

**ASSEMBLY BILL 443**

1           **SECTION 209.** 938.22 (1) (title) of the statutes is created to read:

2           938.22 (1) (title) ESTABLISHMENT AND POLICIES.

3           **SECTION 210.** 938.22 (1) (a), (b) and (c) of the statutes are amended to read:

4           938.22 (1) (a) Subject to s. 48.66 (1) (b), the county board of supervisors of ~~any~~  
5           a county may establish a ~~secured group home or a secure juvenile~~ detention facility  
6           in accordance with ss. 301.36 and 301.37 or the county boards of supervisors for 2 or  
7           more counties may jointly establish a ~~secured group home or a secure juvenile~~  
8           detention facility in accordance with ss. 46.20, 301.36, and 301.37. The county board  
9           of supervisors of ~~any a~~ county may establish a shelter care facility in accordance with  
10          ss. 46.16 and 46.17 or the county boards of supervisors for 2 or more counties may  
11          jointly establish a shelter care facility in accordance with ss. 46.16, 46.17, and 46.20.  
12          A private entity may establish a ~~secure juvenile~~ detention facility in accordance with  
13          ss. 301.36 and 301.37 and contract with one or more county boards of supervisors  
14          under s. 938.222 ~~for holding to hold~~ juveniles in the private ~~secure juvenile~~ detention  
15          facility.

16          (b) Subject to sub. (3) (ar), in counties having a population of less than 500,000,  
17          the nonjudicial operational policies of a public ~~secured group home, secure juvenile~~  
18          detention facility or shelter care facility shall be determined by the county board of  
19          supervisors or, in the case of a public ~~secured group home, secure juvenile~~ detention  
20          facility or shelter care facility established by 2 or more counties, by the county boards  
21          of supervisors for the 2 or more counties jointly. Those policies shall be executed by  
22          the superintendent appointed under sub. (3) (a).

23          (c) In counties having a population of 500,000 or more, the nonjudicial  
24          operational policies of a public ~~secured group home, secure juvenile~~ detention facility  
25          and the detention section of the children's court center shall be established by the

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1 county board of supervisors, and the ~~execution thereof~~ policies shall be the  
2 responsibility of ~~executed by~~ the director of the children's court center.

3 **SECTION 211.** 938.22 (2) (title) of the statutes is created to read:

4 938.22 (2) (title) PLANS AND REQUIREMENTS.

5 **SECTION 212.** 938.22 (2) (a) and (b) of the statutes are amended to read:

6 938.22 (2) (a) Counties shall submit plans for ~~the secured group home, secure~~  
7 a juvenile detention facility or juvenile portion of the county jail to the department  
8 of corrections and submit plans for ~~the a~~ shelter care facility to the department of  
9 health and family services. A private entity that proposes to establish a secure  
10 juvenile detention facility shall submit plans for the ~~secure detention~~ facility to the  
11 department of corrections. The applicable department shall review the submitted  
12 plans. A county or a private entity may not implement ~~any such a~~ a plan unless the  
13 applicable department has approved the plan. The department of corrections shall  
14 promulgate rules establishing minimum requirements for the approval of the and  
15 operation of ~~secured group homes, secure~~ juvenile detention facilities and the  
16 juvenile portion of county jails. The plans and rules shall be designed to protect the  
17 health, safety, and welfare of the juveniles placed in those facilities.

18 (b) If the department approves, a secure juvenile detention facility or a  
19 holdover room may be ~~a part of~~ located in a public building in which there is a jail  
20 or other facility for the detention of adults if the ~~secure~~ juvenile detention facility or  
21 holdover room is so physically segregated from the jail or other facility so that  
22 juveniles may enter the ~~secure~~ juvenile detention facility or holdover room ~~may be~~  
23 entered without passing through areas where adults are confined and ~~that~~ juveniles  
24 detained in the secure juvenile detention facility or holdover room cannot  
25 communicate with or view adults confined ~~therein~~ in the jail or other facility.

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1           **SECTION 213.** 938.22 (3) of the statutes is amended to read:

2           938.22 (3) SUPERVISION OF FACILITY. (a) In counties having a population of less  
3 than 500,000, public ~~secured group homes, secure~~ juvenile detention facilities and  
4 public shelter care facilities shall be in the charge of a superintendent. The county  
5 board of supervisors or, where 2 or more counties operate joint public ~~secured group~~  
6 ~~homes, secure~~ juvenile detention facilities or shelter care facilities, the county boards  
7 of supervisors for the 2 or more counties jointly shall appoint the superintendent and  
8 other necessary personnel for the care and education of the juveniles placed in those  
9 facilities, subject to par. (am) and to civil service regulations in counties having civil  
10 service.

11           (am) If a ~~secure~~ juvenile detention facility or holdover room is part of a public  
12 building in which there is a jail or other facility for the detention of adults, the sheriff  
13 or other keeper of the jail or other facility for the detention of adults may nominate  
14 persons ~~to be considered under par. (a)~~ for the position of superintendent of the  
15 ~~secure~~ juvenile detention facility or holdover room. Nominees under this paragraph  
16 shall have demonstrated administrative abilities and ~~a demonstrated~~ interest in the  
17 ~~problems of juvenile justice and the welfare of juveniles.~~

18           (ar) Notwithstanding sub. (1) (b), if a ~~secure~~ juvenile detention facility or  
19 holdover room is ~~part of~~ located in a public building in which there is a jail or other  
20 facility for the detention of adults, the sheriff or other keeper of the jail or other  
21 facility for the detention of adults shall determine the security and emergency  
22 response policies of that ~~secure~~ juvenile detention facility or holdover room ~~relating~~  
23 ~~to security and emergency response and shall determine~~ the procedures for  
24 implementing those policies.

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1 (b) In counties having a population of 500,000 or more, the director of the  
2 children's court center shall be in charge of and responsible for public secured group  
3 homes, secure juvenile detention facilities, the secure juvenile detention section of  
4 the center, and the personnel assigned to this section, including a detention  
5 supervisor or superintendent. The director of the children's court center may also  
6 serve as superintendent of detention if the county board of supervisors so  
7 determines.

8 (bm) A private secure juvenile detention facility shall be in the charge of a  
9 superintendent appointed by the private entity operating the secure detention  
10 facility.

11 (c) ~~All superintendents~~ A superintendent appointed under par. (a), (b), or (bm)  
12 after May 1, 1992, shall, within one year after that appointment, successfully  
13 complete an administrative training program approved or provided by the  
14 department of justice.

15 **SECTION 214.** 938.22 (5) (title) and (7) (title) of the statutes are created to read:

16 938.22 (5) (title) COUNTY CONTRACTS WITH PRIVATE FACILITIES.

17 (7) (title) LICENSING OF SHELTER CARE FACILITIES.

18 **SECTION 215.** 938.22 (7) (a) and (b) of the statutes are amended to read:

19 938.22 (7) (a) No person may establish a shelter care facility without first  
20 obtaining a license under s. 48.66 (1) (a). To obtain a license under s. 48.66 (1) (a) to  
21 operate a shelter care facility, a person must meet the minimum requirements for a  
22 license established by the department of health and family services under s. 48.67,  
23 meet the requirements specified in s. 48.685, and pay the license fee under par. (b).  
24 A license issued under s. 48.66 (1) (a) to operate a shelter care facility is valid until  
25 revoked or suspended, but shall be reviewed every 2 years as provided in s. 48.66 (5).

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1 (b) Before the department of health and family services may issue a license  
2 under s. 48.66 (1) (a) to operate a shelter care facility, the shelter care facility ~~must~~  
3 shall pay to that department a biennial fee of \$60.50, plus a biennial fee of \$18.15 per  
4 juvenile, based on the number of juveniles that the shelter care facility is licensed  
5 to serve. A shelter care facility that wishes to continue a license issued under s. 48.66  
6 (1) (a) shall pay the fee ~~under this paragraph~~ by the continuation date of the license.  
7 A new shelter care facility shall pay the fee ~~under this paragraph~~ by no later than  
8 30 days before the opening of the shelter care facility.

9 **SECTION 216.** 938.222 (1) of the statutes is amended to read:

10 938.222 (1) USES OF FACILITIES. The county board of supervisors of ~~any a~~ county  
11 may contract with a private entity that operates a ~~secure~~ juvenile detention facility  
12 for the use of the ~~secure detention facility for the holding of~~ to hold juveniles who  
13 meet the criteria under s. 48.208, 938.17 (1), 938.183 (1m) (a), or 938.208 or who are  
14 subject to a disposition under s. 938.17 (1) (b) or 938.34 (3) (f), a sanction under s.  
15 938.355 (6) (d) 1., or short-term detention under s. 938.355 (6d) or 938.534 (1).

16 **SECTION 217.** 938.222 (2) (title) of the statutes is created to read:

17 938.222 (2) (title) CONTRACT REQUIREMENTS.

18 **SECTION 218.** 938.222 (2) (a) 1. and 2. of the statutes are amended to read:

19 938.222 (2) (a) 1. That the private ~~secure~~ juvenile detention facility meet or  
20 exceed the minimum requirements for the approval and operation of a ~~secure~~  
21 juvenile detention facility established by the department by ~~rules promulgated~~ rule  
22 under s. 938.22 (2) (a) and that the private ~~secure~~ juvenile detention facility be  
23 approved by the department under s. 301.36.

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1           2. That the private ~~secure~~ juvenile detention facility provide educational  
2 programming, health care, and other care that is equivalent to that which a juvenile  
3 would receive ~~if held~~ in a public ~~secure~~ juvenile detention facility.

4           **SECTION 219.** 938.223 (1) (title) of the statutes is created to read:

5           938.223 (1) (title) USES OF FACILITIES.

6           **SECTION 220.** 938.223 (2) (title) of the statutes is created to read:

7           938.223 (2) (title) CONTRACT REQUIREMENTS.

