

**1999 DRAFTING REQUEST**

**Bill**

Received: 11/17/98

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Goetsch (608) 266-2540**

By/Representing: **Kent Vernon**

This file may be shown to any legislator: **NO**

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Children - delinquency**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Juvenile restitution

**Instructions:**

Redraft 1997 AB 455, with adopted amendments AA1 and AA2 to Ab 455

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 11/18/98	chanaman 02/17/99		_____			
/1			martykr 02/19/99	_____	lrb_docadmin 02/19/99	lrb_docadmin 02/24/99	

FE Sent For:

<END>

*Not Needed*

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1?	malaigm	cmh 11/25 1 jlg 2/15 1	km 2/17	df 2/18 km 1/8			

FE Sent For:

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1997 ASSEMBLY BILL 455

July 15, 1997 - Introduced by Representatives GOETSCH, LADWIG, DOBYNS, ZIEGELBAUER, OLSEN, MUSSER, TURNER, HAHN, FREESE, LA FAVE, POWERS, GREEN, WALKER, OWENS, VRAKAS, GUNDERSON, OTTE, AINSWORTH, SYKORA, HASENOHRL, STASKUNAS, SPRINGER and SERATTI, cosponsored by Senators DRZEWIECKI, C. POTTER, HUELSMAN, WELCH, DARLING, ROESSLER, SCHULTZ, WEEDEN and ROSENZWEIG. Referred to Committee on Criminal Justice and Corrections.

Regenerate

1 AN ACT to renumber 938.245 (2) (a) 5. b., 938.245 (2g), 938.32 (1t) (a) 2. and  
2 938.32 (1t) (b); to renumber and amend 938.245 (2) (a) 3., 938.245 (2) (a) 4.,  
3 938.245 (2) (a) 5. a. and c., 938.245 (2) (a) 7., 938.245 (2) (a) 8., 938.32 (1t) (a)  
4 1. and 3. and 938.343 (4); to amend 38.24 (1s), 103.67 (2) (j), 103.70 (1), 938.245  
5 (2) (a) (intro.), 938.245 (2) (c), 938.245 (5), 938.34 (5) (a) and 938.547 (4); and to  
6 create 938.245 (2t) (d), 938.245 (2t) (e), 938.245 (2t) (f), 938.245 (2t) (g), 938.245  
7 (2t) (h), 938.32 (1t) (d), 938.32 (1t) (e), 938.32 (1t) (f), 938.32 (1t) (g), 938.32 (1t)  
8 (h), 938.34 (5) (d), 938.34 (5) (e), 938.34 (5) (f), 938.34 (5) (g), 938.34 (5) (h),  
9 938.343 (4) (b), 938.343 (4) (c), 938.343 (4) (d), 938.343 (4) (e), 938.343 (4) (f) and  
10 938.343 (4) (g) of the statutes; relating to: the making of restitution by a  
juvenile or by a parent who has custody of a juvenile

11

Analysis by the Legislative Reference Bureau

Under current law, a juvenile who has committed an act that has resulted in damage to the property of another or in actual physical injury to another excluding pain and suffering may, under a deferred prosecution agreement, consent decree or

ASSEMBLY BILL 455

Insert A-1 ✓

Insert A-2 ✓

dispositional order, be required to repair the damage to property or to make reasonable restitution for the damage or injury.

This bill changes the law relating to the restitution that a juvenile may be required to make to bring that law into closer conformity with the law relating to the restitution that an adult may be required to make. Specifically, the bill permits a juvenile to be required to make restitution not only when the juvenile's act results in damage to property, but also when the act results in loss or destruction of property, and to make restitution not when the act results in actual physical injury to another, but when the act results in bodily injury to another. The bill also permits a juvenile to be required to make restitution when death results from the juvenile's act.

In addition, the bill specifies what restitution a juvenile may be required to make. Specifically, the bill provides that:

1. If the juvenile's act has resulted in damage to or loss or destruction of property, the juvenile may be required to return the property to the owner or, if return of the property is impossible, impractical or inadequate, to pay the owner the reasonable repair or replacement cost of the property or the greater of the following:

- a. The value of the property on the date of its damage, loss or destruction.
- b. The current value of the property, less the value of any part of the property returned as of the date of its return.

2. If the juvenile's act has resulted in bodily injury, the juvenile may be required to do any one or more of the following:

- a. Pay the cost of the victim's physical, psychiatric and psychological care and treatment.
- b. Pay the cost of the victim's physical and occupational therapy and rehabilitation.
- c. Reimburse the victim for lost income.
- d. If the victim is solely employed as a homemaker, pay an amount sufficient to ensure that the victim's homemaker duties are continued until the victim is able to resume those duties.

3. If the juvenile's act has resulted in death, the juvenile may be required to pay the cost of the victim's funeral expenses, including the cost of a cemetery lot, grave marker and care of the lot.

4. If the juvenile's act constitutes sexual assault, sexual assault of a child, repeated sexual assault of a child, sexual exploitation of a child, incest with a child, child enticement or soliciting a child for prostitution, but the act does not result in bodily injury, the juvenile may be required to pay the cost, not to exceed \$10,000, of the victim's psychiatric and psychological care and treatment.

5. In any case, the juvenile may be required to do any one or more of the following:

- a. Pay all damages that the victim could recover from the juvenile in a civil action.
- b. Pay for the victim's lost income and reasonable out-of-pocket expenses incurred resulting from the filing of a petition or cooperating in the investigation and prosecution of the juvenile's act.

or the parent may be required to pay the cost, not to exceed \$5,000,

If the court assigned to exercise jurisdiction under the juvenile justice code (juvenile court), after taking into consideration the well-being and needs of the victim, it may order the juvenile to make restitution to the well-being and behavior of the juvenile.

or parent

or parent

or parent

or parent

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or parent

ASSEMBLY BILL 455

c. Reimburse any person or agency for amounts paid as rewards for information leading to the apprehension or successful prosecution of the juvenile.

d. If justice so requires, reimburse any insurer who has compensated the victim for a loss otherwise compensable as restitution.

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

Insert  
A-3

(2u) (1u)

SECTION 1. 38.24 (1s) of the statutes is amended to read:  
38.24 (1s) ADDITIONAL FEES. A district board may establish and charge a fee in addition to the fees under sub. (1m) for a court-approved alcohol or other drug abuse education program offered to individuals under s. 48.245 (2) (a) 4., 48.345 (13) (b), 938.245 (2) (a) 4. (2g), 938.32 (1g) (b), 938.34 (6r) (b) or (14s) (b) 3., 938.343 (10) (c) or 938.344 (2g) (a).

Insert  
3-6

SECTION 2. 103.67 (2) (j) of the statutes is amended to read:  
103.67 (2) (j) Minors under 14 years of age may be employed as participants in a restitution project under s. 938.245 (2) (a) 5. (2t), 938.32 (1t) (a), 938.34 (5), 938.343 (4) or 938.345 or a supervised work program or other community service work under s. 938.245 (2) (a) 6., 938.32 (1t) (b) (1v), 938.34 (5g), 938.343 (3) or 938.345.  
and 938.343 (4) (b)

proof w/ statute.

SECTION 3. 103.70 (1) of the statutes is amended to read:  
103.70 (1) Except as otherwise provided in sub. (2) and in ss. 103.21 to 103.31, 103.78, 938.245 (2) (a) 5. b. (2t) (b), 938.32 (1t) (a) 2. (b) and 938.34 (5) (b) and (5g) (c), and as may be provided under s. 103.79, a minor, unless indentured as an apprentice in accordance with s. 106.01, or unless 12 years and over and engaged in agricultural pursuits, or unless 14 years and over and enrolled in a youth apprenticeship program under s. 106.13, shall not be employed or permitted to work at any gainful occupation or employment unless there is first obtained from the

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(b),  
erase

ASSEMBLY BILL 455

(A) (B) (3A)

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department or a permit officer a written permit authorizing the employment of the minor within those periods of time stated in the permit, which shall not exceed the maximum hours prescribed by law.

SECTION 4. 938.245 (2) (a) (intro.) of the statutes is amended to read:

938.245 (2) (a) (intro.) A deferred prosecution agreement may provide for any one or more of the following conditions, and for any one or more of the conditions specified in subs. (2d), (2f), (2g), (2m), (2t) and (2x) that are applicable

SECTION 5. 938.245 (2) (a) 3. of the statutes is renumbered 938.245 (2f) and amended to read:

938.245 (2f) That If the multidisciplinary screen conducted under s. 938.24 (2) shows that the juvenile is at risk of having needs and problems related to the use of alcohol beverages, controlled substances or controlled substance analogs and the medical, personal, family or social effects of that use, (the deferred prosecution agreement may require that the juvenile submit to an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 938.547 (4) and that is conducted by an approved treatment facility for an examination of the juvenile's use of alcohol beverages, controlled substances or controlled substance analogs and any medical, personal, family or social effects caused by its use, if the multidisciplinary screen conducted under s. 938.24 (2) shows that the juvenile is at risk of having needs and problems related to the use of alcohol beverages, controlled substances or controlled substance analogs and its medical, personal, family or social effects that use.

