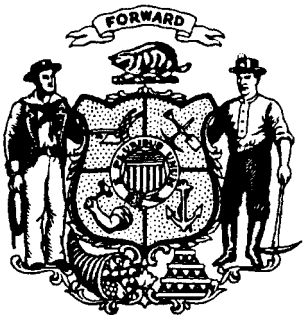
State of Wisconsin



Date of enactment: **May 23, 1996**
1995 Senate Bill 624 Date of publication*: **June 6, 1996**

1995 WISCONSIN ACT 352

AN ACT ***to repeal*** 48.396 (1m), 118.125 (2) (n), 304.06 (1z), 938.18 (2r), 938.38 (5m) and 938.396 (1v); ***to renumber*** 15.197 (23) (title), 15.197 (23) (a) 1., 2., 3., 4., 5., 6. and 7., 15.197 (23) (a) 9., 15.197 (23) (a) 10. and (b) and 48.396 (1g); ***to renumber and amend*** 15.197 (23) (a) (intro.), 15.197 (23) (a) 8., 48.983, 118.127 (3), 938.183 (1m), 938.275 (1), 938.355 (6) (an) and 938.51 (4); ***to amend*** 46.03 (22) (a), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 48.02 (1), 48.02 (2), 48.023 (4), 48.255 (2), 48.396 (2) (ag), 48.396 (2) (am), 48.66 (1), 48.78 (2) (ag), 48.78 (2) (am), 51.42 (3) (e), 103.70 (1), 111.35 (2) (d), 118.125 (1) (a), 118.125 (2) (e), 118.125 (3), 118.125 (5) (b), 118.127 (title), 118.127 (1), 118.127 (2), 118.127 (3), 118.163 (2) (intro.), 118.163 (2) (a), 118.163 (2) (b), 118.163 (2) (c), 118.163 (2) (d), 118.163 (2) (e), 118.163 (2) (f), 118.163 (2m), 134.66 (2) (a), 134.66 (2) (b), 146.81 (5), 301.26 (4) (cm) 1., 302.38 (1), 304.06 (1) (b), 778.25 (1) (a) 4., 895.035 (2m) (a), 895.034 (2m) (b), 938.02 (1), 938.02 (10m), 938.02 (15m), 938.02 (19), 938.02 (20), 938.065 (3) (f), 938.08 (3), 938.18 (7), 938.183 (1) (a), 938.183 (1) (b), 938.183 (2) (a) 1., 938.183 (2) (a) 2., 938.185 (1) (c), 938.208 (1) (intro.), 938.209 (3), 938.22 (1) (b), 938.22 (3) (a), 938.24 (5), 938.245 (2) (a) 5. b., 938.245 (2g), 938.245 (4), 938.245 (5), 938.245 (7) (a), 938.25 (2) (a), 938.25 (2) (b), 938.255 (2), 938.275 (title), 938.29 (1g), 938.299 (1) (ar), 938.299 (1) (b), 938.315 (3), 938.32 (1t) (a) 2., 938.34 (4h) (a), 938.34 (5) (b), 938.34 (5g) (c), 938.34 (8), 938.34 (16), 938.342, 938.343 (2), 938.355 (4), 938.355 (6) (title) and (a), 938.355 (6) (b), 938.355 (6) (d) (intro.), 938.355 (6m) (a), 938.357 (1), 938.357 (3), 938.357 (4) (a), 938.365 (6), 938.371, 938.396 (1), 938.396 (1r), 938.396 (1t), 938.396 (2) (a), 938.396 (2) (ag), 938.396 (2) (am), 938.396 (2m) (a), 938.396 (7) (c), 938.396 (8), 938.51 (1) (c), 938.51 (2), 938.538 (5) (a), 938.59 (1), 938.595, 938.78 (2) (ag), 938.78 (2) (am), 938.78 (2) (d) (intro.), 946.42 (3) (c), 946.44 (2) (c), 946.44 (2) (d), 946.45 (2) (c), 946.45 (2) (d), 970.032 (2) (intro.), 977.076 (2), 990.01 (3) and 990.01 (20); ***to repeal and recreate*** 48.396 (1), 118.125 (2) (d), 938.357 (4) (b) and (c) and 946.42 (1) (a); ***to create*** 15.147 (title), 48.255 (1) (cm), 48.396 (1d), 48.396 (5), 48.42 (1) (d), 51.437 (4r) (b), 103.67 (2) (j), 301.08 (1) (b) 3., 302.365 (1) (a) 3., 938.02 (19r), 938.028, 938.17 (2) (h) 4., 938.18 (2m), 938.183 (1m) (a), 938.183 (1m) (c), 938.208 (6), 938.223, 938.255 (1) (cm), 938.275 (1) (a), 938.275 (1) (c), 938.299 (1) (av), 938.315 (1) (dm), 938.34 (4d), 938.355 (6) (an) 2., 938.396 (1m) (am), 938.396 (5), 938.396 (6), 938.51 (1) (d), 938.51 (4) (b), 938.539, subchapter XVIII (title) of chapter 938 [precedes 938.795], subchapter XX (title) of chapter 938 [precedes 938.983] and 971.31 (13) of the statutes; and ***to affect*** 1995 Wisconsin Act 77, section 9310 (1t); **relating to:** juvenile justice, requiring a petition commencing proceedings under the children's code, including a termination of parental rights proceeding, and a petition commencing proceedings under the juvenile justice code to include a statement of whether the child or juvenile may be subject to the federal Indian child welfare act and granting rule–making authority.

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* Section 991.11, WISCONSIN STATUTES 1993–94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

SECTION 1. 15.147 (title) of the statutes is created to read:

15.147 (title) **Same; councils.**

SECTION 2. 15.197 (23) (title) of the statutes is renumbered 15.147 (1) (title).

SECTION 3. 15.197 (23) (a) (intro.) of the statutes is renumbered 15.147 (1) (a) (intro.) and amended to read:

15.147 **(1)** (a) (intro.) There is created a gang violence prevention council, attached to the department of ~~health and family services~~ corrections under s. 15.03. The council shall consist of the following members:

SECTION 4. 15.197 (23) (a) 1., 2., 3., 4., 5., 6. and 7. of the statutes are renumbered 15.147 (1) (a) 1., 2., 3., 4., 5., 6., and 7.

SECTION 5. 15.197 (23) (a) 8. of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 15.147 (1) (a) 8. and amended to read:

15.147 **(1)** (a) 8. The secretary of ~~health and social services~~ corrections or the secretary's designee, who shall serve as chairperson of the council.

SECTION 6. 15.197 (23) (a) 9. of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 15.147 (1) (a) 9.

SECTION 7. 15.197 (23) (a) 10. and (b) of the statutes are renumbered 15.147 (1) (a) 10. and (b).

SECTION 7m. 46.03 (22) (a) of the statutes is amended to read:

46.03 **(22)** (a) "Community living arrangement" means any of the following facilities licensed or operated, or permitted under the authority of the department: child welfare agencies under s. 48.60, group homes for children under s. 48.02 (7) and community–based residential facilities under s. 50.01; but does not include adult family homes, as defined in s. 50.01, day care centers, nursing homes, general hospitals, special hospitals, prisons and jails. "Community living arrangement" also includes a youth village program as described in s. 118.42.

SECTION 8. 46.215 (1m) of the statutes, as created by 1995 Wisconsin Act 64, is amended to read:

46.215 **(1m)** EXCHANGE OF INFORMATION. Notwithstanding ss. 48.78 (2) (a), 49.45 (4), 49.53 (1m), 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) ~~and~~, 253.07 (3) (c) and 938.78 (2) (a), any subunit of the county department of social services acting under this section may exchange confidential information about a client, without the informed consent of the client, with any other subunit of the same county department of social services or with any person providing services to the client under a purchase of services contract with the county department of social services, if necessary to enable an employe or service provider to perform his or her duties, or to enable the county department of social services to coordinate the delivery of services to the client.

SECTION 9. 46.22 (1) (dm) of the statutes, as created by 1995 Wisconsin Act 64, is amended to read:

46.22 **(1)** (dm) *Exchange of information.* Notwithstanding ss. 48.78 (2) (a), 49.45 (4), 49.53 (1m), 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) ~~and~~, 253.07 (3) (c) and 938.78 (2) (a), any subunit of the county department of social services acting under this subsection may exchange confidential information about a client, without the informed consent of the client, with any other subunit of the same county department of social services or with any person providing services to the client under a purchase of services contract with the county department of social services, if necessary to enable an employe or service provider to perform his or her duties, or to enable the county department of social services to coordinate the delivery of services to the client.

SECTION 10. 46.23 (3) (e) of the statutes, as affected by 1995 Wisconsin Acts 27 and 64, is amended to read:

46.23 **(3)** (e) *Exchange of information.* Notwithstanding ss. 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) ~~and~~, 253.07 (3) (c) and 938.78 (2) (a), any subunit of a county department of human services acting under this section may exchange confidential information about a client, without the informed consent of the client, with any other subunit of the same county department of human services or with any person providing services to the client under a purchase of services contract with the county department of human services, if necessary to enable an employe or service provider to perform his or her duties, or to enable the county department of human services to coordinate the delivery of services to the client.

SECTION 10m. 48.02 (1) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

48.02 **(1)** "Adult" means a person who is 18 years of age or older, except that for purposes of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, "adult" means a person who has attained 17 years of age.

SECTION 10p. 48.02 (2) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

48.02 **(2)** "Child" means a person who is less than 18 years of age, except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, "child" does not include a person who has attained 17 years of age.

SECTION 11. 48.023 (4) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

48.023 **(4)** The rights and responsibilities of legal custody except when legal custody has been vested in another person or when the child is under the supervision of the department of corrections under s. 938.183, 938.34 (4h), (4m) or (4n) or 938.357 (4) or the supervision of a county department under s. 938.34 (4d) or (4n).

SECTION 11m. 48.255 (1) (cm) of the statutes is created to read:

48.255 **(1)** (cm) Whether the child may be subject to the federal Indian child welfare act, 25 USC 1911 to 1963.

SECTION 11p. 48.255 (2) of the statutes is amended to read:

48.255 **(2)** If any of the facts in sub. (1) (a)~~, (b) or (c)~~ to (cm) are not known or cannot be ascertained by the petitioner, the petition shall so state.

SECTION 12. 48.396 (1) of the statutes, as affected by 1995 Wisconsin Acts 77 and .... (Assembly Bill 609), section 2, is repealed and recreated to read:

48.396 **(1)** Law enforcement officers' records of children shall be kept separate from records of adults. Law enforcement officers' records of children shall not be open to inspection or their contents disclosed except under sub. (1b) or (1d) or s. 48.293 or by order of the court. This subsection does not apply to the representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child involved, to the confidential exchange of information between the police and officials of the school attended by the child or other law enforcement or social welfare agencies or to children 10 years of age or older who are subject to the jurisdiction of the court of criminal jurisdiction.

SECTION 13. 48.396 (1d) of the statutes is created to read:

48.396 **(1d)** Upon the written permission of the parent, guardian or legal custodian of a child who is the subject of a law enforcement officer's report or upon the written permission of the child, if 14 years of age or over, a law enforcement agency may, subject to official agency policy, make available to the person named in the permission any reports specifically identified by the parent, guardian, legal custodian or child in the written permission.

SECTION 14. 48.396 (1g) of the statutes, as created by 1995 Wisconsin Act 77, is renumbered 48.396 (1b).

SECTION 15. 48.396 (1m) of the statutes, as affected by 1995 Wisconsin Acts 77 and .... (Assembly Bill 609), is repealed.

SECTION 15m. 48.396 (2) (ag) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

48.396 **(2)** (ag) Upon request of the parent, guardian or legal custodian of a child who is the subject of a record of a court specified in par. (a), or upon request of the child, if 14 years of age or over, the court shall open for inspection by the parent, guardian, legal custodian or child the records of the court relating to that child, unless the court finds, after due notice and hearing, that inspection of those records by the parent, guardian or legal custodian would result in imminent danger to ~~the child~~ anyone.

SECTION 16. 48.396 (2) (am) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

48.396 **(2)** (am) Upon the written permission of the parent, guardian or legal custodian of a child who is the subject of a record of a court specified in par. (a), the court shall open for inspection by the person named in the permission any records specifically identified by the parent, guardian, legal custodian or child in the written permission, unless the court finds, after due notice and hearing, that inspection of those records by the person named in the permission would result in imminent danger to anyone.

SECTION 16m. 48.396 (5) of the statutes is created to read:

48.396 **(5)** (a) Any person who is denied access to a record under sub. (1), (1b) or (1d) may petition the court to order the disclosure of the records governed by the applicable subsection. The petition shall be in writing and shall describe as specifically as possible all of the following:

1. The type of information sought.
2. The reason the information is being sought.
3. The basis for the petitioner's belief that the information is contained in the records.
4. The relevance of the information sought to the petitioner's reason for seeking the information.
5. The petitioner's efforts to obtain the information from other sources.

