



1995 SENATE BILL 77

February 21, 1995 - Introduced by Senators PANZER, C. POTTER, HUELSMAN, RUDE, BUETTNER, DRZEWIECKI, ELLIS, FITZGERALD, PETAK, FARROW, WEEDEN, ROSENZWEIG, SCHULTZ, ANDREA, DARLING, A. LASEE, ZIEN and BRESKE, cosponsored by Representatives LADWIG, KRUG, PROSSER, TRAVIS, FOTI, CARPENTER, KAUFERT, NOTESTEIN, JENSEN, KLUSMAN, FREESE, GREEN, BRANCEL, GUNDERSON, HUEBSCH, SERATTI, LINTON, KRUSICK, ROBSON, GARD, VRAKAS, OURADA, MEYER, GROBSCHMIDT, NASS, WALKER, KELSO, KREUSER, WARD, PLACHE, BAUMGART, RYBA, UNDERHEIM, F. LASEE, DUFF, POWERS, SCHNEIDERS, HARS DORF, BRANDEMUEHL, OTT, HAHN, SILBAUGH, AINSWORTH, BOYLE, MUSSER, LEHMAN, HOVEN, PORTER, OLSEN, KREIBICH, HANDRICK, ZIEGELBAUER, MURAT, ZUKOWSKI, JOHNSRUD, OWENS, LAZICH, SKINDRUD, HUTCHISON, VANDER LOOP, LA FAVE, REYNOLDS, COLEMAN, GROTHMAN, LORGE, OTTE, URBAN, GOETSCH and DOBYNS. Referred to Committee on Judiciary.

1 **AN ACT to repeal** 48.01 (1) (c), 48.01 (1) (d), 48.01 (1) (h), 48.02 (3m), 48.02 (9m),
2 48.02 (15m), 48.065 (2) (g), 48.065 (3) (a), 48.065 (3) (f), 48.069 (1) (dj), 48.08 (3),
3 48.09 (1), 48.09 (2), 48.09 (3), 48.09 (4), 48.12, 48.125, 48.13 (6), 48.13 (6m),
4 48.13 (7), 48.13 (12), 48.13 (14), 48.17, 48.18, 48.183, 48.185 (3), 48.19 (1) (d) 3.,
5 48.19 (1) (d) 6., 48.19 (1) (d) 8., 48.19 (1) (d) 9., 48.19 (1) (d) 10., 48.19 (1m), 48.20
6 (2) (cm), 48.20 (2) (e), 48.20 (2) (f), 48.20 (2) (g), 48.20 (7) (c) 1m., 48.208 (1),
7 48.208 (2), 48.208 (5), 48.209 (3), 48.21 (2), 48.21 (4m), 48.22, 48.225, 48.23 (1)
8 (am), 48.23 (2m), 48.237, 48.24 (2m) (a) 1., 48.24 (2m) (a) 3., 48.24 (7), 48.243
9 (1m), 48.245 (2) (a) 5., 48.245 (2) (a) 6., 48.245 (2) (a) 7., 48.245 (2m), 48.245 (6),
10 48.25 (2) (b), 48.25 (4), 48.25 (5), 48.255 (1) (d), 48.27 (4m), 48.27 (7), 48.29 (1g),
11 48.29 (2), 48.295 (1c) (b), 48.295 (1c) (c), 48.295 (2) (a), 48.296, 48.299 (1) (am),
12 48.30 (4), 48.30 (5), 48.32 (1d), 48.32 (1g), 48.32 (1r), 48.32 (1t), 48.32 (2) (b),
13 48.32 (4), 48.33 (3), 48.33 (3m), 48.331, 48.335 (3m), 48.34 (intro.), 48.34 (2r),
14 48.34 (3g), 48.34 (4g), 48.34 (4m), 48.34 (4n), 48.34 (4p), 48.34 (4r), 48.34 (4s),

1 48.34 (5), 48.34 (7), 48.34 (7m), 48.34 (8), 48.34 (9), 48.34 (14), 48.34 (15), 48.341,
2 48.342, 48.343, 48.344, 48.345 (1) (a), 48.345 (1) (b), 48.345 (1) (c), 48.345 (1) (d),
3 48.345 (1) (f), 48.345 (2), 48.346, 48.35 (1) (a), 48.35 (1) (b) 4., 48.35 (1) (c), 48.355
4 (3m), 48.355 (4) (b), 48.355 (6) and (6g), 48.357 (3) and (4), 48.357 (4g), 48.357
5 (4m), 48.357 (5), 48.364, 48.365 (7), 48.366, 48.37 (3), 48.38 (3) (a), 48.39, 48.396
6 (1m), 48.396 (2) (c), 48.396 (2) (d), 48.396 (2) (e), 48.396 (2m), 48.396 (3), 48.396
7 (4), 48.396 (5), 48.396 (6), 48.396 (7), 48.396 (8), 48.44 (2), 48.48 (13), 48.49,
8 48.505, 48.51, 48.52 (1) (d), 48.53, 48.532, 48.533, 48.534, 48.536, 48.537, 48.57
9 (4), 48.595, 48.78 (2) (d), 48.78 (2) (e) and (3), 304.07 and 906.09 (4); **to**
10 **renumber** 48.34 (1), 48.34 (2), 48.34 (2m), 48.34 (3), 48.34 (4), 48.34 (6), 48.34
11 (6m), 48.34 (10), 48.34 (11), 48.34 (12), 48.34 (13), 48.991, 48.996 and 48.997;
12 **to renumber and amend** 48.25 (2) (a), 48.295 (2) (b), 48.355 (4) (a), 48.44 (1),
13 48.992, 48.993, 48.994, 48.995, 48.998 and 118.125 (5); **to consolidate,**
14 **renumber and amend** 48.295 (1c) (intro.) and (a), 48.345 (1) (intro.) and (e)
15 and ; **to amend** 16.51 (7), 17.10 (6) (b) 1., 19.35 (1) (am) 2. c., 20.410 (1) (am),
16 20.410 (1) (c), 20.410 (1) (hx), 20.435 (3) (au), 20.435 (3) (bg), 20.435 (3) (cd),
17 20.435 (3) (hm), 20.435 (3) (ho), 20.435 (3) (o), 20.435 (7) (b), 38.24 (1s), 46.025,
18 46.03 (1), 46.03 (4) (b) 1., 46.03 (6) (a), 46.03 (7) (a), 46.03 (7) (e), 46.03 (17) (c),
19 46.03 (32), 46.041 (1) (a), 46.049, 46.10 (1), 46.10 (2), 46.10 (14) (b), 46.10 (14)
20 (e) 1., 46.206 (1) (b), 46.21 (2) (a), 46.215 (1) (h), 46.22 (1) (c) 1. b., 46.22 (1) (c)
21 2., 46.22 (1) (c) 5., 46.22 (1) (c) 8. c., 46.22 (1) (c) 8. e., 46.25 (9) (b), 46.26 (1), 46.26
22 (2) (c), 46.26 (3) (d), 46.26 (3) (f), 46.26 (4) (a), 46.26 (4) (b) 1., 46.26 (4) (c), 46.26
23 (4) (cm) 1., 46.26 (4) (cm) 2., 46.26 (4) (d) 1., 46.26 (4) (d) 1m., 46.26 (4) (d) 2.,
24 46.26 (4) (d) 3., 46.26 (4) (d) 4., 46.26 (4) (dr), 46.26 (4) (e), 46.26 (4) (eg), 46.26
25 (4) (g), 46.26 (7) (b) 2., 46.26 (7) (b) 3., 46.26 (7) (h), 46.263 (3), 46.275 (4) (b) 1.,

1 46.28 (1) (am) 1., 46.28 (1) (am) 2., 46.56 (3) (a) 5., 46.56 (8) (a), 46.56 (8) (g),
2 46.56 (8) (h) 5., 46.56 (8) (j), 46.56 (8) (k), 46.56 (14) (a) (intro.), 48.02 (2m), 48.02
3 (10), 48.023 (4), 48.03 (2), 48.035, 48.06 (1) (a) 1., 48.06 (1) (a) 3., 48.06 (2) (a),
4 48.06 (3), 48.065 (2) (gm), 48.065 (3) (b), 48.065 (3) (c), 48.065 (3) (e), 48.07 (4),
5 48.08 (2), 48.10, 48.13 (4), 48.135 (1), 48.14 (4), 48.15, 48.185 (1), 48.20 (2) (ag),
6 48.20 (3), 48.20 (7) (a), 48.20 (8), 48.205 (1) (a), 48.205 (1) (c), 48.21 (1) (a), 48.21
7 (3) (intro.), 48.227 (4) (b), 48.227 (4) (e) 2., 48.23 (1) (a), 48.24 (1), 48.24 (2m) (a)
8 2., 48.24 (5), 48.243 (1) (intro.), 48.243 (1) (b), 48.243 (1) (c), 48.243 (1) (h), 48.245
9 (1), 48.245 (2) (b), 48.245 (7), 48.245 (8), 48.25 (1), 48.25 (3), 48.255 (1) (e), 48.255
10 (3), 48.255 (4), 48.263 (2), 48.27 (1), 48.27 (8), 48.273 (1), 48.273 (3), 48.275 (1),
11 48.275 (2) (a), 48.29 (1), 48.29 (1m), 48.29 (3), 48.293 (1), 48.293 (2), 48.297 (2),
12 48.297 (3), 48.297 (5), 48.299 (1) (a), 48.299 (4) (a), 48.299 (4) (b), 48.30 (1), 48.30
13 (2), 48.30 (3), 48.30 (6), 48.30 (7), 48.30 (8), 48.30 (9), 48.30 (10), 48.31 (1), 48.31
14 (2), 48.31 (4), 48.32 (1), 48.32 (2) (a), 48.32 (5) (a), 48.32 (5) (b), 48.33 (1) (intro.),
15 48.33 (4m) (intro.), 48.335 (1), 48.35 (1) (b) 2., 48.355 (1), 48.355 (2) (b) 5., 48.355
16 (7), 48.357 (2), 48.36 (1) (a), 48.361 (1) (b), 48.361 (1) (c), 48.361 (2) (am) 2.,
17 48.362 (2), 48.37 (1), 48.373 (1), 48.375 (4) (b) 1g., 48.396 (1), 48.396 (2) (a),
18 48.415 (1) (a) 2., 48.415 (2) (a), subchapter IX (title) of chapter 48 [precedes
19 48.44], 48.45 (title) and (1), 48.45 (1m) (a), 48.45 (3), 48.48 (1), 48.48 (3), 48.48
20 (4), 48.48 (4m) (b), 48.48 (5), 48.48 (6), 48.48 (14), 48.48 (16), 48.50 (1), 48.52 (1)
21 (c), 48.52 (2) (a), 48.52 (2) (c), 48.54, 48.547 (1), 48.547 (4), 48.57 (1) (a), 48.58
22 (1) (b), 48.58 (1) (c), 48.58 (1) (d), 48.59 (1), 48.63 (1), 48.66 (1), 48.78 (2) (a),
23 48.95, 49.19 (4) (c), 49.46 (1) (a) 5., 49.80 (7), 49.90 (1m), 50.39 (3), 51.05 (2),
24 51.13 (1) (c), 51.13 (4) (a), 51.13 (4) (b), 51.13 (4) (d), 51.13 (4) (h) 2., 51.13 (4)
25 (h) 4., 51.14 (2), 51.15 (1) (a) (intro.), 3. and 4., 51.20 (1) (a) 2. b., c. and d., 51.20

1 (1) (b), 51.20 (6), 51.20 (13) (cr), 51.35 (3) (title), 51.35 (3) (a), 51.35 (3) (b), 51.35
2 (3) (c), 51.35 (3) (e), 51.35 (3) (g), 51.42 (3) (ar) 4. b., 51.42 (3) (as) 1., 51.437 (4rm)
3 (a), 51.45 (5) (d) 1., 51.45 (11) (bm), 59.175, 101.123 (1) (i), 102.07 (13), 103.70
4 (1), 103.72, 103.87, 115.31 (1) (b), 115.81 (9) (c), 115.85 (2m), 118.125 (1) (a),
5 118.125 (2) (cm), 118.125 (2) (d), 118.125 (2) (j) 3., 118.125 (2) (L), 118.125 (3),
6 118.125 (4), 118.127 (1), 118.127 (2), 118.15 (1) (cm) 1., 118.15 (5) (a), 118.16 (2m)
7 (a) (intro.), 118.16 (2m) (d), 118.16 (2m) (e), 118.16 (4) (e), 118.16 (5) (intro.),
8 118.16 (5) (a), 118.16 (5) (c), 118.16 (6), 118.162 (4) (e), 118.163 (2) (b), 118.163
9 (2) (d), 119.04 (1), 120.12 (18), 121.78 (4), 125.07 (4) (bs) 1., 125.07 (4) (bs) 2.,
10 125.07 (4) (bs) 3., 125.07 (4) (bs) 4., 125.07 (4) (c) 1., 125.07 (4) (c) 2., 125.07 (4)
11 (c) 3., 125.07 (4) (c) 4., 125.07 (4) (cg), 125.07 (4) (d), 125.07 (4) (e) 2. a., 125.085
12 (3) (bd), 125.085 (3) (bh), 125.085 (3) (bt), 125.09 (2) (d), 146.34 (1) (e), 146.34
13 (5) (a) (intro.), 146.81 (4), 146.81 (5), 157.065 (2) (a) 4. c., 161.455 (1), 161.46 (1),
14 161.46 (2), 161.46 (3), 161.573 (2), 161.574 (2), 161.575 (1), 161.575 (2), 165.76
15 (1) (a), 165.76 (2) (b) 2., 165.76 (2) (b) 5., 165.76 (3), 165.765 (1), 165.765 (2) (a),
16 165.77 (2) (b), 165.77 (3), 175.35 (1) (ag), 175.45 (1) (b), 175.45 (1) (e), 175.45 (3)
17 (a) 2., 175.45 (5) (b), 227.03 (4), 230.36 (1), 230.36 (3) (c) (intro.), 252.04 (6),
18 252.11 (5m), 252.11 (7), 252.15 (1) (ab), 252.15 (2) (a) 6., 252.15 (2) (a) 7. a.,
19 252.15 (5) (a) 17., 252.15 (5) (a) 19., 301.01 (2) (b), 301.02, 301.03 (9), 301.03
20 (9m), 301.035 (2), 301.035 (4), 301.135 (1), 301.135 (3m), 301.28 (1), 301.36 (1),
21 302.11 (10), 302.17 (2), 302.17 (3), 302.18 (7), 302.255, 302.31, 302.386 (1),
22 302.386 (2) (intro.), 302.386 (3), 304.06 (1) (b), 304.15, 340.01 (9r) (d), 343.06 (1)
23 (i), 343.30 (5), 343.30 (6) (b) (intro.), 752.31 (2) (e), 757.69 (1) (g), 758.19 (6),
24 767.02 (1) (m), 767.24 (3) (e), 767.29 (3), 767.30 (1), 767.305, 767.32 (1) (a),
25 767.32 (2r), 767.47 (10), 778.25 (1) (a) 1., 778.25 (1) (a) 4., 778.25 (1) (a) 5., 778.25

1 (8) (a), 778.25 (8) (b), 778.25 (8) (c), 808.04 (3), 808.04 (4), 809.30 (1) (a), 809.30
2 (1) (b), 809.30 (2) (d), 809.30 (2) (fm), 809.40 (1), 851.72 (7), 859.07 (2), 880.15
3 (1), 885.37 (1) (a) 2., 895.035 (3), 895.035 (4), 895.035 (6), 901.05 (2) (intro.),
4 901.05 (3), 904.13 (2), 905.04 (4) (i), 906.08 (2), 906.09 (title), 906.09 (1), 906.09
5 (2), 906.09 (3), 906.09 (5), 908.08 (1), 939.62 (3) (a), 939.62 (3) (b), 939.635 (1),
6 939.635 (2) (b), 941.29 (2), 946.42 (1) (a), 946.42 (1) (c), 946.42 (2) (b), 946.42 (3)
7 (b), 946.42 (3) (c), 946.42 (3) (d), 946.44 (1) (a), 946.44 (2) (c), 946.44 (2) (d),
8 946.45 (1), 946.45 (2) (c), 946.45 (2) (d), 948.01 (1), 948.31 (1) (a) 2., 948.31 (1)
9 (b), 948.35 (1) (a), 948.36 (1), 948.40 (1), 948.40 (2), 948.45 (1), 948.50 (4) (b),
10 948.60 (title), (2) and (3), 948.61 (4), 950.02 (1m), 967.04 (7) (a) (intro.), 967.04
11 (9), 968.255 (1) (a) 3., 968.255 (7) (b), 969.01 (4), 970.032 (title) and (1), 970.032
12 (2) (intro.), 970.032 (2) (b), 970.032 (2) (c), 970.035, 971.105, 972.14 (3), 973.013
13 (3m), 976.08, 977.02 (3), 977.05 (4) (gm), 977.05 (4) (h), 977.05 (4) (i) 5., 977.07
14 (1) (a), 977.07 (1) (c), 977.07 (2) (a), 977.07 (2) (c), 977.08 (2) (e), 977.10, 978.05
15 (6) (a), 980.015 (2) (b), 980.02 (1) (b) 2., 980.02 (2) (ag), 980.02 (4) (am), 980.02
16 (4) (b), 980.04 (1), 990.01 (3) and 990.01 (20); **to repeal and recreate** 48.275
17 (3); and **to create** 20.435 (3) (c), 48.06 (2) (am), 60.23 (22m), 101.123 (3) (gg),
18 118.125 (2) (cg), 118.125 (5) (b), 118.127 (3), 118.15 (5) (am), 118.16 (5m),
19 118.163 (2) (e), 120.12 (24), 301.35 (2) (e), 302.386 (5) (c), 302.386 (5) (d), 304.06
20 (1z), 808.075 (4) (fn), 895.035 (2m), chapter 938, 938.988 and 946.50 of the

- 1 statutes; **relating to:** creating a juvenile justice code, granting rule-making
2 authority, making appropriations and providing penalties.
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Analysis by the Legislative Reference Bureau

This bill makes various changes relating to juveniles who violate criminal laws, civil laws or municipal ordinances or who are uncontrollable, dropouts or habitually truant from home or school. Those changes are as follows:

Creation of juvenile justice code

Under current law, the children's code provides the grounds under which the court assigned to exercise jurisdiction under the children's code (juvenile court) may exercise jurisdiction over juveniles who are alleged to have violated a criminal law, civil law or municipal ordinance or who are alleged to be in need of protection or services (CHIPS). The children's code also provides the grounds under which those juveniles may be taken into and held in custody, procedures for the juvenile court to follow in processing petitions relating to those juveniles and the dispositions that a juvenile court may impose on those juveniles. This bill creates a separate juvenile justice code governing juveniles who are alleged to have violated a criminal law, civil law or municipal ordinance or who are alleged to be uncontrollable, dropouts or habitually truant from home or school, leaving children who are in need of protection or services, for example, children who have been abandoned, abused or neglected, under the children's code.

Under current law, the children's code contains a statement of the legislative purposes of the children's code. Those purposes include: 1) consistent with the protection of the public interest, to remove from juveniles committing delinquent acts the consequences of criminal behavior and to substitute a program of supervision, care and rehabilitation; 2) to respond to juveniles' needs for care and treatment through community-based programs and to keep juveniles in their homes whenever possible; and 3) to divert juveniles from the juvenile justice system to the extent this is consistent with protection of juveniles and the public safety. This bill substitutes the following legislative purposes in the juvenile justice code:

1. To promote a juvenile justice system which is capable of dealing with the problem of juvenile delinquency by: a) protecting citizens from juvenile crime; b) holding juvenile offenders directly accountable for their acts; and c) developing competency in juvenile offenders so that they are more capable of living productively and responsibly in the community.

2. To respond to a juvenile offender's need for care and treatment, consistent with the prevention of delinquency, the offender's best interest and the protection of the public, by allowing the judge to use the most effective dispositional option.

3. To divert juveniles from the juvenile justice system through early intervention as warranted, when consistent with the protection of the public.

Age limits on jurisdiction

Under current law, a person 18 years of age or older who violates a criminal law is subject to the jurisdiction and procedures of the court of criminal jurisdiction

(adult court) and, on conviction, is subject to an adult sentence. Currently, a person who is under 18 years of age, but who is 12 years of age or older, and who violates a criminal law is subject to the delinquency jurisdiction and procedures of the juvenile court and, on being adjudicated delinquent, is subject to an array of dispositions provided in the children's code including placement in a juvenile secured correctional facility. Currently, a juvenile under 12 years of age who violates a criminal law is subject to the CHIPS jurisdiction and procedures of the juvenile court and, on adjudication, is subject to an array of dispositions provided in the children's code for CHIPS juveniles, but not including any type of secure placement. This bill lowers from 18 to 17 the age at which a person who violates a criminal law is subject to the jurisdiction and procedures of the adult court and, on conviction, to an adult sentence. The bill also lowers from 12 to 10 the age at which a juvenile who violates a criminal law is subject to the delinquency jurisdiction and procedures of the juvenile court and, on adjudication, a secure placement. The bill provides, however, that a juvenile under 12 years of age who is adjudicated delinquent may not be placed in a juvenile secured correctional facility. Instead, the bill authorizes the department of health and social services (DHSS) to license child welfare agencies to hold in secure custody juveniles under 12 years of age who have been adjudicated delinquent. The bill defines such a licensed facility as a "secured child caring institution" and permits a juvenile court to place a juvenile under 12 years of age who has been adjudicated delinquent in a secured child caring institution under DHSS supervision.

Under current law, an adult court has original jurisdiction over a juvenile who is alleged to have committed battery or aggravated assault while placed in a secured correctional facility. A juvenile who is alleged to have committed battery or aggravated assault while placed in a secured correctional facility is subject to the procedures specified in the criminal procedure code and to adult sentencing unless the adult court transfers jurisdiction to the juvenile court. This bill grants to an adult court original jurisdiction over a juvenile who is alleged to have attempted or committed first-degree intentional homicide or to have committed first-degree reckless homicide or 2nd-degree intentional homicide on or after the juvenile's 10th birthday. A juvenile who is alleged to have attempted or committed first-degree intentional homicide or to have committed first-degree reckless homicide or 2nd-degree intentional homicide on or after the juvenile's 10th birthday is subject to the procedures specified in the criminal procedure code and to adult sentencing unless the adult court convicts the juvenile of a lesser offense, in which case the adult court must impose a disposition permitted under the children's code. A juvenile who is convicted of attempting or committing first-degree intentional homicide or of committing first-degree reckless homicide or 2nd-degree intentional homicide must remain under the supervision of DHSS until the juvenile attains 17 years of age and, on attaining 17 years of age, must be transferred to the supervision of the department of corrections (DOC). DOC may place the juvenile in a state prison and must discharge the juvenile when the juvenile is no longer in need of rehabilitation and treatment and is no longer a danger to the public. The juvenile may also be paroled by the parole commission.

Original adult court jurisdiction

The bill also grants to an adult court original jurisdiction over a juvenile who is alleged to have violated any state criminal law under any of the following circumstances: 1) the child has been convicted of a previous violation following waiver of juvenile court jurisdiction; 2) the juvenile court has waived its jurisdiction over the juvenile for a previous violation and criminal proceedings on that violation are still pending; 3) the juvenile has been convicted of a previous violation over which the adult court had original jurisdiction; or 4) proceedings on a violation over which the adult court has original jurisdiction are still pending. The bill requires the adult court to retain jurisdiction over the juvenile in those circumstances if the adult court finds probable cause to believe that the juvenile has violated any state criminal law and does not permit the adult court to transfer jurisdiction to the juvenile court.

Waiver of juvenile court jurisdiction

Under current law, a juvenile court generally has original jurisdiction over a juvenile who is alleged to have violated a criminal law. Currently, however, a juvenile court may waive its jurisdiction over a juvenile who is alleged to have violated any state criminal law on or after the juvenile's 16th birthday, who is alleged to have attempted or to have committed first-degree intentional homicide on or after the juvenile's 14th birthday or who is alleged to have committed a drug delivery violation, first-degree or 2nd-degree reckless homicide, 2nd-degree intentional homicide, first-degree sexual assault, taking hostages, kidnapping, armed burglary or a gang-related violation on or after the juvenile's 14th birthday. If the juvenile court waives its jurisdiction over a juvenile, jurisdiction over the juvenile is transferred to the adult court. This bill lowers from 16 to 15 the age at which the juvenile court may waive its jurisdiction over a juvenile who is alleged to have violated any state criminal law. The bill also permits a juvenile court to waive its jurisdiction over a juvenile who is alleged to have committed 2nd-degree sexual assault or armed robbery on or after the juvenile's 14th birthday.

Under current law, the juvenile court must take relevant testimony which the district attorney must present before making its decision whether to waive jurisdiction. This bill eliminates the requirement that the juvenile court take testimony if the petition for waiver is uncontested and the juvenile court is satisfied that the decision not to contest the waiver petition is knowingly, intelligently and voluntarily made. The bill further permits a juvenile court commissioner, instead of a judge, to hear an uncontested waiver petition. The bill also permits the juvenile court to waive its jurisdiction over a juvenile in absentia if the juvenile absconds and does not appear for his or her waiver hearing. If the juvenile court waives its jurisdiction over a juvenile in absentia, the juvenile may contest the waiver when he or she is apprehended.

Absconders

Currently, if a juvenile court proceeding has been commenced before a juvenile is 18 years of age, but the juvenile becomes 18 years of age before admitting to the facts of the delinquency petition or, if the juvenile denies the facts, before an adjudication, the juvenile court retains jurisdiction over the juvenile beyond age 18 to dismiss the action with prejudice, to enter into a consent decree with the juvenile

or to waive its jurisdiction over the juvenile and refer the matter to the district attorney for criminal prosecution. This bill eliminates those limitations on how the juvenile court may proceed with a juvenile over whom the juvenile court retains jurisdiction beyond the age of 17.

Current law does not specify what happens when a juvenile admits the facts of a petition or, if the juvenile denies the facts, is nevertheless adjudged delinquent before the juvenile is 18 years of age, but intentionally does not appear at his or her dispositional hearing, and does not return for a dispositional hearing until after attaining the age of 18. This bill provides that, when a juvenile does not appear at his or her dispositional hearing and does not return until after attaining age 17, the juvenile is guilty of the same class of felony as the class of felony, if committed by an adult, of the act for which the juvenile was adjudged delinquent. If the juvenile was adjudged delinquent for committing an act that would be a misdemeanor if committed by an adult, the juvenile is guilty of a Class E felony.

Victim's rights

Under current law, the victim of a juvenile's act or alleged act may attend a fact-finding or dispositional hearing before the juvenile court and hearings before the municipal court relating to the act or alleged act, except that a judge may exclude the victim from any portion of a hearing that deals with sensitive personal matters of the juvenile and the juvenile's family and that is not directly related to the act or alleged act against the victim. This bill permits the victim of a juvenile's act or alleged act to attend any hearing before the juvenile court or the municipal court relating to that act, subject to the same restrictions as under current law for attendance at a fact-finding or dispositional hearing.

Under current law, the victim of a felony or of a delinquent act that would be a felony if committed by an adult or a family member of a homicide victim may make a statement to the criminal court or juvenile court before sentencing or disposition. This bill permits the victim of a misdemeanor also to make a statement before sentencing or disposition. The bill also permits the victim of a delinquent act to make a statement before the juvenile court enters into a consent decree in a delinquency proceeding.

Under current law, the victim of a juvenile's act or alleged act may, with the approval of the juvenile court, obtain from a law enforcement agency the names of the juvenile and the juvenile's parents. A victim of a juvenile's act may also petition the juvenile court to order a law enforcement agency to disclose to the victim as much information in its records as is necessary to meet the victim's need for the information. The juvenile court may order that disclosure only after notifying all interested parties of the request, holding a hearing if there is an objection to the disclosure, inspecting the records requested and balancing whether the victim's need for the information outweighs society's interest in protecting its confidentiality. This bill permits a law enforcement agency, without a juvenile court order, to disclose to the victim of a juvenile's act or the victim's insurer any information in its records relating to any injury, loss or damage suffered by the victim, including the name and address of the juvenile and of the juvenile's parents. The victim may use and further disclose the information only for the purpose of recovering for the injury, loss or

damage suffered by the victim. The insurer may use and further disclose the information only for the purpose of investigating a claim arising out of the juvenile's act.

Under current law, the victim of a juvenile's act must receive timely notice of certain information including general information relating to an informal disposition, consent decree or dispositional order involving the juvenile's act. This bill changes the term "informal disposition" to "deferred prosecution agreement" and eliminates the requirement that only general information regarding a deferred prosecution agreement, consent decree or dispositional order may be provided to a victim and instead specifies that any information regarding a deferred prosecution agreement, consent decree or dispositional order, other than a psychological report, a court report prepared by a social services agency or other information dealing with sensitive personal matters of the juvenile and the juvenile's family, may be provided to a victim.

Under current law, the general public is excluded from hearings under the children's code unless the juvenile demands a public fact-finding hearing. Currently, if a public hearing is not held, only the parties, their counsel, witnesses, victims, other persons requested by a party and approved by the juvenile court and other persons having a proper interest in the case or in the work of the juvenile court may be present. This bill permits a representative of the news media to attend a closed hearing for the purposes of reporting news without revealing the identity of the juvenile.

Confidentiality of peace officers' records

Under current law, subject to certain exceptions, peace officers' records of juveniles are not open to inspection and their contents may not be disclosed, except by order of the juvenile court. This bill requires a law enforcement agency to disclose to the person employed or contracted by a county board to enforce a victim's rights and to provide services for the victim (victim-witness coordinator) information in the law enforcement agency's records relating to the enforcement of those rights and the provision of those services. The bill also permits a law enforcement agency to disclose to the school district administrator of a public school district in which a juvenile who has been adjudged delinquent is enrolled information in the law enforcement agency's records relating to the act for which the juvenile was adjudged delinquent. If the information is disclosed, the school district administrator must disclose the information to teachers, other school officials who have a legitimate educational or safety interest in the information and school personnel who have been designated by the school board to receive that information for the purpose of providing treatment programs for pupils. Under the bill, peace officers' records may not be used as the sole basis for expelling or suspending a pupil. Currently, peace officers' records may be released to a juvenile's school district administrator only for the purpose of providing alcohol or other drug abuse treatment programs for the juvenile.

Confidentiality of court records

Under current law, subject to certain exceptions, the records of the juvenile court are not open to inspection and their contents may not be disclosed except by order of the juvenile court. Currently, a juvenile court must disclose to anyone upon

request the name and age of a juvenile who has been adjudicated delinquent for committing first-degree or 2nd-degree intentional or reckless homicide, felony murder, first-degree or 2nd-degree sexual assault or armed robbery, the nature of the violation committed by the juvenile and the disposition imposed on the juvenile as a result of that violation. This bill requires a juvenile court to disclose to anyone upon request the records of the juvenile court, other than psychological evaluation reports, alcohol or other drug abuse assessment reports, dispositional reports or other information that deals with sensitive personal matters of the juvenile and the juvenile's family, relating to a juvenile who has been alleged to have committed a violation that would be a felony if committed by an adult if the juvenile has been adjudicated delinquent previously or if a juvenile has been alleged to have committed homicide by intoxicated use of a vehicle or firearm, aggravated battery, mayhem, taking hostages, kidnapping, causing death by tampering with household products, arson of a building, armed burglary, carjacking, assault by a prisoner, first-degree or 2nd-degree sexual assault of a child, repeated sexual assault of a child, physical abuse of a child, sexual exploitation of a child, child enticement, soliciting a child for prostitution, child abduction, a drug delivery violation punishable by a prison term of 30 years or more if committed by an adult or solicitation, conspiracy or attempt to commit a violation punishable by life imprisonment if committed by an adult (commonly referred to as a "3 strikes and you're out" violation). Under the bill, the requester may further disclose the information to anyone. The bill also provides for public hearings in delinquency proceedings relating to a juvenile who has been adjudged delinquent previously or who is alleged to have committed a 3 strikes and you're out violation, except that the juvenile court must exclude the general public if the victim of a sexual assault objects and may, in its discretion, exclude the general public from any portion of a hearing that deals with sensitive personal information of the juvenile and the juvenile's family or from any other hearing that the general public is otherwise permitted to attend.

The bill also requires a juvenile court to disclose information in its records as follows:

1. To the victim-witness coordinator: information relating to enforcing the rights of a victim of a juvenile's act and to providing services for that victim.
2. To the school board of the school district in which a juvenile is enrolled or the school board's designee: if the juvenile is alleged to have committed an act that would be a felony if committed by an adult, the fact that a delinquency petition has been filed against the juvenile and the nature of the violation alleged in the petition; and, if the juvenile has been adjudicated delinquent for any violation, the fact that the juvenile has been adjudicated delinquent, the nature of the violation committed by the juvenile and the disposition imposed on the juvenile as a result of that violation. Under the bill, a school board or designee must disclose the information to employees of the school district who work directly with the juvenile or who have a legitimate educational or safety interest in the information. Under the bill, juvenile court records may not be used as the sole basis for suspending or expelling a pupil. Currently, a juvenile court may disclose to a juvenile's school board only the fact that the juvenile has been adjudicated delinquent and must first notify the juvenile's

parent of that intended disclosure to give the parent the opportunity to object to the disclosure. This bill eliminates the parent's opportunity to object.

Under current law, subject to certain exceptions, a juvenile's disposition and the record of evidence given in a juvenile court hearing is not admissible as evidence against the juvenile in any other court. This bill permits an adjudication of delinquency to be considered in setting bail and to be used to impeach, that is, attack the credibility of, a witness.

Confidentiality of social services records

Under current law, subject to certain exceptions, the records of a social welfare agency, that is, DHSS, a county department of human services or social services (county department) or a licensed child welfare agency, relating to an individual in the care or legal custody of the social welfare agency are not open to inspection and may not be disclosed except that a social welfare agency may confidentially exchange records with another social welfare agency or a law enforcement agency. This bill permits a social welfare agency to exchange records confidentially with a public school district and the victim-witness coordinator.

Confidentiality of pupil records

Under current law, pupil records, that is, records relating to an individual pupil maintained by a school, subject to certain exceptions, are confidential. Currently, the juvenile court may order a school board to disclose the pupil records of a juvenile who is under a juvenile court order to participate in an education program to the county department or child welfare agency responsible for supervising the juvenile in order for the department or agency to determine the juvenile's compliance with the order. This bill permits a juvenile court to order a school board to disclose pupil records as follows:

1. To a law enforcement agency: as necessary for the law enforcement agency to investigate alleged criminal or delinquent activity.
2. To a social welfare agency: as necessary for the social welfare agency to provide treatment or care for an individual in the social welfare agency's care or legal custody.

The bill also requires a school board to disclose certain pupil records to law enforcement agencies on request without a court order. Specifically, a school board must disclose to a law enforcement agency the attendance records of a pupil who is the subject of an investigation by the law enforcement agency. Also, a school board must disclose to a law enforcement agency directory data, that is, a pupil's name, address, telephone listing and other general information, for the purpose of investigating alleged delinquent or criminal activity by the pupil. Currently, a school board must disclose directory data to a law enforcement agency only for the purposes of enforcing the pupil's school attendance or responding to a health or safety emergency.

Dispositions

Under current law, a disposition for a juvenile who has been adjudged delinquent or found to be in need of protection or services must protect the juvenile's well-being and be least restrictive of the rights of the parent or juvenile, consistent with the protection of the public. Currently, the family unit must be preserved

whenever possible and custody may be transferred from the parent only when there is no less drastic alternative. This bill requires a dispositional order for a juvenile who has been adjudged delinquent or who has been found to be uncontrollable, a dropout or habitually truant from home or school to promote the objectives of the juvenile justice code. The bill also eliminates the requirements that the family unit be preserved whenever possible and that custody may be transferred from a parent only when there is no less drastic alternative.

Current law provides for an array of specific dispositions that a juvenile court may impose on a juvenile who has been adjudged delinquent. This bill creates the following new dispositions:

1. Home detention for a period of not more than 20 days.
2. Short-term placement for not more than 30 days in a secure detention facility or juvenile portion of a county jail that meets the standards promulgated by DOC by rule or in a place of nonsecure custody designated by the judge.
3. Contribution of a percentage of any income that the juvenile receives while placed in an out-of-home placement towards restitution of the juvenile's victim.
4. Participation in a youth corps program, a conservation work project, a youth conservation camp or other community service work program if the program accepts the juvenile.
5. Participation in a victim-offender mediation program if the victim of the juvenile's delinquent act agrees.
6. Participation in a pupil assistance program provided by the juvenile's school board, that is, a program provided by a school board to intervene in the abuse of alcohol or other drugs by pupils, if the juvenile's school district approves of the juvenile's participation in the program.
7. Inpatient alcohol or other drug abuse treatment for not more than 30 days if the juvenile has an alcohol or other drug abuse impairment and if the juvenile is a proper subject for treatment and is in need of inpatient treatment because appropriate treatment is not available on an outpatient basis.
8. Drug testing if the juvenile is in need of treatment for the use or abuse of controlled substances.
9. Participation in a wilderness challenge or other experiential education program.
10. Participation in an educational program that is designed to deter future delinquent behavior.
11. Participation in vocational assessment, counseling and training.
12. Participation in a day treatment program if the juvenile has specialized educational needs.
13. Imposition of a dispositional order and staying the execution of that order contingent on the juvenile's satisfactory compliance with any conditions specified in the order.
14. A forfeiture not to exceed \$100 for a violation of a criminal law that is applicable only to a juvenile, for example, possession of a firearm, and a forfeiture not to exceed \$50 for a violation of a civil law or municipal ordinance that is applicable only to a juvenile, for example, possession of a tobacco product.

Under current law, the juvenile court intake worker (intake worker) may enter into a written agreement with the juvenile and the juvenile's parent, guardian or legal custodian which imposes an informal disposition if the intake worker determines that neither the interests of the public nor of the juvenile require the filing of a petition. Currently, an informal disposition may require the juvenile and the parent, guardian or legal custodian to appear for counseling and to abide by certain obligations imposed under the agreement, and may require the juvenile to submit to an alcohol or other drug abuse assessment, to participate in alcohol or other drug abuse treatment or education, to pay restitution, to participate in a supervised work program or to participate in a volunteers in probation program. Currently, if the intake worker determines that the obligations under an informal disposition are not being met, the intake worker may cancel the agreement and recommend that a petition be filed. This bill changes the term "informal disposition" to "deferred prosecution" and requires the judge or juvenile court commissioner to enter an order requiring compliance with a deferred prosecution agreement. If the intake worker finds that the juvenile's parent, guardian or legal custodian has failed to meet the obligations imposed under a deferred prosecution agreement, the district attorney may petition the juvenile court for an order requiring the parent, guardian or legal custodian to show good cause for failing to meet those obligations. If the parent, guardian or legal custodian does not show good cause for failing to meet the obligations imposed under the deferred prosecution agreement, the juvenile court may impose a forfeiture not to exceed \$1,000.

The bill also permits a juvenile who has satisfactorily complied with the conditions of his or dispositional order to petition the juvenile court, on attaining age 17, to expunge the juvenile court's record of the juvenile's adjudication. The juvenile court may expunge a juvenile's juvenile court record if the juvenile court determines that the juvenile has satisfactorily complied with the conditions of his or her dispositional order and that the juvenile will benefit and society will not be harmed by the expungement.

Sanctions

Under current law, a juvenile court, after a hearing, may impose various sanctions on a juvenile who has been adjudged delinquent and who violates a condition of his or her dispositional order, if at the dispositional hearing the juvenile court explained the conditions to the juvenile and informed the juvenile of the possible sanctions for the violation. The sanctions permitted under current law include placement of the juvenile in a secure detention facility or juvenile portion of a county jail for not more than 10 days, suspension of the juvenile's operating privilege, home detention for not more than 20 days and not more than 25 hours of community service work. This bill permits a juvenile court to place a delinquent juvenile who has violated a condition of a dispositional order in a place of nonsecure custody as a sanction. The bill also permits a juvenile court to impose the current sanctions, other than placement in a secure detention facility or juvenile portion of a county jail, and the nonsecure custody sanction on a juvenile who has been found to be in need of protection or services on the basis of being uncontrollable, a dropout

or habitually truant from home or school and who violates a condition of his or her dispositional order.

The bill permits the caseworker of a juvenile who has been adjudged delinquent and who has violated a condition of his or her dispositional order, without a hearing, to take the juvenile into custody and place the juvenile in a secure detention facility, juvenile portion of a county jail or place of nonsecure custody designated by the caseworker for not more than 72 hours while the alleged violation is being investigated, if at the dispositional hearing the juvenile court explained the conditions to the juvenile and informed the juvenile of the possibility of that placement. The bill also permits the caseworker of a juvenile who has been found to be in need of protection or services on the basis of being uncontrollable, a dropout or habitually truant from home or school and who has violated a condition of his or her dispositional order, without a hearing, to take the juvenile into custody and place the juvenile in a place of nonsecure custody designated by the caseworker for not more than 72 hours while the alleged violation is being investigated, if at the dispositional hearing the juvenile court explained the conditions to the juvenile and informed the juvenile of the possibility of that placement. If the juvenile is held for longer than 72 hours, the juvenile is entitled to a sanctions hearing or a hearing on the decision to continue holding the juvenile in custody.

Juvenile firearm possession

Under current law, a juvenile may be held in a secure detention facility if the juvenile intake worker determines that probable cause exists to believe that the juvenile has committed a delinquent act and presents a substantial risk of physical harm to another person. This bill provides that a juvenile is considered to present a substantial risk of physical harm to another person if the juvenile intake worker determines that any of the following conditions applies:

1. Probable cause exists to believe that the juvenile has committed first-degree intentional homicide, first-degree reckless homicide, felony murder, 2nd-degree intentional homicide, substantial battery, aggravated battery, mayhem, first-degree sexual assault, kidnapping, a drive-by shooting, carjacking, armed robbery, sexual assault of a child, repeated sexual assault of a child or physical abuse of a child (violent offense).

2. Probable cause exists to believe that the juvenile possessed, used or threatened to use a handgun, short-barreled rifle or short-barreled shotgun in committing an offense against life or bodily security (armed violent offense).

3. Probable cause exists to believe that the juvenile has possessed or gone armed with a handgun, short-barreled rifle or short-barreled shotgun (weapons violation).

Currently, one of the dispositions that a juvenile court may impose on a juvenile whom the juvenile court has adjudged delinquent is to place the juvenile in a secured juvenile correctional facility, but only if the juvenile has been found delinquent for committing an act which if committed by an adult would be punishable by a sentence of 6 months or more and the juvenile has been found to be a danger to the public and in need of restrictive custodial treatment. This bill provides that a juvenile is considered to be a danger to the public and to be in need of restrictive custodial

treatment if the judge finds that the juvenile has committed a violent offense, an armed violent offense or a weapons violation.

Under current law, a person who gives, sells or loans a dangerous weapon to a child is guilty of a Class D felony, which is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 5 years or both, if the child discharges the firearm and the discharge causes death to the child or another. This bill increases the crime of giving, selling or loaning a dangerous weapon to a child to a Class C felony, which is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 10 years or both, if the child discharges the firearm and the discharge causes death to the child or another.

Under current law, a person who has been convicted of a felony, adjudged delinquent on the basis of a felony or found not guilty of, or not responsible for, a felony by reason of mental disease or defect generally is prohibited from possessing a firearm. Upon conviction, violators may be fined not more than \$10,000 or imprisoned for not more than 2 years or both. This bill increases the maximum period of imprisonment to 5 years if a person who has a conviction for illegal firearm possession subsequently violates the same law.

Holding a juvenile in custody

Under current law, a juvenile may be held in secure custody if probable cause exists to believe that the juvenile has committed a delinquent act and either presents a substantial risk of physical harm to another person or a substantial risk of running away, as evidenced by a previous act or attempt, so as to be unavailable for a court hearing or a revocation hearing. Currently, for juveniles on aftercare, corrective sanctions or youthful offender supervision, the delinquent act referred to may be the act for which the juvenile was placed in a secured correctional facility. This bill eliminates the requirement that the substantial risk be evidenced by a previous act or attempt. The bill also provides that for a juvenile who is subject to any dispositional order, not just a dispositional order placing the juvenile in a secured correctional facility, the delinquent act referred to may be the act for which the juvenile was adjudged delinquent.

Parental responsibility

Under current law, a parent who has custody of a juvenile is liable in an amount not to exceed \$2,500 for damage to property, the value of unrecovered stolen property or personal injury attributable to a wilful, malicious or wanton act of the juvenile other than retail theft. For retail theft, a parent who has custody of a juvenile is liable for the actual damages caused by the juvenile's act plus exemplary damages equal to 2 times the actual damages or \$300, whichever is less. This bill provides that the maximum amount of a parent's liability for a wilful, malicious or wanton act of his or her juvenile, other than retail theft, is the jurisdictional limit of the small claims court. Currently, the jurisdictional limit of the small claims court is \$4,000.

The bill permits a juvenile court to order that any restitution or forfeiture unpaid by the juvenile be entered and docketed as a judgment against the juvenile and the parent. The juvenile court is required to give the juvenile and parent an opportunity to be heard regarding the amount unpaid. The bill permits the juvenile court to order the juvenile or parent to perform community service work instead of

paying the restitution or forfeiture, except that if the juvenile court orders the parent to perform community service work the parent must agree to do that work.

Under current law, a juvenile court may issue a summons requiring the person who has legal custody of a juvenile to appear personally before the court. Currently, if a person summoned by the juvenile court fails to appear, the person may be proceeded against for contempt of court. This bill permits a juvenile court to issue a summons requiring a juvenile's parent (whether custodial or noncustodial), guardian and legal custodian to appear personally at any hearing involving the juvenile.

Current law permits a county, city or village to enact an ordinance requiring a person having under his or her control a juvenile who is between 6 and 18 years of age to cause the juvenile to attend school regularly. This bill permits a town to enact such an ordinance if the town has established a municipal court.

Truancy

The bill makes numerous changes in the compulsory school attendance and truancy laws, including the following:

1. Under current law, before a juvenile court or a municipal court may exercise jurisdiction over a juvenile alleged to be habitually truant, and before a court of general civil jurisdiction may exercise jurisdiction over a parent or guardian alleged to have violated the compulsory school attendance law for failure to cause a juvenile under that person's control to attend school regularly, evidence must be provided to the court that appropriate school personnel have done all of the following within the school year during which the truancy occurred:

a) Met with the juvenile's parent or guardian to discuss the juvenile's truancy or attempted to meet with the parent or guardian and been refused.

b) Provided an opportunity for educational counseling to the juvenile to determine whether changes in the juvenile's curriculum would resolve the juvenile's truancy and considered curriculum modifications.

c) Evaluated the juvenile to determine whether learning problems may be a cause of the juvenile's truancy and, if so, taken steps to overcome the learning problems.

d) Conducted an evaluation to determine whether social problems may be a cause of the juvenile's truancy and, if so, taken appropriate steps or made appropriate referrals.

This bill provides that the requirement under a), above, does not apply if the school attendance officer provides evidence that appropriate school personnel attempted to meet with the juvenile's parent or guardian and received no response. The current exception to this requirement applies only if the juvenile's parent or guardian refused to meet with school personnel.

The bill also provides that the activities under b) to d), above, need not be carried out if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activities due to the juvenile's absences.

Further, the bill provides that the juvenile's need not be evaluated under c) if tests administered within the previous year indicate that the juvenile is performing at his or her grade level.

2. The bill creates a new dispositional alternative for a juvenile found to be in need of protection or services based on habitual truancy or found to have violated a municipal truancy ordinance. The new alternative allows a juvenile or municipal court to order that a work permit not be issued to the juvenile or that a work permit that was already issued to the juvenile be revoked.

3. The bill allows a juvenile court to order the parent, guardian or legal custodian of a habitually truant juvenile to participate in counseling at his or her own expense. It also allows the court to order any person who has a juvenile between the ages of 6 and 18 years under his or her control and who fails to cause the juvenile to attend school regularly to participate in counseling at the person's own expense.

4. The bill specifies that if a juvenile who has been found to be in need of protection or services based on habitual truancy violates a condition of the juvenile court's dispositional order, the court may order as sanctions any combination of suspension of the juvenile's motor vehicle operating privilege for not more than one year and one or more of the dispositions that it could have imposed under the original dispositional order. The court must hold a hearing on the imposition of these sanctions within 15 days after the filing of a motion for the imposition of a sanction.

5. The bill authorizes the department of industry, labor and human relations to revoke a juvenile's work permit if the juvenile's educational welfare would be best served by the revocation.

Time limits

Under current law, a hearing to determine whether a juvenile who is being held in custody under the children's code should continue to be held in custody must be had within 24 hours after the decision to hold the juvenile in custody was made. This bill extends that time limit for juveniles who are being held in custody under the juvenile justice code to within 24 hours after the end of the day that the decision to hold the juvenile in custody was made.

Under current law, the intake worker must recommend that a petition be filed, enter into an informal disposition or close the case within 40 days after the receipt of information that a juvenile should be referred to the juvenile court. Similarly, the district attorney or corporation counsel must file a petition, close the case or refer the case back to the intake worker within 20 days after receiving the intake worker's recommendation regarding the case. Currently, if those time limits are not met, the juvenile court must dismiss the case with prejudice, that is, without leave to file a new petition. This bill provides that if a party fails to meet a time limit specified in the juvenile justice code the juvenile court may grant a continuance for good cause shown, dismiss the petition with or without prejudice, release the juvenile from secure or nonsecure custody or from the terms of a custody order or grant any other relief that the juvenile court considers appropriate.

Under current law, certain periods of delay are excluded in computing time periods under the children's code. Those periods of delay include any period of delay caused by the disqualification of a judge. This bill expands that exclusion to exclude any period of delay caused by the substitution of a judge or by any other transfer of the case or intake inquiry to a different judge, intake worker or county.

Under current law, an informal disposition or consent decree may remain in effect for up to 6 months, except that an informal disposition or consent decree on an allegation of habitual truancy may remain in effect for up to one year. This bill permits any deferred prosecution agreement or consent decree under the juvenile justice code to remain in effect for up to one year.

Venue

Under current law, venue for a delinquency proceeding is in the county where the delinquent act occurred. This bill permits the juvenile court of the county where a delinquent act occurred to transfer a delinquency proceeding to the county in which the juvenile resides, after the juvenile is adjudged delinquent, for disposition, if the juvenile court of the county of residence agrees to that transfer and the transferring juvenile court agrees to the disposition.

Jury trials

Under current law, a juvenile, and a parent, guardian or legal custodian of a juvenile, have the right to a trial by jury in the juvenile court. A trial by jury may be demanded on a petition alleging that the juvenile is delinquent, has violated a civil law or municipal ordinance or is in need of protection or services. This bill eliminates the right to a trial by jury in proceedings under the juvenile justice code.

Substitution of judge

Under current law, a juvenile may request the substitution of a judge in a delinquency proceeding and the juvenile and the juvenile's parent, guardian or legal custodian may request the substitution of a judge in a proceeding alleging that the juvenile is uncontrollable, a dropout or habitually truant from home or school. Currently, however, a juvenile may not request the substitution of a judge in a delinquency proceeding that is commenced within one year after the entry of a dispositional order in another proceeding under the children's code in which the juvenile requested the substitution of a judge. This bill eliminates that prohibition and provides instead that a juvenile may not request the substitution of a judge in a delinquency proceeding, and the juvenile and the juvenile's parent, guardian or legal custodian may not request the substitution of a judge in a CHIPS proceeding under the juvenile justice code, if the judge assigned to the juvenile's proceeding has entered a dispositional order with respect to the juvenile in a previous proceeding.

Oral court reports

Under current law, before the disposition of a juvenile adjudged to be delinquent or in need of protection or services, an agency designated by the juvenile court must submit a report to the juvenile court describing the social history of the juvenile, a recommended plan of rehabilitation or treatment and care for the juvenile, the specific services recommended for the juvenile and a statement of the objectives of the plan (court report). Currently, a court report recommending placement of the juvenile in his or her own home may be presented orally at the dispositional hearing if all parties consent. A court report recommending an out-of-home placement, including a correctional placement, and a youthful offender program court report, however, must be in writing. This bill permits a court report recommending an out-of-home placement, including a correctional placement, and

a youthful offender program court report to be presented orally at the dispositional hearing if all parties consent.

No contest pleas

Under current law, if a juvenile is alleged to have committed a delinquent act or a civil law or ordinance violation, the juvenile may plead as follows: 1) admit some or all of the facts alleged; 2) deny the facts alleged; or 3) plead no contest to the allegations, subject to the approval of the juvenile court. This bill permits a juvenile to plead no contest only if the juvenile court permits the juvenile to enter that plea.

Intake services

Under current law, the county board of supervisors of a county with a population under 500,000 must authorize the county department or the juvenile court to provide intake services for the juvenile court. Under current law, subject to one exception, employes of the county department or juvenile court must provide the intake services required under the children's code, for example, determining whether to hold a juvenile in custody, and those services may not be subcontracted to other individuals or agencies. Under current law intake workers must be qualified to perform entry level social work and must receive 30 hours of intake training within their first 6 months of employment. This bill permits a county in which the county sheriff's department operates a secure detention facility to subcontract intake services to the county sheriff's department. Under the bill, a county sheriff's department may perform intake services between the hours of 6 p.m. and 6 a.m. and any intake determination made by a county sheriff's department employe must be reviewed by an intake worker employed by the county department or juvenile court within 24 hours after the determination is made.

Municipal court authority

Under current law, municipal courts generally have concurrent jurisdiction with juvenile courts in proceedings against juveniles 12 years of age or older for violations of municipal ordinances. This bill makes various changes relating to the authority of juvenile courts and municipal courts over juveniles who violate municipal ordinances.

Under current law, a juvenile court may order a juvenile who has violated a municipal ordinance to participate in a supervised work program administered by the county department or by a community agency approved by the juvenile court judge (supervised work program). This bill permits a municipal court to order a juvenile who has violated a municipal ordinance to participate in a supervised work program. The bill also permits both a juvenile court and a municipal court to order a juvenile to participate in community service work other than through a supervised work program.

Under current law, a juvenile court may order a juvenile who has committed a violation relating to the use or abuse of alcohol or a controlled substance, including an underage drinking or drug paraphernalia violation, to submit to an alcohol or other drug abuse (AODA) assessment and to participate in an outpatient AODA treatment or education program at the expense of the juvenile's parents or their health insurer or, if payment cannot be obtained from those sources, at the expense of the county department. This bill permits a municipal court to order a juvenile to

submit to an AODA assessment and to participate in an outpatient AODA treatment or education program, subject to the same payment provisions as for a juvenile ordered to receive AODA services by a juvenile court except that the municipality rather than the county pays for the services if payment cannot be obtained from the parent or insurer.

Under current law, a juvenile court or a municipal court may suspend the operating privilege (driver's license) of a juvenile who has failed to pay a forfeiture ordered by the juvenile court or municipal court for not less than 30 days nor more than 90 days or until the forfeiture is paid. This bill permits a juvenile court or municipal court to suspend the driver's license of a juvenile who fails to pay a forfeiture for up to 5 years or until the forfeiture is paid.

Under current law, a juvenile court may impose various sanctions on a juvenile who has been adjudged delinquent and who has violated a condition of the juvenile's dispositional order. This bill permits a juvenile court or a municipal court to impose sanctions on a juvenile who has violated a civil law or municipal ordinance and who has violated a condition of his or her dispositional order, except that a juvenile court or municipal court may not impose secure detention on such a juvenile as a sanction.

Notification of release

Current law requires DHSS or DOC, prior to the release of a juvenile from a secured correctional facility or the placement of the juvenile in the community under the corrective sanctions program or the youthful offender program, to notify the law enforcement agencies, school district and county departments of human services, social services, community programs and developmental disabilities services of the community in which the juvenile will reside of the juvenile's return to the community. Current law also requires notification of the victim of the act for which the juvenile was adjudicated delinquent if the victim requests notification and if the act for which the juvenile was adjudicated delinquent, if committed by an adult, would have been punishable as a crime against another person.

This bill requires DHSS, DOC or a county department having supervision or legal custody over a juvenile to notify the local agencies listed above of a juvenile's release from a secured correctional facility or a secured child caring institution and of the juvenile's release from the supervision of DHSS or the county department or from the legal custody of DOC. The bill also eliminates the precondition to victim notification of a juvenile's release that the act committed by the juvenile be punishable as a crime against another person if committed by an adult. Accordingly, under the bill, DHSS, DOC or a county department must provide notice of a juvenile's release to the victim of any delinquent act if the victim so requests. The bill also provides guidelines for DHSS, DOC and county departments to determine which community to notify, specifies the information about the juvenile that DHSS, DOC and county departments may disclose and exempts the disclosure of that information under those circumstances from the law regarding confidentiality of juvenile records.

Intensive supervision program

Under current law, the juvenile court may order a juvenile who has been adjudicated delinquent to participate in an intensive supervision program consisting

of intensive surveillance and community-based treatment services for participants in the program. Under the intensive supervision program, a juvenile's caseworker may, without a hearing, take the juvenile into custody and place the juvenile in a secure detention facility for not more than 72 hours as a sanction for violating a condition of the juvenile's participation in the program. If the juvenile is held for longer than 72 hours, the juvenile is entitled to a hearing to determine whether the juvenile should continue to be held in custody. This bill permits a juvenile's caseworker, without a hearing, to take a juvenile into custody and place the juvenile in a place of nonsecure custody for not more than 30 days as a sanction or for crisis intervention.

Psychotropic medication

Under current law, a juvenile's parent or guardian must consent before the juvenile may be administered psychotropic medication. This bill permits DHSS or a county department having correctional supervision over a juvenile 14 years of age or over who is not placed in his or her own home and who wishes to be administered psychotropic medication to petition the juvenile court in the county in which the juvenile is located for permission to administer psychotropic medication to the juvenile if the consent of the juvenile's parent or guardian cannot be obtained. The juvenile court must grant that permission if it determines: 1) that the parent or guardian's consent is unreasonably withheld or that the parent or guardian cannot be found; 2) that the juvenile is 14 years of age or over, is competent to consent to the administration of psychotropic medication and voluntarily consents to that administration; and 3) based on the recommendation of a physician, that the juvenile is in need of psychotropic medication, that psychotropic medication is appropriate for the juvenile's needs and that psychotropic medication is the least restrictive treatment consistent with the juvenile's needs.

Youthful offender program and corrective sanctions program

Under current law, effective December 1, 1995, DOC operates a youthful offender program for juveniles who have been ordered by the juvenile court to participate in that program. Under the program, DOC must provide a participant with an array of component phases, including placement in a secured correctional facility, intensive or other field supervision, electronic monitoring, alcohol or other drug abuse treatment, mental health treatment, community service, restitution and other programs. Under current law, DHSS operates a corrective sanctions program for juveniles who have been placed in a secured correctional facility and who have been selected to participate in the program. Under the program, DHSS places a juvenile in the community, provides intensive surveillance of the juvenile and purchases community-based treatment services for the juvenile. This bill requires DOC to operate the community-based component phases of the youthful offender program and DHSS to operate the corrective sanctions program as a secured correctional facility. The bill defines the community-based component phases of the youthful offender program and the corrective sanctions program as "Type 2 secured correctional facilities" and all other secured correctional facilities as "Type 1 secured correctional facilities".

Under current law, if a youthful offender program participant violates a condition of his or her participation in the program while placed in the community, DOC may, without a hearing, take the juvenile into custody and return the juvenile to a placement in a secured correctional facility or, if the juvenile is 18 years of age or over, to a state prison. Under current law, if a corrective sanctions program participant violates a condition of his or her placement in the community, DHSS may, without a hearing take the juvenile into custody and return the juvenile to a placement in a secured correctional facility for not more than 72 hours as a sanction for the violation. If the juvenile is held for longer than 72 hours, the juvenile is entitled to a hearing. Under the bill, a juvenile who violates a condition of his or her participation in the youthful offender program or corrective sanctions program while placed in a Type 2 secured correctional facility may, without a hearing, be returned to a Type 1 secured correctional facility or, if the juvenile is a youthful offender program participant and is 17 years of age or over, a Type 1 prison. The bill also eliminates the hearing requirement for a juvenile in the corrective sanctions program who is returned to a Type 1 secured correctional facility for longer than 72 hours and permits DHSS to place in a secure detention facility a juvenile who has violated a condition of his or her placement in the corrective sanctions program.

The bill also lowers the age of eligibility for participation in the youthful offender program from 16 years of age to 15 years of age.

Reimbursement of counties

Current law provides a sum sufficient appropriation to DOC from which DOC pays claims made by counties in which state prisons are located for reimbursement of expenses growing out of court proceedings involving prisoners. This bill provides a sum sufficient appropriation to DHSS from which to pay claims made by counties in which juvenile secured correctional facilities are located for reimbursement of expenses growing out of court proceedings involving juveniles placed in juvenile secured correctional facilities. The bill also provides for state reimbursement of expenses incurred by counties in which juvenile secured correctional facilities are located for holding in secure custody those juveniles while those proceedings are pending.

Under current law, if certain criteria are met, a juvenile who has been taken into custody may be held in a secure detention facility. Also under current law, a juvenile who has been adjudged delinquent and who has violated a condition of his or her dispositional order may be placed in a secure detention facility for not more than 10 days as a sanction for that violation and must be provided with educational programming during the period of placement. This bill requires the school district in which a child resides to reimburse the county for the cost of providing educational programming for the juvenile while the juvenile is placed in a secure detention facility.

Juvenile classification system

The bill requires DHSS to make available to all counties a juvenile classification system for assessing the risks and needs of juvenile offenders and for integrating the risks and needs of a juvenile offender with other factors to determine an appropriate placement and level of services for a juvenile offender. A county may

use the juvenile classification system, at the time of an intake inquiry, to determine whether to close a case, enter into deferred prosecution or refer the case to the district attorney; at the time of disposition, to recommend a placement and plan of rehabilitation for a juvenile; and, after disposition, to determine the level or intensity of supervisory contacts required for a juvenile under county supervision.

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.** 16.51 (7) of the statutes is amended to read:

2 16.51 (7) (title) AUDIT CLAIMS FOR EXPENSES IN CONNECTION WITH PRISONERS AND
3 CHILDREN IN SECURED CORRECTIONAL FACILITIES. Receive, examine, determine and
4 audit claims, duly certified and approved by the department of corrections or the
5 department of health and social services, from the county clerk of any county in
6 behalf of the county, which are presented for payment to reimburse the county for
7 certain expenses incurred or paid by it in reference to all matters growing out of
8 actions and proceedings involving prisoners in state prisons, as defined in s. 302.01,
9 or children in secured correctional facilities, as defined in s. 938.02 (15m), including
10 prisoners or children transferred to a mental health institute for observation or
11 treatment, when the proceedings are commenced in counties in which the prisons or
12 secured correctional facilities are located by a district attorney or by the prisoner or
13 child as a postconviction remedy or a matter involving the prisoner's status as a
14 prisoner or the child's status as a resident of a secured correctional facility and for
15 certain expenses incurred or paid by it in reference to holding those children in
16 secure custody while those actions or proceedings are pending. Expenses shall only
17 include the amounts as that were necessarily incurred and actually paid and shall

1 be no more than the legitimate cost would be to any other county had the offense or
2 crime occurred therein.

3 **SECTION 2.** 17.10 (6) (b) 1. of the statutes is amended to read:

4 17.10 (6) (b) 1. Disposition staff and intake workers appointed to provide
5 services under eh. chs. 48 and 938.

6 **SECTION 3.** 19.35 (1) (am) 2. c. of the statutes is amended to read:

7 19.35 (1) (am) 2. c. Endanger the security of any state correctional institution,
8 as defined in s. 301.01 (4), jail, as defined in s. 165.85 (2) (bg), secured correctional
9 facility, as defined in s. ~~48.02~~ 938.02 (15m), secured child caring institution, as
10 defined in s. 938.02 (15g), mental health institute, as defined in s. 51.01 (12), center
11 for the developmentally disabled, as defined in s. 51.01 (3), or the population or staff
12 of any of these institutions, facilities or jails.

13 **SECTION 4.** 20.410 (1) (am) of the statutes, as created by 1993 Wisconsin Act
14 377, is amended to read:

15 20.410 (1) (am) *Youthful offender program.* The amounts in the schedule to
16 administer the youthful offender program under s. ~~48.537~~ 938.537.

17 **SECTION 5.** 20.410 (1) (c) of the statutes is amended to read:

18 20.410 (1) (c) (title) *Reimbursement claims of counties containing state*
19 *~~institutions~~ prisons.* A sum sufficient to pay all valid claims made by county clerks
20 of counties containing ~~certain state institutions~~ prisons as provided in s. 16.51 (7).

21 **SECTION 6.** 20.410 (1) (hx) of the statutes is amended to read:

22 20.410 (1) (hx) *Extended jurisdiction services.* The amounts in the schedule for
23 services to persons younger than 19 years old placed with the department under s.
24 ~~48.366~~ 938.183 (2) or 938.366 (8). All moneys received in payment for services

1 provided by the department specified in s. 46.26 (4) (d) 1m. and all moneys
2 transferred under s. 46.26 (4) (cm) 2. shall be credited to this appropriation.

3 **SECTION 7.** 20.435 (3) (au) of the statutes is amended to read:

4 20.435 (3) (au) *Intensive aftercare program.* The amounts in the schedule for
5 the intensive aftercare program under s. ~~48.536~~ 938.536.

6 **SECTION 8.** 20.435 (3) (bg) of the statutes is amended to read:

7 20.435 (3) (bg) *Intensive supervision grants.* The amounts in the schedule for
8 intensive supervision grants under s. ~~48.534~~ 938.534 (3).

9 **SECTION 9.** 20.435 (3) (c) of the statutes is created to read:

10 20.435 (3) (c) *Reimbursement claims of counties containing secured*
11 *correctional facilities.* A sum sufficient to pay all valid claims made by county clerks
12 of counties containing state juvenile correctional institutions as provided in s. 16.51
13 (7).

14 **SECTION 10.** 20.435 (3) (cd) of the statutes is amended to read:

15 20.435 (3) (cd) *Community youth and family aids.* The amounts in the schedule
16 for the improvement and provision of juvenile delinquency-related services under
17 s. 46.26 and for reimbursement to counties having a population of less than 500,000
18 for the cost of court attached intake services as provided in s. ~~48.06~~ 938.06 (4).
19 Disbursements may be made from this appropriation under s. 46.03 (20). Refunds
20 received relating to payments made under s. 46.03 (20) shall be returned to this
21 appropriation. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), but subject to s.
22 46.26 (3) (f), the department of health and social services may transfer moneys under
23 this paragraph between fiscal years. Except for moneys authorized for transfer
24 under s. 46.26 (3), all moneys from this paragraph allocated under s. 46.26 (3) and
25 not spent or encumbered by counties by December 31 of each year shall lapse into the

1 general fund on the succeeding January 1. The joint committee on finance may
2 transfer additional moneys to the next calendar year.

3 **SECTION 11.** 20.435 (3) (hm) of the statutes, as affected by 1993 Wisconsin Act
4 377, is amended to read:

5 20.435 (3) (hm) *Juvenile correctional services.* Except as provided in pars. (ho),
6 (hr) and (k), the amounts in the schedule for juvenile correctional services specified
7 in s. 46.26 (4) (c) and (d). All moneys transferred under s. 46.26 (4) (cm) 1., and, except
8 as provided in par. (hr) and (k) and s. 20.410 (1) (hx), all moneys received in payment
9 for juvenile correctional services specified in s. 46.26 (4) (d) shall be credited to this
10 appropriation. If moneys generated by the monthly rate exceed actual fiscal year
11 institutional costs by 2% or more, all moneys in excess of 2% shall be remitted to the
12 counties during the subsequent calendar year. Each county shall receive a
13 proportionate share of the remittance depending on the total number of days of
14 placement at juvenile correctional institutions operated by the department or
15 secured child caring institutions, as defined in s. 938.02 (15g). Counties shall use the
16 funds for purposes specified in s. 46.26.

17 **SECTION 12.** 20.435 (3) (ho) of the statutes is amended to read:

18 20.435 (3) (ho) *Juvenile residential aftercare.* Under s. 46.26 (4) (e), the
19 amounts in the schedule for providing foster care, treatment foster care, group home
20 care and institutional child care to delinquent children under ss. ~~48.48 (4) and (14),~~
21 ~~48.52 and 49.19 (10) (d), 938.48 (4) and (14) and 938.52.~~ All moneys received in
22 payment for providing foster care, treatment foster care, group home care and
23 institutional child care to delinquent children under ss. ~~48.48 (4) and (14), 48.52 and~~
24 ~~49.19 (10) (d), 938.48 (4) and (14) and 938.52~~ shall be credited to this appropriation.
25 If moneys generated by the monthly rate exceed actual fiscal year foster care,

1 treatment foster care, group home care and institutional child care costs by 2% or
2 more, all moneys in excess of 2% shall be remitted to the counties during the
3 subsequent calendar year. Each county shall receive a proportionate share of the
4 remittance depending on the total number of days of placement in foster care,
5 treatment foster care, group home care or institutional child care.

6 **SECTION 13.** 20.435 (3) (o) of the statutes is amended to read:

7 20.435 (3) (o) *Federal aid; foster care and treatment foster care.* All federal
8 moneys received for meeting the costs of providing foster care, treatment foster care
9 and institutional child care to delinquent children under ss. ~~48.48~~ 938.48 (4) and (14)
10 and ~~48.52~~ 938.52, and for the cost of care for children under s. 49.19 (10) (d). All
11 moneys received under this paragraph shall be deposited in the general fund as a
12 nonappropriated receipt.

13 **SECTION 14.** 20.435 (7) (b) of the statutes is amended to read:

14 20.435 (7) (b) *Community aids.* The amounts in the schedule for human
15 services under s. 46.40, for reimbursement to counties having a population of less
16 than 500,000 for the cost of court attached intake services under s. 48.06 (4), for
17 shelter care under ss. ~~48.22~~ and 48.58 and 938.22 and for foster care and treatment
18 foster care under s. 49.19 (10). Social services disbursements under s. 46.03 (20) (b)
19 may be made from this appropriation. Refunds received relating to payments made
20 under s. 46.03 (20) (b) for the provision of services for which moneys are appropriated
21 under this paragraph shall be returned to this appropriation. Notwithstanding ss.
22 20.001 (3) (a) and 20.002 (1), the department of health and social services may
23 transfer funds between fiscal years under this paragraph. The department shall
24 deposit into this appropriation funds it recovers under ss. 49.52 (2) (b) and 51.423
25 (15) from prior year audit adjustments including those resulting from audits of

1 services under s. 46.26 or 46.27. Except for amounts authorized to be carried forward
2 under s. 46.45, all funds recovered under ss. 49.52 (2) (b) and 51.423 (15) and all funds
3 allocated under s. 46.40 and not spent or encumbered by December 31 of each year
4 shall lapse to the general fund on the succeeding January 1 unless carried forward
5 to the next calendar year by the joint committee on finance.

6 **SECTION 15.** 38.24 (1s) of the statutes is amended to read:

7 38.24 (1s) ADDITIONAL FEES. A district board may establish and charge a fee in
8 addition to the fees under sub. (1m) for a court-approved alcohol or other drug abuse
9 education program offered to individuals under s. 48.245 (2) (a) 4., ~~48.32 (1g) (b),~~
10 ~~48.34 (4s) (b) 3. or (13) (b), 48.343 (10) (c) or 48.344 (2g) (a) 3~~ 48.345 (13) (b), 938.245
11 (2) (a) 4., 938.32 (1g) (b), 938.34 (6r) (b) or (14s) (b) 3., 938.343 (10) (c) or 938.344 (2g)
12 (a).

13 **SECTION 16.** 46.025 of the statutes is amended to read:

14 **46.025 Division of youth services.** The division of youth services shall
15 exercise the powers and perform the duties of the department that relate to juvenile
16 correctional services and institutions, juvenile offender review, aftercare, corrective
17 sanctions, the juvenile boot camp program under s. ~~48.532~~ 938.532 and youth aids.

18 **SECTION 17.** 46.03 (1) of the statutes is amended to read:

19 46.03 (1) INSTITUTIONS GOVERNED. Maintain and govern all secured correctional
20 facilities, as defined in s. ~~48.02~~ 938.02 (15m), that are operated by the department;
21 the Mendota and the Winnebago mental health institutes; and the centers for the
22 developmentally disabled.

23 **SECTION 18.** 46.03 (4) (b) 1. of the statutes is amended to read:

24 46.03 (4) (b) 1. The department, in order to discharge more effectively its
25 responsibilities under this chapter and ~~ch.~~ chs. 48 and 938 and other relevant

1 provisions of the statutes, is authorized to study causes and methods of prevention
2 and treatment of juvenile delinquency, mental illness, mental deficiency, mental
3 infirmity, and related social problems, including establishment of demonstration
4 projects to apply and evaluate such methods in actual cases. The department is
5 directed and authorized to utilize all powers provided by the statutes, including the
6 authority under sub. (2a), to accept grants of money or property from federal, state
7 or private sources, and to enlist the cooperation of other appropriate agencies and
8 state departments; it may enter into agreements with local government
9 subdivisions, departments and agencies for the joint conduct of such projects; and it
10 may purchase services when deemed appropriate.

11 **SECTION 19.** 46.03 (6) (a) of the statutes, as affected by 1993 Wisconsin Act 377,
12 is amended to read:

13 46.03 (6) (a) Except as provided in s. ~~48.537~~ 938.537, execute the laws relating
14 to the detention, reformation and correction of delinquents.

15 **SECTION 20.** 46.03 (7) (a) of the statutes is amended to read:

16 46.03 (7) (a) Promote the enforcement of laws for the protection of
17 developmentally disabled children, delinquent children, children in need of
18 protection or services and nonmarital children; and to this end cooperate with courts
19 assigned to exercise jurisdiction under ~~ch. 48~~ chs. 48 and 938 and licensed child welfare
20 agencies and institutions (public and private) and take the initiative in all matters
21 involving the interests of such children where adequate provision therefor has not
22 already been made, including the establishment and enforcement of standards for
23 services provided under ~~ss. 48.34 and 48.345, 938.34 and 938.345, other than~~
24 services provided by the department of corrections under s. 938.34 (4g).

25 **SECTION 21.** 46.03 (7) (e) of the statutes is amended to read:

1 46.03 (7) (e) Administer the juvenile offender review program in the division
2 of youth services in the department. The program shall be responsible for decisions
3 regarding case planning and the release of juvenile offenders from juvenile
4 correctional institutions operated by the department and secured child caring
5 institutions, as defined in s. 938.02 (15g), to aftercare and corrective sanctions
6 placements.

7 **SECTION 22.** 46.03 (17) (c) of the statutes, as affected by 1993 Wisconsin Act 385,
8 is amended to read:

9 46.03 (17) (c) To contract with public, private or voluntary agencies for the
10 purchase of goods, care and services for youth placed under department supervision
11 under s. ~~48.34~~ 938.183 (2), 938.34 (4m) or (4n) or ~~48.366~~ 938.366. Services may
12 include, but are not limited to, diagnostic services, evaluation, treatment,
13 counseling, referral and information, day care, inpatient hospitalization,
14 transportation, recreation, special education, vocational training, work adjustment,
15 sheltered employment, special living arrangements and legal and protective
16 services.

17 **SECTION 23.** 46.03 (32) of the statutes is amended to read:

18 46.03 (32) REIMBURSEMENT TO VISITING FAMILIES. The department may
19 reimburse families visiting girls at a secured correctional facility, as defined in s.
20 938.02 (15m), that is operated by the department or a secured child caring
21 institution, as defined in s. 938.02 (15g). If the department decides to provide the
22 reimbursement, it shall establish criteria for the level of reimbursement, which shall
23 include family income and size and other relevant factors.

24 **SECTION 24.** 46.041 (1) (a) of the statutes is amended to read:

1 46.041 (1) (a) Provide for the temporary residence and evaluation of children
2 referred from courts assigned to exercise jurisdiction under ~~ch.~~ chs. 48 and 938, the
3 institutions and services under the jurisdiction of the department, university of
4 Wisconsin hospital and clinics, county departments under s. 46.215, 46.22 or 46.23,
5 private child welfare agencies, schools for the deaf and visually handicapped, and
6 mental health facilities within the state at the discretion of the superintendent.

7 **SECTION 25.** 46.049 of the statutes, as affected by 1993 Wisconsin Act 385, is
8 amended to read:

9 **46.049 Training school for delinquent boys.** The department, with the
10 approval of the governor, may purchase or accept a gift of land for a suitable site for
11 an additional training school for delinquent boys and erect and equip such buildings
12 as it deems necessary at such time as funds may be allocated for that purpose by the
13 building commission. The training school or other additional facilities for delinquent
14 boys financed by the authorized 1965-67 building program shall be located north of
15 a line between La Crosse and Manitowoc. The department shall operate and
16 maintain the institution for the treatment of delinquent boys who are placed in a
17 secured correctional facility under s. ~~48.34~~ 938.183 (2) or 938.34 (4m). All laws
18 pertaining to the care of children received under s. ~~48.34~~ 938.34 shall apply. Officers
19 and employes of the institution are subject to the same laws as apply to other
20 facilities described in s. ~~48.52~~ 938.52.

21 **SECTION 26.** 46.10 (1) of the statutes is amended to read:

22 46.10 (1) Liability and the collection and enforcement of such liability for the
23 care, maintenance, services and supplies specified in this section is governed
24 exclusively by this section, except in cases of child support ordered by a court under

1 s. 48.355 (2) (b) 4., 48.357 (5m) ~~or~~, 48.363 (2), 938.183 (2), 938.355 (2) (b) 4., 938.357
2 (5m) or 938.363 (2) or ch. 767.

3 **SECTION 27.** 46.10 (2) of the statutes, as affected by 1993 Wisconsin Acts 479
4 and 481, is amended to read:

5 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
6 including but not limited to a person admitted, committed or placed under s. 975.01,
7 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. ~~48.34 (4m),~~
8 ~~48.357 (4) and (5) (e), 48.366,~~ 51.10, 51.13, 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45
9 (10), (11), (12) and (13), 55.05, 55.06, 938.183 (2), 938.34 (4m), 938.357 (4) and (5) (e),
10 938.366, 971.14 (2) and (5), 971.17 (1), 975.06 and 980.06, receiving care,
11 maintenance, services and supplies provided by any institution in this state
12 including university of Wisconsin hospital and clinics, in which the state is
13 chargeable with all or part of the person's care, maintenance, services and supplies,
14 any person receiving care and services from a county department established under
15 s. 51.42 or 51.437 or from a facility established under s. 49.175, and any person
16 receiving treatment and services from a public or private agency under s. 971.17 (3)
17 (d) or (4) (e), 980.06 (2) (c) or 980.08 (5) and the person's property and estate,
18 including the homestead, and the spouse of the person, and the spouse's property and
19 estate, including the homestead, and, in the case of a minor child, the parents of the
20 person, and their property and estates, including their homestead, and, in the case
21 of a foreign child described in s. 48.839 (1) who became dependent on public funds
22 for his or her primary support before an order granting his or her adoption, the
23 resident of this state appointed guardian of the child by a foreign court who brought
24 the child into this state for the purpose of adoption, and his or her property and
25 estate, including his or her homestead, shall be liable for the cost of the care,

1 maintenance, services and supplies in accordance with the fee schedule established
2 by the department under s. 46.03 (18). If a spouse, widow or minor, or an
3 incapacitated person may be lawfully dependent upon the property for their support,
4 the court shall release all or such part of the property and estate from the charges
5 that may be necessary to provide for those persons. The department shall make
6 every reasonable effort to notify the liable persons as soon as possible after the
7 beginning of the maintenance, but the notice or the receipt thereof is not a condition
8 of liability.

9 **SECTION 28.** 46.10 (14) (b) of the statutes is amended to read:

10 46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
11 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
12 parent's minor child who has been placed by a court order under s. ~~48.355 or~~ 48.357,
13 938.183 (2), 938.355 or 938.357 in a residential, nonmedical facility such as a group
14 home, foster home, treatment foster home, child caring institution or juvenile
15 correctional institution shall be determined by the court by using the percentage
16 standard established by the department under s. 46.25 (9) (a) and by applying the
17 percentage standard in the manner established by the department under s. 46.25 (9)
18 (b).

19 **SECTION 29.** 46.10 (14) (e) 1. of the statutes, as created by 1993 Wisconsin Act
20 481, is amended to read:

21 46.10 (14) (e) 1. An order issued under s. ~~48.355 (2) (b) 4., 48.357 (5m) or~~ 48.363
22 (2), 938.183 (2), 938.355 (2) (b) 4., 938.357 (5m) or 938.363 (2) for support determined
23 under this subsection constitutes an assignment of all commissions, earnings,
24 salaries, wages, pension benefits, benefits under ch. 102 or 108 and other money due
25 or to be due in the future to the county department under s. 46.215, 46.22 or 46.23

1 in the county where the order was entered or to the department, depending upon the
2 placement of the child as specified by rules promulgated under subd. 5. The
3 assignment shall be for an amount sufficient to ensure payment under the order.

4 **SECTION 30.** 46.206 (1) (b) of the statutes is amended to read:

5 46.206 (1) (b) All records of the department and all county records relating to
6 social services, aid to families with dependent children and aid under s. 49.18, 1971
7 stats., s. 49.20, 1971 stats., and s. 49.61, 1971 stats., as affected by chapter 90, laws
8 of 1973, shall be open to inspection at all reasonable hours by authorized
9 representatives of the federal government. Notwithstanding ~~s. ss.~~ 48.396 (2) and
10 938.396 (2), all county records relating to the administration of such services and
11 public assistance shall be open to inspection at all reasonable hours by authorized
12 representatives of the department.

13 **SECTION 31.** 46.21 (2) (a) of the statutes is amended to read:

14 46.21 (2) (a) Shall adopt policies for the management, operation, maintenance
15 and improvement of the county hospital; the detention center; the probation section
16 of the children's court center; the provision and maintenance of the physical facilities
17 for the children's court and its intake section under the supervision and operation
18 of the judges assigned to exercise jurisdiction under ~~ch. chs.~~ 48 and 938 and as
19 provided in ~~s. ss.~~ 48.06 (1) and 938.06 (1); the mental health complex; the county
20 department of human services; the central service departments; and all buildings
21 and land used in connection with any institution under this section. The powers and
22 duties of the county board of supervisors are policy forming only, and not
23 administrative or executive.

24 **SECTION 32.** 46.215 (1) (h) of the statutes is amended to read:

1 46.215 (1) (h) To administer child welfare services under ss. 48.56 and 48.57
2 and juvenile welfare services under s. 938.57, to accept custody and guardianship of
3 children upon the order of a competent court and to place children for adoption and
4 to make recommendations relating to the adoption of children under s. 48.85.

5 **SECTION 33.** 46.22 (1) (c) 1. b. of the statutes is amended to read:

6 46.22 (1) (c) 1. b. State institutions. Mendota mental health institute,
7 Winnebago mental health institute, university of Wisconsin hospital and clinics,
8 centers for the developmentally disabled and Type 1 secured correctional facilities,
9 as defined in s. ~~48.02 (15m)~~ 938.02 (19), that are operated by the department.

10 **SECTION 34.** 46.22 (1) (c) 2. of the statutes is amended to read:

11 46.22 (1) (c) 2. Subdivision 1. does not authorize the county department of
12 social services to make investigations regarding admission to or release from the
13 Waupun correctional institution, the Columbia correctional institution, the Racine
14 correctional institution, the correctional institution authorized under s. 301.046 (1),
15 the correctional institution authorized under s. 301.048 (4) (b), the Oshkosh
16 correctional institution, the Green Bay correctional institution, the Dodge
17 correctional institution, the Taycheedah correctional institution, county houses of
18 correction, jails, detention homes or, reforestation camps, Type 2 secured
19 correctional facilities, as defined in s. 938.02 (20), or secured correctional facilities,
20 as defined in s. 938.02 (15m), that are operated by the department of corrections.

21 **SECTION 35.** 46.22 (1) (c) 5. of the statutes is amended to read:

22 46.22 (1) (c) 5. Perform the duties and functions prescribed in s. ss. 48.08 and
23 938.08 when requested to do so by the judge assigned to exercise jurisdiction under
24 ch. chs. 48 and 938.

25 **SECTION 36.** 46.22 (1) (c) 8. c. of the statutes is amended to read:

1 46.22 (1) (c) 8. c. Upon the request of the judge assigned to exercise jurisdiction
2 under ~~ch. chs. 48 and 938~~, the county department of social services shall investigate
3 the home environment and other factors in the life of any child brought to the
4 attention of the court for alleged dependency, neglect, or delinquency, and to assume
5 guidance and supervision of any child placed on probation by that court.

