

State of Wisconsin



2019 Assembly Bill 188

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2019 WISCONSIN ACT 8

AN ACT *to repeal* 46.22 (1) (b) 5m. d., 46.22 (2g) (d) 4., 46.23 (5) (n) 3. and 301.031; *to amend* 13.94 (1) (v), 46.011 (1p), 46.21 (2) (j), 46.215 (3), 46.23 (5) (c) 3., 46.23 (5m) (c), 48.023 (4), 48.527, 48.66 (1) (b), 49.11 (1c), 49.45 (25) (bj), 101.123 (1) (ac) 2., 301.01 (1n), 301.027, 301.19 (title), 301.37 (1m), 301.373, 938.02 (4), 938.02 (15g), 938.22 (1) (a), 938.22 (2) (d) 2., 938.33 (1) (c), 938.33 (3r), 938.34 (4m) (intro.), 938.34 (4n) (intro.), 938.355 (2) (b) 1., 938.355 (2) (b) 2., 938.355 (2) (b) 6m., 938.357 (3) (b) (intro.) and (c), 938.357 (4g) (a), 938.48 (3), 938.48 (4), 938.48 (4m) (b), 938.48 (5), 938.48 (6), 938.48 (14), 938.48 (16) (b), 938.505 (1), 938.52 (2) (a) and (c), 938.53, 938.533 (2) (intro.), 938.54, 938.57 (4) and 938.78 (3); *to repeal and recreate* 938.34 (4m) (intro.); *to create* 46.057 (1m), 301.19 (4), 301.36 (9), 938.33 (6), 938.355 (2) (b) 2m., 938.355 (2) (b) 6n., 938.357 (3) (e) and 938.357 (4) (as) of the statutes; and *to affect* 2017 Wisconsin Act 185, section 38, 2017 Wisconsin Act 185, section 70, 2017 Wisconsin Act 185, section 110 (1) (a), 2017 Wisconsin Act 185, section 110 (2) (a), 2017 Wisconsin Act 185, section 110 (3) (c), 2017 Wisconsin Act 185, section 110 (4) (a) 1. c., 2017 Wisconsin Act 185, section 110 (4) (d), 2017 Wisconsin Act 185, section 110 (4) (e), 2017 Wisconsin Act 185, section 110 (4) (f), 2017 Wisconsin Act 185, section 110 (6) (e), 2017 Wisconsin Act 185, section 110 (7), 2017 Wisconsin Act 185, section 110 (7m) (b), 2017 Wisconsin Act 185, section 111 (3) and 2017 Wisconsin Act 185, section 112 (1); **relating to:** facilities for holding juveniles in secure custody.

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

SECTION 1. 13.94 (1) (v) of the statutes is amended to read:

13.94 (1) (v) Conduct an audit, at the request of the department of corrections, of a county's net operating costs for a secured residential care center for children and youth that holds ~~only~~ female juveniles for the purpose of determining the amount, if any, of a net operating loss to be reimbursed by the department of corrections to a county under s. 301.373. The bureau shall report the result of the audit to the department of corrections as soon as practicable.

SECTION 2. 46.011 (1p) of the statutes, as affected by 2017 Wisconsin Act 185, section 13, is amended to read:

46.011 (1p) "Juvenile correctional services" means services provided for a juvenile who is under the supervision of the department of corrections under s. 938.183, 938.34 (4h), ~~(4n)~~, or (7g), or 938.357 (3) or (4).

SECTION 3. 46.057 (1m) of the statutes is created to read:

46.057 (1m) The director of the Mendota Mental Health Institute, or his or her designee, shall be responsible for decisions regarding admissions, treatment, and the release and return of juvenile offenders from the Mendota juvenile treatment center to county supervision.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

SECTION 4. 46.21 (2) (j) of the statutes is amended to read:

46.21 (2) (j) May exercise approval or disapproval power over contracts and purchases of the director that are for \$50,000 or more, except that the county board of supervisors may not exercise approval or disapproval power over any personal service contract or over any contract or purchase of the director that relates to community living arrangements, adult family homes, or foster homes and that was entered into pursuant to a contract under s. 46.031 (2g) or ~~301.031~~ 49.325 (2g), regardless of whether the contract mentions the provider, except as provided in par. (m). The county board of supervisors may not exercise approval or disapproval power over any contract relating to mental health or mental health institutions, programs, or services. This paragraph does not preclude the county board of supervisors from creating a central purchasing department for all county purchases that are not related to mental health.

SECTION 5. 46.215 (3) of the statutes is amended to read:

46.215 (3) PROGRAM BUDGETS. The county department of social services shall submit a final budget for authorized services to the department of health services under s. 46.031 (1), ~~to the department of corrections under s. 301.031 (1),~~ and to the department of children and families under s. 49.325 (1), ~~for authorized services.~~

SECTION 6. 46.22 (1) (b) 5m. d. of the statutes is repealed.

SECTION 7. 46.22 (2g) (d) 4. of the statutes is repealed.

SECTION 8. 46.23 (5) (c) 3. of the statutes is amended to read:

46.23 (5) (c) 3. Shall monitor the performance of contracts for the purchase of juvenile correctional services. ~~Contracts for the purchase of those services shall be subject to the conditions specified in s. 301.031.~~

SECTION 9. 46.23 (5) (n) 3. of the statutes is repealed.

