



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3048/A

GMM:wlj:rf

stays

2  
BMR

IN 10/3  
Wanted week of 10/5

2009 BILL

Today

Repeal

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

**BILL**

1 938.45 (1) (a), 938.45 (3), 946.50 (intro.), 948.01 (1), 948.60 (2) (d), 948.61 (4),  
 2 990.01 (3) and 990.01 (20) of the statutes; **relating to:** the age at which a person  
 3 who is alleged to have violated a criminal law, a civil law, or a municipal  
 4 ordinance is subject to circuit court or municipal court jurisdiction rather than  
 5 juvenile court jurisdiction

Insert 2-5

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***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. The change is effective on July 1, 2010, for a person who is alleged to have committed a misdemeanor and on July 1, 2011, for a person who's alleged to have committed a felony.

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. The change is effective on July 1, 2010.

Insert A

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

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

Insert 2-6

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

**BILL**

1           48.02 (1d) "Adult" means a person who is 18 years of age or older, except that  
2 for purposes of investigating or prosecuting a person who is alleged to have ~~violated~~  
3 committed a violation of any state or federal criminal law ~~or any civil law or~~  
4 ~~municipal ordinance that is punishable as a felony~~, "adult" means a person who has  
5 attained 17 years of age.

6           **SECTION 2.** 48.02 (1d) of the statutes, as affected by 2009 Wisconsin Act .... (this  
7 act), is repealed and recreated to read:

8           48.02 (1d) "Adult" means a person who is 18 years of age or older.

9           **SECTION 3.** 48.02 (2) of the statutes is amended to read:

10          48.02 (2) "Child" means a person who is less than 18 years of age, except that  
11 for purposes of investigating or prosecuting a person who is alleged to have ~~violated~~  
12 committed a violation of a state or federal criminal law ~~or any civil law or municipal~~  
13 ~~ordinance that is punishable as a felony~~, "child" does not include a person who has  
14 attained 17 years of age.

15          **SECTION 4.** 48.02 (2) of the statutes, as affected by 2009 Wisconsin Act .... (this  
16 act), is repealed and recreated to read:

17          48.02 (2) "Child" means a person who is less than 18 years of age.

18          **SECTION 5.** 48.366 (8) of the statutes is amended to read:

19          48.366 (8) TRANSFER TO OR BETWEEN FACILITIES. The department of corrections  
20 may transfer a person subject to an order between juvenile correctional facilities.  
21 After the person attains the age of ~~17~~ 18 years, the department of corrections may  
22 place the person in a state prison named in s. 302.01, ~~except that the department of~~  
23 ~~corrections may not place any person under the age of 18 years in the correctional~~  
24 ~~institution authorized in s. 301.16 (1n)~~. If the department of corrections places a  
25 person subject to an order under this section in a state prison, that department shall

**BILL**

1 provide services for that person from the appropriate appropriation under s. 20.410  
 2 (1). The department of corrections may transfer a person placed in a state prison  
 3 under this subsection to or between state prisons named in s. 302.01 without  
 4 petitioning for revision of the order under sub. (5) (a), ~~except that the department of~~  
 5 ~~corrections may not transfer any person under the age of 18 years to the correctional~~  
 6 ~~institution authorized in s. 301.16 (1n).~~

7 **SECTION 6.** Subchapter IX (title) of chapter 48 [precedes 48.44] of the statutes  
 8 is amended to read:

**CHAPTER 48**

**SUBCHAPTER IX**

**JURISDICTION OVER PERSON ~~17~~ 18 OR OLDER**

12 **SECTION 7.** 48.44 (title) of the statutes is amended to read:

13 **48.44 (title) Jurisdiction over persons ~~17~~ 18 or older.**

14 **SECTION 8.** 48.44 (1) of the statutes is amended to read:

15 48.44 (1) The court has jurisdiction over persons ~~17~~ 18 years of age or older as  
 16 provided under ss. 48.133, 48.355 (4), and 48.45 and as otherwise specifically  
 17 provided in this chapter.

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

19 48.45 (1) (a) If in the hearing of a case of a child alleged to be in a condition  
 20 described in s. 48.13 it appears that any person 17 years of age or older has been  
 21 guilty of contributing to, encouraging, or tending to cause, by any act or omission,  
 22 such that is punishable as a felony, that condition of the child or that any person 18  
 23 years of age or older has been guilty of contributing to, encouraging, or tending to  
 24 cause, by any act or omission that is punishable as a misdemeanor, that condition of  
 25 the child, the judge may make orders with respect to the conduct of such that person

**BILL**

1 in his or her relationship to the child, including orders determining the ability of the  
2 person to provide for the maintenance or care of the child and directing when, how,  
3 and where funds for the maintenance or care shall be paid.

4 **SECTION 10.** 48.45 (1) (a) of the statutes, as affected by 2009 Wisconsin Act ....  
5 (this act), is repealed and recreated to read:

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

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

14 48.45 (1) (am) If in the hearing of a case of an unborn child and the unborn  
15 child's expectant mother alleged to be in a condition described in s. 48.133 it appears  
16 that any person 17 years of age or over has been guilty of contributing to,  
17 encouraging, or tending to cause, by any act or omission, ~~such that is punishable as~~  
18 a felony, that condition of the unborn child and expectant mother or that any person  
19 18 years of age or over has been guilty of contributing to, encouraging, or tending to  
20 cause, by any act or omission that is punishable as a misdemeanor, that condition of  
21 the unborn child and expectant mother, the judge may make orders with respect to  
22 the conduct of ~~such that~~ that person in his or her relationship to the unborn child and  
23 expectant mother.

24 **SECTION 12.** 48.45 (1) (am) of the statutes, as affected by 2009 Wisconsin Act  
25 .... (this act), is repealed and recreated to read:

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1           48.45 (1) (am) If in the hearing of a case of an unborn child and the unborn  
2 child's expectant mother alleged to be in a condition described in s. 48.133 it appears  
3 that any person 18 years of age or older has been guilty of contributing to,  
4 encouraging, or tending to cause, by any act or omission, that condition of the unborn  
5 child and expectant mother, the judge may make orders with respect to the conduct  
6 of that person in his or her relationship to the unborn child and expectant mother.

7           **SECTION 13.** 48.45 (3) of the statutes is amended to read:

8           48.45 (3) If it appears at a court hearing that any person 17 years of age or older  
9 has violated s. 948.40 and that the violation is punishable as a felony or that any  
10 person 18 years of age or older has violated s. 948.40 and that the violation is  
11 punishable as a misdemeanor, the judge shall refer the record to the district attorney  
12 for criminal proceedings as may be warranted in the district attorney's judgment.  
13 This subsection does not prevent prosecution of violations of s. 948.40 without the  
14 prior reference by the judge to the district attorney, as in other criminal cases.

15           **SECTION 14.** 48.45 (3) of the statutes, as affected by 2009 Wisconsin Act ... (this  
16 act), is repealed and recreated to read:

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

22           **SECTION 15.** 118.163 (4) of the statutes is amended to read:

23           118.163 (4) A person who is under ~~17~~ 18 years of age on the date of disposition  
24 is subject to s. 938.342.

25           **SECTION 16.** 125.07 (4) (d) of the statutes is amended to read:

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Insert  
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(6-2)

**BILL**

1           125.07 (4) (d) A person who is under ~~17~~ 18 years of age on the date of disposition  
2 is subject to s. 938.344 unless proceedings have been instituted against the person  
3 in a court of civil or criminal jurisdiction after dismissal of the citation under s.  
4 938.344 (3).

5           **SECTION 17.** 125.07 (4) (e) 1. of the statutes is amended to read:

6           125.07 (4) (e) 1. In this paragraph, “defendant” means a person found guilty  
7 of violating par. (a) or (b) who is 17, 18, 19, or 20 years of age.

8           **SECTION 18.** 125.085 (3) (bt) of the statutes is amended to read:

9           125.085 (3) (bt) A person who is under ~~17~~ 18 years of age on the date of  
10 disposition is subject to s. 938.344 unless proceedings have been instituted against  
11 the person in a court of civil or criminal jurisdiction after dismissal of the citation  
12 under s. 938.344 (3).

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

14           165.83 (1) (c) 1. An act that is committed by a person who has attained the age  
15 of 17 and that is a felony or an act that is committed by a person who has attained  
16 the age of 18 and that is a misdemeanor.

17           **SECTION 20.** 165.83 (1) (c) 1. of the statutes, as affected by 2009 Wisconsin Act  
18 .... (this act), is repealed and recreated to read:

19           165.83 (1) (c) 1. An act that is committed by a person who has attained the age  
20 of 18 and that is a felony or a misdemeanor.

21           **SECTION 21.** 165.83 (1) (c) 2. of the statutes is amended to read:

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

**BILL****SECTION 21**

1 has attained the age of 10 but who has not attained the age of 18 and that would be  
2 a misdemeanor if committed by an adult.

3 **SECTION 22.** 165.83 (1) (c) 2. of the statutes, as affected by 2009 Wisconsin Act  
4 .... (this act), is repealed and recreated to read:

5 165.83 (1) (c) 2. An act that is committed by a person who has attained the age  
6 of 10 but who has not attained the age of 18 and that would be a felony or  
7 misdemeanor if committed by an adult.

