



2007 DRAFTING REQUEST

Bill

Received: **01/16/2007**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wavrunek**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sex offenses**
Criminal Law - victims

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Wavrunek, BB0350 -

Topic:

Sexual assault forensic examination program

Instructions:

See Attached--05-4668/1

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 01/17/2007	wjackson 01/21/2007		_____			S&L
/1	chanaman 01/25/2007	wjackson 01/25/2007	pgreensl 01/22/2007	_____	sbasford 01/22/2007		S&L
/2	chanaman 01/28/2007		pgreensl 01/25/2007	_____	cduerst 01/25/2007		S&L
/3	chanaman 01/30/2007	csicilia 01/29/2007 jdye 01/30/2007	rschlue 01/29/2007	_____	cduerst 01/29/2007		S&L

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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pgreensl _____
01/30/2007 _____

sbasford _____
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/2	chanaman 01/28/2007	<i>4 1/30 jw</i> csicilia 01/29/2007	pgreensl 01/25/2007	_____	cdurst 01/25/2007		S&L
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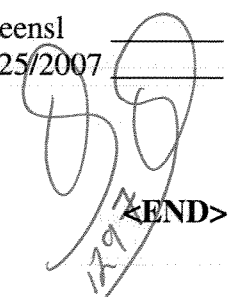
See Attached--05-4668/1

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/2			pgreensl 01/25/2007	_____	cduerst 01/25/2007		

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13 cjs 1/28
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1/29/07

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/1		1/2 wlj 1/25	pgreensl 01/22/2007		sbasford 01/22/2007		

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Handwritten initials and signatures:
bjs
hvj
ps/SA
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FE Sent For:

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2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Sexual Assault Forensic Examination program
- Tracking Code: BB0350
- SBO team: General Government and Justice
- SBO analyst: Leah Wavrunek
 - Phone: 267-0370
 - Email: leah.wavrunek@wisconsin.gov
- Agency acronym: DOJ
- Agency number: 455
- Priority (Low, Medium, High): Medium

Include as a budget draft 2005 LRB-4668/1, relating to compensation to health care providers who conduct sexual assault forensic examinations, granting rule-making authority, making an appropriation and providing a penalty.

One change to the bill as currently drafted: the sum sufficient appropriation would have a cap of \$50,000 annually.

↑
not
sum sufficient

1537/1

DOA

2005 BILL

LPS: Please PWF

don't forget

1 AN ACT *to amend* 20.455 (5) (b), 20.455 (5) (i), 20.455 (5) (kj), 803.03 (2) (c),
 2 806.025 (2) (am), 938.346 (1) (h) 3., 949.01 (intro.), 949.02, 949.035 (1), 949.04
 3 (1) (intro.), 949.04 (2), 949.06 (1) (intro.), 949.06 (1m) (b), 949.06 (4) (b), 949.09,
 4 949.11 (1), 949.11 (2), 949.115, 949.12, 949.13, 949.15 (1), 949.16, 949.165 (12),
 5 949.18 (intro.), 949.18 (1), 949.18 (4), 949.18 (5) (intro.), 949.18 (5) (e), 950.04
 6 (1v) (rm), 950.08 (2g) (b), 950.08 (2r) (d), 973.09 (1) (b), 973.20 (9) (a) and 973.20
 7 (9) (b); and *to create* 20.455 (5) (d), subchapter I (title) of chapter 949 [precedes
 8 949.001], 949.06 (3) (f) and subchapter II of chapter 949 [precedes 949.20] of the
 9 statutes; ~~relating to: compensation to health care providers who conduct~~
 10 ~~sexual assault forensic examinations, granting rule-making authority, making~~
 11 ~~an appropriation, and providing a penalty.~~ *the budget*

Means Crimes

Analysis by the Legislative Reference Bureau

Under current law, the Crime Victim Compensation program requires ~~the~~
 Department of Justice (DOJ) to compensate victims of certain crimes, their
 caretakers, and, in cases in which the victim dies, their family members, for medical
 expenses, lost wages, funeral and burial expenses, and other expenses that result

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from the victim's injury or death. DOJ may not compensate a victim who has not cooperated with appropriate law enforcement agencies. Any compensation that DOJ provides must be reduced by any insurance payments received, or to be received, as a result of the crime.

