



## 1997 ASSEMBLY BILL 590

November 4, 1997 - Introduced by Representatives STASKUNAS, UNDERHEIM, JENSEN, LADWIG, PLALE, HASENOHRL, PLOUFF, F. LASEE and GUNDERSON, cosponsored by Senators BURKE and FARROW. Referred to Committee on Criminal Justice and Corrections.

1     **AN ACT** *to repeal* 778.25 (1) (a) 4.; *to amend* 778.25 (1) (a) 1., 938.17 (2) (c), 938.17  
2           (2) (d), 938.17 (2) (e), 938.34 (8), 938.344 (title) and 938.344 (3); and *to create*  
3           938.344 (2r), 938.983 (2r), 938.983 (2t) and 938.983 (2v) of the statutes;  
4           **relating to:** the amount of a penalty that may be imposed on a juvenile who  
5           commits a delinquent act and on a person under 18 years of age who possesses  
6           cigarettes or tobacco products and providing penalties.

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### *Analysis by the Legislative Reference Bureau*

Under current law, no person under 18 years of age may buy or attempt to buy any tobacco product, falsely represent his or her age for the purpose of receiving any tobacco product or possess any tobacco product. Currently, a person under 18 years of age who commits any of those acts may be ordered to pay a forfeiture of not more than \$50, placed in a teen court program, ordered to participate in a supervised work program or other community service work or ordered to undergo any combination of those dispositions. This bill increases the maximum amount of a forfeiture that may be imposed on a person under 18 years of age who commits any of those acts to \$250.

Under current law, the court assigned to exercise jurisdiction under the juvenile justice code (juvenile court) may impose various dispositions on a person under 17 years of age (juvenile) who commits a delinquent act. Those dispositions include a forfeiture of not more than the maximum amount of the fine that may be imposed on an adult for committing the violation committed by the juvenile or, if the violation is only applicable to a person under 18 years of age, \$100. This bill raises

the maximum amount of a forfeiture that may be imposed on a juvenile who commits a delinquent act that is only applicable to a person under 18 years of age to \$250.

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

1           **SECTION 1.** 778.25 (1) (a) 1. of the statutes is amended to read:

2           778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,  
3           961.573 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming  
4           to one of those statutes brought against an adult in circuit court or against a minor  
5           in the court assigned to exercise jurisdiction under chs. 48 and 938.

6           **SECTION 2.** 778.25 (1) (a) 4. of the statutes is repealed.

7           **SECTION 3.** 938.17 (2) (c) of the statutes is amended to read:

8           938.17 (2) (c) The citation procedures described in ch. 800 shall govern  
9           proceedings involving juveniles in municipal court, except that this chapter shall  
10          govern the taking and holding of a juvenile in custody and par. (cg) shall govern the  
11          issuing of a summons to the juvenile's parent, guardian or legal custodian. When a  
12          juvenile is before the court assigned to exercise jurisdiction under this chapter and  
13          ch. 48 upon a citation alleging the juvenile to have violated a civil law or municipal  
14          ordinance, the procedures specified in s. 938.237 shall apply. If a citation is issued  
15          to a juvenile, the issuing agency shall notify the juvenile's parent, guardian and legal  
16          custodian within 7 days. The agency issuing a citation to a juvenile who is 12 to 15  
17          years of age for a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,  
18          961.573 (2), 961.574 (2) or 961.575 (2) or an ordinance conforming to one of those  
19          statutes shall send a copy to an intake worker under s. 938.24 for informational  
20          purposes only.

21          **SECTION 4.** 938.17 (2) (d) of the statutes is amended to read:

1           938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal  
2 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that  
3 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983, 961.573 (2),  
4 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders  
5 permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails  
6 to pay the forfeiture imposed by the municipal court, the court may not impose a jail  
7 sentence but may suspend any license issued under ch. 29 for not less than 30 days  
8 nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s.  
9 340.01 (40), for not less than 30 days nor more than 5 years. If a court suspends a  
10 license or privilege under this section, the court shall immediately take possession  
11 of the applicable license and forward it to the department that issued the license,  
12 together with the notice of suspension clearly stating that the suspension is for  
13 failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the  
14 period of suspension, the court shall immediately notify the department, which shall  
15 thereupon return the license to the person.