SECTION 6. 938.245 (2) (a) 4. of the statutes is renumbered 938.245 (2g) and amended to read:

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w/o fix component

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proposed w/ state

renumbered 938.245(2)(a) and

(2d)

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ASSEMBLY BILL 455

proof w/ strata

1 938.245 (2g) That If an alcohol and other drug abuse assessment conducted  
 2 under sub. (2f) recommends outpatient treatment, intervention or education, the  
 3 deferred prosecution agreement may require that the juvenile participate in an  
 4 alcohol and other drug abuse outpatient treatment program, a court-approved pupil  
 5 assistance program provided by the juvenile's school board or a court-approved  
 6 alcohol or other drug abuse education program, if an alcohol and other drug abuse  
 7 assessment conducted under subd. 3. recommends outpatient treatment,  
 8 intervention or education. The juvenile's participation in a court-approved pupil  
 9 assistance program under this subdivision subsection is subject to the approval of  
 10 the juvenile's school board.

11 SECTION 7. 938.245 (2) (a) 5. a. and c. of the statutes are renumbered 938.245  
 12 (2t) (a) and (c) and amended to read:

13 ~~938.245 (2t) (a) That the juvenile participate in a restitution project if If the~~  
 14 ~~act for which the deferred prosecution agreement is being entered into has resulted~~  
 15 ~~in damage to or loss or destruction of the property of another, or in actual physical~~  
 16 ~~in bodily injury to another excluding pain and suffering. Subject to subd. 5. e. or in~~  
 17 ~~death and if the intake worker, after taking into consideration the well-being and~~  
 18 ~~needs of the victim, considers it beneficial to the well-being and behavior of the~~  
 19 ~~juvenile, the deferred prosecution agreement may require the juvenile to repair the~~  
 20 ~~damage to property or, subject to par. (c), to make reasonable restitution for the~~  
 21 ~~damage or, injury if the intake worker, after taking into consideration the well-being~~  
 22 ~~and needs of the victim, considers it beneficial to the well-being and behavior of the~~  
 23 ~~juvenile or death as provided in pars. (d) to (h). Any such deferred prosecution~~  
 24 ~~agreement shall include a determination that the juvenile alone is financially able~~

Section 7  
seat all  
+ amend



ASSEMBLY BILL 455

SECTION 7

1 to pay and may allow up to the date of the expiration of the deferred prosecution  
2 agreement for the payment.

3 (c) Under this ~~subdivision~~ subsection, a deferred prosecution agreement may  
4 not require a juvenile who is under 14 years of age to make more than \$250 in  
5 restitution.

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Insert  
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6  
Insert  
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SECTION 8. 938.245 (2) (a) 5. b. of the statutes is renumbered 938.245 (2t) (b).

SECTION 9. 938.245 (2) (a) 7. of the statutes is renumbered 938.245 (2d) and

8 amended to read:

9 938.245 (2d) ~~That the juvenile be placed with a volunteers in probation~~  
10 ~~program under such conditions as the intake worker determines are reasonable and~~  
11 ~~appropriate, if~~ If the juvenile is alleged to have committed an act that would  
12 constitute a misdemeanor if committed by an adult, if the chief judge of the judicial  
13 administrative district has approved under s. 973.11 (2) a volunteers in probation  
14 program established in the juvenile's county of residence and if the intake worker  
15 determines that volunteer supervision under that volunteers in probation program  
16 will likely benefit the juvenile and the community, the deferred prosecution  
17 agreement may require that the juvenile be placed with a volunteers in probation  
18 program under such conditions that the intake worker determines are reasonable  
19 and appropriate. The conditions that the intake worker may establish under this  
20 ~~subdivision~~ subsection may include, but need not be limited to, a request to a  
21 volunteer to provide for the juvenile a role model, informal counseling, general  
22 monitoring and monitoring of the conditions established by the intake worker, or any  
23 combination of these functions, and any other deferred prosecution condition that  
24 the intake worker may establish under this ~~paragraph~~ section.

prop w/ state.

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1 SECTION 10. 938.245 (2) (a) 8. of the statutes is renumbered 938.245 (2m), and  
2 938.245 (2m) (intro.), as renumbered, is amended to read:

3 938.245 (2m) (intro.) That The deferred prosecution agreement may require  
4 that the juvenile be placed in a teen court program if all of the following conditions  
5 apply:

6 SECTION 11. 938.245 (2) (c) of the statutes is amended to read:

7 938.245 (2) (c) If the deferred prosecution agreement provides for alcohol and  
8 other drug abuse outpatient treatment under par. (a) 4. sub. (2g), the juvenile and  
9 the juvenile's parent, guardian or legal custodian shall execute an informed consent  
10 form that indicates that they are voluntarily and knowingly entering into a deferred  
11 prosecution agreement for the provision of alcohol and other drug abuse outpatient  
12 treatment.

or the parent who has custody, as defined in S.  
895.035 (1), of the juvenile

13 SECTION 12. 938.245 (2g) of the statutes is renumbered 938.245 (2x).

14 SECTION 13. 938.245 (2t) (d) of the statutes is created to read:

15 938.245 (2t) (d) If the act for which the deferred prosecution agreement is  
16 entered into has resulted in damage to or loss or destruction of property, the deferred  
17 prosecution agreement may require the juvenile to return the property to the owner  
18 or the owner's designee or, if return of the property is impossible, impractical or  
19 inadequate, <sup>to</sup> pay the owner or the owner's designee the reasonable repair or  
20 replacement cost of the property or the greater of the following:

- 21 1. The value of the property on the date of its damage, loss or destruction.
- 22 2. The value of the property on the date of the deferred prosecution agreement,  
23 less the value of any part of the property returned as of the date of its return. The  
24 value of any retail merchandise shall be its retail value.

25 SECTION 14. 938.245 (2t) (e) of the statutes is created to read:

prog w/ state  
Insert  
7-5

prog w/ state.

(Use Bill No. three)

ASSEMBLY BILL 455

or the parent who has custody,  
as defined in s. 895.035 (1),  
of the juvenile

1 938.245 (2t) (e) If the act for which the deferred prosecution agreement is  
2 entered into has resulted in bodily injury, the deferred prosecution agreement may  
3 require that the juvenile do any one or more of the following:

4 1. Pay an amount equal to the cost of necessary medical and related  
5 professional services and devices relating to physical, psychiatric and psychological  
6 care and treatment.

7 2. Pay an amount equal to the cost of necessary physical and occupational  
8 therapy and rehabilitation.

9 3. Reimburse the injured person for income lost as a result of the act for which  
10 the deferred prosecution agreement is entered into.

11 4. If the injured person's sole employment at the time of the injury was  
12 performing the duties of a homemaker, pay an amount sufficient to ensure that the  
13 duties are continued until the person is able to resume performance of the duties.

14 SECTION 15. 938.245 (2t) (f) of the statutes is created to read:

15 938.245 (2t) (f) If the act for which the deferred prosecution agreement is  
16 entered into has resulted in death, the deferred prosecution agreement may require  
17 that the juvenile pay an amount equal to the cost of necessary funeral and related  
18 services under s. 895.04 (5).

19 SECTION 16. 938.245 (2t) (g) of the statutes is created to read:

20 <sup>938.245</sup>~~938.20~~ (2t) (g) If the juvenile violated s. 940.225, 948.02, 948.025, 948.05,  
21 948.06, 948.07 or 948.08 and par. (e) 1. does not apply, the deferred prosecution  
22 agreement may require that the juvenile pay an amount, not to exceed \$10,000, equal  
23 to the cost of necessary professional services relating to psychiatric and psychological  
24 care and treatment. The \$10,000 limit under this paragraph does not apply to the

or that the parent who has custody, as defined in s. 895.035 (1),  
or the juvenile pay an amount, not to exceed the amount specified  
in par. (am),

ASSEMBLY BILL 455

SECTION 16

or the parent who has custody, as defined in s. 845.035 (1), of the juvenile

amount of any restitution agreed to under par. (e) or (h) for the cost of necessary professional services relating to psychiatric and psychological care and treatment.

SECTION 17. 938.245 (2t) (h) of the statutes is created to read:

938.245 (2t) (h) In any case, the deferred prosecution agreement may require that the juvenile do any one or more of the following:

1. Pay all special damages, but not general damages, substantiated by evidence in the record, which could be recovered in a civil action against the juvenile for his or her conduct in the commission of the act for which the deferred prosecution agreement is entered into.

as a result of that person the filing of charges or that person's cooperation

2. Pay an amount equal to the income lost and reasonable out-of-pocket expenses incurred by the person against whom the act for which the deferred prosecution agreement is entered into was committed resulting from cooperating in the investigation and prosecution of the act.

