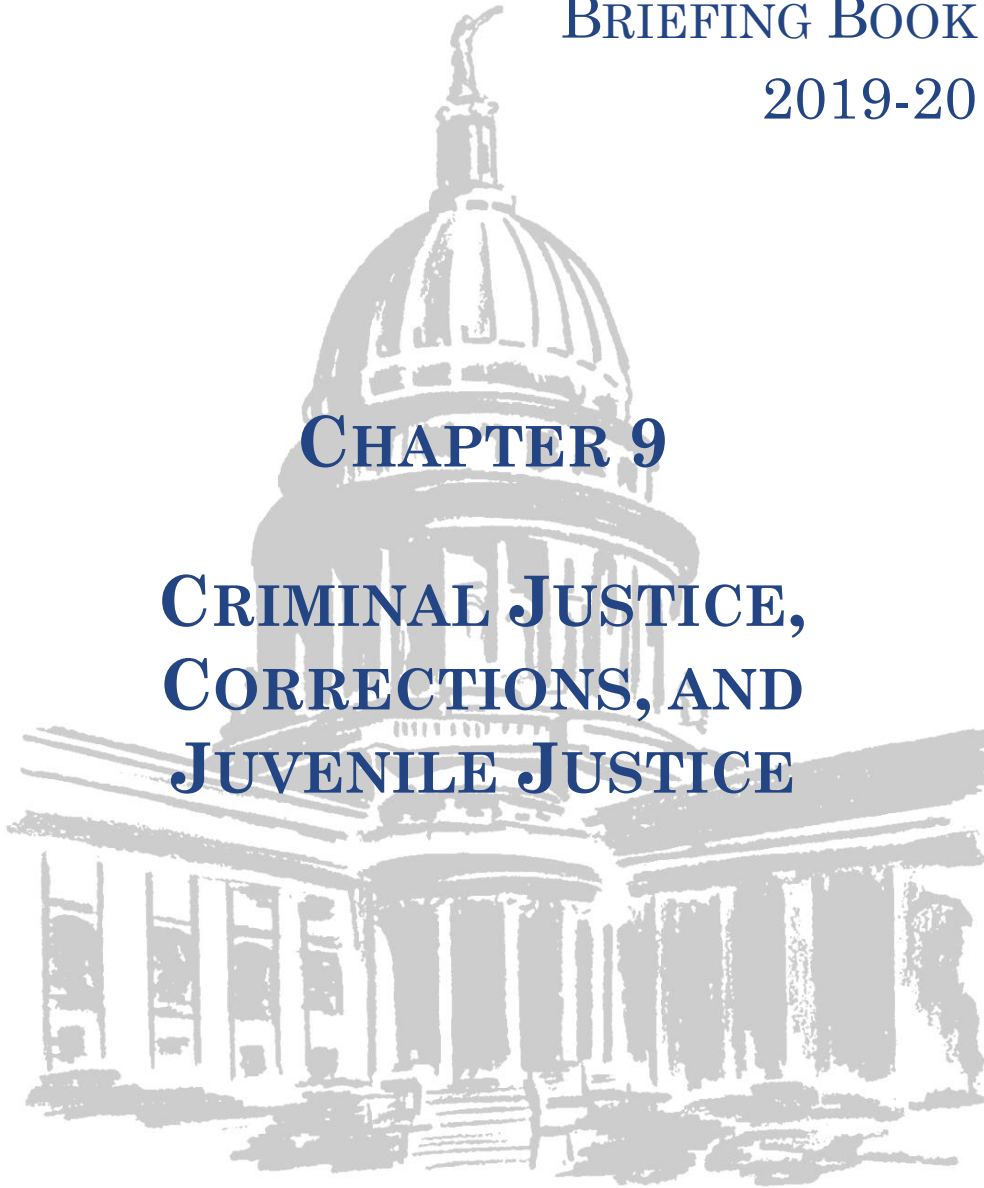


WISCONSIN LEGISLATOR  
BRIEFING BOOK  
2019-20

**CHAPTER 9**

**CRIMINAL JUSTICE,  
CORRECTIONS, AND  
JUVENILE JUSTICE**



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## INTRODUCTION

In the United States, criminal justice, corrections, and juvenile justice are generally under the jurisdiction of the states. Each state determines what constitutes a crime in that state, determines the penalties for each crime, provides protections and rights to crime victims, and operates prisons and facilities to house individuals who have committed criminal offenses in that state. Each state also develops its own juvenile justice system and determines if a minor who commits a criminal offense is treated as a child or as an adult for purposes of prosecution and punishment. This chapter provides an overview of Wisconsin's criminal justice, corrections, and juvenile justice systems.

## CRIMINAL JUSTICE

Criminal justice is a system of practices and institutions primarily directed at controlling crime in order to protect the public. The system attempts to achieve public safety through deterrence, incapacitation, rehabilitation, and reinforcement of norms. The criminal justice system also serves to impose punishment for the violation of laws.

### Jurisdiction

In the United States, the criminal justice system is comprised of several jurisdictions overlapping at the national, state, and local levels. The federal government and state governments have authority to criminalize behaviors and to make legal decisions and impose punishment through their individual court systems. Most violations that are commonly characterized as “crimes” are violations of federal or state criminal laws. In Wisconsin, towns, villages, and cities may, by ordinance, also prohibit certain conduct that is criminalized under state law. Criminal violations of federal law are prosecuted in the federal courts and criminal violations of state law are prosecuted in the state courts; violations of local ordinances are prosecuted in either municipal or state courts as civil offenses, also known as “forfeitures.” An individual whose act violates both state law and federal law, or the laws of multiple states, can be separately charged and tried in each jurisdiction. The remainder of this chapter focuses on Wisconsin's state criminal justice system. [ss. 66.0107, 753.03, 778.10, and 939.60, Stats.]

### Criminal Procedure

The criminal justice system enforces laws and punishes violations through a series of proceedings, sometimes referred to as criminal procedure. The process generally begins with the investigation and prosecution of a crime. The primary actors responsible for investigating criminal acts in Wisconsin are local police departments, county sheriffs, and various state agencies (e.g. the Department of Justice (DOJ), the Wisconsin State Patrol, the Department of Agriculture, Trade and Consumer Protection, and the Department of Natural Resources). Following an investigation by one of these investigating authorities, a case may be referred to a county district attorney or DOJ for prosecution. The prosecuting authority generally has discretion to either file formal charges against the alleged offender

(defendant) or choose not to proceed with the case. Once criminal charges have been filed, the case advances through a number of court proceedings in which the defendant is informed of the charges, allowed to present a defense, and adjudicated by a court or jury.

The charts on pages 3 and 4 provide an overview of the process that felony and misdemeanor criminal cases follow in Wisconsin.

