



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1065(1)
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RMR

2013 BILL

In 6/6/13

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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), 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

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1 a municipal ordinance and who is not alleged to have committed certain violent
2 offences or has not previously been convicted of a crime or adjudicated
3 delinquent is subject to juvenile court jurisdiction.

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 convicted of a crime or 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 convicted of a crime or 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 convicted of a crime or adjudicated delinquent. The bill, however, does not affect the age at which a person who has previously been convicted of a crime or 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.

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

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

s. 940.42, if the underlying crime is a felony, or ~~SS~~

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1 48.02 (1d) "Adult" means a person who is 18 years of age or older, except that
2 for purposes of investigating or prosecuting a person who is alleged to have violated
3 any state or federal criminal law or any civil law or municipal ordinance, "adult"
4 means includes a person ~~who has attained~~ 17 years of age who has previously been
5 convicted of a crime or adjudicated delinquent or who is alleged to have committed
6 any violent crime specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor under s. STET
7 941.20 (1) (b), (bm), (c), or (d) or 941.24.

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

9 48.02 (2) "Child", when used without further qualification, means a person
10 who is less than 18 years of age, except that for purposes of investigating or
11 prosecuting a person who is alleged to have violated a state or federal criminal law
12 or any civil law or municipal ordinance, "child" does not include a person ~~who has~~
13 attained 17 years of age who has previously been convicted of a crime or adjudicated
14 delinquent or who is alleged to have committed any violent crime specified in s.
15 939.632 (1) (e) 1. or 2. or any misdemeanor under s. 941.20 (1) (b), (bm), (c), or (d) or STET
16 941.24.

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

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

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1 appropriation under s. 20.410 (1). The department of corrections may transfer a
2 person placed in a state prison under this subsection to or between state prisons
3 named in s. 302.01 without petitioning for revision of the order under sub. (5) (a),
4 except that the department of corrections may not transfer any person under the age
5 of 18 years to the correctional institution authorized in s. 301.16 (1n).

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

CHAPTER 48**SUBCHAPTER IX****JURISDICTION OVER PERSON 17****OR OLDER ADULTS**

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

13 **48.44 (title) Jurisdiction over persons 17 or older adults.**

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

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

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

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

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1 child and directing when, how, and from where funds for the maintenance or care
2 shall be paid.

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

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

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

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

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

18 118.163 (4) A person who is ~~under 17 years of age~~ a minor on the date of
19 disposition is subject to s. 938.342.

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

21 125.07 (4) (d) 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 12.** 125.07 (4) (e) 1. of the statutes is amended to read:

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

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

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

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

9 165.83 (1) (c) 1. An act that is committed by ~~a person who has attained the age~~
10 ~~of 17~~ an adult and that is a felony or a misdemeanor.

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

12 165.83 (1) (c) 2. An act that is committed by a ~~person~~ minor who has attained
13 the age of 10 ~~but who has not attained the age of 17~~ and that would be a felony or
14 misdemeanor if committed by an adult.

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

16 301.12 (2m) The liability specified in sub. (2) shall not apply to persons ~~17~~ 18
17 and older receiving care, maintenance, services, and supplies provided by prisons
18 named in s. 302.01.

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

20 301.12 (14) (a) Except as provided in pars. (b) and (c), liability of a person
21 specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons under ~~17~~
22 18 years of age in residential, nonmedical facilities such as group homes, foster
23 homes, residential care centers for children and youth, and juvenile correctional
24 institutions is determined in accordance with the cost-based fee established under
25 s. 301.03 (18). The department shall bill the liable person up to any amount of

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1 liability not paid by an insurer under s. 632.89 (2) or (4m) or by other 3rd-party
2 benefits, subject to rules that include formulas governing ability to pay promulgated
3 by the department under s. 301.03 (18). Any liability of the resident not payable by
4 any other person terminates when the resident reaches age ~~17~~ 18, unless the liable
5 person has prevented payment by any act or omission.

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

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

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

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

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

24 938.02 (1) “Adult” means a person who is 18 years of age or older, except that
25 for purposes of investigating or prosecuting a person who is alleged to have violated

s. 940.42, if the underlying crime is a felony, or ~~ss.~~

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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 convicted of a crime or adjudicated delinquent or who is alleged to have committed
4 any violent crime specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor under s. ~~ss.~~ *STET*
5 941.20 (1) (b), (bm), (c), or (d) or 941.24.