3. Reimburse any person or agency for amounts paid as rewards for information leading to the apprehension of the juvenile for the act for which the deferred prosecution agreement is entered into.

4. If justice so requires, reimburse any insurer, surety or other person who has compensated a victim for a loss otherwise compensable under this subsection.

SECTION 18. 938.245 (5) of the statutes is amended to read:

other than a deferred prosecution agreement

938.245 (5) A deferred prosecution agreement, under sub. (2) (a) 1. to 8. or (2d), (2f), (2g), (2m), (2t) or (2z) may be terminated upon the request of the juvenile, parent, guardian or legal custodian. A deferred prosecution agreement under sub. (2) (a) 9. may be terminated by the court upon the request of the juvenile, parent, guardian or legal custodian.

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ASSEMBLY BILL 455

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1 SECTION 19. 938.32 (1t) (a) 1 and 3. of the statutes are renumbered 938.32 (1t)

2 (a) and (c) and amended to read:

3 ~~938.32 (1t) (a) Subject to subd. 3., if If the petition alleges that the juvenile~~  
4 ~~committed a delinquent act that has resulted in damage to or loss or destruction of~~  
5 ~~the property of another, or in actual physical in bodily injury to another excluding~~  
6 ~~pain and suffering or in death and if the judge or juvenile court commissioner, after~~  
7 ~~taking into consideration the well-being and needs of the victim, considers it~~  
8 ~~beneficial to the well-being and behavior of the juvenile, the judge or juvenile court~~  
9 ~~commissioner may require the juvenile, as a condition of the consent decree, to repair~~  
10 ~~the damage to property or, subject to par. (c), to make reasonable restitution for the~~  
11 ~~damage or, injury if the judge or juvenile court commissioner, after taking into~~  
12 ~~consideration the well-being and needs of the victim, considers it beneficial to the~~  
13 ~~well-being and behavior of the juvenile or death as provided in pars. (d) to (h). Any~~  
14 ~~consent decree that includes a condition of restitution <sup>by a juvenile</sup> shall include a finding that the~~  
15 ~~juvenile alone is financially able to pay and may allow up to the date of the expiration~~  
16 ~~of the consent decree for the payment. Objection by the juvenile to the amount of~~  
17 ~~damages claimed shall entitle the juvenile to a hearing on the question of damages~~  
18 ~~before the amount of restitution is made part of the consent decree.~~

19 (c) Under this ~~paragraph subsection~~, a judge or juvenile court commissioner  
20 may not order a juvenile ~~who is under 14 years of age to make more than \$250 in~~  
21 restitution.

✓✓  
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10-27

22 SECTION 20. 938.32 (1t) (a) 2. of the statutes is renumbered 938.32 (1t) (b).

23 SECTION 21. 938.32 (1t) (b) of the statutes is renumbered 938.32 (1t) (c).

24 SECTION 22. 938.32 (1t) (d) of the statutes is created to read:

ASSEMBLY BILL 455

or the parent who has custody, as defined in S. 895.035 (1), & the juvenile

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938.32 (1t) (d) If the delinquent act resulted in damage to or loss or destruction of property, the consent decree may require the juvenile to return the property to the owner or the owner's designee or, if return of the property is impossible, impractical or inadequate, <sup>to</sup> pay the owner or the owner's designee the reasonable repair or replacement cost of the property or the greater of the following:

- 1. The value of the property on the date of its damage, loss or destruction.
- 2. The value of the property on the date of the consent decree, less the value of any part of the property returned as of the date of its return. The value of any retail merchandise shall be its retail value.

SECTION 23. 938.32 (1t) (e) of the statutes is created to read:

938.32 (1t) (e) If the delinquent act resulted in bodily injury, the consent decree may require that the juvenile do any one or more of the following:

- 1. Pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric and psychological care and treatment.
- 2. Pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation.
- 3. Reimburse the injured person for income lost as a result of the delinquent act.
- 4. If the injured person's sole employment at the time of the injury was performing the duties of a homemaker, pay an amount sufficient to ensure that the duties are continued until the person is able to resume performance of the duties.

SECTION 24. 938.32 (1t) (f) of the statutes is created to read:

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or the parent who has custody, as defined in s. 895.035 (1), of the juvenile

1 938.32 (1t) (f) If the delinquent act resulted in death, the consent decree may  
2 require that the juvenile pay an amount equal to the cost of necessary funeral and  
3 related services under s. 895.04 (5).

4 SECTION 25. 938.32 (1t) (g) of the statutes is created to read:

5 938.32 (1t) (g) If the juvenile violated s. 940.225, 948.02, 948.025, 948.05,  
6 948.06, 948.07 or 948.08 and par. (e) 1. does not apply, the consent decree may require  
7 that the juvenile pay an amount, not to exceed \$10,000, equal to the cost of necessary  
8 professional services relating to psychiatric and psychological care and treatment.  
9 The \$10,000 limit under this paragraph does not apply to the amount of any  
10 restitution ordered under par. (e) or (h) for the cost of necessary professional services  
11 relating to psychiatric and psychological care and treatment.

12 SECTION 26. 938.32 (1t) (h) of the statutes is created to read:

13 938.32 (1t) (h) In any case, the consent decree may require that the juvenile  
14 do any one or more of the following: as a result of

15 1. Pay all special damages, but not general damages, substantiated by evidence  
16 in the record, which could be recovered in a civil action against the juvenile for his  
17 or her conduct in the commission of the delinquent act.

18 2. Pay an amount equal to the income lost and reasonable out-of-pocket  
19 expenses incurred by the person against whom the delinquent act was committed  
20 resulting from the filing of charges or <sup>that person's cooperation</sup> cooperating in the investigation and  
21 prosecution of the delinquent act.

22 3. Reimburse any person or agency for amounts paid as rewards for  
23 information leading to the apprehension or successful prosecution of the juvenile for  
24 the delinquent act.

or that the parent who has custody, as defined in s. 895.035 (1), of the juvenile pay an amount, not to exceed the amount specified in par. (am)

more text

ASSEMBLY BILL 455

1 4. If justice so requires, reimburse any insurer, surety or other person who has  
2 compensated a victim for a loss otherwise compensable under this subsection.

3 ~~SECTION 27. 938.34 (5) (a) of the statutes is amended to read:~~

4 ~~938.34 (5) (a) Subject to par. (c), if If the juvenile is found to have committed~~  
5 ~~a delinquent act which has resulted in damage to or loss or destruction of the~~  
6 ~~property of another, or actual physical in bodily injury to another excluding pain and~~  
7 ~~suffering, or in death and if the court, after taking into consideration the well-being~~  
8 ~~and needs of the victim, considers it beneficial to the well-being and behavior of the~~  
9 ~~juvenile, the court may order the juvenile to repair the damage to property or, subject~~  
10 ~~to par. (c), to make reasonable restitution for the damage or, injury if the court, after~~  
11 ~~taking into consideration the well-being and needs of the victim, considers it~~  
12 ~~beneficial to the well-being and behavior of the juvenile or death as provided in pars.~~  
13 ~~(d) to (h). Any such order shall include a finding that the juvenile alone is financially~~  
14 ~~able to pay and may allow up to the date of the expiration of the order for the~~  
15 ~~payment. Objection by the juvenile to the amount of damages claimed shall entitle~~  
16 ~~the juvenile to a hearing on the question of damages before the amount of restitution~~  
17 ~~is ordered.~~

✓  
Insert  
13-17

5  
18  
19

18 SECTION 28. 938.34 (5) (d) of the statutes is created to read:

19 938.34 (5) (d) If a delinquent act considered at disposition resulted in damage  
20 to or loss or destruction of property, the restitution order may require the juvenile  
21 to return the property to the owner or the owner's designee or, if return of the  
22 property is impossible, impractical or inadequate, <sup>to</sup> pay the owner or the owner's  
23 designee the reasonable repair or replacement cost of the property or the greater of  
24 the following:

25 1. The value of the property on the date of its damage, loss or destruction.



**ASSEMBLY BILL 455****SECTION 28**

1           2. The value of the property on the date of disposition, less the value of any part  
2 of the property returned as of the date of its return. The value of any retail  
3 merchandise shall be its retail value.

4           **SECTION 29.** 938.34<sup>✓</sup> (5) (e) of the statutes is created to read:

5           938.34 (5) (e) If a delinquent act considered at disposition resulted in bodily  
6 injury, the restitution order may require that the juvenile<sup>✓</sup> do any one or more of the  
7 following:

8           1. Pay an amount equal to the cost of necessary medical and related  
9 professional services and devices relating to physical, psychiatric and psychological  
10 care and treatment.

11           2. Pay an amount equal to the cost of necessary physical and occupational  
12 therapy and rehabilitation.

13           3. Reimburse the injured person for income lost as a result of a delinquent act  
14 considered at disposition.