## Classes of Crimes

Violations of Wisconsin law are categorized as felonies, misdemeanors, or forfeiture offenses. A felony is a crime punishable by imprisonment of one year or more, whereas a misdemeanor is a crime punishable by less than one year of imprisonment. The criminal penalties for felony and misdemeanor offenses include fines, imprisonment, or a combination of the two. A forfeiture offense is not defined as a “crime,” because it is only punishable by a monetary forfeiture. These types of violations are sometimes referred to as “civil offenses.” [s. 939.60, Stats.]

Wisconsin has enacted several major revisions of its system for categorizing and punishing crimes. In 1978, legislation went into effect that placed crimes and forfeiture offenses appearing in the Wisconsin Criminal Code into uniform penalty classes. This law created five classes of felonies, three classes of misdemeanors, and four classes of forfeitures.

In 1997, another major revision of the state’s crime classification system was enacted and implemented as part of the system referred to as “Truth-in-Sentencing.” The system increased penalties for all felonies by 50%, or one year, whichever was greater. The provisions of the 1997 law apply to offenses committed on or after December 31, 1999, but before February 1, 2003.

The “Truth-in-Sentencing” system was revised in 2001. This revision provided that crimes committed on or after February 1, 2003, are subject to a revised felony classification system that includes nine classes of felonies. One result of the multiple revisions over time is that the applicable penalties for a crime vary, depending upon the date a particular crime was committed.

The classes of misdemeanors<sup>1</sup> and their penalties within the Criminal Code are as follows:

### Maximum Penalties for Misdemeanors

Misdemeanor	Fine	Term of Imprisonment
Class A	\$10,000	9 months
Class B	\$1,000	90 days
Class C	\$500	30 days

<sup>1</sup> Nearly all of the misdemeanors located within the Criminal Code—chs. 939 to 951, Stats.— and all felonies in the statutes (with the exception of three offenses) are “classified.” That is, each offense is assigned to a class that corresponds to a penalty range. Misdemeanors that are codified in the portions of the Wisconsin statutes outside the Criminal Code are not classified. For unclassified offenses, penalties are established separately for each offense.

# Felony Cases

## CRIMINAL COMPLAINT FILED

The state brings an action against the defendant by filing a criminal complaint in circuit court stating the essential facts of the offense.

## WARRANT ISSUED

If the defendant has not been arrested, the judge or court commissioner issues a warrant for arrest.

## INITIAL APPEARANCE

The defendant is brought before a judge or court commissioner and informed of the charges and the right to be represented by a lawyer. Bail (either a cash amount or a signature bond) may be set at this time to assure the defendant's appearance at future proceedings.

## PRELIMINARY EXAMINATION AND ARRAIGNMENT

The defendant has a right to a preliminary examination. This is a hearing to determine whether the state has probable cause to charge the individual. If the court finds probable cause or if the preliminary examination is waived, an arraignment is held. At the arraignment, the defendant enters a plea of guilty, not guilty, no contest, or not guilty by reason of mental disease or defect.

## PLEA AGREEMENT OR DECISION TO GO TO TRIAL

Most criminal cases are decided before trial, typically by a plea agreement. However, if the defendant decides to take the case to trial, the case is heard in circuit court in front of a judge or a jury (unless both parties waive the right to a jury trial).

## JURY TRIAL OR BENCH TRIAL

The jury considers evidence presented and determines whether that evidence supports a verdict of guilty or not guilty. The state carries the burden to prove each element of the crime being charged beyond a reasonable doubt. If both parties waive the right to a jury trial, the judge determines whether the state has met its burden of proof. This is known as a bench trial.

## ACQUITTAL OR CONVICTION

If a defendant is found not guilty, the defendant is cleared of the charges against him or her. This is known as being "acquitted." If a defendant is determined to be guilty, either through a plea or trial verdict, the court enters a judgment of conviction and determines the penalty (sentence) for the crime.

# Misdemeanor Cases



## **CRIMINAL COMPLAINT FILED**

The state brings an action against the defendant by filing a criminal complaint in circuit court stating the essential facts of the offense.



## **A SUMMONS TO APPEAR IS ISSUED**



## **INITIAL APPEARANCE**

The defendant is brought before a judge or court commissioner, and informed of the charges and the right to be represented by a lawyer. Bail (either a cash amount or a signature bond) may be set at this time to assure the defendant's appearance at future proceedings.



## **PLEA ENTERED**

The defendant is asked to enter a plea of guilty, not guilty, no contest, or not guilty by reason of mental disease or defect. If a plea of not guilty is entered, a trial date is set.



## **PLEA AGREEMENT OR DECISION TO GO TO TRIAL**

Most criminal cases are decided before trial, typically by a plea agreement. However, if the defendant decides to take the case to trial, the case is heard in circuit court in front of a judge or jury (unless both parties waive the right to a jury trial).



## **JURY TRIAL OR BENCH TRIAL**

The jury considers evidence presented and determines whether that evidence supports a verdict of guilty or not guilty. The state carries the burden to prove each element of the crime being charged beyond a reasonable doubt. If both parties waive the right to a jury trial, the judge determines whether the state has met its burden of proof. This is known as a bench trial.



## **ACQUITTAL OR CONVICTION**

If a defendant is found not guilty, the defendant is cleared of the charges against him or her. This is known as being “acquitted.” If a defendant is determined to be guilty, either through a plea or trial verdict, the court enters a judgment of conviction and determines the penalty (sentence) for the crime.

The classes of felonies and their penalties are as follows:

**Maximum Sentence for Felonies  
(Confinement in Prison Plus Parole or Extended Supervision)**

Crimes Committed 2/1/03 and After		Crimes Committed 12/31/99 to 1/31/03		Crimes Committed Before 12/31/99
Class	Sentence	Class	Sentence	Sentence
Class A	Life	Class A	Life	Life
Class B	60 years			
Class C	40 years	Class B	60 years	40 years
Class D	25 years	Class BC	30 years	20 years
Class E	15 years			
Class F	12.5 years	Class C	15 years	10 years
Class G	10 years			
Class H	6 years	Class D	10 years	5 years
Class I	3.5 years	Class E	5 years	2 years

[s. 939.50, Stats.; and s. 939.50, 1997 and 2001, Stats.]

**Maximum Fines for Felonies**

Class	Crimes Committed 2/1/03 and After	Class	Crimes Committed Before 2/1/03
Class A	N.A.	Class A	N.A.
Class B	N.A.		
Class C	\$100,000	Class B	N.A.
Class D	\$100,000	Class BC	\$10,000
Class E	\$50,000		
Class F	\$25,000	Class C	\$10,000
Class G	\$25,000		
Class H	\$10,000	Class D	\$10,000
Class I	\$10,000	Class E	\$10,000

[s. 939.50, Stats.; and s. 939.50, 2001 Stats.]

