

ASSEMBLY BILL 443

1 **SECTION 66.** 165.85 (3) (d) of the statutes is amended to read:

2 165.85 (3) (d) Establish minimum curriculum requirements for preparatory
3 courses and programs, and recommend minimum curriculum requirements for
4 recertification and advanced courses and programs, in schools operated by or for this
5 state or any political subdivision of the state for the specific purpose of training law
6 enforcement recruits, law enforcement officers, tribal law enforcement recruits,
7 tribal law enforcement officers, jail officer recruits, jail officers, ~~secure~~ juvenile
8 detention officer recruits, or ~~secure~~ juvenile detention officers in areas of knowledge
9 and ability necessary to the attainment of effective performance as an officer, and
10 ranging from traditional subjects such as first aid, patrolling, statutory authority,
11 techniques of arrest, and firearms to subjects designed to provide a better
12 understanding of ever-increasing complex problems in law enforcement such as
13 human relations, civil rights, constitutional law, and supervision, control, and
14 maintenance of a jail or ~~secure~~ juvenile detention facility. The board shall appoint
15 a 13-member advisory curriculum committee consisting of 6 chiefs of police and 6
16 sheriffs to be appointed on a geographic basis of not more than one chief of police and
17 one sheriff from any one of the 8 state administrative districts together with the
18 director of training of the Wisconsin state patrol. This committee shall advise the
19 board in the establishment of the curriculum requirements.

20 **SECTION 67.** 175.35 (1) (ag) of the statutes is amended to read:

21 175.35 (1) (ag) “Criminal history record” includes information reported to the
22 department under s. 938.396 ~~(8)~~ (2g) (n) that indicates a person was adjudicated
23 delinquent for an act that if committed by an adult in this state would be a felony.

24 **SECTION 68.** 230.36 (1m) (b) 3. (intro.) of the statutes is amended to read:

ASSEMBLY BILL 443**SECTION 68**

1 230.36 (1m) (b) 3. (intro.) A guard, institution aide, or other employee at the
2 University of Wisconsin Hospitals and Clinics or at a state penal or mental
3 institution, including a secured juvenile correctional facility, as defined in s. 938.02
4 ~~(15m)~~ (10p), and a state probation, extended supervision, and parole officer, at all
5 times while:

6 **SECTION 69.** 230.36 (2m) (a) 20. of the statutes is amended to read:

7 230.36 (2m) (a) 20. A guard or institutional aide or a state probation, extended
8 supervision, and parole officer or any other employee whose duties include
9 supervision and discipline of inmates or wards of the state at a state penal
10 institution, including a secured juvenile correctional facility, as defined in s. 938.02
11 ~~(15m)~~ (10p), or while on parole supervision or extended supervision outside of the
12 confines of the institutions, or supervision of persons placed on probation by a court
13 of record, or supervision and care of patients at a state mental institution, and the
14 University of Wisconsin Hospitals and Clinics.

15 **SECTION 70.** 252.15 (1) (ab) and (2) (a) 7. a. of the statutes are amended to read:

16 252.15 (1) (ab) “Affected person” means an emergency medical technician; first
17 responder; fire fighter; peace officer; correctional officer; person who is employed at
18 a secured juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~, (10p), or a
19 secured ~~child-caring institution~~ residential care center for children and youth, as
20 defined in s. 938.02 (15g), ~~or a secured group home, as defined in s. 938.02 (15p)~~; state
21 patrol officer; jailer, keeper of a jail, or person designated with custodial authority
22 by the jailer or keeper; health care provider; employee of a health care provider; staff
23 member of a state crime laboratory; social worker; or employee of a school district,
24 cooperative educational service agency, charter school, private school, the Wisconsin

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1 Educational Services Program for the Deaf and Hard of Hearing, or the Wisconsin
2 Center for the Blind and Visually Impaired.

3 (2) (a) 7. a. If all of the conditions under subd. 7. ai. to c. are met, an emergency
4 medical technician; first responder; fire fighter; peace officer; correctional officer;
5 person who is employed at a ~~secured juvenile~~ correctional facility, as defined in s.
6 938.02 (15m), (10p), or a secured ~~child-caring institution~~ residential care center for
7 children and youth, as defined in s. 938.02 (15g), ~~or a secured group home, as defined~~
8 ~~in s. 938.02 (15p)~~; state patrol officer; jailer, keeper of a jail, or person designated with
9 custodial authority by the jailer or keeper, during the course of providing care or
10 services to an individual; a peace officer, correctional officer, state patrol officer,
11 jailer, or keeper of a jail, or person designated with custodial authority by the jailer
12 or keeper, while searching or arresting an individual or while controlling or
13 transferring an individual in custody; a health care provider or an employee of a
14 health care provider, during the course of providing care or treatment to an
15 individual or handling or processing specimens of body fluids or tissues of an
16 individual; a staff member of a state crime laboratory, during the course of handling
17 or processing specimens of body fluids or tissues of an individual; social worker; or
18 an employee of a school district, cooperative educational service agency, charter
19 school, private school, the Wisconsin Educational Services Program for the Deaf and
20 Hard of Hearing, or the Wisconsin Center for the Blind and Visually Impaired, while
21 performing employment duties involving an individual; who is significantly exposed
22 to the individual may subject the individual's blood to a test or a series of tests for
23 the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV
24 and may receive disclosure of the results.

25 **SECTION 71.** 252.15 (5) (a) 19. of the statutes is amended to read:

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1 252.15 (5) (a) 19. If the test was administered to a child who has been placed
2 in a foster home, treatment foster home, group home, residential care center for
3 children and youth, or ~~secured~~ juvenile correctional facility, as defined in s. 938.02
4 (~~15m~~) (10p), including a placement under s. 48.205, 48.21, 938.205, or 938.21, or for
5 whom placement in a foster home, treatment foster home, group home, residential
6 care center for children and youth, or ~~secured~~ juvenile correctional facility is
7 recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c), or 938.33 (3) or (4), to
8 an agency directed by a court to prepare a court report under s. 48.33 (1), 48.424 (4)
9 (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an agency responsible for
10 preparing a court report under s. 48.365 (2g), 48.425 (1), 48.831 (2), 48.837 (4) (c), or
11 938.365 (2g), to an agency responsible for preparing a permanency plan under s.
12 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4) or (5) (c), 48.831 (4) (e), 938.355 (2e),
13 or 938.38 regarding the child, or to an agency that placed the child or arranged for
14 the placement of the child in any of those placements and, by any of those agencies,
15 to any other of those agencies and, by the agency that placed the child or arranged
16 for the placement of the child in any of those placements, to the child's foster parent
17 or treatment foster parent or the operator of the group home, residential care center
18 for children and youth, or ~~secured~~ juvenile correctional facility in which the child is
19 placed, as provided in s. 48.371 or 938.371.

20 **SECTION 72.** 301.01 (2) (b) of the statutes is amended to read:

21 301.01 (2) (b) Any resident of a ~~secured~~ juvenile correctional facility, or a
22 ~~secured child caring institution or a secured group home residential care center for~~
23 children and youth.

24 **SECTION 73.** 301.01 (3k) of the statutes is amended to read:

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1 301.01 (3k) “Secured ~~child-caring institution~~ residential care center for
2 children and youth” has the meaning given in s. 938.02 (15g).

3 **SECTION 74.** 301.01 (3m) of the statutes is renumbered 301.01 (1m) and
4 amended to read:

5 301.01 (1m) “Secured Juvenile correctional facility” has the meaning given in
6 s. 938.02 (~~15m~~) (10p).

7 **SECTION 75.** 301.01 (3p) of the statutes is repealed.

NOTE: Deletes the definition of “secured group home” in s. 301.01 (3p), stats. See
the NOTE to s. 938.02 (15p), stats., as affected by this bill.

8 **SECTION 76.** 301.01 (4) of the statutes is amended to read:

9 301.01 (4) “State correctional institution” means a state prison under s. 302.01
10 or a secured juvenile correctional facility operated by the department.

11 **SECTION 77.** 301.027 of the statutes is amended to read:

12 **301.027 Treatment program at one or more juvenile-secured**
13 **correctional facilities.** The department shall maintain a cottage-based intensive
14 alcohol and other drug abuse program at one or more juvenile secured correctional
15 facilities.

16 **SECTION 78.** 301.03 (10) (d), (e) and (f) of the statutes are amended to read:

17 301.03 (10) (d) Administer the office of juvenile offender review in the division
18 of juvenile corrections in the department. The office shall be responsible for decisions
19 regarding case planning, and the release of juvenile offenders from secured juvenile
20 correctional facilities or secured ~~child-caring institutions~~ residential care centers for
21 children and youth to aftercare placements ~~and the transfer of juveniles to the~~
22 ~~Racine youthful offender correctional facility named in s. 302.01 as provided in s.~~
23 ~~938.357 (4) (d).~~

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1 (e) Provide educational programs in all ~~secured~~ juvenile correctional facilities
2 operated by the department.

3 (f) Provide health services and psychiatric services for residents of all ~~secured~~
4 juvenile correctional facilities operated by the department.

NOTE: Repeals language in s. 301.03 (10) (d), stats., relating to the authority of
DOC to place a juvenile who has been adjudged delinquent in a state prison. See the NOTE
to s. 938.357 (4) (d), stats., as affected by this bill.

5 **SECTION 79.** 301.032 (1) (b) of the statutes is amended to read:

6 301.032 (1) (b) All records of the department and all county records relating to
7 juvenile delinquency-related services shall be open to inspection at all reasonable
8 hours by authorized representatives of the federal government. Notwithstanding s.
9 ss. 48.396 (2) and 938.396 (2), all county records relating to the administration of
10 ~~such~~ those services shall be open to inspection at all reasonable hours by authorized
11 representatives of the department.

12 **SECTION 80.** 301.08 (1) (b) 3. of the statutes is amended to read:

13 301.08 (1) (b) 3. Contract with public, private, or voluntary agencies for the
14 supervision, maintenance, and operation of ~~secured~~ juvenile correctional facilities,
15 residential care centers for children and youth, as defined in s. 938.02 (15d), and
16 ~~secured child-caring institutions~~ residential care centers for children and youth for
17 the placement of juveniles who have been convicted under s. 938.183 or adjudicated
18 delinquent under s. 938.183 or 938.34 (4d), (4h), or (4m). The department may
19 designate a ~~secured~~ juvenile correctional facility, residential care center for children
20 and youth, or a ~~secured child-caring institution~~ residential care center for children
21 and youth contracted for under this subdivision as a Type 2 ~~secured~~ juvenile
22 correctional facility, as defined in s. 938.02 (20), and may designate a residential care
23 center for children and youth or ~~secured child-caring institution~~ residential care

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1 ~~center for children and youth~~ contracted for under this subdivision as a Type 2 child
2 ~~earing institution residential care center for children and youth~~, as defined in s.
3 938.02 (19r).

4 **SECTION 81.** 301.08 (1) (b) 4. of the statutes is repealed.

NOTE: Deletes s. 301.08 (1) (b) 4., stats., relating to contracts for secured group homes. The concept of “secured group home” is deleted in this bill. See the NOTE to s. 938.02 (15p), stats., as affected by this bill.

5 **SECTION 82.** 301.19 (1) (b) of the statutes is amended to read:

6 301.19 (1) (b) “Correctional facility” means an institution or facility, or a portion
7 of an institution or facility, that is used to confine juveniles alleged or found to be
8 delinquent or a prison, jail, house of correction, or lockup facility ~~but does not include~~
9 ~~a secured group home, as defined in s. 938.02 (15p).~~

NOTE: See the NOTE to s. 938.02 (15p), stats., as affected by this bill.

10 **SECTION 83.** 301.205 of the statutes is amended to read:

11 **301.205 Reimbursement to visiting families.** The department may
12 reimburse families visiting girls at a secured juvenile correctional facility. If the
13 department decides to provide the reimbursement, the department shall establish
14 criteria for the level of reimbursement, which shall include family income and size
15 and other relevant factors.

16 **SECTION 84.** 301.26 (2) (c) of the statutes is amended to read:

17 301.26 (2) (c) All funds to counties under this section shall be used to purchase
18 or provide juvenile delinquency–related services under ch. 938, except that no funds
19 to counties under this section may be used for purposes of land purchase, building
20 construction, or maintenance of buildings under s. 46.17, 46.175, or 301.37, for
21 reimbursement of costs under s. 938.209, for city lockups, or for reimbursement of
22 care costs in temporary shelter care under s. 938.22. Funds to counties under this

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1 section may be used for reimbursement of costs of program services, other than basic
2 care and supervision costs, in juvenile ~~secure~~ detention facilities.

3 **SECTION 85.** 301.26 (4) (cm) 1. and 2. of the statutes are amended to read:

4 301.26 (4) (cm) 1. Notwithstanding pars. (a), (b), and (bm), the department
5 shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the
6 appropriations under s. 20.410 (3) (hm), (ho), and (hr) for the purpose of reimbursing
7 ~~secured juvenile~~ correctional facilities, ~~secured child caring institutions~~ residential
8 care centers for children and youth, alternate care providers, aftercare supervision
9 providers, and corrective sanctions supervision providers for costs incurred
10 beginning on July 1, 1996, for the care of any juvenile 14 years of age or over who has
11 been placed in a ~~secured juvenile~~ correctional facility based on a delinquent act that
12 is a violation of s. 943.23 (1m) or (1r), 1999 stats., s. 948.35, 1999 stats., or s. 948.36,
13 1999 stats., or s. ~~939.31~~, 939.32 (1) (a), 940.03, 940.06, 940.21, 940.225 (1), 940.305,
14 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1),
15 948.025 (1), or 948.30 (2), that is a conspiracy to commit any of those violations, or
16 that is an attempted violation of s. 943.32 (2) and for the care of any juvenile 10 years
17 of age or over who has been placed in a ~~secured juvenile~~ correctional facility or
18 ~~secured child caring institution~~ residential care center for children and youth for
19 attempting or committing a violation of s. 940.01 or for committing a violation of s.
20 940.02 or 940.05.

