



State of Wisconsin
2015-2016 LEGISLATURE



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DIV 51E

Due
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2
RWR

DOA:.....Ley, BB0010 – Juvenile community supervision

FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION

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1 **AN ACT** ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

JUVENILE CORRECTIONAL SYSTEM

Under current law, when a juvenile who has been adjudicated delinquent is placed under the supervision of DOC, DOC may place the juvenile on aftercare supervision, either immediately on placement with DOC or following a period of placement in a juvenile correctional facility (JCF). Currently, aftercare supervision is provided either by DOC or by the county department of human services or social services (county department) of the county in which the juvenile was adjudicated delinquent or of the county of the juvenile’s legal residence. If a juvenile violates a condition of his or her aftercare status, the aftercare provider may take the juvenile into custody, and a hearing to determine whether the juvenile’s aftercare status should be revoked must be held within 30 days after the juvenile is taken into custody. If the hearing examiner determines that the juvenile has violated a condition of aftercare supervision, the hearing examiner must determine whether confinement in a JCF is necessary to protect the public, provide for the juvenile’s rehabilitation, and not depreciate the seriousness of the violation.

Under current law, DOC also provides a corrective sanctions program, consisting of intensive surveillance and community-based treatment services, for juveniles who have been adjudicated delinquent, placed under the supervision of DOC, and selected by the Office of Juvenile Offender Review (OJOR) in DOC to

other nonschool days,

participate in the program. A participant in the corrective sanctions program is considered to be in custody and may, if he or she violates a condition of that participation, be placed in a juvenile detention facility or a Type 1 JCF, *i.e.*, Lincoln Hills School (for boys) or Copper Lake School (for girls), without a hearing.

This bill, effective on July 1, 2017, or on the second day after publication of the 2017-19 biennial budget act, whichever is later, eliminates aftercare supervision provided by DOC and the corrective sanctions program. Instead, the bill requires DOC to purchase or provide community supervision services for juveniles who have been placed under the supervision of DOC, either immediately on placement with DOC or following a period of placement in a JCF. The bill permits DOC to purchase or provide for a juvenile who has been placed under community supervision: 1) surveillance, including electronic monitoring or global positioning system tracking, based on the juvenile's level of risk and community safety considerations; 2) youth report center programming for after school, evenings, weekends, and other times when the juvenile is not under immediate adult supervision; 3) contacts with the juvenile and the juvenile's family of a type, frequency, and duration that are commensurate with the juvenile's level of risk and treatment needs; 4) case management services; and 5) any other treatment or services that are needed to meet the needs of the juvenile as determined by DOC.

The bill requires OJOR to evaluate each juvenile who is placed under community supervision and permits OJOR to place such a juvenile in Type 2 status, which is defined in the bill as the status of a juvenile who is placed in a Type 2 JCF. A juvenile who is on Type 2 status is considered to be in custody and may, if he or she violates a condition of participation in community supervision, be placed in a juvenile detention facility or a Type 1 JCF without a hearing. A juvenile who is under community supervision, but who is not on Type 2 status, may, if he or she violates a condition of community supervision, have his or her community supervision status revoked in the same manner as aftercare status may be revoked under current law.

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

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

1 SECTION 1. 20.410 (3) (cg) of the statutes is amended to read:
2 20.410 (3) (cg) *Serious juvenile offenders*. Biennially, the amounts in the
3 schedule for juvenile correctional institution, ~~corrective sanctions~~, alternate care,
4 ~~aftercare~~, community supervision, and other juvenile program services specified in
5 s. 938.538 (3) provided for the persons specified in s. 301.26 (4) (cm) and for juvenile

1 correctional institution services for persons placed in juvenile correctional
2 institutions under s. 973.013 (3m).

3 **SECTION 2.** 20.410 (3) (hr) of the statutes is amended to read:

4 20.410 (3) (hr) *Juvenile corrective sanctions program community supervision*
5 *services.* The amounts in the schedule for the ~~corrective sanctions~~ community
6 supervision services specified in ss. 49.45 (25) (bj) and 301.26 (4) (c) and (eg). All
7 moneys received in payment for those ~~corrective sanctions~~ services as specified in s.
8 301.26 (4) (d) and (eg), and all moneys transferred under s. 301.26 (4) (cm), shall be
9 credited to this appropriation account. If moneys generated by the daily rate under
10 s. 301.26 (4) (d) exceed actual fiscal year ~~corrective sanctions~~ community supervision
11 services costs, that excess shall be transferred to the appropriation account under
12 par. (hm) as provided in s. 301.26 (4) (ct).

****NOTE: This SECTION involves a change in an appropriation, but should not be reflected in the revised schedule in s. 20.005, stats., because of a delayed effective date.

13 **SECTION 3.** 48.981 (1) (b) of the statutes is amended to read:

14 48.981 (1) (b) “Community placement” means probation; extended supervision;
15 parole; aftercare; conditional transfer into the community under s. 51.35 (1);
16 conditional transfer or discharge under s. 51.37 (9); placement in a Type 2 residential
17 care center for children and youth or a Type 2 juvenile correctional facility
18 authorized under s. 938.539 (5); conditional release under s. 971.17; supervised
19 release under s. 980.06 or 980.08; participation in the community residential
20 confinement program under s. 301.046, the intensive sanctions program under s.
21 301.048, ~~the corrective sanctions program~~ community supervision under s. 938.533,
22 the intensive supervision program under s. 938.534, or the serious juvenile offender
23 program under s. 938.538; or any other placement of an adult or juvenile offender in

1 the community under the custody or supervision of the department of corrections, the
2 department of health services, a county department under s. 46.215, 46.22, 46.23,
3 51.42, or 51.437 or any other person under contract with the department of
4 corrections, the department of health services or a county department under s.
5 46.215, 46.22, 46.23, 51.42, or 51.437 to exercise custody or supervision over the
6 offender.