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

9 301.12 (2m) The liability specified in sub. (2) shall not apply to persons ~~17~~ 18  
10 and older receiving care, maintenance, services, and supplies provided by prisons  
11 named in s. 302.01.

12 **SECTION 24.** 301.12 (14) (a) of the statutes is amended to read:

13 301.12 (14) (a) Except as provided in pars. (b) and (c), liability of a person  
14 specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons under ~~17~~  
15 18 years of age in residential, nonmedical facilities such as group homes, foster  
16 homes, treatment foster homes, residential care centers for children and youth, and  
17 juvenile correctional institutions is determined in accordance with the cost-based  
18 fee established under s. 301.03 (18). The department shall bill the liable person up  
19 to any amount of liability not paid by an insurer under s. 632.89 (2) or (2m) or by other  
20 3rd-party benefits, subject to rules ~~which~~ that include formulas governing ability to  
21 pay promulgated by the department under s. 301.03 (18). Any liability of the resident  
22 not payable by any other person terminates when the resident reaches age ~~17~~ 18,  
23 unless the liable person has prevented payment by any act or omission.

24 **SECTION 25.** 301.12 (14) (a) of the statutes, as affected by 2009 Wisconsin Acts  
25 28 and .... (this act), is repealed and recreated to read:



**BILL**

1           301.12 (14) (a) Except as provided in pars. (b) and (c), liability of a person  
 2 specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons under 18  
 3 years of age in residential, nonmedical facilities such as group homes, foster homes,  
 4 residential care centers for children and youth, and juvenile correctional institutions  
 5 is determined in accordance with the cost-based fee established under s. 301.03 (18).  
 6 The department shall bill the liable person up to any amount of liability not paid by  
 7 an insurer under s. 632.89 (2) or (2m) or by other 3rd-party benefits, subject to rules  
 8 that include formulas governing ability to pay promulgated by the department under  
 9 s. 301.03 (18). Any liability of the resident not payable by any other person  
 10 terminates when the resident reaches age 18, unless the liable person has prevented  
 11 payment by any act or omission.

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12           **SECTION 26.** 302.31 (7) of the statutes is amended to read:

13           302.31 (7) The temporary placement of persons in the custody of the  
 14 department, other than persons under ~~17~~ 18 years of age, and persons who have  
 15 attained the age of ~~17~~ 18 years but have not attained the age of 25 years who are  
 16 under the supervision of the department under s. 48.366 or 938.355 (4) and who have  
 17 been taken into custody pending revocation of aftercare supervision under s. 48.366  
 18 (5) or 938.357 (5) (e).

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 9-18  
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19           **SECTION 27.** 938.02 (1) of the statutes is amended to read:

20           938.02 (1) "Adult" means a person who is 18 years of age or older, except that  
 21 for purposes of investigating or prosecuting a person who is alleged to have ~~violated~~  
 22 committed a violation of any state or federal criminal law ~~or any civil law or~~  
 23 ~~municipal ordinance~~ that is punishable as a felony, "adult" means a person who has  
 24 attained 17 years of age.

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1           **SECTION 28.** 938.02 (1) of the statutes, as affected by 2009 Wisconsin Act ...  
2 (this act), is repealed and recreated to read:

3           938.02 (1) "Adult" means a person who is 18 years of age or older.

4           **SECTION 29.** 938.02 (10m) of the statutes is amended to read:

5           938.02 (10m) "Juvenile" means a person who is less than 18 years of age, except  
6 that for purposes of investigating or prosecuting a person who is alleged to have  
7 ~~violated~~ committed a violation of a state or federal criminal law or any civil law or  
8 ~~municipal ordinance~~ that is punishable as a felony, "juvenile" does not include a  
9 person who has attained 17 years of age.

10           **SECTION 30.** 938.02 (10m) of the statutes, as affected by 2009 Wisconsin Act ...  
11 (this act), is repealed and recreated to read:

12           938.02 (10m) "Juvenile" means a person who is less than 18 years of age.

13           **SECTION 31.** 938.12 (2) of the statutes is amended to read:

14           938.12 (2) ~~SEVENTEEN-YEAR-OLDS~~ RETENTION OF JURISDICTION. If a petition  
15 alleging that a juvenile is delinquent for committing an act that would be a felony  
16 if committed by an adult is filed before the juvenile is 17 years of age, but the juvenile  
17 becomes 17 years of age before admitting the facts of the petition at the plea hearing  
18 or if the juvenile denies the facts, before an adjudication, the court retains  
19 jurisdiction over the case. If a petition alleging that a juvenile is delinquent for  
20 committing an act that would be a misdemeanor if committed by an adult is filed  
21 before the juvenile is 18 years of age, but the juvenile becomes 18 years of age before  
22 admitting the facts of the petition at the plea hearing or if the juvenile denies the  
23 facts, before an adjudication, the court retains jurisdiction over the case.

24           **SECTION 32.** 938.12 (2) of the statutes, as affected by 2009 Wisconsin Act ...  
25 (this act), is repealed and recreated to read:

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1           938.12 (2) RETENTION OF JURISDICTION. If a petition alleging that a juvenile is  
2 delinquent is filed before the juvenile is 18 years of age, but the juvenile becomes 18  
3 years of age before admitting the facts of the petition at the plea hearing or if the  
4 juvenile denies the facts, before an adjudication, the court retains jurisdiction over  
5 the case.

6           **SECTION 33.** 938.18 (2) of the statutes is amended to read:

7           938.18 (2) PETITION. The petition for waiver of jurisdiction may be filed by the  
8 district attorney or the juvenile or may be initiated by the court and shall contain a  
9 brief statement of the facts supporting the request for waiver. The petition for waiver  
10 of jurisdiction shall be accompanied by or filed after the filing of a petition alleging  
11 delinquency and shall be filed prior to the plea hearing, except that if the juvenile  
12 denies the facts of ~~the a~~ petition alleging that the juvenile has committed a violation  
13 that would be punishable as a felony if committed by an adult and becomes 17 years  
14 of age before an adjudication or if the juvenile denies that facts of a petition alleging  
15 that the juvenile has committed a violation that would be punishable as a  
16 misdemeanor if committed by and adult and becomes 18 years of age before an  
17 adjudication, the petition for waiver of jurisdiction may be filed at any time prior to  
18 the adjudication. If the court initiates the petition for waiver of jurisdiction, the  
19 judge shall disqualify himself or herself from any future proceedings on the case.

20           **SECTION 34.** 938.18 (2) of the statutes, as affected by 2009 Wisconsin Act ....  
21 (this act), is repealed and recreated to read:

22           938.18 (2) PETITION. The petition for waiver of jurisdiction may be filed by the  
23 district attorney or the juvenile or may be initiated by the court and shall contain a  
24 brief statement of the facts supporting the request for waiver. The petition for waiver  
25 of jurisdiction shall be accompanied by or filed after the filing of a petition alleging

**BILL****SECTION 34**

1 delinquency and shall be filed prior to the plea hearing, except that if the juvenile  
2 denies the facts of the petition and becomes 18 years of age before an adjudication,  
3 the petition for waiver of jurisdiction may be filed at any time prior to the  
4 adjudication. If the court initiates the petition for waiver of jurisdiction, the judge  
5 shall disqualify himself or herself from any future proceedings on the case.

6 **SECTION 35.** 938.183 (3) of the statutes is amended to read:

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

14 **SECTION 36.** 938.255 (1) (intro.) of the statutes is amended to read:

15 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings  
16 under this chapter, other than a petition initiating proceedings under s. 938.12,  
17 ~~938.125~~, or 938.13 (12) alleging that the juvenile has committed a violation that  
18 would be punishable as a felony if committed by an adult, shall be entitled, "In the  
19 interest of (juvenile's name), a person under the age of 18". A petition initiating  
20 proceedings under s. 938.12, ~~938.125~~, or 938.13 (12) alleging that the juvenile has  
21 committed a violation that would be punishable as a felony if committed by an adult  
22 shall be entitled, "In the interest of (juvenile's name), a person under the age of 17".  
23 A petition initiating proceedings under this chapter shall specify all of the following:

24 **SECTION 37.** 938.255 (1) (intro.) of the statutes, as affected by 2009 Wisconsin  
25 Act .... (this act), is repealed and recreated to read:

**BILL**

1 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings  
2 under this chapter shall be entitled, "In the interest of (juvenile's name), a person  
3 under the age of 18." A petition initiating proceedings under this chapter shall  
4 specify all of the following:

5 **SECTION 38.** 938.344 (3) of the statutes is amended to read:

6 938.344 (3) PROSECUTION IN ADULT COURT. If the juvenile alleged to have  
7 committed the violation is within 3 months of his or her 17<sup>th</sup> 18<sup>th</sup> birthday, the court  
8 assigned to exercise jurisdiction under this chapter and ch. 48 may, at the request  
9 of the district attorney or on its own motion, dismiss the citation without prejudice  
10 and refer the matter to the district attorney for prosecution under s. 125.07 (4). The  
11 juvenile is entitled to a hearing only on the issue of his or her age. This subsection  
12 does not apply to violations under s. 961.573 (2), 961.574 (2), or 961.575 (2) or a local  
13 ordinance that strictly conforms to one of those statutes.