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

7 938.02 (10m) "Juvenile", when used without further qualification, means a
8 person 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, "juvenile" does not include a person who has
11 attained 17 years of age who has previously been convicted of a crime or adjudicated
12 delinquent or who is alleged to have committed any violent crime specified in s.
13 939.632 (1) (e) 1. or 2. or any misdemeanor under s. 941.20 (1) (b), (bm), (c) or (d) or *STET*
14 941.24.

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

16 938.12 (2) ~~SEVENTEEN-YEAR-OLDS JUVENILES WHO BECOME ADULTS.~~ If a petition
17 alleging that a juvenile is delinquent is filed before the juvenile is ~~17 years of age~~
18 becomes an adult, but the juvenile becomes ~~17 years of age~~ an adult before admitting
19 the facts of the petition at the plea hearing or, if the juvenile denies the facts, before
20 an adjudication, the court retains jurisdiction over the case.

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

22 938.18 (2) **PETITION.** The petition for waiver of jurisdiction may be filed by the
23 district attorney or the juvenile or may be initiated by the court and shall contain a
24 brief statement of the facts supporting the request for waiver. The petition for waiver
25 of jurisdiction shall be accompanied by or filed after the filing of a petition alleging

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1 delinquency and shall be filed prior to the plea hearing, except that if the juvenile
2 denies the facts of the petition and becomes ~~17 years of age~~ an adult before an
3 adjudication, the petition for waiver of jurisdiction may be filed at any time prior to
4 the adjudication. If the court initiates the petition for waiver of jurisdiction, the
5 judge shall disqualify himself or herself from any future proceedings on the case.

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

7 938.183 (3) PLACEMENT IN STATE PRISON; PAROLE. When a juvenile who is subject
8 to a criminal penalty under sub. (1m) or s. 938.183 (2), 2003 stats., ~~attains the age~~
9 ~~of 17 years~~ becomes an adult, the department may place the juvenile in a state prison
10 named in s. 302.01, except that the department may not place any person under the
11 age of 18 years in the correctional institution authorized in s. 301.16 (1n). A juvenile
12 who is subject to a criminal penalty under sub. (1m) or under s. 938.183 (2), 2003
13 stats., for an act committed before December 31, 1999, is eligible for parole under s.
14 304.06.

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

16 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings
17 under this chapter, other than a petition initiating proceedings under s. 938.12,
18 938.125, or 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a
19 person under the age of 18". A petition initiating proceedings under s. 938.12,
20 938.125, or 938.13 (12) shall be entitled, "In the interest of (juvenile's name), a ~~person~~
21 ~~under the age of 17~~. juvenile." A petition initiating proceedings under this chapter
22 shall specify all of the following:

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

24 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that
25 this disposition is in the best interest of the juvenile and the juvenile's rehabilitation.

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

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

23 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum
24 forfeiture that may be imposed on an adult for committing that violation or, if the
25 violation is only applicable to ~~a person under 18 years of age juveniles~~, \$50. The

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1 order shall include a finding that the juvenile alone is financially able to pay and
2 shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture,
3 the court may suspend any license issued under ch. 29 or suspend the juvenile's
4 operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court
5 shall immediately take possession of the suspended license if issued under ch. 29 or,
6 if the license is issued under ch. 343, the court may take possession of, and if
7 possession is taken, shall destroy, the license. The court shall forward to the
8 department ~~which~~ that issued the license the notice of suspension stating that the
9 suspension is for failure to pay a forfeiture imposed by the court, together with any
10 license issued under ch. 29 of which the court takes possession. If the forfeiture is
11 paid during the period of suspension, the court shall immediately notify the
12 department, which shall, if the license is issued under ch. 29, return the license to
13 the person. Any recovery under this subsection shall be reduced by the amount
14 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

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

16 938.344 (3) PROSECUTION IN ADULT COURT. If the juvenile alleged to have
17 committed the violation is within 3 months of ~~his or her 17th birthday~~ becoming an
18 adult, the court assigned to exercise jurisdiction under this chapter and ch. 48 may,
19 at the request of the district attorney or on its own motion, dismiss the citation
20 without prejudice and refer the matter to the district attorney for prosecution under
21 s. 125.07 (4). The juvenile is entitled to a hearing only on the issue of his or her age.
22 This subsection does not apply to violations under s. 961.573 (2), 961.574 (2), or
23 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

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

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

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

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

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1 original dispositional order under s. 938.34 (4d), (4h), (4m), or (4n) may be granted
2 for a juvenile who is ~~17 years of age or older when~~ becomes an adult by the time the
3 original dispositional order terminates.