21 2. Notwithstanding pars. (a), (b), and (bm), the department shall transfer funds
22 from the appropriation under s. 20.410 (3) (cg) to the appropriations under s. 20.410
23 (3) (hm), (ho), and (hr) for the purpose of reimbursing ~~secured juvenile~~ correctional
24 facilities, ~~secured child caring institutions~~ residential care centers for children and
25 youth, alternate care providers, aftercare supervision providers, and corrective

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1 sanctions supervision providers for costs incurred beginning on July 1, 1996, for the
2 care of any juvenile 14 years of age or over and under 18 years of age who has been
3 placed in a secured juvenile correctional facility under s. 48.366 based on a
4 delinquent act that is a violation of s. 940.01, 940.02, 940.05, or 940.225 (1).

NOTE: For an explanation of the changes to s. 301.26 (4) (cm) 1., stats., see the NOTE
following s. 938.34 (4h) (cm), stats., as affected by this bill.

5 **SECTION 86.** 301.26 (4) (d) 2. and 3. of the statutes are amended to read:

6 301.26 (4) (d) 2. Beginning on July 1, 2003, and ending on June 30, 2004, the
7 per person daily cost assessment to counties shall be \$183 for care in a Type 1 secured
8 juvenile correctional facility, as defined in s. 938.02 (19), \$183 for care for juveniles
9 transferred from a juvenile correctional institution under s. 51.35 (3), \$225 for care
10 in a residential care center for children and youth, \$142 for care in a group home for
11 children, \$47 for care in a foster home, \$88 for care in a treatment foster home, \$86
12 for departmental corrective sanctions services, and \$25 for departmental aftercare
13 services.

14 3. Beginning on July 1, 2004, and ending on June 30, 2005, the per person daily
15 cost assessment to counties shall be \$187 for care in a Type 1 secured juvenile
16 correctional facility, as defined in s. 938.02 (19), \$187 for care for juveniles
17 transferred from a juvenile correctional institution under s. 51.35 (3), \$239 for care
18 in a residential care center for children and youth, \$149 for care in a group home for
19 children, \$49 for care in a foster home, \$92 for care in a treatment foster home, \$87
20 for departmental corrective sanctions services, and \$26 for departmental aftercare
21 services.

22 **SECTION 87.** 301.26 (7) (b) 3. of the statutes is amended to read:

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1 301.26 (7) (b) 3. Each county's proportion of the number of juveniles statewide
2 who are placed in a ~~secured juvenile~~ juvenile correctional facility, ~~or a secured child-caring~~
3 ~~institution or a secured group home~~ residential care center for children and youth
4 during the most recent 3-year period for which that information is available.

5 **SECTION 88.** 301.263 (3) of the statutes is amended to read:

6 301.263 (3) The department shall distribute 33% of the amounts distributed
7 under sub. (1) based on each county's proportion of the violent Part I juvenile arrests
8 reported statewide under the uniform crime reporting system of the office of justice
9 assistance in the department of administration, during the most recent 2-year
10 period for which that information is available. The department shall distribute 33%
11 of the amounts distributed under sub. (1) based on each county's proportion of the
12 number of juveniles statewide who are placed in a ~~secured juvenile~~ juvenile correctional
13 facility, ~~or a secured child-caring institution or a secured group home~~ residential care
14 center for children and youth during the most recent 2-year period for which that
15 information is available. The department shall distribute 34% of the amounts
16 distributed under sub. (1) based on each county's proportion of the total Part I
17 juvenile arrests reported statewide under the uniform crime reporting system of the
18 office of justice assistance, during the most recent 2-year period for which that
19 information is available.

20 **SECTION 89.** 301.36 (1) of the statutes is amended to read:

21 301.36 (1) GENERAL AUTHORITY. The department shall investigate and
22 supervise all of the state prisons under s. 302.01, all ~~secured juvenile~~ juvenile correctional
23 facilities, all ~~secured child-caring institutions, all secured group homes~~ residential
24 care centers for children and youth, and all ~~secure juvenile~~ juvenile detention facilities and

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1 familiarize itself with all of the circumstances affecting their management and
2 usefulness.

3 **SECTION 90.** 301.37 (1) of the statutes is amended to read:

4 301.37 (1) The department shall fix reasonable standards and regulations for
5 the design, construction, repair, and maintenance of all houses of correction,
6 reforestation camps maintained under s. 303.07, jails, as defined in s. 302.30,
7 extensions of jails under s. 59.54 (14) (g), rehabilitation facilities under s. 59.53 (8),
8 lockup facilities, as defined in s. 302.30, work camps under s. 303.10, Huber facilities
9 under s. 303.09, and, after consulting with the department of health and family
10 services, all ~~secured group homes and secure juvenile~~ detention facilities, with
11 respect to their adequacy and fitness for the needs which they are to serve.

12 **SECTION 91.** 301.37 (5) of the statutes is amended to read:

13 301.37 (5) The department's standards and regulations under sub. (1) for
14 secure juvenile detention facilities apply to private secure juvenile detention
15 facilities used under s. 938.222. At least annually, the department shall inspect each
16 such private secure juvenile detention facility with respect to safety, sanitation,
17 adequacy, and fitness, report to the county board and the private entity operating the
18 private secure juvenile detention facility regarding any deficiency found and order
19 the necessary work to correct it. If within 6 months thereafter the work is not
20 commenced, or not completed within a reasonable period thereafter to the
21 satisfaction of the department, the department shall prohibit the use of the private
22 secure juvenile detention facility for purposes of s. 938.222 until the order is complied
23 with.

24 **SECTION 92.** 301.45 (1g) (b) and (bm), (3) (a) 2. and (5) (a) 2. of the statutes are
25 amended to read:

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1 301.45 (1g) (b) Is in prison, a ~~secured juvenile~~ correctional facility, or a secured
2 ~~child caring institution or a secured group home~~ residential care center for children
3 and youth or is on probation, extended supervision, parole, supervision, or aftercare
4 supervision on or after December 25, 1993, for a sex offense.

5 (bm) Is in prison, a ~~secured juvenile~~ correctional facility, or a secured child
6 ~~caring institution or a secured group home~~ residential care center for children and
7 youth or is on probation, extended supervision, parole, supervision, or aftercare
8 supervision on or after December 25, 1993, for a violation, or for the solicitation,
9 conspiracy, or attempt to commit a violation, of a law of this state that is comparable
10 to a sex offense.

11 (3) (a) 2. If the person has been sentenced to prison or placed in a ~~secured~~
12 juvenile correctional facility, or a secured child caring institution or a secured group
13 home residential care center for children and youth, he or she is subject to this
14 subsection upon being released on parole, extended supervision, or aftercare
15 supervision.

16 (5) (a) 2. If the person has been sentenced to prison for a sex offense or placed
17 in a ~~secured juvenile~~ correctional facility, or a secured child caring institution or a
18 ~~secured group home~~ residential care center for children and youth for a sex offense,
19 15 years after discharge from parole, extended supervision, or aftercare supervision
20 for the sex offense.

21 **SECTION 93.** 302.11 (10) of the statutes is amended to read:

22 302.11 (10) An inmate subject to an order under s. 48.366 ~~or 938.34 (4h)~~ is not
23 entitled to mandatory release and may be released or discharged only as provided
24 under s. 48.366 ~~or 938.538~~.

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NOTE: Deletes in s. 302.11 (10), stats., the reference to s. 938.34 (4h), stats., to reflect that this bill repeals the authority of the department of corrections (DOC) to place a juvenile who has been adjudicated delinquent in a state prison. See the NOTE to s. 938.357 (4) (d), stats., as affected by this bill.

1 **SECTION 94.** 302.18 (7) of the statutes is amended to read:

2 302.18 (7) Except as provided in s. 973.013 (3m), the department shall keep a
3 person under 15 years of age who has been sentenced to the Wisconsin state prisons
4 in a secured juvenile correctional facility or a secured ~~child-caring institution~~
5 residential care center for children and youth, but the department may transfer that
6 person to an adult correctional institution after the person attains 15 years of age.
7 The department may not transfer any person under 18 years of age to the
8 correctional institution authorized in s. 301.16 (1n).

9 **SECTION 95.** 302.255 of the statutes is amended to read:

10 **302.255 Interstate corrections compact; additional applicability.**
11 “Inmate”, as defined under s. 302.25 (2) (a), includes persons subject to an order
12 under s. 48.366 who are confined to a state prison under s. 302.01 ~~and persons subject~~
13 ~~to an order under s. 938.34 (4h) who are 17 years of age or older.~~

NOTE: Deletes language in s. 302.255, stats., relating to the authority of DOC to place a juvenile who has been adjudicated delinquent in a state prison. See the NOTE to s. 938.357 (4) (d), stats., as affected by this bill.

14 **SECTION 96.** 302.386 (1), (2) (intro.), (3) (a) and (5) (c) and (d) of the statutes are
15 amended to read:

16 302.386 (1) Except as provided in sub. (5), liability for medical and dental
17 services furnished to residents housed in prisons identified in s. 302.01 ~~or~~, in a
18 secured juvenile correctional facility as defined in s. 938.02 (15m), or in a secured
19 ~~child-caring institution, as defined in s. 938.02 (15g)~~ residential care center for
20 children and youth, or to forensic patients in state institutions for those services
21 ~~which~~ that are not provided by employees of the department shall be limited to the

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1 amounts payable under ss. 49.43 to 49.47, except s. 49.468, for similar services. The
2 department may waive any such limit if it determines that needed services cannot
3 be obtained for the applicable amount. No provider of services may bill the resident
4 or patient for the cost of services exceeding the amount of the liability under this
5 subsection.

6 (2) (intro.) The liability of the state for medical and dental services under sub.
7 (1) does not extend to that part of the medical or dental services of a resident housed
8 in a prison identified in s. 302.01, a secured juvenile correctional facility as defined
9 ~~in s. 938.02 (15m)~~, or a secured ~~child caring institution, as defined in s. 938.02 (15g)~~
10 residential care center for children and youth, for which any of the following applies:

11 (3) (a) Except as provided in par. (b), the department may require a resident
12 housed in a prison identified in s. 302.01 or in a secured juvenile correctional facility,
13 ~~as defined in s. 938.02 (15m)~~, who receives medical or dental services to pay a
14 deductible, coinsurance, copayment, or similar charge upon the medical or dental
15 service that he or she receives. The department shall collect the allowable
16 deductible, coinsurance, copayment, or similar charge.

17 (5) (c) Any participant in the corrective sanctions program under s. 938.533
18 ~~unless he or she~~ the participant is placed in a Type 1 secured juvenile correctional
19 facility, as defined in s. 938.02 (19).

20 (d) Any participant in the serious juvenile offender program under s. 938.538
21 ~~unless he or she~~ the participant is placed in a Type 1 secured juvenile correctional
22 facility, as defined in s. 938.02 (19), ~~or in a Type 1 prison other than the institution~~
23 ~~authorized under s. 301.046 (1).~~

NOTE: Deletes language in s. 302.386 (5) (d), stats., relating to the authority of DOC to place a juvenile who has been adjudicated delinquent in a state prison. See the NOTE to s. 938.357 (4) (d), stats., as affected by this bill.

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1 **SECTION 97.** 938.01 (1) (title) and (2) (title) of the statutes are created to read:

2 938.01 (1) (title) TITLE.

3 (2) (title) LEGISLATIVE INTENT.

4 **SECTION 98.** 938.01 (2) (f) of the statutes is amended to read:

5 938.01 (2) (f) To respond to a juvenile offender’s needs for care and treatment,
6 consistent with the prevention of delinquency, each juvenile’s best interest and
7 protection of the public, by allowing the judge court to utilize the most effective
8 dispositional option.

9 **SECTION 99.** 938.01 (2) (g) of the statutes is amended to read:

10 938.01 (2) (g) To ensure that victims and witnesses of acts committed by
11 juveniles that result in proceedings under this chapter are, consistent with ~~the~~
12 ~~provisions of this chapter and the Wisconsin constitution, afforded the same rights~~
13 as victims and witnesses of crimes committed by adults, and are treated with dignity,
14 respect, courtesy, and sensitivity throughout ~~such~~ those proceedings.

15 **SECTION 100.** 938.02 (5) of the statutes is amended to read:

16 938.02 (5) ~~“Developmentally disabled” means having a developmental~~
17 ~~disability, as defined in “Developmental disability” has the meaning given in s. 51.01~~
18 (5).

19 **SECTION 101.** 938.02 (7) of the statutes is amended to read:

20 938.02 (7) “Group home” means any facility operated by a person required to
21 be licensed by the department of health and family services under s. 48.625 for the
22 care and maintenance of 5 to 8 juveniles.

NOTE: Clarifies that the department referred to in s. 938.02 (7), stats., is the
department of health and family services (DHFS), not DOC.

23 **SECTION 102.** 938.02 (15d) of the statutes is amended to read:

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1 938.02 (15d) “Residential care center for children and youth” means a facility
2 operated by a child welfare agency licensed under s. 48.60 for the care and,
3 maintenance, and treatment of persons residing in that facility.

NOTE: Adds “treatment” to the list of services in the definition of “residential care center for children and youth” in s. 938.02 (15d), stats., since these centers provide treatment as well as “care and maintenance”.

4 **SECTION 103.** 938.02 (15g) of the statutes is amended to read:

5 938.02 (15g) “Secured ~~child caring institution~~ residential care center for
6 children and youth” means a residential care center for children and youth operated
7 by a child welfare agency that is licensed under s. 48.66 (1) (b) to hold in secure
8 custody persons adjudged delinquent.

NOTE: Changes the term “secure child caring institution” to “secured” residential care center for children and youth” in s. 938.02 (15g), stats. The committee determined that “secured residential care center for children and youth” is a more appropriate term for these facilities.