6 **SECTION 37.** 46.22 (1) (c) 8. e. of the statutes is amended to read:

7 46.22 (1) (c) 8. e. The county department of social services shall have the powers
8 and duties specified in ~~s. ss. 48.57 and 938.57~~.

9 **SECTION 38.** 46.25 (9) (b) of the statutes is amended to read:

10 46.25 (9) (b) For purposes of determining child support under s. 46.10 (14) (b),
11 the department shall promulgate separate rules related to the application of the
12 standard under par. (a) to a child support obligation for the care and maintenance
13 of a child who is placed by a court order under s. 48.355 ~~or~~, 48.357, 938.183 (2),
14 938.355 or 938.357 in a residential, nonmedical facility. The rules shall take into
15 account the needs of any person, including dependent children other than the child,
16 whom either parent is legally obligated to support.

17 **SECTION 39.** 46.26 (1) of the statutes is amended to read:

18 46.26 (1) PROCEDURES. The department of health and social services shall
19 develop procedures for the implementation of this section, standards for the
20 development and delivery of social services under ~~ch. chs. 48 and 938~~, and shall
21 provide consultation and technical assistance to aid counties in implementation and
22 service delivery. The department of health and social services shall establish
23 information systems, monitoring and evaluation procedures to report periodically to
24 the governor and legislature on the state impact of this section.

25 **SECTION 40.** 46.26 (2) (c) of the statutes is amended to read:

1 46.26 (2) (c) All funds to counties under this section shall be used to purchase
2 or provide juvenile delinquency-related services under ch. 48 938, except that no
3 funds to counties under this section may be used for purposes of land purchase,
4 building construction or maintenance of buildings under ss. 46.17 and 46.175, for
5 reimbursement of costs under s. ~~48.209~~ 938.209, for city lockups or for
6 reimbursement of care costs in temporary shelter care under s. ~~48.22~~ 938.22. Funds
7 to counties under this section may be used for reimbursement of costs of program
8 services, other than basic care and supervision costs, in juvenile secure detention
9 facilities.

10 **SECTION 41.** 46.26 (3) (d) of the statutes, as affected by 1993 Wisconsin Act 377,
11 is amended to read:

12 46.26 (3) (d) Subject to pars. (dd), (de) and (dg), in addition to the funds
13 allocated under par. (c), the department of health and social services shall allocate
14 funds to counties under sub. (4) (b) 2. and shall consider each county's proportionate
15 use of applicable services of the department of health and social services under ss.
16 ~~48.34~~ 938.183 (2), 938.34 and ~~48.366~~ 938.366 or the department of corrections under
17 ss. ~~48.366~~ and ~~48.537~~ 938.183 (2), 938.366 and 938.537 during previous calendar
18 years.

19 **SECTION 42.** 46.26 (3) (f) of the statutes is amended to read:

20 46.26 (3) (f) Notwithstanding pars. (dm) and (e), the department of health and
21 social services may carry forward from 1994 to 1995 not more than \$768,100 of the
22 funds allocated under this subsection to the counties that are participating in the
23 corrective sanctions program under s. ~~48.533~~ 938.533 (2) for their use of the services
24 provided under that program. Notwithstanding s. 20.435 (3) (cd), any funds that are

1 carried forward under this paragraph and not spent or encumbered by counties by
2 June 30, 1995, shall lapse to the general fund on July 1, 1995.

3 **SECTION 43.** 46.26 (4) (a) of the statutes, as affected by 1993 Wisconsin Act 377,
4 is amended to read:

5 46.26 (4) (a) Except as provided in pars. (c) and (cm), the department of health
6 and social services shall bill counties or deduct from the allocations under s. 20.435
7 (3) (cd) for the costs of care, services and supplies purchased or provided by the
8 department of health and social services for each person receiving services under ss.
9 ~~48.34, 48.366 and 51.35 (3), 938.183 (2), 938.34 and 938.366~~ or the department of
10 corrections for each person receiving services under s. ~~48.366~~ 938.183 (2) or 938.366.
11 The department of health and social services may not bill a county for or deduct from
12 a county's allocation the cost of care, services and supplies provided to a person
13 subject to an order under s. ~~48.366~~ 938.183 (2) or 938.366 after the person reaches
14 19 years of age or provided to a person subject to an order under s. ~~48.34~~ 938.34 (4g).
15 Payment shall be due within 60 days of the billing date. If any payment has not been
16 received within 60 days, the department of health and social services may withhold
17 aid payments in the amount due from the appropriation under s. 20.435 (3) (cd) or
18 (7) (b).

19 **SECTION 44.** 46.26 (4) (b) 1. of the statutes, as affected by 1993 Wisconsin Act
20 377, is amended to read:

21 46.26 (4) (b) 1. Assessment of costs under par. (a) shall be made periodically on
22 the basis of a per person per day cost estimate adjusted at least annually by the
23 department. Except as provided in pars. (bm), (c), (cm) and (dr), liability shall apply
24 to county departments under s. 46.21, 46.22 or 46.23 in the county of the court
25 exercising jurisdiction under ~~ch.~~ chs. 48 and 938 for each person receiving services

1 from the department of health and social services under ss. ~~48.34, 48.366~~ and 51.35
2 ~~(3), 938.183 (2), 938.34 and 938.366~~ or the department of corrections under s. ~~48.366~~
3 ~~938.183 (2) or 938.366~~. Except as provided in pars. (bm), (c), (cm) and (dr), in
4 multicounty court jurisdictions, the county of residency within the jurisdiction shall
5 be liable for costs under this subsection. Assessment of costs under par. (a) shall also
6 be made according to the general placement type or level of care provided, as defined
7 by the department, and prorated according to the ratio of the amount designated
8 under sub. (3) (c) and (d) to the total applicable estimated costs of care, services and
9 supplies provided by the department of health and social services under ss. ~~48.34,~~
10 ~~48.366~~ and 51.35 ~~(3), 938.183 (2), 938.34 and 938.366~~ or the department of
11 corrections under ss. ~~48.34~~ ~~938.183 (2), 938.34~~ (4g) and ~~48.366~~ ~~938.366~~.

12 **SECTION 45.** 46.26 (4) (c) of the statutes, as affected by 1993 Wisconsin Act 377,
13 is amended to read:

14 46.26 (4) (c) Notwithstanding pars. (a), (b) 1. and (bm), but subject to par. (dr),
15 the department of health and social services shall pay, from the appropriation under
16 s. 20.435 (3) (hm), the costs of care, services and supplies provided for each person
17 receiving services under ss. ~~48.34, 48.366~~ and 51.35 ~~(3), 938.183 (2), 938.34 and~~
18 ~~938.366~~ who was under the guardianship of the department pursuant to an order
19 under ch. 48 at the time that the person was adjudicated delinquent.

20 **SECTION 46.** 46.26 (4) (cm) 1. of the statutes, as affected by 1993 Wisconsin Act
21 377, is amended to read:

22 46.26 (4) (cm) 1. Notwithstanding pars. (a), (b) 1. and (bm), but subject to par.
23 (dr), the department shall transfer funds from the appropriation under s. 20.435 (3)
24 (cg) to the appropriation under s. 20.435 (3) (hm) for the purpose of reimbursing
25 juvenile correctional institutions operated by the department and secured child

1 caring institutions, as defined in s. 938.02 (15g), for costs incurred beginning on
2 January 1, 1995, for the care of any child who is placed in a juvenile correctional
3 facility operated by the department or a secured child caring institution based on a
4 delinquent act that is a violation of s. 940.01, 940.02, 940.03, 940.05, 940.225 (1) ~~or~~,
5 943.32 (2), 948.02 (1) or 948.025.

6 **SECTION 47.** 46.26 (4) (cm) 2. of the statutes is amended to read:

7 46.26 (4) (cm) 2. Notwithstanding pars. (a), (b) 1. and (bm), the department
8 shall transfer funds from the appropriation under s. 20.435 (3) (cg) to the
9 appropriation under s. 20.410 (1) (hx) for the purpose of reimbursing adult
10 correctional institutions for costs incurred beginning on January 1, 1995, for the care
11 of any person under 19 years of age who is placed in an adult correctional facility
12 under s. ~~48.366~~ 938.183 (2) or 938.366 (8) based on a delinquent act that is a violation
13 of s. 940.01, 940.02, 940.05 ~~or~~, 940.225 (1), 948.02 (1) or 948.025.

14 **SECTION 48.** 46.26 (4) (d) 1. of the statutes is amended to read:

15 46.26 (4) (d) 1. Except as provided in pars. (e) to (g), for services under s. ~~48.34~~
16 938.34, all payments and deductions made under this subsection and uniform fee
17 collections made under s. 46.03 (18) shall be deposited in the appropriation under s.
18 20.435 (3) (hm). As adjustments in the assessments under this subsection are made,
19 there shall be a proportionate adjustment in the allocations to counties under sub.
20 (3) (d).

21 **SECTION 49.** 46.26 (4) (d) 1m. of the statutes is amended to read:

22 46.26 (4) (d) 1m. Except as provided in pars. (e) to (g), for services under s.
23 ~~48.366~~ ss. 938.183 (2) and 938.366, all payments and deductions made under this
24 subsection and uniform fee collections made under s. 46.03 (18) shall be deposited
25 in the appropriation under s. 20.435 (3) (hm) for services provided by the department

1 of health and social services or s. 20.410 (1) (hx) for services provided by the
2 department of corrections. As adjustments in the assessments under this subsection
3 are made, there shall be a proportionate adjustment in the allocations to counties
4 under sub. (3) (d).

5 **SECTION 50.** 46.26 (4) (d) 2. of the statutes is amended to read:

6 46.26 (4) (d) 2. Beginning July 1, ~~1993~~ 1995, and ending December 31, ~~1993~~
7 1995, the per person daily cost assessment to counties shall be \$101.55 for care in a
8 ~~juvenile correctional institution~~ Type 1 secured correctional facility, as defined in s.
9 938.02 (19), \$101.55 for care for children transferred from a ~~juvenile correctional~~
10 ~~institution~~ secured correctional facility, as defined in s. 938.02 (15m), or a secured
11 child caring institution, as defined in s. 48.02 (15g), under s. 51.35 (3), the dollar
12 amount set by the department of corrections by rule for maintaining a prisoner in an
13 adult correctional institution, \$131.65 for care in a child caring institution, \$92.03
14 for care in a group home for children, \$21.02 for care in a foster home, \$58.37 for care
15 in a treatment foster home, \$66.75 for care in a Type 2 secured correctional facility,
16 as defined in s. 938.02 (20), and \$11.57 for departmental aftercare services.

17 **SECTION 51.** 46.26 (4) (d) 3. of the statutes is amended to read:

18 46.26 (4) (d) 3. In calendar year ~~1994~~ 1996, the per person daily cost assessment
19 to counties shall be \$111.73 for care in a ~~juvenile correctional institution~~ Type 1
20 secured correctional facility, as defined in s. 938.02 (19), \$111.73 for care for children
21 transferred from a ~~juvenile correctional institution~~ secured correctional facility, as
22 defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02
23 (15g), under s. 51.35 (3), the dollar amount set by the department of corrections by
24 rule for maintaining a prisoner in an adult correctional institution, \$141.05 for care
25 in a child caring institution, \$98.47 for care in a group home for children, \$22.49 for

1 care in a foster home, \$62.46 for care in a treatment foster home, \$66.75 for
2 ~~departmental corrective sanctions services~~ care in a Type 2 secured correctional
3 facility, as defined in s. 938.02 (20), and \$12.96 for departmental aftercare services.

4 **SECTION 52.** 46.26 (4) (d) 4. of the statutes is amended to read:

5 46.26 (4) (d) 4. Beginning January 1, ~~1995~~ 1997, and ending June 30, ~~1995~~
6 1997, the per person daily cost assessment to counties shall be \$115.68 for care in a
7 ~~juvenile correctional institution~~ Type 1 secured correctional facility, as defined in s.
8 938.02 (19), \$115.68 for care for children transferred from a ~~juvenile correctional~~
9 ~~institution~~ secured correctional facility, as defined in s. 938.02 (15m), or a secured
10 child caring institution, as defined in s. 938.02 (15g), under s. 51.35 (3), the dollar
11 amount set by the department of corrections by rule for maintaining a prisoner in an
12 adult correctional institution, \$146.07 for care in a child caring institution, \$101.92
13 for care in a group home for children, \$23.28 for care in a foster home, \$64.65 for care
14 in a treatment foster home, \$66.75 for ~~departmental corrective sanctions services~~
15 care in a Type 2 secured correctional facility, as defined in s. 938.02 (20), and \$12.96
16 for departmental aftercare services.

17 **SECTION 53.** 46.26 (4) (dr) of the statutes, as created by 1993 Wisconsin Act 377,
18 is amended to read:

19 46.26 (4) (dr) For youthful offender services provided by the department of
20 health and social services under s. ~~48.34~~ 938.34 (4g), all payments received from the
21 department of corrections under s. ~~48.537~~ 938.537 (6) shall be deposited in the
22 appropriation account under s. 20.435 (3) (k).

23 **SECTION 54.** 46.26 (4) (e) of the statutes is amended to read:

24 46.26 (4) (e) For foster care, treatment foster care, group home care and
25 institutional child care to delinquent children under ss. ~~48.48 (4) and (14), 48.52 and~~

1 49.19 (10) (d), 938.48 (4) and (14) and 938.52 all payments and deductions made
2 under this subsection and uniform fee collections under s. 46.03 (18) shall be
3 deposited in the appropriation under s. 20.435 (3) (ho).

4 **SECTION 55.** 46.26 (4) (eg) of the statutes is amended to read:

5 46.26 (4) (eg) For corrective sanctions services under s. ~~48.533~~ 938.533 (2), all
6 payments and deductions made under this subsection and uniform fee collections
7 under s. 46.03 (18) shall be deposited in the appropriation under s. 20.435 (3) (hr).

8 **SECTION 56.** 46.26 (4) (g) of the statutes is amended to read:

9 46.26 (4) (g) For juvenile field and institutional aftercare services under ch. 48
10 938 and for the juvenile offender review program in the division of youth services in
11 the department of health and social services, all payments and deductions made
12 under this subsection and uniform fee collections under s. 46.03 (18) shall be
13 deposited in the general fund and shall be treated as a nonappropriated receipt.

14 **SECTION 57.** 46.26 (7) (b) 2. of the statutes is amended to read:

15 46.26 (7) (b) 2. To determine eligibility for payments under this paragraph for
16 fiscal year ~~1993-94~~ 1995-96, the department shall determine a percentage for each
17 county by dividing the combined number of ~~1990~~ 1992 and ~~1991~~ 1993 assaultive and
18 total Part I juvenile arrests in a county by the population of that county under ~~18~~ 17
19 years of age. A county having a percentage exceeding 3.5% is eligible to receive these
20 payments.

21 **SECTION 58.** 46.26 (7) (b) 3. of the statutes is amended to read:

22 46.26 (7) (b) 3. To determine eligibility for payments under this paragraph for
23 fiscal year ~~1994-95~~ 1996-97, the department shall determine a percentage for each
24 county by using the procedure under subd. 2., updating the arrest data to reflect

1 current statistics, if available. A county having a percentage exceeding 3.5% is
2 eligible to receive these payments.

3 **SECTION 59.** 46.26 (7) (h) of the statutes is amended to read:

4 46.26 (7) (h) For counties that are participating in the corrective sanctions
5 program under s. ~~48.533~~ 938.533 (2), \$768,100 in 1994 and \$768,100 in the first 6
6 months of 1995 for the provision of corrective sanctions services for children from
7 that county. In distributing funds to counties under this paragraph, the department
8 shall determine a county's distribution by dividing the amount allocated under this
9 paragraph by 105 and multiplying the quotient by the average daily population of
10 children from that county who are participating in the program.

11 **SECTION 60.** 46.263 (3) of the statutes is amended to read:

12 46.263 (3) The department shall distribute 33% of the amounts distributed
13 under sub. (1) based on each county's proportion of the number of children who are
14 taken into custody statewide for alleged violations that are punishable as a Class A
15 or a Class B felony if committed by an adult, during the most recent 2-year period
16 for which that information is available. The department shall distribute 33% of the
17 amounts distributed under sub. (1) based on each county's proportion of the number
18 of children statewide who are placed in a juvenile correctional institution or a
19 secured child caring institution, as defined in s. 938.02 (15g), during the most recent
20 2-year period for which that information is available. The department shall
21 distribute 34% of the amounts distributed under sub. (1) based on each county's
22 proportion of the number of Part I juvenile offenses reported statewide under the
23 uniform crime reporting system of the ~~Wisconsin department~~ office of justice
24 assistance in the department of administration, during the most recent 2-year
25 period for which that information is available.

1 **SECTION 61.** 46.275 (4) (b) 1. of the statutes is amended to read:

2 46.275 (4) (b) 1. Consent for participation is given either by the person's parent,
3 guardian or legal custodian, if the person is under age 18, or by the person or the
4 person's guardian, if the person is age 18 or over, except that this subdivision does
5 not limit the authority of the circuit court to enter, change, revise or extend a
6 dispositional order under subch. VI of ch. 48 or subch. VI of ch. 938 or to order a
7 placement under s. 55.06.

8 **SECTION 62.** 46.28 (1) (am) 1. of the statutes is amended to read:

9 46.28 (1) (am) 1. A child adjudged delinquent for whom a case disposition is
10 made under s. ~~48.34~~ 938.34.

11 **SECTION 63.** 46.28 (1) (am) 2. of the statutes is amended to read:

12 46.28 (1) (am) 2. A child found in need of protection or services for whom an
13 order is made under s. 48.345 or 938.345.

14 **SECTION 64.** 46.56 (3) (a) 5. of the statutes is amended to read:

15 46.56 (3) (a) 5. The juvenile court administrator or another representative
16 appointed by the judge responsible for cases heard under ~~ch.~~ chs. 48 and 938.

17 **SECTION 65.** 46.56 (8) (a) of the statutes is amended to read:

18 46.56 (8) (a) Referrals to the program may come from any county departments,
19 agencies, school districts, cooperative educational service agencies, county
20 handicapped children's education boards, technical college districts, courts assigned
21 to exercise jurisdiction under ~~ch.~~ chs. 48 and 938 or any other organization or the
22 child with severe disabilities or his or her family may contact the administering
23 agency or service coordination agency to request services.

24 **SECTION 66.** 46.56 (8) (g) of the statutes is amended to read:

1 46.56 (8) (g) The service coordinator shall assemble the results of all prior
2 relevant assessments and evaluations documenting the service needs of the child
3 with severe disabilities and the child's family, including multidisciplinary team
4 evaluations under s. 115.80 (3) or independent educational evaluations,
5 court-ordered evaluations under s. 48.295 or 938.295, family support program
6 evaluations, community integration program or community options program
7 assessments, and any other available medical, psychiatric, psychological, vocational
8 or developmental evaluations.

9 **SECTION 67.** 46.56 (8) (h) 5. of the statutes is amended to read:

10 46.56 (8) (h) 5. Identification of any administrative or judicial procedures
11 under ch. 48, 51, 55, 115 ~~or~~, 118 or 938 that may be necessary in order to fully
12 implement the integrated service plan and the identity of the individual or
13 organization that will be responsible for initiating those procedures, if any are
14 required.

15 **SECTION 68.** 46.56 (8) (j) of the statutes is amended to read:

16 46.56 (8) (j) The proposed integrated service plan shall be submitted to any
17 service providers who would be included in the integrated service plan and the court
18 assigned to exercise jurisdiction under ~~ch. chs.~~ 48 and 938 if participation in the
19 program has been court ordered under s. ~~48.34~~ 48.345 (6m) or 938.34 (6m).

20 **SECTION 69.** 46.56 (8) (k) of the statutes is amended to read:

21 46.56 (8) (k) Upon written approval of the integrated service plan by the
22 proposed service providers and the child's family, unless the child's involvement in
23 the program is through court order under s. 48.355 or 938.355, in which case
24 approval of the court may be substituted for that of the family, the integrated service

1 plan shall be implemented by the service coordination agency and the service
2 providers designated to provide services under the integrated service plan.

3 **SECTION 70.** 46.56 (14) (a) (intro.) of the statutes is amended to read:

4 46.56 (14) (a) (intro.) In order to support the development of a comprehensive
5 system of coordinated care for children with severe disabilities and their families, the
6 department shall establish a statewide advisory committee with representatives of
7 county departments, the department of public instruction, educational agencies,
8 professionals experienced in the provision of services to children with severe
9 disabilities, families with children with severe disabilities, advocates for such
10 families and their children, the subunit of the department that administers
11 vocational rehabilitation, the technical college system, health care providers, courts
12 assigned to exercise jurisdiction under ~~ch. chs.~~ 48 and 938, child welfare officials, and
13 other appropriate persons as selected by the department. The department may use
14 an existing committee for this purpose if it has representatives from the listed groups
15 and is willing to perform the required functions. This committee shall do all of the
16 following:

17 **SECTION 71.** 48.01 (1) (c) of the statutes is repealed.

18 **SECTION 72.** 48.01 (1) (d) of the statutes is repealed.

19 **SECTION 73.** 48.01 (1) (h) of the statutes is repealed.

20 **SECTION 74.** 48.02 (2m) of the statutes is amended to read:

21 48.02 (2m) "Court", when used without further qualification, means the court
22 assigned to exercise jurisdiction under this chapter and ch. 938.

23 **SECTION 75.** 48.02 (3m) of the statutes is repealed.

24 **SECTION 76.** 48.02 (9m) of the statutes is repealed.

25 **SECTION 77.** 48.02 (10) of the statutes is amended to read:

1 48.02 (10) "Judge", if used without further qualification, means the judge of the
2 court assigned to exercise jurisdiction under this chapter and ch. 938.

3 **SECTION 78.** 48.02 (15m) of the statutes, as affected by 1993 Wisconsin Act 377,
4 is repealed.

5 **SECTION 79.** 48.023 (4) of the statutes, as affected by 1993 Wisconsin Act 385,
6 is amended to read:

7 48.023 (4) The rights and responsibilities of legal custody except when legal
8 custody has been vested in another person or when the child is under the supervision
9 of the department under s. 48.34 938.183 (2) or 938.34 (4m) or (4n) or the supervision
10 of a county department under s. 48.34 938.34 (4n).

11 **SECTION 80.** 48.03 (2) of the statutes is amended to read:

12 48.03 (2) In the case of the absence or disability of the judge of a court assigned
13 to exercise jurisdiction under this chapter and ch. 938, another judge shall be
14 assigned under s. 751.03 to act temporarily in the judge's place. If the judge assigned
15 temporarily is from a circuit other than the one for which elected, the judge shall
16 receive expenses as provided under s. 753.073.

17 **SECTION 81.** 48.035 of the statutes is amended to read:

18 **48.035 Court; Menominee and Shawano counties.** Menominee county is
19 attached to Shawano county for judicial purposes to the extent of the jurisdiction and
20 functions of the court assigned to exercise jurisdiction under this chapter and ch. 938
21 and the office and functions of the judge of the court, and the duly designated judge
22 of the court assigned to exercise jurisdiction under this chapter and ch. 938 of the
23 circuit court for Menominee and Shawano counties shall serve in both counties. The
24 county boards of Menominee county and Shawano county shall enter into an
25 agreement on administration of this section and the prorating of expenditures

1 involved, and for such purposes the county board of supervisors of Menominee county
2 may appropriate, levy and collect a sum each year sufficient to pay its share of the
3 expenses. If the 2 county boards are unable to agree on the prorating of expenditure
4 involved, then the circuit judges for the circuit court for Menominee and Shawano
5 counties shall, upon appropriate notice and hearing, determine the prorating of the
6 expenditures on the basis of a fair allocation to each county under such procedure as
7 they prescribe. If the circuit judges are unable to agree, the chief judge of the judicial
8 administrative district shall make the determination.

9 **SECTION 82.** 48.06 (1) (a) 1. of the statutes is amended to read:

10 48.06 (1) (a) 1. In counties with a population of 500,000 or more, the county
11 board of supervisors shall provide the court with the services necessary for
12 investigating and supervising cases under this chapter and ch. 938 by operating a
13 children's court center under the supervision of a director who is appointed as
14 provided in s. 46.21 (1m) (a). The director is the chief administrative officer of the
15 center and of the intake and probation sections and secure detention facilities of the
16 center except as otherwise provided in this subsection. The director is charged with
17 administration of the personnel and services of the sections and of the secure
18 detention facilities, and is responsible for supervising both the operation of the
19 physical plant and the maintenance and improvement of the buildings and grounds
20 of the center. The center shall include investigative services for all children alleged
21 to be in need of protection or services to be provided by the county department, and
22 the services of an assistant district attorney or assistant corporation counsel or both,
23 who shall be assigned to the center to provide investigative as well as legal work in
24 the cases.

25 **SECTION 83.** 48.06 (1) (a) 3. of the statutes is amended to read:

1 48.06 (1) (a) 3. The county board of supervisors shall develop policies and
2 establish necessary rules for the management and administration of the nonjudicial
3 operations of the children's court center. The director of the center shall report and
4 is responsible to the director of the county department for the execution of all
5 nonjudicial operational policies and rules governing the center, including activities
6 of probation officers whenever they are not performing services for the court. The
7 director of the center is also responsible for the preparation and submission to the
8 county board of supervisors of the annual budget for the center except for the judicial
9 functions or responsibilities which are delegated by law to the judge or judges and
10 clerk of circuit court. The county board of supervisors shall make provision in the
11 organization of the office of director for the devolution of the director's authority in
12 the case of temporary absence, illness, disability to act or a vacancy in position and
13 shall establish the general qualifications for the position. The county board of
14 supervisors also has the authority to investigate, arbitrate and resolve any conflict
15 in the administration of the center as between judicial and nonjudicial operational
16 policy and rules. The county board of supervisors does not have authority and may
17 not assert jurisdiction over the disposition of any case or child after a written order
18 is made under s. 48.21 or 938.21 or if a petition is filed under s. 48.25 or 938.25. All
19 personnel of the intake and probation sections and of the secure detention facilities
20 shall be appointed under civil service by the director except that existing court
21 service personnel having permanent civil service status may be reassigned to any of
22 the respective sections within the center specified in this paragraph.

23 **SECTION 84.** 48.06 (2) (a) of the statutes is amended to read:

24 48.06 (2) (a) In counties having less than 500,000 population, the county board
25 of supervisors shall authorize the county department or court or both to provide

1 intake services required by ~~s. ss. 48.067 and 938.067~~ and the staff needed to carry
2 out the objectives and provisions of this chapter under s. 48.069 and ch. 938 under
3 s. 938.069. Intake services shall be provided by employes of the court or county
4 department and may not be subcontracted to other individuals or agencies, except
5 ~~any county which had intake services subcontracted from the county sheriff's~~
6 ~~department on April 1, 1980, may continue to subcontract intake services from the~~
7 ~~county sheriff's department~~ as provided in par. (am). Intake workers shall be
8 governed in their intake work, including their responsibilities for recommending the
9 filing of a petition and entering into an informal disposition or deferred prosecution
10 agreement, by general written policies which shall be formulated by the circuit
11 judges for the county, subject to the approval of the chief judge of the judicial
12 administrative district.

13 **SECTION 85.** 48.06 (2) (am) of the statutes is created to read:

14 48.06 (2) (am) 1. Notwithstanding par. (a), any county which had intake
15 services subcontracted from the county sheriff's department on April 1, 1980, may
16 continue to subcontract intake services from the county sheriff's department.

17 2. Notwithstanding par. (a), any county in which the county sheriff's
18 department operates a secure detention facility may subcontract intake services
19 from the county sheriff's department. If a county subcontracts intake services from
20 the county sheriff's department, employes of the county sheriff's department who
21 staff the secure detention facility may provide intake services between the hours of
22 6 p.m. and 6 a.m. and any intake determination made by an employe of the county
23 sheriff's department shall be reviewed by an intake worker employed by the court
24 or county department within 24 hours after that determination is made.

25 **SECTION 86.** 48.06 (3) of the statutes is amended to read:

1 48.06 (3) INTAKE SERVICES. The court or county department responsible for
2 providing intake services under s. ss. 48.067 and 938.067 shall specify one or more
3 persons to provide intake services. If there is more than one such worker, one of the
4 workers shall be designated as chief worker and shall supervise other workers.

5 **SECTION 87.** 48.065 (2) (g) of the statutes is repealed.

6 **SECTION 88.** 48.065 (2) (gm) of the statutes is amended to read:

7 48.065 (2) (gm) Conduct uncontested proceedings under ~~ss. 48.12 and~~ s. 48.13.

8 **SECTION 89.** 48.065 (3) (a) of the statutes is repealed.

9 **SECTION 90.** 48.065 (3) (b) of the statutes is amended to read:

10 48.065 (3) (b) Conduct fact-finding or dispositional hearings ~~except petitions~~
11 ~~or citations under s. 48.125 and~~ except as provided in sub. (2) (gm).

12 **SECTION 91.** 48.065 (3) (c) of the statutes is amended to read:

13 48.065 (3) (c) Make dispositions other than approving consent decrees and
14 other than dispositions in uncontested proceedings under ~~ss. 48.12 and~~ s. 48.13.

15 **SECTION 92.** 48.065 (3) (e) of the statutes is amended to read:

16 48.065 (3) (e) Make changes in placements of children, or revisions or
17 extensions of dispositional orders, ~~except pursuant to petitions or citations under s.~~
18 ~~48.125 and~~ except in uncontested proceedings under ~~ss. 48.12 and~~ s. 48.13.

19 **SECTION 93.** 48.065 (3) (f) of the statutes, as affected by 1993 Wisconsin Act 377,
20 is repealed.

21 **SECTION 94.** 48.069 (1) (dj) of the statutes, as created by 1993 Wisconsin Act
22 385, is repealed.

23 **SECTION 95.** 48.07 (4) of the statutes is amended to read:

24 48.07 (4) COUNTY DEPARTMENTS THAT PROVIDE DEVELOPMENTAL DISABILITIES,
25 MENTAL HEALTH OR ALCOHOL AND OTHER DRUG ABUSE SERVICES. Within the limits of

1 available state and federal funds and of county funds appropriated to match state
2 funds, the court may order county departments established under s. 51.42 or 51.437
3 to provide special treatment or care to a child if special treatment or care has been
4 ordered under s. ~~48.34~~ 48.345 (6) and if s. 48.362 (4) applies.

5 **SECTION 96.** 48.08 (2) of the statutes is amended to read:

6 48.08 (2) ~~Except as provided in sub. (3), any~~ Any person authorized to provide
7 or providing intake or dispositional services for the court under ss. 48.067 and 48.069
8 ~~and any department of corrections staff member designated by agreement between~~
9 ~~the department of corrections and the department of health and social services has~~
10 the power of police officers and deputy sheriffs only for the purpose of taking a child
11 into physical custody when the child comes voluntarily or is suffering from illness or
12 injury or is in immediate danger from his or her surroundings and removal from the
13 surroundings is necessary.

14 **SECTION 97.** 48.08 (3) of the statutes is repealed.

15 **SECTION 98.** 48.09 (1) of the statutes is repealed.

16 **SECTION 99.** 48.09 (2) of the statutes is repealed.

17 **SECTION 100.** 48.09 (3) of the statutes is repealed.

18 **SECTION 101.** 48.09 (4) of the statutes is repealed.

19 **SECTION 102.** 48.10 of the statutes is amended to read:

20 **48.10 Power of the judge to act as intake worker.** The duties of the intake
21 worker may be carried out from time to time by the judge at his or her discretion, but
22 if a recommendation to file a petition is made, ~~a citation is issued~~ or an informal
23 disposition is entered into, the judge shall be disqualified from participating further
24 in the proceedings.

25 **SECTION 103.** 48.12 of the statutes is repealed.

1 **SECTION 104.** 48.125 of the statutes is repealed.

2 **SECTION 105.** 48.13 (4) of the statutes is amended to read:

3 48.13 (4) Whose parent or guardian signs the petition requesting jurisdiction
4 and states that he or she is unable to care for, ~~control~~ or provide necessary special
5 treatment or care for the child;

6 **SECTION 106.** 48.13 (6) of the statutes is repealed.

7 **SECTION 107.** 48.13 (6m) of the statutes is repealed.

8 **SECTION 108.** 48.13 (7) of the statutes is repealed.

9 **SECTION 109.** 48.13 (12) of the statutes is repealed.

10 **SECTION 110.** 48.13 (14) of the statutes is repealed.

11 **SECTION 111.** 48.135 (1) of the statutes is amended to read:

12 48.135 (1) If a child alleged to be ~~delinquent~~ or in need of protection or services
13 is before the court and it appears that the child is developmentally disabled, mentally
14 ill or drug dependent or suffers from alcoholism, the court may proceed under ch. 51
15 or 55.

16 **SECTION 112.** 48.14 (4) of the statutes is amended to read:

17 48.14 (4) Proceedings under the interstate compact on juveniles under s.
18 ~~48.991~~ 938.991.

19 **SECTION 113.** 48.15 of the statutes is amended to read:

20 **48.15 Jurisdiction of other courts to determine legal custody.** Nothing
21 contained in ss. ~~48.12~~, 48.13 and 48.14 deprives other courts of the right to determine
22 the legal custody of children by habeas corpus or to determine the legal custody or
23 guardianship of children if the legal custody or guardianship is incidental to the
24 determination of causes pending in the other courts. But the jurisdiction of the court
25 assigned to exercise jurisdiction under this chapter and ch. 938 is paramount in all

1 cases involving children alleged to come within the provisions of ss. ~~48.12~~, 48.13 and
2 48.14.

3 **SECTION 114.** 48.17 of the statutes is repealed.

4 **SECTION 115.** 48.18 of the statutes, as affected by 1993 Wisconsin Act 377, is
5 repealed.

6 **SECTION 116.** 48.183 of the statutes is repealed.

7 **SECTION 117.** 48.185 (1) of the statutes is amended to read:

8 48.185 (1) ~~Subject to sub. (3), venue~~ Venue for any proceeding under ss. ~~48.12,~~
9 ~~48.125,~~ 48.13, 48.135, and 48.14 (1) to (9) ~~and 48.18~~ may be in any of the following:
10 the county where the child resides, the county where the child is present or, in the
11 case of a violation of a state law or a county, town or municipal ordinance, the county
12 where the violation occurred. Venue for proceedings brought under subch. VIII is as
13 provided in this subsection except where the child has been placed and is living
14 outside the home of the child's parent pursuant to a dispositional order, in which case
15 venue is as provided in sub. (2). Venue for a proceeding under s. 48.14 (10) is as
16 provided in s. 801.50 (5s).

17 **SECTION 118.** 48.185 (3) of the statutes is repealed.

18 **SECTION 119.** 48.19 (1) (d) 3. of the statutes is repealed.

19 **SECTION 120.** 48.19 (1) (d) 6. of the statutes, as affected by 1993 Wisconsin Act
20 377, is repealed.

21 **SECTION 121.** 48.19 (1) (d) 8. of the statutes is repealed.

22 **SECTION 122.** 48.19 (1) (d) 9. of the statutes is repealed.

23 **SECTION 123.** 48.19 (1) (d) 10. of the statutes is repealed.

24 **SECTION 124.** 48.19 (1m) of the statutes is repealed.

25 **SECTION 125.** 48.20 (2) (ag) of the statutes is amended to read:

1 48.20 (2) (ag) Except as provided in pars. (b) to ~~(g)~~ (d), a person taking a child
2 into custody shall make every effort to release the child immediately to the child's
3 parent, guardian or legal custodian.

4 **SECTION 126.** 48.20 (2) (cm) of the statutes, as created by 1993 Wisconsin Act
5 385, is repealed.

6 **SECTION 127.** 48.20 (2) (e) of the statutes is repealed.

7 **SECTION 128.** 48.20 (2) (f) of the statutes is repealed.

8 **SECTION 129.** 48.20 (2) (g) of the statutes is repealed.

9 **SECTION 130.** 48.20 (3) of the statutes is amended to read:

10 48.20 (3) If the child is released under sub. (2) (b) to (d) ~~or (g)~~, the person who
11 took the child into custody shall immediately notify the child's parent, guardian and
12 legal custodian of the time and circumstances of the release and the person, if any,
13 to whom the child was released. If the child is not released under sub. (2), the person
14 who took the child into custody shall arrange in a manner determined by the court
15 and law enforcement agencies for the child to be interviewed by the intake worker
16 under s. 48.067 (2), and shall make a statement in writing with supporting facts of
17 the reasons why the child was taken into physical custody and shall give any child
18 12 years of age or older a copy of the statement in addition to giving a copy to the
19 intake worker. When the intake interview is not done in person, the report may be
20 read to the intake worker.

21 **SECTION 131.** 48.20 (7) (a) of the statutes is amended to read:

22 48.20 (7) (a) When a child is interviewed by an intake worker, the intake worker
23 shall inform any child ~~possibly involved in a delinquent act of his or her right to~~
24 ~~counsel and the right against self-incrimination.~~ If the child who is alleged to be in

1 need of protection or services and who is 12 years of age or older, ~~the intake worker~~
2 ~~shall inform the child~~ of his or her right to counsel.

3 **SECTION 132.** 48.20 (7) (c) 1m. of the statutes, as created by 1993 Wisconsin Act
4 385, is repealed.

5 **SECTION 133.** 48.20 (8) of the statutes, as affected by 1993 Wisconsin Act 385,
6 is amended to read:

7 48.20 (8) If a child is held in custody, the intake worker shall notify the child's
8 parent, guardian and legal custodian of the reasons for holding the child in custody
9 and of the child's whereabouts unless there is reason to believe that notice would
10 present imminent danger to the child. If a child who has violated the terms of
11 aftercare supervision administered by the department or a county department is
12 held in custody, the intake worker shall also notify the department or county
13 department, whichever has supervision over the child, of the reasons for holding the
14 child in custody, of the child's whereabouts and of the time and place of the detention
15 hearing required under s. 48.21. The parent, guardian and legal custodian shall also
16 be notified of the time and place of the detention hearing required under s. 48.21, the
17 nature and possible consequences of that hearing, the right to counsel under s. 48.23
18 regardless of ability to pay, and the right to present and cross-examine witnesses at
19 the hearing. If the parent, guardian or legal custodian is not immediately available,
20 the intake worker or another person designated by the court shall provide notice as
21 soon as possible. When the child is alleged to be in need of protection or services and
22 is 12 years of age or older, ~~or is alleged to have committed a delinquent act~~, the child
23 shall receive the same notice about the detention hearing as the parent, guardian or
24 legal custodian. The intake worker shall notify both the child and the child's parent,
25 guardian or legal custodian.

1 **SECTION 134.** 48.205 (1) (a) of the statutes is amended to read:

2 48.205 (1) (a) Probable cause exists to believe that if the child is not held he or
3 she will ~~commit injury to the person or property of others or~~ cause injury to himself
4 or herself or be subject to injury by others;

5 **SECTION 135.** 48.205 (1) (c) of the statutes, as affected by 1993 Wisconsin Act
6 377, is amended to read:

7 48.205 (1) (c) Probable cause exists to believe that the child will run away or
8 be taken away so as to be unavailable for proceedings of the court or its officers ~~or~~
9 ~~proceedings of the division of hearings and appeals in the department of~~
10 ~~administration for revocation of aftercare, corrective sanctions or youthful offender~~
11 ~~supervision.~~

12 **SECTION 136.** 48.208 (1) of the statutes, as affected by 1993 Wisconsin Acts 377
13 and 385, is repealed.

14 **SECTION 137.** 48.208 (2) of the statutes is repealed.

15 **SECTION 138.** 48.208 (5) of the statutes is repealed.

16 **SECTION 139.** 48.209 (3) of the statutes is repealed.

17 **SECTION 140.** 48.21 (1) (a) of the statutes is amended to read:

18 48.21 (1) (a) If a child who has been taken into custody is not released under
19 s. 48.20, a hearing to determine whether the child shall continue to be held in custody
20 under the criteria of ss. 48.205 to 48.209 shall be conducted by the judge or juvenile
21 court commissioner within 24 hours of the time the decision to hold the child was
22 made, excluding Saturdays, Sundays and legal holidays. By the time of the hearing
23 a petition under s. 48.25 shall be filed, except that no petition need be filed where a
24 child is taken into custody under s. 48.19 (1) (b) or (d) 2., ~~6.~~ or 7. or where the child
25 is a runaway from another state, in which case a written statement of the reasons

1 for holding a child in custody shall be substituted if the petition is not filed. If no
2 hearing has been held within 24 hours or if no petition or statement has been filed
3 at the time of the hearing, the child shall be released except as provided in par. (b).
4 A parent not present at the hearing shall be granted a rehearing upon request.

5 **SECTION 141.** 48.21 (2) of the statutes is repealed.

6 **SECTION 142.** 48.21 (3) (intro.) of the statutes is amended to read:

7 48.21 (3) PROCEEDINGS CONCERNING CHILDREN IN NEED OF PROTECTION OR
8 SERVICES. (intro.) Proceedings concerning a child who comes within the jurisdiction
9 of the court under s. 48.13 (1) to (5) or (8) to (11) shall be conducted according to this
10 subsection.

11 **SECTION 143.** 48.21 (4m) of the statutes is repealed.

12 **SECTION 144.** 48.22 of the statutes, as affected by 1993 Wisconsin Act 377, is
13 repealed.

14 **SECTION 145.** 48.225 of the statutes is repealed.

15 **SECTION 146.** 48.227 (4) (b) of the statutes is amended to read:

16 48.227 (4) (b) If, in addition to jurisdiction under par. (c), the court has
17 jurisdiction over the child under ss. ~~48.12~~ 48.13 to 48.14, excluding s. 48.14 (8), or
18 under ss. 938.12 to 938.13, a hearing may be held under s. 48.21 or 938.21.

19 **SECTION 147.** 48.227 (4) (e) 2. of the statutes is amended to read:

20 48.227 (4) (e) 2. That, with the consent of the child and the runaway home, the
21 child remain in the care of the runaway home for a period of not more than 20 days.
22 Without further proceedings, the child shall be released whenever the child
23 indicates, either by statement or conduct, that he or she wishes to leave the home or
24 whenever the runaway home withdraws its consent. During this time period not to
25 exceed 20 days ordered by the court, the child's parent, guardian or legal custodian

1 may not remove the child from the home but may confer with the child or with the
2 person operating the home. If, at the conclusion of the time period ordered by the
3 court the child has not left the home, and no petition concerning the child has been
4 filed under s. ~~48.12 or 48.13, 938.12 or 938.13~~, the child shall be released from the
5 home. If a petition concerning the child has been filed under s. ~~48.12 or 48.13, 938.12~~
6 ~~or 938.13~~, the child may be held in temporary physical custody under ss. 48.20 to
7 48.21 ~~or 938.20 to 938.21~~.

8 **SECTION 148.** 48.23 (1) (a) of the statutes, as affected by 1993 Wisconsin Acts
9 377, 385 and 491, is amended to read:

10 48.23 (1) (a) Any child ~~alleged to be delinquent under s. 48.12 or~~ held in a secure
11 detention facility shall be represented by counsel at all stages of the proceedings, but
12 a child 15 years of age or older may waive counsel if the court is satisfied that the
13 waiver is knowingly and voluntarily made and the court accepts the waiver. If the
14 waiver is accepted, the court may not place the child in a secured correctional facility,
15 transfer legal custody of the child to the department of corrections for participation
16 in the youthful offender program or transfer jurisdiction over the child to adult court.

17 **SECTION 149.** 48.23 (1) (am) of the statutes is repealed.

18 **SECTION 150.** 48.23 (2m) of the statutes is repealed.

19 **SECTION 151.** 48.237 of the statutes is repealed.

20 **SECTION 152.** 48.24 (1) of the statutes is amended to read:

21 48.24 (1) ~~Except where a citation has been issued under s. 48.17 (2),~~
22 ~~information~~ Information indicating that a child should be referred to the court as
23 delinquent, in need of protection or services ~~or in violation of a civil law or a county,~~
24 ~~town or municipal ordinance~~ shall be referred to the intake worker, who shall
25 conduct an intake inquiry on behalf of the court to determine whether the available

1 facts establish prima facie jurisdiction and to determine the best interests of the child
2 and of the public with regard to any action to be taken.

3 **SECTION 153.** 48.24 (2m) (a) 1. of the statutes is repealed.

4 **SECTION 154.** 48.24 (2m) (a) 2. of the statutes is amended to read:

5 48.24 **(2m)** (a) 2. Any child alleged to be ~~delinquent~~ or in need of protection and
6 services who has at least 2 prior adjudications for a violation of s. 125.07 (4) (a) or
7 (b), 125.085 (3) (b) or 125.09 (2) or a local ordinance that strictly conforms to any of
8 those sections.

9 **SECTION 155.** 48.24 (2m) (a) 3. of the statutes is repealed.

10 **SECTION 156.** 48.24 (5) of the statutes is amended to read:

11 48.24 **(5)** The intake worker shall recommend that a petition be filed, enter into
12 an informal disposition or close the case within 40 days or sooner of receipt of referral
13 information. If the case is closed or an informal disposition is entered into, the
14 district attorney, corporation counsel or other official under s. 48.09 shall receive
15 written notice of such action. ~~A notice of informal disposition of an alleged~~
16 ~~delinquency case shall include a summary of facts surrounding the allegation and~~
17 ~~a list of prior intake referrals and dispositions.~~ If a law enforcement officer has made
18 a recommendation concerning the child, the intake worker shall forward this
19 recommendation to the district attorney, corporation counsel or other official under
20 s. 48.09. With respect to petitioning a child to be in need of protection or services,
21 information received more than 40 days before filing the petition may be included to
22 establish a condition or pattern which, together with information received within the
23 40-day period, provides a basis for conferring jurisdiction on the court.
24 Notwithstanding the requirements of this section, ~~the district attorney may initiate~~
25 ~~a delinquency petition under s. 48.25 within 20 days after notice that the case has~~

1 ~~been closed or that an informal disposition has been made.~~ The judge shall dismiss
2 with prejudice any such petition which is not referred or filed within the time limits
3 specified within this subsection.

4 **SECTION 157.** 48.24 (7) of the statutes is repealed.

5 **SECTION 158.** 48.243 (1) (intro.) of the statutes is amended to read:

6 48.243 (1) (intro.) Before conferring with the parent or child during the intake
7 inquiry, the intake worker shall personally inform ~~a child alleged to have committed~~
8 ~~a delinquent act,~~ and parents and children 12 years of age or older who are the focus
9 of an inquiry regarding the need for protection or services, that the referral may
10 result in a petition to the court and:

11 **SECTION 159.** 48.243 (1) (b) of the statutes is amended to read:

12 48.243 (1) (b) The nature and possible consequences of the proceedings
13 ~~including the provisions of ss. 48.17, 48.18 and 48.366 if applicable;~~

14 **SECTION 160.** 48.243 (1) (c) of the statutes is amended to read:

15 48.243 (1) (c) The right to remain silent and the fact that ~~in a delinquency~~
16 ~~proceeding the silence of the child shall not be adversely considered by the court or~~
17 ~~jury,~~ although silence of any party may be relevant ~~in any nondelinquency~~
18 ~~proceeding;~~

19 **SECTION 161.** 48.243 (1) (h) of the statutes is amended to read:

20 48.243 (1) (h) The right to have the allegations of the petition proved by clear
21 and convincing evidence ~~unless the child comes within the court's jurisdiction under~~
22 ~~s. 48.12 or 48.13 (12), in which case the standard of proof shall be beyond a reasonable~~
23 ~~doubt.~~

24 **SECTION 162.** 48.243 (1m) of the statutes is repealed.

25 **SECTION 163.** 48.245 (1) of the statutes is amended to read:

1 48.245 (1) The intake worker may enter into a written agreement with all
2 parties which imposes informal disposition under this section if the intake worker
3 has determined that neither the interests of the child nor of the public require filing
4 of a petition for circumstances relating to ss. ~~48.12~~ 48.13 to 48.14. Informal
5 disposition shall be available only if the facts persuade the intake worker that the
6 jurisdiction of the court, if sought, would exist and upon consent of the child, parent,
7 guardian and legal custodian.

8 **SECTION 164.** 48.245 (2) (a) 5. of the statutes is repealed.

9 **SECTION 165.** 48.245 (2) (a) 6. of the statutes is repealed.

10 **SECTION 166.** 48.245 (2) (a) 7. of the statutes is repealed.

11 **SECTION 167.** 48.245 (2) (b) of the statutes is amended to read:

12 48.245 (2) (b) Informal disposition may not include any form of residential
13 placement and may not exceed 6 months, ~~except as provided under sub. (2m).~~

14 **SECTION 168.** 48.245 (2m) of the statutes is repealed.

15 **SECTION 169.** 48.245 (6) of the statutes is repealed.

16 **SECTION 170.** 48.245 (7) of the statutes is amended to read:

17 48.245 (7) If at any time during the period of informal disposition the intake
18 worker determines that the obligations imposed under it are not being met, the
19 intake worker may cancel the informal disposition. Within 10 days after the
20 cancellation of the informal disposition, the intake worker shall notify the district
21 attorney, corporation counsel or other official under s. 48.09 of the cancellation and
22 recommend whether or not a petition should be filed. ~~In delinquency cases, the~~
23 ~~district attorney may initiate a petition within 20 days after the date of the notice~~
24 ~~regardless of whether the intake worker has recommended that a petition be filed.~~

1 The judge shall dismiss with prejudice any petition which is not filed within the time
2 limit specified in this subsection.

3 **SECTION 171.** 48.245 (8) of the statutes is amended to read:

4 48.245 (8) If the obligations imposed under the informal disposition are met,
5 the intake worker shall so inform the child and a parent, guardian and legal
6 custodian in writing, and no petition may be filed ~~or citation issued~~ on the charges
7 that brought about the informal disposition nor may the charges be the sole basis for
8 a petition under ss. 48.13 to 48.14.

9 **SECTION 172.** 48.25 (1) of the statutes is amended to read:

10 48.25 (1) A petition initiating proceedings under this chapter shall be signed
11 by a person who has knowledge of the facts alleged or is informed of them and
12 believes them to be true. ~~If a petition under s. 48.12 is to be filed, it shall be prepared,~~
13 ~~signed and filed by the district attorney.~~ The district attorney, ~~city attorney or~~
14 corporation counsel or other appropriate official specified under s. 48.09 may file the
15 petition if the proceeding is under s. 48.125 ~~or~~ 48.13. The counsel or guardian ad
16 litem for a parent, relative, guardian or child may file a petition under s. 48.13 or
17 48.14. The district attorney, corporation counsel or other appropriate person
18 designated by the court may initiate proceedings under s. 48.14 in a manner specified
19 by the court.

20 **SECTION 173.** 48.25 (2) (a) of the statutes is renumbered 48.25 (2) and amended
21 to read:

22 48.25 (2) If the proceeding is brought under s. 48.12, ~~48.125 or~~ 48.13, the
23 district attorney, corporation counsel or other appropriate official shall file the
24 petition, close the case, or refer the case back to intake within 20 days after the date
25 that the intake worker's recommendation was filed. A referral back to intake may

1 be made only when the district attorney, corporation counsel or other appropriate
2 official decides not to file a petition or determines that further investigation is
3 necessary. If the case is referred back to intake upon a decision not to file a petition,
4 the intake worker shall close the case or enter into an informal disposition within 20
5 days. If the case is referred back to intake for further investigation, the appropriate
6 agency or person shall complete the investigation within 20 days. If another referral
7 is made to the district attorney, corporation counsel or other appropriate official, it
8 shall be considered a new referral to which the time limits of this subsection shall
9 apply. The time limits in this subsection may only be extended by a judge upon a
10 showing of good cause under s. 48.315. If a petition is not filed within the time
11 limitations set forth in this subsection and the court has not granted an extension,
12 the petition shall be accompanied by a statement of reasons for the delay. The court
13 shall dismiss with prejudice a petition which was not timely filed unless the court
14 finds at the plea hearing that good cause has been shown for failure to meet the time
15 limitations.

16 **SECTION 174.** 48.25 (2) (b) of the statutes is repealed.

17 **SECTION 175.** 48.25 (3) of the statutes is amended to read:

18 48.25 (3) If the district attorney, ~~city attorney~~ or corporation counsel or other
19 appropriate official specified in s. 48.09 refuses to file a petition, any person may
20 request the judge to order that the petition be filed and a hearing shall be held on the
21 request. The judge may order the filing of the petition on his or her own motion. The
22 matter may not be heard by the judge who orders the filing of a petition.

23 **SECTION 176.** 48.25 (4) of the statutes is repealed.

24 **SECTION 177.** 48.25 (5) of the statutes is repealed.

25 **SECTION 178.** 48.255 (1) (d) of the statutes is repealed.

1 **SECTION 179.** 48.255 (1) (e) of the statutes is amended to read:

2 48.255 (1) (e) If the child is alleged to come within the provisions of s. 48.13 (1)
3 ~~to (11)~~ or 48.14, reliable and credible information which forms the basis of the
4 allegations necessary to invoke the jurisdiction of the court and to provide reasonable
5 notice of the conduct or circumstances to be considered by the court together with a
6 statement that the child is in need of supervision, services, care or rehabilitation.

7 **SECTION 180.** 48.255 (3) of the statutes is amended to read:

8 48.255 (3) If the information required under sub. (1) ~~(d)~~ or (e) is not stated the
9 petition shall be dismissed or amended under s. 48.263 (2).

10 **SECTION 181.** 48.255 (4) of the statutes is amended to read:

11 48.255 (4) A copy of the petition shall be given to the child if the child is 12 years
12 of age or older ~~or alleged to have committed a delinquent act~~ and to the parents,
13 guardian, legal custodian and physical custodian.

14 **SECTION 182.** 48.263 (2) of the statutes is amended to read:

15 48.263 (2) With reasonable notification to the interested parties and prior to
16 the taking of a plea under s. 48.30, the petition may be amended at the discretion of
17 the court or person who filed the petition. After the taking of a plea, if the child is
18 alleged to be delinquent, ~~the court may allow amendment of the petition to conform~~
19 ~~to the proof if the amendment is not prejudicial to the child.~~ If the child is alleged
20 ~~to be~~ in need of protection or services, the petition may be amended provided any
21 objecting party is allowed a continuance for a reasonable time.

22 **SECTION 183.** 48.27 (1) of the statutes is amended to read:

23 48.27 (1) After a citation is issued ~~or a petition has been filed~~ relating to facts
24 concerning a situation specified under ss. 48.12, ~~48.125~~ and 48.13, unless the parties
25 under sub. (3) voluntarily appear, the court may issue a summons requiring the

1 person who has legal custody of the child to appear personally, and, if the court so
2 orders, to bring the child before the court at a time and place stated.

3 **SECTION 184.** 48.27 (4m) of the statutes is repealed.

4 **SECTION 185.** 48.27 (7) of the statutes is repealed.

5 **SECTION 186.** 48.27 (8) of the statutes is amended to read:

6 48.27 (8) When a petition is filed under s. ~~48.12~~ or 48.13, the court shall notify,
7 in writing, the child's parents or guardian that they may be ordered to reimburse this
8 state or the county for the costs of legal counsel provided for the child, as provided
9 under s. 48.275 (2).

10 **SECTION 187.** 48.273 (1) of the statutes is amended to read:

11 48.273 (1) Service of summons or notice required by s. 48.27 may be made by
12 mailing a copy thereof to the persons summoned or notified. If the persons, ~~other~~
13 ~~than a person specified in s. 48.27 (4m),~~ fail to appear at the hearing or otherwise to
14 acknowledge service, a continuance shall be granted, except where the court
15 determines otherwise because the child is in secure custody, and service shall be
16 made personally by delivering to the persons a copy of the summons or notice; except
17 that if the court is satisfied that it is impracticable to serve the summons or notice
18 personally, it may make an order providing for the service of the summons or notice
19 by certified mail addressed to the last-known addresses of the persons. The court
20 may refuse to grant a continuance when the child is being held in secure custody, but
21 in such a case the court shall order that service of notice of the next hearing be made
22 personally or by certified mail to the last-known address of the person who failed to
23 appear at the hearing. Personal service shall be made at least 72 hours before the
24 time of the hearing. Mail shall be sent at least 7 days before the time of the hearing,
25 except where the petition is filed under s. 48.13 and the person to be notified lives

1 outside the state, in which case the mail shall be sent at least 14 days before the time
2 of the hearing.

3 **SECTION 188.** 48.273 (3) of the statutes is amended to read:

4 **48.273 (3)** The expenses of service of summons or notice or of the publication
5 of summons or notice and the traveling expenses and fees as allowed in ch. 885
6 incurred by any person summoned or required to appear at the hearing of any case
7 coming within the jurisdiction of the court under ss. ~~48.12~~ 48.13 to 48.14, shall be a
8 charge on the county when approved by the court.

9 **SECTION 189.** 48.275 (1) of the statutes is amended to read:

10 48.275 (1) If the court finds a child to be ~~delinquent under s. 48.12, in violation~~
11 ~~of a civil law or ordinance under s. 48.125~~ or in need of protection or services under
12 s. 48.13, the court shall order the parents of the child to contribute toward the
13 expense of post-adjudication services to the child the proportion of the total amount
14 which the court finds the parents are able to pay.

15 **SECTION 190.** 48.275 (2) (a) of the statutes is amended to read:

16 48.275 (2) (a) If this state or a county provides legal counsel to a child subject
17 to a proceeding under s. ~~48.12~~ or 48.13, the court shall order the child's parent to
18 provide a statement of income, assets and living expenses to the county department
19 and shall order that parent to reimburse the state or county in accordance with par.
20 (b) or (c). The court may not order reimbursement if a parent is the complaining or
21 petitioning party or if the court finds that the interests of the parent and the interests
22 of the child in the proceeding are substantially and directly adverse and that
23 reimbursement would be unfair to the parent. The court may not order
24 reimbursement until the completion of the proceeding or until the state or county is
25 no longer providing the child with legal counsel in the proceeding.

1 **SECTION 191.** 48.275 (3) of the statutes is repealed and recreated to read:

2 48.275 (3) This section does not apply to any proceedings under s. 48.375 (7).

3 **SECTION 192.** 48.29 (1) of the statutes is amended to read:

4 48.29 (1) ~~Except as provided in sub. (1g), the~~ The child, or the child's parent,
5 guardian or legal custodian, either before or during the plea hearing, may file a
6 written request with the clerk of the court or other person acting as the clerk for a
7 substitution of the judge assigned to the proceeding. Upon filing the written request,
8 the filing party shall immediately mail or deliver a copy of the request to the judge
9 named therein. ~~In a proceeding under s. 48.12 or 48.13 (12), only the child may~~
10 ~~request a substitution of the judge.~~ Whenever any person has the right to request
11 a substitution of judge, that person's counsel or guardian ad litem may file the
12 request. Not more than one such written request may be filed in any one proceeding,
13 nor may any single request name more than one judge. This section shall not apply
14 to proceedings under s. 48.21.

15 **SECTION 193.** 48.29 (1g) of the statutes is repealed.

16 **SECTION 194.** 48.29 (1m) of the statutes is amended to read:

17 48.29 (1m) When the clerk receives a request for substitution, the clerk shall
18 immediately contact the judge whose substitution has been requested for a
19 determination of whether the request was made timely and in proper form. ~~Except~~
20 ~~as provided in sub. (2), if~~ If the request is found to be timely and in proper form, the
21 judge named in the request has no further jurisdiction and the clerk shall request
22 the assignment of another judge under s. 751.03. If no determination is made within
23 7 days, the clerk shall refer the matter to the chief judge of the judicial administrative
24 district for determination of whether the request was made timely and in proper form
25 and reassignment as necessary.

1 **SECTION 195.** 48.29 (2) of the statutes is repealed.

2 **SECTION 196.** 48.29 (3) of the statutes is amended to read:

3 48.29 (3) Subsections (1) to ~~(2)~~ (1m) do not apply in any proceeding under s.
4 48.375 (7). For proceedings under s. 48.375 (7), the minor may select the judge whom
5 she wishes to be assigned to the proceeding and that judge shall be assigned to the
6 proceeding.

7 **SECTION 197.** 48.293 (1) of the statutes is amended to read:

8 48.293 (1) Copies of all peace officer reports, including but not limited to the
9 officer's memorandum and witnesses' statements, shall be made available upon
10 request to counsel or guardian ad litem prior to a plea hearing. The reports shall be
11 available through the representative of the public designated under s. 48.09. ~~The~~
12 ~~child, through counsel or guardian ad litem, is the only party who shall have access~~
13 ~~to the reports in proceedings under ss. 48.12, 48.125 and 48.13 (12).~~ The identity of
14 a confidential informant may be withheld pursuant to s. 905.10.

15 **SECTION 198.** 48.293 (2) of the statutes is amended to read:

16 48.293 (2) All records relating to a child which are relevant to the subject
17 matter of a proceeding under this chapter shall be open to inspection by a guardian
18 ad litem or counsel for any party, upon demand and upon presentation of releases
19 where necessary, at least 48 hours before the proceeding. Persons entitled to inspect
20 the records may obtain copies of the records with the permission of the custodian of
21 the records or with permission of the court. The court may instruct counsel not to
22 disclose specified items in the materials to the child or the parent if the court
23 reasonably believes that the disclosure would be harmful to the interests of the child.
24 ~~Sections 971.23 to 971.25 and 972.11 (5) shall be applicable in all delinquency~~

1 ~~proceedings under this chapter except the court shall establish the timetable for ss.~~
2 ~~971.23 (3), (8) and (9) and 972.11 (5).~~

3 **SECTION 199.** 48.295 (1c) (intro.) and (a) of the statutes are consolidated,
4 renumbered 48.295 (1c) and amended to read:

5 48.295 (1c) Reasonable cause is considered to exist to warrant an alcohol and
6 other drug abuse assessment under sub. (1) if ~~any of the following applies: (a) The~~
7 the multidisciplinary screen procedure conducted under s. 48.24 (2) indicates that
8 the child is at risk of having needs and problems related to alcohol or other drug
9 abuse.

10 **SECTION 200.** 48.295 (1c) (b) of the statutes is repealed.

11 **SECTION 201.** 48.295 (1c) (c) of the statutes is repealed.

12 **SECTION 202.** 48.295 (2) (a) of the statutes is repealed.

13 **SECTION 203.** 48.295 (2) (b) of the statutes is renumbered 48.295 (2) and
14 amended to read:

15 48.295 (2) The examiner shall file a report of the examination with the court
16 by the date specified in the order. The court shall cause copies to be transmitted to
17 the district attorney or corporation counsel and to the child's counsel. The report
18 shall describe the nature of the examination and identify the persons interviewed,
19 the particular records reviewed and any tests administered to the child. ~~If the~~
20 ~~examination is ordered following a plea under s. 48.30 (4) (c), the report shall also~~
21 ~~contain an opinion regarding whether the child suffered from mental disease or~~
22 ~~defect at the time of the commission of the act alleged in the petition and, if so,~~
23 ~~whether this caused the child to lack substantial capacity to appreciate the~~
24 ~~wrongfulness of his or her conduct or to conform his or her conduct to the~~
25 ~~requirements of law. If the examination is ordered following a finding that there is~~

1 ~~probable cause to believe that the child has committed the alleged offense and that~~
2 ~~there is reason to doubt the child's competency to proceed, the report shall also~~
3 ~~contain an opinion regarding the child's present mental capacity to understand the~~
4 ~~proceedings and assist in his or her defense and, if the examiner reports that the~~
5 ~~child lacks competency to proceed, the examiner's opinion regarding the likelihood~~
6 ~~that the child, if provided treatment, may be restored to competency within the time~~
7 ~~specified in s. 48.30 (5) (e) 1. The report shall also state in reasonable detail the facts~~
8 ~~and reasoning upon which the examiner's opinions are based.~~

9 **SECTION 204.** 48.296 of the statutes is repealed

10 **SECTION 205.** 48.297 (2) of the statutes is amended to read:

11 48.297 (2) Defenses and objections based on defects in the institution of
12 proceedings, lack of probable cause on the face of the petition, insufficiency of the
13 petition ~~or a citation~~ or invalidity in whole or in part of the statute on which the
14 petition ~~or a citation~~ is founded shall be raised not later than 10 days after the plea
15 hearing or be deemed waived. Other motions capable of determination without trial
16 may be brought any time before trial.

17 **SECTION 206.** 48.297 (3) of the statutes is amended to read:

18 48.297 (3) Motions to suppress evidence as having been illegally seized or
19 statements illegally obtained shall be made before fact-finding on the issues. The
20 court may entertain the motion at the fact-finding hearing if it appears that a party
21 is surprised by the attempt to introduce such evidence and that party waives
22 jeopardy. ~~Only the child may waive jeopardy in cases under s. 48.12, 48.125 or 48.13~~
23 ~~(12).~~

24 **SECTION 207.** 48.297 (5) of the statutes is amended to read:

1 48.297 (5) If the child is in custody and the court grants a motion to dismiss
2 based upon a defect in the petition ~~or a citation~~ or in the institution of the
3 proceedings, the court may order the child continued in custody for not more than 48
4 hours pending the filing of a new petition ~~or citation~~.

5 **SECTION 208.** 48.299 (1) (a) of the statutes is amended to read:

6 48.299 (1) (a) The general public shall be excluded from hearings under this
7 chapter and from hearings by courts exercising jurisdiction under s. 48.16 ~~or 48.17~~
8 ~~(2)~~ unless a public fact-finding hearing is demanded by a child through his or her
9 counsel. However, the court shall refuse to grant the public hearing ~~if the victim of~~
10 ~~an alleged sexual assault objects or, in a nondelinquency proceeding other than a~~
11 ~~proceeding under s. 48.375 (7), if a parent or guardian objects. All hearings under~~
12 ~~s. 48.375 (7) shall be held in chambers, unless a public fact-finding hearing is~~
13 ~~demanded by the child through her counsel. If a public hearing is not held, only the~~
14 ~~parties, their counsel, witnesses and other persons requested by a party and~~
15 ~~approved by the court may be present. Except in a proceeding under s. 48.375 (7),~~
16 ~~any other person the court finds to have a proper interest in the case or in the work~~
17 ~~of the court, including a member of the bar, may be admitted by the court.~~

18 **SECTION 209.** 48.299 (1) (am) of the statutes is repealed.

19 **SECTION 210.** 48.299 (4) (a) of the statutes is amended to read:

20 48.299 (4) (a) Chapters 901 to 911 shall govern the presentation of evidence at
21 the fact-finding hearings under ss. 48.31 and 48.42. ~~Section 972.11 (5) applies at~~
22 ~~fact-finding proceedings in all delinquency proceedings under this chapter.~~

23 **SECTION 211.** 48.299 (4) (b) of the statutes is amended to read:

24 48.299 (4) (b) Except as provided in s. 901.05, neither common law nor
25 statutory rules of evidence are binding at ~~a waiver hearing under s. 48.18, a hearing~~

1 for a child held in custody under s. 48.21, a runaway home hearing under s. 48.227
2 (4), a hearing under s. ~~48.296 (4)~~ for a child who is alleged to have violated s. ~~940.225,~~
3 ~~948.02, 948.025, 948.05 or 948.06,~~ a dispositional hearing, or a hearing about
4 changes in placement, revision of dispositional orders or extension of dispositional
5 orders. At those hearings, the court shall admit all testimony having reasonable
6 probative value, but shall exclude immaterial, irrelevant or unduly repetitious
7 testimony or evidence that is inadmissible under s. 901.05. Hearsay evidence may
8 be admitted if it has demonstrable circumstantial guarantees of trustworthiness.
9 The court shall give effect to the rules of privilege recognized by law. The court shall
10 apply the basic principles of relevancy, materiality and probative value to proof of all
11 questions of fact. Objections to evidentiary offers and offers of proof of evidence not
12 admitted may be made and shall be noted in the record.

13 **SECTION 212.** 48.30 (1) of the statutes is amended to read:

14 48.30 (1) Except as provided in this subsection, the hearing ~~to determine the~~
15 ~~child's plea to a citation or a petition under s. 48.12, 48.125 or 48.13 (12), or to~~
16 determine whether any party wishes to contest an allegation that the child is in need
17 of protection or services, shall take place on a date which allows reasonable time for
18 the parties to prepare but is within 30 days after the filing of a petition ~~or issuance~~
19 ~~of a citation~~ for a child who is not being held in secure custody or within 10 days after
20 the filing of a petition ~~or issuance of a citation~~ for a child who is being held in secure
21 custody. ~~In a municipal court operated jointly by 2 or more cities, towns or villages~~
22 ~~under s. 755.01 (4), the hearing to determine the child's plea shall take place within~~
23 ~~45 days after the filing of a petition or issuance of a citation for a child who is not being~~
24 ~~held in secure custody.~~

25 **SECTION 213.** 48.30 (2) of the statutes is amended to read:

1 48.30 (2) At the commencement of the hearing under this section the child and
2 the parent, guardian or legal custodian shall be advised of their rights as specified
3 in s. 48.243 and shall be informed that a request for a jury trial or for a substitution
4 of judge under s. 48.29 must be made before the end of the plea hearing or be waived,
5 ~~except where the child is before the court on a uniform municipal citation, issued~~
6 ~~under ch. 800 in which case the court shall inform the child that a request for a jury~~
7 ~~trial may be made at any time prior to the fact-finding hearing and within 20 days~~
8 ~~after the plea hearing.~~ Nonpetitioning parties, including the child, shall be granted
9 a continuance of the plea hearing if they wish to consult with an attorney on the
10 request for a jury trial or substitution of a judge.

11 **SECTION 214.** 48.30 (3) of the statutes is amended to read:

12 48.30 (3) If a petition alleges that a child is in need of protection or services
13 under s. 48.13 (1) to (11), the nonpetitioning parties and the child, if he or she is 12
14 years of age or older or is otherwise competent to do so, shall state whether they
15 desire to contest the petition.

16 **SECTION 215.** 48.30 (4) of the statutes is repealed.

17 **SECTION 216.** 48.30 (5) of the statutes is repealed.

18 **SECTION 217.** 48.30 (6) of the statutes is amended to read:

19 48.30 (6) If a petition is not contested, the court shall set a date for the
20 dispositional hearing which allows reasonable time for the parties to prepare but is
21 no more than 10 days from the plea hearing for the child who is held in secure custody
22 and no more than 30 days from the plea hearing for a child who is not held in secure
23 custody. If it appears to the court that disposition of the case may include placement
24 of the child outside the child's home, the court shall order the child's parent to provide
25 a statement of income, assets, debts and living expenses to the court or the

1 designated agency under s. 48.33 (1) at least 5 days before the scheduled date of the
2 dispositional hearing or as otherwise ordered by the court. The clerk of court shall
3 provide, without charge, to any parent ordered to provide a statement of income,
4 assets, debts and living expenses a document setting forth the percentage standard
5 established by the department under s. 46.25 (9) and listing the factors that a court
6 may consider under s. 46.10 (14) (c). If all parties consent the court may proceed
7 immediately with the dispositional hearing. ~~If a citation is not contested, the court~~
8 ~~may proceed immediately to enter a dispositional order.~~

9 **SECTION 218.** 48.30 (7) of the statutes is amended to read:

10 48.30 (7) If the ~~citation or the~~ petition is contested, the court shall set a date
11 for the fact-finding hearing which allows reasonable time for the parties to prepare
12 but is no more than 20 days from the plea hearing for a child who is held in secure
13 custody and no more than 30 days from the plea hearing for a child who is not held
14 in secure custody.

15 **SECTION 219.** 48.30 (8) of the statutes is amended to read:

16 48.30 (8) ~~Except when a child fails to appear in response or stipulates to a~~
17 ~~citation before~~ Before accepting an admission or plea of no contest of the alleged facts
18 in a petition ~~or citation~~, the court shall:

19 (a) Address the parties present including the child personally and determine
20 that the plea or admission is made voluntarily with understanding of the nature of
21 the acts alleged in the petition ~~or citation~~ and the potential dispositions.

22 (b) Establish whether any promises or threats were made to elicit a plea the
23 plea or admission and alert unrepresented parties to the possibility that a lawyer
24 may discover defenses or mitigating circumstances which would not be apparent to
25 them.

1 (c) Make such inquiries as satisfactorily establishes that there is a factual basis
2 for the child's plea or parent parent's and child's plea or admission.

3 **SECTION 220.** 48.30 (9) of the statutes is amended to read:

4 48.30 (9) If a court commissioner conducts the plea hearing and accepts an
5 admission of the alleged facts in a petition brought under s. ~~48.12 or~~ 48.13, the judge
6 shall review the admission at the beginning of the dispositional hearing by
7 addressing the parties and making the inquires set forth in sub. (8).

8 **SECTION 221.** 48.30 (10) of the statutes is amended to read:

9 48.30 (10) The court may permit any party to participate in hearings under this
10 section by telephone or live audio-visual means ~~except a child who intends to admit~~
11 ~~the facts of a delinquency petition.~~

12 **SECTION 222.** 48.31 (1) of the statutes is amended to read:

13 48.31 (1) In this section, "fact-finding hearing" means a ~~hearing to determine~~
14 ~~if the allegations of a petition under s. 48.12 or 48.13 (12) are supported beyond a~~
15 ~~reasonable doubt or a hearing to determine if the allegations in a petition or citation~~
16 ~~under s. 48.125 or 48.13 (1) to (11) or a petition to terminate parental rights are~~
17 ~~proved by clear and convincing evidence.~~

18 **SECTION 223.** 48.31 (2) of the statutes is amended to read:

19 48.31 (2) The hearing shall be to the court unless the child, parent, guardian
20 or legal custodian exercises the right to a jury trial by demanding a jury trial at any
21 time before or during the plea hearing. Chapters 756 and 805 shall govern the
22 selection of jurors ~~except that ss. 972.03 and 972.04 shall apply in cases in which the~~
23 ~~juvenile is alleged to be delinquent under s. 48.12.~~ If the hearing involves a child
24 victim or witness, as defined in s. 950.02, the court may order the taking and allow
25 the use of a videotaped deposition under s. 967.04 (7) to (10) and, with the district

1 attorney, shall comply with s. 971.105. At the conclusion of the hearing, the court or
2 jury shall make a determination of the facts. If the court finds that the child is not
3 within the jurisdiction of the court or the court or jury finds that the facts alleged in
4 the petition ~~or citation~~ have not been proved, the court shall dismiss the petition ~~or~~
5 ~~citation~~ with prejudice.

6 **SECTION 224.** 48.31 (4) of the statutes is amended to read:

7 48.31 (4) The court or jury shall make findings of fact and the court shall make
8 conclusions of law relating to the allegations of a petition filed under s. 48.13 (1) ~~to~~
9 ~~(11m)~~. In cases alleging a child to be in need of protection or services under s. 48.13
10 (11), the court shall not find that the child is suffering serious emotional damage
11 unless a licensed physician specializing in psychiatry or a licensed psychologist
12 appointed by the court to examine the child has testified at the hearing that in his
13 or her opinion the condition exists, and adequate opportunity for the
14 cross-examination of the physician or psychologist has been afforded. The judge
15 may use the written reports if the right to have testimony presented is voluntarily,
16 knowingly and intelligently waived by the guardian ad litem or legal counsel for the
17 child and the parent or guardian. In cases alleging a child to be in need of protection
18 and services under s. 48.13 (11m), the court shall not find that the child is in need
19 of treatment and education for needs and problems related to the use or abuse of
20 alcohol beverages or controlled substances and its medical, personal, family or social
21 effects unless an assessment for alcohol and other drug abuse that conforms to the
22 criteria specified under s. 48.547 (4) has been conducted by an approved treatment
23 facility. ~~In cases alleging a child delinquent or in need of protection or services under~~
24 ~~s. 48.13 (12) the court shall make findings relating to the proof of the violation of law~~
25 ~~and to the proof that the child named in the petition committed the violation alleged.~~

1 **SECTION 225.** 48.32 (1) of the statutes is amended to read:

2 48.32 (1) At any time after the filing of a petition for a proceeding relating to
3 s. ~~48.12 or~~ 48.13 and before the entry of judgment, the judge or juvenile court
4 commissioner may suspend the proceedings and place the child under supervision
5 in the child's own home or present placement. The court may establish terms and
6 conditions applicable to the parent, guardian or legal custodian, and to the child,
7 ~~including any conditions specified in subs. (1d), (1g) and (1t).~~ The order under this
8 section shall be known as a consent decree and must be agreed to by the child if 12
9 years of age or older; the parent, guardian or legal custodian; and the person filing
10 the petition under s. 48.25. ~~If the consent decree includes any conditions specified~~
11 ~~in sub. (1g), the consent decree shall include provisions for payment of the services~~
12 ~~as specified in s. 48.361.~~ The consent decree shall be reduced to writing and given
13 to the parties.

14 **SECTION 226.** 48.32 (1d) of the statutes is repealed.

15 **SECTION 227.** 48.32 (1g) of the statutes is repealed.

16 **SECTION 228.** 48.32 (1r) of the statutes is repealed.

17 **SECTION 229.** 48.32 (1t) of the statutes is repealed.

18 **SECTION 230.** 48.32 (2) (a) of the statutes is amended to read:

19 48.32 (2) (a) ~~Except as provided in par. (b), a~~ A consent decree shall remain in
20 effect up to 6 months unless the child, parent, guardian or legal custodian is
21 discharged sooner by the judge or juvenile court commissioner.

22 **SECTION 231.** 48.32 (2) (b) of the statutes is repealed.

23 **SECTION 232.** 48.32 (4) of the statutes is repealed.

24 **SECTION 233.** 48.32 (5) (a) of the statutes is amended to read:

1 48.32 (5) (a) The court refuses to enter into a consent decree and the allegations
2 in the petition remain to be decided in a hearing where ~~the child denies the~~
3 ~~allegations of delinquency~~ or one of the parties denies the allegations forming the
4 basis for a child in need of protection or services petition; or

5 **SECTION 234.** 48.32 (5) (b) of the statutes is amended to read:

6 48.32 (5) (b) A consent decree is granted but the petition under s. ~~48.12~~ or 48.13
7 is subsequently reinstated.

8 **SECTION 235.** 48.33 (1) (intro.) of the statutes is amended to read:

9 48.33 (1) REPORT REQUIRED. (intro.) Before the disposition of a child adjudged
10 to be ~~delinquent~~ or in need of protection or services the court shall designate an
11 agency to submit a report which shall contain all of the following:

12 **SECTION 236.** 48.33 (3) of the statutes, as affected by 1993 Wisconsin Acts 385
13 and 481, is repealed.

14 **SECTION 237.** 48.33 (3m) of the statutes, as created by 1993 Wisconsin Act 377,
15 is repealed.

16 **SECTION 238.** 48.33 (4m) (intro.) of the statutes is amended to read:

17 48.33 (4m) SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. (intro.) In
18 making a recommendation for an amount of child support under sub. ~~(3)~~ or (4), the
19 agency shall consider the factors that the court considers under s. 46.10 (14) (c) for
20 deviation from the percentage standard. Prior to the dispositional hearing under s.
21 48.335, the agency shall provide the child's parent with all of the following:

22 **SECTION 239.** 48.331 of the statutes, as affected by 1993 Wisconsin Act 377, is
23 repealed.

24 **SECTION 240.** 48.335 (1) of the statutes is amended to read:

1 48.335 (1) The court shall conduct a hearing to determine the disposition of a
2 case in which a child is adjudged to be delinquent under s. 48.12, to have violated a
3 civil law or ordinance under s. 48.125 or to be in need of protection or services under
4 s. 48.13, except the court shall proceed as provided by s. 48.237 (2) if a citation is
5 issued and the child fails to contest the citation.

6 **SECTION 241.** 48.335 (3m) of the statutes is repealed.

7 **SECTION 242.** 48.34 (intro.) of the statutes, as affected by 1993 Wisconsin Act
8 385, is repealed.

9 **SECTION 243.** 48.34 (1) of the statutes is renumbered 48.345 (1).

10 **SECTION 244.** 48.34 (2) of the statutes, as affected by 1993 Wisconsin Act 377,
11 is renumbered 48.345 (2).

12 **SECTION 245.** 48.34 (2m) of the statutes, as affected by 1993 Wisconsin Act 377,
13 is renumbered 48.345 (2m).

14 **SECTION 246.** 48.34 (2r) of the statutes is repealed.

15 **SECTION 247.** 48.34 (3) of the statutes is renumbered 48.345 (3).

16 **SECTION 248.** 48.34 (3g) of the statutes is repealed.

17 **SECTION 249.** 48.34 (4) of the statutes is renumbered 48.345 (4).

18 **SECTION 250.** 48.34 (4g) of the statutes, as created by 1993 Wisconsin Act 377,
19 is repealed.

20 **SECTION 251.** 48.34 (4m) of the statutes, as affected by 1993 Wisconsin Act 385,
21 is repealed.

22 **SECTION 252.** 48.34 (4n) of the statutes, as created by 1993 Wisconsin Act 385,
23 is repealed.

24 **SECTION 253.** 48.34 (4p) of the statutes is repealed.

25 **SECTION 254.** 48.34 (4r) of the statutes is repealed.

1 **SECTION 255.** 48.34 (4s) of the statutes is repealed.

2 **SECTION 256.** 48.34 (5) of the statutes is repealed.

3 **SECTION 257.** 48.34 (6) of the statutes is renumbered 48.345 (6).

4 **SECTION 258.** 48.34 (6m) of the statutes, as affected by 1993 Wisconsin Act 377,
5 is renumbered 48.345 (6m).

6 **SECTION 259.** 48.34 (7) of the statutes is repealed.

7 **SECTION 260.** 48.34 (7m) of the statutes is repealed.

8 **SECTION 261.** 48.34 (8) of the statutes is repealed.

9 **SECTION 262.** 48.34 (9) of the statutes is repealed.

10 **SECTION 263.** 48.34 (10) of the statutes is renumbered 48.345 (10).

11 **SECTION 264.** 48.34 (11) of the statutes is renumbered 48.345 (11).

12 **SECTION 265.** 48.34 (12) of the statutes is renumbered 48.345 (12).

13 **SECTION 266.** 48.34 (13) of the statutes, as affected by 1993 Wisconsin Act 377,
14 is renumbered 48.345 (13).

15 **SECTION 267.** 48.34 (14) of the statutes is repealed.

16 **SECTION 268.** 48.34 (15) of the statutes is repealed.

17 **SECTION 269.** 48.341 of the statutes is repealed.

18 **SECTION 270.** 48.342 of the statutes is repealed.

19 **SECTION 271.** 48.343 of the statutes is repealed.

20 **SECTION 272.** 48.344 of the statutes is repealed.

21 **SECTION 273.** 48.345 (1) (intro.) and (e) of the statutes are consolidated,
22 renumbered 48.345 (intro.) and amended to read:

23 **48.345 Disposition of child adjudged in need of protection or services.**

24 (intro.) If the judge finds that the child is in need of protection or services, the judge
25 shall enter an order deciding one or more of the dispositions of the case as provided

1 in s. 48.34 this section under a care and treatment plan, except that the order may
2 not do any of the following: (e) Place place any child not specifically found under chs.
3 46, 49, 51, 115 and 880 to be developmentally disabled, mentally ill or to have
4 exceptional educational needs in facilities which exclusively treat those categories
5 of children. The dispositions under this section are as follows:

6 **SECTION 274.** 48.345 (1) (a) of the statutes, as affected by 1993 Wisconsin Act
7 491, is repealed.

8 **SECTION 275.** 48.345 (1) (b) of the statutes is repealed.

9 **SECTION 276.** 48.345 (1) (c) of the statutes is repealed.

10 **SECTION 277.** 48.345 (1) (d) of the statutes is repealed.

11 **SECTION 278.** 48.345 (1) (f) of the statutes is repealed.

12 **SECTION 279.** 48.345 (2) of the statutes is repealed.

13 **SECTION 280.** 48.346 of the statutes is repealed.

14 **SECTION 281.** 48.35 (1) (a) of the statutes is repealed.

15 **SECTION 282.** 48.35 (1) (b) 2. of the statutes is amended to read:

16 48.35 (1) (b) 2. In a proceeding in any court assigned to exercise jurisdiction
17 under this chapter and ch. 938; or

18 **SECTION 283.** 48.35 (1) (b) 4. of the statutes is repealed.

19 **SECTION 284.** 48.35 (1) (c) of the statutes is repealed.

20 **SECTION 285.** 48.355 (1) of the statutes, as affected by 1993 Wisconsin Act 377,
21 is amended to read:

22 48.355 (1) INTENT. In any order under s. 48.34 ~~or~~ 48.345 the judge shall decide
23 on a placement and treatment finding based on evidence submitted to the judge. The
24 disposition shall employ those means necessary to maintain and protect the child's
25 well-being which are the least restrictive of the rights of the parent or child and

1 which assure the care, treatment or rehabilitation of the child and the family,
2 consistent with the protection of the public. Wherever possible, and, in cases of child
3 abuse and neglect, when it is consistent with the child's best interest in terms of
4 physical safety and physical health the family unit shall be preserved and there shall
5 be a policy of transferring custody from the parent only where there is no less drastic
6 alternative. ~~If information under s. 48.331 has been provided in a court report under~~
7 ~~s. 48.33 (1), the court shall consider that information when deciding on a placement~~
8 ~~and treatment finding.~~

9 **SECTION 286.** 48.355 (2) (b) 5. of the statutes is amended to read:

10 48.355 (2) (b) 5. For a child placed outside his or her home pursuant to an order
11 under s. 48.34 (3) ~~or~~ 48.345, a permanency plan under s. 48.38 if one has been
12 prepared.

