



2017 ASSEMBLY BILL 794

December 27, 2017 - Introduced by Representatives KLEEFISCH, BOWEN, OHNSTAD, KOLSTE, QUINN, KRUG, KESSLER, KULP, TAUCHEN, CONSIDINE, SUBECK, BROSTOFF, ANDERSON, BERCEAU and TITTL, cosponsored by Senators BEWLEY, WANGGAARD, OLSEN and L. TAYLOR. Referred to Committee on Corrections.

1 **AN ACT** *to repeal* 48.66 (1) (b), 48.66 (2m) (am), 48.66 (2m) (bm) and 48.66 (2m)
2 (cm); *to renumber and amend* 938.357 (4) (b) 2.; *to amend* 48.48 (9m), 48.60
3 (2) (c), 48.66 (1) (a), 48.66 (1) (c), 48.66 (2m) (a) 1., 48.66 (2m) (b), 48.67 (intro.),
4 48.67 (3) (c), 48.67 (5), 48.715 (6), 49.343 (title), 49.343 (1g), 49.343 (2) (a) and
5 (b) 2., 49.857 (1) (d) 3., 51.35 (3) (a), 51.35 (3) (e), 73.0301 (1) (d) 2., 101.123 (1)
6 (ac) 2., 101.123 (2) (d) 3., 108.227 (1) (e) 2., 115.76 (10), 938.02 (15g), 938.22 (1)
7 (a), 938.33 (3r), 938.34 (4d) (b), 938.34 (4m) (intro.), 938.357 (4) (a), 938.357 (4)
8 (b) 1., 938.505 (1) and 938.539 (3); and *to create* 48.605, 49.343 (1d) (e), 101.123
9 (1) (gm), 938.221 and 938.357 (4) (b) 2. b. of the statutes; **relating to:** secured
10 residential care centers for children and youth and granting rule-making
11 authority.

Analysis by the Legislative Reference Bureau

This bill transfers licensing authority for a secured residential care center for children and youth (SRCCCY) from the Department of Corrections to the Department of Children and Families, requires Milwaukee County to establish or contract for enough SRCCCYs to accommodate all Milwaukee County juveniles who

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are under a secured correctional placement, and allows other counties to establish or contract for SRCCCYs.

Under current law, a juvenile who has been adjudicated delinquent under the Juvenile Justice Code for the commission of an act that would be punishable by a sentence of six months or more if committed by an adult and who is found to be a danger to the public and to be in need of restrictive custodial placement may receive a correctional placement in a Type 1 juvenile correctional facility or an SRCCCY under the supervision of DOC or in a Type 2 residential care center for children and youth under the supervision of the county department of social services or county department of health services (county department). Under the bill, a juvenile who receives a correctional placement may be placed in a Type 1 juvenile correctional facility under the supervision of DOC or in an SRCCCY under the supervision of either DOC or the county department.

Under current law, DOC may license a child welfare agency to operate an SRCCCY. Such a license is valid for up to two years. Under the bill, DCF can license a county department or a child welfare agency to operate an SRCCCY. An entity licensed to operate an SRCCCY under the bill may hold in secured custody up to 12 juveniles who have been adjudged delinquent and are under a correctional placement under the Juvenile Justice Code. The bill grants county departments that oversee child welfare the same authority that DOC has under current law to supervise juveniles who are placed in an SRCCCY.

Under the bill, an SRCCCY is generally required to meet the same statutory standards as DCF licensees for shelter care facilities, group homes, child welfare agencies, and residential care centers for children and youth. The bill also grants DCF the authority to promulgate rules establishing the minimum requirements for licensing and operation of an SRCCCY, in consultation with DOC, and authorizes DCF to establish uniform reimbursement rates for services that are offered at an SRCCCY.

Under current law, if a juvenile who has been placed in a Type 2 residential care center for children and youth under the supervision of a county department violates a condition of his or her placement, the juvenile can be transferred to a Type 1 juvenile correctional facility and placed under the supervision of DOC. This bill allows a juvenile in a Type 2 residential care center for children and youth to be transferred to an SRCCCY and to remain under the supervision of the county department. Under current law, if a juvenile who has been placed in a Type 2 residential care center for children and youth under the supervision of DOC violates a condition of his or her placement, the juvenile can be transferred to a Type 1 juvenile correctional facility and remains under the supervision of DOC. Under this bill, if a juvenile who has been placed in a Type 2 residential care center for children and youth under the supervision of DOC violates a condition of his or her placement, the juvenile can be transferred to a Type 1 juvenile correctional facility or an SRCCCY and remains under the supervision of DOC in either placement.

