

State of Wisconsin



1997 Assembly Bill 410

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1997 WISCONSIN ACT 205

AN ACT to renumber and amend 118.16 (6), 938.183 (1m) (c), 938.355 (6d) and 938.355 (6m) (a); to consolidate, renumber and amend 938.183 (2) (intro.), (a) and (b); to amend 48.35 (1) (b) (intro.), 48.35 (1) (b) 1., 48.35 (1) (b) 2., 48.35 (1) (b) 3., 48.355 (2) (c), 48.396 (1), 48.66 (1), 48.78 (2) (b), 118.125 (1) (a), 118.125 (2) (cg), 118.125 (2) (e), 118.125 (2) (L), 118.125 (3), 118.125 (5) (a), 118.125 (5) (b), 118.127 (1), 118.127 (2), 118.15 (1) (cm) 1., 125.07 (4) (d), 125.07 (4) (e) 1., 125.085 (3) (bt), 165.55 (14), 301.08 (1) (b) 3., 800.08 (4), 895.035 (2m) (a), 895.035 (2m) (b), 895.035 (3), 895.035 (6), 938.06 (5), 938.08 (2), 938.17 (2) (cm), 938.17 (2) (h) 1., 938.17 (2) (h) 2., 938.17 (2) (h) 3., 938.245 (2) (a) 5. a., 938.275 (1) (c), 938.299 (4) (b), 938.32 (1t) (a) 1., 938.34 (5) (a), 938.34 (8), 938.343 (2), 938.343 (4), 938.346 (1) (a), 938.35 (1) (a), 938.35 (1) (c), 938.355 (2) (c), 938.355 (6) (a), 938.355 (6) (an) 1., 938.355 (6) (b), 938.355 (6) (d) 2., 938.355 (6g) (a), 938.355 (6g) (b) 1., 938.355 (6m) (b), 938.357 (5) (b), 938.396 (1), 938.396 (1m) (a), 938.396 (1m) (am), 938.396 (1m) (ar), 938.396 (1m) (b), 938.396 (1m) (c), 938.396 (2) (d), 938.396 (6), 938.396 (7) (a), 938.396 (7) (b), 938.396 (7) (bm), 938.396 (7) (c), 938.45 (2), 938.534 (1), 938.534 (2), 938.78 (2) (b) 1., 938.78 (2) (b) 2., 938.78 (2) (e), 970.032 (title), 970.032 (1), 970.032 (2) (intro.), 970.032 (2) (a), 970.032 (2) (c), 970.035, 971.31 (13) (a) (intro.), 971.31 (13) (a) 1., 971.31 (13) (a) 3., 971.31 (13) (b), 972.14 (2), 972.15 (2s), 980.015 (2) (b) and 980.02 (2) (ag); to repeal and recreate 938.355 (6d) (title); and to create 48.396 (2) (dr), 48.396 (2) (g), 48.396 (2) (h), 118.125 (2) (ch), 118.16 (6) (a) 2., 118.16 (6) (b), 165.55 (15), 938.067 (8m), 938.069 (1) (dm), 938.17 (2) (i), 938.183 (1) (ar), 938.183 (1m) (c) 1., 938.183 (1m) (c) 2., 938.245 (2) (a) 5. am., 938.32 (1t) (a) 1m., 938.355 (6) (e), 938.355 (6d) (a) (title), 938.355 (6d) (a) 2., 938.355 (6d) (a) 3., 938.355 (6d) (b), 938.355 (6d) (c) (title), 938.355 (6d) (c) 2., 938.355 (6d) (c) 3., 938.355 (6d) (e), 938.355 (6g) (c), 938.355 (6m) (a) 2., 938.355 (6m) (a) 3., 938.396 (1m) (d), 938.396 (1x), 938.396 (2) (dr), 938.396 (2) (g), 938.396 (2) (h), 938.396 (2) (i), 938.396 (2) (j), 938.45 (1r), 938.534 (1) (b) 2., 938.534 (1) (b) 3. and 938.534 (1) (b) 4. of the statutes; relating to: original adult court jurisdiction over a juvenile who is alleged to have attempted or committed a violation of any state criminal law if that violation may be joined with an alleged assault, battery, homicide or attempted homicide over which the adult court has original jurisdiction, the imposition of a juvenile adjudication and disposition by an adult court on a juvenile who has been found to have committed a lesser offense or a joined offense, requiring the parent of a juvenile to make restitution for any damage or injury resulting from the juvenile's act or to pay a forfeiture for the juvenile's act, sanctions for a juvenile who violates a condition of his or her dispositional order, contempt of court by a juvenile who violates a condition of his or her dispositional order, the authority to take into custody and hold in short-term detention a juvenile who has violated a condition of his or her dispositional order, aftercare supervision or participation in an intensive supervision program, the rules of evidence at postdispositional hearings under the juvenile justice code, access to juvenile court records, law enforcement agency records, social services agency records and pupil records by a fire investigator, disclosure by the victim-witness coordinator to the victim of a juvenile's act or alleged act of the name and address of the juvenile and the juvenile's parents, the confidential exchange

* Section 991.11, WISCONSIN STATUTES 1995-96: 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].

of information between a law enforcement agency, a social welfare agency and the school attended by a child or juvenile, the disclosure of information relating to a child or a juvenile by a law enforcement agency, a social welfare agency or a juvenile court to the private school attended by the child or the juvenile, requesting the legislative audit bureau to audit the use of secure detention facilities, referral of a juvenile to a teen court program and the disclosure of juvenile court records for the purposes of preparing a presentence investigation, determining custody of a juvenile, setting bail, impeaching a witness and determining whether a juvenile who would otherwise be an heir has intentionally killed the decedent.

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

SECTION 1. 48.35 (1) (b) (intro.) of the statutes is amended to read:

48.35 (1) (b) (intro.) The disposition of a child, and any record of evidence given in a hearing in court, shall not be admissible as evidence against the child in any case or proceeding in any other court except for the following:

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

48.35 (1) (b) 1. In sentencing proceedings after conviction of a felony or misdemeanor and then only for the purpose of a presentence ~~study and report; investigation.~~

SECTION 3. 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 4. 48.35 (1) (b) 3. of the statutes is amended to read:

48.35 (1) (b) 3. In a court of civil or criminal jurisdiction while it is exercising the jurisdiction of a over an action affecting the family court and is considering the custody of ~~children~~ a child.

SECTION 5. 48.355 (2) (c) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

48.355 (2) (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, or the governing body of the private school, in which the child is enrolled to notify the county department that is responsible for supervising the child or, in a county having a population of 500,000 or more, the department within 5 days after any violation of the condition by the child.

SECTION 6. 48.396 (1) of the statutes is amended to read:

48.396 (1) Law enforcement officers' records of children shall be kept separate from records of adults. Law enforcement officers' records of children shall not be open to inspection or their contents disclosed except under sub. (1b) or (1d) 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 10 years of age or older who are subject to the jurisdiction of the court of criminal jurisdiction. A public school official who obtains information under this subsection shall keep the information confidential as required under s. 118.125 and a private school official who obtains information under this subsection shall keep the information confidential in the same manner as is required of a public school official under s. 118.125. A law enforcement agency that obtains information under this subsection shall keep the information confidential as required under this subsection and s. 938.396 (1). A social welfare agency that obtains information under this subsection shall keep the information confidential as required under ss. 48.78 and 938.78.

SECTION 7. 48.396 (2) (dr) of the statutes is created to read:

48.396 (2) (dr) Upon request of the department of corrections or any other person preparing a presentence investigation under s. 972.15 to review court records for the purpose of preparing the presentence investigation, the court shall open for inspection by any authorized representative of the requester the records of the court relating to any child who has been the subject of a proceeding under this chapter.

SECTION 8. 48.396 (2) (g) of the statutes is created to read:

48.396 (2) (g) Upon request of any other court assigned to exercise jurisdiction under this chapter and ch. 938, a district attorney or corporation counsel to review court records for the purpose of any proceeding in that other court, the court shall open for inspection by any authorized representative of the requester the records of the court relating to any child who has been the subject of a proceeding under this chapter.

