



## 2009 SENATE BILL 674

April 7, 2010 – Introduced by Senator TAYLOR. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1     **AN ACT** *to amend* 48.02 (1d), 48.02 (2), 118.163 (4), 125.07 (4) (d), 125.07 (4) (e)  
2           1., 125.085 (3) (bt), 938.02 (1), 938.02 (10m), 938.06 (5) (a) 1., 938.06 (5) (b),  
3           938.17 (2) (h) 1., 938.17 (2) (h) 4., 938.17 (2) (i) 4m., 938.255 (1) (intro.), 938.344  
4           (3), 938.355 (6) (a) 1., 938.355 (6) (a) 2., 938.355 (6) (an) 1., 938.355 (6) (an) 2.,  
5           938.355 (6) (d) 1., 938.355 (6m) (a) 1g., 990.01 (3) and 990.01 (20) of the statutes;  
6           **relating to:** the age at which a person who is alleged to have violated a civil law  
7           or municipal ordinance is subject to circuit court or municipal court jurisdiction  
8           rather than to juvenile court jurisdiction and prohibiting a juvenile who has  
9           committed a civil law or municipal ordinance violation from being placed in a  
10          juvenile detention facility.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, a person 17 years of age or older who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court, while a person under 17 years of age who is alleged to have violated a civil law or municipal ordinance, subject to certain exceptions, is subject to the jurisdiction and procedures

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of the court assigned to exercise jurisdiction under the Juvenile Justice Code. This bill raises from 17 to 18 the age at which a person who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court.

Under current law, a juvenile adjudged to have committed a civil law or municipal ordinance violation, including a habitual truancy violation, who violates a condition of his or her dispositional order is subject to various sanctions, including placement in a juvenile detention facility or a place of nonsecure custody for not more than 10 days. This bill eliminates placement in a juvenile detention facility as a sanction for a violation of a civil law or ordinance violation dispositional order.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 48.02 (1d) of the statutes is amended to read:

2           48.02 (1d) “Adult” means a person who is 18 years of age or older, except that  
3 for purposes of investigating or prosecuting a person who is alleged to have violated  
4 any state or federal criminal law ~~or any civil law or municipal ordinance~~, “adult”  
5 means a person who has attained 17 years of age.

6           **SECTION 2.** 48.02 (2) of the statutes, as affected by 2009 Wisconsin Act 94, is  
7 amended to read:

8           48.02 (2) “Child”, when used without further qualification, means a person who  
9 is less than 18 years of age, except that for purposes of investigating or prosecuting  
10 a person who is alleged to have violated a state or federal criminal law ~~or any civil~~  
11 ~~law or municipal ordinance~~, “child” does not include a person who has attained 17  
12 years of age.

13           **SECTION 3.** 118.163 (4) of the statutes is amended to read:

14           118.163 (4) A person who is under ~~17~~ 18 years of age on the date of disposition  
15 is subject to s. 938.342.

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1           **SECTION 4.** 125.07 (4) (d) of the statutes is amended to read:

2           125.07 (4) (d) A person who is under ~~17~~ 18 years of age on the date of disposition  
3 is subject to s. 938.344 unless proceedings have been instituted against the person  
4 in a court of civil or criminal jurisdiction after dismissal of the citation under s.  
5 938.344 (3).

6           **SECTION 5.** 125.07 (4) (e) 1. of the statutes is amended to read:

7           125.07 (4) (e) 1. In this paragraph, “defendant” means a person found guilty  
8 of violating par. (a) or (b) who is ~~17,~~ 18, 19, or 20 years of age.

9           **SECTION 6.** 125.085 (3) (bt) of the statutes is amended to read:

10           125.085 (3) (bt) A person who is under ~~17~~ 18 years of age on the date of  
11 disposition is subject to s. 938.344 unless proceedings have been instituted against  
12 the person in a court of civil or criminal jurisdiction after dismissal of the citation  
13 under s. 938.344 (3).