(b) The court shall notify the child, the child's counsel, the child's parents and appropriate law enforcement agencies in writing of the petition. If any person notified objects to the disclosure, the court may hold a hearing to take evidence relating to the petitioner's need for the disclosure.

(c) The court shall make an inspection, which may be in camera, of the child's records. If the court determines that the information sought is for good cause and that it cannot be obtained with reasonable effort from other sources, it shall then determine whether the petitioner's need for the information outweighs society's interest in protecting its confidentiality. In making this determination, the court shall balance the petitioner's interest in obtaining access to the record against the child's interest in avoiding the stigma that might result from disclosure.

(d) If the court determines that disclosure is warranted, it shall order the disclosure of only as much information as is necessary to meet the petitioner's need for the information.

(e) The court shall record the reasons for its decision to disclose or not to disclose the child's records. All records related to a decision under this subsection are confidential.

SECTION 16p. 48.42 (1) (d) of the statutes is created to read:

48.42 (1) (d) A statement of whether the child may be subject to the federal Indian child welfare act, 25 USC 1911 to 1963.

SECTION 17. 48.66 (1) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

48.66 (1) The department shall license and supervise child welfare agencies, as required by s. 48.60, group homes, as required by s. 48.625, shelter care facilities, as required by s. 48.48 and day care centers, as required by s. 48.65. The department may license foster homes or treatment foster homes, as provided by s. 48.62, and may license and supervise county departments in accordance with the procedures specified in this section and in ss. 48.67 to 48.74. The department of corrections may license a child welfare agency to operate a secured child caring institution, as defined in s. 938.02 (15g), for holding in secure custody children who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.34 (4d), (4h) or (4m) and referred to the child welfare agency by the court or the department of corrections and to provide supervision, care and maintenance for those children.

SECTION 18. 48.78 (2) (ag) of the statutes, as created by 1995 Wisconsin Act 77 is amended to read:

48.78 (2) (ag) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of the parent, guardian or legal custodian of the child who is the subject of the record or upon the request of the child, if 14 years of age or over, to the parent, guardian, legal custodian or child, unless the agency determines that inspection of those records by the child, parent, guardian or legal custodian would result in imminent danger to anyone.

SECTION 19. 48.78 (2) (am) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

48.78 (2) (am) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian or legal custodian of the child who is the subject of the record or upon the written permission of the child, if 14 years of age or over, to the person named in the permission if the parent, guardian, legal custodian or child specifically identifies the record in the written permission, unless the agency determines that inspection of those records by the person named in the permission would result in imminent danger to anyone.

SECTION 20. 48.983 of the statutes, is renumbered 938.983, and 938.983 (2) (intro.) and (3), as renumbered, are amended to read:

938.983 (2) (intro.) Except as provided in sub. (3), no ~~child~~ person under 18 years of age may do any of the following:

(3) A ~~child~~ person under 18 years of age may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under s. 134.65 (1).

SECTION 21. 51.42 (3) (e) of the statutes, as affected by 1995 Wisconsin Acts 27 and 64, is amended to read:

51.42 (3) (e) *Exchange of information.* Notwithstanding ss. 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) ~~and~~, 253.07 (3) (c) and 938.78 (2) (a), any subunit of a county department of community programs acting under this section may exchange confidential information about a client, without the informed consent of the client, with any other subunit of the same county department of community programs or with any person providing services to the client under a purchase of services contract with the county department of community programs, if necessary to enable an employe or service provider to perform his or her duties, or to enable the county department of community programs to coordinate the delivery of services to the client.

SECTION 22. 51.437 (4r) (b) of the statutes, as created by 1995 Wisconsin Act 64, is amended to read:

51.437 (4r) (b) Notwithstanding ss. 48.78 (2) (a), 49.45 (4), ~~49.53 (1m)~~ 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) ~~and~~, 253.07 (3) (c) and 938.78 (2) (a), any subunit of the county department of developmental disabilities services acting under this section may exchange confidential information about a client, without the informed consent of the client, with any other subunit of the same county department of developmental disabilities services or with any person providing services to the client under a purchase of services contract with the county department of developmental disabilities services, if necessary to enable an employe or service provider to perform his or her duties, or to enable the county department of developmental disabilities services to coordinate the delivery of services to the client.

SECTION 23. 103.67 (2) (j) of the statutes is created to read:

103.67 (2) (j) Minors under 14 years of age may be employed as participants in a restitution project under s. 938.245 (2) (a) 5., 938.32 (1t) (a), 938.34 (5) or 938.345 or a supervised work program or other community service work under s. 938.245 (2) (a) 6., 938.32 (1t) (b), 938.34 (5g), 938.343 (3) or 938.345.

SECTION 24. 103.70 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

103.70 (1) Except as otherwise provided in sub. (2) and in ss. 103.21 to 103.31 ~~and~~, 103.78, 938.245 (2) (a) 5. b., 938.32 (1t) (a) 2. and 938.34 (5) (b) and (5g) (c), and as may be provided under s. 103.79, a minor, unless indentured as an apprentice in accordance with s. 106.01, or unless 12 years and over and engaged in agricultural pursuits, or unless 14 years and over and enrolled in a youth apprenticeship program under s. 106.13, shall not be employed or permitted to work at any gainful occupa-

tion or employment unless there is first obtained from the department or a permit officer a written permit authorizing the employment of the minor within those periods of time stated in the permit, which shall not exceed the maximum hours prescribed by law.

SECTION 25. 111.35 (2) (d) of the statutes is amended to read:

111.35 **(2)** (d) Constitutes a violation of s. ~~48.983~~ 938.983 (2).

SECTION 26. 118.125 (1) (a) of the statutes, as affected by 1995 Wisconsin Acts 77 and .... (Assembly Bill 609), is amended to read:

118.125 **(1)** (a) "Behavioral records" means those pupil records which include psychological tests, personality evaluations, records of conversations, any written statement relating specifically to an individual pupil's behavior, tests relating specifically to achievement or measurement of ability, the pupil's physical health records other than his or her immunization records or any lead screening records required under s. 254.162, law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1m) ~~(a)~~ and any other pupil records that are not progress records.

SECTION 27. 118.125 (2) (d) of the statutes, as affected by 1995 Wisconsin Acts 77 and .... (Assembly Bill 609), is repealed and recreated to read:

118.125 **(2)** (d) Pupil records shall be made available to persons employed by the school district which the pupil attends who are required by the department under s. 115.28 (7) to hold a license and other school district officials who have been determined by the school board to have legitimate educational interests, including safety interests, in the pupil records. Law enforcement officers' records obtained under s. 938.396 (1m) (a) shall be made available under this paragraph for the purposes of s. 118.127 (2) to those employes of the school district who have been designated by the school board to receive that information for the purpose of providing alcohol and other drug abuse programs. Law enforcement officers' records obtained under s. 938.396 (1m) (am) and (b) shall be made available under this paragraph for the purposes of s. 118.127 (2m) and (3) to persons employed by the school district which the pupil attends who are required by the department under s. 115.28 (7) to hold a license, to other school district officials who have been determined by the school board to have legitimate educational interests, including safety interests, in those records and to those employes of the school district who have been designated by the school board to receive that information for the purpose of providing treatment programs. A school board member or an employe of a school district may not be held personally liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the member or employe acted with actual malice in failing to disclose the information. A school district may not be held liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the school district or its agent acted with gross negligence or with reckless, wanton or intentional misconduct in failing to disclose the information.

SECTION 28. 118.125 (2) (e) of the statutes, as affected by 1995 Wisconsin Acts 77 and .... (Assembly Bill 609), is amended to read:

118.125 **(2)** (e) Upon the written permission of an adult pupil, or the parent or guardian of a minor pupil, the school shall make available to the person named in the permission the pupil's progress records or such portions of the pupil's behavioral records as determined by the person authorizing the release. Law enforcement officers' records obtained under s. 938.396 (1m) ~~(a)~~ may not be made available under this paragraph unless specifically identified by the adult pupil or by the parent or guardian of a minor pupil in the written permission.

SECTION 28m. 118.125 (2) (n) of the statutes, as created by 1995 Wisconsin Act 77, is repealed.

SECTION 29. 118.125 (3) of the statutes, as affected by 1995 Wisconsin Acts 77 and .... (Assembly bill 609), is amended to read:

118.125 **(3)** MAINTENANCE OF RECORDS. Each school board shall adopt rules in writing specifying the content of pupil records and the time during which pupil records shall be maintained. No behavioral records may be maintained for more than one year after the pupil ceases to be enrolled in the school, unless the pupil specifies in writing that his or her behavioral records may be maintained for a longer period. A pupil's progress records shall be maintained for at least 5 years after the pupil ceases to be enrolled in the school. A school board may maintain the records on microfilm, optical disk or in electronic format if authorized under s. 19.21 (4) (c), or in such other form as the school board deems appropriate. A school board shall maintain law enforcement officers' records and other information obtained under s. 938.396 (1m) ~~(a)~~ separately from a pupil's other pupil records. Rules adopted under this subsection shall be published by the school board as a class 1 notice under ch. 985.

SECTION 30. 118.125 (5) (b) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

118.125 **(5)** (b) Law enforcement officers' records and other information obtained under s. 938.396 (1m) and records of the court assigned to exercise jurisdiction under chs. 48 and 938 obtained under s. 938.396 (7) shall not be used as the sole basis for expelling or suspending a pupil.

SECTION 31. 118.127 (title) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

118.127 (title) **Law enforcement ~~officers' records~~ agency information.**

SECTION 32. 118.127 (1) of the statutes, as affected by 1995 Wisconsin Act 77 and .... (Assembly Bill 609), is amended to read:

118.127 **(1)** Upon receipt of information from a law enforcement ~~officers' records obtained~~ agency under s. 938.396 (1m) ~~(a)~~, the school district administrator shall notify any pupil named in the ~~records~~ information, and the parent or guardian of any minor pupil named in the ~~records~~ information, of the information.

SECTION 33. 118.127 (2) of the statutes, as affected by 1995 Wisconsin Acts 77 and .... (Assembly Bill 609), is amended to read:

118.127 **(2)** A school district shall use information from law enforcement officers' records obtained under s. 938.396 (1m) (a) ~~1.~~ for the purpose of providing alcohol and other drug abuse programs for pupils enrolled in the school district. A school district shall not use law enforcement officers' records obtained under s. 938.396 (1m) (a) as the sole basis for expelling or suspending a pupil.

SECTION 34. 118.127 (3) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

118.127 **(3)** A school district shall use information from law enforcement officers' records obtained under s. 938.396 (1m) (b) for legitimate educational ~~or safety~~ purposes, including safety purposes, and for the purpose of providing treatment programs for pupils enrolled in the school district. A school district shall not use law enforcement officers' records obtained under s. 938.396 (1m) (b) as the sole basis for expelling or suspending a pupil.

SECTION 35. 118.127 (3) of the statutes, as created by 1995 Wisconsin Act .... (Assembly Bill 609), is renumbered 118.127 (2m) and amended to read:

118.127 **(2m)** A school district may disclose information from ~~peace~~ law enforcement officers' records obtained under s. ~~48.396 (1m) (a) 2.~~ 938.396 (1m) (am) relating to a pupil of the school district as provided in s. 118.125 (2) (d). A school district may disclose information from peace officers' records obtained under s. ~~48.396 (1m) (a) 2.~~ 938.396 (1m) (am) relating to a person who is not a pupil of the school district to any person employed by the school district who is required by the department under s. 115.28 (7) to hold a license and to other school district officials who have been determined by the school board to have legitimate safety interests in that information. A school district shall not use law enforcement officers' records obtained under s. 938.396 (1m) (am) as the sole basis for expelling or suspending a pupil.

SECTION 36. 118.163 (2) (intro.) of the statutes is amended to read:

118.163 **(2)** (intro.) A county, city, village or town may enact an ordinance prohibiting a ~~child~~ person under 18 years of age from being a habitual truant. The ordinance shall provide which of the following dispositions are available to the court:

SECTION 37. 118.163 (2) (a) of the statutes is amended to read:

118.163 **(2)** (a) Suspension of the ~~child's~~ person's operating privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 90 days. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.

SECTION 38. 118.163 (2) (b) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

118.163 **(2)** (b) An order for the ~~child~~ person to participate in counseling or a supervised work program or other community service work under s. 938.34 (5g).

SECTION 39. 118.163 (2) (c) of the statutes is amended to read:

118.163 **(2)** (c) An order for the ~~child~~ person to remain at home except during hours in which the ~~child~~ person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a ~~child~~ person to leave his or her home if the ~~child~~ person is accompanied by a parent or guardian.

SECTION 40. 118.163 (2) (d) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

118.163 **(2)** (d) An order for the ~~child~~ person to attend an educational program under s. 938.34 (7d).