9 **SECTION 104.** 938.02 (15m) of the statutes is renumbered 938.02 (10p) and
10 amended to read:

11 938.02 (10p) “Secured Juvenile correctional facility” means a correctional
12 institution operated or contracted for by the department of corrections or operated
13 by the department of health and family services for holding in secure custody persons
14 adjudged delinquent. “Secured Juvenile correctional facility” includes the Mendota
15 juvenile treatment center under s. 46.057 and a facility authorized under s. 938.533
16 (3) (b), 938.538 (4) (b), or 938.539 (5).

NOTE: Changes the term “secured correctional facility” to “juvenile correctional facility” in s. 938.02 (15m), stats., as renumbered to s. 938.02 (10p) by this bill. There does not appear to be any reason to use “secured correctional facility” instead of “juvenile correctional facility” in ch. 938, stats. “Juvenile correctional facility” is a more descriptive term for a facility that deals solely with juvenile offenders. “Secured correctional facility” does not indicate that the correctional facility is for juvenile offenders. The same comment applies to other facilities defined in this section, including “secure detention facility” in current s. 938.02 (16), stats., the “Type 1 secured correctional facility” in current s. 938.02 (19), stats., and “Type 2 secured correctional facility” in current s. 938.02

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(20), stats. These definitions are also revised to use “juvenile” instead of “secure” or “secured”.

1 **SECTION 105.** 938.02 (15p) of the statutes is repealed.

NOTE: Repeals the definition of “secured group home” in s. 938.02 (15p), stats. The committee determined that no secured group homes have been established since the concept was first recognized in the statutes and that the concept is unnecessary and unworkable.

2 **SECTION 106.** 938.02 (16) of the statutes is renumbered 938.02 (10r) and
3 amended to read:

4 938.02 (10r) “Secure Juvenile detention facility” means a locked facility
5 approved by the department under s. 301.36 for the secure, temporary holding in
6 custody of juveniles.

NOTE: See the NOTE to s. 938.02 (15m), stats., as renumbered to s. 938.02 (10p) by this bill.

7 **SECTION 107.** 938.02 (19) of the statutes is amended to read:

8 938.02 (19) “Type 1 secured juvenile correctional facility” means a secured
9 juvenile correctional facility, but excludes any correctional institution that meets the
10 criteria under sub. (15m) (10p) solely because of its status under s. 938.533 (3) (b),
11 938.538 (4) (b), or 938.539 (5).

NOTE: See the NOTE to s. 938.02 (15m), stats., as renumbered to s. 938.02 (10p) by this bill.

12 **SECTION 108.** 938.02 (19r) of the statutes is amended to read:

13 938.02 (19r) “Type 2 ~~child caring institution~~ residential care center for
14 children and youth” means a residential care center for children and youth that is
15 designated by the department to provide care and maintenance for juveniles who
16 have been placed in the residential care center for children and youth under the
17 supervision of a county department under s. 938.34 (4d).

NOTE: See the NOTE to s. 938.02 (15g), stats., as affected by this bill.

18 **SECTION 109.** 938.02 (20) of the statutes is amended to read:

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1 938.02 (20) “Type 2 ~~secured~~ juvenile correctional facility” means a ~~secured~~
2 juvenile correctional facility that meets the criteria under sub. (15m) (10p) solely
3 because of its status under s. 938.533 (3) (b), 938.538 (4) (b), or 938.539 (5).

NOTE: See the NOTE to s. 938.02 (15m), stats., as renumbered to s. 938.02 (10p) by
this bill.

4 **SECTION 110.** 938.028 of the statutes is amended to read:

5 **938.028 Custody of Indian children.** The Indian ~~child-welfare-act~~ Child
6 Welfare Act, 25 USC 1911 to 1963, supersedes the provisions of this chapter in any
7 child custody proceeding governed by that act.

8 **SECTION 111.** 938.03 (title) of the statutes is amended to read:

9 **938.03 (title) Time and place of court; absence or disability of judge;**
10 **~~court of record.~~**

11 **SECTION 112.** 938.03 (1) of the statutes is amended to read:

12 938.03 (1) TIME AND PLACE OF COURT. The ~~judge~~ court shall set apart a time and
13 place to hold court on juvenile matters.

14 **SECTION 113.** 938.03 (2) of the statutes is amended to read:

15 938.03 (2) ABSENCE OR DISABILITY OF JUDGE. In the case of the absence or
16 disability of the judge of a court assigned to exercise jurisdiction under this chapter
17 and ch. 48, another judge shall be assigned under s. 751.03 to act temporarily in the
18 judge’s place. If the judge assigned temporarily is from a circuit other than the one
19 for which elected, the judge shall receive expenses as provided under s. 753.073.

20 **SECTION 114.** 938.06 (1) (a) of the statutes is amended to read:

21 **938.06 (1) (a) 1.** In counties with a population of 500,000 or more, the county
22 board of supervisors shall provide the court with the services necessary for
23 investigating and supervising cases under this chapter by operating a children’s

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1 court center under the supervision of a director who is appointed as provided in s.
2 46.21 (1m) (a). ~~The Except as otherwise provided in this subsection, the director is~~
3 ~~the chief administrative officer of the center and of the intake and probation sections~~
4 ~~and secure juvenile detention facilities of the center except as otherwise provided in~~
5 ~~this subsection. The director is charged with administration of responsible for~~
6 ~~managing the personnel of, and administering the services of, the sections and of the~~
7 ~~secure juvenile detention facilities, and is responsible for supervising both the~~
8 ~~operation of the physical plant and the maintenance and improvement of the~~
9 ~~buildings and grounds of the center.~~

10 1m. The center under subd. 1, shall include investigative services, provided by
11 the county department, for all juveniles alleged to be in need of protection or services
12 to be provided by the county department. ~~The center shall also include the and the~~
13 ~~services of an assistant district attorney or assistant corporation counsel, or both,~~
14 ~~who shall be assigned to the center to provide investigative as well as and legal work~~
15 ~~in the cases under this chapter and ch. 48.~~

16 2. The chief judge of the judicial administrative district shall ~~formulate~~
17 ~~establish~~ written judicial ~~policy~~ policies governing intake and court services for
18 juvenile matters under this chapter and the director of the center shall be ~~charged~~
19 ~~with executing the judicial policy~~ execute the policies. The chief judge shall direct
20 and supervise the work of all personnel of the court, except the work of the district
21 attorney or corporation counsel assigned to the court. ~~The chief judge, and~~ may
22 delegate his or her supervisory functions.

23 3. The county board of supervisors shall ~~develop~~ establish policies and
24 ~~establish necessary~~ rules for the management and administration of the nonjudicial
25 operations of the children's court center. The director of the center shall report to,

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1 and is responsible to, the director of the county department ~~for the execution of all~~
2 ~~nonjudicial operational relating to the center director's duty to execute the policies~~
3 and rules governing the center, including activities of probation officers whenever
4 they are not performing services for the court. The director of the center is also
5 responsible for ~~the preparation and submission~~ preparing and submitting to the
6 county board of supervisors of the annual budget for the center except for the judicial
7 functions or responsibilities which are delegated by law to the ~~judge or judges~~ court
8 and clerk of circuit court. The county board of supervisors ~~shall make provision in~~
9 ~~the organization of,~~ in organizing the office of director, shall provide for the
10 devolution of the director's authority in the case of temporary absence, illness,
11 disability to act, or a vacancy in position and shall establish the general
12 qualifications for the position. The county board of supervisors also has the authority
13 to investigate, arbitrate, and resolve any conflict in the administration of the center
14 as between judicial and nonjudicial operational policy and rules. The county board
15 of supervisors does not have authority over, and may not assert jurisdiction over, the
16 disposition of any case or juvenile after a written order is made under s. 938.21 or
17 if a petition is filed under s. 938.25.

18 4. All personnel of the intake and probation sections and of the secure juvenile
19 detention facilities shall be appointed under civil service by the director, except that
20 existing court service personnel having permanent civil service status may be
21 reassigned to any of the ~~respective~~ sections within the center specified in this
22 ~~paragraph~~ subdivision.

23 **SECTION 115.** 938.06 (1) (am) and (b) of the statutes are amended to read:

24 938.06 (1) (am) 1. All intake workers providing services under this chapter who
25 begin employment after May 15, 1980, shall have the qualifications required to

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1 perform entry level ~~social~~ case work in a county department and shall have
2 successfully completed 30 hours of intake training, approved or provided by the
3 department, prior to the completion of the first 6 months of employment in the
4 position. The department shall monitor compliance with this subdivision according
5 to rules promulgated by the department.

6 2. The department shall make training programs available annually that
7 permit intake workers providing services under this chapter to satisfy the
8 requirements ~~specified~~ under subd. 1.

9 (b) Notwithstanding par. (a), the county board of supervisors may ~~institute~~
10 make changes in the administration of services to the children's court center in order
11 to qualify for the maximum amount of federal and state aid as provided in sub. (4)
12 and s. 46.495.

NOTE: Replaces "social work" with "case work" in s. 938.06 (1) (am) 1., stats., relating to intake worker qualifications. The committee found that this provision is sometimes interpreted to mean that an intake worker must have a degree in social work and be licensed as a social worker, but that many staff who perform intake work are not social workers, but: (1) have degrees from 4 year accredited colleges in other human service related fields such as criminal justice, sociology, and psychology; and (2) are trained upon hire to perform in accordance with state law and practice standards.

13 **SECTION 116.** 938.06 (2) and (3) of the statutes are amended to read:

14 938.06 (2) COUNTIES WITH A POPULATION UNDER 500,000. (a) In counties having
15 less than 500,000 population, the county board of supervisors shall authorize the
16 county department or the court, or both, to provide intake services required by under
17 s. 938.067 and the staff needed to ~~carry out the objectives and provisions of this~~
18 ~~chapter to provide dispositional services~~ under s. 938.069. Intake services ~~under this~~
19 ~~chapter~~ shall be provided by employees of the court or the county department and
20 may not be subcontracted to other individuals or agencies, except as provided in par.
21 (am). Intake workers shall be governed in their intake work, including their

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1 responsibilities for ~~recommending~~ requesting the filing of a petition and entering
2 into a deferred prosecution agreement, by general written policies ~~which shall be~~
3 ~~formulated~~ established by the circuit judges for the county, subject to the approval
4 of the chief judge of the judicial administrative district.

5 (am) 1. ~~Notwithstanding par. (a), any~~ A county ~~which that~~ had intake services
6 under this chapter subcontracted from the county sheriff's department on
7 April 1, 1980, may continue to subcontract those intake services from the county
8 sheriff's department.

9 2. ~~Notwithstanding par. (a), any~~ A county in which the county sheriff's
10 department operates a ~~secure~~ juvenile detention facility may subcontract intake
11 services under this chapter from the county sheriff's department as provided in this
12 subdivision. If a county subcontracts intake services under this ~~chapter from the~~
13 ~~county sheriff's department~~ subdivision, employees of the county sheriff's
14 department who staff the ~~secure~~ juvenile detention facility may make secure custody
15 determinations under s. 938.208 between the hours of 6 p.m. and 6 a.m. ~~and any~~
16 ~~determination under s. 938.208 made by an employee of the county sheriff's~~
17 ~~department~~ Such a determination shall be reviewed by an intake worker employed
18 by the court or county department within 24 hours after ~~that determination~~ it is
19 made.

20 (b) 1. All intake workers providing services under this chapter who begin
21 employment after May 15, 1980, excluding county sheriff's department employees
22 who provide intake services under par. (am) 2., shall have the qualifications required
23 to perform entry level ~~social~~ case work in a county department. All intake workers
24 providing services under this chapter who begin employment after May 15, 1980,
25 including county sheriff's department employees who provide intake services under

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1 par. (am) 2., shall have successfully completed 30 hours of intake training approved
2 or provided by the department prior to the completion of the first 6 months of
3 employment in the position. The department shall monitor compliance with this
4 subdivision according to rules promulgated by the department.

5 2. The department shall make training programs available annually that
6 permit intake workers providing services under this chapter to satisfy the
7 requirements specified under subd. 1.

8 (3) INTAKE SERVICES. The court or county department responsible for providing
9 intake services under s. 938.067 shall specify one or more persons to provide intake
10 services. If there is more than one ~~such worker~~ person, one of the ~~workers~~ persons
11 shall be designated as chief ~~worker~~ and shall supervise the other workers persons.

NOTE: Changes, in the last sentence in s. 938.06 (2) (a), stats., “recommending” to
“requesting” in order to conform with language in current ss. 938.067 (6) and 938.24 (3)
and (5), stats.

In addition see the NOTE to s. 938.06 (1) (am) 1., stats., as affected by this bill. The
same comments apply to s. 938.06 (2) (b) 1., stats., as affected by this bill.

12 **SECTION 117.** 938.06 (5) of the statutes is renumbered 938.06 (5) (a) (intro.) and
13 amended to read:

14 938.06 (5) (a) (intro.) The county board of supervisors of any county may, by
15 resolution, authorize the court to use do any of the following:

16 1. Use placement in a secure juvenile detention facility or juvenile portion of
17 the county jail as a disposition under s. 938.34 (3) (f), as a sanction under s. 938.355
18 (6m) (a) 1g., or as a place of short-term detention under s. 938.355 (6d) (a) 1. or 2.
19 or (b) 1. or 2. or 938.534 (1) (b) 1. or 2. ~~or to use~~

20 2. Use commitment to a county department under s. 51.42 or 51.437 for special
21 treatment or care in an inpatient facility, as defined in s. 51.01 (10), as a disposition
22 under s. 938.34 (6) (am).

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1 **(b)** The use by the court of a disposition under s. 938.34 (3) (f) or (6) (am), a
2 sanction under s. 938.355 (6m) (a) 1g., or short-term detention under s. 938.355 (6d)
3 (a) 1. or 2. or (b) 1. or 2. or 938.534 (1) (b) 1. or 2. is subject to any resolution adopted
4 under ~~this subsection~~ par. (a).

5 **SECTION 118.** 938.067 (intro.) of the statutes is amended to read:

6 **938.067 Powers and duties of intake workers.** (intro.) To carry out the
7 objectives ~~and provisions~~ of this chapter ~~but subject to its limitations~~, intake workers
8 shall do all of the following:

9 **SECTION 119.** 938.067 (1) (title) of the statutes is created to read:

10 **938.067 (1)** (title) SCREENING.

