2005 ASSEMBLY BILL 443

May 26, 2005 − Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Criminal Justice and Homeland Security.

AN ACT ***to repeal*** 48.396 (2) (f), 51.01 (14p), 301.01 (3p), 301.08 (1) (b) 4., 938.02 (15p), 938.18 (1) (b), 938.357 (4) (d), 938.396 (1m) (d) and 938.396 (6); ***to renumber*** 938.396 (1b), 938.396 (1d), 938.396 (1r), 938.396 (1t), 938.396 (1x), 938.396 (2) (ag), 938.396 (2) (am), 938.396 (2) (c), 938.396 (2) (d), 938.396 (2) (dm), 938.396 (2) (dr), 938.396 (2) (e), 938.396 (2) (fm), 938.396 (2) (g), 938.396 (2) (gm), 938.396 (2) (h), 938.396 (2) (i), 938.396 (5) (a) 1. to 5., 938.396 (5) (c) (intro.), 1 and 2. and 938.396 (5) (d) and (e); ***to renumber and amend*** 16.99 (3r), 48.02 (16), 51.01 (14m), 165.85 (2) (e), 165.85 (2) (f), 301.01 (3m), 938.02 (15m), 938.02 (16), 938.06 (5), 938.17 (2) (d), 938.18 (1) (a), 938.183 (2), 938.20 (8), 938.243 (1m), 938.245 (1), 938.273 (1), 938.275 (2) (a), 938.29 (1g), 938.295 (1), 938.295 (2) (b), 938.299 (1) (ar), 938.30 (4m), 938.30 (5) (e) 1., 938.315 (1) (a), 938.315 (1) (b), 938.315 (1) (c), 938.315 (1) (d), 938.315 (1) (dm), 938.315 (1) (e), 938.315 (1) (f), 938.315 (1) (fm), 938.315 (1) (h), 938.315 (1) (i), 938.32 (1) (b) 1., 938.32 (1) (c) 1., 938.335 (3g), 938.335 (3m) (a), 938.355 (6) (a), 938.396 (1),

938.396 (1g), 938.396 (1m) (a), 938.396 (1m) (am), 938.396 (1m) (ar), 938.396 (1m) (b), 938.396 (1m) (c), 938.396 (1p), 938.396 (2) (a), 938.396 (2) (b), 938.396 (2) (em), 938.396 (2) (f), 938.396 (2) (j), 938.396 (2m) (a), 938.396 (2m) (b), 938.396 (5) (a) (intro.), 938.396 (5) (b), 938.396 (5) (bm), 938.396 (5) (c) 3., 938.396 (7) (a), 938.396 (7) (am), 938.396 (7) (ar), 938.396 (7) (b), 938.396 (7) (bm), 938.396 (7) (c), 938.396 (8), 938.396 (9) and 938.49 (2); ***to consolidate, renumber and amend*** 938.50 (1) and (2); ***to amend*** 16.27 (7), 16.51 (7), 16.971 (13), 16.99 (2g), 16.997 (2) (b) and (f), 19.35 (1) (am) 2. c., 20.410 (3) (c) and (jv), 20.505 (4) (tw) (title), 46.057 (1), 46.22 (1) (c) 1. b., 46.22 (1) (c) 1. c., 48.067 (2), 48.208 (intro.), 48.209 (intro.), (1) (intro.) and (a) and (2), 48.23 (1m) (a), 48.236 (4) (a), 48.366 (1) (a) and (b), 48.366 (8), 48.38 (2) (intro.) and (g) and (3), 48.396 (1), 48.66 (1) (b) and (c), 48.66 (2m) (am) 1. and (bm), 48.715 (6), 48.78 (2) (b), 48.981 (1) (b), 49.35 (1) (b), 50.39 (3), 51.01 (14k), 51.05 (2), 51.30 (4) (b) 9., 51.30 (5) (d), 51.35 (3) (a) and (c), 51.35 (3) (e) and (g), 59.24, 77.52 (2) (a) 10., 101.123 (1) (bg), 101.123 (1) (j), (2) (br), (3) (gg) and (4) (a) 2., 115.31 (1) (b), 115.76 (10), 115.81 (1) (b), 118.125 (1) (a), 118.125 (2) (cg), 118.125 (2) (d), 118.125 (2) (e), 118.125 (2) (L), 118.125 (3), 118.125 (4), 118.125 (5) (b), 118.125 (7), 118.127 (1), 118.127 (2), 118.15 (1) (cm) 1., 118.15 (5) (b) 2., 146.82 (2) (a) 18m., 157.065 (2) (a) 4. c., 165.55 (15), 165.76 (1) (a) and (2) (b) 2., 165.76 (2) (b) 5., 165.85 (3) (d), 175.35 (1) (ag), 230.36 (1m) (b) 3. (intro.), 230.36 (2m) (a) 20., 252.15 (1) (ab) and (2) (a) 7. a., 252.15 (5) (a) 19., 301.01 (2) (b), 301.01 (3k), 301.01 (4), 301.027, 301.03 (10) (d), (e) and (f), 301.032 (1) (b), 301.08 (1) (b) 3., 301.19 (1) (b), 301.205, 301.26 (2) (c), 301.26 (4) (cm) 1. and 2., 301.26 (4) (d) 2. and 3., 301.26 (7) (b) 3., 301.263 (3), 301.36 (1), 301.37 (1), 301.37 (5), 301.45 (1g) (b) and (bm), (3) (a) 2. and (5) (a) 2., 302.11 (10), 302.18 (7), 302.255, 302.386 (1), (2) (intro.),

(3) (a) and (5) (c) and (d), 938.01 (2) (f), 938.01 (2) (g), 938.02 (5), 938.02 (7), 938.02 (15d), 938.02 (15g), 938.02 (19), 938.02 (19r), 938.02 (20), 938.028, 938.03 (title), 938.03 (1), 938.03 (2), 938.06 (1) (a), 938.06 (1) (am) and (b), 938.06 (2) and (3), 938.067 (intro.), 938.067 (2) and (3), 938.067 (5), 938.067 (7), 938.067 (9), 938.069 (1) (intro.), (c), (dj) and (e), 938.07 (2) and (3), 938.08 (1) and (2), 938.08 (3), 938.09 (1) to (6), 938.10, 938.12, 938.125 (intro.) and (2), 938.13, 938.135, 938.15, 938.17 (title) and (1) (intro.) and (c), 938.17 (2) (a) 2. d. and 3., 938.17 (2) (b) to (cm), 938.17 (2) (h) 1. and 2., 938.17 (2) (i) 1., 2m. and 3g., 938.18 (2), 938.18 (3) (a), (b) and (c), 938.18 (4) (a) and (b), 938.18 (5) (a), 938.18 (5) (b), 938.18 (6), 938.183 (1) (a) and (am), 938.183 (1m) (intro.) and (c) 1. and 2., 938.183 (3), 938.185 (2), 938.19 (1) (b) and (c), 938.19 (1) (d) 1., 6. and 7., 938.19 (1m) and (2), 938.20 (2) (cm) and (d), 938.20 (3), 938.20 (5), 938.20 (7) (a) and (b), 938.20 (7) (c) 1., 1m. and 2., 938.205, 938.207 (1) (c), (cm) and (f) and (2), 938.208 (1) (intro.) and (2), 938.208 (3), (4) and (5), 938.209 (1) (a) 5., 938.209 (1) (b), 938.21 (1), 938.21 (2) (b), (c) and (d), 938.21 (3) (b), (d) and (e), 938.21 (4) (intro.), 938.21 (4) (a) and (4m), 938.21 (5) (b) 1. and 3., 938.21 (5) (c) and (d) 1., 938.21 (6), 938.21 (7), 938.22 (title), 938.22 (1) (a), (b) and (c), 938.22 (2) (a) and (b), 938.22 (3), 938.22 (7) (a) and (b), 938.222 (1), 938.222 (2) (a) 1. and 2., 938.223 (2) (a) 1. and 2., 938.223 (3), 938.224 (1), 938.23 (1g) and (1m) (a), (am) and (b) 2., 938.23 (3), (4) and (5), 938.235 (3) (a) and (b) (intro.), 938.235 (7) and (8) (b), 938.24 (1), 938.24 (2) and (2m), 938.24 (4) and (5), 938.24 (6) and (7), 938.243 (1) (intro.), (am), (c) and (h), 938.243 (3), 938.245 (1m), 938.245 (2) (a) 2., 3. and 4., 938.245 (2) (a) 5. a., am. and c., 938.245 (2) (a) 7., 938.245 (2) (a) 8. c., 938.245 (2g) to (4), 938.245 (6) to (9), 938.25 (1) to (2m), 938.25 (3), 938.255 (1) (intro.), (c) and (cm), 938.255 (3), 938.265, 938.27 (3) (a) 1., 938.27 (4m), (5)

and (6), 938.275 (1) (c), 938.275 (2) (b) and (c), 938.275 (2) (cg) 3., 938.28, 938.29 (1), 938.29 (1m), 938.293 (1), 938.293 (3), 938.295 (1c) (intro.), 938.295 (1g), 938.295 (2) (a), 938.295 (3), 938.296 (2m) (b), 938.2965 (2), 938.297 (2) to (4), 938.299 (1) (am), 938.299 (1) (b), 938.299 (4) (b) and (5), 938.299 (9) (a) and (b), 938.30 (2), 938.30 (4) (a), (bm) and (c), 938.30 (5) (a) 2., (c) (intro.) and (d) (intro.), 938.30 (6) (b) and (c) and (7), 938.30 (8) (b) and (9), 938.31 (7), 938.315 (1) (intro.), 938.32 (1) (a) and (am), 938.32 (1) (b) 1m., 938.32 (1) (b) 2., 938.32 (1) (c) 2., 938.32 (1) (c) 3. and (d), 938.32 (1d), 938.32 (1g) (intro.) and (b), 938.32 (1m) (intro.), (a) and (c), 938.32 (1p), 938.32 (1r), 938.32 (1t) (a) 1., 1m. and 3. and (b), 938.32 (1v) and (1x), 938.32 (2) (a), (3) and (4), 938.32 (5) (a) and (6), 938.33 (1) (intro.), (b), (c) and (f), 938.33 (3) (intro.) and (a), 938.33 (3r), 938.33 (4m) (intro.), 938.335 (1), 938.335 (3m) (am), 938.335 (3m) (b), 938.34 (2) (a) and (b), 938.34 (2g) (intro.) and (a), 938.34 (2m) (a) and (c), 938.34 (3) (a), (b) and (e), 938.34 (4d), 938.34 (4h) (a) and (b), 938.34 (4m) (intro.), (a) and (b) (intro.), 938.34 (4n) (intro.) and (b), 938.34 (5) (a), (am) and (c), 938.34 (5g) (b), 938.34 (6r) (a) and (b) and (6s), 938.34 (7d) (a) 2., 3. and 4., 938.34 (8), 938.34 (8d) (c) and (d), 938.34 (13r), (13t), (14d) and (14q), 938.34 (14r) (a), 938.34 (15) (b), 938.34 (16), 938.342 (1d) (intro.), 938.342 (1g) (intro.) and (b), 938.342 (1g) (f) 1. and 2., 938.342 (1m), (1r) and (2), 938.343 (2), 938.343 (2m) (a), 938.343 (2m) (b), 938.343 (4), (5), (6) and (7), 938.343 (8), 938.343 (9), 938.344 (2) (a), (b) and (c), 938.344 (2b) (a), (b) and (c), 938.344 (2d) (a), (b) and (c), 938.344 (2e) (a) 1., 2. and 3., (b) and (c), 938.344 (2g) (a) 1. and 4. a. and b. and (d), 938.345 (1) (intro.), (a), (d), (e) and (g), 938.345 (2), 938.345 (3) (a) (intro.) and (c), 938.346 (1) (a), 938.346 (1) (b), 938.346 (1) (d) 2., 938.346 (1m) and (2), 938.35 (1m) and (2), 938.355 (1), 938.355 (2) (b) 1., 1m., 4m., 5., 6. and 6r., 938.355 (2c) (a) (intro.)

and (b), 938.355 (2d) (a) 1., 938.355 (2d) (c) 1., 938.355 (2e) (b), 938.355 (2m), 938.355 (3) (b) 1. and 1m., 938.355 (4), 938.355 (4m), 938.355 (6) (an), 938.355 (6) (b), 938.355 (6) (cm), 938.355 (6d) (a) 1. and 2. and (b) 1. and 2., 938.355 (6d) (c) 1. and 2. and (d), 938.355 (6g) (a) and (b) (intro.), 938.355 (6m) (a) (intro.), (ag) and (am), 938.355 (6m) (cm), 938.355 (7), 938.357 (1) (am) 1. and 3., 938.357 (1) (c) and (2), 938.357 (2m) and (2r), 938.357 (2v) (a) 1., 2. and 3. and (b), 938.357 (2v) (c) 1., 938.357 (3), 938.357 (4) (a) and (b) 1., 2. and 3., 938.357 (4) (c) 1., 2. and 3., 938.357 (4d) (a) and (am), 938.357 (4g) (a), (b), (c) (intro.) and (d), 938.357 (5) (a), (c), (d), (e) and (f), 938.357 (5m) (a) and (b), 938.357 (6), 938.36 (1) (b), 938.36 (2), 938.361 (2) (a) 2., 938.361 (2) (am), (b) and (c), 938.362 (3), 938.362 (4) (a), 938.363, 938.364, 938.365 (1) and (1m), 938.365 (2g) (b) 2. and (c), 938.365 (2m) (a), (ad) 1. and (ag), 938.365 (5) and (6), 938.368 (2) (intro.), 938.371, 938.38 (2) (intro.), (3) (a) and (b) and (4) (ar) and (h) (intro.), 938.38 (5) (a), 938.39, 938.44, 938.45 (1), 938.45 (1m) (a), (1r), (2) and (3), 938.48 (1), 938.48 (2), 938.48 (3) and (4), 938.48 (4m) (d), (5) and (6), 938.48 (14) and (16), 938.49 (1), 938.505 (2), 938.51 (1) (intro.), 938.51 (1m), 938.51 (2), 938.51 (4) (intro.), 938.52 (1) (d), (2) and (4), 938.53, 938.533, 938.534 (1) (a) and (b) 1., 2. and 4., 938.534 (1) (c) and (d) and (2), 938.535, 938.538 (3) (a) 1., 1m., 1p. and 2., 938.538 (4), (5) (b) and (c), (6) and (6m) (b), 938.539 (1), 938.539 (2) to (5), 938.57 (1) (b), (c), (cm), (d) and (2), 938.57 (4), 938.59 (1), 938.78 (2) (a), (ag) and (am), 938.78 (2) (b) 1. and (3), 938.795 (1) to (4), 938.992 (3), 940.225 (5) (ab), 946.42 (1) (a), 946.44 (2) (c) and (d), 946.45 (2) (c) and (d), 948.50 (4) (b), 968.255 (7) (b), 970.032 (1), 973.013 (3m), 976.08, 980.015 (2) (b), 980.02 (1) (b) 2., (2) (ag) and (4) (am) and (b) and 980.04 (1); and ***to create*** 938.01 (1) (title) and (2) (title), 938.067 (1) (title), 938.067 (4) (title), 938.067 (6) (title), (6g) (title) and (6m)

(title), 938.067 (8) (title) and (8m) (title), 938.069 (2) (title), (3) (title) and (4) (title), 938.17 (2) (a) (title), 938.17 (2) (d) (title), 938.17 (2) (e) (title), (f) (title) and (g) (title), 938.17 (2) (h) (title), 938.17 (2) (i) (title), 938.18 (2m) (title), 938.18 (3) (intro.), 938.18 (4) (title), 938.18 (5) (title), 938.18 (5) (am), 938.18 (7) (title), (8) (title) and (9) (title), 938.183 (1) (title), 938.183 (4) (title), 938.185 (1) (title), 938.185 (3) (title) and (4) (title), 938.19 (1) (title), 938.19 (3) (title), 938.20 (2) (title), 938.20 (4) (title), 938.20 (6) (title) and (7) (title), 938.20 (8) (title), 938.20 (8) (c), 938.207 (1) (title), 938.208 (6) (title), 938.209 (1) (title), 938.209 (2m) (title) and (3) (title), 938.22 (1) (title), 938.22 (2) (title), 938.22 (5) (title) and (7) (title), 938.222 (2) (title), 938.223 (1) (title), 938.223 (2) (title), 938.224 (2) (title), (3) (title) and (4) (title), 938.237 (1) (title), (2) (title) and (3) (title), 938.24 (1m) (title), 938.24 (2r) (title) and (3) (title), 938.24 (5m) (title), 938.243 (4) (title), 938.245 (2) (title), 938.245 (2) (a) (title), 938.245 (2) (a) 1. (title), 938.245 (2) (a) 5. (title), 938.245 (2) (a) 6. (title), 938.245 (2) (a) 8. (title), 938.245 (2) (a) 9m. (title), (b) (title) and (c) (title), 938.245 (5) (title), 938.25 (4) (title), (5) (title) and (6) (title), 938.255 (2) (title), 938.255 (4) (title), 938.263 (1) (title), 938.263 (2) (title), 938.27 (1) (title), (2) (title) and (3) (title), 938.27 (4) (title), 938.27 (7) (title) and (8) (title), 938.273 (1) (title), 938.273 (2) (title) and (3) (title), 938.275 (1) (title), 938.275 (2) (title), 938.29 (2) (title), 938.293 (2) (title), 938.295 (1) (title), 938.295 (2) (title), 938.295 (4) (title), 938.296 (1) (title) and (2) (title), 938.296 (2m) (title), 938.296 (3) (title), (4) (title), (5) (title) and (6) (title), 938.2965 (1) (title), 938.297 (1) (title), 938.297 (5) (title), (6) (title) and (7) (title), 938.299 (1) (title), 938.299 (4) (title), 938.299 (6) (title), (7) (title), (8) (title) and (9) (title), 938.30 (1) (title), 938.30 (3) (title) and (4) (title), 938.30 (5) (title), 938.30 (6) (title), 938.30 (8) (title), 938.30 (10) (title), 938.31 (1) (title), (2) (title)

and (4) (title), 938.315 (2) (title), (2m) (title) and (3) (title), 938.32 (1) (title), 938.32 (1t) (title), 938.32 (2) (title), 938.32 (5) (title), 938.335 (3) (title), 938.335 (3m) (title), 938.335 (3r) (title), (4) (title) and (5) (title), 938.343 (1) (title), 938.343 (2m) (title), 938.343 (3) (title) and (3m) (title), 938.343 (10) (title), 938.344 (2) (title), 938.344 (2b) (title), 938.344 (2d) (title), 938.344 (2e) (title), 938.344 (2g) (title), 938.344 (2m) (title) and (3) (title), 938.345 (3) (title), 938.346 (1) (title), 938.346 (3) (title), (4) (title) and (5) (title), 938.35 (1) (title), 938.355 (6) (a) (title), 938.355 (6) (c), 938.355 (6) (d) (title) and (e) (title), 938.355 (6m) (b) (title), 938.355 (6m) (c) (title), 938.356 (1) (title) and (2) (title), 938.357 (1) (title) and (a) (title), 938.357 (1) (am) (title), 938.357 (2v) (title) and (a) (title), 938.357 (2v) (c) (title), 938.357 (4) (title), 938.357 (4d) (title), 938.357 (4g) (title), 938.357 (4m) (title) and (5) (title), 938.357 (5m) (title), 938.36 (1) (title), 938.36 (3) (title), 938.361 (1) (title) and (2) (title), 938.362 (1) (title) and (2) (title), 938.362 (4) (title), 938.365 (2) (title) and (2g) (title), 938.365 (2m) (title), 938.365 (3) (title) and (4) (title), 938.365 (7) (title), 938.368 (1) (title), 938.37 (1) (title) and (3) (title), 938.373 (1) (title), 938.373 (2) (title), 938.396 (1) (title), 938.396 (1) (b) 5., 938.396 (1) (c) (intro.), 938.396 (1j) (title), 938.396 (2g) (intro.), 938.396 (2g) (ag) (title), 938.396 (2g) (am) (title), 938.396 (2g) (c) (title), 938.396 (2g) (d) (title), 938.396 (2g) (dm) (title), 938.396 (2g) (dr) (title), 938.396 (2g) (e) (title), 938.396 (2g) (fm) (title), 938.396 (2g) (g) (title), 938.396 (2g) (gm) (title), 938.396 (2g) (h) (title), 938.396 (2g) (i) (title), 938.396 (2g) (m) (title), 938.396 (3) (title), 938.396 (4) (title), 938.45 (1m) (title), 938.48 (4m) (title), 938.48 (13) (title), 938.505 (1) (title), 938.51 (1d) (title) and (1g) (title), 938.51 (1r) (title), 938.51 (3) (title), 938.534 (1) (title), 938.539 (6) (title), 938.549 (1) (title), (2) (title) and (3) (title), 938.57 (1) (title), 938.57 (3) (title), 938.59 (2) (title) and 938.78 (1)

(title) and (2) (title) of the statutes; **relating to:** reorganizing, making nonsubstantive editorial changes to, revising and creating titles in, clarifying ambiguous language in, and making minor substantive changes to the Juvenile Justice Code.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on the Recodification of Ch. 938, stats., the Juvenile Justice Code.

The special committee is directed to recodify ch. 938, stats., the Juvenile Justice Code. The special committee is instructed that the recodification may include a study of the possible reorganization of certain parts of the chapter to fit in a logical manner with the rest of the chapter, renumbering and retitling of certain sections and subsections, consolidating related provisions, modernizing language, resolving ambiguities in language, codifying court decisions, and making minor substantive changes.

The bill:

1. Reorganizes individual sections, or portions of sections, in ch. 938, stats., by combining them with other sections, dividing single sections into 2 or more sections, and internally reorganizing single sections.

2. Makes nonsubstantive editorial changes to modernize language and for consistency with current drafting style.

3. Revises section titles, where appropriate, and provides for subsection titles throughout the chapter.

4. Clarifies ambiguous language.

5. Makes substantive changes the special committee concluded are relatively noncontroversial.

The special committee explicitly intends that, unless expressly noted, the bill makes no substantive changes in the statutory provisions treated by this bill. Substantive changes in the bill are identified by NOTES to the provisions substantively affected. If a question arises about the effect of any modification made by this bill, the special committee intends that the revisions in the bill be construed to have the same effect as the prior statutes.

SECTION 1. 16.27 (7) of the statutes is amended to read:

16.27 **(7)** INDIVIDUALS IN STATE PRISONS OR SECURED JUVENILE FACILITIES. No payment under sub. (6) may be made to a prisoner who is imprisoned in a state prison

under s. 302.01 or to a person placed at a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m),~~ (10p), or a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g)~~, or a secured group home, as defined in s. 938.02 (15p)~~.

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

SECTION 2. 16.51 (7) of the statutes is amended to read:

16.51 **(7)** AUDIT CLAIMS FOR EXPENSES IN CONNECTION WITH PRISONERS AND JUVENILES IN ~~SECURED~~ JUVENILE CORRECTIONAL FACILITIES. Receive, examine, determine, and audit claims, duly certified and approved by the department of corrections, from the county clerk of any county in behalf of the county, which are presented for payment to reimburse the county for certain expenses incurred or paid by it in reference to all matters growing out of actions and proceedings involving prisoners in state prisons, as defined in s. 302.01, or juveniles in ~~secured~~ juvenile correctional facilities, as defined in s. 938.02 ~~(15m)~~ (10p), including prisoners or juveniles transferred to a mental health institute for observation or treatment, when the proceedings are commenced in counties in which the prisons or ~~secured~~ juvenile correctional facilities are located by a district attorney or by the prisoner or juvenile as a postconviction remedy or a matter involving the prisoner's status as a prisoner or the juvenile's status as a resident of a ~~secured~~ juvenile correctional facility and for certain expenses incurred or paid by it in reference to holding those juveniles in secure custody while those actions or proceedings are pending. Expenses shall only include the amounts that were necessarily incurred and actually paid and shall be no more than the legitimate cost would be to any other county had the offense or crime occurred therein.

SECTION 3. 16.971 (13) of the statutes is amended to read:

16.971 **(13)** Provide ~~secured~~ juvenile correctional facilities, school districts, and cooperative educational service agencies with telecommunications access under s. 16.997 and contract with telecommunications providers to provide that access.

SECTION 4. 16.99 (2g) of the statutes is amended to read:

16.99 **(2g)** "Educational agency" means a school district, charter school sponsor, ~~secured~~ juvenile correctional facility, private school, cooperative educational service agency, technical college district, private college, public library system, public library board, public museum, the Wisconsin Center for the Blind and Visually Impaired, or the Wisconsin Educational Services Program for the Deaf and Hard of Hearing.

SECTION 5. 16.99 (3r) of the statutes is renumbered 16.99 (3b) and amended to read:

16.99 **(3b)** "~~Secured~~ Juvenile correctional facility" means the Southern Oaks Girls School, the Ethan Allen School, ~~the Youth Leadership Training Center,~~ and the Lincoln Hills School.

NOTE: Deletes reference to the Youth Leadership Training Center because the center no longer exists.

SECTION 6. 16.997 (2) (b) and (f) of the statutes are amended to read:

16.997 **(2)** (b) Establish eligibility requirements for an educational agency to participate in the program established under sub. (1), including a requirement that a charter school sponsor use data lines and video links to benefit pupils attending the charter school and a requirement that Internet access to material that is harmful to children, as defined in s. 948.11 (1) (b), is blocked on the computers of ~~secured~~

juvenile correctional facilities that are served by data links and video links subsidized under this section.

(f) Ensure that ~~secured~~ juvenile correctional facilities that receive access under this section to data lines and video links use them only for educational purposes.

SECTION 7. 19.35 (1) (am) 2. c. of the statutes is amended to read:

19.35 **(1)** (am) 2. c. Endanger the security, including the security of the population or staff, of any state prison under s. 302.01, jail, as defined in s. 165.85 (2) (bg), ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g), ~~secured group home, as defined in s. 938.02 (15p),~~ mental health institute, as defined in s. 51.01 (12), center for the developmentally disabled, as defined in s. 51.01 (3), or facility, specified under s. 980.065, for the institutional care of sexually violent persons.

SECTION 8. 20.410 (3) (c) and (jv) of the statutes are amended to read:

20.410 **(3)** (c) *Reimbursement claims of counties containing ~~secured~~ juvenile correctional facilities.* The amounts in the schedule to pay all valid claims made by county clerks of counties containing state juvenile correctional ~~institutions~~ facilities as provided in s. 16.51 (7).

(jv) *Secure detention services.* All moneys received from counties under s. 938.224 (3) (a) for holding juveniles in secure custody in ~~secured~~ juvenile correctional facilities under s. 938.224 (1).

SECTION 9. 20.505 (4) (tw) (title) of the statutes is amended to read:

20.505 **(4)** (tw) (title) *Telecommunications access; ~~secured~~ juvenile correctional facilities.*

SECTION 10. 46.057 (1) of the statutes is amended to read:

46.057 **(1)** The department shall establish, maintain, and operate the Mendota juvenile treatment center on the grounds of the Mendota Mental Health Institute. The department may designate staff at the Mendota Mental Health Institute as responsible for administering, and providing services at, the center. Notwithstanding ss. 301.02, 301.03, and 301.36 (1), the department shall operate the Mendota juvenile treatment center as a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p). The center shall not be considered a hospital, as defined in s. 50.33 (2), an inpatient facility, as defined in s. 51.01 (10), a state treatment facility, as defined in s. 51.01 (15), or a treatment facility, as defined in s. 51.01 (19). The center shall provide psychological and psychiatric evaluations and treatment for juveniles whose behavior presents a serious problem to themselves or others in other ~~secured~~ juvenile correctional facilities and whose mental health needs can be met at the center. With the approval of the department of health and family services, the department of corrections may transfer to the center any juvenile who has been placed in a ~~secured~~ juvenile correctional facility under the supervision of the department of corrections under s. 938.183, 938.34 (4h) or (4m), or 938.357 (4) or (5) (e) in the same manner that the department of corrections transfers juveniles between other ~~secured~~ juvenile correctional facilities.

SECTION 11. 46.22 (1) (c) 1. b. of the statutes is amended to read:

46.22 **(1)** (c) 1. b. 'State institutions.' The Mendota Mental Health Institute, the Winnebago Mental Health Institute, centers for the developmentally disabled, and Type 1 ~~secured~~ juvenile correctional facilities, as defined in s. 938.02 (19).

SECTION 12. 46.22 (1) (c) 1. c. of the statutes is amended to read:

46.22 **(1)** (c) 1. c. 'Other institution.' University of Wisconsin Hospitals and Clinics and secured ~~child caring institutions~~ residential care centers for children and youth, as defined in s. 938.02 (15g).

SECTION 13. 48.02 (16) of the statutes is renumbered 48.02 (10r) and amended to read:

48.02 **(10r)** "~~Secure~~ Juvenile detention facility" means a locked facility approved by the department of corrections under s. 301.36 for the secure, temporary holding in custody of children.

SECTION 14. 48.067 (2) of the statutes is amended to read:

48.067 **(2)** Interview, unless impossible, any child or expectant mother of an unborn child who is taken into physical custody and not released, and when appropriate interview other available concerned parties. If the child cannot be interviewed, the intake worker shall consult with the child's parent or a responsible adult. If an adult expectant mother of an unborn child cannot be interviewed, the intake worker shall consult with an adult relative or friend of the adult expectant mother. No child may be placed in a ~~secure~~ juvenile detention facility unless the child has been interviewed in person by an intake worker, except that if the intake worker is in a place which is distant from the place where the child is or the hour is unreasonable, as defined by written court intake rules, and if the child meets the criteria under s. 48.208, the intake worker, after consulting by telephone with the law enforcement officer who took the child into custody, may authorize the secure holding of the child while the intake worker is en route to the in−person interview or until 8 a.m. of the morning after the night on which the child was taken into custody.

SECTION 15. 48.208 (intro.) of the statutes is amended to read:

48.208 Criteria for holding a child in a ~~secure~~ juvenile detention facility. (intro.) A child may be held in a ~~secure~~ juvenile detention facility if the intake worker determines that one of the following conditions applies:

SECTION 16. 48.209 (intro.), (1) (intro.) and (a) and (2) of the statutes are amended to read:

48.209 Criteria for holding a child in a county jail. (intro.) Subject to the provisions of s. 48.208, a county jail may be used as a ~~secure~~ juvenile detention facility if the criteria under either sub. (1) or (2) are met:

(1) (intro.) There is no other ~~secure~~ juvenile detention facility approved by the department of corrections or a county which is available and:

(a) The jail meets the standards for ~~secure~~ juvenile detention facilities established by the department of corrections;

(2) The child presents a substantial risk of physical harm to other persons in the ~~secure~~ juvenile detention facility, as evidenced by previous acts or attempts, which can only be avoided by transfer to the jail. The ~~provisions~~ conditions of sub. (1) (a) to (e) shall be met. The child shall be given a hearing and transferred only upon order of the judge.

SECTION 17. 48.23 (1m) (a) of the statutes is amended to read:

48.23 **(1m)** (a) Any child held in a ~~secure~~ juvenile detention facility shall be represented by counsel at all stages of the proceedings, but a child 15 years of age or older may waive counsel if the court is satisfied that the waiver is knowingly and voluntarily made and the court accepts the waiver.

SECTION 18. 48.236 (4) (a) of the statutes is amended to read:

48.236 **(4)** (a) Inspect any reports and records relating to the child who is the subject of the proceeding, the child's family, and any other person residing in the

same home as the child that are relevant to the subject matter of the proceeding, including records discoverable under s. 48.293, examination reports under s. 48.295 (2), law enforcement reports and records under ss. 48.396 (1) and 938.396 (1) (a), court records under ss. 48.396 (2) (a) and 938.396 (2) ~~(a)~~, social welfare agency records under ss. 48.78 (2) (a) and 938.78 (2) (a), abuse and neglect reports and records under s. 48.981 (7) (a) 11r., and pupil records under s. 118.125 (2) (L). The order shall also require the custodian of any report or record specified in this paragraph to permit the court−appointed special advocate to inspect the report or record on presentation by the court−appointed special advocate of a copy of the order. A court−appointed special advocate that obtains access to a report or record described in this paragraph shall keep the information contained in the report or record confidential and may disclose that information only to the court. If a court−appointed special advocate discloses any information to the court under this paragraph, the court−appointed special advocate shall also disclose that information to all parties to the proceeding. If a court−appointed special advocate discloses information in violation of the confidentiality requirement specified in this paragraph, the court−appointed special advocate is liable to any person damaged as a result of that disclosure for such damages as may be proved and, notwithstanding s. 814.04 (1), for such costs and reasonable actual attorney fees as may be incurred by the person damaged.

SECTION 19. 48.366 (1) (a) and (b) of the statutes are amended to read:

48.366 **(1)** (a) Subject to par. (c), if the person committed any crime specified under s. 940.01, 940.02, 940.05, 940.21, 940.225 (1) (a) to (c), 948.03, or 948.04, is adjudged delinquent on that basis, and is placed in a ~~secured~~ juvenile correctional

facility under s. 48.34 (4m), 1993 stats., the court shall enter an order extending its jurisdiction as follows:

(b) Subject to par. (c), if the person committed a crime specified in s. 940.20 (1) or 946.43 while placed in a ~~secured~~ juvenile correctional facility and is adjudged delinquent on that basis following transfer of jurisdiction under s. 970.032, the court shall enter an order extending its jurisdiction until the person reaches 21 years of age or until termination of the order under sub. (6), whichever occurs earlier.

SECTION 20. 48.366 (8) of the statutes is amended to read:

48.366 **(8)** TRANSFER TO OR BETWEEN FACILITIES. The department of corrections may transfer a person subject to an order between ~~secured~~ juvenile correctional facilities. After the person attains the age of 17 years, the department of corrections may place the person in a state prison named in s. 302.01, except that the department of corrections may not place any person under the age of 18 years in the correctional institution authorized in s. 301.16 (1n). ~~If the person is 15 years of age or over, the department of corrections may transfer the person to the Racine youthful offender correctional facility named in s. 302.01 as provided in s. 938.357 (4) (d).~~ If the department of corrections places a person subject to an order under this section in a state prison, that department shall provide services for that person from the appropriate appropriation under s. 20.410 (1). The department of corrections may transfer a person placed in a state prison under this subsection to or between state prisons named in s. 302.01 without petitioning for revision of the order under sub. (5) (a), except that the department of corrections may not transfer any person under the age of 18 years to the correctional institution authorized in s. 301.16 (1n).

NOTE: See the NOTE to s. 938.357 (4) (d), stats., as affected by this bill.

SECTION 21. 48.38 (2) (intro.) and (g) and (3) of the statutes are amended to read:

48.38 **(2)** PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3), for each child living in a foster home, treatment foster home, group home, residential care center for children and youth, ~~secure~~ juvenile detention facility, or shelter care facility, the agency that placed the child or arranged the placement or the agency assigned primary responsibility for providing services to the child under s. 48.355 shall prepare a written permanency plan, if any of the following conditions exists, and, for each child living in the home of a relative other than a parent, that agency shall prepare a written permanency plan, if any of the conditions specified in pars. (a) to (e) exists:

(g) The child's parent is placed in a foster home, treatment foster home, group home, residential care center for children and youth, ~~secure~~ juvenile detention facility, or shelter care facility and the child is residing with that parent.

(3) TIME. Subject to s. 48.355 (2d) (c) 1., the agency shall file the permanency plan with the court within 60 days after the date on which the child was first removed from his or her home, except that if the child is held for less than 60 days in a ~~secure~~ juvenile detention facility, juvenile portion of a county jail, or a shelter care facility, no permanency plan is required if the child is returned to his or her home within that period.

SECTION 22. 48.396 (1) of the statutes is amended to read:

48.396 **(1)** Law enforcement officers' records of children shall be kept separate from records of adults. Law enforcement officers' records of the adult expectant mothers of unborn children shall be kept separate from records of other adults. Law enforcement officers' records of children and the adult expectant mothers of unborn

children shall not be open to inspection or their contents disclosed except under sub. (1b), (1d), or (5) or s. 48.293 or by order of the court. This subsection does not apply to the representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child or adult expectant mother involved, to the confidential exchange of information between the police and officials of the school attended by the child or other law enforcement or social welfare agencies, or to children 10 years of age or older who are subject to the jurisdiction of the court of criminal jurisdiction. A public school official who obtains information under this subsection shall keep the information confidential as required under s. 118.125 and a private school official who obtains information under this subsection shall keep the information confidential in the same manner as is required of a public school official under s. 118.125. A law enforcement agency that obtains information under this subsection shall keep the information confidential as required under this subsection and s. 938.396 (1) (a). A social welfare agency that obtains information under this subsection shall keep the information confidential as required under ss. 48.78 and 938.78.

SECTION 23. 48.396 (2) (f) of the statutes is repealed.

NOTE: Repeals s. 48.396 (2) (f), stats., and places the substance of that provision into s. 938.396 (2) (em), stats., because s. 48.396 (2) (f), stats., is outmoded with the advent of ch. 938 in that ch. 938 covers juveniles who are in need of protection or services based on a delinquent act.

SECTION 24. 48.66 (1) (b) and (c) of the statutes are amended to read:

48.66 **(1)** (b) Except as provided in s. 48.715 (6), the department of corrections may license a child welfare agency to operate a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g), for holding in secure custody juveniles who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.183 or 938.34 (4d), (4h), or (4m) and referred to

the child welfare agency by the court or the department of corrections and to provide supervision, care and maintenance for those juveniles. ~~The department of corrections may also license not more than 5 county departments, as defined in s. 938.02 (2g), or not more than 5 consortia of county departments to operate not more than 5 group homes that have been licensed under par. (a) as secured group homes, as defined in s. 938.02 (15p), for holding in secure custody juveniles who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.183 or 938.34 (4m) and referred to the county department by the court and to provide supervision, care and maintenance for those juveniles.~~

(c) A license issued under par. (a) or (b), other than a license to operate a foster home, treatment foster home, or secured ~~child caring institution or secured group home~~ residential care center for children and youth, is valid until revoked or suspended. A license issued under this subsection to operate a foster home, treatment foster home, or secured ~~child caring institution or secured group home~~ residential care center for children and youth may be for any term not to exceed 2 years from the date of issuance. No license issued under par. (a) or (b) is transferable.

NOTE: Repeals the last sentence in s. 48.66 (1) (b), stats., to reflect the deletion of references to secure group homes. See the NOTE to s. 938.02 (15p), stats., as affected by this bill.

SECTION 25. 48.66 (2m) (am) 1. and (bm) of the statutes are amended to read:

48.66 **(2m)** (am) 1. Except as provided in subd. 2., the department of corrections shall require each applicant for a license under sub. (1) (b) to operate a secured ~~child caring institution~~ residential care center for children and youth who is an individual to provide that department with the applicant's social security number when initially applying for or applying to renew the license.

(bm) If an applicant who is an individual fails to provide the applicant's social security number to the department of corrections, that department may not issue or renew a license under sub. (1) (b) to operate a secured ~~child caring institution~~ residential care center for children and youth to or for the applicant unless the applicant does not have a social security number and the applicant submits a statement made or subscribed under oath or affirmation as required under par. (am) 2.

