



1995 ASSEMBLY BILL 113

February 8, 1995 – Introduced by Representatives KRUSICK, LADWIG, AINSWORTH, ALBERS, BRANDEMUEHL, GROBSCHMIDT, GROTHMAN, GUNDERSON, HAHN, HASENOHRL, KAUFERT, LA FAVE, LEHMAN, NASS, OLSEN, OTT, R. POTTER, SCHNEIDERS, SERATTI, SKINDRUD, VRAKAS, WASSERMAN, ZIEGELBAUER and ZUKOWSKI, cosponsored by Senators SCHULTZ, BURKE, DRZEWIECKI and PLEWA. Referred to Committee on Children and Families.

- 1 **AN ACT to amend** 970.035; and **to create** 48.18 (1) (a) 1m. and 1r. of the statutes;
2 **relating to:** waiver of juvenile court jurisdiction over children who possess, use
3 or threaten to use firearms in committing violations that would be felonies if
4 committed by an adult.

Analysis by the Legislative Reference Bureau

Under current law, a court assigned to exercise jurisdiction under the children's code (juvenile court) may waive its jurisdiction over a child who is alleged to have attempted or committed first-degree intentional homicide on or after the child's 14th birthday, a child who is alleged to have committed first-degree reckless homicide, 2nd-degree intentional or reckless homicide, first degree sexual assault, kidnapping, taking hostages, a drug-delivery offense or a gang-related offense on or after the child's 14th birthday or a child who is alleged to have violated any state criminal law on or after the child's 16th birthday.

This bill authorizes a juvenile court to waive its jurisdiction in the following 2 additional situations:

1. If a child is alleged to have possessed, used or threatened to use a firearm in committing, on or after the child's 14th birthday, a violation that would constitute a felony if committed by an adult.

2. If a child is alleged to have committed, on or after the child's 14th birthday, a violation that has as an element the possession, use or threat of use of a firearm and that would constitute a felony if committed by an adult.

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.** 48.18 (1) (a) 1m. and 1r. of the statutes are created to read:

2 48.18 (1) (a) 1m. If the child is alleged to have possessed, used or threatened
3 to use a firearm in committing, on or after the child's 14th birthday, a violation that
4 would constitute a felony if committed by an adult.

5 1r. If the child is alleged to have committed, on or after the child's 14th birthday,
6 a violation that has as an element the possession, use or threat of use of a firearm
7 and that would constitute a felony if committed by an adult.

8 **SECTION 2.** 970.035 of the statutes is amended to read:

9 **970.035 Preliminary examination; child younger than 16 years old.**

10 Notwithstanding s. 970.03, if a preliminary examination under s. 970.03 is held
11 regarding a child who was waived under s. 48.18 for a violation which is alleged to
12 have occurred prior to his or her 16th birthday, the court may bind the child over for
13 trial only if there is probable cause to believe that ~~a crime under~~ the child attempted
14 or committed a violation of s. 940.01 ~~has been attempted or committed~~, that a crime
15 under the child committed a violation of s. 161.41 (1), 940.02, 940.05, 940.06, 940.225
16 (1), 940.305, 940.31 or 943.10 (2) ~~has been committed~~, that the child committed a
17 violation that would constitute a felony if committed by an adult while possessing,
18 using or threatening to use a firearm, that the child committed a violation that would
19 constitute a felony if committed by an adult and that has as an element the
20 possession, use or threat of use of a firearm or that ~~a crime~~ the child committed a
21 violation that would constitute a felony under ch. 161 or under chs. 939 to 948 if
22 committed by an adult ~~has been committed~~ at the request of or for the benefit of a
23 criminal gang, as defined in s. 939.22 (9). If the court does not make any of those
24 findings, the court shall order that the child be discharged but proceedings may be
25 brought regarding the child under ch. 48.

