes is created to read:

13 948.12 (2m) Whoever exhibits or plays a recording of a child engaged in
14 sexually explicit conduct, if all of the following apply, is guilty of a Class E felony:

15 (a) The person knows that he or she has exhibited or played the recording.

16 (b) Before the person exhibited or played the recording, he or she knew the
17 character and content of the sexually explicit conduct.

18 (c) Before the person exhibited or played the recording, he or she knew or
19 reasonably should have known that the child engaged in sexually explicit conduct
20 had not attained the age of 18 years.

21 **SECTION 3984j.** 950.04 (1v) (s) of the statutes is amended to read:

22 950.04 (1v) (s) To have any stolen or other personal property expeditiously
23 returned by law enforcement agencies when no longer needed as evidence, subject
24 to s. 968.205. If feasible, all such property, except weapons, currency, contraband,
25 property subject to evidentiary analysis, property subject to preservation under s.

1 968.205, and property the ownership of which is disputed, shall be returned to the
2 person within 10 days of being taken.

3 **SECTION 3984m.** 950.04 (1v) (v) of the statutes is amended to read:

4 950.04 (1v) (v) To have the department of corrections make a reasonable
5 attempt to notify the victim under s. 301.046 (4) regarding community residential
6 confinements, under s. 301.048 (4m) regarding participation in the intensive
7 sanctions program, under s. 301.38 regarding escapes from a Type 1 prison, under
8 s. 301.46 (3) regarding persons registered under s. 301.45, under s. ~~302.115~~ 302.105
9 regarding release upon expiration of certain sentences, under s. 304.063 regarding
10 extended supervision and parole releases, and under s. 938.51 regarding release or
11 escape of a juvenile from correctional custody.

12 **SECTION 3984p.** 950.04 (1v) (yd) of the statutes is created to read:

13 950.04 (1v) (yd) To have the appropriate clerk of court make a reasonable
14 attempt to send the victim a copy of a motion made under s. 974.07 (2) for
15 postconviction deoxyribonucleic acid testing of certain evidence and notification of
16 any hearing on that motion, as provided under s. 974.07 (4).

17 **SECTION 3984t.** 951.01 (4) of the statutes is amended to read:

18 951.01 (4) "Law enforcement officer" has the meaning assigned under s. 967.02
19 (5), but does not include a conservation warden appointed under s. 23.10 or a state
20 forest ranger.

21 **SECTION 3985.** 961.14 (7) (p) of the statutes is created to read:

22 961.14 (7) (p) 4-methylthioamphetamine, commonly known as "4-MTA."

23 **SECTION 3986.** 961.41 (1) (b) of the statutes is amended to read:

24 961.41 (1) (b) Except as provided in pars. (cm) and (e) to (h) (hm), any other
25 controlled substance included in schedule I, II or III, or a controlled substance analog

1 of any other controlled substance included in schedule I or II, may be fined not more
2 than \$15,000 or imprisoned for not more than 7 years and 6 months or both.

3 **SECTION 3987.** 961.41 (1) (hm) of the statutes is created to read:

4 961.41 (1) (hm) Gamma-hydroxybutyric acid, gamma-butyrolactone,
3,4-methylenedioxyamphetamine,

5 4-bromo-2,5-dimethoxy-beta-phenylethylamine, 4-methylthioamphetamine,
6 ketamine, or a controlled substance analog of gamma-hydroxybutyric acid,

7 gamma-butyrolactone, 3,4-methylenedioxyamphetamine,

8 4-bromo-2,5-dimethoxy-beta-phenylethylamine, or 4-methylthioamphetamine is

9 subject to the following penalties if the amount manufactured, distributed, or
10 delivered is:
11

12 1. Three grams or less, the person shall be fined not less than \$1,000 nor more
13 than \$200,000 and may be imprisoned for not more than 7 years and 6 months.

14 2. More than 3 grams but not more than 10 grams, the person shall be fined
15 not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than
16 6 months nor more than 7 years and 6 months.

17 3. More than 10 grams but not more than 50 grams, the person shall be fined
18 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
19 one year nor more than 22 years and 6 months.

20 4. More than 50 grams but not more than 200 grams, the person shall be fined
21 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
22 3 years nor more than 22 years and 6 months.

23 5. More than 200 grams but not more than 400 grams, the person shall be fined
24 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
25 5 years nor more than 22 years and 6 months.

1 6. More than 400 grams, the person shall be fined not less than \$1,000 nor more
2 than \$500,000 and shall be imprisoned for not less than 10 years nor more than 45
3 years.

4 **SECTION 3988.** 961.41 (1) (im) of the statutes is renumbered 961.41 (1) (im)
5 (intro.) and amended to read:

6 961.41 (1) (im) (intro.) Flunitrazepam, ~~may be fined not more than \$15,000 or~~
7 ~~imprisoned for not more than 7 years and 6 months or both.~~ is subject to the following
8 penalties if the amount manufactured, distributed, or delivered is:

9 **SECTION 3989.** 961.41 (1) (im) 1. to 6. of the statutes are created to read:

10 961.41 (1) (im) 1. Three grams or less, the person shall be fined not less than
11 \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and
12 6 months.

13 2. More than 3 grams but not more than 10 grams, the person shall be fined
14 not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than
15 6 months nor more than 7 years and 6 months.

16 3. More than 10 grams but not more than 50 grams, the person shall be fined
17 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
18 one year nor more than 22 years and 6 months.

19 4. More than 50 grams but not more than 200 grams, the person shall be fined
20 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
21 3 years nor more than 22 years and 6 months.

22 5. More than 200 grams but not more than 400 grams, the person shall be fined
23 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
24 5 years nor more than 22 years and 6 months.

1 6. More than 400 grams, the person shall be fined not less than \$1,000 nor more
2 than \$500,000 and shall be imprisoned for not less than 10 years nor more than 45
3 years.

4 **SECTION 3990.** 961.41 (1m) (b) of the statutes is amended to read:

5 961.41 (1m) (b) Except as provided in pars. (cm) and (e) to ~~(h)~~ (hm), any other
6 controlled substance included in schedule I, II or III, or a controlled substance analog
7 of any other controlled substance included in schedule I or II, may be fined not more
8 than \$15,000 or imprisoned for not more than 7 years and 6 months or both.

9 **SECTION 3991.** 961.41 (1m) (hm) of the statutes is created to read:

10 961.41 (1m) (hm) Gamma-hydroxybutyric acid, gamma-butyrolactone,
11 3,4-methylenedioxymethamphetamine
12 4-bromo-2,5-dimethoxy-beta-phenylethylamine, 4-methylthioamphetamine,
13 ketamine, or a controlled substance analog of gamma-hydroxybutyric acid,
14 gamma-butyrolactone, 3,4-methylenedioxymethamphetamine
15 4-bromo-2,5-dimethoxy-beta-phenylethylamine, or 4-methylthioamphetamine is
16 subject to the following penalties if the amount possessed, with intent to
17 manufacture, distribute, or deliver is :

18 1. Three grams or less, the person shall be fined not less than \$1,000 nor more
19 than \$200,000 and may be imprisoned for not more than 7 years and 6 months.

20 2. More than 3 grams but not more than 10 grams, the person shall be fined
21 not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than
22 6 months nor more than 7 years and 6 months.

23 3. More than 10 grams but not more than 50 grams, the person shall be fined
24 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
25 one year nor more than 22 years and 6 months.

1 4. More than 50 grams but not more than 200 grams, the person shall be fined
2 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
3 3 years nor more than 22 years and 6 months.

4 5. More than 200 grams but not more than 400 grams, the person shall be fined
5 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
6 5 years nor more than 22 years and 6 months.

7 6. More than 400 grams, the person shall be fined not less than \$1,000 nor more
8 than \$500,000 and shall be imprisoned for not less than 10 years nor more than 45
9 years.

10 **SECTION 3992.** 961.41 (1m) (im) of the statutes is renumbered 961.41 (1m) (im)
11 (intro.) and amended to read:

12 961.41 (1m) (im) (intro.) Flunitrazepam, ~~may be fined not more than \$15,000~~
13 ~~or imprisoned for not more than 7 years and 6 months or both.~~ is subject to the
14 following penalties if the amount possessed, with intent to manufacture, distribute,
15 or deliver, is:

16 **SECTION 3993.** 961.41 (1m) (im) 1. to 6. of the statutes are created to read:

17 961.41 (1m) (im) 1. Three grams or less, the person shall be fined not less than
18 \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and
19 6 months.

20 2. More than 3 grams but not more than 10 grams, the person shall be fined
21 not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than
22 6 months nor more than 7 years and 6 months.

23 3. More than 10 grams but not more than 50 grams, the person shall be fined
24 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
25 one year nor more than 22 years and 6 months.

1 distribution, delivery, or possession with intent to manufacture, distribute, or
2 deliver, of the genuine controlled substance under sub. (1) or (1m).

3 **SECTION 3998c.** 968.20 (1) (intro.) of the statutes is amended to read:

4 968.20 (1) (intro.) Any person claiming the right to possession of property
5 seized pursuant to a search warrant or seized without a search warrant may apply
6 for its return to the circuit court for the county in which the property was seized or
7 where the search warrant was returned. The court shall order such notice as it
8 deems adequate to be given the district attorney and all persons who have or may
9 have an interest in the property and shall hold a hearing to hear all claims to its true
10 ownership. If the right to possession is proved to the court's satisfaction, it shall
11 order the property, other than contraband or property covered under sub. (1m) or (1r)
12 or s. 173.12 ~~ex~~, 173.21 (4), or 968.205, returned if:

13 **SECTION 3998e.** 968.20 (2) of the statutes is amended to read:

14 968.20 (2) Property not required for evidence or use in further investigation,
15 unless contraband or property covered under sub. (1m) or (1r) or s. 173.12 or 968.205,
16 may be returned by the officer to the person from whom it was seized without the
17 requirement of a hearing.

18 **SECTION 3998g.** 968.20 (4) of the statutes is amended to read:

19 968.20 (4) Any property seized, other than property covered under s. 968.205,
20 which that poses a danger to life or other property in storage, transportation or use
21 and which that is not required for evidence or further investigation shall be safely
22 disposed of upon command of the person in whose custody they are committed. The
23 city, village, town or county shall by ordinance or resolution establish disposal
24 procedures. Procedures may include provisions authorizing an attempt to return to
25 the rightful owner substances which have a commercial value in normal business

1 usage and do not pose an immediate threat to life or property. If enacted, any such
2 provision shall include a presumption that if the substance appears to be or is
3 reported stolen an attempt will be made to return the substance to the rightful owner.

4 **SECTION 3998i.** 968.205 of the statutes is created to read:

5 **968.205 Preservation of certain evidence.** (1) In this section:

6 (a) “Custody” means actual custody of a person under a sentence of
7 imprisonment, custody of a probationer, parolee, or person on extended supervision
8 by the department of corrections, actual or constructive custody of a person pursuant
9 to a dispositional order under ch. 938, supervision of a person, whether in
10 institutional care or on conditional release, pursuant to a commitment order under
11 s. 971.17 and supervision of a person under ch. 980, whether in detention before trial
12 or while in institutional care or on supervised release pursuant to a commitment
13 order.

14 (b) “Discharge date” means the date on which a person is released or discharged
15 from custody that resulted from a criminal action, a delinquency proceeding under
16 ch. 938, or a commitment proceeding under s. 971.17 or ch. 980 or, if the person is
17 serving consecutive sentences of imprisonment, the date on which the person is
18 released or discharged from custody under all of the sentences.

