



2009 SENATE BILL 152

April 6, 2009 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 **AN ACT** *to amend* 938.18 (6) of the statutes; **relating to:** creating a rebuttable
2 presumption of retaining juvenile court jurisdiction in waiver proceedings
3 involving a first offender.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on High-Risk Juvenile Offenders.

Under current law, the court assigned to exercise jurisdiction under the Juvenile Justice Code (juvenile court) may waive its jurisdiction over a juvenile who is alleged to have violated one of several serious offenses on or after the juvenile's 14th birthday and over a juvenile who is alleged to have violated any criminal law on or after the juvenile's 15th birthday and transfer the case to a court of criminal jurisdiction (adult court).

The juvenile court must base its decision whether to waive jurisdiction on specified criteria, including the juvenile's personality and prior record.

SENATE BILL 152

This bill creates a rebuttable presumption that the juvenile court must retain jurisdiction if the juvenile has not previously been adjudicated delinquent.

1 **SECTION 1.** 938.18 (6) of the statutes is amended to read:

2 938.18 (6) DECISION ON WAIVER. After considering the criteria under sub. (5),
3 the court shall state its finding with respect to the criteria on the record, and, if the
4 court determines on the record that there is clear and convincing evidence that it is
5 contrary to the best interests of the juvenile or of the public to hear the case, the court
6 shall enter an order waiving jurisdiction and referring the matter to the district
7 attorney for appropriate proceedings in the court of criminal jurisdiction. There is
8 a rebuttable presumption that the court shall retain jurisdiction if the juvenile has
9 not previously been adjudicated delinquent. After the an order waiving jurisdiction,
10 the court of criminal jurisdiction has exclusive jurisdiction.

NOTE: Creates a rebuttable presumption that in a proceeding to waive the jurisdiction of the juvenile court and transfer the case to adult court, the juvenile court must retain jurisdiction if the juvenile has not previously been adjudicated delinquent.

11 **SECTION 2. Initial applicability.**

12 (1) REBUTTABLE PRESUMPTION FOR FIRST OFFENDERS. This act first applies to
13 offenses committed on the effective date of this subsection, but does not preclude
14 consideration of a juvenile’s prior record in determining whether to waive the
15 jurisdiction of the court assigned to exercise jurisdiction under chapter 938 of the
16 statutes.

17 **(END)**