

2007 ASSEMBLY BILL 746

February 4, 2008 – Introduced by Representatives FRISKE, GRIGSBY, KESSLER, JESKEWITZ, BIES, BOYLE, TOWNSEND, BERCEAU, SHERMAN, TURNER, SINICKI, BALLWEG, SEIDEL, PARISI, A. WILLIAMS, FIELDS, YOUNG, SCHNEIDER, STASKUNAS, TOLES and SOLETSKI, cosponsored by Senators ERPENBACH, TAYLOR, VINEHOUT, BRESKE, MILLER and SULLIVAN. Referred to Committee on Criminal Justice.

1 **AN ACT** *to amend* 46.215 (2) (c) 3., 46.22 (1) (e) 3. c., 48.02 (1d), 48.02 (2), 48.366
2 (8), subchapter IX (title) of chapter 48 [precedes 48.44], 48.44 (title), 48.44 (1),
3 48.45 (1) (a), 48.45 (1) (am), 48.45 (3), 49.45 (6m) (br) 1., 77.52 (1), 77.52 (17m)
4 (f) 2., 77.53 (1), 77.61 (4) (c), 118.163 (4), 125.07 (4) (d), 125.07 (4) (e) 1., 125.085
5 (3) (bt), 165.83 (1) (c) 1., 165.83 (1) (c) 2., 301.12 (2m), 301.12 (14) (a), 301.26 (3)
6 (c), 301.26 (3) (em), 301.26 (4) (a), 301.26 (6) (a), 302.31 (7), 938.02 (1), 938.02
7 (10m), 938.12 (2), 938.18 (2), 938.183 (3), 938.255 (1) (intro.), 938.344 (3), 938.35
8 (1m), 938.355 (4) (b), 938.355 (4m) (a), 938.39, subchapter IX (title) of chapter
9 938 [precedes 938.44], 938.44, 938.45 (1) (a), 938.45 (3), 938.48 (4m) (a), 938.48
10 (4m) (b), 938.48 (14), 938.57 (3) (a) 1., 938.57 (3) (a) 3., 938.57 (3) (b), 946.50
11 (intro.), 948.01 (1), 948.11 (2) (am) (intro.), 948.45 (1), 948.60 (2) (d), 948.61 (4),
12 961.455 (1), 961.46, 961.573 (2), 961.574 (2), 961.575 (1), 961.575 (2), 961.575
13 (3), 990.01 (3) and 990.01 (20); *to repeal and recreate* 49.45 (6m) (br) 1.,
14 938.57 (3) (a) 3. and 938.57 (3) (b); and *to create* 20.410 (3) (h), 77.51 (24), 77.51

ASSEMBLY BILL 746

1 (25), 77.52 (1d) and 77.53 (1d) of the statutes; **relating to:** the age at which a
2 person who is alleged to have violated a criminal law, a civil law, or a municipal
3 ordinance is subject to circuit court or municipal court rather than juvenile
4 court jurisdiction, imposing a fee on the sale of video games and video gaming
5 devices, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a person 17 years of age or older who is alleged to have violated a criminal law is subject to the procedures specified in the Criminal Procedure Code and, on conviction, is subject to sentencing under the Criminal Code, which may include a sentence of imprisonment in the Wisconsin state prisons. Currently, subject to certain exceptions, a person under 17 years of age who is alleged to have violated a criminal law is subject to the procedures specified in the Juvenile Justice Code and, on being adjudicated delinquent, is subject to an array of dispositions under that code including placement in a juvenile correctional facility. This bill raises from 17 to 18 the age at which a person who is alleged to have violated a criminal law is subject to the procedures specified in the Criminal Procedure Code and, on conviction, to sentencing under the Criminal Code.

Similarly, under current law, a person 17 years of age or older who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court, while a person under 17 years of age who is alleged to have violated a civil law or municipal ordinance, subject to certain exceptions, is subject to the jurisdiction and procedures of the court assigned to exercise jurisdiction under the Juvenile Justice Code. This bill raises from 17 to 18 the age at which a person who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court.

Under current law, the state imposes a sales and use tax at the rate of 5 percent of the gross receipts on the sale of tangible personal property, including video games, and on the sale of certain services. Under the bill, the state imposes an additional fee on the sale of video games and video gaming devices at the rate of 1 percent of the gross receipts from such sales. This bill appropriates all moneys received from the fee to the Department of Corrections (DOC) and requires DOC to allocate those moneys to counties to pay for state-provided juvenile correctional services and local delinquency-related and juvenile justice services.

ASSEMBLY BILL 746

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:

1 **SECTION 1.** 20.410 (3) (h) of the statutes is created to read:

2 20.410 (3) (h) *Video games fee; community youth and family aids.* All moneys
3 received from the fees imposed under ss. 77.52 (1d) and 77.53 (1d) for the
4 improvement and provision of juvenile delinquency–related services under s. 301.26
5 and for reimbursement to counties having a population of less than 500,000 for the
6 cost of court attached intake services as provided in s. 938.06 (4). Notwithstanding
7 ss. 20.001 (3) (a) and 20.002 (1), the department of corrections may transfer moneys
8 under this paragraph between fiscal years. Except for moneys authorized for
9 transfer under s. 301.26 (3), all moneys from this paragraph allocated under s. 301.26
10 (3) and not spent or encumbered by counties by December 31 of each year shall lapse
11 into the county aid fund on the succeeding January 1. The joint committee on finance
12 may transfer additional moneys to the next calendar year.

