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 Assembly Bill 9

Date of enactment: **January 19, 1990**
 Date of publication*: **January 30, 1990**

1989 WISCONSIN ACT 121

AN ACT *to repeal* 343.30 (6) (b) 1; *to renumber* 48.45 (1), 48.45 (4), subchapter VI of chapter 161, 753.061 and 968.29 (3); *to renumber and amend* 161.14 (7) (a) and (b), 946.86 and 946.87; *to amend* 15.145 (1), 48.17 (2) (c) to (e), 48.293 (2), 48.34 (7m) (intro.), 48.344 (title), 48.344 (2) (intro.), 48.344 (2) (a), 48.344 (3), 48.44 (1), 48.45 (title), 48.45 (2), 95.64 (2) (c) 3., 119.04 (1), 125.07 (4) (c) 1., 161.14 (7) (intro.), 161.16 (2) (b) 1., 161.41 (1) (b), 161.41 (1) (c) 2., 161.41 (1) (c) 3., 161.41 (1) (d) 3., 161.41 (1) (e) 3., 161.41 (1m) (b), 161.41 (1m) (c) 2., 161.41 (1m) (c) 3., 161.41 (1m) (d) 3., 161.41 (1m) (e) 3., 161.41 (1r), 161.41 (2r) (a), 161.41 (2r) (b), 161.41 (3), 161.41 (3m), 161.41 (3n), 161.41 (3r), 161.46 (3), 161.465 (2), 161.47 (title), 161.47 (1), 161.472 (title), 161.472 (2), 161.475, 161.48 (2), 161.49 (1), 161.49 (2), 161.495 (intro.), 161.55 (6), 161.555 (1), 180.769 (4), 180.771 (1) (e), 180.841 (3), 181.56 (3), 181.57 (1) (e), 301.03 (7), 343.30 (6) (a), 343.30 (6) (b) 2. and 3., 609.05 (3), 778.25 (title), 778.25 (1) (a) 1., 893.94, 939.30, 939.52 (1) (intro.), 939.74 (1), 946.41 (2) (a), 946.80, 946.82 (intro.), 971.365 (1) (a), 971.365 (2) and 973.076 (1); and *to create* 17.07 (3m), 36.11 (21), 38.12 (10), 40.51 (12), 48.34 (4s), 48.355 (7), 48.45 (1m), 48.45 (2m), 59.07 (107), 60.23 (21), 66.051 (4), 118.258, 161.14 (7) (a), 161.41 (1) (c) 4. to 6., 161.41 (1) (cm), 161.41 (1) (d) 4., 161.41 (1) (d) 5., 161.41 (1) (d) 6., 161.41 (1) (e) 4., 161.41 (1) (e) 5., 161.41 (1) (e) 6., 161.41 (1m) (c) 4. to 6., 161.41 (1m) (cm), 161.41 (1m) (d) 4., 161.41 (1m) (d) 5., 161.41 (1m) (d) 6., 161.41 (1m) (e) 4., 161.41 (1m) (e) 5., 161.41 (1m) (e) 6., 161.41 (1p), 161.438, 161.455, 161.55 (1) (g), 161.555 (4), subchapter VI of chapter 161, 185.981 (7), 301.03 (2g), 301.03 (2m), 301.03 (2r), 302.335, 609.655, 753.061 (2), 818.02 (1) (g), 946.41 (2m), 946.86, 946.87 (2) (am), 968.29 (3) (b), 971.23 (9), 973.076 (4), 973.09 (1) (d) and 979.01 (3m) of the statutes, **relating to:** controlled substances; probation and parole revocation proceedings; organized crime; drug paraphernalia, citations and disposition for certain juvenile offenses; juvenile court orders applicable to parents, guardians and legal custodians; obstructing an officer; prohibiting a pupil from using or possessing an electronic paging or 2-way communication device on the premises of a public school; subjecting students enrolled in the university of Wisconsin system or a vocational, technical and adult education school to discipline for drug offenses; tests involving fatalities; forfeiture of property; designating 2 circuit court branches in Milwaukee county as drug courts; appointment of the parole commission chairperson; granting to counties the right to prohibit by ordinance, and impose forfeitures for, the possession of marijuana; health maintenance organization coverage of treatment for students away from home; a study of the enrollment of certain recipients of medical assistance in health maintenance organizations; and providing penalties.

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

SECTION 1bg. 15.145 (1) of the statutes, as created by 1989 Wisconsin Act 107, is amended to read:

15.145 (1) PAROLE COMMISSION. There is created in the department of corrections a parole commission con-

sisting of 5 members. Members shall have knowledge of or experience in corrections or criminal justice. The members shall include a chairperson who is nominated by the governor, and with the advice and consent of the senate appointed, for a 2-year term expiring March 1 of the odd-numbered years, subject to removal under s.

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17.07 (3m), and 4 members in the classified service appointed by the chairperson.

SECTION 1br. 17.07 (3m) of the statutes is created to read:

17.07 (3m) Notwithstanding sub. (3), the chairperson may be removed by the governor, at pleasure.

SECTION 2n. 36.11 (21) of the statutes is created to read:

36.11 (21) CONTROLLED SUBSTANCES; DISCIPLINE. Any student who engages in an activity, on campus or at an event sponsored by a center or institution or by the system, that constitutes a violation of ch. 161 is subject to nonacademic misconduct disciplinary sanctions, as provided by the board by rule. In determining the appropriate sanction, the board or its designee shall consider those penalties, including suspension and expulsion, that will contribute most effectively to maintaining a system environment that is free from controlled substances, as defined in s. 161.01 (4).

SECTION 2p. 38.12 (10) of the statutes is created to read:

38.12 (10) CONTROLLED SUBSTANCES; DISCIPLINE. Each district board shall adopt rules providing nonacademic misconduct disciplinary sanctions for any student who engages in an activity, on district premises or at a district-sponsored event, that constitutes a violation of ch. 161. In determining the appropriate sanction, the district board or its designee shall consider those penalties, including suspension and expulsion, that will contribute most effectively to maintaining a school environment free from controlled substances, as defined in s. 161.01 (4).

SECTION 3. 40.51 (12) of the statutes is created to read:

40.51 (12) Every health maintenance organization offered by the state under sub. (6) shall comply with s. 609.655.

SECTION 4. 48.17 (2) (c) to (e) of the statutes, as affected by 1989 Wisconsin Act 31, are amended to read:

48.17 (2) (c) The citation procedures described in ch. 800 shall govern proceedings involving children in municipal court, except that this chapter shall govern the taking and holding of a child in custody. When a child is before the court assigned to exercise jurisdiction under this chapter upon a citation alleging the child to have violated a civil law or municipal ordinance, the procedures specified in s. 48.237 shall apply. If a citation is issued to a child, the issuing agency shall, ~~within 7 days,~~ notify the child's parent or guardian within 7 days. The agency issuing a citation to a child who is 14 or 15 years of age for a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b) ~~or~~ 125.09 (2), 161.573 (2), 161.574 (2) or 161.575 (2) or an ordinance conforming to one of those statutes shall send a copy to an intake worker under s. 48.24 for informational purposes only.

(d) If a municipal court finds that the child violated a municipal ordinance other than an ordinance enacted under s. 118.163 or an ordinance ~~which that~~ conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b) ~~or~~ 125.09 (2), ~~it~~, 161.573 (2), 161.574 (2) or 161.575 (2), the court shall enter any of the dispositional orders permitted under s. 48.343 (1), (2), (5), (6), (7) or (8). If a child fails to pay the forfeiture imposed by the municipal court, the court shall not impose a jail sentence but may suspend any license issued under ch. 29 for not less than 30 nor more than 90 days, or suspend the child's operating privilege, as defined in s. 340.01 (40), for not less than 30 nor more than 90 days. If a court suspends a license or privilege under this section, ~~it the court~~ shall immediately take possession of the ~~suspended~~ applicable license and forward it to the department ~~which that~~ issued the license, together with the notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the first 30 days after the license or privilege is suspended, the suspension shall be reduced to the minimum period of 30 days. If ~~it the forfeiture~~ is paid thereafter, the court shall immediately notify the department, which shall thereupon return the license to the person. If ~~it the forfeiture~~ is paid after the end of the 30 days, the suspension shall be reduced to the time period ~~which that~~ has already elapsed and the court shall immediately notify the department, which shall then return the license to the child.

(e) If a municipal court finds that a child violated a municipal ordinance ~~which that~~ conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b) ~~or~~ 125.09 (2), ~~it~~ 161.573 (2), 161.574 (2) or 161.575 (2), the court shall enter a dispositional order under s. 48.344.