SECTION 26. 48.715 (6) of the statutes is amended to read:

48.715 **(6)** The department of health and family services shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 48.66 (1) (a) or a probationary license under s. 48.69 to operate a child welfare agency, group home, shelter care facility, or day care center, and the department of corrections shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 48.66 (1) (b) to operate a secured ~~child caring institution~~ residential care center for children and youth, for failure of the applicant or licensee to pay court−ordered payments of child or family support, maintenance, birth expenses, medical expenses, or other expenses related to the support of a child or former spouse or for failure of the applicant or licensee to comply, after appropriate notice, with a subpoena or warrant issued by the department of workforce development or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857. Notwithstanding s. 48.72, an action taken under this subsection is subject to review only as provided in the memorandum of understanding entered into under s. 49.857 and not as provided in s. 48.72.

SECTION 27. 48.78 (2) (b) of the statutes is amended to read:

48.78 **(2)** (b) Paragraph (a) does not apply to the confidential exchange of information between an agency and another social welfare agency, a law enforcement agency, a public school, or a private school regarding an individual in the care or legal custody of the agency. A social welfare agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. 938.78. A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. 48.396 (1) and 938.396 (1) (a). A public school that obtains information under this paragraph shall keep the information confidential as required under s. 118.125, and a private school that obtains information under this paragraph shall keep the information confidential in the same manner as is required of a public school under s. 118.125.

SECTION 28. 48.981 (1) (b) of the statutes is amended to read:

48.981 **(1)** (b) "Community placement" means probation; extended supervision; parole; aftercare; conditional transfer into the community under s. 51.35 (1); conditional transfer or discharge under s. 51.37 (9); placement in a Type 2 ~~child caring institution~~ residential care center for children and youth or a Type 2 ~~secured~~ juvenile correctional facility authorized under s. 938.539 (5); conditional release under s. 971.17; supervised release under s. 980.06 or 980.08; participation in the community residential confinement program under s. 301.046, the halfway house program under s. 301.0465, the intensive sanctions program under s. 301.048, the corrective sanctions program under s. 938.533, the intensive supervision program under s. 938.534, or the serious juvenile offender program under s. 938.538; or any other placement of an adult or juvenile offender in the community under the custody or supervision of the department of corrections, the department of health and family

services, a county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437 or any other person under contract with the department of corrections, the department of health and family services, or a county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437 to exercise custody or supervision over the offender.

SECTION 29. 49.35 (1) (b) of the statutes is amended to read:

49.35 **(1)** (b) All records of the department and all county records relating to programs under this subchapter and aid under s. 49.18, 1971 stats., s. 49.20, 1971 stats., and s. 49.61, 1971 stats., as affected by chapter 90, laws of 1973, shall be open to inspection at all reasonable hours by authorized representatives of the federal government. Notwithstanding ~~s.~~ ss. 48.396 (2) and 938.396 (2), all county records relating to the administration of the services and public assistance specified in this paragraph shall be open to inspection at all reasonable hours by authorized representatives of the department.

SECTION 30. 50.39 (3) of the statutes is amended to read:

50.39 **(3)** Facilities governed by ss. 45.365, 48.62, 49.70, 49.72, 50.02, 51.09, and 252.10, ~~secured~~ juvenile correctional facilities as defined in s. 938.02 ~~(15m)~~ (10p), correctional institutions governed by the department of corrections under s. 301.02, and the offices and clinics of persons licensed to treat the sick under chs. 446, 447, and 448 are exempt from ss. 50.32 to 50.39. Sections 50.32 to 50.39 do not abridge the rights of the medical examining board, physical therapists affiliated credentialing board, podiatrists affiliated credentialing board, dentistry examining board, pharmacy examining board, chiropractic examining board, and board of nursing in carrying out their statutory duties and responsibilities.

SECTION 31. 51.01 (14k) of the statutes is amended to read:

51.01 **(14k)** "Secured ~~child caring institution~~ residential care center for children and youth" has the meaning given in s. 938.02 (15g).

SECTION 32. 51.01 (14m) of the statutes is renumbered 51.01 (10m) and amended to read:

51.01 **(10m)** "~~Secured~~ Juvenile correctional facility" has the meaning given in s. 938.02 ~~(15m)~~ (10p).

SECTION 33. 51.01 (14p) of the statutes is repealed.

NOTE: Deletes the definition of "secured group home" in s. 51.01 (14p), stats. See the NOTE to s. 938.02 (15p), stats., as affected by this bill.

SECTION 34. 51.05 (2) of the statutes is amended to read:

51.05 **(2)** ADMISSIONS AUTHORIZED BY COUNTIES. The department may not accept for admission to a mental health institute any resident person, except in an emergency, unless the county department under s. 51.42 in the county where the person has legal residency authorizes the care~~, as provided in~~ under s. 51.42 (3) (as). Patients who are committed to the department under s. 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. 971.14, 971.17, 975.06, or 980.06, admitted by the department under s. 975.17, 1977 stats., or are transferred from a ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution or a secured group home~~ residential care center for children and youth to a state treatment facility under s. 51.35 (3) or from a jail or prison to a state treatment facility under s. 51.37 (5) are not subject to this section.

SECTION 35. 51.30 (4) (b) 9. of the statutes is amended to read:

51.30 **(4)** (b) 9. To a facility which is to receive an individual who is involuntarily committed under this chapter, ch. 48, 938, 971, or 975 upon transfer of the individual from one treatment facility to another. Release of records under this subdivision

shall be limited to such treatment records as are required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but it may not include the patient's complete treatment record. The department shall promulgate rules to implement this subdivision.

SECTION 36. 51.30 (5) (d) of the statutes is amended to read:

51.30 **(5)** (d) *Other juvenile records.* ~~Section 48.78 does~~ Sections 48.78 and 938.78 do not apply to records covered by this section.

SECTION 37. 51.35 (3) (a) and (c) of the statutes are amended to read:

51.35 **(3)** (a) A licensed psychologist of a ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution, or a secured group home~~ residential care center for children and youth, or a licensed physician of the department of corrections, who has reason to believe that any individual confined in the ~~secured~~ juvenile correctional facility~~,~~ or secured ~~child caring institution, or secured group home~~ residential care center for children and youth is, in his or her opinion, in need of services for developmental disability, alcoholism, or drug dependency or in need of psychiatric services, and who has obtained voluntary consent to make a transfer for treatment, shall make a report, in writing, to the superintendent of the ~~secured~~ juvenile correctional facility~~,~~ or secured ~~child caring institution, or secured group home~~ residential care center for children and youth, stating the nature and basis of the belief and verifying the consent. In the case of a minor age 14 or older who is in need of services for developmental disability or who is in need of psychiatric services, the minor and the minor's parent or guardian shall consent unless the minor is admitted under s. 51.13 (1) (c) 1. In the case of a minor age 14 or older who is in need

of services for alcoholism or drug dependency or a minor under the age of 14 who is in need of services for developmental disability, alcoholism, or drug dependency or in need of psychiatric services, only the minor's parent or guardian need consent unless the minor is admitted under s. 51.13 (1) (c). The superintendent shall inform, orally and in writing, the minor and the minor's parent or guardian, that transfer is being considered and shall inform them of the basis for the request and their rights as provided in s. 51.13 (3). If the department of corrections, upon review of a request for transfer, determines that transfer is appropriate, that department shall immediately notify the department of health and family services and, if the department of health and family services consents, the department of corrections may immediately transfer the individual. The department of health and family services shall file a petition under s. 51.13 (4) (a) in the court assigned to exercise jurisdiction under chs. 48 and 938 of the county where the treatment facility is located.

(c) A licensed psychologist of a ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution, or a secured group home,~~ residential care center for children and youth or a licensed physician of the department of corrections, who has reason to believe that any individual confined in the ~~secured~~ juvenile correctional facility~~,~~ or secured ~~child caring institution, or secured group home~~ residential care center for children and youth, in his or her opinion, ~~is mentally ill, drug dependent, or developmentally disabled~~ has a mental illness, drug dependency, or developmental disability and is dangerous as described in s. 51.20 (1) (a) 2., or is an alcoholic and is dangerous as described in s. 51.45 (13) (a) 1. and 2., shall file a written report with the superintendent of the ~~secured~~ juvenile correctional facility~~,~~ or secured ~~child caring institution, or secured group home~~ residential care center for

children and youth, stating the nature and basis of the belief. If the superintendent, upon review of the allegations in the report, determines that transfer is appropriate, he or she shall file a petition according to s. 51.20 or 51.45 in the court assigned to exercise jurisdiction under ~~ch. 48~~ chs. 48 and 938 of the county where the ~~secured~~ juvenile correctional facility~~,~~ or secured ~~child caring institution, or secured group home~~ residential care center for children and youth is located. The court shall hold a hearing according to procedures provided in s. 51.20 or 51.45 (13).

SECTION 38. 51.35 (3) (e) and (g) of the statutes are amended to read:

51.35 **(3)** (e) The department of corrections may authorize emergency transfer of an individual from a ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution, or a secured group home~~ residential care center for children and youth to a state treatment facility if there is cause to believe that the individual ~~is mentally ill, drug dependent or developmentally disabled~~ has a mental illness, drug dependency, or developmental disability and exhibits conduct ~~which~~ that constitutes a danger as described under s. 51.20 (1) (a) 2. a., b., c., or d. to the individual or to others, ~~is mentally ill~~ has a mental illness, is dangerous, and satisfies the standard under s. 51.20 (1) (a) 2. e., or is an alcoholic and is dangerous as provided in s. 51.45 (13) (a) 1. and 2. The custodian of the sending ~~secured~~ juvenile correctional facility~~,~~ or secured ~~child caring institution or secured group home~~ residential care center for children and youth shall execute a statement of emergency detention or petition for emergency commitment for the individual and deliver it to the receiving state treatment facility. The department of health and family services shall file the statement or petition with the court within 24 hours after the subject individual is received for detention or commitment. The statement or petition shall conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made, the director

of the receiving facility may file a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the individual to the ~~secured~~ juvenile correctional facility~~,~~ or secured ~~child caring institution or secured group home~~ residential care center for children and youth from which the transfer was made. As an alternative to this procedure, the procedure provided in s. 51.15 or 51.45 (12) may be used, except that no individual may be released without the approval of the court ~~which~~ that directed confinement in the ~~secured~~ juvenile correctional facility~~,~~ or secured ~~child caring institution or secured group home~~ residential care center for children and youth.

(g) A minor 14 years of age or older who is transferred to a treatment facility under par. (a) for the purpose of receiving services for developmental disability or psychiatric services may request in writing a return to the ~~secured~~ juvenile correctional facility~~,~~ or secured ~~child caring institution, or secured group home~~ residential care center for children and youth. In the case of a minor 14 years of age or older who is transferred to a treatment facility under par. (a) for the purpose of receiving services for alcoholism or drug dependency or a minor under 14 years of age~~,~~ who is transferred to a treatment facility under par. (a) for the purpose of receiving services for developmental disability, alcoholism, or drug dependency, or psychiatric services, the parent or guardian may make the request. Upon receipt of a request for return from a minor 14 years of age or older, the director shall immediately notify the minor's parent or guardian. The minor shall be returned to the ~~secured~~ juvenile correctional facility~~,~~ or secured ~~child caring institution, or secured group home~~ residential care center for children and youth within 48 hours after submission of the request unless a petition or statement is filed for emergency

detention, emergency commitment, involuntary commitment, or protective placement.

SECTION 39. 59.24 of the statutes is amended to read:

59.24 Clerks of counties containing state institutions to make claims in certain cases. The clerk of any county ~~which~~ that is entitled to reimbursement under s. 16.51 (7) shall make a certified claim against the state, without direction from the board, in all cases ~~where~~ in which the reimbursement is directed in s. 16.51 (7), upon forms prescribed by the department of administration. The forms shall contain information required by the clerk and shall be filed annually with the department of corrections on or before June 1. If the claims are approved by the department of corrections, they shall be certified to the department of administration and paid from the appropriation made by s. 20.410 (1) (c), if the claim is for reimbursement of expenses involving a prisoner in a state prison named in s. 302.01, or from the appropriation under s. 20.410 (3) (c), if the claim is for reimbursement of expenses involving a juvenile in a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p).

SECTION 40. 77.52 (2) (a) 10. of the statutes is amended to read:

77.52 **(2)** (a) 10. Except for installing or applying tangible personal property ~~which~~ that, when installed or applied, will constitute an addition or capital improvement of real property, the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of all items of tangible personal property unless, at the time of ~~such~~ that repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance, a sale in this state of the type of property repaired, serviced, altered, fitted, cleaned, painted, coated, towed, inspected, or maintained would have been exempt to the customer from sales

taxation under this subchapter, other than the exempt sale of a motor vehicle or truck body to a nonresident under s. 77.54 (5) (a) and other than nontaxable sales under s. 77.51 (14r). For purposes of this paragraph, the following items shall be considered to have retained their character as tangible personal property, regardless of the extent to which any such item is fastened to, connected with, or built into real property: furnaces, boilers, stoves, ovens, including associated hoods and exhaust systems, heaters, air conditioners, humidifiers, dehumidifiers, refrigerators, coolers, freezers, water pumps, water heaters, water conditioners and softeners, clothes washers, clothes dryers, dishwashers, garbage disposal units, radios and radio antennas, incinerators, television receivers and antennas, record players, tape players, jukeboxes, vacuum cleaners, furniture and furnishings, carpeting and rugs, bathroom fixtures, sinks, awnings, blinds, gas and electric logs, heat lamps, electronic dust collectors, grills and rotisseries, bar equipment, intercoms, recreational, sporting, gymnasium and athletic goods and equipment including by way of illustration but not of limitation bowling alleys, golf practice equipment, pool tables, punching bags, ski tows, and swimming pools; equipment in offices, business facilities, schools, and hospitals but not in residential facilities including personal residences, apartments, long−term care facilities, as defined under s. 16.009 (1) (em), state institutions, as defined under s. 101.123 (1) (i), Type 1 ~~secured~~ juvenile correctional facilities, as defined in s. 938.02 (19), or similar facilities including, by way of illustration but not of limitation, lamps, chandeliers, and fans, venetian blinds, canvas awnings, office and business machines, ice and milk dispensers, beverage−making equipment, vending machines, soda fountains, steam warmers and tables, compressors, condensing units and evaporative condensers, pneumatic conveying systems; laundry, dry cleaning, and pressing machines, power tools,

burglar alarm and fire alarm fixtures, electric clocks and electric signs. "Service" does not include services performed by veterinarians. The tax imposed under this subsection applies to the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance of items listed in this subdivision, regardless of whether the installation or application of tangible personal property related to the items is an addition to or a capital improvement of real property, except that the tax imposed under this subsection does not apply to the original installation or the complete replacement of an item listed in this subdivision, if ~~such~~ that installation or replacement is a real property construction activity under s. 77.51 (2).

SECTION 41. 101.123 (1) (bg) of the statutes is amended to read:

101.123 **(1)** (bg) "Jail" means a county jail, rehabilitation facility established by s. 59.53 (8), county house of correction under s. 303.16, or ~~secure~~ juvenile detention facility, as defined in s. 48.02 ~~(16)~~ (10r).

SECTION 42. 101.123 (1) (j), (2) (br), (3) (gg) and (4) (a) 2. of the statutes are amended to read:

101.123 **(1)** (j) "Type 1 ~~secured~~ juvenile correctional facility" has the meaning given in s. 938.02 (19).

(2) (br) Notwithstanding par. (a) and sub. (3), no person may smoke in any enclosed, indoor area of a Type 1 ~~secured~~ juvenile correctional facility or on the grounds of a Type 1 ~~secured~~ juvenile correctional facility.

(3) (gg) A Type 2 ~~secured~~ juvenile correctional facility, as defined in s. 938.02 (20).

(4) (a) 2. A person in charge or his or her agent may not designate an entire building as a smoking area or designate any smoking areas in the state capitol building, in the immediate vicinity of the state capitol, in a Type 1 ~~secured~~ juvenile

correctional facility, on the grounds of a Type 1 ~~secured~~ juvenile correctional facility, in a motor bus, hospital, or physician's office or on the premises, indoors or outdoors, of a day care center when children who are receiving day care services are present, in a residence hall or dormitory that is owned or operated by the Board of Regents of the University of Wisconsin System, or in any location that is 25 feet or less from such a residence hall or dormitory, except that in a hospital or a unit of a hospital that has as its primary purpose the care and treatment of mental illness, alcoholism, or drug abuse a person in charge or his or her agent may designate one or more enclosed rooms with outside ventilation as smoking areas for the use of adult patients who have the written permission of a physician. Subject to this subdivision and sub. (3) (b), a person in charge or his or her agent may not designate an entire room as a smoking area.

SECTION 43. 115.31 (1) (b) of the statutes is amended to read:

115.31 **(1)** (b) "Educational agency" means a school district, cooperative educational service agency, state correctional institution under s. 302.01, ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g), the Wisconsin Center for the Blind and Visually Impaired, the Wisconsin Educational Services Program for the Deaf and Hard of Hearing, the Mendota Mental Health Institute, the Winnebago Mental Health Institute, a state center for the developmentally disabled, a private school, or a private, nonprofit, nonsectarian agency under contract with a school board under s. 118.153 (3) (c).

SECTION 44. 115.76 (10) of the statutes is amended to read:

115.76 **(10)** "Local educational agency", except as otherwise provided, means the school district in which the child with a disability resides, the department of

health and family services if the child with a disability resides in an institution or facility operated by the department of health and family services, or the department of corrections if the child with a disability resides in a Type 1 ~~secured~~ juvenile correctional facility, as defined in s. 938.02 (19), or a Type 1 prison, as defined in s. 301.01 (5).

SECTION 45. 115.81 (1) (b) of the statutes is amended to read:

115.81 **(1)** (b) "Responsible local educational agency" means the local educational agency that was responsible for providing a free, appropriate public education to the child before the placement of the child in a residential care center for children and youth except that if the child resided in an institution or facility operated by the department of health and family services, a Type 1 ~~secured~~ juvenile correctional facility, as defined in s. 938.02 (19), or a Type 1 prison, as defined in s. 301.01 (5), before the placement of the child in a residential care center for children and youth, "responsible local educational agency" means the school district in which the residential care center for children and youth is located.

SECTION 46. 118.125 (1) (a) of the statutes is amended to read:

118.125 **(1)** (a) "Behavioral records" means those pupil records ~~which~~ that include psychological tests, personality evaluations, records of conversations, any written statement relating specifically to an individual pupil's behavior, tests relating specifically to achievement or measurement of ability, the pupil's physical health records other than his or her immunization records or any lead screening records required under s. 254.162, law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) ~~or (1m)~~ (b) 2. or (c) 3., and any other pupil records that are not progress records.

SECTION 47. 118.125 (2) (cg) of the statutes is amended to read:

118.125 **(2)** (cg) The school district clerk or his or her designee shall provide a law enforcement agency with a copy of a pupil's attendance record if the law enforcement agency certifies in writing that the pupil is under investigation for truancy or for allegedly committing a criminal or delinquent act and that the law enforcement agency will not further disclose the pupil's attendance record except as permitted under s. 938.396 (1) ~~to (1x)~~ (a). A school district clerk or designee who discloses a copy of a pupil's attendance record to a law enforcement agency for purposes of a truancy investigation shall notify the pupil's parent or guardian of that disclosure as soon as practicable after that disclosure.

SECTION 48. 118.125 (2) (d) of the statutes is amended to read:

118.125 **(2)** (d) Pupil records shall be made available to persons employed by the school district which the pupil attends who are required by the department under s. 115.28 (7) to hold a license and other school district officials who have been determined by the school board to have legitimate educational interests, including safety interests, in the pupil records. Law enforcement officers' records obtained under s. 938.396 ~~(1m)~~ (1) (c) 3. shall be made available as provided in s. 118.127 (2). A school board member or an employee of a school district may not be held personally liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the member or employee acted with actual malice in failing to disclose the information. A school district may not be held liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the school district or its agent acted with gross negligence or with reckless, wanton, or intentional misconduct in failing to disclose the information.

SECTION 49. 118.125 (2) (e) of the statutes is amended to read:

118.125 **(2)** (e) Upon the written permission of an adult pupil, or the parent or guardian of a minor pupil, the school shall make available to the person named in the permission the pupil's progress records or such portions of the pupil's behavioral records as determined by the person authorizing the release. Law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) ~~or (1m)~~ (b) 2. or (c) 3. may not be made available under this paragraph unless specifically identified by the adult pupil or by the parent or guardian of a minor pupil in the written permission.

SECTION 50. 118.125 (2) (L) of the statutes is amended to read:

118.125 **(2)** (L) A school board shall disclose the pupil records of a pupil in compliance with a court order under s. 48.236 (4) (a), 48.345 (12) (b), 938.34 (7d) (b), 938.396 ~~(1m) (c) or~~ (1) (d), or 938.78 (2) (b) 2. after making a reasonable effort to notify the pupil's parent or legal guardian.

SECTION 51. 118.125 (3) of the statutes is amended to read:

118.125 **(3)** MAINTENANCE OF RECORDS. Each school board shall adopt rules in writing specifying the content of pupil records and the time during which pupil records shall be maintained. No behavioral records may be maintained for more than one year after the pupil ceases to be enrolled in the school, unless the pupil specifies in writing that his or her behavioral records may be maintained for a longer period. A pupil's progress records shall be maintained for at least 5 years after the pupil ceases to be enrolled in the school. A school board may maintain the records on microfilm, on an optical disk, or in electronic format if authorized under s. 19.21 (4) (c), or in such other form as the school board deems appropriate. A school board shall maintain law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) ~~or (1m)~~ (b) 2. or (c) 3. separately from a pupil's other pupil records. Rules adopted

under this subsection shall be published by the school board as a class 1 notice under ch. 985.

SECTION 52. 118.125 (4) of the statutes is amended to read:

118.125 **(4)** TRANSFER OF RECORDS. Within 5 working days, a school district shall transfer to another school or school district all pupil records relating to a specific pupil if the transferring school district has received written notice from the pupil if he or she is an adult or his or her parent or guardian if the pupil is a minor that the pupil intends to enroll in the other school or school district or written notice from the other school or school district that the pupil has enrolled or from a court that the pupil has been placed in a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m),~~ (10p), or a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g)~~, or a secured group home, as defined in s. 938.02 (15p)~~. In this subsection, "school" and "school district" include any ~~secured~~ juvenile correctional facility, secured ~~child caring institution, secured group home~~ residential care center for children and youth, adult correctional institution, mental health institute, or center for the developmentally disabled, that provides an educational program for its residents instead of or in addition to that which is provided by public and private schools.

SECTION 53. 118.125 (5) (b) of the statutes is amended to read:

118.125 **(5)** (b) Law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) ~~or (1m),~~ (b) 2. or (c) 3. and records of the court assigned to exercise jurisdiction under chs. 48 and 938 ~~obtained under s. 938.396 (7) (a), (am), (ar), (b), or (bm), and records~~ or of a municipal court obtained under s. 938.396 ~~(7) (ar)~~ (2g) (m) may not be used by a school district as the sole basis for expelling or suspending a

pupil or as the sole basis for taking any other disciplinary action, including action under the school district's athletic code, against a pupil.

SECTION 54. 118.125 (7) of the statutes is amended to read:

118.125 **(7)** DISCLOSURE OF LAW ENFORCEMENT UNIT RECORDS. A school board shall treat law enforcement unit records of juveniles in the same manner as a law enforcement agency is required to treat law enforcement officers' records of juveniles under s. 938.396 (1) ~~to (1x) and (5)~~ (a).

SECTION 55. 118.127 (1) of the statutes is amended to read:

118.127 **(1)** Upon receipt of information from a law enforcement agency under s. 48.396 (1) or 938.396 (1) ~~or (1m)~~ (b) 2. or (c) 3., the school district administrator or private school administrator who receives the information shall notify any pupil named in the information, and the parent or guardian of any minor pupil named in the information, of the information.

SECTION 56. 118.127 (2) of the statutes is amended to read:

118.127 **(2)** A school district or private school may disclose information from law enforcement officers' records obtained under s. 938.396 ~~(1m)~~ (1) (c) 3. only to persons employed by the school district who are required by the department under s. 115.28 (7) to hold a license, to persons employed by the private school as teachers, and to other school district or private school officials who have been determined by the school board or governing body of the private school to have legitimate educational interests, including safety interests, in that information. In addition, if that information relates to a pupil of the school district or private school, the school district or private school may also disclose that information to those employees of the school district or private school who have been designated by the school board or governing body of the private school to receive that information for the purpose of

providing treatment programs for pupils enrolled in the school district or private school. A school district may not use law enforcement officers' records obtained under s. 938.396 ~~(1m)~~ (1) (c) 3. as the sole basis for expelling or suspending a pupil or as the sole basis for taking any other disciplinary action, including action under the school district's athletic code, against a pupil.

SECTION 57. 118.15 (1) (cm) 1. of the statutes is amended to read:

118.15 **(1)** (cm) 1. Upon the child's request and with the approval of the child's parent or guardian, any child who is 17 years of age or over shall be excused by the school board from regular school attendance if the child began a program leading to a high school equivalency diploma in a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g), a ~~secure~~ juvenile detention facility, as defined in s. 938.02 ~~(16)~~ (10r), or a juvenile portion of a county jail, and the child and his or her parent or guardian agree under subd. 2. that the child will continue to participate in such a program. For purposes of this subdivision, a child is considered to have begun a program leading to a high school equivalency diploma if the child has received a passing score on a minimum of one of the 5 content area tests given under the general educational development test or has demonstrated under a course of study meeting the standards established under s. 115.29 (4) for the granting of a declaration of equivalency to high school graduation a level of proficiency in a minimum of one of the 5 content areas specified in s. 118.33 (1) (a) 1. that is equivalent to the level of proficiency that he or she would have attained if he or she had satisfied the requirements under s. 118.33 (1) (a) 1.

SECTION 58. 118.15 (5) (b) 2. of the statutes is amended to read:

118.15 **(5)** (b) 2. In a prosecution under par. (a), if the defendant proves that he or she is unable to comply with the law because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under ~~ch. 48~~ chs. 48 and 938.

NOTE: Amends s. 118.15 (5) (b) 2., stats., to add a necessary cross−reference to the juvenile court under ch. 938, stats., the Juvenile Justice Code.

SECTION 59. 146.82 (2) (a) 18m. of the statutes is amended to read:

146.82 **(2)** (a) 18m. If the subject of the patient health care records is a child or juvenile who has been placed in a foster home, treatment foster home, group home, residential care center for children and youth, or ~~a secured~~ juvenile correctional facility, including a placement under s. 48.205, 48.21, 938.205, or 938.21, or for whom placement in a foster home, treatment foster home, group home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c), or 938.33 (3) or (4), to an agency directed by a court to prepare a court report under s. 48.33 (1), 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an agency responsible for preparing a court report under s. 48.365 (2g), 48.425 (1), 48.831 (2), 48.837 (4) (c), or 938.365 (2g), to an agency responsible for preparing a permanency plan under s. 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), or 938.38 regarding the child or juvenile, or to an agency that placed the child or juvenile or arranged for the placement of the child or juvenile in any of those placements and, by any of those agencies, to any other of those agencies and, by the agency that placed the child or juvenile or arranged for the placement of the child or juvenile in any of those placements, to the foster parent or treatment foster parent of the child or juvenile or the operator of the group home, residential care center for

children and youth, or ~~secured~~ juvenile correctional facility in which the child or juvenile is placed, as provided in s. 48.371 or 938.371.

SECTION 60. 157.065 (2) (a) 4. c. of the statutes is amended to read:

157.065 **(2)** (a) 4. c. A Type 1 ~~secured~~ juvenile correctional facility, as defined in s. 938.02 (19);

SECTION 61. 165.55 (15) of the statutes is amended to read:

165.55 **(15)** The state fire marshal, any deputy fire marshal, any fire chief, or his or her designee may obtain information relating to a juvenile from a law enforcement agency, a court assigned to exercise jurisdiction under chs. 48 and 938 or an agency, as defined in s. 938.78 (1), as provided in ss. 938.396 ~~(1x) and (2)~~ (1) (c) 8. and (2g) (j) and 938.78 (2) (b) 1. and may obtain information relating to a pupil from a public school as provided in ss. 118.125 (2) (ch) and (L) and 938.396 ~~(1m)~~ (1) (d).

SECTION 62. 165.76 (1) (a) and (2) (b) 2. of the statutes are amended to read:

165.76 **(1)** (a) Is in a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), or a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g), ~~or a secured group home, as defined in s. 938.02 (15p),~~ or on probation, extended supervision, parole, supervision, or aftercare supervision on or after August 12, 1993, for any violation of s. 940.225 (1) or (2), 948.02 (1) or (2), or 948.025.

(2) (b) 2. If the person has been sentenced to prison or placed in a ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution or a secured group home~~ residential care center for children and youth, he or she shall provide the specimen under par. (a) at the office of a county sheriff as soon as practicable after release on parole, extended supervision, or aftercare supervision, as directed by his or her probation, extended supervision, and parole agent or aftercare agent, except

that the department of corrections ~~or the county department under s. 46.215, 46.22 or 46.23 operating the secured group home in which the person is placed~~ may require the person to provide the specimen while he or she is in prison or in the ~~secured~~ juvenile correctional facility~~,~~ or secured ~~child caring institution or secured group home~~ residential care center for children and youth.

SECTION 63. 165.76 (2) (b) 5. of the statutes is amended to read:

165.76 **(2)** (b) 5. Notwithstanding subds. 1. to 3., for persons who are subject to sub. (1) and who are in prison, a ~~secured~~ juvenile correctional facility, or a secured ~~child caring institution~~ residential care center for children and youth or on probation, extended supervision, parole, supervision, or aftercare supervision on August 12, 1993, the departments of justice, corrections, and health and family services shall cooperate to have these persons provide specimens under par. (a) before July 1, 1998.

SECTION 64. 165.85 (2) (e) of the statutes is renumbered 165.85 (2) (br) and amended to read:

165.85 **(2)** (br) "~~Secure~~ Juvenile detention facility" has the meaning given in s. 48.02 ~~(16)~~ (10r).

SECTION 65. 165.85 (2) (f) of the statutes is renumbered 165.85 (2) (bt) and amended to read:

165.85 **(2)** (bt) "~~Secure~~ Juvenile detention officer" means any person employed by any political subdivision of the state or by any private entity contracting under s. 938.222 to supervise, control, or maintain a ~~secure~~ juvenile detention facility or the persons confined in a ~~secure~~ juvenile detention facility. "~~Secure~~ Juvenile detention officer" includes officers regardless of whether they have been sworn regarding their duties or whether they serve on a full−time basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

301.01 **(3k)** "Secured ~~child caring institution~~ residential care center for children and youth" has the meaning given in s. 938.02 (15g).

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

301.01 **(1m)** "~~Secured~~ Juvenile correctional facility" has the meaning given in s. 938.02 ~~(15m)~~ (10p).

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.

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

301.01 **(4)** "State correctional institution" means a state prison under s. 302.01 or a ~~secured~~ juvenile correctional facility operated by the department.

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

301.027 Treatment program at one or more juvenile ~~secured~~ correctional facilities. The department shall maintain a cottage−based intensive alcohol and other drug abuse program at one or more juvenile ~~secured~~ correctional facilities.

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

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

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

(f) Provide health services and psychiatric services for residents of all ~~secured~~ 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.

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

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

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

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

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

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.

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

301.19 **(1)** (b) "Correctional facility" means an institution or facility, or a portion of an institution or facility, that is used to confine juveniles alleged or found to be delinquent or a prison, jail, house of correction, or lockup facility ~~but does not include 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.

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

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

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

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

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

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

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

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

sanctions supervision providers for costs incurred beginning on July 1, 1996, for the care of any juvenile 14 years of age or over and under 18 years of age who has been placed in a ~~secured~~ juvenile correctional facility under s. 48.366 based on a 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

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

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

302.255 Interstate corrections compact; additional applicability. "Inmate", as defined under s. 302.25 (2) (a), includes persons subject to an order under s. 48.366 who are confined to a state prison under s. 302.01 ~~and persons subject 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.

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

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

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

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

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

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

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

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

938.01 **(1)** (title) TITLE.

(2) (title) LEGISLATIVE INTENT.

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

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

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

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

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

938.02 **(5)** ~~"Developmentally disabled" means having a developmental disability, as defined in~~ "Developmental disability" has the meaning given in s. 51.01 (5).

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

938.02 **(7)** "Group home" means any facility operated by a person required to be licensed by the department of health and family services under s. 48.625 for the 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.

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

938.02 **(15d)** "Residential care center for children and youth" means a facility operated by a child welfare agency licensed under s. 48.60 for the care ~~and~~, 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".

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

938.02 **(15g)** "Secured ~~child caring institution~~ residential care center for children and youth" means a residential care center for children and youth operated by a child welfare agency that is licensed under s. 48.66 (1) (b) to hold in secure 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.

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

938.02 **(10p)** "~~Secured~~ Juvenile correctional facility" means a correctional institution operated or contracted for by the department of corrections or operated by the department of health and family services for holding in secure custody persons adjudged delinquent. "~~Secured~~ Juvenile correctional facility" includes the Mendota juvenile treatment center under s. 46.057 and a facility authorized under s. 938.533 (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

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

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.

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

938.02 **(10r)** "~~Secure~~ Juvenile detention facility" means a locked facility approved by the department under s. 301.36 for the secure, temporary holding in custody of juveniles.

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

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

938.02 **(19)** "Type 1 ~~secured~~ juvenile correctional facility" means a ~~secured~~ juvenile correctional facility, but excludes any correctional institution that meets the criteria under sub. ~~(15m)~~ (10p) solely 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.

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

938.02 **(19r)** "Type 2 ~~child caring institution~~ residential care center for children and youth" means a residential care center for children and youth that is designated by the department to provide care and maintenance for juveniles who have been placed in the residential care center for children and youth under the 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.

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

938.02 **(20)** "Type 2 ~~secured~~ juvenile correctional facility" means a ~~secured~~ juvenile correctional facility that meets the criteria under sub. ~~(15m)~~ (10p) solely 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) INTAKE SERVICES. The court or county department responsible for providing intake services under s. 938.067 shall specify one or more persons to provide intake services. If there is more than one ~~such worker~~ person, one of the ~~workers~~ persons 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6g) (title) VICTIMS' RIGHTS.

(6m) (title) MULTIDISCIPLINARY SCREEN.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) (title) INTAKE SERVICES.

(4) (title) QUALIFICATIONS OF DISPOSITION STAFF.

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

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

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

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

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

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

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

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

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

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

(b) A juvenile who is taken into custody under par. (a) may be returned directly to the ~~secured~~ juvenile correctional facility~~,~~ or residential care center for children and youth~~, or secured group home~~ and shall have a hearing regarding placement ~~in a 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) SEVENTEEN−YEAR OLDS. If ~~a court proceeding has been commenced under this section before a~~ petition alleging that a juvenile is delinquent is filed before the juvenile is 17 years of age, but the juvenile becomes 17 years of age before admitting the facts of the petition at the plea hearing or if the juvenile denies the facts, before 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).]

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

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

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

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

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

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

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

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

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

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

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

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

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.)

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

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

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

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

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

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

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

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

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

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

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

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

938.17 **(2)** (b) *Juvenile court jurisdiction; civil law and ordinance violations.* When a juvenile 12 years of age or older is alleged to have violated a civil law punishable by a forfeiture or ~~where a juvenile is alleged~~ to have violated a municipal ordinance but there is no municipal court in the municipality, ~~the juvenile~~ one of the following may ~~be~~ occur:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If a petition for waiver of jurisdiction is contested, the district attorney shall present relevant testimony and the court, after taking ~~relevant~~ that testimony ~~which the district attorney shall present~~ and considering other relevant evidence, shall 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.

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

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

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

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

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

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

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

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

938.18 **(5)** (b) The type and seriousness of the offense, including whether it was against persons or property~~,~~ and the extent to which it was committed in a violent, 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.

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

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

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

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

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

(9) (title) CRIMINAL CHARGE.

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

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

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

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

(am) A juvenile who is alleged to have attempted or committed a violation of s. 940.01 or to have committed a violation of s. 940.02 or 940.05 on or after the 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.

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

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

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

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

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

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

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

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

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

to a criminal penalty under sub. (1m) ~~or (2)~~ or under s. 938.183 (2), 2003 stats., for 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.

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

938.183 **(4)** (title) CHILD SUPPORT.

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

938.185 **(1)** (title) PROCEEDINGS GENERALLY.

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

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

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

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

(4) (title) AMERICAN INDIAN JUVENILES.

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

938.19 **(1)** (title) CRITERIA.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) (title) DUTIES OF INTAKE WORKER.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

938.205 Criteria for holding a juvenile in physical custody. (1) CRITERIA. A juvenile may be held under s. 938.207, 938.208, or 938.209 (1) if the intake worker determines that there is probable cause to believe the juvenile is within the jurisdiction of the court and if probable cause exists to believe any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

938.208 **(1)** DELINQUENT ACT AND RISK OF HARM OR RUNNING AWAY. (intro.) Probable cause exists to believe that the juvenile has committed a delinquent act and either presents a substantial risk of physical harm to another person or a substantial risk of running away so as to be unavailable for a court hearing, a revocation of aftercare supervision hearing, or action by the department or county department relating to a violation of a condition of the juvenile's placement in a Type 2 ~~secured~~ juvenile correctional facility or a Type 2 ~~child caring institution~~ residential care center for children and youth or a condition of the juvenile's participation in the intensive supervision program under s. 938.534. For juveniles who have been adjudged delinquent, the delinquent act referred to in this section may be the act for which the juvenile was adjudged delinquent. If the intake worker determines that any of the following conditions applies, the juvenile is considered to present a substantial risk of physical harm to another person:

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

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

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

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

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

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

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

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

938.209 **(1)** (title) COUNTY JAIL.

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

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

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

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

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

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

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

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

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

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

danger to himself or herself or to others, or that probable cause exists to believe that the parent, guardian, or legal custodian of the juvenile or other responsible adult is neglecting, refusing, unable, or unavailable to provide adequate supervision and care. The extension may be granted only once for any petition. ~~In the event of failure to file~~ If a petition or request is not filed within the 48−hour extension period ~~provided for in~~ under this paragraph, the ~~judge or circuit court commissioner~~ court 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

938.222 **(2)** (title) CONTRACT REQUIREMENTS.

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

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

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

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

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

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

938.223 **(2)** (title) CONTRACT REQUIREMENTS.

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

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

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

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

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

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

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

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

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

938.224 **(2)** (title) CONTRACT REQUIREMENTS.

(3) (title) ADDITIONAL REQUIREMENTS.

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

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

938.23 **(1g)** DEFINITION. In this section, "counsel" means an attorney acting as adversary counsel ~~who~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

938.237 **(1)** (title) CITATION FORM.

(2) (title) PROCEDURES.

(3) (title) DISPOSITION.

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

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

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

938.24 **(1m)** (title) COUNSELING.

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

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

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

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

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

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

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

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

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

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

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

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

(3) (title) REQUEST FOR PETITION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

938.243 **(4)** (title) APPLICABILITY.

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

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

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

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

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

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

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

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

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

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

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

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

938.245 **(2)** (a) 1. (title) 'Counseling.'

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

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

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

4. 'Alcohol and other drug abuse treatment and education.' That the juvenile participate in an alcohol and other drug abuse outpatient treatment program, a court−approved pupil assistance program provided by the juvenile's school board, or a court−approved alcohol or other drug abuse education program, if an alcohol and other drug abuse assessment ~~conducted~~ under subd. 3. recommends outpatient treatment, intervention, or education. The juvenile's participation in a

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

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

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

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

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

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

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

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

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

938.245 **(2)** (a) 6. (title) 'Supervised work program.'