14 **SECTION 39.** 938.35 (1m) of the statutes is amended to read:

15 938.35 (1m) FUTURE CRIMINAL PROCEEDINGS BARRED. Disposition by the court  
16 assigned to exercise jurisdiction under this chapter and ch. 48 of any allegation  
17 under s. 938.12 or 938.13 (12) that the juvenile has committed a violation that would  
18 be punishable as a felony if committed by an adult shall bar any future proceeding  
19 on the same matter in criminal court when the juvenile attains 17 years of age.  
20 Disposition by the court assigned to exercise jurisdiction under this chapter and ch.  
21 48 of any allegation under s. 938.12 or 938.13 (12) that the juvenile has committed  
22 a violation that would be punishable as a misdemeanor if committed by an adult shall  
23 bar any future proceeding on the same matter in criminal court when the juvenile  
24 attains 18 years of age. This paragraph subsection does not affect proceedings in  
25 criminal court that have been transferred under s. 938.18.

**BILL**

1           **SECTION 40.** 938.35 (1m) of the statutes, as affected by 2009 Wisconsin Act ....  
2 (this act), is repealed and recreated to read:

3           **938.35 (1m) FUTURE CRIMINAL PROCEEDINGS BARRED.** Disposition by the court  
4 assigned to exercise jurisdiction under this chapter and ch. 48 of any allegation  
5 under s. 938.12 or 938.13 (12) shall bar any future proceeding on the same matter  
6 in criminal court when the juvenile attains 18 years of age. This subsection does not  
7 affect proceedings in criminal court that have been transferred under s. 938.18.

8           **SECTION 41.** 938.355 (4) (b) of the statutes is amended to read:

9           **938.355 (4) (b)** Except as provided in s. 938.368, an order under s. 938.34 (4d)  
10 or (4m) made before the juvenile attains 18 years of age may apply for up to 2 years  
11 after the date on which the order is granted or until the juvenile's ~~18th~~ 19th birthday,  
12 whichever is earlier, unless the court specifies a shorter period of time or the court  
13 terminates the order sooner. If the order does not specify a termination date, it shall  
14 apply for one year after the date on which the order is granted or until the juvenile's  
15 18th birthday, whichever is earlier, unless the court terminates the order sooner.  
16 Except as provided in s. 938.368, an order under s. 938.34 (4h) made before the  
17 juvenile attains 18 years of age shall apply for 5 years after the date on which the  
18 order is granted, if the juvenile is adjudicated delinquent for committing a violation  
19 of s. 943.10 (2) or for committing an act that would be punishable as a Class B or C  
20 felony if committed by an adult, or until the juvenile reaches 25 years of age, if the  
21 juvenile is adjudicated delinquent for committing an act that would be punishable  
22 as a Class A felony if committed by an adult. Except as provided in s. 938.368, an  
23 extension of an order under s. 938.34 (4d), (4h), (4m), or (4n) made before the juvenile  
24 attains ~~17~~ 18 years of age shall terminate at the end of one year after the date on  
25 which the order is granted unless the court specifies a shorter period of time or the

**BILL**

1 court terminates the order sooner. No extension under s. 938.365 of an original  
2 dispositional order under s. 938.34 (4d), (4h), (4m), or (4n) may be granted for a  
3 juvenile who is ~~17~~ 18 years of age or older when the original dispositional order  
4 terminates.

5 **SECTION 42.** 938.355 (4m) (a) of the statutes is amended to read:

6 938.355 (**4m**) (a) A juvenile who has been adjudged delinquent under s. 48.12,  
7 1993 stats., or s. 938.12 for committing a violation that would be punishable as a  
8 felony if committed by an adult may, on attaining 17 years of age, petition the court  
9 to expunge the court's record of the juvenile's adjudication. A juvenile who has been  
10 adjudged delinquent under s. 48.12, 1993 stats., or s. 938.12 for committing a  
11 violation that would be punishable as a misdemeanor if committed by an adult may,  
12 on attaining 18 years of age, petition the court to expunge the court's record of the  
13 juvenile's adjudication. Subject to par. (b), the court may expunge the record if the  
14 court determines that the juvenile has satisfactorily complied with the conditions of  
15 his or her dispositional order and that the juvenile will benefit from, and society will  
16 not be harmed by, the expungement.

17 **SECTION 43.** 938.355 (4m) (a) of the statutes, as affected by 2009 Wisconsin Act  
18 .... (this act), is repealed and recreated to read:

19 938.355 (**4m**) (a) A juvenile who has been adjudged delinquent under s. 48.12,  
20 1993 stats., or s. 938.12 may, on attaining 18 years of age, petition the court to  
21 expunge the court's record of the juvenile's adjudication. Subject to par. (b), the court  
22 may expunge the record if the court determines that the juvenile has satisfactorily  
23 complied with the conditions of his or her dispositional order and that the juvenile  
24 will benefit from, and society will not be harmed by, the expungement.

25 **SECTION 44.** 938.39 of the statutes is amended to read:

**BILL**

1           **938.39 Disposition by court bars criminal proceeding.** Disposition by the  
2 court of any violation of state law within its jurisdiction under s. 938.12 that would  
3 be punishable as a felony if committed by an adult bars any future criminal  
4 proceeding on the same matter in circuit court when the juvenile reaches the age of  
5 17. Disposition by the court of any violation of state law within its jurisdiction under  
6 s. 938.12 that would be punishable as a misdemeanor if committed by an adult bars  
7 any future criminal proceeding on the same matter in circuit court when the juvenile  
8 reaches the age of 18. This section does not affect criminal proceedings in circuit  
9 court that were transferred under s. 938.18.

10           **SECTION 45.** 938.39 of the statutes, as affected by 2009 Wisconsin Act .... (this  
11 act), is repealed and recreated to read:

12           **938.39 Disposition by court bars criminal proceeding.** Disposition by the  
13 court of any violation of state law within its jurisdiction under s. 938.12 bars any  
14 future criminal proceeding on the same matter in circuit court when the juvenile  
15 reaches the age of 18. This section does not affect criminal proceedings in circuit  
16 court that were transferred under s. 938.18.

17           **SECTION 46.** Subchapter IX (title) of chapter 938 [precedes 938.44] of the  
18 statutes is amended to read:

**CHAPTER 938**

**SUBCHAPTER IX**

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

22           **SECTION 47.** 938.44 of the statutes is amended to read:

23           **938.44 Jurisdiction over persons ~~17~~ 18 or older.** The court has jurisdiction  
24 over persons ~~17~~ 18 years of age or older as provided under ss. 938.355 (4) and 938.45  
25 and as otherwise specified in this chapter.



**BILL**

1           **SECTION 48.** 938.45 (1) (a) of the statutes is amended to read:

2           938.45 (1) (a) If in the hearing of a case of a juvenile alleged to be delinquent  
3 under s. 938.12 or in need of protection or services under s. 938.13 it appears that any  
4 person 17 years of age or older has been guilty of contributing to, encouraging, or  
5 tending to cause, by any act or omission, ~~such that is punishable as a felony, that~~  
6 condition of the juvenile or that any person 18 years of age or older has been guilty  
7 of contributing to, encouraging, or tending to cause, by an act or omission that is  
8 punishable as a misdemeanor, that condition of the juvenile, the court may make  
9 orders with respect to the conduct of that person in his or her relationship to the  
10 juvenile, including orders relating to determining the ability of the person to provide  
11 for the maintenance or care of the juvenile and directing when, how, and where funds  
12 for the maintenance or care shall be paid.

13           **SECTION 49.** 938.45 (1) (a) of the statutes, as affected by 2009 Wisconsin Act ....  
14 (this act), is repealed and recreated to read:

15           938.45 (1) (a) If in the hearing of a case of a juvenile alleged to be delinquent  
16 under s. 938.12 or in need of protection or services under s. 938.13 it appears that any  
17 person 18 years of age or older has been guilty of contributing to, encouraging, or  
18 tending to cause, by any act or omission, that condition of the juvenile, the court may  
19 make orders with respect to the conduct of that person in his or her relationship to  
20 the juvenile, including orders relating to determining the ability of the person to  
21 provide for the maintenance or care of the juvenile and directing when, how, and  
22 where funds for the maintenance or care shall be paid.

21  
22  
17-22/7  
23

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

24           938.45 (3) PROSECUTION OF ADULT CONTRIBUTING TO DELINQUENCY OF JUVENILE.  
25 If it appears at a court hearing that any person 17 years of age or older has violated

**BILL**

1 s. 948.40 and that the violation is punishable as a felony or that any person 18 years  
2 of age or older has violated s. 948.40 and that the violation is punishable as a  
3 misdemeanor, the court shall refer the record to the district attorney. This subsection  
4 does not prohibit prosecution of violations of s. 948.40 without the prior reference by  
5 the court to the district attorney.

6 **SECTION 51.** 938.45 (3) of the statutes, as affected by 2009 Wisconsin Act ...  
7 (this act), is repealed and recreated to read:

8 **938.45 (3) PROSECUTION OF ADULT CONTRIBUTING TO DELINQUENCY OF JUVENILE.**  
9 If it appears at a court hearing that any person 18 years of age or older has violated  
10 s. 948.40, the court shall refer the record to the district attorney. This subsection does  
11 not prohibit prosecution of violations of s. 948.40 without the prior reference by the  
12 court to the district attorney.

