

## 2015 DRAFTING REQUEST

### Bill

Received: 12/3/2014 Received By: eshea  
For: Jerry Petrowski (608) 266-2502 Same as LRB: -0833 -3151  
May Contact: By/Representing: Tim Fiocchi  
Subject: Children - juvenile justice Drafter: eshea  
Addl. Drafters:  
Extra Copies:

Submit via email: YES  
Requester's email: Sen.Petrowski@legis.wisconsin.gov  
Carbon copy (CC) to: elisabeth.shea@legis.wisconsin.gov

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### Pre Topic:

No specific pre topic given

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### Topic:

Age of adult criminal jurisdiction

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### Instructions:

See attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	eshea 12/4/2014	csicilia 12/8/2014	_____			
/1	eshea 1/25/2015	rschluet 12/8/2014	_____	srose 12/8/2014		State S&L
/2	eshea 2/4/2015	rschluet 2/5/2015	_____	lparisi 1/30/2015		State S&L
/3	eshea		_____	sbasford		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	2/11/2015		_____	2/5/2015		S&L
/4	eshea 2/18/2015	rschluet 2/13/2015	_____	sbasford 2/13/2015		State S&L
/5		rschluet 2/23/2015	_____	lparisi 2/23/2015	sbasford 9/9/2015	State S&L

FE Sent For:

*atinto  
9/30/15*

<END>

## Shea, Elisabeth

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**From:** Fiocchi, Tim  
**Sent:** Thursday, December 04, 2014 1:35 PM  
**To:** Shea, Elisabeth  
**Subject:** RE: Potential amendment language

We're actually hoping that this will either become part of the budget or pass in time that an associated appropriation to help cover costs for the counties costs would be part of the budget debate, but I see what you're saying. Let's have it go into effect 3 months after publication.

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**From:** Shea, Elisabeth  
**Sent:** Thursday, December 04, 2014 12:58 PM  
**To:** Fiocchi, Tim  
**Subject:** RE: Potential amendment language

Hi Tim,

Because the budget tends to take up the first half of each odd year, this draft may not be likely to pass by July 1, 2015, and it can't be retroactive if it passes after that date. Could I say something like, "July 1, 2015 or on the July 1 after publication, whichever is later"? Then if the bill passes after July 1 next year, it would go into effect the following July 1. Alternatively, it could go into effect a certain amount of time after publication instead of a specific date.

Let me know what you think.

Lis

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**From:** Fiocchi, Tim  
**Sent:** Wednesday, December 03, 2014 12:58 PM  
**To:** Shea, Elisabeth  
**Cc:** Pratt, Phillip  
**Subject:** RE: Potential amendment language

Thank you for catching that. The effective date should be July 1, 2015.

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**From:** Shea, Elisabeth  
**Sent:** Wednesday, December 03, 2014 11:50 AM  
**To:** Fiocchi, Tim  
**Cc:** Pratt, Phillip  
**Subject:** RE: Potential amendment language

One more question. The effective date of the bill last session was Jan. 1, 2015. Should this bill's effective date be Jan. 1, 2017?

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**From:** Fiocchi, Tim  
**Sent:** Wednesday, December 03, 2014 11:13 AM  
**To:** Shea, Elisabeth  
**Cc:** Pratt, Phillip  
**Subject:** RE: Potential amendment language

Yes. It's not clear yet if we would make the change, but I just wanted to have it ready.

Thanks,

Tim

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**From:** Shea, Elisabeth  
**Sent:** Wednesday, December 03, 2014 11:10 AM  
**To:** Fiocchi, Tim  
**Cc:** Pratt, Phillip  
**Subject:** RE: Potential amendment language

Just to clarify, you'd like the amendment drafted as an actual amendment, and not as a change to the bill itself, correct?

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**From:** Fiocchi, Tim  
**Sent:** Wednesday, December 03, 2014 10:36 AM  
**To:** Shea, Elisabeth  
**Cc:** Pratt, Phillip  
**Subject:** RE: Potential amendment language

Good morning Elisabeth,

I'd like to get a redraft of AB 387/SB 308 from last session ready for introduction in January. Senator Petrowski will be the senate author and Representative Hutton will be the assembly author (his staff Phil is copied above). I'd also like to draft an amendment to the bill as described in the email below.

Please call with any questions.

Thank you,

Tim

Tim Fiocchi  
Chief of Staff, Senator Jerry Petrowski  
29th Senate District  
(608) 266-2502

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**From:** Jim Moeser [<mailto:jmoeser@wccf.org>]  
**Sent:** Monday, December 01, 2014 5:39 PM  
**To:** Fiocchi, Tim; Pratt, Phillip  
**Subject:** Potential amendment language

As we discussed on today's call, here is the info. related to the potential amendment –

The most recent draft (AB387, SB308) would permit an extension of an order that has previously been entered for placement in a Type 2 residential care facility (4d), serious juvenile offender program (4h), a secure juvenile correctional facility (4m), or on juvenile corrections aftercare, (4n) essentially up until the youth turns 18 and extend that order for one year after the order.

Impact on counties: The result, from a county perspective, is that the county could be “on the hook” for the cost of that extended placement, potentially adding another year of correctional costs – around \$102,000.

Options:

1. Remove the “change” in line 23 (page 12) and line 2 (page 13) and retain current language that says “...before the juvenile attains 17 years of age...” This would in some ways limit the amount of time that a youth, e.g. a “late 16

year old” be placed in a juvenile correctional institution – but it is essentially leaving the current law “as is” for those youth and would not have a significant impact on current practices. It would simply limit the maximum length of time a youth could be in a correctional institution or on juvenile aftercare.

And, yes, it would be correct to suggest that the bill as drafted had a fiscal “unintended consequence” – something that was discussed briefly in a meeting or two but not modified – this particular item was highlighted in Milwaukee due to the larger number of teens they place in juvenile corrections and what they would project as “extended” placements impacting their cost. We do not know to what extent other counties will have included this “extension” cost in their estimates yet to be received.

I would agree that the 2<sup>nd</sup> Chance estimate of \$8-10 million did not include costs associated with “extended” placements in corrections.

As it relates to the “payment mechanism”, or other amendments the counties may propose – we will have to see if they have proposed language changes – again, hopefully soon.

Any questions let me know.

Jim Moeser  
WCCF



State of Wisconsin  
2013 - 2014 LEGISLATURE

in 12/4/14

Due 12/8/14



LRB-8169/1

EHS&GMM:sac:rs

0771

RMNR

2015-16

CHANGES

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2013 SENATE BILL 308

September 24, 2013 - Introduced by Senators PETROWSKI, L. TAYLOR, T. CULLEN, ERPENBACH, HANSEN, HARRIS, LASSA, LEHMAN, MILLER, MOULTON, OLSEN, RISSER, SHILLING and VINEHOUT, cosponsored by Representatives BIES, KESSLER, JOHNSON, BALLWEG, BARNES, BERCEAU, BERNARD SCHABER, BERNIER, BILLINGS, BROOKS, CLARK, DOYLE, GENRICH, GOYKE, HEBL, JACQUE, KAHL, KESTELL, KOLSTE, KRUG, LOUDENBECK, MILROY, OHNSTAD, A. OTT, PASCH, PETRYK, POPE, PRIDEMORE, RINGHAND, RIPP, SARGENT, SHANKLAND, SINICKI, SPIROS, C. TAYLOR, THIESFELDT, TITTL, VRUWINK, WRIGHT and YOUNG. Referred to Committee on Transportation, Public Safety, and Veterans and Military Affairs.

SAIS ✓  
SAIS ✓  
dates ✓  
X-refs ✓  
complete sentences ✓

Regen. Cat.

AN ACT to amend 48.02 (1d), 48.02 (2), 48.366 (8), subchapter IX (title) of chapter 48 [precedes 48.44], 48.44 (title), 48.44 (1), 48.45 (1) (a), 48.45 (1) (am), 48.45 (3), 118.163 (4), 125.07 (4) (d), 125.07 (4) (e) 1., 125.085 (3) (bt), 165.83 (1) (c) 1., 165.83 (1) (c) 2., 301.12 (2m), 301.12 (14) (a), 301.26 (4) (cm) 2., 302.31 (7), 938.02 (1), 938.02 (10m), 938.12 (2), 938.18 (2), 938.183 (3), 938.255 (1) (intro.), 938.34 (8), 938.343 (2), 938.344 (3), 938.35 (1m), 938.355 (4) (b), 938.355 (4m) (a), 938.39, subchapter IX (title) of chapter 938 [precedes 938.44], 938.44, 938.45 (1) (a), 938.45 (3), 938.48 (4m) (title), 938.48 (4m) (a), 938.48 (4m) (b), 938.48 (14), 938.57 (3) (title), 938.57 (3) (a) (intro.), 938.57 (3) (a) 1., 938.57 (3) (a) 3., 938.57 (3) (b), 939.632 (1) (e) 1., 939.632 (1) (e) 3., 946.50 (intro.), 948.01 (1), 948.11 (2) (am) (intro.), 948.45 (1), 948.60 (2) (d), 948.61 (4), 961.455 (title), 961.455 (1), 961.455 (2), 961.46, 961.573 (2), 961.574 (2), 961.575 (1), 961.575 (2), 961.575 (3), 990.01 (3) and 990.01 (20) of the statutes; relating to: the age at which a person who is alleged to have violated a criminal law, a civil law, or

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**SENATE BILL 308**

1 a municipal ordinance and who is not alleged to have committed certain violent  
2 offences or has not previously been convicted of a crime or adjudicated  
3 delinquent is subject to juvenile court jurisdiction.

