

1987 Assembly Bill 662

Date of enactment: April 20, 1988
Date of publication: April 27, 1988

1987 Wisconsin Act 339

(Vetoed in Part)

AN ACT to renumber 161.41 (1) (d), 161.41 (1) (e), 161.41 (1m) (d), 161.41 (1m) (e) and 161.41 (2r) (b); to renumber and amend 48.24 (2), 48.245 (2) and 48.34 (6); to amend 14.017 (2), 20.435 (4) (mb), 46.03 (6) (c), 48.13 (4), 48.135, 48.245 (4), 48.295 (1), 48.33 (1) (b), 48.344 (1) (a), 48.355 (2) (a) and (b) 1, 48.48 (3), 48.57 (1) (b), 51.42 (3) (ar) 4. b, 51.45 (8) (d), 59.20 (5) (b), 59.395 (5), 118.126 (1) (intro.), 118.126 (1) (b) and (2), 161.41 (1) (a), 161.41 (1) (b), 161.41 (1m) (a), 161.41 (1m) (b), 161.41 (1r), 161.41 (1x), 161.41 (2r) (a), 161.41 (3), 161.46, 161.465 (2), 161.472 (2), 161.475, 161.48 (2), 161.48 (4), 161.49, 161.55 (1) (d) 3, 940.02 (intro.) and (1), 971.365, 973.05 (1), 973.05 (2) and 973.07; to repeal and recreate 48.31 (4), 48.32 (1) and 48.33 (1) (c); and to create 20.255 (1) (fi), 20.435 (3) (gb), 20.435 (4) (gb), 46.55, 46.65, 46.975, 48.02 (1e), 48.02 (1m), 48.02 (1s), 48.02 (2d), 48.02 (5g), 48.02 (17m), 48.067 (6m), 48.13 (11m), 48.24 (2m), 48.245 (2) (a) 3 and 4 and (c), 48.295 (1c), 48.295 (1g), 48.32 (1g), 48.32 (1r), 48.32 (6), 48.34 (6) (b), 48.34 (12), 48.343 (10), 48.344 (2g), 48.361, 48.547, 48.548, 49.45 (26), 49.46 (2) (b) 6. k, 115.362, 140.81 (2m), 161.41 (1) (d), 161.41 (1) (e), 161.41 (1) (f), 161.41 (1) (g), 161.41 (1) (h), 161.41 (1m) (d), 161.41 (1m) (e), 161.41 (1m) (f), 161.41 (1m) (g), 161.41 (1m) (h), 161.41 (2r) (b), 161.41 (3n), 161.41 (3r), 161.41 (5), 814.60 (2) (cn) and 940.02 (3) and (4) of the statutes, relating to: controlled substances, alcohol and other drug abuse services, grant programs, providing penalties and a surcharge and making appropriations.

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

SECTION 1. 14.017 (2) of the statutes is amended to read:

14.017 (2) STATE COUNCIL ON ALCOHOL AND OTHER DRUG ABUSE. There is created in the office of the governor a state council on alcohol and other drug abuse consisting of the governor, the attorney general, the state superintendent of public instruction, the secretary of health and social services, the commissioner of insurance and the chairperson of the pharmacy examining board, or their designees; a representative of the controlled substances board; a consumer representing the public at large, who shall be elected by the citizens

council on alcohol and other drug abuse under s. 14.245 (6); a representative of an organization or agency which is a direct provider of services to alcoholics and other drug abusers; and 2 members of each house of the legislature, representing the majority party and the minority party in each house, chosen as are the members of standing committees in their respective houses. Section 15.09 applies to the council.

SECTION 2. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

	<u>1987-88</u>	<u>1988-89</u>
20.255 Public instruction, department of		
(1) EDUCATIONAL LEADERSHIP		
(fi) Youth alcohol and other drug abuse programs	GPR A -0-	574,000

SECTION 3. 20.255 (1) (fi) of the statutes is created to read:

20.255 (1) (fi) *Youth alcohol and other drug abuse programs.* The amounts in the schedule for youth alcohol and other drug abuse programs under s. 115.362.

SECTION 9. 46.55 of the statutes is created to read:

46.55 Grants for the provision of child care services to persons in treatment. (1) The department shall award grants to county departments under s. 46.23 or 51.42 for the purpose of providing child care services for the children of persons who are receiving alcohol and other drug abuse treatment.

SECTION 5. 20.435 (3) (gb) of the statutes is created to read:

20.435 (3) (gb) *Drug testing:* All moneys received from probation and parole clients who are required to pay for their drug testing, as prescribed by rule in accordance with s. 46.03 (6) (c), for expenditures related to the drug testing program for probationers and parolees under s. 46.03 (6) (c).

(2) A county department under s. 46.23 or 51.42 may apply to the department for a grant under sub. (1). The department shall select applicants to receive grants under sub. (1) based on criteria developed by the department.

SECTION 6. 20.435 (4) (gb) of the statutes is created to read:

20.435 (4) (gb) *Alcohol and drug abuse initiatives.* All moneys received from the state treasurer under s. 161.41 (5) (c), to be expended on programs providing prevention, intervention and treatment for alcohol and other drug abuse problems.

(3) A county department under s. 46.23 or 51.42 which receives a grant under sub. (1) shall give priority for the child care services to a child whose family income is below 150% of the poverty line, under 42 USC 9902 (2), or who lives with only one parent.

SECTION 7. 20.435 (4) (mb) of the statutes, as created by 1987 Wisconsin Act 27, is amended to read:

20.435 (4) (mb) *Federal project local assistance.* ~~All federal moneys received, as a portion of the moneys provided under subtitle A of title IV of P.L. 99-570, for amounts to counties pursuant to allocation plans developed by the department for the expansion of treatment and rehabilitation services for persons with alcohol or drug abuse problems See sub. (9) (mb).~~

(3m) Within the limits of available funding under s. 20.435 (4) (mb), the department shall award \$250,000 in grants under this section in fiscal year 1988-89.

SECTION 8. 46.03 (6) (c) of the statutes is amended to read:

46.03 (6) (c) Administer parole and probation matters and establish a parole board, which shall be headed by a chairperson. The department shall promulgate rules establishing a drug testing program for probationers and parolees. The rules shall provide for assessment of fees upon probationers and parolees to partially offset the costs of the program.

(4) The department shall evaluate the effectiveness of the grants provided under this section in fiscal year 1988-89 in facilitating the provision of treatment to persons with alcohol and other drug abuse problems. The department shall submit an interim report on its evaluation to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) on or before April 1, 1989, and its final report on or before January 1, 1990.

SECTION 10. 46.65 of the statutes is created to read:

46.65 Treatment alternative program. (1) The department shall implement a treatment alternative program. The department shall make grants to provide alcohol or other drug abuse services, as a treatment alternative in lieu of imprisonment, for eligible persons in need of those services. The department shall make grants so that the treatment alternative program serves a variety of geographic locations.

(2) The department shall promulgate rules to implement the treatment alternative program. The rules shall include all of the following:

- (a) Organizational and administrative requirements for independent program units.
- (b) Procedures for communicating and reaching agreements with representatives of the criminal justice system and treatment providers.
- (c) Eligibility criteria for participants who obtain services under the program.
- (d) Procedures for early identification of eligible participants.
- (e) Assessment, referral, treatment and monitoring procedures.
- (f) Policies and procedures for staff training.
- (g) A data collection system to be used for program management and evaluation.

SECTION 11. 46.975 of the statutes is created to read:

46.975 Grant and funding program; services related to alcohol and other drug abuse. (1) DEFINITION. In this section, "organization" means a nonprofit corporation or a public agency that proposes to provide services for individuals with alcohol or other drug abuse problems.

(2) DISTRIBUTION OF FUNDS. The department shall allocate funds for programs as follows:

(a) The department shall make grants to applying community-based organizations to provide in-home and community-based alcohol and other drug abuse intervention, treatment or family support services directed at low-income Hispanics and Black Americans in urban areas and make funds available to any of the federally recognized tribal governing bodies in this state to increase the capacity of reservations to provide outpatient, intervention, treatment or family support services for alcohol and other drug abusers.

(b) The department shall make a grant to an applying organization to implement an alcohol and other drug abuse treatment program which meets the special needs of women with alcohol or other drug abuse problems.

(c) The department shall make grants to applying organizations for the purpose of organizing community initiatives to combat alcohol and other drug abuse in youth.

