2001 SENATE BILL 328

November 21, 2001 – Introduced by Senators WELCH, ZIEN, S. FITZGERALD and HUELSMAN, cosponsored by Representatives HUEBSCH, FREETSE, VRAKAS, MUSSER, SUDER, GUNDERSON, MCCORMICK, ALBERS, OTT, KRAWCZYK, OWENS, F. LASEE, LOEFFELHOLZ, STONE and LEIBHAM. Referred to Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform.

AN ACT to repeal 947.015; to renumber and amend 939.648 (3) and 941.23; to amend 165.82 (2), 227.01 (5), 301.048 (2) (am) 2., 301.048 (2) (bm) 1. a., 302.11 (1), 303.065 (1) (b) 2., 304.02 (5), 304.06 (1) (b), 304.071 (2), 440.26 (3m), 895.035 (4a) (a) 2., 939.30 (1), 939.30 (2), 939.31, 939.32 (1) (a), 939.60, 939.62 (2m) (c), 939.624 (2), 939.625 (1) (b) 2., 939.63 (1) (a) 2., 939.648 (2) (b) 1., 939.648 (2) (c), 941.235 (2), 946.47 (1) (intro.), 946.82 (4), 969.08 (10) (b), 971.17 (1), 972.03, 972.13 (6), 973.01 (3), 973.032 (2) (b) and 973.09 (1) (c); and to create 20.455 (2) (gp), 59.25 (3) (u), 85.57, 167.31 (4) (ar), 175.50, 301.046 (3) (cm), 302.11 (1w), 304.06 (1t), 939.22 (7), 939.22 (18m), 939.648 (3) (b), 939.648 (3m), 941.23 (2), 941.237 (3) (cg), 941.295 (2) (bm), 946.32 (3), 946.47 (1m), 947.07, 947.08, 947.09, 947.10, 948.605 (2) (b) 4m., 961.335 (1m), 967.02 (1m), 973.0145, 973.016 and 973.017 of the statutes; relating to: certain felonies committed with intent to terrorize, threats to use weapons of mass destruction, threats to commit acts of terrorism, supporting acts of terrorism, harboring a
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terrorist, a sentence of death or life imprisonment for certain first-degree
intentional homicides, licenses to carry a concealed weapon, possession of
firearms in certain places, providing an exemption from emergency rule
procedures, requiring the exercise of rule-making authority, and making an
appropriation and providing penalties.

Analysis by the Legislative Reference Bureau

Terrorism penalty enhancer

Current law authorizes increased penalties for certain felonies (crimes punishable by incarceration in prison) that are committed with intent to terrorize. The penalty enhancer is applicable to felonies committed under one of the following circumstances (terrorism offenses): 1) the felony results in bodily harm or death to another; 2) the felony results in damage of $25,000 or more to the property of another; or 3) the felony involves the use of force or violence or the threat of force or violence. A person has intent to terrorize if he or she has intent to influence the policy of a governmental unit or to punish a governmental unit for a prior policy decision. If a person is convicted of a felony and the terrorism enhancer is found to apply, the maximum fine for the underlying felony may be increased by up to $50,000, and the maximum term of imprisonment for the underlying felony may be increased by up to ten years.

This bill expands intent to terrorize to include intent to affect the conduct of a governmental unit by homicide or kidnapping and to include intent to intimidate or coerce a civilian population. The bill also modifies intent to influence the policy of a governmental unit to require that the actor intend to influence by intimidation or coercion. The bill specifies that the terrorism penalty enhancer applies to a felony if the perpetrator causes bodily harm or death to another while in immediate flight after committing the felony. The bill also authorizes a sentence of death for first-degree intentional homicide with intent to terrorize, if the person who commits the homicide is at least 18 years of age.

Threat crimes

Under current law, it is a Class E felony to intentionally make a false threat or convey false information concerning an attempt or alleged attempt to destroy property by means of explosives. (The maximum penalties for classified felonies are listed below.)

This bill repeals the crime concerning false threats to use explosives and creates a new Class E felony that prohibits a person from intentionally threatening to use a destructive device or harmful substance to harm another or destroy property. A “destructive device” is defined as a bomb, a grenade, a rocket having a propellant charge of more than four ounces, a missile having an explosive or incendiary charge of more than one-quarter ounce, a mine, or a similar explosive device. A “harmful
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substance” is defined as radioactive material that is dangerous to human life, a toxic or poisonous chemical, the precursor of a toxic or poisonous chemical, or a disease organism.

The bill also makes it a Class D felony to threaten, with intent to terrorize, to commit a terrorism offense, if the threat induces a reasonable expectation or fear that the offense will be committed.

Soliciting or supporting terrorism

Under current law, a person who intends that a felony be committed and who advises another to commit that crime under circumstances that indicate unequivocally that he or she has the intent is guilty of the crime of solicitation. Solicitation is generally a Class D felony. However, if the crime that the person advises another to commit is punishable by life imprisonment, the penalty for solicitation is a Class C felony. If the underlying crime is a Class E felony, solicitation of that crime is also a Class E felony.

Also under current law, a person who intends that a crime be committed and agrees or combines with another for the purpose of committing that crime is guilty of conspiracy to commit the crime, if one or more of the parties to the conspiracy does an act to effect its object. The penalty for conspiracy is the same as the penalty for the completed crime, except that conspiracy to commit a crime punishable by life imprisonment is a Class B felony.

The bill clarifies that the crime of solicitation applies to solicitation of an act of terrorism regardless of whether the solicited act is to be committed in this state, as long as the act would be a crime if committed in this state. The penalties for advising another to commit a terrorism offense outside Wisconsin are the same as the penalties for the crime of solicitation.

This bill also makes it a crime to provide, ask another to provide, or collect material support or resources with the intent that the support or resources be used to plan, commit, conceal, or flee a terrorism offense or an act that would be a terrorism offense if committed in this state, if the person providing, requesting, or collecting material support or resources intends that the offense or act terrorize. If the material support or resources are valued at not more than $1,000, the crime is a Class D felony. If the material support or resources are valued at more than $1,000, the crime is a Class C felony.

Harboring a terrorist

Under current law, it is a Class E felony for a person who intends to prevent the apprehension of a felon to harbor or aid that felon, and for a person who intends to prevent the apprehension, prosecution, or conviction of a felon to destroy, alter, hide or disguise physical evidence or to place false evidence.

This bill makes it a Class C felony to commit the crime of harboring or aiding a felon, if the felon, with intent to terrorize, committed a terrorism offense or an act outside this state that would be a terrorism offense if committed in this state. If the terrorism offense or act resulted in the death of another, the person who harbors or aids the felony is guilty of a Class BC felony.
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Penalties for classified felonies

The maximum penalties for classified felonies are a fine not to exceed $10,000 or imprisonment for the following number of years or both (a term of imprisonment consists of a term of confinement in prison followed by a term of extended supervision):

<table>
<thead>
<tr>
<th>Felony Classification</th>
<th>Maximum Term of Imprisonment</th>
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<tbody>
<tr>
<td>Class B</td>
<td>60 years</td>
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<tr>
<td>Class BC</td>
<td>30 years</td>
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<tr>
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<tr>
<td>Class D</td>
<td>10 years</td>
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<tr>
<td>Class E</td>
<td>5 years</td>
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</tbody>
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Capital punishment

Currently, no Wisconsin crimes are punishable by death. First-degree homicide is punishable by life imprisonment. The bill makes commission of a first-degree homicide by a person who is 18 years of age or older and who has intent to terrorize punishable by death or life imprisonment.

Under the bill, if a person is convicted of committing first-degree homicide with intent to terrorize, the trial court convenes a separate sentencing hearing at which the defendant is entitled to a jury. If the defendant elects to have a jury at sentencing, the trial jury will serve unless there was no trial jury or if the jury is found to lack impartiality with respect to sentencing. If necessary, the court will assemble a new jury for sentencing.