7 **SECTION 4.** 227.03 (4) of the statutes is amended to read:

8 227.03 (4) The provisions of this chapter relating to contested cases do not
9 apply to proceedings involving the revocation of community supervision or aftercare
10 supervision under s. 938.357 (5), the revocation of parole, extended supervision, or
11 probation, the grant of probation, prison discipline, mandatory release under s.
12 302.11, or any other proceeding involving the care and treatment of a resident or an
13 inmate of a correctional institution.

14 **SECTION 5.** 301.025 of the statutes is amended to read:

15 **301.025 Division of juvenile corrections.** The division of juvenile
16 corrections shall exercise the powers and perform the duties of the department that
17 relate to juvenile correctional services and institutions, juvenile offender review,
18 ~~aftercare, corrective sanctions,~~ community supervision under s. 938.533, the serious
19 juvenile offender program under s. 938.538, and youth aids.

20 **SECTION 6.** 301.03 (10) (b) of the statutes is amended to read:

21 301.03 (10) (b) ~~Direct the aftercare of and supervise all delinquents~~ Supervise
22 all juveniles under its jurisdiction who have been adjudicated delinquent and
23 exercise such functions as it ~~deems~~ the department considers appropriate for the
24 prevention of delinquency.

25 **SECTION 7.** 301.03 (10) (d) of the statutes is amended to read:

1 301.03 (10) (d) Administer the office of juvenile offender review in the division
2 of juvenile corrections in the department. The office shall be responsible for decisions
3 regarding case planning and the release of juvenile offenders from juvenile
4 correctional facilities or secured residential care centers for children and youth to
5 aftercare or community supervision placements.

6 **SECTION 8.** 301.26 (4) (cm) 1. of the statutes is amended to read:

7 301.26 (4) (cm) 1. 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~~ and community supervision providers for costs incurred beginning on
13 July 1, 1996, for the care of any juvenile 14 years of age or over who has been placed
14 in a juvenile correctional facility based on a delinquent act that is a violation of s.
15 943.23 (1m) or (1r), 1999 stats., s. 948.35, 1999 stats., or s. 948.36, 1999 stats., or s.
16 939.32 (1) (a), 940.03, 940.06, 940.21, 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4.,
17 943.02, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1), 948.025 (1), or 948.30 (2), that
18 is a conspiracy to commit any of those violations, or that is an attempted violation
19 of s. 943.32 (2) and for the care of any juvenile 10 years of age or over who has been
20 placed in a juvenile correctional facility or secured residential care center for
21 children and youth for attempting or committing a violation of s. 940.01 or for
22 committing a violation of s. 940.02 or 940.05.

23 **SECTION 9.** 301.26 (4) (d) 2. of the statutes is amended to read:

24 301.26 (4) (d) 2. Beginning on July 1, ~~2013~~ 2017, and ending on June 30, ~~2014~~
25 2018, the per person daily cost assessment to counties shall be \$294 for care in a

1 Type 1 juvenile correctional facility, as defined in s. 938.02 (19), and \$294 for care for
2 juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~\$125~~
3 ~~for departmental corrective sanctions services, and \$41 for departmental aftercare~~
4 ~~services.~~

5 **SECTION 10.** 301.26 (4) (d) 3. of the statutes [✓] is amended to read:

6 301.26 (4) (d) 3. Beginning on July 1, ~~2014~~ 2018, and ending on June 30, ~~2015~~
7 2019, the per person daily cost assessment to counties shall be \$301 for care in a
8 Type 1 juvenile correctional facility, as defined in s. 938.02 (19), and \$301 for care for
9 juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~\$128~~
10 ~~for departmental corrective sanctions services, and \$41 for departmental aftercare~~
11 ~~services.~~

12 **SECTION 11.** 301.26 (4) (d) 5. of the statutes [✓] is created to read:

13 301.26 (4) (d) 5. The per person daily cost assessment to counties for
14 community supervision services under s. 938.533 shall be an amount determined by
15 the department based on the cost of providing those services. In determining that
16 assessment, the department may establish multiple rates for varying types and
17 levels of service. The department shall calculate the amounts of that assessment
18 and, if applicable, those rates prior to the beginning of each fiscal year and the
19 secretary shall submit that proposed assessment and, if applicable, those proposed
20 rates to the cochairpersons of the joint committee on finance for review of the
21 committee. If the cochairpersons of the committee do not notify the secretary that
22 the committee has scheduled a meeting for the purpose of reviewing that proposed
23 assessment and, if applicable, those proposed rates within 14 working days after the
24 date of the secretary's submittal, the department may implement that proposed
25 assessment and those proposed rates. If, within 14 working days after the date of

1 the secretary's submittal, the cochairpersons of the committee notify the secretary
2 that the committee has scheduled a meeting for the purpose of reviewing that
3 proposed assessment and, if applicable, those proposed rates, the department may
4 implement that proposed assessment and those proposed rates only as approved by
5 the committee.

6 **SECTION 12.** 301.26 (4) (eg) of the statutes is amended to read:

7 301.26 (4) (eg) For ~~corrective sanctions~~ community supervision services under
8 s. 938.533 (2), all payments and deductions made under this subsection and uniform
9 fee collections under s. 301.03 (18) shall be credited to the appropriation account
10 under s. 20.410 (3) (hr).