SECTION 12. 48.02 (1e) of the statutes is created to read:

48.02 (1e) "Alcohol and other drug abuse impairment" means a condition of a person which is exhibited by characteristics of habitual lack of self-control in the use of alcohol beverages or controlled substances to the extent that the person's health is substantially affected or endangered or the person's social or economic functioning is substantially disrupted.

SECTION 13. 48.02 (1m) of the statutes is created to read:

48.02 (1m) "Alcoholism" has the meaning given in s. 51.01 (1m).

SECTION 14. 48.02 (1s) of the statutes is created to read:

48.02 (1s) "Approved treatment facility" has the meaning given in s. 51.01 (2).

SECTION 15. 48.02 (2d) of the statutes is created to read:

48.02 (2d) "Controlled substance" has the meaning given in s. 161.01 (4).

SECTION 16. 48.02 (5g) of the statutes is created to read:

48.02 (5g) "Drug dependent" has the meaning given in s. 51.01 (8).

SECTION 17. 48.02 (17m) of the statutes is created to read:

48.02 (17m) "Special treatment or care" means professional services which need to be provided to a child or his or her family to protect the well-being of the child, prevent placement of the child outside the home or meet the special needs of the child. This terms includes, but is not limited to, medical, psychological or psychiatric treatment, alcohol or other drug abuse treatment or other services which the court finds to be necessary and appropriate.

SECTION 18m. 48.067 (6m) of the statutes is created to read:

48.067 (6m) Conduct the multidisciplinary screen in counties that have a pilot program under s. 48.547.

SECTION 19. 48.13 (4) of the statutes is amended to read:

48.13 (4) Whose parent or guardian signs the petition requesting jurisdiction and states that he or she is unable to care for, control or provide necessary special ~~care or special~~ treatment or care for the child;

SECTION 20. 48.13 (11m) of the statutes is created to read:

48.13 (11m) Who is suffering from an alcohol and other drug abuse impairment, exhibited to a severe degree, for which the parent or guardian is unwilling to provide treatment;

SECTION 21. 48.135 of the statutes is amended to read:

48.135 Referral of children to proceedings under chapter 51 or 55. (1) If a child alleged to be delinquent or in need of protection or services is before the court and it appears that the child is developmentally disabled, mentally ill, ~~alcoholic~~ or drug dependent or suffers from alcoholism, the court ~~as defined in ch. 51~~ may proceed under ch. 51 or 55.

(2) ~~Admissions~~ Any voluntary or involuntary admissions, placements or commitments of any a child made in or to an inpatient facility as defined in s. 51.01 (10) shall be governed by ch. 51 or 55.

SECTION 22. 48.24 (2) of the statutes is renumbered 48.24 (2) (a) and amended to read:

48.24 (2) (a) As part of the intake inquiry, ~~intake conferences may be conducted~~ the intake worker may

conduct multidisciplinary screens and intake conferences with notice to the child, parent, guardian and legal custodian. If sub. (2m) applies, the intake worker shall conduct a multidisciplinary screen under s. 48.547 if the child has not refused to participate under par. (b).

(b) No child or other person may be compelled to appear at any conference, participate in a multidisciplinary screen produce any papers or visit any place by an intake worker.

SECTION 23. 48.24 (2m) of the statutes is created to read:

48.24 (2m) (a) In counties that have a pilot program under s. 48.547, a multidisciplinary screen shall be conducted for:

1. Any child alleged to have committed a violation specified under ch. 161.

2. Any child alleged to be delinquent or in need of protection and services who has at least 2 prior adjudications for a violation of s. 125.07 (4) (a) or (b), 125.08 (3) (b) or 125.09 (2) or a local ordinance that strictly conforms to any of those sections.

3. Any child alleged to have committed any offense which appears to the intake worker to be directly motivated by the child's need to purchase or otherwise obtain alcohol beverages or controlled substances.

4. Any child 12 years of age or older who requests and consents to a multidisciplinary screen.

5. Any child who consents to a multidisciplinary screen requested by his or her parents.

(b) The multidisciplinary screen may be conducted by an intake worker for any reason other than those specified in the criteria under par. (a).

SECTION 24. 48.245 (2) of the statutes is renumbered 48.245 (2) (a) and amended to read:

48.245 (2) (a) Informal disposition may provide ~~that~~ for any of the following:

1. ~~That~~ the child appear with a parent, guardian or legal custodian for counseling and advice, ~~or that.~~

2. ~~That~~ the child and a parent, guardian and legal custodian abide by such obligations as will tend to ensure the child's rehabilitation, protection or care.

(b) Informal disposition may not include any form of residential placement and may not exceed 6 months.

SECTION 25. 48.245 (2) (a) 3 and 4 and (c) of the statutes are created to read:

48.245 (2) (a) 3. That the child submit to an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 48.547 (4) and that is conducted by an approved treatment facility for an examination of the child's use of alcohol beverages or controlled substances and any medical, personal, family or social effects caused by its use, if the multidisciplinary screen conducted under s. 48.24 (2) shows that the child is at risk of having needs and problems related to the use of alcohol beverages or controlled

substances and its medical, personal, family or social effects.

4. That the child participate in an alcohol and other drug abuse outpatient treatment program or an education program relating to the abuse of alcohol beverages or controlled substances, if an alcohol and other drug abuse assessment conducted under subd. 3 recommends outpatient treatment or education.

(c) If the informal disposition provides for alcohol and other drug abuse outpatient treatment under par. (a) 4, the child and the child's parent, guardian or legal custodian shall execute an informed consent form that indicates that they are voluntarily and knowingly entering into an informal disposition agreement for the provision of alcohol and other drug abuse outpatient treatment.

SECTION 26. 48.245 (4) of the statutes is amended to read:

48.245 (4) The intake worker shall inform the child and the child's parent, guardian and legal custodian in writing of their right to terminate the informal disposition at any time or object at any time to the fact or terms of the informal disposition, ~~and if the.~~ 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 informal disposition is terminated the intake worker may recommend to the district attorney or corporation counsel that a petition be filed.

SECTION 27. 48.295 (1) of the statutes is amended to read:

48.295 (1) After the filing of a petition and upon a finding by the court that reasonable cause exists to warrant an examination or an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 48.547 (4), the court may order any child coming within its jurisdiction to be examined as an outpatient by a personnel in an approved treatment facility for alcohol and other drug abuse, by a physician, psychiatrist or licensed psychologist, or by another expert appointed by the court holding at least a masters degree in social work or another related field of child development, in order that the child's physical, psychological, alcohol or other drug dependency, mental or developmental condition may be considered. The court may also order an examination or an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 48.547 (4) of a parent, guardian or legal custodian whose ability to care for a child is at issue before the court. The court shall hear any objections by the child, the child's parents, guardian or legal custodian to the request for such an examination or assessment before ordering the examination or assessment. The expenses of an examination, if approved by the court, shall be paid by the county of the court ordering the examination. The payment for an alcohol and other drug abuse assessment shall be in accordance with s. 48.361.

SECTION 28. 48.295 (1c) of the statutes is created to read:

48.295 (1c) Reasonable cause is considered to exist to warrant an alcohol and other drug abuse assessment under sub. (1) if any of the following applies:

(a) The multidisciplinary screen procedure conducted under s. 48.24 (2) indicates that the child is at risk of having needs and problems related to alcohol or other drug abuse.

(b) The child was adjudicated delinquent on the basis of an offense specified in ch. 161.

(c) The greater weight of the evidence at a fact-finding hearing indicates that any offense which formed the basis for the adjudication was motivated by the child's need to purchase or otherwise obtain alcohol beverages or controlled substances.

SECTION 29. 48.295 (1g) of the statutes is created to read:

48.295 (1g) If the court orders an alcohol or other drug abuse assessment under sub. (1), the approved treatment facility shall, within 14 days after the court order, report the results of the assessment to the court, except that, upon request by the approved treatment facility and if the child is not held in secure or non-secure custody, the court may extend the period for assessment for not more than 20 additional working days. The report shall include a recommendation as to whether the child is in need of treatment for abuse of alcohol beverages or controlled substances or education relating to the use of alcohol beverages and controlled substances and, if so, shall recommend a service plan and an appropriate treatment, from an approved treatment facility, or a court-approved education program.