11 **SECTION 120.** 938.067 (2) and (3) of the statutes are amended to read:

12 **938.067 (2)** INTERVIEWING. Interview, ~~unless impossible if possible~~, any juvenile
13 who is taken into physical custody and not released, and ~~where~~ if appropriate,
14 ~~interview~~ other available concerned parties. If the juvenile cannot be interviewed,
15 the intake worker shall consult with the juvenile's parent or a responsible adult. No
16 juvenile may be placed in a secure juvenile detention facility unless the juvenile has
17 been interviewed in person by an intake worker, except that if the intake worker is
18 in a place which is distant from the place where the juvenile is or the hour is
19 unreasonable, as defined by written court intake rules, and if the juvenile meets the
20 criteria under s. 938.208, the intake worker, after consulting by telephone with the
21 law enforcement officer who took the juvenile into custody, may authorize the secure
22 holding of the juvenile while the intake worker is en route to the in-person interview
23 or until 8 a.m. of the morning after the night on which the juvenile was taken into
24 custody.

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1 **(3) WHETHER JUVENILE SHOULD BE HELD.** Determine whether the juvenile shall
2 be held under s. 938.205 and ~~such policies as the judge shall promulgate~~ promulgated
3 under s. 938.06 (1) or (2).

4 **SECTION 121.** 938.067 (4) (title) of the statutes is created to read:

5 938.067 (4) (title) **WHERE JUVENILE SHOULD BE HELD.**

6 **SECTION 122.** 938.067 (5) of the statutes is amended to read:

7 938.067 (5) **CRISIS COUNSELING.** Provide any necessary crisis counseling during
8 the intake process ~~when such counseling appears to be necessary.~~

9 **SECTION 123.** 938.067 (6) (title), (6g) (title) and (6m) (title) of the statutes are
10 created to read:

11 938.067 (6) (title) **REQUEST FOR PETITION; DEFERRED PROSECUTION.**

12 **(6g)** (title) **VICTIMS' RIGHTS.**

13 **(6m)** (title) **MULTIDISCIPLINARY SCREEN.**

14 **SECTION 124.** 938.067 (7) of the statutes is amended to read:

15 938.067 (7) **REFERRALS.** Make referrals of cases to other agencies if their
16 assistance ~~appears to be~~ is needed or desirable.

17 **SECTION 125.** 938.067 (8) (title) and (8m) (title) of the statutes are created to
18 read:

19 938.067 (8) (title) **INTERIM RECOMMENDATIONS.**

20 **(8m)** (title) **TAKING JUVENILES INTO CUSTODY.**

21 **SECTION 126.** 938.067 (9) of the statutes is amended to read:

22 938.067 (9) **OTHER FUNCTIONS.** Perform any other functions ordered by the
23 court, and, when the court or chief judge requests, assist the court or chief judge of
24 the judicial administrative district in developing written policies or carrying out its
25 other duties ~~when the court or chief judge so requests.~~

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1 **SECTION 127.** 938.069 (1) (intro.), (c), (dj) and (e) of the statutes are amended
2 to read:

3 938.069 (1) DUTIES. (intro.) ~~The Subject to sub. (2), the~~ staff of the department,
4 the court, a county department, or a licensed child welfare agency designated by the
5 court to carry out the objectives and provisions of this chapter shall:

6 (c) Make an affirmative effort, and investigate and develop resources, to obtain
7 necessary or desired services for the juvenile and the juvenile's family and
8 ~~investigate and develop resources toward that end.~~

9 (dj) Provide aftercare services for a juvenile who has been released from a
10 secured juvenile correctional facility, or a secured ~~child caring institution or a~~
11 ~~secured group home residential care center for children and youth.~~

12 (e) Perform any other court-ordered functions consistent with this chapter
13 ~~which are ordered by the court.~~

14 **SECTION 128.** 938.069 (2) (title), (3) (title) and (4) (title) of the statutes are
15 created to read:

16 938.069 (2) (title) AGENCY APPROVAL NEEDED.

17 (3) (title) INTAKE SERVICES.

18 (4) (title) QUALIFICATIONS OF DISPOSITION STAFF.

19 **SECTION 129.** 938.07 (2) and (3) of the statutes are amended to read:

20 938.07 (2) LICENSED CHILD WELFARE AGENCY. The court may request the services
21 of a child welfare agency licensed under s. 48.60 in accordance with procedures
22 established by that agency. The ~~child welfare~~ agency shall receive no compensation
23 for these services but may be reimbursed out of funds made available to the court for
24 the actual and necessary expenses incurred in the performance of duties for the
25 court.

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1 **(3) COUNTY DEPARTMENT IN POPULOUS COUNTIES.** In counties having a population
2 of 500,000 or more, the court may order the director of the county department ~~may~~
3 ~~be ordered by the court~~ to provide services for furnishing emergency shelter care
4 services to any juvenile whose need ~~therefor~~ for the services, either by reason of need
5 of protection and services or delinquency, is determined by the intake worker under
6 s. 938.205. The court may authorize the director to appoint members of the county
7 department to furnish emergency shelter care services for the juvenile. The
8 emergency shelter care may be provided ~~as specified in~~ under s. 938.207.

9 **SECTION 130.** 938.08 (1) and (2) of the statutes are amended to read:

10 938.08 (1) INVESTIGATIONS; REPORTS. It is the duty of each A person appointed
11 to furnish services to the court ~~as provided in~~ under ss. 938.06 and 938.07 ~~to shall~~
12 make ~~such~~ any investigations and exercise ~~such~~ any discretionary powers as that the
13 judge court may direct, ~~to~~ keep a written record of ~~such~~ the investigations, and ~~to~~
14 submit a report to the judge court. The person shall keep informed concerning the
15 conduct and condition of the juvenile under the person's supervision and shall report
16 ~~thereon~~ on the conduct and condition as the judge court directs.

17 **(2) POWER TO TAKE JUVENILE INTO CUSTODY; LIMITS.** Except as provided in sub.
18 (3) and ss. 938.355 (6d) and 938.534 (1), ~~any~~ a person authorized to provide or
19 providing intake or dispositional services for the court under s. 938.067 or 938.069
20 has the power of police officers and deputy sheriffs only for the purpose of taking a
21 juvenile into physical custody when the juvenile comes voluntarily ~~or~~, is suffering
22 from illness or injury, or is in immediate danger from his or her surroundings and
23 removal from the surroundings is necessary.

24 **SECTION 131.** 938.08 (3) of the statutes is amended to read:

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1 938.08 (3) CONDITIONS FOR CERTAIN OTHER PERSONS TO TAKE JUVENILE INTO
2 CUSTODY. (a) In addition to the law enforcement authority ~~specified in~~ under sub. (2),
3 department personnel designated by the department, personnel of an agency
4 contracted with under s. 301.08 (1) (b) 3. and designated by agreement between the
5 agency and the department, and personnel of a county contracted with under s.
6 301.08 (1) (b) 4. and designated by agreement between the county and the
7 department have the power of law enforcement authorities to take a juvenile into
8 physical custody under the following conditions:

9 1. If they are in prompt pursuit of a juvenile who has run away from a ~~secured~~
10 juvenile correctional facility; or a residential care center for children and youth; ~~or~~
11 ~~a secured group home.~~

12 2. If the juvenile has failed to return to a ~~secured~~ juvenile correctional facility,
13 or a residential care center for children and youth; ~~or a secured group home~~ after any
14 authorized absence.

15 (b) A juvenile who is taken into custody under par. (a) may be returned directly
16 to the ~~secured~~ juvenile correctional facility; or residential care center for children and
17 youth; ~~or secured group home~~ and shall have a hearing regarding placement in a
18 ~~disciplinary cottage~~ or in disciplinary status in accordance with ch. 227.

NOTE: Deletes the reference to “disciplinary cottage” in s. 938.08 (3) (b), stats.,
because it is an outdated concept.

19 **SECTION 132.** 938.09 (1) to (6) of the statutes are amended to read:

20 938.09 (1) DELINQUENCY. By the district attorney, in any matter arising under
21 s. 938.12.

22 (2) CIVIL LAW VIOLATION. By the district attorney or, if designated by the county
23 board of supervisors, by the corporation counsel, in any matter concerning a civil law

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1 violation arising under s. 938.125. If the county board transfers this authority to or
2 from the district attorney on or after May 11, 1990, the board may do so only if the
3 action is effective on September 1 of an odd-numbered year and the board notifies
4 the department of administration of that change by January 1 of that odd-numbered
5 year.

6 (3) MUNICIPAL ORDINANCE VIOLATION. By the city, village, or town attorney, in
7 any matter concerning a city, village, or town ordinance violation, respectively,
8 arising under s. 938.125.

9 (4) COUNTY ORDINANCE VIOLATION. By any an appropriate person designated by
10 the county board of supervisors in any matter concerning a ~~noncity~~ county ordinance
11 violation arising under s. 938.125.

12 (5) JUVENILE IN NEED OF PROTECTION OR SERVICES. By the district attorney or, if
13 designated by the county board of supervisors, by the corporation counsel, in any
14 matter arising under s. 938.13. If the county board transfers this authority to or from
15 the district attorney on or after May 11, 1990, the board may do so only if the action
16 is effective on September 1 of an odd-numbered year and the board notifies the
17 department of administration of that change by January 1 of that odd-numbered
18 year.

19 (6) INTERSTATE COMPACT. By any an appropriate person designated by the
20 county board of supervisors in any matter arising under s. 938.14.

21 **SECTION 133.** 938.10 of the statutes is amended to read:

22 **938.10 Power of the judge to act as intake worker.** The duties of the intake
23 worker may be carried out from time to time by the judge at his or her discretion, but
24 except that if a request to file a petition is made, a citation is issued, or a deferred

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1 prosecution agreement is entered into, the judge shall be is disqualified from
2 participating further in the proceedings.

3 **SECTION 134.** 938.12 of the statutes is amended to read:

4 **938.12 Jurisdiction over juveniles alleged to be delinquent. (1) IN**
5 **GENERAL.** The court has exclusive jurisdiction, except as provided in ss. 938.17,
6 938.18, and 938.183, over any juvenile 10 years of age or ~~over~~ older who is alleged
7 to be delinquent.

8 **(2) SEVENTEEN-YEAR OLDS.** ~~If a court proceeding has been commenced under this~~
9 ~~section before a~~ petition alleging that a juvenile is delinquent is filed before the
10 juvenile is 17 years of age, but the juvenile becomes 17 years of age before admitting
11 the facts of the petition at the plea hearing or if the juvenile denies the facts, before
12 an adjudication, the court retains jurisdiction over the case.

NOTE: Clarifies, in s. 938.12 (2), stats., that a delinquency proceeding is commenced
when a delinquency petition is filed. [*D.W.B. v. State*, 158 Wis. 2d 398, 401, 462 N.W.2d
520, 521 (1990).]

13 **SECTION 135.** 938.125 (intro.) and (2) of the statutes are amended to read:

14 **938.125 Jurisdiction over juveniles alleged to have violated civil laws**
15 **or ordinances.** (intro.) The court has exclusive jurisdiction over ~~any~~ a juvenile
16 alleged to have violated a law punishable by forfeiture or a county, town, or other
17 municipal ordinance, except as follows:

18 **(2) That the** The court has exclusive jurisdiction over ~~any~~ a juvenile alleged to
19 have violated an ordinance enacted under s. 118.163 (2) only if evidence is provided
20 by the school attendance officer that the activities under s. 118.16 (5) have been
21 completed or were not required to be completed as provided in s. 118.16 (5m).

22 **SECTION 136.** 938.13 of the statutes is amended to read:

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1 **938.13 Jurisdiction over juveniles alleged to be in need of protection**
2 **or services.** The court has exclusive original jurisdiction over a juvenile alleged to
3 be in need of protection or services which can be ordered by the court, ~~and if any of~~
4 the following conditions applies:

5 (4) UNCONTROLLABLE. ~~Whose~~ The juvenile's parent or guardian signs the
6 petition requesting jurisdiction under this subsection and is unable or needs
7 assistance to control the juvenile.

8 (6) HABITUALLY TRUANT FROM SCHOOL. ~~Who~~ Except as provided under s. 938.17
9 (2), the juvenile is habitually truant from school, ~~if and~~ evidence is provided by the
10 school attendance officer that the activities under s. 118.16 (5) have been completed
11 or were not required to be completed as provided in s. 118.16 (5m), ~~except as provided~~
12 under s. 938.17 (2).

13 (6m) SCHOOL DROPOUT. ~~Who~~ The juvenile is a school dropout, as defined in s.
14 118.153 (1) (b).

15 (7) HABITUALLY TRUANT FROM HOME. ~~Who~~ The juvenile is habitually truant from
16 home and either the juvenile ~~or~~ a parent, ~~or~~ guardian, or a relative in whose home
17 the juvenile resides signs the petition requesting jurisdiction and attests in court
18 that reconciliation efforts have been attempted and have failed.

19 (12) DELINQUENT ACT BEFORE AGE 10. ~~Who, being~~ The juvenile is under 10 years
20 of age, ~~and~~ has committed a delinquent act as defined in s. 938.12.

21 (14) NOT RESPONSIBLE OR NOT COMPETENT. ~~Who~~ The juvenile has been
22 determined, under s. 938.30 (5) (c), to be not responsible for a delinquent act by
23 reason of mental disease or defect or ~~who~~ has been determined, under s. 938.30 (5)
24 (d), to be not competent to proceed.

25 **SECTION 137.** 938.135 of the statutes is amended to read:

ASSEMBLY BILL 443**SECTION 137****938.135 Referral of juveniles to proceedings under ch. 51 or 55. (1)**

JUVENILE WITH DEVELOPMENTAL DISABILITY, MENTAL ILLNESS, OR ALCOHOL OR DRUG DEPENDENCY. If a juvenile alleged to be delinquent or in need of protection or services is before the court and it appears that ~~the juvenile is developmentally disabled, mentally ill or to have a developmental disability or mental illness or to be drug dependent or suffers~~ suffering from alcoholism, the court may proceed under ch. 51 or 55.