This bill creates the Sexual Assault Forensic Examination program to compensate, under limited circumstances, a health care provider who examines a victim of a sex offense for the costs of the examination, any procedure that tests for or prevents a sexually transmitted disease, and any medication to prevent or treat a sexually transmitted disease (examination costs). If the victim does not authorize the health care provider to seek payment from insurance or another program, DOJ must compensate the health care provider for the examination costs, regardless of whether the victim cooperates with a law enforcement agency. If the victim does authorize the health care provider to seek payment from insurance or another program, DOJ must compensate the health care provider for the examination costs, reduced by any payment from insurance or another program, only if the victim refuses to cooperate with a law enforcement agency.

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 (5) (b) of the statutes is amended to read:

2 20.455 (5) (b) *Awards for victims of crimes.* The amounts in the schedule for
3 the payment of compensation and funeral and burial expenses awards to the victims
4 of crimes under subch. I of ch. 949.

5 **SECTION 2.** 20.455 (5) (d) of the statutes is created to read:

6 20.455 (5) (d) *Reimbursement for forensic examinations.* A sum sufficient for
7 the payments of awards under s. 949.26.

8 **SECTION 3.** 20.455 (5) (i) of the statutes is amended to read:

9 20.455 (5) (i) *Victim compensation, inmate payments.* All moneys received
10 under s. 303.06 (2) and (3) for the administration of subch. I of ch. 949 and for crime
11 victim compensation payments or services.

12 **SECTION 4.** 20.455 (5) (kj) of the statutes is amended to read:

The amounts in the schedule

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1 20.455 (5) (kj) *Victim payments, victim surcharge.* The amounts in the schedule
2 for the payment of compensation and funeral and burial expenses awards to the
3 victims of crimes under subch. I of ch. 949. All moneys transferred from the
4 appropriation account under par. (g) shall be credited to this appropriation account.
5 If the department of justice determines that the total of the amounts in this
6 appropriation account and the amounts for compensation and awards to victims of
7 crime under subch. I of ch. 949 in the appropriation accounts under pars. (b), (h), (i)
8 and (m) exceeds the amount needed to fully fund compensation and awards to victims
9 of crimes under subch. I of ch. 949, the department of justice may transfer moneys
10 from this appropriation account to the appropriation account under par. (kk). The
11 amount transferred to the appropriation account under par. (kk) may not exceed the
12 amount by which the total amounts appropriated under this paragraph and pars. (b),
13 (h), (i) and (m) for compensation and awards to victims of crimes under subch. I of
14 ch. 949 exceed the amount needed to fully fund compensation and awards to victims
15 of crimes under subch. I of ch. 949.

16 **SECTION 5.** 803.03 (2) (c) of the statutes is amended to read:

17 803.03 (2) (c) *Scheduling and pretrial conferences.* At the scheduling
18 conference and pretrial conference, the judge to whom the case has been assigned
19 shall inquire concerning the existence of and joinder of persons with subrogated,
20 derivative or assigned rights and shall make such orders as are necessary to
21 effectuate the purposes of this section. If the case is an action to recover damages
22 based on alleged criminally injurious conduct, the court shall inquire to see if an
23 award has been made under subch. I of ch. 949 and if the department of justice is
24 subrogated to the cause of action under s. 949.15.

25 **SECTION 6.** 806.025 (2) (am) of the statutes is amended to read:

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1 806.025 (2) (am) If money remains after the payment of all unpaid orders and
 2 judgments under par. (a), order reimbursement to the department of justice for an
 3 award made under subch. I of ch. 949 for which the department is subrogated under
 4 s. 949.15.

5 **SECTION 7.** 938.346 (1) (h) 3. of the statutes is amended to read:

6 938.346 (1) (h) 3. The right to compensation, as provided under subch. I of ch.
 7 949.

8 **SECTION 8.** Subchapter I (title) of chapter 949 [precedes 949.001] of the statutes
 9 is created to read:

CHAPTER 949

SUBCHAPTER I

CRIME VICTIM COMPENSATION

13 **SECTION 9.** 949.01 (intro.) of the statutes is amended to read:

14 **949.01 Definitions.** (intro.) In this chapter subchapter:

15 **SECTION 10.** 949.02 of the statutes is amended to read:

16 **949.02 Administration.** The department shall administer this ~~chapter~~
 17 subchapter. The department shall appoint a program director to assist in
 18 administering this ~~chapter~~ subchapter. The department shall promulgate rules for
 19 the implementation and operation of this ~~chapter~~ subchapter. The rules shall
 20 include procedures to ensure that any limitation of an award is calculated in a fair
 21 and equitable manner.