SECTION 41. 118.163 (2) (e) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

118.163 **(2)** (e) An order for the department of industry, labor and human relations to revoke, under s. 103.72, a permit under s. 103.70 authorizing the employment of the ~~child~~ person.

SECTION 42. 118.163 (2) (f) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

118.163 **(2)** (f) An order for the ~~juvenile~~ person to be placed in a teen court program as described in s. 938.342 (1) (f).

SECTION 43. 118.163 (2m) of the statutes is amended to read:

118.163 **(2m)** A county, city, village or town may enact an ordinance permitting a court to suspend the operating privilege, as defined in s. 340.01 (40), of a ~~child~~ person who is at least 16 years of age but less than 18 years of age and is a dropout. The ordinance shall provide that the court may suspend the ~~child's~~ person's operating privilege, as defined in s. 340.01 (40), until the ~~child~~ person reaches the age of 18. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.

SECTION 44. 134.66 (2) (a) of the statutes is amended to read:

134.66 **(2)** (a) No retailer, manufacturer or distributor may sell or give cigarettes or tobacco products to any person under the age of 18, except as provided in s. ~~48.983~~ 938.983 (3). A vending machine operator is not liable un-

der this paragraph for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.

SECTION 45. 134.66 (2) (b) of the statutes is amended to read:

134.66 **(2)** (b) 1. A retailer shall post a sign in areas within his or her premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of 18 is unlawful under this section and s. ~~48.983~~ 938.983.

2. A vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machines stating that the purchase of any cigarette or tobacco product by a person under the age of 18 is unlawful under s. ~~48.983~~ 938.983 and that the purchaser is subject to a forfeiture of not to exceed $25.

SECTION 46. 146.81 (5) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

146.81 **(5)** "Person authorized by the patient" means the parent, guardian or legal custodian of a minor patient, as defined in s. 48.02 (8) and (11), the person vested with supervision of the child under s. 938.183 or 938.34 (4d), (4h), (4m) or (4n), the guardian of a patient adjudged incompetent, as defined in s. 880.01 (3) and (4), the personal representative or spouse of a deceased patient, any person authorized in writing by the patient or a health care agent designated by the patient as a principal under ch. 155 if the patient has been found to be incapacitated under s. 155.05 (2), except as limited by the power of attorney for health care instrument. If no spouse survives a deceased patient, "person authorized by the patient" also means an adult member of the deceased patient's immediate family, as defined in s. 632.895 (1) (d). A court may appoint a temporary guardian for a patient believed incompetent to consent to the release of records under this section as the person authorized by the patient to decide upon the release of records, if no guardian has been appointed for the patient.

SECTION 47. 301.08 (1) (b) 3. of the statutes is created to read:

301.08 **(1)** (b) 3. Contract with public, private or voluntary agencies for the supervision, maintenance and operation of secured correctional facilities, as defined in s. 938.02 (15m), child caring institutions, as defined in s. 938.02 (2c), and secured child caring institutions, as defined in s. 938.02 (15g), for the placement of juveniles who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.34 (4d), (4h) or (4m). The department may designate a secured correctional facility, child caring institution or a secured child caring institution contracted for under this subdivision as a Type 2 secured correctional facility, as defined in s. 938.02 (20), and may designate a child caring institution or secured child caring institution contracted for under this subdivision as a Type 2 child caring institution, as defined in s. 938.02 (19r).

SECTION 48. 301.26 (4) (cm) 1. of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

301.26 **(4)** (cm) 1. Notwithstanding pars. (a), (b) and (bm), the department shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the appropriations under s. 20.410 (3) (hm), (ho) and (hr) for the purpose of reimbursing juvenile correctional institutions, secured child caring institutions, as defined in s. 938.02 (15g), alternate care providers, aftercare supervision providers and corrective sanctions supervision providers for costs incurred beginning on July 1, 1996, for the care of any child 14 years of age or over who has been placed in a juvenile correctional facility based on a delinquent act that is a violation of s. 939.31, 939.32 (1) (a), ~~940.01, 940.02,~~ 940.03, ~~940.05,~~ 940.21, 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m) or (1r), 943.32 (2), 948.02 (1), 948.025, 948.30 (2), 948.35 (1) (b) or 948.36 and for the care of any child 10 years of age or over who has been placed in a juvenile correctional institution or a secured child caring institution for attempting or committing a violation of s. 940.01 or for committing a violation of s. 940.02 or 940.05.

SECTION 48m. 302.365 (1) (a) 3. of the statutes is created to read:

302.365 **(1)** (a) 3. Policies and procedures for providing educational programming for prisoners under 18 years of age. The rules shall establish functional objectives for educational programming for those prisoners, but may not require jails or houses of correction to use only one particular method to meet the objectives.

SECTION 48p. 302.38 (1) of the statutes, as affected by 1995 Wisconsin Act 43, is amended to read:

302.38 **(1)** If a prisoner needs medical or hospital care or is intoxicated or incapacitated by alcohol the sheriff, superintendent or other keeper of the jail or house of correction shall provide appropriate care or treatment and may transfer the prisoner to a hospital or to an approved treatment facility under s. 51.45 (2) (b) and (c), making provision for the security of the prisoner. The sheriff, superintendent or other keeper may provide appropriate care or treatment under this subsection for a prisoner under 18 years of age and may transfer a prisoner under 18 years of age under this subsection without obtaining the consent of the prisoner's parent, guardian or legal custodian. The sheriff, superintendent or other keeper may charge a prisoner for the costs of providing medical care to the prisoner while he or she is in the jail or house of correction. If the sheriff or other keeper maintains a personal money account for an inmate's use for payment for items from canteen, vending or similar services, the sheriff or other keeper may make deductions from the account to pay for the charges under this subsection.

SECTION 49. 304.06 (1) (b) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

304.06 **(1)** (b) Except as provided in sub. (1m) or s. 161.49 (2), 302.045 (3) or 973.0135, the parole commission may parole an inmate of the Wisconsin state prisons or any felon or any person serving at least one year or more in a county house of correction or a county reforestation camp organized under s. 303.07, when he or she has served 25% of the sentence imposed for the offense, or 6 months, whichever is greater. ~~The parole commission may parole a participant in the serious juvenile offender program under s. 938.538 when he or she has participated in that program for 2 years.~~ Except as provided in s. 939.62 (2m) or 973.014, the parole commission may parole an inmate serving a life term when he or she has served 20 years, as modified by the formula under s. 302.11 (1) and subject to extension using the formulas under s. 302.11 (2). The person serving the life term shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The secretary may grant special action parole releases under s. 304.02. The department or the parole commission shall not provide any convicted offender or other person sentenced to the department's custody any parole eligibility or evaluation until the person has been confined at least 60 days following sentencing.

SECTION 50. 304.06 (1z) of the statutes, as created by 1995 Wisconsin Act 77, is repealed.

SECTION 51. 778.25 (1) (a) 4. of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

778.25 **(1)** (a) 4. Under s. ~~48.983~~ 938.983 brought against an adult in circuit court or against a minor in the court assigned to exercise jurisdiction under chs. 48 and 938.

SECTION 52. 895.035 (2m) (a) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

895.035 **(2m)** (a) If a child fails to pay restitution under s. 938.245, 938.32, 938.34 (5), 938.343 (4) or 938.345 as ordered by a court assigned to exercise jurisdiction under chs. 48 and 938 or a municipal court or as agreed to in a deferred prosecution agreement or if it appears likely that the child will not pay restitution as ordered or agreed to, the victim, the victim's insurer, the representative of the public interest under s. 938.09 or the agency, as defined in s. 938.38 (1) (a), supervising the child may petition the court assigned to exercise jurisdiction under chs. 48 and 938 to order that the amount of restitution unpaid by the child be entered and docketed as a judgment against the child and the parent with custody of the child and in favor of the victim or the victim's insurer, or both. A petition under this paragraph may be filed after the expiration of the deferred prosecution agreement, consent decree, dispositional order or sentence under which the restitution is payable, but no later than one year after the expiration of the deferred prosecution agreement, consent decree, dispositional order or sentence or any extension of the consent decree, dispositional order or sentence. A judgment rendered under this paragraph does not bar the victim or the victim's insurer, or both, from commencing another action seeking compensation from the child or the parent, or both, if the amount of restitution ordered under this paragraph is less than the total amount of damages claimed by the victim or the victim's insurer.

SECTION 53. 895.034 (2m) (b) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

895.035 **(2m)** (b) If a child fails to pay a forfeiture as ordered by a court assigned to exercise jurisdiction under chs. 48 and 938 or a municipal court or if it appears likely that the child will not pay the forfeiture as ordered, the representative of the public interest under s. 938.09, the agency, as defined in s. 938.38 (1) (a), supervising the child or the law enforcement agency that issued the citation to the child may petition the court assigned to exercise jurisdiction under chs. 48 and 938 to order that the amount of the forfeiture unpaid by the child be entered and docketed as a judgment against the child and the parent with custody of the child and in favor of the county or appropriate municipality. A petition under this paragraph may be filed after the expiration of the dispositional order or sentence under which the forfeiture is payable, but no later than one year after the expiration of the dispositional order or sentence or any extension of the dispositional order or sentence.

SECTION 53m. 938.02 (1) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.02 **(1)** "Adult" means a person who is 18 years of age or older, except that for purposes of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, "adult" means a person who has attained 17 years of age.

SECTION 53p. 938.02 (10m) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.02 **(10m)** "Juvenile" means a person who is less than 18 years of age, except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, "juvenile" does not include a person who has attained 17 years of age.

SECTION 54. 938.02 (15m) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.02 **(15m)** "Secured correctional facility" means a correctional institution operated or contracted for by the department for holding in secure custody persons adjudged delinquent. "Secured correctional facility" includes the facility at which the juvenile boot camp program under s. 938.532 is operated~~,~~ and a facility authorized under s. 938.533 (3) (b) ~~and a facility authorized under s.~~, 938.538 (4) (b) or 938.539 (5).

SECTION 55. 938.02 (19) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.02 **(19)** "Type 1 secured correctional facility" means a secured correctional facility, but excludes any correctional institution that meets the criteria under sub. (15m) solely because of its status under s. 938.533 (3) (b) ~~or~~, 938.538 (4) (b) or 938.539 (5).

SECTION 56. 938.02 (19r) of the statutes is created to read:

938.02 **(19r)** "Type 2 child caring institution" means a child caring institution that is designated by the department to provide care and maintenance for juveniles who have been placed in the child caring institution under the supervision of a county department under s. 938.34 (4d).

SECTION 57. 938.02 (20) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.02 **(20)** "Type 2 secured correctional facility" means a secured correctional facility that meets the criteria under sub. (15m) solely because of its status under s. 938.533 (3) (b) ~~or~~, 938.538 (4) (b) or 938.539 (5).

SECTION 58. 938.028 of the statutes is created to read:

938.028 Custody of Indian children. The Indian child welfare act, 25 USC 1911 to 1963, supercedes the provisions of this chapter in any child custody proceeding governed by that act.

SECTION 59. 938.065 (3) (f) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.065 **(3)** (f) Make any dispositional order under s. 938.34 (4d), (4h) or (4m).

SECTION 60. 938.08 (3) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.08 **(3)** (a) In addition to the law enforcement authority specified in sub. (2), department personnel designated by the department and personnel of an agency contracted with under s. 301.08 (1) (b) 3. designated by agreement between the agency and the department have the power of law enforcement authorities to take a juvenile into physical custody under the following conditions:

1. If they are in prompt pursuit of a juvenile who has run away from a secured correctional facility or ~~secured~~ child caring institution.

2. If the juvenile has failed to return to a secured correctional facility or ~~secured~~ child caring institution after any authorized absence.

(b) A juvenile taken into custody under par. (a) may be returned directly to the secured correctional facility or ~~secured~~ child caring institution and shall have a hearing regarding placement in a disciplinary cottage or in disciplinary status in accordance with ch. 227.

SECTION 61. 938.17 (2) (h) 4. of the statutes is created to read:

938.17 **(2)** (h) 4. If the court assigned to exercise jurisdiction under this chapter and ch. 48 imposes the sanction specified in s. 938.355 (6) (d) 1. or home detention with monitoring by an electronic monitoring system as specified in s. 938.355 (6) (d) 3., on a petition described in subd. 1., that court shall order the municipality of the municipal court that filed the petition to pay to the county the cost of providing the sanction imposed under s. 938.355 (6) (d) 1. or 3.

SECTION 62. 938.18 (2m) of the statutes is created to read:

938.18 **(2m)** The court may designate an agency, as defined in s. 938.38 (1) (a), to submit a report analyzing the criteria specified in sub. (5). The agency shall file the report with the court and the court shall cause copies of the report to be given to the juvenile, any parent, guardian or legal custodian of the juvenile and counsel at least 3 days before the hearing. The court may rely on facts stated in the report in making its findings with respect to the criteria under sub. (5).

SECTION 63. 938.18 (2r) of the statutes, as created by 1995 Wisconsin Act 77, is repealed.