19 (2) Except as provided in sub. (3), if physical evidence that is in the possession
20 of a law enforcement agency includes any biological material that was collected in
21 connection with a criminal investigation that resulted in a criminal conviction,
22 delinquency adjudication, or commitment under s. 971.17 or 980.06, the law
23 enforcement agency shall preserve the physical evidence until every person in
24 custody as a result of the conviction, adjudication, or commitment has reached his
25 or her discharge date.

1 (3) Subject to sub. (5), a law enforcement agency may destroy biological
2 material before the expiration of the time period specified in sub. (2) if all of the
3 following apply:

4 (a) The law enforcement agency sends a notice of its intent to destroy the
5 biological material to all persons who remain in custody as a result of the criminal
6 conviction, delinquency adjudication, or commitment, and to either the attorney of
7 record for each person in custody or the state public defender.

8 (b) No person who is notified under par. (a) does either of the following within
9 90 days after the date on which the person received the notice:

- 10 1. Files a motion for testing of the biological material under s. 974.07 (2).
11 2. Submits a written request to preserve the biological material to the law
12 enforcement agency or district attorney.

13 (c) No other provision of federal or state law requires the law enforcement
14 agency to preserve the biological material.

15 (4) A notice provided under sub. (3) (a) shall clearly inform the recipient that
16 the biological material will be destroyed unless, within 90 days after the date on
17 which the person receives the notice, either a motion for testing of the material is
18 filed under s. 974.07 (2) or a written request to preserve the material is submitted
19 to the law enforcement agency.

20 (5) If, after providing notice under sub. (3) (a) of its intent to destroy biological
21 material, a law enforcement agency receives a written request to preserve the
22 material, the law enforcement agency shall preserve the material until the discharge
23 date of the person who made the request or on whose behalf the request was made,
24 subject to a court order issued under s. 974.07 (7), (9) (a), or (10) (a) 5., unless the court

1 orders destruction or transfer of the biological material under s. 974.07 (9) (b) or (10)
2 (a) 5.

3 **SECTION 3998n.** 971.04 (3) of the statutes is amended to read:

4 971.04 (3) If the defendant is present at the beginning of the trial and
5 thereafter, during the progress of the trial or before the verdict of the jury has been
6 returned into court, voluntarily absents himself or herself from the presence of the
7 court without leave of the court, the trial or return of verdict of the jury in the case
8 shall not thereby be postponed or delayed, but the trial or submission of said case to
9 the jury for verdict and the return of verdict thereon, if required, shall proceed in all
10 respects as though the defendant were present in court at all times. A defendant
11 need not be present at the pronouncement or entry of an order granting or denying
12 relief under s. 974.02 ~~or~~, 974.06, or 974.07. If the defendant is not present, the time
13 for appeal from any order under ss. 974.02 ~~and~~, 974.06, and 974.07 shall commence
14 after a copy has been served upon the attorney representing the defendant, or upon
15 the defendant if he or she appeared without counsel. Service of such an order shall
16 be complete upon mailing. A defendant appearing without counsel shall supply the
17 court with his or her current mailing address. If the defendant fails to supply the
18 court with a current and accurate mailing address, failure to receive a copy of the
19 order granting or denying relief shall not be a ground for tolling the time in which
20 an appeal must be taken.

21 **SECTION 3999.** 971.14 (2) (d) of the statutes is amended to read:

22 971.14 (2) (d) If the court orders that the examination be conducted on an
23 inpatient basis, ~~it shall arrange for the transportation of the sheriff of the county in~~
24 which the court is located shall transport any defendant not free on bail to the
25 examining facility within a reasonable time after the examination is ordered and for

1 shall transport the defendant to be returned to the jail within a reasonable time after
2 receiving the sheriff and county department of community programs of the county
3 in which the court is located receive notice from the examining facility that the
4 examination has been completed.

5

6 **SECTION 4002r.** 971.23 (1) (e) of the statutes is amended to read:

7 971.23 (1) (e) Any relevant written or recorded statements of a witness named
8 on a list under par. (d), including any videotaped oral statement of a child under s.
9 908.08, any reports or statements of experts made in connection with the case or, if
10 an expert does not prepare a report or statement, a written summary of the expert's
11 findings or the subject matter of his or her testimony, and the results of any physical
12 or mental examination, scientific test, experiment or comparison that the district
13 attorney intends to offer in evidence at trial. ~~This paragraph does not apply to~~
14 ~~reports subject to disclosure under s. 972.11 (5).~~

15 **SECTION 4002t.** 971.23 (2m) (am) of the statutes is amended to read:

16 971.23 (2m) (am) Any relevant written or recorded statements of a witness
17 named on a list under par. (a), including any reports or statements of experts made
18 in connection with the case or, if an expert does not prepare a report or statement,
19 a written summary of the expert's findings or the subject matter of his or her
20 testimony, and including the results of any physical or mental examination, scientific
21 test, experiment or comparison that the defendant intends to offer in evidence at
22 trial. ~~This paragraph does not apply to reports subject to disclosure under s. 972.11~~
23 (5).

24

25 **SECTION 4002v.** 971.23 (9) of the statutes is created to read:

1 971.23 (9) DEOXYRIBONUCLEIC ACID EVIDENCE. (a) In this subsection
2 “deoxyribonucleic acid profile” has the meaning given in s. 939.74 (2d) (a).

3 (b) Notwithstanding sub. (1) (e) or (2m) (am), if either party intends to submit
4 deoxyribonucleic acid profile evidence at a trial to prove or disprove the identity of
5 a person, the party seeking to introduce the evidence shall notify the other party of
6 the intent to introduce the evidence in writing by mail at least 45 days before the date
7 set for trial; and shall provide the other party, within 15 days of request, the material
8 identified under sub. (1) (e), or par. (2m) (am), whichever is appropriate, that relates
9 to the evidence.

10 (c) The court shall exclude deoxyribonucleic acid profile evidence at trial, if the
11 notice and production deadlines under par. (b) are not met, except the court may
12 waive the 45 day notice requirement or may extend the 15 day production
13 requirement upon stipulation of the parties, or for good cause, if the court finds that
14 no party will be prejudiced by the waiver or extension. The court may in appropriate
~~15~~ cases grant the opposing party a recess or continuance.

~~16~~ **SECTION 4003.** 971.23 (10) of the statutes is amended to read:

17 971.23 (10) PAYMENT OF PHOTOCOPY COSTS IN CASES INVOLVING INDIGENT
18 DEFENDANTS. When the state public defender or a private attorney appointed under
19 s. 977.08 requests photocopies of any item that is discoverable under this section, the
20 state public defender shall pay any fee charged for the photocopies from the
21 appropriation under s. 20.550 (1) ~~(a)~~ (f). If the person providing photocopies under
22 this section charges the state public defender a fee for the photocopies, the fee may
23 not exceed the actual, necessary and direct cost of photocopying.

~~24~~ **SECTION 4003r.** 972.11 (1) of the statutes is amended to read:

1 972.11 (1) Except as provided in subs. (2) to ~~(5)~~ (4), the rules of evidence and
2 practice in civil actions shall be applicable in all criminal proceedings unless the
3 context of a section or rule manifestly requires a different construction. No guardian
4 ad litem need be appointed for a defendant in a criminal action. Chapters 885 to 895,
5 except ss. 804.02 to 804.07 and 887.23 to 887.26, shall apply in all criminal
6 proceedings.

~~7~~ **SECTION 4003t.** 972.11 (5) of the statutes is repealed.

8

~~9~~ **SECTION 4014d.** 973.013 (3m) of the statutes is amended to read:

10 973.013 (3m) If a person who has not attained the age of 16 years is sentenced
11 to the Wisconsin state prisons, the department of ~~corrections~~ shall place the person
12 at a secured juvenile correctional facility or a secured child caring institution, unless
13 the department of ~~corrections~~ determines that placement in an institution under s.
14 302.01 is appropriate based on the person's prior record of adjustment in a
15 correctional setting, if any; the person's present and potential vocational and
16 educational needs, interests and abilities; the adequacy and suitability of available
17 facilities; the services and procedures available for treatment of the person within
18 the various institutions; the protection of the public; and any other considerations
19 promulgated by the department of ~~corrections~~ by rule. The department may not
20 place any person under the age of 18 years in the correctional institution authorized
21 in s. 301.16 (1n). This subsection does not preclude the department of ~~corrections~~
22 from designating an adult correctional institution, other than the correctional
23 institution authorized in s. 301.16 (1n), as a reception center for the person and
24 subsequently transferring the person to a secured juvenile correctional facility or a
25 secured child caring institution. Section 302.11 and ch. 304 apply to all persons

1 **SECTION 4018f.** 973.075 (1) (b) 1m. e. of the statutes is amended to read:

2 973.075 (1) (b) 1m. e. To cause more than ~~\$1,000~~ \$2,500 worth of criminal
3 damage to cemetery property in violation of s. 943.01 (2) (d) or 943.012.

4 **SECTION 4018h.** 973.075 (2) (d) of the statutes is amended to read:

5 973.075 (2) (d) The officer has probable cause to believe that the property was
6 derived from or realized through a crime or that the property is a vehicle which was
7 used to transport any property or weapon used or to be used or received in the
8 commission of any felony, which was used in the commission of a crime relating to
9 a submerged cultural resource in violation of s. 44.47, or which was used to cause
10 more than ~~\$1,000~~ \$2,500 worth of criminal damage to cemetery property in violation
11 of s. 943.01 (2) (d) or 943.012.

12

13 ~~SECTION 4026g.~~ 973.09 (4) of the statutes is renumbered 973.09 (4) (a) and
14 amended to read:

15 973.09 (4) (a) The court may also require as a condition of probation that the
16 probationer be confined during such period of the term of probation as the court
17 prescribes, but not to exceed one year. The court may grant the privilege of leaving
18 the county jail, Huber facility, work camp, or tribal jail during the hours or periods
19 of employment or other activity under s. 303.08 (1) (a) to (e) while confined under this
20 subsection. The court may specify the necessary and reasonable hours or periods
21 during which the probationer may leave the jail, Huber facility, work camp, or tribal
22 jail or the court may delegate that authority to the sheriff. In those counties without
23 a Huber facility under s. 303.09, a work camp under s. 303.10, or an agreement under
24 s. 302.445, the probationer shall be confined in the county jail. In those counties with
25 a Huber facility under s. 303.09, the sheriff shall determine whether confinement

1 under this subsection is to be in that facility or in the county jail. In those counties
2 with a work camp under s. 303.10, the sheriff shall determine whether confinement
3 is to be in the work camp or the county jail. The sheriff may transfer persons confined
4 under this subsection between a Huber facility or a work camp and the county jail.
5 In those counties with an agreement under s. 302.445, the sheriff shall determine
6 whether ~~confinement~~ a person who is confined under this subsection but who is not
7 subject to an order under par. (b) is to be confined in the tribal jail or the county jail,
8 unless otherwise provided under the agreement. In those counties, the sheriff may
9 transfer persons confined under this subsection between a tribal jail and a county
10 jail, unless otherwise provided under the agreement.

11 (c) While subject to this subsection, the probationer is subject to s. 303.08 (1),
12 (3) to (6), (8) to (12), and (14) or to s. 303.10, whichever is applicable, ~~and~~ to all the
13 rules of the ~~county jail, Huber facility, work camp or tribal jail~~ facility to which the
14 probationer is confined, and to the discipline of the department, if confined to a
15 facility under par. (b), or the sheriff.

16 SECTION 4026r. 973.09 (4) (b) of the statutes is created to read:

17 973.09 (4) (b) With the consent of the department and when recommended in
18 the presentence investigation, the court may order that a felony offender subject to
19 this subsection be confined in a facility located in the city of Milwaukee under s.
20 301.13 or 301.16 (1q), for the purpose of allowing the offender to complete an alcohol
21 and other drug abuse treatment program.