13 **SECTION 287.** 48.355 (3m) of the statutes is repealed.

14 **SECTION 288.** 48.355 (4) (a) of the statutes, as affected by 1993 Wisconsin Acts
15 377, 385 and 491, is renumbered 48.355 (4) and amended to read:

16 48.355 (4) TERMINATION OF ORDERS. Except as provided under ~~par. (b) or s.~~
17 48.368, all orders under this section shall terminate at the end of one year unless the
18 judge specifies a shorter period of time. Except if s. 48.368 applies, extensions or
19 revisions shall terminate at the end of one year unless the judge specifies a shorter
20 period of time. ~~No extension under s. 48.365 of an original dispositional order may~~
21 ~~be granted for a child whose legal custody has been transferred to the department~~
22 ~~of corrections under s. 48.34 (4g) or who is under the supervision of the department~~
23 ~~of health and social services under s. 48.34 (4m) or (4n) or under the supervision of~~
24 ~~a county department under s. 48.34 (4n) if the child is 18 years of age or older when~~
25 ~~the original dispositional order terminates. Any order made before the child reaches~~

1 the age of majority shall be effective for a time up to one year after its entry unless
2 the judge specifies a shorter period of time.

3 **SECTION 289.** 48.355 (4) (b) of the statutes, as affected by 1993 Wisconsin Act
4 377, is repealed.

5 **SECTION 290.** 48.355 (6) and (6g) of the statutes are repealed.

6 **SECTION 291.** 48.355 (7) of the statutes, as affected by 1993 Wisconsin Act 377,
7 is amended to read:

8 48.355 (7) ORDERS APPLICABLE TO PARENTS, GUARDIANS, LEGAL CUSTODIANS AND
9 OTHER ADULTS. In addition to any dispositional order entered under s. ~~48.34~~ or 48.345,
10 the court may enter an order applicable to a child's parent, guardian or legal
11 custodian or to another adult, as provided under s. 48.45.

12 **SECTION 292.** 48.357 (2) of the statutes is amended to read:

13 48.357 (2) If emergency conditions necessitate an immediate change in the
14 placement of a child placed outside the home, the person or agency primarily
15 responsible for implementing the dispositional order may remove the child to a new
16 placement, whether or not authorized by the existing dispositional order, without the
17 prior notice provided in sub. (1). The notice shall, however, be sent within 48 hours
18 after the emergency change in placement. Any party receiving notice may demand
19 a hearing under sub. (1). In emergency situations, the child may be placed in a
20 licensed public or private shelter care facility as a transitional placement for not
21 more than 20 days, as well as in any placement authorized under s. ~~48.34~~ 48.345 (3).

22 **SECTION 293.** 48.357 (3) and (4) of the statutes, as affected by 1993 Wisconsin
23 Act 385, are repealed.

24 **SECTION 294.** 48.357 (4g) of the statutes, as created by 1993 Wisconsin Act 385,
25 is repealed.

1 **SECTION 295.** 48.357 (4m) of the statutes is repealed.

2 **SECTION 296.** 48.357 (5) of the statutes, as affected by 1993 Wisconsin Act 385,
3 is repealed.

4 **SECTION 297.** 48.36 (1) (a) of the statutes is amended to read:

5 48.36 (1) (a) If legal custody is transferred from the parent or guardian or the
6 court otherwise designates an alternative placement for the child by a disposition
7 made under s. ~~48.34~~ or 48.345 or by a change in placement under s. 48.357, the duty
8 of the parent or guardian or, in the case of a transfer of guardianship and custody
9 under s. 48.839 (4), the duty of the former guardian to provide support shall continue
10 even though the legal custodian or the placement designee may provide the support.
11 A copy of the order transferring custody or designating alternative placement for the
12 child shall be submitted to the agency or person receiving custody or placement and
13 the agency or person may apply to the court for an order to compel the parent or
14 guardian to provide the support. Support payments for residential services, when
15 purchased or otherwise funded or provided by the department, or a county
16 department under s. 46.215, 46.22, 46.23, 51.42 or 51.437, shall be determined under
17 s. 46.10 (14).

18 **SECTION 298.** 48.361 (1) (b) of the statutes is amended to read:

19 48.361 (1) (b) Any special treatment or care that relates to alcohol or other drug
20 abuse services ordered by a court under s. ~~48.34~~ 48.345 (6) (a).

21 **SECTION 299.** 48.361 (1) (c) of the statutes is amended to read:

22 48.361 (1) (c) Any alcohol or other drug abuse treatment or education ordered
23 by a court under s. ~~48.32 (1g), 48.34~~ 48.345 (6) (a) or (13), ~~48.343 (10) or 48.344 (2g)~~.

24 **SECTION 300.** 48.361 (2) (am) 2. of the statutes is amended to read:

1 48.361 (2) (am) 2. If a court in a county that does not have a pilot program under
2 s. 48.547 finds that payment is not attainable under par. (a), the court may order
3 payment in accordance with s. ~~48.34~~ 48.345 (6) (a) or 48.36.

4 **SECTION 301.** 48.362 (2) of the statutes is amended to read:

5 48.362 (2) This section applies to the payment of court-ordered special
6 treatment or care under s. ~~48.34~~ 48.345 (6) (a), whether or not custody has been taken
7 from the parent.

8 **SECTION 302.** 48.364 of the statutes is repealed.

9 **SECTION 303.** 48.365 (7) of the statutes, as affected by 1993 Wisconsin Act 377,
10 is repealed.

11 **SECTION 304.** 48.366 of the statutes, as affected by 1993 Wisconsin Act 385, is
12 repealed.

13 **SECTION 305.** 48.37 (1) of the statutes is amended to read:

14 48.37 (1) A court assigned to exercise jurisdiction under this chapter and ch.
15 938 may not assess costs or assessments against a child under 14 years of age but
16 may assess costs against a child 14 years of age or older.

17 **SECTION 306.** 48.37 (3) of the statutes is repealed.

18 **SECTION 307.** 48.373 (1) of the statutes is amended to read:

19 48.373 (1) The court assigned to exercise jurisdiction under this chapter and
20 ch. 938 may authorize medical services including surgical procedures when needed
21 if the court assigned to exercise jurisdiction under this chapter and ch. 938
22 determines that reasonable cause exists for the services and that the minor is within
23 the jurisdiction of the court assigned to exercise jurisdiction under this chapter and
24 ch. 938 and, ~~except as provided in s. 48.296 (4),~~ consents.

25 **SECTION 308.** 48.375 (4) (b) 1g. of the statutes is amended to read:

1 48.375 (4) (b) 1g. The minor provides the person who intends to perform or
2 induce the abortion with a written statement, signed and dated by the minor, in
3 which the minor swears that the pregnancy is the result of a sexual assault in
4 violation of s. 940.225 (1), (2) or (3) in which the minor did not indicate a freely given
5 agreement to have sexual intercourse. The person who intends to perform or induce
6 the abortion shall place the statement in the minor's medical record and report the
7 sexual intercourse as required under s. 48.981 (2) or (2m) (e). Any minor who makes
8 a false statement under this subdivision, which the minor does not believe is true,
9 is subject to a proceeding under s. ~~48.12 or 48.13~~ 938.12 or 938.13 (12), whichever is
10 applicable, based on a violation of s. 946.32 (2).

11 **SECTION 309.** 48.38 (3) (intro.) and (b) of the statutes are consolidated,
12 renumbered 48.38 (3) and amended to read:

13 48.38 (3) TIME. The agency shall file the permanency plan with the court
14 within 60 days after the date on which the child was first held in physical custody
15 or placed outside of his or her home under a court order, except ~~under either of the~~
16 ~~following conditions: (b) If that if~~ the child is held for less than 60 days in a secure
17 detention facility, juvenile portion of a county jail or a shelter care facility, no
18 permanency plan is required if the child is returned to his or her home within that
19 period.

20 **SECTION 310.** 48.38 (3) (a) of the statutes, as affected by 1993 Wisconsin Acts
21 377, 385 and 491, is repealed.

22 **SECTION 311.** 48.39 of the statutes is repealed.

23 **SECTION 312.** 48.396 (1) of the statutes is amended to read:

24 48.396 (1) Peace officers' records of children, other than children 17 years of age
25 or over who come within the jurisdiction of the court under s. 938.12, 938.125 or

1 938.13, shall be kept separate from records of persons 18 or older over. Peace officers'
2 records of children, other than children 17 years of age or over who come within the
3 jurisdiction of the court under s. 938.12, 938.125 or 938.13, shall not be open to
4 inspection or their contents disclosed except under sub. ~~(1m)~~ or ~~(5)~~ or s. 48.293 or by
5 order of the court. This subsection does not apply to the representatives of
6 newspapers or other reporters of news who wish to obtain information for the
7 purpose of reporting news without revealing the identity of the child involved, to the
8 confidential exchange of information between the police and officials of the school
9 attended by the child or other law enforcement or social welfare agencies or to
10 children ~~16~~ 15 or older over who are transferred to the criminal courts.

11 **SECTION 313.** 48.396 (1m) of the statutes is repealed.

12 **SECTION 314.** 48.396 (2) (a) of the statutes is amended to read:

13 48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this
14 chapter and ch. 938 and of courts exercising jurisdiction under s. 48.16 ~~or 48.17~~ (2)
15 shall be entered in books or deposited in files kept for that purpose only. They shall
16 not be open to inspection or their contents disclosed except by order of the court
17 assigned to exercise jurisdiction under this chapter and ch. 938 or as permitted under
18 this section or s. 48.375 (7) (e).

19 **SECTION 315.** 48.396 (2) (c) of the statutes is repealed.

20 **SECTION 316.** 48.396 (2) (d) of the statutes is repealed.

21 **SECTION 317.** 48.396 (2) (e) of the statutes is repealed.

22 **SECTION 318.** 48.396 (2m) of the statutes is repealed.

23 **SECTION 319.** 48.396 (3) of the statutes is repealed.

24 **SECTION 320.** 48.396 (4) of the statutes is repealed.

25 **SECTION 321.** 48.396 (5) of the statutes is repealed.

1 persons 17 or older as provided under s. 48.45 and as otherwise specifically provided
2 in this chapter.

3 **SECTION 329.** 48.44 (2) of the statutes is repealed.

4 **SECTION 330.** 48.45 (title) and (1) of the statutes are amended to read:

5 **48.45 (title) Orders applicable to adults persons 17 or older.** (1) (a) If
6 in the hearing of a case of a child alleged to be in a condition described in s. ~~48.12 or~~
7 48.13 it appears that any person ~~18~~ 17 or older has been guilty of contributing to,
8 encouraging, or tending to cause by any act or omission, such condition of the child,
9 the judge may make orders with respect to the conduct of such person in his or her
10 relationship to the child, including orders determining the ability of the person to
11 provide for the maintenance or care of the child and directing when, how and where
12 funds for the maintenance or care shall be paid.

13 (b) An act or failure to act contributes to a condition of a child as described in
14 s. ~~48.12 or~~ 48.13, although the child is not actually adjudicated to come within the
15 provisions of s. ~~48.12 or~~ 48.13, if the natural and probable consequences of that act
16 or failure to act would be to cause the child to come within the provisions of s. ~~48.12~~
17 ~~or~~ 48.13.

18 **SECTION 331.** 48.45 (1m) (a) of the statutes, as affected by 1993 Wisconsin Act
19 377, is amended to read:

20 48.45 (1m) (a) In a proceeding in which a child has been ~~adjudicated delinquent~~
21 ~~or has been found to be in need of protection or services under s. 48.13,~~ the judge may
22 order the child's parent, guardian or legal custodian to comply with any conditions
23 determined by the judge to be necessary for the child's welfare. An order under this
24 paragraph may include an order to participate in mental health treatment, anger
25 management, individual or family counseling or parent training and education and

1 to make a reasonable contribution, based on ability to pay, toward the cost of those
2 services.

3 **SECTION 332.** 48.45 (3) of the statutes is amended to read:

4 48.45 (3) If it appears at a court hearing that any person ~~18~~ 17 or older has
5 violated s. 948.40, the judge shall refer the record to the district attorney for criminal
6 proceedings as may be warranted in the district attorney's judgment. This
7 subsection does not prevent prosecution of violations of s. 948.40 without the prior
8 reference by the judge to the district attorney, as in other criminal cases.

9 **SECTION 333.** 48.48 (1) of the statutes is amended to read:

10 48.48 (1) To promote the enforcement of the laws relating to delinquent
11 children, nonmarital children and children in need of protection or services including
12 developmentally disabled children and to take the initiative in all matters involving
13 the interests of such children where adequate provision therefor is not made. This
14 duty shall be discharged in cooperation with the courts, county departments,
15 licensed child welfare agencies and with parents and other individuals interested in
16 the welfare of children.

17 **SECTION 334.** 48.48 (3) of the statutes is amended to read:

18 48.48 (3) To accept legal custody of children transferred to it by the court under
19 s. ~~48.355~~ and guardianship of children when appointed by the court, and to provide
20 special treatment and care when directed by the court. A court may not direct the
21 department to administer psychotropic medications to children who receive special
22 treatment or care under this subsection.

23 **SECTION 335.** 48.48 (4) of the statutes, as affected by 1993 Wisconsin Act 385,
24 is amended to read:

1 48.48 (4) To provide appropriate care and training for children in its legal
2 custody ~~or under its supervision under s. 48.34 (4m) or (4n)~~; including serving those
3 children in their own homes, placing them in licensed foster homes or licensed
4 treatment foster homes in accordance with s. 48.63 or licensed group homes,
5 contracting for their care by licensed child welfare agencies or replacing them in
6 juvenile correctional institutions in accordance with rules promulgated under ch.
7 227, except that the department shall not purchase the educational component of
8 private day treatment programs for children in its custody unless the department,
9 the school board as defined in s. 115.001 (7) and the state superintendent of public
10 instruction all determine that an appropriate public education program is not
11 available. Disputes between the department and the school district shall be resolved
12 by the state superintendent of public instruction.

13 **SECTION 336.** 48.48 (4m) (b) of the statutes, as affected by 1993 Wisconsin Act
14 385, is amended to read:

15 48.48 (4m) (b) Was in the legal custody of the department ~~or under its~~
16 ~~supervision under s. 48.34 (4m) or (4n)~~ when the person reached 18 years of age;

17 **SECTION 337.** 48.48 (5) of the statutes, as affected by 1993 Wisconsin Act 385,
18 is amended to read:

19 48.48 (5) To provide for the moral and religious training of a child in its legal
20 custody ~~or under its supervision under s. 48.34 (4m) or (4n)~~ according to the religious
21 belief of the child or of the child's parents.

22 **SECTION 338.** 48.48 (6) of the statutes, as affected by 1993 Wisconsin Act 385,
23 is amended to read:

24 48.48 (6) To consent to emergency surgery under the direction of a licensed
25 physician or surgeon for any child in its legal custody ~~or under its supervision under~~

1 s. ~~48.34 (4m) or (4n)~~ upon notification by a licensed physician or surgeon of the need
2 for such surgery and if reasonable effort, compatible with the nature and time
3 limitation of the emergency, has been made to secure the consent of the child's parent
4 or guardian.

5 **SECTION 339.** 48.48 (13) of the statutes is repealed.

6 **SECTION 340.** 48.48 (14) of the statutes, as affected by 1993 Wisconsin Act 385,
7 is amended to read:

8 48.48 (14) To pay maintenance, tuition and related expenses from the
9 appropriations under s. 20.435 (3) ~~(h)~~ and (7) (dd) for persons who when they
10 reached 18 years of age were students regularly attending a school, college or
11 university or regularly attending a course of vocational or technical training
12 designed to fit them for gainful employment, and who when reaching that age were
13 in the legal custody of the department ~~or under its supervision under s. 48.34 (4m)~~
14 ~~or (4n)~~ as a result of a judicial decision.

15 **SECTION 341.** 48.48 (16) of the statutes is amended to read:

16 48.48 (16) To establish and enforce standards for services provided under ss.
17 ~~48.34 and s. 48.345 (1) (a) and (e). This authority does not apply to services provided~~
18 ~~by the department of corrections under s. 48.366 (8).~~

19 **SECTION 342.** 48.49 of the statutes, as affected by 1993 Wisconsin Acts 377 and
20 385, is repealed.

21 **SECTION 343.** 48.50 (1) of the statutes, as affected by 1993 Wisconsin Acts 385
22 and 491, is amended to read:

23 48.50 (1) The department shall examine every child ~~who is placed under its~~
24 ~~supervision under s. 48.34 (4m) or (4n) or whose legal custody is transferred to it by~~
25 the court to determine the type of placement best suited to the child ~~and, in the case~~

1 ~~of a child who has violated a state law, to the protection of the public. This~~
2 examination shall include an investigation of the personal and family history of the
3 child and his or her environment, and include any physical or mental examinations
4 considered necessary to determine the type of placement that is necessary for the
5 child ~~and the evaluation under s. 48.533 (1) or (2) to determine whether the child is~~
6 ~~eligible for corrective sanctions supervision.~~ A child who is examined under this
7 subsection shall be screened to determine whether the child is in need of special
8 treatment or care because of alcohol or other drug abuse, mental illness or severe
9 emotional disturbance.

10 **SECTION 344.** 48.505 of the statutes, as created by 1993 Wisconsin Act 385, is
11 repealed.

12 **SECTION 345.** 48.51 of the statutes, as affected by 1993 Wisconsin Acts 377 and
13 385, is repealed.

14 **SECTION 346.** 48.52 (1) (c) of the statutes is amended to read:

15 48.52 (1) (c) Group homes; and

16 **SECTION 347.** 48.52 (1) (d) of the statutes is repealed.

17 **SECTION 348.** 48.52 (2) (a) of the statutes, as affected by 1993 Wisconsin Act
18 385, is amended to read:

19 48.52 (2) (a) In addition to the facilities and services described in sub. (1), the
20 department may use other facilities and services under its jurisdiction. The
21 department may also contract for and pay for the use of other public facilities or
22 private facilities for the care and treatment of children in its care; but placement of
23 children in private or public facilities not under its jurisdiction does not terminate
24 the legal custody ~~or supervision under s. 48.34 (4m) or (4n)~~ of the department.

1 Placements in institutions for the mentally ill or developmentally disabled shall be
2 made in accordance with ss. 48.14 (5) and 48.63 and ch. 51.

3 **SECTION 349.** 48.52 (2) (c) of the statutes, as affected by 1993 Wisconsin Act 385,
4 is amended to read:

5 48.52 (2) (c) The department shall have the right to inspect all facilities it is
6 using and to examine and consult with persons in its legal custody ~~or under its~~
7 ~~supervision under s. 48.34 (4m) or (4n)~~ who have been placed in that facility.

8 **SECTION 350.** 48.53 of the statutes, as affected by 1993 Wisconsin Act 385, is
9 repealed.

10 **SECTION 351.** 48.532 of the statutes is repealed.

11 **SECTION 352.** 48.533 of the statutes, as affected by 1993 Wisconsin Act 385, is
12 repealed.

13 **SECTION 353.** 48.534 of the statutes is repealed.

14 **SECTION 354.** 48.536 of the statutes is repealed.

15 **SECTION 355.** 48.537 of the statutes, as created by 1993 Wisconsin Act 377, is
16 repealed.

17 **SECTION 356.** 48.54 of the statutes, as affected by 1993 Wisconsin Act 385, is
18 amended to read:

19 **48.54 Records.** The department shall keep a complete record on each child
20 in its legal custody ~~or under its supervision under s. 48.34 (4m) or (4n)~~. This record
21 shall include the information received from the court, the date of reception, all
22 available data on the personal and family history of the child, the results of all tests
23 and examinations given the child, and a complete history of all placements of the
24 child while in the legal custody ~~or under the supervision~~ of the department.

25 **SECTION 357.** 48.547 (1) of the statutes is amended to read:

1 48.547 (1) LEGISLATIVE FINDINGS AND PURPOSE. The legislature finds that the use
2 and abuse of alcohol and other drugs by children is a state responsibility of statewide
3 dimension. The legislature recognizes that there is a lack of adequate procedures to
4 screen, assess and treat children for alcohol and other drug abuse. To reduce the
5 incidence of alcohol and other drug abuse by children, the legislature deems it
6 necessary to experiment with solutions to the problems of the use and abuse of
7 alcohol and other drugs by children by establishing a juvenile alcohol and other drug
8 abuse pilot program in a limited number of counties. The purpose of the program is
9 to develop intake and court procedures that screen, assess and give new dispositional
10 alternatives for children with needs and problems related to the use of alcohol
11 beverages or controlled substances who come within the jurisdiction of a court
12 assigned to exercise jurisdiction under this chapter and ch. 938 in the pilot counties
13 selected by the department.

14 **SECTION 358.** 48.547 (4) of the statutes is amended to read:

15 48.547 (4) ASSESSMENT CRITERIA. By September 1, 1988, the department shall
16 develop uniform alcohol and other drug abuse assessment criteria to be used in the
17 pilot program under ss. 48.245 (2) (a) 3., and 48.295 (1), ~~48.32 (1g), 48.343 (10) and~~
18 ~~48.344 (2g)~~. An approved treatment facility that assesses a person under ss. s. 48.245
19 (2) (a) 3., or 48.295 (1), ~~48.32 (1g), 48.343 (10) and 48.344 (2g)~~ may not also provide
20 the person with treatment unless the department permits the approved treatment
21 facility to do both in accordance with the criteria established by rule by the
22 department.

23 **SECTION 359.** 48.57 (1) (a) of the statutes is amended to read:

24 48.57 (1) (a) To investigate the conditions surrounding ~~delinquent children,~~
25 nonmarital children and children in need of protection or services including

1 developmentally disabled children within the county and to take every reasonable
2 action within its power to secure for them the full benefit of all laws enacted for their
3 benefit. Unless provided by another agency, the county department shall offer social
4 services to the caretaker of any child who is referred to it under the conditions
5 specified in this paragraph. This duty shall be discharged in cooperation with the
6 court and with the public officers or boards legally responsible for the administration
7 and enforcement of these laws.

8 **SECTION 360.** 48.57 (4) of the statutes, as created by 1993 Wisconsin Act 385,
9 is repealed.

10 **SECTION 361.** 48.58 (1) (b) of the statutes is amended to read:

11 48.58 (1) (b) Provide care for children in need of protection or services, and
12 delinquent ~~children~~ juveniles referred by the county department, if the delinquent
13 ~~children~~ juveniles are placed in separate facilities;

14 **SECTION 362.** 48.58 (1) (c) of the statutes is amended to read:

15 48.58 (1) (c) Provide temporary shelter care for children in need of protection
16 or services and delinquent ~~children~~ juveniles; provided that the delinquent ~~children~~
17 juveniles are placed in separate facilities.

18 **SECTION 363.** 48.58 (1) (d) of the statutes is amended to read:

19 48.58 (1) (d) Provide temporary shelter care for children taken into custody
20 under s. 48.19 or 938.19.

21 **SECTION 364.** 48.59 (1) of the statutes, as affected by 1993 Wisconsin Act 385,
22 is amended to read:

23 48.59 (1) The county department shall investigate the personal and family
24 history and environment of any child transferred to its legal custody or placed under
25 its supervision under s. ~~48.34 (4n)~~ 48.345 and make any physical or mental

1 examinations of the child considered necessary to determine the type of care
2 necessary for the child. The county department shall screen a child who is examined
3 under this subsection to determine whether the child is in need of special treatment
4 or care because of alcohol or other drug abuse, mental illness or severe emotional
5 disturbance. The county department shall keep a complete record of the information
6 received from the court, the date of reception, all available data on the personal and
7 family history of the child, the results of all tests and examinations given the child
8 and a complete history of all placements of the child while in the legal custody or
9 under the supervision of the county department.

10 **SECTION 365.** 48.595 of the statutes, as created by 1993 Wisconsin Act 385, is
11 repealed.

12 **SECTION 366.** 48.63 (1) of the statutes is amended to read:

13 48.63 (1) Acting pursuant to court order or voluntary agreement, the child's
14 parent or guardian or the department, a county department or a child welfare agency
15 licensed to place children in foster homes or treatment foster homes may place a child
16 or negotiate or act as intermediary for the placement of a child in a foster home,
17 treatment foster home or group home. Voluntary agreements under this subsection
18 may not be used for placements in facilities other than foster, treatment foster or
19 group homes and may not be extended. A foster home or treatment foster home
20 placement under a voluntary agreement may not exceed 6 months. A group home
21 placement under a voluntary agreement may not exceed 15 days. These time
22 limitations do not apply to placements made under ~~ss. 48.34 and s. 48.345, 938.183,~~
23 938.34 or 938.345. Voluntary agreements may be made only under this subsection
24 and shall be in writing and shall specifically state that the agreement may be
25 terminated at any time by the parent or by the child if the child's consent to the

1 agreement is required. The child's consent to the agreement is required whenever
2 the child is 12 years of age or older.

3 **SECTION 367.** 48.66 (1) of the statutes is amended to read:

4 48.66 (1) The department shall license and supervise child welfare agencies,
5 as required by s. 48.60, group homes, as required by s. 48.625, shelter care facilities,
6 as required by s. 48.48 and day care centers, as required by s. 48.65. The department
7 may license foster homes or treatment foster homes, as provided by s. 48.62, and may
8 license and supervise county departments in accordance with the procedures
9 specified in this section and in ss. 48.67 to 48.74. The department may license a child
10 welfare agency to hold in secure custody children under 12 years of age who have
11 been convicted under s. 938.183 or adjudicated delinquent under s. 938.34 (4m) and
12 placed in a secured child caring institution, and to provide supervision, care and
13 maintenance for those children. The department may also license a child welfare
14 agency to hold in secure custody children who have been adjudicated delinquent
15 under s. 48.34 (4m) 938.34 (4m) and referred to the child welfare agency by the
16 department under the intensive residential aftercare pilot program under 1993
17 Wisconsin Act 377, section 9126 (3x), and to provide supervision, care and
18 maintenance for those children.

19 **SECTION 368.** 48.78 (2) (a) of the statutes is amended to read:

20 48.78 (2) (a) No agency may make available for inspection or disclose the
21 contents of any record kept or information received about an individual in its care
22 or legal custody, except as provided under ~~sub. (3) or~~ s. 48.371, 48.38 (5) (b) or (d),
23 48.432, 48.433, 48.93 or 48.981 (7) or by order of the court.

24 **SECTION 369.** 48.78 (2) (d) of the statutes, as affected by 1993 Wisconsin Act
25 385, is repealed.

1 **SECTION 370.** 48.78 (2) (e) and (3) of the statutes are repealed.

2 **SECTION 371.** 48.95 of the statutes is amended to read:

3 **48.95 Withdrawal or denial of petition.** Except as provided under s. 48.839
4 (3) (b), if the petition is withdrawn or denied, the circuit court shall order the case
5 transferred to the court assigned to exercise jurisdiction under this chapter and ch.
6 938 for appropriate action, except that if parental rights have been terminated and
7 the guardian of the minor is the department, a licensed child welfare agency or a
8 county department under s. 48.57 (1) (e) or (hm), the minor shall remain in the legal
9 custody of the guardian.

10 **SECTION 372.** 48.991 of the statutes is renumbered 938.991.

11 **SECTION 373.** 48.992 of the statutes is renumbered 938.992, and 938.992 (1) (a)
12 and (b) and (3), as renumbered, are amended to read:

13 938.992 (1) (a) The “appropriate court” of this state to issue a requisition under
14 s. ~~48.991~~ 938.991 (4) is the court assigned to exercise jurisdiction under this chapter
15 and ch. 48 for the county of the petitioner’s residence, or, if the petitioner is a child
16 welfare agency, the court so assigned for the county where the agency has its
17 principal office, or, if the petitioner is the department, any court so assigned in the
18 state.

19 (b) The “appropriate court” of this state to receive a requisition under s. ~~48.991~~
20 938.991 (4) or (5) or ~~48.998~~ 938.998 is the court assigned to exercise jurisdiction
21 under this chapter and ch. 48 for the county where the juvenile is located.

22 (3) Notwithstanding s. ~~48.991~~ 938.991 (3) (b), “delinquent juvenile” does not
23 include a person subject to an order under s. ~~48.366~~ 938.366 who is confined to a state
24 prison under s. 302.01 or a person subject to an order under s. 938.34 (4g) who is 17
25 years of age or over.

1 **SECTION 374.** 48.993 of the statutes is renumbered 938.993, and 938.993 (2),
2 as renumbered, is amended to read:

3 **938.993 (2)** The compact administrator shall determine for this state whether
4 to receive juvenile probationers and parolees of other states under s. ~~48.991~~ 938.991
5 (7) and shall arrange for the supervision of each such probationer or parolee received,
6 either by the department or by a person appointed to perform supervision service for
7 the court assigned to exercise jurisdiction under this chapter and ch. 48 for the
8 county where the juvenile is to reside, whichever is more convenient. Those persons
9 shall in all such cases make periodic reports to the compact administrator regarding
10 the conduct and progress of the juveniles.

11 **SECTION 375.** 48.994 of the statutes is renumbered 938.994 and amended to
12 read:

13 **938.994 Supplementary agreements.** The department may enter into
14 supplementary agreements with appropriate officials of other states under s. ~~48.991~~
15 938.991 (10). If the supplementary agreement requires or contemplates the use of
16 any institution or facility of this state or the provision of any service by this state, the
17 supplementary agreement has no effect until approved by the department or agency
18 under whose jurisdiction the institution or facility is operated or which shall be
19 charged with the rendering of the service.

20 **SECTION 376.** 48.995 of the statutes is renumbered 938.995 and amended to
21 read:

22 **938.995 Financial arrangements.** The expense of returning juveniles to
23 this state pursuant to s. ~~48.991~~ 938.991 shall be paid as follows:

24 **(1)** In the case of a runaway under s. ~~48.991~~ 938.991 (4), the court making the
25 requisition shall inquire summarily regarding the financial ability of the petitioner

1 to bear the expense and if it finds the petitioner is able to do so, shall order the
2 petitioner to pay all the expenses of returning the juvenile; otherwise the court shall
3 arrange for the transportation at the expense of the county and order that the county
4 reimburse the person, if any, who returns the juvenile, for that person's actual and
5 necessary expenses; and the court may order that the petitioner reimburse the
6 county for so much of the expense as the court finds the petitioner is able to pay. If
7 the petitioner fails, without good cause, or refuses to pay that sum, the petitioner
8 may be proceeded against for contempt.

9 (2) In the case of an escapee or absconder under s. ~~48.991~~ 938.991 (5) or (6), if
10 the juvenile is in the legal custody of the department, it shall bear the expense of his
11 or her return; otherwise the appropriate court shall, on petition of the person entitled
12 to the juvenile's custody or charged with his or her supervision, arrange for the
13 transportation at the expense of the county and order that the county reimburse the
14 person, if any, who returns the juvenile, for the person's actual and necessary
15 expenses. In this subsection "appropriate court" means the court which adjudged the
16 juvenile to be delinquent or, if the juvenile is under supervision for another state
17 under s. ~~48.991~~ 938.991 (7), then the court assigned to exercise jurisdiction under
18 this chapter and ch. 48 for the county of the juvenile's residence during the
19 supervision.

20 (3) In the case of a voluntary return of a runaway without requisition under
21 s. ~~48.991~~ 938.991 (6), the person entitled to the juvenile's legal custody shall pay the
22 expense of transportation and the actual and necessary expenses of the person, if
23 any, who returns the juvenile; but if the person is financially unable to pay all the
24 expenses he or she may petition the court assigned to exercise jurisdiction under this
25 chapter and ch. 48 for the county of the petitioner's residence for an order arranging

1 for the transportation as provided in sub. (1). The court shall inquire summarily into
2 the financial ability of the petitioner and, if it finds the petitioner is unable to bear
3 any or all of the expense, the court shall arrange for the transportation at the expense
4 of the county and shall order the county to reimburse the person, if any, who returns
5 the juvenile, for the person's actual and necessary expenses. The court may order
6 that the petitioner reimburse the county for so much of the expense as the court finds
7 the petitioner is able to pay. If the petitioner fails, without good cause, or refuses to
8 pay that sum, he or she may be proceeded against for contempt.

9 (4) In the case of a juvenile subject to a petition under s. ~~48.998~~ 938.998, the
10 appropriate court shall arrange for the transportation at the expense of the county
11 in which the violation of criminal law is alleged to have been committed and order
12 that the county reimburse the person, if any, who returns the juvenile, for the
13 person's actual and necessary expenses. In this subsection "appropriate court"
14 means the court assigned to exercise jurisdiction under this chapter and ch. 48 for
15 the county in which the violation of criminal law is alleged to have been committed.

16 **SECTION 377.** 48.996 of the statutes is renumbered 938.996.

17 **SECTION 378.** 48.997 of the statutes is renumbered 938.997.

18 **SECTION 379.** 48.998 of the statutes is renumbered 938.998, and 938.998 (2),
19 as renumbered, is amended to read:

20 938.998 (2) All provisions and procedures of s. ~~48.991~~ 938.991 (5) and (6) shall
21 be construed to apply to any juvenile charged with being a delinquent by reason of
22 a violation of any criminal law. Any juvenile, charged with being a delinquent by
23 reason of violating any criminal law shall be returned to the requesting state upon
24 a requisition to the state where the juvenile may be found. A petition in such case
25 shall be filed in a court of competent jurisdiction in the requesting state where the

1 violation of criminal law is alleged to have been committed. The petition may be filed
2 regardless of whether the juvenile has left the state before or after the filing of the
3 petition. The requisition described in s. ~~48.991~~ 938.991 (5) shall be forwarded by the
4 judge of the court in which the petition has been filed.

5 **SECTION 380.** 49.19 (4) (c) of the statutes is amended to read:

6 49.19 (4) (c) The person having the care and custody of the dependent child
7 must be fit and proper to have the child. Aid shall not be denied by the county
8 department under s. 46.215 or 46.22 on the grounds that a person is not fit and proper
9 to have the care and custody of the child until the county department obtains a
10 finding substantiating that fact from a court assigned to exercise jurisdiction under
11 ~~ch. 48 and 938~~ or other court of competent jurisdiction; but in appropriate cases
12 it is the responsibility of the county department to petition under ch. 48 or refer the
13 case to a proper child protection agency.

14 **SECTION 381.** 49.46 (1) (a) 5. of the statutes is amended to read:

15 49.46 (1) (a) 5. Any child in an adoption assistance, foster care or treatment
16 foster care placement under ch. 48 or 938, as determined by the department.

17 **SECTION 382.** 49.80 (7) of the statutes is amended to read:

18 49.80 (7) INDIVIDUALS IN STATE PRISONS. No payment under sub. (6) may be made
19 to a prisoner who is imprisoned in a state prison under s. 302.01 or to a person placed
20 at a secured correctional facility, as defined in s. ~~48.02~~ 938.02 (15m), or a secured
21 child caring institution, as defined in s. 938.02 (15g).

22 **SECTION 383.** 49.90 (1m) of the statutes is amended to read:

23 49.90 (1m) Each spouse has an equal obligation to support the other spouse as
24 provided in this chapter. Each parent has an equal obligation to support his or her
25 minor children as provided in this chapter and ~~ch. 48 and 938~~. Each parent of

1 a dependent person under the age of 18 has an equal obligation to support the child
2 of the dependent person as provided under sub. (1) (a) 2.

3 **SECTION 384.** 50.39 (3) of the statutes is amended to read:

4 50.39 (3) Facilities governed by ss. 45.365, 48.62, 49.14, 49.171, 50.02, 51.09,
5 58.06, 252.073, 252.076 and 252.10, secured correctional facilities as defined in s.
6 ~~48.02~~ 938.02 (15m), correctional institutions governed by the department of
7 corrections under s. 301.02 and the offices and clinics of persons licensed to treat the
8 sick under chs. 446, 447 and 448 are exempt from ss. 50.32 to 50.39. Sections 50.32
9 to 50.39 do not abridge the rights of the medical examining board, physical therapists
10 affiliated credentialing board, dentistry examining board, pharmacy examining
11 board, chiropractic examining board and board of nursing in carrying out their
12 statutory duties and responsibilities.

13 **SECTION 385.** 51.05 (2) of the statutes is amended to read:

14 51.05 (2) The department may not accept for admission to a mental health
15 institute any resident person, except in an emergency, unless the county department
16 under s. 51.42 in the county where the person has legal residency authorizes the care,
17 as provided in s. 51.42 (3) (as). Patients who are committed to the department under
18 s. 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. 971.14, 971.17, 975.06 or 980.06,
19 admitted by the department under s. 975.17, 1977 stats., or are transferred from a
20 juvenile correctional facility or a secured child caring institution, as defined in s.
21 938.02 (15g), to a state treatment facility under s. 51.35 (3) or from a jail or prison
22 to a state treatment facility under s. 51.37 (5) are not subject to this section.

23 **SECTION 386.** 51.13 (1) (c) of the statutes is amended to read:

24 51.13 (1) (c) If a minor 14 years of age or older wishes to be admitted to an
25 approved inpatient treatment facility but a parent with legal custody or the guardian

1 refuses to execute the application for admission or cannot be found, or if there is no
2 parent with legal custody, the minor or a person acting on the minor's behalf may
3 petition the court assigned to exercise jurisdiction under ~~ch.~~ chs. 48 and 938 in the
4 county of residence of the parent or guardian for approval of the admission. A copy
5 of the petition and a notice of hearing shall be served upon the parent or guardian
6 at his or her last-known address. If, after hearing, the court determines that the
7 parent or guardian's consent is unreasonably withheld or that the parent or guardian
8 cannot be found or that there is no parent with legal custody, and that the admission
9 is proper under the standards prescribed in sub. (4) (d), it shall approve the minor's
10 admission without the parent or guardian's consent. The court may, at the minor's
11 request, temporarily approve the admission pending hearing on the petition. If a
12 hearing is held under this subsection, no review or hearing under sub. (4) is required.

13 **SECTION 387.** 51.13 (4) (a) of the statutes is amended to read:

14 51.13 (4) (a) Within 3 days of the admission of a minor under sub. (1), or within
15 3 days of application for such admission, whichever occurs first, the treatment
16 director of the facility to which the minor is admitted or, in the case of a center for
17 the developmentally disabled, the director of the center, shall file a verified petition
18 for review of the admission in the court assigned to exercise jurisdiction under ~~ch.~~
19 chs. 48 and 938 in the county in which the facility is located. The petition shall
20 contain: 1) the name, address and date of birth of the minor; 2) the names and
21 addresses of the parents or guardian; 3) the facts substantiating the petitioner's
22 belief in the minor's need for psychiatric services, or services for developmental
23 disability, alcoholism or drug abuse; 4) the facts substantiating the appropriateness
24 of inpatient treatment in the inpatient treatment facility; 5) the basis for the
25 petitioner's opinion that inpatient care in the facility is the least restrictive

1 treatment consistent with the needs of the minor; and 6) notation of any statement
2 made or conduct demonstrated by the minor in the presence of the director or staff
3 of the facility indicating that inpatient treatment is against the wishes of the minor.
4 A copy of the application for admission and of any relevant professional evaluations
5 shall be attached to the petition.

6 **SECTION 388.** 51.13 (4) (b) of the statutes is amended to read:

7 51.13 (4) (b) If hardship would otherwise occur and if the best interests of the
8 minor would be served thereby, the court may, on its own motion or on the motion of
9 any interested party, remove the petition to the court assigned to exercise
10 jurisdiction under ~~ch.~~ chs. 48 and 938 of the county of residence of the parent or
11 guardian.

12 **SECTION 389.** 51.13 (4) (d) of the statutes is amended to read:

13 51.13 (4) (d) Within 5 days of the filing of the petition, the court assigned to
14 exercise jurisdiction under ~~ch.~~ chs. 48 and 938 shall determine, based on the
15 allegations of the petition and accompanying documents, whether the admission is
16 voluntary on the part of the minor if the minor is 14 years of age or older and whether
17 there is a prima facie showing that the minor is in need of psychiatric services, or
18 services for developmental disability, alcoholism or drug abuse, that the treatment
19 facility offers inpatient therapy or treatment which is appropriate to the minor's
20 needs, and that inpatient care in the treatment facility is the least restrictive therapy
21 or treatment consistent with the needs of the minor. If such a showing is made, the
22 court shall permit voluntary admission. If the court is unable to make such
23 determinations based on the petition and accompanying documents, it shall dismiss
24 the petition as provided in par. (h); or order additional information to be produced
25 as it deems necessary to make such review, and make such determinations within

1 14 days of admission or application for admission, whichever is sooner; or it may hold
2 a hearing within 14 days of admission or application for admission, whichever is
3 sooner. If a notation of the minor's unwillingness appears on the face of the petition,
4 or if a hearing has been requested by the minor, the minor's counsel, parent or
5 guardian, the court shall hold a hearing to review the admission within 14 days of
6 admission or application for admission, whichever is sooner, and shall appoint
7 counsel to represent the minor if the minor is unrepresented. If the court deems it
8 necessary, it shall also appoint a guardian ad litem to represent the minor.

9 **SECTION 390.** 51.13 (4) (h) 2. of the statutes is amended to read:

10 51.13 (4) (h) 2. Order the petition to be treated as a petition for involuntary
11 commitment and refer it to the court where the review under this section was held,
12 or if it was not held in the county of legal residence of the subject individual's parent
13 or guardian and hardship would otherwise occur and if the best interests of the
14 subject individual would be served thereby, to the court assigned to exercise
15 jurisdiction under ~~ch~~ chs. 48 and 938 in such county for a hearing under s. 51.20 or
16 51.45 (13).

17 **SECTION 391.** 51.13 (4) (h) 4. of the statutes is amended to read:

18 51.13 (4) (h) 4. If there is a reason to believe the minor is in need of protection
19 or services under s. 48.13 or 938.13, dismiss the petition and authorize the filing of
20 a petition under s. 48.25 (3) or 938.25 (3). The court may release the minor or may
21 order that the minor be taken and held in custody under s. 48.19 (1) (c) or 938.19 (1)
22 (c).

23 **SECTION 392.** 51.14 (2) of the statutes is amended to read:

1 51.14 (2) MENTAL HEALTH REVIEW OFFICER. Each court assigned to exercise
2 jurisdiction under ~~ch~~ chs. 48 and 938 shall designate a mental health review officer
3 to review petitions filed under sub. (3).

4 **SECTION 393.** 51.15 (1) (a) (intro.), 3. and 4. of the statutes are amended to read:

5 51.15 (1) (a) (intro.) A law enforcement officer or other person authorized to
6 take a child into custody under ch. 48 or 938 may take an individual into custody if
7 the officer or person has cause to believe that such individual is mentally ill, drug
8 dependent or developmentally disabled, and that the individual evidences any of the
9 following:

10 3. A substantial probability of physical impairment or injury to himself or
11 herself due to impaired judgment, as manifested by evidence of a recent act or
12 omission. The probability of physical impairment or injury is not substantial under
13 this subdivision if reasonable provision for the individual's protection is available in
14 the community and there is a reasonable probability that the individual will avail
15 himself or herself of these services or, in the case of a minor, if the individual is
16 appropriate for services or placement under s. 48.13 (4) or (11) or 938.13 (4). Food,
17 shelter or other care provided to an individual who is substantially incapable of
18 obtaining the care for himself or herself, by any person other than a treatment
19 facility, does not constitute reasonable provision for the individual's protection
20 available in the community under this subdivision.

21 4. Behavior manifested by a recent act or omission that, due to mental illness
22 or drug dependency, he or she is unable to satisfy basic needs for nourishment,
23 medical care, shelter or safety without prompt and adequate treatment so that a
24 substantial probability exists that death, serious physical injury, serious physical
25 debilitation or serious physical disease will imminently ensue unless the individual

1 receives prompt and adequate treatment for this mental illness or drug dependency.
2 No substantial probability of harm under this subdivision exists if reasonable
3 provision for the individual's treatment and protection is available in the community
4 and there is a reasonable probability that the individual will avail himself or herself
5 of these services, if the individual can receive protective placement under s. 55.06 or,
6 in the case of a minor, if the individual is appropriate for services or placement under
7 s. 48.13 (4) or (11) or 938.13 (4). The individual's status as a minor does not
8 automatically establish a substantial probability of death, serious physical injury,
9 serious physical debilitation or serious disease under this subdivision. Food, shelter
10 or other care provided to an individual who is substantially incapable of providing
11 the care for himself or herself, by any person other than a treatment facility, does not
12 constitute reasonable provision for the individual's treatment or protection available
13 in the community under this subdivision.

14 **SECTION 394.** 51.20 (1) (a) 2. b., c. and d. of the statutes are amended to read:

15 51.20 (1) (a) 2. b. Evidences a substantial probability of physical harm to other
16 individuals as manifested by evidence of recent homicidal or other violent behavior,
17 or by evidence that others are placed in reasonable fear of violent behavior and
18 serious physical harm to them, as evidenced by a recent overt act, attempt or threat
19 to do serious physical harm. In this subd. 2. b., if the petition is filed under a court
20 order under s. ~~48.30~~ 938.30 (5) (c) 1. or (d) 1., a finding by the court exercising
21 jurisdiction under ~~ch. 48 and 938~~ that the child committed the act or acts alleged
22 in the petition under s. ~~48.12 or 48.13~~ 938.12 or 938.13 (12) may be used to prove that
23 the child exhibited recent homicidal or other violent behavior or committed a recent
24 overt act, attempt or threat to do serious physical harm.

1 c. Evidences such impaired judgment, manifested by evidence of a pattern of
2 recent acts or omissions, that there is a substantial probability of physical
3 impairment or injury to himself or herself. The probability of physical impairment
4 or injury is not substantial under this subd. 2. c. if reasonable provision for the
5 subject individual's protection is available in the community and there is a
6 reasonable probability that the individual will avail himself or herself of these
7 services, if the individual is appropriate for protective placement under s. 55.06 or,
8 in the case of a minor, if the individual is appropriate for services or placement under
9 s. 48.13 (4) or (11) or 938.13 (4). The subject individual's status as a minor does not
10 automatically establish a substantial probability of physical impairment or injury
11 under this subd. 2. c. Food, shelter or other care provided to an individual who is
12 substantially incapable of obtaining the care for himself or herself, by a person other
13 than a treatment facility, does not constitute reasonable provision for the subject
14 individual's protection available in the community under this subd. 2. c.

15 d. Evidences behavior manifested by recent acts or omissions that, due to
16 mental illness, he or she is unable to satisfy basic needs for nourishment, medical
17 care, shelter or safety without prompt and adequate treatment so that a substantial
18 probability exists that death, serious physical injury, serious physical debilitation or
19 serious physical disease will imminently ensue unless the individual receives
20 prompt and adequate treatment for this mental illness. No substantial probability
21 of harm under this subd. 2. d. exists if reasonable provision for the individual's
22 treatment and protection is available in the community and there is a reasonable
23 probability that the individual will avail himself or herself of these services, if the
24 individual is appropriate for protective placement under s. 55.06 or, in the case of a
25 minor, if the individual is appropriate for services or placement under s. 48.13 (4) or

1 (11) or 938.13 (4). The individual's status as a minor does not automatically establish
2 a substantial probability of death, serious physical injury, serious physical
3 debilitation or serious disease under this subd. 2. d. Food, shelter or other care
4 provided to an individual who is substantially incapable of obtaining the care for
5 himself or herself, by any person other than a treatment facility, does not constitute
6 reasonable provision for the individual's treatment or protection available in the
7 community under this subd. 2. d.

8 **SECTION 395.** 51.20 (1) (b) of the statutes is amended to read:

9 51.20 (1) (b) Each petition for examination shall be signed by 3 adult persons,
10 at least one of whom has personal knowledge of the conduct of the subject individual,
11 except that this requirement does not apply if the petition is filed pursuant to a court
12 order under s. ~~48.30~~ 938.30 (5) (c) 1. or (d) 1.

13 **SECTION 396.** 51.20 (6) of the statutes is amended to read:

14 51.20 (6) JUVENILES. For minors, the hearings held under this section shall be
15 before the court assigned to exercise jurisdiction under ~~ch. 48~~ chs. 48 and 938.

16 **SECTION 397.** 51.20 (13) (cr) of the statutes is amended to read:

17 51.20 (13) (cr) If the subject individual is before the court on a petition filed
18 under a court order under s. ~~48.30~~ 938.30 (5) (c) 1. and is found to have committed
19 a violation of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025, the court shall require
20 the individual to provide a biological specimen to the state crime laboratories for
21 deoxyribonucleic acid analysis and to comply with the reporting and testing
22 requirements of s. 175.45.

23 **SECTION 398.** 51.35 (3) (title) of the statutes is amended to read:

24 51.35 (3) (title) TRANSFER OF CERTAIN CHILDREN FROM JUVENILE CORRECTIONAL
25 FACILITIES AND SECURED CHILD CARING INSTITUTIONS.

1 **SECTION 399.** 51.35 (3) (a) of the statutes is amended to read:

2 51.35 (3) (a) A licensed psychologist of a juvenile correctional facility ~~under s.~~
3 ~~48.52 or a secured child caring institution, as defined in s. 938.02 (15g),~~ or a licensed
4 physician of the department of ~~corrections,~~ who has reason to believe that any
5 individual confined in the facility or institution is, in his or her opinion, in need of
6 services for developmental disability, alcoholism or drug dependency or in need of
7 psychiatric services, and who has obtained voluntary consent to make a transfer for
8 treatment, shall make a report, in writing, to the superintendent of the facility or
9 institution, stating the nature and basis of the belief and verifying the consent. In
10 the case of a minor age 14 and over, the minor and the minor's parent or guardian
11 shall consent unless the minor is admitted under s. 51.13 (1) (c); and in the case of
12 a minor under the age of 14, only the minor's parent or guardian need consent. The
13 superintendent shall inform, orally and in writing, the minor and the minor's parent
14 or guardian, that transfer is being considered and shall inform them of the basis for
15 the request and their rights as provided in s. 51.13 (3). If the department, upon
16 review of a request for transfer, determines that transfer is appropriate, the
17 department may immediately transfer the individual. The department shall file a
18 petition under s. 51.13 (4) (a) in the court assigned to exercise jurisdiction under ~~ch.~~
19 ~~chs. 48 and 938~~ of the county where the treatment facility is located.

20 **SECTION 400.** 51.35 (3) (b) of the statutes is amended to read:

21 51.35 (3) (b) The court assigned to exercise jurisdiction under ~~ch.~~ chs. 48 and
22 938 shall determine, based on the allegations of the petition and accompanying
23 documents, whether the transfer is voluntary on the part of the minor if he or she is
24 aged 14 or over, and whether the transfer of the minor to an inpatient facility is
25 appropriate and consistent with the needs of the minor. In the event that the court

1 is unable to make such determinations based on the petition and accompanying
2 documents, it shall order additional information to be produced as it deems
3 necessary to make such review, and make such determinations within 14 days of
4 admission, or it may hold a hearing within 14 days of admission. If a notation of the
5 minor's unwillingness appears on the face of the petition, or that a hearing has been
6 requested by the minor, the minor's counsel, guardian ad litem, parent or guardian,
7 the court shall hold a hearing and appoint counsel or a guardian ad litem for the
8 minor as provided in s. 51.13 (4) (d). At the conclusion of the hearing, the court shall
9 approve or disapprove the request for transfer. If the minor is under the continuing
10 jurisdiction of the court of another county, the court may order the case transferred
11 together with all appropriate records to that court.

12 **SECTION 401.** 51.35 (3) (c) of the statutes is amended to read:

13 51.35 (3) (c) A licensed psychologist of a juvenile correctional facility or a
14 secured child caring institution, as defined in s. 938.02 (15g), or a licensed physician
15 of the department of corrections, who has reason to believe that any individual
16 confined in the facility or institution is, in his or her opinion, mentally ill, drug
17 dependent or developmentally disabled, and is dangerous as defined in s. 51.20 (1)
18 (a) 2., or is an alcoholic and is dangerous as defined in s. 51.45 (13) (a), shall file a
19 written report with the superintendent of the facility or institution, stating the
20 nature and basis of the belief. If the superintendent, upon review of the allegations
21 in the report, determines that transfer is appropriate, he or she shall file a petition
22 according to s. 51.20 or 51.45 in the court assigned to exercise jurisdiction under ~~ch~~
23 chs. 48 and 938 of the county where the correctional facility or secured child caring
24 institution is located. The court shall hold a hearing according to procedures
25 provided in s. 51.20 or 51.45 (13).

1 **SECTION 402.** 51.35 (3) (e) of the statutes is amended to read:

2 51.35 (3) (e) The department may authorize emergency transfer of an
3 individual from a juvenile correctional facility or a secured child caring institution,
4 as defined in s. 938.02 (15g), to a state treatment facility if there is cause to believe
5 that the individual is mentally ill, drug dependent or developmentally disabled and
6 exhibits conduct which constitutes a danger as defined in s. 51.20 (1) (a) 2. to the
7 individual or to others, or is an alcoholic and is dangerous as provided in s. 51.45 (13)
8 (a) 1. and 2. The ~~correctional~~ custodian of the sending facility or institution shall
9 execute a statement of emergency detention or petition for emergency commitment
10 for the individual and deliver it to the receiving state treatment facility. The
11 department shall file the statement or petition with the court within 24 hours after
12 the subject individual is received for detention or commitment. The statement or
13 petition shall conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency
14 transfer is made, the director of the receiving facility may file a petition for continued
15 commitment under s. 51.20 (1) or 51.45 (13) or may return the individual to the
16 facility or institution from which the transfer was made. As an alternative to this
17 procedure, the procedure provided in s. 51.15 or 51.45 (12) may be used, except that
18 no prisoner may be released without the approval of the court which directed
19 confinement in the correctional facility or secured child caring institution.

20 **SECTION 403.** 51.35 (3) (g) of the statutes is amended to read:

21 51.35 (3) (g) A minor 14 years of age or older who is transferred to a treatment
22 facility under par. (a) may request in writing a return to the juvenile correctional
23 facility or secured child caring institution, as defined in s. 938.02 (15g). In the case
24 of a minor under 14 years of age, the parent or guardian may make the request. Upon
25 receipt of a request for return from a minor 14 years of age or over, the director shall

1 immediately notify the minor's parent or guardian. The minor shall be returned to
2 the juvenile correctional facility or secured child caring institution within 48 hours
3 after submission of the request unless a petition or statement is filed for emergency
4 detention, emergency commitment, involuntary commitment or protective
5 placement.

6 **SECTION 404.** 51.42 (3) (ar) 4. b. of the statutes is amended to read:

7 51.42 (3) (ar) 4. b. Comprehensive diagnostic and evaluation services,
8 including assessment as specified under ss. 343.30 (1q) and 343.305 (10) and
9 assessments under ~~s. ss.~~ ss. 48.295 (1) and 938.295 (1).

10 **SECTION 405.** 51.42 (3) (as) 1. of the statutes is amended to read:

11 51.42 (3) (as) 1. A county department of community programs shall authorize
12 all care of any patient in a state, local or private facility under a contractual
13 agreement between the county department of community programs and the facility,
14 unless the county department of community programs governs the facility. The need
15 for inpatient care shall be determined by the program director or designee in
16 consultation with and upon the recommendation of a licensed physician trained in
17 psychiatry and employed by the county department of community programs or its
18 contract agency. In cases of emergency, a facility under contract with any county
19 department of community programs shall charge the county department of
20 community programs having jurisdiction in the county where the patient is found.
21 The county department of community programs shall reimburse the facility for the
22 actual cost of all authorized care and services less applicable collections under s.
23 46.036, unless the department of health and social services determines that a charge
24 is administratively infeasible, or unless the department of health and social services,
25 after individual review, determines that the charge is not attributable to the cost of

1 basic care and services. A county department of community programs may not
2 reimburse any state institution or receive credit for collections for care received
3 therein by nonresidents of this state, interstate compact clients, transfers under s.
4 51.35 (3), and transfers from Wisconsin state prisons under s. 51.37 (5) (a),
5 commitments under s. 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. 971.14,
6 971.17 or 975.06 or admissions under s. 975.17, 1977 stats., or children placed in the
7 guardianship or legal custody of the department of health and social services or the
8 department of corrections under s. 48.355, 48.427 ~~or~~ 48.43 or 938.355. The
9 exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs which
10 are attributable to care and treatment of the client.

11 **SECTION 406.** 51.437 (4rm) (a) of the statutes is amended to read:

12 51.437 (**4rm**) (a) A county department of developmental disabilities services
13 shall authorize all care of any patient in a state, local or private facility under a
14 contractual agreement between the county department of developmental disabilities
15 services and the facility, unless the county department of developmental disabilities
16 services governs the facility. The need for inpatient care shall be determined by the
17 program director or designee in consultation with and upon the recommendation of
18 a licensed physician trained in psychiatry and employed by the county department
19 of developmental disabilities services or its contract agency prior to the admission
20 of a patient to the facility except in the case of emergency services. In cases of
21 emergency, a facility under contract with any county department of developmental
22 disabilities services shall charge the county department of developmental
23 disabilities services having jurisdiction in the county where the individual receiving
24 care is found. The county department of developmental disabilities services shall
25 reimburse the facility for the actual cost of all authorized care and services less

1 applicable collections under s. 46.036, unless the department of health and social
2 services determines that a charge is administratively infeasible, or unless the
3 department of health and social services, after individual review, determines that
4 the charge is not attributable to the cost of basic care and services. The exclusionary
5 provisions of s. 46.03 (18) do not apply to direct and indirect costs which are
6 attributable to care and treatment of the client. County departments of
7 developmental disabilities services may not reimburse any state institution or
8 receive credit for collections for care received therein by nonresidents of this state,
9 interstate compact clients, transfers under s. 51.35 (3) (a), commitments under s.
10 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. 971.14, 971.17 or 975.06,
11 admissions under s. 975.17, 1977 stats., or children placed in the guardianship or
12 legal custody of the department of health and social services under s. 48.355, 48.427
13 or, 48.43 or 938.355.

14 **SECTION 407.** 51.45 (5) (d) 1. of the statutes is amended to read:

15 51.45 (5) (d) 1. Ensure that each county receiving funding under par. (b) has
16 in place not later than 12 months from the date the county initially receives the
17 funding a coordinating council whose duties shall include the coordination of alcohol
18 and other drug abuse activities relating to primary prevention with school districts,
19 community service and treatment providers in the community, courts assigned to
20 exercise jurisdiction under ~~ch.~~ chs. 48 and 938, law enforcement agencies, parents,
21 children and the alcohol and other drug abuse prevention specialist.

22 **SECTION 408.** 51.45 (11) (bm) of the statutes is amended to read:

23 51.45 (11) (bm) If the person who appears to be incapacitated by alcohol under
24 par. (b) is a minor, either a law enforcement officer or a person authorized to take a

1 child into custody under ch. 48 or 938 may take the minor into custody as provided
2 in par. (b).

3 **SECTION 409.** 59.175 of the statutes is amended to read:

4 **59.175 Clerks of counties containing state institutions to make claims**
5 **in certain cases.** The county clerk of any county which is entitled to reimbursement
6 under s. 16.51 (7) shall make a certified claim against the state, without direction
7 from the county board, in all cases where the reimbursement is directed in that
8 subsection, upon forms prescribed by the department of administration. The forms
9 shall contain information required by the clerk and shall be filed annually ~~with the~~
10 ~~department of corrections~~ on or before June 1. If the claim is for reimbursement of
11 expenses involving a prisoner in a state prison, as defined in s. 302.01, the form shall
12 be filed with the department of corrections. If the claim is for reimbursement of
13 expenses involving a child in a secured correctional facility, as defined in s. 938.02
14 (15m), the form shall be filed with the department of health and social services. If
15 the claims are approved by the department of corrections or the department of health
16 and social services, they shall be certified to the department of administration and
17 paid from the appropriation ~~made by~~ under s. 20.410 (1) (c) or 20.435 (3) (c).

18 **SECTION 410.** 60.23 (22m) of the statutes is created to read:

19 **60.23 (22m) SCHOOL ATTENDANCE.** If the town board has established a
20 municipal court under s. 755.01 (1), enact and enforce an ordinance to impose a
21 forfeiture, which is the same as the fine provided under s. 118.15 (5), upon a person
22 having under his or her control a child who is between the ages of 6 and 18 years and
23 whose child is not in compliance with s. 118.15.

24 **SECTION 411.** 101.123 (1) (i) of the statutes is amended to read:

1 101.123 (1) (i) "State institution" means a prison, a secured correctional
2 facility, a mental health institute as defined in s. 51.01 (12) or a center for the
3 developmentally disabled as defined in s. 51.01 (3), except that "state institution"
4 does not include a Type 2 secured correctional facility, as defined in s. 938.02 (20).

5 **SECTION 412.** 101.123 (3) (gg) of the statutes is created to read:

6 101.123 (3) (gg) A Type 2 secured correctional facility, as defined in s. 938.02
7 (20).

8 **SECTION 413.** 102.07 (13) of the statutes is amended to read:

9 102.07 (13) A child performing uncompensated community service work as a
10 result of ~~an informal disposition under s. 48.245~~ a deferred prosecution agreement
11 under s. 938.245, a consent decree under s. 48.32 938.32 or an order under s. 48.34
12 (9) 938.34 (5g) is an employe of the county in which the court ordering the community
13 service work is located. No compensation may be paid to that employe for temporary
14 disability during the healing period.

15 **SECTION 414.** 103.70 (1) of the statutes is amended to read:

16 103.70 (1) Except as otherwise provided in sub. (2) and in ss. 103.21 to 103.31
17 and 103.78, and as may be provided under s. 103.79, a minor, unless indentured as
18 an apprentice in accordance with s. 106.01, or unless 12 years and over and engaged
19 in agricultural pursuits, or unless 14 years and over and enrolled in a youth
20 apprenticeship program under s. 101.265, ~~shall~~ may not be employed or permitted
21 to work at any gainful occupation or employment unless there is first obtained from
22 the department or a permit officer a written permit authorizing the employment of
23 the minor within those periods of time stated in the permit, which shall not exceed
24 the maximum hours prescribed by law. The issuance of a permit under this
25 subsection is subject to any limitations imposed under s. 938.342 (1) (e).

1 **SECTION 415.** 103.72 of the statutes is amended to read:

2 **103.72 Refusal and revocation of permits. (1)** The department or permit
3 officer may refuse to grant permits in the case of minors who seem physically unable
4 to perform the labor at which they are to be employed. They may also refuse to grant
5 a permit if in their judgment the best interests of the minor would be served by ~~such~~
6 that refusal. The department shall refuse to grant a permit if so ordered under s.
7 938.342 (1) (e).

8 **(2)** Whenever it ~~shall appear~~ appears to the department that ~~any a~~ permit has
9 been improperly or illegally issued, or that the physical, educational or moral welfare
10 of the minor would be best served by the revocation of the permit, the department
11 may ~~forthwith~~ immediately, without notice, revoke the ~~same, and~~ permit. The
12 department shall revoke a permit if ordered to do so under s. 938.342 (1) (e). If the
13 department revokes a permit, the department shall, by registered mail, notify the
14 person employing ~~such~~ the minor and the minor holding ~~such~~ the permit of ~~such~~ the
15 revocation. Upon receipt of ~~such~~ the notice, the employer employing ~~such~~ the minor
16 shall ~~forthwith~~ immediately return the revoked permit to the department and
17 discontinue the employment of the minor.

18 **SECTION 416.** 103.87 of the statutes is amended to read:

19 **103.87 Employe not to be disciplined for testifying.** No employer may
20 discharge an employe because the employe is subpoenaed to testify in an action or
21 proceeding pertaining to a crime or pursuant to ch. 48 or 938. On or before the first
22 business day after the receipt of a subpoena to testify, the employe shall give the
23 employer notice if he or she will have to be absent from employment because he or
24 she has been subpoenaed to testify in an action or proceeding pertaining to a crime
25 or pursuant to ch. 48 or 938. If a person is subpoenaed to testify in an action or

1 proceeding as a result of a crime, as defined in s. 950.02 (1m), against the person's
2 employer or an incident involving the person during the course of his or her
3 employment, the employer shall not decrease or withhold the employe's pay for any
4 time lost resulting from compliance with the subpoena. An employer who violates
5 this section may be fined not more than \$200 and may be required to make full
6 restitution to the aggrieved employe, including reinstatement and back pay. Except
7 as provided in this section, restitution shall be in accordance with s. 973.20.

8 **SECTION 417.** 115.31 (1) (b) of the statutes is amended to read:

9 115.31 (1) (b) "Educational agency" means a school district, cooperative
10 educational service agency, state correctional institution under s. 302.01, secured
11 correctional facility, as defined in s. ~~48.02~~ 938.02 (15m), secured child caring
12 institution, as defined in s. 938.02 (15g), the Wisconsin school for the visually
13 handicapped, the Wisconsin school for the deaf, the Mendota mental health institute,
14 the Winnebago mental health institute, a state center for the developmentally
15 disabled, a private school or a private, nonprofit, nonsectarian agency under contract
16 with a school board under s. 118.153 (3) (c).

17 **SECTION 418.** 115.81 (9) (c) of the statutes is amended to read:

18 115.81 (9) (c) Notwithstanding ss. ~~48.34 (4) and (4m)~~, 48.345, 48.363, 48.427
19 (3), 767.24 (3), 880.12 ~~and~~, 880.15, 938.183, 938.34 (4) and (4m), 938.345 and
20 938.363, a surrogate parent has the authority to act as the child's parent in all
21 matters relating to this subchapter.

22 **SECTION 419.** 115.85 (2m) of the statutes is amended to read:

23 115.85 (2m) PLACEMENT DISPUTES. If a dispute arises between the school board
24 and the department of health and social services or a county department under s.
25 46.215, 46.22 or 46.23, or between school boards under s. 115.815 (4) (c), over the

1 placement of a child in an appropriate program under sub. (2), the state
2 superintendent shall resolve the dispute. This subsection applies only to placements
3 in nonresidential educational programs made under ss. 48.48 (4) and, 48.57 (1) (c),
4 938.48 (4) and 938.57 (1) (c) and to placements in child caring institutions made
5 under s. 115.815.

6 **SECTION 420.** 118.125 (1) (a) of the statutes is amended to read:

7 118.125 (1) (a) "Behavioral records" means those pupil records which include
8 psychological tests, personality evaluations, records of conversations, any written
9 statement relating specifically to an individual pupil's behavior, tests relating
10 specifically to achievement or measurement of ability, the pupil's physical health
11 records other than his or her immunization records or any lead screening records
12 required under s. 254.162, peace officers' records obtained under s. 48.396 938.396
13 (1m) and any other pupil records that are not progress records.

14 **SECTION 421.** 118.125 (2) (cg) of the statutes is created to read:

15 118.125 (2) (cg) A law enforcement agency shall, upon request, be provided by
16 the school district clerk with a copy of the attendance record of a pupil who is the
17 subject of an investigation by the law enforcement agency.

18 **SECTION 422.** 118.125 (2) (cm) of the statutes is amended to read:

19 118.125 (2) (cm) If school attendance is a condition of a child's dispositional
20 order under s. 48.355 (2) (b) 7. or 938.355 (2) (b) 7., the school board shall notify the
21 county department that is responsible for supervising the child within 5 days after
22 any violation of the condition by the child.

23 **SECTION 423.** 118.125 (2) (d) of the statutes is amended to read:

24 118.125 (2) (d) Pupil records may be made available to persons employed by the
25 school district which the pupil attends who are required by the department under s.

1 115.28 (7) to hold a license and other school district officials who have been
2 determined by the school board to have legitimate educational or safety interests in
3 the pupil records. Peace officers' records obtained under s. ~~48.396 (1m)~~ 938.396 (1m)
4 (a) may be made available under this paragraph only for the purposes of s. 118.127
5 (2) and only to those ~~designated personnel involved in~~ employees of the school district
6 who have been designated by the school board to receive that information for the
7 purpose of providing alcohol and other drug abuse programs. Peace officers' records
8 obtained under s. 938.396 (1m) (b) shall be made available under this paragraph for
9 the purposes of s. 118.127 (3) to persons employed by the school district which the
10 pupil attends who are required by the department under s. 115.28 (7) to hold a
11 license, to other school district officials who have been determined by the school
12 board to have legitimate educational or safety interests in those records and to those
13 employees of the school district who have been designated by the school board to
14 receive that information for the purpose of providing treatment programs.

15 **SECTION 424.** 118.125 (2) (j) 3. of the statutes is amended to read:

16 118.125 (2) (j) 3. If a school has notified the parent, legal guardian or guardian
17 ad litem of the information that it has designated as directory data with respect to
18 any pupil, the school has allowed 14 days for the parent, legal guardian or guardian
19 ad litem of the pupil to inform the school that such information may not be released
20 without the prior consent of the parent, legal guardian or guardian ad litem and the
21 parent, legal guardian or guardian ad litem has not so informed the school, the school
22 district clerk, upon request, shall provide any representative of a law enforcement
23 agency, as defined in s. 165.83 (1) (b), district attorney or corporation counsel, county
24 department under s. 46.215, 46.22 or 46.23 or a court of record or municipal court
25 with such information relating to any such pupil enrolled in the school district for the

1 purpose of enforcing that pupil's school attendance ~~or to respond,~~ investigating
2 alleged criminal or delinquent activity by the pupil or responding to a health or safety
3 emergency.

4 **SECTION 425.** 118.125 (2) (L) of the statutes is amended to read:

5 118.125 (2) (L) A school board shall disclose the pupil records of a pupil in
6 compliance with a court order under s. ~~48.34 (12) (b)~~ 938.34 (7d) (b), 938.396 (1m) (c)
7 or 938.78 (2) (b) 2. after making a reasonable effort to notify the pupil's parent or legal
8 guardian.

9 **SECTION 426.** 118.125 (3) of the statutes is amended to read:

10 118.125 (3) MAINTENANCE OF RECORDS. Each school board shall adopt rules in
11 writing specifying the content of pupil records and the time during which pupil
12 records shall be maintained. No behavioral records may be maintained for more than
13 one year after the pupil ceases to be enrolled in the school, unless the pupil specifies
14 in writing that his or her behavioral records may be maintained for a longer period.
15 A pupil's progress records shall be maintained for at least 5 years after the pupil
16 ceases to be enrolled in the school. A school board may maintain the records on
17 microfilm or optical disk if authorized under s. 19.21 (4) (c), or in such other form as
18 the school board deems appropriate. A school board shall maintain peace officers'
19 records obtained under s. ~~48.396~~ 938.396 (1m) separately from a pupil's other pupil
20 records. Rules adopted under this subsection shall be published by the school board
21 as a class 1 notice under ch. 985.

22 **SECTION 427.** 118.125 (4) of the statutes, as affected by 1993 Wisconsin Acts 377
23 and 491, is amended to read:

24 118.125 (4) TRANSFER OF RECORDS. Within 5 working days, a school district shall
25 transfer to another school or school district all pupil records relating to a specific

1 pupil if the transferring school district has received written notice from the pupil if
2 he or she is an adult or his or her parent or guardian if the pupil is a minor that the
3 pupil intends to enroll in the other school or school district or written notice from the
4 other school or school district that the pupil has enrolled or from a court that legal
5 custody of the pupil has been transferred to the department of corrections or that the
6 pupil has been placed in a juvenile correctional facility or a secured child caring
7 institution, as defined in s. 938.02 (15g). In this subsection, “school” and “school
8 district” include any state juvenile correctional facility or secured child caring
9 institution which provides an educational program for its residents instead of or in
10 addition to that which is provided by public and private schools.

11 **SECTION 428.** 118.125 (5) of the statutes is renumbered 118.125 (5) (a) and
12 amended to read:

13 118.125 (5) (a) ~~Nothing~~ Except as provided in par. (b), nothing in this section
14 prohibits the use of a pupil’s records in connection with the suspension or expulsion
15 of the pupil or the use of such records by a multidisciplinary team under ch. 115.

16 **SECTION 429.** 118.125 (5) (b) of the statutes is created to read:

17 118.125 (5) (b) Peace officers’ records obtained under s. 938.396 (1m) and
18 records of the court assigned to exercise jurisdiction under chs. 48 and 938 obtained
19 under s. 938.396 (7) may not be used as the sole basis for expelling or suspending a
20 pupil.

21 **SECTION 430.** 118.127 (1) of the statutes is amended to read:

22 118.127 (1) Upon receipt of information from peace officers’ records obtained
23 under s. ~~48.396~~ 938.396 (1m), the school district administrator shall notify any pupil
24 named in the records, and the parent or guardian of any minor pupil named in the
25 records, of the information.

1 **SECTION 431.** 118.127 (2) of the statutes is amended to read:

2 118.127 (2) A school district may use information from peace officers' records
3 obtained under s. ~~48.396 (1m)~~ 938.396 (1m) (a) only for the purpose of providing
4 alcohol and other drug abuse programs for pupils enrolled in the school district. A
5 school district may not use peace officers' records obtained under s. 938.396 (1m) (a)
6 as the sole basis for expelling or suspending a pupil.

7 **SECTION 432.** 118.127 (3) of the statutes is created to read:

8 118.127 (3) A school district may use information from peace officers' records
9 obtained under s. 938.396 (1m) (b) only for legitimate educational or safety purposes
10 and for the purpose of providing treatment programs for pupils enrolled in the school
11 district. A school district may not use information from peace officers' records
12 obtained under s. 938.396 (1m) (b) as the sole basis for expelling or suspending a
13 pupil.

14 **SECTION 433.** 118.15 (1) (cm) 1. of the statutes is amended to read:

15 118.15 (1) (cm) 1. Upon the child's request and with the approval of the child's
16 parent or guardian, any child who is 17 years of age or over shall be excused by the
17 school board from regular school attendance if the child began a program leading to
18 a high school equivalency diploma in a secured correctional facility, as defined in s.
19 ~~48.02~~ 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g),
20 and the child and his or her parent or guardian agree under subd. 2. that the child
21 will continue to participate in such a program.

22 **SECTION 434.** 118.15 (5) (a) of the statutes is amended to read:

23 118.15 (5) (a) Except as provided under par. (b) or if a person has been found
24 guilty of a misdemeanor under s. 948.45, whoever violates this section may be fined
25 not more than \$500 or imprisoned for not more than 30 days or both, after evidence

1 has been provided by the school attendance officer that the activities under s. 118.16
2 (5) have been completed or were not completed due to the child's absence from school
3 as provided in s. 118.16 (5m). In a prosecution under this paragraph, if the defendant
4 proves that he or she is unable to comply with the law because of the disobedience
5 of the child, the action shall be dismissed and the child shall be referred to the court
6 assigned to exercise jurisdiction under ~~ch.~~ chs. 48 and 938.

7 **SECTION 435.** 118.15 (5) (am) of the statutes is created to read:

8 118.15 (5) (am) The court may order any person who violates this section to
9 participate in counseling at the person's own expense.

10 **SECTION 436.** 118.16 (2m) (a) (intro.) of the statutes is amended to read:

11 118.16 (2m) (a) (intro.) A school district administrator may designate any of
12 the following individuals to take a child who resides in the school district and who
13 is absent from school without an acceptable excuse under s. 118.15 into custody
14 under s. ~~48.19~~ 938.19 (1m):

15 **SECTION 437.** 118.16 (2m) (d) of the statutes is amended to read:

16 118.16 (2m) (d) A school district administrator who makes a designation under
17 par. (a) shall provide each individual so designated with an identification card of a
18 form determined by the school board. The designee shall carry the identification card
19 on his or her person at all times while the designee is on official duty under s. ~~48.19~~
20 938.19 (1m) and shall exhibit the identification card to any person to whom the
21 designee represents himself or herself as a person authorized to take a child into
22 custody under s. ~~48.19~~ 938.19 (1m).

23 **SECTION 438.** 118.16 (2m) (e) of the statutes is amended to read:

24 118.16 (2m) (e) A school district administrator who makes a designation under
25 par. (a) or the individual designated under par. (a) shall immediately attempt to

1 notify, by personal contact or telephone call, the child's parent, guardian and legal
2 custodian that the designation has been made and that the child may be taken into
3 custody under s. ~~48.19~~ 938.19 (1m). The school district administrator, or the
4 designee, is not required to notify a parent, guardian or legal custodian under this
5 paragraph if the parent, guardian or legal custodian is the person who requested that
6 the child be taken into custody under s. ~~48.19~~ 938.19 (1m).

7 **SECTION 439.** 118.16 (4) (e) of the statutes is amended to read:

8 118.16 (4) (e) A school board may establish one or more youth service centers
9 for the counseling of children who are taken into custody under s. ~~48.19~~ 938.19 (1)
10 (d) ~~9. or~~ 10. for being absent from school without an acceptable excuse under s.
11 118.15.

12 **SECTION 440.** 118.16 (5) (intro.) of the statutes is amended to read:

13 118.16 (5) (intro.) ~~Prior to~~ Except as provided in sub. (5m), before any
14 proceeding ~~being~~ may be brought against a child under s. ~~48.13 (6)~~ 938.13 (6) for
15 habitual truancy or under s. 938.125 (2) or 938.17 (2) for a violation of an ordinance
16 enacted under s. 118.163 (2) or against the child's parent or guardian under s. 118.15
17 for failure to cause the child to attend school regularly, the school attendance officer
18 shall provide evidence that appropriate school personnel in the school or school
19 district in which the child is enrolled have, within the school year during which the
20 truancy occurred, done all of the following:

21 **SECTION 441.** 118.16 (5) (a) of the statutes is amended to read:

22 118.16 (5) (a) Met with the child's parent or guardian to discuss the child's
23 truancy or ~~have attempted to meet with the child's parent or guardian and been~~
24 received no response or were refused.

25 **SECTION 442.** 118.16 (5) (c) of the statutes is amended to read:

1 118.16 (5) (c) Evaluated the child to determine whether learning problems may
2 be a cause of the child's truancy and, if so, have taken steps to overcome the learning
3 problems, except that the child need not be evaluated if tests administered to the
4 child within the previous year indicate that the child is performing at his or her grade
5 level.

6 **SECTION 443.** 118.16 (5m) of the statutes is created to read:

7 118.16 (5m) Subsection (5) (b), (c) and (d) does not apply if the school
8 attendance officer provides evidence that appropriate school personnel were unable
9 to carry out the activity due to the child's absences from school.

10 **SECTION 444.** 118.16 (6) of the statutes is amended to read:

11 118.16 (6) Following receipt of evidence that activities under sub. (5) have been
12 completed or were not completed due to the child's absence from school as provided
13 in sub. (5m), the school attendance officer may file information on any child who
14 continues to be truant with the court assigned to exercise jurisdiction under ~~ch.~~ chs.
15 48 and 938 in accordance with s. ~~48.24~~ 938.24. Filing information on a child under
16 this subsection does not preclude concurrent prosecution of the child's parent or
17 guardian under s. 118.15 (5).

18 **SECTION 445.** 118.162 (4) (e) of the statutes is amended to read:

19 118.162 (4) (e) The types of truancy cases to be referred to the district attorney
20 for the filing of information under s. ~~48.24~~ 938.24 or prosecution under s. 118.15 (5)
21 and the time periods within which the district attorney will respond to and take
22 action on the referrals.

23 **SECTION 446.** 118.163 (2) (b) of the statutes is amended to read:

1 118.163 (2) (b) An order for the child to participate in counseling, ~~community~~
2 service or a supervised work program as ~~provided~~ or other community service work
3 under s. ~~48.34 (9)~~ 938.34 (5g).

4 **SECTION 447.** 118.163 (2) (d) of the statutes is amended to read:

5 118.163 (2) (d) An order for the child to attend an educational program under
6 s. ~~48.34 (12)~~ 938.34 (7d).

7 **SECTION 448.** 118.163 (2) (e) of the statutes is created to read:

8 118.163 (2) (e) An order for the department of industry, labor and human
9 relations to revoke or refuse to issue, under s. 103.72, a permit under s. 103.70
10 authorizing the employment of the child.

11 **SECTION 449.** 119.04 (1) of the statutes is amended to read:

12 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.03 (3) (c),
13 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.364,
14 115.366, 115.38 (2), 115.40, 115.45, 118.01 to 118.04, 118.06, 118.07, 118.10, 118.12,
15 118.125 to 118.14, 118.15, 118.153, 118.16, 118.162, 118.163, 118.18, 118.19, 118.20,
16 118.24 (1), (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.30 to 118.42, 120.12
17 (5) and (15) to ~~(23)~~ (24), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26),
18 (34) and (35) and 120.14 are applicable to a 1st class city school district and board.

19 **SECTION 450.** 120.12 (18) of the statutes is amended to read:

20 120.12 (18) CONTINUITY OF EDUCATIONAL PROGRAMMING. Coordinate and provide
21 for continuity of educational programming for pupils receiving educational services
22 as the result of a court order under s. ~~48.34 (12)~~ 938.34 (7d), including but not limited
23 to providing a ~~written~~ report to the court assigned to exercise jurisdiction under ~~ch.~~
24 chs. 48 and 938 and the agency which is required to submit an educational plan for
25 a child under s. ~~48.33- 938.33~~ 938.33 (1) (e). The ~~written~~ report shall describe the child's

1 educational status and make recommendations regarding educational programming
2 for the child. The written report shall be in writing, except that if the educational
3 plan under s. 938.33 (1) (e) is presented orally at the dispositional hearing the report
4 may be presented orally to the court assigned to exercise jurisdiction under chs. 48
5 and 938 and the agency at the dispositional hearing. If written, the report shall be
6 provided to the court assigned to exercise jurisdiction under ~~ch.~~ chs. 48 and 938 and
7 the agency at least 3 days before the date of the child's dispositional hearing.

8 **SECTION 451.** 120.12 (24) of the statutes is created to read:

9 120.12 (24) SECURE DETENTION FACILITY EDUCATIONAL PROGRAMMING. If a county
10 provides educational programming for a pupil residing in the school district who is
11 placed in a secure detention facility, as defined in s. 938.02 (16), reimburse the county
12 for the cost of providing that programming.

13 **SECTION 452.** 121.78 (4) of the statutes is amended to read:

14 121.78 (4) COURT-ORDERED EDUCATIONAL SERVICES. If a pupil is receiving
15 educational services as the result of a court order under s. ~~48.34~~ 48.345 (12) or 938.34
16 (7d), the school board of the school district in which the pupil resided at the time of
17 issuance of the court order shall pay tuition for the pupil. A school board paying
18 tuition for a pupil under this subsection shall count the pupil as 1.0 pupil in
19 membership for general aid under subch. II. The school board shall pay each agency
20 specified under s. ~~48.34~~ 48.345 (12) (a) 2. to 4. or 938.34 (7d) (a) 2. to 4., for each
21 full-time equivalent pupil served by the agency, an amount equal to at least 80% of
22 the average per pupil cost for the school district. No state aid may be paid to the
23 technical college district for pupils attending the technical college under s. ~~48.34~~
24 48.345 (12) (a) 4. or 938.34 (7d) (a) 4.

25 **SECTION 453.** 125.07 (4) (bs) 1. of the statutes is amended to read:

1 125.07 (4) (bs) 1. For a first violation, a forfeiture of not less than \$250 nor more
2 than \$500, suspension of the person's operating privilege as provided under s. 343.30
3 (6) (b) 1., participation in a supervised work program or other community service
4 work under par. (cg) or any combination of these penalties.

5 **SECTION 454.** 125.07 (4) (bs) 2. of the statutes is amended to read:

6 125.07 (4) (bs) 2. For a violation committed within 12 months of a previous
7 violation, either a forfeiture of not less than \$300 nor more than \$500, suspension
8 of the person's operating privilege as provided under s. 343.30 (6) (b) 2., participation
9 in a supervised work program or other community service work under par. (cg) or any
10 combination of these penalties.

11 **SECTION 455.** 125.07 (4) (bs) 3. of the statutes is amended to read:

12 125.07 (4) (bs) 3. For a violation committed within 12 months of 2 previous
13 violations, either a forfeiture of not less than \$500 nor more than \$750, revocation
14 of the person's operating privilege under s. 343.30 (6) (b) 3., participation in a
15 supervised work program or other community service work under par. (cg) or any
16 combination of these penalties.

17 **SECTION 456.** 125.07 (4) (bs) 4. of the statutes is amended to read:

18 125.07 (4) (bs) 4. For a violation committed within 12 months of 3 or more
19 previous violations, either a forfeiture of not less than \$750 nor more than \$1,000,
20 revocation of the person's operating privilege under s. 343.30 (6) (b) 3., participation
21 in a supervised work program or other community service work under par. (cg) or any
22 combination of these penalties.