At a sentencing hearing, the defense may present evidence relevant to mitigation of the defendant’s crime. The prosecution may rebut evidence presented by the defense. Relevant mitigating circumstances include the following:

1. The defendant has no significant history of prior criminal convictions involving the use of violence against another person.
2. The defendant was mentally retarded at the time of the crime, or the defendant’s mental capacity was impaired or his or her ability to conform his or her conduct to the requirement of law was impaired, although not so impaired as to constitute a defense to prosecution.
3. The defendant was under duress or under the domination of another person, although not such duress or domination as to constitute a defense to prosecution.
4. The defendant was criminally liable for the present offense of murder committed by another, but his or her participation in the offense was relatively minor, although not so minor as to constitute a defense to prosecution.
5. The homicide was committed while the defendant was mentally or emotionally disturbed or under the influence of alcohol or any drug, although not to such an extent as to constitute a defense to prosecution.
6. Any other circumstance concerning the crime, the defendant’s state of mind or condition at the time of the crime, or the defendant’s character, background, or record that would be relevant to mitigation or punishment for the crime.
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If there is a jury, the court must instruct the jury prior to its deliberations that the jury’s sentencing determination must be unanimous or the court will not accept it. The court must further instruct the jury that if the jury does not agree on a sentence the court will sentence the defendant to life imprisonment and that under a sentence of life imprisonment the defendant will serve a minimum of 20 years in prison and that the judge will determine as part of the sentence whether the defendant will be eligible for release to extended supervision, and if so at what time after 20 years. Finally, upon motion from any party, the court must inform the jury whether the defendant is a repeat offender who is barred from ever being released to extended supervision.

If the jury unanimously determines that the defendant should be sentenced to death, the court must sentence the defendant to death. If the jury unanimously determines that the defendant should be sentenced to life imprisonment, or if the jury cannot agree on a sentence, the judge must sentence the defendant to life imprisonment and make a determination regarding the defendant’s eligibility to petition for release to extended supervision, unless the defendant is permanently barred from release to extended supervision. If there is no jury, the court must review the evidence of mitigation and determine whether to sentence the defendant to death or to life imprisonment.

If after the finding of guilt and before sentencing the defendant files a motion alleging that he or she is mentally retarded and shows cause to believe that he or she is mentally retarded, the court must hold a hearing on the issue of mental retardation unless the defendant is being sentenced for a crime committed while the defendant was incarcerated under a criminal sentence. Under the bill, “mentally retarded” means having significantly subaverage general intellectual functioning that exists concurrently with deficits in adaptive behavior which were manifested before the age of 18 years. The court will withhold determination in the hearing on mental retardation until the sentence is determined. If the defendant is sentenced to death and the court finds that the defendant is mentally retarded, the court must set aside the sentence of death and instead sentence the defendant to life imprisonment. If the defendant is sentenced to life imprisonment, the court will not make a determination regarding mental retardation.

The court that imposes the death sentence sets the execution date. The secretary of corrections designates the executioner and at least 12 witnesses. The execution is by lethal injection. A death sentence may be stayed only by the governor or an appellate court.

Licenses to carry concealed weapons

Currently, no person other than a peace officer may carry a concealed and dangerous weapon. A person who violates this prohibition may be fined not more than $10,000 or imprisoned for not more than nine months or both.

In addition, current law prohibits being armed with a firearm while in a public building, in or on the grounds of a school, or within 1,000 feet of the grounds of a school. Current law also prohibits going armed with a handgun on any premises (such as a tavern) that has a license or permit to sell alcohol beverages for consumption on those premises. A person who violates these prohibitions may be
fined not more than $10,000 or imprisoned for not more than nine months or both, except that a person who goes armed in a public building may be fined not more than $1,000 or imprisoned for not more than 90 days or both. Finally, current law prohibits the possession or transportation of a loaded or unencased firearm in or on a motorboat (if the motor is running), a vehicle, or an aircraft. A person who violates the prohibition relating to the possession or transportation of a firearm in or on a motorboat or a vehicle may be required to forfeit not more than $100. A person who violates the prohibition relating to possession or transportation of a firearm in or on an aircraft may be fined not more than $1,000 or imprisoned not more than 90 days or both.

Certain exceptions apply to each of the prohibitions relating to possessing or transporting firearms in specific places (firearm restriction areas) described in the preceding paragraph. Through these exceptions, peace officers are generally not subject to any of those prohibitions.

This bill creates a procedure by which certain persons may apply to a county sheriff for a license to carry a concealed weapon. Such a license authorizes a person to carry a concealed weapon anywhere in this state except in places in which the carrying of a weapon is prohibited by federal law. A person holding a valid license to carry a concealed weapon is also exempt from the prohibitions relating to possessing or transporting a firearm in a firearm restriction area in the same way as a peace officer. A licensee carrying a concealed weapon anywhere or possessing or transporting a weapon in a firearm restriction area must carry the license document while carrying, possessing, or transporting the weapon and must present it upon request of a law enforcement officer.

Under the bill, a county sheriff must authorize the issuance of a license to carry a concealed weapon to a person who meets the qualifications established in the bill for the license. Those qualifications require that the person be one of the following: 1) someone who is employed and who has undergone weapons training as a condition of his or her employment; 2) a retired law enforcement officer; 3) a member of the U.S. armed forces; or 4) a member of a reserve component of the U.S. armed forces or a national guard member who has been called into active service. Moreover, the person must be eligible to possess a firearm under federal law and may not be prohibited from possessing a firearm due to a felony conviction, a juvenile delinquency adjudication, an order issued in a civil mental commitment case, or any other order prohibiting the person from possessing a firearm. In addition, the bill requires a sheriff to conduct a background check of a person who applies for a license to carry a concealed weapon to help determine the person’s eligibility for a license. The background check requirement does not apply to a person applying for a license if the person is currently employed and has been trained to use a firearm as a condition of his or her current employment.

If the person meets these requirements and the background check does not indicate the person is ineligible for a license, the sheriff must inform the department of transportation (DOT) that the person is eligible for a license. Upon receiving this notification, DOT is required to issue the person a license document. Once issued,
the license remains valid until the person’s circumstances change such that he or she no longer meets the requirements for obtaining a license.

In addition, the bill does all of the following:

1. Requires a sheriff to revoke a license to carry a concealed weapon if the licensee no longer meets all of the requirements for licensure.

2. Requires a person to whom a license has been issued to surrender the license document to the sheriff upon being notified of a revocation or upon becoming ineligible for a license.

3. Provides that a person whose application for a license is denied or whose license is revoked may appeal the sheriff’s or DOT’s action to circuit court for review by a judge.

4. Specifies the information that must be on an application for a license to carry a concealed weapon and requires the department of justice (DOJ) to design the license application forms.

5. Specifies the information that must be on a license to carry a concealed weapon.

6. Requires DOJ to adopt rules to verify the information provided by a person applying for a license based on his or her employment and to ensure that no one other than a person who has successfully applied for a license may obtain that person’s license document from DOT.

7. Requires the sheriff and DOT to provide information to DOJ concerning a person licensed to carry a concealed weapon and requires DOJ to keep a computerized list of persons licensed to carry a concealed weapon. The list kept by DOJ is available only to law enforcement agencies in certain specified circumstances.

The bill also establishes the following penalties for offenses relating to licenses to carry a concealed weapon. First, a person who fails to carry his or her license document while carrying a concealed weapon or while possessing or transporting a firearm in a firearm restriction area may be required to forfeit $25. Second, a person who does any of the following shall be fined not less than $500 nor more than $10,000 and may be imprisoned for not more than nine months: 1) intentionally makes a false statement in an application for a license; or 2) intentionally attempts to obtain from DOT a license document that he or she is not entitled to receive. Third, any person who intentionally fails to relinquish a license document to a sheriff within 30 days after the license has been revoked or within 30 days after losing his or her eligibility for the license may be fined not more than $500 or imprisoned for not more than 30 days or both.

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

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

1. **SECTION 1.** 20.455 (2) (gp) of the statutes is created to read:
20.455 (2) (gp) Concealed weapons licenses background check. All moneys received as fee payments under s. 175.50 (7) (bh) to provide services under s. 175.50.

SECTION 2. 59.25 (3) (u) of the statutes is created to read:

59.25 (3) (u) 1. Forward all moneys received under s. 175.50 (7) (bh) to the state treasurer for payment of firearms restrictions record searches conducted under s. 175.50 (9g) at the request of the county's sheriff.

SECTION 3. 85.57 of the statutes is created to read:

85.57 Concealed weapons licenses. (1) Design requirements. (a) In consultation with the department of justice, the department of transportation shall design a license document for use in each case in which it is authorized by a sheriff under s. 175.50 (9) (b) 1. to issue a license to carry a concealed weapon. The department of transportation shall complete the design of the license document no later than the 30th day beginning after the effective date of this paragraph .... [revisor inserts date].