SECTION 4m. 48.293 (2) of the statutes is amended to read:

48.293 (2) All records relating to a child which are relevant to the subject matter of a proceeding under this chapter shall be open to inspection by a guardian ad litem or counsel for any party, upon demand and upon presentation of releases where necessary, at least 48 hours before the proceeding. Persons entitled to inspect the records may obtain copies of the records with the permission of the custodian of the records or with permission of the court. The court may instruct counsel not to disclose specified items in the materials to the child or the parent if the court reasonably believes that the disclosure would be harmful to the interests of the child. Sections 971.23 to 971.25 shall be applicable in all delinquency proceedings under this chapter except the court shall establish the timetable for s. 971.23 (3) ~~and~~ (8) and (9).

SECTION 5. 48.34 (4s) of the statutes is created to read:

48.34 (4s) (a) In addition to any other dispositions imposed under this section, if the child is found to have

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violated s. 161.41 (2r), (3), (3m), (3n) or (3r), the judge shall order one of the following penalties:

1. For a first violation, a forfeiture of not more than \$50.

2. For a violation committed within 12 months of a previous violation, a forfeiture of not more than \$100 or suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2. or both.

3. For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than \$500 or revocation of the person's operating privilege under s. 343.30 (6) (b) 3. or both.

(am) In addition to any other dispositions imposed under this section, if the child is found to have violated s. 161.41 (1) or (1m), the judge shall order one of the following penalties:

1. For a first violation, a forfeiture of not less than \$250 nor more than \$500.

2. For a violation committed within 12 months of a previous violation, a forfeiture of not less than \$300 nor more than \$500 or suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2. or both.

3. For a violation committed within 12 months of 2 or more previous violations, a forfeiture of \$500 or revocation of the person's operating privilege under s. 343.30 (6) (b) 3. or both.

(b) After ordering a disposition under par. (a) or (am), the judge, with the agreement of the child, may enter an additional order staying the execution of the dispositional order. If a judge stays a dispositional order under this paragraph, he or she shall enter an additional order requiring the child to do any of the following:

1. Submit to an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 48.547 (4) and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol and other drug abuse assessment and shall specify the date by which the assessment must be completed.

2. Participate in an outpatient alcohol or other drug abuse treatment program at an approved treatment facility, if an assessment conducted under subd. 1 or s. 48.295 (1) recommends treatment.

3. Participate in a court-approved alcohol or other drug abuse education program.

(c) If the approved treatment facility, with the written informed consent of the child or, if the child has not attained the age of 12, the written informed consent of the child's parent, notifies the agency primarily responsible for providing services to the child that the child has submitted to an assessment under this subsection and that the child does not need treatment or education, the judge shall notify the child of whether or not the original dispositional order will be reinstated.

(d) If the child completes the alcohol or other drug abuse treatment program or court-approved education

program, the approved treatment facility or court-approved education program shall, with the written informed consent of the child or, if the child has not attained the age of 12, the written informed consent of the child's parent, notify the agency primarily responsible for providing services to the child that the child has complied with the order and the judge shall notify the child of whether or not the original dispositional order will be reinstated.

(e) If an approved treatment facility or court-approved education program, with the written informed consent of the child or, if the child has not attained the age of 12, the written informed consent of the child's parent, notifies the agency primarily responsible for providing services to the child that a child is not participating in the program or that a child has not satisfactorily completed a recommended alcohol or other drug abuse treatment program or an education program, the judge shall impose the original disposition under par. (a) or (am).

SECTION 5m. 48.34 (7m) (intro.) of the statutes, as created by 1989 Wisconsin Act 31, is amended to read:

48.34 (7m) (intro.) If the child is adjudicated delinquent under a violation of s. 161.41 (2r), (3), (3m), (3n) or (3r) by possessing or attempting to possess a controlled substance listed in schedule I or II under ch. 161 while in or otherwise within 1,000 feet of a state, county, city, village or town park, a swimming pool open to members of the public, a youth center, as defined in s. 161.01 (22), or a community center, while on or otherwise within 1,000 feet of any private or public school premises or while on or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the judge shall do both of the following:

SECTION 7. 48.344 (title) of the statutes is amended to read:

48.344 (title) Disposition; certain intoxicating liquor, beer and drug violations.

SECTION 8. 48.344 (2) (intro.) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

48.344 (2) (intro.) If a court finds a child committed a violation under s. 125.07 (4) (b) ~~or~~ 125.09 (2), 161.573 (2), 161.574 (2) or 161.575 (2), or a local ordinance which that strictly conforms to one of those statutes, it shall order one or any combination of the following penalties:

SECTION 8m. 48.344 (2) (a) of the statutes is amended to read:

48.344 (2) (a) For a first violation, a forfeiture of not more than \$50, ~~suspension of the child's operating privilege as provided under s. 343.30 (6) (b) 1.~~ or the child's participation in a supervised work program under s. 48.34 (9).

SECTION 9. 48.344 (3) of the statutes is amended to read:

48.344 (3) If the child alleged to have committed the violation is within 3 months of his or her 18th birthday,

the court assigned to exercise jurisdiction under this chapter may, at the request of the district attorney or on its own motion, dismiss the citation without prejudice and refer the matter to the district attorney for prosecution under s. 125.07 (4). The child is entitled to a hearing only on the issue of his or her age. This subsection does not apply to violations under s. 161.573 (2), 161.574 (2) or 161.575 (2) or a local ordinance that strictly conforms to one of those statutes.

SECTION 9b. 48.355 (7) of the statutes is created to read:

48.355 (7) ORDERS APPLICABLE TO PARENTS, GUARDIANS, LEGAL CUSTODIANS AND OTHER ADULTS. In addition to any dispositional order entered under s. 48.34 (4s) or (13) or 48.345 for a child's use or abuse of a controlled substance or alcohol beverage, the court may enter an order applicable to a child's parent, guardian or legal custodian or to another adult, as provided under s. 48.45.

SECTION 9f. 48.44 (1) of the statutes is amended to read:

48.44 (1) The court has ~~exclusive~~ jurisdiction over persons 18 or older ~~in the case of contributing to a condition of a child as described in s. 48.12 or 48.13, and over persons subject to an order as provided under s. ss. 48.355 (4) and 48.45 and as otherwise specifically provided in this chapter.~~

SECTION 9k. 48.45 (title) of the statutes is amended to read:

48.45 (title) Orders applicable to adults.

SECTION 9p. 48.45 (1) of the statutes is renumbered 48.45 (1) (a).

SECTION 9s. 48.45 (1m) of the statutes is created to read:

48.45 (1m) (a) In a proceeding in which a child has been adjudicated delinquent for the use or abuse of a controlled substance or alcohol beverage or has been found to be in need of protection or services for the use or abuse of a controlled substance or alcohol beverage, the judge may order the child's parent, guardian or legal custodian to do any of the following if the child has received the disposition specified in s. 48.34 (13):

2. Participate in an outpatient alcohol and other drug abuse treatment program at an approved treatment facility.

3. Participate in an alcohol or other drug abuse education program approved by the court.

(b) In a proceeding in which a child has been adjudged delinquent for the violation of s. 161.41 (1), (1m), (2r), (3), (3m), (3n) or (3r), the judge may order the child's parent, guardian or legal custodian to participate in a drug abuse education program approved by the court if the child of the person has agreed to participate in a drug abuse education program under s. 48.34 (4s) (b).

SECTION 9w. 48.45 (2) of the statutes is amended to read:

48.45 (2) No order to any person 18 or older under sub. (1) ~~(a)~~ may be entered until the person is given an opportunity to be heard upon the allegation against him or her and the contemplated order of the court. The court shall cause notice of the time, place and purpose of the hearing to be served on the person personally at least 10 days before the date of hearing. The procedure in these cases shall, as far as practicable, be the same as in other cases in the court, and shall otherwise be the procedure followed in courts of equity. Any person 18 or older who fails to comply with any order issued by a court under ~~this section sub. (1) (a)~~ may be proceeded against for contempt of court. If the person's conduct involves a crime, the person may be proceeded against under the criminal law.

SECTION 9wm. 48.45 (2m) of the statutes is created to read:

48.45 (2m) No order to any person under sub. (1m) may be entered until the person is given an opportunity to be heard on the contemplated order of the court. The court shall cause notice of the time, place and purpose of the hearing to be served on the person personally at least 10 days before the date of the hearing. The procedure in these cases shall, as far as practicable, be the same as in other cases to the court. At the hearing, the person may be represented by counsel and may produce and cross-examine witnesses. Any person who fails to comply with any order issued by a court under sub. (1m) may be proceeded against for contempt of court.

SECTION 9y. 48.45 (4) of the statutes is renumbered 48.45 (1) (b).

