



State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-1718/P5
MJW:wlj&emw

DOA:.....Schmidt, BB0407 - Circuit Court Cost Payment and TAD

FOR 2025-2027 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

JUSTICE

Alternatives to prosecution and incarceration programs

Under current law, DOJ operates the alternatives to incarceration grant program and the drug courts grant program under which DOJ provides grants to counties and tribes for providing alternatives to prosecution and incarceration for persons who abuse alcohol or other drugs and diverting substance-abusing persons from prison or jail into treatment.

Under the bill, December 31, 2026, is the last day these DOJ grant programs will be in effect. Beginning on January 1, 2027, DOA will operate a grant program for tribes to provide alternatives to prosecution and incarceration programs, and counties will be required to operate such programs to be eligible for certain circuit court payments from the Director of State Courts.

COURTS AND PROCEDURE

CIRCUIT COURTS

Alternatives to prosecution and incarceration programs

Under current law, the Director of State Courts must make payments to counties for certain circuit court costs. Under the bill, beginning on January 1, 2026, the Director of State Courts must make additional payments to circuit courts, including a payment that, beginning January 1, 2027, is available only to counties that operate an alternatives to prosecution and incarceration program.

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:

SECTION 1. 16.075 of the statutes is created to read:

16.075 Grants to tribes for alternatives to prosecution and

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incarceration programs. (1) In this section, “tribe” has the meaning given in s. 165.91 (1).

(2) From the appropriation under s. 20.505 (1) (cb), the department shall make grants to tribes for alternatives to prosecution and incarceration programs that meet the criteria specified in s. 165.95 (3).

(5) Grants made under sub. (2) shall be provided on a calendar year basis.

(6) The department of justice shall assist the department with its duties under this section.

SECTION 2. 20.455 (2) (eg) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 3. 20.455 (2) (em) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 4. 20.455 (2) (jd) of the statutes is renumbered 20.625 (1) (jd) and amended to read:

20.625 (1) (jd) *Alternatives to prosecution and incarceration ~~grant~~ program.* The amounts in the schedule to provide ~~grants under s. 165.95 (2)~~ payments to counties ~~that are not a recipient of a grant under the~~ for the county to establish and operate alternatives to prosecution and incarceration grant program on September 23, 2017 that comply with the criteria specified in s. 165.95 (3). All moneys transferred under [2017 Wisconsin Act 59](#), section [9228 \(15t\)](#), and [2023 Wisconsin Act 19](#), section [9227 \(1\)](#), shall be credited to this appropriation account.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 5. 20.455 (2) (kn) of the statutes is renumbered 20.625 (1) (kn) and amended to read:

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20.625 (1) (kn) *Alternatives to prosecution and incarceration for persons who use alcohol or other drugs; justice information fee.* The amounts in the schedule for administering and making grants payments to counties ~~and tribes under that~~ comply with the criteria specified in s. 165.95 (2) (3). All moneys transferred from the appropriation account under s. 20.505 (1) (id) 5. shall be credited to this appropriation account. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.505 (1) (id).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 6. 20.455 (2) (kv) of the statutes is renumbered 20.625 (1) (kv) and amended to read:

20.625 (1) (kv) ~~*Grants for substance abuse treatment programs*~~ *Programs for criminal offenders.* All moneys received under s. 961.41 (5) (c) 2. or 973.043 for the purpose of making grants payments to counties ~~and tribes under that~~ comply with the criteria specified in s. 165.95 (2) (3).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 7. 20.505 (1) (cb) of the statutes is created to read:

20.505 (1) (cb) *Grants to tribes for alternatives to prosecution and incarceration programs.* The amounts in the schedule for grants to federally recognized American Indian tribes or bands in this state under s. 16.075 (2).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 8. 20.505 (1) (id) 5. of the statutes is amended to read:

20.505 (1) (id) 5. The amount transferred to s. ~~20.455 (2)~~ 20.625 (1) (kn) shall be the amount in the schedule under s. ~~20.455 (2)~~ 20.625 (1) (kn).

