



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1065/P1 P2  
EHS&GMM:sac:if  
6 RMR

In 5/6/13

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

D-NOTE

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1 AN ACT to amend 48.02 (1d), 48.02 (2), 48.366 (8), subchapter IX (title) of chapter  
2 48 [precedes 48.44], 48.44 (title), 48.44 (1), 48.45 (1) (a), 48.45 (1) (am), 48.45  
3 (3), 118.163 (4), 125.07 (4) (d), 125.07 (4) (e) 1., 125.085 (3) (bt), 165.83 (1) (c) 1.,  
4 165.83 (1) (c) 2., 301.12 (2m), 301.12 (14) (a), 301.26 (4) (cm) 2., 302.31 (7),  
5 938.02 (1), 938.02 (10m), 938.12 (2), 938.18 (2), 938.183 (3), 938.255 (1) (intro.),  
6 938.34 (8), 938.343 (2), 938.344 (3), 938.35 (1m), 938.355 (4) (b), 938.355 (4m)  
7 (a), 938.39, subchapter IX (title) of chapter 938 [precedes 938.44], 938.44,  
8 938.45 (1) (a), 938.45 (3), 938.48 (4m) (title), 938.48 (4m) (a), 938.48 (4m) (b),  
9 938.48 (14), 938.57 (3) (title), 938.57 (3) (a) (intro.), 938.57 (3) (a) 1., 938.57 (3)  
10 (a) 3., 938.57 (3) (b), 946.50 (intro.), 948.01 (1), 948.11 (2) (am) (intro.), 948.45  
11 (1), 948.60 (2) (d), 948.61 (4), 961.455 (title), 961.455 (1), 961.455 (2), 961.46,  
12 961.573 (2), 961.574 (2), 961.575 (1), 961.575 (2), 961.575 (3), 990.01 (3) and  
13 990.01 (20) of the statutes; **relating to:** the age at which a person who is alleged  
14 to have violated a criminal law, a civil law, or a municipal ordinance and who

1 has not previously been adjudicated delinquent is subject to circuit court or  
2 municipal court rather than juvenile court jurisdiction.

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***Analysis by the Legislative Reference Bureau***

Under current law, a person 17 years of age or older who is alleged to have violated a criminal law is subject to the procedures specified in the Criminal Procedure Code and, on conviction, is subject to sentencing under the Criminal Code, which may include a sentence of imprisonment in the Wisconsin state prisons. Currently, subject to certain exceptions, a person under 17 years of age who is alleged to have violated a criminal law is subject to the procedures specified in the Juvenile Justice Code and, on being adjudicated delinquent, is subject to an array of dispositions under that code including placement in a juvenile correctional facility. This bill raises from 17 to 18 the age at which a person who is alleged to have violated a criminal law is subject to the procedures specified in the Criminal Procedure Code and, on conviction, to sentencing under the Criminal Code, if the person has not previously been adjudicated delinquent. The bill, however, does not affect the age at which a person who has previously been adjudicated delinquent is subject to those procedures and that sentencing.

Similarly, under current law, a person 17 years of age or older who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court, while a person under 17 years of age who is alleged to have violated a civil law or municipal ordinance, subject to certain exceptions, is subject to the jurisdiction and procedures of the court assigned to exercise jurisdiction under the Juvenile Justice Code. This bill raises from 17 to 18 the age at which a person who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court, if the person has not previously been adjudicated delinquent. The bill, however, does not affect the age at which a person who has previously been adjudicated delinquent is subject to that jurisdiction and those procedures.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

3 **SECTION 1.** 48.02 (1d) of the statutes is amended to read:

4 48.02 (1d) "Adult" means a person who is 18 years of age or older, except that  
5 for purposes of investigating or prosecuting a person who is alleged to have violated  
6 any state or federal criminal law or any civil law or municipal ordinance, "adult"

1 ~~means~~ includes a person ~~who has attained 17 years of age who has previously been~~  
2 adjudicated delinquent.

3 **SECTION 2.** 48.02 (2) of the statutes is amended to read:

4 48.02 (2) "Child", when used without further qualification, means a person  
5 who is less than 18 years of age, except that for purposes of investigating or  
6 prosecuting a person who is alleged to have violated a state or federal criminal law  
7 or any civil law or municipal ordinance, "child" does not include a person ~~who has~~  
8 attained 17 years of age who has previously been adjudicated delinquent.

9 **SECTION 3.** 48.366 (8) of the statutes is amended to read:

10 48.366 (8) TRANSFER TO OR BETWEEN FACILITIES. The department of corrections  
11 may transfer a person subject to an order between juvenile correctional facilities.  
12 After the person ~~attains the age of 17 years~~ becomes an adult, the department of  
13 corrections may place the person in a state prison named in s. 302.01, except that the  
14 department of corrections may not place any person under the age of 18 years in the  
15 correctional institution authorized in s. 301.16 (1n). If the department of corrections  
16 places a person subject to an order under this section in a state prison, that  
17 department shall provide services for that person from the appropriate  
18 appropriation under s. 20.410 (1). The department of corrections may transfer a  
19 person placed in a state prison under this subsection to or between state prisons  
20 named in s. 302.01 without petitioning for revision of the order under sub. (5) (a),  
21 except that the department of corrections may not transfer any person under the age  
22 of 18 years to the correctional institution authorized in s. 301.16 (1n).

23 **SECTION 4.** Subchapter IX (title) of chapter 48 [precedes 48.44] of the statutes  
24 is amended to read:

25 **CHAPTER 48**

## 1 SUBCHAPTER IX

2 JURISDICTION OVER ~~PERSON 17~~3 ~~OR OLDER ADULTS~~4 SECTION 5. 48.44<sup>x</sup> (title) of the statutes is amended to read:5 48.44 (title) **Jurisdiction over persons 17 or older adults.**6 SECTION 6. 48.44<sup>x</sup> (1) of the statutes is amended to read:7 48.44 (1) The court has jurisdiction over persons 17 years of age or older adults  
8 as provided under ss. 48.133, 48.355 (4), and 48.45 and as otherwise specifically  
9 provided in this chapter.10 SECTION 7. 48.45<sup>x</sup> (1) (a) of the statutes is amended to read:11 48.45 (1) (a) If in the hearing of a case of a child alleged to be in a condition  
12 described in s. 48.13 it appears that any person 17 years of age or older adult has been  
13 guilty of contributing to, encouraging, or tending to cause by any act or omission,  
14 ~~such~~ that condition of the child, the judge may make orders with respect to the  
15 conduct of ~~such~~ that person in his or her relationship to the child, including orders  
16 determining the ability of the person to provide for the maintenance or care of the  
17 child and directing when, how, and from where funds for the maintenance or care  
18 shall be paid.19 SECTION 8. 48.45<sup>x</sup> (1) (am) of the statutes is amended to read:20 48.45 (1) (am) If in the hearing of a case of an unborn child and the unborn  
21 child's expectant mother alleged to be in a condition described in s. 48.133 it appears  
22 that any person 17 years of age or over adult has been guilty of contributing to,  
23 encouraging, or tending to cause by any act or omission, ~~such~~ that condition of the  
24 unborn child and expectant mother, the judge may make orders with respect to the

1 conduct of ~~such~~ that person in his or her relationship to the unborn child and  
2 expectant mother.

3 **SECTION 9.** 48.45<sup>x</sup> (3) of the statutes is amended to read:

4 48.45 (3) If it appears at a court hearing that any ~~person 17 years of age or older~~  
5 adult has violated s. 948.40, the judge shall refer the record to the district attorney  
6 for criminal proceedings as may be warranted in the district attorney's judgment.  
7 This subsection does not prevent prosecution of violations of s. 948.40 without the  
8 prior reference by the judge to the district attorney, as in other criminal cases.

9 **SECTION 10.** 118.163<sup>x</sup> (4) of the statutes is amended to read:

10 118.163 (4) A person who is ~~under 17 years of age~~ a minor on the date of  
11 disposition is subject to s. 938.342.

12 **SECTION 11.** 125.07 (4) (d)<sup>x</sup> of the statutes is amended to read:

13 125.07 (4) (d) A person who is ~~under 17 years of age~~ a minor on the date of  
14 disposition is subject to s. 938.344 unless proceedings have been instituted against  
15 the person in a court of civil or criminal jurisdiction after dismissal of the citation  
16 under s. 938.344 (3).

17 **SECTION 12.** 125.07 (4) (e) 1.<sup>x</sup> of the statutes is amended to read:

18 125.07 (4) (e) 1. In this paragraph, "defendant" means a person found guilty  
19 of violating par. (a) or (b) who is ~~17, 18, 19 or 20~~ an adult under 21 years of age.

20 **SECTION 13.** 125.085 (3) (bt)<sup>x</sup> of the statutes is amended to read:

21 125.085 (3) (bt) A person who is ~~under 17 years of age~~ a minor on the date of  
22 disposition is subject to s. 938.344 unless proceedings have been instituted against  
23 the person in a court of civil or criminal jurisdiction after dismissal of the citation  
24 under s. 938.344 (3).

25 **SECTION 14.** 165.83 (1) (c) 1. of the statutes is amended to read:

1           165.83 (1) (c) 1. An act that is committed by ~~a person who has attained the age~~  
2 ~~of 17~~ an adult and that is a felony or a misdemeanor.

3           **SECTION 15.** 165.83<sup>x</sup> (1) (c) 2. of the statutes is amended to read:

4           165.83 (1) (c) 2. An act that is committed by a person minor who has attained  
5 the age of 10 ~~but who has not attained the age of 17~~ and that would be a felony or  
6 misdemeanor if committed by an adult.

7           **SECTION 16.** 301.12<sup>x</sup> (2m) of the statutes is amended to read:

8           301.12 (2m) The liability specified in sub. (2) shall not apply to persons ~~17~~ 18  
9 and older receiving care, maintenance, services, and supplies provided by prisons  
10 named in s. 302.01.

11           **SECTION 17.** 301.12<sup>x</sup> (14) (a) of the statutes is amended to read:

12           301.12 (14) (a) Except as provided in pars. (b) and (c), liability of a person  
13 specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons under ~~17~~  
14 18 years of age in residential, nonmedical facilities such as group homes, foster  
15 homes, residential care centers for children and youth, and juvenile correctional  
16 institutions is determined in accordance with the cost-based fee established under  
17 s. 301.03 (18). The department shall bill the liable person up to any amount of  
18 liability not paid by an insurer under s. 632.89 (2) or (4m) or by other 3rd-party  
19 benefits, subject to rules that include formulas governing ability to pay promulgated  
20 by the department under s. 301.03 (18). Any liability of the resident not payable by  
21 any other person terminates when the resident reaches age ~~17~~ 18, unless the liable  
22 person has prevented payment by any act or omission.