(b) A license document for a license issued under sub. (2) shall be a single document, with all of the following information appearing on one side:

1. The full name, date of birth, and residence address of the licensee.
2. A color photograph of the licensee taken by the department.
3. A physical description of the licensee, including gender, height, weight, and hair and eye color.
4. The date on which the license was issued.
5. The name of this state.
6. The name of the county in which the the license was issued.
7. A unique identification number for each licensee. The identification number shall begin with a code number prefix designating the county listed in subd. 6.
(c) A license document issued under this section shall be, to the maximum extent possible, tamper proof and shall be produced using the same or similar equipment used by the department to produce an operator’s license under s. 343.17.

(2) Issuance of License Document. The department shall issue an individual a license to carry a concealed weapon upon receiving from a sheriff written authorization under s. 175.50 (9) (b) 1. for the issuance of a license to that individual and after verifying the individual’s identity, using the procedures established by rule by the department of justice.

(3) Licensee Information. (a) The department shall maintain a computerized record containing the information specified in sub. (1) (b) 1. and 3. to 7. for all individuals who have been issued a license under this section.

(b) Within 5 days after issuing a license under this section, the department shall notify the department of justice that it has done so and shall provide the department of justice with the information specified in sub. (1) (b) 1. and 3. to 7. concerning the individual to whom the license was issued.

(c) Records created or kept under this section by the department are not subject to access under s. 19.35.

(4) No Fee. Except as provided in sub. (5), the department may not charge a fee for any license it issues under this section.

(5) Lost or Destroyed License. The department shall issue an individual a new license document upon receiving from a sheriff written authorization under s. 175.50 (13) for the reissuance of the individual’s license, after verifying the individual’s identity, using the procedures established by rule by the department of justice, and upon receiving a fee of $15 from the individual.
(6) Appeals. A person aggrieved by any act or failure to act by the department under this section may appeal under s. 175.50 (14m).

SECTION 4. 165.82 (2) of the statutes is amended to read:

165.82 (2) Except as provided in ss. 175.35 and 175.50, the department of justice shall not impose fees for criminal history searches for purposes related to criminal justice.

SECTION 5. 167.31 (4) (ar) of the statutes is created to read:

167.31 (4) (ar) Subsections (2) (a), (b), and (c) and (3) (a) and (b) do not apply to the placement, possession, transportation, or loading of a firearm by a person who holds a valid license to carry a concealed weapon issued under s. 85.57.

SECTION 6. 175.50 of the statutes is created to read:

175.50 License to carry concealed weapon. (1) Definitions. In this section:

(a) “Applicant” means an individual seeking authorization from a sheriff under this section for the issuance of a license to carry a concealed weapon under s. 85.57.

(b) Except as provided in sub. (14m), “department” means the department of justice.

(c) “Firearm restriction area” means a motorboat, as defined in s. 30.50 (6), if the motor is running, a vehicle, as defined in s. 167.31 (1) (h), an aircraft, as defined in s. 114.002 (3), or a place described in s. 941.235 (1), 941.237 (2), or 948.60 (2) (a).

(d) “Firearms restrictions record search” has the meaning given in s. 175.35 (1) (at).

(e) “Law enforcement officer” means a person who is employed by the federal government, any state, a political subdivision of any state, or a tribe for the purpose of detecting and preventing crime and enforcing laws, ordinances, rules, and
regulations and who is authorized to make arrests for violations of the laws, ordinances, rules, and regulations that he or she is employed to enforce.

(f) “License document” means a license document issued by the department of transportation under s. 85.57.

(g) “Licensee” means an individual holding a valid license to carry a concealed weapon issued under s. 85.57.

(h) “Weapon” means a handgun, as defined in s. 175.35 (1) (b), an electric weapon, as defined in s. 941.295 (4), a tear gas gun, a knife other than a switchblade knife under s. 941.24, or a billy club. “Weapon” does not include a machine gun, as defined in s. 941.27 (1), a short-barreled rifle, as defined in s. 941.28 (1) (b), or a short-barreled shotgun, as defined in s. 941.28 (1) (c).

(2) ISSUANCE OF LICENSE. Each county, through its sheriff, shall authorize the department of transportation to issue licenses to carry a concealed weapon under s. 85.57 to individuals who meet the qualifications specified in sub. (3) and who complete the application process specified in sub. (7).

(2g) CARRYING A CONCEALED WEAPON; CARRYING AND DISPLAY OF LICENSE OR AUTHORIZATION. (a) A licensee may carry a concealed weapon anywhere in this state except as provided under sub. (16). This paragraph does not apply to a licensee who is on duty as a person described in sub. (3) (c) 3. or 4. if the licensee’s command authority has not authorized him or her to carry a concealed weapon while on duty.

(b) A licensee shall carry his or her license document at all times during which he or she is carrying a concealed weapon or carrying a weapon in a firearm restriction area. If he or she is carrying a concealed weapon or carrying a weapon in a firearm restriction area, a licensee shall display his or her license document to a law enforcement officer upon the request of the law enforcement officer.
(c) Neither the state nor a political subdivision of the state may deny employment to a licensee or discipline or discharge a licensee employed by the state or the political subdivision based on the licensee’s possession of a concealed weapon consistent with the requirements of this section other than during his or her working hours or based on the licensee’s status as a licensee.

(3) QUALIFICATIONS A PERSON MUST HAVE TO GET A LICENSE. An individual is eligible for a license issued under s. 85.57 if all of the following apply:

(a) The individual is not prohibited under federal law from possessing a firearm that has been transported in interstate or foreign commerce.

(b) The individual is not prohibited from possessing a firearm under s. 941.29.

(c) The individual is one of the following:

1. A person who is employed and who has undergone weapons training as a condition of his or her employment.

2. A retired law enforcement officer.

3. A member of the U.S. armed forces other than one of its reserve components.

4. A member of a reserve component of the U.S. armed forces or a national guard member who has been been called into active service.

(5) APPLICATION FORMS. The department shall design an application form for use by individuals requesting that the sheriff authorize the issuance of a license under s. 85.57. The department shall complete the design of the application form no later than the 30th day beginning after the effective date of this subsection .... [revisor inserts date], and shall distribute the design for the form to all sheriffs for use in making the application forms described in this section. The form designed by the department under this subsection shall require the applicant to provide his or
her name, address, date of birth, race, gender, height, weight, and hair and eye color
and shall include all of the following:

(e) A statement that the applicant is eligible for a license if the requirements
specified in sub. (3) are met.

(h) A statement that the application is being made under oath and that an
applicant may be prosecuted if he or she gives a false answer to any question on the
application or submits a falsified document with the application.

(i) A statement of the penalties for giving a false answer to any question on the
application or submitting a falsified document with the application.

(6) OATH. An applicant shall swear under oath that the information that he or
she provides in an application submitted under sub. (7) and any document submitted
with the application is true and complete to the best of his or her knowledge.

(7) SUBMISSION OF APPLICATION. An applicant may apply with any sheriff and
shall submit all of the following to the sheriff to whom he or she is applying:

(a) An application in the form prescribed under sub. (5) that has been sworn
to as required under sub. (6).

(bh) The fee for a firearms restrictions record search specified in sub. (9g) (c).

(c) A fingerprint card bearing an index finger fingerprint of the applicant taken
by the sheriff to whom the application is submitted.

(8) FINGERPRINTING BY SHERIFF. A sheriff shall provide fingerprinting service
at no additional charge to an applicant.

(9) PROCESSING OF APPLICATION. (a) On receiving an application submitted
under sub. (7), a sheriff shall do all of the following:

1. Using procedures established by rule by the department, the sheriff shall
verify that the applicant meets the requirements of sub. (3) (c).
1m. Submit the fingerprint card of the applicant to the department for submission to the federal bureau of investigation or the automated fingerprint identification system for the purposes of verifying the identity of the person fingerprinted and obtaining his or her criminal arrest and conviction record. If the applicant's fingerprint card is not sufficiently legible for the federal bureau of investigation to use in verifying the applicant's identity and obtaining his or her arrest or conviction record, the applicant shall submit an additional fingerprint card.

2. Request the department to conduct a firearms restrictions record search, as provided under sub. (9g).

(b) Subject to par. (c), within 21 days after receiving an application under sub. (7), a sheriff shall do one of the following:

1. Authorize the department of transportation in writing to issue a license to carry a concealed weapon under s. 85.57.

2. Deny the application if the applicant fails to qualify under the criteria specified in sub. (3). If the sheriff denies the application, he or she shall inform the applicant in writing, stating the ground for denial.

