



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1701/P1
EAW:cjs
pr
ahe

DOA:.....Schmidt, BB0235 - Age of juvenile court jurisdiction

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

*only changes
p. 1, p. 18*

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

(HHe)
Age of juvenile court jurisdiction
Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

JUVENILE CORRECTIONAL SYSTEM

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

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

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.

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:

1 301.12 (2m) The liability specified in sub. (2) shall not apply to persons 17 and
2 older adults 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 years of age minors 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 becomes an adult,
15 unless the liable 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 community supervision or aftercare
22 supervision under s. 938.357 (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~~

1 ~~any state or federal criminal law or any civil law or municipal ordinance, “adult”~~
2 ~~means a person who has attained 17 years of age.~~

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

4 938.02 (10m) “Juvenile,” when used without further qualification, means a
5 person who is less than 18 years of age, ~~except that for purposes of investigating or~~
6 ~~prosecuting a person who is alleged to have violated a state or federal criminal law~~
7 ~~or any civil law or municipal ordinance, “juvenile” does not include a person who has~~
8 ~~attained 17 years of age.~~

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

10 938.12 (2) ~~SEVENTEEN-YEAR-OLDS JUVENILES WHO BECOME ADULTS.~~ If a petition
11 alleging that a juvenile is delinquent is filed before the juvenile is ~~17 years of age~~
12 becomes an adult, but the juvenile becomes ~~17 years of age~~ an adult before admitting
13 the facts of the petition at the plea hearing or, if the juvenile denies the facts, before
14 an adjudication, the court retains jurisdiction over the case.

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

16 938.18 (2) PETITION. The petition for waiver of jurisdiction may be filed by the
17 district attorney or the juvenile or may be initiated by the court and shall contain a
18 brief statement of the facts supporting the request for waiver. The petition for waiver
19 of jurisdiction shall be accompanied by or filed after the filing of a petition alleging
20 delinquency and shall be filed prior to the plea hearing, except that if the juvenile
21 denies the facts of the petition and becomes ~~17 years of age~~ an adult before an
22 adjudication, the petition for waiver of jurisdiction may be filed at any time prior to
23 the adjudication. If the court initiates the petition for waiver of jurisdiction, the
24 judge shall disqualify himself or herself from any future proceedings on the case.

25 **SECTION 21.** 938.183 (3) of the statutes is amended to read:

1 938.183 (3) PLACEMENT IN STATE PRISON; PAROLE. ~~When~~ Subject to s. 973.013
2 (3m), when a juvenile who is subject to a criminal penalty under sub. (1m) or s.
3 938.183 (2), 2003 stats., ~~attains the age of 17 years~~ becomes an adult, the department
4 of corrections may place the juvenile in a state prison named in s. 302.01, except that
5 that department may not place any person under the age of 18 years in the
6 correctional institution authorized in s. 301.16 (1n). A juvenile who is subject to a
7 criminal penalty under sub. (1m) or under s. 938.183 (2), 2003 stats., for an act
8 committed before December 31, 1999, is eligible for parole under s. 304.06.

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

10 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings
11 under this chapter, other than a petition initiating proceedings under s. 938.12,
12 938.125, or 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a
13 person under the age of 18". ~~." A petition initiating proceedings under s. 938.12,~~
14 938.125, or 938.13 (12) shall be entitled, "In the interest of (juvenile's name), a person
15 ~~under the age of 17".~~ juvenile." A petition initiating proceedings under this chapter
16 shall specify all of the following:

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

18 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that
19 this disposition is in the best interest of the juvenile and the juvenile's rehabilitation.
20 The maximum forfeiture that the court may impose under this subsection for a
21 violation by a juvenile is the maximum amount of the fine that may be imposed on
22 an adult for committing that violation or, if the violation is applicable only to ~~a person~~
23 ~~under 18 years of age~~ juveniles, \$100. The order shall include a finding that the
24 juvenile alone is financially able to pay the forfeiture and shall allow up to 12 months
25 for payment. If the juvenile fails to pay the forfeiture, the court may vacate the

1 forfeiture and order other alternatives under this section; or the court may suspend
2 any license issued under ch. 29 for not less than 30 days nor more than 5 years, or
3 suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more
4 than 2 years. If the court suspends any license under this subsection, the clerk of the
5 court shall immediately take possession of the suspended license if issued under ch.
6 29 or, 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 a 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 suspension shall be reduced to the time
12 period which that has already elapsed and the court shall immediately notify the
13 department, which shall then, if the license is issued under ch. 29, return the license
14 to the juvenile. Any recovery under this subsection shall be reduced by the amount
15 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