8           **SECTION 221.** 938.223 (2) (a) 1. and 2. of the statutes are amended to read:

9           938.223 (2) (a) 1. That the Minnesota ~~secure~~ juvenile detention facility meet  
10 or exceed the minimum requirements for the approval and operation of a Wisconsin  
11 ~~secure~~ juvenile detention facility established by the department by ~~rules~~  
12 ~~promulgated~~ rule under s. 938.22 (2) (a) and that the Minnesota ~~secure~~ juvenile  
13 detention facility be approved by the department under s. 301.36.

14           2. That the Minnesota ~~secure~~ juvenile detention facility provide educational  
15 programming, health care, and other care that is equivalent to that which a juvenile  
16 would receive ~~if held~~ in a Wisconsin ~~secure~~ juvenile detention facility.

17           **SECTION 222.** 938.223 (3) of the statutes is amended to read:

18           938.223 (3) MINNESOTA JUVENILES IN WISCONSIN FACILITIES. The county board  
19 of supervisors of ~~any a~~ county that operates a ~~secure~~ juvenile detention facility may  
20 contract with one or more counties in Minnesota for the use of the ~~secure~~ juvenile  
21 detention facility operated by the Wisconsin county for the holding of juveniles  
22 transferred to that ~~secure~~ juvenile detention facility by the Minnesota county.

23           **SECTION 223.** 938.224 (1) of the statutes is amended to read:

24           938.224 (1) USES OF FACILITIES. The county board of supervisors of ~~any a~~ county  
25 may contract with the department for the use of a ~~secured~~ juvenile correctional

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1 facility operated by the department for the holding of juveniles who meet the criteria  
2 under s. 48.208, 938.17 (1), 938.183 (1m) (a), or 938.208 or who are subject to a  
3 disposition under s. 938.17 (1) (b) or 938.34 (3) (f), a sanction under s. 938.355 (6) (d)  
4 1., or short-term detention under s. 938.355 (6d) or 938.534 (1).

5 **SECTION 224.** 938.224 (2) (title), (3) (title) and (4) (title) of the statutes are  
6 created to read:

7 938.224 (2) (title) CONTRACT REQUIREMENTS.

8 (3) (title) ADDITIONAL REQUIREMENTS.

9 (4) (title) SUPERVISION AND CONTROL OF JUVENILES.

10 **SECTION 225.** 938.23 (1g) and (1m) (a), (am) and (b) 2. of the statutes are  
11 amended to read:

12 938.23 (1g) DEFINITION. In this section, “counsel” means an attorney acting as  
13 adversary counsel who,

14 (1j) DUTIES OF COUNSEL. Counsel shall advance and protect the legal rights of  
15 the party represented, ~~and who.~~ Counsel may not act as guardian ad litem for any  
16 party in the same proceeding.

17 (1m) (a) ~~Any~~ A juvenile alleged to be delinquent under s. 938.12 or held in a  
18 secure juvenile detention facility shall be represented by counsel at all stages of the  
19 proceedings, ~~but a.~~ A juvenile 15 years of age or older may waive counsel if the court  
20 is satisfied that the waiver is knowingly and voluntarily made and the court accepts  
21 the waiver. If the waiver is accepted, the court may not place the juvenile in a secured  
22 juvenile correctional facility, ~~a secured child caring institution~~ or a secured group  
23 home residential care center for children and youth, transfer supervision of the  
24 juvenile to the department for participation in the serious juvenile offender program,  
25 or transfer jurisdiction over the juvenile to adult court.

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1 (am) A juvenile subject to a sanction under s. 938.355 (6) (a) ~~shall be~~ is entitled  
2 to representation by counsel at the hearing under s. 938.355 (6) (c).

3 (b) 2. If the petition is contested, the court may not place the juvenile outside  
4 his or her home unless the juvenile is represented by counsel at the fact-finding  
5 hearing and subsequent proceedings. If the petition is not contested, the court may  
6 not place the juvenile outside his or her home unless the juvenile is represented by  
7 counsel at the hearing at which the placement is made. For a juvenile under 12 years  
8 of age, the ~~judge~~ court may appoint a guardian ad litem instead of counsel.

9 **SECTION 226.** 938.23 (3), (4) and (5) of the statutes are amended to read:

10 **938.23 (3) POWER OF THE COURT TO APPOINT COUNSEL.** ~~Except in proceedings~~  
11 ~~under s. 938.13 as provided in this subsection,~~ at any time, upon request or on its own  
12 motion, the court may appoint counsel for the juvenile or any party, unless the  
13 juvenile or the party has or wishes to retain counsel of his or her own choosing. The  
14 court may not appoint counsel for any party other than the juvenile in a proceeding  
15 under s. 938.13.

16 **(4) PROVIDING COUNSEL.** ~~In any situation under this section in which~~ If a  
17 juvenile has a right to be represented by counsel or is provided counsel at the  
18 discretion of the court under this section and counsel is not knowingly and  
19 voluntarily waived, the court shall refer the juvenile to the state public defender and  
20 counsel shall be appointed by the state public defender under s. 977.08 without a  
21 determination of indigency. In any other situation under this section in which a  
22 person has a right to be represented by counsel or is provided counsel at the  
23 discretion of the court, competent and independent counsel shall be provided and  
24 reimbursed in any manner suitable to the court regardless of the person's ability to  
25 pay, except that the court may not order a person who files a petition under s. 813.122



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1 or 813.125 to reimburse counsel for the juvenile who is named as the respondent in  
2 that petition.

3 **(5) COUNSEL OF OWN CHOOSING.** ~~Regardless of any provision of this section~~  
4 Notwithstanding subs. (3) and (4), any party is entitled to retain counsel of his or her  
5 own choosing at his or her own expense in any proceeding under this chapter.

6 **SECTION 227.** 938.235 (3) (a) and (b) (intro.) of the statutes are amended to read:

7 938.235 **(3)** (a) The guardian ad litem shall be an advocate for the best interests  
8 of the person for whom the appointment is made. The guardian ad litem shall  
9 function independently, in the same manner as an attorney for a party to the action,  
10 and shall consider, but shall not be bound by, the wishes of such the person or the  
11 positions of others as to the best interests of such the person. If the guardian ad litem  
12 determines that the best interests of the person are substantially inconsistent with  
13 the person's wishes ~~of such person,~~ the guardian ad litem shall so inform the court  
14 and the court may appoint counsel to represent that the person. The guardian ad  
15 litem has none of the rights or duties of a general guardian.

16 (b) (intro.) In addition to any other duties and responsibilities ~~required~~ of a  
17 guardian ad litem, a guardian ad litem appointed for a juvenile who is the subject  
18 of a proceeding under s. 938.13 shall do all of the following:

19 **SECTION 228.** 938.235 (7) and (8) (b) of the statutes are amended to read:

20 938.235 **(7) TERMINATION AND EXTENSION OF APPOINTMENT.** The appointment of  
21 a guardian ad litem under sub. (1) terminates upon the entry of the court's final order  
22 or upon the termination of any appeal in which the guardian ad litem participates.  
23 The guardian ad litem may appeal, ~~may participate in an appeal, or may do neither.~~  
24 If an appeal is taken by any party and the guardian ad litem chooses not to  
25 participate in ~~that~~ the appeal, he or she shall file with the appellate court a statement

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1 of reasons for not participating. Irrespective of the guardian ad litem's decision not  
2 to participate in an appeal, the appellate court may order the guardian ad litem to  
3 participate in the appeal. At any time, the guardian ad litem, any party, or the person  
4 for whom the appointment is made may request in writing or on the record that the  
5 court extend or terminate the appointment or reappointment. The court may extend  
6 that appointment, or reappoint a guardian ad litem appointed under this section,  
7 after the entry of the final order or after the termination of the appeal, but the court  
8 shall specifically state the scope of the responsibilities of the guardian ad litem  
9 during the period of ~~that~~ the extension or reappointment.

10 (8) (b) The court may order either or both of the parents of a juvenile for whom  
11 a guardian ad litem is appointed under this chapter to pay all or any part of the  
12 compensation of the guardian ad litem. ~~In addition, upon~~ Upon motion by the  
13 guardian ad litem, the court may order either or both of the parents of the juvenile  
14 to pay the fee for an expert witness used by the guardian ad litem, if the guardian  
15 ad litem shows that the use of the expert is necessary to assist the guardian ad litem  
16 in performing his or her functions or duties under this chapter. If one or both of the  
17 parents are indigent or if the court determines that it would be unfair to a parent to  
18 require him or her to pay, the court may order the county of venue to pay the  
19 compensation and fees, in whole or in part. If the court orders the county of venue  
20 to pay ~~because a parent is indigent~~, the court may also order either or both of the  
21 parents to reimburse the county, in whole or in part, for the payment.

22 **SECTION 229.** 938.237 (1) (title), (2) (title) and (3) (title) of the statutes are  
23 created to read:

24 938.237 (1) (title) CITATION FORM.

25 (2) (title) PROCEDURES.

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1           (3) (title) DISPOSITION.

2           **SECTION 230.** 938.24 (1) of the statutes is amended to read:

3           938.24 (1) REFERRAL OF INFORMATION TO INTAKE WORKER; INQUIRY. Except when  
4 a citation has been issued under s. 938.17 (2), information indicating that a juvenile  
5 should be referred to the court as delinquent, in need of protection or services, or in  
6 violation of a civil law or a county, town, or municipal ordinance shall be referred to  
7 ~~the an~~ intake worker, ~~who.~~ The intake worker shall conduct an intake inquiry on  
8 behalf of the court to determine whether the available facts establish prima facie  
9 jurisdiction and to determine the best interests of the juvenile and of the public with  
10 regard to any action to be taken.

11           **SECTION 231.** 938.24 (1m) (title) of the statutes is created to read:

12           938.24 (1m) (title) COUNSELING.