(c) A sheriff may not authorize the department of transportation to issue a license under par. (b) 1. until 7 days, subject to extension under sub. (9g) (b) 3. c., have elapsed from the time that the sheriff has received a confirmation number regarding the firearms restrictions record search under sub. (9g) (b) 1. from the department, unless the department has notified the sheriff that its search does not indicate that the applicant does not qualify for a license under sub. (3) (a) or (b).

(9g) Firearms restrictions record searches. (a) A sheriff shall request the department to conduct a firearms restrictions record search by calling the department, using a toll-free telephone number provided by the department, and
providing the department with the name, date of birth, gender, and race of the applicant.

(b) On receiving a request under par. (a), the department shall conduct a firearms restrictions record search using the following procedure:

1. The department shall provide the sheriff with a confirmation number confirming the receipt of the information under par. (a).

2. The department shall conduct the firearms restrictions record search regarding the applicant. In conducting a search under this subdivision, the department shall use the transaction information for management of enforcement system and the national crime information center system.

3. The department shall notify the sheriff, either during the initial telephone call or as soon thereafter as practicable, of the results of the firearms restrictions record search as follows:

   a. If the search indicates that the applicant does not qualify for a license under sub. (3) (a) or (b), the department shall provide the sheriff with a unique nonapproval number. The department shall disclose to the sheriff the reason the applicant does not qualify for a license under sub. (3) (a) or (b).

   b. If the search does not indicate that the applicant does not qualify for a license under sub. (3) (a) or (b), the department shall provide the sheriff with a unique approval number.

   c. If the search indicates a criminal charge without a recorded disposition, the deadline under sub. (9) (c) is extended to the end of the 3rd complete working day commencing after the day on which the department learns of that charge. The department shall notify the sheriff of the extension as soon as practicable. During the extended period, the department shall make every reasonable effort to determine
the disposition of the charge and notify the sheriff of the results as soon as practicable.

(c) The department shall charge a sheriff a fee of $8 for each firearms restrictions record search that the sheriff requests under par. (a). The sheriff shall collect the fee from the applicant.

(d) A sheriff shall maintain the original record of all completed application forms and a record of all confirmation numbers and corresponding approval or nonapproval numbers that he or she receives regarding firearms restrictions record searches under this subsection. The sheriff shall mail a duplicate copy of each completed application form to the department.

(e) 1. The department shall check each duplicate application form received under par. (d) against the information recorded by the department regarding the corresponding request for a firearms restrictions record search under this subsection. If the department previously provided a unique approval number regarding the request and nothing in the duplicate completed application form indicates that the applicant does not qualify for a license under sub. (3) (a) or (b), the department shall, except as provided in subd. 2., destroy all records regarding that firearms restrictions record search within 30 days after receiving the duplicate form. If the department previously provided a unique approval number regarding the request and the duplicate completed application form indicates that the applicant does not qualify for a license under sub. (3) (a) or (b), the department shall immediately notify the sheriff who authorized the issuance of the license, and the sheriff shall revoke the license.

2. The department may maintain records necessary to administer this subsection and, for a period of not more than 3 years after the department issues a
unique approval number, a log of dates of requests for firearms restrictions record searches under this subsection together with confirmation numbers and unique approval and nonapproval numbers corresponding to those dates.

(10) EXEMPTION FROM BACKGROUND CHECK. Notwithstanding sub. (9) (a), a sheriff shall authorize the department of transportation to issue a license under s. 85.57 to any individual who is currently employed and who has undergone weapons training as a condition of his or her employment without requesting the background checks required under sub. (9) (a) upon verifying, using procedures established by rule by the department, the truthfulness of the information provided by the individual regarding his or her employment and weapons training.

(10q) RULES REGARDING VERIFYING EMPLOYMENT AND IDENTITY. (a) The department shall promulgate rules establishing procedures for sheriffs to use in verifying that an applicant meets the requirements of sub. (3) (c) or is an individual described in sub. (10).

(b) In consultation with the department of transportation, the department of justice shall promulgate rules establishing procedures for the department of transportation to use in verifying the identity of a person requesting the issuance of a license to carry a concealed weapon under s. 85.57.

(11) LICENSEE INFORMATION. (a) A sheriff who authorizes the department of transportation to issue an individual a license to carry a concealed weapon under s. 85.57 shall, within 5 days after notifying the department of transportation of that authorization, notify the department of justice of the authorization and provide the department of justice with the information required on the form under sub. (5) (intro.) concerning the individual.
(am) The department shall maintain a computerized record listing the names of all individuals whose applications under this section have been approved or who have been issued a license under s. 85.57 along with the information concerning each individual that is provided to the department by a sheriff under par. (a) or by the department of transportation under s. 85.57 (3) (b).

(c) The department and any sheriff shall provide information concerning a specific licensee to a law enforcement agency if the law enforcement agency is requesting the information for any of the following purposes:

1. To confirm that a license produced by an individual at the request of a law enforcement officer is valid.

2. To confirm that the individual holds a valid license under this section, if the individual is carrying a concealed weapon but is not carrying a license issued under this section and claims to hold a valid license issued under this section.

3. To investigate whether an individual intentionally falsely swore under sub. (6).

(12) Updated information. No later than 30 days after changing his or her address, a licensee shall inform the sheriff of the county that issued the license of his or her new address. The sheriff shall provide the individual's new address to the department for inclusion in the list under sub. (11) (am).

(13) Lost or destroyed license. Upon losing his or her license or if his or her license is destroyed, a licensee may submit to the sheriff of the county that issued the license a notarized statement that his or her license has been lost or destroyed. The sheriff shall authorize the department of transportation to reissue the license under s. 85.57 (5) upon receiving the notarized statement.
LICENSE REVOCATION. (a) A sheriff shall revoke a license that the
department of transportation issued under s. 85.57 if the licensee no longer meets
all of the criteria specified in sub. (3).

(b) If a sheriff revokes a license under this section, the revocation shall take
effect immediately. Upon revoking an individual's license, the sheriff shall send the
individual notice of the revocation by certified mail within one day after the
revocation or suspension.

(c) Within 30 days after receiving a notice under par. (b), an individual whose
license has been revoked shall deliver the license document personally or by certified
mail to the sheriff. If a licensee becomes ineligible to possess a concealed weapon
because he or she no longer meets the requirements of sub. (3) but does not receive
a notice under par. (b), he or she shall, within 30 days after becoming ineligible,
deliver the license document personally or by certified mail to the sheriff.

APPEALS. (a) In this subsection:

1. “Action,” with respect to a sheriff, means any refusal by the sheriff to
authorize the department to issue a license under s. 85.57 or any revocation by the
sheriff of a license issued under s. 85.57. “Action,” with respect to the department,
means any act or failure to act by the department.

2. “Department” means the department of transportation.

(a) A person aggrieved by any action by a sheriff under this section may
appeal directly to the circuit court of the sheriff’s county. A person aggrieved by any
action of the department under s. 85.57 may appeal directly to the circuit court of the
county in which the relevant department office is located.

(b) To begin an appeal under this subsection, the aggrieved person shall file a
petition for review with the clerk of the applicable circuit court within 30 days after
the date of the sheriff’s or the department’s action or, if applicable, within 30 days after the date of the notice provided to the person under sub. (9) (b) 2. The petition shall state the substance of the sheriff’s or the department’s action that the person is appealing from and the grounds upon which the person believes the sheriff’s or the department’s action to be improper. The petition may include a copy of any records or documents that are relevant to the grounds upon which the person believes the sheriff’s or the department’s action to be improper.

(c) A copy of the petition shall be served upon the sheriff or the department either personally or by registered or certified mail within 5 days after the person files his or her petition under par. (b).

(d) The sheriff or the department shall file an answer within 15 days after being served with the petition under par. (c). The answer shall include a brief statement of the actions taken by the sheriff or the department, and a copy of any documents or records on which the sheriff or the department based his or her action shall be included with the answer when filed.

(e) The court shall review the petition, the answer, and any records or documents submitted with the petition or the answer. The review under this paragraph shall be conducted by the court without a jury and shall be confined to the petition, the answer, and any records or documents submitted with the petition or the answer, except that in cases of alleged irregularities in procedure by the sheriff or the department the court may take testimony that the court determines is appropriate.

(f) The court shall affirm the sheriff’s or the department’s action unless the court finds any of the following:
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1. That the sheriff or the department failed to follow procedure prescribed under this section.

2. That the sheriff or the department erroneously interpreted a provision of law and a correct interpretation compels a different action.