22
23 SECTION 4028g. 973.20 (1r) of the statutes is amended to read:

24 973.20 (1r) When imposing sentence or ordering probation for any crime, other
25 than a crime involving conduct that constitutes domestic abuse under s. 813.12 (1)

1 (a) or 968.075 (1) (a), for which the defendant was convicted, the court, in addition
2 to any other penalty authorized by law, shall order the defendant to make full or
3 partial restitution under this section to any victim of a crime considered at
4 sentencing or, if the victim is deceased, to his or her estate, unless the court finds
5 substantial reason not to do so and states the reason on the record. When imposing
6 sentence or ordering probation for a crime involving conduct that constitutes
7 domestic abuse under s. 813.12 (1) (a) or 968.075 (1) (a) for which the defendant was
8 convicted or that was considered at sentencing, the court, in addition to any other
9 penalty authorized by law, shall order the defendant to make full or partial
10 restitution under this section to any victim of a crime or, if the victim is deceased, to
11 his or her estate, unless the court finds that imposing full or partial restitution will
12 create an undue hardship on the defendant or victim and describes the undue
13 hardship on the record. Restitution ordered under this section is a condition of
14 probation, extended supervision or parole served by the defendant for a crime for
15 which the defendant was convicted. After the termination of probation, extended
16 supervision or parole, or if the defendant is not placed on probation, extended
17 supervision or parole, restitution ordered under this section is enforceable in the
18 same manner as a judgment in a civil action by the victim named in the order to
19 receive restitution or enforced under ch. 785.

20 **SECTION 4028c.** 974.02 (1) of the statutes is amended to read:

21 974.02 (1) A motion for postconviction relief other than under s. 974.06 or
22 974.07 (2) by the defendant in a criminal case shall be made in the time and manner
23 provided in ss. 809.30 and 809.40. An appeal by the defendant in a criminal case from
24 a judgment of conviction or from an order denying a postconviction motion or from
25 both shall be taken in the time and manner provided in ss. 808.04 (3), 809.30 and

1 809.40. An appeal of an order or judgment on habeas corpus remanding to custody
2 a prisoner committed for trial under s. 970.03 shall be taken under ss. 808.03 (2) and
3 809.50, with notice to the attorney general and the district attorney and opportunity
4 for them to be heard.

5 **SECTION 4028g.** 974.05 (1) (b) of the statutes is amended to read:

6 974.05 (1) (b) Order granting postconviction relief under s. 974.02 ~~or~~, 974.06,
7 or 974.07.

8 **SECTION 4028j.** 974.07 of the statutes is created to read:

9 **974.07 Motion for postconviction deoxyribonucleic acid testing of**
10 **certain evidence. (1)** In this section:

11 (a) "Government agency" means any department, agency, or court of the federal
12 government, of this state, or of a city, village, town, or county in this state.

13 (b) "Movant" means a person who makes a motion under sub. (2).

14 (2) At any time after being convicted of a crime, adjudicated delinquent, or
15 found not guilty by reason of mental disease or defect, a person may make a motion
16 in the court in which he or she was convicted, adjudicated delinquent, or found not
17 guilty by reason of mental disease or defect for an order requiring forensic
18 deoxyribonucleic acid testing of evidence to which all of the following apply:

19 (a) The evidence is relevant to the investigation or prosecution that resulted
20 in the conviction, adjudication, or finding of not guilty by reason of mental disease
21 or defect.

22 (b) The evidence is in the actual or constructive possession of a government
23 agency.
24

1 (c) The evidence has not previously been subjected to forensic deoxyribonucleic
2 acid testing or, if the evidence has previously been tested, it may now be subjected
3 to another test using a scientific technique that was not available or was not utilized
4 at the time of the previous testing and that provides a reasonable likelihood of more
5 accurate and probative results.

6 (3) A movant or, if applicable, his or her attorney shall serve a copy of the
7 motion made under sub. (2) on the district attorney's office that prosecuted the case
8 that resulted in the conviction, adjudication, or finding of not guilty by reason of
9 mental disease or defect. The court in which the motion is made shall also notify the
10 appropriate district attorney's office that a motion has been made under sub. (2) and
11 shall give the district attorney an opportunity to respond to the motion. Failure by
12 a movant to serve a copy of the motion on the appropriate district attorney's office
13 does not deprive the court of jurisdiction and is not grounds for dismissal of the
14 motion.

15 (4) (a) The clerk of the circuit court in which a motion under sub. (2) is made
16 shall send a copy of the motion and, if a hearing on the motion is scheduled, a notice
17 of the hearing to the victim of the crime or delinquent act committed by the movant,
18 if the clerk is able to determine an address for the victim. The clerk of the circuit court
19 shall make a reasonable attempt to send the copy of the motion to the address of the
20 victim within 7 days of the date on which the motion is filed and shall make a
21 reasonable attempt to send a notice of hearing, if a hearing is scheduled, to the
22 address of the victim, postmarked at least 10 days before the date of the hearing.

23 (b) Notwithstanding the limitation on the disclosure of mailing addresses from
24 completed information cards submitted by victims under ss. 51.37 (10) (dx), 301.046
25 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f), 304.063 (4), 938.51 (2),

1 971.17 (6m) (d), and 980.11 (4), the department of corrections, the parole commission,
2 and the department of health and family services shall, upon request, assist clerks
3 of court in obtaining information regarding the mailing address of victims for the
4 purpose of sending copies of motions and notices of hearings under par. (a).

5 (5) Upon receiving under sub. (3) a copy of a motion made under sub. (2) or
6 notice from a court that a motion has been made, whichever occurs first, the district
7 attorney shall take all actions necessary to ensure that all biological material that
8 was collected in connection with the investigation or prosecution of the case and that
9 remains in the actual or constructive custody of a government agency is preserved
10 pending completion of the proceedings under this section.

11 (6) (a) Upon demand the district attorney shall disclose to the movant or his
12 or her attorney whether biological material has been tested and shall make available
13 to the movant or his or her attorney the following material:

- 14 1. Findings based on testing of biological materials.
15 2. Physical evidence that is in the actual or constructive possession of a
16 government agency and that contains biological material or on which there is
17 biological material.

18 (b) Upon demand the movant or his or her attorney shall disclose to the district
19 attorney whether biological material has been tested and shall make available to the
20 district attorney the following material:

- 21 1. Findings based on testing of biological materials.
22 2. The movant's biological specimen.

23 (c) Upon motion of the district attorney or the movant, the court may impose
24 reasonable conditions on availability of material requested under pars. (a) 2. and (b)
25 2. in order to protect the integrity of the evidence.

1 (d) This subsection does not apply unless the information being disclosed or the
2 material being made available is relevant to the movant's claim at issue in the motion
3 made under sub. (2).

4 (7) (a) A court in which a motion under sub. (2) is filed shall order forensic
5 deoxyribonucleic acid testing if all of the following apply:

6 1. The movant claims that he or she is innocent of the offense at issue in the
7 motion under sub. (2).

8 2. It is reasonably probable that the movant would not have been prosecuted,
9 convicted, found not guilty by reason of mental disease or defect, or adjudicated
10 delinquent for the offense at issue in the motion under sub. (2), if exculpatory
11 deoxyribonucleic acid testing results had been available before the prosecution,
12 conviction, finding of not guilty, or adjudication for the offense.

13 3. The evidence to be tested meets the conditions under sub. (2) (a) to (c).

14 4. The chain of custody of the evidence to be tested establishes that the evidence
15 has not been tampered with, replaced, or altered in any material respect or, if the
16 chain of custody does not establish the integrity of the evidence, the testing itself can
17 establish the integrity of the evidence.

18 (b) A court in which a motion under sub. (2) is filed may order forensic
19 deoxyribonucleic acid testing if all of the following apply:

20 1. It is reasonably probable that the outcome of the proceedings that resulted
21 in the conviction, the finding of not guilty by reason of mental disease or defect, or
22 the delinquency adjudication for the offense at issue in the motion under sub. (2), or
23 the terms of the sentence, the commitment under s. 971.17, or the disposition under
24 ch. 938, would have been more favorable to the movant if the results of
25 deoxyribonucleic acid testing had been available before he or she was prosecuted,

1 convicted, found not guilty by reason of mental disease or defect, or adjudicated
2 delinquent for the offense.

3 2. The evidence to be tested meets the conditions under sub. (2) (a) to (c).

4 3. The chain of custody of the evidence to be tested establishes that the evidence
5 has not been tampered with, replaced, or altered in any material respect or, if the
6 chain of custody does not establish the integrity of the evidence, the testing itself can
7 establish the integrity of the evidence.

8 (8) The court may impose reasonable conditions on any testing ordered under
9 this section in order to protect the integrity of the evidence and the testing process.
10 If appropriate and if stipulated to by the movant and the district attorney, the court
11 may order the state crime laboratories to perform the testing as provided under s.
12 165.77 (2m).

13 (9) If a court in which a motion under sub. (2) is filed does not order forensic
14 deoxyribonucleic acid testing, or if the results of forensic deoxyribonucleic acid
15 testing ordered under this section are not supportive of the movant's claim, the court
16 shall determine the disposition of the evidence specified in the motion subject to the
17 following:

18 (a) If a person other than the movant is in custody, as defined in s. 968.205 (1)
19 (a), the evidence is relevant to the criminal, delinquency, or commitment proceeding
20 that resulted in the person being in custody, the person has not been denied
21 deoxyribonucleic acid testing or postconviction relief under this section, and the
22 person has not waived his or her right to preserve the evidence under s. 165.81 (3),
23 757.54 (2), 968.205, or 978.08, the court shall order the evidence preserved until all
24 persons entitled to have the evidence preserved are released from custody, and the
25 court shall designate who shall preserve the evidence. The court may not issue an

1 order under this paragraph requiring that an agency transfer evidence to a crime
2 laboratory specified under s. 165.75 for the purpose of preservation of the evidence
3 by the crime laboratory, unless the crime laboratory consents to the transfer.

4 (b) If the conditions in par. (a) are not present, the court shall determine the
5 disposition of the evidence, and, if the evidence is to be preserved, by whom and for
6 how long. The court shall issue appropriate orders concerning the disposition of the
7 evidence based on its determinations. The court may not issue an order under this
8 paragraph requiring that an agency transfer evidence to a crime laboratory specified
9 under s. 165.75 for the purpose of preservation of the evidence by the crime
10 laboratory, unless the crime laboratory consents to the transfer.

11 (10) (a) If the results of forensic deoxyribonucleic acid testing ordered under
12 this section support the movant's claim, the court shall schedule a hearing to
13 determine the appropriate relief to be granted to the movant. After the hearing, and
14 based on the results of the testing and any evidence or other matter presented at the
15 hearing, the court shall enter any order that serves the interests of justice, including
16 any of the following:

17 1. An order setting aside or vacating the movant's judgment of conviction,
18 judgment of not guilty by reason of mental disease or defect, or adjudication of
19 delinquency.

20 2. An order granting the movant a new trial or fact-finding hearing.

21 3. An order granting the movant a new sentencing hearing, commitment
22 hearing, or dispositional hearing.

23 4. An order discharging the movant from custody, as defined in s. 968.205 (1)
24 (a), if the movant is in custody.

1 5. An order specifying the disposition of any evidence that remains after the
2 completion of the testing, subject to sub. (9) (a) and (b).

3 (b) A court may order a new trial under par. (a) without making the findings
4 specified in s. 805.15 (3) (a) and (b).

5 (11) A court considering a motion made under sub. (2) by a movant who is not
6 represented by counsel shall, if the movant claims or appears to be indigent, refer the
7 movant to the state public defender for determination of indigency and appointment
8 of counsel under s. 977.05 (4) (j).

