

1999 DRAFTING REQUEST

Bill

Received: **09/14/98**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Tony Staskunas (608) 266-0620**

By/Representing: **Mike**

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

Drafter: **malaigm**

May Contact:

Alt. Drafters: **gibsom**

Subject: **Children - miscellaneous
Trade Regulation**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Children and tobacco

Instructions:

Redraft 97AB590 with 97a1066/1

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 09/25/98			_____			
/P1	gibsom 10/6/98	gilfokm 10/6/98	jfrantze 10/12/98	_____			S&L
/1	gibsom 10/12/98	gilfokm 10/12/98	jfrantze 10/12/98	_____	lrb_docadmin 10/12/98		S&L
/2	malaigm 02/25/99	gilfokm 02/26/99	jfrantze 03/1/99	_____	lrb_docadmin 03/1/99	lrb_docadmin 03/2/99	

FE Sent For:

3/29/99

<END>

1999 DRAFTING REQUEST

Bill

Received: **09/14/98**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Tony Staskunas (608) 266-0620**

By/Representing: **Mike**

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

Drafter: **malaigm**

May Contact:

Alt. Drafters: **gibsom**

Subject: **Children - miscellaneous
Trade Regulation**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Children and tobacco

Instructions:

Redraft 97AB590 with 97a1066/1

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 09/25/98			_____			
/P1	gibsom 10/6/98	gilfokm 10/6/98	jfrantze 10/12/98	_____			S&L
/1	gibsom 10/12/98	gilfokm 10/12/98	jfrantze 10/12/98	_____	lrb_docadmin 10/12/98		S&L
/2	malaigm 02/25/99	gilfokm 02/26/99	jfrantze 03/1/99	_____	lrb_docadmin 03/1/99		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **09/14/98**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Tony Staskunas (608) 266-0620**

By/Representing: **Mike**

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

Drafter: **malaigm**

May Contact:

Alt. Drafters: **gibsom**

Subject: **Children - miscellaneous
Trade Regulation**

Extra Copies:

Topic:

Children and tobacco

Instructions:

Redraft 97AB590 with 97a1066/1

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 09/25/98			_____			
/P1	gibsom 10/6/98	gilfokm 10/6/98	jfrantze 10/12/98	_____			S&L
/1	gibsom 10/12/98	gilfokm 10/12/98	jfrantze 10/12/98	_____	lrb_docadmin 10/12/98		

FE Sent For: *12-2-26-99*
kmg *JSL* *JSP*
 <END>

1999 DRAFTING REQUEST

Bill

Received: 09/14/98

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: Tony Staskunas (608) 266-0620

By/Representing: Mike

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters: gibsom

Subject: Children - miscellaneous
Trade Regulation

Extra Copies:

Topic:

Children and tobacco

Instructions:

Redraft 97AB590 with 97a1066/1

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>
1?	malaigm	1/1-10-6 kmq	10/17 10/12	10/17 10/12			

FE Sent For:

<END>



DNOTE

+MGG

0174A PLK RM LUN

State of Wisconsin
1997-1998 LEGISLATURE

DRB-991241
GMM:hmh

the sale and distribution of
cigarettes and tobacco
products to minors

kg
Soon

1999

1997 ASSEMBLY BILL 590

November 4, 1997 - Introduced by Representatives STASKUNAS, UNDERHEIM, JENSEN, LADWIG, PLALE, HASENGRUB, PLOUFF, F. LASEE and GUNDERSON, cosponsored by Senators BURKE and FARROW. Referred to Committee on Criminal Justice and Corrections.

Regenerate

- 1
- 2
- 3
- 4
- 5
- 6

AN ACT to repeal 778.25 (1)(a) 4.; to amend 778.25 (1)(a) 1., 938.17 (2)(c), 938.17 (2)(d), 938.17 (2)(e), 938.34 (3), 938.344 (title) and 938.344 (3); and to create 938.344 (2r), 938.983 (2r), 938.983 (2t) and 938.983 (2v) of the statutes; relating to: the amount of a penalty that may be imposed on a juvenile who commits a delinquent act and on a person under 18 years of age who possesses cigarettes or tobacco products, and providing penalties.

and on the parent of such a person

Analysis by the Legislative Reference Bureau

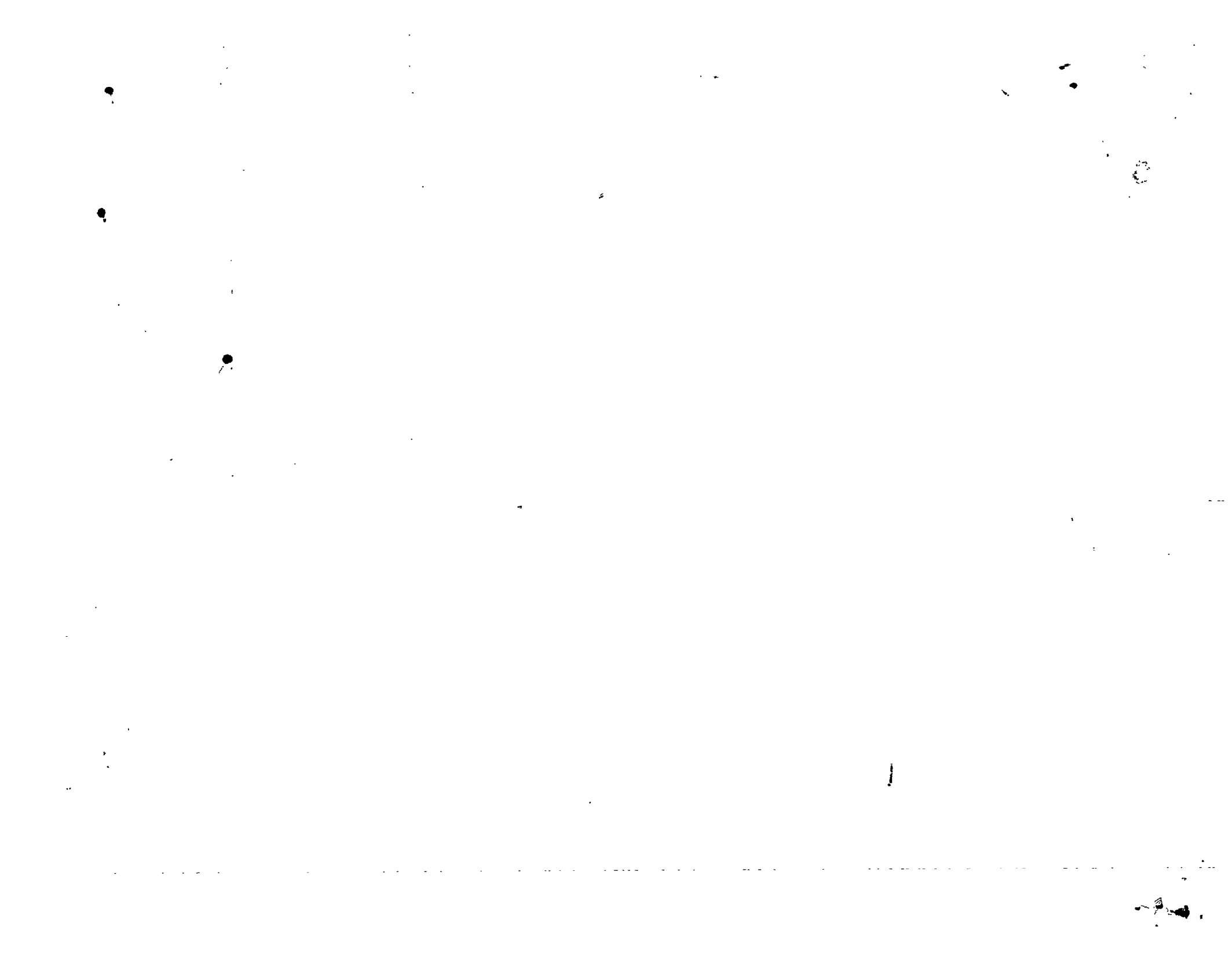
INVEST ANALYSIS

Under current law, no person under 18 years of age may buy or attempt to buy any tobacco product, falsely represent his or her age for the purpose of receiving any tobacco product or possess any tobacco product. Currently, a person under 18 years of age who commits any of those acts may be ordered to pay a forfeiture of not more than \$50, placed in a teen court program, ordered to participate in a supervised work program or other community service work or ordered to undergo any combination of those dispositions. This bill increases the maximum amount of a forfeiture that may be imposed on a person under 18 years of age who commits any of those acts to \$250.

~~Under current law, the court assigned to exercise jurisdiction under the juvenile justice code (juvenile court) may impose various dispositions on a person under 17 years of age (juvenile) who commits a delinquent act. Those dispositions include a forfeiture of not more than the maximum amount of the fine that may be imposed on an adult for committing the violation committed by the juvenile or, if the violation is only applicable to a person under 18 years of age, \$100. This bill raises~~

INVEST ANALYSIS

In addition, the parent of such a person may also be ordered to pay the forfeiture.



~~the maximum amount of a forfeiture that may be imposed on a juvenile who commits a delinquent act that is only applicable to a person under 18 years of age to \$250.~~

Insert 2-1
A-B

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

1

SECTION 1. 778.25 (1) (a) 1. of the statutes is amended to read:

778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983, 961.573 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming to one of those statutes brought against an adult in circuit court or against a minor in the court assigned to exercise jurisdiction under chs. 48 and 938.

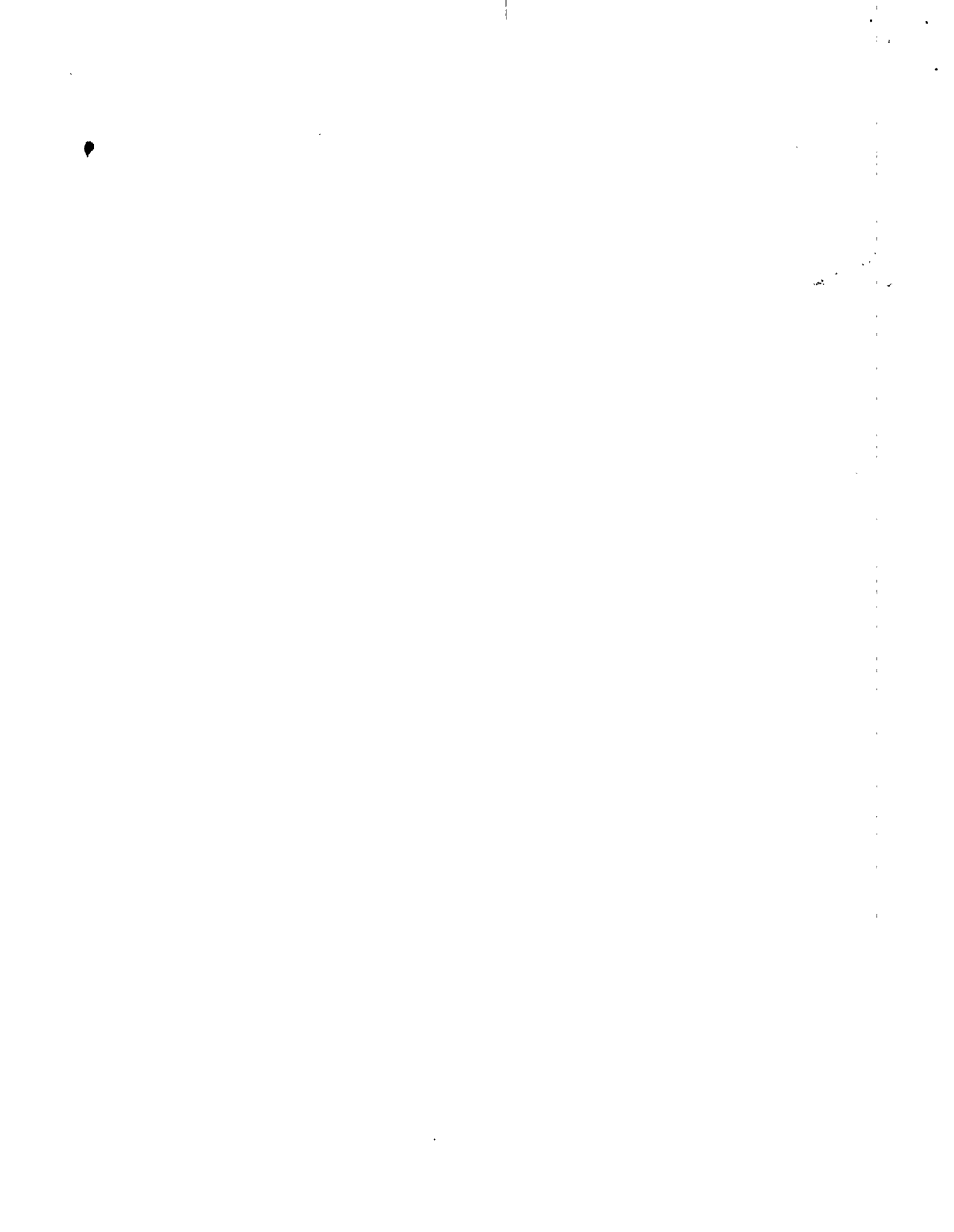
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

SECTION 2. 778.25 (1) (a) 4. of the statutes is repealed.

