

# State of Wisconsin



1995 Assembly Bill 130

Date of enactment: **November 17, 1995**

Date of publication\*: **December 4, 1995**

## 1995 WISCONSIN ACT 77

**AN ACT to repeal** 46.26 (4) (d) 3., 48.01 (1) (c), 48.01 (1) (d), 48.01 (1) (h), 48.02 (3m), 48.02 (9m), 48.02 (15g), 48.02 (15m), 48.02 (19), 48.02 (20), 48.065 (2) (g), 48.065 (3) (a), 48.065 (3) (f), 48.069 (1) (dj), 48.08 (3) (a) (intro.), 48.08 (3) (a) 1. and 2. and (b), 48.09 (1), 48.09 (2), 48.09 (3), 48.09 (4), 48.12 (title), 48.12 (1) and (2), 48.125, 48.13 (6), 48.13 (6m), 48.13 (7), 48.13 (12), 48.13 (14), 48.14 (4), 48.17, 48.18 (title) and (1), 48.18 (2), 48.18 (2r), 48.18 (3), 48.18 (4), 48.18 (5) (intro.), 48.18 (5) (a), 48.18 (5) (b), 48.18 (5) (c), 48.18 (5) (d), 48.18 (6), 48.18 (8), 48.18 (9), 48.183, 48.185 (3), 48.19 (1) (d) 3., 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 (2) (cm), 48.20 (2) (e), 48.20 (2) (f), 48.20 (2) (g), 48.20 (7) (c) 1m., 48.208 (1), 48.208 (2), 48.208 (5), 48.209 (3), 48.21 (2), 48.21 (4m), 48.22, 48.225, 48.23 (1) (am), 48.23 (1) (ar), 48.23 (2m), 48.237, 48.24 (2m) (a) 1., 48.24 (2m) (a) 3., 48.24 (7), 48.243 (1m), 48.245 (2) (a) 5., 48.245 (2) (a) 6., 48.245 (2) (a) 7., 48.245 (2g), 48.245 (2m), 48.245 (6), 48.25 (2) (b), 48.25 (4), 48.25 (5), 48.255 (1) (d), 48.27 (4m), 48.27 (7), 48.29 (1g), 48.29 (2), 48.295 (1c) (b), 48.295 (1c) (c), 48.295 (2) (a), 48.296, 48.299 (1) (am), 48.30 (4), 48.30 (5), 48.32 (1d), 48.32 (1g), 48.32 (1r), 48.32 (1t), 48.32 (1x), 48.32 (2) (b), 48.32 (4), 48.33 (3), 48.33 (3r), 48.331, 48.335 (3m), 48.34 (intro.), 48.34 (2r), 48.34 (3g), 48.34 (4h), 48.34 (4m), 48.34 (4n), 48.34 (4p), 48.34 (4r), 48.34 (4s), 48.34 (5), 48.34 (7), 48.34 (7m), 48.34 (7r), 48.34 (7t), 48.34 (8), 48.34 (9), 48.34 (14), 48.34 (15), 48.341, 48.342, 48.343, 48.344, 48.345 (1) (a), 48.345 (1) (b), 48.345 (1) (c), 48.345 (1) (d), 48.345 (1) (f), 48.345 (2), 48.346, 48.35 (1) (a), 48.35 (1) (b) 4., 48.35 (1) (c), 48.355 (3m), 48.355 (4) (b), 48.355 (6) and (6g), 48.357 (3), 48.357 (4) (a), 48.357 (4g), 48.357 (5), 48.364, 48.37 (3), 48.38 (3) (a), 48.39, 48.396 (2) (c), 48.396 (2) (d), 48.396 (2) (e), 48.396 (2m), 48.396 (3), 48.396 (4), 48.396 (5), 48.396 (6), 48.396 (7), 48.396 (8), 48.505, 48.51 (1) (intro.), 48.532, 48.533, 48.534, 48.535, 48.538, 48.553, 48.554, 48.555, 48.556, 48.557, 48.558, 48.559, 48.57 (4), 48.595, 48.78 (2) (e), 48.78 (2) (f), 48.78 (3), 48.795, 301.031 (1) (a) 1., 2. and 3. and 906.09 (4); **to renumber** 48.34 (1), 48.34 (3), 48.34 (4), 48.34 (6), 48.34 (6m), 48.34 (10) (title), 48.34 (10) (a), 48.34 (10) (b), 48.34 (10) (c), 48.34 (11), 48.34 (12), 48.34 (13), 48.35 (intro.), 48.991, 48.992 (intro.) and (2), 48.996 and 48.997; **to renumber and amend** 48.25 (2) (a), 48.295 (2) (b), 48.34 (2), 48.34 (2m), 48.355 (4) (a), 48.533 (3), 48.992 (1) (a), 48.992 (1) (b), 48.992 (3), 48.993, 48.994, 48.995 (intro.) and (1), 48.995 (2), 48.995 (3) and (4), 48.998, 118.125 (5) and 301.031 (1) (a) (intro.); **to consolidate, renumber and amend** 48.295 (1c) (intro.) and (a), 48.345 (1) (intro.) and (e) and ; **to amend** 16.385 (7), 16.51 (7), 17.10 (6) (b) 1., 19.35 (1) (am) 2. c., 20.410 (3) (cd), 20.410 (3) (cg), 20.410 (3) (ho), 20.410 (3) (o), 20.435 (7) (b), 38.24 (1s), 46.03 (7) (a), 46.041 (1) (a), 46.043, 46.10 (1), 46.10 (2), 46.10 (14) (b), 46.10 (14) (e) 1., 46.206 (1) (b), 46.21 (2) (a), 46.215 (1) (h), 46.22 (1) (c) 1. b., 46.22 (1) (c) 1. c., 46.22 (1) (c) 5., 46.22 (1) (c) 8. c., 46.22 (1) (c) 8. e., 46.25 (9) (b), 46.26 (4) (d) 3., 46.275 (4) (b) 1., 46.28 (1) (am) 1., 46.28 (1) (am) 2., 46.56 (3) (a) 5., 46.56 (8) (a), 46.56 (8) (g), 46.56 (8) (h) 5., 46.56 (8) (j), 46.56 (8) (k), 46.56 (14) (a) (intro.), 48.02 (1), 48.02 (2), 48.02 (2m), 48.02 (10), 48.02 (15m), 48.023 (4), 48.03 (2), 48.035, 48.065 (2) (gm), 48.065 (3) (b), 48.065 (3) (c), 48.065 (3) (e), 48.065 (3) (f), 48.069 (1) (intro.), 48.069 (2), 48.07 (3), 48.07 (4), 48.08 (2), 48.10, 48.13 (4), 48.135 (1), 48.15, 48.185 (1),

\* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

48.19 (1) (d) 6., 48.20 (2) (ag), 48.20 (3), 48.20 (7) (a), 48.20 (8), 48.205 (1) (a), 48.205 (1) (c), 48.208 (1), 48.21 (1) (a), 48.21 (3) (intro.), 48.227 (4) (b), 48.227 (4) (e) 2., 48.23 (1) (a), 48.23 (4), 48.24 (1), 48.24 (2m) (a) 2., 48.24 (5), 48.243 (1) (intro.), 48.243 (1) (b), 48.243 (1) (c), 48.243 (1) (h), 48.245 (1), 48.245 (2) (b), 48.245 (7), 48.245 (8), 48.25 (1), 48.25 (3), 48.255 (1) (intro.), 48.255 (1) (e), 48.255 (3), 48.255 (4), 48.263 (2), 48.27 (1), 48.27 (8), 48.273 (1), 48.273 (3), 48.275 (1), 48.275 (2) (a), 48.29 (1), 48.29 (1m), 48.29 (3), 48.293 (1), 48.293 (2), 48.297 (2), 48.297 (3), 48.297 (5), 48.299 (1) (a), 48.299 (4) (a), 48.299 (4) (b), 48.30 (1), 48.30 (2), 48.30 (3), 48.30 (6), 48.30 (7), 48.30 (8), 48.30 (9), 48.30 (10), 48.31 (1), 48.31 (2), 48.31 (4), 48.32 (1), 48.32 (2) (a), 48.32 (5) (a), 48.32 (5) (b), 48.33 (1) (intro.), 48.33 (4m) (intro.), 48.335 (1), 48.35 (1) (b) 2., 48.355 (1), 48.355 (2) (b) 5., 48.355 (7), 48.357 (2), 48.357 (4), 48.357 (4g) (b), 48.357 (4g) (d), 48.357 (4m), 48.357 (5) (a), (b) and (d), 48.357 (5) (e) and (g), 48.36 (1), 48.361 (1) (b), 48.361 (1) (c), 48.361 (2) (am) 2., 48.362 (2), 48.365 (7), 48.366 (5) (a) 2., 48.366 (6) (a) 2., 48.366 (6) (c) 2., 48.37 (1), 48.373 (1), 48.375 (4) (b) 1g., 48.38 (1) (a), 48.396 (1), 48.396 (2) (a), 48.396 (2) (b), 48.415 (1) (a) 2., 48.415 (2) (a), 48.45 (1) (a), 48.45 (1) (b), 48.45 (1m) (a), 48.48 (13), 48.51 (1) (intro.), 48.52 (title), 48.52 (1) (c), 48.547 (1), 48.547 (4), 48.57 (1) (a), 48.58 (1) (b), 48.58 (1) (c), 48.58 (1) (d), 48.59 (1), 48.63 (1), 48.66 (1), 48.68 (1), 48.78 (1), 48.78 (2) (a), 48.78 (2) (c), 48.78 (3), 48.79 (intro.), 48.95, 49.19 (4) (c), 49.46 (1) (a) 5., 49.90 (1m), 50.39 (3), 51.05 (2), 51.13 (1) (c), 51.13 (4) (a), 51.13 (4) (b), 51.13 (4) (d), 51.13 (4) (h) 2., 51.13 (4) (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) (b), 51.20 (6), 51.20 (13) (cr), 51.35 (3) (title), 51.35 (3) (a), 51.35 (3) (b), 51.35 (3) (c), 51.35 (3) (e), 51.35 (3) (g), 51.42 (3) (ar) 4. b., 51.42 (3) (as) 1., 51.437 (4rm) (a), 51.45 (5) (d) 1., 51.45 (11) (bm), 59.175, 101.123 (1) (i), 101.123 (3) (gg), 102.07 (13), 103.72, 103.87, 115.31 (1) (b), 115.81 (9) (c), 115.85 (2m), 118.125 (1) (a), 118.125 (2) (c), 118.125 (2) (cm), 118.125 (2) (d), 118.125 (2) (e), 118.125 (2) (i), 118.125 (2) (j) 2., 118.125 (2) (j) 3., 118.125 (2) (L), 118.125 (3), 118.125 (4), 118.127, 118.15 (1) (cm) 1., 118.15 (5) (a), 118.16 (2m) (a) (intro.), 118.16 (2m) (d), 118.16 (2m) (e), 118.16 (4) (e), 118.16 (5) (intro.), 118.16 (5) (a), 118.16 (5) (c), 118.16 (6), 118.162 (4) (e), 118.163 (2) (b), 118.163 (2) (d), 120.12 (18), 121.78 (4), 125.07 (4) (bs) 1., 125.07 (4) (bs) 2., 125.07 (4) (bs) 3., 125.07 (4) (bs) 4., 125.07 (4) (c) 1., 125.07 (4) (c) 2., 125.07 (4) (c) 3., 125.07 (4) (c) 4., 125.07 (4) (cg), 125.07 (4) (d), 125.07 (4) (e) 2. a., 125.085 (3) (bd), 125.085 (3) (bh), 125.085 (3) (bt), 125.09 (2) (d), 146.34 (1) (e), 146.34 (5) (a) (intro.), 146.81 (4), 146.81 (5), 157.065 (2) (a) 4. c., 161.573 (2), 161.574 (2), 161.575 (2), 165.76 (1) (a), 165.76 (2) (b) 2., 165.76 (2) (b) 5., 165.76 (3), 165.765 (1), 165.765 (2) (a), 165.77 (2) (b), 165.77 (3), 175.35 (1) (ag), 175.45 (1) (b), 175.45 (1) (e), 175.45 (3) (a) 2., 175.45 (5) (b), 227.03 (4), 230.36 (1), 230.36 (3) (c) (intro.), 252.04 (6), 252.11 (5m), 252.11 (7), 252.15 (1) (ab), 252.15 (2) (a) 6., 252.15 (2) (a) 7. a., 252.15 (5) (a) 17., 252.15 (5) (a) 19., 301.01 (2) (b), 301.01 (4), 301.025, 301.03 (9), 301.03 (10) (c), (e) and (f), 301.032 (1) (b), 301.035 (2), 301.035 (4), 301.12, 301.20, 301.205, 301.26 (1), 301.26 (2) (c), 301.26 (4) (a), 301.26 (4) (b), 301.26 (4) (c), 301.26 (4) (cm) 1., 301.26 (4) (cm) 2., 301.26 (4) (d) 1., 301.26 (4) (d) 1m., 301.26 (4) (e), 301.26 (4) (ed), 301.26 (4) (eg), 301.26 (4) (g), 301.26 (7) (h), 301.263 (3), 301.36 (5), 302.11 (10), 302.18 (7), 302.255, 302.31, 302.386 (1), 302.386 (2) (intro.), 302.386 (3) (a), 302.386 (5) (c), 302.425 (2g), 302.425 (2m), 302.425 (3), 302.425 (3m), 302.425 (4), 303.215, 304.06 (1) (b), 340.01 (9r) (d), 343.06 (1) (i), 343.30 (5), 343.30 (6) (b) (intro.), 752.31 (2) (e), 757.69 (1) (intro.), 757.69 (1) (g), 757.69 (1) (k), 757.69 (2) (intro.), 757.69 (3) (intro.), 757.81 (2), . 758.19 (6) (a), 758.19 (6) (d) 1. and 2., 767.02 (1) (m), 767.24 (3) (e), 767.29 (3), 767.30 (1), 767.305, 767.32 (1) (a), 767.32 (2r), 767.47 (10), 778.25 (1) (a) 1., 778.25 (1) (a) 4., 778.25 (1) (a) 5., 778.25 (8) (a), 778.25 (8) (b), 778.25 (8) (c), 808.04 (3), 808.04 (4), 809.30 (1) (a), 809.30 (1) (b), 809.30 (2) (d), 809.30 (2) (fm), 809.40 (1), 851.72 (7), 859.07 (2), 880.15 (1), 885.37 (1) (a) 2., 895.035 (3), 895.035 (4), 895.035 (6), 901.05 (2) (intro.), 901.05 (3), 904.13 (2), 905.04 (4) (i), 906.08 (2), 906.09 (title), 906.09 (1), 906.09 (2), 906.09 (3), 906.09 (5), 908.08 (1), 939.62 (3) (a), 939.62 (3) (b), 939.635 (title) and (1), 939.635 (2) (b), 940.20 (2m), 941.29 (2), 943.51 (1) (intro.), 946.42 (1) (a), 946.42 (1) (c), 946.42 (2) (b), 946.42 (3) (b), 946.42 (3) (c), 946.44 (1) (a), 946.44 (2) (c), 946.44 (2) (d), 946.45 (1), 946.45 (2) (c), 946.45 (2) (d), 948.31 (1) (a) 2., 948.31 (1) (b), 948.40 (1), 948.40 (2), 948.50 (4) (b), 948.60 (2) (d), 948.61 (4), 950.02 (1m), 967.04 (7) (a) (intro.), 967.04 (9), 968.255 (1) (a) 3., 968.255 (7) (b), 969.01 (4), 970.032 (title) and (1), 970.032 (2) (intro.), 970.032 (2) (b), 970.032 (2) (c), 970.035, 971.105, 972.14 (3), 976.08, 977.02 (3), 977.02 (4r), 977.03 (2m), 977.05 (4) (gm), 977.05 (4) (h), 977.05 (4) (i) 5., 977.05 (6) (cm) 2., 977.06 (1m), 977.06 (2) (a), 977.06 (2) (am), 977.06 (3) (c), 977.07 (1) (a), 977.07 (1) (c), 977.07 (2m), 977.075 (1) (intro.), (3) and (4), 977.076, 977.08 (2) (e), 977.085 (3), 978.05 (6) (a), 980.015 (2) (b), 980.02 (1) (b) 2., 980.02 (2) (ag), 980.02 (4) (am), 980.02 (4) (b), 980.04 (1), 990.01 (3) and 990.01 (20); **to repeal and recreate** 46.22 (1) (c) 1. b., 48.205 (1) (c), 48.275 (3), 48.365 (7), 48.396 (1m), 48.48 (13), 101.123 (1) (i), 157.065 (2) (a) 4. c., 165.76 (1) (a), 165.76 (2) (b) 2., 165.76 (2) (b) 5., 227.03 (4), 302.31, 946.42 (1) (a), 946.44 (1) (a) and 946.45 (1); **to create** 48.02 (19), 48.02 (20), 48.355 (2) (b) 1m., 48.396 (1g), 48.396 (2) (ag), 48.396 (2) (am), 48.533 (3) (b), 48.60 (2) (h), 48.78 (2) (ag), 48.78 (2) (am), 60.23 (22m), 101.123 (3) (gg), 118.125 (2) (cg), 118.125 (2) (n), 118.125 (5) (b), 118.127 (3), 118.15 (5) (am), 118.16 (5m), 118.163 (2) (e), 118.163 (2) (f), 301.03 (9r), 301.03 (10) (g), 301.35 (2) (e), 302.386 (5) (c), 302.386 (5) (d), 304.06 (1z), 808.075 (4) (fn), 895.035 (2m), chapter 938, 938.988, 940.20 (2m) (a) 1. and 946.50 of the statutes; and **to affect** 1995 Wisconsin

sin Act 27, section 9126 (23) (f) 5.; **relating to:** creating a juvenile justice code, allowing civil actions against any minor or parent of a minor for retail theft, granting rule-making authority and providing penalties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 16.385 (7) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

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

**SECTION 2.** 16.51 (7) of the statutes, as affected by 1995 Wisconsin Act 27, section 294p, is amended to read:

16.51 (7) AUDIT CLAIMS FOR EXPENSES IN CONNECTION WITH PRISONERS AND CHILDREN IN SECURED CORRECTIONAL FACILITIES. Receive, examine, determine and audit claims, duly certified and approved by the department of corrections, from the county clerk of any county in behalf of the county, which are presented for payment to reimburse the county for certain expenses incurred or paid by it in reference to all matters growing out of actions and proceedings involving prisoners in state prisons, as defined in s. 302.01, or children in secured correctional facilities, as defined in s. ~~48.02 938.02~~ (15m), including prisoners or children transferred to a mental health institute for observation or treatment, when the proceedings are commenced in counties in which the prisons or secured correctional facilities are located by a district attorney or by the prisoner or child as a postconviction remedy or a matter involving the prisoner's status as a prisoner or the child's status as a resident of a secured correctional facility and for certain expenses incurred or paid by it in reference to holding those children in secure custody while those actions or proceedings are pending. Expenses shall only include the amounts that were necessarily incurred and actually paid and shall be no more than the legitimate cost would be to any other county had the offense or crime occurred therein.

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

17.10 (6) (b) 1. Disposition staff and intake workers appointed to provide services under ~~ch. 48 and 938.~~

**SECTION 4.** 19.35 (1) (am) 2. c. of the statutes is amended to read:

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

the population or staff of any of these institutions, facilities or jails.

**SECTION 5.** 20.410 (3) (cd) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

20.410 (3) (cd) *Community youth and family aids.* The amounts in the schedule for the improvement and provision of juvenile delinquency-related services under s. 301.26 and for reimbursement to counties having a population of less than 500,000 for the cost of court attached intake services as provided in s. ~~48.06 938.06~~ (4). Disbursements may be made from this appropriation under s. 301.085. Refunds received relating to payments made under s. 301.085 shall be returned to this appropriation. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department of corrections may transfer moneys under this paragraph between fiscal years. Except for moneys authorized for transfer under s. 301.26 (3), all moneys from this paragraph allocated under s. 301.26 (3) and not spent or encumbered by counties by December 31 of each year shall lapse into the general fund on the succeeding January 1. The joint committee on finance may transfer additional moneys to the next calendar year.

**SECTION 6.** 20.410 (3) (cg) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

20.410 (3) (cg) *Serious juvenile offenders.* The amounts in the schedule for juvenile correctional institution, corrective sanctions, alternate care, aftercare and other juvenile program services specified in s. ~~48.538 938.538~~ (3) provided for the persons specified in s. 301.26 (4) (cm), for juvenile correctional institution services for persons placed in juvenile correctional institutions under s. 973.013 (3m) and for juvenile correctional services for persons under 18 years of age placed with the department under s. 48.366 (8).

**SECTION 7.** 20.410 (3) (ho) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

20.410 (3) (ho) *Juvenile residential aftercare.* The amounts in the schedule for providing foster care, treatment foster care, group home care and institutional child care to delinquent children under ss. ~~48.553 (3) and (8), 48.557 and 49.19 (10) (d), 938.48 (4) and (14) and 938.52.~~ All moneys transferred under s. 301.26 (4) (cm) and all moneys received in payment for providing foster care, treatment foster care, group home care and institutional child care to delinquent children under ss. ~~48.553 (3) and (8), 48.557 and 49.19 (10) (d), 938.48 (4) and (14) and 938.52~~ as specified in s. 301.26 (4) (e) shall be credited to this appropriation. If moneys generated by the monthly rate exceed actual fiscal year foster care, treatment foster care, group home care and institutional child care costs by 2% or more, all moneys in excess of 2% shall be remitted to the counties during the subsequent

calendar year. Each county shall receive a proportionate share of the remittance depending on the total number of days of placement in foster care, treatment foster care, group home care or institutional child care.

**SECTION 8.** 20.410 (3) (o) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

20.410 (3) (o) *Federal aid; foster care and treatment foster care.* All federal moneys received for meeting the costs of providing foster care, treatment foster care and institutional child care to delinquent children under ss. ~~48.533 (3) and (8) and 48.557 938.48 (4) and (14) and 938.52~~, and for the cost of care for children under s. 49.19 (10) (d). All moneys received under this paragraph shall be deposited in the general fund as a nonappropriated receipt.

**SECTION 9.** 20.435 (7) (b) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.435 (7) (b) *Community aids.* The amounts in the schedule for human services under s. 46.40, for reimbursement to counties having a population of less than 500,000 for the cost of court attached intake services under s. 48.06 (4), for shelter care under ss. ~~48.22 and 48.58 and 938.22~~ and for foster care and treatment foster care under s. 49.19 (10). Social services disbursements under s. 46.03 (20) (b) may be made from this appropriation. Refunds received relating to payments made under s. 46.03 (20) (b) for the provision of services for which moneys are appropriated under this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department of health and social services may transfer funds between fiscal years under this paragraph. The department shall deposit into this appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior year audit adjustments including those resulting from audits of services under s. 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all funds allocated under s. 46.40 and not spent or encumbered by December 31 of each year shall lapse to the general fund on the succeeding January 1 unless carried forward to the next calendar year by the joint committee on finance.

**SECTION 10.** 38.24 (1s) of the statutes is amended to read:

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

**SECTION 11.** 46.03 (7) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

46.03 (7) (a) Promote the enforcement of laws for the protection of developmentally disabled children, chil-

dren in need of protection or services and nonmarital children; and to this end cooperate with courts assigned to exercise jurisdiction under ~~ch. 48 and 938~~ and licensed child welfare agencies and institutions (public and private) and take the initiative in all matters involving the interests of such children where adequate provision therefor has not already been made, including the establishment and enforcement of standards for services provided under s. 48.345.

**SECTION 12.** 46.041 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

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

**SECTION 13.** 46.043 of the statutes, as affected by 1995 Wisconsin Act 27, section 2052r, is amended to read:

**46.043 Secured adolescent treatment unit.** The department shall provide a secured adolescent treatment unit at the Mendota Mental Health Institute. The department may designate not more than 43 beds at the secured adolescent treatment unit as secured correctional facility, as defined in s. ~~48.02 938.02~~ (15m), beds. From the appropriation under s. 20.410 (3) (hm), the department of corrections may expend not more than \$2,500,000 in fiscal year 1996-97 for services for children placed in that secured adolescent treatment unit. The department of health and social services may charge the department of corrections not more than the actual cost of providing services for children under the supervision of the department of corrections who are provided services at the secured adolescent treatment unit.

**SECTION 14.** 46.10 (1) of the statutes is amended to read:

46.10 (1) Liability and the collection and enforcement of such liability for the care, maintenance, services and supplies specified in this section is governed exclusively by this section, except in cases of child support ordered by a court under s. 48.355 (2) (b) 4., 48.357 (5m) ~~or 48.363 (2), 938.183 (2), 938.355 (2) (b) 4., 938.357 (5m) or 938.363 (2)~~ or ch. 767.

**SECTION 15.** 46.10 (2) of the statutes, as affected by 1995 Wisconsin Act 27, section 2055, is amended to read:

46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person, including but not limited to a person admitted, committed or placed under s. 975.01, 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. ~~48.34 (4h) or (4m), 48.357 (4) and (5) (e), 48.366, 51.10, 51.13, 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45~~

(10), (11), (12) and (13), 55.05, 55.06, 938.183 (2), 938.34 (4h) or (4m), 938.357 (4) and (5) (e), 971.14 (2) and (5), 971.17 (1), 975.06 and 980.06, receiving care, maintenance, services and supplies provided by any institution in this state including University of Wisconsin Hospitals and Clinics, in which the state is chargeable with all or part of the person's care, maintenance, services and supplies, any person receiving care and services from a county department established under s. 51.42 or 51.437 or from a facility established under s. 49.73, and any person receiving treatment and services from a public or private agency under s. 971.17 (3) (d) or (4) (e), 980.06 (2) (c) or 980.08 (5) and the person's property and estate, including the homestead, and the spouse of the person, and the spouse's property and estate, including the homestead, and, in the case of a minor child, the parents of the person, and their property and estates, including their homestead, and, in the case of a foreign child described in s. 48.839 (1) who became dependent on public funds for his or her primary support before an order granting his or her adoption, the resident of this state appointed guardian of the child by a foreign court who brought the child into this state for the purpose of adoption, and his or her property and estate, including his or her homestead, shall be liable for the cost of the care, maintenance, services and supplies in accordance with the fee schedule established by the department under s. 46.03 (18). If a spouse, widow or minor, or an incapacitated person may be lawfully dependent upon the property for their support, the court shall release all or such part of the property and estate from the charges that may be necessary to provide for those persons. The department shall make every reasonable effort to notify the liable persons as soon as possible after the beginning of the maintenance, but the notice or the receipt thereof is not a condition of liability.

**SECTION 16.** 46.10 (14) (b) of the statutes is amended to read:

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

**SECTION 17.** 46.10 (14) (e) 1. of the statutes, as created by 1993 Wisconsin Act 481, is amended to read:

46.10 (14) (e) 1. An order issued under s. 48.355 (2) (b) 4., 48.357 (5m) ~~or~~, 48.363 (2), 938.183 (2), 938.355 (2) (b) 4., 938.357 (5m) or 938.363 (2) for support determined under this subsection constitutes an assignment of

all commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102 or 108 and other money due or to be due in the future to the county department under s. 46.215, 46.22 or 46.23 in the county where the order was entered or to the department, depending upon the placement of the child as specified by rules promulgated under subd. 5. The assignment shall be for an amount sufficient to ensure payment under the order.

**SECTION 18.** 46.206 (1) (b) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

46.206 (1) (b) All records of the department and all county records relating to social services shall be open to inspection at all reasonable hours by authorized representatives of the federal government. Notwithstanding ~~s. ss.~~ 48.396 (2) and 938.396 (2), all county records relating to the administration of such services and public assistance shall be open to inspection at all reasonable hours by authorized representatives of the department.

**SECTION 19.** 46.21 (2) (a) of the statutes is amended to read:

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

**SECTION 20.** 46.215 (1) (h) of the statutes is amended to read:

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

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

46.22 (1) (c) 1. b. 'State institutions.' Mendota mental health institute, Winnebago mental health institute, university of Wisconsin hospital and clinics, centers for the developmentally disabled and Type 1 secured correctional facilities, as defined in s. 48.02 ~~(45m)~~ (19).

**SECTION 22.** 46.22 (1) (c) 1. b. of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed and recreated to read:

46.22 (1) (c) 1. b. 'State institutions.' Mendota mental health institute, Winnebago mental health institute, centers for the developmentally disabled and Type 1 secured correctional facilities, as defined in s. 938.02 (19).

**SECTION 23.** 46.22 (1) (c) 1. c. of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

46.22 (1) (c) 1. c. ‘Other institution.’ University of Wisconsin Hospitals and Clinics and secured child caring institutions, as defined in s. 938.02 (15g).

**SECTION 24.** 46.22 (1) (c) 5. of the statutes is amended to read:

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

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

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

**SECTION 26.** 46.22 (1) (c) 8. e. of the statutes is amended to read:

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

**SECTION 27.** 46.25 (9) (b) of the statutes is amended to read:

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

**SECTION 28.** 46.26 (4) (d) 3. of the statutes, as affected by 1995 Wisconsin Act 27, section 2181m, is amended to read:

46.26 (4) (d) 3. Beginning January 1, 1996, and ending June 30, 1996, the per person daily cost assessment to counties shall be \$120.73 for care in a ~~juvenile correctional institution~~ Type 1 secured correctional facility, as defined in s. 48.02 (19), \$120.73 for care for children transferred from a juvenile correctional institution under s. 51.35 (3), the dollar amount set by the department of corrections by rule for maintaining a prisoner in an adult correctional institution, \$153.87 for care in a child caring institution, \$106.69 for care in a group home for children, \$23.80 for care in a foster home, \$68.58 for care in a treatment foster home, \$86.51 for departmental corrective sanctions services and \$12.20 for departmental aftercare services.

**SECTION 29.** 46.26 (4) (d) 3. of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed.

**SECTION 30.** 46.275 (4) (b) 1. of the statutes is amended to read:

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

**SECTION 31.** 46.28 (1) (am) 1. of the statutes is amended to read:

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

**SECTION 32.** 46.28 (1) (am) 2. of the statutes is amended to read:

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

**SECTION 33.** 46.56 (3) (a) 5. of the statutes is amended to read:

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

**SECTION 34.** 46.56 (8) (a) of the statutes is amended to read:

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

**SECTION 35.** 46.56 (8) (g) of the statutes is amended to read:

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

**SECTION 36.** 46.56 (8) (h) 5. of the statutes is amended to read:

46.56 (8) (h) 5. Identification of any administrative or judicial procedures under ch. 48, 51, 55, 115 ~~or~~ 118 or

938 that may be necessary in order to fully implement the integrated service plan and the identity of the individual or organization that will be responsible for initiating those procedures, if any are required.

**SECTION 37.** 46.56 (8) (j) of the statutes is amended to read:

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

**SECTION 38.** 46.56 (8) (k) of the statutes is amended to read:

46.56 (8) (k) Upon written approval of the integrated service plan by the proposed service providers and the child's family, unless the child's involvement in the program is through court order under s. 48.355 ~~or 938.355~~, in which case approval of the court may be substituted for that of the family, the integrated service plan shall be implemented by the service coordination agency and the service providers designated to provide services under the integrated service plan.

**SECTION 39.** 46.56 (14) (a) (intro.) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

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

**SECTION 40.** 48.01 (1) (c) of the statutes is repealed.

**SECTION 41.** 48.01 (1) (d) of the statutes is repealed.

**SECTION 42.** 48.01 (1) (h) of the statutes is repealed.

**SECTION 43.** 48.02 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.02 (1) "Adult" means a person who is 18 years of age or older, except that for purposes of prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, "adult" means a person who has attained 17 years of age.

**SECTION 44.** 48.02 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.02 (2) "Child" means a person who is less than 18 years of age, except that for purposes of prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, "child" does not include a person who has attained 17 years of age.

**SECTION 45.** 48.02 (2m) of the statutes is amended to read:

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

**SECTION 46.** 48.02 (3m) of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 47.** 48.02 (9m) of the statutes is repealed.

**SECTION 48.** 48.02 (10) of the statutes is amended to read:

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

**SECTION 49.** 48.02 (15g) of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 50.** 48.02 (15m) of the statutes, as affected by 1995 Wisconsin Act 27, section 2426m, is amended to read:

48.02 (15m) "Secured correctional facility" means a correctional institution operated or contracted for by the department for holding in secure custody persons adjudged delinquent. "Secured correctional facility" includes the facility at which the juvenile boot camp program under s. 48.532 is operated and a facility authorized under s. 48.533 (3) (b).

**SECTION 51.** 48.02 (15m) of the statutes, as affected by 1995 Wisconsin Acts 27 and ... (this act), is repealed.

**SECTION 52.** 48.02 (19) of the statutes is created to read:

48.02 (19) "Type 1 secured correctional facility" means a secured correctional facility, but excludes any correctional institution that meets the criteria under sub. (15m) solely because of its status under s. 48.533 (3) (b).

**SECTION 53.** 48.02 (19) of the statutes, as created by 1995 Wisconsin Act ... (this act), is repealed.

**SECTION 54.** 48.02 (20) of the statutes is created to read:

48.02 (20) "Type 2 secured correctional facility" means a secured correctional facility that meets the criteria under sub. (15m) solely because of its status under s. 48.533 (3) (b).

**SECTION 55.** 48.02 (20) of the statutes, as created by 1995 Wisconsin Act ... (this act), is repealed.

**SECTION 56.** 48.023 (4) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.023 (4) The rights and responsibilities of legal custody except when legal custody has been vested in another person or when the child is under the supervision of the department of corrections under s. 48.34 938.183,

938.34 (4h), (4m) or (4n) or 938.357 (4) or the supervision of a county department under s. 48.34 938.34 (4n).

**SECTION 57.** 48.03 (2) of the statutes is amended to read:

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

**SECTION 58.** 48.035 of the statutes is amended to read:

**48.035 Court; Menominee and Shawano counties.** Menominee county is attached to Shawano county for judicial purposes to the extent of the jurisdiction and functions of the court assigned to exercise jurisdiction under this chapter and ch. 938 and the office and functions of the judge of the court, and the duly designated judge of the court assigned to exercise jurisdiction under this chapter and ch. 938 of the circuit court for Menominee and Shawano counties shall serve in both counties. The county boards of Menominee county and Shawano county shall enter into an agreement on administration of this section and the prorating of expenditures involved, and for such purposes the county board of supervisors of Menominee county may appropriate, levy and collect a sum each year sufficient to pay its share of the expenses. If the 2 county boards are unable to agree on the prorating of expenditure involved, then the circuit judges for the circuit court for Menominee and Shawano counties shall, upon appropriate notice and hearing, determine the prorating of the expenditures on the basis of a fair allocation to each county under such procedure as they prescribe. If the circuit judges are unable to agree, the chief judge of the judicial administrative district shall make the determination.

**SECTION 59.** 48.065 (2) (g) of the statutes is repealed.

**SECTION 60.** 48.065 (2) (gm) of the statutes is amended to read:

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

**SECTION 61.** 48.065 (3) (a) of the statutes is repealed.

**SECTION 62.** 48.065 (3) (b) of the statutes is amended to read:

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

**SECTION 63.** 48.065 (3) (c) of the statutes is amended to read:

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

**SECTION 64.** 48.065 (3) (e) of the statutes is amended to read:

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

**SECTION 92m.** 48.065 (3) (f) of the statutes, as affected by 1993 Wisconsin Act 377, is amended to read:

48.065 (3) (f) Make any dispositional order under s. 48.34 ~~(4g) or~~ (4m).

**SECTION 65.** 48.065 (3) (f) of the statutes, as affected by 1993 Wisconsin Act 377 and 1995 Wisconsin Act ... (this act), is repealed.

**SECTION 93m.** 48.069 (1) (intro.) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.069 (1) (intro.) The staff of the department of ~~health and social services, the department of corrections,~~ the court, a county department or a licensed child welfare agency designated by the court to carry out the objectives and provisions of this chapter shall:

**SECTION 66.** 48.069 (1) (dj) of the statutes, as created by 1993 Wisconsin Act 385, is repealed.

**SECTION 94m.** 48.069 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.069 (2) Licensed child welfare agencies, and the department of ~~health and social services and the department of corrections~~ shall provide services under this section only upon the approval of the agency from whom services are requested.

**SECTION 67.** 48.07 (3) of the statutes is amended to read:

48.07 (3) COUNTY DEPARTMENT IN POPULOUS COUNTIES. In counties having a population of 500,000 or more, the director of the county department may be ordered by the court to provide services for furnishing emergency shelter care to any child whose need therefor, ~~either by reason of need of protection and services or delinquency,~~ is determined by the intake worker under s. 48.205. The court may authorize the director to appoint members of the county department to furnish emergency shelter care services for the child. The emergency shelter care may be provided as specified in s. 48.207.

**SECTION 68.** 48.07 (4) of the statutes is amended to read:

48.07 (4) COUNTY DEPARTMENTS THAT PROVIDE DEVELOPMENTAL DISABILITIES, MENTAL HEALTH OR ALCOHOL AND OTHER DRUG ABUSE SERVICES. Within the limits of available state and federal funds and of county funds appropriated to match state funds, the court may order county departments established under s. 51.42 or 51.437 to provide special treatment or care to a child if special treatment or care has been ordered under s. 48.34 48.345 (6) and if s. 48.362 (4) applies.

**SECTION 96m.** 48.08 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:



48.08 (2) ~~Except as provided in sub. (3), any~~ Any person authorized to provide or providing intake or dispositional services for the court under ss. 48.067 and 48.069 has the power of police officers and deputy sheriffs only for the purpose of taking a child into physical custody when the child comes voluntarily or is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from the surroundings is necessary.

**SECTION 97m.** 48.08 (3) (a) (intro.) of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 97r.** 48.08 (3) (a) 1. and 2. and (b) of the statutes are repealed.

**SECTION 69.** 48.09 (1) of the statutes is repealed.

**SECTION 70.** 48.09 (2) of the statutes is repealed.

**SECTION 71.** 48.09 (3) of the statutes is repealed.

**SECTION 72.** 48.09 (4) of the statutes is repealed.

**SECTION 73.** 48.10 of the statutes is amended to read:

**48.10 Power of the judge to act as intake worker.**

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

**SECTION 74.** 48.12 (title) of the statutes is repealed.

**SECTION 75.** 48.12 (1) and (2) of the statutes, as affected by 1995 Wisconsin Act 27, are repealed.

**SECTION 76.** 48.125 of the statutes is repealed.

**SECTION 77.** 48.13 (4) of the statutes is amended to read:

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

**SECTION 78.** 48.13 (6) of the statutes is repealed.

**SECTION 79.** 48.13 (6m) of the statutes is repealed.

**SECTION 80.** 48.13 (7) of the statutes is repealed.

**SECTION 81.** 48.13 (12) of the statutes is repealed.

**SECTION 82.** 48.13 (14) of the statutes is repealed.

**SECTION 83.** 48.135 (1) of the statutes is amended to read:

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

**SECTION 84.** 48.14 (4) of the statutes is repealed.

**SECTION 85.** 48.15 of the statutes is amended to read:

**48.15 Jurisdiction of other courts to determine legal custody.** Nothing contained in ss. 48.12, 48.13 and 48.14 deprives other courts of the right to determine the legal custody of children by habeas corpus or to determine the legal custody or guardianship of children if the legal custody or guardianship is incidental to the determination of causes pending in the other courts. But the

jurisdiction of the court assigned to exercise jurisdiction under this chapter ~~and ch. 938~~ is paramount in all cases involving children alleged to come within the provisions of ss. 48.12, 48.13 and 48.14.

**SECTION 86.** 48.17 of the statutes is repealed.

**SECTION 87.** 48.18 (title) and (1) of the statutes are repealed.

**SECTION 88.** 48.18 (2) of the statutes is repealed.

**SECTION 89.** 48.18 (2r) of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 90.** 48.18 (3) of the statutes is repealed.

**SECTION 91.** 48.18 (4) of the statutes is repealed.

**SECTION 92.** 48.18 (5) (intro.) of the statutes is repealed.

**SECTION 93.** 48.18 (5) (a) of the statutes is repealed.

**SECTION 94.** 48.18 (5) (b) of the statutes is repealed.

**SECTION 95.** 48.18 (5) (c) of the statutes, as affected by 1995 Wisconsin Act 27, section 2434p, is repealed.

**SECTION 96.** 48.18 (5) (d) of the statutes is repealed.

**SECTION 97.** 48.18 (6) of the statutes is repealed.

**SECTION 98.** 48.18 (8) of the statutes is repealed.

**SECTION 99.** 48.18 (9) of the statutes is repealed.

**SECTION 100.** 48.183 of the statutes is repealed.

**SECTION 101.** 48.185 (1) of the statutes is amended to read:

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

**SECTION 102.** 48.185 (3) of the statutes is repealed.

**SECTION 103.** 48.19 (1) (d) 3. of the statutes is repealed.

**SECTION 104.** 48.19 (1) (d) 6. of the statutes, as affected by 1995 Wisconsin Act 27, section 2435d, is amended to read:

48.19 (1) (d) 6. The child has violated the terms of court-ordered supervision or aftercare supervision administered by the department or a county department ~~or of corrective sanctions supervision administered by the department.~~

**SECTION 105.** 48.19 (1) (d) 6. of the statutes, as affected by 1995 Wisconsin Acts 27 and ... (this act), is repealed.

**SECTION 106.** 48.19 (1) (d) 8. of the statutes is repealed.

**SECTION 107.** 48.19 (1) (d) 9. of the statutes is repealed.

**SECTION 108.** 48.19 (1) (d) 10. of the statutes is repealed.

**SECTION 109.** 48.19 (1m) of the statutes is repealed.

**SECTION 110.** 48.20 (2) (ag) of the statutes is amended to read:

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

**SECTION 111.** 48.20 (2) (cm) of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 112.** 48.20 (2) (e) of the statutes is repealed.

**SECTION 113.** 48.20 (2) (f) of the statutes is repealed.

**SECTION 114.** 48.20 (2) (g) of the statutes is repealed.

**SECTION 115.** 48.20 (3) of the statutes is amended to read:

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

**SECTION 116.** 48.20 (7) (a) of the statutes is amended to read:

48.20 (7) (a) When a child is interviewed by an intake worker, the intake worker shall inform any child ~~possibly involved in a delinquent act of his or her right to counsel and the right against self-incrimination. If the child who is alleged to be in need of protection or services and who is 12 years of age or older, the intake worker shall inform the child of his or her right to counsel.~~

**SECTION 117.** 48.20 (7) (c) 1m. of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 118.** 48.20 (8) of the statutes, as affected by 1995 Wisconsin Act 27, section 2435v, is amended to read:

48.20 (8) If a child is held in custody, the intake worker shall notify the child's parent, guardian and legal custodian of the reasons for holding the child in custody and of the child's whereabouts unless there is reason to believe that notice would present imminent danger to the child. If a child who has violated the terms of aftercare supervision administered by the department of corrections or a county department is held in custody, the intake worker shall also notify the department of corrections or county department, whichever has supervision over the

child, of the reasons for holding the child in custody, of the child's whereabouts and of the time and place of the detention hearing required under s. 48.21. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 48.21, the nature and possible consequences of that hearing, and the right to present and cross-examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the child is alleged to be in need of protection or services and is 12 years of age or older, ~~or is alleged to have committed a delinquent act~~, the child shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the child and the child's parent, guardian or legal custodian.

**SECTION 119.** 48.205 (1) (a) of the statutes is amended to read:

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

**SECTION 120.** 48.205 (1) (c) of the statutes, as affected by 1995 Wisconsin Act 27, section 2436m, is amended to read:

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

**SECTION 121.** 48.205 (1) (c) of the statutes, as affected by 1995 Wisconsin Acts 27, section 2436p, and .... (this act), is repealed and recreated to read:

48.205 (1) (c) Probable cause exists to believe that the child will run away or be taken away so as to be unavailable for proceedings of the court or its officers.

**SECTION 122.** 48.208 (1) of the statutes, as affected by 1995 Wisconsin Act 27, section 2437m, is amended to read:

48.208 (1) Probable cause exists to believe that the child 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 for children on aftercare ~~or corrective sanctions~~ supervision. For children on aftercare ~~or corrective sanctions~~ supervision, the delinquent act referred to in this section may be the act for which the child was placed in a secured correctional facility.

**SECTION 123.** 48.208 (1) of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed.

**SECTION 124.** 48.208 (2) of the statutes is repealed.

**SECTION 125.** 48.208 (5) of the statutes is repealed.

**SECTION 126.** 48.209 (3) of the statutes is repealed.

**SECTION 127.** 48.21 (1) (a) of the statutes is amended to read:

48.21 (1) (a) If a child who has been taken into custody is not released under s. 48.20, a hearing to determine whether the child shall continue to be held in custody under the criteria of ss. 48.205 to 48.209 shall be conducted by the judge or juvenile court commissioner within 24 hours of the time the decision to hold the child was made, excluding Saturdays, Sundays and legal holidays. By the time of the hearing a petition under s. 48.25 shall be filed, except that no petition need be filed where a child is taken into custody under s. 48.19 (1) (b) or (d) 2., 6. or 7. or where the child is a runaway from another state, in which case a written statement of the reasons for holding a child in custody shall be substituted if the petition is not filed. If no hearing has been held within 24 hours or if no petition or statement has been filed at the time of the hearing, the child shall be released except as provided in par. (b). A parent not present at the hearing shall be granted a re-hearing upon request.

**SECTION 128.** 48.21 (2) of the statutes is repealed.

**SECTION 129.** 48.21 (3) (intro.) of the statutes is amended to read:

48.21 (3) PROCEEDINGS CONCERNING CHILDREN IN NEED OF PROTECTION OR SERVICES. (intro.) Proceedings concerning a child who comes within the jurisdiction of the court under s. 48.13 ~~(4) to (5) or (8) to (11)~~ shall be conducted according to this subsection.

**SECTION 130.** 48.21 (4m) of the statutes is repealed.

**SECTION 131.** 48.22 of the statutes, as affected by 1993 Wisconsin Act 377 and 1995 Wisconsin Act 27, is repealed.

**SECTION 132.** 48.225 of the statutes is repealed.

**SECTION 133.** 48.227 (4) (b) of the statutes is amended to read:

48.227 (4) (b) If, in addition to jurisdiction under par. (c), the court has jurisdiction over the child under ss. ~~48.12 48.13~~ to 48.14, excluding s. 48.14 (8), or under ss. 938.12 to 938.14, a hearing may be held under s. 48.21 or 938.21.

**SECTION 134.** 48.227 (4) (e) 2. of the statutes is amended to read:

48.227 (4) (e) 2. That, with the consent of the child and the runaway home, the child remain in the care of the runaway home for a period of not more than 20 days. Without further proceedings, the child shall be released whenever the child indicates, either by statement or conduct, that he or she wishes to leave the home or whenever the runaway home withdraws its consent. During this time period not to exceed 20 days ordered by the court, the child's parent, guardian or legal custodian may not remove the child from the home but may confer with the child or with the person operating the home. If, at the conclusion of the time period ordered by the court the child has not left the home, and no petition concerning the

child has been filed under s. ~~48.12 or 48.13,~~ 938.12 or 938.13, the child shall be released from the home. If a petition concerning the child has been filed under s. ~~48.12 or 48.13,~~ 938.12 or 938.13, the child may be held in temporary physical custody under ss. 48.20 to 48.21 or 938.20 to 938.21.

**SECTION 135.** 48.23 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 27, section 2442p, is amended to read:

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

**SECTION 136.** 48.23 (1) (am) of the statutes is repealed.

**SECTION 137.** 48.23 (1) (ar) of the statutes, as created by 1993 Wisconsin Act 385, is repealed.

**SECTION 138.** 48.23 (2m) of the statutes is repealed.

**SECTION 139.** 48.23 (4) of the statutes is amended to read:

48.23 (4) PROVIDING COUNSEL. In any situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the person to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. If the referral is of a person who has filed a petition under s. 48.375 (7), the state public defender shall appoint counsel within 24 hours after that referral. Any counsel appointed in a petition filed under s. 48.375 (7) shall continue to represent the child in any appeal brought under s. 809.105 unless the child requests substitution of counsel or extenuating circumstances make it impossible for counsel to continue to represent the child. In any situation under sub. (2) in which a parent 18 years of age or older is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent is unable to afford counsel in full, or the parent so indicates; the court shall refer the parent to the authority for indigency determinations specified under s. 977.07 (1). In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s.

813.122 or 813.125 to reimburse counsel for the child who is named as the respondent in that petition.

**SECTION 140.** 48.237 of the statutes is repealed.

**SECTION 141.** 48.24 (1) of the statutes is amended to read:

48.24 (1) Except where a citation has been issued under s. 48.17 (2), information Information indicating that a child should be referred to the court as delinquent, in need of protection or services or in violation of a civil law or a county, town or municipal ordinance shall be referred to the intake worker, who shall conduct an intake inquiry on behalf of the court to determine whether the available facts establish prima facie jurisdiction and to determine the best interests of the child and of the public with regard to any action to be taken.

**SECTION 142.** 48.24 (2m) (a) 1. of the statutes is repealed.

**SECTION 143.** 48.24 (2m) (a) 2. of the statutes is amended to read:

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

**SECTION 144.** 48.24 (2m) (a) 3. of the statutes is repealed.

**SECTION 145.** 48.24 (5) of the statutes is amended to read:

48.24 (5) The intake worker shall recommend that a petition be filed, enter into an informal disposition or close the case within 40 days or sooner of receipt of referral information. If the case is closed or an informal disposition is entered into, the district attorney, corporation counsel or other official under s. 48.09 shall receive written notice of such action. ~~A notice of informal disposition of an alleged delinquency case shall include a summary of facts surrounding the allegation and a list of prior intake referrals and dispositions.~~ If a law enforcement officer has made a recommendation concerning the child, the intake worker shall forward this recommendation to the district attorney, corporation counsel or other official under s. 48.09. With respect to petitioning a child to be in need of protection or services, information received more than 40 days before filing the petition may be included to establish a condition or pattern which, together with information received within the 40-day period, provides a basis for conferring jurisdiction on the court. ~~Notwithstanding the requirements of this section, the district attorney may initiate a delinquency petition under s. 48.25 within 20 days after notice that the case has been closed or that an informal disposition has been made.~~ The judge shall dismiss with prejudice any such petition which is not referred or filed within the time limits specified within this subsection.

**SECTION 146.** 48.24 (7) of the statutes is repealed.

**SECTION 147.** 48.243 (1) (intro.) of the statutes is amended to read:

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

**SECTION 148.** 48.243 (1) (b) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

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

**SECTION 149.** 48.243 (1) (c) of the statutes is amended to read:

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

**SECTION 150.** 48.243 (1) (h) of the statutes is amended to read:

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

**SECTION 151.** 48.243 (1m) of the statutes is repealed.

**SECTION 152.** 48.245 (1) of the statutes is amended to read:

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

**SECTION 153.** 48.245 (2) (a) 5. of the statutes is repealed.

**SECTION 154.** 48.245 (2) (a) 6. of the statutes is repealed.

**SECTION 155.** 48.245 (2) (a) 7. of the statutes is repealed.

**SECTION 156.** 48.245 (2) (b) of the statutes is amended to read:

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

**SECTION 157.** 48.245 (2g) of the statutes, as created by 1995 Wisconsin Act 24, is repealed.

**SECTION 158.** 48.245 (2m) of the statutes is repealed.

**SECTION 159.** 48.245 (6) of the statutes is repealed.

**SECTION 160.** 48.245 (7) of the statutes is amended to read:

48.245 (7) If at any time during the period of informal disposition the intake worker determines that the obligations imposed under it are not being met, the intake worker may cancel the informal disposition. Within 10 days after the cancellation of the informal disposition, the intake worker shall notify the district attorney, corporation counsel or other official under s. 48.09 of the cancellation and recommend whether or not a petition should be filed. ~~In delinquency cases, the district attorney may initiate a petition within 20 days after the date of the notice regardless of whether the intake worker has recommended that a petition be filed.~~ The judge shall dismiss with prejudice any petition which is not filed within the time limit specified in this subsection.

**SECTION 161.** 48.245 (8) of the statutes is amended to read:

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

**SECTION 162.** 48.25 (1) of the statutes is amended to read:

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

**SECTION 163.** 48.25 (2) (a) of the statutes is renumbered 48.25 (2) and amended to read:

48.25 (2) If the proceeding is brought under s. 48.12, 48.125 ~~or~~ 48.13, the district attorney, corporation counsel or other appropriate official shall file the petition, close the case, or refer the case back to intake within 20 days after the date that the intake worker's recommendation was filed. A referral back to intake may be made only when the district attorney, corporation counsel or other appropriate official decides not to file a petition or determines that further investigation is necessary. If the case is referred back to intake upon a decision not to file a petition, the intake worker shall close the case or enter into an informal disposition within 20 days. If the case is re-

ferred back to intake for further investigation, the appropriate agency or person shall complete the investigation within 20 days. If another referral is made to the district attorney, corporation counsel or other appropriate official, it shall be considered a new referral to which the time limits of this subsection shall apply. The time limits in this subsection may only be extended by a judge upon a showing of good cause under s. 48.315. If a petition is not filed within the time limitations set forth in this subsection and the court has not granted an extension, the petition shall be accompanied by a statement of reasons for the delay. The court shall dismiss with prejudice a petition which was not timely filed unless the court finds at the plea hearing that good cause has been shown for failure to meet the time limitations.

**SECTION 164.** 48.25 (2) (b) of the statutes is repealed.

**SECTION 165.** 48.25 (3) of the statutes is amended to read:

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

**SECTION 166.** 48.25 (4) of the statutes is repealed.

**SECTION 167.** 48.25 (5) of the statutes is repealed.

**SECTION 168.** 48.255 (1) (intro.) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.255 (1) (intro.) A petition initiating proceedings under this chapter ~~other than a petition initiating proceedings under s. 48.12 or 48.13 (12)~~, shall be entitled, "In the interest of (child's name), a person under the age of 18"; ~~A petition initiating proceedings under s. 48.12 or 48.13 (12) shall be entitled, "In the interest of (child's name), a person under the age of 17".~~ A petition initiating proceedings under this chapter and shall set forth with specificity:

**SECTION 169.** 48.255 (1) (d) of the statutes is repealed.

**SECTION 170.** 48.255 (1) (e) of the statutes is amended to read:

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

**SECTION 171.** 48.255 (3) of the statutes is amended to read:

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

**SECTION 172.** 48.255 (4) of the statutes is amended to read:

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

**SECTION 173.** 48.263 (2) of the statutes is amended to read:

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

**SECTION 174.** 48.27 (1) of the statutes is amended to read:

48.27 (1) After a ~~citation is issued or a~~ petition has been filed relating to facts concerning a situation specified under ss. 48.12, 48.125 and 48.13, unless the parties under sub. (3) voluntarily appear, the court may issue a summons requiring the person who has legal custody of the child to appear personally, and, if the court so orders, to bring the child before the court at a time and place stated.

**SECTION 175.** 48.27 (4m) of the statutes is repealed.

**SECTION 176.** 48.27 (7) of the statutes is repealed.

**SECTION 177.** 48.27 (8) of the statutes is amended to read:

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

**SECTION 178.** 48.273 (1) of the statutes is amended to read:

48.273 (1) Service of summons or notice required by s. 48.27 may be made by mailing a copy thereof to the persons summoned or notified. If the persons, ~~other than a person specified in s. 48.27 (4m),~~ fail to appear at the hearing or otherwise to acknowledge service, a continuance shall be granted, except where the court determines otherwise because the child is in secure custody, and service shall be made personally by delivering to the persons a copy of the summons or notice; except that if the court is satisfied that it is impracticable to serve the summons or notice personally, it may make an order providing for the service of the summons or notice by certified mail addressed to the last-known addresses of the persons. The court may refuse to grant a continuance when the child is being held in secure custody, but in such a case the court shall order that service of notice of the next hearing be made personally or by certified mail to the last-known

address of the person who failed to appear at the hearing. Personal service shall be made at least 72 hours before the time of the hearing. Mail shall be sent at least 7 days before the time of the hearing, except where the petition is filed under s. 48.13 and the person to be notified lives outside the state, in which case the mail shall be sent at least 14 days before the time of the hearing.

**SECTION 179.** 48.273 (3) of the statutes is amended to read:

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

**SECTION 180.** 48.275 (1) of the statutes is amended to read:

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

**SECTION 181.** 48.275 (2) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.275 (2) (a) If this state or a county provides legal counsel to a child subject to a proceeding under s. 48.12 ~~or~~ 48.13, the court shall order the child's parent to reimburse the state or county in accordance with par. (b) or (c). The court may not order reimbursement if a parent is the complaining or petitioning party or if the court finds that the interests of the parent and the interests of the child in the proceeding are substantially and directly adverse and that reimbursement would be unfair to the parent. The court may not order reimbursement until the completion of the proceeding or until the state or county is no longer providing the child with legal counsel in the proceeding.

**SECTION 182.** 48.275 (3) of the statutes is repealed and recreated to read:

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

**SECTION 183.** 48.29 (1) of the statutes is amended to read:

48.29 (1) ~~Except as provided in sub. (1g), the~~ The child, or the child's parent, guardian or legal custodian, either before or during the plea hearing, may file a written request with the clerk of the court or other person acting as the clerk for a substitution of the judge assigned to the proceeding. Upon filing the written request, the filing party shall immediately mail or deliver a copy of the request to the judge named therein. ~~In a proceeding under s. 48.12 or 48.13 (12), only the child may request a substitution of the judge.~~ Whenever any person has the right to request a substitution of judge, that person's counsel or

guardian ad litem may file the request. Not more than one such written request may be filed in any one proceeding, nor may any single request name more than one judge. This section shall not apply to proceedings under s. 48.21.

**SECTION 184.** 48.29 (1g) of the statutes is repealed.

**SECTION 185.** 48.29 (1m) of the statutes is amended to read:

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

**SECTION 186.** 48.29 (2) of the statutes is repealed.

**SECTION 187.** 48.29 (3) of the statutes is amended to read:

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

**SECTION 188.** 48.293 (1) of the statutes is amended to read:

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

**SECTION 189.** 48.293 (2) of the statutes is amended to read:

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

~~971.23 to 971.25 and 972.11 (5) shall be applicable in all delinquency proceedings under this chapter except the court shall establish the timetable for ss. 971.23 (3), (8) and (9) and 972.11 (5).~~

**SECTION 190.** 48.295 (1c) (intro.) and (a) of the statutes are consolidated, renumbered 48.295 (1c) and amended to read:

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

**SECTION 191.** 48.295 (1c) (b) of the statutes is repealed.

**SECTION 192.** 48.295 (1c) (c) of the statutes is repealed.

**SECTION 193.** 48.295 (2) (a) of the statutes is repealed.

**SECTION 194.** 48.295 (2) (b) of the statutes is renumbered 48.295 (2) and amended to read:

48.295 (2) The examiner shall file a report of the examination with the court by the date specified in the order. The court shall cause copies to be transmitted to the district attorney or corporation counsel and to the child's counsel. The report shall describe the nature of the examination and identify the persons interviewed, the particular records reviewed and any tests administered to the child. ~~If the examination is ordered following a plea under s. 48.30 (4) (c), the report shall also contain an opinion regarding whether the child suffered from mental disease or defect at the time of the commission of the act alleged in the petition and, if so, whether this caused the child to lack substantial capacity to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of law. If the examination is ordered following a finding that there is probable cause to believe that the child has committed the alleged offense and that there is reason to doubt the child's competency to proceed, the report shall also contain an opinion regarding the child's present mental capacity to understand the proceedings and assist in his or her defense and, if the examiner reports that the child lacks competency to proceed, the examiner's opinion regarding the likelihood that the child, if provided treatment, may be restored to competency within the time specified in s. 48.30 (5) (e) 4.~~ The report shall also state in reasonable detail the facts and reasoning upon which the examiner's opinions are based.

**SECTION 195.** 48.296 of the statutes is repealed

**SECTION 196.** 48.297 (2) of the statutes is amended to read:

48.297 (2) Defenses and objections based on defects in the institution of proceedings, lack of probable cause on the face of the petition, insufficiency of the petition ~~or a citation~~ or invalidity in whole or in part of the statute on

which the petition ~~or a citation~~ is founded shall be raised not later than 10 days after the plea hearing or be deemed waived. Other motions capable of determination without trial may be brought any time before trial.

**SECTION 197.** 48.297 (3) of the statutes is amended to read:

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

**SECTION 198.** 48.297 (5) of the statutes is amended to read:

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

**SECTION 199.** 48.299 (1) (a) of the statutes is amended to read:

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

**SECTION 200.** 48.299 (1) (am) of the statutes is repealed.

**SECTION 201.** 48.299 (4) (a) of the statutes is amended to read:

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

**SECTION 202.** 48.299 (4) (b) of the statutes is amended to read:

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

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

**SECTION 203.** 48.30 (1) of the statutes is amended to read:

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

**SECTION 204.** 48.30 (2) of the statutes is amended to read:

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

**SECTION 205.** 48.30 (3) of the statutes is amended to read:



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

**SECTION 206.** 48.30 (4) of the statutes is repealed.

**SECTION 207.** 48.30 (5) of the statutes is repealed.

**SECTION 208.** 48.30 (6) of the statutes is amended to read:

48.30 (6) If a petition is not contested, the court shall set a date for the dispositional hearing which allows reasonable time for the parties to prepare but is no more than 10 days from the plea hearing for the child who is held in secure custody and no more than 30 days from the plea hearing for a child who is not held in secure custody. If it appears to the court that disposition of the case may include placement of the child outside the child's home, the court shall order the child's parent to provide a statement of income, assets, debts and living expenses to the court or the designated agency under s. 48.33 (1) at least 5 days before the scheduled date of the dispositional hearing or as otherwise ordered by the court. The clerk of court shall provide, without charge, to any parent ordered to provide a statement of income, assets, debts and living expenses a document setting forth the percentage standard established by the department under s. 46.25 (9) and listing the factors that a court may consider under s. 46.10 (14) (c). If all parties consent the court may proceed immediately with the dispositional hearing. ~~If a citation is not contested, the court may proceed immediately to enter a dispositional order.~~

**SECTION 209.** 48.30 (7) of the statutes is amended to read:

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

**SECTION 210.** 48.30 (8) of the statutes is amended to read:

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

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

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

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

**SECTION 211.** 48.30 (9) of the statutes is amended to read:

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

**SECTION 212.** 48.30 (10) of the statutes is amended to read:

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

**SECTION 213.** 48.31 (1) of the statutes is amended to read:

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

**SECTION 214.** 48.31 (2) of the statutes is amended to read:

48.31 (2) The hearing shall be to the court unless the child, parent, guardian or legal custodian exercises the right to a jury trial by demanding a jury trial at any time before or during the plea hearing. Chapters 756 and 805 shall govern the selection of jurors ~~except that ss. 972.03 and 972.04 shall apply in cases in which the juvenile is alleged to be delinquent under s. 48.12.~~ If the hearing involves a child victim or witness, as defined in s. 950.02, the court may order the taking and allow the use of a videotaped deposition under s. 967.04 (7) to (10) and, with the district attorney, shall comply with s. 971.105. At the conclusion of the hearing, the court or jury shall make a determination of the facts. If the court finds that the child is not within the jurisdiction of the court or the court or jury finds that the facts alleged in the petition ~~or citation~~ have not been proved, the court shall dismiss the petition ~~or citation~~ with prejudice.

**SECTION 215.** 48.31 (4) of the statutes is amended to read:

48.31 (4) The court or jury shall make findings of fact and the court shall make conclusions of law relating to the allegations of a petition filed under s. 48.13 ~~(1) to (11m)~~. In cases alleging a child to be in need of protection or services under s. 48.13 (11), the court shall not find that the child is suffering serious emotional damage unless a licensed physician specializing in psychiatry or a licensed psychologist appointed by the court to examine the child has testified at the hearing that in his or her opinion the

condition exists, and adequate opportunity for the cross-examination of the physician or psychologist has been afforded. The judge may use the written reports if the right to have testimony presented is voluntarily, knowingly and intelligently waived by the guardian ad litem or legal counsel for the child and the parent or guardian. In cases alleging a child to be in need of protection and services under s. 48.13 (11m), the court shall not find that the child is in need of treatment and education for needs and problems related to the use or abuse of alcohol beverages or controlled substances and its medical, personal, family or social effects unless an assessment for alcohol and other drug abuse that conforms to the criteria specified under s. 48.547 (4) has been conducted by an approved treatment facility. ~~In cases alleging a child delinquent or in need of protection or services under s. 48.13 (12) the court shall make findings relating to the proof of the violation of law and to the proof that the child named in the petition committed the violation alleged.~~

**SECTION 216.** 48.32 (1) of the statutes is amended to read:

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

**SECTION 217.** 48.32 (1d) of the statutes is repealed.

**SECTION 218.** 48.32 (1g) of the statutes is repealed.

**SECTION 219.** 48.32 (1r) of the statutes is repealed.

**SECTION 220.** 48.32 (1t) of the statutes is repealed.

**SECTION 221.** 48.32 (1x) of the statutes, as created by 1995 Wisconsin Act 24, is repealed.

**SECTION 222.** 48.32 (2) (a) of the statutes is amended to read:

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

**SECTION 223.** 48.32 (2) (b) of the statutes is repealed.

**SECTION 224.** 48.32 (4) of the statutes is repealed.

**SECTION 225.** 48.32 (5) (a) of the statutes is amended to read:

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

**SECTION 226.** 48.32 (5) (b) of the statutes is amended to read:

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

**SECTION 227.** 48.33 (1) (intro.) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.33 (1) REPORT REQUIRED. (intro.) Before the disposition of a child adjudged to be ~~delinquent or~~ in need of protection or services the court shall designate an agency, as defined in s. 48.38 (1) (a), to submit a report which shall contain all of the following:

**SECTION 228.** 48.33 (3) of the statutes, as affected by 1993 Wisconsin Acts 385 and 481, is repealed.

**SECTION 229.** 48.33 (3r) of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 230.** 48.33 (4m) (intro.) of the statutes is amended to read:

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

**SECTION 231.** 48.331 of the statutes, as affected by 1993 Wisconsin Act 377, is repealed.

**SECTION 232.** 48.335 (1) of the statutes is amended to read:

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

**SECTION 233.** 48.335 (3m) of the statutes is repealed.

**SECTION 234.** 48.34 (intro.) of the statutes, as affected by 1995 Wisconsin Acts 22 and 24, is repealed.

**SECTION 235.** 48.34 (1) of the statutes is renumbered 48.345 (1).

**SECTION 236.** 48.34 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 48.345 (2) and amended to read:

48.345 (2) Place the child under supervision of an agency, the department of ~~corrections,~~ if the department of ~~corrections~~ approves, or a suitable adult, including a friend of the child, under conditions prescribed by the judge including reasonable rules for the child's conduct,

designed for the physical, mental and moral well-being and behavior of the child.

**SECTION 237.** 48.34 (2m) of the statutes, as affected by 1995 Wisconsin Act 27, section 2451r, is renumbered 48.345 (2m) and amended to read:

48.345 (2m) Place the child in the child's home under the supervision of an agency, ~~or the department of health and social services, if the child is in need of protection or services and that, if the department approves, or the department of corrections, if the child is delinquent and that department approves,~~ and order the agency or department to provide specified services to the child and the child's family, which may include but are not limited to individual, family or group counseling, homemaker or parent aide services, respite care, housing assistance, day care or parent skills training.

**SECTION 238.** 48.34 (2r) of the statutes is repealed.

**SECTION 239.** 48.34 (3) of the statutes is renumbered 48.345 (3).

**SECTION 240.** 48.34 (3g) of the statutes, as affected by 1995 Wisconsin Act 27, section 2453p, is repealed.

**SECTION 241.** 48.34 (4) of the statutes is renumbered 48.345 (4).

**SECTION 242.** 48.34 (4h) of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 243.** 48.34 (4m) of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 244.** 48.34 (4n) of the statutes, as affected by 1993 Wisconsin Act 385 and 1995 Wisconsin Act 27, is repealed.

