



1995 ASSEMBLY BILL 449

June 20, 1995 – Introduced by Representatives ALBERS and GROTHMAN. Referred to Committee on Children and Families.

1 **AN ACT to amend** 48.355 (4) (a); **to repeal and recreate** 48.355 (4) (a); and **to**
2 **create** 48.12 (3) of the statutes; **relating to:** providing for juvenile court
3 jurisdiction beyond the age of 18 over a child who committed a delinquent act
4 and was adjudicated delinquent before the age of 18.

Analysis by the Legislative Reference Bureau

Under current law, the court assigned to exercise jurisdiction under the children's code (juvenile court) generally has exclusive jurisdiction over a child who is 12 years of age or over and who is alleged to have violated a criminal law. Currently, if a juvenile court proceeding has been commenced before a child is 18 years of age, but the child becomes 18 years of age before admitting to the facts of the delinquency petition or, if the child denies the facts before an adjudication, the juvenile court retains jurisdiction over the child beyond age 18 and may dismiss the action with prejudice or enter into a consent decree with the child or it may waive its jurisdiction over the child and refer the matter to the district attorney for criminal prosecution. Current law, however, does not specify what happens when a child admits the facts of a petition or, if the child denies the facts, is nevertheless adjudged delinquent before the child is 18 years of age, but becomes 18 years of age before the disposition of the child's case, such as if the child flees. This bill provides that in that situation the juvenile court retains jurisdiction over the child beyond the age of 18 to dismiss the action with prejudice, enter into a consent decree with the child or proceed to disposition. The bill also permits the juvenile court to proceed to a disposition if the child does not fulfill the terms of the consent decree, to impose sanctions on the child if the child violates a condition of his or her dispositional order and to hold the child in contempt of court if the child commits a 2nd or subsequent violation of his or her dispositional order.

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

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

1 **SECTION 1.** 48.12 (3) of the statutes is created to read:

2 48.12 (3) If a court proceeding has been commenced under this section and a
3 child is adjudged delinquent before the child is 18 years of age, but the child becomes
4 18 years of age before a disposition, the court retains jurisdiction over the case to
5 dismiss the action with prejudice, to enter into a consent decree or to proceed to
6 disposition. If the court finds that the child has failed to fulfill the express terms and
7 conditions of the consent decree or that the child objects to the continuation of the
8 consent decree, the hearing under which the child was placed under supervision may
9 be continued to conclusion as if the consent decree had never been entered. If the
10 child violates a condition of his or her dispositional order under s. 48.355 (2) (b) 7.,
11 the court may impose a sanction on the child as provided in s. 48.355 (6) if at the
12 dispositional hearing the court explained the conditions to the child and informed the
13 child of the possible sanctions under s. 48.355 (6) for a violation. Notwithstanding
14 s. 48.355 (6g), if the child commits a 2nd or subsequent violation of a condition
15 specified in s. 48.355 (2) (b) 7. after having been sanctioned under s. 48.355 (6) (d),
16 the child may be proceeded against for contempt of court as provided in ch. 785.

17 **SECTION 2.** 48.355 (4) (a) of the statutes, as affected by 1993 Wisconsin Act 385,
18 is amended to read:

19 48.355 (4) (a) Except as provided under par. (b) or s. 48.368, all orders under
20 this section, including an order entered after the child's 17th birthday, shall
21 terminate at the end of one year unless the judge specifies a shorter period of time.

1 Except if s. 48.368 applies, extensions or revisions shall terminate at the end of one
2 year unless the judge specifies a shorter period of time. No extension under s. 48.365
3 of an original dispositional order may be granted for a child who is under the
4 supervision of the department under s. 48.34 (4m) or (4n) or under the supervision
5 of a county department under s. 48.34 (4n) if the child is 18 years of age or older when
6 the original dispositional order terminates. ~~Any order made before the child reaches~~
7 ~~the age of majority shall be effective for a time up to one year after its entry unless~~
8 ~~the judge specifies a shorter period of time.~~

9 **SECTION 3.** 48.355 (4) (a) of the statutes, as affected by 1993 Wisconsin Act 491
10 and 1995 Wisconsin Act (this act), is repealed and recreated to read:

11 48.355 (4) (a) Except as provided under par. (b) or s. 48.368, all orders under
12 this section, including an order entered after the child's 17th birthday, shall
13 terminate at the end of one year unless the judge specifies a shorter period of time.
14 Except if s. 48.368 applies, extensions or revisions shall terminate at the end of one
15 year unless the judge specifies a shorter period of time. No extension under s. 48.365
16 of an original dispositional order may be granted for a child whose legal custody has
17 been transferred to the department of corrections under s. 48.34 (4g) or who is under
18 the supervision of the department of health and social services under s. 48.34 (4m)
19 or (4n) or under the supervision of a county department under s. 48.34 (4n) if the child
20 is 18 years of age or older when the original dispositional order terminates.

21 **SECTION 4. Initial applicability.**

22 (1) The treatment of section 48.12 (3) of the statutes and the amendment of
23 section 48.355 (4) (a) of the statutes first apply to children who are adjudicated
24 delinquent on the effective date of this subsection.