23 **SECTION 457.** 125.07 (4) (c) 1. of the statutes is amended to read:

24 125.07 (4) (c) 1. For a first violation, a forfeiture of not less than \$100 nor more
25 than \$200, suspension of the person's operating privilege as provided under s. 343.30

1 (6) (b) 1., participation in a supervised work program or other community service
2 work under par. (cg) or any combination of these penalties.

3 **SECTION 458.** 125.07 (4) (c) 2. of the statutes is amended to read:

4 125.07 (4) (c) 2. For a violation committed within 12 months of a previous
5 violation, either a forfeiture of not less than \$200 nor more than \$300, suspension
6 of the person's operating privilege as provided under s. 343.30 (6) (b) 2., participation
7 in a supervised work program or other community service work under par. (cg) or any
8 combination of these penalties.

9 **SECTION 459.** 125.07 (4) (c) 3. of the statutes is amended to read:

10 125.07 (4) (c) 3. For a violation committed within 12 months of 2 previous
11 violations, either a forfeiture of not less than \$300 nor more than \$500, revocation
12 of the person's operating privilege under s. 343.30 (6) (b) 3., participation in a
13 supervised work program or other community service work under par. (cg) or any
14 combination of these penalties.

15 **SECTION 460.** 125.07 (4) (c) 4. of the statutes is amended to read:

16 125.07 (4) (c) 4. For a violation committed within 12 months of 3 or more
17 previous violations, either a forfeiture of not less than \$500 nor more than \$1,000,
18 revocation of the person's operating privilege under s. 343.30 (6) (b) 3., participation
19 in a supervised work program or other community service work under par. (cg) or any
20 combination of these penalties.

21 **SECTION 461.** 125.07 (4) (cg) of the statutes is amended to read:

22 125.07 (4) (cg) 1. ~~If the court orders a person to participate in a~~ A supervised
23 work program ordered under par. (bs) or (c), ~~the~~ shall be administered by the county
24 department under s. 46.215 or 46.22 or by a community agency approved by the
25 court. The court shall set standards for the supervised work program within the

1 budgetary limits established by the county board of supervisors. The supervised
2 work program may provide the person with reasonable compensation reflecting the
3 market value of the work performed, or it may consist of uncompensated community
4 service work, and shall be administered by a the county department under s. 46.215
5 or 46.22 or a community agency approved by the court. Community service work
6 ordered under par. (bs) or (c), other than community service work performed under
7 a supervised work program, shall be administered by a public agency or nonprofit
8 charitable organization approved by the court. The court may use any available
9 resources, including any community service work program, in ordering the child to
10 perform community service work under par. (bs) or (c).

11 2. The supervised work program or other community service work shall be of
12 a constructive nature designed to promote the person's rehabilitation, shall be
13 appropriate to the person's age level and physical ability and shall be combined with
14 counseling from ~~an agency staff~~ a member of the staff of the county department,
15 community agency, public agency or nonprofit charitable organization or other
16 qualified person. The supervised work program or other community service work
17 may not conflict with the person's regular attendance at school. The amount of work
18 required shall be reasonably related to the seriousness of the person's offense.

19 **SECTION 462.** 125.07 (4) (d) of the statutes is amended to read:

20 125.07 (4) (d) A person who is under 18 years of age on the date of disposition
21 is subject to s. 48.344 938.344 unless proceedings have been instituted against the
22 person in a court of civil or criminal jurisdiction after dismissal of the citation under
23 s. 48.344 938.344 (3).

24 **SECTION 463.** 125.07 (4) (e) 2. a. of the statutes is amended to read:

1 125.07 (4) (e) 2. a. Submit to an alcohol abuse assessment that conforms to the
2 criteria specified under s. ~~48.547~~ 938.547 (4) and that is conducted by an approved
3 treatment facility. The order shall designate an approved treatment facility to
4 conduct the alcohol abuse assessment and shall specify the date by which the
5 assessment must be completed.

6 **SECTION 464.** 125.085 (3) (bd) of the statutes is amended to read:

7 125.085 (3) (bd) Any underage person who violates par. (b) is subject to a
8 forfeiture of not less than \$100 nor more than \$500, suspension of the person's
9 operating privilege under s. 343.30 (6) (bm), participation in a supervised work
10 program or other community service work under par. (bh) or any combination of
11 these penalties.

12 **SECTION 465.** 125.085 (3) (bh) of the statutes is amended to read:

13 125.085 (3) (bh) 1. ~~If the court orders a person to participate in a Δ supervised~~
14 ~~work program ordered under par. (bd), the shall be administered by the county~~
15 ~~department under s. 46.215 or 46.22 or by a community agency approved by the~~
16 ~~court. The court shall set standards for the supervised work program within the~~
17 ~~budgetary limits established by the county board of supervisors. The supervised~~
18 ~~work program may provide the person with reasonable compensation reflecting the~~
19 ~~market value of the work performed, or it may consist of uncompensated community~~
20 ~~service work, and shall be administered by the county department under s. 46.215~~
21 ~~or 46.22 or a community agency approved by the court. Community service work~~
22 ~~ordered under par. (bd), other than community service work performed under a~~
23 ~~supervised work program, shall be administered by a public agency or nonprofit~~
24 ~~charitable organization approved by the court. The court may use any available~~

1 resources, including any community service work program, in ordering the child to
2 perform community service work under par. (bd).

3 2. The supervised work program or other community service work shall be of
4 a constructive nature designed to promote the person's rehabilitation, shall be
5 appropriate to the person's age level and physical ability and shall be combined with
6 counseling from ~~an agency staff~~ a member of the staff of the county department,
7 community agency, public agency or nonprofit charitable organization or other
8 qualified person. The supervised work program or other community service work
9 may not conflict with the person's regular attendance at school. The amount of work
10 required shall be reasonably related to the seriousness of the person's offense.

11 **SECTION 466.** 125.085 (3) (bt) of the statutes is amended to read:

12 125.085 (3) (bt) A person who is under 18 years of age on the date of disposition
13 is subject to s. ~~48.344~~ 938.344 unless proceedings have been instituted against the
14 person in a court of civil or criminal jurisdiction after dismissal of the citation under
15 s. ~~48.344~~ 938.344 (3).

16 **SECTION 467.** 125.09 (2) (d) of the statutes is amended to read:

17 125.09 (2) (d) A person who violates this subsection is subject to a forfeiture of
18 not more than \$200, except that ss. ~~48.344~~ and 125.07 (4) (c) and (d) and 938.344
19 provide the penalties applicable to underage persons.

20 **SECTION 468.** 146.34 (1) (e) of the statutes is amended to read:

21 146.34 (1) (e) "Legal custodian" means a person other than a parent or
22 guardian or an agency to whom the legal custody of a minor has been transferred by
23 a court under ch. 48 or 938, but does not include a person who has only physical
24 custody of a minor.

25 **SECTION 469.** 146.34 (5) (a) (intro.) of the statutes is amended to read:

1 146.34 (5) (a) (intro.) A relative of the prospective donor or the district attorney
2 or corporation counsel of the county of residence of the prospective donor may file a
3 petition with the court assigned to exercise jurisdiction under ~~ch.~~ chs. 48 and 938 for
4 an order to prohibit either of the following:

5 **SECTION 470.** 146.81 (4) of the statutes is amended to read:

6 146.81 (4) "Patient health care records" means all records related to the health
7 of a patient prepared by or under the supervision of a health care provider, including
8 the records required under s. 146.82 (2) (d) and (3) (c), but not those records subject
9 to s. 51.30, reports collected under s. 69.186, records of tests administered under s.
10 ~~48.296 (4), 252.15 (2) (a) 7., 343.305, 938.296 (4)~~ or 968.38 (4), fetal monitor tracings,
11 as defined under s. 146.817 (1), or a pupil's physical health records maintained by
12 a school under s. 118.125.

13 **SECTION 471.** 146.81 (5) of the statutes, as affected by 1993 Wisconsin Act 385,
14 is amended to read:

15 146.81 (5) "Person authorized by the patient" means the parent, guardian or
16 legal custodian of a minor patient, as defined in s. 48.02 (8) and (11), the person
17 vested with supervision of the child under s. ~~48.34~~ 938.183 or 938.34 (4m) or (4n), the
18 guardian of a patient adjudged incompetent, as defined in s. 880.01 (3) and (4), the
19 personal representative or spouse of a deceased patient, any person authorized in
20 writing by the patient or a health care agent designated by the patient as a principal
21 under ch. 155 if the patient has been found to be incapacitated under s. 155.05 (2),
22 except as limited by the power of attorney for health care instrument. If no spouse
23 survives a deceased patient, "person authorized by the patient" also means an adult
24 member of the deceased patient's immediate family, as defined in s. 632.895 (1) (d).
25 A court may appoint a temporary guardian for a patient believed incompetent to

1 consent to the release of records under this section as the person authorized by the
2 patient to decide upon the release of records, if no guardian has been appointed for
3 the patient.

4 **SECTION 472.** 157.065 (2) (a) 4. c. of the statutes is amended to read:

5 157.065 (2) (a) 4. c. A Type 1 secured correctional facility, as defined in s. 48.02
6 ~~(15m)~~ 938.02 (19).

7 **SECTION 473.** 161.455 (1) of the statutes is amended to read:

8 161.455 (1) Any person who has attained the age of ~~18~~ 17 years who knowingly
9 solicits, hires, directs, employs or uses a person who ~~has not attained the age of 18~~
10 years is 17 years of age or under for the purpose of violating s. 161.41 (1) may be fined
11 not more than \$50,000 or imprisoned for not more than 10 years or both.

12 **SECTION 474.** 161.46 (1) of the statutes is amended to read:

13 161.46 (1) Except as provided in sub. (3), any person ~~18~~ 17 years of age or over
14 who violates s. 161.41 (1) by distributing a controlled substance listed in schedule I
15 or II which is a narcotic drug to a person ~~under 18~~ 17 years of age or under who is
16 at least 3 years his or her junior is punishable by the fine authorized by s. 161.41 (1)
17 (a) or a term of imprisonment of up to twice that authorized by s. 161.41 (1) (a), or
18 both.

19 **SECTION 475.** 161.46 (2) of the statutes is amended to read:

20 161.46 (2) Except as provided in sub. (3), any person ~~18~~ 17 years of age or over
21 who violates s. 161.41 (1) by distributing any other controlled substance listed in
22 schedule I, II, III, IV or V to a person ~~under 18~~ 17 years of age or under who is at least
23 3 years his or her junior is punishable by the fine authorized by s. 161.41 (1) (b), (i)
24 or (j) or a term of imprisonment of up to twice that authorized by s. 161.41 (1) (b), (i)
25 or (j) or both.

1 **SECTION 476.** 161.46 (3) of the statutes is amended to read:

2 161.46 (3) If any person ~~18~~ 17 years of age or over violates s. 161.41 (1) (cm),
3 (d), (e), (f), (g) or (h) by distributing a controlled substance included under s. 161.14
4 (7) (L) or 161.16 (2) (b), heroin, phencyclidine, lysergic acid diethylamide, psilocin,
5 psilocybin, amphetamine, methamphetamine or any form of tetrahydrocannabinols
6 to a person ~~under 18~~ 17 years of age or under who is at least 3 years his or her junior,
7 any applicable minimum and maximum fines and minimum and maximum periods
8 of imprisonment under s. 161.41 (1) (cm), (d), (e), (f), (g) or (h) are doubled.

9 **SECTION 477.** 161.573 (2) of the statutes is amended to read:

10 161.573 (2) Any person who violates this section who is under ~~18~~ 17 years of
11 age is subject to a disposition under s. ~~48.344~~ 938.344 (2e).

12 **SECTION 478.** 161.574 (2) of the statutes is amended to read:

13 161.574 (2) Any person who violates this section who is under ~~18~~ 17 years of
14 age is subject to a disposition under s. ~~48.344~~ 938.344 (2e).

15 **SECTION 479.** 161.575 (1) of the statutes is amended to read:

16 161.575 (1) Any person ~~18~~ 17 years of age or over who violates s. 161.574 by
17 delivering drug paraphernalia to a person ~~under 18~~ 17 years of age or under who is
18 at least 3 years younger than the violator may be fined not more than \$10,000 or
19 imprisoned for not more than 9 months or both.

20 **SECTION 480.** 161.575 (2) of the statutes is amended to read:

21 161.575 (2) Any person who violates this section who is under ~~18~~ 17 years of
22 age is subject to a disposition under s. ~~48.344~~ 938.344 (2e).

23 **SECTION 481.** 165.76 (1) (a) of the statutes is amended to read:

24 165.76 (1) (a) Is in prison ~~or~~, a secured correctional facility, as defined in s. 48.02
25 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or

1 on probation, parole, supervision, or aftercare supervision ~~or corrective sanctions~~
2 supervision on or after August 12, 1993, for any violation of s. 940.225 (1) or (2),
3 948.02 (1) or (2) or 948.025.

4 **SECTION 482.** 165.76 (2) (b) 2. of the statutes is amended to read:

5 165.76 (2) (b) 2. If the person has been sentenced to prison or placed in a secured
6 correctional facility or a secured child caring institution, he or she shall provide the
7 specimen under par. (a) at the office of a county sheriff as soon as practicable after
8 release on parole, or aftercare supervision ~~or corrective sanctions~~ supervision, as
9 directed by his or her probation and parole agent, or aftercare agent ~~or corrective~~
10 ~~sanctions agent~~, except that the department of corrections may require the person
11 to provide the specimen while he or she is in prison or in a secured correctional
12 facility under the supervision of that department and the department of health and
13 social services may require the person, if a child, to provide the specimen while he
14 or she is placed at a secured correctional facility or a secured child caring institution
15 under the supervision of that department.

16 **SECTION 483.** 165.76 (2) (b) 5. of the statutes is amended to read:

17 165.76 (2) (b) 5. Notwithstanding subds. 1. to 3., for persons who are subject
18 to sub. (1) and who are in prison ~~or~~, a secured correctional facility or a secured child
19 caring institution or who are on probation, parole, supervision, or aftercare
20 supervision ~~or corrective sanctions~~ supervision on August 12, 1993, the departments
21 of justice, corrections and health and social services shall cooperate to have these
22 persons provide specimens under par. (a) before July 1, 1998.

23 **SECTION 484.** 165.76 (3) of the statutes is amended to read:

1 165.76 (3) If a person is required to submit a biological specimen under s. ~~48.34~~
2 ~~(15)~~, 51.20 (13) (cr), 938.34 (15), 971.17 (1m) or 973.047, he or she shall comply with
3 that requirement and is not required to comply with this section.

4 **SECTION 485.** 165.765 (1) of the statutes is amended to read:

5 165.765 (1) Whoever intentionally fails to comply with a requirement to submit
6 a biological specimen under s. ~~48.34 (15)~~, 165.76, 938.34 (15) or 973.047 may be fined
7 not more than \$10,000 or imprisoned for not more than 9 months or both.

8 **SECTION 486.** 165.765 (2) (a) of the statutes is amended to read:

9 165.765 (2) (a) Any physician, registered nurse, medical technologist,
10 physician assistant or person acting under the direction of a physician who obtains
11 a biological specimen under s. ~~48.34 (15)~~, 165.76, 938.34 (15) or 973.047 is immune
12 from any civil or criminal liability for the act, except for civil liability for negligence
13 in the performance of the act.

14 **SECTION 487.** 165.77 (2) (b) of the statutes is amended to read:

15 165.77 (2) (b) Paragraph (a) does not apply to specimens received under s. ~~48.34~~
16 ~~(15)~~, 51.20 (13) (cr), 165.76, 938.34 (15), 971.17 (1m) or 973.047.

17 **SECTION 488.** 165.77 (3) of the statutes is amended to read:

18 165.77 (3) If the laboratories receive a human biological specimen under s.
19 ~~48.34 (15)~~, 51.20 (13) (cr), 165.76, 938.34 (15), 971.17 (1m) or 973.047, the
20 laboratories shall analyze the deoxyribonucleic acid in the specimen. The
21 laboratories shall maintain a data bank based on data obtained from
22 deoxyribonucleic acid analysis of those specimens. The laboratories may compare
23 the data obtained from one specimen with the data obtained from other specimens.
24 The laboratories may make data obtained from any analysis and comparison
25 available to law enforcement agencies in connection with criminal or delinquency

1 investigations and, upon request, to any prosecutor, defense attorney or subject of
2 the data. The data may be used in criminal and delinquency actions and proceedings.
3 In this state, the use is subject to s. 972.11 (5). The laboratories shall destroy
4 specimens obtained under this subsection after analysis has been completed and the
5 applicable court proceedings have concluded.

6 **SECTION 489.** 175.35 (1) (ag) of the statutes is amended to read:

7 175.35 (1) (ag) "Criminal history record" includes information reported to the
8 department under s. ~~48.396~~ 938.396 (8) that indicates a person was adjudicated
9 delinquent for an act that if committed by an adult in this state would be a felony.

10 **SECTION 490.** 175.45 (1) (b) of the statutes is amended to read:

11 175.45 (1) (b) Is in prison or, a secured correctional facility, as defined in s.
12 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or
13 on probation, parole, supervision or aftercare supervision on or after December 25,
14 1993, for any violation of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025.

15 **SECTION 491.** 175.45 (1) (e) of the statutes is amended to read:

16 175.45 (1) (e) Is ordered by a court under s. ~~48.34 (15)~~, 51.20 (13) (cr), 938.34
17 (15) or 973.047 to comply with the reporting requirements under this section.

18 **SECTION 492.** 175.45 (3) (a) 2. of the statutes is amended to read:

19 175.45 (3) (a) 2. If the person has been sentenced to prison or placed in a secured
20 correctional facility or a secured child caring institution, he or she is subject to this
21 subsection after he or she is discharged from parole or aftercare supervision.

22 **SECTION 493.** 175.45 (5) (b) of the statutes is amended to read:

23 175.45 (5) (b) If the person has been sentenced to prison or placed in a secured
24 correctional facility or a secured child caring institution, 15 years after discharge
25 from parole or aftercare supervision.

1 **SECTION 494.** 227.03 (4) of the statutes, as affected by 1993 Wisconsin Act 377,
2 is amended to read:

3 227.03 (4) The provisions of this chapter relating to contested cases do not
4 apply to proceedings involving the revocation of aftercare supervision under s.
5 ~~48.357~~ 938.357 (5) or ~~48.366~~ 938.366 (5) ~~or corrective sanctions supervision under s.~~
6 ~~48.357 (5) or youthful offender supervision under s. 48.537 (4)~~, the revocation of
7 parole or probation, the grant of probation, prison discipline, mandatory release
8 under s. 302.11 or any other proceeding involving the care and treatment of a
9 resident or an inmate of a correctional institution.

10 **SECTION 495.** 230.36 (1) of the statutes is amended to read:

11 230.36 (1) If a conservation warden, conservation patrol boat captain,
12 conservation patrol boat engineer, state forest ranger, conservation field employe of
13 the department of natural resources who is subject to call for fire control duty,
14 member of the state patrol, state motor vehicle inspector, lifeguard, excise tax
15 investigator employed by the department of revenue, special criminal investigation
16 agent employed by the department of justice, special tax agent, state drivers' license
17 examiner, state fair park police officer, university of Wisconsin system police officer
18 and other state facilities police officer and patrol officer, security officer, watcher,
19 engineer, engineering aide, building construction superintendent, fire fighter
20 employed at the Wisconsin veterans home, or guard or institutional aide or a state
21 probation and parole officer or any other employe whose duties include supervision
22 and discipline of inmates or wards of the state at a state penal institution, including
23 a secured correctional facility, as defined in s. ~~48.02~~ 938.02 (15m), or while on parole
24 supervision outside of the confines of the institutions, or supervision of persons
25 placed on probation by a court of record, or supervision and care of patients at a state

1 mental institution, and university of Wisconsin hospital and clinics suffers injury
2 while in the performance of his or her duties, as defined in subs. (2) and (3); or any
3 other state employe who is ordered by his or her appointing authority to accompany
4 any employe listed in this subsection while the listed employe is engaged in the
5 duties defined in sub. (3), or any other state employe who is ordered by his or her
6 appointing authority to perform the duties, when permitted, in lieu of the listed
7 employe and while so engaged in the duties defined in sub. (3), suffers injury as
8 defined in sub. (2) the employe shall continue to be fully paid by the employing
9 agency upon the same basis as paid prior to the injury, with no reduction in sick leave
10 credits, compensatory time for overtime accumulations or vacation and no reduction
11 in the rate of earning sick leave credit or vacation. The full pay shall continue while
12 the employe is unable to return to work as the result of the injury or until the
13 termination of his or her employment upon recommendation of the appointing
14 authority. At any time during the employe's period of disability the appointing
15 authority may order physical or medical examinations to determine the degree of
16 disability at the expense of the employing agency.

17 **SECTION 496.** 230.36 (3) (c) (intro.) of the statutes is amended to read:

18 230.36 (3) (c) (intro.) A guard, institution aide, or other employe at the
19 university of Wisconsin hospital and clinics or at a state penal or mental institution,
20 including a secured correctional facility, as defined in s. 48.02 938.02 (15m), and a
21 state probation and parole officer, at all times while:

22 **SECTION 497.** 252.04 (6) of the statutes is amended to read:

23 252.04 (6) The school, day care center or nursery school shall notify the district
24 attorney of the county in which the student resides of any minor student who fails
25 to present written evidence of completed immunizations or a written waiver under

1 sub. (3) within 60 school days after being admitted to the school, day care center or
2 nursery school. The district attorney shall petition the court exercising jurisdiction
3 under ~~ch. chs.~~ chs. 48 and 938 for an order directing that the student be in compliance
4 with the requirements of this section. If the court grants the petition, the court may
5 specify the date by which a written waiver shall be submitted under sub. (3) or may
6 specify the terms of the immunization schedule. The court may require an adult
7 student or the parent, guardian or legal custodian of a minor student who refuses to
8 submit a written waiver by the specified date or meet the terms of the immunization
9 schedule to forfeit not more than \$25 per day of violation.

10 **SECTION 498.** 252.11 (5m) of the statutes is amended to read:

11 252.11 (5m) A health care professional, ~~as defined in s. 48.296 (1) (a), or a~~
12 ~~health care professional,~~ as defined in s. 968.38 (1) (a), acting under an order of a
13 court under s. ~~48.296~~ 938.296 (4) or 968.38 (4) may, without first obtaining informed
14 consent to the testing, subject an individual to a test or a series of tests to ascertain
15 whether that individual is infected with a sexually transmitted disease. No sample
16 used for performance of a test under this subsection may disclose the name of the test
17 subject.

18 **SECTION 499.** 252.11 (7) of the statutes is amended to read:

19 252.11 (7) Reports, examinations and inspections and all records concerning
20 sexually transmitted diseases are confidential and not open to public inspection, and
21 shall not be divulged except as may be necessary for the preservation of the public
22 health, in the course of commitment proceedings under sub. (5) or as provided under
23 s. ~~48.296~~ 938.296 (4) or 968.38 (4). If a physician has reported a case of sexually
24 transmitted disease to the department under sub. (4), information regarding the

1 presence of the disease and treatment is not privileged when the patient or physician
2 is called upon to testify to the facts before any court of record.

3 **SECTION 500.** 252.15 (1) (ab) of the statutes is amended to read:

4 252.15 (1) (ab) "Affected person" means an emergency medical technician, first
5 responder, fire fighter, peace officer, correctional officer, person who is employed at
6 a secured correctional facility, as defined in s. ~~48.02~~ 938.02 (15m), or at a secured
7 child caring institution, as defined in s. 938.02 (15g), state patrol officer, jailer or
8 keeper of a jail or person designated with custodial authority by the jailer or keeper,
9 health care provider, employe of a health care provider or staff member of a state
10 crime laboratory.

11 **SECTION 501.** 252.15 (2) (a) 6. of the statutes is amended to read:

12 252.15 (2) (a) 6. A health care professional acting under an order of the court
13 under subd. 7. or s. ~~48.296~~ 938.296 (4) or 968.38 (4) may, without first obtaining
14 consent to the testing, subject an individual to a test or a series of tests to detect the
15 presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. No
16 sample used for laboratory test purposes under this subdivision may disclose the
17 name of the test subject, and, notwithstanding sub. (4) (c), the test results may not
18 be made part of the individual's permanent medical record.

19 **SECTION 502.** 252.15 (2) (a) 7. a. of the statutes is amended to read:

20 252.15 (2) (a) 7. a. If all of the conditions under subd. 7. ai. to c. are met, an
21 emergency medical technician, first responder, fire fighter, peace officer, correctional
22 officer, person who is employed at a secured correctional facility, as defined in s. ~~48.02~~
23 938.02 (15m), or at a secured child caring institution, as defined in s. 938.02 (15g),
24 state patrol officer, jailer or keeper of a jail or person designated with custodial
25 authority by the jailer or keeper who, during the course of providing care or services

1 to an individual; or a peace officer, correctional officer, state patrol officer, jailer or
2 keeper of a jail or person designated with custodial authority by the jailer or keeper
3 who, while searching or arresting an individual or while controlling or transferring
4 an individual in custody; or a health care provider or an employe of a health care
5 provider who, during the course of providing care or treatment to an individual or
6 handling or processing specimens of body fluids or tissues of an individual; or a staff
7 member of a state crime laboratory who, during the course of handling or processing
8 specimens of body fluids or tissues of an individual; is significantly exposed to the
9 individual may subject the individual's blood to a test or a series of tests for the
10 presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and
11 may receive disclosure of the results.

12 **SECTION 503.** 252.15 (5) (a) 17. of the statutes is amended to read:

13 252.15 (5) (a) 17. To an alleged victim or victim, to a health care professional,
14 upon request as specified in s. ~~48.296~~ 938.296 (4) (e) or 968.38 (4) (c), who provides
15 care to the alleged victim or victim and, if the alleged victim or victim is a minor, to
16 the parent or guardian of the alleged victim or victim, under s. ~~48.296~~ 938.296 (4) or
17 968.38 (4).

18 **SECTION 504.** 252.15 (5) (a) 19. of the statutes is amended to read:

19 252.15 (5) (a) 19. If the test was administered to a child for whom placement
20 in a foster home, group home or child caring institution is recommended under s.
21 48.33 (4) ~~or 938.33 (3) or (4)~~, to an agency directed by a court to prepare a court report
22 under s. 48.33 (1) ~~or 938.33 (1)~~ or a permanency plan under s. 48.38 ~~or 938.38~~
23 regarding the child and, by that agency, to the child's foster parent or the operator
24 of the group home or child caring institution in which the child is placed, as provided
25 in s. 48.371 ~~or 938.371~~.

1 **SECTION 505.** 301.01 (2) (b) of the statutes is amended to read:

2 301.01 (2) (b) Any resident of a secured correctional facility, as defined in s.
3 ~~48.02~~ 938.02 (15m), operated by the department of health and social services, or any
4 resident of a secured child caring institution, as defined in s. 938.02 (15g).

5 **SECTION 506.** 301.02 of the statutes is amended to read:

6 **301.02 Institutions governed.** The department shall maintain and govern
7 the state correctional institutions and the secured correctional facilities, as defined
8 in s. 938.02 (15m), that are operated by the department.

9 **SECTION 507.** 301.03 (9) of the statutes is amended to read:

10 301.03 (9) Supervise all persons placed under s. ~~48.366~~ 938.183 or 938.366 (8)
11 in a state prison.

12 **SECTION 508.** 301.03 (9m) of the statutes, as created by 1993 Wisconsin Act 377,
13 is amended to read:

14 301.03 (9m) Supervise all persons placed in the youthful offender program
15 under s. ~~48.537~~ 938.537.

16 **SECTION 509.** 301.035 (2) of the statutes is amended to read:

17 301.035 (2) Assign hearing examiners from the division to preside over
18 hearings under ss. ~~48.357 (5)~~, 302.11 (7), 938.357 (5), 973.10 and 975.10 (2) and ch.
19 304.

20 **SECTION 510.** 301.035 (4) of the statutes is amended to read:

21 301.035 (4) Supervise employes in the conduct of the activities of the division
22 and be the administrative reviewing authority for decisions of the division under ss.
23 ~~48.357 (5)~~, 302.11 (7), 938.357 (5), 973.10, 973.155 (2) and 975.10 (2) and ch. 304.

24 **SECTION 511.** 301.135 (1) of the statutes is amended to read:

1 301.135 (1) The department may contract with counties to provide electronic
2 monitoring services relating to criminal offenders and to children who are placed on
3 electronic monitoring under s. ~~48.21 (4m), 48.34~~ 938.17 (2) (h) 1., 938.21 (4m), 938.34
4 (3g) or ~~48.355~~ 938.355 (6) (d) 3. The department shall charge a fee to counties for
5 providing these services.

6 **SECTION 512.** 301.135 (3m) of the statutes is amended to read:

7 301.135 (3m) The department may not charge a fee to a child who is placed on
8 electronic monitoring under s. ~~48.21 (4m), 48.34~~ 938.17 (2) (h) 1., 938.21 (4m), 938.34
9 (3g) or ~~48.355~~ 938.355 (6) (d) 3. to cover the cost of electronic monitoring of that child.

10 **SECTION 513.** 301.28 (1) of the statutes, as affected by 1993 Wisconsin Act 377,
11 is amended to read:

12 301.28 (1) In this section, “correctional officer” means any person classified as
13 a correctional officer employed by the state whose principal duty is the supervision
14 of inmates at a prison, as defined in s. 302.01, or the supervision of children at a
15 secured correctional facility, as defined in s. ~~48.02~~ 938.02 (15m), operated by the
16 department.

17 **SECTION 514.** 301.35 (2) (e) of the statutes is created to read:

18 301.35 (2) (e) A participant in the youthful offender program under s. 938.537.

19 **SECTION 515.** 301.36 (1) of the statutes is amended to read:

20 301.36 (1) **GENERAL AUTHORITY.** The department shall investigate and
21 supervise all of the state correctional institutions, all Type 1 secured correctional
22 facilities, as defined in s. 938.02 (19), that are operated by the department and all
23 secure detention facilities and familiarize itself with all of the circumstances
24 affecting their management and usefulness. The department may take enforcement

1 action as to a secure detention facility or the juvenile portion of a county jail only after
2 consultation with the department of health and social services.

3 **SECTION 516.** 302.11 (10) of the statutes is amended to read:

4 302.11 (10) An inmate subject to an order under s. ~~48.366~~ 938.34 (4g) or 938.366
5 is not entitled to mandatory release and may be released or discharged only as
6 provided under s. ~~48.366~~ 938.366 or 938.537.

7 **SECTION 517.** 302.17 (2) of the statutes is amended to read:

8 302.17 (2) The department shall make entries on the register to reflect the
9 progress made by each inmate while incarcerated and the inmate's release on parole,
10 condition at the time of parole and progress made while on parole. This subsection
11 does not apply to inmates subject to an order under s. ~~48.366~~ 938.366.

12 **SECTION 518.** 302.17 (3) of the statutes is amended to read:

13 302.17 (3) If the inmate is subject to an order under s. ~~48.366~~ 938.366, the
14 department shall keep a record of the inmate's behavior for use in proceedings under
15 s. ~~48.366~~ 938.366 (5) and (6).

16 **SECTION 519.** 302.18 (7) of the statutes is amended to read:

17 302.18 (7) Except as provided in s. 973.013 (3m), the department of corrections
18 shall keep all prisoners under ~~16~~ 15 years of age in secured juvenile correctional
19 facilities and all prisoners under 12 years of age in secured child caring institutions,
20 as defined in s. 938.02 (15g), but the department of health and social services, with
21 the concurrence of the department of corrections, may transfer them to adult
22 correctional institutions after they attain ~~16~~ 15 years of age.

23 **SECTION 520.** 302.255 of the statutes is amended to read:

24 **302.255 Interstate corrections compact; additional applicability.**

25 "Inmate", as defined under s. 302.25 (2) (a), includes persons subject to an order

1 under s. ~~48.366~~ 938.366 who are confined to a state prison under s. 302.01 and
2 persons subject to an order under s. 938.34 (4g) who are 17 years of age or older.

3 **SECTION 521.** 302.31 of the statutes, as affected by 1993 Wisconsin Act 385, is
4 amended to read:

5 **302.31 Use of jails.** The county jail may be used for the detention of persons
6 charged with crime and committed for trial; for the detention of persons committed
7 to secure their attendance as witnesses; to imprison persons committed pursuant to
8 a sentence or held in custody by the sheriff for any cause authorized by law; for the
9 detention of persons sentenced to imprisonment in state penal institutions or a
10 county house of correction, until they are removed to those institutions; for the
11 detention of persons participating in the intensive sanctions program; for the
12 temporary detention of persons in the custody of the department; and for other
13 detentions authorized by law. The county jail may be used for the temporary
14 placement of persons in the custody of the department, other than persons under 17
15 years of age who are in the custody of the department under s. 938.34 (4g), and
16 persons who have attained the age of 18 17 years but have not attained the age of 25
17 21 years who are under the supervision of the department of health and social
18 services under s. ~~48.355 (4)~~ 938.355 or ~~48.366~~ 938.366 and who have been taken into
19 custody pending revocation of aftercare supervision under s. ~~48.357~~ 938.357 (5) (e)
20 or ~~48.366~~ 938.366 (5) or ~~corrective sanctions supervision under s. 48.357 (5) (e).~~

21 **SECTION 522.** 302.386 (1) of the statutes is amended to read:

22 302.386 (1) Except as provided in sub. (5), liability for medical and dental
23 services furnished to residents housed in prisons identified in s. 302.01 or in a
24 secured correctional facility as defined in s. ~~48.02~~ 938.02 (15m), or in a secured child
25 caring institution, as defined in s. 938.02 (15g), or to forensic patients in state

1 institutions for those services which are not provided by employes of the department
2 shall be limited to the amounts payable under ss. 49.43 to 49.47, except s. 49.468, for
3 similar services. The department may waive any such limit if it determines that
4 needed services cannot be obtained for the applicable amount. No provider of
5 services may bill the resident or patient for the cost of services exceeding the amount
6 of the liability under this subsection.

7 **SECTION 523.** 302.386 (2) (intro.) of the statutes is amended to read:

8 302.386 (2) (intro.) The liability of the state for medical and dental services
9 under sub. (1) does not extend to that part of the medical or dental services of a
10 resident housed in a prison identified in s. 302.01 ~~or in~~, a secured correctional facility
11 as defined in s. ~~48.02~~ 938.02 (15m), ~~or a secured child caring institution, as defined~~
12 in s. 938.02 (15g), for which any of the following applies:

13 **SECTION 524.** 302.386 (3) of the statutes is amended to read:

14 302.386 (3) The department may require a resident housed in a prison
15 identified in s. 302.01 ~~or in~~, a secured correctional facility as defined in s. ~~48.02~~
16 938.02 (15m), ~~or a secured child caring institution, as defined in s. 938.02 (15g)~~, who
17 earns wages during residency and who receives medical or dental services to pay a
18 deductible, coinsurance, copayment or similar charge upon the medical or dental
19 service that he or she receives. The department shall collect the allowable
20 deductible, coinsurance, copayment or similar charge. No provider of services may
21 deny care or services because the resident is unable to pay the applicable deductible,
22 coinsurance, copayment or similar charge, but an inability to pay these charges does
23 not relieve the resident of liability for the charges unless the department excepts or
24 waives the liability under criteria that the department shall establish by rule.

25 **SECTION 525.** 302.386 (5) (c) of the statutes is created to read:

1 302.386 (5) (c) Any participant in the corrective sanctions program under s.
2 938.533 unless he or she is placed in a Type 1 secured correctional facility, as defined
3 in s. 938.02 (19).

4 **SECTION 526.** 302.386 (5) (d) of the statutes is created to read:

5 302.386 (5) (d) Any participant in the youthful offender program under s.
6 938.537 unless he or she is placed in a Type 1 secured correctional facility, as defined
7 in s. 938.02 (19), or in a Type 1 prison other than the institution authorized under
8 s. 301.046 (1).

9 **SECTION 527.** 304.06 (1) (b) of the statutes, as affected by 1993 Wisconsin Act
10 377, is amended to read:

11 304.06 (1) (b) Except as provided in sub. (1m) or s. 161.49 (2), 302.045 (3) or
12 973.0135, the parole commission may parole an inmate of the Wisconsin state
13 prisons or any felon or any person serving at least one year or more in a county house
14 of correction or a county reforestation camp organized under s. 303.07, when he or
15 she has served 25% of the sentence imposed for the offense, or 6 months, whichever
16 is greater. The parole commission may parole a participant in the youthful offender
17 program under s. ~~48.537~~ 938.537 when he or she has participated in that program
18 for 2 years. Except as provided in s. 939.62 (2m) or 973.014, the parole commission
19 may parole an inmate serving a life term when he or she has served 20 years, as
20 modified by the formula under s. 302.11 (1) and subject to extension using the
21 formulas under s. 302.11 (2). The person serving the life term shall be given credit
22 for time served prior to sentencing under s. 973.155, including good time under s.
23 973.155 (4). The secretary may grant special action parole releases under s. 304.02.
24 The department or the parole commission shall not provide any convicted offender

1 or other person sentenced to the department's custody any parole eligibility or
2 evaluation until the person has been confined at least 60 days following sentencing.

3 **SECTION 528.** 304.06 (1z) of the statutes is created to read:

4 304.06 (1z) If a person is placed in the youthful offender program under s.
5 938.34 (4g), he or she is eligible for a release to parole supervision under this section
6 and remains in the youthful offender program unless discharged by the department
7 under s. 938.537 (5) (b).

8 **SECTION 529.** 304.07 of the statutes, as affected by 1993 Wisconsin Act 385, is
9 repealed.

10 **SECTION 530.** 304.15 of the statutes is amended to read:

11 **304.15 Nonapplicability of chapter.** This chapter does not apply to a person
12 who is subject to an order under s. 48.366 938.366.

13 **SECTION 531.** 340.01 (9r) (d) of the statutes is amended to read:

14 340.01 (9r) (d) A finding by a court assigned to exercise jurisdiction under ~~eh.~~
15 chs. 48 and 938 of a violation of chs. 341 to 349 and 351 or a local ordinance enacted
16 under ch. 349.

17 **SECTION 532.** 343.06 (1) (i) of the statutes is amended to read:

18 343.06 (1) (i) To any person who has been convicted of any offense specified
19 under ss. 940.225, 948.02, 948.025 and 948.07 or adjudged delinquent under ch. 48
20 938 for a like or similar offense, when the sentencing court makes a finding that
21 issuance of a license will be inimical to the public safety and welfare. The prohibition
22 against issuance of a license to the offenders shall apply immediately upon receipt
23 of a record of the conviction and the court finding by the secretary, for a period of one
24 year or until discharge from any jail or prison sentence or any period of probation or
25 parole with respect to the offenses specified, whichever date is the later. Receipt by

1 the offender of a certificate of discharge from the department of corrections or other
2 responsible supervising agency, after one year has elapsed since the prohibition
3 began, entitles the holder to apply for an operator's license. The applicant may be
4 required to present the certificate of discharge to the secretary if the latter deems it
5 necessary.

6 **SECTION 533.** 343.30 (5) of the statutes is amended to read:

7 343.30 (5) No court may suspend or revoke an operating privilege except as
8 authorized by this chapter or ch. 48, 345 or 351 or 938 or s. 161.50. When a court
9 revokes, suspends or restricts a child's operating privilege under ch. 48 938, the
10 department of transportation shall not disclose information concerning or relating
11 to the revocation, suspension or restriction to any person other than a court, district
12 attorney, county corporation counsel, city, village or town attorney, law enforcement
13 agency, or the minor whose operating privilege is revoked, suspended or restricted,
14 or his or her parent or guardian. Persons entitled to receive this information shall
15 not disclose the information to other persons or agencies.

16 **SECTION 534.** 343.30 (6) (b) (intro.) of the statutes is amended to read:

17 343.30 (6) (b) (intro.) If a court imposes suspension or revocation of a person's
18 operating privilege under s. 48.344 (2), ~~(2b) or (2d)~~ or 125.07 (4) (c) or 938.344 (2), (2b)
19 or (2d), the suspension or revocation imposed shall be one of the following:

20 **SECTION 535.** 752.31 (2) (e) of the statutes is amended to read:

21 752.31 (2) (e) Cases under ~~ch.~~ chs. 48 and 938.

22 **SECTION 536.** 757.69 (1) (g) of the statutes is amended to read:

23 757.69 (1) (g) When assigned to the court assigned jurisdiction under ~~ch.~~ chs.
24 48 and 938, a court commissioner may, under ch. 48 or 938, issue summonses and
25 warrants, order the release or detention of children apprehended, conduct detention

1 and shelter care hearings, conduct preliminary appearances, conduct uncontested
2 proceedings under ss. ~~48.12 and 48.13, 938.12, 938.13 and 938.18~~, enter into consent
3 decrees and exercise the powers and perform the duties specified in par. (j) or (m),
4 whichever is applicable, in proceedings under s. 813.122 or 813.125 in which the
5 respondent is a child. ~~Waiver~~ Contested waiver hearings under s. ~~48.18~~ 938.18 and
6 dispositional hearings under ss. ~~48.33 to 48.35~~ 48.335 and 938.335 shall be
7 conducted by a judge. When acting in an official capacity and assigned to the
8 children's court center, a court commissioner shall sit at the children's court center
9 or such other facility designated by the chief judge. Any decision by the
10 commissioner shall be reviewed by the judge of the branch of court to which the case
11 has been assigned, upon motion of any party. Any determination, order or ruling by
12 the commissioner may be certified to the branch of court to which such case has been
13 assigned upon a motion of any party for a hearing de novo.

14 **SECTION 537.** 758.19 (6) of the statutes is amended to read:

15 758.19 (6) The director of state courts shall reimburse each county for the costs
16 of guardian ad litem compensation incurred after May 10, 1994, under ss. 48.235 (8),
17 ~~48.996, 55.06 (6) and (9) (b), 767.045 (6), 880.33 (2) (a) 2., 880.331 (8) and, 891.39 (1)~~
18 ~~(b), 938.235 (8) and 938.996~~ from the appropriation under s. 20.625 (1) (e). No
19 reimbursement under this subsection may exceed the per hour rate established for
20 time spent in court by private attorneys under s. 977.08 (4m). The costs
21 reimbursable under this subsection shall be paid pursuant to a voucher submitted
22 by the clerk of circuit court to the director of state courts. The voucher shall include
23 the number of hours charged by the guardians ad litem. If the moneys available
24 under s. 20.625 (1) (e) are insufficient to reimburse all eligible claims submitted by
25 counties for payment under this subsection, the moneys shall be prorated.

1 **SECTION 538.** 767.02 (1) (m) of the statutes is amended to read:

2 767.02 (1) (m) To enforce or revise an order for support entered under s. 48.355
3 (2) (b) 4., 48.357 (5m) ~~or~~, 48.363 (2), 938.183 (2), 938.355 (2) (b) 4., 938.357 (5m) or
4 938.363 (2).

5 **SECTION 539.** 767.24 (3) (e) of the statutes is amended to read:

6 767.24 (3) (e) The charges for care furnished to a child whose custody is
7 transferred under this subsection shall be pursuant to the procedure under s. 48.36
8 (1) or 938.36 (1) except as provided in s. 767.29 (3).

9 **SECTION 540.** 767.29 (3) of the statutes is amended to read:

10 767.29 (3) If maintenance payments or support money, or both, is ordered to
11 be paid for the benefit of any person, who is committed by court order to an institution
12 or is in confinement, or whose legal custody is vested by court order under ch. 48 or
13 938 in an agency, department or relative, the court or family court commissioner may
14 order such maintenance payments or support money to be paid to the relative or
15 agency, institution, welfare department or other entity having the legal or actual
16 custody of said person, and to be used for the latter's care and maintenance, without
17 the appointment of a guardian under ch. 880.

18 **SECTION 541.** 767.30 (1) of the statutes is amended to read:

19 767.30 (1) If the court orders any payment for support under s. 48.355 (2) (b)
20 4., 48.357 (5m) ~~or~~, 48.363 (2), 938.183 (2), 938.355 (2) (b) 4., 938.357 (5m) or 938.363
21 (2), support or maintenance under s. 767.08, child support, family support or
22 maintenance under s. 767.23, child support under s. 767.25, maintenance under s.
23 767.26, family support under s. 767.261, attorney fees under s. 767.262, paternity
24 obligations under s. 767.51, support arrearages under s. 767.293 or child or spousal

1 support under s. 948.22 (7), the court may provide that any payment be paid in the
2 amounts and at the times as that it considers expedient.

3 **SECTION 542.** 767.305 of the statutes is amended to read:

4 **767.305 Enforcement; contempt proceedings.** In all cases where a party
5 has incurred a financial obligation under s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2),
6 767.23, 767.25, 767.255, 767.26, 767.261, 767.262 ~~or~~, 767.293, 938.183 (2), 938.355
7 (2) (b) 4., 938.357 (5m) or 938.363 (2) and has failed within a reasonable time or as
8 ordered by the court to satisfy such obligation, and where the wage assignment
9 proceeding under s. 767.265 and the account transfer under s. 767.267 are
10 inapplicable, impractical or unfeasible, the court may on its own initiative, and shall
11 on the application of the receiving party, issue an order requiring the payer to show
12 cause at some reasonable time therein specified why he or she should not be punished
13 for such misconduct as provided in ch. 785.

14 **SECTION 543.** 767.32 (1) (a) of the statutes is amended to read:

15 767.32 (1) (a) After a judgment or order providing for child support under this
16 chapter or s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2), 938.183 (2), 938.355 (2) (b) 4.,
17 938.357 (5m), 938.363 (2) or 948.22 (7), maintenance payments under s. 767.26 or
18 family support payments under this chapter, or for the appointment of trustees
19 under s. 767.31, the court may, from time to time, on the petition, motion or order to
20 show cause of either of the parties, or upon the petition, motion or order to show cause
21 of the department of health and social services, a county department under s. 46.215,
22 46.22 or 46.23 or a child support program designee under s. 59.07 (97) if an
23 assignment has been made under s. 49.19 (4) (h) or 49.45 (19) or if either party or
24 their minor children receive aid under ch. 49, and upon notice to the family court
25 commissioner, revise and alter such judgment or order respecting the amount of such

1 maintenance or child support and the payment thereof, and also respecting the
2 appropriation and payment of the principal and income of the property so held in
3 trust, and may make any judgment or order respecting any of the matters that such
4 court might have made in the original action, except that a judgment or order that
5 waives maintenance payments for either party shall not thereafter be revised or
6 altered in that respect nor shall the provisions of a judgment or order with respect
7 to final division of property be subject to revision or modification. A revision, under
8 this section, of a judgment or order with respect to an amount of child or family
9 support may be made only upon a finding of a substantial change in circumstances.
10 In any action under this section to revise a judgment or order with respect to
11 maintenance payments, a substantial change in the cost of living by either party or
12 as measured by the federal bureau of labor statistics may be sufficient to justify a
13 revision of judgment or order with respect to the amount of maintenance, except that
14 a change in an obligor's cost of living is not in itself sufficient if payments are
15 expressed as a percentage of income.

16 **SECTION 544.** 767.32 (2r) of the statutes is amended to read:

17 767.32 (2r) If the court revises a judgment or order providing for child support
18 that was entered under s. 448.355 (2) (b) 4., 48.357 (5m) or, 48.363 (2), 938.183 (2),
19 938.355 (2) (b) 4., 938.357 (5m) or 938.363 (2), the court shall determine child support
20 in the manner provided in s. 46.10 (14).

21 **SECTION 545.** 767.47 (10) of the statutes is amended to read:

22 767.47 (10) A record of the testimony of the child's mother relating to the child's
23 paternity, made as provided under s. 48.299 (6) or 938.299 (6), is admissible in
24 evidence on the issue of paternity.

25 **SECTION 546.** 778.25 (1) (a) 1. of the statutes is amended to read:

1 778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 161.573
2 (2), 161.574 (2) or 161.575 (2) or under a local ordinance strictly conforming to one
3 of those statutes brought against an adult in circuit court or against a minor in the
4 court assigned to exercise jurisdiction under ~~ch.~~ chs. 48 and 938.

5 **SECTION 547.** 778.25 (1) (a) 4. of the statutes is amended to read:

6 778.25 (1) (a) 4. Under s. 48.983 brought against a minor in the court assigned
7 to exercise jurisdiction under ~~ch.~~ chs. 48 and 938.

8 **SECTION 548.** 778.25 (1) (a) 5. of the statutes is amended to read:

9 778.25 (1) (a) 5. Under administrative rules promulgated by the board of
10 regents under s. 36.11 (1) (c) brought against an adult in circuit court or against a
11 minor in the court assigned to exercise jurisdiction under ~~ch.~~ chs. 48 and 938.

12 **SECTION 549.** 778.25 (8) (a) of the statutes is amended to read:

13 778.25 (8) (a) If the defendant has not made a deposit, the court may issue a
14 summons or an arrest warrant, except if the defendant is a minor the court shall
15 proceed under s. ~~48.28~~ 938.28. Chapter 48 938 governs taking and holding a minor
16 in custody.

17 **SECTION 550.** 778.25 (8) (b) of the statutes is amended to read:

18 778.25 (8) (b) If the defendant has made a deposit, the citation may serve as
19 the initial pleading and the defendant shall be considered to have tendered a plea
20 of no contest and submitted to a forfeiture, penalty assessment and jail assessment
21 plus costs, including any applicable fees prescribed in ch. 814, not exceeding the
22 amount of the deposit. The court may either accept the plea of no contest and enter
23 judgment accordingly, or reject the plea and issue a summons or arrest warrant,
24 except if the defendant is a minor the court shall proceed under s. ~~48.28~~ 938.28.
25 Chapter 48 938 governs taking and holding a minor in custody. If the court accepts

1 the plea of no contest, the defendant may move within 90 days after the date set for
2 appearance to withdraw the plea of no contest, open the judgment and enter a plea
3 of not guilty if the defendant shows to the satisfaction of the court that failure to
4 appear was due to mistake, inadvertence, surprise or excusable neglect. If a party
5 is relieved from the plea of no contest, the court or judge may order a written
6 complaint or petition to be filed. If on reopening the defendant is found not guilty,
7 the court shall delete the record of conviction and shall order the defendant's deposit
8 returned.

9 **SECTION 551.** 778.25 (8) (c) of the statutes is amended to read:

10 778.25 (8) (c) If the defendant has made a deposit and stipulation of no contest,
11 the citation serves as the initial pleading and the defendant shall be considered to
12 have tendered a plea of no contest and submitted to a forfeiture, penalty assessment
13 and jail assessment plus costs, including any applicable fees prescribed in ch. 814,
14 not exceeding the amount of the deposit. The court may either accept the plea of no
15 contest and enter judgment accordingly, or reject the plea and issue a summons or
16 arrest warrant, except if the defendant is a minor the court shall proceed under s.
17 ~~48.28~~ 938.28. Chapter 48 938 governs taking and holding a minor in custody. After
18 signing a stipulation of no contest, the defendant may, at any time prior to or at the
19 time of the court appearance date, move the court for relief from the effect of the
20 stipulation. The court may act on the motion, with or without notice, for cause shown
21 by affidavit and upon just terms, and relieve the defendant from the stipulation and
22 the effects of the stipulation.

23 **SECTION 552.** 808.04 (3) of the statutes is amended to read:

1 808.04 (3) Except as provided in subs. (4) and (7), an appeal in a criminal case
2 or a case under ch. 48, 51 ~~or~~, 55 or 938 shall be initiated within the time period
3 specified in s. 809.30.

4 **SECTION 553.** 808.04 (4) of the statutes is amended to read:

5 808.04 (4) Except as provided in sub. (7m), an appeal by the state in either a
6 criminal case under s. 974.05 or a case under ch. 48 or 938 shall be initiated within
7 45 days of entry of the judgment or order appealed from.

8 **SECTION 554.** 808.075 (4) (fn) of the statutes is created to read:

9 808.075 (4) (fn) In a case under ch. 938:

10 2. Review of nonsecure custody orders under s. 938.207.

11 3. Review of secure detention orders under s. 938.208 and secure detention
12 status reviews under s. 938.209 (1) (e).

13 4. Hearing for child held in custody under s. 938.21.

14 5. Hearing upon involuntary removal under s. 938.305.

15 6. Revision of dispositional order under s. 938.363.

16 7. Extension of dispositional order under s. 938.365, unless s. 938.368 applies.

17 8. Review of permanency plan under s. 938.38 (5).

18 9. Release of confidential information under s. 938.396 or 938.78.

19 **SECTION 555.** 809.30 (1) (a) of the statutes is amended to read:

20 809.30 (1) (a) "Postconviction relief" means, in a felony or misdemeanor case,
21 an appeal or a motion for postconviction relief other than a motion under s. 973.19
22 or 974.06. In a ch. 48, 51 ~~or~~, 55 or 938 case, other than a termination of parental rights
23 case under s. 48.43, it means an appeal or a motion for reconsideration by the trial
24 court of its final judgment or order; in such cases a notice of intent to pursue such
25 relief or a motion for such relief need not be styled as seeking "postconviction" relief.

1 **SECTION 556.** 809.30 (1) (b) of the statutes is amended to read:

2 809.30 (1) (b) "Sentencing" means, in a felony or misdemeanor case, the
3 imposition of a sentence, fine or probation. In a ch. 48, 51 ~~or~~, 55 or 938 case, other
4 than a termination of parental rights case under s. 48.43, it means the entry of the
5 trial court's final judgment or order.

6 **SECTION 557.** 809.30 (2) (d) of the statutes is amended to read:

7 809.30 (2) (d) Except as provided in this paragraph, whenever a defendant
8 whose trial counsel is appointed by the state public defender files a notice under par.
9 (b) requesting public defender representation for purposes of postconviction relief,
10 the district attorney may, within 5 days after the notice is served and filed, file in the
11 trial court and serve upon the state public defender a request that the defendant's
12 indigency be redetermined before counsel is appointed or transcripts are ordered.
13 This paragraph does not apply to a child who is entitled to be represented by counsel
14 under s. 48.23 or 938.23.

15 **SECTION 558.** 809.30 (2) (fm) of the statutes is amended to read:

16 809.30 (2) (fm) A child who has filed a notice of intent to pursue relief from a
17 judgment or order entered in a ch. 48 or 938 proceeding shall be furnished at no cost
18 a transcript of the proceedings or as much of it as is requested. To obtain the
19 transcript at no cost, an affidavit must be filed stating that the person who is legally
20 responsible for the child's care and support is financially unable or unwilling to
21 purchase the transcript.

22 **SECTION 559.** 809.40 (1) of the statutes is amended to read:

23 809.40 (1) An appeal to the court of appeals from a judgment or order in a
24 misdemeanor case or a ch. 48, 51 ~~or~~, 55 or 938 case, or a motion for postconviction

1 relief in a misdemeanor case must be initiated within the time periods specified in
2 s. 808.04 and is governed by the procedures specified in ss. 809.30 to 809.32.

3 **SECTION 560.** 851.72 (7) of the statutes is amended to read:

4 851.72 (7) Except in counties having a population of 500,000 or more, perform
5 the duties of clerk of the court assigned to exercise jurisdiction under ~~ch. 48 and~~
6 938 unless these duties are performed by a person appointed under s. 48.04.

7 **SECTION 561.** 859.07 (2) of the statutes is amended to read:

8 859.07 (2) If the decedent was at the time of death or at any time prior thereto
9 a patient or inmate of any state or county hospital or institution or any person
10 responsible for any obligation owing to the state or county under s. 46.03 (18), 46.10
11 ~~or~~, 48.36 or 938.36 or if the decedent or the spouse of the decedent ever received
12 medical assistance under ss. 49.45 to 49.47, the personal representative shall send
13 notice in writing of the date set under s. 859.01 by registered or certified mail to the
14 department of health and social services or the department of corrections, as
15 applicable, and the county clerk of the applicable county not less than 30 days before
16 the date set under s. 859.01, upon such blanks and containing such information as
17 the applicable department or county clerk may provide. The applicable county is the
18 county of residence, as defined in s. 49.01 (8g).

19 **SECTION 562.** 880.15 (1) of the statutes is amended to read:

20 880.15 (1) APPOINTMENT. If, after consideration of a petition for temporary
21 guardianship, the court finds that the welfare of a minor, spendthrift or an alleged
22 incompetent requires the immediate appointment of a guardian of the person or of
23 the estate, or of both, it may appoint a temporary guardian for a period not to exceed
24 60 days unless further extended for 60 days by order of the court. The court may
25 extend the period only once. The authority of the temporary guardian shall be

1 limited to the performance of duties respecting specific property, or to the
2 performance of particular acts, as stated in the order of appointment. All provisions
3 of the statutes concerning the powers and duties of guardians shall apply to
4 temporary guardians except as limited by the order of appointment. The temporary
5 guardian shall make the reports the court directs and shall account to the court upon
6 termination of authority. The court assigned to exercise jurisdiction under ~~ch.~~ chs.
7 48 and 938 has exclusive jurisdiction over the appointment of a temporary guardian
8 of a minor for medical purposes but shall proceed in accordance with this section.

9 **SECTION 563.** 885.37 (1) (a) 2. of the statutes is amended to read:

10 885.37 (1) (a) 2. The person is a child or parent subject to ch. 48 or 938.

11 **SECTION 564.** 895.035 (2m) of the statutes is created to read:

12 895.035 (2m) (a) If a child fails to pay restitution under ss. 938.245, 938.32,
13 938.34 (5) or 938.343 (4), a court assigned to exercise jurisdiction under chs. 48 and
14 938 may order that the amount of restitution unpaid by the child be entered and
15 docketed as a judgment against the child and the parent with custody of the child.
16 Before issuing the order the court shall give the child and parent notice of the intent
17 to issue the order and an opportunity to be heard regarding the order. The court shall
18 give the child and parent an opportunity to present evidence as to the amount of the
19 restitution unpaid, the reason for the failure to pay the restitution and the ability of
20 the child or parent to pay the restitution.

21 (b) If a child fails to pay a forfeiture ordered by a court assigned to exercise
22 jurisdiction under chs. 48 and 938, that court may order that the amount of the
23 forfeiture unpaid by the child be entered and docketed as a judgment against the
24 child and the parent with custody of the child. Before issuing the order the court shall
25 give the child and parent notice of the intent to issue the order and an opportunity

1 to be heard regarding the order. The court shall give the child and parent an
2 opportunity to present evidence as to the amount of the forfeiture unpaid, the reason
3 for the failure to pay the forfeiture and the ability of the child or parent to pay the
4 forfeiture.

5 (c) The court may order that the child perform community service work for a
6 public agency or nonprofit charitable organization that is designated by the court in
7 lieu of making restitution or paying the forfeiture. If the parent agrees to perform
8 community service work in lieu of making restitution or paying the forfeiture, the
9 court may order that the parent perform community service work for a public agency
10 or a nonprofit charitable organization that is designated by the court. Community
11 service work may be in lieu of restitution only if also agreed to by the public agency
12 or nonprofit charitable organization and by the person to whom restitution is owed.
13 The court may utilize any available resources, including any community service
14 work program, in ordering the child or parent to perform community service work.
15 The number of hours of community service work required may not exceed the number
16 determined by dividing the amount owed on the restitution or forfeiture by the
17 minimum wage established under ch. 104 for adults in nonagriculture, nontipped
18 employment. The court shall ensure that the child or parent is provided with a
19 written statement of the terms of the community service order and that the
20 community service order is monitored.

21 **SECTION 565.** 895.035 (3) of the statutes is amended to read:

22 895.035 (3) An adjudication under s. ~~48.31~~ 938.31 that the child violated a civil
23 law or ordinance, is delinquent or is in need of protection and services under s. ~~48.13~~
24 938.13 (12), based on proof that the child committed the act, subject to its
25 admissibility under s. 904.10, shall, in an action under sub. (1), stop a child's parent

1 or parents from denying that the child committed the act that resulted in the injury,
2 damage or loss.

3 **SECTION 566.** 895.035 (4) of the statutes is amended to read:

4 895.035 (4) Except for recovery for retail theft under s. 943.51, the maximum
5 recovery from any parent or parents may not exceed ~~\$2,500~~ the amount specified in
6 s. 799.01 (1) (d) for damages resulting from any one act of a child in addition to
7 taxable costs and disbursements and reasonable attorney fees, as determined by the
8 court. If 2 or more children in the custody of the same parent or parents commit the
9 same act the total recovery may not exceed ~~\$2,500~~ the amount specified in s. 799.01
10 (1) (d), in addition to taxable costs and disbursements. The maximum recovery from
11 any parent or parents for retail theft by their minor child is established under s.
12 943.51.

13 **SECTION 567.** 895.035 (6) of the statutes is amended to read:

14 895.035 (6) Any recovery under this section shall be reduced by the amount
15 recovered as restitution for the same act under s. ~~48.245, 48.32, 48.34 (5) or 48.343~~
16 ~~(4) 938.245, 938.32, 938.34 (5) or 938.343 (4)~~.

17 **SECTION 568.** 901.05 (2) (intro.) of the statutes is amended to read:

18 901.05 (2) (intro.) Except as provided in sub. (3), the results of a test or tests
19 for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to
20 HIV and the fact that a person has been ordered or required to submit to such a test
21 or tests under s. ~~48.296~~ 938.296 (4) or 968.38 (4) are not admissible during the course
22 of a civil or criminal action or proceeding or an administrative proceeding, as
23 evidence of a person's character or a trait of his or her character for the purpose of
24 proving that he or she acted in conformity with that character on a particular

1 occasion unless the evidence is admissible under s. 904.04 (1) or 904.05 (2) and unless
2 the following procedures are used:

3 **SECTION 569.** 901.05 (3) of the statutes is amended to read:

4 901.05 (3) The results of a test or tests under s. ~~48.296~~ 938.296 (4) or 968.38
5 (4) and the fact that a person has been ordered to submit to such a test or tests under
6 s. ~~48.296~~ 938.296 (4) or 968.38 (4) are not admissible during the course of a civil or
7 criminal action or proceeding or an administrative proceeding.

8 **SECTION 570.** 904.13 (2) of the statutes is amended to read:

9 904.13 (2) In any action or proceeding under ch. 48 938 or chs. 967 to 979,
10 evidence of the address of an alleged crime victim or any family member of an alleged
11 crime victim or evidence of the name and address of any place of employment of an
12 alleged crime victim or any family member of an alleged crime victim is relevant only
13 if it meets the criteria under s. 904.01. District attorneys shall make appropriate
14 objections if they believe that evidence of this information, which is being elicited by
15 any party, is not relevant in the action or proceeding.

16 **SECTION 571.** 905.04 (4) (i) of the statutes is amended to read:

17 905.04 (4) (i) *Providing services to court in juvenile matters.* There is no
18 privilege regarding information obtained by an intake worker or dispositional staff
19 in the provision of services under s. 48.067 ~~or~~, 48.069, 938.067 or 938.069. An intake
20 worker or dispositional staff member may disclose information obtained while
21 providing services under s. 48.067 or 48.069 only as provided in s. 48.78 and may
22 disclose information obtained while providing services under s. 938.067 or 938.069
23 only as provided in s. 938.78.

24 **SECTION 572.** 906.08 (2) of the statutes is amended to read:

1 906.08 (2) SPECIFIC INSTANCES OF CONDUCT. Specific instances of the conduct of
2 a witness, for the purpose of attacking or supporting the witness's credibility, other
3 than a conviction of crimes a crime or an adjudication of delinquency as provided in
4 s. 906.09, may not be proved by extrinsic evidence. They may, however, subject to s.
5 972.11 (2), if probative of truthfulness or untruthfulness and not remote in time, be
6 inquired into on cross-examination of the witness or on cross-examination of a
7 witness who testifies to his or her character for truthfulness or untruthfulness.

8 **SECTION 573.** 906.09 (title) of the statutes is amended to read:

9 **906.09 (title) Impeachment by evidence of conviction of crime or**
10 **adjudication of delinquency.**

11 **SECTION 574.** 906.09 (1) of the statutes is amended to read:

12 906.09 (1) GENERAL RULE. For the purpose of attacking the credibility of a
13 witness, evidence that the witness has been convicted of a crime or adjudicated
14 delinquent is admissible. The party cross-examining the witness is not concluded
15 by the witness's answer.

16 **SECTION 575.** 906.09 (2) of the statutes is amended to read:

17 906.09 (2) EXCLUSION. Evidence of a conviction of a crime or an adjudication of
18 delinquency may be excluded if its probative value is substantially outweighed by
19 the danger of unfair prejudice.

20 **SECTION 576.** 906.09 (3) of the statutes is amended to read:

21 906.09 (3) (title) ADMISSIBILITY OF CONVICTION OR ADJUDICATION. No question
22 inquiring with respect to a conviction of a crime or an adjudication of delinquency,
23 nor introduction of evidence with respect thereto, shall be permitted until the judge
24 determines pursuant to s. 901.04 whether the evidence should be excluded.

25 **SECTION 577.** 906.09 (4) of the statutes is repealed.

1 **SECTION 578.** 906.09 (5) of the statutes is amended to read:

2 906.09 (5) PENDENCY OF APPEAL. The pendency of an appeal therefrom does not
3 render evidence of a conviction or a delinquency adjudication inadmissible.
4 Evidence of the pendency of an appeal is admissible.

5 **SECTION 579.** 908.08 (1) of the statutes is amended to read:

6 908.08 (1) In any criminal trial or hearing, juvenile fact-finding hearing under
7 s. 48.31 or 938.31 or revocation hearing under s. 304.06 (3) or 973.10 (2), the court
8 or hearing examiner may admit into evidence the videotaped oral statement of a
9 child who is available to testify, as provided in this section.

10 **SECTION 580.** Chapter 938 of the statutes is created to read:

11 **CHAPTER 938**

12 **JUVENILE JUSTICE CODE**

13 SUBCHAPTER I

14 GENERAL PROVISIONS

15 **938.01 Title, legislative intent and purposes.** (1) This chapter may be
16 cited as “The Juvenile Justice Code”, and shall be liberally construed in accordance
17 with the objectives expressed in this section.

18 (2) It is the intent of the legislature to promote a juvenile justice system capable
19 of dealing with the problem of juvenile delinquency, a system which will protect the
20 community, impose accountability for violations of law and equip juvenile offenders
21 with competencies to live responsibly and productively. To effectuate this intent, the
22 legislature declares the following to be equally important purposes of this chapter:

23 (a) To protect citizens from juvenile crime.

24 (b) To hold each juvenile offender directly accountable for his or her acts.

1 (c) To provide an individualized assessment of each alleged and adjudicated
2 delinquent juvenile, in order to prevent further delinquent behavior through the
3 development of competency in the juvenile offender, so that he or she is more capable
4 of living productively and responsibly in the community.

5 (d) To provide due process through which each juvenile offender and all other
6 interested parties are assured fair hearings, during which constitutional and other
7 legal rights are recognized and enforced.

8 (e) To divert juveniles from the juvenile justice system through early
9 intervention as warranted, when consistent with the protection of the public.

10 (f) To respond to a juvenile offender's needs for care and treatment, consistent
11 with the prevention of delinquency, each juvenile's best interest and protection of the
12 public, by allowing the judge to utilize the most effective dispositional option.

13 (g) To ensure that victims and witnesses of acts committed by juveniles that
14 result in proceedings under this chapter are, consistent with the provisions of this
15 chapter and the Wisconsin constitution, afforded the same rights as victims and
16 witnesses of crimes committed by adults, and are treated with dignity, respect,
17 courtesy and sensitivity throughout such proceedings.

18 **938.02 Definitions.** In this chapter:

19 (1) "Adult" means a person who is 17 years of age or older, except that "adult"
20 does not include a person 17 years of age who comes within the jurisdiction of the
21 court under s. 938.13 (4), (6), (6m) or (7).

22 (1m) "Alcoholism" has the meaning given in s. 51.01 (1m).

23 (1p) "Alcohol or other drug abuse impairment" means a condition of a person
24 which is exhibited by characteristics of habitual lack of self-control in the use of
25 alcohol beverages or controlled substances to the extent that the person's health is

1 substantially affected or endangered or the person's social or economic functioning
2 is substantially disrupted.

3 **(1s)** "Approved treatment facility" has the meaning given in s. 51.01 (2).

4 **(2c)** "Child caring institution" means a facility operated by a child welfare
5 agency licensed under s. 48.60 for the care and maintenance of persons residing in
6 that facility.

7 **(2d)** "Controlled substance" has the meaning given in s. 161.01 (4).

8 **(2g)** "County department" means a county department under s. 46.215, 46.22
9 or 46.23, unless the context requires otherwise.

10 **(2m)** "Court", when used without further qualification, means the court
11 assigned to exercise jurisdiction under this chapter and ch. 48 or, when used with
12 reference to a juvenile who is subject to s. 938.183 (2), a court of criminal jurisdiction.

13 **(3)** "Court intake worker" means any person designated to provide intake
14 services under s. 938.067.

15 **(3m)** "Delinquent" means a juvenile who is 10 years of age or older who has
16 violated any state or federal criminal law, except as provided in ss. 938.17, 938.18
17 and 938.183, or who has committed a contempt of court, as defined in s. 785.01 (1),
18 as specified in s. 938.355 (6g).

19 **(4)** "Department" means the department of health and social services.

20 **(5)** "Developmentally disabled" means having a developmental disability, as
21 defined in s. 51.01 (5).

22 **(5g)** "Drug dependent" has the meaning given in s. 51.01 (8).

23 **(6)** "Foster home" means any facility that is operated by a person required to
24 be licensed by s. 48.62 (1) (a) and that provides care and maintenance for no more
25 than 4 children unless all of the children are siblings.

1 **(7)** “Group home” means any facility operated by a person required to be
2 licensed by the department under s. 48.625 for the care and maintenance of 5 to 8
3 children.

4 **(8)** “Guardian” means the person named by the court having the duty and
5 authority of guardianship.

6 **(9s)** “Integrated service plan” has the meaning given in s. 46.56 (1) (g).

7 **(10)** “Judge”, if used without further qualification, means the judge of the court
8 assigned to exercise jurisdiction under this chapter and ch. 48 or, if used with
9 reference to a juvenile who is subject to s. 938.183 (2), the judge of the court of
10 criminal jurisdiction.

11 **(10m)** “Juvenile” means a person who is less than 17 years of age, except that
12 “juvenile” includes a person 17 years of age who comes within the jurisdiction of the
13 court under s. 938.125 or 938.13 (4), (6), (6m) or (7).

14 **(11)** “Legal custodian” means a person, other than a parent or guardian, or an
15 agency to whom legal custody of the juvenile has been transferred by a court, but does
16 not include a person who has only physical custody of the juvenile.

17 **(12)** “Legal custody” means a legal status created by the order of a court, which
18 confers the right and duty to protect, train and discipline the juvenile, and to provide
19 food, shelter, legal services, education and ordinary medical and dental care, subject
20 to the rights, duties and responsibilities of the guardian of the juvenile and subject
21 to any residual parental rights and responsibilities and the provisions of any court
22 order.

23 **(13)** “Parent” means either a biological parent, a husband who has consented
24 to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If
25 the juvenile is a nonmarital child who is not adopted or whose parents do not

1 subsequently intermarry under s. 767.60, “parent” includes a person adjudged in a
2 judicial proceeding to be the biological father. “Parent” does not include any person
3 whose parental rights have been terminated.

4 **(14)** “Physical custody” means actual custody of the person in the absence of
5 a court order granting legal custody to the physical custodian.

6 **(14m)** “Pupil assistance program” means a program provided by a school board
7 under s. 115.362 (4) (b) 2. to intervene in the abuse of alcohol and other drugs by
8 pupils.

9 **(15)** “Relative” means a parent, grandparent, stepparent, brother, sister, first
10 cousin, nephew, niece, uncle or aunt. This relationship may be by consanguinity or
11 direct affinity.

12 **(15g)** “Secured child caring institution” means a child caring institution
13 operated by a child welfare agency that is licensed under s. 48.66 (1) to hold in secure
14 custody persons adjudged delinquent.

15 **(15m)** “Secured correctional facility” means a correctional institution operated
16 or contracted for by the department of health and social services or the department
17 of corrections for holding in secure custody persons adjudged delinquent. “Secured
18 correctional facility” includes the facility at which the juvenile boot camp program
19 under s. 938.532 is operated, a facility authorized under s. 938.533 (3) (b) and a
20 facility authorized under s. 938.537 (4) (b).

21 **(16)** “Secure detention facility” means a locked facility approved by the
22 department of corrections under s. 301.36 for the secure, temporary holding in
23 custody of children.

1 **(17)** “Shelter care facility” means a nonsecure place of temporary care and
2 physical custody for children, including a holdover room, licensed by the department
3 under s. 48.66 (1).

4 **(17m)** “Special treatment or care” means professional services which need to
5 be provided to a juvenile or his or her family to protect the well-being of the juvenile,
6 prevent placement of the juvenile outside the home or meet the special needs of the
7 juvenile. This term includes medical, psychological or psychiatric treatment, alcohol
8 or other drug abuse treatment or other services which the court finds to be necessary
9 and appropriate.

10 **(17q)** “Treatment foster home” means any facility that is operated by a person
11 required to be licensed under s. 48.62 (1) (b), that is operated under the supervision
12 of the department, a county department or a licensed child welfare agency, and that
13 provides to no more than 4 children care, maintenance and structured, professional
14 treatment by trained individuals, including the treatment foster parents.

15 **(18)** “Trial” means a fact-finding hearing to determine jurisdiction.

16 **(19)** “Type 1 secured correctional facility” means a secured correctional facility,
17 but excludes any correctional institution that meets the criteria under sub. (15m)
18 solely because of its status under s. 938.533 (3) (b) or 938.537 (4) (b).

19 **(20)** “Type 2 secured correctional facility” means a secured correctional facility
20 that meets the criteria under sub. (15m) solely because of its status under s. 938.533
21 (3) (b) or 938.537 (4) (b).

22 **(21)** “Victim-witness coordinator” means a person employed or contracted by
23 the county board of supervisors under s. 950.06 to enforce the rights of victims and
24 witnesses of crimes and to provide services for those victims and witnesses.

1 SUBCHAPTER II

2 ORGANIZATION OF COURT

3 **938.03 Time and place of court; absence or disability of judge; court of**
4 **record. (1)** The judge shall set apart a time and place to hold court on juvenile
5 matters.

6 (2) In the case of the absence or disability of the judge of a court assigned to
7 exercise jurisdiction under this chapter and ch. 48, another judge shall be assigned
8 under s. 751.03 to act temporarily in the judge's place. If the judge assigned
9 temporarily is from a circuit other than the one for which elected, the judge shall
10 receive expenses as provided under s. 753.073.

11 **938.06 Services for court. (1)** COUNTIES WITH A POPULATION OF 500,000 OR MORE.
12 In counties with a population of 500,000 or more, the children's court center under
13 s. 48.06 (1) shall provide the services necessary for investigating and supervising
14 cases under this chapter.

15 (2) COUNTIES WITH A POPULATION UNDER 500,000. In counties with a population of
16 under 500,000, the county department or court or both, as provided in s. 48.06 (2),
17 shall provide the intake services required under s. 938.067 and the staff needed to
18 carry out the objectives and provisions of this chapter under s. 938.069.

19 (3) INTAKE SERVICES. The court or county department responsible for providing
20 intake services under s. 938.067 shall specify one or more persons to provide intake
21 services. If there is more than one such worker, one of the workers shall be
22 designated as chief worker and shall supervise other workers.

23 (4) STATE AID. State aid to any county for juvenile delinquency-related court
24 services under this section shall be at the same net effective rate that each county
25 is reimbursed for county administration under s. 49.52, except as provided in s.

1 46.26. Counties having a population of less than 500,000 may use funds received
2 under ss. 46.26 and 49.52 (1) (d), including county or federal revenue sharing funds
3 allocated to match funds received under s. 49.52 (1) (d), for the cost of providing court
4 attached intake services in amounts not to exceed 50% of the cost of providing court
5 attached intake services or \$30,000 per county per calendar year, whichever is less.

6 (5) SHORT-TERM DETENTION AS A DISPOSITION. The county board of supervisors
7 of any county may, by resolution, authorize the court to use placement in a secure
8 detention facility or juvenile portion of the county jail as a disposition under s. 938.34
9 (3) (f). The use by the court of those placements as a disposition is subject to any
10 resolution adopted under this subsection.

11 **938.065 Juvenile court commissioners.**

12 (2) Under this chapter a juvenile court commissioner appointed under s.
13 48.065, if authorized to do so by a judge, may do any of the following:

14 (a) Issue summonses.

15 (b) Conduct hearings under s. 938.21 and thereafter order a juvenile held in or
16 released from custody.

17 (d) Conduct plea hearings.

18 (dm) Issue orders requiring compliance with deferred prosecution agreements.

19 (e) Enter into consent decrees.

20 (f) Conduct prehearing conferences.

21 (g) Conduct all proceedings on petitions or citations under s. 938.125.

22 (gm) Conduct uncontested proceedings under s. 938.12, 938.13 or 938.18.

23 (h) Perform such other duties, not in conflict with this chapter, as the judge may
24 direct.

25 (3) The juvenile court commissioner may not do any of the following:

1 (a) Conduct waiver hearings under s. 938.18 except as provided in sub. (2) (g).

2 (b) Conduct fact-finding or dispositional hearings except petitions or citations
3 under s. 938.125 and except as provided in sub. (2) (gm).

4 (c) Make dispositions other than ordering compliance with deferred
5 prosecution agreements and approving consent decrees and other than dispositions
6 in uncontested proceedings under s. 938.12 or 938.13.

7 (e) Make changes in placements of juveniles, or revisions or extensions of
8 dispositional orders, except pursuant to petitions or citations under s. 938.125 and
9 except in uncontested proceedings under s. 938.12 or 938.13.

10 (f) Make any dispositional order under s. 938.34 (4g) or (4m).

11 (4) When acting officially, the juvenile court commissioner shall sit at the
12 courthouse or the usual court facility for juvenile delinquency matters. Any decision
13 of the juvenile court commissioner shall be reviewed by the judge upon the request
14 of any interested party.

15 **938.067 Powers and duties of intake workers.** To carry out the objectives
16 and provisions of this chapter but subject to its limitations, intake workers shall do
17 all of the following:

18 (1) Provide intake services 24 hours a day, 7 days a week, for the purpose of
19 screening juveniles taken into custody and not released under s. 938.20 (2).

20 (2) Interview, unless impossible, any juvenile who is taken into physical
21 custody and not released, and where appropriate interview other available
22 concerned parties. If the juvenile cannot be interviewed, the intake worker shall
23 consult with the juvenile's parent or a responsible adult. No juvenile may be placed
24 in a secure detention facility unless the juvenile has been interviewed in person by
25 an intake worker, except that if the intake worker is in a place which is distant from

1 the place where the juvenile is or the hour is unreasonable, as defined by written
2 court intake rules, and if the juvenile meets the criteria under s. 938.208, the intake
3 worker, after consulting by telephone with the law enforcement officer who took the
4 juvenile into custody, may authorize the secure holding of the juvenile while the
5 intake worker is en route to the in-person interview or until 8 a.m. of the morning
6 after the night on which the juvenile was taken into custody.

7 (3) Determine whether the juvenile shall be held under s. 938.205 and such
8 policies as the judge shall promulgate under s. 48.06 (1) or (2).

9 (4) If the juvenile is not released, determine where the juvenile shall be held.

10 (5) Provide crisis counseling during the intake process when such counseling
11 appears to be necessary.

12 (6) Receive referral information, conduct intake inquiries, make
13 recommendations as to whether a petition should be filed, and enter into deferred
14 prosecution agreements under policies promulgated under s. 48.06 (1) or (2).

15 (6m) Conduct the multidisciplinary screen in counties that have a pilot
16 program under s. 938.547.

17 (7) Make referrals of cases to other agencies if their assistance appears to be
18 needed or desirable.

19 (8) Make interim recommendations to the court concerning juveniles awaiting
20 final disposition under s. 938.355.

21 (9) Perform any other functions ordered by the court, and assist the court or
22 chief judge of the judicial administrative district in developing written policies or
23 carrying out its other duties when the court or chief judge so requests.

24 **938.069 Powers and duties of disposition staff.** (1) The staff of the
25 department, the court, a county department or a licensed child welfare agency

1 designated by the court to carry out the objectives and provisions of this chapter
2 shall:

3 (a) Supervise and assist a juvenile under a deferred prosecution agreement, a
4 consent decree or an order of the court.

5 (b) Offer individual and family counseling.

6 (c) Make an affirmative effort to obtain necessary or desired services for the
7 juvenile and the juvenile's family and investigate and develop resources toward that
8 end.

9 (d) Prepare reports for the court recommending a plan of rehabilitation,
10 treatment and care.

11 (dj) Provide aftercare services for a juvenile who has been released from a
12 secured correctional facility or a secured child caring institution.

13 (e) Perform any other functions consistent with this chapter which are ordered
14 by the court.

15 **(2)** Licensed child welfare agencies and the department shall provide services
16 under this section only upon the approval of the agency from whom services are
17 requested.

18 **(3)** A court or county department responsible for disposition staff may agree
19 with the court or county department responsible for providing intake services that
20 the disposition staff may be designated to provide some or all of the intake services.

21 **(4)** Disposition staff employed to perform the duties specified in sub. (1) after
22 November 18, 1978, shall have the qualifications required under the county merit
23 system.

24 **938.07 Additional sources of court services.** If the county board of
25 supervisors has complied with s. 48.06, the court may obtain supplementary services

1 for investigating cases and providing supervision of cases from one or more of the
2 following sources:

3 (1) DEPARTMENT OF HEALTH AND SOCIAL SERVICES. The court may request the
4 services of the department for cases with special needs that cannot adequately be
5 provided by the county department. The department may furnish the requested
6 services, subject to s. 46.03 (18). The department shall provide, from the
7 appropriation under s. 20.435 (6) (km), the services only to the extent that the county
8 provides funds to the department equal to the net cost the department will incur as
9 a result of providing the services requested and only if s. 46.26 does not apply.

10 (2) LICENSED CHILD WELFARE AGENCY. The court may request the services of a
11 child welfare agency licensed under s. 48.60 in accordance with procedures
12 established by that agency. The child welfare agency shall receive no compensation
13 for these services but may be reimbursed out of funds made available to the court for
14 the actual and necessary expenses incurred in the performance of duties for the
15 court.

16 (3) COUNTY DEPARTMENT IN POPULOUS COUNTIES. In counties having a population
17 of 500,000 or more, the director of the county department may be ordered by the court
18 to provide services for furnishing emergency shelter care to any juvenile whose need
19 therefor, either by reason of need of protection and services or delinquency, is
20 determined by the intake worker under s. 938.205. The court may authorize the
21 director to appoint members of the county department to furnish emergency shelter
22 care services for the juvenile. The emergency shelter care may be provided as
23 specified in s. 938.207.

24 (4) COUNTY DEPARTMENTS THAT PROVIDE DEVELOPMENTAL DISABILITIES, MENTAL
25 HEALTH OR ALCOHOL AND OTHER DRUG ABUSE SERVICES. Within the limits of available

1 state and federal funds and of county funds appropriated to match state funds, the
2 court may order county departments established under s. 51.42 or 51.437 to provide
3 special treatment or care to a juvenile if special treatment or care has been ordered
4 under s. 938.34 (6) and if s. 938.362 (4) applies.

5 **938.08 Duties of person furnishing services to court.** (1) It is the duty
6 of each person appointed to furnish services to the court as provided in ss. 938.06 and
7 938.07 to make such investigations and exercise such discretionary powers as the
8 judge may direct, to keep a written record of such investigations and to submit a
9 report to the judge. The person shall keep informed concerning the conduct and
10 condition of the juvenile under the person's supervision and shall report thereon as
11 the judge directs.

12 (2) Except as provided in sub. (3), any person authorized to provide or providing
13 intake or dispositional services for the court under ss. 938.067 and 938.069 and any
14 department of corrections staff member designated by the department of corrections
15 has the power of police officers and deputy sheriffs only for the purpose of taking a
16 juvenile into physical custody when the juvenile comes voluntarily or is suffering
17 from illness or injury or is in immediate danger from his or her surroundings and
18 removal from the surroundings is necessary.

19 (3) (a) In addition to the law enforcement authority specified in sub. (2),
20 department of health and social services personnel designated by that department,
21 personnel of a secured child caring institution designated by agreement between
22 that secured child caring institution and the department of health and social
23 services, and department of corrections personnel designated by the department of
24 corrections have the power of law enforcement authorities to take a juvenile into
25 physical custody under the following conditions:

1 1. If they are in prompt pursuit of a juvenile who has run away from a secured
2 correctional facility or secured child caring institution.

3 2. If the juvenile has failed to return to a secured correctional facility or secured
4 child caring institution after any authorized absence.

5 (b) A juvenile taken into custody under par. (a) may be returned directly to the
6 secured correctional facility or secured child caring institution and shall have a
7 hearing regarding placement in a disciplinary cottage or in disciplinary status in
8 accordance with ch. 227.

