

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB(LRBx4793/1))

Received: 03/03/2006

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Jeff Stone (608) 266-8590**

By/Representing: **Mike**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sex offenses**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Stone@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Chapter 980 rewrite

Instructions:

See Attached-05s0491/1

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 03/03/2006	lkunkel 03/03/2006		_____			
/1			rschluet 03/03/2006	_____	sbasford 03/03/2006	sbasford 03/03/2006	

FE Sent For:

<END>

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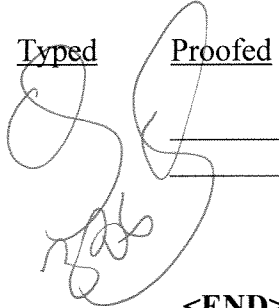
Chapter 980 rewrite ✓

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FE Sent For:

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TODAY

2005 - 2006 LEGISLATURE

50625/1
LRBs049T/I
MGD&CMH:lkkch
↑
STAYS

ASA

SENATE SUBSTITUTE AMENDMENT,

TO 2005 ~~SENATE~~ BILL 318

AB (WRD - 4793/1)

No changes

repeal

✓

1 AN ACT *to repeal* 980.02 (2) (ag), 980.03 (5), 980.05 (1m), 980.08 (4) (b), 980.08
2 (5) and 980.10; *to renumber* 978.13 (2) and 980.01 (1); *to renumber and*
3 *amend* 938.396 (2) (e), 978.043, 980.015 (1), 980.015 (4), 980.03 (4) and 980.04
4 (2); *to amend* 20.435 (2) (bj), 46.10 (2), 48.396 (1), 48.396 (5) (a) (intro.), 51.30
5 (3) (a), 51.30 (3) (b), 51.30 (4) (b) 8m., 51.30 (4) (b) 10m., 51.30 (4) (b) 11., 51.375
6 (1) (a), 51.375 (2) (b), 51.42 (3) (aw) 1. d., 51.61 (1) (o), 109.09 (1), 146.82 (2) (c),
7 301.03 (19), 301.45 (1g) (dt), 301.45 (3) (a) 3r., 301.45 (3) (b) 3., 301.45 (5) (b) 2.,
8 756.06 (2) (b), 801.52, 808.04 (3), 808.04 (4), 808.075 (4) (h), 809.10 (1) (d),
9 809.30 (1) (c), 809.30 (1) (f), 905.04 (4) (a), 911.01 (4) (c), 938.396 (1), 938.396 (5)
10 (a) (intro.), 938.78 (2) (e), 946.42 (1) (a), 950.04 (1v) (xm), 967.03, 972.15 (4),
11 978.03 (3), 978.04, 978.045 (1r) (intro.), 978.05 (6) (a), 978.05 (8) (b), 980.01 (5),
12 980.01 (6) (a), 980.01 (6) (b), 980.01 (6) (c), 980.01 (7), 980.015 (2) (intro.),
13 980.015 (2) (a), 980.015 (2) (b), 980.015 (2) (c), 980.02 (1) (a), 980.02 (4) (intro.),

1 980.03 (2) (intro.), 980.03 (3), 980.04 (1), 980.04 (3), 980.04 (5), 980.05 (1),
2 980.05 (2), 980.05 (3) (a), 980.05 (3) (b), 980.07 (title), 980.07 (1), 980.07 (2),
3 980.07 (3), 980.08 (1), 980.08 (3), 980.08 (4) (a), 980.08 (4) (c), 980.08 (6m),
4 980.101 (2) (a), 980.11 (2) (intro.) and 980.12 (1); **to repeal and recreate**
5 980.08 (title) and 980.09; and **to create** 48.396 (6), 48.78 (2) (e), 48.981 (7) (a)
6 8s., 51.30 (3) (bm), 51.30 (4) (b) 8s., 118.125 (2) (ck), 146.82 (2) (cm), 814.61 (1)
7 (c) 6., 938.35 (1) (e), 940.20 (1g), 946.42 (3m), 972.15 (6), 978.043 (2), 978.13 (2)
8 (a), 980.01 (1b), 980.01 (1j), 980.01 (3), 980.01 (6) (am), 980.01 (6) (bm), 980.01
9 (8), 980.01 (9), 980.015 (2) (d), 980.02 (1) (b) 3., 980.02 (1m), 980.02 (6), 980.031
10 (title), 980.031 (1) and (2), 980.034, 980.036, 980.038, 980.04 (2) (b) 2., 980.05
11 (2m), 980.07 (4), (5) and (6), 980.075, 980.08 (4) (cg), 980.08 (4) (cm), 980.08 (4)
12 (d), (e), (f) and (g), 980.095, 980.14 (title) and 980.14 (1) of the statutes; **relating**
13 **to:** the definition of sexually violent person, sexually violent person
14 commitment proceedings, criteria for supervised release, battery by certain
15 committed persons, escape from custody by a person who is subject to a sexually
16 violent person commitment proceeding, and providing penalties.

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

17 **SECTION 1.** 20.435 (2) (bj) of the statutes is amended to read:

18 20.435 (2) (bj) *Competency examinations and conditional and supervised*
19 *release services.* Biennially, the amounts in the schedule for outpatient competency
20 examinations and for payment by the department of costs for treatment and services
21 for persons released under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or
22 s. 971.17 (3) (d) or (4) (e) or 980.08 ~~(5)~~ (4) (g), for which the department has contracted

1 with county departments under s. 51.42 (3) (aw) 1. d., with other public agencies, or
2 with private agencies to provide the treatment and services.

