



**SENATE SUBSTITUTE AMENDMENT 1,  
TO 1997 ASSEMBLY BILL 221**

April 30, 1998 - Offered by Senator MOORE.

1       **AN ACT to renumber** 940.01 (1), 940.06, 940.08, 940.10, 940.23 (1), 940.23 (2) and  
2       940.24; **to amend** 302.11 (1g) (a) 2., 343.31 (3) (c), 343.31 (3) (f), 346.65 (6) (a)  
3       1., 346.65 (6) (a) 2., 346.65 (6) (d), 939.22 (21) (d), 939.24 (1), 939.25 (1), 939.32  
4       (1) (intro.), 939.62 (2m) (a) 2., 940.01 (1) (title), 940.05 (2), 940.09 (1b), 940.09  
5       (1d), 940.09 (1m), 940.09 (2), 940.25 (1b), 940.25 (1d), 940.25 (1m), 940.25 (2),  
6       941.38 (1) (b) 4., 969.035 (1), 969.08 (10) (b), 973.0135 (1) (b) 2. and 980.01 (6)  
7       (b); and **to create** 939.75, 940.01 (1) (b), 940.02 (1m), 940.05 (2g), 940.05 (2h),  
8       940.06 (2), 940.08 (2), 940.09 (1) (c) to (e), 940.09 (1g) (c) and (d), 940.10 (2),  
9       940.195, 940.23 (1) (b), 940.23 (2) (b), 940.24 (2) and 940.25 (1) (c) to (e) of the  
10       statutes; **relating to:** causing harm or death to an unborn child and providing  
11       penalties.

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

12       **SECTION 1.** 302.11 (1g) (a) 2. of the statutes is amended to read:

1           302.11 **(1g)** (a) 2. Any felony under s. 940.02, 940.03, 940.05, 940.09 (1), 940.19  
2           (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305 (2), 940.31 (1) or (2) (b), 943.02,  
3           943.10 (2), 943.23 (1g) or (1m), 943.32 (2), 946.43, 948.02 (1) or (2), 948.025, 948.03  
4           (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, 948.30 (2), 948.35 (1) (b) or (c) or 948.36.

5           **SECTION 2.** 343.31 (3) (c) of the statutes is amended to read:

6           343.31 **(3)** (c) Any person convicted under s. 940.09 of causing the death of  
7           another or of an unborn child by the operation or handling of a motor vehicle shall  
8           have his or her operating privilege revoked for 5 years. If there was a minor  
9           passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1), in the  
10          motor vehicle at the time of the violation that gave rise to the conviction under s.  
11          940.09, the revocation period is 10 years.

12          **SECTION 3.** 343.31 (3) (f) of the statutes is amended to read:

13          343.31 **(3)** (f) Any person convicted under s. 940.25 shall have his or her  
14          operating privilege revoked for 2 years. If there was a minor passenger under 16  
15          years of age or an unborn child, as defined in s. 939.75 (1), in the motor vehicle at the  
16          time of the violation that gave rise to the conviction under s. 940.25, the revocation  
17          period is 4 years.

18          **SECTION 4.** 346.65 (6) (a) 1. of the statutes is amended to read:

19          346.65 **(6)** (a) 1. Except as provided in this paragraph, the court may order a  
20          law enforcement officer to seize a motor vehicle, or, if the motor vehicle is not ordered  
21          seized, shall order a law enforcement officer to equip the motor vehicle with an  
22          ignition interlock device or immobilize any motor vehicle owned by the person whose  
23          operating privilege is revoked under s. 343.305 (10) or who committed a violation of  
24          s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a) ~~or~~, (b), (c) or (d) or 940.25 (1) (a)  
25          ~~or~~, (b), (c) or (d) if the person whose operating privilege is revoked under s. 343.305

1 (10) or who is convicted of the violation has 2 prior suspensions, revocations or  
2 convictions within a 10-year period that would be counted under s. 343.307 (1). The  
3 court shall not order a motor vehicle equipped with an ignition interlock device or  
4 immobilized if that would result in undue hardship or extreme inconvenience or  
5 would endanger the health and safety of a person.

6 **SECTION 5.** 346.65 (6) (a) 2. of the statutes is amended to read:

7 346.65 (6) (a) 2. The court shall order a law enforcement officer to seize a motor  
8 vehicle owned by a person whose operating privilege is revoked under s. 343.305 (10)  
9 or who commits a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a)  
10 ~~or~~, (b), (c) or (d) or 940.25 (1) (a) ~~or~~, (b), (c) or (d) if the person whose operating privilege  
11 is revoked under s. 343.305 (10) or who is convicted of the violation has 3 or more prior  
12 suspensions, revocations or convictions within a 10-year period that would be  
13 counted under s. 343.307 (1).

