AN ACT to repeal 20.410 (1) (ed); to renumber and amend 302.44; to amend
13.48 (19), 13.48 (27), 20.410 (1) (ab), 59.53 (8), 59.54 (14) (a), 109.09 (1), 111.322
(2m) (c), 227.01 (13) (t), 302.01, 302.34, 946.15 (1), 946.15 (2), 946.15 (3), 946.15
(4) and 973.03 (1); and to create 20.924 (1) (i), 20.924 (1) (j), 301.19, 301.235
(2) (dm) and 302.44 (2) of the statutes; relating to: the construction, lease, and
operation of correctional facilities, making an appropriation, and providing
penalties.

Analysis by the Legislative Reference Bureau

Engrossment information:
The text of Engrossed 2001 Assembly Bill 42 consists of the bill, as affected by
the following documents adopted by the assembly on February 14, 2001: the bill as
affected by Assembly Amendment 2 (as affected by Assembly Amendment 1 thereto),
Assembly Amendment 3, and Assembly Amendment 4.

Content of Engrossed 2001 Assembly Bill 42:
Under current law, as a part of the authorized state building program, the
building commission may lease any facility, with an option to purchase the facility
by the state, for use by the department of corrections (DOC). Current law also
appropriates money to DOC for making payments under certain contracts. This bill
amends the appropriation provision relating to contract payments to authorize DOC to use the money appropriated under that provision, subject to the approval of the joint committee on finance, to lease correctional facilities in this state and to operate the correctional facilities that it leases.

The bill also imposes certain limitations on the building commission’s authority to lease or acquire a correctional facility. Under the bill, the building commission may not lease an adult correctional facility unless: 1) the lessor complied with certain “prevailing wage” requirements that typically apply to state or local public works projects; or 2) the construction of the correctional facility began before October 1, 1999. In addition, the building commission may not lease or acquire an adult or juvenile correctional facility unless: 1) construction of the correctional facility began after it was enumerated in the authorized state building program; or 2) construction was completed before January 1, 2001.

In addition, the bill prohibits private persons from constructing an adult or juvenile correctional facility for use by DOC or converting an existing building, structure, or facility into a DOC adult or juvenile correctional facility unless: 1) the correctional facility is enumerated in the authorized state building program; 2) the construction is undertaken under contract with one or two counties, the federal government, or an American Indian tribe or band; or 3) the construction of the building, structure, or facility was completed before January 1, 2001, and the building, structure, or facility was designed to confine persons convicted of crimes.

The bill also names the penitentiary near Stanley the “Stanley Correctional Institution.”

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

SECTION 1. 13.48 (19) of the statutes is amended to read:

13.48 (19) Whenever the building commission determines that the use of innovative types of design and construction processes will make better use of the resources and technology available in the building industry, the building commission may waive any or all of s. 16.855 if such action is in the best interest of the state and if the waiver is accomplished through formal action of the building commission. The Subject to the requirements of s. 20.924 (1) (i) and (j), the building commission may authorize the lease, lease purchase or acquisition of such facilities constructed in the manner authorized by the building commission. The Subject to the requirements of s. 20.924 (1) (i) and (j), the building commission may also authorize the lease, lease
purchase or acquisition of existing facilities in lieu of state construction of any project
enumerated in the authorized state building program.

SECTION 2. 13.48 (27) of the statutes is amended to read:

13.48 (27) LEASE OF CORRECTIONAL FACILITIES. The Subject to s. 20.924 (1) (i) and
(j), the building commission may lease any facility for use of the department of
corrections as a part of the authorized state building program, with an option to
purchase the facility by the state. Any lease shall provide for the facility to be
constructed in accordance with requirements and specifications approved by the
department of administration and shall permit inspection of the site and facility by
agents of the department.

SECTION 3. 20.410 (1) (ab) of the statutes is amended to read:

20.410 (1) (ab) Corrections contracts and, agreements and leases. The amounts
in the schedule for payments made in accordance with contracts entered into under
ss. 301.21, 302.25 and 302.27, contracts entered into with the federal government
under 18 USC 5003 and intra-agency agreements relating to the placement of
prisoners and, subject to the approval of the joint committee on finance, for payments
made to lease correctional facilities in this state under s. 13.48 (27) and for the
operation of those facilities.

SECTION 4. 20.410 (1) (ed) of the statutes is repealed.