14           **SECTION 7.** 938.02 (1) of the statutes is amended to read:

15           938.02 (1) “Adult” means a person who is 18 years of age or older, except that  
16 for purposes of investigating or prosecuting a person who is alleged to have violated  
17 any state or federal criminal law ~~or any civil law or municipal ordinance~~, “adult”  
18 means a person who has attained 17 years of age.

19           **SECTION 8.** 938.02 (10m) of the statutes, as affected by 2009 Wisconsin Act 94,  
20 is amended to read:

21           938.02 (10m) “Juvenile”, when used without further qualification, means a  
22 person who is less than 18 years of age, except that for purposes of investigating or  
23 prosecuting a person who is alleged to have violated a state or federal criminal law  
24 ~~or any civil law or municipal ordinance~~, “juvenile” does not include a person who has  
25 attained 17 years of age.

**SENATE BILL 674****SECTION 9**

1           **SECTION 9.** 938.06 (5) (a) 1. of the statutes is amended to read:

2           938.06 **(5)** (a) 1. Use placement in a juvenile detention facility or juvenile  
3 portion of the county jail as a disposition under s. 938.34 (3) (f), ~~as a sanction under~~  
4 ~~s. 938.355 (6m) (a) 1g.~~, or as a place of short-term detention under s. 938.355 (6d) (a)  
5 1. or 2. or (b) 1. or 2. or 938.534 (1) (b) 1. or 2.

6           **SECTION 10.** 938.06 (5) (b) of the statutes is amended to read:

7           938.06 **(5)** (b) The use by the court of a disposition under s. 938.34 (3) (f) or (6)  
8 (am), ~~a sanction under s. 938.355 (6m) (a) 1g.~~, or short-term detention under s.  
9 938.355 (6d) (a) 1. or 2. or (b) 1. or 2. or 938.534 (1) (b) 1. or 2. is subject to any  
10 resolution adopted under par. (a).

11           **SECTION 11.** 938.17 (2) (h) 1. of the statutes is amended to read:

12           938.17 **(2)** (h) 1. If a juvenile who has violated a municipal ordinance, other  
13 than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of his or  
14 her dispositional order, the municipal court may impose on the juvenile any of the  
15 sanctions specified in s. 938.355 (6) (d) 2. to 5. that are authorized under par. (cm)  
16 except for monitoring by an electronic monitoring system. The municipal court may  
17 also petition the court assigned to exercise jurisdiction under this chapter and ch. 48  
18 to impose on the juvenile the sanction of placement in a place of nonsecure custody  
19 as specified in s. 938.355 (6) (d) 1. or of home detention with monitoring by an  
20 electronic monitoring system as specified in s. 938.355 (6) (d) 3., if authorized under  
21 par. (cm). A sanction may be imposed under this subdivision only if at the time of  
22 judgment the court explained the conditions to the juvenile and informed the  
23 juvenile of the possible sanctions under s. 938.355 (6) (d) that are authorized under  
24 par. (cm) for a violation or if before the violation the juvenile has acknowledged in  
25 writing that he or she has read, or has had read to him or her, those conditions and

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1 possible sanctions and that he or she understands those conditions and possible  
2 sanctions.

3 **SECTION 12.** 938.17 (2) (h) 4. of the statutes is amended to read:

4 938.17 (2) (h) 4. If the court assigned to exercise jurisdiction under this chapter  
5 and ch. 48 imposes the sanction of placement in a place of nonsecure custody as  
6 specified in s. 938.355 (6) (d) 1. or of home detention with monitoring by an electronic  
7 monitoring system as specified in s. 938.355 (6) (d) 3., on a petition described in subd.  
8 1., that court shall order the municipality of the municipal court that filed the  
9 petition to pay to the county the cost of providing the ~~that~~ sanction imposed under  
10 s. ~~938.355 (6) (d) 1. or 3.~~

11 **SECTION 13.** 938.17 (2) (i) 4m. of the statutes is amended to read:

12 938.17 (2) (i) 4m. If the court assigned to exercise jurisdiction under this  
13 chapter and ch. 48 imposes the sanction specified in s. 938.355 (6m) (a) 1g., on a  
14 petition described in subd. 2m., that court shall order the municipality of the  
15 municipal court that filed the petition to pay to the county the cost of providing the  
16 that sanction imposed under s. ~~938.355 (6m) (a) 1g.~~