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

938.17 (2) (c) The citation procedures described in ch. 800 shall govern proceedings involving juveniles in municipal court, except that this chapter shall govern the taking and holding of a juvenile in custody and par. (cg) shall govern the issuing of a summons to the juvenile's parent, guardian or legal custodian. When a juvenile is before the court assigned to exercise jurisdiction under this chapter and ch. 48 upon a citation alleging the juvenile to have violated a civil law or municipal ordinance, the procedures specified in s. 938.237 shall apply. If a citation is issued to a juvenile, the issuing agency shall notify the juvenile's parent, guardian and legal custodian within 7 days. The agency issuing a citation to a juvenile who is 12 to 15 years of age for a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983, 961.573 (2), 961.574 (2) or 961.575 (2) or an ordinance conforming to one of those statutes shall send a copy to an intake worker under s. 938.24 for informational purposes only.

SECTION 4. 938.17 (2) (d) of the statutes is amended to read:



1 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
 2 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
 3 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983, 961.573 (2),
 4 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders
 5 permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails
 6 to pay the forfeiture imposed by the municipal court, the court may not impose a jail
 7 sentence but may suspend any license issued under ch. 29 for not less than 30 days
 8 nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s.
 9 340.01 (40), for not less than 30 days nor more than 5 years. If a court suspends a
 10 license or privilege under this section, the court shall immediately take possession
 11 of the applicable license and forward it to the department that issued the license,
 12 together with the notice of suspension clearly stating that the suspension is for
 13 failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the
 14 period of suspension, the court shall immediately notify the department, which shall
 15 thereupon return the license to the person.

16 SECTION 5. 938.17 (2) (e) of the statutes is amended to read:

17 938.17 (2) (e) If a municipal court finds that a juvenile violated a municipal
 18 ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
 19 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter a dispositional order
 20 under s. 938.344 that is authorized under par. (cm).

21 SECTION 6. ~~938.34 (8) of the statutes is amended to read:~~

22 ~~938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that~~
 23 ~~this disposition is in the best interest of the juvenile and in aid of rehabilitation. The~~
 24 ~~maximum forfeiture that the court may impose under this subsection for a violation~~
 25 ~~by a juvenile is the maximum amount of the fine that may be imposed on an adult~~

proof w/ data

1 for committing that violation or, if the violation is applicable only to a person under
2 18 years of age, \$100 ~~\$250~~. Any such order shall include a finding that the juvenile
3 alone is financially able to pay the forfeiture and shall allow up to 12 months for
4 payment. If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture
5 and order other alternatives under this section, in accordance with the conditions
6 specified in this subchapter, or the court may suspend any license issued under ch.
7 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating
8 privilege as defined in s. 340.01 (40) for not less than 30 days nor more than 5 years.
9 If the court suspends any license under this subsection, the clerk of the court shall
10 immediately take possession of the suspended license and forward it to the
11 department which issued the license, together with a notice of suspension clearly
12 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
13 the forfeiture is paid during the period of suspension, the suspension shall be reduced
14 to the time period which has already elapsed and the court shall immediately notify
15 the department which shall then return the license to the juvenile.

16 SECTION 7. 938.344 (title) of the statutes is amended to read:

17 **938.344 (title) Disposition; certain intoxicating liquor, beer, tobacco**
18 **and drug violations.**

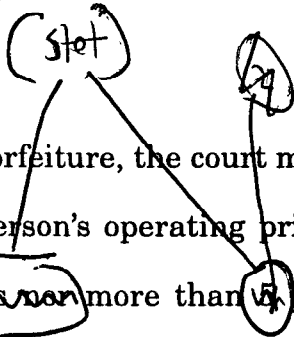
19 SECTION 8. 938.344 (2r) of the statutes is created to read:

20 938.344 (2r) If a court finds that a juvenile has committed a violation of s.
21 938.983 (2) or a local ordinance enacted under s. 938.983 (5), the court shall order one
22 or any combination of the following dispositions:

23 (a) Counseling by the court of the person and his or her parent or guardian.

24 (b) A forfeiture not to exceed \$250. Any such order shall include a finding that
25 the person alone is financially able to pay and shall allow up to 12 months for the

Handwritten:
17
18



1 payment. If a person fails to pay the forfeiture, the court may suspend any license
 2 issued under ch. 29 or suspend the person's operating privilege, as defined in s.
 3 340.01 (40), for not less than 30 days nor more than 5 years. The court shall
 4 immediately take possession of the suspended license and forward it to the
 5 department that issued the license, together with the notice of suspension clearly
 6 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
 7 the forfeiture is paid during the period of suspension, the court shall immediately
 8 notify the department, which will thereupon return the license to the person.

(Main)
 (Not recovery under this subsection shall be reduced by the amount recovered as a forfeiture under s. 938.983 (1)(b)).

9 (c) Placement in a teen court program if all of the following conditions apply:

10 1. The chief judge of the judicial administrative district has approved a teen
 11 court program established in the person's county of residence and the judge
 12 determines that participation in the teen court program will likely benefit the person
 13 and the community.

14 2. The person admits or pleads no contest in open court, with the person's
 15 parent, guardian or legal custodian present, to the allegations that the person
 16 violated s. 938.983 (2) or the ordinance enacted under s. 938.983 (5).

17 3. The person has not successfully completed participation in a teen court
 18 program during the 2 years before the date of the alleged violation of s. 938.983 (2)
 19 or the ordinance enacted under s. 938.983 (5).

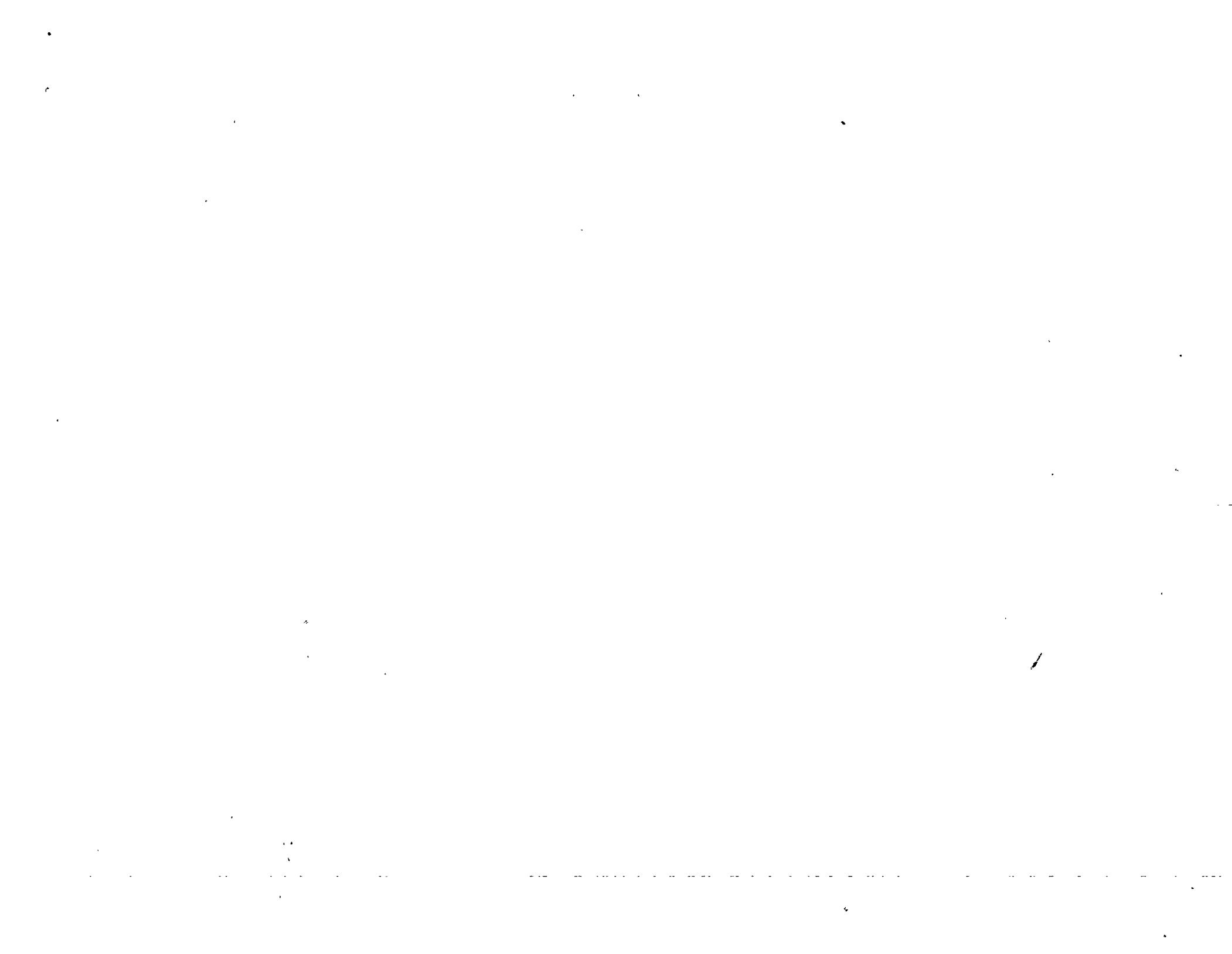
20 (d) Participation in a supervised work program or other community service
 21 work under s. 938.34 (5g) 938.983 (2)(a) (2+)

22 SECTION 9. 938.344 (3) of the statutes is amended to read:

23 938.344 (3) If the a juvenile who is alleged to have committed the a violation
 24 of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983, or of a local ordinance
 25 that strictly conforms to one of those statutes, is within 3 months of his or her 17th

Proposed photo.

Insert
 5-21 ✓



1 birthday, the court assigned to exercise jurisdiction under this chapter and ch. 48
 2 may, at the request of the district attorney or on its own motion, dismiss the citation
 3 without prejudice and refer the matter to the district attorney for prosecution under
 4 s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983 or a local ordinance that
 5 strictly conforms to one of those statutes. The juvenile is entitled to a hearing only
 6 on the issue of his or her age. This subsection does not apply to violations under s.
 7 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to
 8 one of those statutes.

Insert
6-8

9 **SECTION 10.** 938.983 (2r) of the statutes is created to read:

10 938.983 (2r) Subject to sub. (2v), any person who violates sub. (2) is subject to
 11 one or any combination of the following dispositions: (stet)

12 (a) Counseling by the court of the person and his or her parent or guardian.

13 (b) A forfeiture not to exceed \$250. Any such order shall include a finding that
 14 the person alone is financially able to pay and shall allow up to 12 months for the
 15 payment. If a person fails to pay the forfeiture, the court may suspend any license
 16 issued under ch. 29 or suspend the person's operating privilege, as defined in s.
 17 340.01 (40), for not less than 90 days nor more than 5 years. The court shall

18 immediately take possession of the suspended license and forward it to the
 19 department that issued the license, together with the notice of suspension clearly
 20 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
 21 the forfeiture is paid during the period of suspension, the court shall immediately
 22 notify the department, which will thereupon return the license to the person.

23 (c) Placement in a teen court program if all of the following conditions apply:

24 1. The chief judge of the judicial administrative district has approved a teen
 25 court program established in the person's county of residence and the judge

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

1 determines that participation in the teen court program will likely benefit the person
2 and the community.

3 2. The person admits or pleads no contest in open court, with the person's
4 parent, guardian or legal custodian present, to the allegations that the person
5 violated sub. (2) or the ordinance enacted under sub. (5).

6 3. The person has not successfully completed participation in a teen court
7 program during the 2 years before the date of the alleged violation of sub. (2) or the
8 ordinance enacted under sub. (5).

9 (d) Participation in a supervised work program administered by the county
10 department or a community agency approved by the court or other community
11 service work administered by a public agency or nonprofit charitable organization
12 approved by the court as described in sub. (2t).

13 **SECTION 11.** 938.983 (2t) of the statutes is created to read:

14 938.983 (2t) (a) The court shall set standards for the supervised work program
15 under sub. (2r) (d) within the budgetary limits established by the county board of
16 supervisors. The supervised work program may provide the person with reasonable
17 compensation reflecting a reasonable market value of the work performed or it may
18 consist of uncompensated community service work. The court may use any available
19 resources, including any community service work program, in ordering the person
20 to perform community service work under sub. (2r).

21 (b) The supervised work program or other community service work shall be of
22 a constructive nature designed to promote the person's rehabilitation, shall be
23 appropriate to the person's age level and physical ability and shall be combined with
24 counseling from a member of the staff of the county department, community agency,
25 public agency or nonprofit charitable organization or other qualified person. The

1 supervised work program or other community service work may not conflict with the
2 person's regular attendance at school. The amount of work required shall be
3 reasonably related to the seriousness of the person's offense.

4 SECTION 12. 938.983 (2v) of the statutes is created to read:

5 938.983 (2v) A person who is under 17 years of age on the date of disposition
6 is subject to s. 938.344 unless proceedings have been instituted against the person
7 in a court of civil or criminal jurisdiction after dismissal of the citation under s.
8 938.344 (3).

9 SECTION 13. Initial applicability.

10 ~~This act first applies to a violation of section 938.983 of the statutes, as~~
11 ~~affected by this act, or of a local ordinance that strictly conforms to that statute,~~
12 ~~occurring on the effective date this subsection.~~

Insert
8-9

(2)

(END)

paragraph

895.035(6)

(a)
The treatment of sections 778.25 (1) (a), 1. and 4.
938.17 (2) (c), (d) and (e), 938.344 (1)(e),
(2r) and (3) and 938.45 (1)(b) and 938.983 (2r), (2t) and (2v)
first applies

quits
ref. in
Effic. Date

of the statutes

auto ref. in
Effective Date

(b) The amendment of sections 938.344 (2)(b) and 938.483 (2)(b) of the statutes first apply to a violation of ~~the~~ section 938.483 (2) of the statutes occurring on the effective date of this subsection.

paragraph

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdate**
For the text, execute: **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # _____ . Effective date.

