Statutory uses of “shall”

In advance of the program on using “shall” in drafting, you are invited to review the following examples, all but one of which are from the Wisconsin Statutes. Consider whether there are problems with the use of “shall” and think about how you might rewrite the examples or what information you would need before attempting a rewrite.

86.17 (2) Any person who shall wantonly interfere with the free use of the water from any spring or in any creek or stream running across or in any highway shall be guilty of a misdemeanor and be liable to any person damaged thereby for all damages sustained.

157.60 Public easement in cemetery. Any person who shall open or make any highway, town way or private way or shall construct any railroad, turnpike or canal over, through, in or upon such part of any enclosure, being the property of any town, city, village or religious society or of private proprietors, as may be used for the burial of the dead, unless an authority for that purpose shall be specially granted by law or unless the consent of such town, city, village, religious society or private proprietors, respectively, shall be first obtained, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding $300.

165.90 (2) The joint program plan shall identify all of the following:
(e) The person who shall exercise daily supervision and control over law enforcement officers participating in the program.

815.40 (1) Redemption from execution sale of real estate may be made by a person whose right and title was sold or, if the person is dead, by the person's devisee of the premises sold, and if the same shall not have been devised, by the deceased's heirs; or, by any grantee of such person who shall have acquired an absolute title to the premises sold, or to any lot, parcel or portion separately sold.
16.74 (3) Each legislative and judicial officer who is authorized to make purchases or engage services under this section may prescribe the form of requisitions or contracts for the purchases and engagements. Requisitions and contracts shall be maintained by the officer and shall be subject to inspection and copying under subch. II of ch. 19. No such requisition or contract need be filed with the department.

From a model draft: Any information reported publicly as required under this section shall follow a risk adjustment process that is consistent with the National Healthcare Safety Network and use its risk adjustment definitions.

29.736 (5) The requirement of being issued a permit under this section does not apply to civic organizations, organizations operating newspapers or television stations or promoters of sport shows when and in connection with publicly showing or exhibiting, giving demonstrations with or providing fishing of fish for periods of not to exceed 10 days if the fish are placed in a tank or an artificially constructed pond that is a self-contained body of water. Fish used for these purposes shall have been certified by a qualified inspector to meet the fish health standards and requirements promulgated under s. 95.60 (4s) (b).

343.305 (6) (a) Chemical analyses of blood or urine to be considered valid under this section shall have been performed substantially according to methods approved by the laboratory of hygiene and by an individual possessing a valid permit to perform the analyses issued by the department of health services. ... A list of approved laboratories shall be provided to all law enforcement agencies in the state.