13 **SECTION 2.** 46.215 (2) (c) 3. of the statutes is amended to read:

14 46.215 (2) (c) 3. A county department of social services shall develop, under the
15 requirements of s. 301.08 (2), plans and contracts for juvenile delinquency–related
16 care and services to be purchased. The department of corrections may review the
17 contracts and approve them if they are consistent with s. 301.08 (2) and if state or
18 federal funds are available for such purposes. The joint committee on finance may
19 require the department of corrections to submit the contracts to the committee for
20 review and approval. The department of corrections may not make any payments
21 to a county for programs included in a contract under review by the committee. The

ASSEMBLY BILL 746

1 department of corrections shall reimburse each county for the contracts from the
2 appropriations under s. 20.410 (3) (cd), (h), and (ko) as appropriate.

3 **SECTION 3.** 46.22 (1) (e) 3. c. of the statutes is amended to read:

4 46.22 (1) (e) 3. c. A county department of social services shall develop, under
5 the requirements of s. 301.08 (2), plans and contracts for juvenile
6 delinquency-related care and services to be purchased. The department of
7 corrections may review the contracts and approve them if they are consistent with
8 s. 301.08 (2) and to the extent that state or federal funds are available for such
9 purposes. The joint committee on finance may require the department of corrections
10 to submit the contracts to the committee for review and approval. The department
11 of corrections may not make any payments to a county for programs included in the
12 contract that is under review by the committee. The department of corrections shall
13 reimburse each county for the contracts from the appropriations under s. 20.410 (3)
14 (cd), (h), and (ko) as appropriate.

15 **SECTION 4.** 48.02 (1d) of the statutes is amended to read:

16 48.02 (1d) “Adult” means a person who is 18 years of age or older, ~~except that~~
17 ~~for purposes of investigating or prosecuting a person who is alleged to have violated~~
18 ~~any state or federal criminal law or any civil law or municipal ordinance, “adult”~~
19 ~~means a person who has attained 17 years of age.~~

20 **SECTION 5.** 48.02 (2) of the statutes is amended to read:

21 48.02 (2) “Child” means a person who is less than 18 years of age, ~~except that~~
22 ~~for purposes of investigating or prosecuting a person who is alleged to have violated~~
23 ~~a state or federal criminal law or any civil law or municipal ordinance, “child” does~~
24 ~~not include a person who has attained 17 years of age.~~

25 **SECTION 6.** 48.366 (8) of the statutes is amended to read:

ASSEMBLY BILL 746

1 48.366 **(8)** TRANSFER TO OR BETWEEN FACILITIES. The department of corrections
2 may transfer a person subject to an order between juvenile correctional facilities.
3 After the person attains the age of ~~17~~ 18 years, the department of corrections may
4 place the person in a state prison named in s. 302.01, ~~except that the department of~~
5 ~~corrections may not place any person under the age of 18 years in the correctional~~
6 ~~institution authorized in s. 301.16 (1n).~~ If the department of corrections places a
7 person subject to an order under this section in a state prison, that department shall
8 provide services for that person from the appropriate appropriation under s. 20.410
9 (1). The department of corrections may transfer a person placed in a state prison
10 under this subsection to or between state prisons named in s. 302.01 without
11 petitioning for revision of the order under sub. (5) (a), ~~except that the department of~~
12 ~~corrections may not transfer any person under the age of 18 years to the correctional~~
13 ~~institution authorized in s. 301.16 (1n).~~

14 **SECTION 7.** Subchapter IX (title) of chapter 48 [precedes 48.44] of the statutes
15 is amended to read:

CHAPTER 48**SUBCHAPTER IX****JURISDICTION OVER PERSON ~~17~~ 18 OR OLDER**

19 **SECTION 8.** 48.44 (title) of the statutes is amended to read:

20 **48.44** (title) **Jurisdiction over persons ~~17~~ 18 or older.**

21 **SECTION 9.** 48.44 (1) of the statutes is amended to read:

22 48.44 **(1)** The court has jurisdiction over persons ~~17~~ 18 years of age or older as
23 provided under ss. 48.133, 48.355 (4), and 48.45 and as otherwise specifically
24 provided in this chapter.

25 **SECTION 10.** 48.45 (1) (a) of the statutes is amended to read:

ASSEMBLY BILL 746

1 48.45 (1) (a) If in the hearing of a case of a child alleged to be in a condition
2 described in s. 48.13 it appears that any person 17 18 years of age or older has been
3 guilty of contributing to, encouraging, or tending to cause by any act or omission,
4 ~~such~~ that condition of the child, the judge may make orders with respect to the
5 conduct of ~~such~~ that person in his or her relationship to the child, including orders
6 determining the ability of the person to provide for the maintenance or care of the
7 child and directing when, how, and from where funds for the maintenance or care
8 shall be paid.