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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:

1 **SECTION 1.** 48.48 (9m) of the statutes is amended to read:

2 48.48 **(9m)** To license shelter care facilities and secured residential care centers
3 for children and youth as provided in s. 48.66 (1) (a).

4 **SECTION 2.** 48.60 (2) (c) of the statutes is amended to read:

5 48.60 **(2)** (c) A public agency, except a county department licensed to operate
6 a secured residential care center for children and youth under s. 48.66 (1) (a).

7 **SECTION 3.** 48.605 of the statutes is created to read:

8 **48.605 Secured residential care centers for children and youth**
9 **licensed. (1)** No person may hold in secure custody juveniles who have been
10 convicted under s. 938.183 or adjudicated delinquent under s. 938.183 or 938.34 (4d),
11 (4h), or (4m) in a secured residential care center for children and youth without first
12 obtaining a license from the department under s. 48.66 (1) (a). To obtain a license
13 to operate a secured residential care center for children and youth, a person must be
14 a county department or licensed as a child welfare agency, meet the minimum
15 requirements for a license established by the department under s. 48.67, and meet
16 the requirements specified in s. 48.685.

17 **(2)** A secured residential care center for children and youth licensed under this
18 subsection may not be licensed to hold more than 12 juveniles in secure custody at
19 one time.

20 **SECTION 4.** 48.66 (1) (a) of the statutes, as affected by 2017 Wisconsin Act 59,
21 is amended to read:

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1 48.66 (1) (a) Except as provided in s. 48.715 (6) and (7), the department shall
2 license and supervise child welfare agencies, as required by s. 48.60, group homes,
3 as required by s. 48.625, shelter care facilities, as required by s. 938.22, secured
4 residential care centers for children and youth, as required by s. 48.605, and child
5 care centers, as required by s. 48.65. The department may license foster homes, as
6 provided by s. 48.62, and may license and supervise county departments in
7 accordance with the procedures specified in this section and in ss. 48.67 to 48.74. The
8 department may supervise a child care program established or contracted for under
9 s. 120.13 (14) that receives payment under s. 49.155 for the child care provided. In
10 the discharge of this duty the department may inspect the records and visit the
11 premises of all child welfare agencies, group homes, shelter care facilities, and child
12 care centers and visit the premises of all foster homes in which children are placed.
13 The department may also inspect the records and visit the premises of all child care
14 programs established or contracted for under s. 120.13 (14) that receive payment
15 under s. 49.155 for the child care provided.

16 **SECTION 5.** 48.66 (1) (b) of the statutes, as affected by 2017 Wisconsin Act 47,
17 is repealed.

18 **SECTION 6.** 48.66 (1) (c) of the statutes is amended to read:

19 48.66 (1) (c) A license issued under par. (a) ~~or (b)~~, other than a license to operate
20 a foster home or secured residential care center for children and youth, is valid until
21 revoked or suspended. A license issued under ~~this subsection~~ par. (a) to operate a
22 foster home or secured residential care center for children and youth may be for any
23 term not to exceed 2 years from the date of issuance. No license issued under par.
24 (a) ~~or (b)~~ is transferable.

25 **SECTION 7.** 48.66 (2m) (a) 1. of the statutes is amended to read:

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1 48.66 (2m) (a) 1. Except as provided in subd. 2., the department shall require
2 each applicant for a license under sub. (1) (a) to operate a child welfare agency,
3 secured residential care center for children and youth, group home, shelter care
4 facility, or child care center who is an individual to provide ~~that~~ the department with
5 the applicant's social security number, and shall require each applicant for a license
6 under sub. (1) (a) to operate a child welfare agency, secured residential care center
7 for children and youth, group home, shelter care facility, or child care center who is
8 not an individual to provide ~~that~~ the department with the applicant's federal
9 employer identification number, when initially applying for or applying to continue
10 the license.

11 **SECTION 8.** 48.66 (2m) (am) of the statutes is repealed.