11 **SECTION 13.** 301.26 (4) (g) of the statutes is amended to read:

12 301.26 (4) (g) For juvenile ~~field and institutional aftercare~~ services under ch.
13 938 and for the office of juvenile offender review, all payments and deductions made
14 under this subsection and uniform fee collections under s. 301.03 (18) shall be
15 credited to the appropriation account under s. 20.410 (3) (hm). Community Supervisor

16 **SECTION 14.** 301.26 (7) (h) of the statutes is amended to read:

17 301.26 (7) (h) For counties that are ~~participating in the corrective sanctions~~
18 ~~program~~ purchasing community supervision services under s. 938.533 (2),
19 \$1,062,400 in the last 6 months of ~~2013~~ 2017, \$2,124,800 in ~~2014~~ 2018, and
20 \$1,062,400 in the first 6 months of ~~2015~~ 2019 for the provision of ~~corrective sanctions~~
21 services for juveniles from that county. In distributing funds to counties under this
22 paragraph, the department shall ~~determine a county's distribution by dividing the~~
23 ~~amount allocated under this paragraph by the number of slots authorized for the~~
24 ~~program under s. 938.533 (2) and multiplying the quotient by the number of slots~~
25 ~~allocated to that county by agreement between the department and the county. The~~

1 ~~department may transfer funds among counties as necessary to distribute funds~~
2 ~~based on the number of slots allocated to each county~~ distribute to each county the
3 full amount of the charges for the services purchased by that county, except that if
4 the amounts available under this paragraph are insufficient to distribute that full
5 amount, the department shall distribute those available amounts to each county that
6 purchases community supervision services based on the ratio that the charges to that
7 county for those services bear to the total charges to all counties that purchase those
8 services.

9 **SECTION 15.** 301.45 (1g) (b) of the statutes [✓] is amended to read:

10 301.45 (1g) (b) Is in prison, a juvenile correctional facility, or a secured
11 residential care center for children and youth or is on probation, extended
12 supervision, parole, supervision, community supervision, or aftercare supervision on
13 or after December 25, 1993, for a sex offense.

14 **SECTION 16.** 301.45 (1g) (bm) of the statutes [✓] is amended to read:

15 301.45 (1g) (bm) Is in prison, a juvenile correctional facility, or a secured
16 residential care center for children and youth or is on probation, extended
17 supervision, parole, supervision, community supervision, or aftercare supervision on
18 or after December 25, 1993, for a violation, or for the solicitation, conspiracy, or
19 attempt to commit a violation, of a law of this state that is comparable to a sex offense.

20 **SECTION 17.** 301.45 (2) (e) 1. of the statutes [✓] is amended to read:

21 301.45 (2) (e) 1. Within 10 days after the person is placed on probation,
22 supervision, community supervision, aftercare supervision, conditional release, or
23 supervised release.

24 **SECTION 18.** 301.45 (3) (a) 2. of the statutes [✓] is amended to read:

1 301.45 (3) (a) 2. If the person has been sentenced to prison or placed in a
2 juvenile correctional facility or a secured residential care center for children and
3 youth, he or she is subject to this subsection upon being released on parole, extended
4 supervision, community supervision, or aftercare supervision.

5 **SECTION 19.** 301.45 (3) (b) 2. of the statutes is amended to read:

6 301.45 (3) (b) 2. The department shall notify a person who is being released
7 from prison in this state because he or she has reached the expiration date of his or
8 her sentence and who is covered under sub. (1g) of the need to comply with the
9 requirements of this section. Also, probation, extended supervision, and parole
10 agents, community supervision agents, aftercare agents, and agencies providing
11 supervision shall notify any client who is covered under sub. (1g) of the need to
12 comply with the requirements of this section at the time that the client is placed on
13 probation, extended supervision, parole, supervision, community supervision, or
14 aftercare supervision or, if the client is on probation, extended supervision, parole,
15 or other supervision from another state under s. 304.13 (1m), 304.135, 304.16, or
16 938.988, when the client enters this state.

17 **SECTION 20.** 301.45 (3) (b) 4. of the statutes is amended to read:

18 301.45 (3) (b) 4. It is not a defense to liability under sub. (6) (a) or (ag) that the
19 person subject to sub. (1g) was not required to read and sign a form under subd. 3m.,
20 was not provided with a form to read and sign under subd. 3m. or failed or refused
21 to read or sign a form under subd. 3m. It is not a defense to liability under sub. (6)
22 (a) or (ag) that the person subject to sub. (1g) did not receive notice under this
23 paragraph from the department of health services, the department of corrections, a
24 probation, extended supervision, and parole agent, a community supervision agent,
25 an aftercare agent, or an agency providing supervision.

1 **SECTION 21.** 301.45 (5) (a) 2. of the statutes [✓]is amended to read:

2 301.45 (5) (a) 2. If the person has been sentenced to prison for a sex offense or
3 placed in a juvenile correctional facility or a secured residential care center for
4 children and youth for a sex offense, 15 years after discharge from parole, extended
5 supervision, community supervision, or aftercare supervision for the sex offense.

6 **SECTION 22.** 302.31 (7) of the statutes [✓]is amended to read:

7 302.31 (7) The temporary placement of persons in the custody of the
8 department, other than persons under 17 years of age, and persons who have
9 attained the age of 17 years but have not attained the age of 25 years who are under
10 the supervision of the department under s. 938.355 (4) and who have been taken into
11 custody pending revocation of community supervision or aftercare supervision under
12 s. 938.357 (5) (e).

13 **SECTION 23.** 302.386 (5) (c) of the statutes [✓]is amended to read:

14 302.386 (5) (c) ~~Any participant in the corrective sanctions program person who~~
15 is subject to community supervision under s. 938.533 unless the partieicipant person
16 is placed in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19).