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

14 **938.48 (4m) (title) CONTINUING CARE AND SERVICES FOR JUVENILES OVER ~~17~~ 18.**

15 **SECTION 53.** 938.48 (4m) (a) of the statutes is amended to read:

16 **938.48 (4m) (a) Is at least ~~17~~ 18 years of age.**

17 **SECTION 54.** 938.48 (4m) (b) of the statutes is amended to read:

18 **938.48 (4m) (b) Was under the supervision of the department under s. 938.183,**  
19 **938.34 (4h), (4m), or (4n) or 938.357 (4) when the person reached ~~17~~ 18 years of age.**

20 **SECTION 55.** 938.48 (14) of the statutes is amended to read:

21 **938.48 (14) SCHOOL-RELATED EXPENSES FOR JUVENILES OVER ~~17~~ 18.** Pay  
22 maintenance, tuition, and related expenses from the appropriation under s. 20.410  
23 (3) (ho) for persons who, when they attained ~~17~~ 18 years of age, were students  
24 regularly attending a school, college, or university or regularly attending a course of  
25 vocational or technical training designed to prepare them for gainful employment,

**BILL**

1 and who upon attaining that age were under the supervision of the department  
2 under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357 (4) as a result of a judicial  
3 decision.

4 **SECTION 56.** 938.57 (3) (title) of the statutes is amended to read:

5 938.57 (3) (title) CONTINUING MAINTENANCE FOR JUVENILES OVER ~~17~~ 18.

6 **SECTION 57.** 938.57 (3) (a) 1. of the statutes is amended to read:

7 938.57 (3) (a) 1. Is ~~17~~ 18 years of age or older.

8 **SECTION 58.** 938.57 (3) (a) 3. of the statutes is amended to read:

9 938.57 (3) (a) 3. Received funding under s. 48.569 (1) (d) immediately prior to  
10 his or her ~~17th~~ 18th birthday.

11 **SECTION 59.** 938.57 (3) (b) of the statutes is amended to read:

12 938.57 (3) (b) The funding provided for the maintenance of a juvenile under par.  
13 (a) shall be in an amount equal to that to which the juvenile would receive under s.  
14 48.569 (1) (d) if the juvenile were ~~16~~ 17 years of age.

15 **SECTION 60.** 946.50 (intro.) of the statutes is amended to read:

16 **946.50 Absconding.** (intro.) Any person who is adjudicated delinquent, but  
17 who intentionally fails to appear before the court assigned to exercise jurisdiction  
18 under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who  
19 does not return to that court for a dispositional hearing before attaining the age of  
20 17 years, if adjudicated delinquent for committing a violation that would be a felony  
21 if committed by an adult, or 18 years, if adjudicated delinquent for committing a  
22 violation that would be a misdemeanor if committed by an adult, is guilty of the  
23 following:

24 **SECTION 61.** 946.50 (intro.) of the statutes, as affected by 2009 Wisconsin Act

25 .... (this act), is repealed and recreated to read:

**BILL**

1           **946.50 Absconding.** (intro.) Any person who is adjudicated delinquent, but  
2 who intentionally fails to appear before the court assigned to exercise jurisdiction  
3 under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who  
4 does not return to that court for a dispositional hearing before attaining the age of  
5 18 years is guilty of the following:

6           **SECTION 62.** 948.01 (1) of the statutes is amended to read:

7           948.01 (1) "Child" means a person who has not attained the age of 18 years,  
8 except that for purposes of prosecuting a person who is alleged to have violated  
9 committed a violation of a state or federal criminal law that is punishable as a felony,  
10 "child" does not include a person who has attained the age of 17 years.

11           **SECTION 63.** 948.01 (1) of the statutes, as affected by 2009 Wisconsin Act ...  
12 (this act), is repealed and recreated to read:

13           948.01 (1) "Child" means a person who has not attained the age of 18 years.

14           **SECTION 64.** 948.11 (2) (am) (intro.) of the statutes is amended to read:

15           948.11 (2) (am) (intro.) Any person who has attained the age of ~~17~~ 18 and who,  
16 with knowledge of the character and content of the description or narrative account,  
17 verbally communicates, by any means, a harmful description or narrative account  
18 to a child, with or without monetary consideration, is guilty of a Class I felony if any  
19 of the following applies:

20           **SECTION 65.** 948.45 (1) of the statutes is amended to read:

21           948.45 (1) Except as provided in sub. (2), any person ~~17~~ 18 years of age or older  
22 who, by any act or omission, knowingly encourages or contributes to the truancy, as  
23 defined under s. 118.16 (1) (c), of a person ~~17~~ 18 years of age or under is guilty of a  
24 Class C misdemeanor.

25           **SECTION 66.** 948.60 (2) (d) of the statutes is amended to read:

**BILL**

1           948.60 (2) (d) A person under 17 years of age who has violated ~~this subsection~~  
2 par. (b) or (c) is subject to ~~the provisions of~~ ch. 938 unless jurisdiction is waived under  
3 s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction  
4 under s. 938.183. A person under 18 years of age who has violated par. (a) is subject  
5 to ch. 938 unless jurisdiction is waived under s. 938.18 or the person is subject to the  
6 jurisdiction of a court of criminal jurisdiction under s. 938.183.

7           **SECTION 67.** 948.60 (2) (d) of the statutes, as affected by 2009 Wisconsin Act ....  
8 (this act), is repealed and recreated to read:

9           948.60 (2) (d) A person under 18 years of age who has violated this subsection  
10 is subject to ch. 938 unless jurisdiction is waived under s. 938.18 or the person is  
11 subject to the jurisdiction of a court of criminal jurisdiction under s. 938.183.

12           **SECTION 68.** 948.61 (4) of the statutes is amended to read:

13           948.61 (4) A person under 17 years of age who has violated ~~this section sub. (2)~~  
14 (b) is subject to ~~the provisions of~~ ch. 938, unless jurisdiction is waived under s. 938.18  
15 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s.  
16 938.183. A person under 18 years of age who has violated sub. (2) (a) is subject to ch.  
17 938, unless jurisdiction is waived under s. 938.18 or the person is subject to the  
18 jurisdiction of a court of criminal jurisdiction under s. 938.183.

19           **SECTION 69.** 948.61 (4) of the statutes, as affected by 2009 Wisconsin Act ....  
20 (this act), is repealed and recreated to read:

21           948.61 (4) A person under 18 years of age who has violated this section is  
22 subject to ch. 938, unless jurisdiction is waived under s. 938.18 or the person is  
23 subject to the jurisdiction of a court of criminal jurisdiction under s. 938.183.

24           **SECTION 70.** 961.455 (1) of the statutes is amended to read:

**BILL**

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

4           **SECTION 71.** 961.46 of the statutes is amended to read:

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

10          **SECTION 72.** 961.573 (2) of the statutes is amended to read:

11          961.573 (2) Any person ~~who violates sub. (1) who is under 17~~ 18 years of age  
12          who violates sub. (1) is subject to a disposition under s. 938.344 (2e).

13          **SECTION 73.** 961.574 (2) of the statutes is amended to read:

14          961.574 (2) Any person ~~who violates sub. (1) who is under 17~~ 18 years of age  
15          who violates sub. (1) is subject to a disposition under s. 938.344 (2e).

16          **SECTION 74.** 961.575 (1) of the statutes is amended to read:

17          961.575 (1) Any person ~~17~~ 18 years of age or over who violates s. 961.574 (1)  
18          by delivering drug paraphernalia to a person 17 years of age or under who is at least  
19          3 years younger than the violator may be fined not more than \$10,000 or imprisoned  
20          for not more than 9 months or both.

21          **SECTION 75.** 961.575 (2) of the statutes is amended to read:

22          961.575 (2) Any person ~~who violates this section who is under 17~~ under 18 years  
23          of age who violates s. 961.574 (3) is subject to a disposition under s. 938.344 (2e).

24          **SECTION 76.** 961.575 (3) of the statutes is amended to read:

**BILL**

1           961.575 (3) Any person ~~17~~ 18 years of age or over who violates s. 961.574 (3)  
2 by delivering drug paraphernalia to a person 17 years of age or under is guilty of a  
3 Class G felony.

4           **SECTION 77.** 990.01 (3) of the statutes is amended to read:

5           990.01 (3) ADULT. "Adult" means a person who has attained the age of 18 years,  
6 except that for purposes of investigating or prosecuting a person who is alleged to  
7 have ~~violated~~ committed a violation of any state or federal criminal law ~~or any civil~~  
8 ~~law or municipal ordinance that is punishable as a felony~~, "adult" means a person  
9 who has attained the age of 17 years.

10           **SECTION 78.** 990.01 (3) of the statutes, as affected by 2009 Wisconsin Act ...  
11 (this act), is repealed and recreated to read:

12           990.01 (3) ADULT. "Adult" means a person who has attained the age of 18 years.

13           **SECTION 79.** 990.01 (20) of the statutes is amended to read:

14           990.01 (20) MINOR. "Minor" means a person who has not attained the age of  
15 18 years, except that for purposes of investigating or prosecuting a person who is  
16 alleged to have ~~violated~~ committed a violation of a state or federal criminal law ~~or~~  
17 ~~any civil law or municipal ordinance that is punishable as a felony~~, "minor" does not  
18 include a person who has attained the age of 17 years.