(#1) () This act takes effect on

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → *NS: → **effdateE**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # _____ . Effective dates;

..... This act takes effect on the day after publication, except as follows:

(#1) () The treatment of sections 938.344 (2)(b) and 938.983 (2)(b) of the statutes takes effect on May 1, 2000, or on the date stated

1. In the component bar: For the budget action phrase, execute:.. **create** → **action:** → *NS: → **94XX**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the **9400** department code; and fill in "()" only if a "frozen" number is needed.

SECTION 94 _____ . Effective dates;

(#1) () The treatment of sections of the statutes takes effect on (initials)

and SECTION (2)(b) of this act take

Initial App. SEC.

WPO: auto ref. nonstat sec.

amendment

auto ref. (2), then (b)

(2)

(Nonstat)



license or
permit

¶ The bill also increases the penalties for violations by ~~persons~~ retailers and others who are prohibited from selling, or distributing for free, tobacco products to minors. The increases included raising the ^{maximum} penalty amounts, ~~change~~ changing the penalties for subsequent violations from forfeitures to fines and increasing the ^{maximum} number of days that a ~~person~~ ^{or distribute} ~~to sell~~ tobacco products may be suspended. for these violations

in the notice published by the secretary of transportation

in the Wisconsin Administrative Register under section

85.515 of the statutes, whichever is earlier.

(END)

DN015

Insert 2-1

~~ASSEMBLY AMENDMENT
TO 1997 ASSEMBLY BILL 590~~

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 6: after "products" insert ", sale and distribution of cigarettes
3 and tobacco products to minors".

4 2. Page 2, line 1: before that line insert:

5 SECTION ~~10~~ 134.66 (4) (a) 1. of the statutes is amended to read:

6 134.66 (4) (a) 1. In this paragraph, "violation" means a violation of sub. (2) (a),
7 (b) (cm), (d) or (e) or a local ordinance which strictly conforms to sub. (2) (a), (b) (cm),
8 (d) or (e). For purposes of determining previous violations under subds. 2. and 3., the
9 30-month periods shall be measured from the date of the violations that resulted in
10 an imposition of a forfeiture or a conviction.

11 SECTION ~~10~~ 134.66 (4) (a) 2. (intro.) of the statutes is amended to read:

12 134.66 (4) (a) 2. (intro.) A person who commits a violation is subject to a
13 forfeiture of:

Proof w/ stats.
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

WPO: show all SEC #'s

Page 4 of 10
Page 1 of 10
23

SECTION 1d. 134.66 (4) (a) 2. a. of the statutes is amended to read:

134.66 (4) (a) 2. a. ~~Not~~ A forfeiture of not more than \$500 if the person has not committed a previous violation within ~~12~~ 30 months of the violation; ~~or~~

SECTION 1e. 134.66 (4) (a) 2. b. of the statutes is amended to read:

134.66 (4) (a) 2. b. ~~Not less than \$200 nor~~ A fine of not more than \$500 \$750 if the person has committed a previous violation within ~~12~~ 30 months of the violation;

SECTION 1f. 134.66 (4) (a) 2. c. of the statutes is created to read:

134.66 (4) (a) 2. c. A fine of not more that \$1,000 if the person has committed 2 previous violations within 30 months of the violation; ~~or~~

SECTION 1g. 134.66 (4) (a) 2. d. of the statutes is created to read:

134.66 (4) (a) 2. d. A fine of not more that \$10,000 if the person has committed 3 or more previous violations within 30 months of the violation.

SECTION 1h. 134.66 (4) (a) 3. a. of the statutes is amended to read:

134.66 (4) (a) 3. a. Not more than ~~3~~ 10 days, if the court finds that the person committed a violation within ~~12~~ 30 months after committing one previous violation;

SECTION 1j. 134.66 (4) (a) 3. b. of the statutes is amended to read:

134.66 (4) (a) 3. b. Not less than ~~3~~ 10 days nor more than ~~10~~ 30 days, if the court finds that the person committed a violation within ~~12~~ 30 months after committing 2 other violations; or

SECTION 1k. 134.66 (4) (a) 3. c. of the statutes is amended to read:

134.66 (4) (a) 3. c. Not less than ~~15~~ 10 days nor more than ~~30~~ 90 days, if the court finds that the person committed the violation within ~~12~~ 30 months after committing 3 or more other violations.

3. Page 2, line 1: substitute "SECTION 1m" for "SECTION 1".

(end of insert)

Insert 2-6 ✓

Section #. 895.035 (6) of the statutes is amended to read:

✓
938.344 (2r) (b)

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)

-4-
Insert 5-21 ✓

1 for committing that violation or, if the violation is applicable only to a person under
 2 18 years of age, ~~\$100~~ \$250. Any such order shall include a finding that the juvenile
 3 alone is financially able to pay the forfeiture and shall allow up to 12 months for
 4 payment. If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture
 5 and order other alternatives under this section, in accordance with the conditions
 6 specified in this subchapter, or the court may suspend any license issued under ch.
 7 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating
 8 privilege as defined in s. 340.01 (40) for not less than 30 days nor more than 5 years.
 9 If the court suspends any license under this subsection, the clerk of the court shall
 10 immediately take possession of the suspended license and forward it to the
 11 department which issued the license, together with a notice of suspension clearly
 12 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
 13 the forfeiture is paid during the period of suspension, the suspension shall be reduced
 14 to the time period which has already elapsed and the court shall immediately notify
 15 the department which shall then return the license to the juvenile.

16 SECTION 7. 938.344 (title) of the statutes is amended to read:

17 **938.344 (title) Disposition; certain intoxicating liquor, beer, tobacco**
 18 **and drug violations.**

19 SECTION 8. 938.344 (2r) of the statutes ~~is~~ created to read:

20 ~~938.344 (2r) If a court finds that a juvenile has committed a violation of s.~~
 21 ~~938.983 (2) or a local ordinance enacted under s. 938.983 (5), the court shall order one~~
 22 ~~or any combination of the following dispositions:~~

23 (a) Counseling by the court of the person and his or her parent or guardian.

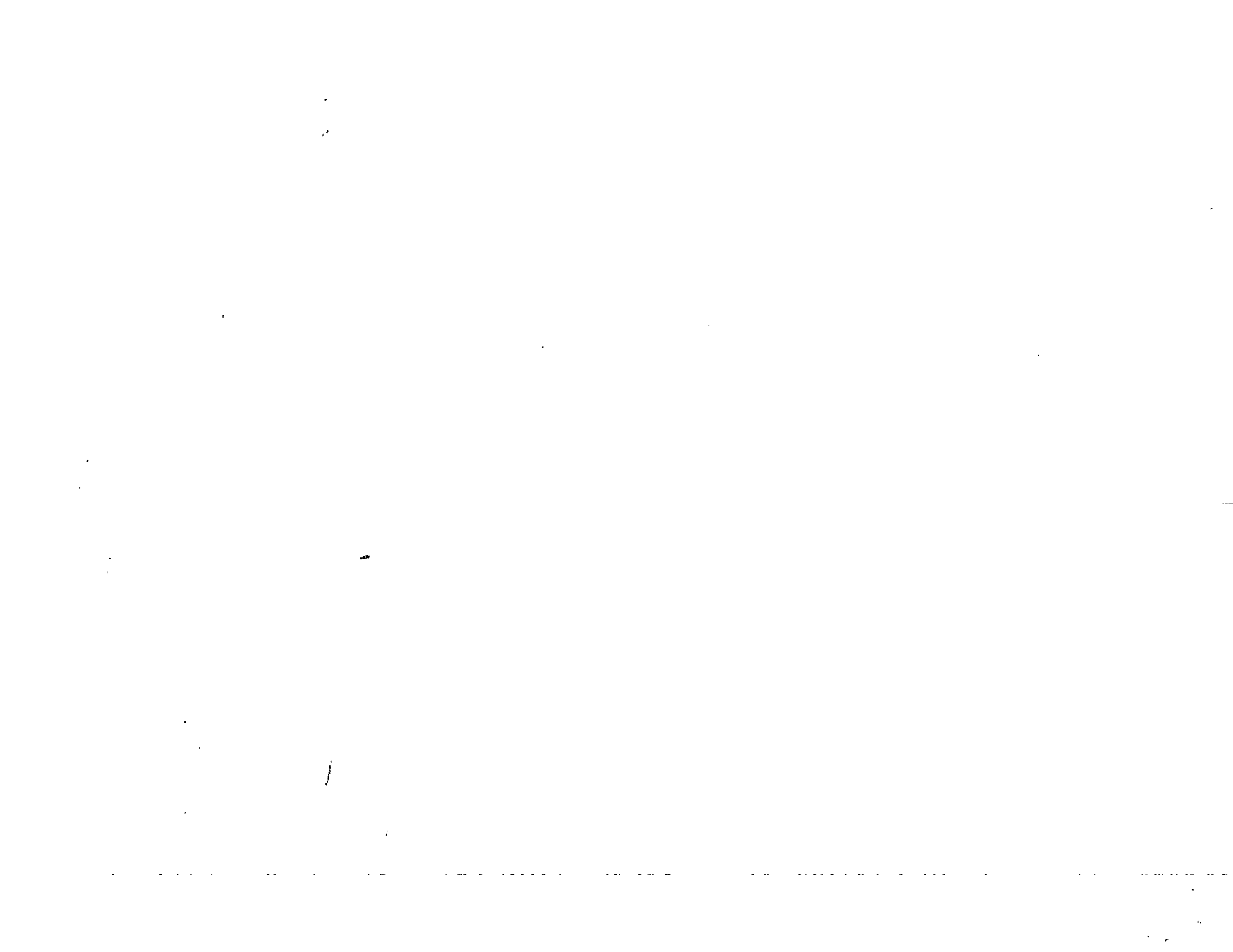
24 ~~(b) A forfeiture not to exceed \$250. Any such order shall include a finding that~~
 25 ~~the person alone is financially able to pay and shall allow up to 12 months for the~~

fix component

by 1999 Wisconsin Act 111 (this act), is amended

938.344 (b) (2r)





Insert 5-21 cont

score
2 (Strike + score)

strike

1 payment. If a person fails to pay the forfeiture, the court may suspend any license
 2 issued under ch. 29 or suspend the person's operating privilege, as defined in s.
 3 340.01 (40), for not ~~less than 30 days nor~~ more than ~~5~~ years. The court shall
 4 immediately take possession of the suspended license and forward it to the
 5 department that issued the license, together with the notice of suspension clearly
 6 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
 7 the forfeiture is paid during the period of suspension, the court shall immediately
 8 notify the department, which will thereupon return the license to the person.

(Gain)
Any recovery under this subsection shall be reduced by the amount recovered as a forfeiture under s. 938.915 (1)(b).

(e) Placement in a teen court program if all of the following conditions apply:

10 1. The chief judge of the judicial administrative district has approved a teen
 11 court program established in the person's county of residence and the judge
 12 determines that participation in the teen court program will likely benefit the person
 13 and the community.

14 2. The person admits or pleads no contest in open court, with the person's
 15 parent, guardian or legal custodian present, to the allegations that the person
 16 violated s. 938.983 (2) or the ordinance enacted under s. 938.983 (5).

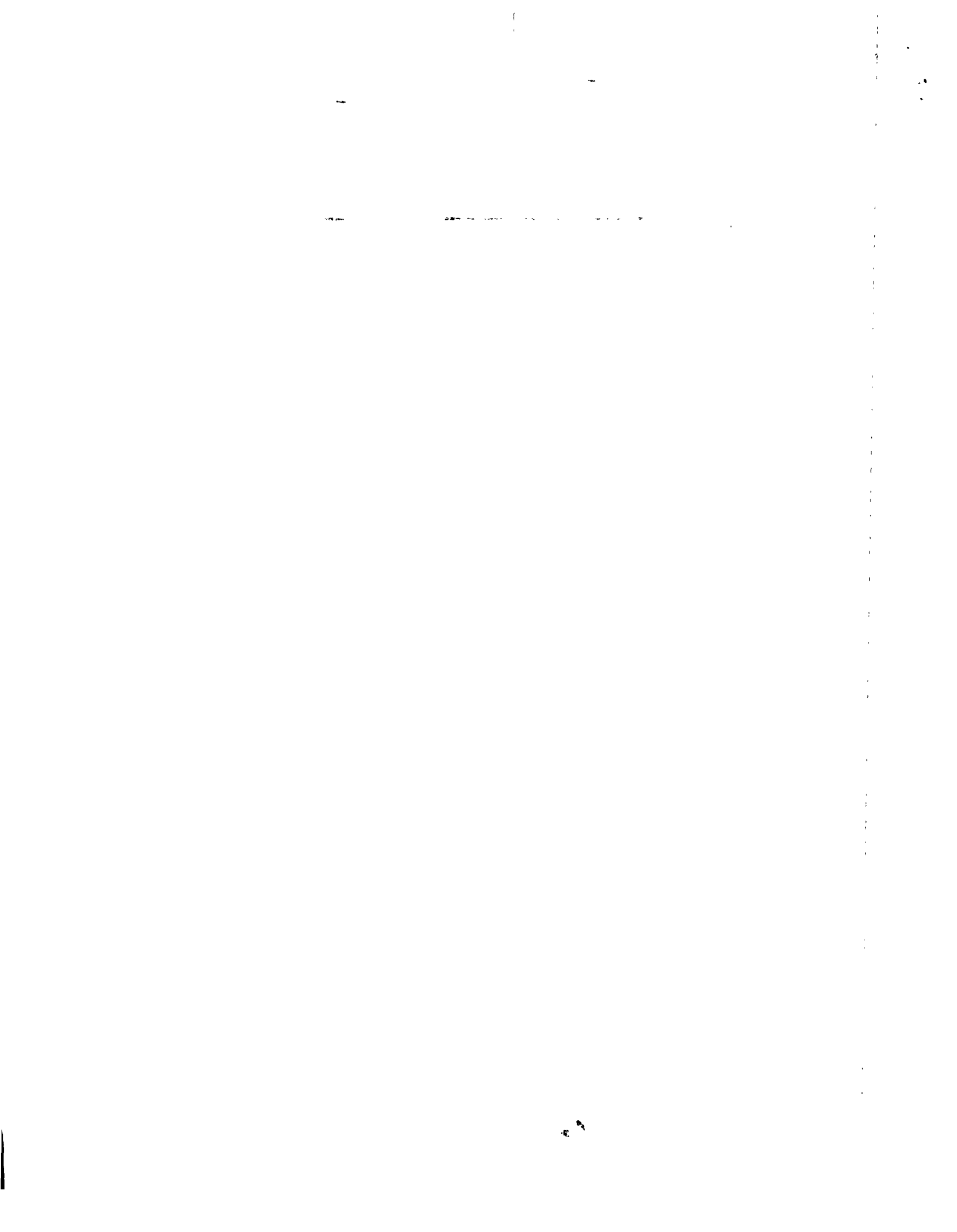
17 3. The person has not successfully completed participation in a teen court
 18 program during the 2 years before the date of the alleged violation of s. 938.983 (2)
 19 or the ordinance enacted under s. 938.983 (5).