17 **SECTION 24.** 938.069 (1) (intro.) of the statutes is amended to read:

18 938.069 (1) DUTIES. (intro.) The staff of the department shall provide
19 community supervision services for juveniles as provided in s. 938.533. Subject to
20 sub. (2), the staff of the department, the court, a county department, or a licensed
21 child welfare agency designated by the court to carry out the objectives of this chapter
22 shall:

23 **SECTION 25.** 938.19 (1) (d) 6. of the statutes [✓]is amended to read:

24 938.19 (1) (d) 6. The juvenile has violated a condition of court-ordered
25 supervision, community supervision, or aftercare supervision ~~administered by the~~

1 ~~department or a county department;~~ a condition of the juvenile's placement in a Type
2 juvenile correctional facility or a Type 2 residential care center for children and
3 youth;~~;~~ or a condition of the juvenile's participation in the intensive supervision
4 program under s. 938.534.

5 **SECTION 26.** 938.20 (2) (cm) of the statutes is amended to read:

6 938.20 (2) (cm) If the juvenile has violated a condition of community
7 supervision or aftercare supervision administered by the department or a county
8 department, a condition of the juvenile's placement in a Type 2 juvenile correctional
9 facility or a Type 2 residential care center for children and youth, or a condition of
10 the juvenile's participation in the intensive supervision program under s. 938.534,
11 the person who took the juvenile into custody may release the juvenile to the
12 department or county department, whichever has supervision over the juvenile.

13 **SECTION 27.** 938.20 (7) (c) 1m. of the statutes is amended to read:

14 938.20 (7) (c) 1m. In the case of a juvenile who has violated a condition of
15 community supervision or aftercare supervision administered by the department or
16 a county department, a condition of the juvenile's placement in a Type 2 juvenile
17 correctional facility or a Type 2 residential care center for children and youth, or a
18 condition of the juvenile's participation in the intensive supervision program under
19 s. 938.534, to the department or county department, whichever has supervision of
20 the juvenile.

21 **SECTION 28.** 938.20 (8) (c) of the statutes is amended to read:

22 938.20 (8) (c) If a juvenile who has violated a condition of community
23 supervision or aftercare supervision administered by the department or a county
24 department, a condition of the juvenile's placement in a Type 2 juvenile correctional
25 facility or a Type 2 residential care center for children and youth, or a condition of

1 the juvenile's participation in the intensive supervision program under s. 938.534 is
2 held in custody, the intake worker shall also notify the department or county
3 department, whichever has supervision over the juvenile, of the reasons for holding
4 the juvenile in custody, of the juvenile's whereabouts, and of the time and place of the
5 detention hearing required under s. 938.21.

6 **SECTION 29.** 938.205 (1) (c) of the statutes[✓] is amended to read:

7 938.205 (1) (c) That the juvenile will run away or be taken away so as to be
8 unavailable for proceedings of the court or its officers, proceedings of the division of
9 hearings and appeals in the department of administration for revocation of
10 community supervision or aftercare supervision, or action by the department or
11 county department relating to a violation of a condition of the juvenile's placement
12 in a Type 2 juvenile correctional facility or a Type 2 residential care center for
13 children and youth or a condition of the juvenile's participation in the intensive
14 supervision program under s. 938.534.

15 **SECTION 30.** 938.208 (1) (intro.) of the statutes[✓] is amended to read:

16 938.208 (1) DELINQUENT ACT AND RISK OF HARM OR RUNNING AWAY. (intro.)
17 Probable cause exists to believe that the juvenile has committed a delinquent act and
18 either presents a substantial risk of physical harm to another person or a substantial
19 risk of running away so as to be unavailable for a court hearing, a revocation of
20 community supervision or aftercare supervision hearing, or action by the
21 department or county department relating to a violation of a condition of the
22 juvenile's placement in a Type 2 juvenile correctional facility or a Type 2 residential
23 care center for children and youth or a condition of the juvenile's participation in the
24 intensive supervision program under s. 938.534. For juveniles who have been
25 adjudged delinquent, the delinquent act referred to in this section may be the act for

1 which the juvenile was adjudged delinquent. If the intake worker determines that
2 any of the following conditions applies, the juvenile is considered to present a
3 substantial risk of physical harm to another person:

4 **SECTION 31.** 938.34 (4n) (intro.) of the statutes is amended to read:

5 938.34 (4n) ~~AFTERCARE~~ COMMUNITY SUPERVISION OR AFTERCARE SUPERVISION.
6 (intro.) ~~Subject~~ In the case of a juvenile who has been placed in a juvenile correctional
7 facility or a secured residential care center for children and youth, designate the
8 department to provide community supervision for the juvenile following the
9 juvenile's release from that facility or center or, subject to any arrangement between
10 the department and a county department regarding the provision of aftercare
11 supervision for juveniles who have been released from a juvenile correctional facility
12 or a secured residential care center for children and youth, designate one of the
13 following to provide aftercare supervision for the juvenile following the juvenile's
14 release from the juvenile correctional that facility or secured residential care center
15 for children and youth:

16 **SECTION 32.** 938.34 (4n) (a) of the statutes is repealed.

17 **SECTION 33.** 938.355 (6d) (b) (title) of the statutes is amended to read:

18 938.355 (6d) (b) (title) *Violation of condition of county aftercare supervision.*

19 **SECTION 34.** 938.355 (6d) (b) 1. of the statutes is amended to read:

20 938.355 (6d) (b) 1. Notwithstanding ss. 938.19 to 938.21, but subject to subds.
21 2g., 2m., and 2r., if a juvenile who is on aftercare supervision administered by a
22 county department violates a condition of that supervision, the juvenile's caseworker
23 or any other person authorized to provide or providing intake or dispositional
24 services for the court under s. 938.067 or 938.069 may, without a hearing, take the
25 juvenile into custody and place the juvenile in a juvenile detention facility or juvenile

1 portion of a county jail that meets the standards promulgated by the department by
2 rule or in a place of nonsecure custody designated by that person for not more than
3 72 hours while the alleged violation and the appropriateness of revoking the
4 juvenile's aftercare status are being investigated.