19           **SECTION 80.** 990.01 (20) of the statutes, as affected by 2009 Wisconsin Act ...  
20 (this act), is repealed and recreated to read:

↓  
Ins +  
21           990.01 (20) MINOR. "Minor" means a person who has not attained the age of  
22 18 years.

23-22 ↑  
23           **SECTION 81. Effective dates.** This act takes effect on July 1, 2010, except as  
24 follows:

**BILL**

1 (1) FELONIES. The treatment of sections 48.366 (8), 48.44 (title) and (1), 301.12  
 2 (2m), 302.31 (7), 938.183 (3), 938.355 (4) (b), 938.44, 938.48 (4m) (title), (a), and (b)  
 3 and (14), 938.57 (3) (title), (a) 1. and 3., and (b), 948.11 (2) (am) (intro.), 961.455 (1),  
 4 961.46, and 961.575 (3) of the statutes and subchapter IX (title) of chapter 48 and  
 5 subchapter IX (title) of chapter 938 of the statutes, the amendment of section 301.12  
 6 (14) (a) of the statutes, and the repeal and recreation of sections 48.02 (1d) and (2),  
 7 48.45 (1) (a) and (am) and (3), 165.83 (1) (c) 1. and 2., 938.02 (1) and (10m), 938.12  
 8 (2), 938.18 (2), 938.255 (1) (intro.), 938.35 (1m), 938.355 (4m) (a), 938.45 (1) (a) and  
 9 (3), 946.50 (intro.), 948.01 (1), 948.60 (2) (d), and 948.61 (4) of the statutes take effect  
 10 on July 1, 2011. *(and 301.26 (4) (d) 3)*

11 (2) TREATMENT FOSTER HOMES. The repeal and recreation of section 301.12 (14)  
 12 (a) of the statutes takes effect on the date stated in the notice provided by the  
 13 secretary of children and families and published in the Wisconsin Administrative  
 14 Register under section 48.62 (9) of the statutes, ~~as created by 2009 Wisconsin Act 28~~

(END)



2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3048/2ins  
GMM.....

1 **Not** ; creating a youth/aid<sup>Community</sup> surcharge; authorizing counties, cities, villages, and  
2 towns to create a youth services surcharge; authorizing the Department of  
3 Corrections to set the youth aids daily rates for care of a juvenile in a juvenile  
4 correctional facility or a treatment facility; and making an appropriation.

(END OF INSERT)

(INSERT 2-6)

providing an exemption from  
rule-making procedures

5 ~~SECTION 20.410~~ (3) (gr) of the statutes is created to read:

6 20.410 (3) (gr) *Community youth and family aids surcharges*. All moneys  
7 received from community youth and family aids surcharges collected under s.  
8 301.265 for the improvement and provision of juvenile delinquency-related services  
9 under s. 301.26.

10 ~~SECTION 46.215~~ (2) (c) 3. of the statutes, as affected by 2009 Wisconsin Act  
11 28, is amended to read:

12 46.215 (2) (c) 3. A county department of social services shall develop, under the  
13 requirements of s. 301.08 (2), plans and contracts for juvenile delinquency-related  
14 care and services to be purchased. The department of corrections may review the  
15 contracts and approve them if they are consistent with s. 301.08 (2) and if state or  
16 federal funds are available for such purposes. The joint committee on finance may  
17 require the department of corrections to submit the contracts to the committee for  
18 review and approval. The department of corrections may not make any payments  
19 to a county for programs included in a contract under review by the committee. The  
20 department of corrections shall reimburse each county for the contracts from the  
21 appropriations under s. 20.410 (3) (cd), (gr), (ko), and (o) as appropriate.

359; 1991 a. 39, 274; 1993 a. 16; 1995 a. 27 ss. 2063 to 2076, 9126 (19), 9130 (4); 1995 a. 64, 77, 201, 225, 289, 352, 404, 417; 1997 a. 3, 27, 35, 252; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 264, 388, 406; 2007 a. 20 ss. 848 to 856, 9121 (6) (a); 2007 a. 45, 96; 2009 a. 15; 2009 a. 28; s. 13.92 (2) (i).

1        ~~SECTION 46.22~~ 46.22 (1) (e) 3. c. of the statutes, as affected by 2009 Wisconsin Act

2        28, is amended to read:

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

**History:** 1971 c. 164, 218; 1973 c. 90 ss. 226, 560 (3); 1973 c. 147, 333; 1975 c. 39; 1975 c. 189 s. 99 (1), (2); 1975 c. 224 ss. 52p, 146m; 1975 c. 307, 422; 1975 c. 430 s. 78; 1977 c. 29 ss. 560, 1656 (18); 1977 c. 83 s. 26; 1977 c. 418, 449; 1979 c. 34, 221; 1981 c. 20 ss. 759 to 763m, 2202 (20) (j); 1981 c. 329; 1981 c. 390 s. 252; 1983 a. 27 s. 2202 (20); 1983 a. 190 s. 7; 1983 a. 192, 193, 447; 1985 a. 29, 120; 1985 a. 176 ss. 28, 30, 59 to 105; 1985 a. 332; 1987 a. 5, 27; 1989 a. 31, 107, 336, 359; 1991 a. 39, 274; 1993 a. 16; 1995 a. 27 ss. 2077 to 2111, 9126 (19), 9130 (4); 1995 a. 64, 77, 201, 289, 352, 404, 417; 1997 a. 3, 27, 35, 252; 1999 a. 9, 83; 2001 a. 16, 103; 2003 a. 33; 2005 a. 25, 264, 344, 388, 406; 2007 a. 20 ss. 857 to 877, 9121 (6) (a); 2007 a. 45, 96; 2009 a. 28; s. 13.92 (2) (i).

(END OF INSERT)

(INSERT 6-21)

14        ~~SECTION 59.25~~ 59.25 (3) (gm) of the statutes is created to read:

15            59.25 (3) (gm) Deposit all moneys for youth services surcharges received under  
16        s. 938.342 (1d) (b), (1g) (h), or (1m) (am), 938.343 (2) (a), or 938.344 (2), (2b), (2d), or  
17        (2e) in a youth services fund and make payments from the fund for purposes of  
18        providing services for youths on order of the board under par. (b).

19        ~~SECTION 59.40~~ 59.40 (2) (nm) of the statutes is created to read:

1 59.40 (2) (nm) Pay monthly to the treasurer the amounts required by s. 938.342  
 2 (3), 938.343 (2) (b), or 938.344 (2f) for the youth services surcharge. The payments  
 3 shall be made by the 15th day of the month following receipt of the surcharge.

(END OF INSERT)

(INSERT 9-11)

4 ~~SECTION 31~~ 301.26 (3) (c) of the statutes, as affected by 2009 Wisconsin Act 28,  
 5 is amended to read:

6 301.26 (3) (c) Within the limits of the appropriations under s. 20.410 (3) (cd),  
 7 (gr), (ko), and (o), the department shall allocate funds to each county for services  
 8 under this section.

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 17; 2009 a. 28.

9 ~~SECTION 31~~ 301.26 (4) (d) 3. of the statutes, as affected by 2009 Wisconsin Act  
 10 28, section 2677, is amended to read:

11 301.26 (4) (d) 3. Beginning on July 1, 2010, and ending on June 30, 2011, the  
 12 per person daily cost assessment to counties shall be \$275 the dollar amount set by  
 13 the department under par. (dm) for care in a Type 1 juvenile correctional facility, as  
 14 defined in s. 938.02 (19), \$275 the dollar amount set by the department under par.  
 15 (dm) for care for juveniles transferred from a juvenile correctional institution under  
 16 s. 51.35 (3), \$313 for care in a residential care center for children and youth, \$200 for  
 17 care in a group home for children, \$75 for care in a foster home, \$130 for care in a  
 18 treatment foster home, \$103 for departmental corrective sanctions services, and \$41  
 19 for departmental aftercare services.

NOTE: NOTE: Subd. 3. is amended by 2009 Wis. Act 28 eff. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:NOTE:

20 ~~SECTION 31~~ 301.26 (4) (d) 3. of the statutes, as affected by 2009 Wisconsin Act  
 21 28, section 2678, and... (this act), is repealed and recreated to read:

2009 Wisconsin Act  
 =  
 =

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1 301.26 (4) (d) 3. Beginning on July 1, 2010, and ending on June 30, 2011, the per person daily cost  
2 assessment to counties shall be the dollar amount set by the department under par. (dm) for care in a  
3 Type 1 juvenile correctional facility, as defined in s. 938.02 (19), the dollar amount set by the department  
4 under par. (dm) for care for juveniles transferred from a juvenile correctional institution under s. 51.35  
5 (3), \$313 for care in a residential care center for children and youth, \$200 for care in a group home for  
6 children, \$75 for care in a foster home, \$130 for care in a treatment foster home under rules promulgated  
7 under s. 48.62 (8) (c), \$103 for departmental corrective sanctions services, and \$41 for departmental  
8 aftercare services.

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20  
ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97; 2009 a. 28.