SECTION 10. 46.23 (5m) (c) of the statutes is amended to read:

46.23 (5m) (c) Prepare, with the assistance of the county human services director under sub. (6m) (e), a proposed budget for submission to the county executive or county administrator; a final budget for submission to the department of health services in accordance with s. 46.031 (1) for authorized services, except services under ch. 48 and subch. III of ch. 49, community-based juvenile delinquency-related services, and juvenile correctional services; and a final budget for submission to the department of children and families in accordance with s. 49.325 for authorized services under ch. 48 and subch. III of ch. 49 and for authorized community-based juvenile delinquency-related services; ~~and a final budget for submission to the department of corrections in accordance with s. 301.031 for the purchase of authorized juvenile correctional services.~~

SECTION 11. 48.023 (4) of the statutes, as affected by 2017 Wisconsin Act 185, section 20, is amended to read:

48.023 (4) The rights and responsibilities of legal custody except when legal custody has been vested in another person or when the child is under the supervision of the department of corrections under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4) or the supervision of a county department under s. 938.34 (4d), (4m), or (4n).

SECTION 12. 48.527 of the statutes is amended to read:

48.527 Community youth and family aids; bonus for county facilities. From the appropriation under s. 20.437 (1) (ck), the department shall allocate an amount equal to 15 percent of a county's allocation in the preceding fiscal year under s. 48.526 or \$750,000, whichever is less, in additional funds for a county that operates a ~~joint~~ secured residential care center for children and youth ~~under s. 46.20 (4m)~~ that was funded by a grant under 2017 Wisconsin Act 185, section 110 (4), and that serves juveniles from more than one county.

SECTION 13. 48.66 (1) (b) of the statutes is amended to read:

48.66 (1) (b) Except as provided in s. 48.715 (6), the department of corrections may license a child welfare agency to operate a secured residential care center for children and youth for holding in secure custody juveniles who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.183 or 938.34 (4d), (4h), or (4m) and referred to the child welfare agency by the court, the tribal court, the county department, or the department of corrections and to provide supervision, care, and maintenance for those juveniles.

SECTION 14. 49.11 (1c) of the statutes, as affected by 2017 Wisconsin Act 185, section 27, is amended to read:

49.11 (1c) "Community-based juvenile delinquency-related services" means juvenile delinquency-related services provided under ch. 938 other than services provided for a juvenile who is under the supervision of the department of corrections under s. 938.183, 938.34 (4h), ~~(4n)~~, or (7g), or 938.357 (3) or (4).

SECTION 15. 49.45 (25) (bj) of the statutes, as affected by 2017 Wisconsin Act 185, section 29, is amended to read:

49.45 (25) (bj) The department of corrections may elect to provide case management services under this subsection to persons who are under the supervision of that department under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4), who are Medical Assistance beneficiaries, and who meet one or more of the conditions specified in par. (am). The amount of the allowable charges for those services under the Medical Assistance program that is not provided by the federal government shall be paid from the appropriation account under s. 20.410 (3) (hm), (ho), or (hr).

SECTION 16. 101.123 (1) (ac) 2. of the statutes is amended to read:

101.123 (1) (ac) 2. A juvenile detention facility, as defined in s. 938.02 (10r), a secured residential care center for children and youth, as defined in s. 938.02 (15g), or a juvenile correctional facility, as defined in s. 938.02 (10p), except a juvenile correctional facility authorized under s. 938.533 (3) (b), 938.538 (4) (b), or 938.539 (5) if the facility is a private residence in which the juvenile is placed and no one is employed there to ensure that the juvenile remains in custody.

SECTION 17. 301.01 (1n) of the statutes, as affected by 2017 Wisconsin Act 185, section 35, is amended to read:

301.01 (1n) “Juvenile correctional services” means services provided for a juvenile who is under the supervision of the department of corrections under s. 938.183, 938.34 (4h), ~~(4n)~~, or (7g), or 938.357 (3) or (4).

SECTION 18. 301.027 of the statutes is amended to read:

301.027 Treatment program at one or more juvenile correctional facilities. The department shall maintain ~~a cottage-based~~ an intensive alcohol and other drug abuse program at one or more juvenile correctional facilities.

SECTION 19. 301.031 of the statutes is repealed.

SECTION 20. 301.19 (title) of the statutes is amended to read:

301.19 (title) ~~Restriction~~ **Restrictions on construction or modifications of correctional facilities.**

SECTION 21. 301.19 (4) of the statutes is created to read:

301.19 (4) Unless the governor has declared a state of emergency under s. 323.10, the department of corrections may not expand the capacity of, or substantially modify the structure or physical security of, a juvenile correctional facility established under s. 301.16 (1w) without prior approval by the governing body of the city, village, or town in which the juvenile correctional facility is located.

SECTION 22. 301.36 (9) of the statutes is created to read:

301.36 (9) COOPERATION WITH LOCAL GOVERNING BODIES. Upon request by the governing body of a city, village, or town in which a juvenile correctional facility established under s. 301.16 (1w) is located, the department shall meet with the governing body to discuss matters of local concern pertaining to the juvenile correctional facility.