20 (d) Participation in a supervised work program or other community service
 21 work under s. 938.34 (5) *938.983 (2)*

SECTION 9. 938.344 (3) of the statutes is amended to read:

23 938.344 (3) If ~~the a~~ juvenile who is alleged to have committed the a violation
 24 of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983, or of a local ordinance
 25 that strictly conforms to one of those statutes, is within 3 months of his or her 17th

(end of insert)



Insert 6-8 ✓

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

or 938.344 (2r)(b)

✓ (1)

938.45 (1r) (b) In a proceeding in which the court has determined under s. 938.34 (8) ~~or~~ 938.343 (2) that the imposition of a forfeiture would be in the best interest of the juvenile and in aid of rehabilitation, the court may order a parent who has custody, as defined in s. 895.035 (1), of the juvenile to pay the forfeiture. The amount of any forfeiture ordered under this paragraph may not exceed the amount specified in s. 799.01 (1) (d). Any order under this paragraph shall include a finding that the parent who has custody of the juvenile is financially able to pay the amount ordered and shall allow up to 12 months after the date of the order for the payment. Any recovery under this paragraph shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.34 (8) ~~or~~ 938.343 (2).

(1)

~~History: 1995 a. 17; 1997 a. 35, 205.~~

or 938.344 (2r)(b)

(end of text)

-6-
Insert 7-12 ✓

1 birthday, the court assigned to exercise jurisdiction under this chapter and ch. 48
 2 may, at the request of the district attorney or on its own motion, dismiss the citation,
 3 without prejudice and refer the matter to the district attorney for prosecution under
 4 s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983 or a local ordinance that
 5 strictly conforms to one of those statutes. The juvenile is entitled to a hearing only
 6 on the issue of his or her age. This subsection does not apply to violations under s.
 7 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to
 8 one of those statutes.

Insert
68
8
9
→
E's component

by 1999 Wisconsin Act ... (this act),
is amended

SECTION 10. 938.983 (2r) of the statutes is created to read:

938.983 (2r) Subject to sub. (2v), any person who violates sub. (2) is subject to
 11 one or any combination of the following dispositions:

12 (a) Counseling by the court of the person and his or her parent or guardian.

13 (b) A forfeiture not to exceed \$250. Any such order shall include a finding that

14 the person alone is financially able to pay and shall allow up to 12 months for the
 15 payment. If a person fails to pay the forfeiture, the court may suspend any license

16 issued under ch. 29 or suspend the person's operating privilege, as defined in s.

17 340.01 (40), for not ~~less than 30 days nor~~ more than ~~5~~ years. The court shall

18 immediately take possession of the suspended license and forward it to the
 19 department that issued the license, together with the notice of suspension clearly

20 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
 21 the forfeiture is paid during the period of suspension, the court shall immediately

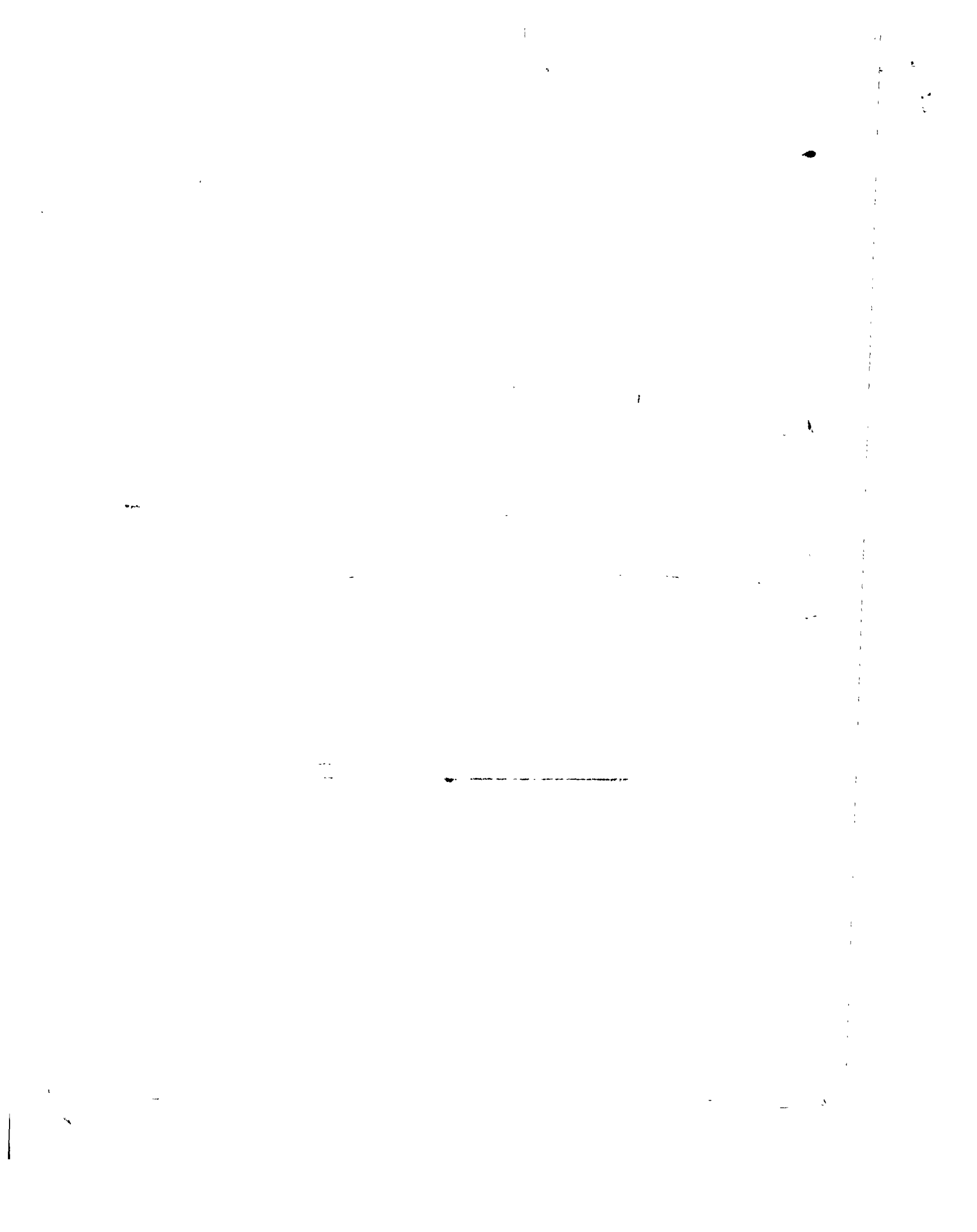
22 notify the department, which will thereupon return the license to the person.

23 (c) Placement in a teen court program if all of the following conditions apply:

24 1. The chief judge of the judicial administrative district has approved a teen
 25 court program established in the person's county of residence and the judge

Any recovery under this paragraph shall be reduced by
 the amount recovered as a forfeiture under s.
 938.43 (1r)(b).

plain
(end of act)



~~Insert 8-9~~

1

~~4. Page 8, line 9: after that line insert:~~

②

① The treatment of section 134.66 (4) (a) 2. (intro.), a., b., c. and d. and 3. a.,
b. and c. of the statutes first applies to violations committed on the effective date of
this subsection, but does not preclude the counting of other violations for which a
sentence was received before the effective date of this subsection as previous
violations for sentencing a person.

7

~~5. Page 8, line 10: substitute "(2)" for "(1)".~~

8

~~(END)~~

(end & insert)

D-Note

Note that this draft deletes from 1997 AB-590

the increase in the forfeiture that may be imposed ^{on} a delinquent

as ^{that} central focus as germane to the ~~purpose~~ of the draft, which is to deal

with cigarettes and tobacco products. The inclusion of the

increased forfeiture for delinquents was based on my advice ^{last session}

which I now rescind. My thinking last session was that

a large forfeiture for cigarettes and a small forfeiture for

a delinquent act depreciates the seriousness of ^{the} delinquent

act. While that may be true when comparing ^{ring} only the

relative weight ^f of the forfeitures, that advice did not take

into account the various other, some quite serious,

dispositions that may be imposed ^{on} a delinquent. Accordingly,

this draft does not affect the amount of a forfeiture that
may be imposed on a delinquent.

GMM



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0174/01
GMM&MGG:kg:jf

soon no changes
D-Note

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Yan Cat.

1 AN ACT to repeal 778.25 (1) (a) 4.; to amend 134.66 (4) (a) 1., 134.66 (4) (a) 2.
2 (intro.), 134.66 (4) (a) 2. a., 134.66 (4) (a) 2. b., 134.66 (4) (a) 3. a., 134.66 (4) (a)
3 3. b., 134.66 (4) (a) 3. c., 778.25 (1) (a) 1., 895.035 (6), 938.17 (2) (c), 938.17 (2)
4 (d), 938.17 (2) (e), 938.344 (title), 938.344 (2r) (b), 938.344 (3), 938.45 (1r) (b) and
5 938.983 (2r) (b); and to create 134.66 (4) (a) 2. c., 134.66 (4) (a) 2. d., 938.344
6 (2r), 938.983 (2r), 938.983 (2t) and 938.983 (2v) of the statutes; relating to: the
7 amount of a penalty that may be imposed on a person under 18 years of age who
8 possesses cigarettes or tobacco products, the sale and distribution of cigarettes
9 and tobacco products to minors and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, no person under 18 years of age may buy or attempt to buy any tobacco product, falsely represent his or her age for the purpose of receiving any tobacco product or possess any tobacco product. Currently, a person under 18 years of age who commits any of those acts may be ordered to pay a forfeiture of not more than \$50, placed in a teen court program, ordered to participate in a supervised work program or other community service work or ordered to undergo any combination of those dispositions. In addition, the parent of such a person may also be ordered to

pay the forfeiture. This bill increases the maximum amount of a forfeiture that may be imposed on a person under 18 years of age who commits any of those acts and on the parent of such a person to \$250.

The bill also increases the penalties for violations by retailers and others who are prohibited from selling, or distributing for free, tobacco products to minors. The increases include raising the maximum penalty amounts, changing the penalties for subsequent violations from forfeitures to fines and increasing the maximum number of days that a license or permit to sell or distribute tobacco products may be suspended.

← FE SL ←

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

1 **SECTION 1.** 134.66 (4) (a) 1. of the statutes is amended to read:

2 134.66 (4) (a) 1. In this paragraph, “violation” means a violation of sub. (2) (a),
3 (cm), (d) or (e) or a local ordinance which strictly conforms to sub. (2) (a), (cm), (d) or
4 (e). For purposes of determining previous violations under subds. 2. and 3., the
5 30-month periods shall be measured from the date of the violations that resulted in
6 an imposition of a forfeiture or a conviction.

7 **SECTION 2.** 134.66 (4) (a) 2. (intro.) of the statutes is amended to read:

8 134.66 (4) (a) 2. (intro.) A person who commits a violation is subject to a
9 forfeiture of:

10 **SECTION 3.** 134.66 (4) (a) 2. a. of the statutes is amended to read:

11 134.66 (4) (a) 2. a. ~~Not~~ A forfeiture of not more than \$500 if the person has not
12 committed a previous violation within ~~12~~ 30 months of the violation; ~~or~~

13 **SECTION 4.** 134.66 (4) (a) 2. b. of the statutes is amended to read:

14 134.66 (4) (a) 2. b. ~~Not less than \$200 nor~~ A fine of not more than \$500 \$750
15 if the person has committed a previous violation within ~~12~~ 30 months of the violation;

16 **SECTION 5.** 134.66 (4) (a) 2. c. of the statutes is created to read:

1 134.66 (4) (a) 2. c. A fine of not more than \$1,000 if the person has committed
2 2 previous violations within 30 months of the violation; or

3 **SECTION 6.** 134.66 (4) (a) 2. d. of the statutes is created to read:

4 134.66 (4) (a) 2. d. A fine of not more than \$10,000 if the person has committed
5 3 or more previous violations within 30 months of the violation.