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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, if the person is not alleged to have committed certain violent offenses and has not previously been convicted of a crime or adjudicated delinquent. The bill, however, does not affect the age at which a person who is alleged to have committed certain violent offenses or who has previously been convicted of a crime or adjudicated delinquent is subject to those procedures and that sentencing.

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, if the person has not previously been convicted of a crime or adjudicated delinquent. The bill, however, does not affect the age at which a person who has previously been convicted of a crime or adjudicated delinquent is subject to that jurisdiction and those procedures.

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:***

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

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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 any state or federal criminal law or any civil law or municipal ordinance, "adult"  
4 means includes a person who has attained 17 years of age who has previously been  
5 convicted of a crime or adjudicated delinquent or who is alleged to have committed  
6 any violent crime specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor under s.  
7 940.42, if the underlying crime is a felony, or s. 941.20 (1) (b), (bm), (c), or (d) or 941.24.

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

9           48.02 (2) "Child", when used without further qualification, means a person  
10 who is less than 18 years of age, except that for purposes of investigating or  
11 prosecuting a person who is alleged to have violated a state or federal criminal law  
12 or any civil law or municipal ordinance, "child" does not include a person who has  
13 attained 17 years of age who has previously been convicted of a crime or adjudicated  
14 delinquent or who is alleged to have committed any violent crime specified in s.  
15 939.632 (1) (e) 1. or 2. or any misdemeanor under s. 940.42, if the underlying crime  
16 is a felony, or s. 941.20 (1) (b), (bm), (c), or (d) or 941.24.

17           **SECTION 3.** 48.366 (8) of the statutes is amended to read:

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



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

6 **SECTION 4.** Subchapter IX (title) of chapter 48 [precedes 48.44] of the statutes  
7 is amended to read:

8 **CHAPTER 48**

9 **SUBCHAPTER IX**

10 **JURISDICTION OVER PERSON 17**

11 **OR OLDER ADULTS**

12 **SECTION 5.** 48.44 (title) of the statutes is amended to read:

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

14 ~~**SECTION 6.** 48.44 (1) of the statutes is amended to read:~~

15 ~~48.44 (1) The court has jurisdiction over persons 17 years of age or older adults~~  
16 as provided under ss. 48.133, 48.355 (4), and 48.45 and as otherwise specifically  
17 provided in this chapter. *plain 48.357(6), 48.365(5)*

18 **SECTION 7.** 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 adult has been  
21 guilty of contributing to, encouraging, or tending to cause by any act or omission,  
22 such that condition of the child, the judge may make orders with respect to the  
23 conduct of such that person in his or her relationship to the child, including orders  
24 determining the ability of the person to provide for the maintenance or care of the

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1 child and directing when, how, and from where funds for the maintenance or care  
2 shall be paid.

3 **SECTION 8.** 48.45 (1) (am) of the statutes is amended to read:

4 48.45 (1) (am) If in the hearing of a case of an unborn child and the unborn  
5 child's expectant mother alleged to be in a condition described in s. 48.133 it appears  
6 that any ~~person 17 years of age or over~~ adult has been guilty of contributing to,  
7 encouraging, or tending to cause by any act or omission, ~~such~~ that condition of the  
8 unborn child and expectant mother, the judge may make orders with respect to the  
9 conduct of ~~such~~ that person in his or her relationship to the unborn child and  
10 expectant mother.

11 **SECTION 9.** 48.45 (3) of the statutes is amended to read:

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

17 **SECTION 10.** 118.163 (4) of the statutes is amended to read:

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

20 **SECTION 11.** 125.07 (4) (d) of the statutes is amended to read:

21 125.07 (4) (d) A person who is ~~under 17 years of age~~ a minor on the date of  
22 disposition is subject to s. 938.344 unless proceedings have been instituted against  
23 the person in a court of civil or criminal jurisdiction after dismissal of the citation  
24 under s. 938.344 (3).

25 **SECTION 12.** 125.07 (4) (e) 1. of the statutes is amended to read:

**SENATE BILL 308****SECTION 12**

1           125.07 (4) (e) 1. In this paragraph, “defendant” means a person found guilty  
2 of violating par. (a) or (b) who is ~~17, 18, 19 or 20~~ an adult under 21 years of age.

3           **SECTION 13.** 125.085 (3) (bt) of the statutes is amended to read:

4           125.085 (3) (bt) A person who is ~~under 17 years of age~~ a minor on the date of  
5 disposition is subject to s. 938.344 unless proceedings have been instituted against  
6 the person in a court of civil or criminal jurisdiction after dismissal of the citation  
7 under s. 938.344 (3).

8           **SECTION 14.** 165.83 (1) (c) 1. of the statutes is amended to read:

9           165.83 (1) (c) 1. An act that is committed by ~~a person who has attained the age~~  
10 ~~of 17~~ an adult and that is a felony or a misdemeanor.

11           **SECTION 15.** 165.83 (1) (c) 2. of the statutes is amended to read:

12           165.83 (1) (c) 2. An act that is committed by a ~~person~~ minor who has attained  
13 the age of 10 ~~but who has not attained the age of 17~~ and that would be a felony or  
14 misdemeanor if committed by an adult.

15           **SECTION 16.** 301.12 (2m) of the statutes is amended to read:

16           301.12 (2m) The liability specified in sub. (2) shall not apply to persons ~~17~~ 18  
17 and older receiving care, maintenance, services, and supplies provided by prisons  
18 named in s. 302.01.

19           **SECTION 17.** 301.12 (14) (a) of the statutes is amended to read:

20           301.12 (14) (a) Except as provided in pars. (b) and (c), liability of a person  
21 specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons under ~~17~~  
22 18 years of age in residential, nonmedical facilities such as group homes, foster  
23 homes, residential care centers for children and youth, and juvenile correctional  
24 institutions is determined in accordance with the cost-based fee established under  
25 s. 301.03 (18). The department shall bill the liable person up to any amount of

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1 liability not paid by an insurer under s. 632.89 (2) or (4m) or by other 3rd-party  
2 benefits, subject to rules that include formulas governing ability to pay promulgated  
3 by the department under s. 301.03 (18). Any liability of the resident not payable by  
4 any other person terminates when the resident reaches age ~~17~~ 18, unless the liable  
5 person has prevented payment by any act or omission.

X 6 **SECTION 18.** 301.26 (4) (cm) 2. of the statutes is amended to read:

7 301.26 (4) (cm) 2. Notwithstanding pars. (a), (b), and (bm), the department  
8 shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the  
9 appropriations under s. 20.410 (3) (hm), (ho), and (hr) for the purpose of reimbursing  
10 juvenile correctional facilities, secured residential care centers for children and  
11 youth, alternate care providers, aftercare supervision providers, and corrective  
12 sanctions supervision providers for costs incurred beginning on July 1, 1996, for the  
13 care of any juvenile 14 years of age or over ~~and under 18 years of age~~ who has been  
14 placed in a juvenile correctional facility under s. 48.366 based on a delinquent act  
15 that is a violation of s. 940.01, 940.02, 940.05, or 940.225 (1).

16 **SECTION 19.** 302.31 (7) of the statutes is amended to read:

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

23 **SECTION 20.** 938.02 (1) of the statutes is amended to read:

24 938.02 (1) "Adult" means a person who is 18 years of age or older, except that  
25 for purposes of investigating or prosecuting a person who is alleged to have violated

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1 any state or federal criminal law or any civil law or municipal ordinance, “adult”  
2 means includes a person who has attained 17 years of age who has previously been  
3 convicted of a crime or adjudicated delinquent or who is alleged to have committed  
4 any violent crime specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor under s.  
5 940.42, if the underlying crime is a felony, or s. 941.20 (1) (b), (bm), (c), or (d) or 941.24.

6 **SECTION 21.** 938.02 (10m) of the statutes is amended to read:

7 938.02 (10m) “Juvenile<sup>2,2</sup>” when used without further qualification, means a  
8 person who is less than 18 years of age, except that for purposes of investigating or  
9 prosecuting a person who is alleged to have violated a state or federal criminal law  
10 or any civil law or municipal ordinance, “juvenile” does not include a person who has  
11 attained 17 years of age who has previously been convicted of a crime or adjudicated  
12 delinquent or who is alleged to have committed any violent crime specified in s.  
13 939.632 (1) (e) 1. or 2. or any misdemeanor under s. 940.42, if the underlying crime  
14 is a felony, or s. 941.20 (1) (b), (bm), (c) or (d) or 941.24.

15 **SECTION 22.** 938.12 (2) of the statutes is amended to read:

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

21 **SECTION 23.** 938.18 (2) of the statutes is amended 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

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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 ~~17 years of age~~ an adult before an  
3 adjudication, the petition for waiver of jurisdiction may be filed at any time prior to  
4 the adjudication. If the court initiates the petition for waiver of jurisdiction, the  
5 judge shall disqualify himself or herself from any future proceedings on the case.

6 **SECTION 24.** 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 years~~ becomes an adult, the department may place the juvenile in a state prison  
10 named in s. 302.01, except that the department may not place any person under the  
11 age of 18 years in the correctional institution authorized in s. 301.16 (1n). A juvenile  
12 who is subject to a criminal penalty under sub. (1m) or under s. 938.183 (2), 2003  
13 stats., for an act committed before December 31, 1999, is eligible for parole under s.  
14 304.06.

15 **SECTION 25.** 938.255 (1) (intro.) of the statutes is amended to read:

16 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings  
17 under this chapter, other than a petition initiating proceedings under s. 938.12,  
18 938.125, or 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a  
19 person under the age of 18". A petition initiating proceedings under s. 938.12,  
20 938.125, or 938.13 (12) shall be entitled, "In the interest of (juvenile's name), a person  
21 ~~under the age of 17". juvenile.~~ A petition initiating proceedings under this chapter  
22 shall specify all of the following:

23 **SECTION 26.** 938.34 (8) of the statutes is amended to read:

24 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that  
25 this disposition is in the best interest of the juvenile and the juvenile's rehabilitation.