13           **SECTION 232.** 938.24 (2) and (2m) of the statutes are amended to read:

14           938.24 (2) MULTIDISCIPLINARY SCREENS; INTAKE CONFERENCES. (a) As part of the  
15 intake inquiry the intake worker, after providing notice to the juvenile, parent,  
16 guardian, and legal custodian, may conduct multidisciplinary screens and intake  
17 conferences ~~with notice to the juvenile, parent, guardian and legal custodian.~~ If sub.  
18 (2m) applies and if the juvenile has not refused to participate under par. (b), the  
19 intake worker shall conduct a multidisciplinary screen under s. 938.547 ~~if the~~  
20 ~~juvenile has not refused to participate under par. (b).~~

21           (b) No juvenile or other person may be compelled by an intake worker to appear  
22 at any conference, participate in a multidisciplinary screen, produce any papers, or  
23 visit any place ~~by an intake worker.~~

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1           (2m) MULTIDISCIPLINARY SCREEN; PILOT PROGRAM. (a) In counties that have a  
2 pilot program under s. 938.547, a multidisciplinary screen shall be conducted for a  
3 juvenile who is or does any of the following:

4           1. ~~Any juvenile alleged~~ Alleged to have committed a violation specified under  
5 ch. 961.

6           2. ~~Any juvenile alleged~~ Alleged to be delinquent or in need of protection and  
7 services ~~who and~~ has at least 2 prior adjudications for a violation of s. 125.07 (4) (a)  
8 or (b), 125.085 (3) (b), or 125.09 (2) or a local ordinance that strictly conforms to any  
9 of those sections.

10           3. ~~Any juvenile alleged~~ Alleged to have committed any offense ~~which that~~  
11 appears to the intake worker to be directly motivated by the juvenile's need to  
12 purchase or otherwise obtain alcohol beverages, controlled substances, or controlled  
13 substance analogs.

14           4. ~~Any juvenile 12~~ Twelve years of age or older ~~who and~~ requests and consents  
15 to a multidisciplinary screen.

16           5. ~~Any juvenile who consents~~ Consents to a multidisciplinary screen requested  
17 by his or her parents.

18           (b) The multidisciplinary screen may be conducted by an intake worker for any  
19 reason other than those specified ~~in the criteria under~~ in par. (a).

20           **SECTION 233.** 938.24 (2r) (title) and (3) (title) of the statutes are created to read:

21           938.24 (2r) (title) AMERICAN INDIAN JUVENILE; NOTIFICATION OF TRIBAL COURT.

22           (3) (title) REQUEST FOR PETITION.

23           **SECTION 234.** 938.24 (4) and (5) of the statutes are amended to read:

24           938.24 (4) DEFERRED PROSECUTION AGREEMENT OR CASE CLOSURE. If the intake  
25 worker determines as a result of the intake inquiry that the case should be subject

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1 to a deferred prosecution agreement, or should be closed, the intake worker shall so  
2 proceed. If a petition has been filed, a deferred prosecution agreement may not be  
3 entered into or a case may not be closed unless the petition is withdrawn by the  
4 district attorney, corporation counsel or other official specified in s. 938.09, or is  
5 dismissed by the judge court.

6 (5) REQUEST FOR PETITION, DEFERRED PROSECUTION, OR CASE CLOSURE; TIME  
7 PERIODS. The intake worker shall request that a petition be filed, enter into a deferred  
8 prosecution agreement, or close the case within 40 days ~~or sooner~~ of receipt of referral  
9 information. Before entering into a deferred prosecution agreement, the intake  
10 worker shall comply with s. 938.245 (1m), if applicable. If the case is closed or a  
11 deferred prosecution agreement is entered into, the district attorney, corporation  
12 counsel, or other official under s. 938.09 shall receive written notice of such that  
13 action. If the case is closed, the known victims of the juvenile's alleged act shall  
14 receive notice as provided under sub. (5m), if applicable. A notice of deferred  
15 prosecution of an alleged delinquency case shall include a summary of the facts  
16 surrounding the allegation and a list of the juvenile's prior intake referrals and  
17 dispositions. If a law enforcement officer has made a recommendation concerning  
18 the juvenile, the intake worker shall forward ~~this~~ the recommendation to the district  
19 attorney under s. 938.09. Notwithstanding the requirements of this section, the  
20 district attorney may initiate a delinquency petition under s. 938.25 within 20 days  
21 after notice that the case has been closed or that a deferred prosecution agreement  
22 has been entered into. The judge court shall grant appropriate relief as provided in  
23 s. 938.315 (3) with respect to any such petition ~~which~~ that is not referred or filed  
24 within the time limits specified ~~within~~ in this subsection. Failure to object ~~if~~ to the

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1 fact that a petition is not referred or filed within a time limit specified in this  
2 subsection waives that time limit.

3 **SECTION 235.** 938.24 (5m) (title) of the statutes is created to read:

4 938.24 (5m) (title) CASE CLOSURE; INFORMATION TO VICTIMS.

5 **SECTION 236.** 938.24 (6) and (7) of the statutes are amended to read:

6 938.24 (6) WRITTEN POLICIES. The intake worker shall perform his or her  
7 responsibilities under this section under general written policies ~~which the judge~~  
8 ~~shall promulgate~~ promulgated under s. 938.06 (1) or (2).

9 (7) NO INTAKE INQUIRY OR REVIEW FOR CITATIONS. If a citation is issued to a  
10 juvenile, the citation shall ~~is not be the subject of an intake to an~~ inquiry or a review  
11 by an intake worker for the purpose of recommending deferred prosecution.

12 **SECTION 237.** 938.243 (1) (intro.), (am), (c) and (h) of the statutes are amended  
13 to read:

14 938.243 (1) INFORMATION TO JUVENILE AND PARENTS; BASIC RIGHTS. (intro.) Before  
15 conferring with the parent or juvenile during the intake inquiry, the intake worker  
16 shall personally inform a juvenile alleged to have committed a delinquent act, and  
17 ~~parents and juveniles~~ a juvenile 10 years of age or ~~over~~ older who are ~~is~~ the focus of  
18 an inquiry regarding the need for protection or services under s. 938.13 (4), (6), (6m),  
19 or (7), ~~and the parents of those juveniles~~ of all of the following:

20 (am) What allegations ~~could~~ may be in the petition to the court.

21 (c) The right to remain silent ~~and,~~ the fact that in a delinquency proceeding the  
22 silence of the juvenile ~~shall is not to be~~ adversely considered by the court although,  
23 and the fact that in a nondelinquency proceeding the silence of any party may be  
24 relevant in ~~any nondelinquency~~ the proceeding.

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1 (h) The right to have the allegations of the petition proved by clear and  
2 convincing evidence unless the juvenile ~~comes~~ is within the court's jurisdiction under  
3 s. 938.12 or 938.13 (12), in which case the standard of proof ~~shall be~~ is beyond a  
4 reasonable doubt.

5 **SECTION 238.** 938.243 (1m) of the statutes is renumbered 938.243 (1m) (intro.)  
6 and amended to read:

7 **938.243 (1m) DISCLOSURE OF INFORMATION FOR USE IN CIVIL DAMAGES ACTION.**  
8 (intro.) If the juvenile who is the subject of the intake inquiry is alleged to have  
9 committed an act which that resulted in personal injury or damage to or loss of the  
10 property of another, the intake worker shall inform the juvenile's parents in writing  
11 of the all of the following:

12 (a) The possibility of disclosure of the identity of the juvenile and the parents,  
13 of the juvenile's police records, and of the outcome of proceedings against the juvenile  
14 for use in civil actions for damages against the juvenile or the parents ~~and of the~~.

15 (b) The parents' potential liability for acts of their juveniles.

16 **SECTION 239.** 938.243 (3) of the statutes is amended to read:

17 **938.243 (3) INFORMATION WHEN JUVENILE NOT AT INTAKE CONFERENCE OR HAS NOT**  
18 **HAD CUSTODY HEARING.** If the juvenile has not had a hearing under s. 938.21 and was  
19 not present at an intake conference under s. 938.24, the intake worker shall ~~inform~~  
20 notify the juvenile, parent, guardian, and legal custodian as appropriate of their  
21 basic rights under this section. ~~This~~ The notice shall be given verbally, either in  
22 person or by telephone, and in writing. ~~This~~ The notice shall be given ~~so as in~~  
23 sufficient time to allow the juvenile, parent, guardian, or legal custodian ~~sufficient~~  
24 ~~time~~ to prepare for the plea hearing. This subsection does not apply to cases of  
25 deferred prosecution under s. 938.245.

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## SECTION 240

1           **SECTION 240.** 938.243 (4) (title) of the statutes is created to read:

2           938.243 (4) (title) APPLICABILITY.

3           **SECTION 241.** 938.245 (1) of the statutes is renumbered 938.245 (1) (intro.) and  
4 is amended to read:

5           938.245 (1) WHEN AVAILABLE. (intro.) The An intake worker may enter into a  
6 written deferred prosecution agreement with all parties as provided in this section  
7 if ~~the~~ all of the following apply:

8           (a) The intake worker has determined that neither the interests of the juvenile  
9 nor of the public require filing of a petition for circumstances relating to s. 938.12,  
10 938.125, 938.13, or 938.14. ~~Deferred prosecution shall be available only if the~~

11           (b) The facts persuade the intake worker that the jurisdiction of the court, if  
12 sought, would exist ~~and upon consent of the,~~

13           (c) The juvenile, parent, guardian and legal custodian consent.