SECTION 9. 48.396 (2) (h) of the statutes is created to read:

48.396 (2) (h) Upon request of the court having jurisdiction over an action affecting the family or of an attorney for a party or a guardian ad litem in an action affecting the family to review court records for the purpose of considering the custody of a child, the court assigned to exercise jurisdiction under this chapter and ch. 938 shall open for inspection by an authorized representative of the

requester the records of the court relating to any child who has been the subject of a proceeding under this chapter.

SECTION 10. 48.66 (1) of the statutes, as affected by 1997 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. 938.22, 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 juveniles~~ who have been convicted under s. 938.183 or adjudicated delinquent under s. ~~938.183 or~~ 938.34 (4d), (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 juveniles~~. A license issued under this subsection, other than a license to operate a foster home, treatment foster home or secured child caring institution, is valid until revoked or suspended. A license issued under this subsection to operate a foster home, treatment foster home or secured child caring institution may be for any term not to exceed 2 years from the date of issuance. No license issued under this subsection is transferable.

SECTION 11. 48.78 (2) (b) of the statutes is amended to read:

48.78 (2) (b) Paragraph (a) does not apply to the confidential exchange of information between an agency and another social welfare ~~or agency,~~ a law enforcement agency, a public school or a private school regarding an individual in the care or legal custody of ~~one of the agencies the agency.~~ A social welfare agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. 938.78. A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. 48.396 (1) and 938.396 (1). A public school that obtains information under this paragraph shall keep the information confidential as required under s. 118.125 and a private school that obtains information under this paragraph shall keep the information confidential in the same manner as is required of a public school under s. 118.125.

SECTION 12. 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, law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) or (1m) and any other pupil records that are not progress records.

SECTION 13. 118.125 (2) (cg) of the statutes is amended 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 ~~(4)~~ (1x).

SECTION 14. 118.125 (2) (ch) of the statutes is created to read:

118.125 (2) (ch) The school district clerk or his or her designee shall provide a fire investigator under s. 165.55 (15) with a copy of a pupil's attendance record if the fire investigator certifies in writing that the pupil is under investigation under s. 165.55, that the pupil's attendance record is necessary for the fire investigator to pursue his or her investigation and that the fire investigator will use and further disclose the pupil's attendance record only for the purpose of pursuing that investigation.

SECTION 15. 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. Law enforcement officers' records obtained under s. ~~48.396 (1) or~~ 938.396 (1) ~~or~~ (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 16. 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. 48.345 (12) (b), 938.34 (7d) (b), 938.396 (1m) (c) ~~or (d)~~ or 938.78 (2) (b) 2. after making a reasonable effort to notify the pupil's parent or legal guardian.

SECTION 17. 118.125 (3) of the statutes 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 law enforcement officers' records ~~and other information~~ obtained under s. ~~48.396 (1) or~~ 938.396 (1) ~~or~~ (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 18. 118.125 (5) (a) of the statutes is amended to read:

118.125 (5) (a) Except as provided in par. (b), nothing in this section prohibits ~~the use of a school district from using~~ 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 19. 118.125 (5) (b) of the statutes is amended to read:

118.125 (5) (b) Law enforcement officers' records ~~and other information~~ obtained under s. ~~48.396 (1) or~~ 938.396 (1) ~~or~~ (1m) and records of the court assigned to exercise jurisdiction under chs. 48 and 938 obtained under s. 938.396 (7) ~~shall may~~ not be used ~~by a school district~~ as the sole basis for expelling or suspending a pupil ~~or as the sole basis for taking any other disciplinary action, including action under the school district's athletic code.~~

SECTION 20. 118.127 (1) of the statutes is amended to read:

118.127 (1) Upon receipt of information from a law enforcement agency under s. ~~48.396 (1) or~~ 938.396 (1) ~~or~~ (1m), the school district administrator ~~or private school administrator who receives the information~~ shall notify any pupil named in the information, and the parent or guardian of any minor pupil named in the information, of the information.

SECTION 21. 118.127 (2) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

118.127 (2) A school district ~~shall or private school may~~ disclose information from law enforcement officers' records obtained under s. 938.396 (1m) ~~only~~ to persons employed by the school district who are required by the department under s. 115.28 (7) to hold a license, ~~to persons employed by the private school as teachers~~ and to other school district ~~or private school~~ officials who have been determined by the school board ~~or governing body of the private school~~ to have legitimate educational interests, including safety interests, in that information. In addition, if that information relates to a pupil of the school district ~~or private school~~, the school district ~~shall or private school may~~ also disclose that information to those employes of the school district ~~or private school~~ who have been designated by the school board ~~or governing body of the private school~~ to receive that information

for the purpose of providing treatment programs for pupils enrolled in the school district ~~or private school~~. A school district may not use law enforcement officers' records obtained under s. 938.396 (1m) as the sole basis for expelling or suspending a pupil or as the sole basis for taking any other disciplinary action, including action under the school district's athletic code, against a pupil.

SECTION 21g. 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. 938.02 (15m), ~~or a secured child caring institution, 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,~~ 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. ~~For purposes of this subdivision, a child is considered to have begun a program leading to a high school equivalency diploma if the child has received a passing score on a minimum of one of the 5 content area tests given under the general educational development test or has demonstrated under a course of study meeting the standards established under s. 115.29 (4) for the granting of a declaration of equivalency to high school graduation a level of proficiency in a minimum of one of the 5 content areas specified in s. 118.33 (1) (a) 1. that is equivalent to the level of proficiency that he or she would have attained if he or she had satisfied the requirements under s. 118.33 (1) (a) 1.~~

SECTION 21m. 118.16 (6) of the statutes is renumbered 118.16 (6) (a) (intro.) and amended to read:

118.16 (6) (a) (intro.) 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~~ do any of the following:

1. File information on any child who continues to be truant with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this subsection ~~subdivision~~ does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

SECTION 21p. 118.16 (6) (a) 2. of the statutes is created to read:

118.16 (6) (a) 2. Refer the child to 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 child's county of residence and has authorized the school attendance officer to refer children to the teen court program and the school attendance officer determines that

participation in the teen court program will likely benefit the child and the community.

b. The child and the child's parent, guardian and legal custodian consent to the child's participation in the teen court program.

c. The child has not successfully completed participation in a teen court program during the 2 years before the date on which the school attendance officer received 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).

SECTION 21r. 118.16 (6) (b) of the statutes is created to read:

118.16 (6) (b) If a child who is referred to a teen court program under par. (a) 2. is not eligible for participation in the teen court program or does not successfully complete participation in the teen court program, the person administering the teen court program shall file information on the child with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this paragraph does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

SECTION 24. 125.07 (4) (d) of the statutes is amended to read:

125.07 (4) (d) A person who is under ~~18~~ 17 years of age on the date of disposition is subject to s. 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. 938.344 (3).

SECTION 25. 125.07 (4) (e) 1. of the statutes is amended to read:

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

SECTION 26. 125.085 (3) (bt) of the statutes is amended to read:

125.085 (3) (bt) A person who is under ~~18~~ 17 years of age on the date of disposition is subject to s. 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. 938.344 (3).

SECTION 27. 165.55 (14) of the statutes is amended to read:

165.55 (14) The state fire marshal, any deputy fire marshal ~~or any fire chief~~ or his or her designee may require an insurer, including the state acting under ch. 619, to furnish any information in its possession relating to a fire loss involving property with respect to which a policy of insurance issued or serviced by the insurer may apply. Any insurer, including the state, may furnish to the state fire marshal, any deputy fire marshal ~~or any fire chief~~ or designee information in its possession relating to a fire loss to which insurance issued by it may apply. In the absence of fraud or malice, no insurer furnishing information under this subsection, state fire marshal, deputy fire

marshal ~~or fire chief~~ or designee, and no person acting on behalf of the insurer, state fire marshal, deputy fire marshal ~~or fire chief~~ or designee, shall be liable in any civil or criminal action on account of any statement made, material furnished or action taken in regard thereto. Information furnished by an insurer under this subsection shall be held in confidence by the state fire marshal, deputy fire marshal ~~or fire chief~~ or designee and all subordinates until release or publication is required pursuant to a civil or criminal proceeding. Information obtained by the state fire marshal, any deputy fire marshal ~~or fire chief~~ or designee during their investigations of fires determined to be the result of arson may be available to the insurer of the property involved.