9 **SECTION 11.** 48.45 (1) (am) of the statutes is amended to read:

10 48.45 (1) (am) If in the hearing of a case of an unborn child and the unborn
11 child's expectant mother alleged to be in a condition described in s. 48.133 it appears
12 that any person 17 18 years of age or over has been guilty of contributing to,
13 encouraging, or tending to cause by any act or omission, ~~such~~ that condition of the
14 unborn child and expectant mother, the judge may make orders with respect to the
15 conduct of ~~such~~ that person in his or her relationship to the unborn child and
16 expectant mother.

17 **SECTION 12.** 48.45 (3) of the statutes is amended to read:

18 48.45 (3) If it appears at a court hearing that any person 17 18 years of age or
19 older has violated s. 948.40, the judge shall refer the record to the district attorney
20 for criminal proceedings as may be warranted in the district attorney's judgment.
21 This subsection does not prevent prosecution of violations of s. 948.40 without the
22 prior reference by the judge to the district attorney, as in other criminal cases.

23 **SECTION 13.** 49.45 (6m) (br) 1. of the statutes is amended to read:

24 49.45 (6m) (br) 1. Notwithstanding s. 20.410 (3) (cd), (h), or (ko), 20.435 (4) (bt)
25 or (7) (b), or 20.445 (3) (dz), the department shall reduce allocations of funds to

ASSEMBLY BILL 746

1 counties in the amount of the disallowance from the appropriation account under s.
2 20.435 (4) (bt) or (7) (b), or the department shall direct the department of workforce
3 development to reduce allocations of funds to counties or Wisconsin works agencies
4 in the amount of the disallowance from the appropriation account under s. 20.445 (3)
5 (dz) or direct the department of corrections to reduce allocations of funds to counties
6 in the amount of the disallowance from the appropriation account under s. 20.410 (3)
7 (cd), (h), or (ko) in accordance with s. 16.544 to the extent applicable.

8 **SECTION 14.** 49.45 (6m) (br) 1. of the statutes, as affected by 2007 Wisconsin
9 Acts 20 and (this act), is repealed and recreated to read:

10 49.45 **(6m)** (br) 1. Notwithstanding s. 20.410 (3) (cd), (h), or (ko), 20.435 (4) (bt)
11 or (7) (b), or 20.437 (2) (dz), the department shall reduce allocations of funds to
12 counties in the amount of the disallowance from the appropriation account under s.
13 20.435 (4) (bt) or (7) (b), or the department shall direct the department of children
14 and families to reduce allocations of funds to counties or Wisconsin Works agencies
15 in the amount of the disallowance from the appropriation account under s. 20.437 (2)
16 (dz) or direct the department of corrections to reduce allocations of funds to counties
17 in the amount of the disallowance from the appropriation account under s. 20.410 (3)
18 (cd), (h), or (ko) in accordance with s. 16.544 to the extent applicable.

19 **SECTION 15.** 77.51 (24) of the statutes is created to read:

20 77.51 **(24)** “Video game” means any electronically operated game that involves
21 manipulating images produced by a computer program on a visual display unit,
22 including a computer monitor, a television, or a video gaming device.

23 **SECTION 16.** 77.51 (25) of the statutes is created to read:

24 77.51 **(25)** “Video gaming device” means a video game console or handheld
25 device that is used primarily for displaying video games.

ASSEMBLY BILL 746

1 **SECTION 17.** 77.52 (1) of the statutes is amended to read:

2 77.52 (1) ~~For~~ Except as provided in sub. (1d), for the privilege of selling, leasing,
3 or renting tangible personal property, including accessories, components,
4 attachments, parts, supplies, and materials, at retail a tax is imposed upon all
5 retailers at the rate of 5% of the gross receipts from the sale, lease, or rental of
6 tangible personal property, including accessories, components, attachments, parts,
7 supplies, and materials, sold, leased, or rented at retail in this state.

8 **SECTION 18.** 77.52 (1d) of the statutes is created to read:

9 77.52 (1d) In addition to the tax imposed on sub. (1), a fee is imposed upon all
10 retailers at the rate of 1 percent of the gross receipts from the sale, lease, or rental
11 of video games and video gaming devices, including accessories, components,
12 attachments, parts, and supplies that are sold, leased, or rented at retail in this state.
13 All moneys from the fee imposed under this subsection shall be credited to the
14 appropriation under s. 20.410 (3) (h).

15 **SECTION 19.** 77.52 (17m) (f) 2. of the statutes is amended to read:

16 77.52 (17m) (f) 2. Maintain accounting records that show the tax or fee under
17 ss. 77.52 (1), (1d), and (2) and 77.53 (3) paid on each purchase during each reporting
18 period under s. 77.58 and the total tax or fee paid during each reporting period, pay
19 the tax or fee under ss. 77.52 (1), (1d), and (2) and 77.53 (3) on either all or none of
20 the purchases made from each retailer during each reporting period and pay the tax
21 under s. 77.53 (1) to the department on all of the purchases for which the tax is due.