SECTION 23. 301.37 (1m) of the statutes is amended to read:

301.37 (1m) ~~Subject to the~~ The rules promulgated by the department under sub. (1), shall allow a secured residential care center for children and youth ~~may to use less restrictive physical security barriers than a Type 1 juvenile correctional facility while ensuring the safety of the public, staff, and youth. The rules promulgated under sub. (1) shall allow a secured residential care center for~~

children and youth to be located in a portion of a juvenile detention facility or a Type 1 juvenile correctional facility. A secured residential care center for children and youth that is located in a portion of a juvenile detention facility or a Type 1 juvenile correctional facility shall provide trauma-informed, evidence-based programming and services as required by the department under s. 938.48 (16) (b).

SECTION 24. 301.373 of the statutes is amended to read:

301.373 Operating loss reimbursement program.

The department shall reimburse a county that operates a secured residential care center for children and youth that holds ~~only~~ female juveniles in secure custody and that was established using funding from the grant program under 2017 Wisconsin Act 185, section 110 (4), for any annual net operating loss for the services and facilities offered to female juveniles. A county seeking reimbursement under this section shall submit its request and supporting financial statements for the prior fiscal year to the department and the legislative audit bureau in a format prescribed by the department. The department shall reimburse the county for the amount of the net operating loss, as determined by the legislative audit bureau under s. 13.94 (1) (v), from the appropriation under s. 20.410 (3) (f). The department may pay for the cost of the audit by the legislative audit bureau under s. 13.94 (1) (v) from the appropriation under s. 20.410 (3) (f).

SECTION 25. 938.02 (4) of the statutes, as affected by 2017 Wisconsin Act 185, section 50, is amended to read:

938.02 (4) “Department” means the department of children and families except that with respect to a juvenile who is under the supervision of the department of corrections under s. 938.183, 938.34 (4h), ~~(4n)~~, or (7g), or 938.357 (3) or (4), “department” means the department of corrections.

SECTION 26. 938.02 (15g) of the statutes is amended to read:

938.02 (15g) “Secured residential care center for children and youth” means a facility that complies with the requirements of ss. 301.37 and 938.48 (16) (b) operated by an Indian tribe or a county under ss. 46.20, 59.53 (8m), ~~301.26, 301.27,~~ and 938.22 (1) (a) or by a child welfare agency that is licensed under s. 48.66 (1) (b) to hold in secure custody persons adjudged delinquent.

SECTION 27. 938.22 (1) (a) of the statutes is amended to read:

938.22 (1) (a) The county board of supervisors of a county may establish a juvenile detention facility or secured residential care center for children and youth in accordance with ss. 301.36 and 301.37 or the county boards of supervisors for 2 or more counties may jointly establish a juvenile detention facility or secured residential care center for children and youth in accordance with ss. 46.20, 59.53 (8m), 301.36, and 301.37. An Indian tribe may establish a secured residential care center for

children and youth in accordance with ss. 301.36 and 301.37 or may contract with a county board of supervisors to hold juveniles who are adjudicated delinquent by the tribal court in that county's secured residential care center for children and youth. The county board of supervisors of a county may establish a shelter care facility in accordance with ss. 48.576 and 48.578 or the county boards of supervisors for 2 or more counties may jointly establish a shelter care facility in accordance with ss. 46.20, 48.576, and 48.578. A private entity may establish a juvenile detention facility in accordance with ss. 301.36 and 301.37 and contract with one or more county boards of supervisors under s. 938.222 to hold juveniles in the private juvenile detention facility. Subject to ss. 48.66 (1) (b), 301.36, and 301.37, a child welfare agency may establish a secured residential care center for children and youth and contract with one or more county boards of supervisors or an Indian tribe to hold juveniles in the secured residential care center for children and youth.

SECTION 28. 938.22 (2) (d) 2. of the statutes is amended to read:

938.22 (2) (d) 2. After ~~January~~ July 1, 2021, the number of juveniles that may be housed at a juvenile detention facility under subd. 1. is limited to the number that are housed at is equal to the average daily population of juveniles housed under subd. 1., rounded up to the nearest whole number, of the juvenile detention facility on January 1 between July 1, 2018, and June 30, 2021, excluding any juveniles placed there under 2019 Wisconsin Act (this act), section 72 (1), and the juvenile detention facility may not be altered or added to or repaired in excess of 50 percent of its assessed value. If a juvenile detention facility violates this subdivision, it is no longer authorized to accept juveniles for placement for more than 30 consecutive days.

SECTION 29. 938.33 (1) (c) of the statutes is amended to read:

938.33 (1) (c) A description of the specific services or continuum of services that the agency is recommending ~~the court to order~~ for the juvenile or family, the persons or agencies that would be primarily responsible for providing those services, and the identity of the person or agency that would provide case management or coordination of services, if any, and whether or not the juvenile should receive a coordinated services plan of care.

SECTION 30. 938.33 (3r) of the statutes is amended to read:

938.33 (3r) SERIOUS JUVENILE OFFENDER REPORT. If a juvenile has been adjudicated delinquent for committing a violation for which the juvenile may be placed in the serious juvenile offender program under s. 938.34 (4h) (a), the report shall be in writing and, in addition to the information specified in sub. (1) and in sub. (3) or (4), if applicable, shall include an analysis of the juvenile's suitability for placement in the serious juvenile offender program under s. 938.34 (4h) or in a ~~juvenile correctional~~

~~facility secured residential care center for children and youth~~ under s. 938.34 (4m), a placement specified in s. 938.34 (3), or placement in the juvenile's home with supervision and community-based programming and a recommendation as to the type of placement for which the juvenile is best suited.