3 **SECTION 2.** 46.10 (2) of the statutes is amended to read:

4 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
5 including but not limited to a person admitted, committed or placed under s. 975.01,
6 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,
7 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14
8 (2) and (5), 971.17 (1), 975.06 and 980.06, receiving care, maintenance, services and
9 supplies provided by any institution in this state including University of Wisconsin
10 Hospitals and Clinics, in which the state is chargeable with all or part of the person's
11 care, maintenance, services and supplies, any person receiving care and services
12 from a county department established under s. 51.42 or 51.437 or from a facility
13 established under s. 49.73, and any person receiving treatment and services from a
14 public or private agency under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats.,
15 or s. 971.17 (3) (d) or (4) (e) or ~~980.08 (5) (4) (g)~~ and the person's property and estate,
16 including the homestead, and the spouse of the person, and the spouse's property and
17 estate, including the homestead, and, in the case of a minor child, the parents of the
18 person, and their property and estates, including their homestead, and, in the case
19 of a foreign child described in s. 48.839 (1) who became dependent on public funds
20 for his or her primary support before an order granting his or her adoption, the
21 resident of this state appointed guardian of the child by a foreign court who brought
22 the child into this state for the purpose of adoption, and his or her property and
23 estate, including his or her homestead, shall be liable for the cost of the care,
24 maintenance, services and supplies in accordance with the fee schedule established
25 by the department under s. 46.03 (18). If a spouse, widow or minor, or an

1 incapacitated person may be lawfully dependent upon the property for their support,
2 the court shall release all or such part of the property and estate from the charges
3 that may be necessary to provide for those persons. The department shall make
4 every reasonable effort to notify the liable persons as soon as possible after the
5 beginning of the maintenance, but the notice or the receipt thereof is not a condition
6 of liability.

7 **SECTION 3.** 48.396 (1) of the statutes is amended to read:

8 48.396 (1) Law enforcement officers' records of children shall be kept separate
9 from records of adults. Law enforcement officers' records of the adult expectant
10 mothers of unborn children shall be kept separate from records of other adults. Law
11 enforcement officers' records of children and the adult expectant mothers of unborn
12 children shall not be open to inspection or their contents disclosed except under sub.
13 (1b), (1d) ~~or~~ (5), or (6) or s. 48.293 or by order of the court. This subsection does not
14 apply to the representatives of newspapers or other reporters of news who wish to
15 obtain information for the purpose of reporting news without revealing the identity
16 of the child or expectant mother involved, to the confidential exchange of information
17 between the police and officials of the school attended by the child or other law
18 enforcement or social welfare agencies or to children 10 years of age or older who are
19 subject to the jurisdiction of the court of criminal jurisdiction. A public school official
20 who obtains information under this subsection shall keep the information
21 confidential as required under s. 118.125 and a private school official who obtains
22 information under this subsection shall keep the information confidential in the
23 same manner as is required of a public school official under s. 118.125. A law
24 enforcement agency that obtains information under this subsection shall keep the
25 information confidential as required under this subsection and s. 938.396 (1). A

1 social welfare agency that obtains information under this subsection shall keep the
2 information confidential as required under ss. 48.78 and 938.78.

3 **SECTION 4.** 48.396 (5) (a) (intro.) of the statutes is amended to read:

4 48.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
5 (1), (1b) ~~or~~ (1d), or (6) may petition the court to order the disclosure of the records
6 governed by the applicable subsection. The petition shall be in writing and shall
7 describe as specifically as possible all of the following:

8 **SECTION 5.** 48.396 (6) of the statutes is created to read:

9 48.396 (6) Records of law enforcement officers and of the court assigned to
10 exercise jurisdiction under this chapter and ch. 938 shall be open for inspection to
11 authorized representatives of the department of corrections, the department of
12 health and family services, the department of justice, or a district attorney for use
13 in the prosecution of any proceeding or any evaluation conducted under ch. 980, if
14 the records involve or relate to an individual who is the subject of the proceeding or
15 evaluation. The court in which the proceeding under ch. 980 is pending may issue
16 any protective orders that it determines are appropriate concerning information
17 made available or disclosed under this subsection. Any representative of the
18 department of corrections, the department of health and family services, the
19 department of justice, or a district attorney may disclose information obtained under
20 this subsection for any purpose consistent with any proceeding under ch. 980.

21 **SECTION 6.** 48.78 (2) (e) of the statutes is created to read:

22 48.78 (2) (e) Notwithstanding par. (a), an agency shall, upon request, disclose
23 information to authorized representatives of the department of corrections, the
24 department of health and family services, the department of justice, or a district
25 attorney for use in the prosecution of any proceeding or any evaluation conducted

1 under ch. 980, if the information involves or relates to an individual who is the
2 subject of the proceeding or evaluation. The court in which the proceeding under ch.
3 980 is pending may issue any protective orders that it determines are appropriate
4 concerning information made available or disclosed under this paragraph. Any
5 representative of the department of corrections, the department of health and family
6 services, the department of justice, or a district attorney may disclose information
7 obtained under this paragraph for any purpose consistent with any proceeding under
8 ch. 980.

9 **SECTION 7.** 48.981 (7) (a) 8s. of the statutes is created to read:

10 48.981 (7) (a) 8s. Authorized representatives of the department of corrections,
11 the department of health and family services, the department of justice, or a district
12 attorney for use in the prosecution of any proceeding or any evaluation conducted
13 under ch. 980, if the reports or records involve or relate to an individual who is the
14 subject of the proceeding or evaluation. The court in which the proceeding under ch.
15 980 is pending may issue any protective orders that it determines are appropriate
16 concerning information made available or disclosed under this subdivision. Any
17 representative of the department of corrections, the department of health and family
18 services, the department of justice, or a district attorney may disclose information
19 obtained under this subdivision for any purpose consistent with any proceeding
20 under ch. 980.

21 **SECTION 8.** 51.30 (3) (a) of the statutes is amended to read:

22 51.30 (3) (a) Except as provided in pars. (b) ~~and (bm)~~, (c), ~~and (d)~~, the files and
23 records of the court proceedings under this chapter shall be closed but shall be
24 accessible to any individual who is the subject of a petition filed under this chapter.