SECTION 64. 938.18 (7) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.18 **(7)** If the juvenile absconds and does not appear at the waiver hearing, the court may proceed with the waiver hearing as provided in subs. (4) to (6) in the juvenile's absence. If the waiver is granted, the juvenile may contest that waiver when the juvenile is apprehended by showing the court of criminal jurisdiction good cause for his or her failure to appear. If the court of criminal jurisdiction finds good cause for the juvenile's failure to appear, that court shall transfer jurisdiction to the court assigned to exercise jurisdiction under this chapter and ch. 48 for the purpose of holding the waiver hearing.

SECTION 65. 938.183 (1) (a) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.183 **(1)** (a) A juvenile who has been adjudicated delinquent and who is alleged to have violated s. 940.20 (1) or 946.43 while placed in a secured correctional facility, a secure detention facility, a secured child caring institution or a secured adolescent treatment unit under s. 46.043 or who has been adjudicated delinquent and ~~has~~ who is alleged to have committed a violation of s. 940.20 (2m).

SECTION 66. 938.183 (1) (b) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.183 **(1)** (b) A juvenile who is alleged to have violated any state criminal law if the juvenile has been convicted of a previous violation following waiver of jurisdiction under s. 48.18, 1993 stats., or s. 938.18 by the court assigned to exercise jurisdiction under this chapter and ch. 48 or if the court assigned to exercise jurisdiction under this chapter and ch. 48 has waived its jurisdiction over the juvenile for a previous violation and criminal proceedings on that previous violation are still pending.

SECTION 67. 938.183 (1m) of the statutes, as created by 1995 Wisconsin Act 77, is renumbered 938.183 (1m) (intro.) and amended to read:

938.183 **(1m)** (intro.) Notwithstanding subchs. IV to VI, a juvenile described in sub. (1) is subject to the procedures specified in chs. 967 to 979 and the criminal penal-

ties provided for the crime that the juvenile is alleged to have committed~~, unless~~ except as follows:

(b) If a court of criminal jurisdiction transfers jurisdiction under s. 970.032 or 971.31 (13) to a court assigned to exercise jurisdiction under this chapter and ch. 48, the juvenile is subject to the procedures and dispositions specified in subch. IV to VI.

SECTION 68. 938.183 (1m) (a) of the statutes is created to read:

938.183 **(1m)** (a) If the juvenile is under 15 years of age, the juvenile may be held in secure custody only in a secure detention facility or in the juvenile portion of a county jail.

SECTION 69. 938.183 (1m) (c) of the statutes is created to read:

938.183 **(1m)** (c) If the juvenile is convicted of a lesser offense and if any of the conditions specified in s. 938.183 (2) (a) 1. or 2. applies, the court of criminal jurisdiction may impose a criminal penalty or a disposition specified in s. 938.34.

SECTION 69m. 938.183 (2) (a) 1. of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.183 **(2)** (a) 1. The court of criminal jurisdiction convicts the juvenile of a lesser offense that is not an attempt to violate s. 940.01, that is not a violation of s. 940.02 or 940.05 and that is not an offense for which the court assigned to exercise jurisdiction under this chapter and ch. 48 may waive its jurisdiction over the juvenile under s. 938.18.

SECTION 69p. 938.183 (2) (a) 2. of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.183 **(2)** (a) 2. The court of criminal jurisdiction convicts the juvenile of a lesser offense that is an attempt to violate s. 940.01, that is a violation of s. 940.02 or 940.05 or that is an offense for which the court assigned to exercise jurisdiction under this chapter and ch. 48 may waive its jurisdiction over the juvenile under s. 938.18 and the court of criminal jurisdiction, after considering the criteria specified in s. 938.18 (5), determines by clear and convincing evidence that it would be in the best interests of the juvenile and of the public to impose a disposition specified in s. 938.34.

SECTION 70. 938.185 (1) (c) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.185 **(1)** (c) In the case of a violation of a state law or a county, town or municipal ordinance, the county where the violation occurred, except that in that case the court of the county where the violation occurred may, after the juvenile is adjudged delinquent, transfer the proceeding to the county where the juvenile resides for disposition, if the court of the county of residence agrees to that transfer ~~and the transferring court agrees to that disposition~~.

SECTION 71. 938.208 (1) (intro.) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.208 **(1)** (intro.) Probable cause exists to believe that the juvenile has committed a delinquent act and either presents a substantial risk of physical harm to another person or a substantial risk of running away so as to be unavailable for a court hearing or a revocation hearing for juveniles on aftercare supervision. For juveniles ~~on aftercare supervision~~ who have been adjudged delinquent, the delinquent act referred to in this section may be the act for which the juvenile was adjudged delinquent. If the intake worker determines that any of the following conditions applies, the juvenile is considered to present a substantial risk of physical harm to another person:

SECTION 72. 938.208 (6) of the statutes is created to read:

938.208 **(6)** Probable cause exists to believe that the juvenile is subject to the jurisdiction of the court of criminal jurisdiction under s. 938.183 (1) and is under 15 years of age.

SECTION 73. 938.209 (3) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.209 **(3)** The restrictions of this section do not apply to the use of jail for a juvenile who has been waived to adult court under s. 938.18 or who is under the jurisdiction of an adult court under s. 938.183, unless the juvenile is under the jurisdiction of an adult court under s. 938.183 (1) and is under 15 years of age.

SECTION 73p. 938.22 (1) (b) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.22 **(1)** (b) Subject to sub. (3) (ar), in counties having a population of less than 500,000, the nonjudicial operational policies of the secure detention facility or shelter care facility shall be determined by the ~~judge of the court assigned to exercise jurisdiction under this chapter and ch. 48 with the approval of the chief judge of the judicial administrative district~~ county board of supervisors or, in the case of a secure detention facility or shelter care facility established by 2 or more counties, by ~~a committee of the judges of the courts in the participating counties assigned to exercise jurisdiction under this chapter and ch. 48 with the approval of the chief judge of the judicial administrative district~~ the county boards of supervisors for the 2 or more counties jointly. Those policies shall be executed by the superintendent appointed under sub. (3) (a).

SECTION 73r. 938.22 (3) (a) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.22 **(3)** (a) In counties having a population of less than 500,000, public secure detention facilities and public shelter care facilities shall be in the charge of a superintendent. The ~~judge of the court assigned to exercise jurisdiction under this chapter and ch. 48 with the approval of the chief judge of the judicial administrative district~~ county board of supervisors or, where 2 or more counties operate joint public secure detention facilities or public shelter care facilities, the ~~committee of judges of the~~

~~courts assigned to exercise jurisdiction under this chapter and ch. 48 with the approval of the chief judge of the judicial administrative district~~ county boards of supervisors for the 2 or more counties jointly shall appoint the superintendent and other necessary personnel for the care and education of the juveniles in secure detention or shelter care facilities, subject to par. (am) and to civil service regulations in counties having civil service.

SECTION 73rm. 938.223 of the statutes is created to read:

938.223 Contracts with Minnesota counties for secure detention facility services. **(1)** The county board of supervisors of any county may contract with one or more counties in Minnesota that operate a secure detention facility for the use of one or more Minnesota secure detention facilities for the holding of juveniles who meet the criteria under s. 938.208.

(2) (a) A contract under sub. (1) shall require all of the following:

1. That the Minnesota secure detention facility meet or exceed the minimum requirements for the approval and operation of a Wisconsin secure detention facility established by the department by rules promulgated under s. 938.22 (2) (a) and that the Minnesota secure detention facility be approved by the department under s. 301.36.

2. That the Minnesota secure detention facility provide educational programming, health care and other care that is equivalent to that which a juvenile would receive if held in a Wisconsin secure detention facility.

(b) In addition to the requirements under par. (a), a contract under sub. (1) shall include all of the following:

1. The rates to be paid by the Wisconsin county for holding a juvenile in the Minnesota secure detention facility and the charges to be paid by the Wisconsin county for any extraordinary medical and dental expenses and any programming provided for a juvenile who is held in the Minnesota secure detention facility.

2. An agreement that the Wisconsin county retains jurisdiction over a juvenile who is held in the Minnesota secure detention facility.

3. An agreement that the Minnesota secure detention facility is subject to investigation and inspection by the department under s. 301.36.

4. Any other matters that are necessary and appropriate concerning the obligations, responsibilities and rights of the contracting counties and the department.

(3) The county board of supervisors of any county that operates a secure detention facility may contract with one or more counties in Minnesota for the use of the secure detention facility operated by the Wisconsin county for the holding of juveniles transferred to that secure detention facility by the Minnesota county.

SECTION 74. 938.24 (5) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.24 **(5)** The intake worker shall ~~recommend~~ request that a petition be filed, enter into a deferred prosecution agreement or close the case within 40 days or sooner of receipt of referral information. If the case is closed or a deferred prosecution agreement is entered into, the district attorney, corporation counsel or other official under s. 938.09 shall receive written notice of such action. In addition, if a deferred prosecution agreement is entered into placing a juvenile in a youth village program as described in s. 118.42, the judge or juvenile court commissioner shall receive written notice of such action and, on receipt of that notice, shall enter an order requiring compliance with that agreement. A notice of deferred prosecution of an alleged delinquency case shall include a summary of the facts surrounding the allegation and a list of prior intake referrals and dispositions. If a law enforcement officer has made a recommendation concerning the juvenile, the intake worker shall forward this recommendation to the district attorney under s. 938.09. Notwithstanding the requirements of this section, the district attorney may initiate a delinquency petition under s. 938.25 within 20 days after notice that the case has been closed or that a deferred prosecution agreement has been entered into. The judge shall grant appropriate relief as provided in s. 938.315 (3) with respect to any such petition which is not referred or filed within the time limits specified within this subsection. Failure to object if a petition is not referred or filed within a time limit specified in this subsection waives that time limit.

SECTION 75. 938.245 (2) (a) 5. b. of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.245 **(2)** (a) 5. b. In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a juvenile ~~who is~~ under 14 years of age who is participating in a restitution project provided by the county may, for the purpose of making restitution, be employed or perform any duties under any circumstances in which a juvenile 14 or 15 years of age is permitted to be employed or to perform duties under ch. 103 or any rule or order under ch. 103. A juvenile who is participating in a restitution project provided by the county is exempt from the permit requirement under s. 103.70 (1).

SECTION 76. 938.245 (2g) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.245 **(2g)** If the ~~informal disposition~~ deferred prosecution agreement is based on an allegation that the juvenile violated s. 943.017 and the juvenile has attained the minimum age at which a juvenile may be adjudicated delinquent, the ~~informal disposition~~ deferred prosecution agreement may require that the juvenile participate for not less than 10 hours nor more than 100 hours in a supervised work program under s. 938.34 (5g) or perform not less than 10 hours nor more than 100 hours of other community service work, except that if the juvenile has not attained 14 years of age the maximum number of hours is 40.

SECTION 77. 938.245 (4) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.245 **(4)** The intake worker shall inform the juvenile and the juvenile's parent, guardian and legal custodian in writing of their right to ~~request the court to~~ terminate or, if the juvenile is subject to a deferred prosecution agreement under sub. (2) (a) 9., to request the court to terminate the deferred prosecution agreement at any time or to object at any time to the fact or terms of the deferred prosecution agreement. If an objection arises the intake worker may alter the terms of the agreement or recommend to the district attorney or corporation counsel that a petition be filed. If the deferred prosecution agreement is terminated the intake worker may recommend to the district attorney or corporation counsel that a petition be filed.

SECTION 78. 938.245 (5) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.245 **(5)** A deferred prosecution agreement under sub. (2) (a) 1. to 8. may be terminated ~~by the court~~ upon the request of the juvenile, parent, guardian or legal custodian. A deferred prosecution agreement under sub. (2) (a) 9. may be terminated by the court upon the request of the juvenile, parent, guardian or legal custodian.

SECTION 79. 938.245 (7) (a) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.245 **(7)** (a) If at any time during the period of a deferred prosecution agreement the intake worker determines that the obligations imposed under it are not being met, the intake worker may cancel the deferred prosecution agreement. Within 10 days after the cancellation of the deferred prosecution agreement, the intake worker shall notify the district attorney, corporation counsel or other official under s. 938.09 of the cancellation and recommend whether or not a petition should be filed. In delinquency cases, the district attorney may initiate a petition within 20 days after the date of the notice regardless of whether the intake worker has recommended that a petition be filed. The judge shall grant appropriate relief as provided in s. 938.315 (3) with respect to any petition which is not filed within the time limit specified in this subsection. Failure to object if a petition is not filed within the time limit specified in this subsection waives that time limit.