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1 The maximum forfeiture that the court may impose under this subsection for a  
2 violation by a juvenile is the maximum amount of the fine that may be imposed on  
3 an adult for committing that violation or, if the violation is applicable only to ~~a person~~  
4 ~~under 18 years of age~~ juveniles, \$100. The order shall include a finding that the  
5 juvenile alone is financially able to pay the forfeiture and shall allow up to 12 months  
6 for payment. If the juvenile fails to pay the forfeiture, the court may vacate the  
7 forfeiture and order other alternatives under this section; or the court may suspend  
8 any license issued under ch. 29 for not less than 30 days nor more than 5 years, or  
9 suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more  
10 than 2 years. If the court suspends any license under this subsection, the clerk of the  
11 court shall immediately take possession of the suspended license if issued under ch.  
12 29 or, if the license is issued under ch. 343, the court may take possession of, and if  
13 possession is taken, shall destroy, the license. The court shall forward to the  
14 department ~~which~~ that issued the license a notice of suspension stating that the  
15 suspension is for failure to pay a forfeiture imposed by the court, together with any  
16 license issued under ch. 29 of which the court takes possession. If the forfeiture is  
17 paid during the period of suspension, the suspension shall be reduced to the time  
18 period ~~which~~ that has already elapsed and the court shall immediately notify the  
19 department, which shall then, if the license is issued under ch. 29, return the license  
20 to the juvenile. Any recovery under this subsection shall be reduced by the amount  
21 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

22 **SECTION 27.** 938.343 (2) of the statutes is amended to read:

23 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum  
24 forfeiture that may be imposed on an adult for committing that violation or, if the  
25 violation is only applicable to ~~a person under 18 years of age~~ juveniles, \$50. The

**SENATE BILL 308**

1 order shall include a finding that the juvenile alone is financially able to pay and  
2 shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture,  
3 the court may suspend any license issued under ch. 29 or suspend the juvenile's  
4 operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court  
5 shall immediately take possession of the suspended license if issued under ch. 29 or,  
6 if the license is issued under ch. 343, the court may take possession of, and if  
7 possession is taken, shall destroy, the license. The court shall forward to the  
8 department ~~which~~ that issued the license the notice of suspension stating that the  
9 suspension is for failure to pay a forfeiture imposed by the court, together with any  
10 license issued under ch. 29 of which the court takes possession. If the forfeiture is  
11 paid during the period of suspension, the court shall immediately notify the  
12 department, which shall, if the license is issued under ch. 29, return the license to  
13 the person. Any recovery under this subsection shall be reduced by the amount  
14 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

15 **SECTION 28.** 938.344 (3) of the statutes is amended to read:

16 938.344 (3) PROSECUTION IN ADULT COURT. If the juvenile alleged to have  
17 committed the violation is within 3 months of ~~his or her 17th birthday~~ becoming an  
18 adult, the court assigned to exercise jurisdiction under this chapter and ch. 48 may,  
19 at the request of the district attorney or on its own motion, dismiss the citation  
20 without prejudice and refer the matter to the district attorney for prosecution under  
21 s. 125.07 (4). The juvenile is entitled to a hearing only on the issue of his or her age.  
22 This subsection does not apply to violations under s. 961.573 (2), 961.574 (2), or  
23 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

24 **SECTION 29.** 938.35 (1m) of the statutes is amended to read:



**SENATE BILL 308**

1           938.35 (1m) FUTURE CRIMINAL PROCEEDINGS BARRED. Disposition by the court  
2 assigned to exercise jurisdiction under this chapter and ch. 48 of any allegation  
3 under s. 938.12 or 938.13 (12) shall bar any future proceeding on the same matter  
4 in criminal court when the juvenile attains 17 years of age becomes an adult. This  
5 ~~paragraph~~ <sup>plain</sup> subsection does not affect proceedings in criminal court that have been  
6 transferred under s. 938.18.

7           **SECTION 30.** 938.355 (4) (b) of the statutes is amended to read:

8           938.355 (4) (b) Except as provided in s. 938.368, an order under s. 938.34 (4d)  
9 or (4m) made before the juvenile attains 18 years of age may apply for up to 2 years  
10 after the date on which the order is granted or until the juvenile's 18th 19th birthday,  
11 whichever is earlier, unless the court specifies a shorter period of time or the court  
12 terminates the order sooner. If the order does not specify a termination date, it shall  
13 apply for one year after the date on which the order is granted or until the juvenile's  
14 ~~18th~~ 19th birthday, whichever is earlier, unless the court terminates the order  
15 sooner. Except as provided in s. 938.368, an order under s. 938.34 (4h) made before  
16 the juvenile attains 18 years of age shall apply for 5 years after the date on which the  
17 order is granted, if the juvenile is adjudicated delinquent for committing a violation  
18 of s. 943.10 (2) or for committing an act that would be punishable as a Class B or C  
19 felony if committed by an adult, or until the juvenile reaches 25 years of age, if the  
20 juvenile is adjudicated delinquent for committing an act that would be punishable  
21 as a Class A felony if committed by an adult. Except as provided in s. 938.368, an  
22 extension of an order under s. 938.34 (4d), (4h), (4m), or (4n) made before the juvenile  
23 attains 17 years of age becomes an adult shall terminate at the end of one year after  
24 the date on which the order is granted unless the court specifies a shorter period of  
25 time or the court terminates the order sooner. No extension under s. 938.365 of an

**SENATE BILL 308**

1 original dispositional order under s. 938.34 (4d), (4h), (4m), or (4n) may be granted  
2 for a juvenile who is ~~17 years of age or older when~~ becomes an adult by the time the  
3 original dispositional order terminates.

4 **SECTION 31.** 938.355 (4m) (a) of the statutes is amended to read:

5 938.355 (4m) (a) A juvenile who has been adjudged delinquent under s. 48.12,  
6 1993 stats., or s. 938.12 may, on ~~attaining 17 years of age~~ becoming an adult, petition  
7 the court to expunge the court's record of the juvenile's adjudication. Subject to par.  
8 (b), the court may expunge the record if the court determines that the juvenile has  
9 satisfactorily complied with the conditions of his or her dispositional order and that  
10 the juvenile will benefit from, and society will not be harmed by, the expungement.

11 **SECTION 32.** 938.39 of the statutes is amended 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 17~~ becomes an adult. This section does not affect criminal  
16 proceedings in circuit court that were transferred under s. 938.18.

17 **SECTION 33.** Subchapter IX (title) of chapter 938 [precedes 938.44] of the  
18 statutes is amended to read:

19 **CHAPTER 938**

20 **SUBCHAPTER IX**

21 **JURISDICTION OVER PERSONS ~~17~~**

22 **OR OLDER ADULTS**

23 **SECTION 34.** 938.44 of the statutes is amended to read:

**SENATE BILL 308**

1           **938.44 Jurisdiction over persons ~~17 or older~~ adults.** The court has  
 2 jurisdiction over persons ~~17 years of age or older adults~~ as provided under ss. 938.355  
 3 ~~, 938.357(b), 938.365(5),~~  
 4 (4) and 938.45 and as otherwise specified in this chapter.

5           **SECTION 35.** 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 years of age or older~~ adult has been guilty of contributing to, encouraging,  
 9 or tending to cause by any act or omission, ~~such~~ that condition of the juvenile, the  
 10 court may make orders with respect to the conduct of that person in his or her  
 11 relationship to the juvenile, including orders relating to determining the ability of  
 12 the person to provide for the maintenance or care of the juvenile and directing when,  
 13 how, and from where funds for the maintenance or care shall be paid.

14           **SECTION 36.** 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 years of age or older~~ adult has  
 17 violated s. 948.40, the court shall refer the record to the district attorney. This  
 18 subsection does not prohibit prosecution of violations of s. 948.40 without the prior  
 19 reference by the court to the district attorney.

20           **SECTION 37.** 938.48 (4m) (title) of the statutes is amended to read:

21           938.48 (4m) (title) CONTINUING CARE AND SERVICES FOR JUVENILES ~~OVER 17~~ WHO  
 22 BECOME ADULTS.

23           **SECTION 38.** 938.48 (4m) (a) of the statutes is amended to read:

24           938.48 (4m) (a) Is at least ~~17 years of age~~ an adult.

**SECTION 39.** 938.48 (4m) (b) of the statutes is amended to read:

**SENATE BILL 308**

1           938.48 (4m) (b) Was under the supervision of the department under s. 938.183,  
2           938.34 (4h), (4m), or (4n), or 938.357 (4) when the person reached 17 years of age  
3           became an adult.

4           **SECTION 40.** 938.48 (14) of the statutes is amended to read:

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

13          **SECTION 41.** 938.57 (3) (title) of the statutes is amended to read:

14          938.57 (3) (title) CONTINUING MAINTENANCE FOR JUVENILES ~~OVER 17 WHO BECOME~~  
15          ADULTS.

16          **SECTION 42.** 938.57 (3) (a) (intro.) of the statutes is amended to read:

17          938.57 (3) (a) (intro.) From the reimbursement received under s. 48.569 (1) (d),  
18          counties may provide funding for the maintenance of any juvenile person who meets  
19          all of the following qualifications:

20          **SECTION 43.** 938.57 (3) (a) 1. of the statutes is amended to read:

21          938.57 (3) (a) 1. Is ~~17 years of age or older~~ an adult.

22          **SECTION 44.** 938.57 (3) (a) 3. of the statutes is amended to read:

23          938.57 (3) (a) 3. Received funding under s. 48.569 (1) (d) immediately prior to  
24          ~~his or her 17th birthday~~ becoming an adult.