## Sentencing

A court can only sentence a person to imprisonment in the Wisconsin state prison system if the sentence requires a portion of confinement that lasts one year or longer. [s. 973.02, Stats.] An offender serves either an indeterminate sentence or a determinate sentence, depending upon the date on which the offender committed the offense. A person who committed an offense prior to December 31, 1999 received an indeterminate sentence from the court; an offender who commits an offense on or after December 31, 1999, receives a determinate sentence. [s. 973.01, Stats.]

Other than those persons serving a sentence of life in prison, a person serving an indeterminate sentence in a state prison is usually released from confinement in one of the following ways:

- **Discretionary parole after parole eligibility date.** An offender is generally eligible for parole after serving 25% of the court-imposed sentence or six months, whichever is greater. The Parole Commission determines whether the offender is released on discretionary parole. After release, an offender is placed on parole supervision for the remainder of his or her sentence. [s. 304.06, Stats.]
- **Mandatory release.** Unless subject to additional time for misconduct, and subject to the exceptions described below, an offender is required to be released after serving two-thirds of his or her sentence. This is termed the offender's mandatory release, or MR, date. After release, an offender is placed on parole supervision. [s. 302.11, Stats.]

### Forms of Release Under Supervision

**Extended Supervision – Release of an offender as part of a bifurcated sentence or release of an offender sentenced to life imprisonment to the community under Department of Corrections (DOC) supervision.**

**Mandatory Release – Release from prison to parole supervision after serving 2/3rds of an indeterminate sentence established by the court for offenses committed before December 31, 1999.**

**Parole – Release of an offender sentenced under an indeterminate sentence to the community under DOC's supervision. DOC may discharge a person from parole prior to the person serving the maximum sentence imposed by the court.**

**Probation – Release of an offender under DOC supervision without first serving time in a state prison. An offender placed on probation is subject to conditions imposed by the court and/or DOC.**



For indeterminate sentences, eligibility for parole and MR are as follows if a person is sentenced to the maximum term of imprisonment:

Felony Class	Eligible for Parole	Mandatory Release
Class A	Set by sentencing court	N.A.
Class B	10 years	26.6 years
Class B/C	5 years	13.3 years
Class C	2.5 years	6.6 years
Class D	1.25 years	3.3 years
Class E	0.5 year	1.3 years

Offenders who have committed serious felonies<sup>2</sup> may be subject to different parole eligibility provisions than are outlined above. A person that has committed a serious felony may have his or her parole eligibility date changed in the following ways:

- **Later discretionary parole date.** If a serious felony offender has one or more prior convictions for a serious felony, a judge may set a discretionary parole eligibility date for the offender that is later than 25% of the sentence or six months, but that is not later than the MR date of two-thirds of the sentence. [s. 973.0135, Stats.]
- **No automatic release on MR date.** Certain felony offenders need not be automatically released when they reach their MR dates. Instead, the Parole Commission may deny MR to such an offender in order to protect the public or because the offender refused to participate in counseling or treatment. [s. 302.11 (1g), Stats.]

No person serving a sentence of life in prison for an act committed before December 31, 1999, is entitled to MR. Instead, a person serving a life sentence usually must serve 20 years in confinement, less time calculated under the MR formula, before the person is eligible for release on parole. However, a person's eligibility could be extended due to violation of prison rules, or if the court sets the parole eligibility date later than the usual parole eligibility date (e.g., 35, 75, or 100 years). Alternatively, a sentencing court may declare a person ineligible for parole. [s. 973.014 (1), Stats.]

Determinate sentences apply to offenders who commit offenses on or after December 31, 1999. The sentences are bifurcated between a period of confinement and a period of

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<sup>2</sup> Serious felonies include certain drug offenses that are punishable by a maximum prison term of 30 years or more; first- or second-degree intentional homicide; first-degree reckless homicide; felony murder; homicide by intoxicated use of a vehicle; performing partial-birth abortion; substantial battery; substantial battery to an unborn child; mayhem; first- or second-degree sexual assault; taking hostages; kidnapping; causing death by tampering with a household product; arson; armed burglary; carjacking; armed robbery; assault by a prisoner; first- or second-degree sexual assault of a child; substantial physical abuse of a child; sexual exploitation of a child; incest; child enticement; soliciting a child for prostitution; child abduction; soliciting a child to commit a Class A or B felony; use of a child to commit a Class A felony; or solicitation, conspiracy, or attempt to commit a Class A felony. [s. 973.0135 (1) (b), Stats.]

extended supervision (ES). This system of sentencing is often referred to as “Truth-in-Sentencing,” mentioned in the previous discussion on classes of crimes.

The portion of the bifurcated sentence that imposes a term of confinement in prison may not be less than one year, is subject to any minimum sentence prescribed for the felony, and may not exceed the following:

#### Maximum Confinement in Prison for a Maximum Sentence

Felony Class	Release to ES for Crimes Committed 2/1/03 and After	Felony Class	Release to ES for Crimes Committed 12/31/99 to 1/31/03
Class A	ES eligibility date set by sentencing court	Class A	ES eligibility date set by sentencing court <sup>3</sup>
Class B	40 years		
Class C	25 years	Class B	40 years
Class D	15 years	Class BC	20 years
Class E	10 years		
Class F	7.5 years	Class C	10 years
Class G	5 years		
Class H	3 years	Class D	5 years
Class I	1.5 years	Class E	2 years

[s. 973.01, Stats.]

**Additional information on the crime victim and witness rights, and services available, may be found on the DOJ’s Office of Crime Victim Services website at:**

<https://www.doj.state.wi.us/ocvs>

**Wisconsin Victim Helpline: (800) 446-6564; TTY: (800) 947-3529**

#### Rights of Victims and Witnesses

The Wisconsin Constitution grants crime victims certain rights and provides remedies for violations of those rights, as established by the Legislature. [Wis. Const. art. I, s. 9m.] In addition, the Wisconsin Statutes set forth the basic bill of rights for victims and witnesses, and provide numerous rights to victims and witnesses that are to be honored by law enforcement, prosecutors, and judges. Those rights were created in recognition of the fact

<sup>3</sup> The person must serve at least 20 years in prison. The court may also order that the person is not eligible for release on ES.

that victims and witnesses of a crime have a civic and moral duty to fully and voluntarily cooperate with law enforcement and district attorneys (DAs), and the importance of their cooperation with state and local law enforcement efforts. However, in order for a victim to be eligible for services afforded under the basic bill of rights for victims and witnesses, the crime must be reported to law enforcement authorities. [s. 950.03, Stats.]