SECTION 30m. 48.31 (4) of the statutes is repealed and recreated to read:

48.31 (4) The court or jury shall make findings of fact and the court shall make conclusions of law relating to the allegations of a petition filed under s. 48.13 (1) to (11m). In cases alleging a child to be in need of protection or services under s. 48.13 (11), the court shall not find that the child is suffering serious emotional damage unless a licensed physician specializing in psychiatry or a licensed psychologist appointed by the court to examine the child has testified at the hearing that in his or her opinion the condition exists, and adequate opportunity for the cross-examination of the physician or psychologist has been afforded. The judge may use the written reports if the right to have testimony presented is voluntarily, knowingly and intelligently waived by the guardian ad litem or legal counsel for the child and the parent or guardian. In cases alleging a child to be in need of protection and services under s. 48.13 (11m), the court shall not find that the child is in need of treatment and education for needs and problems related to the use or abuse of alcohol beverages or controlled substances and its medical, personal, family or social effects unless an assessment for alcohol and other drug abuse that con-

forms to the criteria specified under s. 48.547 (4) has been conducted by an approved treatment facility. In cases alleging a child delinquent or in need of protection or services under s. 48.13 (12) the court shall make findings relating to the proof of the violation of law and to the proof that the child named in the petition committed the violation alleged.

SECTION 32m. 48.32 (1) of the statutes is repealed and recreated to read:

48.32 (1) At any time after the filing of a petition for a proceeding relating to s. 48.12 or 48.13 and before the entry of judgment, the judge or juvenile court commissioner may suspend the proceedings and place the child under supervision in the child's own home or present placement. The court may establish terms and conditions applicable to the parent, guardian or legal custodian, and to the child, including any conditions specified in sub. (1g). The order under this section shall be known as a consent decree and must be agreed to by the child if 12 years of age or older; the parent, guardian or legal custodian; and the person filing the petition under s. 48.25. If the consent decree includes any conditions specified in sub. (1g), the consent decree shall include provisions for payment of the services as specified in s. 48.361. The consent decree shall be reduced to writing and given to the parties.

SECTION 34. 48.32 (1g) of the statutes is created to read:

48.32 (1g) If the petition alleges that the child committed a violation specified under ch. 161 and if the multidisciplinary screen conducted under s. 48.24 (2) shows that the child is at risk of having needs and problems related to the use of alcohol beverages or controlled substances and its medical, personal, family and social effects, the judge or juvenile court commissioner may establish as a condition under sub. (1) any of the following:

(a) That the child participate in outpatient treatment from an approved treatment facility for alcohol and other drug abuse, if an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 48.547 (4) was completed under s. 48.295 (1).

(b) That the child participate in a court-approved education program that is related to alcohol and other drug abuse.

SECTION 35. 48.32 (1r) of the statutes is created to read:

48.32 (1r) If the conditions of the consent decree provide for an alcohol and other drug abuse outpatient treatment program under sub. (1g) (a), the child or, if the child has not attained the age of 12, the child's parent, guardian or legal custodian shall execute an informed consent form that indicates that they are voluntarily and knowingly entering into a consent decree for the provision of alcohol and other drug abuse outpatient treatment.

SECTION 36. 48.32 (6) of the statutes is created to read:

48.32 (6) The judge or juvenile court commissioner shall inform the child and the child's parent, guardian or legal custodian, in writing, of the child's right to object to the continuation of the consent decree under sub. (3) and the fact that the hearing under which the child was placed on supervision may be continued to conclusion as if the consent decree had never been entered.

SECTION 37. 48.33 (1) (b) of the statutes is amended to read:

48.33 (1) (b) A recommended plan of rehabilitation or treatment and care for the child which is based on the investigation conducted by the agency and any report resulting from an examination or assessment under s. 48.295 and which employs the least restrictive means available to accomplish the objectives of the plan.

SECTION 38. 48.33 (1) (c) of the statutes is repealed and recreated to read:

48.33 (1) (c) A description of the specific services or continuum of services which the agency is recommending that the court order for the child or family, the persons or agencies that would be primarily responsible for providing those services, and the identity of the person or agency that would provide case management or coordination of services if any.

SECTION 39. 48.34 (6) of the statutes is renumbered 48.34 (6) (a) and amended to read:

48.34 (6) (a) If the child is in need of special treatment ~~and~~ or care the judge may order the child's parent, guardian or legal custodian to provide such care. If the parent, guardian or legal custodian fails or is financially unable to provide the care, the judge may order the care provided by an appropriate agency whether or not legal custody has been taken from the parents. An order of special treatment or care under this paragraph may not include an order for the administration of psychotropic drugs.

SECTION 40. 48.34 (6) (b) of the statutes is created to read:

48.34 (6) (b) Payment for the special treatment or care that relates to alcohol and other drug abuse services ordered under par. (a) shall be in accordance with s. 48.361.

SECTION 41. 48.34 (12) of the statutes is created to read:

48.34 (12) ALCOHOL OR DRUG TREATMENT OR EDUCATION. (a) If the report prepared under s. 48.33 recommends that the child is in need of treatment for the use or abuse of alcohol beverages or controlled substances and its medical, personal, family or social effects, the court may order the child to enter an outpatient alcohol and other drug abuse treatment program at an approved treatment facility. The approved treatment facility shall, under the terms of a service agreement between the county and the approved treatment facility, or with the written informed consent of the child or the child's parent if the child has not attained the age of 12, report to the agency pri-

marily responsible for providing services to the child as to whether the child is cooperating with the treatment and whether the treatment appears to be effective.

(b) If the report prepared under s. 48.33 recommends that the child is in need of education relating to the use of alcohol beverages or controlled substances, the court may order the child to participate in an alcohol or other drug abuse education program approved by the court. The person or agency that provides the education program shall, under the terms of a service agreement between the county and the education program, or with the written informed consent of the child or the child's parent if the child has not attained the age of 12, report to the agency primarily responsible for providing services to the child about the child's attendance at the program.

(c) Payment for the court ordered treatment or education under this subsection in counties that have a pilot program under s. 48.547 shall be in accordance with s. 48.361.

SECTION 42. 48.343 (10) of the statutes is created to read:

48.343 (10) If the violation is related to the use or abuse of alcohol beverages or controlled substances, order the child to do any of the following:

(a) Submit to an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 48.547 (4) and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to perform the assessment and shall specify the date by which the assessment must be completed.

(b) Participate in an outpatient alcohol and other drug abuse treatment program if an assessment conducted under par. (a) or s. 48.295 (1) recommends treatment.

(c) Participate in an alcohol or other drug abuse education program.

SECTION 43. 48.344 (1) (a) of the statutes is amended to read:

48.344 (1) (a) "Court" means a municipal court or the court assigned to exercise jurisdiction under this chapter, except as provided in sub. (2g).

SECTION 44. 48.344 (2g) of the statutes is created to read:

48.344 (2g) (a) After ordering a penalty under sub. (2) (b) or (c), the court assigned to exercise jurisdiction under this chapter, with the agreement of the child, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed. The order under this paragraph shall require the child to do any of the following:

1. Submit to an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 48.547 (4) and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol

and other drug abuse assessment and shall specify the date by which the assessment must be completed.

2. Participate in an outpatient alcohol abuse treatment program at an approved treatment facility, if an alcohol or other drug abuse assessment conducted under subd. 1 or s. 48.295 (1) recommends treatment.

3. Participate in a court-approved alcohol abuse education program.

(b) If the approved treatment facility, with the written informed consent of the child or, if the child has not attained the age of 12, the written informed consent of the child's parent, notifies the agency primarily responsible for providing services to the child that the child has submitted to an assessment under par. (a) and that the child does not need treatment or education, the court assigned to exercise jurisdiction under this chapter shall notify the child of whether or not the penalty will be reinstated.

(c) If the child completes the alcohol abuse treatment program or court-approved education program, the approved treatment facility or court-approved education program shall, with the written informed consent of the child or, if the child has not attained the age of 12, the written informed consent of the child's parent, notify the agency primarily responsible for providing services to the child that the child has complied with the order and the court assigned to exercise jurisdiction under this chapter shall notify the child of whether or not the penalty will be reinstated.

(d) If an approved treatment facility or court-approved education program, with the written informed consent of the child or, if the child has not attained the age of 12, the written informed consent of the child's parent, notifies the agency primarily responsible for providing services to the child that a child is not participating in the program or that a child has not satisfactorily completed a recommended alcohol abuse treatment program or an education program, the court assigned to exercise jurisdiction under this chapter shall hold a hearing to determine whether the penalties under sub. (2) (b) or (c) should be imposed.