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SECTION 9. 20.625 (1) (cg) of the statutes is amended to read:

20.625 (1) (cg) *Circuit court costs.* Biennially, the amounts in the schedule to make payments to counties for circuit court costs under s. 758.19 (5) (b).

SECTION 10. 20.625 (1) (d) of the statutes is created to read:

20.625 (1) (d) *Circuit court costs supplement.* Biennially, the amounts in the schedule to make payments to counties for circuit court costs under s. 758.19 (5) (bf), (bm), and (bn).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 11. 46.47 (1) (b) of the statutes is amended to read:

46.47 (1) (b) The county or tribe has an established ~~drug court, as defined~~ alternatives to prosecution and incarceration program, as described in s. ~~165.955~~ (1) 165.95 (3).

SECTION 12. 165.25 (10m) (intro.) of the statutes is amended to read:

165.25 **(10m)** REPORT ON GRANTS. (intro.) Beginning on January 15, 2015, and annually thereafter, the department of justice shall submit a report to the legislature under s. 13.172 (2), regarding its administration of grant programs under ~~ss. s. 165.95, 2023 stats., s. 165.955, 2023 stats., and ss. 165.96, 165.986, and 165.987.~~ The report shall include, for each grant program, all of the following information:

SECTION 13. 165.95 (title) of the statutes is amended to read:

165.95 (title) **Alternatives to prosecution and incarceration; grant program programs.**

SECTION 14. 165.95 (1) (ac) of the statutes is created to read:

165.95 (1) (ac) “Evidence-based practice” means a practice that has been

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developed using research to determine its efficacy for achieving positive measurable outcomes, including reducing recidivism and increasing public safety.

SECTION 15. 165.95 (2) of the statutes is repealed.

SECTION 16. 165.95 (2m) of the statutes is created to read:

165.95 **(2m)** No later than January 1, 2027, each county shall operate an alternatives to prosecution and incarceration program described under sub. (3). No later than December 31, 2026, and by each December 31 thereafter, each county shall certify to the director of state courts that it has, or will have, a qualifying alternatives to prosecution and incarceration program by January 1 of the next calendar year. The director of state courts may consult with the department of justice to confirm whether the county operates a qualifying alternatives to prosecution and incarceration program.

SECTION 17. 165.95 (2r) of the statutes is repealed.

SECTION 18. 165.95 (3) (intro.) of the statutes is amended to read:

165.95 **(3)** (intro.) ~~A county or tribe shall be eligible for a grant under sub. (2) program under this section, including a suspended and deferred prosecution program and a program based on principles of restorative justice, shall be considered an alternatives to prosecution and incarceration program~~ if all of the following apply:

SECTION 19. 165.95 (3) (a) of the statutes is repealed.

SECTION 20. 165.95 (3) (ag) of the statutes is created to read:

165.95 **(3)** (ag) The program operates within the continuum from arrest to discharge from supervision and provides an alternative to prosecution, revocation,

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or incarceration through the use of pre-charge and post-charge diversion programs or treatment courts and community-based corrections.

SECTION 21. 165.95 (3) (b) of the statutes is amended to read:

165.95 (3) (b) The program employs evidence-based practices and is designed to promote and facilitate the implementation of effective criminal justice policies and practices that maximize justice and public and victim safety, reduce prison and jail populations, reduce prosecution and incarceration costs, and reduce recidivism; ~~and improve the welfare of participants' families by meeting the comprehensive needs of participants.~~

SECTION 22. 165.95 (3) (bd) of the statutes is created to read:

165.95 (3) (bd) The program identifies each target population served by the program and identifies the evidence-based practices the program employs for each target population it serves.

