

1999 SENATE BILL 396

February 16, 2000 – Introduced by Senator BRESKE, cosponsored by Representative SERATTI. Referred to Insurance, Tourism, Transportation and Corrections.

1 **AN ACT** *to amend* 938.185 (1) (intro.); and *to create* 938.185 (4) of the statutes;
2 **relating to:** venue for a delinquency proceeding involving an American Indian
3 juvenile who is alleged to have committed a delinquent act while under the
4 supervision of the department of corrections under an order of a tribal court and
5 an agreement between the department of corrections and the governing body
6 of an American Indian tribe or band.

Analysis by the Legislative Reference Bureau

Under current law, venue for a delinquency proceeding, that is, the county where the proceeding is held, may be in the county where the juvenile resides, the county where the juvenile is present or the county where the violation occurred. This bill prohibits venue for a delinquency proceeding that is based on an allegation that an American Indian juvenile has committed a delinquent act from being in the county where the juvenile resides if at the time of the delinquent act the juvenile is under the supervision of the department of corrections (DOC) under an order of the tribal court of a federally recognized American Indian tribe or band in this state and an agreement between DOC and the governing body of the tribe or band and if a delinquency petition relating to the delinquent act has been filed in the tribal court that has jurisdiction over the juvenile. In that situation, the court of the county where the violation occurred or where the juvenile is present may transfer any delinquency proceeding in that court to the tribal court that has jurisdiction over the juvenile.

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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.** 938.185 (1) (intro.) of the statutes is amended to read:

2 938.185 **(1)** (intro.) Subject to ~~sub.~~ subs. (2), (3) and (4), venue for any
3 proceeding under ss. 938.12, 938.125, 938.13, 938.135 and 938.18 may be in any of
4 the following:

5 **SECTION 2.** 938.185 (4) of the statutes is created to read:

6 938.185 **(4)** (a) Venue for a proceeding under s. 938.12 based on an allegation
7 that an American Indian juvenile has committed a delinquent act may not be in the
8 county where the juvenile resides if all of the following apply:

9 1. At the time of the delinquent act the juvenile is under the supervision of the
10 department under an order of the tribal court of a federally recognized American
11 Indian tribe or band in this state and an agreement between the department and the
12 governing body of the tribe or band.

13 2. A delinquency petition relating to the delinquent act has been filed in the
14 tribal court that has jurisdiction over the juvenile.

15 (b) If an American Indian juvenile commits a delinquent act and par. (a) 1. and
16 2. applies, the court of the county where the violation occurred or where the juvenile
17 is present may transfer any proceeding under s. 938.12 in that court to the tribal
18 court that has jurisdiction over the juvenile.

19 **SECTION 3. Nonstatutory provisions.**