9 **938.09 Representation of the interests of the public.** The interests of the
10 public shall be represented in proceedings under this chapter as follows:

11 (1) By the district attorney, in any matter arising under s. 938.12.

12 (2) By the district attorney or, if designated by the county board of supervisors,
13 by the corporation counsel, in any matter concerning a civil law violation arising
14 under s. 938.125. If the county board transfers this authority to or from the district
15 attorney on or after May 11, 1990, the board may do so only if the action is effective
16 on September 1 of an odd-numbered year and the board notifies the department of
17 administration of that change by January 1 of that odd-numbered year.

18 (3) By the city, village or town attorney, in any matter concerning a city, village
19 or town ordinance violation, respectively, arising under s. 938.125.

20 (4) By any appropriate person designated by the county board of supervisors
21 in any matter concerning a noncity ordinance violation arising under s. 938.125.

22 (5) By the district attorney or, if designated by the county board of supervisors,
23 by the corporation counsel, in any matter arising under s. 938.13. If the county board
24 transfers this authority to or from the district attorney on or after May 11, 1990, the
25 board may do so only if the action is effective on September 1 of an odd-numbered

1 year and the board notifies the department of administration of that change by
2 January 1 of that odd-numbered year.

3 **938.10 Power of the judge to act as intake worker.** The duties of the intake
4 worker may be carried out from time to time by the judge at his or her discretion, but
5 if a recommendation to file a petition is made, a citation is issued or a deferred
6 prosecution agreement is entered into, the judge shall be disqualified from
7 participating further in the proceedings.

8 SUBCHAPTER III

9 JURISDICTION

10 **938.12 Jurisdiction over juveniles alleged to be delinquent.** (1) The
11 court has exclusive jurisdiction, except as provided in ss. 938.17, 938.18 and 938.183,
12 over any juvenile 10 years of age or over who is alleged to be delinquent.

13 (2) If a court proceeding has been commenced under this section before a
14 juvenile is 17 years of age, but the juvenile becomes 17 years of age before admitting
15 the facts of the petition at the plea hearing or if the juvenile denies the facts, before
16 an adjudication, the court retains jurisdiction over the case.

17 **938.125 Jurisdiction over juveniles alleged to have violated civil laws**
18 **or ordinances.** The court has exclusive jurisdiction over any juvenile alleged to
19 have violated a law punishable by forfeiture or a county, town or other municipal
20 ordinance, except as follows:

21 (1) As provided under s. 938.17.

22 (2) That the court has exclusive jurisdiction over any juvenile alleged to have
23 violated an ordinance enacted under s. 118.163 (2) only after evidence is provided by
24 the school attendance officer that the activities under s. 118.16 (5) have been

1 completed or were not completed due to the child's absence from school as provided
2 in s. 118.16 (5m).

3 **938.13 Jurisdiction over juveniles alleged to be in need of protection**
4 **or services.** The court has exclusive original jurisdiction over a juvenile alleged to
5 be in need of protection or services which can be ordered by the court, and:

6 (4) Whose parent or guardian signs the petition requesting jurisdiction and
7 states that he or she is unable to control the juvenile.

8 (6) Who is habitually truant from school, after evidence is provided by the
9 school attendance officer that the activities under s. 118.16 (5) have been completed
10 or were not completed due to the child's absence from school as provided in s. 118.16
11 (5m), except as provided under s. 938.17 (2).

12 (6m) Who is a school dropout, as defined in s. 118.153 (1) (b).

13 (7) Who is habitually truant from home and either the juvenile or a parent,
14 guardian or a relative in whose home the juvenile resides signs the petition
15 requesting jurisdiction and attests in court that reconciliation efforts have been
16 attempted and have failed.

17 (12) Who, being under 10 years of age, has committed a delinquent act as
18 defined in s. 938.12.

19 (14) Who has been determined, under s. 938.30 (5) (c), to be not responsible for
20 a delinquent act by reason of mental disease or defect or who has been determined,
21 under s. 938.30 (5) (d), to be not competent to proceed.

22 **938.135 Referral of juveniles to proceedings under ch. 51 or 55. (1)** If
23 a juvenile alleged to be delinquent or in need of protection or services is before the
24 court and it appears that the juvenile is developmentally disabled, mentally ill or
25 drug dependent or suffers from alcoholism, the court may proceed under ch. 51 or 55.

1 **(2)** Any voluntary or involuntary admissions, placements or commitments of
2 a juvenile made in or to an inpatient facility, as defined in s. 51.01 (10), other than
3 a commitment under s. 938.34 (6) (am) shall be governed by ch. 51 or 55.

4 **938.15 Jurisdiction of other courts to determine legal custody.** Nothing
5 contained in s. 938.12 or 938.13 deprives other courts of the right to determine the
6 legal custody of juveniles by habeas corpus or to determine the legal custody or
7 guardianship of juveniles if the legal custody or guardianship is incidental to the
8 determination of causes pending in the other courts. But the jurisdiction of the court
9 assigned to exercise jurisdiction under this chapter and ch. 48 is paramount in all
10 cases involving juveniles alleged to come within the provisions of s. 938.12 or 938.13.

11 **938.17 Jurisdiction over traffic, boating, snowmobile and all-terrain**
12 **vehicle violations and over civil law and ordinance violations. (1)** TRAFFIC,
13 BOATING, SNOWMOBILE AND ALL-TERRAIN VEHICLE VIOLATIONS. Except for ss. 342.06 (2)
14 and 344.48 (1), and ss. 30.67 (1) and 346.67 when death or injury occurs, courts of
15 criminal and civil jurisdiction shall have exclusive jurisdiction in proceedings
16 against juveniles 16 or older for violations of s. 23.33, of ss. 30.50 to 30.80, of chs. 341
17 to 351, and of traffic regulations as defined in s. 345.20 and nonmoving traffic
18 violations as defined in s. 345.28 (1). A juvenile charged with a traffic, boating,
19 snowmobile or all-terrain vehicle offense in a court of criminal or civil jurisdiction
20 shall be treated as an adult before the trial of the proceeding except that the juvenile
21 may be held in secure custody only in a secure detention facility. A juvenile convicted
22 of a traffic, boating, snowmobile or all-terrain vehicle offense in a court of criminal
23 or civil jurisdiction shall be treated as an adult for sentencing purposes except as
24 follows:

1 (a) The court may disregard any minimum period of incarceration specified for
2 the offense.

3 (b) If the court orders the juvenile to serve a period of incarceration of less than
4 6 months, the juvenile may serve that period of incarceration only in a secure
5 detention facility.

6 (c) If the court of civil or criminal jurisdiction orders the juvenile to serve a
7 period of incarceration of 6 months or more, that court shall petition the court
8 assigned to exercise jurisdiction under this chapter and ch. 48 to order one or more
9 of the dispositions provided in s. 938.34, including placement of the juvenile in a
10 secured correctional facility under s. 938.34 (4m), if appropriate.

11 **(2) CIVIL LAW AND ORDINANCE VIOLATIONS.** (a) 1. Except as provided in sub. (1),
12 municipal courts have concurrent jurisdiction with the court assigned to exercise
13 jurisdiction under this chapter and ch. 48 in proceedings against juveniles aged 12
14 or older for violations of county, town or other municipal ordinances. If evidence is
15 provided by the school attendance officer that the activities under s. 118.16 (5) have
16 been completed or were not completed due to the juvenile's absence from school as
17 provided in s. 118.16 (5m), the municipal court specified in subd. 2. may exercise
18 jurisdiction in proceedings against a juvenile for a violation of an ordinance enacted
19 under s. 118.163 (2) regardless of the juvenile's age and regardless of whether the
20 court assigned to exercise jurisdiction under this chapter and ch. 48 has jurisdiction
21 under s. 938.13 (6).

22 2. a. In this subdivision, "administrative center" means the main
23 administrative offices of a school district.

24 b. The municipal court that may exercise jurisdiction under subd. 1. is the
25 municipal court that is located in the same municipality as the administrative center

1 of the school district in which the juvenile is enrolled, if that municipality has
2 adopted an ordinance under s. 118.163.

3 c. If the municipality specified under subd. 2. b. has not adopted an ordinance
4 under s. 118.163, the municipal court that may exercise jurisdiction under subd. 1.
5 is the municipal court that is located in the municipality where the school in which
6 the juvenile is enrolled is located, if that municipality has adopted an ordinance
7 under s. 118.163.

8 d. If the municipality specified under subd. 2. c. has not adopted an ordinance
9 under s. 118.163, the municipal court that may exercise jurisdiction under subd. 1.
10 is the municipal court that is located in the municipality where the juvenile resides,
11 if that municipality has adopted an ordinance under s. 118.163.

12 3. When a juvenile is alleged to have violated a municipal ordinance, the
13 juvenile may be:

14 a. Issued a citation directing the juvenile to appear in municipal court or make
15 a deposit or stipulation and deposit in lieu of appearance;

16 b. Issued a citation directing the juvenile to appear in the court assigned to
17 exercise jurisdiction under this chapter and ch. 48 or make a deposit or stipulation
18 and deposit in lieu of appearance as provided in s. 938.237; or

19 c. Referred to intake for a determination whether a petition should be filed in
20 the court assigned to exercise jurisdiction under this chapter and ch. 48 pursuant to
21 s. 938.125.

22 (b) When a juvenile 12 years of age or older is alleged to have violated a civil
23 law punishable by a forfeiture or where a juvenile is alleged to have violated a
24 municipal ordinance but there is no municipal court in the municipality, the juvenile
25 may be:

1 1. Issued a citation directing the juvenile to appear in the court assigned to
2 exercise jurisdiction under this chapter and ch. 48 or make a deposit or stipulation
3 and deposit in lieu of appearance as provided in s. 938.237; or

4 2. Referred to intake for a determination whether a petition should be filed in
5 the court assigned to exercise jurisdiction under this chapter and ch. 48 pursuant to
6 s. 938.125.

7 (c) The citation procedures described in ch. 800 shall govern proceedings
8 involving juveniles in municipal court, except that this chapter shall govern the
9 taking and holding of a juvenile in custody. When a juvenile is before the court
10 assigned to exercise jurisdiction under this chapter and ch. 48 upon a citation
11 alleging the juvenile to have violated a civil law or municipal ordinance, the
12 procedures specified in s. 938.237 shall apply. If a citation is issued to a juvenile, the
13 issuing agency shall notify the juvenile's parent or guardian within 7 days. The
14 agency issuing a citation to a juvenile who is 12 to 15 years of age for a violation of
15 s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 161.573 (2), 161.574 (2) or 161.575
16 (2) or an ordinance conforming to one of those statutes shall send a copy to an intake
17 worker under s. 938.24 for informational purposes only.

18 (d) If a municipal court finds that the juvenile violated a municipal ordinance
19 other than an ordinance enacted under s. 118.163 or an ordinance that conforms to
20 s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 161.573 (2), 161.574 (2) or 161.575
21 (2), the court shall enter any of the dispositional orders permitted under s. 938.343.
22 If a juvenile fails to pay the forfeiture imposed by the municipal court, the court may
23 not impose a jail sentence but may suspend any license issued under ch. 29 for not
24 less than 30 days nor more than 5 years, or suspend the juvenile's operating
25 privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years.

1 If a court suspends a license or privilege under this section, the court shall
2 immediately take possession of the applicable license and forward it to the
3 department that issued the license, together with the notice of suspension clearly
4 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
5 the forfeiture is paid during the period of suspension, the court shall immediately
6 notify the department, which shall thereupon return the license to the person.

7 (e) If a municipal court finds that a juvenile violated a municipal ordinance that
8 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 161.573 (2), 161.574 (2)
9 or 161.575 (2), the court shall enter a dispositional order under s. 938.344.

10 (f) If the act the juvenile committed resulted in personal injury or damage to
11 or loss of the property of another, the municipal court shall, to the extent possible,
12 provide each known victim of the act with the information contained in the notice
13 required under s. 938.346.

14 (g) If a municipal court finds that a juvenile violated a municipal ordinance
15 enacted under s. 118.163 (2), it shall enter a dispositional order under s. 938.342 (1)
16 that is consistent with the municipal ordinance.

17 (h) 1. If a juvenile who has violated a municipal ordinance violates a condition
18 of his or her dispositional order, the municipal court may impose on the juvenile one
19 of the sanctions specified in s. 938.355 (6) (d) 2. to 4. if at the time of judgment the
20 court explained the conditions to the juvenile and informed the juvenile of the
21 possible sanctions under s. 938.355 (6) (d) 2. to 4. for a violation.

22 2. A motion for imposition of a sanction may be brought by the person or agency
23 primarily responsible for the provision of dispositional services, the municipal
24 attorney or the court that entered the dispositional order. If the court initiates the
25 motion, that court is disqualified from holding a hearing on the motion. Notice of the

1 motion shall be given to the juvenile and the juvenile's parent, guardian or legal
2 custodian.

3 3. Before imposing any sanction, the court shall hold a hearing, at which the
4 juvenile may present evidence.

5 **(3) SAFETY AT SPORTING EVENTS.** Notwithstanding sub. (2), courts of criminal or
6 civil jurisdiction have exclusive jurisdiction in proceedings against juveniles under
7 s. 167.32 or under a local ordinance strictly conforming to s. 167.32. A juvenile
8 convicted of a violation under s. 167.32 or under a local ordinance strictly conforming
9 to s. 167.32 shall be treated as an adult for sentencing purposes.

10 **938.18 Jurisdiction for criminal proceedings for juveniles 14 or older;**
11 **waiver hearing. (1)** (a) Subject to s. 938.183, a juvenile or district attorney may
12 apply to the court to waive its jurisdiction under this chapter in any of the following
13 situations:

14 1. If the juvenile is alleged to have violated s. 161.41 (1), 940.06, 940.225 (1) or
15 (2), 940.305, 940.31, 943.10 (2) or 943.32 (2) on or after the juvenile's 14th birthday.

16 2. If the juvenile is alleged to have committed, on or after the juvenile's 14th
17 birthday, a violation, at the request of or for the benefit of a criminal gang, as defined
18 in s. 939.22 (9), that would constitute a felony under ch. 161 or under chs. 939 to 948
19 if committed by an adult.

20 3. If the juvenile is alleged to have violated any state criminal law on or after
21 the juvenile's 15th birthday.

22 (b) The judge may also initiate a petition for waiver in any of the situations
23 described in par. (a) if the judge disqualifies himself or herself from any future
24 proceedings on the case.

1 **(2)** The waiver hearing shall be brought on by filing a petition alleging
2 delinquency drafted under s. 938.255 and a petition for waiver of jurisdiction which
3 shall contain a brief statement of the facts supporting the request for waiver. The
4 petition for waiver of jurisdiction shall be filed prior to the plea hearing.

5 **(2m)** If it appears that the juvenile may be suitable for participation in the
6 youthful offender program under s. 938.537 or the adult intensive sanctions program
7 under s. 301.048, the court shall order the department of corrections to submit a
8 report analyzing the juvenile's suitability for participation in those programs and
9 recommending whether the juvenile should be placed in either of those programs.
10 The report shall be in writing, except that the report may be presented orally at the
11 waiver hearing if the juvenile and the juvenile's counsel consent. A report that is
12 presented orally shall be transcribed and made a part of the court record.

13 **(3) (a)** The juvenile shall be represented by counsel at the waiver hearing.
14 Written notice of the time, place and purpose of the hearing shall be given to the
15 juvenile, any parent, guardian or legal custodian, and counsel at least 3 days prior
16 to the hearing. The notice shall contain a statement of the requirements of s. 938.29
17 (2) with regard to substitution of the judge. Where parents entitled to notice have
18 the same address, notice to one constitutes notice to the other. Counsel for the
19 juvenile shall have access to the social records and other reports consistent with s.
20 938.293.

21 **(b)** The juvenile has the right to present testimony on his or her own behalf
22 including expert testimony and has the right to cross-examine witnesses at the
23 hearing.

24 **(c)** The juvenile does not have the right to a jury at a hearing under this section.

1 **(4)** (a) The court shall determine whether the matter has prosecutive merit
2 before proceeding to determine if it should waive jurisdiction.

3 (b) If the petition for waiver of jurisdiction is contested, the court, after taking
4 relevant testimony which the district attorney shall present and considering other
5 relevant evidence, shall base its decision whether to waive jurisdiction on the criteria
6 specified in sub. (5).

7 (c) If the petition for waiver of jurisdiction is uncontested, the court shall
8 inquire into the capacity of the juvenile to knowingly, intelligently and voluntarily
9 decide not to contest the waiver of jurisdiction. If the court is satisfied that the
10 decision not to contest the waiver of jurisdiction is knowingly, intelligently and
11 voluntarily made, no testimony need be taken and the court, after considering the
12 petition for waiver of jurisdiction and other relevant evidence in the record before the
13 court, shall base its decision whether to waive jurisdiction on the criteria specified
14 in sub. (5).

15 **(5)** If prosecutive merit is found, the court shall base its decision whether to
16 waive jurisdiction on the following criteria:

17 (a) The personality and prior record of the juvenile, including whether the
18 juvenile is mentally ill or developmentally disabled, whether the court has
19 previously waived its jurisdiction over the juvenile, whether the juvenile has been
20 previously convicted following a waiver of the court's jurisdiction or has been
21 previously found delinquent, whether such conviction or delinquency involved the
22 infliction of serious bodily injury, the juvenile's motives and attitudes, the juvenile's
23 physical and mental maturity, the juvenile's pattern of living, prior offenses, prior
24 treatment history and apparent potential for responding to future treatment.

1 (b) The type and seriousness of the offense, including whether it was against
2 persons or property, the extent to which it was committed in a violent, aggressive,
3 premeditated or wilful manner, and its prosecutive merit.

4 (c) The adequacy and suitability of facilities, services and procedures available
5 for treatment of the juvenile and protection of the public within the juvenile justice
6 system, and, where applicable, the mental health system and the suitability of the
7 juvenile for placement in the youthful offender program under s. 938.537 or the adult
8 intensive sanctions program under s. 301.048.

9 (d) The desirability of trial and disposition of the entire offense in one court if
10 the juvenile was allegedly associated in the offense with persons who will be charged
11 with a crime in circuit court.

12 **(6)** After considering the criteria under sub. (5), the court shall state its finding
13 with respect to the criteria on the record, and, if the court determines on the record
14 that it is established by clear and convincing evidence that it would be contrary to
15 the best interests of the juvenile or of the public to hear the case, the court shall enter
16 an order waiving jurisdiction and referring the matter to the district attorney for
17 appropriate proceedings in the court of criminal jurisdiction, and the court of
18 criminal jurisdiction thereafter has exclusive jurisdiction.

19 **(7)** If the juvenile absconds and does not appear at the waiver hearing, the court
20 may proceed with the waiver hearing as provided in subs. (4) to (6) in the juvenile's
21 absence. If the waiver is granted, the juvenile may contest that waiver when the
22 juvenile is apprehended.

23 **(8)** When waiver is granted, the juvenile, if held in secure custody, shall be
24 transferred to an appropriate officer or adult facility and shall be eligible for bail in
25 accordance with chs. 968 and 969.

1 **(9)** If waiver is granted, sub. (1) does not restrict the authority of the district
2 attorney to charge the offense he or she deems is appropriate and does not restrict
3 the authority of any court or jury to convict the juvenile in regard to any offense.

4 **938.183 Original adult court jurisdiction for criminal proceedings. (1)**
5 Notwithstanding ss. 938.12 (1) and 938.18, courts of criminal jurisdiction have
6 exclusive original jurisdiction over all of the following:

7 (a) A juvenile who is alleged to have violated s. 940.20 (1) or 946.43 while placed
8 in a secured correctional facility.

9 (b) A juvenile who is alleged to have violated any state criminal law if the
10 juvenile has been convicted of a previous violation following waiver of jurisdiction
11 under s. 938.18 by the court assigned to exercise jurisdiction under this chapter and
12 ch. 48 or if the court assigned to exercise jurisdiction under this chapter and ch. 48
13 has waived its jurisdiction over the juvenile for a previous violation and criminal
14 proceedings on that previous violation are still pending.

15 (c) A juvenile who is alleged to have violated any state criminal law if the
16 juvenile has been convicted of a previous violation over which the court of criminal
17 jurisdiction had original jurisdiction under this section or if proceedings on a
18 previous violation over which the court of criminal jurisdiction has original
19 jurisdiction under this section are still pending.

20 **(1m)** Notwithstanding subchs. IV to VI, a juvenile described in sub. (1) is
21 subject to the procedures specified in chs. 967 to 979 and the criminal penalties
22 provided for the crime that the juvenile is alleged to have committed, unless a court
23 of criminal jurisdiction transfers jurisdiction under s. 970.032 to a court assigned to
24 exercise jurisdiction under this chapter and ch. 48.

1 **(2)** (a) Notwithstanding ss. 938.12 (1) and 938.18, courts of criminal
2 jurisdiction have exclusive original jurisdiction over a juvenile who is alleged to have
3 attempted or committed a violation of s. 940.01 or to have committed a violation of
4 s. 940.02 or 940.05 on or after the juvenile's 10th birthday. Notwithstanding subchs.
5 IV to VI, a juvenile who is alleged to have attempted or committed a violation of s.
6 940.01 or to have committed a violation of s. 940.02 or 940.05 on or after the juvenile's
7 10th birthday is subject to the procedures specified in chs. 967 to 979 and the
8 criminal penalties provided for the crime that the juvenile is alleged to have
9 committed, unless the court of criminal jurisdiction convicts the juvenile of a lesser
10 offense, in which case the court of criminal jurisdiction shall impose a disposition
11 specified in s. 938.34.

12 (b) A juvenile who is subject to this paragraph shall remain under the
13 supervision of the department of health and social services until the juvenile's 17th
14 birthday. When the juvenile attains the age of 17 years, the court of criminal
15 jurisdiction shall transfer supervision of the juvenile from the department of health
16 and social services to the department of corrections, and the department of
17 corrections may place the juvenile in a state prison named in s. 302.01. A juvenile
18 who is placed with the department of corrections under this paragraph is eligible for
19 parole under s. 304.06.

20 (c) If the juvenile is placed outside the juvenile's home under this subsection,
21 the order shall contain, a designation of the amount of support, if any, to be paid by
22 the juvenile's parent, guardian or trustee, specifying that the support obligation
23 begins on the date of the placement, or a referral to the county designee under s. 59.07
24 (97) for establishment of child support.

1 (b) A *capias* issued by a judge under s. 938.28.

2 (c) An order of the judge if made upon a showing satisfactory to the judge that
3 the welfare of the juvenile demands that the juvenile be immediately removed from
4 his or her present custody. The order shall specify that the juvenile be held in custody
5 under s. 938.207.

6 (d) Circumstances in which a law enforcement officer believes on reasonable
7 grounds that any of the following conditions exists:

8 1. A *capias* or a warrant for the juvenile's apprehension has been issued in this
9 state, or that the juvenile is a fugitive from justice.

10 2. A *capias* or a warrant for the juvenile's apprehension has been issued in
11 another state.

12 3. The juvenile is committing or has committed an act which is a violation of
13 a state or federal criminal law.

14 4. The juvenile has run away from his or her parents, guardian or legal or
15 physical custodian.

16 5. The juvenile is suffering from illness or injury or is in immediate danger from
17 his or her surroundings and removal from those surroundings is necessary.

18 6. The juvenile has violated the terms of court-ordered supervision or aftercare
19 supervision administered by the department of health and social services, the
20 department of corrections or a county department.

21 7. The juvenile has violated the conditions of an order under s. 938.21 (4) or the
22 conditions of an order for temporary physical custody by an intake worker.

23 8. The juvenile has violated a civil law or a local ordinance punishable by a
24 forfeiture, except that in that case the juvenile shall be released immediately under
25 s. 938.20 (2) (ag) or as soon as reasonably possible under s. 938.20 (2) (b) to (g).

1 10. The juvenile is absent from school without an acceptable excuse under s.
2 118.15.

3 **(1m)** A juvenile who is absent from school without an acceptable excuse under
4 s. 118.15 may be taken into custody by an individual designated under s. 118.16 (2m)
5 (a) if the school attendance officer of the school district in which the juvenile resides
6 or the juvenile's parent, guardian or legal custodian requests that the juvenile be
7 taken into custody. The request shall specifically identify the juvenile.

8 **(2)** When a juvenile is taken into physical custody as provided in this section,
9 the person taking the juvenile into custody shall immediately attempt to notify the
10 parent, guardian and legal custodian of the juvenile by the most practical means.
11 The person taking the juvenile into custody shall continue such attempt until the
12 parent, guardian and legal custodian of the juvenile are notified, or the juvenile is
13 delivered to an intake worker under s. 938.20 (3), whichever occurs first. If the
14 juvenile is delivered to the intake worker before the parent, guardian and legal
15 custodian are notified, the intake worker, or another person at his or her direction,
16 shall continue the attempt to notify until the parent, guardian and legal custodian
17 of the juvenile are notified.

18 **(3)** Taking into custody is not an arrest except for the purpose of determining
19 whether the taking into custody or the obtaining of any evidence is lawful.

20 **938.20 Release or delivery from custody. (2)** (ag) Except as provided in
21 pars. (b) to (g), a person taking a juvenile into custody shall make every effort to
22 release the juvenile immediately to the juvenile's parent, guardian or legal
23 custodian.

24 (b) If the juvenile's parent, guardian or legal custodian is unavailable,
25 unwilling or unable to provide supervision for the juvenile, the person who took the

1 juvenile into custody may release the juvenile to a responsible adult after counseling
2 or warning the juvenile as may be appropriate.

3 (c) If the juvenile is 15 years of age or older, the person who took the juvenile
4 into custody may release the juvenile without immediate adult supervision after
5 counseling or warning the juvenile as may be appropriate.

6 (cm) If the juvenile has violated the terms of aftercare supervision
7 administered by the department or a county department, the person who took the
8 juvenile into custody may release the juvenile to the department or county
9 department, whichever has aftercare supervision over the juvenile.

10 (d) If the child is a runaway, the person who took the child into custody may
11 release the child to a home authorized under s. 48.227.

12 (e) If a juvenile is taken into custody under s. 938.19 (1) (d) 10., the law
13 enforcement officer who took the juvenile into custody may release the juvenile
14 under par. (ag) or (b) or, if the school board of the school district in which the juvenile
15 resides has established a youth service center under s. 118.16 (4) (e), may deliver that
16 juvenile to that youth service center. If the juvenile is delivered to a youth service
17 center, personnel of the youth service center may release the juvenile to the juvenile's
18 parent, guardian or legal custodian, or release the juvenile to the juvenile's school,
19 after counseling the juvenile as may be appropriate. If the juvenile is released to the
20 juvenile's school, personnel of the youth service center shall immediately notify the
21 juvenile's parent, guardian and legal custodian that the juvenile was taken into
22 custody under s. 938.19 (1) (d) 10. and released to the juvenile's school.

23 (f) If a juvenile is taken into custody under s. 938. 19 (1m), the person who took
24 the juvenile into custody may release the juvenile under par. (ag), (b) or (e) or to the
25 juvenile's school administrator, as defined in s. 125.09 (2) (a) 3., or a school employe

1 designated by the school administrator. If a juvenile is released to a school
2 administrator or the school administrator's designee under this paragraph, the
3 school administrator or designee shall do all of the following:

4 1. Immediately notify the juvenile's parent, guardian or legal custodian that
5 the juvenile was taken into custody under s. 938.19 (1m) and released to the school
6 administrator or his or her designee.

7 2. Make a determination of whether the juvenile is a child at risk, as defined
8 in s. 118.153 (1) (a), unless that determination has been made within the current
9 school semester. If a juvenile is determined to be a child at risk under this
10 subdivision, the school administrator shall provide a program for the juvenile
11 according to the plan developed under s. 118.153 (2) (a).

12 3. Provide the juvenile and his or her parent or guardian with an opportunity
13 for educational counseling to determine whether a change in the juvenile's program
14 or curriculum, including any of the modifications specified in s. 118.15 (1) (d), would
15 resolve the juvenile's truancy problem, unless the juvenile and his or her parent or
16 guardian have been provided with an opportunity for educational counseling within
17 the current school semester.

18 (g) If a juvenile is taken into custody under s. 938.19 (1) (d) 10. and is not
19 released under par. (ag), (b) or (e) or if a juvenile is taken into custody under s. 938.19
20 (1m) and is not released under par. (ag), (b), (e) or (f), the person who took the juvenile
21 into custody shall release the juvenile without immediate adult supervision after
22 counseling or warning the juvenile as may be appropriate.

23 **(3)** If the juvenile is released under sub. (2) (b) to (d) or (g), the person who took
24 the juvenile into custody shall immediately notify the juvenile's parent, guardian
25 and legal custodian of the time and circumstances of the release and the person, if

1 any, to whom the juvenile was released. If the juvenile is not released under sub. (2),
2 the person who took the juvenile into custody shall arrange in a manner determined
3 by the court and law enforcement agencies for the juvenile to be interviewed by the
4 intake worker under s. 938.067 (2), and shall make a statement in writing with
5 supporting facts of the reasons why the juvenile was taken into physical custody and
6 shall give any juvenile 10 years of age or older a copy of the statement in addition to
7 giving a copy to the intake worker. When the intake interview is not done in person,
8 the report may be read to the intake worker.

9 (4) If the juvenile is believed to be suffering from a serious physical condition
10 which requires either prompt diagnosis or prompt treatment, the person taking the
11 juvenile into physical custody, the intake worker or other appropriate person shall
12 deliver the juvenile to a hospital as defined in s. 50.33 (2) (a) and (c) or physician's
13 office.

14 (5) If the juvenile is believed to be mentally ill, drug dependent or
15 developmentally disabled, and exhibits conduct which constitutes a substantial
16 probability of physical harm to the juvenile or to others, or a very substantial
17 probability of physical impairment or injury to the juvenile exists due to the impaired
18 judgment of the juvenile, and the standards of s. 51.15 are met, the person taking the
19 juvenile into physical custody, the intake worker or other appropriate person shall
20 proceed under s. 51.15.

21 (6) If the juvenile is believed to be an intoxicated person who has threatened,
22 attempted or inflicted physical harm on himself or herself or on another and is likely
23 to inflict such physical harm unless committed, or is incapacitated by alcohol, the
24 person taking the juvenile into physical custody, the intake worker or other
25 appropriate person shall proceed under s. 51.45 (11).

1 **(7)** (a) When a juvenile is interviewed by an intake worker, the intake worker
2 shall inform any juvenile possibly involved in a delinquent act of his or her right to
3 counsel and the right against self-incrimination.

4 (b) The intake worker shall review the need to hold the juvenile in custody and
5 shall make every effort to release the juvenile from custody as provided in par. (c).
6 The intake worker shall base his or her decision as to whether to release the juvenile
7 or to continue to hold the juvenile in custody on the criteria specified in s. 938.205
8 and criteria established under s. 938.06 (1) or (2).

9 (c) The intake worker may release the juvenile as follows:

10 1. To a parent, guardian or legal custodian, or, if the parent, guardian or legal
11 custodian is unavailable, unwilling or unable to provide supervision for the juvenile,
12 release the juvenile to a responsible adult, counseling or warning the juvenile as may
13 be appropriate, or, if the juvenile is 15 years of age or older, release the juvenile
14 without immediate adult supervision, counseling or warning the juvenile as may be
15 appropriate.

16 1m. In the case of a juvenile who has violated the terms of aftercare supervision
17 administered by the department or a county department, to the department or
18 county department, whichever has aftercare supervision of the juvenile.

19 2. In the case of a runaway juvenile, to a home authorized under s. 48.227.

20 (d) If the juvenile is released from custody, the intake worker shall immediately
21 notify the juvenile's parent, guardian and legal custodian of the time and
22 circumstances of the release and the person, if any, to whom the juvenile was
23 released.

24 **(8)** If a juvenile is held in custody, the intake worker shall notify the juvenile's
25 parent, guardian and legal custodian of the reasons for holding the juvenile in

1 custody and of the juvenile's whereabouts unless there is reason to believe that notice
2 would present imminent danger to the juvenile. If a juvenile who has violated the
3 terms of aftercare supervision administered by the department or a county
4 department is held in custody, the intake worker shall also notify the department or
5 county department, whichever has supervision over the juvenile, of the reasons for
6 holding the juvenile in custody, of the juvenile's whereabouts and of the time and
7 place of the detention hearing required under s. 938.21. The parent, guardian and
8 legal custodian shall also be notified of the time and place of the detention hearing
9 required under s. 938.21, the nature and possible consequences of that hearing, the
10 right to counsel under s. 938.23 regardless of ability to pay, and the right to present
11 and cross-examine witnesses at the hearing. If the parent, guardian or legal
12 custodian is not immediately available, the intake worker or another person
13 designated by the court shall provide notice as soon as possible. When the juvenile
14 is alleged to have committed a delinquent act, the juvenile shall receive the same
15 notice about the detention hearing as the parent, guardian or legal custodian. The
16 intake worker shall notify both the juvenile and the juvenile's parent, guardian or
17 legal custodian.

18 **938.205 Criteria for holding a juvenile in physical custody.** (1) A
19 juvenile may be held under s. 938.207, 938.208 or 938.209 if the intake worker
20 determines that there is probable cause to believe the juvenile is within the
21 jurisdiction of the court and if probable cause exists to believe one of the following:

22 (a) That if the juvenile is not held he or she will commit injury to the person
23 or property of others.

24 (b) That the parent, guardian or legal custodian of the juvenile or other
25 responsible adult is unavailable, unwilling or unable to provide adequate

1 supervision and care and that services to ensure the juvenile's safety and well-being
2 are not available or would be inadequate.

3 (c) That the juvenile will run away or be taken away so as to be unavailable for
4 proceedings of the court or its officers or proceedings of the division of hearings and
5 appeals in the department of administration for revocation of aftercare supervision.

6 (2) The criteria for holding a juvenile in custody specified in this section shall
7 govern the decision of all persons responsible for determining whether the action is
8 appropriate.

9 **938.207 Places where a juvenile may be held in nonsecure custody.**

10 (1) A juvenile held in physical custody under s. 938.205 may be held in any of the
11 following places:

12 (a) The home of a parent or guardian.

13 (b) The home of a relative.

14 (c) A licensed foster home or a licensed treatment foster home provided the
15 placement does not violate the conditions of the license.

16 (cm) A licensed group home provided that the placement does not violate the
17 conditions of the license.

18 (d) A nonsecure facility operated by a licensed child welfare agency.

19 (e) A licensed private or public shelter care facility.

20 (f) The home of a person not a relative, if the placement does not exceed 30 days,
21 though the placement may be extended for an additional 30 days for cause by the
22 court, and if the person has not had a foster home or treatment foster home license
23 refused, revoked or suspended within the last 2 years.

24 (g) A hospital as defined in s. 50.33 (2) (a) and (c) or physician's office if the
25 juvenile is held under s. 938.20 (4).

1 (h) A place listed in s. 51.15 (2) if the juvenile is held under s. 938.20 (5).

2 (i) An approved public treatment facility for emergency treatment if the
3 juvenile is held under s. 938.20 (6).

4 (k) A facility under s. 48.58.

5 **(2)** If a facility listed in sub. (1) (b) to (k) is used to hold juveniles in custody,
6 or if supervisory services of a home detention program are provided to juveniles held
7 under sub. (1) (a), its authorized rate shall be paid by the county for the care of the
8 juvenile. If no authorized rate has been established, a reasonable sum to be fixed by
9 the court shall be paid by the county for the supervision or care of the juvenile.

10 **938.208 Criteria for holding a juvenile in a secure detention facility.**

11 A juvenile may be held in a secure detention facility if the intake worker determines
12 that one of the following conditions applies:

13 **(1)** Probable cause exists to believe that the juvenile has committed a
14 delinquent act and either presents a substantial risk of physical harm to another
15 person or a substantial risk of running away so as to be unavailable for a court
16 hearing or a revocation hearing for juveniles on aftercare supervision. For juveniles
17 on aftercare supervision, the delinquent act referred to in this section may be the act
18 for which the juvenile was adjudged delinquent. If the intake worker determines
19 that any of the following conditions applies, the juvenile is considered to present a
20 substantial risk of physical harm to another person:

21 (a) Probable cause exists to believe that the juvenile has committed a
22 delinquent act that would be a felony under s. 940.01, 940.02, 940.03, 940.05, 940.19
23 (2) to (6), 940.21, 940.225 (1), 940.31, 941.20 (3), 943.23 (1g), (1m) or (1r), 943.32 (2),
24 948.02 (1) or (2), 948.025 or 948.03 if committed by an adult.

1 (b) Probable cause exists to believe that the juvenile possessed, used or
2 threatened to use a handgun, as defined in s. 175.35 (1) (b), short-barreled rifle, as
3 defined in s. 941.28 (1) (b), or short-barreled shotgun, as defined in s. 941.28 (1) (c),
4 while committing a delinquent act that would be a felony under ch. 940 if committed
5 by an adult.

6 (c) Probable cause exists to believe that the juvenile has possessed or gone
7 armed with a short-barreled rifle or a short-barreled shotgun in violation of s.
8 941.28, or has possessed or gone armed with a handgun in violation of s. 948.60.

9 **(2)** Probable cause exists to believe that the juvenile is a fugitive from another
10 state or has run away from a secured correctional facility and there has been no
11 reasonable opportunity to return the juvenile.

12 **(3)** The juvenile consents in writing to being held in order to protect him or her
13 from an imminent physical threat from another and such secure custody is ordered
14 by the judge in a protective order.

15 **(4)** Probable cause exists to believe that the juvenile, having been placed in
16 nonsecure custody by an intake worker under s. 938.207 or by the judge or juvenile
17 court commissioner under s. 938.21 (4), has run away or committed a delinquent act
18 and no other suitable alternative exists.

19 **(5)** Probable cause exists to believe that the juvenile has been adjudged or
20 alleged to be delinquent and has run away from another county and would run away
21 from nonsecure custody pending his or her return. A juvenile may be held in secure
22 custody under this subsection for no more than 24 hours after the end of the day that
23 the decision to hold the juvenile was made unless an extension of those 24 hours is
24 ordered by the judge for good cause shown. Only one extension may be ordered by
25 the judge.

1 **938.209 Criteria for holding a juvenile in a county jail.** Subject to the
2 provisions of s. 938.208, a county jail may be used as a secure detention facility if the
3 criteria under either sub. (1) or (2) are met:

4 **(1)** There is no other secure detention facility approved by the department of
5 corrections or a county which is available and all of the following conditions are met:

6 (a) The jail meets the standards for secure detention facilities established by
7 the department of corrections.

8 (b) The juvenile is held in a room separated and removed from incarcerated
9 adults.

10 (c) The juvenile is not held in a cell designed for the administrative or
11 disciplinary segregation of adults.

12 (d) Adequate supervision is provided.

13 (e) The judge reviews the status of the juvenile every 3 days.

14 **(2)** The juvenile presents a substantial risk of physical harm to other persons
15 in the secure detention facility, as evidenced by previous acts or attempts, which can
16 only be avoided by transfer to the jail. The provisions of sub. (1) (a) to (e) shall be met.
17 The juvenile shall be given a hearing and transferred only upon order of the judge.

18 **(3)** The restrictions of this section do not apply to the use of jail for a juvenile
19 who has been waived to adult court under s. 938.18 or who is under the jurisdiction
20 of an adult court under s. 938.183.

21 **938.21 Hearing for juvenile in custody.** **(1) HEARING; WHEN HELD.** (a) If
22 a juvenile who has been taken into custody is not released under s. 938.20, a hearing
23 to determine whether the juvenile shall continue to be held in custody under the
24 criteria of ss. 938.205 to 938.209 shall be conducted by the judge or juvenile court
25 commissioner within 24 hours after the end of the day that the decision to hold the

1 juvenile was made, excluding Saturdays, Sundays and legal holidays. By the time
2 of the hearing a petition under s. 938.25 shall be filed, except that no petition need
3 be filed where a juvenile is taken into custody under s. 938.19 (1) (b) or (d) 2., 6. or
4 7. or where the juvenile is a runaway from another state, in which case a written
5 statement of the reasons for holding a juvenile in custody shall be substituted if the
6 petition is not filed. If no hearing has been held within 24 hours or if no petition or
7 statement has been filed at the time of the hearing, the juvenile shall be released
8 except as provided in par. (b). A parent not present at the hearing shall be granted
9 a rehearing upon request.

10 (b) If no petition has been filed by the time of the hearing, a juvenile may be
11 held in custody with the approval of the judge or juvenile court commissioner for an
12 additional 48 hours from the time of the hearing only if, as a result of the facts
13 brought forth at the hearing, the judge or juvenile court commissioner determines
14 that probable cause exists to believe that the juvenile is an imminent danger to
15 himself or herself or to others, or that probable cause exists to believe that the parent,
16 guardian or legal custodian of the juvenile or other responsible adult is unwilling or
17 unavailable to provide adequate supervision and care. The extension may be
18 granted only once for any petition. In the event of failure to file a petition within the
19 48-hour extension period provided for in this paragraph, the judge or juvenile court
20 commissioner shall order the juvenile's immediate release from custody.

21 **(2) PROCEEDINGS CONCERNING RUNAWAY OR DELINQUENT JUVENILES.** Proceedings
22 concerning a juvenile who comes within the jurisdiction of the court under s. 938.12
23 or 938.13 (7) or (12) shall be conducted according to this subsection.

24 (a) A juvenile held in a nonsecure place of custody may waive in writing the
25 hearing under this section. After any waiver, a hearing shall be granted upon the

1 request of the juvenile or any other interested party. Any juvenile transferred to a
2 secure detention facility shall thereafter have a hearing under this section.

3 (b) A copy of the petition shall be given to the juvenile at or prior to the time
4 of the hearing. Prior notice of the hearing shall be given to the juvenile's parent,
5 guardian and legal custodian and to the juvenile in accordance with s. 938.20 (8).

6 (c) Prior to the commencement of the hearing, the juvenile shall be informed
7 by the judge or juvenile court commissioner of the allegations that have been or may
8 be made, the nature and possible consequences of this hearing as compared to
9 possible future hearings, the provisions of s. 938.18 if applicable, the right to counsel
10 under s. 938.23 regardless of ability to pay if the juvenile is not yet represented by
11 counsel, the right to remain silent, the fact that the silence may not be adversely
12 considered by the judge or juvenile court commissioner, the right to confront and
13 cross-examine witnesses and the right to present witnesses.

14 (d) If the juvenile is not represented by counsel at the hearing and the juvenile
15 is continued in custody as a result of the hearing, the juvenile may request through
16 counsel subsequently appointed or retained or through a guardian ad litem that the
17 order to hold in custody be reheard. If the request is made, a rehearing shall take
18 place as soon as may be possible. Whether or not counsel was present, any order to
19 hold the juvenile in custody shall be subject to rehearing for good cause.

20 **(3) PROCEEDINGS CONCERNING JUVENILES IN NEED OF PROTECTION OR SERVICES.**
21 Proceedings concerning a juvenile who comes within the jurisdiction of the court
22 under s. 938.13 (4), (6), (6m) or (14) shall be conducted according to this subsection.

23 (a) The parent, guardian or legal custodian may waive the hearing under this
24 section. Agreement in writing of the juvenile is required if he or she is over 12. After
25 any waiver, a hearing shall be granted at the request of any interested party.

1 (b) If present at the hearing, a copy of the petition shall be given to the parent,
2 guardian or legal custodian, and to the juvenile if he or she is 12 years of age or older,
3 before the hearing begins. Prior notice of the hearing shall be given to the juvenile's
4 parent, guardian and legal custodian and to the juvenile if he or she is 12 years of
5 age or older in accordance with s. 938.20 (8).

6 (d) Prior to the commencement of the hearing, the parent, guardian or legal
7 custodian shall be informed by the court of the allegations that have been made or
8 may be made, the nature and possible consequences of this hearing as compared to
9 possible future hearings, the right to counsel under s. 938.23 regardless of ability to
10 pay, the right to confront and cross-examine witnesses and the right to present
11 witnesses.

12 (e) If the parent, guardian or legal custodian or the juvenile is not represented
13 by counsel at the hearing and the juvenile is continued in custody as a result of the
14 hearing, the parent, guardian, legal custodian or juvenile may request through
15 counsel subsequently appointed or retained or through a guardian ad litem that the
16 order to hold the juvenile in custody be reheard. If the request is made, a rehearing
17 shall take place as soon as may be possible. Any order to hold the juvenile in custody
18 shall be subject to rehearing for good cause, whether or not counsel was present.

19 **(3m)** PARENTAL NOTICE REQUIRED. If the juvenile has been taken into custody
20 because he or she committed an act which resulted in personal injury or damage to
21 or loss of the property of another, the court, prior to the commencement of any
22 hearing under this section, shall attempt to notify the juvenile's parents of the
23 possibility of disclosure of the identity of the juvenile and the parents, of the
24 juvenile's police records and of the outcome of proceedings against the juvenile for
25 use in civil actions for damages against the juvenile or the parents and of the parents'

1 potential liability for acts of their juveniles. If the court is unable to provide the
2 notice before commencement of the hearing, it shall provide the juvenile's parents
3 with the specified information in writing as soon as possible after the hearing.

4 **(4) CONTINUATION OF CUSTODY.** If the judge or juvenile court commissioner finds
5 that the juvenile should be continued in custody under the criteria of s. 938.205, he
6 or she shall enter one of the following orders:

7 (a) Place the juvenile with a parent, guardian, legal custodian or other
8 responsible person and may impose reasonable restrictions on the juvenile's travel,
9 association with other persons or places of abode during the period of placement,
10 including a condition requiring the juvenile to return to other custody as requested;
11 or subject the juvenile to the supervision of an agency agreeing to supervise the
12 juvenile. Reasonable restrictions may be placed upon the conduct of the parent,
13 guardian, legal custodian or other responsible person which may be necessary to
14 ensure the safety of the juvenile.

15 (b) Order the juvenile held in an appropriate manner under s. 938.207, 938.208
16 or 938.209.

17 **(4m) ELECTRONIC MONITORING.** The judge or juvenile court commissioner may
18 include in an order under sub. (4) (a) or (b) a condition that the juvenile be monitored
19 by an electronic monitoring system.

20 **(5) ORDERS IN WRITING.** (a) All orders to hold in custody shall be in writing,
21 listing the reasons and criteria forming the basis for the decision.

22 (b) An order relating to a juvenile held in custody outside of his or her home
23 shall also describe any efforts that were made to permit the juvenile to remain at
24 home and the services that are needed to ensure the juvenile's well-being, to enable

1 the juvenile to return to his or her home and to involve the parents in planning for
2 the juvenile.

3 (6) AMENDMENT OF ORDER. An order placing a juvenile under sub. (4) (a) on
4 conditions specified in this section may at any time be amended, with notice, so as
5 to return the juvenile to another form of custody for failure to conform to the
6 conditions originally imposed. A juvenile may be transferred to secure custody if he
7 or she meets the criteria of s. 938.208.

8 (7) DEFERRED PROSECUTION. If the judge or juvenile court commissioner
9 determines that the best interests of the juvenile and the public are served, he or she
10 may enter a consent decree under s. 938.32 or order the petition dismissed and refer
11 the matter to the intake worker for deferred prosecution in accordance with s.
12 938.245.

13 **938.22 Establishment of secure detention facilities and shelter care**
14 **facilities.** (1) (a) The county board of supervisors may establish a secure detention
15 facility or a shelter care facility or both or the county boards of supervisors for 2 or
16 more counties may jointly establish a secure detention facility or a shelter care
17 facility or both in accordance with ss. 46.16, 46.20 and 301.36.

18 (b) Subject to sub. (3) (ar), in counties having a population of less than 500,000,
19 the policies of the secure detention facility or shelter care facility shall be determined
20 by the judge of the court assigned to exercise jurisdiction under this chapter and ch.
21 48 with the approval of the chief judge of the judicial administrative district or, in the
22 case of a secure detention facility or shelter care facility established by 2 or more
23 counties, by a committee of the judges of the courts in the participating counties
24 assigned to exercise jurisdiction under this chapter and ch. 48 with the approval of
25 the chief judge of the judicial administrative district.

1 (c) In counties having a population of 500,000 or more, the nonjudicial
2 operational policies of the secure detention facility and the detention section of the
3 juvenile delinquency court center shall be established by the county board of
4 supervisors, and the execution thereof shall be the responsibility of the director of
5 the children's court center.

6 **(2)** (a) Counties shall submit plans for the secure detention facility or juvenile
7 portion of the county jail to the department of corrections and submit plans for the
8 shelter care facility to the department of health and social services. The applicable
9 department shall review the submitted plans. The counties may not implement any
10 such plan unless the applicable department has approved the plan. After
11 consultation with the department of health and social services, the department of
12 corrections shall promulgate rules establishing minimum requirements for the
13 approval of the operation of secure detention facilities and the juvenile portion of
14 county jails. The plans and rules shall be designed to protect the health, safety and
15 welfare of the juveniles in these facilities.

16 (b) If the department of corrections approves, a secure detention facility or a
17 holdover room may be a part of a public building in which there is a jail or other
18 facility for the detention of adults if the secure detention facility or holdover room is
19 so physically segregated from the jail or other facility that the secure detention
20 facility or holdover room may be entered without passing through areas where adults
21 are confined and that juveniles detained in the secure detention facility or holdover
22 room cannot communicate with or view adults confined therein.

23 (c) A shelter care facility shall be used for the temporary care of juveniles. A
24 shelter care facility, other than a holdover room, may not be in the same building as
25 a facility for the detention of adults.

1 **(3)** (a) In counties having a population of less than 500,000, public secure
2 detention facilities and public shelter care facilities shall be in the charge of a
3 superintendent. The judge of the court assigned to exercise jurisdiction under this
4 chapter and ch. 48 with the approval of the chief judge of the judicial administrative
5 district or, where 2 or more counties operate joint public secure detention facilities
6 or public shelter care facilities, the committee of judges of the courts assigned to
7 exercise jurisdiction under this chapter and ch. 48 with the approval of the chief
8 judge of the judicial administrative district shall appoint the superintendent and
9 other necessary personnel for the care and education of the juveniles in secure
10 detention or shelter care facilities, subject to par. (am) and to civil service regulations
11 in counties having civil service.

12 (am) If a secure detention facility or holdover room is part of a public building
13 in which there is a jail or other facility for the detention of adults, the sheriff or other
14 keeper of the jail or other facility for the detention of adults may nominate persons
15 to be considered under par. (a) for the position of superintendent of the secure
16 detention facility or holdover room. Nominees under this paragraph shall have
17 demonstrated administrative abilities and a demonstrated interest in the problems
18 of juvenile justice and the welfare of juveniles.

19 (ar) Notwithstanding sub. (1) (b), if a secure detention facility or holdover room
20 is part of a public building in which there is a jail or other facility for the detention
21 of adults, the sheriff or other keeper of the jail or other facility for the detention of
22 adults shall determine the policies of that secure detention facility or holdover room
23 relating to security and emergency response and shall determine the procedures for
24 implementing those policies.

1 (b) In counties having a population of 500,000 or more, the director of the
2 children's court center shall be in charge of and responsible for public secure
3 detention facilities, the secure detention section of the center and the personnel
4 assigned to this section, including a detention supervisor or superintendent. The
5 director of the children's court center may also serve as superintendent of detention
6 if the county board of supervisors so determines.

7 (c) All superintendents appointed under par. (a) or (b) after May 1, 1992, shall,
8 within one year after that appointment, successfully complete an administrative
9 training program approved or provided by the department of justice.

10 (5) A county board of supervisors, or 2 or more county boards of supervisors
11 jointly, may contract with privately operated shelter care facilities or home detention
12 programs for purchase of services. A county board of supervisors may delegate this
13 authority to its county department.

14 (7) No person may establish a shelter care facility without first obtaining a
15 license under s. 48.66 (1).

16 **938.225 Statewide plan for secure detention facilities.** The department
17 shall assist counties in establishing secure detention facilities under s. 938.22 by
18 developing and promulgating a statewide plan for the establishment and
19 maintenance of suitable secure detention facilities reasonably accessible to each
20 court.

21 **938.23 Right to counsel. (1) RIGHT OF JUVENILES TO LEGAL REPRESENTATION.**
22 Juveniles subject to proceedings under this chapter shall be afforded legal
23 representation as follows:

24 (a) Any juvenile alleged to be delinquent under s. 938.12 or held in a secure
25 detention facility shall be represented by counsel at all stages of the proceedings, but

1 a juvenile 15 years of age or older may waive counsel if the court is satisfied that the
2 waiver is knowingly and voluntarily made and the court accepts the waiver. If the
3 waiver is accepted, the court may not place the juvenile in a secured correctional
4 facility, transfer legal custody of the juvenile to the department of corrections for
5 participation in the youthful offender program or transfer jurisdiction over the
6 juvenile to adult court.

7 (am) A juvenile subject to a sanction under s. 938.355 (6) (a) shall be entitled
8 to representation by counsel at the hearing under s. 938.355 (6) (c).

9 (ar) A juvenile subject to proceedings under s. 938.357 (3) or (5) shall be
10 afforded legal representation as provided in those subsections.

11 (b) 1. If a juvenile is alleged to be in need of protection or services under s.
12 938.13, the juvenile may be represented by counsel at the discretion of the court.
13 Except as provided in subd. 2., a juvenile 15 years of age or older may waive counsel
14 if the court is satisfied such waiver is knowingly and voluntarily made and the court
15 accepts the waiver.

16 2. If the petition is contested, the court may not place the juvenile outside his
17 or her home unless the juvenile is represented by counsel at the fact-finding hearing
18 and subsequent proceedings. If the petition is not contested, the court may not place
19 the juvenile outside his or her home unless the juvenile is represented by counsel at
20 the hearing at which the placement is made. For a juvenile under 12 years of age,
21 the judge may appoint a guardian ad litem instead of counsel.

22 **(2m)** RIGHT TO COUNSEL; EXTENDED COURT JURISDICTION. A person subject to s.
23 938.366 shall be represented by counsel at all proceedings under that section, except
24 that the person may waive the right to counsel if the court is satisfied that the waiver
25 is knowingly and voluntarily made and the court accepts the waiver.

1 **(3) POWER OF THE COURT TO APPOINT COUNSEL.** At any time, upon request or on
2 its own motion, the court may appoint counsel for the juvenile or any party, unless
3 the juvenile or the party has or wishes to retain counsel of his or her own choosing.

4 **(4) PROVIDING COUNSEL.** In any situation under this section in which a person
5 has a right to be represented by counsel or is provided counsel at the discretion of the
6 court and counsel is not knowingly and voluntarily waived, the court shall refer the
7 person to the state public defender and counsel shall be appointed by the state public
8 defender under s. 977.08 without a determination of indigency. In any other
9 situation under this section in which a person has a right to be represented by
10 counsel or is provided counsel at the discretion of the court, competent and
11 independent counsel shall be provided and reimbursed in any manner suitable to the
12 court regardless of the person's ability to pay.

13 **(5) COUNSEL OF OWN CHOOSING.** Regardless of any provision of this section, any
14 party is entitled to retain counsel of his or her own choosing at his or her own expense
15 in any proceeding under this chapter.

16 **(6) DEFINITION.** For the purposes of this section, "counsel" means an attorney
17 acting as adversary counsel who shall advance and protect the legal rights of the
18 party represented, and who may not act as guardian ad litem for any party in the
19 same proceeding.

20 **938.235 Guardian ad litem. (1) APPOINTMENT.** (a) The court may appoint
21 a guardian ad litem in any appropriate matter under this chapter.

22 (e) The court shall appoint a guardian ad litem, or extend the appointment of
23 a guardian ad litem previously appointed under par. (a), for any juvenile alleged or
24 found to be in need of protection or services, if the court has ordered, or if a request

1 or recommendation has been made that the court order, the juvenile to be placed out
2 of his or her home under s. 938.345 or 938.357.

3 (2) QUALIFICATIONS. The guardian ad litem shall be an attorney admitted to
4 practice in this state. No person who is an interested party in a proceeding, who
5 appears as counsel in a proceeding on behalf of any party or who is a relative or
6 representative of an interested party may be appointed guardian ad litem in that
7 proceeding.

8 (3) RESPONSIBILITIES. The guardian ad litem shall be an advocate for the best
9 interests of the person for whom the appointment is made. The guardian ad litem
10 shall function independently, in the same manner as an attorney for a party to the
11 action, and shall consider, but shall not be bound by, the wishes of such person or the
12 positions of others as to the best interests of such person. If the guardian ad litem
13 determines that the best interests of the person are substantially inconsistent with
14 the wishes of such person, the guardian ad litem shall so inform the court and the
15 court may appoint counsel to represent that person. The guardian ad litem has none
16 of the rights or duties of a general guardian.

17 (4) MATTERS INVOLVING JUVENILE IN NEED OF PROTECTION OR SERVICES. (a) In any
18 matter involving a juvenile found to be in need of protection or services, the guardian
19 ad litem may, if reappointed or if the appointment is continued under sub. (7), do any
20 of the following:

21 1. Participate in permanency planning under ss. 48.43 (5) and 938.38.

22 2. Petition for a change in placement under s. 938.357.

23 3. Petition for termination of parental rights or any other matter specified
24 under s. 48.14.

25 4. Petition for revision of dispositional orders under s. 938.363.

- 1 5. Petition for extension of dispositional orders under s. 938.365.
- 2 6. Petition for a temporary restraining order and injunction under s. 813.122
3 or 813.125.
- 4 7. Petition for relief from a judgment terminating parental rights under s.
5 48.46.
- 6 8. Perform any other duties consistent with this chapter and ch. 48.
- 7 (b) The court shall order the agency identified under s. 938.355 (2) (b) 1. as
8 primarily responsible for the provision of services to notify the guardian ad litem, if
9 any, regarding actions to be taken under par. (a).
- 10 **(7) TERMINATION AND EXTENSION OF APPOINTMENT.** The appointment of a
11 guardian ad litem under sub. (1) terminates upon the entry of the court's final order
12 or upon the termination of any appeal in which the guardian ad litem participates.
13 The guardian ad litem may appeal, may participate in an appeal or may do neither.
14 If an appeal is taken by any party and the guardian ad litem chooses not to
15 participate in that appeal, he or she shall file with the appellate court a statement
16 of reasons for not participating. Irrespective of the guardian ad litem's decision not
17 to participate in an appeal, the appellate court may order the guardian ad litem to
18 participate in the appeal. At any time, the guardian ad litem, any party or the person
19 for whom the appointment is made may request in writing or on the record that the
20 court extend or terminate the appointment or reappointment. The court may extend
21 that appointment, or reappoint a guardian ad litem appointed under this section,
22 after the entry of the final order or after the termination of the appeal, but the court
23 shall specifically state the scope of the responsibilities of the guardian ad litem
24 during the period of that extension or reappointment.

1 **(8) COMPENSATION.** On order of the court, the guardian ad litem appointed
2 under this chapter shall be allowed reasonable compensation to be paid by the county
3 of venue. If the court orders a county to pay the compensation of the guardian ad
4 litem, the amount ordered may not exceed the compensation paid to private
5 attorneys under s. 977.08 (4m).

6 **938.237 Civil law and ordinance proceedings initiated by citation in**
7 **the court assigned to exercise jurisdiction under this chapter and ch. 48.**

8 **(1)** The citation forms under s. 23.54, 66.119, 778.25, 778.26 or 800.02 may be used
9 to commence an action for a violation of civil laws and ordinances in the court.

10 **(2)** The procedures for issuance and filing of a citation, and for forfeitures,
11 stipulations and deposits in ss. 23.50 to 23.67, 23.75 (3) and (4), 66.119, 778.25,
12 778.26 and 800.01 to 800.04 except s. 800.04 (2) (b), when the citation is issued by
13 a law enforcement officer, shall be used as appropriate, except that this chapter shall
14 govern taking and holding a juvenile in custody, s. 938.37 shall govern costs, penalty
15 assessments and jail assessments, and a *capias* shall be substituted for an arrest
16 warrant. Sections 66.119 (3) (c) and (d), 66.12 (1) and 778.10 as they relate to
17 collection of forfeitures do not apply.

18 **(3)** If a juvenile to whom a citation has been issued does not submit a deposit
19 or a stipulation and deposit, the juvenile shall appear in the court for a plea hearing
20 under s. 938.30 at the date, time and place for the court appearance specified on the
21 citation. If the juvenile does not submit a stipulation and deposit or if the court
22 refuses to accept a deposit unaccompanied by a stipulation, the juvenile may be
23 summoned to appear and the procedures that govern petitions for civil law or
24 ordinance violations under s. 938.125 shall govern all proceedings initiated by a
25 citation, except that the citation shall not be referred to the court intake worker for

1 an intake inquiry. If the court finds that a juvenile violated a municipal ordinance
2 or a civil law punishable by a forfeiture under this section, the court shall enter a
3 dispositional order under s. 938.344, if applicable, or if s. 938.344 does not apply, the
4 court may enter any of the dispositional orders under s. 938.343.

5 SUBCHAPTER V

6 PROCEDURE

7 **938.24 Receipt of jurisdictional information; intake inquiry.** (1) Except
8 when a citation has been issued under s. 938.17 (2), information indicating that a
9 juvenile should be referred to the court as delinquent, in need of protection or
10 services or in violation of a civil law or a county, town or municipal ordinance shall
11 be referred to the intake worker, who shall conduct an intake inquiry on behalf of the
12 court to determine whether the available facts establish prima facie jurisdiction and
13 to determine the best interests of the juvenile and of the public with regard to any
14 action to be taken.

15 (1m) As part of the intake inquiry, the intake worker shall inform the juvenile
16 and the juvenile's parent, guardian and legal custodian that they may request
17 counseling from a person designated by the court to provide dispositional services
18 under s. 938.069.

19 (2) (a) As part of the intake inquiry the intake worker may conduct
20 multidisciplinary screens and intake conferences with notice to the juvenile, parent,
21 guardian and legal custodian. If sub. (2m) applies, the intake worker shall conduct
22 a multidisciplinary screen under s. 938.547 if the juvenile has not refused to
23 participate under par. (b).

1 (b) No juvenile or other person may be compelled to appear at any conference,
2 participate in a multidisciplinary screen, produce any papers or visit any place by an
3 intake worker.

4 **(2m)** (a) In counties that have a pilot program under s. 938.547, a
5 multidisciplinary screen shall be conducted for:

6 1. Any juvenile alleged to have committed a violation specified under ch. 161.

7 2. Any juvenile alleged to be delinquent or in need of protection and services
8 who has at least 2 prior adjudications for a violation of s. 125.07 (4) (a) or (b), 125.085
9 (3) (b) or 125.09 (2) or a local ordinance that strictly conforms to any of those sections.

10 3. Any juvenile alleged to have committed any offense which appears to the
11 intake worker to be directly motivated by the juvenile's need to purchase or otherwise
12 obtain alcohol beverages or controlled substances.

13 4. Any juvenile 12 years of age or older who requests and consents to a
14 multidisciplinary screen.

15 5. Any juvenile who consents to a multidisciplinary screen requested by his or
16 her parents.

17 (b) The multidisciplinary screen may be conducted by an intake worker for any
18 reason other than those specified in the criteria under par. (a).

19 **(3)** If the intake worker determines as a result of the intake inquiry that the
20 juvenile should be referred to the court, the intake worker shall request that the
21 district attorney, corporation counsel or other official specified in s. 938.09 file a
22 petition.

23 **(4)** If the intake worker determines as a result of the intake inquiry that the
24 case should be subject to a deferred prosecution agreement, or should be closed, the
25 intake worker shall so proceed. If a petition has been filed, a deferred prosecution

1 agreement may not be entered into or a case may not be closed unless the petition
2 is withdrawn by the district attorney, corporation counsel or other official specified
3 in s. 938.09, or is dismissed by the judge.

4 (5) The intake worker shall recommend that a petition be filed, enter into a
5 deferred prosecution agreement or close the case within 40 days or sooner of receipt
6 of referral information. If the case is closed or a deferred prosecution agreement is
7 entered into, the district attorney, corporation counsel or other official under s.
8 938.09 shall receive written notice of such action. In addition, if a deferred
9 prosecution agreement is entered into, the judge or juvenile court commissioner shall
10 receive written notice of such action and, on receipt of that notice, shall enter an order
11 requiring compliance with that agreement. A notice of deferred prosecution of an
12 alleged delinquency case shall include a summary of the facts surrounding the
13 allegation and a list of prior intake referrals and dispositions. If a law enforcement
14 officer has made a recommendation concerning the juvenile, the intake worker shall
15 forward this recommendation to the district attorney under s. 938.09.
16 Notwithstanding the requirements of this section, the district attorney may initiate
17 a delinquency petition under s. 938.25 within 20 days after notice that the case has
18 been closed or that a deferred prosecution agreement has been entered into. The
19 judge shall grant appropriate relief as provided in s. 938.315 (3) with respect to any
20 such petition which is not referred or filed within the time limits specified within this
21 subsection.

22 (6) The intake worker shall perform his or her responsibilities under this
23 section under general written policies which the judge shall promulgate under s.
24 938.06 (1) or (2).

1 (7) If a citation is issued to a juvenile, the citation shall not be the subject of
2 an intake inquiry or a review by an intake worker for the purpose of recommending
3 deferred prosecution.

4 **938.243 Basic rights: duty of intake worker.** (1) Before conferring with
5 the parent or juvenile during the intake inquiry, the intake worker shall personally
6 inform a juvenile alleged to have committed a delinquent act, and parents and
7 juveniles 10 years of age or over who are the focus of an inquiry regarding the need
8 for protection or services under s. 938.13 (4), (6), (6m) or (7), of all of the following:

9 (ag) That the referral may result in a petition to the court.

10 (am) What allegations could be in the petition to the court.

11 (b) The nature and possible consequences of the proceedings including the
12 provisions of ss. 938.17, 938.18 and 938.366 if applicable.

13 (c) The right to remain silent and the fact that in a delinquency proceeding the
14 silence of the juvenile shall not be adversely considered by the court although the
15 silence of any party may be relevant in any nondelinquency proceeding.

16 (d) The right to confront and cross-examine those appearing against them.

17 (e) The right to counsel under s. 938.23.

18 (f) The right to present and subpoena witnesses.

19 (h) The right to have the allegations of the petition proved by clear and
20 convincing evidence unless the juvenile comes within the court's jurisdiction under
21 s. 938.12 or 938.13 (12), in which case the standard of proof shall be beyond a
22 reasonable doubt.

23 (1m) If the juvenile who is the subject of the intake inquiry is alleged to have
24 committed an act which resulted in personal injury or damage to or loss of the
25 property of another, the intake worker shall inform the juvenile's parents in writing

1 of the possibility of disclosure of the identity of the juvenile and the parents, of the
2 juvenile's police records and of the outcome of proceedings against the juvenile for
3 use in civil actions for damages against the juvenile or the parents and of the parents'
4 potential liability for acts of their juveniles.

5 (2) This section does not apply if the juvenile was present at a hearing under
6 s. 938.21.

7 (3) If the juvenile has not had a hearing under s. 938.21 and was not present
8 at an intake conference under s. 938.24, the intake worker shall inform the juvenile,
9 parent, guardian and legal custodian as appropriate of their basic rights under this
10 section. This notice shall be given verbally, either in person or by telephone, and in
11 writing. This notice shall be given so as to allow the juvenile, parent, guardian or
12 legal custodian sufficient time to prepare for the plea hearing. This subsection does
13 not apply to cases of deferred prosecution under s. 938.245.

14 **938.245 Deferred prosecution.** (1) The intake worker may enter into a
15 written deferred prosecution agreement with all parties as provided in this section
16 if the intake worker has determined that neither the interests of the juvenile nor of
17 the public require filing of a petition for circumstances relating to s. 938.12, 938.125
18 or 938.13. Deferred prosecution shall be available only if the facts persuade the
19 intake worker that the jurisdiction of the court, if sought, would exist and upon
20 consent of the juvenile, parent, guardian and legal custodian.

21 (2) (a) A deferred prosecution agreement may provide for any one or more of
22 the following:

23 1. That the juvenile and the juvenile's parent, guardian or legal custodian
24 participate in individual, family or group counseling and that the parent, guardian
25 or legal custodian participate in parenting skills training.

1 2. That the juvenile and a parent, guardian and legal custodian abide by such
2 obligations, including supervision, curfews and school attendance requirements, as
3 will tend to ensure the juvenile's rehabilitation, protection or care.

4 3. That the juvenile submit to an alcohol and other drug abuse assessment that
5 conforms to the criteria specified under s. 938.547 (4) and that is conducted by an
6 approved treatment facility for an examination of the juvenile's use of alcohol
7 beverages or controlled substances and any medical, personal, family or social effects
8 caused by its use, if the multidisciplinary screen conducted under s. 938.24 (2) shows
9 that the juvenile is at risk of having needs and problems related to the use of alcohol
10 beverages or controlled substances and its medical, personal, family or social effects.

11 4. That the juvenile participate in an alcohol and other drug abuse outpatient
12 treatment program, a court-approved pupil assistance program provided by the
13 juvenile's school board or a court-approved alcohol or other drug abuse education
14 program, if an alcohol and other drug abuse assessment conducted under subd. 3.
15 recommends outpatient treatment, intervention or education. The juvenile's
16 participation in a court-approved pupil assistance program under this subdivision
17 is subject to the approval of the juvenile's school board.

18 5. a. That the juvenile participate in a restitution project if the juvenile has
19 attained the age of 10 and the act for which the deferred prosecution agreement is
20 being entered into has resulted in damage to the property of another, or in actual
21 physical injury to another excluding pain and suffering. Subject to subd. 5. c., the
22 deferred prosecution agreement may require the juvenile to repair the damage to
23 property or to make reasonable restitution for the damage or injury if the intake
24 worker, after taking into consideration the well-being and needs of the victim,
25 considers it beneficial to the well-being and behavior of the juvenile. Any such

1 deferred prosecution agreement shall include a determination that the juvenile
2 alone is financially able to pay and may allow up to the date of the expiration of the
3 deferred prosecution agreement for the payment.

4 b. In addition to any other employment or duties permitted under ch. 103 or
5 any rule or order under ch. 103, a juvenile who is 10 to 13 years of age who is
6 participating in a restitution project provided by the county may, for the purpose of
7 making restitution, be employed or perform any duties under any circumstances in
8 which a juvenile 14 or 15 years of age is permitted to be employed or to perform duties
9 under ch. 103 or any rule or order under ch. 103.

10 c. Under this subdivision, a deferred prosecution agreement may not require
11 a juvenile who is 10 to 13 years of age to make more than \$250 in restitution.

12 6. If the juvenile has attained the age of 10, that the juvenile participate in a
13 supervised work program or other community service work in accordance with s.
14 938.34 (5g) (a).

15 7. That the juvenile be placed with a volunteers in probation program under
16 such conditions as the intake worker determines are reasonable and appropriate, if
17 the juvenile is alleged to have committed an act that would constitute a misdemeanor
18 if committed by an adult, if the chief judge of the judicial administrative district has
19 approved under s. 973.11 (2) a volunteers in probation program established in the
20 juvenile's county of residence and if the intake worker determines that volunteer
21 supervision under that volunteers in probation program will likely benefit the
22 juvenile and the community. The conditions that the intake worker may establish
23 under this subdivision may include, but need not be limited to, a request to a
24 volunteer to provide for the juvenile a role model, informal counseling, general
25 monitoring and monitoring of the conditions established by the intake worker, or any

1 combination of these functions, and any other deferred prosecution condition that
2 the intake worker may establish under this paragraph.

3 (b) A deferred prosecution agreement may not include any form of residential
4 placement and may not exceed one year.

5 (c) If the deferred prosecution agreement provides for alcohol and other drug
6 abuse outpatient treatment under par. (a) 4., the juvenile and the juvenile's parent,
7 guardian or legal custodian shall execute an informed consent form that indicates
8 that they are voluntarily and knowingly entering into a deferred prosecution
9 agreement for the provision of alcohol and other drug abuse outpatient treatment.

10 **(3)** The obligations imposed under a deferred prosecution agreement and its
11 effective date shall be set forth in writing. The judge or juvenile court commissioner
12 shall receive written notice that a deferred prosecution agreement has been entered
13 into and, on receipt of that notice, shall enter an order requiring compliance with that
14 agreement. The juvenile and a parent, guardian and legal custodian shall receive
15 a copy of the agreement and order, as shall any agency providing services under the
16 agreement.

17 **(4)** The intake worker shall inform the juvenile and the juvenile's parent,
18 guardian and legal custodian in writing of their right to request the court to
19 terminate the deferred prosecution agreement at any time or object at any time to
20 the fact or terms of the deferred prosecution agreement. If an objection arises the
21 intake worker may alter the terms of the agreement or recommend to the district
22 attorney or corporation counsel that a petition be filed. If the deferred prosecution
23 agreement is terminated the intake worker may recommend to the district attorney
24 or corporation counsel that a petition be filed.

1 **(5)** A deferred prosecution agreement may be terminated by the court upon the
2 request of the juvenile, parent, guardian or legal custodian.

3 **(6)** A deferred prosecution agreement arising out of an alleged delinquent act
4 is terminated if the district attorney files a delinquency petition within 20 days after
5 receipt of notice of the deferred prosecution agreement under s. 938.24 (5). In such
6 case statements made to the intake worker during the intake inquiry are
7 inadmissible.

8 **(7) (a)** If at any time during the period of a deferred prosecution agreement the
9 intake worker determines that the obligations imposed under it are not being met,
10 the intake worker may cancel the deferred prosecution agreement. Within 10 days
11 after the cancellation of the deferred prosecution agreement, the intake worker shall
12 notify the district attorney, corporation counsel or other official under s. 938.09 of the
13 cancellation and recommend whether or not a petition should be filed. In
14 delinquency cases, the district attorney may initiate a petition within 20 days after
15 the date of the notice regardless of whether the intake worker has recommended that
16 a petition be filed. The judge shall grant appropriate relief as provided in s. 938.315
17 (3) with respect to any petition which is not filed within the time limit specified in
18 this subsection.

19 **(b)** In addition to the action taken under par. (a), if the intake worker cancels
20 a deferred prosecution agreement based on a determination that the juvenile's
21 parent, guardian or legal custodian is not meeting the obligations imposed under the
22 agreement, the intake worker shall recommend to the district attorney, corporation
23 counsel or other official under s. 938.09 whether or not a petition should be filed
24 requesting the court to order the juvenile's parent, guardian or legal custodian to
25 show good cause for not meeting the obligations imposed under the agreement. If the

1 district attorney, corporation counsel or other official under s. 938.09 files a petition
2 under this paragraph and if the court finds prosecutive merit for the petition, the
3 court shall grant an order directing the parent, guardian or legal custodian to show
4 good cause, at a time and place fixed by the court, for not meeting the obligations
5 imposed under the agreement. If the parent, guardian or legal custodian does not
6 show good cause for not meeting the obligations imposed under the agreement, the
7 court may impose a forfeiture not to exceed \$1,000.

8 (8) If the obligations imposed under the deferred prosecution agreement are
9 met, the intake worker shall so inform the juvenile and a parent, guardian and legal
10 custodian in writing, and no petition may be filed or citation issued on the charges
11 that brought about the deferred prosecution agreement nor may the charges be the
12 sole basis for a petition under s. 48.13, 48.14 or 938.13.

13 (9) The intake worker shall perform his or her responsibilities under this
14 section under general written policies which the judge shall promulgate under s.
15 938.06 (1) or (2).

16 **938.25 Petition: authorization to file.** (1) A petition initiating proceedings
17 under this chapter shall be signed by a person who has knowledge of the facts alleged
18 or is informed of them and believes them to be true. If a petition under s. 938.12 is
19 to be filed, it shall be prepared, signed and filed by the district attorney. The district
20 attorney, corporation counsel or other appropriate official specified under s. 938.09
21 may file the petition if the proceeding is under s. 938.125 or 938.13. The counsel or
22 guardian ad litem for a parent, relative, guardian or juvenile may file a petition
23 under s. 938.13.

24 (2) (a) The district attorney, corporation counsel or other appropriate official
25 shall file the petition, close the case, or refer the case back to intake within 20 days

1 after the date that the intake worker's recommendation was filed. A referral back
2 to intake may be made only when the district attorney, corporation counsel or other
3 appropriate official decides not to file a petition or determines that further
4 investigation is necessary. If the case is referred back to intake upon a decision not
5 to file a petition, the intake worker shall close the case or enter into a deferred
6 prosecution agreement within 20 days. If the case is referred back to intake for
7 further investigation, the appropriate agency or person shall complete the
8 investigation within 20 days. If another referral is made to the district attorney,
9 corporation counsel or other appropriate official, it shall be considered a new referral
10 to which the time limits of this subsection shall apply. The time limits in this
11 subsection may only be extended by a judge upon a showing of good cause under s.
12 938.315. If a petition is not filed within the time limitations set forth in this
13 subsection and the court has not granted an extension, the petition shall be
14 accompanied by a statement of reasons for the delay. The court shall grant
15 appropriate relief as provided in s. 938.315 (3) with respect to a petition which is not
16 filed within the time limits specified in this paragraph.

17 (b) In delinquency cases where there has been a case closure or deferred
18 prosecution agreement, the petition shall be filed within 20 days of receipt of the
19 notice of closure or deferred prosecution. Failure to file within 20 days invalidates
20 the petition and affirms the case closure or deferred prosecution agreement, except
21 that the court shall grant appropriate relief as provided in s. 938.315 (3) with respect
22 to a petition that is not filed within the time limit specified in this paragraph. If a
23 petition is filed within 20 days or the time permitted by the court under s. 938.315
24 (3), whichever is later, the district attorney shall notify the parties to the agreement
25 and the intake worker as soon as possible.

1 (3) If the district attorney, corporation counsel or other appropriate official
2 under s. 938.09 refuses to file a petition, any person may request the judge to order
3 that the petition be filed and a hearing shall be held on the request. The judge may
4 order the filing of the petition on his or her own motion. The matter may not be heard
5 by the judge who orders the filing of a petition.

6 (4) Section 939.74 applies to delinquency petitions filed under this subchapter.

7 (5) A citation issued under s. 938.17 (2) may serve as the initial pleading and
8 is sufficient to confer the court with jurisdiction over the juvenile when the citation
9 is filed with the court.

10 (6) If a proceeding is brought under s. 938.13, any party to or any governmental
11 or social agency involved in the proceeding may petition the court to issue a
12 temporary restraining order and injunction as provided in s. 813.122 or 813.125. The
13 court shall follow the procedure under s. 813.122 or 813.125 except that the court
14 may combine hearings authorized under s. 813.122 or 813.125 and this chapter, the
15 petitioner for the temporary restraining order and injunction is not subject to the
16 limitations under s. 813.122 (2) or 813.125 (2) and no fee is required regarding the
17 filing of the petition under s. 813.122 or 813.125.

18 **938.255 Petition; form and content.** (1) A petition initiating proceedings
19 under this chapter, other than a petition initiating proceedings under s. 938.12 or
20 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a person under the
21 age of 18". A petition initiating proceedings under s. 938.12 or 938.13 (12) shall be
22 entitled, "In the interest of (juvenile's name), a person under the age of 17". A petition
23 initiating proceedings under this chapter shall set forth with specificity all of the
24 following:

25 (a) The name, birth date and address of the juvenile.

1 (b) The names and addresses of the juvenile's parent, guardian, legal custodian
2 or spouse, if any; or if no such person can be identified, the name and address of the
3 nearest relative.

4 (c) Whether the juvenile is in custody, and, if so, the place where the juvenile
5 is being held and the time he or she was taken into custody unless there is reasonable
6 cause to believe that such disclosure would result in imminent danger to the juvenile
7 or physical custodian.

8 (d) If violation of a criminal statute, an ordinance or another law is alleged, the
9 citation to the appropriate law or ordinance as well as facts sufficient to establish
10 probable cause that an offense has been committed and that the juvenile named in
11 the petition committed the offense.

12 (e) If the juvenile is alleged to come within the provisions of s. 938.13 (4), (6),
13 (6m), (7) or (14), reliable and credible information which forms the basis of the
14 allegations necessary to invoke the jurisdiction of the court and to provide reasonable
15 notice of the conduct or circumstances to be considered by the court together with a
16 statement that the juvenile is in need of supervision, services, care or rehabilitation.

17 **(2)** If any of the facts in sub. (1) (a), (b) or (c) are not known or cannot be
18 ascertained by the petitioner, the petition shall so state.

19 **(3)** If the information required under sub. (1) (d) or (e) is not stated the petition
20 shall be dismissed or amended under s. 938.263 (2).

21 **(4)** A copy of the petition shall be given to the juvenile and to the parents,
22 guardian, legal custodian and physical custodian.

23 **938.263 Amendment of petition.** (1) Except as provided in s. 938.255 (3),
24 no petition, process or other proceeding may be dismissed or reversed for any error
25 or mistake if the case and the identity of the juvenile named in the petition may be

1 readily understood by the court; and the court may order an amendment curing the
2 defects.

3 (2) With reasonable notification to the interested parties and prior to the
4 taking of a plea under s. 938.30, the petition may be amended at the discretion of the
5 court or person who filed the petition. After the taking of a plea, the court may allow
6 amendment of the petition to conform to the proof if the amendment is not prejudicial
7 to the juvenile.

8 **938.27 Notice; summons.** (1) After a citation is issued or a petition has been
9 filed relating to facts concerning a situation specified under s. 938.12, 938.125 or
10 938.13, unless the parties under sub. (3) voluntarily appear, the court may issue a
11 summons requiring the parent, guardian and legal custodian of the juvenile to
12 appear personally at any hearing involving the juvenile, and, if the court so orders,
13 to bring the juvenile before the court at a time and place stated.

14 (2) Summons may be issued requiring the appearance of any other person
15 whose presence, in the opinion of the court, is necessary.

16 (3) (a) The court shall also notify, under s. 938.273, the juvenile and any parent,
17 guardian and legal custodian of the juvenile of all hearings involving the juvenile
18 under this subchapter, except hearings on motions for which notice need only be
19 provided to the juvenile and his or her counsel. Where parents entitled to notice have
20 the same place of residence, notice to one shall constitute notice to the other. The first
21 notice to any interested party shall be written and have a copy of the petition
22 attached to it. Thereafter, notice of hearings may be given by telephone at least 72
23 hours before the time of the hearing. The person giving telephone notice shall place
24 in the case file a signed statement of the time notice was given and the person to
25 whom he or she spoke.

1 (b) 1. Except as provided in subd. 2., if the petition that was filed relates to facts
2 concerning a situation under s. 938.13 and if the juvenile is a nonmarital child who
3 is not adopted or whose parents do not subsequently intermarry as provided under
4 s. 767.60 and if paternity has not been established, the court shall notify, under s.
5 938.273, all of the following persons:

6 a. A person who has filed a declaration of interest under s. 48.025.

7 b. A person alleged to the court to be the father of the juvenile or who may, based
8 on the statements of the mother or other information presented to the court, be the
9 father of the juvenile.

10 2. A court is not required to provide notice, under subd. 1., to any person who
11 may be the father of a juvenile conceived as a result of a sexual assault if a physician
12 attests to his or her belief that there was a sexual assault of the juvenile's mother that
13 may have resulted in the juvenile's conception.

14 (4) The notice shall:

15 (a) Contain the name of the juvenile, and the nature, location, date and time
16 of the hearing.

17 (b) Advise the juvenile and any other party, if applicable, of his or her right to
18 legal counsel regardless of ability to pay.

19 (4m) The district attorney or corporation counsel shall attempt to contact any
20 known victim or alleged victim of a juvenile's act or alleged act and any known family
21 member of a homicide victim or alleged homicide victim to inform them of the right
22 to receive notice of any hearing under this chapter involving the juvenile. If a victim,
23 alleged victim or family member of a homicide victim or of an alleged homicide victim
24 indicates that he or she wishes to receive notice of any hearing under this chapter
25 involving the juvenile, the district attorney or corporation counsel shall notify, under

1 s. 938.273, that victim, alleged victim or family member of any hearing under this
2 chapter involving the juvenile. Any failure to comply with this subsection is not a
3 ground for an appeal of a judgment or dispositional order or for any court to reverse
4 or modify a judgment or dispositional order.

5 (5) The court shall make every reasonable effort to identify and notify any
6 person who has filed a declaration of interest under s. 48.025 and any person who has
7 been adjudged to be the biological father of the juvenile in a judicial proceeding
8 unless the biological father's rights have been terminated.

9 (7) When a citation has been issued under s. 938.17 (2) and the juvenile's parent
10 or guardian has been notified of the citation, subs. (3) and (4) do not apply.

11 (8) When a petition is filed under s. 938.12 or 938.13, the court shall notify, in
12 writing, the juvenile's parents or guardian that they may be ordered to reimburse
13 this state or the county for the costs of legal counsel provided for the juvenile, as
14 provided under s. 938.275 (2).