14           **SECTION 242.** 938.245 (1m) of the statutes is amended to read:

15           938.245 (1m) VICTIMS: RIGHT TO CONFER WITH INTAKE WORKER. If a juvenile is  
16 alleged to be delinquent under s. 938.12 or to be in need of protection or services  
17 under s. 938.13 (12), an intake worker shall, as soon as practicable but ~~in any event~~  
18 before entering into a deferred prosecution agreement under sub. (1), offer all of the  
19 victims of the juvenile's alleged act who have so requested ~~the opportunity~~ an  
20 opportunity to confer with the intake worker concerning the proposed deferred  
21 prosecution agreement. The duty to offer an opportunity to confer under this  
22 subsection does not limit the obligation of the intake worker to perform his or her  
23 responsibilities under this section.

24           **SECTION 243.** 938.245 (2) (title) of the statutes is created to read:

25           938.245 (2) (title) CONTENTS OF AGREEMENT.



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1           **SECTION 244.** 938.245 (2) (a) (title) of the statutes is created to read:

2           938.245 (2) (a) (title) *Specific conditions.*

3           **SECTION 245.** 938.245 (2) (a) 1. (title) of the statutes is created to read:

4           938.245 (2) (a) 1. (title) ‘Counseling.’

5           **SECTION 246.** 938.245 (2) (a) 2., 3. and 4. of the statutes are amended to read:

6           938.245 (2) (a) 2. ‘Compliance with obligations.’ That the juvenile and a parent,  
7 guardian ~~and,~~ or legal custodian abide by such obligations, including supervision,  
8 curfews, and school attendance requirements, as will tend to ensure the juvenile’s  
9 rehabilitation, protection, or care.

10           3. ‘Alcohol and other drug abuse assessment.’ That the juvenile submit to an  
11 alcohol and other drug abuse assessment that ~~conforms to~~ meets the criteria  
12 specified under s. 938.547 (4) and that is conducted by an approved treatment facility  
13 for an examination of the juvenile’s use of alcohol beverages, controlled substances,  
14 or controlled substance analogs and any medical, personal, family, or social effects  
15 caused by its use, if the multidisciplinary screen ~~conducted~~ under s. 938.24 (2) shows  
16 that the juvenile is at risk of having needs and problems related to the use of alcohol  
17 beverages, controlled substances, or controlled substance analogs and its medical,  
18 personal, family, or social effects.

19           4. ‘Alcohol and other drug abuse treatment and education.’ That the juvenile  
20 participate in an alcohol and other drug abuse outpatient treatment program, a  
21 court–approved pupil assistance program provided by the juvenile’s school board, or  
22 a court–approved alcohol or other drug abuse education program, if an alcohol and  
23 other drug abuse assessment ~~conducted~~ under subd. 3. recommends outpatient  
24 treatment, intervention, or education. The juvenile’s participation in a

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1 court-approved pupil assistance program ~~under this subdivision~~ is subject to the  
2 approval of the juvenile's school board.

3 **SECTION 247.** 938.245 (2) (a) 5. (title) of the statutes is created to read:

4 938.245 (2) (a) 5. (title) 'Restitution.'

5 **SECTION 248.** 938.245 (2) (a) 5. a., am. and c. of the statutes are amended to  
6 read:

7 938.245 (2) (a) 5. a. That the juvenile participate in a restitution project if the  
8 act for which the ~~deferred prosecution~~ agreement is being entered into has resulted  
9 in damage to the property of another, or in actual physical injury to another  
10 excluding pain and suffering. Subject to subd. 5. c., the ~~deferred prosecution~~  
11 agreement may require the juvenile to repair the damage to property or to make  
12 reasonable restitution for the damage or injury, either in the form of cash payments  
13 or, if the victim agrees, the performance of services for the victim, or both, if the  
14 intake worker, after taking into consideration the well-being and needs of the victim,  
15 considers it beneficial to the well-being and behavior of the juvenile. ~~Any such~~  
16 ~~deferred prosecution~~ The agreement shall include a determination that the juvenile  
17 alone is financially able to pay or physically able to perform the services, may allow  
18 up to the date of the expiration of the ~~deferred prosecution~~ agreement for the  
19 payment or for the completion of the services, and may include a schedule for the  
20 performance and completion of the services. Any recovery under this subd. 5. a. shall  
21 be reduced by the amount recovered ~~as restitution~~ for the same act under subd. 5.  
22 am.

23 am. That the parent who has custody, as defined in s. 895.035 (1), of the juvenile  
24 make reasonable restitution for any damage to the property of another, or for any  
25 actual physical injury to another excluding pain and suffering, resulting from the act

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1 for which the ~~deferred prosecution~~ agreement is being entered into. Except for  
2 recovery for retail theft under s. 943.51, the maximum amount of any restitution  
3 ordered under this subd. 5. am. for damage or injury resulting from any one act of  
4 a juvenile or from the same act committed by 2 or more juveniles in the custody of  
5 the same parent may not exceed \$5,000. Any order under this subd. 5. am. shall  
6 include a finding that the parent ~~who has custody of the juvenile~~ is financially able  
7 to pay the amount ordered and may allow up to the date of the expiration of the  
8 ~~deferred prosecution~~ agreement for the payment. Any recovery under this subd. 5.  
9 am. shall be reduced by the amount recovered ~~as restitution~~ for the same act under  
10 subd. 5. a.

11 c. Under An agreement under this subdivision, ~~a deferred prosecution~~  
12 agreement may not require a juvenile who is under 14 years of age to make not more  
13 than \$250 in restitution or to perform not more than 40 total hours of services for the  
14 victim as total restitution.

NOTE: Revises s. 948.245 (2) (a) 5. c., stats., to clarify that the maximum amount of restitution in terms of monetary amount or services applies to all of the damage or injuries from the act (or acts) that are the basis for the deferred prosecution agreement (i.e., the amount does not apply per charge or per petition, but is the total amount that can be required under the agreement).

The same change is made in ss. 938.32 (1t) (a) 3. and 938.34 (5) (c), stats.

15 **SECTION 249.** 938.245 (2) (a) 6. (title) of the statutes is created to read:

16 938.245 (2) (a) 6. (title) ‘Supervised work program.’

17 **SECTION 250.** 938.245 (2) (a) 7. of the statutes is amended to read:

18 938.245 (2) (a) 7. Volunteers in probation. That the juvenile be placed with  
19 a volunteers in probation program under such conditions as the intake worker  
20 determines are reasonable and appropriate, if the juvenile is alleged to have  
21 committed an act that would constitute a misdemeanor if committed by an adult, if  
22 the chief judge of the judicial administrative district has approved under s. 973.11

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1 (2) a volunteers in probation program established in the juvenile's county of  
2 residence, and if the intake worker determines that volunteer supervision under  
3 that ~~volunteers in probation~~ program will likely benefit the juvenile and the  
4 community. The conditions ~~that the~~ an intake worker may establish under this  
5 subdivision may include, ~~but need not be limited to~~, a request to a volunteer to  
6 ~~provide~~ be a role model for the juvenile ~~a role model~~, informal counseling, general  
7 monitoring ~~and~~, monitoring of the conditions established by the intake worker, or  
8 any combination of these functions, and any other deferred prosecution condition  
9 that the intake worker may establish under this paragraph.

10 **SECTION 251.** 938.245 (2) (a) 8. (title) of the statutes is created to read:

11 938.245 (2) (a) 8. (title) 'Teen court program.'

12 **SECTION 252.** 938.245 (2) (a) 8. c. of the statutes is amended to read:

13 938.245 (2) (a) 8. c. The juvenile admits to the intake worker, with in the  
14 presence of the juvenile's parent, guardian, or legal custodian present, that the  
15 juvenile committed the alleged delinquent act or civil law or ordinance violation.

16 **SECTION 253.** 938.245 (2) (a) 9m. (title), (b) (title) and (c) (title) of the statutes  
17 are created to read:

18 938.245 (2) (a) 9m. (title) 'Youth report center.'

19 (b) (title) *No out-of-home placement; term of agreement.*

20 (c) (title) *Alcohol or other drug abuse treatment; informed consent.*

21 **SECTION 254.** 938.245 (2g) to (4) of the statutes are amended to read:

22 938.245 (2g) GRAFFITI VIOLATION. If the deferred prosecution agreement is  
23 based on an allegation that the juvenile violated s. 943.017 and the juvenile has  
24 attained the ~~minimum age at which a juvenile may be adjudicated delinquent~~ 10  
25 years of age, the ~~deferred prosecution~~ agreement may require that the juvenile

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1 participate for not less than 10 hours nor more than 100 hours in a supervised work  
2 program under s. 938.34 (5g) or perform not less than 10 hours nor more than 100  
3 hours of other community service work, except that if the juvenile has not attained  
4 14 years of age the maximum number of hours is 40.

5 (2v) HABITUAL TRUANCY VIOLATION. If the deferred prosecution agreement is  
6 based on an allegation that the juvenile has violated a municipal ordinance enacted  
7 under s. 118.163 (2), the ~~deferred prosecution~~ agreement may require that the  
8 juvenile's parent, guardian, or legal custodian attend school with the juvenile.

9 (3) OBLIGATIONS IN WRITING. The obligations imposed under a deferred  
10 prosecution agreement and its effective date shall be set forth in writing. The intake  
11 worker shall provide a copy of the agreement and order to the juvenile and a, to the  
12 juvenile's parent, guardian, and legal custodian shall receive a copy of the agreement  
13 and order, as shall, and to any agency providing services under the agreement.

14 (4) RIGHT TO TERMINATE OR OBJECT TO AGREEMENT. The intake worker shall  
15 inform the juvenile and the juvenile's parent, guardian, and legal custodian in  
16 writing of their right to terminate the deferred prosecution agreement at any time  
17 or to object at any time to the fact or terms of the ~~deferred prosecution~~ agreement.  
18 If there is an objection arises, the intake worker may alter the terms of the agreement  
19 or request the district attorney or corporation counsel to file a petition. If the  
20 ~~deferred prosecution~~ agreement is terminated the intake worker may request the  
21 district attorney or corporation counsel to file a petition.