22 **SECTION 11.** 949.035 (1) of the statutes is amended to read:

23 949.035 (1) If a Wisconsin resident suffers injury or death in a situation
 24 described in s. 949.03 except that the act occurred outside this state, the resident has
 25 the same rights under this ~~chapter~~ subchapter as if the act had occurred in this state

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1 upon a showing that the state, territory, country or political subdivision of a country
2 in which the act occurred does not have a compensation of victims of crimes law which
3 covers the injury or death suffered by the person.

4 **SECTION 12.** 949.04 (1) (intro.) of the statutes is amended to read:

5 949.04 (1) ELIGIBILITY. (intro.) Any person may apply for an award under this
6 chapter subchapter.

7 **SECTION 13.** 949.04 (2) of the statutes is amended to read:

8 949.04 (2) FORMS. The department shall prescribe application forms for awards
9 under this ~~chapter~~ subchapter and shall furnish law enforcement agencies with the
10 forms. The law enforcement agency investigating a crime shall provide forms to each
11 person who may be eligible to file a claim under this subchapter.

12 **SECTION 14.** 949.06 (1) (intro.) of the statutes is amended to read:

13 949.06 (1) (intro.) In accordance with this ~~chapter~~ subchapter, the department
14 shall make awards, as appropriate, for any of the following economic losses incurred
15 as a direct result of an injury:

16 **SECTION 15.** 949.06 (1m) (b) of the statutes is amended to read:

17 949.06 (1m) (b) In accordance with this ~~chapter~~ subchapter, the department
18 shall make awards, as appropriate, to persons who, immediately prior to the crime,
19 lived in the same household with and to family members of a victim of s. 940.01,
20 940.02, 940.05, 940.06, 940.07, 940.08 or 940.09 for any of the economic losses
21 specified in sub. (1) as a result of the person's or family member's reaction to the
22 death. A dependent may recover both under sub. (1) and this subsection, subject to
23 the limitation under sub. (2).

24 **SECTION 16.** 949.06 (3) (f) of the statutes is created to read:

25 949.06 (3) (f) From an award under s. 949.26.

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1 **SECTION 17.** 949.06 (4) (b) of the statutes is amended to read:

2 949.06 (4) (b) The department may suspend proceedings under this chapter
3 subchapter for a period it deems appropriate on the grounds that a prosecution for
4 an offense arising out of the act or omission has been commenced or is imminent.

5 **SECTION 18.** 949.09 of the statutes is amended to read:

6 **949.09 Effect of conviction.** If any person has been convicted of any offense
7 with respect to an act or omission on which a claim under this chapter subchapter
8 is based, proof of that conviction shall be taken as conclusive evidence that the
9 offense has been committed, unless an appeal or any proceeding with regard thereto
10 is pending.

11 **SECTION 19.** 949.11 (1) of the statutes is amended to read:

12 949.11 (1) The procedure of ch. 227 for contested cases applies to hearings
13 under this chapter subchapter except as otherwise provided in this section and ss.
14 949.12 and 949.14.

15 **SECTION 20.** 949.11 (2) of the statutes is amended to read:

16 949.11 (2) The division of hearings and appeals in the department of
17 administration shall appoint hearing examiners to make findings and orders under
18 s. 227.46 and this chapter subchapter.

19 **SECTION 21.** 949.115 of the statutes is amended to read:

20 **949.115 Subpoenas.** The department or any of its authorized agents may
21 issue subpoenas for persons or records for any investigation or hearing conducted
22 under this chapter subchapter and may enforce compliance with such subpoenas as
23 provided in s. 885.12.

24 **SECTION 22.** 949.12 of the statutes is amended to read:

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1 **949.12 Condition of claimant.** There is no privilege, except privileges
2 arising from the attorney–client relationship, as to communications or records
3 relevant to an issue of the physical, mental or emotional condition of the claimant
4 or victim in a proceeding under this ~~chapter~~ subchapter in which that condition is
5 an element.

6 **SECTION 23.** 949.13[✓] of the statutes is amended to read:

7 **949.13 Agency cooperation.** Upon request by the department, any state or
8 local agency, including a district attorney or law enforcement agency, shall make
9 available all reports, files and other appropriate information which the department
10 requests in order to make a determination that a person is eligible for an award
11 under this ~~chapter~~ subchapter.