3. That the sheriff’s or the department’s action depends on a finding of fact that is not supported by substantial evidence in the record.

(g) The court’s decision shall provide whatever relief is appropriate regardless of the original form of the petition.

(15) DURATION OF LICENSE. (a) Except as provided in par. (b), a license issued under s. 85.57 is permanent unless the license is revoked under sub. (9g) (e) 1. or (14).

(b) A license issued under s. 85.57 is void if the individual to whom the license was issued does not meet the requirements of sub. (3).

(16) PROHIBITED ACTIVITY. A licensee may not carry a concealed weapon in a place in which the carrying of a weapon is prohibited by federal law.

(17) PENALTIES. (a) A licensee who violates sub. (2g) (b) may be required to forfeit not more than $25.

(b) Any person who intentionally falsely swears under sub. (6) shall be fined not less than $500 nor more than $10,000 and may be imprisoned for not more than 9 months.

(c) Any person who intentionally violates the requirements of sub. (14) (c) may be fined not more than $500 or imprisoned for not more than 30 days or both.

(18) ACCESS TO RECORDS. Records created or kept under this section by the department or a sheriff are not subject to access under s. 19.35.

SECTION 7. 227.01 (5) of the statutes is amended to read:
227.01 (5) “License” includes all or any part of an agency permit, certificate, approval, registration, charter or similar form of permission required by law, except a motor vehicle operator’s license issued under ch. 343, a vehicle registration certificate issued under ch. 341, a license required primarily for revenue purposes, a hunting or fishing approval or a similar license where issuance is merely a ministerial act, a license to carry a concealed weapon issued under s. 85.57, or an authorization under s. 175.50 for the issuance of a license to carry a concealed weapon.

SECTION 8. 301.046 (3) (cm) of the statutes is created to read:

301.046 (3) (cm) The prisoner is not awaiting execution under a death sentence.

SECTION 9. 301.048 (2) (am) 2. of the statutes is amended to read:

301.048 (2) (am) 2. He or she is a prisoner serving a felony sentence for a felony that is not punishable by death or life imprisonment and the department directs him or her to participate in the program. This subdivision does not apply to a prisoner serving a bifurcated sentence imposed under s. 973.01.

SECTION 10. 301.048 (2) (bm) 1. a. of the statutes is amended to read:

301.048 (2) (bm) 1. a. A crime specified in s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (3), (4), or (5), 940.195 (3), (4), or (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.285 (2) (a) 1. or 2., 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2., or 3., 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 940.45 (1) to (3), 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), (1m) or (1r), 943.30, 943.32, 946.43, 947.015 947.07, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07, 948.08, or 948.30.

SECTION 11. 302.11 (1) of the statutes is amended to read:
302.11 (1) The warden or superintendent shall keep a record of the conduct of each inmate, specifying each infraction of the rules. Except as provided in subs. (1g), (1m), (1q), (1w), (1z), (7), and (10), each inmate is entitled to mandatory release on parole by the department. The mandatory release date is established at two-thirds of the sentence. Any calculations under this subsection or sub. (1q) (b) or (2) (b) resulting in fractions of a day shall be rounded in the inmate's favor to a whole day.

SECTION 12. 302.11 (1w) of the statutes is created to read:

302.11 (1w) An inmate awaiting execution under a death sentence is not entitled to mandatory release on parole under this section.

SECTION 13. 303.065 (1) (b) 2. of the statutes is amended to read:

303.065 (1) (b) 2. A person serving a life sentence under s. 939.62 (2m) (c) or 973.014 (1) (c) or (1g) (a) 3., or awaiting execution under a death sentence, may not be considered for work release.

SECTION 14. 304.02 (5) of the statutes is amended to read:

304.02 (5) Notwithstanding subs. (1) to (3), a prisoner who is serving a life sentence under s. 939.62 (2m) (c) or 973.014 (1) (c) or (1g), or who is awaiting execution under a death sentence, is not eligible for release to parole supervision under this section.

SECTION 15. 304.06 (1) (b) of the statutes is amended to read:

304.06 (1) (b) Except as provided in sub. (1m) or (1t) or s. 302.045 (3), 961.49 (2), 973.01 (6), or 973.0135, the parole commission may parole an inmate of the Wisconsin state prisons or any felon or any person serving at least one year or more in a county house of correction or a county reforestation camp organized under s. 303.07, when he or she has served 25% of the sentence imposed for the offense, or 6 months, whichever is greater. Except as provided in s. 939.62 (2m) (c) or 973.014 (1)
(b) or (c), (1g), or (2), the parole commission may parole an inmate serving a life term when he or she has served 20 years, as modified by the formula under s. 302.11 (1) and subject to extension under s. 302.11 (1q) and (2), if applicable. The person serving the life term shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The secretary may grant special action parole releases under s. 304.02. The department or the parole commission shall not provide any convicted offender or other person sentenced to the department's custody any parole eligibility or evaluation until the person has been confined at least 60 days following sentencing.

SECTION 16. 304.06 (1t) of the statutes is created to read:

304.06 (1t) The parole commission may not parole an inmate who is sentenced to death under s. 973.0145.

SECTION 17. 304.071 (2) of the statutes is amended to read:

304.071 (2) If a prisoner is not eligible for parole under s. 304.06 (1t), 939.62 (2m) (c), 961.49 (2), 973.01 (6), 973.014 (1) (c) or (1g), or 973.032 (5), he or she is not eligible for parole under this section.

SECTION 18. 440.26 (3m) of the statutes is amended to read:

440.26 (3m) RULES CONCERNING DANGEROUS WEAPONS. The department shall promulgate rules relating to the carrying of dangerous weapons by a person who holds a license or permit issued under this section or who is employed by a person licensed under this section. The rules shall allow the person to carry a concealed weapon as permitted under s. 175.50 if the person is licensed to do so under s. 85.57 and shall meet the minimum requirements specified in 15 USC 5902 (b).

SECTION 19. 895.035 (4a) (a) 2. of the statutes is amended to read:
895.035 (4a) (a) 2. An act resulting in a violation of s. 943.01, 943.02, 943.03, 943.05, 943.06, or 947.015 947.07.

SECTION 20. 939.22 (7) of the statutes is created to read:

939.22 (7) “Crime punishable by death or life imprisonment” means a crime for which one or more of the possible penalties is death or life imprisonment.

SECTION 21. 939.22 (18m) of the statutes is created to read:

939.22 (18m) “Intent to terrorize” means intent to influence the policy of a governmental unit by intimidation or coercion, to punish a governmental unit for a prior policy decision, to affect the conduct of a governmental unit by homicide or kidnapping, or to intimidate or coerce a civilian population. In this subsection, “governmental unit” has the meaning given in s. 939.648 (1).

SECTION 22. 939.30 (1) of the statutes is amended to read:

939.30 (1) Except as provided in sub. (2) and ss. 947.09, 948.35, and 961.455, whoever, with intent that a felony be committed, advises another to commit that crime under circumstances that indicate unequivocally that he or she has the intent is guilty of a Class D felony.

SECTION 23. 939.30 (2) of the statutes is amended to read:

939.30 (2) For a solicitation to commit a crime for which the penalty is that is punishable by death or life imprisonment, the actor is guilty of a Class C felony. For a solicitation to commit a Class E felony, the actor is guilty of a Class E felony.

SECTION 24. 939.31 of the statutes is amended to read:

939.31 Conspiracy. Except as provided in ss. 940.43 (4), 940.45 (4), and 961.41 (1x), whoever, with intent that a crime be committed, agrees or combines with another for the purpose of committing that crime may, if one or more of the parties to the conspiracy does an act to effect its object, be fined or imprisoned or both not
to exceed the maximum provided for the completed crime; except that for a
conspiracy to commit a crime for which the penalty is that is punishable by death or
life imprisonment, the actor is guilty of a Class B felony.

SECTION 25. 939.32 (1) (a) of the statutes is amended to read:

939.32 (1) (a) Whoever attempts to commit a crime for which the penalty is that
is punishable by death or life imprisonment is guilty of a Class B felony.

SECTION 26. 939.60 of the statutes is amended to read:

939.60  Felony and misdemeanor defined. A crime that is punishable by
death or imprisonment in the Wisconsin state prisons is a felony. Every other crime
is a misdemeanor.

SECTION 27. 939.62 (2m) (c) of the statutes is amended to read:

939.62 (2m) (c) If the actor is a persistent repeater and the actor is not
sentenced to death under s. 973.0145, the term of imprisonment for the felony for
which the persistent repeater presently is being sentenced under ch. 973 is life
imprisonment without the possibility of parole or extended supervision.