23           **SECTION 18.** 301.26<sup>x</sup> (4) (cm) 2. of the statutes is amended to read:

24           301.26 (4) (cm) 2. Notwithstanding pars. (a), (b), and (bm), the department  
25 shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the

1 appropriations under s. 20.410 (3) (hm), (ho), and (hr) for the purpose of reimbursing  
2 juvenile correctional facilities, secured residential care centers for children and  
3 youth, alternate care providers, aftercare supervision providers, and corrective  
4 sanctions supervision providers for costs incurred beginning on July 1, 1996, for the  
5 care of any juvenile 14 years of age or over ~~and under 18 years of age~~ who has been  
6 placed in a juvenile correctional facility under s. 48.366 based on a delinquent act  
7 that is a violation of s. 940.01, 940.02, 940.05, or 940.225 (1).

8 **SECTION 19.** 302.31<sup>x</sup> (7) of the statutes is amended to read:

9 302.31 (7) The temporary placement of persons in the custody of the  
10 department, other than persons under 17 years of age minors, and persons who have  
11 ~~attained the age of 17 years but have not attained~~ adults under the age of 25 years  
12 who are under the supervision of the department under s. 48.366 or 938.355 (4) and  
13 who have been taken into custody pending revocation of aftercare supervision under  
14 s. 48.366 (5) or 938.357 (5) (e).

15 **SECTION 20.** 938.02 (1) of the statutes is amended to read:

16 938.02 (1) "Adult" means a person who is 18 years of age or older, except that  
17 for purposes of investigating or prosecuting a person who is alleged to have violated  
18 any state or federal criminal law or any civil law or municipal ordinance, "adult"  
19 ~~means~~ includes a person who has attained 17 years of age who has previously been  
20 adjudicated delinquent.

21 **SECTION 21.** 938.02 (10m) of the statutes is amended to read:

22 938.02 (10m) "Juvenile",, when used without further qualification, means a  
23 person who is less than 18 years of age, except that for purposes of investigating or  
24 prosecuting a person who is alleged to have violated a state or federal criminal law

1 or any civil law or municipal ordinance, "juvenile" does not include a person who has  
2 attained 17 years of age who has previously been adjudicated delinquent.

3 **SECTION 22.** 938.12 (2) of the statutes is amended to read:

4 938.12 (2) ~~SEVENTEEN YEAR OLDS~~ JUVENILES WHO BECOME ADULTS. If a petition  
5 alleging that a juvenile is delinquent is filed before the juvenile is ~~17 years of age~~  
6 becomes an adult, but the juvenile becomes ~~17 years of age~~ an adult before admitting  
7 the facts of the petition at the plea hearing or, if the juvenile denies the facts, before  
8 an adjudication, the court retains jurisdiction over the case.

9 **SECTION 23.** 938.18 (2) of the statutes is amended to read:

10 938.18 (2) **PETITION.** The petition for waiver of jurisdiction may be filed by the  
11 district attorney or the juvenile or may be initiated by the court and shall contain a  
12 brief statement of the facts supporting the request for waiver. The petition for waiver  
13 of jurisdiction shall be accompanied by or filed after the filing of a petition alleging  
14 delinquency and shall be filed prior to the plea hearing, except that if the juvenile  
15 denies the facts of the petition and becomes ~~17 years of age~~ an adult before an  
16 adjudication, the petition for waiver of jurisdiction may be filed at any time prior to  
17 the adjudication. If the court initiates the petition for waiver of jurisdiction, the  
18 judge shall disqualify himself or herself from any future proceedings on the case.

19 **SECTION 24.** 938.183 (3) of the statutes is amended to read:

20 938.183 (3) **PLACEMENT IN STATE PRISON; PAROLE.** When a juvenile who is subject  
21 to a criminal penalty under sub. (1m) or s. 938.183 (2), 2003 stats., ~~attains the age~~  
22 ~~of 17 years~~ becomes an adult, the department may place the juvenile in a state prison  
23 named in s. 302.01, except that the department may not place any person under the  
24 age of 18 years in the correctional institution authorized in s. 301.16 (1n). A juvenile  
25 who is subject to a criminal penalty under sub. (1m) or under s. 938.183 (2), 2003

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1 stats., for an act committed before December 31, 1999, is eligible for parole under s.  
2 304.06.

3 **SECTION 25.** 938.255<sup>✓</sup> (1) (intro.) of the statutes is amended to read:

4 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings  
5 under this chapter, other than a petition initiating proceedings under s. 938.12,  
6 938.125, or 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a  
7 person under the age of 18<sup>✓</sup>." A petition initiating proceedings under s. 938.12,  
8 938.125, or 938.13 (12) shall be entitled, "In the interest of (juvenile's name), a ~~person~~  
9 ~~under the age of 17~~. juvenile." A petition initiating proceedings under this chapter  
10 shall specify all of the following:

11 **SECTION 26.** 938.34<sup>✓</sup> (8) of the statutes is amended to read:

12 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that  
13 this disposition is in the best interest of the juvenile and the juvenile's rehabilitation.  
14 The maximum forfeiture that the court may impose under this subsection for a  
15 violation by a juvenile is the maximum amount of the fine that may be imposed on  
16 an adult for committing that violation or, if the violation is applicable only to ~~a person~~  
17 ~~under 18 years of age~~ juveniles, \$100. The order shall include a finding that the  
18 juvenile alone is financially able to pay the forfeiture and shall allow up to 12 months  
19 for payment. If the juvenile fails to pay the forfeiture, the court may vacate the  
20 forfeiture and order other alternatives under this section; or the court may suspend  
21 any license issued under ch. 29 for not less than 30 days nor more than 5 years, or  
22 suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more  
23 than 2 years. If the court suspends any license under this subsection, the clerk of the  
24 court shall immediately take possession of the suspended license if issued under ch.  
25 29 or, if the license is issued under ch. 343, the court may take possession of, and if

1 possession is taken, shall destroy, the license. The court shall forward to the  
2 department ~~which~~ that issued the license a notice of suspension stating that the  
3 suspension is for failure to pay a forfeiture imposed by the court, together with any  
4 license issued under ch. 29 of which the court takes possession. If the forfeiture is  
5 paid during the period of suspension, the suspension shall be reduced to the time  
6 period ~~which~~ that has already elapsed and the court shall immediately notify the  
7 department, which shall then, if the license is issued under ch. 29, return the license  
8 to the juvenile. Any recovery under this subsection shall be reduced by the amount  
9 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

10 **SECTION 27.** 938.343 (2) of the statutes is amended to read:

11 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum  
12 forfeiture that may be imposed on an adult for committing that violation or, if the  
13 violation is only applicable to ~~a person under 18 years of age~~ juveniles, \$50. The  
14 order shall include a finding that the juvenile alone is financially able to pay and  
15 shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture,  
16 the court may suspend any license issued under ch. 29 or suspend the juvenile's  
17 operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court  
18 shall immediately take possession of the suspended license if issued under ch. 29 or,  
19 if the license is issued under ch. 343, the court may take possession of, and if  
20 possession is taken, shall destroy, the license. The court shall forward to the  
21 department ~~which~~ that issued the license the notice of suspension stating that the  
22 suspension is for failure to pay a forfeiture imposed by the court, together with any  
23 license issued under ch. 29 of which the court takes possession. If the forfeiture is  
24 paid during the period of suspension, the court shall immediately notify the  
25 department, which shall, if the license is issued under ch. 29, return the license to

1 the person. Any recovery under this subsection shall be reduced by the amount  
2 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

3 **SECTION 28.** 938.344<sup>✓</sup> (3) of the statutes is amended to read:

4 938.344 (3) PROSECUTION IN ADULT COURT. If the juvenile alleged to have  
5 committed the violation is within 3 months of ~~his or her 17th birthday~~ becoming an  
6 adult, the court assigned to exercise jurisdiction under this chapter and ch. 48 may,  
7 at the request of the district attorney or on its own motion, dismiss the citation  
8 without prejudice and refer the matter to the district attorney for prosecution under  
9 s. 125.07 (4). The juvenile is entitled to a hearing only on the issue of his or her age.  
10 This subsection does not apply to violations under s. 961.573 (2), 961.574 (2), or  
11 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

12 **SECTION 29.** 938.35<sup>✓</sup> (1m) of the statutes is amended to read:

13 938.35 (1m) FUTURE CRIMINAL PROCEEDINGS BARRED. Disposition by the court  
14 assigned to exercise jurisdiction under this chapter and ch. 48 of any allegation  
15 under s. 938.12 or 938.13 (12) shall bar any future proceeding on the same matter  
16 in criminal court when the juvenile ~~attains 17 years of age~~ becomes an adult. This  
17 ~~paragraph~~ subsection does not affect proceedings in criminal court that have been  
18 transferred under s. 938.18.

19 **SECTION 30.** 938.355<sup>✓</sup> (4) (b) of the statutes is amended to read:

20 938.355 (4) (b) Except as provided in s. 938.368, an order under s. 938.34 (4d)  
21 or (4m) made before the juvenile attains 18 years of age may apply for up to 2 years  
22 after the date on which the order is granted or until the juvenile's ~~18th~~ 19th birthday,  
23 whichever is earlier, unless the court specifies a shorter period of time or the court  
24 terminates the order sooner. If the order does not specify a termination date, it shall  
25 apply for one year after the date on which the order is granted or until the juvenile's

1 ~~18th~~ 19th birthday, whichever is earlier, unless the court terminates the order  
2 sooner. Except as provided in s. 938.368, an order under s. 938.34 (4h) made before  
3 the juvenile attains 18 years of age shall apply for 5 years after the date on which the  
4 order is granted, if the juvenile is adjudicated delinquent for committing a violation  
5 of s. 943.10 (2) or for committing an act that would be punishable as a Class B or C  
6 felony if committed by an adult, or until the juvenile reaches 25 years of age, if the  
7 juvenile is adjudicated delinquent for committing an act that would be punishable  
8 as a Class A felony if committed by an adult. Except as provided in s. 938.368, an  
9 extension of an order under s. 938.34 (4d), (4h), (4m), or (4n) made before the juvenile  
10 attains ~~17 years of age~~ becomes an adult shall terminate at the end of one year after  
11 the date on which the order is granted unless the court specifies a shorter period of  
12 time or the court terminates the order sooner. No extension under s. 938.365 of an  
13 original dispositional order under s. 938.34 (4d), (4h), (4m), or (4n) may be granted  
14 for a juvenile who ~~is 17 years of age or older when~~ becomes an adult by the time the  
15 original dispositional order terminates.