25          **SECTION 45.** 938.57 (3) (b) of the statutes is amended to read:

**SENATE BILL 308**

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

4 **SECTION 46.** 939.632 (1) (e) 1. of the statutes is amended to read:

5 939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09  
6 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305, 940.31,  
7 940.32, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1)  
8 or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085,  
9 or 948.30 (2) or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

10 **SECTION 47.** 939.632 (1) (e) 3. of the statutes is amended to read:

11 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), ~~940.32~~  
12 ~~(2)~~, 940.42, 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3).

13 **SECTION 48.** 946.50 (intro.) of the statutes is amended to read:

14 **946.50 Absconding.** (intro.) Any person who is adjudicated delinquent, but  
15 who intentionally fails to appear before the court assigned to exercise jurisdiction  
16 under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who  
17 does not return to that court for a dispositional hearing before ~~attaining the age of~~  
18 17 years becoming an adult is guilty of the following:

19 **SECTION 49.** 948.01 (1) of the statutes is amended to read:

20 948.01 (1) "Child" means a person who has not attained the age of 18 years,  
21 except that for purposes of prosecuting a person who is alleged to have violated a  
22 state or federal criminal law, "child" does not include a person ~~who has attained the~~  
23 ~~age of 17 years of age who has previously been convicted of a crime or adjudicated~~  
24 delinquent or who is alleged to have committed any violent crime specified in s.

**SENATE BILL 308**

1 939.632 (1) (e) 1. or 2. or any misdemeanor under s. 940.42, if the underlying crime  
2 is a felony, or s. 941.20 (1) (b), (bm), (c), or (d) or 941.24.

3 **SECTION 50.** 948.11 (2) (am) (intro.) of the statutes is amended to read:

4 948.11 (2) (am) (intro.) Any ~~person who has attained the age of 17 and~~ adult  
5 who, with knowledge of the character and content of the description or narrative  
6 account, verbally communicates, by any means, a harmful description or narrative  
7 account to a child, with or without monetary consideration, is guilty of a Class I  
8 felony if any of the following applies:

9 **SECTION 51.** 948.45 (1) of the statutes is amended to read:

10 948.45 (1) Except as provided in sub. (2), any ~~person 17 years of age or older~~  
11 adult who, by any act or omission, knowingly encourages or contributes to the  
12 truancy, as defined under s. 118.16 (1) (c), of a ~~person 17 years of age or under~~ child  
13 is guilty of a Class C misdemeanor.

14 **SECTION 52.** 948.60 (2) (d) of the statutes is amended to read:

15 948.60 (2) (d) A ~~person under 17 years of age~~ child who has violated this  
16 subsection is subject to the provisions of ch. 938 unless jurisdiction is waived under  
17 s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction  
18 under s. 938.183.

19 **SECTION 53.** 948.61 (4) of the statutes is amended to read:

20 948.61 (4) A ~~person under 17 years of age~~ child who has violated this section  
21 is subject to the provisions of ch. 938, unless jurisdiction is waived under s. 938.18  
22 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s.  
23 938.183.

24 **SECTION 54.** 961.455 (title) of the statutes is amended to read:

**SENATE BILL 308**

1           **961.455** (title) **Using a ~~child~~ minor for illegal drug distribution or**  
2 **manufacturing purposes.**

3           **SECTION 55.** 961.455 (1) of the statutes is amended to read:

4           961.455 (1) ~~Any person who has attained the age of 17 years~~ adult who  
5 knowingly solicits, hires, directs, employs, or uses a ~~person who is under the age of~~  
6 ~~17 years~~ minor for the purpose of violating s. 961.41 (1) is guilty of a Class F felony.

7           **SECTION 56.** 961.455 (2) of the statutes is amended to read:

8           961.455 (2) The knowledge requirement under sub. (1) does not require proof  
9 of knowledge of the age of the ~~child~~ minor. It is not a defense to a prosecution under  
10 this section that the actor mistakenly believed that the person solicited, hired,  
11 directed, employed, or used under sub. (1) had attained the age of 18 years, even if  
12 the mistaken belief was reasonable.

13           **SECTION 57.** 961.46 of the statutes is amended to read:

14           **961.46 Distribution to ~~persons under age 18~~ minors.** ~~If a person 17 years~~  
15 ~~of age or over~~ an adult violates s. 961.41 (1) by distributing or delivering a controlled  
16 substance or a controlled substance analog to a ~~person 17 years of age or under~~ minor  
17 who is at least 3 years his or her junior, the applicable maximum term of  
18 imprisonment prescribed under s. 961.41 (1) for the offense may be increased by not  
19 more than 5 years.

20           **SECTION 58.** 961.573 (2) of the statutes is amended to read:

21           961.573 (2) ~~Any person~~ minor who violates sub. (1) ~~who is under 17 years of age~~  
22 is subject to a disposition under s. 938.344 (2e).

23           **SECTION 59.** 961.574 (2) of the statutes is amended to read:

24           961.574 (2) ~~Any person~~ minor who violates sub. (1) ~~who is under 17 years of age~~  
25 is subject to a disposition under s. 938.344 (2e).

**SENATE BILL 308**

1           **SECTION 60.** 961.575 (1) of the statutes is amended to read:

2           961.575 (1) Any ~~person 17 years of age or over~~ adult who violates s. 961.574 (1)  
3 by delivering drug paraphernalia to a ~~person 17 years of age or under~~ minor who is  
4 at least 3 years younger than the violator may be fined not more than \$10,000 or  
5 imprisoned for not more than 9 months or both.

6           **SECTION 61.** 961.575 (2) of the statutes is amended to read:

7           961.575 (2) Any person minor who violates this section ~~who is under 17 years~~  
8 ~~of age~~ is subject to a disposition under s. 938.344 (2e).

9           **SECTION 62.** 961.575 (3) of the statutes is amended to read:

10          961.575 (3) Any ~~person 17 years of age or over~~ adult who violates s. 961.574 (3)  
11 by delivering drug paraphernalia to a ~~person 17 years of age or under~~ minor is guilty  
12 of a Class G felony.

13          **SECTION 63.** 990.01 (3) of the statutes is amended to read:

14          990.01 (3) ADULT. "Adult" means a person who has attained the age of 18 years,  
15 except that for purposes of investigating or prosecuting a person who is alleged to  
16 have violated any state or federal criminal law or any civil law or municipal  
17 ordinance, "adult" ~~means~~ includes a person ~~who has attained the age of 17 years of~~  
18 age who has previously been convicted of a crime or adjudicated delinquent or who  
19 is alleged to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2.  
20 or any misdemeanor under s. 940.42, if the underlying crime is a felony, or s. 941.20  
21 (1) (b), (bm), (c), or (d) or 941.24.

22          **SECTION 64.** 990.01 (20) of the statutes is amended to read:

23          990.01 (20) MINOR. "Minor" means a person who has not attained the age of  
24 18 years, except that for purposes of investigating or prosecuting a person who is  
25 alleged to have violated a state or federal criminal law or any civil law or municipal



**SENATE BILL 308**

**SECTION 64**

1 ordinance, "minor" does not include a person ~~who has attained the age of 17 years~~  
 2 of age who has previously been convicted of a crime or adjudicated delinquent or who  
 3 is alleged to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2.  
 4 or any misdemeanor under s. 940.42, if the underlying crime is a felony, or s. 941.20  
 5 (1) (b), (bm), (c), or (d) or 941.24.

**SECTION 65. Initial applicability.**

7 (1) AGE OF ADULT JURISDICTION. This act first applies to a violation of a criminal  
 8 law, civil law, or municipal ordinance allegedly committed on the effective date of this  
 9 subsection.

**SECTION 66. Effective date.**

10  
 11 (1) This act takes effect on January 1, 2015.

(END)

*on the 1<sup>st</sup> day of the 3<sup>rd</sup>  
 month beginning after  
 publication.*

*or on the July 1<sup>st</sup> after publication, whichever is later*

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

1/20/15 EHS conf call w/ Lane Ruhlman - Sen. Petrowski's office

Want some changes:

- ✓ 1. Effective date Jan 1 2017
- ✓ 2. Section 21 - mentions Truth in Sentencing - clean up?
- ✓ 3. How to treat 17yos between arrest and charge: treat all as juveniles unless previous conviction
- ✓ 4. Section 27: split up — 16 or under - current law  
17 - extend to 19<sup>th</sup> birthday
- ✓ 5. Section 51 etc re "using minor" - want this to mean anyone under 18, no exceptions. Double check that this is the effect.

By Jan 30

## Shea, Elisabeth

---

**From:** Ruhland, Lane  
**Sent:** Wednesday, January 21, 2015 2:20 PM  
**To:** Shea, Elisabeth  
**Subject:** RE: LRB 0771/1 - Age of adult criminal jurisdiction

We are concerned with ALL procedures in between arrest and charging. We want all 17 year olds who have not been previously adjudicated delinquent to be treated as juveniles until charging. This includes recorded interrogations, etc.

Lane

---

**From:** Shea, Elisabeth  
**Sent:** Wednesday, January 21, 2015 2:18 PM  
**To:** Ruhland, Lane  
**Subject:** RE: LRB 0771/1 - Age of adult criminal jurisdiction

Another question, on the issue of how to treat a 17-year-old between arrest and being charged. Is the concern only where they are kept in custody (i.e., jail versus a juvenile detention facility, etc.) or is it also the procedural requirements that apply to juveniles? In other words, do you want the requirements for juveniles regarding things like taking into and holding in custody, recording interrogations, releasing from custody, right to counsel, guardian ad litem, and a hearing for a juvenile to also apply to a 17-year-old who has been alleged to have committed certain violent crimes? (See subchapter IV of ch. 938)

Lis

---

**From:** Ruhland, Lane  
**Sent:** Wednesday, January 21, 2015 12:57 PM  
**To:** Shea, Elisabeth  
**Subject:** RE: LRB 0771/1 - Age of adult criminal jurisdiction

This looks correct to me.

