



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1701/P4
EAW:cjs&ahe

DOA:.....Schmidt, BB0235 - Age of juvenile court jurisdiction

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

JUVENILE CORRECTIONAL SYSTEM

1. Age of juvenile court jurisdiction

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.

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.

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:

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

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

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

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

SECTION 3. Subchapter IX (title) of chapter 48 [precedes 48.44] of the statutes is amended to read:

CHAPTER 48

SUBCHAPTER IX

JURISDICTION OVER PERSON ~~17~~

OR OLDER ADULTS

SECTION 4. 48.44 of the statutes is amended to read:

48.44 Jurisdiction over persons ~~17 or older~~ adults. The court has jurisdiction over ~~persons 17 years of age or older~~ adults as provided under ss. 48.133, 48.355 (4), 48.357 (6), 48.365 (5), and 48.45 and as otherwise specifically provided in this chapter.

SECTION 5. 48.45 (1) (a) of the statutes is amended to read:

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

SECTION 6. 48.45 (1) (am) of the statutes is amended to read:

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

SECTION 7. 48.45 (3) of the statutes is amended to read:

48.45 (3) If it appears at a court hearing that any ~~person 17 years of age or older~~ adult has violated s. 948.40, the judge shall refer the record to the district attorney for criminal proceedings as may be warranted in the district attorney's judgment.

This subsection does not prevent prosecution of violations of s. 948.40 without the prior reference by the judge to the district attorney, as in other criminal cases.

SECTION 8. 118.163 (4) of the statutes is amended to read:

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

SECTION 9. 125.07 (4) (d) of the statutes is amended to read:

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

SECTION 10. 125.07 (4) (e) 1. of the statutes is amended to read:

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

SECTION 11. 125.085 (3) (bt) of the statutes is amended to read:

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

SECTION 12. 165.83 (1) (c) 1. of the statutes is amended to read:

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

SECTION 13. 165.83 (1) (c) 2. of the statutes is amended to read:

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

SECTION 14. 301.12 (2m) of the statutes is amended to read:

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

SECTION 15. 301.12 (14) (a) of the statutes is amended to read:

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

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

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

SECTION 17. 938.02 (1) of the statutes is amended to read:

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

SECTION 18. 938.02 (10m) of the statutes is amended to read:

938.02 (10m) "Juvenile," when used without further qualification, means a person who is less than 18 years of age, ~~except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance,~~ "juvenile" does not include a person who has attained 17 years of age.

SECTION 19. 938.12 (2) of the statutes is amended to read:

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

SECTION 20. 938.18 (2) of the statutes is amended to read:

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

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

SECTION 21. 938.183 (3) of the statutes is amended to read:

938.183 (3) PLACEMENT IN STATE PRISON; PAROLE. ~~When~~ Subject to s. 973.013 (3m), when a juvenile who is subject to a criminal penalty under sub. (1m) or s. 938.183 (2), 2003 stats., ~~attains the age of 17 years~~ becomes an adult, the department of corrections may place the juvenile in a state prison named in s. 302.01, except that that department may not place any person under the age of 18 years in the correctional institution authorized in s. 301.16 (1n). A juvenile who is subject to a criminal penalty under sub. (1m) or under s. 938.183 (2), 2003 stats., for an act committed before December 31, 1999, is eligible for parole under s. 304.06.

SECTION 22. 938.255 (1) (intro.) of the statutes is amended to read:

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

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

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

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

SECTION 24. 938.343 (2) of the statutes is amended to read:

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

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

SECTION 25. 938.344 (3) of the statutes is amended to read:

938.344 **(3)** PROSECUTION IN ADULT COURT. If the juvenile alleged to have committed the violation is within 3 months of ~~his or her 17th birthday~~ becoming an adult, the court assigned to exercise jurisdiction under this chapter and ch. 48 may, at the request of the district attorney or on its own motion, dismiss the citation without prejudice and refer the matter to the district attorney for prosecution under s. 125.07 (4). The juvenile is entitled to a hearing only on the issue of his or her age. This subsection does not apply to violations under s. 961.573 (2), 961.574 (2),₁ or 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