12 **SECTION 9.** 48.66 (2m) (b) of the statutes is amended to read:

13 48.66 (2m) (b) If an applicant who is an individual fails to provide the
14 applicant's social security number to the department or if an applicant who is not an
15 individual fails to provide the applicant's federal employer identification number to
16 the department, ~~that~~ the department may not issue or continue a license under sub.
17 (1) (a) to operate a child welfare agency, secured residential care center for children
18 and youth, group home, shelter care facility, or child care center to or for the applicant
19 unless the applicant is an individual who does not have a social security number and
20 the applicant submits a statement made or subscribed under oath or affirmation as
21 required under par. (a) 2.

22 **SECTION 10.** 48.66 (2m) (bm) of the statutes is repealed.

23 **SECTION 11.** 48.66 (2m) (cm) of the statutes is repealed.

24 **SECTION 12.** 48.67 (intro.) of the statutes is amended to read:

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1 **48.67 Rules governing child welfare agencies, secured residential care**
2 **centers for children and youth, child care centers, foster homes, group**
3 **homes, shelter care facilities, and county departments.** (intro.) The
4 department shall promulgate rules establishing minimum requirements for the
5 issuance of licenses to, and establishing standards for the operation of, child welfare
6 agencies, secured residential care centers for children and youth, child care centers,
7 foster homes, group homes, shelter care facilities, and county departments. Those
8 rules shall be designed to protect and promote the health, safety, and welfare of the
9 children in the care of all licensees. The department shall consult with the
10 department of safety and professional services, the department of public instruction,
11 and the child abuse and neglect prevention board, and, for rules pertaining to
12 secured residential care centers for children and youth, the department of
13 corrections before promulgating those rules. For foster homes, those rules shall
14 include the rules promulgated under s. 48.62 (8). Those rules shall include rules that
15 require all of the following:

16 **SECTION 13.** 48.67 (3) (c) of the statutes is amended to read:

17 48.67 (3) (c) That all staff members of a shelter care facility or a secured
18 residential care center for children and youth who provide care and supervision for
19 children have current proficiency in the use of an automated external defibrillator,
20 as defined in s. 256.15 (1) (cr), achieved through instruction provided by an
21 individual, organization, or institution of higher education that is approved under
22 s. 46.03 (38) to provide such instruction or through instruction obtained in
23 connection with military service, as defined in s. 111.32 (12g), if the staff member or
24 shelter care facility demonstrates to the satisfaction of the department that the
25 instruction obtained in that connection is substantially equivalent to the instruction

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1 provided by a person approved under s. 46.03 (38), and that all shelter care facilities
2 have readily available on the premises of the shelter care facility a staff member or
3 other person who has that proficiency.

4 **SECTION 14.** 48.67 (5) of the statutes is amended to read:

5 48.67 (5) That all child welfare agencies that operate a residential care center
6 for children and youth, all group homes, all secured residential care centers for
7 children and youth, and all shelter care facilities employ on the site of the center,
8 group home, or shelter care facility at all times a staff member designated as an
9 out-of-home care provider for purposes of making decisions concerning the
10 participation of a child placed in the center, group home, or shelter care facility in age
11 or developmentally appropriate activities. Those rules shall also require an
12 out-of-home care provider so designated to receive training in knowledge and skills
13 relating to the use of the reasonable and prudent parent standard in making
14 decisions concerning a child's participation in age or developmentally appropriate
15 activities. In addition, those rules shall require an out-of-home care provider so
16 trained to make reasonable and prudent parenting decisions in accordance with the
17 reasonable and prudent parent standard.

18 **SECTION 15.** 48.715 (6) of the statutes is amended to read:

19 48.715 (6) The department shall deny, suspend, restrict, refuse to renew, or
20 otherwise withhold a license under s. 48.66 (1) (a) or a probationary license under s.
21 48.69 to operate a child welfare agency, secured residential care center for children
22 and youth, group home, shelter care facility, or child care center, ~~and the department~~
23 ~~of corrections shall deny, suspend, restrict, refuse to renew, or otherwise withhold a~~
24 ~~license under s. 48.66 (1) (b) to operate a secured residential care center for children~~
25 ~~and youth~~, for failure of the applicant or licensee to pay court-ordered payments of

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1 child or family support, maintenance, birth expenses, medical expenses, or other
2 expenses related to the support of a child or former spouse or for failure of the
3 applicant or licensee to comply, after appropriate notice, with a subpoena or warrant
4 issued by the department or a county child support agency under s. 59.53 (5) and
5 related to paternity or child support proceedings, as provided in a memorandum of
6 understanding entered into under s. 49.857. Notwithstanding s. 48.72, an action
7 taken under this subsection is subject to review only as provided in the memorandum
8 of understanding entered into under s. 49.857 and not as provided in s. 48.72.