15           4. If the injured person's sole employment at the time of the injury was  
16 performing the duties of a homemaker, pay an amount sufficient to ensure that the  
17 duties are continued until the person is able to resume performance of the duties.

18           **SECTION 30.** 938.34<sup>✓</sup> (5) (f) of the statutes is created to read:

19           938.34 (5) (f) If a delinquent act considered at disposition resulted in death, the  
20 restitution order may require that the juvenile pay an amount equal to the cost of  
21 necessary funeral and related services under s. 895.04 (5).

22           **SECTION 31.** 938.34<sup>✓</sup> (5) (g) of the statutes is created to read:

23           938.34 (5) (g) If the juvenile violated s. 940.225, 948.02, 948.025, 948.05,  
24 948.06, 948.07 or 948.08 and par. (e) 1. does not apply, the restitution order may  
25 require that the juvenile pay an amount, not to exceed \$10,000, equal to the cost of

ASSEMBLY BILL 455

1 necessary professional services relating to psychiatric and psychological care and  
2 treatment. The \$10,000 limit under this paragraph does not apply to the amount of  
3 any restitution ordered under par. (e) or (h) for the cost of necessary professional  
4 services relating to psychiatric and psychological care and treatment.

5 SECTION 32. 938.34 (5) (h) of the statutes is created to read:

6 938.34 (5) (h) In any case, the restitution order may require that the juvenile  
7 do any one or more of the following: as a result of

8 plain 1. Pay all special damages, but not general damages, substantiated by evidence  
9 in the record, which could be recovered in a civil action against the juvenile for his  
10 or her conduct in the commission of a delinquent act considered at disposition.

11 2. Pay an amount equal to the income lost and reasonable out-of-pocket  
12 expenses incurred by the person against whom a delinquent act considered at  
13 disposition was committed resulting from the filing of charges or cooperating in the  
14 investigation and prosecution of the delinquent act. that person's cooperation

15 3. Reimburse any person or agency for amounts paid as rewards for  
16 information leading to the apprehension or successful prosecution of the juvenile for  
17 a delinquent act for which the juvenile was adjudicated delinquent or to the  
18 apprehension or prosecution of the juvenile for a delinquent act that was read into  
19 the record and dismissed at the time of adjudication.

20 4. If justice so requires, reimburse any insurer, surety or other person who has  
21 compensated a victim for a loss otherwise compensable under this subsection.

22 SECTION 33. 938.343 (4) of the statutes is renumbered 938.343 (4) (a) and  
23 amended to read:

24 ~~938.343 (4) (a) If the violation has resulted in damage to or loss or destruction~~  
25 ~~of the property of another, or in actual physical or bodily injury to another excluding~~

✓  
insert  
15-21

ASSEMBLY BILL 455

SECTION 33

~~1 pain and suffering or in death and if the court, after taking into consideration the~~  
~~2 well-being and needs of the victim, considers it beneficial to the well-being and~~  
~~3 behavior of the juvenile, the court may order the juvenile to make repairs of the~~  
~~4 damage to property or, subject to par. (c), to make reasonable restitution for the~~  
~~5 damage or, injury if the court, after taking into consideration the well-being and~~  
~~6 needs of the victim, considers it beneficial to the well-being and behavior of the~~  
~~7 juvenile or death as provided in pars. (d) to (g). Any such order requiring payment~~  
~~8 for repairs or restitution shall include a finding that the juvenile alone is financially~~  
~~9 able to pay and may allow up to the date of the expiration of the order for the~~  
~~10 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.~~

11/  
 Insert  
 16-22

13 SECTION 34. 938.343 (4) (b) of the statutes is created to read:

14 938.343 (4) (b) In addition to any other employment or duties permitted under  
 15 ch. 103 or any rule or order under ch. 103, a juvenile under 14 years of age who is  
 16 participating in a restitution project provided by the county may, for the purpose of  
 17 making restitution ordered by the court under this subsection, be employed or  
 18 perform any duties under any circumstances in which a juvenile 14 or 15 years of age  
 19 is permitted to be employed or perform duties under ch. 103 or any rule or order  
 20 under ch. 103. A juvenile who is participating in a restitution project provided by the  
 21 county is exempt from the permit requirement under s. 103.70 (1).

22 SECTION 35. 938.343 (4) (c) of the statutes is created to read:

23 938.343 (4) (c) Under this subsection, a court may not order a juvenile who is  
 24 under 14 years of age to make more than \$250 in restitution.

25 SECTION 36. 938.343 (4) (d) of the statutes is created to read:

## ASSEMBLY BILL 455

1           938.343 (4) (d) If the violation resulted in damage to or loss or destruction of  
2 property, the restitution order may require the juvenile to return the property to the  
3 owner or the owner's designee or, if return of the property is impossible, impractical  
4 or inadequate, <sup>to</sup> pay the owner or the owner's designee the reasonable repair or  
5 replacement cost of the property or the greater of the following:

- 6           1. The value of the property on the date of its damage, loss or destruction.
- 7           2. The value of the property on the date of disposition, less the value of any part  
8 of the property returned as of the date of its return. The value of any retail  
9 merchandise shall be its retail value.

10           SECTION 37. 938.343 (4) (e) of the statutes is created to read:

11           938.343 (4) (e) If the violation resulted in bodily injury, the restitution order  
12 may require that the juvenile do any one or more of the following:

- 13           1. Pay an amount equal to the cost of necessary medical and related  
14 professional services and devices relating to physical, psychiatric and psychological  
15 care and treatment.
- 16           2. Pay an amount equal to the cost of necessary physical and occupational  
17 therapy and rehabilitation.
- 18           3. Reimburse the injured person for income lost as a result of a violation  
19 considered at disposition.
- 20           4. If the injured person's sole employment at the time of the injury was  
21 performing the duties of a homemaker, pay an amount sufficient to ensure that the  
22 duties are continued until the person is able to resume performance of the duties.

23           ~~SECTION 38. 938.343 (4) (f) of the statutes is created to read:~~

ASSEMBLY BILL 455

SECTION 38

(f) (insert)

1 938.343 (4) (f) If the violation resulted in death, the restitution order may  
2 require that the juvenile pay an amount equal to the cost of necessary funeral and  
3 related services under s. 895.04 (5).

4 SECTION 39. 938.343 (4) (g) of the statutes is created to read:

5 938.343 (4) (g) In any case, the restitution order may require that the juvenile  
6 do any one or more of the following: as a result of

7 1. Pay all special damages, but not general damages, substantiated by evidence  
8 in the record, which could be recovered in a civil action against the juvenile for his  
9 or her conduct in the commission of a violation considered at disposition.

10 2. Pay an amount equal to the income lost and reasonable out-of-pocket  
11 expenses incurred by the person against whom a violation considered at disposition  
12 was committed resulting from the filing of charges or cooperating in the investigation  
13 and prosecution of the violation. (that person's cooperation)

more text

14 3. Reimburse any person or agency for amounts paid as rewards for  
15 information leading to the apprehension or successful prosecution of the juvenile for  
16 the violation.

17 4. If justice so requires, reimburse any insurer, surety or other person who has  
18 compensated a victim for a loss otherwise compensable under this subsection.

Insert  
18-18

19 SECTION 40. 938.547 (4) of the statutes is amended to read:

20 938.547 (4) ASSESSMENT CRITERIA. The uniform alcohol and other drug abuse  
21 assessment criteria that the department developed shall be used in the pilot program  
22 under ss. 938.245 (2) (a) 3. (2f), 938.295 (1), 938.32 (1g), 938.343 (10) and 938.344  
23 (2g). An approved treatment facility that assesses a person under ss. 938.245 (2) (a)  
24 3. (2f), 938.295 (1), 938.32 (1g), 938.343 (10) and 938.344 (2g) may not also provide  
25 the person with treatment unless the department permits the approved treatment

proof of statute

**ASSEMBLY BILL 455**

facility to do both in accordance with the criteria established by rule by the department.

proof  
Insert  
19-2 ✓

3

**SECTION 41. Initial applicability.**

4

(1) This act first applies to delinquent acts and civil law or ordinance violations

5

committed on the effective date of this subsection.

6

(END)

Insert 3-6

~~7c~~

✓  
(2g)

Section #. 38.24 (1s) (a) of the statutes is amended to read:

38.24 <sup>x</sup>(1s) (a) A court-approved alcohol or other drug abuse education program offered to individuals under s. 48.245 (2) (a) 4., 48.345 (13) (b), 48.347 (5) (b), 938.245 <sup>x</sup>(2) (a) 4., 938.32 (1g) (b), 938.34 (6r) (b) or (14s) (b) 3., 938.343 (10) (c) or 938.344 (2g) (a).

History: 1971 c. 154, 211, 228; 1975 c. 39, 224; 1977 c. 29, 418; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27; 1989 a. 31, 107, 336; 1991 a. 39 ss. 1103 to 1108m, 1117; 1993 a. 16, 223, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 228; 1997 a. 27, 163, 292; s. 13.93 (1) (b).