(2) ADMISSIONS, PLACEMENTS, AND COMMITMENTS TO INPATIENT FACILITIES. Any

voluntary or involuntary admissions, placements, or commitments of a juvenile made in or to an inpatient facility, as defined in s. 51.01 (10), other than a commitment under s. 938.34 (6) (am) ~~shall be,~~ are governed by ch. 51 or 55.

SECTION 138. 938.15 of the statutes is amended to read:

938.15 Jurisdiction of other courts to determine legal custody. Nothing

~~contained in s. 938.12, 938.13 or 938.14 this chapter deprives other courts another~~ court of the right to determine the legal custody of juveniles a juvenile by habeas corpus or to determine the legal custody or guardianship of juveniles a juvenile if the legal custody or guardianship is incidental to the determination of ~~causes~~ an action pending in the ~~other courts~~ that court. But the jurisdiction of the court assigned to exercise jurisdiction under this chapter and ch. 48 is paramount in all cases involving juveniles alleged to come within the provisions of ss. 938.12 to 938.14.

SECTION 139. 938.17 (title) and (1) (intro.) and (c) of the statutes are amended to read:

938.17 (title) Jurisdiction over traffic, boating, snowmobile, and all-terrain vehicle violations and over civil law and ordinance violations.

(1) TRAFFIC, BOATING, SNOWMOBILE AND ALL-TERRAIN VEHICLE VIOLATIONS. (intro.)

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1 Except for violations of ss. 342.06 (2) and 344.48 (1), and violations of ss. 30.67 (1)
2 and 346.67 (1) when death or injury occurs, courts of criminal and civil jurisdiction
3 ~~shall~~ have exclusive jurisdiction in proceedings against juveniles 16 years of age or
4 older for violations of s. 23.33, of ss. 30.50 to 30.80, of chs. 341 to 351, and of traffic
5 regulations, as defined in s. 345.20, and nonmoving traffic violations, as defined in
6 s. 345.28 (1). A juvenile charged with a traffic, boating, snowmobile, or all-terrain
7 vehicle offense in a court of criminal or civil jurisdiction shall be treated as an adult
8 before the trial of the proceeding except that the juvenile may be held in secure
9 custody only in a secure juvenile detention facility. A juvenile convicted of a traffic,
10 boating, snowmobile, or all-terrain vehicle offense in a court of criminal or civil
11 jurisdiction shall be treated as an adult for sentencing purposes except as follows:

12 (c) If the court of civil or criminal jurisdiction orders the juvenile to serve a
13 period of incarceration of 6 months or more, that court shall petition the court
14 assigned to exercise jurisdiction under this chapter and ch. 48 to order one or more
15 of the dispositions ~~provided in~~ under s. 938.34, including placement of the juvenile
16 in a secured juvenile correctional facility, ~~a secured child caring institution or a~~
17 ~~secured group home under s. 938.34 (4m)~~ residential care center for children and
18 youth, if appropriate.

19 **SECTION 140.** 938.17 (2) (a) (title) of the statutes is created to read:

20 938.17 (2) (a) (title) *Concurrent municipal and juvenile court jurisdiction;*
21 *ordinance violations.*

22 **SECTION 141.** 938.17 (2) (a) 2. d. and 3. of the statutes are amended to read:

23 938.17 (2) (a) 2. d. If the municipality specified under subd. 2. b. or c. has not
24 adopted an ordinance under s. 118.163, the municipal court that may exercise
25 jurisdiction under subd. 1. is the municipal court that is located in the municipality

ASSEMBLY BILL 443**SECTION 141**

1 where the juvenile resides, if that municipality has adopted an ordinance under s.
2 118.163.

3 3. When a juvenile is alleged to have violated a municipal ordinance, ~~the~~
4 juvenile one of the following may ~~be~~ occur:

5 a. ~~Issued~~ The juvenile may be issued a citation directing the juvenile to appear
6 in municipal court or make a deposit or stipulation and deposit in lieu of appearance;

7 b. ~~Issued~~ The juvenile may be issued a citation directing the juvenile to appear
8 in the court assigned to exercise jurisdiction under this chapter and ch. 48 or make
9 a deposit or stipulation and deposit in lieu of appearance as provided in s. 938.237;

10 ~~or,~~

11 c. ~~Referred~~ The juvenile may be referred to intake for a determination whether
12 a petition should be filed in the court assigned to exercise jurisdiction under this
13 chapter and ch. 48 pursuant to under s. 938.125.

14 **SECTION 142.** 938.17 (2) (b) to (cm) of the statutes are amended to read:

15 938.17 (2) (b) Juvenile court jurisdiction; civil law and ordinance violations.

16 When a juvenile 12 years of age or older is alleged to have violated a civil law
17 punishable by a forfeiture or ~~where a juvenile is alleged to have violated a municipal~~
18 ordinance but there is no municipal court in the municipality, ~~the juvenile~~ one of the
19 following may ~~be~~ occur:

20 1. ~~Issued~~ The juvenile may be issued a citation directing the juvenile to appear
21 in the court assigned to exercise jurisdiction under this chapter and ch. 48 or make
22 a deposit or stipulation and deposit in lieu of appearance as provided in s. 938.237;

23 ~~or,~~

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1 2. ~~Referred~~ The juvenile may be referred to intake for a determination whether
2 a petition under s. 938.125 should be filed in the court assigned to exercise
3 jurisdiction under this chapter and ch. 48 ~~pursuant to s. 938.125~~.

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

17 (cg) Summons procedures. After a citation is issued, unless the juvenile and
18 his or her parent, guardian, and legal custodian voluntarily appear, the municipal
19 court may issue a summons requiring the parent, guardian ~~and,~~ or legal custodian
20 of the juvenile to appear personally at any hearing involving the juvenile and, if the
21 court so orders, to bring the juvenile before the court at a time and place stated.
22 Section 938.273 ~~shall govern~~ governs the service of a summons under this
23 paragraph, except that the expense of service or publication of a summons and of the
24 travelling expenses and fees ~~as allowed in ch. 885~~ of a person summoned allowed in
25 ch. 885 shall be a charge on the municipality of the court issuing the summons when

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1 approved by the court. If any person summoned under this paragraph fails without
2 reasonable cause to appear, he or she may be proceeded against for contempt of court
3 under s. 785.06. If a summons cannot be served or if the person served fails to obey
4 the summons or if it appears to the court that the service will be ineffectual, a *ca*
5 *pias* may be issued for the juvenile and for the parent, guardian ~~and~~, or legal custodian.

6 (cm) *Authorization for dispositions and sanctions.* A city, village, or town may
7 adopt an ordinance or bylaw specifying which of the dispositions under ss. 938.343
8 and 938.344 and sanctions under s. 938.355 (6) (d) and (6m) the municipal court of
9 that city, village, or town is authorized to impose or to petition the court assigned to
10 exercise jurisdiction under this chapter and ch. 48 to impose. The use by the court
11 of those dispositions and sanctions is subject to any ordinance or bylaw adopted
12 under this paragraph.

13 **SECTION 143.** 938.17 (2) (d) (title) of the statutes is created to read:

14 938.17 (2) (d) (title) *Disposition; ordinance violations generally.*

15 **SECTION 144.** 938.17 (2) (d) of the statutes is renumbered 938.17 (2) (d) 1. and
16 amended to read:

17 938.17 (2) (d) 1. If a municipal court finds that the juvenile violated a municipal
18 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
19 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2),
20 or 961.575 (2), the court shall enter any of the dispositional orders permitted under
21 s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture
22 imposed by the municipal court, the court may not impose a jail sentence but may
23 suspend any license issued under ch. 29 for not less than 30 days nor more than 5
24 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for
25 not more than 2 years.

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1 2. If a court suspends a license or privilege under ~~this section~~ subd. 1., the court
2 shall immediately take possession of the applicable license and forward it to the
3 department that issued the license, together with the notice of suspension ~~clearly~~
4 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
5 the forfeiture is paid during the period of suspension, the court shall immediately
6 notify the department, which shall ~~thereupon~~ then return the license to the person.

7 **SECTION 145.** 938.17 (2) (e) (title), (f) (title) and (g) (title) of the statutes are
8 created to read:

9 938.17 (2) (e) (title) *Disposition; alcohol and drug ordinance violations.*

10 (f) (title) *Notice to victims.*

11 (g) (title) *Disposition; truancy or school dropout ordinance violations.*

12 **SECTION 146.** 938.17 (2) (h) (title) of the statutes is created to read:

13 938.17 (2) (h) (title) *Sanctions; dispositional order violations generally.*

14 **SECTION 147.** 938.17 (2) (h) 1. and 2. of the statutes are amended to read:

15 938.17 (2) (h) 1. If a juvenile who has violated a municipal ordinance, other
16 than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of his or
17 her dispositional order, the municipal court may impose on the juvenile any of the
18 sanctions specified in s. 938.355 (6) (d) 2. to 5. that are authorized under par. (cm)
19 except for monitoring by an electronic monitoring system ~~or~~. The municipal court
20 may also petition the court assigned to exercise jurisdiction under this chapter and
21 ch. 48 to impose on the juvenile the sanction specified in s. 938.355 (6) (d) 1. or home
22 detention with monitoring by an electronic monitoring system as specified in s.
23 938.355 (6) (d) 3., if authorized under par. (cm);. A sanction may be imposed under
24 this subdivision only if at the time of judgment the court explained the conditions to
25 the juvenile and informed the juvenile of the possible sanctions under s. 938.355 (6)

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1 (d) that are authorized under par. (cm) for a violation or if before the violation the
2 juvenile has acknowledged in writing that he or she has read, or has had read to him
3 or her, those conditions and possible sanctions and that he or she understands those
4 conditions and possible sanctions.

5 2. A motion requesting the municipal court to impose or petition for a sanction
6 may be brought by the person or agency primarily responsible for the provision of
7 dispositional services, the municipal attorney, or the court that entered the
8 dispositional order. If the court initiates the motion, that court is disqualified from
9 holding may not hold a hearing on the motion. Notice of the motion shall be given
10 to the juvenile and the juvenile's parent, guardian, or legal custodian.

11 **SECTION 148.** 938.17 (2) (i) (title) of the statutes is created to read:

12 938.17 (2) (i) (title) *Sanctions; truancy or school dropout dispositional order*
13 *violations.*

14 **SECTION 149.** 938.17 (2) (i) 1., 2m. and 3g. of the statutes are amended to read:

15 938.17 (2) (i) 1. If a juvenile who has violated a municipal ordinance enacted
16 under s. 118.163 (1m) violates a condition of his or her dispositional order, the
17 municipal court may impose on the juvenile any of the sanctions specified in s.
18 938.355 (6m) (ag),. A sanction may be imposed under this subdivision only if at the
19 time of judgment the court explained the conditions to the juvenile and informed the
20 juvenile of those possible sanctions or if before the violation the juvenile has
21 acknowledged in writing that he or she has read, or has had read to him or her, those
22 conditions and possible sanctions and that he or she understands those conditions
23 and possible sanctions.

24 2m. If a juvenile who has violated a municipal ordinance enacted under s.
25 118.163 (2) violates a condition of his or her dispositional order, the municipal court

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1 may impose on the juvenile any of the sanctions specified in s. 938.355 (6m) (a) that
2 are authorized under par. (cm) except for the sanction specified in s. 938.355 (6m) (a)
3 1g. ~~or~~ The municipal court may also petition the court assigned to exercise
4 jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction
5 specified in s. 938.355 (6m) (a) 1g., if authorized under par. (cm), A sanction may
6 be imposed under this subdivision only if at the time of judgment the court explained
7 the conditions to the juvenile and informed the juvenile of the possible sanctions
8 under s. 938.355 (6m) (a) that are authorized under par. (cm) for a violation or if
9 before the violation the juvenile has acknowledged in writing that he or she has read,
10 or has had read to him or her, those conditions and possible sanctions and that he or
11 she understands those conditions and possible sanctions.

12 3g. A motion requesting the municipal court to impose or petition for a sanction
13 may be brought by the person or agency primarily responsible for the provision of
14 dispositional services, the municipal attorney, or the court that entered the
15 dispositional order. If the court initiates the motion, that court ~~is disqualified from~~
16 ~~holding~~ may not hold a hearing on the motion. Notice of the motion shall be given
17 to the juvenile and the juvenile's parent, guardian, or legal custodian.

18 **SECTION 150.** 938.18 (1) (a) of the statutes is renumbered 938.18 (1) and
19 amended to read:

20 938.18 (1) WAIVER OF JUVENILE COURT JURISDICTION; CONDITIONS FOR. Subject to
21 s. 938.183, a juvenile ~~or district attorney may apply to~~ petition requesting the court
22 to waive its jurisdiction under this chapter in may be filed if the juvenile meets any
23 of the following ~~situations~~ conditions:

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1 (a) ~~If the~~ The juvenile is alleged to have violated s. 940.03, 940.06, 940.225 (1)
2 or (2), 940.305, 940.31, 943.10 (2), 943.32 (2), or 961.41 (1) on or after the juvenile's
3 14th birthday.

4 (b) ~~If the~~ The juvenile is alleged to have committed, ~~on or after the juvenile's~~
5 ~~14th birthday,~~ a violation, on or after the juvenile's 14th birthday at the request of
6 or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would constitute
7 a felony under chs. 939 to 948 or 961 if committed by an adult.

8 (c) ~~If the~~ The juvenile is alleged to have violated any state criminal law on or
9 after the juvenile's 15th birthday.

10 **SECTION 151.** 938.18 (1) (b) of the statutes is repealed.