**SECTION 245.** 48.34 (4p) of the statutes is repealed.

**SECTION 246.** 48.34 (4r) of the statutes is repealed.

**SECTION 247.** 48.34 (4s) of the statutes is repealed.

**SECTION 248.** 48.34 (5) of the statutes is repealed.

**SECTION 249.** 48.34 (6) of the statutes is renumbered 48.345 (6).

**SECTION 250.** 48.34 (6m) of the statutes, as affected by 1993 Wisconsin Act 377, is renumbered 48.345 (6m).

**SECTION 251.** 48.34 (7) of the statutes is repealed.

**SECTION 252.** 48.34 (7m) of the statutes is repealed.

**SECTION 253.** 48.34 (7r) of the statutes, as created by 1995 Wisconsin Act 22, is repealed.

**SECTION 254.** 48.34 (7t) of the statutes, as created by 1995 Wisconsin Act 24, is repealed.

**SECTION 255.** 48.34 (8) of the statutes is repealed.

**SECTION 256.** 48.34 (9) of the statutes, as affected by 1995 Wisconsin Act 22, is repealed.

**SECTION 257.** 48.34 (10) (title) of the statutes is renumbered 48.345 (10) (title).

**SECTION 258.** 48.34 (10) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 48.345 (10) (a).

**SECTION 259.** 48.34 (10) (b) of the statutes is renumbered 48.345 (10) (b).

**SECTION 260.** 48.34 (10) (c) of the statutes is renumbered 48.345 (10) (c).

**SECTION 261.** 48.34 (11) of the statutes is renumbered 48.345 (11).

**SECTION 262.** 48.34 (12) of the statutes is renumbered 48.345 (12).

**SECTION 263.** 48.34 (13) of the statutes, as affected by 1993 Wisconsin Act 377, is renumbered 48.345 (13).

**SECTION 264.** 48.34 (14) of the statutes is repealed.

**SECTION 265.** 48.34 (15) of the statutes is repealed.

**SECTION 266.** 48.341 of the statutes is repealed.

**SECTION 267.** 48.342 of the statutes is repealed.

**SECTION 268.** 48.343 of the statutes is repealed.

**SECTION 269.** 48.344 of the statutes is repealed.

**SECTION 270.** 48.345 (1) (intro.) and (e) of the statutes are consolidated, renumbered 48.345 (intro.) and amended to read:

**48.345 Disposition of child adjudged in need of protection or services.** (intro.) If the judge finds that the child is in need of protection or services, the judge shall enter an order deciding one or more of the dispositions of the case as provided in s. ~~48.34~~ this section under a care and treatment plan, except that the order may not ~~do any of the following:~~ (e) Place ~~place~~ any child not specifically found under chs. 46, 49, 51, 115 and 880 to be developmentally disabled, mentally ill or to have exceptional educational needs in facilities which exclusively treat those categories of children. The dispositions under this section are as follows:

**SECTION 271.** 48.345 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 272.** 48.345 (1) (b) of the statutes is repealed.

**SECTION 273.** 48.345 (1) (c) of the statutes is repealed.

**SECTION 274.** 48.345 (1) (d) of the statutes is repealed.

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

**SECTION 276.** 48.345 (2) of the statutes is repealed.

**SECTION 277.** 48.346 of the statutes is repealed.

**SECTION 278.** 48.35 (intro.) of the statutes is renumbered 48.35 (1) (a).

**SECTION 279.** 48.35 (1) (a) of the statutes is repealed.

**SECTION 280.** 48.35 (1) (b) 2. of the statutes is amended to read:

48.35 (1) (b) 2. In a proceeding in any court assigned to exercise jurisdiction under this chapter and ch. 938; or **SECTION 281.** 48.35 (1) (b) 4. of the statutes is repealed.

**SECTION 282.** 48.35 (1) (c) of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 283.** 48.355 (1) of the statutes, as affected by 1993 Wisconsin Act 377, is amended to read:

48.355 (1) INTENT. In any order under s. 48.34 ~~or~~ 48.345 the judge shall decide on a placement and treatment finding based on evidence submitted to the judge. The disposition shall employ those means necessary to

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

**SECTION 283m.** 48.355 (2) (b) 1m. of the statutes is created to read:

48.355 (2) (b) 1m. A notice that the child's parent, guardian or legal custodian or the child, if 14 years of age or over, may request an agency that is providing care or services for the child or that has legal custody of the child to disclose to, or make available for inspection by, the parent, guardian, legal custodian or child the contents of any record kept or information received by the agency about the child as provided in s. 48.78 (2) (ag).

**SECTION 284.** 48.355 (2) (b) 5. of the statutes is amended to read:

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

**SECTION 285.** 48.355 (3m) of the statutes is repealed.

**SECTION 286.** 48.355 (4) (a) of the statutes, as affected by 1995 Wisconsin Act 27, section 2465p, is renumbered 48.355 (4) and amended to read:

48.355 (4) Except as provided under ~~par. (b)~~ or s. 48.368, all orders under this section shall terminate at the end of one year unless the judge specifies a shorter period of time. Except if s. 48.368 applies, extensions or revisions shall terminate at the end of one year unless the judge specifies a shorter period of time. ~~No extension under s. 48.365 of an original dispositional order may be granted for a child who is under the supervision of the department of corrections under s. 48.34 (4h), (4m) or (4n) or under the supervision of a county department under s. 48.34 (4n) if the child is 17 years of age or older when the original dispositional order terminates.~~ Any order made before the child reaches the age of majority shall be effective for a time up to one year after its entry unless the judge specifies a shorter period of time.

**SECTION 287.** 48.355 (4) (b) of the statutes, as affected by 1995 Wisconsin Act 27, section 2466m, is repealed.

**SECTION 288.** 48.355 (6) and (6g) of the statutes are repealed.

**SECTION 289.** 48.355 (7) of the statutes, as affected by 1993 Wisconsin Act 377, is amended to read:

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

**SECTION 290.** 48.357 (2) of the statutes is amended to read:

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

**SECTION 291.** 48.357 (3) of the statutes, as affected by 1993 Wisconsin Act 385, is repealed.

**SECTION 292.** 48.357 (4) of the statutes, as affected by 1993 Wisconsin Act 385, is amended to read:

48.357 (4) When the child is placed with the department, the department may, after an examination under s. 48.50, place the child in a secured correctional facility or on aftercare ~~or corrective sanctions~~ supervision, either immediately or after a period of placement in a secured correctional facility. The department shall send written notice of the change to the parent, guardian, legal custodian, county department designated under s. 48.34 (4n), if any, and committing court.

**SECTION 293.** 48.357 (4) (a) of the statutes, as affected by 1995 Wisconsin Acts 27 and ... (this act), is repealed.

**SECTION 294.** 48.357 (4g) of the statutes, as affected by 1993 Wisconsin Act 385 and 1995 Wisconsin Acts 27 and ... (this act), is repealed.

**SECTION 295.** 48.357 (4g) (b) of the statutes, as created by 1993 Wisconsin Act 385, is amended to read:

48.357 (4g) (b) The department may waive the time period within which an aftercare plan must be prepared and submitted under par. (a) if the department anticipates that the child will remain in the secured correctional facility for a period exceeding 8 months, or if the child is subject to extended jurisdiction under s. 48.366 ~~or if the child is under corrective sanctions supervision under s. 48.533.~~ If the department has waived the time period within which an aftercare plan must be prepared and submitted and if there will be a reasonable time period after release from the secured correctional facility ~~or from corrective sanctions supervision~~ during which the child may

remain subject to court jurisdiction, the department shall notify the county department providing aftercare supervision of the anticipated release date not less than 60 days before the date on which the child will be eligible for release. If the department waives the time limits specified under par. (a), the aftercare plan shall be prepared by the department or prepared and submitted by the county department providing aftercare supervision on or before the date on which the child becomes eligible for release.

**SECTION 296.** 48.357 (4g) (d) of the statutes, as created by 1993 Wisconsin Act 385, is amended to read:

48.357 (4g) (d) A child may be released from a secured correctional facility ~~or from corrective sanctions supervision~~ whether or not an aftercare plan has been prepared under this subsection.

**SECTION 297.** 48.357 (4m) of the statutes is amended to read:

48.357 (4m) The department shall try to release a child to aftercare ~~or corrective sanctions supervision~~ under sub. (4) within 30 days after the date the department determines the child is eligible for the release.

**SECTION 298.** 48.357 (5) of the statutes, as affected by 1993 Wisconsin Act 385 and 1995 Wisconsin Acts 27 and ... (this act), is repealed.

**SECTION 299.** 48.357 (5) (a), (b) and (d) of the statutes, as affected by 1993 Wisconsin Act 385, are amended to read:

48.357 (5) (a) The department or a county department, whichever has been designated as a child's aftercare provider under s. 48.34 (4n), may revoke the aftercare status of that child. ~~The department may revoke a child's placement in the community under corrective sanctions supervision.~~ Revocation of aftercare ~~or corrective sanctions supervision~~ shall not require prior notice under sub. (1).

(b) A child on aftercare status may be taken into custody only as provided in ss. 48.19 to 48.21. ~~A child under corrective sanctions supervision may be taken into custody under ss. 48.19 to 48.21 or under s. 48.533 (3).~~

(d) A hearing on the revocation shall be conducted by the division of hearings and appeals in the department of administration within 30 days after the child is taken into custody for an alleged violation of the conditions of the child's aftercare ~~or corrective sanctions supervision~~. This time limit may be waived only upon the agreement of the aftercare ~~or corrective sanctions~~ provider, the child and the child's counsel.

**SECTION 300.** 48.357 (5) (e) and (g) of the statutes, as created by 1993 Wisconsin Act 385, are amended to read:

48.357 (5) (e) If the hearing examiner finds that the child has violated a condition of aftercare ~~or corrective sanctions supervision~~, the hearing examiner shall determine whether confinement in a secured correctional facility is necessary to protect the public or to provide for the child's rehabilitation.

(g) The department shall promulgate rules setting standards to be used by a hearing examiner to determine whether to revoke a child's aftercare ~~or corrective sanctions~~ status. The standards shall specify that the burden is on the department or county department seeking revocation to show by a preponderance of the evidence that the child violated a condition of aftercare ~~or corrective sanctions supervision~~.

**SECTION 301.** 48.36 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

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

(b) In determining the amount of support under par. (a), the court may consider all relevant financial information or other information relevant to the parent's earning capacity, including information reported to the department ~~of health and social services,~~ or the county child and spousal support agency, under s. 46.25 (2m). If the court has insufficient information with which to determine the amount of support, the court shall order the child's parent to furnish a statement of income, assets, debts and living expenses, if the parent has not already done so, to the court within 10 days after the court's order transferring custody or designating an alternative placement is entered or at such other time as ordered by the court.

**SECTION 302.** 48.361 (1) (b) of the statutes is amended to read:

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

**SECTION 303.** 48.361 (1) (c) of the statutes is amended to read:

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

**SECTION 304.** 48.361 (2) (am) 2. of the statutes is amended to read:

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

**SECTION 305.** 48.362 (2) of the statutes is amended to read:

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

**SECTION 306.** 48.364 of the statutes is repealed.

**SECTION 307.** 48.365 (7) of the statutes, as affected by 1995 Wisconsin Act 27, section 2469m, is amended to read:

48.365 (7) Nothing in this section may be construed to allow any changes in placement or revocation of after-care or ~~corrective sanctions~~ supervision. Revocation and other changes in placement may take place only under s. 48.357.

**SECTION 308.** 48.365 (7) of the statutes, as affected by 1995 Wisconsin Acts 27, section 2469p, and .... (this act), is repealed and recreated to read:

48.365 (7) Nothing in this section may be construed to allow any changes in placement. Revocation and other changes in placement may take place only under s. 48.357.

**SECTION 309.** 48.366 (5) (a) 2. of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.366 (5) (a) 2. The department of corrections or county department ordered under s. 48.34 (4n), 1993 stats., to provide aftercare supervision of the person.

**SECTION 310.** 48.366 (6) (a) 2. of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.366 (6) (a) 2. The department of corrections or county department ordered under s. 48.34 (4n), 1993 stats., to provide aftercare supervision of the person.

**SECTION 311.** 48.366 (6) (c) 2. of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.366 (6) (c) 2. At the time a person subject to an order files a petition under par. (a), he or she shall provide written notice of the petition to the department of corrections or county department, whichever has been ordered under s. 48.34 (4n), 1993 stats., to provide aftercare supervision of the person.

**SECTION 312.** 48.37 (1) of the statutes is amended to read:

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

**SECTION 313.** 48.37 (3) of the statutes is repealed.

**SECTION 314.** 48.373 (1) of the statutes is amended to read:

48.373 (1) The court assigned to exercise jurisdiction under this chapter and ch. 938 may authorize medical services including surgical procedures when needed if the

court assigned to exercise jurisdiction under this chapter and ch. 938 determines that reasonable cause exists for the services and that the minor is within the jurisdiction of the court assigned to exercise jurisdiction under this chapter and ch. 938 and, ~~except as provided in s. 48.296 (4),~~ consents.

**SECTION 315.** 48.375 (4) (b) 1g. of the statutes is amended to read:

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

**SECTION 316.** 48.38 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.38 (1) (a) "Agency" means the department of ~~health and social services, the department of corrections,~~ a county department or a licensed child welfare agency.

**SECTION 317.** 48.38 (3) (intro.) and (b) of the statutes are consolidated, renumbered 48.38 (3) and amended to read:

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

**SECTION 318.** 48.38 (3) (a) of the statutes, as affected by 1995 Wisconsin Act 27, section 2476, is repealed.

**SECTION 319.** 48.39 of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 320.** 48.396 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.396 (1) ~~Peace~~ Law enforcement officers' records of children shall be kept separate from records of adults. ~~Peace~~ Law enforcement officers' records of children shall not be open to inspection or their contents disclosed except under sub. ~~(1g) or (1m) or (5)~~ or s. 48.293 or by order of the court. This subsection does not apply to the representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child involved, to the confidential exchange of information

between the police and officials of the school attended by the child or other law enforcement or social welfare agencies or to children ~~16~~ 10 years of age or older who are ~~transferred to the criminal courts~~ subject to the jurisdiction of the court of criminal jurisdiction.

**SECTION 321.** 48.396 (1g) of the statutes is created to read:

48.396 (1g) If requested by the parent, guardian or legal custodian of a child who is the subject of a law enforcement officer's report, or if requested by the child, if 14 years of age or over, a law enforcement agency may, subject to official agency policy, provide to the parent, guardian, legal custodian or child a copy of that report.

**SECTION 322.** 48.396 (1m) of the statutes is repealed and recreated to read:

48.396 (1m) Upon the written permission of the parent, guardian or legal custodian of a child who is the subject of a law enforcement officer's report or upon the written permission of the child, if 14 years of age or over, a law enforcement agency may, subject to official agency policy, make available to the person named in the permission any reports specifically identified by the parent, guardian, legal custodian or child in the written permission.

**SECTION 323.** 48.396 (2) (a) of the statutes is amended to read:

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

**SECTION 324.** 48.396 (2) (ag) of the statutes is created to read:

48.396 (2) (ag) Upon request of the parent, guardian or legal custodian of a child who is the subject of a record of a court specified in par. (a), or upon request of the child, if 14 years of age or over, the court shall open for inspection by the parent, guardian, legal custodian or child the records of the court relating to that child, unless the court finds, after due notice and hearing, that inspection of those records by the parent, guardian or legal custodian would result in imminent danger to the child.

**Section 314m.** 48.396 (2) (am) of the statutes is created to read:

48.396 (2) (am) Upon the written permission of the parent, guardian or legal custodian of a child who is the subject of a record of a court specified in par. (a), the court shall open for inspection by the person named in the permission any records specifically identified by the parent, guardian, legal custodian or child in the written permission.

**SECTION 325.** 48.396 (2) (b) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.396 (2) (b) Upon request of the department of ~~health and social services, the department of corrections~~ or a federal agency to review court records for the purpose of monitoring and conducting periodic evaluations of activities as required by and implemented under 45 CFR 1355, 1356 and 1357, the court shall open those records for inspection by authorized representatives of the ~~requesting~~ department or federal agency.

**SECTION 326.** 48.396 (2) (c) of the statutes is repealed.

**SECTION 327.** 48.396 (2) (d) of the statutes is repealed.

**SECTION 328.** 48.396 (2) (e) of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 329.** 48.396 (2m) of the statutes is repealed.

**SECTION 330.** 48.396 (3) of the statutes is repealed.

**SECTION 331.** 48.396 (4) of the statutes is repealed.

**SECTION 332.** 48.396 (5) of the statutes is repealed.

**SECTION 333.** 48.396 (6) of the statutes is repealed.

**SECTION 334.** 48.396 (7) of the statutes is repealed.

**SECTION 335.** 48.396 (8) of the statutes is repealed.

**SECTION 336.** 48.415 (1) (a) 2. of the statutes is amended to read:

48.415 (1) (a) 2. The child has been placed, or continued in a placement, outside the parent's home by a court order containing the notice required by s. 48.356 (2) or 938.356 (2) and the parent has failed to visit or communicate with the child for a period of 6 months or longer; or

**SECTION 337.** 48.415 (2) (a) of the statutes is amended to read:

48.415 (2) (a) That the child has been adjudged to be in need of protection or services and placed, or continued in a placement, outside his or her home pursuant to one or more court orders under s. 48.345, 48.357, 48.363 ~~or 48.365, 938.345, 938.357, 938.363 or 938.365~~ containing the notice required by s. 48.356 (2) or 938.356 (2).

**SECTION 338.** 48.45 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

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

**SECTION 339.** 48.45 (1) (b) of the statutes is amended to read:

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

be to cause the child to come within the provisions of s. 48.12 or 48.13.

**SECTION 340.** 48.45 (1m) (a) of the statutes, as affected by 1993 Wisconsin Act 377, is amended to read:

48.45 (1m) (a) In a proceeding in which a child has been adjudicated delinquent or has been found to be in need of protection or services under s. 48.13, the judge may order the child's parent, guardian or legal custodian to comply with any conditions determined by the judge to be necessary for the child's welfare. An order under this paragraph may include an order to participate in mental health treatment, anger management, individual or family counseling or parent training and education and to make a reasonable contribution, based on ability to pay, toward the cost of those services.

**SECTION 341.** 48.48 (13) of the statutes is amended to read:

48.48 (13) To promulgate rules for the payment of an allowance to children in its institutions and a cash grant to a child being discharged from its institutions or released to aftercare or corrective sanctions supervision.

**SECTION 342.** 48.48 (13) of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed and recreated to read:

48.48 (13) To promulgate rules for the payment of an allowance to children in its institutions and a cash grant to a child being discharged from its institutions.

**SECTION 343.** 48.505 of the statutes, as affected by 1995 Wisconsin Act 27, section 2537m, is repealed.

**SECTION 344.** 48.51 (1) (intro.) of the statutes, as affected by 1995 Wisconsin Act 27, section 2539m, is amended to read:

48.51 (1) (intro.) At least 15 days prior to the date of release of a child from a secured correctional facility or a placement in the community under the corrective sanctions program, the department of health and social services shall:

**SECTION 345.** 48.51 (1) (intro.) of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed.

**SECTION 346.** 48.52 (title) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

**48.52 (title) Facilities for care of children in care of department of health and social services.**

**SECTION 347.** 48.52 (1) (c) of the statutes is amended to read:

48.52 (1) (c) Group homes; and

**SECTION 348.** 48.532 of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 349.** 48.533 of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed.

**SECTION 350.** 48.533 (3) of the statutes, as affected by 1995 Wisconsin Act 27, section 2548, is renumbered 48.533 (3) (a) and amended to read:

48.533 (3) (a) A participant in the corrective sanctions program under sub. (2) remains under the supervi-

sion of the department, remains subject to the rules and discipline of that department and is considered to be in custody, as defined in s. 946.42 (1) (a). Notwithstanding ss. 48.19 to 48.21, if a child violates a condition of that child's participation in the corrective sanctions program under sub. (2) the department may, without a hearing, take the child into custody and place the child in a secure detention facility or return the child to placement in a Type 1 secured correctional facility for up to 72 hours as a sanction for that violation. If the child is returned to a secured correctional facility, for longer than 72 hours, the child is entitled to a hearing under s. 48.357 (5).

**(3m)** (title) ESCAPE. If a child runs away from the child's placement in the community while participating in the corrective sanctions program under sub. (2), that child is considered to have escaped in violation of s. 946.42 (3) (c).

**SECTION 351.** 48.533 (3) (b) of the statutes is created to read:

48.533 (3) (b) The department shall operate the corrective sanctions program as a Type 2 secured correctional facility. The secretary may allocate and reallocate existing and future facilities as part of the Type 2 secured correctional facility. The Type 2 secured correctional facility is subject to s. 46.03 (1). Construction or establishment of a Type 2 secured correctional facility shall be in compliance with all state laws except s. 32.035 and ch. 91. In addition to the exemptions under s. 13.48 (13), construction or establishment of a Type 2 secured correctional facility is not subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and city, village or town in which the construction or establishment takes place and is exempt from the investigations permitted under s. 46.22 (1) (c) 1. b.

**SECTION 352.** 48.534 of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 353.** 48.535 of the statutes, as affected by 1995 Wisconsin Act 27, section 2549r, is repealed.

**SECTION 354.** 48.538 of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 355.** 48.547 (1) of the statutes is amended to read:

48.547 (1) **LEGISLATIVE FINDINGS AND PURPOSE.** The legislature finds that the use and abuse of alcohol and other drugs by children is a state responsibility of statewide dimension. The legislature recognizes that there is a lack of adequate procedures to screen, assess and treat children for alcohol and other drug abuse. To reduce the incidence of alcohol and other drug abuse by children, the legislature deems it necessary to experiment with solutions to the problems of the use and abuse of alcohol and other drugs by children by establishing a juvenile alcohol and other drug abuse pilot program in a limited number of counties. The purpose of the program is to develop intake and court procedures that screen, assess and give new dispositional alternatives for children with needs



and problems related to the use of alcohol beverages or controlled substances who come within the jurisdiction of a court assigned to exercise jurisdiction under this chapter and ch. 938 in the pilot counties selected by the department.

**SECTION 356.** 48.547 (4) of the statutes is amended to read:

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

**SECTION 357.** 48.553 of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 358.** 48.554 of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 359.** 48.555 of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 360.** 48.556 of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 361.** 48.557 of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 362.** 48.558 of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 363.** 48.559 of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 364.** 48.57 (1) (a) of the statutes is amended to read:

48.57 (1) (a) To investigate the conditions surrounding ~~delinquent children~~, nonmarital children and children in need of protection or services including developmentally disabled children within the county and to take every reasonable action within its power to secure for them the full benefit of all laws enacted for their benefit. Unless provided by another agency, the county department shall offer social services to the caretaker of any child who is referred to it under the conditions specified in this paragraph. This duty shall be discharged in cooperation with the court and with the public officers or boards legally responsible for the administration and enforcement of these laws.

**SECTION 365.** 48.57 (4) of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 366.** 48.58 (1) (b) of the statutes is amended to read:

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

**SECTION 367.** 48.58 (1) (c) of the statutes is amended to read:

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

**SECTION 368.** 48.58 (1) (d) of the statutes is amended to read:

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

**SECTION 369.** 48.59 (1) of the statutes, as affected by 1993 Wisconsin Act 385, is amended to read:

48.59 (1) The county department shall investigate the personal and family history and environment of any child transferred to its legal custody or placed under its supervision under s. ~~48.34 (4n)~~ 48.345 and make any physical or mental examinations of the child considered necessary to determine the type of care necessary for the child. The county department shall screen a child who is examined under this subsection to determine whether the child is in need of special treatment or care because of alcohol or other drug abuse, mental illness or severe emotional disturbance. The county department shall keep a complete record of the information received from the court, the date of reception, all available data on the personal and family history of the child, the results of all tests and examinations given the child and a complete history of all placements of the child while in the legal custody or under the supervision of the county department.

**SECTION 370.** 48.595 of the statutes, as created by 1993 Wisconsin Act 385, is repealed.

**SECTION 371.** 48.60 (2) (h) of the statutes is created to read:

48.60 (2) (h) A youth village program as described in s. 118.42.

**SECTION 372.** 48.63 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.63 (1) Acting pursuant to court order or voluntary agreement, the child's parent or guardian or the department of health and social services, the department of corrections, a county department or a child welfare agency licensed to place children in foster homes or treatment foster homes may place a child or negotiate or act as intermediary for the placement of a child in a foster home, treatment foster home or group home. Voluntary agreements under this subsection may not be used for placements in facilities other than foster, treatment foster or group homes and may not be extended. A foster home or treatment foster home placement under a voluntary agreement may not exceed 6 months. A group home placement under a voluntary agreement may not exceed 15 days. These time limitations do not apply to placements made under ~~ss. 48.34 and s. 48.345, 938.183, 938.34 or 938.345~~. Voluntary agreements may be made only under this subsection and shall be in writing and

shall specifically state that the agreement may be terminated at any time by the parent or by the child if the child's consent to the agreement is required. The child's consent to the agreement is required whenever the child is 12 years of age or older.

**SECTION 373.** 48.66 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.66 (1) The department shall license and supervise child welfare agencies, as required by s. 48.60, group homes, as required by s. 48.625, shelter care facilities, as required by s. 48.48 and day care centers, as required by s. 48.65. The department may license foster homes or treatment foster homes, as provided by s. 48.62, and may license and supervise county departments in accordance with the procedures specified in this section and in ss. 48.67 to 48.74. The department of corrections may license a child welfare agency to operate a secured child caring institution, as defined in s. 938.02 (15g), for holding in secure custody children who have been convicted under s. 938.183 or adjudicated delinquent under s. 48.34 938.34 (4h) or (4m) and referred to the child welfare agency by the court or the department of corrections and to provide supervision, care and maintenance for those children.

**SECTION 374.** 48.68 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.68 (1) After receipt of an application for a license, the department shall investigate to determine if the applicant meets the minimum requirements for a license adopted by the department under s. 48.67. In determining whether to issue a license, the department may consider any action by the applicant, or by an employe of the applicant, that constitutes a substantial failure by the applicant or employe to protect and promote the health, safety and welfare of a child. Upon satisfactory completion of this investigation and payment of the fee required under s. ~~48.22 (7) (b), 48.615 (1) (a) or (b), 48.625 (2) (a) or 48.65 (3) (a) or 938.22 (7) (b),~~ the department shall issue a license under s. 48.66 (1) or, if applicable, a probationary license under s. 48.69. At the time of initial licensure and license renewal, the department shall provide a foster home licensee with written information relating to the age-related monthly foster care rates and supplemental payments specified in s. 48.62 (4), including payment amounts, eligibility requirements for supplemental payments and the procedures for applying for supplemental payments.

**SECTION 375.** 48.78 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.78 (1) In this section, unless otherwise qualified, "agency" means the department of ~~health and social services, the department of corrections,~~ a county department, a licensed child welfare agency, a licensed day care center or a licensed maternity hospital.

**SECTION 376.** 48.78 (2) (a) of the statutes is amended to read:

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

**SECTION 377.** 48.78 (2) (ag) of the statutes is created to read:

48.78 (2) (ag) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of the parent, guardian or legal custodian of the child who is the subject of the record or upon the request of the child, if 14 years of age or over, to the parent, guardian, legal custodian or child.

**SECTION 378.** 48.78 (2) (am) of the statutes is created to read:

48.78 (2) (am) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian or legal custodian of the child who is the subject of the record or upon the written permission of the child, if 14 years of age or over, to the person named in the permission if the parent, guardian, legal custodian or child specifically identifies the record in the written permission.

**SECTION 379.** 48.78 (2) (c) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

48.78 (2) (c) Paragraph (a) does not prohibit the department of ~~health and social services~~ or a county department from using in the media a picture or description of a child in the guardianship of the department or a county department for the purpose of finding adoptive parents for that child.

**SECTION 380.** 48.78 (2) (e) of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 381.** 48.78 (2) (f) of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 383.** 48.78 (3) of the statutes, as affected by 1995 Wisconsin Act 27, section 2614m, is amended to read:

48.78 (3) If a child adjudged delinquent on the basis of a violation of s. 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28, 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2) (a), 943.23 (1g), (1m) or (1r), 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055, 948.60, 948.605 or 948.61 or any crime specified in ch. 940 has escaped from a secured correctional facility, or has been allowed to leave a secured correctional facility for a specified time period and is absent from the facility for more than 12 hours after the expiration of the specified period ~~or has run away from the child's placement in the community while under corrective sanctions supervision,~~ the department may release the child's name and any information about the child that

is necessary for the protection of the public or to secure the child's return to the facility or placement. The department shall promulgate rules establishing guidelines for the release of the child's name or information about the child to the public.

**SECTION 384.** 48.78 (3) of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed.

**SECTION 385.** 48.79 (intro.) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

**48.79 (title) Powers of the department of health and social services.** (intro.) The department of health and social services has authority and power:

**SECTION 386.** 48.795 of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 387.** 48.95 of the statutes is amended to read:

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

**SECTION 388.** 48.991 of the statutes is renumbered 938.991.

**SECTION 389.** 48.992 (intro.) and (2) of the statutes are renumbered 938.992 (intro.) and (2).

**SECTION 390.** 48.992 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 938.992 (1) (a) and amended to read:

938.992 (1) (a) The "appropriate court" of this state to issue a requisition under s. ~~48.994~~ 938.991 (4) is the court assigned to exercise jurisdiction under this chapter and ch. 48 for the county of the petitioner's residence, or, if the petitioner is a child welfare agency, the court so assigned for the county where the agency has its principal office, or, if the petitioner is the department of ~~corrections~~, any court so assigned in the state.

**SECTION 391.** 48.992 (1) (b) of the statutes is renumbered 938.992 (1) (b) and amended to read:

938.992 (1) (b) The "appropriate court" of this state to receive a requisition under s. ~~48.994~~ 938.991 (4) or ~~48.998~~ 938.998 is the court assigned to exercise jurisdiction under this chapter and ch. 48 for the county where the juvenile is located.

**SECTION 392.** 48.992 (3) of the statutes is renumbered 938.992 (3) and amended to read:

938.992 (3) Notwithstanding s. ~~48.994~~ 938.991 (3) (b), "delinquent juvenile" does not include a person subject to an order under s. 48.366 who is confined to a state prison under s. 302.01 or a person subject to an order under s. 938.34 (4h) who is 17 years of age or over.

**SECTION 393.** 48.993 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 938.993 and amended to read:

**938.993 Juvenile compact administrator.** (1) Under the interstate compact on juveniles, the governor may designate an officer or employe of the department of ~~corrections~~ to be the compact administrator, who, acting jointly with like officers of other party states, shall promulgate rules to carry out more effectively the terms of the compact. The compact administrator shall serve subject to the pleasure of the governor. If there is a vacancy in the office of compact administrator or in the case of absence or disability, the functions shall be performed by the secretary of corrections, or other employe designated by the secretary. The compact administrator may cooperate with all departments, agencies and officers of and in the government of this state and its political subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state.

(2) The compact administrator shall determine for this state whether to receive juvenile probationers and parolees of other states under s. ~~48.994~~ 938.991 (7) and shall arrange for the supervision of each such probationer or parolee received, either by the department of ~~corrections~~ or by a person appointed to perform supervision service for the court assigned to exercise jurisdiction under this chapter ch. 48 for the county where the juvenile is to reside, whichever is more convenient. Those persons shall in all such cases make periodic reports to the compact administrator regarding the conduct and progress of the juveniles.

**SECTION 394.** 48.994 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 938.994 and amended to read:

**938.994 Supplementary agreements.** The department of ~~corrections~~ may enter into supplementary agreements with appropriate officials of other states under s. ~~48.994~~ 938.991 (10). If the supplementary agreement requires or contemplates the use of any institution or facility of this state or the provision of any service by this state, the supplementary agreement has no effect until approved by the department or agency under whose jurisdiction the institution or facility is operated or which shall be charged with the rendering of the service.

**SECTION 395.** 48.995 (intro.) and (1) of the statutes are renumbered 938.995 (intro.) and (1) and amended to read:

**938.995 Financial arrangements.** (intro.) The expense of returning juveniles to this state pursuant to s. ~~48.994~~ 938.991 shall be paid as follows:

(1) In the case of a runaway under s. ~~48.994~~ 938.991 (4), the court making the requisition shall inquire summarily regarding the financial ability of the petitioner to bear the expense and if it finds the petitioner is able to do

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

**SECTION 396.** 48.995 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 938.995 (2) and amended to read:

938.995 (2) In the case of an escapee or absconder under s. ~~48.994~~ 938.991 (5) or (6), if the juvenile is in the legal custody or under the supervision of the department of corrections, it shall bear the expense of his or her return; otherwise the appropriate court shall, on petition of the person entitled to the juvenile's custody or charged with his or her supervision, arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile, for the person's actual and necessary expenses. In this subsection "appropriate court" means the court which adjudged the juvenile to be delinquent or, if the juvenile is under supervision for another state under s. ~~48.994~~ 938.991 (7), then the court assigned to exercise jurisdiction under this chapter and ch. 48 for the county of the juvenile's residence during the supervision.

**SECTION 397.** 48.995 (3) and (4) of the statutes are renumbered 938.995 (3) and (4) and amended to read:

938.995 (3) In the case of a voluntary return of a runaway without requisition under s. ~~48.994~~ 938.991 (6), the person entitled to the juvenile's legal custody shall pay the expense of transportation and the actual and necessary expenses of the person, if any, who returns the juvenile; but if the person is financially unable to pay all the expenses he or she may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 for the county of the petitioner's residence for an order arranging for the transportation as provided in sub. (1). The court shall inquire summarily into the financial ability of the petitioner and, if it finds the petitioner is unable to bear any or all of the expense, the court shall arrange for the transportation at the expense of the county and shall order the county to reimburse the person, if any, who returns the juvenile, for the person's actual and necessary expenses. The court may order that the petitioner reimburse the county for so much of the expense as the court finds the petitioner is able to pay. If the petitioner fails, without good cause, or refuses to pay that sum, he or she may be proceeded against for contempt.

(4) In the case of a juvenile subject to a petition under s. ~~48.998~~ 938.998, the appropriate court shall arrange for the transportation at the expense of the county in which the violation of criminal law is alleged to have been com-

mitted and order that the county reimburse the person, if any, who returns the juvenile, for the person's actual and necessary expenses. In this subsection "appropriate court" means the court assigned to exercise jurisdiction under this chapter and ch. 48 for the county in which the violation of criminal law is alleged to have been committed.

**SECTION 398.** 48.996 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 938.996.

**SECTION 399.** 48.997 of the statutes is renumbered 938.997.

**SECTION 400.** 48.998 of the statutes is renumbered 938.998, and 938.998 (2), as renumbered, is amended to read:

938.998 (2) All provisions and procedures of s. ~~48.994~~ 938.991 (5) and (6) shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in s. ~~48.994~~ 938.991 (5) shall be forwarded by the judge of the court in which the petition has been filed.

**SECTION 401.** 49.19 (4) (c) of the statutes is amended to read:

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

**SECTION 402.** 49.46 (1) (a) 5. of the statutes is amended to read:

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

**SECTION 403.** 49.90 (1m) of the statutes is amended to read:

49.90 (1m) Each spouse has an equal obligation to support the other spouse as provided in this chapter. Each parent has an equal obligation to support his or her minor children as provided in this chapter and ~~ch. 48~~ chs. 48 and 938. Each parent of a dependent person under the age of 18 has an equal obligation to support the child of the dependent person as provided under sub. (1) (a) 2.

**SECTION 404.** 50.39 (3) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

50.39 (3) Facilities governed by ss. 45.365, 48.62, 49.70, 49.72, 50.02, 51.09, 58.06, 252.073, 252.076 and 252.10, secured correctional facilities as defined in s. 48.02 938.02 (15m), correctional institutions governed by the department of corrections under s. 301.02 and the offices and clinics of persons licensed to treat the sick under chs. 446, 447 and 448 are exempt from ss. 50.32 to 50.39. Sections 50.32 to 50.39 do not abridge the rights of the medical examining board, physical therapists affiliated credentialing board, dentistry examining board, pharmacy examining board, chiropractic examining board and board of nursing in carrying out their statutory duties and responsibilities.

**SECTION 405.** 51.05 (2) of the statutes is amended to read:

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

**SECTION 406.** 51.13 (1) (c) of the statutes is amended to read:

51.13 (1) (c) If a minor 14 years of age or older wishes to be admitted to an approved inpatient treatment facility but a parent with legal custody or the guardian refuses to execute the application for admission or cannot be found, or if there is no parent with legal custody, the minor or a person acting on the minor's behalf may petition the court assigned to exercise jurisdiction under ~~ch. chs.~~ chs. 48 and 938 in the county of residence of the parent or guardian for approval of the admission. A copy of the petition and a notice of hearing shall be served upon the parent or guardian at his or her last-known address. If, after hearing, the court determines that the parent or guardian's consent is unreasonably withheld or that the parent or guardian cannot be found or that there is no parent with legal custody, and that the admission is proper under the standards prescribed in sub. (4) (d), it shall approve the minor's admission without the parent or guardian's consent. The court may, at the minor's request, temporarily approve the admission pending hearing on the petition. If a hearing is held under this subsection, no review or hearing under sub. (4) is required.

**SECTION 407.** 51.13 (4) (a) of the statutes is amended to read:

51.13 (4) (a) Within 3 days of the admission of a minor under sub. (1), or within 3 days of application for such admission, whichever occurs first, the treatment director of the facility to which the minor is admitted or, in the case of a center for the developmentally disabled, the director of the center, shall file a verified petition for review of the admission in the court assigned to exercise jurisdiction under ~~ch. chs.~~ chs. 48 and 938 in the county in which the facility is located. The petition shall contain: 1) the name, address and date of birth of the minor; 2) the names and addresses of the parents or guardian; 3) the facts substantiating the petitioner's belief in the minor's need for psychiatric services, or services for developmental disability, alcoholism or drug abuse; 4) the facts substantiating the appropriateness of inpatient treatment in the inpatient treatment facility; 5) the basis for the petitioner's opinion that inpatient care in the facility is the least restrictive treatment consistent with the needs of the minor; and 6) notation of any statement made or conduct demonstrated by the minor in the presence of the director or staff of the facility indicating that inpatient treatment is against the wishes of the minor. A copy of the application for admission and of any relevant professional evaluations shall be attached to the petition.

**SECTION 408.** 51.13 (4) (b) of the statutes is amended to read:

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

**SECTION 409.** 51.13 (4) (d) of the statutes is amended to read:

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

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

**SECTION 410.** 51.13 (4) (h) 2. of the statutes is amended to read:

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

**SECTION 411.** 51.13 (4) (h) 4. of the statutes is amended to read:

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

**SECTION 412.** 51.14 (2) of the statutes is amended to read:

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

**SECTION 413.** 51.15 (1) (a) (intro.), 3. and 4. of the statutes are amended to read:

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

3. A substantial probability of physical impairment or injury to himself or herself due to impaired judgment, as manifested by evidence of a recent act or omission. The probability of physical impairment or injury is not substantial under this subdivision if reasonable provision for the individual's protection is available in the community and there is a reasonable probability that the individual will avail himself or herself of these services or, in the case of a minor, if the individual is appropriate for services or placement under s. 48.13 (4) or (11) ~~or 938.13 (4)~~. Food, shelter or other care provided to an individual who is substantially incapable of obtaining the care for

himself or herself, by any person other than a treatment facility, does not constitute reasonable provision for the individual's protection available in the community under this subdivision.

4. Behavior manifested by a recent act or omission that, due to mental illness or drug dependency, he or she is unable to satisfy basic needs for nourishment, medical care, shelter or safety without prompt and adequate treatment so that a substantial probability exists that death, serious physical injury, serious physical debilitation or serious physical disease will imminently ensue unless the individual receives prompt and adequate treatment for this mental illness or drug dependency. No substantial probability of harm under this subdivision exists if reasonable provision for the individual's treatment and protection is available in the community and there is a reasonable probability that the individual will avail himself or herself of these services, if the individual can receive protective placement under s. 55.06 or, in the case of a minor, if the individual is appropriate for services or placement under s. 48.13 (4) or (11) ~~or 938.13 (4)~~. The individual's status as a minor does not automatically establish a substantial probability of death, serious physical injury, serious physical debilitation or serious disease under this subdivision. Food, shelter or other care provided to an individual who is substantially incapable of providing the care for himself or herself, by any person other than a treatment facility, does not constitute reasonable provision for the individual's treatment or protection available in the community under this subdivision.

**SECTION 414.** 51.20 (1) (a) 2. b., c. and d. of the statutes are amended to read:

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

c. Evidences such impaired judgment, manifested by evidence of a pattern of recent acts or omissions, that there is a substantial probability of physical impairment or injury to himself or herself. The probability of physical impairment or injury is not substantial under this subd. 2. c. if reasonable provision for the subject individual's protection is available in the community and there is a reasonable probability that the individual will avail himself or herself of these services, if the individual is

appropriate for protective placement under s. 55.06 or, in the case of a minor, if the individual is appropriate for services or placement under s. 48.13 (4) or (11) or 938.13 (4). The subject individual's status as a minor does not automatically establish a substantial probability of physical impairment or injury under this subd. 2. c. Food, shelter or other care provided to an individual who is substantially incapable of obtaining the care for himself or herself, by a person other than a treatment facility, does not constitute reasonable provision for the subject individual's protection available in the community under this subd. 2. c.

d. Evidences behavior manifested by recent acts or omissions that, due to mental illness, he or she is unable to satisfy basic needs for nourishment, medical care, shelter or safety without prompt and adequate treatment so that a substantial probability exists that death, serious physical injury, serious physical debilitation or serious physical disease will imminently ensue unless the individual receives prompt and adequate treatment for this mental illness. No substantial probability of harm under this subd. 2. d. exists if reasonable provision for the individual's treatment and protection is available in the community and there is a reasonable probability that the individual will avail himself or herself of these services, if the individual is appropriate for protective placement under s. 55.06 or, in the case of a minor, if the individual is appropriate for services or placement under s. 48.13 (4) or (11) or 938.13 (4). The individual's status as a minor does not automatically establish a substantial probability of death, serious physical injury, serious physical debilitation or serious disease under this subd. 2. d. Food, shelter or other care provided to an individual who is substantially incapable of obtaining the care for himself or herself, by any person other than a treatment facility, does not constitute reasonable provision for the individual's treatment or protection available in the community under this subd. 2. d.

**SECTION 415.** 51.20 (1) (b) of the statutes is amended to read:

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

**SECTION 416.** 51.20 (6) of the statutes is amended to read:

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

**SECTION 417.** 51.20 (13) (cr) of the statutes is amended to read:

51.20 (13) (cr) If the subject individual is before the court on a petition filed under a court order under s. 48.30 938.30 (5) (c) 1. and is found to have committed a viola-

tion of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025, the court shall require the individual to provide a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis and to comply with the reporting and testing requirements of s. 175.45.

**SECTION 418.** 51.35 (3) (title) of the statutes is amended to read:

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

**SECTION 419.** 51.35 (3) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

51.35 (3) (a) A licensed psychologist of a juvenile correctional facility ~~under s. 48.557 or a secured child caring institution, as defined in s. 938.02 (15g),~~ or a licensed physician of the department of corrections, who has reason to believe that any individual confined in the facility or institution is, in his or her opinion, in need of services for developmental disability, alcoholism or drug dependency or in need of psychiatric services, and who has obtained voluntary consent to make a transfer for treatment, shall make a report, in writing, to the superintendent of the facility or institution, stating the nature and basis of the belief and verifying the consent. In the case of a minor age 14 and over, the minor and the minor's parent or guardian shall consent unless the minor is admitted under s. 51.13 (1) (c); and in the case of a minor under the age of 14, only the minor's parent or guardian need consent. The superintendent shall inform, orally and in writing, the minor and the minor's parent or guardian, that transfer is being considered and shall inform them of the basis for the request and their rights as provided in s. 51.13 (3). If the department of corrections, upon review of a request for transfer, determines that transfer is appropriate, that department shall immediately notify the department of health and social services and, if the department of health and social services consents, the department of corrections may immediately transfer the individual. The department of corrections shall file a petition under s. 51.13 (4) (a) in the court assigned to exercise jurisdiction under ~~ch. 48 and 938~~ of the county where the treatment facility is located.

**SECTION 420.** 51.35 (3) (b) of the statutes is amended to read:

51.35 (3) (b) The court assigned to exercise jurisdiction under ~~ch. 48 and 938~~ shall determine, based on the allegations of the petition and accompanying documents, whether the transfer is voluntary on the part of the minor if he or she is aged 14 or over, and whether the transfer of the minor to an inpatient facility is appropriate and consistent with the needs of the minor. In the event that the court is unable to make such determinations based on the petition and accompanying documents, it shall order additional information to be produced as it deems necessary to make such review, and make such determinations within 14 days of admission, or it may hold

a hearing within 14 days of admission. If a notation of the minor's unwillingness appears on the face of the petition, or that a hearing has been requested by the minor, the minor's counsel, guardian ad litem, parent or guardian, the court shall hold a hearing and appoint counsel or a guardian ad litem for the minor as provided in s. 51.13 (4) (d). At the conclusion of the hearing, the court shall approve or disapprove the request for transfer. If the minor is under the continuing jurisdiction of the court of another county, the court may order the case transferred together with all appropriate records to that court.

**SECTION 421.** 51.35 (3) (c) of the statutes is amended to read:

51.35 (3) (c) A licensed psychologist of a juvenile correctional facility or a secured child caring institution, as defined in s. 938.02 (15g), or a licensed physician of the department of corrections, who has reason to believe that any individual confined in the facility or institution is, in his or her opinion, mentally ill, drug dependent or developmentally disabled, and is dangerous as defined in s. 51.20 (1) (a) 2., or is an alcoholic and is dangerous as defined in s. 51.45 (13) (a), shall file a written report with the superintendent of the facility or institution, stating the nature and basis of the belief. If the superintendent, upon review of the allegations in the report, determines that transfer is appropriate, he or she shall file a petition according to s. 51.20 or 51.45 in the court assigned to exercise jurisdiction under ~~chs. 48 and 938~~ chs. 48 and 938 of the county where the correctional facility or secured child caring institution is located. The court shall hold a hearing according to procedures provided in s. 51.20 or 51.45 (13).

**SECTION 422.** 51.35 (3) (e) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

51.35 (3) (e) The department of corrections may authorize emergency transfer of an individual from a juvenile correctional facility or a secured child caring institution, as defined in s. 938.02 (15g), to a state treatment facility if there is cause to believe that the individual is mentally ill, drug dependent or developmentally disabled and exhibits conduct which constitutes a danger as defined in s. 51.20 (1) (a) 2. to the individual or to others, or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1. and 2. The ~~correctional~~ custodian of the sending facility or institution shall execute a statement of emergency detention or petition for emergency commitment for the individual and deliver it to the receiving state treatment facility. The department of health and social services shall file the statement or petition with the court within 24 hours after the subject individual is received for detention or commitment. The statement or petition shall conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made, the director of the receiving facility may file a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the individual to the facility or institution from which the transfer was made. As an alternative to this procedure, the procedure

provided in s. 51.15 or 51.45 (12) may be used, except that no prisoner may be released without the approval of the court which directed confinement in the correctional facility or secured child caring institution.

**SECTION 423.** 51.35 (3) (g) of the statutes is amended to read:

51.35 (3) (g) A minor 14 years of age or older who is transferred to a treatment facility under par. (a) may request in writing a return to the juvenile correctional facility or secured child caring institution, as defined in s. 938.02 (15g). In the case of a minor under 14 years of age, the parent or guardian may make the request. Upon receipt of a request for return from a minor 14 years of age or over, the director shall immediately notify the minor's parent or guardian. The minor shall be returned to the juvenile correctional facility or secured child caring institution within 48 hours after submission of the request unless a petition or statement is filed for emergency detention, emergency commitment, involuntary commitment or protective placement.

**SECTION 424.** 51.42 (3) (ar) 4. b. of the statutes is amended to read:

51.42 (3) (ar) 4. b. Comprehensive diagnostic and evaluation services, including assessment as specified under ss. 343.30 (1q) and 343.305 (10) and assessments under ~~ss. 48.295 (1) and 938.295 (1).~~

**SECTION 425.** 51.42 (3) (as) 1. of the statutes is amended to read:

51.42 (3) (as) 1. A county department of community programs shall authorize all care of any patient in a state, local or private facility under a contractual agreement between the county department of community programs and the facility, unless the county department of community programs governs the facility. The need for inpatient care shall be determined by the program director or designee in consultation with and upon the recommendation of a licensed physician trained in psychiatry and employed by the county department of community programs or its contract agency. In cases of emergency, a facility under contract with any county department of community programs shall charge the county department of community programs having jurisdiction in the county where the patient is found. The county department of community programs shall reimburse the facility for the actual cost of all authorized care and services less applicable collections under s. 46.036, unless the department of health and social services determines that a charge is administratively infeasible, or unless the department of health and social services, after individual review, determines that the charge is not attributable to the cost of basic care and services. A county department of community programs may not reimburse any state institution or receive credit for collections for care received therein by nonresidents of this state, interstate compact clients, transfers under s. 51.35 (3), and transfers from Wisconsin state prisons under s. 51.37 (5) (a), commitments under



s. 975.01, 1977 stats., or s. 975.02, 1977 stats. or s. 971.14, 971.17 or 975.06 or admissions under s. 975.17, 1977 stats., or children placed in the guardianship ~~or legal custody~~ of the department of health and social services ~~or the department of corrections~~ under s. ~~48.355~~, 48.427 or 48.43 or under the supervision of the department of corrections under s. 938.183 or 938.355. The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs which are attributable to care and treatment of the client.

**SECTION 426.** 51.437 (4rm) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

51.437 (4rm) (a) A county department of developmental disabilities services shall authorize all care of any patient in a state, local or private facility under a contractual agreement between the county department of developmental disabilities services and the facility, unless the county department of developmental disabilities services governs the facility. The need for inpatient care shall be determined by the program director or designee in consultation with and upon the recommendation of a licensed physician trained in psychiatry and employed by the county department of developmental disabilities services or its contract agency prior to the admission of a patient to the facility except in the case of emergency services. In cases of emergency, a facility under contract with any county department of developmental disabilities services shall charge the county department of developmental disabilities services having jurisdiction in the county where the individual receiving care is found. The county department of developmental disabilities services shall reimburse the facility for the actual cost of all authorized care and services less applicable collections under s. 46.036, unless the department of health and social services determines that a charge is administratively infeasible, or unless the department of health and social services, after individual review, determines that the charge is not attributable to the cost of basic care and services. The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs which are attributable to care and treatment of the client. County departments of developmental disabilities services may not reimburse any state institution or receive credit for collections for care received therein by nonresidents of this state, interstate compact clients, transfers under s. 51.35 (3) (a), commitments under s. 975.01, 1977 stats., or s. 975.02, 1977 stats. or s. 971.14, 971.17 or 975.06, admissions under s. 975.17, 1977 stats., or children placed in the guardianship of the department of health and social services under s. 48.427 or 48.43 or under the supervision of the department of corrections under s. ~~48.355~~ 938.183 (2) or 938.355.

**SECTION 427.** 51.45 (5) (d) 1. of the statutes is amended to read:

51.45 (5) (d) 1. Ensure that each county receiving funding under par. (b) has in place not later than 12 months from the date the county initially receives the funding a coordinating council whose duties shall include the coordination of alcohol and other drug abuse activities relating to primary prevention with school districts, community service and treatment providers in the community, courts assigned to exercise jurisdiction under ~~ch. 48 and 938~~, law enforcement agencies, parents, children and the alcohol and other drug abuse prevention specialist.

**SECTION 428.** 51.45 (11) (bm) of the statutes is amended to read:

51.45 (11) (bm) If the person who appears to be incapacitated by alcohol under par. (b) is a minor, either a law enforcement officer or a person authorized to take a child into custody under ch. 48 or 938 may take the minor into custody as provided in par. (b).

**SECTION 429.** 59.175 of the statutes, as affected by 1995 Wisconsin Act 27, section 3287bm, is amended to read:

**59.175 Clerks of counties containing state institutions to make claims in certain cases.** The county clerk of any county which is entitled to reimbursement under s. 16.51 (7) shall make a certified claim against the state, without direction from the county board, in all cases where the reimbursement is directed in that subsection, upon forms prescribed by the department of administration. The forms shall contain information required by the clerk and shall be filed annually with the department of corrections on or before June 1. If the claims are approved by the department of corrections, they shall be certified to the department of administration and paid from the appropriation made by s. 20.410 (1) (c), if the claim is for reimbursement of expenses involving a prisoner in a state prison named in s. 302.01, or from the appropriation under s. 20.410 (3) (c), if the claim is for reimbursement of expenses involving a child in a secured correctional facility, as defined in s. ~~48.02~~ 938.02 (15m).

**SECTION 430.** 60.23 (22m) of the statutes is created to read:

60.23 (22m) SCHOOL ATTENDANCE. If the town board has established a municipal court under s. 755.01 (1), enact and enforce an ordinance to impose a forfeiture, which is the same as the fine provided under s. 118.15 (5), upon a person having under his or her control a child who is between the ages of 6 and 18 years and whose child is not in compliance with s. 118.15.

**SECTION 431.** 101.123 (1) (i) of the statutes is amended to read:

101.123 (1) (i) "State institution" means a prison, a secured correctional facility, a mental health institute as defined in s. 51.01 (12) or a center for the developmentally disabled as defined in s. 51.01 (3), except that "state

institution” does not include a Type 2 secured correctional facility, as defined in s. 48.02 (20).

**SECTION 432.** 101.123 (1) (i) of the statutes, as affected by 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

101.123 (1) (i) “State institution” means a prison, a secured correctional facility, a mental health institute as defined in s. 51.01 (12) or a center for the developmentally disabled as defined in s. 51.01 (3), except that “state institution” does not include a Type 2 secured correctional facility, as defined in s. 938.02 (20).

**SECTION 433.** 101.123 (3) (gg) of the statutes is created to read:

101.123 (3) (gg) A Type 2 secured correctional facility, as defined in s. 48.02 (20).

**SECTION 412m.** 101.123 (3) (gg) of the statutes, as created by 1995 Wisconsin Act .... (this act), is amended to read:

101.123 (3) (gg) A Type 2 secured correctional facility, as defined in s. ~~48.02-938.02~~ (20).

**SECTION 434.** 102.07 (13) of the statutes, as affected by 1995 Wisconsin Act 24, is amended to read:

102.07 (13) A child performing uncompensated community service work as a result of ~~an informal disposition under s. 48.245 a deferred prosecution agreement under s. 938.245, a consent decree under s. 48.32 938.32 or an order under s. 48.34 (7t) or (9) 938.34~~ is an employe of the county in which the court ordering the community service work is located. No compensation may be paid to that employe for temporary disability during the healing period.

**SECTION 435.** 103.72 of the statutes is amended to read:

**103.72 Refusal and revocation of permits. (1)** The department or permit officer may refuse to grant permits in the case of minors who seem physically unable to perform the labor at which they are to be employed. They may also refuse to grant a permit if in their judgment the best interests of the minor would be served by ~~such~~ that refusal.

(2) Whenever it ~~shall appear~~ appears to the department that ~~any~~ a permit has been improperly or illegally issued, or that the physical or moral welfare or school attendance of the minor would be best served by the revocation of the permit or that the failing school performance of the minor would be remedied by the revocation of the permit, the department may ~~forthwith~~ immediately, without notice, revoke the ~~same~~, and permit. The department shall revoke a permit if ordered to do so under s. 938.342 (1) (e). If the department revokes a permit, the department shall, by registered mail, notify the person employing such the minor and the minor holding such the permit of such the revocation. Upon receipt of such the notice, the employer employing such the minor shall forthwith immediately return the revoked permit to the

department and discontinue the employment of the minor.

**SECTION 436.** 103.87 of the statutes is amended to read:

**103.87 Employe not to be disciplined for testifying.** No employer may discharge an employe because the employe is subpoenaed to testify in an action or proceeding pertaining to a crime or pursuant to ch. 48 or 938. On or before the first business day after the receipt of a subpoena to testify, the employe shall give the employer notice if he or she will have to be absent from employment because he or she has been subpoenaed to testify in an action or proceeding pertaining to a crime or pursuant to ch. 48 or 938. If a person is subpoenaed to testify in an action or proceeding as a result of a crime, as defined in s. 950.02 (1m), against the person’s employer or an incident involving the person during the course of his or her employment, the employer shall not decrease or withhold the employe’s pay for any time lost resulting from compliance with the subpoena. An employer who violates this section may be fined not more than \$200 and may be required to make full restitution to the aggrieved employe, including reinstatement and back pay. Except as provided in this section, restitution shall be in accordance with s. 973.20.

**SECTION 437.** 115.31 (1) (b) of the statutes is amended to read:

115.31 (1) (b) “Educational agency” means a school district, cooperative educational service agency, state correctional institution under s. 302.01, secured correctional facility, as defined in s. ~~48.02 938.02~~ (15m), secured child caring institution, as defined in s. 938.02 (15g), the Wisconsin school for the visually handicapped, the Wisconsin school for the deaf, the Mendota mental health institute, the Winnebago mental health institute, a state center for the developmentally disabled, a private school or a private, nonprofit, nonsectarian agency under contract with a school board under s. 118.153 (3) (c).

**SECTION 438.** 115.81 (9) (c) of the statutes is amended to read:

115.81 (9) (c) Notwithstanding ~~ss. 48.34 (4) and (4m), 48.345, 48.363, 48.427 (3), 767.24 (3), 880.12 and 880.15, 938.183, 938.34 (4), (4h), (4m) and (4n), 938.345 and 938.363,~~ a surrogate parent has the authority to act as the child’s parent in all matters relating to this subchapter.

**SECTION 439.** 115.85 (2m) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

115.85 (2m) PLACEMENT DISPUTES. If a dispute arises between the school board and the department of health and social services, the department of corrections or a county department under s. 46.215, 46.22 or 46.23, or between school boards under s. 115.815 (4) (c), over the placement of a child in an appropriate program under sub.

(2), the state superintendent shall resolve the dispute. This subsection applies only to placements in nonresidential educational programs made under s. 48.48 (4), ~~48.553 (3) or 48.57 (1) (c), 938.48 (4) or 938.57 (1) (c)~~ and to placements in child caring institutions made under s. 115.815.

**SECTION 440.** 118.125 (1) (a) of the statutes is amended to read:

118.125 (1) (a) "Behavioral records" means those pupil records which include psychological tests, personality evaluations, records of conversations, any written statement relating specifically to an individual pupil's behavior, tests relating specifically to achievement or measurement of ability, the pupil's physical health records other than his or her immunization records or any lead screening records required under s. 254.162, ~~peace~~ law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1m) and any other pupil records that are not progress records.

**SECTION 440m.** 118.125 (2) (c) of the statutes is amended to read:

118.125 (2) (c) The judge of any court of this state or of the United States shall, upon request, be provided by the school district clerk or his or her designee with a copy of all progress records of a pupil who is the subject of any proceeding in such court.

**SECTION 441.** 118.125 (2) (cg) of the statutes is created to read:

118.125 (2) (cg) The school district clerk or his or her designee shall provide a law enforcement agency with a copy of a pupil's attendance record if the law enforcement agency certifies in writing that the pupil is under investigation for allegedly committing a criminal or delinquent act and that the law enforcement agency will not further disclose the pupil's attendance record except as permitted under s. 938.396 (1) to (1r).

**SECTION 442.** 118.125 (2) (cm) of the statutes is amended to read:

118.125 (2) (cm) If school attendance is a condition of a child's dispositional order under s. 48.355 (2) (b) 7. or 938.355 (2) (b) 7., the school board shall notify the county department that is responsible for supervising the child within 5 days after any violation of the condition by the child.

**SECTION 443.** 118.125 (2) (d) of the statutes is amended to read:

118.125 (2) (d) Pupil records ~~may~~ shall be made available to persons employed by the school district which the pupil attends who are required by the department under s. 115.28 (7) to hold a license and other school district officials who have been determined by the school board to have legitimate educational or safety interests. ~~Peace~~ in the pupil records. Law enforcement officers' records obtained under s. 48.396 (1m) may 938.396 (1m) (a) shall be made available under this paragraph ~~only~~ for the purposes of s. 118.127 (2) ~~and only~~ to those desig-

~~nated personnel involved in employes of the school district who have been designated by the school board to receive that information for the purpose of providing alcohol and other drug abuse programs. Law enforcement officers' records obtained under s. 938.396 (1m) (b) shall be made available under this paragraph for the purposes of s. 118.127 (3) to persons employed by the school district which the pupil attends who are required by the department under s. 115.28 (7) to hold a license, to other school district officials who have been determined by the school board to have legitimate educational or safety interests in those records and to those employes of the school district who have been designated by the school board to receive that information for the purpose of providing treatment programs. A school board member or an employe of a school district may not be held personally liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the member or employe acted with actual malice in failing to disclose the information. A school district may not be held liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the school district or its agent acted with gross negligence or with reckless, wanton or intentional misconduct in failing to disclose the information.~~

**SECTION 444.** 118.125 (2) (e) of the statutes is amended to read:

118.125 (2) (e) Upon the written permission of an adult pupil, or the parent or guardian of a minor pupil, the school shall make available to the person named in the permission the pupil's progress records or such portions of the pupil's behavioral records as determined by the person authorizing the release. ~~Peace~~ Law enforcement officers' records obtained under s. 48.396 938.396 (1m) may not be made available under this paragraph unless specifically identified by the adult pupil or by the parent or guardian of a minor pupil in the written permission.

**SECTION 444m.** 118.125 (2) (i) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

118.125 (2) (i) Upon request, the school district clerk or his or her designee shall provide the names of pupils who have withdrawn from the public school prior to graduation under s. 118.15 (1) (c) to the technical college district board in which the public school is located or, for verification of eligibility for public assistance under ch. 49, to the department of health and social services, the department of industry, labor and human relations or a county department under s. 46.215, 46.22 or 46.23.

**SECTION 444r.** 118.125 (2) (j) 2. of the statutes is amended to read:

118.125 (2) (j) 2. If a school has notified the parent, legal guardian or guardian ad litem that a pupil's name and address has been designated as directory data, has allowed 14 days for the parent, legal guardian or guardian ad litem of the pupil to inform the school that the pupil's name and address may not be released without the prior

consent of the parent, legal guardian or guardian ad litem and the parent, legal guardian or guardian ad litem has not so informed the school, the school district clerk or his or her designee, upon request, shall provide a technical college district board with the name and address of each such pupil who is expected to graduate from high school in the current school year.

**SECTION 445.** 118.125 (2) (j) 3. of the statutes is amended to read:

118.125 (2) (j) 3. If a school has notified the parent, legal guardian or guardian ad litem of the information that it has designated as directory data with respect to any pupil, the school has allowed 14 days for the parent, legal guardian or guardian ad litem of the pupil to inform the school that such information may not be released without the prior consent of the parent, legal guardian or guardian ad litem and the parent, legal guardian or guardian ad litem has not so informed the school, the school district clerk or his or her designee, upon request, shall provide any representative of a law enforcement agency, as defined in s. 165.83 (1) (b), district attorney or corporation counsel, county department under s. 46.215, 46.22 or 46.23 or a court of record or municipal court with such information relating to any such pupil enrolled in the school district for the purpose of enforcing that pupil's school attendance ~~or to respond, investigating alleged criminal or delinquent activity by the pupil or responding~~ to a health or safety emergency.

**SECTION 446.** 118.125 (2) (L) of the statutes is amended to read:

118.125 (2) (L) A school board shall disclose the pupil records of a pupil in compliance with a court order under s. ~~48.34~~ 48.345 (12) (b), ~~938.34~~ 938.34 (7d) (b), ~~938.396~~ 938.396 (1m) (c) or ~~938.78~~ 938.78 (2) (b) 2. after making a reasonable effort to notify the pupil's parent or legal guardian.

**SECTION 447.** 118.125 (2) (n) of the statutes is created to read:

118.125 (2) (n) Subject to par. (m), if a public school discloses information in a pupil record under par. (c), (cg), (d), (f), (g), (j) or (L), the public school shall notify the pupil who is the subject of the record and the pupil's parent or guardian of that disclosure and shall provide to the pupil and the parent or guardian the information disclosed, unless the public school determines that provision of the information to the parent or guardian would result in imminent danger to the pupil.

**SECTION 448.** 118.125 (3) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

118.125 (3) MAINTENANCE OF RECORDS. Each school board shall adopt rules in writing specifying the content of pupil records and the time during which pupil records shall be maintained. No behavioral records may be maintained for more than one year after the pupil ceases to be enrolled in the school, unless the pupil specifies in writing that his or her behavioral records may be maintained for a longer period. A pupil's progress records shall be

maintained for at least 5 years after the pupil ceases to be enrolled in the school. A school board may maintain the records on microfilm, optical disk or in electronic format if authorized under s. 19.21 (4) (c), or in such other form as the school board deems appropriate. A school board shall maintain ~~peace~~ law enforcement officers' records obtained under s. ~~48.396~~ 938.396 (1m) separately from a pupil's other pupil records. Rules adopted under this subsection shall be published by the school board as a class 1 notice under ch. 985.

**SECTION 449.** 118.125 (4) of the statutes, as affected by 1993 Wisconsin Acts 377, 385 and 491, is amended to read:

118.125 (4) TRANSFER OF RECORDS. Within 5 working days, a school district shall transfer to another school or school district all pupil records relating to a specific pupil if the transferring school district has received written notice from the pupil if he or she is an adult or his or her parent or guardian if the pupil is a minor that the pupil intends to enroll in the other school or school district or written notice from the other school or school district that the pupil has enrolled or from a court that ~~legal custody of the pupil has been transferred to the department of corrections or that the pupil has been placed in a juvenile correctional facility~~ or a secured child caring institution, as defined in s. 938.02 (15g). In this subsection, "school" and "school district" include any state juvenile correctional facility or secured child caring institution which provides an educational program for its residents instead of or in addition to that which is provided by public and private schools.

**SECTION 450.** 118.125 (5) of the statutes is renumbered 118.125 (5) (a) and amended to read:

118.125 (5) (a) ~~Nothing~~ Except as provided in par. (b), nothing in this section prohibits the use of a pupil's records in connection with the suspension or expulsion of the pupil or the use of such records by a multidisciplinary team under ch. 115.

**SECTION 451.** 118.125 (5) (b) of the statutes is created to read:

118.125 (5) (b) Law enforcement officers' records obtained under s. 938.396 (1m) and records of the court assigned to exercise jurisdiction under chs. 48 and 938 obtained under s. 938.396 (7) shall not be used as the sole basis for expelling or suspending a pupil.

**SECTION 452.** 118.127 of the statutes is amended to read:

**118.127** (title) ~~Peace~~ Law enforcement officers' records. (1) Upon receipt of information from ~~peace~~ law enforcement officers' records obtained under s. ~~48.396~~ 938.396 (1m), the school district administrator shall notify any pupil named in the records, and the parent or guardian of any minor pupil named in the records, of the information.

(2) A school district ~~may~~ shall use information from ~~peace~~ law enforcement officers' records obtained under

s. ~~48.396 (1m)~~ only 938.396 (1m) (a) for the purpose of providing alcohol and other drug abuse programs for pupils enrolled in the school district. A school district shall not use law enforcement officers' records obtained under s. 938.396 (1m) (a) as the sole basis for expelling or suspending a pupil.

**SECTION 453.** 118.127 (3) of the statutes is created to read:

118.127 (3) A school district shall use information from law enforcement officers' records obtained under s. 938.396 (1m) (b) for legitimate educational or safety purposes and for the purpose of providing treatment programs for pupils enrolled in the school district. A school district shall not use law enforcement officers' records obtained under s. 938.396 (1m) (b) as the sole basis for expelling or suspending a pupil.

**SECTION 454.** 118.15 (1) (cm) 1. of the statutes is amended to read:

118.15 (1) (cm) 1. Upon the child's request and with the approval of the child's parent or guardian, any child who is 17 years of age or over shall be excused by the school board from regular school attendance if the child began a program leading to a high school equivalency diploma in a secured correctional facility, as defined in s. ~~48.02 938.02~~ (15m), or a secured child caring institution, as defined in s. 938.02 (15g), and the child and his or her parent or guardian agree under subd. 2. that the child will continue to participate in such a program.

**SECTION 455.** 118.15 (5) (a) of the statutes is amended to read:

118.15 (5) (a) Except as provided under par. (b) or if a person has been found guilty of a misdemeanor under s. 948.45, whoever violates this section may be fined not more than \$500 or imprisoned for not more than 30 days or both, ~~after~~ if evidence has been provided by the school attendance officer that the activities under s. 118.16 (5) have been completed or were not completed due to the child's absence from school as provided in s. 118.16 (5m). In a prosecution under this paragraph, if the defendant proves that he or she is unable to comply with the law because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under ~~chs. 48 and 938.~~

**SECTION 456.** 118.15 (5) (am) of the statutes is created to read:

118.15 (5) (am) The court may order any person who violates this section to participate in counseling at the person's own expense.