22 **SECTION 20.** 77.53 (1) of the statutes is amended to read:

23 77.53 (1) ~~Except as provided in sub.~~ subs. (1d) and (1m), an excise tax is levied
24 and imposed on the use or consumption in this state of taxable services under s. 77.52
25 purchased from any retailer, at the rate of 5% of the sales price of those services; on

ASSEMBLY BILL 746

1 the storage, use, or other consumption in this state of tangible personal property
2 purchased from any retailer, at the rate of 5% of the sales price of that property; and
3 on the storage, use, or other consumption of tangible personal property
4 manufactured, processed, or otherwise altered, in or outside this state, by the person
5 who stores, uses or consumes it, from material purchased from any retailer, at the
6 rate of 5% of the sales price of that material.

7 **SECTION 21.** 77.53 (1d) of the statutes is created to read:

8 77.53 (1d) In addition to the tax imposed under sub. (1), a fee is levied and
9 imposed on the storage, use, or other consumption in this state of video games
10 purchased from any retailer, at the rate of 1 percent of the sales price of such games.
11 All moneys from the fee imposed under this subsection shall be credited to the
12 appropriation under s. 20.410 (3) (h).

13 **SECTION 22.** 77.61 (4) (c) of the statutes is amended to read:

14 77.61 (4) (c) For reporting the sales tax and the fee imposed under s. 77.52 (1d)
15 and collecting and reporting the use tax imposed on the retailer under s. 77.53 (3) and
16 the accounting connected with it, retailers may deduct 0.5% of those taxes payable
17 or \$10 for that reporting period required under s. 77.58 (1), whichever is greater, but
18 not more than the amount of the sales taxes or use taxes that is payable under ss.
19 77.52 (1) and (1d) and 77.53 (3) for that reporting period required under s. 77.58 (1),
20 as administration expenses if the payment of the taxes is not delinquent. For
21 purposes of calculating the retailer's discount under this paragraph, the taxes on
22 retail sales reported by retailers under subch. V, including taxes collected and
23 remitted as required under s. 77.785, shall be included if the payment of those taxes
24 is not delinquent.

25 **SECTION 23.** 118.163 (4) of the statutes is amended to read:

ASSEMBLY BILL 746

1 118.163 **(4)** A person who is under ~~17~~ 18 years of age on the date of disposition
2 is subject to s. 938.342.

3 **SECTION 24.** 125.07 (4) (d) of the statutes is amended to read:

4 125.07 **(4)** (d) A person who is under ~~17~~ 18 years of age on the date of disposition
5 is subject to s. 938.344 unless proceedings have been instituted against the person
6 in a court of civil or criminal jurisdiction after dismissal of the citation under s.
7 938.344 (3).

8 **SECTION 25.** 125.07 (4) (e) 1. of the statutes is amended to read:

9 125.07 **(4)** (e) 1. In this paragraph, “defendant” means a person found guilty
10 of violating par. (a) or (b) who is ~~17,~~ 18, ~~19,~~ or 20 years of age.

11 **SECTION 26.** 125.085 (3) (bt) of the statutes is amended to read:

12 125.085 **(3)** (bt) A person who is under ~~17~~ 18 years of age on the date of
13 disposition is subject to s. 938.344 unless proceedings have been instituted against
14 the person in a court of civil or criminal jurisdiction after dismissal of the citation
15 under s. 938.344 (3).

16 **SECTION 27.** 165.83 (1) (c) 1. of the statutes is amended to read:

17 165.83 **(1)** (c) 1. An act that is committed by a person who has attained the age
18 of ~~17~~ 18 and that is a felony or a misdemeanor.

19 **SECTION 28.** 165.83 (1) (c) 2. of the statutes is amended to read:

20 165.83 **(1)** (c) 2. An act that is committed by a person who has attained the age
21 of 10 but who has not attained the age of ~~17~~ 18 and that would be a felony or
22 misdemeanor if committed by an adult.

23 **SECTION 29.** 301.12 (2m) of the statutes is amended to read:

ASSEMBLY BILL 746

1 301.12 **(2m)** The liability specified in sub. (2) shall not apply to persons 17 18
2 years of age and older receiving care, maintenance, services, and supplies provided
3 by prisons named in s. 302.01.

4 **SECTION 30.** 301.12 (14) (a) of the statutes is amended to read:

5 301.12 **(14)** (a) Except as provided in pars. (b) and (c), liability of a person
6 specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons under 17
7 18 years of age in residential, nonmedical facilities such as group homes, foster
8 homes, treatment foster homes, child caring institutions, and juvenile correctional
9 institutions is determined in accordance with the cost-based fee established under
10 s. 301.03 (18). The department shall bill the liable person up to any amount of
11 liability not paid by an insurer under s. 632.89 (2) or (2m) or by other 3rd-party
12 benefits, subject to rules which that include formulas governing ability to pay
13 promulgated by the department under s. 301.03 (18). Any liability of the resident not
14 payable by any other person terminates when the resident reaches age 17 18, unless
15 the liable person has prevented payment by any act or omission.