There are over 40 rights provided to victims in the basic bill of rights for victims and witnesses. One example is the right to be treated with fairness, dignity, and respect for privacy. Another is the right to be notified of certain information, including the time, date, and place of upcoming court proceedings if requested. A victim also has the right to be notified about the decisions related to the case, such as a decision not to prosecute if an arrest was made or a

**Wisconsin Constitution, Article 1, Section 9m, requires that crime victims be treated with fairness, dignity, and respect for their privacy, and provides crime victims with enumerated constitutional privileges and protections.**

decision to dismiss charges. Victim rights also include the right to a speedy disposition of the criminal case; the right to attend court proceedings in the case; and the right to provide a written or oral victim impact statement concerning the economic, physical and psychological effect of the crime on the victim to be considered by the court at sentencing. [s. 950.04 (1v), Stats.]

The basic bill of rights also confers nine rights specific to witnesses. For example, a witness has the right to request information from the DA about the final disposition of the case. A witness also has the right to receive protection from harm and threats of harm arising out of his or her cooperation with law enforcement and prosecution efforts. Further, a witness has the right to certain information such as financial assistance and other social services available as a result of being a witness, including information on how to apply for the assistance and services. A witness also has the right to be notified that a court proceeding to which the witness has been subpoenaed will not go on as scheduled, in order to save the person an unnecessary trip to court. [s. 950.04 (2w), Stats.]

In the 2017 Legislative Session, the Legislature passed 2017 Senate Joint Resolution 53 (SJR 53), a proposal to amend the Wisconsin Constitution (on first consideration), relating to the rights of crime victims. SJR 53 has commonly been referred to as “Marsy’s Law.” Broadly speaking, SJR 53 defines “victim” in the Constitution, provides victims rights that vest at the time of victimization and are generally “self-executing,” and imposes obligations on courts to enforce victims rights. To become law, SJR 53 must be passed by both the Assembly and the Senate in the 2019 Legislative Session and then be ratified by the people in a statewide referendum. [Wis. Const. art. XII, s. 1.]

## TREATMENT OF PAST CONVICTIONS

Individuals who meet specific criteria may have their records expunged and individuals who apply to the Governor may be pardoned for their crimes. Expunction of criminal records and pardons, the focus of this section, are actions applicable to individuals who have already completed their sentences. There are other executive actions that may be taken related to convictions, such as reprieves and commutations.

**Expunction of a criminal record is only available in very limited circumstances. Many offenders are not eligible to have their records expunged.**

### Expunction

A person's criminal conviction may be removed from his or her court record under certain circumstances, through a process known as

expunction. The criteria for expunction vary depending upon whether the individual was an adult or a juvenile at the time of conviction.

An adult's criminal court record may be expunged by the sentencing court if all of the following apply:

- The person was under the age of 25 when he or she committed the offense.
- The offense for which the person was found guilty has a maximum penalty of six years or fewer (this includes Class A, B, and C misdemeanors, and Class H and I felonies).
- The sentencing court determines that the person will benefit from having his or her record expunged.
- The sentencing court determines that society will not be harmed by the expungement.
- The sentencing court orders at the sentencing hearing that the offense be expunged upon the person's successful completion of the sentence.
- The person successfully completed his or her sentence.

[s. 973.015, Stats.]

There are some cases in which a Class H or I felony conviction may not be expunged from a person's criminal court record. A Class H felony may **not** be expunged if either of the following apply:

- The person has a prior felony conviction.
- The current offense is defined as a violent offense, or is a violation of stalking, intentional or reckless physical abuse of a child, or sexual assault by a school staff member or by a person who volunteers with children.

[s. 973.015 (1m) (a) 3. a., Stats.]

A Class I felony may **not** be expunged if either of the following apply:

- The person has a prior felony conviction.
- The offense is defined as a violent offense, or a violation of concealing the death of a child.

[s. 973.015 (1m) (a) 3. b., Stats.]

A court may expunge a juvenile's adjudication record if the juvenile petitions the court after turning 17 years old and if the court makes certain findings. A court **may** expunge a juvenile's record if it finds that: (1) the juvenile has satisfactorily complied with the conditions of his or her dispositional order; (2) the juvenile will benefit from the expunction; and (3) society will not be harmed by the expunction. [s. 938.355 (4m), Stats.]

There are certain circumstances under which a court must order an expunction of a juvenile's record. A court **must** expunge a juvenile's record if: (1) the adjudication was for an invasion of privacy offense; (2) the adjudication was the juvenile's first invasion of privacy offense; and (3) the juvenile has satisfactorily complied with the conditions of his or her dispositional order. [s. 973.015 (1m) (a) 2., Stats.]

## Pardons

A pardon is official forgiveness for a crime and restores rights that were lost due to a conviction. For instance, a person who receives a pardon will generally regain his or her ability to possess a firearm, hold public office, and obtain various licenses.

Only the Governor has the power to issue a pardon for conviction of a state crime in Wisconsin. Under Wis. Const. Art. V, s. 6, the Governor has the power to grant a pardon after a person's conviction for any crime, except treason and cases of impeachment. The Governor possesses nearly unlimited discretion to grant or deny pardons, and may also grant conditional pardons that impose limitations or restrictions on the individual.

The Governor may choose to accept applications for pardon and may choose to appoint a Pardon Advisory Board to evaluate applications and make recommendations. Applications for felony pardons must be accompanied by specified documents, including court records, written statements by the judge and district attorney who tried the case (if obtainable), and a certificate from the prison where the applicant was confined that establishes good behavior.

A pardon restores an individual's rights but does not expunge or erase that individual's criminal record.

**There is one case in which the court is required to order that the record of a person's criminal conviction be expunged. If a person committed an invasion of privacy offense while under the age of 18, the court must order that the person's record be expunged upon successful completion of his or her sentence.**

## CORRECTIONS

**The DOC legislative liaison can be reached at (608) 240-5056.**

In Wisconsin, the Department of Corrections (DOC) is responsible for the care and treatment of adult offenders placed under state supervision by the courts. As of January 2018, DOC was

responsible for more than 23,000 incarcerated adults and more than 66,000 adults under supervision in the community.

### Correctional Facilities

DOC operates 36 correctional facilities, including 20 adult prisons and 16 correctional centers.

Adult males sentenced to state prison are received at the Dodge Correctional Institution Reception Center in Waupun. After an assessment and evaluation period of four to six weeks, each inmate is classified according to security level, which is the degree of security risk he presents.

Male inmates who are classified as maximum security level may be placed at the following institutions:

- Dodge.
- Waupun.
- Columbia.
- Green Bay.
- Wisconsin Secure Program Facility.

Male inmates classified as medium security level may be placed at the following institutions:

- Oshkosh.
- Kettle Moraine.
- Fox Lake.
- New Lisbon.
- Redgranite.
- Jackson.
- Prairie du Chien.
- Stanley.
- Racine.
- Milwaukee Secure Detention Facility.

A medium security inmate who is between the ages of 15 and 24 years may also be placed in the Racine Youthful Offender Correctional Facility.

Male inmates who are classified as minimum security level may be placed in the following facilities:

- Oakhill Correctional Institution.
- Chippewa Valley Correctional Treatment Facility.
- Sturtevant Transitional Facility.
- One of the 14 male minimum security correctional centers.