25 **SECTION 9.** 51.30 (3) (b) of the statutes is amended to read:

1 51.30 (3) (b) An individual's attorney or guardian ad litem and the corporation
2 counsel shall have access to the files and records of the court proceedings under this
3 chapter without the individual's consent and without modification of the records in
4 order to prepare for involuntary commitment or recommitment proceedings,
5 reexaminations, appeals, or other actions relating to detention, admission, or
6 commitment under this chapter or ch. 971 ~~or~~ 975, or 980.

7 **SECTION 10.** 51.30 (3) (bm) of the statutes is created to read:

8 51.30 (3) (bm) Authorized representatives of the department of corrections, the
9 department of health and family services, the department of justice, or a district
10 attorney shall have access to the files and records of court proceedings under this
11 chapter for use in the prosecution of any proceeding or any evaluation conducted
12 under ch. 980, if the files or records involve or relate to an individual who is the
13 subject of the proceeding or evaluation. The court in which the proceeding under ch.
14 980 is pending may issue any protective orders that it determines are appropriate
15 concerning information made available or disclosed under this paragraph. Any
16 representative of the department of corrections, the department of health and family
17 services, the department of justice, or a district attorney may disclose information
18 obtained under this paragraph for any purpose consistent with any proceeding under
19 ch. 980.

20 **SECTION 11.** 51.30 (4) (b) 8m. of the statutes is amended to read:

21 51.30 (4) (b) 8m. To appropriate examiners and facilities in accordance with s.
22 971.17 (2) (e), (4) (c), and (7) (c), ~~980.03 (4) or 980.08 (3)~~. The recipient of any
23 information from the records shall keep the information confidential except as
24 necessary to comply with s. 971.17 ~~or ch. 980~~.

25 **SECTION 12.** 51.30 (4) (b) 8s. of the statutes is created to read:

1 51.30 (4) (b) 8s. To appropriate persons in accordance with s. 980.031 (4) and
2 to authorized representatives of the department of corrections, the department of
3 health and family services, the department of justice, or a district attorney for use
4 in the prosecution of any proceeding or any evaluation conducted under ch. 980, if
5 the treatment records involve or relate to an individual who is the subject of the
6 proceeding or evaluation. The court in which the proceeding under ch. 980 is pending
7 may issue any protective orders that it determines are appropriate concerning
8 information made available or disclosed under this subdivision. Any representative
9 of the department of corrections, the department of health and family services, the
10 department of justice, or a district attorney may disclose information obtained under
11 this subdivision for any purpose consistent with any proceeding under ch. 980.

12 **SECTION 13.** 51.30 (4) (b) 10m. of the statutes is amended to read:

13 51.30 (4) (b) 10m. To the department of justice or a district attorney under s.
14 980.015 (3) (b), if the treatment records are maintained by an agency with
15 jurisdiction, as defined in s. ~~980.015 (1)~~ 980.01 (1d), that has control or custody over
16 a person who may meet the criteria for commitment as a sexually violent person
17 under ch. 980.

18 **SECTION 14.** 51.30 (4) (b) 11. of the statutes is amended to read:

19 51.30 (4) (b) 11. To the subject individual's counsel or guardian ad litem and
20 the corporation counsel, without modification, at any time in order to prepare for
21 involuntary commitment or recommitment proceedings, reexaminations, appeals, or
22 other actions relating to detention, admission, commitment, or patients' rights under
23 this chapter or ch. 48, 971, ~~or 975,~~ or 980.

24 **SECTION 15.** 51.375 (1) (a) of the statutes is amended to read:

1 51.375 (1) (a) “Community placement” means conditional transfer into the
2 community under s. 51.35 (1), conditional release under s. 971.17, parole from a
3 commitment for specialized treatment under ch. 975, or ~~conditional~~ supervised
4 release under ch. 980.

5 **SECTION 16.** 51.375 (2) (b) of the statutes is amended to read:

6 51.375 (2) (b) The department may administer a lie detector test to a sex
7 offender as part of the sex offender’s programming, care, or treatment. A patient may
8 refuse to submit to a lie detector test under this paragraph. This refusal does not
9 constitute a general refusal to participate in treatment. The results of a lie detector
10 test under this paragraph may be used only in the care, treatment, or assessment of
11 the subject or in programming for the subject. The results of a test may be disclosed
12 only to persons employed at the facility at which the subject is placed who need to
13 know the results for purposes related to care, treatment, or assessment of the
14 patient, the committing court, the patient’s attorney, or the attorney representing
15 the state in a proceeding under ch. 980. The committing court to which the results
16 of a test have been disclosed may admit the results in evidence in a proceeding under
17 ch. 980.

18 **SECTION 17.** 51.42 (3) (aw) 1. d. of the statutes is amended to read:

19 51.42 (3) (aw) 1. d. Provide treatment and services that are specified in a
20 conditional release plan approved by a court for a person who is a county resident and
21 is conditionally released under s. 971.17 (3) or (4) or that are specified in a supervised
22 release plan approved by a court under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003
23 stats., or s. 980.08 ~~(5)~~ (4) (g). If the county department provides treatment and
24 services under this subdivision, the department of health and family services shall,

1 from the appropriation under s. 20.435 (2) (bj), pay the county department for the
2 costs of the treatment and services.