Thank you!

lane

---

**From:** Shea, Elisabeth  
**Sent:** Wednesday, January 21, 2015 11:34 AM  
**To:** Ruhland, Lane  
**Subject:** RE: LRB 0771/1 - Age of adult criminal jurisdiction

Hi Lane,

Just wanted to clarify one of the requests you passed along yesterday. In section 27 of the draft, you said that you would like it split up between how someone 16 or under is treated (current law) and how a 17 year old is treated (extend to 19<sup>th</sup> birthday). Here's what current law says:

Order for someone under 18 applies for any of these periods:

- Up to 2 years or until 18<sup>th</sup> birthday (draft currently changes to 19<sup>th</sup> birthday), whichever is earlier

- Court specifies shorter period
- Court terminates order sooner
- If court does not specify a termination date, it applies for 1 year or until 18<sup>th</sup> (19<sup>th</sup>) birthday, whichever earlier.

Extension of an order for someone under 17 (18 in the draft) applies for any of these periods:

- One year
- Court specifies shorter period
- Court terminates order sooner

**See below and let me know if this is how you want it to be:**

Order for someone 16 or under applies for any of these periods:

- Up to 2 years or until 18<sup>th</sup> birthday, whichever is earlier
- Court specifies shorter period
- Court terminates order sooner
- If court does not specify a termination date, it applies for 1 year or until 18<sup>th</sup> birthday, whichever earlier

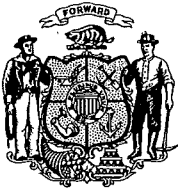
Order for 17 year old applies for any of these periods:

- Up to 2 years or until 19<sup>th</sup> birthday, whichever is earlier
- Court specifies shorter period
- Court terminates order sooner
- If court does not specify a termination date, it applies for 1 year or until 19<sup>th</sup> birthday, whichever earlier

Extension of an order for someone under 18 applies for any of these periods:

- One year
- Court specifies shorter period
- Court terminates order sooner

Lis



TODAY by 445

State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-0771/D 2  
EHS&GMM:cjs:rs  
9 stays RMR

2015 BILL

In 1/25/15

D-NOTE

DUE 1/30/15

Gen Cat

RAM

1 AN ACT ~~to amend~~ 48.02 (1d), 48.02 (2), subchapter IX (title) of chapter 48  
2 [precedes 48.44], 48.44, 48.45 (1) (a), 48.45 (1) (am), 48.45 (3), 118.163 (4),  
3 125.07 (4) (d), 125.07 (4) (e) 1., 125.085 (3) (bt), 165.83 (1) (c) 1., 165.83 (1) (c)  
4 2., 301.12 (2m), 301.12 (14) (a), 302.31 (7), 938.02 (1), 938.02 (10m), 938.12 (2),  
5 938.18 (2), 938.183 (3), 938.255 (1) (intro.), 938.34 (8), 938.343 (2), 938.344 (3),  
6 938.35 (1m), 938.355 (4) (b), 938.355 (4m) (a), 938.39, subchapter IX (title) of  
7 chapter 938 [precedes 938.44], 938.44, 938.45 (1) (a), 938.45 (3), 938.48 (4m)  
8 (title), 938.48 (4m) (a), 938.48 (4m) (b), 938.48 (14), 938.57 (3) (title), 938.57 (3)  
9 (a) (intro.), 938.57 (3) (a) 1., 938.57 (3) (a) 3., 938.57 (3) (b), 939.632 (1) (e) 1.,  
10 939.632 (1) (e) 3., 946.50 (intro.), 948.01 (1), 948.11 (2) (am) (intro.), 948.45 (1),  
11 948.60 (2) (d), 948.61 (4), 961.455 (title), 961.455 (1), 961.455 (2), 961.46,  
12 961.573 (2), 961.574 (2), 961.575 (1), 961.575 (2), 961.575 (3), 990.01 (3) and  
13 990.01 (20) of the statutes; **relating to:** the age at which a person who is alleged  
14 to have violated a criminal law, a civil law, or a municipal ordinance and who



**BILL**

§ in a criminal complaint issued under  
s. 968.02,

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 any state or federal criminal law or any civil law or municipal ordinance, "adult"  
4 means includes a person who has attained 17 years of age who has previously been  
5 convicted of a crime or adjudicated delinquent or who is alleged to have committed  
6 any violent crime specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor under s.  
7 940.42, if the underlying crime is a felony, or s. 941.20 (1) (b), (bm), (c), or (d) or 941.24.

8 SECTION 2. 48.02 (2) of the statutes is amended to read:

9 48.02 (2) "Child", when used without further qualification, means a person  
10 who is less than 18 years of age, except that for purposes of investigating or  
11 prosecuting a person who is alleged to have violated a state or federal criminal law  
12 or any civil law or municipal ordinance, "child" does not include a person who has  
13 attained 17 years of age who has previously been convicted of a crime or adjudicated  
14 delinquent or who <sup>§ in a criminal complaint issued under s. 968.02,</sup> is alleged to have committed any violent crime specified in s.  
15 939.632 (1) (e) 1. or 2. or any misdemeanor under s. 940.42, if the underlying crime  
16 is a felony, or s. 941.20 (1) (b), (bm), (c), or (d) or 941.24.

17 SECTION 3. Subchapter IX (title) of chapter 48 [precedes 48.44] of the statutes  
18 is amended to read:

19 **CHAPTER 48**

20 **SUBCHAPTER IX**

21 **JURISDICTION OVER PERSON 17**

22 **OR OLDER ADULTS**

23 SECTION 4. 48.44 of the statutes is amended to read:

24 **48.44 Jurisdiction over persons 17 or older adults.** The court has  
25 jurisdiction over persons 17 years of age or older adults as provided under ss. 48.133,

**BILL****SECTION 4**

1 48.355 (4), 48.357 (6), 48.365 (5), and 48.45 and as otherwise specifically provided in  
2 this chapter.

3 **SECTION 5.** 48.45 (1) (a) of the statutes is amended to read:

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

12 **SECTION 6.** 48.45 (1) (am) of the statutes is amended to read:

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

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

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



**BILL**

1           **SECTION 8.** 118.163 (4) of the statutes is amended to read:

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

4           **SECTION 9.** 125.07 (4) (d) of the statutes is amended to read:

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

9           **SECTION 10.** 125.07 (4) (e) 1. of the statutes is amended to read:

10           125.07 (4) (e) 1. In this paragraph, “defendant” means a person found guilty  
11 of violating par. (a) or (b) who is ~~17, 18, 19 or 20~~ an adult under 21 years of age.

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

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

17           **SECTION 12.** 165.83 (1) (c) 1. of the statutes is amended to read:

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

20           **SECTION 13.** 165.83 (1) (c) 2. of the statutes is amended to read:

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

24           **SECTION 14.** 301.12 (2m) of the statutes is amended to read:

**BILL****SECTION 14**

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

4           **SECTION 15.** 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, residential care centers for children and youth, 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 (4m) or by other 3rd-party  
12 benefits, subject to rules that include formulas governing ability to pay promulgated  
13 by the department under s. 301.03 (18). Any liability of the resident not payable by  
14 any other person terminates when the resident reaches age 17 18, unless the liable  
15 person has prevented payment by any act or omission.

16           **SECTION 16.** 302.31 (7) of the statutes is amended to read:

17           302.31 (7) The temporary placement of persons in the custody of the  
18 department, other than persons under 17 years of age minors, and persons who have  
19 ~~attained the age of 17 years but have not attained~~ adults under the age of 25 years  
20 who are under the supervision of the department under s. 938.355 (4) and who have  
21 been taken into custody pending revocation of aftercare supervision under s. 938.357  
22 (5) (e).

23           **SECTION 17.** 938.02 (1) of the statutes is amended to read:

24           938.02 (1) “Adult” means a person who is 18 years of age or older, except that  
25 for purposes of investigating or prosecuting a person who is alleged to have violated

**BILL**

1 any state or federal criminal law or any civil law or municipal ordinance, "adult"  
2 means includes a person who has attained 17 years of age who has previously been  
3 convicted of a crime or adjudicated delinquent or who is alleged to have committed <sup>in a criminal complaint issued under s. 968.02,</sup>  
4 any violent crime specified in s. 939.632 (1) (e) 1. or 2. or any misdemeanor under s.  
5 940.42, if the underlying crime is a felony, or s. 941.20 (1) (b), (bm), (c), or (d) or 941.24.

6 **SECTION 18.** 938.02 (10m) of the statutes is amended to read:

7 938.02 (10m) "Juvenile"<sub>2</sub> when used without further qualification, means a  
8 person who is less than 18 years of age, except that for purposes of investigating or  
9 prosecuting a person who is alleged to have violated a state or federal criminal law  
10 or any civil law or municipal ordinance, "juvenile" does not include a person who has  
11 attained 17 years of age who has previously been convicted of a crime or adjudicated  
12 delinquent or who <sup>in a criminal complaint issued under s. 968.02,</sup>  
13 is alleged to have committed any violent crime specified in s.  
14 939.632 (1) (e) 1. or 2. or any misdemeanor under s. 940.42, if the underlying crime  
15 is a felony, or s. 941.20 (1) (b), (bm), (c) or (d) or 941.24.