SECTION 45. 48.355 (2) (a) and (b) 1 of the statutes are amended to read:

48.355 (2) (a) In addition to the order, the judge shall make written findings of fact and conclusions of law based on the evidence presented to the judge to support the disposition of ~~each individual coming before him or her~~ ordered, including findings as to the child's condition and need for special treatment or care if an examination or assessment was conducted under s. 48.295. A finding may not include a finding that a child is in need of psychotropic medications.

(b) 1. The specific services or continuum of services to be provided to the child and family, the identity of the agency agencies which is are to be primarily responsible for the provision of the services mandated by the judge, the identity of the person or agency who will provide case management or coordination of ser-

vices, if any, and, if custody is to be transferred to effect the treatment plan, the identity of the legal custodian.

SECTION 46. 48.361 of the statutes is created to read:

48.361 Payment for alcohol and other drug abuse services. (1) In this section, "alcohol and other drug abuse services" means all of the following:

(a) Any alcohol or other drug abuse examination or assessment ordered by a court under s. 48.295 (1).

(b) Any special treatment or care ordered by a court under s. 48.34 (6) (b).

(c) Any alcohol or other drug abuse treatment or education ordered by a court under s. 48.32 (1g), 48.34 (6) (b) or (12), 48.343 (10) or 48.344 (2g).

(2) (a) 1. If the parent, guardian or legal custodian is unable to provide or refuses to provide court-ordered alcohol and other drug abuse services for a child through his or her health insurance or other 3rd-party payments, notwithstanding s. 48.36 (3) the judge may order the parents to pay for the court-ordered alcohol and drug abuses services. If the parent, guardian or legal custodian consents to provide court-ordered alcohol and other drug abuse services for a child through his or her health insurance or other 3rd-party payments but the health insurance provider or other 3rd-party payer refuses to provide the court-ordered alcohol and other drug abuse services the court may order the health insurance provider or 3rd-party payer to pay for the court-ordered alcohol and other drug abuse services in accordance with the terms of the parent's, guardian's or legal custodian's health insurance policy or other 3rd-party payment plan.

2. This paragraph applies to payment for alcohol and other drug abuse services in any county, regardless of whether the county is a pilot county under s. 48.547.

(am) 1. If a court in a county that has a pilot program under s. 48.547 finds that payment is not attainable under par. (a), the court may order payment in accordance with par. (b).

2. If a court in a county that does not have a pilot program under s. 48.547 finds that payment is not attainable under par. (a), the court may order payment in accordance with s. 48.34 (6) (a) or 48.36.

(b) 1. In counties that have a pilot program under s. 48.547, in addition to using the alternative provided for under par. (a), the court may order a county department of human services established under s. 46.23 or a county department established under s. 51.42 or 51.437 in the child's county of legal residence to pay for the court-ordered alcohol and other drug abuse services whether or not custody has been taken from the parent.

2. If a judge orders a county department established under s. 51.42 or 51.437 to provide alcohol and other drug abuse services under this paragraph, the provision of the alcohol and other drug abuse services shall be subject to conditions specified in ch. 51.

(c) Payment for alcohol and other drug abuse services by a county department under this section does not prohibit the county department from contracting with another county department or approved treatment facility for the provision of alcohol and other drug abuse services. Payment by the county under this section shall not prevent recovery of reasonable contribution toward the costs of the court-ordered alcohol and other drug abuse services from the parent, guardian or legal custodian which is based upon the ability of the parent, guardian or legal custodian to pay. This subsection shall be subject to s. 46.03 (18).

SECTION 47. 48.48 (3) of the statutes is amended to read:

48.48 (3) To accept legal custody of children transferred to it by the court under s. 48.355 and guardianship of children when appointed by the court, and to provide special treatment and care when directed by the court. A court may not direct the department to administer psychotropic medications to children who receive special treatment or care under this subsection.

SECTION 48. 48.547 of the statutes is created to read:

48.547 Juvenile alcohol and other drug abuse pilot program. (1) **LEGISLATIVE FINDINGS AND PURPOSE.** The legislature finds that the use and abuse of alcohol and other drugs by children is a state responsibility of state-wide dimension. The legislature recognizes that there is a lack of adequate procedures to screen, assess and treat children for alcohol and other drug abuse. To reduce the incidence of alcohol and other drug abuse by children, the legislature deems it necessary to experiment with solutions to the problems of the use and abuse of alcohol and other drugs by children by establishing a juvenile alcohol and other drug abuse pilot program in a limited number of counties. The purpose of the program is to develop intake and court procedures that screen, assess and give new dispositional alternatives for children with needs and problems related to the use of alcohol beverages or controlled substances who come within the jurisdiction of a court assigned to exercise jurisdiction under this chapter in the pilot counties selected by the department.

(2) **DEPARTMENT RESPONSIBILITIES.** Within the availability of funding under s. 20.435 (4) (mb) that is available for the pilot program, the department shall select counties to participate in the pilot program. Unless a county department of human services has been established under s. 46.23 in the county that is seeking to implement a pilot program, the application submitted to the department shall be a joint application by the county department that provides social services and the county department established under s. 51.42 or 51.437. The department shall select counties in accordance with the request for proposal procedures established by the department. The department shall give a preference to county applications that include a plan for case management. The counties

selected shall begin the pilot program on January 1, 1989.

(3) **MULTIDISCIPLINARY SCREEN.** By September 1, 1988, the department shall develop a multidisciplinary screen for the pilot program. The screen shall be used by an intake worker to determine whether or not a child is in need of an alcohol or other drug abuse assessment. The screen shall also include indicators that screen children for:

- (a) Family dysfunction.
- (b) School or truancy problems.
- (c) Mental health problems.
- (d) Delinquent behavior patterns.

(4) **ASSESSMENT CRITERIA.** By September 1, 1988, the department shall develop uniform alcohol and other drug abuse assessment criteria to be used in the pilot program under ss. 48.245 (2) (a) 3, 48.295 (1), 48.32 (1g), 48.343 (10) and 48.344 (2g). An approved treatment facility that assesses a person under ss. 48.245 (2) (a) 3, 48.295 (1), 48.32 (1g), 48.343 (10) and 48.344 (2g) may not also provide the person with treatment unless the department permits the approved treatment facility to do both in accordance with the criteria established by rule by the department.

SECTION 49. 48.548 of the statutes is created to read:

48.548 Multidisciplinary screen and assessment criteria. The department shall make the multidisciplinary screen developed under s. 48.547 (3) and the assessment criteria developed under s. 48.547 (4) available to all counties.

SECTION 50. 48.57 (1) (b) of the statutes is amended to read:

48.57 (1) (b) To accept legal custody of children transferred to it by the court under s. 48.355 and to provide special treatment and care if ordered by the court. A court may not order a county department to administer psychotropic medications to children who receive special treatment or care under this paragraph.

SECTION 51. 49.45 (26) of the statutes is created to read:

49.45 (26) **MANAGED CARE SYSTEM.** The department shall study alternatives for a system to manage the usage of alcohol and other drug abuse services, including day treatment services, provided under the medical assistance program. On or before September 1, 1988, the department shall submit a plan for a medical assistance alcohol and other drug abuse managed care system to the joint committee on finance. If the cochairpersons of the committee do not notify the department that the committee has scheduled a meeting for the purpose of reviewing the proposed plan within 14 working days after the date of the department's submittal, the department may implement the plan. If within 14 working days after the date of the department's submittal the cochairpersons of the committee notify the department that the committee has scheduled a meeting for the purpose of reviewing

the proposed plan, the department may not implement the plan until it is approved by the committee, as submitted or as modified. If a waiver from the secretary of the federal department of health and human services is necessary to implement the proposed plan, the department of health and social services may request the waiver, but it may not implement the waiver until it is authorized to implement the plan, as provided in this subsection.

SECTION 52. 49.46 (2) (b) 6. k of the statutes is created to read:

49.46 (2) (b) 6. k. Alcohol and other drug abuse day treatment services, if the plan under s. 49.45 (26) is implemented. This subd. 6. k does not apply after June 30, 1990.

SECTION 53. 51.42 (3) (ar) 4. b of the statutes, as affected by 1987 Wisconsin Act 3, is amended to read:

51.42 (3) (ar) 4. b. Comprehensive diagnostic and evaluation services, including assessment as specified under ss. 343.30 (1q) and 343.305 (10) and assessments under s. 48.295 (1).