16 **SECTION 31.** 938.355<sup>✓</sup> (4m) (a) of the statutes is amended to read:

17 938.355 (4m) (a) A juvenile who has been adjudged delinquent under s. 48.12,  
18 1993 stats., or s. 938.12 may, on ~~attaining 17 years of age~~ becoming an adult, petition  
19 the court to expunge the court's record of the juvenile's adjudication. Subject to par.  
20 (b), the court may expunge the record if the court determines that the juvenile has  
21 satisfactorily complied with the conditions of his or her dispositional order and that  
22 the juvenile will benefit from, and society will not be harmed by, the expungement.

23 **SECTION 32.** 938.39<sup>✓</sup> of the statutes is amended to read:

24 **938.39 Disposition by court bars criminal proceeding.** Disposition by the  
25 court of any violation of state law within its jurisdiction under s. 938.12 bars any

1 future criminal proceeding on the same matter in circuit court when the juvenile  
2 ~~reaches the age of 17~~ becomes an adult. This section does not affect criminal  
3 proceedings in circuit court that were transferred under s. 938.18.

4 **SECTION 33.** Subchapter IX (title) of chapter 938 [precedes 938.44] of the  
5 statutes is amended to read:

6 **CHAPTER 938**

7 **SUBCHAPTER IX**

8 **JURISDICTION OVER ~~PERSONS 17~~**

9 **OR OLDER ADULTS**

10 **SECTION 34.** 938.44 of the statutes is amended to read:

11 **938.44 Jurisdiction over ~~persons 17 or older~~ adults.** The court has  
12 jurisdiction over ~~persons 17 years of age or older~~ adults as provided under ss. 938.355  
13 (4) and 938.45 and as otherwise specified in this chapter.

14 **SECTION 35.** 938.45 (1) (a) of the statutes is amended to read:

15 938.45 (1) (a) If in the hearing of a case of a juvenile alleged to be delinquent  
16 under s. 938.12 or in need of protection or services under s. 938.13 it appears that any  
17 ~~person 17 years of age or older~~ adult has been guilty of contributing to, encouraging,  
18 or tending to cause by any act or omission, ~~such~~ that condition of the juvenile, the  
19 court may make orders with respect to the conduct of that person in his or her  
20 relationship to the juvenile, including orders relating to determining the ability of  
21 the person to provide for the maintenance or care of the juvenile and directing when,  
22 how, and from where funds for the maintenance or care shall be paid.

23 **SECTION 36.** 938.45 (3) of the statutes is amended to read:

24 938.45 (3) PROSECUTION OF ADULT CONTRIBUTING TO DELINQUENCY OF JUVENILE.

25 If it appears at a court hearing that any ~~person 17 years of age or older~~ adult has

1 violated s. 948.40, the court shall refer the record to the district attorney. This  
2 subsection does not prohibit prosecution of violations of s. 948.40 without the prior  
3 reference by the court to the district attorney.

4 **SECTION 37.** 938.48<sup>✓</sup> (4m) (title) of the statutes is amended to read:

5 938.48 (4m) (title) CONTINUING CARE AND SERVICES FOR JUVENILES ~~OVER 17 WHO~~  
6 BECOME ADULTS.

7 **SECTION 38.** 938.48<sup>✓</sup> (4m) (a) of the statutes is amended to read:

8 938.48 (4m) (a) Is ~~at least 17 years of age~~ an adult.

9 **SECTION 39.** 938.48 (4m) (b) of the statutes is amended to read:

10 938.48 (4m) (b) Was under the supervision of the department under s. 938.183,  
11 938.34 (4h), (4m), or (4n), or 938.357 (4) when the person ~~reached 17 years of age~~  
12 became an adult.

13 **SECTION 40.** 938.48<sup>✓</sup> (14) of the statutes is amended to read:

14 938.48 (14) SCHOOL-RELATED EXPENSES FOR JUVENILES ~~OVER 17 WHO BECOME~~  
15 ADULTS. Pay maintenance, tuition, and related expenses from the appropriation  
16 under s. 20.410 (3) (ho) for persons who, when they ~~attained 17 years of age~~ became  
17 adults, were students regularly attending a school, college, or university or regularly  
18 attending a course of vocational or technical training designed to prepare them for  
19 gainful employment, and who upon attaining ~~that age~~ adulthood were under the  
20 supervision of the department under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357  
21 (4) as a result of a judicial decision.

22 **SECTION 41.** 938.57<sup>✓</sup> (3) (title) of the statutes is amended to read:

23 938.57 (3) (title) CONTINUING MAINTENANCE FOR JUVENILES ~~OVER 17 WHO BECOME~~  
24 ADULTS.

25 **SECTION 42.** 938.57<sup>✓</sup> (3) (a) (intro.) of the statutes is amended to read:

1 938.57 (3) (a) (intro.) From the reimbursement received under s. 48.569 (1) (d),  
2 counties may provide funding for the maintenance of any juvenile person who meets  
3 all of the following qualifications:

4 SECTION 43. 938.57 (3) (a) 1. of the statutes is amended to read:

5 938.57 (3) (a) 1. Is ~~17 years of age or older~~ an adult.

6 SECTION 44. 938.57 (3) (a) 3. of the statutes is amended to read:

7 938.57 (3) (a) 3. Received funding under s. 48.569 (1) (d) immediately prior to  
8 ~~his or her 17th birthday~~ becoming an adult.

9 SECTION 45. 938.57 (3) (b) of the statutes is amended to read:

10 938.57 (3) (b) The funding provided for the maintenance of a juvenile person  
11 under par. (a) shall be in an amount equal to that to which the juvenile person would  
12 receive under s. 48.569 (1) (d) if the person were a juvenile were ~~16~~ years of age.

13 SECTION 46. 946.50 (intro.) of the statutes is amended to read:

14 **946.50 Absconding.** (intro.) Any person who is adjudicated delinquent, but  
15 who intentionally fails to appear before the court assigned to exercise jurisdiction  
16 under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who  
17 does not return to that court for a dispositional hearing before ~~attaining the age of~~  
18 17 years becoming an adult is guilty of the following:

19 SECTION 47. 948.01 (1) of the statutes is amended to read:  
20 948.01 (1) "Child" means a person who has not attained the age of 18 years,  
21 except that for purposes of prosecuting a person who is alleged to have violated a  
22 state or federal criminal law, "child" does not include a person ~~who has attained the~~  
age of 17 years of age who had previously been adjudicated delinquent.

23

24 SECTION 48. 948.11 (2) (am) (intro.) of the statutes is amended to read:

INSERT  
15-24

1           948.11 (2) (am) (intro.) ~~Any person who has attained the age of 17 and adult~~  
2           who, with knowledge of the character and content of the description or narrative  
3           account, verbally communicates, by any means, a harmful description or narrative  
4           account to a child, with or without monetary consideration, is guilty of a Class I  
5           felony if any of the following applies:

6           **SECTION 49.** 948.45<sup>✓</sup> (1) of the statutes is amended to read:

7           948.45 (1) Except as provided in sub. (2), any ~~person 17 years of age or older~~  
8           adult who, by any act or omission, knowingly encourages or contributes to the  
9           truancy, as defined under s. 118.16 (1) (c), of a ~~person 17 years of age or under~~ child  
10          is guilty of a Class C misdemeanor.

11          **SECTION 50.** 948.60<sup>✓</sup> (2) (d) of the statutes is amended to read:

12          948.60 (2) (d) A ~~person under 17 years of age~~ child who has violated this  
13          subsection is subject to the provisions of ch. 938 unless jurisdiction is waived under  
14          s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction  
15          under s. 938.183.

16          **SECTION 51.** 948.61<sup>✓</sup> (4) of the statutes is amended to read:

17          948.61 (4) A ~~person under 17 years of age~~ child who has violated this section  
18          is subject to the provisions of ch. 938, unless jurisdiction is waived under s. 938.18  
19          or the person is subject to the jurisdiction of a court of criminal jurisdiction under s.  
20          938.183.

21          **SECTION 52.** 961.455<sup>✓</sup> (title) of the statutes is amended to read:

22          **961.455 (title) Using a child minor for illegal drug distribution or**  
23          **manufacturing purposes.**

24          **SECTION 53.** 961.455<sup>✓</sup> (1) of the statutes is amended to read:

1           961.455 (1) Any ~~person who has attained the age of 17 years~~ adult who  
2 knowingly solicits, hires, directs, employs, or uses a ~~person who is under the age of~~  
3 ~~17 years~~ minor for the purpose of violating s. 961.41 (1) is guilty of a Class F felony.

4           **SECTION 54.** 961.455<sup>✓</sup> (2) of the statutes is amended to read:

5           961.455 (2) The knowledge requirement under sub. (1) does not require proof  
6 of knowledge of the age of the ~~child~~ minor. It is not a defense to a prosecution under  
7 this section that the actor mistakenly believed that the person solicited, hired,  
8 directed, employed, or used under sub. (1) had attained the age of 18 years, even if  
9 the mistaken belief was reasonable.

10          **SECTION 55.** 961.46<sup>✓</sup> of the statutes is amended to read:

11          **961.46 Distribution to persons under age 18 minors.** ~~If a person 17 years~~  
12 ~~of age or over~~ an adult violates s. 961.41 (1) by distributing or delivering a controlled  
13 substance or a controlled substance analog to a ~~person 17 years of age or under~~ minor  
14 who is at least 3 years his or her junior, the applicable maximum term of  
15 imprisonment prescribed under s. 961.41 (1) for the offense may be increased by not  
16 more than 5 years.

17          **SECTION 56.** 961.573<sup>✓</sup> (2) of the statutes is amended to read:

18          961.573 (2) Any ~~person~~ minor who violates sub. (1) ~~who is under 17 years of age~~  
19 is subject to a disposition under s. 938.344 (2e).

20          **SECTION 57.** 961.574<sup>✓</sup> (2) of the statutes is amended to read:

21          961.574 (2) Any ~~person~~ minor who violates sub. (1) ~~who is under 17 years of age~~  
22 is subject to a disposition under s. 938.344 (2e).