SECTION 26. 938.35 (1m) of the statutes is amended to read:

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

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

SECTION 27. 938.355 (4) (b) of the statutes is amended to read:

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

SECTION 28. 938.355 (4m) (a) of the statutes is amended to read:

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

SECTION 29. 938.39 of the statutes is amended to read:

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

SECTION 30. Subchapter IX (title) of chapter 938 [precedes 938.44] of the statutes is amended to read:

CHAPTER 938

SUBCHAPTER IX

JURISDICTION OVER PERSONS 17

OR OLDER ADULTS

SECTION 31. 938.44 of the statutes is amended to read:

938.44 Jurisdiction over persons ~~17 or older~~ adults. The court has jurisdiction over ~~persons 17 years of age or older~~ adults as provided under ss. 938.355 (4), 938.357 (6), 938.365 (5), and 938.45 and as otherwise specified in this chapter.

SECTION 32. 938.45 (1) (a) of the statutes is amended to read:

938.45 (1) (a) If in the hearing of a case of a juvenile alleged to be delinquent under s. 938.12 or in need of protection or services under s. 938.13 it appears that any

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

SECTION 33. 938.45 (3) of the statutes is amended to read:

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

SECTION 34. 938.48 (4m) (title) of the statutes is amended to read:

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

SECTION 35. 938.48 (4m) (a) of the statutes is amended to read:

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

SECTION 36. 938.48 (4m) (b) of the statutes is amended to read:

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

SECTION 37. 938.48 (4m) (b) of the statutes, as affected by [2017 Wisconsin Act 185](#), section [82](#), and 2019 Wisconsin Act (this act), is repealed and recreated to read:

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

SECTION 38. 938.48 (14) of the statutes is amended to read:

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

SECTION 39. 938.48 (14) of the statutes, as affected by [2017 Wisconsin Act 185](#), section [88](#), and 2019 Wisconsin Act ... (this act), is repealed and recreated to read:

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

SECTION 40. 938.57 (3) (title) of the statutes is amended to read:

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

SECTION 41. 938.57 (3) (a) (intro.) of the statutes is amended to read:

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

SECTION 42. 938.57 (3) (a) 1. of the statutes is amended to read:

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

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

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

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

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

SECTION 45. 939.632 (1) (e) 1. of the statutes is amended to read:

939.632 (1) (e) 1. 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, 940.32, 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) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, or 948.30 (2) or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

SECTION 46. 939.632 (1) (e) 3. of the statutes is amended to read:

939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32 ~~(2)~~, 940.42, 940.44, 941.20 (1), 941.23, 941.231, 941.235, or 941.38 (3).

SECTION 47. 946.50 (intro.) of the statutes is amended to read:

946.50 Absconding. (intro.) Any person who is adjudicated delinquent, but who intentionally fails to appear before the court assigned to exercise jurisdiction

under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who does not return to that court for a dispositional hearing before ~~attaining the age of 17 years~~ becoming an adult is guilty of the following:

SECTION 48. 948.01 (1) of the statutes is amended to read:

948.01 (1) “Child” means a person who has not attained the age of 18 years, ~~except that for purposes of prosecuting a person who is alleged to have violated a state or federal criminal law, “child” does not include a person who has attained the age of 17 years.~~

SECTION 49. 948.11 (2) (am) (intro.) of the statutes is amended to read:

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

SECTION 50. 948.45 (1) of the statutes is amended to read:

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

SECTION 51. 948.60 (2) (d) of the statutes is amended to read:

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

SECTION 52. 948.61 (4) of the statutes is amended to read:

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

SECTION 53. 961.455 (title) of the statutes is amended to read:

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

SECTION 54. 961.455 (1) of the statutes is amended to read:

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

SECTION 55. 961.455 (2) of the statutes is amended to read:

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

SECTION 56. 961.46 of the statutes, as affected by 2019 Wisconsin Act ... (this act), is amended to read:

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

***NOTE: This is reconciled s. 961.46. This SECTION has been affected by drafts with the following LRB numbers: 1701/p2 and 1996/p2.