SECTION 5. 20.924 (1) (i) of the statutes is created to read:

20.924 (1) (i) May not lease or authorize the leasing of any building, structure,
or facility, or portion thereof for initial occupancy by the department of corrections
for the purpose of confining persons serving a sentence of imprisonment to the
Wisconsin state prisons under ch. 973 unless the construction of the building,
structure or facility or its conversion into a correctional facility began before October 1, 1999, or unless the lessor has done all of the following:

1. Not permit any employee working on the building, structure, or facility, or portion thereof, who would be entitled to receive the prevailing wage rate under s. 103.49 and who would not be required or permitted to work more than the prevailing hours of labor, if the building, structure, or facility, or portion thereof, were a project of public works subject to s. 103.49, to be paid less than the prevailing wage rate or to be required or permitted to work more than the prevailing hours of labor, except as permitted under s. 103.49 (2).

2. Require any contractor, subcontractor, or agent thereof performing work on the building, structure, or facility, or portion thereof, to keep and permit inspection of records in the same manner as a contractor, subcontractor, or agent thereof performing work on a project of public works that is subject to s. 103.49 is required to keep and permit inspection of records under s. 103.49 (5).

3. Otherwise comply with s. 103.49 in the same manner as a state agency contracting for the erection, construction, remodeling, repairing, or demolition of a project of public works is required to comply with s. 103.49 and to require any contractor, subcontractor, or agent thereof performing work on the building, structure, or facility, or portion thereof, to comply with s. 103.49 in the same manner as a contractor, subcontractor, or agent thereof performing work on a project of public works that is subject to s. 103.49 is required to comply with s. 103.49.

SECTION 5g. 20.924 (1) (j) of the statutes is created to read:

20.924 (1) (j) May not lease or acquire or authorize the leasing or acquisition of any building, structure, or facility or portion thereof for initial occupancy by the department of corrections for the purpose of confining persons serving a sentence of
imprisonment to the Wisconsin state prisons under ch. 973 or for the purpose of
confining juveniles alleged or found to be delinquent unless the construction of the
building, structure, or facility or the conversion of the building, structure, or facility
into a correctional facility either was completed before January 1, 2001, or began
after the building, structure, or facility was enumerated in the authorized state
building program.

**SECTION 5m.** 59.53 (8) of the statutes is amended to read:

59.53 (8) **Rehabilitation facilities.** The board may establish and maintain
rehabilitation facilities in any part of the county under the jurisdiction of the sheriff
as an extension of the jail, or separate from the jail under jurisdiction of a
superintendent, to provide any person sentenced to the county jail with a program
of rehabilitation for such part of the person’s sentence or commitment as the court
determines will be of rehabilitative value to the prisoner. Rehabilitation facilities
may be located outside of the county under a cooperative agreement under s. 302.44
(1).

**SECTION 5r.** 59.54 (14) (a) of the statutes is amended to read:

59.54 (14) (a) A county shall provide a courthouse, fireproof offices and other
necessary buildings at the county seat and keep them in good repair. A county shall
provide a jail or enter into a cooperative agreement under s. 302.44 (1) for the
cooperative establishment and use of a jail. The jail and rehabilitation facilities as
extensions of the jail need not be at the county seat and may be located outside of the
county under a cooperative agreement under s. 302.44 (1).

**SECTION 6.** 109.09 (1) of the statutes is amended to read:

109.09 (1) The department shall investigate and attempt equitably to adjust
controversies between employers and employees as to alleged wage claims. The
department may receive and investigate any wage claim which is filed with the
department, or received by the department under s. 109.10 (4), no later than 2 years
after the date the wages are due. The department may, after receiving a wage claim,
investigate any wages due from the employer against whom the claim is filed to any
employee during the period commencing 2 years before the date the claim is filed.
The department shall enforce this chapter and ss. 20.924 (1) (i) 1., 2., and 3., 66.0903,
103.02, 103.49, 103.82, 104.12 and 229.8275. In pursuance of this duty, the
department may sue the employer on behalf of the employee to collect any wage claim
or wage deficiency and ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions.
Except for actions under s. 109.10, the department may refer such an action to the
district attorney of the county in which the violation occurs for prosecution and
collection and the district attorney shall commence an action in the circuit court
having appropriate jurisdiction. Any number of wage claims or wage deficiencies
against the same employer may be joined in a single proceeding, but the court may
order separate trials or hearings. In actions that are referred to a district attorney
under this subsection, any taxable costs recovered by the district attorney shall be
paid into the general fund of the county in which the violation occurs and used by that
county to meet its financial responsibility under s. 978.13 (2) for the operation of the
office of the district attorney who prosecuted the action.