DOC also operates the Wisconsin Secure Program Facility, the state’s most secure facility, which is located in Boscobel. Male inmates may be transferred there if they demonstrate serious behavioral problems.

Adult females sentenced to state prison are received at Taycheedah Correctional Institution for assessment and evaluation. Female inmates classified as maximum or medium security level are placed in the Taycheedah Correctional Institution. Female inmates who are classified as minimum security level may be placed at the Milwaukee Women’s Center, the Robert E. Ellsworth Correctional Center in Union Grove, or the St. Croix Correctional Center in New Richmond.

In addition to the state prisons and correctional centers, DOC utilizes the following facilities:

- **Milwaukee Secure Detention Facility.** In addition to housing medium-security inmates, the Milwaukee Secure Detention Facility is a holding facility for probation and parole violators and accepts offenders 24 hours per day.
- **County facilities.** DOC contracts with Wisconsin counties to house inmates, except for those inmates in the Inmate Retention Program. As of April 23, 2018, there were 461 state inmates being held in county jails.
- **Interstate Corrections Compacts.** As of April 23, 2018, DOC contracts with the federal government and other state agencies to house approximately 30 Wisconsin-sentenced inmates in various federal and state prisons. Another 29 inmates serving a sentence from another state or the federal government and housed in Wisconsin.
- **Wisconsin Resource Center.** DOC contracts with the Department of Health Services (DHS) to house inmates with mental health needs at the Wisconsin Resource Center in Winnebago. As of April 27, 2018, there were 265 inmates being held at the Wisconsin Resource Center.

**Q: Can DOC lease space to private businesses?**

A: DOC is authorized to lease space within state prisons and juvenile correctional institutions to not more than six private businesses to employ prison inmates to manufacture products or components or to provide services for sale on the open market. Currently, DOC does not lease space to any private businesses.

[s. 303.01 (2) (em), Stats.]

## Prison Work and Study Assignments

Inmates in correctional institutions are typically provided a work or study assignment. For work assignments in a prison, other than those employed by the Bureau of Correctional Enterprises (BCE), an inmate may earn \$0.12 to \$0.42 per hour. Inmates who have been assigned to schools, vocational training, or other programs are paid an hourly wage of \$0.15.

Inmates who are unable to work may be paid an hourly wage of \$0.05, which is an involuntary unassigned compensation rate applied to inmates who are eligible, available, and waiting for placement in approved work or program assignments where such work or program assignments exist, but are not currently available.

Inmates who refuse to work or are negatively removed from a work or full-time paid program assignment will be placed on voluntary unassigned status for a minimum of 90 days and will not be compensated. A warden or superintendent can waive the 90-day requirement for an inmate negatively removed from a work assignment if a full-time paid program assignment becomes available to the inmate in those 90 days of voluntary unassigned status.

## Bureau of Correctional Enterprises

The Division of Adult Institution's Bureau of Correctional Enterprises (BCE) employs an average of 429 inmates. A nine-member Governor-appointed Prison Industry Board oversees all operations of prison industries. There are four components to the bureau: Badger State Industries (BSI), Correctional Farms, Badger State Logistics (BSL), and Transition. These components are described in more detail below:

- BSI is DOC's manufacturing enterprise. BSI operates 12 industries in 11 different correctional facilities, providing vocational training and work skills development to a willing prison population. Listed below are the locations and type of products produced by BSI:

<b>Institution</b>	<b>Industry</b>	<b>Product Examples</b>
Green Bay	Textile manufacturing and embroidery.	Clothing, bedding, mattresses, pillows, and towels.
Jackson, Stanley, and New Lisbon	Signage.	Manufacturing signs, road signs, hydrostripping.
Fox Lake	Wood furniture.	Desks, tables, bookcases, and credenzas.
Oakhill	Upholstery.	Chairs.
Waupun	Metal stamping and fabrication.	License plates, tables, bookcases, and office systems..
Columbia	Printing.	Copies, books, and pamphlets
Oshkosh	Laundry.	Laundry services, linen rentals.
Taycheedah	Inventory management and warehouse production.	Canteen orders for inmates.

Source: Wisconsin DOC.



- BCE has three correctional dairy farms located at Waupun/Fox Lake and Oregon.
- BSL is comprised of the Industries Distribution Center (IDC) and the commodities warehouse located in Waupun. IDC is the central hub for transportation and storage for BSI while the commodities warehouse is the central distribution point for products (toilet paper, can liners, etc.) sold to state agencies and other governmental units.
- The BCE Transition Program connects inmates employed at BSI and the correctional farms with employment opportunities once they are released from prison.

The hourly wages for inmates working with BCE in medium and maximum security institutions range from \$0.20 to \$1.00. In minimum security institutions, the range is \$0.50 to \$1.60. The hourly wages on the farms range from \$1.02 to \$1.31.

## Community Corrections: Probation, Parole, and Extended Supervision

The Division of Community Corrections in the DOC provides community supervision for offenders on probation, parole, and ES. In addition to supervising offenders in the community, probation and parole agents provide investigative services to the courts, the Division of Adult Institutions, and the Parole Commission to aid in sentencing and community reentry planning. On February 18, 2018, the DOC was responsible for supervising 65,625 offenders on probation, parole, or ES.

## SEX OFFENDERS

### Sex Offender Registry

DOC maintains a registry of convicted sex offenders residing in the state. The agency

#### Sex Offender Registry:

[http://offender.doc.state.wi.us/  
public](http://offender.doc.state.wi.us/public)

provides public Internet access to certain information contained in the registry, including the names and addresses of registered sex offenders and the qualifying crimes committed by each offender.

In general, a person must register as a sex offender if he or she was convicted of a “sex offense,” or if he or she is subject to a court order requiring registration:

- **Sex offense.** A person must register as a sex offender if he or she is convicted, adjudicated, or found not guilty by reason of a mental disease or defect of a “sex offense.” The statutes enumerate 28 offenses in the definition of “sex offense,” including crimes such as incest, child enticement, and first degree sexual assault.
- **Court order.** A person must also register as a sex offender if a court orders the person to register, even if he or she did not commit a “sex offense.” A court may order a person to register if the court finds that the person’s conduct was sexually motivated, meaning that the conduct was done for the person’s sexual arousal or gratification.

[s. 301.45, Stats.]

The registry contains the following information regarding each registered sex offender:

- **Name.** The person’s name and any aliases.