11 **SECTION 152.** 938.18 (2) of the statutes is amended to read:

12 938.18 (2) PETITION. ~~The waiver hearing shall be brought on by filing a petition~~
13 ~~alleging delinquency drafted under s. 938.255 and a petition for waiver of~~
14 ~~jurisdiction which~~ may be filed by the district attorney or the juvenile or may be
15 initiated by the court and shall contain a brief statement of the facts supporting the
16 request for waiver. The petition for waiver of jurisdiction shall be accompanied by
17 or filed after the filing of a petition alleging delinquency and shall be filed prior to
18 the plea hearing, except that if the juvenile denies the facts of the petition and
19 becomes 17 years of age before an adjudication, the petition for waiver of jurisdiction
20 may be filed at any time prior to the adjudication. If the court initiates the petition
21 for waiver of jurisdiction, the judge shall disqualify himself or herself from any future
22 proceedings on the case.

NOTE: Creates a provision in s. 938.18 (2), stats., based on current s. 938.18 (1) (b),
stats., which is repealed in this bill.

23 **SECTION 153.** 938.18 (2m) (title) of the statutes is created to read:

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1 938.18 **(2m)** (title) AGENCY REPORT.

2 **SECTION 154.** 938.18 (3) (intro.) of the statutes is created to read:

3 938.18 **(3)** RIGHTS OF JUVENILE. (intro.) All of the following apply at a waiver
4 hearing under this section:

5 **SECTION 155.** 938.18 (3) (a), (b) and (c) of the statutes are amended to read:

6 938.18 **(3)** (a) The juvenile shall be represented by counsel ~~at the waiver~~
7 ~~hearing.~~ Written notice of the time, place, and purpose of the hearing shall be given
8 to the juvenile, any parent, guardian, or legal custodian, and counsel at least 3 days
9 prior to the hearing. The notice shall contain a statement of the requirements of s.
10 938.29 (2) with regard to substitution of the judge. ~~Where~~ If parents entitled to notice
11 have the same address, notice to one constitutes notice to the other. Counsel for the
12 juvenile shall have access to the social records and other reports ~~consistent with~~
13 under s. 938.293.

14 (b) The juvenile has the right to present testimony on his or her own behalf
15 including expert testimony and has the right to cross-examine witnesses ~~at the~~
16 ~~hearing.~~

17 (c) The juvenile does not have the right to a jury ~~at a hearing under this section.~~

18 **SECTION 156.** 938.18 (4) (title) of the statutes is created to read:

19 938.18 **(4)** (title) PROSECUTIVE MERIT; CONTESTED OR UNCONTESTED PETITION.

20 **SECTION 157.** 938.18 (4) (a) and (b) of the statutes are amended to read:

21 938.18 **(4)** (a) The court shall determine whether the matter has prosecutive
22 merit before proceeding to determine if it should waive jurisdiction. If the court
23 determines that the matter does not have prosecutive merit, the court shall deny the
24 petition for waiver.

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1 (b) If a petition for waiver of jurisdiction is contested, the district attorney shall
2 present relevant testimony and the court, after taking ~~relevant~~ that testimony ~~which~~
3 ~~the district attorney shall present~~ and considering other relevant evidence, shall
4 base its decision whether to waive jurisdiction on the criteria specified in sub. (5).

NOTE: Clarifies s. 938.18 (4) (a), stats., by providing that the juvenile court must deny the petition for waiver if it determines that the matter does not have prosecutive merit.

5 **SECTION 158.** 938.18 (5) (title) of the statutes is created to read:

6 938.18 (5) (title) CRITERIA FOR WAIVER.

7 **SECTION 159.** 938.18 (5) (a) of the statutes is amended to read:

8 938.18 (5) (a) The personality ~~and prior record~~ of the juvenile, including
9 whether the juvenile is ~~mentally ill or developmentally disabled~~, whether the court
10 has ~~previously waived its jurisdiction over the juvenile~~, whether the juvenile has
11 been ~~previously convicted following a waiver of the court's jurisdiction~~ or has been
12 ~~previously found delinquent~~, whether such ~~conviction or delinquency~~ involved the
13 ~~infliction of serious bodily injury~~, the juvenile's motives and attitudes has a mental
14 illness or developmental disability, the juvenile's physical and mental maturity, and
15 the juvenile's pattern of living, ~~prior offenses~~, prior treatment history, and apparent
16 potential for responding to future treatment.

NOTE: The stricken language beginning with "whether the court..." is included in s. 938.18 (5) (am), stats., as created by this bill.

17 **SECTION 160.** 938.18 (5) (am) of the statutes is created to read:

18 938.18 (5) (am) The prior record of the juvenile, including whether the court has
19 previously waived its jurisdiction over the juvenile, whether the juvenile has been
20 previously convicted following a waiver of the court's jurisdiction or has been
21 previously found delinquent, whether such conviction or delinquency involved the

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1 infliction of serious bodily injury, the juvenile's motives and attitudes, and the
2 juvenile's prior offenses.

3 **SECTION 161.** 938.18 (5) (b) of the statutes is amended to read:

4 938.18 (5) (b) The type and seriousness of the offense, including whether it was
5 against persons or property, and the extent to which it was committed in a violent,
6 aggressive, premeditated or willful manner, ~~and its prosecutive merit.~~

NOTE: Deletes the reference to "prosecutive merit" in s. 938.18 (5) (b), stats.,
because the determination of whether the matter before the court has prosecutive merit
is governed by s. 938.18 (4) (a), stats.

7 **SECTION 162.** 938.18 (6) of the statutes is amended to read:

8 938.18 (6) DECISION ON WAIVER. After considering the criteria under sub. (5),
9 the court shall state its finding with respect to the criteria on the record, and, if the
10 court determines on the record that ~~it~~ there is established by clear and convincing
11 evidence that it ~~would be~~ is contrary to the best interests of the juvenile or of the
12 public to hear the case, the court shall enter an order waiving jurisdiction and
13 referring the matter to the district attorney for appropriate proceedings in the court
14 of criminal jurisdiction, ~~and the.~~ After the order, the court of criminal jurisdiction
15 ~~thereafter~~ has exclusive jurisdiction.

16 **SECTION 163.** 938.18 (7) (title), (8) (title) and (9) (title) of the statutes are
17 created to read:

18 938.18 (7) (title) JUVENILE WHO ABSCONDS.

19 (8) (title) TRANSFER TO ADULT FACILITY; BAIL.

20 (9) (title) CRIMINAL CHARGE.

21 **SECTION 164.** 938.183 (1) (title) of the statutes is created to read:

22 938.183 (1) (title) JUVENILES UNDER ADULT COURT JURISDICTION.

23 **SECTION 165.** 938.183 (1) (a) and (am) of the statutes are amended to read:

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1 938.183 (1) (a) A juvenile who has been adjudicated delinquent and who is
2 alleged to have violated s. 940.20 (1) or 946.43 while placed in a ~~secured juvenile~~
3 ~~correctional facility, a secure juvenile detention facility, –a secured child caring~~
4 ~~institution~~ or a secured group-home residential care center for children and youth
5 or who has been adjudicated delinquent and who is alleged to have committed a
6 violation of s. 940.20 (2m).

7 (am) A juvenile who is alleged to have attempted or committed a violation of
8 s. 940.01 or to have committed a violation of s. 940.02 or 940.05 on or after the
9 juvenile’s 10th birthday, ~~but before the juvenile’s 15th birthday.~~

NOTE: This language is deleted to reflect the reorganization of s. 938.183 (1m) and
(2), stats., by this bill.

10 **SECTION 166.** 938.183 (1m) (intro.) and (c) 1. and 2. of the statutes are amended
11 to read:

12 938.183 (1m) CRIMINAL PENALTIES AND PROCEDURES. (intro.) Notwithstanding
13 subchs. IV to VI, a juvenile described in sub. (1) is subject to the procedures specified
14 in chs. 967 to 979 and the criminal penalties ~~provided~~ for the crime that the juvenile
15 is alleged to have committed except as follows:

16 (c) 1. ~~The Except as provided in subd. 3.,~~ the court of criminal jurisdiction finds
17 that the juvenile has committed a lesser offense or a joined offense that is not a
18 violation of s. 940.20 (1) or (2m) or 946.43 under the circumstances described in sub.
19 (1) (a), that is not an attempt to violate s. 940.01 under the circumstances described
20 in sub. (1) (am), that is not a violation of s. 940.02 or 940.05 under the circumstances
21 described in sub. (1) (am), and that is not an offense for which the court assigned to
22 exercise jurisdiction under this chapter and ch. 48 may waive its jurisdiction over the
23 juvenile under s. 938.18.

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1 2. The Except as provided in subd. 3., the court of criminal jurisdiction finds
2 that the juvenile has committed a lesser offense or a joined offense that is a violation
3 of s. 940.20 (1) or (2m) or 946.43 under the circumstances described in sub. (1) (a),
4 that is an attempt to violate s. 940.01 under the circumstances described in sub. (1)
5 (am), that is a violation of s. 940.02 or 940.05 under the circumstances described in
6 sub. (1) (am), or that is an offense for which the court assigned to exercise jurisdiction
7 under this chapter and ch. 48 may waive its jurisdiction over the juvenile under s.
8 938.18 and the court of criminal jurisdiction, after considering the criteria specified
9 in s. 938.18 (5), determines that the juvenile has proved by clear and convincing
10 evidence that it would be in the best interests of the juvenile and of the public to
11 adjudge the juvenile to be delinquent and impose a disposition specified in s. 938.34.

12 **SECTION 167.** 938.183 (2) of the statutes is renumbered 938.183 (1m) (c) 3. and
13 amended to read:

14 938.183 (1m) (c) 3. ~~Notwithstanding ss. 938.12 (1) and 938.18, courts of~~
15 ~~criminal jurisdiction have exclusive original jurisdiction over~~ For a juvenile who is
16 alleged to have attempted or committed a violation of s. 940.01 or to have committed
17 a violation of s. 940.02 or 940.05 on or after the juvenile's 15th birthday.
18 ~~Notwithstanding ss. 938.12 (1) and 938.18, courts of criminal jurisdiction also have~~
19 ~~exclusive original jurisdiction over a juvenile specified in the preceding sentence who~~
20 ~~is alleged to have attempted or committed a violation of any state law in addition to~~
21 ~~the violation alleged under the preceding sentence if the violation alleged under this~~
22 ~~sentence and the violation alleged under the preceding sentence may be joined under~~
23 ~~s. 971.12 (1). Notwithstanding subchs. IV to VI, a juvenile who is alleged to have~~
24 ~~attempted or committed a violation of s. 940.01 or to have committed a violation of~~
25 ~~s. 940.02 or 940.05 on or after the juvenile's 15th birthday and a juvenile who is~~

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1 ~~alleged to have attempted or committed a violation of any state criminal law, if that~~
2 ~~violation and an attempt to commit a violation of s. 940.01 or the commission of a~~
3 ~~violation of s. 940.01, 940.02 or 940.05 may be joined under s. 971.12 (1), is subject~~
4 ~~to the procedures specified in chs. 967 to 979 and the criminal penalties provided for~~
5 ~~the crime that the juvenile is alleged to have committed, except that the court of~~
6 ~~criminal jurisdiction shall, in lieu of convicting the juvenile, adjudge the juvenile to~~
7 ~~be delinquent and impose a disposition specified in s. 938.34 if, the court of criminal~~
8 ~~jurisdiction finds that the juvenile has committed a lesser offense than the offense~~
9 ~~alleged under this subsection or has committed an offense that is joined under s.~~
10 ~~971.12 (1) to an attempt to commit a violation of s. 940.01 or to the commission of a~~
11 ~~violation of s. 940.01, 940.02 or 940.05, but has not attempted to commit a violation~~
12 ~~of s. 940.01 or committed a violation of s. 940.01, 940.02, or 940.05, and the court of~~
13 ~~criminal jurisdiction, after considering the criteria specified in under s. 938.18 (5),~~
14 ~~determines that the juvenile has proved by clear and convincing evidence that it~~
15 ~~would be in the best interests of the juvenile and of the public to adjudge the juvenile~~
16 ~~to be delinquent and impose a disposition specified in under s. 938.34.~~

17 **SECTION 168.** 938.183 (3) of the statutes is amended to read:

18 938.183 (3) PLACEMENT IN STATE PRISON; PAROLE. When a juvenile who is subject
19 to a criminal penalty under sub. (1m) ~~or (2)~~ or s. 938.183 (2), 2003 stats., attains the
20 age of 17 years, the department may place the juvenile in a state prison named in s.
21 302.01, except that the department may not place any person under the age of 18
22 years in the correctional institution authorized in s. 301.16 (1n). ~~If a juvenile who~~
23 ~~is subject to a criminal penalty under sub. (1m) or (2) is 15 years of age or over, the~~
24 ~~department may transfer the juvenile to the Racine youthful offender correctional~~
25 ~~facility named in s. 302.01 as provided in s. 938.357 (4) (d). A juvenile who is subject~~

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1 to a criminal penalty under sub. (1m) ~~or (2)~~ or under s. 938.183 (2), 2003 stats., for
2 an act committed before December 31, 1999, is eligible for parole under s. 304.06.

NOTE: Deletes the second-to-last sentence because the authority to transfer juveniles to the Racine Youthful Offender Correctional Facility under s. 938.357 (4) (d), stats., is repealed in this bill. See the NOTE to s. 938.357 (4) (d), stats., as affected by this bill.

3 **SECTION 169.** 938.183 (4) (title) of the statutes is created to read:

4 938.183 (4) (title) CHILD SUPPORT.

5 **SECTION 170.** 938.185 (1) (title) of the statutes is created to read:

6 938.185 (1) (title) PROCEEDINGS GENERALLY.

7 **SECTION 171.** 938.185 (2) of the statutes is amended to read:

8 938.185 (2) REVISION AND EXTENSION OF ORDERS. Venue for any proceeding under
9 s. 938.363 or 938.365 shall be in the county where the dispositional order was issued,
10 unless the juvenile's county of residence has changed, or the parent of the juvenile
11 has resided in a different county of this state for at least 6 months. In either case,
12 the court may, upon a motion and for good cause shown, transfer the case, along with
13 all appropriate records, to the county of residence of the juvenile or parent.