SECTION 80. 938.25 (2) (a) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.25 **(2)** (a) The district attorney, corporation counsel or other appropriate official shall file the petition, close the case, or refer the case back to intake or, with notice to intake, the law enforcement agency investigating the case within 20 days after the date that the intake worker's ~~recommendation~~ request was filed. A referral back to intake or the law enforcement agency investigating the case may be made only when the district attorney, corporation counsel or other appropriate official decides not to file a petition or determines that further investigation is necessary. If the case is referred back to intake upon a decision not to file a petition, the intake worker shall close the case or enter into a deferred prosecution agreement within 20 days. If the case is referred back to intake or the law enforcement agency investigating the case for further investigation, the appropriate agency or person shall complete the investigation within 20 days. If another referral is made to the district attorney, corporation counsel or other appropriate official by intake or the law enforcement agency investigating the case, it shall be considered a new referral to which the time limits of this subsection shall apply. The time limits in this subsection may only be extended by a judge upon a showing of good cause under s. 938.315. If a petition is not filed within the time limitations set forth in this subsection and the court has not granted an extension, the petition shall be accompanied by a statement of reasons for the delay. The court shall grant appropriate relief as provided in s. 938.315 (3) with respect to a petition which is not filed within the time limits specified in this paragraph. Failure to object if a petition is not filed within the time limits specified in this paragraph waives those time limits.

SECTION 81. 938.25 (2) (b) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.25 **(2)** (b) In delinquency cases where there has been a case closure or deferred prosecution agreement, the petition shall be filed within 20 days of receipt of the notice of closure or deferred prosecution. Failure to file within 20 days invalidates the petition and affirms the case closure or deferred prosecution agreement, except that the court shall grant appropriate relief as provided in s. 938.315 (3) with respect to a petition that is not filed within the time limit specified in this paragraph and that failure to object if a petition is not filed within the time limit specified in this paragraph waives that time limit. If a petition is filed within 20 days or the time permitted by the court under s. 938.315 (3), whichever is later, the district attorney shall notify the parties to the agreement and the intake worker as soon as possible.

SECTION 81d. 938.255 (1) (cm) of the statutes is created to read:

938.255 **(1)** (cm) If the petition is initiating proceedings other than proceedings under s. 938.12, 938.125 or 938.13 (12), whether the juvenile may be subject to the federal Indian child welfare act, 25 USC 1901 to 1963.

SECTION 81g. 938.255 (2) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.255 **(2)** If any of the facts in sub. (1) (a)~~, (b) or (c)~~ to (cm) are not known or cannot be ascertained by the petitioner, the petition shall so state.

SECTION 81m. 938.275 (title) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.275 (title) **Parents' contribution to cost of custody, sanctions and court and legal services.**

SECTION 81n. 938.275 (1) of the statutes, as created by 1995 Wisconsin Act 77, is renumbered 938.275 (1) (b) and amended to read:

938.275 (**1**) (b) If the court finds a juvenile to be delinquent under s. 938.12, in violation of a civil law or ordinance under s. 938.125 or in need of protection or services under s. 938.13, the court shall order the parents of the juvenile to contribute toward the expense of post–adjudication services to the juvenile, including any placement under s. 938.34 (3) (f), the proportion of the total amount which the court finds the parents are able to pay.

SECTION 81p. 938.275 (1) (a) of the statutes is created to read:

938.275 (**1**) (a) If a juvenile is held in custody under ss. 938.20 to 938.21, the court shall order the parents of the juvenile to contribute toward the expense of holding the juvenile in custody the proportion of the total amount which the court finds the parents are able to pay.

SECTION 81r. 938.275 (1) (c) of the statutes is created to read:

938.275 (**1**) (c) If the court imposes a sanction on a juvenile as specified in s. 938.355 (6) (d) or (6m) (a) or finds the juvenile in contempt under s. 938.355 (6g) (b) and orders a disposition under s. 938.34 or if the juvenile is placed in a secure detention facility or place of nonsecure custody under s. 938.355 (6d) or 938.534 (1), the court shall order the parents of the juvenile to contribute toward the cost of the sanction, disposition or placement the proportion of the total amount which the court finds the parents are able to pay.

SECTION 82. 938.29 (1g) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.29 (**1g**) The juvenile may not request the substitution of a judge in a proceeding under s. 938.12 or 938.13 (12), and the juvenile and the juvenile's parent, guardian or legal custodian may not request the substitution of a judge in a proceeding under s. 938.13 (4), (6), (6m) or (7), if the judge assigned to the proceeding has entered a dispositional order with respect to the juvenile in a previous proceeding under s. 48.12, 1993 stats., s. 48.13 (4), (6), (6m), (7) or (12), 1993 stats., s. 938.12 or 938.13 (4), (6), (6m), (7) or (12) or the juvenile or the juvenile's parent, guardian or legal custodian has requested the substitution of a judge in a previous proceeding under s. 48.12, 1993 stats., s. 48.13 (4), (6), (6m), (7) or (12), 1993 stats., s. 938.12 or 938.13 (4), (6), (6m), (7) or (12).

SECTION 83. 938.299 (1) (ar) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.299 (**1**) (ar) Notwithstanding par. (a), the general public may attend any hearing under this chapter relating to a juvenile who has been alleged to be delinquent for committing a violation that would be a felony if committed by an adult if the juvenile has been adjudicated delinquent previously and that previous adjudication remains of record and unreversed or relating to a juvenile who has been alleged to be delinquent for committing a violation specified in s. ~~939.62 (2m) (a) 1., 2. or 3. or a violation of s. 948.30 (1) or for conspiracy under s. 939.31 to commit any violation~~ s.938.34 (4h) (a), except that the court shall exclude the general public from a hearing if the victim of a sexual assault objects and may, in its discretion, exclude the general public from any portion of a hearing which deals with sensitive personal matters of the juvenile or the juvenile's family and which does not relate to the act or alleged act committed by the juvenile or from any other hearing described in this paragraph. If the court excludes the general public from a hearing described in this paragraph, only those persons who are permitted under par. (a) or (am) to attend a hearing from which the general public is excluded may attend.

SECTION 84. 938.299 (1) (av) of the statutes is created to read:

938.299 (**1**) (av) If a public hearing is held under par. (a) or (ar), any person may disclose to anyone any information obtained as a result of that hearing.

SECTION 85. 938.299 (1) (b) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.299 (**1**) (b) Except as provided in par. (av) and s. 938.396, any person who divulges any information which would identify the juvenile or the family involved in any proceeding under this subchapter is subject to ch. 785. This paragraph does not preclude a victim of the juvenile's act from commencing a civil action based upon the juvenile's act.

SECTION 86. 938.315 (1) (dm) of the statutes is created to read:

938.315 (**1**) (dm) Any period of delay resulting from court congestion or scheduling.

SECTION 87. 938.315 (3) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.315 (**3**) Failure to comply with any time limit specified in this chapter does not deprive the court of personal or subject matter jurisdiction or of competency to exercise that jurisdiction. Failure to object to a period of delay or a continuance waives the time limit that is the subject of the period of delay or continuance. If a party does not comply with a time limit specified in this chapter, the court may grant a continuance under sub. (2), dismiss the petition with or without prejudice, release the juvenile from secure or nonsecure custody or from the terms of a custody order or grant any other relief that the court considers appropriate.

SECTION 88. 938.32 (1t) (a) 2. of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.32 (**1t**) (a) 2. In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a juvenile ~~who is~~ under 14 years of age who is participating in a restitution project provided by the county may, for the purpose of making restitution under the consent decree, be employed or perform any duties under any circumstances in which a juvenile 14 or 15 years of age is permitted to be employed or to perform duties under ch. 103 or any rule or order under ch. 103. A juvenile who is participating in a restitution project pro-

vided by the county is exempt from the permit requirement under s. 103.70 (1).

SECTION 89. 938.34 (4d) of the statutes is created to read:

938.34 **(4d)** TYPE 2 CHILD CARING INSTITUTION PLACEMENT. Place the juvenile in a Type 2 child caring institution under the supervision of the county department and subject to Type 2 status, as described in s. 938.539, but only if all of the following apply:

(a) The juvenile has been found to be delinquent for the commission of an act which if committed by an adult would be punishable by a sentence of 6 months or more.

(b) The juvenile has been found to be a danger to the public and to be in need of restrictive custodial treatment. If the judge determines that any of the conditions specified in sub. (4m) (b) 1., 2. or 3. applies, but that placement in the serious juvenile offender program under sub. (4h) or in a secured correctional facility under sub. (4m) would not be appropriate, that determination shall be prima facie evidence that the juvenile is a danger to the public and in need of restrictive custodial treatment under this subsection.

SECTION 90. 938.34 (4h) (a) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.34 **(4h)** (a) The juvenile is 14 years of age or over and has been adjudicated delinquent for committing a violation of s. 939.31, 939.32 (1) (a), 940.03, 940.21, 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m) or (1r), 943.32 (2), 948.02 (1), 948.025, 948.30 (2), 948.35 (1) (b) or 948.36 or the juvenile is 10 years of age or over and has been adjudicated delinquent for attempting or committing a violation of s. 940.01 or for committing a violation of 940.02 or 940.05.

SECTION 91. 938.34 (5) (b) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.34 **(5)** (b) In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a juvenile ~~who is~~ under 14 years of age who is participating in a restitution project provided by the county may, for the purpose of making restitution ordered by the court under this subsection, be employed or perform any duties under any circumstances in which a juvenile 14 or 15 years of age is permitted to be employed or perform duties under ch. 103 or any rule or order under ch. 103. A juvenile who is participating in a restitution project provided by the county is exempt from the permit requirement under s. 103.70 (1).

SECTION 92. 938.34 (5g) (c) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.34 **(5g)** (c) In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a juvenile ~~who is~~ under 14 years of age who is participating in a supervised work program or other community service work may, for purposes of performing the supervised work or other community service work, be employed or perform any duties under any circumstances in which a juvenile 14 or 15 years of age is permitted to be employed or perform duties under ch. 103 or any rule or order under ch. 103. A juvenile who is participating in a supervised work program or other community service work is exempt from the permit requirement under s. 103.70 (1).

SECTION 93. 938.34 (8) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.34 **(8)** FORFEITURE. Impose a forfeiture based upon a determination that this disposition is in the best interest of the juvenile and in aid of rehabilitation. The maximum forfeiture that the court may impose under this subsection for a violation by a juvenile is the maximum amount of the fine that may be imposed on an adult for committing that violation or, if the violation is applicable only to a ~~juvenile~~ person under 18 years of age, $100. Any such order shall include a finding that the juvenile alone is financially able to pay the forfeiture and shall allow up to 12 months for payment. If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order other alternatives under this section, in accordance with the conditions specified in this subchapter; or the court may suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating privilege as defined in s. 340.01 (40) for not less than 30 days nor more than 5 years. If the court suspends any license under this subsection, the clerk of the court shall immediately take possession of the suspended license and forward it to the department which issued the license, together with a 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 period of suspension, the suspension shall be reduced to the time period which has already elapsed and the court shall immediately notify the department which shall then return the license to the juvenile.

SECTION 94. 938.34 (16) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.34 **(16)** STAY OF ORDER. After ordering a disposition under this section, enter an additional order staying the execution of the dispositional order contingent on the juvenile's satisfactory compliance with any conditions that are specified in the dispositional order and explained to the juvenile by the court. If the juvenile violates a condition of his or her dispositional order, the agency supervising the juvenile shall notify the court and the court shall hold a hearing within 30 days after the filing of the notice to determine whether the original disposition order should be imposed, unless the juvenile signs a written waiver of any objections to imposing the original dispositional order and the court approves the waiver. If a hearing is held, the court shall notify the parent, juvenile, guardian and legal custodian, all parties bound by the original dispositional order and the district attorney or corporation counsel in the county in which the disposi-

tional order was entered at the time and place of the hearing at least 3 days before the hearing. If all parties consent, the court may proceed immediately with the hearing. The court may not impose the original dispositional order unless the court finds ~~to a reasonable certainty by the greater weight~~ by a preponderance of the ~~credible~~ evidence that the juvenile has violated a condition of his or her dispositional order.

SECTION 95. 938.342 of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.342 Disposition; truancy and school dropout ordinance violations. (1) If the court finds that ~~the juvenile~~ a person under 18 years of age violated a municipal ordinance enacted under s. 118.163 (2), the court shall enter an order making one or more of the following dispositions if such a disposition is authorized by the municipal ordinance:

(a) Suspend the ~~juvenile's~~ person's operating privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 90 days. The court shall immediately take possession of the suspended license and forward it to the department of transportation together with a notice stating the reason for and duration of the suspension.

(b) Order the ~~juvenile~~ person to participate in counseling or a supervised work program or other community service work under s. 938.34 (5g).

(c) Order the ~~juvenile~~ person to remain at home except during hours in which the ~~juvenile~~ person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a ~~juvenile~~ person to leave his or her home if the ~~juvenile~~ person is accompanied by a parent or guardian.

(d) Order the ~~juvenile~~ person to attend an educational program under s. 938.34 (7d).

(e) Order the department of industry, labor and job development to revoke, under s. 103.72, a permit under s. 103.70 authorizing the employment of the ~~juvenile~~ person.