SECTION 54. 51.45 (8) (d) of the statutes is amended to read:

51.45 (8) (d) Each approved public and private treatment facility shall file with the department on request, data, statistics, schedules and information the department reasonably requires, including any data or information specified under s. 140.81 (2m). An approved public or private treatment facility that without good cause fails to furnish any data, statistics, schedules or information as requested, or files fraudulent returns thereof, shall be removed from the list of approved treatment facilities.

SECTION 56. 59.20 (5) (b) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

59.20 (5) (b) For all court imposed fines and forfeitures required by law to be deposited in the state treasury, the amounts required by s. 165.87 for the penalty assessment surcharge, the amounts required by s. 167.31 (5) for the weapons assessment, the amounts required by s. 973.045 for the crime victim and witness assistance surcharge, the amounts required by s. 161.41 (5) for the drug abuse program improvement surcharge, the amounts authorized by s. 971.37 (1m) (c) 1 or required by s. 973.055 for the domestic abuse assessment surcharge, the amounts required by s. 346.655 for the driver improvement surcharge, the amounts required by s. 29.997 for the natural resources assessment surcharge and the amount required by s. 29.998 for natural resources restitution payments, transmit to the state treasurer a statement of all moneys required by law to be paid on the actions so entered during the preceding month on or before the first day of the next succeeding month, certified by personal affidavit endorsed upon or attached thereto, and at the same time pay to the state treasurer the amount thereof.

SECTION 57. 59.395 (5) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

59.395 (5) Pay monthly to the county treasurer for the use of the state the state's percentage of the fees required to be paid on each civil action, criminal action and special proceeding filed during the preceding month and pay monthly to the county treasurer for the use of the state the percentage of court imposed fines and forfeitures required by law to be deposited in the state treasury, the amounts required by s. 165.87 (2) (b) for the penalty assessment surcharge, the amounts required by s. 167.31 (5) for the weapons assessment, the amounts required by s. 973.045 for the crime victim and witness assistance surcharge, the amounts required by s. 161.41 (5) for the drug abuse program improvement surcharge, the amounts authorized by s. 971.37 (1m) (c) 1 or required by s. 973.055 for the domestic abuse assessment surcharge, the amounts required by s. 346.655 for the driver improvement surcharge, the amounts required under s. 29.997 (1) (d) for the natural resources assessment surcharge and the amounts required under s. 29.998 (1) (d) for the natural resources restitution payments. The payments shall be made by the 15th day of the month following receipt thereof.

SECTION 58. 115.362 of the statutes is created to read:

115.362 Youth alcohol and other drug abuse programs. (1) DISTRIBUTION OF FUNDS. From the appropriations under s. 20.255 (1) (fi) and (2) (mm), the department shall allocate grants to at least 30 alcohol and other drug abuse prevention, intervention, ~~assessment or treatment~~ **assessment or treatment** programs in each fiscal year. The department shall make grants to applying school districts to provide for alcohol and other drug abuse programs similar to those specified under s. 115.36. If a school district receives moneys for programs under s. 115.36 (3), that school district may not receive grants under this subsection.

(2) INTERVENTION SERVICES. Any moneys used to fund grants under sub. (1) from the appropriation under s. 20.255 (2) (k) shall be for youth alcohol and other drug abuse intervention services only.

(3) ONE-TIME GRANTS. No public agency may receive more than one grant under this section.

SECTION 59. 118.126 (1) (intro.) of the statutes is amended to read:

118.126 (1) (intro.) A school psychologist, counselor, social worker ~~or~~ and nurse, and any teacher or administrator designated by the school board who engages in alcohol or drug abuse program activities, shall keep confidential information received from a pupil that the pupil or another pupil is using or is experiencing problems resulting from the use of alcohol or other drugs unless:

SECTION 60. 118.126 (1) (b) and (2) of the statutes are amended to read:

118.126 (1) (b) The school psychologist, counselor, social worker ~~or~~, nurse, teacher or administrator has

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reason to believe that there is serious and imminent danger to the health, safety or life of any person and that disclosure of the information to another person will alleviate the serious and imminent danger. No more information than is required to alleviate the serious and imminent danger may be disclosed; or

(2) A school psychologist, counselor, social worker or nurse, or any teacher or administrator designated by the school board who engages in alcohol or drug abuse program activities, who in good faith discloses or fails to disclose information under sub. (1) is immune from civil liability for such acts or omissions. This subsection does not apply to information required to be reported under s. 48.981.

SECTION 64. 140.81 (2m) of the statutes is created to read:

140.81 (2m) Within the availability of funding, the department shall establish a program that includes, but is not limited to all of the following:

(a) Collection and analysis of data on drug abuse treatment from all approved public and private treatment facilities as defined in s. 51.45 (2) (b) and (c) which shall include, but not be limited to, all of the following information:

1. The total number of persons who received treatment for drug abuse statewide.
2. The type and amount of treatment that persons receive from alcohol and other drug abuse provider facilities.
3. The primary drug of abuse, the primary means of administration of drugs and the diagnosis of clients.
4. The number of persons on waiting lists for alcohol and other drug abuse provider facilities.
5. The total costs of drug abuse treatment statewide.
6. The sources and amounts of federal, state, local, insurance and private financing of alcohol and other drug abuse treatment programs.
7. The amount of funds retained by counties under s. 59.20 (8).

(b) Collection of data which indicates the extent of illicit drug use, the prevalence of drug abuse and which illicit drugs are available and being abused. Data shall be collected from law enforcement agencies, courts, criminal justice agencies, emergency medical treatment providers, other medical care facilities and agencies designated by the department.

(c) A report summarizing the data collected under pars. (a) and (b) which shall be written annually and submitted to the state council on alcohol and other drug abuse by June 30 of every year and which shall include all of the following:

1. The nature and extent of this state's drug abuse problems.
2. The use and abuse of each controlled substances specified in ch. 161.
3. The changes in the use and abuse of drugs noted by the facilities specified in par. (a) (intro.) including

those changes resulting from initiatives of the state council on alcohol and other drug abuse or other state agencies.

SECTION 65. 161.41 (1) (a) of the statutes is amended to read:

161.41 (1) (a) ~~A~~ Except as provided in par. (d), a controlled substance classified in schedule I or II which is a narcotic drug, may be fined not more than \$25,000 or imprisoned not more than 15 years or both;

SECTION 66. 161.41 (1) (b) of the statutes is amended to read:

161.41 (1) (b) ~~Except as provided in par. (c) and (e) to (h)~~, any other controlled substance classified in schedule I, II or III, may be fined not more than \$15,000 or imprisoned not more than 5 years or both;

SECTION 67. 161.41 (1) (d) of the statutes is renumbered 161.41 (1) (i).

SECTION 68. 161.41 (1) (d) of the statutes is created to read:

161.41 (1) (d) Heroin is subject to the following penalties:

1. If the amount manufactured or delivered is 3 grams or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 15 years.
2. If the amount manufactured or delivered is more than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 15 years.
3. If the amount manufactured or delivered is more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 69. 161.41 (1) (e) of the statutes is renumbered 161.41 (1) (j).

SECTION 70. 161.41 (1) (e) of the statutes is created to read:

161.41 (1) (e) Phencyclidine, amphetamine or methamphetamine is subject to the following penalties:

1. If the amount manufactured or delivered is 3 grams or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 5 years.
2. If the amount manufactured or delivered is more than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 5 years.
3. If the amount manufactured or delivered is more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 71. 161.41 (1) (f) of the statutes is created to read:

161.41 (1) (f) Lysergic acid diethylamide is subject to the following penalties:

1. If the amount manufactured or delivered is one gram or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 5 years.

2. If the amount manufactured or delivered is more than one gram but not more than 5 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

3. If the amount manufactured or delivered is more than 5 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 72. 161.41 (1) (g) of the statutes is created to read:

161.41 (1) (g) Psilocin or psilocybin is subject to the following penalties:

1. If the amount manufactured or delivered is 100 grams or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 5 years.

2. If the amount manufactured or delivered is more than 100 grams but not more than 500 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

3. If the amount manufactured or delivered is more than 500 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 73. 161.41 (1) (h) of the statutes is created to read:

161.41 (1) (h) Tetrahydrocannabinols, listed at s. 161.14 (4) (t), is subject to the following penalties:

1. If the amount manufactured or delivered is 500 grams or less, the person shall be fined not less than \$500 nor more than \$25,000 and may be imprisoned for not more than 3 years.

2. If the amount manufactured or delivered is more than 500 grams but not more than 2,500 grams, the person shall be fined not less than \$1,000 nor more than \$50,000 and shall be imprisoned for not less than 3 months nor more than 5 years.