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) (title) CITATION AS INITIAL PLEADING.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) (title) SUMMONS; NECESSARY PERSONS.

(3) (title) NOTICE OF HEARINGS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. A parent is the complaining or petitioning party ~~or if the~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

938.296 **(1)** (title) DEFINITIONS.

(2) (title) SEXUALLY TRANSMITTED DISEASE TESTING.

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

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

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

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

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

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

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

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

(6) (title) PAYMENT FOR TEST COSTS.

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

938.2965 **(1)** (title) DEFINITION.

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

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

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

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

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

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

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

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

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

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

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

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

(7) (title) ORAL ARGUMENT BY TELEPHONE.

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

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

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

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

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

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

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

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

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

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

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

SECTION 312. 938.299 (4) (b) and (5) of the statutes are amended to read:

938.299 **(4)** (b) Except as provided in s. 901.05, ~~neither~~ common law ~~nor~~ and statutory rules of evidence are not binding at a waiver hearing under s. 938.18, a hearing for a juvenile held in custody under s. 938.21, a hearing under s. 938.296 (4) for a juvenile who is alleged to have violated s. 940.225, 948.02, 948.025, 948.05, or 948.06, a hearing under s. 938.296 (5) for a juvenile who is alleged to have violated s. 946.43 (2m), a dispositional hearing, or any postdispositional hearing under this chapter. At those hearings, the court shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant, or unduly repetitious testimony, or evidence that is inadmissible under s. 901.05. Hearsay evidence may be admitted if it has demonstrable circumstantial guarantees of trustworthiness. The court shall give effect to the rules of privilege recognized by law. The court shall apply the basic principles of relevancy, materiality, and probative value to proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

(5) TELEPHONE OR LIVE AUDIOVISUAL HEARINGS. On request of any party, unless good cause to the contrary is shown, any hearing under s. 938.209 (1) (a) 5. or 938.21 (1) may be held on the record by telephone or live audiovisual means or testimony may be received by telephone or live audiovisual means ~~as prescribed in~~ under s. 807.13 (2). The request and the showing of good cause for not conducting the hearing or admitting testimony by telephone or live audiovisual means may be made by telephone.

SECTION 313. 938.299 (6) (title), (7) (title), (8) (title) and (9) (title) of the statutes are created to read:

938.299 **(6)** (title) ESTABLISHMENT OF PATERNITY WHEN MAN ALLEGES PATERNITY.

(7) (title) ESTABLISHMENT OF PATERNITY WHEN NO MAN ALLEGES PATERNITY.

(8) (title) TESTIMONY OF JUVENILE'S MOTHER RELATING TO PATERNITY.

(9) (title) AMERICAN INDIAN JUVENILE; TRIBAL COURT INVOLVEMENT.

SECTION 314. 938.299 (9) (a) and (b) of the statutes are amended to read:

938.299 **(9)** (a) If a petition under s. 938.12 or 938.13 (12) includes the statement in s. 938.255 (1) (cr) 2. or if the court is informed during a proceeding under s. 938.12 or 938.13 (12) that a petition relating to the delinquent act has been filed in a tribe's court with respect to a juvenile to whom the circumstances specified in s. 938.255 (1) (cr) 1. apply, the court shall stay the proceeding and communicate with the tribal court in which the other proceeding is or may be pending to discuss which court ~~may be~~ is the more appropriate forum.

(b) If the court and tribal court either mutually agree or agree under the terms of an established judicial protocol applicable to the court that the tribal court ~~would be~~ is the more appropriate forum, the court shall dismiss the petition without prejudice or stay the proceeding. The court's decision shall be based on the best interests of the juvenile and of the public.

SECTION 315. 938.30 (1) (title) of the statutes is created to read:

938.30 **(1)** (title) TIME OF HEARING.

SECTION 316. 938.30 (2) of the statutes is amended to read:

938.30 **(2)** INFORMATION TO JUVENILE AND PARENTS; BASIC RIGHTS; SUBSTITUTION. At or before the commencement of the hearing under this section the juvenile and the parent, guardian, or legal custodian shall be advised of their rights as specified in s. 938.243 and shall be informed that the hearing shall be to the court and that a request for a substitution of judge under s. 938.29 must be made before the end of the plea hearing or ~~be~~ is waived. Nonpetitioning parties, including the juvenile, shall

be granted a continuance of the plea hearing if they wish to consult with an attorney on the request for a substitution of a judge.

SECTION 317. 938.30 (3) (title) and (4) (title) of the statutes are created to read:

938.30 **(3)** (title) JUVENILE IN NEED OF PROTECTION OR SERVICES PROCEEDING; POSSIBLE PLEAS.

(4) (title) DELINQUENCY AND CIVIL LAW OR ORDINANCE PROCEEDINGS; POSSIBLE PLEAS.

SECTION 318. 938.30 (4) (a), (bm) and (c) of the statutes are amended to read:

938.30 **(4)** (a) Admit some or all of the facts alleged in the petition or citation~~, however, such a~~. This plea is an admission only of the commission of the acts and does not constitute an admission of delinquency.

(bm) Plead no contest to the allegations, ~~but only~~ if the court permits the juvenile to enter that plea.

(c) Except ~~pursuant to~~ in the case of a petition or citation under s. 938.125, state that he or she is not responsible for the acts alleged in the petition by reason of mental disease or defect. This plea shall be joined with an admission under par. (a), a denial under par. (b), or a plea of no contest under par. (bm).

SECTION 319. 938.30 (4m) of the statutes is renumbered 938.30 (4m) (intro.) and amended to read:

938.30 **(4m)** COURT TO INQUIRE ABOUT NOTICE TO VICTIMS. (intro.) Before accepting a plea under sub. (4) in a proceeding in which a juvenile is alleged to be delinquent under s. 938.12 or to be in need of protection or services under s. 938.13 (12), the court shall inquire of the district attorney or corporation counsel ~~whether he~~ as to all of the following:

(a) Whether he or she has complied with ~~s.~~ ss. 938.265 and ~~whether he or she has complied with s.~~ 938.27 (4m)~~, whether any.~~

(b) Whether any of the known victims requested notice of the date, time, and place of the plea hearing and, if so, whether the district attorney or corporation counsel provided ~~to the victim~~ that notice ~~of the date, time and place of the hearing~~.

SECTION 320. 938.30 (5) (title) of the statutes is created to read:

938.30 **(5)** (title) NOT COMPETENT OR NOT RESPONSIBLE.

SECTION 321. 938.30 (5) (a) 2., (c) (intro.) and (d) (intro.) of the statutes are amended to read:

938.30 **(5)** (a) 2. If the juvenile denies the allegations in the petition or citation, the court shall hold a fact−finding hearing on the allegations in the petition or citation as provided under s. 938.31. If, ~~at the end of the fact−finding~~ after the hearing, the court finds that the allegations in the petition have been proven, the court shall immediately hold a hearing to determine whether the juvenile was not responsible by reason of mental disease or defect.

(c) (intro.) If the court finds that the juvenile was not responsible by reason of mental disease or defect, as described under s. 971.15 (1) and (2), the court shall dismiss the petition with prejudice and ~~shall also~~ do one of the following:

(d) (intro.) If the court finds that the juvenile is not competent to proceed, as described in s. 971.13 (1) and (2), the court shall suspend proceedings on the petition and ~~shall also~~ do one of the following:

SECTION 322. 938.30 (5) (e) 1. of the statutes is renumbered 938.30 (5) (e) 1. (intro.) and amended to read:

938.30 **(5)** (e) 1. (intro.) A juvenile who is not competent to proceed, as described in s. 971.13 (1) and (2), but who is likely to become competent to proceed within 12

months or within the time period of the maximum sentence that may be imposed on an adult for the most serious delinquent act with which the juvenile is charged, whichever is less, and who is committed under s. 51.20 following an order under par. (d) 1. or who is placed under a dispositional order following an order under par. (d) 2., shall be periodically reexamined with written reports of those reexaminations to be submitted to the court every 3 months and within 30 days before the expiration of the juvenile's commitment or dispositional order. Each report shall indicate ~~either that the~~ one of the following:

a. That the juvenile has become competent~~, that the~~.

b. That the juvenile remains incompetent but that attainment of competence is likely within the remaining period of the commitment or dispositional order ~~or that the~~.

c. That the juvenile has not made such progress that attainment of competency is likely within the remaining period of the commitment or dispositional order.

SECTION 323. 938.30 (6) (title) of the statutes is created to read:

938.30 **(6)** (title) UNCONTESTED PETITIONS; DISPOSITION.

SECTION 324. 938.30 (6) (b) and (c) and (7) of the statutes are amended to read:

938.30 **(6)** (b) If it appears to the court that disposition of the case may include placement of the juvenile outside the juvenile's home, the court shall order the juvenile's parent to provide a statement of the income, assets, debts, and living expenses of the juvenile and the juvenile's parent to the court or the designated agency under s. 938.33 (1) at least 5 days before the scheduled date of the dispositional hearing or as otherwise ordered by the court. The clerk of court shall provide, without charge, to any parent ordered to provide ~~a~~ that statement ~~of income, assets, debts and living expenses~~ a document setting forth the percentage standard

established by the department of workforce development under s. 49.22 (9) and listing the factors that a court may consider under s. 301.12 (14) (c).

(c) If the court orders the juvenile's parent to provide a statement of the income, assets, debts, and living expenses of the juvenile and juvenile's parent to the court or if the court orders the juvenile's parent to provide that statement to the designated agency under s. 938.33 (1) and ~~that~~ the designated agency is not the county department, the court shall also order the juvenile's parent to provide ~~that~~ the statement to the county department at least 5 days before the scheduled date of the dispositional hearing or as otherwise ordered by the court. The county department shall provide, without charge, to the parent a form on which to provide ~~that~~ the statement, and the parent shall provide ~~that~~ the statement on ~~that~~ the form. The county department shall use the information provided in the statement to determine whether the department may claim federal foster care and adoption assistance reimbursement under 42 USC 670 to 679a for the cost of providing care for the juvenile.

(7) CONTESTED PETITIONS OR CITATIONS; DATE FOR FACT−FINDING HEARING. If the petition or citation is contested, the court shall set a date for the fact−finding hearing ~~which~~ that allows a reasonable time for the parties to prepare but is no more than 20 days from the plea hearing for a juvenile who is held in secure custody and no more than 30 days from the plea hearing for a juvenile who is not held in secure custody.

NOTE: Provides, in s. 938.30 (6) (c), stats., that the statement of income, assets, debts, and living expenses shall indicate those of the juvenile as well as the parent.

SECTION 325. 938.30 (8) (title) of the statutes is created to read:

938.30 **(8)** (title) ADMISSION OR NO CONTEST PLEA; INQUIRIES REQUIRED.

SECTION 326. 938.30 (8) (b) and (9) of the statutes are amended to read:

938.30 **(8)** (b) Establish whether any promises or threats were made to elicit a plea and ~~alert~~ explain to unrepresented parties ~~to~~ the possibility that a lawyer may discover defenses or mitigating circumstances ~~which~~ that would not be apparent to them.

(9) HEARINGS CONDUCTED BY COURT COMMISSIONER; COURT TO REVIEW. If a circuit court commissioner conducts the plea hearing and accepts an admission of the alleged facts in a petition brought under s. 938.12 or 938.13, the ~~judge~~ court shall review the admission at the beginning of the dispositional hearing by addressing the parties and making the inquires ~~set forth in~~ under sub. (8).

SECTION 327. 938.30 (10) (title) of the statutes is created to read:

938.30 **(10)** (title) TELEPHONE OR LIVE AUDIOVISUAL PARTICIPATION.

SECTION 328. 938.31 (1) (title), (2) (title) and (4) (title) of the statutes are created to read:

938.31 **(1)** (title) DEFINITION.

(2) (title) HEARING TO THE COURT; PROCEDURES.

(4) (title) FINDINGS BY COURT.

SECTION 329. 938.31 (7) of the statutes is amended to read:

938.31 **(7)** DATE FOR DISPOSITIONAL HEARING. (a) At the close of the fact−finding hearing, the court shall set a date for the dispositional hearing ~~which~~ that allows a reasonable time for the parties to prepare but is no more than 10 days after the fact−finding hearing for a juvenile in secure custody and no more than 30 days after the fact−finding hearing for a juvenile not held in secure custody. If all parties consent, the court may immediately proceed with a dispositional hearing.

(b) If it appears to the court that disposition of the case may include placement of the juvenile outside the juvenile's home, the court shall order the juvenile's parent

to provide a statement of the income, assets, debts, and living expenses of the juvenile and the juvenile's parent, to the court or the designated agency under s. 938.33 (1) at least 5 days before the scheduled date of the dispositional hearing or as otherwise ordered by the court. The clerk of court shall provide, without charge, to any parent ordered to provide ~~a~~ the statement ~~of income, assets, debts and living expenses~~ a document setting forth the percentage standard established by the department of workforce development under s. 49.22 (9) and listing the factors that a court may consider under s. 301.12 (14) (c).

(c) If the court orders the juvenile's parent to provide a statement of the income, assets, debts, and living expenses of the juvenile and juvenile's parent to the court or if the court orders the juvenile's parent to provide ~~that~~ the statement to the designated agency under s. 938.33 (1) and ~~that~~ the designated agency is not the county department, the court shall also order the juvenile's parent to provide ~~that~~ the statement to the county department at least 5 days before the scheduled date of the dispositional hearing or as otherwise ordered by the court. The county department shall provide, without charge, to the parent a form on which to provide ~~that~~ the statement, and the parent shall provide ~~that~~ the statement on ~~that~~ the form. The county department shall use the information provided in the statement to determine whether the department may claim federal foster care and adoption assistance reimbursement under 42 USC 670 to 679a for the cost of providing care for the juvenile.

NOTE: See the NOTE to s. 938.30 (6) (b) and (c), stats., as affected by this bill.

SECTION 330. 938.315 (1) (intro.) of the statutes is amended to read:

938.315 **(1)** TIME PERIODS TO BE EXCLUDED. (intro.) The following time periods shall be excluded in computing time requirements ~~within~~ under this chapter:

SECTION 331. 938.315 (1) (a) of the statutes is renumbered 938.315 (1) (a) (intro.) and amended to read:

938.315 **(1)** (a) (intro.) Any period of delay resulting from ~~other~~ any of the following:

1. Other legal actions concerning the juvenile, including an examination under s. 938.295 or a hearing related to the juvenile's mental condition, prehearing motions, waiver motions, and hearings on other matters.

SECTION 332. 938.315 (1) (b) of the statutes is renumbered 938.315 (1) (a) 2. and amended to read:

938.315 **(1)** (a) 2. ~~Any period of delay resulting from a~~ A continuance granted at the request of or with the consent of the juvenile and counsel.

SECTION 333. 938.315 (1) (c) of the statutes is renumbered 938.315 (1) (a) 3. and amended to read:

938.315 **(1)** (a) 3. ~~Any period of delay caused by the~~ The disqualification or substitution of a judge or by any other transfer of the case or intake inquiry to a different judge, intake worker or county.

SECTION 334. 938.315 (1) (d) of the statutes is renumbered 938.315 (1) (a) 4. and amended to read:

938.315 **(1)** (a) 4. ~~Any period of delay resulting from a~~ A continuance granted at the request of the representative of the public under s. 938.09 if the continuance is granted because of the unavailability of evidence material to the case when he or she has exercised due diligence to obtain the evidence and there are reasonable grounds to believe that the evidence will be available at the later date, or to allow him or her additional time to prepare the case and additional time is justified because of the exceptional circumstances of the case.

SECTION 335. 938.315 (1) (dm) of the statutes is renumbered 938.315 (1) (a) 5. and amended to read:

938.315 **(1)** (a) 5. ~~Any period of delay resulting from court~~ Court congestion or scheduling.

SECTION 336. 938.315 (1) (e) of the statutes is renumbered 938.315 (1) (a) 6. and amended to read:

938.315 **(1)** (a) 6. ~~Any period of delay resulting from the~~ The imposition of a consent decree.

SECTION 337. 938.315 (1) (f) of the statutes is renumbered 938.315 (1) (a) 7. and amended to read:

938.315 **(1)** (a) 7. ~~Any period of delay resulting from the~~ The absence or unavailability of the juvenile.

SECTION 338. 938.315 (1) (fm) of the statutes is renumbered 938.315 (1) (a) 8. and amended to read:

938.315 **(1)** (a) 8. ~~Any period of delay resulting from the~~ The inability of the court to provide the juvenile with notice of an extension hearing under s. 938.365 due to the juvenile having run away or otherwise having made himself or herself unavailable to receive that notice.

SECTION 339. 938.315 (1) (h) of the statutes is renumbered 938.315 (1) (a) 9. and amended to read:

938.315 **(1)** (a) 9. ~~Any period of delay resulting from the~~ The need to appoint a qualified interpreter.

SECTION 340. 938.315 (1) (i) of the statutes is renumbered 938.315 (1) (a) 10. and amended to read:

938.315 **(1)** (a) 10. ~~Any period of delay resulting from consultation~~ Consultation under s. 938.24 (2r) or 938.25 (2g).

SECTION 341. 938.315 (2) (title), (2m) (title) and (3) (title) of the statutes are created to read:

938.315 **(2)** (title) CONTINUANCE FOR GOOD CAUSE.

(2m) (title) WHEN NO CONTINUANCE, EXTENSION, OR EXCLUSION PERMITTED.

(3) (title) CONSEQUENCES OF FAILURE TO COMPLY WITH TIME LIMIT.

SECTION 342. 938.32 (1) (title) of the statutes is created to read:

938.32 **(1)** (title) WHEN ORDERED; TERMS; VICTIMS' RIGHTS; PROCEDURES.

SECTION 343. 938.32 (1) (a) and (am) of the statutes are amended to read:

938.32 **(1)** (a) At any time after the filing of a petition for a proceeding relating to s. 938.12 or 938.13 and before the entry of judgment, the ~~judge or circuit commissioner~~ court may suspend the proceedings and place the juvenile under supervision in the juvenile's own home or present placement. The court may establish terms and conditions applicable to the parent, guardian, or legal custodian, and to the juvenile, including any of the conditions specified in subs. (1d), (1g), (1m), (1p), (1t), (1v), and (1x). The order under this section shall be known as a consent decree and must be agreed to by the juvenile; the parent, guardian, or legal custodian; and the person filing the petition under s. 938.25. If the consent decree includes any conditions specified in sub. (1g), the consent decree shall include provisions for payment of the services as specified in s. 938.361. The consent decree shall be ~~reduced to~~ in writing and be given to the parties.

(am) Before entering into a consent decree in a case in which the juvenile is alleged to be delinquent under s. 938.12 or to be in need of protection or services under s. 938.13 (12), the district attorney or corporation counsel shall, as soon as

practicable but ~~in any event~~ before agreeing to the consent decree, offer all of the victims of the juvenile's alleged act who have so requested ~~the opportunity~~ an opportunity to confer with the district attorney or corporation counsel concerning the proposed consent decree. The duty to offer an opportunity to confer under this paragraph does not limit the obligation of the district attorney or corporation counsel to exercise his or her discretion concerning the handling of the proceeding against the juvenile.

SECTION 344. 938.32 (1) (b) 1. of the statutes is renumbered 938.32 (1) (b) (intro.) and amended to read:

938.32 **(1)** (b) (intro.) Before entering into a consent decree in a proceeding in which a juvenile is alleged to be delinquent under s. 938.12 or to be in need of protection or services under s. 938.13 (12)~~, the~~ all of the following shall occur:

1g. The court shall determine whether a victim of the juvenile's act wants to make a statement to the court. If a victim wants to make a statement, the court shall allow the victim to make a statement in court or to submit a written statement to be read to the court. The court may allow any other person to make or submit a statement under this subdivision. Any statement made under this subdivision must be relevant to the consent decree.

SECTION 345. 938.32 (1) (b) 1m. of the statutes is amended to read:

938.32 **(1)** (b) 1m. ~~Before entering into a consent decree in a proceeding in which a juvenile is alleged to be delinquent under s. 938.12 or to be in need of protection or services under s. 938.13 (12), the~~ The court shall inquire of the district attorney or corporation counsel whether he or she has complied with par. (am), whether he or she has complied with subd. 2. and ~~whether he or she has complied with~~ s. 938.27 (4m), whether any of the known victims requested notice of the date,

time, and place of any hearing to be held on the consent decree, and, if so, whether the district attorney provided to the victim notice of the date, time, and place of the hearing.

SECTION 346. 938.32 (1) (b) 2. of the statutes is amended to read:

938.32 (1) (b) 2. ~~Before entering into a consent decree in a proceeding in which a juvenile is alleged to be delinquent under s. 938.12 or to be in need of protection or services under s. 938.13 (12), the~~ The district attorney or corporation counsel shall make a reasonable attempt to contact any known victim to inform that person of the right to make a statement under subd. ~~1.~~ 1g. Any failure to comply with this subdivision is not a ground for discharge of the juvenile, parent, guardian, or legal custodian from fulfilling the terms and conditions of the consent decree.

SECTION 347. 938.32 (1) (c) 1. of the statutes is renumbered 938.32 (1) (c) 1. (intro.) and amended to read:

938.32 **(1)** (c) 1. (intro.) If at the time the consent decree is entered into the juvenile is placed outside the home under a voluntary agreement under s. 48.63 or is otherwise living outside the home without a court order and if the consent decree maintains the juvenile in that placement or other living arrangement, the consent decree shall include ~~a~~ all of the following:

a. A finding that placement of the juvenile in his or her home would be contrary to the welfare of the juvenile~~, a.~~

b. A finding as to whether the county department or the agency primarily responsible for providing services to the juvenile has made reasonable efforts to prevent the removal of the juvenile from the home, while assuring that the juvenile's health and safety are the paramount concerns, unless the ~~judge or circuit court~~

~~commissioner~~ court finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies~~, and a~~.

c. A finding as to whether the county department or agency has made reasonable efforts to achieve the goal of the juvenile's permanency plan, unless return of the juvenile to the home is the goal of the permanency plan and the ~~judge or circuit court commissioner~~ court finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies.

SECTION 348. 938.32 (1) (c) 2. of the statutes is amended to read:

938.32 **(1)** (c) 2. If the ~~judge or circuit court commissioner~~ court finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the consent decree shall include a determination that the county department or agency primarily responsible for providing services under the consent decree is not required to make reasonable efforts with respect to the parent to make it possible for the juvenile to return safely to his or her home.

SECTION 349. 938.32 (1) (c) 3. and (d) of the statutes are amended to read:

938.32 **(1)** (c) 3. The ~~judge or circuit court commissioner~~ court shall make the findings specified in subds. 1. and 2. on a case−by−case basis based on circumstances specific to the juvenile and shall document or reference the specific information on which those findings are based in the consent decree. A consent decree that ~~merely~~ references subd. 1. or 2. without documenting or referencing that specific information in the consent decree or an amended consent decree that retroactively corrects an earlier consent decree that does not comply with this subdivision is not sufficient to comply with this subdivision.

(d) 1. If the ~~judge or circuit court commissioner~~ court finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent,

the ~~judge or circuit court commissioner~~ court shall hold a hearing within 30 days after the date of that finding to determine the permanency plan for the juvenile. ~~If a hearing is held under this subdivision, the~~ The agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.

2. ~~If a hearing is held under subd. 1., at~~ At least 10 days before the date of the hearing under subd. 1., the court shall notify the juvenile, any parent, guardian, and legal custodian of the juvenile, and any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile of the time, place, and purpose of the hearing.

3. The court shall give a foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) who is notified of a hearing under subd. 2. an opportunity to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issues to be determined at the hearing. ~~A~~ The foster parent, treatment foster parent, or other physical custodian ~~who receives a notice of a hearing under subd. 2. and an opportunity to be heard under this subdivision~~ does not become a party to the proceeding on which the hearing is held solely on the basis of receiving ~~that~~ the notice and having the opportunity to be heard.

SECTION 350. 938.32 (1d) of the statutes is amended to read:

938.32 **(1d)** VOLUNTEERS IN PROBATION PROGRAM. If the petition alleges that the juvenile has committed an act that would constitute a misdemeanor if committed by an adult, if the chief judge of the judicial administrative district has approved under s. 973.11 (2) a volunteers in probation program established in the juvenile's county

of residence, and if the ~~judge or circuit court commissioner~~ court determines that volunteer supervision under that volunteers in probation program will likely benefit the juvenile and the community, the ~~judge or circuit court commissioner~~ court may establish as a condition under sub. (1) that the juvenile be placed with that volunteers in probation program under ~~such~~ conditions ~~as~~ that the ~~judge or circuit court commissioner~~ court determines are reasonable and appropriate. ~~These~~ The conditions may include~~, but need not be limited to,~~ any of the following:

(a) A directive to a volunteer to ~~provide~~ be a role model for the juvenile ~~a role model~~, informal counseling, general monitoring ~~and~~, monitoring of the conditions established by the ~~judge or circuit court commissioner~~ court, or any combination of these functions.

(b) Any other conditions that the ~~judge or circuit court commissioner~~ court may establish under this section.

SECTION 351. 938.32 (1g) (intro.) and (b) of the statutes are amended to read:

938.32 **(1g)** ALCOHOL OR OTHER DRUG ABUSE TREATMENT AND EDUCATION. (intro.) If the petition alleges that the juvenile committed a violation specified under ch. 961 and if the multidisciplinary screen conducted under s. 938.24 (2) shows that the juvenile is at risk of having needs and problems related to the use of alcohol beverages, controlled substances, or controlled substance analogs and its medical, personal, family, and social effects, the ~~judge or circuit court commissioner~~ court may establish as a condition under sub. (1) any of the following:

(b) That the juvenile participate in a court−approved pupil assistance program provided by the juvenile's school board or a court−approved alcohol or other drug abuse education program. The juvenile's participation in a court−approved pupil

assistance program ~~under this paragraph~~ is subject to the approval of the juvenile's school board.

SECTION 352. 938.32 (1m) (intro.), (a) and (c) of the statutes are amended to read:

938.32 **(1m)** TEEN COURT PROGRAM. (intro.) The ~~judge or circuit court commissioner~~ court may establish as a condition under sub. (1) that the juvenile be placed in a teen court program if all of the following conditions apply:

(a) The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the ~~judge or circuit court commissioner~~ court determines that participation in the ~~teen court~~ program will likely benefit the juvenile and the community.

(c) The juvenile admits or pleads no contest in open court, ~~with~~ in the presence of the juvenile's parent, guardian or legal custodian ~~present~~, to the allegations that the juvenile committed the delinquent act.

SECTION 353. 938.32 (1p) of the statutes is amended to read:

938.32 **(1p)** PARTICIPATION IN YOUTH REPORT CENTER. The ~~judge or juvenile court commissioner~~ court may establish as a condition under sub. (1) that the juvenile report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the juvenile is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center. Section 938.34 (5g) applies to any community service work performed by a juvenile under this subsection.

SECTION 354. 938.32 (1r) of the statutes is amended to read:

938.32 **(1r)** ALCOHOL AND OTHER DRUG ABUSE TREATMENT; INFORMED CONSENT. If the conditions of the consent decree provide for an alcohol and other drug abuse

outpatient treatment program under sub. (1g) (a), the juvenile or, if the juvenile has not attained ~~the age of~~ 12 years of age, the juvenile's parent, guardian, or legal custodian shall execute an informed consent form that indicates that they are voluntarily and knowingly entering into a consent decree for the provision of alcohol and other drug abuse outpatient treatment.

SECTION 355. 938.32 (1t) (title) of the statutes is created to read:

938.32 **(1t)** (title) RESTITUTION.

SECTION 356. 938.32 (1t) (a) 1., 1m. and 3. and (b) of the statutes are amended to read:

938.32 **(1t)** (a) 1. Subject to subd. 3., if the petition alleges that the juvenile committed a delinquent act that has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the ~~judge or circuit court commissioner~~ court may require the juvenile as a condition of the consent decree, to repair the damage to property or to make reasonable restitution for the damage or injury, either in the form of cash payments or, if the victim agrees, the performance of services for the victim, or both, if the ~~judge or circuit court commissioner~~ court, after taking into consideration the well−being and needs of the victim, considers it beneficial to the well−being and behavior of the juvenile. Any consent decree that includes a condition of restitution by a juvenile shall include a finding that the juvenile alone is financially able to pay or physically able to perform the services, may allow up to the date of the expiration of the consent decree for the payment or for the completion of the services, and may include a schedule for the performance and completion of the services. ~~Objection by~~ If the juvenile objects to the amount of damages claimed ~~shall entitle the juvenile to~~, a hearing ~~on the question of damages~~ shall be held to determine the amount of damages before ~~the~~ an

amount of restitution is made part of the consent decree. Any recovery under this subdivision shall be reduced by the amount recovered as restitution for the same act under subd. 1m.

1m. If the petition alleges that the juvenile has committed a delinquent act that has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the ~~judge or circuit court commissioner~~ court may require a parent who has custody, as defined in s. 895.035 (1), of the juvenile, as a condition of the consent decree, to make reasonable restitution for the damage or injury. Except for recovery for retail theft under s. 943.51, the maximum amount of any restitution ordered under this subdivision for damage or injury resulting from any one act of a juvenile or from the same act committed by 2 or more juveniles in the custody of the same parent may not exceed $5,000. Any consent decree that includes a condition of restitution by a parent ~~who has custody of the juvenile~~ under this subdivision shall include a finding that the parent ~~who has custody of the juvenile~~ is financially able to pay the amount ordered and may allow up to the date of the expiration of the consent decree for the payment. ~~Objection by~~ If the parent objects to the amount of damages claimed ~~shall entitle the parent to~~, a hearing ~~on the question of damages~~ shall be held to determine the amount of damages before ~~the~~ an amount of restitution is made part of the consent decree. Any recovery under this subdivision shall be reduced by the amount recovered as restitution for the same act under subd. 1.

3. Under this paragraph, a ~~judge or circuit court commissioner~~ court may ~~not~~ order a juvenile who is under 14 years of age to make not more than $250 in restitution or to perform not more than 40 total hours of services for the victim as total restitution under the consent decree.

(b) The ~~judge~~ court may require the juvenile to participate in a supervised work program or other community service work under s. 938.34 (5g) as a condition of the consent decree.

NOTE: Clarifies, in s. 938.32 (1t) (a) 3., stats., that a juvenile under 14 years of age may not be ordered to make more than $250 in restitution or perform more than 40 hours of service as total restitution for each consent decree.

SECTION 357. 938.32 (1v) and (1x) of the statutes are amended to read:

938.32 **(1v)** PARENTAL SCHOOL ATTENDANCE. If the petition alleges that the juvenile is in need of protection or services under s. 938.13 (6), the ~~judge or circuit court commissioner~~ court may ~~establish~~ require as a condition under sub. (1) that the juvenile's parent, guardian, or legal custodian attend school with the juvenile.

(1x) SUPERVISED WORK PROGRAM. If the petition alleges that the juvenile violated s. 943.017 and the juvenile has attained ~~the minimum age at which a juvenile may be adjudicated delinquent~~ 10 years of age, the ~~judge or circuit court commissioner~~ court may require, as a condition of the consent decree, that the juvenile participate for not less than 10 hours nor more than 100 hours in a supervised work program under s. 938.34 (5g) or perform not less than 10 hours nor more than 100 hours of other community service work, except that if the juvenile has not attained 14 years of age the maximum number of hours is a total of 40 under the consent decree.

NOTE: Clarifies, in s. 938.32 (1x), stats., that a juvenile under 14 years of age may not be ordered to participate in more than 40 hours in a supervised work program or perform more than 40 hours of community service work in total for each consent decree.

SECTION 358. 938.32 (2) (title) of the statutes is created to read:

938.32 **(2)** (title) TIME PERIOD FOR CONSENT DECREE; EXTENSION.

SECTION 359. 938.32 (2) (a), (3) and (4) of the statutes are amended to read:

938.32 **(2)** (a) A consent decree shall remain in effect for up to one year unless the juvenile, parent, guardian, or legal custodian is discharged sooner by the ~~judge or circuit court commissioner~~ court.

(3) FAILURE TO FOLLOW; OBJECTION TO CONTINUANCE CONSENT DECREE. If, prior to discharge by the court~~,~~ or to the expiration of the consent decree, the court finds that the juvenile or parent, legal guardian, or legal custodian has failed to fulfill the express terms and conditions of the consent decree or that the juvenile objects to the continuation of the consent decree, the hearing under which the juvenile was placed on supervision may be continued to conclusion as if the consent decree had never been entered.

(4) DISCHARGE BY COURT OR COMPLETION OF SUPERVISION. ~~No~~ A juvenile who is discharged by the court or who completes the period of supervision without reinstatement of the original petition may ~~again~~ not be proceeded against in any court for the same offense alleged in the petition or an offense based on the same conduct, and the original petition shall be dismissed with prejudice. ~~Nothing in this~~ This subsection ~~precludes~~ does not preclude a civil suit against the juvenile or parent for damages arising from the juvenile's conduct.

SECTION 360. 938.32 (5) (title) of the statutes is created to read:

938.32 **(5)** (title) REFUSAL FROM SUBSEQUENT PROCEEDINGS.

SECTION 361. 938.32 (5) (a) and (6) of the statutes are amended to read:

938.32 **(5)** (a) The court refuses to enter into a consent decree ~~and~~, the allegations in the petition remain to be decided ~~in a hearing where~~, and the juvenile denies the allegations of delinquency.

(6) NOTICE TO JUVENILE OF RIGHT TO OBJECT TO CONTINUATION. The ~~judge or circuit court commissioner~~ court shall inform the juvenile and the juvenile's parent,

guardian, or legal custodian, in writing, of the juvenile's right to object to the continuation of the consent decree under sub. (3) and of the fact that the hearing under which the juvenile was placed on supervision may be continued to conclusion as if the consent decree had never been entered.

SECTION 362. 938.33 (1) (intro.), (b), (c) and (f) of the statutes are amended to read:

938.33 **(1)** REPORT REQUIRED. (intro.) Before the disposition of a juvenile adjudged to be delinquent or in need of protection or services, the court shall designate an agency, as defined in s. 938.38 (1) (a), to submit a report ~~which shall contain~~ that contains all of the following:

(b) A recommended plan of rehabilitation or treatment and care for the juvenile ~~which is~~, based on the investigation conducted by the agency and any report resulting from an examination or assessment under s. 938.295, ~~which~~ that employs the most effective means available to accomplish the objectives of the plan.

(c) A description of the specific services or continuum of services ~~which~~ that the agency is recommending ~~that~~ the court to order for the juvenile or family, the persons or agencies that would be primarily responsible for providing those services, and the identity of the person or agency that would provide case management or coordination of services, if any ~~or~~, and whether or not the juvenile should receive an integrated service plan.

(f) If the agency is recommending that the court order the juvenile's parent, guardian, or legal custodian to participate in mental health treatment, anger management, individual or family counseling, or parent training and education, a statement as to the availability of those services and ~~as to~~ the availability of funding for those services.

SECTION 363. 938.33 (3) (intro.) and (a) of the statutes are amended to read:

938.33 **(3)** CORRECTIONAL PLACEMENT REPORTS. (intro.) A report recommending placement of a juvenile in a ~~secured~~ juvenile correctional facility~~, a secured child caring institution~~ or a secured ~~group home~~ residential care center for children and youth shall be in writing, except that the report may be presented orally at the dispositional hearing if the juvenile and the juvenile's counsel consent. A report that is presented orally shall be transcribed and made a part of the court record. In addition to the information specified under sub. (1) (a) to (d), the report shall include all of the following:

(a) A description of any less restrictive alternatives that are available and that have been considered, and why they have been determined to be inappropriate. If the ~~judge~~ court has found that any of the conditions specified in s. 938.34 (4m) (b) 1., 2., or 3. applies, the report shall indicate that a less restrictive alternative than placement in a ~~secured~~ juvenile correctional facility~~, a secured child caring institution~~ or a secured ~~group home~~ residential care center for children and youth is not appropriate.

SECTION 364. 938.33 (3r) of the statutes is amended to read:

938.33 **(3r)** SERIOUS JUVENILE OFFENDER REPORT. If a juvenile has been adjudicated delinquent for committing a violation for which the juvenile may be placed in the serious juvenile offender program under s. 938.34 (4h) (a), the report shall be in writing and, in addition to the information specified in sub. (1) and in sub. (3) or (4), if applicable, shall include an analysis of the juvenile's suitability for placement in the serious juvenile offender program under s. 938.34 (4h) or in a ~~secured~~ juvenile correctional facility ~~or a secured group home~~ under s. 938.34 (4m), a placement specified in s. 938.34 (3), or placement in the juvenile's home with

supervision and community−based programming and a recommendation as to the type of placement for which the juvenile is best suited.

SECTION 365. 938.33 (4m) (intro.) of the statutes is amended to read:

938.33 **(4m)** SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. (intro.) In making a recommendation for an amount of child support under sub. (3) or (4), the agency shall consider the factors ~~that the court considers~~ under s. 301.12 (14) (c) ~~for deviation from the percentage standard~~. At or before the dispositional hearing under s. 938.335, the agency shall provide the juvenile's parent with all of the following:

SECTION 366. 938.335 (1) of the statutes is amended to read:

938.335 **(1)** WHEN REQUIRED. The court shall conduct a hearing to determine the disposition of a case in which a juvenile is adjudged to be delinquent under s. 938.12, to have violated a civil law or ordinance under s. 938.125, or to be in need of protection or services under s. 938.13, except that the court shall proceed ~~as provided in~~ under s. 938.237 (2) if a citation is issued and the juvenile fails to contest the citation.

SECTION 367. 938.335 (3) (title) of the statutes is created to read:

938.335 **(3)** (title) EVIDENCE AND RECOMMENDATIONS.

SECTION 368. 938.335 (3g) of the statutes is renumbered 938.335 (3g) (intro.) and amended to read:

938.335 **(3g)** REASONABLE EFFORTS FINDING. (intro.) At hearings under this section, if the agency, as defined in s. 938.38 (1) (a), is recommending placement of the juvenile in a foster home, treatment foster home, group home, or residential care center for children and youth, or in the home of a relative other than a parent, the agency shall present as evidence specific information showing ~~that continued~~ all of the following:

(a) That continued placement of the juvenile in his or her home would be contrary to the welfare of the juvenile~~, specific information showing that the~~.

(b) That the county department or the agency primarily responsible for providing services to the juvenile has made reasonable efforts to prevent the removal of the juvenile from the home, while assuring that the juvenile's health and safety are the paramount concerns, unless any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies~~, and specific information showing that the~~.

(c) That the county department or agency has made reasonable efforts to achieve the goal of the juvenile's permanency plan, unless return of the juvenile to the home is the goal of the permanency plan and any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies.

SECTION 369. 938.335 (3m) (title) of the statutes is created to read:

938.335 **(3m)** (title) VICTIMS' STATEMENTS.

SECTION 370. 938.335 (3m) (a) of the statutes is renumbered 938.335 (3m) (intro.) and amended to read:

938.335 **(3m)** (intro.) Before imposing a disposition in a proceeding in which a juvenile is adjudged to be delinquent under s. 938.12 or is found to be in need of protection or services under s. 938.13 (12), ~~the~~ all of the following shall occur:

(ag) The court shall determine whether a victim of the juvenile's act wants to make a statement to the court. If a victim wants to make a statement, the court shall allow the victim to make a statement in court or to submit a written statement to be read to the court. The court may allow any other person to make or submit a statement under this paragraph. Any statement made under this paragraph must be relevant to the disposition.