14 **SECTION 6.** 346.65 (6) (d) of the statutes is amended to read:

15 346.65 (6) (d) At the hearing set under par. (c), the state has the burden of  
16 proving to a reasonable certainty by the greater weight of the credible evidence that  
17 the motor vehicle is a motor vehicle owned by a person who committed a violation of  
18 s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a) ~~or~~, (b), (c) or (d) or 940.25 (1) (a)  
19 ~~or~~, (b), (c) or (d) and, if the seizure is under par. (a) 1., that the person had 2 prior  
20 convictions, suspensions or revocations within a 10-year period as counted under s.  
21 343.307 (1) or, if the seizure is under par. (a) 2., 3 or more prior convictions,  
22 suspensions or revocations within a 10-year period as counted under s. 343.307 (1).  
23 If the owner of the motor vehicle proves by a preponderance of the evidence that he  
24 or she was not convicted of a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09  
25 (1) (a) ~~or~~, (b), (c) or (d) or 940.25 (1) (a) ~~or~~, (b), (c) or (d), or, if the seizure is under par.

1 (a) 1., that he or she did not have 2 prior convictions, suspensions or revocations  
2 within a 10-year period as counted under s. 343.307 (1) or, if the seizure is under par.

3 (a) 2., 3 or more prior convictions, suspensions or revocations within a 10-year period  
4 as counted under s. 343.307 (1), the motor vehicle shall be returned to the owner upon  
5 the payment of storage costs.

6 **SECTION 7.** 939.22 (21) (d) of the statutes is amended to read:

7 939.22 (21) (d) Battery, substantial battery or aggravated battery, as  
8 prohibited in s. 940.19 or 940.195.

9 **SECTION 8.** 939.24 (1) of the statutes is amended to read:

10 939.24 (1) In this section, “criminal recklessness” means that the actor creates  
11 an unreasonable and substantial risk of death or great bodily harm to another  
12 human being and the actor is aware of that risk, except that for purposes of ss. 940.02  
13 (1m), 940.06 (2) and 940.23 (1) (b) and (2) (b), “criminal recklessness” means that the  
14 actor creates an unreasonable and substantial risk of death or great bodily harm to  
15 an unborn child and the actor is aware of that risk.

16 **SECTION 9.** 939.25 (1) of the statutes is amended to read:

17 939.25 (1) In this section, “criminal negligence” means ordinary negligence to  
18 a high degree, consisting of conduct ~~which~~ that the actor should realize creates a  
19 substantial and unreasonable risk of death or great bodily harm to another, except  
20 that for purposes of ss. 940.08 (2), 940.10 (2) and 940.24 (2), “criminal negligence”  
21 means ordinary negligence to a high degree, consisting of conduct that the actor  
22 should realize creates a substantial and unreasonable risk of death or great bodily  
23 harm to an unborn child.

24 **SECTION 10.** 939.32 (1) (intro.) of the statutes is amended to read:

1           939.32 (1) (intro.) Whoever attempts to commit a felony or a battery as defined  
2 by crime specified in s. 940.19 or theft as defined by s. 940.195 or 943.20 may be fined  
3 or imprisoned or both not to exceed one-half the maximum penalty for the completed  
4 crime; except:

5           **SECTION 11.** 939.62 (2m) (a) 2. of the statutes, as affected by 1997 Wisconsin Act  
6 .... (Assembly Bill 220), is amended to read:

7           939.62 (2m) (a) 2. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09  
8 (1), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,  
9 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m) or (1r), 943.32 (2), 946.43,  
10 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, 948.30  
11 (2), 948.35 (1) (b) or (c) or 948.36.

12           **SECTION 12.** 939.75 of the statutes is created to read:

13           **939.75 Death or harm to an unborn child. (1)** In this section and ss. 939.24  
14 (1), 939.25 (1), 940.01 (1) (b), 940.02 (1m), 940.05 (2g) and (2h), 940.06 (2), 940.08 (2),  
15 940.09 (1) (c) to (e), (1b) and (1g) (c) and (d), 940.10 (2), 940.195, 940.23 (1) (b) and  
16 (2) (b), 940.24 (2) and 940.25 (1) (c) to (e) and (1b), “unborn child” means any  
17 individual of the human species from fertilization until birth.