22 **SECTION 255.** 938.245 (5) (title) of the statutes is created to read:

23 938.245 (5) (title) TERMINATION UPON REQUEST.

24 **SECTION 256.** 938.245 (6) to (9) of the statutes are amended to read:

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## SECTION 256

1           938.245 (6) TERMINATION IF DELINQUENCY PETITION FILED. A deferred prosecution  
2 agreement arising out of an alleged delinquent act is terminated if the district  
3 attorney files a delinquency petition within 20 days after receipt of notice of the  
4 deferred prosecution agreement under s. 938.24 (5). ~~In such case~~ If a petition is filed,  
5 statements made to the intake worker during the intake inquiry are inadmissible.

6           (7) CANCELLATION BY INTAKE WORKER. (a) If at any time during the period of a  
7 deferred prosecution agreement the intake worker determines that the obligations  
8 imposed under it are not being met, the intake worker may cancel the deferred  
9 prosecution agreement. Within 10 days after the cancellation of the deferred  
10 prosecution agreement is cancelled, the intake worker shall notify the district  
11 attorney, corporation counsel, or other official under s. 938.09 of the cancellation and  
12 may request that a petition be filed. In delinquency cases, the district attorney may  
13 initiate a petition within 20 days after the date of the notice regardless of whether  
14 the intake worker has requested that a petition be filed. The judge court shall grant  
15 appropriate relief as provided in s. 938.315 (3) with respect to any petition ~~which~~ that  
16 is not filed within the time limit specified in this subsection paragraph. Failure to  
17 object if a petition is not filed within the time limit specified in this subsection  
18 paragraph waives that time limit.

19           (b) In addition to the action taken under par. (a), if the intake worker cancels  
20 a deferred prosecution agreement based on a determination that the juvenile's  
21 parent, guardian, or legal custodian is not meeting the obligations imposed under the  
22 agreement, the intake worker shall request the district attorney, corporation  
23 counsel, or other official under s. 938.09 to file a petition requesting the court to order  
24 the juvenile's parent, guardian, or legal custodian to show good cause for not meeting  
25 the obligations ~~imposed under the agreement.~~ ~~If the district attorney, corporation~~

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1 ~~counsel or other official under s. 938.09 files.~~ If a petition under this paragraph is  
2 filed and if the court finds prosecutive merit for the petition, the court shall grant an  
3 order directing the parent, guardian, or legal custodian to show good cause, at a time  
4 and place fixed by the court, for not meeting the obligations ~~imposed under the~~  
5 ~~agreement.~~ If the parent, guardian or legal custodian does not show good cause ~~for~~  
6 ~~not meeting the obligations imposed under the agreement,~~ the court may impose a  
7 forfeiture not to exceed \$1,000.

8 (8) WHEN OBLIGATIONS MET. If the obligations imposed under the deferred  
9 prosecution agreement are met, the intake worker shall so inform the juvenile and  
10 a parent, guardian, and legal custodian in writing, ~~and no.~~ No petition may be filed  
11 or citation issued on the charges that brought about the ~~deferred prosecution~~  
12 ~~agreement nor may~~ and the charges may not be the sole basis for a petition under  
13 s. 48.13, 48.133, 48.14, 938.13, or 938.14.

14 (9) WRITTEN POLICIES. The intake worker shall perform his or her  
15 responsibilities under this section under general written policies ~~which the judge~~  
16 ~~shall promulgate~~ promulgated under s. 938.06 (1) or (2).

17 **SECTION 257.** 938.25 (1) to (2m) of the statutes are amended to read:

18 938.25 (1) REQUIREMENTS: WHO MAY FILE. A petition initiating proceedings  
19 under this chapter shall be signed by a person who has knowledge of the facts alleged  
20 or is informed of them and believes them to be true. ~~If~~ The district attorney shall  
21 prepare, sign, and file a petition under s. 938.12 ~~is to be filed, it shall be prepared,~~  
22 ~~signed and filed by the district attorney.~~ The district attorney, corporation counsel,  
23 or other appropriate official specified under s. 938.09 may file ~~the~~ a petition if ~~the~~  
24 ~~proceeding is~~ under s. 938.125 or 938.13. The counsel or guardian ad litem for a  
25 parent, relative, guardian, or juvenile may file a petition under s. 938.13 or 938.14.

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1 The district attorney, corporation counsel or other appropriate person designated by  
2 the court may initiate proceedings under s. 938.14 in a manner specified by the court.

3 (2) TIME LIMITS: REFERRAL BACK. (a) The district attorney, corporation counsel,  
4 or other appropriate official shall file the petition, close the case, or refer the case  
5 back to intake or, with notice to intake, the law enforcement agency investigating the  
6 case within 20 days after the date that the intake worker's request was filed. A  
7 referral back to intake or to the law enforcement agency investigating the case may  
8 be made only when the district attorney, corporation counsel, or other appropriate  
9 official decides not to file a petition or determines that further investigation is  
10 necessary. If the case is referred back to intake upon a decision not to file a petition,  
11 the intake worker shall close the case or enter into a deferred prosecution agreement  
12 within 20 days after the date of the referral. If the case is referred back to intake or  
13 to the law enforcement agency investigating the case for further investigation, the  
14 appropriate agency or person shall complete the investigation within 20 days after  
15 the date of the referral. If another referral is made to the district attorney,  
16 corporation counsel, or other appropriate official by intake or by the law enforcement  
17 agency investigating the case, it shall be considered a new referral to which the time  
18 limits of this subsection shall apply. The time limits in this subsection may only be  
19 extended by a judge court upon a showing of good cause under s. 938.315. If a petition  
20 is not filed within the ~~time limitations set forth~~ limits in this subsection and the court  
21 has not granted an extension, the petition shall be accompanied by a statement of  
22 reasons for the delay. The court shall grant appropriate relief as provided in s.  
23 938.315 (3) with respect to a petition ~~which~~ that is not filed within the time limits  
24 specified in this paragraph. Failure to object if a petition is not filed within the time  
25 limits specified in this paragraph waives those time limits.



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1           (b) In delinquency cases ~~where~~ in which there has been a case closure or  
2 deferred prosecution agreement, the petition shall be filed within 20 days ~~of~~ after  
3 receipt of the notice of the closure or ~~deferred prosecution agreement~~. Failure to file  
4 within those 20 days invalidates the petition and affirms the case closure or ~~deferred~~  
5 ~~prosecution~~ agreement, except that the court shall grant appropriate relief as  
6 provided in s. 938.315 (3) with respect to a petition that is not filed within the time  
7 limit ~~specified~~ in this paragraph and that failure to object if a petition is not filed  
8 within the time limit ~~specified~~ in this paragraph waives that time limit. If a petition  
9 is filed within those 20 days or the time permitted by the court under s. 938.315 (3),  
10 whichever is later, the district attorney shall notify the parties to the agreement and  
11 the intake worker of the filing as soon as possible.

12           **(2g)** AMERICAN INDIAN JUVENILE: CONSULTATION WITH TRIBAL COURT. If the  
13 circumstances described in s. 938.24 (2r) (a) apply, before filing a petition under s.  
14 938.12 or 938.13 (12) the district attorney or corporation counsel shall determine  
15 whether the intake worker has received notification under s. 938.24 (2r) (b) from a  
16 tribal official that a petition relating to the alleged delinquent act has been or may  
17 be filed in tribal court. If the intake worker has received ~~that~~ the notification or if  
18 a tribal official has provided ~~that~~ the notification directly to the district attorney or  
19 corporation counsel, the district attorney or corporation counsel shall attempt to  
20 consult with appropriate tribal officials before filing a petition under s. 938.12 or  
21 938.13 (12).

22           **(2m)** NOTICE TO VICTIMS IF NO PETITION FILED. If a juvenile is alleged to be  
23 delinquent under s. 938.12 or to be in need of protection or services under s. 938.13  
24 (12) and the district attorney or corporation counsel decides not to file a petition, the  
25 district attorney or corporation counsel shall make a reasonable attempt to inform

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1 all of the known victims of the juvenile's act that a petition will not be filed against  
2 the juvenile at that time.

3 **SECTION 258.** 938.25 (3) of the statutes is amended to read:

4 938.25 (3) COURT ORDER FOR FILING OF PETITION. If the district attorney,  
5 corporation counsel, or other appropriate official under s. 938.09 refuses to file a  
6 petition, any person may request the judge court to order that the petition be filed  
7 and a hearing shall be held on the request. The judge court may order the filing of  
8 the petition on his or her its own motion. The matter may not be heard by the judge  
9 who court that orders the filing of a petition.

10 **SECTION 259.** 938.25 (4) (title), (5) (title) and (6) (title) of the statutes are  
11 created to read:

12 938.25 (4) (title) TIME LIMIT ON PROSECUTION.

13 (5) (title) CITATION AS INITIAL PLEADING.

14 (6) (title) TEMPORARY RESTRAINING ORDER AND INJUNCTION.

15 **SECTION 260.** 938.255 (1) (intro.), (c) and (cm) of the statutes are amended to  
16 read:

17 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings  
18 under this chapter, other than a petition initiating proceedings under s. 938.12,  
19 938.125, or 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a  
20 person under the age of 18". A petition initiating proceedings under s. 938.12,  
21 938.125, or 938.13 (12) shall be entitled, "In the interest of (juvenile's name), a person  
22 under the age of 17". A petition initiating proceedings under this chapter shall set  
23 forth with specificity specify all of the following:

24 (c) Whether the juvenile is in custody, and, if so, the place where the juvenile  
25 is being held and the time he or she was taken into custody unless there is reasonable

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1 cause to believe that such ~~disclosure~~ disclosures would result in imminent danger to  
2 the juvenile or physical custodian.