SECTION 28. 165.55 (15) of the statutes is created to read:

165.55 (15) The state fire marshal, any deputy fire marshal, any fire chief or his or her designee may obtain information relating to a juvenile from a law enforcement agency, a court assigned to exercise jurisdiction under chs. 48 and 938 or an agency, as defined in s. 938.78 (1), as provided in ss. 938.396 (1x) and (2) (j) and 938.78 (2) (b) 1. and may obtain information relating to a pupil from a public school as provided in ss. 118.125 (2) (ch) and (L) and 938.396 (1m) (d).

SECTION 29. 301.08 (1) (b) 3. of the statutes is amended to read:

301.08 (1) (b) 3. Contract with public, private or voluntary agencies for the supervision, maintenance and operation of secured correctional facilities, as defined in s. 938.02 (15m), child caring institutions, as defined in s. 938.02 (2c), and secured child caring institutions, as defined in s. 938.02 (15g), for the placement of juveniles who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.183 or 938.34 (4d), (4h) or (4m). The department may designate a secured correctional facility, child caring institution or a secured child caring institution contracted for under this subdivision as a Type 2 secured correctional facility, as defined in s. 938.02 (20), and may designate a child caring institution or secured child caring institution contracted for under this subdivision as a Type 2 child caring institution, as defined in s. 938.02 (19r).

SECTION 30. 800.08 (4) of the statutes is amended to read:

800.08 (4) ~~Municipal~~ Except as provided in s. 938.17 (2) (h) 3., municipal courts shall be bound by the rules of evidence specified in chs. 901 to 911.

SECTION 31. 895.035 (2m) (a) of the statutes is amended to read:

895.035 (2m) (a) If a child or a parent with custody of a child fails to pay restitution under s. 938.245, 938.32, 938.34 (5), 938.343 (4) ~~or~~ 938.345 or 938.45 (1r) (a) as ordered by a court assigned to exercise jurisdiction under chs. 48 and 938, a court of criminal jurisdiction or a municipal court or as agreed to in a deferred prosecution

agreement or if it appears likely that the child or parent 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 or parent be entered and docketed as a judgment against the child and the parent with custody of the child and in favor of the victim or the victim's insurer, or both. 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. A judgment rendered under this paragraph does not bar the victim or the victim's insurer, or both, from commencing another action seeking compensation from the child or the parent, or both, if the amount of restitution ordered under this paragraph is less than the total amount of damages claimed by the victim or the victim's insurer.

SECTION 32. 895.035 (2m) (b) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

895.035 (2m) (b) If a child or a parent with custody of a child fails to pay a forfeiture ~~or surcharge~~ as ordered by a court assigned to exercise jurisdiction under chs. 48 and 938, a court of criminal jurisdiction or a forfeiture ~~as ordered by a municipal court, if a child fails to pay a surcharge as ordered by a court assigned to exercise jurisdiction under chs. 48 and 938 or a court of criminal jurisdiction~~ or if it appears likely that the child or the parent will not pay the forfeiture or surcharge 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 or surcharge unpaid by the child or parent be entered and docketed as a judgment against the child and the parent with custody of the child and in favor of the county or appropriate municipality. A petition under this paragraph may be filed after the expiration of the dispositional order or sentence under which the forfeiture or surcharge 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.

SECTION 33. 895.035 (3) of the statutes is amended to read:

895.035 (3) An adjudication under s. ~~938.34~~ 938.183 or 938.34 that the child violated a civil law or ordinance, is delinquent or is in need of protection and services under s. 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 34. 895.035 (6) of the statutes is amended to read:

895.035 (6) Any recovery of restitution under this section shall be reduced by the amount recovered as restitution for the same act under s. 938.245, 938.32, 938.34 (5) ~~or~~ 938.343 (4) or 938.45 (1r) (a). Any recovery of a forfeiture under this section shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.34 (8), 938.343 (2) or 938.45 (1r) (b). Any recovery of a surcharge under this section shall be reduced by the amount recovered as a surcharge under s. 938.34 (8d).

SECTION 34m. 938.06 (5) of the statutes is amended to read:

938.06 (5) (title) SHORT-TERM DETENTION AS A DISPOSITION OR FOR VIOLATION OF ORDER. 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 as a place of short-term detention under s. 938.355 (6d) (a) 1. or 2. or (b) 1. or 2. or 938.534 (1) (b) 1. or 2. 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~~ a disposition under s. 938.34 (3) (f) or (6) (am) or short-term detention under s. 938.355 (6d) (a) 1. or 2. or (b) 1. or 2. or 938.534 (1) (b) 1. or 2. is subject to any resolution adopted under this subsection.

SECTION 35m. 938.067 (8m) of the statutes is created to read:

938.067 (8m) Take juveniles into custody under ss. 938.355 (6d) (a), (b) and (c) and 938.534 (1) (b) and (c).

SECTION 36m. 938.069 (1) (dm) of the statutes is created to read:

938.069 (1) (dm) Take juveniles into custody under ss. 938.355 (6d) (a), (b) and (c) and 938.534 (1) (b) and (c).

SECTION 37g. 938.08 (2) of the statutes is amended to read:

938.08 (2) Except as provided in sub. (3) and ss. 938.355 (6d) and 938.534 (1), any person authorized to provide or providing intake or dispositional services for the court under ~~ss. s.~~ 938.067 and or 938.069 has 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.

SECTION 37m. 938.17 (2) (cm) of the statutes is amended to read:

938.17 (2) (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) and (6m) 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 by-law adopted under this paragraph.

SECTION 37p. 938.17 (2) (h) 1. of the statutes is amended to read:

938.17 (2) (h) 1. If a juvenile who has violated a municipal ordinance, other than an ordinance enacted under s. 118.163 (2), 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.

SECTION 38. 938.17 (2) (h) 2. of the statutes is amended to read:

938.17 (2) (h) 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. 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 and the juvenile's parent, guardian or legal custodian.

SECTION 39. 938.17 (2) (h) 3. of the statutes is amended to read:

938.17 (2) (h) 3. Before imposing any sanction, the court shall hold a hearing, at which the juvenile may present evidence. Except as provided in s. 901.05, neither common law nor statutory rules of evidence are binding at a hearing under this subdivision.

SECTION 39g. 938.17 (2) (i) of the statutes is created to read:

938.17 (2) (i) 1. If a juvenile who has violated a municipal ordinance enacted under s. 118.163 (2) 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 (6m) that are 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 (6m) 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. 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 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.

SECTION 40. 938.183 (1) (ar) of the statutes is created to read:

938.183 (1) (ar) A juvenile specified in par. (a) or (am) who is alleged to have attempted or committed a violation of any state criminal law in addition to the violation alleged under par. (a) or (am) if the violation alleged under this paragraph and the violation alleged under par. (a) or (am) may be joined under s. 971.12 (1).

SECTION 41. 938.183 (1m) (c) of the statutes, as affected by [1997 Wisconsin Act 27](#), is renumbered 938.183 (1m) (c) (intro.) and amended to read:

938.183 (1m) (c) (intro.) If the juvenile is ~~convicted of found to have committed~~ a lesser offense than the offense alleged under sub. (1) (a), (am), (ar), (b) or (c) or is found to have committed the offense alleged under sub. (1) (ar), but not the offense under sub. (1) (a) or (am) to which the offense alleged under sub. (1) (ar) is joined, and if any of the following conditions ~~specified in sub. (2) (a) or (b)~~ applies, the court of criminal jurisdiction ~~may impose a criminal penalty or shall, in lieu of convicting the juvenile, adjudge the juvenile to be delinquent and impose~~ a disposition specified in s. 938.34-2.

SECTION 42. 938.183 (1m) (c) 1. of the statutes is created to read:

938.183 (1m) (c) 1. The court of criminal jurisdiction finds that the juvenile has committed a lesser offense or a joined offense that is not a violation of s. 940.20 (1) or (2m) or 946.43 under the circumstances described in sub. (1) (a), that is not an attempt to violate s. 940.01 under the circumstances described in sub. (1) (am), that is not a violation of s. 940.02 or 940.05 under the circumstances described in sub. (1) (am) and 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.