16 **SECTION 31.** 301.26 (3) (c) of the statutes is amended to read:

17 301.26 **(3)** (c) Within the limits of the appropriations under s. 20.410 (3) (cd),
18 (h), and (ko), the department shall allocate funds to each county for services under
19 this section.

20 **SECTION 32.** 301.26 (3) (em) of the statutes is amended to read:

21 301.26 **(3)** (em) The department may carry forward any emergency funds
22 allocated under sub. (7) (e) and not encumbered or carried forward under par. (dm)
23 by December 31 to the next 2 calendar years. The department may transfer moneys
24 from or within s. 20.410 (3) (cd), (h), and (ko) to accomplish this purpose. The
25 department may allocate these transferred moneys to counties that are eligible for

ASSEMBLY BILL 746

1 emergency payments under sub. (7) (e). The allocation does not affect a county's base
2 allocation.

3 **SECTION 33.** 301.26 (4) (a) of the statutes is amended to read:

4 301.26 (4) (a) Except as provided in pars. (c) and (cm), the department of
5 corrections shall bill counties or deduct from the allocations under s. 20.410 (3) (cd),
6 (h), and (ko) for the costs of care, services and supplies purchased or provided by the
7 department of corrections for each person receiving services under s. 48.366, 938.183
8 or 938.34 or the department of health and family services for each person receiving
9 services under s. 46.057 or 51.35 (3). The department of corrections may not bill a
10 county for or deduct from a county's allocation the cost of care, services and supplies
11 provided to a person subject to an order under s. 48.366 or 938.183 after the person
12 reaches 18 years of age. Payment shall be due within 60 days after the billing date.
13 If any payment has not been received within 60 days, the department of corrections
14 may withhold aid payments in the amount due from the appropriation under s.
15 20.410 (3) (cd).

16 **SECTION 34.** 301.26 (6) (a) of the statutes is amended to read:

17 301.26 (6) (a) The intent of this subsection is to develop criteria to assist the
18 legislature in allocating funding, excluding funding for base allocations, from the
19 appropriations under s. 20.410 (3) (cd), (h), and (ko) for purposes described in this
20 section.

21 **SECTION 35.** 302.31 (7) of the statutes is amended to read:

22 302.31 (7) The temporary placement of persons in the custody of the
23 department, other than persons under ~~17~~ 18 years of age, and persons who have
24 attained the age of ~~17~~ 18 years but have not attained the age of 25 years who are
25 under the supervision of the department under s. 48.366 or 938.355 (4) and who have

ASSEMBLY BILL 746

1 been taken into custody pending revocation of aftercare supervision under s. 48.366
2 (5) or 938.357 (5) (e).

3 **SECTION 36.** 938.02 (1) of the statutes is amended to read:

4 938.02 (1) “Adult” means a person who is 18 years of age or older, ~~except that~~
5 ~~for purposes of investigating or prosecuting a person who is alleged to have violated~~
6 ~~any state or federal criminal law or any civil law or municipal ordinance, “adult”~~
7 means a person who has attained 17 years of age.

8 **SECTION 37.** 938.02 (10m) of the statutes is amended to read:

9 938.02 (10m) “Juvenile” means a person who is less than 18 years of age, ~~except~~
10 ~~that for purposes of investigating or prosecuting a person who is alleged to have~~
11 ~~violated a state or federal criminal law or any civil law or municipal ordinance,~~
12 ~~“juvenile” does not include a person who has attained 17 years of age.~~

13 **SECTION 38.** 938.12 (2) of the statutes is amended to read:

14 938.12 (2) ~~SEVENTEEN-YEAR-OLDS~~ EIGHTEEN-YEAR-OLDS. If a petition alleging
15 that a juvenile is delinquent is filed before the juvenile is 17 18 years of age, but the
16 juvenile becomes 17 18 years of age before admitting the facts of the petition at the
17 plea hearing or if the juvenile denies the facts, before an adjudication, the court
18 retains jurisdiction over the case.

19 **SECTION 39.** 938.18 (2) of the statutes is amended to read:

20 938.18 (2) PETITION. The petition for waiver of jurisdiction may be filed by the
21 district attorney or the juvenile or may be initiated by the court and shall contain a
22 brief statement of the facts supporting the request for waiver. The petition for waiver
23 of jurisdiction shall be accompanied by or filed after the filing of a petition alleging
24 delinquency and shall be filed prior to the plea hearing, except that if the juvenile
25 denies the facts of the petition and becomes 17 18 years of age before an adjudication,

ASSEMBLY BILL 746

1 the petition for waiver of jurisdiction may be filed at any time prior to the
2 adjudication. If the court initiates the petition for waiver of jurisdiction, the judge
3 shall disqualify himself or herself from any future proceedings on the case.