SECTION 371. 938.335 (3m) (am) of the statutes is amended to read:

938.335 **(3m)** (am) ~~Before imposing a disposition in a proceeding in which a juvenile is adjudged to be delinquent under s. 938.12 or is found to be in need of protection or services under s. 938.13 (12), the~~ The court shall inquire of the district attorney or corporation counsel whether he or she has complied with par. (b) and ~~whether he or she has complied with~~ s. 938.27 (4m), whether any of the known victims requested notice of the date, time, and place of the dispositional hearing, and, if so, whether the district attorney or corporation counsel provided to the victim notice of the date, time, and place of the hearing.

SECTION 372. 938.335 (3m) (b) of the statutes is amended to read:

938.335 **(3m)** (b) ~~After a finding that a juvenile is delinquent under s. 938.12 or is found to be in need of protection or services under s. 938.13 (12), the~~ The district attorney or corporation counsel shall make a reasonable attempt to contact any known victim to inform that person of the right to make a statement under par. ~~(a)~~ (ag). Any failure to comply with this paragraph is not a ground for an appeal of a dispositional order or for any court to reverse or modify a dispositional order.

SECTION 373. 938.335 (3r) (title), (4) (title) and (5) (title) of the statutes are created to read:

938.335 **(3r)** (title) CHILD SUPPORT.

(4) (title) TESTIMONY BY TELEPHONE OR LIVE AUDIOVISUAL MEANS.

(5) (title) DISPOSITIONAL ORDER.

SECTION 374. 938.34 (2) (a) and (b) of the statutes are amended to read:

938.34 **(2)** (a) Place the juvenile under the supervision of an agency, the department, if the department approves, or a suitable adult, including a friend of the juvenile, under conditions prescribed by the court, including reasonable rules for the

juvenile's conduct, designed for the physical, mental, and moral well−being and behavior of the juvenile.

(b) If the juvenile is placed in the juvenile's home under the supervision of an agency or the department, order the agency or department to provide specified services to the juvenile and the juvenile's family, ~~which may include but are not limited to~~ including individual, family, or group counseling, homemaker or parent aide services, respite care, housing assistance, day care, or parent skills training.

SECTION 375. 938.34 (2g) (intro.) and (a) of the statutes are amended to read:

938.34 **(2g)** VOLUNTEERS IN PROBATION PROGRAM. (intro.) If the juvenile is adjudicated delinquent for the commission of an act that would constitute a misdemeanor if committed by an adult, if the chief judge of the judicial administrative district has approved under s. 973.11 (2) a volunteers in probation program established in the juvenile's county of residence, and if the court determines that volunteer supervision under that ~~volunteers in probation~~ program will likely benefit the juvenile and the community, ~~placement of~~ place the juvenile with ~~that~~ the volunteers in probation program under ~~such~~ conditions ~~as~~ the court determines are reasonable and appropriate. These conditions may include~~, but need not be limited to,~~ any of the following:

(a) A directive to a volunteer to ~~provide~~ be a role model for the juvenile ~~a role model~~, informal counseling, general monitoring ~~and~~ monitoring of the conditions established by the court, or any combination of these functions.

SECTION 376. 938.34 (2m) (a) and (c) of the statutes are amended to read:

938.34 **(2m)** (a) The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and

the ~~judge~~ court determines that participation in the teen court program will likely benefit the juvenile and the community.

(c) The juvenile admits or pleads no contest in open court, ~~with~~ in the presence of the juvenile's parent, guardian, or legal custodian ~~present~~, to the allegations that the juvenile committed the delinquent act.

SECTION 377. 938.34 (3) (a), (b) and (e) of the statutes are amended to read:

938.34 **(3)** (a) The home of a parent or other relative of the juvenile, except that the court may not designate the home of a parent or other relative of the juvenile as the juvenile's placement if the parent or other relative has been convicted ~~under s. 940.01 of the first−degree intentional homicide, or under s. 940.05 of the 2nd−degree intentional~~ of the homicide~~,~~ of a parent of the juvenile under s. 940.01 or 940.05, and the conviction has not been reversed, set aside, or vacated, unless the court determines by clear and convincing evidence that the placement would be in the best interests of the juvenile. The court shall consider the wishes of the juvenile in making that determination.

(b) The home of a person who is not required to be licensed if placement is for less than 30 days, except that the court may not designate the home of a person who is not required to be licensed as the juvenile's placement if the person has been convicted ~~under s. 940.01 of the first−degree intentional homicide, or under s. 940.05 of the 2nd−degree intentional~~ of the homicide~~,~~ of a parent of the juvenile under s. 940.01 or 940.05, and the conviction has not been reversed, set aside, or vacated, unless the court determines by clear and convincing evidence that the placement would be in the best interests of the juvenile. The court shall consider the wishes of the juvenile in making that determination.

(e) An independent living situation effective on or after the juvenile's 17th birthday, either alone or with friends, under ~~such~~ supervision ~~as~~ the court considers appropriate, but only if the juvenile is of sufficient maturity and judgment to live independently and only upon proof of a reasonable plan for supervision by an appropriate person or agency.

SECTION 378. 938.34 (4d) of the statutes is amended to read:

938.34 **(4d)** TYPE 2 ~~CHILD CARING INSTITUTION~~ RESIDENTIAL CARE CENTER FOR CHILDREN AND YOUTH PLACEMENT. Place the juvenile in a Type 2 ~~child caring institution~~ residential care center for children and youth under the supervision of the county department and subject to Type 2 status, as described in s. 938.539, but only if all of the following apply:

(a) The juvenile has been found to be delinquent for the commission of an act ~~which if committed by an adult~~ that would be punishable by a sentence of 6 months or more if committed by an adult.

(b) The juvenile has been found to be a danger to the public and to be in need of restrictive custodial treatment. If the ~~judge~~ court determines that any of the conditions specified in sub. (4m) (b) 1., 2., or 3. applies, but that placement in the serious juvenile offender program under sub. (4h) or in a ~~secured~~ juvenile correctional facility under sub. (4m) would not be appropriate, that determination shall be prima facie evidence that the juvenile is a danger to the public and in need of restrictive custodial treatment under this subsection.

SECTION 379. 938.34 (4h) (a) and (b) of the statutes are amended to read:

938.34 **(4h)** (a) The juvenile is 14 years of age or over and has been adjudicated delinquent for committing or conspiring to commit a violation of s. ~~939.31,~~ 939.32 (1) (a), 940.03, 940.06, 940.21, 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4., 943.02,

943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1), 948.025 (1), or 948.30 (2) or attempting a violation of s. 943.32 (2) or the juvenile is 10 years of age or over and has been adjudicated delinquent for attempting or committing a violation of s. 940.01 or for committing a violation of 940.02 or 940.05.

(b) The ~~judge~~ court finds that the only other disposition that ~~would be~~ is appropriate for the juvenile ~~would be~~ is placement ~~of the juvenile~~ in a ~~secured~~ juvenile correctional facility under sub. (4m).

NOTE: 1. Clarifies that, in s. 938.34 (4h) (a), stats., conspiracy to commit an offense [s. 939.31, stats.] means conspiracy to commit an offense listed as a serious juvenile offender offense.

2. Adds to s. 938.34 (4h) (a), stats., attempted armed robbery and 2nd degree reckless homicide as serious juvenile offender offenses.

SECTION 380. 938.34 (4m) (intro.), (a) and (b) (intro.) of the statutes are amended to read:

938.34 **(4m)** CORRECTIONAL PLACEMENT. (intro.) Place the juvenile in a ~~secured~~ juvenile correctional facility or a secured ~~child caring institution~~ residential care center for children and youth under the supervision of the department ~~or in a secured group home under the supervision of a county department if the juvenile is 12 years of age or over or, if the juvenile is under 12 years of age, in a secured child caring institution under the supervision of the department or in a secured group home under the supervision of a county department, unless the department, after an examination under s. 938.50, determines that placement in a secured correctional facility is more appropriate, but only~~ if all of the following apply:

(a) The juvenile has been found to be delinquent for the commission of an act ~~which if committed by an adult~~ that would be punishable by a sentence of 6 months or more if committed by an adult.

(b) (intro.) The juvenile has been found to be a danger to the public and to be in need of restrictive custodial treatment. If the ~~judge~~ court determines that any of the following conditions applies, but that placement in the serious juvenile offender program under sub. (4h) ~~would~~ is not ~~be~~ appropriate, that determination shall be prima facie evidence that the juvenile is a danger to the public and in need of restrictive custodial treatment under this subsection:

NOTE: Permits the court, under s. 938.34 (4m) (intro.), stats., to place a juvenile in either a juvenile correctional facility or a secure residential care center for children and youth. Does not specify age requirements for either placement.

SECTION 381. 938.34 (4n) (intro.) and (b) of the statutes are amended to read:

938.34 **(4n)** AFTERCARE SUPERVISION. (intro.) Subject to any arrangement between the department and a county department regarding the provision of aftercare supervision for juveniles who have been released from a ~~secured~~ juvenile correctional facility~~, a secured child caring institution,~~ or a secured ~~group home~~ residential care center for children and youth, designate one of the following to provide aftercare supervision for the juvenile following the juvenile's release from the ~~secured~~ juvenile correctional facility~~, secured child caring institution,~~ or secured ~~group home~~ residential care center for children and youth:

(b) The county department of the county of the court that placed the juvenile in the ~~secured~~ juvenile correctional facility~~, secured child caring institution~~ or secured ~~group home~~ residential care center for children and youth.

SECTION 382. 938.34 (5) (a), (am) and (c) of the statutes are amended to read:

938.34 **(5)** (a) Subject to par. (c), if the juvenile is found to have committed a delinquent act ~~which has~~ that resulted in damage to the property of another, or actual physical injury to another excluding pain and suffering, order the juvenile to repair the damage to property or to make reasonable restitution for the damage or

injury, either in the form of cash payments or, if the victim agrees, the performance of services for the victim, or both, if the court, after taking into consideration the well−being and needs of the victim, considers it beneficial to the well−being and behavior of the juvenile. ~~Any such~~ The order shall include a finding that the juvenile alone is financially able to pay or physically able to perform the services, may allow up to the date of the expiration of the order for the payment or for the completion of the services, and may include a schedule for the performance and completion of the services. ~~Objection by~~ If the juvenile objects to the amount of damages claimed ~~shall entitle~~, the juvenile is entitled to a hearing on the question of damages before the amount of restitution is ordered. Any recovery under this paragraph shall be reduced by the amount recovered as restitution under s. 938.45 (1r) (a).

(am) Subject to par. (c), order a juvenile who owes restitution under par. (a) and who is receiving income while placed in a ~~secured~~ juvenile correctional facility, residential ~~treatment~~ care center for children and youth, or other out−of−home placement to contribute a ~~stated~~ specified percentage of that income towards that restitution.

(c) Under this subsection, a court may ~~not~~ order a juvenile who is under 14 years of age to make not more than $250 in restitution or to perform not more than 40 total hours of services for the victim as total restitution under the order.

NOTE: Clarifies, in s. 938.34 (5) (c), stats., that a juvenile under 14 years of age may not make more than $250 in restitution or perform more than 40 hours of services for each dispositional order.

SECTION 383. 938.34 (5g) (b) of the statutes is amended to read:

938.34 **(5g)** (b) The supervised work program or other community service work shall be ~~of a~~ constructive ~~nature~~ and designed to promote the rehabilitation of the juvenile, ~~shall be~~ appropriate to the age level and physical ability of the juvenile, and

~~shall be~~ combined with counseling from a member of the staff of the county department, community agency, public agency, or nonprofit charitable organization or other qualified person. The supervised work program or other community service work may not conflict with the juvenile's regular attendance at school. Subject to par. (d), the amount of work required shall be reasonably related to the seriousness of the juvenile's offense.

SECTION 384. 938.34 (6r) (a) and (b) and (6s) of the statutes are amended to read:

938.34 **(6r)** (a) If the report prepared under s. 938.33 (1) recommends that the juvenile is in need of treatment for the use or abuse of alcohol beverages, controlled substances, or controlled substance analogs and its medical, personal, family, or social effects, ~~the court may~~ order the juvenile to enter an outpatient alcohol and other drug abuse treatment program at an approved treatment facility. The approved treatment facility shall, under the terms of a service agreement between the county and the approved treatment facility, or with the written informed consent of the juvenile or the juvenile's parent if the juvenile has not attained the age of 12, report to the agency primarily responsible for providing services to the juvenile as to whether the juvenile is cooperating with the treatment and whether the treatment appears to be effective.

(b) If the report prepared under s. 938.33 (1) recommends that the juvenile is in need of education relating to the use of alcohol beverages, controlled substances, or controlled substance analogs, ~~the court may~~ order the juvenile to participate in an alcohol or other drug abuse education program approved by the court. The person or agency that provides the education program shall, under the terms of a service agreement between the county and the education program, or with the written

informed consent of the juvenile or the juvenile's parent if the juvenile has not attained the age of 12, report to the agency primarily responsible for providing services to the juvenile about the juvenile's attendance at the program.

(6s) DRUG TESTING. If the report under s. 938.33 (1) ~~indicate~~ indicates that the juvenile is in need of treatment for the use or abuse of controlled substances or controlled substance analogs, order the juvenile to submit to drug testing under a drug testing program that the department shall promulgate by rule.

SECTION 385. 938.34 (7d) (a) 2., 3. and 4. of the statutes are amended to read:

938.34 **(7d)** (a) 2. ~~Pursuant to~~ Under a contractual agreement with the school district in which the juvenile resides, a nonresidential educational program provided by a licensed child welfare agency.

3. ~~Pursuant to~~ Under a contractual agreement with the school district in which the juvenile resides, an educational program provided by a private, nonprofit, nonsectarian agency that is located in the school district in which the juvenile resides and that complies with 42 USC 2000d.

4. ~~Pursuant to~~ Under a contractual agreement with the school district in which the juvenile resides, an educational program provided by a technical college district located in the school district in which the juvenile resides.

SECTION 386. 938.34 (8) of the statutes is amended to read:

938.34 **(8)** FORFEITURE. Impose a forfeiture based upon a determination that this disposition is in the best interest of the juvenile and ~~in aid of~~ the juvenile's rehabilitation. The maximum forfeiture that the court may impose under this subsection for a violation by a juvenile is the maximum amount of the fine that may be imposed on an adult for committing that violation or, if the violation is applicable only to a person under 18 years of age, $100. ~~Any such~~ The order shall include a

finding that the juvenile alone is financially able to pay the forfeiture and shall allow up to 12 months for payment. If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order other alternatives under this section~~, in accordance with the conditions specified in this chapter~~; or the court may suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2 years. If the court suspends any license under this subsection, the clerk of the court shall immediately take possession of the suspended license and forward it to the department which issued the license, together with a notice of suspension ~~clearly~~ stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the suspension shall be reduced to the time period which has already elapsed and the court shall immediately notify the department which shall then return the license to the juvenile. Any recovery under this subsection shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

SECTION 387. 938.34 (8d) (c) and (d) of the statutes are amended to read:

938.34 **(8d)** (c) If a juvenile placed in a ~~secured~~ juvenile correctional facility or a secured ~~child caring institution~~ residential care center for children and youth fails to pay the surcharge under par. (a), the department shall assess and collect the amount owed from the juvenile's wages or other moneys. ~~If a juvenile placed in a secured group home fails to pay the surcharge under par. (a), the county department shall assess and collect the amount owed from the juvenile's wages or other moneys.~~ Any amount collected shall be transmitted to the secretary of administration.

(d) If the juvenile fails to pay the surcharge under par. (a), the court may vacate the surcharge and order other alternatives under this section, in accordance with the

conditions specified in this chapter; or the court may suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. If the court suspends any license under this subsection, the clerk of the court shall immediately take possession of the suspended license and forward it to the department which issued the license, together with a notice of suspension ~~clearly~~ stating that the suspension is for failure to pay a surcharge imposed by the court. If the surcharge is paid during the period of suspension, the suspension shall be reduced to the time period which has already elapsed and the court shall immediately notify the department which shall then return the license to the juvenile.

NOTE: Deletes the second sentence in s. 938.34 (8d) (c), stats., to reflect the deletion of references to secured group homes under this bill. See the NOTE to s. 938.02 (15p), stats., as affected by this bill.

SECTION 388. 938.34 (13r), (13t), (14d) and (14q) of the statutes are amended to read:

938.34 **(13r)** VIOLENT VIOLATION IN A SCHOOL ZONE. (a) If the juvenile is adjudicated delinquent ~~under~~ for a violation of a violent crime law specified in s. 939.632 (1) (e) in a school zone, as defined in s. 939.632 (1) (d), ~~the court may~~ require that the juvenile participate for 100 hours in a supervised work program under sub. (5g) or perform 100 hours of other community service work.

(b) The court ~~shall~~ may not impose the requirement under par. (a) if the court determines that the ~~person~~ juvenile would pose a threat to public safety while completing the requirement.

(13t) GRAFFITI VIOLATION. If the juvenile is adjudicated delinquent ~~under~~ for a violation of s. 943.017, ~~the court may~~ require that the juvenile participate for not less

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

(14d) HATE VIOLATIONS. In addition to any other disposition imposed under this section, if the juvenile is found to have committed a violation under circumstances in which, if committed by an adult, the adult would be subject to a penalty enhancement under s. 939.645, ~~the court may~~ order any one or more of the following dispositions:

(a) ~~That the juvenile make restitution~~ Restitution under sub. (5).

(b) ~~That the juvenile participate~~ Participation in a supervised work program or other community service work under sub. (5g) or (5m).

(c) ~~That the juvenile participate~~ Participation in a victim−offender mediation program under sub. (5r) or ~~otherwise apologize~~ an other means of apologizing to the victim.

(d) ~~That the juvenile participate~~ Participation in an educational program under sub. (7n) that includes sensitivity training or training in diversity.

(14q) CERTAIN BOMB SCARES AND FIREARM VIOLATIONS. In addition to any other disposition imposed under this section, if the juvenile is found to have violated s. 947.015 and the property involved is owned or leased by the state or any political subdivision of the state, or if the property involved is a school premises, as defined in s. 948.61 (1) (c), or if the juvenile is found to have violated s. 941.235 or 948.605, ~~the court may~~ immediately suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for 2 years. The court shall immediately forward to the department of transportation the notice of suspension, ~~clearly~~ stating that the suspension is for

a violation of s. 947.015 involving school premises, or for a violation of s. 941.235 or 948.605. If otherwise eligible, the juvenile is eligible for an occupational license under s. 343.10.

SECTION 389. 938.34 (14r) (a) of the statutes is amended to read:

938.34 **(14r)** (a) In addition to any other dispositions imposed under this section, if the juvenile is found to have violated ch. 961, the court shall suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with the notice of suspension ~~clearly~~ stating that the suspension or revocation is for a violation of ch. 961.

SECTION 390. 938.34 (15) (b) of the statutes is amended to read:

938.34 **(15)** (b) The department of justice shall promulgate rules providing procedures for juveniles to provide specimens under par. (a) and for the transportation of ~~those~~ the specimens to the state crime laboratories under s. 165.77.

SECTION 391. 938.34 (16) of the statutes is amended to read:

938.34 **(16)** STAY OF ORDER. After ordering a disposition under this section, enter an additional order staying the execution of the dispositional order contingent on the juvenile's satisfactory compliance with any conditions that are specified in the dispositional order and explained to the juvenile by the court. If the juvenile violates a condition of his or her dispositional order, the agency supervising the juvenile or the district attorney or corporation counsel in the county in which the dispositional order was entered shall notify the court and the court shall hold a hearing within 30 days after the filing of the notice to determine whether the original dispositional order should be imposed, unless the juvenile signs a written waiver of any objections

to imposing the original dispositional order and the court approves the waiver. If a hearing is held, the court shall notify the parent, juvenile, guardian, and legal custodian, all parties bound by the original dispositional order, and the district attorney or corporation counsel in the county in which the dispositional order was entered of the time and place of the hearing at least 3 days before the hearing. If all parties consent, the court may proceed immediately with the hearing. The court may not impose the original dispositional order unless the court finds by a preponderance of the evidence that the juvenile has violated a condition of his or her dispositional order.

NOTE: In s. 938.34 (16), stats., adds the district attorney and corporation counsel as persons who may notify the court of a violation of the dispositional order when the original dispositional order is stayed.

SECTION 392. 938.342 (1d) (intro.) of the statutes is amended to read:

938.342 **(1d)** TRUANCY ORDINANCE VIOLATIONS. (intro.) If the court finds that the person violated a municipal ordinance enacted under s. 118.163 (1m), the court shall enter an order making one or more of the following dispositions if ~~such a~~ the disposition is authorized by the municipal ordinance:

SECTION 393. 938.342 (1g) (intro.) and (b) of the statutes are amended to read:

938.342 **(1g)** HABITUAL TRUANCY ORDINANCE VIOLATIONS. (intro.) If the court finds that a person under 18 years of age violated a municipal ordinance enacted under s. 118.163 (2), the court shall enter an order making one or more of the following dispositions if ~~such a~~ the disposition is authorized by the municipal ordinance:

(b) Order the person to participate in counseling or a supervised work program or other community service work as described in s. 938.34 (5g). The costs of any ~~such~~ counseling, supervised work program, or other community service work may be

assessed against the person, the parents or guardian of the person, or both. Any county department, community agency, public agency, or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned ~~pursuant to~~ under an order under this paragraph acting in good faith has immunity from any civil liability in excess of $25,000 for any act or omission by or impacting on that person.

SECTION 394. 938.342 (1g) (f) 1. and 2. of the statutes are amended to read:

938.342 **(1g)** (f) 1. The chief judge of the judicial administrative district has approved a teen court program established in the person's county of residence and the ~~judge~~ court determines that participation in the teen court program will likely benefit the person and the community.

2. The person admits or pleads no contest in open court, ~~with~~ in the presence of the person's parent, guardian, or legal custodian ~~present~~, to the allegations that the person violated the municipal ordinance enacted under s. 118.163 (2).

SECTION 395. 938.342 (1m), (1r) and (2) of the statutes are amended to read:

938.342 **(1m)** ORDERS APPLICABLE TO PARENTS, GUARDIANS, AND LEGAL CUSTODIANS. (a) If the court finds that the person violated a municipal ordinance enacted under s. 118.163 (2), the court may, in addition to or instead of the dispositions under sub. (1g), order the person's parent, guardian, or legal custodian to participate in counseling at the parent's, guardian's, or legal custodian's own expense or to attend school with the person, or both, if ~~such a~~ the disposition is authorized by the municipal ordinance.

(am) If the court finds that the person violated a municipal ordinance enacted under s. 118.163 (1m), the court may, as part of the disposition under sub. (1d), order the person's parent or guardian to pay all or part of a forfeiture plus costs assessed

under sub. (1d) (b). If the court finds that the person violated a municipal ordinance enacted under s. 118.163 (2), the court may, as part of the ~~dispositions~~ disposition under sub. (1g), order the person's parent or guardian to pay all or part of the costs of any program ordered under sub. (1g) (b) or to pay all or part of a forfeiture plus costs assessed under sub. (1g) (h).

(b) No order to any parent, guardian, or legal custodian under par. (a) or (am) may be entered until the parent, guardian, or legal custodian is given an opportunity to be heard on the contemplated order of the court. The court shall cause notice of the time, place, and purpose of the hearing to be served on the parent, guardian, or legal custodian personally at least 10 days before the date of the hearing. The procedure in these cases shall, as far as practicable, be the same as in other cases to the court. At the hearing, the parent, guardian, or legal custodian may be represented by counsel and may produce and cross−examine witnesses. ~~Any~~ A parent, guardian, or legal custodian who fails to comply with any order issued by a court under par. (a) or (am) may be proceeded against for contempt of court.

(1r) SCHOOL ATTENDANCE CONDITION. If school attendance ~~under sub. (1d) (a) or (1g) (g)~~ is a condition of an order under sub. (1d) or (1g), the order shall specify what constitutes a violation of the condition and shall direct the school board of the school district, or the governing body of the private school, in which the person is enrolled to notify the court or, if the person is under the supervision of an agency under sub. (1g) (j), the agency that is responsible for supervising the person, within 5 days after any violation of the condition by the person.

(2) SCHOOL DROPOUT ORDINANCE VIOLATION. (a) Except as provided in par. (b), if the court finds that a person is subject to a municipal ordinance enacted under s. 118.163 (2m) (a), the court shall enter an order suspending the person's operating

privilege, as defined in s. 340.01 (40), until the person ~~reaches the age of~~ attains 18 years of age.

(b) The court may ~~enter an~~ order ~~making~~ any of the dispositions specified under sub. (1g) if the court finds that suspension of the person's operating privilege, as defined in s. 340.01 (40), until the person ~~reaches the age of~~ attains 18 years of age would cause an undue hardship to the person or the person's family.

SECTION 396. 938.343 (1) (title) of the statutes is created to read:

938.343 **(1)** (title) COUNSELING.

SECTION 397. 938.343 (2) of the statutes is amended to read:

938.343 **(2)** FORFEITURE. Impose a forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing that violation or, if the violation is only applicable to a person under 18 years of age, $50. ~~Any such~~ The order shall include a finding that the juvenile alone is financially able to pay and shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may suspend any license issued under ch. 29 or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court shall immediately take possession of the suspended license and forward it to the department which issued the license, together with the notice of suspension ~~clearly~~ stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the court shall immediately notify the department, which ~~will thereupon~~ shall return the license to the person. Any recovery under this subsection shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

SECTION 398. 938.343 (2m) (title) of the statutes is created to read:

938.343 **(2m)** (title) TEEN COURT PROGRAM.

SECTION 399. 938.343 (2m) (a) of the statutes is amended to read:

938.343 **(2m)** (a) The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the ~~judge~~ court determines that participation in the teen court program will likely benefit the juvenile and the community.

SECTION 400. 938.343 (2m) (b) of the statutes is amended to read:

938.343 **(2m)** (b) The juvenile admits or pleads no contest in open court, ~~with~~ in the presence of the juvenile's parent, guardian or legal custodian ~~present~~, to the allegations that the juvenile violated the civil law or ordinance.

SECTION 401. 938.343 (3) (title) and (3m) (title) of the statutes are created to read:

938.343 **(3)** (title) COMMUNITY SERVICE WORK PROGRAM.

(3m) (title) YOUTH REPORT CENTER.

SECTION 402. 938.343 (4), (5), (6) and (7) of the statutes are amended to read:

938.343 **(4)** RESTITUTION. If the violation has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, ~~the court may~~ order the juvenile to make repairs of the damage to property or reasonable restitution for the damage or injury, either in the form of cash payments or, if the victim agrees, the performance of services for the victim, or both, if the court, after taking into consideration the well−being and needs of the victim, considers it beneficial to the well−being and behavior of the juvenile. ~~Any such~~ An order requiring payment for repairs or restitution shall include a finding that the juvenile alone is financially able to pay or physically able to perform the services, may allow up to the date of the expiration of the order for the payment or for the completion of the services, and may include a schedule for the performance and completion of the

services. ~~Objection by~~ If the juvenile objects to the amount of damages claimed ~~shall entitle~~, the juvenile is entitled to a hearing on the question of damages before the amount of restitution is ordered. Any recovery under this subsection shall be reduced by the amount recovered as restitution for the same act under s. 938.45 (1r) (a).

(5) BOATING SAFETY COURSE. If the violation is related to unsafe use of a boat, order the juvenile to attend a boating safety course under s. 30.74 (1). If the juvenile has a valid boating safety certificate at the time that the court imposes ~~sentence~~ the disposition, the court shall ~~permanently~~ revoke the certificate and order the person to obtain ~~a~~ another boating safety certificate ~~of satisfactory completion of a safety course~~ under s. 30.74 (1).

(6) HUNTING, TRAPPING, OR FISHING LICENSE SUSPENSION. If the violation is of ch. 29, ~~suspension of~~ suspend the license or licenses of the juvenile issued under that chapter for not more than one year or until the juvenile is 18 years of age, whichever occurs first.

(7) HUNTER EDUCATION PROGRAM. If the violation is related to the unsafe use of firearms, order the juvenile to attend ~~the course under~~ the hunter education program course under s. 29.591.

SECTION 403. 938.343 (8) of the statutes is amended to read:

938.343 **(8)** SNOWMOBILE SAFETY COURSE. If the violation is one under ch. 350 concerning the use of snowmobiles, order the juvenile to attend a snowmobile safety course under s. 350.055.

SECTION 404. 938.343 (9) of the statutes is amended to read:

938.343 **(9)** ALL−TERRAIN VEHICLE SAFETY COURSE. If the violation is one under s. 23.33 or under an ordinance enacted in conformity with s. 23.33 concerning the use

of all−terrain vehicles, order the juvenile to ~~enroll and participate in~~ attend an all−terrain vehicle safety course.

SECTION 405. 938.343 (10) (title) of the statutes is created to read:

938.343 **(10)** (title) ALCOHOL OR DRUG ASSESSMENT, TREATMENT, OR EDUCATION.

SECTION 406. 938.344 (2) (title) of the statutes is created to read:

938.344 **(2)** (title) UNDERAGE ALCOHOL POSSESSION OR POSSESSION ON SCHOOL GROUNDS.

SECTION 407. 938.344 (2) (a), (b) and (c) of the statutes are amended to read:

938.344 **(2)** (a) For a first violation, a forfeiture of not more than $50, suspension of the juvenile's operating privilege ~~as provided~~ under s. 343.30 (6) (b) 1., or ~~the juvenile's~~ participation in a supervised work program or other community service work under s. 938.34 (5g).

(b) For a violation committed within 12 months of one previous violation, a forfeiture of not more than $100 or ~~the juvenile's~~ participation in a supervised work program or other community service work under s. 938.34 (5g). In addition, the juvenile's operating privilege may be suspended ~~as provided~~ under s. 343.30 (6) (b) 2., except that if the violation of s. 125.07 (4) (b) involved a motor vehicle the juvenile's operating privilege shall be suspended ~~as provided~~ under s. 343.30 (6) (b) 2.

(c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than $500 or ~~the juvenile's~~ participation in a supervised work program or other community service work under s. 938.34 (5g). In addition, the juvenile's operating privilege may be suspended ~~as provided~~ under s. 343.30 (6) (b) 3., except that if the violation of s. 125.07 (4) (b) involved a motor vehicle the juvenile's operating privilege shall be suspended ~~as provided~~ under s. 343.30 (6) (b) 3.

SECTION 408. 938.344 (2b) (title) of the statutes is created to read:

938.344 **(2b)** (title) UNDERAGE PURCHASE OF ALCOHOL OR ENTERING LICENSED PREMISES.

SECTION 409. 938.344 (2b) (a), (b) and (c) of the statutes are amended to read:

938.344 **(2b)** (a) For a first violation, a forfeiture of not less than $250 nor more than $500, suspension of the juvenile's operating privilege ~~as provided~~ under s. 343.30 (6) (b) 1., or ~~the juvenile's~~ participation in a supervised work program or other community service work under s. 938.34 (5g).

(b) For a violation committed within 12 months of one previous violation, a forfeiture of not less than $300 nor more than $500 or ~~the juvenile's~~ participation in a supervised work program or other community service work under s. 938.34 (5g). In addition, the juvenile's operating privilege may be suspended ~~as provided~~ under s. 343.30 (6) (b) 2., except that if the violation involved a motor vehicle the juvenile's operating privilege shall be suspended ~~as provided~~ under s. 343.30 (6) (b) 2.

(c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of $500 or ~~the juvenile's~~ participation in a supervised work program or other community service work under s. 938.34 (5g). In addition, the juvenile's operating privilege may be suspended ~~as provided~~ under s. 343.30 (6) (b) 3., except that if the violation involved a motor vehicle the juvenile's operating privilege shall be suspended ~~as provided~~ under s. 343.30 (6) (b) 3.

SECTION 410. 938.344 (2d) (title) of the statutes is created to read:

938.344 **(2d)** (title) FALSE PROOF OF AGE.

SECTION 411. 938.344 (2d) (a), (b) and (c) of the statutes are amended to read:

938.344 **(2d)** (a) For a first violation, a forfeiture of not less than $100 nor more than $500, suspension of the juvenile's operating privilege ~~as provided~~ under s.

343.30 (6) (b) 1., or ~~the juvenile's~~ participation in a supervised work program or other community service work under s. 938.34 (5g).

(b) For a violation committed within 12 months of a previous violation, a forfeiture of not less than $300 nor more than $500, suspension of the juvenile's operating privilege ~~as provided~~ under s. 343.30 (6) (b) 2., or ~~the juvenile's~~ participation in a supervised work program or other community service work under s. 938.34 (5g).

(c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of $500, suspension of the juvenile's operating privilege ~~as provided~~ under s. 343.30 (6) (b) 3., or ~~the juvenile's~~ participation in a supervised work program or other community service work under s. 938.34 (5g).

SECTION 412. 938.344 (2e) (title) of the statutes is created to read:

938.344 **(2e)** (title) DRUG PARAPHERNALIA VIOLATION.

SECTION 413. 938.344 (2e) (a) 1., 2. and 3., (b) and (c) of the statutes are amended to read:

938.344 **(2e)** (a) 1. For a first violation, a forfeiture of not more than $50 or ~~the juvenile's~~ participation in a supervised work program or other community service work under s. 938.34 (5g) or both.

2. For a violation committed within 12 months of a previous violation, a forfeiture of not more than $100 or ~~the juvenile's~~ participation in a supervised work program or other community service work under s. 938.34 (5g) or both.

3. For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than $500 or ~~the juvenile's~~ participation in a supervised work program or other community service work under s. 938.34 (5g) or both.

(b) Whenever a court suspends a juvenile's operating privilege under this subsection, the court shall immediately take possession of any suspended license and forward it to the department of transportation, together with the notice of suspension ~~clearly~~ stating that the suspension is for a violation under s. 961.573 (2), 961.574 (2), or 961.575 (2), or a local ordinance that strictly conforms to one of those statutes.

(c) If the juvenile's license or operating privilege is currently suspended or revoked or the juvenile does not currently possess a valid operator's license ~~issued~~ under ch. 343, the suspension under this subsection is effective on the date on which the juvenile is first eligible and applies for issuance or reinstatement of an operator's license under ch. 343.

SECTION 414. 938.344 (2g) (title) of the statutes is created to read:

938.344 **(2g)** (title) STAY OF ORDER.

SECTION 415. 938.344 (2g) (a) 1. and 4. a. and b. and (d) of the statutes are amended to read:

938.344 **(2g)** (a) 1. Submit to an alcohol and other drug abuse assessment that conforms to the criteria ~~specified~~ under s. 938.547 (4) and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol and other drug abuse assessment and shall specify the date by which the assessment must be completed.

4. a. The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the ~~judge~~ court determines that participation in the teen court program will likely benefit the juvenile and the community.

b. The juvenile admits or pleads no contest in open court, ~~with~~ in the presence of the juvenile's parent, guardian or legal custodian ~~present~~, to the allegations that the juvenile committed the violation specified in sub. (2), (2b), (2d) or (2e).

(d) If an approved treatment facility, court−approved pupil assistance program, or court−approved alcohol or other drug abuse education program, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notifies the agency primarily responsible for providing services to the juvenile that a juvenile is not participating, or has not satisfactorily completed, a recommended alcohol or other drug abuse treatment program, a court−approved pupil assistance program, or a court−approved alcohol or other drug abuse education program, the court shall hold a hearing to determine whether to impose the penalties under sub. (2), (2b), (2d), or (2e) ~~should be imposed~~.

SECTION 416. 938.344 (2m) (title) and (3) (title) of the statutes are created to read:

938.344 **(2m)** (title) COUNTING VIOLATIONS.

(3) (title) PROSECUTION IN ADULT COURT.

SECTION 417. 938.345 (1) (intro.), (a), (d), (e) and (g) of the statutes are amended to read:

938.345 **(1)** DISPOSITIONAL ORDER. (intro.) If the court finds that the juvenile is in need of protection or services, the court shall enter an order ~~deciding~~ including one or more of the dispositions ~~of the case as provided in~~ under s. 938.34 under a care and treatment plan except that the order may not do any of the following:

(a) Place the juvenile in the serious juvenile offender program~~, or a secured~~ juvenile correctional facility~~, a secured child caring institution~~ or a secured ~~group home~~ residential care center for children and youth.

(d) Restrict~~,~~ or suspend ~~or revoke~~ the driving privileges of the juvenile, except as provided under sub. (2).

(e) Place any juvenile not ~~specifically~~ found under ~~chs.~~ ch. 46, 49, 51, 115 ~~and~~, or 880 to ~~be developmentally disabled or mentally ill~~ have a developmental disability or a mental illness or to be a child with a disability, as defined in s. 115.76 (5), in ~~facilities which~~ a facility that exclusively ~~treat~~ treats one or more of those categories of juveniles.

(g) ~~Order~~ Place the juvenile ~~into~~ in a juvenile detention facility or juvenile portion of a county jail or in nonsecure custody under s. 938.34 (3) (f).

NOTE: In s. 938.345 (1) (d), stats., removes revocation of a juvenile's driving privileges as a JIPS disposition to be consistent with the parallel delinquency disposition under s. 938.34 (14m).

SECTION 418. 938.345 (2) of the statutes is amended to read:

938.345 **(2)** SCHOOL DROPOUTS AND HABITUAL TRUANTS. If the court finds that a juvenile is in need of protection or services based on the fact that the juvenile is a school dropout, as defined in s. 118.153 (1) (b), or based on habitual truancy, and the court also finds that ~~the reason~~ the juvenile has dropped out of school or is a habitual truant ~~is~~ as a result of the juvenile's intentional refusal to attend school rather than the failure of any other person to comply with s. 118.15 (1) (a), the court, instead of or in addition to any other disposition imposed under sub. (1), may enter an order permitted under s. 938.342.

SECTION 419. 938.345 (3) (title) of the statutes is created to read:

938.345 **(3)** (title) SEX OFFENDER REGISTRATION.

SECTION 420. 938.345 (3) (a) (intro.) and (c) of the statutes are amended to read:

938.345 **(3)** (a) (intro.) If the court finds that a juvenile is in need of protection or services on the basis of a violation, or the solicitation, conspiracy, or attempt to commit a violation, under ch. 940, 944, or 948 or ss. 942.08 or 943.01 to 943.15, the court may require the juvenile to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it ~~would be~~ is in the interest of public protection to have the juvenile report under s. 301.45. In determining whether it ~~would be~~ is in the interest of public protection to have the juvenile report under s. 301.45, the court may consider any of the following:

(c) If the court orders a juvenile to comply with the reporting requirements under s. 301.45, the clerk of the court in which the order is entered shall promptly forward a copy of the order to the department ~~of corrections~~. If the finding of need of protection or services on which the order is based is reversed, set aside, or vacated, the clerk of the court shall promptly forward to the department ~~of corrections~~ a certificate stating that the finding has been reversed, set aside or vacated.

SECTION 421. 938.346 (1) (title) of the statutes is created to read:

938.346 **(1)** (title) INFORMATION TO VICTIMS.

SECTION 422. 938.346 (1) (a) of the statutes is amended to read:

938.346 **(1)** (a) The procedures under s. 938.396 ~~(1r) and (6)~~ (1) (c) 5. and 6. for obtaining the identity of the juvenile and the juvenile's parents.

SECTION 423. 938.346 (1) (b) of the statutes is amended to read:

938.346 **(1)** (b) The procedure under s. 938.396 ~~(1r)~~ (1) (c) 5. for obtaining the juvenile's police records.

SECTION 424. 938.346 (1) (d) 2. of the statutes is amended to read:

938.346 **(1)** (d) 2. The procedure ~~the victim may follow~~ for obtaining the information in subd. 1.