SECTION 28. 939.624 (2) of the statutes is amended to read:

939.624 (2) If a person has one or more prior convictions for a serious violent
crime or a crime punishable by death or life imprisonment and subsequently
commits a serious violent crime, the court shall sentence the person to not less than
5 years' imprisonment, but otherwise the penalties for the crime apply, subject to any
applicable penalty enhancement. The court shall not place the defendant on
probation.

SECTION 29. 939.625 (1) (b) 2. of the statutes is amended to read:
939.625 (1) (b) 2. If the maximum term of imprisonment for a felony is more than 5 years or is a life term or the felony is punishable by death, the maximum term of imprisonment for the felony may be increased by not more than 5 years.

**SECTION 30.** 939.63 (1) (a) 2. of the statutes is amended to read:

939.63 (1) (a) 2. If the maximum term of imprisonment for a felony is more than 5 years or is a life term or the felony is punishable by death, the maximum term of imprisonment for the felony may be increased by not more than 5 years.

**SECTION 31.** 939.648 (2) (b) 1. of the statutes is amended to read:

939.648 (2) (b) 1. The person causes bodily harm, great bodily harm, or death to another during commission of the felony or while in immediate flight after commission of the felony.

**SECTION 32.** 939.648 (2) (c) of the statutes is amended to read:

939.648 (2) (c) Commits the felony with the intent to influence the policy of a governmental unit or by intimidation or coercion, to punish a governmental unit for a prior policy decision, to affect the conduct of a governmental unit by homicide or kidnapping, or to intimidate or coerce a civilian population.

**SECTION 33.** 939.648 (3) of the statutes is renumbered 939.648 (3) (a) and amended to read:

939.648 (3) (a) The except as provided in par. (b), the maximum fine prescribed by law for the felony may be increased by not more than $50,000 and the maximum period of imprisonment prescribed by law for the felony may be increased by not more than 10 years.

**SECTION 34.** 939.648 (3) (b) of the statutes is created to read:

939.648 (3) (b) If the underlying felony is first-degree intentional homicide under s. 940.01 and the person is 18 years of age or older when he or she commits the
felony, the person may be sentenced to death or life imprisonment as determined under s. 973.0145.

**SECTION 35.** 939.648 (3m) of the statutes is created to read:

939.648 (3m) The state must declare its intention to seek a sentence of death under sub. (3) (b) before arraignment or acceptance of a plea, or else is barred from seeking a sentence of death.

**SECTION 36.** 941.23 of the statutes is renumbered 941.23 (1) and amended to read:

941.23 (1) Any person except a peace officer or an individual holding a valid license issued under s. 85.57 who goes armed with a concealed and dangerous weapon is guilty of a Class A misdemeanor.

**SECTION 37.** 941.23 (2) of the statutes is created to read:

941.23 (2) An individual formerly licensed under s. 85.57 whose license has been revoked under s. 175.50 (14) (a) may not assert his or her refusal to accept or failure to receive a notice of revocation mailed under s. 175.50 (14) (b) as a defense to prosecution under sub. (1), regardless of whether the person has complied with s. 175.50 (12).

**SECTION 38.** 941.235 (2) of the statutes is amended to read:

941.235 (2) This section does not apply to peace officers or armed forces or military personnel who go armed in the line of duty, to any individual holding a valid license issued under s. 85.57 who is carrying a concealed weapon as permitted under s. 175.50, or to any person duly authorized by the chief of police of any city, village or town, the chief of the capitol police or the sheriff of any county to possess a firearm in any building under sub. (1).

**SECTION 39.** 941.237 (3) (cg) of the statutes is created to read:
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941.237 (3) (cg) Any individual holding a valid license issued under s. 85.57 who is carrying a concealed weapon as permitted under s. 175.50.

SECTION 40. 941.295 (2) (bm) of the statutes is created to read:

941.295 (2) (bm) Any individual holding a valid license issued under s. 85.57.

SECTION 41. 946.32 (3) of the statutes is created to read:

946.32 (3) This section does not apply to offenses that may be prosecuted under s. 175.50 (17) (b).

SECTION 42. 946.47 (1) (intro.) of the statutes is amended to read:

946.47 (1) (intro.) Whoever Except as provided in sub. (1m), whoever does either of the following is guilty of a Class E felony:

SECTION 43. 946.47 (1m) of the statutes is created to read:

946.47 (1m) (a) If the felon under sub. (1), with intent to terrorize, committed a felony that satisfies s. 939.648 (2) (a) and (b) or committed an act outside this state that would be a felony that satisfies s. 939.648 (2) (a) and (b) if committed in this state, the person who violates sub. (1) is guilty of a Class C felony.

(b) If the felon under sub. (1), with intent to terrorize, committed a felony that satisfies s. 939.648 (2) (a) and (b) or committed an act outside this state that would be a felony that satisfies s. 939.648 (2) (a) and (b) if committed in this state, and the felony or act resulted in the death of another, the person who violates sub. (1) is guilty of a Class BC felony.

SECTION 44. 946.82 (4) of the statutes, as affected by 2001 Wisconsin Act 16, is amended to read:

946.82 (4) “Racketeering activity” means any activity specified in 18 USC 1961 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
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180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637, 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (3) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 943.01 (2), (2d), or (2g), 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (c) and (d), 943.201, 943.23 (1g), (1m), (1r), (2) and (3), 943.24 (2), 943.25, 943.27, 943.28, 943.30, 943.32, 943.34 (1) (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4) (c), 943.60, 943.70, 943.76, 944.205, 944.21 (5) (c) and (e), 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 947.015 947.07, 948.05, 948.08, 948.12, and 948.30.

SECTION 45. 947.015 of the statutes is repealed.

SECTION 46. 947.07 of the statutes is created to read:

947.07 Threatening use of weapon of mass destruction. (1) In this section:

(a) “Destructive device” means a bomb, a grenade, a rocket having a propellant charge of more than 4 ounces, a missile having an explosive or incendiary charge of more than one-quarter ounce, a mine, or a similar explosive device.

(b) “Harmful substance” means radioactive material that is dangerous to human life, a toxic or poisonous chemical or precursor of a toxic or poisonous chemical, or a disease organism.

(2) Whoever intentionally threatens to use a destructive device or a harmful substance to harm another or to destroy property, if the threat induces a reasonable expectation or fear that the destructive device or harmful substance will be used to harm another or to destroy property, is guilty of a Class E felony.
SECTION 47. 947.08 of the statutes is created to read:

947.08 Terrorism threat. Whoever, with intent to terrorize, makes or conveys a threat to commit a felony that satisfies s. 939.648 (2) (a) and (b), if the threat induces a reasonable expectation or fear that the felony will be committed, is guilty of a Class D felony.

SECTION 48. 947.09 of the statutes is created to read:

947.09 Solicitation of a terrorist act. (1) Whoever, with intent to terrorize and with intent that a felony that satisfies s. 939.648 (2) (a) and (b), or an act that would be a felony that satisfies s. 939.648 (2) (a) and (b) if committed in this state, be committed, advises another to commit that felony or act under circumstances that indicate unequivocally that he or she has the intent that the felony or act be committed may be penalized as provided under sub. (2).

(2) A person who violates sub. (1) is guilty of a Class D felony unless one of the following applies:

(a) If the act solicited under sub. (1) would be punishable by death or life imprisonment if committed in this state, the person is guilty of a Class C felony.

(b) If the act solicited under sub. (1) would be a Class E felony if committed in this state, the person is guilty of a Class E felony.

(3) A person may not be convicted under both s. 939.30 and this section for the same act.

SECTION 49. 947.10 of the statutes is created to read:

947.10 Providing or requesting support for terrorist act. (1) In this section, “material support or resources” means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances,
explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

(2) Any person who provides, asks another to provide, or collects material support or resources with the intent that the material support or resources be used to plan, commit, conceal, or flee after committing a felony that satisfies s. 939.648 (2) (a) and (b), or an act that would be a felony that satisfies s. 939.648 (2) (a) and (b) if committed in this state, if the person intends that the felony or act terrorize, is guilty of a Class D felony, if the value of the material support or resources provided, requested, or collected does not exceed $1,000, and is guilty of a Class C felony if the value exceeds $1,000.