SECTION 10. 59.07 (107) of the statutes is created to read:

59.07 (107) POSSESSION OF MARIJUANA. Enact and enforce an ordinance to prohibit the possession of 25 grams or less of marijuana, as defined in s. 161.01 (14), subject to the exceptions in s. 161.41 (3r), and provide a forfeiture for a violation of the ordinance; except that any person who is charged with possession of more than 25 grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana, in this state shall not be prosecuted under this subsection. Any ordinance enacted under this subsection does not apply in any city or village that has adopted an ordinance prohibiting the possession of marijuana.

SECTION 11. 60.23 (21) of the statutes is created to read:

60.23 (21) DRUG PARAPHERNALIA. Adopt an ordinance to prohibit conduct that is the same as that prohibited by s. 161.573 (2), 161.574 (2) or 161.575 (2).

SECTION 11e. 66.051 (4) of the statutes is created to read:

66.051 (4) The board or council of any village or city may enact and enforce an ordinance to prohibit the pos-

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session of 25 grams or less of marijuana, as defined in s. 161.01 (14), subject to the exceptions in s. 161.41 (3r), and provide a forfeiture for a violation of the ordinance; except that any person who is charged with possession of more than 25 grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana, in this state shall not be prosecuted under this subsection.

SECTION 12. 95.64 (2) (c) 3. of the statutes is amended to read:

95.64 (2) (c) 3. A statement of the quantity or proportion of any alcohol, morphine, opium, cocaine, cocaine base, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide or any derivative or preparation of any such substance contained therein;

SECTION 13. 118.258 of the statutes is created to read:

118.258 Electronic communication devices prohibited. (1) Each school board shall adopt rules prohibiting a pupil from using or possessing an electronic paging or 2-way communication device while on premises owned or rented by or under the control of a public school. The rules may allow for the use or possession of such a device by a pupil if the school board or its designee determines that the device is used or possessed for a medical, school, educational, vocational or other legitimate use.

(2) (a) Annually, the school board shall provide each pupil enrolled in the school district with a copy of the rules under sub. (1).

(b) The school board shall submit a copy of the rules under sub. (1) to the state superintendent when the rule is first adopted and whenever the rule is amended.

SECTION 14. 119.04 (1) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.03 (3) (c), 115.01 (1) and (2), 115.28 (15), 115.33, 115.34, 115.343, 115.345, 115.45, 118.01 to 118.04, 118.06, 118.07, 118.10, 118.12, 118.125 to 118.14, 118.15, 118.153, 118.16, 118.162, 118.163, 118.18, 118.19 (3) (b) and (7), 118.20, 118.24 (2) (c) to (f), 118.255, 118.258, 118.30 to 118.35, 120.12 (5), (15), (17) (18) and (19), 120.125 and 120.13 (1), (2) (b) to (f), (14), (17) to (19), (26) and (34) are applicable to a 1st class city school district and board.

SECTION 14g. 125.07 (4) (c) 1. of the statutes is amended to read:

125.07 (4) (c) 1. For a first violation, a forfeiture of not more than \$50, ~~suspension of the person's operating privilege as provided under s. 343.30(6)(b) 1., or participation in a supervised work program under par. (cg) or any combination of these penalties both.~~

SECTION 17. 161.14 (7) (intro.) of the statutes is amended to read:

161.14 (7) STIMULANTS. (intro.) Unless specifically excepted under federal regulations or unless listed in another schedule, any material, compound, mixture or

preparation which contains any quantity of the following ~~stimulants or their salts, isomers or salts of isomers, if salts, isomers or salts of~~ substances having a stimulant effect on the central nervous system, including its isomers exist within the specific chemical designation:

SECTION 18. 161.14 (7) (a) and (b) of the statutes are renumbered 161.14 (7) (b) and (c) and amended to read:

161.14 (7) (b) Fenethylamine, including its salts, and salts of isomers.

(c) N-ethylamphetamine, including its salts, and salts of isomers.

SECTION 19. 161.14 (7) (a) of the statutes is created to read:

161.14 (7) (a) Cocaine base.

SECTION 20. 161.16 (2) (b) 1. of the statutes is amended to read:

161.16 (2) (b) 1. Cocaine, except as specified in s. 161.14 (7) (a).

SECTION 23. 161.41 (1) (b) of the statutes is amended to read:

161.41 (1) (b) Except as provided in pars. (c), (cm) and (e) to (h), any other controlled substance classified in schedule I, II or III, may be fined not more than \$15,000 or imprisoned for not more than 5 years or both;

SECTION 24. 161.41 (1) (c) 2. of the statutes is amended to read:

161.41 (1) (c) 2. If the amount manufactured or delivered is more than 10 grams but not more than ~~30~~ 25 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

SECTION 25. 161.41 (1) (c) 3. of the statutes is amended to read:

161.41 (1) (c) 3. If the amount manufactured or delivered is more than ~~30~~ 25 grams but not more than 100 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 26. 161.41 (1) (c) 4. to 6. of the statutes are created to read:

161.41 (1) (c) 4. If the amount manufactured or delivered is more than 100 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

5. If the amount manufactured or delivered is more than 400 grams but not more than 800 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 15 years.

6. If the amount manufactured or delivered is more than 800 grams, the person shall be fined not less than \$25,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

SECTION 27. 161.41 (1) (cm) of the statutes is created to read:

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161.41 (1) (cm) A controlled substance under s. 161.14 (7) (a) is subject to the following penalties:

1. If the amount manufactured or delivered is 3 grams or less, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

2. If the amount manufactured or delivered is more than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

3. If the amount manufactured or delivered is more than 10 grams but not more than 40 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 30 years.

4. If the amount manufactured or delivered is more than 40 grams, the person shall be fined not less than \$25,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

SECTION 28. 161.41 (1) (d) 3. of the statutes is amended to read:

161.41 (1) (d) 3. If the amount manufactured or delivered is more than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 29. 161.41 (1) (d) 4. of the statutes is created to read:

161.41 (1) (d) 4. If the amount manufactured or delivered is more than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

SECTION 30. 161.41 (1) (d) 5. of the statutes is created to read:

161.41 (1) (d) 5. If the amount manufactured or delivered is more than 200 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 15 years.

SECTION 31. 161.41 (1) (d) 6. of the statutes is created to read:

161.41 (1) (d) 6. If the amount manufactured or delivered is more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

SECTION 32. 161.41 (1) (e) 3. of the statutes is amended to read:

161.41 (1) (e) 3. If the amount manufactured or delivered is more than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 33. 161.41 (1) (e) 4. of the statutes is created to read:

161.41 (1) (e) 4. If the amount manufactured or delivered is more than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

SECTION 34. 161.41 (1) (e) 5. of the statutes is created to read:

161.41 (1) (e) 5. If the amount manufactured or delivered is more than 200 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 15 years.

SECTION 35. 161.41 (1) (e) 6. of the statutes is created to read:

161.41 (1) (e) 6. If the amount manufactured or delivered is more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

SECTION 36. 161.41 (1m) (b) of the statutes is amended to read:

161.41 (1m) (b) Except as provided in pars. (c), (cm) and (e) to (h), any other controlled substance classified in schedule I, II or III, may be fined not more than \$15,000 or imprisoned for not more than 5 years or both;

SECTION 37. 161.41 (1m) (c) 2. of the statutes is amended to read:

161.41 (1m) (c) 2. If the amount possessed, with intent to manufacture or deliver, is more than 10 grams but not more than ~~30~~ 25 grams, the person shall be fined not less than \$1,000 nor more than ~~\$200,000~~ \$250,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

SECTION 38. 161.41 (1m) (c) 3. of the statutes is amended to read:

161.41 (1m) (c) 3. If the amount possessed, with intent to manufacture or deliver, is more than ~~30~~ 25 grams but not more than 100 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 39. 161.41 (1m) (c) 4. to 6. of the statutes are created to read:

161.41 (1m) (c) 4. If the amount possessed, with intent to manufacture or deliver, is more than 100 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

5. If the amount possessed, with intent to manufacture or deliver, is more than 400 grams but not more than 800 grams, the person shall be fined not less than \$1,000

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nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 15 years.

6. If the amount possessed, with intent to manufacture or deliver, is more than 800 grams, the person shall be fined not less than \$25,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

SECTION 40. 161.41 (1m) (cm) of the statutes is created to read:

161.41 **(1m)** (cm) A controlled substance under s. 161.14 (7) (a) is subject to the following penalties:

1. If the amount possessed, with intent to manufacture or deliver, is 3 grams or less, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

2. If the amount possessed, with intent to manufacture or deliver, is more than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

3. If the amount possessed, with intent to manufacture or deliver, is more than 10 grams but not more than 40 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 30 years.