18           (2) (a) In this subsection, “induced abortion” means the use of any instrument,  
19 medicine, drug or other substance or device in a medical procedure with the intent  
20 to terminate the pregnancy of a woman and with an intent other than to increase the  
21 probability of a live birth, to preserve the life or health of the infant after live birth  
22 or to remove a dead fetus.

23           (b) Sections 940.01 (1) (b), 940.02 (1m), 940.05 (2g) and (2h), 940.06 (2), 940.08  
24 (2), 940.09 (1) (c) to (e) and (1g) (c) and (d), 940.10 (2), 940.195, 940.23 (1) (b) and (2)  
25 (b), 940.24 (2) and 940.25 (1) (c) to (e) do not apply to any of the following:

1           1. An act committed during an induced abortion. This subdivision does not  
2 limit the applicability of ss. 940.04, 940.13 and 940.15 to an induced abortion.

3           2. An act that is committed in accordance with the usual and customary  
4 standards of medical practice during diagnostic testing or therapeutic treatment  
5 performed by, or under the supervision of, a physician licensed under ch. 448.

6           2h. An act by any health care provider, as defined in s. 155.01 (7), that is in  
7 accordance with a pregnant woman’s power of attorney for health care instrument  
8 under ch. 155 or in accordance with a decision of a health care agent who is acting  
9 under a pregnant woman’s power of attorney for health care instrument under ch.  
10 155.

11           3. An act by a woman who is pregnant with an unborn child that results in the  
12 death of or great bodily harm, substantial bodily harm or bodily harm to that unborn  
13 child.

14           4. The prescription, dispensation or administration by any person lawfully  
15 authorized to do so and the use by a woman of any medicine, drug or device that is  
16 used as a method of birth control or is intended to prevent pregnancy.

17           **(3)** When the existence of an exception under sub. (2) has been placed in issue  
18 by the trial evidence, the state must prove beyond a reasonable doubt that the facts  
19 constituting the exception do not exist in order to sustain a finding of guilt under s.  
20 940.01 (1) (b), 940.02 (1m), 940.05 (2g), 940.06 (2), 940.08 (2), 940.09 (1) (c) to (e) or  
21 (1g) (c) or (d), 940.10 (2), 940.195, 940.23 (1) (b) or (2) (b), 940.24 (2) or 940.25 (1) (c)  
22 to (e).

23           **SECTION 13.** 940.01 (1) (title) of the statutes is amended to read:

24           940.01 (1) (title) ~~OFFENSE~~ OFFENSES.

25           **SECTION 14.** 940.01 (1) of the statutes is renumbered 940.01 (1) (a).

1           **SECTION 15.** 940.01 (1) (b) of the statutes is created to read:

2           940.01 (1) (b) Except as provided in sub. (2), whoever causes the death of an  
3 unborn child with intent to kill that unborn child or with intent to kill the woman  
4 who the actor knows or should know is pregnant with that unborn child is guilty of  
5 a Class A felony.

6           **SECTION 16.** 940.02 (1m) of the statutes is created to read:

7           940.02 (1m) Whoever recklessly causes the death of an unborn child under  
8 circumstances that show utter disregard for the life of that unborn child or for the  
9 life of the woman who the actor knows or should know is pregnant with that unborn  
10 child is guilty of a Class B felony.

11           **SECTION 17.** 940.05 (2) of the statutes is amended to read:

12           940.05 (2) In prosecutions under ~~this section~~ sub. (1), it is sufficient to allege  
13 and prove that the defendant caused the death of another human being with intent  
14 to kill that person or another.

15           **SECTION 18.** 940.05 (2g) of the statutes is created to read:

16           940.05 (2g) Whoever causes the death of an unborn child with intent to kill that  
17 unborn child or with intent to kill the woman who the actor knows or should know  
18 is pregnant with that unborn child is guilty of a Class B felony if:

19           (a) In prosecutions under s. 940.01, the state fails to prove beyond a reasonable  
20 doubt that the mitigating circumstances specified in s. 940.01 (2) did not exist as  
21 required by s. 940.01 (3); or

22           (b) The state concedes that it is unable to prove beyond a reasonable doubt that  
23 the mitigating circumstances specified in s. 940.01 (2) did not exist. By charging  
24 under this section, the state so concedes.

