SENATE AMENDMENT 5,

TO 1997 ASSEMBLY BILL 688

March 19, 1998 – Offered by Senators MOORE, WIRCH and CHVALA.

At the locations indicated, amend the bill, as shown by assembly substitute amendment 1, as follows:

1. Page 1, line 9: delete "immunity".

2. Page 1, line 10: delete "from civil liability,".

3. Page 6, line 21: delete the material beginning with "<u>that</u>" and ending with "<u>893.82</u>" on line 24 and substitute "<u>, in the case of prisoners not in the custody of the department of corrections, that the sheriff, superintendent or other keeper of a jail or house of correction has reduced to writing and provided reasonable notice of to the prisoners</u>".

4. Page 6, line 25: after "(a)," insert "(bm),".

5. Page 7, line 4: delete the material beginning with "or that" and ending with "crime" on line 6.

6. Page 7, line 17: before that line, after the material inserted by assembly amendment 1 to assembly substitute amendment 1, insert:

"e. A person who is not serving a sentence for the conviction of a crime but who is detained, admitted or committed under ch. 51 or 55 or s. 971.14 (2) or (5).".

7. Page 7, line 19: after that line insert:

"(bm) A prisoner commencing an action or special proceeding shall first comply with the provisions of s. 893.80 or 893.82 unless one of the following applies:

1. The prisoner is filing a petition for a common law writ of certiorari.

2. The prisoner is commencing an action seeking injunctive relief and the court finds that there is a substantial risk to the prisoner's health or safety.".

8. Page 11, line 19: after that line insert:

"**(5)** This section does not apply when the prisoner appears by an attorney who is licensed to practice law in this state.".

9. Page 20, line 6: substitute "90th" for "30th".

10. Page 20, line 13: delete lines 13 to 15 and substitute:

"**(6)** Except for writs of habeas corpus or as otherwise required by the state or federal constitution, this section does not authorize the court to issue a prisoner release order. In this subsection, "prisoner release order"".

11. Page 21, line 11: delete "If" and substitute "(a) Except as provided in par. (b), if".

12. Page 21, line 13: after that line insert:

"(b) Costs are allowable to a prisoner who obtains prospective injunctive relief against an individual defendant when that defendant is sued in an official capacity and to a prisoner who obtains a judgment against a defendant when that defendant

1   is sued in his or her personal capacity. This paragraph does not apply to actions or

2   special proceedings related to prison or jail conditions that seek a remedy available

3   by certiorari.".

4   **13.** Page 23, line 9: delete the material beginning with "The" and ending with

5   "full." on line 22 and substitute "The initial filing fee shall be the current balance of

6   the prisoner's trust fund account or the required filing fee, whichever is less.

7   (e) The agency having custody of the prisoner shall freeze the prisoner's trust

8   fund account until the deposits in that account are sufficient to pay the balance owed

9   for the costs and fees. When the deposits in that account are sufficient to pay the

10   balance owed for the court costs and fees, the agency shall forward that amount to

11   the court. This paragraph does not prohibit the payment from the prisoner's trust

12   fund account of court–ordered payments for child or family support, restitution or

13   federal court fees or for the payments of debts owed to the department of

14   corrections.".

15   **14.** Page 26, line 14: after the period insert "This subsection does not apply

16   to a prisoner who commences an action seeking injunctive relief if the court finds that

17   there is a substantial risk to the prisoner's health or safety.".

18   **15.** Page 26, line 15: delete lines 15 to 20.

19   **(END)**