SECTION 43. 938.183 (1m) (c) 2. of the statutes is created to read:

938.183 (1m) (c) 2. The court of criminal jurisdiction finds that the juvenile has committed a lesser offense or

a joined offense that is a violation of s. 940.20 (1) or (2m) or 946.43 under the circumstances described in sub. (1) (a), that is an attempt to violate s. 940.01 under the circumstances described in sub. (1) (am), that is a violation of s. 940.02 or 940.05 under the circumstances described in sub. (1) (am) or 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 that the juvenile has proved by clear and convincing evidence that it would be in the best interests of the juvenile and of the public to adjudge the juvenile to be delinquent and impose a disposition specified in s. 938.34.

SECTION 44. 938.183 (2) (intro.), (a) and (b) of the statutes, as affected by [1997 Wisconsin Act 27](#), are consolidated, renumbered 938.183 (2) and amended to read:

938.183 (2) 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 ss. 938.12 (1) and 938.18, courts of criminal jurisdiction also have exclusive original jurisdiction over a juvenile specified in the preceding sentence who is alleged to have attempted or committed a violation of any state law in addition to the violation alleged under the preceding sentence if the violation alleged under this sentence and the violation alleged under the preceding sentence may be joined under s. 972.12 (1). 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 and a juvenile who is alleged to have attempted or committed a violation of any state criminal law, if that violation and an attempt to commit a violation of s. 940.01 or the commission of a violation of s. 940.01, 940.02 or 940.05 may be joined under s. 971.12 (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, except that the court of criminal jurisdiction shall, in lieu of convicting the juvenile, adjudge the juvenile to be delinquent and impose a disposition specified in s. 938.34 if any of the following conditions applies: (a) The court of criminal jurisdiction convicts finds that the juvenile has committed a lesser offense that is not an attempt to violate s. 940.01, that is not a violation of s. 940.02 or 940.05 and 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. (b) The court of criminal jurisdiction convicts the juvenile of a lesser offense that is an attempt to violate s. 940.01, that is a violation of s. 940.02 or 940.05 or 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 than the offense alleged under this subsection or has committed an offense that is joined under s. 971.12 (1) to an attempt to commit a violation of s. 940.01 or to the commission of a violation of s. 940.01, 940.02 or 940.05, but has not attempted to commit a violation of s. 940.01 or committed a violation of s. 940.01, 940.02 or 940.05, and the court of criminal jurisdiction, after considering the criteria specified in s. 938.18 (5), determines that the juvenile has proved by clear and convincing evidence that it would be in the best interests of the juvenile and of the public to adjudge the juvenile to be delinquent and impose a disposition specified in s. 938.34.

SECTION 45. 938.245 (2) (a) 5. a. of the statutes is amended to read:

938.245 (2) (a) 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. Any recovery under this subd. 5. a. shall be reduced by the amount recovered as restitution for the same act under subd. 5. am.

SECTION 46. 938.245 (2) (a) 5. am. of the statutes is created to read:

938.245 (2) (a) 5. am. That the parent who has custody, as defined in s. 895.035 (1), of the juvenile make reasonable restitution for any damage to the property of another, or for any actual physical injury to another excluding pain and suffering, resulting from the act for which the deferred prosecution agreement is being entered into. Except for recovery for retail theft under s. 943.51, the maximum amount of any restitution ordered under this subd. 5. am. for damage or injury resulting from any one act of a juvenile or from the same act committed by 2 or more juveniles in the custody of the same parent may not exceed the amount specified in s. 799.01 (1) (d). Any order under this subd. 5. am. shall include a finding that the parent who has custody of the juvenile is financially able to pay the amount ordered and may allow up to the date of the expiration of the deferred prosecution agreement for the payment. Any recovery under this subd. 5. am. shall be reduced by the amount recovered as restitution for the same act under subd. 5. a.

SECTION 46m. 938.275 (1) (c) of the statutes is amended to read:

938.275 (1) (c) If the court imposes a sanction on a juvenile as specified in s. 938.355 (6) (d) or (6m) (a) or finds the juvenile in contempt under s. 938.355 (6g) (b) and orders a disposition under s. 938.34 or if the juvenile is placed in a secure detention facility or place of nonsecure custody under s. 938.355 (6d) ~~(a), (b) or (c)~~ or 938.534 (1) ~~(b) or (c)~~, the court shall order the parents of the juvenile to contribute toward the cost of the sanction, disposition or placement the proportion of the total amount which the court finds the parents are able to pay.

SECTION 47. 938.299 (4) (b) of the statutes is amended to read:

938.299 (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. 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 any postdispositional hearing about changes in placement, revision of dispositional orders or extension of dispositional orders under this chapter. 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 48. 938.32 (1t) (a) 1. of the statutes is amended to read:

938.32 (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 by a juvenile 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.

SECTION 49. 938.32 (1t) (a) 1m. of the statutes is created to read:

938.32 (1t) (a) 1m. If the petition alleges that the juvenile has 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 a parent who has custody, as defined in s. 895.035 (1), of the juvenile, as a condition of the consent decree, to make reasonable restitution for the damage or injury. Except for recovery for retail theft under s. 943.51, the maximum amount of any restitution ordered under this subdivision for damage or injury resulting from any one act of a juvenile or from the same act committed by 2 or more juveniles in the custody of the same parent may not exceed the amount specified in s. 799.01 (1) (d). Any consent decree that includes a condition of restitution by a parent who has custody of the juvenile shall include a finding that the parent who has custody of the juvenile is financially able to pay the amount ordered and may allow up to the date of the expiration of the consent decree for the payment. Objection by the parent to the amount of damages claimed shall entitle the parent to a hearing on the question of damages before the amount of restitution is made part of the consent decree. Any recovery under this subdivision shall be reduced by the amount recovered as restitution for the same act under subd. 1.

SECTION 50. 938.34 (5) (a) of the statutes is amended to read:

938.34 (5) (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. Any recovery under this paragraph shall be reduced by the amount recovered as restitution under s. 938.45 (1r) (a).

SECTION 51. 938.34 (8) of the statutes is amended to read:

938.34 (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 person under 18 years of age, \$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. Any recovery under this subsection shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

SECTION 54. 938.343 (2) of the statutes is amended to read:

938.343 (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 person under 18 years of age, \$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 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 will thereupon return the license to the person. Any recovery under this subsection shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

SECTION 55. 938.343 (4) of the statutes is amended to read:

938.343 (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 find-

ing 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. Any recovery under this subsection shall be reduced by the amount recovered as restitution for the same act under s. 938.45 (1r) (a).

SECTION 56. 938.346 (1) (a) of the statutes is amended to read:

938.346 (1) (a) The ~~procedure~~ procedures under s. 938.396 (1r) ~~and (6)~~ for obtaining the identity of the juvenile and the juvenile's parents.

SECTION 57. 938.35 (1) (a) of the statutes is amended to read:

938.35 (1) (a) In sentencing proceedings after conviction of a felony or misdemeanor and then only for the purpose of a presentence ~~study and report~~ investigation.

SECTION 58. 938.35 (1) (c) of the statutes is amended to read:

938.35 (1) (c) In a court of civil or criminal jurisdiction while it is exercising the jurisdiction ~~of a over an action affecting the family court~~ and is considering the custody of ~~juveniles~~ a juvenile.

SECTION 59. 938.355 (2) (c) of the statutes is amended to read:

938.355 (2) (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, or the governing body of the private school, 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.

SECTION 59m. 938.355 (6) (a) of the statutes is amended to read:

938.355 (6) (a) If a juvenile who has been adjudged delinquent or to have violated a civil law or ordinance, other than an ordinance enacted under s. 118.163 (2), 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. ~~Subject to sub. (6m), if~~ If a juvenile who has been found to be in need of protection or services under s. 938.13 (4), (6m), (7), (12) or (14) violates a condition specified in sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in par. (d), other than placement in a secure detention facility or juvenile portion of a county jail, if, at the dispositional hearing under s. 938.335, the court explained the conditions to the juve-

nile 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.