(3) A person may not be convicted under both this section and any of the following for the same act:

(a) Under s. 939.30 for solicitation.
(b) Under s. 939.31 for conspiracy.
(c) Under s. 939.32 for attempt.
(d) Under s. 939.05 as a party to a crime.

SECTION 50. 948.605 (2) (b) 4m. of the statutes is created to read:

948.605 (2) (b) 4m. By an individual holding a valid license issued under s. 85.57 who is carrying a concealed weapon as permitted under s. 175.50;

SECTION 51. 961.335 (1m) of the statutes is created to read:

961.335 (1m) Notwithstanding sub. (1), upon the application of the secretary of corrections for a permit to obtain a controlled substance for purposes of an execution under s. 973.017, the controlled substances board shall issue a permit under this section.

SECTION 52. 967.02 (1m) of the statutes is created to read:
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967.02 (1m) “Crime punishable by death or life imprisonment” has the meaning given in s. 939.22 (7).

SECTION 53. 969.08 (10) (b) of the statutes is amended to read:

969.08 (10) (b) “Serious crime” means any crime specified in s. 346.62 (4), 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), (1m) or (1r), 943.30, 943.32, 946.01, 946.02, 946.43, 947.015 947.07, 947.08, 947.09, 947.10, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07 or 948.30.

SECTION 54. 971.17 (1) of the statutes is amended to read:

971.17 (1) COMMITMENT PERIOD. When a defendant is found not guilty by reason of mental disease or mental defect, the court shall commit the person to the department of health and family services for a specified period not exceeding two-thirds of the maximum term of imprisonment that could be imposed under s. 973.15 (2) (a) against an offender convicted of the same crime or crimes, including imprisonment authorized by ss. 346.65 (2) (f), (2j) (d), or (3m), 939.62, 939.621, 939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b), 940.25 (1b), and 961.48 and other penalty enhancement statutes, as applicable, subject to the credit provisions of s. 973.155. If the maximum term of imprisonment is a crime punishable by death or life imprisonment, the commitment period specified by the court may be life, subject to termination under sub. (5).

SECTION 55. 972.03 of the statutes is amended to read:
972.03 Peremptory challenges. Each side is entitled to only 4 peremptory challenges except as otherwise provided in this section. When the crime charged is punishable by death or life imprisonment, the state is entitled to 6 peremptory challenges and the defendant is entitled to 6 peremptory challenges. If there is more than one defendant, the court shall divide the challenges as equally as practicable among them; and if their defenses are adverse and the court is satisfied that the protection of their rights so requires, the court may allow the defendants additional challenges. If the crime is punishable by death or life imprisonment, the total peremptory challenges allowed the defense shall not exceed 12 if there are only 2 defendants and 18 if there are more than 2 defendants; in other felony cases 6 challenges if there are only 2 defendants and 9 challenges if there are more than 2. In misdemeanor cases, the state is entitled to 3 peremptory challenges and the defendant is entitled to 3 peremptory challenges, except that if there are 2 defendants, the court shall allow the defense 4 peremptory challenges, and, if there are more than 2 defendants, the court shall allow the defense 6 peremptory challenges. Each side shall be allowed one additional peremptory challenge if additional jurors are to be selected under s. 972.04 (1).

SECTION 56. 972.13 (6) of the statutes is amended to read:

972.13 (6) The following forms may be used for judgments:

STATE OF WISCONSIN

.... County

In.... Court

The State of Wisconsin

vs.

....(Name of defendant)
UPON ALL THE FILES, RECORDS AND PROCEEDINGS,

IT IS ADJUDGED That the defendant has been convicted upon the defendant’s plea of guilty (not guilty and a verdict of guilty) (not guilty and a finding of guilty) (no contest) on the.... day of...., .... (year), of the crime of.... in violation of s.....; and the court having asked the defendant whether the defendant has anything to state why sentence should not be pronounced, and no sufficient grounds to the contrary being shown or appearing to the court.

*IT IS ADJUDGED That the defendant is guilty as convicted.

*IT IS ADJUDGED That the defendant shall be executed by lethal injection.

*IT IS ADJUDGED That the defendant is hereby committed to the Wisconsin state prisons (county jail of.... county) for an indeterminate term of not more than.....

*IT IS ADJUDGED That the defendant is ordered to serve a bifurcated sentence consisting of .... year(s) of confinement in prison and .... months/years of extended supervision.

*IT IS ADJUDGED That the defendant is placed in the intensive sanctions program subject to the limitations of section 973.032 (3) of the Wisconsin Statutes and the following conditions:....

*IT IS ADJUDGED That the defendant is hereby committed to detention in (the defendant’s place of residence or place designated by judge) for a term of not more than....

*IT IS ADJUDGED That the defendant is placed on lifetime supervision by the department of corrections under section 939.615 of the Wisconsin Statutes.

*IT IS ADJUDGED That the defendant is ordered to pay a fine of $.... (and the costs of this action).

*IT IS ADJUDGED That the defendant pay restitution to....
*IT IS ADJUDGED That the defendant is restricted in his or her use of computers as follows:....

*The.... at.... is designated as the Reception Center to which the defendant shall be delivered by the sheriff.

*IT IS ORDERED That the clerk deliver a duplicate original of this judgment to the sheriff who shall forthwith execute the same and deliver it to the warden.

Dated this.... day of...., .... (year)

BY THE COURT....

Date of Offense....,

District Attorney....,

Defense Attorney....

*Strike inapplicable paragraphs.

STATE OF WISCONSIN

.... County

In.... Court

The State of Wisconsin

vs.

....(Name of defendant)

On the.... day of...., .... (year), the district attorney appeared for the state and the defendant appeared in person and by.... the defendant’s attorney.

UPON ALL THE FILES, RECORDS AND PROCEEDINGS

IT IS ADJUDGED That the defendant has been found not guilty by the verdict of the jury (by the court) and is therefore ordered discharged forthwith.

Dated this.... day of...., .... (year)

BY THE COURT....
SECTION 57. 973.01 (3) of the statutes is amended to read:
973.01 (3) NOT APPLICABLE TO LIFE SENTENCES. If a person is being sentenced for
a felony that is punishable by life imprisonment or by death, he or she is not subject
to this section but shall be sentenced under s. 973.014 (1g) or 973.0145, whichever
is applicable.

SECTION 58. 973.0145 of the statutes is created to read:
973.0145 Sentence of death or life imprisonment for homicide by
terrorist. (1) Upon conviction of a defendant of a homicide under s. 940.01 to which
s. 939.648 (2) and (3) (b) are found to apply, the court shall conduct a separate
sentencing hearing to determine whether the defendant should be sentenced to
death or life imprisonment. Nothing in this section precludes the state at any time
from retracting its decision to seek a sentence of death. If the state chooses not to
seek a sentence of death, the court shall sentence the defendant to life imprisonment
as provided under s. 973.014.

(2) The trial judge shall conduct the hearing before the trial jury, if there was
a jury trial, as soon as practicable. Before commencing the sentencing hearing with
the trial jury, the court shall determine whether the jurors can impartially render
a sentencing determination based on evidence presented in the sentencing hearing.
The court shall examine each juror individually outside the presence of the other
jurors. The court shall determine the scope of the examination of individual jurors
and may use questions proposed by any of the parties. The individual juror
examinations shall be conducted on the record, but the court may seal the record of
an individual juror’s examination upon the motion of any party and a showing of good
cause. If the court finds that a juror is not impartial, the court shall discharge that
juror and replace the juror with the next alternate juror. If no alternate juror is
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available, the court shall dismiss the trial jury and impanel a new jury. If the trial jury is unable to reconvene for a hearing on the issue of penalty, the trial judge may summon a new jury to determine the issue of the imposition of the penalty. If the trial jury has been waived, or if the defendant pleaded guilty, the court shall conduct the sentencing hearing before a jury summoned for that purpose unless the defendant waives the right to a jury.

(3) At the sentencing hearing, the defendant may present any evidence that is relevant to a mitigating circumstance under sub. (5). The state may not offer evidence or argument relating to any mitigating factor except in rebuttal of evidence offered by the defendant. The defendant has the burden of proof, by a preponderance of the evidence, regarding mitigating circumstances. The court shall permit the state and the defendant or his or her counsel to present arguments for or against a sentence of death.

(4) The court shall instruct the jury to consider the evidence of mitigating circumstances and to determine whether the defendant should be sentenced to death or to life imprisonment. The court shall further instruct the jury that, if the jury does not reach a unanimous decision, the court shall impose a sentence of life imprisonment under which the defendant will serve at least 20 years in prison and that the judge shall determine whether the defendant may be eligible for release to extended supervision at some time after 20 years, and if so when, or whether the defendant is not eligible for release to extended supervision. Upon the motion of any party, the court shall further inform the jury if the defendant is ineligible for release to extended supervision under s. 939.62 (2m) (c).