(f) Order the ~~juvenile~~ person to be placed in a teen court program if all of the following conditions apply:

1. The chief judge of the judicial administrative district has approved a teen court program established in the ~~juvenile's~~ person's county of residence and the judge determines that participation in the teen court program will likely benefit the ~~juvenile~~ person and the community.

2. The ~~juvenile~~ person admits or pleads no contest in open court, with the ~~juvenile's~~ person's parent, guardian or legal custodian present, to the allegations that the ~~juvenile~~ person violated the municipal ordinance enacted under s. 118.163 (2).

3. The ~~juvenile~~ person has not successfully completed participation in a teen court program during the 2 years before the date of the alleged municipal ordinance violation.

(1m) (a) If the court finds that the ~~juvenile~~ person violated a municipal ordinance enacted under s. 118.163 (2), the court may, in addition to or instead of the dispositions under sub. (1), order the ~~juvenile's~~ person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense.

(b) No order to any ~~person~~ parent, guardian or legal custodian under par. (a) may be entered until the ~~person~~ parent, guardian or legal custodian 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~~ parent, guardian or legal custodian 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~~ parent, guardian or legal custodian may be represented by counsel and may produce and cross–examine witnesses. Any ~~person~~ parent, guardian or legal custodian who fails to comply with any order issued by a court under par. (a) may be proceeded against for contempt of court.

(2) (a) Except as provided in par. (b), if the court finds that ~~the juvenile~~ a person is subject to a municipal ordinance enacted under s. 118.163 (2m), the court shall enter an order suspending the ~~juvenile's~~ person's operating privilege, as defined in s. 340.01 (40), until the ~~juvenile~~ person reaches the age of 18.

(b) The court may enter an order making any of the dispositions specified under sub. (1) if the court finds that suspension of the ~~juvenile's~~ person's operating privilege, as defined in s. 340.01 (40), until the ~~juvenile~~ person reaches the age of 18 would cause an undue hardship to the ~~juvenile~~ person or the juvenile's family.

SECTION 96. 938.343 (2) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.343 **(2)** Impose a forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing that violation or, if the violation is only applicable to a ~~juvenile~~ person under 18 years of age, $50. Any such order shall include a finding that the juvenile alone is financially able to pay and shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may suspend any license issued under ch. 29 or suspend the juvenile's operating privilege as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. The court shall immediately take possession of the suspended license and forward it to the department which 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 period of suspension, the court shall immediately notify the department, which will thereupon return the license to the person.

SECTION 97. 938.355 (4) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.355 **(4)** TERMINATION OF ORDERS. (a) Except as provided under par. (b) or s. 938.368, all orders under this section shall terminate at the end of one year unless the court specifies a shorter period of time. Except if s. 938.368 applies, extensions or revisions shall terminate at the end of one year unless the court specifies a shorter period of time. No extension under s. 938.365 of an original dispositional order may be granted for a juvenile who is subject to an order under s. 938.34 (4d), (4h), (4m) or (4n) if the juvenile is 17 years of age or older when the original dispositional order terminates. Any order made before the juvenile reaches the age of majority shall be effective for a time up to one year after its entry unless the court specifies a shorter period of time.

(b) An order under s. 938.34 (4d), (4h) or (4m) for which a juvenile has been adjudicated delinquent is subject to par. (a), except that the judge may make an order under s. 938.34 (4d) or (4m) apply for up to 2 years or until the juvenile's 18th birthdate, whichever is earlier and the judge shall make an order under s. 938.34 (4h) apply for 5 years, if the juvenile is adjudicated delinquent for committing an act that would be punishable as a Class B felony if committed by an adult, or until the juvenile reaches 25 years of age, if the juvenile is adjudicated delinquent for committing an act that would be punishable as a Class A felony if committed by an adult.

SECTION 98. 938.355 (6) (title) and (a) of the statutes, as created by 1995 Wisconsin Act 77, are amended to read:

938.355 **(6)** (title) SANCTIONS FOR VIOLATION OF ORDER~~; DELINQUENCY OR CIVIL LAW OR ORDINANCE VIOLATION~~. (a) If a juvenile who has been adjudged delinquent or to have violated a civil law or ordinance violates a condition specified in sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in par. (d) if, at the dispositional hearing under s. 938.335, the court explained the conditions to the juvenile and informed the juvenile of those possible sanctions or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. Subject to sub. (6m), if a juvenile who has been found to be in need of protection or services under s. 938.13 violates a condition specified in sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in par. (d), other than placement in a secure detention facility or juvenile portion of a county jail, if, at the dispositional hearing under s. 938.335, the court explained the conditions to the juvenile and informed the juvenile of those possible sanctions or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. The court may not order the sanction of placement in a place of nonsecure custody specified in par. (d) 1. unless the court finds that the agency primarily responsible for providing services for the juvenile has made reasonable efforts to prevent the removal of the juvenile from his or her home and that continued placement of the juvenile in his or her home is contrary to the welfare of the juvenile.

SECTION 99m. 938.355 (6) (an) of the statutes, as created by 1995 Wisconsin Act 77, is renumbered 938.355 (6) (an) 1. and amended to read:

938.355 **(6)** (an) 1. If a juvenile who has violated a municipal ordinance violates a condition of a dispositional order imposed by the municipal court, the municipal court may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction specified in par. (d) 1. or the sanction specified in par. (d) 3., with monitoring by an electronic monitoring system, if, at the time of the judgment the municipal court explained the conditions to the juvenile and informed the juvenile of those possible sanctions for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. The petition shall contain a statement of whether the juvenile may be subject to the federal Indian child welfare act, 25 USC 1911 to 1963.

SECTION 100. 938.355 (6) (an) 2. of the statutes is created to read:

938.355 **(6)** (an) 2. If the court assigned to exercise jurisdiction under this chapter and ch. 48 imposes the sanction specified in par. (d) 1. or home detention with monitoring by an electronic monitoring system as specified in par. (d) 3., on a petition described in subd. 1., that court shall order the municipality of the municipal court that filed the petition to pay to the county the cost of providing the sanction imposed under par. (d) 1. or 3.

SECTION 100m. 938.355 (6) (b) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.355 **(6)** (b) A motion for imposition of a sanction may be brought by the person or agency primarily responsible for the provision of dispositional services, the district attorney or corporation counsel or the court that entered the dispositional order. Notice of the motion shall be given to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian and all parties present at the original dispositional hearing. The motion shall contain a statement of whether the juvenile may be subject to the federal Indian child welfare act, 25 USC 1911 to 1963.

SECTION 101. 938.355 (6) (d) (intro.) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.355 **(6)** (d) (intro.) ~~The~~ If the court finds by a preponderance of the evidence that the juvenile has violated a condition of his or her dispositional order, the court may order any of the following sanctions as a consequence for

any incident in which the juvenile has violated one or more conditions of his or her dispositional order:

SECTION 102. 938.355 (6m) (a) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.355 **(6m)** (a) If the court finds by a preponderance of the evidence that a juvenile who has been found in need of protection or services based on habitual truancy from school ~~violates~~ has violated a condition specified under sub. (2) (b) 7., the court may order as a sanction any combination of the operating privilege suspension specified in this paragraph and the dispositions specified in s. 938.342 (1) (b) to (f) and (1m), regardless of whether the disposition was imposed in the order violated by the juvenile, if at the dispositional hearing under s. 938.335 the court explained those conditions to the juvenile and informed the juvenile of the possible sanctions under this paragraph for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. The court may order as a sanction suspension of the juvenile's operating privilege, as defined under s. 340.01 (40), for not more than one year. If the juvenile does not hold a valid operator's license under ch. 343, other than an instruction permit under s. 343.07 or a restricted license under s. 343.08, on the date of the order issued under this paragraph, the court may order the suspension to begin on the date that the operator's license would otherwise be reinstated or issued after the juvenile applies and qualifies for issuance or 2 years after the date of the order issued under this paragraph, whichever occurs first. If the court suspends an operating privilege under this paragraph, the court shall immediately take possession of the suspended license and forward it to the department of transportation with a notice stating the reason for and the duration of the suspension.

SECTION 103. 938.357 (1) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.357 **(1)** The person or agency primarily responsible for implementing the dispositional order or the district attorney may request a change in the placement of the juvenile, whether or not the change requested is authorized in the dispositional order and shall cause written notice to be sent to the juvenile or the juvenile's counsel or guardian ad litem, parent, foster parent, treatment foster parent, guardian and legal custodian. The notice shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement and a statement of how the new placement satisfies objectives of the treatment plan ordered by the court. Any person receiving the notice under this subsection or notice of the specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain a hearing on the matter by filing an objection with the court within 10 days after receipt of the notice. Placements shall not be changed until 10 days after such notice is sent to the court unless the parent, guardian or legal custodian and the juvenile, if 12 or more years of age, sign written waivers of objection, except that placement changes which were authorized in the dispositional order may be made immediately if notice is given as required in this subsection. In addition, a hearing is not required for placement changes authorized in the dispositional order except where an objection filed by a person who received notice alleges that new information is available which affects the advisability of the court's dispositional order. If a hearing is held under this subsection and the change in placement would remove a juvenile from a foster home or treatment foster home, the foster parent or treatment foster parent may submit a written statement prior to the hearing.

SECTION 104. 938.357 (3) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.357 **(3)** Subject to sub. (4) (b) and (c) and (5) (e), if the proposed change in placement would involve placing a juvenile in a secured correctional facility or in a secured child caring institution, notice shall be given as provided in sub. (1). A hearing shall be held, unless waived by the juvenile, parent, guardian and legal custodian, before the judge makes a decision on the request. The juvenile shall be entitled to counsel at the hearing, and any party opposing or favoring the proposed new placement may present relevant evidence and cross–examine witnesses. The proposed new placement may be approved only if the judge finds, on the record, that the conditions set forth in s. 938.34 (4m) have been met.

SECTION 105. 938.357 (4) (a) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.357 **(4)** (a) When the juvenile is placed with the department, the department may, after an examination under s. 938.50, place the juvenile in a secured correctional facility or a secured child caring institution or on aftercare supervision, either immediately or after a period of placement in a secured correctional facility or a secured child caring institution. The department shall send written notice of the change to the parent, guardian, legal custodian, county department designated under s. 938.34 (4n), if any, and committing court. If the department places a juvenile in a Type 2 secured correctional facility operated by a child welfare agency, the department shall reimburse the child welfare agency at the rate established under s. 46.037 that is applicable to the type of placement that the child welfare agency is providing for the juvenile. A juvenile who is placed in a Type 2 secured correctional facility or a secured child caring institution remains under the supervision of the department, remains subject to the rules and discipline of that department and is considered to be in custody, as defined in s. 946.42 (1) (a).

SECTION 106. 938.357 (4) (b) and (c) of the statutes, as created by 1995 Wisconsin Act 77, are repealed and recreated to read:

938.357 **(4)** (b) 1. If a juvenile whom the department has placed in a Type 2 secured correctional facility operated by a child welfare agency violates a condition of his or her placement in the Type 2 secured correctional facility, the child welfare agency operating the Type 2 secured correctional facility shall notify the department and the department, after consulting with the child welfare agency, may place the juvenile in a Type 1 secured correctional facility under the supervision of the department without a hearing under sub. (1).

2. If a juvenile whom the court has placed in a Type 2 child caring institution under s. 938.34 (4d) violates a condition of his or her placement in the Type 2 child caring institution, the child welfare agency operating the Type 2 child caring institution shall notify the county department that has supervision over the juvenile and, if the county department agrees to a change in placement under this subdivision, the child welfare agency shall notify the department and the department, after consulting with the child welfare agency, may place the juvenile in a Type 1 secured correctional facility under the supervision of the department, without a hearing under sub. (1), for not more than 10 days. If a juvenile is placed in a Type 1 secured correctional facility under this subdivision, the county department that has supervision over the juvenile shall reimburse the child welfare agency operating the Type 2 child caring institution in which the juvenile was placed at the rate established under s. 46.037, and that child welfare agency shall reimburse the department at the rate specified in s. 301.26 (4) (d) 3m. or 4., whichever is applicable, for the cost of the juvenile's care while placed in a Type 1 secured correctional facility.

3. The child welfare agency operating the Type 2 secured correctional facility or Type 2 child caring institution shall send written notice of a change in placement under subd. 1. or 2. to the parent, guardian, legal custodian, county department and committing court.

4. A juvenile may seek review of a decision of the department under subd. 1. or 2. only by the common law writ of certiorari.

(c) 1. If a juvenile is placed in a Type 2 secured correctional facility operated by a child welfare agency under par. (a) and it appears that a less restrictive placement would be appropriate for the juvenile, the department, after consulting with the child welfare agency that is operating the Type 2 secured correctional facility in which the juvenile is placed, may place the juvenile in a less restrictive placement, and may return the juvenile to the Type 2 secured correctional facility without a hearing under sub. (1). The child welfare agency shall establish a rate for each type of placement in the manner provided in s. 46.037.