25           **SECTION 19.** 940.05 (2h) of the statutes is created to read:

1           940.05 **(2h)** In prosecutions under sub. (2g), it is sufficient to allege and prove  
2 that the defendant caused the death of an unborn child with intent to kill that unborn  
3 child or with intent to kill the woman who the actor knows or should know is  
4 pregnant with that unborn child.

5           **SECTION 20.** 940.06 of the statutes is renumbered 940.06 (1).

6           **SECTION 21.** 940.06 (2) of the statutes is created to read:

7           940.06 **(2)** Whoever recklessly causes the death of an unborn child is guilty of  
8 a Class C felony.

9           **SECTION 22.** 940.08 of the statutes is renumbered 940.08 (1).

10          **SECTION 23.** 940.08 (2) of the statutes is created to read:

11          940.08 **(2)** Whoever causes the death of an unborn child by the negligent  
12 operation or handling of a dangerous weapon, explosives or fire is guilty of a Class  
13 D felony.

14          **SECTION 24.** 940.09 (1) (c) to (e) of the statutes are created to read:

15          940.09 **(1)** (c) Causes the death of an unborn child by the operation or handling  
16 of a vehicle while under the influence of an intoxicant.

17          (d) Causes the death of an unborn child by the operation or handling of a vehicle  
18 while the person has a prohibited alcohol concentration, as defined in s. 340.01  
19 (46m).

20          (e) Causes the death of an unborn child by the operation of a commercial motor  
21 vehicle while the person has an alcohol concentration of 0.04 or more but less than  
22 0.1.

23          **SECTION 25.** 940.09 (1b) of the statutes is amended to read:

24          940.09 **(1b)** If there was a minor passenger under 16 years of age or an unborn  
25 child in the motor vehicle at the time of the violation that gave rise to the conviction



1 under sub. (1), any applicable maximum fine or imprisonment specified for the  
2 conviction is doubled.

3 **SECTION 26.** 940.09 (1d) of the statutes is amended to read:

4 940.09 (1d) If the person who committed an offense under sub. (1) (a) ~~or~~ (b),  
5 (c) or (d) has 2 or more prior convictions, suspensions or revocations in a 10-year  
6 period, as counted under s. 343.307 (1), the procedure under s. 346.65 (6) may be  
7 followed regarding the immobilization or seizure and forfeiture of a motor vehicle  
8 owned by the person who committed the offense or the equipping of a motor vehicle  
9 owned by the person with an ignition interlock device.

10 **SECTION 27.** 940.09 (1g) (c) and (d) of the statutes are created to read:

11 940.09 (1g) (c) Causes the death of an unborn child by the operation or handling  
12 of a firearm or airgun while under the influence of an intoxicant.

13 (d) Causes the death of an unborn child by the operation or handling of a  
14 firearm or airgun while the person has an alcohol concentration of 0.1 or more.

15 **SECTION 28.** 940.09 (1m) of the statutes is amended to read:

16 940.09 (1m) A person may be charged with and a prosecutor may proceed upon  
17 an information based upon a violation of sub. (1) (a) or (b) or both ~~or of~~ sub. (1) (a)  
18 or (bm) or both ~~or of~~ sub. (1) (c) or (d) or both, sub. (1) (c) or (e) or both, sub. (1g) (a)  
19 or (b) or both or sub. (1g) (c) or (d) or both for acts arising out of the same incident or  
20 occurrence. If the person is charged with violating both sub. (1) (a) and (b) ~~or~~ both  
21 sub. (1) (a) and (bm) ~~or~~ both sub. (1) (c) and (d), both sub. (1) (c) and (e), both sub. (1g)  
22 (a) and (b) or both sub. (1g) (c) and (d) in the information, the crimes shall be joined  
23 under s. 971.12. If the person is found guilty of both sub. (1) (a) and (b) ~~or of~~ both  
24 sub. (1) (a) and (bm) ~~or of~~ both sub. (1) (c) and (d), both sub. (1) (c) and (e), both sub.  
25 (1g) (a) and (b) or both sub. (1g) (c) and (d) for acts arising out of the same incident

1 or occurrence, there shall be a single conviction for purposes of sentencing and for  
2 purposes of counting convictions under s. 23.33 (13) (b) 2. and 3., under s. 30.80 (6)  
3 (a) 2. and 3., under s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3. Subsection (1)  
4 (a), (b) ~~and~~, (b), (c), (d) and (e), and sub. (1g) (a) ~~and~~, (b), (c) and (d), each require  
5 proof of a fact for conviction which the other does not require.