16 **SECTION 19.** 938.12 (2) of the statutes is amended to read:

17 938.12 (2) ~~SEVENTEEN-YEAR-OLDS~~ JUVENILES WHO BECOME ADULTS. If a petition  
18 alleging that a juvenile is delinquent is filed before the juvenile is 17 years of age  
19 becomes an adult, but the juvenile becomes 17 years of age an adult before admitting  
20 the facts of the petition at the plea hearing or, if the juvenile denies the facts, before  
21 an adjudication, the court retains jurisdiction over the case.

22 **SECTION 20.** 938.18 (2) of the statutes is amended to read:

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

**BILL****SECTION 20**

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 ~~17 years of age~~ an adult before an  
3 adjudication, the petition for waiver of jurisdiction may be filed at any time prior to  
4 the adjudication. If the court initiates the petition for waiver of jurisdiction, the  
5 judge shall disqualify himself or herself from any future proceedings on the case.

6 **SECTION 21.** 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 years~~ becomes an adult, the department may place the juvenile in a state prison  
10 named in s. 302.01, except that the department may not place any person under the  
11 age of 18 years in the correctional institution authorized in s. 301.16 (1n). A juvenile  
12 who is subject to a criminal penalty under sub. (1m) or under s. 938.183 (2), 2003  
13 stats., for an act committed before December 31, 1999, is eligible for parole under s.  
14 304.06.

15 **SECTION 22.** 938.255 (1) (intro.) of the statutes is amended to read:

16 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings  
17 under this chapter, other than a petition initiating proceedings under s. 938.12,  
18 938.125, or 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a  
19 person under the age of 18~~2~~." A petition initiating proceedings under s. 938.12,  
20 938.125, or 938.13 (12) shall be entitled, "In the interest of (juvenile's name), a ~~person~~  
21 ~~under the age of 17~~ juvenile." A petition initiating proceedings under this chapter  
22 shall specify all of the following:

23 **SECTION 23.** 938.34 (8) of the statutes is amended to read:

24 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that  
25 this disposition is in the best interest of the juvenile and the juvenile's rehabilitation.

**BILL**

1 The maximum forfeiture that the court may impose under this subsection for a  
2 violation by a juvenile is the maximum amount of the fine that may be imposed on  
3 an adult for committing that violation or, if the violation is applicable only to ~~a person~~  
4 ~~under 18 years of age~~ juveniles, \$100. The order shall include a finding that the  
5 juvenile alone is financially able to pay the forfeiture and shall allow up to 12 months  
6 for payment. If the juvenile fails to pay the forfeiture, the court may vacate the  
7 forfeiture and order other alternatives under this section; or the court may suspend  
8 any license issued under ch. 29 for not less than 30 days nor more than 5 years, or  
9 suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more  
10 than 2 years. If the court suspends any license under this subsection, the clerk of the  
11 court shall immediately take possession of the suspended license if issued under ch.  
12 29 or, if the license is issued under ch. 343, the court may take possession of, and if  
13 possession is taken, shall destroy, the license. The court shall forward to the  
14 department ~~which~~ that issued the license a notice of suspension stating that the  
15 suspension is for failure to pay a forfeiture imposed by the court, together with any  
16 license issued under ch. 29 of which the court takes possession. If the forfeiture is  
17 paid during the period of suspension, the suspension shall be reduced to the time  
18 period ~~which~~ that has already elapsed and the court shall immediately notify the  
19 department, which shall then, if the license is issued under ch. 29, return the license  
20 to the juvenile. Any recovery under this subsection shall be reduced by the amount  
21 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

22 **SECTION 24.** 938.343 (2) of the statutes is amended to read:

23 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum  
24 forfeiture that may be imposed on an adult for committing that violation or, if the  
25 violation is only applicable to ~~a person under 18 years of age~~ juveniles, \$50. The

**BILL**

1 order shall include a finding that the juvenile alone is financially able to pay and  
2 shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture,  
3 the court may suspend any license issued under ch. 29 or suspend the juvenile's  
4 operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court  
5 shall immediately take possession of the suspended license if issued under ch. 29 or,  
6 if the license is issued under ch. 343, the court may take possession of, and if  
7 possession is taken, shall destroy, the license. The court shall forward to the  
8 department ~~which~~ that issued the license the notice of suspension stating that the  
9 suspension is for failure to pay a forfeiture imposed by the court, together with any  
10 license issued under ch. 29 of which the court takes possession. If the forfeiture is  
11 paid during the period of suspension, the court shall immediately notify the  
12 department, which shall, if the license is issued under ch. 29, return the license to  
13 the person. Any recovery under this subsection shall be reduced by the amount  
14 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

15 **SECTION 25.** 938.344 (3) of the statutes is amended to read:

16 938.344 (3) PROSECUTION IN ADULT COURT. If the juvenile alleged to have  
17 committed the violation is within 3 months of ~~his or her 17th birthday~~ becoming an  
18 adult, the court assigned to exercise jurisdiction under this chapter and ch. 48 may,  
19 at the request of the district attorney or on its own motion, dismiss the citation  
20 without prejudice and refer the matter to the district attorney for prosecution under  
21 s. 125.07 (4). The juvenile is entitled to a hearing only on the issue of his or her age.  
22 This subsection does not apply to violations under s. 961.573 (2), 961.574 (2), or  
23 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

24 **SECTION 26.** 938.35 (1m) of the statutes is amended to read:

**BILL**

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

7           **SECTION 27.** 938.355 (4) (b) of the statutes is amended to read:

8           938.355 (4) (b) Except as provided in s. 938.368, an order under s. 938.34 (4d)  
9 or (4m) made before the juvenile attains 18 years of age may apply for up to 2 years  
10 after the date on which the order is granted or until the juvenile's ~~18th~~ 19th birthday,  
11 whichever is earlier, unless the court specifies a shorter period of time or the court  
12 terminates the order sooner. If the order does not specify a termination date, it shall  
13 apply for one year after the date on which the order is granted or until the juvenile's  
14 ~~18th~~ 19th birthday, whichever is earlier, unless the court terminates the order  
15 sooner. Except as provided in s. 938.368, an order under s. 938.34 (4h) made before  
16 the juvenile attains 18 years of age shall apply for 5 years after the date on which the  
17 order is granted, if the juvenile is adjudicated delinquent for committing a violation  
18 of s. 943.10 (2) or for committing an act that would be punishable as a Class B or C  
19 felony if committed by an adult, or until the juvenile reaches 25 years of age, if the  
20 juvenile is adjudicated delinquent for committing an act that would be punishable  
21 as a Class A felony if committed by an adult. Except as provided in s. 938.368, an  
22 extension of an order under s. 938.34 (4d), (4h), (4m), or (4n) made before the juvenile  
23 ~~attains 17 years of age~~ becomes an adult shall terminate at the end of one year after  
24 the date on which the order is granted unless the court specifies a shorter period of  
25 time or the court terminates the order sooner. No extension under s. 938.365 of an

## BILL

1 original dispositional order under s. 938.34 (4d), (4h), (4m), or (4n) may be granted  
2 for a juvenile who is ~~17 years of age or older when~~ becomes an adult by the time the  
3 original dispositional order terminates.

INSERT  
12-4 4 SECTION 28. 938.355 (4m) (a) of the statutes is amended to read:

5 938.355 (4m) (a) A juvenile who has been adjudged delinquent under s. 48.12,  
6 1993 stats., or s. 938.12 may, on ~~attaining 17 years of age~~ becoming an adult, petition  
7 the court to expunge the court's record of the juvenile's adjudication. Subject to par.  
8 (b), the court may expunge the record if the court determines that the juvenile has  
9 satisfactorily complied with the conditions of his or her dispositional order and that  
10 the juvenile will benefit from, and society will not be harmed by, the expungement.

11 SECTION 29. 938.39 of the statutes is amended 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 17~~ becomes an adult. This section does not affect criminal  
16 proceedings in circuit court that were transferred under s. 938.18.

17 SECTION 30. 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

OR OLDER ADULTS

21  
22  
23 SECTION 31. 938.44 of the statutes is amended to read:



**BILL**

1           **938.44 Jurisdiction over persons ~~17 or older~~ adults.** The court has  
2 jurisdiction over persons ~~17 years of age or older~~ adults as provided under ss. 938.355  
3 (4), 938.357 (6), 938.365 (5), and 938.45 and as otherwise specified in this chapter.

4           **SECTION 32.** 938.45 (1) (a) of the statutes is amended to read:

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

13           **SECTION 33.** 938.45 (3) of the statutes is amended to read:

14           938.45 (3) PROSECUTION OF ADULT CONTRIBUTING TO DELINQUENCY OF JUVENILE.  
15 If it appears at a court hearing that any ~~person 17 years of age or older~~ adult has  
16 violated s. 948.40, the court shall refer the record to the district attorney. This  
17 subsection does not prohibit prosecution of violations of s. 948.40 without the prior  
18 reference by the court to the district attorney.

19           **SECTION 34.** 938.48 (4m) (title) of the statutes is amended to read:

20           938.48 (4m) (title) CONTINUING CARE AND SERVICES FOR JUVENILES ~~OVER 17~~ WHO  
21 BECOME ADULTS.

22           **SECTION 35.** 938.48 (4m) (a) of the statutes is amended to read:

23           938.48 (4m) (a) Is ~~at least 17 years of age~~ an adult.

24           **SECTION 36.** 938.48 (4m) (b) of the statutes is amended to read:

**BILL****SECTION 36**

1           938.48 (4m) (b) Was under the supervision of the department under s. 938.183,  
2           938.34 (4h), (4m), or (4n), or 938.357 (4) when the person reached ~~17~~ years of age  
3           became an adult.