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

17 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum
18 forfeiture that may be imposed on an adult for committing that violation or, if the
19 violation is only applicable to ~~a person under 18 years of age~~ juveniles, \$50. The
20 order shall include a finding that the juvenile alone is financially able to pay and
21 shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture,
22 the court may suspend any license issued under ch. 29 or suspend the juvenile's
23 operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court
24 shall immediately take possession of the suspended license if issued under ch. 29 or,
25 if the license is issued under ch. 343, the court may take possession of, and if

1 possession is taken, shall destroy, the license. The court shall forward to the
2 department ~~which~~ that issued the license the notice of suspension stating that the
3 suspension is for failure to pay a forfeiture imposed by the court, together with any
4 license issued under ch. 29 of which the court takes possession. If the forfeiture is
5 paid during the period of suspension, the court shall immediately notify the
6 department, which shall, if the license is issued under ch. 29, return the license to
7 the person. Any recovery under this subsection shall be reduced by the amount
8 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

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

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

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

19 938.35 (1m) FUTURE CRIMINAL PROCEEDINGS BARRED. Disposition by the court
20 assigned to exercise jurisdiction under this chapter and ch. 48 of any allegation
21 under s. 938.12 or 938.13 (12) shall bar any future proceeding on the same matter
22 in criminal court when the juvenile ~~attains 17 years of age~~ becomes an adult. This
23 subsection does not affect proceedings in criminal court that have been transferred
24 under s. 938.18.

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

1 938.355 (4) (b) Except as provided in s. 938.368, an order under s. 938.34 (4d)
2 or (4m) made before the juvenile attains 18 years of age may apply for up to 2 years
3 after the date on which the order is granted or until the juvenile's 18th 19th birthday,
4 whichever is earlier, unless the court specifies a shorter period of time or the court
5 terminates the order sooner. If the order does not specify a termination date, it shall
6 apply for one year after the date on which the order is granted or until the juvenile's
7 18th 19th birthday, whichever is earlier, unless the court terminates the order
8 sooner. Except as provided in s. 938.368, an order under s. 938.34 (4h) made before
9 the juvenile attains 18 years of age shall apply for 5 years after the date on which the
10 order is granted, if the juvenile is adjudicated delinquent for committing a violation
11 of s. 943.10 (2) or for committing an act that would be punishable as a Class B or C
12 felony if committed by an adult, or until the juvenile reaches 25 years of age, if the
13 juvenile is adjudicated delinquent for committing an act that would be punishable
14 as a Class A felony if committed by an adult. Except as provided in s. 938.368, an
15 extension of an order under s. 938.34 (4d), (4h), (4m), or (4n) made before the juvenile
16 attains 17 years of age becomes an adult shall terminate at the end of one year after
17 the date on which the order is granted unless the court specifies a shorter period of
18 time or the court terminates the order sooner. No extension under s. 938.365 of an
19 original dispositional order under s. 938.34 (4d), (4h), (4m), or (4n) may be granted
20 for a juvenile who is 17 years of age or older when becomes an adult by the time the
21 original dispositional order terminates.

22 **SECTION 28.** 938.355 (4m) (a) of the statutes is amended to read:

23 938.355 (4m) (a) A juvenile who has been adjudged delinquent under s. 48.12,
24 1993 stats., or s. 938.12 may, on attaining 17 years of age becoming an adult, petition
25 the court to expunge the court's record of the juvenile's adjudication. Subject to par.

1 (b), the court may expunge the record if the court determines that the juvenile has
2 satisfactorily complied with the conditions of his or her dispositional order and that
3 the juvenile will benefit from, and society will not be harmed by, the expungement.

4 **SECTION 29.** 938.39 of the statutes is amended to read:

5 **938.39 Disposition by court bars criminal proceeding.** Disposition by the
6 court of any violation of state law within its jurisdiction under s. 938.12 bars any
7 future criminal proceeding on the same matter in circuit court when the juvenile
8 reaches the age of 17 becomes an adult. This section does not affect criminal
9 proceedings in circuit court that were transferred under s. 938.18.