9 (12) (a) The court may order a movant to pay the costs of any testing ordered
10 by the court under this section if the court determines that the movant is not
11 indigent. If the court determines that the movant is indigent, the court shall order
12 the costs of the testing to be paid for from the appropriation account under s. 20.410
13 (1) (be).

14 (b) A movant is indigent for purposes of par. (a) if any of the following apply:

15 1. The movant was referred to the state public defender under sub. (11) for a
16 determination of indigency and was found to be indigent.

17 2. The movant was referred to the state public defender under sub. (11) for a
18 determination of indigency but was found not to be indigent, and the court
19 determines that the movant does not possess the financial resources to pay the costs
20 of testing.

21 3. The movant was not referred to the state public defender under sub. (11) for
22 a determination of indigency and the court determines that the movant does not
23 possess the financial resources to pay the costs of testing.

24 (13) An appeal may be taken from an order entered under this section as from
~~25~~ a final judgment.

~~1~~ SECTION 4030. 977.05 (6) (c) of the statutes is repealed.

2 SECTION 4031. 977.05 (6) (cm) of the statutes is repealed.

~~3~~ SECTION 4031j. 978.03 (3) of the statutes is amended to read:

4 978.03 (3) Any assistant district attorney under sub. (1), (1m) or (2) must be
5 an attorney admitted to practice law in this state and, except as provided in ~~s. ss.~~
6 978.043 and 978.044, may perform any duty required by law to be performed by the
7 district attorney. The district attorney of the prosecutorial unit under sub. (1), (1m),
8 or (2) may appoint such temporary counsel as may be authorized by the department
9 of administration.

10 SECTION 4031p. 978.044 of the statutes is created to read:

11 **978.044 Assistants to perform restorative justice services. (1)**

12 DEFINITIONS. In this section:

13 (a) "Crime" has the meaning given in s. 950.02 (1m).

14 (b) "Offender" means an individual who is, or could be, charged with
15 committing a crime or who is, or could be, the subject of a petition under ch. 938
16 alleging that he or she has committed a crime.

17 (c) "Victim" has the meaning given in s. 950.02 (4).

18 (2) DUTIES. The district attorneys of Milwaukee county and the county selected
19 under sub. (4) shall each assign one assistant district attorney in his or her
20 prosecutorial unit to be a restorative justice coordinator. An assistant district
21 attorney assigned under this subsection to be a restorative justice coordinator shall
22 do all the following:

23 (a) Establish restorative justice programs that provide support to the victim,
24 help reintegrate the victim into community life, and provide a forum where an

1 offender may meet with the victim or engage in other activities to do all of the
2 following:

- 3 1. Discuss the impact of the offender's crime on the victim or on the community.
- 4 2. Explore potential restorative responses by the offender.
- 5 3. Provide methods for reintegrating the offender into community life.

6 (b) Provide assistance to the district attorney in other counties relating to the
7 establishment of restorative justice programs, as described in par. (a).

8 (c) Maintain a record of all of the following:

9 1. The amount of time spent implementing the requirements of pars. (a) and
10 (b).

11 2. The number of victims and offenders served by programs established under
12 par. (a).

13 3. The types of offenses addressed by programs established under par. (a).

14 4. The rate of recidivism among offenders served by programs established
15 under par. (a) compared to the rate of recidivism by offenders not served by such
16 programs.

17 (3) REPORT TO DEPARTMENT OF ADMINISTRATION. Annually, on a date specified by
18 the department of administration, the district attorneys of Milwaukee county and
19 the county selected under sub. (4) shall each submit to the department of
20 administration a report summarizing the records under sub. (2) (c) covering the
21 preceding 12-month period. The department of administration shall maintain the
22 information submitted under this subsection by the district attorney.

23 (4) SELECTION OF 2ND COUNTY. The attorney general, in consultation with the
24 department of corrections, shall select a county other than Milwaukee county in
25 which restorative justice services are to be provided under sub. (2).

1 (5) EXPIRATION. This section does not apply after June 30, 2005.

2 SECTION 4031r. 978.05 (8) (b) of the statutes is amended to read:

3 978.05 (8) (b) Hire, employ, and supervise his or her staff and, subject to ~~s.~~ ss.
4 978.043 and 978.044, make appropriate assignments of the staff throughout the
5 prosecutorial unit. The district attorney may request the assistance of district
6 attorneys, deputy district attorneys, or assistant district attorneys from other
7 prosecutorial units or assistant attorneys general who then may appear and assist
8 in the investigation and prosecution of any matter for which a district attorney is
9 responsible under this chapter in like manner as assistants in the prosecutorial unit
10 and with the same authority as the district attorney in the unit in which the action
11 is brought. Nothing in this paragraph limits the authority of counties to regulate the
~~12~~ hiring, employment, and supervision of county employees.

~~13~~ SECTION 4031c. 977.07 (1) (b) of the statutes is amended to read:

14 977.07 (1) (b) For referrals not made under ss. 809.30 ~~and~~, 974.06, and 974.07,
15 a representative of the state public defender is responsible for making indigency
16 determinations unless the county became responsible under s. 977.07 (1) (b) 2. or 3.,
17 1983 stats., for these determinations. Subject to the provisions of par. (bn), those
18 counties may continue to be responsible for making indigency determinations. Any
19 such county may change the agencies or persons who are designated to make
20 indigency determinations only upon the approval of the state public defender.

21 SECTION 4031e. 977.07 (1) (c) of the statutes is amended to read:

22 977.07 (1) (c) For all referrals made under ss. 809.30 ~~and~~, 974.06 (3) (b) and
23 974.07 (11), except a referral of a child who is entitled to be represented by counsel
24 under s. 48.23 or 938.23, a representative of the state public defender shall
25 determine indigency, ~~and~~. For referrals made under ss. 809.30 and 974.06 (3) (b),

1 except a referral of a child who is entitled to be represented by counsel under s. 48.23
2 or 938.23, the representative of the state public defender may, unless a request for
3 redetermination has been filed under s. 809.30 (2) (d) or the defendant's request for
4 representation states that his or her financial circumstances have materially
5 improved, rely upon a determination of indigency made for purposes of trial
6 representation under this section.

7 **SECTION 4031s.** 978.08 of the statutes is created to read:

8 **978.08 Preservation of certain evidence.** (1) In this section:

9 (a) "Custody" has the meaning given in s. 968.205 (1) (a).

10 (b) "Discharge date" has the meaning given in s. 968.205 (1) (b).

11 (2) Except as provided in sub. (3), if physical evidence that is in the possession
12 of a district attorney includes any biological material that was collected in connection
13 with a criminal investigation that resulted in a criminal conviction, delinquency
14 adjudication, or commitment under s. 971.17 or 980.06, the district attorney shall
15 preserve the physical evidence until every person in custody as a result of the
16 conviction, adjudication, or commitment has reached his or her discharge date.

17 (3) Subject to sub. (5), a district attorney may destroy biological material before
18 the expiration of the time period specified in sub. (2) if all of the following apply:

19 (a) The district attorney sends a notice of its intent to destroy the biological
20 material to all persons who remain in custody as a result of the criminal conviction,
21 delinquency adjudication, or commitment and to either the attorney of record for
22 each person in custody or the state public defender.

23 (b) No person who is notified under par. (a) does either of the following within
24 90 days after the date on which the person received the notice:

25 1. Files a motion for testing of the biological material under s. 974.07 (2).

1 2. Submits a written request to preserve the biological material to the district
2 attorney.

3 (c) No other provision of federal or state law requires the district attorney to
4 preserve the biological material.

5 (4) A notice provided under sub. (3) (a) shall clearly inform the recipient that
6 the biological material will be destroyed unless, within 90 days after the date on
7 which the person receives the notice, either a motion for testing of the material is
8 filed under s. 974.07 (2) or a written request to preserve the material is submitted
9 to the district attorney.

10 (5) If, after providing notice under sub. (3) (a) of its intent to destroy biological
11 material, a district attorney receives a written request to preserve the material, the
12 district attorney shall preserve the material until the discharge date of the person
13 who made the request or on whose behalf the request was made, subject to a court
14 order issued under s. 974.07 (7), (9) (a), or (10) (a) 5., unless the court orders
15 destruction or transfer of the biological material under s. 974.07 (9) (b) or (10) (a) 5.

16 **SECTION 4032m.** 978.13 (1) (d) of the statutes is amended to read:

17 978.13 (1) (d) In counties having a population of 500,000 or more, the salary
18 and fringe benefit costs of 2 clerk positions providing clerical services to the
19 prosecutors in the district attorney's office handling cases involving the unlawful
20 possession or use of firearms. The state treasurer shall pay the amount authorized
21 under this paragraph to the county treasurer from the appropriation under s. 20.475
22 (1) (f) pursuant to a voucher submitted by the district attorney to the department of
23 administration. The amount paid under this paragraph may not exceed ~~\$51,300 in~~
24 ~~the 1999–2000 fiscal year and \$64,000 in the 2000–01 fiscal year~~ the amount
25 appropriated under s. 20.475 (1) (f).

1 **SECTION 4033g.** 979.01 (1m) of the statutes is amended to read:

2 979.01 (1m) The coroner or medical examiner receiving notification under sub.
3 (1) shall immediately notify the attorney general and district attorney.

4 **SECTION 4033k.** 979.015 of the statutes is amended to read:

5 **979.015 Subpoena for documents.** Upon the request of the coroner, medical
6 examiner, attorney general, or district attorney, a court shall issue a subpoena
7 requiring the production of documents necessary for the determination of a
8 decedent's cause of death. The documents may include the decedent's patient health
9 care records and treatment records, as defined in ss. 51.30 and 146.81 (4). The
10 documents shall be returnable to the officer named in the subpoena.

11 **SECTION 4033n.** 979.02 of the statutes is amended to read:

12 **979.02 Autopsies.** The coroner, medical examiner, attorney general, or
13 district attorney may order ~~the conducting of~~ an autopsy upon the body of a dead
14 person any place within the state in cases where an inquest might be had as provided
15 in s. 979.04 notwithstanding the fact that no such inquest is ordered or conducted.
16 The autopsy shall be conducted by a licensed physician who has specialized training
17 in pathology. The attorney general or district attorney may move the circuit court
18 for the county in which the body is buried for an order disinterring the body for
19 purposes of autopsy. The order shall be granted by the circuit court upon a
20 reasonable showing that any of the criteria specified in s. 979.04 exists. This section
21 does not prevent additional autopsies or examinations of the body if there are
22 unanswered pathological questions concerning the death and the causes of death.

23 **SECTION 4034.** 979.025 of the statutes is created to read:

24 **979.025 Autopsy of correctional inmate.** (1) INMATE CONFINED TO AN
25 INSTITUTION IN THIS STATE. If an individual dies while he or she is in the legal custody

1 of the department and confined to a correctional facility located in this state, the
2 coroner or medical examiner of the county where the death occurred shall perform
3 an autopsy on the deceased individual. If the coroner or medical examiner who
4 performs the autopsy determines that the individual's death may have been the
5 result of any of the situations that would permit the district attorney to order an
6 inquest under s. 979.04 (1), the coroner or medical examiner shall follow the
7 procedures under s. 979.04 (2).

8 (2) INMATE CONFINED IN AN INSTITUTION IN ANOTHER STATE. If an individual dies
9 while he or she is in the legal custody of the department and confined to a correctional
10 facility in another state under a contract under s. 301.07, 301.21, or 302.25, the
11 department shall have an autopsy performed by an appropriate authority in the
12 other state or by the coroner or medical examiner of the county in which the circuit
13 court is located that sentenced the individual to the custody of the department. If
14 the coroner or medical examiner who performs the autopsy in this state determines
15 that the individual's death may have been the result of any of the situations that
16 would permit the district attorney to order an inquest under s. 979.04 (1), the coroner
17 or medical examiner shall forward the results of the autopsy to the appropriate
18 authority in the other state.