**SECTION 457.** 118.16 (2m) (a) (intro.) of the statutes is amended to read:

118.16 (2m) (a) (intro.) A school district administrator may designate any of the following individuals to take a child who resides in the school district and who is absent from school without an acceptable excuse under s. 118.15 into custody under s. ~~48.19~~ 938.19 (1m):

**SECTION 458.** 118.16 (2m) (d) of the statutes is amended to read:

118.16 (2m) (d) A school district administrator who makes a designation under par. (a) shall provide each individual so designated with an identification card of a form determined by the school board. The designee shall carry the identification card on his or her person at all times while the designee is on official duty under s. ~~48.19 938.19~~ (1m) and shall exhibit the identification card to any person to whom the designee represents himself or herself as a person authorized to take a child into custody under s. ~~48.19~~ 938.19 (1m).

**SECTION 459.** 118.16 (2m) (e) of the statutes is amended to read:

118.16 (2m) (e) A school district administrator who makes a designation under par. (a) or the individual designated under par. (a) shall immediately attempt to notify, by personal contact or telephone call, the child's parent, guardian and legal custodian that the designation has been made and that the child may be taken into custody under s. ~~48.19 938.19~~ (1m). The school district administrator, or the designee, is not required to notify a parent, guardian or legal custodian under this paragraph if the parent, guardian or legal custodian is the person who requested that the child be taken into custody under s. ~~48.19 938.19~~ (1m).

**SECTION 460.** 118.16 (4) (e) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

118.16 (4) (e) Except as provided under s. 119.55, a school board may establish one or more youth service centers for the counseling of children who are taken into custody under s. ~~48.19 938.19~~ (1) (d) ~~9- or 10.~~ for being absent from school without an acceptable excuse under s. 118.15.

**SECTION 461.** 118.16 (5) (intro.) of the statutes is amended to read:

118.16 (5) (intro.) ~~Prior to~~ Except as provided in sub. (5m), before any proceeding being may be brought against a child under s. ~~48.13 (6) 938.13 (6) for habitual truancy or under s. 938.125 (2) or 938.17 (2) for a violation of an ordinance enacted under s. 118.163 (2) or against the child's parent or guardian under s. 118.15 for failure to cause the child to attend school regularly,~~ the school attendance officer shall provide evidence that appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred, done all of the following:

**SECTION 462.** 118.16 (5) (a) of the statutes is amended to read:

118.16 (5) (a) Met with the child's parent or guardian to discuss the child's truancy or ~~have attempted to meet with the child's parent or guardian and been~~ received no response or were refused.

**SECTION 463.** 118.16 (5) (c) of the statutes is amended to read:

118.16 (5) (c) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level.

**SECTION 464.** 118.16 (5m) of the statutes is created to read:

118.16 (5m) Subsection (5) (b), (c) and (d) does not apply if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child's absences from school.

**SECTION 465.** 118.16 (6) of the statutes is amended to read:

118.16 (6) ~~Following receipt of~~ If the school attendance officer receives evidence that activities under sub. (5) have been completed or were not completed due to the child's absence from school as provided in sub. (5m), the school attendance officer may file information on any child who continues to be truant with the court assigned to exercise jurisdiction under ~~ch. chs. 48 and 938~~ in accordance with s. ~~48.24 938.24.~~ Filing information on a child under this subsection does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

**SECTION 466.** 118.162 (4) (e) of the statutes is amended to read:

118.162 (4) (e) The types of truancy cases to be referred to the district attorney for the filing of information under s. ~~48.24 938.24~~ or prosecution under s. 118.15 (5) and the time periods within which the district attorney will respond to and take action on the referrals.

**SECTION 467.** 118.163 (2) (b) of the statutes is amended to read:

118.163 (2) (b) An order for the child to participate in counseling, ~~community service~~ or a supervised work program as provided or other community service work under s. ~~48.34 (9) 938.34 (5g).~~

**SECTION 468.** 118.163 (2) (d) of the statutes is amended to read:

118.163 (2) (d) An order for the child to attend an educational program under s. ~~48.34 (12) 938.34 (7d).~~

**SECTION 469.** 118.163 (2) (e) of the statutes is created to read:

118.163 (2) (e) An order for the department of industry, labor and human relations to revoke, under s. 103.72, a permit under s. 103.70 authorizing the employment of the child.

**SECTION 470.** 118.163 (2) (f) of the statutes is created to read:

118.163 (2) (f) An order for the juvenile to be placed in a teen court program as described in s. 938.342 (1) (f).

**SECTION 471.** 120.12 (18) of the statutes is amended to read:

120.12 (18) CONTINUITY OF EDUCATIONAL PROGRAMMING. Coordinate and provide for continuity of educational programming for pupils receiving educational services as the result of a court order under s. ~~48.34 (12) 48.345 (12) or 938.34 (7d),~~ including but not limited to providing a ~~written~~ report to the court assigned to exercise jurisdiction under ~~ch. chs. 48 and 938~~ and the agency which is required to submit an educational plan for a child under s. ~~48.33 or 938.33 (1) (e).~~ The ~~written~~ report shall describe the child's educational status and make recommendations regarding educational programming for the child. The written report shall be in writing, except that if the educational plan under s. 938.33 (1) (e) is presented orally at the dispositional hearing the report may be presented orally to the court assigned to exercise jurisdiction under chs. 48 and 938 and the agency at the dispositional hearing. ~~If written, the~~ report shall be provided to the court assigned to exercise jurisdiction under ~~ch. chs. 48 and 938~~ and the agency at least 3 days before the date of the child's dispositional hearing.

**SECTION 472.** 121.78 (4) of the statutes is amended to read:

121.78 (4) COURT-ORDERED EDUCATIONAL SERVICES. If a pupil is receiving educational services as the result of a court order under s. ~~48.34 48.345 (12) or 938.34 (7d),~~ the school board of the school district in which the pupil resided at the time of issuance of the court order shall pay tuition for the pupil. A school board paying tuition for a pupil under this subsection shall count the pupil as 1.0 pupil in membership for general aid under subch. II. The school board shall pay each agency specified under s. ~~48.34 48.345 (12) (a) 2. to 4. or 938.34 (7d) (a) 2. to 4.,~~ for each full-time equivalent pupil served by the agency, an amount equal to at least 80% of the average per pupil cost for the school district. No state aid may be paid to the technical college district for pupils attending the technical college under s. ~~48.34 48.345 (12) (a) 4. or 938.34 (7d) (a) 4.~~

**SECTION 473.** 125.07 (4) (bs) 1. of the statutes is amended to read:

125.07 (4) (bs) 1. For a first violation, a forfeiture of not less than \$250 nor more than \$500, suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 1., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

**SECTION 474.** 125.07 (4) (bs) 2. of the statutes is amended to read:

125.07 (4) (bs) 2. For a violation committed within 12 months of a previous violation, either a forfeiture of not less than \$300 nor more than \$500, suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

**SECTION 475.** 125.07 (4) (bs) 3. of the statutes is amended to read:

125.07 (4) (bs) 3. For a violation committed within 12 months of 2 previous violations, either a forfeiture of not less than \$500 nor more than \$750, revocation of the person's operating privilege under s. 343.30 (6) (b) 3., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

**SECTION 476.** 125.07 (4) (bs) 4. of the statutes is amended to read:

125.07 (4) (bs) 4. For a violation committed within 12 months of 3 or more previous violations, either a forfeiture of not less than \$750 nor more than \$1,000, revocation of the person's operating privilege under s. 343.30 (6) (b) 3., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

**SECTION 477.** 125.07 (4) (c) 1. of the statutes is amended to read:

125.07 (4) (c) 1. For a first violation, a forfeiture of not less than \$100 nor more than \$200, suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 1., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

**SECTION 478.** 125.07 (4) (c) 2. of the statutes is amended to read:

125.07 (4) (c) 2. For a violation committed within 12 months of a previous violation, either a forfeiture of not less than \$200 nor more than \$300, suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

**SECTION 479.** 125.07 (4) (c) 3. of the statutes is amended to read:

125.07 (4) (c) 3. For a violation committed within 12 months of 2 previous violations, either a forfeiture of not less than \$300 nor more than \$500, revocation of the person's operating privilege under s. 343.30 (6) (b) 3., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

**SECTION 480.** 125.07 (4) (c) 4. of the statutes is amended to read:

125.07 (4) (c) 4. For a violation committed within 12 months of 3 or more previous violations, either a forfeiture of not less than \$500 nor more than \$1,000, revocation of the person's operating privilege under s. 343.30 (6) (b) 3., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

**SECTION 481.** 125.07 (4) (cg) of the statutes is amended to read:

125.07 (4) (cg) 1. ~~If the court orders a person to participate in a supervised work program ordered under par. (bs) or (c), the shall be administered by the county department under s. 46.215 or 46.22 or by a community agency approved by the court.~~ The court shall set standards for the supervised work program within the budgetary limits established by the county board of supervisors. The supervised work program may provide the person with reasonable compensation reflecting the market value of the work performed; or it may consist of uncompensated community service work, and shall be administered by a the county department under s. 46.215 or 46.22 or a community agency approved by the court. Community service work ordered under par. (bs) or (c), other than community service work performed under a supervised work program, shall be administered by a public agency or nonprofit charitable organization approved by the court. The court may use any available resources, including any community service work program, in ordering the child to perform community service work under par. (bs) or (c).

2. The supervised work program or other community service work shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical ability and shall be combined with counseling from ~~an agency staff a member of the staff of the county department, community agency, public agency or nonprofit charitable organization~~ or other qualified person. The supervised work program or other community service work may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.

**SECTION 482.** 125.07 (4) (d) of the statutes is amended to read:

125.07 (4) (d) A person who is under 18 years of age on the date of disposition is subject to s. 48.344 ~~938.344~~ 938.344 unless proceedings have been instituted against the person in a court of civil or criminal jurisdiction after dismissal of the citation under s. 48.344 ~~938.344~~ 938.344 (3).

**SECTION 483.** 125.07 (4) (e) 2. a. of the statutes is amended to read:

125.07 (4) (e) 2. a. Submit to an alcohol abuse assessment that conforms to the criteria specified under s. 48.547 ~~938.547~~ 938.547 (4) and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol abuse assessment and shall specify the date by which the assessment must be completed.

**SECTION 484.** 125.085 (3) (bd) of the statutes is amended to read:

125.085 (3) (bd) Any underage person who violates par. (b) is subject to a forfeiture of not less than \$100 nor more than \$500, suspension of the person's operating privilege under s. 343.30 (6) (bm), participation in a

supervised work program or other community service work under par. (bh) or any combination of these penalties.

**SECTION 485.** 125.085 (3) (bh) of the statutes is amended to read:

125.085 (3) (bh) 1. ~~If the court orders a person to participate in a~~ A supervised work program ordered under par. (bd), ~~the shall be administered by the county department under s. 46.215 or 46.22 or by a community agency approved by the court. The court shall set standards for the supervised work program within the budgetary limits established by the county board of supervisors. The supervised work program may provide the person with reasonable compensation reflecting the market value of the work performed, or it may consist of uncompensated community service work, and shall be administered by the county department under s. 46.215 or 46.22 or a community agency approved by the court. Community service work ordered under par. (bd), other than community service work performed under a supervised work program, shall be administered by a public agency or nonprofit charitable organization approved by the court. The court may use any available resources, including any community service work program, in ordering the child to perform community service work under par. (bd).~~

2. The supervised work program or other community service work shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical ability and shall be combined with counseling from ~~an agency staff a member of the staff of the county department, community agency, public agency or nonprofit charitable organization~~ or other qualified person. The supervised work program or other community service work may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.

**SECTION 486.** 125.085 (3) (bt) of the statutes is amended to read:

125.085 (3) (bt) A person who is under 18 years of age on the date of disposition is subject to s. ~~48.344 938.344~~ unless proceedings have been instituted against the person in a court of civil or criminal jurisdiction after dismissal of the citation under s. ~~48.344 938.344~~ (3).

**SECTION 487.** 125.09 (2) (d) of the statutes is amended to read:

125.09 (2) (d) A person who violates this subsection is subject to a forfeiture of not more than \$200, except that ss. ~~48.344 and~~ 125.07 (4) (c) and (d) and 938.344 provide the penalties applicable to underage persons.

**SECTION 488.** 146.34 (1) (e) of the statutes is amended to read:

146.34 (1) (e) "Legal custodian" means a person other than a parent or guardian or an agency to whom the legal custody of a minor has been transferred by a court un-

der ch. 48 ~~or 938~~, but does not include a person who has only physical custody of a minor.

**SECTION 489.** 146.34 (5) (a) (intro.) of the statutes is amended to read:

146.34 (5) (a) (intro.) A relative of the prospective donor or the district attorney or corporation counsel of the county of residence of the prospective donor may file a petition with the court assigned to exercise jurisdiction under ~~ch. chs. 48 and 938~~ for an order to prohibit either of the following:

**SECTION 490.** 146.81 (4) of the statutes is amended to read:

146.81 (4) "Patient health care records" means all records related to the health of a patient prepared by or under the supervision of a health care provider, including the records required under s. 146.82 (2) (d) and (3) (c), but not those records subject to s. 51.30, reports collected under s. 69.186, records of tests administered under s. ~~48.296 (4), 252.15 (2) (a) 7., 343.305, 938.296 (4) or 968.38 (4), fetal monitor tracings, as defined under s. 146.817 (1), or a pupil's physical health records maintained by a school under s. 118.125.~~

**SECTION 491.** 146.81 (5) of the statutes, as affected by 1993 Wisconsin Act 385, is amended to read:

146.81 (5) "Person authorized by the patient" means the parent, guardian or legal custodian of a minor patient, as defined in s. 48.02 (8) and (11), the person vested with supervision of the child under s. ~~48.34 938.183 or 938.34 (4h), (4m) or (4n), the guardian of a patient adjudged incompetent, as defined in s. 880.01 (3) and (4), the personal representative or spouse of a deceased patient, any person authorized in writing by the patient or a health care agent designated by the patient as a principal under ch. 155 if the patient has been found to be incapacitated under s. 155.05 (2), except as limited by the power of attorney for health care instrument. If no spouse survives a deceased patient, "person authorized by the patient" also means an adult member of the deceased patient's immediate family, as defined in s. 632.895 (1) (d). A court may appoint a temporary guardian for a patient believed incompetent to consent to the release of records under this section as the person authorized by the patient to decide upon the release of records, if no guardian has been appointed for the patient.~~

**SECTION 492.** 157.065 (2) (a) 4. c. of the statutes is amended to read:

157.065 (2) (a) 4. c. A Type 1 secured correctional facility, as defined in s. 48.02 ~~(15m) (19).~~

**SECTION 493.** 157.065 (2) (a) 4. c. of the statutes, as affected by 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

157.065 (2) (a) 4. c. A Type 1 secured correctional facility, as defined in s. 938.02 (19).

**SECTION 494.** 161.573 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:



161.573 (2) Any person who violates this section who is under 17 years of age is subject to a disposition under s. 48.344 938.344 (2e).

**SECTION 495.** 161.574 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

161.574 (2) Any person who violates this section who is under 17 years of age is subject to a disposition under s. 48.344 938.344 (2e).

**SECTION 496.** 161.575 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

161.575 (2) Any person who violates this section who is under 17 years of age is subject to a disposition under s. 48.344 938.344 (2e).

**SECTION 497.** 165.76 (1) (a) of the statutes is amended to read:

165.76 (1) (a) Is in prison or a secured correctional facility, as defined in s. 48.02 (15m), or on probation, parole, supervision, or aftercare supervision ~~or corrective sanctions supervision~~ on or after August 12, 1993, for any violation of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025.

**SECTION 498.** 165.76 (1) (a) of the statutes, as affected by 1995 Wisconsin Act ... (this act), is repealed and recreated to read:

165.76 (1) (a) Is in prison or a secured correctional facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g) or on probation, parole, supervision or aftercare supervision on or after August 12, 1993, for any violation of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025.

**SECTION 499.** 165.76 (2) (b) 2. of the statutes is amended to read:

165.76 (2) (b) 2. If the person has been sentenced to prison or placed in a secured correctional facility, he or she shall provide the specimen under par. (a) at the office of a county sheriff as soon as practicable after release on parole, or aftercare supervision ~~or corrective sanctions supervision~~, as directed by his or her probation and parole agent, or aftercare agent ~~or corrective sanctions agent~~, except that the department of corrections may require the person to provide the specimen while he or she is in prison and the department of health and social services may require the person, if a child, to provide the specimen while he or she is placed at a secured correctional facility.

**SECTION 500.** 165.76 (2) (b) 2. of the statutes, as affected by 1995 Wisconsin Act ... (this act), is repealed and recreated to read:

165.76 (2) (b) 2. If the person has been sentenced to prison or placed in a secured correctional facility or a secured child caring institution, he or she shall provide the specimen under par. (a) at the office of a county sheriff as soon as practicable after release on parole or aftercare supervision, as directed by his or her probation and parole agent or aftercare agent, except that the department of corrections may require the person to provide the speci-

men while he or she is in prison or in a secured correctional facility or a secured child caring institution.

**SECTION 501.** 165.76 (2) (b) 5. of the statutes is amended to read:

165.76 (2) (b) 5. Notwithstanding subs. 1. to 3., for persons who are subject to sub. (1) and who are in prison or a secured correctional facility or on probation, parole, supervision, or aftercare supervision ~~or corrective sanctions supervision~~ on August 12, 1993, the departments of justice, corrections and health and social services shall cooperate to have these persons provide specimens under par. (a) before July 1, 1998.

**SECTION 483m.** 165.76 (2) (b) 5. of the statutes, as affected by 1995 Wisconsin Act ... (this act), is repealed and recreated to read:

165.76 (2) (b) 5. Notwithstanding subs. 1. to 3., for persons who are subject to sub. (1) and who are in prison, a secured correctional facility or a secured child caring institution or on probation, parole, supervision or aftercare supervision on August 12, 1993, the departments of justice, corrections and health and social services shall cooperate to have these persons provide specimens under par. (a) before July 1, 1998.

**SECTION 502.** 165.76 (3) of the statutes is amended to read:

165.76 (3) If a person is required to submit a biological specimen under s. 48.34 ~~(15)~~, 51.20 (13) (cr), 938.34 (15), 971.17 (1m) or 973.047, he or she shall comply with that requirement and is not required to comply with this section.

**SECTION 503.** 165.765 (1) of the statutes is amended to read:

165.765 (1) Whoever intentionally fails to comply with a requirement to submit a biological specimen under s. 48.34 ~~(15)~~, 165.76, 938.34 (15) or 973.047 may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

**SECTION 504.** 165.765 (2) (a) of the statutes is amended to read:

165.765 (2) (a) Any physician, registered nurse, medical technologist, physician assistant or person acting under the direction of a physician who obtains a biological specimen under s. 48.34 ~~(15)~~, 165.76, 938.34 (15) or 973.047 is immune from any civil or criminal liability for the act, except for civil liability for negligence in the performance of the act.

**SECTION 505.** 165.77 (2) (b) of the statutes is amended to read:

165.77 (2) (b) Paragraph (a) does not apply to specimens received under s. 48.34 ~~(15)~~, 51.20 (13) (cr), 165.76, 938.34 (15), 971.17 (1m) or 973.047.

**SECTION 506.** 165.77 (3) of the statutes is amended to read:

165.77 (3) If the laboratories receive a human biological specimen under s. 48.34 ~~(15)~~, 51.20 (13) (cr), 165.76,

938.34 (15), 971.17 (1m) or 973.047, the laboratories shall analyze the deoxyribonucleic acid in the specimen. The laboratories shall maintain a data bank based on data obtained from deoxyribonucleic acid analysis of those specimens. The laboratories may compare the data obtained from one specimen with the data obtained from other specimens. The laboratories may make data obtained from any analysis and comparison available to law enforcement agencies in connection with criminal or delinquency investigations and, upon request, to any prosecutor, defense attorney or subject of the data. The data may be used in criminal and delinquency actions and proceedings. In this state, the use is subject to s. 972.11 (5). The laboratories shall destroy specimens obtained under this subsection after analysis has been completed and the applicable court proceedings have concluded.

**SECTION 507.** 175.35 (1) (ag) of the statutes is amended to read:

175.35 (1) (ag) "Criminal history record" includes information reported to the department under s. ~~48.396~~ 938.396 (8) that indicates a person was adjudicated delinquent for an act that if committed by an adult in this state would be a felony.

**SECTION 508.** 175.45 (1) (b) of the statutes is amended to read:

175.45 (1) (b) Is in prison ~~or~~ a secured correctional facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or on probation, parole, supervision or aftercare supervision on or after December 25, 1993, for any violation of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025.

**SECTION 509.** 175.45 (1) (e) of the statutes is amended to read:

175.45 (1) (e) Is ordered by a court under s. ~~48.34 (15)~~, 51.20 (13) (cr), 938.34 (15) or 973.047 to comply with the reporting requirements under this section.

**SECTION 510.** 175.45 (3) (a) 2. of the statutes is amended to read:

175.45 (3) (a) 2. If the person has been sentenced to prison or placed in a secured correctional facility or a secured child caring institution, he or she is subject to this subsection after he or she is discharged from parole or aftercare supervision.

**SECTION 511.** 175.45 (5) (b) of the statutes is amended to read:

175.45 (5) (b) If the person has been sentenced to prison or placed in a secured correctional facility or a secured child caring institution, 15 years after discharge from parole or aftercare supervision.

**SECTION 512.** 227.03 (4) of the statutes, as affected by 1995 Wisconsin Act 27, section 6226, is amended to read:

227.03 (4) The provisions of this chapter relating to contested cases do not apply to proceedings involving the revocation of aftercare supervision under s. 48.357 (5) or 48.366 (5) ~~or corrective sanctions supervision under s.~~

~~48.357 (5)~~, the revocation of parole or probation, the grant of probation, prison discipline, mandatory release under s. 302.11 or any other proceeding involving the care and treatment of a resident or an inmate of a correctional institution.

**SECTION 513.** 227.03 (4) of the statutes, as affected by 1995 Wisconsin Act 27, section 6226m, and 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

227.03 (4) The provisions of this chapter relating to contested cases do not apply to proceedings involving the revocation of aftercare supervision under s. 48.366 (5) or 938.357 (5), the revocation of parole or probation, the grant of probation, prison discipline, mandatory release under s. 302.11 or any other proceeding involving the care and treatment of a resident or an inmate of a correctional institution.

**SECTION 514.** 230.36 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

230.36 (1) If a conservation warden, conservation patrol boat captain, conservation patrol boat engineer, state forest ranger, conservation field employe of the department of natural resources who is subject to call for fire control duty, member of the state patrol, state motor vehicle inspector, lifeguard, excise tax investigator employed by the department of revenue, special criminal investigation agent employed by the department of justice, special tax agent, state drivers' license examiner, state fair park police officer, University of Wisconsin System police officer and other state facilities police officer and patrol officer, security officer, watcher, engineer, engineering aide, building construction superintendent, fire fighter employed at the Wisconsin Veterans Home, or guard or institutional aide or a state probation and parole officer or any other employe whose duties include supervision and discipline of inmates or wards of the state at a state penal institution, including a secured correctional facility, as defined in s. ~~48.02~~ 938.02 (15m), or while on parole supervision outside of the confines of the institutions, or supervision of persons placed on probation by a court of record, or supervision and care of patients at a state mental institution, and the University of Wisconsin Hospitals and Clinics suffers injury while in the performance of his or her duties, as defined in subs. (2) and (3); or any other state employe who is not listed in this subsection and who is ordered by his or her appointing authority to accompany any employe listed in this subsection while the listed employe is engaged in the duties defined in sub. (3), or any other state employe who is not listed in this subsection and who is ordered by his or her appointing authority to perform the duties, when permitted, in lieu of the listed employe and while so engaged in the duties defined in sub. (3), suffers injury as defined in sub. (2) the employe shall continue to be fully paid by the employing agency upon the same basis as paid prior to the injury, with no reduction in sick leave

credits, compensatory time for overtime accumulations or vacation and no reduction in the rate of earning sick leave credit or vacation. The full pay shall continue while the employee is unable to return to work as the result of the injury or until the termination of his or her employment upon recommendation of the appointing authority. At any time during the employee's period of disability the appointing authority may order physical or medical examinations to determine the degree of disability at the expense of the employing agency.

**SECTION 515.** 230.36 (3) (c) (intro.) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

230.36 (3) (c) (intro.) A guard, institution aide, or other employee at the University of Wisconsin Hospitals and Clinics or at a state penal or mental institution, including a secured correctional facility, as defined in s. 48.02 938.02 (15m), and a state probation and parole officer, at all times while:

**SECTION 516.** 252.04 (6) of the statutes is amended to read:

252.04 (6) The school, day care center or nursery school shall notify the district attorney of the county in which the student resides of any minor student who fails to present written evidence of completed immunizations or a written waiver under sub. (3) within 60 school days after being admitted to the school, day care center or nursery school. The district attorney shall petition the court exercising jurisdiction under ~~ch. 48 and 938~~ for an order directing that the student be in compliance with the requirements of this section. If the court grants the petition, the court may specify the date by which a written waiver shall be submitted under sub. (3) or may specify the terms of the immunization schedule. The court may require an adult student or the parent, guardian or legal custodian of a minor student who refuses to submit a written waiver by the specified date or meet the terms of the immunization schedule to forfeit not more than \$25 per day of violation.

**SECTION 517.** 252.11 (5m) of the statutes is amended to read:

252.11 (5m) A health care professional, ~~as defined in s. 48.296 (1) (a), or a health care professional,~~ as defined in s. 968.38 (1) (a), acting under an order of a court under s. 48.296 938.296 (4) or 968.38 (4) may, without first obtaining informed consent to the testing, subject an individual to a test or a series of tests to ascertain whether that individual is infected with a sexually transmitted disease. No sample used for performance of a test under this subsection may disclose the name of the test subject.

**SECTION 518.** 252.11 (7) of the statutes is amended to read:

252.11 (7) Reports, examinations and inspections and all records concerning sexually transmitted diseases are confidential and not open to public inspection, and shall not be divulged except as may be necessary for the

preservation of the public health, in the course of commitment proceedings under sub. (5) or as provided under s. 48.296 938.296 (4) or 968.38 (4). If a physician has reported a case of sexually transmitted disease to the department under sub. (4), information regarding the presence of the disease and treatment is not privileged when the patient or physician is called upon to testify to the facts before any court of record.

**SECTION 519.** 252.15 (1) (ab) of the statutes is amended to read:

252.15 (1) (ab) "Affected person" means an emergency medical technician, first responder, fire fighter, peace officer, correctional officer, person who is employed at a secured correctional facility, as defined in s. 48.02 938.02 (15m), or at a secured child caring institution, as defined in s. 938.02 (15g), state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper, health care provider, employe of a health care provider or staff member of a state crime laboratory.

**SECTION 520.** 252.15 (2) (a) 6. of the statutes is amended to read:

252.15 (2) (a) 6. A health care professional acting under an order of the court under subd. 7. or s. 48.296 938.296 (4) or 968.38 (4) may, without first obtaining consent to the testing, subject an individual to a test or a series of tests to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. No sample used for laboratory test purposes under this subdivision may disclose the name of the test subject, and, notwithstanding sub. (4) (c), the test results may not be made part of the individual's permanent medical record.

**SECTION 521.** 252.15 (2) (a) 7. a. of the statutes is amended to read:

252.15 (2) (a) 7. a. If all of the conditions under subd. 7. ai. to c. are met, an emergency medical technician, first responder, fire fighter, peace officer, correctional officer, person who is employed at a secured correctional facility, as defined in s. 48.02 938.02 (15m), or at a secured child caring institution, as defined in s. 938.02 (15g), state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper who, during the course of providing care or services to an individual; or a peace officer, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper who, while searching or arresting an individual or while controlling or transferring an individual in custody; or a health care provider or an employe of a health care provider who, during the course of providing care or treatment to an individual or handling or processing specimens of body fluids or tissues of an individual; or a staff member of a state crime laboratory who, during the course of handling or processing specimens of body fluids or tissues of an individual; is significantly exposed to the individual may subject the individual's blood to a test or a series of tests

for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and may receive disclosure of the results.

**SECTION 522.** 252.15 (5) (a) 17. of the statutes is amended to read:

252.15 (5) (a) 17. To an alleged victim or victim, to a health care professional, upon request as specified in s. 48.296 ~~938.296~~ (4) (e) or 968.38 (4) (c), who provides care to the alleged victim or victim and, if the alleged victim or victim is a minor, to the parent or guardian of the alleged victim or victim, under s. 48.296 ~~938.296~~ (4) or 968.38 (4).

**SECTION 523.** 252.15 (5) (a) 19. of the statutes is amended to read:

252.15 (5) (a) 19. If the test was administered to a child for whom placement in a foster home, group home or child caring institution is recommended under s. 48.33 (4) or 938.33 (3) or (4), to an agency directed by a court to prepare a court report under s. 48.33 (1) or 938.33 (1) or a permanency plan under s. 48.38 or 938.38 regarding the child and, by that agency, to the child's foster parent or the operator of the group home or child caring institution in which the child is placed, as provided in s. 48.371 or 938.371.

**SECTION 524.** 301.01 (2) (b) of the statutes is amended to read:

301.01 (2) (b) Any resident of a secured correctional facility, as defined in s. ~~48.02 938.02~~ (15m), or of a secured child caring institution, as defined in s. 938.02 (15g).

**SECTION 525.** 301.01 (4) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

301.01 (4) "State correctional institution" means a state prison under s. 302.01 or a secured correctional facility, as defined in s. ~~48.02 938.02~~ (15m).

**SECTION 526.** 301.025 of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

**301.025 Division of juvenile corrections.** The division of juvenile corrections shall exercise the powers and perform the duties of the department that relate to juvenile correctional services and institutions, juvenile offender review, aftercare, corrective sanctions, the juvenile boot camp program under s. ~~48.532 938.532~~, the serious juvenile offender program under s. ~~48.538 938.538~~ and youth aids.

**SECTION 527.** 301.03 (9) of the statutes is amended to read:

301.03 (9) Supervise all persons placed under s. 48.366 (8) or 938.183 in a state prison.

**SECTION 528.** 301.03 (9r) of the statutes is created to read:

301.03 (9r) Supervise all persons placed in the serious juvenile offender program under s. 938.538.

**SECTION 529.** 301.03 (10) (c), (e) and (f) of the statutes, as created by 1995 Wisconsin Act 27, are amended to read:

301.03 (10) (c) Promote the enforcement of laws for the protection of delinquent children. To this end, the department shall cooperate with courts assigned to exercise jurisdiction under ~~ch. 48 and 938~~, county departments under s. 46.215, 46.22 and 46.23 and licensed child welfare agencies and institutions in providing community-based programming, including in-home programming and intensive supervision, for delinquent children. The department shall also establish and enforce standards for the development and delivery of services provided by the department under ch. 48 938 in regard to children who have been adjudicated delinquent.

(e) Provide educational programs in all secured correctional facilities, as defined in s. ~~48.02 938.02~~ (15m).

(f) Provide health services and psychiatric services for residents of all secured correctional facilities, as defined in s. ~~48.02 938.02~~ (15m).

**SECTION 529m.** 301.03 (10) (g) of the statutes is created to read:

301.03 (10) (g) Keep statistics, by race, age and gender, of the number of juveniles over whom the court assigned to exercise jurisdiction under chs. 48 and 938 waives its jurisdiction under s. 938.18 as well as the nature of the waiver was ordered and annually report those statistics to the governor, and to the appropriate standing committees under s. 13.172 (3).

**SECTION 530.** 301.031 (1) (a) (intro.) of the statutes, as created by 1995 Wisconsin Act 27, is renumbered 301.031 (1) (a) and amended to read:

301.031 (1) (a) Each county department under s. 46.215, 46.22 or 46.23 shall submit its final budget for services directly provided or purchased to the department by December 31 annually. ~~The final budget shall be submitted on a uniform budget reporting form that the department shall develop and distribute for use and that shall include all of the following:~~

**SECTION 531.** 301.031 (1) (a) 1., 2. and 3. of the statutes, as created by 1995 Wisconsin Act 27, are repealed.

**SECTION 532.** 301.032 (1) (b) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.032 (1) (b) All records of the department and all county records relating to juvenile delinquency-related services shall be open to inspection at all reasonable hours by authorized representatives of the federal government. Notwithstanding s. ~~48.396 938.396~~ (2), all county records relating to the administration of such services shall be open to inspection at all reasonable hours by authorized representatives of the department.

**SECTION 533.** 301.035 (2) of the statutes is amended to read:

301.035 (2) Assign hearing examiners from the division to preside over hearings under ss. ~~48.357 (5)~~, 302.11 (7), 938.357 (5), 973.10 and 975.10 (2) and ch. 304.

**SECTION 534.** 301.035 (4) of the statutes is amended to read:

301.035 (4) Supervise employes in the conduct of the activities of the division and be the administrative reviewing authority for decisions of the division under ss. ~~48.357 (5)~~, 302.11 (7), 938.357 (5), 973.10, 973.155 (2) and 975.10 (2) and ch. 304.

**SECTION 535.** 301.12 of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

**301.12 Uniform fee schedule; collections.** The department of corrections shall establish fees for juvenile correctional services provided by that department which shall be included in the uniform system of fees established by the department of health and social services under s. 46.03 (18). Collections and liability enforcement of fee chargeable services for the department of corrections shall be performed by the department of health and social services under ss. 46.03 (18), 46.10 and ~~48.36~~ 938.36.

**SECTION 536.** 301.20 of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

**301.20 Training school for delinquent boys.** The department, with the approval of the governor, may purchase or accept a gift of land for a suitable site for an additional training school for delinquent boys and erect and equip such buildings as it deems necessary at such time as funds may be allocated for that purpose by the building commission. The training school or other additional facilities for delinquent boys financed by the authorized 1965-67 building program shall be located north of a line between La Crosse and Manitowoc. The department shall operate and maintain the institution for the treatment of delinquent boys who are placed under the supervision of the department under s. ~~48.34~~ 938.34 (4h) or (4m). All laws pertaining to the care of children received under s. ~~48.34~~ 938.34 shall apply. Officers and employes of the institution are subject to the same laws as apply to other facilities described in s. ~~48.557~~ 938.52.

**SECTION 537.** 301.205 of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

**301.205 Reimbursement to visiting families.** The department may reimburse families visiting girls at a secured correctional facility, as defined in s. ~~48.02~~ 938.02 (15m). If the department decides to provide the reimbursement, it shall establish criteria for the level of reimbursement, which shall include family income and size and other relevant factors.

**SECTION 538.** 301.26 (1) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (1) PROCEDURES. The department shall develop procedures for the implementation of this section and standards for the development and delivery of juvenile delinquency-related services under ch. 48 938, and shall provide consultation and technical assistance to aid counties in implementation and service delivery. The department shall establish information systems, monitoring and evaluation procedures to report periodically to the governor and legislature on the state impact of this section.

**SECTION 539.** 301.26 (2) (c) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (2) (c) All funds to counties under this section shall be used to purchase or provide juvenile delinquency-related services under ch. 48 938, except that no funds to counties under this section may be used for purposes of land purchase, building construction or maintenance of buildings under s. 46.17, 46.175 or 301.37, for reimbursement of costs under s. ~~48.209~~ 938.209, for city lock-ups or for reimbursement of care costs in temporary shelter care under s. ~~48.22~~ 938.22. Funds to counties under this section may be used for reimbursement of costs of program services, other than basic care and supervision costs, in juvenile secure detention facilities.

**SECTION 540.** 301.26 (4) (a) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (4) (a) Except as provided in pars. (c) and (cm), the department of corrections shall bill counties or deduct from the allocations under s. 20.410 (3) (cd) for the costs of care, services and supplies purchased or provided by the department of corrections for each person receiving services under ss. ~~48.34~~ and s. 48.366, 938.183 (2) or 938.34 or the department of health and social services for each person receiving services under s. 51.35 (3). The department of corrections may not bill a county for or deduct from a county's allocation the cost of care, services and supplies provided to a person subject to an order under s. 48.366 or 938.183 (2) after the person reaches 18 years of age. Payment shall be due within 60 days after the billing date. If any payment has not been received within 60 days, the department of corrections may withhold aid payments in the amount due from the appropriation under s. 20.410 (3) (cd).

**SECTION 541.** 301.26 (4) (b) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (4) (b) Assessment of costs under par. (a) shall be made periodically on the basis of the per person per day cost estimate specified in par. (d) 2. to 4. Except as provided in pars. (bm), (c) and (cm), liability shall apply to county departments under s. 46.21, 46.22 or 46.23 in the county of the court exercising jurisdiction under ~~chs. 48 and 938~~ for each person receiving services from the department of corrections under ss. ~~48.34~~ and s. 48.366, 938.183 (2) or 938.34 or the department of health and social services under s. 51.35 (3). Except as provided in pars. (bm), (c) and (cm), in multicounty court jurisdictions, the county of residency within the jurisdiction shall be liable for costs under this subsection. Assessment of costs under par. (a) shall also be made according to the general placement type or level of care provided, as defined by the department, and prorated according to the ratio of the amount designated under sub. (3) (c) to the total applicable estimated costs of care, services and supplies provided by the department of corrections under ss. ~~48.34~~ and 48.366, 938.183 (2) and 938.34 and the department of health and social services under s. 51.35 (3).

**SECTION 542.** 301.26 (4) (c) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (4) (c) Notwithstanding pars. (a), (b) and (bm), the department of corrections shall pay, from the appropriation under s. 20.410 (3) (hm), the costs of care, services and supplies provided for each person receiving services under ~~ss. 48.34, s. 48.366 and 51.35 (3), 938.183 (2) or 938.34~~ who was under the guardianship of the department of health and social services pursuant to an order under ch. 48 at the time that the person was adjudicated delinquent.

**SECTION 543.** 301.26 (4) (cm) 1. of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (4) (cm) 1. Notwithstanding pars. (a), (b) and (bm), the department shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the appropriations under s. 20.410 (3) (hm), (ho) and (hr) for the purpose of reimbursing juvenile correctional institutions, secured child caring institutions, as defined in s. ~~48.02~~ 938.02 (15g), alternate care providers, aftercare supervision providers and corrective sanctions supervision providers for costs incurred beginning on July 1, 1996, for the care of any child 14 years of age or over who has been placed in a juvenile correctional facility based on a delinquent act that is a violation of s. 939.31, 939.32 (1) (a), 940.01, 940.02, 940.03, 940.05, 940.21, 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m) or (1r), 943.32 (2), 948.02 (1), 948.025, 948.30, 948.35 (1) (b) or 948.36.

**SECTION 544.** 301.26 (4) (cm) 2. of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (4) (cm) 2. Notwithstanding pars. (a), (b) and (bm), the department shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the appropriations under s. 20.410 (3) (hm), (ho) and (hr) for the purpose of reimbursing juvenile correctional institutions, secured child caring institutions, as defined in s. ~~48.02~~ 938.02 (15g), alternate care providers, aftercare supervision providers and corrective sanctions supervision providers for costs incurred beginning on July 1, 1996, for the care of any child 14 years of age or over and under 18 years of age who has been placed in a juvenile correctional facility under s. 48.366 based on a delinquent act that is a violation of s. 940.01, 940.02, 940.05 or 940.225 (1).

**SECTION 545.** 301.26 (4) (d) 1. of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (4) (d) 1. Except as provided in pars. (e) to (g), for services under s. ~~48.34~~ 938.34, all payments and deductions made under this subsection and uniform fee collections made under s. 46.03 (18) shall be deposited in the appropriation under s. 20.410 (3) (hm).

**SECTION 546.** 301.26 (4) (d) 1m. of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (4) (d) 1m. Except as provided in pars. (e) to (g), for services under ~~s. ss. 48.366 and 938.183 (2)~~, all payments and deductions made under this subsection and

uniform fee collections made under s. 46.03 (18) shall be deposited in the appropriation under s. 20.410 (3) (hm).

**SECTION 547.** 301.26 (4) (e) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (4) (e) For foster care, treatment foster care, group home care and institutional child care to delinquent children under ~~ss. 48.553 (3) and (8), 48.557 and 49.19 (10) (d), 938.48 (4) and (14) and 938.52~~ all payments and deductions made under this subsection and uniform fee collections under s. 46.03 (18) shall be deposited in the appropriation under s. 20.410 (3) (ho).

**SECTION 548.** 301.26 (4) (ed) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (4) (ed) For foster care, treatment foster care, group home care and institutional child care to serious juvenile offenders under ~~ss. 48.533 (3) and (8), 48.557 and 49.19 (10) (d), 938.48 (4) and (14) and 938.52~~ all uniform fee collections under s. 46.03 (18) shall be deposited in the appropriation under s. 20.410 (3) (ho).

**SECTION 549.** 301.26 (4) (eg) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (4) (eg) For corrective sanctions services under ~~s. 48.533~~ 938.533 (2), all payments and deductions made under this subsection and uniform fee collections under s. 46.03 (18) shall be deposited in the appropriation under s. 20.410 (3) (hr).

**SECTION 550.** 301.26 (4) (g) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (4) (g) For juvenile field and institutional aftercare services under ch. ~~48~~ 938 and for the juvenile offender review program, all payments and deductions made under this subsection and uniform fee collections under s. 46.03 (18) shall be deposited in the general fund and shall be treated as a nonappropriated receipt.

**SECTION 551.** 301.26 (7) (h) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.26 (7) (h) For counties that are participating in the corrective sanctions program under ~~s. 48.533~~ 938.533 (2), \$1,062,400 in the last 6 months of 1996 and \$1,062,400 in the first 6 months of 1997 for the provision of corrective sanctions services for children from that county. In distributing funds to counties under this paragraph, the department shall determine a county's distribution by dividing the amount allocated under this paragraph by the number of slots authorized for the program under ~~s. 48.533~~ 938.533 (2) and multiplying the quotient by the number of slots allocated to that county by agreement between the department and the county. The department may transfer funds among counties as necessary to distribute funds based on the number of slots allocated to each county.

**SECTION 552.** 301.263 (3) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

301.263 (3) The department shall distribute 33% of the amounts distributed under sub. (1) based on each county's proportion of the violent Part I juvenile arrests

reported statewide under the uniform crime reporting system of the office of justice assistance in the department of administration, during the most recent 2-year period for which that information is available. The department shall distribute 33% of the amounts distributed under sub. (1) based on each county's proportion of the number of children statewide who are placed in a juvenile correctional institution or a secured child caring institution, as defined in s. 938.02 (15g), during the most recent 2-year period for which that information is available. The department shall distribute 34% of the amounts distributed under sub. (1) based on each county's proportion of the total Part I juvenile arrests reported statewide under the uniform crime reporting system of the office of justice assistance, during the most recent 2-year period for which that information is available.

**SECTION 553.** 301.35 (2) (e) of the statutes is created to read:

301.35 (2) (e) A participant in the serious juvenile offender program under s. 938.538.

**SECTION 554.** 301.36 (5) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

301.36 (5) ENFORCEMENT BY ATTORNEY GENERAL AND DISTRICT ATTORNEYS. Upon request of the department, the attorney general or the district attorney serving the proper county shall aid in any investigation, inspection, hearing or trial had under this chapter or those sections of ch. 48 938 relating to powers of the department, and shall institute and prosecute all necessary actions or proceedings for the enforcement of those provisions and for the punishment of violations of those provisions. The attorney general or district attorney so requested shall report or confer with the department regarding the request, within 30 days after receipt of the request.

**SECTION 555.** 302.11 (10) of the statutes is amended to read:

302.11 (10) An inmate subject to an order under s. 48.366 or 938.34 (4h) is not entitled to mandatory release and may be released or discharged only as provided under s. 48.366 or 938.538.

**SECTION 556.** 302.18 (7) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

302.18 (7) Except as provided in s. 973.013 (3m), the department shall keep all prisoners under 46 15 years of age in secured juvenile correctional facilities or secured child caring institutions, but the department may transfer them to adult correctional institutions after they attain 46 15 years of age.

**SECTION 557.** 302.255 of the statutes is amended to read:

**302.255 Interstate corrections compact; additional applicability.** "Inmate", as defined under s. 302.25 (2) (a), includes persons subject to an order under s. 48.366 who are confined to a state prison under s. 302.01 and persons subject to an order under s. 938.34 (4h) who are 17 years of age or older.

**SECTION 558.** 302.31 of the statutes, as affected by 1995 Wisconsin Act 27, section 6367, is amended to read:

**302.31 Use of jails.** The county jail may be used for the detention of persons charged with crime and committed for trial; for the detention of persons committed to secure their attendance as witnesses; to imprison persons committed pursuant to a sentence or held in custody by the sheriff for any cause authorized by law; for the detention of persons sentenced to imprisonment in state penal institutions or a county house of correction, until they are removed to those institutions; for the detention of persons participating in the intensive sanctions program; for the temporary detention of persons in the custody of the department; and for other detentions authorized by law. The county jail may be used for the temporary placement of persons in the custody of the department, and persons who have attained the age of 17 years but have not attained the age of 25 years who are under the supervision of the department of health and social services under s. 48.355 (4) or 48.366 and who have been taken into custody pending revocation of aftercare supervision under s. 48.357 (5) (e) or 48.366 (5) ~~or corrective sanctions supervision under s. 48.357 (5) (e).~~

**SECTION 559.** 302.31 of the statutes, as affected by 1995 Wisconsin Acts 27, section 6367m, and .... (this act), is repealed and recreated to read:

**302.31 Use of jails.** The county jail may be used for the detention of persons charged with crime and committed for trial; for the detention of persons committed to secure their attendance as witnesses; to imprison persons committed pursuant to a sentence or held in custody by the sheriff for any cause authorized by law; for the detention of persons sentenced to imprisonment in state penal institutions or a county house of correction, until they are removed to those institutions; for the detention of persons participating in the intensive sanctions program; for the temporary detention of persons in the custody of the department; and for other detentions authorized by law. The county jail may be used for the temporary placement of persons in the custody of the department, other than persons under 17 years of age, and persons who have attained the age of 17 years but have not attained the age of 25 years who are under the supervision of the department under s. 48.366 or 938.355 (4) and who have been taken into custody pending revocation of aftercare supervision under s. 48.366 (5) or 938.357 (5) (e).

**SECTION 560.** 302.386 (1) of the statutes is amended to read:

302.386 (1) Except as provided in sub. (5), liability for medical and dental services furnished to residents housed in prisons identified in s. 302.01 or in a secured correctional facility as defined in s. 48.02 938.02 (15m), or in a secured child caring institution, as defined in s. 938.02 (15g), or to forensic patients in state institutions for those services which are not provided by employees of

the department shall be limited to the amounts payable under ss. 49.43 to 49.47, except s. 49.468, for similar services. The department may waive any such limit if it determines that needed services cannot be obtained for the applicable amount. No provider of services may bill the resident or patient for the cost of services exceeding the amount of the liability under this subsection.

**SECTION 561.** 302.386 (2) (intro.) of the statutes is amended to read:

302.386 (2) (intro.) The liability of the state for medical and dental services under sub. (1) does not extend to that part of the medical or dental services of a resident housed in a prison identified in s. 302.01 or in a secured correctional facility as defined in s. ~~48.02~~ 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), for which any of the following applies:

**SECTION 562.** 302.386 (3) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

302.386 (3) (a) Except as provided in par. (b), the department may require a resident housed in a prison identified in s. 302.01 or in a secured correctional facility as defined in s. ~~48.02~~ 938.02 (15m) who earns wages during residency and who receives medical or dental services to pay a deductible, coinsurance, copayment or similar charge upon the medical or dental service that he or she receives. The department shall collect the allowable deductible, coinsurance, copayment or similar charge.

**SECTION 563.** 302.386 (5) (c) of the statutes is created to read:

302.386 (5) (c) Any participant in the corrective sanctions program under s. 48.533 unless he or she is placed in a Type 1 secured correctional facility, as defined in s. 48.02 (19).

**SECTION 564.** 302.386 (5) (c) of the statutes, as created by 1995 Wisconsin Act ... (this act), is amended to read:

302.386 (5) (c) Any participant in the corrective sanctions program under s. 48.533 938.533 unless he or she is placed in a Type 1 secured correctional facility, as defined in s. ~~48.02~~ 938.02 (19).

**SECTION 565.** 302.386 (5) (d) of the statutes is created to read:

302.386 (5) (d) Any participant in the serious juvenile offender program under s. 938.538 unless he or she is placed in a Type 1 secured correctional facility, as defined in s. 938.02 (19), or in a Type 1 prison other than the institution authorized under s. 301.046 (1).

**SECTION 566.** 302.425 (2g) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

302.425 (2g) (title) COUNTY DEPARTMENTS AND DEPARTMENT OF HEALTH AND SOCIAL SERVICES; GENERAL AUTHORITY. Subject to the limitations under sub. (3m), a county department or the department of ~~health and social services~~ may place in the home detention program any child who is in its custody or under its supervision.

**SECTION 567.** 302.425 (2m) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

302.425 (2m) INTENSIVE SANCTIONS PROGRAM PARTICIPANTS. Notwithstanding the agreement requirements under sub. (3), the department of ~~corrections~~ may place any intensive sanctions program participant in a home detention program.

**SECTION 568.** 302.425 (3) of the statutes, as affected by 1995 Wisconsin Acts 26 and 27, is amended to read:

302.425 (3) PLACEMENT OF A PRISONER IN THE PROGRAM. If a prisoner described under sub. (2) and the department of ~~corrections~~ agree, the sheriff or superintendent may place the prisoner in the home detention program and provide that the prisoner be detained at the prisoner's place of residence or other place designated by the sheriff or superintendent and be monitored by an active electronic monitoring system. The sheriff or superintendent shall establish reasonable terms of detention and ensure that the prisoner is provided a written statement of those terms, including a description of the detention monitoring procedures and requirements and of any applicable liability issues. The terms may include a requirement that the prisoner pay the county a daily fee to cover the county costs associated with monitoring him or her.

**SECTION 569.** 302.425 (3m) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

302.425 (3m) PLACEMENT OF A CHILD IN THE PROGRAM. ~~Upon The department or, upon~~ the agreement of the department of ~~corrections~~, the county department of ~~the department of health and social services~~ may place the child in the home detention program and provide that the child be detained at the child's place of residence or other place designated by the ~~department or the~~ county department or the department of ~~health and social services~~ and be monitored by an active electronic monitoring system. The ~~department or the~~ county department of ~~the department of health and social services~~ shall provide reasonable terms of detention and ensure that the child receives a written statement of those terms, including a description of the detention monitoring procedures and requirements and of any applicable liability issues. The terms may include a requirement that the child or his or her parent or guardian pay the county or state a daily fee to cover the costs associated with monitoring him or her.

**SECTION 570.** 302.425 (4) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

302.425 (4) DEPARTMENTAL DUTIES. The department of ~~corrections~~ shall ensure that electronic monitoring equipment units are available, pursuant to contractual agreements with county sheriffs, and county departments ~~and the department of health and social services~~, throughout the state on an equitable basis. If a prisoner is chosen under sub. (3) or a child is chosen under sub. (3m) to participate in the home detention program, the



department of corrections shall install and monitor electronic monitoring equipment. The department of corrections shall charge the county a daily per prisoner fee or per child fee, whichever is applicable, to cover the department's costs for these services.

**SECTION 571.** 303.215 of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

**303.215 Compensation to prisoners or residents injured in prison industries employment.** In accordance with s. 102.03 (2), for an inmate of a state institution or a resident subject to s. 303.01 (1) (b) employed under s. 303.06 (2), compensation under ch. 102 on being released from the applicable institution, on parole, on final discharge or in accordance with ch. 48 ~~938~~, whichever is applicable, is the exclusive remedy against the department and any employe of the department for any injury sustained by the inmate or resident while performing service growing out of and incidental to that employment. The department shall make any payments required under this section from the revolving appropriation for the operation of prison industries or, if there is no revolving appropriation for the operation of prison industries, from the general fund.

**SECTION 572.** 304.06 (1) (b) of the statutes, as affected by 1995 Wisconsin Act 27, section 6405m, is amended to read:

304.06 (1) (b) Except as provided in sub. (1m) or s. 161.49 (2), 302.045 (3) or 973.0135, the parole commission may parole an inmate of the Wisconsin state prisons or any felon or any person serving at least one year or more in a county house of correction or a county reforestation camp organized under s. 303.07, when he or she has served 25% of the sentence imposed for the offense, or 6 months, whichever is greater. The parole commission may parole a participant in the serious juvenile offender program under s. 48.538 ~~938.538~~ when he or she has participated in that program for 2 years. Except as provided in s. 939.62 (2m) or 973.014, the parole commission may parole an inmate serving a life term when he or she has served 20 years, as modified by the formula under s. 302.11 (1) and subject to extension using the formulas under s. 302.11 (2). The person serving the life term shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The secretary may grant special action parole releases under s. 304.02. The department or the parole commission shall not provide any convicted offender or other person sentenced to the department's custody any parole eligibility or evaluation until the person has been confined at least 60 days following sentencing.

**SECTION 573.** 304.06 (1z) of the statutes is created to read:

304.06 (1z) If a person is placed in the serious juvenile offender program under s. 938.34 (4h), he or she is eligible for a release to parole supervision under this section and remains in the serious juvenile offender program

unless discharged by the department under s. 938.537 (5) (b).

**SECTION 574.** 340.01 (9r) (d) of the statutes is amended to read:

340.01 (9r) (d) A finding by a court assigned to exercise jurisdiction under ~~ch. 48 and 938~~ of a violation of chs. 341 to 349 and 351 or a local ordinance enacted under ch. 349.

**SECTION 575.** 343.06 (1) (i) of the statutes is amended to read:

343.06 (1) (i) To any person who has been convicted of any offense specified under ss. 940.225, 948.02, 948.025 and 948.07 or adjudged delinquent under ch. 48 ~~938~~ for a like or similar offense, when the sentencing court makes a finding that issuance of a license will be inimical to the public safety and welfare. The prohibition against issuance of a license to the offenders shall apply immediately upon receipt of a record of the conviction and the court finding by the secretary, for a period of one year or until discharge from any jail or prison sentence or any period of probation or parole with respect to the offenses specified, whichever date is the later. Receipt by the offender of a certificate of discharge from the department of corrections or other responsible supervising agency, after one year has elapsed since the prohibition began, entitles the holder to apply for an operator's license. The applicant may be required to present the certificate of discharge to the secretary if the latter deems it necessary.

**SECTION 576.** 343.30 (5) of the statutes is amended to read:

343.30 (5) No court may suspend or revoke an operating privilege except as authorized by this chapter or ch. 48, 345 ~~or 351 or 938~~ or s. 161.50. When a court revokes, suspends or restricts a child's operating privilege under ch. 48 ~~938~~, the department of transportation shall not disclose information concerning or relating to the revocation, suspension or restriction to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, or the minor whose operating privilege is revoked, suspended or restricted, or his or her parent or guardian. Persons entitled to receive this information shall not disclose the information to other persons or agencies.

**SECTION 577.** 343.30 (6) (b) (intro.) of the statutes is amended to read:

343.30 (6) (b) (intro.) If a court imposes suspension or revocation of a person's operating privilege under s. 48.344 (2), (2b) or (2d) or 125.07 (4) (c) or 938.344 (2), (2b) or (2d), the suspension or revocation imposed shall be one of the following:

**SECTION 578.** 752.31 (2) (e) of the statutes is amended to read:

752.31 (2) (e) Cases under ~~ch. 48 and 938~~.

**SECTION 579.** 757.69 (1) (intro.) of the statutes is amended to read:

757.69 (1) (intro.) On authority delegated by a judge, which may be by a standard order, and with the approval of the chief judge of the judicial administrative district, a court commissioner appointed under s. 48.065, 757.68, 757.72 or 767.13 or 938.065 may:

**SECTION 580.** 757.69 (1) (g) of the statutes is amended to read:

757.69 (1) (g) When assigned to the court assigned jurisdiction under ~~chs. 48 and 938~~, a court commissioner may, under ch. 48 or 938, issue summonses and warrants, order the release or detention of children apprehended, conduct detention and shelter care hearings, conduct preliminary appearances, conduct uncontested proceedings under ss. ~~48.12 and 48.13, 938.12, 938.13 and 938.18~~, enter into consent decrees and exercise the powers and perform the duties specified in par. (j) or (m), whichever is applicable, in proceedings under s. 813.122 or 813.125 in which the respondent is a child. ~~Waiver~~ Contested waiver hearings under s. ~~48.18 938.18~~ and dispositional hearings under ss. ~~48.33 to 48.35 48.335 and 938.335~~ shall be conducted by a judge. When acting in an official capacity and assigned to the children's court center, a court commissioner shall sit at the children's court center or such other facility designated by the chief judge. Any decision by the commissioner shall be reviewed by the judge of the branch of court to which the case has been assigned, upon motion of any party. Any determination, order or ruling by the commissioner may be certified to the branch of court to which such case has been assigned upon a motion of any party for a hearing de novo.

**SECTION 581.** 757.69 (1) (k) of the statutes is amended to read:

757.69 (1) (k) Exercise the power of a juvenile court commissioner appointed under s. 48.065 or 938.065, a probate court commissioner appointed under s. 757.72 or a family court commissioner appointed under s. 767.13.

**SECTION 582.** 757.69 (2) (intro.) of the statutes is amended to read:

757.69 (2) (intro.) A judge may refer to a court commissioner appointed under s. 48.065, 757.68, 757.72 or 767.13 or 938.065 cases in which:

**SECTION 583.** 757.69 (3) (intro.) of the statutes is amended to read:

757.69 (3) (intro.) Court commissioners appointed under s. 48.065, 757.68, 757.72 or 767.13 or 938.065 may under their own authority:

**SECTION 584.** 757.81 (2) of the statutes is amended to read:

757.81 (2) "Court commissioner" means a court commissioner under s. 757.68, a family court commissioner under s. 767.13, a juvenile court commissioner under s. 48.065 or 938.065 and a probate court commissioner under s. 757.72.

**SECTION 585.** 758.19 (6) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

758.19 (6) (a) In this subsection, "guardian ad litem costs" means the costs of guardian ad litem compensation that a county incurs under ch. 48, 55, 767 or 880 or 938, that the county has final legal responsibility to pay or that the county is unable to recover from another person and that does not exceed the per hour rate established for time spent in court by private attorneys under s. 977.08 (4m) (b).

**SECTION 586.** 758.19 (6) (d) 1. and 2. of the statutes, as affected by 1995 Wisconsin Act 27, are amended to read:

758.19 (6) (d) 1. The total cost of guardian ad litem compensation that the county incurred under chs. 48, 55, 767 and 880 and 938 in the previous calendar year.

2. The total guardian ad litem compensation that the county initially paid under chs. 48, 55, 767 and 880 and 938 and that was recovered in the previous calendar year by the county from another responsible person.

**SECTION 587.** 767.02 (1) (m) of the statutes is amended to read:

767.02 (1) (m) To enforce or revise an order for support entered under s. 48.355 (2) (b) 4., 48.357 (5m) or 48.363 (2), ~~938.183 (2), 938.355 (2) (b) 4., 938.357 (5m) or 938.363 (2).~~

**SECTION 588.** 767.24 (3) (e) of the statutes is amended to read:

767.24 (3) (e) The charges for care furnished to a child whose custody is transferred under this subsection shall be pursuant to the procedure under s. 48.36 (1) or 938.36 (1) except as provided in s. 767.29 (3).

**SECTION 589.** 767.29 (3) of the statutes is amended to read:

767.29 (3) If maintenance payments or support money, or both, is ordered to be paid for the benefit of any person, who is committed by court order to an institution or is in confinement, or whose legal custody is vested by court order under ch. 48 or 938 in an agency, department or relative, the court or family court commissioner may order such maintenance payments or support money to be paid to the relative or agency, institution, welfare department or other entity having the legal or actual custody of said person, and to be used for the latter's care and maintenance, without the appointment of a guardian under ch. 880.

**SECTION 590.** 767.30 (1) of the statutes is amended to read:

767.30 (1) If the court orders any payment for support under s. 48.355 (2) (b) 4., 48.357 (5m) or 48.363 (2), ~~938.183 (2), 938.355 (2) (b) 4., 938.357 (5m) or 938.363 (2).~~ support or maintenance under s. 767.08, child support, family support or maintenance under s. 767.23, child support under s. 767.25, maintenance under s. 767.26, family support under s. 767.261, attorney fees under s. 767.262, paternity obligations under s. 767.51, support arrearages under s. 767.293 or child or spousal support under s. 948.22 (7), the court may provide that

any payment be paid in the amounts and at the times as that it considers expedient.

**SECTION 591.** 767.305 of the statutes is amended to read:

**767.305 Enforcement; contempt proceedings.** In all cases where a party has incurred a financial obligation under s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2), 767.23, 767.25, 767.255, 767.26, 767.261, 767.262 ~~or~~, 767.293, 938.183 (2), 938.355 (2) (b) 4., 938.357 (5m) or 938.363 (2) and has failed within a reasonable time or as ordered by the court to satisfy such obligation, and where the wage assignment proceeding under s. 767.265 and the account transfer under s. 767.267 are inapplicable, impractical or unfeasible, the court may on its own initiative, and shall on the application of the receiving party, issue an order requiring the payer to show cause at some reasonable time therein specified why he or she should not be punished for such misconduct as provided in ch. 785.

**SECTION 592.** 767.32 (1) (a) of the statutes is amended to read:

767.32 (1) (a) After a judgment or order providing for child support under this chapter or s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2), 938.183 (2), 938.355 (2) (b) 4., 938.357 (5m), 938.363 (2) or 948.22 (7), maintenance payments under s. 767.26 or family support payments under this chapter, or for the appointment of trustees under s. 767.31, the court may, from time to time, on the petition, motion or order to show cause of either of the parties, or upon the petition, motion or order to show cause of the department of health and social services, a county department under s. 46.215, 46.22 or 46.23 or a child support program designee under s. 59.07 (97) if an assignment has been made under s. 49.19 (4) (h) or 49.45 (19) or if either party or their minor children receive aid under ch. 49, and upon notice to the family court commissioner, revise and alter such judgment or order respecting the amount of such maintenance or child support and the payment thereof, and also respecting the appropriation and payment of the principal and income of the property so held in trust, and may make any judgment or order respecting any of the matters that such court might have made in the original action, except that a judgment or order that waives maintenance payments for either party shall not thereafter be revised or altered in that respect nor shall the provisions of a judgment or order with respect to final division of property be subject to revision or modification. A revision, under this section, of a judgment or order with respect to an amount of child or family support may be made only upon a finding of a substantial change in circumstances. In any action under this section to revise a judgment or order with respect to maintenance payments, a substantial change in the cost of living by either party or as measured by the federal bureau of labor statistics may be sufficient to justify a revision of judgment or order with respect to the amount of maintenance,

except that a change in an obligor's cost of living is not in itself sufficient if payments are expressed as a percentage of income.

**SECTION 593.** 767.32 (2r) of the statutes is amended to read:

767.32 (2r) If the court revises a judgment or order providing for child support that was entered under s. 448.355 (2) (b) 4., 48.357 (5m) ~~or~~, 48.363 (2), 938.183 (2), 938.355 (2) (b) 4., 938.357 (5m) or 938.363 (2), the court shall determine child support in the manner provided in s. 46.10 (14).

**SECTION 594.** 767.47 (10) of the statutes is amended to read:

767.47 (10) A record of the testimony of the child's mother relating to the child's paternity, made as provided under s. 48.299 (6) ~~or 938.299 (6)~~, is admissible in evidence on the issue of paternity.

**SECTION 595.** 778.25 (1) (a) 1. of the statutes is amended to read:

778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 161.573 (2), 161.574 (2) or 161.575 (2) or under a local ordinance strictly conforming to one of those statutes brought against an adult in circuit court or against a minor in the court assigned to exercise jurisdiction under ~~ch. 48 and~~ chs. 48 and 938.

**SECTION 596.** 778.25 (1) (a) 4. of the statutes is amended to read:

778.25 (1) (a) 4. Under s. 48.983 brought against a minor in the court assigned to exercise jurisdiction under ~~ch. 48 and~~ chs. 48 and 938.

**SECTION 597.** 778.25 (1) (a) 5. of the statutes is amended to read:

778.25 (1) (a) 5. Under administrative rules promulgated by the board of regents under s. 36.11 (1) (c) brought against an adult in circuit court or against a minor in the court assigned to exercise jurisdiction under ~~ch. 48 and~~ chs. 48 and 938.

**SECTION 598.** 778.25 (8) (a) of the statutes is amended to read:

778.25 (8) (a) If the defendant has not made a deposit, the court may issue a summons or an arrest warrant, except if the defendant is a minor the court shall proceed under s. ~~48.28 938.28~~. Chapter 48 938 governs taking and holding a minor in custody.

**SECTION 599.** 778.25 (8) (b) of the statutes is amended to read:

778.25 (8) (b) If the defendant has made a deposit, the citation may serve as the initial pleading and the defendant shall be considered to have tendered a plea of no contest and submitted to a forfeiture, penalty assessment and jail assessment plus costs, including any applicable fees prescribed in ch. 814, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons or arrest warrant, except if the defendant is a minor the court shall proceed under s. ~~48.28~~

938.28. Chapter 48 938 governs taking and holding a minor in custody. If the court accepts the plea of no contest, the defendant may move within 90 days after the date set for appearance to withdraw the plea of no contest, open the judgment and enter a plea of not guilty if the defendant shows to the satisfaction of the court that failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If a party is relieved from the plea of no contest, the court or judge may order a written complaint or petition to be filed. If on reopening the defendant is found not guilty, the court shall delete the record of conviction and shall order the defendant's deposit returned.

**SECTION 600.** 778.25 (8) (c) of the statutes is amended to read:

778.25 (8) (c) If the defendant has made a deposit and stipulation of no contest, the citation serves as the initial pleading and the defendant shall be considered to have tendered a plea of no contest and submitted to a forfeiture, penalty assessment and jail assessment plus costs, including any applicable fees prescribed in ch. 814, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons or arrest warrant, except if the defendant is a minor the court shall proceed under s. ~~48.28~~ 938.28. Chapter 48 938 governs taking and holding a minor in custody. After signing a stipulation of no contest, the defendant may, at any time prior to or at the time of the court appearance date, move the court for relief from the effect of the stipulation. The court may act on the motion, with or without notice, for cause shown by affidavit and upon just terms, and relieve the defendant from the stipulation and the effects of the stipulation.

**SECTION 601.** 808.04 (3) of the statutes is amended to read:

808.04 (3) Except as provided in subs. (4) and (7), an appeal in a criminal case or a case under ch. 48, 51 ~~or~~ 55 or 938 shall be initiated within the time period specified in s. 809.30.

**SECTION 602.** 808.04 (4) of the statutes is amended to read:

808.04 (4) Except as provided in sub. (7m), an appeal by the state in either a criminal case under s. 974.05 or a case under ch. 48 or 938 shall be initiated within 45 days of entry of the judgment or order appealed from.

**SECTION 603.** 808.075 (4) (fn) of the statutes is created to read:

808.075 (4) (fn) In a case under ch. 938:

2. Review of nonsecure custody orders under s. 938.207.

3. Review of secure detention orders under s. 938.208 and secure detention status reviews under s. 938.209 (1) (e).

4. Hearing for child held in custody under s. 938.21.

5. Hearing upon involuntary removal under s. 938.305.

6. Revision of dispositional order under s. 938.363.

7. Extension of dispositional order under s. 938.365, unless s. 938.368 applies.

8. Review of permanency plan under s. 938.38 (5).

9. Release of confidential information under s. 938.396 or 938.78.

**SECTION 604.** 809.30 (1) (a) of the statutes is amended to read:

809.30 (1) (a) "Postconviction relief" means, in a felony or misdemeanor case, an appeal or a motion for postconviction relief other than a motion under s. 973.19 or 974.06. In a ch. 48, 51 ~~or~~ 55 or 938 case, other than a termination of parental rights case under s. 48.43, it means an appeal or a motion for reconsideration by the trial court of its final judgment or order; in such cases a notice of intent to pursue such relief or a motion for such relief need not be styled as seeking "postconviction" relief.

**SECTION 605.** 809.30 (1) (b) of the statutes is amended to read:

809.30 (1) (b) "Sentencing" means, in a felony or misdemeanor case, the imposition of a sentence, fine or probation. In a ch. 48, 51 ~~or~~ 55 or 938 case, other than a termination of parental rights case under s. 48.43, it means the entry of the trial court's final judgment or order.

**SECTION 606.** 809.30 (2) (d) of the statutes is amended to read:

809.30 (2) (d) Except as provided in this paragraph, whenever a defendant whose trial counsel is appointed by the state public defender files a notice under par. (b) requesting public defender representation for purposes of postconviction relief, the district attorney may, within 5 days after the notice is served and filed, file in the trial court and serve upon the state public defender a request that the defendant's indigency be redetermined before counsel is appointed or transcripts are ordered. This paragraph does not apply to a child who is entitled to be represented by counsel under s. 48.23 or 938.23.

**SECTION 607.** 809.30 (2) (fm) of the statutes is amended to read:

809.30 (2) (fm) A child who has filed a notice of intent to pursue relief from a judgment or order entered in a ch. 48 or 938 proceeding shall be furnished at no cost a transcript of the proceedings or as much of it as is requested. To obtain the transcript at no cost, an affidavit must be filed stating that the person who is legally responsible for the child's care and support is financially unable or unwilling to purchase the transcript.

**SECTION 608.** 809.40 (1) of the statutes is amended to read:

809.40 (1) An appeal to the court of appeals from a judgment or order in a misdemeanor case or a ch. 48, 51 ~~or~~ 55 or 938 case, or a motion for postconviction relief in a misdemeanor case must be initiated within the time

periods specified in s. 808.04 and is governed by the procedures specified in ss. 809.30 to 809.32.

**SECTION 609.** 851.72 (7) of the statutes is amended to read:

851.72 (7) Except in counties having a population of 500,000 or more, perform the duties of clerk of the court assigned to exercise jurisdiction under ~~ch. 48 and 938~~ unless these duties are performed by a person appointed under s. 48.04.

**SECTION 610.** 859.07 (2) of the statutes, as affected by 1995 Wisconsin Act 27, section 7191c, is amended to read:

859.07 (2) If the decedent was at the time of death or at any time prior thereto a patient or inmate of any state or county hospital or institution or any person responsible for any obligation owing to the state or county under s. 46.03 (18), 46.10 ~~or~~ 48.36 ~~or 938.36~~ or if the decedent or the spouse of the decedent ever received medical assistance under subch. IV of ch. 49, long-term community support services funded under s. 46.27 (7) or aid under s. 49.68, 49.683 or 49.685, the personal representative shall send notice in writing of the date set under s. 859.01 by registered or certified mail to the department of health and social services or the department of corrections, as applicable, and the county clerk of the applicable county not less than 30 days before the date set under s. 859.01, upon such blanks and containing such information as the applicable department or county clerk may provide. The applicable county is the county of residence, as defined in s. 49.001 (6).

**SECTION 611.** 880.15 (1) of the statutes is amended to read:

880.15 (1) APPOINTMENT. If, after consideration of a petition for temporary guardianship, the court finds that the welfare of a minor, spendthrift or an alleged incompetent requires the immediate appointment of a guardian of the person or of the estate, or of both, it may appoint a temporary guardian for a period not to exceed 60 days unless further extended for 60 days by order of the court. The court may extend the period only once. The authority of the temporary guardian shall be limited to the performance of duties respecting specific property, or to the performance of particular acts, as stated in the order of appointment. All provisions of the statutes concerning the powers and duties of guardians shall apply to temporary guardians except as limited by the order of appointment. The temporary guardian shall make the reports the court directs and shall account to the court upon termination of authority. The court assigned to exercise jurisdiction under ~~ch. 48 and 938~~ has exclusive jurisdiction over the appointment of a temporary guardian of a minor for medical purposes but shall proceed in accordance with this section.

**SECTION 612.** 885.37 (1) (a) 2. of the statutes is amended to read:

885.37 (1) (a) 2. The person is a child or parent subject to ch. 48 ~~or 938~~.

**SECTION 613.** 895.035 (2m) of the statutes is created to read:

895.035 (2m) (a) If a child fails to pay restitution under s. 938.245, 938.32, 938.34 (5), 938.343 (4) or 938.345 as ordered by a court assigned to exercise jurisdiction under chs. 48 and 938 or a municipal court or as agreed to in a deferred prosecution agreement or if it appears likely that the child will not pay restitution as ordered or agreed to, the victim, the victim's insurer, the representative of the public interest under s. 938.09 or the agency, as defined in s. 938.38 (1) (a), supervising the child may petition the court assigned to exercise jurisdiction under chs. 48 and 938 to order that the amount of restitution unpaid by the child be entered and docketed as a judgment against the child and the parent with custody of the child. A petition under this paragraph may be filed after the expiration of the deferred prosecution agreement, consent decree, dispositional order or sentence under which the restitution is payable, but no later than one year after the expiration of the deferred prosecution agreement, consent decree, dispositional order or sentence or any extension of the consent decree, dispositional order or sentence.

(b) If a child fails to pay a forfeiture as ordered by a court assigned to exercise jurisdiction under chs. 48 and 938 or a municipal court or if it appears likely that the child will not pay the forfeiture as ordered, the representative of the public interest under s. 938.09, the agency, as defined in s. 938.38 (1) (a), supervising the child or the law enforcement agency that issued the citation to the child may petition the court assigned to exercise jurisdiction under chs. 48 and 938 to order that the amount of the forfeiture unpaid by the child be entered and docketed as a judgment against the child and the parent with custody of the child. A petition under this paragraph may be filed after the expiration of the dispositional order or sentence under which the forfeiture is payable, but no later than one year after the expiration of the dispositional order or sentence or any extension of the dispositional order or sentence.

(bm) 1. Before issuing an order under par. (a) or (b), the court assigned to exercise jurisdiction under chs. 48 and 938 shall give the child and the parent notice of the intent to issue the order and an opportunity to be heard regarding the order. The court shall give the child and the parent an opportunity to present evidence as to the amount of the restitution or forfeiture unpaid, but not as to the amount of the restitution or forfeiture originally ordered. The court shall also give the child and the parent an opportunity to present evidence as to the reason for the failure to pay the restitution or forfeiture and the ability of the child or the parent to pay the restitution or forfeiture. In considering the ability of the child or the parent

to pay the restitution or forfeiture, the court may consider the assets, as well as the income, of the child or the parent and may consider the future ability of the child or parent to pay the restitution or forfeiture within the time specified in s. 893.40.

2. In proceedings under this subsection, the court assigned to exercise jurisdiction under chs. 48 and 938 may take judicial notice of any deferred prosecution agreement, consent decree, dispositional order, sentence, extension of a consent decree, dispositional order or sentence or any other finding or order in the records of the child maintained by that court or the municipal court.

3. In proceedings under this subsection, the child and the parent may retain counsel of their own choosing at their own expense, but a child or a parent has no right to be represented by appointed counsel in a proceeding under this subsection.

(c) The court assigned to exercise jurisdiction under chs. 48 and 938 may order that the child perform community service work for a public agency or nonprofit charitable organization that is designated by the court in lieu of making restitution or paying the forfeiture. If the parent agrees to perform community service work in lieu of making restitution or paying the forfeiture, the court may order that the parent perform community service work for a public agency or a nonprofit charitable organization that is designated by the court. Community service work may be in lieu of restitution only if also agreed to by the public agency or nonprofit charitable organization and by the person to whom restitution is owed. The court may utilize any available resources, including any community service work program, in ordering the child or parent to perform community service work. The number of hours of community service work required may not exceed the number determined by dividing the amount owed on the restitution or forfeiture by the minimum wage established under ch. 104 for adults in nonagriculture, non-tipped employment. The court shall ensure that the child or parent is provided with a written statement of the terms of the community service order and that the community service order is monitored.

**SECTION 614.** 895.035 (3) of the statutes is amended to read:

895.035 (3) An adjudication under s. ~~48.31~~ 938.31 that the child violated a civil law or ordinance, is delinquent or is in need of protection and services under s. ~~48.13~~ 938.13 (12), based on proof that the child committed the act, subject to its admissibility under s. 904.10, shall, in an action under sub. (1), stop a child's parent or parents from denying that the child committed the act that resulted in the injury, damage or loss.

**SECTION 615.** 895.035 (4) of the statutes, as affected by 1995 Wisconsin Act 24, is amended to read:

895.035 (4) Except for recovery for graffiti damage under sub. (4m) and for recovery for retail theft under s. 943.51, the maximum recovery from any parent or par-

ents may not exceed ~~\$2,500~~ the amount specified in s. 799.01 (1) (d) for damages resulting from any one act of a child in addition to taxable costs and disbursements and reasonable attorney fees, as determined by the court. If 2 or more children in the custody of the same parent or parents commit the same act the total recovery may not exceed ~~\$2,500~~ the amount specified in s. 799.01 (1) (d), in addition to taxable costs and disbursements. The maximum recovery from any parent or parents for retail theft by their minor child is established under s. 943.51.

**SECTION 616.** 895.035 (6) of the statutes is amended to read:

895.035 (6) Any recovery under this section shall be reduced by the amount recovered as restitution for the same act under s. ~~48.245, 48.32, 48.34 (5) or 48.343 (4)~~ 938.245, 938.32, 938.34 (5) or 938.343 (4).

**SECTION 617.** 901.05 (2) (intro.) of the statutes is amended to read:

901.05 (2) (intro.) Except as provided in sub. (3), the results of a test or tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and the fact that a person has been ordered or required to submit to such a test or tests under s. ~~48.296~~ 938.296 (4) or 968.38 (4) are not admissible during the course of a civil or criminal action or proceeding or an administrative proceeding, as evidence of a person's character or a trait of his or her character for the purpose of proving that he or she acted in conformity with that character on a particular occasion unless the evidence is admissible under s. 904.04 (1) or 904.05 (2) and unless the following procedures are used:

**SECTION 618.** 901.05 (3) of the statutes is amended to read:

901.05 (3) The results of a test or tests under s. ~~48.296~~ 938.296 (4) or 968.38 (4) and the fact that a person has been ordered to submit to such a test or tests under s. ~~48.296~~ 938.296 (4) or 968.38 (4) are not admissible during the course of a civil or criminal action or proceeding or an administrative proceeding.

**SECTION 619.** 904.13 (2) of the statutes is amended to read:

904.13 (2) In any action or proceeding under ch. 48 938 or chs. 967 to 979, evidence of the address of an alleged crime victim or any family member of an alleged crime victim or evidence of the name and address of any place of employment of an alleged crime victim or any family member of an alleged crime victim is relevant only if it meets the criteria under s. 904.01. District attorneys shall make appropriate objections if they believe that evidence of this information, which is being elicited by any party, is not relevant in the action or proceeding.

**SECTION 620.** 905.04 (4) (i) of the statutes is amended to read:

905.04 (4) (i) *Providing services to court in juvenile matters.* There is no privilege regarding information obtained by an intake worker or dispositional staff in the

provision of services under s. 48.067 ~~or~~ 48.069, 938.067 or 938.069. An intake worker or dispositional staff member may disclose information obtained while providing services under s. 48.067 or 48.069 only as provided in s. 48.78 and may disclose information obtained while providing services under s. 938.067 or 938.069 only as provided in s. 938.78.

**SECTION 621.** 906.08 (2) of the statutes is amended to read:

906.08 (2) **SPECIFIC INSTANCES OF CONDUCT.** Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness’s credibility, other than a conviction of crimes a crime or an adjudication of delinquency as provided in s. 906.09, may not be proved by extrinsic evidence. They may, however, subject to s. 972.11 (2), if probative of truthfulness or untruthfulness and not remote in time, be inquired into on cross-examination of the witness or on cross-examination of a witness who testifies to his or her character for truthfulness or untruthfulness.

**SECTION 622.** 906.09 (title) of the statutes is amended to read:

**906.09 (title) Impeachment by evidence of conviction of crime or adjudication of delinquency.**

**SECTION 623.** 906.09 (1) of the statutes is amended to read:

906.09 (1) **GENERAL RULE.** For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime or adjudicated delinquent is admissible. The party cross-examining the witness is not concluded by the witness’s answer.

**SECTION 624.** 906.09 (2) of the statutes is amended to read:

906.09 (2) **EXCLUSION.** Evidence of a conviction of a crime or an adjudication of delinquency may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice.

**SECTION 625.** 906.09 (3) of the statutes is amended to read:

906.09 (3) (title) **ADMISSIBILITY OF CONVICTION OR ADJUDICATION.** No question inquiring with respect to a conviction of a crime or an adjudication of delinquency, nor introduction of evidence with respect thereto, shall be permitted until the judge determines pursuant to s. 901.04 whether the evidence should be excluded.

**SECTION 626.** 906.09 (4) of the statutes is repealed.

**SECTION 627.** 906.09 (5) of the statutes is amended to read:

906.09 (5) **PENDENCY OF APPEAL.** The pendency of an appeal therefrom does not render evidence of a conviction or a delinquency adjudication inadmissible. Evidence of the pendency of an appeal is admissible.

**SECTION 628.** 908.08 (1) of the statutes is amended to read:

908.08 (1) In any criminal trial or hearing, juvenile fact-finding hearing under s. 48.31 or 938.31 or revoca-

tion hearing under s. 304.06 (3) or 973.10 (2), the court or hearing examiner may admit into evidence the videotaped oral statement of a child who is available to testify, as provided in this section.

**SECTION 629.** Chapter 938 of the statutes is created to read:

**CHAPTER 938**  
**JUVENILE JUSTICE CODE**  
**SUBCHAPTER I**  
**GENERAL PROVISIONS**

**938.01 Title, legislative intent and purposes. (1)**

This chapter may be cited as “The Juvenile Justice Code”, and shall be liberally construed in accordance with the objectives expressed in this section.

(2) It is the intent of the legislature to promote a juvenile justice system capable of dealing with the problem of juvenile delinquency, a system which will protect the community, impose accountability for violations of law and equip juvenile offenders with competencies to live responsibly and productively. To effectuate this intent, the legislature declares the following to be equally important purposes of this chapter:

(a) To protect citizens from juvenile crime.

(b) To hold each juvenile offender directly accountable for his or her acts.

(c) To provide an individualized assessment of each alleged and adjudicated delinquent juvenile, in order to prevent further delinquent behavior through the development of competency in the juvenile offender, so that he or she is more capable of living productively and responsibly in the community.

(d) To provide due process through which each juvenile offender and all other interested parties are assured fair hearings, during which constitutional and other legal rights are recognized and enforced.

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

(f) To respond to a juvenile offender’s needs for care and treatment, consistent with the prevention of delinquency, each juvenile’s best interest and protection of the public, by allowing the judge to utilize the most effective dispositional option.

(g) To ensure that victims and witnesses of acts committed by juveniles that result in proceedings under this chapter are, consistent with the provisions of this chapter and the Wisconsin constitution, afforded the same rights as victims and witnesses of crimes committed by adults, and are treated with dignity, respect, courtesy and sensitivity throughout such proceedings.

**938.02 Definitions.** In this chapter:

(1) “Adult” means a person who is 18 years of age or older, except that for purposes of prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, “adult” means a person who has attained 17 years of age.

(1m) “Alcoholism” has the meaning given in s. 51.01 (1m).

(1p) “Alcohol or other drug abuse impairment” means a condition of a person which is exhibited by characteristics of habitual lack of self-control in the use of alcohol beverages or controlled substances to the extent that the person’s health is substantially affected or endangered or the person’s social or economic functioning is substantially disrupted.

(1s) “Approved treatment facility” has the meaning given in s. 51.01 (2).

(2c) “Child caring institution” means a facility operated by a child welfare agency licensed under s. 48.60 for the care and maintenance of persons residing in that facility.

(2d) “Controlled substance” has the meaning given in s. 161.01 (4).

(2g) “County department” means a county department under s. 46.215, 46.22 or 46.23, unless the context requires otherwise.

(2m) “Court”, when used without further qualification, means the court assigned to exercise jurisdiction under this chapter and ch. 48 or, when used with reference to a juvenile who is subject to s. 938.183 (2), a court of criminal jurisdiction or, when used with reference to a juvenile who is subject to s. 938.17 (2), a municipal court.

(3) “Court intake worker” means any person designated to provide intake services under s. 938.067.

(3m) “Delinquent” means a juvenile who is 10 years of age or older who has violated any state or federal criminal law, except as provided in ss. 938.17, 938.18 and 938.183, or who has committed a contempt of court, as defined in s. 785.01 (1), as specified in s. 938.355 (6g).

(4) “Department” means the department of corrections.

(5) “Developmentally disabled” means having a developmental disability, as defined in s. 51.01 (5).

(5g) “Drug dependent” has the meaning given in s. 51.01 (8).

(6) “Foster home” means any facility that is operated by a person required to be licensed by s. 48.62 (1) (a) and that provides care and maintenance for no more than 4 juveniles unless all of the juveniles are siblings.

(7) “Group home” means any facility operated by a person required to be licensed by the department under s. 48.625 for the care and maintenance of 5 to 8 juveniles.

(8) “Guardian” means the person named by the court having the duty and authority of guardianship.

(9m) “Habitual truant” has the meaning given in s. 118.16 (1) (a).

(9s) “Integrated service plan” has the meaning given in s. 46.56 (1) (g).

(10) “Judge”, if used without further qualification, means the judge of the court assigned to exercise jurisdiction under this chapter and ch. 48 or, if used with refer-

ence to a juvenile who is subject to s. 938.183 (2), the judge of the court of criminal jurisdiction or, when used with reference to a juvenile who is subject to s. 938.17 (2), the judge of the municipal court.

(10m) “Juvenile” means a person who is less than 18 years of age, except that for purposes of prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, “juvenile” does not include a person who has attained 17 years of age.

(11) “Legal custodian” means a person, other than a parent or guardian, or an agency to whom legal custody of a juvenile has been transferred by a court, but does not include a person who has only physical custody of the juvenile.

(12) “Legal custody” means a legal status created by the order of a court, which confers the right and duty to protect, train and discipline a juvenile, and to provide food, shelter, legal services, education and ordinary medical and dental care, subject to the rights, duties and responsibilities of the guardian of the juvenile and subject to any residual parental rights and responsibilities and the provisions of any court order.

(13) “Parent” means either a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the juvenile is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.60, “parent” includes a person adjudged in a judicial proceeding to be the biological father. “Parent” does not include any person whose parental rights have been terminated.

(14) “Physical custody” means actual custody of the person in the absence of a court order granting legal custody to the physical custodian.

(14m) “Pupil assistance program” means a program provided by a school board under s. 115.362 (4) (b) 2. to intervene in the abuse of alcohol and other drugs by pupils.

(15) “Relative” means a parent, grandparent, step-parent, brother, sister, first cousin, nephew, niece, uncle or aunt. This relationship may be by consanguinity or direct affinity.

(15g) “Secured child caring institution” means a child caring institution operated by a child welfare agency that is licensed under s. 48.66 (1) to hold in secure custody persons adjudged delinquent.

(15m) “Secured correctional facility” means a correctional institution operated or contracted for by the department for holding in secure custody persons adjudged delinquent. “Secured correctional facility” includes the facility at which the juvenile boot camp program under s. 938.532 is operated, a facility authorized under s. 938.533 (3) (b) and a facility authorized under s. 938.538 (4) (b).



(16) “Secure detention facility” means a locked facility approved by the department under s. 301.36 for the secure, temporary holding in custody of juveniles.

(17) “Shelter care facility” means a nonsecure place of temporary care and physical custody for juveniles, including a holdover room, licensed by the department under s. 48.66 (1).

(17m) “Special treatment or care” means professional services which need to be provided to a juvenile or his or her family to protect the well-being of the juvenile, prevent placement of the juvenile outside the home or meet the special needs of the juvenile. This term includes medical, psychological or psychiatric treatment, alcohol or other drug abuse treatment or other services which the court finds to be necessary and appropriate.

(17q) “Treatment foster home” means any facility that is operated by a person required to be licensed under s. 48.62 (1) (b), that is operated under the supervision of the department, a county department or a licensed child welfare agency, and that provides to no more than 4 juveniles care, maintenance and structured, professional treatment by trained individuals, including the treatment foster parents.

(18) “Trial” means a fact-finding hearing to determine jurisdiction.

(18m) “Truancy” has the meaning given in s. 118.16 (1) (c).

(19) “Type 1 secured correctional facility” means a secured correctional facility, but excludes any correctional institution that meets the criteria under sub. (15m) solely because of its status under s. 938.533 (3) (b) or 938.538 (4) (b).

(20) “Type 2 secured correctional facility” means a secured correctional facility that meets the criteria under sub. (15m) solely because of its status under s. 938.533 (3) (b) or 938.538 (4) (b).

(21) “Victim-witness coordinator” means a person employed or contracted by the county board of supervisors under s. 950.06 to enforce the rights of victims and witnesses of crimes and to provide services for those victims and witnesses or a person employed or contracted by the department of justice to provide the services specified in s. 950.08.

## SUBCHAPTER II ORGANIZATION OF COURT

**938.03 Time and place of court; absence or disability of judge; court of record.** (1) The judge shall set apart a time and place to hold court on juvenile matters.

(2) In the case of the absence or disability of the judge of a court assigned to exercise jurisdiction under this chapter and ch. 48, another judge shall be assigned under s. 751.03 to act temporarily in the judge’s place. If the judge assigned temporarily is from a circuit other than the one for which elected, the judge shall receive expenses as provided under s. 753.073.

**938.06 Services for court.** (1) COUNTIES WITH A POPULATION OF 500,000 OR MORE. (a) 1. In counties with a population of 500,000 or more, the county board of supervisors shall provide the court with the services necessary for investigating and supervising cases by operating a children’s court center under the supervision of a director who is appointed as provided in s. 46.21 (1m) (a). The director is the chief administrative officer of the center and of the intake and probation sections and secure detention facilities of the center except as otherwise provided in this subsection. The director is charged with administration of the personnel and services of the sections and of the secure detention facilities, and is responsible for supervising both the operation of the physical plant and the maintenance and improvement of the buildings and grounds of the center. The center shall include investigative services for all juveniles alleged to be in need of protection or services to be provided by the county department, and the services of an assistant district attorney or assistant corporation counsel or both, who shall be assigned to the center to provide investigative as well as legal work in the cases.

2. The chief judge of the judicial administrative district shall formulate written judicial policy governing intake and court services for juvenile matters and the director shall be charged with executing the judicial policy. The chief judge shall direct and supervise the work of all personnel of the court, except the work of the district attorney or corporation counsel assigned to the court. The chief judge may delegate his or her supervisory functions under s. 938.065 (1).

3. The county board of supervisors shall develop policies and establish necessary rules for the management and administration of the nonjudicial operations of the children’s court center. The director of the center shall report and is responsible to the director of the county department for the execution of all nonjudicial operational policies and rules governing the center, including activities of probation officers whenever they are not performing services for the court. The director of the center is also responsible for the preparation and submission to the county board of supervisors of the annual budget for the center except for the judicial functions or responsibilities which are delegated by law to the judge or judges and clerk of circuit court. The county board of supervisors shall make provision in the organization of the office of director for the devolution of the director’s authority in the case of temporary absence, illness, disability to act or a vacancy in position and shall establish the general qualifications for the position. The county board of supervisors also has the authority to investigate, arbitrate and resolve any conflict in the administration of the center as between judicial and nonjudicial operational policy and rules. The county board of supervisors does not have authority and may not assert jurisdiction over the disposition of any case or juvenile after a written order is made

under s. 938.21 or if a petition is filed under s. 938.25. All personnel of the intake and probation sections and of the secure detention facilities shall be appointed under civil service by the director except that existing court service personnel having permanent civil service status may be reassigned to any of the respective sections within the center specified in this paragraph.

(am) 1. All intake workers beginning employment after May 15, 1980, shall have the qualifications required to perform entry level social work in a county department and shall have successfully completed 30 hours of intake training approved or provided by the department prior to the completion of the first 6 months of employment in the position. The department shall monitor compliance with this subdivision according to rules promulgated by the department.

2. The department shall make training programs available annually that permit intake workers to satisfy the requirements specified under subd. 1.

(b) Notwithstanding par. (a), the county board of supervisors may institute changes in the administration of services to the children's court center in order to qualify for the maximum amount of federal and state aid as provided in sub. (4) and s. 46.495.

(2) COUNTIES WITH A POPULATION UNDER 500,000. (a) In counties having less than 500,000 population, the county board of supervisors shall authorize the county department or court or both to provide intake services required by s. 938.067 and the staff needed to carry out the objectives and provisions of this chapter under s. 938.069. Intake services shall be provided by employees of the court or county department and may not be subcontracted to other individuals or agencies, except as provided in par. (am). Intake workers shall be governed in their intake work, including their responsibilities for recommending the filing of a petition and entering into a deferred prosecution agreement, by general written policies which shall be formulated by the circuit judges for the county, subject to the approval of the chief judge of the judicial administrative district.

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

2. Notwithstanding par. (a), any county in which the county sheriff's department operates a secure detention facility may subcontract intake services from the county sheriff's department as provided in this subdivision. If a county subcontracts intake services from the county sheriff's department, employees of the county sheriff's department who staff the secure detention facility may make secure custody determinations under s. 938.208 between the hours of 6 p.m. and 6 a.m. and any determination under s. 938.208 made by an employee of the county sheriff's department shall be reviewed by an intake worker

employed by the court or county department within 24 hours after that determination is made.

(b) 1. All intake workers beginning employment after May 15, 1980, excluding county sheriff's department employees who provide intake services under par. (am) 2., shall have the qualifications required to perform entry level social work in a county department. All intake workers beginning employment after May 15, 1980, including county sheriff's department employees who provide intake services under par. (am) 2., shall have successfully completed 30 hours of intake training approved or provided by the department prior to the completion of the first 6 months of employment in the position. The department shall monitor compliance with this subdivision according to rules promulgated by the department.

2. The department shall make training programs available annually that permit intake workers to satisfy the requirements specified under subd. 1.

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

(4) STATE AID. State aid to any county for juvenile delinquency-related court services under this section shall be at the same net effective rate that each county is reimbursed for county administration under s. 46.495, except as provided in s. 301.26. Counties having a population of less than 500,000 may use funds received under ss. 46.495 (1) (d) and 301.26, including county or federal revenue sharing funds allocated to match funds received under s. 46.495 (1) (d), for the cost of providing court attached intake services in amounts not to exceed 50% of the cost of providing court attached intake services or \$30,000 per county per calendar year, whichever is less.

(5) SHORT-TERM DETENTION AS A DISPOSITION. The county board of supervisors of any county may, by resolution, authorize the court to use placement in a secure detention facility or juvenile portion of the county jail as a disposition under s. 938.34 (3) (f) or to use commitment to a county department under s. 51.42 or 51.437 for special treatment or care in an inpatient facility, as defined in s. 51.01 (10), as a disposition under s. 938.34 (6) (am). The use by the court of those dispositions is subject to any resolution adopted under this subsection.

**938.065 Juvenile court commissioners.** (1) The board of supervisors of any county may authorize the chief judge of the judicial administrative district to appoint one or more part-time or full-time juvenile court commissioners who shall serve at the discretion of the chief judge. A juvenile court commissioner shall be licensed to practice law in this state and shall have been so licensed for at least 2 years immediately prior to appointment and shall have a demonstrated interest in the welfare of juveniles. The chief judge may assign law clerks,

bailiffs and deputies to the court commissioner. The chief judge shall supervise juvenile court commissioners, law clerks, bailiffs and deputies, except that the chief judge may delegate any of those duties.

(2) Under this chapter a juvenile court commissioner, if authorized to do so by a judge, may do any of the following:

- (a) Issue summonses.
- (b) Conduct hearings under s. 938.21 and thereafter order a juvenile held in or released from custody.
- (d) Conduct plea hearings.
- (dm) Issue orders requiring compliance with deferred prosecution agreements.
- (e) Enter into consent decrees.
- (f) Conduct prehearing conferences.
- (g) Conduct all proceedings on petitions or citations under s. 938.125.
- (gm) Conduct uncontested proceedings under s. 938.12, 938.13 or 938.18.
- (h) Perform such other duties, not in conflict with this chapter, as the judge may direct.

(3) The juvenile court commissioner may not do any of the following:

- (a) Conduct waiver hearings under s. 938.18 except as provided in sub. (2) (gm).
- (b) Conduct fact-finding or dispositional hearings except petitions or citations under s. 938.125 and except as provided in sub. (2) (gm).
- (c) Make dispositions other than ordering compliance with deferred prosecution agreements and approving consent decrees and other than dispositions in uncontested proceedings under s. 938.12 or 938.13.
- (e) Make changes in placements of juveniles, or revisions or extensions of dispositional orders, except pursuant to petitions or citations under s. 938.125 and except in uncontested proceedings under s. 938.12 or 938.13.
- (f) Make any dispositional order under s. 938.34 (4h) or (4m).

(4) When acting officially, the juvenile court commissioner shall sit at the courthouse or the usual court facility for juvenile delinquency matters. Any decision of the juvenile court commissioner shall be reviewed by the judge upon the request of any interested party.

**938.067 Powers and duties of intake workers.** To carry out the objectives and provisions of this chapter but subject to its limitations, intake workers shall do all of the following:

- (1) Provide intake services 24 hours a day, 7 days a week, for the purpose of screening juveniles taken into custody and not released under s. 938.20 (2).
- (2) Interview, unless impossible, any juvenile who is taken into physical custody and not released, and where appropriate interview other available concerned parties. If the juvenile cannot be interviewed, the intake worker shall consult with the juvenile's parent or a responsible adult. No juvenile may be placed in a secure detention

facility unless the juvenile has been interviewed in person by an intake worker, except that if the intake worker is in a place which is distant from the place where the juvenile is or the hour is unreasonable, as defined by written court intake rules, and if the juvenile meets the criteria under s. 938.208, the intake worker, after consulting by telephone with the law enforcement officer who took the juvenile into custody, may authorize the secure holding of the juvenile while the intake worker is en route to the in-person interview or until 8 a.m. of the morning after the night on which the juvenile was taken into custody.

(3) Determine whether the juvenile shall be held under s. 938.205 and such policies as the judge shall promulgate under s. 938.06 (1) or (2).

(4) If the juvenile is not released, determine where the juvenile shall be held.

(5) Provide crisis counseling during the intake process when such counseling appears to be necessary.

(6) Receive referral information, conduct intake inquiries, make recommendations as to whether a petition should be filed, and enter into deferred prosecution agreements under policies promulgated under s. 938.06 (1) or (2).

(6m) Conduct the multidisciplinary screen in counties that have a pilot program under s. 938.547.

(7) Make referrals of cases to other agencies if their assistance appears to be needed or desirable.

(8) Make interim recommendations to the court concerning juveniles awaiting final disposition under s. 938.355.

(9) Perform any other functions ordered by the court, and assist the court or chief judge of the judicial administrative district in developing written policies or carrying out its other duties when the court or chief judge so requests.

**938.069 Powers and duties of disposition staff.** (1) The staff of the department, the court, a county department or a licensed child welfare agency designated by the court to carry out the objectives and provisions of this chapter shall:

- (a) Supervise and assist a juvenile under a deferred prosecution agreement, a consent decree or an order of the court.
- (b) Offer individual and family counseling.
- (c) Make an affirmative effort to obtain necessary or desired services for the juvenile and the juvenile's family and investigate and develop resources toward that end.
- (d) Prepare reports for the court recommending a plan of rehabilitation, treatment and care.
- (dj) Provide aftercare services for a juvenile who has been released from a secured correctional facility or a secured child caring institution.
- (e) Perform any other functions consistent with this chapter which are ordered by the court.
- (2) Licensed child welfare agencies and the department shall provide services under this section only upon

the approval of the agency from whom services are requested.

(3) A court or county department responsible for disposition staff may agree with the court or county department responsible for providing intake services that the disposition staff may be designated to provide some or all of the intake services.

(4) Disposition staff employed to perform the duties specified in sub. (1) after November 18, 1978, shall have the qualifications required under the county merit system.

**938.07 Additional sources of court services.** If the county board of supervisors has complied with s. 938.06, the court may obtain supplementary services for investigating cases and providing supervision of cases from one or more of the following sources:

(2) LICENSED CHILD WELFARE AGENCY. The court may request the services of a child welfare agency licensed under s. 48.60 in accordance with procedures established by that agency. The child welfare agency shall receive no compensation for these services but may be reimbursed out of funds made available to the court for the actual and necessary expenses incurred in the performance of duties for the court.

(3) COUNTY DEPARTMENT IN POPULOUS COUNTIES. In counties having a population of 500,000 or more, the director of the county department may be ordered by the court to provide services for furnishing emergency shelter care to any juvenile whose need therefor, either by reason of need of protection and services or delinquency, is determined by the intake worker under s. 938.205. The court may authorize the director to appoint members of the county department to furnish emergency shelter care services for the juvenile. The emergency shelter care may be provided as specified in s. 938.207.

(4) COUNTY DEPARTMENTS THAT PROVIDE DEVELOPMENTAL DISABILITIES, MENTAL HEALTH OR ALCOHOL AND OTHER DRUG ABUSE SERVICES. Within the limits of available state and federal funds and of county funds appropriated to match state funds, the court may order county departments established under s. 51.42 or 51.437 to provide special treatment or care to a juvenile if special treatment or care has been ordered under s. 938.34 (6) and if s. 938.362 (4) applies.

**938.08 Duties of person furnishing services to court.** (1) It is the duty of each person appointed to furnish services to the court as provided in ss. 938.06 and 938.07 to make such investigations and exercise such discretionary powers as the judge may direct, to keep a written record of such investigations and to submit a report to the judge. The person shall keep informed concerning the conduct and condition of the juvenile under the person's supervision and shall report thereon as the judge directs.

(2) Except as provided in sub. (3), any person authorized to provide or providing intake or dispositional ser-

vices for the court under ss. 938.067 and 938.069 has the power of police officers and deputy sheriffs only for the purpose of taking a juvenile into physical custody when the juvenile comes voluntarily or is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from the surroundings is necessary.

(3) (a) In addition to the law enforcement authority specified in sub. (2), department personnel designated by the department have the power of law enforcement authorities to take a juvenile into physical custody under the following conditions:

1. If they are in prompt pursuit of a juvenile who has run away from a secured correctional facility or secured child caring institution.

2. If the juvenile has failed to return to a secured correctional facility or secured child caring institution after any authorized absence.

(b) A juvenile taken into custody under par. (a) may be returned directly to the secured correctional facility or secured child caring institution and shall have a hearing regarding placement in a disciplinary cottage or in disciplinary status in accordance with ch. 227.

**938.09 Representation of the interests of the public.** The interests of the public shall be represented in proceedings under this chapter as follows:

(1) By the district attorney, in any matter arising under s. 938.12.

(2) By the district attorney or, if designated by the county board of supervisors, by the corporation counsel, in any matter concerning a civil law violation arising under s. 938.125. If the county board transfers this authority to or from the district attorney on or after May 11, 1990, the board may do so only if the action is effective on September 1 of an odd-numbered year and the board notifies the department of administration of that change by January 1 of that odd-numbered year.

(3) By the city, village or town attorney, in any matter concerning a city, village or town ordinance violation, respectively, arising under s. 938.125.

(4) By any appropriate person designated by the county board of supervisors in any matter concerning a noncity ordinance violation arising under s. 938.125.

(5) By the district attorney or, if designated by the county board of supervisors, by the corporation counsel, in any matter arising under s. 938.13. If the county board transfers this authority to or from the district attorney on or after May 11, 1990, the board may do so only if the action is effective on September 1 of an odd-numbered year and the board notifies the department of administration of that change by January 1 of that odd-numbered year.

(6) By any appropriate person designated by the county board of supervisors in any matter arising under s. 938.14.

**938.10 Power of the judge to act as intake worker.** The duties of the intake worker may be carried out from

time to time by the judge at his or her discretion, but if a recommendation to file a petition is made, a citation is issued or a deferred prosecution agreement is entered into, the judge shall be disqualified from participating further in the proceedings.

SUBCHAPTER III  
JURISDICTION

**938.12 Jurisdiction over juveniles alleged to be delinquent.** (1) The court has exclusive jurisdiction, except as provided in ss. 938.17, 938.18 and 938.183, over any juvenile 10 years of age or over who is alleged to be delinquent.

(2) If a court proceeding has been commenced under this section before a juvenile is 17 years of age, but the juvenile becomes 17 years of age before admitting the facts of the petition at the plea hearing or if the juvenile denies the facts, before an adjudication, the court retains jurisdiction over the case.

**938.125 Jurisdiction over juveniles alleged to have violated civil laws or ordinances.** The court has exclusive jurisdiction over any juvenile alleged to have violated a law punishable by forfeiture or a county, town or other municipal ordinance, except as follows:

(1) As provided under s. 938.17.

(2) That the court has exclusive jurisdiction over any juvenile alleged to have violated an ordinance enacted under s. 118.163 (2) only if evidence is provided by the school attendance officer that the activities under s. 118.16 (5) have been completed or were not completed due to the child's absence from school as provided in s. 118.16 (5m).

**938.13 Jurisdiction over juveniles alleged to be in need of protection or services.** The court has exclusive original jurisdiction over a juvenile alleged to be in need of protection or services which can be ordered by the court, and:

(4) Whose parent or guardian signs the petition requesting jurisdiction and states that he or she is unable to control the juvenile.

(6) Who is habitually truant from school, if evidence is provided by the school attendance officer that the activities under s. 118.16 (5) have been completed or were not completed due to the child's absence from school as provided in s. 118.16 (5m), except as provided under s. 938.17 (2).

(6m) Who is a school dropout, as defined in s. 118.153 (1) (b).

(7) Who is habitually truant from home and either the juvenile or a parent, guardian or a relative in whose home the juvenile resides signs the petition requesting jurisdiction and attests in court that reconciliation efforts have been attempted and have failed.

(12) Who, being under 10 years of age, has committed a delinquent act as defined in s. 938.12.

(14) Who has been determined, under s. 938.30 (5) (c), to be not responsible for a delinquent act by reason

of mental disease or defect or who has been determined, under s. 938.30 (5) (d), to be not competent to proceed.

**938.135 Referral of juveniles to proceedings under ch. 51 or 55.** (1) If a juvenile alleged to be delinquent or in need of protection or services is before the court and it appears that the juvenile is developmentally disabled, mentally ill or drug dependent or suffers from alcoholism, the court may proceed under ch. 51 or 55.

(2) Any voluntary or involuntary admissions, placements or commitments of a juvenile made in or to an inpatient facility, as defined in s. 51.01 (10), other than a commitment under s. 938.34 (6) (am) shall be governed by ch. 51 or 55.

**938.14 Jurisdiction over interstate compact proceedings.** The court has exclusive jurisdiction over proceedings under the interstate compact for juveniles under s. 938.991.

**938.15 Jurisdiction of other courts to determine legal custody.** Nothing contained in s. 938.12, 938.13 or 938.14 deprives other courts of the right to determine the legal custody of juveniles by habeas corpus or to determine the legal custody or guardianship of juveniles if the legal custody or guardianship is incidental to the determination of causes pending in the other courts. But the jurisdiction of the court assigned to exercise jurisdiction under this chapter and ch. 48 is paramount in all cases involving juveniles alleged to come within the provisions of ss. 938.12 to 938.14.

**938.17 Jurisdiction over traffic, boating, snowmobile and all-terrain vehicle violations and over civil law and ordinance violations.** (1) TRAFFIC, BOATING, SNOWMOBILE AND ALL-TERRAIN VEHICLE VIOLATIONS. Except for ss. 342.06 (2) and 344.48 (1), and ss. 30.67 (1) and 346.67 when death or injury occurs, courts of criminal and civil jurisdiction shall have exclusive jurisdiction in proceedings against juveniles 16 or older for violations of s. 23.33, of ss. 30.50 to 30.80, of chs. 341 to 351, and of traffic regulations as defined in s. 345.20 and nonmoving traffic violations as defined in s. 345.28 (1). A juvenile charged with a traffic, boating, snowmobile or all-terrain vehicle offense in a court of criminal or civil jurisdiction shall be treated as an adult before the trial of the proceeding except that the juvenile may be held in secure custody only in a secure detention facility. A juvenile convicted of a traffic, boating, snowmobile or all-terrain vehicle offense in a court of criminal or civil jurisdiction shall be treated as an adult for sentencing purposes except as follows:

(a) The court may disregard any minimum period of incarceration specified for the offense.

(b) If the court orders the juvenile to serve a period of incarceration of less than 6 months, the juvenile may serve that period of incarceration only in a secure detention facility.

(c) If the court of civil or criminal jurisdiction orders the juvenile to serve a period of incarceration of 6 months

or more, that court shall petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to order one or more of the dispositions provided in s. 938.34, including placement of the juvenile in a secured correctional facility under s. 938.34 (4m), if appropriate.

(2) CIVIL LAW AND ORDINANCE VIOLATIONS. (a) 1. Except as provided in sub. (1), municipal courts have concurrent jurisdiction with the court assigned to exercise jurisdiction under this chapter and ch. 48 in proceedings against juveniles aged 12 or older for violations of county, town or other municipal ordinances. If evidence is provided by the school attendance officer that the activities under s. 118.16 (5) have been completed or were not completed due to the juvenile's absence from school as provided in s. 118.16 (5m), the municipal court specified in subd. 2. may exercise jurisdiction in proceedings against a juvenile for a violation of an ordinance enacted under s. 118.163 (2) regardless of the juvenile's age and regardless of whether the court assigned to exercise jurisdiction under this chapter and ch. 48 has jurisdiction under s. 938.13 (6).

2. a. In this subdivision, "administrative center" means the main administrative offices of a school district.

b. The municipal court that may exercise jurisdiction under subd. 1. is the municipal court that is located in the same municipality as the administrative center of the school district in which the juvenile is enrolled, if that municipality has adopted an ordinance under s. 118.163.

c. If the municipality specified under subd. 2. b. has not adopted an ordinance under s. 118.163, the municipal court that may exercise jurisdiction under subd. 1. is the municipal court that is located in the municipality where the school in which the juvenile is enrolled is located, if that municipality has adopted an ordinance under s. 118.163.

d. If the municipality specified under subd. 2. c. has not adopted an ordinance under s. 118.163, the municipal court that may exercise jurisdiction under subd. 1. is the municipal court that is located in the municipality where the juvenile resides, if that municipality has adopted an ordinance under s. 118.163.

3. When a juvenile is alleged to have violated a municipal ordinance, the juvenile may be:

a. Issued a citation directing the juvenile to appear in municipal court or make a deposit or stipulation and deposit in lieu of appearance;

b. Issued a citation directing the juvenile to appear in the court assigned to exercise jurisdiction under this chapter and ch. 48 or make a deposit or stipulation and deposit in lieu of appearance as provided in s. 938.237; or

c. Referred to intake for a determination whether a petition should be filed in the court assigned to exercise jurisdiction under this chapter and ch. 48 pursuant to s. 938.125.

(b) When a juvenile 12 years of age or older is alleged to have violated a civil law punishable by a forfeiture or

where a juvenile is alleged to have violated a municipal ordinance but there is no municipal court in the municipality, the juvenile may be:

1. Issued a citation directing the juvenile to appear in the court assigned to exercise jurisdiction under this chapter and ch. 48 or make a deposit or stipulation and deposit in lieu of appearance as provided in s. 938.237; or

2. Referred to intake for a determination whether a petition should be filed in the court assigned to exercise jurisdiction under this chapter and ch. 48 pursuant to s. 938.125.

(c) The citation procedures described in ch. 800 shall govern proceedings involving juveniles in municipal court, except that this chapter shall govern the taking and holding of a juvenile in custody and par. (cg) shall govern the issuing of a summons to the juvenile's parent, guardian or legal custodian. When a juvenile is before the court assigned to exercise jurisdiction under this chapter and ch. 48 upon a citation alleging the juvenile to have violated a civil law or municipal ordinance, the procedures specified in s. 938.237 shall apply. If a citation is issued to a juvenile, the issuing agency shall notify the juvenile's parent, guardian and legal custodian within 7 days. The agency issuing a citation to a juvenile who is 12 to 15 years of age for a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 161.573 (2), 161.574 (2) or 161.575 (2) or an ordinance conforming to one of those statutes shall send a copy to an intake worker under s. 938.24 for informational purposes only.

(cg) After a citation is issued, unless the juvenile and his or her parent, guardian and legal custodian voluntarily appear, the municipal court may issue a summons requiring the parent, guardian and legal custodian of the juvenile to appear personally at any hearing involving the juvenile and, if the court so orders, to bring the juvenile before the court at a time and place stated. Section 938.273 shall govern the service of a summons under this paragraph, except that the expense of service or publication of a summons and of the travelling expenses and fees as allowed in ch. 885 of a person summoned shall be a charge on the municipality of the court issuing the summons when approved by the court. If any person summoned under this paragraph fails without reasonable cause to appear, he or she may be proceeded against for contempt of court under s. 785.06. If a summons cannot be served or if the person served fails to obey the summons or if it appears to the court that the service will be ineffectual, a *caus* may be issued for the juvenile and for the parent, guardian and legal custodian.

(cm) A city, village or town may adopt an ordinance or bylaw specifying which of the dispositions under ss. 938.343 and 938.344 and sanctions under s. 938.355 (6) (d) the municipal court of that city, village or town is authorized to impose or petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose. The use by the court of those dispositions and sanctions

is subject to any ordinance or bylaw adopted under this paragraph.

(d) If a municipal court finds that the juvenile violated a municipal ordinance other than an ordinance enacted under s. 118.163 or an ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 161.573 (2), 161.574 (2) or 161.575 (2), the court shall enter any of the dispositional orders permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture imposed by the municipal court, the court may not impose a jail sentence but may suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. If a court suspends a license or privilege under this section, the court shall immediately take possession of the applicable license and forward it to the department that issued the license, together with the notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the court shall immediately notify the department, which shall thereupon return the license to the person.

(e) If a municipal court finds that a juvenile violated a municipal ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 161.573 (2), 161.574 (2) or 161.575 (2), the court shall enter a dispositional order under s. 938.344 that is authorized under par. (cm).

(f) If the act the juvenile committed resulted in personal injury or damage to or loss of the property of another, the municipal court shall, to the extent possible, provide each known victim of the act with the information contained in the notice required under s. 938.346.

(g) If a municipal court finds that a juvenile violated a municipal ordinance enacted under s. 118.163 (2), it shall enter a dispositional order under s. 938.342 (1) that is consistent with the municipal ordinance.

(h) 1. If a juvenile who has violated a municipal ordinance violates a condition of his or her dispositional order, the municipal court may impose on the juvenile any of the sanctions specified in s. 938.355 (6) (d) 2. to 4. that are authorized under par. (cm) except for monitoring by an electronic monitoring system or may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction specified in s. 938.355 (6) (d) 1. or home detention with monitoring by an electronic monitoring system as specified in s. 938.355 (6) (d) 3., if authorized under par. (cm), if at the time of judgment the court explained the conditions to the juvenile and informed the juvenile of the possible sanctions under s. 938.355 (6) (d) that are authorized under par. (cm) for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions.

2. A motion requesting the municipal court to impose or petition for a sanction may be brought by the person or agency primarily responsible for the provision of dispositional services, the municipal attorney or the court that entered the dispositional order. Notice of the motion shall be given to the juvenile and the juvenile's parent, guardian or legal custodian.

3. Before imposing any sanction, the court shall hold a hearing, at which the juvenile may present evidence.

(3) SAFETY AT SPORTING EVENTS. Notwithstanding sub. (2), courts of criminal or civil jurisdiction have exclusive jurisdiction in proceedings against juveniles under s. 167.32 or under a local ordinance strictly conforming to s. 167.32. A juvenile convicted of a violation under s. 167.32 or under a local ordinance strictly conforming to s. 167.32 shall be treated as an adult for sentencing purposes.

**938.18 Jurisdiction for criminal proceedings for juveniles 14 or older; waiver hearing.** (1) (a) Subject to s. 938.183, a juvenile or district attorney may apply to the court to waive its jurisdiction under this chapter in any of the following situations:

1. If the juvenile is alleged to have violated s. 161.41 (1), 940.03, 940.06, 940.225 (1) or (2), 940.305, 940.31, 943.10 (2) or 943.32 (2) on or after the juvenile's 14th birthday.

2. If the juvenile is alleged to have committed, on or after the juvenile's 14th birthday, a violation, at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would constitute a felony under ch. 161 or under chs. 939 to 948 if committed by an adult.

3. If the juvenile is alleged to have violated any state criminal law on or after the juvenile's 15th birthday.

(b) The judge may also initiate a petition for waiver in any of the situations described in par. (a) if the judge disqualifies himself or herself from any future proceedings on the case.

(2) The waiver hearing shall be brought on by filing a petition alleging delinquency drafted under s. 938.255 and a petition for waiver of jurisdiction which shall contain a brief statement of the facts supporting the request for waiver. The petition for waiver of jurisdiction shall be filed prior to the plea hearing, except that if the juvenile denies the facts of the petition and becomes 17 years of age before an adjudication, the petition for waiver of jurisdiction may be filed at any time prior to the adjudication.

(2r) If it appears that the juvenile may be suitable for participation in the serious juvenile offender program under s. 938.538 or the adult intensive sanctions program under s. 301.048, the judge shall order the department to submit a written report analyzing the juvenile's suitability for participation in those programs and recommending whether the juvenile should be placed in either of those programs.

(3) (a) The juvenile shall be represented by counsel at the waiver hearing. Written notice of the time, place and purpose of the hearing shall be given to the juvenile, any parent, guardian or legal custodian, and counsel at least 3 days prior to the hearing. The notice shall contain a statement of the requirements of s. 938.29 (2) with regard to substitution of the judge. Where parents entitled to notice have the same address, notice to one constitutes notice to the other. Counsel for the juvenile shall have access to the social records and other reports consistent with s. 938.293.

(b) The juvenile has the right to present testimony on his or her own behalf including expert testimony and has the right to cross-examine witnesses at the hearing.

(c) The juvenile does not have the right to a jury at a hearing under this section.

(4) (a) The court shall determine whether the matter has prosecutive merit before proceeding to determine if it should waive jurisdiction.

(b) If a petition for waiver of jurisdiction is contested, the court, after taking relevant testimony which the district attorney shall present and considering other relevant evidence, shall base its decision whether to waive jurisdiction on the criteria specified in sub. (5).

(c) If a petition for waiver of jurisdiction is uncontested, the court shall inquire into the capacity of the juvenile to knowingly, intelligently and voluntarily decide not to contest the waiver of jurisdiction. If the court is satisfied that the decision not to contest the waiver of jurisdiction is knowingly, intelligently and voluntarily made, no testimony need be taken and the court, after considering the petition for waiver of jurisdiction and other relevant evidence in the record before the court, shall base its decision whether to waive jurisdiction on the criteria specified in sub. (5).

(5) If prosecutive merit is found, the court shall base its decision whether to waive jurisdiction on the following criteria:

(a) The personality and prior record of the juvenile, including whether the juvenile is mentally ill or developmentally disabled, whether the court has previously waived its jurisdiction over the juvenile, whether the juvenile has been previously convicted following a waiver of the court's jurisdiction or has been previously found delinquent, whether such conviction or delinquency involved the infliction of serious bodily injury, the juvenile's motives and attitudes, the juvenile's physical and mental maturity, the juvenile's pattern of living, prior offenses, prior treatment history and apparent potential for responding to future treatment.

(b) The type and seriousness of the offense, including whether it was against persons or property, the extent to which it was committed in a violent, aggressive, premeditated or wilful manner, and its prosecutive merit.

(c) The adequacy and suitability of facilities, services and procedures available for treatment of the juvenile and

protection of the public within the juvenile justice system, and, where applicable, the mental health system and the suitability of the juvenile for placement in the serious juvenile offender program under s. 938.538 or the adult intensive sanctions program under s. 301.048.

(d) The desirability of trial and disposition of the entire offense in one court if the juvenile was allegedly associated in the offense with persons who will be charged with a crime in circuit court.

(6) After considering the criteria under sub. (5), the court shall state its finding with respect to the criteria on the record, and, if the court determines on the record that it is established by clear and convincing evidence that it would be contrary to the best interests of the juvenile or of the public to hear the case, the court shall enter an order waiving jurisdiction and referring the matter to the district attorney for appropriate proceedings in the court of criminal jurisdiction, and the court of criminal jurisdiction thereafter has exclusive jurisdiction.

(7) If the juvenile absconds and does not appear at the waiver hearing, the court may proceed with the waiver hearing as provided in subs. (4) to (6) in the juvenile's absence. If the waiver is granted, the juvenile may contest that waiver when the juvenile is apprehended.

(8) When waiver is granted, the juvenile, if held in secure custody, shall be transferred to an appropriate officer or adult facility and shall be eligible for bail in accordance with chs. 968 and 969.

(9) If waiver is granted, sub. (1) does not restrict the authority of the district attorney to charge the offense he or she deems is appropriate and does not restrict the authority of any court or jury to convict the juvenile in regard to any offense.

**938.183 Original adult court jurisdiction for criminal proceedings.** (1) Notwithstanding ss. 938.12 (1) and 938.18, courts of criminal jurisdiction have exclusive original jurisdiction over all of the following:

(a) A juvenile who has been adjudicated delinquent and who is alleged to have violated s. 940.20 (1) or 946.43 while placed in a secured correctional facility, a secure detention facility, a secured child caring institution or a secured adolescent treatment unit under s. 46.043 or who has been adjudicated delinquent and has committed a violation of s. 940.20 (2m).

(am) A juvenile who is alleged to have attempted or committed a violation of s. 940.01 or to have committed a violation of s. 940.02 or 940.05 on or after the juvenile's 10th birthday, but before the juvenile's 15th birthday.

(b) A juvenile who is alleged to have violated any state criminal law if the juvenile has been convicted of a previous violation following waiver of jurisdiction under s. 938.18 by the court assigned to exercise jurisdiction under this chapter and ch. 48 or if the court assigned to exercise jurisdiction under this chapter and ch. 48 has waived its jurisdiction over the juvenile for a previous



violation and criminal proceedings on that previous violation are still pending.

(c) A juvenile who is alleged to have violated any state criminal law if the juvenile has been convicted of a previous violation over which the court of criminal jurisdiction had original jurisdiction under this section or if proceedings on a previous violation over which the court of criminal jurisdiction has original jurisdiction under this section are still pending.

(1m) Notwithstanding subchs. IV to VI, a juvenile described in sub. (1) is subject to the procedures specified in chs. 967 to 979 and the criminal penalties provided for the crime that the juvenile is alleged to have committed, unless a court of criminal jurisdiction transfers jurisdiction under s. 970.032 to a court assigned to exercise jurisdiction under this chapter and ch. 48.

(2) (a) Notwithstanding ss. 938.12 (1) and 938.18, courts of criminal jurisdiction have exclusive original jurisdiction over a juvenile who is alleged to have attempted or committed a violation of s. 940.01 or to have committed a violation of s. 940.02 or 940.05 on or after the juvenile's 15th birthday. Notwithstanding subchs. IV to VI, a juvenile who is alleged to have attempted or committed a violation of s. 940.01 or to have committed a violation of s. 940.02 or 940.05 on or after the juvenile's 15th birthday is subject to the procedures specified in chs. 967 to 979 and the criminal penalties provided for the crime that the juvenile is alleged to have committed, except that the court of criminal jurisdiction shall impose a disposition specified in s. 938.34 if any of the following conditions applies:

1. The court of criminal jurisdiction convicts the juvenile of a lesser offense that is not an offense for which the court assigned to exercise jurisdiction under this chapter and ch. 48 may waive its jurisdiction over the juvenile under s. 938.18.

2. The court of criminal jurisdiction convicts the juvenile of a lesser offense that is an offense for which the court assigned to exercise jurisdiction under this chapter and ch. 48 may waive its jurisdiction over the juvenile under s. 938.18 and the court of criminal jurisdiction, after considering the criteria specified in s. 938.18 (5), determines by clear and convincing evidence that it would be in the best interests of the juvenile and of the public to impose a disposition specified in s. 938.34.

(b) When a juvenile who is subject to a criminal penalty under par. (a) attains the age of 17 years, the department may place the juvenile in a state prison named in s. 302.01. A juvenile who is subject to a criminal penalty under par. (a) is eligible for parole under s. 304.06.

(c) If the juvenile is placed outside the juvenile's home under this subsection, the order shall contain, a designation of the amount of support, if any, to be paid by the juvenile's parent, guardian or trustee, specifying that the support obligation begins on the date of the placement, or

a referral to the county designee under s. 59.07 (97) for establishment of child support.

**938.185 Venue.** (1) Subject to sub. (3), venue for any proceeding under ss. 938.12, 938.125, 93 8.13, 938.135 and 938.18 may be in any of the following:

(a) The county where the juvenile resides.

(b) The county where the juvenile is present.

(c) In the case of a violation of a state law, the county where the violation occurred, except that in that case the court of the county where the violation occurred may, after the juvenile is adjudged delinquent, transfer the proceeding to the county where the juvenile resides for disposition, if the court of the county of residence agrees to that transfer and the transferring court agrees to that disposition.

(2) Venue for any proceeding under s. 938.363 or 938.365 shall be in the county where the dispositional order was issued, unless the juvenile's county of residence has changed, or the parent of the juvenile has resided in a different county of this state for 6 months. In either case, the court may, upon a motion and for good cause shown, transfer the case, along with all appropriate records, to the county of residence of the juvenile or parent.

(3) Venue for a proceeding under s. 938.12 or 938.13 (12) based on an alleged violation of s. 175.45 (6) may be in the juvenile's county of residence at the time that the petition is filed or, if the juvenile does not have a county of residence in this state at the time that the petition is filed, any county in which the juvenile has resided while subject to s. 175.45.

#### SUBCHAPTER IV

#### HOLDING A JUVENILE IN CUSTODY

**938.19 Taking a juvenile into custody.** (1) A juvenile may be taken into custody under any of the following:

(a) A warrant.

(b) A capias issued by a judge under s. 938.28.

(c) An order of the judge if made upon a showing satisfactory to the judge that the welfare of the juvenile demands that the juvenile be immediately removed from his or her present custody. The order shall specify that the juvenile be held in custody under s. 938.207.

(d) Circumstances in which a law enforcement officer believes on reasonable grounds that any of the following conditions exists:

1. A capias or a warrant for the juvenile's apprehension has been issued in this state, or that the juvenile is a fugitive from justice.

2. A capias or a warrant for the juvenile's apprehension has been issued in another state.

3. The juvenile is committing or has committed an act which is a violation of a state or federal criminal law.

4. The juvenile has run away from his or her parents, guardian or legal or physical custodian.

5. The juvenile is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from those surroundings is necessary.

6. The juvenile has violated the terms of court-ordered supervision or aftercare supervision administered by the department or a county department.

7. The juvenile has violated the conditions of an order under s. 938.21 (4) or the conditions of an order for temporary physical custody by an intake worker.

8. The juvenile has violated a civil law or a local ordinance punishable by a forfeiture, except that in that case the juvenile shall be released immediately under s. 938.20 (2) (ag) or as soon as reasonably possible under s. 938.20 (2) (b) to (g).

10. The juvenile is absent from school without an acceptable excuse under s. 118.15.

(1m) A juvenile who is absent from school without an acceptable excuse under s. 118.15 may be taken into custody by an individual designated under s. 118.16 (2m) (a) if the school attendance officer of the school district in which the juvenile resides or the juvenile's parent, guardian or legal custodian requests that the juvenile be taken into custody. The request shall specifically identify the juvenile.

(2) When a juvenile is taken into physical custody as provided in this section, the person taking the juvenile into custody shall immediately attempt to notify the parent, guardian and legal custodian of the juvenile by the most practical means. The person taking the juvenile into custody shall continue such attempt until the parent, guardian and legal custodian of the juvenile are notified, or the juvenile is delivered to an intake worker under s. 938.20 (3), whichever occurs first. If the juvenile is delivered to the intake worker before the parent, guardian and legal custodian are notified, the intake worker, or another person at his or her direction, shall continue the attempt to notify until the parent, guardian and legal custodian of the juvenile are notified.

(3) Taking into custody is not an arrest except for the purpose of determining whether the taking into custody or the obtaining of any evidence is lawful.

**938.20 Release or delivery from custody.** (2) (ag) Except as provided in pars. (b) to (g), a person taking a juvenile into custody shall make every effort to release the juvenile immediately to the juvenile's parent, guardian or legal custodian.

(b) If the juvenile's parent, guardian or legal custodian is unavailable, unwilling or unable to provide supervision for the juvenile, the person who took the juvenile into custody may release the juvenile to a responsible adult after counseling or warning the juvenile as may be appropriate.

(c) If the juvenile is 15 years of age or older, the person who took the juvenile into custody may release the juvenile without immediate adult supervision after counseling or warning the juvenile as may be appropriate.

(cm) If the juvenile has violated the terms of aftercare supervision administered by the department or a county department, the person who took the juvenile into custody may release the juvenile to the department or county department, whichever has aftercare supervision over the juvenile.

(d) If the child is a runaway, the person who took the child into custody may release the child to a home authority under s. 48.227.

(e) If a juvenile is taken into custody under s. 938.19 (1) (d) 10., the law enforcement officer who took the juvenile into custody may release the juvenile under par. (ag) or (b) or, if the school board of the school district in which the juvenile resides has established a youth service center under s. 118.16 (4) (e), may deliver that juvenile to that youth service center. If the juvenile is delivered to a youth service center, personnel of the youth service center may release the juvenile to the juvenile's parent, guardian or legal custodian, or release the juvenile to the juvenile's school, after counseling the juvenile as may be appropriate. If the juvenile is released to the juvenile's school, personnel of the youth service center shall immediately notify the juvenile's parent, guardian and legal custodian that the juvenile was taken into custody under s. 938.19 (1) (d) 10. and released to the juvenile's school.

(f) If a juvenile is taken into custody under s. 938.19 (1m), the person who took the juvenile into custody may release the juvenile under par. (ag), (b) or (e) or to the juvenile's school administrator, as defined in s. 125.09 (2) (a) 3., or a school employe designated by the school administrator. If a juvenile is released to a school administrator or the school administrator's designee under this paragraph, the school administrator or designee shall do all of the following:

1. Immediately notify the juvenile's parent, guardian or legal custodian that the juvenile was taken into custody under s. 938.19 (1m) and released to the school administrator or his or her designee.

2. Make a determination of whether the juvenile is a child at risk, as defined in s. 118.153 (1) (a), unless that determination has been made within the current school semester. If a juvenile is determined to be a child at risk under this subdivision, the school administrator shall provide a program for the juvenile according to the plan developed under s. 118.153 (2) (a).

3. Provide the juvenile and his or her parent or guardian with an opportunity for educational counseling to determine whether a change in the juvenile's program or curriculum, including any of the modifications specified in s. 118.15 (1) (d), would resolve the juvenile's truancy problem, unless the juvenile and his or her parent or guardian have been provided with an opportunity for educational counseling within the current school semester.

(g) If a juvenile is taken into custody under s. 938.19 (1) (d) 10. and is not released under par. (ag), (b) or (e) or

if a juvenile is taken into custody under s. 938.19 (1m) and is not released under par. (ag), (b), (e) or (f), the person who took the juvenile into custody shall release the juvenile without immediate adult supervision after counseling or warning the juvenile as may be appropriate.

(3) If the juvenile is released under sub. (2) (b) to (d) or (g), the person who took the juvenile into custody shall immediately notify the juvenile's parent, guardian and legal custodian of the time and circumstances of the release and the person, if any, to whom the juvenile was released. If the juvenile is not released under sub. (2), the person who took the juvenile into custody shall arrange in a manner determined by the court and law enforcement agencies for the juvenile to be interviewed by the intake worker under s. 938.067 (2), and shall make a statement in writing with supporting facts of the reasons why the juvenile was taken into physical custody and shall give any juvenile 10 years of age or older a copy of the statement in addition to giving a copy to the intake worker. When the intake interview is not done in person, the report may be read to the intake worker.

(4) If the juvenile is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, the person taking the juvenile into physical custody, the intake worker or other appropriate person shall deliver the juvenile to a hospital as defined in s. 50.33 (2) (a) and (c) or physician's office.

(5) If the juvenile is believed to be mentally ill, drug dependent or developmentally disabled, and exhibits conduct which constitutes a substantial probability of physical harm to the juvenile or to others, or a very substantial probability of physical impairment or injury to the juvenile exists due to the impaired judgment of the juvenile, and the standards of s. 51.15 are met, the person taking the juvenile into physical custody, the intake worker or other appropriate person shall proceed under s. 51.15.

(6) If the juvenile is believed to be an intoxicated person who has threatened, attempted or inflicted physical harm on himself or herself or on another and is likely to inflict such physical harm unless committed, or is incapacitated by alcohol, the person taking the juvenile into physical custody, the intake worker or other appropriate person shall proceed under s. 51.45 (11).

(7) (a) When a juvenile is interviewed by an intake worker, the intake worker shall inform any juvenile possibly involved in a delinquent act of his or her right to counsel and the right against self-incrimination.

(b) The intake worker shall review the need to hold the juvenile in custody and shall make every effort to release the juvenile from custody as provided in par. (c). The intake worker shall base his or her decision as to whether to release the juvenile or to continue to hold the juvenile in custody on the criteria specified in s. 938.205 and criteria established under s. 938.06 (1) or (2).

(c) The intake worker may release the juvenile as follows:

1. To a parent, guardian or legal custodian, or, if the parent, guardian or legal custodian is unavailable, unwilling or unable to provide supervision for the juvenile, release the juvenile to a responsible adult, counseling or warning the juvenile as may be appropriate, or, if the juvenile is 15 years of age or older, release the juvenile without immediate adult supervision, counseling or warning the juvenile as may be appropriate.

1m. In the case of a juvenile who has violated the terms of aftercare supervision administered by the department or a county department, to the department or county department, whichever has aftercare supervision of the juvenile.

2. In the case of a runaway juvenile, to a home authorized under s. 48.227.

(d) If the juvenile is released from custody, the intake worker shall immediately notify the juvenile's parent, guardian and legal custodian of the time and circumstances of the release and the person, if any, to whom the juvenile was released.

(8) If a juvenile is held in custody, the intake worker shall notify the juvenile's parent, guardian and legal custodian of the reasons for holding the juvenile in custody and of the juvenile's whereabouts unless there is reason to believe that notice would present imminent danger to the juvenile. If a juvenile who has violated the terms of aftercare supervision administered by the department or a county department is held in custody, the intake worker shall also notify the department or county department, whichever has supervision over the juvenile, of the reasons for holding the juvenile in custody, of the juvenile's whereabouts and of the time and place of the detention hearing required under s. 938.21. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 938.21, the nature and possible consequences of that hearing and the right to present and cross-examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the juvenile is alleged to have committed a delinquent act, the juvenile shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the juvenile and the juvenile's parent, guardian or legal custodian.

**938.205 Criteria for holding a juvenile in physical custody.** (1) A juvenile may be held under s. 938.207, 938.208 or 938.209 if the intake worker determines that there is probable cause to believe the juvenile is within the jurisdiction of the court and if probable cause exists to believe one of the following:

(a) That if the juvenile is not held he or she will commit injury to the person or property of others.

(b) That the parent, guardian or legal custodian of the juvenile or other responsible adult is unavailable, unwilling or unable to provide adequate supervision and care and that services to ensure the juvenile's safety and well-being are not available or would be inadequate.

(c) That the juvenile will run away or be taken away so as to be unavailable for proceedings of the court or its officers or proceedings of the division of hearings and appeals in the department of administration for revocation of aftercare supervision.

(2) The criteria for holding a juvenile in custody specified in this section shall govern the decision of all persons responsible for determining whether the action is appropriate.

**938.207 Places where a juvenile may be held in nonsecure custody.** (1) A juvenile held in physical custody under s. 938.205 may be held in any of the following places:

(a) The home of a parent or guardian.

(b) The home of a relative.

(c) A licensed foster home or a licensed treatment foster home provided the placement does not violate the conditions of the license.

(cm) A licensed group home provided that the placement does not violate the conditions of the license.

(d) A nonsecure facility operated by a licensed child welfare agency.

(e) A licensed private or public shelter care facility.

(f) The home of a person not a relative, if the placement does not exceed 30 days, though the placement may be extended for an additional 30 days for cause by the court, and if the person has not had a foster home or treatment foster home license refused, revoked or suspended within the last 2 years.

(g) A hospital as defined in s. 50.33 (2) (a) and (c) or physician's office if the juvenile is held under s. 938.20 (4).

(h) A place listed in s. 51.15 (2) if the juvenile is held under s. 938.20 (5).

(i) An approved public treatment facility for emergency treatment if the juvenile is held under s. 938.20 (6).

(k) A facility under s. 48.58.

(2) If a facility listed in sub. (1) (b) to (k) is used to hold juveniles in custody, or if supervisory services of a home detention program are provided to juveniles held under sub. (1) (a), its authorized rate shall be paid by the county for the care of the juvenile. If no authorized rate has been established, a reasonable sum to be fixed by the court shall be paid by the county for the supervision or care of the juvenile.

**938.208 Criteria for holding a juvenile in a secure detention facility.** A juvenile may be held in a secure detention facility if the intake worker determines that one of the following conditions applies:

(1) 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 so as to be unavailable for a court hearing or a revocation hearing for juveniles on aftercare supervision. For juveniles on aftercare supervision, the delinquent act referred to in this section may be the act for which the juvenile was adjudged delinquent. If the intake worker determines that any of the following conditions applies, the juvenile is considered to present a substantial risk of physical harm to another person:

(a) Probable cause exists to believe that the juvenile has committed a delinquent act that would be a felony under s. 940.01, 940.02, 940.03, 940.05, 940.19 (2) to (6), 940.21, 940.225 (1), 940.31, 941.20 (3), 943.02 (1), 943.23 (1g), (1m) or (1r), 943.32 (2), 947.013 (1t), (1v) or (1x), 948.02 (1) or (2), 948.025 or 948.03 if committed by an adult.

(b) Probable cause exists to believe that the juvenile possessed, used or threatened to use a handgun, as defined in s. 175.35 (1) (b), short-barreled rifle, as defined in s. 941.28 (1) (b), or short-barreled shotgun, as defined in s. 941.28 (1) (c), while committing a delinquent act that would be a felony under ch. 940 if committed by an adult.

(c) Probable cause exists to believe that the juvenile has possessed or gone armed with a short-barreled rifle or a short-barreled shotgun in violation of s. 941.28, or has possessed or gone armed with a handgun in violation of s. 948.60.

(2) Probable cause exists to believe that the juvenile is a fugitive from another state or has run away from a secured correctional facility and there has been no reasonable opportunity to return the juvenile.

(3) The juvenile consents in writing to being held in order to protect him or her from an imminent physical threat from another and such secure custody is ordered by the judge in a protective order.

(4) Probable cause exists to believe that the juvenile, having been placed in nonsecure custody by an intake worker under s. 938.207 or by the judge or juvenile court commissioner under s. 938.21 (4), has run away or committed a delinquent act and no other suitable alternative exists.

(5) Probable cause exists to believe that the juvenile has been adjudged or alleged to be delinquent and has run away from another county and would run away from nonsecure custody pending his or her return. A juvenile may be held in secure custody under this subsection for no more than 24 hours after the end of the day that the decision to hold the juvenile was made unless an extension of those 24 hours is ordered by the judge for good cause shown. Only one extension may be ordered by the judge.

**938.209 Criteria for holding a juvenile in a county jail.** Subject to the provisions of s. 938.208, a

county jail may be used as a secure detention facility if the criteria under either sub. (1) or (2) are met:

(1) There is no other secure detention facility approved by the department or a county which is available and all of the following conditions are met:

(a) The jail meets the standards for secure detention facilities established by the department.

(b) The juvenile is held in a room separated and removed from incarcerated adults.

(c) The juvenile is not held in a cell designed for the administrative or disciplinary segregation of adults.

(d) Adequate supervision is provided.

(e) The judge reviews the status of the juvenile every 3 days.

(2) The juvenile presents a substantial risk of physical harm to other persons in the secure detention facility, as evidenced by previous acts or attempts, which can only be avoided by transfer to the jail. The provisions of sub. (1) (a) to (e) shall be met. The juvenile shall be given a hearing and transferred only upon order of the judge.

(3) The restrictions of this section do not apply to the use of jail for a juvenile who has been waived to adult court under s. 938.18 or who is under the jurisdiction of an adult court under s. 938.183.

**938.21 Hearing for juvenile in custody.**

(1) HEARING; WHEN HELD. (a) If a juvenile who has been taken into custody is not released under s. 938.20, a hearing to determine whether the juvenile shall continue to be held in custody under the criteria of ss. 938.205 to 938.209 shall be conducted by the judge or juvenile court commissioner within 24 hours after the end of the day that the decision to hold the juvenile was made, excluding Saturdays, Sundays and legal holidays. By the time of the hearing a petition under s. 938.25 shall be filed, except that no petition need be filed where a juvenile is taken into custody under s. 938.19 (1) (b) or (d) 2., 6. or 7. or where the juvenile is a runaway from another state, in which case a written statement of the reasons for holding a juvenile in custody shall be substituted if the petition is not filed. If no hearing has been held within 24 hours or if no petition or statement has been filed at the time of the hearing, the juvenile shall be released except as provided in par. (b). A parent not present at the hearing shall be granted a rehearing upon request.

(b) If no petition has been filed by the time of the hearing, a juvenile may be held in custody with the approval of the judge or juvenile court commissioner for an additional 48 hours from the time of the hearing only if, as a result of the facts brought forth at the hearing, the judge or juvenile court commissioner determines that probable cause exists to believe that the juvenile is an imminent danger to himself or herself or to others, or that probable cause exists to believe that the parent, guardian or legal custodian of the juvenile or other responsible adult is unwilling or unavailable to provide adequate supervision and care. The extension may be granted only

once for any petition. In the event of failure to file a petition within the 48-hour extension period provided for in this paragraph, the judge or juvenile court commissioner shall order the juvenile's immediate release from custody.

(2) PROCEEDINGS CONCERNING RUNAWAY OR DELINQUENT JUVENILES. Proceedings concerning a juvenile who comes within the jurisdiction of the court under s. 938.12 or 938.13 (7) or (12) shall be conducted according to this subsection.

(a) A juvenile held in a nonsecure place of custody may waive in writing the hearing under this section. After any waiver, a hearing shall be granted upon the request of the juvenile or any other interested party. Any juvenile transferred to a secure detention facility shall thereafter have a hearing under this section.

(b) A copy of the petition shall be given to the juvenile at or prior to the time of the hearing. Prior notice of the hearing shall be given to the juvenile's parent, guardian and legal custodian and to the juvenile in accordance with s. 938.20 (8).

(c) Prior to the commencement of the hearing, the juvenile shall be informed by the judge or juvenile court commissioner of the allegations that have been or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the provisions of s. 938.18 if applicable, the right to counsel under s. 938.23 regardless of ability to pay if the juvenile is not yet represented by counsel, the right to remain silent, the fact that the silence may not be adversely considered by the judge or juvenile court commissioner, the right to confront and cross-examine witnesses and the right to present witnesses.

(d) If the juvenile is not represented by counsel at the hearing and the juvenile is continued in custody as a result of the hearing, the juvenile may request through counsel subsequently appointed or retained or through a guardian ad litem that the order to hold in custody be reheard. If the request is made, a rehearing shall take place as soon as may be possible. Whether or not counsel was present, any order to hold the juvenile in custody shall be subject to rehearing for good cause.

(3) PROCEEDINGS CONCERNING JUVENILES IN NEED OF PROTECTION OR SERVICES. Proceedings concerning a juvenile who comes within the jurisdiction of the court under s. 938.13 (4), (6), (6m) or (14) shall be conducted according to this subsection.

(a) The parent, guardian or legal custodian may waive the hearing under this section. Agreement in writing of the juvenile is required if he or she is over 12. After any waiver, a hearing shall be granted at the request of any interested party.

(b) If present at the hearing, a copy of the petition shall be given to the parent, guardian or legal custodian, and to the juvenile if he or she is 12 years of age or older, before the hearing begins. Prior notice of the hearing

shall be given to the juvenile's parent, guardian and legal custodian and to the juvenile if he or she is 12 years of age or older in accordance with s. 938.20 (8).

(d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to confront and cross-examine witnesses and the right to present witnesses.

(e) If the parent, guardian or legal custodian or the juvenile is not represented by counsel at the hearing and the juvenile is continued in custody as a result of the hearing, the parent, guardian, legal custodian or juvenile may request through counsel subsequently appointed or retained or through a guardian ad litem that the order to hold the juvenile in custody be reheard. If the request is made, a rehearing shall take place as soon as may be possible. Any order to hold the juvenile in custody shall be subject to rehearing for good cause, whether or not counsel was present.

**(3m) PARENTAL NOTICE REQUIRED.** If the juvenile has been taken into custody because he or she committed an act which resulted in personal injury or damage to or loss of the property of another, the court, prior to the commencement of any hearing under this section, shall attempt to notify the juvenile's parents of the possibility of disclosure of the identity of the juvenile and the parents, of the juvenile's police records and of the outcome of proceedings against the juvenile for use in civil actions for damages against the juvenile or the parents and of the parents' potential liability for acts of their juveniles. If the court is unable to provide the notice before commencement of the hearing, it shall provide the juvenile's parents with the specified information in writing as soon as possible after the hearing.

**(4) CONTINUATION OF CUSTODY.** If the judge or juvenile court commissioner finds that the juvenile should be continued in custody under the criteria of s. 938.205, he or she shall enter one of the following orders:

(a) Place the juvenile with a parent, guardian, legal custodian or other responsible person and may impose reasonable restrictions on the juvenile's travel, association with other persons or places of abode during the period of placement, including a condition requiring the juvenile to return to other custody as requested; or subject the juvenile to the supervision of an agency agreeing to supervise the juvenile. Reasonable restrictions may be placed upon the conduct of the parent, guardian, legal custodian or other responsible person which may be necessary to ensure the safety of the juvenile.

(b) Order the juvenile held in an appropriate manner under s. 938.207, 938.208 or 938.209.

**(4m) ELECTRONIC MONITORING.** The judge or juvenile court commissioner may include in an order under

sub. (4) (a) or (b) a condition that the juvenile be monitored by an electronic monitoring system.

**(5) ORDERS IN WRITING.** (a) All orders to hold in custody shall be in writing, listing the reasons and criteria forming the basis for the decision.

(b) An order relating to a juvenile held in custody outside of his or her home shall also describe any efforts that were made to permit the juvenile to remain at home and the services that are needed to ensure the juvenile's well-being, to enable the juvenile to return to his or her home and to involve the parents in planning for the juvenile.

**(6) AMENDMENT OF ORDER.** An order placing a juvenile under sub. (4) (a) on conditions specified in this section may at any time be amended, with notice, so as to return the juvenile to another form of custody for failure to conform to the conditions originally imposed. A juvenile may be transferred to secure custody if he or she meets the criteria of s. 938.208.

**(7) DEFERRED PROSECUTION.** If the judge or juvenile court commissioner determines that the best interests of the juvenile and the public are served, he or she may enter a consent decree under s. 938.32 or order the petition dismissed and refer the matter to the intake worker for deferred prosecution in accordance with s. 938.245.

**938.22 Establishment of secure detention facilities and shelter care facilities.** **(1)** (a) The county board of supervisors may establish a secure detention facility or a shelter care facility or both or the county boards of supervisors for 2 or more counties may jointly establish a secure detention facility or a shelter care facility or both in accordance with ss. 46.16, 46.20 and 301.36.

(b) Subject to sub. (3) (ar), in counties having a population of less than 500,000, the policies of the secure detention facility or shelter care facility shall be determined by the judge of the court assigned to exercise jurisdiction under this chapter and ch. 48 with the approval of the chief judge of the judicial administrative district or, in the case of a secure detention facility or shelter care facility established by 2 or more counties, by a committee of the judges of the courts in the participating counties assigned to exercise jurisdiction under this chapter and ch. 48 with the approval of the chief judge of the judicial administrative district.

(c) In counties having a population of 500,000 or more, the nonjudicial operational policies of the secure detention facility and the detention section of the juvenile delinquency court center shall be established by the county board of supervisors, and the execution thereof shall be the responsibility of the director of the children's court center.

**(2)** (a) Counties shall submit plans for the secure detention facility or juvenile portion of the county jail to the department of corrections and submit plans for the shelter care facility to the department of health and social services. The applicable department shall review the

submitted plans. The counties may not implement any such plan unless the applicable department has approved the plan. The department of corrections shall promulgate rules establishing minimum requirements for the approval of the operation of secure detention facilities and the juvenile portion of county jails. The plans and rules shall be designed to protect the health, safety and welfare of the juveniles in these facilities.

(b) If the department approves, a secure detention facility or a holdover room may be a part of a public building in which there is a jail or other facility for the detention of adults if the secure detention facility or holdover room is so physically segregated from the jail or other facility that the secure detention facility or holdover room may be entered without passing through areas where adults are confined and that juveniles detained in the secure detention facility or holdover room cannot communicate with or view adults confined therein.

(c) A shelter care facility shall be used for the temporary care of juveniles. A shelter care facility, other than a holdover room, may not be in the same building as a facility for the detention of adults.

(3) (a) In counties having a population of less than 500,000, public secure detention facilities and public shelter care facilities shall be in the charge of a superintendent. The judge of the court assigned to exercise jurisdiction under this chapter and ch. 48 with the approval of the chief judge of the judicial administrative district or, where 2 or more counties operate joint public secure detention facilities or public shelter care facilities, the committee of judges of the courts assigned to exercise jurisdiction under this chapter and ch. 48 with the approval of the chief judge of the judicial administrative district shall appoint the superintendent and other necessary personnel for the care and education of the juveniles in secure detention or shelter care facilities, subject to par. (am) and to civil service regulations in counties having civil service.

(am) If a secure detention facility or holdover room is part of a public building in which there is a jail or other facility for the detention of adults, the sheriff or other keeper of the jail or other facility for the detention of adults may nominate persons to be considered under par. (a) for the position of superintendent of the secure detention facility or holdover room. Nominees under this paragraph shall have demonstrated administrative abilities and a demonstrated interest in the problems of juvenile justice and the welfare of juveniles.

(ar) Notwithstanding sub. (1) (b), if a secure detention facility or holdover room is part of a public building in which there is a jail or other facility for the detention of adults, the sheriff or other keeper of the jail or other facility for the detention of adults shall determine the policies of that secure detention facility or holdover room relating to security and emergency response and shall

determine the procedures for implementing those policies.

(b) In counties having a population of 500,000 or more, the director of the children's court center shall be in charge of and responsible for public secure detention facilities, the secure detention section of the center and the personnel assigned to this section, including a detention supervisor or superintendent. The director of the children's court center may also serve as superintendent of detention if the county board of supervisors so determines.

(c) All superintendents appointed under par. (a) or (b) after May 1, 1992, shall, within one year after that appointment, successfully complete an administrative training program approved or provided by the department of justice.

(5) A county board of supervisors, or 2 or more county boards of supervisors jointly, may contract with privately operated shelter care facilities or home detention programs for purchase of services. A county board of supervisors may delegate this authority to its county department.

(7) (a) No person may establish a shelter care facility without first obtaining a license under s. 48.66 (1). To obtain a license under s. 48.66 (1) to operate a shelter care facility, a person must meet the minimum requirements for a license established by the department of health and social services under s. 48.67 and pay the license fee under par. (b). A license issued under s. 48.66 (1) to operate a shelter care facility is valid for 2 years after the date of issuance, unless sooner revoked or suspended.

(b) Before the department of health and social services may issue a license under s. 48.66 (1) to operate a shelter care facility, the shelter care facility must pay to that department a biennial fee of \$50, plus a biennial fee of \$15 per juvenile, based on the number of juveniles that the shelter care facility is licensed to serve. A shelter care facility that wishes to renew a license issued under s. 48.66 (1) shall pay the fee under this paragraph by the renewal date of the license. A new shelter care facility shall pay the fee under this paragraph by no later than 30 days before the opening of the shelter care facility.

(c) A shelter care facility that wishes to renew a license issued under s. 48.66 (1) and that fails to pay the fee under par. (b) by the renewal date of the license or a new shelter care facility that fails to pay the fee under par. (b) by 30 days before the opening of the shelter care facility shall pay an additional fee of \$5 per day for every day after the deadline that the facility fails to pay the fee.

**938.225 Statewide plan for secure detention facilities.** The department shall assist counties in establishing secure detention facilities under s. 938.22 by developing and promulgating a statewide plan for the establishment and maintenance of suitable secure detention facilities reasonably accessible to each court.

**938.23 Right to counsel. (1) RIGHT OF JUVENILES TO LEGAL REPRESENTATION.** Juveniles subject to proceedings under this chapter shall be afforded legal representation as follows:

(a) Any juvenile alleged to be delinquent under s. 938.12 or held in a secure detention facility shall be represented by counsel at all stages of the proceedings, but a juvenile 15 years of age or older may waive counsel if the court is satisfied that the waiver is knowingly and voluntarily made and the court accepts the waiver. If the waiver is accepted, the court may not place the juvenile in a secured correctional facility, transfer supervision of the juvenile to the department for participation in the serious juvenile offender program or transfer jurisdiction over the juvenile to adult court.

(am) A juvenile subject to a sanction under s. 938.355 (6) (a) shall be entitled to representation by counsel at the hearing under s. 938.355 (6) (c).

(ar) A juvenile subject to proceedings under s. 938.357 (3) or (5) shall be afforded legal representation as provided in those subsections.

(b) 1. If a juvenile is alleged to be in need of protection or services under s. 938.13, the juvenile may be represented by counsel at the discretion of the court. Except as provided in subd. 2., a juvenile 15 years of age or older may waive counsel if the court is satisfied such waiver is knowingly and voluntarily made and the court accepts the waiver.

2. If the petition is contested, the court may not place the juvenile outside his or her home unless the juvenile is represented by counsel at the fact-finding hearing and subsequent proceedings. If the petition is not contested, the court may not place the juvenile outside his or her home unless the juvenile is represented by counsel at the hearing at which the placement is made. For a juvenile under 12 years of age, the judge may appoint a guardian ad litem instead of counsel.

(3) **POWER OF THE COURT TO APPOINT COUNSEL.** Except in proceedings under s. 938.13, at any time, upon request or on its own motion, the court may appoint counsel for the juvenile or any party, unless the juvenile or the party has or wishes to retain counsel of his or her own choosing. The court may not appoint counsel for any party other than the juvenile in a proceeding under s. 938.13.

(4) **PROVIDING COUNSEL.** In any situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the person to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless

of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the juvenile who is named as the respondent in that petition.

(5) **COUNSEL OF OWN CHOOSING.** Regardless of any provision of this section, any party is entitled to retain counsel of his or her own choosing at his or her own expense in any proceeding under this chapter.

(6) **DEFINITION.** For the purposes of this section, "counsel" means an attorney acting as adversary counsel who shall advance and protect the legal rights of the party represented, and who may not act as guardian ad litem for any party in the same proceeding.

**938.235 Guardian ad litem. (1) APPOINTMENT.** (a) The court may appoint a guardian ad litem in any appropriate matter under this chapter.

(e) The court shall appoint a guardian ad litem, or extend the appointment of a guardian ad litem previously appointed under par. (a), for any juvenile alleged or found to be in need of protection or services, if the court has ordered, or if a request or recommendation has been made that the court order, the juvenile to be placed out of his or her home under s. 938.345 or 938.357.

(2) **QUALIFICATIONS.** The guardian ad litem shall be an attorney admitted to practice in this state. No person who is an interested party in a proceeding, who appears as counsel in a proceeding on behalf of any party or who is a relative or representative of an interested party may be appointed guardian ad litem in that proceeding.

(3) **RESPONSIBILITIES.** The guardian ad litem shall be an advocate for the best interests of the person for whom the appointment is made. The guardian ad litem shall function independently, in the same manner as an attorney for a party to the action, and shall consider, but shall not be bound by, the wishes of such person or the positions of others as to the best interests of such person. If the guardian ad litem determines that the best interests of the person are substantially inconsistent with the wishes of such person, the guardian ad litem shall so inform the court and the court may appoint counsel to represent that person. The guardian ad litem has none of the rights or duties of a general guardian.

(4) **MATTERS INVOLVING JUVENILE IN NEED OF PROTECTION OR SERVICES.** (a) In any matter involving a juvenile found to be in need of protection or services, the guardian ad litem may, if reappointed or if the appointment is continued under sub. (7), do any of the following:

1. Participate in permanency planning under ss. 48.43 (5) and 938.38.
2. Petition for a change in placement under s. 938.357.
3. Petition for termination of parental rights or any other matter specified under s. 48.14 or 938.14.
4. Petition for revision of dispositional orders under s. 938.363.



5. Petition for extension of dispositional orders under s. 938.365.

6. Petition for a temporary restraining order and injunction under s. 813.122 or 813.125.

7. Petition for relief from a judgment terminating parental rights under s. 48.46.

8. Perform any other duties consistent with this chapter and ch. 48.

(b) The court shall order the agency identified under s. 938.355 (2) (b) 1. as primarily responsible for the provision of services to notify the guardian ad litem, if any, regarding actions to be taken under par. (a).

(7) **TERMINATION AND EXTENSION OF APPOINTMENT.** The appointment of a guardian ad litem under sub. (1) terminates upon the entry of the court's final order or upon the termination of any appeal in which the guardian ad litem participates. The guardian ad litem may appeal, may participate in an appeal or may do neither. If an appeal is taken by any party and the guardian ad litem chooses not to participate in that appeal, he or she shall file with the appellate court a statement of reasons for not participating. Irrespective of the guardian ad litem's decision not to participate in an appeal, the appellate court may order the guardian ad litem to participate in the appeal. At any time, the guardian ad litem, any party or the person for whom the appointment is made may request in writing or on the record that the court extend or terminate the appointment or reappointment. The court may extend that appointment, or reappoint a guardian ad litem appointed under this section, after the entry of the final order or after the termination of the appeal, but the court shall specifically state the scope of the responsibilities of the guardian ad litem during the period of that extension or reappointment.

(8) **COMPENSATION.** On order of the court, the guardian ad litem appointed under this chapter shall be allowed reasonable compensation to be paid by the county of venue. If the court orders a county to pay the compensation of the guardian ad litem, the amount ordered may not exceed the compensation paid to private attorneys under s. 977.08 (4m) (b).

**938.237 Civil law and ordinance proceedings initiated by citation in the court assigned to exercise jurisdiction under this chapter and ch. 48.** (1) The citation forms under s. 23.54, 66.119, 778.25, 778.26 or 800.02 may be used to commence an action for a violation of civil laws and ordinances in the court.

(2) The procedures for issuance and filing of a citation, and for forfeitures, stipulations and deposits in ss. 23.50 to 23.67, 23.75 (3) and (4), 66.119, 778.25, 778.26 and 800.01 to 800.04 except s. 800.04 (2) (b), when the citation is issued by a law enforcement officer, shall be used as appropriate, except that this chapter shall govern taking and holding a juvenile in custody, s. 938.37 shall govern costs, penalty assessments and jail assessments, and a *capias* shall be substituted for an arrest warrant.

Sections 66.119 (3) (c) and (d), 66.12 (1) and 778.10 as they relate to collection of forfeitures do not apply.

(3) If a juvenile to whom a citation has been issued does not submit a deposit or a stipulation and deposit, the juvenile shall appear in the court for a plea hearing under s. 938.30 at the date, time and place for the court appearance specified on the citation. If the juvenile does not submit a stipulation and deposit or if the court refuses to accept a deposit unaccompanied by a stipulation, the juvenile may be summoned to appear and the procedures that govern petitions for civil law or ordinance violations under s. 938.125 shall govern all proceedings initiated by a citation, except that the citation shall not be referred to the court intake worker for an intake inquiry. If the court finds that a juvenile violated a municipal ordinance or a civil law punishable by a forfeiture under this section, the court shall enter a dispositional order under s. 938.344, if applicable, or if s. 938.344 does not apply, the court may enter any of the dispositional orders under s. 938.343.

#### SUBCHAPTER V PROCEDURE

**938.24 Receipt of jurisdictional information; intake inquiry.** (1) Except when a citation has been issued under s. 938.17 (2), information indicating that a juvenile should be referred to the court as delinquent, in need of protection or services or in violation of a civil law or a county, town or municipal ordinance shall be referred to the intake worker, who shall conduct an intake inquiry on behalf of the court to determine whether the available facts establish *prima facie* jurisdiction and to determine the best interests of the juvenile and of the public with regard to any action to be taken.

(1m) As part of the intake inquiry, the intake worker shall inform the juvenile and the juvenile's parent, guardian and legal custodian that they may request counseling from a person designated by the court to provide dispositional services under s. 938.069.

(2) (a) As part of the intake inquiry the intake worker may conduct multidisciplinary screens and intake conferences with notice to the juvenile, parent, guardian and legal custodian. If sub. (2m) applies, the intake worker shall conduct a multidisciplinary screen under s. 938.547 if the juvenile has not refused to participate under par. (b).

(b) No juvenile or other person may be compelled to appear at any conference, participate in a multidisciplinary screen, produce any papers or visit any place by an intake worker.

(2m) (a) In counties that have a pilot program under s. 938.547, a multidisciplinary screen shall be conducted for:

1. Any juvenile alleged to have committed a violation specified under ch. 161.

2. Any juvenile alleged to be delinquent or in need of protection and services who has at least 2 prior adjudications for a violation of s. 125.07 (4) (a) or (b), 125.085 (3)

(b) or 125.09 (2) or a local ordinance that strictly conforms to any of those sections.

3. Any juvenile alleged to have committed any offense which appears to the intake worker to be directly motivated by the juvenile's need to purchase or otherwise obtain alcohol beverages or controlled substances.

4. Any juvenile 12 years of age or older who requests and consents to a multidisciplinary screen.

5. Any juvenile who consents to a multidisciplinary screen requested by his or her parents.

(b) The multidisciplinary screen may be conducted by an intake worker for any reason other than those specified in the criteria under par. (a).

(3) If the intake worker determines as a result of the intake inquiry that the juvenile should be referred to the court, the intake worker shall request that the district attorney, corporation counsel or other official specified in s. 938.09 file a petition.

(4) If the intake worker determines as a result of the intake inquiry that the case should be subject to a deferred prosecution agreement, or should be closed, the intake worker shall so proceed. If a petition has been filed, a deferred prosecution agreement may not be entered into or a case may not be closed unless the petition is withdrawn by the district attorney, corporation counsel or other official specified in s. 938.09, or is dismissed by the judge.

(5) The intake worker shall recommend that a petition be filed, enter into a deferred prosecution agreement or close the case within 40 days or sooner of receipt of referral information. If the case is closed or a deferred prosecution agreement is entered into, the district attorney, corporation counsel or other official under s. 938.09 shall receive written notice of such action. In addition, if a deferred prosecution agreement is entered into placing a juvenile in a youth village program as described in s. 118.42, the judge or juvenile court commissioner shall receive written notice of such action and, on receipt of that notice, shall enter an order requiring compliance with that agreement. A notice of deferred prosecution of an alleged delinquency case shall include a summary of the facts surrounding the allegation and a list of prior intake referrals and dispositions. If a law enforcement officer has made a recommendation concerning the juvenile, the intake worker shall forward this recommendation to the district attorney under s. 938.09. Notwithstanding the requirements of this section, the district attorney may initiate a delinquency petition under s. 938.25 within 20 days after notice that the case has been closed or that a deferred prosecution agreement has been entered into. The judge shall grant appropriate relief as provided in s. 938.315 (3) with respect to any such petition which is not referred or filed within the time limits specified within this subsection.

(6) The intake worker shall perform his or her responsibilities under this section under general written policies

which the judge shall promulgate under s. 938.06 (1) or (2).

(7) If a citation is issued to a juvenile, the citation shall not be the subject of an intake inquiry or a review by an intake worker for the purpose of recommending deferred prosecution.

**938.243 Basic rights: duty of intake worker.** (1) Before conferring with the parent or juvenile during the intake inquiry, the intake worker shall personally inform a juvenile alleged to have committed a delinquent act, and parents and juveniles 10 years of age or over who are the focus of an inquiry regarding the need for protection or services under s. 938.13 (4), (6), (6m) or (7), of all of the following:

(ag) That the referral may result in a petition to the court.

(am) What allegations could be in the petition to the court.

(b) The nature and possible consequences of the proceedings including the provisions of ss. 938.17 and 938.18 if applicable.

(c) The right to remain silent and the fact that in a delinquency proceeding the silence of the juvenile shall not be adversely considered by the court although the silence of any party may be relevant in any nondelinquency proceeding.

(d) The right to confront and cross-examine those appearing against them.

(e) The right of the juvenile to counsel under s. 938.23.

(f) The right to present and subpoena witnesses.

(h) The right to have the allegations of the petition proved by clear and convincing evidence unless the juvenile comes within the court's jurisdiction under s. 938.12 or 938.13 (12), in which case the standard of proof shall be beyond a reasonable doubt.

(1m) If the juvenile who is the subject of the intake inquiry is alleged to have committed an act which resulted in personal injury or damage to or loss of the property of another, the intake worker shall inform the juvenile's parents in writing of the possibility of disclosure of the identity of the juvenile and the parents, of the juvenile's police records and of the outcome of proceedings against the juvenile for use in civil actions for damages against the juvenile or the parents and of the parents' potential liability for acts of their juveniles.

(2) This section does not apply if the juvenile was present at a hearing under s. 938.21.

(3) If the juvenile has not had a hearing under s. 938.21 and was not present at an intake conference under s. 938.24, the intake worker shall inform the juvenile, parent, guardian and legal custodian as appropriate of their basic rights under this section. This notice shall be given verbally, either in person or by telephone, and in writing. This notice shall be given so as to allow the juve-

nile, parent, guardian or legal custodian sufficient time to prepare for the plea hearing. This subsection does not apply to cases of deferred prosecution under s. 938.245.

**938.245 Deferred prosecution.** (1) The intake worker may enter into a written deferred prosecution agreement with all parties as provided in this section if the intake worker has determined that neither the interests of the juvenile nor of the public require filing of a petition for circumstances relating to s. 938.12, 938.125, 938.13 or 938.14. Deferred prosecution shall be available only if the facts persuade the intake worker that the jurisdiction of the court, if sought, would exist and upon consent of the juvenile, parent, guardian and legal custodian.

(2) (a) A deferred prosecution agreement may provide for any one or more of the following:

1. That the juvenile and the juvenile's parent, guardian or legal custodian participate in individual, family or group counseling and that the parent, guardian or legal custodian participate in parenting skills training.

2. That the juvenile and a parent, guardian and legal custodian abide by such obligations, including supervision, curfews and school attendance requirements, as will tend to ensure the juvenile's rehabilitation, protection or care.

3. That the juvenile submit to an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 938.547 (4) and that is conducted by an approved treatment facility for an examination of the juvenile's use of alcohol beverages or controlled substances and any medical, personal, family or social effects caused by its use, if the multidisciplinary screen conducted under s. 938.24 (2) shows that the juvenile is at risk of having needs and problems related to the use of alcohol beverages or controlled substances and its medical, personal, family or social effects.

4. That the juvenile participate in an alcohol and other drug abuse outpatient treatment program, a court-approved pupil assistance program provided by the juvenile's school board or a court-approved alcohol or other drug abuse education program, if an alcohol and other drug abuse assessment conducted under subd. 3. recommends outpatient treatment, intervention or education. The juvenile's participation in a court-approved pupil assistance program under this subdivision is subject to the approval of the juvenile's school board.

5. a. That the juvenile participate in a restitution project if the act for which the deferred prosecution agreement is being entered into has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering. Subject to subd. 5. c., the deferred prosecution agreement may require the juvenile to repair the damage to property or to make reasonable restitution for the damage or injury if the intake worker, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being

and behavior of the juvenile. Any such deferred prosecution agreement shall include a determination that the juvenile alone is financially able to pay and may allow up to the date of the expiration of the deferred prosecution agreement for the payment.

b. In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a juvenile who is under 14 years of age who is participating in a restitution project provided by the county may, for the purpose of making restitution, be employed or perform any duties under any circumstances in which a juvenile 14 or 15 years of age is permitted to be employed or to perform duties under ch. 103 or any rule or order under ch. 103.

c. Under this subdivision, a deferred prosecution agreement may not require a juvenile who is under 14 years of age to make more than \$250 in restitution.

6. That the juvenile participate in a supervised work program or other community service work in accordance with s. 938.34 (5g).

7. That the juvenile be placed with a volunteers in probation program under such conditions as the intake worker determines are reasonable and appropriate, if the juvenile is alleged to have committed an act that would constitute a misdemeanor if committed by an adult, if the chief judge of the judicial administrative district has approved under s. 973.11 (2) a volunteers in probation program established in the juvenile's county of residence and if the intake worker determines that volunteer supervision under that volunteers in probation program will likely benefit the juvenile and the community. The conditions that the intake worker may establish under this subdivision may include, but need not be limited to, a request to a volunteer to provide for the juvenile a role model, informal counseling, general monitoring and monitoring of the conditions established by the intake worker, or any combination of these functions, and any other deferred prosecution condition that the intake worker may establish under this paragraph.

8. That the juvenile be placed in a teen court program if all of the following conditions apply:

a. The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the intake worker determines that participation in the teen court program will likely benefit the juvenile and the community.

b. The juvenile is alleged to have committed a delinquent act that would be a misdemeanor if committed by an adult or a civil law or ordinance violation.

c. The juvenile admits to the intake worker, with the juvenile's parent, guardian or legal custodian present, that the juvenile committed the alleged delinquent act or civil law or ordinance violation.

d. The juvenile has not successfully completed participation in a teen court program during the 2 years

before the date of the alleged delinquent act or civil law or ordinance violation.

9. That the juvenile be placed in a youth village program as described in s. 118.42. Upon the motion of the court or the application of the juvenile, parent, guardian, legal custodian, intake worker or any agency supervising the juvenile under a deferred prosecution agreement under this subdivision, the court may, after giving notice to the parties to the deferred prosecution agreement and their counsel, if any, extend the agreement for up to an additional one year in the absence of an objection to extension by the parties to the initial deferred prosecution agreement. If the juvenile or the parent, guardian or legal custodian object to the extension, the court shall schedule a hearing and make a determination on the issue of extension. A deferred prosecution agreement under this subdivision may be extended no more than twice.

(b) A deferred prosecution agreement, other than an agreement under par. (a) 9., may not include any form of out-of-home placement and may not exceed one year.

(c) If the deferred prosecution agreement provides for alcohol and other drug abuse outpatient treatment under par. (a) 4., the juvenile and the juvenile's parent, guardian or legal custodian shall execute an informed consent form that indicates that they are voluntarily and knowingly entering into a deferred prosecution agreement for the provision of alcohol and other drug abuse outpatient treatment.

(2g) If the informal disposition is based on an allegation that the juvenile violated s. 943.017 and the juvenile has attained the minimum age at which a juvenile may be adjudicated delinquent, the informal disposition may require that the juvenile participate for not less than 10 hours nor more than 100 hours in a supervised work program under s. 938.34 (5g) or perform not less than 10 hours nor more than 100 hours of other community service work, except that if the juvenile has not attained 14 years of age the maximum number of hours is 40.

(3) The obligations imposed under a deferred prosecution agreement and its effective date shall be set forth in writing. If the deferred prosecution agreement places the juvenile in a youth village program under sub. (2) (a) 9., the judge or juvenile court commissioner shall receive written notice that a deferred prosecution agreement has been entered into and, on receipt of that notice, shall enter an order requiring compliance with that agreement. The juvenile and a parent, guardian and legal custodian shall receive a copy of the agreement and order, as shall any agency providing services under the agreement.

(4) The intake worker shall inform the juvenile and the juvenile's parent, guardian and legal custodian in writing of their right to request the court to terminate the deferred prosecution agreement at any time or object at any time to the fact or terms of the deferred prosecution agreement. If an objection arises the intake worker may alter the terms of the agreement or recommend to the dis-

trict attorney or corporation counsel that a petition be filed. If the deferred prosecution agreement is terminated the intake worker may recommend to the district attorney or corporation counsel that a petition be filed.

(5) A deferred prosecution agreement may be terminated by the court upon the request of the juvenile, parent, guardian or legal custodian.

(6) A deferred prosecution agreement arising out of an alleged delinquent act is terminated if the district attorney files a delinquency petition within 20 days after receipt of notice of the deferred prosecution agreement under s. 938.24 (5). In such case statements made to the intake worker during the intake inquiry are inadmissible.

(7) (a) If at any time during the period of a deferred prosecution agreement the intake worker determines that the obligations imposed under it are not being met, the intake worker may cancel the deferred prosecution agreement. Within 10 days after the cancellation of the deferred prosecution agreement, the intake worker shall notify the district attorney, corporation counsel or other official under s. 938.09 of the cancellation and recommend whether or not a petition should be filed. In delinquency cases, the district attorney may initiate a petition within 20 days after the date of the notice regardless of whether the intake worker has recommended that a petition be filed. The judge shall grant appropriate relief as provided in s. 938.315 (3) with respect to any petition which is not filed within the time limit specified in this subsection.

(b) In addition to the action taken under par. (a), if the intake worker cancels a deferred prosecution agreement based on a determination that the juvenile's parent, guardian or legal custodian is not meeting the obligations imposed under the agreement, the intake worker shall recommend to the district attorney, corporation counsel or other official under s. 938.09 whether or not a petition should be filed requesting the court to order the juvenile's parent, guardian or legal custodian to show good cause for not meeting the obligations imposed under the agreement. If the district attorney, corporation counsel or other official under s. 938.09 files a petition under this paragraph and if the court finds prosecutive merit for the petition, the court shall grant an order directing the parent, guardian or legal custodian to show good cause, at a time and place fixed by the court, for not meeting the obligations imposed under the agreement. If the parent, guardian or legal custodian does not show good cause for not meeting the obligations imposed under the agreement, the court may impose a forfeiture not to exceed \$1,000.

(8) If the obligations imposed under the deferred prosecution agreement are met, the intake worker shall so inform the juvenile and a parent, guardian and legal custodian in writing, and no petition may be filed or citation issued on the charges that brought about the deferred prosecution agreement nor may the charges be the sole basis for a petition under s. 48.13, 48.14, 938.13 or 938.14.

(9) The intake worker shall perform his or her responsibilities under this section under general written policies which the judge shall promulgate under s. 938.06 (1) or (2).

**938.25 Petition; authorization to file.** (1) A petition initiating proceedings under this chapter shall be signed by a person who has knowledge of the facts alleged or is informed of them and believes them to be true. If a petition under s. 938.12 is to be filed, it shall be prepared, signed and filed by the district attorney. The district attorney, corporation counsel or other appropriate official specified under s. 938.09 may file the petition if the proceeding is under s. 938.125 or 938.13. The counsel or guardian ad litem for a parent, relative, guardian or juvenile may file a petition under s. 938.13 or 938.14. The district attorney, corporation counsel or other appropriate person designated by the court may initiate proceedings under s. 938.14 in a manner specified by the court.

(2) (a) The district attorney, corporation counsel or other appropriate official shall file the petition, close the case, or refer the case back to intake within 20 days after the date that the intake worker's recommendation was filed. A referral back to intake may be made only when the district attorney, corporation counsel or other appropriate official decides not to file a petition or determines that further investigation is necessary. If the case is referred back to intake upon a decision not to file a petition, the intake worker shall close the case or enter into a deferred prosecution agreement within 20 days. If the case is referred back to intake for further investigation, the appropriate agency or person shall complete the investigation within 20 days. If another referral is made to the district attorney, corporation counsel or other appropriate official, it shall be considered a new referral to which the time limits of this subsection shall apply. The time limits in this subsection may only be extended by a judge upon a showing of good cause under s. 938.315. If a petition is not filed within the time limitations set forth in this subsection and the court has not granted an extension, the petition shall be accompanied by a statement of reasons for the delay. The court shall grant appropriate relief as provided in s. 938.315 (3) with respect to a petition which is not filed within the time limits specified in this paragraph.

(b) In delinquency cases where there has been a case closure or deferred prosecution agreement, the petition shall be filed within 20 days of receipt of the notice of closure or deferred prosecution. Failure to file within 20 days invalidates the petition and affirms the case closure or deferred prosecution agreement, except that the court shall grant appropriate relief as provided in s. 938.315 (3) with respect to a petition that is not filed within the time limit specified in this paragraph. If a petition is filed within 20 days or the time permitted by the court under s. 938.315 (3), whichever is later, the district attorney

shall notify the parties to the agreement and the intake worker as soon as possible.

(3) If the district attorney, corporation counsel or other appropriate official under s. 938.09 refuses to file a petition, any person may request the judge to order that the petition be filed and a hearing shall be held on the request. The judge may order the filing of the petition on his or her own motion. The matter may not be heard by the judge who orders the filing of a petition.

(4) Section 939.74 applies to delinquency petitions filed under this subchapter.

(5) A citation issued under s. 938.17 (2) may serve as the initial pleading and is sufficient to confer the court with jurisdiction over the juvenile when the citation is filed with the court.

(6) If a proceeding is brought under s. 938.13, any party to or any governmental or social agency involved in the proceeding may petition the court to issue a temporary restraining order and injunction as provided in s. 813.122 or 813.125. The court shall follow the procedure under s. 813.122 or 813.125 except that the court may combine hearings authorized under s. 813.122 or 813.125 and this chapter, the petitioner for the temporary restraining order and injunction is not subject to the limitations under s. 813.122 (2) or 813.125 (2) and no fee is required regarding the filing of the petition under s. 813.122 or 813.125.

**938.255 Petition; form and content.** (1) A petition initiating proceedings under this chapter, other than a petition initiating proceedings under s. 938.12, 938.125 or 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a person under the age of 18". A petition initiating proceedings under s. 938.12, 938.125 or 938.13 (12) shall be entitled, "In the interest of (juvenile's name), a person under the age of 17". A petition initiating proceedings under this chapter shall set forth with specificity all of the following:

(a) The name, birth date and address of the juvenile.

(b) The names and addresses of the juvenile's parent, guardian, legal custodian or spouse, if any; or if no such person can be identified, the name and address of the nearest relative.

(c) Whether the juvenile is in custody, and, if so, the place where the juvenile is being held and the time he or she was taken into custody unless there is reasonable cause to believe that such disclosure would result in imminent danger to the juvenile or physical custodian.

(d) If violation of a criminal statute, an ordinance or another law is alleged, the citation to the appropriate law or ordinance as well as facts sufficient to establish probable cause that an offense has been committed and that the juvenile named in the petition committed the offense.

(e) If the juvenile is alleged to come within the provisions of s. 938.13 (4), (6), (6m), (7) or (14) or 938.14, reliable and credible information which forms the basis of

the allegations necessary to invoke the jurisdiction of the court and to provide reasonable notice of the conduct or circumstances to be considered by the court together with a statement that the juvenile is in need of supervision, services, care or rehabilitation.

(2) If any of the facts in sub. (1) (a), (b) or (c) are not known or cannot be ascertained by the petitioner, the petition shall so state.

(3) If the information required under sub. (1) (d) or (e) is not stated the petition shall be dismissed or amended under s. 938.263 (2).

(4) A copy of the petition shall be given to the juvenile and to the parents, guardian, legal custodian and physical custodian.

**938.263 Amendment of petition.** (1) Except as provided in s. 938.255 (3), no petition, process or other proceeding may be dismissed or reversed for any error or mistake if the case and the identity of the juvenile named in the petition may be readily understood by the court; and the court may order an amendment curing the defects.

(2) With reasonable notification to the interested parties and prior to the taking of a plea under s. 938.30, the petition may be amended at the discretion of the court or person who filed the petition. After the taking of a plea, the court may allow amendment of the petition to conform to the proof if the amendment is not prejudicial to the juvenile.

**938.27 Notice; summons.** (1) After a citation is issued or a petition has been filed relating to facts concerning a situation specified under s. 938.12, 938.125 or 938.13, unless the parties under sub. (3) voluntarily appear, the court may issue a summons requiring the parent, guardian and legal custodian of the juvenile to appear personally at any hearing involving the juvenile, and, if the court so orders, to bring the juvenile before the court at a time and place stated.

(2) Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the court, is necessary.

(3) (a) The court shall also notify, under s. 938.273, the juvenile and any parent, guardian and legal custodian of the juvenile of all hearings involving the juvenile under this subchapter, except hearings on motions for which notice need only be provided to the juvenile and his or her counsel. Where parents entitled to notice have the same place of residence, notice to one shall constitute notice to the other. The first notice to any interested party shall be written and have a copy of the petition attached to it. Thereafter, notice of hearings may be given by telephone at least 72 hours before the time of the hearing. The person giving telephone notice shall place in the case file a signed statement of the time notice was given and the person to whom he or she spoke.

(b) 1. Except as provided in subd. 2., if the petition that was filed relates to facts concerning a situation under

s. 938.13 and if the juvenile is a nonmarital child who is not adopted or whose parents do not subsequently intermarry as provided under s. 767.60 and if paternity has not been established, the court shall notify, under s. 938.273, all of the following persons:

a. A person who has filed a declaration of interest under s. 48.025.

b. A person alleged to the court to be the father of the juvenile or who may, based on the statements of the mother or other information presented to the court, be the father of the juvenile.

2. A court is not required to provide notice, under subd. 1., to any person who may be the father of a juvenile conceived as a result of a sexual assault if a physician attests to his or her belief that there was a sexual assault of the juvenile's mother that may have resulted in the juvenile's conception.

(4) The notice shall:

(a) Contain the name of the juvenile, and the nature, location, date and time of the hearing.

(b) Advise the juvenile of his or her right to legal counsel regardless of ability to pay.

(4m) The district attorney or corporation counsel shall attempt to contact any known victim or alleged victim of a juvenile's act or alleged act and any known family member of a homicide victim or alleged homicide victim to inform them of the right to receive notice of any hearing under this chapter involving the juvenile. If a victim, alleged victim or family member of a homicide victim or of an alleged homicide victim indicates that he or she wishes to receive notice of any hearing under this chapter involving the juvenile, the district attorney or corporation counsel shall notify, under s. 938.273, that victim, alleged victim or family member of any hearing under this chapter involving the juvenile. Any failure to comply with this subsection is not a ground for an appeal of a judgment or dispositional order or for any court to reverse or modify a judgment or dispositional order.

(5) The court shall make every reasonable effort to identify and notify any person who has filed a declaration of interest under s. 48.025 and any person who has been adjudged to be the biological father of the juvenile in a judicial proceeding unless the biological father's rights have been terminated.

(6) When a proceeding is initiated under s. 938.14, all interested parties shall receive notice and appropriate summons shall be issued in a manner specified by the court, consistent with applicable governing statutes.

(7) When a citation has been issued under s. 938.17 (2) and the juvenile's parent, guardian and legal custodian have been notified of the citation, subs. (3) and (4) do not apply.

(8) When a petition is filed under s. 938.12 or 938.13, the court shall notify, in writing, the juvenile's parents or guardian that they may be ordered to reimburse this state

or the county for the costs of legal counsel provided for the juvenile, as provided under s. 938.275 (2).

**938.273 Service of summons or notice; expense.**

(1) Service of summons or notice required by s. 938.27 may be made by mailing a copy thereof to the persons summoned or notified. If the persons, other than a person specified in s. 938.27 (4m), fail to appear at the hearing or otherwise to acknowledge service, a continuance shall be granted, except where the court determines otherwise because the juvenile is in secure custody, and service shall be made personally by delivering to the persons a copy of the summons or notice; except that if the court is satisfied that it is impracticable to serve the summons or notice personally, it may make an order providing for the service of the summons or notice by certified mail addressed to the last-known addresses of the persons. The court may refuse to grant a continuance when the juvenile is being held in secure custody, but in such a case the court shall order that service of notice of the next hearing be made personally or by certified mail to the last-known address of the person who failed to appear at the hearing. Personal service shall be made at least 72 hours before the time of the hearing. Mail shall be sent at least 7 days before the time of the hearing, except where the petition is filed under s. 938.13 and the person to be notified lives outside the state, in which case the mail shall be sent at least 14 days before the time of the hearing.

(2) Service of summons or notice required by this subchapter may be made by any suitable person under the direction of the court. Notification of the victim or alleged victim of a juvenile's act or of a family member of a homicide victim or of an alleged homicide victim under s. 938.27 (4m) shall be made by the district attorney or corporation counsel.

(3) The expenses of service of summons or notice or of the publication of summons or notice and the traveling expenses and fees as allowed in ch. 885 incurred by any person summoned or required to appear at the hearing of any case coming within the jurisdiction of the court under s. 938.12, 938.125, 938.13 or 938.14 shall be a charge on the county when approved by the court.

**938.275 Parents' contribution to cost of court and legal services.** (1) If the court finds a juvenile to be delinquent under s. 938.12, in violation of a civil law or ordinance under s. 938.125 or in need of protection or services under s. 938.13, the court shall order the parents of the juvenile to contribute toward the expense of post-adjudication services to the juvenile the proportion of the total amount which the court finds the parents are able to pay.

(2) (a) If this state or a county provides legal counsel to a juvenile subject to a proceeding under s. 938.12 or 938.13, the court shall order the juvenile's parent to reimburse the state or county in accordance with par. (b) or (c). The court may not order reimbursement if a parent is the complaining or petitioning party or if the court finds that

the interests of the parent and the interests of the juvenile in the proceeding are substantially and directly adverse and that reimbursement would be unfair to the parent. The court may not order reimbursement until the completion of the proceeding or until the state or county is no longer providing the juvenile with legal counsel in the proceeding.

(b) If this state provides the juvenile with legal counsel and the court orders reimbursement under par. (a), the juvenile's parent may request the state public defender to determine whether the parent is indigent as provided under s. 977.07 and to determine the amount of reimbursement. If the parent is found not to be indigent, the amount of reimbursement shall be the maximum amount established by the public defender board. If the parent is found to be indigent in part, the amount of reimbursement shall be the amount of partial payment determined in accordance with the rules of the public defender board under s. 977.02 (3).

(c) If the county provides the juvenile with legal counsel and the court orders reimbursement under par. (a), the court shall either make a determination of indigency or shall appoint the county department to make the determination. If the court or the county department finds that the parent is not indigent or is indigent in part, the court shall establish the amount of reimbursement and shall order the parent to pay it.

(cg) The court shall, upon motion by a parent, hold a hearing to review any of the following:

1. An indigency determination made under par. (b) or (c).
2. The amount of reimbursement ordered.
3. The court's finding, under par. (a), that the interests of the parent and the juvenile are not substantially and directly adverse and that ordering the payment of reimbursement would not be unfair to the parent.

(cr) Following a hearing under par. (cg), the court may affirm, rescind or modify the reimbursement order.

(d) Reimbursement payments shall be made to the clerk of courts of the county where the proceedings took place. Each payment shall be transmitted to the county treasurer, who shall deposit 25% of the amount paid for state-provided counsel in the county treasury and transmit the remainder to the state treasurer. Payments transmitted to the state treasurer shall be deposited in the general fund and credited to the appropriation account under s. 20.550 (1) (L). The county treasurer shall deposit 100% of the amount paid for county-provided counsel in the county treasury.

(dm) Within 30 days after each calendar quarter, the clerk of court for each county shall report to the state public defender all of the following:

1. The total amount of reimbursement determined or ordered under par. (b) or (cr) for state-provided counsel during the previous calendar quarter.

2. The total amount collected under par. (d) for state-provided counsel during the previous calendar quarter.

(e) A person who fails to comply with an order under par. (b) or (c) may be proceeded against for contempt of court under ch. 785.

**938.28 Failure to obey summons; capias.** If any person summoned under this subchapter fails without reasonable cause to appear, he or she may be proceeded against for contempt of court. In case the summons cannot be served or the parties served fail to obey the same, or in any case when it appears to the court that the service will be ineffectual a capias may be issued for the parent, guardian and legal custodian or for the juvenile. Subchapter IV governs the taking and holding of a juvenile in custody.

**938.29 Substitution of judge.** (1) Except as provided in sub. (1g), the juvenile, either before or during the plea hearing, may file a written request with the clerk of the court or other person acting as the clerk for a substitution of the judge assigned to the proceeding. Upon filing the written request, the juvenile shall immediately mail or deliver a copy of the request to the judge named therein. In a proceeding under s. 938.12 or 938.13 (12), only the juvenile may request a substitution of the judge. Whenever the juvenile has the right to request a substitution of judge, the juvenile's counsel or guardian ad litem may file the request. Not more than one such written request may be filed in any one proceeding, nor may any single request name more than one judge. This section shall not apply to proceedings under s. 938.21.

(1g) The juvenile may not request the substitution of a judge in a proceeding under s. 938.12 or 938.13 (12), and the juvenile and the juvenile's parent, guardian or legal custodian may not request the substitution of a judge in a proceeding under s. 938.13 (4), (6), (6m) or (7), if the judge assigned to the proceeding has entered a dispositional order with respect to the juvenile in a previous proceeding under s. 938.12 or 938.13 (4), (6), (6m), (7) or (12) or the juvenile or the juvenile's parent, guardian or legal custodian has requested the substitution of a judge in a previous proceeding under s. 938.12 or 938.13 (4), (6), (6m), (7) or (12).

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

(2) If the request for substitution of a judge is made for the judge scheduled to conduct a waiver hearing under s. 938.18, the request shall be filed before the close of the working day preceding the day that the waiver hearing is scheduled. Except as provided in sub. (1g), the judge may allow an authorized party to make a request for substitution on the day of the waiver hearing. If the request for substitution is made subsequent to the waiver hearing, the judge who conducted the waiver hearing may also conduct the plea hearing.

**938.293 Discovery.** (1) Copies of all law enforcement officer reports, including but not limited to the officer's memorandum and witnesses' statements, shall be made available upon request to counsel or guardian ad litem prior to a plea hearing. The reports shall be available through the representative of the public designated under s. 938.09. The juvenile, through counsel or guardian ad litem, is the only party who shall have access to the reports in proceedings under s. 938.12, 938.125 or 938.13 (12). The identity of a confidential informant may be withheld pursuant to s. 905.10.

(2) All records relating to a juvenile which are relevant to the subject matter of a proceeding under this subchapter shall be open to inspection by a guardian ad litem or counsel for any party, upon demand and upon presentation of releases where necessary, at least 48 hours before the proceeding. Persons entitled to inspect the records may obtain copies of the records with the permission of the custodian of the records or with the permission of the court. The court may instruct counsel not to disclose specified items in the materials to the juvenile or the parent if the court reasonably believes that the disclosure would be harmful to the interests of the juvenile. Sections 971.23 to 971.25 and 972.11 (5) shall be applicable in all delinquency proceedings under this subchapter, except that the court shall establish the timetable for ss. 971.23 (3), (8) and (9) and 972.11 (5).

(3) Upon request prior to the fact-finding hearing, the district attorney shall disclose to the juvenile, and to the juvenile's counsel or guardian ad litem, the existence of any videotaped oral statement of a juvenile under s. 908.08 which is within the possession, custody or control of the state and shall make reasonable arrangements for the requesting person to view the videotaped oral statement. If, subsequent to compliance with this subsection, the state obtains possession, custody or control of such a videotaped statement, the district attorney shall promptly notify the requesting person of that fact and make reasonable arrangements for the requesting person to view the videotaped oral statement.

**938.295 Physical, psychological, mental or developmental examination.** (1) After the filing of a petition and upon a finding by the court that reasonable cause exists to warrant an examination or an alcohol and other drug abuse assessment that conforms to the criteria speci-



fied under s. 938.547 (4), the court may order any juvenile coming within its jurisdiction to be examined as an outpatient by personnel in an approved treatment facility for alcohol and other drug abuse, by a physician, psychiatrist or licensed psychologist, or by another expert appointed by the court holding at least a master's degree in social work or another related field of child development, in order that the juvenile's physical, psychological, alcohol or other drug dependency, mental or developmental condition may be considered. The court may also order an examination or an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 938.547 (4) of a parent, guardian or legal custodian whose ability to care for a juvenile is at issue before the court. The court shall hear any objections by the juvenile and the juvenile's parents, guardian or legal custodian to the request for such an examination or assessment before ordering the examination or assessment. The expenses of an examination, if approved by the court, shall be paid by the county of the court ordering the examination. The payment for an alcohol and other drug abuse assessment shall be in accordance with s. 938.361.

(1c) Reasonable cause is considered to exist to warrant an alcohol and other drug abuse assessment under sub. (1) if any of the following applies:

(a) The multidisciplinary screen procedure conducted under s. 938.24 (2) indicates that the juvenile is at risk of having needs and problems related to alcohol or other drug abuse.

(b) The juvenile was adjudicated delinquent on the basis of an offense specified in ch. 161.

(c) The greater weight of the evidence at the fact-finding hearing indicates that any offense which formed the basis for the adjudication was motivated by the juvenile's need to purchase or otherwise obtain alcohol beverages or controlled substances.

(1g) If the court orders an alcohol or other drug abuse assessment under sub. (1), the approved treatment facility shall, within 14 days after the court order, report the results of the assessment to the court, except that, upon request by the approved treatment facility and if the juvenile is not held in secure or nonsecure custody, the court may extend the period for assessment for not more than 20 additional working days. The report shall include a recommendation as to whether the juvenile is in need of treatment, intervention or education relating to the use or abuse of alcohol beverages or controlled substances and, if so, shall recommend a service plan and appropriate treatment from an approved treatment facility, intervention from a court-approved pupil assistance program or education from a court-approved alcohol or other drug abuse education program.

(2) (a) If there is probable cause to believe that the juvenile has committed the alleged offense and if there is reason to doubt the juvenile's competency to proceed, or upon entry of a plea under s. 938.30 (4) (c) the court shall

order the juvenile to be examined by a psychiatrist or licensed psychologist. The expenses of an examination, if approved by the court, shall be paid by the county of the court ordering the examination. Evaluation shall be made on an outpatient basis unless the juvenile presents a substantial risk of physical harm to the juvenile or others; or the juvenile, parent or guardian, and legal counsel or guardian ad litem consent to an inpatient evaluation. Any inpatient evaluation shall be for a specified period that is no longer than is necessary to complete the evaluation.

(b) The examiner shall file a report of the examination with the court by the date specified in the order. The court shall cause copies to be transmitted to the district attorney or corporation counsel and to the juvenile's counsel or guardian ad litem. The report shall describe the nature of the examination and identify the persons interviewed, the particular records reviewed and any tests administered to the juvenile. If the examination is ordered following a plea under s. 938.30 (4) (c), the report shall also contain an opinion regarding whether the juvenile suffered from mental disease or defect at the time of the commission of the act alleged in the petition and, if so, whether this caused the juvenile to lack substantial capacity to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of the law. If the examination is ordered following a finding that there is probable cause to believe that the juvenile has committed the alleged offense and that there is reason to doubt the juvenile's competency to proceed, the report shall also contain an opinion regarding the juvenile's present mental capacity to understand the proceedings and assist in his or her defense and, if the examiner reports that the juvenile lacks competency to proceed, the examiner's opinion regarding the likelihood that the juvenile, if provided treatment, may be restored to competency within the time specified in s. 938.30 (5) (e) 1. The report shall also state in reasonable detail the facts and reasoning upon which the examiner's opinions are based.

(3) If the juvenile or a parent objects to a particular physician, psychiatrist, licensed psychologist or other expert as required under this section, the court shall appoint a different physician, psychiatrist, psychologist or other expert as required under this section.

(4) Motions or objections under this section may be heard under s. 807.13.

**938.296 Testing for HIV infection and certain diseases.** (1) In this section:

(a) "Health care professional" has the meaning given in s. 252.15 (1) (am).

(b) "HIV" has the meaning given in s. 252.01 (1m).

(c) "Sexually transmitted disease" has the meaning given in s. 252.11 (1).

(d) "Significantly exposed" has the meaning given in s. 252.15 (1) (em).

(2) In a proceeding under s. 938.12 or 938.13 (12) in which the juvenile is alleged to have violated s. 940.225, 948.02, 948.025, 948.05 or 948.06, the district attorney or corporation counsel shall apply to the court for an order requiring the juvenile to submit to a test or a series of tests administered by a health care professional to detect the presence of HIV, antigen or nonantigenic products of HIV, an antibody to HIV or a sexually transmitted disease and to disclose the results of that test or series of tests as specified in sub. (4) (a) to (e), if all of the following apply:

(a) The victim or alleged victim, if an adult, or the parent, guardian or legal custodian of the victim or alleged victim, if the victim or alleged victim is a child, requests the district attorney or corporation counsel to apply for that order.

(b) The district attorney or corporation counsel has probable cause to believe that the juvenile has significantly exposed the victim or alleged victim. If the juvenile is adjudicated delinquent or found to be in need of protection or services, this paragraph does not apply.

(3) The district attorney or corporation counsel may apply for an order under sub. (2) at any of the following times:

(a) At or after the plea hearing and before a dispositional order is entered.

(b) At any time after the juvenile is adjudicated delinquent or found to be in need of protection or services.

(4) On receipt of an application for an order under sub. (2), the court shall set a time for a hearing on the application. If, after hearing, the court finds probable cause to believe that the juvenile has significantly exposed the victim or alleged victim, the court shall order the juvenile to submit to a test or a series of tests administered by a health care professional to detect the presence of HIV, antigen or nonantigenic products of HIV, an antibody to HIV or a sexually transmitted disease. The court shall require the health care professional who performs the test or series of tests to refrain, notwithstanding s. 252.15 (4) (c), from making the test results part of the juvenile's permanent medical record and to disclose the results of the test to any of the following:

(a) The parent, guardian or legal custodian of the juvenile.

(b) The victim or alleged victim, if the victim or alleged victim is an adult.

(c) The parent, guardian or legal custodian of the victim or alleged victim, if the victim or alleged victim is a child.

(d) The health care professional that provides care for the juvenile, upon request by the parent, guardian or legal custodian of the juvenile.

(e) The health care professional that provides care for the victim or alleged victim, upon request by the victim or alleged victim or, if the victim or alleged victim is a child, upon request by the parent, guardian or legal custodian of the victim or alleged victim.

(6) The court may order the county to pay for the cost of a test or series of tests ordered under sub. (4). This subsection does not prevent recovery of reasonable contribution toward the cost of that test or series of tests from the parent or guardian of the juvenile as the court may order based on the ability of the parent or guardian to pay. This subsection is subject to s. 46.03 (18).

**938.297 Motions before trial.** (1) Any motion which is capable of determination without trial of the general issue may be made before trial.

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

(3) Motions to suppress evidence as having been illegally seized or statements illegally obtained shall be made before fact-finding on the issues. The court may entertain the motion at the fact-finding hearing if it appears that a party is surprised by the attempt to introduce such evidence and that party waives jeopardy. Only the juvenile may waive jeopardy in cases under s. 938.12, 938.125 or 938.13 (12).

(4) Although the taking of a juvenile into custody is not an arrest, it shall be considered an arrest for the purpose of deciding motions which require a decision about the propriety of the taking into custody, including but not limited to motions to suppress evidence as illegally seized, motions to suppress statements as illegally obtained and motions challenging the lawfulness of the taking into custody.

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

(6) A motion required to be served on a juvenile may be served upon his or her attorney of record.

(7) Oral argument permitted on motions under this section may be heard by telephone under s. 807.13 (1).

**938.299 Procedures at hearings.** (1) (a) Except as provided in par. (ar), the general public shall be excluded from hearings under this chapter unless a public fact-finding hearing is demanded by a juvenile through his or her counsel. The court shall refuse to grant the public hearing, however, if the victim of an alleged sexual assault objects or, in a nondelinquency proceeding, if a parent or guardian objects. If a public hearing is not held, only the parties, their counsel, witnesses, a representative of the news media who wishes to attend the hearing for the purpose of reporting news without revealing the identity of the child involved and other persons requested by

a party and approved by the court may be present. Any other person the court finds to have a proper interest in the case or in the work of the court, including a member of the bar, may be admitted by the court.

(am) Subject to s. 906.15, if a public hearing is not held, in addition to persons permitted to attend under par. (a), a victim of a juvenile's act or alleged act may attend any hearing under this chapter based upon the act or alleged act, except that a judge may exclude a victim from any portion of a hearing which deals with sensitive personal matters of the juvenile or the juvenile's family and which does not directly relate to the act or alleged act committed against the victim. A member of the victim's family and, at the request of the victim, a representative of an organization providing support services to the victim, may attend the hearing under this subsection.

(ar) Notwithstanding par. (a), the general public may attend any hearing under this chapter relating to a juvenile who has been alleged to be delinquent for committing a violation that would be a felony if committed by an adult if the juvenile has been adjudicated delinquent previously and that previous adjudication remains of record and unreversed or relating to a juvenile who has been alleged to be delinquent for committing a violation specified in s. 939.62 (2m) (a) 1., 2. or 3. or a violation of s. 948.30 (1) or for conspiracy under s. 939.31 to commit any violation, except that the court shall exclude the general public from a hearing if the victim of a sexual assault objects and may, in its discretion, exclude the general public from any portion of a hearing which deals with sensitive personal matters of the juvenile or the juvenile's family and which does not relate to the act or alleged act committed by the juvenile or from any other hearing described in this paragraph. If the court excludes the general public from a hearing described in this paragraph, only those persons who are permitted under par. (a) or (am) to attend a hearing from which the general public is excluded may attend.

(b) Except as provided in s. 938.396, any person who divulges any information which would identify the juvenile or the family involved in any proceeding under this subchapter is subject to ch. 785. This paragraph does not preclude a victim of the juvenile's act from commencing a civil action based upon the juvenile's act.

(4) (a) Chapters 901 to 911 govern the presentation of evidence at the fact-finding hearing under s. 938.31. Section 972.11 (5) applies at fact-finding proceedings in all delinquency proceedings under this chapter.

(b) Except as provided in s. 901.05, neither common law nor statutory rules of evidence are binding at a waiver hearing under s. 938.18, a hearing for a juvenile held in custody under s. 938.21, a hearing under s. 938.296 (4) for a juvenile who is alleged to have violated s. 940.225, 948.02, 948.025, 948.05 or 948.06, a dispositional hearing, or a hearing about changes in placement, revision of dispositional orders or extension of dispositional orders.

At those hearings, the court shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant or unduly repetitious testimony or evidence that is inadmissible under s. 901.05. Hearsay evidence may be admitted if it has demonstrable circumstantial guarantees of trustworthiness. The court shall give effect to the rules of privilege recognized by law. The court shall apply the basic principles of relevancy, materiality and probative value to proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

(5) On request of any party, unless good cause to the contrary is shown, any hearing under s. 938.209 (1) (e) or 938.21 (1) may be held on the record by telephone or live audio-visual means or testimony may be received by telephone or live audio-visual means as prescribed in s. 807.13 (2). The request and the showing of good cause for not conducting the hearing or admitting testimony by telephone or live audio-visual means may be made by telephone.

(6) If a man who has been given notice under s. 938.27 (3) (b) 1. appears at any hearing for which he received the notice, alleges that he is the father of the juvenile and states that he wishes to establish the paternity of the juvenile, the court shall refer the matter to the state or to the attorney responsible for support enforcement under s. 59.458 (1) for a determination, under s. 767.45, of whether an action should be brought for the purpose of determining the paternity of the juvenile. The court may stay the proceedings under this chapter pending the outcome of the paternity proceedings under ss. 767.45 to 767.60 if the court determines that the paternity proceedings will not unduly delay the proceedings under this chapter and the determination of paternity is necessary to the court's disposition of the juvenile if the juvenile is found to be in need of protection or services. As part of the proceedings under this chapter, the court may order that a record be made of any testimony of the juvenile's mother relating to the juvenile's paternity. A record made under this subsection is admissible in a proceeding to determine the juvenile's paternity under ss. 767.45 to 767.60.

**938.30 Plea hearing.** (1) Except as provided in this subsection, the hearing to determine the juvenile's plea to a citation or a petition under s. 938.12, 938.125 or 938.13 (12), or to determine whether any party wishes to contest an allegation that the child is in need of protection or services under s. 938.13 (4), (6), (6m), (7) or (14) shall take place on a date which allows reasonable time for the parties to prepare but is within 30 days after the filing of a petition or issuance of a citation for a juvenile who is not being held in secure custody or within 10 days after the filing of a petition or issuance of a citation for a juvenile who is being held in secure custody. In a municipal court operated jointly by 2 or more cities, towns or villages

under s. 755.01 (4), the hearing to determine the juvenile's plea shall take place within 45 days after the filing of a petition or issuance of a citation for a juvenile who is not being held in secure custody.

(2) At or before the commencement of the hearing under this section the juvenile and the parent, guardian or legal custodian shall be advised of their rights as specified in s. 938.243 and shall be informed that the hearing shall be to the court and that a request for a substitution of judge under s. 938.29 must be made before the end of the plea hearing or be waived. Nonpetitioning parties, including the juvenile, shall be granted a continuance of the plea hearing if they wish to consult with an attorney on the request for a substitution of a judge.