6 **SECTION 7.** 134.66 (4) (a) 3. a. of the statutes is amended to read:

7 134.66 (4) (a) 3. a. Not more than ~~3~~ 10 days, if the court finds that the person
8 committed a violation within ~~12~~ 30 months after committing one previous violation;

9 **SECTION 8.** 134.66 (4) (a) 3. b. of the statutes is amended to read:

10 134.66 (4) (a) 3. b. Not less than ~~3~~ 10 days nor more than ~~10~~ 30 days, if the court
11 finds that the person committed a violation within ~~12~~ 30 months after committing
12 2 other violations; or

13 **SECTION 9.** 134.66 (4) (a) 3. c. of the statutes is amended to read:

14 134.66 (4) (a) 3. c. Not less than ~~15~~ 10 days nor more than ~~30~~ 90 days, if the court
15 finds that the person committed the violation within ~~12~~ 30 months after committing
16 3 or more other violations.

17 **SECTION 10.** 778.25 (1) (a) 1. of the statutes is amended to read:

18 778.25 (1) (a) 1. Under s. 125.07 (4)(a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
19 961.573 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming
20 to one of those statutes brought against an adult in circuit court or against a minor
21 in the court assigned to exercise jurisdiction under chs. 48 and 938.

22 **SECTION 11.** 778.25 (1) (a) 4. of the statutes is repealed.

23 **SECTION 12.** 895.035 (6) of the statutes is amended to read:

24 895.035 (6) Any recovery of restitution under this section shall be reduced by
25 the amount recovered as restitution for the same act under s. 938.245, 938.32, 938.34

1 (5), 938.343 (4) or 938.45 (1r) (a). Any recovery of a forfeiture under this section shall
2 be reduced by the amount recovered as a forfeiture for the same act under s. 938.34
3 (8), 938.343 (2), 938.344 (2r) (b) or 938.45 (1r) (b). Any recovery of a surcharge under
4 this section shall be reduced by the amount recovered as a surcharge under s. 938.34
5 (8d).

6 **SECTION 13.** 938.17 (2) (c) of the statutes is amended to read:

7 938.17 (2) (c) The citation procedures described in ch. 800 shall govern
8 proceedings involving juveniles in municipal court, except that this chapter shall
9 govern the taking and holding of a juvenile in custody and par. (cg) shall govern the
10 issuing of a summons to the juvenile's parent, guardian or legal custodian. When a
11 juvenile is before the court assigned to exercise jurisdiction under this chapter and
12 ch. 48 upon a citation alleging the juvenile to have violated a civil law or municipal
13 ordinance, the procedures specified in s. 938.237 shall apply. If a citation is issued
14 to a juvenile, the issuing agency shall notify the juvenile's parent, guardian and legal
15 custodian within 7 days. The agency issuing a citation to a juvenile who is 12 to 15
16 years of age for a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
17 961.573 (2), 961.574 (2) or 961.575 (2) or an ordinance conforming to one of those
18 statutes shall send a copy to an intake worker under s. 938.24 for informational
19 purposes only.

20 **SECTION 14.** 938.17 (2) (d) of the statutes is amended to read:

21 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
22 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
23 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983, 961.573 (2),
24 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders
25 permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails

1 to pay the forfeiture imposed by the municipal court, the court may not impose a jail
2 sentence but may suspend any license issued under ch. 29 for not less than 30 days
3 nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s.
4 340.01 (40), for not less than 30 days nor more than 5 years. If a court suspends a
5 license or privilege under this section, the court shall immediately take possession
6 of the applicable license and forward it to the department that issued the license,
7 together with the notice of suspension clearly stating that the suspension is for
8 failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the
9 period of suspension, the court shall immediately notify the department, which shall
10 thereupon return the license to the person.

11 **SECTION 15.** 938.17 (2) (e) of the statutes is amended to read:

12 938.17 (2) (e) If a municipal court finds that a juvenile violated a municipal
13 ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
14 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter a dispositional order
15 under s. 938.344 that is authorized under par. (cm).

16 **SECTION 16.** 938.344 (title) of the statutes is amended to read:

17 **938.344 (title) Disposition; certain intoxicating liquor, beer, tobacco**
18 **and drug violations.**

19 **SECTION 17.** 938.344 (2r) of the statutes is created to read:

20 938.344 (2r) If a court finds that a juvenile has committed a violation of s.
21 938.983 (2) or a local ordinance enacted under s. 938.983 (5), the court shall order one
22 or any combination of the following dispositions:

23 (a) Counseling by the court of the person and his or her parent or guardian.

24 (b) A forfeiture not to exceed \$250. Any such order shall include a finding that
25 the person alone is financially able to pay and shall allow up to 12 months for the

1 payment. If a person fails to pay the forfeiture, the court may suspend any license
2 issued under ch. 29 or suspend the person's operating privilege, as defined in s.
3 340.01 (40), for not less than 30 days nor more than 5 years. The court shall
4 immediately take possession of the suspended license and forward it to the
5 department that issued the license, together with the notice of suspension clearly
6 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
7 the forfeiture is paid during the period of suspension, the court shall immediately
8 notify the department, which will thereupon return the license to the person. Any
9 recovery under this subsection shall be reduced by the amount recovered as a
10 forfeiture under s. 938.45 (1r) (b).

11 (c) Placement in a teen court program if all of the following conditions apply:

12 1. The chief judge of the judicial administrative district has approved a teen
13 court program established in the person's county of residence and the judge
14 determines that participation in the teen court program will likely benefit the person
15 and the community.

16 2. The person admits or pleads no contest in open court, with the person's
17 parent, guardian or legal custodian present, to the allegations that the person
18 violated s. 938.983 (2) or the ordinance enacted under s. 938.983 (5).

19 3. The person has not successfully completed participation in a teen court
20 program during the 2 years before the date of the alleged violation of s. 938.983 (2)
21 or the ordinance enacted under s. 938.983 (5).

22 (d) Participation in a supervised work program or other community service
23 work under s. 938.983 (2t).

24 **SECTION 18.** 938.344 (2r) (b) of the statutes, as created by 1999 Wisconsin Act
25 (this act), is amended to read:

1 938.344 (2r) (b) A forfeiture not to exceed \$250. Any such order shall include
2 a finding that the person alone is financially able to pay and shall allow up to 12
3 months for the payment. If a person fails to pay the forfeiture, the court may suspend
4 any license issued under ch. 29 or suspend the person's operating privilege, as
5 defined in s. 340.01 (40), for not less than 30 days nor more than 5 2 years. The court
6 shall immediately take possession of the suspended license and forward it to the
7 department that issued the license, together with the notice of suspension clearly
8 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
9 the forfeiture is paid during the period of suspension, the court shall immediately
10 notify the department, which will thereupon return the license to the person. Any
11 recovery under this subsection shall be reduced by the amount recovered as a
12 forfeiture under s. 938.45 (1r) (b).

13 **SECTION 19.** 938.344 (3) of the statutes is amended to read:

14 938.344 (3) If ~~the~~ a juvenile who is alleged to have committed ~~the~~ a violation
15 of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983, or of a local ordinance
16 that strictly conforms to one of those statutes, is within 3 months of his or her 17th
17 birthday, the court assigned to exercise jurisdiction under this chapter and ch. 48
18 may, at the request of the district attorney or on its own motion, dismiss the citation
19 without prejudice and refer the matter to the district attorney for prosecution under
20 s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983 or a local ordinance that
21 strictly conforms to one of those statutes. The juvenile is entitled to a hearing only
22 on the issue of his or her age. This subsection does not apply to violations under s.
23 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to
24 one of those statutes.

25 **SECTION 20.** 938.45 (1r) (b) of the statutes is amended to read:

1 938.45 (1r) (b) In a proceeding in which the court has determined under s.
2 938.34 (8) ~~or~~, 938.343 (2) or 938.344 (2r) (b) that the imposition of a forfeiture would
3 be in the best interest of the juvenile and in aid of rehabilitation, the court may order
4 a parent who has custody, as defined in s. 895.035 (1), of the juvenile to pay the
5 forfeiture. The amount of any forfeiture ordered under this paragraph may not
6 exceed the amount specified in s. 799.01 (1)(d). Any order under this paragraph shall
7 include a finding that the parent who has custody of the juvenile is financially able
8 to pay the amount ordered and shall allow up to 12 months after the date of the order
9 for the payment. Any recovery under this paragraph shall be reduced by the amount
10 recovered as a forfeiture for the same act under s. 938.34 (8) ~~or~~, 938.343 (2) or 938.344
11 (2r) (b).

12 **SECTION 21.** 938.983 (2r) of the statutes is created to read:

13 938.983 (2r) Subject to sub. (2v), any person who violates sub. (2) is subject to
14 one or any combination of the following dispositions:

15 (a) Counseling by the court of the person and his or her parent or guardian.

16 (b) A forfeiture not to exceed \$250. Any such order shall include a finding that
17 the person alone is financially able to pay and shall allow up to 12 months for the
18 payment. If a person fails to pay the forfeiture, the court may suspend any license
19 issued under ch. 29 or suspend the person's operating privilege, as defined in s.
20 340.01 (40), for not less than 30 days nor more than 5 years. The court shall
21 immediately take possession of the suspended license and forward it to the
22 department that issued the license, together with the notice of suspension clearly
23 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
24 the forfeiture is paid during the period of suspension, the court shall immediately
25 notify the department, which will thereupon return the license to the person. Any

1 recovery under this paragraph shall be reduced by the amount recovered as a
2 forfeiture under s. 938.45 (1r) (b).

3 (c) Placement in a teen court program if all of the following conditions apply:

4 1. The chief judge of the judicial administrative district has approved a teen
5 court program established in the person's county of residence and the judge
6 determines that participation in the teen court program will likely benefit the person
7 and the community.

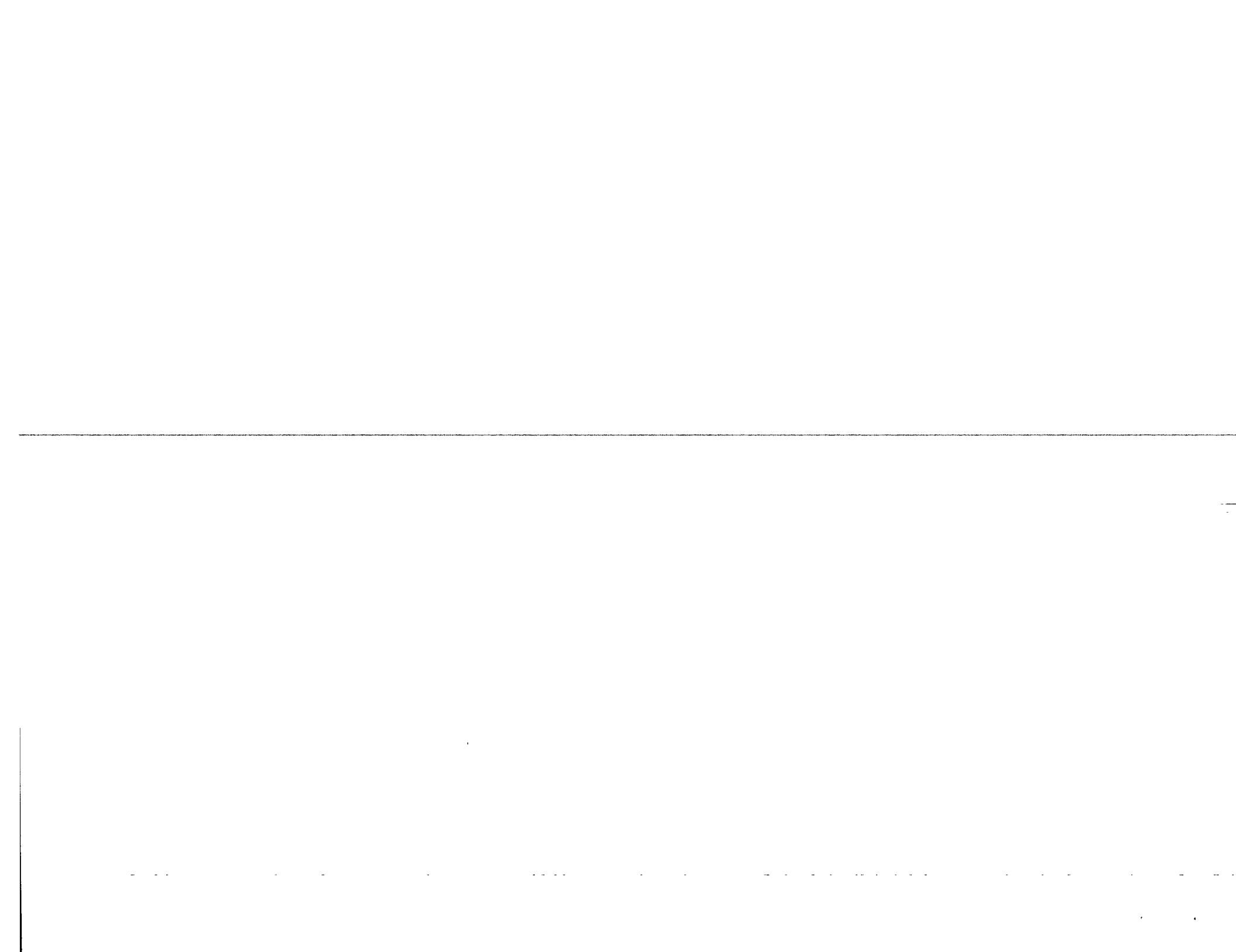
8 2. The person admits or pleads no contest in open court, with the person's
9 parent, guardian or legal custodian present, to the allegations that the person
10 violated sub. (2) or the ordinance enacted under sub. (5).