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

5 938.355 (4m) (a) A juvenile who has been adjudged delinquent under s. 48.12,
6 1993 stats., or s. 938.12 may, on ~~attaining 17 years of age~~ becoming an adult, petition
7 the court to expunge the court's record of the juvenile's adjudication. Subject to par.
8 (b), the court may expunge the record if the court determines that the juvenile has
9 satisfactorily complied with the conditions of his or her dispositional order and that
10 the juvenile will benefit from, and society will not be harmed by, the expungement.

11 **SECTION 32.** 938.39 of the statutes is amended to read:

12 **938.39 Disposition by court bars criminal proceeding.** Disposition by the
13 court of any violation of state law within its jurisdiction under s. 938.12 bars any
14 future criminal proceeding on the same matter in circuit court when the juvenile
15 ~~reaches the age of 17~~ becomes an adult. This section does not affect criminal
16 proceedings in circuit court that were transferred under s. 938.18.

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

19 **CHAPTER 938**

20 **SUBCHAPTER IX**

21 **JURISDICTION OVER ~~PERSONS 17~~**

22 **OR OLDER ADULTS**

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

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1 **938.44 Jurisdiction over ~~persons 17 or older~~ adults.** The court has
2 jurisdiction over ~~persons 17 years of age or older~~ adults as provided under ss. 938.355
3 (4) and 938.45 and as otherwise specified in this chapter.

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

5 938.45 (1) (a) If in the hearing of a case of a juvenile alleged to be delinquent
6 under s. 938.12 or in need of protection or services under s. 938.13 it appears that any
7 ~~person 17 years of age or older~~ adult has been guilty of contributing to, encouraging,
8 or tending to cause by any act or omission, ~~such~~ that condition of the juvenile, the
9 court may make orders with respect to the conduct of that person in his or her
10 relationship to the juvenile, including orders relating to determining the ability of
11 the person to provide for the maintenance or care of the juvenile and directing when,
12 how, and from where funds for the maintenance or care shall be paid.

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

14 938.45 (3) PROSECUTION OF ADULT CONTRIBUTING TO DELINQUENCY OF JUVENILE.
15 If it appears at a court hearing that any ~~person 17 years of age or older~~ adult has
16 violated s. 948.40, the court shall refer the record to the district attorney. This
17 subsection does not prohibit prosecution of violations of s. 948.40 without the prior
18 reference by the court to the district attorney.

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

20 938.48 (4m) (title) CONTINUING CARE AND SERVICES FOR JUVENILES ~~OVER 17~~ WHO
21 BECOME ADULTS.

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

23 938.48 (4m) (a) Is at least 17 years of age an adult.

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

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1 938.48 (4m) (b) Was under the supervision of the department under s. 938.183,
2 938.34 (4h), (4m), or (4n), or 938.357 (4) when the person reached 17 years of age
3 became an adult.

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

5 938.48 (14) SCHOOL-RELATED EXPENSES FOR JUVENILES ~~OVER 17~~ WHO BECOME
6 ADULTS. Pay maintenance, tuition, and related expenses from the appropriation
7 under s. 20.410 (3) (ho) for persons who, when they attained 17 years of age became
8 adults, were students regularly attending a school, college, or university or regularly
9 attending a course of vocational or technical training designed to prepare them for
10 gainful employment, and who upon attaining that age adulthood were under the
11 supervision of the department under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357
12 (4) as a result of a judicial decision.

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

14 938.57 (3) (title) CONTINUING MAINTENANCE FOR JUVENILES ~~OVER 17~~ WHO BECOME
15 ADULTS.

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

17 938.57 (3) (a) (intro.) From the reimbursement received under s. 48.569 (1) (d),
18 counties may provide funding for the maintenance of any juvenile person who meets
19 all of the following qualifications:

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

21 938.57 (3) (a) 1. Is ~~17 years of age or older~~ an adult.