2. If a juvenile is placed in a Type 2 child caring institution under s. 938.34 (4d) and it appears that a less restrictive placement would be appropriate for the juvenile, the child welfare agency operating the Type 2 child caring institution shall notify the county department that has supervision over the juvenile and, if the county department agrees to a change in placement under this subdivision, the child welfare agency may place the juvenile in a less restrictive placement. A child welfare agency may also, with the agreement of the county department that has supervision over a juvenile who is placed in a less restrictive placement under this subdivision, return the juvenile to the Type 2 child caring institution without a hearing under sub. (1). The child welfare agency shall establish a rate for each type of placement in the manner provided in s. 46.037.

3. The child welfare agency operating the Type 2 secured correctional facility or Type 2 child caring institution shall send written notice of a change in placement under subd. 1. or 2. to the parent, guardian, legal custodian, county department and committing court.

4. A juvenile may seek review of a decision of the department or county department under subd. 1. or 2. only by the common law writ of certiorari.

SECTION 107. 938.365 (6) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.365 **(6)** If a request to extend a dispositional order is made prior to the termination of the order, but the court is unable to conduct a hearing on the request prior to the termination date, the court may extend the order for a period of not more than 30 days, not including any period of delay resulting from any of the circumstances specified in s. 938.315 (1). The court shall grant appropriate relief as provided in s. 938.315 (3) with respect to any request to extend a dispositional order on which a hearing is not held within the time limit specified in this subsection. Failure to object if a hearing is not held within the time limit specified in this subsection waives that time limit.

SECTION 108. 938.371 of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.371 Access to certain information by substitute care provider. (intro.) At the time of placement of a juvenile in a foster home, treatment foster home, group home ~~or~~, child caring institution or secured correctional facility under s. 938.183 (2), 938.34, 938.345 or 938.357, or, if the information specified in this section is not available at that time, within 30 days after the date of the placement, the agency that prepared the juvenile's permanency plan shall provide the foster parent, treatment foster parent or operator of the group home ~~or~~, child caring institution or secured correctional facility with any information contained in the court report submitted under s. 938.33 or permanency plan submitted under s. 938.38, relating to any of the following:

(1) Results of a test or a series of tests of the juvenile to determine the presence of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an antibody to HIV, if the juvenile's parent or a temporary or permanent guardian appointed by the court has consented to the test under s. 252.15 (2) (a) 4. b. and release of the test results under s. 252.15 (5) (a) 19. and the agency directed to prepare the permanency plan notifies the foster parent, treatment foster parent or operator of the group home ~~or~~, child caring institution or secured correctional facility of the confidentiality requirements under s. 252.15 (6).

(2) Results of any tests of the juvenile to determine the presence of viral hepatitis, type B. The foster parent, treatment foster parent or operator of a group home ~~or~~, child caring institution or secured correctional facility receiving information under this subsection shall keep the information confidential.

(3) Findings or opinions of the court or agency that prepared the court report or permanency plan relating to any mental, emotional, cognitive, developmental or behavioral disability of the juvenile. The foster parent, treatment foster parent or operator of a group home ~~or~~, child caring institution or secured correctional facility receiving information under this subsection shall keep the information confidential.

SECTION 109. 938.38 (5m) of the statutes, as created by 1995 Wisconsin Act 77, is repealed.

SECTION 109n. 938.396 (1) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.396 **(1)** Law enforcement officers' records of juveniles shall be kept separate from records of adults. Law enforcement officers' records of juveniles shall not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g), (1m), (1r)~~,~~ or (1t) ~~or (1v)~~ or s. 938.293 or by order of the court. This subsection does not apply to representatives of the news media who wish to obtain information for the purpose of reporting news without revealing the identity of the juvenile involved, ~~to victim-witness coordinators, to victims of a juvenile's act who wish to obtain information for the purpose of recovering for any loss, damage or injury suffered as a result of the juvenile's act, to insurance companies that wish to obtain information for the purpose of investigating a claim involving the juvenile,~~ to the confidential exchange of information between the police and officials of the school attended by the juvenile or other law enforcement or social welfare agencies or to juveniles 10 years of age or older who are subject to the jurisdiction of the court of criminal jurisdiction.

SECTION 110. 938.396 (1m) (am) of the statutes is created to read:

938.396 **(1m)** (am) If requested by a school district administrator of a public school district, a law enforcement agency may, subject to official agency policy, provide to the school district administrator any information in its records relating to the illegal possession by a juvenile of a dangerous weapon, as defined in s. 939.22 (10).

SECTION 110m. 938.396 (1r) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.396 **(1r)** If requested by a victim of a juvenile's act, a law enforcement agency may, subject to official agency policy, disclose to the victim any information in its records relating to the injury, loss or damage suffered by the victim, including the name and address of the juvenile and the juvenile's parents. The victim may use and further disclose the information only for the purpose of recovering for the injury, damage or loss suffered as a result of the juvenile's act.

SECTION 110p. 938.396 (1t) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.396 **(1t)** If a juvenile who has been ordered to make restitution for any injury, loss or damage caused by the juvenile and if the juvenile has failed to make that restitution within one year after the entry of the order, the victim's insurer may request a law enforcement agency to disclose to the insurer any information in its records relating to the injury, loss or damage suffered by the victim, including the name and address of the juvenile and the juvenile's parents, and the law enforcement agency may, subject to official agency policy, disclose to the victim's insurer that information. The insurer may use and further disclose the information only for the purpose of investigating a claim arising out of the juvenile's act.

SECTION 110s. 938.396 (1v) of the statutes, as created by 1995 Wisconsin Act 77, is repealed.

SECTION 110t. 938.396 (2) (a) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.396 **(2)** (a) Records of the court assigned to exercise jurisdiction under this chapter and ch. 48 and of courts exercising jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for that purpose only. They shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter and ch. 48 or as permitted under this section. ~~If a court opens for inspection or discloses the contents of a record as permitted under this section, the court shall immediately notify the juvenile who is the subject of the record and the juvenile's parent, guardian or legal custodian of that inspection or disclosure and shall immediately provide to the juvenile and the parent, guardian or legal custodian the record inspected or the information disclosed.~~

SECTION 110u. 938.396 (2) (ag) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.396 **(2)** (ag) Upon request of the parent, guardian or legal custodian of a juvenile who is the subject of a record of a court specified in par. (a), or upon request of the juvenile, if 14 years of age or over, the court shall open for inspection by the parent, guardian, legal custodian or juvenile the records of the court relating to that juvenile, unless the court finds, after due notice and hearing, that

inspection of those records by the parent, guardian or legal custodian would result in imminent danger to ~~the juvenile~~ anyone.

SECTION 111. 938.396 (2) (am) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.396 **(2)** (am) Upon the written permission of the parent, guardian or legal custodian of a juvenile who is the subject of a record of a court specified in par. (a), or upon request of the juvenile if 14 years of age or over, the court shall open for inspection by the person named in the permission any records specifically identified by the parent, guardian, legal custodian or juvenile in the written permission, unless the court finds, after due notice and hearing, that inspection of those records by the person named in the permission would result in imminent danger to anyone.

SECTION 112. 938.396 (2m) (a) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.396 **(2m)** (a) Notwithstanding sub. (2), upon request, a court shall open for inspection by the requester the records of the court, other than reports under s. 938.295 or 938.33 or other records that deal with sensitive personal information of the juvenile and the juvenile's family, relating to a juvenile who has been alleged to be delinquent for committing a violation specified in s. ~~939.62 (2m) (a) 1., 2. or 3. or a violation of s. 948.30 (1) or for conspiracy under s. 939.31 to commit any violation~~ 938.34 (4h) (a). The requester may further disclose the information to anyone.

SECTION 112m. 938.396 (5) of the statutes is created to read:

938.396 **(5)** (a) Any person who is denied access to a record under sub. (1), (1b), (1d), (1g), (1m), (1r) or (1t) may petition the court to order the disclosure of the records governed by the applicable subsection. The petition shall be in writing and shall describe as specifically as possible all of the following:

1. The type of information sought.
2. The reason the information is being sought.
3. The basis for the petitioner's belief that the information is contained in the records.
4. The relevance of the information sought to the petitioner's reason for seeking the information.
5. The petitioner's efforts to obtain the information from other sources.

(b) The court shall notify the juvenile, the juvenile's counsel, the juvenile's parents and appropriate law enforcement agencies in writing of the petition. If any person notified objects to the disclosure, the court may hold a hearing to take evidence relating to the petitioner's need for the disclosure.

(c) The court shall make an inspection, which may be in camera, of the juvenile's records. If the court determines that the information sought is for good cause and that it cannot be obtained with reasonable effort from other sources, it shall then determine whether the petitioner's need for the information outweighs society's interest in protecting its confidentiality. In making this determination, the court shall balance the following private and societal interests:

1. The petitioner's interest in recovering for the injury, damage or loss he or she has suffered against the juvenile's interest in rehabilitation and in avoiding the stigma that might result from disclosure.
2. The public's interest in the redress of private wrongs through private litigation against the public's interest in protecting the integrity of the juvenile justice system.

(d) If the court determines that disclosure is warranted, it shall order the disclosure of only as much information as is necessary to meet the petitioner's need for the information.

(e) The court shall record the reasons for its decision to disclose or not to disclose the juvenile's records. All records related to a decision under this subsection are confidential.

SECTION 112p. 938.396 (6) of the statutes is created to read:

938.396 **(6)** Notwithstanding sub. (5), a victim of a juvenile's act or alleged act may, with the approval of the court, obtain the names of the juvenile and the juvenile's parents.

SECTION 113. 938.396 (7) (c) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.396 **(7)** (c) No information from the juvenile's court records, other than information disclosed under par. (a), (b) or (bm), may be disclosed to the school board of the school district in which the juvenile is enrolled or the school board's designee except by order of the court. Any information provided under this subsection to the school board of the school district in which the juvenile is enrolled or the school board's designee shall be disclosed by the school board or designee to employes of the school district who work directly with the juvenile or who have been determined by the school board or designee to have legitimate educational ~~or safety~~ interests, including safety interests, in the information. A school district employe to whom information is disclosed under this paragraph shall not further disclose the information. A school board shall not use any information provided under this subsection as the sole basis for expelling or suspending a juvenile. A school board member or an employe of a school district may not be held personally liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the member or employe acted with actual malice in failing to disclose the information. A school district may not be held liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the school district or its agent acted with gross negligence or with reckless, wanton or intentional misconduct in failing to disclose the information.

SECTION 114. 938.396 (8) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.396 **(8)** Notwithstanding sub. (2), if a juvenile is adjudged delinquent for an act that would be a felony if committed by an adult, the court clerk shall notify the department of justice of that fact. No other information from the juvenile's court records may be disclosed to the department of justice except by order of the court. The department of justice may disclose any information provided under this subsection only as part of a ~~criminal history~~ firearms restrictions record search under s. 175.35 (2g) (c).

SECTION 114m. 938.51 (1) (c) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.51 **(1)** (c) Notify, if the victim died as a result of the juvenile's delinquent act and if the criteria under par. (b) are met, an adult member of the victim's family or, if the victim is younger than 18 years old and if the criteria under par. (b) are met, the victim's parent or legal guardian of the juvenile's release.

SECTION 115. 938.51 (1) (d) of the statutes is created to read:

938.51 **(1)** (d) Notify any witness who testified against the juvenile in any court proceeding involving the delinquent act of the juvenile's release if all of the following apply:

1. The witness can be found.
2. The witness has sent in a request card under sub. (2).

SECTION 116. 938.51 (2) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.51 **(2)** The department shall design and prepare cards for ~~victims specified in sub. (1) (b) and (c)~~ any person specified in sub. (1) (b), (c) or (d) to send to the department or county department having supervision over the juvenile. The cards shall have space for ~~these persons~~ any such person to provide ~~their names and addresses~~ his or her name, telephone number and mailing address, the name of the applicable juvenile and any other information that the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to ~~victims~~ persons specified in sub. (1) (b) ~~and (c)~~ to (d). These persons may send completed cards to the department or county department having supervision over the juvenile.

SECTION 117. 938.51 (4) of the statutes, as created by 1995 Wisconsin Act 77, is renumbered 938.51 (4) (intro.) and amended to read:

938.51 **(4)** (intro.) If a juvenile escapes in violation of s. 946.42 (3), as soon as possible after the department or county department having supervision over the juvenile discovers that escape, that department or county department shall make a reasonable effort to notify by telephone ~~any~~ all of the following persons:

(a) Any known victim of the act for which the juvenile was found delinquent, if the criteria under sub. (1) (b) are met; an adult member of the victim's family, if the victim died as a result of the juvenile's delinquent act and if the criteria under sub. (1) (b) are met; or the victim's parent or guardian, if the victim is younger than 18 years old and if the criteria under sub. (1) (b) are met.