3 (cm) If the petition is initiating proceedings other than proceedings under s.  
4 938.12, 938.125 or 938.13 (12), whether the juvenile may be subject to the federal  
5 Indian ~~child welfare act~~ Child Welfare Act, 25 USC 1901 to 1963.

6 **SECTION 261.** 938.255 (2) (title) of the statutes is created to read:

7 938.255 (2) (title) FACTS NOT KNOWN.

8 **SECTION 262.** 938.255 (3) of the statutes is amended to read:

9 938.255 (3) IF CERTAIN INFORMATION NOT STATED. If the information required  
10 under sub. (1) (d) or (e) is not stated the petition shall be ~~dismissed or~~ amended under  
11 s. 938.263 (2) or dismissed.

12 **SECTION 263.** 938.255 (4) (title) of the statutes is created to read:

13 938.255 (4) (title) COPY TO JUVENILE, PARENTS, AND OTHERS.

14 **SECTION 264.** 938.263 (1) (title) of the statutes is created to read:

15 938.263 (1) (title) TO CURE DEFECT.

16 **SECTION 265.** 938.263 (2) (title) of the statutes is created to read:

17 938.263 (2) (title) BEFORE OR AFTER PLEA.

18 **SECTION 266.** 938.265 of the statutes is amended to read:

19 **938.265 Consultation with victims.** In a case in which the juvenile is alleged  
20 to be delinquent under s. 938.12 or to be in need of protection or services under s.  
21 938.13 (12), the district attorney or corporation counsel shall, as soon as practicable  
22 but ~~in any event~~ before the plea hearing under s. 938.30, offer all of the victims of the  
23 juvenile's alleged act who have so requested ~~the opportunity~~ an opportunity to confer  
24 with the district attorney or corporation counsel concerning the possible outcomes  
25 of the proceeding against the juvenile, including potential plea agreements and

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1 recommendations that the district attorney or corporation counsel may make  
2 concerning dispositions under s. 938.34 or 938.345. The duty to offer an opportunity  
3 to confer under this section does not limit the obligation of the district attorney or  
4 corporation counsel to exercise his or her discretion concerning the handling of the  
5 proceeding against the juvenile.

6 **SECTION 267.** 938.27 (1) (title), (2) (title) and (3) (title) of the statutes are  
7 created to read:

8 938.27 (1) (title) SUMMONS; WHEN ISSUED.

9 (2) (title) SUMMONS; NECESSARY PERSONS.

10 (3) (title) NOTICE OF HEARINGS.

11 **SECTION 268.** 938.27 (3) (a) 1. of the statutes is amended to read:

12 938.27 (3) (a) 1. The court shall also notify, under s. 938.273, the juvenile, any  
13 parent, guardian, and legal custodian of the juvenile, any foster parent, treatment  
14 foster parent or other physical custodian described in s. 48.62 (2) of the juvenile, and  
15 any person specified in par. (b), if applicable, of all hearings involving the juvenile  
16 under this subchapter, except hearings on motions for which notice ~~need only~~ must  
17 be provided only to the juvenile and his or her counsel. ~~Where~~ If parents entitled to  
18 notice have the same place of residence, notice to one ~~shall constitute~~ constitutes  
19 notice to the other. The first notice to any interested party, foster parent, treatment  
20 foster parent, or other physical custodian described in s. 48.62 (2) shall be ~~written~~  
21 in writing and may have a copy of the petition attached to it. ~~Thereafter, notice of~~  
22 Notices of subsequent hearings may be given by telephone at least 72 hours before  
23 the time of the hearing. The person giving telephone notice shall place in the case  
24 file a signed statement of the date and time notice was given and the person to whom  
25 he or she spoke.

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1           **SECTION 269.** 938.27 (4) (title) of the statutes is created to read:

2           938.27 (4) (title) CONTENTS OF NOTICE.

3           **SECTION 270.** 938.27 (4m), (5) and (6) of the statutes are amended to read:

4           938.27 (4m) NOTICE TO VICTIMS. The district attorney or corporation counsel  
5 shall make a reasonable attempt to contact any known victim or alleged victim of a  
6 juvenile's act or alleged act to inform them of the right to receive notice of any hearing  
7 under this chapter involving the juvenile. If a victim or alleged victim indicates that  
8 he or she wishes to receive that notice of any hearing under this chapter involving  
9 the juvenile, the district attorney or corporation counsel shall make a reasonable  
10 attempt to notify, under s. 938.273, that victim or alleged victim of any hearing under  
11 this chapter involving the juvenile. ~~Any failure~~ Failure to comply with this  
12 subsection is not a ground for an appeal of a judgment or dispositional order or for  
13 any court to reverse or modify a judgment or dispositional order.

14           (5) NOTICE TO BIOLOGICAL FATHERS. Subject to sub. (3) (b), the court shall make  
15 every reasonable ~~effort~~ efforts to identify and notify any person who has filed a  
16 declaration of interest under s. 48.025 and any person who has been adjudged to be  
17 the biological father of the juvenile in a judicial proceeding unless the biological  
18 father's rights have been terminated.

19           (6) INTERSTATE COMPACT PROCEEDINGS; NOTICE AND SUMMONS. When a proceeding  
20 is initiated under s. 938.14, all interested parties shall receive notice and appropriate  
21 summons shall be issued in a manner specified by the court, ~~consistent with~~  
22 ~~applicable governing statutes.~~ ~~In addition, if .~~ If the juvenile who is the subject of  
23 the proceeding is in the care of a foster parent, treatment foster parent, or other  
24 physical custodian described in s. 48.62 (2), the court shall give the foster parent,

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1 treatment foster parent, or other physical custodian notice and an opportunity to be  
2 heard as provided in sub. (3) (a).

3 **SECTION 271.** 938.27 (7) (title) and (8) (title) of the statutes are created to read:

4 938.27 (7) (title) CITATIONS AS NOTICE.

5 (8) (title) REIMBURSE LEGAL COUNSEL COSTS IN CERTAIN CASES; NOTICE.

6 **SECTION 272.** 938.273 (1) (title) of the statutes is created to read:

7 938.273 (1) (title) METHODS OF SERVICE; CONTINUANCE.

8 **SECTION 273.** 938.273 (1) of the statutes is renumbered 938.273 (1) (a) and  
9 amended to read:

10 938.273 (1) (a) Service of summons or notice required by s. 938.27 may be made  
11 by mailing a copy thereof to the persons summoned or notified. If the persons, other  
12 than a person specified in s. 938.27 (4m), fail to appear at the hearing or otherwise  
13 to acknowledge service, a continuance shall be granted, except where the court  
14 determines otherwise because the juvenile is in secure custody as provided under  
15 par. (b), and service shall be made personally by delivering to the persons a copy of  
16 the summons or notice; except that if the court is ~~satisfied~~ determines that it is  
17 impracticable to serve the summons or notice personally, it may ~~make an order~~  
18 ~~providing for the service of the summons or notice~~ by certified mail addressed to the  
19 last-known addresses of the persons.

20 (b) The court may refuse to grant a continuance when the juvenile is being held  
21 in secure custody, but ~~in such a case the court~~ if the court so refuses, it shall order  
22 that service of notice of the next hearing be made personally or by certified mail to  
23 the last-known address of the person who failed to appear at the hearing.

24 (c) Personal service shall be made at least 72 hours before ~~the time of the~~  
25 hearing. Mail shall be sent at least 7 days before ~~the time of the~~ hearing, except

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1 where ~~that when~~ the petition is filed under s. 938.13 and the person to be notified  
2 lives outside the state, ~~in which case~~ the mail shall be sent at least 14 days before  
3 ~~the time of~~ the hearing.

4 **SECTION 274.** 938.273 (2) (title) and (3) (title) of the statutes are created to read:

5 938.273 (2) (title) BY WHOM MADE.

6 (3) (title) EXPENSES; CHARGE ON COUNTY.

7 **SECTION 275.** 938.275 (1) (title) of the statutes is created to read:

8 938.275 (1) (title) EXPENSE OF CUSTODY, SERVICES, SANCTIONS, OR PLACEMENT.

9 **SECTION 276.** 938.275 (1) (c) of the statutes is amended to read:

10 938.275 (1) (c) If the court imposes a sanction on a juvenile as specified in s.  
11 938.355 (6) (d) or (6m) (a) or (ag) or finds the juvenile in contempt under s. 938.355  
12 (6g) (b) and orders a disposition under s. 938.34 or if the juvenile is placed in a secure  
13 juvenile detention facility or place of nonsecure custody under s. 938.355 (6d) (a), (b),  
14 or (c) or 938.534 (1) (b) or (c), the court shall order the parents of the juvenile to  
15 contribute toward the cost of the sanction, disposition or placement the proportion  
16 of the total amount which the court finds the parents are able to pay.

17 **SECTION 277.** 938.275 (2) (title) of the statutes is created to read:

18 938.275 (2) (title) LEGAL COUNSEL; INDIGENCY.

19 **SECTION 278.** 938.275 (2) (a) of the statutes is renumbered 938.275 (2) (a)  
20 (intro.) and amended to read:

21 938.275 (2) (a) (intro.) If ~~this~~ the state or a county provides legal counsel to a  
22 juvenile subject to a proceeding under s. 938.12 or 938.13, the court shall order the  
23 juvenile's parent to reimburse the state or county ~~in accordance with~~ under par. (b)  
24 or (c). The court may not order reimbursement if a either of the following apply:

25 1. A parent is the complaining or petitioning party or if the,

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1           2. The court finds that the interests of the parent and the interests of the  
2 juvenile in the proceeding are substantially and directly adverse and that  
3 reimbursement would be unfair to the parent.

4           (am) The court may not order reimbursement under par. (a) until the  
5 completion of the proceeding or until the state or county is no longer providing the  
6 juvenile with legal counsel in the proceeding.