SECTION 59p. 938.355 (6) (an) 1. of the statutes is amended to read:

938.355 (6) (an) 1. If a juvenile who has violated a municipal ordinance, other than an ordinance enacted under s. 118.163 (2), 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. The petition shall contain a statement of whether the juvenile may be subject to the federal Indian child welfare act, [25 USC 1911 to 1963](#).

SECTION 60. 938.355 (6) (b) of the statutes is amended to read:

938.355 (6) (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. 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. The motion shall contain a statement of whether the juvenile may be subject to the federal Indian child welfare act, [25 USC 1911 to 1963](#).

SECTION 61. 938.355 (6) (d) 2. of the statutes is amended to read:

938.355 (6) (d) 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 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 un-

der this subdivision, 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 subdivision, whichever occurs first. 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.

SECTION 62. 938.355 (6) (e) of the statutes is created to read:

938.355 (6) (e) This subsection does not preclude a person who is aggrieved by a juvenile's violation of a condition specified in sub. (2) (b) 7. from proceeding against the juvenile for contempt of court under ch. 785.

SECTION 63m. 938.355 (6d) (title) of the statutes is repealed and recreated to read:

938.355 (6d) (title) SHORT-TERM DETENTION.

SECTION 64d. 938.355 (6d) of the statutes is renumbered 938.355 (6d) (a) 1. and amended to read:

938.355 (6d) (a) 1. 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~~ subdivision, if a juvenile who has been adjudged delinquent violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 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 that person~~ for not more than 72 hours while the alleged violation is and the appropriateness of a sanction under sub. (6) are 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.

(c) 1. 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~~ subdivision, 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 or any other person authorized to provide or providing intake or dispositional services for the court under s.

938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the juvenile in a place of nonsecure custody designated by ~~the caseworker~~ that person for not more than 72 hours while the alleged violation is and the appropriateness of a sanction under sub. (6) or (6m) are 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.

(d) (title) *Hearing: when required.* If a juvenile is held under par. (a), (b) or (c) 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.

SECTION 64f. 938.355 (6d) (a) (title) of the statutes is created to read:

938.355 (6d) (a) (title) *Violation of delinquency order.*

SECTION 64h. 938.355 (6d) (a) 2. of the statutes is created to read:

938.355 (6d) (a) 2. 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 subdivision, if a juvenile who has been adjudged delinquent violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 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 by rule or in a place of nonsecure custody designated by that person for not more than 72 hours as a consequence of that violation, 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. A person who takes a juvenile into custody under this subdivision shall permit the juvenile to make a written or oral statement concern-

ing the possible placement of the juvenile and the course of conduct for which the juvenile was taken into custody. A person designated by the court or county department who is employed in a supervisory position by a person authorized to provide or providing intake or dispositional services under s. 938.067 or 938.069 shall review that statement and shall either approve the placement or order the juvenile to be released from custody.

SECTION 64j. 938.355 (6d) (a) 3. of the statutes is created to read:

938.355 (6d) (a) 3. A juvenile may be taken into and held in custody under both subs. 1. and 2. in connection with the same course of conduct, except that no juvenile may be held in custody for more than a total of 72 hours under subs. 1. and 2. in connection with the same course of conduct unless the juvenile receives a hearing under par. (d).

SECTION 64m. 938.355 (6d) (b) of the statutes is created to read:

938.355 (6d) (b) *Violation of condition of county aftercare supervision.* 1. 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), to any policies adopted by the county department relating to aftercare supervision administered by the county department and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision, if a juvenile who is on aftercare supervision administered by the county department violates a condition of that supervision, the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 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 by rule or in a place of nonsecure custody designated by that person for not more than 72 hours while the alleged violation and the appropriateness of revoking the juvenile's aftercare status are being investigated, 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.

2. 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), to any policies adopted by the county department relating to aftercare supervision administered by the county department and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision, if a juvenile who is on aftercare supervision administered by the county department violates a condition of that supervision, the juvenile's caseworker or any other person authorized to provide or providing intake or dis-

positional services for the court under s. 938.067 or 938.069 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 by rule or in a place of nonsecure custody designated by that person for not more than 72 hours as a consequence of that violation, 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. A person who takes a juvenile into custody under this subdivision shall permit the juvenile to make a written or oral statement concerning the possible placement of the juvenile and the course of conduct for which the juvenile was taken into custody. A person designated by the court or the county department who is employed in a supervisory position by a person authorized to provide or providing intake or dispositional services under s. 938.067 or 938.069 shall review that statement and shall either approve the placement of the juvenile or order the juvenile to be released from custody.

3. A juvenile may be taken into and held in custody under both subds. 1. and 2. in connection with the same course of conduct, except that no juvenile may be held in custody for more than a total of 72 hours under subds. 1. and 2. in connection with the same course of conduct unless the juvenile receives a hearing under par. (d).

SECTION 64p. 938.355 (6d) (c) (title) of the statutes is created to read:

938.355 (6d) (c) (title) *Violation of protection or services order.*

SECTION 64r. 938.355 (6d) (c) 2. of the statutes is created to read:

938.355 (6d) (c) 2. 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 subdivision, 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 or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the juvenile in a place of nonsecure custody designated by that person for not more than 72 hours as a consequence of that violation, 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. A person who takes a juvenile into custody under this subdivision shall permit the juvenile to make a written or oral statement concerning the possible placement of the juvenile and the course of conduct for which the juvenile was taken into custody. A person designated by the court or the county department who is employed in a supervisory position by a person authorized to provide or providing intake or dispositional services under s. 938.067 or 938.069 shall review that statement and shall either approve the placement or order the juvenile to be released from custody.

SECTION 64t. 938.355 (6d) (c) 3. of the statutes is created to read:

938.355 (6d) (c) 3. A juvenile may be taken into and held in custody under both subds. 1. and 2. in connection with the same course of conduct, except that no juvenile may be held in custody for more than a total of 72 hours under subds. 1. and 2. in connection with the same course of conduct unless the juvenile receives a hearing under par. (d).

SECTION 64v. 938.355 (6d) (e) of the statutes is created to read:

938.355 (6d) (e) *County board authorization required.* The use of placement in a secure detention facility or in a juvenile portion of a county jail as a place of short-term detention under par. (a) 1. or 2. or (b) 1. or 2. 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 places of short-term detention under par. (a) 1. or 2. or (b) 1. or 2.

SECTION 64x. 938.355 (6g) (a) of the statutes is amended to read:

938.355 (6g) (a) If a juvenile upon whom the court has imposed a sanction under sub. (6) (a) or (6m) 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) or (6m). 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) or (6m), that court is disqualified from holding any hearing on the contempt petition.

SECTION 64y. 938.355 (6g) (b) 1. of the statutes is amended to read:

938.355 (6g) (b) 1. That the juvenile has previously been sanctioned under sub. (6) (a) or (6m) 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.

SECTION 65. 938.355 (6g) (c) of the statutes is created to read:

938.355 (6g) (c) This subsection does not preclude a person who is aggrieved by a juvenile's violation of a condition specified in sub. (2) (b) 7. from proceeding against the juvenile for contempt of court under ch. 785.

SECTION 66g. 938.355 (6m) (a) of the statutes is renumbered 938.355 (6m) (a) (intro.) and amended to read:

938.355 (6m) (a) (intro.) If the court finds by a preponderance of the evidence that a juvenile who has been found to have violated a municipal ordinance enacted under s. 118.163 (2) or who has been found to be in need of protection or services based on habitual truancy from school under s. 938.13 (6) has violated 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 sanctions specified in subs. 1. to 3. and the dispositions specified in s. 938.342 (1) ~~(b)~~ (d) 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 or limitation on the use under this paragraph any of the following:

1. Suspension 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 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~~ subdivision, the court may order the suspension or limitation 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~~ subdivision, whichever occurs first. If the court suspends an a juvenile's operating privilege or an approval issued under this ~~paragraph~~ ch. 29, the court shall immediately take possession of the suspended license or approval and forward it to the department of ~~transportation~~ that issued the license or approval with a notice stating the reason for and the duration of the suspension.

