

**2001 Jr2 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB1)**

Received: **03/12/2002**

Received By: **malaigm**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-3953**

By/Representing: **Zimmerman**

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

Drafter: **malaigm**

May Contact:

Addl. Drafters:

Subject: **Children - juvenile justice**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

LFB:.....Zimmerman -

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**Topic:**

Liability of parent for cost of juvenile competency examination

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**Instructions:**

Redraft AB 745 as caucus amendment--permit county to recover from parent or guardian the cost of an examination to determine the competency to proceed of a juvenile or to determine whether a juvenile is not responsible by reason of mental defect.

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**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 03/12/2002	hhagen 03/12/2002		_____			
/1			rschluet 03/12/2002	_____	lrb_docadmin 03/12/2002		
/2	malaigm 03/13/2002	hhagen 03/13/2002	chanaman 03/13/2002	_____	lrb_docadmin 03/13/2002		

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Page 2

**LRBb2483**

FE Sent For:

<END>

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/?	malaigm	lhmh 3/12/02					
			3-12-2				

FE Sent For:

<END>

2001

Date (time) needed Soon

LRB b 2483, 1

**ARC CAUCUS BUDGET AMENDMENT  
[ONLY FOR CAUCUS]**

GMMY : hmb :

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**January 2002 SPECIAL SESSION CAUCUS AMENDMENT  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1  
TO 2001 ASSEMBLY BILL 1**

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

#. Page 33, line 2 : after that line insert:

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

624831

**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, FLAHE, 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.

***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.



# Page 186, line 13: after that line insert:

ASSEMBLY BILL 745

For further information see the ~~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:~~

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

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

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

374ne

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

529j

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

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

# Page 225, line 22: after that line insert:

ASSEMBLY BILL 745

529k

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.~~ " (2) (am)

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)

# Page 435, line 24: after that line insert:

The treatment of sections 46.03 (18) (am), 301.03 (18) (am), and 938.295 (2) (a) and (c) of the statutes





State of Wisconsin  
2001 - 2002 LEGISLATURE  
January 2002 Special Session

LRBb2483/1  
GMM:hmh:rs

Stamp

RMR

NOTE

LFB:.....Zimmerman – Liability of parent for cost of juvenile competency examination

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 33, line 2: after that line insert:

3 “SECTION 100n. 46.03 (18) (am) of the statutes is amended to read:

4 46.03 (18) (am) Paragraph (a) does not prevent the department from charging

5 and collecting the cost of adoptive placement investigations and child care as

6 authorized under s. 48.837 (7). Paragraph (a) also does not prevent a county

7 department under s. 51.42 or 51.437 from charging and collecting the cost of an

8 examination ordered under s. 938.295 (2) (a) as authorized under s. 938.295 (2) (c).”

9 2. Page 186, line 13: after that line insert:

10 “SECTION 374e. 301.03 (18) (am) of the statutes is created to read:

1           301.03 (18) (am) Paragraph (a) does not prevent a county department under  
2           s. 46.215, 46.22, or 46.23 from charging and collecting the cost of an examination  
3           ordered under s. 938.295 (2) (a) as authorized under s. 938.295 (2) (c).”.

4           **3.** Page 225, line 22: after that line insert:

5           “**SECTION 529j.** 938.295 (2) (a) of the statutes is amended to read:

6           938.295 (2) (a) If there is probable cause to believe that the juvenile has  
7           committed the alleged offense and if there is reason to doubt the juvenile’s  
8           competency to proceed, or upon entry of a plea under s. 938.30 (4) (c) the court shall  
9           order the juvenile to be examined by a psychiatrist or licensed psychologist. The  
10          ~~expenses of an~~ cost of the examination, if approved by the court, shall be paid by the  
11          county of the court ordering the examination, and the county may recover that cost  
12          from the juvenile’s parent or guardian as provided in par. (c). Evaluation shall be  
13          made on an outpatient basis unless the juvenile presents a substantial risk of  
14          physical harm to the juvenile or others; or the juvenile, parent, or guardian, and legal  
15          counsel or guardian ad litem, consent to an inpatient evaluation. Any inpatient  
16          evaluation shall be for a specified period that is no longer than is necessary to  
17          complete the evaluation.

18          **SECTION 529k.** 938.295 (2) (c) of the statutes is created to read:

19          938.295 (2) (c) A county that pays the cost of an examination under par. (a) may  
20          recover a reasonable contribution toward that cost from the juvenile’s parent or  
21          guardian, based on the ability of the parent or guardian to pay. If the examination  
22          is provided or otherwise funded by the county department under s. 46.215, 46.22, or  
23          46.23, the county department shall collect the contribution of the parent or guardian  
24          as provided in s. 301.03 (18). If the examination is provided or otherwise funded by

1 the county department under s. 51.42 or 51.437, the county department shall collect  
2 the contribution of the parent or guardian as provided in s. 46.03 (18).”

3 4. Page ~~435~~, line 24: after that line insert:

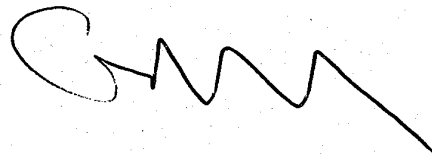
4 “(2f) LIABILITY OF PARENT OR GUARDIAN FOR JUVENILE COMPETENCY OR MENTAL  
5 DEFECT EXAMINATIONS. The treatment of sections 46.03 (18) (am), 301.03 (18) (am),  
6 and 938.295 (2) (a) and (c) of the statutes first applies to examinations ordered under  
7 section 938.295 (2) (a) of the statutes on the effective date of this subsection.”

8 (END)

NOTE

Art:

As we discussed, this redraft places the Initial  
Applicability provision under Corrections rather than  
Health and Family Services.



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

LRBb2483/2dn  
GMM:hml:cmh

March 13, 2002

Art:

As we discussed, this redraft places the Initial Applicability provision under Corrections rather than Health and Family Services.

Gordon M. Malaise  
Senior Legislative Attorney  
Phone: (608) 266-9738  
E-mail: [gordon.malaise@legis.state.wi.us](mailto:gordon.malaise@legis.state.wi.us)



State of Wisconsin  
2001 - 2002 LEGISLATURE  
January 2002 Special Session

LRBb2483/2  
GMM:hmh:cmh

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10 “SECTION 374e. 301.03 (18) (am) of the statutes is created to read:

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4           **3.** Page 225, line 22: after that line insert:

5           “**SECTION 529j.** 938.295 (2) (a) of the statutes is amended to read:

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18           **SECTION 529k.** 938.295 (2) (c) of the statutes is created to read:

19           938.295 (2) (c) A county that pays the cost of an examination under par. (a) may  
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21 guardian, based on the ability of the parent or guardian to pay. If the examination  
22 is provided or otherwise funded by the county department under s. 46.215, 46.22, or  
23 46.23, the county department shall collect the contribution of the parent or guardian  
24 as provided in s. 301.03 (18). If the examination is provided or otherwise funded by

1 the county department under s. 51.42 or 51.437, the county department shall collect  
2 the contribution of the parent or guardian as provided in s. 46.03 (18).”.

3 **4.** Page 435, line 4: after that line insert:

4 “(2f) LIABILITY OF PARENT OR GUARDIAN FOR JUVENILE COMPETENCY OR MENTAL  
5 DEFECT EXAMINATIONS. The treatment of sections 46.03 (18) (am), 301.03 (18) (am),  
6 and 938.295 (2) (a) and (c) of the statutes first applies to examinations ordered under  
7 section 938.295 (2) (a) of the statutes on the effective date of this subsection.”.

8 **(END)**