- **Identifying information.** Information sufficient to identify the person, including birth date, gender, race, height, weight, and hair and eye color.
- **Offense.** The statute the person violated, date of conviction, county of conviction, or state of conviction if convicted outside of Wisconsin.
- **Dismissed sex offenses.** Any sex offense that was dismissed as part of a plea agreement if the sentencing court (or adjudication court if the offender is a juvenile) ordered that the offender (or juvenile) be subject to the sex offender registry requirements.
- **Date of registration.** Date the person was required to register.
- **Address.** All addresses where the person is or will be residing.
- **Supervising agency.** The name of the agency supervising the person, the name of the office responsible for supervision, and the office telephone number.
- **Internet and social media accounts.** The name of every email account, Internet user name, Internet profile, and website the person creates or maintains.
- **Employment.** The name and address of the person's place of employment.
- **School location.** The name and location of any school where the person is enrolled.
- **Treatment during sexually violent person commitment.** A notation regarding treatment the person has received for his or her mental disorder.
- **Date of last update.** The most recent date on which the information was updated.

Not all information contained in the sex offender registry is publicly accessible. DOC maintains a website where the public may access limited information about sex offenders by entering a zip code or by entering the name of a registrant.

There are two exceptions to the sex offender registration requirement for certain young offenders who are close in age with their victims. The first exception authorizes a court, upon finding that it is not necessary, in the interest of public protection, to require an offender to register as a sex offender, to exempt the offender from registration if he or she was 18 years old or younger at the time of the offense, and if the victim is no more than four years younger or older than the offender. The exemption only applies to certain offenses, and does **not** apply to an offender whose crime involved force or violence or whose victim was less than 12 years old.

The second exception was created by 2017 Wisconsin Act 174. This exception authorizes a court, upon finding that it is not necessary, in the interest of public protection, to require an offender to register as a sex offender, to exempt the offender from registration if he or she was 18 years old or younger at the time of the offense, the victim was 15 years old at the time of the offense, and the offense involved having sexual intercourse without consent, in violation of third-degree sexual assault.

In addition to these two exceptions, Act 174 provides that a person who was age 18 years or younger at the time of the violation may no longer be convicted of the felony crime of second-degree sexual assault of a child and forced to register as a sex offender, for having

sexual contact or sexual intercourse with a child who was 15 years old at the time of the violation. Rather, a person may instead be convicted of the new misdemeanor crime of underage sexual activity, which was created by the Act, and is not required to register as a sex offender.

[ss. 301.45 (1m) (a), 948.02 (2), and 948.09, Stats.]

In general, a person must register as a sex offender for either 15 years after being discharged from supervision, or for the person's lifetime.

Lifetime sex offender registration applies to a person who has been: (1) convicted of a sex offense on two or more separate occasions; (2) convicted of certain sexual assault crimes; (3) committed as a sexually violent person under ch. 980, Stats.; or (4) ordered by the court to comply for life.

A registered sex offender who fails to report or update required registry information is subject to penalties. In general, a sex offender who intentionally fails to provide or update registry information is guilty of a Class H felony and faces penalties of imprisonment for six years or less, a fine of \$10,000 or less, or both.

A registered sex offender who uses an alias or moves to a different residence without permission is also subject to penalties. State law prohibits a sex offender from changing his or her name or identifying by a name not used by DOC. State law further prohibits a sex offender from establishing or changing his or her residence unless certain conditions have been met. In general, a sex offender who intentionally violates these prohibitions is guilty of a Class H felony and faces penalties of imprisonment of six years or less, a fine of \$10,000 or less, or both. [ss. 301.45 and 301.47, Stats.]

## Sex Offender Placement

DOC must comply with state and local laws when the agency places a sex offender who is released into the community on probation, parole, or ES. State statutes and municipal ordinances impose limitations and requirements regarding the locations where DOC may initially place a sex offender.

Different statutes impose restrictions and requirements on where DHS may place a sexually violent person (SVP) under ch. 980, Stats., who is on supervised release. These statutes impose distance restrictions, provide for limited preemption of local sex offender residency ordinances, require DHS to search for known victims and consult local law enforcement, and prohibit placement of an SVP outside his or her home county.

Wisconsin law requires DOC to place a sex offender in one of three locations upon release to parole or supervised release: (1) the county where the person resided when he or she committed the sex offense; (2) the county where the person was convicted; or (3) a sex offender treatment facility. However, DOC cannot parole serious sex offenders in any county that contains a prison that offers a specialized sex offender treatment program, unless the county is the offender's county of residence.

Municipal and county ordinances also limit the locations where sex offenders may be placed within a community. Such ordinances typically prohibit a sex offender from living within a specified distance from locations such as parks and schools. However, the statutes prohibit local sex offender residency restriction ordinances from being enforced against an SVP who is on supervised release, or against a person who provides housing to the SVP, provided that the SVP is residing in the location ordered by the court and is in compliance with the court's orders. [s. 980.135, Stats.]

## GPS TRACKING BY DOC

Offenders who commit certain child sex offenses or violate a temporary restraining order (TRO) or injunction issued for domestic abuse or harassment may be subject to global positioning system (GPS) tracking. DOC manages the GPS tracking system to actively monitor and identify an offender's location in real time. An offender wears specialized tracking equipment that uses wireless-based communications and geo-positioning satellites to actively track and timely report and record the offender's presence in an "exclusion zone," an area the particular offender is prohibited from entering, or in an "inclusion zone," an area the particular offender is prohibited from leaving.

**Q: Is an offender on lifetime GPS or PPS tracking charged a fee for the cost of tracking?**

A: Yes. The offender bears as much of the cost for tracking as the offender is able, based on the offender's financial resources; present and future earning ability; needs and earning ability of the offender's dependents; any other costs the offender is required to pay in conjunction with his or her supervision by DOC or DHS; and any other factors that DOC considers appropriate.

## Tracking of Sex Offenders

An offender who is convicted or found guilty by reason of mental disease or defect of a serious child sex offense or who is found to be an SVP is subject to lifetime GPS tracking. DOC creates individualized exclusion and inclusion zones for these offenders, if necessary to protect public safety. The exclusion zones must focus on areas where children congregate and areas where the offender is prohibited from going as a condition of probation, parole, ES, conditional release, or supervised release. [s. 301.48, Stats.]

For some offenders who are subject to lifetime GPS tracking, DOC may alternatively use passive positioning system (PPS) tracking to passively track the offender with GPS tracking.

Once the offender who is subject to lifetime GPS tracking completes his or her sentence, including any probation, parole, or ES, DOC may decide to passively track the location of

the offender through PPS tracking. With PPS tracking, the offender’s location information is monitored, identified, and recorded, but not necessarily in real time as is done with active GPS tracking.

### Tracking of Restraining Order Violators

An offender who is convicted for violating a TRO or injunction issued for either domestic abuse or harassment may be subject to GPS tracking for a limited period of time. A court may order GPS tracking if the court finds it more likely than not that the offender will cause serious bodily harm to the person who petitioned for the TRO or injunction. However, if the court determines that another alternative, including imprisonment, is more likely to protect the petitioner, the court may not order GPS tracking. If the court orders GPS tracking, DOC must then create exclusion zones for the offender, as necessary to protect the petitioner, and the GPS system must alert DOC if the offender enters an exclusion zone. An offender is subject to GPS tracking for the duration of his or her probation, or for the period ordered by the court, if tracking is a condition of the offender’s ES. [s. 301.49, Stats.]

