



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 410**

November 6, 1997 - Offered by COMMITTEE ON CHILDREN AND FAMILIES.

1 **AN ACT *to renumber and amend*** 938.183 (1m) (c) and 938.355 (6d); ***to***
2 ***consolidate, renumber and amend*** 938.183 (2) (intro.), (a) and (b); ***to***
3 ***amend*** 48.35 (1) (b) (intro.), 48.35 (1) (b) 1., 48.35 (1) (b) 2., 48.35 (1) (b) 3.,
4 48.355 (2) (c), 48.396 (1), 48.66 (1), 48.78 (2) (b), 118.125 (1) (a), 118.125 (2) (cg),
5 118.125 (2) (e), 118.125 (2) (L), 118.125 (3), 118.125 (5) (a), 118.125 (5) (b),
6 118.127 (1), 118.127 (2), 118.163 (2) (b), 118.163 (2) (c), 125.07 (4) (d), 125.07 (4)
7 (e) 1., 125.085 (3) (bt), 165.55 (14), 301.08 (1) (b) 3., 800.08 (4), 895.035 (2m) (a),
8 895.035 (2m) (b), 895.035 (3), 895.035 (6), 938.08 (2), 938.17 (2) (h) 2., 938.17
9 (2) (h) 3., 938.245 (2) (a) 5. a., 938.299 (4) (b), 938.32 (1t) (a) 1., 938.34 (5) (a),
10 938.34 (8), 938.342 (1) (b), 938.342 (1) (c), 938.343 (2), 938.343 (4), 938.346 (1)
11 (a), 938.35 (1) (a), 938.35 (1) (c), 938.355 (2) (c), 938.355 (6) (b), 938.355 (6) (d)
12 2., 938.355 (6m) (a), 938.355 (6m) (b), 938.396 (1), 938.396 (1m) (a), 938.396
13 (1m) (am), 938.396 (1m) (ar), 938.396 (1m) (b), 938.396 (1m) (c), 938.396 (2) (d),

938.396 (6), 938.396 (7) (a), 938.396 (7) (b), 938.396 (7) (bm), 938.396 (7) (c),
938.45 (2), 938.78 (2) (b) 1., 938.78 (2) (b) 2., 938.78 (2) (e), 970.032 (title),
970.032 (1), 970.032 (2) (intro.), 970.032 (2) (a), 970.032 (2) (c), 970.035, 971.31
(13) (a) (intro.), 971.31 (13) (a) 1., 971.31 (13) (a) 3., 971.31 (13) (b), 972.14 (2),
972.15 (2s), 980.015 (2) (b) and 980.02 (2) (ag); **to repeal and recreate** 938.355
(6d) (title); and **to create** 48.396 (2) (dr), 48.396 (2) (g), 48.396 (2) (h), 118.125
(2) (ch), 165.55 (15), 938.067 (8m), 938.069 (1) (dm), 938.183 (1) (ar), 938.183
(1m) (c) 1., 938.183 (1m) (c) 2., 938.245 (2) (a) 5. am., 938.32 (1t) (a) 1m., 938.355
(6) (e), 938.355 (6g) (c), 938.396 (1m) (d), 938.396 (1x), 938.396 (2) (dr), 938.396
(2) (g), 938.396 (2) (h), 938.396 (2) (i), 938.396 (2) (j) and 938.45 (1r) of the
statutes; **relating to:** original adult court jurisdiction over a juvenile who is
alleged to have attempted or committed a violation of any state criminal law if
that violation may be joined with an alleged assault, battery, homicide or
attempted homicide over which the adult court has original jurisdiction, the
imposition of a juvenile adjudication and disposition by an adult court on a
juvenile who has been found to have committed a lesser offense or a joined
offense, requiring the parent of a juvenile to make restitution for any damage
or injury resulting from the juvenile's act or to pay a forfeiture for the juvenile's
act, sanctions for a juvenile who violates a condition of his or her dispositional
order, contempt of court by a juvenile who violates a condition of his or her
dispositional order, the authority of an intake worker or dispositional staff
member to take into custody a juvenile who has violated a condition of his or
her dispositional order, the rules of evidence at postdispositional hearings
under the juvenile justice code, access to juvenile court records, law
enforcement agency records, social services agency records and pupil records

1 by a fire investigator, disclosure by the victim-witness coordinator to the victim
2 of a juvenile's act or alleged act of the name and address of the juvenile and the
3 juvenile's parents, the confidential exchange of information between a law
4 enforcement agency, a social welfare agency and the school attended by a child
5 or juvenile, the disclosure of information relating to a child or a juvenile by a
6 law enforcement agency, a social welfare agency or a juvenile court to the
7 private school attended by the child or the juvenile, requesting the legislative
8 audit bureau to audit the use of secure detention facilities, and the disclosure
9 of juvenile court records to other juvenile courts for the purposes of preparing
10 a presentence investigation, determining custody of a juvenile, setting bail,
11 impeaching a witness and determining whether a juvenile who would
12 otherwise be an heir has intentionally killed the decedent.

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

13 **SECTION 1.** 48.35 (1) (b) (intro.) of the statutes is amended to read:

14 48.35 (1) (b) (intro.) The disposition of a child, and any record of evidence given
15 in a hearing in court, shall not be admissible as evidence against the child in any case
16 or proceeding in any other court except for the following:

17 **SECTION 2.** 48.35 (1) (b) 1. of the statutes is amended to read:

18 48.35 (1) (b) 1. In sentencing proceedings after conviction of a felony or
19 misdemeanor and then only for the purpose of a presentence study and report;
20 investigation.

21 **SECTION 3.** 48.35 (1) (b) 2. of the statutes is amended to read:

22 48.35 (1) (b) 2. In a proceeding in any court assigned to exercise jurisdiction
23 under this chapter and ch. 938; ~~or.~~

SECTION 4. 48.35 (1) (b) 3. of the statutes is amended to read:

48.35 (1) (b) 3. In a court of civil or criminal jurisdiction while it is exercising the jurisdiction of a over an action affecting the family court and is considering the custody of ~~children~~ a child.

SECTION 5. 48.355 (2) (c) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

48.355 (2) (c) If school attendance is a condition of an order under par. (b) 7., the order shall specify what constitutes a violation of the condition and shall direct the school board of the school district, or the governing body of the private school, in which the child is enrolled to notify the county department that is responsible for supervising the child or, in a county having a population of 500,000 or more, the department within 5 days after any violation of the condition by the child.

SECTION 6. 48.396 (1) of the statutes is amended to read:

48.396 (1) Law enforcement officers' records of children shall be kept separate from records of adults. Law enforcement officers' records of children shall not be open to inspection or their contents disclosed except under sub. (1b) or (1d) or s. 48.293 or by order of the court. This subsection does not apply to the representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child involved, to the confidential exchange of information between the police and officials of the school attended by the child or other law enforcement or social welfare agencies or to children 10 years of age or older who are subject to the jurisdiction of the court of criminal jurisdiction. A public school official who obtains information under this subsection shall keep the information confidential as required under s. 118.125 and a private school official who obtains information under this subsection shall keep the

1 information confidential in the same manner as is required of a public school official
2 under s. 118.125. A law enforcement agency that obtains information under this
3 subsection shall keep the information confidential as required under this subsection
4 and s. 938.396 (1). A social welfare agency that obtains information under this
5 subsection shall keep the information confidential as required under ss. 48.78 and
6 938.78.