10 **SECTION 30.** Subchapter IX (title) of chapter 938 [precedes 938.44] of the
11 statutes is amended to read:

12 **CHAPTER 938**

13 **SUBCHAPTER IX**

14 **JURISDICTION OVER PERSONS 17**

15 **OR OLDER ADULTS**

16 **SECTION 31.** 938.44 of the statutes is amended to read:

17 **938.44 Jurisdiction over persons ~~17 or older~~ adults.** The court has
18 jurisdiction over persons ~~17 years of age or older~~ adults as provided under ss. 938.355
19 (4), 938.357 (6), 938.365 (5), and 938.45 and as otherwise specified in this chapter.

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

21 938.45 (1) (a) If in the hearing of a case of a juvenile alleged to be delinquent
22 under s. 938.12 or in need of protection or services under s. 938.13 it appears that any
23 person ~~17 years of age or older~~ adult has been guilty of contributing to, encouraging,
24 or tending to cause by any act or omission, ~~such that~~ that condition of the juvenile, the
25 court may make orders with respect to the conduct of that person in his or her

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

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

5 938.45 (3) PROSECUTION OF ADULT CONTRIBUTING TO DELINQUENCY OF JUVENILE.
6 If it appears at a court hearing that any person ~~17 years of age or older~~ adult has
7 violated s. 948.40, the court shall refer the record to the district attorney. This
8 subsection does not prohibit prosecution of violations of s. 948.40 without the prior
9 reference by the court to the district attorney.

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

11 938.48 (4m) (title) CONTINUING CARE AND SERVICES FOR JUVENILES ~~OVER 17~~ WHO
12 BECOME ADULTS.

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

14 938.48 (4m) (a) Is at least ~~17 years of age~~ an adult.

15 **SECTION 36.** 938.48 (4m) (b) of the statutes, as affected by 2017 Wisconsin Act
16 185, section 82, is amended to read:

17 938.48 (4m) (b) Was under the supervision of the department under s. 938.183,
18 938.34 (4h) or (4n), or 938.357 (3) or (4) when the person reached ~~17 years of age~~
19 became an adult.

20 **SECTION 37.** 938.48 (14) of the statutes, as affected by 2017 Wisconsin Act 185,
21 section 88, is amended to read:

22 938.48 (14) SCHOOL-RELATED EXPENSES FOR JUVENILES ~~OVER 17~~ WHO BECOME
23 ADULTS. Pay maintenance, tuition, and related expenses from the appropriation
24 under s. 20.410 (3) (ho) for persons who, when they attained ~~17 years of age~~ became
25 adults, were students regularly attending a school, college, or university or regularly

1 attending a course of vocational or technical training designed to prepare them for
2 gainful employment, and who upon ~~attaining that age~~ becoming adults were under
3 the supervision of the department under s. 938.183, 938.34 (4h) or (4n), or 938.357
4 (3) or (4) as a result of a judicial decision.

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

6 938.57 (3) (title). CONTINUING MAINTENANCE FOR JUVENILES ~~OVER 17~~ WHO BECOME
7 ADULTS.

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

9 938.57 (3) (a) (intro.) From the reimbursement received under s. 48.569 (1) (d),
10 counties may provide funding for the maintenance of any juvenile person who meets
11 all of the following qualifications:

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

13 938.57 (3) (a) 1. Is ~~17 years of age or older~~ an adult.

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

15 938.57 (3) (a) 3. Received funding under s. 48.569 (1) (d) immediately prior to
16 ~~his or her 17th birthday~~ becoming an adult.

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

18 938.57 (3) (b) The funding provided for the maintenance of a juvenile person
19 under par. (a) shall be in an amount equal to that ~~to~~ which the juvenile person would
20 receive under s. 48.569 (1) (d) if the person were a juvenile were 16 years of age.

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

22 939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
23 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305, 940.31,
24 940.32, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1)
25 or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055,

1 948.07, 948.08, 948.085, or 948.30 (2) or under s. 940.302 (2) if s. 940.302 (2) (a) 1.
2 b. applies.

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

4 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32
5 (2), 940.42, 940.44, 941.20 (1), 941.23, 941.231, 941.235, or 941.38 (3).

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

7 **946.50 Absconding.** (intro.) Any person who is adjudicated delinquent, but
8 who intentionally fails to appear before the court assigned to exercise jurisdiction
9 under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who
10 does not return to that court for a dispositional hearing before ~~attaining the age of~~
11 17 years becoming an adult is guilty of the following:

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

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

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

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

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

24 948.45 (1) Except as provided in sub. (2), any person ~~17 years of age or older~~
25 adult who, by any act or omission, knowingly encourages or contributes to the

1 truancy, as defined under s. 118.16 (1) (c), of a person ~~17 years of age or under~~ child
2 is guilty of a Class C misdemeanor.