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

23 938.57 (3) (a) 3. Received funding under s. 48.569 (1) (d) immediately prior to
24 ~~his or her 17th birthday~~ becoming an adult.

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

BILL**SECTION 45**

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

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

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

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

11 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32
12 (2), 940.42, 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3).

13 **SECTION 48.** 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 49.** 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~~
23 ~~age of 17 years of age who has previously been convicted of a crime or adjudicated~~
24 delinquent or who is alleged to have committed any violent crime specified in s.

BILL

s. 940.42, if the underlying crime is a felony, or ss.

1 939.632 (1) (e) 1. or 2. or any misdemeanor under s. 941.20 (1) (b), (bm), (c), or (d) or
2 941.24.

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

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

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

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

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

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

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

20 948.61 (4) A ~~person under 17 years of age~~ child who has violated this section
21 is subject to the provisions of ch. 938, unless jurisdiction is waived under s. 938.18
22 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s.
23 938.183.

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

BILL**SECTION 54**

1 **961.455 (title) Using a ~~child~~ minor for illegal drug distribution or**
2 **manufacturing purposes.**

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

4 961.455 (1) Any ~~person who has attained the age of 17 years~~ adult who
5 knowingly solicits, hires, directs, employs, or uses a ~~person who is under the age of~~
6 ~~17 years~~ minor for the purpose of violating s. 961.41 (1) is guilty of a Class F felony.

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

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

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

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

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

21 961.573 (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 59.** 961.574 (2) of the statutes is amended to read:

24 961.574 (2) Any ~~person~~ minor who violates sub. (1) ~~who is under 17 years of age~~
25 is subject to a disposition under s. 938.344 (2e).

BILL

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

2 961.575 (1) Any person ~~17 years of age or over~~ adult who violates s. 961.574 (1)
3 by delivering drug paraphernalia to a ~~person 17 years of age or under~~ minor who is
4 at least 3 years younger than the violator may be fined not more than \$10,000 or
5 imprisoned for not more than 9 months or both.

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

7 961.575 (2) Any person minor who violates this section ~~who is under 17 years~~
8 ~~of age~~ is subject to a disposition under s. 938.344 (2e).

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

10 961.575 (3) Any person ~~17 years of age or over~~ adult who violates s. 961.574 (3)
11 by delivering drug paraphernalia to a ~~person 17 years of age or under~~ minor is guilty
12 of a Class G felony.

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

14 990.01 (3) ADULT. "Adult" means a person who has attained the age of 18 years,
15 except that for purposes of investigating or prosecuting a person who is alleged to
16 have violated any state or federal criminal law or any civil law or municipal
17 ordinance, "adult" ~~means~~ includes a person ~~who has attained the age of 17 years of~~
18 ~~age who has previously been convicted of a crime or adjudicated delinquent or who~~
19 ~~is alleged to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2.~~
20 ~~or any misdemeanor under s. 941.20 (1) (b), (bm), (c), or (d) or 941.24.~~
s. 940.42, if the underlying crime is a felony, or (s.)

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

22 990.01 (20) MINOR. "Minor" means a person who has not attained the age of
23 18 years, except that for purposes of investigating or prosecuting a person who is
24 alleged to have violated a state or federal criminal law or any civil law or municipal
25 ordinance, "minor" does not include a person ~~who has attained the age of 17 years~~

BILL

1 of age who has previously been convicted of a crime or adjudicated delinquent or who
 2 is alleged to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2.
 3 or any misdemeanor under ^{s. 940.42, if the underlying crime is a felony, or} ~~s.~~ 941.20 (1) (b), (bm), (c), or (d) or 941.24.

SECTION 65. Initial applicability.

4
 5 (1) AGE OF ADULT JURISDICTION. This act first applies to a violation of a criminal
 6 law, civil law, or municipal ordinance allegedly committed on the effective date of this
 7 subsection.

SECTION 66. Effective date.

8
 9 (1) This act takes effect on January 1, 2015.

10 (END)

Barman, Mike

From: Bruce, Cory
Sent: Tuesday, July 02, 2013 2:06 PM
To: Barman, Mike
Subject: Request for FE
Attachments: LRB 13-1065_2.pdf

Mike,
We'd like to request an early FE for the attached draft. Please let me know if you have any questions.