(end of insert)

Insert 4-3

Section #. 895.035 (2m) (a) of the statutes is amended to read:

~~(2)~~ (2+) (1+)

juvenile

895.035 (2m) (a) If a juvenile or a parent with custody of a ~~child~~ juvenile fails to pay restitution under s. 938.245, 938.32, 938.34 (5), 938.343 (4), 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 juvenile 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 juvenile may petition the court assigned to exercise jurisdiction under chs. 48 and 938 to order that the amount of restitution unpaid by the juvenile or parent be entered and docketed as a judgment against the juvenile and the parent with custody of the juvenile 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.

NOTE: Par. (a) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). The bracketed language indicates the correct term. Corrective legislation is pending.

History: 1985 a. 311; 1987 a. 27; 1993 a. 71; 1995 a. 24, 77, 262, 352; 1997 a. 27, 35, 205, 239, 252; s. 13.93 (2) (c).

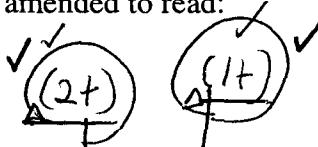




Insert 4-3



Section #. 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), 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).

History: 1985 a. 311; 1987 a. 27; 1993 a. 71; 1995 a. 24, 77, 262, 352; 1997 a. 27, 35, 205, 239, 252; s. 13.93 (2) (c).

(end of insert)

Insert 4-7

renumbered 938.245 (2b) and letter



Section #. 938.245 (2) (a) 1. of the statutes is amended to read:

(2b)

The deferred prosecution agreement may require that

938.245 (2) (a) That the juvenile and the juvenile's parent, guardian or legal custodian participate in individual, family or group counseling and that the parent, guardian or legal custodian participate in parenting skills training.

History: 1995 a. 77, 352, 448; 1997 a. 80, 181, 183, 205, 239, 292; s. 13.93 (2) (c).



Insert 4-7

renumbered 938.245 (2c) and

~~Section #~~

Section #. 938.245 (2) (a) 2. of the statutes is amended to read:

②  
1(2c)

The defected prosecution agreement may require that

938.245 (2) (a) 2. That the juvenile and a parent, guardian and legal custodian abide by such obligations, including supervision, curfews and school attendance requirements, as will tend to ensure the juvenile's rehabilitation, protection or care.

History: 1995 a. 77, 352, 448; 1997 a. 80, 181, 183, 205, 239, 292; s. 13.93 (2) (c).

stat.

(end of insert)

Insert 6-5  
or death as provided in pars. (d) to (j)

or loss or destruction of

Section # 938.245 (2) (a) 5. a. of the statutes is amended to read:

ⓑ  
(2) (a)

in bodily

2

If

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. e, the deferred prosecution agreement may require the juvenile to repair the damage to property or to make reasonable restitution for the damage ~~or injury,~~ either in the form of cash payments or, if the victim agrees, the performance of services for the victim, or both, ~~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 or physically able to perform the services, may allow up to the date of the expiration of the deferred prosecution agreement for the payment or for the completion of the services and may include a schedule for the performance and completion of the services. Any recovery under this subd. 5. a shall be reduced by the amount recovered as restitution for the same act under subd. 5. a. par. (am)

NOTE: Subd. par. a. is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c)

History: 1995 a. 77, 352, 448; 1997 a. 80, 181, 183, 205, 239, 292, s. 13.93 (2) (c).

subject to par. (e)

ⓑ or in death and if the intake worker after taking into consideration the well-being or behavior of the juvenile and needs of the victim, considers it beneficial to the well-being or behavior of the juvenile

2  
Score

ⓑ

Insert 6-5  
cont

in bodily

Section # 938.245 (2) (a) 5. am. of the statutes is amended to read:

~~938.245 (2) (a) 5. am.~~  
P  
M  
M  
M  
M  
(am)

or loss or destruction of

~~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. am. par. (g).

paragraph 2 or death

paragraph

paragraph

par. (g)

History: 1995 a. 77, 352, 448; 1997 a. 80, 181, 183, 205, 239, 292; s. 13.93 (2) (c).

subject to the limit specified in this paragraph

NO P IF the act for which the deferred prosecution agreement is being entered into has resulted in

or in death and if the intake worker, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being or behavior of the juvenile, the deferred prosecution agreement may require the parent who has custody, as defined in s. 895.035 (1), of the juvenile to make reasonable restitution for the damage, injury or death as provided in pars. (d) to (j) NO P

Insert 6-5  
cont

~~Section #. 938.245 (2) (a) 5. c. of the statutes is amended to read:~~

AP 5  
WAAA (c.)

subsection ✓

~~938.245 (2) (a) 5. c.~~ Under this ~~subdivision~~, a deferred prosecution agreement may not require a juvenile who is under 14 years of age to make more than \$250 in restitution or to perform more than 40 total hours of services for the victim as restitution.

History: 1995 a. 77, 352, 448; 1997 a. 80, 181, 183, 205, 239, 292; s. 13.93 (2) (c).

(end of insert)

Insert 6-6

renumbered 938.245 (2u) and

Section #. 938.245 (2) (a) 6. of the statutes is amended to read:

(B)  
(2u)

The deferred prosecution agreement may require that

938.245 (2) (a) ~~6~~ That the juvenile participate in a supervised work program or other community service work in accordance with s. 938.34 (5g).

History: 1995 a. 77, 352, 448; 1997 a. 80, 181, 183, 205, 239, 292; s. 13.93 (2) (c).

(end of insert)

Insert 7-5

renumbered 938.245 (2z) and

x

Section #. 938.245 (2) (a) 9. of the statutes is amended to read:

(B)  
(2z)

The deferred prosecution agreement may require that

938.245 (2) (a) 9. That the juvenile be placed in a youth village program as described in s. 118.42.

Upon the motion of the court or the application of the juvenile, parent, guardian, legal custodian, intake worker or any agency supervising the juvenile under a deferred prosecution agreement under this subdivision, the court may, after giving notice to the parties to the deferred prosecution agreement and their counsel, if any, extend the agreement for up to an additional one year in the absence of an objection to extension by the parties to the initial deferred prosecution agreement. If the juvenile or the parent, guardian or legal custodian object to the extension, the court shall schedule a hearing and make a determination on the issue of extension. A deferred prosecution agreement under this subdivision may be extended no more than twice.

subsections

History: 1995 a. 77, 352, 448; 1997 a. 80, 181, 183, 205, 239, 292; s. 13.93 (2) (c).

✓



Insert 7-5

Section #. 938.245 (2) (b) of the statutes is amended to read:

sub. (2z)

938.245 (2) (b) A deferred prosecution agreement, other than an agreement under ~~par. (a) 9~~, may not include any form of out-of-home placement and may not exceed one year.

History: 1995 a. 77, 352, 448; 1997 a. 80, 181, 183, 205, 239, 292; s. 13.93 (2) (c).

(end of insert)