9 **SECTION 16.** 49.343 (title) of the statutes is amended to read:

10 **49.343 (title) Rates for residential care centers, secured residential**
11 **care centers for children and youth, group homes, and child welfare**
12 **agencies.**

13 **SECTION 17.** 49.343 (1d) (e) of the statutes is created to read:

14 49.343 (1d) (e) “Secured residential care center for children and youth” has the
15 meaning given in s. 48.02 (16m).

16 **SECTION 18.** 49.343 (1g) of the statutes is amended to read:

17 49.343 (1g) ESTABLISHMENT OF RATES. For services provided beginning on
18 January 1, 2011, the department shall establish the per client rate that a residential
19 care center for children and youth, secured residential care center for children and
20 youth, or a group home may charge for its services, and the per client administrative
21 rate that a child welfare agency may charge for the administrative portion of its
22 foster care services, as provided in this section. In establishing rates for a placement
23 specified in s. 938.357 (4) (b) 1. or 2. or (c) 1. or 2., the department shall consult with
24 the department of corrections. A residential care center for children and youth, a
25 secured residential care center for children and youth, and a group home shall charge

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1 all purchasers the same rate for the same services and a child welfare agency shall
2 charge all purchasers the same administrative rate for the same foster care services.
3 The department shall determine the levels of care created under the rules
4 promulgated under s. 48.62 (8) to which this section applies.

5 **SECTION 19.** 49.343 (2) (a) and (b) 2. of the statutes are amended to read:

6 49.343 (2) (a) By October 1, annually, a residential care center for children and
7 youth, a secured residential care center for children and youth, or a group home shall
8 submit to the department the per client rate that it proposes to charge for services
9 provided in the next year and a child welfare agency shall submit to the department
10 the proposed per client administrative rate that it proposes to charge for foster care
11 services provided in the next year. The department shall provide forms and
12 instructions for the submission of proposed rates under this paragraph and a
13 residential care center for children and youth, secured residential care center for
14 children and youth, group home, or child welfare agency that is required to submit
15 a proposed rate under this paragraph shall submit that proposed rate using those
16 forms and instructions.

17 (b) 2. Changes in the allowable costs of the residential care center for children
18 and youth, secured residential care center for children and youth, group home, or
19 child welfare agency based on current actual cost data or documented projections of
20 costs.

21 **SECTION 20.** 49.857 (1) (d) 3. of the statutes is amended to read:

22 49.857 (1) (d) 3. A license issued under s. 48.66 (1) (a) ~~or (b)~~.

23 **SECTION 21.** 51.35 (3) (a) of the statutes is amended to read:

24 51.35 (3) (a) A licensed psychologist of a juvenile correctional facility or a
25 secured residential care center for children and youth, or a licensed physician of the

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1 department of corrections, who has reason to believe that any individual confined in
2 the juvenile correctional facility or secured residential care center for children and
3 youth is, in his or her opinion, in need of services for developmental disability,
4 alcoholism, or drug dependency or in need of psychiatric services, and who has
5 obtained consent to make a transfer for treatment, shall make a report, in writing,
6 to the superintendent of the juvenile correctional facility or secured residential care
7 center for children and youth, stating the nature and basis of the belief and verifying
8 the consent. In the case of a minor age 14 or older who is in need of services for
9 developmental disability or who is in need of psychiatric services, the minor and the
10 minor's parent or guardian shall consent unless the minor is admitted under s. 51.13
11 (1) (c) or unless the minor refuses to consent, in which case the minor's parent or
12 guardian may consent on behalf of the minor. In the case of a minor age 14 or older
13 who is in need of services for alcoholism or drug dependency or a minor under the age
14 of 14 who is in need of services for developmental disability, alcoholism, or drug
15 dependency or in need of psychiatric services, only the minor's parent or guardian
16 needs to consent unless the minor is admitted under s. 51.13 (1) (c). The
17 superintendent shall inform, orally and in writing, the minor and the minor's parent
18 or guardian, that transfer is being considered and shall inform them of the basis for
19 the request and their rights as provided in s. 51.13 (3) (am). If the department of
20 corrections or the county department under s. 938.02 (2g), upon review of a request
21 for transfer, determines that transfer is appropriate, ~~that~~ the department of
22 corrections or the county department shall immediately notify the department of
23 health services and, if the department of health services consents, the department
24 of corrections or county department may immediately transfer the individual. The
25 department of health services shall file a petition under s. 51.13 (4) (a) in the court

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1 assigned to exercise jurisdiction under chs. 48 and 938 of the county where the
2 treatment facility is located.