Thanks,
Cory Bruce
Bies Office

Shea, Elisabeth

From: Tenuta, Christina
Sent: Tuesday, July 02, 2013 3:56 PM
To: Shea, Elisabeth
Subject: Jacket LRB - 1065

Lis,

Can you please jacket LRB-1065 and have it sent to Rep. Bies' office? From now on, his office will be in charge of any future revisions.

Thank you for your help.

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

From: Shea, Elisabeth
Sent: Thursday, June 06, 2013 11:36 AM
To: Tenuta, Christina
Subject: RE: Another change to LRB - 1065

Sure, no problem.
Lis

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

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

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

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

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.

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

Memo

To: Representative **Bies**

(The Draft's Requester)

Per your request ... the attached fiscal estimate was prepared for your un-introduced 2013 session draft.

LRB Number: LRB -1065

Version: " /2 "

Fiscal Estimate Prepared By: (agency abbr.) **DA**

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 07 / 15 / 2013

* * * * *

To: LRB - Legal Section PA's

Subject: *Fiscal Estimate Received For An Un-introduced Draft*

> **If re-drafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file "guts" ... after the draft's old version (the version that this fiscal estimate was based on), and just before re-draft of the updated version.

> **If introduced** ... please make sure the attached fiscal estimate is for the **current version** ... write the draft's new introduction number below and give this packet to Mike (or Lori) to re-process the fiscal estimate (w/intro. number included).

THIS DRAFT WAS INTRODUCED AS: 2013 _____

Barman, Mike

From: Barman, Mike
Sent: Monday, July 15, 2013 8:29 AM
To: Rep. Bies
Cc: Bruce, Cory
Subject: LRB-1065/2 (un-introduced) (FE by DA - attached - for your review)



FE-1065_DA.PDF

Drafter: EHS & GMM

Subject: Children – juvenile justice

Mike Barman (Lead Program Assistant)

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

Memo

To: Representative **Bies**

Per your request ... the attached fiscal estimate was prepared for your un-introduced 2013 session draft.

LRB Number: LRB 13-1065

Version: **“/2”**

Fiscal Estimate Prepared By: **SPD**

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: **7 / 16 / 2013**

*** * * * ***

To: LRB – Legal Section PA’s

Subject: *Fiscal Estimate Received For An Un-introduced Draft*

- > **If re-drafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file “guts” ... after the draft’s old version (the version that this fiscal estimate was based on), and just before re-draft of the updated version.
- > **If introduced** ... please make sure the attached fiscal estimate is for the **current version** ... write the draft’s new introduction number below and give this packet to Mike (or Lori) to re-process the fiscal estimate (w/intro. number included).

THIS DRAFT WAS INTRODUCED AS: 2013

AB 387

Parisi, Lori

From: Parisi, Lori
Sent: Tuesday, July 16, 2013 2:38 PM
To: Rep.Bies
Subject: LRB 13-1065/2 (un-introduced) (FE by SPD attached for your review) (Subject: age of adult criminal jurisdiction)
Attachments: FE_1065_SPD.PDF

Memo

To: Representative

Bies

(The Draft's Requester)

Per your request ... the attached fiscal estimate was prepared for your un-introduced 2013 session draft.

LRB Number: LRB-1065

Version: “/2”

Fiscal Estimate Prepared By: (agency abbr.) DOC

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 08 / 12 / 2013

*** * * * ***

To: LRB – Legal Section PA's

Subject: *Fiscal Estimate Received For An Un-introduced Draft*

- > **If re-drafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file “guts” ... after the draft's old version (the version that this fiscal estimate was based on), and just before re-draft of the updated version.
- > **If introduced** ... please make sure the attached fiscal estimate is for the **current version** ... write the draft's new introduction number below and give this packet to Mike (or Lori) to re-process the fiscal estimate (w/intro. number included).

THIS DRAFT WAS INTRODUCED AS: 2013 _____

Barman, Mike

From: Barman, Mike
Sent: Monday, August 12, 2013 11:30 AM
To: Rep.Bies
Cc: Bruce, Cory
Subject: LRB-1065/2 (un-introduced) (FE by DOC - attached - for your review)



FE-1065_DOC.PDF

Drafter: EHS & GMM
Subject: Children - Juvenile Justice

Mike Barman (Lead Program Assistant)

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov