



1995 SENATE BILL 258

June 23, 1995 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Judiciary.

1 **AN ACT to amend** 48.18 (2) of the statutes; **relating to:** permitting a petition for
2 the waiver of juvenile court jurisdiction to be filed after a child becomes 18 years
3 of age.

Analysis by the Legislative Reference Bureau

Under current law, a petition requesting the court assigned to exercise jurisdiction under the children's code (juvenile court) to waive its jurisdiction over a delinquency petition must be filed prior to the plea hearing on the delinquency petition. Current law also provides, however, that if a child denies the facts of a delinquency petition at the plea hearing and becomes 18 years of age before an adjudication, the juvenile court may waive its jurisdiction at any time before an adjudication. The effect of a waiver of juvenile court jurisdiction is to transfer that jurisdiction to the court of criminal jurisdiction for criminal proceedings.

The Court of Appeals, in *In Interest of K.A.P.*, 159 Wis.2d 384 (Ct. App. 1990), found that the statutes relating to the filing of a waiver petition are ambiguous in that one statute requires a waiver petition to be filed before the plea hearing while another permits the juvenile court to waive its jurisdiction, without the filing of a timely petition, at any time before adjudication when the child denies the facts of the delinquency petition and becomes 18 years of age before an adjudication. The Court of Appeals resolved that ambiguity by holding that the former deadline does not apply to the latter situation. This bill clarifies that when a child denies the facts of a delinquency petition and becomes 18 years of age before an adjudication, a petition for waiver of juvenile court jurisdiction may be filed at any time prior to the adjudication.

For further information, see the NOTES provided by the law revision committee of the legislative council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is introduced by the law revision committee under s. 13.83 (1) (c), stats. After careful consideration of the Court of Appeal's decision in *In Interest of K.A.P.*, 159 Wis. 2d (Ct. App. 1990), the law revision committee has determined that codifying this decision is desirable as a matter of public policy.

1 **SECTION 1.** 48.18 (2) of the statutes is amended to read:
2 48.18 (2) The waiver hearing shall be brought on by filing a petition alleging
3 delinquency drafted under s. 48.255 and a petition for waiver of jurisdiction which
4 shall contain a brief statement of the facts supporting the request for waiver. The
5 petition for waiver of jurisdiction shall be filed prior to the plea hearing, except that
6 if the child denies the facts of the petition and becomes 18 years of age before an
7 adjudication, the petition for waiver of jurisdiction may be filed at any time prior to
8 the adjudication.

NOTE: This bill clarifies that the requirement under s. 48.18 (2), stats., that a petition for waiver of juvenile court jurisdiction must be filed prior to the plea hearing does not apply if the juvenile denies the facts of the petition and becomes 18 years of age before an adjudication. In that case, a petition for waiver of juvenile court jurisdiction may be filed at any time prior to the adjudication. This amendment makes s. 48.18 (2), stats., consistent with s. 48.12 (2), stats., which provides that a juvenile court may waive its jurisdiction either: 1) when the juvenile reaches 18 years of age before admitting the facts of the petition; or 2) when the juvenile reaches 18 years of age after denying the facts of the petition but before an adjudication.

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(END)