SECTION 23. 165.95 (3) (cm) 2. of the statutes is created to read:

165.95 (3) (cm) 2. If the program is administered by a tribe, the criminal justice oversight committee shall consist of a representative of the judiciary, a representative of criminal prosecution and criminal defense, a social services provider, a behavioral health treatment provider, a law enforcement officer, a representative of corrections, and other members that the oversight committee determines are appropriate to the program.

SECTION 24. 165.95 (3) (d) of the statutes is amended to read:

165.95 (3) (d) Services provided under the program are consistent with evidence-based practices ~~in substance abuse and mental health treatment, as~~

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~~determined by the department of health services, and the program provides intensive case management.~~

SECTION 25. 165.95 (3) (e) of the statutes is amended to read:

165.95 (3) (e) The program uses graduated sanctions and incentives to promote ~~successful substance abuse treatment~~ success.

SECTION 26. 165.95 (3) (g) of the statutes is amended to read:

165.95 (3) (g) The program is designed to integrate all ~~mental health~~ services provided to program participants by state and local government agencies, tribes, and other organizations. The program shall require regular communication and coordination among a participant's ~~substance abuse treatment providers, other~~ service providers, the case manager, and any person designated under the program to monitor the person's compliance with his or her obligations under the program, and any probation, extended supervision, and parole agent assigned to the participant.

SECTION 27. 165.95 (3) (h) of the statutes is amended to read:

165.95 (3) (h) The program provides ~~substance abuse and mental health treatment~~ services through providers ~~that~~ who use evidence-based practices in the delivery of services and, where applicable, who are certified by the department of health services or licensed to provide the services approved under the program.

SECTION 28. 165.95 (3) (i) of the statutes is renumbered 165.95 (3d) and amended to read:

165.95 (3d) ~~The~~ An alternatives to prosecution and incarceration program ~~requires under this section may require~~ participants to pay a reasonable amount for

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their treatment, based on their income and available assets, and ~~pursues to pursue~~ and ~~uses~~ use all possible resources available through insurance and federal, state, and local aid programs, including cash, vouchers, and direct services.

SECTION 29. 165.95 (3) (j) of the statutes is amended to read:

165.95 (3) (j) The program is developed with input from, and implemented in collaboration with, one or more circuit court judges, the district attorney, the state public defender, local and, if applicable, tribal law enforcement officials, county agencies and, if applicable, tribal agencies responsible for providing social services, including services relating to ~~alcohol and other drug addiction~~ substance use disorder, child welfare, mental health, and the Wisconsin Works program, the departments of corrections, children and families, and health services, private social services agencies, and substance ~~abuse~~ use disorder treatment providers.

SECTION 30. 165.95 (3) (k) of the statutes is repealed.

SECTION 31. 165.95 (5) (a) of the statutes is renumbered 165.95 (3) (cm) (intro.) and amended to read:

165.95 (3) (cm) (intro.) ~~A county or tribe that receives a grant under this section shall create an~~ The program identifies a criminal justice oversight committee to develop and implement the program design and advise the county or tribe in administering and evaluating its program. ~~Each~~ The membership of each criminal justice oversight committee shall be as follows:

1. If the program is administered by a county, the criminal justice oversight committee shall consist of a circuit court judge, the district attorney or his or her designee, the state public defender or his or her designee, a local law enforcement

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official, a representative of the county, ~~a representative of the tribe, if applicable, a representative of each other county agency and, if applicable, tribal agency responsible for providing social services, including services relating to child welfare, mental health, and the Wisconsin Works program,~~ representatives of the department of corrections and department of health services, a representative from private social services agencies, a representative of substance abuse behavioral health treatment providers, and other members ~~to be determined by the county or tribe~~ the oversight committee determines are appropriate for the program.