3 **SECTION 22.** 51.35 (3) (e) of the statutes, as affected by 2017 Wisconsin Act 34,
4 is amended to read:

5 51.35 (3) (e) The department of corrections may authorize emergency transfer
6 of an individual from a juvenile correctional facility or the department of corrections
7 or a county department under s. 938.02 (2g) may authorize emergency transfer of an
8 individual from a secured residential care center for children and youth to a state
9 treatment facility if there is cause to believe that the individual has a mental illness,
10 drug dependency, or developmental disability and exhibits conduct that constitutes
11 a danger as described under s. 51.20 (1) (a) 2. a., b., c., or d. to the individual or to
12 others, has a mental illness, is dangerous, and satisfies the standard under s. 51.20
13 (1) (a) 2. e., or is dangerous and is an alcoholic or a person who is drug dependent as
14 provided in s. 51.45 (13) (a) 1. and 2. The custodian of the sending juvenile
15 correctional facility or secured residential care center for children and youth shall
16 execute a statement of emergency detention or petition for emergency commitment
17 for the individual and deliver it to the receiving state treatment facility. The
18 department of health services shall file the statement or petition with the court
19 within 24 hours after the subject individual is received for detention or commitment.
20 The statement or petition shall conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After
21 an emergency transfer is made, the director of the receiving facility may file a
22 petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the
23 individual to the juvenile correctional facility or secured residential care center for
24 children and youth from which the transfer was made. As an alternative to this
25 procedure, the procedure provided in s. 51.15 or 51.45 (12) may be used, except that

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1 no individual may be released without the approval of the court that directed
2 confinement in the juvenile correctional facility or secured residential care center for
3 children and youth.

4 **SECTION 23.** 73.0301 (1) (d) 2. of the statutes is amended to read:

5 73.0301 (1) (d) 2. A license issued by the department of children and families
6 under s. 48.66 (1) (a) to a child welfare agency, secured residential care center for
7 children and youth, group home, shelter care facility, or child care center, as required
8 by s. 48.60, 48.605, 48.625, 48.65, or 938.22 (7).

9 **SECTION 24.** 101.123 (1) (ac) 2. of the statutes is amended to read:

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

16 **SECTION 25.** 101.123 (1) (gm) of the statutes is created to read:

17 101.123 (1) (gm) “Secured residential care center for children and youth” has
18 the meaning given in s. 938.02 (15g).

19 **SECTION 26.** 101.123 (2) (d) 3. of the statutes is amended to read:

20 101.123 (2) (d) 3. Anywhere on the grounds of a Type 1 juvenile correctional
21 facility or secured residential care center for children and youth.

22 **SECTION 27.** 108.227 (1) (e) 2. of the statutes is amended to read:

23 108.227 (1) (e) 2. A license issued by the department of children and families
24 under s. 48.66 (1) (a) to a child welfare agency, secured residential care center for

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1 children and youth, group home, shelter care facility, or child care center, as required
2 by s. 48.60, 48.605, 48.625, 48.65, or 938.22 (7).

3 **SECTION 28.** 115.76 (10) of the statutes is amended to read:

4 115.76 (10) “Local educational agency”, except as otherwise provided, means
5 the school district in which the child with a disability resides, the department of
6 health services if the child with a disability resides in an institution or facility
7 operated by the department of health services, the county department under s.
8 46.215, 46.22, or 46.23 if the child with a disability resides in a secured residential
9 care center for children and youth, as defined in s. 938.02 (15g), or the department
10 of corrections if the child with a disability resides in a Type 1 juvenile correctional
11 facility, as defined in s. 938.02 (19), or a Type 1 prison, as defined in s. 301.01 (5).

12 **SECTION 29.** 938.02 (15g) of the statutes is amended to read:

13 938.02 (15g) “Secured residential care center for children and youth” means
14 a residential care center for children and youth operated by a child welfare agency
15 that is licensed under s. 48.66 (1) ~~(b)~~ (a) to hold in secure custody persons adjudged
16 delinquent.