3. If the amount manufactured or delivered is more than 2,500 grams, the person shall be fined not less than \$1,000 nor more than \$100,000 and shall be imprisoned for not less than one year nor more than 10 years.

SECTION 74. 161.41 (1m) (a) of the statutes is amended to read:

161.41 (1m) (a) A Except as provided in par. (d), a controlled substance classified in schedule I and II which is a narcotic drug, may be fined not more than \$25,000 or imprisoned not more than 15 years or both;

SECTION 75. 161.41 (1m) (b) of the statutes is amended to read:

161.41 (1m) (b) Except as provided in ~~par. (c)~~ and (e) to (h), any other controlled substance classified in schedule I, II or III, may be fined not more than \$15,000 or imprisoned not more than 5 years or both;

SECTION 76. 161.41 (1m) (d) of the statutes is renumbered 161.41 (1m) (i).

SECTION 77. 161.41 (1m) (d) of the statutes is created to read:

161.41 (1m) (d) Heroin is subject to the following penalties:

1. If the amount possessed, with intent to manufacture or deliver, is 3 grams or less, the person shall be fined not less than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 15 years.

2. If the amount possessed, with intent to manufacture or deliver, is more than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than 6 months nor more than 15 years.

3. If the amount possessed, with intent to manufacture or deliver, is more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 78. 161.41 (1m) (e) of the statutes is renumbered 161.41 (1m) (j).

SECTION 79. 161.41 (1m) (e) of the statutes is created to read:

161.41 (1m) (e) Phencyclidine, amphetamine or methamphetamine is subject to the following penalties:

1. If the amount possessed, with intent to manufacture or deliver, is 3 grams or less, the person shall be fined not less than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 5 years.

2. If the amount possessed, with intent to manufacture or deliver, is more than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

3. If the amount possessed, with intent to manufacture or deliver, is more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 80. 161.41 (1m) (f) of the statutes is created to read:

161.41 (1m) (f) Lysergic acid diethylamide is subject to the following penalties:

1. If the amount possessed, with intent to manufacture or deliver, is one gram or less, the person shall be fined not less than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 5 years.

2. If the amount possessed, with intent to manufacture or deliver, is more than one gram but not more

than 5 grams, the person shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

3. If the amount possessed, with intent to manufacture or deliver, is more than 5 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 81. 161.41 (1m) (g) of the statutes is created to read:

161.41 (1m) (g) Psilocin or psilocybin is subject to the following penalties:

1. If the amount possessed, with intent to manufacture or deliver, is 100 grams or less, the person shall be fined not less than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 5 years.

2. If the amount possessed, with intent to manufacture or deliver, is more than 100 grams but not more than 500 grams, the person shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

3. If the amount possessed, with intent to manufacture or deliver, is more than 500 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

SECTION 82. 161.41 (1m) (h) of the statutes is created to read:

161.41 (1m) (h) Tetrahydrocannabinols, listed at s. 161.14 (4) (t), is subject to the following penalties:

1. If the amount possessed, with intent to manufacture or deliver, is 500 grams or less, the person shall be fined not less than \$500 nor more than \$25,000 and may be imprisoned for not more than 3 years.

2. If the amount possessed, with intent to manufacture or deliver, is more than 500 grams but not more than 2,500 grams, the person shall be fined not less than \$1,000 nor more than \$50,000 and shall be imprisoned for not less than 3 months nor more than 5 years.

3. If the amount possessed, with intent to manufacture or deliver, is more than 2,500 grams, the person shall be fined not less than \$1,000 nor more than \$100,000 and shall be imprisoned for not less than one year nor more than 10 years.

SECTION 83. 161.41 (1r) of the statutes is amended to read:

161.41 (1r) In determining amounts under subs. (1) and (1m), an amount includes the weight of the controlled substance included under s. 161.16 (2) (b), heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine or tetrahydrocannabinols together with any compound, mixture, diluent or other substance mixed or combined with the controlled substance. In addition, in determining amounts under subs. (1) (h) and (1m) (h), the amount of tetrahydrocannabinols means anything covered under s. 161.14 (4) (t).

SECTION 84. 161.41 (1x) of the statutes is amended to read:

161.41 (1x) Any person who conspires, as specified in s. 939.31, to commit a crime under sub. (1) (c) to (h) or (1m) (c) to (h) is subject to the applicable penalties under sub. (1) (c) to (h) or (1m) (c) to (h).

SECTION 85. 161.41 (2r) (a) of the statutes is amended to read:

161.41 (2r) (a) ~~It~~ Except as provided in par. (b), it is unlawful for any person to possess a controlled substance classified in schedule I or II which is a narcotic drug unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this ~~subsection~~ paragraph, upon a first conviction, may be fined not more than \$5,000 or imprisoned not more than one year or both, and for a 2nd or subsequent offense, may be fined not more than \$10,000 or imprisoned not more than 2 years or both.

SECTION 86. 161.41 (2r) (b) of the statutes is renumbered 161.41 (2r) (c).

SECTION 87. 161.41 (2r) (b) of the statutes is created to read:

161.41 (2r) (b) It is unlawful for any person to possess heroin unless it was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this paragraph may be fined not more than \$5,000 or imprisoned for not more than one year or both.

SECTION 88. 161.41 (3) of the statutes is amended to read:

161.41 (3) Except as provided in ~~sub.~~ subs. (3m), (3n) and (3r), it is unlawful for any person to possess a controlled substance, other than a controlled substance classified in schedule I or II which is a narcotic drug, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a misdemeanor, punishable under s. 939.61.

SECTION 89. 161.41 (3n) of the statutes is created to read:

161.41 (3n) It is unlawful for any person to possess lysergic acid diethylamide, phencyclidine, amphetamine, methamphetamine, psilocin or psilocybin unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection may be fined not more than \$5,000 or imprisoned for not more than one year in the county jail or both.

SECTION 90. 161.41 (3r) of the statutes is created to read:

161.41 (3r) It is unlawful for any person to possess tetrahydrocannabinols, listed at s. 161.14 (4) (t), unless it was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection may be fined not more than \$1,000 or imprisoned for not more than 6 months or both.

SECTION 91. 161.41 (5) of the statutes is created to read:

161.41 (5) (a) When a court imposes a fine for a violation of this section, it shall also impose a drug abuse program improvement surcharge in an amount of 50% of the fine and penalty assessment imposed.

(b) The clerk of the court shall collect and transmit the amount to the county treasurer as provided in s. 59.395 (5). The county treasurer shall then make payment to the state treasurer as provided in s. 59.20 (5) (b).

(c) All moneys collected from drug surcharges shall be deposited by the state treasurer in and utilized in accordance with s. 20.435 (4) (gb).

SECTION 92. 161.46 of the statutes is amended to read:

161.46 Distribution to persons under age 18. (1) ~~Any~~ Except as provided in sub. (3), any person 18 years of age or over who violates s. 161.41 (1) by distributing a controlled substance listed in schedule I or II which is a narcotic drug to a person under 18 years of age who is at least 3 years his or her junior is punishable by the fine authorized by s. 161.41 (1) (a) or a term of imprisonment of up to twice that authorized by s. 161.41 (1) (a), or both.

(2) Except as provided in sub. (3), any person 18 years of age or over who violates s. 161.41 (1) by distributing any other controlled substance listed in schedule I, II, III, IV or V to a person under 18 years of age who is at least 3 years his or her junior is punishable by the fine authorized by s. 161.41 (1) (b), ~~(d) or (e)~~ (i) or (j) or a term of imprisonment of up to twice that authorized by s. 161.41 (1) (b), ~~(d) or (e)~~ (i) or (j) or both.

(3) If any person 18 years of age or over violates s. 161.41 (1) (c), (d), (e), (f), (g) or (h) by distributing a controlled substance included under s. 161.16 (2) (b), heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine or any form of tetrahydrocannabinols to a person under 18 years of age who is at least 3 years his or her junior, any applicable minimum and maximum fines and minimum and maximum periods of imprisonment under s. 161.41 (1) (c), (d), (e), (f), (g) or (h) are doubled.

SECTION 93. 161.465 (2) of the statutes is amended to read:

161.465 (2) If a person violates s. 161.41 (1) (c), (d), (e), (f), (g) or (h) or (1m) (c), (d), (e), (f), (g) or (h) by delivering or possessing with intent to deliver a controlled substance included under s. 161.16 (2) (b), heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine or any form of tetrahydrocannabinols to a prisoner within the precincts of any prison, jail or house of correction, any applicable minimum and maximum fines and minimum and maximum periods of imprisonment under s. 161.41 (1) (c), (d), (e), (f), (g) or (h) or (1m) (c), (d), (e), (f), (g) or (h) are doubled.