SECTION 32. 165.95 (5) (b) of the statutes is renumbered 165.95 (5) (ag) and amended to read:

165.95 (5) (ag) A county, or a tribe that receives a grant under ~~this section s. 16.075,~~ shall comply with state audits and shall submit an annual report to the department of justice and to the criminal justice oversight committee ~~created under par. (a) identified in sub. (3) (cm) regarding the impact of the program on jail and prison populations and its progress in attaining the goals specified in sub. (3) (b) and (f).~~

SECTION 33. 165.95 (5) (bg) of the statutes is amended to read:

165.95 (5) (bg) A county, or a tribe that receives a grant under ~~this section s. 16.075,~~ shall submit data requested by the department of justice to the department of justice each month. The department of justice may request any data regarding the ~~project funded by the grant that is necessary to evaluate the project~~ alternatives to prosecution and incarceration program and prepare the reports under sub. (5p).

SECTION 34. 165.95 (5m) of the statutes is repealed.

SECTION 35. 165.95 (5p) (a) of the statutes is amended to read:

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165.95 (5p) (a) The department of justice shall, annually, analyze the data submitted under sub. (5) (bg) and prepare a progress report that evaluates the effectiveness of ~~the grant program~~ alternatives to prosecution and incarceration programs in this state. The department of justice shall make the report available to the public.

SECTION 36. 165.95 (5p) (b) of the statutes is amended to read:

165.95 (5p) (b) The department of justice shall, every 5 years, prepare a comprehensive report that analyzes the data it receives under sub. (5) (bg) and the annual reports it produces under par. (a). The department of justice shall include in this comprehensive report a cost benefit analysis of ~~the grant program~~ alternatives to prosecution and incarceration programs and shall submit the report to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2).

SECTION 37. 165.95 (6) of the statutes is renumbered 16.075 (7) and amended to read:

16.075 (7) A ~~county or~~ tribe may, with one or more other ~~counties or~~ tribes, jointly apply for and receive a grant under ~~this section~~ sub. (2). Upon submitting a joint application, each ~~county or~~ tribe shall include with the application a written agreement specifying each tribe's ~~and each county department's~~ role in developing, administering, and evaluating the program. The oversight committee ~~established under sub. (5) (a)~~ identified in s. 165.95 (3) (cm) shall consist of representatives from each ~~county or~~ tribe.

SECTION 38. 165.95 (7) of the statutes is repealed.

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SECTION 39. 165.95 (7m) of the statutes is renumbered 16.075 (3) and amended to read:

16.075 (3) ~~Beginning in fiscal year 2012-13, the~~ The department of justice shall, ~~every 5 years,~~ make grants under ~~this section~~ sub. (2) available to any county or tribe on a competitive basis. A ~~county or~~ tribe may apply for a grant under ~~this subsection~~ sub. (2) regardless of whether the ~~county or~~ tribe has received a grant previously under ~~this section~~ sub. (2).

SECTION 40. 165.95 (8) of the statutes is amended to read:

165.95 (8) The department of justice shall assist a county or tribe ~~receiving a grant under this section~~ that operates an alternatives to prosecution and incarceration program in obtaining funding from other sources for its program.

SECTION 41. 165.95 (9) of the statutes is renumbered 16.075 (4) and amended to read:

16.075 (4) The department of justice shall inform any ~~county or~~ tribe that is applying for a grant under ~~this section~~ sub. (2) whether the ~~county or~~ tribe meets the requirements established under ~~sub. s. 165.95~~ (3), regardless of whether the ~~county or~~ tribe receives a grant.

SECTION 42. 165.95 (10) of the statutes is repealed.

SECTION 43. 165.955 of the statutes is repealed.

SECTION 44. 302.43 of the statutes is amended to read:

302.43 Good time. Every inmate of a county jail is eligible to earn good time in the amount of one-fourth of his or her term for good behavior if sentenced to at least 4 days, but fractions of a day shall be ignored. An inmate shall be given credit for time served prior to sentencing under s. 973.155, including good time under s.