23          **SECTION 58.** 961.575<sup>✓</sup> (1) of the statutes is amended to read:

24          961.575 (1) Any ~~person 17 years of age or over~~ adult who violates s. 961.574 (1)  
25 by delivering drug paraphernalia to a ~~person 17 years of age or under~~ minor who is

1 at least 3 years younger than the violator may be fined not more than \$10,000 or  
2 imprisoned for not more than 9 months or both.

3 SECTION 59. 961.575 (2) of the statutes is amended to read:

4 961.575 (2) Any person minor who violates this section ~~who is under 17 years~~  
5 ~~of age~~ is subject to a disposition under s. 938.344 (2e).

6 SECTION 60. 961.575 (3) of the statutes is amended to read:

7 961.575 (3) Any person ~~17 years of age or over~~ adult who violates s. 961.574 (3)  
8 by delivering drug paraphernalia to a ~~person 17 years of age or under~~ minor is guilty  
9 of a Class G felony.

10 SECTION 61. 990.01 (3) of the statutes is amended to read:

11 990.01 (3) ADULT. "Adult" means a person who has attained the age of 18 years,  
12 except that for purposes of investigating or prosecuting a person who is alleged to  
13 have violated any state or federal criminal law or any civil law or municipal  
14 ordinance, "adult" means includes a person who ~~has attained the age of 17 years of~~  
15 ~~age who has previously been adjudicated delinquent.~~

16 SECTION 62. 990.01 (20) of the statutes is amended to read:

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

22 SECTION 63. Initial applicability.

INSERT  
19-22

1           (1) AGE OF ADULT JURISDICTION. This act first applies to a violation of a criminal  
2    law, civil law, or municipal ordinance allegedly committed on the effective date of this  
3    subsection.

(END)

3  
7  
4  
Insert  
19-3

**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1065/P2ins  
EHS&GMM:sac:jf

1           INSERT A1

2           is not alleged to have committed certain violent offenses and

3           INSERT A2

4           is alleged to have committed certain violent offenses or who

5           INSERT 3-9

6           **SECTION 1.** 48.02 (1d) of the statutes is amended to read:

7           48.02 (1d) “Adult” means a person who is 18 years of age or older, except that  
8           for purposes of investigating or prosecuting a person who is alleged to have violated  
9           any state or federal criminal law or any civil law or municipal ordinance, “adult”  
10          means includes a person who has attained 17 years of age who has previously been  
11          adjudicated delinquent or who is alleged to have committed any violent crime  
12          specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor under (ss. 940.19 (1), 940.225  
13          (3m), 940.42, 941.20 (1) (b), (bm), (c), or (d), or 941.24.

History: 1971 c. 41 s. 12; 1971 c. 164; 1973 c. 263; 1977 c. 205, 299, 354, 418, 447, 449; 1979 c. 135, 300, 352; 1981 c. 81; 1983 a. 189, 447, 471; 1985 a. 176; 1987 a. 27, 285, 339; 1989 a. 31; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1989 a. 107; 1991 a. 39; 1993 a. 98, 375, 377, 385, 446, 491; 1995 a. 27 ss. 2423 to 2426p, 9126 (19), 9145 (1); 1995 a. 77, 275, 352, 448; 1997 a. 27, 104, 191, 292; 1999 a. 9; 2001 a. 16, 59, 69; 2005 a. 113, 232, 277, 344; 2005 a. 443 s. 265; 2007 a. 20; 2009 a. 28; 2009 a. 94 ss. 2 to 9, 231; 2009 a. 185 s. 86; 2009 a. 302, 334.

14          **SECTION 2.** 48.02 (2) of the statutes is amended to read:

15          48.02 (2) “Child”, when used without further qualification, means a person  
16          who is less than 18 years of age, except that for purposes of investigating or  
17          prosecuting a person who is alleged to have violated a state or federal criminal law  
18          or any civil law or municipal ordinance, “child” does not include a person ~~who has~~  
19          attained 17 years of age who has previously been adjudicated delinquent or who is  
20          alleged to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or

1 any misdemeanor under ss. 940.19 (1), 940.225 (3m), 940.42, 941.20 (1) (b), (bm), (c),  
2 or (d), or 941.24.

3 **History:** 1971 c. 41 s. 12; 1971 c. 164; 1973 c. 263; 1977 c. 205, 299, 354, 418, 447, 449; 1979 c. 135, 300, 352; 1981 c. 81; 1983 a. 189, 447, 471; 1985 a. 176; 1987 a. 27, 285, 339; 1989 a. 31; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1989 a. 107; 1991 a. 39; 1993 a. 98, 375, 377, 385, 446, 491; 1995 a. 27 ss. 2423 to 2426p, 9126 (19), 9145 (1); 1995 a. 77, 275, 352, 448; 1997 a. 27, 104, 191, 292; 1999 a. 9; 2001 a. 16, 59, 69; 2005 a. 113, 232, 277, 344; 2005 a. 443 s. 265; 2007 a. 20; 2009 a. 28; 2009 a. 94 ss. 2 to 9, 231; 2009 a. 185 s. 86; 2009 a. 302, 334.

4 INSERT 8-3

5 **SECTION 3.** 938.02 (1) of the statutes is amended to read:

6 938.02 (1) "Adult" means a person who is 18 years of age or older, except that  
7 for purposes of investigating or prosecuting a person who is alleged to have violated  
8 any state or federal criminal law or any civil law or municipal ordinance, "adult"  
9 means includes a person who has attained 17 years of age who has previously been  
10 adjudicated delinquent or who is alleged to have committed any violent crime  
11 specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor under ~~ss.~~ 940.19 (1), 940.225  
12 (3m), 940.42, 941.20 (1) (b), (bm), (c), or (d), or 941.24.

13 **History:** 1995 a. 77, 216, 352, 448; 1997 a. 27, 35, 181, 191; 1999 a. 9, 162; 2001 a. 16, 59; 2003 a. 33, 284; 2005 a. 232, 344, 387; 2005 a. 443 s. 265; 2007 a. 20 ss. 3780 to 3782, 9121 (6) (a); 2009 a. 28, 94, 302, 334; 2011 a. 32, 258; 2011 a. 260 s. 80.

14 **SECTION 4.** 938.02 (10m) of the statutes is amended to read:

15 938.02 (10m) "Juvenile", when used without further qualification, means a  
16 person who is less than 18 years of age, except that for purposes of investigating or  
17 prosecuting a person who is alleged to have violated a state or federal criminal law  
18 or any civil law or municipal ordinance, "juvenile" does not include a person who has  
19 attained 17 years of age who has previously been adjudicated delinquent or who is  
20 alleged to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or  
21 any misdemeanor under ~~ss.~~ 940.19 (1), 940.225 (3m), 940.42, 941.20 (1) (b), (bm), (c),  
or (d), or 941.24.

22 **History:** 1995 a. 77, 216, 352, 448; 1997 a. 27, 35, 181, 191; 1999 a. 9, 162; 2001 a. 16, 59; 2003 a. 33, 284; 2005 a. 232, 344, 387; 2005 a. 443 s. 265; 2007 a. 20 ss. 3780 to 3782, 9121 (6) (a); 2009 a. 28, 94, 302, 334; 2011 a. 32, 258; 2011 a. 260 s. 80.

1 INSERT 15-24

2 SECTION 5. 939.632<sup>x</sup> (1) (e) 1. of the statutes is amended to read:

3 939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09  
4 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305, 940.31,  
5 940.32, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1)  
6 or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085,  
7 or 948.30 (2) or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

History: 1995 a. 22; 2001 a. 109; 2005 a. 277; 2007 a. 116, 127; 2009 a. 180, 302.

8 SECTION 6. 939.632 (1) (e) 3. of the statutes is amended to read:

9 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), ~~940.32 (2)~~, 940.42,  
10 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3).

History: 1995 a. 22; 2001 a. 109; 2005 a. 277; 2007 a. 116, 127; 2009 a. 180, 302.

11 SECTION 7. 948.01 (1) of the statutes is amended to read:

12 948.01 (1) "Child" means a person who has not attained the age of 18 years,  
13 except that for purposes of prosecuting a person who is alleged to have violated a  
14 state or federal criminal law, "child" does not include a person who has attained the  
15 age of 17 years <sup>of age</sup> who has previously been adjudicated delinquent or who is alleged to  
16 have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or any  
17 misdemeanor under ss. 940.19 (1), 940.225 (3m), 940.42, 941.20 (1) (b), (bm), (c), or  
18 (d), or 941.24.

History: 1987 a. 332; 1989 a. 31; 1993 a. 446; 1995 a. 27, 67, 69, 100, 214; 2001 a. 16; 2005 a. 273, 435; 2007 a. 96; 2009 a. 28.

19

20 INSERT 18-22

21 SECTION 8. 990.01 (3) of the statutes is amended to read:

22 990.01 (3) ADULT. "Adult" means a person who has attained the age of 18 years,  
23 except that for purposes of investigating or prosecuting a person who is alleged to  
24 have violated any state or federal criminal law or any civil law or municipal

*of age*

1 ordinance, "adult" ~~means includes~~ a person who has attained the age of 17 years ~~who~~  
 2 has previously been adjudicated delinquent or who is alleged to have committed any  
 3 violent crime specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor under ~~ss.~~  
 4 940.19 (1), 940.225 (3m), 940.42, 941.20 (1) (b), (bm), (c), or (d), or 941.24.

History: 1971 c. 164 ss. 80, 91; 1971 c. 213 s. 5; Sup. Ct. Order, 67 Wis. 2d 784; 1977 c. 305; 1979 c. 169; 1981 c. 291, 391; 1983 a. 447; 1985 a. 65, 182, 332; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 399; 1989 a. 56, 278; 1991 a. 39; 1993 a. 486; 1995 a. 27 ss. 7294, 7295, 9126 (19); 1995 a. 77, 352; 1997 a. 252, 306; 1999 a. 22, 85; 2001 a. 102; 2003 a. 110; 2005 a. 441; 2005 a. 443 s. 265; 2007 a. 11; 2007 a. 20 s. 9121 (6) (a); 2011 a. 32.

5 **SECTION 9. 990.01 (20) of the statutes is amended to read:**

6 990.01 (20) MINOR. "Minor" means a person who has not attained the age of  
 7 18 years, except that for purposes of investigating or prosecuting a person who is  
 8 alleged to have violated a state or federal criminal law or any civil law or municipal  
 9 ordinance, "minor" does not include a person who has attained the age of 17 years  
 10 who has previously been adjudicated delinquent or who is alleged to have committed  
 11 any violent crime specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor under ~~ss.~~  
 12 940.19 (1), 940.225 (3m), 940.42, 941.20 (1) (b), (bm), (c), or (d), or 941.24.