5 **SECTION 35.** 938.355 (6d) (b) 2. of the statutes is amended to read:

6 938.355 (6d) (b) 2. Notwithstanding ss. 938.19 to 938.21, but subject to subds.
7 2g., 2m., and 2r., if a juvenile who is on aftercare supervision ~~administered by the~~
8 ~~county department~~ violates a condition of that supervision, the juvenile's caseworker
9 or any other person authorized to provide or providing intake or dispositional
10 services for the court under s. 938.067 or 938.069 may, without a hearing, take the
11 juvenile into custody and place the juvenile in a juvenile detention facility or juvenile
12 portion of a county jail that meets the standards promulgated by the department by
13 rule or in a place of nonsecure custody designated by that person for not more than
14 72 hours as a consequence of that violation. A person who takes a juvenile into
15 custody under this subdivision shall permit the juvenile to make a written or oral
16 statement concerning the possible placement of the juvenile and the course of
17 conduct for which the juvenile was taken into custody. A person designated by the
18 court or the county department who is employed in a supervisory position by a person
19 authorized to provide or providing intake or dispositional services under s. 938.067
20 or 938.069 shall review that statement and either approve the placement of the
21 juvenile, modify the terms of the placement, or order the juvenile to be released from
22 custody.

23 **SECTION 36.** 938.355 (6d) (b) 2g. of the statutes is amended to read:

24 938.355 (6d) (b) 2g. The taking into custody and placement of a juvenile under
25 subd. 1. or 2. is subject to any general written policies adopted by the court under s.

1 938.06 (1) and (2), to any policies adopted by the county department relating to
2 aftercare supervision ~~administered by the county department~~, and to any policies
3 adopted by the county board relating to such taking into custody and placement.

4 **SECTION 37.** 938.355 (6d) (b) 4. of the statutes is amended to read:

5 938.355 (6d) (b) 4. Subject to par. (d), subds. 1. and 2. do not preclude a juvenile
6 who has violated a condition of aftercare supervision ~~administered by a county~~
7 ~~department~~ from being taken into and held in custody under ss. 938.19 to 938.21.

8 **SECTION 38.** 938.357 (4) (a) of the statutes is amended to read:

9 938.357 (4) (a) When the juvenile is placed with the department, the
10 department may, after an examination under s. 938.50, place the juvenile in a
11 juvenile correctional facility or a secured residential care center for children and
12 youth or on community supervision or aftercare supervision, either immediately or
13 after a period of placement in a juvenile correctional facility or a secured residential
14 care center for children and youth. The department shall send written notice of the
15 change in placement to the parent, guardian, legal custodian, county department
16 designated under s. 938.34 (4n), if any, and committing court. If the department
17 places a juvenile in a Type 2 juvenile correctional facility operated by a child welfare
18 agency, the department shall reimburse the child welfare agency at the rate
19 established under s. 49.343 that is applicable to the type of placement that the child
20 welfare agency is providing for the juvenile. A juvenile who is placed in a Type 2
21 juvenile correctional facility or a secured residential care center for children and
22 youth remains under the supervision of the department, remains subject to the rules
23 and discipline of that department, and is considered to be in custody, as defined in
24 s. 946.42 (1) (a).

25 **SECTION 39.** 938.357 (4g) (title) of the statutes is amended to read:

1 938.357 (4g) (title) ~~AFTERCARE~~ COMMUNITY SUPERVISION OR AFTERCARE PLAN.

2 **SECTION 40.** 938.357 (4g) (a) of the statutes is amended to read:

3 938.357 (4g) (a) Not later than 120 days after the date on which the juvenile
4 is placed in a juvenile correctional facility or a secured residential care center for
5 children and youth, or within 30 days after the date on which the department
6 requests the community supervision or aftercare plan, whichever is earlier, the
7 community supervision or aftercare provider designated under s. 938.34 (4n) shall
8 prepare ~~an~~ a community supervision or aftercare plan for the juvenile. If the juvenile
9 is to be placed on aftercare supervision, the county department designated as the
10 aftercare provider ~~is a county department, that county department~~ shall submit the
11 aftercare plan to the department within the applicable time period specified in this
12 paragraph, unless the department waives the time period under par. (b).

13 **SECTION 41.** 938.357 (4g) (b) of the statutes is amended to read:

14 938.357 (4g) (b) The department may waive the time period within which ~~an~~
15 a community supervision plan or aftercare plan must be prepared and submitted
16 under par. (a) if the department anticipates that the juvenile will remain in the
17 juvenile correctional facility or secured residential care center for children and youth
18 for a period exceeding 8 months or if the juvenile is subject to s. 938.183. If the
19 department waives that time period, the designated community supervision or
20 aftercare provider shall prepare the community supervision or aftercare plan within
21 30 days after the date on which the department requests the community supervision
22 or aftercare plan.

23 **SECTION 42.** 938.357 (4g) (c) (intro.) of the statutes is amended to read:

24 938.357 (4g) (c) (intro.) ~~An~~ A community supervision or aftercare plan shall
25 include all of the following:

1 **SECTION 43.** 938.357 (4g) (c) 2. of the statutes is amended to read:

2 938.357 (4g) (c) 2. The conditions, if any, under which the juvenile's community
3 supervision or aftercare status may be revoked.

4 **SECTION 44.** 938.357 (4g) (c) 3. of the statutes is amended to read:

5 938.357 (4g) (c) 3. Services or programming to be provided to the juvenile while
6 on community supervision or aftercare supervision.

7 **SECTION 45.** 938.357 (4g) (c) 4. of the statutes is amended to read:

8 938.357 (4g) (c) 4. The estimated length of time that community supervision
9 and services or aftercare supervision and services shall be provided to the juvenile.