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973.155 (4). An inmate who violates any law or any regulation of the jail, or neglects or refuses to perform any duty lawfully required of him or her, may be deprived by the sheriff of good time under this section, except that the sheriff shall not deprive the inmate of more than 2 days good time for any one offense without the approval of the court. An inmate who files an action or special proceeding, including a petition for a common law writ of certiorari, to which s. 807.15 applies shall be deprived of the number of days of good time specified in the court order prepared under s. 807.15 (3). This section does not apply to a person who is confined in the county jail in connection with his or her participation in a substance abuse treatment program that meets the requirements of s. 165.95 (3), as determined by the department of justice ~~under s. 165.95 (9) and (10).~~

SECTION 45. 758.19 (5) (bf) of the statutes is created to read:

758.19 (5) (bf) No later than January 1, 2026, from the appropriation under s. 20.625 (1) (d), the director of state courts shall make payments to counties totaling \$24,596,100, which the director of state courts shall distribute as follows:

1. For each circuit court branch in the county, \$52,300.
2. In addition to the payment under subd. 1., for each county with one or fewer circuit court branches, \$12,400.
3. In addition to the payment under subd. 1., for each county with more than one circuit court branch, a payment equal to the county's proportion of the state population multiplied by the amount remaining in the appropriation under s. 20.625 (1) (d) after the payments are made under subds. 1. and 2.

SECTION 46. 758.19 (5) (bm) of the statutes is created to read:

758.19 (5) (bm) No later than July 1, 2026, from the appropriation under s.

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20.625 (1) (d), the director of state courts shall make payments to counties totaling \$35,000,000, which the director of state courts shall distribute as follows:

1. For each circuit court branch in the county, \$74,500.
2. In addition to the payment under subd. 1., for each county with one or fewer circuit court branches, \$17,600.
3. In addition to the payment under subd. 1., for each county with more than one circuit court branch, a payment equal to the county's proportion of the state population multiplied by the amount remaining in the appropriation under s. 20.625 (1) (d) after the payments are made under subds. 1. and 2.

SECTION 47. 758.19 (5) (bn) of the statutes is created to read:

758.19 (5) (bn) No later than January 1, 2027, and by every January 1 and July 1 thereafter, from the appropriation under s. 20.625 (1) (d), the director of state courts shall make payments to counties totaling \$35,000,000, which the director of state courts shall distribute as follows:

1. For each circuit court branch in the county, \$74,500.
2. In addition to the payment under subd. 1., for each county with one or fewer circuit court branches, \$17,600.
3. If, after the payments are made under subds. 1. and 2., the total of a county's payments equals less than 50 percent of the sum the county received as grants in calendar year 2026 under s. 165.95, 2023 stats., and s. 165.955, 2023 stats., an additional payment for such a difference.
4. In addition to the payments under subds. 1. and 3., for each county with more than one circuit court branch, a payment equal to the county's proportion of

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the state population multiplied by the amount remaining in the appropriation under s. 20.625 (1) (d) after the payments are made under subds. 1., 2., and 3.

SECTION 48. 758.19 (5) (d) of the statutes is created to read:

758.19 (5) (d) For payments under pars. (b), (bf), (bm), and (bn), for counties that share the services of one or more circuit court branches, the director of state courts shall annually determine the proportional share of that circuit court branch for each county on the basis of the circuit court branch caseload in each county.

SECTION 49. 758.19 (5) (g) of the statutes is created to read:

758.19 (5) (g) A county that fails to meet the requirements under s. 165.95 (2m) is not eligible for a payment under par. (bn) until the county establishes an alternatives to prosecution and incarceration program described under s. 165.95 (3).

SECTION 50. 961.385 (2) (cm) 3. b. of the statutes is amended to read:

961.385 (2) (cm) 3. b. The state board or agency, agency of another state, law enforcement agency, or prosecutorial unit makes a written request for the record and is monitoring the patient as part of a drug court, as defined in s. 165.955 (1), 2023 stats.