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

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

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

9 948.61 (4) A person ~~under 17 years of age~~ child who has violated this section
10 is subject to the provisions of ch. 938, unless jurisdiction is waived under s. 938.18
11 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s.
12 938.183.

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

14 **961.455 (title) Using a child minor for illegal drug distribution or**
15 **manufacturing purposes.**

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

17 961.455 (1) Any person ~~who has attained the age of 17 years~~ adult who
18 knowingly solicits, hires, directs, employs, or uses a person ~~who is under the age of~~
19 ~~17 years~~ minor for the purpose of violating s. 961.41 (1) is guilty of a Class F felony.

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

21 961.455 (2) The knowledge requirement under sub. (1) does not require proof
22 of knowledge of the age of the ~~child~~ minor. It is not a defense to a prosecution under
23 this section that the actor mistakenly believed that the person solicited, hired,
24 directed, employed, or used under sub. (1) had attained the age of 18 years, even if
25 the mistaken belief was reasonable.

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

2 **961.46 Distribution to persons under age 18 minors.** If a person 17 years
3 of age or over an adult violates s. 961.41 (1) by distributing or delivering a controlled
4 substance or a controlled substance analog to a person 17 years of age or under minor
5 who is at least 3 years his or her junior, the applicable maximum term of
6 imprisonment prescribed under s. 961.41 (1) for the offense may be increased by not
7 more than 5 years.

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

9 **961.573 (2)** Any person minor who violates sub. (1) ~~who is under 17 years of age~~
10 is subject to a disposition under s. 938.344 (2e).

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

12 **961.574 (2)** Any person minor who violates sub. (1) ~~who is under 17 years of age~~
13 is subject to a disposition under s. 938.344 (2e).

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

15 **961.575 (1)** Any person 17 years of age or over adult who violates s. 961.574 (1)
16 by delivering drug paraphernalia to a person 17 years of age or under minor who is
17 at least 3 years younger than the violator may be fined not more than \$10,000 or
18 imprisoned for not more than 9 months or both.

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

20 **961.575 (2)** Any person minor who violates this section ~~who is under 17 years~~
21 ~~of age~~ is subject to a disposition under s. 938.344 (2e).

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

23 **961.575 (3)** Any person 17 years of age or over adult who violates s. 961.574 (3)
24 by delivering drug paraphernalia to a person 17 years of age or under minor is guilty
25 of a Class G felony.

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

2 990.01 (3) ADULT. “Adult” means a person who has attained the age of 18 years,
3 ~~except that for purposes of investigating or prosecuting a person who is alleged to~~
4 ~~have violated any state or federal criminal law or any civil law or municipal~~
5 ~~ordinance, “adult” means a person who has attained the age of 17 years.~~

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

7 990.01 (20) MINOR. “Minor” means a person who has not attained the age of
8 18 years, ~~except that for purposes of investigating or prosecuting a person who is~~
9 ~~alleged to have violated a state or federal criminal law or any civil law or municipal~~
10 ~~ordinance, “minor” does not include a person who has attained the age of 17 years.~~

11 **SECTION 9308. Initial applicability; Corrections.**

12 (1) AGE OF ADULT JURISDICTION. The treatment of ss. 48.02 (1d) and (2), 48.44,
13 48.45 (1) (a) and (am), 48.45 (3), 118.163 (4), 125.07 (4) (d) and (e) 1., 125.085 (3) (bt),
14 165.83 (1) (c) 1. and 2., 301.12 (2m) and (14) (a), 302.31 (7), 938.02 (1) and (10m),
15 938.12 (2), 938.18 (2), 938.183 (3), 938.255 (1) (intro.), 938.34 (8), 938.343 (2), 938.344
16 (3), 938.35 (1m), 938.355 (4) (b) and (4m) (a), 938.39, 938.44, 938.45 (1) (a) and (3),
17 938.48 (4m) (title), (a), and (b) and (14), 938.57 (3) (title), (a) (intro.), 1., and 3., and
18 (b), 939.632 (1) (e) 1. and 3., 946.50 (intro.), 948.01 (1), 948.11 (2) (am) (intro.), 948.45
19 (1), 948.60 (2) (d), 948.61 (4), 961.455 (title), (1), and (2), 961.46, 961.573 (2), 961.574
20 (2), 961.575 (1), (2), and (3), and 990.01 (3) and (20), subch. IX (title) of ch. 48, and
21 subch. IX (title) of ch. 938 first applies to a violation of a criminal law, civil law, or
22 municipal ordinance allegedly committed on the effective date of this subsection.