4           **SECTION 37.** 938.48 (14) of the statutes is amended to read:

5           938.48 (14) SCHOOL-RELATED EXPENSES FOR JUVENILES ~~OVER 17~~ WHO BECOME  
6           ADULTS. Pay maintenance, tuition, and related expenses from the appropriation  
7           under s. 20.410 (3) (ho) for persons who, when they attained ~~17~~ years of age became  
8           adults, were students regularly attending a school, college, or university or regularly  
9           attending a course of vocational or technical training designed to prepare them for  
10          gainful employment, and who upon ~~attaining that age~~ becoming adults were under  
11          the supervision of the department under s. 938.183, 938.34 (4h), (4m), or (4n), or  
12          938.357 (4) as a result of a judicial decision.

13          **SECTION 38.** 938.57 (3) (title) of the statutes is amended to read:

14          938.57 (3) (title) CONTINUING MAINTENANCE FOR JUVENILES ~~OVER 17~~ WHO BECOME  
15          ADULTS.

16          **SECTION 39.** 938.57 (3) (a) (intro.) of the statutes is amended to read:

17          938.57 (3) (a) (intro.) From the reimbursement received under s. 48.569 (1) (d),  
18          counties may provide funding for the maintenance of any juvenile person who meets  
19          all of the following qualifications:

20          **SECTION 40.** 938.57 (3) (a) 1. of the statutes is amended to read:

21          938.57 (3) (a) 1. Is ~~17~~ years of age or older an adult.

22          **SECTION 41.** 938.57 (3) (a) 3. of the statutes is amended to read:

23          938.57 (3) (a) 3. Received funding under s. 48.569 (1) (d) immediately prior to  
24          his or her 17th birthday becoming an adult.

25          **SECTION 42.** 938.57 (3) (b) of the statutes is amended to read:

**BILL**

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

4           **SECTION 43.** 939.632 (1) (e) 1. of the statutes is amended to read:

5           939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09  
6 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305, 940.31,  
7 940.32, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1)  
8 or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085,  
9 or 948.30 (2) or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

10          **SECTION 44.** 939.632 (1) (e) 3. of the statutes is amended to read:

11          939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32  
12 (2), 940.42, 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3).

13          **SECTION 45.** 946.50 (intro.) of the statutes is amended to read:

14          **946.50 Absconding.** (intro.) Any person who is adjudicated delinquent, but  
15 who intentionally fails to appear before the court assigned to exercise jurisdiction  
16 under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who  
17 does not return to that court for a dispositional hearing before ~~attaining the age of~~  
18 ~~17 years~~ becoming an adult is guilty of the following:

19          **SECTION 46.** 948.01 (1) of the statutes is amended to read:

20          948.01 (1) "Child" means a person who has not attained the age of 18 years,  
21 except that for purposes of prosecuting a person who is alleged to have violated a  
22 state or federal criminal law, "child" does not include a person ~~who has attained the~~  
23 ~~age of 17 years of age who has previously been convicted of a crime or adjudicated~~  
24 delinquent or who <sup>is in a criminal complaint issued under s. 968.02</sup> is alleged to have committed any violent crime specified in s.

**BILL****SECTION 46**

1 939.632 (1) (e) 1. or 2. or any misdemeanor under s. 940.42, if the underlying crime  
2 is a felony, or s. 941.20 (1) (b), (bm), (c), or (d) or 941.24.

3 **SECTION 47.** 948.11 (2) (am) (intro.) of the statutes is amended to read:

4 948.11 (2) (am) (intro.) Any ~~person who has attained the age of 17 and~~ adult  
5 who, with knowledge of the character and content of the description or narrative  
6 account, verbally communicates, by any means, a harmful description or narrative  
7 account to a child, with or without monetary consideration, is guilty of a Class I  
8 felony if any of the following applies:

9 **SECTION 48.** 948.45 (1) of the statutes is amended to read:

10 948.45 (1) Except as provided in sub. (2), any ~~person 17 years of age or older~~  
11 adult who, by any act or omission, knowingly encourages or contributes to the  
12 truancy, as defined under s. 118.16 (1) (c), of a ~~person 17 years of age or under~~ child  
13 is guilty of a Class C misdemeanor.

14 **SECTION 49.** 948.60 (2) (d) of the statutes is amended to read:

15 948.60 (2) (d) A ~~person under 17 years of age~~ child who has violated this  
16 subsection is subject to the provisions of ch. 938 unless jurisdiction is waived under  
17 s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction  
18 under s. 938.183.

19 **SECTION 50.** 948.61 (4) of the statutes is amended to read:

20 948.61 (4) A ~~person under 17 years of age~~ child who has violated this section  
21 is subject to the provisions of ch. 938, unless jurisdiction is waived under s. 938.18  
22 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s.  
23 938.183.

24 **SECTION 51.** 961.455 (title) of the statutes is amended to read:

**BILL**

1           **961.455** (title) **Using a ~~child~~ minor for illegal drug distribution or**  
2 **manufacturing purposes.**

3           **SECTION 52.** 961.455 (1) of the statutes is amended to read:

4           961.455 (1) Any person ~~who has attained the age of 17 years~~ adult who  
5 knowingly solicits, hires, directs, employs, or uses a person ~~who is under the age of~~  
6 ~~17 years~~ minor for the purpose of violating s. 961.41 (1) is guilty of a Class F felony.

7           **SECTION 53.** 961.455 (2) of the statutes is amended to read:

8           961.455 (2) The knowledge requirement under sub. (1) does not require proof  
9 of knowledge of the age of the ~~child~~ minor. It is not a defense to a prosecution under  
10 this section that the actor mistakenly believed that the person solicited, hired,  
11 directed, employed, or used under sub. (1) had attained the age of 18 years, even if  
12 the mistaken belief was reasonable.

13           **SECTION 54.** 961.46 of the statutes is amended to read:

14           **961.46 Distribution to persons under age 18 minors.** ~~If a person 17 years~~  
15 ~~of age or over~~ an adult violates s. 961.41 (1) by distributing or delivering a controlled  
16 substance or a controlled substance analog to a person ~~17 years of age or under~~ minor  
17 who is at least 3 years his or her junior, the applicable maximum term of  
18 imprisonment prescribed under s. 961.41 (1) for the offense may be increased by not  
19 more than 5 years.

20           **SECTION 55.** 961.573 (2) of the statutes is amended to read:

21           961.573 (2) Any person minor who violates sub. (1) ~~who is under 17 years of age~~  
22 is subject to a disposition under s. 938.344 (2e).

23           **SECTION 56.** 961.574 (2) of the statutes is amended to read:

24           961.574 (2) Any person minor who violates sub. (1) ~~who is under 17 years of age~~  
25 is subject to a disposition under s. 938.344 (2e).

**BILL****SECTION 57**

1           **SECTION 57.** 961.575 (1) of the statutes is amended to read:

2           961.575 (1) Any person ~~17 years of age or over~~ adult who violates s. 961.574 (1)  
3 by delivering drug paraphernalia to a person ~~17 years of age or under~~ minor who is  
4 at least 3 years younger than the violator may be fined not more than \$10,000 or  
5 imprisoned for not more than 9 months or both.

6           **SECTION 58.** 961.575 (2) of the statutes is amended to read:

7           961.575 (2) Any person minor who violates this section ~~who is under 17 years~~  
8 ~~of age~~ is subject to a disposition under s. 938.344 (2e).

9           **SECTION 59.** 961.575 (3) of the statutes is amended to read:

10          961.575 (3) Any person ~~17 years of age or over~~ adult who violates s. 961.574 (3)  
11 by delivering drug paraphernalia to a person ~~17 years of age or under~~ minor is guilty  
12 of a Class G felony.

*in a criminal complaint issued under s. 968.021*

13          **SECTION 60.** 990.01 (3) of the statutes is amended to read:

14          990.01 (3) **ADULT.** "Adult" means a person who has attained the age of 18 years,  
15 except that for purposes of investigating or prosecuting a person who is alleged to  
16 have violated any state or federal criminal law or any civil law or municipal  
17 ordinance, "adult" means includes a person ~~who has attained the age of 17 years of~~  
18 age who has previously been convicted of a crime or adjudicated delinquent or who  
19 is alleged to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2.  
20 or any misdemeanor under s. 940.42, if the underlying crime is a felony, or s. 941.20  
21 (1) (b), (bm), (c), or (d) or 941.24.

22          **SECTION 61.** 990.01 (20) of the statutes is amended to read:

23          990.01 (20) **MINOR.** "Minor" means a person who has not attained the age of  
24 18 years, except that for purposes of investigating or prosecuting a person who is  
25 alleged to have violated a state or federal criminal law or any civil law or municipal

**BILL**

1 ordinance, "minor" does not include a person who has attained the age of 17 years  
 2 of age who has previously been convicted of a crime or adjudicated delinquent or who  
 3 is alleged to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2.  
 4 or any misdemeanor under s. 940.42, if the underlying crime is a felony, or s. 941.20  
 5 (1) (b), (bm), (c), or (d) or 941.24.

**SECTION 62. Initial applicability.**

7 (1) AGE OF ADULT JURISDICTION. This act first applies to a violation of a criminal  
 8 law, civil law, or municipal ordinance allegedly committed on the effective date of this  
 9 subsection.

**SECTION 63. Effective date.**

10  
 11 (1) This act takes effect on the 1st day of the 3rd month beginning after  
 12 publication. *January 1, 2017*

(END)

*d-note*

**2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0771/2ins  
EHS:cjs:rs

1           INSERT 12-4

2           **SECTION 1.** 938.355 (4) (b) of the statutes is renumbered 938.355 (4) (b) 1. and  
3 amended to read:

4           938.355 (4) (b) 1. Except as provided in s. 938.368, an order under s. 938.34 (4d)  
5 or (4m) made before the juvenile attains ~~18~~ 17 years of age may apply for up to 2 years  
6 after the date on which the order is granted or until the juvenile's 18th birthday,  
7 whichever is earlier, unless the court specifies a shorter period of time or the court  
8 terminates the order sooner. If the order does not specify a termination date, it shall  
9 apply for one year after the date on which the order is granted or until the juvenile's  
10 18th birthday, whichever is earlier, unless the court terminates the order sooner.