7           **SECTION 279.** 938.275 (2) (b) and (c) of the statutes are amended to read:

8           938.275 (2) (b) If ~~this~~ the state provides the juvenile with legal counsel and the  
9 court orders reimbursement under par. (a), the juvenile's parent may request the  
10 state public defender to determine whether the parent is indigent as provided under  
11 s. 977.07 and ~~to determine~~ the amount of reimbursement. If the parent is found not  
12 to be indigent, the amount of reimbursement shall be the maximum amount  
13 established by the public defender board. If the parent is found to be indigent in part,  
14 the amount of reimbursement shall be the amount of partial payment determined  
15 ~~in accordance with the~~ under rules of the ~~public defender board~~ promulgated under  
16 s. 977.02 (3).

17           (c) If the county provides the juvenile with legal counsel and the court orders  
18 reimbursement under par. (a), the court shall ~~either~~ make a determination of  
19 indigency or ~~shall~~ appoint the county department to make the determination. If the  
20 court or the county department finds that the parent is not indigent or is indigent  
21 in part, the court shall establish the amount of reimbursement and ~~shall~~ order the  
22 parent to pay it.

23           **SECTION 280.** 938.275 (2) (cg) 3. of the statutes is amended to read:



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1           938.275 (2) (cg) 3. The court's finding, under par. (a) 2, that the interests of the  
2           parent and the juvenile are not substantially and directly adverse and that ordering  
3           the payment of reimbursement would not be unfair to the parent.

4           **SECTION 281.** 938.28 of the statutes is amended to read:

5           **938.28 Failure to obey summons; capias.** If any person summoned under  
6           this chapter fails without reasonable cause to appear, he or she may be proceeded  
7           against for contempt of court. ~~In case under ch. 785. If the summons cannot be served~~  
8           ~~or, if the parties served fail to obey~~ respond to the same summons, or ~~in any case when~~  
9           if it appears to the court that the service will be ineffectual, a capias may be issued  
10          for the parent, guardian, and legal custodian or for the juvenile. Subchapter IV  
11          governs the taking and holding of a juvenile in custody.

12          **SECTION 282.** 938.29 (1) of the statutes is amended to read:

13          938.29 (1) REQUEST FOR SUBSTITUTION. Except as provided in sub. (1g), the  
14          juvenile, either before or during the plea hearing, may file a written request with the  
15          clerk of the court or other person acting as the clerk for a substitution of the judge  
16          assigned to the proceeding. ~~Upon~~ Immediately upon filing the written request, the  
17          juvenile shall ~~immediately~~ mail or deliver a copy of the request to the judge named  
18          therein in the request. In a proceeding under s. 938.12 or 938.13 (12), only the  
19          juvenile may request a substitution of the judge. ~~Whenever~~ If the juvenile has the  
20          right to request a substitution of judge, the juvenile's counsel or guardian ad litem  
21          may file the request. Not more than one ~~such~~ written request may be filed in any one  
22          proceeding, ~~nor may any~~ and no single request may name more than one judge. This  
23          section ~~shall~~ does not apply to proceedings under s. 938.21.

24          **SECTION 283.** 938.29 (1g) of the statutes is renumbered 938.29 (1g) (intro.) and  
25          amended to read:

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1           938.29 (1g) WHEN SUBSTITUTION REQUEST NOT PERMITTED. (intro.) The juvenile  
2 may not request the substitution of a judge in a proceeding under s. 938.12 or 938.13  
3 (12), and the juvenile and the juvenile’s parent, guardian, or legal custodian may not  
4 request the substitution of a judge in a proceeding under s. 938.13 (4), (6), (6m), or  
5 (7), if ~~the~~ any of the following apply:

6           (a) The judge assigned to the proceeding has entered a dispositional order with  
7 respect to the juvenile in a previous proceeding under s. 48.12, 1993 stats., s. 48.13  
8 (4), (6), (6m), (7), or (12), 1993 stats., s. 938.12, or 938.13 (4), (6), (6m), (7), or (12) or  
9 the,

10           (b) The juvenile or the juvenile’s parent, guardian, or legal custodian has  
11 requested the substitution of a judge in a previous proceeding under s. 48.12, 1993  
12 stats., s. 48.13 (4), (6), (6m), (7) or (12), 1993 stats., s. 938.12 or 938.13 (4), (6), (6m),  
13 (7) or (12).

14           **SECTION 284.** 938.29 (1m) of the statutes is amended to read:

15           938.29 (1m) ASSIGNMENT OF NEW JUDGE. When the clerk receives a request for  
16 substitution, the clerk shall immediately contact the judge whose substitution has  
17 been requested for a determination of whether the request was made timely and in  
18 proper form. Except as provided in sub. (2), if the request is found to be timely and  
19 in proper form, the judge named in the request has no further jurisdiction and the  
20 clerk shall request the assignment of another judge under s. 751.03. If no  
21 determination is made within 7 days after receipt of the request for substitution, the  
22 clerk shall refer the matter to the chief judge of the judicial administrative district  
23 for determination of whether the request was made timely and in proper form and  
24 for reassignment as necessary.

25           **SECTION 285.** 938.29 (2) (title) of the statutes is created to read:

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1           938.29 (2) (title) SUBSTITUTION OF JUDGE SCHEDULED TO CONDUCT WAIVER HEARING.

2           **SECTION 286.** 938.293 (1) of the statutes is amended to read:

3           938.293 (1) LAW ENFORCEMENT REPORTS. Copies of all law enforcement officer  
4 reports, including ~~but not limited to~~ the officer's memorandum and witnesses'  
5 statements, shall be made available upon request to counsel or guardian ad litem  
6 prior to a plea hearing. The reports shall be available through the representative of  
7 the public designated under s. 938.09. The juvenile, through counsel or guardian ad  
8 litem, is the only party who shall have access to the reports in proceedings under s.  
9 938.12, 938.125, or 938.13 (12). The identity of a confidential informant may be  
10 withheld pursuant to under s. 905.10.

11           **SECTION 287.** 938.293 (2) (title) of the statutes is created to read:

12           938.293 (2) (title) RECORDS RELATING TO JUVENILE.

13           **SECTION 288.** 938.293 (3) of the statutes is amended to read:

14           938.293 (3) VIDEOTAPED ORAL STATEMENT. Upon request prior to the fact-finding  
15 hearing, the district attorney shall disclose to the juvenile, and to the juvenile's  
16 counsel or guardian ad litem, the existence of any videotaped oral statement of a  
17 juvenile under s. 908.08 ~~which~~ that is within the possession, custody, or control of the  
18 state and shall make reasonable arrangements for the requesting person to view the  
19 videotaped oral statement. If, subsequent to compliance with this subsection, the  
20 state obtains possession, custody, or control of ~~such a~~ the videotaped oral statement,  
21 the district attorney shall promptly notify the requesting person of that fact and  
22 make reasonable arrangements for the requesting person to view the videotaped oral  
23 statement.

24           **SECTION 289.** 938.295 (1) (title) of the statutes is created to read:

25           938.295 (1) (title) EXAMINATION OR ASSESSMENT OF JUVENILE OR PARENT.

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1           **SECTION 290.** 938.295 (1) of the statutes is renumbered 938.295 (1) (a) and  
2 amended to read:

3           938.295 (1) (a) After the filing of a petition and upon a finding by the court that  
4 reasonable cause exists to warrant an a physical, psychological, mental, or  
5 developmental examination or an alcohol and other drug abuse assessment that  
6 conforms to the criteria specified under s. 938.547 (4), the court may order any a  
7 juvenile coming within its jurisdiction to be examined as an outpatient by personnel  
8 in an approved treatment facility for alcohol and other drug abuse, by a physician,  
9 psychiatrist, or licensed psychologist, or by another expert appointed by the court  
10 holding at least a master's degree in social work or another related field of child  
11 development, in order that the juvenile's physical, psychological, alcohol or other  
12 drug dependency, mental, or developmental condition may be considered. The court  
13 may also order an examination or an alcohol and other drug abuse assessment that  
14 conforms to the criteria specified under s. 938.547 (4) of a parent, guardian, or legal  
15 custodian whose ability to care for a juvenile is at issue before the court.

16           (b) The court shall hear any objections by the juvenile and the juvenile's  
17 parents, guardian, or legal custodian to the request under par. (a) for such an  
18 examination or assessment before ordering the examination or assessment.

19           (c) The expenses of an examination, if approved by the court, shall be paid by  
20 the county of the court ordering the examination. The payment for an alcohol and  
21 other drug abuse assessment shall be in accordance with s. 938.361.

22           **SECTION 291.** 938.295 (1c) (intro.) of the statutes is amended to read:

23           938.295 (1c) REASONABLE CAUSE FOR ASSESSMENT. WHEN. (intro.) Reasonable  
24 cause ~~is considered to exist~~ exists to warrant an alcohol and other drug abuse  
25 assessment under sub. (1) if any of the following applies:

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1           **SECTION 292.** 938.295 (1g) of the statutes is amended to read:

2           938.295 (1g) REPORT OF RESULTS AND RECOMMENDATIONS. If the court orders an  
3 alcohol or other drug abuse assessment under sub. (1), the approved treatment  
4 facility shall, within 14 days after the ~~court~~ order, report the results of the  
5 assessment to the court, except that, ~~upon request~~ if requested by the approved  
6 ~~treatment~~ facility and if the juvenile is not held in secure or nonsecure custody, the  
7 court may extend the period for assessment for not more than 20 additional working  
8 days. The report shall include a recommendation as to whether the juvenile is in  
9 need of treatment, intervention, or education relating to the use or abuse of alcohol  
10 beverages, controlled substances, or controlled substance analogs and, if so, shall  
11 recommend a service plan and appropriate treatment from an approved treatment  
12 facility, intervention from a court-approved pupil assistance program, or education  
13 from a court-approved alcohol or other drug abuse education program.