History: 1971 c. 164 ss. 80, 91; 1971 c. 213 s. 5; Sup. Ct. Order, 67 Wis. 2d 784; 1977 c. 305; 1979 c. 169; 1981 c. 291, 391; 1983 a. 447; 1985 a. 65, 182, 332; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 399; 1989 a. 56, 278; 1991 a. 39; 1993 a. 486; 1995 a. 27 ss. 7294, 7295, 9126 (19); 1995 a. 77, 352; 1997 a. 252, 306; 1999 a. 22, 85; 2001 a. 102; 2003 a. 110; 2005 a. 441; 2005 a. 443 s. 265; 2007 a. 11; 2007 a. 20 s. 9121 (6) (a); 2011 a. 32.

13

14 INSERT 19-3

15 **SECTION 10. Effective date.**

16 (1) This act takes effect on January 1, 2015.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1065/P2dn  
EHS&GMM:sac:jl

- date -

Christina:

\* This draft changes the definition<sup>s</sup> of "juvenile," "child," and "minor" to exclude a 17-year-old who is alleged to have committed any of the crimes you specified in your email. Most of the felonies were listed in the definition of "violent crime" in s. 939.632 (1) (e), so for simplicity the draft refers to the crimes listed in that section. The draft also changes the definition of "adult" to include someone who is 17 who is alleged to have committed any of these crimes. In this way, a 17-year-old who is alleged to have committed any of these crimes will automatically be under the jurisdiction of the criminal court instead of juvenile court.

The draft makes no changes with respect to the offenses that you said should be exceptions. This is because these misdemeanors are not listed among the crimes that trigger a 17-year-old to be considered an adult. Therefore, they fall under the general rule, in s. 938.18 (1) (c), that a juvenile court is permitted to waive its jurisdiction over a juvenile if certain conditions are met. In other words, there is no need to create a specific exception for these misdemeanors.

Research for this draft uncovered two drafting errors in s. 939.632 (1) (e), which defines "violent crime." First, 2001 Wisconsin Act 109 upgraded a violation of s. 940.32 (2) (stalking) from a misdemeanor to a felony, but the section is still listed among the *misdemeanors* considered to be violent crimes under s. 939.632 (1) (e) 3. This draft corrects this by moving stalking to the list of felonies that are violent crimes under s. 939.632 (1) (e) 1.

Second, 2001 Wisconsin Act 109 also created s. 940.32 (2e), which makes it a felony for a person convicted of sexual assault or domestic violence to stalk the victim. However, despite the similarity of this crime with s. 940.32 (2), this crime was never added to the list of felonies that constitute violent crimes under s. 939.632 (1) (e) 1. This draft corrects this by adding s. 940.32 (which would include all felonies under it) to the list of felonies that are violent crimes under s. 939.632 (1) (e) 1. If you have questions or concerns about either of these technical changes, please let me know.

Let me know if you have any questions.

Elisabeth H. Shea  
Legislative Attorney  
Phone: (608) 266-5446  
E-mail: elisabeth.shea@legis.wisconsin.gov

5/22/13 Christina Tenuta - Rep. Kessler's office  
tel. conf.

<p>940.19(1) 940.225(3m) 940.42</p>	}	<p>Ex: p. 3 lines 4-5 take out - should <u>not</u> subject 17yo to adult court jurisdiction</p>
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OK to jacket



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1065/P2  
EHS&GMM:sac:cs

In 5/23/13

1  
RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Please make changes to topic marked on request sheet

1 AN ACT to amend 48.02 (1d), 48.02 (2), 48.366 (8), subchapter IX (title) of chapter  
2 48 [precedes 48.44], 48.44 (title), 48.44 (1), 48.45 (1) (a), 48.45 (1) (am), 48.45  
3 (3), 118.163 (4), 125.07 (4) (d), 125.07 (4) (e) 1., 125.085 (3) (bt), 165.83 (1) (c) 1.,  
4 165.83 (1) (c) 2., 301.12 (2m), 301.12 (14) (a), 301.26 (4) (cm) 2., 302.31 (7),  
5 938.02 (1), 938.02 (10m), 938.12 (2), 938.18 (2), 938.183 (3), 938.255 (1) (intro.),  
6 938.34 (8), 938.343 (2), 938.344 (3), 938.35 (1m), 938.355 (4) (b), 938.355 (4m)  
7 (a), 938.39, subchapter IX (title) of chapter 938 [precedes 938.44], 938.44,  
8 938.45 (1) (a), 938.45 (3), 938.48 (4m) (title), 938.48 (4m) (a), 938.48 (4m) (b),  
9 938.48 (14), 938.57 (3) (title), 938.57 (3) (a) (intro.), 938.57 (3) (a) 1., 938.57 (3)  
10 (a) 3., 938.57 (3) (b), 939.632 (1) (e) 1., 939.632 (1) (e) 3., 946.50 (intro.), 948.01  
11 (1), 948.11 (2) (am) (intro.), 948.45 (1), 948.60 (2) (d), 948.61 (4), 961.455 (title),  
12 961.455 (1), 961.455 (2), 961.46, 961.573 (2), 961.574 (2), 961.575 (1), 961.575  
13 (2), 961.575 (3), 990.01 (3) and 990.01 (20) of the statutes; relating to: the age  
14 at which a person who is alleged to have violated a criminal law, a civil law, or  
15 a municipal ordinance and who has not <sup>committed certain violent offenses or</sup> previously been adjudicated delinquent

LPS: this is the new relating clause

(convicted of a crime or)

court jurisdiction

2013 - 2014 Legislature

- 2 -

LRB-1065/P2

EHS&GMM:sac:rs

the age at which a person who is alleged to have violated a criminal law, a civil law, or a municipal ordinance and who is not alleged to have committed certain violent offenses or has not previously been adjudicated delinquent is subject to juvenile

1 is subject to circuit court or municipal court rather than juvenile court jurisdiction  
2 not affect person 17 years of age who is not alleged to have committed certain violent offenses or who has not previously been adjudicated delinquent

**Analysis by the Legislative Reference Bureau**

Under current law, a person 17 years of age or older who is alleged to have violated a criminal law is subject to the procedures specified in the Criminal Procedure Code and, on conviction, is subject to sentencing under the Criminal Code, which may include a sentence of imprisonment in the Wisconsin state prisons. Currently, subject to certain exceptions, a person under 17 years of age who is alleged to have violated a criminal law is subject to the procedures specified in the Juvenile Justice Code and, on being adjudicated delinquent, is subject to an array of dispositions under that code including placement in a juvenile correctional facility. This bill raises from 17 to 18 the age at which a person who is alleged to have violated a criminal law is subject to the procedures specified in the Criminal Procedure Code and, on conviction, to sentencing under the Criminal Code, if the person is not alleged to have committed certain violent offenses and has not previously been adjudicated delinquent. The bill, however, does not affect the age at which a person who is alleged to have committed certain violent offenses or who has previously been adjudicated delinquent is subject to those procedures and that sentencing.

convicted of a crime or

Similarly, under current law, a person 17 years of age or older who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court, while a person under 17 years of age who is alleged to have violated a civil law or municipal ordinance, subject to certain exceptions, is subject to the jurisdiction and procedures of the court assigned to exercise jurisdiction under the Juvenile Justice Code. This bill raises from 17 to 18 the age at which a person who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court, if the person has not previously been adjudicated delinquent. The bill, however, does not affect the age at which a person who has previously been adjudicated delinquent is subject to that jurisdiction and those procedures.

convicted convicted of a crime or

convicted of a crime or

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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

- 3 SECTION 1. 48.02 (1d) of the statutes is amended to read:
- 4 48.02 (1d) "Adult" means a person who is 18 years of age or older, except that
- 5 for purposes of investigating or prosecuting a person who is alleged to have violated

convicted or

of a crime or

1 any state or federal criminal law or any civil law or municipal ordinance, "adult"  
 2 means includes a person who has attained 17 years of age who has previously been  
 3 adjudicated delinquent or who is alleged to have committed any violent crime  
 4 specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor under s. 940.19 (1), 940.225  
 5 (3m), 940.42, 941.20 (1) (b), (bm), (c), or (d), or 941.24.

6 SECTION 2. 48.02 (2) of the statutes is amended to read:

7 48.02 (2) "Child", when used without further qualification, means a person  
 8 who is less than 18 years of age, except that for purposes of investigating or  
 9 prosecuting a person who is alleged to have violated a state or federal criminal law  
 10 or any civil law or municipal ordinance, "child" does not include a person who has  
 11 attained 17 years of age who has previously been <sup>convicted of a crime or</sup> adjudicated delinquent or who is  
 12 alleged to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or  
 13 any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.42, 941.20 (1) (b), (bm), (c),  
 14 or (d), or 941.24.

15 SECTION 3. 48.366 (8) of the statutes is amended to read:

16 48.366 (8) TRANSFER TO OR BETWEEN FACILITIES. The department of corrections  
 17 may transfer a person subject to an order between juvenile correctional facilities.  
 18 After the person ~~attains the age of 17 years~~ becomes an adult, the department of  
 19 corrections may place the person in a state prison named in s. 302.01, except that the  
 20 department of corrections may not place any person under the age of 18 years in the  
 21 correctional institution authorized in s. 301.16 (1n). If the department of corrections  
 22 places a person subject to an order under this section in a state prison, that  
 23 department shall provide services for that person from the appropriate  
 24 appropriation under s. 20.410 (1). The department of corrections may transfer a  
 25 person placed in a state prison under this subsection to or between state prisons

1 named in s. 302.01 without petitioning for revision of the order under sub. (5) (a),  
2 except that the department of corrections may not transfer any person under the age  
3 of 18 years to the correctional institution authorized in s. 301.16 (1n).

4 **SECTION 4.** Subchapter IX (title) of chapter 48 [precedes 48.44] of the statutes  
5 is amended to read:

6 **CHAPTER 48**

7 **SUBCHAPTER IX**

8 **JURISDICTION OVER PERSON ~~17~~**

9 **~~OR OLDER ADULTS~~**

10 **SECTION 5.** 48.44 (title) of the statutes is amended to read:

11 **48.44 (title) Jurisdiction over persons ~~17 or older~~ adults.**

12 **SECTION 6.** 48.44 (1) of the statutes is amended to read:

13 48.44 (1) The court has jurisdiction over persons ~~17 years of age or older~~ adults  
14 as provided under ss. 48.133, 48.355 (4), and 48.45 and as otherwise specifically  
15 provided in this chapter.