7 **SECTION 7.** 48.396 (2) (dr) of the statutes is created to read:

8 48.396 (2) (dr) Upon request of the department of corrections or any other
9 person preparing a presentence investigation under s. 972.15 to review court records
10 for the purpose of preparing the presentence investigation, the court shall open for
11 inspection by any authorized representative of the requester the records of the court
12 relating to any child who has been the subject of a proceeding under this chapter.

13 **SECTION 8.** 48.396 (2) (g) of the statutes is created to read:

14 48.396 (2) (g) Upon request of any other court assigned to exercise jurisdiction
15 under this chapter and ch. 938, a district attorney or corporation counsel to review
16 court records for the purpose of any proceeding in that other court, the court shall
17 open for inspection by any authorized representative of the requester the records of
18 the court relating to any child who has been the subject of a proceeding under this
19 chapter.

20 **SECTION 9.** 48.396 (2) (h) of the statutes is created to read:

21 48.396 (2) (h) Upon request of the court having jurisdiction over an action
22 affecting the family or of an attorney for a party or a guardian ad litem in an action
23 affecting the family to review court records for the purpose of considering the custody
24 of a child, the court assigned to exercise jurisdiction under this chapter and ch. 938
25 shall open for inspection by an authorized representative of the requester the records

1 of the court relating to any child who has been the subject of a proceeding under this
2 chapter.

3 **SECTION 10.** 48.66 (1) of the statutes, as affected by 1997 Wisconsin Act 27, is
4 amended to read:

5 48.66 (1) The department shall license and supervise child welfare agencies,
6 as required by s. 48.60, group homes, as required by s. 48.625, shelter care facilities,
7 as required by s. 938.22, and day care centers, as required by s. 48.65. The
8 department may license foster homes or treatment foster homes, as provided by s.
9 48.62, and may license and supervise county departments in accordance with the
10 procedures specified in this section and in ss. 48.67 to 48.74. The department of
11 corrections may license a child welfare agency to operate a secured child caring
12 institution, as defined in s. 938.02 (15g), for holding in secure custody ~~children~~
13 juveniles who have been convicted under s. 938.183 or adjudicated delinquent under
14 s. 938.183 or 938.34 (4d), (4h) or (4m) and referred to the child welfare agency by the
15 court or the department of corrections and to provide supervision, care and
16 maintenance for those ~~children~~ juveniles. A license issued under this subsection,
17 other than a license to operate a foster home, treatment foster home or secured child
18 caring institution, is valid until revoked or suspended. A license issued under this
19 subsection to operate a foster home, treatment foster home or secured child caring
20 institution may be for any term not to exceed 2 years from the date of issuance. No
21 license issued under this subsection is transferable.

22 **SECTION 11.** 48.78 (2) (b) of the statutes is amended to read:

23 48.78 (2) (b) Paragraph (a) does not apply to the confidential exchange of
24 information between an agency and another social welfare ~~or agency,~~ a law
25 enforcement agency, a public school or a private school regarding an individual in the

1 care or legal custody of ~~one of the agencies~~ the agency. A social welfare agency that
2 obtains information under this paragraph shall keep the information confidential as
3 required under this section and s. 938.78. A law enforcement agency that obtains
4 information under this paragraph shall keep the information confidential as
5 required under ss. 48.396 (1) and 938.396 (1). A public school that obtains
6 information under this paragraph shall keep the information confidential as
7 required under s. 118.125 and a private school that obtains information under this
8 paragraph shall keep the information confidential in the same manner as is required
9 of a public school under s. 118.125.

10 **SECTION 12.** 118.125 (1) (a) of the statutes is amended to read:

11 118.125 (1) (a) “Behavioral records” means those pupil records which include
12 psychological tests, personality evaluations, records of conversations, any written
13 statement relating specifically to an individual pupil’s behavior, tests relating
14 specifically to achievement or measurement of ability, the pupil’s physical health
15 records other than his or her immunization records or any lead screening records
16 required under s. 254.162, law enforcement officers’ records obtained under s. 48.396
17 (1) or 938.396 (1) or (1m) and any other pupil records that are not progress records.

18 **SECTION 13.** 118.125 (2) (cg) of the statutes is amended to read:

19 118.125 (2) (cg) The school district clerk or his or her designee shall provide a
20 law enforcement agency with a copy of a pupil’s attendance record if the law
21 enforcement agency certifies in writing that the pupil is under investigation for
22 allegedly committing a criminal or delinquent act and that the law enforcement
23 agency will not further disclose the pupil’s attendance record except as permitted
24 under s. 938.396 (1) to ~~(1r)~~ (1x).

25 **SECTION 14.** 118.125 (2) (ch) of the statutes is created to read:

1 118.125 (2) (ch) The school district clerk of his or her designee shall provide a
2 fire investigator under s. 165.55 (15) with a copy of a pupil's attendance record if the
3 fire investigator certifies in writing that the pupil is under investigation under s.
4 165.55, that the pupil's attendance record is necessary for the fire investigator to
5 pursue his or her investigation and that the fire investigator will use and further
6 disclose the pupil's attendance record only for the purpose of pursuing that
7 investigation.

8 **SECTION 15.** 118.125 (2) (e) of the statutes is amended to read:

9 118.125 (2) (e) Upon the written permission of an adult pupil, or the parent or
10 guardian of a minor pupil, the school shall make available to the person named in
11 the permission the pupil's progress records or such portions of the pupil's behavioral
12 records as determined by the person authorizing the release. Law enforcement
13 officers' records obtained under s. 48.396 (1) or 938.396 (1) or (1m) may not be made
14 available under this paragraph unless specifically identified by the adult pupil or by
15 the parent or guardian of a minor pupil in the written permission.

16 **SECTION 16.** 118.125 (2) (L) of the statutes is amended to read:

17 118.125 (2) (L) A school board shall disclose the pupil records of a pupil in
18 compliance with a court order under s. 48.345 (12) (b), 938.34 (7d) (b), 938.396 (1m)
19 (c) or (d) or 938.78 (2) (b) 2. after making a reasonable effort to notify the pupil's
20 parent or legal guardian.

21 **SECTION 17.** 118.125 (3) of the statutes is amended to read:

22 118.125 (3) MAINTENANCE OF RECORDS. Each school board shall adopt rules in
23 writing specifying the content of pupil records and the time during which pupil
24 records shall be maintained. No behavioral records may be maintained for more than
25 one year after the pupil ceases to be enrolled in the school, unless the pupil specifies

1 in writing that his or her behavioral records may be maintained for a longer period.
2 A pupil's progress records shall be maintained for at least 5 years after the pupil
3 ceases to be enrolled in the school. A school board may maintain the records on
4 microfilm, optical disk or in electronic format if authorized under s. 19.21 (4) (c), or
5 in such other form as the school board deems appropriate. A school board shall
6 maintain law enforcement officers' records ~~and other information~~ obtained under s.
7 48.396 (1) or 938.396 (1) or (1m) separately from a pupil's other pupil records. Rules
8 adopted under this subsection shall be published by the school board as a class 1
9 notice under ch. 985.

10 **SECTION 18.** 118.125 (5) (a) of the statutes is amended to read:

11 118.125 (5) (a) Except as provided in par. (b), nothing in this section prohibits
12 ~~the use of a school district from using~~ a pupil's records in connection with the
13 suspension or expulsion of the pupil or the use of such records by a multidisciplinary
14 team under ch. 115.