**Q: Who is a “juvenile in need of protection or services”?**

A: A juvenile who is found to be uncontrollable, habitually truant from school, a school dropout, or a habitual runaway; who is determined to be not responsible for a delinquent act by reason of mental disease or defect; or who is under 10 years of age who commits a delinquent act. [s. 938.13, Stats.]

## JUVENILE JUSTICE

Juvenile offenders are generally subject to the juvenile justice system, rather than the adult criminal justice system. The Juvenile Justice Code, ch. 938, Stats., governs delinquent juveniles and juveniles in need of protection or services (also known as “JIPS”). A person 17 years of age or older who commits a crime is prosecuted in the adult criminal justice system. [ss. 938.02 and 938.12, Stats.]

### Juvenile Justice Code

The Juvenile Justice Code creates procedures and consequences for violations of the law that specifically apply to juveniles who commit offenses. These procedures and consequences differ from those contained within the criminal chapters of the Wisconsin statutes and employ a different vocabulary. The following terms have specific meanings in the context of the juvenile justice system.

**Juvenile.** A “juvenile” for purposes of criminal prosecution is a person who is 16 years old or younger and who has violated a criminal law, civil law, or municipal ordinance. A

“juvenile” for all other purposes under the Juvenile Justice Code is a person who is 17 years old or younger.

**Adjudicated.** A juvenile is “adjudicated” under the Juvenile Justice Code, rather than convicted. Adjudicated means that the juvenile is “found to” have committed or not to have committed a violation.

**Delinquent.** A juvenile who is 10 years of age or older, and under 17 years of age, and who violates a criminal law is adjudicated “delinquent,” rather than being found guilty and convicted.

**Disposition.** The Juvenile Justice Code provides “dispositions,” which are consequences for violations of the law that are imposed upon juvenile offenders, rather than sentences. The purpose of a disposition is to respond to the care and treatment of the juvenile’s best interest and protection of the public, while being consistent with the prevention of delinquency.

## Adult Court vs. Juvenile Court

Although juvenile courts customarily have jurisdiction over juvenile cases, these cases may proceed in adult criminal courts under certain circumstances. Juvenile cases are most frequently addressed in adult court when they involve the commission of a serious offense, such as armed robbery or homicide.

A juvenile’s case may proceed to the adult criminal court system. A juvenile’s case may begin in adult court, which occurs when the adult court has “original jurisdiction” over the juvenile. [s. 938.183, Stats.] Alternatively, the case may begin in juvenile court and then be transferred to adult court because the juvenile court waived its jurisdiction to hear the case. [s. 938.18, Stats.] When this happens, the juvenile is “waived” to adult court.

### Original Adult Court Jurisdiction – Juveniles Whose Cases Begin in Adult Court

A juvenile case **begins** in adult court when the juvenile meets certain criteria. The following types of juveniles may have their cases addressed in adult court based on the court’s original jurisdiction:

- **Juveniles who commit battery and have a prior adjudication.** A juvenile who was previously adjudicated delinquent and is alleged to have committed battery or assault while placed in a secured correctional facility, secured detention facility, or secured residential care center for children and youth, or is alleged to have committed battery to a probation and parole agent or aftercare agent.
- **Juveniles aged 10 or older who attempt or commit first-degree intentional homicide or who commit any other homicide.** A juvenile

**Q: Who is considered to be a “delinquent juvenile”?**

A: A juvenile who is 10 years of age or older, and under 17 years of age, and has violated any state or federal law.

[s. 938.12, Stats.]

who is alleged to have attempted or committed first-degree intentional homicide, or a juvenile who is alleged to have committed first-degree reckless homicide or second-degree intentional homicide on or after the juvenile's 10<sup>th</sup> birthday.

- **Juveniles with a prior adult court case.** A juvenile who is alleged to have committed a crime and who has been previously convicted in adult court or has a case pending in adult court.

Occasionally, a juvenile whose case begins in adult court may have his or her case “reverse waived” back into the juvenile court. This happens when the adult court waives its original jurisdiction to hear the case. A juvenile must prove the following

before a court may reverse waive the juvenile's case: (1) that the juvenile could not receive adequate treatment in the criminal justice system; (2) that transferring the juvenile would not depreciate the seriousness of the offense; and (3) that it is not necessary to keep the case in adult court in order to deter juveniles from committing a similar violation. [s. 970.032 (2), Stats.]

**A juvenile whose case begins in adult court may be “reverse waived” back into juvenile court if the adult court waives its original jurisdiction to hear the case.**

### Waiver of Juveniles to Adult Court – Juveniles Whose Cases Begin in Juvenile Court

A juvenile court case may begin in juvenile court and then be waived into adult court when the juvenile meets certain conditions. The following are circumstances under which a court may waive a juvenile case to adult court:

- **Commission of specific crimes after age 14.** The juvenile is alleged to have committed certain serious violent offenses, drug offenses, or gang-related offenses on or after the juvenile's 14<sup>th</sup> birthday.
- **Commission of any crime after age 15.** The juvenile is alleged to have violated any state criminal law on or after the juvenile's 15<sup>th</sup> birthday.

[s. 938.18 (1), Stats.]

The court has discretion regarding waiver of a juvenile's case to adult court. However, the statutes specify the criteria upon which a court may base its decision. These criteria include: personality of the juvenile; prior record of the juvenile; type and seriousness of the offense; adequacy and suitability of facilities and services within the juvenile justice system; and ongoing proceedings in adult court against the juvenile's associates.

[s. 938.18 (5), Stats.]

### Dispositions for Juvenile Offenders

A juvenile adjudicated delinquent for violating a criminal law faces a variety of potential dispositions. These dispositions include the following, among others:

- Counseling.

- Supervision by DOC, another state agency, or a suitable adult.
- Participation in the teen court or Serious Juvenile Offender Program.
- Placement in a relative’s home, a group home, or a residential treatment center.
- Placement in a juvenile detention facility.
- Electronic monitoring.
- Payment of restitution or forfeiture.
- Community service.
- Special treatment or care, such as medical or psychological treatment.
- Alcohol or drug treatment.
- Drug testing.
- Vocational training or participation in an education program.
- Restriction on driving privileges.
- Compliance with sex offender reporting requirements.

[s. 938.34, Stats.]

A juvenile who is tried and convicted in adult court is subject to adult criminal procedures and the criminal penalties provided for the crime he or she committed.