15 **938.273 Service of summons or notice; expense.** (1) Service of summons
16 or notice required by s. 938.27 may be made by mailing a copy thereof to the persons
17 summoned or notified. If the persons, other than a person specified in s. 938.27 (4m),
18 fail to appear at the hearing or otherwise to acknowledge service, a continuance shall
19 be granted, except where the court determines otherwise because the juvenile is in
20 secure custody, and service shall be made personally by delivering to the persons a
21 copy of the summons or notice; except that if the court is satisfied that it is
22 impracticable to serve the summons or notice personally, it may make an order
23 providing for the service of the summons or notice by certified mail addressed to the
24 last-known addresses of the persons. The court may refuse to grant a continuance
25 when the juvenile is being held in secure custody, but in such a case the court shall

1 order that service of notice of the next hearing be made personally or by certified mail
2 to the last-known address of the person who failed to appear at the hearing.
3 Personal service shall be made at least 72 hours before the time of the hearing. Mail
4 shall be sent at least 7 days before the time of the hearing, except where the petition
5 is filed under s. 938.13 and the person to be notified lives outside the state, in which
6 case the mail shall be sent at least 14 days before the time of the hearing.

7 (2) Service of summons or notice required by this subchapter may be made by
8 any suitable person under the direction of the court. Notification of the victim or
9 alleged victim of a juvenile's act or of a family member of a homicide victim or of an
10 alleged homicide victim under s. 938.27 (4m) shall be made by the district attorney
11 or corporation counsel.

12 (3) The expenses of service of summons or notice or of the publication of
13 summons or notice and the traveling expenses and fees as allowed in ch. 885 incurred
14 by any person summoned or required to appear at the hearing of any case coming
15 within the jurisdiction of the court under s. 938.12, 938.125 or 938.13 shall be a
16 charge on the county when approved by the court.

17 **938.275 Parents' contribution to cost of court and legal services. (1)**
18 If the court finds a juvenile to be delinquent under s. 938.12, in violation of a civil law
19 or ordinance under s. 938.125 or in need of protection or services under s. 938.13, the
20 court shall order the parents of the juvenile to contribute toward the expense of
21 post-adjudication services to the juvenile the proportion of the total amount which
22 the court finds the parents are able to pay.

23 (2) (a) If this state or a county provides legal counsel to a juvenile subject to a
24 proceeding under s. 938.12 or 938.13, the court shall order the juvenile's parent to
25 provide a statement of income, assets and living expenses to the county department

1 and shall order that parent to reimburse the state or county in accordance with par.
2 (b) or (c). The court may not order reimbursement if a parent is the complaining or
3 petitioning party or if the court finds that the interests of the parent and the interests
4 of the juvenile in the proceeding are substantially and directly adverse and that
5 reimbursement would be unfair to the parent. The court may not order
6 reimbursement until the completion of the proceeding or until the state or county is
7 no longer providing the juvenile with legal counsel in the proceeding.

8 (b) If this state provides the juvenile with legal counsel and the court orders
9 reimbursement under par. (a), the county department shall determine whether the
10 parent is indigent as provided under s. 977.07 and shall determine the amount of
11 reimbursement. If the parent is found not to be indigent, the amount of
12 reimbursement shall be the maximum amount established by the public defender
13 board. If the parent is found to be indigent in part, the amount of reimbursement
14 shall be the amount of partial payment determined in accordance with the rules of
15 the public defender board under s. 977.02 (3).

16 (c) If the county provides the juvenile with legal counsel and the court orders
17 reimbursement under par. (a), the court shall either make a determination of
18 indigency or shall appoint the county department to make the determination. If the
19 court or the county department finds that the parent is not indigent or is indigent
20 in part, the court shall establish the amount of reimbursement and shall order the
21 parent to pay it.

22 (cg) The court shall, upon motion by a parent, hold a hearing to review any of
23 the following:

- 24 1. An indigency determination made under par. (b) or (c).
- 25 2. The amount of reimbursement ordered.

1 3. The court's finding, under par. (a), that the interests of the parent and the
2 juvenile are not substantially and directly adverse and that ordering the payment
3 of reimbursement would not be unfair to the parent.

4 (cr) Following a hearing under par. (cg), the court may affirm, rescind or modify
5 the reimbursement order.

6 (d) Reimbursement payments shall be made to the clerk of court of the county
7 where the proceedings took place. Each payment shall be transmitted to the county
8 treasurer, who shall deposit 50% of the amount paid for state-provided counsel in the
9 county treasury and transmit the remainder to the state treasurer for deposit in the
10 general fund. The county treasurer shall deposit 100% of the amount paid for
11 county-provided counsel in the county treasury.

12 (dm) Within 30 days after each calendar quarter, the clerk of court for each
13 county shall report to the state public defender all of the following:

14 1. The total amount of reimbursement determined or ordered under par. (b) or
15 (cr) for state-provided counsel during the previous calendar quarter.

16 2. The total amount collected under par. (d) for state-provided counsel during
17 the previous calendar quarter.

18 (e) A person who fails to comply with an order under par. (b) or (c) may be
19 proceeded against for contempt of court under ch. 785.

20 **(3)** This section does not apply to the parents of a person who is subject to s.
21 938.366 with respect to the costs of the person's legal representation for a hearing
22 under s. 938.366.

23 **938.28 Failure to obey summons; capias.** If any person summoned under
24 this subchapter fails without reasonable cause to appear, he or she may be proceeded
25 against for contempt of court. In case the summons cannot be served or the parties

1 served fail to obey the same, or in any case when it appears to the court that the
2 service will be ineffectual a capias may be issued for the parent or guardian or for the
3 juvenile. Subchapter IV governs the taking and holding of a juvenile in custody.

4 **938.29 Substitution of judge.** (1) Except as provided in sub. (1g), the
5 juvenile, either before or during the plea hearing, may file a written request with the
6 clerk of the court or other person acting as the clerk for a substitution of the judge
7 assigned to the proceeding. Upon filing the written request, the juvenile shall
8 immediately mail or deliver a copy of the request to the judge named therein. In a
9 proceeding under s. 938.12 or 938.13 (12), only the juvenile may request a
10 substitution of the judge. Whenever the juvenile has the right to request a
11 substitution of judge, the juvenile's counsel or guardian ad litem may file the request.
12 Not more than one such written request may be filed in any one proceeding, nor may
13 any single request name more than one judge. This section shall not apply to
14 proceedings under s. 938.21.

15 (1g) The juvenile may not request the substitution of a judge in a proceeding
16 under s. 938.12 or 938.13 (12), and the juvenile and the juvenile's parent, guardian
17 or legal custodian may not request the substitution of a judge in a proceeding under
18 s. 938.13 (4), (6), (6m) or (7), if the judge assigned to the proceeding has entered a
19 dispositional order with respect to the child in a previous proceeding under s. 938.12
20 or 938.13 (4), (6), (6m), (7) or (12).

21 (1m) When the clerk receives a request for substitution, the clerk shall
22 immediately contact the judge whose substitution has been requested for a
23 determination of whether the request was made timely and in proper form. Except
24 as provided in sub. (2), if the request is found to be timely and in proper form, the
25 judge named in the request has no further jurisdiction and the clerk shall request

1 the assignment of another judge under s. 751.03. If no determination is made within
2 7 days, the clerk shall refer the matter to the chief judge of the judicial administrative
3 district for determination of whether the request was made timely and in proper form
4 and reassignment as necessary.

5 (2) If the request for substitution of a judge is made for the judge scheduled to
6 conduct a waiver hearing under s. 938.18, the request shall be filed before the close
7 of the working day preceding the day that the waiver hearing is scheduled. Except
8 as provided in sub. (1g), the judge may allow an authorized party to make a request
9 for substitution on the day of the waiver hearing. If the request for substitution is
10 made subsequent to the waiver hearing, the judge who conducted the waiver hearing
11 may also conduct the plea hearing.

12 **938.293 Discovery.** (1) Copies of all law enforcement officer reports,
13 including but not limited to the officer's memorandum and witnesses' statements,
14 shall be made available upon request to counsel or guardian ad litem prior to a plea
15 hearing. The reports shall be available through the representative of the public
16 designated under s. 938.09. The juvenile, through counsel or guardian ad litem, is
17 the only party who shall have access to the reports in proceedings under s. 938.12,
18 938.125 or 938.13 (12). The identity of a confidential informant may be withheld
19 pursuant to s. 905.10.

20 (2) All records relating to a juvenile which are relevant to the subject matter
21 of a proceeding under this subchapter shall be open to inspection by a guardian ad
22 litem or counsel for any party, upon demand and upon presentation of releases where
23 necessary, at least 48 hours before the proceeding. Persons entitled to inspect the
24 records may obtain copies of the records with the permission of the custodian of the
25 records or with the permission of the court. The court may instruct counsel not to

1 disclose specified items in the materials to the juvenile or the parent if the court
2 reasonably believes that the disclosure would be harmful to the interests of the
3 juvenile. Sections 971.23 to 971.25 and 972.11 (5) shall be applicable in all
4 delinquency proceedings under this subchapter, except that the court shall establish
5 the timetable for ss. 971.23 (3), (8) and (9) and 972.11 (5).

6 (3) Upon request prior to the fact-finding hearing, the district attorney shall
7 disclose to the juvenile, and to the juvenile's counsel or guardian ad litem, the
8 existence of any videotaped oral statement of a juvenile under s. 908.08 which is
9 within the possession, custody or control of the state and shall make reasonable
10 arrangements for the requesting person to view the videotaped oral statement. If,
11 subsequent to compliance with this subsection, the state obtains possession, custody
12 or control of such a videotaped statement, the district attorney shall promptly notify
13 the requesting person of that fact and make reasonable arrangements for the
14 requesting person to view the videotaped oral statement.

15 **938.295 Physical, psychological, mental or developmental**
16 **examination.** (1) After the filing of a petition and upon a finding by the court that
17 reasonable cause exists to warrant an examination or an alcohol and other drug
18 abuse assessment that conforms to the criteria specified under s. 938.547 (4), the
19 court may order any juvenile coming within its jurisdiction to be examined as an
20 outpatient by personnel in an approved treatment facility for alcohol and other drug
21 abuse, by a physician, psychiatrist or licensed psychologist, or by another expert
22 appointed by the court holding at least a master's degree in social work or another
23 related field of child development, in order that the juvenile's physical, psychological,
24 alcohol or other drug dependency, mental or developmental condition may be
25 considered. The court may also order an examination or an alcohol and other drug

1 abuse assessment that conforms to the criteria specified under s. 938.547 (4) of a
2 parent, guardian or legal custodian whose ability to care for a juvenile is at issue
3 before the court. The court shall hear any objections by the juvenile and the juvenile's
4 parents, guardian or legal custodian to the request for such an examination or
5 assessment before ordering the examination or assessment. The expenses of an
6 examination, if approved by the court, shall be paid by the county of the court
7 ordering the examination. The payment for an alcohol and other drug abuse
8 assessment shall be in accordance with s. 938.361.

9 **(1c)** Reasonable cause is considered to exist to warrant an alcohol and other
10 drug abuse assessment under sub. (1) if any of the following applies:

11 (a) The multidisciplinary screen procedure conducted under s. 938.24 (2)
12 indicates that the juvenile is at risk of having needs and problems related to alcohol
13 or other drug abuse.

14 (b) The juvenile was adjudicated delinquent on the basis of an offense specified
15 in ch. 161.

16 (c) The greater weight of the evidence at the fact-finding hearing indicates that
17 any offense which formed the basis for the adjudication was motivated by the
18 juvenile's need to purchase or otherwise obtain alcohol beverages or controlled
19 substances.

20 **(1g)** If the court orders an alcohol or other drug abuse assessment under sub.
21 (1), the approved treatment facility shall, within 14 days after the court order, report
22 the results of the assessment to the court, except that, upon request by the approved
23 treatment facility and if the juvenile is not held in secure or nonsecure custody, the
24 court may extend the period for assessment for not more than 20 additional working
25 days. The report shall include a recommendation as to whether the juvenile is in

1 need of treatment, intervention or education relating to the use or abuse of alcohol
2 beverages or controlled substances and, if so, shall recommend a service plan and
3 appropriate treatment from an approved treatment facility, intervention from a
4 court-approved pupil assistance program or education from a court-approved
5 alcohol or other drug abuse education program.

6 (2) (a) If there is probable cause to believe that the juvenile has committed the
7 alleged offense and if there is reason to doubt the juvenile's competency to proceed,
8 or upon entry of a plea under s. 938.30 (4) (c) the court shall order the juvenile to be
9 examined by a psychiatrist or licensed psychologist. The expenses of an
10 examination, if approved by the court, shall be paid by the county of the court
11 ordering the examination. Evaluation shall be made on an outpatient basis unless
12 the juvenile presents a substantial risk of physical harm to the juvenile or others; or
13 the juvenile, parent or guardian, and legal counsel or guardian ad litem consent to
14 an inpatient evaluation. Any inpatient evaluation shall be for a specified period that
15 is no longer than is necessary to complete the evaluation.

16 (b) The examiner shall file a report of the examination with the court by the
17 date specified in the order. The court shall cause copies to be transmitted to the
18 district attorney or corporation counsel and to the juvenile's counsel or guardian ad
19 litem. The report shall describe the nature of the examination and identify the
20 persons interviewed, the particular records reviewed and any tests administered to
21 the juvenile. If the examination is ordered following a plea under s. 938.30 (4) (c),
22 the report shall also contain an opinion regarding whether the juvenile suffered from
23 mental disease or defect at the time of the commission of the act alleged in the
24 petition and, if so, whether this caused the juvenile to lack substantial capacity to
25 appreciate the wrongfulness of his or her conduct or to conform his or her conduct to

1 the requirements of the law. If the examination is ordered following a finding that
2 there is probable cause to believe that the juvenile has committed the alleged offense
3 and that there is reason to doubt the juvenile's competency to proceed, the report
4 shall also contain an opinion regarding the juvenile's present mental capacity to
5 understand the proceedings and assist in his or her defense and, if the examiner
6 reports that the juvenile lacks competency to proceed, the examiner's opinion
7 regarding the likelihood that the juvenile, if provided treatment, may be restored to
8 competency within the time specified in s. 938.30 (5) (e) 1. The report shall also state
9 in reasonable detail the facts and reasoning upon which the examiner's opinions are
10 based.

11 (3) If the juvenile or a parent objects to a particular physician, psychiatrist,
12 licensed psychologist or other expert as required under this section, the court shall
13 appoint a different physician, psychiatrist, psychologist or other expert as required
14 under this section.

15 (4) Motions or objections under this section may be heard under s. 807.13.

16 **938.296 Testing for HIV infection and certain diseases.** (1) In this
17 section:

18 (a) "Health care professional" has the meaning given in s. 252.15 (1) (am).

19 (b) "HIV" has the meaning given in s. 252.01 (1m).

20 (c) "Sexually transmitted disease" has the meaning given in s. 252.11 (1).

21 (d) "Significantly exposed" has the meaning given in s. 252.15 (1) (em).

22 (2) In a proceeding under s. 938.12 or 938.13 (12) in which the juvenile is
23 alleged to have violated s. 940.225, 948.02, 948.025, 948.05 or 948.06, the district
24 attorney or corporation counsel shall apply to the court for an order requiring the
25 juvenile to submit to a test or a series of tests administered by a health care

1 professional to detect the presence of HIV, antigen or nonantigenic products of HIV,
2 an antibody to HIV or a sexually transmitted disease and to disclose the results of
3 that test or series of tests as specified in sub. (4) (a) to (e), if all of the following apply:

4 (a) The victim or alleged victim, if an adult, or the parent, guardian or legal
5 custodian of the victim or alleged victim, if the victim or alleged victim is a child,
6 requests the district attorney or corporation counsel to apply for that order.

7 (b) The district attorney or corporation counsel has probable cause to believe
8 that the juvenile has significantly exposed the victim or alleged victim. If the
9 juvenile is adjudicated delinquent or found to be in need of protection or services, this
10 paragraph does not apply.

11 (3) The district attorney or corporation counsel may apply for an order under
12 sub. (2) at any of the following times:

13 (a) At or after the plea hearing and before a dispositional order is entered.

14 (b) At any time after the juvenile is adjudicated delinquent or found to be in
15 need of protection or services.

16 (4) On receipt of an application for an order under sub. (2), the court shall set
17 a time for a hearing on the application. If, after hearing, the court finds probable
18 cause to believe that the juvenile has significantly exposed the victim or alleged
19 victim, the court shall order the juvenile to submit to a test or a series of tests
20 administered by a health care professional to detect the presence of HIV, antigen or
21 nonantigenic products of HIV, an antibody to HIV or a sexually transmitted disease.
22 The court shall require the health care professional who performs the test or series
23 of tests to refrain, notwithstanding s. 252.15 (4) (c), from making the test results part
24 of the juvenile's permanent medical record and to disclose the results of the test to
25 any of the following:

- 1 (a) The parent, guardian or legal custodian of the juvenile.
- 2 (b) The victim or alleged victim, if the victim or alleged victim is an adult.
- 3 (c) The parent, guardian or legal custodian of the victim or alleged victim, if the
4 victim or alleged victim is a child.
- 5 (d) The health care professional that provides care for the juvenile, upon
6 request by the parent, guardian or legal custodian of the juvenile.
- 7 (e) The health care professional that provides care for the victim or alleged
8 victim, upon request by the victim or alleged victim or, if the victim or alleged victim
9 is a child, upon request by the parent, guardian or legal custodian of the victim or
10 alleged victim.
- 11 (6) The court may order the county to pay for the cost of a test or series of tests
12 ordered under sub. (4). This subsection does not prevent recovery of reasonable
13 contribution toward the cost of that test or series of tests from the parent or guardian
14 of the juvenile as the court may order based on the ability of the parent or guardian
15 to pay. This subsection is subject to s. 46.03 (18).

16 **938.297 Motions before trial.** (1) Any motion which is capable of
17 determination without trial of the general issue may be made before trial.

18 (2) Defenses and objections based on defects in the institution of proceedings,
19 lack of probable cause on the face of the petition or citation, insufficiency of the
20 petition or citation or invalidity in whole or in part of the statute on which the
21 petition or citation is founded shall be raised not later than 10 days after the plea
22 hearing or be deemed waived. Other motions capable of determination without trial
23 may be brought any time before trial.

24 (3) Motions to suppress evidence as having been illegally seized or statements
25 illegally obtained shall be made before fact-finding on the issues. The court may

1 entertain the motion at the fact-finding hearing if it appears that a party is surprised
2 by the attempt to introduce such evidence and that party waives jeopardy. Only the
3 juvenile may waive jeopardy in cases under s. 938.12, 938.125 or 938.13 (12).

4 (4) Although the taking of a juvenile into custody is not an arrest, it shall be
5 considered an arrest for the purpose of deciding motions which require a decision
6 about the propriety of the taking into custody, including but not limited to motions
7 to suppress evidence as illegally seized, motions to suppress statements as illegally
8 obtained and motions challenging the lawfulness of the taking into custody.

9 (5) If the juvenile is in custody and the court grants a motion to dismiss based
10 upon a defect in the petition or citation or in the institution of the proceedings, the
11 court may order the juvenile continued in custody for not more than 48 hours pending
12 the filing of a new petition or citation.

13 (6) A motion required to be served on a juvenile may be served upon his or her
14 attorney of record.

15 (7) Oral argument permitted on motions under this section may be heard by
16 telephone under s. 807.13 (1).

17 **938.299 Procedures at hearings.** (1) (a) Except as provided in par. (ar), the
18 general public shall be excluded from hearings under this chapter unless a public
19 fact-finding hearing is demanded by a juvenile through his or her counsel. The court
20 shall refuse to grant the public hearing, however, if the victim of an alleged sexual
21 assault objects or, in a nondelinquency proceeding, if a parent or guardian objects.
22 If a public hearing is not held, only the parties, their counsel, witnesses, a
23 representative of the news media who wishes to attend the hearing for the purpose
24 of reporting news without revealing the identity of the child involved and other
25 persons requested by a party and approved by the court may be present. Any other

1 person the court finds to have a proper interest in the case or in the work of the court,
2 including a member of the bar, may be admitted by the court.

3 (am) Subject to s. 906.15, if a public hearing is not held, in addition to persons
4 permitted to attend under par. (a), a victim of a juvenile's act or alleged act may
5 attend any hearing under this chapter based upon the act or alleged act, except that
6 a judge may exclude a victim from any portion of a hearing which deals with sensitive
7 personal matters of the juvenile or the juvenile's family and which does not directly
8 relate to the act or alleged act committed against the victim. A member of the victim's
9 family and, at the request of the victim, a representative of an organization providing
10 support services to the victim, may attend the hearing under this subsection.

11 (ar) Notwithstanding par. (a), the general public may attend any hearing under
12 this chapter relating to a juvenile who has been alleged to be delinquent for
13 committing a violation that would be a felony if committed by an adult if the juvenile
14 has been adjudicated delinquent previously and that previous adjudication remains
15 of record and unreversed or relating to a juvenile who has been alleged to be
16 delinquent for committing a violation specified in s. 939.62 (2m) (a) 1., 2. or 3., except
17 that the court shall exclude the general public from a hearing if the victim of a sexual
18 assault objects and may, in its discretion, exclude the general public from any portion
19 of a hearing which deals with sensitive personal matters of the juvenile or the
20 juvenile's family and which does not relate to the act or alleged act committed by the
21 juvenile or from any other hearing described in this paragraph. If the court excludes
22 the general public from a hearing described in this paragraph, only those persons
23 who are permitted under par. (a) or (am) to attend a hearing from which the general
24 public is excluded may attend.

1 (b) Except as provided in s. 938.396, any person who divulges any information
2 which would identify the juvenile or the family involved in any proceeding under this
3 subchapter is subject to ch. 785. This paragraph does not preclude a victim of the
4 juvenile's act from commencing a civil action based upon the juvenile's act.

5 (4) (a) Chapters 901 to 911 govern the presentation of evidence at the
6 fact-finding hearing under s. 938.31. Section 972.11 (5) applies at fact-finding
7 proceedings in all delinquency proceedings under this chapter.

8 (b) Except as provided in s. 901.05, neither common law nor statutory rules of
9 evidence are binding at a waiver hearing under s. 938.18, a hearing for a juvenile
10 held in custody under s. 938.21, a hearing under s. 938.296 (4) for a juvenile who is
11 alleged to have violated s. 940.225, 948.02, 948.025, 948.05 or 948.06, a dispositional
12 hearing, or a hearing about changes in placement, revision of dispositional orders or
13 extension of dispositional orders. At those hearings, the court shall admit all
14 testimony having reasonable probative value, but shall exclude immaterial,
15 irrelevant or unduly repetitious testimony or evidence that is inadmissible under s.
16 901.05. Hearsay evidence may be admitted if it has demonstrable circumstantial
17 guarantees of trustworthiness. The court shall give effect to the rules of privilege
18 recognized by law. The court shall apply the basic principles of relevancy, materiality
19 and probative value to proof of all questions of fact. Objections to evidentiary offers
20 and offers of proof of evidence not admitted may be made and shall be noted in the
21 record.

22 (5) On request of any party, unless good cause to the contrary is shown, any
23 hearing under s. 938.209 (1) (e) or 938.21 (1) may be held on the record by telephone
24 or live audio-visual means or testimony may be received by telephone or live
25 audio-visual means as prescribed in s. 807.13 (2). The request and the showing of

1 good cause for not conducting the hearing or admitting testimony by telephone or live
2 audio-visual means may be made by telephone.

3 (6) If a man who has been given notice under s. 938.27 (3) (b) 1. appears at any
4 hearing for which he received the notice, alleges that he is the father of the juvenile
5 and states that he wishes to establish the paternity of the juvenile, the court shall
6 refer the matter to the state or to the attorney responsible for support enforcement
7 under s. 59.458 (1) for a determination, under s. 767.45, of whether an action should
8 be brought for the purpose of determining the paternity of the juvenile. The court
9 may stay the proceedings under this chapter pending the outcome of the paternity
10 proceedings under ss. 767.45 to 767.60 if the court determines that the paternity
11 proceedings will not unduly delay the proceedings under this chapter and the
12 determination of paternity is necessary to the court's disposition of the juvenile if the
13 juvenile is found to be in need of protection or services. As part of the proceedings
14 under this chapter, the court may order that a record be made of any testimony of the
15 juvenile's mother relating to the juvenile's paternity. A record made under this
16 subsection is admissible in a proceeding to determine the juvenile's paternity under
17 ss. 767.45 to 767.60.

18 **938.30 Plea hearing.** (1) Except as provided in this subsection, the hearing
19 to determine the juvenile's plea to a citation or a petition under s. 938.12, 938.125
20 or 938.13 (12), or to determine whether any party wishes to contest an allegation that
21 the child is in need of protection or services under s. 938.13 (4), (6), (6m), (7) or (14)
22 shall take place on a date which allows reasonable time for the parties to prepare but
23 is within 30 days after the filing of a petition or issuance of a citation for a juvenile
24 who is not being held in secure custody or within 10 days after the filing of a petition
25 or issuance of a citation for a juvenile who is being held in secure custody. In a

1 municipal court operated jointly by 2 or more cities, towns or villages under s. 755.01
2 (4), the hearing to determine the juvenile's plea shall take place within 45 days after
3 the filing of a petition or issuance of a citation for a juvenile who is not being held in
4 secure custody.

5 (2) At or before the commencement of the hearing under this section the
6 juvenile and the parent, guardian or legal custodian shall be advised of their rights
7 as specified in s. 938.243 and shall be informed that the hearing shall be to the court
8 and that a request for a substitution of judge under s. 938.29 must be made before
9 the end of the plea hearing or be waived. Nonpetitioning parties, including the
10 juvenile, shall be granted a continuance of the plea hearing if they wish to consult
11 with an attorney on the request for a substitution of a judge.

12 (3) If a petition alleges that a juvenile is in need of protection or services under
13 s. 938.13 (4), (6), (6m), (7) or (14), the nonpetitioning parties and the juvenile, if he
14 or she is 12 years of age or older or is otherwise competent to do so, shall state
15 whether they desire to contest the petition.

16 (4) If a delinquency petition under s. 938.12, a civil law or ordinance violation
17 petition or citation under s. 938.125, or a petition alleging that the juvenile is in need
18 of protection or services under s. 938.13 (12) is filed, the juvenile may submit any of
19 the following pleas:

20 (a) Admit some or all of the facts alleged in the petition or citation, however,
21 such a plea is an admission only of the commission of the acts and does not constitute
22 an admission of delinquency.

23 (b) Deny the facts alleged in the petition or citation. If the juvenile stands mute
24 or refuses to plead, the court shall direct entry of a denial of the facts alleged in the
25 petition or citation on the juvenile's behalf.

1 (bm) Plead no contest to the allegations, but only if the court permits the child
2 to enter that plea.

3 (c) Except pursuant to a petition or citation under s. 938.125, state that he or
4 she is not responsible for the acts alleged in the petition by reason of mental disease
5 or defect. This plea shall be joined with an admission under par. (a), a denial under
6 par. (b) or a plea of no contest under par. (bm).

7 (5) (a) If there is probable cause to believe that the juvenile has committed the
8 alleged offense and if there is reason to doubt the juvenile's competency to proceed,
9 or if the juvenile enters a plea of not responsible by reason of mental disease or defect,
10 the court shall order an examination under s. 938.295 and shall specify the date by
11 which the report must be filed in order to give the district attorney or corporation
12 counsel and the juvenile's counsel a reasonable opportunity to review the report. The
13 court shall set a date for hearing as follows:

14 1. If the juvenile admits or pleads no contest to the allegations in the petition,
15 the hearing to determine whether the juvenile was not responsible by reason of
16 mental disease or defect shall be held no more than 10 days from the plea hearing
17 for a juvenile held in secure custody and no more than 30 days from the plea hearing
18 for a juvenile who is not held in secure custody.

19 2. If the juvenile denies the allegations in the petition or citation, the court shall
20 hold a fact-finding hearing on the allegations in the petition or citation as provided
21 under s. 938.31. If, at the end of the fact-finding hearing, the court finds that the
22 allegations in the petition have been proven, the court shall immediately hold a
23 hearing to determine whether the juvenile was not responsible by reason of mental
24 disease or defect.

1 3. If the court has found probable cause to believe that the juvenile has
2 committed the alleged offense and reason to doubt the juvenile's competency to
3 proceed, the hearing to determine whether the juvenile is competent to proceed shall
4 be held no more than 10 days after the plea hearing for a juvenile who is held in
5 secure custody and no more than 30 days after the plea hearing for a juvenile who
6 is not held in secure custody.

7 (b) If the court, after a hearing under par. (a) 1. or 2., finds that the juvenile was
8 responsible, the court shall proceed to a dispositional hearing.

9 (bm) If the court, after a hearing under par. (a) 3., finds that the juvenile is
10 competent to proceed, the court shall resume the delinquency proceeding.

11 (c) If the court finds that the juvenile was not responsible by reason of mental
12 disease or defect, as described under s. 971.15 (1) and (2), the court shall dismiss the
13 petition with prejudice and shall also do one of the following:

14 1. If the court finds that there is probable cause to believe that the juvenile
15 meets the conditions specified under s. 51.20 (1) (a) 1. and 2., order the county
16 department under s. 46.22, 46.23 or 46.215 in the county of the juvenile's residence
17 or the district attorney or corporation counsel who filed the petition under s. 938.12
18 or 938.13 (12) to file a petition under s. 51.20 (1).

19 2. Order the district attorney or corporation counsel who filed the petition
20 under s. 938.12 or 938.13 (12) to file a petition alleging that the juvenile is in need
21 of protection or services under s. 938.13 (14).

22 (d) If the court finds that the juvenile is not competent to proceed, as described
23 in s. 971.13 (1) and (2), the court shall suspend proceedings on the petition and shall
24 also do one of the following:

1 1. If the court finds that there is probable cause to believe that the juvenile
2 meets the conditions specified under s. 51.20 (1) (a) 1. and 2., order the county
3 department under s. 46.22, 46.23 or 46.215 in the county of the juvenile's residence
4 or the district attorney or corporation counsel who filed the petition under s. 938.12
5 or 938.13 (12) to file a petition under s. 51.20 (1).

6 2. Order the district attorney or corporation counsel who filed the petition
7 under s. 938.12 or 938.13 (12) to file a petition alleging that the juvenile is in need
8 of protection or services under s. 938.13 (14).

9 (e) 1. A juvenile who is not competent to proceed, as described in s. 971.13 (1)
10 and (2), but who is likely to become competent to proceed within 12 months or the
11 maximum sentence that may be imposed on an adult for the most serious delinquent
12 act with which the juvenile is charged, whichever is less, and who is committed under
13 s. 51.20 following an order under par. (d) 1. or who is placed under a dispositional
14 order following an order under par. (d) 2., shall be periodically reexamined with
15 written reports of those reexaminations to be submitted to the court every 3 months
16 and within 30 days before the expiration of the juvenile's commitment or
17 dispositional order. Each report shall indicate either that the juvenile has become
18 competent, that the juvenile remains incompetent but that attainment of
19 competence is likely within the remaining period of the commitment or dispositional
20 order or that the juvenile has not made such progress that attainment of competency
21 is likely within the remaining period of the commitment or dispositional order.

22 2. The court shall cause copies of the reports under subd. 1. to be transmitted
23 to the district attorney or corporation counsel and the juvenile's counsel. If a report
24 under subd. 1. indicates that the juvenile has become competent, the court shall hold
25 a hearing within 10 days after the court receives the report to determine whether the

1 juvenile is competent. If the court determines that the juvenile is competent, the
2 court shall terminate the juvenile's commitment or dispositional order and resume
3 the delinquency proceeding.

4 3. If the juvenile is receiving psychotropic medication, the court may make
5 appropriate orders for the continued administration of the psychotropic medication
6 in order to maintain the competence of the juvenile for the duration of the proceeding.

7 (6) If a petition is not contested, the court shall set a date for the dispositional
8 hearing which allows reasonable time for the parties to prepare but is no more than
9 10 days from the plea hearing for a juvenile who is held in secure custody and no more
10 than 30 days from the plea hearing for a juvenile who is not held in secure custody.
11 If it appears to the court that disposition of the case may include placement of the
12 juvenile outside the juvenile's home, the court shall order the juvenile's parent to
13 provide a statement of income, assets, debts and living expenses to the court or the
14 designated agency under s. 938.33 (1) at least 5 days before the scheduled date of the
15 dispositional hearing or as otherwise ordered by the court. The clerk of court shall
16 provide, without charge, to any parent ordered to provide a statement of income,
17 assets, debts and living expenses a document setting forth the percentage standard
18 established by the department under s. 46.25 (9) and listing the factors that a court
19 may consider under s. 46.10 (14) (c). If all parties consent the court may proceed
20 immediately with the dispositional hearing. If a citation is not contested, the court
21 may proceed immediately to enter a dispositional order.

22 (7) If the petition or citation is contested, the court shall set a date for the
23 fact-finding hearing which allows a reasonable time for the parties to prepare but
24 is no more than 20 days from the plea hearing for a juvenile who is held in secure

1 custody and no more than 30 days from the plea hearing for a juvenile who is not held
2 in secure custody.

3 (8) Except when a juvenile fails to appear in response or stipulates to a citation
4 before accepting an admission or plea of no contest of the alleged facts in a petition
5 or citation, the court shall do all of the following:

6 (a) Address the parties present including the juvenile personally and
7 determine that the plea or admission is made voluntarily with understanding of the
8 nature of the acts alleged in the petition or citation and the potential dispositions.

9 (b) Establish whether any promises or threats were made to elicit a plea and
10 alert unrepresented parties to the possibility that a lawyer may discover defenses or
11 mitigating circumstances which would not be apparent to them.

12 (c) Make such inquiries as satisfactorily establish that there is a factual basis
13 for the juvenile's plea or the parent's and juvenile's admission.

14 (9) If a court commissioner conducts the plea hearing and accepts an admission
15 of the alleged facts in a petition brought under s. 938.12 or 938.13, the judge shall
16 review the admission at the beginning of the dispositional hearing by addressing the
17 parties and making the inquiries set forth in sub. (8).

18 (10) The court may permit any party to participate in hearings under this
19 section by telephone or live audio-visual means except a juvenile who intends to
20 admit the facts of the delinquency petition.

21 **938.305 Hearing upon the involuntary removal of a juvenile.**
22 Notwithstanding other time periods for hearings under this chapter, if a juvenile is
23 removed from the physical custody of the juvenile's parent or guardian under s.
24 938.19 (1) (c) or (d) 5. without the consent of the parent or guardian, the court shall
25 schedule a plea hearing and fact-finding hearing within 30 days after a request from

1 the parent or guardian from whom custody was removed. The plea hearing and
2 fact-finding hearing may be combined. This time period may be extended only with
3 the consent of the requesting parent or guardian.

4 **938.31 Fact-finding hearing.** (1) In this section, "fact-finding hearing"
5 means a hearing to determine if the allegations of a petition under s. 938.12 or 938.13
6 (12) are supported beyond a reasonable doubt or a hearing to determine if the
7 allegations in a petition or citation under s. 938.125 or 938.13 (4), (6), (6m), (7) or (14)
8 are proved by clear and convincing evidence.

9 (2) The hearing shall be to the court. If the hearing involves a child victim or
10 witness, as defined in s. 950.02, the court may order the taking and allow the use of
11 a videotaped deposition under s. 967.04 (7) to (10) and, with the district attorney,
12 shall comply with s. 971.105. At the conclusion of the hearing, the court shall make
13 a determination of the facts. If the court finds that the juvenile is not within the
14 jurisdiction of the court or the court finds that the facts alleged in the petition or
15 citation have not been proved, the court shall dismiss the petition or citation with
16 prejudice.

17 (4) The court shall make findings of fact and conclusions of law relating to the
18 allegations of a petition under s. 938.12, 938.125 or 938.13. In cases alleging a
19 juvenile to be delinquent or in need of protection or services under s. 938.13 (12), the
20 court shall make findings relating to the proof of the violation of law and to the proof
21 that the juvenile named in the petition committed the violation alleged.

22 (7) At the close of the fact-finding hearing, the court shall set a date for the
23 dispositional hearing which allows a reasonable time for the parties to prepare but
24 is no more than 10 days after the fact-finding hearing for a juvenile in secure custody
25 and no more than 30 days after the fact-finding hearing for a juvenile not held in

1 secure custody. If it appears to the court that disposition of the case may include
2 placement of the juvenile outside the juvenile's home, the court shall order the
3 juvenile's parent to provide a statement of income, assets, debts and living expenses
4 to the court or the designated agency under s. 938.33 (1) at least 5 days before the
5 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
6 clerk of court shall provide, without charge, to any parent ordered to provide a
7 statement of income, assets, debts and living expenses a document setting forth the
8 percentage standard established by the department under s. 46.25 (9) and listing the
9 factors that a court may consider under s. 46.10 (14) (c). If all parties consent, the
10 court may immediately proceed with a dispositional hearing.

11 **938.315 Delays, continuances and extensions.** (1) The following time
12 periods shall be excluded in computing time requirements within this chapter:

13 (a) Any period of delay resulting from other legal actions concerning the
14 juvenile, including an examination under s. 938.295 or a hearing related to the
15 juvenile's mental condition, prehearing motions, waiver motions and hearings on
16 other matters.

17 (b) Any period of delay resulting from a continuance granted at the request of
18 or with the consent of the juvenile and counsel.

19 (c) Any period of delay caused by the disqualification or substitution of a judge
20 or by any other transfer of the case or intake inquiry to a different judge, intake
21 worker or county.

22 (d) Any period of delay resulting from a continuance granted at the request of
23 the representative of the public under s. 938.09 if the continuance is granted because
24 of the unavailability of evidence material to the case when he or she has exercised
25 due diligence to obtain the evidence and there are reasonable grounds to believe that

1 the evidence will be available at the later date, or to allow him or her additional time
2 to prepare the case and additional time is justified because of the exceptional
3 circumstances of the case.

4 (e) Any period of delay resulting from the imposition of a consent decree.

5 (f) Any period of delay resulting from the absence or unavailability of the
6 juvenile.

7 (fm) Any period of delay resulting from the inability of the court to provide the
8 juvenile with notice of an extension hearing under s. 938.365 due to the juvenile
9 having run away or otherwise having made himself or herself unavailable to receive
10 that notice.

11 (g) A reasonable period of delay when the juvenile is joined in a hearing with
12 another juvenile as to whom the time for a hearing has not expired under this section
13 if there is good cause for not hearing the cases separately.

14 **(2)** A continuance may be granted by the court only upon a showing of good
15 cause in open court or during a telephone conference under s. 807.13 on the record
16 and only for so long as is necessary, taking into account the request or consent of the
17 representative of the public under s. 938.09 or the parties and the interest of the
18 public in the prompt disposition of cases.

19 **(3)** Failure to comply with any time limit specified in this chapter does not
20 deprive the court of personal or subject matter jurisdiction or of competency to
21 exercise that jurisdiction. If a party does not comply with a time limit specified in
22 this chapter, the court may grant a continuance under sub. (2), dismiss the petition
23 with or without prejudice, release the juvenile from secure or nonsecure custody or
24 from the terms of a custody order or grant any other relief that the court considers
25 appropriate.

1 **938.317 Jeopardy.** Jeopardy attaches when a witness is sworn.

2 **938.32 Consent decree. (1)** (a) At any time after the filing of a petition for
3 a proceeding relating to s. 938.12 or 938.13 and before the entry of judgment, the
4 judge or juvenile court commissioner may suspend the proceedings and place the
5 juvenile under supervision in the juvenile's own home or present placement. The
6 court may establish terms and conditions applicable to the parent, guardian or legal
7 custodian, and to the juvenile, including any of the conditions specified in subs. (1d),
8 (1g) and (1t). The order under this section shall be known as a consent decree and
9 must be agreed to by the juvenile if 10 years of age or older; the parent, guardian or
10 legal custodian; and the person filing the petition under s. 938.25. If the consent
11 decree includes any conditions specified in sub. (1g), the consent decree shall include
12 provisions for payment of the services as specified in s. 938.361. The consent decree
13 shall be reduced to writing and given to the parties.

14 (b) 1. Before entering into a consent decree in a proceeding in which a juvenile
15 is alleged to be delinquent under s. 938.12 or to be in need of protection or services
16 under s. 938.13 (12), the court shall allow a victim or a family member of a homicide
17 victim to make a statement or to submit a written statement to be read to the court.
18 The court may allow any other person to make or submit a statement under this
19 subdivision. Any statement made under this subdivision must be relevant to the
20 consent decree.

21 2. Before entering into a consent decree in a proceeding in which a juvenile is
22 alleged to be delinquent under s. 938.12 or to be in need of protection or services
23 under s. 938.13 (12), the district attorney or corporation counsel shall attempt to
24 contact any known victim or family member of a homicide victim to inform that
25 person of the right to make a statement under subd. 1. Any failure to comply with

1 this subdivision is not a ground for discharge of the juvenile, parent, guardian or
2 legal custodian from fulfilling the terms and conditions of the consent decree.

3 **(1d)** If the petition alleges that the juvenile has committed an act that would
4 constitute a misdemeanor if committed by an adult, if the chief judge of the judicial
5 administrative district has approved under s. 973.11 (2) a volunteers in probation
6 program established in the juvenile's county of residence and if the judge or juvenile
7 court commissioner determines that volunteer supervision under that volunteers in
8 probation program will likely benefit the juvenile and the community, the judge or
9 juvenile court commissioner may establish as a condition under sub. (1) that the
10 juvenile be placed with that volunteers in probation program under such conditions
11 as the judge or juvenile court commissioner determines are reasonable and
12 appropriate. These conditions may include, but need not be limited to, any of the
13 following:

14 (a) A directive to a volunteer to provide for the juvenile a role model, informal
15 counseling, general monitoring and monitoring of the conditions established by the
16 judge or juvenile court commissioner, or any combination of these functions.

17 (b) Any other conditions that the judge or juvenile court commissioner may
18 establish under this section.

19 **(1g)** If the petition alleges that the juvenile committed a violation specified
20 under ch. 161 and if the multidisciplinary screen conducted under s. 938.24 (2) shows
21 that the juvenile is at risk of having needs and problems related to the use of alcohol
22 beverages or controlled substances and its medical, personal, family and social
23 effects, the judge or juvenile court commissioner may establish as a condition under
24 sub. (1) any of the following:

1 (a) That the juvenile participate in outpatient treatment from an approved
2 treatment facility for alcohol and other drug abuse, if an alcohol and other drug abuse
3 assessment that conforms to the criteria specified under s. 938.547 (4) was completed
4 under s. 938.295 (1).

5 (b) That the juvenile participate in a court-approved pupil assistance program
6 provided by the juvenile's school board or a court-approved alcohol or other drug
7 abuse education program. The juvenile's participation in a court-approved pupil
8 assistance program under this paragraph is subject to the approval of the juvenile's
9 school board.

10 **(1r)** If the conditions of the consent decree provide for an alcohol and other drug
11 abuse outpatient treatment program under sub. (1g) (a), the juvenile or, if the
12 juvenile has not attained the age of 12, the juvenile's parent, guardian or legal
13 custodian shall execute an informed consent form that indicates that they are
14 voluntarily and knowingly entering into a consent decree for the provision of alcohol
15 and other drug abuse outpatient treatment.

16 **(1t)** (a) 1. Subject to subd. 3., if the petition alleges that the juvenile committed
17 a delinquent act that has resulted in damage to the property of another, or in actual
18 physical injury to another excluding pain and suffering, the judge or juvenile court
19 commissioner may require the juvenile, if the juvenile is 10 years of age or older, as
20 a condition of the consent decree, to repair the damage to property or to make
21 reasonable restitution for the damage or injury if the judge or juvenile court
22 commissioner, after taking into consideration the well-being and needs of the victim,
23 considers it beneficial to the well-being and behavior of the juvenile. Any consent
24 decree that includes a condition of restitution shall include a finding that the juvenile
25 alone is financially able to pay and may allow up to the date of the expiration of the

1 consent decree for the payment. Objection by the juvenile to the amount of damages
2 claimed shall entitle the juvenile to a hearing on the question of damages before the
3 amount of restitution is made part of the consent decree.

4 2. In addition to any other employment or duties permitted under ch. 103 or
5 any rule or order under ch. 103, a juvenile who is 10 to 13 years of age who is
6 participating in a restitution project provided by the county may, for the purpose of
7 making restitution under the consent decree, be employed or perform any duties
8 under any circumstances in which a juvenile 14 or 15 years of age is permitted to be
9 employed or to perform duties under ch. 103 or any rule or order under ch. 103.

10 3. Under this paragraph, a judge or juvenile court commissioner may not order
11 a juvenile who is 10 to 13 years of age to make more than \$250 in restitution.

12 (b) If the juvenile has attained the age of 10, the judge may require the juvenile
13 to participate in a supervised work program or other community service work under
14 s. 938.34 (5g) as a condition of the consent decree.

15 (2) (a) A consent decree shall remain in effect for up to one year unless the
16 juvenile, parent, guardian or legal custodian is discharged sooner by the judge or
17 juvenile court commissioner.

18 (c) Upon the motion of the court or the application of the juvenile, parent,
19 guardian, legal custodian, intake worker or any agency supervising the juvenile
20 under the consent decree, the court may, after giving notice to the parties to the
21 consent decree and their counsel, if any, extend the decree for up to an additional 6
22 months in the absence of objection to extension by the parties to the initial consent
23 decree. If the parent, guardian or legal custodian objects to the extension, the court
24 shall schedule a hearing and make a determination on the issue of extension.

1 **(3)** If, prior to discharge by the court, or the expiration of the consent decree,
2 the court finds that the juvenile or parent, legal guardian or legal custodian has
3 failed to fulfill the express terms and conditions of the consent decree or that the
4 juvenile objects to the continuation of the consent decree, the hearing under which
5 the juvenile was placed on supervision may be continued to conclusion as if the
6 consent decree had never been entered.

7 **(4)** No juvenile who is discharged by the court or who completes the period of
8 supervision without reinstatement of the original petition may again be proceeded
9 against in any court for the same offense alleged in the petition or an offense based
10 on the same conduct, and the original petition shall be dismissed with prejudice.
11 Nothing in this subsection precludes a civil suit against the juvenile or parent for
12 damages arising from the juvenile's conduct.

13 **(5)** A court which, under this section, elicits or examines information or
14 material about a juvenile which would be inadmissible in a hearing on the
15 allegations of the petition may not, over objections of one of the parties, participate
16 in any subsequent proceedings if any of the following applies:

17 (a) The court refuses to enter into a consent decree and the allegations in the
18 petition remain to be decided in a hearing where the juvenile denies the allegations
19 of delinquency.

20 (b) A consent decree is granted but the petition under s. 938.12 or 938.13 is
21 subsequently reinstated.

22 **(6)** The judge or juvenile court commissioner shall inform the juvenile and the
23 juvenile's parent, guardian or legal custodian, in writing, of the juvenile's right to
24 object to the continuation of the consent decree under sub. (3) and of the fact that the

1 hearing under which the juvenile was placed on supervision may be continued to
2 conclusion as if the consent decree had never been entered.

3 SUBCHAPTER VI

4 DISPOSITION

5 **938.33 Court reports. (1) REPORT REQUIRED.** Before the disposition of a
6 juvenile adjudged to be delinquent or in need of protection or services, the court shall
7 designate an agency to submit a report which shall contain all of the following:

8 (a) The social history of the juvenile.

9 (b) A recommended plan of rehabilitation or treatment and care for the juvenile
10 which is based on the investigation conducted by the agency and any report resulting
11 from an examination or assessment under s. 938.295, which employs the most
12 effective means available to accomplish the objectives of the plan.

13 (c) A description of the specific services or continuum of services which the
14 agency is recommending that the court order for the juvenile or family, the persons
15 or agencies that would be primarily responsible for providing those services, and the
16 identity of the person or agency that would provide case management or coordination
17 of services if any or whether or not the juvenile should receive an integrated service
18 plan.

19 (d) A statement of the objectives of the plan, including any desired behavior
20 changes and the academic, social and vocational skills needed by the juvenile.

21 (e) A plan for the provision of educational services to the juvenile, prepared
22 after consultation with the staff of the school in which the juvenile is enrolled or the
23 last school in which the juvenile was enrolled.

24 (f) If the agency is recommending that the court order the juvenile's parent,
25 guardian or legal custodian to participate in mental health treatment, anger

1 management, individual or family counseling or parent training and education, a
2 statement as to the availability of those services and as to the availability of funding
3 for those services.

4 **(2) HOME PLACEMENT REPORTS.** A report recommending that the juvenile remain
5 in his or her home may be presented orally at the dispositional hearing if all parties
6 consent. A report that is presented orally shall be transcribed and made a part of the
7 court record.

8 **(3) CORRECTIONAL PLACEMENT REPORTS.** A report recommending placement of a
9 juvenile in a secured correctional facility under the supervision of the department
10 or a secured child caring institution shall be in writing, except that the report may
11 be presented orally at the dispositional hearing if the juvenile and the juvenile's
12 counsel consent. A report that is presented orally shall be transcribed and made a
13 part of the court record. In addition to the information specified under sub. (1) (a)
14 to (d), the report shall include all of the following:

15 (a) A description of any less restrictive alternatives that are available and that
16 have been considered, and why they have been determined to be inappropriate. If
17 the judge has found that any of the conditions specified in s. 938.34 (4m) (b) 1., 2. or
18 3. applies, the report shall indicate that a less restrictive alternative than placement
19 in a secured correctional facility or a secured child caring institution is not
20 appropriate.

21 (b) A recommendation for an amount of child support to be paid by either or
22 both of the juvenile's parents or for referral to the county designee under s. 59.07 (97)
23 for the establishment of child support.

24 **(3m) YOUTHFUL OFFENDER PROGRAM REPORTS.** In addition to the report under
25 sub. (1), if it appears that a juvenile may be suitable for participation in the youthful

1 offender program under s. 938.537, the court shall order the department of
2 corrections to submit a report analyzing the juvenile's suitability for participation in
3 that program and recommending whether the juvenile should be placed in that
4 program. The report shall be in writing, except that the report may be presented
5 orally at the dispositional hearing if the juvenile and the juvenile's counsel consent.
6 A report that is presented orally shall be transcribed and made a part of the court
7 record.

8 **(4) OTHER OUT-OF-HOME PLACEMENTS.** A report recommending placement in a
9 foster home, treatment foster home, group home or nonsecured child caring
10 institution shall be in writing, except that the report may be presented orally at the
11 dispositional hearing if all parties consent. A report that is presented orally shall be
12 transcribed and made a part of the court record. The report shall include all of the
13 following:

14 (a) A permanency plan prepared under s. 938.38.

15 (b) A recommendation for an amount of child support to be paid by either or
16 both of the juvenile's parents or for referral to the county designee under s. 59.07 (97)
17 for the establishment of child support.

18 **(4m) SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS.** In making a
19 recommendation for an amount of child support under sub. (3) or (4), the agency shall
20 consider the factors that the court considers under s. 46.10 (14) (c) for deviation from
21 the percentage standard. At or before the dispositional hearing under s. 938.335, the
22 agency shall provide the juvenile's parent with all of the following:

23 (a) Its recommendation for juvenile support.

24 (b) A written explanation of how the parent may request that the court modify
25 the amount of child support under s. 46.10 (14) (c).

1 (c) A written explanation of how the parent may request a revision under s.
2 938.363 in the amount of child support ordered by the court under s. 938.335 (2) (b)
3 4.

4 **(5) IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT; CONFIDENTIALITY.**

5 If the report recommends placement in a foster home or a treatment foster home, and
6 the name of the foster parent or treatment foster parent is not available at the time
7 the report is filed, the agency shall provide the court and the juvenile's parent or
8 guardian with the name and address of the foster parent or treatment foster parent
9 within 21 days after the dispositional order is entered, except that the court may
10 order the information withheld from the juvenile's parent or guardian if the court
11 finds that disclosure would result in imminent danger to the juvenile or to the foster
12 parent or treatment foster parent. After notifying the juvenile's parent or guardian,
13 the court shall hold a hearing prior to ordering the information withheld.

14 **938.331 Court reports; effect on victim.** If the delinquent act would
15 constitute a felony if committed by an adult, the person preparing the report under
16 s. 938.33 (1) shall attempt to determine the economic, physical and psychological
17 effect of the delinquent act on the victim. The person preparing the report may ask
18 any appropriate person for information. This section does not preclude the person
19 who prepares the report from including any information for the court concerning the
20 impact of a delinquent act on the victim. If the delinquent act would not constitute
21 a felony but a victim has suffered bodily harm or the act involved theft or damage to
22 property, the person preparing the report is encouraged to seek the information
23 described in this section.

24 **938.335 Dispositional hearings.** (1) The court shall conduct a hearing to
25 determine the disposition of a case in which a juvenile is adjudged to be delinquent

1 under s. 938.12, to have violated a civil law or ordinance under s. 938.125 or to be in
2 need of protection or services under s. 938.13, except that the court shall proceed as
3 provided in s. 938.237 (2) if a citation is issued and the juvenile fails to contest the
4 citation.

5 (3) At hearings under this section, any party may present evidence relevant
6 to the issue of disposition, including expert testimony, and may make alternative
7 dispositional recommendations.

8 (3m) (a) Before imposing a disposition in a proceeding in which a juvenile is
9 adjudged to be delinquent under s. 938.12 or is found to be in need of protection or
10 services under s. 938.13 (12), the court shall allow a victim or a family member of a
11 homicide victim to make a statement or to submit a written statement to be read to
12 the court. The court may allow any other person to make or submit a statement
13 under this paragraph. Any statement made under this paragraph must be relevant
14 to the disposition.

15 (b) After a finding that a juvenile is delinquent under s. 938.12 or is found to
16 be in need of protection or services under s. 938.13 (12), the district attorney or
17 corporation counsel shall attempt to contact any known victim or family member of
18 a homicide victim to inform that person of the right to make a statement under par.
19 (a). Any failure to comply with this paragraph is not a ground for an appeal of a
20 dispositional order or for any court to reverse or modify a dispositional order.

21 (3r) At hearings under this section, a parent of the juvenile may present
22 evidence relevant to the amount of child support to be paid by either or both parents.

23 (4) At hearings under this section, s. 938.357, 938.363 or 938.365, on the
24 request of any party, unless good cause to the contrary is shown, the court may admit

1 testimony on the record by telephone or live audio-visual means, if available, under
2 s. 807.13 (2). The request and the showing of good cause may be made by telephone.

3 (5) At the conclusion of the hearing, the court shall make a dispositional order
4 in accordance with s. 938.355.

5 **938.34 Disposition of juvenile adjudged delinquent.** If the court adjudges
6 a juvenile delinquent, the court shall enter an order deciding one or more of the
7 dispositions of the case as provided in this section under a care and treatment plan.
8 A disposition under sub. (4m) must be combined with a disposition under sub. (4n).
9 The dispositions under this section are:

10 (1) COUNSELING. Counsel the juvenile or the parent, guardian or legal
11 custodian.

12 (2) SUPERVISION. (a) Place the juvenile under the supervision of an agency, the
13 department, if the department approves, or a suitable adult, including a friend of the
14 juvenile, under conditions prescribed by the court including reasonable rules for the
15 juvenile's conduct, designed for the physical, mental and moral well-being and
16 behavior of the juvenile.

17 (b) If the juvenile is placed in the juvenile's home under the supervision of an
18 agency, as defined under s. 938.38 (1) (a), order the agency to provide specified
19 services to the juvenile and the juvenile's family, which may include but are not
20 limited to individual, family or group counseling, homemaker or parent aide
21 services, respite care, housing assistance, day care or parent skills training.

22 (c) Order the juvenile to remain at his or her home or other placement for a
23 period of not more than 20 days under rules of supervision specified in the order.

24 (2g) VOLUNTEERS IN PROBATION PROGRAM. If the juvenile is adjudicated
25 delinquent for the commission of an act that would constitute a misdemeanor if

1 committed by an adult, if the chief judge of the judicial administrative district has
2 approved under s. 973.11 (2) a volunteers in probation program established in the
3 juvenile's county of residence and if the court determines that volunteer supervision
4 under that volunteers in probation program will likely benefit the juvenile and the
5 community, placement of the juvenile with that volunteers in probation program
6 under such conditions as the court determines are reasonable and appropriate.

7 These conditions may include, but need not be limited to, any of the following:

8 (a) A directive to a volunteer to provide for the juvenile a role model, informal
9 counseling, general monitoring and monitoring of the conditions established by the
10 court, or any combination of these functions.

11 (b) Any other disposition that the court may impose under this section.

12 **(2r) INTENSIVE SUPERVISION.** Order the juvenile to participate in an intensive
13 supervision program under s. 938.534.

14 **(3) PLACEMENT.** Designate one of the following as the placement for the juvenile:

15 (a) The home of a parent or other relative of the juvenile.

16 (b) A home which need not be licensed if placement is for less than 30 days.

17 (c) A foster home or treatment foster home licensed under s. 48.62 or a group
18 home licensed under s. 48.625.

19 (d) A child caring institution licensed under s. 48.60.

20 (e) An independent living situation effective on or after the juvenile's 17th
21 birthday, either alone or with friends, under such supervision as the court considers
22 appropriate, but only if the juvenile is of sufficient maturity and judgment to live
23 independently and only upon proof of a reasonable plan for supervision by an
24 appropriate person or agency.

1 (f) A secure detention facility or juvenile portion of a county jail that meets the
2 standards promulgated by the department of corrections by rule, or in a place of
3 nonsecure custody designated by the court, subject to all of the following:

4 1. The placement may be for any combination of single or consecutive days
5 totalling not more than 30.

6 2. The order may provide that the juvenile may be released from the secure
7 detention facility, juvenile portion of the jail or place of nonsecure custody during
8 specified hours to attend school, to work at the juvenile's place of employment or to
9 attend or participate in any activity which the court considers beneficial to the
10 juvenile.

11 3. The use of placement in a secure detention facility or in a juvenile portion
12 of a county jail as a disposition under par. (a) is subject to the adoption of a resolution
13 by the county board of supervisors under s. 938.06 (5) authorizing the use of those
14 placements as a disposition.

15 **(3g) ELECTRONIC MONITORING.** If the juvenile is placed in the community under
16 sub. (2r) or (3) (a) to (e), order the juvenile to be monitored by an electronic monitoring
17 system.

18 **(4) TRANSFER OF LEGAL CUSTODY.** If it is shown that the rehabilitation or the
19 treatment and care of the juvenile cannot be accomplished by means of voluntary
20 consent of the parent or guardian, transfer legal custody to any of the following:

21 (a) A relative of the juvenile.

22 (b) A county department.

23 (c) A licensed child welfare agency.

1 **(4g)** YOUTHFUL OFFENDER PROGRAM. Transfer legal custody to the department
2 of corrections for participation in the youthful offender program under s. 938.537,
3 but only if all of the following apply:

4 (a) The juvenile is 15 years of age or over and has been adjudicated delinquent
5 for committing an act that would be punishable as a Class A, B, C or D felony if
6 committed by an adult and the juvenile has been adjudicated delinquent or found to
7 be in need of protection or services previously for committing an act that would be
8 a felony if committed by an adult.

9 (b) The juvenile has been the subject of a previous dispositional order under
10 this section or s. 938.345 and \$30,000 or more has been expended on providing
11 services for the juvenile under the previous dispositional order since the juvenile
12 attained the age of 10 years.

13 (c) The judge finds that the only other disposition that would be appropriate
14 for the juvenile would be placement of the juvenile in a secured correctional facility
15 under the supervision of the department of health and social services.

16 (d) The report under s. 938.33 (3m) recommends placement of the juvenile in
17 the youthful offender program.

18 **(4m)** CORRECTIONAL PLACEMENT. Place the juvenile in a secured correctional
19 facility under the supervision of the department if the juvenile is 12 years of age or
20 over or, if the juvenile is under 12 years of age, in a secured child caring institution
21 under the supervision of the department, but only if all of the following apply:

22 (a) The juvenile has been found to be delinquent for the commission of an act
23 which if committed by an adult would be punishable by a sentence of 6 months or
24 more.

1 (b) The juvenile has been found to be a danger to the public and to be in need
2 of restrictive custodial treatment. If the judge determines that any of the following
3 conditions applies, that determination shall be prima facie evidence that the juvenile
4 is a danger to the public and in need of restrictive custodial treatment:

5 1. The juvenile has committed a delinquent act that would be a felony under
6 s. 940.03, 940.19 (2) to (6), 940.21, 940.225 (1), 940.31, 941.20 (3), 943.23 (1g), (1m)
7 or (1r), 943.32 (2), 948.02 (1) or (2), 948.025 or 948.03 if committed by an adult.

8 2. The juvenile has possessed, used or threatened to use a handgun, as defined
9 in s. 175.35 (1) (b), short-barreled rifle, as defined in s. 941.28 (1) (b), or
10 short-barreled shotgun, as defined in s. 941.28 (1) (c), while committing a delinquent
11 act that would be a felony under ch. 940 if committed by an adult.

12 3. The juvenile has possessed or gone armed with a short-barreled rifle or a
13 short-barreled shotgun in violation of s. 941.28 or has possessed or gone armed with
14 a handgun in violation of s. 948.60.

15 **(4n)** AFTERCARE SUPERVISION. Subject to any arrangement between the
16 department and a county department regarding the provision of aftercare
17 supervision for juveniles who have been released from a secured correctional facility
18 that is operated by the department or a secured child caring institution, designate
19 one of the following to provide aftercare supervision for the juvenile following the
20 juvenile's release from the secured correctional facility or secured child caring
21 institution:

22 (a) The department.

23 (b) The county department of the county of the court that placed the juvenile
24 in the secured correctional facility or secured child caring institution.

25 (c) The county department of the juvenile's county of legal residence.

1 **(5) RESTITUTION.** (a) Subject to par. (c), if the juvenile is found to have
2 committed a delinquent act which has resulted in damage to the property of another,
3 or actual physical injury to another excluding pain and suffering, order the juvenile
4 to repair the damage to property or to make reasonable restitution for the damage
5 or injury if the court, after taking into consideration the well-being and needs of the
6 victim, considers it beneficial to the well-being and behavior of the juvenile. Any
7 such order shall include a finding that the juvenile alone is financially able to pay
8 and may allow up to the date of the expiration of the order for the payment. Objection
9 by the juvenile to the amount of damages claimed shall entitle the juvenile to a
10 hearing on the question of damages before the amount of restitution is ordered.

11 (am) Subject to par. (c), order a juvenile who owes restitution under par. (a) and
12 who is receiving income while placed in a secured correctional facility, residential
13 treatment center or other out-of-home placement to contribute a stated percentage
14 of that income towards that restitution.

15 (b) In addition to any other employment or duties permitted under ch. 103 or
16 any rule or order under ch. 103, a juvenile who is 10 to 13 years of age who is
17 participating in a restitution project provided by the county may, for the purpose of
18 making restitution ordered by the court under this subsection, be employed or
19 perform any duties under any circumstances in which a juvenile 14 or 15 years of age
20 is permitted to be employed or perform duties under ch. 103 or any rule or order
21 under ch. 103.

22 (c) Under this subsection, a court may not order a juvenile who is 10 to 13 years
23 of age to make more than \$250 in restitution.

24 **(5g) SUPERVISED WORK PROGRAM OR OTHER COMMUNITY SERVICE WORK.** (a) Order
25 the juvenile to participate in a supervised work program administered by the county

1 department or a community agency approved by the court or other community
2 service work administered by a public agency or nonprofit charitable organization
3 approved by the court.

4 (am) The court shall set standards for the supervised work program within the
5 budgetary limits established by the county board of supervisors. The supervised
6 work program may provide the juvenile reasonable compensation reflecting a
7 reasonable market value of the work performed or it may consist of uncompensated
8 community service work. Community service work may be in lieu of restitution only
9 if also agreed to by the county department, community agency, public agency or
10 nonprofit charitable organization and by the person to whom the restitution is owed.
11 The court may use any available resources, including any community service work
12 program, in ordering the juvenile to perform community service work.

13 (b) The supervised work program or other community service work shall be of
14 a constructive nature designed to promote the rehabilitation of the juvenile, shall be
15 appropriate to the age level and physical ability of the juvenile and shall be combined
16 with counseling from a member of the staff of the county department, community
17 agency, public agency or nonprofit charitable organization or other qualified person.
18 The supervised work program or other community service work may not conflict with
19 the juvenile's regular attendance at school. Subject to par. (d), the amount of work
20 required shall be reasonably related to the seriousness of the juvenile's offense.

21 (c) In addition to any other employment or duties permitted under ch. 103 or
22 any rule or order under ch. 103, a juvenile who is 10 to 13 years of age who is
23 participating in a supervised work program or other community service work may,
24 for purposes of performing the supervised work or other community service work, be
25 employed or perform any duties under any circumstances in which a juvenile 14 or

1 15 years of age is permitted to be employed or perform duties under ch. 103 or any
2 rule or order under ch. 103.

3 (d) Under this subsection, a juvenile who is 10 to 13 years of age may not be
4 required to perform more than 40 total hours of supervised work or other community
5 service work.

6 **(5m)** COMMUNITY SERVICE WORK PROGRAM. Order the juvenile to participate in
7 a youth corps program, as defined in s. 16.22 (1) (dm), a conservation work project
8 under s. 23.09 (22), a youth conservation camp under s. 23.09 (23) or another
9 community service work program, if the sponsor of the program approves the
10 juvenile's participation in the program.

11 **(5r)** VICTIM-OFFENDER MEDIATION PROGRAM. Order the juvenile to participate in
12 a victim-offender mediation program if the victim of the juvenile's delinquent act
13 agrees.

14 **(6)** SPECIAL TREATMENT OR CARE. (a) If the juvenile is in need of special treatment
15 or care, as identified in an evaluation under s. 938.295 and the report under s. 938.33
16 (1), order the juvenile's parent to provide the special treatment or care.

17 (am) An order of special treatment or care under this subsection may include
18 an order committing the juvenile to a county department under s. 51.42 or 51.437 for
19 special treatment or care in an inpatient facility, as defined in s. 51.01 (10), if the
20 evaluation under s. 938.295 and the report under s. 938.33 (1) indicate all of the
21 following:

- 22 1. That the juvenile has an alcohol or other drug abuse impairment.
- 23 2. That the juvenile is a proper subject for treatment and is in need of inpatient
24 treatment because appropriate treatment is not available on an outpatient basis.

1 (ar) If the parent fails or is financially unable to provide the special treatment
2 or care ordered under par. (a) or (am), the court may order an appropriate agency to
3 provide the special treatment or care whether or not legal custody has been taken
4 from the parents. If the court orders a county department under s. 51.42 or 51.437
5 to provide special treatment or care under par. (a) or (am), the provision of that
6 special treatment or care shall be subject to conditions specified in ch. 51, except that
7 an order under par. (am) may not be extended. An order of special treatment or care
8 under this subsection may not include an order for the administration of
9 psychotropic medication.

10 (b) Payment for alcohol and other drug abuse services ordered under par. (a)
11 shall be in accordance with s. 938.361.

12 (c) Payment for services provided under ch. 51 that are ordered under par. (a),
13 other than alcohol and other drug abuse services, shall be in accordance with s.
14 938.362.

15 **(6m)** INTEGRATED SERVICE PLAN. If the report prepared under s. 938.33 (1)
16 recommends that the juvenile is in need of an integrated service plan and if an
17 integrated service program under s. 46.56 has been established in the county, order
18 that an integrated service plan be developed and implemented.

19 **(6r)** ALCOHOL OR DRUG TREATMENT OR EDUCATION. (a) If the report prepared
20 under s. 938.33 (1) recommends that the juvenile is in need of treatment for the use
21 or abuse of alcohol beverages or controlled substances and its medical, personal,
22 family or social effects, the court may order the juvenile to enter an outpatient alcohol
23 and other drug abuse treatment program at an approved treatment facility. The
24 approved treatment facility shall, under the terms of a service agreement between
25 the county and the approved treatment facility, or with the written informed consent

1 of the juvenile or the juvenile's parent if the juvenile has not attained the age of 12,
2 report to the agency primarily responsible for providing services to the juvenile as
3 to whether the juvenile is cooperating with the treatment and whether the treatment
4 appears to be effective.

5 (b) If the report prepared under s. 938.33 (1) recommends that the juvenile is
6 in need of education relating to the use of alcohol beverages or controlled substances,
7 the court may order the juvenile to participate in an alcohol or other drug abuse
8 education program approved by the court. The person or agency that provides the
9 education program shall, under the terms of a service agreement between the county
10 and the education program, or with the written informed consent of the juvenile or
11 the juvenile's parent if the juvenile has not attained the age of 12, report to the agency
12 primarily responsible for providing services to the juvenile about the juvenile's
13 attendance at the program.

14 (c) Payment for the court-ordered treatment or education under this
15 subsection in counties that have a pilot program under s. 938.547 shall be in
16 accordance with s. 938.361.

17 **(6s) DRUG TESTING.** If the evaluation under s. 938.295 and the report under s.
18 938.33 (1) indicate that the juvenile is in need of treatment for the use or abuse of
19 controlled substances, order the juvenile to submit to drug testing under a drug
20 testing program that the department shall promulgate by rule.

21 **(7d) EDUCATION PROGRAM.** (a) Except as provided in par. (d), order the juvenile
22 to attend any of the following:

23 1. A nonresidential educational program, including a program for juveniles at
24 risk under s. 118.153, provided by the school district in which the juvenile resides.

1 2. Pursuant to a contractual agreement with the school district in which the
2 juvenile resides, a nonresidential educational program provided by a licensed child
3 welfare agency.

4 3. Pursuant to a contractual agreement with the school district in which the
5 juvenile resides, an educational program provided by a private, nonprofit,
6 nonsectarian agency that is located in the school district in which the juvenile resides
7 and that complies with 42 USC 2000d.

8 4. Pursuant to a contractual agreement with the school district in which the
9 juvenile resides, an educational program provided by a technical college district
10 located in the school district in which the juvenile resides.

11 (b) The court shall order the school board to disclose the juvenile's pupil records,
12 as defined under s. 118.125 (1) (d), to the county department or licensed child welfare
13 agency responsible for supervising the juvenile, as necessary to determine the
14 juvenile's compliance with the order under par. (a).

15 (c) The court shall order the county department or licensed child welfare agency
16 responsible for supervising the juvenile to disclose to the school board, technical
17 college district board or private, nonprofit, nonsectarian agency which is providing
18 an educational program under par. (a) 3. records or information about the juvenile,
19 as necessary to assure the provision of appropriate educational services under par.
20 (a).

21 (d) This subsection does not apply to a juvenile with exceptional educational
22 needs, as defined under s. 115.76 (3).

23 **(7g) EXPERIENTIAL EDUCATION.** Order the juvenile to participate in a wilderness
24 challenge program or other experiential education program.

1 **(7n) JUVENILE OFFENDER EDUCATION PROGRAM.** Order the juvenile to participate
2 in an educational program that is designed to deter future delinquent behavior by
3 focusing on such issues as decision making, assertiveness instead of aggression,
4 family and peer relationships, self-esteem, identification and expression of feelings,
5 alcohol and other drug abuse recognition and errors in thinking and judgment.

6 **(7r) VOCATIONAL TRAINING.** If the report under s. 938.33 (1) recommends that
7 the juvenile is in need of vocational assessment, counseling and training, order the
8 juvenile to participate in that assessment, counseling and training.

9 **(7w) DAY TREATMENT PROGRAM.** If the report under s. 938.33 (1) indicates that
10 the juvenile has specialized educational needs, order the juvenile to participate in
11 a day treatment program.

12 **(8) FORFEITURE.** Impose a forfeiture based upon a determination that this
13 disposition is in the best interest of the juvenile and in aid of rehabilitation. The
14 maximum forfeiture that the court may impose under this subsection for a violation
15 by a juvenile is the maximum amount of the fine that may be imposed on an adult
16 for committing that violation or, if the violation is applicable only to a juvenile, \$100.
17 Any such order shall include a finding that the juvenile alone is financially able to
18 pay the forfeiture and shall allow up to 12 months for payment. If the juvenile fails
19 to pay the forfeiture, the court may vacate the forfeiture and order other alternatives
20 under this section, in accordance with the conditions specified in this subchapter; or
21 the court may suspend any license issued under ch. 29 for not less than 30 days nor
22 more than 5 years, or suspend the juvenile's operating privilege as defined in s.
23 340.01 (40) for not less than 30 days nor more than 5 years. If the court suspends
24 any license under this subsection, the clerk of the court shall immediately take
25 possession of the suspended license and forward it to the department which issued

1 the license, together with a notice of suspension clearly stating that the suspension
2 is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during
3 the period of suspension, the suspension shall be reduced to the time period which
4 has already elapsed and the court shall immediately notify the department which
5 shall then return the license to the juvenile.

6 **(11)** TRANSFER TO FOREIGN COUNTRIES UNDER TREATY. If a treaty is in effect
7 between the United States and a foreign country, allowing a juvenile adjudged
8 delinquent who is a citizen or national of the foreign country to be transferred to the
9 foreign country and if the juvenile and the juvenile's parent, guardian and legal
10 custodian agree, request the governor to commence a transfer of the juvenile to the
11 juvenile's country.

12 **(14m)** VIOLATION INVOLVING A MOTOR VEHICLE. Restrict, suspend or revoke the
13 operating privilege, as defined in s. 340.01 (40), of a juvenile who is adjudicated
14 delinquent under a violation of any law in which a motor vehicle is involved. Any
15 limitation of the operating privilege shall be endorsed upon the operator's license
16 and notice of the limitation forwarded to the department of transportation.

17 **(14p)** COMPUTER VIOLATION. If the juvenile is found to have violated s. 943.70,
18 place restrictions on the juvenile's use of computers.

19 **(14r)** CONTROLLED SUBSTANCE VIOLATION. (a) In addition to any other
20 dispositions imposed under this section, if the juvenile is found to have violated ch.
21 161, the court shall suspend or revoke the juvenile's operating privilege, as defined
22 in s. 340.01 (40), for not less than 6 months nor more than 5 years. The court shall
23 immediately take possession of any suspended or revoked license and forward it to
24 the department of transportation together with the notice of suspension or

1 revocation clearly stating that the suspension or revocation is for a violation of ch.
2 161.

3 (b) This subsection does not apply to violations under s. 161.573 (2), 161.574
4 (2) or 161.575 (2) or a local ordinance that strictly conforms to one of those statutes.

5 (c) If the juvenile's license or operating privilege is currently suspended or
6 revoked or if the juvenile does not currently possess a valid operator's license issued
7 under ch. 343, the suspension or revocation under this subsection is effective on the
8 date on which the juvenile is first eligible and applies for issuance, renewal or
9 reinstatement of an operator's license under ch. 343.

10 **(14s)** CONTROLLED SUBSTANCE POSSESSION. (a) In addition to any other
11 dispositions imposed under this section, if the juvenile is found to have violated s.
12 161.41 (2r), (3), (3m), (3n), (3p) or (3r), the court shall order one of the following
13 penalties:

14 1. For a first violation, a forfeiture of not more than \$50.

15 2. For a violation committed within 12 months of a previous violation, a
16 forfeiture of not more than \$100.

17 3. For a violation committed within 12 months of 2 or more previous violations,
18 a forfeiture of not more than \$500.

19 (am) In addition to any other dispositions imposed under this section, if the
20 juvenile is found to have violated s. 161.41 (1) or (1m), the court shall order one of
21 the following penalties:

22 1. For a first violation, a forfeiture of not less than \$250 nor more than \$500.

23 2. For a violation committed within 12 months of a previous violation, a
24 forfeiture of not less than \$300.

1 3. For a violation committed within 12 months of 2 or more previous violations,
2 a forfeiture of \$500.

3 (b) After ordering a disposition under par. (a) or (am), the court, with the
4 agreement of the juvenile, may enter an additional order staying the execution of the
5 dispositional order. If the court stays a dispositional order under this paragraph, the
6 court shall enter an additional order requiring the juvenile to do any of the following:

7 1. Submit to an alcohol and other drug abuse assessment that conforms to the
8 criteria specified under s. 938.547 (4) and that is conducted by an approved
9 treatment facility. The order shall designate an approved treatment facility to
10 conduct the alcohol and other drug abuse assessment and shall specify the date by
11 which the assessment must be completed.

12 2. Participate in an outpatient alcohol or other drug abuse treatment program
13 at an approved treatment facility, if an assessment conducted under subd. 1. or s.
14 938.295 (1) recommends treatment.

15 3. Participate in a court-approved pupil assistance program provided by the
16 juvenile's school board or an alcohol or other drug abuse education program. The
17 juvenile's participation in a court-approved pupil assistance program under this
18 subdivision is subject to the approval of the juvenile's school board.

19 (c) If the approved treatment facility, with the written informed consent of the
20 juvenile or, if the juvenile has not attained the age of 12, the written informed consent
21 of the juvenile's parent, notifies the agency primarily responsible for providing
22 services to the juvenile that the juvenile has submitted to an assessment under this
23 subsection and that the juvenile does not need treatment, intervention or education,
24 the court shall notify the juvenile of whether or not the original dispositional order
25 will be reinstated.

1 (d) If the juvenile completes the alcohol or other drug abuse treatment
2 program, court-approved pupil assistance program or court-approved alcohol or
3 other drug abuse education program, the approved treatment facility,
4 court-approved pupil assistance program or court-approved alcohol or other drug
5 abuse education program shall, with the written informed consent of the juvenile or,
6 if the juvenile has not attained the age of 12, the written informed consent of the
7 juvenile's parent, notify the agency primarily responsible for providing services to
8 the juvenile that the juvenile has complied with the order and the court shall notify
9 the juvenile of whether or not the original dispositional order will be reinstated.

10 (e) If an approved treatment facility, court-approved pupil assistance program
11 or court-approved alcohol or other drug abuse education program, with the written
12 informed consent of the juvenile or, if the juvenile has not attained the age of 12, the
13 written informed consent of the juvenile's parent, notifies the agency primarily
14 responsible for providing services to the juvenile that a juvenile is not participating
15 in, or has not satisfactorily completed, a recommended alcohol or other drug abuse
16 treatment program, a court-approved pupil assistance program or a court-approved
17 alcohol or other drug abuse education program, the court shall impose the original
18 disposition under par. (a) or (am).

19 **(14t)** CONTROLLED SUBSTANCE POSSESSION ON OR NEAR CERTAIN PREMISES. If the
20 juvenile is adjudicated delinquent under a violation of s. 161.41 (2r), (3), (3m), (3n),
21 (3p) or (3r) by possessing or attempting to possess a controlled substance listed in
22 schedule I or II under ch. 161 while in or on the premises of a scattered-site public
23 housing project, as defined in s. 161.01 (20i), while in or otherwise within 1,000 feet
24 of a state, county, city, village or town park, a jail or correctional facility, as defined
25 in s. 161.01 (12m), a multiunit public housing project, as defined in s. 161.01 (14m),

1 a swimming pool open to members of the public, a youth center, as defined in s. 161.01
2 (22), or a community center, while on or otherwise within 1,000 feet of any private
3 or public school premises or while on or otherwise within 1,000 feet of a school bus,
4 as defined in s. 340.01 (56), the court shall require that the juvenile participate for
5 100 hours in a supervised work program or other community service work under sub.
6 (5g).

7 **(15) DEOXYRIBONUCLEIC ACID ANALYSIS AND REPORTING REQUIREMENTS.** (a) 1. If the
8 juvenile is adjudicated delinquent on the basis of a violation of s. 940.225, 948.02 (1)
9 or (2) or 948.025, the court shall require the juvenile to provide a biological specimen
10 to the state crime laboratories for deoxyribonucleic acid analysis. If the violation is
11 of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025, the court shall require the juvenile
12 to comply with the reporting requirements under s. 175.45. If the violation is of s.
13 940.225 (3) or (3m), the court may require the juvenile to comply with the reporting
14 requirements under s. 175.45 if the court determines that the underlying conduct
15 was seriously sexually assaultive in nature and that it would be in the interest of
16 public protection to have the juvenile report under s. 175.45.

17 2. Except as provided in subd. 1., if the juvenile is adjudicated delinquent on
18 the basis of any violation under ch. 940, 944 or 948 or ss. 943.01 to 943.15, the court
19 may require the juvenile to provide a biological specimen to the state crime
20 laboratories for deoxyribonucleic acid analysis. The court may require the juvenile
21 to comply with the reporting requirements under s. 175.45 if the court determines
22 that the underlying conduct was seriously sexually assaultive in nature and that it
23 would be in the interest of public protection to have the juvenile report under s.
24 175.45.

1 3. The results from deoxyribonucleic acid analysis of a specimen under subd.
2 1. or 2. may be used only as authorized under s. 165.77 (3). The state crime
3 laboratories shall destroy any such specimen in accordance with s. 165.77 (3).

4 (b) The department of justice shall promulgate rules providing procedures for
5 juveniles to provide specimens under par. (a) and for the transportation of those
6 specimens to the state crime laboratories under s. 165.77.

7 **(16) STAY OF ORDER.** After ordering a disposition under this section, enter an
8 additional order staying the execution of the dispositional order contingent on the
9 juvenile's satisfactory compliance with any conditions that are specified in the
10 dispositional order and explained to the juvenile by the court. If the juvenile violates
11 a condition of his or her dispositional order, the agency supervising the juvenile shall
12 notify the court and the court shall hold a hearing within 30 days after the filing of
13 the notice to determine whether the original disposition order should be imposed,
14 unless the juvenile signs a written waiver of any objections to imposing the original
15 dispositional order and the court approves the waiver. If a hearing is held, the court
16 shall notify the parent, juvenile, guardian and legal custodian, all parties bound by
17 the original dispositional order and the district attorney or corporation counsel in the
18 county in which the dispositional order was entered at the time and place of the
19 hearing at least 3 days before the hearing. If all parties consent, the court may
20 proceed immediately with the hearing. The court may not impose the original
21 dispositional order unless the court finds to a reasonable certainty by the greater
22 weight of the credible evidence that the juvenile has violated a condition of his or her
23 dispositional order.

24 **938.341 Delinquency adjudication; restriction on firearm possession.**

25 Whenever a court adjudicates a juvenile delinquent for an act that if committed by

1 an adult in this state would be a felony, the court shall inform the juvenile of the
2 requirements and penalties under s. 941.29.

3 **938.342 Disposition; truancy and school dropout ordinance violations.**

4 (1) If the court finds that the juvenile violated a municipal ordinance enacted under
5 s. 118.163 (2), the court shall enter an order making one or more of the following
6 dispositions if such a disposition is authorized by the municipal ordinance:

7 (a) Suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for
8 not less than 30 days nor more than 90 days. The court shall immediately take
9 possession of the suspended license and forward it to the department of
10 transportation together with a notice stating the reason for and duration of the
11 suspension.

12 (b) Order the juvenile to participate in counseling or a supervised work
13 program or other community service work under s. 938.34 (5g).

14 (c) Order the juvenile to remain at home except during hours in which the
15 juvenile is attending religious worship or a school program, including travel time
16 required to get to and from the school program or place of worship. The order may
17 permit a juvenile to leave his or her home if the juvenile is accompanied by a parent
18 or guardian.

19 (d) Order the juvenile to attend an educational program under s. 938.34 (7d).

20 (e) Order the department of industry, labor and human relations to revoke or
21 refuse to issue, under s. 103.72, a permit under s. 103.70 authorizing the employment
22 of the juvenile.

23 (1m) (a) If the court finds that the juvenile violated a municipal ordinance
24 enacted under s. 118.163 (2), the court may, in addition to or instead of the
25 dispositions under sub. (1), order the juvenile's parent, guardian or legal custodian

1 to participate in counseling at the parent's, guardian's or legal custodian's own
2 expense.

3 (b) No order to any person under par. (a) may be entered until the person is
4 given an opportunity to be heard on the contemplated order of the court. The court
5 shall cause notice of the time, place and purpose of the hearing to be served on the
6 person personally at least 10 days before the date of the hearing. The procedure in
7 these cases shall, as far as practicable, be the same as in other cases to the court. At
8 the hearing, the person may be represented by counsel and may produce and
9 cross-examine witnesses. Any person who fails to comply with any order issued by
10 a court under par. (a) may be proceeded against for contempt of court.

11 (2) (a) Except as provided in par. (b), if the court finds that the juvenile is
12 subject to a municipal ordinance enacted under s. 118.163 (2m), the court shall enter
13 an order suspending the juvenile's operating privilege, as defined in s. 340.01 (40),
14 until the juvenile reaches the age of 18.

15 (b) The court may enter an order making any of the dispositions specified under
16 sub. (1) if the court finds that suspension of the juvenile's operating privilege, as
17 defined in s. 340.01 (40), until the juvenile reaches the age of 18 would cause an
18 undue hardship to the juvenile or the juvenile's family.