15 **SECTION 19.** 118.125 (5) (b) of the statutes is amended to read:

16 118.125 (5) (b) Law enforcement officers' records ~~and other information~~
17 obtained under s. 48.396 (1) or 938.396 (1) or (1m) and records of the court assigned
18 to exercise jurisdiction under chs. 48 and 938 obtained under s. 938.396 (7) shall may
19 not be used by a school district as the sole basis for expelling or suspending a pupil
20 or as the sole basis for taking any other disciplinary action, including action under
21 the school district's athletic code.

22 **SECTION 20.** 118.127 (1) of the statutes is amended to read:

23 118.127 (1) Upon receipt of information from a law enforcement agency under
24 s. 48.396 (1) or 938.396 (1) or (1m), the school district administrator or private school
25 administrator who receives the information shall notify any pupil named in the

1 information, and the parent or guardian of any minor pupil named in the
2 information, of the information.

3 **SECTION 21.** 118.127 (2) of the statutes, as affected by 1997 Wisconsin Act 27,
4 is amended to read:

5 118.127 (2) A school district ~~shall~~ or private school may disclose information
6 from law enforcement officers' records obtained under s. 938.396 (1m) only to persons
7 employed by the school district who are required by the department under s. 115.28
8 (7) to hold a license, to persons employed by the private school as teachers and to
9 other school district or private school officials who have been determined by the
10 school board or governing body of the private school to have legitimate educational
11 interests, including safety interests, in that information. In addition, if that
12 information relates to a pupil of the school district or private school, the school
13 district ~~shall~~ or private school may also disclose that information to those employees
14 of the school district or private school who have been designated by the school board
15 or governing body of the private school to receive that information for the purpose
16 of providing treatment programs for pupils enrolled in the school district or private
17 school. A school district may not use law enforcement officers' records obtained
18 under s. 938.396 (1m) as the sole basis for expelling or suspending a pupil or as the
19 sole basis for taking any other disciplinary action, including action under the school
20 district's athletic code, against a pupil.

21 **SECTION 22.** 118.163 (2) (b) of the statutes is amended to read:

22 118.163 (2) (b) An order for the person to participate in counseling or to
23 participate for not more than 25 hours in a supervised work program or other
24 community service work under s. 938.34 (5g).

25 **SECTION 23.** 118.163 (2) (c) of the statutes is amended to read:

1 118.163 (2) (c) An order for the person to remain at home for not more than 30
2 days except during hours in which the person is attending religious worship or a
3 school program, including travel time required to get to and from the school program
4 or place of worship. The order may permit a person to leave his or her home if the
5 person is accompanied by a parent or guardian.

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

7 125.07 (4) (d) A person who is under ~~18~~ 17 years of age on the date of disposition
8 is subject to s. 938.344 unless proceedings have been instituted against the person
9 in a court of civil or criminal jurisdiction after dismissal of the citation under s.
10 938.344 (3).

11 **SECTION 25.** 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 years of age.

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

15 125.085 (3) (bt) A person who is under ~~18~~ 17 years of age 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 27.** 165.55 (14) of the statutes is amended to read:

20 165.55 (14) The state fire marshal, any deputy fire marshal ~~or, any~~ fire chief
21 or his or her designee may require an insurer, including the state acting under ch.
22 619, to furnish any information in its possession relating to a fire loss involving
23 property with respect to which a policy of insurance issued or serviced by the insurer
24 may apply. Any insurer, including the state, may furnish to the state fire marshal,
25 any deputy fire marshal ~~or, any~~ fire chief or designee information in its possession

1 relating to a fire loss to which insurance issued by it may apply. In the absence of
2 fraud or malice, no insurer furnishing information under this subsection, state fire
3 marshal, deputy fire marshal ~~or~~, fire chief or designee, and no person acting on behalf
4 of the insurer, state fire marshal, deputy fire marshal ~~or~~, fire chief or designee, shall
5 be liable in any civil or criminal action on account of any statement made, material
6 furnished or action taken in regard thereto. Information furnished by an insurer
7 under this subsection shall be held in confidence by the state fire marshal, deputy
8 fire marshal ~~or~~, fire chief or designee and all subordinates until release or publication
9 is required pursuant to a civil or criminal proceeding. Information obtained by the
10 state fire marshal, any deputy fire marshal ~~or~~, fire chief or designee during their
11 investigations of fires determined to be the result of arson may be available to the
12 insurer of the property involved.

13 **SECTION 28.** 165.55 (15) of the statutes is created to read:

14 165.55 (15) The state fire marshal, any deputy fire marshal, any fire chief or
15 his or her designee may obtain information relating to a juvenile from a law
16 enforcement agency, a court assigned to exercise jurisdiction under chs. 48 and 938
17 or an agency, as defined in s. 938.78 (1), as provided in ss. 938.396 (1x) and (2) (j) and
18 938.78 (2) (b) 1. and may obtain information relating to a pupil from a public school
19 as provided in ss. 118.125 (2) (ch) and (L) and 938.396 (1m) (d).

20 **SECTION 29.** 301.08 (1) (b) 3. of the statutes is amended to read:

21 301.08 (1) (b) 3. Contract with public, private or voluntary agencies for the
22 supervision, maintenance and operation of secured correctional facilities, as defined
23 in s. 938.02 (15m), child caring institutions, as defined in s. 938.02 (2c), and secured
24 child caring institutions, as defined in s. 938.02 (15g), for the placement of juveniles
25 who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.183

1 or 938.34 (4d), (4h) or (4m). The department may designate a secured correctional
2 facility, child caring institution or a secured child caring institution contracted for
3 under this subdivision as a Type 2 secured correctional facility, as defined in s. 938.02
4 (20), and may designate a child caring institution or secured child caring institution
5 contracted for under this subdivision as a Type 2 child caring institution, as defined
6 in s. 938.02 (19r).

7 **SECTION 30.** 800.08 (4) of the statutes is amended to read:

8 800.08 (4) ~~Municipal~~ Except as provided in s. 938.17 (2) (h) 3., municipal courts
9 shall be bound by the rules of evidence specified in chs. 901 to 911.

10 **SECTION 31.** 895.035 (2m) (a) of the statutes is amended to read:

11 895.035 (2m) (a) If a child or a parent with custody of a child fails to pay
12 restitution under s. 938.245, 938.32, 938.34 (5), 938.343 (4) ~~or~~ 938.345 or 938.45 (1r)
13 (a) as ordered by a court assigned to exercise jurisdiction under chs. 48 and 938, a
14 court of criminal jurisdiction or a municipal court or as agreed to in a deferred
15 prosecution agreement or if it appears likely that the child or parent will not pay
16 restitution as ordered or agreed to, the victim, the victim's insurer, the
17 representative of the public interest under s. 938.09 or the agency, as defined in s.
18 938.38 (1) (a), supervising the child may petition the court assigned to exercise
19 jurisdiction under chs. 48 and 938 to order that the amount of restitution unpaid by
20 the ~~child~~ or parent be entered and docketed as a judgment against the child and the
21 parent with custody of the child and in favor of the victim or the victim's insurer, or
22 both. A petition under this paragraph may be filed after the expiration of the
23 deferred prosecution agreement, consent decree, dispositional order or sentence
24 under which the restitution is payable, but no later than one year after the expiration
25 of the deferred prosecution agreement, consent decree, dispositional order or

1 sentence or any extension of the consent decree, dispositional order or sentence. A
2 judgment rendered under this paragraph does not bar the victim or the victim's
3 insurer, or both, from commencing another action seeking compensation from the
4 child or the parent, or both, if the amount of restitution ordered under this paragraph
5 is less than the total amount of damages claimed by the victim or the victim's insurer.