17 **SECTION 30.** 938.22 (1) (a) of the statutes is amended to read:

18 938.22 (1) (a) ~~Subject to s. 48.66 (1) (b), the~~ The county board of supervisors of
19 a county may establish a juvenile detention facility in accordance with ss. 301.36 and
20 301.37 or the county boards of supervisors for 2 or more counties may jointly
21 establish a juvenile detention facility in accordance with ss. 46.20, 301.36, and
22 301.37. The county board of supervisors of a county may establish a shelter care
23 facility in accordance with ss. 48.576 and 48.578 or the county boards of supervisors
24 for 2 or more counties may jointly establish a shelter care facility in accordance with
25 ss. 46.20, 48.576, and 48.578. A private entity may establish a juvenile detention

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1 facility in accordance with ss. 301.36 and 301.37 and contract with one or more
2 county boards of supervisors under s. 938.222 to hold juveniles in the private juvenile
3 detention facility.

4 **SECTION 31.** 938.221 of the statutes is created to read:

5 **938.221 Secured residential care centers for children and youth. (1)**

6 (a) On an ongoing basis, a county board of supervisors in a county with a population
7 of 750,000 or more shall determine the necessary number of secured residential care
8 centers for children and youth in the county to accommodate all juveniles
9 adjudicated delinquent in the county and placed in a correctional placement under
10 s. 938.34 (4m).

11 (b) A county board of supervisors in a county with a population of 750,000 or
12 more shall establish and operate or shall contract with a child welfare agency to
13 establish and operate one or more secured residential care centers for children and
14 youth to accommodate the need determined under par. (a).

15 **(2)** A county board of supervisors in a county with a population of less than
16 750,000 may establish and operate or may contract with a child welfare agency to
17 establish and operate a secured residential care center for children and youth.

18 **SECTION 32.** 938.33 (3r) of the statutes is amended to read:

19 938.33 **(3r)** SERIOUS JUVENILE OFFENDER REPORT. If a juvenile has been
20 adjudicated delinquent for committing a violation for which the juvenile may be
21 placed in the serious juvenile offender program under s. 938.34 (4h) (a), the report
22 shall be in writing and, in addition to the information specified in sub. (1) and in sub.
23 (3) or (4), if applicable, shall include an analysis of the juvenile's suitability for
24 placement in the serious juvenile offender program under s. 938.34 (4h) or in a
25 juvenile correctional facility or secured residential care center for children and youth

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1 under s. 938.34 (4m), a placement specified in s. 938.34 (3), or placement in the
2 juvenile's home with supervision and community-based programming and a
3 recommendation as to the type of placement for which the juvenile is best suited.

4 **SECTION 33.** 938.34 (4d) (b) of the statutes is amended to read:

5 938.34 (4d) (b) The juvenile has been found to be a danger to the public and to
6 be in need of restrictive custodial treatment. If the court determines that any of the
7 conditions specified in sub. (4m) (b) 1., 2., or 3. applies, but that placement in the
8 serious juvenile offender program under sub. (4h) or in a juvenile correctional facility
9 or secured residential care center for children and youth under sub. (4m) would not
10 be appropriate, that determination shall be prima facie evidence that the juvenile is
11 a danger to the public and in need of restrictive custodial treatment under this
12 subsection.

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

14 938.34 (4m) CORRECTIONAL PLACEMENT. (intro.) Place the juvenile in a juvenile
15 correctional facility under the supervision of the department of corrections or a
16 secured residential care center for children and youth under the supervision of the
17 county department or the department of corrections if all of the following apply:

18 **SECTION 35.** 938.357 (4) (a) of the statutes, as affected by 2015 Wisconsin Act
19 55, is amended to read:

20 938.357 (4) (a) When the juvenile is placed with the department of corrections,
21 that department may, after an examination under s. 938.50, place the juvenile in a
22 juvenile correctional facility or a secured residential care center for children and
23 youth or on community supervision or aftercare supervision, either immediately or
24 after a period of placement in a juvenile correctional facility or a secured residential
25 care center for children and youth. The department of corrections shall send written

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1 notice of the change in placement to the parent, guardian, legal custodian, county
2 department designated under s. 938.34 (4n), if any, and committing court. If the
3 department of corrections places a juvenile in a Type 2 juvenile correctional facility
4 or secured residential care center for children and youth operated by a child welfare
5 agency, ~~that or county department, the department of corrections~~ shall reimburse
6 the child welfare agency or county department at the rate established under s. 49.343
7 that is applicable to the type of placement that the child welfare agency is providing
8 for the juvenile. A juvenile who is placed in a Type 2 juvenile correctional facility or
9 a secured residential care center for children and youth under this paragraph
10 remains under the supervision of the department of corrections, remains subject to
11 the rules and discipline of that department, and is considered to be in custody, as
12 defined in s. 946.42 (1) (a).

