

ASSEMBLY BILL 75**SECTION 3222**

1 302.113 (9g) of a petition for modification of a bifurcated sentence, a decision by the
2 department of corrections under s. 302.113 (9g) on a petition for modification of a
3 bifurcated sentence, or a refusal of parole shall be the county in which the relator was
4 last convicted of an offense for which the relator was on probation, extended
5 supervision, or parole or for which the relator is currently incarcerated.

6 **SECTION 3223.** 805.13 (4) of the statutes is amended to read:

7 805.13 (4) INSTRUCTION. The court shall instruct the jury before or after closing
8 arguments of counsel. Failure to object to a material variance or omission between
9 the instructions given and the instructions proposed does not constitute a waiver of
10 error. The court shall provide the jury with one complete set of written instructions
11 providing the burden of proof and the substantive law to be applied to the case to be
12 decided. In a civil action involving contributory negligence, the court shall explain
13 to the jury the effect on awards and liabilities of the percentage of negligence found
14 by the jury to be attributable to each party.

15 **SECTION 3224.** 806.11 (1) (intro.) of the statutes is amended to read:

16 806.11 (1) (intro.) At the time of filing the warrant provided by s. 71.74 (14) or
17 71.91 (5), or 71.93 (8) (b) 5., the clerk of circuit court shall enter the warrant in the
18 judgment and lien docket, including:

19 **SECTION 3225.** 806.11 (2) of the statutes is amended to read:

20 806.11 (2) If a warrant provided by s. 71.74 (14) or 71.91 (5), or 71.93 (8) (b) 5.
21 is against several persons, the warrant shall be entered, in accordance with the
22 procedure under sub. (1), in the judgment and lien docket under the name of each
23 person against whom the warrant was issued.

24 **SECTION 3226.** 806.115 of the statutes is amended to read:

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1 **(6)** Where the wrongful death of a person creates a cause of action in favor of
2 the decedent's estate and also a cause of action in favor of a spouse, domestic partner
3 under ch. 770, or relatives as provided in this section, such spouse, domestic partner,
4 or relatives may waive and satisfy the estate's cause of action in connection with or
5 as part of a settlement and discharge of the cause of action of the spouse, domestic
6 partner, or relatives.

7 **SECTION 3270.** 895.045 (1) (title) of the statutes is repealed.

8 **SECTION 3271.** 895.045 (1) of the statutes is renumbered 895.045 and amended
9 to read:

10 **895.045 Contributory negligence.** Contributory negligence does not bar
11 recovery in an action by any person or the person's legal representative to recover
12 damages for negligence resulting in death or in injury to the person or property, if
13 that negligence was not greater than the combined negligence of all of the person
14 persons against whom recovery is sought, but any damages allowed shall be
15 diminished in the proportion to the amount of negligence attributed to the person
16 recovering. ~~The negligence of the plaintiff shall be measured separately against the~~
17 ~~negligence of each person found to be causally negligent. The liability of each person~~
18 ~~found to be causally negligent whose percentage of causal negligence is less than 51%~~
19 ~~is limited to the percentage of the total causal negligence attributed to that person.~~
20 A person found to be causally negligent whose percentage of causal negligence is 51%
21 or more Any person found to be causally negligent whose percentage of causal
22 negligence is equal to or greater than the negligence of the person recovering shall
23 be jointly and severally liable for the damages allowed.

24 **SECTION 3272.** 895.045 (2) of the statutes is repealed.

25 **SECTION 3273.** 895.485 (title) of the statutes is amended to read:

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requires DOC to assess each inmate who volunteers to participate in the program to determine if he or she has a substance abuse problem that requires an intensive level of treatment, a substance abuse problem that does not require intensive treatment and is not directly related to the inmate's criminal behavior, or another treatment need that is not related to substance abuse and that is directly related to the inmate's criminal behavior. The bill requires DOC to provide appropriate treatment and education, based on its assessment of a participant's treatment needs, to each participant in the Challenge Incarceration Program.

JUVENILE CORRECTIONAL SYSTEM

Under current law relating to community youth and family aids, generally referred to as youth aids, DOC must allocate various state and federal moneys to counties to pay for state-provided juvenile correctional services and local delinquency-related and juvenile justice services. DOC charges counties for the costs of services provided by DOC according to per person daily cost assessments specified by law. This bill increases most of those assessments.