6 **SECTION 29.** 940.09 (2) of the statutes is amended to read:

7 940.09 (2) The defendant has a defense if he or she proves by a preponderance  
8 of the evidence that the death would have occurred even if he or she had been  
9 exercising due care and he or she had not been under the influence of an intoxicant  
10 or did not have an alcohol concentration described under sub. (1) (b) ~~or~~, (b), (d) or  
11 (e) or (1g) (b) or (d).

12 **SECTION 30.** 940.10 of the statutes is renumbered 940.10 (1).

13 **SECTION 31.** 940.10 (2) of the statutes is created to read:

14 940.10 (2) Whoever causes the death of an unborn child by the negligent  
15 operation or handling of a vehicle is guilty of a Class E felony.

16 **SECTION 32.** 940.195 of the statutes is created to read:

17 **940.195 Battery to an unborn child; substantial battery to an unborn**  
18 **child; aggravated battery to an unborn child.** (1) Whoever causes bodily harm  
19 to an unborn child by an act done with intent to cause bodily harm to that unborn  
20 child or to the woman who the actor knows or should know is pregnant with that  
21 unborn child is guilty of a Class A misdemeanor.

22 (2) Whoever causes substantial bodily harm to an unborn child by an act done  
23 with intent to cause bodily harm to that unborn child or to the woman who the actor  
24 knows or should know is pregnant with that unborn child is guilty of a Class E felony.

1           **(3)** Whoever causes substantial bodily harm to an unborn child by an act done  
2 with intent to cause substantial bodily harm to that unborn child or to the woman  
3 who the actor knows or should know is pregnant with that unborn child is guilty of  
4 a Class D felony.

5           **(4)** Whoever causes great bodily harm to an unborn child by an act done with  
6 intent to cause bodily harm to that unborn child or to the woman who the actor knows  
7 or should know is pregnant with that unborn child is guilty of a Class D felony.

8           **(5)** Whoever causes great bodily harm to an unborn child by an act done with  
9 intent to cause either substantial bodily harm or great bodily harm to that unborn  
10 child or to the woman who the actor knows or should know is pregnant with that  
11 unborn child is guilty of a Class C felony.

12           **(6)** Whoever intentionally causes bodily harm to an unborn child by conduct  
13 that creates a substantial risk of great bodily harm to that unborn child is guilty of  
14 a Class D felony.

15           **SECTION 33.** 940.23 (1) of the statutes is renumbered 940.23 (1) (a).

16           **SECTION 34.** 940.23 (1) (b) of the statutes is created to read:

17           940.23 (1) (b) Whoever recklessly causes great bodily harm to an unborn child  
18 under circumstances that show utter disregard for the life of that unborn child or the  
19 woman who the actor knows or should know is pregnant with that unborn child is  
20 guilty of a Class C felony.

21           **SECTION 35.** 940.23 (2) of the statutes is renumbered 940.23 (2) (a).

22           **SECTION 36.** 940.23 (2) (b) of the statutes is created to read:

23           940.23 (2) (b) Whoever recklessly causes great bodily harm to an unborn child  
24 is guilty of a Class D felony.

25           **SECTION 37.** 940.24 of the statutes is renumbered 940.24 (1).

1           **SECTION 38.** 940.24 (2) of the statutes is created to read:

2           940.24 (2) Whoever causes bodily harm to an unborn child by the negligent  
3 operation or handling of a dangerous weapon, explosives or fire is guilty of a Class  
4 E felony.

5           **SECTION 39.** 940.25 (1) (c) to (e) of the statutes are created to read:

6           940.25 (1) (c) Causes great bodily harm to an unborn child by the operation of  
7 a vehicle while under the influence of an intoxicant.

8           (d) Causes great bodily harm to an unborn child by the operation of a vehicle  
9 while the person has a prohibited alcohol concentration, as defined in s. 340.01  
10 (46m).

11           (e) Causes great bodily harm to an unborn child by the operation of a  
12 commercial motor vehicle while the person has an alcohol concentration of 0.04 or  
13 more but less than 0.1.

14           **SECTION 40.** 940.25 (1b) of the statutes is amended to read:

15           940.25 (1b) If there was a minor passenger under 16 years of age or an unborn  
16 child in the motor vehicle at the time of the violation that gave rise to the conviction  
17 under sub. (1), any applicable maximum fine or imprisonment specified for the  
18 conviction is doubled.