**SECTION 7.** 111.322 (2m) (c) of the statutes is amended to read:

111.322 (2m) (c) The individual files a complaint or attempts to enforce a right
under s. 20.924 (1) (i) 1., 2., or 3., 66.0903, 103.49 or 229.8275 or testifies or assists
in any action or proceeding under s. 20.924 (1) (i) 1., 2., or 3., 66.0903, 103.49 or
229.8275.

**SECTION 8.** 227.01 (13) (t) of the statutes is amended to read:
227.01 (13) (t) Ascertains and determines prevailing wage rates under ss. 20.924 (1) (i), 66.0903, 103.49, 103.50 and, or 229.8275, except that any action or inaction which ascertains and determines prevailing wage rates under ss. 20.924 (1) (i), 66.0903, 103.49, 103.50 and, or 229.8275 is subject to judicial review under s. 227.40.

SECTION 8m. 301.19 of the statutes is created to read:

301.19 Construction of correctional facilities by private persons. (1)

In this section:

(a) “Authorized jurisdiction” means a county, two counties acting under s. 302.44 (1), the United States, or a federally recognized American Indian tribe or band in this state.

(b) “Correctional facility” means a building, structure, or facility or portion thereof to be used to confine persons serving a sentence of imprisonment to the Wisconsin state prisons under ch. 973 or to confine juveniles alleged or found to be delinquent.

(2) No person may commence construction of a correctional facility or commence the conversion of an existing building, structure, or facility into a correctional facility unless the building, structure, or facility is enumerated in the authorized state building program.

(3) Subsection (2) does not apply to any of the following:

(a) A building, structure, or facility that is constructed or converted under a contract with and for use by an authorized jurisdiction.

(c) A building, structure, or facility the construction of which was completed before January 1, 2001, if the building, structure, or facility was designed to confine persons convicted of criminal offenses.
SECTION 9. 301.235 (2) (dm) of the statutes is created to read:

301.235 (2) (dm) The department may not lease any building or any portion of a building under this section unless the construction of the building or its conversion into a correctional facility began before October 1, 1999, or unless all of the following apply:

1. The lessor has met the requirements of s. 20.924 (1) (i) that would apply if the building or the portion of the building were being leased by the building commission.

2. The building was enumerated in the authorized state building program before the construction or conversion began.

SECTION 10. 302.01 of the statutes is amended to read:

302.01 State prisons named and defined. The penitentiary at Waupun is named “Waupun Correctional Institution”. The correctional treatment center at Waupun is named “Dodge Correctional Institution”. The penitentiary at Green Bay is named “Green Bay Correctional Institution”. The medium/maximum penitentiary at Portage is named “Columbia Correctional Institution”. The medium security institution at Oshkosh is named “Oshkosh Correctional Institution”. The medium security penitentiary near Fox Lake is named “Fox Lake Correctional Institution”. The penitentiary at Taycheedah is named “Taycheedah Correctional Institution”. The medium security penitentiary at Plymouth is named “Kettle Moraine Correctional Institution”. The penitentiary at the village of Sturtevant in Racine County is named “Racine Correctional Institution”. The medium security penitentiary at Racine is named “Racine Youthful Offender Correctional Facility”. The resource facility at Oshkosh is named “Wisconsin Resource Center”. The penitentiary near Stanley is named “Stanley Correctional Institution”. The
institutions named in this section, the correctional institutions authorized under s. 301.16 (1n) and (1v), correctional institution authorized under 1997 Wisconsin Act 4, section 4 (1) (a), correctional institution authorized under s. 301.046 (1), correctional institution authorized under s. 301.048 (4) (b), minimum security correctional institutions authorized under s. 301.13, correctional facilities leased and operated by the department under s. 13.48 (27), the probation and parole holding facilities authorized under s. 301.16 (1q) and state–local shared correctional facilities when established under s. 301.14, are state prisons.

**SECTION 10g.** 302.34 of the statutes is amended to read:

### 302.34 Use of jail of another county.
Courts, judges, and officers of any county having no jail and no cooperative agreement under s. 302.44 (1) may sentence, commit, or deliver any person to the jail of any other county as if that jail existed in their own county. The sheriff of the other county shall receive and keep the prisoner in all respects as if committed from his or her county. The cost of the keep shall be paid by the county from which the prisoner was sentenced, committed, or delivered.

**SECTION 10k.** 302.44 of the statutes is renumbered 302.44 (1) and amended to read:

### 302.44 (1) Two or more Subject to sub. (2), two counties may agree under s. 66.0301 for the cooperative establishment and use of the jails and rehabilitation facilities of any of them for the detention or imprisonment of prisoners before, during and after trial and for sharing the expense without reference to s. 302.34. The sheriffs of the counties shall lodge prisoners in any jail or rehabilitation facility authorized by the agreement and shall endorse the commitment, if any, under s. 302.35 in case detention or imprisonment is in the jail or rehabilitation facility of another county. Only jails and rehabilitation facilities approved by the department
for the detention of prisoners may be used under the agreement. The sheriff of the
county of arrest shall transport the prisoner to and from court and to any other
institutions whenever necessary.