9 ~~SECTION 10.~~ 301.26 (4) (dm) of the statutes is created to read:

10 301.26 (4) (dm) The department shall set the per person cost assessments to  
11 counties under par. (d) 2. and 3. for care in a Type 1 juvenile correctional facility, as  
12 defined in s. 938.02 (19), and for care for juveniles transferred from a juvenile  
13 correctional institution under s. 51.35 (3). In setting those assessments, the  
14 department may set one assessment for short-term placements of 30 days or less and  
15 another assessment for long-term placements of more than 30 days. The  
16 department shall set those assessments at least annually, effective on July 1 of each  
17 year, and may adjust those assessments more frequently as necessary to reflect the  
18 average per person daily cost of providing that care. The department shall publish  
19 those assessments and any adjustments to those assessments in the Wisconsin  
20 Administrative Register and is not required to promulgate those assessments or  
21 adjustments as rules under ch. 227. If the department increases an assessment  
22 under this paragraph, the department shall increase the funds allocated to counties  
23 under sub. (3) (c) in proportion to each county's proportional use of those services.

24 ~~SECTION 10.~~ 301.26 (6) (a) of the statutes, as affected by 2009 Wisconsin Act 28,  
25 is amended to read:

26 301.26 (6) (a) The intent of this subsection is to develop criteria to assist the  
27 legislature in allocating funding, excluding funding for base allocations, from the

1 appropriations under s. 20.410 (3) (cd), (gr), (ko), and (o) for purposes described in  
2 this section.

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97; 2009 a. 28.

3 ~~SECTION 11.~~ **SECTION 301.26 (7)** (intro.) of the statutes is amended to read:

4 **301.26 (7) ALLOCATIONS OF FUNDS.** (intro.) Within the limits of the availability  
5 of federal funds and of the appropriations under s. 20.410 (3) (cd), (gr), (ko), and (o),  
6 the department shall allocate funds for community youth and family aids for the  
7 period beginning on July 1, 2009, and ending on June 30, 2011, as provided in this  
8 subsection to county departments under ss. 46.215, 46.22, and 46.23 as follows:

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97; 2009 a. 28.

9 ~~SECTION 12.~~ **SECTION 301.265** of the statutes is created to read:

10 **301.265 Community youth and family aids surcharges.** (1) If a court  
11 imposes a forfeiture for a violation of a traffic regulation, as defined in s. 345.20 (1)  
12 (b), the court shall impose under ch. 814 a community youth and family aids  
13 surcharge of \$14.

14 (2) If a forfeiture is suspended in whole or in part, the community youth and  
15 family aids surcharge shall be reduced in proportion to the suspension.

16 (3) If any deposit is made for an offense to which this section applies, the person  
17 making the deposit shall also deposit a sufficient amount to include the community  
18 youth and family aids surcharge under this section. If the deposit is forfeited, the  
19 amount of that surcharge shall be transmitted to the secretary of administration  
20 under sub. (4). If the deposit is returned, the amount of that surcharge shall also be  
21 returned.

22 (4) (a) If the surcharge is imposed by a court of record, after the court  
23 determines the amount due, the clerk of the court shall collect and transmit the

1 amount to the county treasurer as provided in s. 59.40 (2) (m). The county treasurer  
2 shall then make payment to the secretary of administration as provided in s. 59.25  
3 (3) (f) 2.

4 (b) If the surcharge is imposed by a municipal court, after a determination by  
5 the court of the amount due, the court shall collect and transmit the amount to the  
6 treasurer of the county, city, village, or town, and that treasurer shall make payment  
7 to the secretary of administration as provided in s. 66.0114 (1) (bm).

8 (5) All moneys collected from community youth and family aids surcharges  
9 shall be deposited by the secretary of administration in s. 20.410 (3) (gr) and utilized  
10 in accordance with s. 301.26.

(END OF INSERT)

(INSERT 9-18)

11 SECTION ~~13~~ 814.75 (1h) of the statutes is created to read:

12 814.75 (1h) The community youth and family aids surcharge under s. 301.265.

13 SECTION ~~14~~ 814.75 (28) of the statutes is created to read:

14 814.75 (28) The youth services surcharge, if authorized under s. 938.17 (2) (cr).

15 SECTION ~~15~~ 814.77 (17) of the statutes is created to read:

16 814.77 (17) The youth services surcharge, if authorized under s. 938.17 (2) (cr).

17 SECTION ~~16~~ 814.78 (1) of the statutes is renumbered 814.78 (1m).

18 SECTION ~~17~~ 814.78 (1j) of the statutes is created to read:

19 814.78 (1j) The community youth and family aids surcharge under s. 301.265.

20 SECTION ~~18~~ 814.78 (13) of the statutes is created to read:

21 814.78 (13) The youth services surcharge, if authorized under s. 938.17 (2) (cr).

22 SECTION ~~19~~ 814.79 (1) of the statutes is renumbered 814.79 (1r).

1            ~~SECTION 20.~~ 814.79 (1j) of the statutes is created to read:  
2            814.79 (1j) The community youth and family aids surcharge under s. 301.265.

3            ~~SECTION 21.~~ 814.80 (1) of the statutes is renumbered 814.80 (1m).

4            ~~SECTION 22.~~ 814.80 (1j) of the statutes is created to read:  
5            814.80 (1j) The community youth and family aids surcharge under s. 301.265.

6            ~~SECTION 23.~~ 814.80 (12) of the statutes is created to read:  
7            814.80 (12) The youth services surcharge, if authorized under s. 938.17 (2) (cr).

8            ~~SECTION 24.~~ 814.81 (1) of the statutes is renumbered 814.80 (2).

9            SECTION 25. 814.81 (1j) of the statutes is created to read:  
10           814.81 (1j) The community youth and family aids surcharge under s. 301.265.

11           ~~SECTION 26.~~ 814.81 (10) of the statutes is created to read:  
12           814.81 (10) The youth services surcharge, if authorized under s. 938.17 (2) (cr).

13           ~~SECTION 27.~~ 895.035 (6) of the statutes is amended to read:  
14           895.035 (6) Any recovery of restitution under this section shall be reduced by  
15           the amount recovered as restitution for the same act under s. 938.245, 938.32, 938.34  
16           (5), 938.343 (4) or 938.45 (1r) (a). Any recovery of a forfeiture under this section shall  
17           be reduced by the amount recovered as a forfeiture for the same act under s. 938.34  
18           (8), 938.343 (2) or 938.45 (1r) (b). Any recovery of a surcharge under this section shall  
19           be reduced by the amount recovered as a surcharge under s. 938.34 (8d), 938.342 (1d)  
20           (b), (1g) (h), or (1m) (am), 938.343 (2) (a), or 938.344 (2), (2b), (2d), or (2e).

History: 1985 a. 311; 1987 a. 27; 1993 a. 71; 1995 a. 24, 77, 262, 352; 1997 a. 27, 35, 205, 239, 252; 1999 a. 9, 32; 2003 a. 138; 2005 a. 443 s. 265.  
(END OF INSERT)

(INSERT 11-5)

21           ~~SECTION 28.~~ 938.17 (2) (cr) of the statutes is created to read:

1           938.17 (2) (cr) *Authorization for youth services surcharges*. A county may adopt  
 2 an ordinance or bylaw authorizing the court assigned to exercise jurisdiction under  
 3 this chapter of that county, and a city, village, or town may adopt an ordinance or  
 4 bylaw authorizing the municipal court of that city, village, or town, to impose a youth  
 5 services surcharge in an amount specified in the ordinance or bylaw when that court  
 6 imposes a forfeiture under s. 938.342 (1d) (b), (1g) (h), or (1m) (am), 938.343 (2) (a),  
 7 or 938.344 (2), (2b), (2d), or (2e), other than a forfeiture for a violation of a traffic  
 8 regulation, as defined in s. 345.20 (1) (b). The imposition of a youth services  
 9 surcharge is subject to any ordinance or bylaw adopted under this paragraph.

History: 1995 a. 77, 352, 448; 1997 a. 205, 239, 258; 1999 a. 9; 2001 a. 16; 2005 a. 190, 344; 2007 a. 97.

10           ~~SECTION 29.~~ 938.17 (2) (d) 1. of the statutes is amended to read:

11           938.17 (2) (d) 1. If a municipal court finds that the juvenile violated a municipal  
 12 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that  
 13 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2),  
 14 or 961.575 (2), the court shall enter any of the dispositional orders permitted under  
 15 s. 938.343 that are authorized under par. (cm) or (cr). If a juvenile fails to pay the  
 16 forfeiture or surcharge imposed by the municipal court, the court may not impose a  
 17 jail sentence but may suspend any license issued under ch. 29 for not less than 30  
 18 days nor more than 5 years, or suspend the juvenile's operating privilege, as defined  
 19 in s. 340.01 (40), for not more than 2 years.

History: 1995 a. 77, 352, 448; 1997 a. 205, 239, 258; 1999 a. 9; 2001 a. 16; 2005 a. 190, 344; 2007 a. 97.

20           ~~SECTION 30.~~ 938.17 (2) (d) 2. of the statutes is amended to read:

21           938.17 (2) (d) 2. If a court suspends a license or privilege under subd. 1., the  
 22 court shall immediately take possession of the applicable license and forward it to  
 23 the department that issued the license, together with the notice of suspension stating  
 24 that the suspension is for failure to pay a forfeiture or surcharge imposed by the



1 court. If the forfeiture or surcharge is paid during the period of suspension, the court  
2 shall immediately notify the department, which shall then return the license to the  
3 person.