19 (3) COSTS OF AN AUTOPSY. The costs of an autopsy performed under sub. (1) or
20 (2) shall be paid by the department.

21 **SECTION 4034b.** 979.04 (1) of the statutes is amended to read:

22 979.04 (1) If the attorney general or district attorney has notice of the death
23 of any person and there is reason to believe from the circumstances surrounding the
24 death that felony murder, first-degree or 2nd-degree intentional homicide,
25 first-degree or 2nd-degree reckless homicide, homicide by negligent handling of a

1 dangerous weapon, explosives, or fire, homicide by negligent operation of a vehicle,
2 homicide resulting from negligent control of a vicious animal, or homicide by
3 intoxicated user of a vehicle or firearm may have been committed, or that death may
4 have been due to suicide or unexplained or suspicious circumstances, the attorney
5 general or district attorney may order that an inquest be conducted for the purpose
6 of inquiring how the person died. The attorney general or district attorney shall
7 appear in any such inquest representing the state in presenting all evidence ~~which~~
8 that may be relevant or material to the inquiry of the inquest. The inquest may be
9 held in any county in this state in which venue would lie for the trial of any offense
10 charged as the result of or involving the death. An inquest may only be ordered by
11 the attorney general or district attorney under this subsection or by the circuit judge
12 under sub. (2).

13 **SECTION 4034c.** 979.04 (2) of the statutes is amended to read:

14 979.04 (2) If the coroner or medical examiner has knowledge of the death of any
15 person in the manner described under sub. (1), he or she shall immediately notify the
16 attorney general and district attorney. The notification shall include information
17 concerning the circumstances surrounding the death. The coroner or medical
18 examiner may request the attorney general and district attorney to order an inquest
19 under sub. (1). If the attorney general and district attorney ~~refuses~~ refuse to order
20 the inquest, a coroner or medical examiner may petition the circuit court to order an
21 inquest. The court may issue the order if it finds that the attorney general or district
22 attorney has abused his or her discretion in not ordering an inquest.

23 **SECTION 4034d.** 979.04 (3) of the statutes is amended to read:

24 979.04 (3) Subsequent to receipt of notice of the death, the attorney general or
25 district attorney may request the coroner or medical examiner to conduct a

1 preliminary investigation and report back to the attorney general or district
2 attorney. The attorney general or district attorney may determine the scope of the
3 preliminary investigation. This subsection does not limit or prevent any other
4 investigation into the death by any law enforcement agency with jurisdiction over
5 the investigation.

6 **SECTION 4034f.** 979.05 (2) of the statutes is amended to read:

7 979.05 (2) The inquest shall be conducted before a jury unless the attorney
8 general, district attorney, coroner, or medical examiner requests that the inquest be
9 conducted before only the judge or court commissioner ~~only~~. If the inquest is to be
10 conducted before a jury, a sufficient number of names of prospective jurors shall be
11 selected from the prospective juror list for the county in which the inquest is to be
12 held by the clerk of circuit court in the manner provided in s. 756.06. The judge or
13 court commissioner conducting the inquest shall summon the prospective jurors to
14 appear before the judge or court commissioner at the time fixed in the summons. The
15 summons may be served by mail, or by personal service if the judge, court
16 commissioner, attorney general, or district attorney determines personal service to
17 be appropriate. The summons shall be in the form used to summon petit jurors in
18 the circuit courts of the county. Any person who fails to appear when summoned as
19 an inquest juror is subject to a forfeiture of not more than \$40. The inquest jury shall
20 consist of 6 jurors. If 6 jurors do not remain from the number originally summoned
21 after establishment of qualifications, the judge or court commissioner conducting the
22 inquest may require the clerk of the circuit court to select sufficient additional jurors'
23 names. Those persons shall be summoned forthwith by the sheriff of the county.

24 **SECTION 4034g.** 979.05 (3) of the statutes is amended to read:

1 979.05 (3) The judge or court commissioner shall examine on oath or
2 affirmation each person who is called as a juror to discover whether the juror is
3 related by blood, marriage, or adoption to the decedent, any member of the decedent's
4 family, the attorney general, district attorney, any other attorney appearing in the
5 case, or any members of the office of the attorney general, district attorney, or of the
6 office of any other attorney appearing in the case; has expressed or formed any
7 opinion regarding the matters ~~being inquired into in~~ of the inquest; or is aware of or
8 has any bias or prejudice concerning the matters ~~being inquired into in~~ of the
9 inquest. If any prospective juror is found to be not indifferent or is found to have
10 formed an opinion ~~which~~ that cannot be laid aside, that juror shall be excused. The
11 judge or court commissioner may select one or more alternate jurors if the inquest
12 is likely to be protracted. This subsection does not limit the right of the attorney
13 general or district attorney to supplement the judge's or court commissioner's
14 examination of any prospective jurors as to qualifications.

15 **SECTION 4034h.** 979.05 (5) of the statutes is amended to read:

16 979.05 (5) Prior to the submission of evidence to the jury, the judge or court
17 commissioner may instruct the jury on its duties and on the substantive law
18 regarding the issues ~~which may be inquired into~~ before the jury. The attorney
19 general or district attorney may, at any time during the course of the inquest, make
20 statements to the jury relating to procedural or evidentiary matters that he or she
21 and the judge or court commissioner deem appropriate. Section 972.12 applies to the
22 conduct of the inquest jury.

23 **SECTION 4034j.** 979.05 (6) of the statutes is amended to read:

1 979.05 (6) The judge or court commissioner conducting the inquest may order
2 that proceedings be secret if the attorney general or district attorney so requests or
3 concurs.

4 **SECTION 4034m.** 979.06 (1) of the statutes is amended to read:

5 979.06 (1) The judge or court commissioner may issue subpoenas for witnesses
6 at the request of the coroner or medical examiner and shall issue subpoenas for
7 witnesses requested by the attorney general or district attorney. Subpoenas are
8 returnable at the time and place stated therein. Persons who are served with a
9 subpoena may be compelled to attend proceedings in the manner provided in s.
10 885.12.

11 **SECTION 4034n.** 979.06 (2) of the statutes is amended to read:

12 979.06 (2) The judge or court commissioner conducting the inquest and the
13 attorney general or district attorney may require by subpoena the attendance of one
14 or more expert witnesses, including physicians, surgeons, and pathologists, for the
15 purposes of conducting an examination of the body and all relevant and material
16 scientific and medical tests connected with the examination and testifying as to the
17 results of the examination and tests. The expert witnesses so subpoenaed shall
18 receive reasonable fees determined by the attorney general or district attorney and
19 the judge or court commissioner conducting the inquest.

20 **SECTION 4034p.** 979.07 (1) (a) of the statutes is amended to read:

21 979.07 (1) (a) If a person refuses to testify or to produce books, papers, or
22 documents when required to do so before an inquest for the reason that the testimony
23 or evidence required of the person may tend to incriminate him or her or subject him
24 or her to a forfeiture or penalty, the person may be compelled to testify or produce the
25 evidence by order of the circuit court of the county in which the inquest is convened

1 on motion of the attorney general or district attorney. A person who testifies or
2 produces evidence in obedience to the command of the court in that case is not subject
3 to any forfeiture or penalty for or on account of testifying or producing evidence,
4 except the person is subject to prosecution and punishment for perjury or false
5 swearing committed in so testifying.

6 **SECTION 4034r.** 979.08 (1) of the statutes is amended to read:

7 979.08 (1) When the evidence is concluded and the testimony closed, the judge
8 or court commissioner shall instruct the jury on its duties and on the substantive law
9 regarding the issues ~~inquired into~~ before the jury. The attorney general or district
10 attorney shall prepare a written set of appropriate requested instructions and shall
11 submit them to the judge or court commissioner who, together with the attorney
12 general or district attorney, shall compile the final set of instructions ~~which that~~ shall
13 be given. The instructions shall include those criminal offenses for which the judge
14 or court commissioner believes a reasonable jury might return a verdict based upon
15 a finding of probable cause.

16 **SECTION 4034t.** 979.08 (5) of the statutes is amended to read:

17 979.08 (5) The verdict delivered by the inquest jury is advisory and does not
18 preclude or require the issuance of any criminal charges by the attorney general or
19 district attorney.

20 **SECTION 4034u.** 979.08 (6) of the statutes is amended to read:

21 979.08 (6) Any verdict so rendered, after being validated and signed by the
22 judge or court commissioner, together with the record of the inquest, shall be
23 delivered to the attorney general or district attorney for consideration. After
24 considering the verdict and record, the attorney general or district attorney may

1 deliver the entire inquest record or any part thereof to the coroner or medical
2 examiner for safekeeping.

3 **SECTION 4034v.** 979.09 of the statutes is amended to read:

4 **979.09 Burial of body.** If any judge or court commissioner conducts an
5 inquest as to the death of a stranger or of a person whose identity is unknown or
6 whose body is unclaimed, or if the attorney general or district attorney determines
7 that no inquest into the death of such a person is necessary and the circuit judge has
8 not ordered an inquest under s. 979.04 (2), the coroner or medical examiner shall
9 cause the body to be decently buried or cremated and shall certify to all the charges
10 incurred in taking any inquest by him or her and to the expenses of burial or
11 cremation of the dead body. The If the district attorney or circuit court ordered the
12 inquest, charges and expenses shall be audited by the county board of the proper
13 county and paid out of the county treasury. If the attorney general ordered the
14 inquest, charges and expenses, except as provided under s. 979.11, shall be audited
15 and paid by the department of justice.

16 **SECTION 4034w.** 979.10 (2) of the statutes is amended to read:

17 **979.10 (2)** If a corpse is to be cremated, the coroner or medical examiner shall
18 make a careful personal inquiry into the cause and manner of death, and conduct an
19 autopsy or order the conducting of an autopsy, if in his or her or the attorney general's
20 or district attorney's opinion it is necessary to determine the cause and manner of
21 death. If the coroner or medical examiner determines that no further examination
22 or judicial inquiry is necessary he or she shall certify that fact. Upon written request
23 by the attorney general or district attorney the coroner or medical examiner shall
24 obtain the concurrence of the attorney general or district attorney before issuing the
25 certification. If the coroner or medical examiner determines that further

1 examination or judicial inquiry is necessary, he or she shall notify the attorney
2 general and district attorney under s. 979.04 (2).

3 **SECTION 4034y.** 979.11 of the statutes is amended to read:

4 **979.11 Compensation of officers.** The sole compensation of the coroner and
5 deputy coroners for attendance at an inquest and for any preliminary investigation
6 under this chapter at the direction of the attorney general or district attorney shall
7 be a reasonable sum set by the county board for each day actually and necessarily
8 required for the purpose, and a sum set by the county board for each mile actually
9 and necessarily traveled in performing the duty. Any coroner or deputy coroner may
10 be paid an annual salary and allowance for traveling expenses to be established by
11 the county board under s. 59.22 which shall be in lieu of all fees, per diem and
12 compensation for services rendered.

~~13~~ **SECTION 4034yd.** 980.065 (1r) of the statutes is created to read:

14 980.065 (1r) Notwithstanding sub. (1m), the department may place a female
15 person committed under s. 980.06 at Mendota Mental Health Institute, Winnebago
16 Mental Health Institute, or a privately operated residential facility under contract
17 with the department of health and family services.

18 **SECTION 4034ye.** 980.067 of the statutes is created to read:

19 **980.067 Activities off grounds.** The superintendent of the facility at which
20 a person is placed under s. 980.065 may allow the person to leave the grounds of the
21 facility under escort. The department of health and family services shall promulgate
~~22~~ rules for the administration of this section.