17 **SECTION 14.** 938.255 (1) (intro.) of the statutes is amended to read:

18 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings  
19 under this chapter, other than a petition initiating proceedings under s. 938.12,  
20 ~~938.125,~~ or 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a  
21 person under the age of 18". A petition initiating proceedings under s. 938.12,  
22 ~~938.125,~~ or 938.13 (12) shall be entitled, "In the interest of (juvenile's name), a person  
23 under the age of 17". A petition initiating proceedings under this chapter shall  
24 specify all of the following:

25 **SECTION 15.** 938.344 (3) of the statutes is amended to read:

**SENATE BILL 674****SECTION 15**

1           938.344 **(3)** PROSECUTION IN ADULT COURT. If the juvenile alleged to have  
2 committed the violation is within 3 months of his or her 17<sup>th</sup> 18<sup>th</sup> birthday, the court  
3 assigned to exercise jurisdiction under this chapter and ch. 48 may, at the request  
4 of the district attorney or on its own motion, dismiss the citation without prejudice  
5 and refer the matter to the district attorney for prosecution under s. 125.07 (4). The  
6 juvenile is entitled to a hearing only on the issue of his or her age. This subsection  
7 does not apply to violations under s. 961.573 (2), 961.574 (2) or 961.575 (2) or a local  
8 ordinance that strictly conforms to one of those statutes.

9           **SECTION 16.** 938.355 (6) (a) 1. of the statutes is amended to read:

10           938.355 **(6)** (a) 1. If a juvenile who has been adjudged delinquent ~~or to have~~  
11 ~~violated a civil law or ordinance, other than an ordinance enacted under s. 118.163~~  
12 ~~(1m) or (2)~~, violates a condition specified in sub. (2) (b) 7., the court may impose on  
13 the juvenile any of the sanctions specified in par. (d). A sanction may be imposed  
14 under this subdivision only if, at the dispositional hearing under s. 938.335, the court  
15 explained the conditions to the juvenile and informed the juvenile of those possible  
16 sanctions or if before the violation the juvenile has acknowledged in writing that he  
17 or she has read, or has had read to him or her, those conditions and possible sanctions  
18 and that he or she understands those conditions and possible sanctions.

19           **SECTION 17.** 938.355 (6) (a) 2. of the statutes is amended to read:

20           938.355 **(6)** (a) 2. If a juvenile who has been found to be in need of protection  
21 or services under s. 938.13 (4), (6m), (7), (12), or (14) or who has been adjudged to have  
22 violated a civil law or ordinance, other than an ordinance enacted under s. 118.163  
23 (1m) or (2), violates a condition specified in sub. (2) (b) 7., the court may impose on  
24 the juvenile any of the sanctions under par. (d), other than placement in a juvenile  
25 detention facility or juvenile portion of a county jail. A sanction may be imposed

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1 under this subdivision only if, at the dispositional hearing under s. 938.335, the court  
2 explained the conditions to the juvenile and informed the juvenile of those possible  
3 sanctions or if before the violation the juvenile has acknowledged in writing that he  
4 or she has read, or has had read to him or her, those conditions and possible sanctions  
5 and that he or she understands those conditions and possible sanctions.

6 **SECTION 18.** 938.355 (6) (an) 1. of the statutes, as affected by 2009 Wisconsin  
7 Act 94, is amended to read:

8 938.355 (6) (an) 1. If a juvenile who has violated a municipal ordinance, other  
9 than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of a  
10 dispositional order imposed by the municipal court, the municipal court may petition  
11 the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose  
12 on the juvenile the sanction under of placement in a place of nonsecure custody as  
13 specified in par. (d) 1. or the sanction under par. (d) 3., of home detention with  
14 monitoring by an electronic monitoring system as specified in par. (d) 3. A sanction  
15 may be imposed under this subdivision only if, at the time of the judgment, the  
16 municipal court explained the conditions to the juvenile and informed the juvenile  
17 of those possible sanctions for a violation or if before the violation the juvenile has  
18 acknowledged in writing that he or she has read, or has had read to him or her, those  
19 conditions and possible sanctions and that he or she understands those conditions  
20 and possible sanctions. The petition shall contain a statement of whether the  
21 juvenile may be subject to the federal Indian Child Welfare Act, 25 USC 1901 to 1963,  
22 and, if the juvenile may be subject to that act, the names and addresses of the  
23 juvenile's Indian custodian, if any, and tribe, if known.