10 **SECTION 46.** 938.357 (4g) (d) of the statutes is amended to read:

11 938.357 (4g) (d) A juvenile may be released from a juvenile correctional facility
12 or a secured residential care center for children and youth whether or not ~~an~~ a
13 community supervision or aftercare plan has been prepared under this subsection.

14 **SECTION 47.** 938.357 (4m) of the statutes is amended to read:

15 938.357 (4m) **RELEASE TO COMMUNITY SUPERVISION OR AFTERCARE SUPERVISION.**
16 The department shall try to release a juvenile to community supervision or aftercare
17 supervision under sub. (4) within 30 days after the date the department determines
18 the juvenile is eligible for the release.

19 **SECTION 48.** 938.357 (5) (title) of the statutes is amended to read:

20 938.357 (5) (title) **REVOCATION OF COMMUNITY SUPERVISION OR AFTERCARE**
21 **SUPERVISION.**

22 **SECTION 49.** 938.357 (5) (a) of the statutes is amended to read:

23 938.357 (5) (a) ~~The~~ If a juvenile has been placed on community supervision, the
24 department or a may revoke the community supervision status of that juvenile as
25 provided in this subsection. If a juvenile has been placed on aftercare supervision,

1 ~~the~~ county department, ~~whichever~~ that has been designated as a juvenile's aftercare
2 provider, may revoke the aftercare status of that juvenile as provided in this
3 subsection. Prior notice of a change in placement under sub. (1) (am) 1. is not
4 required.

5 **SECTION 50.** 938.357 (5) (b) of the statutes [✓] is amended to read:

6 938.357 (5) (b) A juvenile on community supervision status may be taken into
7 custody only as provided in ss. 938.19 to 938.21 or 938.533 (3) (a). A juvenile on
8 aftercare status may be taken into custody only as provided in ss. 938.19 to 938.21
9 ~~and or~~ 938.355 (6d) (b).

10 **SECTION 51.** 938.357 (5) (d) of the statutes [✓] is amended to read:

11 938.357 (5) (d) A hearing on the revocation shall be conducted by the division
12 of hearings and appeals in the department of administration within 30 days after the
13 juvenile is taken into custody for an alleged violation of a condition of the juvenile's
14 community supervision or aftercare supervision. This ~~time~~ period may be waived
15 only upon the agreement of the community supervision or aftercare provider, the
16 juvenile, and the juvenile's counsel.

17 **SECTION 52.** 938.357 (5) (e) of the statutes [✓] is amended to read:

18 938.357 (5) (e) If the hearing examiner finds that the juvenile has violated a
19 condition of community supervision or aftercare supervision, the hearing examiner
20 shall determine whether confinement in a juvenile correctional facility or a secured
21 residential care center for children and youth is necessary to protect the public, to
22 provide for the juvenile's rehabilitation, or to not depreciate the seriousness of the
23 violation.

24 **SECTION 53.** 938.357 (5) (g) of the statutes [✓] is amended to read:

1 938.357 (5) (g) The department shall promulgate rules setting standards to be
2 used by a hearing examiner to determine whether to revoke a juvenile's community
3 supervision or aftercare status. The standards shall specify that the burden is on the
4 department or county department seeking revocation to show by a preponderance of
5 the evidence that the juvenile violated a condition of community supervision or
6 aftercare supervision.

7 **SECTION 54.** 938.365 (7) of the statutes is amended to read:

8 938.365 (7) CHANGES IN PLACEMENT AND TRIAL REUNIFICATIONS NOT PERMITTED.
9 Nothing in this section may be construed to allow any changes in placement, trial
10 reunification, or revocation of community supervision or aftercare supervision.
11 Revocation and other changes in placement may take place only under s. 938.357,
12 and trial reunifications may take place only under s. 938.358.

13 **SECTION 55.** 938.48 (13) of the statutes is amended to read:

14 938.48 (13) ALLOWANCES AND CASH GRANTS. Promulgate rules for the payment
15 of an allowance to juveniles in its institutions and a cash grant to a juvenile being
16 discharged from its institutions or released to community supervision or aftercare
17 supervision.

18 **SECTION 56.** 938.50 of the statutes is amended to read:

19 **938.50 Examination of juveniles under supervision of department.** The
20 department shall examine every juvenile who is placed under its supervision to
21 determine the type of placement best suited to the juvenile and to the protection of
22 the public. The examination shall include an investigation of the personal and
23 family history of the juvenile and his or her environment, any physical or mental
24 examinations necessary to determine the type of placement appropriate for the
25 juvenile, and an evaluation under s. 938.533 (2) ~~to determine whether the juvenile~~

1 ~~is eligible for corrective sanctions supervision or serious juvenile offender~~
2 ~~supervision~~ (3) (a) to determine the appropriate level of supervision and services
3 based on the juvenile's risks and needs. The department shall screen a juvenile who
4 is examined under this section to determine whether the juvenile is in need of special
5 treatment or care because of alcohol or other drug abuse, mental illness, or severe
6 emotional disturbance. In making the examination the department may use any
7 facilities, public or private, that offer assistance in determining the correct
8 placement for the juvenile.

9 **SECTION 57.** 938.51 (1m) of the statutes is amended to read:

10 938.51 (1m) NOTIFICATION OF LOCAL AGENCIES. The department or county
11 department having supervision over a juvenile described in sub. (1) shall determine
12 the local agencies that it will notify under sub. (1) (a) based on the residence of the
13 juvenile's parents or on the juvenile's intended residence specified in the juvenile's
14 community supervision plan or aftercare supervision plan or, if those methods do not
15 indicate the community in which the juvenile will reside following release from a
16 juvenile correctional facility or a secured residential care center for children and
17 youth or from the supervision of the department or county department, the
18 community in which the juvenile states that he or she intends to reside.