6 **SECTION 32.** 895.035 (2m) (b) of the statutes, as affected by 1997 Wisconsin Act
7 27, is amended to read:

8 895.035 **(2m)** (b) If a child fails to pay a forfeiture ~~or surcharge~~ as ordered by
9 a court assigned to exercise jurisdiction under chs. 48 and 938, a court of criminal
10 jurisdiction or a forfeiture as ordered by a municipal court, if a child fails to pay a
11 surcharge as ordered by a court assigned to exercise jurisdiction under chs. 48 and
12 938 or a court of criminal jurisdiction or if it appears likely that the child or the parent
13 will not pay the forfeiture or surcharge as ordered, the representative of the public
14 interest under s. 938.09, the agency, as defined in s. 938.38 (1) (a), supervising the
15 child or the law enforcement agency that issued the citation to the child may petition
16 the court assigned to exercise jurisdiction under chs. 48 and 938 to order that the
17 amount of the forfeiture or surcharge unpaid by the child or parent be entered and
18 docketed as a judgment against the child and the parent with custody of the child and
19 in favor of the county or appropriate municipality. A petition under this paragraph
20 may be filed after the expiration of the dispositional order or sentence under which
21 the forfeiture or surcharge is payable, but no later than one year after the expiration
22 of the dispositional order or sentence or any extension of the dispositional order or
23 sentence.

24 **SECTION 33.** 895.035 (3) of the statutes is amended to read:

1 895.035 (3) An adjudication under s. ~~938.31~~ 938.183 or 938.34 that the child
2 violated a civil law or ordinance, is delinquent or is in need of protection and services
3 under s. 938.13 (12), based on proof that the child committed the act, subject to its
4 admissibility under s. 904.10, shall, in an action under sub. (1), stop a child's parent
5 or parents from denying that the child committed the act that resulted in the injury,
6 damage or loss.

7 **SECTION 34.** 895.035 (6) of the statutes is amended to read:

8 895.035 (6) Any recovery of restitution under this section shall be reduced by
9 the amount recovered as restitution for the same act under s. 938.245, 938.32, 938.34
10 (5) ~~or~~, 938.343 (4) or 938.45 (1r) (a). Any recovery of a forfeiture under this section
11 shall be reduced by the amount recovered as a forfeiture for the same act under s.
12 938.34 (8), 938.343 (2) or 938.45 (1r) (b). Any recovery of a surcharge under this
13 section shall be reduced by the amount recovered as a surcharge under s. 938.34 (8d).

14 **SECTION 35.** 938.067 (8m) of the statutes is created to read:

15 938.067 (8m) Take juveniles into custody under s. 938.355 (6d).

16 **SECTION 36.** 938.069 (1) (dm) of the statutes is created to read:

17 938.069 (1) (dm) Take juveniles into custody under s. 938.355 (6d).

18 **SECTION 37.** 938.08 (2) of the statutes is amended to read:

19 938.08 (2) Except as provided in sub. (3) and in s. 938.355 (6d), any person
20 authorized to provide or providing intake or dispositional services for the court under
21 ss. 938.067 and 938.069 has the power of police officers and deputy sheriffs only for
22 the purpose of taking a juvenile into physical custody when the juvenile comes
23 voluntarily or is suffering from illness or injury or is in immediate danger from his
24 or her surroundings and removal from the surroundings is necessary.

25 **SECTION 38.** 938.17 (2) (h) 2. of the statutes is amended to read:

1 938.17 (2) (h) 2. A motion requesting the municipal court to impose or petition
2 for a sanction may be brought by the person or agency primarily responsible for the
3 provision of dispositional services, the municipal attorney or the court that entered
4 the dispositional order. If the court initiates the motion, that court is disqualified
5 from holding a hearing on the motion. Notice of the motion shall be given to the
6 juvenile and the juvenile's parent, guardian or legal custodian.

7 **SECTION 39.** 938.17 (2) (h) 3. of the statutes is amended to read:

8 938.17 (2) (h) 3. Before imposing any sanction, the court shall hold a hearing,
9 at which the juvenile may present evidence. Except as provided in s. 901.05, neither
10 common law nor statutory rules of evidence are binding at a hearing under this
11 subdivision.

12 **SECTION 40.** 938.183 (1) (ar) of the statutes is created to read:

13 938.183 (1) (ar) A juvenile specified in par. (a) or (am) who is alleged to have
14 attempted or committed a violation of any state criminal law in addition to the
15 violation alleged under par. (a) or (am) if the violation alleged under this paragraph
16 and the violation alleged under par. (a) or (am) may be joined under s. 971.12 (1).

17 **SECTION 41.** 938.183 (1m) (c) of the statutes, as affected by 1997 Wisconsin Act
18 27, is renumbered 938.183 (1m) (c) (intro.) and amended to read:

19 938.183 (1m) (c) (intro.) If the juvenile is ~~convicted of~~ found to have committed
20 a lesser offense than the offense alleged under sub. (1) (a), (am), (ar), (b) or (c) or is
21 found to have committed the offense alleged under sub. (1) (ar), but not the offense
22 under sub. (1) (a) or (am) to which the offense alleged under sub. (1) (ar) is joined, and
23 if any of the following conditions ~~specified in sub. (2) (a) or (b)~~ applies, the court of
24 criminal jurisdiction ~~may impose a criminal penalty or~~ shall, in lieu of convicting the

1 juvenile, adjudge the juvenile to be delinquent and impose a disposition specified in
2 s. 938.34.;

3 **SECTION 42.** 938.183 (1m) (c) 1. of the statutes is created to read:

4 938.183 **(1m)** (c) 1. The court of criminal jurisdiction finds that the juvenile has
5 committed a lesser offense or a joined offense that is not a violation of s. 940.20 (1)
6 or (2m) or 946.43 under the circumstances described in sub. (1) (a), that is not an
7 attempt to violate s. 940.01 under the circumstances described in sub. (1) (am), that
8 is not a violation of s. 940.02 or 940.05 under the circumstances described in sub. (1)
9 (am) and that is not an offense for which the court assigned to exercise jurisdiction
10 under this chapter and ch. 48 may waive its jurisdiction over the juvenile under s.
11 938.18.

12 **SECTION 43.** 938.183 (1m) (c) 2. of the statutes is created to read:

13 938.183 **(1m)** (c) 2. The court of criminal jurisdiction finds that the juvenile has
14 committed a lesser offense or a joined offense that is a violation of s. 940.20 (1) or (2m)
15 or 946.43 under the circumstances described in sub. (1) (a), that is an attempt to
16 violate s. 940.01 under the circumstances described in sub. (1) (am), that is a
17 violation of s. 940.02 or 940.05 under the circumstances described in sub. (1) (am) or
18 that is an offense for which the court assigned to exercise jurisdiction under this
19 chapter and ch. 48 may waive its jurisdiction over the juvenile under s. 938.18 and
20 the court of criminal jurisdiction, after considering the criteria specified in s. 938.18
21 (5), determines that the juvenile has proved by clear and convincing evidence that
22 it would be in the best interests of the juvenile and of the public to adjudge the
23 juvenile to be delinquent and impose a disposition specified in s. 938.34.