3 **SECTION 18.** 51.61 (1) (o) of the statutes is amended to read:

4 51.61 (1) (o) Except as otherwise provided, have a right not to be filmed or
5 taped, unless the patient signs an informed and voluntary consent that specifically
6 authorizes a named individual or group to film or tape the patient for a particular
7 purpose or project during a specified time period. The patient may specify in such
8 consent periods during which, or situations in which, the patient may not be filmed
9 or taped. If a patient is legally incompetent, such consent shall be granted on behalf
10 of the patient by the patient's guardian. A patient in Goodland Hall at the Mendota
11 Mental Health Institute, or a patient detained or committed under ch. 980 and
12 placed in a facility specified under s. 980.065, may be filmed or taped for security
13 purposes without the patient's consent, except that such a patient may not be filmed
14 in patient bedrooms or bathrooms ~~for any purpose~~ without the patient's consent
15 unless the patient is engaged in dangerous or disruptive behavior. A treatment
16 activity involving a patient committed or detained under ch. 980 may be filmed or
17 taped if the purpose of the recording is to assess the quality of the treatment activity
18 or to facilitate clinical supervision of the staff involved in the treatment activity.

19 **SECTION 19.** 109.09 (1) of the statutes is amended to read:

20 109.09 (1) The department shall investigate and attempt equitably to adjust
21 controversies between employers and employees as to alleged wage claims. The
22 department may receive and investigate any wage claim which is filed with the
23 department, or received by the department under s. 109.10 (4), no later than 2 years
24 after the date the wages are due. The department may, after receiving a wage claim,
25 investigate any wages due from the employer against whom the claim is filed to any

1 employee during the period commencing 2 years before the date the claim is filed.
2 The department shall enforce this chapter and ss. 66.0903, 103.02, 103.49, 103.82,
3 104.12 and 229.8275. In pursuance of this duty, the department may sue the
4 employer on behalf of the employee to collect any wage claim or wage deficiency and
5 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
6 under s. 109.10, the department may refer such an action to the district attorney of
7 the county in which the violation occurs for prosecution and collection and the
8 district attorney shall commence an action in the circuit court having appropriate
9 jurisdiction. Any number of wage claims or wage deficiencies against the same
10 employer may be joined in a single proceeding, but the court may order separate
11 trials or hearings. In actions that are referred to a district attorney under this
12 subsection, any taxable costs recovered by the district attorney shall be paid into the
13 general fund of the county in which the violation occurs and used by that county to
14 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office
15 of the district attorney who prosecuted the action.

16 **SECTION 20.** 118.125 (2) (ck) of the statutes is created to read:

17 118.125 (2) (ck) The school district clerk or his or her designee shall make pupil
18 records available for inspection or, upon request, disclose the contents of pupil
19 records to authorized representatives of the department of corrections, the
20 department of health and family services, the department of justice, or a district
21 attorney for use in the prosecution of any proceeding or any evaluation conducted
22 under ch. 980, if the pupil records involve or relate to an individual who is the subject
23 of the proceeding or evaluation. The court in which the proceeding under ch. 980 is
24 pending may issue any protective orders that it determines are appropriate
25 concerning pupil records made available or disclosed under this paragraph. Any

1 representative of the department of corrections, the department of health and family
2 services, the department of justice, or a district attorney may disclose information
3 obtained under this paragraph for any purpose consistent with any proceeding under
4 ch. 980.

5 **SECTION 21.** 146.82 (2) (c) of the statutes is amended to read:

6 146.82 (2) (c) Notwithstanding sub. (1), patient health care records shall be
7 released to appropriate examiners and facilities in accordance with ~~ss. s.~~ s. 971.17 (2)
8 (e), (4) (c), and (7) (c), ~~980.03 (4) and 980.08 (3)~~. The recipient of any information from
9 the records shall keep the information confidential except as necessary to comply
10 with s. 971.17 ~~or ch. 980~~.

11 **SECTION 22.** 146.82 (2) (cm) of the statutes is created to read:

12 146.82 (2) (cm) Notwithstanding sub. (1), patient health care records shall be
13 released, upon request, to appropriate persons in accordance with s. 980.031 (4) and
14 to authorized representatives of the department of corrections, the department of
15 health and family services, the department of justice, or a district attorney for use
16 in the prosecution of any proceeding or any evaluation conducted under ch. 980, if
17 the treatment records involve or relate to an individual who is the subject of the
18 proceeding or evaluation. The court in which the proceeding under ch. 980 is pending
19 may issue any protective orders that it determines are appropriate concerning
20 records made available or disclosed under this paragraph. Any representative of the
21 department of corrections, the department of health and family services, the
22 department of justice, or a district attorney may disclose information obtained under
23 this paragraph for any purpose consistent with any proceeding under ch. 980.

24 **SECTION 23.** 301.03 (19) of the statutes is amended to read:

1 301.03 (19) Work to minimize, to the greatest extent possible, the residential
2 population density of sex offenders, as defined in s. 302.116 (1) (b), who are on
3 probation, parole, or extended supervision or placed on supervised release under s.
4 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s. 980.08 (5) (4) (g).

5 **SECTION 24.** 301.45 (1g) (dt) of the statutes is amended to read:

6 301.45 (1g) (dt) Is in institutional care or on ~~conditional~~ supervised release
7 under ch. 980 on or after June 2, 1994.

8 **SECTION 25.** 301.45 (3) (a) 3r. of the statutes is amended to read:

9 301.45 (3) (a) 3r. If the person has been committed under ch. 980, he or she is
10 subject to this subsection upon being placed on supervised release under s. 980.06
11 (2), 1997 stats., or s. 980.08 or, if he or she was not placed on supervised release,
12 before being discharged under s. 980.10, 2003 stats., or s. 980.09 ~~or 980.10~~ (4).

13 **SECTION 26.** 301.45 (3) (b) 3. of the statutes is amended to read:

14 301.45 (3) (b) 3. The department of health and family services shall notify a
15 person who is being placed on conditional release, supervised release, conditional
16 transfer or parole, or is being terminated or discharged from a commitment, under
17 s. 51.20, 51.35 or 971.17 or ch. 975 or 980 and who is covered under sub. (1g) of the
18 need to comply with the requirements of this section.