SECTION 66h. 938.355 (6m) (a) 2. of the statutes is created to read:

938.355 (6m) (a) 2. Counseling or participation for not more than 25 hours in a supervised work program or other community service work under s. 938.34 (5g).

SECTION 66j. 938.355 (6m) (a) 3. of the statutes is created to read:

938.355 (6m) (a) 3. Detention in the juvenile's home or current residence for a period of not more than 30 days 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 place of worship or school program. The order may permit a juvenile to leave his or her home or current residence if he or she is accompanied by a parent or guardian.

SECTION 67. 938.355 (6m) (b) of the statutes is amended to read:

938.355 (6m) (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.

SECTION 67m. 938.357 (5) (b) of the statutes is amended to read:

938.357 (5) (b) A juvenile on aftercare status may be taken into custody only as provided in ss. 938.19 to 938.21 and 938.355 (6d) (b).

SECTION 68. 938.396 (1) of the statutes is amended to read:

938.396 (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) ~~or (1t)~~ or (1x) 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 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. A public school official who obtains information under this subsection shall keep the information confidential as required under s. 118.125 and a private school official who obtains information under this subsection shall keep the information confidential in the same manner as is required of a public school official under s. 118.125. A law enforcement agency that obtains information under this subsection shall keep the information confidential as required under this subsection and s. 48.396 (1). A social welfare agency that obtains information under this sub-

section shall keep the information confidential as required under ss. 48.78 and 938.78.

SECTION 69. 938.396 (1m) (a) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

938.396 (1m) (a) A law enforcement agency, on its own initiative or on the request of the school district administrator of a public school district, the administrator of a private school or the school district administrator's designee of the school district administrator or the private school administrator, may, subject to official agency policy, provide to the school district administrator, private school administrator or designee any information in its records relating to the use, possession or distribution of alcohol or a controlled substance or controlled substance analog by a juvenile enrolled in the public school district or private school. The information shall be used by the school district or private school as provided under s. 118.127 (2).

SECTION 70. 938.396 (1m) (am) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

938.396 (1m) (am) A law enforcement agency, on its own initiative or on the request of the school district administrator of a public school district, the administrator of a private school or the school district administrator's designee of the school district administrator or the private school administrator, may, subject to official agency policy, provide to the school district administrator, private school administrator or designee any information in its records relating to the illegal possession by a juvenile of a dangerous weapon, as defined in s. 939.22 (10). The information shall be used by the school district or private school as provided in s. 118.127 (2).

SECTION 71. 938.396 (1m) (ar) of the statutes, as created by 1997 Wisconsin Act 27, is amended to read:

938.396 (1m) (ar) A law enforcement agency, on its own initiative or on the request of the school district administrator of a public school district, the administrator of a private school or the school district administrator's designee of the school district administrator or the private school administrator, may, subject to official agency policy, provide to the school district administrator, private school administrator or designee any information in its records relating to an act for which a juvenile enrolled in the school district or private school was taken into custody under s. 938.19 based on a law enforcement officer's belief that the juvenile was committing or had committed an act that is a violation specified in s. 938.34 (4h) (a). The information shall be used by the school district or private school as provided in s. 118.127 (2).

SECTION 72. 938.396 (1m) (b) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

938.396 (1m) (b) A law enforcement agency, on its own initiative or on the request of the school district administrator of a public school district, the administrator of a private school or the school district administrator's designee of the school district administrator or the private

school administrator, may, subject to official agency policy, provide to the school district administrator, private school administrator or designee any information in its records relating to the act for which a juvenile enrolled in the public school district or private school was adjudged delinquent. The information shall be used by the school district or private school as provided in s. 118.127 (2).

SECTION 73. 938.396 (1m) (c) of the statutes is amended to read:

938.396 (1m) (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, or the governing body of the private school, 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.

SECTION 74. 938.396 (1m) (d) of the statutes is created to read:

938.396 (1m) (d) On petition of a fire investigator under s. 165.55 (15) to review pupil records, as defined in s. 118.125 (1) (d), other than pupils records that may be disclosed without a court order under s. 118.125 (2) or (2m), for the purpose of an investigation under s. 165.55, the court may order the school board of the school district in which a juvenile is enrolled to disclose to the fire investigator the pupil records of that juvenile as necessary for the fire investigator to pursue his or her investigation. The fire investigator may use the pupil records only for the purpose of pursuing his or her investigation and may make the pupil records available only to employees of the fire investigator who are working on the investigation.

SECTION 75. 938.396 (1x) of the statutes is created to read:

938.396 (1x) If requested by a fire investigator under s. 165.55 (15), a law enforcement agency may, subject to official agency policy, disclose to the fire investigator any information in its records relating to a juvenile as necessary for the fire investigator to pursue his or her investigation under s. 165.55. The fire investigator may use and further disclose the information only for the purpose of pursuing that investigation.

SECTION 76. 938.396 (2) (d) of the statutes is amended to read:

938.396 (2) (d) Upon request of a court of criminal jurisdiction or a district attorney to review court records for the purpose of setting bail under ch. 969, impeaching a witness under s. 906.09 or investigating and determin-

ing whether a person has possessed a firearm in violation of s. 941.29 (2) or upon request of a court of civil jurisdiction or the attorney for a party to a proceeding in that court to review court records for the purpose of impeaching a witness under s. 906.09, 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 the subject of a proceeding under this chapter.

SECTION 77. 938.396 (2) (dr) of the statutes is created to read:

938.396 (2) (dr) Upon request of the department of corrections or any other person preparing a presentence investigation under s. 972.15 to review court records for the purpose of preparing the presentence investigation, the court shall open for inspection by any authorized representative of the requester the records of the court relating to any juvenile who has been the subject of a proceeding under this chapter.

SECTION 78. 938.396 (2) (g) of the statutes is created to read:

938.396 (2) (g) Upon request of any other court assigned to exercise jurisdiction under this chapter and ch. 48, a district attorney or corporation counsel to review court records for the purpose of any proceeding in that other court, the court shall open for inspection by any authorized representative of the requester the records of the court relating to any juvenile who has been the subject of a proceeding under this chapter.

SECTION 79. 938.396 (2) (h) of the statutes is created to read:

938.396 (2) (h) Upon request of the court having jurisdiction over an action affecting the family or of an attorney for a party or a guardian ad litem in an action affecting the family to review court records for the purpose of considering the custody of a juvenile, the court assigned to exercise jurisdiction under this chapter and ch. 48 shall open for inspection by an authorized representative of the requester the records of the court relating to any juvenile who has been the subject of a proceeding under this chapter.

SECTION 80. 938.396 (2) (i) of the statutes is created to read:

938.396 (2) (i) Upon request of the court assigned to exercise probate jurisdiction, the attorney general, the personal representative or special administrator of, or an attorney performing services for, the estate of a decedent in any proceeding under chs. 851 to 879, a person interested, a defined in s. 851.21, or an attorney, attorney-in-fact, guardian ad litem or guardian of the estate of a person interested to review court records for the purpose of s. 852.01 (2m) (bg), the court assigned to exercise jurisdiction under this chapter and ch. 48 shall open for inspection by any authorized representative of the

requester the records of the court relating to any juvenile who has been adjudged delinquent on the basis of unlawfully and intentionally killing a person.

SECTION 81. 938.396 (2) (j) of the statutes is created to read:

938.396 (2) (j) Upon request of a fire investigator under s. 165.55 (15) to review court records for the purpose of pursuing an investigation under s. 165.55, the court shall open for inspection by authorized representatives of the requester the records of the court relating to any juvenile who has been adjudicated delinquent or found to be in need of protection or services under s. 938.13 (12) or (14) for a violation of s. 940.08, 940.24, 941.10, 941.11, 943.01, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06 or for an attempt to commit any of those violations.

SECTION 82. 938.396 (6) of the statutes is amended to read:

938.396 (6) ~~Notwithstanding sub. (5), The victim-witness coordinator may disclose to a victim of a juvenile's act or alleged act may, with the approval of the court, obtain the names~~ the name and address of the juvenile and the juvenile's parents.