16 **SECTION 7.** 48.45 (1) (a) of the statutes is amended to read:

17 48.45 (1) (a) If in the hearing of a case of a child alleged to be in a condition  
18 described in s. 48.13 it appears that any person ~~17 years of age or older~~ adult has been  
19 guilty of contributing to, encouraging, or tending to cause by any act or omission,  
20 ~~such that~~ that condition of the child, the judge may make orders with respect to the  
21 conduct of ~~such that~~ that person in his or her relationship to the child, including orders  
22 determining the ability of the person to provide for the maintenance or care of the  
23 child and directing when, how, and from where funds for the maintenance or care  
24 shall be paid.

25 **SECTION 8.** 48.45 (1) (am) of the statutes is amended to read:

1           48.45 (1) (am) If in the hearing of a case of an unborn child and the unborn  
2 child's expectant mother alleged to be in a condition described in s. 48.133 it appears  
3 that any ~~person 17 years of age or over~~ adult has been guilty of contributing to,  
4 encouraging, or tending to cause by any act or omission, ~~such that~~ that condition of the  
5 unborn child and expectant mother, the judge may make orders with respect to the  
6 conduct of ~~such that~~ that person in his or her relationship to the unborn child and  
7 expectant mother.

8           **SECTION 9.** 48.45 (3) of the statutes is amended to read:

9           48.45 (3) If it appears at a court hearing that any ~~person 17 years of age or older~~  
10 adult has violated s. 948.40, the judge shall refer the record to the district attorney  
11 for criminal proceedings as may be warranted in the district attorney's judgment.  
12 This subsection does not prevent prosecution of violations of s. 948.40 without the  
13 prior reference by the judge to the district attorney, as in other criminal cases.

14           **SECTION 10.** 118.163 (4) of the statutes is amended to read:

15           118.163 (4) A person who is ~~under 17 years of age~~ a minor on the date of  
16 disposition is subject to s. 938.342.

17           **SECTION 11.** 125.07 (4) (d) of the statutes is amended to read:

18           125.07 (4) (d) A person who is ~~under 17 years of age~~ a minor on the date of  
19 disposition is subject to s. 938.344 unless proceedings have been instituted against  
20 the person in a court of civil or criminal jurisdiction after dismissal of the citation  
21 under s. 938.344 (3).

22           **SECTION 12.** 125.07 (4) (e) 1. of the statutes is amended to read:

23           125.07 (4) (e) 1. In this paragraph, "defendant" means a person found guilty  
24 of violating par. (a) or (b) who is ~~17, 18, 19 or 20~~ an adult under 21 years of age.

25           **SECTION 13.** 125.085 (3) (bt) of the statutes is amended to read:

**SECTION 13**

1           125.085 (3) (bt) A person who is ~~under 17 years of age~~ a minor on the date of  
2 disposition is subject to s. 938.344 unless proceedings have been instituted against  
3 the person in a court of civil or criminal jurisdiction after dismissal of the citation  
4 under s. 938.344 (3).

5           **SECTION 14.** 165.83 (1) (c) 1. of the statutes is amended to read:

6           165.83 (1) (c) 1. An act that is committed by ~~a person who has attained the age~~  
7 ~~of 17~~ an adult and that is a felony or a misdemeanor.

8           **SECTION 15.** 165.83 (1) (c) 2. of the statutes is amended to read:

9           165.83 (1) (c) 2. An act that is committed by a ~~person~~ minor who has attained  
10 the age of 10 ~~but who has not attained the age of 17~~ and that would be a felony or  
11 misdemeanor if committed by an adult.

12           **SECTION 16.** 301.12 (2m) of the statutes is amended to read:

13           301.12 (2m) The liability specified in sub. (2) shall not apply to persons ~~17~~ 18  
14 and older receiving care, maintenance, services, and supplies provided by prisons  
15 named in s. 302.01.

16           **SECTION 17.** 301.12 (14) (a) of the statutes is amended to read:

17           301.12 (14) (a) Except as provided in pars. (b) and (c), liability of a person  
18 specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons under ~~17~~  
19 18 years of age in residential, nonmedical facilities such as group homes, foster  
20 homes, residential care centers for children and youth, and juvenile correctional  
21 institutions is determined in accordance with the cost-based fee established under  
22 s. 301.03 (18). The department shall bill the liable person up to any amount of  
23 liability not paid by an insurer under s. 632.89 (2) or (4m) or by other 3rd-party  
24 benefits, subject to rules that include formulas governing ability to pay promulgated  
25 by the department under s. 301.03 (18). Any liability of the resident not payable by

1 any other person terminates when the resident reaches age ~~17~~ 18, unless the liable  
2 person has prevented payment by any act or omission.

3 **SECTION 18.** 301.26 (4) (cm) 2. of the statutes is amended to read:

4 301.26 (4) (cm) 2. Notwithstanding pars. (a), (b), and (bm), the department  
5 shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the  
6 appropriations under s. 20.410 (3) (hm), (ho), and (hr) for the purpose of reimbursing  
7 juvenile correctional facilities, secured residential care centers for children and  
8 youth, alternate care providers, aftercare supervision providers, and corrective  
9 sanctions supervision providers for costs incurred beginning on July 1, 1996, for the  
10 care of any juvenile 14 years of age or over ~~and under 18 years of age~~ who has been  
11 placed in a juvenile correctional facility under s. 48.366 based on a delinquent act  
12 that is a violation of s. 940.01, 940.02, 940.05, or 940.225 (1).

13 **SECTION 19.** 302.31 (7) of the statutes is amended to read:

14 302.31 (7) The temporary placement of persons in the custody of the  
15 department, other than ~~persons under 17 years of age~~ minors, and ~~persons who have~~  
16 ~~attained the age of 17 years but have not attained~~ adults under the age of 25 years  
17 who are under the supervision of the department under s. 48.366 or 938.355 (4) and  
18 who have been taken into custody pending revocation of aftercare supervision under  
19 s. 48.366 (5) or 938.357 (5) (e).

20 **SECTION 20.** 938.02 (1) of the statutes is amended to read:

21 938.02 (1) "Adult" means a person who is 18 years of age or older, except that  
22 for purposes of investigating or prosecuting a person who is alleged to have violated  
23 any state or federal criminal law or any civil law or municipal ordinance, "adult"

24 ~~means~~ includes a person who has attained 17 years of age who has previously been

<sup>convicted</sup>  
<sup>convicted</sup> of a crime or  
(25) adjudicated delinquent or who is alleged to have committed any violent crime

1 specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor under s. 940.19 (1), 940.225  
2 (3m), 940.42, 941.20 (1) (b), (bm), (c), or (d) or 941.24.

3 SECTION 21. 938.02 (10m) of the statutes is amended to read:  
4 938.02 (10m) "Juvenile", when used without further qualification, means a  
5 person who is less than 18 years of age, except that for purposes of investigating or  
6 prosecuting a person who is alleged to have violated a state or federal criminal law  
7 or any civil law or municipal ordinance, "juvenile" does not include a person who has  
8 attained 17 years of age <sup>convicted of a crime or</sup> who has previously been adjudicated delinquent or who is  
9 alleged to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or  
10 any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.42, 941.20 (1) (b), (bm), (c),  
11 or (d) or 941.24.

12 SECTION 22. 938.12 (2) of the statutes is amended to read:  
13 938.12 (2) ~~SEVENTEEN-YEAR-OLDS~~ JUVENILES WHO BECOME ADULTS. If a petition  
14 alleging that a juvenile is delinquent is filed before the juvenile is 17 years of age  
15 becomes an adult, but the juvenile becomes 17 years of age an adult before admitting  
16 the facts of the petition at the plea hearing or, if the juvenile denies the facts, before  
17 an adjudication, the court retains jurisdiction over the case.

18 SECTION 23. 938.18 (2) of the statutes is amended to read:  
19 938.18 (2) PETITION. The petition for waiver of jurisdiction may be filed by the  
20 district attorney or the juvenile or may be initiated by the court and shall contain a  
21 brief statement of the facts supporting the request for waiver. The petition for waiver  
22 of jurisdiction shall be accompanied by or filed after the filing of a petition alleging  
23 delinquency and shall be filed prior to the plea hearing, except that if the juvenile  
24 denies the facts of the petition and becomes 17 years of age an adult before an  
25 adjudication, the petition for waiver of jurisdiction may be filed at any time prior to

1 the adjudication. If the court initiates the petition for waiver of jurisdiction, the  
2 judge shall disqualify himself or herself from any future proceedings on the case.

3 **SECTION 24.** 938.183 (3) of the statutes is amended to read:

4 938.183 (3) PLACEMENT IN STATE PRISON; PAROLE. When a juvenile who is subject  
5 to a criminal penalty under sub. (1m) or s. 938.183 (2), 2003 stats., ~~attains the age~~  
6 ~~of 17 years~~ becomes an adult, the department may place the juvenile in a state prison  
7 named in s. 302.01, except that the department may not place any person under the  
8 age of 18 years in the correctional institution authorized in s. 301.16 (1n). A juvenile  
9 who is subject to a criminal penalty under sub. (1m) or under s. 938.183 (2), 2003  
10 stats., for an act committed before December 31, 1999, is eligible for parole under s.  
11 304.06.