4 **SECTION 40.** 938.183 (3) of the statutes is amended to read:

5 938.183 (3) PLACEMENT IN STATE PRISON; PAROLE. When a juvenile who is subject
6 to a criminal penalty under sub. (1m) or s. 938.183 (2), 2003 stats., attains the age
7 of ~~17~~ 18 years, the department may place the juvenile in a state prison named in s.
8 ~~302.01, except that the department may not place any person under the age of 18~~
9 ~~years in the correctional institution authorized in s. 301.16 (1n).~~ A juvenile who is
10 subject to a criminal penalty under sub. (1m) or under s. 938.183 (2), 2003 stats., for
11 an act committed before December 31, 1999, is eligible for parole under s. 304.06.

12 **SECTION 41.** 938.255 (1) (intro.) of the statutes is amended to read:

13 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings
14 under this chapter, ~~other than a petition initiating proceedings under s. 938.12,~~
15 ~~938.125, or 938.13 (12),~~ shall be entitled, “In the interest of (juvenile’s name), a
16 person under the age of 18”. ~~A petition initiating proceedings under s. 938.12,~~
17 ~~938.125, or 938.13 (12) shall be entitled, “In the interest of (juvenile’s name), a person~~
18 ~~under the age of 17”.~~” A petition initiating proceedings under this chapter shall
19 specify all of the following:

20 **SECTION 42.** 938.344 (3) of the statutes is amended to read:

21 938.344 (3) PROSECUTION IN ADULT COURT. If the juvenile alleged to have
22 committed the violation is within 3 months of his or her ~~17th~~ 18th birthday, the court
23 assigned to exercise jurisdiction under this chapter and ch. 48 may, at the request
24 of the district attorney or on its own motion, dismiss the citation without prejudice
25 and refer the matter to the district attorney for prosecution under s. 125.07 (4). The

ASSEMBLY BILL 746

1 juvenile is entitled to a hearing only on the issue of his or her age. This subsection
2 does not apply to violations under s. 961.573 (2), 961.574 (2), or 961.575 (2) or a local
3 ordinance that strictly conforms to one of those statutes.

4 **SECTION 43.** 938.35 (1m) of the statutes is amended to read:

5 938.35 (1m) FUTURE CRIMINAL PROCEEDINGS BARRED. Disposition by the court
6 assigned to exercise jurisdiction under this chapter and ch. 48 of any allegation
7 under s. 938.12 or 938.13 (12) shall bar any future proceeding on the same matter
8 in criminal court when the juvenile attains ~~17~~ 18 years of age. This ~~paragraph~~
9 subsection does not affect proceedings in criminal court that have been transferred
10 under s. 938.18.

11 **SECTION 44.** 938.355 (4) (b) of the statutes is amended to read:

12 938.355 (4) (b) Except as provided in s. 938.368, an order under s. 938.34 (4d)
13 or (4m) made before the juvenile attains 18 years of age may apply for up to 2 years
14 after the date on which the order is granted or until the juvenile's 18th birthday,
15 whichever is earlier, unless the court specifies a shorter period of time or the court
16 terminates the order sooner. If the order does not specify a termination date, it shall
17 apply for one year after the date on which the order is granted or until the juvenile's
18 18th birthday, whichever is earlier, unless the court terminates the order sooner.
19 Except as provided in s. 938.368, an order under s. 938.34 (4h) made before the
20 juvenile attains 18 years of age shall apply for 5 years after the date on which the
21 order is granted, if the juvenile is adjudicated delinquent for committing a violation
22 of s. 943.10 (2) or for committing an act that would be punishable as a Class B or C
23 felony if committed by an adult, or until the juvenile reaches 25 years of age, if the
24 juvenile is adjudicated delinquent for committing an act that would be punishable
25 as a Class A felony if committed by an adult. Except as provided in s. 938.368, an

ASSEMBLY BILL 746

1 extension of an order under s. 938.34 (4d), (4h), (4m), or (4n) made before the juvenile
2 attains ~~17~~ 18 years of age shall terminate at the end of one year after the date on
3 which the order is granted unless the court specifies a shorter period of time or the
4 court terminates the order sooner. No extension under s. 938.365 of an original
5 dispositional order under s. 938.34 (4d), (4h), (4m), or (4n) may be granted for a
6 juvenile who is ~~17~~ 18 years of age or older when the original dispositional order
7 terminates.

8 **SECTION 45.** 938.355 (4m) (a) of the statutes is amended to read:

9 938.355 (**4m**) (a) A juvenile who has been adjudged delinquent under s. 48.12,
10 1993 stats., or s. 938.12 may, on attaining ~~17~~ 18 years of age, petition the court to
11 expunge the court's record of the juvenile's adjudication. Subject to par. (b), the court
12 may expunge the record if the court determines that the juvenile has satisfactorily
13 complied with the conditions of his or her dispositional order and that the juvenile
14 will benefit from, and society will not be harmed by, the expungement.