4. If the amount possessed, with intent to manufacture or deliver, is more than 40 grams, the person shall be fined not less than \$25,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

SECTION 41. 161.41 (1m) (d) 3. of the statutes is amended to read:

161.41 **(1m)** (d) 3. If the amount possessed, with intent to manufacture or deliver, is more than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 42. 161.41 (1m) (d) 4. of the statutes is created to read:

161.41 **(1m)** (d) 4. If the amount possessed, with intent to manufacture or deliver, is more than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

SECTION 43. 161.41 (1m) (d) 5. of the statutes is created to read:

161.41 **(1m)** (d) 5. If the amount possessed, with intent to manufacture or deliver, is more than 200 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 15 years.

SECTION 44. 161.41 (1m) (d) 6. of the statutes is created to read:

161.41 **(1m)** (d) 6. If the amount possessed, with intent to manufacture or deliver, is more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

SECTION 45. 161.41 (1m) (e) 3. of the statutes is amended to read:

161.41 **(1m)** (e) 3. If the amount possessed, with intent to manufacture or deliver, is more than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 46. 161.41 (1m) (e) 4. of the statutes is created to read:

161.41 **(1m)** (e) 4. If the amount possessed, with intent to manufacture or deliver, is more than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

SECTION 47. 161.41 (1m) (e) 5. of the statutes is created to read:

161.41 **(1m)** (e) 5. If the amount possessed, with intent to manufacture or deliver, is more than 200 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 15 years.

SECTION 48. 161.41 (1m) (e) 6. of the statutes is created to read:

161.41 **(1m)** (e) 6. If the amount possessed, with intent to manufacture or deliver, is more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

SECTION 50. 161.41 (1p) of the statutes is created to read:

161.41 **(1p)** (a) In this subsection:

1. "Public transit vehicle" means any vehicle used for providing transportation service to the general public.

2. "Vehicle" has the meaning given in s. 939.22 (44).

(b) If a person violates sub. (1) or (1m) under all of the following circumstances, the maximum period of imprisonment under sub. (1) or (1m) may be increased by not more than 5 years:

1. The violation of sub. (1) or (1m) involves the delivery or the possession, with intent to deliver, of any controlled substance included in schedule I or II.

2. The person knowingly uses a public transit vehicle during the violation.

SECTION 51. 161.41 (1r) of the statutes, as affected by 1989 Wisconsin Acts 31 and (Assembly Bill 263), is amended to read:

161.41 (1r) In determining amounts under subs. (1) and (1m) and s. 161.49 (2) (b), an amount includes the weight of the controlled substance included under s. 161.14 (7) (a) or 161.16 (2) (b), heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine or tetrahydrocannabinols together with any compound, mixture, diluent or other substance mixed or combined with the controlled substance. In addition, in determining amounts under subs. (1) (h) and (1m) (h), the amount of tetrahydrocannabinols means anything covered under s. 161.14 (4) (t).

SECTION 51c. 161.41 (2r) (a) of the statutes is amended to read:

161.41 (2r) (a) Except as provided in par. (b), it is unlawful for any person to possess or attempt to possess a controlled substance classified in schedule I or II ~~which~~ that is a narcotic drug unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this paragraph, upon a first conviction, may be fined not more than \$5,000 or imprisoned for not more than one year or both, and for a 2nd or subsequent offense, may be fined not more than \$10,000 or imprisoned for not more than 2 years or both.

SECTION 51d. 161.41 (2r) (b) of the statutes is amended to read:

161.41 (2r) (b) It is unlawful for any person to possess or attempt to possess heroin unless it was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this paragraph may be fined not more than \$5,000 or imprisoned for not more than one year or both.

SECTION 51e. 161.41 (3) of the statutes is amended to read:

161.41 (3) Except as provided in subs. (3m), (3n) and (3r), it is unlawful for any person to possess or attempt to possess a controlled substance, other than a controlled substance classified in schedule I or II ~~which~~ that is a narcotic drug, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a misdemeanor, punishable under s. 939.61.

SECTION 52c. 161.41 (3m) of the statutes is amended to read:

161.41 (3m) It is unlawful for any person to possess or attempt to possess a controlled substance included under s. 161.14 (7) (a) or 161.16 (2) (b), unless the sub-

stance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection shall be fined not less than \$250 nor more than \$5,000 and may be imprisoned for not more than one year in the county jail.

SECTION 52d. 161.41 (3n) of the statutes is amended to read:

161.41 (3n) It is unlawful for any person to possess or attempt to possess lysergic acid diethylamide, phencyclidine, amphetamine, methamphetamine, psilocin or psilocybin unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection may be fined not more than \$5,000 or imprisoned for not more than one year in the county jail or both.

SECTION 52e. 161.41 (3r) of the statutes is amended to read:

161.41 (3r) It is unlawful for any person to possess or attempt to possess tetrahydrocannabinols, listed at s. 161.14 (4) (t), unless it was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection may be fined not more than \$1,000 or imprisoned for not more than 6 months or both.

SECTION 53m. 161.438 of the statutes is created to read:

161.438 Minimum sentence. Any minimum sentence under this chapter is a presumptive minimum sentence. Except as provided in s. 973.09 (1) (d), the court may impose a sentence that is less than the presumptive minimum sentence or may place the person on probation only if it finds that the best interests of the community will be served and the public will not be harmed and if it places its reasons on the record.

SECTION 54. 161.455 of the statutes is created to read:

161.455 Using a child for illegal drug distribution or manufacturing purposes. (1) Any person who has attained the age of 18 years who knowingly solicits, hires, directs, employs or uses a person who has not attained the age of 18 years for the purpose of violating s. 161.41 (1) may be fined not more than \$50,000 or imprisoned for not more than 10 years or both.

(2) The knowledge requirement under sub. (1) does not require proof of knowledge of the age of the child. It is not a defense to a prosecution under this section that the actor mistakenly believed that the person solicited, hired, directed, employed or used under sub. (1) had attained the age of 18 years, even if the mistaken belief was reasonable.

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(3) Solicitation under sub. (1) occurs in the manner described under s. 939.30, but the penalties under sub. (1) apply instead of the penalties under s. 939.30.

(4) If the conduct described under sub. (1) results in a violation under s. 161.41 (1), the actor is subject to prosecution and conviction under s. 161.41 (1) or this section or both.

SECTION 55. 161.46 (3) of the statutes is amended to read:

161.46 (3) If any person 18 years of age or over violates s. 161.41 (1) (c), ~~(cm)~~, (d), (e), (f), (g) or (h) by distributing a controlled substance included under s. ~~161.14 (7) (a) or~~ 161.16 (2) (b), heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine or any form of tetrahydrocannabinols to a person under 18 years of age who is at least 3 years his or her junior, any applicable minimum and maximum fines and minimum and maximum periods of imprisonment under s. 161.41 (1) (c), ~~(cm)~~, (d), (e), (f), (g) or (h) are doubled.

SECTION 56. 161.465 (2) of the statutes is amended to read:

161.465 (2) If a person violates s. 161.41 (1) (c), ~~(cm)~~, (d), (e), (f), (g) or (h) or (1m) (c), ~~(cm)~~, (d), (e), (f), (g) or (h) by delivering or possessing with intent to deliver a controlled substance included under s. ~~161.14 (7) (a) or~~ 161.16 (2) (b), heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine or any form of tetrahydrocannabinols to a prisoner within the precincts of any prison, jail or house of correction, any applicable minimum and maximum fines and minimum and maximum periods of imprisonment under s. 161.41 (1) (c), ~~(cm)~~, (d), (e), (f), (g) or (h) or (1m) (c), ~~(cm)~~, (d), (e), (f), (g) or (h) are doubled.

SECTION 56c. 161.47 (title) of the statutes is amended to read:

161.47 (title) Conditional discharge for possession or attempted possession as first offense.

SECTION 56d. 161.47 (1) of the statutes is amended to read:

161.47 (1) Whenever any person who has not previously been convicted of any offense under this chapter, or of any offense under any statute of the United States or of any state relating to narcotic drugs, marijuana or stimulant, depressant or hallucinogenic drugs, pleads guilty to or is found guilty of possession or attempted possession of a controlled substance under s. 161.41 (3), the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him or her on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him or her. Discharge and dismissal

under this section shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for 2nd or subsequent convictions under s. 161.48. There may be only one discharge and dismissal under this section with respect to any person.

SECTION 56e. 161.472 (title) of the statutes is amended to read:

161.472 (title) Assessment; certain possession or attempted possession offenses.

SECTION 56f. 161.472 (2) of the statutes is amended to read:

161.472 (2) Except as provided in sub. (5), if a person pleads guilty or is found guilty of possession or attempted possession of a controlled substance under s. 161.41 (2r) (b), (3m) or (3n), the court shall order the person to comply with an assessment of the person's use of controlled substances. The court's order shall designate a facility ~~which~~ that is operated by or pursuant to a contract with the county department established under s. 51.42 and ~~which~~ that is certified by the department of health and social services to provide assessment services to perform the assessment and, if appropriate, to develop a proposed treatment plan. The court shall notify the person that noncompliance with the order limits the court's ability to determine whether the treatment option under s. 161.475 is appropriate. The court shall also notify the person of the fee provisions under s. 46.03 (18) (fm).