SECTION 31. 938.33 (6) of the statutes is created to read:

938.33 (6) RETENTION. Reports submitted under this section shall be retained in the record of the pending action, which shall be made available to the agency that is designated to supervise the juvenile under a disposition under s. 938.34 or a change of placement order under s. 938.357.

SECTION 32. 938.34 (4m) (intro.) of the statutes is amended to read:

938.34 (4m) CORRECTIONAL PLACEMENT. (intro.) Place the juvenile under the supervision of the department of corrections in a juvenile correctional facility or under the supervision of the county department in a secured residential care center for children and youth under the supervision of identified by the county department or the department of corrections if all of the following apply:

SECTION 33. 938.34 (4m) (intro.) of the statutes, as affected by 2017 Wisconsin Act 185, section 62, is repealed and recreated to read:

938.34 (4m) CORRECTIONAL PLACEMENT. (intro.) Place the juvenile under the supervision of the county department in a secured residential care center for children and youth identified by the county department if all of the following apply:

SECTION 34. 938.34 (4n) (intro.) of the statutes is amended to read:

938.34 (4n) COMMUNITY SUPERVISION OR AFTERCARE AFTERCARE SUPERVISION. (intro.) In the case of a juvenile who has received a correctional placement under sub. (4m), designate ~~the county department~~ one of the following to provide aftercare supervision for the juvenile following the juvenile's release from a secured residential care center for children and youth or Type 1 juvenile correctional facility. ~~In the case of a juvenile who has been placed in a juvenile correctional facility or a secured residential care center for children and youth under the supervision of the department of corrections, designate the department of corrections to provide community supervision for the juvenile following the juvenile's release from that facility or center or, subject to any arrangement between the department of corrections and a county department regarding the provision of aftercare supervision for juveniles who have been released from a juvenile correctional facility or a secured residential care center for children and youth, designate one of the following to provide aftercare supervision for the juvenile following the juvenile's release from that facility or center:~~

SECTION 35. 938.355 (2) (b) 1. of the statutes is amended to read:

938.355 (2) (b) 1. ~~The specific~~ Specific services to be provided to the juvenile and the juvenile's family, and, if custody is to be transferred to effect the treatment plan, the identity of the legal custodian.

SECTION 36. 938.355 (2) (b) 2. of the statutes is amended to read:

938.355 (2) (b) 2. If the juvenile is placed outside the home under s. 938.34 (3) or (4d), the name of the place or facility, including transitional placements, where the juvenile shall be cared for or treated, except that if the placement is a foster home and the name and address of the foster parent is not available at the time of the order, the name and address of the foster parent shall be furnished to the court and the parent within 21 days after the order. If, after a hearing on the issue with due notice to the parent or guardian, the court finds that disclosure of the identity of the foster parent would result in imminent danger to the juvenile or the foster parent, the court may order the name and address of the prospective foster parents withheld from the parent or guardian.

SECTION 37. 938.355 (2) (b) 2m. of the statutes is created to read:

938.355 (2) (b) 2m. If the juvenile is placed outside the home under s. 938.34 (4m), the name of the county department that will provide supervision and determine placement for the juvenile.

SECTION 38. 938.355 (2) (b) 6m. of the statutes is amended to read:

938.355 (2) (b) 6m. If the juvenile is placed outside the home in a placement under s. 938.34 (3) or (4d) recommended by the agency designated under s. 938.33 (1), a statement that the court approves the placement recommended by the agency or, if the juvenile is placed outside the home in a placement other than a placement recommended by that agency, a statement that the court has given bona fide consideration to the recommendations made by the agency and all parties relating to the juvenile's placement.

SECTION 39. 938.355 (2) (b) 6n. of the statutes is created to read:

938.355 (2) (b) 6n. If the juvenile is placed outside the home under s. 938.34 (4m), a statement that the court has given bona fide consideration to the recommendations made by the agency and all parties relating to the juvenile's placement.

SECTION 40. 938.357 (3) (b) (intro.) and (c) of the statutes are amended to read:

938.357 (3) (b) (intro.) Notwithstanding s. 938.34 (4m) and subject to par. (c), the court may order placement in a Type 1 juvenile correctional facility ~~under supervision of~~ operated by the department of corrections for a juvenile who was adjudicated delinquent under s. 938.34 (4m) if the court finds, after a hearing under this section, that any of the following apply:

(c) ~~Upon~~ Notwithstanding s. 938.34 (4m), upon the recommendation of the department of health services, the court may order the placement of a juvenile ~~under par. (b) who was adjudicated delinquent under s. 938.34 (4m) at the Mendota juvenile treatment center if par. (b) 1. a. to c. are met. A court may not order a placement under this paragraph at the Mendota juvenile treatment center that the department of health services has not approved. A juvenile under the supervision of a county in a secured residential care center for children and youth who is transferred to Mendota juvenile treatment center under this paragraph remains under the supervision of that county. The department of health services shall determine the date for the actual transfer of the juvenile to the Mendota juvenile treatment center, and no change of placement to the Mendota juvenile treatment center may be ordered without the prior agreement of the department of health services to admit the juvenile. No further hearing or court order is necessary for the department of health services to transfer the juvenile back to the custody of the county department.~~

SECTION 41. 938.357 (3) (e) of the statutes is created to read:

938.357 (3) (e) A juvenile who is placed in a Type 1 juvenile correctional facility under par. (b) is under the supervision of the department of corrections. The change of placement order shall designate the department of corrections to provide community supervision or the county department to provide aftercare supervision for the juvenile following the juvenile's release from the Type 1 juvenile correctional facility.