SECTION 118. 938.51 (4) (b) of the statutes is created to read:

938.51 **(4)** (b) Any witness who testified against the juvenile in any court proceeding involving the delinquent act, if the criteria under sub. (1) (d) are met.

SECTION 119. 938.538 (5) (a) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.538 **(5)** (a) The ~~parole commission~~ juvenile offender review program in the division of juvenile corrections in the department may ~~grant~~ release a participant ~~parole under s. 304.06~~ to aftercare supervision under s. 301.03 (10) (d) at any time after the participant has completed 2 years of participation in the serious juvenile offender program. ~~Parole~~ Aftercare supervision of the participant shall be provided by the department.

SECTION 120. 938.539 of the statutes is created to read:

938.539 Type 2 status. **(1)** A juvenile who is placed in a Type 2 child caring institution under s. 938.34 (4d) or who, having been so placed, is replaced in a less restrictive placement under s. 938.357 (4) (c) is under the supervision and control of the county department, is subject to the rules and discipline of the county department and is considered to be in custody, as defined in s. 946.42 (1) (a).

(2) A juvenile who is placed in a Type 2 secured correctional facility under s. 938.357 (4) (a) or who, having been so placed, is replaced in a less restrictive placement under s. 938.357 (4) (c) is under the supervision and control of the department, is subject to the rules and discipline of the department and is considered to be in custody, as defined in s. 946.42 (1) (a).

(3) Notwithstanding ss. 938.19 to 938.21, if a juvenile placed in a Type 2 child caring institution under s. 938.34 (4d) or 938.357 (4) (c) or in a Type 2 secured correctional facility under s. 938.357 (4) (a) or (c) violates a condition of his or her placement in the Type 2 child caring institution or Type 2 secured correctional facility, the juvenile may be placed in a Type 1 secured correctional facility as provided in s. 938.357 (4) (b).

(4) Any intentional failure of a juvenile placed in a Type 2 child caring institution under s. 938.34 (4d) or 938.357 (4) (c) or in a Type 2 secured correctional facility under s. 938.357 (4) (a) or (c) to remain within the extended limits of his or her placement or to return within the time prescribed by the administrator of the Type 2 child caring institution or Type 2 secured correctional facility is considered an escape under s. 946.42 (3) (c).

(5) With respect to a juvenile who is placed in a child caring institution or a secured child caring institution under s. 938.34 (4d) or 938.357 (4) (a) or in a less restrictive placement under s. 938.357 (4) (c), the child welfare agency operating the child caring institution or secured child caring institution in which the juvenile is placed, and the person operating any less restrictive placement in which the juvenile is placed, shall operate that child caring institution, secured child caring institution or less restrictive placement as a Type 2 child caring institution or a Type 2 secured correctional facility. This subsection does not preclude a child welfare agency or other person from placing in a child caring institution, secured child caring institution or less restrictive placement in which a juvenile is placed under s. 938.34 (4d) or 938.357 (4) (a) or (c) a juvenile who is not placed under s. 938.34 (4d) or 938.357 (4) (a) or (c).

(6) The department shall promulgate rules to implement this section.

SECTION 121. 938.59 (1) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.59 **(1)** The county department shall investigate the personal and family history and environment of any juvenile transferred to its legal custody or placed under its supervision under s. 938.34 (4d) or (4n) and make any physical or mental examinations of the juvenile considered necessary to determine the type of care necessary for the juvenile. The county department shall screen a juvenile who is examined under this subsection to determine whether the juvenile is in need of special treatment or care because of alcohol or other drug abuse, mental illness or severe emotional disturbance. The county department shall keep a complete record of the information received from the court, the date of reception, all available data on the personal and family history of the juvenile, the results of all tests and examinations given the juvenile and a complete history of all placements of the juvenile while in the legal custody or under the supervision of the county department.

SECTION 122. 938.595 of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.595 Duration of control of county departments over delinquents. Except as provided in s. 48.366, a juvenile who has been adjudged delinquent and placed under the supervision of a county department under s. 938.34 (4d) or (4n) shall be discharged as soon as the county department determines that there is a reasonable probability that it is no longer necessary either for the rehabilitation and treatment of the juvenile or for the protection of the public that the county department retain supervision.

SECTION 123. 938.78 (2) (ag) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.78 **(2)** (ag) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of the parent, guardian or legal custodian of the juvenile who is the subject of the record or upon the request of the juvenile, if 14 years of age or over, to the parent, guardian, legal custodian or juvenile, unless the agency finds that inspection of those records by the juvenile, parent, guardian or legal custodian would result in imminent danger to anyone.

SECTION 124. 938.78 (2) (am) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.78 **(2)** (am) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian or legal custodian of the juvenile who is the subject of the record or upon the written permission of the juvenile, if 14 years of age or over, to the person named in the permission if the parent, guardian, legal custodian or juvenile specifically identifies the record in the written permission, unless the agency determines that inspection of those records by the person named in the permission would result in imminent danger to anyone.

SECTION 125. 938.78 (2) (d) (intro.) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.78 **(2)** (d) (intro.) Paragraph (a) does not prohibit the department of health and social services or a county department from disclosing information about an individual formerly in the legal custody or under the supervision of that department under s. 48.34 (4m), 1993 stats., or formerly under the supervision of that department or county department under s. 48.34 (4n), 1993 stats., or s. 938.34 (4d) or (4n) to the department of corrections, if the individual is at the time of disclosure any of the following:

SECTION 126. Subchapter XVIII (title) of chapter 938 [precedes 938.795] of the statutes is created to read:

CHAPTER 938

SUBCHAPTER XVIII

COMMUNITY SERVICES

SECTION 127. Subchapter XX (title) of chapter 938 [precedes 938.983] of the statutes is created to read:

CHAPTER 938

SUBCHAPTER XX

MISCELLANEOUS PROVISIONS

SECTION 128. 946.42 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 77, section 639, and 1995 Wisconsin Act .... (Senate Bill 72), is repealed and recreated to read:

946.42 **(1)** (a) "Custody" includes without limitation actual custody of an institution, including a secured correctional facility, as defined in s. 938.02 (15m), a secured child caring institution, as defined in s. 938.02 (15g), a secure detention facility, as defined in s. 938.02 (16), a Type 2 child caring institution, as defined in s. 938.02 (19r), or a juvenile portion of a county jail, or of a peace officer or institution guard and constructive custody of prisoners and juveniles subject to an order under

s. 48.366, 938.183, 938.34 (4d), (4h) or (4m) or 938.357 (4) or (5) (e) temporarily outside the institution whether for the purpose of work, school, medical care, a leave granted under s. 303.068, a temporary leave or furlough granted to a juvenile or otherwise. Under s. 303.08 (6) it means, without limitation, that of the sheriff of the county to which the prisoner was transferred after conviction. It does not include the custody of a probationer or parolee by the department of corrections or a probation or parole officer or the custody of a person who has been released to aftercare supervision under ch. 938 unless the person is in actual custody or is subject to a confinement order under s. 973.09 (4).

SECTION 129. 946.42 (3) (c) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

946.42 **(3)** (c) Subject to a disposition under s. 938.34 (4d), (4h) or (4m), to a placement under s. 938.357 (4) or to aftercare revocation under s. 938.357 (5) (e).

SECTION 130. 946.44 (2) (c) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

946.44 **(2)** (c) "Institution" includes a secured ~~juvenile~~ correctional facility ~~and~~, as defined in s. 938.02 (15m), a secured child caring institution, as defined in s. 938.02 (15g), and a Type 2 child caring institution, as defined in s. 938.02 (19r).

SECTION 131. 946.44 (2) (d) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

946.44 **(2)** (d) "Prisoner" includes a person who is under the supervision of the department of corrections under s. 938.34 (4h) or placed in a secured correctional facility or secured child caring institution under s. 938.34 (4m) or 938.357 (4) or (5) (e) or placed in a Type 2 child caring institution under s. 938.34 (4d) or who is subject to an order under s. 48.366.

SECTION 132. 946.45 (2) (c) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

946.45 **(2)** (c) "Institution" includes a secured ~~juvenile~~ correctional facility ~~and~~, as defined in s. 938.02 (15m), a secured child caring institution, as defined in s. 938.02 (15g), and a Type 2 child caring institution, as defined in s. 938.02 (19r).

SECTION 133. 946.45 (2) (d) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

946.45 **(2)** (d) "Prisoner" includes a person who is under the supervision of the department of corrections under s. 938.34 (4h) or placed in a secured correctional facility or secured child caring institution under s. 938.34 (4m) or 938.357 (4) or (5) (e) or placed in a Type 2 child caring institution under s. 938.34 (4d) or who is subject to an order under s. 48.366.

SECTION 134. 970.032 (2) (intro.) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

970.032 **(2)** (intro.) If the court finds probable cause as specified in sub. (1), the court shall determine whether to retain jurisdiction or to transfer jurisdiction to the court assigned to exercise jurisdiction under chs. 48 and 938. The court shall retain jurisdiction unless the ~~court finds~~ child proves by a preponderance of the evidence all of the following:

SECTION 134d. 971.31 (13) of the statutes is created to read:

971.31 **(13)** (a) A child over whom the court has jurisdiction under s. 938.183 (1) (b) or (c) on a misdemeanor action may make a motion before trial to transfer jurisdiction to the court assigned to exercise jurisdiction under chs. 48 and 938. The motion may allege that the child did not commit the violation under the circumstances described in s. 938.183 (1) (b) or (c), whichever is applicable, or that transfer of jurisdiction would be appropriate because of all of the following:

1. If convicted, the child could not receive adequate treatment in the criminal justice system.

2. Transferring jurisdiction to the court assigned to exercise jurisdiction under chs. 48 and 938 would not depreciate the seriousness of the offense.

3. Retaining jurisdiction is not necessary to deter the child or other children from committing the violation of which the child is accused under the circumstances specified in s. 938.183 (1) (b) or (c), whichever is applicable.

(b) The court shall retain jurisdiction unless the child proves by a preponderance of the evidence that he or she did not commit the violation under the circumstances described in s. 938.183 (1) (b) or (c) or that transfer would be appropriate because all of the factors specified in par. (a) 1., 2. and 3. are met.

SECTION 134g. 977.076 (2) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

977.076 **(2)** The department of administration may collect unpaid reimbursement payments to the state public defender ordered by a court under sub. (1) or s. 48.275 ~~(1)~~ (2) (a), 757.66, 938.275 ~~(1)~~ (2) (a) or 973.06 (1) (e). The department may contract with a private collection agency to collect these payments. Section 16.705 does not apply to a contract under this subsection.

SECTION 134m. 990.01 (3) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

990.01 **(3)** ADULT. "Adult" means a person who has attained the age of 18 years, except that for purposes of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, "adult" means a person who has attained the age of 17 years.

SECTION 134p. 990.01 (20) of the statutes, as affected by 1995 Wisconsin Act 77, is amended to read:

990.01 **(20)** MINOR. "Minor" means a person who has not attained the age of 18 years, except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, "minor" does not include a person who has attained the age of 17 years.

SECTION 134v. 1995 Wisconsin Act 77, section 9310 (1t) is created to read:

[1995 Wisconsin Act 77] Section 9310 (1t) JUDGMENTS AND DISPOSITIONS IN ADULT COURT. The treatment of sections 906.08 (2), 906.09 (title), (1), (2), (3), (4) and (5), 938.35 (1) (cm) and 969.01 (4) of the statutes first applies to proceedings in a court of civil or criminal jurisdiction held on the effective date of this subsection, but does not preclude the use of a disposition entered by, or a record of evidence given in, a court assigned to exercise jurisdiction under chapter 48 of the statutes before the effective date of this subsection for the purpose of setting bail or impeaching a witness.

SECTION 135. Nonstatutory provisions; corrections.

(1) RULE-MAKING DEADLINE. The department of corrections shall submit the proposed rules required under sections 938.22 (2) (a), 938.357 (5) (g), 938.38 (6), 938.48 (13), 938.533 (2), 938.534 (2), 938.538 (7) and 938.78 (3) of the statutes, as created by 1995 Wisconsin Act 77, section 938.539 (6) of the statutes, as created by this act, and section 938.993 of the statutes, as affected by 1995 Wisconsin Act 77 to the legislative council staff for review under section 227.15 (1) of the statutes by no later than July 1, 1997.

(2) RULE-MAKING EXCEPTION. Before July 1, 1997, the department of corrections shall administer section 301.02 of the statutes, section 301.03 (9) of the statutes, as affected by 1995 Wisconsin Act 77, section 301.03 (9r) of the statutes, as created by 1995 Wisconsin Act 77, section 301.03 (10) of the statutes, as affected by 1995 Wisconsin Acts 27 and 77, and chapter 938 of the statutes, as created by 1995 Wisconsin Act 77, according to policies and procedures established by that department, but not promulgated as rules, notwithstanding the absence of rules to administer those sections and that chapter.

SECTION 136. Effective date.

(1) This act takes effect on July 1, 1996, or on the day after publication, whichever is later.