SECTION 56g. 161.475 of the statutes is amended to read:

161.475 Treatment option. Whenever any person pleads guilty to or is found guilty of possession or attempted possession of a controlled substance under s. 161.41 (2r), (3), (3m), (3n) or (3r), the court may, upon request of the person and with the consent of a treatment facility with special inpatient or outpatient programs for the treatment of drug dependent persons, allow the person to enter the treatment programs voluntarily for purposes of treatment and rehabilitation. Treatment shall be for the period the treatment facility feels is necessary and required, but shall not exceed the maximum sentence allowable unless the person consents to the continued treatment. At the end of the necessary and required treatment, with the consent of the court, the person may be released from sentence. If treatment efforts are ineffective or the person ceases to cooperate with treatment rehabilitation efforts, the person may be remanded to the court for completion of sentencing.

SECTION 57. 161.48 (2) of the statutes is amended to read:

161.48 (2) If any person is convicted of a 2nd or subsequent offense under this chapter ~~which~~ that is specified in s. 161.41 (1) (c), ~~(cm)~~, (d), (e), (f), (g) or (h), (1m) (c), ~~(cm)~~, (d), (e), (f), (g) or (h), (2r) (b), (3m), (3n) or (3r), any applicable minimum and maximum fines and mini-

imum and maximum periods of imprisonment under s. 161.41 (1) (c), (cm), (d), (e), (f), (g) or (h), (1m) (c), (cm), (d), (e), (f), (g) or (h), (2r) (b), (3m), (3n) or (3r) are doubled. A 2nd or subsequent offense under s. 161.41 (3m), (3n) or (3r) is a felony and the person may be imprisoned in state prison.

SECTION 58. 161.49 (1) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

161.49 (1) If any person violates s. 161.41 (1) (c), (cm), (d), (e), (f), (g) or (h) by distributing, or violates s. 161.41 (1m) (c), (cm) (d), (e), (f), (g) or (h) by possessing with intent to deliver, a controlled substance included under s. 161.14 (7) (a) or 161.16 (2) (b), heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine or any form of tetrahydrocannabinols while in or otherwise within 1,000 feet of a state, county, city, village or town park, a swimming pool open to members of the public, a youth center or a community center, while on or otherwise within 1,000 feet of any private or public school premises or while on or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the maximum term of imprisonment prescribed by law for that crime may be increased by 5 years.

SECTION 58g. 161.49 (2) of the statutes, as affected by 1989 Wisconsin Acts 31 and 107, is amended to read:

161.49 (2) (a) Except as provided in par. (b), if any person violates s. 161.41 (1) by distributing, or violates s. 161.41 (1m) by possessing with intent to deliver, a controlled substance listed in schedule I or II while in or otherwise within 1,000 feet of a state, county, city, village or town park, a swimming pool open to members of the public, a youth center or a community center, while on or otherwise within 1,000 feet of any private or public school premises or while on or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the court shall sentence the person to at least 3 years in prison, but otherwise the penalties for the crime apply. ~~The Except as provided in s. 161.438, the court shall not place the person on probation.~~ The person is not eligible for parole until he or she has served at least 3 years, with no modification by the calculation under s. 302.11 (1).

(b) If the conduct described in par. (a) involves only the distribution, or the possession with intent to deliver, of not more than 25 grams of tetrahydrocannabinols, listed at s. 161.14 (4) (t), the court shall sentence the person to at least one year in prison, but otherwise the penalties for the crime apply. ~~The Except as provided in s. 161.438, the court shall not place the person on probation.~~ The person is not eligible for parole until he or she has served at least one year, with no modification by the calculation under s. 302.11 (1).

SECTION 58m. 161.495 (intro.) of the statutes, as created by 1989 Wisconsin Act 31, is amended to read:

161.495 (title) Possession or attempted possession of a controlled substance on or near certain places.

(intro.) If any person violates s. 161.41 (2r), (3), (3m), (3n) or (3r) by possessing or attempting to possess a controlled substance listed in schedule I or II while in or otherwise within 1,000 feet of a state, county, city, village or town park, a swimming pool open to members of the public, a youth center or a community center, while on or otherwise within 1,000 feet of any private or public school premises or while on or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the court shall impose both of the following penalties in addition to any other penalties that may apply to the crime:

SECTION 59. 161.55 (1) (g) of the statutes is created to read:

161.55 (1) (g) Any drug paraphernalia, as defined in s. 161.571, used in violation of this chapter.

SECTION 59g. 161.55 (6) of the statutes is amended to read:

161.55 (6) Controlled substances listed in schedule I that are possessed, transferred, sold or offered for sale or attempted to be possessed in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in schedule I ~~which that~~ are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

SECTION 59m. 161.555 (1) of the statutes is amended to read:

161.555 (1) TYPE OF ACTION; WHERE BROUGHT. ~~An In an~~ an action brought to cause the forfeiture of any property seized under s. 161.55 ~~is an action, the court may render a judgment in rem or against a party personally, or both.~~ The circuit court for the county in which the property was seized shall have exclusive jurisdiction over any proceedings regarding the property.

SECTION 59r. 161.555 (4) of the statutes is created to read:

161.555 (4) ACTION AGAINST OTHER PROPERTY OF THE PERSON. The court may order the forfeiture of any other property of a defendant up to the value of property found by the court to be subject to forfeiture under s. 161.55 if the property subject to forfeiture meets any of the following conditions:

- (a) Cannot be located.
- (b) Has been transferred or conveyed to, sold to or deposited with a 3rd party.
- (c) Is beyond the jurisdiction of the court.
- (d) Has been substantially diminished in value while not in the actual physical custody of the law enforcement agency.
- (e) Has been commingled with other property that cannot be divided without difficulty.

SECTION 60. Subchapter VI of chapter 161 of the statutes is renumbered subchapter VII of chapter 161.

SECTION 61. Subchapter VI of chapter 161 of the statutes is created to read:

CHAPTER 161

SUBCHAPTER VI
DRUG PARAPHERNALIA

161.571 Definition. (1) In this subchapter, “drug paraphernalia” means all equipment, products and materials of any kind that are used or solely intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this chapter. “Drug paraphernalia” includes, but is not limited to, any of the following:

(a) Kits used or solely intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant that is a controlled substance or from which a controlled substance can be derived.

(b) Kits used or solely intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.

(c) Isomerization devices used or solely intended for use in increasing the potency of any species of plant that is a controlled substance.

(d) Testing equipment used or solely intended for use in identifying, or in analyzing the strength, effectiveness or purity of, controlled substances.

(e) Scales and balances used or solely intended for use in weighing or measuring controlled substances.

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or solely intended for use in cutting controlled substances.

(g) Separation gins and sifters used or solely intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(h) Blenders, bowls, containers, spoons and mixing devices used or solely intended for use in compounding controlled substances.

(i) Capsules, balloons, envelopes and other containers used or solely intended for use in packaging small quantities of controlled substances.

(j) Containers and other objects used or solely intended for use in storing or concealing controlled substances.

(k) Objects used or solely intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
2. Water pipes.
3. Carburetion tubes and devices.
4. Smoking and carburetion masks.

5. Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

6. Miniature cocaine spoons and cocaine vials.

7. Chamber pipes.

8. Carburetor pipes.

9. Electric pipes.

10. Air-driven pipes.

11. Chilams.

12. Bongs.

13. Ice pipes or chillers.

(2) “Drug paraphernalia” excludes hypodermic syringes, needles and other objects used or intended for use in parenterally injecting substances into the human body.

161.572 Determination. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other legally relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) The proximity of the object, in time and space, to a direct violation of this chapter.

(3) The proximity of the object to controlled substances.

(4) The existence of any residue of controlled substances on the object.

(5) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is solely intended for use as drug paraphernalia.

(6) Instructions, oral or written, provided with the object concerning its use.

(7) Descriptive materials accompanying the object that explain or depict its use.

(8) Local advertising concerning its use.

(9) The manner in which the object is displayed for sale.

(10) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(11) The existence and scope of legitimate uses for the object in the community.

(12) Expert testimony concerning its use.

161.573 Possession of drug paraphernalia. (1) No person may use, or possess with the sole intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain,

conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter. Any person who violates this section may be fined not more than \$500 or imprisoned for not more than 30 days or both.

(2) Any person who violates this section who is under 18 years of age is subject to a disposition under s. 48.344.

161.574 Manufacture or delivery of drug paraphernalia. (1) No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be solely used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter. Any person who violates this section may be fined not more than \$1,000 or imprisoned for not more than 90 days or both.