14 **SECTION 172.** 938.185 (3) (title) and (4) (title) of the statutes are created to read:

15 938.185 (3) (title) SEX OFFENDER REGISTRY VIOLATIONS.

16 (4) (title) AMERICAN INDIAN JUVENILES.

17 **SECTION 173.** 938.19 (1) (title) of the statutes is created to read:

18 938.19 (1) (title) CRITERIA.

19 **SECTION 174.** 938.19 (1) (b) and (c) of the statutes are amended to read:

20 938.19 (1) (b) A capias issued by a judge court under s. 938.28.

21 (c) ~~An A court order of the judge if made upon there is~~ a showing satisfactory
22 ~~to the judge~~ that the welfare of the juvenile demands that the juvenile be

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1 immediately removed from his or her present custody. The order shall specify that
2 the juvenile be held in custody under s. 938.207.

3 **SECTION 175.** 938.19 (1) (d) 1., 6. and 7. of the statutes are amended to read:

4 938.19 (1) (d) 1. A capias or a warrant for the juvenile's apprehension has been
5 issued in this state, or ~~that~~ the juvenile is a fugitive from justice.

6 6. The juvenile has violated a condition of court-ordered supervision or
7 aftercare supervision administered by the department or a county department, a
8 condition of the juvenile's placement in a Type 2 secured juvenile correctional facility
9 or a Type 2 child-caring institution residential care center for children and youth, or
10 a condition of the juvenile's participation in the intensive supervision program under
11 s. 938.534.

12 7. The juvenile has violated the conditions of an order under s. 938.21 (4) or ~~the~~
13 ~~conditions~~ of an order for temporary physical custody issued by an intake worker.

14 **SECTION 176.** 938.19 (1m) and (2) of the statutes are amended to read:

15 938.19 (1m) TRUANCY. A juvenile who is absent from school without an
16 acceptable excuse under s. 118.15 may be taken into custody by an individual
17 designated under s. 118.16 (2m) (a) if the school attendance officer of the school
18 district in which the juvenile resides, or the juvenile's parent, guardian, or legal
19 custodian, requests that the juvenile be taken into custody. The request shall
20 specifically identify the juvenile.

21 (2) NOTIFICATION OF PARENT, GUARDIAN, LEGAL CUSTODIAN. When a juvenile is
22 taken into physical custody ~~as provided in~~ under this section, the person taking the
23 juvenile into custody shall immediately attempt to notify the parent, guardian, and
24 legal custodian of the juvenile by the most practical means. The person taking the
25 juvenile into custody shall continue such attempt until the parent, guardian, and

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1 legal custodian of the juvenile are notified, or the juvenile is delivered to an intake
2 worker under s. 938.20 (3), whichever occurs first. If the juvenile is delivered to the
3 intake worker before the parent, guardian, and legal custodian are notified, the
4 intake worker, or another person at his or her direction, shall continue the attempt
5 to notify until the parent, guardian, and legal custodian of the juvenile are notified.

6 **SECTION 177.** 938.19 (3) (title) of the statutes is created to read:

7 938.19 (3) (title) NOT AN ARREST.

8 **SECTION 178.** 938.20 (2) (title) of the statutes is created to read:

9 938.20 (2) (title) RELEASE OF JUVENILE.

10 **SECTION 179.** 938.20 (2) (cm) and (d) of the statutes are amended to read:

11 938.20 (2) (cm) If the juvenile has violated a condition of aftercare supervision
12 administered by the department or a county department, a condition of the juvenile's
13 placement in a Type 2 secured juvenile correctional facility or a Type 2 child-caring
14 institution residential care center for children and youth, or a condition of the
15 juvenile's participation in the intensive supervision program under s. 938.534, the
16 person who took the juvenile into custody may release the juvenile to the department
17 or county department, whichever has supervision over the juvenile.

18 (d) If the juvenile is a runaway, the person who took the juvenile into custody
19 may release the juvenile to a home authorized under s. 48.227.

20 **SECTION 180.** 938.20 (3) of the statutes is amended to read:

21 938.20 (3) NOTIFICATION TO PARENT, GUARDIAN, LEGAL CUSTODIAN OF RELEASE. If
22 the juvenile is released under sub. (2) (b) to (d) or (g), the person who took the juvenile
23 into custody shall immediately notify the juvenile's parent, guardian, and legal
24 custodian of the time and circumstances of the release and the person, if any, to whom
25 the juvenile was released. If the juvenile is not released under sub. (2), the person

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1 who took the juvenile into custody shall arrange in a manner determined by the court
2 and law enforcement agencies for the juvenile to be interviewed by the intake worker
3 under s. 938.067 (2), ~~and. The person who took the juvenile into custody shall make~~
4 a statement in writing with supporting facts of the reasons why the juvenile was
5 taken into physical custody and shall give ~~any juvenile 10 years of age or older~~ a copy
6 of the statement ~~in addition to giving a copy to the intake worker. When and to any~~
7 juvenile 10 years of age or older. If the intake interview is not done in person, the
8 report may be read to the intake worker.

9 **SECTION 181.** 938.20 (4) (title) of the statutes is created to read:

10 938.20 (4) (title) DELIVERY TO HOSPITAL OR PHYSICIAN.

11 **SECTION 182.** 938.20 (5) of the statutes is amended to read:

12 938.20 (5) (title) EMERGENCY DETENTION OF JUVENILE. If the juvenile is believed
13 to have a mental illness or developmental disability or to be mentally ill, drug
14 dependent or developmentally disabled, and exhibits conduct ~~which~~ that constitutes
15 a substantial probability of physical harm to the juvenile or to others, or a very
16 substantial probability of physical impairment or injury to the juvenile exists due to
17 the impaired judgment of the juvenile, and if the standards of s. 51.15 are met, the
18 person taking the juvenile into physical custody, the intake worker, or other
19 appropriate person shall proceed under s. 51.15.

20 **SECTION 183.** 938.20 (6) (title) and (7) (title) of the statutes are created to read:

21 938.20 (6) (title) DELIVERY OF INTOXICATED JUVENILE.

22 (7) (title) DUTIES OF INTAKE WORKER.

23 **SECTION 184.** 938.20 (7) (a) and (b) of the statutes are amended to read:

24 938.20 (7) (a) When a juvenile who is possibly involved in a delinquent act is
25 interviewed by an intake worker, the intake worker shall inform ~~any~~ the juvenile

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1 ~~possibly involved in a delinquent act~~ of his or her right to counsel and the right
2 against self-incrimination.

3 (b) The intake worker shall review the need to hold the juvenile in custody and
4 shall make every effort to release the juvenile from custody as provided in par. (c).
5 The intake worker shall base his or her decision as to whether to release the juvenile
6 or to continue to hold the juvenile in custody on the criteria ~~specified in~~ under s.
7 938.205 and criteria established under s. 938.06 (1) or (2).

8 **SECTION 185.** 938.20 (7) (c) 1., 1m. and 2. of the statutes are amended to read:

9 938.20 (7) (c) 1. To a parent, guardian, or legal custodian, or, to a responsible
10 adult if the parent, guardian, or legal custodian is unavailable, unwilling, or unable
11 to provide supervision for the juvenile, ~~release the juvenile to a responsible adult,~~
12 counseling or warning the juvenile as may be appropriate; or, if the juvenile is 15
13 years of age or older, ~~release the juvenile~~ without immediate adult supervision,
14 counseling or warning the juvenile as may be appropriate.

15 1m. In the case of a juvenile who has violated a condition of aftercare
16 supervision administered by the department or a county department, a condition of
17 the juvenile's placement in a Type 2 ~~secured juvenile~~ juvenile correctional facility or a Type
18 2 ~~child caring institution residential care center for children and youth~~, or a condition
19 of the juvenile's participation in the intensive supervision program under s. 938.534,
20 to the department or county department, whichever has supervision of the juvenile.

21 2. In the case of a runaway juvenile, to a home ~~authorized~~ under s. 48.227.

22 **SECTION 186.** 938.20 (8) (title) of the statutes is created to read:

23 938.20 (8) (title) NOTIFICATION THAT HELD IN CUSTODY.

24 **SECTION 187.** 938.20 (8) of the statutes is renumbered 938.20 (8) (a) and
25 amended to read:

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1 938.20 (8) (a) If a juvenile is held in custody, the intake worker shall notify the
2 juvenile's parent, guardian, and legal custodian of the reasons for holding the
3 juvenile in custody and of the juvenile's whereabouts unless there is reason to believe
4 that notice would present imminent danger to the juvenile. ~~If a juvenile who has~~
5 ~~violated a condition of aftercare supervision administered by the department or a~~
6 ~~county department, a condition of the juvenile's placement in a Type 2 secured~~
7 ~~correctional facility or a Type 2 child caring institution, or a condition of the juvenile's~~
8 ~~participation in the intensive supervision program under s. 938.534 is held in~~
9 ~~custody, the intake worker shall also notify the department or county department,~~
10 ~~whichever has supervision over the juvenile, of the reasons for holding the juvenile~~
11 ~~in custody, of the juvenile's whereabouts, and of the time and place of the detention~~
12 ~~hearing required under s. 938.21. The parent, guardian, and legal custodian shall~~
13 ~~also be notified of the time and place of the detention hearing required under s.~~
14 ~~938.21, the nature and possible consequences of that the hearing, and the right to~~
15 ~~present and cross-examine witnesses at the hearing. If the parent, guardian, or~~
16 ~~legal custodian is not immediately available, the intake worker or another person~~
17 ~~designated by the court shall provide notice as soon as possible. When~~

18 **(b)** If the juvenile is alleged to have committed a delinquent act, the juvenile
19 shall receive the same notice about the detention hearing as the parent, guardian,
20 or legal custodian. The intake worker shall notify both the juvenile and the juvenile's
21 parent, guardian, or legal custodian.

NOTE: The stricken language in s. 938.20 (8) (a), stats., is included in new s. 938.20
(8) (c), stats., as created by this bill.

22 **SECTION 188.** 938.20 (8) (c) of the statutes is created to read:

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1 938.20 (8) (c) If a juvenile who has violated a condition of aftercare supervision
2 administered by the department or a county department, a condition of the juvenile's
3 placement in a Type 2 juvenile correctional facility or a Type 2 residential care center
4 for children and youth, or a condition of the juvenile's participation in the intensive
5 supervision program under s. 938.534 is held in custody, the intake worker shall also
6 notify the department or county department, whichever has supervision over the
7 juvenile, of the reasons for holding the juvenile in custody, of the juvenile's
8 whereabouts, and of the time and place of the detention hearing required under s.
9 938.21.

10 **SECTION 189.** 938.205 of the statutes is amended to read:

11 **938.205 Criteria for holding a juvenile in physical custody. (1) CRITERIA.**

12 A juvenile may be held under s. 938.207, 938.208, or 938.209 (1) if the intake worker
13 determines that there is probable cause to believe the juvenile is within the
14 jurisdiction of the court and if probable cause exists to believe any of the following:

15 (a) That the juvenile ~~is not held~~ ~~he or she~~ will commit injury to the person or
16 property of others if not held.

17 (b) That the parent, guardian, or legal custodian of the juvenile or other
18 responsible adult is neglecting, refusing, unable, or unavailable to provide adequate
19 supervision and care and that services to ensure the juvenile's safety and well-being
20 are not available or would be inadequate.

21 (c) That the juvenile will run away or be taken away so as to be unavailable for
22 proceedings of the court or its officers, proceedings of the division of hearings and
23 appeals in the department of administration for revocation of aftercare supervision,
24 or action by the department or county department relating to a violation of a
25 condition of the juvenile's placement in a Type 2 secured juvenile correctional facility

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1 or a Type 2 ~~child-caring institution~~ residential care center for children and youth or
2 a condition of the juvenile's participation in the intensive supervision program under
3 s. 938.534.

4 (2) APPLICABILITY. The criteria for holding a juvenile in custody ~~specified in~~
5 under this section shall govern the decision of all persons responsible for determining
6 whether the action is appropriate.

7 **SECTION 190.** 938.207 (1) (title) of the statutes is created to read:

8 938.207 (1) (title) WHERE MAY BE HELD.

9 **SECTION 191.** 938.207 (1) (c), (cm) and (f) and (2) of the statutes are amended
10 to read:

11 938.207 (1) (c) A licensed foster home or a licensed treatment foster home
12 ~~provided if~~ the placement does not violate the conditions of the license.

13 (cm) A licensed group home ~~provided that~~ if the placement does not violate the
14 conditions of the license.

15 (f) The home of a person not a relative, ~~if the placement does not exceed 30 days,~~
16 ~~though the placement may be extended for an additional 30 days for cause by the~~
17 ~~court, and if the person has not had a foster home or treatment foster home license~~
18 ~~refused, revoked, or suspended within the last~~ previous 2 years. Such a placement
19 may not exceed 30 days, unless the placement is extended by the court for cause for
20 an additional 30 days.

21 (2) PAYMENT. If a facility listed in sub. (1) (b) to (k) is used to hold juveniles a
22 juvenile in custody, or if supervisory services of a home detention program are
23 provided to juveniles a juvenile held under sub. (1) (a), ~~its authorized rate shall be~~
24 ~~paid by the county~~ shall pay the facility's authorized rate for the care of the juvenile.
25 If no authorized rate has been established, the court shall fix a reasonable sum to be

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1 ~~fixed by the court shall~~ be paid by the county for the supervision or care of the
2 juvenile.

3 **SECTION 192.** 938.208 (1) (intro.) and (2) of the statutes are amended to read:

4 938.208 (1) DELINQUENT ACT AND RISK OF HARM OR RUNNING AWAY. (intro.)