## Juvenile Correctional Facilities

A juvenile may be held in secure custody in a Type 1 juvenile correctional facility if the juvenile is adjudicated delinquent and receives certain dispositions. At the time 2017 Wisconsin Act 185 was enacted, the only Type 1 juvenile correctional facilities were the Lincoln Hills and Copper Lakes Schools (hereinafter, collectively referred to as “Lincoln Hills”), operated by DOC, and the Mendota Juvenile Treatment Center, operated by DHS. A juvenile may be placed in a Type 1 juvenile correctional facility if a court gives the juvenile a Serious Juvenile Offender Program (SJOP) disposition or a correctional placement disposition. A juvenile may receive one of these dispositions only if the juvenile commits certain offenses and the court makes specific findings. A juvenile may also be held in secure custody in a Type 1 juvenile correctional facility if the juvenile is convicted in adult court, is under the age of 18, and receives an adult sentence.

A juvenile may be held in secure custody in a juvenile detention facility if the juvenile is adjudicated delinquent and receives a disposition designating that facility for placement. Juvenile detention facilities are locked facilities approved by DOC for the secure, temporary holding of juveniles and are operated by counties.

The Legislature recently passed 2017 Wisconsin Act 185, relating to juvenile correctional facilities. Some of the key changes made by Act 185 include requiring the closure of the Lincoln Hills, establishing new DOC Type 1 juvenile correctional facilities and new county residential care centers for children and youth (SRCCCYs), and authorizing \$80 million in state bonding for constructing and expanding juvenile facilities.



Act 185 also makes changes relating to authorization for DOC to operate Lincoln Hills as an adult institution, establishment of one or more new Type 1 juvenile facilities, and expansion of the Mendota Juvenile Treatment Center. The Act allows for establishment of SRCCCYs and creates a grant program to provide funding for these facilities, and makes changes related to juvenile placements in juvenile detention facilities.

Act 185 also creates two study committees to administer the SRCCCY grant program and to recommend rules governing programming and services in SRCCCYs and a location for a new DOC Type 1 juvenile correctional facility or facilities. Additionally, Act 185 makes changes to supervision of juveniles, transfers of juveniles between facilities, and youth aids funding for counties. Finally, the Act provides hiring preferences for employees currently working at Lincoln Hills. The Act Memo for Act 185 explains these changes in greater detail: <https://docs.legis.wisconsin.gov/2017/related/lcactmemo/act185.pdf>.

## ADDITIONAL REFERENCES

1. Memoranda prepared by the Legislative Council staff located at <http://legis.wisconsin.gov/lc>:
  - Amendment Memo, 2017 Senate Joint Resolution 53 (Marsey’s Law).
  - Act Memo, 2017 Wisconsin Act 185.
2. The state DOC website is: <http://www.doc.wi.gov>.
3. The Sex Offender Registry, which may be searched by name or zip code: <http://offender.doc.state.wi.us/public>.
4. The state DOJ website contains information for victims of crime and information on crime prevention, background checks, and criminal investigations: <http://www.doj.state.wi.us/>.
5. Information and applications relating to expunction and pardons may be found on the Wisconsin State Law Library website: <http://wilawlibrary.gov/topics/justice/crimlaw/pardons.php>.
6. At the beginning of each biennial legislative session, the Legislative Fiscal Bureau prepares Informational Papers on various criminal justice and corrections topics. The Informational Papers are available at: <http://www.legis.wisconsin.gov/lfb>.
7. Legislative Audit Bureau report, *17 Year-Old Offenders in the Adult Criminal Justice System* (Audit Report 08-3), is available at: <http://legis.wisconsin.gov/lab>.
8. Information regarding law enforcement in Indian Country may be found in Information Memoranda on the Wisconsin Legislative Council website: <http://legis.wisconsin.gov/lc>.
9. The Legislative Audit Bureau report, *Inmate Mental Health Care* (Audit Report 09-4) is available at: <http://www.legis.wisconsin.gov/lab>.
10. DOC provides victim advocacy and support, and notifies enrolled victims of inmate release, parole, and other offender status changes. More information regarding DOC victim services and notification is available at the department’s crime victim website <https://www.wivictimsvoice.org>.

11. DOC, in cooperation with Wisconsin county sheriffs, provides information, registration, and notification regarding offenders/defendants in the Wisconsin county jails online at: <http://www.vinelink.com> or by calling 1-888-944-8463.

## GLOSSARY

**Acquittal:** A defendant is found not guilty by a circuit court or jury and released without any further prosecution for the previously charged act.

**Arraignment:** A formal reading of the criminal complaint to the defendant following the probable cause hearing in felony cases. In response to the charges, the defendant enters a plea.

**Bail/bond:** A monetary or other form of security given in exchange for release from jail or prison; meant to ensure the appearance of the defendant at further proceedings.

**Bench trial:** A trial held before a trial judge sitting without a jury.

**Burden of proof:** The duty placed upon a party to prove or disprove a disputed fact. In a criminal case, the accused is presumed to be innocent, so the state bears the burden to prove each element of the offense charged beyond a reasonable doubt.

**Crime:** An offense punishable by imprisonment, either in a county jail or a state prison.

**Criminal complaint:** A document that sets forth the charges against the defendant and the facts that support the charges.

**Defendant:** A person charged with having committed a crime.

**District attorney:** An elected officer with the duty to charge and prosecute those accused of committing crimes in his or her jurisdiction.

**Felony:** A criminal offense punishable by imprisonment of one year or longer.

**Guilty:** Being responsible for the commission of an offense. A defendant can either plead guilty to the commission of a crime or be found guilty by a court or jury.

**Initial appearance:** The first court appearance in a criminal case, at which the judge or court commissioner will set bail for the defendant to ensure the defendant's appearance at future court appearances. Defendants in misdemeanor cases at the initial appearance, in addition to having bail set, will be asked to enter a plea of not guilty, guilty, or no contest.

**Judgment:** The determination of a court upon matters submitted to it; the final decision in a case.

**Jury:** A sworn body of people responsible for reaching a verdict based on the evidence presented at trial.

**Juvenile:** For purposes of prosecution for criminal and civil offenses, a person who is younger than 17 years.

**Misdemeanor:** A criminal offense that is punishable by imprisonment of less than one year.

**No contest:** A plea with which the defendant does not admit guilt, but concedes that the state can prove him or her guilty.

**Plea:** An answer to a claim made by an adversary. A defendant may plead guilty, no contest, not guilty, or not guilty by reason of insanity.

**Probable cause hearing/preliminary hearing:** A hearing at which the State is required to show to a judge that the defendant committed a crime in a felony case. It is not unusual for a defendant to waive his or her right to this hearing.

**Summons:** A notice issued by the court, calling on a person to appear in court.

**Truth-in-sentencing:** Sentencing requirements that apply to offenses committed on or after December 31, 1999, under which the court must impose a bifurcated sentence consisting of a specified period of confinement in prison followed by a specified period of ES.

**Verdict:** The finding or decision of a jury on a matter submitted to it in trial.

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