SECTION 425. 938.346 (1m) and (2) of the statutes are amended to read:

938.346 **(1m)** DUTIES OF INTAKE WORKERS AND DISTRICT ATTORNEYS. The intake worker shall make a reasonable attempt to provide notice of the information ~~specified in~~ under sub. (1) (a), (b), (c), and (h), the information ~~specified in~~ under sub. (1) (d) relating to a deferred prosecution agreement under s. 938.245, the information ~~specified in~~ under sub. (1) (em) relating to the right to confer, if requested, on deferred prosecution agreements and the information ~~specified in~~ under sub. (3) if the juvenile's case is closed. The district attorney or corporation counsel shall make a reasonable attempt to provide notice of the information ~~specified in~~ under sub. (1) (e), (ec), (f), (fm), and (g), the information ~~specified in~~ under sub. (1) (d) relating to a consent decree under s. 938.32 or a dispositional order under ss. 938.34 to 938.345, the information ~~specified in~~ under sub. (1) (em) relating to the right to request an opportunity to confer, if requested, on amendment of petitions, consent decrees and disposition recommendations and the information under sub. (3) if he or she decides not to file a petition or the proceeding is terminated without a consent decree or dispositional order after the filing of a petition.

(2) RESTRICTIONS ON DISCLOSURE OF INFORMATION. The notice under sub. (1) shall include an explanation of the restrictions on ~~divulging~~ disclosing information obtained under this chapter and the penalties for ~~violations~~ violating the restrictions.

NOTE: Requires, in s. 938.346 (1m), stats., the district attorney or corporation counsel to provide notice to a victim of how to request testing for communicable diseases of a juvenile who is alleged to have thrown or expelled a bodily substance at another in violation of s. 946.43 (2m).

SECTION 426. 938.346 (3) (title), (4) (title) and (5) (title) of the statutes are created to read:

938.346 **(3)** (title) CLOSED CASES.

(4) (title) CHILD VICTIMS.

(5) (title) COURT POLICIES AND RULES.

SECTION 427. 938.35 (1) (title) of the statutes is created to read:

938.35 **(1)** (title) EFFECT AND ADMISSIBILITY OF JUDGMENT.

SECTION 428. 938.35 (1m) and (2) of the statutes are amended to read:

938.35 **(1m)** FUTURE CRIMINAL PROCEEDINGS BARRED. Disposition by the court assigned to exercise jurisdiction under this chapter and ch. 48 of any allegation under s. 938.12 or 938.13 (12) shall bar any future proceeding on the same matter in criminal court when the juvenile ~~reaches the age of~~ attains 17 years of age. This paragraph does not affect proceedings in criminal court ~~which~~ that have been transferred under s. 938.18.

(2) COURT DISCLOSURE OF INFORMATION. Except ~~as specifically provided in~~ under sub. (1), this section does not preclude the court from disclosing information to qualified persons if the court considers the disclosure to be in the best interests of the juvenile or of the administration of justice.

SECTION 429. 938.355 (1) of the statutes is amended to read:

938.355 **(1)** INTENT. In any order under s. 938.34 or 938.345, the court shall decide on a placement and treatment finding based on evidence submitted to the court. The disposition shall employ those means necessary to promote the objectives ~~specified in~~ under s. 938.01. If the ~~judge~~ court has determined that any of the conditions specified in s. 938.34 (4m) (b) 1., 2., or 3. applies, that determination shall be prima facie evidence that a less restrictive alternative than placement in a

~~secured~~ juvenile correctional facility~~, a secured child caring institution,~~ or a secured ~~group home~~ residential care center for children and youth is not appropriate. If information under s. 938.331 has been provided in a court report under s. 938.33 (1), the court shall consider that information when deciding on a placement and treatment finding.

SECTION 430. 938.355 (2) (b) 1., 1m., 4m., 5., 6. and 6r. of the statutes are amended to read:

938.355 **(2)** (b) 1. The specific services or continuum of services to be provided to the juvenile and the juvenile's family, the identity of the agencies ~~which~~ that are ~~to be~~ primarily responsible for the provision of the services ~~mandated by the court~~, the identity of the person or agency ~~who~~ that will provide case management or coordination of services, if any, and, if custody is to be transferred to effect the treatment plan, the identity of the legal custodian.

1m. A notice that the juvenile's parent, guardian, or legal custodian or the juvenile, if 14 years of age or ~~over~~ older, may request an agency that is providing care or services for the juvenile or that has legal custody of the juvenile to disclose to, or make available for inspection by, the parent, guardian, legal custodian, or juvenile the contents of any record kept or information received by the agency about the juvenile as provided in s. 938.78 (2) (ag).

4m. If the juvenile is placed outside the home and if the juvenile's parent has not ~~already~~ provided a statement of the income, assets, debts, and living expenses of the juvenile and the juvenile's parent to the county department under s. 938.30 (6) (b) or (c) or 938.31 (7) (b) or (c), an order for the parent to provide that statement to the county department by a date specified by the court. The county department shall provide, without charge, to the parent a form on which to provide that statement, and

the parent shall provide that statement on ~~that~~ the form. The county department shall use the information ~~provided~~ in the statement to determine whether the department may claim federal foster care and adoption assistance reimbursement under 42 USC 670 to 679a for the cost of providing care for the juvenile.

5. For a juvenile placed outside his or her home ~~pursuant to~~ under an order under s. 938.34 (3) or 938.345, a permanency plan under s. 938.38 if one has been prepared.

6. If the juvenile is placed outside the home, a finding that continued placement of the juvenile in his or her home would be contrary to the welfare of the juvenile or, if the juvenile has been adjudicated delinquent and is placed outside the home under s. 938.34 (3) (a), (c), (cm), or (d) or (4d), a finding that the juvenile's current residence will not safeguard the welfare of the juvenile or the community due to the serious nature of the act for which the juvenile was adjudicated delinquent. The court order shall also contain a finding as to whether the county department or the agency primarily responsible for providing services under a court order has made reasonable efforts to prevent the removal of the juvenile from the home, while assuring that the juvenile's health and safety are the paramount concerns, unless the court finds that any of the circumstances ~~specified in~~ under sub. (2d) (b) 1. to 4. applies, and a finding as to whether the county department or agency has made reasonable efforts to achieve the goal of the juvenile's permanency plan, unless return of the juvenile to the home is the goal of the permanency plan and the court finds that any of the circumstances ~~specified in~~ under sub. (2d) (b) 1. to 4. applies. The court shall make the findings specified in this subdivision on a case−by−case basis based on circumstances specific to the juvenile and shall document or reference the specific information on which those findings are based in the court order. A court order that

merely references this subdivision without documenting or referencing that specific information in the court order or an amended court order that retroactively corrects an earlier court order that does not comply with this subdivision is not sufficient to comply with this subdivision.

6r. If the court finds that any of the circumstances ~~specified in~~ under sub. (2d) (b) 1. to 4. applies with respect to a parent, a determination that the county department or agency primarily responsible for providing services under the court order is not required to make reasonable efforts with respect to the parent to make it possible for the juvenile to return safely to his or her home.

NOTE: For an explanation of the change to s. 938.355 (2) (b) 4m., stats., see the NOTE to s. 938.30 (6) (b) and (c), stats., as affected by this bill.

SECTION 431. 938.355 (2c) (a) (intro.) and (b) of the statutes are amended to read:

938.355 **(2c)** (a) (intro.) When a court makes a finding under sub. (2) (b) 6. as to whether a county department which provides social services or the agency primarily responsible for providing services to the juvenile under a court order has made reasonable efforts to prevent the removal of the juvenile from his or her home, while assuring that the juvenile's health and safety are the paramount concerns, the court's consideration of reasonable efforts shall include~~, but not be limited to,~~ whether:

(b) When a court makes a finding under sub. (2) (b) 6. as to whether the county department or the agency primarily responsible for providing services to the juvenile under a court order has made reasonable efforts to achieve the goal of the permanency plan, the court's consideration of reasonable efforts shall include the considerations ~~listed~~ under par. (a) ~~1. to 5.~~ and whether visitation schedules between

the juvenile and his or her parents were implemented, unless visitation was denied or limited by the court.

SECTION 432. 938.355 (2d) (a) 1. of the statutes is amended to read:

938.355 **(2d)** (a) 1. "Aggravated circumstances" include abandonment in violation of s. 948.20 or in violation of the law of any other state or federal law if that violation would be a violation of s. 948.20 if committed in this state, torture, chronic abuse, and sexual abuse.

SECTION 433. 938.355 (2d) (c) 1. of the statutes is amended to read:

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

SECTION 434. 938.355 (2e) (b) of the statutes is amended to read:

938.355 **(2e)** (b) Each time a juvenile's placement is changed under s. 938.357 or a dispositional order is revised under s. 938.363 or extended under s. 938.365, the agency that prepared the permanency plan shall revise the plan to conform to the order and shall file a copy of the revised plan with the court. Each plan filed ~~under this paragraph~~ shall be made a part of the court order.

SECTION 435. 938.355 (2m) of the statutes is amended to read:

938.355 **(2m)** TRANSITIONAL PLACEMENTS. The court order may include the name of transitional placements, but may not designate a specific time when transitions are to take place. The procedures of ss. 938.357 and 938.363 ~~shall~~ govern when ~~such~~ those transitions take place. The court~~, however,~~ may place specific time limitations

on interim arrangements made for the care of the juvenile pending the availability of the dispositional placement.

SECTION 436. 938.355 (3) (b) 1. and 1m. of the statutes are amended to read:

938.355 **(3)** (b) 1. Except as provided in subd. 2., the court may not grant visitation under par. (a) to a parent of a juvenile if the parent has been convicted ~~under s. 940.01 of the first−degree intentional homicide, or under s. 940.05 of the 2nd−degree intentional~~ of the homicide~~,~~ of the juvenile's other parent under s. 940.01 or 940.05, and the conviction has not been reversed, set aside, or vacated.

1m. Except as provided in subd. 2., if a parent who is granted visitation rights with a juvenile under par. (a) is convicted ~~under s. 940.01 of the first−degree intentional homicide, or under s. 940.05 of the 2nd−degree intentional~~ of the homicide~~,~~ of the juvenile's other parent under s. 940.01 or 940.05, and the conviction has not been reversed, set aside, or vacated, the court shall issue an order prohibiting the parent from having visitation with the juvenile on petition of the juvenile, the guardian or legal custodian of the juvenile, a person or agency bound by the dispositional order, or the district attorney or corporation counsel of the county in which the dispositional order was entered, or on the court's own motion, and on notice to the parent.

SECTION 437. 938.355 (4) of the statutes is amended to read:

938.355 **(4)** TERMINATION OF ORDERS. (a) Except as provided under par. (b) or s. 938.368, an order under this section or s. 938.357 or 938.365 made before the juvenile ~~reaches~~ attains 18 years of age that places or continues the placement of the juvenile in his or her home shall terminate at the end of one year after ~~its entry~~ the date on which the order is granted unless the court specifies a shorter period of time or the court terminates the order sooner. Except as provided in par. (b) or s. 938.368,

an order under this section or s. 938.357 or 938.365 made before the juvenile ~~reaches~~ attains 18 years of age that places or continues the placement of the juvenile in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent shall terminate when the juvenile ~~reaches~~ attains 18 years of age, at the end of one year after ~~its entry~~ the date on which the order is granted, or, if the juvenile is a full−time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before ~~reaching~~ attaining 19 years of age, when the juvenile ~~reaches~~ attains 19 years of age, whichever is later, unless the court specifies a shorter period of time or the court terminates the order sooner.

(b) Except as provided in s. 938.368, an order under s. 938.34 (4d) or (4m) made before the juvenile ~~reaches~~ attains 18 years of age may apply for up to 2 years after ~~its entry~~ the date on which the order is granted or until the juvenile's 18th birthday, whichever is earlier, unless the court specifies a shorter period of time or the court terminates the order sooner. If the order does not specify a termination date, it shall apply for one year after the date on which the order is granted or until the juvenile's 18th birthday, whichever is earlier, unless the court terminates the order sooner. Except as provided in s. 938.368, an order under s. 938.34 (4h) made before the juvenile ~~reaches~~ attains 18 years of age shall apply for 5 years after ~~its entry~~ the date on which the order is granted, if the juvenile is adjudicated delinquent for committing a violation of s. 943.10 (2) or for committing an act that would be punishable as a Class B or C felony if committed by an adult, or until the juvenile reaches 25 years of age, if the juvenile is adjudicated delinquent for committing an act that would be punishable as a Class A felony if committed by an adult. Except as provided in s. 938.368, an extension of an order under s. 938.34 (4d), (4h), (4m),

or (4n) made before the juvenile ~~reaches~~ attains 17 years of age shall terminate at the end of one year after ~~its entry~~ the date on which the order is granted unless the court specifies a shorter period of time or the court terminates the order sooner. No extension under s. 938.365 of an original dispositional order under s. 938.34 (4d), (4h), (4m), or (4n) may be granted for a juvenile who is 17 years of age or older when the original dispositional order terminates.

NOTE: Under current law, a dispositional order placing a juvenile in a type 2 residential care center for children and youth or in a juvenile correctional facility may apply for up to 2 years or until the juvenile's 18th birthday, whichever is earlier, unless the court specifies a shorter period of time. The bill revises s. 938.355 (4) (b), stats., to provide that an order that does not specify a termination date applies for one year or until the juvenile's 18th birthday, whichever is earlier, unless the court terminates the order sooner.

SECTION 438. 938.355 (4m) of the statutes is amended to read:

938.355 **(4m)** EXPUNGEMENT OF RECORD. (a) A juvenile who has been adjudged delinquent under s. 48.12, 1993 stats., or s. 938.12 may, on attaining 17 years of age, petition the court to expunge the court's record of the juvenile's adjudication. Subject to par. (b), the court may expunge the ~~court's~~ record ~~of the juvenile's adjudication~~ if the court determines that the juvenile has satisfactorily complied with the conditions of his or her dispositional order and that the juvenile will benefit from, and society will not be harmed by, the expungement.

(b) The court shall expunge the court's record of a juvenile's adjudication if it was the juvenile's first adjudication based on a violation of s. 942.08 (2) (b), (c), or (d), and if the court determines that the juvenile has satisfactorily complied with the conditions of his or her dispositional order. Notwithstanding s. 938.396 (2) ~~(a)~~, the court shall notify the department promptly of any expungement under this paragraph.

NOTE: Permits, in s. 938.355 (4m) (a), stats., the court to expunge a juvenile's delinquency adjudication under certain circumstances. This provision only applies to

persons who were adjudicated delinquent for violations committed on or after the effective date of ch. 938 (July 1, 1996). [*State v. Jason J.C.*, 216 Wis. 2d 12, 573 N.W.2d 564 (1997).] The bill provides that a person who was adjudicated delinquent for an offense committed before July 1, 1996 may also request to have his or her record expunged.

SECTION 439. 938.355 (6) (a) (title) of the statutes is created to read:

938.355 **(6)** (a) (title) *Juvenile court orders.*

SECTION 440. 938.355 (6) (a) of the statutes is renumbered 938.355 (6) (a) 1. and amended to read:

938.355 **(6)** (a) 1. If a juvenile who has been adjudged delinquent or to have violated a civil law or ordinance, other than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition specified in sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in par. (d)<u>. A sanction may be imposed under this subdivision only</u> if, at the dispositional hearing under s. 938.335, the court explained the conditions to the juvenile and informed the juvenile of those possible sanctions or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions.

<u>2.</u> If a juvenile who has been found to be in need of protection or services under s. 938.13 (4), (6m), (7), (12), or (14) violates a condition specified in sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions ~~specified in~~ <u>under</u> par. (d), other than placement in a ~~secure~~ <u>juvenile</u> detention facility or juvenile portion of a county jail~~,~~<u>. A sanction may be imposed under this subdivision only</u> if, at the dispositional hearing under s. 938.335, the court explained the conditions to the juvenile and informed the juvenile of those possible sanctions or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions.

SECTION 441. 938.355 (6) (an) of the statutes is amended to read:

938.355 **(6)** (an) *Municipal court orders.* 1. If a juvenile who has violated a municipal ordinance, other than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of a dispositional order imposed by the municipal court, the municipal court may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction ~~specified in~~ under par. (d) 1. or the sanction ~~specified in~~ under par. (d) 3., with monitoring by an electronic monitoring system~~,~~. A sanction may be imposed under this subdivision only if, at the time of the judgment, the municipal court explained the conditions to the juvenile and informed the juvenile of those possible sanctions for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. The petition shall contain a statement of whether the juvenile may be subject to the federal Indian ~~child welfare act~~ Child Welfare Act, 25 USC 1911 to 1963.

2. If the court assigned to exercise jurisdiction under this chapter and ch. 48 imposes the sanction ~~specified in~~ under par. (d) 1. or home detention with monitoring by an electronic monitoring system ~~as specified in~~ under par. (d) 3., on a petition described in subd. 1., ~~that~~ the court shall order the municipality of the municipal court that filed the petition to pay to the county the cost of providing the sanction imposed under par. (d) 1. or 3.

SECTION 442. 938.355 (6) (b) of the statutes is amended to read:

938.355 **(6)** (b) *Motion to impose sanction.* A motion for imposition of a sanction may be brought by the person or agency primarily responsible for the provision of dispositional services, the district attorney or corporation counsel, or the court that

entered the dispositional order. If the court initiates the motion, that court is disqualified from holding a hearing on the motion. Notice of the motion shall be given to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian, and all parties present at the original dispositional hearing. The motion shall contain a statement of whether the juvenile may be subject to the federal Indian ~~child welfare act~~ Child Welfare Act, 25 USC 1911 to 1963.

SECTION 443. 938.355 (6) (c) (title) of the statutes is created to read:

938.355 **(6)** (c) (title) *Sanction hearing.*

SECTION 444. 938.355 (6) (cm) of the statutes is amended to read:

938.355 **(6)** (cm) *Reasonable efforts finding.* The court may not order the sanction of placement in a place of nonsecure custody specified in par. (d) 1. unless the court finds that the agency primarily responsible for providing services for the juvenile has made reasonable efforts to prevent the removal of the juvenile from his or her home and that continued placement of the juvenile in his or her home is contrary to the welfare of the juvenile. These findings are not required if they were made in the dispositional order under which the juvenile is being sanctioned. The court shall make the findings ~~specified in~~ under this paragraph on a case−by−case basis based on circumstances specific to the juvenile and shall document or reference the specific information on which that finding is based in the sanction order. A sanction order that merely references this paragraph without documenting or referencing that specific information in the sanction order or an amended sanction order that retroactively corrects an earlier sanction order that does not comply with this paragraph is not sufficient to comply with this paragraph.

NOTE: Clarifies, in s. 938.355 (6) (cm), stats., that reasonable efforts findings are not required to be made if they have already been made in the dispositional order.

According to DOC and the Department of Health and Family Services (DHFS), a subsequent finding is not required.

SECTION 445. 938.355 (6) (d) (title) and (e) (title) of the statutes are created to read:

938.355 **(6)** (d) (title) *Sanctions permitted.*

(e) (title) *Contempt of court.*

SECTION 446. 938.355 (6d) (a) 1. and 2. and (b) 1. and 2. of the statutes are amended to read:

938.355 **(6d)** (a) 1. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision, if a juvenile who has been adjudged delinquent violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the juvenile in a secure detention facility or juvenile portion of a county jail that meets the standards promulgated by the department by rule or in a place of nonsecure custody designated by that person for not more than 72 hours while the alleged violation and the appropriateness of a sanction under sub. (6) are being investigated~~,~~. Short−term detention may be imposed under this subdivision only if at the dispositional hearing the court explained those conditions to the juvenile and informed the juvenile of ~~the possibility of~~ that possible placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement.

2. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision, if a juvenile who has been adjudged delinquent violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the juvenile in a secure detention facility or juvenile portion of a county jail that meets the standards promulgated by the department by rule or in a place of nonsecure custody designated by that person for not more than 72 hours as a consequence of that violation~~,~~. Short−term detention may be imposed under this subdivision only if at the dispositional hearing the court explained those conditions to the juvenile and informed the juvenile of ~~the possibility of~~ that possible placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement. A person who takes a juvenile into custody under this subdivision shall permit the juvenile to make a written or oral statement concerning the possible placement of the juvenile and the course of conduct for which the juvenile was taken into custody. A person designated by the court or county department who is employed in a supervisory position by a person authorized to provide or providing intake or dispositional services under s. 938.067 or 938.069 shall review that statement and ~~shall~~ either approve the placement, modify the terms of the placement, or order the juvenile to be released from custody.

(b) 1. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2), to any policies adopted by the county department relating to aftercare supervision administered by the county department, and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision, if a juvenile who is on aftercare supervision administered by the county department violates a condition of that supervision, the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the juvenile in a secure detention facility or juvenile portion of a county jail that meets the standards promulgated by the department by rule or in a place of nonsecure custody designated by that person for not more than 72 hours while the alleged violation and the appropriateness of revoking the juvenile's aftercare status are being investigated~~,~~. Short−term detention may be imposed under this subdivision only if at the dispositional hearing the court explained those conditions to the juvenile and informed the juvenile of that possible placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement.

2. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2), to any policies adopted by the county department relating to aftercare supervision administered by the county department, and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision, if a juvenile who is on aftercare supervision administered by the county department violates a condition

of that supervision, the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the juvenile in a secure detention facility or juvenile portion of a county jail that meets the standards promulgated by the department by rule or in a place of nonsecure custody designated by that person for not more than 72 hours as a consequence of that violation~~,~~. Short−term detention under this subdivision may be imposed only if at the dispositional hearing the court explained those conditions to the juvenile and informed the juvenile of ~~the possibility of~~ that possible placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement. A person who takes a juvenile into custody under this subdivision shall permit the juvenile to make a written or oral statement concerning the possible placement of the juvenile and the course of conduct for which the juvenile was taken into custody. A person designated by the court or the county department who is employed in a supervisory position by a person authorized to provide or providing intake or dispositional services under s. 938.067 or 938.069 shall review that statement and ~~shall~~ either approve the placement of the juvenile, modify the terms of the placement, or order the juvenile to be released from custody.

NOTE: Permits, in s. 938.355 (6d) (a) 2. and (b) 2., stats., the supervisor of a caseworker who has placed a juvenile in custody for not more than 72 hours as a consequence for a violation of a dispositional order to modify the terms of the placement. Under current law, the supervisor must either approve the placement or release the juvenile from custody.

Provides, in s. 938.355 (6d) (b) 1., that juvenile may be informed of the possibility of a sanction under this subdivision orally at the dispositional hearing.

SECTION 447. 938.355 (6d) (c) 1. and 2. and (d) of the statutes are amended to read:

938.355 **(6d)** (c) 1. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision, if a juvenile who has been found to be in need of protection or services under s. 938.13 violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the juvenile in a place of nonsecure custody designated by that person for not more than 72 hours while the alleged violation and the appropriateness of a sanction under sub. (6) or (6m) are being investigated~~,~~. Short−term detention may be imposed under this subdivision only if at the dispositional hearing the court explained those conditions to the juvenile and informed the juvenile of ~~the possibility of~~ that possible placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement.

2. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision, if a juvenile who has been found to be in need of protection or services under s. 938.13 violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 may, without a

hearing, take the juvenile into custody and place the juvenile in a place of nonsecure custody designated by that person for not more than 72 hours as a consequence of that violation~~,~~. Short−term detention may be imposed under this subdivision only if at the dispositional hearing the court explained those conditions to the juvenile and informed the juvenile of ~~the possibility of~~ that possible placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement. A person who takes a juvenile into custody under this subdivision shall permit the juvenile to make a written or oral statement concerning the possible placement of the juvenile and the course of conduct for which the juvenile was taken into custody. A person designated by the court or the county department who is employed in a supervisory position by a person authorized to provide or providing intake or dispositional services under s. 938.067 or 938.069 shall review that statement and ~~shall~~ either approve the placement, modify the terms of the placement, or order the juvenile to be released from custody.

(d) *Hearing; when required.* If a juvenile is held under par. (a), (b), or (c) in a secure detention facility, juvenile portion of a county jail, or place of nonsecure custody for longer than 72 hours, the juvenile is entitled to a hearing under sub. (6) (c) or s. 938.21. The hearing shall be conducted in the manner provided in sub. (6) or s. 938.21, except that ~~for a hearing under~~, notwithstanding s. 938.21 (1) (a), the hearing shall be conducted within 72 hours, rather than 24 hours, after the time that the decision to hold the juvenile was made and a written statement of the reasons for continuing to hold the juvenile in custody may be filed ~~rather than~~ instead of a petition under s. 938.25.

NOTE: For an explanation of the change to s. 938.355 (6d) (c) 2., stats., see NOTE to s. 938.355 (6d) (a) 2., stats., as affected by this bill.

SECTION 448. 938.355 (6g) (a) and (b) (intro.) of the statutes are amended to read:

938.355 **(6g)** (a) If a juvenile upon whom the court has imposed a sanction under sub. (6) (a) or (6m) commits a 2nd or subsequent violation of a condition specified in sub. (2) (b) 7., the district attorney may file a petition under s. 938.12 charging the juvenile with contempt of court, as defined in s. 785.01 (1), and reciting the recommended disposition under s. 938.34 ~~sought to be imposed~~. The district attorney may ~~bring the motion~~ file the petition on his or her own initiative or on the request of the court that imposed the condition specified in sub. (2) (b) 7. or that imposed the sanction under sub. (6) (a) or (6m). If the district attorney ~~brings the motion~~ files the petition on the request of the court that imposed the condition specified in sub. (2) (b) 7. or that imposed the sanction under sub. (6) (a) or (6m), that court is disqualified from holding ~~any~~ a hearing on the contempt petition.

(b) (intro.) The court may find a juvenile in contempt of court, as defined in s. 785.01 (1), and order a disposition under s. 938.34 ~~only~~ if the court makes all of the following findings:

NOTE: In s. 938.355 (6g) (a), stats., makes consistent the references to petitions and motions by referring only to petitions.

SECTION 449. 938.355 (6m) (a) (intro.), (ag) and (am) of the statutes are amended to read:

938.355 **(6m)** (a) *Violation of habitual truancy order.* (intro.) If the court finds by a preponderance of the evidence that a juvenile who has been found to have violated a municipal ordinance enacted under s. 118.163 (2) or who has been found to be in need of protection or services under s. 938.13 (6) has violated a condition

specified under sub. (2) (b) 7., the court may order as a sanction any combination of the sanctions ~~specified in~~ under subds.1g. to 4. and the dispositions ~~specified in~~ under s. 938.342 (1g) (d) to (j) and (1m), regardless of whether the disposition was imposed in the order violated by the juvenile~~,~~. A sanction may be imposed under this paragraph only if at the dispositional hearing under s. 938.335 the court explained those conditions to the juvenile and informed the juvenile of the possible sanctions under this paragraph for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. The court may order as a sanction under this paragraph any of the following:

(ag) *Violation of truancy order.* If the court finds by a preponderance of the evidence that a juvenile who has been found to have violated a municipal ordinance enacted under s. 118.163 (1m) has violated a condition specified under sub. (2) (b) 7., the court may order as a sanction any combination of the operating privilege suspension specified in par. (a) and the dispositions specified in s. 938.342 (1g) (b) to (k) and (1m), regardless of whether the disposition was imposed in the order violated by the juvenile~~,~~. A sanction may be imposed under this paragraph only if at the dispositional hearing under s. 938.335 the court explained those conditions to the juvenile and informed the juvenile of the possible sanctions under this paragraph for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions.

(am) *Violation of municipal court order.* 1. If a juvenile who has violated a municipal ordinance enacted under s. 118.163 (2) violates a condition of a

dispositional order imposed by the municipal court, the municipal court may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction specified in par. (a) 1g. A sanction may be imposed under this subdivision only if, at the time of the judgment the municipal court explained the conditions to the juvenile and informed the juvenile of that possible sanction ~~for a violation~~ or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible sanction and that he or she understands those conditions and that possible sanction. The petition shall contain a statement of whether the juvenile may be subject to the federal Indian ~~child welfare act~~ Child Welfare Act, 25 USC 1911 to 1963.

2. If the court assigned to exercise jurisdiction under this chapter and ch. 48 imposes the sanction ~~specified in~~ under par. (a) 1g. on a petition ~~described in~~ under subd. 1., ~~that~~ the court shall order the municipality of the municipal court that filed the petition to pay to the county the cost of providing the sanction imposed under par. (a) 1g.

SECTION 450. 938.355 (6m) (b) (title) of the statutes is created to read:

938.355 **(6m)** (b) (title) *Motion for sanction.*

SECTION 451. 938.355 (6m) (c) (title) of the statutes is created to read:

938.355 **(6m)** (c) (title) *Sanction hearing.*

SECTION 452. 938.355 (6m) (cm) of the statutes is amended to read:

938.355 **(6m)** (cm) *Reasonable efforts finding.* The court may not order the sanction of placement in a place of nonsecure custody ~~specified in~~ under par. (a) 1g. unless the court finds that the agency primarily responsible for providing services for the juvenile has made reasonable efforts to prevent the removal of the juvenile from his or her home and that continued placement of the juvenile in his or her home

is contrary to the welfare of the juvenile. The court shall make the findings ~~specified in~~ under this paragraph on a case−by−case basis based on circumstances specific to the juvenile and shall document or reference the specific information on which that finding is based in the sanction order. A sanction order that merely references this paragraph without documenting or referencing that specific information in the sanction order or an amended sanction order that retroactively corrects an earlier sanction order that does not comply with this paragraph is not sufficient to comply with this paragraph.

SECTION 453. 938.355 (7) of the statutes is amended to read:

938.355 **(7)** ORDERS APPLICABLE TO PARENTS, GUARDIANS, LEGAL CUSTODIANS, AND OTHER ADULTS. In addition to any dispositional order entered under s. 938.34 or 938.345, the court may enter an order applicable to a juvenile's parent, guardian, or legal custodian or to another adult, as provided under s. 938.45.

SECTION 454. 938.356 (1) (title) and (2) (title) of the statutes are created to read:

938.356 **(1)** (title) ORAL WARNING.

(2) (title) WRITTEN WARNING.

SECTION 455. 938.357 (1) (title) and (a) (title) of the statutes are created to read:

938.357 **(1)** (title) REQUEST BY PERSON OR AGENCY RESPONSIBLE FOR DISPOSITIONAL ORDER OR DISTRICT ATTORNEY. (a) (title) *Applicable procedures.*

SECTION 456. 938.357 (1) (am) (title) of the statutes is created to read:

938.357 **(1)** (am) (title) *From out−of−home placement.*

SECTION 457. 938.357 (1) (am) 1. and 3. of the statutes are amended to read:

938.357 **(1)** (am) 1. If the proposed change in placement involves any change in placement other than a change in placement ~~specified in~~ under par. (c), the person or agency primarily responsible for implementing the dispositional order or the

district attorney shall cause written notice of the proposed change in placement to be sent to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile. The notice shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement, and a statement of how the new placement satisfies objectives of the treatment plan ordered by the court.

3. If the court changes the juvenile's placement from a placement outside the home to another placement outside the home, the change in placement order shall contain one of the statements ~~specified in~~ under sub. (2v) (a) 2.

SECTION 458. 938.357 (1) (c) and (2) of the statutes are amended to read:

938.357 **(1)** (c) *From placement in the home.* 1. If the proposed change in placement would change the placement of a juvenile placed in the home to a placement outside the home, the person or agency primarily responsible for implementing the dispositional order or the district attorney shall submit a request for the change in placement to the court. The request shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement, and a statement of how the new placement satisfies objectives of the treatment plan ordered by the court. The request shall also contain specific information showing that continued placement of the juvenile in his or her home would be contrary to the welfare of the juvenile and, unless any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies, specific information showing that the agency primarily responsible for implementing the dispositional order has made reasonable

efforts to prevent the removal of the juvenile from the home, while assuring that the juvenile's health and safety are the paramount concerns.

2. The court shall hold a hearing prior to ordering ~~any~~ a change in placement requested under subd. 1. ~~Not less than~~ At least 3 days prior to the hearing, the court shall provide notice of the hearing, together with a copy of the request for the change in placement, to the juvenile, the parent, guardian, and legal custodian of the juvenile, and all parties that are bound by the dispositional order. If all parties consent, the court may proceed immediately with the hearing.

3. If the court changes the juvenile's placement from a placement in the juvenile's home to a placement outside the juvenile's home, the change in placement order shall contain the findings ~~specified in~~ under sub. (2v) (a) 1., one of the statements ~~specified in~~ under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the determination ~~specified in~~ under sub. (2v) (a) 3.

(2) EMERGENCY CHANGE IN PLACEMENT. If emergency conditions necessitate an immediate change in the placement of a juvenile placed outside the home, the person or agency primarily responsible for implementing the dispositional order may remove the juvenile to a new placement, whether or not authorized by the existing dispositional order, without the prior notice ~~provided in~~ under sub. (1) (am) 1. The notice shall~~, however,~~ be sent within 48 hours after the emergency change in placement. Any party receiving notice may demand a hearing under sub. (1) (am) 2. In emergency situations, a juvenile may be placed in a licensed public or private shelter care facility as a transitional placement for not more than 20 days~~, as well as~~ or in any placement authorized under s. 938.34 (3).

SECTION 459. 938.357 (2m) and (2r) of the statutes are amended to read:

938.357 **(2m)** REQUESTS BY OTHERS. (a) *Request; information required.* The juvenile, the parent, guardian, or legal custodian of the juvenile, or any person or agency primarily bound by the dispositional order, other than the person or agency responsible for implementing the order, may request a change in placement under this paragraph. The request shall contain the name and address of the new placement requested and shall state what new information is available that affects the advisability of the current placement. If the proposed change in placement would change the placement of a juvenile placed in the home to a placement outside the home, the request shall also contain specific information showing that continued placement of the juvenile in the home would be contrary to the welfare of the juvenile and, unless any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies, specific information showing that the agency primarily responsible for implementing the dispositional order has made reasonable efforts to prevent the removal of the juvenile from the home, while assuring that the juvenile's health and safety are the paramount concerns. The request shall be submitted to the court. ~~In addition, the~~ The court may also propose a change in placement on its own motion.

(b) *Hearing; when required.* The court shall hold a hearing ~~on the matter~~ prior to ordering any change in placement requested or proposed under par. (a) if the request states that new information is available that affects the advisability of the current placement~~, unless~~. A hearing is not required if the requested or proposed change in placement ~~involves any change in placement other than~~ does not involve a change in placement of a juvenile placed in the home to a placement outside the home ~~and~~, written waivers of objection to the proposed change in placement are signed by all parties entitled to receive notice under sub. (1) (am) 1., and the court approves. If a hearing is scheduled, the court shall notify the juvenile, the parent,

guardian, and legal custodian of the juvenile, any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile, and all parties who are bound by the dispositional order at least 3 days prior to the hearing. A copy of the request or proposal for the change in placement shall be attached to the notice. If all of the parties consent, the court may proceed immediately with the hearing.

(c) *In−home to out−of−home placement; findings required.* If the court changes the juvenile's placement from a placement in the juvenile's home to a placement outside the juvenile's home, the change in placement order shall contain the findings ~~specified in~~ under sub. (2v) (a) 1., one of the statements ~~specified in~~ under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the determination ~~specified in~~ under sub. (2v) (a) 3.

(2r) REMOVAL FROM FOSTER HOME OR PHYSICAL CUSTODIAN. If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the change in placement would remove a juvenile from a foster home, treatment foster home, or other placement with a physical custodian described in s. 48.62 (2), the court shall give the foster parent, treatment foster parent, or other physical custodian ~~described in s. 48.62 (2)~~ an opportunity to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing or to submit a written statement prior to the hearing relating to the juvenile and the requested change in placement. A foster parent, treatment foster parent, or other physical custodian ~~described in s. 48.62 (2)~~ who receives notice of a hearing under sub. (1) (am) 1. or (2m) (b) and an opportunity to be heard under this

subsection does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and opportunity to be heard.

SECTION 460. 938.357 (2v) (title) and (a) (title) of the statutes are created to read:

938.357 **(2v)** (title) CHANGE–IN–PLACEMENT ORDER. (a) (title) *Contents of order.*

SECTION 461. 938.357 (2v) (a) 1., 2. and 3. and (b) of the statutes are amended to read:

938.357 **(2v)** (a) 1. If the court changes the juvenile's placement from a placement in the juvenile's home to a placement outside the juvenile's home, a finding that continued placement of the juvenile in his or her home would be contrary to the welfare of the juvenile and, unless a circumstance ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies, a finding that the agency primarily responsible for implementing the dispositional order has made reasonable efforts to prevent the removal of the juvenile from the home, while assuring that the juvenile's health and safety are the paramount concerns.

2. If the change in placement order would change the placement of the juvenile to a placement outside the home recommended by the person or agency primarily responsible for implementing the dispositional order, whether from a placement in the home or from another placement outside the home, a statement that the court approves the placement recommended by the person or agency ~~or, if~~. If the change in placement order would change the placement of the juvenile to a placement outside the home that is not a placement recommended by that person or agency, whether from a placement in the home or from another placement outside the home, a statement that the court has given bona fide consideration to the recommendations made by that person or agency and all parties relating to the juvenile's placement.

3. If the court finds that any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, a determination that the agency primarily responsible for providing services under the change in placement order is not required to make reasonable efforts with respect to the parent to make it possible for the juvenile to return safely to his or her home.

(b) *Documentation of basis of findings.* The court shall make the findings ~~specified in~~ under par. (a) 1. and 3. on a case−by−case basis based on circumstances specific to the juvenile and shall document or reference the specific information on which those findings are based in the change in placement order. A change in placement order that merely references par. (a) 1. or 3. without documenting or referencing that specific information in the change in placement order or an amended change in placement order that retroactively corrects an earlier change in placement order that does not comply with this paragraph is not sufficient to comply with this paragraph.

SECTION 462. 938.357 (2v) (c) (title) of the statutes is created to read:

938.357 **(2v)** (c) (title) *Permanency plan hearing.*

SECTION 463. 938.357 (2v) (c) 1. of the statutes is amended to read:

938.357 **(2v)** (c) 1. If the court finds under par. (a) 3. that any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing within 30 days after the date of that finding to determine the permanency plan for the juvenile. If a hearing is held under this paragraph, the agency responsible for preparing the permanency plan shall file the permanency plan with the court ~~not less than~~ at least 5 days before the date of the hearing.

SECTION 464. 938.357 (3) of the statutes is amended to read:

938.357 **(3)** PLACEMENT IN JUVENILE CORRECTIONAL FACILITY. Subject to subs. (4) (b) and (c) and (5) (e), if the proposed change in placement would involve placing a juvenile in a ~~secured~~ juvenile correctional facility~~, a secured child caring institution,~~ or a secured ~~group home~~ residential care center for children and youth, notice shall be given as provided in sub. (1) (am) 1. A hearing shall be held, unless waived by the juvenile, parent, guardian, and legal custodian, before the ~~judge~~ court makes a decision on the request. The juvenile ~~shall be~~ is entitled to counsel at the hearing, and any party opposing or favoring the proposed new placement may present relevant evidence and cross−examine witnesses. The proposed new placement may be approved only if the ~~judge~~ court finds, on the record, that the conditions set forth in s. 938.34 (4m) have been met.

SECTION 465. 938.357 (4) (title) of the statutes is created to read:

938.357 **(4)** (title) PLACEMENT WITH DEPARTMENT.