11 3. The person has not successfully completed participation in a teen court
12 program during the 2 years before the date of the alleged violation of sub. (2) or the
13 ordinance enacted under sub. (5).

14 (d) Participation in a supervised work program administered by the county
15 department or a community agency approved by the court or other community
16 service work administered by a public agency or nonprofit charitable organization
17 approved by the court as described in sub. (2t).

18 **SECTION 22.** 938.983 (2r) (b) of the statutes, as created by 1999 Wisconsin Act
19 (this act), is amended to read:

20 938.983 (2r) (b) A forfeiture not to exceed \$250. Any such order shall include
21 a finding that the person alone is financially able to pay and shall allow up to 12
22 months for the payment. If a person fails to pay the forfeiture, the court may suspend
23 any license issued under ch. 29 or suspend the person's operating privilege, as
24 defined in s. 340.01 (40), for not less than ~~30 days~~ nor more than 5 2 years. The court
25 shall immediately take possession of the suspended license and forward it to the



1 department that issued the license, together with the notice of suspension clearly
2 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
3 the forfeiture is paid during the period of suspension, the court shall immediately
4 notify the department, which will thereupon return the license to the person. Any
5 recovery under this paragraph shall be reduced by the amount recovered as a
6 forfeiture under s. 938.45 (1r) (b).

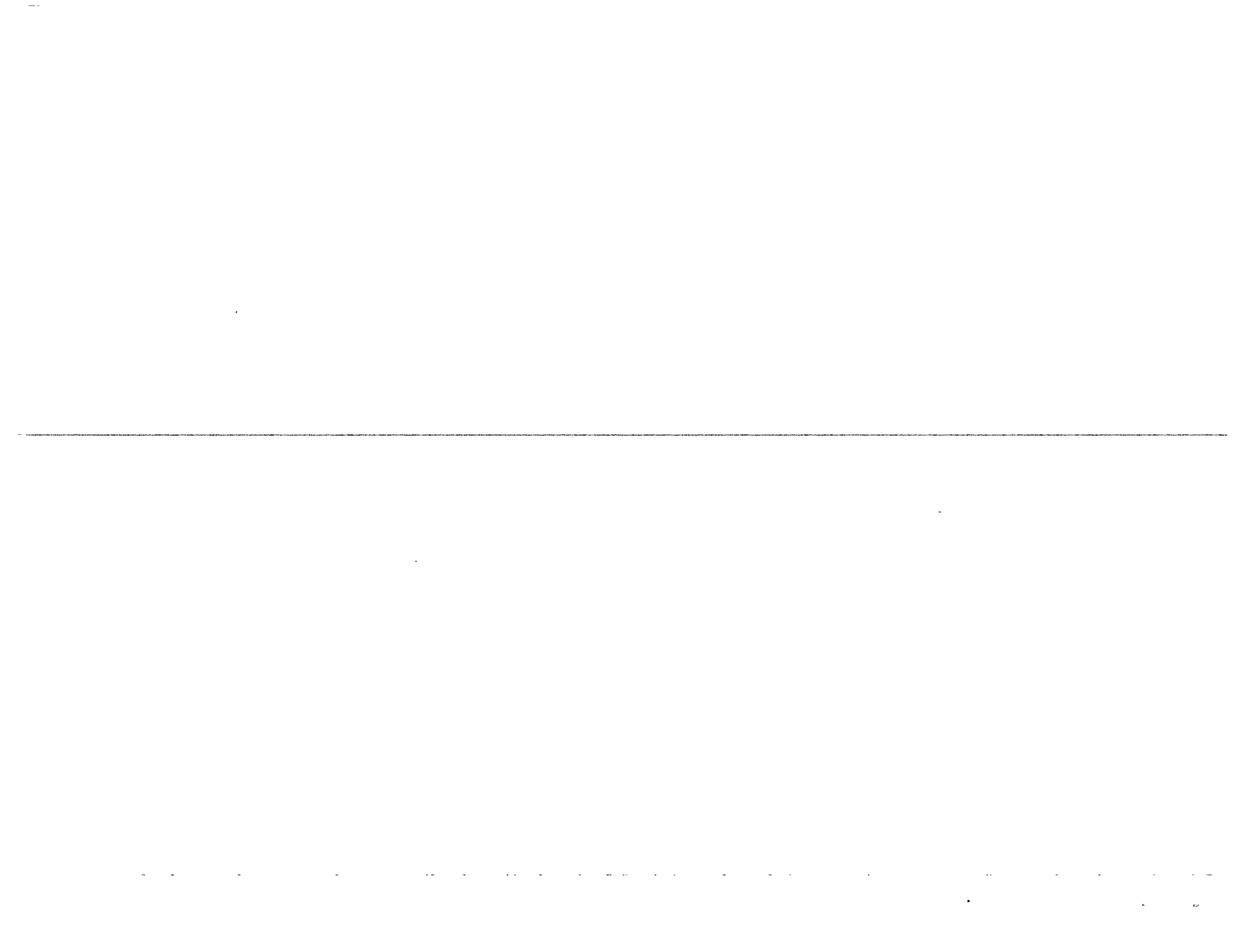
7 **SECTION 23.** 938.983 (2t) of the statutes is created to read:

8 938.983 (2t) (a) The court shall set standards for the supervised work program
9 under sub. (2r) (d) within the budgetary limits established by the county board of
10 supervisors. The supervised work program may provide the person with reasonable
11 compensation reflecting a reasonable market value of the work performed or it may
12 consist of uncompensated community service work. The court may use any available
13 resources, including any community service work program, in ordering the person
14 to perform community service work under sub. (2r).

15 (b) The supervised work program or other community service work shall be of
16 a constructive nature designed to promote the person's rehabilitation, shall be
17 appropriate to the person's age level and physical ability and shall be combined with
18 counseling from a member of the staff of the county department, community agency,
19 public agency or nonprofit charitable organization or other qualified person. The
20 supervised work program or other community service work may not conflict with the
21 person's regular attendance at school. The amount of work required shall be
22 reasonably related to the seriousness of the person's offense.

23 **SECTION 24.** 938.983 (2v) of the statutes is created to read:

24 938.983 (2v) A person who is under 17 years of age on the date of disposition
25 is subject to s. 938.344 unless proceedings have been instituted against the person



1 in a court of civil or criminal jurisdiction after dismissal of the citation under s.
2 938.344 (3).

3 **SECTION 25. Initial applicability.**

4 (1) The treatment of section 134.66 (4) (a) 2. (intro.), a., b., c. and d. and 3. a.,
5 b. and c. of the statutes first applies to violations committed on the effective date of
6 this subsection, but does not preclude the counting of other violations for which a
7 sentence was received before the effective date of this subsection as previous
8 violations for sentencing a person.

9 (2) (a) The treatment of sections 778.25 (1) (a) 1. and 4., 895.035 (6), 938.17 (2)
10 (c), (d) and (e), 938.344 (title), (2r) and (3), 938.45 (1r) (b) and 938.983 (2r), (2t) and
11 (2v) of the statutes first applies to a violation of section 938.983 (2) of the statutes
12 occurring on the effective date this paragraph.

13 (b) The amendment of sections 938.344 (2r) (b) and 938.983 (2r) (b) of the
14 statutes first applies to a violation of section 938.983 (2) of the statutes occurring on
15 the effective date of this paragraph.

16 **SECTION 26. Effective dates.**

17 (1) The amendment of sections 938.344 (2r) (b) and 938.983 (2r) (b) of the
18 statutes and SECTION 25 (2) (b) of this act take effect on May 1, 2000, or on the date
19 stated in the notice published by the secretary of transportation in the Wisconsin
20 Administrative Register under section 85.515 of the statutes, whichever is earlier.

21

(END)

Insert from /P1

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0174/~~PL~~¹dn
GMM:kg:jf

October 8, 1998

Note that this draft deletes from 1997 AB-590 the increase in the forfeiture that may be imposed on a delinquent as nongermane to the central focus of the draft, which is to deal with cigarettes and tobacco products. The inclusion of the increased forfeiture for delinquents was based on my advice last session which I now rescind. My thinking last session was that a large forfeiture for cigarettes and a small forfeiture for a delinquent act depreciates the seriousness of the delinquent act. While that may be true when comparing only the relative weight of the forfeitures, that advice did not take into account the various other, some quite serious, dispositions that may be imposed on a delinquent. Accordingly, this draft does not affect the amount of a forfeiture that may be imposed on a delinquent.

Gordon M. Malaise
Senior Legislative Attorney
266-9738

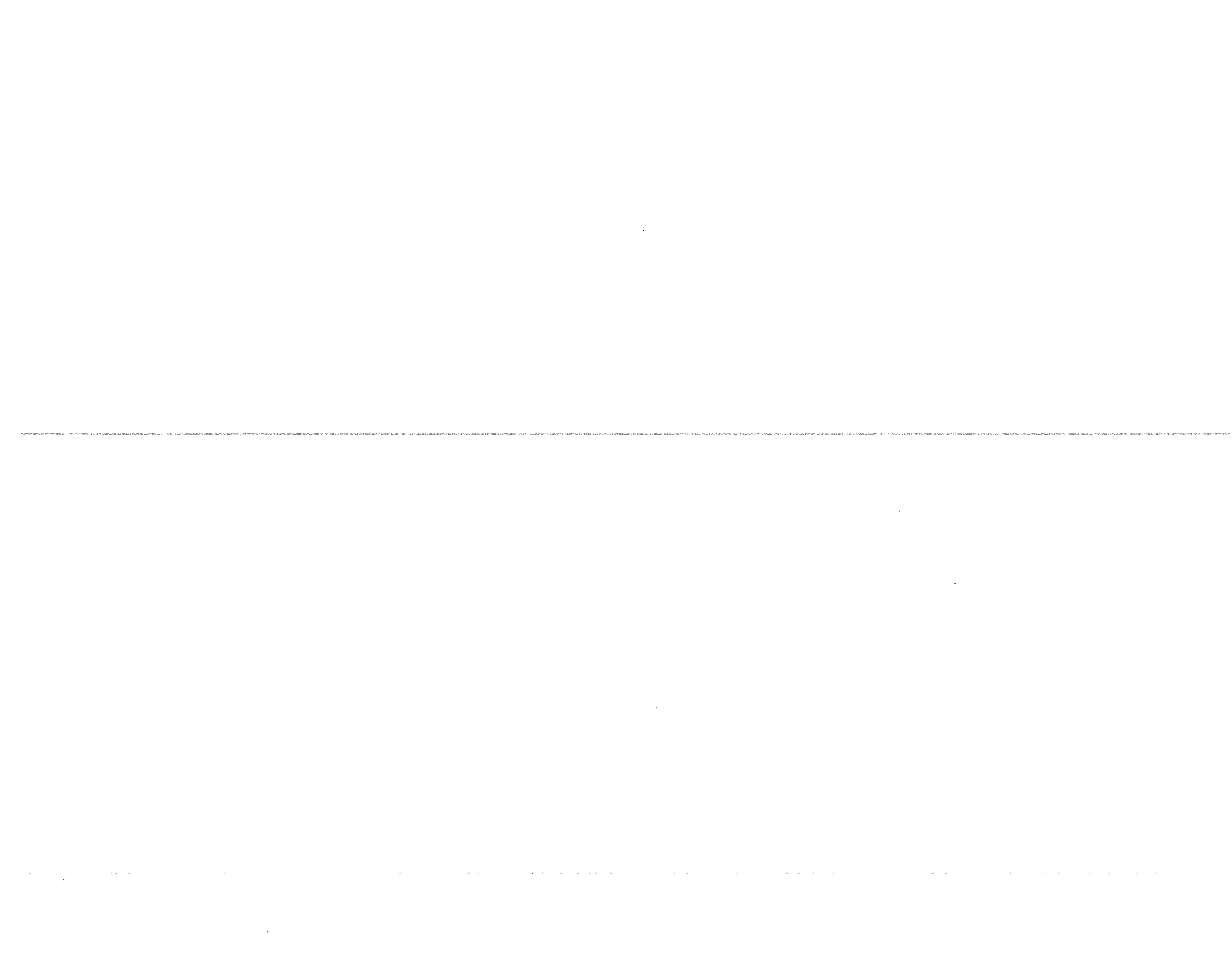
**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0174/1dn
GMM&MGG:kg:jf

October 12, 1998

Note that this draft deletes from 1997 AB-590 the increase in the forfeiture that may be imposed on a delinquent as nongermane to the central focus of the draft, which is to deal with cigarettes and tobacco products. The inclusion of the increased forfeiture for delinquents was based on my advice last session which I now rescind. My thinking last session was that a large forfeiture for cigarettes and a small forfeiture for a delinquent act depreciates the seriousness of the delinquent act. While that may be true when comparing only the relative weight of the forfeitures, that advice did not take into account the various other, some quite serious, dispositions that may be imposed on a delinquent. Accordingly, this draft does not affect the amount of a forfeiture that may be imposed on a delinquent.