19 **SECTION 58.** 938.533 (title) of the statutes is repealed and recreated to read:

20 **938.533 (title) Community supervision.**

21 **SECTION 59.** 938.533 (1) of the statutes is created to read:

22 938.533 (1) DEFINITION. In this section, "Type 2 status" means the status of a
23 juvenile who is placed in a Type 2 juvenile correctional facility.

24 **SECTION 60.** 938.533 (2) of the statutes is renumbered 938.533 (2) (intro.) and
25 amended to read:

938.533 (2) CORRECTIVE SANCTIONS PROGRAM COMMUNITY SUPERVISION SERVICES.

(intro.) From the appropriation under s. 20.410 (3) (hr), the department shall purchase or provide a corrective sanctions program to serve an average daily population of 136 juveniles unless the appropriation under s. 20.410 (3) (hr) is supplemented under s. 13.101 or 16.515 and the positions for the program are increased under s. 13.101 or 16.505 (2) or unless funding and positions to serve more than that average daily population are otherwise available, in at least 3 counties, including Milwaukee County. The department's office of juvenile offender review shall evaluate and select for participation in the program community supervision services for juveniles who have been placed under the community supervision of the department under s. 938.183, 938.34 (4h) or (4m), or (4n), 938.357 (4). The department shall place a program participant in the community, provide intensive surveillance of that participant, and provide an average of not more than \$3,000 per year per slot to purchase community-based treatment services for each participant. The department shall make the intensive surveillance, or 938.538 (3) (a) 2. For each juvenile who is placed under community supervision, the department may purchase or provide any of the following services:

(a) Surveillance, including electronic monitoring or global positioning system tracking, which the department shall make available 24 hours a day, 7 days a week, and may purchase or provide electronic monitoring for the intensive surveillance of program participants. The department shall provide a based on the juvenile's level of risk and community safety considerations.

(b) Youth report center in Milwaukee County to provide on-site programming after school and in the evening for juveniles from Milwaukee County who are placed in the corrective sanctions program. A contact worker providing services under the

After school, evening, and weekend report

Report
report
STJ

on other nonsched days,

SECTION 60

, including social, behavioral, academic, community
service, and other programming, after school, in the evening, on weekends, and at

1 program shall have a case load of approximately 10 juveniles and, during the initial
2 phase of placement in the community under the program of a juvenile who is
3 assigned to that contact worker, shall have not less than one face-to-face contact per
4 day with that programming as described in s. 938.34 (7j). Section 938.34 (5g) applies
5 to any community service work performed under this paragraph.

other
times when
the juvenile
is not
under
immediate
adult
supervision

6 (c) Contacts with the juvenile and the juvenile's family of a type, frequency, and
7 duration that are commensurate with the juvenile's level of risk and individualized
8 treatment needs.

9 (d) Case management services under the program shall be provided by a
10 corrective sanctions community supervision agent who shall have a case load of
11 approximately 15 juveniles.

12 (4) RULES. The department shall promulgate rules to implement the program
13 this section.

14 SECTION 61. 938.533 (2) (e) of the statutes is created to read:

15 938.533 (2) (e) Any other treatment or services that are needed to meet the
16 needs of the juvenile as determined by the department.

17 SECTION 62. 938.533 (3) of the statutes is amended to read:

18 938.533 (3) INSTITUTIONAL STATUS. (a) ~~A participant in the corrective sanctions~~
19 program The office of juvenile offender review in the division of juvenile corrections
20 in the department shall evaluate each juvenile who is placed under community
21 supervision and may place such a juvenile in Type 2 status. A juvenile who is placed
22 in Type 2 status is under the supervision of the department, is subject to the rules
23 and discipline of the department, and is considered to be in custody, as defined in s.
24 946.42 (1) (a). Notwithstanding ss. 938.19 to 938.21, if a juvenile who is placed in
25 Type 2 status violates a condition of his or her participation in the corrective

1 ~~sanctions program~~ community supervision, the department may, without a hearing,
2 take the juvenile into custody and place the juvenile in a juvenile detention facility
3 or return the juvenile to placement in a Type 1 juvenile correctional facility or a
4 secured residential care center for children and youth. This paragraph does not
5 preclude a juvenile who has violated a condition of his or her participation in ~~the~~
6 ~~corrective sanctions program~~ community supervision from being taken into and held
7 in custody under ss. 938.19 to 938.21.

8 (b) The department shall operate ~~the corrective sanctions program~~ community
9 supervision for a juvenile who is placed in Type 2 status as a Type 2 juvenile
10 correctional facility. The secretary may allocate and reallocate existing and future
11 facilities as part of the Type 2 juvenile correctional facility. The Type 2 juvenile
12 correctional facility is subject to s. 301.02. Construction or establishment of a Type 2
13 juvenile correctional facility shall be in compliance with all state laws except s.
14 32.035 and ch. 91. In addition to the exemptions under s. 13.48 (13), construction or
15 establishment of a Type 2 juvenile correctional facility is not subject to the
16 ordinances or regulations relating to zoning, including zoning under ch. 91, of the
17 county and city, village, or town in which the construction or establishment takes
18 place and is exempt from the investigations permitted under s. 46.22 (1) (c) 1. b.