(2) Any person who violates this section who is under 18 years of age is subject to a disposition under s. 48.344.

161.575 Delivery of drug paraphernalia to a minor. (1) Any person 18 years of age or over who violates s. 161.574 by delivering drug paraphernalia to a person under 18 years of age who is at least 3 years younger than the violator may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

(2) Any person who violates this section who is under 18 years of age is subject to a disposition under s. 48.344.

161.576 Advertisement of drug paraphernalia. No person may place in any newspaper, magazine, handbill or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects solely intended for use as drug paraphernalia in violation of this chapter. Any person who violates this section may be fined not more than \$500 or imprisoned for not more than 30 days or both.

161.577 Municipal ordinances. Nothing in this subchapter precludes a city, village or town from prohibiting conduct that is the same as that prohibited by s. 161.573 (2), 161.574 (2) or 161.575 (2).

SECTION 62. 180.769 (4) of the statutes is amended to read:

180.769 (4) A corporation may be dissolved involuntarily under s. ~~946.86~~ 946.87.

SECTION 63. 180.771 (1) (e) of the statutes is amended to read:

180.771 (1) (e) In an action under s. ~~946.86~~ 946.87.

SECTION 64. 180.841 (3) of the statutes is amended to read:

180.841 (3) A court may revoke a certificate of authority under s. ~~946.86~~ 946.87. The court shall notify the secretary of state of the action and the secretary shall proceed under s. 180.843 (1) (a) to (c).

SECTION 65. 181.56 (3) of the statutes is amended to read:

181.56 (3) A corporation may be dissolved involuntarily under s. ~~946.86~~ 946.87.

SECTION 66. 181.57 (1) (e) of the statutes is amended to read:

181.57 (1) (e) In an action under s. ~~946.86~~ 946.87.

SECTION 67. 185.981 (7) of the statutes is created to read:

185.981 (7) Notwithstanding sub. (4) and s. 185.982 (1), a sickness care plan that is operated by a cooperative association and that qualifies as a health maintenance organization, as defined in s. 609.01 (2), is subject to s. 609.655.

SECTION 71d. 301.03 (2g) of the statutes is created to read:

301.03 (2g) Provide alcohol or other drug abuse assessments so that a prisoner can receive such an assessment either during his or her initial assessment and evaluation period in the state prison system or at the prison where he or she is placed after the initial assessment and evaluation period.

SECTION 71dm. 301.03 (2m) of the statutes is created to read:

301.03 (2m) Provide alcohol or other drug abuse treatment at each state prison except the correctional institution authorized under s. 301.046, a minimum security correctional institution authorized under s. 301.13 or a state-local shared correctional facility established under s. 301.14.

SECTION 71e. 301.03 (2r) of the statutes is created to read:

301.03 (2r) Conduct drug testing of prospective parolees who have undergone treatment while in state prison.

SECTION 71g. 301.03 (7) of the statutes, as created by 1989 Wisconsin Act 31, is amended to read:

301.03 (7) Direct the educational programs, including an adult basic education program, in all state correctional institutions. The department shall test the reading ability of each prisoner.

SECTION 71gm. 302.335 of the statutes is created to read:

302.335 Restriction on detaining probationers and parolees in county jail. (1) In this section, “division” means the division of hearings and appeals in the department of administration.

(2) If a probationer or parolee is detained in a county jail or other county facility pending disposition of probation or parole revocation proceedings, the following conditions apply:

(a) The department shall begin a preliminary revocation hearing within 15 working days after the probationer or parolee is detained in the jail or other facility. The department may extend, for cause, this deadline by not more than 5 additional working days upon written notice to the probationer or parolee and the sheriff or other per-

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son in charge of the facility. This paragraph does not apply under any of the following circumstances:

1. The probationer or parolee has waived, in writing, the right to a preliminary hearing.
2. The probationer or parolee has given and signed a written statement that admits the violation.
3. There has been a finding of probable cause in a felony criminal action and the probationer or parolee is bound over for trial for the same or similar conduct that is alleged to be a violation of supervision.
4. There has been an adjudication of guilt by a court for the same conduct that is alleged to be a violation of supervision.

(b) The division shall begin a final revocation hearing within 60 calendar days after the person is detained in the county jail or other county facility. The department may request the division to extend this deadline by not more than 7 additional calendar days, upon notice to the probationer or parolee, the sheriff or other person in charge of the facility, and the division. The division may grant the request. This paragraph does not apply if the probationer or parolee has waived the right to a final revocation hearing.

(3) If there is a failure to begin a hearing within the time requirements under sub. (2), the sheriff or other person in charge of a facility shall notify the department at least 24 hours before releasing a probationer or parolee under this subsection.

(4) This section applies to probationers or parolees who begin detainment in a jail or other facility on or after July 1, 1990, except that this section does not apply to any probationer or parolee who is in the jail or other facility and serving a sentence.

SECTION 73. 343.30 (6) (a) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

343.30 (6) (a) In this subsection, "violation" means a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b) ~~or~~, 125.09 (2), 161.41 (1), (1m), (2r), (3), (3m), (3n) or (3r), 161.573 (2), 161.574 (2) or 161.575 (2) or a local ordinance which that strictly conforms to one of those statutes.

SECTION 73g. 343.30 (6) (b) 1. of the statutes is repealed.

SECTION 73m. 343.30 (6) (b) 2. and 3. of the statutes are amended to read:

343.30 (6) (b) 2. For a violation committed within 12 months of a previous violation, suspension for not more than one year.

3. For a violation committed within 12 months of 2 or more previous violations, revocation for not more than 2 years.

SECTION 90. 609.05 (3) of the statutes is amended to read:

609.05 (3) Except as provided in s. ~~ss.~~ 609.65 and ~~609.655~~, a health care plan under sub. (1) may require an enrolled participant to obtain a referral from the primary

provider designated under sub. (2) to another selected provider prior to obtaining health care services from the other selected provider.

SECTION 91. 609.655 of the statutes is created to read:
609.655 Coverage of certain services provided to dependent students. (1) In this section:

(a) "Dependent student" means an individual who satisfies all of the following:

1. Is covered as a dependent child under the terms of a policy or certificate issued by a health maintenance organization.

2. Is enrolled in a school located in this state but outside the geographical service area of the health maintenance organization.

(b) "Outpatient services" has the meaning given in s. 632.89 (1) (e).

(c) "School" means a vocational, technical and adult education school; a center or institution within the university of Wisconsin system; and any institution of higher education that grants a bachelor's or higher degree.

(2) If a policy or certificate issued by a health maintenance organization provides coverage of outpatient services provided to a dependent student, the policy or certificate shall provide coverage of outpatient services, to the extent and in the manner required under sub. (3), that are provided to the dependent student while he or she is attending a school located in this state but outside the geographical service area of the health maintenance organization, notwithstanding the limitations regarding selected providers, primary providers and referrals under ss. 609.01 (2) and 609.05 (3).

(3) Except as provided in sub. (5), a health maintenance organization shall provide coverage for all of the following services:

(a) A clinical assessment of the dependent student's nervous or mental disorders or alcoholism or other drug abuse problems, conducted by a provider described in s. 632.89 (1) (e) 2. or 3. who is located in this state and in reasonably close proximity to the school in which the dependent student is enrolled and who may be designated by the health maintenance organization.

(b) If outpatient services are recommended in the clinical assessment conducted under par. (a), the recommended outpatient services consisting of not more than 5 visits to an outpatient treatment facility or other provider that is located in this state and in reasonably close proximity to the school in which the dependent student is enrolled and that may be designated by the health maintenance organization, except as follows:

1. Coverage is not required under this paragraph if the medical director of the health maintenance organization determines that the nature of the treatment recommended in the clinical assessment will prohibit the dependent student from attending school on a regular basis.

2. Coverage is not required under this paragraph for outpatient services provided after the dependent student has terminated his or her enrollment in the school.

(4) (a) Upon completion of the 5 visits for outpatient services covered under sub. (3) (b), the medical director of the health maintenance organization and the clinician treating the dependent student shall review the dependent student's condition and determine whether it is appropriate to continue treatment of the dependent student's nervous or mental disorders or alcoholism or other drug abuse problems in reasonably close proximity to the school in which the student is enrolled. The review is not required if the dependent student is no longer enrolled in the school or if the coverage limits under the policy or certificate for treatment of nervous or mental disorders or alcoholism or other drug abuse problems have been exhausted.

(b) Upon completion of the review under par. (a), the medical director of the health maintenance organization shall determine whether the policy or certificate will provide coverage of any further treatment for the dependent student's nervous or mental disorder or alcoholism or other drug abuse problems that is provided by a provider located in reasonably close proximity to the school in which the student is enrolled. If the dependent student disputes the medical director's determination, the dependent student may submit a written grievance under the health maintenance organization's internal grievance procedure established under s. 609.15.

