

# State of Wisconsin



1997 Senate Bill 399

Date of enactment: April 9, 1998  
Date of publication\*: April 23, 1998

## 1997 WISCONSIN ACT 73

**AN ACT** to *repeal* 15.04 (1) (h); and to *amend* 16.045 (5), 972.14 (2), 972.15 (2s) and 978.05 (8) (b) of the statutes; **relating to:** disclosure of juvenile adjudications in criminal sentencing proceedings; requests by a district attorney for assistance in carrying out his or her duties; annual reports by state agencies concerning records and forms management; and reports by the department of administration concerning distribution and usage of gasohol and alternative fuels in this state (suggested as remedial legislation by the department of administration.)

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of administration and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

**SECTION 1.** 15.04 (1) (h) of the statutes is repealed.

NOTE: This statute requires agencies to file an annual report with the public records board, relative to records and forms management. Because the public records board no longer requires this report, this statute is obsolete.

**SECTION 2.** 16.045 (5) of the statutes is amended to read:

16.045 (5) The department shall encourage distribution of gasohol and alternative fuels and usage of gasohol and alternative fuels by officers and employes who use personal motor vehicles on state business and by residents of this state generally. The department shall report to the appropriate standing committees under s. 13.172 (3) concerning distribution and usage of gasohol and al-

ternative fuels in this state, no later than ~~January 1~~ and ~~July 1~~ April 30 of each year.

NOTE: This SECTION changes filing date deadline in current law for the department of administration's report to the legislature concerning distribution and usage of gasohol and alternative fuels from January 1 and July 1 of each year to April 30 of each year. According to the department of administration, it will be more time-effective and cost-effective to provide these reports on an annual basis, and will allow the report to be based on a full calendar year of information.

**SECTION 3.** 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 ~~or 938~~ or has had a similar adjudication in any other state in the ~~34~~ years immediately preceding the date the criminal complaint relating to the present offense was issued.

**SECTION 4.** 972.15 (2s) of the statutes is amended to read:

\* 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].

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 or 938 or has had a similar adjudication in any other state in the 3 4 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.

NOTE: In 1995 Wisconsin Act 27, the age at which an adult criminal court has jurisdiction over a person who violates the criminal law was lowered from age 18 to age 17. Also, in 1995 Wisconsin Act 77, many cross-references in other chapters of the statutes which had been to ch. 48, were changed to add an additional cross-reference to ch. 938, the new juvenile code.

The 2 preceding SECTIONS make cross-reference changes to ch. 938 which were omitted from 2 sections of ch. 972 regarding inquiries of past delinquency adjudications in presentencing proceedings. In addition, these SECTIONS require the sentencing judge or person preparing the presentence report to ask a person if he or she was adjudged delinquent in the last 4 years. According to the department of administration, these changes are necessary because currently, during the sentencing of a person who is under 21 years of age and when no presentencing investigation is undertaken, the court is only required to ask the defendant if he or she had been adjudged delinquent under ch. 48 within the last 3 years. Similarly, when a presentence investigation is being completed on a person under 21 years of age, the investigator is only required by the court to ask the defendant if he or she had been adjudged delinquent under ch. 48 within the last 3 years.

According to the department of administration, the intent of new ch. 938 is to have the judge consider adjudications of delinquency under ch. 938. After July 1, 1999, 3 years after the effective date of ch. 938, ch. 48 juvenile delinquency adju-

dications within the last 3 years would become an impossibility, thus requiring the addition of a reference to ch. 938 adjudications.

**SECTION 5.** 978.05 (8) (b) of the statutes is amended to read:

978.05 (8) (b) Hire, employ and supervise his or her staff and make appropriate assignments of the staff throughout the prosecutorial unit. The district attorney may request the assistance of district attorneys, deputy district attorneys or assistant district attorneys from other prosecutorial units or assistant attorneys general who then may appear and assist in the investigation and prosecution of ~~criminal matters~~ any matter for which a district attorney is responsible under this chapter in like manner as assistants in the prosecutorial unit and with the same authority as the district attorney in the unit in which the action is brought. Nothing in this paragraph limits the authority of counties to regulate the hiring, employment and supervision of county employes.

NOTE: District attorneys perform many functions in addition to prosecuting crimes; they also perform such functions as the prosecutions of traffic and nontraffic forfeitures, seek the involuntary terminations of parental rights, seek protection and services for children, and perform a variety of civil procedures. According to the department of administration, the legislative intent of s. 978.05 (8) (b) was to allow an efficient way for a district attorney to obtain assistance from current state employe attorneys in performing his or her duties. Because the current statute allows this assistance to be provided only in the investigation and prosecution of criminal matters, it is too narrow. This SECTION permits this assistance to be provided for a broader range of activities.