5 Probable cause exists to believe that the juvenile has committed a delinquent act and
6 either presents a substantial risk of physical harm to another person or a substantial
7 risk of running away so as to be unavailable for a court hearing, a revocation of
8 aftercare supervision hearing, or action by the department or county department
9 relating to a violation of a condition of the juvenile's placement in a Type 2 ~~secured~~
10 juvenile correctional facility or a Type 2 ~~child-caring institution~~ residential care
11 center for children and youth or a condition of the juvenile's participation in the
12 intensive supervision program under s. 938.534. For juveniles who have been
13 adjudged delinquent, the delinquent act referred to in this section may be the act for
14 which the juvenile was adjudged delinquent. If the intake worker determines that
15 any of the following conditions applies, the juvenile is considered to present a
16 substantial risk of physical harm to another person:

17 (2) RUNAWAY FROM ANOTHER STATE OR SECURE CUSTODY. Probable cause exists to
18 believe that the juvenile is a fugitive from another state or has run away from a
19 ~~secured juvenile~~ juvenile correctional facility, ~~a secured child-caring institution~~ or a secured
20 ~~group home~~ residential care center for children and youth and there has been no
21 reasonable opportunity to return the juvenile.

22 **SECTION 193.** 938.208 (3), (4) and (5) of the statutes are amended to read:

23 938.208 (3) PROTECTIVE CUSTODY. The juvenile consents in writing to being held
24 in order to protect him or her from an imminent physical threat from another and
25 such secure custody is ordered by the judge court in a protective order.

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1 (4) RUNAWAY FROM NONSECURE CUSTODY. Probable cause exists to believe that the
2 juvenile, having been placed in nonsecure custody by an intake worker under s.
3 938.207 or by the ~~judge or circuit court commissioner~~ under s. 938.21 (4), has run
4 away or committed a delinquent act and no other suitable alternative exists.

5 (5) RUNAWAY FROM ANOTHER COUNTY. Probable cause exists to believe that the
6 juvenile has been adjudged or alleged to be delinquent and has run away from
7 another county and would run away from nonsecure custody pending his or her
8 return. A juvenile may be held in secure custody under this subsection for no more
9 than 24 hours after the end of the day that the decision to hold the juvenile was made
10 unless an extension of those 24 hours is ordered by the ~~judge~~ court for good cause
11 shown. Only one extension may be ordered ~~by the judge~~.

12 **SECTION 194.** 938.208 (6) (title) of the statutes is created to read:

13 938.208 (6) (title) SUBJECT TO JURISDICTION OF ADULT COURT.

14 **SECTION 195.** 938.209 (1) (title) of the statutes is created to read:

15 938.209 (1) (title) COUNTY JAIL.

16 **SECTION 196.** 938.209 (1) (a) 5. of the statutes is amended to read:

17 938.209 (1) (a) 5. The ~~judge~~ court reviews the status of the juvenile every 3 days.

18 **SECTION 197.** 938.209 (1) (b) of the statutes is amended to read:

19 938.209 (1) (b) The juvenile presents a substantial risk of physical harm to
20 other persons in the ~~secure~~ juvenile detention facility, as evidenced by previous acts
21 or attempts, which can only be avoided by transfer to the jail. The conditions of par.
22 (a) 1. to 5. shall be met. The juvenile shall be given a hearing and may be transferred
23 only upon a court order ~~of the judge~~.

24 **SECTION 198.** 938.209 (2m) (title) and (3) (title) of the statutes are created to
25 read:

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1 938.209 (2m) (title) MUNICIPAL LOCKUP.

2 (3) (title) JUVENILES UNDER ADULT COURT JURISDICTION.

3 SECTION 199. 938.21 (1) of the statutes is amended to read:

4 938.21 (1) HEARING; WHEN HELD. (a) If a juvenile who has been taken into
5 custody is not released under s. 938.20, a hearing to determine whether to continue
6 to hold the juvenile ~~shall continue to be held~~ in custody under the criteria of ss.
7 938.205 to 938.209 (1) shall be conducted ~~by the judge or circuit court commissioner~~
8 by the court within 24 hours after the end of the day that on which the decision to
9 hold the juvenile was made, excluding Saturdays, Sundays, and legal holidays. By
10 the time of the hearing a petition under s. 938.25 or a request for a change in
11 placement under s. 938.357, a request for a revision of the dispositional order under
12 s. 938.363, or a request for an extension of a dispositional order under s. 938.365 shall
13 be filed, except that no petition or request need be filed where if a juvenile is taken
14 into custody under s. 938.19 (1) (b) or (d) 2., 6., or 7. or where if the juvenile is a
15 runaway from another state, in which case a written statement of the reasons for
16 holding a juvenile in custody shall be substituted if the petition is not filed. If no
17 hearing has been held within 24 hours or if no petition, request, or statement has
18 been filed at the time of the hearing, the juvenile shall be released except as provided
19 in par. (b). ~~A parent not present at the hearing~~ The court shall be granted grant a
20 rehearing upon request of a parent not present at the hearing for good cause shown.

21 (b) If no petition or request has been filed by the time of the hearing, a juvenile
22 may be held in custody with the approval of the ~~judge or circuit court commissioner~~
23 court for an additional 48 hours from the time of the hearing only if, as a result of the
24 facts brought forth at the hearing, the ~~judge or circuit court commissioner~~ court
25 determines that probable cause exists to believe that the juvenile is an imminent

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1 danger to himself or herself or to others, or that probable cause exists to believe that
2 the parent, guardian, or legal custodian of the juvenile or other responsible adult is
3 neglecting, refusing, unable, or unavailable to provide adequate supervision and
4 care. The extension may be granted only once for any petition. ~~In the event of failure~~
5 ~~to file~~ If a petition or request is not filed within the 48-hour extension period
6 provided for in under this paragraph, the ~~judge or circuit court commissioner~~ court
7 shall order the juvenile's immediate release from custody.

NOTE: Modifies s. 938.21 (1) (a), stats., so that a request for a change in placement,
a request for a revision of the dispositional order, or a request for an extension of a
dispositional order may be filed instead of a delinquency or juvenile in need of protection
or services (JIPS) petition.

8 **SECTION 200.** 938.21 (2) (b), (c) and (d) of the statutes are amended to read:

9 938.21 (2) (b) A copy of the petition or request shall be given to the juvenile at
10 or prior to the time of the hearing. Prior notice of the hearing shall be given to the
11 juvenile's parent, guardian, and legal custodian and to the juvenile ~~in accordance~~
12 ~~with~~ under s. 938.20 (8).

13 (c) Prior to the commencement of the hearing, the ~~juvenile shall be informed~~
14 ~~by the judge or circuit court commissioner~~ court shall inform the juvenile of the
15 allegations that have been or may be made, the nature and possible consequences of
16 this hearing as compared to possible future hearings, the provisions of s. 938.18 if
17 applicable, the right to counsel under s. 938.23 regardless of ability to pay if the
18 juvenile is not yet represented by counsel, the right to remain silent, the fact that the
19 silence may not be adversely considered by the ~~judge or circuit court commissioner~~
20 court, the right to confront and cross-examine witnesses, and the right to present
21 witnesses.

22 (d) If the juvenile is not represented by counsel at the hearing and the juvenile
23 is continued in custody as a result of the hearing, the juvenile may request through

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1 counsel subsequently appointed or retained or through a guardian ad litem that the
2 order to hold in custody be reheard. If the request is made, a rehearing shall take
3 place as soon as possible. ~~Whether or not counsel was present, any An~~ order to hold
4 the juvenile in custody shall be ~~subject to rehearing~~ reheard for good cause whether
5 or not counsel was present.

6 **SECTION 201.** 938.21 (3) (b), (d) and (e) of the statutes are amended to read:

7 938.21 (3) (b) If present at the hearing, a copy of the petition or request shall
8 be given to the parent, guardian, or legal custodian, and to the juvenile if he or she
9 is 12 years of age or older, before the hearing begins. Prior notice of the hearing shall
10 be given to the juvenile's parent, guardian, and legal custodian and to the juvenile
11 if he or she is 12 years of age or older ~~in accordance with~~ under s. 938.20 (8).

12 (d) Prior to the commencement of the hearing, the court shall inform the
13 parent, guardian, or legal custodian ~~shall be informed by the court~~ of the allegations
14 that have been made or may be made, the nature and possible consequences of this
15 hearing as compared to possible future hearings, the right to confront and
16 cross-examine witnesses, and the right to present witnesses.

17 (e) If the parent, guardian, or legal custodian or the juvenile is not represented
18 by counsel at the hearing and the juvenile is continued in custody as a result of the
19 hearing, the parent, guardian, legal custodian, or juvenile may request through
20 counsel subsequently appointed or retained or through a guardian ad litem that the
21 order to hold the juvenile in custody be reheard. If the request is made, a rehearing
22 shall take place as soon as possible. ~~Any An~~ order to hold the juvenile in custody shall
23 be ~~subject to rehearing~~ reheard for good cause, whether or not counsel was present.

24 **SECTION 202.** 938.21 (4) (intro.) of the statutes is amended to read:

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1 938.21 (4) ~~ORDER TO CONTINUE IN CUSTODY~~ (intro.) If the ~~judge or circuit court~~
2 ~~commissioner court~~ finds that the juvenile should be continued in custody under the
3 criteria of s. 938.205, ~~he or she~~ the court shall enter one of the following orders:

4 **SECTION 203.** 938.21 (4) (a) and (4m) of the statutes are amended to read:

5 938.21 (4) (a) Place the juvenile with a parent, guardian, legal custodian, or
6 other responsible person and may impose reasonable restrictions on the juvenile's
7 travel, association with other persons, or places of abode during the period of
8 placement, including a condition requiring the juvenile to return to other custody as
9 requested; or subject the juvenile to the supervision of an agency agreeing to
10 supervise the juvenile. Reasonable restrictions may be placed upon the conduct of
11 the parent, guardian, legal custodian, or other responsible person which may be
12 necessary to ensure the safety of the juvenile.

13 **(4m) ELECTRONIC MONITORING.** ~~The judge or circuit court commissioner may~~
14 ~~include in an~~ An order under sub. (4) (a) or (b) may include a condition that the
15 juvenile be monitored by an electronic monitoring system.

16 **SECTION 204.** 938.21 (5) (b) 1. and 3. of the statutes are amended to read:

17 938.21 (5) (b) 1. A finding that continued placement of the juvenile in his or her
18 home would be contrary to the welfare of the juvenile. Unless the ~~judge or circuit~~
19 ~~court commissioner court~~ finds that any of the circumstances specified in s. 938.355
20 (2d) (b) 1. to 4. applies, the order shall in addition include a finding as to whether the
21 person who took the juvenile into custody and the intake worker have made
22 reasonable efforts to prevent the removal of the juvenile from the home, while
23 assuring that the juvenile's health and safety are the paramount concerns, and a
24 finding as to whether the person who took the juvenile into custody and the intake
25 worker have made reasonable efforts to make it possible for the juvenile to return

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1 safely home ~~or, if,~~ If for good cause shown sufficient information is not available for
2 the judge ~~or circuit court commissioner~~ court to make a finding as to whether those
3 reasonable efforts were made to prevent the removal of the juvenile from the home,
4 the order shall include a finding as to whether those reasonable efforts were made
5 to make it possible for the juvenile to return safely home and an order for the county
6 department or agency primarily responsible for providing services to the juvenile
7 under the custody order to file with the court sufficient information for the judge ~~or~~
8 ~~circuit court commissioner~~ court to make a finding as to whether those reasonable
9 efforts were made to prevent the removal of the juvenile from the home by no later
10 than 5 days, excluding Saturdays, Sundays, and legal holidays, after the date of the
11 order.

12 3. If the judge ~~or circuit court commissioner~~ court finds that any of the
13 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent,
14 a determination that the county department or agency primarily responsible for
15 providing services under the custody order is not required to make reasonable efforts
16 with respect to the parent to make it possible for the juvenile to return safely to his
17 or her home.

NOTE: Revises s. 938.21 (5) (b) 1., stats., by specifying that the 5-day time limit in
which to make a finding following the custody hearing as to whether reasonable efforts
were made to prevent removal of the juvenile from the home excludes Saturdays,
Sundays, and legal holidays.

18 **SECTION 205.** 938.21 (5) (c) and (d) 1. of the statutes are amended to read:

19 938.21 (5) (c) The judge ~~or circuit court commissioner~~ court shall make the
20 findings specified in par. (b) 1. and 3. on a case-by-case basis based on circumstances
21 specific to the juvenile and shall document or reference the specific information on
22 which those findings are based in the custody order. A custody order that merely
23 references par. (b) 1. or 3. without documenting or referencing that specific

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1 information in the custody order or an amended custody order that retroactively
2 corrects an earlier custody order that does not comply with this paragraph is not
3 sufficient to comply with this paragraph.

4 (d) 1. If the ~~judge or circuit court commissioner~~ court finds that any of the
5 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent,
6 the ~~judge or circuit court commissioner~~ court shall hold a hearing within 30 days
7 after the date of that finding to determine the permanency plan for the juvenile. If
8 a hearing is held under this subdivision, the agency responsible for preparing the
9 permanency plan shall file the permanency plan with the court not less than 5 days
10 before the date of the hearing.

11 **SECTION 206.** 938.21 (6) of the statutes is amended to read:

12 938.21 (6) AMENDMENT OF ORDER. An order ~~placing a juvenile under sub. (4) (a)~~
13 ~~on conditions specified in this section may at any time be amended at any time,~~ with
14 notice, so as to ~~return~~ place the juvenile to in another form of custody for failure to
15 conform to the conditions originally imposed. A juvenile may be transferred to secure
16 custody if he or she meets the criteria of s. 938.208.

17 **SECTION 207.** 938.21 (7) of the statutes is amended to read:

18 938.21 (7) DEFERRED PROSECUTION. If the ~~judge or circuit court commissioner~~
19 court determines that the best interests of the juvenile and the public are served, he
20 ~~or she~~ the court may enter a consent decree under s. 938.32 or ~~order~~ dismiss the
21 petition ~~dismissed~~ and refer the matter to the intake worker for deferred prosecution
22 in accordance with s. 938.245.

23 **SECTION 208.** 938.22 (title) of the statutes is amended to read:

24 **938.22 (title) Establishment of county or County and private juvenile**
25 **facilities.**