SECTION 42. 938.357 (4) (as) of the statutes is created to read:

938.357 (4) (as) When a juvenile is placed under the supervision of a county department, that department may place the juvenile in a secured residential care center for children and youth or on aftercare supervision, either immediately or after a period of placement in a secured residential care center for children and youth. The county department shall send written notice of any change in placement to the parent, guardian, legal custodian, if any, and the court. The county department shall be responsible for decisions regarding the release of a juvenile who is under its supervision.

SECTION 43. 938.357 (4g) (a) of the statutes is amended to read:

938.357 (4g) (a) Not later than 120 days after the date on which the juvenile is placed in a juvenile correctional facility or a secured residential care center for children and youth, or within 30 days after the date on which the department of corrections requests the community supervision or aftercare plan, whichever is earlier, the community supervision provider or the aftercare provider designated under s. 938.34 (4n) shall prepare a community supervision or aftercare plan for the juvenile. If the juvenile is to be placed on aftercare supervision, the county

department designated as the aftercare provider shall submit the aftercare plan to the department of corrections within the applicable period specified in this paragraph, unless the department of corrections waives the period under par. (b).

SECTION 44. 938.48 (3) of the statutes, as affected by 2017 Wisconsin Act 185, section 78, is amended to read:

938.48 (3) SUPERVISION AND SPECIAL TREATMENT OR CARE. Accept supervision over juveniles transferred to it by the court under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4), and provide special treatment or care to juveniles when directed by the court. Except as provided in s. 938.505 (2), a court may not direct the department to administer psychotropic medications to juveniles who receive special treatment or care under this subsection.

SECTION 45. 938.48 (4) of the statutes, as affected by 2017 Wisconsin Act 185, section 80, is amended to read:

938.48 (4) CARE, TRAINING, AND PLACEMENT. Provide appropriate care and training for juveniles under its supervision under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4), including serving those juveniles in their own homes, placing them in licensed foster homes or licensed group homes under s. 48.63 or in independent living situations as provided in s. 938.34 (3) (e), contracting for their care by licensed child welfare agencies, or replacing them in juvenile correctional facilities or secured residential care centers for children and youth in accordance with rules promulgated under ch. 227, except that the department may not purchase the educational component of private day treatment programs for a juvenile in its custody unless the department, the school board, as defined in s. 115.001 (7), and the state superintendent of public instruction all determine that an appropriate public education program is not available for the juvenile. Disputes between the department and the school district shall be resolved by the state superintendent of public instruction.

SECTION 46. 938.48 (4m) (b) of the statutes, as affected by 2017 Wisconsin Act 185, section 82, is amended 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 reached 17 years of age.

SECTION 47. 938.48 (5) of the statutes, as affected by 2017 Wisconsin Act 185, section 84, is amended to read:

938.48 (5) MORAL AND RELIGIOUS TRAINING. Provide for the moral and religious training of a juvenile under its supervision under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4) according to the religious beliefs of the juvenile or of the juvenile's parents.

SECTION 48. 938.48 (6) of the statutes, as affected by 2017 Wisconsin Act 185, section 86, is amended to read:

938.48 (6) EMERGENCY SURGERY. Consent to emergency surgery under the direction of a licensed physician

or surgeon for any juvenile under its supervision under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4) upon notification by a licensed physician or surgeon of the need for the surgery and if reasonable effort, compatible with the nature and time limitation of the emergency, has been made to secure the consent of the juvenile's parent or guardian.

SECTION 49. 938.48 (14) of the statutes, as affected by 2017 Wisconsin Act 185, section 88, is amended to read:

938.48 (14) SCHOOL-RELATED EXPENSES FOR JUVENILES OVER 17. 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, 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 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 50. 938.48 (16) (b) of the statutes is amended to read:

938.48 (16) (b) Promulgate rules governing services and programming for juveniles in a secured residential care center for children and youth. The department rules shall include uniform data reporting standards for require counties or Indian tribes that operate or contract with a child welfare agency for a secured residential care center for children and youth in rules promulgated under this paragraph to implement trauma-informed principles and evidence-based practices at the facilities and shall include uniform data reporting standards. The department shall base the rules it promulgates under this paragraph on the recommendations provided by the juvenile corrections study committee under 2017 Wisconsin Act 185, section 110 (6) (c) 1.