History: 1995 a. 77, 352, 448; 1997 a. 205, 239, 258; 1999 a. 9; 2001 a. 16; 2005 a. 190, 344; 2007 a. 97.

4 ~~SECTION 31~~ 938.17 (2) (e) of the statutes is amended to read:

5 938.17 (2) (e) *Disposition; alcohol and drug ordinance violations.* If a  
6 municipal court finds that a juvenile violated a municipal ordinance that conforms  
7 to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2) or 961.575  
8 (2), the court shall enter a dispositional order under s. 938.344 that is authorized  
9 under par. (cm) or (cr).

History: 1995 a. 77, 352, 448; 1997 a. 205, 239, 258; 1999 a. 9; 2001 a. 16; 2005 a. 190, 344; 2007 a. 97.

(END OF INSERT)

(INSERT 13-4)

10 ~~SECTION 32~~ 938.342 (1d) (b) of the statutes is amended to read:

11 938.342 (1d) (b) Impose a forfeiture of not more than \$50, plus costs and the  
12 youth services surcharge, for a first violation, or a forfeiture of not more than \$100,  
13 plus costs and the youth services surcharge, for any 2nd or subsequent violation  
14 committed within 12 months of a previous violation, subject to s. 938.37 and subject  
15 to a maximum cumulative forfeiture amount of not more than \$500 for all violations  
16 committed during a school semester. All or part of the forfeiture, plus costs and the  
17 youth services surcharge, may be assessed against the person, the parent or  
18 guardian of the person, or both.

History: 1995 a. 27 s. 9130 (4); 1997 a. 77, 352; 1999 a. 3, 239; 2001 a. 16; 2003 a. 82; 2005 a. 344.

19 ~~SECTION 33~~ 938.342 (1g) (h) of the statutes is amended to read:

20 938.342 (1g) (h) Impose a forfeiture of not more than \$500, plus costs and the  
21 youth services surcharge, subject to s. 938.37. All or part of the forfeiture, plus costs

1 and the youth services surcharge, may be assessed against the person, the parent or  
2 guardian of the person, or both.

History: 1995 a. 27 s. 9130 (4); 1995 a. 77, 352; 1997 a. 3, 239; 2001 a. 16; 2003 a. 82; 2005 a. 344.

3 ~~SECTION 31.~~ 938.342 (1m) (am) of the statutes is amended to read:

4 938.342 (1m) (am) If the court finds that the person violated a municipal  
5 ordinance enacted under s. 118.163 (1m), the court may, as part of the disposition  
6 under sub. (1d), order the person's parent or guardian to pay all or part of a forfeiture,  
7 plus costs and the youth services surcharge, assessed under sub. (1d) (b). If the court  
8 finds that the person violated a municipal ordinance enacted under s. 118.163 (2), the  
9 court may, as part of the disposition under sub. (1g), order the person's parent or  
10 guardian to pay all or part of the costs of any program ordered under sub. (1g) (b) or  
11 to pay all or part of a forfeiture, plus costs and the youth services surcharge, assessed  
12 under sub. (1g) (h).

History: 1995 a. 27 s. 9130 (4); 1995 a. 77, 352; 1997 a. 3, 239; 2001 a. 16; 2003 a. 82; 2005 a. 344.

13 ~~SECTION 31.~~ 938.342 (3) of the statutes is created to read:

CS) YOUTH SERVICES SURCHARGE;  
COLLECTION AND TRANSMISSION

14 938.342 (3) (a) If the youth services surcharge is imposed under sub. (1d) (b),  
15 (1g) (h), or (1m) (am) by the court assigned to exercise jurisdiction under this chapter,  
16 after the court determines the amount due, the clerk of the court shall collect and  
17 transmit the amount to the county treasurer as provided in s. 59.40 (2) (nm). The  
18 county treasurer shall place the amount in the youth services fund as provided in s.  
19 59.25 (3) (gm).

20 (b) If the youth services surcharge is imposed under sub. (1d) (b), (1g) (h), or  
21 (1m) (am) by a municipal court, after a determination by the court of the amount due,  
22 the court shall collect and transmit the amount to the treasurer of the city, village,  
23 or town, and the city, village, or town may use the moneys to provide services for  
24 youth.

1            ~~SECTION 35.~~ 938.343 (2) of the statutes is renumbered 938.343 (2) (a) and  
2 amended to read:

3            938.343 (2) FORFEITURE AND SURCHARGE. (a) Impose a forfeiture not to exceed  
4 the maximum forfeiture that may be imposed on an adult for committing that  
5 violation or, if the violation is <sup>only</sup> applicable to a person under 18 years of age, \$50,  
6 plus the youth services surcharge, if authorized under s. 938.17 (2) (cr). The order  
7 shall include a finding that the juvenile alone is financially able to pay and shall  
8 allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture or  
9 surchage, the court may suspend any license issued under ch. 29 or suspend the  
10 juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2 years.  
11 The court shall immediately take possession of the suspended license and forward  
12 it to the department which issued the license, together with the notice of suspension  
13 stating that the suspension is for failure to pay a forfeiture or surchage imposed by  
14 the court. If the forfeiture or surchage is paid during the period of suspension, the  
15 court shall immediately notify the department, which shall return the license to the  
16 person. Any recovery of a forfeiture under this subsection shall be reduced by the  
17 amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

History: 1995 a. 77, 352, 448; 1997 a. 84, 183, 197, 198, 205, 248; 1999 a. 9, 32, 185; 2001 a. 16; 2005 a. 344.

18            ~~SECTION 37.~~ 938.343 (2) (b) of the statutes is created to read:

19            938.343 (2) (b) 1. If the youth services surcharge is imposed under par. (a) by  
20 the court assigned to exercise jurisdiction under this chapter, after the court  
21 determines the amount due, the clerk of the court shall collect and transmit the  
22 amount to the county treasurer as provided in s. 59.40 (2) (nm). The county treasurer  
23 shall place the amount in the youth services fund as provided in s. 59.25 (3) (gm).

1           2. If the youth services surcharge is imposed under par. (a) by a municipal  
2 court, after a determination by the court of the amount due, the court shall collect  
3 and transmit the amount to the treasurer of the city, village, or town, and the city,  
4 village, or town may use the moneys to provide services for youth.

5           ~~SECTION 35.~~ 938.344 (2) (a) of the statutes is amended to read:

6           938.344 (2) (a) For a first violation, a forfeiture of not more than \$50, plus the  
7 youth services surcharge, if authorized under s. 938.17 (2) (cr), suspension of the  
8 juvenile's operating privilege under s. 343.30 (6) (b) 1., or participation in a  
9 supervised work program or other community service work under s. 938.34 (5g).

History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16; 2005 a. 344.

10          ~~SECTION 39.~~ 938.344 (2) (b) of the statutes is amended to read:

11          938.344 (2) (b) For a violation committed within 12 months of one previous  
12 violation, a forfeiture of not more than \$100, plus the youth services surcharge, if  
13 authorized under s. 938.17 (2) (cr), or participation in a supervised work program or  
14 other community service work under s. 938.34 (5g). In addition, the juvenile's  
15 operating privilege may be suspended under s. 343.30 (6) (b) 2., except that if the  
16 violation of s. 125.07 (4) (b) involved a motor vehicle the juvenile's operating privilege  
17 shall be suspended under s. 343.30 (6) (b) 2.

History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16; 2005 a. 344.

18          ~~SECTION 40.~~ 938.344 (2) (c) of the statutes is amended to read:

19          938.344 (2) (c) For a violation committed within 12 months of 2 or more  
20 previous violations, a forfeiture of not more than \$500, plus the youth services  
21 surcharge, if authorized under s. 938.17 (2) (cr), or participation in a supervised work  
22 program or other community service work under s. 938.34 (5g). In addition, the  
23 juvenile's operating privilege may be suspended under s. 343.30 (6) (b) 3., except that

1 if the violation of s. 125.07 (4) (b) involved a motor vehicle the juvenile's operating  
2 privilege shall be suspended under s. 343.30 (6) (b) 3.

3 History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16; 2005 a. 344.

~~SECTION 41.~~ 938.344 (2b) (a) of the statutes is amended to read:

4 938.344 (2b) (a) For a first violation, a forfeiture of not less than \$250 nor more  
5 than \$500, plus the youth services surcharge, if authorized under s. 938.17 (2) (cr),  
6 suspension of the juvenile's operating privilege under s. 343.30 (6) (b) 1., or  
7 participation in a supervised work program or other community service work under  
8 s. 938.34 (5g).

9 History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16; 2005 a. 344.

SECTION 42. 938.344 (2b) (b) of the statutes is amended to read:

10 938.344 (2b) (b) For a violation committed within 12 months of one previous  
11 violation, a forfeiture of not less than \$300 nor more than \$500, plus the youth  
12 services surcharge, if authorized under s. 938.17 (2) (cr), or participation in a  
13 supervised work program or other community service work under s. 938.34 (5g). In  
14 addition, the juvenile's operating privilege may be suspended under s. 343.30 (6) (b)  
15 2., except that if the violation involved a motor vehicle the juvenile's operating  
16 privilege shall be suspended under s. 343.30 (6) (b) 2.