24 **SECTION 44.** 938.183 (2) (intro.), (a) and (b) of the statutes, as affected by 1997
25 Wisconsin Act 27, are consolidated, renumbered 938.183 (2) and amended to read:

1 938.183 (2) Notwithstanding ss. 938.12 (1) and 938.18, courts of criminal
2 jurisdiction have exclusive original jurisdiction over a juvenile who is alleged to have
3 attempted or committed a violation of s. 940.01 or to have committed a violation of
4 s. 940.02 or 940.05 on or after the juvenile's 15th birthday. Notwithstanding ss.
5 938.12 (1) and 938.18, courts of criminal jurisdiction also have exclusive original
6 jurisdiction over a juvenile specified in the preceding sentence who is alleged to have
7 attempted or committed a violation of any state law in addition to the violation
8 alleged under the preceding sentence if the violation alleged under this sentence and
9 the violation alleged under the preceding sentence may be joined under s. 972.12 (1).
10 Notwithstanding subchs. IV to VI, a juvenile who is alleged to have attempted or
11 committed a violation of s. 940.01 or to have committed a violation of s. 940.02 or
12 940.05 on or after the juvenile's 15th birthday and a juvenile who is alleged to have
13 attempted or committed a violation of any state criminal law, if that violation and an
14 attempt to commit a violation of s. 940.01 or the commission of a violation of s. 940.01,
15 940.02 or 940.05 may be joined under s. 971.12 (1), is subject to the procedures
16 specified in chs. 967 to 979 and the criminal penalties provided for the crime that the
17 juvenile is alleged to have committed, except that the court of criminal jurisdiction
18 shall, in lieu of convicting the juvenile, adjudge the juvenile to be delinquent and
19 impose a disposition specified in s. 938.34 if any of the following conditions applies:
20 (a) ~~The~~ the court of criminal jurisdiction ~~convicts~~ finds that the juvenile ~~of~~ has
21 committed a lesser offense that is not an attempt to violate s. 940.01, that is not a
22 violation of s. 940.02 or 940.05 ~~and that is not an offense for which the court assigned~~
23 ~~to exercise jurisdiction under this chapter and ch. 48 may waive its jurisdiction over~~
24 ~~the juvenile under s. 938.18.~~ (b) ~~The court of criminal jurisdiction convicts the~~
25 ~~juvenile of a lesser offense that is an attempt to violate s. 940.01, that is a violation~~

1 of s. 940.02 or 940.05 or that is an offense for which the court assigned to exercise
2 jurisdiction under this chapter and ch. 48 may waive its jurisdiction over the juvenile
3 under s. 938.18 than the offense alleged under this subsection or has committed an
4 offense that is joined under s. 971.12 (1) to an attempt to commit a violation of s.
5 940.01 or to the commission of a violation of s. 940.01, 940.02 or 940.05, but has not
6 attempted to commit a violation of s. 940.01 or committed a violation of s. 940.01,
7 940.02 or 940.05, and the court of criminal jurisdiction, after considering the criteria
8 specified in s. 938.18 (5), determines that the juvenile has proved by clear and
9 convincing evidence that it would be in the best interests of the juvenile and of the
10 public to adjudge the juvenile to be delinquent and impose a disposition specified in
11 s. 938.34.

12 **SECTION 45.** 938.245 (2) (a) 5. a. of the statutes is amended to read:

13 938.245 (2) (a) 5. a. That the juvenile participate in a restitution project if the
14 act for which the deferred prosecution agreement is being entered into has resulted
15 in damage to the property of another, or in actual physical injury to another
16 excluding pain and suffering. Subject to subd. 5. c., the deferred prosecution
17 agreement may require the juvenile to repair the damage to property or to make
18 reasonable restitution for the damage or injury if the intake worker, after taking into
19 consideration the well-being and needs of the victim, considers it beneficial to the
20 well-being and behavior of the juvenile. Any such deferred prosecution agreement
21 shall include a determination that the juvenile alone is financially able to pay and
22 may allow up to the date of the expiration of the deferred prosecution agreement for
23 the payment. Any recovery under this subd. 5. a. shall be reduced by the amount
24 recovered as restitution for the same act under subd. 5. am.

25 **SECTION 46.** 938.245 (2) (a) 5. am. of the statutes is created to read:

1 938.245 (2) (a) 5. am. That the parent who has custody, as defined in s. 895.035
2 (1), of the juvenile make reasonable restitution for any damage to the property of
3 another, or for any actual physical injury to another excluding pain and suffering,
4 resulting from the act for which the deferred prosecution agreement is being entered
5 into. Except for recovery for retail theft under s. 943.51, the maximum amount of any
6 restitution ordered under this subd. 5. am. for damage or injury resulting from any
7 one act of a juvenile or from the same act committed by 2 or more juveniles in the
8 custody of the same parent may not exceed the amount specified in s. 799.01 (1) (d).
9 Any order under this subd. 5. am. shall include a finding that the parent who has
10 custody of the juvenile is financially able to pay the amount ordered and may allow
11 up to the date of the expiration of the deferred prosecution agreement for the
12 payment. Any recovery under this subd. 5. am. shall be reduced by the amount
13 recovered as restitution for the same act under subd. 5. a.

14 **SECTION 47.** 938.299 (4) (b) of the statutes is amended to read:

15 938.299 (4) (b) Except as provided in s. 901.05, neither common law nor
16 statutory rules of evidence are binding at a waiver hearing under s. 938.18, a hearing
17 for a juvenile held in custody under s. 938.21, a hearing under s. 938.296 (4) for a
18 juvenile who is alleged to have violated s. 940.225, 948.02, 948.025, 948.05 or 948.06,
19 a dispositional hearing, or a any postdispositional hearing ~~about changes in~~
20 ~~placement, revision of dispositional orders or extension of dispositional orders under~~
21 this chapter. At those hearings, the court shall admit all testimony having
22 reasonable probative value, but shall exclude immaterial, irrelevant or unduly
23 repetitious testimony or evidence that is inadmissible under s. 901.05. Hearsay
24 evidence may be admitted if it has demonstrable circumstantial guarantees of
25 trustworthiness. The court shall give effect to the rules of privilege recognized by

1 law. The court shall apply the basic principles of relevancy, materiality and probative
2 value to proof of all questions of fact. Objections to evidentiary offers and offers of
3 proof of evidence not admitted may be made and shall be noted in the record.

4 **SECTION 48.** 938.32 (1t) (a) 1. of the statutes is amended to read:

5 938.32 (1t) (a) 1. Subject to subd. 3., if the petition alleges that the juvenile
6 committed a delinquent act that has resulted in damage to the property of another,
7 or in actual physical injury to another excluding pain and suffering, the judge or
8 juvenile court commissioner may require the juvenile as a condition of the consent
9 decree, to repair the damage to property or to make reasonable restitution for the
10 damage or injury if the judge or juvenile court commissioner, after taking into
11 consideration the well-being and needs of the victim, considers it beneficial to the
12 well-being and behavior of the juvenile. Any consent decree that includes a
13 condition of restitution by a juvenile shall include a finding that the juvenile alone
14 is financially able to pay and may allow up to the date of the expiration of the consent
15 decree for the payment. Objection by the juvenile to the amount of damages claimed
16 shall entitle the juvenile to a hearing on the question of damages before the amount
17 of restitution is made part of the consent decree.