19 **938.343 Disposition of juvenile adjudged to have violated a civil law or**
20 **an ordinance.** Except as provided by ss. 938.342 and 938.344, if the court finds that
21 the juvenile violated a civil law or an ordinance, the court shall enter an order
22 making one or more of the following dispositions:

23 (1) Counsel the juvenile or the parent or guardian.

24 (2) Impose a forfeiture not to exceed the maximum forfeiture that may be
25 imposed on an adult for committing that violation or, if the violation is only

1 applicable to a juvenile, \$50. Any such order shall include a finding that the juvenile
2 alone is financially able to pay and shall allow up to 12 months for the payment. If
3 a juvenile fails to pay the forfeiture, the court may suspend any license issued under
4 ch. 29 or suspend the juvenile's operating privilege as defined in s. 340.01 (40), for
5 not less than 30 days nor more than 5 years. The court shall immediately take
6 possession of the suspended license and forward it to the department which issued
7 the license, together with the notice of suspension clearly stating that the suspension
8 is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during
9 the period of suspension, the court shall immediately notify the department, which
10 will thereupon return the license to the person.

11 (3) Order the juvenile to participate in a supervised work program or other
12 community service work under s. 938.34 (5g).

13 (4) If the violation has resulted in damage to the property of another, or in
14 actual physical injury to another excluding pain and suffering, the court may order
15 the juvenile to make repairs of the damage to property or reasonable restitution for
16 the damage or injury if the court, after taking into consideration the well-being and
17 needs of the victim, considers it beneficial to the well-being and behavior of the
18 juvenile. Any such order requiring payment for repairs or restitution shall include
19 a finding that the juvenile alone is financially able to pay and may allow up to the
20 date of the expiration of the order for the payment. Objection by the juvenile to the
21 amount of damages claimed shall entitle the juvenile to a hearing on the question of
22 damages before the amount of restitution is ordered.

23 (5) If the violation is related to unsafe use of a boat, order the juvenile to attend
24 a safety course under s. 30.74 (1).

1 **(6)** If the violation is of ch. 29, suspension of the license or licenses of the
2 juvenile issued under that chapter for not more than one year or until the juvenile
3 is 18 years of age, whichever occurs first.

4 **(7)** If the violation is related to the unsafe use of firearms, order the juvenile
5 to attend a course under the hunter education and firearm safety program under s.
6 29.225.

7 **(8)** If the violation is one under ch. 350 concerning the use of snowmobiles,
8 order the juvenile to attend a safety course under s. 350.055.

9 **(9)** If the violation is one under s. 23.33 or under an ordinance enacted in
10 conformity with s. 23.33 concerning the use of all-terrain vehicles, order the juvenile
11 to enroll and participate in an all-terrain vehicle safety course.

12 **(10)** If the violation is related to the use or abuse of alcohol beverages or
13 controlled substances, order the juvenile to do any of the following:

14 (a) Submit to an alcohol and other drug abuse assessment that conforms to the
15 criteria specified under s. 938.547 (4) and that is conducted by an approved
16 treatment facility. The order shall designate an approved treatment facility to
17 perform the assessment and shall specify the date by which the assessment must be
18 completed.

19 (b) Participate in an outpatient alcohol and other drug abuse treatment
20 program if an assessment conducted under par. (a) or s. 938.295 (1) recommends
21 treatment.

22 (c) Participate in a court-approved pupil assistance program provided by the
23 juvenile's school board or in a court-approved alcohol or other drug abuse education
24 program. The juvenile's participation in a court-approved pupil assistance program
25 under this paragraph is subject to the approval of the juvenile's school board.

1 **938.344 Disposition; certain intoxicating liquor, beer and drug**
2 **violations. (1)** In this section:

3 (a) "Court" means a municipal court or the court assigned to exercise
4 jurisdiction under this chapter and ch. 48.

5 **(2)** If a court finds a juvenile committed a violation under s. 125.07 (4) (b) or
6 125.09 (2), or a local ordinance that strictly conforms to one of those statutes, the
7 court shall order one or any combination of the following penalties:

8 (a) For a first violation, a forfeiture of not more than \$50, suspension of the
9 juvenile's operating privilege as provided under s. 343.30 (6) (b) 1. or the juvenile's
10 participation in a supervised work program or other community service work under
11 s. 938.34 (5g).

12 (b) For a violation committed within 12 months of a previous violation, a
13 forfeiture of not more than \$100, suspension of the juvenile's operating privilege as
14 provided under s. 343.30 (6) (b) 2. or the juvenile's participation in a supervised work
15 program or other community service work under s. 938.34 (5g).

16 (c) For a violation committed within 12 months of 2 or more previous violations,
17 a forfeiture of not more than \$500, revocation of the juvenile's operating privilege as
18 provided under s. 343.30 (6) (b) 3. or the juvenile's participation in a supervised work
19 program or other community service work under s. 938.34 (5g).

20 **(2b)** If a court finds a juvenile committed a violation under s. 125.07 (4) (a), or
21 a local ordinance which strictly conforms to s. 125.07 (4) (a), the court shall order one
22 or any combination of the following penalties:

23 (a) For a first violation, a forfeiture of not less than \$250 nor more than \$500,
24 suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 1.

1 or the juvenile's participation in a supervised work program or other community
2 service work under s. 938.34 (5g).

3 (b) For a violation committed within 12 months of a previous violation, a
4 forfeiture of not less than \$300 nor more than \$500, suspension of the juvenile's
5 operating privilege as provided under s. 343.30 (6) (b) 2. or the juvenile's
6 participation in a supervised work program or other community service work under
7 s. 938.34 (5g).

8 (c) For a violation committed within 12 months of 2 or more previous violations,
9 a forfeiture of \$500, revocation of the juvenile's operating privilege as provided under
10 s. 343.30 (6) (b) 3. or the juvenile's participation in a supervised work program or
11 other community service work under s. 938.34 (5g).

12 **(2d)** If a court finds a juvenile committed a violation under s. 125.085 (3) (b),
13 or a local ordinance which strictly conforms to s. 125.085 (3) (b), the court shall order
14 one or any combination of the following penalties:

15 (a) For a first violation, a forfeiture of not less than \$100 nor more than \$500,
16 suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 1.
17 or the juvenile's participation in a supervised work program or other community
18 service work under s. 938.34 (5g).

19 (b) For a violation committed within 12 months of a previous violation, a
20 forfeiture of not less than \$300 nor more than \$500, suspension of the juvenile's
21 operating privilege as provided under s. 343.30 (6) (b) 2. or the juvenile's
22 participation in a supervised work program or other community service work under
23 s. 938.34 (5g).

24 (c) For a violation committed within 12 months of 2 or more previous violations,
25 a forfeiture of \$500, revocation of the juvenile's operating privilege as provided under

1 s. 343.30 (6) (b) 3. or the juvenile's participation in a supervised work program or
2 other community service work under s. 938.34 (5g).

3 **(2e)** (a) If a court finds a juvenile committed a violation under s. 161.573 (2),
4 161.574 (2) or 161.575 (2), or a local ordinance that strictly conforms to one of those
5 statutes, the court shall suspend or revoke the juvenile's operating privilege, as
6 defined in s. 340.01 (40), for not less than 6 months nor more than 5 years and, in
7 addition, shall order one of the following penalties:

8 1. For a first violation, a forfeiture of not more than \$50 or the juvenile's
9 participation in a supervised work program or other community service work under
10 s. 938.34 (5g) or both.

11 2. For a violation committed within 12 months of a previous violation, a
12 forfeiture of not more than \$100 or the juvenile's participation in a supervised work
13 program or other community service work under s. 938.34 (5g) or both.

14 3. For a violation committed within 12 months of 2 or more previous violations,
15 a forfeiture of not more than \$500 or the juvenile's participation in a supervised work
16 program or other community service work under s. 938.34 (5g) or both.

17 (b) Whenever a court suspends or revokes a juvenile's operating privilege under
18 this subsection, the court shall immediately take possession of any suspended or
19 revoked license and forward it to the department of transportation, together with the
20 notice of suspension or revocation clearly stating that the suspension or revocation
21 is for a violation under s. 161.573 (2), 161.574 (2) or 161.575 (2), or a local ordinance
22 that strictly conforms to one of those statutes.

23 (c) If the juvenile's license or operating privilege is currently suspended or
24 revoked or the juvenile does not currently possess a valid operator's license issued
25 under ch. 343, the suspension or revocation under this subsection is effective on the

1 date on which the juvenile is first eligible and applies for issuance, renewal or
2 reinstatement of an operator’s license under ch. 343.

3 **(2g)** (a) After ordering a penalty under sub. (2), (2b), (2d) or (2e), the court, with
4 the agreement of the juvenile, may enter an additional order staying the execution
5 of the penalty order and suspending or modifying the penalty imposed. The order
6 under this paragraph shall require the juvenile to do any of the following:

7 1. Submit to an alcohol and other drug abuse assessment that conforms to the
8 criteria specified under s. 938.547 (4) and that is conducted by an approved
9 treatment facility. The order shall designate an approved treatment facility to
10 conduct the alcohol and other drug abuse assessment and shall specify the date by
11 which the assessment must be completed.

12 2. Participate in an outpatient alcohol or other drug abuse treatment program
13 at an approved treatment facility, if an alcohol or other drug abuse assessment
14 conducted under subd. 1. or s. 938.295 (1) recommends treatment.

15 3. Participate in a court-approved pupil assistance program provided by the
16 juvenile’s school board or in a court-approved alcohol or other drug abuse education
17 program. The juvenile’s participation in a court-approved pupil assistance program
18 under this subdivision is subject to the approval of the juvenile’s school board.

19 (b) If the approved treatment facility, with the written informed consent of the
20 juvenile or, if the juvenile has not attained the age of 12, the written informed consent
21 of the juvenile’s parent, notifies the agency primarily responsible for providing
22 services to the juvenile that the juvenile has submitted to an assessment under par.

23 (a) and that the juvenile does not need treatment, intervention or education, the
24 court shall notify the juvenile of whether or not the penalty will be reinstated.

1 (c) If the juvenile completes the alcohol or other drug abuse treatment program,
2 court-approved pupil assistance program or court-approved alcohol or other drug
3 abuse education program, the approved treatment facility, court-approved pupil
4 assistance program or court-approved alcohol or other drug abuse education
5 program shall, with the written informed consent of the juvenile or, if the juvenile
6 has not attained the age of 12, the written informed consent of the juvenile's parent,
7 notify the agency primarily responsible for providing services to the juvenile that the
8 juvenile has complied with the order and the court shall notify the juvenile of
9 whether or not the penalty will be reinstated.

10 (d) If an approved treatment facility, court-approved pupil assistance program
11 or court-approved alcohol or other drug abuse education program, with the written
12 informed consent of the juvenile or, if the juvenile has not attained the age of 12, the
13 written informed consent of the juvenile's parent, notifies the agency primarily
14 responsible for providing services to the juvenile that a juvenile is not participating,
15 or has not satisfactorily completed, a recommended alcohol or other drug abuse
16 treatment program, a court-approved pupil assistance program or a court-approved
17 alcohol or other drug abuse education program, the court shall hold a hearing to
18 determine whether the penalties under sub. (2), (2b), (2d) or (2e) should be imposed.

19 **(2m)** For purposes of subs. (2) to (2e), all violations arising out of the same
20 incident or occurrence shall be counted as a single violation.

21 **(3)** If the juvenile alleged to have committed the violation is within 3 months
22 of his or her 18th birthday, the court assigned to exercise jurisdiction under this
23 chapter and ch. 48 may, at the request of the district attorney or on its own motion,
24 dismiss the citation without prejudice and refer the matter to the district attorney
25 for prosecution under s. 125.07 (4). The juvenile is entitled to a hearing only on the

1 issue of his or her age. This subsection does not apply to violations under s. 161.573
2 (2), 161.574 (2) or 161.575 (2) or a local ordinance that strictly conforms to one of
3 those statutes.

4 **938.345 Disposition of juvenile adjudged in need of protection or**
5 **services.** (1) If the court finds that the juvenile is in need of protection or services,
6 the court shall enter an order deciding one or more of the dispositions of the case as
7 provided in s. 938.34 under a care and treatment plan except that the order may not
8 do any of the following:

9 (a) Place the juvenile in a secured correctional facility or a secured child caring
10 institution or transfer the custody of the juvenile to the department of corrections.

11 (b) Order restitution.

12 (c) Order payment of a forfeiture.

13 (d) Restrict, suspend or revoke the driving privileges of the juvenile, except as
14 provided under sub. (2).

15 (e) Place any juvenile not specifically found under chs. 46, 49, 51, 115 and 880
16 to be developmentally disabled, mentally ill or to have exceptional educational needs
17 in facilities which exclusively treat those categories of juveniles.

18 (f) Order the juvenile to participate in a supervised work program or other
19 community service work under s. 938.34 (5g), except as provided under sub. (2).

20 (g) Order the juvenile into detention or nonsecure custody under s. 938.34 (3)
21 (f).

22 (2) If the court finds that a juvenile is in need of protection or services based on
23 the fact that the juvenile is a school dropout, as defined in s. 118.153 (1) (b), or based
24 on habitual truancy, and the court also finds that the reason the juvenile has dropped
25 out of school or is a habitual truant is a result of the juvenile's intentional refusal to

1 attend school rather than the failure of any other person to comply with s. 118.15 (1)
2 (a), the court, instead of or in addition to any other disposition imposed under sub.
3 (1), may enter an order permitted under s. 938.342.

4 **938.346 Notice to victims of juveniles' acts. (1)** Each known victim of a
5 juvenile's act shall receive timely notice of the following information:

6 (a) The procedure under s. 938.396 (1r) for obtaining the identity of the juvenile
7 and the juvenile's parents.

8 (b) The procedure under s. 938.396 (1r) for obtaining the juvenile's police
9 records.

10 (c) The potential liability of the juvenile's parents under s. 895.035.

11 (d) Either of the following:

12 1. Information regarding any deferred prosecution agreement under s.
13 938.245, any consent decree under s. 938.32 or any dispositional order under ss.
14 938.34 to 938.345. The information may not include reports under s. 938.295 or
15 938.33 or any other information that deals with sensitive personal matters of the
16 juvenile and the juvenile's family and that does not directly relate to the act or alleged
17 act committed against the victim. This subdivision does not affect the right of a
18 victim to attend any hearing that the victim is permitted to attend under s. 938.299
19 (1) (am).

20 2. The procedure the victim may follow for obtaining the information in subd.
21 1.

22 (e) The procedure under s. 938.296 under which the victim, if an adult, or the
23 parent, guardian or legal custodian of the victim, if the victim is a child, may request
24 an order requiring a juvenile who is alleged to have violated s. 940.225, 948.02,
25 948.025, 948.05 or 948.06 to submit to a test or a series of tests to detect the presence

1 of HIV, as defined in s. 252.01 (1m), antigen or nonantigenic products of HIV, an
2 antibody to HIV or a sexually transmitted disease, as defined in s. 252.11 (1), and to
3 have the results of that test or series of tests disclosed as provided in s. 938.296 (4)
4 (a) to (e).

5 (f) The right to request and receive notice of the time and place of any hearing
6 that the victim may attend under s. 938.299 (1) (am).

7 (g) The right to make a statement to the court as provided in ss. 938.32 (1) (b)
8 and 938.335 (3m).

9 **(1m)** The intake worker shall provide notice of the information specified in sub.
10 (1) (a), (b) and (c), the information specified in sub. (1) (d) relating to a deferred
11 prosecution agreement under s. 938.245 and the information specified in sub. (3) if
12 the inquiry is terminated without a deferred prosecution agreement before the filing
13 of a petition. The district attorney or corporation counsel shall provide notice of the
14 information specified in sub. (1) (e), (f) and (g), the information specified in sub. (1)
15 (d) relating to a consent decree under s. 938.32 or a dispositional order under ss.
16 938.34 to 938.345 and the information under sub. (3) if the proceeding is terminated
17 without a consent decree or dispositional order after the filing of a petition.

18 **(2)** The notice under sub. (1) shall include an explanation of the restrictions on
19 divulging information obtained under this chapter and the penalties for violations.

20 **(3)** If an inquiry or proceeding is closed, dismissed or otherwise does not result
21 in a deferred prosecution agreement, consent decree or dispositional order, a
22 reasonable attempt shall be made to inform each known victim of the juvenile's
23 alleged act that the inquiry or proceeding has been terminated.

24 **(4)** If the victim is a child, the notice under this section shall be given to the
25 child's parents, guardian or legal custodian.

1 **(5)** Chief judges and circuit judges shall establish by policy and rule procedures
2 for the implementation of this section. The policies and rules shall specify when, how
3 and by whom the notice under this section shall be provided to victims.

4 **938.35 Effect of judgment and disposition.** **(1)** The court shall enter a
5 judgment setting forth the court's findings and disposition in the proceeding. A
6 judgment in a proceeding on a petition under this subchapter is not a conviction of
7 a crime, does not impose any civil disabilities ordinarily resulting from the conviction
8 of a crime and does not operate to disqualify the juvenile in any civil service
9 application or appointment. The disposition of a juvenile, and any record of evidence
10 given in a hearing in court, is not admissible as evidence against the juvenile in any
11 case or proceeding in any other court except for the following:

12 (a) In sentencing proceedings after conviction of a felony or misdemeanor and
13 then only for the purpose of a presentence study and report.

14 (b) In a proceeding in any court assigned to exercise jurisdiction under this
15 chapter and ch. 48.

16 (c) In a court of civil or criminal jurisdiction while it is exercising the
17 jurisdiction of a family court and is considering the custody of juveniles.

18 (cm) In a court of civil or criminal jurisdiction for purposes of setting bail under
19 ch. 969 or impeaching a witness under s. 906.09.

20 (d) The fact that a juvenile has been adjudged delinquent on the basis of
21 unlawfully and intentionally killing a person is admissible for the purpose of s.
22 852.01 (2m) (bg).

23 **(1m)** Disposition by the court assigned to exercise jurisdiction under this
24 chapter and ch. 48 of any allegation under s. 938.12 or 938.13 (12) shall bar any
25 future proceeding on the same matter in criminal court when the juvenile reaches

1 the age of 17. This paragraph does not affect proceedings in criminal court which
2 have been transferred under s. 938.18.

3 (2) Except as specifically provided in sub. (1), this section does not preclude the
4 court from disclosing information to qualified persons if the court considers the
5 disclosure to be in the best interests of the juvenile or of the administration of justice.

6 **938.355 Dispositional orders.** (1) INTENT. In any order under s. 938.34 or
7 938.345, the court shall decide on a placement and treatment finding based on
8 evidence submitted to the court. The disposition shall employ those means necessary
9 to promote the objectives specified in s. 938.01. If the judge has determined that any
10 of the conditions specified in s. 938.34 (4m) (b) 1., 2. or 3. applies, that determination
11 shall be prima facie evidence that a less restrictive alternative than placement in a
12 secured correctional facility or a secured child caring institution is not appropriate.
13 If information under s. 938.331 has been provided in a court report under s. 938.33
14 (1), the court shall consider that information when deciding on a placement and
15 treatment finding.

16 (2) CONTENT OF ORDER; COPY TO PARENT. (a) In addition to the order, the court
17 shall make written findings of fact and conclusions of law based on the evidence
18 presented to the court to support the disposition ordered, including findings as to the
19 juvenile's condition and need for special treatment or care if an examination or
20 assessment was conducted under s. 938.295. A finding may not include a finding that
21 a juvenile is in need of psychotropic medications.

22 (b) The court order shall be in writing and shall contain:

23 1. The specific services or continuum of services to be provided to the juvenile
24 and family, the identity of the agencies which are to be primarily responsible for the
25 provision of the services mandated by the court, the identity of the person or agency

1 who will provide case management or coordination of services, if any, and, if custody
2 is to be transferred to effect the treatment plan, the identity of the legal custodian.

3 2. If the juvenile is placed outside the home, the name of the place or facility,
4 including transitional placements, where the juvenile shall be cared for or treated,
5 except that if the placement is a foster home or treatment foster home and the name
6 and address of the foster parent or treatment foster parent is not available at the time
7 of the order, the name and address of the foster parent or treatment foster parent
8 shall be furnished to the court and the parent within 21 days of the order. If, after
9 a hearing on the issue with due notice to the parent or guardian, the court finds that
10 disclosure of the identity of the foster parent or treatment foster parent would result
11 in imminent danger to the juvenile, the foster parent or the treatment foster parent,
12 the court may order the name and address of the prospective foster parents or
13 treatment foster parents withheld from the parent or guardian.

14 3. The date of the expiration of the court's order.

15 4. If the juvenile is placed outside the juvenile's home, a designation of the
16 amount of support, if any, to be paid by the juvenile's parent, guardian or trustee,
17 specifying that the support obligation begins on the date of the placement, or a
18 referral to the county designee under s. 59.07 (97) for establishment of child support.

19 5. For a juvenile placed outside his or her home pursuant to an order under s.
20 938.34 (3) or 938.345, a permanency plan under s. 938.38 if one has been prepared.

21 6. If the juvenile is placed outside the home, the court's finding as to whether
22 a county department which provides social services or the agency primarily
23 responsible for the provision of services under a court order has made reasonable
24 efforts to prevent the removal of the juvenile from the home or, if applicable, that the
25 agency primarily responsible for the provision of services under a court order has

1 made reasonable efforts to make it possible for the juvenile to return to his or her
2 home.

3 7. A statement of the conditions with which the juvenile is required to comply.

4 (c) If school attendance is a condition of an order under par. (b) 7., the order shall
5 specify what constitutes a violation of the condition and shall direct the school board
6 of the school district in which the juvenile is enrolled to notify the county department
7 that is responsible for supervising the juvenile within 5 days after any violation of
8 the condition by the juvenile.

9 (d) The court shall provide a copy of the dispositional order to the juvenile's
10 parent, guardian or trustee.

11 **(2c) REASONABLE EFFORTS STANDARDS.** (a) When a court makes a finding under
12 sub. (2) (b) 6. as to whether a county department which provides social services or
13 the agency primarily responsible for providing services to the juvenile under a court
14 order has made reasonable efforts to prevent the removal of the juvenile from his or
15 her home, the court's consideration of reasonable efforts shall include, but not be
16 limited to, whether:

17 1. A comprehensive assessment of the family's situation was completed,
18 including a determination of the likelihood of protecting the juvenile's welfare
19 effectively in the home.

20 2. Financial assistance, if applicable, was provided to the family.

21 3. Services were offered or provided to the family, if applicable, and whether
22 any assistance was provided to the family to enable the family to utilize the services.
23 Examples of the types of services that may have been offered include:

24 a. In-home support services, such as homemakers and parent aides.

25 b. In-home intensive treatment services.

1 c. Community support services, such as day care, parenting skills training,
2 housing assistance, employment training and emergency mental health services.

3 d. Specialized services for family members with special needs.

4 4. Monitoring of client progress and client participation in services was
5 provided.

6 5. A consideration of alternative ways of addressing the family's needs was
7 provided, if services did not exist or existing services were not available to the family.

8 (b) When a court makes a finding under sub. (2) (b) 6. as to whether the agency
9 primarily responsible for providing services to the juvenile under a court order has
10 made reasonable efforts to make it possible for the juvenile to return to his or her
11 home, the court's consideration of reasonable efforts shall include, but not be limited
12 to, the considerations listed under par. (a) 1. to 5. and whether visitation schedules
13 between the juvenile and his or her parents were implemented, unless visitation was
14 denied or limited by the court.

15 **(2e) PERMANENCY PLANS; FILING; AMENDED ORDERS; COPIES.** (a) If a permanency
16 plan has not been prepared at the time the dispositional order is entered, or if the
17 court orders a disposition that is not consistent with the permanency plan, the
18 agency responsible for preparing the plan shall prepare a permanency plan that is
19 consistent with the order or revise the permanency plan to conform to the order and
20 shall file the plan with the court within the time specified in s. 938.38 (3). A
21 permanency plan filed under this paragraph shall be made a part of the dispositional
22 order.

23 (b) Each time a juvenile's placement is changed under s. 938.357 or a
24 dispositional order is revised under s. 938.363 or extended under s. 938.365, the
25 agency that prepared the permanency plan shall revise the plan to conform to the

1 order and shall file a copy of the revised plan with the court. Each plan filed under
2 this paragraph shall be made a part of the court order.

3 (c) Either the court or the agency that prepared the permanency plan shall
4 furnish a copy of the original plan and each revised plan to the juvenile's parent or
5 guardian, to the juvenile or the juvenile's counsel or guardian ad litem and to the
6 person representing the interests of the public.

7 **(2m) TRANSITIONAL PLACEMENTS.** The court order may include the name of
8 transitional placements, but may not designate a specific time when transitions are
9 to take place. The procedures of ss. 938.357 and 938.363 shall govern when such
10 transitions take place. The court, however, may place specific time limitations on
11 interim arrangements made for the care of the juvenile pending the availability of
12 the dispositional placement.

13 **(3) PARENTAL VISITATION.** If, after a hearing on the issue with due notice to the
14 parent or guardian, the court finds that it would be in the best interest of the juvenile,
15 the court may set reasonable rules of parental visitation.

16 **(3m) ORDERS BASED ON EVIDENCE.** Dispositional orders under s. 938.343 or
17 938.344 shall be based upon the evidence except that this subsection does not require
18 a dispositional hearing for the disposition of an uncontested citation.

19 **(4) TERMINATION OF ORDERS.** (a) Except as provided under par. (b) or s. 938.368,
20 all orders under this section shall terminate at the end of one year unless the court
21 specifies a shorter period of time. Except if s. 938.368 applies, extensions or revisions
22 shall terminate at the end of one year unless the court specifies a shorter period of
23 time. No extension under s. 938.365 of an original dispositional order may be granted
24 for a juvenile whose legal custody has been transferred to the department of
25 corrections under s. 938.34 (4g) or who is under the supervision of the department

1 of health and social services under s. 938.34 (4m) or (4n) or under the supervision of
2 a county department under s. 938.34 (4n) if the juvenile is 17 years of age or older
3 when the original dispositional order terminates. Any order made before the
4 juvenile reaches the age of majority shall be effective for a time up to one year after
5 its entry unless the court specifies a shorter period of time.

6 (b) An order under s. 938.34 (4g) or (4m) for which a juvenile has been
7 adjudicated delinquent is subject to par. (a), except that the judge may make an order
8 under s. 938.34 (4m) apply for up to 2 years and the judge shall make an order under
9 s. 938.34 (4g) apply for 5 years, if the juvenile is adjudicated delinquent for
10 committing an act that would be punishable as a Class B, C or D felony if committed
11 by an adult, or until the juvenile reaches 25 years of age, if the juvenile is adjudicated
12 delinquent for committing an act that would be punishable as a Class A felony if
13 committed by an adult.

14 **(4m) EXPUNGEMENT OF RECORD.** A juvenile who has been adjudged delinquent
15 may, on attaining 17 years of age, petition the court to expunge the court's record of
16 the juvenile's adjudication. The court may expunge the court's record of the juvenile's
17 adjudication if the court determines that the juvenile has satisfactorily complied
18 with the conditions of his or her dispositional order and that the juvenile will benefit
19 and society will not be harmed by the expungement.

20 **(5) EFFECT OF COURT ORDER.** Any party, person or agency who provides services
21 for the juvenile under this section shall be bound by the court order.

22 **(6) SANCTIONS FOR VIOLATION OF ORDER; DELINQUENCY OR CIVIL LAW OR ORDINANCE**
23 **VIOLATION.** (a) If a juvenile who has been adjudged delinquent violates a condition
24 specified in sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions
25 specified in par. (d) if, at the dispositional hearing under s. 938.335, the court

1 explained the conditions to the juvenile and informed the juvenile of those possible
2 sanctions. Subject to sub. (6m), if a juvenile who has been found to be in need of
3 protection or services under s. 938.13 violates a condition specified in sub. (2) (b) 7.,
4 the court may impose on the juvenile any of the sanctions specified in par. (d), other
5 than placement in a secure detention facility or juvenile portion of a county jail, if,
6 at the dispositional hearing under s. 938.335, the court explained the conditions to
7 the juvenile and informed the juvenile of those possible sanctions. The court may not
8 order the sanction specified in par. (d) 1. unless the court finds that the agency
9 primarily responsible for providing services for the juvenile has made reasonable
10 efforts to prevent the removal of the juvenile from his or her home and that continued
11 placement of the juvenile in his or her home is contrary to the welfare of the juvenile.

12 (am) If a juvenile who has violated a civil law or ordinance violates a condition
13 specified in sub. (2) (b) 7., the court may impose on the juvenile one of the sanctions
14 specified in par. (d) 2. to 4. if, at the dispositional hearing under s. 938.355, the court
15 explained the conditions to the juvenile and informed the juvenile of the possible
16 sanctions under par. (d) for a violation.

17 (b) A motion for imposition of a sanction may be brought by the person or agency
18 primarily responsible for the provision of dispositional services, the district attorney
19 or corporation counsel or the court that entered the dispositional order. If the court
20 initiates the motion, that court is disqualified from holding a hearing on the motion.
21 Notice of the motion shall be given to the juvenile, guardian ad litem, counsel, parent,
22 guardian, legal custodian and all parties present at the original dispositional
23 hearing.

24 (c) Before imposing any sanction, the court shall hold a hearing, at which the
25 juvenile is entitled to be represented by legal counsel and to present evidence.

1 (d) The court may order any of the following sanctions:

2 1. Placement of the juvenile in a secure detention facility or juvenile portion
3 of a county jail that meets the standards promulgated by the department of
4 corrections by rule or in a place of nonsecure custody, for not more than 10 days and
5 educational services consistent with his or her current course of study during the
6 period of placement.

7 2. Suspension of or limitation on the use of the juvenile's operating privilege,
8 as defined under s. 340.01 (40), or of any approval issued under ch. 29 for a period
9 of not more than 90 days. If the court suspends the juvenile's operating privileges
10 or an approval issued under ch. 29, the court shall immediately take possession of
11 the suspended license or approval and forward it to the department that issued it,
12 together with the notice of suspension.

13 3. Detention in the juvenile's home or current residence for a period of not more
14 than 20 days under rules of supervision specified in the order. An order under this
15 subdivision may require the juvenile to be monitored by an electronic monitoring
16 system.

17 4. Not more than 25 hours of uncompensated participation in a supervised
18 work program or other community service work under s. 938.34 (5g).

19 **(6d) SHORT-TERM DETENTION FOR VIOLATION OF ORDER.** Notwithstanding ss.
20 938.19 to 938.21, if a juvenile who has been adjudged delinquent violates a condition
21 specified in sub. (2) (b) 7., the juvenile's caseworker may, without a hearing, take the
22 juvenile into custody and place the juvenile in a secure detention facility or juvenile
23 portion of a county jail that meets the standards promulgated by the department of
24 corrections by rule or in a place of nonsecure custody designated by the caseworker
25 for not more than 72 hours while the alleged violation is being investigated, if at the

1 dispositional hearing the court explained those conditions to the juvenile and
2 informed the juvenile of the possibility of that placement. Notwithstanding ss.
3 938.19 to 938.21, if a juvenile who has been found to be in need of protection or
4 services under s. 48.13 violates a condition specified in sub. (2) (b) 7., the juvenile's
5 caseworker may, without a hearing, take the juvenile into custody and place the
6 juvenile in a place of nonsecure custody designated by the caseworker for not more
7 than 72 hours while the alleged violation is being investigated, if at the dispositional
8 hearing the court explained those conditions to the juvenile and informed the
9 juvenile of the possibility of that placement. If a juvenile is held in a secure detention
10 facility, juvenile portion of a county jail or place of nonsecure custody for longer than
11 72 hours, the juvenile is entitled to a hearing under sub. (6) (c) or s. 938.21. The
12 hearing shall be conducted in the manner provided in sub. (6) or s. 938.21, except that
13 for a hearing under s. 938.21 the hearing shall be conducted within 72 hours, rather
14 than 24 hours, after the time that the decision to hold the juvenile was made and a
15 written statement of the reasons for continuing to hold the juvenile in custody may
16 be filed rather than a petition under s. 938.25.

17 **(6g) CONTEMPT FOR CONTINUED VIOLATION OF ORDER.** (a) If a juvenile upon whom
18 the court has imposed a sanction under sub. (6) (a) commits a 2nd or subsequent
19 violation of a condition specified in sub. (2) (b) 7., the district attorney may file a
20 petition under s. 938.12 charging the juvenile with contempt of court, as defined in
21 s. 785.01 (1), and reciting the disposition under s. 938.34 sought to be imposed. The
22 district attorney may bring the motion on his or her own initiative or on the request
23 of the court that imposed the condition specified in sub. (2) (b) 7. or that imposed the
24 sanction under sub. (6) (a). If the district attorney brings the motion on the request
25 of the court that imposed the condition specified in sub. (2) (b) 7. or that imposed the

1 sanction under sub. (6) (a), that court is disqualified from holding any hearing on the
2 contempt petition.

3 (b) The court may find a juvenile in contempt of court, as defined in s. 785.01
4 (1), and order a disposition under s. 938.34 only if the court makes all of the following
5 findings:

6 1. That the juvenile has previously been sanctioned under sub. (6) (a) for
7 violating a condition specified in sub. (2) (b) 7. and, subsequent to that sanction, has
8 committed another violation of a condition specified in sub. (2) (b) 7.

9 2. That at the sanction hearing the court explained the conditions to the
10 juvenile and informed the juvenile of a possible finding of contempt for a violation
11 and the possible consequences of that contempt.

12 3. That the violation is egregious.

13 4. That the court has considered less restrictive alternatives and found them
14 to be ineffective.

15 **(6m)** SANCTIONS FOR VIOLATION OF ORDER: HABITUAL TRUANCY. (a) If a juvenile
16 who has been found in need of protection or services based on habitual truancy from
17 school violates a condition specified under sub. (2) (b) 7., the court may order as a
18 sanction any combination of the operating privilege suspension specified in this
19 paragraph and the dispositions specified in s. 938.342 (1) (b) to (e) and (1m),
20 regardless of whether the disposition was imposed in the order violated by the
21 juvenile, if at the dispositional hearing under s. 938.335 the court explained that
22 condition to the juvenile and informed the juvenile of the possible sanctions under
23 this paragraph for a violation. The court may order as a sanction suspension of the
24 juvenile's operating privilege, as defined under s. 340.01 (40), for not more than one
25 year. If the juvenile does not hold a valid operator's license under ch. 343, other than

1 an instruction permit under s. 343.07 or a restricted license under s. 343.08, on the
2 date of the order issued under this paragraph, the court may order the suspension
3 to begin on the date that the operator's license would otherwise be reinstated or
4 issued after the juvenile applies and qualifies for issuance or 2 years after the date
5 of the order issued under this paragraph, whichever occurs first. If the court
6 suspends an operating privilege under this paragraph, the court shall immediately
7 take possession of the suspended license and forward it to the department of
8 transportation with a notice stating the reason for and the duration of the
9 suspension.

10 (b) A motion for the imposition of a sanction under par. (a) may be brought by
11 the person or agency primarily responsible for providing dispositional services to the
12 juvenile, the administrator of the school district in which the juvenile is enrolled or
13 resides, the district attorney, the corporation counsel or the court that entered the
14 dispositional order. If the court initiates the motion, that court is disqualified from
15 holding a hearing on the motion. Notice of the motion shall be given to the juvenile,
16 guardian ad litem, counsel, parent, guardian, legal custodian and all parties present
17 at the original dispositional hearing.

18 (c) Before imposing a sanction under par. (a), the court shall hold a hearing at
19 which the juvenile is entitled to be represented by legal counsel and to present
20 evidence. The hearing shall be held within 15 days after the filing of a motion under
21 par. (b).

22 **(7) ORDERS APPLICABLE TO PARENTS, GUARDIANS, LEGAL CUSTODIANS AND OTHER**
23 **ADULTS.** In addition to any dispositional order entered under s. 938.34 or 938.345, the
24 court may enter an order applicable to a juvenile's parent, guardian or legal
25 custodian or to another adult, as provided under s. 938.45.

1 **938.356 Duty of court to warn.** (1) Whenever the court orders a juvenile
2 to be placed outside his or her home because the juvenile has been adjudged to be in
3 need of protection or services under s. 938.345, 938.357, 938.363 or 938.365, the court
4 shall orally inform the parent or parents who appear in court of any grounds for
5 termination of parental rights under s. 48.415 which may be applicable and of the
6 conditions necessary for the juvenile to be returned to the home.

7 (2) In addition to the notice required under sub. (1), any written order which
8 places a juvenile outside the home under sub. (1) shall notify the parent or parents
9 of the information specified under sub. (1).

10 **938.357 Change in placement.** (1) The person or agency primarily
11 responsible for implementing the dispositional order may request a change in the
12 placement of the juvenile, whether or not the change requested is authorized in the
13 dispositional order and shall cause written notice to be sent to the juvenile or the
14 juvenile's counsel or guardian ad litem, parent, foster parent, guardian and legal
15 custodian. The notice shall contain the name and address of the new placement, the
16 reasons for the change in placement, a statement describing why the new placement
17 is preferable to the present placement and a statement of how the new placement
18 satisfies objectives of the treatment plan ordered by the court. Any person receiving
19 the notice under this subsection or notice of the specific foster or treatment foster
20 placement under s. 938.355 (2) (b) 2. may obtain a hearing on the matter by filing an
21 objection with the court within 10 days after receipt of the notice. Placements shall
22 not be changed until 10 days after such notice is sent to the court unless the parent,
23 guardian or legal custodian and the juvenile, if 12 or more years of age, sign written
24 waivers of objection, except that placement changes which were authorized in the
25 dispositional order may be made immediately if notice is given as required in this

1 subsection. In addition, a hearing is not required for placement changes authorized
2 in the dispositional order except where an objection filed by a person who received
3 notice alleges that new information is available which affects the advisability of the
4 court's dispositional order. If a hearing is held under this subsection and the change
5 in placement would remove a juvenile from a foster home, the foster parent may
6 submit a written statement prior to the hearing.

7 **(2)** If emergency conditions necessitate an immediate change in the placement
8 of a juvenile placed outside the home, the person or agency primarily responsible for
9 implementing the dispositional order may remove the juvenile to a new placement,
10 whether or not authorized by the existing dispositional order, without the prior
11 notice provided in sub. (1). The notice shall, however, be sent within 48 hours after
12 the emergency change in placement. Any party receiving notice may demand a
13 hearing under sub. (1). In emergency situations, the juvenile may be placed in a
14 licensed public or private shelter care facility as a transitional placement for not
15 more than 20 days, as well as in any placement authorized under s. 938.34 (3).

16 **(2m)** The juvenile, parent, guardian, legal custodian or any person or agency
17 primarily bound by the dispositional order, other than the person or agency
18 responsible for implementing the order, may request a change in placement under
19 this subsection. The request shall contain the name and address of the place of the
20 new placement requested and shall state what new information is available which
21 affects the advisability of the current placement. This request shall be submitted to
22 the court. In addition, the court may propose a change in placement on its own
23 motion. The court shall hold a hearing on the matter prior to ordering any change
24 in placement under this subsection if the request states that new information is
25 available which affects the advisability of the current placement, unless written

1 waivers of objection to the proposed change in placement are signed by all parties
2 entitled to receive notice under sub. (1) and the court approves. If a hearing is
3 scheduled, the court shall notify the juvenile, parent, foster parent, guardian, legal
4 custodian and all parties who are bound by the dispositional order at least 3 days
5 prior to the hearing. A copy of the request or proposal for the change in placement
6 shall be attached to the notice. If all the parties consent, the court may proceed
7 immediately with the hearing. If a hearing is held under this subsection and the
8 change in placement would remove a juvenile from a foster home, the foster parent
9 may submit a written statement prior to the hearing.

10 **(3)** If the proposed change in placement would involve placing a juvenile, other
11 than a juvenile on aftercare, in a secured correctional facility under the supervision
12 of the department or in a secured child caring institution, notice shall be given as
13 provided in sub. (1). A hearing shall be held, unless waived by the juvenile, parent,
14 guardian and legal custodian, before the judge makes a decision on the request. The
15 juvenile shall be entitled to counsel at the hearing, and any party opposing or
16 favoring the proposed new placement may present relevant evidence and
17 cross-examine witnesses. The proposed new placement may be approved only if the
18 judge finds, on the record, that the conditions set forth in s. 938.34 (4m) have been
19 met.

20 **(4)** When the juvenile is placed with the department, the department may, after
21 an examination under s. 938.50, place the juvenile in a secured correctional facility
22 or a secured child caring institution or on aftercare supervision, either immediately
23 or after a period of placement in a secured correctional facility or a secured child
24 caring institution. The department shall send written notice of the change to the

1 parent, guardian, legal custodian, county department designated under s. 938.34
2 (4n), if any, and committing court.

3 **(4g)** (a) Not later than 120 days after the date on which the juvenile is placed
4 in a secured correctional facility under the supervision of the department or in a
5 secured child caring institution, or not less than 30 days before the date on which the
6 department determines that the juvenile is eligible for release to aftercare
7 supervision, whichever is earlier, the aftercare provider designated under s. 938.34
8 (4n) shall prepare an aftercare plan for the juvenile. If the aftercare provider
9 designated under s. 938.34 (4n) is a county department, that county department
10 shall submit the aftercare plan to the department within the time limits specified in
11 this paragraph, unless the department waives those time limits under par. (b).

12 (b) The department may waive the time period within which an aftercare plan
13 must be prepared and submitted under par. (a) if the department anticipates that the
14 juvenile will remain in the secured correctional facility or secured child caring
15 institution for a period exceeding 8 months or if the juvenile is subject to s. 938.183
16 (2) or extended jurisdiction under s. 938.366. If the department has waived the time
17 period within which an aftercare plan must be prepared and submitted and if there
18 will be a reasonable time period after release from the secured correctional facility
19 or secured child caring institution during which the juvenile may remain subject to
20 court jurisdiction, the department shall notify the county department providing
21 aftercare supervision of the anticipated release date not less than 60 days before the
22 date on which the juvenile will be eligible for release. If the department waives the
23 time limits specified under par. (a), the aftercare plan shall be prepared by the
24 department or prepared and submitted by the county department providing

1 aftercare supervision on or before the date on which the juvenile becomes eligible for
2 release.

3 (c) An aftercare plan prepared under par. (a) or (b) shall include all of the
4 following:

5 1. The minimum number of supervisory contacts per week.

6 2. The conditions, if any, under which the juvenile's aftercare status may be
7 revoked.

8 3. Services or programming to be provided to the juvenile while on aftercare.

9 4. The estimated length of time that aftercare supervision and services shall
10 be provided to the juvenile.

11 (d) A juvenile may be released from a secured correctional facility or a secured
12 child caring institution whether or not an aftercare plan has been prepared under
13 this subsection.

14 **(4m)** The department shall try to release a juvenile to aftercare supervision
15 under sub. (4) within 30 days after the date the department determines the juvenile
16 is eligible for the release.

17 **(5)** (a) The department or a county department, whichever has been designated
18 as a juvenile's aftercare provider under s. 938.34 (4n), may revoke the aftercare
19 status of that juvenile. Revocation of aftercare supervision shall not require prior
20 notice under sub. (1).

21 (b) A juvenile on aftercare status may be taken into custody only as provided
22 in ss. 938.19 to 938.21.

23 (c) The juvenile shall be entitled to representation by counsel at all stages of
24 the revocation proceeding.

1 (d) A hearing on the revocation shall be conducted by the division of hearings
2 and appeals in the department of administration within 30 days after the juvenile
3 is taken into custody for an alleged violation of the conditions of the juvenile's
4 aftercare supervision. This time limit may be waived only upon the agreement of the
5 aftercare provider, the juvenile and the juvenile's counsel.

6 (e) If the hearing examiner finds that the juvenile has violated a condition of
7 aftercare supervision, the hearing examiner shall determine whether confinement
8 in a secured correctional facility or a secured child caring institution is necessary to
9 protect the public or to provide for the juvenile's rehabilitation.

10 (f) Review of a revocation decision shall be by certiorari to the court by whose
11 order the juvenile was placed in a secured correctional facility or a secured child
12 caring institution.

13 (g) The department shall promulgate rules setting standards to be used by a
14 hearing examiner to determine whether to revoke a juvenile's aftercare status. The
15 standards shall specify that the burden is on the department or county department
16 seeking revocation to show to a reasonable certainty by the greater weight of the
17 credible evidence that the juvenile violated a condition of aftercare supervision.

18 **(5m)** If a proposed change in placement changes a juvenile's placement from
19 a placement in the juvenile's home to a placement outside the juvenile's home, the
20 court shall order the juvenile's parent to provide a statement of income, assets, debts
21 and living expenses to the court or the person or agency primarily responsible for
22 implementing the dispositional order by a date specified by the court. The clerk of
23 court shall provide, without charge, to any parent ordered to provide a statement of
24 income, assets, debts and living expenses a document setting forth the percentage
25 standard established by the department under s. 46.25 (9) and listing the factors that

1 a court may consider under s. 46.10 (14) (c). If the juvenile is placed outside the
2 juvenile's home, the court shall determine the liability of the parent in the manner
3 provided in s. 46.10 (14).

4 (6) No change in placement may extend the expiration date of the original
5 order.

6 **938.36 Payment for services.** (1) (a) If legal custody is transferred from the
7 parent or guardian or the court otherwise designates an alternative placement for
8 the juvenile by a disposition made under s. 938.183 (2), 938.34 or 938.345 or by a
9 change in placement under s. 938.357, the duty of the parent or guardian to provide
10 support shall continue even though the legal custodian or the placement designee
11 may provide the support. A copy of the order transferring custody or designating
12 alternative placement for the juvenile shall be submitted to the agency or person
13 receiving custody or placement and the agency or person may apply to the court for
14 an order to compel the parent or guardian to provide the support. Support payments
15 for residential services, when purchased or otherwise funded or provided by the
16 department, or a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437,
17 shall be determined under s. 46.10 (14).

18 (b) In determining the amount of support under par. (a), the court may consider
19 all relevant financial information or other information relevant to the parent's
20 earning capacity, including information reported to the department, or the county
21 child and spousal support agency, under s. 46.25 (2m). If the court has insufficient
22 information with which to determine the amount of support, the court shall order the
23 juvenile's parent to furnish a statement of income, assets, debts and living expenses,
24 if the parent has not already done so, to the court within 10 days after the court's

1 order transferring custody or designating an alternative placement is entered or at
2 such other time as ordered by the court.

3 (2) If a juvenile whose legal custody has not been taken from a parent or
4 guardian is given educational and social services, or medical, psychological or
5 psychiatric treatment by order of the court, the cost thereof, if ordered by the court,
6 shall be a charge upon the county. This section does not prevent recovery of the cost
7 of providing educational programming for a child who is placed in a secure detention
8 facility from the school district in which the child resides. This section does not
9 prevent recovery of reasonable contribution toward the costs from the parent or
10 guardian of the juvenile as the court may order based on the ability of the parent or
11 guardian to pay. This subsection is subject to s. 46.03 (18).

12 (3) In determining county liability, this section does not apply to services
13 specified in ch. 115.

14 **938.361 Payment for alcohol and other drug abuse services.** (1) In this
15 section:

16 (a) "Alcohol and other drug abuse services" means all of the following:

17 1. Any alcohol or other drug abuse examination or assessment ordered under
18 s. 938.295 (1), 938.34 (14s) (b) 1., 938.343 (10) (a) or 938.344 (2g) (a) 1.

19 2. Any special treatment or care that relates to alcohol or other drug abuse
20 services ordered under s. 938.34 (6) (a) or (am).

21 3. Any alcohol or other drug abuse treatment or education ordered by a court
22 under s. 938.32 (1g) or 938.34 (6) (a) or (am), (6r) or (14s) (b) 1. or 2.

23 (b) "Municipality" means a city, village or town.

24 (2) (a) 1. If a juvenile's parent is unable to provide or refuses to provide
25 court-ordered alcohol and other drug abuse services for the juvenile through his or

1 her health insurance or other 3rd-party payments, notwithstanding s. 938.36 (3) the
2 court assigned to exercise jurisdiction under this chapter and ch. 48 or municipal
3 court may order the parent to pay for the alcohol and drug abuse services. If the
4 parent consents to provide alcohol and other drug abuse services for a juvenile
5 through his or her health insurance or other 3rd-party payments but the health
6 insurance provider or other 3rd-party payer refuses to provide the alcohol and other
7 drug abuse services the court assigned to exercise jurisdiction under this chapter and
8 ch. 48 or municipal court may order the health insurance provider or 3rd-party payer
9 to pay for the alcohol and other drug abuse services in accordance with the terms of
10 the parent's health insurance policy or other 3rd-party payment plan.

11 2. This paragraph applies to payment for alcohol and other drug abuse services
12 in any county, regardless of whether the county is a pilot county under s. 938.547.

13 (am) 1. If a court assigned to exercise jurisdiction under this chapter and ch.
14 48 in a county that has a pilot program under s. 938.547 finds that payment is not
15 attainable under par. (a), the court may order payment in accordance with par. (b).

16 2. If a court assigned to exercise jurisdiction under this chapter and ch. 48 in
17 a county that does not have a pilot program under s. 938.547 finds that payment is
18 not attainable under par. (a), the court may order payment in accordance with s.
19 938.34 (6) (ar) or 938.36.

20 3. If a municipal court finds that payment is not attainable under par. (a), the
21 municipal court may order the municipality over which the municipal court has
22 jurisdiction to pay for any alcohol and other drug abuse services ordered by the
23 municipal court.

24 (b) 1. In counties that have a pilot program under s. 938.547, in addition to
25 using the alternative provided for under par. (a), the court assigned to exercise

1 jurisdiction under this chapter and ch. 48 may order a county department of human
2 services established under s. 46.23 or a county department established under s. 51.42
3 or 51.437 in the juvenile's county of legal residence to pay for the alcohol and other
4 drug abuse services whether or not custody has been taken from the parent.

5 2. If a judge orders a county department established under s. 51.42 or 51.437
6 to provide alcohol and other drug abuse services under this paragraph, the provision
7 of the alcohol and other drug abuse services shall be subject to conditions specified
8 in ch. 51.

9 (c) Payment for alcohol and other drug abuse services by a county department
10 or municipality under this section does not prohibit the county department or
11 municipality from contracting with another county department, municipality, school
12 district or approved treatment facility for the provision of alcohol and other drug
13 abuse services. Payment by the county or municipality under this section does not
14 prevent recovery of reasonable contribution toward the costs of the court-ordered
15 alcohol and other drug abuse services from the parent which is based upon the ability
16 of the parent to pay. This subsection is subject to s. 46.03 (18).

17 **938.362 Payment for certain special treatment or care services.** (1) In
18 this section, "special treatment or care" has the meaning given in s. 938.02 (17m),
19 except that it does not include alcohol and other drug abuse services.

20 (2) This section applies to the payment of court-ordered special treatment or
21 care under s. 938.34 (6) (a) or (am), whether or not custody has been taken from the
22 parent.

23 (3) If a juvenile's parent is unable to provide or refuses to provide court-ordered
24 special treatment or care for the juvenile through his or her health insurance or other
25 3rd-party payments, notwithstanding s. 938.36 (3), the court may order the parent

1 to pay for the court-ordered special treatment or care. If the parent consents to
2 provide court-ordered special treatment or care for a juvenile through his or her
3 health insurance or other 3rd-party payments but the health insurance provider or
4 other 3rd-party payer refuses to provide the court-ordered special treatment or care,
5 the court may order the health insurance provider or 3rd-party payer to pay for the
6 court-ordered special treatment or care in accordance with the terms of the parent's
7 health insurance policy or other 3rd-party payment plan.

8 (4) (a) If the court finds that payment is not attainable under sub. (3), the court
9 may order the county department under s. 51.42 or 51.437 of the juvenile's county
10 of legal residence to pay the cost of any court-ordered special treatment or care that
11 is provided by or under contract with that county department.

12 (b) Payment for special treatment or care by a county department under par.
13 (a) does not prohibit the county department from contracting with another county
14 department or approved treatment facility for the provision of special treatment or
15 care.

16 (c) A county department that pays for court-ordered special treatment or care
17 under par. (a) may recover from the parent, based on the parent's ability to pay, a
18 reasonable contribution toward the costs of court-ordered special treatment or care.
19 This paragraph is subject to s. 46.03 (18).

20 **938.363 Revision of dispositional orders.** (1) A juvenile, the juvenile's
21 parent, guardian or legal custodian, any person or agency bound by a dispositional
22 order or the district attorney or corporation counsel in the county in which the
23 dispositional order was entered may request a revision in the order that does not
24 involve a change in placement, including a revision with respect to the amount of
25 child support to be paid by a parent, or the court may on its own motion propose such

1 a revision. The request or court proposal shall set forth in detail the nature of the
2 proposed revision and what new information is available that affects the advisability
3 of the court's disposition. The request or court proposal shall be submitted to the
4 court. The court shall hold a hearing on the matter if the request or court proposal
5 indicates that new information is available which affects the advisability of the
6 court's dispositional order and prior to any revision of the dispositional order, unless
7 written waivers of objections to the revision are signed by all parties entitled to
8 receive notice and the court approves. If a hearing is held, the court shall notify the
9 parent, juvenile, guardian and legal custodian, all parties bound by the dispositional
10 order and the district attorney or corporation counsel in the county in which the
11 dispositional order was entered at least 3 days prior to the hearing. A copy of the
12 request or proposal shall be attached to the notice. If the proposed revision is for a
13 change in the amount of child support to be paid by a parent, the court shall order
14 the juvenile's parent to provide a statement of income, assets, debts and living
15 expenses to the court and the person or agency primarily responsible for
16 implementing the dispositional order by a date specified by the court. The clerk of
17 court shall provide, without charge, to any parent ordered to provide a statement of
18 income, assets, debts and living expenses a document setting forth the percentage
19 standard established by the department under s. 46.25 (9) and listing the factors that
20 a court may consider under s. 46.10 (14) (c). If all parties consent, the court may
21 proceed immediately with the hearing. No revision may extend the effective period
22 of the original order, or revise an original order under s. 938.34 (3) (f) or (6) (am) to
23 impose more than 30 days of detention, nonsecure custody or inpatient treatment on
24 a child.

1 **(2)** If the court revises a dispositional order under sub. (1) with respect to the
2 amount of child support to be paid by a parent for the care and maintenance of the
3 parent's minor juvenile who has been placed by a court order under this chapter in
4 a residential, nonmedical facility, the court shall determine the liability of the parent
5 in the manner provided in s. 46.10 (14).

6 **938.364 Dismissal of certain dispositional orders.** A juvenile, the
7 juvenile's parent, guardian or legal custodian or the district attorney or corporation
8 counsel in the county in which the dispositional order was entered may request a
9 judge to dismiss an order made under s. 938.342 (2) if the juvenile shows
10 documentary proof that he or she is enrolled in a school program or a high school
11 equivalency program, or the court may on its own motion propose such a dismissal.

12 **938.365 Extension of orders. (1)** In this section, "2 or more years" means
13 a period of time that begins with the first placement of the juvenile outside of his or
14 her home pursuant to an order under this section or s. 938.345, 938.357 or 938.363
15 and includes any period of time in which the juvenile returned home, unless the
16 periods of time at home account for the majority of the time since the first placement.

17 **(1m)** The parent, juvenile, guardian, legal custodian, any person or agency
18 bound by the dispositional order, the district attorney or corporation counsel in the
19 county in which the dispositional order was entered or the court on its own motion,
20 may request an extension of an order under s. 938.355. The request shall be
21 submitted to the court which entered the order. No order under s. 938.355 that
22 placed a child in detention, nonsecure custody or inpatient treatment under s. 938.34
23 (3) (f) or (6) (am) may be extended. No other order under s. 938.355 may be extended
24 except as provided in this section.

1 **(2)** No order may be extended without a hearing. The court shall notify the
2 juvenile or the juvenile's guardian ad litem or counsel, the juvenile's parent,
3 guardian, legal custodian, all of the parties present at the original hearing and the
4 district attorney or corporation counsel in the county in which the dispositional order
5 was entered of the time and place of the hearing.

6 **(2g)** (a) At the hearing the person or agency primarily responsible for providing
7 services to the juvenile shall file with the court a written report stating to what
8 extent the dispositional order has been meeting the objectives of the plan for the
9 juvenile's rehabilitation or care and treatment. The juvenile offender review
10 program may file a written report regarding any juvenile examined by the program.

11 (b) If the juvenile is placed outside of his or her home, the report shall include
12 all of the following:

13 1. A copy of the report of the review panel under s. 938.38 (5), if any, and a
14 response to the report from the agency primarily responsible for providing services
15 to the juvenile.

16 2. An evaluation of the juvenile's adjustment to the placement and of any
17 progress the juvenile has made, suggestions for amendment of the permanency plan,
18 a description of efforts to return the juvenile to his or her home, including efforts of
19 the parents to remedy factors which contributed to the juvenile's placement and, if
20 continued placement outside of the juvenile's home is recommended, an explanation
21 of why returning the juvenile to his or her home is not feasible.

22 3. If the juvenile has been placed outside of his or her home for 2 or more years,
23 a statement of whether or not a recommendation has been made to terminate the
24 parental rights of the parents of the juvenile. If a recommendation for a termination
25 of parental rights has been made, the statement shall indicate the date on which the

1 recommendation was made, any previous progress made to accomplish the
2 termination of parental rights, any barriers to the termination of parental rights,
3 specific steps to overcome the barriers and when the steps will be completed, reasons
4 why adoption would be in the best interest of the juvenile and whether or not the
5 juvenile should be registered with the adoption information exchange. If a
6 recommendation for termination of parental rights has not been made, the
7 statement shall include an explanation of the reasons why a recommendation for
8 termination of parental rights has not been made. If the lack of appropriate adoptive
9 resources is the primary reason for not recommending a termination of parental
10 rights, the agency shall recommend that the juvenile be registered with the adoption
11 information exchange or report the reason why registering the juvenile is contrary
12 to the best interest of the juvenile.

13 (c) In cases where the juvenile has not been placed outside the home, the report
14 shall contain a description of efforts that have been made by all parties concerned
15 toward meeting the objectives of treatment, care or rehabilitation, an explanation of
16 why these efforts have not yet succeeded in meeting the objective, and anticipated
17 future planning for the juvenile.

18 **(2m)** (a) Any party may present evidence relevant to the issue of extension.
19 The court shall make findings of fact and conclusions of law based on the evidence,
20 including a finding as to whether reasonable efforts were made by the agency
21 primarily responsible for providing services to the juvenile to make it possible for the
22 juvenile to return to his or her home. An order shall be issued under s. 938.355.

23 (b) If a juvenile has been placed outside the home under s. 938.345 and an
24 extension is ordered under this subsection, the court shall state in the record the
25 reason for the extension.

1 (3) The appearance of any juvenile may be waived by consent of the juvenile,
2 counsel or guardian ad litem.

3 (4) The court shall determine which dispositions are to be considered for
4 extensions.

5 (5) Except as provided in s. 938.368, all orders shall be for a specified length
6 of time not to exceed one year.

7 (6) If a request to extend a dispositional order is made prior to the termination
8 of the order, but the court is unable to conduct a hearing on the request prior to the
9 termination date, the court may extend the order for a period of not more than 30
10 days, not including any period of delay resulting from any of the circumstances
11 specified in s. 938.315 (1). The court shall grant appropriate relief as provided in s.
12 938.315 (3) with respect to any request to extend a dispositional order on which a
13 hearing is not held within the time limit specified in this subsection.

14 (7) Nothing in this section may be construed to allow any changes in placement
15 or revocation of aftercare supervision. Revocation and other changes in placement
16 may take place only under s. 938.357.

17 **938.366 Extended court jurisdiction.** (1) APPLICABILITY. (a) If the person
18 committed any crime specified under s. 940.21 or 940.225 (1) (a) to (c), is adjudged
19 delinquent on that basis and is placed in a secured correctional facility or a secured
20 child caring institution under s. 938.34 (4m), the court shall enter an order extending
21 its jurisdiction until the person reaches 21 years of age or until the termination of
22 the order under sub. (6), whichever occurs earlier.

23 (b) If the person committed a crime specified in s. 940.20 (1) or 946.43 while
24 placed in a secured correctional facility or a secured child caring institution and is
25 adjudged delinquent on that basis following transfer of jurisdiction under s. 970.032,

1 the court shall enter an order extending its jurisdiction until the person reaches 21
2 years of age or until termination of the order under sub. (6), whichever occurs earlier.

3 **(5) REVISION OF ORDER.** (a) Any of the following may petition the court for a
4 revision of an order:

5 1. The person subject to the order.

6 2. The department or county department ordered under s. 938.34 (4n) to
7 provide aftercare supervision of the person.

8 (b) The department or county department may, at any time, file a petition
9 proposing either release of a person subject to an order to aftercare supervision or
10 revocation of the person's aftercare supervision. The petition shall set forth in detail:

11 1. The proposed treatment and supervision plan and proposed institutional
12 placement, if any.

13 2. Any available information that is relevant to the advisability of revising the
14 order.

15 (c) The person subject to an order may, no more often than once each year, file
16 a petition proposing his or her release to aftercare supervision. The petition shall
17 set forth in detail:

18 1. The proposed conditions of aftercare supervision.

19 2. Any available information that is relevant to the advisability of revising the
20 order.

21 (d) 1. At the time the department or county department files a petition under
22 par. (a), it shall provide written notice of the petition to the person who is the subject
23 of the petition. The notice to the person who is the subject of the petition shall state
24 that the person has a right to request a hearing on the petition and, if the petition
25 is for revocation of a person's aftercare supervision, that the person has the right to

1 counsel. The department or county department shall also provide written notice of
2 the petition to the office of the district attorney that filed the petition on the basis of
3 which the juvenile was adjudged delinquent and the victim, if any, of the delinquent
4 act.

5 2. At the time a person subject to an order files a petition under par. (a), the
6 person shall provide written notice of the petition to the department or county
7 department, as applicable.

8 (e) In making a determination under this subsection, the court shall balance
9 the needs of the person with the protection of the public.

10 (f) If the court grants a petition to release a person to aftercare supervision and
11 the person's county of residence is one in which the county department provides
12 aftercare supervision, the department may contract with the county department
13 under s. 46.036 for aftercare supervision of the person.

14 (g) Sections 938.357 and 938.363 do not apply to orders under this subsection.

15 **(6) PETITION FOR DISCHARGE; HEARINGS.** (a) Any of the following may petition the
16 court that entered an order to terminate the order and to discharge the person
17 subject to the order from supervision:

18 1. The person subject to the order.

19 2. The department or county department ordered under s. 938.34 (4n) to
20 provide aftercare supervision of the person.

21 (b) The petition shall state the factual basis for the petitioner's belief that
22 discharge will not pose a threat of bodily harm to other persons. The department or
23 county department may file a petition at any time. The person subject to the order
24 may file a petition not more often than once a year.

1 (c) 1. At the time the department or county department files a petition under
2 par. (a), it shall provide written notice of the petition to the person who is the subject
3 of the petition. The notice to the person who is the subject of the petition shall state
4 that the person has the right to counsel. The department or county department shall
5 also provide written notice of the petition to the office of the district attorney that
6 filed the petition on the basis of which the person was adjudged delinquent and to
7 the victim, if any, of the delinquent act.

8 2. At the time a person subject to an order files a petition under par. (a), he or
9 she shall provide written notice of the petition to the department or county
10 department, whichever has been ordered under s. 938.34 (4n) to provide aftercare
11 supervision of the person.

12 (d) If the court denies the petition, the person shall remain under the
13 jurisdiction of the court until the expiration of the order or until a subsequent
14 petition for discharge under this subsection is granted, whichever is sooner.

15 **(7) NOTICE OF HEARING.** Upon receipt of a request for a hearing under sub. (5)
16 or upon receipt of a petition under sub. (6), the court shall set a date for a hearing
17 on the matter. In any of those cases, the court shall notify the department and each
18 person specified in sub. (5) (d) 1. or (6) (c) 1. of the hearing at least 7 days before the
19 hearing, except that if any such person lives outside of this state the notice shall be
20 mailed at least 14 days before the hearing.

21 **(8) TRANSFER TO OR BETWEEN FACILITIES.** The department may transfer a person
22 subject to an order between secured correctional facilities and secured child caring
23 institutions. After the person attains the age of 17 years, the department may, after
24 consulting with the department of corrections, place the person in a state prison
25 named in s. 302.01. The department of corrections may transfer a person placed in

1 a state prison under this subsection to or between state prisons named in s. 302.01
2 without petitioning for revision of the order under sub. (5) (a).

3 **938.368 Continuation of dispositional orders.** If a petition for termination
4 of parental rights is filed under s. 48.41 or 48.415 or an appeal from a judgment
5 terminating or denying termination of parental rights is filed during the year in
6 which a dispositional order under s. 938.355 or an extension order under s. 938.365
7 is in effect, the dispositional or extension order shall remain in effect until all
8 proceedings related to the filing of the petition or an appeal are concluded.

9 **938.37 Costs.** (1) A court assigned to exercise jurisdiction under this chapter
10 and ch. 48 may not assess costs or assessments against a juvenile under 14 years of
11 age but may assess costs against a juvenile 14 years of age or older.

12 (3) Notwithstanding sub. (1), courts of civil and criminal jurisdiction exercising
13 jurisdiction under s. 938.17 may assess the same costs, penalty assessments and jail
14 assessments against juveniles as they may assess against adults, except that witness
15 fees may not be charged to the juvenile.

16 **938.371 Access to certain information by substitute care provider.** At
17 the time of placement of a juvenile in a foster home, group home or child caring
18 institution under s. 938.183 (2), 938.34, 938.345 or 938.357, or, if the information
19 specified in this section is not available at that time, within 30 days after the date
20 of the placement, the agency that prepared the juvenile's permanency plan shall
21 provide the foster parent or operator of the group home or child caring institution
22 with any information contained in the court report submitted under s. 938.33 or
23 permanency plan submitted under s. 938.38, relating to any of the following:

24 (1) Results of a test or a series of tests of the juvenile to determine the presence
25 of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an

1 antibody to HIV, if the juvenile's parent or a temporary or permanent guardian
2 appointed by the court has consented to the test under s. 252.15 (2) (a) 4. b. and
3 release of the test results under s. 252.15 (5) (a) 19. and the agency directed to
4 prepare the permanency plan notifies the foster parent or operator of the group home
5 or child caring institution of the confidentiality requirements under s. 252.15 (6).

6 (2) Results of any tests of the juvenile to determine the presence of viral
7 hepatitis, type B. The foster parent or operator of a group home or child caring
8 institution receiving information under this subsection shall keep the information
9 confidential.

10 (3) Findings or opinions of the court or agency that prepared the court report
11 or permanency plan relating to any mental, emotional, cognitive, developmental or
12 behavioral disability of the juvenile. The foster parent or operator of a group home
13 or child caring institution receiving information under this subsection shall keep the
14 information confidential.

15 **938.373 Medical authorization.** (1) The court assigned to exercise
16 jurisdiction under this chapter and ch. 48 may authorize medical services including
17 surgical procedures when needed if the court assigned to exercise jurisdiction under
18 this chapter and ch. 48 determines that reasonable cause exists for the services and
19 that the juvenile is within the jurisdiction of the court assigned to exercise
20 jurisdiction under this chapter and ch. 48 and, except as provided in s. 938.296 (4),
21 consents.

22 (2) Section 48.375 (7) applies if the medical service authorized under sub. (1)
23 is an abortion.

24 SUBCHAPTER VII

25 PERMANENCY PLANNING; RECORDS

1 **938.38 Permanency planning. (1) DEFINITIONS.** In this section:

2 (a) “Agency” means the department, a county department or a licensed child
3 welfare agency.

4 (am) “Independent agency” means a private, nonprofit organization, but does
5 not include a licensed child welfare agency that is authorized to prepare permanency
6 plans or that is assigned the primary responsibility of providing services under a
7 permanency plan.

8 (b) “Permanency plan” means a plan designed to ensure that a juvenile is
9 reunified with his or her family whenever possible, or that the juvenile quickly
10 attains a placement or home providing long-term stability.

11 **(2) PERMANENCY PLAN REQUIRED.** Except as provided in sub. (3), for each
12 juvenile living in a foster home, treatment foster home, group home, child caring
13 institution, secure detention facility or shelter care facility, the agency that placed
14 the juvenile or arranged the placement or the agency assigned primary
15 responsibility for providing services to the juvenile under s. 938.355 shall prepare
16 a written permanency plan, if any of the following conditions exists:

17 (a) The juvenile is being held in physical custody under s. 938.207, 938.208 or
18 938.209.

19 (b) The juvenile is in the legal custody of the agency.

20 (c) The juvenile is under supervision of an agency under s. 48.64 (2) or pursuant
21 to a court order under s. 938.355.

22 (d) The juvenile was placed under a voluntary agreement between the agency
23 and the juvenile’s parent under s. 48.63 (1).

24 (e) The juvenile is under the guardianship of the agency.

25 (f) The juvenile’s care is paid under s. 49.19.

1 **(3) TIME.** The agency shall file the permanency plan with the court within 60
2 days after the date on which the juvenile was first held in physical custody or placed
3 outside of his or her home under a court order, except under either of the following
4 conditions:

5 (a) If the juvenile is alleged to be delinquent and is being held in a secure
6 detention facility, juvenile portion of a county jail or shelter care facility, and the
7 agency intends to recommend that the juvenile be placed in a secured correctional
8 facility or a secured child caring institution or the department of corrections intends
9 to recommend that custody of the juvenile be transferred to the department of
10 corrections for participation in the youthful offender program, the agency is not
11 required to submit the permanency plan unless the court does not accept the
12 recommendation of the agency or the department of corrections. If the court places
13 the juvenile in any facility outside of the juvenile's home other than a secured
14 correctional facility or a secured child caring institution, the agency shall file the
15 permanency plan with the court within 60 days after the date of disposition.

16 (b) If the juvenile is held for less than 60 days in a secure detention facility,
17 juvenile portion of a county jail or a shelter care facility, no permanency plan is
18 required if the juvenile is returned to his or her home within that period.

19 **(4) CONTENTS OF PLAN.** The permanency plan shall include a description of all
20 of the following:

21 (a) The services offered and any service provided in an effort to prevent holding
22 or placing the juvenile outside of his or her home, and to make it possible for the
23 juvenile to return home.

24 (b) The basis for the decision to hold the juvenile in custody or to place the
25 juvenile outside of his or her home.

1 (c) The location and type of facility in which the juvenile is currently held or
2 placed, and the location and type of facility in which the juvenile will be placed.

3 (d) If the juvenile is living more than 60 miles from his or her home,
4 documentation that placement within 60 miles of the juvenile's home is either
5 unavailable or inappropriate.

6 (e) The appropriateness of the placement and of the services provided to meet
7 the needs of the juvenile and family, including a discussion of services that have been
8 investigated and considered and are not available or likely to become available
9 within a reasonable time to meet the needs of the juvenile or, if available, why such
10 services are not appropriate.

11 (f) The services that will be provided to the juvenile, the juvenile's family and
12 the juvenile's foster parent, the juvenile's treatment foster parent or the operator of
13 the facility where the juvenile is living to carry out the dispositional order, including
14 services planned to accomplish all of the following:

15 1. Ensure proper care and treatment of the juvenile and promote stability in
16 the placement.

17 2. Meet the juvenile's physical, emotional, social, educational and vocational
18 needs.

19 3. Improve the conditions of the parents' home to facilitate the return of the
20 juvenile to his or her home, or, if appropriate, obtain an alternative permanent
21 placement for the juvenile.

22 (g) The conditions, if any, upon which the juvenile will be returned to his or her
23 home, including any changes required in the parents' conduct, the juvenile's conduct
24 or the nature of the home.

1 **(5) PLAN REVIEW.** (a) The court or a panel appointed under this paragraph shall
2 review the permanency plan every 6 months from the date on which the juvenile was
3 first held in physical custody or placed outside of his or her home. If the court elects
4 not to review the permanency plan, the court shall appoint a panel to review the
5 permanency plan. The panel shall consist of 3 persons who are either designated by
6 an independent agency that has been approved by the chief judge of the judicial
7 administrative district or designated by the agency that prepared the permanency
8 plan. A voting majority of persons on each panel shall be persons who are not
9 employed by the agency that prepared the permanency plan and who are not
10 responsible for providing services to the juvenile or the parents of the juvenile whose
11 permanency plan is the subject of the review.

12 (am) The court may appoint an independent agency to designate a panel to
13 conduct a permanency plan review under par. (a). If the court appoints an
14 independent agency under this paragraph, the county department of the county of
15 the court shall authorize and contract for the purchase of services from the
16 independent agency.

17 (b) The court or the agency shall notify the parents of the juvenile, the juvenile
18 if he or she is 10 years of age or older and the juvenile's foster parent, the juvenile's
19 treatment foster parent or the operator of the facility in which the juvenile is living
20 of the date, time and place of the review, of the issues to be determined as part of the
21 review, of the fact that they may submit written comments not less than 10 working
22 days before the review and of the fact that they may participate in the review. The
23 court or agency shall notify the person representing the interests of the public, the
24 juvenile's counsel and the juvenile's guardian ad litem of the date of the review, of
25 the issues to be determined as part of the review and of the fact that they may submit

1 written comments not less than 10 working days before the review. The notices
2 under this paragraph shall be provided in writing not less than 30 days before the
3 review and copies of the notices shall be filed in the juvenile's case record.

4 (c) The court or the panel shall determine each of the following:

5 1. The continuing necessity for and the appropriateness of the placement.

6 2. The extent of compliance with the permanency plan by the agency and any
7 other service providers, the juvenile's parents and the juvenile.

8 3. The extent of any efforts to involve appropriate service providers in addition
9 to the agency's staff in planning to meet the special needs of the juvenile and the
10 juvenile's parents.

11 4. The progress toward eliminating the causes for the juvenile's placement
12 outside of his or her home and toward returning the juvenile to his or her home or
13 obtaining a permanent placement for the juvenile.

14 5. The date by which it is likely that the juvenile will be returned to his or her
15 home, placed for adoption, placed under legal guardianship or otherwise
16 permanently placed.

17 6. If the juvenile has been placed outside of his or her home for 2 years or more,
18 the appropriateness of the permanency plan and the circumstances which prevent
19 the juvenile from any of the following:

20 a. Being returned to his or her home.

21 b. Having a petition for the involuntary termination of parental rights filed on
22 behalf of the juvenile.

23 c. Being placed for adoption.

24 d. Being placed in sustaining care.

1 7. Whether reasonable efforts were made by the agency to make it possible for
2 the juvenile to return to his or her home.

3 (d) Notwithstanding s. 938.78 (2) (a), the agency that prepared the permanency
4 plan shall, at least 5 days before a review by a review panel, provide to each person
5 appointed to the review panel, the person representing the interests of the public, the
6 juvenile's counsel and the juvenile's guardian ad litem a copy of the permanency plan
7 and any written comments submitted under par. (b). Notwithstanding s. 938.78 (2)
8 (a), a person appointed to a review panel, the person representing the interests of the
9 public, the juvenile's counsel and the juvenile's guardian ad litem may have access
10 to any other records concerning the juvenile for the purpose of participating in the
11 review. A person permitted access to a juvenile's records under this paragraph may
12 not disclose any information from the records to any other person.

13 (e) Within 30 days, the agency shall prepare a written summary of the
14 determinations under par. (c) and shall provide a copy to the court that entered the
15 order, the juvenile or the juvenile's counsel or guardian ad litem, the person
16 representing the interests of the public, the juvenile's parent or guardian and the
17 juvenile's foster parent, the juvenile's treatment foster parent or the operator of the
18 facility where the juvenile is living.

19 (f) If the summary prepared under par. (e) indicates that the review panel made
20 recommendations that conflict with the court order or that provide for additional
21 services not specified in the court order, the agency primarily responsible for
22 providing services to the juvenile shall request a revision of the court order.

23 **(5m) ANNUAL REPORT.** Not later than March 1 annually, each county
24 department shall submit to the department a report identifying the membership of
25 the review panels appointed during the previous year, data on each of the

1 determinations of the review panels required under sub. (5) (c) and any other
2 information specified by the department by rule.

3 **(6) RULES.** The department of health and social services shall promulgate rules
4 establishing the following:

5 (a) Procedures for conducting permanency plan reviews.

6 (b) Requirements for training review panels.

7 (c) Standards for reasonable efforts to prevent placement of juveniles outside
8 of their homes and to make it possible for juveniles to return to their homes if they
9 have been placed outside of their homes.

10 (d) The format for permanency plans and review panel reports.

11 (e) Standards and guidelines for decisions regarding the placement of
12 juveniles.

13 **938.39 Disposition by court bars criminal proceeding.** Disposition by
14 the court of any violation of state law coming within its jurisdiction under s. 938.12
15 bars any future criminal proceeding on the same matter in circuit court when the
16 juvenile reaches the age of 17. This section does not affect criminal proceedings in
17 circuit court which were transferred under s. 938.18.

18 **938.396 Records. (1)** Law enforcement officers' records of juveniles shall be
19 kept separate from records of persons 17 or older. Law enforcement officers' records
20 of juveniles shall not be open to inspection or their contents disclosed except under
21 sub. (1g), (1m) or (1r) or s. 938.293 or by order of the court. This subsection does not
22 apply to representatives of the news media who wish to obtain information for the
23 purpose of reporting news without revealing the identity of the juvenile involved, to
24 victim-witness coordinators, to victims of a juvenile's act who wish to obtain
25 information for the purpose of recovering for any loss, damage or injury suffered as

1 a result of the juvenile's act, to insurance companies that wish to obtain information
2 for the purpose of investigating a claim involving the juvenile, to the confidential
3 exchange of information between the police and officials of the school attended by the
4 juvenile or other law enforcement or social welfare agencies or to juveniles 10 years
5 of age or older who are subject to the jurisdiction of the court of criminal jurisdiction.

6 **(1g)** If requested by the victim-witness coordinator, a law enforcement agency
7 shall disclose to the victim-witness coordinator any information in its records
8 relating to the enforcement of rights under the constitution, this chapter and s.
9 950.04 or the provision of services under s. 950.05. The victim-witness coordinator
10 may use the information only for the purpose of enforcing those rights and providing
11 those services and may make that information available only as necessary to ensure
12 that victims and witnesses of crimes, as defined in s. 950.02 (1m), receive the rights
13 and services to which they are entitled under the constitution, this chapter and ch.
14 950.

15 **(1m)** (a) If requested by the school district administrator of a public school
16 district, a law enforcement agency may provide to the school district administrator
17 any information in its records relating to the use, possession or distribution of alcohol
18 or a controlled substance by a pupil enrolled in the public school district. The
19 information may be used by the school district only as provided under s. 118.127 (2).

20 (b) If requested by the school district administrator of a public school district,
21 a law enforcement agency may disclose to the school district administrator any
22 information in its records relating to the act for which a juvenile enrolled in the public
23 school district was adjudged delinquent. The information may be used by the school
24 district only as provided in s. 118.127 (3).

1 (c) On petition of a law enforcement agency to review pupil records, as defined
2 in s. 118.125 (1) (d), other than pupil records that may be disclosed without a court
3 order under s. 118.125 (2) or (2m), for the purpose of investigating alleged delinquent
4 or criminal activity, the court may order the school board of the school district in
5 which a juvenile is enrolled to disclose to the law enforcement agency the pupil
6 records of that juvenile as necessary for the law enforcement agency to pursue its
7 investigation. The law enforcement agency may use the pupil records only for the
8 purpose of its investigation and may make the pupil records available only to
9 employees of the law enforcement agency who are working on the investigation.

10 (1r) If requested by a victim of a juvenile's act or the victim's insurer, a law
11 enforcement agency may disclose to the victim or insurer any information in its
12 records relating to the injury, loss or damage suffered by the victim, including the
13 name and address of the juvenile and the juvenile's parents. The victim may use and
14 further disclose the information only for the purpose of recovering for the injury,
15 damage or loss suffered as a result of the juvenile's act. The insurer may use and
16 further disclose the information only for the purpose of investigating a claim arising
17 out of the juvenile's act.

18 (2) (a) Records of the court assigned to exercise jurisdiction under this chapter
19 and ch. 48 and of courts exercising jurisdiction under s. 938.17 (2) shall be entered
20 in books or deposited in files kept for that purpose only. They shall not be open to
21 inspection or their contents disclosed except by order of the court assigned to exercise
22 jurisdiction under this chapter or as permitted under this section.

23 (b) Upon request of the department or a federal agency to review court records
24 for the purpose of monitoring and conducting periodic evaluations of activities as
25 required by and implemented under 45 CFR 1355, 1356 and 1357, the court shall

1 open those records for inspection by authorized representatives of the department
2 or federal agency.

3 (c) Upon request of a law enforcement agency to review court records for the
4 purpose of investigating a crime that might constitute criminal gang activity, as
5 defined in s. 941.38 (1) (b), the court shall open for inspection by authorized
6 representatives of the law enforcement agency the records of the court relating to any
7 juvenile who has been found to have committed a delinquent act at the request of or
8 for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been
9 a felony under ch. 161 or under chs. 939 to 948 if committed by an adult.

10 (d) Upon request of a court of criminal jurisdiction, a district attorney or a
11 defense counsel to review court records for the purpose of investigating and
12 determining whether a person has possessed a firearm in violation of s. 941.29 (2),
13 the court assigned to exercise jurisdiction under this chapter and ch. 48 shall open
14 for inspection by authorized representatives of the requester the records of the court
15 relating to any juvenile who has been adjudicated delinquent for an act that would
16 be a felony if committed by an adult.

17 (e) Upon request of the department of health and social services to review court
18 records for the purpose of providing, under s. 980.015 (3) (a), the department of
19 justice or a district attorney with a person's offense history, the court shall open for
20 inspection by authorized representatives of the department of health and social
21 services the records of the court relating to any juvenile who has been adjudicated
22 delinquent for a sexually violent offense, as defined in s. 980.01 (6).

23 (f) Upon request of the victim-witness coordinator to review court records for
24 the purpose of enforcing rights under the constitution, this chapter and s. 950.04 and
25 providing services under s. 950.05, the court shall open for inspection by the

1 victim-witness coordinator the records of the court relating to the enforcement of
2 those rights or the provision of those services. The victim-witness coordinator may
3 use any information obtained under this paragraph only for the purpose of enforcing
4 those rights and providing those services and may make that information available
5 only as necessary to ensure that victims and witnesses of crimes, as defined in s.
6 950.02 (1m), receive the rights and services to which they are entitled under the
7 constitution, this chapter and ch. 950.

8 **(2m)** (a) Notwithstanding sub. (2), upon request, a court shall open for
9 inspection by the requester the records of the court, other than reports under s.
10 938.295 or 938.33 or other records that deal with sensitive personal information of
11 the juvenile and the juvenile's family, relating to a juvenile who has been alleged to
12 be delinquent for committing a violation specified in s. 939.62 (2m) (a) 1., 2. or 3. The
13 requester may further disclose the information to anyone.

14 (b) Notwithstanding sub. (2), upon request, a court shall open for inspection by
15 the requester the records of the court, other than reports under s. 938.295 or 938.33
16 or other records that deal with sensitive personal information of the juvenile and the
17 juvenile's family, relating to a juvenile who has been alleged to be delinquent for
18 committing a violation that would be a felony if committed by an adult if the juvenile
19 has been adjudicated delinquent at any time preceding the present proceeding and
20 that previous adjudication remains of record and unreversed. The requester may
21 further disclose the information to anyone.

22 **(3)** This section does not apply to proceedings for violation of chs. 340 to 349
23 and 351 or any county or municipal ordinance enacted under ch. 349, except that this
24 section does apply to proceedings for violations of ss. 342.06 (2) and 344.48 (1), and
25 ss. 30.67 (1) and 346.67 when death or injury occurs.

1 (4) When a court revokes, suspends or restricts a juvenile's operating privilege
2 under this chapter, the department of transportation shall not disclose information
3 concerning or relating to the revocation, suspension or restriction to any person other
4 than a court, district attorney, county corporation counsel, city, village or town
5 attorney, law enforcement agency, or the minor whose operating privilege is revoked,
6 suspended or restricted, or his or her parent or guardian. Persons entitled to receive
7 this information may not disclose the information to other persons or agencies.

8 (7) (a) Notwithstanding sub. (2) (a), if a petition under s. 938.12 or 938.13 (12)
9 is filed alleging that a juvenile has committed a delinquent act that would be a felony
10 if committed by an adult, the court clerk shall notify the school board of the school
11 district in which the juvenile is enrolled or the school board's designee of the fact that
12 the petition has been filed and the nature of the delinquent act alleged in the petition.
13 Notwithstanding sub. (2) (a) and subject to par. (b), if a juvenile is adjudged
14 delinquent, within 5 days after the date on which the dispositional order is entered,
15 the court clerk shall notify the school board of the school district in which the juvenile
16 is enrolled or the school board's designee of the fact that the juvenile has been
17 adjudicated delinquent, the nature of the violation committed by the juvenile and the
18 disposition imposed on the juvenile under s. 938.34 as a result of that violation.
19 Notwithstanding sub. (2) (a), if school attendance is a condition of a dispositional
20 order under s. 938.355 (2) (b) 7., within 5 days after the date on which the
21 dispositional order is entered, the court clerk shall notify the school board of the
22 school district in which the juvenile is enrolled or the school board's designee of the
23 fact that the juvenile's school attendance is a condition of a dispositional order.