(5) (a) A policy or certificate issued by a health maintenance organization is required to provide coverage for the services specified in sub. (3) only to the extent that the policy or certificate would have covered the service if it had been provided to the dependent student by a selected provider within the geographical service area of the health maintenance organization.

(b) Paragraph (a) does not permit a health maintenance organization to reimburse a provider for less than the full cost of the services provided or an amount negotiated with the provider, solely because the reimbursement rate for the service would have been less if provided by a selected provider within the geographical service area of the health maintenance organization.

SECTION 92. 753.061 of the statutes is renumbered 753.061 (1).

SECTION 93. 753.061 (2) of the statutes is created to read:

753.061 (2) The chief judge of the 1st judicial administrative district shall designate 2 circuit court branches that will primarily handle cases that involve a violation of ch. 161 involving a controlled substance included in schedule I or II under ch. 161.

SECTION 94. 778.25 (title) of the statutes, as affected by 1987 Wisconsin Act 336, is amended to read:

778.25 (title) Citation procedure; certain alcohol beverages, tobacco, drug, harassment and safety violations.

SECTION 95. 778.25 (1) (a) 1. of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b) ~~or~~, 125.09 (2), 161.573 (2), 161.574 (2) or 161.575 (2) or under a local ordinance strictly conforming to one of those statutes brought against an adult in circuit court or against a minor in the court assigned to exercise jurisdiction under ch. 48.

SECTION 96. 818.02 (1) (g) of the statutes is created to read:

818.02 (1) (g) In an action for a forfeiture under s. 161.573 (2), 161.574 (2) or 161.575 (2), or a local ordinance strictly conforming to one of those statutes.

SECTION 99. 893.94 of the statutes is amended to read:

893.94 Organized crime control; civil remedies.

Any civil action arising under ss. 946.80 to ~~946.87~~ 946.88 is subject to the limitations under s. ~~946.87~~ 946.88 (1).

SECTION 100. 939.30 of the statutes is amended to read:

939.30 Solicitation. ~~Whoever (1) Except as provided in sub. (2) and s. 161.455, whoever,~~ with intent that a felony be committed, advises another to commit that crime under circumstances ~~which~~ that indicate unequivocally that he or she has ~~such~~ the intent is guilty of a Class D felony; ~~except that for~~

(2) ~~For~~ a solicitation to commit a crime for which the penalty is life imprisonment, the actor is guilty of a Class C felony ~~and for~~. For a solicitation to commit a Class E felony, the actor is guilty of a Class E felony.

SECTION 101. 939.52 (1) (intro.) of the statutes, as affected by 1987 Wisconsin Act 332, is amended to read:

939.52 (1) (intro.) Except as provided in s. ~~946.85~~ ss. 946.86 and 946.87, forfeitures in chs. 939 to 951 are classified as follows:

SECTION 102. 939.74 (1) of the statutes is amended to read:

939.74 (1) Except as provided in sub. (2), and s. ~~946.87~~ 946.88 (1), prosecution for a felony must be commenced within 6 years and prosecution for a misdemeanor or for adultery within 3 years after the commission thereof. Within the meaning of this section, a prosecution has commenced when a warrant or summons is issued, an indictment is found, or an information is filed.

SECTION 103. 946.41 (2) (a) of the statutes is amended to read:

946.41 (2) (a) "Obstructs" includes without limitation knowingly giving false information to the officer or knowingly placing physical evidence with intent to mis-

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lead ~~him~~ the officer in the performance of his or her duty including the service of any summons or civil process.

SECTION 104. 946.41 (2m) of the statutes is created to read:

946.41 (2m) Whoever violates sub. (1) under all of the following circumstances is guilty of a Class D felony:

(a) The violator gives false information or places physical evidence with intent to mislead an officer.

(b) At a criminal trial, the trier of fact considers the false information or physical evidence.

(c) The trial results in the conviction of an innocent person.

SECTION 105. 946.80 of the statutes is amended to read:

946.80 Short title. Sections 946.80 to ~~946.87~~ 946.88 may be cited as the Wisconsin Organized Crime Control Act.

SECTION 106. 946.82 (intro.) of the statutes is amended to read:

946.82 Definitions. (intro.) In ss. 946.80 to ~~946.87~~ 946.88:

SECTION 108. 946.86 of the statutes is renumbered 946.87, and 946.87 (2) (b) and (6), as renumbered, are amended to read:

946.87 (2) (b) Any injured person has a right or claim to forfeited property or the proceeds derived therefrom superior to any right or claim the state has under this section in the same property or proceeds. This paragraph does not grant the person priority over state claims or rights by reason of a tax lien or other basis not covered by ss. 946.80 to ~~946.87~~ 946.88.

(6) A final judgment or decree rendered in favor of the state in any criminal proceeding under ss. 946.80 to ~~946.87~~ 946.88 shall stop the defendant from denying the essential allegations of the criminal offense in any subsequent civil action or proceeding.

SECTION 109. 946.86 of the statutes is created to read:

946.86 Criminal forfeitures. (1) In addition to the penalties under ss. 946.84 and 946.85, the court shall order forfeiture, according to the procedures set forth in subs. (2) to (4), of all real or personal property used in the course of, or intended for use in the course of, derived from or realized through conduct in violation of s. 946.83 or 946.85. All forfeitures under this section shall be made with due provision for the rights of innocent persons. Property constituting proceeds derived from conduct in violation of s. 946.83 or 946.85 includes, but is not limited to, any of the following:

(a) Any position, office, appointment, tenure, commission or employment contract of any kind that the defendant acquired or maintained in violation of s. 946.83 or 946.85, through which the defendant conducted or participated in the conduct of the affairs of an enterprise in violation of s. 946.83 or 946.85, or that afforded the defendant a source of influence or control

over the affairs of an enterprise that the defendant exercised in violation of s. 946.83 or 946.85.

(b) Any compensation, right or benefit derived from a position, office, appointment, tenure, commission or employment contract that accrued to the defendant during the period of conduct in violation of s. 946.83 or 946.85.

(c) Any interest in, security of, claim against or property or contractual right affording the defendant a source of influence or control over the affairs of an enterprise in which the defendant participated in violation of s. 946.83 or 946.85.

(d) Any amount payable or paid under any contract for goods or services that was awarded or performed in violation of s. 946.83 or 946.85.

(2) Any criminal complaint alleging violation of s. 946.83 or 946.85 shall allege the extent of property subject to forfeiture under this section. At trial, the trier of fact shall return a special verdict determining the extent of property, if any, to be subject to forfeiture under this section. When a special verdict contains a finding of property subject to a forfeiture under this section, a judgment of criminal forfeiture shall be entered along with the judgment of conviction under s. 972.13.

(3) If any property included in a special verdict of criminal forfeiture cannot be located, has been sold to a bona fide purchaser for value, has been placed beyond the jurisdiction of the court, has been substantially diminished in value by the conduct of the defendant, has been commingled with other property that cannot be divided without difficulty or undue injury to innocent persons or is otherwise unreachable without undue injury to innocent persons, the court may order forfeiture of any other property of the defendant up to the value of the property that is unreachable.

(4) Any injured person has a right or claim to forfeited property or the proceeds derived therefrom superior to any right or claim the state has under this section in the same property or proceeds. This subsection does not grant the injured person priority over state claims or rights by reason of a tax lien or other basis not covered by ss. 946.80 to 946.88. All rights, titles and interest in property described in sub. (1) vest in the state upon the commission of the act giving rise to forfeiture under this section.

SECTION 110. 946.87 of the statutes is renumbered 946.88 and amended to read:

946.88 Enforcement and jurisdiction. (1) A criminal or civil action or proceeding under ss. 946.80 to ~~946.87~~ 946.88 may be commenced at any time within 6 years after a violation under ss. 946.80 to ~~946.87~~ 946.88 terminates or the cause of action accrues. If a criminal action or proceeding under ss. 946.80 to ~~946.87~~ 946.88 is brought, or intervened in, to punish, prevent or restrain any such violation, the running of the period of limita-

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tions with respect to any civil action or proceeding, including an action or proceeding under s. ~~946.86~~ 946.87, which is based in whole or in part upon any matter complained of in the criminal action or proceeding shall be suspended for 2 years following the termination of the criminal action or proceeding.

(2) The application of one civil or criminal remedy under ss. 946.80 to ~~946.87~~ 946.88 does not preclude the application of any other remedy, civil or criminal, under ss. 946.80 to ~~946.87~~ 946.88 or any other provision of law. Civil remedies under ss. 946.80 to ~~946.87~~ 946.88 are supplemental, and not mutually exclusive, except the state may not proceed under both ss. 946.84 (2) and ~~946.86~~ 946.87 (4).