SECTION 83. 938.396 (7) (a) of the statutes is amended to read:

938.396 (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, or the governing body of the private school, in which the juvenile is enrolled or the school board's designee of the school board or governing body 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, or the governing body of the private school, in which the juvenile is enrolled or the school board's designee of the school board or governing body 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, or the governing body of the private school, in which the juvenile is enrolled or the school board's designee of the school board or governing body of the fact that the juvenile's school attendance is a condition of a dispositional order.

SECTION 84. 938.396 (7) (b) of the statutes is amended to read:

938.396 (7) (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 chs. 939 to 948 or 961 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, or the governing body of the private school, in which the juvenile is enrolled or the school board's designee of the school board or governing body 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.

SECTION 85. 938.396 (7) (bm) of the statutes is amended to read:

938.396 (7) (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 or private school from the school district or private school 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, the governing body of the juvenile's new private school or the school board's designee of the school board or governing body with the information specified in par. (a) or (b), whichever is applicable, and, in addition, shall notify that school board, governing body 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.

SECTION 86. 938.396 (7) (c) of the statutes is amended to read:

938.396 (7) (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, or the governing body of the private school, in which the juvenile is enrolled or the school board's designee of the school board or governing body except by order of the court. Any information provided under this subsection to the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the school board's designee of the school board or governing body shall be disclosed by the school board, governing body or designee to employees of the school district or private school who work directly with the juvenile or who have been determined by the school board, governing body or designee to have legitimate educational interests, including safety interests, in the information. A school district or private school employe to whom information is disclosed under this paragraph ~~shall~~ may not further disclose the informa-

tion. 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 of a school board or of the governing body of a private school~~ school board member of a school board or of the governing body of a private school or an employe of a school district or private school 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 or private school may not be held liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the school district, private school or its agent acted with gross negligence or with reckless, wanton or intentional misconduct in failing to disclose the information.

SECTION 87. 938.45 (1r) of the statutes is created to read:

938.45 (1r) (a) In a proceeding in which a juvenile has been found to have committed a delinquent act or a civil law or ordinance violation that has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the court may order a parent who has custody, as defined in s. 895.035 (1), of the juvenile to make reasonable restitution for the damage or injury. Except for recovery for retail theft under s. 943.51, the maximum amount of any restitution ordered under this paragraph for damage or injury resulting from any one act of a juvenile or from the same act committed by 2 or more juveniles in the custody of the same parent may not exceed the amount specified in s. 799.01 (1) (d). Any order under this paragraph shall include a finding that the parent who has custody of the juvenile is financially able to pay the amount ordered and may allow up to the date of expiration of the order for the payment. Any recovery under this paragraph shall be reduced by the amount recovered as restitution for the same act under s. 938.34 (5) or 938.343 (4).

(b) In a proceeding in which the court has determined under s. 938.34 (8) or 938.343 (2) that the imposition of a forfeiture would be in the best interest of the juvenile and in aid of rehabilitation, the court may order a parent who has custody, as defined in s. 895.035 (1), of the juvenile to pay the forfeiture. The amount of any forfeiture ordered under this paragraph may not exceed the amount specified in s. 799.01 (1) (d). Any order under this paragraph shall include a finding that the parent who has custody of the juvenile is financially able to pay the amount ordered and shall allow up to 12 months after the date of the order for the payment. Any recovery under this paragraph shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.34 (8) or 938.343 (2).

SECTION 88. 938.45 (2) of the statutes is amended to read:

938.45 (2) No order under sub. (1) (a) ~~or~~ (1m) (a) or (1r) (a) or (b) may be entered until the person who is the subject of the contemplated 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) or (1r) (a) or (b) 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.

SECTION 88m. 938.534 (1) of the statutes is amended to read:

938.534 (1) (a) 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.

(b) 1. 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~~ subdivision, if a juvenile violates a condition of the juvenile's participation in the program, the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 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 by rule or in a place of nonsecure custody designated by that person for not more than 72 hours while the alleged violation is and the appropriateness of a sanction under s. 938.355 (6) or a change in the conditions of the juvenile's participation in the program are 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.

(c) 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~~ paragraph, 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~~ crisis 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.

(d) If the juvenile is held under par. (b) 1. or 2. 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 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.

SECTION 88p. 938.534 (1) (b) 2. of the statutes is created to read:

938.534 (1) (b) 2. 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 subdivision, if a juvenile violates a condition of the juvenile's participation in the program, the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 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 by rule or in a place of nonsecure custody designated by that person for not more than 72 hours as a consequence of that violation, 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. A person who takes a juvenile into custody under this subdivision shall permit the juvenile to make a written or oral statement concerning the possible placement of the juvenile and the course of conduct for which the juvenile was taken into custody. A person designated by the court or the county department who is employed in a supervisory position by a person authorized to provide or providing intake or dispositional services under s.

938.067 or 938.069 shall review that statement and shall either approve the placement or order the juvenile to be released from custody.

SECTION 88r. 938.534 (1) (b) 3. of the statutes is created to read:

938.534 (1) (b) 3. A juvenile may be taken into and held in custody under both subds. 1. and 2. in connection with the same course of conduct, except that no juvenile may be held in custody for more than a total of 72 hours under subds. 1. and 2. in connection with the same course of conduct unless the juvenile receives a hearing under par. (d).

SECTION 88s. 938.534 (1) (b) 4. of the statutes is created to read:

938.534 (1) (b) 4. The use of placement in a secure detention facility or in a juvenile portion of a county jail as a place of short-term detention under subd. 1. or 2. 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 places of short-term detention under subd. 1. or 2.

SECTION 88t. 938.534 (2) of the statutes is amended to read:

938.534 (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, juvenile portion of a county jail or place of nonsecure custody for not more than 72 hours ~~while a violation of a condition of a juvenile's participation in the program is being investigated~~ under sub. (1) (b) and the use of placement in a place of nonsecure custody for not more than 30 days ~~as crisis intervention~~ under sub. (1) (c).

SECTION 89. 938.78 (2) (b) 1. of the statutes is amended to read:

938.78 (2) (b) 1. Paragraph (a) does not apply to the confidential exchange of information between an agency, and another social welfare agency, a law enforcement agency, the victim-witness coordinator ~~or~~ a fire investigator under s. 165.55 (15), a public school district or a private school regarding an individual in the care or legal custody of the agency. A social welfare agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. 48.78. A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. 48.396 (1) and 938.396 (1). A public school that obtains information under this paragraph shall keep the information confidential as required under s. 118.125 and a private school that obtains information under this paragraph shall keep the information confidential in the same manner as is required of a public school under s. 118.125.

SECTION 90. 938.78 (2) (b) 2. of the statutes is amended to read:

938.78 (2) (b) 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, or the governing body of the private school, 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 employes of the agency who are providing treatment or care for the individual.

SECTION 91. 938.78 (2) (e) of the statutes is amended to read:

938.78 (2) (e) Paragraph (a) does not prohibit the department from disclosing information about an individual adjudged delinquent under s. ~~938.31~~ 938.183 or 938.34 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.

SECTION 92. 970.032 (title) of the statutes is amended to read:

970.032 (title) Preliminary examination; child juvenile under original adult court jurisdiction.

SECTION 93. 970.032 (1) of the statutes is amended to read:

970.032 (1) Notwithstanding s. 970.03, if a preliminary examination is held regarding a child juvenile who is subject to the original jurisdiction of the court of criminal jurisdiction under s. 938.183 (1) ~~or (2)~~, the court shall first determine whether there is probable cause to believe that the child juvenile has committed the violation of which he or she is accused under the circumstances specified in s. 938.183 (1) (a), (am), (ar), (b) or (c) ~~or (2)~~, whichever is applicable. If the court does not make that finding, the court shall order that the child juvenile be discharged but proceedings may be brought regarding the child juvenile under ch. 938.

SECTION 94. 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) to believe that the juvenile has committed the violation of which he or she is accused under the circumstances specified in s. 938.183 (1) (a), (am), (ar), (b) or (c)~~, the court shall determine whether to retain jurisdiction or to transfer jurisdiction to the court assigned to exercise jurisdiction under chs. 48 and 938. The court shall retain jurisdiction unless the child juvenile

nile proves by a preponderance of the evidence all of the following:

SECTION 95. 970.032 (2) (a) of the statutes is amended to read:

970.032 (2) (a) That, if convicted, the child juvenile could not receive adequate treatment in the criminal justice system.