~~23~~

~~24~~

SECTION 4034yg. 980.08 (5) of the statutes is amended to read:

1 980.08 (5) If the court finds that the person is appropriate for supervised
2 release, the court shall notify the department. The department shall make its best
3 effort to arrange for placement of the person in a residential facility or dwelling that
4 is in the person's county of residence, as determined by the department under s.
5 980.105. The department and the county department under s. 51.42 in the county
6 of residence of the person, ~~as determined under s. 980.105,~~ shall prepare a plan that
7 identifies the treatment and services, if any, that the person will receive in the
8 community. The plan shall address the person's need, if any, for supervision,
9 counseling, medication, community support services, residential services, vocational
10 services, and alcohol or other drug abuse treatment. In developing a plan for where
11 the person may reside while on supervised release, the department shall consider the
12 proximity of any potential placement to the residence of other persons on supervised
13 release and to the residence of persons who are in the custody of the department of
14 corrections and regarding whom a sex offender notification bulletin has been issued
15 to law enforcement agencies under s. 301.46 (2m) (a) or (am). If the person is a serious
16 child sex offender, the plan shall address the person's need for pharmacological
17 treatment using an antiandrogen or the chemical equivalent of an antiandrogen. The
18 department may contract with a county department, under s. 51.42 (3) (aw) 1. d.,
19 with another public agency or with a private agency to provide the treatment and
20 services identified in the plan. The plan shall specify who will be responsible for
21 providing the treatment and services identified in the plan. The plan shall be
22 presented to the court for its approval within 60 days after the court finding that the
23 person is appropriate for supervised release, unless the department, county
24 department and person to be released request additional time to develop the plan.
25 If the county department of the person's county of residence declines to prepare a

1 plan, the department may arrange for another county to prepare the plan if that
2 county agrees to prepare the plan and if the person will be living in that county. If
3 the department is unable to arrange for another county to prepare a plan, the court
4 shall designate a county department to prepare the plan, order the county
5 department to prepare the plan and place the person on supervised release in that
6 county, except that the court may not so designate the county department in any
7 county where there is a facility in which persons committed to institutional care
8 under this chapter are placed unless that county is also the person's county of
9 residence.

10 **SECTION 4034yi.** 980.105 of the statutes is amended to read:

11 **980.105 Determination of county of residence.** The ~~court~~ department
12 shall determine a person's county of residence for the purposes of this chapter by
13 doing all of the following:

14 (1) The ~~court~~ department shall consider residence as the voluntary
15 concurrence of physical presence with intent to remain in a place of fixed habitation
16 and shall consider physical presence as prima facie evidence of intent to remain.

17 (2) The ~~court~~ department shall apply the criteria for consideration of residence
18 and physical presence under sub. (1) to the facts that existed on the date that the
19 person committed the sexually violent offense that resulted in the sentence,
20 placement or commitment that was in effect when the petition was filed under s.
21 980.02.

22 **SECTION 4034ys.** 980.101 of the statutes is created to read:

23 **980.101 Reversal, vacation or setting aside of judgment relating to a**
24 **sexually violent offense; effect.** (1) In this section, "judgment relating to a
25 sexually violent offense" means a judgment of conviction for a sexually violent

1 offense, an adjudication of delinquency on the basis of a sexually violent offense, or
2 a judgment of not guilty of a sexually violent offense by reason of mental disease or
3 defect.

4 (2) If, at any time after a person is committed under s. 980.06, a judgment
5 relating to a sexually violent offense committed by the person is reversed, set aside,
6 or vacated and that sexually violent offense was a basis for the allegation made in
7 the petition under s. 980.02 (2) (a), the person may bring a motion for
8 postcommitment relief in the court that committed the person. The court shall
9 proceed as follows on the motion for postcommitment relief:

10 (a) If the sexually violent offense was the sole basis for the allegation under s.
11 980.02 (2) (a) and there are no other judgments relating to a sexually violent offense
12 committed by the person, the court shall reverse, set aside, or vacate the judgment
13 under s. 980.05 (5) that the person is a sexually violent person, vacate the
14 commitment order, and discharge the person from the custody or supervision of the
15 department.

16 (b) If the sexually violent offense was the sole basis for the allegation under s.
17 980.02 (2) (a) but there are other judgments relating to a sexually violent offense
18 committed by the person that have not been reversed, set aside, or vacated, or if the
19 sexually violent offense was not the sole basis for the allegation under s. 980.02 (2)
20 (a), the court shall determine whether to grant the person a new trial under s. 980.05
21 because the reversal, setting aside, or vacating of the judgment for the sexually
22 violent offense would probably change the result of the trial.

23 (3) An appeal may be taken from an an order entered under sub. (2) as from
~~24~~ a final judgment.

~~25~~ SECTION 4034yr. 990.01 (39) of the statutes is created to read:

1 990.01 (39) SOUTHERN STATE FOREST. "Southern state forest" means a state
~~2~~ forest that is located within the region specified in s. 25.28 (3) (am).

3 **SECTION 4034z.** 992.14 of the statutes is created to read:

4 **992.14 Revenue limit agreement.** Notwithstanding s. 121.91, if a school
5 district held a referendum before February 5, 2001, to exceed its revenue limit under
6 s. 121.91 (2m) (e), and the resolution adopted by the school board and referred to in
7 the question submitted to the electors specified a mill rate to be used to calculate the
8 revenue limit increase, the amount by which the school district's revenue limit is
9 increased as a result of the referendum for each year specified in the referendum is
10 the dollar amount agreed to by the department of public instruction and the school
~~11~~ board of that school district.

12 **SECTION 4034zb.** 1995 Wisconsin Act 292, section 5 is repealed.

~~13~~ **SECTION 4034zc.** 1995 Wisconsin Act 292, section 12 is repealed.

14 **SECTION 4034zd.** 1995 Wisconsin Act 292, section 14 is repealed.

15 **SECTION 4034ze.** 1995 Wisconsin Act 292, section 16 is repealed.

16 **SECTION 4034zf.** 1995 Wisconsin Act 292, section 20 is repealed.

17 **SECTION 4034zg.** 1995 Wisconsin Act 292, section 22 is repealed.

18 **SECTION 4034zh.** 1995 Wisconsin Act 292, section 24 is repealed.

19 **SECTION 4034zi.** 1995 Wisconsin Act 292, section 28 is repealed.

20 **SECTION 4034zj.** 1995 Wisconsin Act 292, section 30 is repealed.

21 **SECTION 4034zk.** 1995 Wisconsin Act 292, section 30h is repealed.

22 **SECTION 4034zL.** 1995 Wisconsin Act 292, section 32 is repealed.

~~23~~ **SECTION 4034zm.** 1995 Wisconsin Act 292, section 37 (1) is repealed.

1 **SECTION 4035.** 1997 Wisconsin Act 4, section 4 (1) (a), as last affected by 1999
2 Wisconsin Act 9, section 3261, is amended to read:

3 [1997 Wisconsin Act 4] Section 4 (1) (a) Notwithstanding 1995 Wisconsin Act
4 27, section 9126 (23) and (26v), the department of corrections may, from July 1, 1997,
5 until July 1, ~~2001~~ 2003, operate the secured correctional facility, as defined in section
6 938.02 (15m) of the statutes, authorized under 1995 Wisconsin Act 27, section 9126
7 (26v), as a state prison named in section 302.01 of the statutes, as affected by this
8 act, for the placement of prisoners, as defined in section 301.01 (2) of the statutes,
9 who are not more than 21 years of age and who are not violent offenders, as
10 determined by the department of corrections.

11 **SECTION 4036.** 1997 Wisconsin Act 27, section 1622d is repealed.

12 **SECTION 4037.** 1997 Wisconsin Act 27, section 1623d is repealed.

13 **SECTION 4038.** 1997 Wisconsin Act 27, section 1624d is repealed.

14 **SECTION 4039b.** 1997 Wisconsin Act 27, section 9101 (11m) is amended to read:

15 [1997 Wisconsin Act 27] Section 9101 (11m) REPORT BY LAND INFORMATION
16 BOARD AND WISCONSIN LAND COUNCIL. No later than September 1, ~~2002~~ 2006, the land
17 information board and Wisconsin land council shall report to the legislature in the
18 manner provided under section 13.172 (2) of the statutes and to the governor
19 concerning the issue of continuation of their functions, including the feasibility of
20 combination of their functions.

21 **SECTION 4039p.** 1997 Wisconsin Act 27, section 9123 (6) is repealed.

22 **SECTION 4039q.** 1997 Wisconsin Act 27, section 9123 (6m) is repealed.

23 **SECTION 4039r.** 1997 Wisconsin Act 27, section 9123 (10g) is repealed.

24 **SECTION 4040.** 1997 Wisconsin Act 27, section 9423 (10f) is repealed.

25 **SECTION 4041b.** 1997 Wisconsin Act 27, section 9456 (3m) is amended to read:

1 [1997 Wisconsin Act 27] Section 9456 (3m) ELIMINATION OF LAND INFORMATION
2 BOARD AND WISCONSIN LAND COUNCIL. The treatment of sections 15.07 (1) (b) 16.,
3 15.105 (16), 16.968 (by SECTION 142am), 20.505 (1) (title) (by SECTION 666h), 20.505
4 (1) (ka) (by SECTION 669am), 23.27 (3) (a) (by SECTION 769ad), 23.325 (1) (a), 36.09 (1)
5 (e), 36.25 (12m) (intro.), ~~59.43 (2) (ag) 1. and (e)~~, 59.72 (1) (a) and (b), (3) (intro.), (a)
6 and (b) and (5) and 92.10 (4) (a) of the statutes, the repeal of sections 16.966 (1), (2)
7 ~~and (4) and (5)~~, 16.967, 20.505 (1) (ie), (ig), (ij) and (ks), 23.32 (2) (d), 59.43 (1) (u) and
8 59.72 (1) (am), (3) (c) and (4) of the statutes and SECTION 9101 (1) of this act take effect
~~9~~ on September 1, ~~2003~~ 2007.

10 **SECTION 4041d.** 1997 Wisconsin Act 35, section 141 is repealed.

11 **SECTION 4041e.** 1997 Wisconsin Act 35, section 144 is repealed.

12 **SECTION 4041f.** 1997 Wisconsin Act 35, section 147 is repealed.

~~13~~ **SECTION 4041g.** 1997 Wisconsin Act 35, section 605 (1) is repealed.

14 **SECTION 4041k.** 1997 Wisconsin Act 154, section 3 (2) is amended to read:

15 [1997 Wisconsin Act 154] Section 3 (2) JOINT COMMITTEE ON FINANCE REVIEW. The
16 department of health and family services shall submit the report under subsection
17 (1) to the joint committee on finance of the legislature for its review under section
18 13.10 of the statutes. ~~The department of health and family services may not submit~~
19 ~~the rules under section 146.56 (2) of the statutes, as created by this act, to the~~
20 ~~legislative council staff for review under section 227.15 of the statutes until the joint~~
~~21~~ ~~committee on finance approves the report under subsection (1).~~

22 **SECTION 4041m.** 1997 Wisconsin Act 237, section 82cr is repealed.

23 **SECTION 4041n.** 1997 Wisconsin Act 237, section 9452 is repealed.

24 **SECTION 4042.** 1997 Wisconsin Act 252, section 51 is repealed.

25 **SECTION 4043.** 1997 Wisconsin Act 252, section 53 is repealed.

1 **SECTION 4044.** 1997 Wisconsin Act 252, section 201 (1) is repealed.

2 **SECTION 4045.** 1999 Wisconsin Act 9, section 11ac is repealed.

3 **SECTION 4046.** 1999 Wisconsin Act 9, section 593ac is repealed.

4 **SECTION 4046g.** 1999 Wisconsin Act 9, section 1278t is repealed.