Under current law, funds are appropriated to DOC for juvenile correctional services, juvenile residential aftercare services, and juvenile corrective sanctions services. This bill provides that, if there is a deficit in the juvenile correctional services appropriation account at the close of fiscal year 2008-09, any unencumbered balances in the juvenile residential aftercare services and juvenile corrective sanctions services appropriation accounts at the close of that fiscal year, up to the amount of the deficit, are transferred to the juvenile correctional services appropriation account.

COURTS AND PROCEDURE**CIRCUIT COURTS**

Under current law, a court is required to instruct the jury on the law involved in the case before the jury. In addition, the court provides the jury with a complete set of written instructions that provides the burden of proof and the substantial law to be applied in the case. This bill adds a requirement, in civil actions involving contributory negligence, that the court explain to the jury the effect on awards and liabilities of the percentage of negligence found by the jury to be attributable to each party.

Under current law, in a civil action involving negligence, the injured party may recover damages resulting from the negligence of another person if the injured party's negligence is not greater than the negligence of the person against whom recovery is sought. Currently, the negligence of the person seeking recovery is measured separately against the negligence of each person whose negligence caused the damages. If the causal negligence of the person against whom recovery is sought is less than 51 percent of the total negligence, that person's liability is limited to the percentage of negligence attributable to that person. Currently, if the person's causal negligence is 51 percent or more of the total negligence, that person is jointly and severally liable for the damages, which means that the person may be liable for all of the damages, reduced by the percentage of negligence attributable to the person seeking recovery. Current law also provides that if two or more parties act in concert,

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those parties are jointly and severally liable for all of the damages resulting from that action, except punitive damages.

This bill eliminates the provision regarding persons acting in concert, the provision that the negligence of the person seeking recovery is compared to each person who was negligent separately, the provision that the liability of a person who is less than 51 percent negligent is limited to that person's percentage of the total negligence, and the provision that the liability of a person whose causal negligence is 51 percent or more is jointly and severally liable. Instead, the bill allows an injured person to recover damages if that person's negligence is not greater than the combined negligence of all of the persons against whom recovery is sought. The bill also provides that any person whose causal negligence is equal to or greater than the causal negligence of the person seeking recovery is jointly and severally liable for the damages awarded to the person seeking recovery.

Currently, the state reimburses counties for the actual expenses paid to interpreters used by the circuit courts. This bill raises the mileage reimbursement rate for interpreters from 20 cents per mile to that paid for state employee travel, which is currently 48.5 cents per mile.

This bill allows the director of state courts to establish a two-year pilot program in the seventh judicial administrative district (Buffalo, Crawford, Grant, Iowa, Jackson, La Crosse, Monroe, Pepin, Pierce, Richland, Trempealeau, and Vernon counties) under which the director pays court interpreters based on a schedule the director creates.

Under current law, when a person is found guilty of a misdemeanor that the person committed before he or she was 21, the sentencing court may order that the record of the conviction be expunged when the person completes his or her sentence. The court must find that expungement would benefit the person and not harm society and the person may not commit another crime or have his or her probation revoked in order to be eligible for expungement.

Under this bill, a person is eligible to have his or her record of a conviction expunged if the conviction is for a misdemeanor or a nonviolent Class H or Class I felony that was committed before the person reached the age of 25 and the other current requirements for expungement are met.

This bill defines a "surviving domestic partner" as a person who was the domestic partner, as defined in the bill, of the decedent at the time of the decedent's death. The bill provides the following inheritance rights for a surviving domestic partner, which are equivalent to the rights of a surviving spouse:

1. The surviving domestic partner of a decedent who dies intestate is entitled to inherit all of the decedent's estate unless the decedent had children that were not also the children of the surviving domestic partner, in which case the surviving domestic partner receives half of the intestate estate.

2. A surviving domestic partner may petition the court for the full property interest the decedent had in a home, subject to payment to the estate under a governing instrument or under intestacy.

3. If a decedent executed his or her will before the registration of the domestic partnership, the surviving domestic partner is entitled to what the share would be