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

24 (1) AGE OF ADULT JURISDICTION. The treatment of ss. 48.02 (1d) and (2), 48.44,
25 48.45 (1) (a) and (am), 48.45 (3), 118.163 (4), 125.07 (4) (d) and (e) 1., 125.085 (3) (bt),

1 165.83 (1) (c) 1. and 2., 301.12 (2m) and (14) (a), 302.31 (7), 938.02 (1) and (10m),
2 938.12 (2), 938.18 (2), 938.183 (3), 938.255 (1) (intro.), 938.34 (8), 938.343 (2), 938.344
3 (3), 938.35 (1m), 938.355 (4) (b) and (4m) (a), 938.39, 938.44, 938.45 (1) (a) and (3),
4 938.48 (4m) (title), (a), and (b) and (14), 938.57 (3) (title), (a) (intro.), 1., and 3., and
5 (b), 939.632 (1) (e) 1. and 3., 946.50 (intro.), 948.01 (1), 948.11 (2) (am) (intro.), 948.45
6 (1), 948.60 (2) (d), 948.61 (4), 961.455 (title), (1), and (2), 961.46, 961.573 (2), 961.574
7 (2), 961.575 (1), (2), and (3), and 990.01 (3) and (20), subch. IX (title) of ch. 48, and
8 subch. IX (title) of ch. 938 and SECTION 9308 (1) of this act take effect on January 1,
9 2021.

****NOTE: If you would like a sooner effective date, additional drafting relating to
s. 938.48 (4m) (b) and (14) will be necessary to account for changes that go into effect on
January 1, 2021, under 2017 Wis. Act 185.

10

(END)

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

LRB-1701/P3dn
EAW:cjs&ahe

Date

This draft reconciles LRB-1701/~~P2~~ and LRB-1996/~~P2~~. Both LRB-1701 and LRB-1996 should continue to appear in the compiled bill.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1701/P2 *APB*
EAW:cjs&ahe

DOA:.....Schmidt, BB0235 - Age of juvenile court jurisdiction

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

a-note

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

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

JUVENILE CORRECTIONAL SYSTEM

1. Age of juvenile court jurisdiction

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

Similarly, under current law, a person 17 years of age or older who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court, while a person under 17 years of age who is alleged to have violated a civil law or municipal ordinance, subject to certain exceptions, is subject to the jurisdiction and procedures

1 **48.44 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. 48.133,
3 48.355 (4), 48.357 (6), 48.365 (5), and 48.45 and as otherwise specifically provided in
4 this chapter.

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

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

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

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

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

23 48.45 (3) If it appears at a court hearing that any ~~person 17 years of age or older~~
24 adult has violated s. 948.40, the judge shall refer the record to the district attorney
25 for criminal proceedings as may be warranted in the district attorney's judgment.

1 This subsection does not prevent prosecution of violations of s. 948.40 without the
2 prior reference by the judge to the district attorney, as in other criminal cases.

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

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

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

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

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

12 125.07 (4) (e) 1. In this paragraph, "defendant" means a person found guilty
13 of violating par. (a) or (b) who is ~~17, 18, 19 or 20~~ an adult under 21 years of age.

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

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

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

20 165.83 (1) (c) 1. An act that is committed by ~~a person who has attained the age~~
21 ~~of 17~~ an adult and that is a felony or a misdemeanor.

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

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

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

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

5 **SECTION 15.** 301.12 (14) (a) of the statutes is amended to read:

6 301.12 **(14)** (a) Except as provided in pars. (b) and (c), liability of a person
7 specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons ~~under 17~~
8 ~~years of age~~ minors in residential, nonmedical facilities such as group homes, foster
9 homes, residential care centers for children and youth, and juvenile correctional
10 institutions is determined in accordance with the cost-based fee established under
11 s. 301.03 (18). The department shall bill the liable person up to any amount of
12 liability not paid by an insurer under s. 632.89 (2) or (4m) or by other 3rd-party
13 benefits, subject to rules that include formulas governing ability to pay promulgated
14 by the department under s. 301.03 (18). Any liability of the resident not payable by
15 any other person terminates when the resident ~~reaches age 17~~ becomes an adult,
16 unless the liable person has prevented payment by any act or omission.