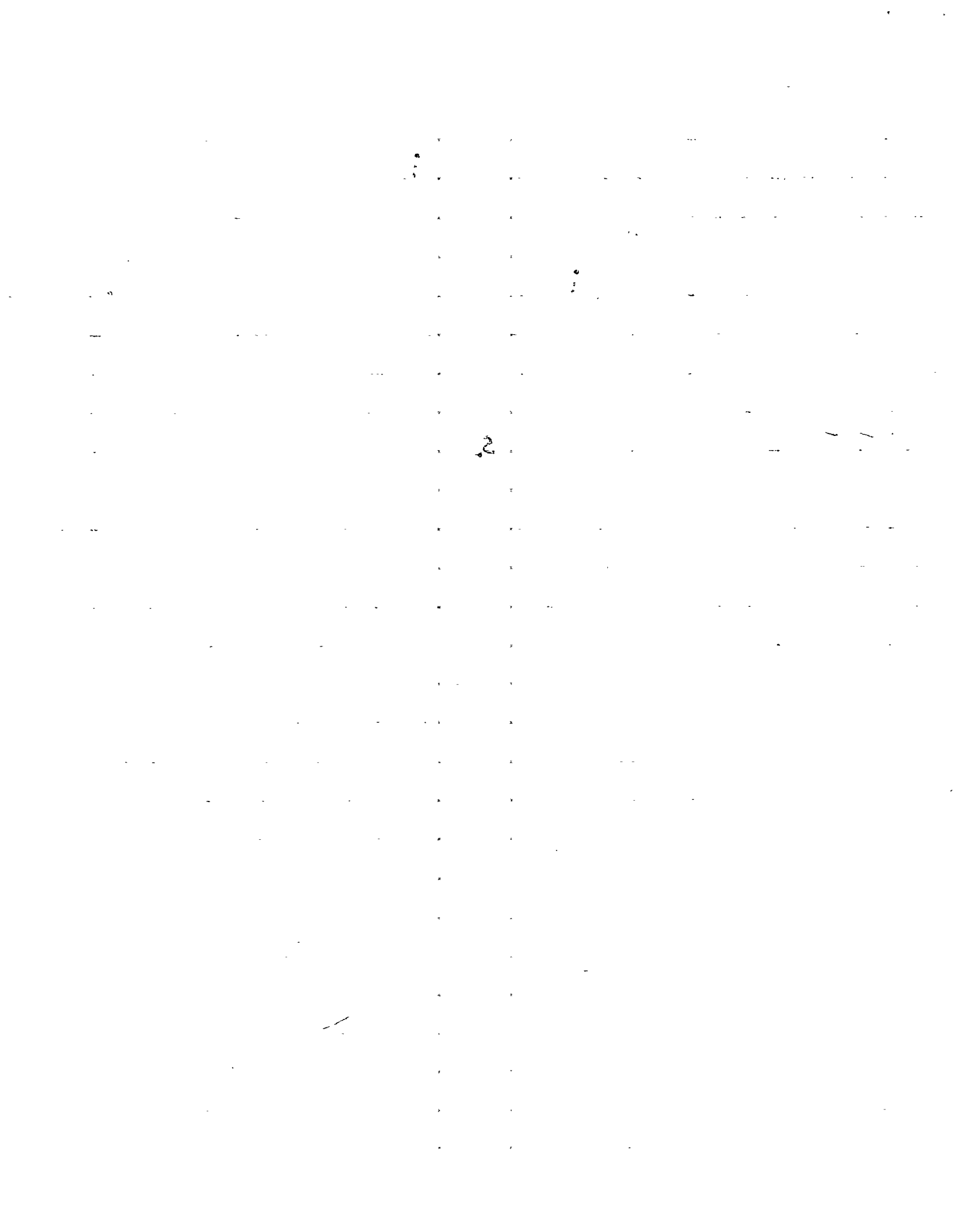
~~Insert 9-18~~

SEC. CR; 938.245 (2X) (i)

938.245 (2X) (i) Any order under par. (b) 3. or 4. ✓

shall require that all restitution to victims be paid before  
restitution to other persons.





Insert 9-18

**ASSEMBLY AMENDMENT 1,  
TO 1997 ASSEMBLY BILL 455**

~~October 22, 1997 - Offered by Representative GOETSCH.~~

(j)

(j)

At the locations indicated, amend the bill as follows:

1. Page 9, line 18: after that line insert:

SECTION ~~17g~~<sup>#</sup> 938.245 (2t) ~~(i)~~ of the statutes is created to read:

938.245 (2t) ~~(i)~~ 1. If a victim of the act for which the deferred prosecution agreement is entered into is paid an award under ch. 949 for any loss arising out of the act, the state is subrogated to the rights of the victim to any restitution required by the court. The rights of the state are subordinate to the claims of victims who have suffered a loss arising out of the offenses or any transaction which is part of the same continuous scheme of delinquent activity.

2. When restitution is ordered, the court shall inquire to determine if an award has been made under ch. 949 and if the department of justice is subrogated to the cause of action under s. 949.15. If the restitution ordered is less than or equal to the award under ch. 949, the restitution shall be paid only to the general fund. If the

-2  
Insert 9-18

1 restitution ordered is greater than the award under ch. 949, the general fund shall  
2 receive an amount equal to the award under ch. 949 and the balance shall be paid  
3 to the victim.

4 **2.** Page 13, line 2: after that line insert:

5 "SECTION 26g. 938.32 (1t) (i) of the statutes is created to read:

6 938.32 (1t) (i) 1. If a victim of the delinquent act is paid an award under ch.  
7 949 for any loss arising out of the delinquent act, the state is subrogated to the rights  
8 of the victim to any restitution required by the court. The rights of the state are  
9 subordinate to the claims of victims who have suffered a loss arising out of the  
10 offenses or any transaction which is part of the same continuous scheme of  
11 delinquent activity.

12 2. When restitution is ordered, the court shall inquire to determine if an award  
13 has been made under ch. 949 and if the department of justice is subrogated to the  
14 cause of action under s. 949.15. If the restitution ordered is less than or equal to the  
15 award under ch. 949, the restitution shall be paid only to the general fund. If the  
16 restitution ordered is greater than the award under ch. 949, the general fund shall  
17 receive an amount equal to the award under ch. 949 and the balance shall be paid  
18 to the victim."

19 **3.** Page 15, line 21: after that line insert:

20 "SECTION 32g. 938.34 (5) (i) of the statutes is created to read:

21 938.34 (5) (i) 1. If a victim of the delinquent act is paid an award under ch. 949  
22 for any loss arising out of the delinquent act, the state is subrogated to the rights of  
23 the victim to any restitution required by the court. The rights of the state are  
24 subordinate to the claims of victims who have suffered a loss arising out of the



Insert 9-18

Section #. 938.245 (3) of the statutes is amended to read:

(2z)

938.245 (3) The obligations imposed under a deferred prosecution agreement and its effective date shall be set forth in writing. If the deferred prosecution agreement places the juvenile in a youth village program under sub. ~~(2)(a)9~~, the judge or juvenile court commissioner shall receive written notice that a deferred prosecution agreement has been entered into and, on receipt of that notice, shall enter an order requiring compliance with that agreement. The juvenile and a parent, guardian and legal custodian shall receive a copy of the agreement and order, as shall any agency providing services under the agreement.

stat.

History: 1995 a. 77, 352, 448; 1997 a. 80, 181, 183, 205, 239, 292; s. 13.93 (2) (c).

Insert 9-18

Section #. 938.245 (4) of the statutes is amended to read:

(2z) ✓

938.245 (4) The intake worker shall inform the juvenile and the juvenile's parent, guardian and legal custodian in writing of their right to terminate or, if the juvenile is subject to a deferred prosecution agreement under sub. ~~(2)(a)9~~, to request the court to terminate the deferred prosecution agreement at any time or to object at any time to the fact or terms of the deferred prosecution agreement. If an objection arises the intake worker may alter the terms of the agreement or request the district attorney or corporation counsel to file a petition. If the deferred prosecution agreement is terminated the intake worker may request the district attorney or corporation counsel to file a petition.

History: 1995 a. 77, 352, 448; 1997 a. 80, 181, 183, 205, 239, 292; s. 13.93 (2) (c).

(ed of note)

Insert 10-21

or death as provided in pars. (d) to (j)

Subject to par. (6)

Section # 938.32 (1)(a) of the statutes is amended to read:

or loss or destruction of in bodily

(a)

If

938.32 (1)(a) 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, either in the form of cash payments or, if the victim agrees, the performance of services for the victim, or both, 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 or physically able to perform the services, may allow up to the date of the expiration of the consent decree for the payment or for the completion of the services and may include a schedule for the performance and completion of the services. 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.

Any recovery under this subdivision shall be reduced by the amount recovered as restitution for the same act under subd. 1.

NOTE: Subd. 1. is shown as affected by three acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).

History: 1995 a. 77, 352, 448; 1997 a. 181, 183, 205; s. 13.93 (2) (c); 1997 a. 239.

or in death and 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 or behavior of the juvenile

malaigm(lrbunx14)



Insert 10-21

Section # 938.32 (1) (a) 1m. of the statutes is amended to read:

or death as provided in pars (d) to (j) ✓

or loss or destruction of in bodily

✓ P (am) on

938.32 (1) (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

or death ✓

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. ✓

strike par. (a) ✓

History: 1995 a. 77, 352, 448; 1997 a. 181, 183, 205; s. 13.93 (2) (c); 1997 a. 239.

subject to the limit specified in this paragraph,

or in death and 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 or behavior of the juvenile

Insert 10-21

~~Section #. 938.32 (1t) (a) 3. of the statutes is amended to read:~~

Ⓡ (c)

subsection ✓

~~938.32 (1t) (a) 3.~~ Under this paragraph, a judge or juvenile court commissioner may not order a juvenile who is under 14 years of age to make more than \$250 in restitution or to perform more than 40 total hours of services for the victim as restitution.

History: 1995 a. 77, 352, 448; 1997 a. 181, 183, 205; s. 13.93 (2) (c); 1997 a. 239.

(end of print)

~~938.32 (14)~~ 938.32 (14) 13-17

938.32 (14)

SEC . CR; ~~938.245 (24)~~ (i)

(B)

938.32 (14)

~~938.245 (24)~~ (i) Any order under par. (h) 3 or 4.

shall require that all restitution to victims be paid before  
restitution to other persons.

2  
Insert 13-17

~~restitution ordered is greater than the award under ch. 949, the general fund shall receive an amount equal to the award under ch. 949 and the balance shall be paid to the victim."~~

~~2. Page 13, line 2: after that line insert:~~

~~SECTION 26g. 938.32 (1t) (i) of the statutes is created to read:~~

938.32 (1t) (i) 1. If a victim of the delinquent act is paid an award under ch. 949 for any loss arising out of the delinquent act, the state is subrogated to the rights of the victim to any restitution required by the court. The rights of the state are subordinate to the claims of victims who have suffered a loss arising out of the offenses or any transaction which is part of the same continuous scheme of delinquent activity.