(3) If a petition alleges that a juvenile is in need of protection or services under s. 938.13 (4), (6), (6m), (7) or (14), the nonpetitioning parties and the juvenile, if he or she is 12 years of age or older or is otherwise competent to do so, shall state whether they desire to contest the petition.

(4) If a delinquency petition under s. 938.12, a civil law or ordinance violation petition or citation under s. 938.125, or a petition alleging that the juvenile is in need of protection or services under s. 938.13 (12) is filed, the juvenile may submit any of the following pleas:

(a) Admit some or all of the facts alleged in the petition or citation, however, such a plea is an admission only of the commission of the acts and does not constitute an admission of delinquency.

(b) Deny the facts alleged in the petition or citation. If the juvenile stands mute or refuses to plead, the court shall direct entry of a denial of the facts alleged in the petition or citation on the juvenile's behalf.

(bm) Plead no contest to the allegations, but only if the court permits the juvenile to enter that plea.

(c) Except pursuant to a petition or citation under s. 938.125, state that he or she is not responsible for the acts alleged in the petition by reason of mental disease or defect. This plea shall be joined with an admission under par. (a), a denial under par. (b) or a plea of no contest under par. (bm).

(5) (a) If there is probable cause to believe that the juvenile has committed the alleged offense and if there is reason to doubt the juvenile's competency to proceed, or if the juvenile enters a plea of not responsible by reason of mental disease or defect, the court shall order an examination under s. 938.295 and shall specify the date by which the report must be filed in order to give the district attorney or corporation counsel and the juvenile's counsel a reasonable opportunity to review the report. The court shall set a date for hearing as follows:

1. If the juvenile admits or pleads no contest to the allegations in the petition, the hearing to determine whether the juvenile was not responsible by reason of mental disease or defect shall be held no more than 10 days from the plea hearing for a juvenile held in secure custody and

no more than 30 days from the plea hearing for a juvenile who is not held in secure custody.

2. If the juvenile denies the allegations in the petition or citation, the court shall hold a fact-finding hearing on the allegations in the petition or citation as provided under s. 938.31. If, at the end of the fact-finding hearing, the court finds that the allegations in the petition have been proven, the court shall immediately hold a hearing to determine whether the juvenile was not responsible by reason of mental disease or defect.

3. If the court has found probable cause to believe that the juvenile has committed the alleged offense and reason to doubt the juvenile's competency to proceed, the hearing to determine whether the juvenile is competent to proceed shall be held no more than 10 days after the plea hearing for a juvenile who is held in secure custody and no more than 30 days after the plea hearing for a juvenile who is not held in secure custody.

(b) If the court, after a hearing under par. (a) 1. or 2., finds that the juvenile was responsible, the court shall proceed to a dispositional hearing.

(bm) If the court, after a hearing under par. (a) 3., finds that the juvenile is competent to proceed, the court shall resume the delinquency proceeding.

(c) If the court finds that the juvenile was not responsible by reason of mental disease or defect, as described under s. 971.15 (1) and (2), the court shall dismiss the petition with prejudice and shall also do one of the following:

1. If the court finds that there is probable cause to believe that the juvenile meets the conditions specified under s. 51.20 (1) (a) 1. and 2., order the county department under s. 46.22, 46.23 or 46.215 in the county of the juvenile's residence or the district attorney or corporation counsel who filed the petition under s. 938.12 or 938.13 (12) to file a petition under s. 51.20 (1).

2. Order the district attorney or corporation counsel who filed the petition under s. 938.12 or 938.13 (12) to file a petition alleging that the juvenile is in need of protection or services under s. 938.13 (14).

(d) If the court finds that the juvenile is not competent to proceed, as described in s. 971.13 (1) and (2), the court shall suspend proceedings on the petition and shall also do one of the following:

1. If the court finds that there is probable cause to believe that the juvenile meets the conditions specified under s. 51.20 (1) (a) 1. and 2., order the county department under s. 46.22, 46.23 or 46.215 in the county of the juvenile's residence or the district attorney or corporation counsel who filed the petition under s. 938.12 or 938.13 (12) to file a petition under s. 51.20 (1).

2. Order the district attorney or corporation counsel who filed the petition under s. 938.12 or 938.13 (12) to file a petition alleging that the juvenile is in need of protection or services under s. 938.13 (14).

(e) 1. A juvenile who is not competent to proceed, as described in s. 971.13 (1) and (2), but who is likely to become competent to proceed within 12 months or the maximum sentence that may be imposed on an adult for the most serious delinquent act with which the juvenile is charged, whichever is less, and who is committed under s. 51.20 following an order under par. (d) 1. or who is placed under a dispositional order following an order under par. (d) 2., shall be periodically reexamined with written reports of those reexaminations to be submitted to the court every 3 months and within 30 days before the expiration of the juvenile's commitment or dispositional order. Each report shall indicate either that the juvenile has become competent, that the juvenile remains incompetent but that attainment of competence is likely within the remaining period of the commitment or dispositional order or that the juvenile has not made such progress that attainment of competency is likely within the remaining period of the commitment or dispositional order.

2. The court shall cause copies of the reports under subd. 1. to be transmitted to the district attorney or corporation counsel and the juvenile's counsel. If a report under subd. 1. indicates that the juvenile has become competent, the court shall hold a hearing within 10 days after the court receives the report to determine whether the juvenile is competent. If the court determines that the juvenile is competent, the court shall terminate the juvenile's commitment or dispositional order and resume the delinquency proceeding.

3. If the juvenile is receiving psychotropic medication, the court may make appropriate orders for the continued administration of the psychotropic medication in order to maintain the competence of the juvenile for the duration of the proceeding.

(6) If a petition is not contested, the court shall set a date for the dispositional hearing which allows reasonable time for the parties to prepare but is no more than 10 days from the plea hearing for a juvenile who is held in secure custody and no more than 30 days from the plea hearing for a juvenile who is not held in secure custody. If it appears to the court that disposition of the case may include placement of the juvenile outside the juvenile's home, the court shall order the juvenile's parent to provide a statement of income, assets, debts and living expenses to the court or the designated agency under s. 938.33 (1) at least 5 days before the scheduled date of the dispositional hearing or as otherwise ordered by the court. The clerk of court shall provide, without charge, to any parent ordered to provide a statement of income, assets, debts and living expenses a document setting forth the percentage standard established by the department of health and social services under s. 46.25 (9) and listing the factors that a court may consider under s. 46.10 (14) (c). If all parties consent the court may proceed immediately with the dispositional hearing. If a citation is not

contested, the court may proceed immediately to enter a dispositional order.

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

(8) Except when a juvenile fails to appear in response or stipulates to a citation before accepting an admission or plea of no contest of the alleged facts in a petition or citation, the court shall do all of the following:

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

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

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

(9) If a court commissioner conducts the plea hearing and accepts an admission of the alleged facts in a petition brought under s. 938.12 or 938.13, the judge shall review the admission at the beginning of the dispositional hearing by addressing the parties and making the inquires set forth in sub. (8).

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

**938.305 Hearing upon the involuntary removal of a juvenile.** Notwithstanding other time periods for hearings under this chapter, if a juvenile is removed from the physical custody of the juvenile's parent or guardian under s. 938.19 (1) (c) or (d) 5. without the consent of the parent or guardian, the court shall schedule a plea hearing and fact-finding hearing within 30 days after a request from the parent or guardian from whom custody was removed. The plea hearing and fact-finding hearing may be combined. This time period may be extended only with the consent of the requesting parent or guardian.

**938.31 Fact-finding hearing. (1)** In this section, "fact-finding hearing" means a hearing to determine if the allegations of a petition under s. 938.12 or 938.13 (12) are supported beyond a reasonable doubt or a hearing to determine if the allegations in a petition or citation under s. 938.125 or 938.13 (4), (6), (6m), (7) or (14) are proved by clear and convincing evidence.

(2) The hearing shall be to the court. If the hearing involves a child victim or witness, as defined in s. 950.02, the court may order the taking and allow the use of a videotaped deposition under s. 967.04 (7) to (10) and, with the district attorney, shall comply with s. 971.105. At the conclusion of the hearing, the court shall make a determination of the facts. If the court finds that the juvenile is not within the jurisdiction of the court or the court finds that the facts alleged in the petition or citation have not been proved, the court shall dismiss the petition or citation with prejudice.

(4) The court shall make findings of fact and conclusions of law relating to the allegations of a petition under s. 938.12, 938.125 or 938.13. In cases alleging a juvenile to be delinquent or in need of protection or services under s. 938.13 (12), the court shall make findings relating to the proof of the violation of law and to the proof that the juvenile named in the petition committed the violation alleged.

(7) At the close of the fact-finding hearing, the court shall set a date for the dispositional hearing which allows a reasonable time for the parties to prepare but is no more than 10 days after the fact-finding hearing for a juvenile in secure custody and no more than 30 days after the fact-finding hearing for a juvenile not held in secure custody. If it appears to the court that disposition of the case may include placement of the juvenile outside the juvenile's home, the court shall order the juvenile's parent to provide a statement of income, assets, debts and living expenses to the court or the designated agency under s. 938.33 (1) at least 5 days before the scheduled date of the dispositional hearing or as otherwise ordered by the court. The clerk of court shall provide, without charge, to any parent ordered to provide a statement of income, assets, debts and living expenses a document setting forth the percentage standard established by the department of health and social services under s. 46.25 (9) and listing the factors that a court may consider under s. 46.10 (14) (c). If all parties consent, the court may immediately proceed with a dispositional hearing.

**938.315 Delays, continuances and extensions. (1)** The following time periods shall be excluded in computing time requirements within this chapter:

(a) Any period of delay resulting from other legal actions concerning the juvenile, including an examination under s. 938.295 or a hearing related to the juvenile's mental condition, prehearing motions, waiver motions and hearings on other matters.

(b) Any period of delay resulting from a continuance granted at the request of or with the consent of the juvenile and counsel.

(c) Any period of delay caused by the disqualification or substitution of a judge or by any other transfer of the case or intake inquiry to a different judge, intake worker or county.

(d) Any period of delay resulting from a continuance granted at the request of the representative of the public under s. 938.09 if the continuance is granted because of the unavailability of evidence material to the case when he or she has exercised due diligence to obtain the evidence and there are reasonable grounds to believe that the evidence will be available at the later date, or to allow him or her additional time to prepare the case and additional time is justified because of the exceptional circumstances of the case.

(e) Any period of delay resulting from the imposition of a consent decree.

(f) Any period of delay resulting from the absence or unavailability of the juvenile.

(fm) Any period of delay resulting from the inability of the court to provide the juvenile with notice of an extension hearing under s. 938.365 due to the juvenile having run away or otherwise having made himself or herself unavailable to receive that notice.

(g) A reasonable period of delay when the juvenile is joined in a hearing with another juvenile as to whom the time for a hearing has not expired under this section if there is good cause for not hearing the cases separately.

(2) A continuance may be granted by the court only upon a showing of good cause in open court or during a telephone conference under s. 807.13 on the record and only for so long as is necessary, taking into account the request or consent of the representative of the public under s. 938.09 or the parties and the interest of the public in the prompt disposition of cases.

(3) Failure to comply with any time limit specified in this chapter does not deprive the court of personal or subject matter jurisdiction or of competency to exercise that jurisdiction. If a party does not comply with a time limit specified in this chapter, the court may grant a continuance under sub. (2), 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 court considers appropriate.

**938.317 Jeopardy.** Jeopardy attaches when a witness is sworn.

**938.32 Consent decree. (1)** (a) At any time after the filing of a petition for a proceeding relating to s. 938.12 or 938.13 and before the entry of judgment, the judge or juvenile court commissioner may suspend the proceedings and place the juvenile under supervision in the juvenile's own home or present placement or in a youth village program as described in s. 118.42. The court may establish terms and conditions applicable to the parent, guardian or legal custodian, and to the juvenile, including any of the conditions specified in subs. (1d), (1g), (1m), (1t) and (1x). The order under this section shall be known as a consent decree and must be agreed to by the juvenile; the parent, guardian or legal custodian; and the person filing the petition under s. 938.25. If the consent decree

includes any conditions specified in sub. (1g), the consent decree shall include provisions for payment of the services as specified in s. 938.361. The consent decree shall be reduced to writing and given to the parties.

(b) 1. Before entering into a consent decree in a proceeding in which a juvenile is alleged to be delinquent under s. 938.12 or to be in need of protection or services under s. 938.13 (12), the court shall allow a victim or a family member of a homicide victim to make a statement or to submit a written statement to be read to the court. The court may allow any other person to make or submit a statement under this subdivision. Any statement made under this subdivision must be relevant to the consent decree.

2. Before entering into a consent decree in a proceeding in which a juvenile is alleged to be delinquent under s. 938.12 or to be in need of protection or services under s. 938.13 (12), the district attorney or corporation counsel shall attempt to contact any known victim or family member of a homicide victim to inform that person of the right to make a statement under subd. 1. Any failure to comply with this subdivision is not a ground for discharge of the juvenile, parent, guardian or legal custodian from fulfilling the terms and conditions of the consent decree.

(1d) If the petition alleges that the juvenile has committed an act that would constitute a misdemeanor if committed by an adult, if the chief judge of the judicial administrative district has approved under s. 973.11 (2) a volunteers in probation program established in the juvenile's county of residence and if the judge or juvenile court commissioner determines that volunteer supervision under that volunteers in probation program will likely benefit the juvenile and the community, the judge or juvenile court commissioner may establish as a condition under sub. (1) that the juvenile be placed with that volunteers in probation program under such conditions as the judge or juvenile court commissioner determines are reasonable and appropriate. These conditions may include, but need not be limited to, any of the following:

(a) A directive to a volunteer to provide for the juvenile a role model, informal counseling, general monitoring and monitoring of the conditions established by the judge or juvenile court commissioner, or any combination of these functions.

(b) Any other conditions that the judge or juvenile court commissioner may establish under this section.

(1g) If the petition alleges that the juvenile committed a violation specified under ch. 161 and if the multidisciplinary screen conducted under s. 938.24 (2) shows that the juvenile is at risk of having needs and problems related to the use of alcohol beverages or controlled substances and its medical, personal, family and social effects, the judge or juvenile court commissioner may establish as a condition under sub. (1) any of the following:

(a) That the juvenile participate in outpatient treatment from an approved treatment facility for alcohol and other drug abuse, if an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 938.547 (4) was completed under s. 938.295 (1).

(b) That the juvenile participate in a court-approved pupil assistance program provided by the juvenile's school board or a court-approved alcohol or other drug abuse education program. The juvenile's participation in a court-approved pupil assistance program under this paragraph is subject to the approval of the juvenile's school board.

(1m) The judge or juvenile court commissioner may establish as a condition under sub. (1) that the juvenile be placed in a teen court program if all of the following conditions apply:

(a) The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the judge or juvenile court commissioner determines that participation in the teen court program will likely benefit the juvenile and the community.

(b) The juvenile is alleged to have committed a delinquent act that would be a misdemeanor if committed by an adult.

(c) The juvenile admits or pleads no contest in open court, with the juvenile's parent, guardian or legal custodian present, to the allegations that the juvenile committed the delinquent act.

(d) The juvenile has not successfully completed participation in a teen court program during the 2 years before the date of the alleged delinquent act.

(1r) If the conditions of the consent decree provide for an alcohol and other drug abuse outpatient treatment program under sub. (1g) (a), the juvenile or, if the juvenile has not attained the age of 12, the juvenile's parent, guardian or legal custodian shall execute an informed consent form that indicates that they are voluntarily and knowingly entering into a consent decree for the provision of alcohol and other drug abuse outpatient treatment.

(1t) (a) 1. Subject to subd. 3., if the petition alleges that the juvenile committed a delinquent act that has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the judge or juvenile court commissioner may require the juvenile as a condition of the consent decree, to repair the damage to property or to make reasonable restitution for the damage or injury if the judge or juvenile court commissioner, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being and behavior of the juvenile. Any consent decree that includes a condition of restitution shall include a finding that the juvenile alone is financially able to pay and may allow up to the date of the expiration of the consent decree for the payment. Objection by the juvenile to

the amount of damages claimed shall entitle the juvenile to a hearing on the question of damages before the amount of restitution is made part of the consent decree.

2. In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a juvenile who is under 14 years of age who is participating in a restitution project provided by the county may, for the purpose of making restitution under the consent decree, be employed or perform any duties under any circumstances in which a juvenile 14 or 15 years of age is permitted to be employed or to perform duties under ch. 103 or any rule or order under ch. 103.

3. Under this paragraph, a judge or juvenile court commissioner may not order a juvenile who is under 14 years of age to make more than \$250 in restitution.

(b) The judge may require the juvenile to participate in a supervised work program or other community service work under s. 938.34 (5g) as a condition of the consent decree.

(1x) If the petition alleges that the juvenile violated s. 943.017 and the juvenile has attained the minimum age at which a juvenile may be adjudicated delinquent, the judge or juvenile court commissioner may require, as a condition of the consent decree, that the juvenile participate for not less than 10 hours nor more than 100 hours in a supervised work program under s. 938.34 (5g) or perform not less than 10 hours nor more than 100 hours of other community service work, except that if the juvenile has not attained 14 years of age the maximum number of hours is 40.

(2) (a) A consent decree shall remain in effect for up to one year unless the juvenile, parent, guardian or legal custodian is discharged sooner by the judge or juvenile court commissioner.

(c) Upon the motion of the court or the application of the juvenile, parent, guardian, legal custodian, intake worker or any agency supervising the juvenile under the consent decree, the court may, after giving notice to the parties to the consent decree and their counsel, if any, extend the decree for up to an additional 6 months or, if the consent decree places the juvenile in a youth village program as described in s. 118.42, for up to an additional one year in the absence of objection to extension by the parties to the initial consent decree. If the parent, guardian or legal custodian objects to the extension, the court shall schedule a hearing and make a determination on the issue of extension. A consent decree placing a juvenile in a youth village program as described in s. 118.42 may be extended no more than twice.

(3) If, prior to discharge by the court, or the expiration of the consent decree, the court finds that the juvenile or parent, legal guardian or legal custodian has failed to fulfill the express terms and conditions of the consent decree or that the juvenile objects to the continuation of the consent decree, the hearing under which the juvenile was

placed on supervision may be continued to conclusion as if the consent decree had never been entered.

(4) No juvenile who is discharged by the court or who completes the period of supervision without reinstatement of the original petition may again be proceeded against in any court for the same offense alleged in the petition or an offense based on the same conduct, and the original petition shall be dismissed with prejudice. Nothing in this subsection precludes a civil suit against the juvenile or parent for damages arising from the juvenile's conduct.

(5) A court which, under this section, elicits or examines information or material about a juvenile which would be inadmissible in a hearing on the allegations of the petition may not, over objections of one of the parties, participate in any subsequent proceedings if any of the following applies:

(a) The court refuses to enter into a consent decree and the allegations in the petition remain to be decided in a hearing where the juvenile denies the allegations of delinquency.

(b) A consent decree is granted but the petition under s. 938.12 or 938.13 is subsequently reinstated.

(6) The judge or juvenile court commissioner shall inform the juvenile and the juvenile's parent, guardian or legal custodian, in writing, of the juvenile's right to object to the continuation of the consent decree under sub. (3) and of the fact that the hearing under which the juvenile was placed on supervision may be continued to conclusion as if the consent decree had never been entered.

#### SUBCHAPTER VI DISPOSITION

**938.33 Court reports.** (1) REPORT REQUIRED. Before the disposition of a juvenile adjudged to be delinquent or in need of protection or services, the court shall designate an agency, as defined in s. 938.38 (1) (a), to submit a report which shall contain all of the following:

(a) The social history of the juvenile.

(b) A recommended plan of rehabilitation or treatment and care for the juvenile which is based on the investigation conducted by the agency and any report resulting from an examination or assessment under s. 938.295, which employs the most effective means available to accomplish the objectives of the plan.

(c) A description of the specific services or continuum of services which the agency is recommending that the court order for the juvenile or family, the persons or agencies that would be primarily responsible for providing those services, and the identity of the person or agency that would provide case management or coordination of services if any or whether or not the juvenile should receive an integrated service plan.

(d) A statement of the objectives of the plan, including any desired behavior changes and the academic, social and vocational skills needed by the juvenile.



(e) A plan for the provision of educational services to the juvenile, prepared after consultation with the staff of the school in which the juvenile is enrolled or the last school in which the juvenile was enrolled.

(f) If the agency is recommending that the court order the juvenile's parent, guardian or legal custodian to participate in mental health treatment, anger management, individual or family counseling or parent training and education, a statement as to the availability of those services and as to the availability of funding for those services.

(2) HOME PLACEMENT REPORTS. A report recommending that the juvenile remain in his or her home may be presented orally at the dispositional hearing if all parties consent. A report that is presented orally shall be transcribed and made a part of the court record.

(3) CORRECTIONAL PLACEMENT REPORTS. A report recommending placement of a juvenile in a secured correctional facility under the supervision of the department or a secured child caring institution shall be in writing, except that the report may be presented orally at the dispositional hearing if the juvenile and the juvenile's counsel consent. A report that is presented orally shall be transcribed and made a part of the court record. In addition to the information specified under sub. (1) (a) to (d), the report shall include all of the following:

(a) A description of any less restrictive alternatives that are available and that have been considered, and why they have been determined to be inappropriate. If the judge has found that any of the conditions specified in s. 938.34 (4m) (b) 1., 2. or 3. applies, the report shall indicate that a less restrictive alternative than placement in a secured correctional facility or a secured child caring institution is not appropriate.

(b) A recommendation for an amount of child support to be paid by either or both of the juvenile's parents or for referral to the county designee under s. 59.07 (97) for the establishment of child support.

(3r) SERIOUS JUVENILE OFFENDER REPORT. If a juvenile has been adjudicated delinquent for committing a violation for which the juvenile maybe placed in the serious juvenile offender program under s. 938.34 (4h) (a), the report shall be in writing and, in addition to the information specified in sub. (1) and in sub. (3) or (4), if applicable, shall include an analysis of the juvenile's suitability for placement in the serious juvenile offender program under s. 938.34 (4h) or in a secured correctional facility under s. 938.34 (4m), a placement specified in s. 938.34 (3) or placement in the juvenile's home with supervision and community-based programming and a recommendation as to the type of placement for which the juvenile is best suited.

(4) OTHER OUT-OF-HOME PLACEMENTS. A report recommending placement in a foster home, treatment foster home, group home or nonsecured child caring institution shall be in writing, except that the report may be pres-

ented orally at the dispositional hearing if all parties consent. A report that is presented orally shall be transcribed and made a part of the court record. The report shall include all of the following:

(a) A permanency plan prepared under s. 938.38.

(b) A recommendation for an amount of child support to be paid by either or both of the juvenile's parents or for referral to the county designee under s. 59.07 (97) for the establishment of child support.

(4m) SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. In making a recommendation for an amount of child support under sub. (3) or (4), the agency shall consider the factors that the court considers under s. 46.10 (14) (c) for deviation from the percentage standard. At or before the dispositional hearing under s. 938.335, the agency shall provide the juvenile's parent with all of the following:

(a) Its recommendation for juvenile support.

(b) A written explanation of how the parent may request that the court modify the amount of child support under s. 46.10 (14) (c).

(c) A written explanation of how the parent may request a revision under s. 938.363 in the amount of child support ordered by the court under s. 938.335 (2) (b) 4.

(5) IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT; CONFIDENTIALITY. If the report recommends placement in a foster home or a treatment foster home, and the name of the foster parent or treatment foster parent is not available at the time the report is filed, the agency shall provide the court and the juvenile's parent or guardian with the name and address of the foster parent or treatment foster parent within 21 days after the dispositional order is entered, except that the court may order the information withheld from the juvenile's parent or guardian if the court finds that disclosure would result in imminent danger to the juvenile or to the foster parent or treatment foster parent. After notifying the juvenile's parent or guardian, the court shall hold a hearing prior to ordering the information withheld.

**938.331 Court reports; effect on victim.** If the delinquent act would constitute a felony if committed by an adult, the person preparing the report under s. 938.33 (1) shall attempt to determine the economic, physical and psychological effect of the delinquent act on the victim. The person preparing the report may ask any appropriate person for information. This section does not preclude the person who prepares the report from including any information for the court concerning the impact of a delinquent act on the victim. If the delinquent act would not constitute a felony but a victim has suffered bodily harm or the act involved theft or damage to property, the person preparing the report is encouraged to seek the information described in this section.

**938.335 Dispositional hearings.** (1) The court shall conduct a hearing to determine the disposition of a case in which a juvenile is adjudged to be delinquent under s.

938.12, to have violated a civil law or ordinance under s. 938.125 or to be in need of protection or services under s. 938.13, except that the court shall proceed as provided in s. 938.237 (2) if a citation is issued and the juvenile fails to contest the citation.

(3) At hearings under this section, any party may present evidence relevant to the issue of disposition, including expert testimony, and may make alternative dispositional recommendations.

(3m) (a) Before imposing a disposition in a proceeding in which a juvenile is adjudged to be delinquent under s. 938.12 or is found to be in need of protection or services under s. 938.13 (12), the court shall allow a victim or a family member of a homicide victim to make a statement or to submit a written statement to be read to the court. The court may allow any other person to make or submit a statement under this paragraph. Any statement made under this paragraph must be relevant to the disposition.

(b) After a finding that a juvenile is delinquent under s. 938.12 or is found to be in need of protection or services under s. 938.13 (12), the district attorney or corporation counsel shall attempt to contact any known victim or family member of a homicide victim to inform that person of the right to make a statement under par. (a). Any failure to comply with this paragraph is not a ground for an appeal of a dispositional order or for any court to reverse or modify a dispositional order.

(3r) At hearings under this section, a parent of the juvenile may present evidence relevant to the amount of child support to be paid by either or both parents.

(4) At hearings under this section, s. 938.357, 938.363 or 938.365, on the request of any party, unless good cause to the contrary is shown, the court may admit testimony on the record by telephone or live audio-visual means, if available, under s. 807.13 (2). The request and the showing of good cause may be made by telephone.

(5) At the conclusion of the hearing, the court shall make a dispositional order in accordance with s. 938.355.

**938.34 Disposition of juvenile adjudged delinquent.** If the court adjudges a juvenile delinquent, the court shall enter an order deciding one or more of the dispositions of the case as provided in this section under a care and treatment plan. A disposition under sub. (4m) must be combined with a disposition under sub. (4n). In deciding the dispositions for a juvenile who is adjudicated delinquent, the court shall consider the seriousness of the act for which the juvenile is adjudicated delinquent and may consider any other delinquent act that is read into the record and dismissed at the time of the adjudication. The dispositions under this section are:

(1) COUNSELING. Counsel the juvenile or the parent, guardian or legal custodian.

(2) SUPERVISION. (a) Place the juvenile under the supervision of an agency, the department, if the department approves, or a suitable adult, including a friend of the juvenile, under conditions prescribed by the court includ-

ing reasonable rules for the juvenile's conduct, designed for the physical, mental and moral well-being and behavior of the juvenile.

(b) If the juvenile is placed in the juvenile's home under the supervision of an agency or the department, order the agency or department to provide specified services to the juvenile and the juvenile's family, which may include but are not limited to individual, family or group counseling, homemaker or parent aide services, respite care, housing assistance, day care or parent skills training.

(c) Order the juvenile to remain at his or her home or other placement for a period of not more than 30 days under rules of supervision specified in the order.

(2g) VOLUNTEERS IN PROBATION PROGRAM. If the juvenile is adjudicated delinquent for the commission of an act that would constitute a misdemeanor if committed by an adult, if the chief judge of the judicial administrative district has approved under s. 973.11 (2) a volunteers in probation program established in the juvenile's county of residence and if the court determines that volunteer supervision under that volunteers in probation program will likely benefit the juvenile and the community, placement of the juvenile with that volunteers in probation program under such conditions as the court determines are reasonable and appropriate. These conditions may include, but need not be limited to, any of the following:

(a) A directive to a volunteer to provide for the juvenile a role model, informal counseling, general monitoring and monitoring of the conditions established by the court, or any combination of these functions.

(b) Any other disposition that the court may impose under this section.

(2m) TEEN COURT PROGRAM. Order the juvenile to be placed in a teen court program if all of the following conditions apply:

(a) The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the judge determines that participation in the teen court program will likely benefit the juvenile and the community.

(b) The juvenile is alleged to have committed a delinquent act that would be a misdemeanor if committed by an adult.

(c) The juvenile admits or pleads no contest in open court, with the juvenile's parent, guardian or legal custodian present, to the allegations that the juvenile committed the delinquent act.

(d) The juvenile has not successfully completed participation in a teen court program during the 2 years before the date of the alleged delinquent act.

(2r) INTENSIVE SUPERVISION. Order the juvenile to participate in an intensive supervision program under s. 938.534.

(3) PLACEMENT. Designate one of the following as the placement for the juvenile:

(a) The home of a parent or other relative of the juvenile.

(b) A home which need not be licensed if placement is for less than 30 days.

(c) A foster home or treatment foster home licensed under s. 48.62 or a group home licensed under s. 48.625.

(d) A child caring institution licensed under s. 48.60.

(dm) A youth village program as described in s. 118.42, if the juvenile, his or her parent, guardian or legal custodian and the youth village program agree to that placement.

(e) An independent living situation effective on or after the juvenile's 17th birthday, either alone or with friends, under such supervision as the court considers appropriate, but only if the juvenile is of sufficient maturity and judgment to live independently and only upon proof of a reasonable plan for supervision by an appropriate person or agency.

(f) A secure detention facility or juvenile portion of a county jail that meets the standards promulgated by the department of corrections by rule, or in a place of nonsecure custody designated by the court, subject to all of the following:

1. The placement may be for any combination of single or consecutive days totalling not more than 30. The juvenile shall be given credit against the period of detention or nonsecure custody imposed under this paragraph for all time spent in secure detention in connection with the course of conduct for which the detention or nonsecure custody was imposed.

2. The order may provide that the juvenile may be released from the secure detention facility, juvenile portion of the jail or place of nonsecure custody during specified hours to attend school, to work at the juvenile's place of employment or to attend or participate in any activity which the court considers beneficial to the juvenile.

3. The use of placement in a secure detention facility or in a juvenile portion of a county jail as a disposition under this paragraph is subject to the adoption of a resolution by the county board of supervisors under s. 938.06 (5) authorizing the use of those placements as a disposition.

**(3g) ELECTRONIC MONITORING.** Monitoring by an electronic monitoring system for a juvenile subject to an order under sub. (2), (2r), (3) (a) to (e), (4h) or (4n) who is placed in the community.

**(4) TRANSFER OF LEGAL CUSTODY.** If it is shown that the rehabilitation or the treatment and care of the juvenile cannot be accomplished by means of voluntary consent of the parent or guardian, transfer legal custody to any of the following:

(a) A relative of the juvenile.

(b) A county department.

(c) A licensed child welfare agency.

**(4h) SERIOUS JUVENILE OFFENDER PROGRAM.** Place the juvenile in the serious juvenile offender program under s. 938.538, but only if all of the following apply:

(a) The juvenile is 14 years of age or over and has been adjudicated delinquent for committing a violation of s. 939.31, 939.32 (1) (a), 940.03, 940.21, 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m) or (1r), 943.32 (2), 948.02 (1), 948.025, 948.30, 948.35 (1) (b) or 948.36 or the juvenile is 10 years of age or over and has been adjudicated delinquent for attempting or committing a violation of s. 940.01 or for committing a violation of 940.02 or 940.05.

(b) The judge finds that the only other disposition that would be appropriate for the juvenile would be placement of the juvenile in a secured correctional facility under sub. (4m).

**(4m) CORRECTIONAL PLACEMENT.** Place the juvenile in a secured correctional facility under the supervision of the department if the juvenile is 12 years of age or over or, if the juvenile is under 12 years of age, in a secured child caring institution under the supervision of the department, unless the department, after an examination under s. 938.50, determines that placement in a secured correctional facility is more appropriate, but only if all of the following apply:

(a) The juvenile has been found to be delinquent for the commission of an act which if committed by an adult would be punishable by a sentence of 6 months or more.

(b) The juvenile has been found to be a danger to the public and to be in need of restrictive custodial treatment. If the judge determines that any of the following conditions applies, but that placement in the serious juvenile offender program under sub. (4h) would not be appropriate, that determination shall be prima facie evidence that the juvenile is a danger to the public and in need of restrictive custodial treatment under this subsection:

1. The juvenile has committed a delinquent act that would be a felony under s. 940.01, 940.02, 940.03, 940.05, 940.19 (2) to (6), 940.21, 940.225 (1), 940.31, 941.20 (3), 943.02 (1), 943.23 (1g), (1m) or (1r), 943.32 (2), 947.013 (1t), (1v) or (1x), 948.02 (1) or (2), 948.025 or 948.03 if committed by an adult.

2. The juvenile has possessed, used or threatened to use a handgun, as defined in s. 175.35 (1) (b), short-barreled rifle, as defined in s. 941.28 (1) (b), or short-barreled shotgun, as defined in s. 941.28 (1) (c), while committing a delinquent act that would be a felony under ch. 940 if committed by an adult.

3. The juvenile has possessed or gone armed with a short-barreled rifle or a short-barreled shotgun in violation of s. 941.28 or has possessed or gone armed with a handgun in violation of s. 948.60.

**(4n) AFTERCARE SUPERVISION.** Subject to s. 938.532 (3) and to any arrangement between the department and

a county department regarding the provision of aftercare supervision for juveniles who have been released from a secured correctional facility or a secured child caring institution, designate one of the following to provide aftercare supervision for the juvenile following the juvenile's release from the secured correctional facility or secured child caring institution:

(a) The department.

(b) The county department of the county of the court that placed the juvenile in the secured correctional facility or secured child caring institution.

(c) The county department of the juvenile's county of legal residence.

**(5) RESTITUTION.** (a) Subject to par. (c), if the juvenile is found to have committed a delinquent act which has resulted in damage to the property of another, or actual physical injury to another excluding pain and suffering, order the juvenile to repair the damage to property or to make reasonable restitution for the damage or injury if the court, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being and behavior of the juvenile. Any such order shall include a finding that the juvenile alone is financially able to pay and may allow up to the date of the expiration of the order for the payment. Objection by the juvenile to the amount of damages claimed shall entitle the juvenile to a hearing on the question of damages before the amount of restitution is ordered.

(am) Subject to par. (c), order a juvenile who owes restitution under par. (a) and who is receiving income while placed in a secured correctional facility, residential treatment center or other out-of-home placement to contribute a stated percentage of that income towards that restitution.

(b) In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a juvenile who is under 14 years of age who is participating in a restitution project provided by the county may, for the purpose of making restitution ordered by the court under this subsection, be employed or perform any duties under any circumstances in which a juvenile 14 or 15 years of age is permitted to be employed or perform duties under ch. 103 or any rule or order under ch. 103.

(c) Under this subsection, a court may not order a juvenile who is under 14 years of age to make more than \$250 in restitution.

**(5g) SUPERVISED WORK PROGRAM OR OTHER COMMUNITY SERVICE WORK.** (a) Order the juvenile to participate in a supervised work program administered by the county department or a community agency approved by the court or other community service work administered by a public agency or nonprofit charitable organization approved by the court.

(am) The court shall set standards for the supervised work program within the budgetary limits established by the county board of supervisors. The supervised work

program may provide the juvenile reasonable compensation reflecting a reasonable market value of the work performed or it may consist of uncompensated community service work. Community service work may be in lieu of restitution only if also agreed to by the county department, community agency, public agency or nonprofit charitable organization and by the person to whom the restitution is owed. The court may use any available resources, including any community service work program, in ordering the juvenile to perform community service work.

(b) The supervised work program or other community service work shall be of a constructive nature designed to promote the rehabilitation of the juvenile, shall be appropriate to the age level and physical ability of the juvenile and shall be combined with counseling from a member of the staff of the county department, community agency, public agency or nonprofit charitable organization or other qualified person. The supervised work program or other community service work may not conflict with the juvenile's regular attendance at school. Subject to par. (d), the amount of work required shall be reasonably related to the seriousness of the juvenile's offense.

(c) In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a juvenile who is under 14 years of age who is participating in a supervised work program or other community service work may, for purposes of performing the supervised work or other community service work, be employed or perform any duties under any circumstances in which a juvenile 14 or 15 years of age is permitted to be employed or perform duties under ch. 103 or any rule or order under ch. 103.

(d) Under this subsection, a juvenile who is under 14 years of age may not be required to perform more than 40 total hours of supervised work or other community service work, except as provided in subs. (13r) and (14t).

**(5m) COMMUNITY SERVICE WORK PROGRAM.** Order the juvenile to participate in a youth corps program, as defined in s. 106.40 (1) (dm) or another community service work program, if the sponsor of the program approves the juvenile's participation in the program.

**(5r) VICTIM-OFFENDER MEDIATION PROGRAM.** Order the juvenile to participate in a victim-offender mediation program if the victim of the juvenile's delinquent act agrees.

**(6) SPECIAL TREATMENT OR CARE.** (a) If the juvenile is in need of special treatment or care, as identified in an evaluation under s. 938.295 and the report under s. 938.33 (1), order the juvenile's parent to provide the special treatment or care.

(am) An order of special treatment or care under this subsection may include an order committing the juvenile to a county department under s. 51.42 or 51.437 for special treatment or care in an inpatient facility, as defined

in s. 51.01 (10), if the evaluation under s. 938.295 and the report under s. 938.33 (1) indicate all of the following:

1. That the juvenile has an alcohol or other drug abuse impairment.

2. That 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.

(ap) An order under par. (am) is subject to all of the following:

1. The commitment may total not more than 30 days.

2. The use of commitment to a county department under s. 51.42 or 51.437 as a disposition under par. (am) is subject to the adoption of a resolution by the county board of supervisors under s. 938.06 (5) authorizing the use of that disposition.

(ar) If the parent fails or is financially unable to provide the special treatment or care ordered under par. (a) or (am), the court may order an appropriate agency to provide the special treatment or care whether or not legal custody has been taken from the parents. If the court orders a county department under s. 51.42 or 51.437 to provide special treatment or care under par. (a) or (am), the provision of that special treatment or care shall be subject to conditions specified in ch. 51, except that an order under par. (am) may not be extended. An order of special treatment or care under this subsection may not include an order for the administration of psychotropic medication.

(b) Payment for alcohol and other drug abuse services ordered under par. (a) shall be in accordance with s. 938.361.

(c) Payment for services provided under ch. 51 that are ordered under par. (a), other than alcohol and other drug abuse services, shall be in accordance with s. 938.362.

**(6m) INTEGRATED SERVICE PLAN.** If the report prepared under s. 938.33 (1) recommends that the juvenile is in need of an integrated service plan and if an integrated service program under s. 46.56 has been established in the county, order that an integrated service plan be developed and implemented.

**(6r) ALCOHOL OR DRUG TREATMENT OR EDUCATION.**

(a) If the report prepared under s. 938.33 (1) recommends that the juvenile is in need of treatment for the use or abuse of alcohol beverages or controlled substances and its medical, personal, family or social effects, the court may order the juvenile to enter an outpatient alcohol and other drug abuse treatment program at an approved treatment facility. The approved treatment facility shall, under the terms of a service agreement between the county and the approved treatment facility, or with the written informed consent of the juvenile or the juvenile's parent if the juvenile has not attained the age of 12, report to the agency primarily responsible for providing services to the juvenile as to whether the juvenile is cooperating with

the treatment and whether the treatment appears to be effective.

(b) If the report prepared under s. 938.33 (1) recommends that the juvenile is in need of education relating to the use of alcohol beverages or controlled substances, the court may order the juvenile to participate in an alcohol or other drug abuse education program approved by the court. The person or agency that provides the education program shall, under the terms of a service agreement between the county and the education program, or with the written informed consent of the juvenile or the juvenile's parent if the juvenile has not attained the age of 12, report to the agency primarily responsible for providing services to the juvenile about the juvenile's attendance at the program.

(c) Payment for the court-ordered treatment or education under this subsection in counties that have a pilot program under s. 938.547 shall be in accordance with s. 938.361.

**(6s) DRUG TESTING.** If the report under s. 938.33 (1) indicate that the juvenile is in need of treatment for the use or abuse of controlled substances, order the juvenile to submit to drug testing under a drug testing program that the department shall promulgate by rule.

**(7d) EDUCATION PROGRAM.** (a) Except as provided in par. (d), order the juvenile to attend any of the following:

1. A nonresidential educational program, including a program for juveniles at risk under s. 118.153, provided by the school district in which the juvenile resides.

2. Pursuant to a contractual agreement with the school district in which the juvenile resides, a nonresidential educational program provided by a licensed child welfare agency.

3. Pursuant to a contractual agreement with the school district in which the juvenile resides, an educational program provided by a private, nonprofit, nonsectarian agency that is located in the school district in which the juvenile resides and that complies with 42 USC 2000d.

4. Pursuant to a contractual agreement with the school district in which the juvenile resides, an educational program provided by a technical college district located in the school district in which the juvenile resides.

(b) The court shall order the school board to disclose the juvenile's pupil records, as defined under s. 118.125 (1) (d), to the county department or licensed child welfare agency responsible for supervising the juvenile, as necessary to determine the juvenile's compliance with the order under par. (a).

(c) The court shall order the county department or licensed child welfare agency responsible for supervising the juvenile to disclose to the school board, technical college district board or private, nonprofit, nonsectarian agency which is providing an educational program under

par. (a) 3. records or information about the juvenile, as necessary to assure the provision of appropriate educational services under par. (a).

(d) This subsection does not apply to a juvenile with exceptional educational needs, as defined under s. 115.76 (3).

**(7g) EXPERIENTIAL EDUCATION.** Order the juvenile to participate in a wilderness challenge program or other experiential education program.

**(7n) JUVENILE OFFENDER EDUCATION PROGRAM.** Order the juvenile to participate in an educational program that is designed to deter future delinquent behavior by focusing on such issues as decision making, assertiveness instead of aggression, family and peer relationships, self-esteem, identification and expression of feelings, alcohol and other drug abuse recognition and errors in thinking and judgment.

**(7r) VOCATIONAL TRAINING.** If the report under s. 938.33 (1) recommends that the juvenile is in need of vocational assessment, counseling and training, order the juvenile to participate in that assessment, counseling and training.

**(7w) DAY TREATMENT PROGRAM.** If the report under s. 938.33 (1) indicates that the juvenile has specialized educational needs, order the juvenile to participate in a day treatment program.

**(8) FORFEITURE.** Impose a forfeiture based upon a determination that this disposition is in the best interest of the juvenile and in aid of rehabilitation. The maximum forfeiture that the court may impose under this subsection for a violation by a juvenile is the maximum amount of the fine that may be imposed on an adult for committing that violation or, if the violation is applicable only to a juvenile, \$100. Any such order shall include a finding that the juvenile alone is financially able to pay the forfeiture and shall allow up to 12 months for payment. If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order other alternatives under this section, in accordance with the conditions specified in this subchapter; or the court may suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating privilege as defined in s. 340.01 (40) for not less than 30 days nor more than 5 years. If the court suspends any license under this subsection, the clerk of the court shall immediately take possession of the suspended license and forward it to the department which issued the license, together with a notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the suspension shall be reduced to the time period which has already elapsed and the court shall immediately notify the department which shall then return the license to the juvenile.

**(11) TRANSFER TO FOREIGN COUNTRIES UNDER TREATY.** If a treaty is in effect between the United States and a for-

eign country, allowing a juvenile adjudged delinquent who is a citizen or national of the foreign country to be transferred to the foreign country and if the juvenile and the juvenile's parent, guardian and legal custodian agree, request the governor to commence a transfer of the juvenile to the juvenile's country.

**(13r) VIOLENT VIOLATION IN A SCHOOL ZONE.** (a) If the juvenile is adjudicated delinquent under a violation of a violent crime law specified in s. 939.632 (1) (e) in a school zone, as defined in s. 939.632 (1) (d), the court may require that the juvenile participate for 100 hours in a supervised work program under sub. (5g) or perform 100 hours of other community service work.

(b) The court shall not impose the requirement under par. (a) if the court determines that the person would pose a threat to public safety while completing the requirement.

**(13t) GRAFFITI VIOLATION.** If the juvenile is adjudicated delinquent under a violation of s. 943.017, the court may require that the juvenile participate for not less than 10 hours nor more than 100 hours in a supervised work program under sub. (5g) or perform not less than 10 hours nor more than 100 hours of other community service work, except that if the juvenile has not attained 14 years of age the maximum number of hours is 40.

**(14d) HATE VIOLATIONS.** In addition to any other disposition imposed under this section, if the juvenile is found to have committed a violation under circumstances in which, if committed by an adult, the adult would be subject to a penalty enhancement under s. 939.645, the court may order any one or more of the following dispositions:

(a) That the juvenile make restitution under sub. (5).

(b) That the juvenile participate in a supervised work program or other community service work under sub. (5g) or (5m).

(c) That the juvenile participate in a victim-offender mediation program under sub. (5r) or otherwise apologize to the victim.

(d) That the juvenile participate in an educational program under sub. (7n) that includes sensitivity training or training in diversity.

**(14m) VIOLATION INVOLVING A MOTOR VEHICLE.** Restrict, suspend or revoke the operating privilege, as defined in s. 340.01 (40), of a juvenile who is adjudicated delinquent under a violation of any law in which a motor vehicle is involved. If the court suspends or revokes a juvenile's operating privilege under this subsection, the court shall immediately take possession of the suspended or revoked license and forward it to the department of transportation together with a notice stating the reason for and duration of the suspension or revocation. If the court limits a juvenile's operating privilege under this subsection, the court shall immediately notify the department of transportation of that limitation.

**(14p) COMPUTER VIOLATION.** If the juvenile is found to have violated s. 943.70, place restrictions on the juvenile's use of computers.

**(14r) CONTROLLED SUBSTANCE VIOLATION.** (a) In addition to any other dispositions imposed under this section, if the juvenile is found to have violated ch. 161, the court shall suspend or revoke the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years. The court shall immediately take possession of any suspended or revoked license and forward it to the department of transportation together with the notice of suspension or revocation clearly stating that the suspension or revocation is for a violation of ch. 161.

(b) This subsection does not apply to violations under s. 161.573 (2), 161.574 (2) or 161.575 (2) or a local ordinance that strictly conforms to one of those statutes.

(c) If the juvenile's license or operating privilege is currently suspended or revoked or if the juvenile does not currently possess a valid operator's license issued under ch. 343, the suspension or revocation under this subsection is effective on the date on which the juvenile is first eligible and applies for issuance, renewal or reinstatement of an operator's license under ch. 343.

**(14s) CONTROLLED SUBSTANCE POSSESSION.** (a) In addition to any other dispositions imposed under this section, if the juvenile is found to have violated s. 161.41 (2r), (3), (3m), (3n), (3p) or (3r), the court shall order one of the following penalties:

1. For a first violation, a forfeiture of not more than \$50.
2. For a violation committed within 12 months of a previous violation, a forfeiture of not more than \$100.
3. For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than \$500.

(am) In addition to any other dispositions imposed under this section, if the juvenile is found to have violated s. 161.41 (1) or (1m), the court shall order one of the following penalties:

1. For a first violation, a forfeiture of not less than \$250 nor more than \$500.
2. For a violation committed within 12 months of a previous violation, a forfeiture of not less than \$300.
3. For a violation committed within 12 months of 2 or more previous violations, a forfeiture of \$500.

(b) After ordering a disposition under par. (a) or (am), the court, with the agreement of the juvenile, may enter an additional order staying the execution of the dispositional order. If the court stays a dispositional order under this paragraph, the court shall enter an additional order requiring the juvenile to do any of the following:

1. Submit to an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 938.547 (4) and that is conducted by an approved treatment facility. The order shall designate an approved

treatment facility to conduct the alcohol and other drug abuse assessment and shall specify the date by which the assessment must be completed.

2. Participate in an outpatient alcohol or other drug abuse treatment program at an approved treatment facility, if an assessment conducted under subd. 1. or s. 938.295 (1) recommends treatment.

3. Participate in a court-approved pupil assistance program provided by the juvenile's school board or an alcohol or other drug abuse education program. The juvenile's participation in a court-approved pupil assistance program under this subdivision is subject to the approval of the juvenile's school board.

(c) If the approved treatment facility, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notifies the agency primarily responsible for providing services to the juvenile that the juvenile has submitted to an assessment under this subsection and that the juvenile does not need treatment, intervention or education, the court shall notify the juvenile of whether or not the original dispositional order will be reinstated.

(d) If the juvenile completes the alcohol or other drug abuse treatment program, court-approved pupil assistance program or court-approved alcohol or other drug abuse education program, the approved treatment facility, court-approved pupil assistance program or court-approved alcohol or other drug abuse education program shall, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notify the agency primarily responsible for providing services to the juvenile that the juvenile has complied with the order and the court shall notify the juvenile of whether or not the original dispositional order will be reinstated.

(e) If an approved treatment facility, court-approved pupil assistance program or court-approved alcohol or other drug abuse education program, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notifies the agency primarily responsible for providing services to the juvenile that a juvenile is not participating in, or has not satisfactorily completed, a recommended alcohol or other drug abuse treatment program, a court-approved pupil assistance program or a court-approved alcohol or other drug abuse education program, the court shall impose the original disposition under par. (a) or (am).

**(14t) CONTROLLED SUBSTANCE POSSESSION ON OR NEAR CERTAIN PREMISES.** If the juvenile is adjudicated delinquent under a violation of s. 161.41 (2r), (3), (3m), (3n), (3p) or (3r) by possessing or attempting to possess a controlled substance listed in schedule I or II under ch. 161 while in or on the premises of a scattered-site public housing project, as defined in s. 161.01 (20i), while in or otherwise within 1,000 feet of a state, county, city, village

or town park, a jail or correctional facility, as defined in s. 161.01 (12m), a multiunit public housing project, as defined in s. 161.01 (14m), a swimming pool open to members of the public, a youth center, as defined in s. 161.01 (22), or a community center, while on or otherwise within 1,000 feet of any private or public school premises or while on or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the court shall require that the juvenile participate for 100 hours in a supervised work program or other community service work under sub. (5g).

**(15) DEOXYRIBONUCLEIC ACID ANALYSIS AND REPORTING REQUIREMENTS.** (a) 1. If the juvenile is adjudicated delinquent on the basis of a violation of s. 940.225, 948.02 (1) or (2) or 948.025, the court shall require the juvenile to provide a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis. If the violation is of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025, the court shall require the juvenile to comply with the reporting requirements under s. 175.45. If the violation is of s. 940.225 (3) or (3m), the court may require the juvenile to comply with the reporting requirements under s. 175.45 if the court determines that the underlying conduct was seriously sexually assaultive in nature and that it would be in the interest of public protection to have the juvenile report under s. 175.45.

2. Except as provided in subd. 1., if the juvenile is adjudicated delinquent on the basis of any violation under ch. 940, 944 or 948 or ss. 943.01 to 943.15, the court may require the juvenile to provide a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis. The court may require the juvenile to comply with the reporting requirements under s. 175.45 if the court determines that the underlying conduct was seriously sexually assaultive in nature and that it would be in the interest of public protection to have the juvenile report under s. 175.45.

3. The results from deoxyribonucleic acid analysis of a specimen under subd. 1. or 2. may be used only as authorized under s. 165.77 (3). The state crime laboratories shall destroy any such specimen in accordance with s. 165.77 (3).

(b) The department of justice shall promulgate rules providing procedures for juveniles to provide specimens under par. (a) and for the transportation of those specimens to the state crime laboratories under s. 165.77.

**(16) STAY OF ORDER.** After ordering a disposition under this section, enter an additional order staying the execution of the dispositional order contingent on the juvenile's satisfactory compliance with any conditions that are specified in the dispositional order and explained to the juvenile by the court. If the juvenile violates a condition of his or her dispositional order, the agency supervising the juvenile shall notify the court and the court shall hold a hearing within 30 days after the filing of the notice to determine whether the original disposition order

should be imposed, unless the juvenile signs a written waiver of any objections to imposing the original dispositional order and the court approves the waiver. If a hearing is held, the court shall notify the parent, juvenile, guardian and legal custodian, all parties bound by the original dispositional order and the district attorney or corporation counsel in the county in which the dispositional order was entered at the time and place of the hearing at least 3 days before the hearing. If all parties consent, the court may proceed immediately with the hearing. The court may not impose the original dispositional order unless the court finds to a reasonable certainty by the greater weight of the credible evidence that the juvenile has violated a condition of his or her dispositional order.

**938.341 Delinquency adjudication; restriction on firearm possession.** Whenever a court adjudicates a juvenile delinquent for an act that if committed by an adult in this state would be a felony, the court shall inform the juvenile of the requirements and penalties under s. 941.29.

**938.342 Disposition; truancy and school dropout ordinance violations.** (1) If the court finds that the juvenile violated a municipal ordinance enacted under s. 118.163 (2), the court shall enter an order making one or more of the following dispositions if such a disposition is authorized by the municipal ordinance:

(a) Suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 90 days. The court shall immediately take possession of the suspended license and forward it to the department of transportation together with a notice stating the reason for and duration of the suspension.

(b) Order the juvenile to participate in counseling or a supervised work program or other community service work under s. 938.34 (5g).

(c) Order the juvenile to remain at home except during hours in which the juvenile is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a juvenile to leave his or her home if the juvenile is accompanied by a parent or guardian.

(d) Order the juvenile to attend an educational program under s. 938.34 (7d).

(e) Order the department of industry, labor and human relations to revoke, under s. 103.72, a permit under s. 103.70 authorizing the employment of the juvenile.

(f) Order the juvenile to be placed in a teen court program if all of the following conditions apply:

1. The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the judge determines that participation in the teen court program will likely benefit the juvenile and the community.

2. The juvenile admits or pleads no contest in open court, with the juvenile's parent, guardian or legal custo-



dian present, to the allegations that the juvenile violated the municipal ordinance enacted under s. 118.163 (2).

3. The juvenile has not successfully completed participation in a teen court program during the 2 years before the date of the alleged municipal ordinance violation.

(1m) (a) If the court finds that the juvenile violated a municipal ordinance enacted under s. 118.163 (2), the court may, in addition to or instead of the dispositions under sub. (1), order the juvenile's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense.

(b) No order to any person under par. (a) may be entered until the person is given an opportunity to be heard on the contemplated order of the court. The court shall cause notice of the time, place and purpose of the hearing to be served on the person personally at least 10 days before the date of the hearing. The procedure in these cases shall, as far as practicable, be the same as in other cases to the court. At the hearing, the person may be represented by counsel and may produce and cross-examine witnesses. Any person who fails to comply with any order issued by a court under par. (a) may be proceeded against for contempt of court.

(2) (a) Except as provided in par. (b), if the court finds that the juvenile is subject to a municipal ordinance enacted under s. 118.163 (2m), the court shall enter an order suspending the juvenile's operating privilege, as defined in s. 340.01 (40), until the juvenile reaches the age of 18.

(b) The court may enter an order making any of the dispositions specified under sub. (1) if the court finds that suspension of the juvenile's operating privilege, as defined in s. 340.01 (40), until the juvenile reaches the age of 18 would cause an undue hardship to the juvenile or the juvenile's family.

**938.343 Disposition of juvenile adjudged to have violated a civil law or an ordinance.** Except as provided by ss. 938.342 and 938.344, if the court finds that the juvenile violated a civil law or an ordinance, the court shall enter an order making one or more of the following dispositions:

(1) Counsel the juvenile or the parent or guardian.

(2) Impose a forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing that violation or, if the violation is only applicable to a juvenile, \$50. Any such order shall include a finding that the juvenile alone is financially able to pay and shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may suspend any license issued under ch. 29 or suspend the juvenile's operating privilege as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. The court shall immediately take possession of the suspended license and forward it to the department which issued the license, together with the notice of suspension clearly stating that the suspen-

sion is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the court shall immediately notify the department, which will thereupon return the license to the person.

(2m) Order the juvenile to be placed in a teen court program if all of the following conditions apply:

(a) The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the judge determines that participation in the teen court program will likely benefit the juvenile and the community.

(b) The juvenile admits or pleads no contest in open court, with the juvenile's parent, guardian or legal custodian present, to the allegations that the juvenile violated the civil law or ordinance.

(c) The juvenile has not successfully completed participation in a teen court program during the 2 years before the date of the alleged civil law or ordinance violation.

(3) Order the juvenile to participate in a supervised work program or other community service work under s. 938.34 (5g).

(4) If the violation has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the court may order the juvenile to make repairs of the damage to property or reasonable restitution for the damage or injury if the court, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being and behavior of the juvenile. Any such order requiring payment for repairs or restitution shall include a finding that the juvenile alone is financially able to pay and may allow up to the date of the expiration of the order for the payment. Objection by the juvenile to the amount of damages claimed shall entitle the juvenile to a hearing on the question of damages before the amount of restitution is ordered.

(5) If the violation is related to unsafe use of a boat, order the juvenile to attend a safety course under s. 30.74 (1).

(6) If the violation is of ch. 29, suspension of the license or licenses of the juvenile issued under that chapter for not more than one year or until the juvenile is 18 years of age, whichever occurs first.

(7) If the violation is related to the unsafe use of firearms, order the juvenile to attend a course under the hunter education and firearm safety program under s. 29.225.

(8) If the violation is one under ch. 350 concerning the use of snowmobiles, order the juvenile to attend a safety course under s. 350.055.

(9) If the violation is one under s. 23.33 or under an ordinance enacted in conformity with s. 23.33 concerning the use of all-terrain vehicles, order the juvenile to enroll and participate in an all-terrain vehicle safety course.

(10) If the violation is related to the use or abuse of alcohol beverages or controlled substances, order the juvenile to do any of the following:

(a) Submit to an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 938.547 (4) and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to perform the assessment and shall specify the date by which the assessment must be completed.

(b) Participate in an outpatient alcohol and other drug abuse treatment program if an assessment conducted under par. (a) or s. 938.295 (1) recommends treatment.

(c) Participate in a court-approved pupil assistance program provided by the juvenile's school board or in a court-approved alcohol or other drug abuse education program. The juvenile's participation in a court-approved pupil assistance program under this paragraph is subject to the approval of the juvenile's school board.

**938.344 Disposition; certain intoxicating liquor, beer and drug violations.**

(2) If a court finds a juvenile committed a violation under s. 125.07 (4) (b) or 125.09 (2), or a local ordinance that strictly conforms to one of those statutes, the court shall order one or any combination of the following penalties:

(a) For a first violation, a forfeiture of not more than \$50, suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 1. or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g).

(b) For a violation committed within 12 months of a previous violation, a forfeiture of not more than \$100, suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 2. or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g).

(c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than \$500, revocation of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 3. or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g).

(2b) If a court finds a juvenile committed a violation under s. 125.07 (4) (a), or a local ordinance which strictly conforms to s. 125.07 (4) (a), the court shall order one or any combination of the following penalties:

(a) For a first violation, a forfeiture of not less than \$250 nor more than \$500, suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 1. or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g).

(b) For a violation committed within 12 months of a previous violation, a forfeiture of not less than \$300 nor more than \$500, suspension of the juvenile's operating

privilege as provided under s. 343.30 (6) (b) 2. or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g).

(c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of \$500, revocation of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 3. or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g).

(2d) If a court finds a juvenile committed a violation under s. 125.085 (3) (b), or a local ordinance which strictly conforms to s. 125.085 (3) (b), the court shall order one or any combination of the following penalties:

(a) For a first violation, a forfeiture of not less than \$100 nor more than \$500, suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 1. or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g).

(b) For a violation committed within 12 months of a previous violation, a forfeiture of not less than \$300 nor more than \$500, suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 2. or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g).

(c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of \$500, revocation of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 3. or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g).

(2e) (a) If a court finds a juvenile committed a violation under s. 161.573 (2), 161.574 (2) or 161.575 (2), or a local ordinance that strictly conforms to one of those statutes, the court shall suspend or revoke the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years and, in addition, shall order one of the following penalties:

1. For a first violation, a forfeiture of not more than \$50 or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g) or both.

2. For a violation committed within 12 months of a previous violation, a forfeiture of not more than \$100 or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g) or both.

3. For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than \$500 or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g) or both.

(b) Whenever a court suspends or revokes a juvenile's operating privilege under this subsection, the court shall immediately take possession of any suspended or revoked license and forward it to the department of trans-

portation, together with the notice of suspension or revocation clearly stating that the suspension or revocation is for a violation under s. 161.573 (2), 161.574 (2) or 161.575 (2), or a local ordinance that strictly conforms to one of those statutes.

(c) If the juvenile's license or operating privilege is currently suspended or revoked or the juvenile does not currently possess a valid operator's license issued under ch. 343, the suspension or revocation under this subsection is effective on the date on which the juvenile is first eligible and applies for issuance, renewal or reinstatement of an operator's license under ch. 343.

(2g) (a) After ordering a penalty under sub. (2), (2b), (2d) or (2e), the court, with the agreement of the juvenile, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed. The order under this paragraph shall require the juvenile to do any of the following:

1. Submit to an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 938.547 (4) and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol and other drug abuse assessment and shall specify the date by which the assessment must be completed.

2. Participate in an outpatient alcohol or other drug abuse treatment program at an approved treatment facility, if an alcohol or other drug abuse assessment conducted under subd. 1. or s. 938.295 (1) recommends treatment.

3. Participate in a court-approved pupil assistance program provided by the juvenile's school board or in a court-approved alcohol or other drug abuse education program. The juvenile's participation in a court-approved pupil assistance program under this subdivision is subject to the approval of the juvenile's school board.

4. Participate in a teen court program if all of the following conditions apply:

a. The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the judge determines that participation in the teen court program will likely benefit the juvenile and the community.

b. The juvenile admits or pleads no contest in open court, with the juvenile's parent, guardian or legal custodian present, to the allegations that the juvenile committed the violation specified in sub. (2), (2b), (2d) or (2e).

c. The juvenile has not successfully completed participation in a teen court program during the 2 years before the date of the alleged violation.

(b) If the approved treatment facility, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notifies the agency primarily responsible for providing services to the juvenile that the juvenile

has submitted to an assessment under par. (a) and that the juvenile does not need treatment, intervention or education, the court shall notify the juvenile of whether or not the penalty will be reinstated.

(c) If the juvenile completes the alcohol or other drug abuse treatment program, court-approved pupil assistance program or court-approved alcohol or other drug abuse education program, the approved treatment facility, court-approved pupil assistance program or court-approved alcohol or other drug abuse education program shall, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notify the agency primarily responsible for providing services to the juvenile that the juvenile has complied with the order and the court shall notify the juvenile of whether or not the penalty will be reinstated.

(d) If an approved treatment facility, court-approved pupil assistance program or court-approved alcohol or other drug abuse education program, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notifies the agency primarily responsible for providing services to the juvenile that a juvenile is not participating, or has not satisfactorily completed, a recommended alcohol or other drug abuse treatment program, a court-approved pupil assistance program or a court-approved alcohol or other drug abuse education program, the court shall hold a hearing to determine whether the penalties under sub. (2), (2b), (2d) or (2e) should be imposed.

(2m) For purposes of subs. (2) to (2e), all violations arising out of the same incident or occurrence shall be counted as a single violation.

(3) If the juvenile alleged to have committed the violation is within 3 months of his or her 17th birthday, the court assigned to exercise jurisdiction under this chapter and ch. 48 may, at the request of the district attorney or on its own motion, dismiss the citation without prejudice and refer the matter to the district attorney for prosecution under s. 125.07 (4). The juvenile is entitled to a hearing only on the issue of his or her age. This subsection does not apply to violations under s. 161.573 (2), 161.574 (2) or 161.575 (2) or a local ordinance that strictly conforms to one of those statutes.

**938.345 Disposition of juvenile adjudged in need of protection or services.** (1) If the court finds that the juvenile is in need of protection or services, the court shall enter an order deciding one or more of the dispositions of the case as provided in s. 938.34 under a care and treatment plan except that the order may not do any of the following:

(a) Place the juvenile in the serious juvenile offender program, a secured correctional facility or a secured child caring institution.

(c) Order payment of a forfeiture.

(d) Restrict, suspend or revoke the driving privileges of the juvenile, except as provided under sub. (2).

(e) Place any juvenile not specifically found under chs. 46, 49, 51, 115 and 880 to be developmentally disabled, mentally ill or to have exceptional educational needs in facilities which exclusively treat those categories of juveniles.

(g) Order the juvenile into detention or nonsecure custody under s. 938.34 (3) (f).

(2) If the court finds that a juvenile is in need of protection or services based on the fact that the juvenile is a school dropout, as defined in s. 118.153 (1) (b), or based on habitual truancy, and the court also finds that the reason the juvenile has dropped out of school or is a habitual truant is a result of the juvenile's intentional refusal to attend school rather than the failure of any other person to comply with s. 118.15 (1) (a), the court, instead of or in addition to any other disposition imposed under sub. (1), may enter an order permitted under s. 938.342.

**938.346 Notice to victims of juveniles' acts.** (1) Each known victim of a juvenile's act shall receive timely notice of the following information:

(a) The procedure under s. 938.396 (1r) for obtaining the identity of the juvenile and the juvenile's parents.

(b) The procedure under s. 938.396 (1r) for obtaining the juvenile's police records.

(c) The potential liability of the juvenile's parents under s. 895.035.

(d) Either of the following:

1. Information regarding any deferred prosecution agreement under s. 938.245, any consent decree under s. 938.32 or any dispositional order under ss. 938.34 to 938.345. The information may not include reports under s. 938.295 or 938.33 or any other information that deals with sensitive personal matters of the juvenile and the juvenile's family and that does not directly relate to the act or alleged act committed against the victim. This subdivision does not affect the right of a victim to attend any hearing that the victim is permitted to attend under s. 938.299 (1) (am).

2. The procedure the victim may follow for obtaining the information in subd. 1.

(e) The procedure under s. 938.296 under which the victim, if an adult, or the parent, guardian or legal custodian of the victim, if the victim is a child, may request an order requiring a juvenile who is alleged to have violated s. 940.225, 948.02, 948.025, 948.05 or 948.06 to submit to a test or a series of tests to detect the presence of HIV, as defined in s. 252.01 (1m), antigen or nonantigenic products of HIV, an antibody to HIV or a sexually transmitted disease, as defined in s. 252.11 (1), and to have the results of that test or series of tests disclosed as provided in s. 938.296 (4) (a) to (e).

(f) The right to request and receive notice of the time and place of any hearing that the victim may attend under s. 938.299 (1) (am).

(g) The right to make a statement to the court as provided in ss. 938.32 (1) (b) and 938.335 (3m).

(1m) The intake worker shall provide notice of the information specified in sub. (1) (a), (b) and (c), the information specified in sub. (1) (d) relating to a deferred prosecution agreement under s. 938.245 and the information specified in sub. (3) if the inquiry is terminated without a deferred prosecution agreement before the filing of a petition. The district attorney or corporation counsel shall provide notice of the information specified in sub. (1) (e), (f) and (g), the information specified in sub. (1) (d) relating to a consent decree under s. 938.32 or a dispositional order under ss. 938.34 to 938.345 and the information under sub. (3) if the proceeding is terminated without a consent decree or dispositional order after the filing of a petition.

(2) The notice under sub. (1) shall include an explanation of the restrictions on divulging information obtained under this chapter and the penalties for violations.

(3) If an inquiry or proceeding is closed, dismissed or otherwise does not result in a deferred prosecution agreement, consent decree or dispositional order, a reasonable attempt shall be made to inform each known victim of the juvenile's alleged act that the inquiry or proceeding has been terminated.

(4) If the victim is a child, the notice under this section shall be given to the child's parents, guardian or legal custodian.

(5) Chief judges and circuit judges shall establish by policy and rule procedures for the implementation of this section. The policies and rules shall specify when, how and by whom the notice under this section shall be provided to victims.

**938.35 Effect of judgment and disposition.** (1) The court shall enter a judgment setting forth the court's findings and disposition in the proceeding. A judgment in a proceeding on a petition under this subchapter is not a conviction of a crime, does not impose any civil disabilities ordinarily resulting from the conviction of a crime and does not operate to disqualify the juvenile in any civil service application or appointment. The disposition of a juvenile, and any record of evidence given in a hearing in court, is not admissible as evidence against the juvenile in any case or proceeding in any other court except for the following:

(a) In sentencing proceedings after conviction of a felony or misdemeanor and then only for the purpose of a presentence study and report.

(b) In a proceeding in any court assigned to exercise jurisdiction under this chapter and ch. 48.

(c) In a court of civil or criminal jurisdiction while it is exercising the jurisdiction of a family court and is considering the custody of juveniles.