15 **SECTION 46.** 938.39 of the statutes is amended to read:

16 **938.39 Disposition by court bars criminal proceeding.** Disposition by the
17 court of any violation of state law within its jurisdiction under s. 938.12 bars any
18 future criminal proceeding on the same matter in circuit court when the juvenile
19 reaches the age of ~~17~~ 18. This section does not affect criminal proceedings in circuit
20 court that were transferred under s. 938.18.

21 **SECTION 47.** Subchapter IX (title) of chapter 938 [precedes 938.44] of the
22 statutes is amended to read:

23 **CHAPTER 938**

24 **SUBCHAPTER IX**

25 **JURISDICTION OVER PERSONS ~~17~~ 18 OR OLDER**

ASSEMBLY BILL 746

1 **SECTION 48.** 938.44 of the statutes is amended to read:

2 **938.44 Jurisdiction over persons 17 18 or older.** The court has jurisdiction
3 over persons 17 18 years of age or older as provided under ss. 938.355 (4) and 938.45
4 and as otherwise specified in this chapter.

5 **SECTION 49.** 938.45 (1) (a) of the statutes is amended to read:

6 938.45 (1) (a) If in the hearing of a case of a juvenile alleged to be delinquent
7 under s. 938.12 or in need of protection or services under s. 938.13 it appears that any
8 person 17 18 years of age or older has been guilty of contributing to, encouraging, or
9 tending to cause by any act or omission, such that condition of the juvenile, the court
10 may make orders with respect to the conduct of that person in his or her relationship
11 to the juvenile, including orders relating to determining the ability of the person to
12 provide for the maintenance or care of the juvenile and directing when, how, and
13 where funds for the maintenance or care shall be paid.

14 **SECTION 50.** 938.45 (3) of the statutes is amended to read:

15 938.45 (3) PROSECUTION OF ADULT CONTRIBUTING TO DELINQUENCY OF JUVENILE.
16 If it appears at a court hearing that any person 17 18 years of age or older has violated
17 s. 948.40, the court shall refer the record to the district attorney. This subsection does
18 not prohibit prosecution of violations of s. 948.40 without the prior reference by the
19 court to the district attorney.

20 **SECTION 51.** 938.48 (4m) (a) of the statutes is amended to read:

21 938.48 (4m) (a) Is at least 17 18 years of age.

22 **SECTION 52.** 938.48 (4m) (b) of the statutes is amended to read:

23 938.48 (4m) (b) Was under the supervision of the department under s. 938.183,
24 938.34 (4h), (4m), or (4n) or 938.357 (4) when the person reached 17 18 years of age.

25 **SECTION 53.** 938.48 (14) of the statutes is amended to read:

ASSEMBLY BILL 746

1 938.48 (14) SCHOOL-RELATED EXPENSES FOR JUVENILES OVER ~~17~~ 18. Pay
2 maintenance, tuition, and related expenses from the appropriation under s. 20.410
3 (3) (ho) for persons who, when they attained ~~17~~ 18 years of age, were students
4 regularly attending a school, college, or university or regularly attending a course of
5 vocational or technical training designed to prepare them for gainful employment,
6 and who upon attaining that age were under the supervision of the department
7 under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357 (4) as a result of a judicial
8 decision.

9 **SECTION 54.** 938.57 (3) (a) 1. of the statutes is amended to read:

10 938.57 (3) (a) 1. Is ~~17~~ 18 years of age or older.

11 **SECTION 55.** 938.57 (3) (a) 3. of the statutes is amended to read:

12 938.57 (3) (a) 3. Received funding under s. 46.495 (1) (d) immediately prior to
13 his or her ~~17th~~ 18th birthday.

14 **SECTION 56.** 938.57 (3) (a) 3. of the statutes, as affected by 2007 Wisconsin Acts
15 20 and (this act), is repealed and recreated to read:

16 938.57 (3) (a) 3. Received funding under s. 48.569 (1) (d) immediately prior to
17 his or her 18th birthday.

18 **SECTION 57.** 938.57 (3) (b) of the statutes is amended to read:

19 938.57 (3) (b) The funding provided for the maintenance of a juvenile under par.
20 (a) shall be in an amount equal to that to which the juvenile would receive under s.
21 46.495 (1) (d) if the juvenile were ~~16~~ 17 years of age.

22 **SECTION 58.** 938.57 (3) (b) of the statutes, as affected by 2007 Wisconsin Acts
23 20 and (this act), is repealed and recreated to read:

ASSEMBLY BILL 746

1 938.57 (3) (b) The funding provided for the maintenance of a juvenile under par.
2 (a) shall be in an amount equal to that to which the juvenile would receive under s.
3 48.569 (1) (d) if the juvenile were 17 years of age.