24 **SECTION 19.** 938.355 (6) (an) 2. of the statutes is amended to read:

**SENATE BILL 674****SECTION 19**

1           938.355 (6) (an) 2. If the court assigned to exercise jurisdiction under this  
2 chapter and ch. 48 imposes the sanction under of placement in a place of nonsecure  
3 custody as specified in par. (d) 1. or of home detention with monitoring by an  
4 electronic monitoring system under as specified in par. (d) 3., on a petition described  
5 in subd. 1., the court shall order the municipality of the municipal court that filed the  
6 petition to pay to the county the cost of providing the that sanction imposed under  
7 ~~par. (d) 1. or 3.~~

8           **SECTION 20.** 938.355 (6) (d) 1. of the statutes, as affected by 2009 Wisconsin Act  
9 180, is amended to read:

10           938.355 (6) (d) 1. Placement of the juvenile in a juvenile detention facility or  
11 juvenile portion of a county jail that meets the standards promulgated by the  
12 department by rule or in a place of nonsecure custody, for not more than 10 days and  
13 the provision of educational services consistent with his or her current course of  
14 study during the period of placement. The juvenile shall be given credit against the  
15 period of detention or nonsecure custody imposed under this subdivision for all time  
16 spent in secure detention or nonsecure custody in connection with the course of  
17 conduct for which the detention or nonsecure custody was imposed. If the court  
18 orders placement of the juvenile in a place of nonsecure custody under the  
19 supervision of the county department, the court shall order the juvenile into the  
20 placement and care responsibility of the county department as required under 42  
21 USC 672 (a) (2) and shall assign the county department primary responsibility for  
22 providing services to the juvenile.

23           **SECTION 21.** 938.355 (6m) (a) 1g. of the statutes, as affected by 2009 Wisconsin  
24 Act 180, is amended to read:



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1           938.355 **(6m)** (a) 1g. Placement of the juvenile ~~in a juvenile detention facility~~  
2 ~~or juvenile portion of a county jail that meets the standards promulgated by the~~  
3 ~~department by rule or in a place of nonsecure custody, for not more than 10 days and~~  
4 ~~the provision of educational services consistent with his or her current course of~~  
5 ~~study during the period of placement. The juvenile shall be given credit against the~~  
6 ~~period of detention or nonsecure custody imposed under this subdivision for all time~~  
7 ~~spent in secure detention~~ nonsecure custody in connection with the course of conduct  
8 ~~for which the detention or nonsecure custody was imposed. The use of placement in~~  
9 ~~a juvenile detention facility or in a juvenile portion of a county jail as a sanction under~~  
10 ~~this subdivision is subject to the adoption of a resolution by the county board of~~  
11 ~~supervisors under s. 938.06 (5) authorizing the use of those placements as a sanction.~~  
12 If the court orders placement of the juvenile in a place of nonsecure custody under  
13 the supervision of the county department, the court shall order the juvenile into the  
14 placement and care responsibility of the county department as required under 42  
15 USC 672 (a) (2) and shall assign the county department primary responsibility for  
16 providing services to the juvenile.

17           **SECTION 22.** 990.01 (3) of the statutes is amended to read:

18           990.01 **(3)** ADULT. “Adult” means a person who has attained the age of 18 years,  
19 except that for purposes of investigating or prosecuting a person who is alleged to  
20 have violated any state or federal criminal law ~~or any civil law or municipal~~  
21 ~~ordinance~~, “adult” means a person who has attained the age of 17 years.

22           **SECTION 23.** 990.01 (20) of the statutes is amended to read:

23           990.01 **(20)** MINOR. “Minor” means a person who has not attained the age of  
24 18 years, except that for purposes of investigating or prosecuting a person who is