16           **SECTION 5.** 938.17 (2) (e) of the statutes is amended to read:

17           938.17 (2) (e) If a municipal court finds that a juvenile violated a municipal  
18 ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,  
19 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter a dispositional order  
20 under s. 938.344 that is authorized under par. (cm).

21           **SECTION 6.** 938.34 (8) of the statutes is amended to read:

22           938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that  
23 this disposition is in the best interest of the juvenile and in aid of rehabilitation. The  
24 maximum forfeiture that the court may impose under this subsection for a violation  
25 by a juvenile is the maximum amount of the fine that may be imposed on an adult

**SECTION 6**

1 for committing that violation or, if the violation is applicable only to a person under  
2 18 years of age, ~~\$100~~ \$250. Any such order shall include a finding that the juvenile  
3 alone is financially able to pay the forfeiture and shall allow up to 12 months for  
4 payment. If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture  
5 and order other alternatives under this section, in accordance with the conditions  
6 specified in this subchapter; or the court may suspend any license issued under ch.  
7 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating  
8 privilege as defined in s. 340.01 (40) for not less than 30 days nor more than 5 years.  
9 If the court suspends any license under this subsection, the clerk of the court shall  
10 immediately take possession of the suspended license and forward it to the  
11 department which issued the license, together with a notice of suspension clearly  
12 stating that the suspension is for failure to pay a forfeiture imposed by the court. If  
13 the forfeiture is paid during the period of suspension, the suspension shall be reduced  
14 to the time period which has already elapsed and the court shall immediately notify  
15 the department which shall then return the license to the juvenile.

16 **SECTION 7.** 938.344 (title) of the statutes is amended to read:

17 **938.344 (title) Disposition; certain intoxicating liquor, beer, tobacco**  
18 **and drug violations.**

19 **SECTION 8.** 938.344 (2r) of the statutes is created to read:

20 938.344 (2r) If a court finds that a juvenile has committed a violation of s.  
21 938.983 (2) or a local ordinance enacted under s. 938.983 (5), the court shall order one  
22 or any combination of the following dispositions:

23 (a) Counseling by the court of the person and his or her parent or guardian.

24 (b) A forfeiture not to exceed \$250. Any such order shall include a finding that  
25 the person alone is financially able to pay and shall allow up to 12 months for the

1 payment. If a person fails to pay the forfeiture, the court may suspend any license  
2 issued under ch. 29 or suspend the person's operating privilege, as defined in s.  
3 340.01 (40), for not less than 30 days nor more than 5 years. The court shall  
4 immediately take possession of the suspended license and forward it to the  
5 department that issued the license, together with the notice of suspension clearly  
6 stating that the suspension is for failure to pay a forfeiture imposed by the court. If  
7 the forfeiture is paid during the period of suspension, the court shall immediately  
8 notify the department, which will thereupon return the license to the person.

9 (c) Placement in a teen court program if all of the following conditions apply:

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

14 2. The person admits or pleads no contest in open court, with the person's  
15 parent, guardian or legal custodian present, to the allegations that the person  
16 violated s. 938.983 (2) or the ordinance enacted under s. 938.983 (5).

17 3. The person has not successfully completed participation in a teen court  
18 program during the 2 years before the date of the alleged violation of s. 938.983 (2)  
19 or the ordinance enacted under s. 938.983 (5).