(5) The jury shall consider as a mitigating circumstance any aspect of the defendant’s character, background, or record or any of the circumstances of the
offense that the defendant offers as a basis for a sentence other than death.

Mitigating circumstances may include any of the following:

(a) The defendant has no significant history of prior criminal convictions involving the use of violence against another person.

(b) The defendant was mentally retarded, as defined in sub. (7) (a), at the time of the crime, or the defendant’s mental capacity was impaired or his or her ability to conform his or her conduct to the requirement of law was impaired, although not so impaired as to constitute a defense to prosecution.

(c) The defendant was under duress or under the domination of another person, although not such duress or domination as to constitute a defense to prosecution.

(d) The defendant was criminally liable for the present offense of murder committed by another, but his or her participation in the offense was relatively minor, although not so minor as to constitute a defense to prosecution.

(e) The murder was committed while the defendant was mentally or emotionally disturbed or under the influence of alcohol or any drug, although not to such an extent as to constitute a defense to prosecution.

(f) Any other circumstance concerning the crime, the defendant’s state of mind or condition at the time of the crime, or the defendant’s character, background, or record that could be relevant to mitigation or punishment for the crime.

(6) (a) If the jury unanimously decides that the defendant should be sentenced to death, the court shall impose a sentence of death and the jury shall state on the record which, if any, mitigating circumstances the jury found. If the jury unanimously decides that the defendant should be sentenced to life imprisonment, or if the jury does not unanimously agree on a sentence, the court shall sentence the defendant to life imprisonment as provided under s. 973.014. If the jury decides that
the defendant should be sentenced to life imprisonment, the jury may make a
recommendation as to when, if ever, the defendant should be eligible for release to
extended supervision. The jury's recommendation regarding eligibility for release
to extended supervision is not binding on the court.

(b) If the jury's decision is unanimous, the court shall read the jury's decision
to the jurors and ask the jurors collectively if they concur with the decision. Upon
the request of either party, the court shall ask each juror individually if he or she
agrees with the jury's decision. If any juror responds in the negative, the court shall
refuse to accept the decision and shall direct the jury to continue deliberating.

(c) If there is no jury, the court shall consider the evidence presented regarding
mitigation and either sentence the defendant to death or to life imprisonment as
provided under s. 973.014. If the court sentences the defendant to death, the court
shall state on the record which, if any, mitigating circumstances the court found.

(7) (a) In this subsection, "mentally retarded" means having significantly
subaverage general intellectual functioning that exists concurrently with deficits in
adaptive behavior which were manifested before the age of 18 years.

(b) If the state is seeking a sentence of death and the defendant files a motion
showing cause to believe that the defendant is mentally retarded, the court shall hold
a hearing to determine whether the defendant is mentally retarded before
conducting the sentencing hearing. The judge shall conduct the hearing on mental
retardation without a jury. At the hearing on mental retardation, the defendant has
the burden to prove by a preponderance of the evidence that he or she is mentally
retarded.

(c) At the close of the hearing on mental retardation and before the court
renders a determination on the issue of mental retardation, the court shall conduct
the sentencing hearing. If the sentence imposed is other than death, the court will not rule on the issue of mental retardation. If the defendant is sentenced to death, the court shall issue a determination regarding mental retardation. If the court finds that the defendant is mentally retarded, the court shall set aside the sentence of death and sentence the defendant under s. 973.014. If the court finds that the defendant is not mentally retarded, the sentence of death stands.

(d) The state may appeal a determination that a defendant is mentally retarded.

(e) This subsection does not apply if the homicide for which the defendant is being sentenced was committed while the defendant was incarcerated under a criminal sentence.

(8) (a) In this subsection, “mental health expert” means a psychiatrist, psychologist, or other person who has received training or education relating to, or has experience relating to, the identification, diagnosis, treatment, or evaluation of mental diseases, defects, or conditions.

(b) If either party intends to present evidence offered by a mental health expert of a mental disease, defect, or condition at a sentencing hearing or a hearing on mental retardation under this section, the party shall provide notice of the intent and a summary of the expert’s testimony. If the defendant provides notice of intent to present expert mental health testimony, the state may request that the court order the defendant to submit to an examination by a mental health expert designated by the state.

(c) Counsel for the defendant and counsel for the state have the right to be present at an examination ordered under par. (b). The state shall provide the defendant with a transcript of the examination promptly after its conclusion. If the
court finds that the defendant refused to cooperate fully in an examination ordered under par. (b), the court, upon the request of the state, shall instruct the jury that the defendant did not submit to or cooperate fully in the examination.

(d) Statements made by the defendant during an examination ordered under par. (b) are inadmissible as evidence in any criminal action or proceeding concerning the defendant, except as evidence regarding the existence of a mitigating factor under sub. (5) or on the issue mental retardation in a hearing under sub. (7).

(9) The court that imposes a sentence of death shall set the date for execution. The defendant shall be committed to the Wisconsin state prisons pending the execution of the death sentence.

(10) The execution of a death sentence shall be by lethal injection.

SECTION 59. 973.016 of the statutes is created to read:

973.016 Stay of execution of death sentence. The execution of a death sentence may be stayed only by the governor or incident to an appeal.

SECTION 60. 973.017 of the statutes is created to read:

973.017 Execution of death sentence. The secretary of corrections shall designate the executioner who shall provide a person subject to a death sentence with an intravenous injection of one or more substances in a lethal quantity. A person is immune from civil or criminal liability for his or her acts or omissions, in good faith, in regard to a lawful execution under this section. The secretary may not direct a physician to be present or require a physician to announce when death has occurred. A physician may certify the death after a person, other than a physician, has determined or pronounced death. The secretary shall designate 12 citizens to witness the execution. The convicted person may request that certain additional people be allowed to witness the execution. The secretary shall grant any such
reasonable request. The secretary may allow representatives of the news media to
witness the execution under rules of the department. No other persons may be
allowed to witness the execution.

SECTION 61. 973.032 (2) (b) of the statutes is amended to read:
973.032 (2) (b) Notwithstanding par. (a), the court may not sentence a person
under sub. (1) if he or she is convicted of a felony punishable by death or life
imprisonment or has at any time been convicted, adjudicated delinquent, or found
not guilty or not responsible by reason of insanity or mental disease, defect, or illness
for committing a violent offense, as defined in s. 301.048 (2) (bm).

SECTION 62. 973.09 (1) (c) of the statutes is amended to read:
973.09 (1) (c) When a person is convicted of any crime which is punishable
by death or life imprisonment, the court may not place the person on probation.

SECTION 63. Nonstatutory provisions.

(1) (a) In this subsection, “department” means the department of justice.

(b) Using the procedure under section 227.24 of the statutes, the department
shall promulgate the rules required under section 175.50 (10q) of the statutes, as
created by this act, for the period beginning on the effective date of this paragraph
and ending on the effective date of the permanent rules promulgated under section
175.50 (10q) of the statutes, as created by this act, but the rules may not remain
effective for longer than the period authorized under section 227.24 (1) (c) and (2) of
the statutes. The department shall promulgate the rules required under this
paragraph no later than the 30th day beginning after the effective date of this
paragraph. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the
department is not required to provide evidence that promulgating a rule under this
paragraph as an emergency rule is necessary for the preservation of the public peace,
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health, safety, or welfare and is not required to provide a finding of emergency for a
rule promulgated under this paragraph.

SECTION 64. Effective dates. This act takes effect on the day after publication,
except as follows:

(1) LICENSES TO CARRY CONCEALED WEAPONS. The treatment of sections 20.455
(2) (gp), 59.25 (3) (u), 85.57 (2), (3), (4), (5), and (6), 165.82 (2), 167.31 (4) (ar), 175.50
(1), (2), (2g), (3), (6), (7), (8), (9), (9g), (10), (10q), (11), (12), (13), (14), (14m), (15), (16),
(17), and (18), 440.26 (3m), 941.235 (2), 941.237 (3) (cg), 941.295 (2) (bm), 946.32 (3),
and 948.605 (2) (b) 4m. of the statutes, the renumbering and amendment of section
941.23 of the statutes, and the creation of section 941.23 (2) of the statutes take effect
on the 30th day beginning after publication.

(END)