11           3. Except as provided in s. 938.368, an order under s. 938.34 (4h) made before  
12 the juvenile attains 18 years of age shall apply for 5 years after the date on which the  
13 order is granted, if the juvenile is adjudicated delinquent for committing a violation  
14 of s. 943.10 (2) or for committing an act that would be punishable as a Class B or C  
15 felony if committed by an adult, or until the juvenile reaches 25 years of age, if the  
16 juvenile is adjudicated delinquent for committing an act that would be punishable  
17 as a Class A felony if committed by an adult.

18           4. Except as provided in s. 938.368, an extension of an order under s. 938.34  
19 (4d), (4h), (4m), or (4n) made before the juvenile attains ~~17 years of age~~ becomes an  
20 adult shall terminate at the end of one year after the date on which the order is  
21 granted unless the court specifies a shorter period of time or the court terminates the  
22 order sooner. No extension under s. 938.365 of an original dispositional order under  
23 s. 938.34 (4d), (4h), (4m), or (4n) may be granted for a juvenile who is ~~17 years of age~~



1 ~~or older when~~ becomes an adult by the time the original dispositional order  
2 terminates.

**History:** 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; 2009 a. 28, 79, 94, 103, 180, 185, 302; 2011 a. 181, 258; 2013 a. 165, 334, 362; s. 35.17 corrections in (6d) (a) 2r., (b) 2r.

3 **SECTION 2. 938.355 (4) (b) 2.** of the statutes is created to read:

4 938.355 (4) (b) 2. Except as provided in s. 938.368, an order under s. 938.34 (4d)  
5 or (4m) made while the juvenile is 17 years of age may apply for up to 2 years after  
6 the date on which the order is granted or until the juvenile's 19th birthday, whichever  
7 is earlier, unless the court specifies a shorter period of time or the court terminates  
8 the order. If the order does not specify a termination date, it shall ~~be~~ apply for one year after the date on which the order is granted or until the juvenile's 19<sup>th</sup> birthday, whichever is earlier, unless the court terminates the order sooner.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0771/2dn

EHS:cjs:rs

Slays

- date -

(I)  
with committing

(I)  
to have committed

Lane:

(I)  
15

In order to address the issue of how a 17-year-old is treated between arrest and charging, "child," "juvenile," and "minor" in the draft now mean someone under 18, except that for purposes of investigating or prosecuting a person alleged to have violated a law, these terms do not include a 17-year-old who has previously been convicted of a crime or adjudicated delinquent or who is alleged in a criminal complaint, (i.e., charged) with certain violent crimes. Therefore, a 17-year-old who is alleged to have committed certain violent crimes but who has not yet been charged, would be treated as a "child," "juvenile," or "minor."

You asked me to confirm, in the proposed changes to sections in ch. 961, starting with section 52 of the draft, that the term "minor" applies to everyone under 18 with no exceptions. Sections 52, 53, 54, 57, and 59 involve an adult who has used a minor in the commission of a crime or delivered drug paraphernalia to a minor. In these cases, because the minor is not being investigated or prosecuted under these sections, "minor" means anyone who is under 18. Sections 55, 56, and 58 involve a minor who has committed a crime related to drug paraphernalia. In these cases, "minor" means someone who is under 18 except for a 17-year-old who has previously been convicted of a crime or adjudicated delinquent or who is charged with committing certain violent crimes. Let me know if you would like any changes to sections 52 to 58, 59

You requested that in Section 21 of the draft, which amends s. 938.183 (3), the reference to the Truth in Sentencing law in the last sentence be removed as a clean up. However, it is possible that someone who was a juvenile when he or she was sentenced for an act committed before December 31, 1999 is still subject to that criminal penalty (i.e., if it was a very long sentence). Therefore, the requirement that such a person be eligible for parole might still apply to some people, and removing this language would be a substantive change, rather than simply a clean up. I have left this section as it was. Let me know if you still want this change.

Elisabeth Shea  
Legislative Attorney  
(608) 266-5446  
elisabeth.shea@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0771/2dn  
EHS:cjs:rs

January 30, 2015

Lane:

In order to address the issue of how a 17-year-old is treated between arrest and charging, "child," "juvenile," and "minor" in the draft now mean someone under 18, except that for purposes of investigating or prosecuting a person alleged to have violated a law, these terms do not include a 17-year-old who has previously been convicted of a crime or adjudicated delinquent *or who is alleged in a criminal complaint to have committed (i.e., is charged with committing)* certain violent crimes. Therefore, a 17-year-old who is alleged to have committed certain violent crimes but who has not yet been charged, would be treated as a "child," "juvenile," or "minor."

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Elisabeth Shea  
Legislative Attorney  
(608) 266-5446  
elisabeth.shea@legis.wisconsin.gov

## Shea, Elisabeth

---

**From:** Ruhland, Lane  
**Sent:** Tuesday, February 03, 2015 4:50 PM  
**To:** Shea, Elisabeth  
**Subject:** LRB 0771/2

Lis,

We have one additional change to the “raise the age” bill. Under Section 27, page 12 lines 3-10, we want that to revert back to current law, basically getting rid of the strikeouts and eliminating the additions. Below is a more in depth explanation of what we are trying to do. I am still trying to wrap my head around it as I am not an expert, but perhaps it will make sense to you. This may just be a place to start as I just want to get the ball rolling. Let me know your thoughts.

Thank you!

Lane

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**From:** Jim Moeser [mailto:jmoeser@wccf.org]  
**Sent:** Tuesday, February 03, 2015 4:32 PM  
**To:** Ruhland, Lane  
**Cc:** Plotkin, Adam - OSPD; Sandy Lonergan (slonergan@wisbar.org)  
**Subject:** RE: Draft from leg council with some changes

Lane -- good question, and this does get tricky, so I'm copying in Adam for another set of eyes on this.

I think the difference is -- and the reason Section 28 is good and can stay but section 27 needs to be changed is in part because section 27 speaks directly to extensions of orders vs. an order that is actually made under the dispositional statutes related to corrections and residential treatment.

So, the counties did express concerns about the potential cost of a “new” youth ordered to corrections at age 17 -- and section 28 I think says that order can be up to two years but capped at age 19 -- or one year if not otherwise ordered; so, the counties want those youth paid for by corrections -- but to me payment is a separate issue from actually being able to order it -- so I'd say leave section 28 as is because it provides for the relatively rare opportunity/likelihood that a youth age 17 could end up being placed in corrections vs. being waived to adult court, etc. -- this leaves some room for the counties to provide some language that they would like to see around payment vs. us “closing the door” on this option.

Section 27, on the other hand (the way we want it/the counties want it), I think speaks to extensions of original disposition orders in which the extension is entered prior to the youth turning 17 (vs. becoming an adult) -- such that a youth placed under a disp. Order at age 16 could be extended past age 17 but that extension has to be done before they turn 17..... could not be done after they turn 17 and end up extending correctional placement past age 18.

So, I do not think section 28 gets at the “heart” of the “extension” question for counties -- i.e. it would not prevent DJC coming in with an extension request when the youth is 17 ½ and requesting extension up through 18 ½ --- whereas reverting to the “... before attaining 17 years of age..” would.

Of course this is one reason to put the onus of responsibility on the counties to suggest language --- but that's not going to happen.....

See what you think – I am not in the office Wednesday but will monitor e-mail periodically, so definitely feel free to consult with the drafter/others – I think this is getting close....

---

**From:** Ruhland, Lane [<mailto:Lane.Ruhland@legis.wisconsin.gov>]  
**Sent:** Tuesday, February 03, 2015 4:05 PM  
**To:** Jim Moeser  
**Subject:** RE: Draft from leg council with some changes

So It would basically be getting rid of the additions and unstriking the strike outs, if that makes any sense at all? I thought that section 28 dealt with the extension issue, but I could be wrong.

Lane

---

**From:** Jim Moeser [<mailto:jmoeser@wccf.org>]  
**Sent:** Tuesday, February 03, 2015 1:19 PM  
**To:** Ruhland, Lane  
**Cc:** Plotkin, Adam - OSPD  
**Subject:** RE: Draft from leg council with some changes

Lane – I did run into Adam and I think we are on the same page on the change related to the corrections extension.

So, that change is in section 27 –

Can that change be made – very simple; and then this becomes the bill to circulate? Let me know if you need more from us or have any questions.

One more change the counties wanted related to payment for any youth – should be very few – who are placed in corrections as a 1<sup>st</sup> time, non-violent offender ----- I would not worry about that change now (although up to you all), but take note it is something they may want added – it would essentially allow DOC to pay for the small number that fall into that category out of the same funds that are set aside for payment for Serious Juvenile Offenders (SJO) – would not make the youth an SJO but would allow DJC to pay out of that fund and then if, for some reason, they go over that fund, they could request a 13.10 – pretty unlikely to have any substantive impact on the state \$ in that they are already set aside but does remove the risk from counties.

---

**From:** Ruhland, Lane [<mailto:Lane.Ruhland@legis.wisconsin.gov>]  
**Sent:** Tuesday, February 03, 2015 9:05 AM  
**To:** Jim Moeser; Pratt, Phillip  
**Subject:** Draft from leg council with some changes

I have attached both the drafter's note and the draft. There are a few things I didn't address, like the JCI placement, because I am not exactly sure how we want to go about that.

Let me know your thoughts,

Lane