SECTION 51. 938.505 (1) of the statutes, as affected by 2017 Wisconsin Act 185, section 96, is amended to read:

938.505 (1) RIGHTS AND DUTIES OF DEPARTMENT OF CORRECTIONS OR COUNTY DEPARTMENT. When a juvenile is placed under the supervision of the department of corrections under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3), (4), or (5) (e) or under the supervision of a county department under s. 938.34 (4m) or (4n), the department of corrections or county department, whichever has supervision over the juvenile, shall have the right and duty to protect, train, discipline, treat, and confine the juvenile and to provide food, shelter, legal services, education, and ordinary medical and dental care for the juvenile, subject to the rights, duties, and responsibilities of the guardian of the juvenile and subject to any residual parental rights and responsibilities and the provisions of any court order.

SECTION 52. 938.52 (2) (a) and (c) of the statutes, as affected by 2017 Wisconsin Act 185, section 98, are amended to read:

938.52 (2) (a) In addition to facilities and services under sub. (1), the department of corrections may use other facilities and services under its jurisdiction. The department of corrections may contract for and pay for the use of other public facilities or private facilities for the care and treatment of juveniles in its care. Placement of a juvenile in a private or public facility that is not under the jurisdiction of the department of corrections does not terminate that department's supervision over the juvenile under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4). Placements in institutions for persons with a mental illness or development disability shall be made in accordance with ss. 48.14 (5), 48.63, and 938.34 (6) (am) and ch. 51.

(c) The department of corrections may inspect any facility it is using and examine and consult with persons under its supervision under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4) who have been placed in the facility.

SECTION 53. 938.53 of the statutes, as affected by 2017 Wisconsin Act 185, section 100, is amended to read:

938.53 Duration of control of department of corrections over delinquents. Except as provided under s. 938.183, a juvenile adjudged delinquent who has been placed under the supervision of the department of corrections under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4) shall be discharged as soon as that department determines that there is a reasonable probability that departmental supervision is no longer necessary for the rehabilitation and treatment of the juvenile or for the protection of the public.

SECTION 54. 938.533 (2) (intro.) of the statutes is amended to read:

938.533 (2) COMMUNITY SUPERVISION SERVICES. (intro.) From the appropriation under s. 20.410 (3) (hr), the department of corrections shall purchase or provide community supervision services for juveniles who have been placed under the community supervision of the department of corrections under s. ~~938.183~~, 938.34 (4h) ~~(4n)~~, 938.357 (3) or (4), or 938.538 (3) (a) 2. For each juvenile who is placed under community supervision, the department of corrections may purchase or provide any of the following services:

SECTION 55. 938.54 of the statutes, as affected by 2017 Wisconsin Act 185, section 107, is amended to read:

938.54 Records. The department of corrections shall keep a complete record on each juvenile under its supervision under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4). This record shall include the information received from the court, the date of reception, all available data on the personal and family history of the

juvenile, the results of all tests and examinations given the juvenile, and a complete history of all placements of the juvenile while under the supervision of the department of corrections.

SECTION 56. 938.57 (4) of the statutes is amended to read:

938.57 (4) AFTERCARE SUPERVISION. A county department may provide aftercare supervision under s. 938.34 (4n) for juveniles who are released from juvenile correctional facilities or secured residential care centers for children and youth. ~~If a county department intends to change its policy regarding whether the county department will provide aftercare supervision for juveniles released from juvenile correctional facilities or secured residential care centers for children and youth or the department of corrections will provide community supervision for those juveniles, the county executive or county administrator, or, if the county has no county executive or county administrator, the chairperson of the county board of supervisors, or, for multicounty departments, the chairpersons of the county boards of supervisors jointly, shall submit a letter to the department of corrections stating that intent before July 1 of the year preceding the year in which the policy change will take effect.~~

SECTION 57. 938.78 (3) of the statutes is amended to read:

938.78 (3) RELEASE OF INFORMATION WHEN ESCAPE OR ABSENCE; RULES. If a juvenile adjudged delinquent under s. 48.12, 1993 stats., or s. 938.12 or found to be in need of protection or services under s. 48.13 (12) or (14), 1993 stats., or s. 938.13 (12) or (14) on the basis of a violation of s. 943.23 (1m) or (1r), 1999 stats., or s. 941.10, 941.11, 941.20, 941.21, 941.23, 941.231, 941.235, 941.237, 941.26, 941.28, 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2) (a), 943.23 (1g), 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055, 948.085 (2), 948.60, 948.605, or 948.61 or any crime specified in ch. 940 has escaped from a juvenile correctional facility, residential care center for children and youth, secured residential care center for children and youth, inpatient facility, as defined in s. 51.01 (10), juvenile detention facility, or juvenile portion of a county jail, or from the custody of a peace officer or a guard of such a facility, center, or jail, or has been allowed to leave a juvenile correctional facility, residential care center for children and youth, secured residential care center for children and youth, inpatient facility, juvenile detention facility, or juvenile portion of a county jail for a specified time period and is absent from the facility, center, home, or jail for more than 12 hours after the expiration of the specified period, the department of corrections or county department, whichever has supervision over the juvenile, may release the juvenile's name and any information about the juvenile that is necessary for the protection of the public or to secure the juvenile's

return to the facility, center, home, or jail. The department of corrections shall promulgate rules establishing guidelines for the release of the juvenile's name or information about the juvenile to the public.

SECTION 58. 2017 Wisconsin Act 185, section 38 is repealed.

SECTION 59. 2017 Wisconsin Act 185, section 70 is repealed.