Gordon M. Malaise
Senior Legislative Attorney
266-9738



A22

Rep Stokunas

2/25/99

2174/1

Order juvenile to attend course on the risk of
smoking

p 3,84 \$5,000 not \$10,000



2
RMR

1999 BILL

Regenerate

1 **AN ACT** *to repeal* 778.25 (1) (a) 4.; *to amend* 134.66 (4) (a) 1., 134.66 (4) (a) 2.
 2 (intro.), 134.66 (4) (a) 2. a., 134.66 (4) (a) 2. b., 134.66 (4) (a) 3. a., 134.66 (4) (a)
 3 3. b., 134.66 (4) (a) 3. c., 778.25 (1) (a) 1., 895.035 (6), 938.17 (2) (c), 938.17 (2)
 4 (d), 938.17 (2) (e), 938.344 (title), 938.344 (2r) (b), 938.344 (3), 938.45 (1r) (b) and
 5 938.983 (2r) (b); and **to create** 134.66 (4) (a) 2. c., 134.66 (4) (a) 2. d., 938.344
 6 (2r), 938.983 (2r), 938.983 (2t) and 938.983 (2v) of the statutes; **relating to:** the
 7 ~~amount of a penalty~~ that may be imposed on a person under 18 years of age who
 8 possesses cigarettes or tobacco products, the sale and distribution of cigarettes
 9 and tobacco products to minors and providing penalties.

dispositions

Analysis by the Legislative Reference Bureau

Under current law, no person under 18 years of age may buy or attempt to buy any tobacco product, falsely represent his or her age for the purpose of receiving any tobacco product or possess any tobacco product. Currently, a person under 18 years of age who commits any of those acts may be ordered to pay a forfeiture of not more than \$50, placed in a teen court program, ordered to participate in a supervised work program or other community service work or ordered to undergo any combination of those dispositions. In addition, the parent of such a person may also be ordered to

BILL**SECTION 22**

Insert A

pay the forfeiture. This bill increases the maximum amount of a forfeiture that may be imposed on a person under 18 years of age who commits any of those acts and on the parent of such a person to \$250.

The bill also increases the penalties for violations by retailers and others who are prohibited from selling, or distributing for free, tobacco products to minors. The increases include raising the maximum penalty amounts, changing the penalties for subsequent violations from forfeitures to fines and increasing the maximum number of days that a license or permit to sell or distribute tobacco products may be suspended.

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

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

1 **SECTION 1.** 134.66 (4) (a) 1. of the statutes is amended to read:

2 134.66 (4) (a) 1. In this paragraph, “violation” means a violation of sub. (2) (a),
3 (cm), (d) or (e) or a local ordinance which strictly conforms to sub. (2) (a), (cm), (d) or
4 (e). For purposes of determining previous violations under subs. 2. and 3., the
5 30-month periods shall be measured from the date of the violations that resulted in
6 an imposition of a forfeiture or a conviction.

7 **SECTION 2.** 134.66 (4) (a) 2. (intro.) of the statutes is amended to read:

8 134.66 (4) (a) 2. (intro.) A person who commits a violation is subject to a
9 forfeiture of:

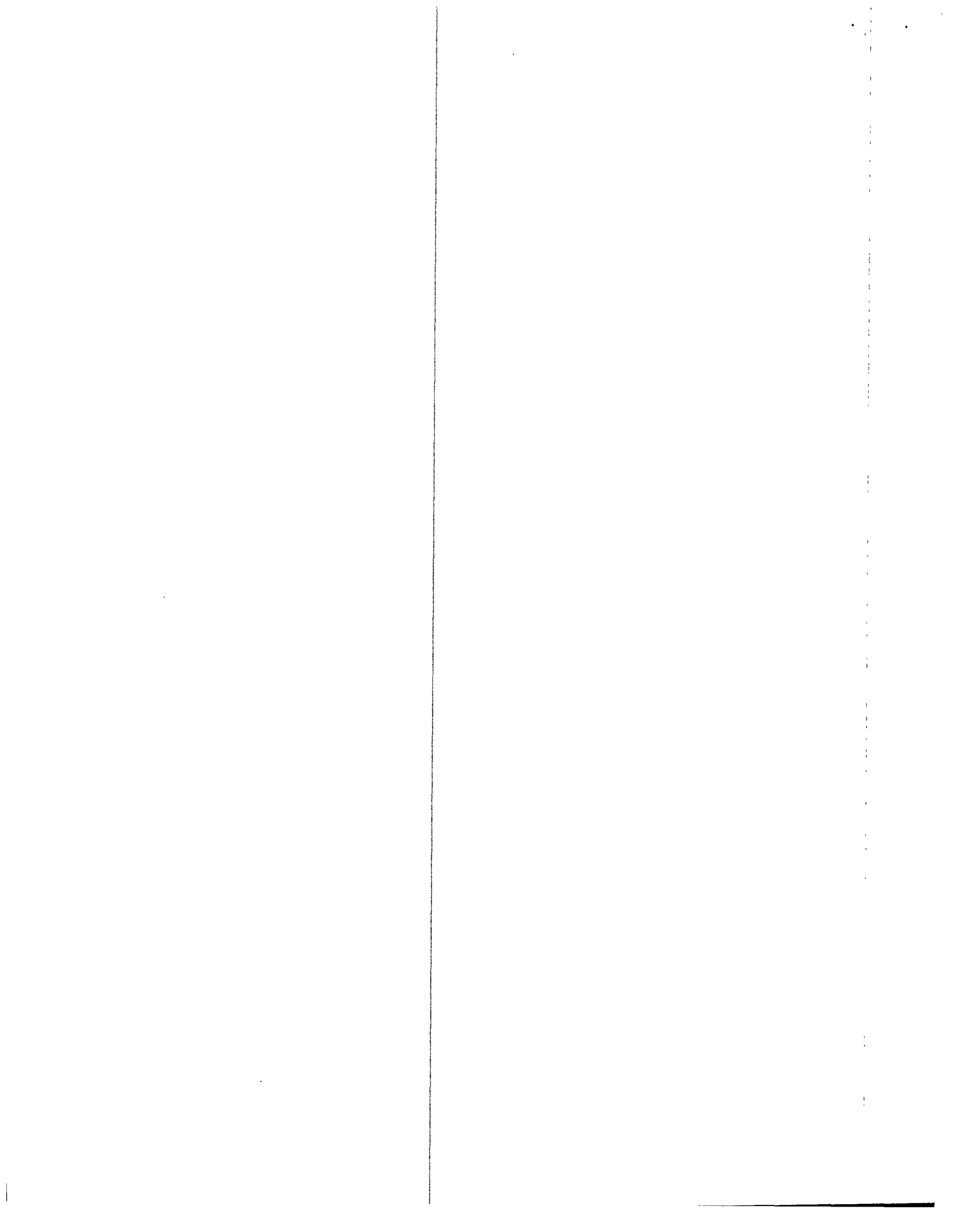
10 **SECTION 3.** 134.66 (4) (a) 2. a. of the statutes is amended to read:

11 134.66 (4) (a) 2. a. ~~Not~~ A forfeiture of not more than \$500 if the person has not
12 committed a previous violation within ~~12~~ 30 months of the violation; ~~or~~

13 **SECTION 4.** 134.66 (4) (a) 2. b. of the statutes is amended to read:

14 134.66 (4) (a) 2. b. ~~Not less than \$200 nor~~ A fine of not more than \$500 \$750
15 if the person has committed a previous violation within ~~12~~ 30 months of the violation;

16 **SECTION 5.** 134.66 (4) (a) 2. c. of the statutes is created to read:



BILL

\$5,000

1 134.66 (4) (a) 2. c. A fine of not more than \$1,000 if the person has committed
2 previous violations within 30 months of the violation; or

3 **SECTION 6.** 134.66 (4) (a) 2. d. of the statutes is created to read:

4 134.66 (4) (a) 2. d. A fine of not more than ~~\$10,000~~ if the person has committed
5 3 or more previous violations within 30 months of the violation.

6 **SECTION 7.** 134.66 (4) (a) 3. a. of the statutes is amended to read:

7 134.66 (4) (a) 3. a. Not more than ~~3~~ 10 days, if the court finds that the person
8 committed a violation within ~~12~~ 30 months after committing one previous violation;

9 **SECTION 8.** 134.66 (4) (a) 3. b. of the statutes is amended to read:

10 134.66 (4) (a) 3. b. Not less than ~~3~~ 10 days nor more than ~~10~~ 30 days, if the court
11 finds that the person committed a violation within ~~12~~ 30 months after committing
12 2 other violations; or

13 **SECTION 9.** 134.66 (4) (a) 3. c. of the statutes is amended to read:

14 134.66 (4) (a) 3. c. Not less than ~~15~~ 10 days nor more than ~~30~~ 90 days, if the court
15 finds that the person committed the violation within ~~12~~ 30 months after committing
16 3 or more other violations.

17 **SECTION 10.** 778.25 (1) (a) 1. of the statutes is amended to read:

18 778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
19 961.573 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming
20 to one of those statutes brought against an adult in circuit court or against a minor
21 in the court assigned to exercise jurisdiction under chs. 48 and 938.

22 **SECTION 11.** 778.25 (1) (a) 4. of the statutes is repealed.

23 **SECTION 12.** 895.035 (6) of the statutes is amended to read:

24 895.035 (6) Any recovery of restitution under this section shall be reduced by
25 the amount recovered as restitution for the same act under s. 938.245, 938.32, 938.34



BILL

(a) ✓

1 (5), 938.343 (4) or 938.45 (1r) (a). Any recovery of a forfeiture under this section shall
2 be reduced by the amount recovered as a forfeiture for the same act under s. 938.34
3 (8), 938.343 (2), ~~938.344 (2r) (b)~~ or 938.45 (1r) (b). Any recovery of a surcharge under
4 this section shall be reduced by the amount recovered as a surcharge under s. 938.34
5 (8d).

6 **SECTION 13.** 938.17 (2) (c) of the statutes is amended to read:

7 938.17 (2) (c) The citation procedures described in ch. 800 shall govern
8 proceedings involving juveniles in municipal court, except that this chapter shall
9 govern the taking and holding of a juvenile in custody and par. (cg) shall govern the
10 issuing of a summons to the juvenile's parent, guardian or legal custodian. When a
11 juvenile is before the court assigned to exercise jurisdiction under this chapter and
12 ch. 48 upon a citation alleging the juvenile to have violated a civil law or municipal
13 ordinance, the procedures specified in s. 938.237 shall apply. If a citation is issued
14 to a juvenile, the issuing agency shall notify the juvenile's parent, guardian and legal
15 custodian within 7 days. The agency issuing a citation to a juvenile who is 12 to 15
16 years of age for a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
17 961.573 (2), 961.574 (2) or 961.575 (2) or an ordinance conforming to one of those
18 statutes shall send a copy to an intake worker under s. 938.24 for informational
19 purposes only.

20 **SECTION 14.** 938.17 (2) (d) of the statutes is amended to read:

21 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
22 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
23 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983, 961.573 (2),
24 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders
25 permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails

BILL

1 to pay the forfeiture imposed by the municipal court, the court may not impose a jail
2 sentence but may suspend any license issued under ch. 29 for not less than 30 days
3 nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s.
4 340.01 (40), for not less than 30 days nor more than 5 years. If a court suspends a
5 license or privilege under this section, the court shall immediately take possession
6 of the applicable license and forward it to the department that issued the license,
7 together with the notice of suspension clearly stating that the suspension is for
8 failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the
9 period of suspension, the court shall immediately notify the department, which shall
10 thereupon return the license to the person.

11 **SECTION 15.** 938.17 (2) (e) of the statutes is amended to read:

12 938.17 (2) (e) If a municipal court finds that a juvenile violated a municipal
13 ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
14 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter a dispositional order
15 under s. 938.344 that is authorized under par. (cm).

16 **SECTION 16.** 938.344 (title) of the statutes is amended to read:

17 **938.344 (title) Disposition; certain intoxicating liquor, beer, tobacco**
18 **and drug violations.** *(in addition to ~~the~~ counseling the person and his or her parent*
or guardian)

19 **SECTION 17.** 938.344 (2r) of the statutes is created to read:

20 938.344 (2r) If a court finds that a juvenile has committed a violation of s.

21 938.983 (2) or a local ordinance enacted under s. 938.983 (5), the court shall order ~~the~~
22 the person to do any one or more
or any combination of the following dispositions:

23 ~~(a) Counseling by the court of the person and his or her parent or guardian.~~

24 ~~(b) Forfeiture not to exceed \$250. Any such order shall include a finding that~~
25 the person alone is financially able to pay and shall allow up to 12 months for the

(a) Pay
a

BILL

SECTION 22

1 payment. If a person fails to pay the forfeiture, the court may suspend any license
 2 issued under ch. 29 or suspend the person's operating privilege, as defined in s.
 3 340.01 (40), for not less than 30 days nor more than 5 years. The court shall
 4 immediately take possession of the suspended license and forward it to the
 5 department that issued the license, together with the notice of suspension clearly
 6 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
 7 the forfeiture is paid during the period of suspension, the court shall immediately
 8 notify the department, which will thereupon return the license to the person. Any
 9 recovery under this subsection shall be reduced by the amount recovered as a
 10 forfeiture under s. 938.45 (1r) (b).

11 (b) ^{Participate} ~~(b) Placement~~ in a teen court program if all of the following conditions apply:

12 1. The chief judge of the judicial administrative district has approved a teen
 13 court program established in the person's county of residence and the judge
 14 determines that participation in the teen court program will likely benefit the person
 15 and the community.

16 2. The person admits or pleads no contest in open court, with the person's
 17 parent, guardian or legal custodian present, to the allegations that the person
 18 violated s. 938.983 (2) or the ordinance enacted under s. 938.983 (5).