(cm) In a court of civil or criminal jurisdiction for purposes of setting bail under ch. 969 or impeaching a witness under s. 906.09.

(d) The fact that a juvenile has been adjudged delinquent on the basis of unlawfully and intentionally killing a person is admissible for the purpose of s. 852.01 (2m) (bg).

(1m) Disposition by the court assigned to exercise jurisdiction under this chapter and ch. 48 of any allegation under s. 938.12 or 938.13 (12) shall bar any future proceeding on the same matter in criminal court when the juvenile reaches the age of 17. This paragraph does not affect proceedings in criminal court which have been transferred under s. 938.18.

(2) Except as specifically provided in sub. (1), this section does not preclude the court from disclosing information to qualified persons if the court considers the disclosure to be in the best interests of the juvenile or of the administration of justice.

**938.355 Dispositional orders.** (1) INTENT. In any order under s. 938.34 or 938.345, the court shall decide on a placement and treatment finding based on evidence submitted to the court. The disposition shall employ those means necessary to promote the objectives specified in s. 938.01. If the disposition places a juvenile who has been adjudicated delinquent outside the home under s. 938.34 (3) (c) or (d), the order shall include a finding that the juvenile's current residence will not safeguard the welfare of the juvenile or the community due to the serious nature of the act for which the juvenile was adjudicated delinquent. If the judge has determined that any of the conditions specified in s. 938.34 (4m) (b) 1., 2. or 3. applies, that determination shall be prima facie evidence that a less restrictive alternative than placement in a secured correctional facility or a secured child caring institution is not appropriate. If information under s. 938.331 has been provided in a court report under s. 938.33 (1), the court shall consider that information when deciding on a placement and treatment finding.

(2) CONTENT OF ORDER; COPY TO PARENT. (a) In addition to the order, the court shall make written findings of fact and conclusions of law based on the evidence presented to the court to support the disposition ordered, including findings as to the juvenile's condition and need for special treatment or care if an examination or assessment was conducted under s. 938.295. A finding may not include a finding that a juvenile is in need of psychotropic medications.

(b) The court order shall be in writing and shall contain:

1. The specific services or continuum of services to be provided to the juvenile and family, the identity of the agencies which are to be primarily responsible for the provision of the services mandated by the court, the identity of the person or agency who will provide case management or coordination of services, if any, and, if custody is to be transferred to effect the treatment plan, the identity of the legal custodian.

1m. A notice that the juvenile's parent, guardian or legal custodian or the juvenile, if 14 years of age or over, may request an agency that is providing care or services for the juvenile or that has legal custody of the juvenile to disclose to, or make available for inspection by, the parent, guardian, legal custodian or juvenile the contents of any record kept or information received by the agency about the juvenile as provided in s. 938.78 (2) (ag).

2. If the juvenile is placed outside the home, the name of the place or facility, including transitional placements, where the juvenile shall be cared for or treated, except that if the placement is a foster home or treatment foster home and the name and address of the foster parent or treatment foster parent is not available at the time of the order, the name and address of the foster parent or treatment foster parent shall be furnished to the court and the parent within 21 days of the order. If, after a hearing on the issue with due notice to the parent or guardian, the court finds that disclosure of the identity of the foster parent or treatment foster parent would result in imminent danger to the juvenile, the foster parent or the treatment foster parent, the court may order the name and address of the prospective foster parents or treatment foster parents withheld from the parent or guardian.

3. The date of the expiration of the court's order.

4. If the juvenile is placed outside the juvenile's home, a designation of the amount of support, if any, to be paid by the juvenile's parent, guardian or trustee, specifying that the support obligation begins on the date of the placement, or a referral to the county designee under s. 59.07 (97) for establishment of child support.

5. For a juvenile placed outside his or her home pursuant to an order under s. 938.34 (3) or 938.345, a permanency plan under s. 938.38 if one has been prepared.

6. If the juvenile is placed outside the home, the court's finding as to whether a county department which provides social services or the agency primarily responsible for the provision of services under a court order has made reasonable efforts to prevent the removal of the juvenile from the home or, if applicable, that the agency primarily responsible for the provision of services under a court order has made reasonable efforts to make it possible for the juvenile to return to his or her home.

7. A statement of the conditions with which the juvenile is required to comply.

(c) If school attendance is a condition of an order under par. (b) 7., the order shall specify what constitutes a violation of the condition and shall direct the school board of the school district in which the juvenile is enrolled to notify the county department that is responsible for supervising the juvenile within 5 days after any violation of the condition by the juvenile.

(d) The court shall provide a copy of the dispositional order to the juvenile's parent, guardian or trustee.

**(2c) REASONABLE EFFORTS STANDARDS.** (a) When a court makes a finding under sub. (2) (b) 6. as to whether a county department which provides social services or the agency primarily responsible for providing services to the juvenile under a court order has made reasonable efforts to prevent the removal of the juvenile from his or her home, the court's consideration of reasonable efforts shall include, but not be limited to, whether:

1. A comprehensive assessment of the family's situation was completed, including a determination of the likelihood of protecting the juvenile's welfare effectively in the home.

2. Financial assistance, if applicable, was provided to the family.

3. Services were offered or provided to the family, if applicable, and whether any assistance was provided to the family to enable the family to utilize the services. Examples of the types of services that may have been offered include:

a. In-home support services, such as homemakers and parent aides.

b. In-home intensive treatment services.

c. Community support services, such as day care, parenting skills training, housing assistance, employment training and emergency mental health services.

d. Specialized services for family members with special needs.

4. Monitoring of client progress and client participation in services was provided.

5. A consideration of alternative ways of addressing the family's needs was provided, if services did not exist or existing services were not available to the family.

(b) When a court makes a finding under sub. (2) (b) 6. as to whether the agency primarily responsible for providing services to the juvenile under a court order has made reasonable efforts to make it possible for the juvenile to return to his or her home, the court's consideration of reasonable efforts shall include, but not be limited to, the considerations listed under par. (a) 1. to 5. and whether visitation schedules between the juvenile and his or her parents were implemented, unless visitation was denied or limited by the court.

**(2e) PERMANENCY PLANS; FILING; AMENDED ORDERS; COPIES.** (a) If a permanency plan has not been prepared at the time the dispositional order is entered, or if the court orders a disposition that is not consistent with the permanency plan, the agency responsible for preparing the plan shall prepare a permanency plan that is consistent with the order or revise the permanency plan to conform to the order and shall file the plan with the court within the time specified in s. 938.38 (3). A permanency plan filed under this paragraph shall be made a part of the dispositional order.

(b) Each time a juvenile's placement is changed under s. 938.357 or a dispositional order is revised under s. 938.363 or extended under s. 938.365, the agency that

prepared the permanency plan shall revise the plan to conform to the order and shall file a copy of the revised plan with the court. Each plan filed under this paragraph shall be made a part of the court order.

(c) Either the court or the agency that prepared the permanency plan shall furnish a copy of the original plan and each revised plan to the juvenile's parent or guardian, to the juvenile or the juvenile's counsel or guardian ad litem and to the person representing the interests of the public.

**(2m) TRANSITIONAL PLACEMENTS.** The court order may include the name of transitional placements, but may not designate a specific time when transitions are to take place. The procedures of ss. 938.357 and 938.363 shall govern when such transitions take place. The court, however, may place specific time limitations on interim arrangements made for the care of the juvenile pending the availability of the dispositional placement.

**(3) PARENTAL VISITATION.** If, after a hearing on the issue with due notice to the parent or guardian, the court finds that it would be in the best interest of the juvenile, the court may set reasonable rules of parental visitation.

**(3m) ORDERS BASED ON EVIDENCE.** Dispositional orders under s. 938.343 or 938.344 shall be based upon the evidence except that this subsection does not require a dispositional hearing for the disposition of an uncontested citation.

**(4) TERMINATION OF ORDERS.** (a) Except as provided under par. (b) or s. 938.368, all orders under this section shall terminate at the end of one year unless the court specifies a shorter period of time. Except if s. 938.368 applies, extensions or revisions shall terminate at the end of one year unless the court specifies a shorter period of time. No extension under s. 938.365 of an original dispositional order may be granted for a juvenile who is subject to an order under s. 938.34 (4h), (4m) or (4n) if the juvenile is 17 years of age or older when the original dispositional order terminates. Any order made before the juvenile reaches the age of majority shall be effective for a time up to one year after its entry unless the court specifies a shorter period of time.

(b) An order under s. 938.34 (4h) or (4m) for which a juvenile has been adjudicated delinquent is subject to par. (a), except that the judge may make an order under s. 938.34 (4m) apply for up to 2 years or until the juvenile's 18th birthday, whichever is earlier and the judge shall make an order under s. 938.34 (4h) apply for 5 years, if the juvenile is adjudicated delinquent for committing an act that would be punishable as a Class B felony if committed by an adult, or until the juvenile reaches 25 years of age, if the juvenile is adjudicated delinquent for committing an act that would be punishable as a Class A felony if committed by an adult.

**(4m) EXPUNGEMENT OF RECORD.** A juvenile who has been adjudged delinquent may, on attaining 17 years of age, petition the court to expunge the court's record of the

juvenile's adjudication. The court may expunge the court's record of the juvenile's adjudication if the 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.

(5) EFFECT OF COURT ORDER. Any party, person or agency who provides services for the juvenile under this section shall be bound by the court order.

(6) SANCTIONS FOR VIOLATION OF ORDER; DELINQUENCY OR CIVIL LAW OR ORDINANCE VIOLATION. (a) If a juvenile who has been adjudged delinquent or to have violated a civil law or ordinance violates a condition specified in sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in par. (d) if, at the dispositional hearing under s. 938.335, the court explained the conditions to the juvenile and informed the juvenile of those possible sanctions or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. The court may not order the sanction of placement in a place of nonsecure custody specified in par. (d) 1. unless the court finds that the agency primarily responsible for providing services for the juvenile has made reasonable efforts to prevent the removal of the juvenile from his or her home and that continued placement of the juvenile in his or her home is contrary to the welfare of the juvenile.

(an) If a juvenile who has violated a municipal ordinance violates a condition of a dispositional order imposed by the municipal court, the municipal court may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction specified in par. (d) 1. or the sanction specified in par. (d) 3., with monitoring by an electronic monitoring system, if, at the time of the judgment the municipal court explained the conditions to the juvenile and informed the juvenile of those possible sanctions for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions.

(b) A motion for imposition of a sanction may be brought by the person or agency primarily responsible for the provision of dispositional services, the district attorney or corporation counsel or the court that entered the dispositional order. Notice of the motion shall be given to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian and all parties present at the original dispositional hearing.

(c) Before imposing any sanction, the court shall hold a hearing, at which the juvenile is entitled to be represented by legal counsel and to present evidence.

(d) The court may order any of the following sanctions as a consequence for any incident in which the juvenile has violated one or more conditions of his or her dispositional order:

1. Placement of the juvenile in a secure detention facility or juvenile portion of a county jail that meets the standards promulgated by the department of corrections by rule or in a place of nonsecure custody, for not more than 10 days and the provision of educational services consistent with his or her current course of study during the period of placement. The juvenile shall be given credit against the period of detention or nonsecure custody imposed under this subdivision for all time spent in secure detention in connection with the course of conduct for which the detention or nonsecure custody was imposed.

2. Suspension of or limitation on the use of the juvenile's operating privilege, as defined under s. 340.01 (40), or of any approval issued under ch. 29 for a period of not more than 3 years. If the court suspends the juvenile's operating privileges or an approval issued under ch. 29, the court shall immediately take possession of the suspended license or approval and forward it to the department that issued it, together with the notice of suspension.

3. Detention in the juvenile's home or current residence for a period of not more than 30 days under rules of supervision specified in the order. An order under this subdivision may require the juvenile to be monitored by an electronic monitoring system.

4. Not more than 25 hours of uncompensated participation in a supervised work program or other community service work under s. 938.34 (5g).

(6d) SHORT-TERM DETENTION FOR VIOLATION OF ORDER. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subsection, if a juvenile who has been adjudged delinquent violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker may, without a hearing, take the juvenile into custody and place the juvenile in a secure detention facility or juvenile portion of a county jail that meets the standards promulgated by the department of corrections by rule or 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 court explained those conditions to the juvenile and informed the juvenile of the possibility of that placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement. Notwithstanding ss. 938.19 to 938.21, but

subject to any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subsection, if a juvenile who has been found to be in need of protection or services under s. 938.13 violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker may, without a hearing, 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 court explained those conditions to the juvenile and informed the juvenile of the possibility of that placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement. If a juvenile is held in a secure detention facility, juvenile portion of a county jail or place of nonsecure custody for longer than 72 hours, the juvenile is entitled to a hearing under sub. (6) (c) or s. 938.21. The hearing shall be conducted in the manner provided in sub. (6) or s. 938.21, except that for a hearing under s. 938.21 the hearing shall be conducted within 72 hours, rather than 24 hours, after the time that the decision to hold the juvenile was made and a written statement of the reasons for continuing to hold the juvenile in custody may be filed rather than a petition under s. 938.25.

**(6g) CONTEMPT FOR CONTINUED VIOLATION OF ORDER.**

(a) If a juvenile upon whom the court has imposed a sanction under sub. (6) (a) commits a 2nd or subsequent violation of a condition specified in sub. (2) (b) 7., the district attorney may file a petition under s. 938.12 charging the juvenile with contempt of court, as defined in s. 785.01 (1), and reciting the disposition under s. 938.34 sought to be imposed. The district attorney may bring the motion on his or her own initiative or on the request of the court that imposed the condition specified in sub. (2) (b) 7. or that imposed the sanction under sub. (6) (a). If the district attorney brings the motion on the request of the court that imposed the condition specified in sub. (2) (b) 7. or that imposed the sanction under sub. (6) (a), that court is disqualified from holding any hearing on the contempt petition.

(b) The court may find a juvenile in contempt of court, as defined in s. 785.01 (1), and order a disposition under s. 938.34 only if the court makes all of the following findings:

1. That the juvenile has previously been sanctioned under sub. (6) (a) for violating a condition specified in sub. (2) (b) 7. and, subsequent to that sanction, has committed another violation of a condition specified in sub. (2) (b) 7.

2. That at the sanction hearing the court explained the conditions to the juvenile and informed the juvenile of a

possible finding of contempt for a violation and the possible consequences of that contempt.

3. That the violation is egregious.

4. That the court has considered less restrictive alternatives and found them to be ineffective.

**(6m) SANCTIONS FOR VIOLATION OF ORDER: HABITUAL TRUANCY.** (a) If a juvenile who has been found in need of protection or services based on habitual truancy from school violates a condition specified under sub. (2) (b) 7., the court may order as a sanction any combination of the operating privilege suspension specified in this paragraph and the dispositions specified in s. 938.342 (1) (b) to (f) and (1m), regardless of whether the disposition was imposed in the order violated by the juvenile, if at the dispositional hearing under s. 938.335 the court explained those conditions to the juvenile and informed the juvenile of the possible sanctions under this paragraph for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. The court may order as a sanction suspension of the juvenile's operating privilege, as defined under s. 340.01 (40), for not more than one year. If the juvenile does not hold a valid operator's license under ch. 343, other than an instruction permit under s. 343.07 or a restricted license under s. 343.08, on the date of the order issued under this paragraph, the court may order the suspension to begin on the date that the operator's license would otherwise be reinstated or issued after the juvenile applies and qualifies for issuance or 2 years after the date of the order issued under this paragraph, whichever occurs first. If the court suspends an operating privilege under this paragraph, the court shall immediately take possession of the suspended license and forward it to the department of transportation with a notice stating the reason for and the duration of the suspension.

(b) A motion for the imposition of a sanction under par. (a) may be brought by the person or agency primarily responsible for providing dispositional services to the juvenile, the administrator of the school district in which the juvenile is enrolled or resides, the district attorney, the corporation counsel or the court that entered the dispositional order. If the court initiates the motion, that court is disqualified from holding a hearing on the motion. Notice of the motion shall be given to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian and all parties present at the original dispositional hearing.

(c) Before imposing a sanction under par. (a), the court shall hold a hearing at which the juvenile is entitled to be represented by legal counsel and to present evidence. The hearing shall be held within 15 days after the filing of a motion under par. (b).

**(7) ORDERS APPLICABLE TO PARENTS, GUARDIANS, LEGAL CUSTODIANS AND OTHER ADULTS.** In addition to any dispositional order entered under s. 938.34 or 938.345,



the court may enter an order applicable to a juvenile's parent, guardian or legal custodian or to another adult, as provided under s. 938.45.

**938.356 Duty of court to warn.** (1) Whenever the court orders a juvenile to be placed outside his or her home because the juvenile has been adjudged to be in need of protection or services under s. 938.345, 938.357, 938.363 or 938.365, the court shall orally inform the parent or parents who appear in court of any grounds for termination of parental rights under s. 48.415 which may be applicable and of the conditions necessary for the juvenile to be returned to the home.

(2) In addition to the notice required under sub. (1), any written order which places a juvenile outside the home under sub. (1) shall notify the parent or parents of the information specified under sub. (1).

**938.357 Change in placement.** (1) The person or agency primarily responsible for implementing the dispositional order may request a change in the placement of the juvenile, whether or not the change requested is authorized in the dispositional order and shall cause written notice to be sent to the juvenile or the juvenile's counsel or guardian ad litem, parent, foster parent, guardian and legal custodian. The notice shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement and a statement of how the new placement satisfies objectives of the treatment plan ordered by the court. Any person receiving the notice under this subsection or notice of the specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain a hearing on the matter by filing an objection with the court within 10 days after receipt of the notice. Placements shall not be changed until 10 days after such notice is sent to the court unless the parent, guardian or legal custodian and the juvenile, if 12 or more years of age, sign written waivers of objection, except that placement changes which were authorized in the dispositional order may be made immediately if notice is given as required in this subsection. In addition, a hearing is not required for placement changes authorized in the dispositional order except where an objection filed by a person who received notice alleges that new information is available which affects the advisability of the court's dispositional order. If a hearing is held under this subsection and the change in placement would remove a juvenile from a foster home, the foster parent may submit a written statement prior to the hearing.

(2) If emergency conditions necessitate an immediate change in the placement of a juvenile placed outside the home, the person or agency primarily responsible for implementing the dispositional order may remove the juvenile to a new placement, whether or not authorized by the existing dispositional order, without the prior notice provided in sub. (1). The notice shall, however, be sent within 48 hours after the emergency change in place-

ment. Any party receiving notice may demand a hearing under sub. (1). In emergency situations, the juvenile may be placed in a licensed public or private shelter care facility as a transitional placement for not more than 20 days, as well as in any placement authorized under s. 938.34 (3).

(2m) The juvenile, parent, guardian, legal custodian or any person or agency primarily bound by the dispositional order, other than the person or agency responsible for implementing the order, may request a change in placement under this subsection. The request shall contain the name and address of the place of the new placement requested and shall state what new information is available which affects the advisability of the current placement. This request shall be submitted to the court. In addition, the court may propose a change in placement on its own motion. The court shall hold a hearing on the matter prior to ordering any change in placement under this subsection if the request states that new information is available which affects the advisability of the current placement, unless written waivers of objection to the proposed change in placement are signed by all parties entitled to receive notice under sub. (1) and the court approves. If a hearing is scheduled, the court shall notify the juvenile, parent, foster parent, guardian, legal custodian and all parties who are bound by the dispositional order at least 3 days prior to the hearing. A copy of the request or proposal for the change in placement shall be attached to the notice. If all the parties consent, the court may proceed immediately with the hearing. If a hearing is held under this subsection and the change in placement would remove a juvenile from a foster home, the foster parent may submit a written statement prior to the hearing.

(3) Subject to sub. (4) (b) and (5) (e), if the proposed change in placement would involve placing a juvenile in a secured correctional facility or in a secured child caring institution, notice shall be given as provided in sub. (1). A hearing shall be held, unless waived by the juvenile, parent, guardian and legal custodian, before the judge makes a decision on the request. The juvenile shall be entitled to counsel at the hearing, and any party opposing or favoring the proposed new placement may present relevant evidence and cross-examine witnesses. The proposed new placement may be approved only if the judge finds, on the record, that the conditions set forth in s. 938.34 (4m) have been met.

(4) (a) When the juvenile is placed with the department, the department may, after an examination under s. 938.50, place the juvenile in a secured correctional facility or a secured child caring institution or on aftercare supervision, either immediately or after a period of placement in a secured correctional facility or a secured child caring institution. The department shall send written notice of the change to the parent, guardian, legal custodian, county department designated under s. 938.34 (4n), if

any, and committing court. A juvenile who is placed in a secured child caring institution remains under the supervision of the department, remains subject to the rules and discipline of that department and is considered to be in custody, as defined in s. 946.42 (1) (a).

(b) If a juvenile who is placed in a secured child caring institution violates a condition of his or her placement in the secured child caring institution, the child welfare agency operating the secured child caring institution shall notify the department, and the department, without a hearing under sub. (1), may return the juvenile to a secured correctional facility or place the juvenile in a secure detention facility for not more than 30 days as a sanction for that violation. The department shall send written notice of the change to the parent, guardian, legal custodian and committing court. If a juvenile is returned to a secured correctional facility or placed in a secure detention facility under this paragraph, the child welfare agency operating the secured child caring institution in which the juvenile was placed shall reimburse the department or county for the cost of the juvenile's care while placed in the secured correctional facility or secure detention facility under this paragraph.

(c) The child welfare agency that is operating a secured child caring institution in which a juvenile has been placed under par. (a) may place the juvenile in a less restrictive placement, and may replace in the secured child caring institution that juvenile, without a hearing under sub. (1). The child welfare agency shall establish a rate for each type of placement in the manner provided in s. 46.037.

(4g) (a) Not later than 120 days after the date on which the juvenile is placed in a secured correctional facility or a secured child caring institution, or within 30 days after the date on which the department requests the aftercare plan, whichever is earlier, the aftercare provider designated under s. 938.34 (4n) shall prepare an aftercare plan for the juvenile. If the aftercare provider designated under s. 938.34 (4n) is a county department, that county department shall submit the aftercare plan to the department within the time limits specified in this paragraph, unless the department waives those time limits under par. (b).

(b) The department may waive the time period within which an aftercare plan must be prepared and submitted under par. (a) if the department anticipates that the juvenile will remain in the secured correctional facility or secured child caring institution for a period exceeding 8 months or if the juvenile is subject to s. 48.366 or 938.183 (2). If the department waives that time period, the aftercare provider designated under s. 938.34 (4n) shall prepare the aftercare plan within 30 days after the date on which the department requests the aftercare plan.

(c) An aftercare plan prepared under par. (a) or (b) shall include all of the following:

1. The minimum number of supervisory contacts per week.

2. The conditions, if any, under which the juvenile's aftercare status may be revoked.

3. Services or programming to be provided to the juvenile while on aftercare.

4. The estimated length of time that aftercare supervision and services shall be provided to the juvenile.

(d) A juvenile may be released from a secured correctional facility or a secured child caring institution whether or not an aftercare plan has been prepared under this subsection.

(4m) The department shall try to release a juvenile to aftercare supervision under sub. (4) within 30 days after the date the department determines the juvenile is eligible for the release.

(5) (a) The department or a county department, whichever has been designated as a juvenile's aftercare provider under s. 938.34 (4n), may revoke the aftercare status of that juvenile. Revocation of aftercare supervision shall not require prior notice under sub. (1).

(b) A juvenile on aftercare status may be taken into custody only as provided in ss. 938.19 to 938.21.

(c) The juvenile shall be entitled to representation by counsel at all stages of the revocation proceeding.

(d) A hearing on the revocation shall be conducted by the division of hearings and appeals in the department of administration within 30 days after the juvenile is taken into custody for an alleged violation of the conditions of the juvenile's aftercare supervision. This time limit may be waived only upon the agreement of the aftercare provider, the juvenile and the juvenile's counsel.

(e) If the hearing examiner finds that the juvenile has violated a condition of aftercare supervision, the hearing examiner shall determine whether confinement in a secured correctional facility or a secured child caring institution is necessary to protect the public, to provide for the juvenile's rehabilitation or to not depreciate the seriousness of the violation.

(f) Review of a revocation decision shall be by certiorari to the court by whose order the juvenile was placed in a secured correctional facility or a secured child caring institution.

(g) The department shall promulgate rules setting standards to be used by a hearing examiner to determine whether to revoke a juvenile's aftercare status. The standards shall specify that the burden is on the department or county department seeking revocation to show by a preponderance of the evidence that the juvenile violated a condition of aftercare supervision.

(5m) If a proposed change in placement changes a juvenile's placement from a placement in the juvenile's home to a placement outside the juvenile's home, the court shall order the juvenile's parent to provide a statement of income, assets, debts and living expenses to the

court or the person or agency primarily responsible for implementing the dispositional order by a date specified by the court. The clerk of court shall provide, without charge, to any parent ordered to provide a statement of income, assets, debts and living expenses a document setting forth the percentage standard established by the department of health and social services under s. 46.25 (9) and listing the factors that a court may consider under s. 46.10 (14) (c). If the juvenile is placed outside the juvenile's home, the court shall determine the liability of the parent in the manner provided in s. 46.10 (14).

(6) No change in placement may extend the expiration date of the original order.

**938.36 Payment for services.** (1) (a) If legal custody is transferred from the parent or guardian or the court otherwise designates an alternative placement for the juvenile by a disposition made under s. 938.183 (2), 938.34 or 938.345 or by a change in placement under s. 938.357, the duty of the parent or guardian to provide support shall continue even though the legal custodian or the placement designee may provide the support. A copy of the order transferring custody or designating alternative placement for the juvenile shall be submitted to the agency or person receiving custody or placement and the agency or person may apply to the court for an order to compel the parent or guardian to provide the support. Support payments for residential services, when purchased or otherwise funded or provided by the department, or a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437, shall be determined under s. 46.10 (14).

(b) In determining the amount of support under par. (a), the court may consider all relevant financial information or other information relevant to the parent's earning capacity, including information reported to the department of health and social services, or the county child and spousal support agency, under s. 46.25 (2m). If the court has insufficient information with which to determine the amount of support, the court shall order the juvenile's parent to furnish a statement of income, assets, debts and living expenses, if the parent has not already done so, to the court within 10 days after the court's order transferring custody or designating an alternative placement is entered or at such other time as ordered by the court.

(2) If a juvenile whose legal custody has not been taken from a parent or guardian is given educational and social services, or medical, psychological or psychiatric treatment by order of the court, the cost thereof, if ordered by the court, shall be a charge upon the county. This section does not prevent recovery of reasonable contribution toward the costs from the parent or guardian of the juvenile as the court may order based on the ability of the parent or guardian to pay. This subsection is subject to s. 46.03 (18).

(3) In determining county liability, this section does not apply to services specified in ch. 115.

**938.361 Payment for alcohol and other drug abuse services.** (1) In this section:

(a) "Alcohol and other drug abuse services" means all of the following:

1. Any alcohol or other drug abuse examination or assessment ordered under s. 938.295 (1), 938.34 (14s) (b) 1., 938.343 (10) (a) or 938.344 (2g) (a) 1.

2. Any special treatment or care that relates to alcohol or other drug abuse services ordered under s. 938.34 (6) (a) or (am).

3. Any alcohol or other drug abuse treatment or education ordered by a court under s. 938.32 (1g) or 938.34 (6) (a) or (am), (6r) or (14s) (b) 1. or 2.

(b) "Municipality" means a city, village or town.

(2) (a) 1. If a juvenile's parent is unable to provide or refuses to provide court-ordered alcohol and other drug abuse services for the juvenile through his or her health insurance or other 3rd-party payments, notwithstanding s. 938.36 (3) the court assigned to exercise jurisdiction under this chapter and ch. 48 or municipal court may order the parent to pay for the alcohol and drug abuse services. If the parent consents to provide alcohol and other drug abuse services for a juvenile through his or her health insurance or other 3rd-party payments but the health insurance provider or other 3rd-party payer refuses to provide the alcohol and other drug abuse services the court assigned to exercise jurisdiction under this chapter and ch. 48 or municipal court may order the health insurance provider or 3rd-party payer to pay for the alcohol and other drug abuse services in accordance with the terms of the parent's health insurance policy or other 3rd-party payment plan.

2. This paragraph applies to payment for alcohol and other drug abuse services in any county, regardless of whether the county is a pilot county under s. 938.547.

(am) 1. If a court assigned to exercise jurisdiction under this chapter and ch. 48 in a county that has a pilot program under s. 938.547 finds that payment is not attainable under par. (a), the court may order payment in accordance with par. (b).

2. If a court assigned to exercise jurisdiction under this chapter and ch. 48 in a county that does not have a pilot program under s. 938.547 finds that payment is not attainable under par. (a), the court may order payment in accordance with s. 938.34 (6) (ar) or 938.36.

3. If a municipal court finds that payment is not attainable under par. (a), the municipal court may order the municipality over which the municipal court has jurisdiction to pay for any alcohol and other drug abuse services ordered by the municipal court.

(b) 1. In counties that have a pilot program under s. 938.547, in addition to using the alternative provided for under par. (a), the court assigned to exercise jurisdiction under this chapter and ch. 48 may order a county department of human services established under s. 46.23 or a county department established under s. 51.42 or 51.437

in the juvenile's county of legal residence to pay for the alcohol and other drug abuse services whether or not custody has been taken from the parent.

2. If a judge orders a county department established under s. 51.42 or 51.437 to provide alcohol and other drug abuse services under this paragraph, the provision of the alcohol and other drug abuse services shall be subject to conditions specified in ch. 51.

(c) Payment for alcohol and other drug abuse services by a county department or municipality under this section does not prohibit the county department or municipality from contracting with another county department, municipality, school district or approved treatment facility for the provision of alcohol and other drug abuse services. Payment by the county or municipality under this section does not prevent recovery of reasonable contribution toward the costs of the court-ordered alcohol and other drug abuse services from the parent which is based upon the ability of the parent to pay. This subsection is subject to s. 46.03 (18).

**938.362 Payment for certain special treatment or care services.** (1) In this section, "special treatment or care" has the meaning given in s. 938.02 (17m), except that it does not include alcohol and other drug abuse services.

(2) This section applies to the payment of court-ordered special treatment or care under s. 938.34 (6) (a) or (am), whether or not custody has been taken from the parent.

(3) If a juvenile's parent is unable to provide or refuses to provide court-ordered special treatment or care for the juvenile through his or her health insurance or other 3rd-party payments, notwithstanding s. 938.36 (3), the court may order the parent to pay for the court-ordered special treatment or care. If the parent consents to provide court-ordered special treatment or care for a juvenile through his or her health insurance or other 3rd-party payments but the health insurance provider or other 3rd-party payer refuses to provide the court-ordered special treatment or care, the court may order the health insurance provider or 3rd-party payer to pay for the court-ordered special treatment or care in accordance with the terms of the parent's health insurance policy or other 3rd-party payment plan.

(4) (a) If the court finds that payment is not attainable under sub. (3), the court may order the county department under s. 51.42 or 51.437 of the juvenile's county of legal residence to pay the cost of any court-ordered special treatment or care that is provided by or under contract with that county department.

(b) Payment for special treatment or care by a county department under par. (a) does not prohibit the county department from contracting with another county department or approved treatment facility for the provision of special treatment or care.

(c) A county department that pays for court-ordered special treatment or care under par. (a) may recover from the parent, based on the parent's ability to pay, a reasonable contribution toward the costs of court-ordered special treatment or care. This paragraph is subject to s. 46.03 (18).

**938.363 Revision of dispositional orders.** (1) A juvenile, the juvenile's parent, guardian or legal custodian, any person or agency bound by a dispositional order or the district attorney or corporation counsel in the county in which the dispositional order was entered may request a revision in the order that does not involve a change in placement, including a revision with respect to the amount of child support to be paid by a parent, or the court may on its own motion propose such a revision. The request or court proposal shall set forth in detail the nature of the proposed revision and what new information is available that affects the advisability of the court's disposition. The request or court proposal shall be submitted to the court. The court shall hold a hearing on the matter if the request or court proposal indicates that new information is available which affects the advisability of the court's dispositional order and prior to any revision of the dispositional order, unless written waivers of objections to the revision are signed by all parties entitled to receive notice and the court approves. If a hearing is held, the court shall notify the parent, juvenile, guardian and legal custodian, all parties bound by the dispositional order and the district attorney or corporation counsel in the county in which the dispositional order was entered at least 3 days prior to the hearing. A copy of the request or proposal shall be attached to the notice. If the proposed revision is for a change in the amount of child support to be paid by a parent, the court shall order the juvenile's parent to provide a statement of income, assets, debts and living expenses to the court and the person or agency primarily responsible for implementing the dispositional order by a date specified by the court. The clerk of court shall provide, without charge, to any parent ordered to provide a statement of income, assets, debts and living expenses a document setting forth the percentage standard established by the department of health and social services under s. 46.25 (9) and listing the factors that a court may consider under s. 46.10 (14) (c). If all parties consent, the court may proceed immediately with the hearing. No revision may extend the effective period of the original order, or revise an original order under s. 938.34 (3) (f) or (6) (am) to impose more than 30 days of detention, nonsecure custody or inpatient treatment on a child.

(2) If the court revises a dispositional order under sub. (1) with respect to the amount of child support to be paid by a parent for the care and maintenance of the parent's minor juvenile who has been placed by a court order under this chapter in a residential, nonmedical facility,

the court shall determine the liability of the parent in the manner provided in s. 46.10 (14).

**938.364 Dismissal of certain dispositional orders.** A juvenile, the juvenile's parent, guardian or legal custodian or the district attorney or corporation counsel in the county in which the dispositional order was entered may request a judge to dismiss an order made under s. 938.342 (2) if the juvenile shows documentary proof that he or she is enrolled in a school program or a high school equivalency program, or the court may on its own motion propose such a dismissal.

**938.365 Extension of orders.** (1) In this section, "2 or more years" means a period of time that begins with the first placement of the juvenile outside of his or her home pursuant to an order under this section or s. 938.345, 938.357 or 938.363 and includes any period of time in which the juvenile returned home, unless the periods of time at home account for the majority of the time since the first placement.

(1m) The parent, juvenile, guardian, legal custodian, any person or agency bound by the dispositional order, the district attorney or corporation counsel in the county in which the dispositional order was entered or the court on its own motion, may request an extension of an order under s. 938.355. The request shall be submitted to the court which entered the order. No order under s. 938.355 that placed a child in detention, nonsecure custody or inpatient treatment under s. 938.34 (3) (f) or (6) (am) may be extended. No other order under s. 938.355 may be extended except as provided in this section.

(2) No order may be extended without a hearing. The court shall notify the juvenile or the juvenile's guardian ad litem or counsel, the juvenile's parent, guardian, legal custodian, all of the parties present at the original hearing and the district attorney or corporation counsel in the county in which the dispositional order was entered of the time and place of the hearing.

(2g) (a) At the hearing the person or agency primarily responsible for providing services to the juvenile shall file with the court a written report stating to what extent the dispositional order has been meeting the objectives of the plan for the juvenile's rehabilitation or care and treatment. The juvenile offender review program may file a written report regarding any juvenile examined by the program.

(b) If the juvenile is placed outside of his or her home, the report shall include all of the following:

1. A copy of the report of the review panel under s. 938.38 (5), if any, and a response to the report from the agency primarily responsible for providing services to the juvenile.

2. An evaluation of the juvenile's adjustment to the placement and of any progress the juvenile has made, suggestions for amendment of the permanency plan, a description of efforts to return the juvenile to his or her home, including efforts of the parents to remedy factors

which contributed to the juvenile's placement and, if continued placement outside of the juvenile's home is recommended, an explanation of why returning the juvenile to his or her home is not feasible.

3. If the juvenile has been placed outside of his or her home for 2 or more years, a statement of whether or not a recommendation has been made to terminate the parental rights of the parents of the juvenile. If a recommendation for a termination of parental rights has been made, the statement shall indicate the date on which the recommendation was made, any previous progress made to accomplish the termination of parental rights, any barriers to the termination of parental rights, specific steps to overcome the barriers and when the steps will be completed, reasons why adoption would be in the best interest of the juvenile and whether or not the juvenile should be registered with the adoption information exchange. If a recommendation for termination of parental rights has not been made, the statement shall include an explanation of the reasons why a recommendation for termination of parental rights has not been made. If the lack of appropriate adoptive resources is the primary reason for not recommending a termination of parental rights, the agency shall recommend that the juvenile be registered with the adoption information exchange or report the reason why registering the juvenile is contrary to the best interest of the juvenile.

(c) In cases where the juvenile has not been placed outside the home, the report shall contain a description of efforts that have been made by all parties concerned toward meeting the objectives of treatment, care or rehabilitation, an explanation of why these efforts have not yet succeeded in meeting the objective, and anticipated future planning for the juvenile.

(2m) (a) Any party may present evidence relevant to the issue of extension. The court shall make findings of fact and conclusions of law based on the evidence, including a finding as to whether reasonable efforts were made by the agency primarily responsible for providing services to the juvenile to make it possible for the juvenile to return to his or her home. An order shall be issued under s. 938.355.

(b) If a juvenile has been placed outside the home under s. 938.345 and an extension is ordered under this subsection, the court shall state in the record the reason for the extension.

(3) The appearance of any juvenile may be waived by consent of the juvenile, counsel or guardian ad litem.

(4) The court shall determine which dispositions are to be considered for extensions.

(5) Except as provided in s. 938.368, all orders shall be for a specified length of time not to exceed one year.

(6) If a request to extend a dispositional order is made prior to the termination of the order, but the court is unable to conduct a hearing on the request prior to the termination date, the court may extend the order for a period

of not more than 30 days, not including any period of delay resulting from any of the circumstances specified in s. 938.315 (1). The court shall grant appropriate relief as provided in s. 938.315 (3) with respect to any request to extend a dispositional order on which a hearing is not held within the time limit specified in this subsection.

(7) Nothing in this section may be construed to allow any changes in placement or revocation of aftercare supervision. Revocation and other changes in placement may take place only under s. 938.357.

**938.368 Continuation of dispositional orders.** If a petition for termination of parental rights is filed under s. 48.41 or 48.415 or an appeal from a judgment terminating or denying termination of parental rights is filed during the year in which a dispositional order under s. 938.355 or an extension order under s. 938.365 is in effect, the dispositional or extension order shall remain in effect until all proceedings related to the filing of the petition or an appeal are concluded.

**938.37 Costs.** (1) A court assigned to exercise jurisdiction under this chapter and ch. 48 may not assess costs or assessments against a juvenile under 14 years of age but may assess costs against a juvenile 14 years of age or older.

(3) Notwithstanding sub. (1), courts of civil and criminal jurisdiction exercising jurisdiction under s. 938.17 may assess the same costs, penalty assessments and jail assessments against juveniles as they may assess against adults, except that witness fees may not be charged to the juvenile.

**938.371 Access to certain information by substitute care provider.** At the time of placement of a juvenile in a foster home, group home or child caring institution under s. 938.183 (2), 938.34, 938.345 or 938.357, or, if the information specified in this section is not available at that time, within 30 days after the date of the placement, the agency that prepared the juvenile's permanency plan shall provide the foster parent or operator of the group home or child caring institution with any information contained in the court report submitted under s. 938.33 or permanency plan submitted under s. 938.38, relating to any of the following:

(1) Results of a test or a series of tests of the juvenile to determine the presence of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an antibody to HIV, if the juvenile's parent or a temporary or permanent guardian appointed by the court has consented to the test under s. 252.15 (2) (a) 4. b. and release of the test results under s. 252.15 (5) (a) 19. and the agency directed to prepare the permanency plan notifies the foster parent or operator of the group home or child caring institution of the confidentiality requirements under s. 252.15 (6).

(2) Results of any tests of the juvenile to determine the presence of viral hepatitis, type B. The foster parent or operator of a group home or child caring institution re-

ceiving information under this subsection shall keep the information confidential.

(3) Findings or opinions of the court or agency that prepared the court report or permanency plan relating to any mental, emotional, cognitive, developmental or behavioral disability of the juvenile. The foster parent or operator of a group home or child caring institution receiving information under this subsection shall keep the information confidential.

**938.373 Medical authorization.** (1) The court assigned to exercise jurisdiction under this chapter and ch. 48 may authorize medical services including surgical procedures when needed if the court assigned to exercise jurisdiction under this chapter and ch. 48 determines that reasonable cause exists for the services and that the juvenile is within the jurisdiction of the court assigned to exercise jurisdiction under this chapter and ch. 48 and, except as provided in s. 938.296 (4), consents.

(2) Section 48.375 (7) applies if the medical service authorized under sub. (1) is an abortion.

#### SUBCHAPTER VII

#### PERMANENCY PLANNING; RECORDS

**938.38 Permanency planning.** (1) DEFINITIONS. In this section:

(a) "Agency" means the department, a county department or a licensed child welfare agency.

(am) "Independent agency" means a private, non-profit organization, but does not include a licensed child welfare agency that is authorized to prepare permanency plans or that is assigned the primary responsibility of providing services under a permanency plan.

(b) "Permanency plan" means a plan designed to ensure that a juvenile is reunified with his or her family whenever possible, or that the juvenile quickly attains a placement or home providing long-term stability.

(2) PERMANENCY PLAN REQUIRED. Except as provided in sub. (3), for each juvenile living in a foster home, treatment foster home, group home, child caring institution, secure detention facility or shelter care facility, the agency that placed the juvenile or arranged the placement or the agency assigned primary responsibility for providing services to the juvenile under s. 938.355 shall prepare a written permanency plan, if any of the following conditions exists:

(a) The juvenile is being held in physical custody under s. 938.207, 938.208 or 938.209.

(b) The juvenile is in the legal custody of the agency.

(c) The juvenile is under supervision of an agency under s. 48.64 (2) or pursuant to a court order under s. 938.355.

(d) The juvenile was placed under a voluntary agreement between the agency and the juvenile's parent under s. 48.63 (1).

(e) The juvenile is under the guardianship of the agency.

(f) The juvenile's care is paid under s. 49.19.

(3) TIME. The agency shall file the permanency plan with the court within 60 days after the date on which the juvenile was first held in physical custody or placed outside of his or her home under a court order, except under either of the following conditions:

(a) If the juvenile is alleged to be delinquent and is being held in a secure detention facility, juvenile portion of a county jail or shelter care facility, and the agency intends to recommend that the juvenile be placed in a secured correctional facility or a secured child caring institution, the agency is not required to submit the permanency plan unless the court does not accept the recommendation of the agency. If the court places the juvenile in any facility outside of the juvenile's home other than a secured correctional facility or a secured child caring institution, the agency shall file the permanency plan with the court within 60 days after the date of disposition.

(b) If the juvenile is held for less than 60 days in a secure detention facility, juvenile portion of a county jail or a shelter care facility, no permanency plan is required if the juvenile is returned to his or her home within that period.

(4) CONTENTS OF PLAN. The permanency plan shall include a description of all of the following:

(a) The services offered and any service provided in an effort to prevent holding or placing the juvenile outside of his or her home, and to make it possible for the juvenile to return home.

(b) The basis for the decision to hold the juvenile in custody or to place the juvenile outside of his or her home.

(c) The location and type of facility in which the juvenile is currently held or placed, and the location and type of facility in which the juvenile will be placed.

(d) If the juvenile is living more than 60 miles from his or her home, documentation that placement within 60 miles of the juvenile's home is either unavailable or inappropriate.

(e) The appropriateness of the placement and of the services provided to meet the needs of the juvenile and family, including a discussion of services that have been investigated and considered and are not available or likely to become available within a reasonable time to meet the needs of the juvenile or, if available, why such services are not appropriate.

(f) The services that will be provided to the juvenile, the juvenile's family and the juvenile's foster parent, the juvenile's treatment foster parent or the operator of the facility where the juvenile is living to carry out the dispositional order, including services planned to accomplish all of the following:

1. Ensure proper care and treatment of the juvenile and promote stability in the placement.
2. Meet the juvenile's physical, emotional, social, educational and vocational needs.

3. Improve the conditions of the parents' home to facilitate the return of the juvenile to his or her home, or, if appropriate, obtain an alternative permanent placement for the juvenile.

(g) The conditions, if any, upon which the juvenile will be returned to his or her home, including any changes required in the parents' conduct, the juvenile's conduct or the nature of the home.

(5) PLAN REVIEW. (a) The court or a panel appointed under this paragraph shall review the permanency plan every 6 months from the date on which the juvenile was first held in physical custody or placed outside of his or her home. If the court elects not to review the permanency plan, the court shall appoint a panel to review the permanency plan. The panel shall consist of 3 persons who are either designated by an independent agency that has been approved by the chief judge of the judicial administrative district or designated by the agency that prepared the permanency plan. A voting majority of persons on each panel shall be persons who are not employed by the agency that prepared the permanency plan and who are not responsible for providing services to the juvenile or the parents of the juvenile whose permanency plan is the subject of the review.

(am) The court may appoint an independent agency to designate a panel to conduct a permanency plan review under par. (a). If the court appoints an independent agency under this paragraph, the county department of the county of the court shall authorize and contract for the purchase of services from the independent agency.

(b) The court or the agency shall notify the parents of the juvenile, the juvenile if he or she is 10 years of age or older and the juvenile's foster parent, the juvenile's treatment foster parent or the operator of the facility in which the juvenile is living of the date, time and place of the review, of the issues to be determined as part of the review, of the fact that they may submit written comments not less than 10 working days before the review and of the fact that they may participate in the review. The court or agency shall notify the person representing the interests of the public, the juvenile's counsel and the juvenile's guardian ad litem of the date of the review, of the issues to be determined as part of the review and of the fact that they may submit written comments not less than 10 working days before the review. The notices under this paragraph shall be provided in writing not less than 30 days before the review and copies of the notices shall be filed in the juvenile's case record.

(c) The court or the panel shall determine each of the following:

1. The continuing necessity for and the appropriateness of the placement.
2. The extent of compliance with the permanency plan by the agency and any other service providers, the juvenile's parents and the juvenile.

3. The extent of any efforts to involve appropriate service providers in addition to the agency's staff in planning to meet the special needs of the juvenile and the juvenile's parents.

4. The progress toward eliminating the causes for the juvenile's placement outside of his or her home and toward returning the juvenile to his or her home or obtaining a permanent placement for the juvenile.

5. The date by which it is likely that the juvenile will be returned to his or her home, placed for adoption, placed under legal guardianship or otherwise permanently placed.

6. If the juvenile has been placed outside of his or her home for 2 years or more, the appropriateness of the permanency plan and the circumstances which prevent the juvenile from any of the following:

- a. Being returned to his or her home.
- b. Having a petition for the involuntary termination of parental rights filed on behalf of the juvenile.
- c. Being placed for adoption.
- d. Being placed in sustaining care.

7. Whether reasonable efforts were made by the agency to make it possible for the juvenile to return to his or her home.

(d) Notwithstanding s. 938.78 (2) (a), the agency that prepared the permanency plan shall, at least 5 days before a review by a review panel, provide to each person appointed to the review panel, the person representing the interests of the public, the juvenile's counsel and the juvenile's guardian ad litem a copy of the permanency plan and any written comments submitted under par. (b). Notwithstanding s. 938.78 (2) (a), a person appointed to a review panel, the person representing the interests of the public, the juvenile's counsel and the juvenile's guardian ad litem may have access to any other records concerning the juvenile for the purpose of participating in the review. A person permitted access to a juvenile's records under this paragraph may not disclose any information from the records to any other person.

(e) Within 30 days, the agency shall prepare a written summary of the determinations under par. (c) and shall provide a copy to the court that entered the order, the juvenile or the juvenile's counsel or guardian ad litem, the person representing the interests of the public, the juvenile's parent or guardian and the juvenile's foster parent, the juvenile's treatment foster parent or the operator of the facility where the juvenile is living.

(f) If the summary prepared under par. (e) indicates that the review panel made recommendations that conflict with the court order or that provide for additional services not specified in the court order, the agency primarily responsible for providing services to the juvenile shall request a revision of the court order.

**(5m) ANNUAL REPORT.** Not later than March 1 annually, each county department shall submit to the department a report identifying the membership of the review

panels appointed during the previous year, data on each of the determinations of the review panels required under sub. (5) (c) and any other information specified by the department by rule.

**(6) RULES.** The department shall promulgate rules establishing the following:

(a) Procedures for conducting permanency plan reviews.

(b) Requirements for training review panels.

(c) Standards for reasonable efforts to prevent placement of juveniles outside of their homes and to make it possible for juveniles to return to their homes if they have been placed outside of their homes.

(d) The format for permanency plans and review panel reports.

(e) Standards and guidelines for decisions regarding the placement of juveniles.

**938.39 Disposition by court bars criminal proceeding.** Disposition by the court of any violation of state law coming within its jurisdiction under s. 938.12 bars any future criminal proceeding on the same matter in circuit court when the juvenile reaches the age of 17. This section does not affect criminal proceedings in circuit court which were transferred under s. 938.18.

**938.396 Records. (1)** Law enforcement officers' records of juveniles shall be kept separate from records of adults. Law enforcement officers' records of juveniles shall not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g), (1m), (1r), (1t) or (1v) or s. 938.293 or by order of the court. This subsection does not apply to representatives of the news media who wish to obtain information for the purpose of reporting news without revealing the identity of the juvenile involved, to victim-witness coordinators, to victims of a juvenile's act who wish to obtain information for the purpose of recovering for any loss, damage or injury suffered as a result of the juvenile's act, to insurance companies that wish to obtain information for the purpose of investigating a claim involving the juvenile, to the confidential exchange of information between the police and officials of the school attended by the juvenile or other law enforcement or social welfare agencies or to juveniles 10 years of age or older who are subject to the jurisdiction of the court of criminal jurisdiction.

**(1b)** If requested by the parent, guardian or legal custodian of a juvenile who is the subject of a law enforcement officer's report, or if requested by the juvenile, if 14 years of age or over, a law enforcement agency may, subject to official agency policy, provide to the parent, guardian, legal custodian or juvenile a copy of that report.

**(1d)** Upon the written permission of the parent, guardian or legal custodian of a juvenile who is the subject of a law enforcement officer's report or upon the written permission of the juvenile, if 14 years of age or over, a law enforcement agency may, subject to official agency policy, make available to the person named in the



permission any reports specifically identified by the parent, guardian, legal custodian or juvenile in the written permission.

**(1g)** If requested by the victim–witness coordinator, a law enforcement agency shall disclose to the victim–witness coordinator any information in its records relating to the enforcement of rights under the constitution, this chapter and s. 950.04 or the provision of services under s. 950.05. The victim–witness coordinator may use the information only for the purpose of enforcing those rights and providing those services and may make that information available only as necessary to ensure that victims and witnesses of crimes, as defined in s. 950.02 (1m), receive the rights and services to which they are entitled under the constitution, this chapter and ch. 950.

**(1m)** (a) If requested by the school district administrator of a public school district, a law enforcement agency may provide to the school district administrator any information in its records relating to the use, possession or distribution of alcohol or a controlled substance by a pupil enrolled in the public school district. The information shall be used by the school district as provided under s. 118.127 (2).

(b) If requested by the school district administrator of a public school district, a law enforcement agency may disclose to the school district administrator any information in its records relating to the act for which a juvenile enrolled in the public school district was adjudged delinquent. The information shall be used by the school district as provided in s. 118.127 (3).

(c) On petition of a law enforcement agency to review pupil records, as defined in s. 118.125 (1) (d), other than pupil records that may be disclosed without a court order under s. 118.125 (2) or (2m), for the purpose of investigating alleged delinquent or criminal activity, the court may order the school board of the school district in which a juvenile is enrolled to disclose to the law enforcement agency the pupil records of that juvenile as necessary for the law enforcement agency to pursue its investigation. The law enforcement agency may use the pupil records only for the purpose of its investigation and may make the pupil records available only to employees of the law enforcement agency who are working on the investigation.

**(1r)** If requested by a victim of a juvenile’s act, a law enforcement agency may disclose to the victim any information in its records relating to the injury, loss or damage suffered by the victim, including the name and address of the juvenile and the juvenile’s parents. The victim may use and further disclose the information only for the purpose of recovering for the injury, damage or loss suffered as a result of the juvenile’s act.

**(1t)** If a juvenile who has been ordered to make restitution for any injury, loss or damage caused by the juvenile and if the juvenile has failed to make that restitution within one year after the entry of the order, the victim’s

insurer may request a law enforcement agency to disclose to the insurer any information in its records relating to the injury, loss or damage suffered by the victim, including the name and address of the juvenile and the juvenile’s parents. The insurer may use and further disclose the information only for the purpose of investigating a claim arising out of the juvenile’s act.

**(1v)** If a law enforcement agency discloses information in its records under sub. (1), (1g), (1m) or (1r), the law enforcement agency shall immediately notify the juvenile who is the subject of the record and the juvenile’s parent, guardian or legal custodian of that disclosure and shall immediately provide to the juvenile and the parent, guardian or legal custodian the information disclosed.

**(2)** (a) Records of the court assigned to exercise jurisdiction under this chapter and ch. 48 and of courts exercising jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for that purpose only. They shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter and ch. 48 or as permitted under this section. If a court opens for inspection or discloses the contents of a record as permitted under this section, the court shall immediately notify the juvenile who is the subject of the record and the juvenile’s parent, guardian or legal custodian of that inspection or disclosure and shall immediately provide to the juvenile and the parent, guardian or legal custodian the record inspected or the information disclosed.

(ag) Upon request of the parent, guardian or legal custodian of a juvenile who is the subject of a record of a court specified in par. (a), or upon request of the juvenile, if 14 years of age or over, the court shall open for inspection by the parent, guardian, legal custodian or juvenile the records of the court relating to that juvenile, unless the court finds, after due notice and hearing, that inspection of those records by the parent, guardian or legal custodian would result in imminent danger to the juvenile.

(am) Upon the written permission of the parent, guardian or legal custodian of a juvenile who is the subject of a record of a court specified in par. (a), or upon request of the juvenile if 14 years of age or over, the court shall open for inspection by the person named in the permission any records specifically identified by the parent, guardian, legal custodian or juvenile in the written permission.

(b) Upon request of the department of health and social services, the department of corrections or a federal agency to review court records for the purpose of monitoring and conducting periodic evaluations of activities as required by and implemented under 45 CFR 1355, 1356 and 1357, the court shall open those records for inspection by authorized representatives of the department or federal agency.

(c) Upon request of a law enforcement agency to review court records for the purpose of investigating a crime that might constitute criminal gang activity, as defined in s. 941.38 (1) (b), the court shall open for inspection by authorized representatives of the law enforcement agency the records of the court relating to any juvenile who has been found to have committed a delinquent act at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been a felony under ch. 161 or under chs. 939 to 948 if committed by an adult.

(d) Upon request of a court of criminal jurisdiction or a district attorney to review court records for the purpose of investigating and determining whether a person has possessed a firearm in violation of s. 941.29 (2), the court assigned to exercise jurisdiction under this chapter and ch. 48 shall open for inspection by authorized representatives of the requester the records of the court relating to any juvenile who has been adjudicated delinquent for an act that would be a felony if committed by an adult.

(dm) Upon request of a defense counsel to review court records for the purpose of preparing his or her client's defense to an allegation of delinquent or criminal activity, the court shall open for inspection by authorized representatives of the requester the records of the court relating to that client.

(e) Upon request of the department of corrections to review court records for the purpose of providing, under s. 980.015 (3) (a), the department of justice or a district attorney with a person's offense history, the court shall open for inspection by authorized representatives of the department of corrections the records of the court relating to any juvenile who has been adjudicated delinquent for a sexually violent offense, as defined in s. 980.01 (6).

(f) Upon request of the victim-witness coordinator to review court records for the purpose of enforcing rights under the constitution, this chapter and s. 950.04 and providing services under s. 950.05, the court shall open for inspection by the victim-witness coordinator the records of the court relating to the enforcement of those rights or the provision of those services. The victim-witness coordinator may use any information obtained under this paragraph only for the purpose of enforcing those rights and providing those services and may make that information available only as necessary to ensure that victims and witnesses of crimes, as defined in s. 950.02 (1m), receive the rights and services to which they are entitled under the constitution, this chapter and ch. 950.

(fm) Upon request of a victim's insurer, the court shall disclose to an authorized representative of the requester the amount of restitution, if any, that the court has ordered a juvenile to make to the victim.

**(2m)** (a) Notwithstanding sub. (2), upon request, a court shall open for inspection by the requester the records of the court, other than reports under s. 938.295 or

938.33 or other records that deal with sensitive personal information of the juvenile and the juvenile's family, relating to a juvenile who has been alleged to be delinquent for committing a violation specified in s. 939.62 (2m) (a) 1., 2. or 3. or a violation of s. 948.30 (1) or for conspiracy under s. 939.31 to commit any violation. The requester may further disclose the information to anyone.

(b) Notwithstanding sub. (2), upon request, a court shall open for inspection by the requester the records of the court, other than reports under s. 938.295 or 938.33 or other records that deal with sensitive personal information of the juvenile and the juvenile's family, relating to a juvenile who has been alleged to be delinquent for committing a violation that would be a felony if committed by an adult if the juvenile has been adjudicated delinquent at any time preceding the present proceeding and that previous adjudication remains of record and un-reversed. The requester may further disclose the information to anyone.

**(3)** This section does not apply to proceedings for violation of chs. 340 to 349 and 351 or any county or municipal ordinance enacted under ch. 349, except that this section does apply to proceedings for violations of ss. 342.06 (2) and 344.48 (1), and ss. 30.67 (1) and 346.67 when death or injury occurs.

**(4)** When a court revokes, suspends or restricts a juvenile's operating privilege under this chapter, the department of transportation shall not disclose information concerning or relating to the revocation, suspension or restriction to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, or the minor whose operating privilege is revoked, suspended or restricted, or his or her parent or guardian. Persons entitled to receive this information may not disclose the information to other persons or agencies.

**(7)** (a) Notwithstanding sub. (2) (a), if a petition under s. 938.12 or 938.13 (12) is filed alleging that a juvenile has committed a delinquent act that would be a felony if committed by an adult, the court clerk shall notify the school board of the school district in which the juvenile is enrolled or the school board's designee of the fact that the petition has been filed and the nature of the delinquent act alleged in the petition. Notwithstanding sub. (2) (a) and subject to par. (b), if a juvenile is adjudged delinquent, within 5 days after the date on which the dispositional order is entered, the court clerk shall notify the school board of the school district in which the juvenile is enrolled or the school board's designee of 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 under s. 938.34 as a result of that violation. Notwithstanding sub. (2) (a), if school attendance is a condition of a dispositional order under s. 938.355 (2) (b) 7., within 5 days after the date on which the dispositional order is entered, the court clerk

shall notify the school board of the school district in which the juvenile is enrolled or the school board's designee of the fact that the juvenile's school attendance is a condition of a dispositional order.

(b) If a juvenile is found to have committed a delinquent act at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been a felony under ch. 161 or under chs. 939 to 948 if committed by an adult and is adjudged delinquent on that basis, within 5 days after the date on which the dispositional order is entered the court clerk shall notify the school board of the school district in which the juvenile is enrolled or the school board's designee of the fact that the juvenile has been adjudicated delinquent on that basis, the nature of the violation committed by the juvenile and the disposition imposed on the juvenile under s. 938.34 as a result of that violation.

(bm) Notwithstanding sub. (2) (a), in addition to the disclosure made under par. (a) or (b), if a juvenile is adjudicated delinquent and as a result of the dispositional order is enrolled in a different school district from the school district in which the juvenile is enrolled at the time of the dispositional order, the court clerk, within 5 days after the date on which the dispositional order is entered, shall provide the school board of the juvenile's new school district or the school board's designee with the information specified in par. (a) or (b), whichever is applicable, and, in addition, shall notify that school board or designee of whether the juvenile has been adjudicated delinquent previously by that court, the nature of any previous violations committed by the juvenile and the dispositions imposed on the juvenile under s. 938.34 as a result of those previous violations.

(c) No information from the juvenile's court records, other than information disclosed under par. (a), (b) or (bm), may be disclosed to the school board of the school district in which the juvenile is enrolled or the school board's designee except by order of the court. Any information provided under this subsection to the school board of the school district in which the juvenile is enrolled or the school board's designee shall be disclosed by the school board or designee to employees of the school district who work directly with the juvenile or who have been determined by the school board or designee to have legitimate educational or safety interests in the information. A school district employee to whom information is disclosed under this paragraph shall not further disclose the information. A school board shall not use any information provided under this subsection as the sole basis for expelling or suspending a juvenile. A school board member or an employee of a school district may not be held personally liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the member or employee acted with actual malice in failing to disclose the information. A school district may not be held liable for any damages caused by

the nondisclosure of any information specified in this paragraph unless the school district or its agent acted with gross negligence or with reckless, wanton or intentional misconduct in failing to disclose the information.

(8) Notwithstanding sub. (2), if a juvenile is adjudged delinquent for an act that would be a felony if committed by an adult, the court clerk shall notify the department of justice of that fact. No other information from the juvenile's court records may be disclosed to the department of justice except by order of the court. The department of justice may disclose any information provided under this subsection only as part of a criminal history record search under s. 175.35 (2g) (c).

SUBCHAPTER IX  
 JURISDICTION OVER  
 PERSONS 17 OR OLDER

**938.44 Jurisdiction over persons 17 or older.**

The court has jurisdiction over persons 17 years of age or over as provided under ss. 938.355 (4) and 938.45 and as otherwise specifically provided in this chapter.

**938.45 Orders applicable to adults.**

(1) (a) If in the hearing of a case of a juvenile alleged to be delinquent under s. 938.12 or in need of protection or services under s. 938.13 it appears that any person 17 years of age or over has been guilty of contributing to, encouraging, or tending to cause by any act or omission, such condition of the juvenile, the court may make orders with respect to the conduct of such person in his or her relationship to the juvenile, including orders determining the ability of the person to provide for the maintenance or care of the juvenile and directing when, how and where funds for the maintenance or care shall be paid.

(b) An act or failure to act contributes to a condition of a juvenile as described in s. 938.12 or 938.13, although the juvenile is not actually adjudicated to come within the provisions of s. 938.12 or 938.13, if the natural and probable consequences of that act or failure to act would be to cause the juvenile to come within the provisions of s. 938.12 or 938.13.

(1m) (a) In a proceeding in which a juvenile has been adjudicated delinquent or has been found to be in need of protection or services under s. 938.13, the court may order the juvenile's parent, guardian or legal custodian to comply with any conditions determined by the court to be necessary for the juvenile's welfare. An order under this paragraph may include an order to participate in mental health treatment, anger management, individual or family counseling or parent training and education and to make a reasonable contribution, based on ability to pay, toward the cost of those services.

(b) A court may not order inpatient treatment under par. (a) for a juvenile's parent, guardian or legal custodian. All inpatient treatment commitments or admissions must be conducted in accordance with ch. 51.

(2) No order under sub. (1) (a) or (1m) (a) may be entered until the person who is the subject of the contem-

plated order is given an opportunity to be heard on the contemplated order. The court shall cause notice of the time, place and purpose of the hearing to be served on the person personally at least 10 days before the date of hearing. The procedure in these cases shall, as far as practicable, be the same as in other cases in the court. At the hearing the person may be represented by counsel and may produce and cross-examine witnesses. Any person who fails to comply with any order issued by a court under sub. (1) (a) or (1m) (a) may be proceeded against for contempt of court. If the person's conduct involves a crime, the person may be proceeded against under the criminal law.

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

SUBCHAPTER X  
REHEARING AND APPEAL

**938.46 New evidence.** A juvenile whose status is adjudicated by the court under this chapter, or the juvenile's parent, guardian or legal custodian, may at any time within one year after the entering of the court's order petition the court for a rehearing on the ground that new evidence has been discovered affecting the advisability of the court's original adjudication. Upon a showing that such evidence does exist, the court shall order a new hearing.

SUBCHAPTER XI  
AUTHORITY

**938.48 Authority of department.** The department may do all of the following:

(1) Promote the enforcement of the laws relating to delinquent juveniles and juveniles in need of protection or services and take the initiative in all matters involving the interests of such juveniles where adequate provision therefor is not made. This duty shall be discharged in cooperation with the courts, county departments and licensed child welfare agencies and with parents and other individuals interested in the welfare of juveniles.

(2) Assist in extending and strengthening juvenile welfare services with appropriate federal agencies and in conformity with the federal social security act and in cooperation with parents, other individuals and other agencies so that all juveniles needing such services are reached.

(3) Accept supervision over juveniles transferred to it by the court under s. 938.183, 938.34 (4h), (4m) or (4n) or 938.357 (4), and provide special treatment and care when directed by the court. Except as provided in s. 938.505 (2), a court may not direct the department to administer psychotropic medications to juveniles who receive special treatment or care under this subsection.

(4) Provide appropriate care and training for juveniles under its supervision under s. 938.183, 938.34 (4h), (4m) or (4n) or 938.357 (4); including serving those juveniles in their own homes, placing them in licensed foster homes or licensed treatment foster homes in accordance with s. 48.63 or licensed group homes, contracting for their care by licensed child welfare agencies or replacing them in juvenile correctional institutions or secured child caring institutions in accordance with rules promulgated under ch. 227, except that the department may not purchase the educational component of private day treatment programs for juveniles in its custody unless the department, the school board as defined in s. 115.001 (7) and the secretary of education all determine that an appropriate public education program is not available. Disputes between the department and the school district shall be resolved by the secretary of education.

(4m) Continue to provide appropriate care, training and services to any person who meets all of the following qualifications:

(a) Is at least 17 years of age.

(b) Was under the supervision of the department under s. 938.183, 938.34 (4h), (4m) or (4n) or 938.357 (4) when the person reached 17 years of age.

(c) Is less than 19 years of age.

(d) Is determined by the department to be in need of care and services designed to fit such person for gainful employment and has requested and consented to receive such aid.

(5) Provide for the moral and religious training of a juvenile under its supervision under s. 938.183, 938.34 (4h), (4m) or (4n) or 938.357 (4) according to the religious belief of the juvenile or of the juvenile's parents.

(6) Consent to emergency surgery under the direction of a licensed physician or surgeon for any juvenile under its supervision under s. 938.183, 938.34 (4h), (4m) or (4n) or 938.357 (4) upon notification by a licensed physician or surgeon of the need for such surgery and if reasonable effort, compatible with the nature and time limitation of the emergency, has been made to secure the consent of the juvenile's parent or guardian.

(13) Promulgate rules for the payment of an allowance to juveniles in its institutions and a cash grant to a juvenile being discharged from its institutions or released to aftercare supervision.

(14) Pay maintenance, tuition and related expenses from the appropriation under s. 20.410 (3) (am) and (ho) for persons who when they reached 17 years of age were students regularly attending a school, college or university or regularly attending a course of vocational or technical training designed to fit them for gainful employment, and who when reaching that age were under the supervision of the department under s. 938.183, 938.34 (4h), (4m) or (4n) or 938.357 (4) as a result of a judicial decision.

(16) Establish and enforce standards for services provided under s. 938.183, 938.34 or 938.345.

**938.49 Notification by court of placement with department; information for department.** (1) When the court places a juvenile in a secured correctional facility or secured child caring institution under the supervision of the department, the court shall immediately notify the department of that action. The court shall, in accordance with procedures established by the department, provide transportation for the juvenile to a receiving center designated by the department or deliver the juvenile to personnel of the department.

(2) When the court places a juvenile in a secured correctional facility or a secured child caring institution under the supervision of the department, the court and all other public agencies shall also immediately transfer to the department a copy of the report submitted to the court under s. 938.33 or, if the report was presented orally, a transcript of the report and all other pertinent data in their possession and shall immediately notify the juvenile's last school district in writing of its obligation under s. 118.125 (4).

**938.50 Examination of juveniles under supervision of department.** (1) The department shall examine every juvenile who is placed under its supervision to determine the type of placement best suited to the juvenile and to the protection of the public. This examination shall include an investigation of the personal and family history of the juvenile and his or her environment, any physical or mental examinations considered necessary to determine the type of placement that is necessary for the juvenile and the evaluation under s. 938.533 (2) to determine whether the juvenile is eligible for corrective sanctions supervision or serious juvenile offender supervision. A juvenile who is examined under this subsection shall be screened to determine whether the juvenile is in need of special treatment or care because of alcohol or other drug abuse, mental illness or severe emotional disturbance.

(2) In making this examination the department may use any facilities, public or private, that offer aid to it in the determination of the correct placement for the juvenile.