SECTION 60. 2017 Wisconsin Act 185, section 110 (1) (a) is amended to read:

[2017 Wisconsin Act 185] Section 110 (1) (a) Upon the establishment of the Type 1 juvenile correctional facilities under subsection (7) and the secured residential care centers for children and youth under subsections (4) and (7m), the department of corrections shall begin to transfer each juvenile held in secure custody at the Lincoln Hills School and Copper Lake School to the appropriate Type 1 juvenile correctional facility or secured residential care center for children and youth. No juvenile may be transferred to a Type 1 juvenile correctional facility until the department of corrections determines the facility to be ready to accept juveniles, and no juvenile may be transferred to a secured residential care center for children and youth until the entity operating the facility determines it to be ready to accept juveniles. The transfers may occur in phases. The department shall transfer all juveniles under this subsection no later than ~~January~~ July 1, 2021.

SECTION 61. 2017 Wisconsin Act 185, section 110 (2) (a) is amended to read:

[2017 Wisconsin Act 185] Section 110 (2) (a) On the earlier of the date on which all juveniles have been transferred to secured residential care centers for children and youth and Type 1 juvenile correctional facilities under subsection (1) or ~~January~~ July 1, 2021, the department of corrections shall permanently close the Type 1 juvenile correctional facilities housed at the Lincoln Hills School and Copper Lake School in the town of Birch, Lincoln County.

SECTION 62. 2017 Wisconsin Act 185, section 110 (3) (c) is amended to read:

[2017 Wisconsin Act 185] Section 110 (3) (c) *Termination*. The juvenile corrections grant committee terminates on the earlier of the date on which all projects funded with grants under subsection (4) are completed or ~~January~~ July 1, 2021.

SECTION 63. 2017 Wisconsin Act 185, section 110 (4) (a) 1. c. is amended to read:

[2017 Wisconsin Act 185] Section 110 (4) (a) 1. c. A grant to pay 100 percent of the costs of designing and constructing a secured residential care center for children and youth ~~only for female juveniles or any portion thereof that is only intended primarily for the holding and treatment of female juveniles.~~

SECTION 64. 2017 Wisconsin Act 185, section 110 (4) (d) is amended to read:

[2017 Wisconsin Act 185] Section 110 (4) (d) *Deadline*. Grant applications are due no later than ~~March 31~~ June 30, 2019. Between that date and ~~June 30~~ September 30, 2019, the juvenile corrections grant committee may work with applicants to modify their applications in order to increase the likelihood of being awarded a grant.

SECTION 65. 2017 Wisconsin Act 185, section 110 (4) (e) is amended to read:

[2017 Wisconsin Act 185] Section 110 (4) (e) *Wisconsin model of juvenile justice; statewide plan*. The juvenile corrections grant committee shall develop a statewide plan that recommends which grant applications to approve, based on an overall view toward a Wisconsin model of juvenile justice. The committee shall consult with the departments of corrections and children and families on the statewide plan and ~~may not recommend approval of an application unless the department of corrections approves the plans and specifications for the site and the design and construction of the proposed secured residential care center for children and youth under section 301.37 of the statutes.~~

SECTION 66. 2017 Wisconsin Act 185, section 110 (4) (f) is amended to read:

[2017 Wisconsin Act 185] Section 110 (4) (f) *Plan approval*. No later than ~~July~~ October 1, 2019, the juvenile corrections grant committee shall submit the plan under paragraph (e) for approval to the joint committee on finance. The juvenile corrections grant committee and the department of corrections may not implement the plan until it is approved by the joint committee on finance, as submitted or as modified.

SECTION 67. 2017 Wisconsin Act 185, section 110 (6) (e) is amended to read:

[2017 Wisconsin Act 185] Section 110 (6) (e) *Termination*. The juvenile corrections study committee terminates on ~~January~~ July 1, 2021.

SECTION 68. 2017 Wisconsin Act 185, section 110 (7) is amended to read:

[2017 Wisconsin Act 185] Section 110 (7) *TYPE 1 JUVENILE CORRECTIONAL FACILITIES*. The department of corrections shall establish or construct the Type 1 juvenile correctional facilities under section 301.16 (1w) (a) of the statutes no later than ~~January~~ July 1, 2021, subject to the approval of the joint committee on finance. The department shall consider the recommendations of the juvenile corrections study committee under subsection (6) (c) 2. in establishing or constructing these facilities.

SECTION 69. 2017 Wisconsin Act 185, section 110 (7m) (b) is amended to read:

[2017 Wisconsin Act 185] Section 110 (7m) (b) 1. Notwithstanding section 938.22 (1) and (2) of the statutes, except as provided in subdivision 2., on ~~January~~ July 1, 2021, the portion of an eligible juvenile detention facility that holds juveniles who are placed under section 938.34 (3) (f) of the statutes for more than 30 days is a secured residential care center for children and youth and

juveniles may be placed there under section 938.34 (4m) of the statutes.

2. Notwithstanding subdivision 1., on ~~January~~ July 1, 2021, the portion of an eligible juvenile detention facility that holds juveniles who are placed under section 938.34 (3) (f) of the statutes for more than 30 days is, with respect to a juvenile placed under section 938.34 (3) (f) of the statutes prior to ~~January~~ July 1, 2021, a juvenile detention facility.