2. When restitution is ordered, the court shall inquire to determine if an award has been made under ch. 949 and if the department of justice is subrogated to the cause of action under s. 949.15. If the restitution ordered is less than or equal to the award under ch. 949, the restitution shall be paid only to the general fund. If the restitution ordered is greater than the award under ch. 949, the general fund shall receive an amount equal to the award under ch. 949 and the balance shall be paid to the victim."

~~3. Page 15, line 21: after that line insert:~~

~~"SECTION 32g. 938.34 (5) (i) of the statutes is created to read:~~

~~938.34 (5) (i) 1. If a victim of the delinquent act is paid an award under ch. 949 for any loss arising out of the delinquent act, the state is subrogated to the rights of the victim to any restitution required by the court. The rights of the state are subordinate to the claims of victims who have suffered a loss arising out of the~~

Insert 13-17

or death as provided in pars. (d) to (j)

Section #. 938.34 (5) (a) of the statutes is amended to read:

or loss or destruction of

IF

In bodily

subject to par. (c)

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~~ <sup>plain common</sup> order the juvenile to repair the damage to property or, to make reasonable restitution for the damage ~~or injury~~, either in the form of cash payments or, if the victim agrees, the performance of services for the victim, or both, ~~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 or physically able to perform the services, may allow up to the date of the expiration of the order for the payment or for the completion of the services and may include a schedule for the performance and completion of the services. 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).

NOTE: Par. (a) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; s. 13.93 (2) (c).

~~NO~~ or in death and if the court, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being or behavior of the juvenile, the court may ~~NO~~

(ed stract)

~~938.34 (5)(1)~~ 15-21

938.34 (5)(1)

SEC . CR; ~~938.215 (2)(1)~~

938.34 (5) <sup>(B)</sup>

~~938.215 (2)(1)~~ Any order under par. (h) 3 or 4.

shall require that all restitution to victims be paid before  
restitution to other persons.

- 2 -  
Insert 15-21

1 restitution ordered is greater than the award under ch. 949, the general fund shall  
2 receive an amount equal to the award under ch. 949 and the balance shall be paid  
3 to the victim.”.

4 **2.** Page 13, line 2: after that line insert:

5 “SECTION ~~26g~~ 938.32 (1t) (i) of the statutes is created to read:

6 938.32 (1t) (i) 1. If a victim of the delinquent act is paid an award under ch.  
7 949 for any loss arising out of the delinquent act, the state is subrogated to the rights  
8 of the victim to any restitution required by the court. The rights of the state are  
9 subordinate to the claims of victims who have suffered a loss arising out of the  
10 offenses or any transaction which is part of the same continuous scheme of  
11 delinquent activity.

12 2. When restitution is ordered, the court shall inquire to determine if an award  
13 has been made under ch. 949 and if the department of justice is subrogated to the  
14 cause of action under s. 949.15. If the restitution ordered is less than or equal to the  
15 award under ch. 949, the restitution shall be paid only to the general fund. If the  
16 restitution ordered is greater than the award under ch. 949, the general fund shall  
17 receive an amount equal to the award under ch. 949 and the balance shall be paid  
18 to the victim.”.

19 **3.** Page 15, line 21: after that line insert:

20 “SECTION ~~26g~~ <sup>#</sup> 938.34 (5) (i) of the statutes is created to read:

21 938.34 (5) (i) 1. If a victim of the delinquent act is paid an award under ch. 949  
22 for any loss arising out of the delinquent act, the state is subrogated to the rights of  
23 the victim to any restitution required by the court. The rights of the state are  
24 subordinate to the claims of victims who have suffered a loss arising out of the



3  
Insert 15-21

1 offenses or any transaction which is part of the same continuous scheme of  
2 delinquent activity.

3 2. When restitution is ordered, the court shall inquire to determine if an award  
4 has been made under ch. 949 and if the department of justice is subrogated to the  
5 cause of action under s. 949.15. If the restitution ordered is less than or equal to the  
6 award under ch. 949, the restitution shall be paid only to the general fund. If the  
7 restitution ordered is greater than the award under ch. 949, the general fund shall  
8 receive an amount equal to the award under ch. 949 and the balance shall be paid  
9 to the victim.

10 4. Page 19, line 2: after that line insert:

11 "SECTION 40m. 949.15 (1) of the statutes is amended to read:

12 949.15 (1) Whenever the department orders the payment of an award under  
13 this chapter as a result of the occurrence of an event that creates a cause of action  
14 on the part of a claimant against any person, the department is subrogated to the  
15 rights of the claimant and may bring an action against the person for the amount of  
16 the damages sustained by the claimant. If an amount greater than that paid under  
17 the award order is recovered and collected in any such action, the department shall  
18 pay the balance to the claimant. If the person responsible for the injury or death has  
19 previously made restitution payments to the general fund under s. 938.245, 938.32,  
20 938.34 or 973.20, any judgment obtained by the department under this section shall  
21 be reduced by the amount of the restitution payments to the general fund.

22 SECTION 40p. 949.165 (7) of the statutes is amended to read:

23 949.165 (7) THIRD PRIORITY PAYMENTS; LEGAL FEES AND RESTITUTION. The  
24 department shall make payments from an escrow account for any governmental

(end insert)



Insert 16-12

as provided in pars. (d) to (g)

Section #. 938.343 (4) of the statutes is amended to read:

subject to par. (c), to make

or loss or destruction

(no strike)

bodily

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, either in the form of cash payments or, if the victim agrees, the performance of services for the victim, or both, 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 finding that the juvenile alone is financially able to pay or physically able to perform the services, may allow up to the date of the expiration of the order for the payment or for the completion of the services and may include a schedule for the performance and completion of the services. 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).

NOTE: Sub. (4) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).

History: 1995 a. 77, 352, 448; 1997 a. 84, 183, 197, 198, 205, 248; s. 13.93 (2) (c).

(ed first)

and if the court, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being or behavior of the juvenile

~~SECRET~~ 18-18

S.O

938.343 (4) (g)

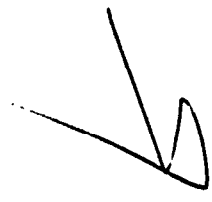
SEC . CR; ~~938.245 (2) (i)~~

938.343 (4) (g)

~~938.245 (2) (i)~~ Any order under par. (f) 3 or 4.

(f)

shall require that all restitution to victims be paid before  
restitution to other persons.



S.U.

Insert 18-18

Section #. 938.346 (1) (h) 2. of the statutes is amended to read:

(2+) ✓  
✓  
✓

938.346 (1) (h) 2. The right to restitution, as provided under ss. 938.245, 938.32 (1) and 938.34

(5)

History: 1995 a. 77; 1997 a. 181, 205.

938.343 (4) ✓ and 938.45 (1r) (a) ✓



Insert 18-18

subject to the limit specified in this paragraph

Section #. 938.45 (1r) (a) of the statutes is amended to read:

in ~~the~~ bodily

or loss or destruction of

Strike

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 <sup>(2)</sup> ~~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).

History: 1995 a. 77; 1997 a. 35, 205.



or in death and if the court, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being or behavior of the juvenile

or death as provided in pars. (c) to (i)

SECTION ~~938.45~~ <sup>#</sup> 938.45 (1r) <sup>(c)</sup> 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 or loss or destruction of the property of another, in bodily 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 as provided in pars. (b) to (g) 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. Except for recovery for retail theft under s. 943.51, the maximum amount of any restitution ordered under this paragraph for damage, injury or death 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)~~ (b) If the delinquent act or civil law or ordinance violation resulted in damage to or loss or destruction of property, the restitution order may require the parent who has custody, as defined in s. 895.035 (1), of the juvenile to return the property to the owner or the owner's designee or, if return of the property is impossible, impractical or inadequate, <sup>to</sup> pay the owner or the owner's designee the reasonable repair or replacement cost of the property or the greater of the following:

- 1. The value of the property on the date of its damage, loss or destruction.

SEC. CR; 938.45 (1r)(d)

1 2. The value of the property on the date of disposition, less the value of any part  
2 of the property returned as of the date of its return. The value of any retail  
3 merchandise shall be its retail value.

938.45 (1r)(d) (e)

4 (e) If the delinquent act or civil law or ordinance violation resulted in bodily  
5 injury, the restitution order may require that the parent who has custody, as defined  
6 in s. 895.035 (1), of the juvenile do any one or more of the following:

SEC. CR; 938.45 (1r)(e)

7 1. Pay an amount equal to the cost of necessary medical and related  
8 professional services and devices relating to physical, psychiatric and psychological  
9 care and treatment.

10 2. Pay an amount equal to the cost of necessary physical and occupational  
11 therapy and rehabilitation.