19 **SECTION 27.** 301.45 (5) (b) 2. of the statutes is amended to read:

20 301.45 (5) (b) 2. The person has been found to be a sexually violent person under
21 ch. 980, regardless of whether the person is has been discharged under s. 980.10,
22 2003 stats., or s. 980.09 ~~or 980.10~~ (4) from the sexually violent person commitment,
23 except that the person no longer has to comply with this section if the finding that
24 the person is a sexually violent person has been reversed, set aside or vacated.

25 **SECTION 28.** 756.06 (2) (b) of the statutes is amended to read:

1 756.06 (2) (b) Except as provided in par. (c) and ss. 980.05 (2) and (2m) (c),
2 980.09 (3), and 980.095 (1), a jury in a civil case shall consist of 6 persons unless a
3 party requests a greater number, not to exceed 12. The court, on its own motion, may
4 require a greater number, not to exceed 12.

5 **SECTION 29.** 801.52 of the statutes is amended to read:

6 **801.52 Discretionary change of venue.** The court may at any time, upon
7 its own motion, the motion of a party or the stipulation of the parties, change the
8 venue to any county in the interest of justice or for the convenience of the parties or
9 witnesses. This section does not apply to proceedings under ch. 980.

10 **SECTION 30.** 808.04 (3) of the statutes is amended to read:

11 808.04 (3) Except as provided in subs. (4) and (7), an appeal in a criminal case
12 or a case under ch. 48, 51, 55 ~~or~~, 938, or 980 shall be initiated within the time period
13 specified in s. 809.30.

14 **SECTION 31.** 808.04 (4) of the statutes is amended to read:

15 808.04 (4) Except as provided in sub. (7m), an appeal by the state in either a
16 criminal case under s. 974.05 or a case under ch. 48 ~~or~~, 938, or 980 shall be initiated
17 within 45 days of entry of the judgment or order appealed from.

18 **SECTION 32.** 808.075 (4) (h) of the statutes is amended to read:

19 808.075 (4) (h) Commitment, supervised release, recommitment, discharge,
20 and postcommitment relief under s. 980.10, 2003 stats., or ss. 980.06, 980.08, 980.09,
21 980.10 (4), and 980.101 of a person found to be a sexually violent person under ch.
22 980.

23 **SECTION 33.** 809.10 (1) (d) of the statutes is amended to read:

24 809.10 (1) (d) *Docketing statement.* The person shall send the court of appeals
25 an original and one copy of a completed docketing statement on a form prescribed by

1 the court of appeals. The docketing statement shall accompany the court of appeals'
2 copy of the notice of appeal. The person shall send a copy of the completed docketing
3 statement to the other parties to the appeal. Docketing statements need not be filed
4 in appeals brought under s. 809.105, 809.107, 809.32, or 974.06 (7), in cases under
5 ch. 980, or in cases in which a party represents himself or herself. Docketing
6 statements need not be filed in appeals brought under s. 809.30 or 974.05, or by the
7 state or defendant in permissive appeals in criminal cases pursuant to s. 809.50,
8 except that docketing statements shall be filed in cases arising under chs. 48, 51, 55,
9 or 938.

10 **SECTION 34.** 809.30 (1) (c) of the statutes is amended to read:

11 809.30 (1) (c) "Postconviction relief" means an appeal or a motion for
12 postconviction relief in a criminal case, other than an appeal, motion, or petition
13 under ss. 302.113 (7m), 302.113 (9g), 973.19, 973.195, 974.06, or 974.07 (2). In a ch.
14 980 case, the term means an appeal or a motion for postcommitment relief under s.
15 980.038 (4).

16 **SECTION 35.** 809.30 (1) (f) of the statutes is amended to read:

17 809.30 (1) (f) "Sentencing" means the imposition of a sentence, a fine, or
18 probation in a criminal case. In a ch. 980 case, the term means the entry of an order
19 under s. 980.06.

20 **SECTION 36.** 814.61 (1) (c) 6. of the statutes is created to read:

21 814.61 (1) (c) 6. An action to commit a person under ch. 51, 55, or 980.

22 **SECTION 37.** 905.04 (4) (a) of the statutes is amended to read:

23 905.04 (4) (a) *Proceedings for hospitalization, guardianship, protective*
24 *services, or protective placement or for control, care, or treatment of a sexually violent*
25 *person.* There is no privilege under this rule as to communications and information

1 relevant to an issue in proceedings to hospitalize the patient for mental illness, to
2 appoint a guardian under s. 880.33, for court-ordered protective services or
3 protective placement ~~or~~, for review of guardianship, protective services, or protective
4 placement orders, or for control, care, or treatment of a sexually violent person under
5 ch. 980, if the physician, registered nurse, chiropractor, psychologist, social worker,
6 marriage and family therapist, or professional counselor in the course of diagnosis
7 or treatment has determined that the patient is in need of hospitalization,
8 guardianship, protective services, or protective placement or control, care, and
9 treatment as a sexually violent person.

10 **SECTION 38.** 911.01 (4) (c) of the statutes is amended to read:

11 911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or
12 rendition; sentencing, granting or revoking probation, modification of a bifurcated
13 sentence under s. 302.113 (9g), adjustment of a bifurcated sentence under s. 973.195
14 (1r), issuance of arrest warrants, criminal summonses and search warrants;
15 hearings under s. 980.09 (2); proceedings under s. 971.14 (1) (c); proceedings with
16 respect to pretrial release under ch. 969 except where habeas corpus is utilized with
17 respect to release on bail or as otherwise provided in ch. 969.

18 **SECTION 39.** 938.35 (1) (e) of the statutes is created to read:

19 938.35 (1) (e) In a hearing, trial, or other proceeding under ch. 980.