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

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

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

1 938.02 (1) “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 a person who has attained 17 years of age.~~

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

6 938.02 (10m) “Juvenile,” when used without further qualification, means a
7 person who is less than 18 years of age, ~~except that for purposes of investigating or~~
8 ~~prosecuting a person who is alleged to have violated a state or federal criminal law~~
9 ~~or any civil law or municipal ordinance, “juvenile” does not include a person who has~~
10 ~~attained 17 years of age.~~

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

12 938.12 (2) ~~SEVENTEEN-YEAR-OLDS~~ JUVENILES WHO BECOME ADULTS. If a petition
13 alleging that a juvenile is delinquent is filed before the juvenile is ~~17 years of age~~
14 becomes an adult, but the juvenile becomes ~~17 years of age~~ an adult before admitting
15 the facts of the petition at the plea hearing or, if the juvenile denies the facts, before
16 an adjudication, the court retains jurisdiction over the case.

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

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

1 the adjudication. If the court initiates the petition for waiver of jurisdiction, the
2 judge shall disqualify himself or herself from any future proceedings on the case.

3 **SECTION 21.** 938.183 (3) of the statutes is amended to read:

4 938.183 (3) PLACEMENT IN STATE PRISON; PAROLE. ~~When Subject to s. 973.013~~
5 ~~(3m), when~~ a juvenile who is subject to a criminal penalty under sub. (1m) or s.
6 938.183 (2), 2003 stats., ~~attains the age of 17 years~~ becomes an adult, the department
7 of corrections may place the juvenile in a state prison named in s. 302.01, except that
8 that department may not place any person under the age of 18 years in the
9 correctional institution authorized in s. 301.16 (1n). A juvenile who is subject to a
10 criminal penalty under sub. (1m) or under s. 938.183 (2), 2003 stats., for an act
11 committed before December 31, 1999, is eligible for parole under s. 304.06.

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

13 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings
14 under this chapter, other than a petition initiating proceedings under s. 938.12,
15 938.125, or 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a
16 person under the age of 18²." A petition initiating proceedings under s. 938.12,
17 938.125, or 938.13 (12) shall be entitled, "In the interest of (juvenile's name), a person
18 ~~under the age of 17~~. juvenile." A petition initiating proceedings under this chapter
19 shall specify all of the following:

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

21 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that
22 this disposition is in the best interest of the juvenile and the juvenile's rehabilitation.
23 The maximum forfeiture that the court may impose under this subsection for a
24 violation by a juvenile is the maximum amount of the fine that may be imposed on
25 an adult for committing that violation or, if the violation is applicable only to a person

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

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

20 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum
21 forfeiture that may be imposed on an adult for committing that violation or, if the
22 violation is only applicable to ~~a person under 18 years of age juveniles~~, \$50. The
23 order shall include a finding that the juvenile alone is financially able to pay and
24 shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture,
25 the court may suspend any license issued under ch. 29 or suspend the juvenile's

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

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

13 938.344 (3) PROSECUTION IN ADULT COURT. If the juvenile alleged to have
14 committed the violation is within 3 months of his ~~or her~~ 17th birthday becoming an
15 adult, the court assigned to exercise jurisdiction under this chapter and ch. 48 may,
16 at the request of the district attorney or on its own motion, dismiss the citation
17 without prejudice and refer the matter to the district attorney for prosecution under
18 s. 125.07 (4). The juvenile is entitled to a hearing only on the issue of his or her age.
19 This subsection does not apply to violations under s. 961.573 (2), 961.574 (2), or
20 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

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

22 938.35 (1m) FUTURE CRIMINAL PROCEEDINGS BARRED. Disposition by the court
23 assigned to exercise jurisdiction under this chapter and ch. 48 of any allegation
24 under s. 938.12 or 938.13 (12) shall bar any future proceeding on the same matter
25 in criminal court when the juvenile attains ~~17 years of age~~ becomes an adult. This

1 subsection does not affect proceedings in criminal court that have been transferred
2 under s. 938.18.

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

4 938.355 (4) (b) Except as provided in s. 938.368, an order under s. 938.34 (4d)
5 or (4m) made before the juvenile attains 18 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~~ 19th 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~~ 19th birthday, whichever is earlier, unless the court terminates the order
11 sooner. 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. Except as provided in s. 938.368, an
18 extension of an order under s. 938.34 (4d), (4h), (4m), or (4n) made before the juvenile
19 attains ~~17 years of age~~ becomes an adult shall terminate at the end of one year after
20 the date on which the order is granted unless the court specifies a shorter period of
21 time or the court terminates the order sooner. No extension under s. 938.365 of an
22 original dispositional order under s. 938.34 (4d), (4h), (4m), or (4n) may be granted
23 for a juvenile who is ~~17 years of age or older when~~ becomes an adult by the time the
24 original dispositional order terminates.