SECTION 57. 961.573 (2) of the statutes is amended to read:

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

SECTION 58. 961.574 (2) of the statutes is amended to read:

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

SECTION 59. 961.575 (1) of the statutes is amended to read:

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

SECTION 60. 961.575 (2) of the statutes is amended to read:

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

SECTION 61. 961.575 (3) of the statutes is amended to read:

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

SECTION 62. 990.01 (3) of the statutes is amended to read:

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

SECTION 63. 990.01 (20) of the statutes is amended to read:

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

SECTION 9308. Initial applicability; Corrections.

(1) AGE OF ADULT JURISDICTION. The treatment of ss. 48.02 (1d) and (2), 48.44, 48.45 (1) (a) and (am) and (3), 118.163 (4), 125.07 (4) (d) and (e) 1., 125.085 (3) (bt), 165.83 (1) (c) 1. and 2., 301.12 (2m) and (14) (a), 302.31 (7), 938.02 (1) and (10m), 938.12 (2), 938.18 (2), 938.183 (3), 938.255 (1) (intro.), 938.34 (8), 938.343 (2), 938.344 (3), 938.35 (1m), 938.355 (4) (b) and (4m) (a), 938.39, 938.44, 938.45 (1) (a) and (3), 938.48 (4m) (title), (a), and (b) and (14), 938.57 (3) (title), (a) (intro.), 1., and 3., and (b), 939.632 (1) (e) 1. and 3., 946.50 (intro.), 948.01 (1), 948.11 (2) (am) (intro.), 948.45 (1), 948.60 (2) (d), 948.61 (4), 961.455 (title), (1), and (2), 961.46 (by SECTION 56), 961.573 (2), 961.574 (2), 961.575 (1), (2), and (3), and 990.01 (3) and (20), subch. IX (title) of ch. 48, and subch. IX (title) of ch. 938 first applies to a violation of a criminal law, civil law, or municipal ordinance allegedly committed on the effective date of this subsection.

SECTION 9408. Effective dates; Corrections.

(1) AGE OF ADULT JURISDICTION.

(a) The treatment of ss. 48.02 (1d) and (2), 48.44, 48.45 (1) (a) and (am) and (3), 118.163 (4), 125.07 (4) (d) and (e) 1., 125.085 (3) (bt), 165.83 (1) (c) 1. and 2., 301.12 (2m) and (14) (a), 302.31 (7), 938.02 (1) and (10m), 938.12 (2), 938.18 (2), 938.183 (3), 938.255 (1) (intro.), 938.34 (8), 938.343 (2), 938.344 (3), 938.35 (1m), 938.355 (4) (b) and (4m) (a), 938.39, 938.44, 938.45 (1) (a) and (3), 938.48 (4m) (title), (a), and (b) (by

SECTION 36) and (14) (by SECTION 38), 938.57 (3) (title), (a) (intro.), 1., and 3., and (b), 939.632 (1) (e) 1. and 3., 946.50 (intro.), 948.01 (1), 948.11 (2) (am) (intro.), 948.45 (1), 948.60 (2) (d), 948.61 (4), 961.455 (title), (1), and (2), 961.46 (by SECTION 56), 961.573 (2), 961.574 (2), 961.575 (1), (2), and (3), and 990.01 (3) and (20), subch. IX (title) of ch. 48, and subch. IX (title) of ch. 938 and SECTION 9308 (1) of this act take effect on January 1, 2021.

(b) The treatment of ss. 938.48 (4m) (b) (by SECTION 37) and (14) (by SECTION 39) takes effect on the date specified in the notice under [2017 Wisconsin Act 185](#), section [110 \(2\) \(b\)](#), or on January 1, 2021, whichever is later.

***NOTE: This is reconciled SECTION 9408 (1). It reconciles the effective date of LRB numbers 1701/p3 and 2156/p2.

(END)