24 (b) If a juvenile is found to have committed a delinquent act at the request of
25 or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been

1 a felony under ch. 161 or under chs. 939 to 948 if committed by an adult and is
2 adjudged delinquent on that basis, within 5 days after the date on which the
3 dispositional order is entered the court clerk shall notify the school board of the
4 school district in which the juvenile is enrolled or the school board's designee of the
5 fact that the juvenile has been adjudicated delinquent on that basis, the nature of
6 the violation committed by the juvenile and the disposition imposed on the juvenile
7 under s. 938.34 as a result of that violation.

8 (c) No information from the juvenile's court records, other than information
9 disclosed under par. (a) or (b), may be disclosed to the principal of the school board
10 of the school district in which the juvenile is enrolled or the school board's designee
11 except by order of the court. Any information provided under this subsection to the
12 school board of the school district in which the juvenile is enrolled or the school
13 board's designee shall be disclosed by the school board or designee to employees of the
14 school district who work directly with the juvenile or who have been determined by
15 the school board or designee to have legitimate educational or safety interests in the
16 information. A school district employe to whom information is disclosed under this
17 paragraph may not further disclose the information. A school board may not use any
18 information provided under this subsection as the sole basis for expelling or
19 suspending a juvenile.

20 (8) Notwithstanding sub. (2), if a juvenile is adjudged delinquent for an act
21 that would be a felony if committed by an adult, the court clerk shall notify the
22 department of justice of that fact. No other information from the juvenile's court
23 records may be disclosed to the department of justice except by order of the court.
24 The department of justice may disclose any information provided under this
25 subsection only as part of a criminal history record search under s. 175.35 (2g) (c).

1 this paragraph may include an order to participate in mental health treatment,
2 anger management, individual or family counseling or parent training and
3 education and to make a reasonable contribution, based on ability to pay, toward the
4 cost of those services.

5 (b) A court may not order inpatient treatment under par. (a) for a juvenile's
6 parent, guardian or legal custodian. All inpatient treatment commitments or
7 admissions must be conducted in accordance with ch. 51.

8 **(2)** No order under sub. (1) (a) or (1m) (a) may be entered until the person who
9 is the subject of the contemplated order is given an opportunity to be heard on the
10 contemplated order. The court shall cause notice of the time, place and purpose of
11 the hearing to be served on the person personally at least 10 days before the date of
12 hearing. The procedure in these cases shall, as far as practicable, be the same as in
13 other cases in the court. At the hearing the person may be represented by counsel
14 and may produce and cross-examine witnesses. Any person who fails to comply with
15 any order issued by a court under sub. (1) (a) or (1m) (a) may be proceeded against
16 for contempt of court. If the person's conduct involves a crime, the person may be
17 proceeded against under the criminal law.

18 **(3)** If it appears at a court hearing that any person 17 or older has violated s.
19 948.40, the court shall refer the record to the district attorney for criminal
20 proceedings as may be warranted in the district attorney's judgment. This
21 subsection does not prevent prosecution of violations of s. 948.40 without the prior
22 reference by the court to the district attorney, as in other criminal cases.

23 **SUBCHAPTER X**

24 **REHEARING AND APPEAL**

1 **(4)** Provide appropriate care and training for juveniles under its supervision
2 under s. 938.183 or 938.34 (4m) or (4n); including serving those juveniles in their own
3 homes, placing them in licensed foster homes or licensed treatment foster homes in
4 accordance with s. 48.63 or licensed group homes, contracting for their care by
5 licensed child welfare agencies or replacing them in juvenile correctional institutions
6 or secured child caring institutions in accordance with rules promulgated under ch.
7 227, except that the department may not purchase the educational component of
8 private day treatment programs for juveniles in its custody unless the department,
9 the school board as defined in s. 115.001 (7) and the state superintendent of public
10 instruction all determine that an appropriate public education program is not
11 available. Disputes between the department and the school district shall be resolved
12 by the state superintendent of public instruction.

13 **(4m)** Continue to provide appropriate care, training and services to any person
14 who meets all of the following qualifications:

15 (a) Is at least 17 years of age.

16 (b) Was under the supervision of the department under s. 938.183 or 938.34
17 (4m) or (4n) when the person reached 17 years of age.

18 (c) Is less than 19 years of age.

19 (d) Is determined by the department to be in need of care and services designed
20 to fit such person for gainful employment and has requested and consented to receive
21 such aid.

22 **(5)** Provide for the moral and religious training of a juvenile under its
23 supervision under s. 938.183 or 938.34 (4m) or (4n) according to the religious belief
24 of the juvenile or of the juvenile's parents.

1 **(6)** Consent to emergency surgery under the direction of a licensed physician
2 or surgeon for any juvenile under its supervision under s. 938.183 or 938.34 (4m) or
3 (4n) upon notification by a licensed physician or surgeon of the need for such surgery
4 and if reasonable effort, compatible with the nature and time limitation of the
5 emergency, has been made to secure the consent of the juvenile's parent or guardian.

6 **(13)** Promulgate rules for the payment of an allowance to juveniles in its
7 institutions and a cash grant to a juvenile being discharged from its institutions or
8 released to aftercare supervision.

9 **(14)** Pay maintenance, tuition and related expenses from the appropriation
10 under s. 20.435 (3) (ho) for persons who when they reached 17 years of age were
11 students regularly attending a school, college or university or regularly attending a
12 course of vocational or technical training designed to fit them for gainful
13 employment, and who when reaching that age were under the supervision of the
14 department under s. 938.183 or 938.34 (4m) or (4n) as a result of a judicial decision.

15 **(16)** Establish and enforce standards for services provided under s. 938.183,
16 938.34 or 938.345. This authority does not apply to services provided by the
17 department of corrections under s. 938.183, 938.366 (8) or 938.537.

18 **938.49 Notification by court of transfer to department of corrections**
19 **or of placement with department of health and social services; information**
20 **for those departments.** (1) When the court places a juvenile in a secured
21 correctional facility or secured child caring institution under the supervision of the
22 department of health and social services or transfers legal custody of a juvenile to the
23 department of corrections, the court shall immediately notify the department to
24 which the juvenile's legal custody is transferred or under whose supervision the
25 juvenile is placed of that action. The court shall, in accordance with procedures

1 established by the department to which the juvenile's legal custody is transferred or
2 under whose supervision the juvenile is placed, provide transportation for the
3 juvenile to a receiving center designated by that department or deliver the juvenile
4 to personnel of that department.

5 (2) When the court places a juvenile in a secured correctional facility or a
6 secured child caring institution under the supervision of the department of health
7 and social services or transfers legal custody of a juvenile to the department of
8 corrections, the court and all other public agencies shall also immediately transfer
9 to the department to which the juvenile's legal custody is transferred or under whose
10 supervision the juvenile is placed a copy of the report submitted to the court under
11 s. 938.33 or, if the report was presented orally, a transcript of the report and all other
12 pertinent data in their possession and shall immediately notify the juvenile's last
13 school district in writing of its obligation under s. 118.125 (4).

14 **938.50 Examination of juveniles under supervision of department of**
15 **health and social services.** (1) The department shall examine every juvenile who
16 is placed under its supervision under s. 938.183 or 938.34 (4m) or (4n) to determine
17 the type of placement best suited to the juvenile and to the protection of the public.
18 This examination shall include an investigation of the personal and family history
19 of the juvenile and his or her environment, any physical or mental examinations
20 considered necessary to determine the type of placement that is necessary for the
21 juvenile and the evaluation under s. 938.533 (2) to determine whether the juvenile
22 is eligible for corrective sanctions supervision. A juvenile who is examined under this
23 subsection shall be screened to determine whether the juvenile is in need of special
24 treatment or care because of alcohol or other drug abuse, mental illness or severe
25 emotional disturbance.

1 (2) In making this examination the department may use any facilities, public
2 or private, that offer aid to it in the determination of the correct placement for the
3 juvenile.

4 **938.505 Juveniles placed under correctional supervision.** (1) When a
5 juvenile is placed under the supervision of the department under s. 938.183 or 938.34
6 or under the supervision of a county department under s. 938.34 (4n), the
7 department or county department shall have the right and duty to protect, train,
8 discipline, treat and confine the juvenile and to provide food, shelter, legal services,
9 education and ordinary medical and dental care for the juvenile, subject to the rights,
10 duties and responsibilities of the guardian of the juvenile and subject to any residual
11 parental rights and responsibilities and the provisions of any court order.

12 (2) (a) If a juvenile 14 years of age or over who is under the supervision of the
13 department or a county department as described in sub. (1) and who is not residing
14 in his or her home wishes to be administered psychotropic medication but a parent
15 with legal custody or the guardian refuses to consent to the administration of
16 psychotropic medication or cannot be found, or if there is no parent with legal
17 custody, the department or county department acting on the juvenile's behalf may
18 petition the court assigned to exercise jurisdiction under this chapter and ch. 48 in
19 the county in which the juvenile is located for permission to administer psychotropic
20 medication to the juvenile. A copy of the petition and a notice of hearing shall be
21 served upon the parent or guardian at his or her last-known address. If, after
22 hearing, the court determines all of the following, the court shall grant permission
23 for the department to administer psychotropic medication to the juvenile without the
24 parent's or guardian's consent:

1 1. That the parent's or guardian's consent is unreasonably withheld or that the
2 parent or guardian cannot be found or that there is no parent with legal custody.

3 2. That the juvenile is 14 years of age or over and is competent to consent to the
4 administration of psychotropic medication and that the juvenile voluntarily
5 consents to the administration of psychotropic medication.

6 3. Based on the recommendation of a physician, that the juvenile is in need of
7 psychotropic medication, that psychotropic medication is appropriate for the
8 juvenile's needs and that psychotropic medication is the least restrictive treatment
9 consistent with the juvenile's needs.

10 (b) The court may, at the request of the department or county department,
11 temporarily approve the administration of psychotropic medication pending the
12 hearing on the petition.

13 **938.51 Notification of release of juvenile from correctional custody. (1)**

14 At least 15 days prior to the date of release of a juvenile from a secured correctional
15 facility or a secured child caring institution and at least 15 days prior to the release
16 of a juvenile from the supervision of the department of health and social services or
17 a county department or from the legal custody of the department of corrections, the
18 department or county department having supervision or legal custody over the
19 juvenile shall do all of the following:

20 (a) Notify all of the following local agencies in the community in which the
21 juvenile will reside of the juvenile's return to the community:

22 1. The law enforcement agencies.

23 2. The school district.

24 3. The county departments under ss. 46.215, 46.22, 46.23, 51.42 and 51.437.

1 (b) Notify any known victim of an act for which the juvenile has been found
2 delinquent of the juvenile's release, if all of the following apply:

3 2. The victim can be found.

4 3. The victim has sent in a request card under sub. (2).

5 (c) Notify, if the victim died as a result of the juvenile's delinquent act and if the
6 criteria under par. (b) are met, an adult member of the victim's family or, if the victim
7 is younger than 18 years old and if the criteria under par. (b) are met, the victim's
8 parent or legal guardian.

9 **(1m)** The department or county department having supervision or legal
10 custody over a juvenile shall determine the local agencies that it will notify under
11 sub. (1) (a) based on the residence of the juvenile's parents or on the juvenile's
12 intended residence specified in the juvenile's aftercare supervision plan or, if those
13 methods do not indicate the community in which the juvenile will reside following
14 release from a secured correctional facility or from the supervision or legal custody
15 of the department or county department, the community in which the juvenile states
16 that he or she intends to reside.

17 **(1r)** The notification under sub. (1) shall include only the juvenile's name, the
18 date of the juvenile's release and the type of placement to which the juvenile is
19 released.

20 **(2)** The department of health and social services shall design and prepare cards
21 for victims specified in sub. (1) (b) and (c) to send to the department or county
22 department having supervision or legal custody over the juvenile. The cards shall
23 have space for these persons to provide their names and addresses and any other
24 information that the department of health and social services determines is
25 necessary. The department of health and social services shall provide the cards,

1 without charge, to district attorneys. District attorneys shall provide the cards,
2 without charge, to victims specified in sub. (1) (b) and (c). These persons may send
3 completed cards to the department or county department having supervision or legal
4 custody over the juvenile.

5 (3) Timely release of a juvenile shall not be prejudiced by the fact that the
6 department or county department having supervision or legal custody over the
7 juvenile did not notify the victims or the local agencies under sub. (1) within the 15
8 days.

9 **938.52 Facilities for care of juveniles in care of department.**

10 (1) FACILITIES MAINTAINED OR USED FOR JUVENILES. The department may maintain or
11 use the following facilities for juveniles in its care:

12 (a) Receiving homes to be used for the temporary care of juveniles.

13 (b) Foster homes or treatment foster homes.

14 (c) Group homes.

15 (d) Institutions, facilities and services, including without limitation forestry or
16 conservation camps for the training and treatment of juveniles 10 years of age or
17 older who have been adjudged delinquent.

18 (f) Other facilities deemed by the department to be appropriate for the juvenile,
19 except that no state funds may be used for the maintenance of a juvenile in the home
20 of a parent or relative eligible for aid under s. 49.19 if such funds would reduce federal
21 funds to this state.

22 (2) USE OF OTHER FACILITIES. (a) In addition to the facilities and services
23 described in sub. (1), the department may use other facilities and services under its
24 jurisdiction. The department may also contract for and pay for the use of other public
25 facilities or private facilities for the care and treatment of juveniles in its care; but

1 placement of juveniles in private or public facilities not under its jurisdiction does
2 not terminate the supervision under s. 938.183 or 938.34 (4m) or (4n) of the
3 department. Placements in institutions for the mentally ill or developmentally
4 disabled shall be made in accordance with ss. 48.14 (5), 48.63 and 938.34 (6) (am) and
5 ch. 51.

6 (b) Public facilities are required to accept and care for persons placed with them
7 by the department in the same manner as they would be required to do had the legal
8 custody of these persons been transferred by a court of competent jurisdiction.
9 Nothing in this subsection shall be construed to require any public facility to serve
10 the department inconsistently with its functions or with the laws and regulations
11 governing their activities; or to give the department authority to use any private
12 facility without its consent.

13 (c) The department shall have the right to inspect all facilities it is using and
14 to examine and consult with persons under its supervision under s. 938.183 or 938.34
15 (4m) or (4n) who have been placed in that facility.

16 **(4) COEDUCATIONAL PROGRAMS AND INSTITUTIONS.** The department may institute
17 and maintain coeducational programs and institutions under this chapter.

18 **938.53 Duration of control of department over delinquents.** Except as
19 provided under ss. 938.183 and 938.366, all juveniles adjudged delinquent who have
20 been placed under the supervision of the department under s. 938.183 or 938.34 (4m)
21 or (4n) shall be discharged as soon as the department determines that there is a
22 reasonable probability that it is no longer necessary either for the rehabilitation and
23 treatment of the juvenile or for the protection of the public that the department
24 retain supervision.

1 **938.532 Juvenile boot camp program. (1) PROGRAM.** The department
2 shall provide a juvenile boot camp program for juveniles.

3 **(2) PROGRAM ELIGIBILITY.** The department may place in the juvenile boot camp
4 program any juvenile who has been placed in a secured correctional facility or a
5 secured child caring institution, under the supervision of the department.

6 **938.533 Corrective sanctions. (2) CORRECTIVE SANCTIONS PROGRAM.** From
7 the appropriation under s. 20.435 (3) (a), the department shall provide \$433,500, and
8 from the appropriation under s. 20.435 (3) (hr), the department shall provide
9 \$2,192,900, for a corrective sanctions program to serve an average daily population
10 of 105 juveniles, or an average daily population of more than 105 juveniles if the
11 appropriation under s. 20.435 (3) (hr) is supplemented under s. 13.101 or 16.515 and
12 the positions for the program are increased under s. 13.101 or 16.505 (2), in not less
13 than 3 counties, including Milwaukee County. The juvenile offender review program
14 in the division of youth services in the department shall evaluate and select for
15 participation in the program juveniles who have been placed in a secured
16 correctional facility or a secured child caring institution under the supervision of the
17 department under s. 938.183 or 938.34 (4m). The department shall place a program
18 participant in the community, provide intensive surveillance of that participant and
19 provide an average of \$5,000 per year per slot to purchase community-based
20 treatment services for each participant. The department shall make the intensive
21 surveillance required under this subsection available 24 hours a day, 7 days a week,
22 and may purchase or provide electronic monitoring for the intensive surveillance of
23 program participants. The department shall provide a report center in Milwaukee
24 County to provide on-site programming after school and in the evening for juveniles
25 from Milwaukee County who are placed in the corrective sanctions program. A

1 contact worker providing services under the program shall have a case load of
2 approximately 10 juveniles and, during the initial phase of placement in the
3 community under the program of a juvenile who is assigned to that contact worker,
4 shall have not less than one face-to-face contact per day with that juvenile. Case
5 management services under the program shall be provided by a corrective sanctions
6 agent who shall have a case load of approximately 15 juveniles. The department
7 shall promulgate rules to implement the program.

8 **(3) INSTITUTIONAL STATUS.** (a) A participant in the corrective sanctions program
9 remains under the supervision of the department, remains subject to the rules and
10 discipline of that department and is considered to be in custody, as defined in s.
11 946.42 (1) (a). Notwithstanding ss. 938.19 to 938.21, if a juvenile violates a condition
12 of that juvenile's participation in the corrective sanctions program the department
13 may, without a hearing, take the juvenile into custody and place the juvenile in a
14 secured detention facility or return the juvenile to placement in a Type 1 secured
15 correctional facility or a secured child caring institution.

16 (b) The department shall operate the corrective sanctions program as a Type
17 2 secured correctional facility. The secretary may allocate and reallocate existing
18 and future facilities as part of the Type 2 secured correctional facility. The Type 2
19 secured correctional facility is subject to s. 46.03 (1). Construction or establishment
20 of a Type 2 secured correctional facility shall be in compliance with all state laws
21 except s. 32.035 and ch. 91. In addition to the exemptions under s. 13.48 (13),
22 construction or establishment of a Type 2 secured correctional facility is not subject
23 to the ordinances or regulations relating to zoning, including zoning under ch. 91, of
24 the county and city, village or town in which the construction or establishment takes
25 place and is exempt from the investigations permitted under s. 46.22 (1) (c) 1. b.

1 **(3m)** ESCAPE. If a juvenile runs away from the juvenile's placement in the
2 community while participating in the corrective sanctions program, that juvenile is
3 considered to have escaped in violation of s. 946.42 (3) (c).

4 **938.534 Intensive supervision program. (1)** A county department may
5 provide an intensive supervision program for juveniles who have been adjudicated
6 delinquent and ordered to participate in an intensive supervision program under s.
7 938.34 (2r). A county department that provides an intensive supervision program
8 shall purchase or provide intensive surveillance and community-based treatment
9 services for participants in that program and may purchase or provide electronic
10 monitoring for the intensive surveillance of program participants. A caseworker
11 providing services under an intensive supervision program may have a case load of
12 no more than 10 juveniles and shall have not less than one face-to-face contact per
13 day with each juvenile who is assigned to that caseworker. Notwithstanding ss.
14 938.19 to 938.21, if a juvenile violates a condition of the juvenile's participation in
15 the program, the juvenile's caseworker may, without a hearing, take the juvenile into
16 custody and place the juvenile in a secure detention facility for not more than 72
17 hours while the alleged violation is being investigated, if at the dispositional hearing
18 the court explained those conditions to the juvenile and informed the juvenile of the
19 possibility of that placement. Notwithstanding ss. 938.19 to 938.21, the juvenile's
20 caseworker may also, without a hearing, take the juvenile into custody and place the
21 juvenile in a place of nonsecure custody for not more than 30 days as crisis
22 intervention, if the juvenile is in need of crisis intervention and if at the dispositional
23 hearing the court informed the juvenile of the possibility of that placement. If the
24 juvenile is held in a secure detention facility for longer than 72 hours, the juvenile
25 is entitled to a hearing under s. 938.21. The hearing shall be conducted in the

1 manner provided in s. 938.21, except that the hearing shall be conducted within 72
2 hours, rather than 24 hours, after the end of the day that the decision to hold the
3 juvenile was made and a written statement of the reasons for continuing to hold the
4 juvenile in custody may be filed rather than a petition under s. 938.25.

5 (2) The department shall promulgate rules specifying the requirements for an
6 intensive supervision program under this section. The rules shall include rules that
7 govern the use of placement in a secure detention facility for not more than 72 hours
8 while a violation of a condition of a juvenile's participation in the program is being
9 investigated and the use of placement in a place of nonsecure custody for not more
10 than 30 days as crisis intervention.

11 (3) From the appropriation under s. 20.435 (3) (bg), the department shall
12 award \$100,000 in fiscal year 1995-96 as grants to county departments to provide
13 intensive supervision programs under this section.

14 **938.535 Early release and intensive supervision program; limits.** The
15 department may establish a program for the early release and intensive supervision
16 of juveniles who have been placed in a secured correctional facility or a secured child
17 caring institution under s. 938.183 or 938.34 (4m). The program may not include any
18 juveniles who have been placed in a secured correctional facility or a secured caring
19 institution as a result of a delinquent act involving the commission of a violent crime
20 as defined in s. 969.035, but not including the crime specified in s. 948.02 (1).

21 **938.536 Intensive aftercare program.** (1) PURPOSE. The purpose of the
22 intensive aftercare program is to reduce the rate of recidivism of juveniles who have
23 been released from secured correctional facilities and child caring institutions by
24 determining the types and levels of intensity of programs, services and supervision
25 that are effective in reducing the rate of recidivism for juveniles on aftercare.

1 **(2) INTENSIVE AFTERCARE PROGRAM ESTABLISHMENT.** The department shall
2 conduct an intensive aftercare program for juveniles who have been placed in a
3 secured correctional facility or a secured child caring institution under s. 938.183 or
4 938.34 (4m) or a child caring institution under s. 938.34 (3) (d) and who have been
5 released on aftercare from any of those placements.

6 **(3) SELECTION OF GRANT RECIPIENTS.** (a) From the appropriation under s. 20.435
7 (3) (au), the department shall award grants to counties that are selected to
8 participate in the intensive aftercare program. The department may award grants
9 to single counties or to counties that apply jointly to operate a single intensive
10 aftercare program. The applications shall be submitted by, and the grants shall be
11 awarded to, the county department in each county that administers community
12 youth and family aids under s. 46.26. In awarding grants under this paragraph, the
13 department shall give preference to counties that operated intensive aftercare pilot
14 programs under s. 48.535, 1991 stats., on January 1, 1993. No county may receive
15 a grant or grants under this paragraph totaling more than \$75,000 in any year.

16 (b) The department shall select intensive aftercare program grant recipients
17 based on applications submitted to the department. Applications and selection shall
18 be in accordance with the request-for-proposal procedures established by the
19 department. Each application shall do all of the following:

20 1. Identify the applicant's goals relating to recidivism for juveniles
21 participating in the intensive aftercare program.

22 2. Assure that the aftercare services available to the participants will include
23 school tutoring and other educational services; vocational training and counseling;
24 alcohol and other drug abuse outpatient treatment, intervention and education;

1 family counseling; employment services; recreational opportunities; and assistance
2 with independent-living arrangements.

3 3. Identify the manner in which the participants who are in need of various
4 aftercare services will obtain or have access to those services.

5 4. If par. (c) 2. applies, identify the method for random selection of the intensive
6 aftercare program participants. The random selection of participants shall operate
7 to ensure that the intensive aftercare program participants are as representative as
8 possible of the characteristics of the total population of juveniles on aftercare in the
9 geographic area designated under par. (c) 2.

10 5. Include proof that the applicant is able to provide matching funds for the
11 applicant's program under this section from sources other than a grant awarded
12 under par. (a) equal to 25% of the amount awarded under par. (a).

13 (c) 1. Except if subd. 2. applies, the application shall ensure that the intensive
14 aftercare program will be provided to each juvenile who is eligible under sub. (4) for
15 the intensive aftercare program in the county or counties that the applicant or joint
16 applicants represent.

17 2. If an applicant is a single county with a population of 500,000 or more, the
18 application may specify a particular geographic area within the county in which the
19 intensive aftercare program will be administered. The application shall ensure that
20 the intensive aftercare program will be provided to each juvenile who is in the
21 geographic area and eligible under sub. (4) and who meets the random selection
22 criteria established under par. (b) 4.

23 **(4) ELIGIBILITY.** A juvenile who resides in a county that receives a grant to
24 administer an intensive aftercare program is eligible for the intensive aftercare
25 program if any of the following applies:

1 (a) The juvenile is placed in a secured correctional facility or child caring
2 institution as a result of a conviction under s. 938.183 or an adjudication of
3 delinquency under s. 938.34 during the time in which the intensive aftercare
4 program is administered.

5 (b) The juvenile is released from a secured correctional facility or child caring
6 institution on aftercare during the time in which the intensive aftercare program is
7 being administered.

8 **(5) COMPONENTS OF INTENSIVE AFTERCARE PROGRAM.** Each grant recipient shall
9 ensure that the intensive aftercare program will include all of the following
10 components:

11 (a) That participants in the intensive aftercare program will receive not less
12 than one supervisory contact per day, for the first 60 days of participation in the
13 program, with a person designated to provide aftercare services and that, after 60
14 days of participation in the program, participants may receive less than one
15 supervisory contact per day if all of the participant's aftercare services providers
16 agree that a reduced level of supervisory contact is appropriate.

17 (b) That, if a juvenile participating in the intensive aftercare program enters
18 a secured correctional facility or a child caring institution as a result of a conviction
19 under s. 938.183 or an adjudication of delinquency under s. 938.34, the grant
20 recipient will designate a case manager for that juvenile. For any juvenile who meets
21 the criteria under sub. (4) (b), a case manager will be appointed at the earliest
22 possible opportunity prior to the juvenile's release. The case manager shall act as
23 a liaison between the secured correctional facility or child caring institution and the
24 intensive aftercare program and develop an intensive aftercare plan to be
25 implemented upon the juvenile's release from the secured correctional facility or

1 child caring institution. The plan shall specify the number of contacts that the
2 juvenile shall receive under the intensive aftercare program, the programs and
3 services to be provided to the juvenile while on intensive aftercare, the planning and
4 treatment goals of the juvenile's participation in the intensive aftercare program and
5 the estimated length of time that the juvenile will participate in the intensive
6 aftercare program. The plan shall be developed in consultation with representatives
7 of the division of youth services in the department.

8 (c) That intensive aftercare will be provided to each juvenile participating in
9 the intensive aftercare program for a period of not less than 90 days from the date
10 on which the juvenile is released from the secured correctional facility or child caring
11 institution. The participant may receive intensive aftercare programming and
12 services after this minimum period if necessary to ensure that planning and
13 treatment goals for the juvenile are met.

14 (d) That the programs and services specified in sub. (3) (b) 2. will be provided,
15 or made available, to an intensive aftercare program participant in accordance with
16 the aftercare plan and the participant's needs. Grant recipients may provide these
17 programs and services directly or through a public or private provider under contract
18 with the grant recipient.

19 **(6) MINIMUM QUALIFICATIONS OF PROVIDERS.** (a) A case manager providing
20 services under sub. (5) (b) shall have at least a bachelor's degree and 2 years of
21 experience in working with delinquent juveniles, as specified by the department, or
22 a master's degree.

23 (b) Persons engaging in the supervisory contacts under sub. (5) (a) shall have
24 at least a bachelor's degree or a minimum of 2 years of experience in working with
25 delinquent juveniles, as specified by the department, or both.

1 **938.537 Youthful offender program.** (1) DEFINITION. In this section,
2 “department” means the department of corrections.

3 (2) PROGRAM ADMINISTRATION AND DESIGN. The department shall administer a
4 youthful offender program for juveniles who have been adjudicated delinquent and
5 ordered to participate in the program under s. 938.34 (4g). The department shall
6 design the program to provide all of the following:

7 (a) Supervision, care and rehabilitation that is less costly than ordinary
8 placement in a secured correctional facility under s. 938.34 (4m) and more restrictive
9 than ordinary supervision in the community.

10 (b) Component phases that are intensive and highly structured.

11 (c) A series of component phases for each participant that is based on public
12 safety considerations and the participant’s need for supervision, care and
13 rehabilitation.

14 (3) COMPONENT PHASES. (a) The department shall provide each participant
15 with one or more of the following sanctions:

16 1. Subject to subd. 1m., placement in a Type 1 secured correctional facility or,
17 if the participant is 17 years of age or over, a Type 1 prison, as defined in s. 301.01
18 (5), for a period of not more than 3 years.

19 1m. If the participant has been adjudicated delinquent for committing an act
20 that would be a Class A felony if committed by an adult, placement in a Type 1
21 secured correctional facility or, if the participant is 17 years of age or over, a Type 1
22 prison, as defined in s. 301.01 (5), until the participant reaches 25 years of age, unless
23 the participant is released sooner, subject to a mandatory minimum period of
24 confinement of not less than one year.

25 2. Intensive or other field supervision.

- 1 3. Electronic monitoring.
- 2 4. Alcohol or other drug abuse outpatient treatment and services.
- 3 5. Mental health treatment and services.
- 4 6. Community service.
- 5 7. Restitution.
- 6 8. Transitional services for education and employment.
- 7 9. Other programs as prescribed by the department.

8 (b) The department may provide the sanctions under par. (a) in any order, may
9 provide more than one sanction at a time and may return to a sanction that was used
10 previously for a participant. Notwithstanding ss. 938.357 and 938.363, a participant
11 is not entitled to a hearing regarding the department's exercise of authority under
12 this subsection unless the department provides for a hearing by rule.

13 **(4) INSTITUTIONAL STATUS.** (a) A participant in the youthful offender program
14 is in the legal custody and under the control of the department and is subject to the
15 rules and discipline of the department. Notwithstanding ss. 938.19 to 938.21, if a
16 participant violates a condition of his or her participation in the program under sub.
17 (3) (a) 2. to 9. while placed in a Type 2 secured correctional facility the department
18 may, without a hearing, take the participant into custody and return him or her to
19 placement in a Type 1 secured correctional facility or, if the participant is 17 years
20 of age or over, a Type 1 prison, as defined in s. 301.01 (5).

21 (b) The department shall operate the component phases of the program
22 specified in sub. (3) (a) 2. to 9. as a Type 2 secured correctional facility. The secretary
23 of corrections may allocate and reallocate existing and future facilities as part of the
24 Type 2 secured correctional facility. The Type 2 secured correctional facility is subject
25 to s. 301.02. Construction or establishment of a Type 2 secured correctional facility

1 shall be in compliance with all state laws except s. 32.035 and ch. 91. In addition to
2 the exemptions under s. 13.48 (13), construction or establishment of a Type 2 secured
3 correctional facility is not subject to the ordinances or regulations relating to zoning,
4 including zoning under ch. 91, of the county and city, village or town in which the
5 construction or establishment takes place and is exempt from inspections required
6 under s. 301.36.

7 **(4m)** ESCAPE. Any intentional failure of a participant to remain within the
8 extended limits of his or her placement while participating in the youthful offender
9 program or to return within the time prescribed by the administrator of the division
10 of intensive sanctions in the department is considered an escape under s. 946.42 (3)
11 (c).

12 **(5)** TRANSFERS AND DISCHARGE. (a) The parole commission may grant a
13 participant parole under s. 304.06 at any time after the participant has completed
14 2 years of participation in the youthful offender program. Parole supervision of the
15 participant shall be provided by the department.

16 (b) The department may discharge a participant from participation in the
17 youthful offender program and from departmental custody and control at any time
18 after the participant has completed 3 years of participation in the youthful offender
19 program.

20 (c) Sections 938.357 and 938.363 do not apply to changes of placement and
21 revisions of orders for a juvenile who is a participant in the youthful offender
22 program.

23 (dm) The department of corrections may not transfer legal custody and control
24 over a participant in the youthful offender program to the department of health and
25 social services.

1 **(6) PURCHASE OF SERVICES.** The department of corrections may contract with
2 the department of health and social services, a county department or any public or
3 private agency for the purchase of goods, care and services for participants in the
4 youthful offender program. The department of corrections shall reimburse a person
5 from whom it purchases goods, care or services under this subsection from the
6 appropriation under s. 20.410 (1) (am).

7 **(6m) MINORITY HIRING.** (a) In this subsection:

8 1. "American Indian" means a person who is enrolled as a member of a federally
9 recognized American Indian tribe or band or who possesses documentation of at least
10 one-fourth American Indian ancestry or documentation of tribal recognition as an
11 American Indian.

12 2. "Black" means a person whose ancestors originated in any of the black racial
13 groups of Africa.

14 3. "Hispanic" means a person of any race whose ancestors originated in Mexico,
15 Puerto Rico, Cuba, Central America or South America or whose culture or origin is
16 Spanish.

17 4. "Minority group member" means a Black, a Hispanic or an American Indian.

18 (b) In the selection of classified service employes for a secured correctional
19 facility operated by the department for the placement of program participants under
20 this section, the appointing authority shall make every effort to use the expanded
21 certification program under s. 230.25 (1n) or rules of the administrator of the division
22 of merit recruitment and selection in the department of employment relations to
23 ensure that the percentage of employes who are minority group members
24 approximates the percentage of the juveniles placed at that secured correctional
25 facility who are minority group members. The administrator of the division of merit

1 recruitment and selection in the department of employment relations shall provide
2 guidelines for the administration of this selection procedure.

3 (7) RULES. The department shall promulgate rules to implement this section.

4 **938.54 Records.** The department shall keep a complete record on each
5 juvenile under its supervision under s. 938.183 or 938.34 (4m) or (4n). This record
6 shall include the information received from the court, the date of reception, all
7 available data on the personal and family history of the juvenile, the results of all
8 tests and examinations given the juvenile, and a complete history of all placements
9 of the juvenile while under the supervision of the department.

10 **938.547 Juvenile alcohol and other drug abuse pilot program.**

11 (1) LEGISLATIVE FINDINGS AND PURPOSE. The legislature finds that the use and abuse
12 of alcohol and other drugs by juveniles is a state responsibility of statewide
13 dimension. The legislature recognizes that there is a lack of adequate procedures to
14 screen, assess and treat juveniles for alcohol and other drug abuse. To reduce the
15 incidence of alcohol and other drug abuse by juveniles, the legislature deems it
16 necessary to experiment with solutions to the problems of the use and abuse of
17 alcohol and other drugs by juveniles by establishing a juvenile alcohol and other drug
18 abuse pilot program in a limited number of counties. The purpose of the program is
19 to develop intake and court procedures that screen, assess and give new dispositional
20 alternatives for juveniles with needs and problems related to the use of alcohol
21 beverages or controlled substances who come within the jurisdiction of a court
22 assigned to exercise jurisdiction under this chapter and ch. 48 in the pilot counties
23 selected by the department.

24 (2) DEPARTMENT RESPONSIBILITIES. Within the availability of funding under s.
25 20.435 (7) (mb) that is available for the pilot program, the department shall select

1 counties to participate in the pilot program. Unless a county department of human
2 services has been established under s. 46.23 in the county that is seeking to
3 implement a pilot program, the application submitted to the department shall be a
4 joint application by the county department that provides social services and the
5 county department established under s. 51.42 or 51.437. The department shall
6 select counties in accordance with the request-for-proposal procedures established
7 by the department. The department shall give a preference to county applications
8 that include a plan for case management.

9 **(3) MULTIDISCIPLINARY SCREEN.** The multidisciplinary screen developed for the
10 pilot program shall be used by an intake worker to determine whether or not a
11 juvenile is in need of an alcohol or other drug abuse assessment. The screen shall
12 also include indicators that screen juveniles for:

- 13 (a) Family dysfunction.
- 14 (b) School or truancy problems.
- 15 (c) Mental health problems.
- 16 (d) Delinquent behavior patterns.

17 **(4) ASSESSMENT CRITERIA.** The uniform alcohol and other drug abuse
18 assessment criteria that the department developed shall be used in the pilot program
19 under ss. 938.245 (2) (a) 3., 938.295 (1), 938.32 (1g), 938.343 (10) and 938.344 (2g).
20 An approved treatment facility that assesses a person under ss. 938.245 (2) (a) 3.,
21 938.295 (1), 938.32 (1g), 938.343 (10) and 938.344 (2g) may not also provide the
22 person with treatment unless the department permits the approved treatment
23 facility to do both in accordance with the criteria established by rule by the
24 department.

1 **938.548 Multidisciplinary screen and assessment criteria.** The
2 department shall make the multidisciplinary screen developed under s. 938.547 (3)
3 and the assessment criteria developed under s. 938.547 (4) available to all counties.

4 **938.549 Juvenile classification system.** (1) The department shall make
5 available to all counties a juvenile classification system that includes at least all of
6 the following:

7 (a) A risk assessment instrument for determining the probability that a
8 juvenile who has committed an offense will commit another offense.

9 (b) A needs assessment instrument for determining the service needs of a
10 juvenile who has committed an offense.

11 (c) A services and placement guide for integrating the risk and needs of a
12 juvenile who has committed an offense with other factors to determine an
13 appropriate placement and level of services for the juvenile.

14 (2) A county may use the juvenile classification system to do any of the
15 following:

16 (a) At the time of an intake inquiry, determine whether to close a case, enter
17 into a deferred prosecution agreement or refer the case to the district attorney.

18 (b) At the time of disposition, recommend a placement and a plan of
19 rehabilitation, treatment and care for the juvenile.

20 (c) After disposition, determine the level or intensity of supervisory contacts
21 required for a juvenile under county supervision.

22 (3) Subject to the availability of resources, the department may provide
23 training and technical assistance in the use of the juvenile classification system to
24 any county that requests that training and technical assistance.

1 SUBCHAPTER XII

2 COUNTY JUVENILE

3 WELFARE SERVICES

4 **938.57 Powers and duties of county departments providing juvenile**
5 **welfare services.** (1) Each county department shall administer and expend such
6 amounts as may be necessary out of any moneys which may be appropriated for
7 juvenile welfare purposes by the county board of supervisors or donated by
8 individuals or private organizations. A county department may do any of the
9 following:

10 (a) Investigate the conditions surrounding delinquent juveniles and juveniles
11 in need of protection or services within the county and take every reasonable action
12 within its power to secure for them the full benefit of all laws enacted for their benefit.
13 Unless provided by another agency, the county department shall offer social services
14 to the caretaker of any juvenile who is referred to it under the conditions specified
15 in this paragraph. This duty shall be discharged in cooperation with the court and
16 with the public officers or boards legally responsible for the administration and
17 enforcement of these laws.

18 (b) Accept legal custody or supervision of juveniles transferred to it by the court
19 under s. 938.355 and provide special treatment and care if ordered by the court.
20 Except as provided in s. 938.505 (2), a court may not order a county department to
21 administer psychotropic medications to juveniles who receive special treatment or
22 care under this paragraph.

23 (c) Provide appropriate protection and services for juveniles in its care,
24 including providing services for juveniles and their families in their own homes,
25 placing the juveniles in licensed foster homes, licensed treatment foster homes or

1 licensed group homes in this state or another state within a reasonable proximity to
2 the agency with legal custody or contracting for services for them by licensed child
3 welfare agencies or replacing them in juvenile correctional institutions or secured
4 child caring institutions in accordance with rules promulgated under ch. 227, except
5 that the county department may not purchase the educational component of private
6 day treatment programs unless the county department, the school board as defined
7 in s. 115.001 (7) and the state superintendent of public instruction all determine that
8 an appropriate public education program is not available. Disputes between the
9 county department and the school district shall be resolved by the state
10 superintendent of public instruction.

11 (d) Provide for the moral and religious training of juveniles in its care according
12 to the religious belief of the juvenile or of his or her parents.

13 (f) Provide services to the court under s. 938.06.

14 (g) Upon request of the department, provide service for any juvenile in the care
15 of the department.

16 (h) Contract with any parent or guardian or other person for the care and
17 maintenance of any juvenile.

18 **(2)** In performing the functions specified in sub. (1) the county department may
19 avail itself of the cooperation of any individual or private agency or organization
20 interested in the social welfare of juveniles in the county.

21 **(3)** (a) From the reimbursement received under s. 49.52 (1) (d), counties may
22 provide funding for the maintenance of any juvenile who meets all of the following
23 qualifications:

24 1. Is 17 years of age or older.

1 2. Is enrolled in and regularly attending a secondary education classroom
2 program leading to a high school diploma.

3 3. Received funding under s. 49.52 (1) (d) immediately prior to his or her 17th
4 birthday.

5 4. Is living in a foster home, treatment foster home, group home or child caring
6 institution.

7 (b) The funding provided for the maintenance of a juvenile under par. (a) shall
8 be in an amount equal to that to which the juvenile would receive under s. 49.52 (1)
9 (d) if the juvenile were 16 years of age.

10 **(4)** A county department may provide aftercare supervision under s. 48.34 (4n)
11 for juveniles who are released from secured correctional facilities or secured child
12 caring institutions operated by the department. If a county department intends to
13 change its policy regarding whether the county department or the department shall
14 provide aftercare supervision for juveniles released from secured correctional
15 facilities or secured child caring institutions operated by the department, the county
16 executive or county administrator, or, if the county has no county executive or county
17 administrator, the chairperson of the county board of supervisors, or, for multicounty
18 departments, the chairpersons of the county boards of supervisors jointly, shall
19 submit a letter to the department stating that intent before July 1 of the year
20 preceding the year in which the policy change will take effect.

21 **938.59 Examination and records.** **(1)** The county department shall
22 investigate the personal and family history and environment of any juvenile
23 transferred to its legal custody or placed under its supervision under s. 938.34 (4n)
24 and make any physical or mental examinations of the juvenile considered necessary
25 to determine the type of care necessary for the juvenile. The county department shall

1 screen a juvenile who is examined under this subsection to determine whether the
2 juvenile is in need of special treatment or care because of alcohol or other drug abuse,
3 mental illness or severe emotional disturbance. The county department shall keep
4 a complete record of the information received from the court, the date of reception,
5 all available data on the personal and family history of the juvenile, the results of all
6 tests and examinations given the juvenile and a complete history of all placements
7 of the juvenile while in the legal custody or under the supervision of the county
8 department.

9 (2) At the department's request, the county department shall report to the
10 department regarding juveniles in the legal custody or under the supervision of the
11 county department.

12 **938.595 Duration of control of county departments over delinquents.**

13 Except as provided in s. 938.66, a juvenile who has been adjudged delinquent and
14 placed under the supervision of a county department under s. 938.34 (4n) shall be
15 discharged as soon as the county department determines that there is a reasonable
16 probability that it is no longer necessary either for the rehabilitation and treatment
17 of the juvenile or for the protection of the public that the county department retain
18 supervision.

19 SUBCHAPTER XVII

20 GENERAL PROVISIONS ON RECORDS

21 **938.78 Confidentiality of records.** (1) In this section, unless otherwise
22 qualified, "agency" means the department, a county department or a licensed child
23 welfare agency.

24 (2) (a) No agency may make available for inspection or disclose the contents of
25 any record kept or information received about an individual in its care or legal

1 custody, except as provided under sub. (3) or s. 938.371, 938.38 (5) (b) or (d) or 938.51
2 or by order of the court.

3 (b) 1. Paragraph (a) does not apply to the confidential exchange of information
4 between an agency, another social welfare agency, a law enforcement agency, the
5 victim-witness coordinator or a public school district regarding an individual in the
6 care or legal custody of the agency.

7 2. On petition of an agency to review pupil records, as defined in s. 118.125 (1)
8 (d), other than pupil records that may be disclosed without court order under s.
9 118.125 (2) or (2m), for the purpose of providing treatment or care for an individual
10 in the care or legal custody of the agency, the court may order the school board of the
11 school district in which an individual is enrolled to disclose to the agency the pupil
12 records of the individual as necessary for the agency to provide that treatment or
13 care. The agency may use the pupil records only for the purpose of providing
14 treatment or care and may make the pupil records available only to employes of the
15 agency who are providing treatment or care for the individual.

16 (d) Paragraph (a) does not prohibit the department or a county department
17 from disclosing information about an individual formerly under the supervision of
18 the department under s. 938.183 or 938.34 (4m) or formerly under the supervision
19 of the department or county department under s. 938.34 (4n) to the department of
20 corrections, if the individual is at the time of disclosure any of the following:

- 21 1. The subject of a presentence investigation under s. 972.15.
- 22 2. Under sentence to the Wisconsin state prisons under s. 973.15.
- 23 3. Subject to an order under s. 938.183 or 938.366 and placed in a state prison
24 under s. 938.183 or 938.366 (8).
- 25 4. On probation to the department of corrections under s. 973.09.

1 5. On parole under s. 302.11 or ch. 304.

2 (e) Paragraph (a) does not prohibit the department of health and social services
3 from disclosing information about an individual adjudged delinquent under s. 938.31
4 for a sexually violent offense, as defined in s. 980.01 (6), to the department of justice,
5 or a district attorney or a judge acting under ch. 980 or to an attorney who represents
6 a person subject to a petition under ch. 980. The court in which the petition under
7 s. 980.02 is filed may issue any protective orders that it determines are appropriate
8 concerning information disclosed under this paragraph.

9 **(3)** If a juvenile adjudged delinquent on the basis of a violation of s. 941.10,
10 941.11, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28, 941.295,
11 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2) (a),
12 943.23 (1g), (1m) or (1r), 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055, 948.60,
13 948.605 or 948.61 or any crime specified in ch. 940 has escaped from a secured
14 correctional facility or a secured child caring institution, has been allowed to leave
15 a secured correctional facility or a secured child caring institution for a specified time
16 period and is absent from the facility or institution for more than 12 hours after the
17 expiration of the specified period, the department of health and social services or the
18 department of corrections may release the juvenile's name and any information
19 about the juvenile that is necessary for the protection of the public or to secure the
20 juvenile's return to the facility, institution or placement. The department of health
21 and social services shall promulgate rules establishing guidelines for the release of
22 the juvenile's name or information about the juvenile to the public, except that the
23 department of corrections shall promulgate rules establishing guidelines for the
24 release to the public of the name of a juvenile, or information about a juvenile, who
25 is placed in a secured correctional facility operated by that department.

1 **SECTION 581.** 938.988 of the statutes is created to read:

2 **938.988 Interstate placement of juveniles.** Sections 48.988 and 48.989
3 apply to the interstate placement of juveniles.

4 **SECTION 582.** 939.62 (3) (a) of the statutes is amended to read:

5 939.62 (3) (a) In case of crimes committed in this state, the terms do not include
6 motor vehicle offenses under chs. 341 to 349 and offenses handled through court
7 proceedings in the court assigned to exercise jurisdiction under ~~ch.~~ chs. 48 and 938,
8 but otherwise have the meanings designated in s. 939.60.

9 **SECTION 583.** 939.62 (3) (b) of the statutes is amended to read:

10 939.62 (3) (b) In case of crimes committed in other jurisdictions, the terms do
11 not include those crimes which are equivalent to motor vehicle offenses under chs.
12 341 to 349 or to offenses handled through court proceedings in the court assigned to
13 exercise jurisdiction under ~~ch.~~ chs. 48 and 938. Otherwise, felony means a crime
14 which under the laws of that jurisdiction carries a prescribed maximum penalty of
15 imprisonment in a prison or penitentiary for one year or more. Misdemeanor means
16 a crime which does not carry a prescribed maximum penalty sufficient to constitute
17 it a felony and includes crimes punishable only by a fine.

18 **SECTION 584.** 939.635 (1) of the statutes is amended to read:

19 939.635 (1) Except as provided in sub. (2), if a person is convicted of violating
20 s. 940.20 (1) while placed in a secured correctional facility, as defined in s. ~~48.02~~
21 938.02 (15m), or a secured child caring institution, as defined in s. ~~938.02 (15g)~~, the
22 court shall sentence the person to not less than 3 years of imprisonment. Except as
23 provided in sub. (2), if a person is convicted of violating s. 946.43 while placed in a
24 secured correctional facility, as defined in s. ~~48.02~~ 938.02 (15m), or a secured child

1 caring institution, as defined in s. 938.02 (15g), the court shall sentence the person
2 to not less than 5 years of imprisonment.

3 **SECTION 585.** 939.635 (2) (b) of the statutes is amended to read:

4 939.635 (2) (b) That imposing the applicable presumptive minimum sentence
5 specified in sub. (1) is not necessary to deter the person or other persons from
6 committing violations of s. 940.20 (1) or 946.43 or other similar offenses while placed
7 in a secured correctional facility, as defined in s. ~~48.02~~ 938.02 (15m), or a secured
8 child caring institution, as defined in s. 938.02 (15g).

9 **SECTION 586.** 941.29 (2) of the statutes is amended to read:

10 941.29 (2) Any person specified in sub. (1) who, subsequent to the conviction
11 for the felony or other crime, as specified in sub. (1), subsequent to the adjudication,
12 as specified in sub. (1) (bm), or subsequent to the finding of not guilty or not
13 responsible by reason of insanity or mental disease, defect or illness, possesses a
14 firearm is guilty of a Class E felony. Whoever violates this section after being
15 convicted under this section is guilty of a Class D felony.

16 **SECTION 587.** 946.42 (1) (a) of the statutes, as affected by 1993 Wisconsin Acts
17 377 and 385, is amended to read:

18 946.42 (1) (a) "Custody" includes without limitation actual custody of an
19 institution, including a secured juvenile correctional facility, a secured child caring
20 institution, as defined in s. 938.02 (15g), a secure detention facility, as defined under
21 s. ~~48.02~~ 938.02 (16), or a juvenile portion of a county jail, or of a peace officer or
22 institution guard and constructive custody of prisoners and juveniles subject to an
23 order under s. ~~48.34 (4m), 48.357 (4) or (5) (e) or 48.366~~ 938.183, 938.34 (4g) or (4m),
24 938.357 (4) or (5) (e) or 938.366 temporarily outside the institution whether for the
25 purpose of work, school, medical care, a leave granted under s. 303.068, a temporary

1 leave or furlough granted to a juvenile or otherwise. Under s. 303.08 (6) it means,
2 without limitation, that of the sheriff of the county to which the prisoner was
3 transferred after conviction. ~~“Custody” also includes the custody by the department~~
4 ~~of health and social services of a child who is placed in the community under~~
5 ~~corrective sanctions supervision under s. 48.533 and custody by the department of~~
6 ~~corrections of a person who is placed in the community under youthful offender~~
7 ~~supervision under s. 48.537.~~ It does not include the custody of a probationer or
8 parolee by the department of corrections or a probation or parole officer or the
9 custody of a person who has been released to aftercare supervision under ch. 48 938
10 unless the person is in actual custody.

11 **SECTION 588.** 946.42 (1) (c) of the statutes is amended to read:

12 946.42 (1) (c) “Legal arrest” includes without limitation an arrest pursuant to
13 process fair on its face notwithstanding insubstantial irregularities and also
14 includes taking a child into custody under s. 48.19 938.19.

15 **SECTION 589.** 946.42 (2) (b) of the statutes is amended to read:

16 946.42 (2) (b) Lawfully taken into custody under s. 48.19 938.19 for a violation
17 of or lawfully alleged or adjudged under ch. 48 938 to have violated a statutory traffic
18 regulation, a statutory provision for which the penalty is a forfeiture or a municipal
19 ordinance.

20 **SECTION 590.** 946.42 (3) (b) of the statutes is amended to read:

21 946.42 (3) (b) Lawfully taken into custody under s. 48.19 938.19 for or lawfully
22 alleged or adjudged under ch. 48 938 to be delinquent on the basis of a violation of
23 a criminal law.

24 **SECTION 591.** 946.42 (3) (c) of the statutes, as affected by 1993 Wisconsin Acts

25 377 and 385, is amended to read:

1 946.42 (3) (c) Subject to a disposition under s. 48.34 938.34 (4g) or (4m), to a
2 placement under s. 48.357 938.357 (4) or to aftercare revocation under s. 48.357
3 938.357 (5) (e).

4 **SECTION 592.** 946.42 (3) (d) of the statutes is amended to read:

5 946.42 (3) (d) Subject to an order under s. 48.366 938.366.

6 **SECTION 593.** 946.44 (1) (a) of the statutes, as affected by 1993 Wisconsin Acts
7 377 and 486, is amended to read:

8 946.44 (1) (a) Any officer or employe of an institution where prisoners are
9 detained ~~or any officer or employe providing corrective sanctions supervision under~~
10 ~~s. 48.533 or youthful offender supervision under s. 48.537~~ who intentionally permits
11 a prisoner in the officer's or employe's custody to escape; or

12 **SECTION 594.** 946.44 (2) (c) of the statutes is amended to read:

13 946.44 (2) (c) "Institution" includes a secured juvenile correctional facility and
14 a secured child caring institution, as defined in s. 938.02 (15g).

15 **SECTION 595.** 946.44 (2) (d) of the statutes, as affected by 1993 Wisconsin Acts
16 377, 385 and 491, is amended to read:

17 946.44 (2) (d) "Prisoner" includes a person who is committed to the custody of
18 the department of corrections under s. 48.34 938.34 (4g) or placed in a secured
19 correctional facility or a secured child caring institution under s. 48.34 938.183,
20 938.34 (4m) or 48.357 938.357 (4) or (5) (e) or who is subject to an order under s.
21 48.366 938.366.

22 **SECTION 596.** 946.45 (1) of the statutes, as affected by 1993 Wisconsin Act 377,
23 is amended to read:

24 946.45 (1) Any officer or employe of an institution where prisoners are detained
25 ~~or any officer or employe providing corrective sanctions supervision under s. 48.533~~

1 ~~or youthful offender supervision under s. 48.537~~ who, through his or her neglect of
2 duty, allows a prisoner in his or her custody to escape is guilty of a Class B
3 misdemeanor.

4 **SECTION 597.** 946.45 (2) (c) of the statutes is amended to read:

5 946.45 (2) (c) "Institution" includes a secured juvenile correctional facility and
6 a secured child caring institution, as defined in s. 938.02 (15g).

7 **SECTION 598.** 946.45 (2) (d) of the statutes, as affected by 1993 Wisconsin Acts
8 377, 385 and 491, is amended to read:

9 946.45 (2) (d) "Prisoner" includes a person who is committed to the custody of
10 the department of corrections under s. ~~48.34~~ 938.34 (4g) or placed in a secured
11 correctional facility or a secured child caring institution under s. ~~48.34~~ 938.183,
12 938.34 (4m) or ~~48.357~~ 938.357 (4) or (5) (e) or who is subject to an order under s.
13 ~~48.366~~ 938.366.

14 **SECTION 599.** 946.50 of the statutes is created to read:

15 **946.50 Absconding.** Any person who is adjudicated delinquent, but who
16 intentionally fails to appear before the court assigned to exercise jurisdiction under
17 chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who does
18 not return to that court for a dispositional hearing before attaining the age of 17 years
19 is guilty of the following:

20 (1) A Class A felony, if the person was adjudicated delinquent for committing
21 an act that would be a Class A felony if committed by an adult.

22 (2) A Class B felony, if the person was adjudicated delinquent for committing
23 an act that would be a Class B felony if committed by an adult.

24 (3) A Class C felony, if the person was adjudicated delinquent for committing
25 an act that would be a Class C felony is committed by an adult.

1 (4) A Class D felony, if the person was adjudicated delinquent for committing
2 an act that would be a Class D felony if committed by an adult.

3 (5) A Class E felony, if the person was adjudicated delinquent for committing
4 an act that would be a Class E felony or a misdemeanor if committed by an adult.

5 **SECTION 600.** 948.01 (1) of the statutes is amended to read:

6 948.01 (1) "Child" means a person who has not attained the age of 18 years,
7 except that for purposes of prosecuting a person who is alleged to have violated a
8 state or federal criminal law "child" does not include a person who has attained the
9 age of 17 years.

10 **SECTION 601.** 948.31 (1) (a) 2. of the statutes is amended to read:

11 948.31 (1) (a) 2. The department of health and social services or any person,
12 county department under s. 46.215, 46.22 or 46.23 or licensed child welfare agency,
13 if custody of the child has been transferred under ch. 48 or 938 to that department,
14 person or agency.

15 **SECTION 602.** 948.31 (1) (b) of the statutes is amended to read:

16 948.31 (1) (b) Except as provided under ~~ch.~~ chs. 48 and 938, whoever
17 intentionally causes a child to leave, takes a child away or withholds a child for more
18 than 12 hours beyond the court-approved period of physical placement or visitation
19 period from a legal custodian with intent to deprive the custodian of his or her
20 custody rights without the consent of the custodian is guilty of a Class C felony. This
21 paragraph is not applicable if the court has entered an order authorizing the person
22 to so take or withhold the child. The fact that joint legal custody has been awarded
23 to both parents by a court does not preclude a court from finding that one parent has
24 committed a violation of this paragraph.

25 **SECTION 603.** 948.35 (1) (a) of the statutes is amended to read:

1 948.35 (1) (a) Except as provided in pars. (b) to (d) or s. 161.455, any person who
2 has attained the age of ~~18~~ 17 years and who, with the intent that a felony be
3 committed and under circumstances that indicate unequivocally that he or she has
4 the intent, knowingly solicits, advises, hires, directs or counsels a ~~child~~ person 17
5 years of age or under to commit that felony may be fined or imprisoned or both, not
6 to exceed the maximum penalty for the felony.

7 **SECTION 604.** 948.36 (1) of the statutes is amended to read:

8 948.36 (1) Any person who has attained the age of ~~18~~ 17 years and who, with
9 the intent that a Class A felony be committed and under circumstances that indicate
10 unequivocally that he or she has that intent, knowingly solicits, advises, hires,
11 directs, counsels, employs, uses or otherwise procures a ~~child~~ person 17 years of age
12 or under to commit that Class A felony may, if the Class A felony is committed by the
13 child, be imprisoned for not more than 5 years in excess of the maximum period of
14 imprisonment provided by law for that Class A felony.

15 **SECTION 605.** 948.40 (1) of the statutes is amended to read:

16 948.40 (1) No person may intentionally encourage or contribute to the
17 delinquency of a child ~~as defined in s. 48.02 (3m)~~. This subsection includes
18 intentionally encouraging or contributing to an act by a child under the age of ~~12~~ 10
19 which would be a delinquent act if committed by a child ~~12~~ 10 years of age or older.

20 **SECTION 606.** 948.40 (2) of the statutes is amended to read:

21 948.40 (2) No person responsible for the child's welfare may, by disregard of the
22 welfare of the child, contribute to the delinquency of the child. This subsection
23 includes disregard that contributes to an act by a child under the age of ~~12~~ 10 that
24 would be a delinquent act if committed by a child ~~12~~ 10 years of age or older.

25 **SECTION 607.** 948.45 (1) of the statutes is amended to read:

1 948.45 (1) Except as provided in sub. (2), any person ~~18~~ 17 years of age or older
2 who, by any act or omission, knowingly encourages or contributes to the truancy, as
3 defined under s. 118.16 (1) (c), of a ~~child~~ person 17 years of age or under is guilty of
4 a Class C misdemeanor.

5 **SECTION 608.** 948.50 (4) (b) of the statutes is amended to read:

6 948.50 (4) (b) Is placed in or transferred to a secured correctional facility, as
7 defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02
8 (15g).

9 **SECTION 609.** 948.60 (title), (2) and (3) of the statutes are amended to read:

10 **948.60** (title) **Possession of a dangerous weapon by a child person**
11 **under 18.**

12 (2) (a) Any child person under 18 years of age who possesses or goes armed with
13 a dangerous weapon is guilty of a Class A misdemeanor.

14 (b) Except as provided in par. (c), any person who intentionally sells, loans or
15 gives a dangerous weapon to a child person under 18 years of age is guilty of a Class
16 E felony.

17 (c) Whoever violates par. (b) is guilty of a Class ~~D~~ C felony if the child person
18 under 18 years of age under par. (b) discharges the firearm and the discharge causes
19 death to himself, herself or another.

20 (d) A child person under 17 years of age who has violated this subsection is
21 subject to the provisions of ch. 48 938 unless jurisdiction is waived under s. 48.18
22 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction
23 under s. 938.183.

24 (3) (a) This section does not apply to a child person under 18 years of age who
25 possesses or is armed with a dangerous weapon when the dangerous weapon is being

1 used in target practice under the supervision of an adult or in a course of instruction
2 in the traditional and proper use of the dangerous weapon under the supervision of
3 an adult. This section does not apply to an adult who transfers a dangerous weapon
4 to a child person under 18 years of age for use only in target practice under the adult's
5 supervision or in a course of instruction in the traditional and proper use of the
6 dangerous weapon under the adult's supervision.

7 (b) This section does not apply to a child person under 18 years of age who is
8 a member of the armed forces or national guard and who possesses or is armed with
9 a dangerous weapon in the line of duty. This section does not apply to an adult who
10 is a member of the armed forces or national guard and who transfers a dangerous
11 weapon to a child person under 18 years of age in the line of duty.

12 (c) This section does not apply to a child person under 18 years of age who
13 possesses or is armed with a firearm having a barrel 12 inches in length or longer and
14 who is in compliance with ss. 29.226 and 29.227. This section does not apply to an
15 adult who transfers a firearm having a barrel 12 inches in length or longer to a child
16 person under 18 years of age who is in compliance with ss. 29.226 and 29.227.

17 **SECTION 610.** 948.61 (4) of the statutes is amended to read:

18 948.61 (4) A child person under 17 years of age who has violated this section
19 is subject to the provisions of ch. 48 938, unless jurisdiction is waived under s. 48-18
20 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction
21 under s. 938.183.

22 **SECTION 611.** 950.02 (1m) of the statutes is amended to read:

23 950.02 (1m) "Crime" means an act committed in this state which, if committed
24 by a competent adult, would constitute a crime, as defined in s. 939.12, or which, if
25 committed by a responsible child, would constitute a delinquent act under ch. 48 938.

SECTION 612

1 **SECTION 612.** 967.04 (7) (a) (intro.) of the statutes is amended to read:

2 967.04 (7) (a) (intro.) In any criminal prosecution or any proceeding under ch.
3 48 or 938, any party may move the court to order the taking of a videotaped deposition
4 of a child who has been or is likely to be called as a witness. Upon notice and hearing,
5 the court may issue an order for such a deposition if the trial or hearing in which the
6 child may be called will commence:

7 **SECTION 613.** 967.04 (9) of the statutes is amended to read:

8 967.04 (9) In any criminal prosecution or juvenile fact-finding hearing under
9 s. 48.31 or 938.31, the court may admit into evidence a videotaped deposition taken
10 under subs. (7) and (8) without an additional hearing under s. 908.08. In any
11 proceeding under s. 304.06 (3) or 973.10 (2), the hearing examiner may order and
12 preside at the taking of a videotaped deposition using the procedure provided in subs.
13 (7) and (8) and may admit the videotaped deposition into evidence without an
14 additional hearing under s. 908.08.

15 **SECTION 614.** 968.255 (1) (a) 3. of the statutes is amended to read:

16 968.255 (1) (a) 3. Taken into custody under s. ~~48.19~~ 938.19 and there are
17 reasonable grounds to believe the child has committed an act which if committed by
18 an adult would be covered under subd. 1. or 2.

19 **SECTION 615.** 968.255 (7) (b) of the statutes is amended to read:

20 968.255 (7) (b) Is placed in or transferred to a secured correctional facility, as
21 defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02
22 (15g).

23 **SECTION 616.** 969.01 (4) of the statutes is amended to read:

24 969.01 (4) CONSIDERATIONS IN SETTING CONDITIONS OF RELEASE. If bail is imposed,
25 it shall be only in the amount found necessary to assure the appearance of the

1 defendant. Conditions of release, other than monetary conditions, may be imposed
2 for the purpose of protecting members of the community from serious bodily harm
3 or preventing intimidation of witnesses. Proper considerations in determining
4 whether to release the defendant without bail, fixing a reasonable amount of bail or
5 imposing other reasonable conditions of release are: the ability of the arrested person
6 to give bail, the nature, number and gravity of the offenses and the potential penalty
7 the defendant faces, whether the alleged acts were violent in nature, the defendant's
8 prior ~~criminal~~ record of criminal convictions and delinquency adjudications, if any,
9 the character, health, residence and reputation of the defendant, the character and
10 strength of the evidence which has been presented to the judge, whether the
11 defendant is currently on probation or parole, whether the defendant is already on
12 bail or subject to other release conditions in other pending cases, whether the
13 defendant has been bound over for trial after a preliminary examination, whether
14 the defendant has in the past forfeited bail or violated a condition of release or was
15 a fugitive from justice at the time of arrest, and the policy against unnecessary
16 detention of the defendant's pending trial.

17 **SECTION 617.** 970.032 (title) and (1) of the statutes are amended to read:

18 **970.032 (title) Preliminary examination; child accused of committing**
19 **assault or battery in a secured correctional facility or a secured child**
20 **caring institution.** (1) Notwithstanding s. 970.03, if a preliminary examination
21 is held regarding a child who is accused of violating s. 940.20 (1) or 946.43 while
22 placed in a secured correctional facility, as defined in s. 48-02 938.02 (15m), or a
23 secured child caring institution, as defined in s. 938.02 (15g), the court shall first
24 determine whether there is probable cause to believe that the child has committed
25 a violation of s. 940.20 (1) or 946.43 while placed in a secured correctional facility, as

1 defined in s. ~~48.02~~ 938.02 (15m), or a secured child caring institution, as defined in
2 s. 938.02 (15g). If the court does not make that finding, the court shall order that the
3 child be discharged but proceedings may be brought regarding the child under ch.
4 48 938.

5 **SECTION 618.** 970.032 (2) (intro.) of the statutes is amended to read:

6 970.032 (2) (intro.) If the court finds probable cause as specified in sub. (1), the
7 court shall determine whether to retain jurisdiction or to transfer jurisdiction to the
8 court assigned to exercise jurisdiction under ~~ch. chs.~~ 48 and 938. The court shall
9 retain jurisdiction unless the court finds all of the following:

10 **SECTION 619.** 970.032 (2) (b) of the statutes is amended to read:

11 970.032 (2) (b) That transferring jurisdiction to the court assigned to exercise
12 jurisdiction under ~~ch. chs.~~ 48 and 938 would not depreciate the seriousness of the
13 offense.

14 **SECTION 620.** 970.032 (2) (c) of the statutes is amended to read:

15 970.032 (2) (c) That retaining jurisdiction is not necessary to deter the child or
16 other children from committing violations of s. 940.20 (1) or 946.43 or other similar
17 offenses while placed in a secured correctional facility, as defined in s. ~~48.02~~ 938.02
18 (15m), or a secured child caring institution, as defined in s. 938.02 (15g).

19 **SECTION 621.** 970.035 of the statutes is amended to read:

20 **970.035 Preliminary examination; child younger than 16 years old.**

21 Notwithstanding s. 970.03, if a preliminary examination under s. 970.03 is held
22 regarding a child who was waived under s. ~~48.18~~ 938.18 for a violation which is
23 alleged to have occurred prior to his or her ~~16th~~ 15th birthday, the court may bind
24 the child over for trial only if there is probable cause to believe that a crime under
25 s. ~~940.01 has been attempted or committed, that a crime under s. 161.41 (1), 940.02,~~

1 940.05, 940.06, 940.225 (1) or (2), 940.305, 940.31 ~~or~~, 943.10 (2) or 943.32 (2) has been
2 committed or that a crime that would constitute a felony under ch. 161 or under chs.
3 939 to 948 if committed by an adult has been committed at the request of or for the
4 benefit of a criminal gang, as defined in s. 939.22 (9). If the court does not make any
5 of those findings, the court shall order that the child be discharged but proceedings
6 may be brought regarding the child under ch. 48 938.

7 **SECTION 622.** 971.105 of the statutes is amended to read:

8 **971.105 Child victims and witnesses; duty to expedite proceedings.** In
9 all criminal and delinquency cases, juvenile fact-finding hearings under s. 48.31 and
10 juvenile dispositional hearings ~~under s. 48.335~~ involving a child victim or witness,
11 as defined in s. 950.02, the court and the district attorney shall take appropriate
12 action to ensure a speedy trial in order to minimize the length of time the child must
13 endure the stress of the child's involvement in the proceeding. In ruling on any
14 motion or other request for a delay or continuance of proceedings, the court shall
15 consider and give weight to any adverse impact the delay or continuance may have
16 on the well-being of a child victim or witness.

17 **SECTION 623.** 972.14 (3) of the statutes is amended to read:

18 972.14 (3) (a) Before pronouncing sentence ~~in a felony case~~, the court shall also
19 allow a victim or family member of a homicide victim to make a statement or submit
20 a written statement to be read in court. The court may allow any other person to
21 make or submit a statement under this paragraph. Any statement under this
22 paragraph must be relevant to the sentence.

23 (b) After a conviction ~~in a felony case~~, if the district attorney knows of a victim
24 or family member of a homicide or felony murder victim, the district attorney shall
25 attempt to contact that person to inform him or her of the right to make or provide

1 a statement under par. (a). ~~The district attorney may mail a letter or form to comply~~
2 ~~with this paragraph.~~ Any failure to comply with this paragraph is not a ground for
3 an appeal of a judgment of conviction or for any court to reverse or modify a judgment
4 of conviction.

5 **SECTION 624.** 973.013 (3m) of the statutes is amended to read:

6 973.013 (3m) If a person who has not attained the age of 16 years is sentenced
7 to the Wisconsin state prisons, the department of corrections shall place the person
8 at a secured juvenile correctional facility or a secured child caring institution, as
9 defined in s. 938.02 (15g), unless the department of health and social services, after
10 consultation with the department of corrections, determines that placement in an
11 institution under s. 302.01 is appropriate based on the person's prior record of
12 adjustment in a correctional setting, if any; the person's present and potential
13 vocational and educational needs, interests and abilities; the adequacy and
14 suitability of available facilities; the services and procedures available for treatment
15 of the person within the various institutions; the protection of the public; and any
16 other considerations promulgated by the department of health and social services by
17 rule. This subsection does not preclude the department of corrections from
18 designating an adult correctional institution as a reception center for the person and
19 subsequently transferring the person to a secured juvenile correctional facility or a
20 secured child caring institution. Section 302.11 and ch. 304 apply to all persons
21 placed in a secured juvenile correctional facility or a secured child caring institution
22 under this subsection.

23 **SECTION 625.** 976.08 of the statutes is amended to read:

24 **976.08 Additional applicability.** In this chapter, "prisoner" includes any
25 person subject to an order under s. ~~48.366~~ 938.183 or 938.366 who is confined to a

1 Wisconsin state prison and any person subject to an order under s. 938.34 (4g) who
2 is 17 years of age or older.

3 **SECTION 626.** 977.02 (3) of the statutes is amended to read:

4 977.02 (3) Promulgate rules regarding the determination of indigency of
5 persons entitled to be represented by counsel, other than children who are entitled
6 to be represented by counsel under s. 48.23 or 938.23, including the time period in
7 which the determination must be made and the criteria to be used to determine
8 indigency and partial indigency.

9 **SECTION 627.** 977.05 (4) (gm) of the statutes is amended to read:

10 977.05 (4) (gm) In accordance with the standards under pars. (h) and (i), accept
11 referrals from judges and courts for the provision of legal services without a
12 determination of indigency of children who are entitled to be represented by counsel
13 under s. 48.23 or 938.23, appoint counsel in accordance with contracts and policies
14 of the board and inform the referring judge or court of the name and address of the
15 specific attorney who has been assigned to the case.

16 **SECTION 628.** 977.05 (4) (h) of the statutes is amended to read:

17 977.05 (4) (h) Accept requests for legal services from children who are entitled
18 to be represented by counsel under s. 48.23 or 938.23 and from indigent persons who
19 are entitled to be represented by counsel under s. 967.06 or who are otherwise so
20 entitled under the constitution or laws of the United States or this state and provide
21 such persons with legal services when, in the discretion of the state public defender,
22 such provision of legal services is appropriate.

23 **SECTION 629.** 977.05 (4) (i) 5. of the statutes is amended to read:

24 977.05 (4) (i) 5. Cases involving children who are entitled to counsel or are
25 provided counsel at the discretion of the court under s. 48.23 or 938.23.

1 **SECTION 630.** 977.07 (1) (a) of the statutes is amended to read:

2 977.07 (1) (a) Determination of indigency for persons entitled to counsel shall
3 be made as soon as possible and shall be in accordance with the rules promulgated
4 by the board under s. 977.02 (3). No determination of indigency is required for a child
5 who is entitled to be represented by counsel under s. 48.23 or 938.23.

6 **SECTION 631.** 977.07 (1) (c) of the statutes is amended to read:

7 977.07 (1) (c) For all referrals made under ss. 809.30 and 974.06 (3) (b), except
8 a referral of a child who is entitled to be represented by counsel under s. 48.23 or
9 938.23, a representative of the state public defender shall determine indigency, and
10 may, unless a request for redetermination has been filed under s. 809.30 (2) (d) or the
11 defendant's request for representation states that his or her financial circumstances
12 have materially improved, rely upon a determination of indigency made for purposes
13 of trial representation under this section.

14 **SECTION 632.** 977.07 (2) (a) of the statutes is amended to read:

15 977.07 (2) (a) The representative of the state public defender or the authority
16 for indigency determinations specified under sub. (1) making a determination of
17 indigency shall ascertain the assets of the person which exceed the amount needed
18 for the payment of reasonable and necessary expenses incurred, or which must be
19 incurred to support the person and the person's immediate family. The assets shall
20 include disposable income, cash in hand, stocks and bonds, bank accounts and other
21 property which can be converted to cash within a reasonable period of time and is not
22 needed to hold a job, or to shelter, clothe and care for the person and the person's
23 immediate family. Assets which cannot be converted to cash within a reasonable
24 period of time, such as a person's home, car, household furnishings, clothing and
25 other property which has been declared exempt from attachment or execution by law,

1 shall be calculated to be assets equivalent in dollars to the amount of the loan which
2 could be, in fact, raised by using these assets as collateral. Assets also include any
3 money expended by the person to post bond to obtain release regarding the current
4 alleged offense. If the person's assets, less reasonable and necessary living expenses,
5 are not sufficient to cover the anticipated cost of effective representation when the
6 length and complexity of the anticipated proceedings are taken fully into account, the
7 person shall be determined to be indigent in full or in part. The determination of the
8 ability of the person to contribute to the cost of legal services shall be based upon
9 specific written standards relating to income, assets and the anticipated cost of
10 representation. If found to be indigent in full or in part, the person shall be promptly
11 informed of the state's right to payment or recoupment under s. 48.275 (2), 757.66,
12 938.275 (2) or 973.06 (1) (e), and the possibility that the payment of attorney fees may
13 be made a condition of probation, should the person be placed on probation.
14 Furthermore, if found to be indigent in part, the person shall be promptly informed
15 of the extent to which he or she will be expected to pay for counsel, and whether the
16 payment shall be in the form of a lump sum payment or periodic payments. The
17 person shall be informed that the payment amount may be adjusted if his or her
18 financial circumstances change by the time of sentencing. The payment and
19 payment schedule shall be set forth in writing. Payments for services of the state
20 public defender or other counsel provided under this chapter made pursuant to this
21 subsection shall be paid to the state public defender for deposit in the state treasury
22 and credited to the appropriation under s. 20.550 (1) (ja). Under this subsection,
23 reasonable and necessary living expenses equal the applicable payment amount
24 under s. 49.19 (11) (a) 1. plus other specified, emergency or essential costs. The
25 representative or authority making the determination of indigency shall consider

1 any assets of the spouse of the person claiming to be indigent as if they were assets
2 of the person, unless the spouse was the victim of a crime allegedly committed by the
3 person.

4 **SECTION 633.** 977.07 (2) (c) of the statutes is amended to read:

5 977.07 (2) (c) A person seeking to have counsel assigned for him or her under
6 s. 977.08, other than a child who is entitled to be represented by counsel under s.
7 48.23 or 938.23, shall sign a statement declaring that he or she has not disposed of
8 any assets for the purpose of qualifying for that assignment of counsel. If the
9 representative or authority making the indigency determination finds that any asset
10 was disposed of for less than its fair market value for the purpose of obtaining that
11 assignment of counsel, the asset shall be counted under par. (a) at its fair market
12 value at the time it was disposed of, minus the amount of compensation received for
13 the asset.

14 **SECTION 634.** 977.08 (2) (e) of the statutes is amended to read:

15 977.08 (2) (e) Cases involving children who are entitled to counsel or are
16 provided counsel at the discretion of the court under s. 48.23 or 938.23.

17 **SECTION 635.** 977.10 of the statutes is amended to read:

18 **977.10 Reports on recoupment and repayment.** On or before each
19 January 15, the state public defender shall report to the joint committee on finance
20 on the status of reimbursement for or recoupment of payments under ss. 48.275,
21 757.66, 938.275 and 977.07 (2). The department of justice, district attorneys, circuit
22 courts and applicable county agencies shall cooperate by providing any necessary
23 information to the state public defender.

24 **SECTION 636.** 978.05 (6) (a) of the statutes is amended to read:

1 978.05 (6) (a) Institute, commence or appear in all civil actions or special
2 proceedings under and perform the duties set forth for the district attorney under ss.
3 17.14, 30.03 (2), 48.09 (1), ~~(2)~~ and (5), ~~48.18, 48.355 (6) (b) and (6g) (a)~~, 59.073, 59.77,
4 70.36, 103.50 (8), 103.92 (4), 109.09, 161.55 (5), 343.305 (9) (a), 453.08, 806.05,
5 938.09, 938.18, 938.355 (6) (b) and (6g) (a), 946.86, 946.87, 971.14 and 973.075 to
6 973.077, perform any duties in connection with court proceedings in a court assigned
7 to exercise jurisdiction under ~~chs. 48 and 938~~ as the judge may request and
8 perform all appropriate duties and appear if the district attorney is designated in
9 specific statutes, including matters within chs. 782, 976 and 979 and ss. 51.81 to
10 51.85. Nothing in this paragraph limits the authority of the county board to
11 designate, under s. 48.09 ~~(2)~~ or (5), that the corporation counsel provide
12 representation as specified in s. 48.09 ~~(2)~~ or (5) or to designate, under s. 48.09 (6), the
13 district attorney as an appropriate person to represent the interests of the public
14 under s. 48.14.

15 **SECTION 637.** 980.015 (2) (b) of the statutes is amended to read:

16 980.015 (2) (b) The anticipated release from a secured correctional facility, as
17 defined in s. ~~48.02~~ 938.02 (15m), or a secured child caring institution, as defined in
18 s. 938.02 (15g), of a person adjudicated delinquent under s. ~~48.34~~ 938.34 on the basis
19 of a sexually violent offense.

20 **SECTION 638.** 980.02 (1) (b) 2. of the statutes is amended to read:

21 980.02 (1) (b) 2. The county in which the person will reside or be placed upon
22 his or her discharge from a sentence, release on parole, release from imprisonment,
23 from a secured correctional facility, as defined in s. ~~48.02~~ 938.02 (15m), or a secured
24 child caring institution, as defined in s. 938.02 (15g), or from a commitment order.

25 **SECTION 639.** 980.02 (2) (ag) of the statutes is amended to read:

1 980.02 (2) (ag) The person is within 90 days of discharge or release, on parole
2 or otherwise, from a sentence that was imposed for a conviction for a sexually violent
3 offense from a secured correctional facility, as defined in s. ~~48.02~~ 938.02 (15m), or a
4 secured child caring institution, as defined in s. 938.02 (15g), if the person was placed
5 in the facility for being adjudicated delinquent under s. ~~48.34~~ 938.34 on the basis of
6 a sexually violent offense or from a commitment order that was entered as a result
7 of a sexually violent offense.

8 **SECTION 640.** 980.02 (4) (am) of the statutes is amended to read:

9 980.02 (4) (am) The circuit court for the county in which the person will reside
10 or be placed upon his or her discharge from a sentence, release on parole, release from
11 imprisonment, from a secured correctional facility, as defined in s. ~~48.02~~ 938.02
12 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or from a
13 commitment order.

14 **SECTION 641.** 980.02 (4) (b) of the statutes is amended to read:

15 980.02 (4) (b) The circuit court for the county in which the person is in custody
16 under a sentence, a placement to a secured correctional facility, as defined in s. ~~48.02~~
17 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or
18 a commitment order.

19 **SECTION 642.** 980.04 (1) of the statutes is amended to read:

20 980.04 (1) Upon the filing of a petition under s. 980.02, the court shall review
21 the petition to determine whether to issue an order for detention of the person who
22 is the subject of the petition. The person shall be detained only if there is cause to
23 believe that the person is eligible for commitment under s. 980.05 (5). A person
24 detained under this subsection shall be held in a facility approved by the department.
25 If the person is serving a sentence of imprisonment, is in a secured correctional

1 facility, as defined in s. ~~48.02~~ 938.02 (15m), or a secured child caring institution, as
2 defined in s. 938.02 (15g), or is committed to institutional care, and the court orders
3 detention under this subsection, the court shall order that the person be transferred
4 to a detention facility approved by the department. A detention order under this
5 subsection remains in effect until the person is discharged after a trial under s.
6 980.05 or until the effective date of a commitment order under s. 980.06, whichever
7 is applicable.

8 **SECTION 643.** 990.01 (3) of the statutes is amended to read:

9 990.01 (3) ADULT. ~~An adult is~~ “Adult” means a person who has attained the age
10 of 18 years, except that for purposes of prosecuting a person who is alleged to have
11 violated any state or federal criminal law “adult” means a person who has attained
12 the age of 17 years.

13 **SECTION 644.** 990.01 (20) of the statutes is amended to read:

14 990.01 (20) MINOR. ~~A minor is~~ “Minor” means a person who has not attained
15 the age of 18 years, except that for purposes of prosecuting a person who is alleged
16 to have violated a state or federal criminal law “minor” does not include a person who
17 has attained the age of 17 years.

18 **SECTION 9300. Initial applicability; general statement.**

19 (1) Except as otherwise provided in SECTIONS 9310 and 9359, this act first
20 applies to violations committed on the effective date of this subsection.

21 **SECTION 9310. Initial applicability; circuit courts.**

22 (1) ADULT COURT JURISDICTION OVER CHILDREN. The treatment of sections 938.18
23 (1) (a) 3., 938.183 (1) (b) and (c), 948.60 (2) (d) and 948.61 (4) of the statutes first
24 applies to acts committed on the effective date of this subsection, but does not
25 preclude the counting of a conviction or a waiver of jurisdiction under section 48.18

1 of the statutes obtained, or a criminal proceeding commenced, before the effective
2 date of this subsection for the purpose of conferring jurisdiction over a child on a court
3 of criminal jurisdiction under section 938.183 (1) (b) or (c) of the statutes, as created
4 by this act.

5 (2) FIREARM POSSESSION PENALTIES. The treatment of section 941.29 (2) of the
6 statutes first applies to offenses committed on the effective date of this subsection,
7 but does not preclude the counting of other offenses as prior offenses for purposes of
8 sentencing a person.

9 (3) SUBSTITUTION OF A JUDGE. The treatment of section 938.29 (1g) of the
10 statutes first applies to petitions filed on the effective date of this subsection.

11 (4) NO CONTEST PLEAS. The treatment of section 938.30 (4) (bm) of the statutes
12 first applies to pleas entered on the effective date of this subsection.

13 (5) ATTENDANCE AT HEARINGS, VICTIM STATEMENTS, COURT REPORTS AND
14 DISCLOSURE OF INFORMATION TO PUBLIC. The treatment of sections 120.12 (18), 938.299
15 (1) (a), (am) and (ar), 938.32 (1) (b) 1., 938.33 (3) (intro.), (4) (intro.), (4m) (intro.) and
16 (a) and (5), 938.335 (3m) (a), 938.396 (2m) and 972.14 (3) (a) of the statutes first
17 applies to hearings held on the effective date of this subsection.

18 (6) VIOLATIONS OF DISPOSITIONAL ORDERS. The treatment of sections 301.135 (1)
19 and (3m), 938.17 (2) (d) (with respect to failure to pay a forfeiture) and (h), 938.23 (1)
20 (am), 938.34 (8) (with respect to failure to pay a forfeiture), 938.343 (2) (with respect
21 to failure to pay a forfeiture) and 938.355 (6) (a), (am), (b) and (d) (intro.), 1. and 4.,
22 (6d) and (6g) (a) and (b) 1. of the statutes first applies to orders entered on the
23 effective date of this subsection.

24 (7) ABSCONDERS. The treatment of section 946.50 of the statutes first applies
25 to children who are adjudicated delinquent on the effective date of this subsection.