SECTION 94. 161.472 (2) of the statutes is amended to read:

161.472 (2) Except as provided in sub. (5), if a person pleads guilty or is found guilty of possession of a controlled substance under s. 161.41 (2r) (b), (3m) or (3n), the court shall order the person to comply with an assessment of the person's use of controlled substances. The court's order shall designate a facility which is operated by or pursuant to a contract with the county department established under s. 51.42 and which is certified by the department of health and social services to provide assessment services to perform the assessment and, if appropriate, to develop a proposed treatment plan. The court shall notify the person that noncompliance with the order limits the court's ability to determine whether the treatment option under s. 161.475 is appropriate. The court shall also notify the person of the fee provisions under s. 46.03 (18) (fm).

SECTION 95. 161.475 of the statutes is amended to read:

161.475 Treatment option. Whenever any person pleads guilty to or is found guilty of possession of a controlled substance under s. 161.41 (2r), (3) ~~or~~ (3m), (3n) or (3r), the court may, upon request of the person and with the consent of a treatment facility with special inpatient or outpatient programs for the treatment of drug dependent persons, allow the person to enter the treatment programs voluntarily for purposes of treatment and rehabilitation. Treatment shall be for the period the treatment facility feels is necessary and required, but shall not exceed the maximum sentence allowable unless the person consents to the continued treatment. At the end of the necessary and required treatment, with the consent of the court, the person may be released from sentence. If treatment efforts are ineffective or the person ceases to cooperate with treatment rehabilitation efforts, the person may be remanded to the court for completion of sentencing.

SECTION 96. 161.48 (2) of the statutes is amended to read:

161.48 (2) If any person is convicted of a 2nd or subsequent offense under this chapter which is specified in s. 161.41 (1) (c), (d), (e), (f), (g) or (h), (1m) (c) ~~or~~ (d), (e), (f), (g) or (h), (2r) (b), (3m), (3n) or (3r), any applicable minimum and maximum fines and

minimum and maximum periods of imprisonment under s. 161.41 (1) (c), ~~(d), (e), (f), (g) or (h)~~, (1m) (c) ~~or (d), (e), (f), (g) or (h), (2r) (b), (3m), (3n) or (3r)~~ are doubled. A 2nd offense under s. 161.41 ~~(3m), (3n) or (3r)~~ is a felony and the person may be imprisoned in state prison.

SECTION 97. 161.48 (4) of the statutes is amended to read:

161.48 (4) This section does not apply to offenses under s. 161.41 (2r) ~~(a)~~ and (3).

SECTION 98. 161.49 of the statutes is amended to read:

161.49 (title) Distribution on school grounds. If any person violates s. 161.41 (1) (c), ~~(d), (e), (f), (g) or (h)~~ by distributing a controlled substance included under s. 161.16 (2) (b), heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine or any form of tetrahydrocannabinols while within 1,000 feet of any private or public school building, the maximum term of imprisonment prescribed by law for that crime may be increased by 5 years.

SECTION 99. 161.55 (1) (d) 3 of the statutes is amended to read:

161.55 (1) (d) 3. A vehicle is not subject to forfeiture for a violation of s. 161.41 (3) ~~or (3m), (3n) or (3r)~~; and

SECTION 100. 814.60 (2) (cn) of the statutes is created to read:

814.60 (2) (cn) Drug abuse program improvement surcharge imposed by s. 161.41 (5).

SECTION 101. 940.02 (intro.) and (1) of the statutes are amended to read:

940.02 Second-degree murder. (intro.) Whoever causes the death of another human being under either any of the following circumstances is guilty of a Class B felony:

(1) By conduct imminently dangerous to another and evincing a depraved mind, regardless of human life; ~~or~~

SECTION 102. 940.02 (3) and (4) of the statutes are created to read:

940.02 (3) By manufacture or delivery of a controlled substance classified in schedule I or II under ch. 161 in violation of s. 161.41 which another human being uses and dies as a result of that use. This subsection applies:

(a) Whether the human being dies as a result of using the controlled substance by itself or with any compound, mixture, diluent or other substance mixed or combined with the controlled substance.

(b) Whether or not the controlled substance is mixed or combined with any compound, mixture, diluent or other substance after the violation of s. 161.41 occurs.

(c) To any delivery described in this subsection, regardless of whether the delivery is made directly to the human being who dies. If possession of the con-

trolled substance classified in schedule I or II under ch. 161 is transferred more than once prior to the death as described in this subsection, each person who delivers the controlled substance in violation of s. 161.41 is guilty under this subsection.

(4) By administering or assisting in administering a controlled substance classified in schedule I or II under ch. 161, without lawful authority to do so, to another human being and that human being dies as a result of the use of the substance. This subsection applies whether the human being dies as a result of using the controlled substance by itself or with any compound, mixture, diluent or other substance mixed or combined with the controlled substance.

SECTION 103. 971.365 of the statutes is amended to read:

971.365 (title) Crimes involving certain controlled substances. (1) (a) In any case under s. 161.41 (1) (c), ~~(d), (e), (f), (g) or (h)~~ involving more than one violation, all violations may be prosecuted as a single crime if the violations were pursuant to a single intent and design.

(b) In any case under s. 161.41 (1m) (c), ~~(d), (e), (f), (g) or (h)~~ involving more than one violation, all violations may be prosecuted as a single crime if the violations were pursuant to a single intent and design.

(c) In any case under s. 161.41 ~~(2r) (b), (3m), (3n) or (3r)~~ involving more than one violation, all violations may be prosecuted as a single crime if the violations were pursuant to a single intent and design.

(2) An acquittal or conviction under sub. (1) does not bar a subsequent prosecution for any acts in violation of s. 161.41 (1) (c), ~~(d), (e), (f), (g) or (h)~~, (1m) (c) ~~or (d), (e), (f), (g) or (h), (2r) (b), (3m), (3n) or (3r)~~ on which no evidence was received at the trial on the original charge.

SECTION 104. 973.05 (1) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

973.05 (1) When a defendant is sentenced to pay a fine, the court may grant permission for the payment of the fine, of the penalty assessment imposed by s. 165.87, the jail assessment imposed by s. 53.46 (1), the crime victim and witness assistance surcharge under s. 973.045, any applicable drug abuse program improvement surcharge imposed by s. 161.41 (5), any applicable domestic abuse assessment imposed by s. 971.37 (1m) (c) 1 or 973.055, any applicable driver improvement surcharge imposed by s. 346.655, any applicable weapons assessment imposed by s. 167.31, any applicable natural resources assessment imposed by s. 29.997 and any applicable natural resources restitution payment imposed by s. 29.998 to be made within a period not to exceed 60 days. If no such permission is embodied in the sentence, the fine, the penalty assessment, the jail assessment, the crime victim and witness assistance surcharge, any applicable drug abuse program improvement surcharge, any applicable domestic abuse assessment, any applicable driver

improvement surcharge, any applicable weapons assessment, any applicable natural resources assessment and any applicable natural resources restitution payment shall be payable immediately.

SECTION 105. 973.05 (2) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

973.05 (2) When a defendant is sentenced to pay a fine and is also placed on probation, the court may make the payment of the fine, the penalty assessment, the jail assessment, the crime victim and witness assistance surcharge, any applicable drug abuse program improvement surcharge, any applicable domestic abuse assessment, any applicable driver improvement surcharge, any applicable weapons assessment, any applicable natural resources assessment and any applicable natural resources restitution payments a condition of probation. When the payments are made a condition of probation by the court, payments thereon shall be applied first to payment of the penalty assessment until paid in full, shall then be applied to the payment of the jail assessment until paid in full, shall then be applied to the payment of the crime victim and witness assistance surcharge until paid in full, shall then be applied to the drug abuse improvement surcharge until paid in full, shall then be applied to payment of the driver improvement surcharge until paid in full, shall then be applied to payment of the domestic abuse assessment until paid in full, shall then be applied to payment of the natural resources assessment if applicable until paid in full, shall then be applied to payment of the natural resources restitution payment until paid in full, shall then be applied to payment of the weapons assessment until paid in full and shall then be applied to payment of the fine.