**938.505 Juveniles placed under correctional supervision.** (1) When a juvenile is placed under the supervision of the department under s. 938.183, 938.34 (4h), (4m) or (4n) or 938.357 (4) or (5) (e) or under the supervision of a county department under s. 938.34 (4n), the department or county department having supervision over the juvenile shall have the right and duty to protect, train, discipline, treat and confine the juvenile and to provide food, shelter, legal services, education and ordinary medical and dental care for the juvenile, subject to the rights, duties and responsibilities of the guardian of the juvenile and subject to any residual parental rights and responsibilities and the provisions of any court order.

(2) (a) If a juvenile 14 years of age or over who is under the supervision of the department or a county department as described in sub. (1) and who is not residing in his or her home wishes to be administered psychotropic medication but a parent with legal custody or the guardian refuses to consent to the administration of psychotropic medication or cannot be found, or if there is no parent with legal custody, the department or county department acting on the juvenile's behalf may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 in the county in which the juvenile is located for permission to administer psychotropic medication to the juvenile. A copy of the petition and a notice of hearing shall be served upon the parent or guardian at his or her last-known address. If, after hearing, the court determines all of the following, the court shall grant permission for the department or county department to administer psychotropic medication to the juvenile without the parent's or guardian's consent:

1. That the parent's or guardian's consent is unreasonably withheld or that the parent or guardian cannot be found or that there is no parent with legal custody, except that the court may not determine that a parent's or guardian's consent is unreasonably withheld solely because the parent or guardian relies on treatment by spiritual means through prayer for healing in accordance with his or her religious tradition.

2. That the juvenile is 14 years of age or over and is competent to consent to the administration of psychotropic medication and that the juvenile voluntarily consents to the administration of psychotropic medication.

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.

(b) The court may, at the request of the department or county department, temporarily approve the administration of psychotropic medication, for not more than 10 days after the date of the request, pending the hearing on the petition, which shall be held within those 10 days.

**938.51 Notification of release or escape of juvenile from correctional custody.** (1) At least 15 days prior to the date of release of a juvenile from a secured correctional facility or a secured child caring institution and at least 15 days prior to the release of a juvenile from the supervision of the department or a county department, the department or county department having supervision over the juvenile shall do all of the following:

(a) Notify all of the following local agencies in the community in which the juvenile will reside of the juvenile's return to the community:

1. The law enforcement agencies.
2. The school district.
3. The county departments under ss. 46.215, 46.22, 46.23, 51.42 and 51.437.

(b) Notify any known victim of an act for which the juvenile has been found delinquent of the juvenile's release, if all of the following apply:

2. The victim can be found.
3. The victim has sent in a request card under sub. (2).

(c) Notify, if the victim died as a result of the juvenile's delinquent act and if the criteria under par. (b) are met, an adult member of the victim's family or, if the victim is younger than 18 years old and if the criteria under par. (b) are met, the victim's parent or legal guardian.

(1m) The department or county department having supervision over a juvenile shall determine the local agencies that it will notify under sub. (1) (a) based on the residence of the juvenile's parents or on the juvenile's intended residence specified in the juvenile's aftercare supervision plan or, if those methods do not indicate the community in which the juvenile will reside following release from a secured correctional facility or from the supervision of the department or county department, the community in which the juvenile states that he or she intends to reside.

(1r) The notification under sub. (1) shall include only the juvenile's name, the date of the juvenile's release and the type of placement to which the juvenile is released.

(2) The department shall design and prepare cards for victims specified in sub. (1) (b) and (c) to send to the department or county department having supervision over the juvenile. The cards shall have space for these persons to provide their names and addresses and any other information that the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to victims specified in sub. (1) (b) and (c). These persons may send completed cards to the department or county department having supervision over the juvenile.

(3) Timely release of a juvenile shall not be prejudiced by the fact that the department or county department having supervision over the juvenile did not notify the victims or the local agencies under sub. (1) within the 15 days.

(4) If a juvenile escapes in violation of s. 946.42 (3), as soon as possible after the department or county department having supervision over the juvenile discovers that escape, that department or county department shall make a reasonable effort to notify by telephone any known victim of the act for which the juvenile was found delinquent, if the criteria under sub. (1) (b) are met; an adult member of the victim's family, if the victim died as a result of the juvenile's delinquent act and if the criteria under sub. (1) (b) are met; or the victim's parent or guardian, if the victim is younger than 18 years old and if the criteria under sub. (1) (b) are met.

**938.52 Facilities for care of juveniles in care of department.** (1) FACILITIES MAINTAINED OR USED FOR

JUVENILES. The department may maintain or use the following facilities for juveniles in its care:

(a) Receiving homes to be used for the temporary care of juveniles.

(b) Foster homes or treatment foster homes.

(c) Group homes.

(d) Institutions, facilities and services, including without limitation forestry or conservation camps for the training and treatment of juveniles 10 years of age or older who have been adjudged delinquent.

(f) Other facilities deemed by the department to be appropriate for the juvenile, except that no state funds may be used for the maintenance of a juvenile in the home of a parent or relative eligible for aid under s. 49.19 if such funds would reduce federal funds to this state.

(2) USE OF OTHER FACILITIES. (a) In addition to the facilities and services described in sub. (1), the department may use other facilities and services under its jurisdiction. The department may also contract for and pay for the use of other public facilities or private facilities for the care and treatment of juveniles in its care; but placement of juveniles in private or public facilities not under its jurisdiction does not terminate the supervision under s. 938.183, 938.34 (4h), (4m) or (4n) or 938.357 (4) of the department. Placements in institutions for the mentally ill or developmentally disabled shall be made in accordance with ss. 48.14 (5), 48.63 and 938.34 (6) (am) and ch. 51.

(b) Public facilities are required to accept and care for persons placed with them by the department in the same manner as they would be required to do had the legal custody of these persons been transferred by a court of competent jurisdiction. Nothing in this subsection shall be construed to require any public facility to serve the department inconsistently with its functions or with the laws and regulations governing their activities; or to give the department authority to use any private facility without its consent.

(c) The department shall have the right to inspect all facilities it is using and to examine and consult with persons under its supervision under s. 938.183, 938.34 (4h), (4m) or (4n) or 938.357 (4) who have been placed in that facility.

(4) COEDUCATIONAL PROGRAMS AND INSTITUTIONS. The department may institute and maintain coeducational programs and institutions under this chapter.

**938.53 Duration of control of department over delinquents.** Except as provided under ss. 48.366 and 938.183, all juveniles adjudged delinquent who have been placed under the supervision of the department under s. 938.183, 938.34 (4m), (4h), or (4n) or 938.357 (4) shall be discharged as soon as the department determines that there is a reasonable probability that it is no longer necessary either for the rehabilitation and treatment of

the juvenile or for the protection of the public that the department retain supervision.

**938.532 Juvenile boot camp program.** (1) PROGRAM. The department shall provide a juvenile boot camp program for juveniles who have been placed under the supervision of the department under s. 938.183, 938.34 (4h) or (4m) or 938.357 (4).

(2) PROGRAM ELIGIBILITY. The department may place in the juvenile boot camp program any juvenile who has been placed under the supervision of the department under s. 938.183, 938.34 (4h) or (4m) or 938.357 (4).

(3) AFTERCARE SUPERVISION. Notwithstanding s. 938.34 (4n), a juvenile who has completed the juvenile boot camp program and who is released from a secured correctional facility shall be placed under aftercare supervision administered by the department.

**938.533 Corrective sanctions.** (2) CORRECTIVE SANCTIONS PROGRAM. From the appropriation under s. 20.410 (3) (hr), the department shall provide a corrective sanctions program to serve an average daily population of 105 juveniles, or an average daily population of more than 105 juveniles if the appropriation under s. 20.410 (3) (hr) is supplemented under s. 13.101 or 16.515 and the positions for the program are increased under s. 13.101 or 16.505 (2), in not less than 3 counties, including Milwaukee County. The juvenile offender review program in the department shall evaluate and select for participation in the program juveniles who have been placed under the supervision of the department under s. 938.183, 938.34 (4h) or (4m) or 938.357 (4). The department shall place a program participant in the community, provide intensive surveillance of that participant and provide an average of \$5,000 per year per slot to purchase community-based treatment services for each participant. The department shall make the intensive surveillance required under this subsection available 24 hours a day, 7 days a week, and may purchase or provide electronic monitoring for the intensive surveillance of program participants. The department shall provide a report center in Milwaukee County to provide on-site programming after school and in the evening for juveniles from Milwaukee County who are placed in the corrective sanctions program. A contact worker providing services under the program shall have a case load of approximately 10 juveniles and, during the initial phase of placement in the community under the program of a juvenile who is assigned to that contact worker, shall have not less than one face-to-face contact per day with that juvenile. Case management services under the program shall be provided by a corrective sanctions agent who shall have a case load of approximately 15 juveniles. The department shall promulgate rules to implement the program.

(3) INSTITUTIONAL STATUS. (a) A participant in the corrective sanctions program remains under the supervision of the department, remains subject to the rules and discipline of that department and is considered to be in

custody, as defined in s. 946.42 (1) (a). Notwithstanding ss. 938.19 to 938.21, if a juvenile violates a condition of that juvenile's participation in the corrective sanctions program the department may, without a hearing, take the juvenile into custody and place the juvenile in a secured detention facility or return the juvenile to placement in a Type 1 secured correctional facility or a secured child caring institution.

(b) The department shall operate the corrective sanctions program as a Type 2 secured correctional facility. The secretary may allocate and reallocate existing and future facilities as part of the Type 2 secured correctional facility. The Type 2 secured correctional facility is subject to s. 46.03 (1). Construction or establishment of a Type 2 secured correctional facility shall be in compliance with all state laws except s. 32.035 and ch. 91. In addition to the exemptions under s. 13.48 (13), construction or establishment of a Type 2 secured correctional facility is not subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and city, village or town in which the construction or establishment takes place and is exempt from the investigations permitted under s. 46.22 (1) (c) 1. b.

(3m) ESCAPE. If a juvenile runs away from the juvenile's placement in the community while participating in the corrective sanctions program, that juvenile is considered to have escaped in violation of s. 946.42 (3) (c).

**938.534 Intensive supervision program.** (1) A county department may provide an intensive supervision program for juveniles who have been adjudicated delinquent and ordered to participate in an intensive supervision program under s. 938.34 (2r). A county department that provides an intensive supervision program shall purchase or provide intensive surveillance and community-based treatment services for participants in that program and may purchase or provide electronic monitoring for the intensive surveillance of program participants. A caseworker providing services under an intensive supervision program may have a case load of no more than 10 juveniles and shall have not less than one face-to-face contact per day with each juvenile who is assigned to that caseworker. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subsection, if a juvenile violates a condition of the juvenile's participation in the program, the 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 while the alleged violation is being investigated, if at the dispositional hearing the court explained those conditions to the juvenile and informed the juvenile of the possibility of that placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those

conditions and that possible placement and that he or she understands those conditions and that possible placement. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subsection, the juvenile's caseworker may also, without a hearing, take the juvenile into custody and place the juvenile in a place of nonsecure custody for not more than 30 days as crisis intervention, if the juvenile is in need of crises intervention and, if at the dispositional hearing the court informed the juvenile of the possibility of that placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement. If the juvenile is held in a secure detention facility for longer than 72 hours, the juvenile is entitled to a hearing under s. 938.21. The hearing shall be conducted in the manner provided in s. 938.21, except that the hearing shall be conducted within 72 hours, rather than 24 hours, after the end of the day that the decision to hold the juvenile was made and a written statement of the reasons for continuing to hold the juvenile in custody may be filed rather than a petition under s. 938.25.

(2) The department shall promulgate rules specifying the requirements for an intensive supervision program under this section. The rules shall include rules that govern the use of placement in a secure detention facility for not more than 72 hours while a violation of a condition of a juvenile's participation in the program is being investigated and the use of placement in a place of nonsecure custody for not more than 30 days as crisis intervention.

**938.535 Early release and intensive supervision program; limits.** The department may establish a program for the early release and intensive supervision of juveniles who have been placed in a secured correctional facility or a secured child caring institution under s. 938.183 or 938.34 (4m). The program may not include any juveniles who have been placed in a secured correctional facility or a secured child caring institution as a result of a delinquent act involving the commission of a violent crime as defined in s. 969.035, but not including the crime specified in s. 948.02 (1).

**938.538 Serious juvenile offender program.**

(2) PROGRAM ADMINISTRATION AND DESIGN. The department shall administer a serious juvenile offender program for juveniles who have been adjudicated delinquent and ordered to participate in the program under s. 938.34 (4h). The department shall design the program to provide all of the following:

(a) Supervision, care and rehabilitation that is more restrictive than ordinary supervision in the community.

(b) Component phases that are intensive and highly structured.

(c) A series of component phases for each participant that is based on public safety considerations and the participant's need for supervision, care and rehabilitation.

(3) COMPONENT PHASES. (a) The department shall provide each participant with one or more of the following sanctions:

1. Subject to subd. 1m., placement in a Type 1 secured correctional facility, a secured child caring institution or, if the participant is 17 years of age or over, a Type 1 prison, as defined in s. 301.01 (5), for a period of not more than 3 years.

1m. If the participant has been adjudicated delinquent for committing an act that would be a Class A felony if committed by an adult, placement in a Type 1 secured correctional facility, a secured child caring institution or, if the participant is 17 years of age or over, a Type 1 prison, as defined in s. 301.01 (5), until the participant reaches 25 years of age, unless the participant is released sooner, subject to a mandatory minimum period of confinement of not less than one year.

1p. Alternate care, including placement in a foster home, treatment foster home, group home, child caring institution or secured child caring institution.

2. Intensive or other field supervision, including corrective sanctions supervision under s. 938.533, aftercare supervision or, if the participant is 17 years of age or over, intensive sanctions supervision under s. 301.048.

3. Electronic monitoring.

4. Alcohol or other drug abuse outpatient treatment and services.

5. Mental health treatment and services.

6. Community service.

7. Restitution.

8. Transitional services for education and employment.

9. Other programs as prescribed by the department.

(b) The department may provide the sanctions under par. (a) in any order, may provide more than one sanction at a time and may return to a sanction that was used previously for a participant. Notwithstanding ss. 938.357, 938.363 and 938.533 (3), a participant is not entitled to a hearing regarding the department's exercise of authority under this subsection unless the department provides for a hearing by rule.

(4) INSTITUTIONAL STATUS. (a) A participant in the serious juvenile offender program is under the supervision and control of the department, is subject to the rules and discipline of the department and is considered to be in custody, as defined in s. 946.42 (1) (a). Notwithstanding ss. 938.19 to 938.21, if a participant violates a condition of his or her participation in the program under sub. (3) (a) 2. to 9. while placed in a Type 2 secured correctional facility the department may, without a hearing, take the participant into custody and return him or her to placement in a Type 1 secured correctional facility, a secured child caring institution or, if the participant is 17 years of



age or over, a Type 1 prison, as defined in s. 301.01 (5). Any intentional failure of a participant to remain within the extended limits of his or her placement while participating in the serious juvenile offender program or to return within the time prescribed by the administrator of the division of intensive sanctions in the department is considered an escape under s. 946.42 (3) (c).

(b) The department shall operate the component phases of the program specified in sub. (3) (a) 2. to 9. as a Type 2 secured correctional facility. The secretary of corrections may allocate and reallocate existing and future facilities as part of the Type 2 secured correctional facility. The Type 2 secured correctional facility is subject to s. 301.02. Construction or establishment of a Type 2 secured correctional facility shall be in compliance with all state laws except s. 32.035 and ch. 91. In addition to the exemptions under s. 13.48 (13), construction or establishment of a Type 2 secured correctional facility is not subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and city, village or town in which the construction or establishment takes place and is exempt from inspections required under s. 301.36.

(5) TRANSFERS AND DISCHARGE. (a) The parole commission may grant a participant parole under s. 304.06 at any time after the participant has completed 2 years of participation in the serious juvenile offender program. Parole supervision of the participant shall be provided by the department.

(b) The department may discharge a participant from participation in the serious juvenile offender program and from departmental supervision and control at any time after the participant has completed 3 years of participation in the serious juvenile offender program.

(c) Sections 938.357 and 938.363 do not apply to changes of placement and revisions of orders for a juvenile who is a participant in the serious juvenile offender program.

(6) PURCHASE OF SERVICES. The department of corrections may contract with the department of health and social services, a county department or any public or private agency for the purchase of goods, care and services for participants in the serious juvenile offender program. The department of corrections shall reimburse a person from whom it purchases goods, care or services under this subsection from the appropriation under s. 20.410 (3) (cg) or, if the person for whom the goods, care or services are purchased is placed in a Type 1 prison, as defined s. 301.01 (5), or is under intensive sanctions supervision under s. 301.048, from the appropriate appropriation under s. 20.410 (1).

(6m) MINORITY HIRING. (a) In this subsection:

1. “American Indian” means a person who is enrolled as a member of a federally recognized American Indian tribe or band or who possesses documentation of at least

one-fourth American Indian ancestry or documentation of tribal recognition as an American Indian.

2. “Black” means a person whose ancestors originated in any of the black racial groups of Africa.

3. “Hispanic” means a person of any race whose ancestors originated in Mexico, Puerto Rico, Cuba, Central America or South America or whose culture or origin is Spanish.

4. “Minority group member” means a Black, a Hispanic or an American Indian.

(b) In the selection of classified service employees for a secured correctional facility authorized under 1993 Wisconsin Act 377, section 9108 (1) (a), the appointing authority shall make every effort to use the expanded certification program under s. 230.25 (1n) or rules of the administrator of the division of merit recruitment and selection in the department of employment relations to ensure that the percentage of employees who are minority group members approximates the percentage of the children placed at that secured correctional facility who are minority group members. The administrator of the division of merit recruitment and selection in the department of employment relations shall provide guidelines for the administration of this selection procedure.

(7) RULES. The department shall promulgate rules to implement this section.

**938.54 Records.** The department shall keep a complete record on each juvenile under its supervision under s. 938.183, 938.34 (4h), (4m) or (4n) or 938.357 (4). This record shall include the information received from the court, the date of reception, all available data on the personal and family history of the juvenile, the results of all tests and examinations given the juvenile, and a complete history of all placements of the juvenile while under the supervision of the department.

**938.547 Juvenile alcohol and other drug abuse pilot program.** (1) LEGISLATIVE FINDINGS AND PURPOSE. The legislature finds that the use and abuse of alcohol and other drugs by juveniles is a state responsibility of statewide dimension. The legislature recognizes that there is a lack of adequate procedures to screen, assess and treat juveniles for alcohol and other drug abuse. To reduce the incidence of alcohol and other drug abuse by juveniles, the legislature deems it necessary to experiment with solutions to the problems of the use and abuse of alcohol and other drugs by juveniles by establishing a juvenile alcohol and other drug abuse pilot program in a limited number of counties. The purpose of the program is to develop intake and court procedures that screen, assess and give new dispositional alternatives for juveniles with needs and problems related to the use of alcohol beverages or controlled substances who come within the jurisdiction of a court assigned to exercise jurisdiction under this chapter and ch. 48 in the pilot counties selected by the department.

(2) DEPARTMENT RESPONSIBILITIES. Within the availability of funding under s. 20.435 (7) (mb) that is available for the pilot program, the department of health and social services shall select counties to participate in the pilot program. Unless a county department of human services has been established under s. 46.23 in the county that is seeking to implement a pilot program, the application submitted to the department of health and social services shall be a joint application by the county department that provides social services and the county department established under s. 51.42 or 51.437. The department of health and social services shall select counties in accordance with the request-for-proposal procedures established by that department. The department of health and social services shall give a preference to county applications that include a plan for case management.

(3) MULTIDISCIPLINARY SCREEN. The multidisciplinary screen developed for the pilot program shall be used by an intake worker to determine whether or not a juvenile is in need of an alcohol or other drug abuse assessment. The screen shall also include indicators that screen juveniles for:

- (a) Family dysfunction.
- (b) School or truancy problems.
- (c) Mental health problems.
- (d) Delinquent behavior patterns.

(4) ASSESSMENT CRITERIA. The uniform alcohol and other drug abuse assessment criteria that the department developed shall be used in the pilot program under ss. 938.245 (2) (a) 3., 938.295 (1), 938.32 (1g), 938.343 (10) and 938.344 (2g). An approved treatment facility that assesses a person under ss. 938.245 (2) (a) 3., 938.295 (1), 938.32 (1g), 938.343 (10) and 938.344 (2g) may not also provide the person with treatment unless the department permits the approved treatment facility to do both in accordance with the criteria established by rule by the department.

**938.548 Multidisciplinary screen and assessment criteria.** The department of health and social services shall make the multidisciplinary screen developed under s. 938.547 (3) and the assessment criteria developed under s. 938.547 (4) available to all counties.

**938.549 Juvenile classification system.** (1) The department shall make available to all counties a juvenile classification system that includes at least all of the following:

- (a) A risk assessment instrument for determining the probability that a juvenile who has committed an offense will commit another offense.
- (b) A needs assessment instrument for determining the service needs of a juvenile who has committed an offense.
- (c) A services and placement guide for integrating the risk and needs of a juvenile who has committed an of-

fense with other factors to determine an appropriate placement and level of services for the juvenile.

(2) A county may use the juvenile classification system to do any of the following:

(a) At the time of an intake inquiry, determine whether to close a case, enter into a deferred prosecution agreement or refer the case to the district attorney.

(b) At the time of disposition, recommend a placement and a plan of rehabilitation, treatment and care for the juvenile.

(c) After disposition, determine the level or intensity of supervisory contacts required for a juvenile under county supervision.

(3) Subject to the availability of resources, the department may provide training and technical assistance in the use of the juvenile classification system to any county that requests that training and technical assistance.

SUBCHAPTER XII  
COUNTY JUVENILE  
WELFARE SERVICES

**938.57 Powers and duties of county departments providing juvenile welfare services.** (1) Each county department shall administer and expend such amounts as may be necessary out of any moneys which may be appropriated for juvenile welfare purposes by the county board of supervisors or donated by individuals or private organizations. A county department may do any of the following:

(a) Investigate the conditions surrounding delinquent juveniles and juveniles in need of protection or services within the county and take every reasonable action within its power to secure for them the full benefit of all laws enacted for their benefit. Unless provided by another agency, the county department shall offer social services to the caretaker of any juvenile who is referred to it under the conditions specified in this paragraph. This duty shall be discharged in cooperation with the court and with the public officers or boards legally responsible for the administration and enforcement of these laws.

(b) Accept legal custody or supervision of juveniles transferred to it by the court under s. 938.355 and provide special treatment and care if ordered by the court. Except as provided in s. 938.505 (2), a court may not order a county department to administer psychotropic medications to juveniles who receive special treatment or care under this paragraph.

(c) Provide appropriate protection and services for juveniles in its care, including providing services for juveniles and their families in their own homes, placing the juveniles in licensed foster homes, licensed treatment foster homes or licensed group homes in this state or another state within a reasonable proximity to the agency with legal custody or contracting for services for them by licensed child welfare agencies or replacing them in juvenile correctional institutions or secured child caring insti-

tutions in accordance with rules promulgated under ch. 227, except that the county department may not purchase the educational component of private day treatment programs unless the county department, the school board as defined in s. 115.001 (7) and the secretary of education all determine that an appropriate public education program is not available. Disputes between the county department and the school district shall be resolved by the secretary of education.

(cm) Provide appropriate services for juveniles who are referred to the county department by a municipal court, except that if the funding, staffing or other resources of the county department for juvenile welfare services are insufficient to meet the needs of all juveniles who are eligible to receive services from the county department, the county department shall give first priority to juveniles who are referred to the county department by the court assigned to exercise jurisdiction under this chapter and ch. 48.

(d) Provide for the moral and religious training of juveniles in its care according to the religious belief of the juvenile or of his or her parents.

(f) Provide services to the court under s. 938.06.

(g) Upon request of the department, provide service for any juvenile in the care of the department.

(h) Contract with any parent or guardian or other person for the care and maintenance of any juvenile.

(2) In performing the functions specified in sub. (1) the county department may avail itself of the cooperation of any individual or private agency or organization interested in the social welfare of juveniles in the county.

(3) (a) From the reimbursement received under s. 46.495 (1) (d), counties may provide funding for the maintenance of any juvenile who meets all of the following qualifications:

1. Is 17 years of age or older.
2. Is enrolled in and regularly attending a secondary education classroom program leading to a high school diploma.
3. Received funding under s. 46.495 (1) (d) immediately prior to his or her 17th birthday.
4. Is living in a foster home, treatment foster home, group home or child caring institution.

(b) The funding provided for the maintenance of a juvenile under par. (a) shall be in an amount equal to that to which the juvenile would receive under s. 46.495 (1) (d) if the juvenile were 16 years of age.

(4) A county department may provide aftercare supervision under s. 48.34 (4n) for juveniles who are released from secured correctional facilities or secured child caring institutions operated by the department. If a county department intends to change its policy regarding whether the county department or the department shall provide aftercare supervision for juveniles released from secured correctional facilities or secured child caring institutions operated by the department, the county

executive or county administrator, or, if the county has no county executive or county administrator, the chairperson of the county board of supervisors, or, for multicounty departments, the chairpersons of the county boards of supervisors jointly, shall submit a letter to the department stating that intent before July 1 of the year preceding the year in which the policy change will take effect.

**938.59 Examination and records.** (1) The county department shall investigate the personal and family history and environment of any juvenile transferred to its legal custody or placed under its supervision under s. 938.34 (4n) and make any physical or mental examinations of the juvenile considered necessary to determine the type of care necessary for the juvenile. The county department shall screen a juvenile who is examined under this subsection to determine whether the juvenile is in need of special treatment or care because of alcohol or other drug abuse, mental illness or severe emotional disturbance. The county department shall keep a complete record of the information received from the court, the date of reception, all available data on the personal and family history of the juvenile, the results of all tests and examinations given the juvenile and a complete history of all placements of the juvenile while in the legal custody or under the supervision of the county department.

(2) At the department's request, the county department shall report to the department regarding juveniles in the legal custody or under the supervision of the county department.

**938.595 Duration of control of county departments over delinquents.** Except as provided in s. 48.366, a juvenile who has been adjudged delinquent and placed under the supervision of a county department under s. 938.34 (4n) shall be discharged as soon as the county department determines that there is a reasonable probability that it is no longer necessary either for the rehabilitation and treatment of the juvenile or for the protection of the public that the county department retain supervision.

#### SUBCHAPTER XVII

#### GENERAL PROVISIONS ON RECORDS

**938.78 Confidentiality of records.** (1) In this section, unless otherwise qualified, "agency" means the department, a county department or a licensed child welfare agency.

(2) (a) No agency may make available for inspection or disclose the contents of any record kept or information received about an individual in its care or legal custody, except as provided under sub. (3) or s. 938.371, 938.38 (5) (b) or (d) or 938.51 or by order of the court.

(ag) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of the parent, guardian or legal custodian of the juvenile who is the subject of the record or upon the request of the juvenile, if 14 years of

age or over, to the parent, guardian, legal custodian or juvenile.

(am) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian or legal custodian of the juvenile who is the subject of the record or upon the written permission of the juvenile, if 14 years of age or over, to the person named in the permission if the parent, guardian, legal custodian or juvenile specifically identifies the record in the written permission.

(b) 1. Paragraph (a) does not apply to the confidential exchange of information between an agency, another social welfare agency, a law enforcement agency, the victim-witness coordinator or a public school district regarding an individual in the care or legal custody of the agency.

2. On petition of an agency to review pupil records, as defined in s. 118.125 (1) (d), other than pupil records that may be disclosed without court order under s. 118.125 (2) or (2m), for the purpose of providing treatment or care for an individual in the care or legal custody of the agency, the court may order the school board of the school district in which an individual is enrolled to disclose to the agency the pupil records of the individual as necessary for the agency to provide that treatment or care. The agency may use the pupil records only for the purpose of providing treatment or care and may make the pupil records available only to employees of the agency who are providing treatment or care for the individual.

(d) Paragraph (a) does not prohibit the department of health and social services or a county department from disclosing information about an individual formerly in the legal custody or under the supervision of that department under s. 48.34 (4m), 1993 stats., or formerly under the supervision of that department or county department under s. 48.34 (4n), 1993 stats., or s. 938.34 (4n) to the department of corrections, if the individual is at the time of disclosure any of the following:

1. The subject of a presentence investigation under s. 972.15.
2. Under sentence to the Wisconsin state prisons under s. 973.15.
3. Subject to an order under s. 48.366 or 938.183 and placed in a state prison under s. 48.366 (8) or 938.183.
4. On probation to the department of corrections under s. 973.09.
5. On parole under s. 302.11 or ch. 304.

(e) Paragraph (a) does not prohibit the department from disclosing information about an individual adjudged delinquent under s. 938.31 for a sexually violent offense, as defined in s. 980.01 (6), to the department of justice, or a district attorney or a judge acting under ch. 980 or to an attorney who represents a person subject to a petition under ch. 980. The court in which the petition under s. 980.02 is filed may issue any protective orders

that it determines are appropriate concerning information disclosed under this paragraph.

(3) If a juvenile adjudged delinquent on the basis of a violation of s. 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28, 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2) (a), 943.23 (1g), (1m) or (1r), 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055, 948.60, 948.605 or 948.61 or any crime specified in ch. 940 has escaped from a secured correctional facility or a secured child caring institution, has been allowed to leave a secured correctional facility or a secured child caring institution for a specified time period and is absent from the facility or institution for more than 12 hours after the expiration of the specified period, the department may release the juvenile's name and any information about the juvenile that is necessary for the protection of the public or to secure the juvenile's return to the facility, institution or placement. The department shall promulgate rules establishing guidelines for the release of the juvenile's name or information about the juvenile to the public.

**938.795 Powers of the department.** The department may do all of the following:

(1) Collect and collaborate with other agencies in collecting statistics and information useful in determining the cause and amount of delinquency and crime in this state or in carrying out the powers and duties of the department.

(2) Assist communities in their efforts to combat delinquency and social breakdown likely to cause delinquency and crime and assist them in setting up programs for coordinating the total community program, including the improvement of law enforcement.

(3) Assist schools in extending their particular contribution in locating and helping juveniles vulnerable to delinquency and crime and in improving their services to all youth.

(4) Develop and maintain an enlightened public opinion in support of a program to control delinquency and crime.

**SECTION 630.** 938.988 of the statutes is created to read:

**938.988 Interstate placement of juveniles.** Sections 48.988 and 48.989 apply to the interstate placement of juveniles.

**SECTION 631.** 939.62 (3) (a) of the statutes is amended to read:

939.62 (3) (a) In case of crimes committed in this state, the terms do not include motor vehicle offenses under chs. 341 to 349 and offenses handled through court proceedings in the court assigned to exercise jurisdiction under ~~ch. 48 and 938~~, but otherwise have the meanings designated in s. 939.60.

**SECTION 632.** 939.62 (3) (b) of the statutes is amended to read:

939.62 (3) (b) In case of crimes committed in other jurisdictions, the terms do not include those crimes which are equivalent to motor vehicle offenses under chs. 341 to 349 or to offenses handled through ~~court~~ proceedings in the court assigned to exercise jurisdiction under chs. 48 and 938. Otherwise, felony means a crime which under the laws of that jurisdiction carries a prescribed maximum penalty of imprisonment in a prison or penitentiary for one year or more. Misdemeanor means a crime which does not carry a prescribed maximum penalty sufficient to constitute it a felony and includes crimes punishable only by a fine.

**SECTION 633.** 939.635 (title) and (1) of the statutes are amended to read:

**939.635 (title) Penalties; assault or battery in secured juvenile correctional facility facilities or to aftercare agent.** (1) Except as provided in sub. (2), if a person who has been adjudicated delinquent is convicted of violating s. 940.20 (1) while placed in a secured correctional facility, as defined in s. ~~48.02 (15m)~~ 938.02 (15m), a secure detention facility, as defined in s. 938.02 (16), a secured child caring institution, as defined in s. 938.02 (15g), or a secured adolescent treatment unit under s. 46.043 or is convicted of violating s. 940.20 (2m), the court shall sentence the person to not less than 3 years of imprisonment. Except as provided in sub. (2), if a person is convicted of violating s. 946.43 while placed in a secured correctional facility, as defined in s. ~~48.02 (15m)~~ 938.02 (15m), a secure detention facility, as defined in s. 938.02 (16), a secured child caring institution, as defined in s. 938.02 (15g), or a secured adolescent treatment unit under s. 46.043, the court shall sentence the person to not less than 5 years of imprisonment.

**SECTION 634.** 939.635 (2) (b) of the statutes is amended to read:

939.635 (2) (b) That imposing the applicable presumptive minimum sentence specified in sub. (1) is not necessary to deter the person or other persons from committing violations of s. 940.20 (1) or 946.43 or other similar offenses while placed in a secured correctional facility, as defined in s. ~~48.02 (15m)~~ 938.02 (15m), a secure detention facility, as defined in s. 938.02 (16), a secured child caring institution, as defined in s. 938.02 (15g), or a secured adolescent treatment unit under s. 46.043 or from committing violations of s. 940.20 (2m).

**SECTION 635.** 940.20 (2m) of the statutes is amended to read:

940.20 (2m) (title) BATTERY TO PROBATION AND PAROLE AGENTS AND AFTERCARE AGENTS. (a) In this subsection, ~~“probation;~~

2. “Probation and parole agent” means any person authorized by the department of corrections to exercise control over a probationer or parolee.

(b) Whoever intentionally causes bodily harm to a probation and parole agent or an aftercare agent, acting in an official capacity and the person knows or has reason

to know that the victim is a probation and parole agent or an aftercare agent, by an act done without the consent of the person so injured, is guilty of a Class D felony.

**SECTION 636.** 940.20 (2m) (a) 1. of the statutes is created to read:

940.20 (2m) (a) 1. “Aftercare agent” means any person authorized by the department of corrections to exercise control over a juvenile on aftercare.

**SECTION 637.** 941.29 (2) of the statutes is amended to read:

941.29 (2) Any person specified in sub. (1) who, subsequent to the conviction for the felony or other crime, as specified in sub. (1), subsequent to the adjudication, as specified in sub. (1) (bm), or subsequent to the finding of not guilty or not responsible by reason of insanity or mental disease, defect or illness, possesses a firearm is guilty of a Class E felony. Whoever violates this section after being convicted under this section is guilty of a Class D felony.

**SECTION 637m.** 943.51 (1) (intro.) of the statutes is amended to read:

943.51 (1) (intro.) Any person who incurs injury to his or her business or property as a result of a violation of s. 943.50 may bring a civil action against any individual ~~14 years of age or older~~ who caused the loss for all of the following:

**SECTION 638.** 946.42 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 27, section 7233m, is amended to read:

946.42 (1) (a) “Custody” includes without limitation actual custody of an institution, including a secured juvenile correctional facility, a secure detention facility, as defined under s. 48.02 (16), or a juvenile portion of a county jail, or of a peace officer or institution guard and constructive custody of prisoners and juveniles subject to an order under s. 48.34 (4m), 48.357 (4) or (5) (e) or 48.366 temporarily outside the institution whether for the purpose of work, school, medical care, a leave granted under s. 303.068, a temporary leave or furlough granted to a juvenile or otherwise. Under s. 303.08 (6) it means, without limitation, that of the sheriff of the county to which the prisoner was transferred after conviction. ~~“Custody” also includes the custody by the department of health and social services of a child who is placed in the community under corrective sanctions supervision under s. 48.533.~~ It does not include the custody of a probationer or parolee by the department of corrections or a probation or parole officer or the custody of a person who has been released to aftercare supervision under ch. 48 unless the person is in actual custody.

**SECTION 639.** 946.42 (1) (a) of the statutes, as affected by 1995 Wisconsin Acts 27, section 7233p, and .... (this act), is repealed and recreated to read:

946.42 (1) (a) “Custody” includes without limitation actual custody of an institution, including a secured juvenile correctional facility, a secured child caring institu-

tion, as defined in s. 938.02 (15g), a secure detention facility, as defined in s. 938.02 (16), or a juvenile portion of a county jail, or of a peace officer or institution guard and constructive custody of prisoners and juveniles subject to an order under s. 48.366, 938.183, 938.34 (4h) or (4m) or 938.357 (4) or (5) (e) temporarily outside the institution whether for the purpose of work, school, medical care, a leave granted under s. 303.068, a temporary leave or furlough granted to a juvenile or otherwise. Under s. 303.08 (6) it means, without limitation, that of the sheriff of the county to which the prisoner was transferred after conviction. It does not include the custody of a probationer or parolee by the department of corrections or a probation or parole officer or the custody of a person who has been released to aftercare supervision under ch. 938 unless the person is in actual custody.

**SECTION 640.** 946.42 (1) (c) of the statutes is amended to read:

946.42 (1) (c) “Legal arrest” includes without limitation an arrest pursuant to process fair on its face notwithstanding insubstantial irregularities and also includes taking a child into custody under s. ~~48.19~~ 938.19.

**SECTION 641.** 946.42 (2) (b) of the statutes is amended to read:

946.42 (2) (b) Lawfully taken into custody under s. ~~48.19~~ 938.19 for a violation of or lawfully alleged or adjudged under ch. ~~48~~ 938 to have violated a statutory traffic regulation, a statutory provision for which the penalty is a forfeiture or a municipal ordinance.

**SECTION 642.** 946.42 (3) (b) of the statutes is amended to read:

946.42 (3) (b) Lawfully taken into custody under s. ~~48.19~~ 938.19 for or lawfully alleged or adjudged under ch. ~~48~~ 938 to be delinquent on the basis of a violation of a criminal law.

**SECTION 643.** 946.42 (3) (c) of the statutes, as affected by 1993 Wisconsin Acts 377 and 385, is amended to read:

946.42 (3) (c) Subject to a disposition under s. ~~48.34~~ (4g) 938.34 (4h) or (4m), to a placement under s. ~~48.357~~ 938.357 (4) or to aftercare revocation under s. ~~48.357~~ 938.357 (5) (e).

**SECTION 644.** 946.44 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 27, section 7234m, is amended to read:

946.44 (1) (a) Any officer or employe of an institution where prisoners are detained ~~or any officer or employe providing corrective sanctions supervision under s. 48.533~~ who intentionally permits a prisoner in the officer’s or employe’s custody to escape; or

**SECTION 645.** 946.44 (1) (a) of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed and recreated to read:

946.44 (1) (a) Any officer or employe of an institution where prisoners are detained who intentionally per-

mits a prisoner in the officer’s or employe’s custody to escape; or

**SECTION 646.** 946.44 (2) (c) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

946.44 (2) (c) “Institution” includes a secured juvenile correctional facility and a secured child caring institution, as defined in s. 938.02 (15g).

**SECTION 647.** 946.44 (2) (d) of the statutes, as affected by 1995 Wisconsin Act 27, section 7234v, is amended to read:

946.44 (2) (d) “Prisoner” includes a person who is under the supervision of the department of corrections under s. ~~48.34~~ 938.34 (4h) or placed in a secured correctional facility or secured child caring institution under s. ~~48.34~~ 938.34 (4m) or ~~48.357~~ 938.357 (4) or (5) (e) or who is subject to an order under s. 48.366.

**SECTION 648.** 946.45 (1) of the statutes, as affected by 1995 Wisconsin Act 27, section 7235m, is amended to read:

946.45 (1) Any officer or employe of an institution where prisoners are detained ~~or any officer or employe providing corrective sanctions supervision under s. 48.533~~ who, through his or her neglect of duty, allows a prisoner in his or her custody to escape is guilty of a Class B misdemeanor.

**SECTION 649.** 946.45 (1) of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed and recreated to read:

946.45 (1) Any officer or employe of an institution where prisoners are detained who, through his or her neglect of duty, allows a prisoner in his or her custody to escape is guilty of a Class B misdemeanor.

**SECTION 650.** 946.45 (2) (c) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

946.45 (2) (c) “Institution” includes a secured juvenile correctional facility and a secured child caring institution, as defined in s. 938.02 (15g).

**SECTION 651.** 946.45 (2) (d) of the statutes, as affected by 1995 Wisconsin Act 27, section 7235v, is amended to read:

946.45 (2) (d) “Prisoner” includes a person who is under the supervision of the department of corrections under s. ~~48.34~~ 938.34 (4h) or placed in a secured correctional facility or secured child caring institution under s. ~~48.34~~ 938.34 (4m) or ~~48.357~~ 938.357 (4) or (5) (e) or who is subject to an order under s. 48.366.

**SECTION 652.** 946.50 of the statutes is created to read:

**946.50 Absconding.** Any person who is adjudicated delinquent, but who intentionally fails to appear before the court assigned to exercise jurisdiction under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who does not return to that court for a dispositional hearing before attaining the age of 17 years is guilty of the following:

(1) A Class A felony, if the person was adjudicated delinquent for committing an act that would be a Class A felony if committed by an adult.

(2) A Class B felony, if the person was adjudicated delinquent for committing an act that would be a Class B felony if committed by an adult.

(3) A Class C felony, if the person was adjudicated delinquent for committing an act that would be a Class C felony if committed by an adult.

(4) A Class D felony, if the person was adjudicated delinquent for committing an act that would be a Class D felony if committed by an adult.

(5) A Class E felony, if the person was adjudicated delinquent for committing an act that would be a Class E felony if committed by an adult.

(6) A Class A misdemeanor, if the person was adjudicated delinquent for committing an act that would be a misdemeanor if committed by an adult.

**SECTION 653.** 948.31 (1) (a) 2. of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

948.31 (1) (a) 2. The department of health and social services or the department of corrections or any person, county department under s. 46.215, 46.22 or 46.23 or licensed child welfare agency, if custody or supervision of the child has been transferred under ch. 48 or 938 to that department, person or agency.

**SECTION 654.** 948.31 (1) (b) of the statutes is amended to read:

948.31 (1) (b) Except as provided under ~~ch. chs.~~ chs. 48 and 938, whoever intentionally causes a child to leave, takes a child away or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period from a legal custodian with intent to deprive the custodian of his or her custody rights without the consent of the custodian is guilty of a Class C felony. This paragraph is not applicable if the court has entered an order authorizing the person to so take or withhold the child. The fact that joint custody has been awarded to both parents by a court does not preclude a court from finding that one parent has committed a violation of this paragraph.

**SECTION 655.** 948.40 (1) of the statutes is amended to read:

948.40 (1) No person may intentionally encourage or contribute to the delinquency of a child ~~as defined in s. 48.02 (3m)~~. This subsection includes intentionally encouraging or contributing to an act by a child under the age of ~~12~~ 10 which would be a delinquent act if committed by a child ~~12~~ 10 years of age or older.

**SECTION 656.** 948.40 (2) of the statutes is amended to read:

948.40 (2) No person responsible for the child's welfare may, by disregard of the welfare of the child, contribute to the delinquency of the child. This subsection includes disregard that contributes to an act by a child under

the age of ~~12~~ 10 that would be a delinquent act if committed by a child ~~12~~ 10 years of age or older.

**SECTION 657.** 948.50 (4) (b) of the statutes is amended to read:

948.50 (4) (b) Is placed in or transferred to a secured correctional facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g).

**SECTION 658.** 948.60 (2) (d) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

948.60 (2) (d) A person under 17 years of age who has violated this subsection is subject to the provisions of ch. 48 938 unless jurisdiction is waived under s. 48.18 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s. 938.183.

**SECTION 659.** 948.61 (4) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

948.61 (4) A person under 17 years of age who has violated this section is subject to the provisions of ch. 48 938, unless jurisdiction is waived under s. 48.18 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s. 938.183.

**SECTION 660.** 950.02 (1m) of the statutes is amended to read:

950.02 (1m) "Crime" means an act committed in this state which, if committed by a competent adult, would constitute a crime, as defined in s. 939.12, or which, if committed by a responsible child, would constitute a delinquent act under ch. 48 938.

**SECTION 661.** 967.04 (7) (a) (intro.) of the statutes is amended to read:

967.04 (7) (a) (intro.) In any criminal prosecution or any proceeding under ch. 48 or 938, any party may move the court to order the taking of a videotaped deposition of a child who has been or is likely to be called as a witness. Upon notice and hearing, the court may issue an order for such a deposition if the trial or hearing in which the child may be called will commence:

**SECTION 662.** 967.04 (9) of the statutes is amended to read:

967.04 (9) In any criminal prosecution or juvenile fact-finding hearing under s. 48.31 or 938.31, the court may admit into evidence a videotaped deposition taken under subs. (7) and (8) without an additional hearing under s. 908.08. In any proceeding under s. 304.06 (3) or 973.10 (2), the hearing examiner may order and preside at the taking of a videotaped deposition using the procedure provided in subs. (7) and (8) and may admit the videotaped deposition into evidence without an additional hearing under s. 908.08.

**SECTION 663.** 968.255 (1) (a) 3. of the statutes is amended to read:

968.255 (1) (a) 3. Taken into custody under s. 48.19 938.19 and there are reasonable grounds to believe the

child has committed an act which if committed by an adult would be covered under subd. 1. or 2.

**SECTION 664.** 968.255 (7) (b) of the statutes is amended to read:

968.255 (7) (b) Is placed in or transferred to a secured correctional facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g).

**SECTION 665.** 969.01 (4) of the statutes is amended to read:

969.01 (4) **CONSIDERATIONS IN SETTING CONDITIONS OF RELEASE.** If bail is imposed, it shall be only in the amount found necessary to assure the appearance of the defendant. Conditions of release, other than monetary conditions, may be imposed for the purpose of protecting members of the community from serious bodily harm or preventing intimidation of witnesses. Proper considerations in determining whether to release the defendant without bail, fixing a reasonable amount of bail or imposing other reasonable conditions of release are: the ability of the arrested person to give bail, the nature, number and gravity of the offenses and the potential penalty the defendant faces, whether the alleged acts were violent in nature, the defendant's prior ~~criminal~~ criminal record of criminal convictions and delinquency adjudications, if any, the character, health, residence and reputation of the defendant, the character and strength of the evidence which has been presented to the judge, whether the defendant is currently on probation or parole, whether the defendant is already on bail or subject to other release conditions in other pending cases, whether the defendant has been bound over for trial after a preliminary examination, whether the defendant has in the past forfeited bail or violated a condition of release or was a fugitive from justice at the time of arrest, and the policy against unnecessary detention of the defendant's pending trial.

**SECTION 666.** 970.032 (title) and (1) of the statutes are amended to read:

**970.032 (title) Preliminary examination; child accused of committing assault or battery in a secured correctional facility child under original adult court jurisdiction.** (1) Notwithstanding s. 970.03, if a preliminary examination is held regarding a child who is ~~accused of violating s. 940.20 (1) or 946.43 while placed in a secured correctional facility, as defined in s. 48.02 (15m) subject to the original jurisdiction of the court of criminal jurisdiction under s. 938.183 (1),~~ the court shall first determine whether there is probable cause to believe that the child has committed a violation of s. 940.20 (1) or 946.43 while placed in a secured correctional facility, as defined in s. 48.02 (15m) the violation of which he or she is accused under the circumstances specified in s. 938.183 (1) (a), (am), (b) or (c), whichever is applicable. If the court does not make that finding, the court shall order that the child be discharged but proceedings may be brought regarding the child under ch. 48 938.

**SECTION 667.** 970.032 (2) (intro.) of the statutes is amended to read:

970.032 (2) (intro.) If the court finds probable cause as specified in sub. (1), the court shall determine whether to retain jurisdiction or to transfer jurisdiction to the court assigned to exercise jurisdiction under ~~ch. chs. 48 and 938.~~ The court shall retain jurisdiction unless the court finds all of the following:

**SECTION 668.** 970.032 (2) (b) of the statutes is amended to read:

970.032 (2) (b) That transferring jurisdiction to the court assigned to exercise jurisdiction under ~~ch. chs. 48 and 938~~ would not depreciate the seriousness of the offense.

**SECTION 669.** 970.032 (2) (c) of the statutes is amended to read:

970.032 (2) (c) That retaining jurisdiction is not necessary to deter the child or other children from committing violations of s. 940.20 (1) or 946.43 or other similar offenses while placed in a secured correctional facility, as defined in s. 48.02 (15m) the violation of which the child is accused under the circumstances specified in s. 938.183 (1) (a), (am), (b) or (c), whichever is applicable.

**SECTION 670.** 970.035 of the statutes is amended to read:

**970.035 Preliminary examination; child younger than 16 years old.** Notwithstanding s. 970.03, if a preliminary examination under s. 970.03 is held regarding a child who was waived under s. 48.18 938.18 for a violation which is alleged to have occurred prior to his or her ~~46th~~ 15th birthday, the court may bind the child over for trial only if there is probable cause to believe that a crime under s. 940.01 ~~has been attempted or committed, that a crime under s. 161.41 (1), 940.02, 940.05 940.03, 940.06, 940.225 (1) or (2), 940.305, 940.31 or 943.10 (2) or 943.32 (2) has been committed or that a crime that would constitute a felony under ch. 161 or under chs. 939 to 948 if committed by an adult has been committed at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9).~~ If the court does not make any of those findings, the court shall order that the child be discharged but proceedings may be brought regarding the child under ch. 48 938.

**SECTION 671.** 971.105 of the statutes is amended to read:

**971.105 Child victims and witnesses; duty to expedite proceedings.** In all criminal and delinquency cases, juvenile fact-finding hearings under s. 48.31 and juvenile dispositional hearings under s. 48.335 involving a child victim or witness, as defined in s. 950.02, the court and the district attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of the child's involvement in the proceeding. In ruling on any motion or other request for a delay or continuance of proceedings, the court shall consider and give weight to any adverse



impact the delay or continuance may have on the well-being of a child victim or witness.

**SECTION 672.** 972.14 (3) of the statutes is amended to read:

972.14 (3) (a) Before pronouncing sentence ~~in a felony case~~, the court shall also allow a victim or family member of a homicide victim to make a statement or submit a written statement to be read in court. The court may allow any other person to make or submit a statement under this paragraph. Any statement under this paragraph must be relevant to the sentence.

(b) After a conviction ~~in a felony case~~, if the district attorney knows of a victim or family member of a homicide or felony murder victim, the district attorney shall attempt to contact that person to inform him or her of the right to make or provide a statement under par. (a). ~~The district attorney may mail a letter or form to comply with this paragraph.~~ Any failure to comply with this paragraph is not a ground for an appeal of a judgment of conviction or for any court to reverse or modify a judgment of conviction.

**SECTION 673.** 976.08 of the statutes is amended to read:

**976.08 Additional applicability.** In this chapter, “prisoner” includes any person subject to an order under s. 48.366 or 938.183 who is confined to a Wisconsin state prison and any person subject to an order under s. 938.34 (4h) who is 17 years of age or older.

**SECTION 674.** 977.02 (3) of the statutes is amended to read:

977.02 (3) Promulgate rules regarding the determination of indigency of persons entitled to be represented by counsel, other than children who are entitled to be represented by counsel under s. 48.23 or 938.23, including the time period in which the determination must be made and the criteria to be used to determine indigency and partial indigency.

**SECTION 675.** 977.02 (4r) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

977.02 (4r) Promulgate rules that establish procedures to provide the department of administration with any information concerning the collection of payment ordered under s. 48.275 (2), 757.66, 938.275 (2), 973.06 (1) (e) or 977.076 (1).

**SECTION 676.** 977.03 (2m) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

977.03 (2m) The board may promulgate rules that establish procedures to collect payment ordered under s. 48.275 (2), 757.66, 938.275 (2), 973.06 (1) (e) or 977.076 (1) from a prisoner’s prison financial account.

**SECTION 677.** 977.05 (4) (gm) of the statutes is amended to read:

977.05 (4) (gm) In accordance with the standards under pars. (h) and (i), accept referrals from judges and courts for the provision of legal services without a determination of indigency of children who are entitled to be

represented by counsel under s. 48.23 or 938.23, appoint counsel in accordance with contracts and policies of the board and inform the referring judge or court of the name and address of the specific attorney who has been assigned to the case.

**SECTION 678.** 977.05 (4) (h) of the statutes is amended to read:

977.05 (4) (h) Accept requests for legal services from children who are entitled to be represented by counsel under s. 48.23 or 938.23 and from indigent persons who are entitled to be represented by counsel under s. 967.06 or who are otherwise so entitled under the constitution or laws of the United States or this state and provide such persons with legal services when, in the discretion of the state public defender, such provision of legal services is appropriate.

**SECTION 679.** 977.05 (4) (i) 5. of the statutes is amended to read:

977.05 (4) (i) 5. Cases involving children who are entitled to counsel or are provided counsel at the discretion of the court under s. 48.23 or 938.23.

**SECTION 680.** 977.05 (6) (cm) 2. of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

977.05 (6) (cm) 2. The child is not yet subject to a proceeding under ch. 48 or 938 for which counsel is required under s. 48.23 or 938.23 or for which counsel may be appointed under s. 48.23 or 938.23.

**SECTION 681.** 977.06 (1m) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

977.06 (1m) APPLICATION FOR REPRESENTATION. The state public defender shall request each person seeking to have counsel assigned for him or her under s. 977.08, other than a child who is entitled to be represented by counsel under s. 48.23 or 938.23, to provide the state public defender with his or her social security number and the social security numbers of his or her spouse and dependent children, if any.

**SECTION 682.** 977.06 (2) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

977.06 (2) (a) A person seeking to have counsel assigned for him or her under s. 977.08, other than a child who is entitled to be represented by counsel under s. 48.23 or 938.23, shall sign a statement declaring that he or she has not disposed of any assets for the purpose of qualifying for that assignment of counsel. If the representative or authority making the indigency determination finds that any asset was disposed of for less than its fair market value for the purpose of obtaining that assignment of counsel, the asset shall be counted under s. 977.07 (2) at its fair market value at the time it was disposed of, minus the amount of compensation received for the asset.

**SECTION 683.** 977.06 (2) (am) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

977.06 (2) (am) A person seeking to have counsel assigned for him or her under s. 977.08, other than a child

who is entitled to be represented by counsel under s. 48.23 or 938.23, shall sign a statement declaring that the information that he or she has given to determine eligibility for assignment of counsel he or she believes to be true and that he or she is informed that he or she is subject to the penalty under par. (b).

**SECTION 684.** 977.06 (3) (c) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

977.06 (3) (c) Except as provided in s. ss. 48.275 (2) (b) and 938.275 (2) (b), an adjustment under this subsection shall be based on the person's ability to pay and on the fee schedule established by the board under s. 977.075 (3).

**SECTION 685.** 977.07 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

977.07 (1) (a) Determination of indigency for persons entitled to counsel shall be made as soon as possible and shall be in accordance with the rules promulgated by the board under s. 977.02 (3) and the system established under s. 977.06. No determination of indigency is required for a child who is entitled to be represented by counsel under s. 48.23 or 938.23.

**SECTION 686.** 977.07 (1) (c) of the statutes is amended to read:

977.07 (1) (c) For all referrals made under ss. 809.30 and 974.06 (3) (b), except a referral of a child who is entitled to be represented by counsel under s. 48.23 or 938.23, a representative of the state public defender shall determine indigency, and may, unless a request for re-determination has been filed under s. 809.30 (2) (d) or the defendant's request for representation states that his or her financial circumstances have materially improved, rely upon a determination of indigency made for purposes of trial representation under this section.

**SECTION 687.** 977.07 (2m) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

977.07 (2m) If the person is found to be indigent in full or in part, the person shall be promptly informed of the state's right to payment or recoupment under s. 48.275 (2), 757.66, 938.275 (2), 973.06 (1) (e) or 977.076 (1), and the possibility that the payment of attorney fees may be made a condition of probation, should the person be placed on probation. Furthermore, if found to be indigent in part, the person shall be promptly informed of the extent to which he or she will be expected to pay for counsel, and whether the payment shall be in the form of a lump sum payment or periodic payments. The person shall be informed that the payment amount may be adjusted if his or her financial circumstances change by the time of sentencing. The payment and payment schedule shall be set forth in writing. This subsection does not apply to persons who have paid under s. 977.075 (1).

**SECTION 688.** 977.075 (1) (intro.), (3) and (4) of the statutes, as created by 1995 Wisconsin Act 27, are amended to read:

977.075 (1) (intro.) The board shall establish by rule fixed amounts as flat payments for the cost of representation that a person, other than a parent subject to s. 48.275 (2) (b) or 938.275 (2) (b), who is responsible for payment for legal representation, may elect to pay. The rule shall require all of the following:

(3) The board shall establish by rule a fee schedule that sets the amount that a person, other than a parent subject to s. 48.275 (2) (b) or 938.275 (2) (b), who is responsible for payment for legal representation shall pay for the cost of the legal representation. The schedule shall establish a fee for a given type of case, and the fee for a given type of case shall be based on the average cost, as determined by the board, for representation for that type of case.

(4) The board may establish by rule a procedure for collecting a nonrefundable partial payment within 60 days after the commencement of representation for legal services from persons who are responsible for payment for legal representation. This subsection does not apply to a parent who is subject to s. 48.275 (2) (b) or 938.275 (2) (b).

**SECTION 689.** 977.076 of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

**977.076 Collections.** (1) If the state public defender notifies the court in which the underlying action was filed that a person who is required to reimburse the state public defender for legal representation has failed to make the required payment or to timely make periodic payments, the court may issue a judgment on behalf of the state for the unpaid balance and direct the clerk of circuit court to file and docket a transcript of the judgment, without fee. If the court issues a judgment for the unpaid balance, the court shall send a notice to the person at his or her last-known address that a civil judgment has been issued for the unpaid balance. The judgment has the same force and effect as judgments issued under s. 806.10. Except as provided in s. ss. 48.275 (2) (b) and 938.275 (2) (b), the judgment shall be based on the person's ability to pay and on the fee schedule established by the board under s. 977.075 (3).

(2) The department of administration may collect unpaid reimbursement payments to the state public defender ordered by a court under sub. (1) or s. 48.275 (1) (a), 757.66, 938.275 (1) (a) or 973.06 (1) (e). The department may contract with a private collection agency to collect these payments. Section 16.705 does not apply to a contract under this subsection.

**SECTION 690.** 977.08 (2) (e) of the statutes is amended to read:

977.08 (2) (e) Cases involving children who are entitled to counsel or are provided counsel at the discretion of the court under s. 48.23 or 938.23.

**SECTION 691.** 977.085 (3) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

977.085 (3) The board shall provide quarterly reports to the joint committee on finance on the status of reimbursement for or recoupment of payments under ss. 48.275, 757.66, 938.275, 977.06, 977.07 (2), 977.075 and 977.076, including the amount of revenue generated by reimbursement and recoupment. The quarterly reports shall include any alternative means suggested by the board to improve reimbursement and recoupment procedures and to increase the amount of revenue generated. The department of justice, district attorneys, circuit courts and applicable county agencies shall cooperate by providing any necessary information to the state public defender.

**SECTION 692.** 978.05 (6) (a) of the statutes is amended to read:

978.05 (6) (a) Institute, commence or appear in all civil actions or special proceedings under and perform the duties set forth for the district attorney under ss. 17.14, 30.03 (2), 48.09 (1), (2) and (5), ~~48.18, 48.355 (6) (b) and (6g) (a)~~, 59.073, 59.77, 70.36, 103.50 (8), 103.92 (4), 109.09, 161.55 (5), 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a), 946.86, 946.87, 971.14 and 973.075 to 973.077, perform any duties in connection with court proceedings in a court assigned to exercise jurisdiction under ~~ch. 48 and 938~~ as the judge may request and perform all appropriate duties and appear if the district attorney is designated in specific statutes, including matters within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits the authority of the county board to designate, under s. 48.09 (2) ~~or~~ (5), that the corporation counsel provide representation as specified in s. 48.09 (2) ~~or~~ (5) or to designate, under s. 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the interests of the public under s. 48.14 or 938.14.

**SECTION 693.** 980.015 (2) (b) of the statutes is amended to read:

980.015 (2) (b) The anticipated release from a secured correctional facility, as defined in s. ~~48.02 938.02~~ (15m), or a secured child caring institution, as defined in s. 938.02 (15g), of a person adjudicated delinquent under s. ~~48.34 938.34~~ on the basis of a sexually violent offense.

**SECTION 694.** 980.02 (1) (b) 2. of the statutes is amended to read:

980.02 (1) (b) 2. The county in which the person will reside or be placed upon his or her discharge from a sentence, release on parole, release from imprisonment, from a secured correctional facility, as defined in s. ~~48.02 938.02~~ (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or from a commitment order.

**SECTION 695.** 980.02 (2) (ag) of the statutes is amended to read:

980.02 (2) (ag) The person is within 90 days of discharge or release, on parole or otherwise, from a sentence that was imposed for a conviction for a sexually violent offense from a secured correctional facility, as defined in

s. ~~48.02 938.02~~ (15m), or a secured child caring institution, as defined in s. 938.02 (15g), if the person was placed in the facility for being adjudicated delinquent under s. ~~48.34 938.34~~ on the basis of a sexually violent offense or from a commitment order that was entered as a result of a sexually violent offense.

**SECTION 696.** 980.02 (4) (am) of the statutes is amended to read:

980.02 (4) (am) The circuit court for the county in which the person will reside or be placed upon his or her discharge from a sentence, release on parole, release from imprisonment, from a secured correctional facility, as defined in s. ~~48.02 938.02~~ (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or from a commitment order.

**SECTION 697.** 980.02 (4) (b) of the statutes is amended to read:

980.02 (4) (b) The circuit court for the county in which the person is in custody under a sentence, a placement to a secured correctional facility, as defined in s. ~~48.02 938.02~~ (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or a commitment order.

**SECTION 698.** 980.04 (1) of the statutes is amended to read:

980.04 (1) Upon the filing of a petition under s. 980.02, the court shall review the petition to determine whether to issue an order for detention of the person who is the subject of the petition. The person shall be detained only if there is cause to believe that the person is eligible for commitment under s. 980.05 (5). A person detained under this subsection shall be held in a facility approved by the department. If the person is serving a sentence of imprisonment, is in a secured correctional facility, as defined in s. ~~48.02 938.02~~ (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or is committed to institutional care, and the court orders detention under this subsection, the court shall order that the person be transferred to a detention facility approved by the department. A detention order under this subsection remains in effect until the person is discharged after a trial under s. 980.05 or until the effective date of a commitment order under s. 980.06, whichever is applicable.

**SECTION 699.** 990.01 (3) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

990.01 (3) ADULT. "Adult" means a person who has attained the age of 18 years, except that for purposes of prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, "adult" means a person who has attained the age of 17 years.

**SECTION 700.** 990.01 (20) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

990.01 (20) MINOR. "Minor" means a person who has not attained the age of 18 years, except that for purposes of prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or

municipal ordinance, “minor” does not include a person who has attained the age of 17 years.

**SECTION 701.** 1995 Wisconsin Act 27, section 9126 (23) (f) 5. is amended to read:

[1995 Wisconsin Act 27] Section 9126 (23) (f) 5. On the effective date of this subdivision, 6.1 FTE GPR positions in the division of management services in the department of health and social services funded from the appropriation under section 20.435 (8) (a) of the statutes, as affected by the acts of 1995, and the incumbent employees holding those positions are transferred to the department of corrections, and the positions become ~~3.0~~ 6.1 FTE GPR positions to be funded from the appropriation under section 20.410 (1) (a) of the statutes, as affected by the acts of 1995.

**SECTION 9112. Nonstatutory provisions; corrections.**

(1g) JUVENILE CORRECTIONAL INSTITUTION RATES. No later than January 15, 1996, the secretary of corrections shall submit to the secretary of administration and to the cochairpersons of the joint committee on finance proposed rates under section 301.26 (4) (d) 3m. of the statutes, as created by 1995 Wisconsin Act 27, and section 301.26 (4) (d) 4. of the statutes, as created by 1995 Wisconsin Act 27, for maintaining a child in a secured child caring institution, as defined in section 938.02 (15g) of the statutes, as created by this act. The rates may not vary according to the secured child caring institution in which a child is placed. The rates shall reflect the average daily cost associated with maintaining a child in a secured child caring institution. The secretary of administration shall evaluate the rates and, if the secretary of administration approves of the rates, the secretary of administration shall, no later than March 1, 1996, submit a report to the cochairpersons of the joint committee on finance containing proposed legislation providing for those rates effective on July 1, 1996. The department of health and social services shall assist the department of corrections in proposing those rates.

**SECTION 9300. Initial applicability; general statement.**

(1g) Except as otherwise provided in SECTION 9310 of this act, this act first applies to violations committed on the effective date of this subsection.

**SECTION 9310. Initial applicability; circuit courts.**

(1) ADULT COURT JURISDICTION OVER CHILDREN. The treatment of sections 938.18 (1) (a) 3., 938.183 (1) (b) and (c), 948.60 (2) (d) and 948.61 (4) of the statutes first applies to acts committed on the effective date of this subsection, but does not preclude the counting of a conviction or a waiver of jurisdiction under section 48.18 of the statutes obtained, or a criminal proceeding commenced, before the effective date of this subsection for the purpose of conferring jurisdiction over a child on a court of criminal jurisdiction under section 938.183 (1) (b) or (c) of the statutes, as created by this act.

(2) FIREARM POSSESSION PENALTIES. The treatment of section 941.29 (2) of the statutes first applies to offenses committed on the effective date of this subsection, but does not preclude the counting of other offenses as prior offenses for purposes of sentencing a person.

(3) SUBSTITUTION OF A JUDGE. The treatment of section 938.29 (1g) of the statutes first applies to petitions filed on the effective date of this subsection.

(4) NO CONTEST PLEAS. The treatment of section 938.30 (4) (bm) of the statutes first applies to pleas entered on the effective date of this subsection.

(5) ATTENDANCE AT HEARINGS, VICTIM STATEMENTS, COURT REPORTS AND DISCLOSURE OF INFORMATION TO PUBLIC. The treatment of sections 120.12 (18), 938.299 (1) (a), (am) and (ar), 938.32 (1) (b) 1., 938.33 (3) (intro.), (4) (intro.), (4m) (intro.) and (a) and (5), 938.335 (3m) (a), 938.396 (2m) and 972.14 (3) (a) of the statutes first applies to hearings held on the effective date of this subsection.

(6) VIOLATIONS OF DISPOSITIONAL ORDERS. The treatment of sections 938.17 (2) (d) (with respect to failure to pay a forfeiture) and (h), 938.23 (1) (am), 938.34 (8) (with respect to failure to pay a forfeiture), 938.343 (2) (with respect to failure to pay a forfeiture) and 938.355 (6) (a), (an), (b) and (d) (intro.), 1. and 4., (6d) and (6g) (a) and (b) 1. of the statutes first applies to orders entered on the effective date of this subsection.

(7) ABSCONDERS. The treatment of section 946.50 of the statutes first applies to children who are adjudicated delinquent on the effective date of this subsection.

(8) CHILD CUSTODY HEARINGS. The treatment of sections 938.208 (5), 938.21 (1) (a) and 938.534 (1) of the statutes first applies to children who are taken into custody or who enter a runaway home on the effective date of this subsection.

(9) DEFERRED PROSECUTION AGREEMENTS AND CONSENT DECREES. The treatment of sections 938.245 (2) (b) and 938.32 (2) (a) and (b) of the statutes first applies to deferred prosecution agreements and consent decrees entered into on the effective date of this subsection.

(10) TIME LIMITS IN JUVENILE PROCEEDINGS. The treatment of sections 938.24 (5), 938.245 (7), 938.25 (2), 938.315 (1) (c) and (3) and 938.365 (6) of the statutes first applies to time periods beginning on the effective date of this subsection.

**SECTION 9400. Effective dates.** This act takes effect on July 1, 1996, or on the day after publication, whichever is later, except as follows:

(2g) YOUTHFUL OFFENDER PROGRAM. The amendment of section 48.065 (3) (f) of the statutes takes effect on December 1, 1995, or on the day after publication, whichever is later.

(2m) CORRECTIVE SANCTIONS PROGRAM. The amendment of sections 46.22 (1) (c) 1. b., 46.26 (4) (d) 3., 48.02 (15m), 48.19 (1) (d) 6., 48.205 (1) (c), 48.208 (1), 48.357 (4), (4g) (b) and (d), (4m) and (5) (a), (b), (d), (e) and (g),

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48.365 (7), 48.48 (13), 48.51 (1) (intro.), 48.533 (3), 48.78 (3), 101.123 (1) (i), 157.065 (2) (a) 4. c., 165.76 (1) (a) and (2) (b) 2. and 5., 227.03 (4), 302.31, 946.42 (1) (a), 946.44 (1) (a) and 946.45 (1) of the statutes and the cre-

ation of sections 48.02 (19) and (20), 48.533 (3) (b), 101.123 (3) (gg) and 302.386 (5) (c) of the statutes take effect of January 1, 1996, or on the day after publication, whichever is later.

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