17 History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16; 2005 a. 344.

SECTION 43. 938.344 (2b) (c) of the statutes is amended to read:

18 938.344 (2b) (c) For a violation committed within 12 months of 2 or more  
19 previous violations, a forfeiture of \$500, plus the youth services surcharge, if  
20 authorized under s. 938.17 (2) (cr), or participation in a supervised work program or  
21 other community service work under s. 938.34 (5g). In addition, the juvenile's  
22 operating privilege may be suspended under s. 343.30 (6) (b) 3., except that if the

1 violation involved a motor vehicle the juvenile's operating privilege shall be  
2 suspended under s. 343.30 (6) (b) 3.

History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16; 2005 a. 344.

3 **SECTION 4F.** 938.344 (2d) (a) of the statutes is amended to read:

4 938.344 (2d) (a) For a first violation, a forfeiture of not less than \$100 nor more  
5 than \$500, plus the youth services surcharge, if authorized under s. 938.17 (2) (cr), ✓  
6 suspension of the juvenile's operating privilege under s. 343.30 (6) (b) 1., or  
7 participation in a supervised work program or other community service work under  
8 s. 938.34 (5g).

History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16; 2005 a. 344.

9 **SECTION 4F.** 938.344 (2d) (b) of the statutes is amended to read:

10 938.344 (2d) (b) For a violation committed within 12 months of a previous  
11 violation, a forfeiture of not less than \$300 nor more than \$500, plus the youth  
12 services surcharge, if authorized under s. 938.17 (2) (cr), ✓ suspension of the juvenile's  
13 operating privilege under s. 343.30 (6) (b) 2., or participation in a supervised work  
14 program or other community service work under s. 938.34 (5g).

History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16; 2005 a. 344.

15 **SECTION 4F.** 938.344 (2d) (c) of the statutes is amended to read:

16 938.344 (2d) (c) For a violation committed within 12 months of 2 or more  
17 previous violations, a forfeiture of \$500, plus the youth services surcharge, if  
18 authorized under s. 938.17 (2) (cr), ✓ suspension of the juvenile's operating privilege  
19 under s. 343.30 (6) (b) 3., or participation in a supervised work program or other  
20 community service work under s. 938.34 (5g).

History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16; 2005 a. 344.

21 **SECTION 4F.** 938.344 (2e) (a) 1. of the statutes is amended to read:

22 938.344 (2e) (a) 1. For a first violation, a forfeiture of not more than \$50, plus  
23 the youth services surcharge, if authorized under s. 938.17 (2) (cr), ✓ or participation

1 in a supervised work program or other community service work under s. 938.34 (5g)  
2 or both.

History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16; 2005 a. 344.

3 ~~SECTION 4E~~ 938.344 (2e) (a) 2. of the statutes is amended to read:

4 938.344 (2e) (a) 2. For a violation committed within 12 months of a previous  
5 violation, a forfeiture of not more than \$100, plus the youth services surcharge, if  
6 authorized under s. 938.17 (2) (cr), or participation in a supervised work program or  
7 other community service work under s. 938.34 (5g) or both.

History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16; 2005 a. 344.

8 ~~SECTION 4F~~ 938.344 (2e) (a) 3. of the statutes is amended to read:

9 938.344 (2e) (a) 3. For a violation committed within 12 months of 2 or more  
10 previous violations, a forfeiture of not more than \$500, plus the youth services  
11 surcharge, if authorized under s. 938.17 (2) (cr), or participation in a supervised work  
12 program or other community service work under s. 938.34 (5g) or both.

History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16; 2005 a. 344.

13 ~~SECTION 5F~~ 938.344 (2f) of the statutes is created to read:

14 938.344 (2f) (a) If the youth services surcharge is imposed under sub. (2), (2b),  
15 (2d), or (2e) by the court assigned to exercise jurisdiction under this chapter, after the  
16 court determines the amount due, the clerk of the court shall collect and transmit the  
17 amount to the county treasurer as provided in s. 59.40 (2) (nm). The county treasurer  
18 shall place the amount in the youth services fund as provided in s. 59.25 (3) (gm).

19 (b) If the youth services surcharge is imposed under sub. (2), (2b), (2d), or (2e)  
20 by a municipal court, after a determination by the court of the amount due, the court

CS

YOUTH SERVICES SURCHARGE; COLLECTION AND TRANSMISSION

1 shall collect and transmit the amount to the treasurer of the city, village, or town, and  
2 the city, village, or town may use the moneys to provide services for youth.

(END OF INSERT)

(INSERT 17-22)

3 SECTION ~~51.~~ 938.45 (1r) (b) of the statutes is amended to read:

4 938.45 (1r) (b) In a proceeding in which the court has determined under s.  
5 938.34 (8) or 938.343 (2) (a) that the imposition of a forfeiture would be in the best  
6 interest of the juvenile and in aid of rehabilitation, the court may order a parent who  
7 has custody, as defined in s. 895.035 (1), of the juvenile to pay the forfeiture. The  
8 amount of any forfeiture ordered may not exceed \$5,000. The order shall include a  
9 finding that the parent is financially able to pay the amount ordered and shall allow  
10 up to 12 months after the date of the order for the payment. Any recovery under this  
11 paragraph shall be reduced by the amount recovered as a forfeiture for the same act  
12 under s. 938.34 (8) or 938.343 (2) (a).

History: 1995 a. 77; 1997 a. 35, 205; 2003 a. 138; 2005 a. 344.

(END OF INSERT)

(INSERT 23-22)

13 SECTION ~~52.~~ Nonstatutory provisions.

14 (1) YOUTH AIDS DAILY RATES. Notwithstanding section 301.26 (4) (d) 3. of the  
15 statutes, as affected by this act, the per person daily cost assessments to counties for  
16 care in a Type 1 juvenile correctional facility, as defined in section 938.02 (19) of the  
17 statutes, and for care for juveniles transferred from a juvenile correctional  
18 institution under section 51.35 (3) of the statutes specified in section 301.26 (4) (d)  
19 3. of the statutes on the day before the effective date of this subsection remain in  
3 as affected by this act



1 effect until the publication in the Wisconsin Administrative Register of the  
 2 assessments specified in section 301.26 (4) (dm) of the statutes, as created by this act.

(END OF INSERT)

(INSERT A)

Under current law relating to community youth and family aids, generally referred to as "youth aids," the Department of Corrections (DOC) ~~is required to~~ *must* \* allocate various state and federal moneys to counties to pay for state-provided juvenile correctional services and local delinquency-related and juvenile justice services. DOC charges counties for the cost of services provided by DOC according to per person daily cost assessments specified in the statutes. Currently, those assessments include assessments of ~~(\$270)~~ *\$275* for care in a juvenile correctional facility or a treatment facility. \*

This bill eliminates those statutorily set assessments and instead directs DOC to set those assessments at least annually. The bill permits DOC to set one assessment for short-term placements of 30 days or less and another assessment for long-term placements of more than 30 days and permits DOC to adjust those assessments more frequently than annually as necessary to reflect the per person average daily cost of providing that care. The bill requires DOC to publish those assessments and adjustments in the Wisconsin Administrative Register and excepts DOC from having to promulgate those assessments and adjustments as rules. The bill also requires DOC to increase the youth aids funds allocated to counties if DOC increases an assessment under the bill.

*must* Under current law, when a court imposes a fine or forfeiture in certain actions, the court ~~is also required to~~ impose certain surcharges in addition to the fine or forfeiture, plus costs and fees, imposed. This bill requires a court to impose a community youth and family aids surcharge (youth aids surcharge) in the amount of \$14 when the court imposes a forfeiture for a traffic violation. Youth aids surcharges *use* must be transmitted to the secretary of administration, deposited into the general fund, and credited to an appropriation account of DOC, which ~~must~~ those youth aids surcharges for state-provided juvenile correctional services and local delinquency-related and juvenile justice services.

The bill also permits a county to adopt an ordinance or bylaw authorizing the court assigned to exercise jurisdiction under the Juvenile Justice Code (juvenile court) of that county, and a city, village, or town to adopt an ordinance or bylaw authorizing the municipal court of that city, village, or town, to impose a youth services surcharge in an amount specified in the ordinance or bylaw when the juvenile court or municipal court imposes a forfeiture for truancy, an alcohol or drug violation, or any other violation of a civil law or municipal ordinance, other than a forfeiture for a violation of a traffic regulation. Youth services surcharges are

retained by the county, city, village, or town and must be used to provide services for youths.

**(END OF INSERT)**

3048

- Nonst ✓
- ① Add funding for 2 reserve judge positions - sum sufficient  
∴ authorize 2 positions  
\$114,000/judge/yr
- ② Doc change daily rate

legislative oversight = JCF passive review - for approval  
of assessments

- ✓ ③ Youth oils surcharge allocate<sup>in 301.26</sup> (7) All may (gr)  
allocate to counties 301.26 (7)(a)

- ✓ ④ Local tax surcharge - out

- Nonst ✓
- ⑤ 17 year old - during transition 7/1/00 to 6/30/11  
wh 17 year old arrested starting point were  
charged  
Then if charged w/ felony - adult procedure  
charged w/ misdemeanor  
if " " misdemeanor - juv. procedure