SECTION 106. 973.07 of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

973.07 Failure to pay fine or costs. If the fine, costs, penalty assessment, jail assessment, crime victim and witness assistance surcharge, applicable drug abuse program improvement surcharge, applicable domestic abuse assessment, applicable driver improvement surcharge, applicable weapons assessment, applicable natural resources assessment and applicable natural resources restitution payments are not paid as required by the sentence, the defendant may be committed to the county jail until the fine, costs, penalty assessment, jail assessment, crime victim and witness assistance surcharge, applicable drug abuse program improvement surcharge, applicable domestic abuse assessment, applicable driver improvement surcharge, applicable weapons assessment, applicable natural resources assessment or applicable natural resources restitution payments are paid or discharged for a period fixed by the court not to exceed 6 months.

SECTION 107. **Nonstatutory provisions; health and social services.**

(1) **RESEARCH AND EVALUATION OF ALCOHOL AND OTHER DRUG ABUSE PROGRAMS.** From the appropri-

tion under section 20.435 (4) (a) of the statutes, the department of health and social services shall distribute grants to an organization to research and evaluate the effectiveness of alcohol and other drug abuse education, prevention, assessment, treatment and aftercare programs in Wisconsin that receive state and federal funds and other alcohol and other drug abuse programs nationwide. The grants shall be distributed in accordance with the request for proposal procedures established by the department of health and social services. The organization that receives the grants shall be an organization with demonstrated research and evaluation capacity. The organization shall also evaluate the effectiveness of the treatment alternative program under section 46.65 of the statutes, the treatment program under section 46.975 (2) (b) of the statutes, any counseling program funded under section 46.975 (2) (a) of the statutes and the juvenile alcohol and other drug abuse pilot program under section 48.547 of the statutes.

(2) **JUVENILE ALCOHOL AND OTHER DRUG ABUSE PILOT PROGRAM.** Within the limits of the availability of federal funds, in fiscal year 1988-89 the department of health and social services shall do all of the following:

(a) Expend \$806,700 from the appropriation under section 20.435 (4) (mb) of the statutes for allocations to counties that are selected for the juvenile alcohol and other drug abuse pilot program under section 48.547 of the statutes, as created by this act.

(b) Expend \$10,000 for implementation by the department of health and social services of the juvenile alcohol and other drug abuse pilot program under section 48.547 of the statutes, as created by this act.

(3) **HALFWAY HOUSE.** Within the limits of the availability of federal funds, in fiscal year 1988-89 the department of health and social services shall expend \$175,000 from the appropriation under section 20.435 (3) (ky) of the statutes and \$175,000 from the appropriation under section 20.435 (4) (ma) of the statutes to provide a halfway house in a facility approved under section 51.45 (8) of the statutes in northern Wisconsin for parolees who are members of federally recognized American Indian tribes or bands.

(4) **TREATMENT AND REHABILITATION PROGRAMS.** Within the limits of the availability of federal funds, in fiscal year 1988-89 the department of health and social services shall expend \$481,000 from the appropriation under section 20.435 (4) (mb) of the statutes to continue programs relating to treatment and rehabilitation for alcohol and other drug abuse.

(5) **PROBATIONERS AND PAROLEES; TREATMENT SERVICES.** Within the limits of the availability of federal funds, in fiscal year 1988-89 the department of health and social services shall expend \$486,100 from the appropriation under section 20.435 (3) (ky) of the statutes and \$486,100 from the appropriation under section 20.435 (4) (ma) of the statutes to purchase alcohol

and other drug abuse treatment services for probationers and parolees.

(6) GRANT AND FUNDING PROGRAM. (a) *Minorities*. Within the limits of the availability of federal funds, in fiscal year 1988-89 the department of health and social services shall expend \$400,000 from the appropriation under section 20.435 (4) (ma) of the statutes to make grants and provide funds under section 46.975 (2) (a) of the statutes, as created by this act.

(b) *Women*. Within the limits of the availability of federal funds, in fiscal year 1988-89 the department of health and social services shall expend \$200,000 from the appropriation under section 20.435 (4) (ma) of the statutes to make grants under section 46.975 (2) (b) of the statutes, as created by this act.

(c) *Community initiatives*. Within the limits of the availability of federal funds, in fiscal year 1988-89 the department of health and social services shall expend \$124,500 from the appropriation under section 20.435 (4) (ma) of the statutes to make grants under section 46.975 (2) (c) of the statutes, as created by this act.

(7) TREATMENT ALTERNATIVE PROGRAM; ALLOCATION OF FUNDS. Within the limits of the availability of federal funds, in fiscal year 1988-89 the department of health and social services shall expend \$73,700 from the appropriation under section 20.435 (4) (m) of the statutes and \$676,300 from the appropriation under section 20.435 (4) (mb) of the statutes to implement the treatment alternative program under section 46.65 of the statutes, as created by this act. The authorized FTE positions for the department of health and social services are increased by 2.0 FTE FED positions on July 1, 1988, for the purpose of the implementation of the treatment alternative program under section 46.65 of the statutes, as created by this act.

(8) TREATMENT ALTERNATIVE PROGRAM; EMERGENCY RULES. The department of health and social services shall promulgate emergency rules under section 227.24 of the statutes to implement the treatment alternative program under section 46.65 of the statutes, as created by this act. The department shall promulgate emergency rules regardless of whether the criteria under section 227.24 (1) (a) of the statutes have been met. The emergency rules shall remain in effect until January 1, 1989.

(9) WOMEN AND CHEMICALS PROGRAM. Within the limits of the availability of federal funds, in fiscal year 1988-89 the department of health and social services shall expend \$41,700 from the appropriation under section 20.435 (3) (kx) of the statutes and \$41,700 from the appropriation under section 20.435 (4) (ma) of the statutes to expand the women and chemicals program at the Taycheedah correctional institution and to increase the authorized FTE positions for the department by 1.0 FTE FED position on July 1, 1988.

SECTION 108. **Appropriation changes; health and social services.** (1) DRUG TESTING OF INMATES. The

appropriation to the department of health and social services under section 20.435 (3) (a) of the statutes, as affected by the acts of 1987, is increased by \$40,000 for fiscal year 1988-89 to provide for increased drug testing of inmates in correctional institutions.

(2) DRUG TESTING OF PROBATIONERS AND PAROLEES. The appropriation to the department of health and social services under section 20.435 (3) (a) of the statutes, as affected by the acts of 1987, is increased by \$20,000 for fiscal year 1988-89 to provide for increased drug testing of probationers and parolees.

(3) MEDICAL ASSISTANCE; ALCOHOL AND OTHER DRUG ABUSE DAY TREATMENT. The appropriation to the department of health and social services under section 20.435 (1) (b) of the statutes, as affected by the acts of 1987, is increased by \$197,900 for fiscal year 1988-89 to fund medical assistance coverage of alcohol and other drug abuse day treatment services. These funds may not be expended unless the plan under section 49.45 (26) of the statutes is implemented.

(4) ALCOHOL AND OTHER DRUG ABUSE DATA COLLECTION. The appropriation to the department of health and social services under section 20.435 (4) (a) of the statutes, as affected by the acts of 1987, is increased by \$26,000 for fiscal year 1988-89 to collect and analyze alcohol and other drug abuse data under section 140.81 (2m) of the statutes.

(5) RESEARCH AND EVALUATION OF ALCOHOL AND OTHER DRUG ABUSE PROGRAMS. The appropriation to the department of health and social services under section 20.435 (4) (a) of the statutes, as affected by the acts of 1987, is increased by \$142,100 for fiscal year 1988-89 to fund the first year of a 2-year grant to an organization that is to research and evaluate the effectiveness of alcohol and other drug abuse programs under SECTION 3024 (1) of this act.

(6) YOUTH ALCOHOL AND OTHER DRUG ABUSE PROGRAMS. There is transferred to the appropriation to the department of public instruction under section 20.255 (2) (k) of the statutes, as created by this act, \$166,000 from the appropriation under section 20.435 (4) (ma) of the statutes for fiscal year 1988-89 to fund youth and alcohol and other drug abuse intervention services under section 115.362 of the statutes.

SECTION 109. Initial applicability.

(1) HEALTH AND SOCIAL SERVICES. (a) *Drug abuse program improvement surcharge*. The treatment of section 161.41 (5) of the statutes first applies to fines imposed on the 1st day of the 3rd month commencing after publication.

SECTION 110. **Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 48.13 (11m) of the statutes takes effect on September 1, 1988.

(3) The treatment of section 49.46 (2) (b) 6. k of the statutes takes effect on March 1, 1989.