**SECTION 10n.** 302.44 (2) of the statutes is created to read:

302.44 (2) No more than two counties may enter into an agreement for the
establishment or use of a single jail or rehabilitation facility under sub. (1).

**SECTION 11.** 946.15 (1) of the statutes is amended to read:

946.15 (1) Any employer, or any agent or employee of an employer, who induces
any person who seeks to be or is employed pursuant to a public contract as defined
in s. 66.0901 (1) (c) or who seeks to be or is employed on a project on which a prevailing
wage rate determination has been issued by the department of workforce
development under s. 20.924 (1) (i), 66.0903 (3), 103.49 (3), 103.50 (3) or 229.8275 (3)
or by a local governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6)
to give up, waive or return any part of the compensation to which that person is
entitled under his or her contract of employment or under the prevailing wage rate
determination issued by the department or local governmental unit, or who reduces
the hourly basic rate of pay normally paid to an employee for work on a project on
which a prevailing wage rate determination has not been issued under s. 20.924 (1)
(i), 66.0903 (3) or (6), 103.49 (3), 103.50 (3) or 229.8275 (3) during a week in which
the employee works both on a project on which a prevailing wage rate determination
has been issued and on a project on which a prevailing wage rate determination has
not been issued, is guilty of a Class E felony.

**SECTION 12.** 946.15 (2) of the statutes is amended to read:

946.15 (2) Any person employed pursuant to a public contract as defined in s.
66.0901 (1) (c) or employed on a project on which a prevailing wage rate
determination has been issued by the department of workforce development under
s. 20.924 (1) (i), 66.0903 (3), 103.49 (3), 103.50 (3) or 229.8275 (3) or by a local
governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) who gives up,
waives or returns to the employer or agent of the employer any part of the
compensation to which the employee is entitled under his or her contract of
employment or under the prevailing wage determination issued by the department
or local governmental unit, or who gives up any part of the compensation to which
he or she is normally entitled for work on a project on which a prevailing wage rate
determination has not been issued under s. 20.924 (1) (i), 66.0903 (3) or (6), 103.49
(3), 103.50 (3) or 229.8275 (3) during a week in which the person works part−time on
a project on which a prevailing wage rate determination has been issued and
part−time on a project on which a prevailing wage rate determination has not been
issued, is guilty of a Class C misdemeanor.

SECTION 13. 946.15 (3) of the statutes is amended to read:

946.15 (3) Any employer or labor organization, or any agent or employee of an
employer or labor organization, who induces any person who seeks to be or is
employed on a project on which a prevailing wage rate determination has been issued
by the department of workforce development under s. 20.924 (1) (i), 66.0903 (3),
103.49 (3), 103.50 (3) or 229.8275 (3) or by a local governmental unit, as defined in
s. 66.0903 (1) (d), under s. 66.0903 (6) to permit any part of the wages to which that
person is entitled under the prevailing wage rate determination issued by the
department or local governmental unit to be deducted from the person’s pay is guilty
of a Class E felony, unless the deduction would be permitted under 29 CFR 3.5 or 3.6
from a person who is working on a project that is subject to 40 USC 276c.

SECTION 14. 946.15 (4) of the statutes is amended to read:
946.15 (4) Any person employed on a project on which a prevailing wage rate
determination has been issued by the department of workforce development under
s. 20.924 (1) (i), 66.0903 (3), 103.49 (3), 103.50 (3) or 229.8275 (3) or by a local
governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) who permits
any part of the wages to which that person is entitled under the prevailing wage rate
determination issued by the department or local governmental unit to be deducted
from his or her pay is guilty of a Class C misdemeanor, unless the deduction would
be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that
is subject to 40 USC 276c.

SECTION 14m. 973.03 (1) of the statutes is amended to read:

973.03 (1) If at the time of passing sentence upon a defendant who is to be
imprisoned in a county jail there is no jail in the county suitable for the defendant
and no cooperative agreement under s. 302.44 (1), the court may sentence the
defendant to any suitable county jail in the state. The expenses of supporting the
defendant there shall be borne by the county in which the crime was committed.

SECTION 15. Effective date.

(1) This act takes effect on the day after publication of the 2001–03 biennial
budget act.