5 **SECTION 4046j.** 1999 Wisconsin Act 9, section 9123 (3) (a) is amended to read:

6 [1999 Wisconsin Act 9] Section 9123 (3) (a) From the ~~appropriations under~~
7 ~~section 20.435 (6) (a) of the statutes, as affected by this act, and section 20.435 (6) (n)~~
8 ~~appropriation account under section 20.435 (7) (md) of the statutes, the department~~
9 ~~of health and family services shall expend up to \$398,000 in state fiscal year 2001–02~~
10 ~~and up to \$38,000 in state fiscal year 2002–03 to contract with counties or federally~~
11 ~~recognized American Indian tribes or bands to provide up to 4 demonstration projects~~
12 ~~in state fiscal year 2000–01, except that the department is not precluded from also~~
13 ~~awarding funds for this purpose under section 46.54 of the statutes, as affected by~~
14 ~~this act.~~ The demonstration projects shall be to provide mental health and alcohol
15 or other drug abuse services under managed care programs to persons who suffer
16 from mental illness, alcohol or other drug dependency, or both mental illness and
17 alcohol or other drug dependency.

18 **SECTION 4046m.** 1999 Wisconsin Act 9, section 9136 (10) is repealed.

~~19~~ **SECTION 4046s.** 1999 Wisconsin Act 9, section 9158 (8w) (e) is repealed.

~~20~~ **SECTION 4046r.** 1999 Wisconsin Act 9, section 9150 (3bm) is amended to read:

21 [1999 Wisconsin Act 9] Section 9150 (3bm) CONTRACTING FOR DESIGN OR
22 CONSTRUCTION OF LIGHT RAIL PROHIBITED. Notwithstanding any other provision of
23 chapter 59, 60, 61, 62 or 66 of the statutes, no governing body of any city, village, town
24 or county and no agency, corporation, instrumentality or subunit of a city, village,
25 town or county, may enter into a contract for any purpose related to a light rail mass

1 transit system after the effective date of this subsection if the cost of any of the
2 contracted items would be paid for by, or reimbursed with, federal funds received
3 under P.L. 102-240, section 1045, or P.L. 105-277, section 373, or any funds received
4 from the state. This subsection does not apply to any funds expended or activity
5 related to a mass transit system that is done under the memorandum of agreement
6 concerning USH 12 between Middleton and Lake Delton, Wisconsin, that was
7 executed by the governor, the secretary of transportation, the secretary of natural
8 resources, the county executive of Dane County, the administrative coordinator of
9 Sauk County, and others, and that became effective on April 22, 1999. This
10 subsection does not apply after June 30, ~~2001~~ 2002.

11 **SECTION 4047.** 1999 Wisconsin Act 9, section 9201 (2m) is repealed.

12 **SECTION 4048.** 1999 Wisconsin Act 9, section 9201 (2n) is repealed.

13 **SECTION 4049.** 1999 Wisconsin Act 9, section 9201 (2p) is repealed.

14 **SECTION 4050.** 1999 Wisconsin Act 9, section 9211 (title) and (2g) are repealed.

15 **SECTION 4051.** 1999 Wisconsin Act 9, section 9230 (title) and (1) are repealed.

16 **SECTION 4052.** 1999 Wisconsin Act 9, section 9230 (2m) is repealed.

17 **SECTION 4053.** 1999 Wisconsin Act 9, section 9230 (3m) is repealed.

18 **SECTION 4054.** 1999 Wisconsin Act 9, section 9238 (title) and (1h) are repealed.

19 **SECTION 4055.** 1999 Wisconsin Act 9, section 9239 (title) and (1h) are repealed.

20 **SECTION 4056.** 1999 Wisconsin Act 9, section 9239 (2h) is repealed.

21 **SECTION 4057.** 1999 Wisconsin Act 9, section 9357 (3) is amended to read:

22 [1999 Wisconsin Act 9] Section 9357 (3) ASSIGNMENT OF RECEIVING AND
23 DISBURSING FEES. The treatment of sections 767.265 (1), (2h) (by SECTION 3059) and
24 (2r) and 767.29 (1) (d) (intro.), 1. and 2. ~~of the statutes and the amendment of section~~

1 767.265 (1m) of the statutes first ~~apply~~ applies to annual receiving and disbursing
2 fees that are ordered on the effective date of this subsection.

3 **SECTION 4059b.** 1999 Wisconsin Act 9, section 9401 (2zt) is amended to read:

4 [1999 Wisconsin Act 9] Section 9401 (2zt) WISCONSIN LAND COUNCIL. The
5 treatment of section 20.505 (1) (ka) (by SECTION 519) of the statutes takes effect on
6 September 1, ~~2003~~ 2007.

7 **SECTION 4059g.** 1999 Wisconsin Act 9, section 9401 (2zu) is amended to read:

8 [1999 Wisconsin Act 9] Section 9401 (2zu) SOIL SURVEYS AND MAPPING. The
9 repeal of sections 16.967 (11) and 20.505 (1) (ik) ~~and of the statutes~~, the treatment
10 of sections 15.01 (4) (by SECTION 12n) and 227.01 (1) (by SECTION 2353n) of the
11 statutes and the repeal of section 16.965 (3) and (5) of the statutes take effect on
12 September1, ~~2003~~ 2007.

13 **SECTION 4060.** 1999 Wisconsin Act 9, section 9421 (1x) is amended to read:

14 [1999 Wisconsin Act] Section 9421 (1x) ASSISTANCE FROM DEPARTMENT OF
15 WORKFORCE DEVELOPMENT. The treatment of section 20.445 (3) (mc) (by SECTION
16 474ac) of the statutes ~~and the repeal of sections 14.18 and 20.525 (1) (kb) of the~~
17 ~~statutes take~~ takes effect on January 6, 2003.

18 **SECTION 4060d.** 1999 Wisconsin Act 9, section 9423 (14g) is repealed.

19 **SECTION 4060fm.** 1999 Wisconsin Act 42, sections 18 and 27 are repealed.

20 **SECTION 4060gg.** 1999 Wisconsin Act 109, section 17 is repealed.

21 **SECTION 4060gj.** 1999 Wisconsin Act 109, section 26 is repealed.

22 **SECTION 4060gk.** 1999 Wisconsin Act 109, section 38 is repealed.

23 **SECTION 4060gm.** 1999 Wisconsin Act 109, section 56j is repealed.

24 **SECTION 4060hd.** 1999 Wisconsin Act 109, section 70 is repealed.

25 **SECTION 4060hg.** 1999 Wisconsin Act 109, section 72 is repealed.

1 **SECTION 4060hj.** 1999 Wisconsin Act 109, section 73 is repealed.

2 **SECTION 4060hk.** 1999 Wisconsin Act 109, section 84 is repealed.

3 **SECTION 4060hm.** 1999 Wisconsin Act 109, section 85 is repealed.

4 **SECTION 4060hp.** 1999 Wisconsin Act 109, section 86 is repealed.

5 **SECTION 4060hr.** 1999 Wisconsin Act 109, section 87 is repealed.

6 **SECTION 4060ht.** 1999 Wisconsin Act 109, section 88 (2) is amended to read:

7 [1999 Wisconsin Act 109] Section 88 (2) The department of transportation and
8 the department of health and family services shall study jointly and evaluate the
9 effectiveness of using ignition interlock devices and vehicle immobilization as
10 methods of reducing the prevalence of drunk driving and the recidivism of
11 drunk-driving offenders. The departments shall consult with the counties, the law
12 enforcement agencies, the courts, and the providers of services to alcohol abusers
13 regarding this study and evaluation. No later than ~~the first day of the 24th month~~
14 ~~beginning after the effective date of section 343.301 of the statutes, as created in this~~
15 ~~act~~ January 1, 2004, the department shall submit a report to the legislature in the
16 manner provided under section 13.172 (2) of the statutes that contains the
17 conclusions of the departments' study and evaluation and any recommendations
18 concerning implementation of the conclusions.

19 **SECTION 4060hw.** 1999 Wisconsin Act 109, section 90 (3) is amended to read:

20 [1999 Wisconsin Act 109] Section 90 (3) **IGNITION INTERLOCK AND IMMOBILIZATION.**
21 The treatment of sections 342.12 (4) (a), (b) and (c) 1. (intro.), ~~343.10 (5) (a) 3.,~~
22 ~~343.301, 343.305 (10m), 346.65 (6) (a) 1. (by SECTION 56j), 2m. and 3. and (b), (d), (k)~~
23 ~~and (m), and 347.413 (1) and (2), 347.417 (1) and (2), 940.09 (1d) (a) and 940.25 (1d)~~
24 ~~(a) of the statutes and the renumbering of sections 940.09 (1d) and 940.25 (1d) of the~~
25 statutes first ~~apply~~ applies to violations committed or refusals occurring on the

1 effective date of this subsection, but does not preclude the counting of other
2 convictions, suspensions or revocations as prior convictions, suspensions or
3 revocations for purposes of administrative action by the department of
4 transportation or sentencing by a court.

5 **SECTION 4060hy.** 1999 Wisconsin Act 109, section 91 (2) is amended to read:

6 [1999 Wisconsin Act 109] Section 91 (2) The treatment of sections 342.12 (4)
7 (a), (b) and (c) 1. (intro.), ~~343.10 (5) (a) 3., 343.301, 343.305 (10m), 346.65 (6) (a) 1.~~
8 ~~(by SECTION 56j), 2m. and 3. and, (b), (k) and (m), and 347.413 (1) and (2), 347.417 (1)~~
9 ~~and (2), 940.09 (1d) (a) and 940.25 (1d) (a) of the statutes, the renumbering of sections~~
10 ~~940.05 (1d) and 940.25 (1d) of the statutes and SECTION 90 (3) of this act take effect~~
11 on January 1, 2002.

12 **SECTION 4060j.** 1999 Wisconsin Act 9, section 9423 (1) is amended to read:

13 [1999 Wisconsin Act 9] Section 9423 (1) ELIMINATION OF COUNCIL ON LONG-TERM
14 CARE. The repeal of sections 15.197 (5), 46.281 (1) (a) and (b) and 46.282 (1) of the
15 statutes takes effect on July 1, ~~2001~~ 2003, or on the day after publication of the
16 ~~2001-03~~ 2003-05 biennial budget act, whichever is later.

17 **SECTION 9101. Nonstatutory provisions; administration.**

18 (1) TANK PLAN REVIEW AND INSPECTION FEES. The secretary of administration
19 shall calculate the amount of fees collected for plan review and inspection of tanks
20 for the storage, handling, or use of flammable or combustible liquids and for any
21 certification or registration required under section 101.09 (3) (c) of the statutes
22 beginning on July 1, 2000, and ending on the effective date of this subsection, less
23 the costs encumbered under the appropriation under section 20.143 (3) (j) of the
24 statutes during that period for 2 program specialists for the program under section
25 101.143 of the statutes.

1 (2) PROSECUTION OF DRUG CRIMES; DANE COUNTY. From federal and program
2 revenue moneys appropriated to the department of administration for the office of
3 justice assistance under section 20.505 (6) (kp) and (p) of the statutes, the
4 department shall expend \$84,000 in fiscal year 2001-02 and \$91,000 in fiscal year
5 2002-03 to provide the multijurisdictional enforcement group serving Dane County
6 with funding for one assistant district attorney to prosecute criminal violations of
7 chapter 961 of the statutes.

8 (3) PROSECUTION OF DRUG CRIMES; MILWAUKEE COUNTY. From federal and
9 program revenue moneys appropriated to the department of administration for the
10 office of justice assistance under section 20.505 (6) (kp) and (p) of the statutes, the
11 department shall expend \$277,900 in fiscal year 2001-02 and \$291,400 in fiscal year
12 2002-03 to provide the multijurisdictional enforcement group serving Milwaukee
13 County with funding for 3 assistant district attorneys to prosecute criminal
~~14~~ violations of chapter 961 of the statutes.