12 **SECTION 24.** 949.15 (1)[✓] of the statutes is amended to read:

13 **949.15 (1)** Whenever the department orders the payment of an award under
14 this ~~chapter~~ subchapter as a result of the occurrence of an event that creates a cause
15 of action on the part of a claimant against any person, the department is subrogated
16 to the rights of the claimant and may bring an action against the person for the
17 amount of the damages sustained by the claimant. If an amount greater than that
18 paid under the award order is recovered and collected in any such action, the
19 department shall pay the balance to the claimant. If the person responsible for the
20 injury or death has previously made restitution payments to the general fund under
21 s. 973.20, any judgment obtained by the department under this section shall be
22 reduced by the amount of the restitution payments to the general fund.

23 **SECTION 25.** 949.16[✓] of the statutes is amended to read:

24 **949.16 Confidentiality of records.** The record of a proceeding before an
25 examiner or the department under this ~~chapter~~ subchapter is a public record. Any

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1 record or report obtained by an examiner or the department, the confidentiality of
2 which is protected by any other law or rule, shall remain confidential.

3 **SECTION 26.** 949.165 (12) of the statutes is amended to read:

4 949.165 (12) PAYMENT IS NOT AN AWARD. Any payment from an escrow account
5 under this section shall not be considered as an award by the department under this
6 chapter subchapter.

7 **SECTION 27.** 949.18 (intro.) of the statutes is amended to read:

8 **949.18 Report by the department.** (intro.) The department's biennial
9 report under s. 15.04 (1) (d) shall include a report of its activities under this chapter
10 subchapter including:

11 **SECTION 28.** 949.18 (1) of the statutes is amended to read:

12 949.18 (1) An explanation of the procedures for filing and processing claims
13 under this chapter subchapter.

14 **SECTION 29.** 949.18 (4) of the statutes is amended to read:

15 949.18 (4) A copy of the forms utilized under this chapter subchapter.

16 **SECTION 30.** 949.18 (5) (intro.) of the statutes is amended to read:

17 949.18 (5) (intro.) A complete statistical analysis of the cases handled under
18 this chapter subchapter, including:

19 **SECTION 31.** 949.18 (5) (e) of the statutes is amended to read:

20 949.18 (5) (e) A summary of cases handled under this chapter subchapter.

21 **SECTION 32.** Subchapter II of chapter 949 [precedes 949.20] of the statutes is
22 created to read:

23 **CHAPTER 949**

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SUBCHAPTER II

SEXUAL ASSAULT FORENSIC

EXAMINATION COMPENSATION

949.20 Definitions. In this subchapter:

(1) "Cooperate with a law enforcement agency" means to report a sex offense to a law enforcement agency or to aid a law enforcement agency in the investigation of a sex offense.

(2) "Department" means the department of justice.

(3) "Examination costs" means the costs of an examination that is done to gather evidence regarding a sex offense, any procedure during that examination process that tests for or prevents a sexually transmitted disease, and any medication provided or prescribed, during that examination process, that prevents or treats a sexually transmitted disease that the person performing the examination or procedure believes could be a consequence of the sex offense. "Examination costs" does not include any processing or administrative costs, attorney fees, or other expenses.

(4) "Guardian of the victim" means one of the following:

1. If the victim is under 18 years of age, the parent, guardian, or legal custodian of the victim.

2. If the victim has been determined to be incompetent under ch. ⁵⁴~~880~~, the guardian of the victim.

(5) "Health care provider" means any person providing health care services.

(6) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

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1 (7) “Sex offense” means an act committed in the state that, if committed by a
2 competent adult, would be a violation, or an attempted violation, of s. 940.225,
3 948.02, 948.025, 948.05, 948.06, 948.08, or 948.09.

4 (8) “Sexually transmitted disease” has the meaning given in s. 252.11 (1).

5 (9) “Victim” means a person against whom a sex offense has been committed.

6 **949.22 Administration.** The department shall administer this subchapter.
7 The department shall appoint a program director to assist in administering this
8 subchapter. The department shall promulgate rules for the implementation and
9 operation of this subchapter. The rules shall include procedures to ensure that any
10 limitation of an award is calculated in a fair and equitable manner.

11 **949.24 Application for award. (1) ELIGIBILITY.** Any health care provider who
12 conducts an examination to gather evidence regarding a sex offense may apply for
13 an award under this subchapter.

14 (2) **FORMS.** The department shall prescribe application forms for awards under
15 this subchapter and shall furnish health care providers with the forms.