SECTION 96. 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 juvenile or other children juveniles from committing the violation of which the child juvenile is accused under the circumstances specified in s. 938.183 (1) (a), (am), (ar), (b) or (c), whichever is applicable.

SECTION 97. 970.035 of the statutes is amended to read:

970.035 (title) Preliminary examination; child juvenile younger than 16 15 years old. Notwithstanding s. 970.03, if a preliminary examination under s. 970.03 is held regarding a child juvenile who was waived under s. 938.18 for a violation which is alleged to have occurred prior to his or her 15th birthday, the court may bind the child juvenile over for trial only if there is probable cause to believe that a crime under s. 940.03, 940.06, 940.225 (1) or (2), 940.305, 940.31 or 943.10 (2), 943.32 (2) or 961.41 (1) has been committed or that a crime that would constitute a felony under chs. 939 to 948 or 961 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 juvenile be discharged but proceedings may be brought regarding the child juvenile under ch. 938.

SECTION 98. 971.31 (13) (a) (intro.) of the statutes is amended to read:

971.31 (13) (a) (intro.) A child juvenile over whom the court has jurisdiction under s. 938.183 (1) (b) or (c) on a misdemeanor action may make a motion before trial to transfer jurisdiction to the court assigned to exercise jurisdiction under chs. 48 and 938. The motion may allege that the child juvenile did not commit the violation under the circumstances described in s. 938.183 (1) (b) or (c), whichever is applicable, or that transfer of jurisdiction would be appropriate because of all of the following:

SECTION 99. 971.31 (13) (a) 1. of the statutes is amended to read:

971.31 (13) (a) 1. If convicted, the child juvenile could not receive adequate treatment in the criminal justice system.

SECTION 100. 971.31 (13) (a) 3. of the statutes is amended to read:

971.31 (13) (a) 3. Retaining jurisdiction is not necessary to deter the child juvenile or other children juveniles from committing the violation of which the child juvenile

is accused under the circumstances specified in s. 938.183 (1) (b) or (c), whichever is applicable.

SECTION 101. 971.31 (13) (b) of the statutes is amended to read:

971.31 (13) (b) The court shall retain jurisdiction unless the child juvenile proves by a preponderance of the evidence that he or she did not commit the violation under the circumstances described in s. 938.183 (1) (b) or (c), whichever is applicable, or that transfer would be appropriate because all of the factors specified in par. (a) 1., 2. and 3. are met.

SECTION 102. 972.14 (2) of the statutes is amended to read:

972.14 (2) Before pronouncing sentence, the court shall ask the defendant why sentence should not be pronounced upon him or her and allow the district attorney, defense counsel and defendant an opportunity to make a statement with respect to any matter relevant to the sentence. In addition, if the defendant is under 21 years of age and if the court has not ordered a presentence investigation under s. 972.15, the court shall ask the defendant if he or she has been adjudged delinquent under ch. 48, 1993 stats., or ch. 938 or has had a similar adjudication in any other state in the 3 years immediately preceding the date the criminal complaint relating to the present offense was issued.

SECTION 103. 972.15 (2s) of the statutes is amended to read:

972.15 (2s) If the defendant is under 21 years of age, the person preparing the presentence investigation report shall attempt to determine whether the defendant has been adjudged delinquent under ch. 48, 1993 stats., or ch. 938 or has had a similar adjudication in any other state in the 3 years immediately preceding the date the criminal complaint relating to the present offense was issued and, if so, shall include that information in the report.

SECTION 104. 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. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), of a person adjudicated delinquent under s. 938.183 or 938.34 on the basis of a sexually violent offense.

SECTION 105. 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. 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. 938.183 or 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 106. Nonstatutory provisions.

(1) **AUDIT OF SECURE DETENTION OF JUVENILES.** The legislative audit bureau is requested to perform a performance evaluation audit of the use by counties of placement of a juvenile, as defined in section 938.02 (10m) of the statutes, in a secure detention facility, as defined in section 938.02 (16) of the statutes, as a disposition under section 938.34 (3) (f) of the statutes, as a sanction under section 938.355 (6) (d) 1. of the statutes or as a place of short-term detention under section 938.355 (6d) or 938.534 (1) of the statutes. The audit shall examine the primary reasons why a juvenile is placed in a secure detention facility as a disposition, as a sanction or as a place of short-term detention and the length of time that a juvenile is held in a secure detention facility as a disposition, as a sanction or as a place of short-term detention; and shall evaluate whether the length of time that a juvenile is held in a secure detention facility is related to any reduction in repeat offenses or repeat violations of dispositional orders, distributed according to the length of time that a juvenile is held in a secure detention facility. If the legislative audit bureau performs the audit, it shall submit its report as described in section 13.94 (1) (b) of the statutes by December 31, 1998.

SECTION 107. Initial applicability.

(1) **ORIGINAL ADULT COURT JURISDICTION.** The treatment of sections 48.66 (1), 301.08 (1) (b) 3., 938.183 (1) (ar) and (2) (intro.), (a) and (b), 938.78 (2) (e), 970.032 (title), (1) and (2) (intro.), (a) and (c), 970.035, 971.31 (13) (a) (intro.), 1. and 3. and (b), 980.015 (2) (b) and 980.02 (2) (ag) of the statutes, the renumbering of section 938.183 (1m) (c) of the statutes and the creation of section 938.183 (1m) (c) 1. and 2. of the statutes first apply to acts committed by a juvenile on the effective date of this subsection.

(2) **RESTITUTION AND FORFEITURES.** The treatment of sections 895.035 (2m) (a) and (b), (3) and (6), 938.245 (2) (a) 5. a. and am., 938.32 (1t) (a) 1. and 1m., 938.34 (5) (a) and (8), 938.343 (2) and (4) and 938.45 (1r) and (2) of the statutes first applies to acts committed by a juvenile on the effective date of this subsection.

(3) **SANCTIONS AND CONTEMPT.** The treatment of sections 938.17 (2) (cm), (h) 1. and (i) and 938.355 (6) (a), (an) 1., (d) 2. and (e), (6g) (a), (b) 1. and (c) and (6m) (b) of the statutes, the renumbering and amendment of section 938.355 (6m) (a) of the statutes and the creation of section 938.355 (6m) (a) 2. and 3. of the statutes first apply to dispositional orders entered on the effective date of this subsection.

(4) **RULES OF EVIDENCE.** The treatment of sections 800.08 (4), 938.17 (2) (h) 3. and 938.299 (4) (b) of the statutes first applies to postdispositional hearings held on the effective date of this subsection.

(5m) **SHORT-TERM DETENTION.**

(a) *Violation of delinquency or protection or services order.* The renumbering and amendment of section 938.355 (6d) of the statutes (with respect to the investigation of the appropriateness of a sanction under section 938.355 (6) or (6m) of the statutes, as affected by this act) and the creation of section 938.355 (6d) (a) 2. and 3. and (c) 2. and 3. of the statutes first apply to a juvenile who reads, or to whom is explained or read, the conditions specified in section 938.355 (2) (b) 7. of the statutes and the possibility of a placement under section 938.355 (6) (a) or (c) of the statutes, as affected by this act, on the effective date of this paragraph.

(b) *Violation of condition of county aftercare supervision.* The creation of section 938.355 (6d) (b) of the statutes first applies to a juvenile who reads, or to whom is explained or read, the conditions of the juvenile's aftercare supervision and the possibility of a placement under section 938.355 (6d) (b) of the statutes, as created by this act, on the effective date of this paragraph.

(c) *Violation of condition of participation in intensive supervision program.* The amendment of section 938.534 (1) of the statutes (with respect to the appropriateness of a change in the conditions of a juvenile's participation in the intensive supervision program) and the creation of section 938.534 (1) (b) 2. and 3. of the statutes first apply to a juvenile who reads, or to whom is explained or read, those conditions and the possibility of a placement under section 938.534 (1) (b) of the statutes, as affected by this act, on the effective date of this paragraph.