18 **SECTION 49.** 938.32 (1t) (a) 1m. of the statutes is created to read:

19 938.32 (1t) (a) 1m. If the petition alleges that the juvenile has committed a
20 delinquent act that has resulted in damage to the property of another, or in actual
21 physical injury to another excluding pain and suffering, the judge or juvenile court
22 commissioner may require a parent who has custody, as defined in s. 895.035 (1), of
23 the juvenile, as a condition of the consent decree, to make reasonable restitution for
24 the damage or injury. Except for recovery for retail theft under s. 943.51, the
25 maximum amount of any restitution ordered under this subdivision for damage or

injury resulting from any one act of a juvenile or from the same act committed by 2 or more juveniles in the custody of the same parent may not exceed the amount specified in s. 799.01 (1) (d). Any consent decree that includes a condition of restitution by a parent who has custody of the juvenile shall include a finding that the parent who has custody of the juvenile is financially able to pay the amount ordered and may allow up to the date of the expiration of the consent decree for the payment. Objection by the parent to the amount of damages claimed shall entitle the parent to a hearing on the question of damages before the amount of restitution is made part of the consent decree. Any recovery under this subdivision shall be reduced by the amount recovered as restitution for the same act under subd. 1.

SECTION 50. 938.34 (5) (a) of the statutes is amended to read:

938.34 (5) (a) Subject to par. (c), if the juvenile is found to have committed a delinquent act which has resulted in damage to the property of another, or actual physical injury to another excluding pain and suffering, order the juvenile to repair the damage to property or to make reasonable restitution for the damage or injury if the court, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being and behavior of the juvenile. Any such order shall include a finding that the juvenile alone is financially able to pay and may allow up to the date of the expiration of the order for the payment. Objection by the juvenile to the amount of damages claimed shall entitle the juvenile to a hearing on the question of damages before the amount of restitution is ordered. Any recovery under this paragraph shall be reduced by the amount recovered as restitution under s. 938.45 (1r) (a).

SECTION 51. 938.34 (8) of the statutes is amended to read:

1 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that
2 this disposition is in the best interest of the juvenile and in aid of rehabilitation. The
3 maximum forfeiture that the court may impose under this subsection for a violation
4 by a juvenile is the maximum amount of the fine that may be imposed on an adult
5 for committing that violation or, if the violation is applicable only to a person under
6 18 years of age, \$100. Any such order shall include a finding that the juvenile alone
7 is financially able to pay the forfeiture and shall allow up to 12 months for payment.
8 If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order
9 other alternatives under this section, in accordance with the conditions specified in
10 this subchapter; or the court may suspend any license issued under ch. 29 for not less
11 than 30 days nor more than 5 years, or suspend the juvenile's operating privilege as
12 defined in s. 340.01 (40) for not less than 30 days nor more than 5 years. If the court
13 suspends any license under this subsection, the clerk of the court shall immediately
14 take possession of the suspended license and forward it to the department which
15 issued the license, together with a notice of suspension clearly stating that the
16 suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is
17 paid during the period of suspension, the suspension shall be reduced to the time
18 period which has already elapsed and the court shall immediately notify the
19 department which shall then return the license to the juvenile. Any recovery under
20 this subsection shall be reduced by the amount recovered as a forfeiture for the same
21 act under s. 938.45 (1r) (b).

22 **SECTION 52.** 938.342 (1) (b) of the statutes is amended to read:

23 938.342 (1) (b) Order the person to participate in counseling or to participate
24 for not more than 25 hours in a supervised work program or other community service
25 work under s. 938.34 (5g).

SECTION 53. 938.342 (1) (c) of the statutes is amended to read:

938.342 (1) (c) Order the person to remain at home for not more than 30 days except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

SECTION 54. 938.343 (2) of the statutes is amended to read:

938.343 (2) Impose a forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing that violation or, if the violation is only applicable to a person under 18 years of age, \$50. Any such order shall include a finding that the juvenile alone is financially able to pay and shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may suspend any license issued under ch. 29 or suspend the juvenile's operating privilege as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. The court shall immediately take possession of the suspended license and forward it to the department which issued the license, together with the notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the court shall immediately notify the department, which will thereupon return the license to the person. Any recovery under this subsection shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

SECTION 55. 938.343 (4) of the statutes is amended to read:

938.343 (4) If the violation has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the court may order the juvenile to make repairs of the damage to property or reasonable

1 restitution for the damage or injury if the court, after taking into consideration the
2 well-being and needs of the victim, considers it beneficial to the well-being and
3 behavior of the juvenile. Any such order requiring payment for repairs or restitution
4 shall include a finding that the juvenile alone is financially able to pay and may allow
5 up to the date of the expiration of the order for the payment. Objection by the juvenile
6 to the amount of damages claimed shall entitle the juvenile to a hearing on the
7 question of damages before the amount of restitution is ordered. Any recovery under
8 this subsection shall be reduced by the amount recovered as restitution for the same
9 act under s. 938.45 (1r) (a).

10 **SECTION 56.** 938.346 (1) (a) of the statutes is amended to read:

11 938.346 (1) (a) The ~~procedure~~ procedures under s. 938.396 (1r) and (6) for
12 obtaining the identity of the juvenile and the juvenile's parents.

13 **SECTION 57.** 938.35 (1) (a) of the statutes is amended to read:

14 938.35 (1) (a) In sentencing proceedings after conviction of a felony or
15 misdemeanor and then only for the purpose of a presentence study ~~and report~~
16 investigation.

17 **SECTION 58.** 938.35 (1) (c) of the statutes is amended to read:

18 938.35 (1) (c) In a court of civil or criminal jurisdiction while it is exercising the
19 jurisdiction ~~of a~~ over an action affecting the family court and is considering the
20 custody of juveniles a juvenile.

21 **SECTION 59.** 938.355 (2) (c) of the statutes is amended to read:

22 938.355 (2) (c) If school attendance is a condition of an order under par. (b) 7.,
23 the order shall specify what constitutes a violation of the condition and shall direct
24 the school board of the school district, or the governing body of the private school, in
25 which the juvenile is enrolled to notify the county department that is responsible for

1 supervising the juvenile within 5 days after any violation of the condition by the
2 juvenile.

3 **SECTION 60.** 938.355 (6) (b) of the statutes is amended to read:

4 938.355 (6) (b) A motion for imposition of a sanction may be brought by the
5 person or agency primarily responsible for the provision of dispositional services, the
6 district attorney or corporation counsel or the court that entered the dispositional
7 order. If the court initiates the motion, that court is disqualified from holding a
8 hearing on the motion. Notice of the motion shall be given to the juvenile, guardian
9 ad litem, counsel, parent, guardian, legal custodian and all parties present at the
10 original dispositional hearing. The motion shall contain a statement of whether the
11 juvenile may be subject to the federal Indian child welfare act, 25 USC 1911 to 1963.

12 **SECTION 61.** 938.355 (6) (d) 2. of the statutes is amended to read:

13 938.355 (6) (d) 2. Suspension of or limitation on the use of the juvenile's
14 operating privilege, as defined under s. 340.01 (40), or of any approval issued under
15 ch. 29 for a period of not more than 3 years. If the juvenile does not hold a valid
16 operator's license under ch. 343, other than an instruction permit under s. 343.07 or
17 a restricted license under s. 343.08, on the date of the order issued under this
18 subdivision, the court may order the suspension to begin on the date that the
19 operator's license would otherwise be reinstated or issued after the juvenile applies
20 and qualifies for issuance or 2 years after the date of the order issued under this
21 subdivision, whichever occurs first. If the court suspends the juvenile's operating
22 privileges or an approval issued under ch. 29, the court shall immediately take
23 possession of the suspended license or approval and forward it to the department
24 that issued it, together with the notice of suspension.