4 **SECTION 59.** 946.50 (intro.) of the statutes is amended to read:

5 **946.50 Absconding.** (intro.) Any person who is adjudicated delinquent, but
6 who intentionally fails to appear before the court assigned to exercise jurisdiction
7 under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who
8 does not return to that court for a dispositional hearing before attaining the age of
9 17 18 years is guilty of the following:

10 **SECTION 60.** 948.01 (1) of the statutes is amended to read:

11 948.01 (1) “Child” means a person who has not attained the age of 18 years,
12 ~~except that for purposes of prosecuting a person who is alleged to have violated a~~
13 ~~state or federal criminal law, “child” does not include a person who has attained the~~
14 ~~age of 17 years.~~

15 **SECTION 61.** 948.11 (2) (am) (intro.) of the statutes is amended to read:

16 948.11 (2) (am) (intro.) Any person who has attained the age of 17 18 and who,
17 with knowledge of the character and content of the description or narrative account,
18 verbally communicates, by any means, a harmful description or narrative account
19 to a child, with or without monetary consideration, is guilty of a Class I felony if any
20 of the following applies:

21 **SECTION 62.** 948.45 (1) of the statutes is amended to read:

22 948.45 (1) Except as provided in sub. (2), any person 17 18 years of age or older
23 who, by any act or omission, knowingly encourages or contributes to the truancy, as
24 defined under s. 118.16 (1) (c), of a person 17 18 years of age or under is guilty of a
25 Class C misdemeanor.

ASSEMBLY BILL 746

1 **SECTION 63.** 948.60 (2) (d) of the statutes is amended to read:

2 948.60 (2) (d) A person under 17 18 years of age who has violated this
3 subsection is subject to the provisions of ch. 938 unless jurisdiction is waived under
4 s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction
5 under s. 938.183.

6 **SECTION 64.** 948.61 (4) of the statutes is amended to read:

7 948.61 (4) A person under 17 18 years of age who has violated this section is
8 subject to the provisions of ch. 938, unless jurisdiction is waived under s. 938.18 or
9 the person is subject to the jurisdiction of a court of criminal jurisdiction under s.
10 938.183.

11 **SECTION 65.** 961.455 (1) of the statutes is amended to read:

12 961.455 (1) Any person who has attained the age of 17 18 years who knowingly
13 solicits, hires, directs, employs, or uses a person who is under the age of 17 18 years
14 for the purpose of violating s. 961.41 (1) is guilty of a Class F felony.

15 **SECTION 66.** 961.46 of the statutes is amended to read:

16 **961.46 Distribution to persons under age 18.** If a person 17 18 years of age
17 or over violates s. 961.41 (1) by distributing or delivering a controlled substance or
18 a controlled substance analog to a person 17 years of age or under who is at least 3
19 years his or her junior, the applicable maximum term of imprisonment prescribed
20 under s. 961.41 (1) for the offense may be increased by not more than 5 years.

21 **SECTION 67.** 961.573 (2) of the statutes is amended to read:

22 961.573 (2) Any person ~~who violates sub. (1) who is under 17 18 years of age~~
23 ~~who violates sub. (1)~~ is subject to a disposition under s. 938.344 (2e).

24 **SECTION 68.** 961.574 (2) of the statutes is amended to read:

ASSEMBLY BILL 746

1 961.574 (2) Any person ~~who violates sub. (1) who is under 17~~ 18 years of age
2 who violates sub. (1) is subject to a disposition under s. 938.344 (2e).

3 **SECTION 69.** 961.575 (1) of the statutes is amended to read:

4 961.575 (1) Any person ~~17~~ 18 years of age or over who violates s. 961.574 (1)
5 by delivering drug paraphernalia to a person 17 years of age or under who is at least
6 3 years younger than the violator may be fined not more than \$10,000 or imprisoned
7 for not more than 9 months or both.

8 **SECTION 70.** 961.575 (2) of the statutes is amended to read:

9 961.575 (2) Any person ~~who violates this section who is under 17~~ under 18 years
10 of age who violates s. 961.574 (3) is subject to a disposition under s. 938.344 (2e).

11 **SECTION 71.** 961.575 (3) of the statutes is amended to read:

12 961.575 (3) Any person ~~17~~ 18 years of age or over who violates s. 961.574 (3)
13 by delivering drug paraphernalia to a person 17 years of age or under is guilty of a
14 Class G felony.

15 **SECTION 72.** 990.01 (3) of the statutes is amended to read:

16 990.01 (3) ADULT. “Adult” means a person who has attained the age of 18 years,
17 ~~except that for purposes of investigating or prosecuting a person who is alleged to~~
18 ~~have violated any state or federal criminal law or any civil law or municipal~~
19 ~~ordinance, “adult” means a person who has attained the age of 17 years.~~

20 **SECTION 73.** 990.01 (20) of the statutes is amended to read:

21 990.01 (20) MINOR. “Minor” means a person who has not attained the age of
22 18 years, ~~except that for purposes of investigating or prosecuting a person who is~~
23 ~~alleged to have violated a state or federal criminal law or any civil law or municipal~~
24 ~~ordinance, “minor” does not include a person who has attained the age of 17 years.~~

25 **SECTION 74. Initial applicability.**