20 **SECTION 40.** 938.396 (1) of the statutes is amended to read:

21 938.396 (1) Law enforcement officers' records of juveniles shall be kept
22 separate from records of adults. Law enforcement officers' records of juveniles shall
23 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
24 (1m), (1r), (1t), (1x) ~~or~~ (5), or (10) or s. 938.293 or by order of the court. This
25 subsection does not apply to representatives of the news media who wish to obtain

1 information for the purpose of reporting news without revealing the identity of the
2 juvenile involved, to the confidential exchange of information between the police and
3 officials of the school attended by the juvenile or other law enforcement or social
4 welfare agencies, or to juveniles 10 years of age or older who are subject to the
5 jurisdiction of the court of criminal jurisdiction. A public school official who obtains
6 information under this subsection shall keep the information confidential as
7 required under s. 118.125 and a private school official who obtains information under
8 this subsection shall keep the information confidential in the same manner as is
9 required of a public school official under s. 118.125. A law enforcement agency that
10 obtains information under this subsection shall keep the information confidential as
11 required under this subsection and s. 48.396 (1). A social welfare agency that obtains
12 information under this subsection shall keep the information confidential as
13 required under ss. 48.78 and 938.78.

14 **SECTION 41.** 938.396 (2) (e) of the statutes is renumbered 938.396 (10) and
15 amended to read:

16 938.396 (10) ~~Upon request of the department of corrections to review court A~~
17 ~~law enforcement agency's records and records for the purpose of providing, under s.~~
18 ~~980.015 (3) (a) of the court assigned to exercise jurisdiction under this chapter and~~
19 ~~ch. 48 shall be open for inspection by authorized representatives of the department~~
20 ~~of corrections, the department of health and family services, the department of~~
21 ~~justice, or a district attorney with a person's offense history, the court shall open for~~
22 ~~inspection by authorized representatives of the department of corrections the~~
23 ~~records of the court relating to any juvenile who has been adjudicated delinquent for~~
24 ~~a sexually violent offense, as defined in s. 980.01 (6) for use in the prosecution of any~~
25 ~~proceeding or any evaluation conducted under ch. 980, if the records involve or relate~~

1 to an individual who is the subject of the proceeding or evaluation. The court in
2 which the proceeding under ch. 980 is pending may issue any protective orders that
3 it determines are appropriate concerning information made available or disclosed
4 under this subsection. Any representative of the department of corrections, the
5 department of health and family services, the department of justice, or a district
6 attorney may disclose information obtained under this subsection for any purpose
7 consistent with any proceeding under ch. 980.

8 **SECTION 42.** 938.396 (5) (a) (intro.) of the statutes is amended to read:

9 938.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
10 (1), (1b), (1d), (1g), (1m), (1r) ~~or~~, (1t), or (10) may petition the court to order the
11 disclosure of the records governed by the applicable subsection. The petition shall
12 be in writing and shall describe as specifically as possible all of the following:

13 **SECTION 43.** 938.78 (2) (e) of the statutes is amended to read:

14 938.78 (2) (e) ~~Paragraph (a) does not prohibit the department from disclosing~~
15 Notwithstanding par. (a), an agency shall, upon request, disclose information about
16 an individual adjudged delinquent under s. 938.183 or 938.34 for a sexually violent
17 offense, as defined in s. 980.01 (6), to authorized representatives of the department
18 of corrections, the department of health and family services, the department of
19 justice, or a district attorney or a judge acting under ch. 980 or to an attorney who
20 represents a person subject to a petition for use in the prosecution of any proceeding
21 or any evaluation conducted under ch. 980, if the information involves or relates to
22 an individual who is the subject of the proceeding or evaluation. The court in which
23 the petition proceeding under s. 980.02 is filed ch. 980 is pending may issue any
24 protective orders that it determines are appropriate concerning information
25 disclosed under this paragraph. Any representative of the department of

1 corrections, the department of health and family services, the department of justice,
2 or a district attorney may disclose information obtained under this paragraph for any
3 purpose consistent with any proceeding under ch. 980.

4 **SECTION 44.** 940.20 (1g) of the statutes is created to read:

5 940.20 **(1g)** BATTERY BY CERTAIN COMMITTED PERSONS. Any person placed in a
6 facility under s. 980.065 and who intentionally causes bodily harm to an officer,
7 employee, agent, visitor, or other resident of the facility, without his or her consent,
8 is guilty of a Class H felony.

9 **SECTION 45.** 946.42 (1) (a) of the statutes is amended to read:

10 946.42 **(1)** (a) “Custody” includes without limitation actual custody of an
11 institution, including a secured correctional facility, as defined in s. 938.02 (15m), a
12 secured child caring institution, as defined in s. 938.02 (15g), a secured group home,
13 as defined in s. 938.02 (15p), a secure detention facility, as defined in s. 938.02 (16),
14 a Type 2 child caring institution, as defined in s. 938.02 (19r), a facility used for the
15 detention of persons detained under s. 980.04 (1), a facility specified in s. 980.065,
16 or a juvenile portion of a county jail, or actual custody of a peace officer or institution
17 guard. “Custody” also includes the constructive custody of persons placed on
18 supervised release under ch. 980 and constructive custody of prisoners and juveniles
19 subject to an order under s. 48.366, 938.183, 938.34 (4d), (4h) or (4m) or 938.357 (4)
20 or (5) (e) temporarily outside the institution whether for the purpose of work, school,
21 medical care, a leave granted under s. 303.068, a temporary leave or furlough
22 granted to a juvenile or otherwise. Under s. 303.08 (6) it means, without limitation,
23 that of the sheriff of the county to which the prisoner was transferred after
24 conviction. It does not include the custody of a probationer, parolee or person on
25 extended supervision by the department of corrections or a probation, extended

1 supervision or parole officer or the custody of a person who has been released to
2 aftercare supervision under ch. 938 unless the person is in actual custody or is
3 subject to a confinement order under s. 973.09 (4).