~~15~~ (7) CONSOLIDATION OF APPROPRIATIONS.

16 (av) On the effective date of this paragraph, the secretary of administration
17 shall apportion and transfer the unencumbered moneys and accounts receivable
18 from the appropriation account under section 20.505 (1) (kd), 1999 stats., to the
19 appropriation accounts under sections 20.505 (1) (kb) and 20.530 (1) (kL) of the
20 statutes, as affected by this act, and shall apportion and transfer the liabilities,
21 including any liabilities incurred under section 20.903 (2) (b) of the statutes, as
22 affected by this act, from the appropriation under section 20.505 (1) (kd) of the
23 statutes to the appropriations under sections 20.505 (1) (kb) and 20.530 (1) (kL) of
24 the statutes, as affected by this act, in the manner determined by the secretary.

1 (bv) On the effective date of this paragraph, the secretary of administration
2 shall apportion and transfer the unencumbered moneys and accounts receivable that
3 are attributable to state telecommunications services from the appropriation
4 account under section 20.505 (1) (kL) of the statutes, as affected by this act, to the
5 appropriation account under section 20.530 (1) (ke) of the statutes, as affected by this
6 act.

7 (10) WISCONSIN ADVANCED TELECOMMUNICATIONS FOUNDATION FUNDS.

8 (a) *Determination by secretary of administration.* On the effective date of this
9 paragraph, the secretary of administration shall determine whether the Wisconsin
10 Advanced Telecommunications Foundation has granted to the state, before the
11 effective date of this paragraph, some or all of the unencumbered balances of the
12 endowment fund established under section 14.28 (2) (g), 1999 stats., and the fast
13 start fund established under section 14.28 (6) (a), 1999 stats. If the secretary
14 determines that such a grant has been made, the amount of the grant, except for any
15 amount in excess of \$4,479,700, is credited to the appropriation under section 20.865
16 (4) (gm) of the statutes, as created by this act, and any amount of the grant in excess
17 of \$4,479,700 is credited to the appropriation under section 20.275 (1) (jm) of the
18 statutes, as created by this act. If the secretary determines that the amount of the
19 grant is less than \$4,479,700, the secretary shall notify the cochairpersons of the
20 joint committee on finance. If the secretary determines that the amount of the grant
21 is \$4,479,700 or more, each of the following applies:

22 1. 'Wisconsin Informational Network for School Success.' An amount equal to
23 \$579,000 is transferred from the appropriation account under section 20.865 (4) (gm)
24 of the statutes, as created by this act, to the appropriation account under section

1 20.255 (1) (ke) of the statutes, for the purpose of upgrading the Wisconsin
2 Informational Network for School Success.

3 2. ‘State school finance information system.’ An amount equal to \$77,800 is
4 transferred from the appropriation account under section 20.865 (4) (gm) of the
5 statutes, as created by this act, to the appropriation account under section 20.255 (1)
6 (ke) of the statutes, for the purpose of upgrading the state school finance information
7 system.

8 3. ‘Wisconsin Center for the Blind and Visually Impaired.’ An amount equal
9 to \$526,000 is transferred from the appropriation account under section 20.865 (4)
10 (gm) of the statutes, as created by this act, to the appropriation account under section
11 20.255 (1) (ke) of the statutes, for the purpose of upgrading and replacing assistive
12 technology devices and related software programs at the Janesville facility of the
13 Wisconsin Center for the Blind and Visually Impaired and the regional satellite
14 facilities of the center and for completing a network upgrade at the Janesville facility.

15 4. ‘Wisconsin Regional Library for the Blind and Physically Handicapped.’ An
16 amount equal to \$161,600 is transferred from the appropriation account under
17 section 20.865 (4) (gm) of the statutes, as created by this act, to the appropriation
18 account under section 20.255 (1) (ke) of the statutes, for the purpose of replacing the
19 automated system at the Wisconsin Regional Library for the Blind and Physically
20 Handicapped.

21 5. ‘Technology for educational achievement in Wisconsin board.’ An amount
22 equal to \$136,200 is transferred from the appropriation account under section 20.865
23 (4) (gm) of the statutes, as created by this act, to the appropriation account under
24 section 20.275 (1) (k) of the statutes, as created by this act, for the purpose of carrying

1 out the duties of the technology for educational achievement in Wisconsin board
~~2~~ under section 44.71 (2) (i) of the statutes.

~~3~~ 3
~~4~~ 7. 'Wisconsin advanced telecommunications foundation grants.' An amount
~~5~~ equal to \$499,100 is transferred from the appropriation account under section 20.865
6 (4) (gm) of the statutes, as created by this act, to the appropriation account under
7 section 20.275 (1) (k) of the statutes, as created by this act, for the purpose of closing
8 out any existing grants made by the Wisconsin advanced telecommunications
~~9~~ foundation.

~~10~~ 11. 'Department of commerce grants for technology research.' An amount equal
11 to \$1,500,000 is transferred from the appropriation account under section 20.865 (4)
12 (gm) of the statutes, as created by this act, to the appropriation account under section
13 20.143 (1) (kt) of the statutes, as created by this act, for the purpose of allowing the
14 department of commerce to make grants, no later than June 30, 2003, to the
15 University of Wisconsin-Milwaukee, the University of Wisconsin-Parkside,
16 Marquette University, the Milwaukee School of Engineering, and the Medical
17 College of Wisconsin for research related to emerging technologies that will promote
18 industrial and economic development in southeastern Wisconsin. The department
19 of commerce may not make a grant under this subdivision unless the department and
20 the recipient enter into an agreement that specifies reporting and auditing
~~21~~ requirements for the grant.

~~22~~ 22
~~23~~ 14. 'University of Wisconsin-Madison Medical School.' An amount equal to
24 \$500,000 is transferred from the appropriation account under section 20.865 (4) (gm)
25 of the statutes, as created by this act, to the appropriation account under section

1 20.285 (1) (k) of the statutes for the purpose of purchasing a digital mammography
~~2~~ machine for the University of Wisconsin–Madison Medical School.

~~3~~ (b) *Wisconsin geographical education program.* If the secretary of
4 administration determines under paragraph (a) (intro.) that the Wisconsin
5 Advanced Telecommunications Foundation has made a grant in an amount that is
6 \$13,465,100 or more and determines that the National Geographic Society
7 Education Foundation has provided the matching funds described in section 115.28
8 (42) (a) of the statutes, as created by this act, on the effective date of this paragraph
9 or on the date that the secretary makes the determination under this paragraph,
10 whichever is later, an amount equal to \$500,000 is transferred from the
11 appropriation account under section 20.865 (4) (gm) of the statutes, as created by this
12 act, to the appropriation account under section 20.255 (1) (ke) of the statutes, for the
13 purpose of making a grant to the National Geographic Society Education Foundation
14 for the geographical education program established under section 115.28 (42) of the
15 statutes, as created by this act.

16 (11) POSITION AUTHORIZATION. The authorized FTE positions for the department
17 of administration are increased by 1.0 PR position for the performance of duties
18 primarily related to printing services in the division of information technology
19 services.

20 (12) TRANSFER OF CAPACITY BUILDING GRANT PROGRAM.

21 (a) *Tangible personal property.* On the effective date of this paragraph, all
22 tangible personal property, including records, of the department of administration
23 that is primarily related to the capacity building grant program, as determined by
24 the secretary of administration, is transferred to the technical college system board.

1 (b) *Contracts*. All contracts entered into by the department of administration
2 in effect on the effective date of this paragraph that are primarily related to the
3 capacity building grant program, as determined by the secretary of administration,
4 remain in effect and are transferred to the technical college system board. The
5 technical college system board shall carry out any obligations under such a contract
6 until the contract is modified or rescinded by the technical college system board to
7 the extent allowed under the contract.

8 (c) *Rules*. All rules promulgated by the department of administration that are
9 primarily related to the capacity building grant program, as determined by the
10 secretary of administration, and that are in effect on the effective date of this
11 paragraph remain in effect until their specified expiration date or until amended or
12 repealed by the technical college system board.

13 (d) *Pending matters*. Any matter pending with the department of
14 administration on the effective date of this paragraph that is primarily related to the
15 capacity building grant program, as determined by the secretary of administration,
16 is transferred to the technical college system board and all materials submitted to
17 or actions taken by the department of administration with respect to the pending
18 matter are considered as having been submitted to or taken by the technical college
19 system board.

20 (13) MISDEMEANOR OFFENDER DIVERSION PROGRAM. The secretary of
21 administration may allocate up to \$1,218,100 in fiscal year 2002–03 from the
22 appropriation accounts under section 20.505 (6) (kt) of the statutes and under section
23 20.505 (6) (m) of the statutes, as affected by this act, for distribution to the public
24 defender board, the director of state courts, and the Wisconsin District Attorneys
25 Association to fund activities to divert misdemeanor offenders from imprisonment.

1 The money allocated under this subsection may not be expended unless the secretary
2 of administration approves a proposal for a misdemeanor diversion program
3 submitted to the secretary by the public defender board; the secretary submits the
4 proposal to the joint committee on finance; and the cochairpersons of the joint
5 committee on finance do not notify the secretary within 14 working days after the
6 date of his or her submittal that the committee has scheduled a meeting for the
7 purpose of reviewing the proposal, or if, within 14 working days after the date of the
8 secretary's submittal, the cochairpersons of the committee notify the secretary that
9 the committee has scheduled a meeting for the purpose of reviewing the proposal,
10 and the committee meets and approves a proposal for the expenditure of money
11 allocated under this subsection.

~~12~~ (14) ELECTRONIC PROCUREMENT AND COMMERCE ACTIVITIES. The department of
13 administration shall report to the governor and the cochairpersons of the joint
14 committee on finance concerning the status of the electronic procurement and
15 commerce activities of the department. The department shall include in the report
16 an assessment of the costs and benefits of those activities for the 2002–03 fiscal year
17 and an assessment of the effectiveness of state executive branch agencies in
~~18~~ increasing the volume of those activities.

19 (15) TRANSFER OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS
20 FUNCTIONS.

21 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
22 liabilities of the department of administration that are primarily related to its
23 information technology or telecommunications functions, except educational
24 technology functions, as determined by the secretary of administration, shall become

1 assets and liabilities of the department of electronic government, as created by this
2 act.

3 (b) *Positions and employees.*

4 1. On the effective date of this subdivision, all full-time equivalent positions
5 in the department of administration having duties that are primarily related to its
6 information technology or telecommunications functions, except educational
7 technology functions, as determined by the secretary of administration, are
8 transferred to the department of electronic government, as created by this act.

9 2. All incumbent employees holding positions specified in subdivision 1. are
10 transferred on the effective date of this subdivision to the department of electronic
11 government, as created by this act.

12 3. Employees transferred under subdivision 2. have all of the rights and the
13 same status under subchapter V of chapter 111 and chapter 230 of the statutes in the
14 department of electronic government, as created by this act, that they enjoyed in the
15 department of administration immediately before the transfer. Notwithstanding
16 section 230.28 (4) of the statutes, no employee so transferred who has attained
17 permanent status in class is required to serve a probationary period.

18 (c) *Tangible personal property.* On the effective date of this paragraph, all
19 tangible personal property, including records, of the department of administration
20 that is primarily related to its information technology or telecommunications
21 functions, except educational technology functions, as determined by the secretary
22 of administration, is transferred to the department of electronic government, as
23 created by this act.

24 (d) *Contracts.* All contracts entered into by the department of administration
25 in effect on the effective date of this paragraph that are primarily related to its