25 **SECTION 62.** 938.355 (6) (e) of the statutes is created to read:

1 938.355 (6) (e) This subsection does not preclude a person who is aggrieved by
2 a juvenile's violation of a condition specified in sub. (2) (b) 7. from proceeding against
3 the juvenile for contempt of court under ch. 785.

4 **SECTION 63.** 938.355 (6d) (title) of the statutes is repealed and recreated to
5 read:

6 938.355 (6d) (title) SHORT-TERM DETENTION TO INVESTIGATE VIOLATION OF ORDER.

7 **SECTION 64.** 938.355 (6d) of the statutes is renumbered 938.355 (6d) (a) and
8 amended to read:

9 938.355 (6d) (a) Notwithstanding ss. 938.19 to 938.21, but subject to any
10 general written policies adopted by the court under s. 938.06 (1) or (2) and to any
11 policies adopted by the county board relating to the taking into custody and
12 placement of a juvenile under this subsection, if a juvenile who has been adjudged
13 delinquent violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker
14 or any person authorized to provide or providing intake or dispositional services for
15 the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into
16 custody and place the juvenile in a secure detention facility or juvenile portion of a
17 county jail that meets the standards promulgated by the department of corrections
18 by rule or in a place of nonsecure custody designated by ~~the caseworker~~ that person
19 for not more than 72 hours while the alleged violation is being investigated, if at the
20 dispositional hearing the court explained those conditions to the juvenile and
21 informed the juvenile of the possibility of that placement or if before the violation the
22 juvenile has acknowledged in writing that he or she has read, or has had read to him
23 or her, those conditions and that possible placement and that he or she understands
24 those conditions and that possible placement.

(b) Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subsection, if a juvenile who has been found to be in need of protection or services under s. 938.13 violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker or any person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the juvenile in a place of nonsecure custody designated by ~~the caseworker~~ that person for not more than 72 hours while the alleged violation is being investigated, if at the dispositional hearing the court explained those conditions to the juvenile and informed the juvenile of the possibility of that placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement.

(c) If a juvenile is held under par. (a) or (b) in a secure detention facility, juvenile portion of a county jail or place of nonsecure custody for longer than 72 hours, the juvenile is entitled to a hearing under sub. (6) (c) or s. 938.21. The hearing shall be conducted in the manner provided in sub. (6) or s. 938.21, except that for a hearing under s. 938.21 the hearing shall be conducted within 72 hours, rather than 24 hours, after the time that the decision to hold the juvenile was made and a written statement of the reasons for continuing to hold the juvenile in custody may be filed rather than a petition under s. 938.25.

SECTION 65. 938.355 (6g) (c) of the statutes is created to read:

1 938.355 (6g) (c) This subsection does not preclude a person who is aggrieved
2 by a juvenile's violation of a condition specified in sub. (2) (b) 7. from proceeding
3 against the juvenile for contempt of court under ch. 785.

4 **SECTION 66.** 938.355 (6m) (a) of the statutes is amended to read:

5 938.355 (6m) (a) If the court finds by a preponderance of the evidence that a
6 juvenile who has been found in need of protection or services based on habitual
7 truancy from school has violated a condition specified under sub. (2) (b) 7., the court
8 may order as a sanction any combination of the operating privilege suspension
9 specified in this paragraph and the dispositions specified in s. 938.342 (1) (b) to (f)
10 and (1m), regardless of whether the disposition was imposed in the order violated by
11 the juvenile, if at the dispositional hearing under s. 938.335 the court explained those
12 conditions to the juvenile and informed the juvenile of the possible sanctions under
13 this paragraph for a violation or if before the violation the juvenile has acknowledged
14 in writing that he or she has read, or has had read to him or her, those conditions and
15 possible sanctions and that he or she understands those conditions and possible
16 sanctions. The court may order as a sanction suspension or limitation on the use of
17 the juvenile's operating privilege, as defined under s. 340.01 (40), for not more than
18 one year. If the juvenile does not hold a valid operator's license under ch. 343, other
19 than an instruction permit under s. 343.07 or a restricted license under s. 343.08, on
20 the date of the order issued under this paragraph, the court may order the
21 suspension on limitation to begin on the date that the operator's license would
22 otherwise be reinstated or issued after the juvenile applies and qualifies for issuance
23 or 2 years after the date of the order issued under this paragraph, whichever occurs
24 first. If the court suspends an operating privilege under this paragraph, the court
25 shall immediately take possession of the suspended license and forward it to the

1 department of transportation with a notice stating the reason for and the duration
2 of the suspension.

3 **SECTION 67.** 938.355 (6m) (b) of the statutes is amended to read:

4 938.355 **(6m)** (b) A motion for the imposition of a sanction under par. (a) may
5 be brought by the person or agency primarily responsible for providing dispositional
6 services to the juvenile, ~~the administrator of the school district in which the juvenile~~
7 ~~is enrolled or resides,~~ the district attorney, the corporation counsel or the court that
8 entered the dispositional order. If the court initiates the motion, that court is
9 disqualified from holding a hearing on the motion. Notice of the motion shall be given
10 to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian and all
11 parties present at the original dispositional hearing.

12 **SECTION 68.** 938.396 (1) of the statutes is amended to read:

13 938.396 **(1)** Law enforcement officers' records of juveniles shall be kept
14 separate from records of adults. Law enforcement officers' records of juveniles shall
15 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
16 (1m), (1r) ~~or~~, (1t) or (1x) or s. 938.293 or by order of the court. This subsection does
17 not apply to representatives of the news media who wish to obtain information for
18 the purpose of reporting news without revealing the identity of the juvenile involved,
19 to the confidential exchange of information between the police and officials of the
20 school attended by the juvenile or other law enforcement or social welfare agencies
21 or to juveniles 10 years of age or older who are subject to the jurisdiction of the court
22 of criminal jurisdiction. A public school official who obtains information under this
23 subsection shall keep the information confidential as required under s. 118.125 and
24 a private school official who obtains information under this subsection shall keep the
25 information confidential in the same manner as is required of a public school official

1 under s. 118.125. A law enforcement agency that obtains information under this
2 subsection shall keep the information confidential as required under this subsection
3 and s. 48.396 (1). A social welfare agency that obtains information under this
4 subsection shall keep the information confidential as required under ss. 48.78 and
5 938.78.

6 **SECTION 69.** 938.396 (1m) (a) of the statutes, as affected by 1997 Wisconsin Act
7 27, is amended to read:

8 938.396 **(1m)** (a) A law enforcement agency, on its own initiative or on the
9 request of the school district administrator of a public school district, the
10 administrator of a private school or the school district administrator's designee of the
11 school district administrator or the private school administrator, may, subject to
12 official agency policy, provide to the school district administrator, private school
13 administrator or designee any information in its records relating to the use,
14 possession or distribution of alcohol or a controlled substance or controlled substance
15 analog by a juvenile enrolled in the public school district or private school. The
16 information shall be used by the school district or private school as provided under
17 s. 118.127 (2).

