



**SENATE AMENDMENT 5,
TO 1995 SENATE BILL 624**

March 26, 1996 – Offered by COMMITTEE ON JUDICIARY.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 30, line 21: after “970.032” insert “or 971.31 (13)”.

3 **2.** Page 31, line 7: after that line insert:

4 “**SECTION 69m.** 938.183 (2) (a) 1. of the statutes, as created by 1995 Wisconsin
5 Act 77, is amended to read:

6 938.183 (2) (a) 1. The court of criminal jurisdiction convicts the juvenile of a
7 lesser offense that is not an attempt to violate s. 940.01, that is not a violation of s.
8 940.02 or 940.05 and that is not an offense for which the court assigned to exercise
9 jurisdiction under this chapter and ch. 48 may waive its jurisdiction over the juvenile
10 under s. 938.18.

11 **SECTION 69p.** 938.183 (2) (a) 2. of the statutes, as created by 1995 Wisconsin
12 Act 77, is amended to read:

13 938.183 (2) (a) 2. The court of criminal jurisdiction convicts the juvenile of a
14 lesser offense that is an attempt to violate s. 940.01, that is a violation of s. 940.02
15 or 940.05 or that is an offense for which the court assigned to exercise jurisdiction
16 under this chapter and ch. 48 may waive its jurisdiction over the juvenile under s.

1 938.18 and the court of criminal jurisdiction, after considering the criteria specified
2 in s. 938.18 (5), determines by clear and convincing evidence that it would be in the
3 best interests of the juvenile and of the public to impose a disposition specified in s.
4 938.34.”.

5 **3.** Page 65, line 2: after that line insert:

6 “**SECTION 134m.** 971.31 (13) of the statutes is created to read:

7 971.31 (13) (a) A child over whom the court has jurisdiction under s. 938.183
8 (1) (b) or (c) on a misdemeanor action may make a motion before trial to transfer
9 jurisdiction to the court assigned to exercise jurisdiction under chs. 48 and 938. The
10 motion may allege that the child did not commit the violation under the
11 circumstances described in s. 938.183 (1) (b) or (c), whichever is applicable, or that
12 transfer of jurisdiction would be appropriate because of all of the following:

13 1. If convicted, the child could not receive adequate treatment in the criminal
14 justice system.

15 2. Transferring jurisdiction to the court assigned to exercise jurisdiction under
16 chs. 48 and 938 would not depreciate the seriousness of the offense.

17 3. Retaining jurisdiction is not necessary to deter the child or other children
18 from committing the violation of which the child is accused under the circumstances
19 specified in s. 938.183 (1) (b) or (c), whichever is applicable.

20 (b) The court shall retain jurisdiction unless the child proves by a
21 preponderance of the evidence that he or she did not commit the violation under the
22 circumstances described in s. 938.183 (1) (b) or (c) or that transfer would be
23 appropriate because all of the factors specified in par. (a) 1., 2. and 3. are met.”.

24

(END)