12 **SECTION 25.** 938.255 (1) (intro.) of the statutes is amended to read:

13 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings  
14 under this chapter, other than a petition initiating proceedings under s. 938.12,  
15 938.125, or 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a  
16 person under the age of 18". A petition initiating proceedings under s. 938.12,  
17 938.125, or 938.13 (12) shall be entitled, "In the interest of (juvenile's name), a person  
18 ~~under the age of 17".~~ juvenile." A petition initiating proceedings under this chapter  
19 shall specify all of the following:

20 **SECTION 26.** 938.34 (8) of the statutes is amended to read:

21 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that  
22 this disposition is in the best interest of the juvenile and the juvenile's rehabilitation.  
23 The maximum forfeiture that the court may impose under this subsection for a  
24 violation by a juvenile is the maximum amount of the fine that may be imposed on  
25 an adult for committing that violation or, if the violation is applicable only to a person

1 ~~under 18 years of age juveniles~~, \$100. The order shall include a finding that the  
2 juvenile alone is financially able to pay the forfeiture and shall allow up to 12 months  
3 for payment. If the juvenile fails to pay the forfeiture, the court may vacate the  
4 forfeiture and order other alternatives under this section; or the court may suspend  
5 any license issued under ch. 29 for not less than 30 days nor more than 5 years, or  
6 suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more  
7 than 2 years. If the court suspends any license under this subsection, the clerk of the  
8 court shall immediately take possession of the suspended license if issued under ch.  
9 29 or, if the license is issued under ch. 343, the court may take possession of, and if  
10 possession is taken, shall destroy, the license. The court shall forward to the  
11 department ~~which~~ that issued the license a notice of suspension stating that the  
12 suspension is for failure to pay a forfeiture imposed by the court, together with any  
13 license issued under ch. 29 of which the court takes possession. If the forfeiture is  
14 paid during the period of suspension, the suspension shall be reduced to the time  
15 period ~~which~~ that has already elapsed and the court shall immediately notify the  
16 department, which shall then, if the license is issued under ch. 29, return the license  
17 to the juvenile. Any recovery under this subsection shall be reduced by the amount  
18 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

19 **SECTION 27.** 938.343 (2) of the statutes is amended to read:

20 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum  
21 forfeiture that may be imposed on an adult for committing that violation or, if the  
22 violation is only applicable to ~~a person under 18 years of age juveniles~~, \$50. The  
23 order shall include a finding that the juvenile alone is financially able to pay and  
24 shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture,  
25 the court may suspend any license issued under ch. 29 or suspend the juvenile's

1 operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court  
2 shall immediately take possession of the suspended license if issued under ch. 29 or,  
3 if the license is issued under ch. 343, the court may take possession of, and if  
4 possession is taken, shall destroy, the license. The court shall forward to the  
5 department ~~which~~ that issued the license the notice of suspension stating that the  
6 suspension is for failure to pay a forfeiture imposed by the court, together with any  
7 license issued under ch. 29 of which the court takes possession. If the forfeiture is  
8 paid during the period of suspension, the court shall immediately notify the  
9 department, which shall, if the license is issued under ch. 29, return the license to  
10 the person. Any recovery under this subsection shall be reduced by the amount  
11 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

12 **SECTION 28.** 938.344 (3) of the statutes is amended to read:

13 938.344 (3) PROSECUTION IN ADULT COURT. If the juvenile alleged to have  
14 committed the violation is within 3 months of ~~his or her 17th birthday~~ becoming an  
15 adult, the court assigned to exercise jurisdiction under this chapter and ch. 48 may,  
16 at the request of the district attorney or on its own motion, dismiss the citation  
17 without prejudice and refer the matter to the district attorney for prosecution under  
18 s. 125.07 (4). The juvenile is entitled to a hearing only on the issue of his or her age.  
19 This subsection does not apply to violations under s. 961.573 (2), 961.574 (2), or  
20 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

21 **SECTION 29.** 938.35 (1m) of the statutes is amended to read:

22 938.35 (1m) FUTURE CRIMINAL PROCEEDINGS BARRED. Disposition by the court  
23 assigned to exercise jurisdiction under this chapter and ch. 48 of any allegation  
24 under s. 938.12 or 938.13 (12) shall bar any future proceeding on the same matter  
25 in criminal court when the juvenile ~~attains 17 years of age~~ becomes an adult. This

1 ~~paragraph subsection~~ does not affect proceedings in criminal court that have been  
2 transferred under s. 938.18.

3 **SECTION 30.** 938.355 (4) (b) of the statutes is amended to read:

4 938.355 (4) (b) Except as provided in s. 938.368, an order under s. 938.34 (4d)  
5 or (4m) made before the juvenile attains 18 years of age may apply for up to 2 years  
6 after the date on which the order is granted or until the juvenile's ~~18th~~ 19th birthday,  
7 whichever is earlier, unless the court specifies a shorter period of time or the court  
8 terminates the order sooner. If the order does not specify a termination date, it shall  
9 apply for one year after the date on which the order is granted or until the juvenile's  
10 ~~18th~~ 19th birthday, whichever is earlier, unless the court terminates the order  
11 sooner. Except as provided in s. 938.368, an order under s. 938.34 (4h) made before  
12 the juvenile attains 18 years of age shall apply for 5 years after the date on which the  
13 order is granted, if the juvenile is adjudicated delinquent for committing a violation  
14 of s. 943.10 (2) or for committing an act that would be punishable as a Class B or C  
15 felony if committed by an adult, or until the juvenile reaches 25 years of age, if the  
16 juvenile is adjudicated delinquent for committing an act that would be punishable  
17 as a Class A felony if committed by an adult. Except as provided in s. 938.368, an  
18 extension of an order under s. 938.34 (4d), (4h), (4m), or (4n) made before the juvenile  
19 ~~attains 17 years of age~~ becomes an adult shall terminate at the end of one year after  
20 the date on which the order is granted unless the court specifies a shorter period of  
21 time or the court terminates the order sooner. No extension under s. 938.365 of an  
22 original dispositional order under s. 938.34 (4d), (4h), (4m), or (4n) may be granted  
23 for a juvenile who is ~~17 years of age or older when~~ becomes an adult by the time the  
24 original dispositional order terminates.

25 **SECTION 31.** 938.355 (4m) (a) of the statutes is amended to read:



1 ~~person 17 years of age or older~~ adult has been guilty of contributing to, encouraging,  
2 or tending to cause by any act or omission, ~~such~~ that condition of the juvenile, the  
3 court may make orders with respect to the conduct of that person in his or her  
4 relationship to the juvenile, including orders relating to determining the ability of  
5 the person to provide for the maintenance or care of the juvenile and directing when,  
6 how, and from where funds for the maintenance or care shall be paid.

7 **SECTION 36.** 938.45 (3) of the statutes is amended to read:

8 938.45 (3) PROSECUTION OF ADULT CONTRIBUTING TO DELINQUENCY OF JUVENILE.  
9 If it appears at a court hearing that any ~~person 17 years of age or older~~ adult has  
10 violated s. 948.40, the court shall refer the record to the district attorney. This  
11 subsection does not prohibit prosecution of violations of s. 948.40 without the prior  
12 reference by the court to the district attorney.

13 **SECTION 37.** 938.48 (4m) (title) of the statutes is amended to read:

14 938.48 (4m) (title) CONTINUING CARE AND SERVICES FOR JUVENILES ~~OVER 17~~ WHO  
15 BECOME ADULTS.

16 **SECTION 38.** 938.48 (4m) (a) of the statutes is amended to read:

17 938.48 (4m) (a) Is ~~at least 17 years of age~~ an adult.

18 **SECTION 39.** 938.48 (4m) (b) of the statutes is amended to read:

19 938.48 (4m) (b) Was under the supervision of the department under s. 938.183,  
20 938.34 (4h), (4m), or (4n), or 938.357 (4) when the person ~~reached 17 years of age~~  
21 became an adult.

22 **SECTION 40.** 938.48 (14) of the statutes is amended to read:

23 938.48 (14) SCHOOL-RELATED EXPENSES FOR JUVENILES ~~OVER 17~~ WHO BECOME  
24 ADULTS. Pay maintenance, tuition, and related expenses from the appropriation  
25 under s. 20.410 (3) (ho) for persons who, when they attained 17 years of age became

1 adults, were students regularly attending a school, college, or university or regularly  
2 attending a course of vocational or technical training designed to prepare them for  
3 gainful employment, and who upon attaining ~~that age~~ adulthood were under the  
4 supervision of the department under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357  
5 (4) as a result of a judicial decision.

6 **SECTION 41.** 938.57 (3) (title) of the statutes is amended to read:

7 938.57 (3) (title) CONTINUING MAINTENANCE FOR JUVENILES ~~OVER 17~~ WHO BECOME  
8 ADULTS.

9 **SECTION 42.** 938.57 (3) (a) (intro.) of the statutes is amended to read:

10 938.57 (3) (a) (intro.) From the reimbursement received under s. 48.569 (1) (d),  
11 counties may provide funding for the maintenance of any juvenile person who meets  
12 all of the following qualifications:

13 **SECTION 43.** 938.57 (3) (a) 1. of the statutes is amended to read:

14 938.57 (3) (a) 1. Is ~~17 years of age or older~~ an adult.

15 **SECTION 44.** 938.57 (3) (a) 3. of the statutes is amended to read:

16 938.57 (3) (a) 3. Received funding under s. 48.569 (1) (d) immediately prior to  
17 ~~his or her 17th birthday~~ becoming an adult.

18 **SECTION 45.** 938.57 (3) (b) of the statutes is amended to read:

19 938.57 (3) (b) The funding provided for the maintenance of a juvenile person  
20 under par. (a) shall be in an amount equal to that to which the juvenile person would  
21 receive under s. 48.569 (1) (d) if the person were a juvenile ~~were 16 years of age~~.

22 **SECTION 46.** 939.632 (1) (e) 1. of the statutes is amended to read:

23 939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09  
24 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305, 940.31,  
25 940.32, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1)

1 or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085,  
2 or 948.30 (2) or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

3 SECTION 47. 939.632 (1) (e) 3. of the statutes is amended to read:

4 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32  
5 (2), 940.42, 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3).

6 SECTION 48. 946.50 (intro.) of the statutes is amended to read:

7 946.50 Absconding. (intro.) Any person who is adjudicated delinquent, but  
8 who intentionally fails to appear before the court assigned to exercise jurisdiction  
9 under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who  
10 does not return to that court for a dispositional hearing before ~~attaining the age of~~  
11 17 years becoming an adult is guilty of the following:

12 SECTION 49. 948.01 (1) of the statutes is amended to read:

13 948.01 (1) "Child" means a person who has not attained the age of 18 years,  
14 except that for purposes of prosecuting a person who is alleged to have violated a  
15 state or federal criminal law, "child" does not include a person who has attained the  
16 age of 17 years of age who has previously been <sup>convicted of a crime or</sup> adjudicated delinquent or who is  
17 alleged to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or  
18 any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.42, 941.20 (1) (b), (bm), (c),  
19 or (d) or 941.24.

20 SECTION 50. 948.11 (2) (am) (intro.) of the statutes is amended to read:

21 948.11 (2) (am) (intro.) Any ~~person who has attained the age of 17 and adult~~  
22 who, with knowledge of the character and content of the description or narrative  
23 account, verbally communicates, by any means, a harmful description or narrative  
24 account to a child, with or without monetary consideration, is guilty of a Class I  
25 felony if any of the following applies:

1           **SECTION 51.** 948.45 (1) of the statutes is amended to read:

2           948.45 (1) Except as provided in sub. (2), any ~~person 17 years of age or older~~  
3 adult who, by any act or omission, knowingly encourages or contributes to the  
4 truancy, as defined under s. 118.16 (1) (c), of a ~~person 17 years of age or under~~ child  
5 is guilty of a Class C misdemeanor.