4 **SECTION 46.** 946.42 (3m) of the statutes is created to read:

5 946.42 **(3m)** A person who intentionally escapes from custody under any of the
6 following circumstances is guilty of a Class F felony:

7 (a) While subject to a detention order under s. 980.04 (1) or a custody order
8 under s. 980.04 (3).

9 (b) While subject to an order issued under s. 980.06 committing the person to
10 custody of the department of health and family services, regardless of whether the
11 person is placed in institutional care or on supervised release.

12 **SECTION 47.** 950.04 (1v) (xm) of the statutes is amended to read:

13 950.04 **(1v)** (xm) To have the department of health and family services make
14 a reasonable attempt to notify the victim under s. 980.11 regarding supervised
15 release under s. 980.08 and discharge under s. 980.09 ~~or 980.10~~ (4).

16 **SECTION 48.** 967.03 of the statutes is amended to read:

17 **967.03 District attorneys.** Wherever in chs. 967 to ~~979~~ 980 powers or duties
18 are imposed upon district attorneys, the same powers and duties may be discharged
19 by any of their duly qualified deputies or assistants.

20 **SECTION 49.** 972.15 (4) of the statutes is amended to read:

21 972.15 **(4)** After sentencing, unless otherwise authorized under sub. (5) ~~or (6)~~
22 or ordered by the court, the presentence investigation report shall be confidential
23 and shall not be made available to any person except upon specific authorization of
24 the court.

25 **SECTION 50.** 972.15 (6) of the statutes is created to read:

1 972.15 (6) The presentence investigation report and any information contained
2 in it or upon which it is based may be used by any of the following persons in any
3 evaluation, examination, referral, hearing, trial, postcommitment relief proceeding,
4 appeal, or other proceeding under ch. 980:

5 (a) The department of corrections.

6 (b) The department of health and family services.

7 (c) The person who is the subject of the presentence investigation report, his
8 or her attorney, or an agent or employee of the attorney.

9 (d) The attorney representing the state or an agent or employee of the attorney.

10 (e) A licensed physician, licensed psychologist, or other mental health
11 professional who is examining the subject of the presentence investigation report.

12 (f) The court and, if applicable, the jury hearing the case. ✓

13 **SECTION 51.** 978.03 (3) of the statutes, as affected by 2005 Wisconsin Act 25,
14 is amended to read:

15 978.03 (3) Any assistant district attorney under sub. (1), (1m), or (2) must be
16 an attorney admitted to practice law in this state and, except as provided in s.
17 978.043 (1), may perform any duty required by law to be performed by the district
18 attorney. The district attorney of the prosecutorial unit under sub. (1), (1m), or (2)
19 may appoint such temporary counsel as may be authorized by the department of
20 administration.

21 **SECTION 52.** 978.04 of the statutes is amended to read:

22 **978.04 Assistants in certain prosecutorial units.** The district attorney of
23 any prosecutorial unit having a population of less than 100,000 may appoint one or
24 more assistant district attorneys as necessary to carry out the duties of his or her
25 office and as may be requested by the department of administration authorized in

1 accordance with s. 16.505. Any such assistant district attorney must be an attorney
2 admitted to practice law in this state and, except as provided in s. 978.043 (1), may
3 perform any duty required by law to be performed by the district attorney.

4 **SECTION 53.** 978.043 of the statutes is renumbered 978.043 (1) and amended
5 to read.

6 978.043 (1) The district attorney of the prosecutorial unit that consists of
7 Brown County and the district attorney of the prosecutorial unit that consists of
8 Milwaukee County shall each assign one assistant district attorney in his or her
9 prosecutorial unit to be a sexually violent person commitment prosecutor. An
10 assistant district attorney assigned under this ~~section~~ subsection to be a sexually
11 violent person commitment prosecutor may engage only in the prosecution of
12 sexually violent person commitment proceedings under ch. 980 and, at the request
13 of the district attorney of the prosecutorial unit, may file and prosecute sexually
14 violent person commitment proceedings under ch. 980 in any prosecutorial unit in
15 this state.

16 **SECTION 54.** 978.043 (2) of the statutes is created to read:

17 978.043 (2) If an assistant district attorney assigned under sub. (1) prosecutes
18 or assists in the prosecution of a case under ch. 980 in a prosecutorial unit other than
19 his or her own, the prosecutorial unit in which the case is heard shall reimburse the
20 assistant district attorney's own prosecutorial unit for his or her reasonable costs
21 associated with the prosecution, including transportation, lodging, and meals.
22 Unless otherwise agreed upon by the prosecutorial units involved, the court hearing
23 the case shall determine the amount of money to be reimbursed for expert witness
24 fees under this subsection.

25 **SECTION 55.** 978.045 (1r) (intro.) of the statutes is amended to read:

1 978.045 (1r) (intro.) Any judge of a court of record, by an order entered in the
2 record stating the cause ~~therefor~~ for it, may appoint an attorney as a special
3 prosecutor to perform, for the time being, or for the trial of the accused person, the
4 duties of the district attorney. An attorney appointed under this subsection shall
5 have all of the powers of the district attorney. The judge may appoint an attorney
6 as a special prosecutor at the request of a district attorney to assist the district
7 attorney in the prosecution of persons charged with a crime, in grand jury or John
8 Doe proceedings, in proceedings under ch. 980, or in investigations. The judge may
9 appoint an attorney as a special prosecutor if any of the following conditions exists:

10 **SECTION 56.** 978.05 (6) (a) of the statutes is amended to read:

11 978.05 (6) (a) Institute, commence or appear in all civil actions or special
12 proceedings under and perform the duties set forth for the district attorney under ch.
13 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 103.50 (8), 103.92
14 (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
15 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in
16 connection with court proceedings in a court assigned to exercise jurisdiction under
17 chs. 48 and 938 as the judge may request and perform all appropriate duties and
18 appear if the district attorney is designated in specific statutes, including matters
19 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits
20 the authority of the county board to designate, under s. 48.09 (5), that the corporation
21 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.
22 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the
23 interests of the public under s. 48.14 or 938.14.