SECTION 466. 938.357 (4) (a) and (b) 1., 2. and 3. of the statutes are amended to read:

938.357 **(4)** (a) When the juvenile is placed with the department, the department may, after an examination under s. 938.50, place the juvenile in a ~~secured~~ juvenile correctional facility or a secured ~~child caring institution~~ residential care center for children and youth or on aftercare supervision, either immediately or after a period of placement in a ~~secured~~ juvenile correctional facility or a secured ~~child caring institution~~ residential care center for children and youth. The department shall send written notice of the change in placement to the parent, guardian, legal custodian, county department designated under s. 938.34 (4n), if any, and committing court. If the department places a juvenile in a Type 2 ~~secured~~ juvenile correctional facility operated by a child welfare agency, the department shall

reimburse the child welfare agency at the rate established under s. 46.037 that is applicable to the type of placement that the child welfare agency is providing for the juvenile. A juvenile who is placed in a Type 2 ~~secured~~ juvenile correctional facility or a secured ~~child caring institution~~ residential care center for children and youth remains under the supervision of the department, remains subject to the rules and discipline of that department, and is considered to be in custody, as defined in s. 946.42 (1) (a).

(b) 1. If a juvenile whom the department has placed in a Type 2 ~~secured~~ juvenile correctional facility operated by a child welfare agency violates a condition of his or her placement in the Type 2 ~~secured~~ juvenile correctional facility, the child welfare agency operating the Type 2 ~~secured~~ juvenile correctional facility shall notify the department and the department, after consulting with the child welfare agency, may place the juvenile in a Type 1 ~~secured~~ juvenile correctional facility under the supervision of the department, without a hearing under sub. (1) (am) 2.

2. If a juvenile whom the court has placed in a Type 2 ~~child caring institution~~ residential care center for children and youth under s. 938.34 (4d) violates a condition of his or her placement in the Type 2 ~~child caring institution~~ residential care center for children and youth, the child welfare agency operating the Type 2 ~~child caring institution~~ residential care center for children and youth shall notify the county department that has supervision over the juvenile and, if the county department agrees to a change in placement under this subdivision, the child welfare agency shall notify the department, and the department, after consulting with the child welfare agency, may place the juvenile in a Type 1 ~~secured~~ juvenile correctional facility under the supervision of the department, without a hearing under sub. (1) (am) 2., for not more than 10 days. If a juvenile is placed in a Type 1 ~~secured~~ juvenile

correctional facility under this subdivision, the county department that has supervision over the juvenile shall reimburse the child welfare agency operating the Type 2 ~~child caring institution~~ residential care center for children and youth in which the juvenile was placed at the rate established under s. 46.037, and that child welfare agency shall reimburse the department at the rate specified in s. 301.26 (4) (d) 2. or 3., whichever is applicable, for the cost of the juvenile's care while placed in a Type 1 ~~secured~~ juvenile correctional facility.

3. The child welfare agency operating the Type 2 ~~secured~~ juvenile correctional facility or Type 2 ~~child caring institution~~ residential care center for children and youth shall send written notice of a change in placement under subd. 1. or 2. to the parent, guardian, legal custodian, county department, and committing court.

SECTION 467. 938.357 (4) (c) 1., 2. and 3. of the statutes are amended to read:

938.357 **(4)** (c) 1. If a juvenile is placed in a Type 2 ~~secured~~ juvenile correctional facility operated by a child welfare agency under par. (a) and it appears that a less restrictive placement would be appropriate for the juvenile, the department, after consulting with the child welfare agency that is operating the Type 2 ~~secured~~ juvenile correctional facility ~~in which the juvenile is placed~~, may place the juvenile in a less restrictive placement, and may return the juvenile to the Type 2 ~~secured~~ juvenile correctional facility without a hearing under sub. (1) (am) 2. The child welfare agency shall establish a rate for each type of placement in the manner provided in s. 46.037.

2. If a juvenile is placed in a Type 2 ~~child caring institution~~ residential care center for children and youth under s. 938.34 (4d) and it appears that a less restrictive placement would be appropriate for the juvenile, the child welfare agency operating the Type 2 ~~child caring institution~~ residential care center for children and

youth shall notify the county department that has supervision over the juvenile and, if the county department agrees to a change in placement under this subdivision, the child welfare agency may place the juvenile in a less restrictive placement. A child welfare agency may also, with the agreement of the county department that has supervision over a juvenile who is placed in a less restrictive placement under this subdivision, return the juvenile to the Type 2 ~~child caring institution~~ residential care center for children and youth without a hearing under sub. (1) (am) 2. The child welfare agency shall establish a rate for each type of placement in the manner provided in s. 46.037.

3. The child welfare agency operating the Type 2 ~~secured~~ juvenile correctional facility or Type 2 ~~child caring institution~~ residential care center for children and youth shall send written notice of a change in placement under subd. 1. or 2. to the parent, guardian, legal custodian, county department, and committing court.

SECTION 468. 938.357 (4) (d) of the statutes is repealed.

NOTE: Repeals s. 938.357 (4) (d), stats., which permits a juvenile who was adjudicated delinquent to be transferred to an adult correctional facility.

In *State of Wisconsin v. Hezzie R.*, 219 Wis. 2d 849 (1998), the Wisconsin Supreme Court held that subjecting a juvenile who has no right to a trial by jury under the Juvenile Justice Code to placement in an adult prison violates the juvenile's constitutional right to a trial by jury because placement in an adult prison constitutes criminal punishment rather than juvenile rehabilitation. Accordingly, this bill eliminates the authority of the DOC to transfer a juvenile who has been adjudicated delinquent to an adult prison, including the Intensive Sanctions Program, which is defined in the statutes as a state prison. This change is reflected: (1) in various provisions in the Juvenile Justice Code [ss. 938.183 (3), 938.538 (3) (a) 1., 1m., and 2., (4) (a), (5) (c), and (6), and 938.992 (3)]; and (2) in other provisions affected by this change that are outside of the Juvenile Justice Code.

SECTION 469. 938.357 (4d) (title) of the statutes is created to read:

938.357 **(4d)** (title) PROHIBITED PLACEMENTS BASED ON HOMICIDE OF PARENT.

SECTION 470. 938.357 (4d) (a) and (am) of the statutes are amended to read:

938.357 **(4d)** (a) Except as provided in par. (b), the court may not change a juvenile's placement to a placement in the home of a person who has been convicted ~~under s. 940.01 of the first−degree intentional homicide, or under s. 940.05 of the 2nd−degree intentional~~ of the homicide~~,~~ of a parent of the juvenile under s. 940.01 or 940.05, if the conviction has not been reversed, set aside, or vacated.

(am) Except as provided in par. (b), if a parent in whose home a juvenile is placed is convicted ~~under s. 940.01 of the first−degree intentional homicide, or under s. 940.05 of the 2nd−degree intentional~~ of the homicide~~,~~ of the juvenile's other parent under s. 940.01 or 940.05, and the conviction has not been reversed, set aside, or vacated, the court shall change the juvenile's placement to a placement out of the home of the parent on petition of the juvenile, the guardian or legal custodian of the juvenile, a person or agency bound by the dispositional order, or the district attorney or corporation counsel of the county in which the dispositional order was entered, or on the court's own motion~~, and on~~ with notice to the parent.

SECTION 471. 938.357 (4g) (title) of the statutes is created to read:

938.357 **(4g)** (title) AFTERCARE PLAN.

SECTION 472. 938.357 (4g) (a), (b), (c) (intro.) and (d) of the statutes are amended to read:

938.357 **(4g)** (a) Not later than 120 days after the date on which the juvenile is placed in a ~~secured~~ juvenile correctional facility~~, a secured child caring institution~~ or a secured ~~group home~~ residential care center for children and youth, or within 30 days after the date on which the department requests the aftercare plan, whichever is earlier, the aftercare provider designated under s. 938.34 (4n) shall prepare an aftercare plan for the juvenile. If the designated aftercare provider ~~designated under s. 938.34 (4n)~~ is a county department, that county department shall submit the

aftercare plan to the department within the time limits specified in this paragraph, unless the department waives those time limits under par. (b).

(b) The department may waive the time period within which an aftercare plan must be prepared and submitted under par. (a) if the department anticipates that the juvenile will remain in the ~~secured~~ juvenile correctional facility~~, secured child caring institution~~ or secured ~~group home~~ residential care center for children and youth for a period exceeding 8 months or if the juvenile is subject to s. 48.366 or 938.183. If the department waives that time period, the designated aftercare provider ~~designated under s. 938.34 (4n)~~ shall prepare the aftercare plan within 30 days after the date on which the department requests the aftercare plan.

(c) (intro.) An aftercare plan ~~prepared under par. (a) or (b)~~ shall include all of the following:

(d) A juvenile may be released from a ~~secured~~ juvenile correctional facility~~, a secured child caring institution~~ or a secured ~~group home~~ residential care center for children and youth whether or not an aftercare plan has been prepared under this subsection.

SECTION 473. 938.357 (4m) (title) and (5) (title) of the statutes are created to read:

938.357 **(4m)** (title) RELEASE TO AFTERCARE SUPERVISION.

(5) (title) REVOCATION OF AFTERCARE SUPERVISION.

SECTION 474. 938.357 (5) (a), (c), (d), (e) and (f) of the statutes are amended to read:

938.357 **(5)** (a) The department or a county department, whichever has been designated as a juvenile's aftercare provider ~~under s. 938.34 (4n)~~, may revoke the aftercare status of that juvenile. ~~Revocation of aftercare supervision shall not~~

~~require prior~~ Prior notice of a change in placement under sub. (1) (am) 1. is not required.

(c) The juvenile ~~shall be~~ is entitled to representation by counsel at all stages of the revocation proceeding.

(d) A hearing on the revocation shall be conducted by the division of hearings and appeals in the department of administration within 30 days after the juvenile is taken into custody for an alleged violation of ~~the conditions~~ a condition of the juvenile's aftercare supervision. This time limit may be waived only upon the agreement of the aftercare provider, the juvenile, and the juvenile's counsel.

(e) If the hearing examiner finds that the juvenile has violated a condition of aftercare supervision, the hearing examiner shall determine whether confinement in a ~~secured~~ juvenile correctional facility~~, a secured child caring institution~~ or a secured ~~group home~~ residential care center for children and youth is necessary to protect the public, to provide for the juvenile's rehabilitation, or to not depreciate the seriousness of the violation.

(f) Review of a revocation decision shall be by certiorari to the court ~~by whose order the juvenile was~~ that placed the juvenile in ~~a secured~~ the juvenile correctional facility~~, a secured child caring institution or a~~ or secured ~~group home~~ residential care center for children and youth.

SECTION 475. 938.357 (5m) (title) of the statutes is created to read:

938.357 **(5m)** (title) CHILD SUPPORT.

SECTION 476. 938.357 (5m) (a) and (b) of the statutes are amended to read:

938.357 **(5m)** (a) If a proposed change in placement ~~changes~~ would change a juvenile's placement from a placement in the juvenile's home to a placement outside the juvenile's home, the court shall order the juvenile's parent to provide a statement

of the income, assets, debts, and living expenses of the juvenile and the juvenile's parent to the court or the person or agency primarily responsible for implementing the dispositional order by a date specified by the court. The clerk of court shall provide, without charge, to any parent ordered to provide ~~a~~ that statement ~~of income, assets, debts and living expenses~~ a document setting forth the percentage standard established by the department of workforce development under s. 49.22 (9) and listing the factors ~~that a court may consider~~ under s. 301.12 (14) (c). If the juvenile is placed outside the juvenile's home, the court shall determine the liability of the parent in the manner provided in s. 301.12 (14).

(b) If the court orders the juvenile's parent to provide a statement of the income, assets, debts, and living expenses of the juvenile and juvenile's parent to the court or if the court orders the juvenile's parent to provide that statement to the person or agency primarily responsible for implementing the dispositional order and that person or agency is not the county department, the court shall also order the juvenile's parent to provide that statement to the county department by a date specified by the court. The county department shall provide, without charge, to the parent a form on which to provide that statement, and the parent shall provide that statement on that form. The county department shall use the information provided in the statement to determine whether the department may claim federal foster care and adoption assistance reimbursement under 42 USC 670 to 679a for the cost of providing care for the juvenile.

NOTE: See the NOTE to s. 938.30 (6) (b) and (c), stats., as affected by this bill.

SECTION 477. 938.357 (6) of the statutes is amended to read:

938.357 **(6)** DURATION OF ORDER. No change in placement may extend the expiration date of the original order, except that if the change in placement is from

a placement in the juvenile's home to a placement in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative who is not a parent, the court may extend the expiration date of the original order to the date on which the juvenile ~~reaches~~ attains 18 years of age, to the date that is one year after the date of the change in placement order, or, if the juvenile is a full−time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before ~~reaching~~ attaining 19 years of age, to the date on which the juvenile ~~reaches~~ attains 19 years of age, whichever is later, or for a shorter period of time as specified by the court. If the change in placement is from a placement in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative to a placement in the juvenile's home and if the expiration date of the original order is more than one year after the date of the change in placement order, the court shall shorten the expiration date of the original order to the date that is one year after the date of the change in placement order or to an earlier date as specified by the court.

SECTION 478. 938.36 (1) (title) of the statutes is created to read:

938.36 **(1)** (title) RESIDENTIAL SERVICES; PARENTAL DUTY TO SUPPORT.

SECTION 479. 938.36 (1) (b) of the statutes is amended to read:

938.36 **(1)** (b) In determining the amount of support under par. (a), the court may consider all relevant financial information or other information relevant to the parent's earning capacity, including information reported under s. 49.22 (2m) to the department of workforce development, or the county child support agency, under s. 59.53 (5). If the court has insufficient information with which to determine the amount of support, the court shall order the juvenile's parent to furnish a statement

of the income, assets, debts, and living expenses of the juvenile and the juvenile's parent, if the parent has not already done so, to the court within 10 days after the court's order transferring custody or designating an alternative placement is entered or at such other time as ordered by the court.

NOTE: See the NOTE to s. 938.30 (6) (b) and (c), stats., as affected by this bill.

SECTION 480. 938.36 (2) of the statutes is amended to read:

938.36 **(2)** SERVICES OR TREATMENT; COUNTY PAYMENT; PARENTAL CONTRIBUTION. If a juvenile whose legal custody has not been taken from a parent or guardian is given educational and social services, or medical, psychological, or psychiatric treatment by order of the court, the ~~cost thereof, if ordered by the court, shall be a charge upon~~ court may order the county to pay for those services or treatment. This section does not prevent recovery of reasonable contribution toward the costs from the parent or guardian of the juvenile as the court may order based on the ability of the parent or guardian to pay. This subsection is subject to s. 301.03 (18).

SECTION 481. 938.36 (3) (title) of the statutes is created to read:

938.36 **(3)** (title) SERVICES PROVIDED BY SCHOOL DISTRICT.

SECTION 482. 938.361 (1) (title) and (2) (title) of the statutes are created to read:

938.361 **(1)** (title) DEFINITIONS.

(2) (title) PAYMENT BY PARENT OR INSURER.

SECTION 483. 938.361 (2) (a) 2. of the statutes is amended to read:

938.361 **(2)** (a) 2. This paragraph applies to payment for alcohol and other drug abuse services in any county, ~~regardless of whether the county is a~~ including pilot ~~county~~ counties under s. 938.547.

SECTION 484. 938.361 (2) (am), (b) and (c) of the statutes are amended to read:

938.361 **(2)** (am) 1. If a court assigned to exercise jurisdiction under this chapter and ch. 48 in a pilot county ~~that has a pilot program~~ under s. 938.547 finds that payment ~~is not attainable~~ cannot be attained under par. (a), the court may order payment ~~in accordance with~~ under par. (b).

2. If a court assigned to exercise jurisdiction under this chapter and ch. 48 in a county that ~~does not have~~ is not a pilot ~~program~~ county under s. 938.547 finds that payment ~~is not attainable~~ cannot be attained under par. (a), the court may order payment ~~in accordance with~~ under s. 938.34 (6) (ar) or 938.36.

3. If a municipal court finds that payment ~~is not attainable~~ cannot be attained under par. (a), the municipal court may order the municipality over which the municipal court has jurisdiction to pay for any alcohol and other drug abuse services ordered by the municipal court.

(b) 1. In ~~counties that have a~~ pilot ~~program~~ counties under s. 938.547, in addition to ~~using the alternative provided for~~ ordering payment under par. (a), the court assigned to exercise jurisdiction under this chapter and ch. 48 may order a county department of human services established under s. 46.23 or a county department established under s. 51.42 or 51.437 in the juvenile's county of legal residence to pay for the alcohol and other drug abuse services whether or not custody has been taken from the parent.

2. If a ~~judge~~ court orders a county department established under s. 51.42 or 51.437 to provide alcohol and other drug abuse services under this paragraph, the provision of the ~~alcohol and other drug abuse services shall be~~ service is subject to conditions specified in ch. 51.

(c) Payment for alcohol and other drug abuse services by a county department or municipality under this section does not prohibit the county department or

municipality from contracting with another county department, municipality, school district, or approved treatment facility for the provision of alcohol and other drug abuse services. Payment by the county or municipality under this section does not prevent recovery of reasonable contribution toward the costs of the court−ordered alcohol and other drug abuse services from the parent ~~which is~~ based upon the ability of the parent to pay. This subsection is subject to s. 46.03 (18).

SECTION 485. 938.362 (1) (title) and (2) (title) of the statutes are created to read:

938.362 **(1)** (title) DEFINITION.

(2) (title) APPLICABILITY.

SECTION 486. 938.362 (3) of the statutes is amended to read:

938.362 **(3)** PAYMENT BY PARENT OR INSURER. If a juvenile's parent neglects, refuses, or is unable to provide court−ordered special treatment or care for the juvenile through his or her health insurance or other 3rd−party payments, notwithstanding s. 938.36 (3), the court may order the parent to pay for the court−ordered special treatment or care. If the parent consents to provide court−ordered special treatment or care for a juvenile through his or her health insurance or other 3rd−party payments but the health insurance provider or other 3rd−party payer refuses to provide the ~~court−ordered~~ special treatment or care, the court may order the health insurance provider or 3rd−party payer to pay for the ~~court−ordered~~ special treatment or care in accordance with the terms of the parent's health insurance policy or other 3rd−party payment plan.

SECTION 487. 938.362 (4) (title) of the statutes is created to read:

938.362 **(4)** (title) PAYMENT BY COUNTY DEPARTMENT.

SECTION 488. 938.362 (4) (a) of the statutes is amended to read:

938.362 **(4)** (a) If the court finds that payment ~~is not attainable~~ cannot be attained under sub. (3), the court may order the county department under s. 51.42 or 51.437 of the juvenile's county of legal residence to pay the cost of any court−ordered special treatment or care that is provided ~~by or~~ directly by or under contract with ~~that~~ the county department.

SECTION 489. 938.363 of the statutes is amended to read:

938.363 Revision of dispositional orders. (1) REQUESTS FOR REVISION. (a) A juvenile, the juvenile's parent, guardian, or legal custodian, any person or agency bound by a dispositional order, or the district attorney or corporation counsel in the county in which the dispositional order was entered may request a revision in the order that does not involve a change in placement, including a revision with respect to the amount of child support to be paid by a parent~~, or the~~. The court may ~~on its own motion~~ also propose ~~such~~ a revision. The request or court proposal shall set forth in detail the nature of the proposed revision and what new information is available that affects the advisability of the court's disposition. The request or court proposal shall be submitted to the court. The court shall hold a hearing on the matter prior to any revision of the dispositional order if the request or court proposal indicates that new information is available that affects the advisability of the court's dispositional order, unless written waivers of objections to the revision are signed by all parties entitled to receive notice and the court approves.

(b) If a hearing is held, the court shall notify the juvenile, the juvenile's parent, guardian, and legal custodian, all parties bound by the dispositional order, the juvenile's foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2), and the district attorney or corporation counsel in the county in which the dispositional order was entered at least 3 days prior to the hearing. A

copy of the request or proposal shall be attached to the notice. If all parties consent, the court may proceed immediately with the hearing. No revision may extend the effective period of the original order, or revise an original order under s. 938.34 (3) (f) or (6) (am) to impose more than a total of 30 days of detention, nonsecure custody, or inpatient treatment on a juvenile.

(c) If the proposed revision is for a change in the amount of child support to be paid by a parent, the court shall order the juvenile's parent to provide a statement of the income, assets, debts, and living expenses of the juvenile and the juvenile's parent to the court and the person or agency primarily responsible for implementing the dispositional order by a date specified by the court. The clerk of court shall provide, without charge, to any parent ordered to provide ~~a~~ that statement ~~of income, assets, debts, and living expenses~~ a document setting forth the percentage standard established by the department of workforce development under s. 49.22 (9) and listing the factors that a court may consider under s. 301.12 (14) (c).

(d) If the court orders the juvenile's parent to provide a statement of the income, assets, debts, and living expenses of the juvenile and the juvenile's parent to the court or if the court orders the juvenile's parent to provide that statement to the person or agency primarily responsible for implementing the dispositional order and that person or agency is not the county department, the court shall also order the juvenile's parent to provide that statement to the county department by a date specified by the court. The county department shall provide, without charge, to the parent a form on which to provide that statement, and the parent shall provide that statement on that form. The county department shall use the information provided in the statement to determine whether the department may claim federal foster care

and adoption assistance reimbursement under 42 USC 670 to 679a for the cost of providing care for the juvenile.

(1m) EVIDENCE AND STATEMENTS. If a hearing is held under sub. (1) (a), any party may present evidence relevant to the issue of revision of the dispositional order. In addition, the court shall give a foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile an opportunity to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issue of revision. A foster parent, treatment foster parent, or other physical custodian ~~described in s. 48.62 (2)~~ who receives notice of a hearing under sub. (1) (a) and an opportunity to be heard under this subsection does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and opportunity to be heard.

(2) REVISION OF SUPPORT. If the court revises ~~a dispositional order with respect to~~ the amount of child support to be paid by a parent under the dispositional order for the care and maintenance of the parent's ~~minor~~ juvenile who has been placed by a court order under this chapter in a residential, nonmedical facility, the court shall determine the liability of the parent ~~in the manner provided in~~ under s. 301.12 (14).

NOTE: For an explanation of the change to s. 938.363 (1) (d), stats., see the NOTE to s. 938.30 (6) (b) and (c), stats., as affected by this bill.

SECTION 490. 938.364 of the statutes is amended to read:

938.364 Dismissal of certain dispositional orders. A juvenile, the juvenile's parent, guardian, or legal custodian, or the district attorney or corporation counsel in the county in which the dispositional order was entered may request ~~a~~

~~judge~~ the court to dismiss an order ~~made~~ under s. 938.342 (2) if the juvenile shows documentary proof that he or she is enrolled in a school program or a high school equivalency program~~, or the~~. The court may ~~on its own motion~~ also propose such a dismissal.

SECTION 491. 938.365 (1) and (1m) of the statutes are amended to read:

938.365 **(1)** DATE ON WHICH JUVENILE PLACED OUTSIDE HOME. In this section, a juvenile is considered to have been placed outside of his or her home on the date on which the juvenile was first removed from his or her home, except that ~~in the case of~~ a juvenile who ~~on removal~~ was removed from his or her home ~~was~~ and first placed in a ~~secure~~ juvenile detention facility, a ~~secured~~ juvenile correctional facility~~, a secured child caring institution~~, or a secured ~~group home~~ residential care center for children and youth for 60 days or more and then moved to a ~~nonsecured~~ nonsecure out−of−home placement~~, the juvenile~~ is considered to have been placed outside of his or her home on the date on which the juvenile was moved to the ~~nonsecured~~ nonsecure out−of−home placement.

(1m) REQUEST FOR EXTENSION. The parent, juvenile, guardian, legal custodian, any person or agency bound by the dispositional order, the district attorney or corporation counsel in the county in which the dispositional order was entered, or the court on its own motion, may request an extension of an order under s. 938.355. The request shall be submitted to the court which entered the order. ~~No~~ An order under s. 938.355 ~~that placed~~ for placement of a juvenile in detention, nonsecure custody, or inpatient treatment under s. 938.34 (3) (f) or (6) (am) may not be extended. ~~No other order~~ Other orders or portions of orders under s. 938.355 may be extended ~~except~~ only as provided in this section.

SECTION 492. 938.365 (2) (title) and (2g) (title) of the statutes are created to read:

938.365 **(2)** (title) NOTICE.

(2g) (title) COURT REPORT.

SECTION 493. 938.365 (2g) (b) 2. and (c) of the statutes are amended to read:

938.365 **(2g)** (b) 2. An evaluation of the juvenile's adjustment to the placement and of any progress the juvenile has made, suggestions for amendment of the permanency plan, and specific information showing the efforts that have been made to achieve the goal of the permanency plan, including, if applicable, the efforts of the parents to remedy the factors that contributed to the juvenile's placement, unless return of the juvenile to the home is the goal of the permanency plan and any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies.

(c) ~~In cases where~~ If the juvenile has not been placed outside the home, the report shall contain a description of efforts that have been made by all parties concerned toward meeting the objectives of treatment, care, or rehabilitation~~,~~; an explanation of why these efforts have not yet succeeded in meeting the objective~~,~~; and anticipated future planning for the juvenile.

SECTION 494. 938.365 (2m) (title) of the statutes is created to read:

938.365 **(2m)** (title) HEARING AND ORDER.

SECTION 495. 938.365 (2m) (a), (ad) 1. and (ag) of the statutes are amended to read:

938.365 **(2m)** (a) 1. Any party may present evidence relevant to the issue of extension. If the juvenile is placed outside of his or her home, the person or agency primarily responsible for providing services to the juvenile shall present as evidence specific information showing that the agency has made reasonable efforts to achieve

the goal of the juvenile's permanency plan, unless return of the juvenile to the home is the goal of the permanency plan and any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies. The court shall make findings of fact and conclusions of law based on the evidence. The findings of fact shall include a finding as to whether reasonable efforts were made by the agency primarily responsible for providing services to the juvenile to achieve the goal of the juvenile's permanency plan, unless return of the juvenile to the home is the goal of the permanency plan and the court finds that any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies. An order shall be issued under s. 938.355.

2. If the court finds that any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the order shall include a determination that the person or agency primarily responsible for providing services to the juvenile is not required to make reasonable efforts with respect to the parent to make it possible for the juvenile to return safely to his or her home.

3. The court shall make the findings ~~specified in~~ under subd. 1. relating to reasonable efforts to achieve the goal of the juvenile's permanency plan and the findings ~~specified in~~ under subd. 2. on a case−by−case basis based on circumstances specific to the juvenile and shall document or reference the specific information on which those findings are based in the order issued under s. 938.355. An order that merely references subd. 1. or 2. without documenting or referencing that specific information in the order or an amended order that retroactively corrects an earlier order that does not comply with this subdivision is not sufficient to comply with this subdivision.

(ad) 1. If the court finds that any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing

within 30 days after the date of that finding to determine the permanency plan for the juvenile. If a hearing is held under this subdivision, the agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.

(ag) The court shall give a foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) who is notified of a hearing under par. (ad) 2. or sub. (2) an opportunity to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issue of extension. A foster parent, treatment foster parent, or other physical custodian ~~described in s. 48.62 (2)~~ who receives notice of a hearing under par. (ad) 2. or sub. (2) and an opportunity to be heard under this paragraph does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and opportunity to be heard.

SECTION 496. 938.365 (3) (title) and (4) (title) of the statutes are created to read:

938.365 **(3)** (title) WAIVER OF APPEARANCE.

(4) (title) DISPOSITIONS TO BE CONSIDERED.

SECTION 497. 938.365 (5) and (6) of the statutes are amended to read:

938.365 **(5)** DURATION OF EXTENSION. Except as provided in s. 938.368, an order under this section that continues the placement of a juvenile in his or her home or that extends an order under s. 938.34 (4d), (4h), (4m), or (4n) shall be for a specified length of time not to exceed one year after its date of entry. Except as provided in s. 938.368, an order under this section that continues the placement of a juvenile in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent shall be for a

specified length of time not to exceed the date on which the juvenile ~~reaches~~ attains 18 years of age, one year after the date ~~of entry of~~ on which the order is granted, or, if the juvenile is a full−time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before ~~reaching~~ attaining 19 years of age, the date on which the juvenile ~~reaches~~ attains 19 years of age, whichever is later.

(6) HEARINGS CONDUCTED AFTER ORDER TERMINATES. If a request to extend a dispositional order is made prior to the termination of the order, but the court is unable to conduct a hearing on the request prior to the termination date, the court may extend the order for a period of not more than 30 days, not including any period of delay resulting from any of the circumstances ~~specified in~~ under s. 938.315 (1). The court shall grant appropriate relief as provided in s. 938.315 (3) with respect to any request to extend a dispositional order on which a hearing is not held within the time limit specified in this subsection. Failure to object if a hearing is not held within the time limit ~~specified in~~ under this subsection waives that time limit.

NOTE: Modifies s. 938.365 (5), stats., so that an extension of a dispositional order expires one year after the court orally makes, or grants, its order instead of one year after the order is filed with the clerk of court.

SECTION 498. 938.365 (7) (title) of the statutes is created to read:

938.365 **(7)** (title) CHANGES IN PLACEMENT NOT PERMITTED.

SECTION 499. 938.368 (1) (title) of the statutes is created to read:

938.368 **(1)** (title) TERMINATION OF PARENTAL RIGHTS PROCEEDINGS.

SECTION 500. 938.368 (2) (intro.) of the statutes is amended to read:

938.368 **(2)** PLACEMENT WITH GUARDIAN. (intro.) If a juvenile's placement with a guardian appointed under s. 48.977 (2) is designated by the court under s. 48.977 (3) as a permanent foster placement for the juvenile while a dispositional order under

s. 938.345, a revision order under s. 938.363, or an extension order under s. 938.365 is in effect with respect to the juvenile, ~~such~~ the dispositional order, revision order, or extension order shall remain in effect until the earliest of the following:

SECTION 501. 938.37 (1) (title) and (3) (title) of the statutes are created to read:

938.37 **(1)** (title) JUVENILE COURT.

(3) (title) CIVIL AND CRIMINAL COURTS.

SECTION 502. 938.371 of the statutes is amended to read:

938.371 Access to certain information by substitute care provider. (1) MEDICAL INFORMATION. If a juvenile is placed in a foster home, treatment foster home, group home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility, including a placement under s. 938.205 or 938.21, the agency, as defined in s. 938.38 (1) (a), that placed the juvenile or arranged for the placement of the juvenile shall provide the following information to the foster parent, treatment foster parent, or operator of the group home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility at the time of placement or, if the information has not been provided to the agency by that time, as soon as possible after the date on which the agency receives that information, but not more than 2 working days after that date:

(a) Results of a test or a series of tests of the juvenile to determine the presence of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an antibody to HIV, ~~as provided~~ under s. 252.15 (5) (a) 19., including results included in a court report or permanency plan. At the time that the test results are provided, the agency shall notify the foster parent, treatment foster parent, or operator of the group home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility of the confidentiality requirements under s. 252.15 (6).

(b) Results of any tests of the juvenile to determine the presence of viral hepatitis, type B, including results included in a court report or permanency plan. The foster parent, treatment foster parent, or operator of a group home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility receiving information under this paragraph shall keep the information confidential.

(c) Any other medical information concerning the juvenile that is necessary for the care of the juvenile. The foster parent, treatment foster parent, or operator of a group home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility receiving information under this paragraph shall keep the information confidential.

(3) OTHER INFORMATION. At the time of placement of a juvenile in a foster home, treatment foster home, group home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility or, if the information is not available at that time, as soon as possible after the date on which the court report or permanency plan has been submitted, but no later than 7 days after that date, the agency, as defined in s. 938.38 (1) (a), responsible for preparing the juvenile's permanency plan shall provide to the foster parent, treatment foster parent, or operator of the group home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility information contained in the court report submitted under s. 938.33 (1) or 938.365 (2g) or permanency plan submitted under s. 938.355 (2e) or 938.38 relating to findings or opinions of the court or agency that prepared the court report or permanency plan relating to any of the following:

(a) Any mental, emotional, cognitive, developmental, or behavioral disability of the juvenile. The foster parent, treatment foster parent, or operator of a group home, residential care center for children and youth, or ~~secured~~ juvenile correctional

facility receiving information under this subsection shall keep the information confidential.

(b) Any involvement of the juvenile in any criminal gang, as defined in s. 939.22 (9), or in any other group in which any child was traumatized as a result of his or her association with that group. The foster parent, treatment foster parent, or operator of a group home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility receiving information under this paragraph shall keep the information confidential.

(c) Any involvement of the juvenile in any activities that are harmful to the juvenile's physical, mental, or moral well−being. The foster parent, treatment foster parent, or operator of a group home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility receiving information under this paragraph shall keep the information confidential.

(d) Any involvement of the juvenile, whether as victim or perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, or 948.025, prostitution in violation of s. 944.30, sexual exploitation of a child in violation of s. 948.05, or causing a child to view or listen to sexual activity in violation of s. 948.055, if the information is necessary for the care of the juvenile or for the protection of any person living in the foster home, treatment foster home, group home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility. The foster parent, treatment foster parent, or operator of a group home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility receiving information under this paragraph shall keep the information confidential.

(e) The religious affiliation or ~~belief~~ beliefs of the juvenile.

SECTION 503. 938.373 (1) (title) of the statutes is created to read:

938.373 **(1)** (title) AUTHORIZATION BY COURT.

SECTION 504. 938.373 (2) (title) of the statutes is created to read:

938.373 **(2)** (title) ABORTION; JUDICIAL WAIVER OF PARENTAL CONSENT REQUIREMENT.

SECTION 505. 938.38 (2) (intro.), (3) (a) and (b) and (4) (ar) and (h) (intro.) of the statutes are amended to read:

938.38 **(2)** PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3), for each juvenile living in a foster home, treatment foster home, group home, residential care center for children and youth, ~~secure~~ juvenile detention facility, or shelter care facility, the agency that placed the juvenile or arranged the placement or the agency assigned primary responsibility for providing services to the juvenile under s. 938.355 shall prepare a written permanency plan, if any of the following conditions exists, and, for each juvenile living in the home of a relative other than a parent, that agency shall prepare a written permanency plan, if any of the conditions ~~specified in~~ under pars. (a) to (e) exists:

(3) (a) If the juvenile is alleged to be delinquent and is being held in a ~~secure~~ juvenile detention facility, juvenile portion of a county jail, or shelter care facility, and the agency intends to recommend that the juvenile be placed in a ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution or a secured group home~~ residential care center for children and youth, the agency is not required to submit the permanency plan unless the court does not accept the recommendation of the agency. If the court places the juvenile in any facility outside of the juvenile's home other than a ~~secured~~ juvenile correctional facility~~,~~ or a secured c~~hild caring institution or a secured group home~~ residential care center for children and youth, the agency shall file the permanency plan with the court within 60 days after the date of disposition.

(b) If the juvenile is held for less than 60 days in a ~~secure~~ juvenile detention facility, juvenile portion of a county jail, or a shelter care facility, no permanency plan is required if the juvenile is returned to his or her home within that period.

(4) (ar) A description of the services offered and any services provided in an effort to prevent the removal of the juvenile from his or her home, while assuring that the health and safety of the juvenile are the paramount concerns, and to achieve the goal of the permanency plan, except that the permanency plan is not required to include a description of the services offered or provided with respect to a parent of the juvenile to prevent the removal of the juvenile from the home or to achieve the permanency plan goal of returning the juvenile safely to his or her home if any of the circumstances ~~specified~~ under in s. 938.355 (2d) (b) 1. to 4. apply to that parent.

(h) (intro.) If the juvenile is 15 years of age or ~~over~~ older, a description of the programs and services that are or will be provided to assist the juvenile in preparing for the transition from out−of−home care to independent living. The description shall include all of the following:

SECTION 506. 938.38 (5) (a) of the statutes is amended to read:

938.38 **(5)** (a) Except as provided in s. 48.63 (5) (d), the court or a panel appointed under par. (ag) shall review the permanency plan in the manner provided in this subsection not later than 6 months after the date on which the juvenile was first removed from his or her home and every ~~12~~ 6 months after a previous review under this subsection for as long as the juvenile is placed outside the home, except that for the review that is required to be conducted not later than 12 months after the juvenile was first removed from his or her home and the reviews that are required to be conducted every 12 months after that review, the court shall hold a hearing

under sub. (5m) to review the permanency plan~~, which~~. The hearing may be instead of or in addition to the review under this subsection.

NOTE: In s. 938.38 (5) (a), stats., substitutes "every 6 months after a previous review" for "every 12 months after a previous review". The current reference to "12 months" was an inadvertent mistake when the original law was enacted. The provision should parallel s. 48.38 (5) (a), stats., which specifies "6 months."

SECTION 507. 938.39 of the statutes is amended to read:

938.39 Disposition by court bars criminal proceeding. Disposition by the court of any violation of state law ~~coming~~ within its jurisdiction under s. 938.12 bars any future criminal proceeding on the same matter in circuit court when the juvenile reaches the age of 17. This section does not affect criminal proceedings in circuit court ~~which~~ that were transferred under s. 938.18.

SECTION 508. 938.396 (1) (title) of the statutes is created to read:

938.396 **(1)** (title) LAW ENFORCEMENT RECORDS.

NOTE: Relating to s. 938.396, stats., and other provisions, reorganizes provisions in the Juvenile Justice Code relating to the confidentiality of juvenile law enforcement, juvenile court, and municipal court records.

SECTION 509. 938.396 (1) of the statutes is renumbered 938.396 (1) (a) and amended to read:

938.396 **(1)** (a) *Confidentiality.* Law enforcement ~~officers'~~ agency records of juveniles shall be kept separate from records of adults. Law enforcement ~~officers'~~ agency records of juveniles ~~shall~~ may not be open to inspection or their contents disclosed except under ~~sub. (1b), (1d), (1g), (1m), (1r), (1t), (1x) or (5)~~ par. (b) or (c), sub. (1j), or s. 938.293 or by order of the court. ~~This subsection~~

(b) *Applicability.* Paragraph (a) does not apply to any of the following:

1. The disclosure of information to representatives of the news media who wish to obtain information for the purpose of reporting news ~~without revealing~~. A

representative of the news media who obtains information under this subdivision may not reveal the identity of the juvenile involved~~, to the~~.

2. The confidential exchange of information between ~~the police~~ a law enforcement agency and officials of the school attended by the juvenile ~~or other law enforcement or social welfare agencies or to juveniles 10 years of age or older who are subject to the jurisdiction of the court of criminal jurisdiction~~. A public school official who obtains information under this ~~subsection~~ subdivision shall keep the information confidential as required under s. 118.125, and a private school official who obtains information under this ~~subsection~~ subdivision shall keep the information confidential in the same manner as is required of a public school official under s. 118.125.

3. The confidential exchange of information between a law enforcement agency and another law enforcement agency. A law enforcement agency that obtains information under this ~~subsection~~ subdivision shall keep the information confidential as required under ~~this subsection~~ par. (a) and s. 48.396 (1).

4. The confidential exchange of information between a law enforcement agency and a social welfare agency. A social welfare agency that obtains information under this ~~subsection~~ subdivision shall keep the information confidential as required under ss. 48.78 and 938.78.

NOTE: The language repealed in s. 938.396 (1) (b) 2., stats., as created by this bill is contained in newly created s. 938.396 (1) (b) 5., stats., as created by this bill.