SECTION 51. 961.41 (5) (c) 2. of the statutes is amended to read:

961.41 (5) (c) 2. All moneys in excess of \$850,000 and up to \$1,275,000 plus one-third of moneys in excess of \$1,275,000 collected in each fiscal year from drug surcharges under this subsection shall be credited to the appropriation account under s. ~~20.455 (2) (kv)~~ 20.625 (1) (kv).

SECTION 52. 961.472 (5) (b) of the statutes is amended to read:

961.472 (5) (b) The person is participating in a substance abuse treatment

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program that meets the requirements of s. 165.95 (3), as determined by the department of justice ~~under s. 165.95 (9) and (10).~~

SECTION 53. 967.11 (1) of the statutes is amended to read:

967.11 (1) In this section, “approved substance abuse treatment program” means a substance abuse treatment program that meets the requirements of s. 165.95 (3), as determined by the department of justice ~~under s. 165.95 (9) and (10).~~

SECTION 54. 973.043 (3) of the statutes is amended to read:

973.043 (3) All moneys collected from drug offender diversion surcharges shall be credited to the appropriation account under s. ~~20.455 (2) (kv)~~ 20.625 (1) (kv) and used for the purpose of making ~~grants~~ payments to counties ~~under that~~ comply with the criteria specified in s. 165.95 (3).

SECTION 55. 973.155 (1m) of the statutes is amended to read:

973.155 (1m) A convicted offender shall be given credit toward the service of his or her sentence for all days spent in custody as part of a substance abuse treatment program that meets the requirements of s. 165.95 (3), as determined by the department of justice ~~under s. 165.95 (9) and (10),~~ for any offense arising out of the course of conduct that led to the person’s placement in that program.

SECTION 9101. Nonstatutory provisions; Administration.

(1) ALTERNATIVES TO PROSECUTION AND INCARCERATION GRANT PROGRAM. Notwithstanding s. 16.42 (1) (e), in submitting information under s. 16.42 for purposes of the 2027 biennial budget act, the department of administration shall submit information concerning the appropriation under s. 20.505 (1) (cb) as though the total amount appropriated under s. 20.505 (1) (cb) for the 2026-27 fiscal year

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was \$142,500 more than the total amount that was actually appropriated under s. 20.505 (1) (cb) for the 2026-27 fiscal year.

SECTION 9127. Nonstatutory provisions; Justice.

(1) ALTERNATIVES TO PROSECUTION AND INCARCERATION GRANT PROGRAM. Notwithstanding s. 165.95 (7) and (7m), the department of justice may not make any grants for the calendar year beginning January 1, 2027.

SECTION 9401. Effective dates; Administration.

(1) ALTERNATIVES TO PROSECUTION AND INCARCERATION GRANT PROGRAM. The treatment of ss. 16.075 and 20.505 (1) (cb) takes effect on January 1, 2027.

SECTION 9407. Effective dates; Circuit Courts.

(1) ALTERNATIVES TO PROSECUTION AND INCARCERATION GRANT PROGRAM. The treatment of ss. 758.19 (5) (g) and 961.385 (2) (cm) 3. b. takes effect on January 1, 2027.

SECTION 9427. Effective dates; Justice.

(1) ALTERNATIVES TO PROSECUTION AND INCARCERATION AND DRUG COURT GRANT PROGRAMS. The treatment of ss. 20.455 (2) (eg), (em), (jd), (kn), and (kv), 20.505 (1) (id) 5., 46.47 (1) (b), 165.25 (10m) (intro.), 165.95 (title), (1) (ac), (2), (2m), (2r), (3) (intro.), (a), (ag), (b), (bd), (cm) 2., (d), (e), (g), (h), (i), (j), and (k), (5) (a), (b), and (bg), (5m), (5p) (a) and (b), (6), (7), (7m), (8), (9), and (10), 165.955, 961.41 (5) (c) 2., and 973.043 (3) take effect on January 1, 2027.

(END)