20 (d) Participation in a supervised work program or other community service  
21 work under s. 938.34 (5g)

22 **SECTION 9.** 938.344 (3) of the statutes is amended to read:

23 938.344 (3) If ~~the~~ a juvenile who is alleged to have committed ~~the~~ a violation  
24 of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983, or of a local ordinance  
25 that strictly conforms to one of those statutes, is within 3 months of his or her 17th

**SECTION 9**

1 birthday, the court assigned to exercise jurisdiction under this chapter and ch. 48  
2 may, at the request of the district attorney or on its own motion, dismiss the citation  
3 without prejudice and refer the matter to the district attorney for prosecution under  
4 s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983 or a local ordinance that  
5 strictly conforms to one of those statutes. The juvenile is entitled to a hearing only  
6 on the issue of his or her age. This subsection does not apply to violations under s.  
7 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to  
8 one of those statutes.

9 **SECTION 10.** 938.983 (2r) of the statutes is created to read:

10 938.983 (2r) Subject to sub. (2v), any person who violates sub. (2) is subject to  
11 one or any combination of the following dispositions:

12 (a) Counseling by the court of the person and his or her parent or guardian.

13 (b) A forfeiture not to exceed \$250. Any such order shall include a finding that  
14 the person alone is financially able to pay and shall allow up to 12 months for the  
15 payment. If a person fails to pay the forfeiture, the court may suspend any license  
16 issued under ch. 29 or suspend the person's operating privilege, as defined in s.  
17 340.01 (40), for not less than 30 days nor more than 5 years. The court shall  
18 immediately take possession of the suspended license and forward it to the  
19 department that issued the license, together with the notice of suspension clearly  
20 stating that the suspension is for failure to pay a forfeiture imposed by the court. If  
21 the forfeiture is paid during the period of suspension, the court shall immediately  
22 notify the department, which will thereupon return the license to the person.

23 (c) Placement in a teen court program if all of the following conditions apply:

24 1. The chief judge of the judicial administrative district has approved a teen  
25 court program established in the person's county of residence and the judge

1 determines that participation in the teen court program will likely benefit the person  
2 and the community.

3 2. The person admits or pleads no contest in open court, with the person's  
4 parent, guardian or legal custodian present, to the allegations that the person  
5 violated sub. (2) or the ordinance enacted under sub. (5).

6 3. The person has not successfully completed participation in a teen court  
7 program during the 2 years before the date of the alleged violation of sub. (2) or the  
8 ordinance enacted under sub. (5).

9 (d) Participation in a supervised work program administered by the county  
10 department or a community agency approved by the court or other community  
11 service work administered by a public agency or nonprofit charitable organization  
12 approved by the court as described in sub. (2t).

13 **SECTION 11.** 938.983 (2t) of the statutes is created to read:

14 938.983 (2t) (a) The court shall set standards for the supervised work program  
15 under sub. (2r) (d) within the budgetary limits established by the county board of  
16 supervisors. The supervised work program may provide the person with reasonable  
17 compensation reflecting a reasonable market value of the work performed or it may  
18 consist of uncompensated community service work. The court may use any available  
19 resources, including any community service work program, in ordering the person  
20 to perform community service work under sub. (2r).

21 (b) The supervised work program or other community service work shall be of  
22 a constructive nature designed to promote the person's rehabilitation, shall be  
23 appropriate to the person's age level and physical ability and shall be combined with  
24 counseling from a member of the staff of the county department, community agency,  
25 public agency or nonprofit charitable organization or other qualified person. The

1 supervised work program or other community service work may not conflict with the  
2 person's regular attendance at school. The amount of work required shall be  
3 reasonably related to the seriousness of the person's offense.

4 **SECTION 12.** 938.983 (2v) of the statutes is created to read:

5 938.983 (2v) A person who is under 17 years of age on the date of disposition  
6 is subject to s. 938.344 unless proceedings have been instituted against the person  
7 in a court of civil or criminal jurisdiction after dismissal of the citation under s.  
8 938.344 (3).

9 **SECTION 13. Initial applicability.**

10 (1) This act first applies to a violation of section 938.983 of the statutes, as  
11 affected by this act, or of a local ordinance that strictly conforms to that statute,  
12 occurring on the effective date this subsection.

13 (END)