13 **SECTION 36.** 938.357 (4) (b) 1. of the statutes is amended to read:

14 938.357 (4) (b) 1. If a juvenile whom the department of corrections has placed
15 in a Type 2 juvenile correctional facility operated by a child welfare agency violates
16 a condition of his or her placement in the Type 2 juvenile correctional facility, the
17 child welfare agency operating the Type 2 juvenile correctional facility shall notify
18 the department of corrections and that department, after consulting with the child
19 welfare agency, may place the juvenile in a Type 1 juvenile correctional facility or
20 secured residential care center for children and youth under the supervision of the
21 department of corrections, without a hearing under sub. (1) (am) 2. If a juvenile is
22 placed in a secured residential care center for children and youth under this
23 subdivision, the department of corrections shall reimburse the secured residential
24 care center for children and youth at the applicable rate established under s. 49.343.

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1 **SECTION 37.** 938.357 (4) (b) 2. of the statutes is renumbered 938.357 (4) (b) 2.
2 (intro.) and amended to read:

3 938.357 (4) (b) 2. (intro.) If a juvenile whom the court has placed in a Type 2
4 residential care center for children and youth under s. 938.34 (4d) violates a
5 condition of his or her placement in the Type 2 residential care center for children
6 and youth, the child welfare agency operating the Type 2 residential care center for
7 children and youth shall ~~notify~~ take one of the following actions:

8 a. Notify the county department that has supervision over the juvenile and, if
9 the county department agrees to a change in placement under this subdivision, the
10 child welfare agency shall notify the department of corrections, and that department,
11 after consulting with the child welfare agency, may place the juvenile in a Type 1
12 juvenile correctional facility under the supervision of the department of corrections,
13 without a hearing under sub. (1) (am) 2., for not more than 10 days.

14 3. If a juvenile is placed in a Type 1 juvenile correctional facility under ~~this~~
15 ~~subdivision~~ subd. 2. a., the county department that has supervision over the juvenile
16 shall reimburse the child welfare agency operating the Type 2 residential care center
17 for children and youth in which the juvenile was placed at the rate established under
18 s. 49.343, and that child welfare agency shall reimburse the department of
19 corrections at the rate specified in s. 301.26 (4) (d) 2. or 3., whichever is applicable,
20 for the cost of the juvenile's care while placed in a Type 1 juvenile correctional facility.
21 If a juvenile is placed under subd. 2. b. in a secured residential care center for
22 children and youth, the county department that has supervision over the juvenile
23 shall reimburse the secured residential care center for children and youth at the
24 applicable rates established under s. 49.343.

25 **SECTION 38.** 938.357 (4) (b) 2. b. of the statutes is created to read:

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1 938.357 (4) (b) 2. b. Place the juvenile in a secured residential care center for
2 children and youth without a hearing under sub. (1) (am) 2. for not more than 10
3 days.

4 **SECTION 39.** 938.505 (1) of the statutes is amended to read:

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

15 **SECTION 40.** 938.539 (3) of the statutes is amended to read:

16 938.539 (3) VIOLATION OF CONDITION OF PLACEMENT. Notwithstanding ss. 938.19
17 to 938.21, if a juvenile placed in a Type 2 residential care center for children and
18 youth under s. 938.34 (4d) or 938.357 (4) (c) or in a Type 2 juvenile correctional
19 facility under s. 938.357 (4) (a) or (c) violates a condition of his or her placement in
20 the center or facility, the juvenile may be placed in a Type 1 juvenile correctional
21 facility or secured residential care center for children and youth as provided in s.
22 938.357 (4) (b). This subsection does not preclude a juvenile who has violated a
23 condition of the juvenile's placement in a Type 2 juvenile correctional facility or a

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1 Type 2 residential care center for children and youth from being taken into and held
2 in custody under ss. 938.19 to 938.21.

3 (END)