

## 2001 ASSEMBLY BILL 745

January 28, 2002 - Introduced by Representatives LEIBHAM, KESTELL, OWENS, PETTIS, GRONEMUS, MUSSER, DUFF, HAHN, STARZYK, GUNDERSON, McCORMICK, LADWIG, ALBERS, URBAN, HINES, PLALE, SERATTI, M. LEHMAN, VRAKAS, RYBA, JESKEWITZ, J. FITZGERALD, NASS, OTT and TOWNSEND, cosponsored by Senators ROESSLER, ROSENZWEIG, WELCH and HUELSMAN. Referred to Committee on Children and Families.

1     **AN ACT** *to amend* 46.03 (18) (am) and 938.295 (2) (a); and *to create* 301.03 (18)  
2           (am) and 938.295 (2) (c) of the statutes; **relating to:** liability of a parent or  
3           guardian for the cost of an examination ordered to determine the competency  
4           to proceed of a juvenile who is alleged to have committed a delinquent act or to  
5           determine whether a juvenile is not responsible for a delinquent act by reason  
6           of mental disease or defect.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, if there is probable cause to believe that a juvenile has committed a delinquent act and if there is reason to doubt the juvenile's competency to proceed, or if a juvenile enters a plea that the juvenile is not responsible for an alleged delinquent act by reason of mental disease or defect, the court assigned to exercise jurisdiction under the juvenile justice code (juvenile court) must order the juvenile to be examined by a psychiatrist or psychologist, who must render an opinion as to the juvenile's mental capacity to understand the proceedings and to assist in his or her defense or as to whether at the time of the act the juvenile lacked the capacity to appreciate the wrongfulness of his or her conduct or to conform that conduct to the requirements of the law. Current law requires the county of the juvenile court to pay the cost of the examination. This bill permits a county that pays the cost of such an examination to recover from the juvenile's parent or guardian, based on the ability to pay of the parent or guardian, a reasonable contribution toward that cost.

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

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

1           **SECTION 1.** 46.03 (18) (am) of the statutes is amended to read:

2           46.03 **(18)** (am) Paragraph (a) does not prevent the department from charging  
3 and collecting the cost of adoptive placement investigations and child care as  
4 authorized under s. 48.837 (7). Paragraph (a) also does not prevent a county  
5 department under s. 51.42 or 51.437 from charging and collecting the cost of an  
6 examination ordered under s. 938.295 (2) (a) as authorized under s. 938.295 (2) (c).

7           **SECTION 2.** 301.03 (18) (am) of the statutes is created to read:

8           301.03 **(18)** (am) Paragraph (a) does not prevent a county department under  
9 s. 46.215, 46.22, or 46.23 from charging and collecting the cost of an examination  
10 ordered under s. 938.295 (2) (a) as authorized under s. 938.295 (2) (c).

11           **SECTION 3.** 938.295 (2) (a) of the statutes is amended to read:

12           938.295 **(2)** (a) If there is probable cause to believe that the juvenile has  
13 committed the alleged offense and if there is reason to doubt the juvenile's  
14 competency to proceed, or upon entry of a plea under s. 938.30 (4) (c) the court shall  
15 order the juvenile to be examined by a psychiatrist or licensed psychologist. The  
16 ~~expenses of an~~ cost of the examination, if approved by the court, shall be paid by the  
17 county of the court ordering the examination, and the county may recover that cost  
18 from the juvenile's parent or guardian as provided in par. (c). Evaluation shall be  
19 made on an outpatient basis unless the juvenile presents a substantial risk of  
20 physical harm to the juvenile or others; or the juvenile, parent, or guardian, and legal  
21 counsel or guardian ad litem, consent to an inpatient evaluation. Any inpatient

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1 evaluation shall be for a specified period that is no longer than is necessary to  
2 complete the evaluation.

3 **SECTION 4.** 938.295 (2) (c) of the statutes is created to read:

4 938.295 (2) (c) A county that pays the cost of an examination under par. (a) may  
5 recover a reasonable contribution toward that cost from the juvenile's parent or  
6 guardian, based on the ability of the parent or guardian to pay. If the examination  
7 is provided or otherwise funded by the county department under s. 46.215, 46.22, or  
8 46.23, the county department shall collect the contribution of the parent or guardian  
9 as provided in s. 301.03 (18). If the examination is provided or otherwise funded by  
10 the county department under s. 51.42 or 51.437, the county department shall collect  
11 the contribution of the parent or guardian as provided in s. 46.03 (18).

12 **SECTION 5. Initial applicability.**

13 (1) LIABILITY OF PARENT OR GUARDIAN FOR JUVENILE COMPETENCY OR MENTAL DEFECT  
14 EXAMINATIONS. This act first applies to examinations ordered under section 938.295  
15 (2) (a) of the statutes on the effective date of this subsection.

16 (END)