(3) The attorney general and the district attorneys of this state have concurrent authority to institute criminal proceedings under ss. 946.80 to ~~946.87~~ 946.88, except a district attorney may institute proceedings only with the prior written approval of the attorney general.

SECTION 110m. 946.87 (2) (am) of the statutes is created to read:

946.87 (2) (am) Notwithstanding par. (a), property described in par. (a) is subject to forfeiture if the person who violated s. 946.83 or 946.85 has not been convicted, but he or she is a defendant in a criminal proceeding, is released, pending trial, on bail, as defined in s. 969.001, and fails to appear in court regarding the criminal proceeding. However, before making the final determination of any action under this section, the court must determine that the party bringing the action can prove the person committed the violation of s. 946.83 or 946.85.

SECTION 112. 968.29 (3) of the statutes is renumbered 968.29 (3) (a).

SECTION 113. 968.29 (3) (b) of the statutes is created to read:

968.29 (3) (b) In addition to the disclosure provisions of par. (a), any person who has received, in the manner described under s. 968.31 (2) (b), any information concerning a wire, electronic or oral communication or evidence derived therefrom, may disclose the contents of that communication or that derivative evidence while giving testimony under oath or affirmation in any proceeding described in par. (a) in which a person is accused of any act constituting a felony under ch. 161, and only if the party who consented to the interception is available to testify at the proceeding or if another witness is available to authenticate the recording.

SECTION 116m. 971.23 (9) of the statutes is created to read:

971.23 (9) ONE-PARTY CONSENT RECORDINGS. Notwithstanding sub. (1), if the district attorney intends to use evidence obtained in the manner described under s. 968.31 (2) (b), the district attorney shall notify the defendant of that intention not less than 30 days before trial. The district attorney shall permit the defendant to inspect, listen to or copy the evidence upon demand.

SECTION 117. 971.365 (1) (a) of the statutes is amended to read:

971.365 (1) (a) In any case under s. 161.41 (1) (c), (cm), (d), (e), (f), (g) or (h) involving more than one violation, all violations may be prosecuted as a single crime if the violations were pursuant to a single intent and design.

SECTION 118. 971.365 (2) of the statutes is amended to read:

971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent prosecution for any acts in violation of s. 161.41 (1) (c), (cm), (d), (e), (f), (g) or (h), (1m) (c), (cm), (d), (e), (f), (g) or (h), (2r) (b), (3m), (3n) or (3r) on which no evidence was received at the trial on the original charge.

SECTION 118g. 973.076 (1) of the statutes is amended to read:

973.076 (1) TYPE OF ACTION; WHERE BROUGHT. ~~An In~~ An action brought to cause the forfeiture of any property specified in s. 973.075 (1) ~~is an action, the court may render a judgment~~ in rem or against a party personally, or both. The circuit court for the county in which the property was seized shall have exclusive jurisdiction over any proceedings regarding the property.

SECTION 118r. 973.076 (4) of the statutes is created to read:

973.076 (4) ACTION AGAINST OTHER PROPERTY OF THE PERSON. The court may order the forfeiture of any other property of a defendant up to the value of property found by the court to be subject to forfeiture under s. 973.075 if the property subject to forfeiture meets any of the following conditions:

- (a) Cannot be located.
- (b) Has been transferred or conveyed to, sold to or deposited with a 3rd party.
- (c) Is beyond the jurisdiction of the court.
- (d) Has been substantially diminished in value while not in the actual physical custody of the law enforcement agency.
- (e) Has been commingled with other property that cannot be divided without difficulty.

SECTION 119. 973.09 (1) (d) of the statutes is created to read:

973.09 (1) (d) If a person is convicted of an offense that provides a mandatory or presumptive minimum period of one year or less of imprisonment, a court may place the person on probation under par. (a) if the court requires, as a condition of probation, that the person be confined under sub. (4) for at least that mandatory or presumptive minimum period. The person is eligible to earn good time credit calculated under s. 302.43 regarding the period of confinement.

SECTION 120m. 979.01 (3m) of the statutes is created to read:

979.01 (3m) In all cases of death reportable under sub. (1) where an autopsy is not performed, the coroner

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or medical examiner shall take for analysis any and all specimens, body fluids and any other material that will assist him or her in determining the cause of death if requested to do so by a spouse, parent, child or sibling of the deceased person and not objected to by any of those family members. The specimens, body fluids and other material taken under this subsection shall not be admissible in evidence in any civil action against the deceased or his or her estate, as the result of any act of the deceased.

SECTION 3023. Nonstatutory provisions; health and social services.

(1) **STUDY OF MEDICAL ASSISTANCE RECIPIENTS IN HEALTH MAINTENANCE ORGANIZATIONS.** The department of health and social services shall study whether persons in Milwaukee county who are enrolled in health maintenance organizations under the medical assistance program and who need alcohol and other drug abuse services should continue to be enrolled in health maintenance organizations for all medical assistance services or for their medical assistance services except for alcohol and other drug abuse services. The study shall include a determination of the number of medical assistance recipients in Milwaukee county who are enrolled in health maintenance organizations and who need alcohol and other drug abuse services, the services provided by the health maintenance organizations, whether there are services that these medical assistance recipients need but are not receiving and the cost of providing all or some medical assistance benefits to these medical assistance recipients outside of health maintenance organizations. The department shall submit a report of its conclusions and recommendations to the governor and to the chief clerk of each house of the legislature for distribution under section 13.172 (2) of the statutes on or before June 1, 1990.

(2g) **STUDY; ADMINISTRATION OF YOUTH SERVICES.** The department of health and social services shall complete a study regarding the most suitable state department to administer youth services. No later than February 1, 1990, the department shall submit a written report on the results of the study to the chief clerk of each house of the legislature for distribution to the legislature in the manner provided in section 13.172 (2) of the statutes.

(2h) **STUDY; PHYSICAL CAUSES OF DRUG ADDICTION.** The department of health and social services shall study the physical causes of drug addiction. No later than January 21, 1991, the department shall submit a written report on the results of the study to the chief clerk of each house of the legislature for distribution to the legislature in the manner provided in section 13.172 (2) of the statutes.

(2i) **PAROLE COMMISSION.** Notwithstanding section 15.145 (1) of the statutes, as affected by this act, the initial term of the chairperson of the parole commission shall expire on March 1, 1991. Notwithstanding section

15.145 (1) of the statutes, as affected by this act, on or after January 1, 1990, prior to the initial appointment of the parole commission chairperson, the secretary of corrections may exercise the parole commission chairperson's authority under section 15.145 (1) of the statutes, as affected by this act, to appoint the other parole commission members. Notwithstanding section 15.145 (1) of the statutes, as affected by this act, if, on the effective date of this subsection, the governor has appointed the chairperson of the parole commission under authority granted in 1989 Wisconsin Act 107, that appointment is a provisional appointment subject to the provisions of section 17.20 (2) of the statutes.

SECTION 3202. Initial applicability.

(29) **INSURANCE.**

(a) *Health maintenance organizations.* The treatment of sections 40.51 (12), 185.981 (7), 609.05 (3) and 609.655 of the statutes first applies to policies or certificates issued or renewed by a health maintenance organization, as defined in section 609.01 (2) of the statutes, on the effective date of this paragraph.

(58) **OTHER.**

(cg) *Expulsion from school.* The treatment of sections 36.11 (21) and 38.12 (10) of the statutes first applies to activities that constitute violations of chapter 161 of the statutes engaged in on the effective date of this paragraph.

(dg) *Forfeiture of property.* The treatment of sections 161.555 (1) and (4) and 973.076 (1) and (4) of the statutes first applies to property seized on the effective date of this paragraph.

(gg) *Specimen taking by coroner.* The treatment of section 979.01 (3m) of the statutes first applies to deaths occurring on the effective date of this paragraph.

SECTION 3203. Effective dates. This act takes effect on January 1, 1990, or the day after publication, whichever is later, except as follows:

(29) **INSURANCE.**

(a) *Health maintenance organizations.* The treatment of sections 40.51 (12), 185.981 (7), 609.05 (3) and 609.655 of the statutes and SECTION 3202 (29) (a) of this act take effect on the first day of the 4th month beginning after publication.

(34) **JUSTICE.**

(a) *Drug paraphernalia.* The treatment of sections 48.17 (2) (c) to (e), 48.344 (title), (2) (intro.) and (3), 60.23 (21), 161.55 (1) (g), 343.30 (6) (a), 778.25 (title) and (1) (a) 1. and 818.02 (1) (g) of the statutes, the renumbering of subchapter VI of chapter 161 of the statutes and the creation of subchapter VI of chapter 161 of the statutes take effect on the first day of the 7th month commencing after publication.