16 (3) **MEDICAL RECORDS.** An applicant shall submit to the department reports
17 from any physician, physician’s assistant, or nurse who treated or examined the
18 victim to gather evidence regarding a sex offense, performed any procedure during
19 that treatment or examination that tests for or prevents a sexually transmitted
20 disease, or provided or prescribed any medication to prevent or treat a sexually
21 transmitted disease. The applicant may not submit to the department any other
22 records than those pertaining to the examination, treatment, procedure, or
23 medication for which the applicant is seeking an award.

24 **949.26 Computation of awards. (1)** Except as provided in sub. (1m), the
25 department shall make an award under this section to a health care provider who

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1 conducts an examination to gather evidence regarding a sex offense to reimburse the
2 health care provider only for the examination costs, as follows:

3 (a) If the health care provider is not authorized under sub. (2) (b) to seek
4 payment, the award shall be the examination costs, regardless of whether the victim,
5 or any guardian of the victim, cooperates with a law enforcement agency regarding
6 the sex offense.

~~7~~ (b) If the health care provider is authorized under sub. (2) (b) to seek payment
8 and the victim, or any guardian of the victim, does not cooperate with a law
9 enforcement agency regarding the sex offense, the award shall be the examination
10 costs, reduced by any payment to be received as a result of the authorization under
11 sub. (2) (b).

~~12~~ **(1m)** The department may not make an award under this section if the health
~~13~~ care provider is authorized under sub. (2) (b) to seek payment and the victim, or any
14 guardian of the victim, cooperates with a law enforcement agency.

15 **(2) (a)** A health care provider seeking an award under this section may not seek
16 payment for any examination costs from the victim or any guardian of the victim.

17 (b) A health care provider seeking an award under this section may not seek
18 payment for any examination costs from insurance or another available source of
19 payment unless the victim or any guardian of the victim authorizes the health care
20 provider to seek payment.

21 **(3)** The department may not refuse to make an award under this section
22 because the victim or the guardian of the victim does not cooperate with a law
23 enforcement agency regarding the sex offense, or due to lack of an investigation or
24 prosecution of the sex offense.

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1 **949.28 Limitations on awards.** (1) No order for the payment of an award
2 under this subchapter may be made unless the application was made within one year
3 after the date of the examination. The department may waive the one-year
4 requirement under this subsection in the interest of justice.

5 (2) The department may not make an award under this subchapter that
6 exceeds the examination costs of the victim.

7 (3) The department may not make an award under this subchapter for any part
8 of the examination costs of the victim for which the health care provider seeking the
9 award has received compensation from any other source.

10 **949.31 Hearings.** (1) The procedure of ch. 227 for contested cases applies to
11 hearings under this subchapter except as otherwise provided in this section and s.
12 949.32.

13 (2) The division of hearings and appeals in the department of administration
14 shall appoint hearing examiners to make findings and orders under s. 227.46 and
15 this subchapter.

16 (3) All hearings shall be open to the public unless in a particular case the
17 examiner determines that the hearing, or a portion of the hearing, shall be held in
18 private having regard to the fact that the offender has not been convicted or to the
19 interest of the victim.

20 **949.315 Subpoenas.** The department or any of its authorized agents may
21 issue subpoenas for persons or records for any investigation or hearing conducted
22 under this ^{sub}chapter and may enforce compliance with such subpoenas as provided in
23 s. 885.12.

24 **949.32 Condition of victim.** There is no privilege, except privileges arising
25 from the attorney–client relationship, as to communications or records relevant to

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1 an issue of the physical condition of the victim in a proceeding under this subchapter
2 in which that condition is an element.

3 **949.33 Agency cooperation.** Upon request by the department, any state or
4 local agency, including a district attorney or law enforcement agency, shall make
5 available all reports, files, and other appropriate information which the department
6 requests in order to make a determination that a health care provider is eligible for
7 an award under this subchapter.

8 **949.36 Confidentiality.** If a health care provider seeks an award under this
9 subchapter, any personally identifiable information, as defined in s. 19.62 (5), of the
10 victim who received the examination shall remain confidential unless written
11 consent for the release of any personally identifiable information is provided by one
12 of the following:

13 ^{Sub. (2)} (1) ~~(a)~~ Except as provided under ~~par. (a)~~, the victim.

14 ⁽²⁾ ~~(b)~~ If there is a guardian of the victim, the guardian of the victim.