6           **SECTION 52.** 948.60 (2) (d) of the statutes is amended to read:

7           948.60 (2) (d) A ~~person under 17 years of age~~ child who has violated this  
8 subsection is subject to the provisions of ch. 938 unless jurisdiction is waived under  
9 s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction  
10 under s. 938.183.

11           **SECTION 53.** 948.61 (4) of the statutes is amended to read:

12           948.61 (4) A ~~person under 17 years of age~~ child who has violated this section  
13 is subject to the provisions of ch. 938, unless jurisdiction is waived under s. 938.18  
14 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s.  
15 938.183.

16           **SECTION 54.** 961.455 (title) of the statutes is amended to read:

17           **961.455 (title) Using a child minor for illegal drug distribution or**  
18 **manufacturing purposes.**

19           **SECTION 55.** 961.455 (1) of the statutes is amended to read:

20           961.455 (1) Any ~~person who has attained the age of 17 years~~ adult who  
21 knowingly solicits, hires, directs, employs, or uses a ~~person who is under the age of~~  
22 ~~17 years~~ minor for the purpose of violating s. 961.41 (1) is guilty of a Class F felony.

23           **SECTION 56.** 961.455 (2) of the statutes is amended to read:

24           961.455 (2) The knowledge requirement under sub. (1) does not require proof  
25 of knowledge of the age of the ~~child~~ minor. It is not a defense to a prosecution under

1 this section that the actor mistakenly believed that the person solicited, hired,  
2 directed, employed, or used under sub. (1) had attained the age of 18 years, even if  
3 the mistaken belief was reasonable.

4 **SECTION 57.** 961.46 of the statutes is amended to read:

5 **961.46 Distribution to ~~persons under age 18~~ minors.** ~~If a person 17 years~~  
6 ~~of age or over~~ an adult violates s. 961.41 (1) by distributing or delivering a controlled  
7 substance or a controlled substance analog to a ~~person 17 years of age or under~~ minor  
8 who is at least 3 years his or her junior, the applicable maximum term of  
9 imprisonment prescribed under s. 961.41 (1) for the offense may be increased by not  
10 more than 5 years.

11 **SECTION 58.** 961.573 (2) of the statutes is amended to read:

12 **961.573 (2)** Any ~~person~~ minor who violates sub. (1) ~~who is under 17 years of age~~  
13 is subject to a disposition under s. 938.344 (2e).

14 **SECTION 59.** 961.574 (2) of the statutes is amended to read:

15 **961.574 (2)** Any ~~person~~ minor who violates sub. (1) ~~who is under 17 years of age~~  
16 is subject to a disposition under s. 938.344 (2e).

17 **SECTION 60.** 961.575 (1) of the statutes is amended to read:

18 **961.575 (1)** Any ~~person 17 years of age or over~~ adult who violates s. 961.574 (1)  
19 by delivering drug paraphernalia to a ~~person 17 years of age or under~~ minor who is  
20 at least 3 years younger than the violator may be fined not more than \$10,000 or  
21 imprisoned for not more than 9 months or both.

22 **SECTION 61.** 961.575 (2) of the statutes is amended to read:

23 **961.575 (2)** Any ~~person~~ minor who violates this section ~~who is under 17 years~~  
24 ~~of age~~ is subject to a disposition under s. 938.344 (2e).

25 **SECTION 62.** 961.575 (3) of the statutes is amended to read:

1           961.575 (3) Any ~~person 17 years of age or over~~ adult who violates s. 961.574 (3)  
2 by delivering drug paraphernalia to a ~~person 17 years of age or under~~ minor is guilty  
3 of a Class G felony.

4           **SECTION 63.** 990.01 (3) of the statutes is amended to read:

5           990.01 (3) ADULT. "Adult" means a person who has attained the age of 18 years,  
6 except that for purposes of investigating or prosecuting a person who is alleged to  
7 have violated any state or federal criminal law or any civil law or municipal  
8 ordinance, "adult" ~~means~~ includes a person who has attained the age of 17 years of  
9 age who has previously been <sup>convicted of a crime or</sup> adjudicated delinquent or who is alleged to have  
10 committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor  
11 under s. ~~940.19 (1), 940.225 (3m), 940.42,~~ 941.20 (1) (b), (bm), (c), or (d), or 941.24.

12           **SECTION 64.** 990.01 (20) of the statutes is amended to read:

13           990.01 (20) MINOR. "Minor" means a person who has not attained the age of  
14 18 years, except that for purposes of investigating or prosecuting a person who is  
15 alleged to have violated a state or federal criminal law or any civil law or municipal  
16 ordinance, "minor" does not include a person who has attained the age of 17 years  
17 of age who has previously been <sup>convicted of a crime or</sup> adjudicated delinquent or who is alleged to have  
18 committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor  
19 under ss. ~~940.19 (1), 940.225 (3m), 940.42,~~ 941.20 (1) (b), (bm), (c), or (d), or 941.24.

20           **SECTION 65. Initial applicability.**

21           (1) AGE OF ADULT JURISDICTION. This act first applies to a violation of a criminal  
22 law, civil law, or municipal ordinance allegedly committed on the effective date of this  
23 subsection.

24           **SECTION 66. Effective date.**



## Shea, Elisabeth

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**From:** Tenuta, Christina  
**Sent:** Thursday, June 06, 2013 11:29 AM  
**To:** Shea, Elisabeth  
**Subject:** Another change to LRB - 1065

Lis,

Sorry for the never ending requests, but the Representative just decided on adding one more crime to the list of violent crimes that would automatically waive a minor into adult court: 940.42 Intimidation of a Witness but only when the underlying crime is a felony.

Can this be added to the definition of adult in the bill?

Thank you. Please let me know if there is anything else I can provide.

Best,

Christina

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Christina M. Tenuta, J.D.  
Office of Wisconsin State Representative Frederick P. Kessler  
608-266-5813

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**From:** Shea, Elisabeth  
**Sent:** Wednesday, May 08, 2013 10:50 AM  
**To:** Tenuta, Christina  
**Subject:** RE: Changes to LRB - 1065

Hi Christina,

Our editors are currently working on it, and I expect that you'll have it today or tomorrow.

Lis

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**From:** Tenuta, Christina  
**Sent:** Wednesday, May 08, 2013 10:41 AM  
**To:** Shea, Elisabeth  
**Subject:** RE: Changes to LRB - 1065

Lis:

Rep. Kessler is asking for an update on the latest version of LRB – 1065.  
My apologies if I missed it, but is the latest version ready?

Thank you,

Christina M. Tenuta, J.D.  
Office of Wisconsin State Representative Frederick P. Kessler  
608-266-5813

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**From:** Shea, Elisabeth  
**Sent:** Friday, April 26, 2013 2:01 PM  
**To:** Tenuta, Christina  
**Subject:** RE: Changes to LRB - 1065

Christina:

One clarification. I noticed that the comments under two of the statute sections listed as exceptions in your email actually say that they should remain as crimes that require an automatic waiver into adult court (see below). In this draft, should these be exceptions to the automatic waiver, or should they require an automatic waiver?

Lis

940.32(2) – Stalking – Felony Class I

- This is already a felony, and as such, should remain as a crime that subjects the minor defendant to an automatic waiver into adult court.

941.24 – Possession of a switchblade knife - Misdemeanor Class A

- This misdemeanor should remain as one of the crimes that require an automatic waiver of the minor defendant into adult court.

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**From:** Tenuta, Christina  
**Sent:** Thursday, April 25, 2013 1:53 PM  
**To:** Shea, Elisabeth; Malaise, Gordon  
**Subject:** Changes to LRB - 1065

Dear Attorneys Shea and Malaise:

Rep. Kessler would like to request two changes to LRB – 1065, the Raise-the-Age Bill.

1. The implementation date should be changed to January 1, 2015 to give us time to pass the bill, and Counties time to prepare for an increased caseload in their juvenile system.
2. Rep. Bies and Rep. Kessler have been discussing making a change to the bill so that all charges of “violent felonies” will result in an automatic waiver into adult court – versus leaving it up to a judge to waive the minor into adult court, which is how the bill is written now. The list of violent felonies that would waive a juvenile into adult court include all of the following:
  - Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305, 940.31, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, or 948.30 (2) or unders. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.
  - The solicitation, conspiracy or attempt, under s. 939.30, 939.31 or 939.32, to commit a Class A felony.
  - Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32 (2), 940.42, 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3)

However, Rep. Kessler would like to next make an *exception* to the automatic waiver into adult court for a juvenile charged with the following crimes.

## MISDEMEANORS

### 940.19(1) – Substantial Battery – Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court - fighting is something minors routinely engage in.

### 940.225(3m) – Fourth Degree Sexual Assault – Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court. In my experience as a judge, most charges of Fourth Degree Sexual Assault occur when an individual touches the clothed buttocks of another person, which does not automatically rise to the level of violence required for an automatic waiver into adult court.

### 940.32(2) – Stalking – Felony Class I

- This is already a felony, and as such, should remain as a crime that subjects the minor defendant to an automatic waiver into adult court.

### 940.44 – Intimidation of victims; Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court. The language of the statute, specifically the clause “whoever knowingly and maliciously prevents or *dissuades* or attempts to prevent or *dissuade*, another person who has been the victim...” is very broad and can easily be construed to include the making of a mere meaningless threat to a victim. (Wis. Stat. Sec. 940.44, italics added).

### 941.20(1)(a) – Endangering safety by use of a dangerous weapon - Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court. Wis. Stat. 941.20(1)(a) relates specifically to the “negligent operation or handling of a dangerous weapon...” Since the required *mens rea* (the mental state required for committing certain crimes) is negligence and not intentional, the level of violence does not rise to the level of requiring an automatic waiver into adult court.

### 941.23 – Carrying a concealed weapon - Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court.

### 941.235 – Carrying a firearm in a public building - Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court.

### 941.24 – Possession of a switchblade knife - Misdemeanor Class A

- This misdemeanor should remain as one of the crimes that require an automatic waiver of the minor defendant into adult court.

### 941.38(3) – Criminal gang member solicitation and contact - Misdemeanor Class A

- The intentional violation of a court order to refrain from contacting a criminal gang member is a misdemeanor that should not subject the minor defendant to an automatic waiver into adult court.

Thank you for your assistance. Please let me know if I can provide you with any further information.

Sincerely,

Christina M. Tenuta, J.D.  
Office of Wisconsin State Representative Frederick P. Kessler  
608-266-5813