12 3. Reimburse the injured person for income lost as a result of a delinquent act  
13 considered at disposition.

14 4. If the injured person's sole employment at the time of the injury was  
15 performing the duties of a homemaker, pay an amount sufficient to ensure that the  
16 duties are continued until the person is able to resume performance of the duties.

938.45 (1r)(e)

17 (e) If the delinquent act or civil law or ordinance violation resulted in death,  
18 the restitution order may require that the parent who has custody, as defined in s.  
19 895.035 (1), of the juvenile pay an amount equal to the cost of necessary funeral and  
20 related services under s. 895.04 (5).

SEC. CR;  
938.45 (1r)(f)

938.45 (1r)(f)

21 (e) If the juvenile violated s. 940.225, 948.02, 948.025, 948.05, 948.06, 948.07  
22 or 948.08 and par. (d) 1. does not apply, the restitution order may require that the  
23 parent who has custody, as defined in s. 895.035 (1), of the juvenile pay an amount,

24 not to exceed \$10,000, equal to the cost of necessary professional services relating to  
25 psychiatric and psychological care and treatment. The \$10,000 limit under this

the amount specified in par. (a)

Insert 18-18

SEC. CR; 938.45 (1r)(g)

(d)

1 paragraph does not apply to the amount of any restitution ordered under par. (c) or  
2 (f) for the cost of necessary professional services relating to psychiatric and  
3 psychological care and treatment.

4 In any case, the restitution order may require that the parent who has  
5 custody, as defined in s. 895.035 (1), of the juvenile do any one or more of the  
6 following:

7 1. Pay all special damages, but not general damages, substantiated by evidence  
8 in the record, which could be recovered in a civil action against the juvenile for his  
9 or her conduct in the commission of a delinquent act considered at disposition.

10 2. Pay an amount equal to the income lost, and reasonable out-of-pocket  
11 expenses incurred by the person against whom a delinquent act considered at  
12 disposition was committed <sup>as a result of</sup> resulting from the filing of charges or <sup>that person's cooperation</sup> cooperating in the  
13 investigation and prosecution of the delinquent act.

14 3. Reimburse any person or agency for amounts paid as rewards for  
15 information leading to the apprehension or successful prosecution of the juvenile for  
16 a delinquent act for which the juvenile was adjudicated delinquent or to the  
17 apprehension or prosecution of the juvenile for a delinquent act that was read into  
18 the record and dismissed at the time of adjudication.

19 4. If justice so requires, reimburse any insurer, surety or other person who has  
20 compensated a victim for a loss otherwise compensable under this subsection.

21 1. If a victim of a delinquent act is paid an award under ch. 949 for any loss  
22 arising out of the delinquent act, the state is subrogated to the rights of the victim  
23 to any restitution required by the court. The rights of the state are subordinate to  
24 the claims of victims who have suffered a loss arising out of the offenses or any  
25 transaction which is part of the same continuous scheme of delinquent activity.

SEC. CR; 938.45 (1r)(h)

938.45 (1r)(h) Any order under par. (g) 3. or 4. shall require that

all restitution to victims be paid before restitution to other persons.

SEC. CR; 938.45 (1r)(i)

Insert 18-18

1           2. When restitution is ordered, the court shall inquire to determine if an award  
2 has been made under ch. 949 and if the department of justice is subrogated to the  
3 cause of action under s. 949.15. If the restitution ordered is less than or equal to the  
4 award under ch. 949, the restitution shall be paid only to the general fund. If the  
5 restitution ordered is greater than the award under ch. 949, the general fund shall  
6 receive an amount equal to the award under ch. 949 and the balance shall be paid  
7 to the victim.

(END OF INSERT)

8           ~~SECTION 39p.~~ 938.45 (2) of the statutes is amended to read:

9           938.45 (2) No order under sub. (1) (a) ~~or~~, (1m) (a) or (1r) (a) may be entered until  
10 the person who is the subject of the contemplated order is given an opportunity to be  
11 heard on the contemplated order. The court shall cause notice of the time, place and  
12 purpose of the hearing to be served on the person personally at least 10 days before  
13 the date of hearing. The procedure in these cases shall, as far as practicable, be the  
14 same as in other cases in the court. At the hearing the person may be represented  
15 by counsel and may produce and cross-examine witnesses. Any person who fails to  
16 comply with any order issued by a court under sub. (1) (a) ~~or~~, (1m) (a) or (1r) (a) may  
17 be proceeded against for contempt of court. If the person's conduct involves a crime,  
18 ~~the person may be proceeded against under the criminal law."~~

19           **26.** Page 19, line 2: after that line insert:

20           "~~SECTION 40m.~~ 949.15 (1) of the statutes is amended to read:

21           949.15 (1) Whenever the department orders the payment of an award under  
22 this chapter as a result of the occurrence of an event that creates a cause of action  
23 on the part of a claimant against any person, the department is subrogated to the  
24 rights of the claimant and may bring an action against the person for the amount of



Insert 19-2

1 offenses or any transaction which is part of the same continuous scheme of  
2 delinquent activity.

3 2. When restitution is ordered, the court shall inquire to determine if an award  
4 has been made under ch. 949 and if the department of justice is subrogated to the  
5 cause of action under s. 949.15. If the restitution ordered is less than or equal to the  
6 award under ch. 949, the restitution shall be paid only to the general fund. If the  
7 restitution ordered is greater than the award under ch. 949, the general fund shall  
8 receive an amount equal to the award under ch. 949 and the balance shall be paid  
9 to the victim."

10 4. Page 19, line 2: after that line insert:

or the person's parents

11 #  
SECTION 40a. 949.15 (1) of the statutes is amended to read:

12 949.15 (1) Whenever the department orders the payment of an award under  
13 this chapter as a result of the occurrence of an event that creates a cause of action  
14 on the part of a claimant against any person, the department is subrogated to the  
15 rights of the claimant and may bring an action against the person for the amount of  
16 the damages sustained by the claimant. If an amount greater than that paid under  
17 the award order is recovered and collected in any such action, the department shall  
18 pay the balance to the claimant. If the person responsible for the injury or death has

19 previously made restitution payments to the general fund under s. ~~938.245~~, ~~938.32~~, ~~938.34~~ or 973.20, any judgment obtained by the department under this section shall

20 be reduced by the amount of the restitution payments to the general fund.

21 #  
22 SECTION 40a. 949.165 (7) of the statutes is amended to read:

23 949.165 (7) THIRD PRIORITY PAYMENTS: LEGAL FEES AND RESTITUTION. The  
24 department shall make payments from an escrow account for any governmental

(5)(j), 938.45 (1a)(a)(i)



*[Handwritten: 19-2]*

*[Handwritten: (5), 938.45 (1r)(a)]*

*(2+)* ✓  
*(1+)* ✓

1 entity for the reimbursement for or recoupment of the costs of legal representation  
2 of the person charged with the serious crime or for any unpaid restitution under s.  
3 938.245, 938.32, 938.34 or 973.20. The governmental entity shall file a claim for the  
4 applicable amount with the department."

4  
5

*[Handwritten: (END)]*

*[Handwritten: ✓]*

Insert 19-2

Section #. 950.04 (1v) (q) of the statutes is amended to read:

(2+)

950.04 (1v) (q) To restitution, as provided under ss. 938.245 ~~(2) (a) 5~~, 938.32 (1t), 938.34 (5), 938.345, 943.212, 943.23 (6), 943.245, 943.51 and 973.20.

History: 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31; 1997 a. 181, 237, 283.

938.45 (1v)(a)

(end of part)

~~Case~~ Case ATG-1

No. 41

if the court assigned to exercise jurisdiction under the juvenile justice code (juvenile 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. Parent (parent), a parent who has custody of such a juvenile may also be required to make reasonable restitution for any damage or injury ~~to~~ resulting from the juvenile's act, subject to a maximum limitation of \$5,000 and subject to reduction by the amount recovered from the juvenile.

(ed. 4/20/21)

Insert A-2

(100P)

Further, the bill changes the standard that the juvenile court must consider in determining whether to order the payment of restitution from whether that payment is beneficial to the well-being and behavior of the juvenile to whether <sup>that</sup> payment is beneficial to the well-being or behavior of the juvenile.

red & insert

~~Section A-3~~

¶ 6. If the victim has been paid a crime victim's award by the department of justice, ~~and~~ any restitution received up to the amount of the award <sup>award</sup> must be paid into the general fund and the balance must be paid to the victim.

End of      X)

**LEGISLATIVE REFERENCE BUREAU**  
**Legal Section Telephone: 266-3561**  
**5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 2/19/99

**To:** Representative Goetsch

**Relating to LRB drafting number:** LRB-0897

**Topic**  
Juvenile restitution

**Subject(s)**  
Children - delinquency



1. **JACKET** the draft for introduction \_\_\_\_\_  
in the **Senate** \_\_\_\_ or the **Assembly** \_\_\_\_ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_  
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_  
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

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