19 3. The person has not successfully completed participation in a teen court
 20 program during the 2 years before the date of the alleged violation of s. 938.983 (2)
 21 or the ordinance enacted under s. 938.983 (5).

22 (c) ^{Participate} ~~(c) Participation~~ in a supervised work program or other community service
 23 work under s. 938.983 (2t).

24 **SECTION 18.** 938.344 (2r) ^(a) ~~(b)~~ of the statutes, as created by 1999 Wisconsin Act

25 (this act), is amended to read:

(c d) Attendance a course relating to the health risks associated with the use of cigarettes or tobacco products if such a course is available within a reasonable distance from the person's residence.

BILL

(a) Pay a

1

938.344 (2r) ~~(b)~~ forfeiture not to exceed \$250. Any such order shall include
2 a finding that the person alone is financially able to pay and shall allow up to 12
3 months for the payment. If a person fails to pay the forfeiture, the court may suspend
4 any license issued under ch. 29 or suspend the person's operating privilege, as
5 defined in s. 340.01 (40), for not less than 30 days nor more than 5 2 years. The court
6 shall immediately take possession of the suspended license and forward it to the
7 department that issued the license, together with the notice of suspension clearly
8 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
9 the forfeiture is paid during the period of suspension, the court shall immediately
10 notify the department, which will thereupon return the license to the person. Any
11 recovery under this subsection shall be reduced by the amount recovered as a
12 forfeiture under s. 938.45 (1r) (b).

13 **SECTION 19.** 938.344 (3) of the statutes is amended to read:

14 938.344 (3) If ~~the~~ a juvenile who is alleged to have committed ~~the~~ a violation
15 of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983, or of a local ordinance
16 that strictly conforms to one of those statutes, is within 3 months of his or her 17th
17 birthday, the court assigned to exercise jurisdiction under this chapter and ch. 48
18 may, at the request of the district attorney or on its own motion, dismiss the citation
19 without prejudice and refer the matter to the district attorney for prosecution under
20 s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983 or a local ordinance that
21 strictly conforms to one of those statutes. The juvenile is entitled to a hearing only
22 on the issue of his or her age. This subsection does not apply to violations under s.
23 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to
24 one of those statutes.

25 **SECTION 20.** 938.45 (1r) (b) of the statutes is amended to read:

BILL

(a)

1 938.45 (1r) (b) In a proceeding in which the court has determined under s.
 2 938.34 (8) ~~or~~, 938.343 (2) or 938.344 (2r) (b) that the imposition of a forfeiture would
 3 be in the best interest of the juvenile and in aid of rehabilitation, the court may order
 4 a parent who has custody, as defined in s. 895.035 (1), of the juvenile to pay the
 5 forfeiture. The amount of any forfeiture ordered under this paragraph may not
 6 exceed the amount specified in s. 799.01 (1)(d). Any order under this paragraph shall
 7 include a finding that the parent who has custody of the juvenile is financially able
 8 to pay the amount ordered and shall allow up to 12 months after the date of the order
 9 for the payment. Any recovery under this paragraph shall be reduced by the amount
 10 recovered as a forfeiture for the same act under s. 938.34 (8) ~~or~~, 938.343 (2) or 938.344

11 (2r) (a). Counseling by the court ~~of the person~~ and to

SECTION 21. 938.983 (2r) of the statutes is created to read:

13 938.983 (2r) Subject to sub. (2v), any person who violates sub. (2) is subject to
 14 ^{any} one or ^{more} ~~any combination~~ of the following dispositions:

15 ~~(a) Counseling by the court of the person and his or her parent or guardian.~~

16 ^(a) ~~(b)~~ A forfeiture not to exceed \$250. Any such order shall include a finding that
 17 the person alone is financially able to pay and shall allow up to 12 months for the
 18 payment. If a person fails to pay the forfeiture, the court may suspend any license
 19 issued under ch. 29 or suspend the person's operating privilege, as defined in s.
 20 340.01 (40), for not less than 30 days nor more than 5 years. The court shall
 21 immediately take possession of the suspended license and forward it to the
 22 department that issued the license, together with the notice of suspension clearly
 23 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
 24 the forfeiture is paid during the period of suspension, the court shall immediately
 25 notify the department, which will thereupon return the license to the person. Any

8



BILL

1 recovery under this paragraph shall be reduced by the amount recovered as a
2 forfeiture under s. 938.45 (1r) (b).

3 (b) Placement in a teen court program if all of the following conditions apply:

4 1. The chief judge of the judicial administrative district has approved a teen
5 court program established in the person's county of residence and the judge
6 determines that participation in the teen court program will likely benefit the person
7 and the community.

8 2. The person admits or pleads no contest in open court, with the person's
9 parent, guardian or legal custodian present, to the allegations that the person
10 violated sub. (2) or the ordinance enacted under sub. (5).

11 3. The person has not successfully completed participation in a teen court
12 program during the 2 years before the date of the alleged violation of sub. (2) or the
13 ordinance enacted under sub. (5).

14 (c) Participation in a supervised work program administered by the county
15 department or a community agency approved by the court or other community
16 service work administered by a public agency or nonprofit charitable organization
17 approved by the court as described in sub. (2t).

18 **SECTION 22.** 938.983 (2r) ^(a) of the statutes, as created by 1999 Wisconsin Act
19 (this act), is amended to read:

20 938.983 (2r) ^(a) A forfeiture not to exceed \$250. Any such order shall include
21 a finding that the person alone is financially able to pay and shall allow up to 12
22 months for the payment. If a person fails to pay the forfeiture, the court may suspend
23 any license issued under ch. 29 or suspend the person's operating privilege, as
24 defined in s. 340.01 (40), for not less than 30 days nor more than 5 2 years. The court
25 shall immediately take possession of the suspended license and forward it to the

(d) Attendance at a course relating to the health risks associated with the use of cigarettes or tobacco products if such a course is available within a reasonable distance from the person's residence.

BILL**SECTION 22**

1 department that issued the license, together with the notice of suspension clearly
2 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
3 the forfeiture is paid during the period of suspension, the court shall immediately
4 notify the department, which will thereupon return the license to the person. Any
5 recovery under this paragraph shall be reduced by the amount recovered as a
6 forfeiture under s. 938.45 (1r) (b).

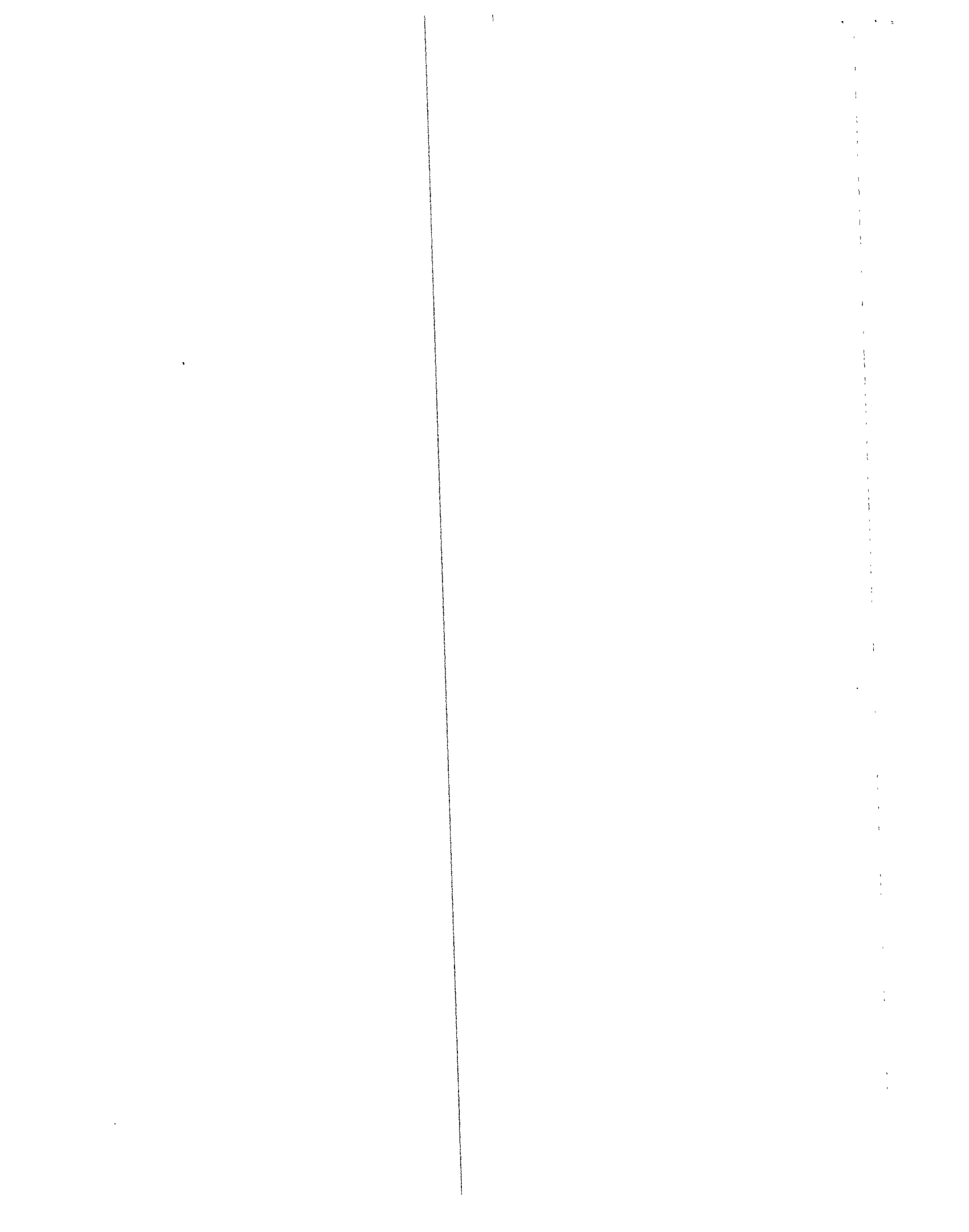
7 **SECTION 23.** 938.983 (2t) of the statutes is created to read:

8 938.983 (2t) (a) The court shall set standards for the supervised work program
9 under sub. (2r) ^(c) within the budgetary limits established by the county board of
10 supervisors. The supervised work program may provide the person with reasonable
11 compensation reflecting a reasonable market value of the work performed or it may
12 consist of uncompensated community service work. The court may use any available
13 resources, including any community service work program, in ordering the person
14 to perform community service work under sub. (2r).

15 (b) The supervised work program or other community service work shall be of
16 a constructive nature designed to promote the person's rehabilitation, shall be
17 appropriate to the person's age level and physical ability and shall be combined with
18 counseling from a member of the staff of the county department, community agency,
19 public agency or nonprofit charitable organization or other qualified person. The
20 supervised work program or other community service work may not conflict with the
21 person's regular attendance at school. The amount of work required shall be
22 reasonably related to the seriousness of the person's offense.

23 **SECTION 24.** 938.983 (2v) of the statutes is created to read:

24 938.983 (2v) A person who is under 17 years of age on the date of disposition
25 is subject to s. 938.344 unless proceedings have been instituted against the person



BILL

1 in a court of civil or criminal jurisdiction after dismissal of the citation under s.
2 938.344 (3).

3 **SECTION 25. Initial applicability.**

4 (1) The treatment of section 134.66 (4) (a) 2. (intro.), a., b., c. and d. and 3. a.,
5 b. and c. of the statutes first applies to violations committed on the effective date of
6 this subsection, but does not preclude the counting of other violations for which a
7 sentence was received before the effective date of this subsection as previous
8 violations for sentencing a person.

9 (2) (a) The treatment of sections 778.25 (1) (a) 1. and 4., 895.035 (6), 938.17 (2)
10 (c), (d) and (e), 938.344 (title) ~~21M~~ and (3), 938.45 (1r) (b) and 938.983 ~~(2r)~~ (2t) and
11 (2v) of the statutes, first ^{apply} applies to a violation of section 938.983 (2) of the statutes
12 ^{and the creation of sections 938.344 (2r) of the statutes} occurring on the effective date this paragraph. _{(a) and 938.983 (2r) (a) ✓}

13 (b) The amendment of sections 938.344 (2r) ~~(2r)~~ and 938.983 (2r) ~~(2r)~~ of the
14 statutes first applies to a violation of section 938.983 (2) of the statutes occurring on
15 the effective date of this paragraph.

16 **SECTION 26. Effective dates.** This act takes effect on the day after publication,
17 except as follows:

18 (1) The amendment of sections 938.344 (2r) ~~(2r)~~ and 938.983 (2r) ~~(2r)~~ of the
19 statutes and SECTION 25 (2) (b) of this act take effect on May 1, 2000, or on the date
20 stated in the notice published by the secretary of transportation in the Wisconsin
21 Administrative Register under section 85.515 of the statutes, whichever is earlier.

22 (END)



Insert A

~~The bill also subjects such a person to a court-ordered attendance at a course relating~~

The bill also permits a court assigned to exercise jurisdiction under the juvenile justice code (juvenile court) or a municipal court to order such a person to attend a course relating to the health risks associated with the use of ~~cigarettes~~ tobacco products.

~~Leif Jensen~~

**SUBMITTAL
FORM**

**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: 3/1/99

To: Representative Staskunas

Relating to LRB drafting number: LRB-0174

Topic

Children and tobacco

Subject(s)

Children - miscellaneous, Trade Regulation

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.

Gordon M. Malaise, Senior Legislative Attorney
Telephone: (608) 266-9738