SECTION 510. 938.396 (1) (b) 5. of the statutes is created to read:

938.396 **(1)** (b) 5. The disclosure of information relating to a juvenile 10 years of age or over who is subject to the jurisdiction of a court of criminal jurisdiction.

SECTION 511. 938.396 (1) (c) (intro.) of the statutes is created to read:

938.396 **(1)** (c) *Exceptions.* (intro.) Notwithstanding par. (a), law enforcement agency records of juveniles may be disclosed as follows:

SECTION 512. 938.396 (1b) of the statutes is renumbered 938.396 (1) (c) 1.

SECTION 513. 938.396 (1d) of the statutes is renumbered 938.396 (1) (c) 2.

SECTION 514. 938.396 (1g) of the statutes is renumbered 938.396 (1) (c) 6. and amended to read:

938.396 **(1)** (c) 6. If requested by the victim−witness coordinator, a law enforcement agency shall disclose to the victim−witness coordinator any information in its records relating to the enforcement of rights under the constitution, this chapter, and s. 950.04 or the provision of services under s. 950.06 (1m), including the name and address of the juvenile and the juvenile's parents. The victim−witness coordinator may use the information only for the purpose of enforcing those rights and providing those services and may make that information available only as necessary to ensure that victims and witnesses of crimes, as defined in s. 950.02 (1m), receive the rights and services to which they are entitled under the constitution, this chapter, and ch. 950. The victim−witness coordinator may also use the information to disclose the name and address of the juvenile and the juvenile's parents to the victim of the juvenile's act.

NOTE: Clarifies, in s. 938.396 (1) (c) 6., stats., as created by the bill, that a law enforcement agency must disclose to a victim−witness coordinator the name and address of a juvenile and the juvenile's parent, upon request. The victim−witness coordinator may disclose this information to the victim of the juvenile's act.

SECTION 515. 938.396 (1j) (title) of the statutes is created to read:

938.396 **(1j)** (title) LAW ENFORCEMENT RECORDS, COURT−ORDERED DISCLOSURE.

SECTION 516. 938.396 (1m) (a) of the statutes is renumbered 938.396 (1) (c) 3. (intro.) and amended to read:

938.396 **(1)** (c) 3. (intro.) A law enforcement agency, on its own initiative or on the request of the school district administrator of a public school district, the administrator of a private school, or the designee of the school district administrator or the private school administrator, may, subject to official agency policy, provide to the school district administrator, private school administrator, or designee, for use as provided in s. 118.127 (2), any information in its records relating to ~~the~~ any of the following:

a. The use, possession, or distribution of alcohol or a controlled substance or controlled substance analog by a juvenile enrolled in the public school district or private school. ~~The information shall be used by the school district or private school as provided under s. 118.127 (2).~~

SECTION 517. 938.396 (1m) (am) of the statutes is renumbered 938.396 (1) (c) 3. b. and amended to read:

938.396 **(1)** (c) 3. b. ~~A law enforcement agency, on its own initiative or on the request of the school district administrator of a public school district, the administrator of a private school or the designee of the school district administrator or the private school administrator, may, subject to official agency policy, provide to the school district administrator, private school administrator or designee any information in its records relating to the~~ The illegal possession by a juvenile of a dangerous weapon, as defined in s. 939.22 (10). ~~The information shall be used by the school district or private school as provided in s. 118.127 (2).~~

NOTE: The repealed language is included in s. 938.396 (1) (c) 3. (intro.), as created by this bill.

SECTION 518. 938.396 (1m) (ar) of the statutes is renumbered 938.396 (1) (c) 3. c. and amended to read:

938.396 **(1)** (c) 3. c. ~~A law enforcement agency, on its own initiative or on the request of the school district administrator of a public school district, the administrator of a private school, or the designee of the school district administrator or the private school administrator, may, subject to official agency policy, provide to the school district administrator, private school administrator, or designee any information in its records relating to an~~ An act for which a juvenile enrolled in the school district or private school was taken into custody under s. 938.19 based on a law enforcement officer's belief that the juvenile was committing or had committed a violation of any state or federal criminal law. ~~The information shall be used by the school district or private school as provided in s. 118.127 (2).~~

NOTE: The repealed language is included in s. 938.396 (1) (c) 3. (intro.), as created by this bill.

SECTION 519. 938.396 (1m) (b) of the statutes is renumbered 938.396 (1) (c) 3. d. and amended to read:

938.396 **(1)** (c) 3. d. ~~A law enforcement agency, on its own initiative or on the request of the school district administrator of a public school district, the administrator of a private school or the designee of the school district administrator or the private school administrator, may, subject to official agency policy, provide to the school district administrator, private school administrator or designee any information in its records relating to the~~ An act for which a juvenile enrolled in the public school district or private school was adjudged delinquent. ~~The information shall be used by the school district or private school as provided in s. 118.127 (2).~~

NOTE: The repealed language in s. 938.396 (1) (c) 3. d. is included in s. 938.396 (1) (c) 3. (intro.), as created by this bill.

SECTION 520. 938.396 (1m) (c) of the statutes is renumbered 938.396 (1) (d) and amended to read:

938.396 **(1)** (d) *Law enforcement access to school records.* On petition of a law enforcement agency to review pupil records, as defined in s. 118.125 (1) (d), other than pupil records that may be disclosed without a court order under s. 118.125 (2) or (2m), for the purpose of ~~investigating~~ pursuing an investigation of any alleged delinquent or criminal activity or on petition of a fire investigator under s. 165.55 (15) to review those pupil records for the purpose of pursuing an investigation under s. 165.55 (15), the court may order the school board of the school district, or the governing body of the private school, in which a juvenile is enrolled to disclose to the law enforcement agency or fire investigator the pupil records of that juvenile as necessary for the law enforcement agency or fire investigator to pursue ~~its~~ the investigation. The law enforcement agency or fire investigator may use the pupil records only for the purpose of ~~its~~ the investigation and may make the pupil records available only to employees of the law enforcement agency or fire investigator who are working on the investigation.

SECTION 521. 938.396 (1m) (d) of the statutes is repealed.

NOTE: Repeals s. 938.396 (1m) (d), stats., which permitted disclosure of pupil records to a fire investigator. This language is included in s. 938.396 (1) (d), stats., as created by this bill.

SECTION 522. 938.396 (1p) of the statutes is renumbered 938.396 (1) (c) 4. and amended to read:

938.396 **(1)** (c) 4. A law enforcement agency may enter into an interagency agreement with a school board, a private school, a social welfare agency, or another law enforcement agency providing for the routine disclosure of information under subs. (1) ~~and (1m)~~ (b) 2. and (c) 3. to the school board, private school, social welfare agency, or other law enforcement agency.

SECTION 523. 938.396 (1r) of the statutes is renumbered 938.396 (1) (c) 5.

SECTION 524. 938.396 (1t) of the statutes is renumbered 938.396 (1) (c) 7.

SECTION 525. 938.396 (1x) of the statutes is renumbered 938.396 (1) (c) 8.

SECTION 526. 938.396 (2) (a) of the statutes is renumbered 938.396 (2) and amended to read:

938.396 **(2)** COURT RECORDS; CONFIDENTIALITY. Records of the court assigned to exercise jurisdiction under this chapter and ch. 48 and of municipal courts exercising jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for that purpose only. Those records shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter and ch. 48 or as permitted under ~~this section~~ sub. (2g).

SECTION 527. 938.396 (2) (ag) of the statutes is renumbered 938.396 (2g) (ag).

SECTION 528. 938.396 (2) (am) of the statutes is renumbered 938.396 (2g) (am).

SECTION 529. 938.396 (2) (b) of the statutes is renumbered 938.396 (2g) (b) and amended to read:

938.396 **(2g)** (b) *Federal program monitoring.* Upon request of the department of health and family services, the department of corrections, or a federal agency to review court records for the purpose of monitoring and conducting periodic evaluations of activities as required by and implemented under 45 CFR 1355, 1356, and 1357, the court shall open those records for inspection by authorized representatives of ~~the~~ that department or federal agency.

SECTION 530. 938.396 (2) (c) of the statutes is renumbered 938.396 (2g) (c).

SECTION 531. 938.396 (2) (d) of the statutes is renumbered 938.396 (2g) (d).

SECTION 532. 938.396 (2) (dm) of the statutes is renumbered 938.396 (2g) (dm).

SECTION 533. 938.396 (2) (dr) of the statutes is renumbered 938.396 (2g) (dr).

SECTION 534. 938.396 (2) (e) of the statutes is renumbered 938.396 (2g) (e).

SECTION 535. 938.396 (2) (em) of the statutes is renumbered 938.396 (2g) (em) and amended to read:

938.396 **(2g)** (em) *Sex offender registration.* Upon request of the department to review court records for the purpose of obtaining information concerning a ~~child~~ juvenile who is required to register under s. 301.45, the court shall open for inspection by authorized representatives of the department the records of the court relating to any ~~child~~ juvenile who has been adjudicated delinquent or found in need of protection or services or not responsible by reason of mental disease or defect for an offense specified in s. 301.45 (1g) (a). The department may disclose information that it obtains under this paragraph as provided under s. 301.46.

SECTION 536. 938.396 (2) (f) of the statutes is renumbered 938.396 (2g) (f) and amended to read:

938.396 **(2g)** (f) *Victim−witness coordinator.* Upon request of the victim−witness coordinator to review court records for the purpose of enforcing rights under the constitution, this chapter, and s. 950.04 and providing services under s. 950.06 (1m), the court shall open for inspection by the victim−witness coordinator the records of the court relating to the enforcement of those rights or the provision of those services, including the name and address of the juvenile and the juvenile's parents. The victim−witness coordinator may use any information obtained under this paragraph only for the purpose of enforcing those rights and providing those services and may make that information available only as necessary to ensure that victims and witnesses of crimes, as defined in s. 950.02 (1m), receive the rights and services to which they are entitled under the constitution, this chapter and ch. 950. The victim−witness coordinator may also use that information to disclose the name

and address of the juvenile and the juvenile's parents to the victim of the juvenile's act.

NOTE: See the NOTE to s. 938.396 (1) (c) 6., stats., as created by this bill.

SECTION 537. 938.396 (2) (fm) of the statutes is renumbered 938.396 (2g) (fm).

SECTION 538. 938.396 (2) (g) of the statutes is renumbered 938.396 (2g) (g).

SECTION 539. 938.396 (2) (gm) of the statutes is renumbered 938.396 (2g) (gm).

SECTION 540. 938.396 (2) (h) of the statutes is renumbered 938.396 (2g) (h).

SECTION 541. 938.396 (2) (i) of the statutes is renumbered 938.396 (2g) (i).

SECTION 542. 938.396 (2) (j) of the statutes is renumbered 938.396 (2g) (j) and amended to read:

938.396 **(2g)** (j) *Fire investigator.* Upon request of a fire investigator under s. 165.55 (15) to review court records for the purpose of pursuing an investigation under s. 165.55, the court shall open for inspection by authorized representatives of the requester the records of the court relating to any juvenile who has been adjudicated delinquent or found to be in need of protection or services under s. 938.13 (12) or (14) for a violation of s. 940.08, 940.24, 941.10, 941.11, 943.01, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, or 943.06 or for an attempt to commit any of those violations.

SECTION 543. 938.396 (2g) (intro.) of the statutes is created to read:

938.396 **(2g)** CONFIDENTIALITY OF COURT RECORDS; EXCEPTIONS. (intro.) Notwithstanding sub. (2), records of the court assigned to exercise jurisdiction under this chapter and ch. 48 and of courts exercising jurisdiction under s. 938.17 (2) may be disclosed as follows:

SECTION 544. 938.396 (2g) (ag) (title) of the statutes is created to read:

938.396 **(2g)** (ag) (title) *Request of parent or juvenile.*

SECTION 545. 938.396 (2g) (am) (title) of the statutes is created to read:

938.396 **(2g)** (am) (title) *Permission of parent or juvenile.*

SECTION 546. 938.396 (2g) (c) (title) of the statutes is created to read:

938.396 **(2g)** (c) (title) *Law enforcement agencies.*

SECTION 547. 938.396 (2g) (d) (title) of the statutes is created to read:

938.396 **(2g)** (d) (title) *Bail; impeachment; firearm possession.*

SECTION 548. 938.396 (2g) (dm) (title) of the statutes is created to read:

938.396 **(2g)** (dm) (title) *Delinquency or criminal defense.*

SECTION 549. 938.396 (2g) (dr) (title) of the statutes is created to read:

938.396 **(2g)** (dr) (title) *Presentence investigation.*

SECTION 550. 938.396 (2g) (e) (title) of the statutes is created to read:

938.396 **(2g)** (e) (title) *Sexually violent person commitment.*

SECTION 551. 938.396 (2g) (fm) (title) of the statutes is created to read:

938.396 **(2g)** (fm) (title) *Victim's insurer.*

SECTION 552. 938.396 (2g) (g) (title) of the statutes is created to read:

938.396 **(2g)** (g) (title) *Paternity of juvenile.*

SECTION 553. 938.396 (2g) (gm) (title) of the statutes is created to read:

938.396 **(2g)** (gm) (title) *Other courts.*

SECTION 554. 938.396 (2g) (h) (title) of the statutes is created to read:

938.396 **(2g)** (h) (title) *Custody of juvenile.*

SECTION 555. 938.396 (2g) (i) (title) of the statutes is created to read:

938.396 **(2g)** (i) (title) *Probate court.*

SECTION 556. 938.396 (2g) (m) (title) of the statutes is created to read:

938.396 **(2g)** (m) (title) *Notification of juvenile's school.*

SECTION 557. 938.396 (2m) (a) of the statutes is renumbered 938.396 (2g) (k) and amended to read:

938.396 **(2g)** (k) *Serious juvenile offenders.* ~~Notwithstanding sub. (2), upon request, a~~ Upon request of any person, the court shall open for inspection by the requester the records of the court, other than reports under s. 938.295 or 938.33 or other records that deal with sensitive personal information of the juvenile and the juvenile's family, relating to a juvenile who has been alleged to be delinquent for committing a violation specified in s. 938.34 (4h) (a). The requester may further disclose the information to anyone.

SECTION 558. 938.396 (2m) (b) of the statutes is renumbered 938.396 (2g) (L) and amended to read:

938.396 **(2g)** (L) *Repeat offenders.* ~~Notwithstanding sub. (2), upon request, a~~ Upon request of any person, the court shall open for inspection by the requester the records of the court, other than reports under s. 938.295 or 938.33 or other records that deal with sensitive personal information of the juvenile and the juvenile's family, relating to a juvenile who has been alleged to be delinquent for committing a violation that would be a felony if committed by an adult if the juvenile has been adjudicated delinquent at any time preceding the present proceeding and that previous adjudication remains of record and unreversed. The requester may further disclose the information to anyone.

SECTION 559. 938.396 (3) (title) of the statutes is created to read:

938.396 **(3)** (title) MOTOR VEHICLE VIOLATION RECORDS.

SECTION 560. 938.396 (4) (title) of the statutes is created to read:

938.396 **(4)** (title) OPERATING PRIVILEGE RECORDS.

SECTION 561. 938.396 (5) (a) (intro.) of the statutes is renumbered 938.396 (1j) (a) (intro.) and amended to read:

938.396 **(1j)** (a) (intro.) Any person who is denied access to a record under sub. (1)~~, (1b), (1d), (1g), (1m), (1r) or (1t)~~ may petition the court to order the disclosure of the ~~records governed by the applicable subsection~~ record. The petition shall be in writing and shall describe as specifically as possible all of the following:

SECTION 562. 938.396 (5) (a) 1. to 5. of the statutes are renumbered 938.396 (1j) (a) 1. to 5.

SECTION 563. 938.396 (5) (b) of the statutes is renumbered 938.396 (1j) (b) and amended to read:

938.396 **(1j)** (b) ~~If the petitioner is seeking access to a record under sub. (1), (1b), (1d), (1g), (1m) (c) or (d), (1r), or (1t)~~ Subject to par. (bm), the court, on receipt of a petition, shall notify the juvenile, the juvenile's counsel, the juvenile's parents, and appropriate law enforcement agencies in writing of the petition. If any person notified objects to the disclosure, the court may hold a hearing to take evidence relating to the petitioner's need for the disclosure.

SECTION 564. 938.396 (5) (bm) of the statutes is renumbered 938.396 (1j) (bm) and amended to read:

938.396 **(1j)** (bm) If the petitioner is seeking access to a record under sub. ~~(1m) (a), (am), (ar), or (b)~~ (1) (c) 3., the court shall, without notice or hearing, make the inspection and determinations specified in par. (c) and, if the court determines that disclosure is warranted, shall order disclosure under par. (d). The petitioner shall provide a copy of the disclosure order to the law enforcement agency that denied access to the record, the juvenile, the juvenile's counsel, and the juvenile's parents. Any of those persons may obtain a hearing on the court's determinations by filing a motion to set aside the disclosure order within 10 days after receipt of the order. If no motion is filed within those 10 days or if, after hearing, the court determines that

no good cause has been shown for setting aside the order, the law enforcement agency shall disclose the juvenile's record as ordered.

SECTION 565. 938.396 (5) (c) (intro.), 1 and 2. of the statutes are renumbered 938.396 (1j) (c) (intro.), 1. and 2.

SECTION 566. 938.396 (5) (c) 3. of the statutes is renumbered 938.396 (1j) (c) 3. and amended to read:

938.396 **(1j)** (c) 3. If the petitioner is a person who was denied access to a record under sub. ~~(1m) (a), (am), (ar), or (b)~~ (1) (c) 3., the petitioner's legitimate educational interests, including safety interests, in the information against society's interest in protecting its confidentiality.

SECTION 567. 938.396 (5) (d) and (e) of the statutes are renumbered 938.396 (1j) (d) and (e).

SECTION 568. 938.396 (6) of the statutes is repealed.

NOTE: Repeals s. 938.396 (6), stats., and places the substance of that provision into s. 938.396 (1g) and (2g) (f), stats.,as created by this bill, which governs the disclosure of juvenile records to the victim−witness coordinator and that coordinator's subsequent use of those records.

SECTION 569. 938.396 (7) (a) of the statutes is renumbered 938.396 (2g) (m) 1. and amended to read:

938.396 **(2g)** (m) 1. ~~Notwithstanding sub. (2) (a), if~~ If a petition under s. 938.12 or 938.13 (12) is filed alleging that a juvenile has committed a delinquent act that would be a felony if committed by an adult, the court clerk shall notify the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body of the fact that the petition has been filed and the nature of the delinquent act alleged in the petition. ~~Notwithstanding sub. (2) (a), if~~ If later the proceeding on the petition is closed, dismissed, or otherwise terminated without a finding that the juvenile has

committed a delinquent act, the court clerk shall notify the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the ~~school board's~~ designee of the school board or governing body that the proceeding has been terminated without a finding that the juvenile has committed a delinquent act.

SECTION 570. 938.396 (7) (am) of the statutes is renumbered 938.396 (2g) (m) 2. and amended to read:

938.396 **(2g)** (m) 2. ~~Notwithstanding sub. (2) (a) and subject to par. (b)~~ Subject to subd. 4., if a juvenile is adjudged delinquent, within 5 days after the date on which the dispositional order is entered, the court clerk shall notify the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body of the fact that the juvenile has been adjudicated delinquent, the nature of the violation committed by the juvenile, and the disposition imposed on the juvenile under s. 938.34 as a result of the violation.

SECTION 571. 938.396 (7) (ar) of the statutes is renumbered 938.396 (2g) (m) 3. and amended to read:

938.396 **(2g)** (m) 3. ~~Notwithstanding sub. (2) (a), if~~ If school attendance is a condition of a dispositional order under s. 938.342 (1d) or (1g) or 938.355 (2) (b) 7., within 5 days after the date on which the dispositional order is entered, the clerk of the court assigned to exercise jurisdiction under this chapter and ch. 48 or the clerk of the municipal court exercising jurisdiction under s. 938.17 (2) shall notify the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body of the fact that the juvenile's school attendance is a condition of a dispositional order.

SECTION 572. 938.396 (7) (b) of the statutes is renumbered 938.396 (2g) (m) 4. and amended to read:

938.396 **(2g)** (m) 4. If a juvenile is found to have committed a delinquent act at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been a felony under chs. 939 to 948 or 961 if committed by an adult and is adjudged delinquent on that basis, within 5 days after the date on which the dispositional order is entered the court clerk shall notify the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body of the fact that the juvenile has been adjudicated delinquent on that basis, the nature of the violation committed by the juvenile, and the disposition imposed on the juvenile under s. 938.34 as a result of that violation.

SECTION 573. 938.396 (7) (bm) of the statutes is renumbered 938.396 (2g) (m) 5. and amended to read:

938.396 **(2g)** (m) 5. ~~Notwithstanding sub. (2) (a), in~~ In addition to the disclosure made under ~~par. (am) or (b)~~ subd. 2. or 4., if a juvenile is adjudicated delinquent and as a result of the dispositional order is enrolled in a different school district or private school from the school district or private school in which the juvenile is enrolled at the time of the dispositional order, the court clerk, within 5 days after the date on which the dispositional order is entered, shall provide the school board of the juvenile's new school district, the governing body of the juvenile's new private school, or the designee of the school board or governing body with the information specified in ~~par. (am) or (b)~~ subd. 2. or 4., whichever is applicable, and, in addition, shall notify that school board, governing body, or designee of whether the juvenile has been adjudicated delinquent previously by that court, the nature of any previous

violations committed by the juvenile, and the dispositions imposed on the juvenile under s. 938.34 as a result of those previous violations.

SECTION 574. 938.396 (7) (c) of the statutes is renumbered 938.396 (2g) (m) 6. and amended to read:

938.396 **(2g)** (m) 6. ~~No~~ Except as required under subds. 1. to 5. or by order of the court, no information from the juvenile's court records~~, other than information disclosed under par. (a), (am), (ar), (b), or (bm),~~ may be disclosed to the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body ~~except by order of the court~~. Any information from a juvenile's court records provided ~~under this subsection~~ to the school board of the school district, or the governing body of the private school, in which the juvenile is enrolled or the designee of the school board or governing body shall be disclosed by the school board, governing body, or designee to employees of the school district or private school who work directly with the juvenile or who have been determined by the school board, governing body, or designee to have legitimate educational interests, including safety interests, in the information. A school district or private school employee to whom that information is disclosed ~~under this paragraph~~ may not further disclose the information. A school board may not use any information ~~provided under this subsection~~ from a juvenile's court records as the sole basis for expelling or suspending a juvenile or as the sole basis for taking any other disciplinary action, including action under the school district's athletic code, against the juvenile. A member of a school board or of the governing body of a private school or an employee of a school district or private school may not be held personally liable for any damages caused by the nondisclosure of any information specified in this ~~paragraph~~ subdivision unless the member or employee

acted with actual malice in failing to disclose the information. A school district or private school may not be held liable for any damages caused by the nondisclosure of any information specified in this ~~paragraph~~ subdivision unless the school district, private school, or its agent acted with gross negligence or with reckless, wanton, or intentional misconduct in failing to disclose the information.

SECTION 575. 938.396 (8) of the statutes is renumbered 938.396 (2g) (n) and amended to read:

938.396 **(2g)** (n) *Firearms restriction record search.* ~~Notwithstanding sub. (2), if~~ If a juvenile is adjudged delinquent for an act that would be a felony if committed by an adult, the court clerk shall notify the department of justice of that fact. No other information from the juvenile's court records may be disclosed to the department of justice except by order of the court. The department of justice may disclose any information provided under this subsection only as part of a firearms restrictions record search under s. 175.35 (2g) (c).

SECTION 576. 938.396 (9) of the statutes is renumbered 938.396 (2g) (o) and amended to read:

938.396 **(2g)** (o) *Criminal history record search.* ~~Notwithstanding sub. (2) (a), if~~ If a juvenile is adjudged delinquent for committing a serious crime, as defined in s. 48.685 (1) (c), the court clerk shall notify the department of justice of that fact. No other information from the juvenile's court records may be disclosed to the department of justice except by order of the court. The department of justice may disclose any information provided under this subsection only as part of a criminal history record search under s. 48.685 (2) (am) 1. or (b) 1. a.

SECTION 577. 938.44 of the statutes is amended to read:

938.44 Jurisdiction over persons 17 or older. The court has jurisdiction over persons 17 years of age or ~~over~~ older as provided under ss. 938.355 (4) and 938.45 and as otherwise ~~specifically provided~~ specified in this chapter.

SECTION 578. 938.45 (1) of the statutes is amended to read:

938.45 **(1)** ORDERS WHEN ADULT CONTRIBUTED TO CONDITION OF JUVENILE. (a) If in the hearing of a case of a juvenile alleged to be delinquent under s. 938.12 or in need of protection or services under s. 938.13 it appears that any person 17 years of age or ~~over~~ older has been guilty of contributing to, encouraging, or tending to cause by any act or omission, such condition of the juvenile, the court may make orders with respect to the conduct of ~~such~~ that person in his or her relationship to the juvenile, including orders relating to determining the ability of the person to provide for the maintenance or care of the juvenile and directing when, how, and where funds for the maintenance or care shall be paid.

(b) An act or failure to act contributes to a condition of a juvenile as described in s. 938.12 or 938.13, ~~although~~ even if the juvenile is not ~~actually adjudicated~~ found to come within the provisions of s. 938.12 or 938.13, if the natural and probable consequences of that act or failure to act would be to cause the juvenile to come within the provisions of s. 938.12 or 938.13.

SECTION 579. 938.45 (1m) (title) of the statutes is created to read:

938.45 **(1m)** (title) ORDERS IMPOSING CONDITIONS ON JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN.

SECTION 580. 938.45 (1m) (a), (1r), (2) and (3) of the statutes are amended to read:

938.45 **(1m)** (a) In a proceeding in which a juvenile has been adjudicated delinquent or has been found to be in need of protection or services under s. 938.13,

the court may order the juvenile's parent, guardian, or legal custodian to comply with any conditions determined by the court to be necessary for the juvenile's welfare. An order ~~under this paragraph~~ may include ~~an order to participate~~ participation in mental health treatment, anger management, individual or family counseling or parent training and education, and ~~to make~~ a requirement for a reasonable contribution, based on ability to pay, toward the cost of those services.

(1r) ORDER FOR PARENT TO PAY RESTITUTION OR FORFEITURE. (a) In a proceeding in which a juvenile ~~has been~~ is found to have committed a delinquent act or a civil law or ordinance violation that has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the court may order a parent who has custody, as defined in s. 895.035 (1), of the juvenile to make reasonable restitution for the damage or injury. Except for recovery for retail theft under s. 943.51, the maximum amount of any restitution ordered ~~under this paragraph~~ for damage or injury resulting from any one act of a juvenile or from the same act committed by 2 or more juveniles in the custody of the same parent may not exceed $5,000. ~~Any~~ The order ~~under this paragraph~~ shall include a finding that the parent ~~who has custody of the juvenile~~ is financially able to pay the amount ordered and may allow up to the date of expiration of the order for the payment. Any recovery under this paragraph shall be reduced by the amount recovered as restitution for the same act under s. 938.34 (5) or 938.343 (4).

(b) In a proceeding in which the court has determined under s. 938.34 (8) or 938.343 (2) that the imposition of a forfeiture would be in the best interest of the juvenile and in aid of rehabilitation, the court may order a parent who has custody, as defined in s. 895.035 (1), of the juvenile to pay the forfeiture. The amount of any forfeiture ordered ~~under this paragraph~~ may not exceed $5,000. ~~Any~~ The order

~~under this paragraph~~ shall include a finding that the parent ~~who has custody of the juvenile~~ is financially able to pay the amount ordered and shall allow up to 12 months after the date of the order for the payment. Any recovery under this paragraph shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.34 (8) or 938.343 (2).

(2) RIGHT TO HEARING ON ORDERS. No order under sub. (1) (a), (1m) (a), or (1r) (a) or (b) may be entered until the person who is the subject of the contemplated order is given an opportunity to be heard on the ~~contemplated~~ order. The court shall cause notice of the time, place, and purpose of the hearing to be served on the person personally at least 10 days before the date of hearing. The procedure in these cases shall, as far as practicable, be the same as in other cases in the court. At the hearing the person may be represented by counsel and may produce and cross−examine witnesses. ~~Any~~ A person who fails to comply with ~~any~~ an order issued by a court under sub. (1) (a), (1m) (a), or (1r) (a) or (b) may be proceeded against for contempt of court. If the person's conduct involves a crime, the person may be proceeded against under the criminal law.

(3) PROSECUTION OF ADULT CONTRIBUTING TO DELINQUENCY OF JUVENILE. If it appears at a court hearing that any person 17 years of age or older has violated s. 948.40, the court shall refer the record to the district attorney ~~for criminal proceedings as may be warranted in the district attorney's judgment~~. This subsection does not ~~prevent~~ prohibit prosecution of violations of s. 948.40 without the prior reference by the court to the district attorney~~, as in other criminal cases~~.

SECTION 581. 938.48 (1) of the statutes is amended to read:

938.48 **(1)** ENFORCEMENT OF LAWS. Promote the enforcement of the laws relating to delinquent juveniles and juveniles in need of protection or services and take the

initiative in all matters involving the interests of ~~such~~ those juveniles ~~where~~ when adequate provision ~~therefor~~ for those matters is not made. This duty shall be discharged in cooperation with the courts, county departments ~~and~~, licensed child welfare agencies ~~and with~~, parents, and other individuals interested in the welfare of juveniles.

SECTION 582. 938.48 (2) of the statutes is amended to read:

938.48 **(2)** JUVENILE WELFARE SERVICES. Assist in extending and strengthening juvenile welfare services with appropriate federal agencies and in conformity with the federal ~~social security act~~ Social Security Act and in cooperation with parents, other individuals, and other agencies so that all juveniles needing such services are reached.

SECTION 583. 938.48 (3) and (4) of the statutes are amended to read:

938.48 **(3)** SUPERVISION AND SPECIAL TREATMENT OR CARE. Accept supervision over juveniles transferred to it by the court under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357 (4), and provide special treatment or care to juveniles when directed by the court. Except as provided in s. 938.505 (2), a court may not direct the department to administer psychotropic medications to juveniles who receive special treatment or care under this subsection.

(4) CARE, TRAINING, AND PLACEMENT. Provide appropriate care and training for juveniles under its supervision under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357 (4)~~;~~, including serving those juveniles in their own homes, placing them in licensed foster homes or licensed treatment foster homes ~~in accordance with s. 48.63~~ or licensed group homes under s. 48.63, contracting for their care by licensed child welfare agencies or replacing them in juvenile correctional ~~institutions~~ facilities or secured ~~child caring institutions~~ residential care centers for children and youth in

accordance with rules promulgated under ch. 227, except that the department may not purchase the educational component of private day treatment programs for ~~juveniles~~ a juvenile in its custody unless the department, the school board, as defined in s. 115.001 (7), and the state superintendent of public instruction all determine that an appropriate public education program is not available for the juvenile. Disputes between the department and the school district shall be resolved by the state superintendent of public instruction.

SECTION 584. 938.48 (4m) (title) of the statutes is created to read:

938.48 **(4m)** (title) CONTINUING CARE AND SERVICES FOR JUVENILES OVER 17.

SECTION 585. 938.48 (4m) (d), (5) and (6) of the statutes are amended to read:

938.48 **(4m)** (d) Is determined by the department to be in need of care and services designed to fit ~~such~~ the person for gainful employment and has requested and consented to receive ~~such aid~~ the care and services.

(5) MORAL AND RELIGIOUS TRAINING. Provide for the moral and religious training of a juvenile under its supervision under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357 (4) according to the religious ~~belief~~ beliefs of the juvenile or of the juvenile's parents.

(6) EMERGENCY SURGERY. Consent to emergency surgery under the direction of a licensed physician or surgeon for any juvenile under its supervision under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357 (4) upon notification by a licensed physician or surgeon of the need for ~~such~~ the surgery and if reasonable effort, compatible with the nature and time limitation of the emergency, has been made to secure the consent of the juvenile's parent or guardian.

SECTION 586. 938.48 (13) (title) of the statutes is created to read:

938.48 **(13)** (title) ALLOWANCES AND CASH GRANTS.

SECTION 587. 938.48 (14) and (16) of the statutes are amended to read:

938.48 **(14)** SCHOOL-RELATED EXPENSES FOR JUVENILES OVER 17. Pay maintenance, tuition, and related expenses from the appropriation under s. 20.410 (3) (ho) for persons who, when they ~~reached~~ attained 17 years of age, were students regularly attending a school, college, or university or regularly attending a course of vocational or technical training designed to ~~fit~~ prepare them for gainful employment, and who ~~when reaching~~ upon attaining that age were under the supervision of the department under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357 (4) as a result of a judicial decision.

(16) STANDARDS FOR SERVICES. Establish and enforce standards for services ~~provided~~ under s. 938.183, 938.34, or 938.345.

SECTION 588. 938.49 (1) of the statutes is amended to read:

938.49 (1) NOTICE TO DEPARTMENT OF PLACEMENT. When ~~the~~ a court places a juvenile in a ~~secured~~ juvenile correctional facility or secured ~~child caring institution~~ residential care center for children and youth under the supervision of the department, the court shall immediately notify the department of that action. The court shall, in accordance with procedures established by the department, provide transportation for the juvenile to a receiving center designated by the department or deliver the juvenile to department personnel ~~of the department~~.

SECTION 589. 938.49 (2) of the statutes is renumbered 938.49 (2) (intro.) and amended to read:

938.49 **(2)** TRANSFER OF COURT REPORT AND PUPIL RECORDS. (intro.) When ~~the~~ a court places a juvenile in a ~~secured~~ juvenile correctional facility or a secured ~~child caring institution~~ residential care center for children and youth under the

supervision of the department, the court and all other public agencies shall ~~also~~ immediately ~~transfer~~ do all of the following:

(a) Transfer to the department a copy of the report submitted to the court under s. 938.33 or, if the report was presented orally, a transcript of the report and all other pertinent data in their possession ~~and shall immediately notify.~~

(b) Notify the juvenile's last school district in writing of its obligation under s. 118.125 (4).

SECTION 590. 938.50 (1) and (2) of the statutes are consolidated, renumbered 938.50 and amended to read:

938.50 Examination of juveniles under supervision of department. The department shall examine every juvenile who is placed under its supervision to determine the type of placement best suited to the juvenile and to the protection of the public. ~~This~~ The examination shall include an investigation of the personal and family history of the juvenile and his or her environment, any physical or mental examinations ~~considered~~ necessary to determine the type of placement ~~that is necessary~~ appropriate for the juvenile, and ~~the~~ an evaluation under s. 938.533 (2) to determine whether the juvenile is eligible for corrective sanctions supervision or serious juvenile offender supervision. ~~A~~ The department shall screen a juvenile who is examined under this ~~subsection shall be screened~~ section to determine whether the juvenile is in need of special treatment or care because of alcohol or other drug abuse, mental illness, or severe emotional disturbance. ~~**(2)**~~ In making ~~this~~ the examination the department may use any facilities, public or private, that offer ~~aid to it~~ assistance in ~~the determination of~~ determining the correct placement for the juvenile.

SECTION 591. 938.505 (1) (title) of the statutes is created to read:

938.505 **(1)** (title) RIGHTS AND DUTIES OF DEPARTMENT OR COUNTY DEPARTMENT.

SECTION 592. 938.505 (2) of the statutes is amended to read:

938.505 **(2)** PSYCHOTROPIC MEDICATION. (a) If a juvenile 14 years of age or ~~over who~~ older is under the supervision of the department or a county department as described in sub. (1) ~~and who,~~ is not residing in his or her home, and wishes to be administered psychotropic medication but a parent with legal custody or the guardian refuses to consent to the administration of psychotropic medication or cannot be found, or if there is no parent with legal custody, the department or county department acting on the juvenile's behalf may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 in the county in which the juvenile is located for permission to administer psychotropic medication to the juvenile. A copy of the petition and a notice of hearing shall be served upon the parent or guardian at his or her last−known address. If, after hearing, the court determines that all of the following apply, the court shall grant permission for the department or county department to administer psychotropic medication to the juvenile without the parent's or guardian's consent:

1. ~~That the~~ The parent's or guardian's consent is unreasonably withheld ~~or that,~~ the parent or guardian cannot be found, or ~~that~~ there is no parent with legal custody, except that the court may not determine that a parent's or guardian's consent is unreasonably withheld solely because the parent or guardian relies on treatment by spiritual means through prayer for healing in accordance with his or her religious tradition.

2. ~~That the~~ The juvenile is 14 years of age or ~~over and~~ older, is competent to consent to the administration of psychotropic medication, and ~~that the juvenile~~ voluntarily consents to the administration of psychotropic medication.

3. ~~Based~~ The juvenile, based on the recommendation of a physician, ~~that the juvenile~~ is in need of psychotropic medication, ~~that~~ and psychotropic medication is appropriate for the juvenile's needs and ~~that psychotropic medication~~ is the least restrictive treatment consistent with ~~the juvenile's~~ those needs.

(b) The court may, at the request of the department or county department, temporarily approve the administration of psychotropic medication, for not more than 10 days after the date of the request, pending the hearing on the petition~~, which~~. The hearing shall be held within ~~those 10 days~~ that 10−day period.

SECTION 593. 938.51 (1) (intro.) of the statutes is amended to read:

938.51 **(1)** RELEASE FROM SECURED FACILITY OR SUPERVISION. (intro.) At least 15 days prior to the date of release from a ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution or a secured group home~~ residential care center for children and youth of a juvenile who has been adjudicated delinquent and at least 15 days prior to the release from the supervision of the department or a county department of a juvenile who has been adjudicated delinquent, the department or county department having supervision over the juvenile shall make a reasonable attempt to do all of the following:

SECTION 594. 938.51 (1d) (title) and (1g) (title) of the statutes are created to read:

938.51 **(1d)** (title) RELEASE FROM NONSECURED RESIDENTIAL CARE CENTER.

(1g) (title) RELEASE FROM INPATIENT FACILITY.

SECTION 595. 938.51 (1m) of the statutes is amended to read:

938.51 **(1m)** NOTIFICATION OF LOCAL AGENCIES. The department or county department having supervision over a juvenile described in sub. (1) shall determine the local agencies that it will notify under sub. (1) (a) based on the residence of the

juvenile's parents or on the juvenile's intended residence specified in the juvenile's aftercare supervision plan or, if those methods do not indicate the community in which the juvenile will reside following release from a ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution or a secured group home~~ residential care center for children and youth or from the supervision of the department or county department, the community in which the juvenile states that he or she intends to reside.

SECTION 596. 938.51 (1r) (title) of the statutes is created to read:

938.51 **(1r)** (title) CONTENTS OF NOTICE.

SECTION 597. 938.51 (2) of the statutes is amended to read:

938.51 **(2)** NOTIFICATION REQUEST CARDS. The department shall design and prepare cards for any person specified in sub. (1) (b), (c), (cm), or (d) to send to the department or county department having supervision over a juvenile described in sub. (1), (1d), or (1g). The cards shall have space for ~~any such person to provide his or her~~ the person's name, telephone number and mailing address, the name of the applicable juvenile, and any other information that the department determines is necessary. The cards shall ~~also~~ advise a victim who is under 18 years of age that he or she may complete a card requesting notification under sub. (1) (b), (1d), or (1g) if the notification occurs after the victim attains 18 years of age and advising the parent or guardian of a victim who is under 18 years of age that the parent or guardian may authorize on the card direct notification of the victim under sub. (1) (b), (1d), or (1g) if the notification occurs after the victim attains 18 years of age. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in sub. (1) (b) to (d). These persons may send completed cards to the department or county

department having supervision over the juvenile. ~~All department~~ Department and county department records or portions of records that relate to telephone numbers and mailing addresses of these persons are not subject to inspection or copying under s. 19.35 (1).