24 **SECTION 57.** 978.05 (8) (b) of the statutes, as affected by 2005 Wisconsin Act 25,
25 is amended to read:

1 978.05 **(8)** (b) Hire, employ, and supervise his or her staff and, subject to s.
2 978.043 (1), make appropriate assignments of the staff throughout the prosecutorial
3 unit. The district attorney may request the assistance of district attorneys, deputy
4 district attorneys, or assistant district attorneys from other prosecutorial units or
5 assistant attorneys general who then may appear and assist in the investigation and
6 prosecution of any matter for which a district attorney is responsible under this
7 chapter in like manner as assistants in the prosecutorial unit and with the same
8 authority as the district attorney in the unit in which the action is brought. Nothing
9 in this paragraph limits the authority of counties to regulate the hiring, employment,
10 and supervision of county employees.

11 **SECTION 58.** 978.13 (2) of the statutes is renumbered 978.13 (2) (b).

12 **SECTION 59.** 978.13 (2) (a) of the statutes is created to read:

13 978.13 **(2)** (a) In this subsection, “costs related to the operation of the district
14 attorney’s office” include costs that a prosecutorial unit must pay under s. 978.043
15 (2) but do not include costs for which a prosecutorial unit receives reimbursement
16 under s. 978.043 (2).

17 **SECTION 60.** 980.01 (1) of the statutes is renumbered 980.01 (1h).

18 **SECTION 61.** 980.01 (1b) of the statutes is created to read:

19 980.01 **(1b)** “Act of sexual violence” means conduct that constitutes the
20 commission of a sexually violent offense.

21 **SECTION 62.** 980.01 (1j) of the statutes is created to read:

22 980.01 **(1j)** “Incarceration” includes confinement in a secured correctional
23 facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined
24 in s. 938.02 (15g), or a secured group home, as defined in s. 938.02 (15p), if the person

1 was placed in the facility for being adjudicated delinquent under s. 48.34, 1993 stats.,
2 or under s. 938.183 or 938.34 on the basis of a sexually violent offense.

3 **SECTION 63.** 980.01 (3) of the statutes is created to read:

4 980.01 (3) Except in ss. 980.075, 980.09, and 980.095, “petitioner” means the
5 agency or person that filed a petition under s. 980.02.

6 **SECTION 64.** 980.01 (5) of the statutes is amended to read:

7 980.01 (5) “Sexually motivated” means that one of the purposes for an act is
8 for the actor’s sexual arousal or gratification or for the sexual humiliation or
9 degradation of the victim.

10 **SECTION 65.** 980.01 (6) (a) of the statutes is amended to read:

11 980.01 (6) (a) Any crime specified in s. 940.225 (1) ~~or~~, (2), or (3), 948.02 (1) or
12 (2), 948.025, 948.06, or 948.07.

13 **SECTION 66.** 980.01 (6) (am) of the statutes is created to read:

14 980.01 (6) (am) An offense that, prior to June 2, 1994, was a crime under the
15 law of this state and that is comparable to any crime specified in par. (a).

16 **SECTION 67.** 980.01 (6) (b) of the statutes is amended to read:

17 980.01 (6) (b) Any crime specified in s. 940.01, 940.02, 940.03, 940.05, 940.06,
18 940.19 (2), (4) ~~or~~, (5), or (6), 940.195 (4) or (5), 940.30, 940.305, 940.31 ~~or~~, 941.32,
19 943.10, 943.32, or 948.03 that is determined, in a proceeding under s. 980.05 (3) (b),
20 to have been sexually motivated.

21 **SECTION 68.** 980.01 (6) (bm) of the statutes is created to read:

22 980.01 (6) (bm) An offense that, prior to June 2, 1994, was a crime under the
23 law of this state, that is comparable to any crime specified in par. (b) and that is
24 determined, in a proceeding under s. 980.05 (3) (b), to have been sexually motivated.

25 **SECTION 69.** 980.01 (6) (c) of the statutes is amended to read:

1 980.01 **(6)** (c) Any solicitation, conspiracy, or attempt to commit a crime under
2 par. (a) ~~or~~, (am), (b), or (bm).

3 **SECTION 70.** 980.01 (7) of the statutes is amended to read:

4 980.01 **(7)** “Sexually violent person” means a person who has been convicted
5 of a sexually violent offense, has been adjudicated delinquent for a sexually violent
6 offense, or has been found not guilty of or not responsible for a sexually violent
7 offense by reason of insanity or mental disease, defect, or illness, and who is
8 dangerous because he or she suffers from a mental disorder that makes it likely that
9 the person will engage in one or more acts of sexual violence.

10 **SECTION 71.** 980.01 (8) of the statutes is created to read:

11 980.01 **(8)** “Significant progress in treatment” means that the person has done
12 all of the following:

13 (a) Meaningfully participated in the treatment program specifically designed
14 to reduce his or her risk to reoffend offered at a facility described under s. 980.065.

15 (b) Participated in the treatment program at a level that was sufficient to allow
16 the identification of his or her specific treatment needs and then demonstrated,
17 through overt behavior, a willingness to work on addressing the specific treatment
18 needs.

19 (c) Demonstrated an understanding of the thoughts, attitudes, emotions,
20 behaviors, and sexual arousal linked to his or her sexual offending and an ability to
21 identify when the thoughts, emotions, behaviors, or sexual arousal occur.

22 (d) Demonstrated sufficiently sustained change in the thoughts, attitudes,
23 emotions, and behaviors and sufficient management of sexual arousal such that one
24 could reasonably assume that, with continued treatment, the change could be
25 maintained.