25 **SECTION 28.** 938.355 (4m) (a) of the statutes is amended to read:

1 person ~~17 years of age or older~~ adult has been guilty of contributing to, encouraging,
2 or tending to cause by any act or omission, ~~such~~ that condition of the juvenile, the
3 court may make orders with respect to the conduct of that person in his or her
4 relationship to the juvenile, including orders relating to determining the ability of
5 the person to provide for the maintenance or care of the juvenile and directing when,
6 how, and from where funds for the maintenance or care shall be paid.

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

8 938.45 (3) PROSECUTION OF ADULT CONTRIBUTING TO DELINQUENCY OF JUVENILE.

9 If it appears at a court hearing that any person ~~17 years of age or older~~ adult has
10 violated s. 948.40, the court shall refer the record to the district attorney. This
11 subsection does not prohibit prosecution of violations of s. 948.40 without the prior
12 reference by the court to the district attorney.

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

14 938.48 (4m) (title) CONTINUING CARE AND SERVICES FOR JUVENILES ~~OVER 17~~ WHO
15 BECOME ADULTS.

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

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

18 **SECTION 36.** 938.48 (4m) (b) of the statutes, as affected by 2017 Wisconsin Act
19 185, section 82, is amended to read:

20 938.48 (4m) (b) Was under the supervision of the department under s. 938.183,
21 938.34 (4h) or (4n), or 938.357 (3) or (4) when the person reached ~~17 years of age~~
22 became an adult.

23 **SECTION 37.** 938.48 (14) of the statutes, as affected by 2017 Wisconsin Act 185,
24 section 88, is amended to read:

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

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

10 938.57 (3) (title) CONTINUING MAINTENANCE FOR JUVENILES ~~OVER 17~~ WHO BECOME
11 ADULTS.

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

13 938.57 (3) (a) (intro.) From the reimbursement received under s. 48.569 (1) (d),
14 counties may provide funding for the maintenance of any juvenile person who meets
15 all of the following qualifications:

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

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

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

19 938.57 (3) (a) 3. Received funding under s. 48.569 (1) (d) immediately prior to
20 ~~his or her 17th birthday~~ becoming an adult.

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

22 938.57 (3) (b) The funding provided for the maintenance of a juvenile person
23 under par. (a) shall be in an amount equal to that to which the juvenile person would
24 receive under s. 48.569 (1) (d) if the person were a juvenile ~~were 16 years of age~~.

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

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

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

8 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32
9 (2), 940.42, 940.44, 941.20 (1), 941.23, 941.231, 941.235, or 941.38 (3).

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

11 **946.50 Absconding.** (intro.) Any person who is adjudicated delinquent, but
12 who intentionally fails to appear before the court assigned to exercise jurisdiction
13 under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who
14 does not return to that court for a dispositional hearing before attaining the age of
15 17 years becoming an adult is guilty of the following:

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

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

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

22 948.11 (2) (am) (intro.) ~~Any person who has attained the age of 17 and adult~~
23 who, with knowledge of the character and content of the description or narrative
24 account, verbally communicates, by any means, a harmful description or narrative

1 account to a child, with or without monetary consideration, is guilty of a Class I
2 felony if any of the following applies:

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

4 948.45 (1) Except as provided in sub. (2), any person ~~17 years of age or older~~
5 adult who, by any act or omission, knowingly encourages or contributes to the
6 truancy, as defined under s. 118.16 (1) (c), of a person ~~17 years of age or under~~ child
7 is guilty of a Class C misdemeanor.

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

9 948.60 (2) (d) A person ~~under 17 years of age~~ child who has violated this
10 subsection is subject to the provisions of ch. 938 unless jurisdiction is waived under
11 s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction
12 under s. 938.183.

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

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

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

19 **961.455 (title) Using a child minor for illegal drug distribution or**
20 **manufacturing purposes.**

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

22 961.455 (1) Any person ~~who has attained the age of 17 years~~ adult who
23 knowingly solicits, hires, directs, employs, or uses a person ~~who is under the age of~~
24 ~~17 years~~ minor for the purpose of violating s. 961.41 (1) is guilty of a Class F felony.