SECTION 598. 938.51 (3) (title) of the statutes is created to read:

938.51 **(3)** (title) RELEASE NOT AFFECTED BY FAILURE TO NOTIFY.

SECTION 599. 938.51 (4) (intro.) of the statutes is amended to read:

938.51 **(4)** NOTIFICATION IF ESCAPE OR ABSENCE. (intro.) If a juvenile described in sub. (1), (1d), or (1g) escapes from a ~~secured~~ juvenile correctional facility, residential care center for children and youth, ~~secured group home,~~ inpatient facility, ~~secure~~ juvenile detention facility, or juvenile portion of a county jail, or from the custody of a peace officer or a guard of such a facility, center, home, or jail, or has been allowed to leave a ~~secured~~ juvenile correctional facility, residential care center for children and youth, ~~secured group home,~~ inpatient facility, ~~secure~~ juvenile detention facility, or juvenile portion of a county jail for a specified period of time and is absent from the facility, center, home, or jail for more than 12 hours after the expiration of the specified period, as soon as possible after the department or county department having supervision over the juvenile discovers ~~that~~ the escape or absence, ~~that~~ the department or county department shall make a reasonable attempt to notify by telephone all of the following persons:

SECTION 600. 938.52 (1) (d), (2) and (4) of the statutes are amended to read:

938.52 **(1)** (d) Institutions, facilities, and services, including ~~without limitation~~ forestry or conservation camps, for the training and treatment of juveniles 10 years of age or older who have been adjudged delinquent.

(2) USE OF OTHER FACILITIES. (a) In addition to ~~the~~ facilities and services ~~described in~~ under sub. (1), the department may use other facilities and services under its jurisdiction. The department may ~~also~~ contract for and pay for the use of other public facilities or private facilities for the care and treatment of juveniles in its care~~; but placement~~. Placement of juveniles in private or public facilities not under ~~its~~ the department's jurisdiction does not terminate ~~the~~ its supervision under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357 (4) ~~of the department~~. Placements in institutions for ~~the mentally ill or developmentally disabled~~ persons with a mental illness or development disability shall be made in accordance with ss. 48.14 (5), 48.63, and 938.34 (6) (am) and ch. 51.

(b) Public facilities ~~are required to~~ shall accept and care for persons placed with them by the department in the same manner as they would be required to do had the legal custody of these persons been transferred by a court of competent jurisdiction. Nothing in this subsection ~~shall be construed to require~~ requires any public facility to serve the department ~~inconsistently~~ in a manner that is inconsistent with ~~its~~ the facility's functions or with the laws and regulations governing ~~their~~ its activities~~;~~ or ~~to give~~ gives the department authority to use any private facility without its consent.

(c) The department ~~shall have the right to~~ may inspect ~~all facilities~~ any facility it is using and ~~to~~ examine and consult with persons under its supervision under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357 (4) who have been placed in ~~that~~ the facility.

(4) COEDUCATIONAL PROGRAMS AND INSTITUTIONS. The department may ~~institute~~ establish and maintain coeducational programs and institutions under this chapter.

SECTION 601. 938.53 of the statutes is amended to read:

938.53 Duration of control of department over delinquents. Except as provided under ss. 48.366 and 938.183, ~~all juveniles~~ a juvenile adjudged delinquent who ~~have~~ has been placed under the supervision of the department under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357 (4) shall be discharged as soon as the department determines that there is a reasonable probability that ~~it~~ departmental supervision is no longer necessary ~~either~~ for the rehabilitation and treatment of the juvenile or for the protection of the public ~~that the department retain supervision~~.

SECTION 602. 938.533 of the statutes is amended to read:

938.533 Corrective sanctions. (2) CORRECTIVE SANCTIONS PROGRAM. From the appropriation under s. 20.410 (3) (hr), the department shall provide a corrective sanctions program to serve an average daily population of 136 juveniles~~, or an average daily population of more than 136 juveniles if~~ unless the appropriation under s. 20.410 (3) (hr) is supplemented under s. 13.101 or 16.515 and the positions for the program are increased under s. 13.101 or 16.505 (2) or ~~if~~ unless funding and positions to serve more than that average daily population are otherwise available, in ~~not less than~~ at least 3 counties, including Milwaukee County. The department's office of juvenile offender review ~~in the department~~ shall evaluate and select for participation in the program juveniles who have been placed under the supervision of the department under s. 938.183, 938.34 (4h) or (4m), or 938.357 (4). The department shall place a program participant in the community, provide intensive surveillance of that participant, and provide an average of not more than $3,000 per year per slot to purchase community−based treatment services for each participant. The department shall make the intensive surveillance ~~required under this subsection~~ available 24 hours a day, 7 days a week, and may purchase or provide electronic monitoring for the intensive surveillance of program participants. The

department shall provide a report center in Milwaukee County to provide on−site programming after school and in the evening for juveniles from Milwaukee County who are placed in the corrective sanctions program. A contact worker providing services under the program shall have a case load of approximately 10 juveniles and, during the initial phase of placement in the community under the program of a juvenile who is assigned to that contact worker, shall have not less than one face−to−face contact per day with that juvenile. Case management services under the program shall be provided by a corrective sanctions agent who shall have a case load of approximately 15 juveniles. The department shall promulgate rules to implement the program.

(3) INSTITUTIONAL STATUS. (a) A participant in the corrective sanctions program ~~remains~~ is under the supervision of the department, ~~remains~~ is subject to the rules and discipline of ~~that~~ the department, and is considered to be in custody, as defined in s. 946.42 (1) (a). Notwithstanding ss. 938.19 to 938.21, if a juvenile violates a condition of ~~that juvenile's~~ his or her participation in the corrective sanctions program the department may, without a hearing, take the juvenile into custody and place the juvenile in a ~~secured~~ juvenile detention facility or return the juvenile to placement in a Type 1 ~~secured~~ juvenile correctional facility or a secured ~~child caring institution~~ residential care center for children and youth. This paragraph does not preclude a juvenile who has violated a condition of the ~~juvenile's~~ his or her participation in the corrective sanctions program from being taken into and held in custody under ss. 938.19 to 938.21.

(b) The department shall operate the corrective sanctions program as a Type 2 ~~secured~~ juvenile correctional facility. The secretary may allocate and reallocate existing and future facilities as part of the Type 2 ~~secured~~ juvenile correctional

facility. The Type 2 ~~secured~~ juvenile correctional facility is subject to s. 301.02. Construction or establishment of a Type 2 ~~secured~~ juvenile correctional facility shall be in compliance with all state laws except s. 32.035 and ch. 91. In addition to the exemptions under s. 13.48 (13), construction or establishment of a Type 2 ~~secured~~ juvenile correctional facility is not subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and city, village, or town in which the construction or establishment takes place and is exempt from the investigations permitted under s. 46.22 (1) (c) 1. b.

(3m) ESCAPE. If a juvenile runs away from ~~the juvenile's~~ his or her placement in the community while participating in the corrective sanctions program, ~~that~~ the juvenile is considered to have escaped in violation of s. 946.42 (3) (c).

SECTION 603. 938.534 (1) (title) of the statutes is created to read:

938.534 **(1)** (title) PROGRAM REQUIREMENTS; VIOLATION OF CONDITION OF PARTICIPATION.

SECTION 604. 938.534 (1) (a) and (b) 1., 2. and 4. of the statutes are amended to read:

938.534 **(1)** (a) A county department may provide an intensive supervision program for juveniles who have been adjudicated delinquent and ordered to participate in an intensive supervision program under s. 938.34 (2r). A county department that provides ~~an intensive supervision~~ a program shall purchase or provide intensive surveillance and community−based treatment services for participants in ~~that~~ the program and may purchase or provide electronic monitoring for the intensive surveillance of program participants. A caseworker providing services under ~~an intensive supervision~~ a program may have a case load of no more than 10 juveniles and shall have not less than one face−to−face contact per day with

each juvenile who is assigned to that caseworker, except that the face−to−face contact requirement does not apply to a juvenile placed under par. (b) or (c).

(b) 1. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision, if a juvenile violates a condition of the ~~juvenile's~~ his or her participation in the program, the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the juvenile in a ~~secure~~ juvenile detention facility or juvenile portion of a county jail that meets the standards promulgated by the department by rule or in a place of nonsecure custody designated by that person for not more than 72 hours while the alleged violation and the appropriateness of a sanction under s. 938.355 (6) or a change in the conditions of the juvenile's participation in the program are being investigated~~,~~. Short−term detention under this subdivision may be imposed only if at the dispositional hearing the court explained those conditions to the juvenile and informed the juvenile of ~~the possibility of~~ that possible placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement.

2. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision, if a juvenile violates a condition of the juvenile's participation in the program, the juvenile's caseworker or any other person authorized to provide

or providing intake or dispositional services for the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the juvenile in a ~~secure~~ juvenile detention facility or juvenile portion of a county jail that meets the standards promulgated by the department by rule or in a place of nonsecure custody designated by that person for not more than 72 hours as a consequence of that violation~~,~~. Short−term detention under this subdivision may be imposed only if at the dispositional hearing the court explained those conditions to the juvenile and informed the juvenile of ~~the possibility of~~ that possible placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement. A person who takes a juvenile into custody under this subdivision shall permit the juvenile to make a written or oral statement concerning the possible placement of the juvenile and the course of conduct for which the juvenile was taken into custody. A person designated by the court or the county department who is employed in a supervisory position by a person authorized to provide or providing intake or dispositional services under s. 938.067 or 938.069 shall review that statement and ~~shall~~ either approve the placement, modify the terms of the placement, or order the juvenile to be released from custody.

4. The use of placement in a ~~secure~~ juvenile detention facility or in a juvenile portion of a county jail as a place of short−term detention under subd. 1. or 2. is subject to the adoption of a resolution by the county board of supervisors under s. 938.06 (5) authorizing the use of those placements as places of short−term detention under subd. 1. or 2.

NOTE: Clarifies, in the last sentence in s. 938.534 (1) (a), stats., that the "one face−to−face contact per day" requirement does not apply: (1) under par. (b) when a youth is placed in shelter care or a secure facility for a violation of intensive supervision program rules for a 72−hour hold; or (2) under par. (c) when a youth is placed in non−secure custody for not more than 30 days as crisis intervention. Under current practice, assigned caseworkers do not have daily contact with youth when they are receiving a "service" such as being held in detention or in shelter care.

Specifies, in s. 938.534 (1) (b) 2., stats., that when a juvenile is placed on a 72−hour hold in either a secure or non−secure facility for a violation of a condition of participation in an intensive supervision program, a person authorized to review the juvenile's statement has the authority to modify the placement as well as approve the statement (current law). Under current practice, supervisors do modify the placement downward from 72 hours or suggest that the caseworkers do so if appropriate.

SECTION 605. 938.534 (1) (c) and (d) and (2) of the statutes are amended to read:

938.534 **(1)** (c) Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this paragraph, <u>if the juvenile is in need of crisis intervention</u> the juvenile's caseworker may ~~also~~, without a hearing, take the juvenile into custody and place the juvenile in a place of nonsecure custody for not more than 30 days ~~as crisis intervention, if the juvenile is in need of crisis intervention and, if~~<u>. This placement may be made only if</u> at the dispositional hearing the court informed the juvenile of ~~the possibility of~~ that <u>possible</u> placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement.

(d) If the juvenile is held under par. (b) 1. or 2. in a ~~secure~~ <u>juvenile</u> detention facility, juvenile portion of a county jail<u>,</u> or place of nonsecure custody for longer than 72 hours, the juvenile is entitled to a hearing under s. 938.21. The hearing shall be conducted in the manner provided in s. 938.21, except that the hearing shall be conducted within 72 hours, rather than 24 hours, after the end of the day that the

decision to hold the juvenile was made and a written statement of the reasons for continuing to hold the juvenile in custody may be filed rather than a petition under s. 938.25.

(2) RULES FOR INTENSIVE SUPERVISION PROGRAM. The department shall promulgate rules specifying the requirements for an intensive supervision program under this section. The rules shall include ~~rules that govern~~ provisions governing the use of placement in a ~~secure~~ juvenile detention facility, juvenile portion of a county jail, or place of nonsecure custody for not more than 72 hours under sub. (1) (b) and the use of placement in a place of nonsecure custody for not more than 30 days under sub. (1) (c).

SECTION 606. 938.535 of the statutes is amended to read:

938.535 Early release and intensive supervision program; limits. The department may establish a program for the early release and intensive supervision of juveniles who have been placed in a ~~secured~~ juvenile correctional facility or a secured ~~child caring institution~~ residential care center for children and youth under s. 938.183 or 938.34 (4m). The program may not include any juveniles who have been placed in a ~~secured~~ juvenile correctional facility or a secured ~~child caring institution~~ residential care center for children and youth as a result of a delinquent act involving the commission of a violent crime as defined in s. 969.035, but not including the crime specified in s. 948.02 (1).

SECTION 607. 938.538 (3) (a) 1., 1m., 1p. and 2. of the statutes are amended to read:

938.538 **(3)** (a) 1. Subject to subd. 1m., placement in a Type 1 ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution or, if the participant is 17 years of age or over or 15 years of age or over and transferred under s. 938.357 (4)~~

~~(d), a Type 1 prison, as defined in s. 301.01 (5),~~ residential care center for children and youth for a period of not more than 3 years.

1m. If the participant has been adjudicated delinquent for committing an act that would be a Class A felony if committed by an adult, placement in a Type 1 ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution or, if the participant is 17 years of age or over or 15 years of age or over and transferred under s. 938.357 (4) (d), a Type 1 prison, as defined in s. 301.01 (5),~~ residential care center for children and youth until the participant reaches 25 years of age, unless the participant is released sooner, subject to a mandatory minimum period of confinement of not less than one year.

1p. Alternate care, including placement in a foster home, treatment foster home, group home, residential care center for children and youth, or secured ~~child caring institution~~ residential care center for children and youth.

2. Intensive or other field supervision, including corrective sanctions supervision under s. 938.533~~,~~ or aftercare supervision ~~or, if the participant is 17 years of age or over, intensive sanctions supervision under s. 301.048~~.

SECTION 608. 938.538 (4), (5) (b) and (c), (6) and (6m) (b) of the statutes are amended to read:

938.538 **(4)** INSTITUTIONAL STATUS. (a) A participant in the ~~serious juvenile offender~~ program under this section is under the supervision and control of the department, is subject to the rules and discipline of the department, and is considered to be in custody, as defined in s. 946.42 (1) (a). Notwithstanding ss. 938.19 to 938.21, if a participant violates a condition of his or her participation in the program under sub. (3) (a) 2. to 9. while placed in a Type 2 ~~secured~~ juvenile correctional facility the department may, without a hearing, take the participant into

custody and return him or her to placement in a Type 1 ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution or, if the participant is 17 years of age or over, a Type 1 prison, as defined in s. 301.01 (5)~~ residential care center for children and youth. Any intentional failure of a participant to remain within the extended limits of his or her placement while participating in the serious juvenile offender program or to return within the time prescribed by the administrator of the division of intensive sanctions in the department is considered an escape under s. 946.42 (3) (c). This paragraph does not preclude a juvenile who has violated a condition of the juvenile's participation in the program under sub. (3) (a) 2. to 9. from being taken into and held in custody under ss. 938.19 to 938.21.

(b) The department shall operate the component phases of the program specified in sub. (3) (a) 2. to 9. as a Type 2 ~~secured~~ juvenile correctional facility. The secretary of corrections may allocate and reallocate existing and future facilities as part of the Type 2 ~~secured~~ juvenile correctional facility. The Type 2 ~~secured~~ juvenile correctional facility is subject to s. 301.02. Construction or establishment of a Type 2 ~~secured~~ juvenile correctional facility shall be in compliance with all state laws except s. 32.035 and ch. 91. In addition to the exemptions under s. 13.48 (13), construction or establishment of a Type 2 ~~secured~~ juvenile correctional facility is not subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and city, village, or town in which the construction or establishment takes place and is exempt from inspections required under s. 301.36.

(5) (b) The department may discharge a participant from participation in the serious juvenile offender program and from departmental supervision and control at any time after ~~the participant~~ he or she has completed 3 years ~~of participation~~ in the serious juvenile offender program.

(c) Sections 938.357 and 938.363 do not apply to changes of placement and revisions of orders for a juvenile who is a participant in the ~~serious juvenile offender program, except that s. 938.357 (4) (d) applies to the transfer of a participant to the Racine youthful offender correctional facility named in s. 302.01~~ program.

(6) PURCHASE OF SERVICES. The department of corrections may contract with the department of health and family services, a county department, or any public or private agency for the purchase of goods, care, and services for participants in the ~~serious juvenile offender~~ program under this section. The department of corrections shall reimburse a person from whom it purchases goods, care, or services under this subsection from the appropriation under s. 20.410 (3) (cg) ~~or, if the person for whom the goods, care or services are purchased is placed in a Type 1 prison, as defined s. 301.01 (5), or is under intensive sanctions supervision under s. 301.048, from the appropriate appropriation under s. 20.410 (1)~~.

(6m) (b) In the selection of classified service employees for a ~~secured~~ juvenile correctional facility authorized under 1993 Wisconsin Act 377, section 9108 (1) (a), the appointing authority shall make every effort to use the expanded certification program under s. 230.25 (1n) or rules of the administrator of the division of merit recruitment and selection in the office of state employment relations to ensure that the percentage of employees who are minority group members approximates the percentage of the juveniles placed at that ~~secured~~ juvenile correctional facility who are minority group members. The administrator of the division of merit recruitment and selection in the office of state employment relations shall provide guidelines for the administration of ~~this~~ the selection procedure.

NOTE: Deletes references to placement of juveniles in state prison from s. 938.538, stats., because the bill repeals the authority of DOC to place juveniles who have been

adjudicated delinquent in state prison or under intensive sanctions supervision. See the NOTE to s. 938.537 (4) (d), stats., as repealed by this bill.

SECTION 609. 938.539 (1) of the statutes is amended to read:

938.539 **(1)** TYPE 2 RESIDENTIAL CARE CENTER; COUNTY DEPARTMENT CONTROL. A juvenile who is placed in a Type 2 ~~child caring institution~~ residential care center for children and youth under s. 938.34 (4d) or who, having been so placed, is replaced in a less restrictive placement under s. 938.357 (4) (c) is under the supervision and control of the county department, is subject to the rules and discipline of the county department, and is considered to be in custody, as defined in s. 946.42 (1) (a).

SECTION 610. 938.539 (2) to (5) of the statutes are amended to read:

938.539 **(2)** TYPE 2 JUVENILE CORRECTIONAL FACILITY; DEPARTMENT CONTROL. A juvenile who is placed in a Type 2 ~~secured~~ juvenile correctional facility under s. 938.357 (4) (a) or who, having been so placed, is replaced in a less restrictive placement under s. 938.357 (4) (c) is under the supervision and control of the department, is subject to the rules and discipline of the department, and is considered to be in custody, as defined in s. 946.42 (1) (a).

(3) VIOLATION OF CONDITION OF PLACEMENT. Notwithstanding ss. 938.19 to 938.21, if a juvenile placed in a Type 2 ~~child caring institution~~ residential care center for children and youth under s. 938.34 (4d) or 938.357 (4) (c) or in a Type 2 ~~secured~~ juvenile correctional facility under s. 938.357 (4) (a) or (c) violates a condition of his or her placement in the ~~Type 2 child caring institution~~ center or ~~Type 2 secured correctional~~ facility, the juvenile may be placed in a Type 1 ~~secured~~ juvenile correctional facility as provided in s. 938.357 (4) (b). This subsection does not preclude a juvenile who has violated a condition of the juvenile's placement in a Type 2 ~~secured~~ juvenile correctional facility or a Type 2 ~~child caring institution~~ residential

care center for children and youth from being taken into and held in custody under ss. 938.19 to 938.21.

(4) ESCAPE OR ABSENCE. ~~Any intentional failure of a~~ A juvenile placed in a Type 2 ~~child caring institution~~ residential care center for children and youth under s. 938.34 (4d) or 938.357 (4) (c) or in a Type 2 ~~secured~~ juvenile correctional facility under s. 938.357 (4) (a) or (c) who intentionally fails to remain within the extended limits of his or her placement or to return within the time prescribed by the administrator of the ~~Type 2 child caring institution~~ center or ~~Type 2 secured correctional~~ facility is considered an escape under s. 946.42 (3) (c).

(5) OPERATION AS TYPE 2 PLACEMENT. With respect to a juvenile who is placed in a secured residential care center for children and youth ~~or a secured child caring institution~~ under s. 938.34 (4d) or 938.357 (4) (a) or in a less restrictive placement under s. 938.357 (4) (c), the child welfare agency operating the ~~residential care~~ center ~~for children and youth or secured child caring institution~~ in which the juvenile is placed, and the person operating any less restrictive placement in which the juvenile is placed, shall operate that ~~residential care~~ center ~~for children and youth, secured child caring institution,~~ or less restrictive placement as a Type 2 ~~child caring institution~~ residential care center for children and youth or a Type 2 ~~secured~~ juvenile correctional facility. This subsection does not preclude a child welfare agency or other person from placing in a residential care center for children and youth~~, secured child caring institution,~~ or less restrictive placement in which a juvenile is placed under s. 938.34 (4d) or 938.357 (4) (a) or (c) a juvenile who is not placed under s. 938.34 (4d) or 938.357 (4) (a) or (c).

SECTION 611. 938.539 (6) (title) of the statutes is created to read:

938.539 **(6)** (title) RULE−MAKING.

SECTION 612. 938.549 (1) (title), (2) (title) and (3) (title) of the statutes are created to read:

938.549 **(1)** (title) CLASSIFICATION SYSTEM; CONTENT.

(2) (title) USES OF CLASSIFICATION SYSTEM.

(3) (title) TRAINING IN USE OF SYSTEM.

SECTION 613. 938.57 (1) (title) of the statutes is created to read:

938.57 **(1)** (title) COUNTY DEPARTMENT DUTIES; POWERS.

SECTION 614. 938.57 (1) (b), (c), (cm), (d) and (2) of the statutes are amended to read:

938.57 **(1)** (b) Accept legal custody or supervision of juveniles transferred to it by the court under s. 938.355 and provide special treatment or care if ordered by the court. Except as provided in s. 938.505 (2), a court may not order a county department to administer psychotropic medications to juveniles who receive special treatment or care ~~under this paragraph~~.

(c) Provide appropriate protection and services for juveniles in its care, including providing services for juveniles and their families in their own homes, placing the juveniles in licensed foster homes, licensed treatment foster homes, or licensed group homes in this state or another state within a reasonable proximity to the agency with legal custody ~~or~~, contracting for services for them by licensed child welfare agencies, or replacing them in ~~secured~~ juvenile correctional facilities~~,~~ or secured ~~child caring institutions or secured group homes~~ residential care centers for children and youth in accordance with rules promulgated under ch. 227, except that the county department may not purchase the educational component of private day treatment programs unless the county department, the school board, as defined in s. 115.001 (7), and the state superintendent of public instruction ~~all~~ determine that

an appropriate public education program is not available. Disputes between the county department and the school district shall be resolved by the state superintendent of public instruction.

(cm) Provide appropriate services for juveniles who are referred to the county department by a municipal court, except that if the funding, staffing, or other resources of the county department for juvenile welfare services are insufficient to meet the needs of all juveniles who are eligible to receive services from the county department, the county department shall give first priority to juveniles who are referred to ~~the county department~~ it by the court assigned to exercise jurisdiction under this chapter and ch. 48.

(d) Provide for the moral and religious training of juveniles in its care according to the religious ~~belief~~ beliefs of the juvenile or of his or her parents.

(2) ASSISTANCE FROM PRIVATE INDIVIDUALS AND ORGANIZATIONS. In performing the functions ~~specified in~~ under sub. (1), the county department may ~~avail itself of the cooperation~~ accept the assistance of ~~any~~ an individual or private agency or organization interested in the social welfare of juveniles in the county.

SECTION 615. 938.57 (3) (title) of the statutes is created to read:

938.57 **(3)** (title) CONTINUING MAINTENANCE FOR JUVENILES OVER 17.

SECTION 616. 938.57 (4) of the statutes is amended to read:

938.57 **(4)** AFTERCARE SUPERVISION. A county department may provide aftercare supervision under s. 938.34 (4n) for juveniles who are released from ~~secured~~ juvenile correctional facilities~~,~~ or secured ~~child caring institutions or secured group homes~~ residential care centers for children and youth. If a county department intends to change its policy regarding whether the county department or the department shall provide aftercare supervision for juveniles released from ~~secured~~ juvenile

correctional facilities~~,~~ or secured ~~child caring institutions or secured group homes,~~ residential care centers for children and youth the county executive or county administrator, or, if the county has no county executive or county administrator, the chairperson of the county board of supervisors, or, for multicounty departments, the chairpersons of the county boards of supervisors jointly, shall submit a letter to the department stating that intent before July 1 of the year preceding the year in which the policy change will take effect.

SECTION 617. 938.59 (1) of the statutes is amended to read:

938.59 **(1)** INVESTIGATION AND EXAMINATION. The county department shall investigate the personal and family history and environment of any juvenile transferred to its legal custody or placed under its supervision under s. 938.34 (4d) or (4n) and make any physical or mental examinations of the juvenile considered necessary to determine the type of care necessary for the juvenile. The county department shall screen a juvenile who is examined ~~under this subsection~~ to determine whether the juvenile is in need of special treatment or care because of alcohol or other drug abuse, mental illness, or severe emotional disturbance. The county department shall keep a complete record of the information received from the court, the date of reception, all available data on the personal and family history of the juvenile, the results of all tests and examinations given the juvenile, and a complete history of all placements of the juvenile while in the legal custody or under the supervision of the county department.

SECTION 618. 938.59 (2) (title) of the statutes is created to read:

938.59 **(2)** (title) REPORT TO THE DEPARTMENT.

SECTION 619. 938.78 (1) (title) and (2) (title) of the statutes are created to read:

938.78 **(1)** (title) DEFINITION.

(2) (title) CONFIDENTIALITY; EXCEPTIONS.

SECTION 620. 938.78 (2) (a), (ag) and (am) of the statutes are amended to read:

938.78 **(2)** (a) No agency may make available for inspection or disclose the contents of any record kept or information received about an individual who is or was in its care or legal custody, except as provided under sub. (3) or s. 938.371, 938.38 (5) (b) or (d) or (5m) (d), or 938.51 or by order of the court.

(ag) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of the parent, guardian, or legal custodian of the juvenile who is the subject of the record or upon the request of the juvenile, if 14 years of age or ~~over~~ older, to the parent, guardian, legal custodian, or juvenile, unless the agency finds that inspection of the record by the juvenile, parent, guardian, or legal custodian would result in imminent danger to anyone.

(am) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian, or legal custodian of the juvenile who is the subject of the record or upon the written permission of the juvenile, if 14 years of age or ~~over~~ older, to the person named in the permission if the parent, guardian, legal custodian, or juvenile specifically identifies the record in the written permission, unless the agency determines that inspection of the record by the person named in the permission would result in imminent danger to anyone.

NOTE: Clarifies that, with specified exceptions, s. 938.78 (2) (a), stats., applies to the contents of any record kept or information received about an individual who is or was (i.e., currently or in the past) in the agency's care or legal custody.

SECTION 621. 938.78 (2) (b) 1. and (3) of the statutes are amended to read:

938.78 **(2)** (b) 1. Paragraph (a) does not apply to the confidential exchange of information between an agency and another social welfare agency, a law enforcement agency, the victim−witness coordinator, a fire investigator under s. 165.55 (15), a public school district or a private school regarding an individual in the care or legal custody of the agency. A social welfare agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. 48.78. A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. 48.396 (1) and 938.396 (1) (a). A public school that obtains information under this paragraph shall keep the information confidential as required under s. 118.125 and a private school that obtains information under this paragraph shall keep the information confidential in the same manner as is required of a public school under s. 118.125.

(3) RELEASE OF INFORMATION WHEN ESCAPE OR ABSENCE; RULES. If a juvenile adjudged delinquent under s. 48.12, 1993 stats., or s. 938.12 or found to be in need of protection or services under s. 48.13 (12), 1993 stats., or s. 48.13 (14), 1993 stats., or s. 938.13 (12) or (14) on the basis of a violation of s. 943.23 (1m) or (1r), 1999 stats., or s. 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28, 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2) (a), 943.23 (1g), 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055, 948.60, 948.605, or 948.61 or any crime specified in ch. 940 has escaped from a ~~secured~~ juvenile correctional facility, residential care center for children and youth, ~~secured group home,~~ inpatient facility, as defined in s. 51.01 (10), ~~secure~~ juvenile detention facility, or juvenile portion of a county jail, or from the custody of a peace officer or a guard of such a facility, center, or jail, or has been allowed to leave a ~~secured~~ juvenile correctional facility, residential care center for children and youth, ~~secured group~~

~~home,~~ inpatient facility, ~~secure~~ juvenile detention facility, or juvenile portion of a county jail for a specified time period and is absent from the facility, center, home, or jail for more than 12 hours after the expiration of the specified period, the department or county department having supervision over the juvenile may release the juvenile's name and any information about the juvenile that is necessary for the protection of the public or to secure the juvenile's return to the facility, center, home, or jail. The department ~~of corrections~~ shall promulgate rules establishing guidelines for the release of the juvenile's name or information about the juvenile to the public.

SECTION 622. 938.795 (1) to (4) of the statutes are amended to read:

938.795 **(1)** COLLECT STATISTICS AND INFORMATION. Collect and collaborate with other agencies in collecting statistics and information useful in determining the cause and amount of delinquency and crime in this state or in carrying out the powers and duties of the department relating to delinquency and crime.

(2) ASSIST COMMUNITIES. Assist communities in their efforts to combat delinquency and social breakdown likely to cause delinquency and crime and assist them in setting up programs for coordinating ~~the~~ a total community program relating to delinquency and crime, including the improvement of law enforcement.

(3) ASSIST SCHOOLS. Assist schools in extending their particular contribution in ~~locating~~ identifying and helping juveniles vulnerable to delinquency and crime and in improving ~~their~~ school services ~~to~~ for all youth.

(4) ENLIGHTEN PUBLIC OPINION. Develop and maintain an enlightened public opinion in support of ~~a~~ any program to control delinquency and crime.

SECTION 623. 938.992 (3) of the statutes is amended to read:

938.992 **(3)** Notwithstanding s. 938.991 (3) (b), "delinquent juvenile" does not include a person subject to an order under s. 48.366 who is confined to a state prison

under s. 302.01 ~~or a person subject to an order under s. 938.34 (4h) who is 17 years of age or over~~.

NOTE: Deletes reference in s. 938.992 (3), stats., to placement of a juvenile who has been adjudicated delinquent in a state prison. See the NOTE to s. 938.357 (4) (d), stats., as repealed by this bill.

SECTION 624. 940.225 (5) (ab) of the statutes is amended to read:

940.225 **(5)** (ab) "Correctional institution" means a jail or correctional facility, as defined in s. 961.01 (12m), a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), or a ~~secure~~ juvenile detention facility, as defined in s. 938.02 ~~(16)~~ (10r).

SECTION 625. 946.42 (1) (a) of the statutes is amended to read:

946.42 **(1)** (a) "Custody" includes without limitation actual custody of an institution, including a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g), ~~a secured group home, as defined in s. 938.02 (15p),~~ a ~~secure~~ juvenile detention facility, as defined in s. 938.02 ~~(16)~~ (10r), a Type 2 ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (19r), or a juvenile portion of a county jail, or of a peace officer or institution guard and constructive custody of prisoners and juveniles subject to an order under s. 48.366, 938.183, 938.34 (4d), (4h), or (4m), or 938.357 (4) or (5) (e) temporarily outside the institution whether for the purpose of work, school, medical care, a leave granted under s. 303.068, a temporary leave or furlough granted to a juvenile, or otherwise. Under s. 303.08 (6) it means, without limitation, that of the sheriff of the county to which the prisoner was transferred after conviction. It does not include the custody of a probationer, parolee, or person on extended supervision by the department of corrections or a probation, extended supervision, or parole officer or

the custody of a person who has been released to aftercare supervision under ch. 938 unless the person is in actual custody or is subject to a confinement order under s. 973.09 (4).

SECTION 626. 946.44 (2) (c) and (d) of the statutes are amended to read:

946.44 **(2)** (c) "Institution" includes a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g), ~~a secured group home, as defined in s. 938.02 (15p),~~ and a Type 2 ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (19r).

(d) "Prisoner" includes a person who is under the supervision of the department of corrections under s. 938.34 (4h), who is placed in a ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution or a secured group home~~ residential care center for children and youth under s. 938.183, 938.34 (4m), or 938.357 (4) or (5) (e), who is placed in a Type 2 ~~child caring institution~~ residential care center for children and youth under s. 938.34 (4d), or who is subject to an order under s. 48.366.

SECTION 627. 946.45 (2) (c) and (d) of the statutes are amended to read:

946.45 **(2)** (c) "Institution" includes a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g), ~~a secured group home, as defined in s. 938.02 (15p),~~ and a Type 2 ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (19r).

(d) "Prisoner" includes a person who is under the supervision of the department of corrections under s. 938.34 (4h), who is placed in a ~~secured~~ juvenile correctional facility~~,~~ or a secured ~~child caring institution or a secured group home~~ residential care center for children and youth under s. 938.183, 938.34 (4m) or 938.357 (4) or (5) (e),

who is placed in a Type 2 ~~child caring institution~~ residential care center for children and youth under s. 938.34 (4d), or who is subject to an order under s. 48.366.

SECTION 628. 948.50 (4) (b) of the statutes is amended to read:

948.50 **(4)** (b) Is placed in or transferred to a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), or a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g).

SECTION 629. 968.255 (7) (b) of the statutes is amended to read:

968.255 **(7)** (b) Is placed in or transferred to a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m),~~ (10p), or a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g)~~, or a secured group home, as defined in s. 938.02 (15p)~~.

SECTION 630. 970.032 (1) of the statutes is amended to read:

970.032 **(1)** Notwithstanding s. 970.03, if a preliminary examination is held regarding a juvenile who is subject to the original jurisdiction of the court of criminal jurisdiction under s. 938.183 (1) ~~or (2)~~, the court shall first determine whether there is probable cause to believe that the juvenile has committed the violation of which he or she is accused under the circumstances specified in s. 938.183 (1) (a), (am), (ar), (b), or (c) ~~or (2)~~, whichever is applicable. If the court does not make that finding, the court shall order that the juvenile be discharged but proceedings may be brought regarding the juvenile under ch. 938.

SECTION 631. 973.013 (3m) of the statutes is amended to read:

973.013 **(3m)** If a person who has not attained the age of 16 years is sentenced to the Wisconsin state prisons, the department shall place the person at a ~~secured~~ juvenile correctional facility or a secured ~~child caring institution~~ residential care center for children and youth, unless the department determines that placement in

an institution under s. 302.01 is appropriate based on the person's prior record of adjustment in a correctional setting, if any; the person's present and potential vocational and educational needs, interests and abilities; the adequacy and suitability of available facilities; the services and procedures available for treatment of the person within the various institutions; the protection of the public; and any other considerations promulgated by the department by rule. The department may not place any person under the age of 18 years in the correctional institution authorized in s. 301.16 (1n). This subsection does not preclude the department from designating an adult correctional institution, other than the correctional institution authorized in s. 301.16 (1n), as a reception center for the person and subsequently transferring the person to a ~~secured~~ juvenile correctional facility or a secured ~~child caring institution~~ residential care center for children and youth. Section 302.11 and ch. 304 apply to all persons placed in a ~~secured~~ juvenile correctional facility or a secured ~~child caring institution~~ residential care center for children and youth under this subsection.

SECTION 632. 976.08 of the statutes is amended to read:

976.08 Additional applicability. In this chapter, "prisoner" includes any person subject to an order under s. 48.366 or 938.183 who is confined to a Wisconsin state prison ~~and any person subject to an order under s. 938.34 (4h) who is 17 years of age or older~~.

NOTE: Deletes reference in s. 976.08, stats., to placement of a juvenile who has been adjudicated delinquent in a state prison. See the NOTE to s. 938.357 (4) (d), stats., as repealed by this bill.

SECTION 633. 980.015 (2) (b) of the statutes is amended to read:

980.015 **(2)** (b) The anticipated release from a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), or a secured ~~child caring institution~~

residential care center for children and youth, as defined in s. 938.02 (15g)~~, or a secured group home, as defined in s. 938.02 (15p)~~, of a person adjudicated delinquent under s. 938.183 or 938.34 on the basis of a sexually violent offense.

SECTION 634. 980.02 (1) (b) 2., (2) (ag) and (4) (am) and (b) of the statutes are amended to read:

980.02 **(1)** (b) 2. The county in which the person will reside or be placed upon his or her discharge from a sentence, release on parole or extended supervision, or release from imprisonment, from a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), from a ~~secured child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g), ~~from a secured group home, as defined in s. 938.02 (15p),~~ or from a commitment order.

(2) (ag) The person is within 90 days of discharge or release, on parole, extended supervision or otherwise, from a sentence that was imposed for a conviction for a sexually violent offense, from a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m),~~ (10p), or from a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g), ~~or from a secured group home, as defined in s. 938.02 (15p),~~ if the person was placed in the facility for being adjudicated delinquent under s. 938.183 or 938.34 on the basis of a sexually violent offense or from a commitment order that was entered as a result of a sexually violent offense.

(4) (am) The circuit court for the county in which the person will reside or be placed upon his or her discharge from a sentence, release on parole or extended supervision, or release from imprisonment, from a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), from a secured ~~child caring institution~~

residential care center for children and youth, as defined in s. 938.02 (15g), ~~from a secured group home, as defined in s. 938.02 (15p),~~ or from a commitment order.

(b) The circuit court for the county in which the person is in custody under a sentence, a placement to a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g), ~~or a secured group home, as defined in s. 938.02 (15p),~~ or a commitment order.

SECTION 635. 980.04 (1) of the statutes is amended to read:

980.04 **(1)** Upon the filing of a petition under s. 980.02, the court shall review the petition to determine whether to issue an order for detention of the person who is the subject of the petition. The person shall be detained only if there is cause to believe that the person is eligible for commitment under s. 980.05 (5). A person detained under this subsection shall be held in a facility approved by the department. If the person is serving a sentence of imprisonment, is in a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 ~~(15m),~~ (10p), or a secured ~~child caring institution~~ residential care center for children and youth, as defined in s. 938.02 (15g), ~~or a secured group home, as defined in s. 938.02 (15p),~~ or is committed to institutional care, and the court orders detention under this subsection, the court shall order that the person be transferred to a detention facility approved by the department. A detention order under this subsection remains in effect until the person is discharged after a trial under s. 980.05 or until the effective date of a commitment order under s. 980.06, whichever is applicable.

SECTION 636. Initial applicability.

(1) PLACEMENT OF JUVENILES IN ADULT PRISONS. The treatment of sections 301.03 (10) (d), 302.11 (10), 302.255, 302.386 (5) (d), 938.183 (3), 938.357 (4) (d), 938.538 (3)

(a) 1., 1m., and 2., (4) (a), (5) (c), and (6), 938.992 (3), and 976.08 of the statutes first applies to a juvenile who is convicted or adjudicated delinquent for a violation committed on July 1, 1996.

(END)