19 **SECTION 63.** 938.533 (3m) of the statutes [✓] is amended to read:

20 938.533 (3m) ESCAPE. If a juvenile who is placed in Type 2 status runs away
21 from his or her placement in the community while participating in ~~the corrective~~
22 ~~sanctions program~~ community supervision, the juvenile is considered to have
23 escaped in violation of s. 946.42 (3) (c). ✓

24 **SECTION 64.** 938.538 (3) (a) 2. of the statutes is amended to read:

1 938.538 (3) (a) 2. Intensive or other field supervision, including ~~corrective~~
2 ~~sanctions~~ community supervision under s. 938.533 ~~or aftercare supervision.~~

3 **SECTION 65.** 938.538 (5) (a) of the statutes is ~~am~~ended to read:

4 938.538 (5) (a) The office of juvenile offender review in the division of juvenile
5 corrections in the department may release a participant to ~~aftercare~~ community
6 supervision under s. 301.03 (10) (d) at any time after the participant has completed
7 2 years of participation in the serious juvenile offender program. ~~Aftercare~~
8 Community supervision of the participant shall be provided by the department.

9 **SECTION 66.** 938.57 (4) of the statutes is ~~am~~ended to read:

10 938.57 (4) **AFTERCARE SUPERVISION.** A county department may provide aftercare
11 supervision under s. 938.34 (4n) for juveniles who are released from juvenile
12 correctional facilities or secured residential care centers for children and youth. If
13 a county department intends to change its policy regarding whether the county
14 department ~~or the department shall~~ will provide aftercare supervision for juveniles
15 released from juvenile correctional facilities or secured residential care centers for
16 children and youth ~~or the department will provide community supervision for those~~
17 juveniles, the county executive or county administrator, or, if the county has no
18 county executive or county administrator, the chairperson of the county board of
19 supervisors, or, for multicounty departments, the chairpersons of the county boards
20 of supervisors jointly, shall submit a letter to the department stating that intent
21 before July 1 of the year preceding the year in which the policy change will take effect.

22 **SECTION 67.** 940.20 (2m) (title) of the statutes is ~~am~~ended to read:

23 940.20 (2m) (title) **BATTERY TO PROBATION, EXTENDED SUPERVISION AND PAROLE**
24 **AGENTS, COMMUNITY SUPERVISION AGENTS, AND AFTERCARE AGENTS.**

25 **SECTION 68.** 940.20 (2m) (a) 1m. of the statutes is created to read:

1 940.20 (2m) (a) 1m. “Community supervision agent” means any person
2 authorized by the department of corrections to exercise control over a juvenile on
3 community supervision.

4 **SECTION 69.** 940.20 (2m) (b) of the statutes is amended to read:

5 940.20 (2m) (b) Whoever intentionally causes bodily harm to a probation,
6 extended supervision, and parole agent, a community supervision agent, or an
7 aftercare agent, acting in an official capacity and the person knows or has reason to
8 know that the victim is a probation, extended supervision and parole agent, a
9 community supervision agent, or an aftercare agent, by an act done without the
10 consent of the person so injured, is guilty of a Class H felony.

11 **SECTION 70.** 946.42 (1) (a) 2. of the statutes is amended to read:

12 946.42 (1) (a) 2. “Custody” does not include the constructive custody of a
13 probationer, parolee, or person on extended supervision by the department of
14 corrections or a probation, extended supervision, or parole agent or, subject to s.
15 938.533 (3) (a), the constructive custody of a person who has been released to
16 community supervision or aftercare supervision under ch. 938.

17 **SECTION 71.** 946.42 (3) (c) of the statutes is amended to read:

18 946.42 (3) (c) Subject to a disposition under s. 938.34 (4d), (4h), or (4m), to a
19 placement under s. 938.357 (4) or 938.533 (3) (a), or to community supervision or
20 aftercare revocation under s. 938.357 (5) (e).

21 **SECTION 9408. Effective dates; Corrections.**

22 (1) JUVENILE COMMUNITY SUPERVISION. The treatment of sections 20.410 (3) (cg)
23 and (hr), 48.981 (1) (b), 227.03 (4), 301.025, 301.03 (10) (b) and (d), 301.26 (4) (cm)
24 1., (d) 2., 3., and 5., (eg), and (g) and (7) (h), 301.45 (1g) (b) and (bm), (2) (e) 1., (3) (a)
25 2. and (b) 2. and 4., and (5) (a) 2., 302.31 (7), 302.386 (5) (c), 938.069 (1) (intro.), 938.19

1 (1) (d) 6., 938.20 (2) (cm), (7) (c) 1m., and (8) (c), 938.205 (1) (c), 938.208 (1) (intro.),
 2 938.34 (4n) (intro.) and (a), 938.355 (6d) (b) (title), 1., 2., 2g., and 4., 938.357 (4) (a),
 3 (4g) (title), (a), (b), (c) (intro.), 2., 3., and 4., and (d), (4m), and (5) (title), (a), (b), (d),
 4 (e), and (g), 938.365 (7), 938.48 (13), 938.50, 938.51 (1m), 938.533 (title), (1), (3), and
 5 (3m), 938.538 (3) (a) 2. and (5) (a), 938.57 (4), 940.20 (2m) (title), (a) 1m., and (b), and
 6 946.42 (1) (a) 2. and (3) (c) of the statutes, the renumbering and amendment of section
 7 938.533 (2) of the statutes, and the creation of section 938.533 (2) (e) of the statutes
 8 take effect on July 1, 2017, or on the 2nd day after publication of the 2017-19 biennial
 9 budget act, whichever is later.

10 (END)

D-NOTE

Date

LRB-0209/2dn
GMM:ST

Emily:

In order to forestall any confusion between state correctional supervision and ~~work~~ the separate court-ordered dispositions under s. 938.34 (5g) and (7j), this redraft eliminates the cross-references found at page 22, line 4 to those provisions and instead replicates the language of s. 938.34 (7j) in s. 938.533 (2) (b).

GMM

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

LRB-0209/2dn
GMM:kjf:rs

December 9, 2014

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Gordon M. Malaise
Senior Legislative Attorney
(608) 266-9738
gordon.malaise@legis.wisconsin.gov