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

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

*was affected by 2019 Wisconsin Act... (this act),
except 961.41(1)(h)lg;*

6 **SECTION 54.** ^{AR} 961.46 of the statutes is amended to read:

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

****NOTE: This is reconciled s. 961.46. This section has been
affected by drafts with the following LRB #s: -1701/P2 and
-1996/P2.*

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

14 961.573 (2) Any person minor who violates sub. (1) ~~who is under 17 years of age~~
15 is subject to a disposition under s. 938.344 (2e).

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

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

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

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

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

1 961.575 (2) Any person minor who violates this section ~~who is under 17 years~~
2 of age is subject to a disposition under s. 938.344 (2e).

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

4 961.575 (3) Any person ~~17 years of age or over~~ adult who violates s. 961.574 (3)
5 by delivering drug paraphernalia to a person ~~17 years of age or under~~ minor is guilty
6 of a Class G felony.

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

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

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

13 990.01 (20) **MINOR.** "Minor" means a person who has not attained the age of
14 18 years, ~~except that for purposes of investigating or prosecuting a person who is~~
15 ~~alleged to have violated a state or federal criminal law or any civil law or municipal~~
16 ~~ordinance,~~ "minor" ~~does not include a person who has attained the age of 17 years.~~

17 **SECTION 9308. Initial applicability; Corrections.**

18 (1) **AGE OF ADULT JURISDICTION.** The treatment of ss. 48.02 (1d) and (2), 48.44,
19 48.45 (1) (a) and (am) and (3), 118.163 (4), 125.07 (4) (d) and (e) 1., 125.085 (3) (bt),
20 165.83 (1) (c) 1. and 2., 301.12 (2m) and (14) (a), 302.31 (7), 938.02 (1) and (10m),
21 938.12 (2), 938.18 (2), 938.183 (3), 938.255 (1) (intro.), 938.34 (8), 938.343 (2), 938.344
22 (3), 938.35 (1m), 938.355 (4) (b) and (4m) (a), 938.39, 938.44, 938.45 (1) (a) and (3),
23 938.48 (4m) (title), (a), and (b) and (14), 938.57 (3) (title), (a) (intro.), 1., and 3., and
24 (b), 939.632 (1) (e) 1. and 3., 946.50 (intro.), 948.01 (1), 948.11 (2) (am) (intro.), 948.45
25 (1), 948.60 (2) (d), 948.61 (4), 961.455 (title), (1), and (2), 961.46, 961.573 (2), 961.574

*(with respect to
determination of marijuana)*
5/10/17
APL

1 (2), 961.575 (1), (2), and (3), and 990.01 (3) and (20), subch. IX (title) of ch. 48, and
 2 subch. IX (title) of ch. 938 first applies to a violation of a criminal law, civil law, or
 3 municipal ordinance allegedly committed on the effective date of this subsection.

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

5 (1) AGE OF ADULT JURISDICTION. The treatment of ss. 48.02 (1d) and (2), 48.44,
 6 48.45 (1) (a) and (am) and (3), 118.163 (4), 125.07 (4) (d) and (e) 1., 125.085 (3) (bt),
 7 165.83 (1) (c) 1. and 2., 301.12 (2m) and (14) (a), 302.31 (7), 938.02 (1) and (10m),
 8 938.12 (2), 938.18 (2), 938.183 (3), 938.255 (1) (intro.), 938.34 (8), 938.343 (2), 938.344
 9 (3), 938.35 (1m), 938.355 (4) (b) and (4m) (a), 938.39, 938.44, 938.45 (1) (a) and (3),
 10 938.48 (4m) (title), (a), and (b) and (14), 938.57 (3) (title), (a) (intro.), 1., and 3., and
 11 (b), 939.632 (1) (e) 1. and 3., 946.50 (intro.), 948.01 (1), 948.11 (2) (am) (intro.), 948.45
 12 (1), 948.60 (2) (d), 948.61 (4), 961.455 (title), (1), and (2), 961.46, 961.573 (2), 961.574
 13 (2), 961.575 (1), (2), and (3), and 990.01 (3) and (20), subch. IX (title) of ch. 48, and
 14 subch. IX (title) of ch. 938 and SECTION 9308 (1) of this act take effect on January 1,
 15 2021.

16 (END)

(by Section 54)
 a.s.

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

LRB-1701/P3dn
EAW:cjs&ahe

February 21, 2019

This draft reconciles LRB-1701/p2 and LRB-1996/p2. Both LRB-1701 and LRB-1996 should continue to appear in the compiled bill.