19           **SECTION 41.** 940.25 (1d) of the statutes is amended to read:

20           940.25 (1d) If the person who committed the offense under sub. (1) (a) ~~or~~, (b),  
21 (c) or (d) has 2 or more prior convictions, suspensions or revocations in a 10-year  
22 period, as counted under s. 343.307 (1), the procedure under s. 346.65 (6) may be  
23 followed regarding the immobilization or seizure and forfeiture of a motor vehicle  
24 owned by the person who committed the offense or the equipping of a motor vehicle  
25 owned by the person with an ignition interlock device.

1           **SECTION 42.** 940.25 (1m) of the statutes is amended to read:

2           940.25 **(1m)** A person may be charged with and a prosecutor may proceed upon  
3 an information based upon a violation of sub. (1) (a) or (b) or both ~~or of~~ sub. (1) (a)  
4 or (bm) or both, sub. (1) (c) or (d) or both or sub. (1) (c) or (e) or both for acts arising  
5 out of the same incident or occurrence. If the person is charged with violating both  
6 sub. (1) (a) and (b) ~~or~~ both sub. (1) (a) and (bm), both sub. (1) (c) and (d) or both sub.  
7 (1) (c) and (e) in the information, the crimes shall be joined under s. 971.12. If the  
8 person is found guilty of both sub. (1) (a) and (b) ~~or of~~ both sub. (1) (a) and (bm), both  
9 sub. (1) (c) and (d) or both sub. (1) (c) and (e) for acts arising out of the same incident  
10 or occurrence, there shall be a single conviction for purposes of sentencing and for  
11 purposes of counting convictions under s. 23.33 (13) (b) 2. and 3., under s. 30.80 (6)  
12 (a) 2. or 3., under ss. 343.30 (1q) and 343.305 or under s. 350.11 (3) (a) 2. and 3.  
13 Subsection (1) (a), (b) ~~and~~ (bm), (c), (d) and (e) each require proof of a fact for  
14 conviction which the other does not require.

15           **SECTION 43.** 940.25 (2) of the statutes is amended to read:

16           940.25 **(2)** The defendant has a defense if he or she proves by a preponderance  
17 of the evidence that the great bodily harm would have occurred even if he or she had  
18 been exercising due care and he or she had not been under the influence of an  
19 intoxicant or did not have an alcohol concentration described under sub. (1) ~~(b)~~ or  
20 (bm), (d) or (e).

21           **SECTION 44.** 941.38 (1) (b) 4. of the statutes is amended to read:

22           941.38 **(1)** (b) 4. Battery, substantial battery or aggravated battery, as  
23 prohibited in s. 940.19 or 940.195.

24           **SECTION 45.** 969.035 (1) of the statutes is amended to read:

1           969.035 (1) In this section, “violent crime” means any crime specified in s.  
2           940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.10, 940.19 (5), 940.195  
3           (5), 940.21, 940.225 (1), 940.23, 941.327, 948.02 (1) or (2), 948.025 or 948.03.

4           **SECTION 46.** 969.08 (10) (b) of the statutes, as affected by 1997 Wisconsin Acts  
5           143 and .... (Assembly Bill 93), is amended to read:

6           969.08 (10) (b) “Serious crime” means any crime specified in s. 346.62 (4),  
7           940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195  
8           (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25,  
9           940.29, 940.295 (3) (b) 1g., 1m., 1r., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30,  
10           941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10,  
11           943.23 (1g), (1m) or (1r), 943.30, 943.32, 946.01, 946.02, 946.43, 947.015, 948.02 (1)  
12           or (2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07 or 948.30.

13           **SECTION 47.** 973.0135 (1) (b) 2. of the statutes, as affected by 1997 Wisconsin  
14           Act .... (Assembly Bill 220), is amended to read:

15           973.0135 (1) (b) 2. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09  
16           (1), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31,  
17           941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m) or (1r), 943.32 (2), 946.43,  
18           948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07, 948.08, 948.30  
19           (2), 948.35 (1) (b) or (c) or 948.36.

20           **SECTION 48.** 980.01 (6) (b) of the statutes is amended to read:

21           980.01 (6) (b) Any crime specified in s. 940.01, 940.02, 940.05, 940.06, 940.19  
22           (4) or (5), 940.195 (4) or (5), 940.30, 940.305, 940.31 or 943.10 that is determined, in  
23           a proceeding under s. 980.05 (3) (b), to have been sexually motivated.

24           **SECTION 49. Initial applicability.**