SECTION 70. 2017 Wisconsin Act 185, section 111 (3) is amended to read:

[2017 Wisconsin Act 185] Section 111 (3) The treatment of section 938.34 (3) (f) 1. of the statutes, with respect to an eligible juvenile detention facility under SECTION 110 (7m), first applies to a juvenile adjudicated delinquent on ~~January~~ July 1, 2021.

SECTION 71. 2017 Wisconsin Act 185, section 112 (1) is amended to read:

[2017 Wisconsin Act 185] Section 112 (1) The treatment of sections 46.011 (1p) (by SECTION 13), 46.057 (1) (by SECTION 15), 48.023 (4) (by SECTION 20), 49.11 (1c) (by SECTION 27), 49.45 (25) (bj) (by SECTION 29), 301.01 (1n) (by SECTION 35), 301.20, 938.02 (4) (by SECTION 50), 938.34 (2) (a) (by SECTION 57) and (b) (by SECTION 59) and (4m) (intro.) (by SECTION 62), 938.48 (3) (by SECTION 78), (4) (by SECTION 80), (4m) (b) (by SECTION 82), (5) (by SECTION 84), (6) (by SECTION 86), and (14) (by SECTION 88), 938.505 (1) (by SECTION 96), 938.52 (2) (a) and (c) (by SECTION 98), 938.53 (by SECTION 100), and 938.54 (by SECTION 107) of the statutes takes effect on the date specified in the notice under SECTION 110 (2) (b) or ~~January~~ July 1, 2021, whichever is earlier.

SECTION 72. Nonstatutory provisions.

(1) TEMPORARY CHANGE IN PLACEMENT WITHOUT A HEARING.

(a) The department of corrections may, using the procedure set forth in s. 938.357 (4) (am), place a juvenile who is placed in the Type 1 juvenile correctional facility known as Lincoln Hills School or Copper Lake School on the effective date of this paragraph in a juvenile detention facility under s. 938.22 (2) (d) 1. If the department of corrections places a juvenile in a juvenile detention facility under this paragraph, the department of corrections shall contract with the operating entity for the care and services provided under s. 301.08.

(b) Notwithstanding s. 938.34 (3) (f) 1., a juvenile may be placed in a juvenile detention facility under par. (a) for a period longer than 365 days, and shall be transferred out of the juvenile detention facility using the procedure and by the date required under 2017 Wisconsin Act 185, section 110 (1). The department of corrections shall transfer all juveniles placed in a juvenile detention facility under par. (a) out of the juvenile detention facility no later than July 1, 2021.

(2) SECURED RESIDENTIAL CARE CENTERS FOR CHILDREN AND YOUTH; VARIANCE FOR COST-SAVING MEASURES.

The department of corrections shall grant a variance from the rules promulgated under s. 301.37 requested by a county for a secured residential care center for children and youth if all of the following apply:

(a) The juvenile corrections grant committee determines that the variance is necessary to achieve a reasonable cost-saving measure that will not compromise the quality or type of evidence-based, trauma-informed care that is offered at the facility or determines that the variance is necessary to incorporate new practices of evidence-based, trauma-informed care at the facility.

(b) The juvenile corrections grant committee includes the variance in its recommendations for funding to the joint committee on finance under 2017 Wisconsin Act 185, SECTION 110 (4) (e).

(c) The proposed secured residential care center for children and youth, including the proposed variance, is part of the plan approved by the joint committee on finance and receives funding from the juvenile corrections grant program under 2017 Wisconsin Act 185, SECTION 110 (4).

(d) The proposed secured residential care center for children and youth meets the minimum requirements of the commercial building code adopted under subch. I of ch. 101.

(3) CONSTRUCTION OF A TYPE 1 JUVENILE CORRECTIONAL FACILITY; PUBLIC AND LOCAL PARTICIPATION.

(a) Before commencing construction of a juvenile correctional facility under s. 301.16 (1w), the department of corrections shall hold a public listening session in the city, village, or town where the facility is proposed to be located.

(b) Before commencing construction of a juvenile correctional facility under s. 301.16 (1w), the department of corrections shall meet with the governing body of the city, village, or town where the facility is proposed to be located to discuss potential impacts to the local community.

(c) Public notice shall be given as provided under s. 19.84 at least 168 hours prior to the commencement of a meeting under this subsection.

SECTION 73. Initial applicability.

(1) The treatment of ss. 938.33 (3r), 938.34 (4m) (intro.) (by SECTION 32) and (4n) (intro.), and 938.357 (3) (b) (intro.), (c), and (e) and (4) (as), with respect to a county department's supervision of a juvenile, first applies to a juvenile adjudicated delinquent and placed under the supervision of the county under s. 938.34 (4m).

SECTION 74. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of ss. 46.011 (1p), 48.023 (4), 49.11 (1c), 49.45 (25) (bj), 301.01 (1n), 938.02 (4), 938.34 (4m) (intro.) (by SECTION 33) and (4n) (intro.), 938.357 (4g) (a), 938.48 (3), (4), (4m) (b), (5), (6), and (14), 938.505 (1), 938.52 (2) (a) and (c), 938.53, 938.533 (2) (intro.), and 938.54 takes effect on the date specified in

the notice under 2017 Wisconsin Act 185, SECTION 110
(2) (b), or July 1, 2021, whichever is earlier.