14           **SECTION 293.** 938.295 (2) (title) of the statutes is created to read:

15           938.295 (2) (title) NOT COMPETENT OR NOT RESPONSIBLE.

16           **SECTION 294.** 938.295 (2) (a) of the statutes is amended to read:

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

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1 counsel or guardian ad litem, consent to an inpatient evaluation. ~~Any~~ An inpatient  
2 evaluation shall be ~~for~~ completed in a specified period that is no longer than is  
3 necessary ~~to complete the evaluation.~~

4 **SECTION 295.** 938.295 (2) (b) of the statutes is renumbered 938.295 (2) (b) 1. and  
5 is amended to read:

6 938.295 (2) (b) 1. The examiner shall file a report of the examination with the  
7 court by the date specified in the order. The court shall cause copies to be transmitted  
8 to the district attorney or corporation counsel and to the juvenile's counsel or  
9 guardian ad litem. The report shall describe the nature of the examination and,  
10 identify the persons interviewed, the particular records reviewed, and any tests  
11 administered to the juvenile and state in reasonable detail the facts and reasoning  
12 upon which the examiner's opinions are based.

13 2. If the examination is ordered following a plea under s. 938.30 (4) (c), the  
14 report shall also contain an opinion regarding whether the juvenile suffered from  
15 mental disease or defect at the time of the commission of the act alleged in the  
16 petition and, if so, whether this caused the juvenile to lack substantial capacity to  
17 appreciate the wrongfulness of his or her conduct or to conform his or her conduct to  
18 the requirements of the law.

19 3. If the examination is ordered following a finding that there is probable cause  
20 to believe that the juvenile has committed the alleged offense and that there is reason  
21 to doubt the juvenile's competency to proceed, the report shall also contain an opinion  
22 regarding the juvenile's present mental capacity to understand the proceedings and  
23 assist in his or her defense and, if the examiner reports that the juvenile lacks  
24 competency to proceed, the examiner's opinion regarding the likelihood that the  
25 juvenile, if provided treatment, may be restored to competency within the time

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1 specified in s. 938.30 (5) (e) 1. ~~The report shall also state in reasonable detail the facts~~  
2 ~~and reasoning upon which the examiner's opinions are based.~~

3 **SECTION 296.** 938.295 (3) of the statutes is amended to read:

4 938.295 (3) OBJECTION TO A PARTICULAR PROFESSIONAL. If the juvenile or a parent  
5 objects to a particular physician, psychiatrist, licensed psychologist, or other expert  
6 ~~as required under this section~~, the court shall appoint a different physician,  
7 psychiatrist, psychologist or other expert ~~as required under this section~~.

8 **SECTION 297.** 938.295 (4) (title) of the statutes is created to read:

9 938.295 (4) (title) TELEPHONE OR LIVE AUDIOVISUAL PROCEEDING.

10 **SECTION 298.** 938.296 (1) (title) and (2) (title) of the statutes are created to read:

11 938.296 (1) (title) DEFINITIONS.

12 (2) (title) SEXUALLY TRANSMITTED DISEASE TESTING.

13 **SECTION 299.** 938.296 (2m) (title) of the statutes is created to read:

14 938.296 (2m) (title) COMMUNICABLE DISEASE TESTING.

15 **SECTION 300.** 938.296 (2m) (b) of the statutes is amended to read:

16 938.296 (2m) (b) The district attorney or corporation counsel has probable  
17 cause to believe that the act or alleged act of the juvenile that constitutes a violation  
18 of s. 946.43 (2m) carried a potential for transmitting a communicable disease to the  
19 victim or alleged victim and involved the juvenile's blood, semen, vomit, saliva, urine  
20 ~~or~~ feces, or other bodily substance ~~of the juvenile~~.

21 **SECTION 301.** 938.296 (3) (title), (4) (title), (5) (title) and (6) (title) of the statutes  
22 are created to read:

23 938.296 (3) (title) WHEN ORDER MAY BE SOUGHT.

24 (4) (title) DISCLOSURE OF SEXUALLY TRANSMITTED DISEASE TEST RESULTS.

25 (5) (title) DISCLOSURE OF COMMUNICABLE DISEASE TEST RESULTS.

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1           **(6)** (title) PAYMENT FOR TEST COSTS.

2           **SECTION 302.** 938.2965 (1) (title) of the statutes is created to read:

3           938.2965 (1) (title) DEFINITION.

4           **SECTION 303.** 938.2965 (2) of the statutes is amended to read:

5           938.2965 (2) COUNTY TO PROVIDE. If an area is available and use of the area is  
6 practical, a county shall provide a waiting area for a victim or witness to use during  
7 hearings under this chapter that if is separate from any area used by the juvenile,  
8 the juvenile's relatives, and witnesses for the juvenile. If a separate waiting area is  
9 not available or its use is not practical, a county shall provide other means to  
10 minimize the contact between the victim or witness and the juvenile, the juvenile's  
11 relatives, and witnesses for the juvenile during hearings under this chapter.

12           **SECTION 304.** 938.297 (1) (title) of the statutes is created to read:

13           938.297 (1) (title) MOTIONS ABLE TO BE DETERMINED WITHOUT TRIAL.

14           **SECTION 305.** 938.297 (2) to (4) of the statutes are amended to read:

15           938.297 (2) DEFENSES AND OBJECTIONS BASED ON PETITIONS FOR CITATION.  
16 Defenses If defenses and objections based on defects in the institution of proceedings,  
17 lack of probable cause on the face of the petition or citation, insufficiency of the  
18 petition or citation, or invalidity in whole or in part of the statute on which the  
19 petition or citation is founded ~~shall be~~ are not raised ~~not later than~~ within 10 days  
20 after the plea hearing ~~or be deemed, they are~~ waived. Other motions capable of  
21 determination without trial may be brought any time before trial.

22           **(3)** SUPPRESSION OF EVIDENCE. Motions to suppress evidence as ~~having been~~  
23 illegally seized or statements as ~~having been~~ illegally obtained shall be made before  
24 fact-finding on the issues. The court may ~~entertain~~ consider the motion at the  
25 fact-finding hearing if it appears that a party is surprised by the attempt to



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1 introduce ~~such~~ the evidence and that party waives jeopardy. Only the juvenile may  
2 waive jeopardy in cases under s. 938.12, 938.125, or 938.13 (12).

3 (4) PROPRIETY OF TAKING JUVENILE INTO CUSTODY. Although the taking of a  
4 juvenile into custody is not an arrest, it shall be considered an arrest for the purpose  
5 of deciding motions which require a decision about the propriety of the taking into  
6 custody, including ~~but not limited to~~ motions to suppress evidence as illegally seized,  
7 motions to suppress statements as illegally obtained, and motions challenging the  
8 lawfulness of the taking into custody.

9 **SECTION 306.** 938.297 (5) (title), (6) (title) and (7) (title) of the statutes are  
10 created to read:

11 938.297 (5) (title) CONTINUATION IN CUSTODY IF MOTION TO DISMISS GRANTED.

12 (6) (title) SERVICE OF MOTION ON ATTORNEY.

13 (7) (title) ORAL ARGUMENT BY TELEPHONE.

14 **SECTION 307.** 938.299 (1) (title) of the statutes is created to read:

15 938.299 (1) (title) CLOSED HEARINGS; EXCEPTIONS.

16 **SECTION 308.** 938.299 (1) (am) of the statutes is amended to read:

17 938.299 (1) (am) Subject to s. 906.15, if a public hearing is not held, in addition  
18 to persons permitted to attend under par. (a), a victim of a juvenile's act or alleged  
19 act may attend any hearing under this chapter based upon the act or alleged act,  
20 except that ~~a judge~~ the court may exclude a victim from any portion of a hearing  
21 ~~which that~~ deals with sensitive personal matters of the juvenile or the juvenile's  
22 family and ~~which that~~ does not directly relate to the act or alleged act committed  
23 against the victim. A member of the victim's family and, at the request of the victim,  
24 a representative of an organization providing support services to the victim, may  
25 attend the hearing under this subsection.

**ASSEMBLY BILL 443****SECTION 309**

1           **SECTION 309.** 938.299 (1) (ar) of the statutes is renumbered 938.299 (1) (ar) 1.  
2 and amended to read:

3           938.299 (1) (ar) 1. Notwithstanding par. (a) and except as provided under subd.  
4 2., the general public may attend any hearing under this chapter relating to a  
5 juvenile who has been alleged to be delinquent for committing a violation that would  
6 be a felony if committed by an adult if the juvenile has been adjudicated delinquent  
7 previously and that previous adjudication remains of record and unreversed or  
8 relating to a juvenile who has been alleged to be delinquent for committing a  
9 violation specified in s. 938.34 (4h) (a), ~~except that the~~.

10           2. The court shall exclude the general public from a hearing if the victim of a  
11 sexual assault objects and may, in its discretion, exclude the general public from any  
12 portion of a hearing ~~which~~ that deals with sensitive personal matters of the juvenile  
13 or the juvenile's family and ~~which~~ that does not relate to the act or alleged act  
14 committed by the juvenile or from any other hearing described in this paragraph.  
15 If the court excludes the general public from a hearing described in this paragraph,  
16 only those persons who are permitted under par. (a) or (am) to attend a hearing from  
17 which the general public is excluded may attend.

18           **SECTION 310.** 938.299 (1) (b) of the statutes is amended to read:

19           938.299 (1) (b) Except as provided in par. (av) and s. 938.396, any person who  
20 divulges any information ~~which~~ that would identify the juvenile or the family  
21 involved in any proceeding under this chapter is subject to ch. 785. This paragraph  
22 does not preclude a victim of the juvenile's act from commencing a civil action based  
23 upon the juvenile's act.

24           **SECTION 311.** 938.299 (4) (title) of the statutes is created to read:

25           938.299 (4) (title) EVIDENTIARY RULES AT HEARINGS.