15 **949.37 Offenses. (1) PROHIBITION.** In connection with an award under this
16 subchapter, no person may do any of the following:

17 (a) Submit a fraudulent application or claim for an award.

18 (b) Intentionally make or cause to be made any false statement or
19 representation of a material fact.

20 (c) Intentionally conceal or fail to disclose information affecting the amount of
21 or the initial or continued right to any such award when reasonably requested to
22 provide such information by the department.

23 **(2) PENALTIES.** Any person who violates this section shall be fined not more than
24 \$500 or imprisoned not more than 6 months or both. The person shall forfeit any
25 benefit received and shall reimburse the state for payments received.

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1 **(3) DAMAGES.** The state has a civil cause of action for relief against any person
2 who violates this section for the amount of damages that the state sustained by
3 reason of the violation and, in addition, for punitive damages not more than double
4 the amount of damages that the state may have sustained, together with interest,
5 and the cost of the suit.

6 **(4) ACTION.** The attorney general may bring any action and has such powers
7 as may be necessary to enforce this section.

8 **949.38 Report by the department.** The department's biennial report under
9 s. 15.04 (1) (d) shall include a report of its activities under this subchapter including
10 all of the following:

11 **(1)** An explanation of the procedures for filing and processing claims under this
12 subchapter.

13 **(2)** A description of the programs and policies instituted to promote awareness
14 about the awards under this subchapter.

15 **(3)** An analysis of future needs and suggested program improvements.

16 **(4)** A copy of the forms used under this subchapter.

17 **(5)** A complete statistical analysis of the cases handled under this subchapter,
18 including all of the following:

19 (a) The number of claims filed.

20 (b) The number of claims approved and the amount of each award.

21 (c) The number of claims denied and the reasons for rejection.

22 (d) A breakdown of claims by geographic area and month.

23 **SECTION 33.** 950.04 (1v) (rm) of the statutes is amended to read:

24 950.04 **(1v)** (rm) To compensation, as provided under subch. I of ch. 949.

25 **SECTION 34.** 950.08 (2g) (b) of the statutes is amended to read:

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1 950.08 (2g) (b) The availability of compensation under subch. I of ch. 949 and
2 the address and telephone number at which to contact the department for
3 information concerning compensation under subch. I of ch. 949.

4 **SECTION 35.** 950.08 (2r) (d) of the statutes is amended to read:

5 950.08 (2r) (d) The availability of compensation under subch. I of ch. 949,
6 including information concerning eligibility for compensation and the procedure for
7 applying for compensation.

8 **SECTION 36.** 973.09 (1) (b) of the statutes is amended to read:

9 973.09 (1) (b) If the court places the person on probation, the court shall order
10 the person to pay restitution under s. 973.20, unless the court finds there is
11 substantial reason not to order restitution as a condition of probation. If the court
12 does not require restitution to be paid to a victim, the court shall state its reason on
13 the record. If the court does require restitution, it shall notify the department of
14 justice of its decision if the victim may be eligible for compensation under subch. I
15 of ch. 949.

16 **SECTION 37.** 973.20 (9) (a) of the statutes is amended to read:

17 973.20 (9) (a) If a crime victim is paid an award under subch. I of ch. 949 for
18 any loss arising out of a criminal act, the state is subrogated to the rights of the victim
19 to any restitution required by the court. The rights of the state are subordinate to
20 the claims of victims who have suffered a loss arising out of the offenses or any
21 transaction which is part of the same continuous scheme of criminal activity.

22 **SECTION 38.** 973.20 (9) (b) of the statutes is amended to read:

23 973.20 (9) (b) When restitution is ordered, the court shall inquire to see if an
24 award has been made under subch. I of ch. 949 and if the department of justice is
25 subrogated to the cause of action under s. 949.15. If the restitution ordered is less

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SECTION 38

1 than or equal to the award under subch. I of ch. 949, the restitution shall be paid only
2 to the general fund. If the restitution ordered is greater than the award under subch.
3 I of ch. 949, the general fund shall receive an amount equal to the award under subch.
4 I of ch. 949 and the balance shall be paid to the victim.

5 **SECTION 39 Initial applicability**

6 (1) This act first applies to examinations conducted on the effective date of this
7 subsection.

8 (END)

Handwritten notes:
① 0329
② Sexual Assault Forensic Exams
The treatment of section 2004.5 (5)(d) of the statutes and subchapter II of chapter 949 of the statutes
③ Justice