18 **SECTION 70.** 938.396 (1m) (am) of the statutes, as affected by 1997 Wisconsin
19 Act 27, is amended to read:

20 938.396 **(1m)** (am) A law enforcement agency, on its own initiative or on the
21 request of the school district administrator of a public school district, the
22 administrator of a private school or the school district administrator's designee of the
23 school district administrator or the private school administrator, may, subject to
24 official agency policy, provide to the school district administrator, private school
25 administrator or designee any information in its records relating to the illegal

1 possession by a juvenile of a dangerous weapon, as defined in s. 939.22 (10). The
2 information shall be used by the school district or private school as provided in s.
3 118.127 (2).

4 **SECTION 71.** 938.396 (1m) (ar) of the statutes, as created by 1997 Wisconsin Act
5 27, is amended to read:

6 938.396 **(1m)** (ar) A law enforcement agency, on its own initiative or on the
7 request of the school district administrator of a public school district, the
8 administrator of a private school or the school district administrator's designee of the
9 school district administrator or the private school administrator, may, subject to
10 official agency policy, provide to the school district administrator, private school
11 administrator or designee any information in its records relating to an act for which
12 a juvenile enrolled in the school district or private school was taken into custody
13 under s. 938.19 based on a law enforcement officer's belief that the juvenile was
14 committing or had committed an act that is a violation specified in s. 938.34 (4h) (a).
15 The information shall be used by the school district or private school as provided in
16 s. 118.127 (2).

17 **SECTION 72.** 938.396 (1m) (b) of the statutes, as affected by 1997 Wisconsin Act
18 27, is amended to read:

19 938.396 **(1m)** (b) A law enforcement agency, on its own initiative or on the
20 request of the school district administrator of a public school district, the
21 administrator of a private school or the school district administrator's designee of the
22 school district administrator or the private school administrator, may, subject to
23 official agency policy, provide to the school district administrator, private school
24 administrator or designee any information in its records relating to the act for which
25 a juvenile enrolled in the public school district or private school was adjudged

1 delinquent. The information shall be used by the school district or private school as
2 provided in s. 118.127 (2).

3 **SECTION 73.** 938.396 (1m) (c) of the statutes is amended to read:

4 938.396 **(1m)** (c) On petition of a law enforcement agency to review pupil
5 records, as defined in s. 118.125 (1) (d), other than pupil records that may be disclosed
6 without a court order under s. 118.125 (2) or (2m), for the purpose of investigating
7 alleged delinquent or criminal activity, the court may order the school board of the
8 school district, or the governing body of the private school, in which a juvenile is
9 enrolled to disclose to the law enforcement agency the pupil records of that juvenile
10 as necessary for the law enforcement agency to pursue its investigation. The law
11 enforcement agency may use the pupil records only for the purpose of its
12 investigation and may make the pupil records available only to employees of the law
13 enforcement agency who are working on the investigation.

14 **SECTION 74.** 938.396 (1m) (d) of the statutes is created to read:

15 938.396 **(1m)** (d) On petition of a fire investigator under s. 165.55 (15) to review
16 pupil records, as defined in s. 118.125 (1) (d), other than pupils records that may be
17 disclosed without a court order under s. 118.125 (2) or (2m), for the purpose of an
18 investigation under s. 165.55, the court may order the school board of the school
19 district in which a juvenile is enrolled to disclose to the fire investigator the pupil
20 records of that juvenile as necessary for the fire investigator to pursue his or her
21 investigation. The fire investigator may use the pupil records only for the purpose
22 of pursuing his or her investigation and may make the pupil records available only
23 to employees of the fire investigator who are working on the investigation.

24 **SECTION 75.** 938.396 (1x) of the statutes is created to read:

1 938.396 (1x) If requested by a fire investigator under s. 165.55 (15), a law
2 enforcement agency may, subject to official agency policy, disclose to the fire
3 investigator any information in its records relating to a juvenile as necessary for the
4 fire investigator to pursue his or her investigation under s. 165.55. The fire
5 investigator may use and further disclose the information only for the purpose of
6 pursuing that investigation.

7 **SECTION 76.** 938.396 (2) (d) of the statutes is amended to read:

8 938.396 (2) (d) Upon request of a court of criminal jurisdiction or a district
9 attorney to review court records for the purpose of setting bail under ch. 969,
10 impeaching a witness under s. 906.09 or investigating and determining whether a
11 person has possessed a firearm in violation of s. 941.29 (2) or upon request of a court
12 of civil jurisdiction or the attorney for a party to a proceeding in that court to review
13 court records for the purpose of impeaching a witness under s. 906.09, the court
14 assigned to exercise jurisdiction under this chapter and ch. 48 shall open for
15 inspection by authorized representatives of the requester the records of the court
16 relating to any juvenile who has been adjudicated delinquent ~~for an act that would~~
17 ~~be a felony if committed by an adult~~ the subject of a proceeding under this chapter.

18 **SECTION 77.** 938.396 (2) (dr) of the statutes is created to read:

19 938.396 (2) (dr) Upon request of the department of corrections or any other
20 person preparing a presentence investigation under s. 972.15 to review court records
21 for the purpose of preparing the presentence investigation, the court shall open for
22 inspection by any authorized representative of the requester the records of the court
23 relating to any juvenile who has been the subject of a proceeding under this chapter.

24 **SECTION 78.** 938.396 (2) (g) of the statutes is created to read:

1 938.396 (2) (g) Upon request of any other court assigned to exercise jurisdiction
2 under this chapter and ch. 48, a district attorney or corporation counsel to review
3 court records for the purpose of any proceeding in that other court, the court shall
4 open for inspection by any authorized representative of the requester the records of
5 the court relating to any juvenile who has been the subject of a proceeding under this
6 chapter.

7 **SECTION 79.** 938.396 (2) (h) of the statutes is created to read:

8 938.396 (2) (h) Upon request of the court having jurisdiction over an action
9 affecting the family or of an attorney for a party or a guardian ad litem in an action
10 affecting the family to review court records for the purpose of considering the custody
11 of a juvenile, the court assigned to exercise jurisdiction under this chapter and ch.
12 48 shall open for inspection by an authorized representative of the requester the
13 records of the court relating to any juvenile who has been the subject of a proceeding
14 under this chapter.

15 **SECTION 80.** 938.396 (2) (i) of the statutes is created to read:

16 938.396 (2) (i) Upon request of the court assigned to exercise probate
17 jurisdiction, the attorney general, the personal representative or special
18 administrator of, or an attorney performing services for, the estate of a decedent in
19 any proceeding under chs. 851 to 879, a person interested, a defined in s. 851.21, or
20 an attorney, attorney-in-fact, guardian ad litem or guardian of the estate of a person
21 interested to review court records for the purpose of s. 852.01 (2m) (bg), the court
22 assigned to exercise jurisdiction under this chapter and ch. 48 shall open for
23 inspection by any authorized representative of the requester the records of the court
24 relating to any juvenile who has been adjudged delinquent on the basis of unlawfully
25 and intentionally killing a person.

1 **SECTION 81.** 938.396 (2) (j) of the statutes is created to read:

2 938.396 **(2)** (j) Upon request of a fire investigator under s. 165.55 (15) to review
3 court records for the purpose of pursuing an investigation under s. 165.55, the court
4 shall open for inspection by authorized representatives of the requester the records
5 of the court relating to any juvenile who has been adjudicated delinquent or found
6 to be in need of protection or services under s. 938.13 (12) or (14) for a violation of s.
7 940.08, 940.24, 941.10, 941.11, 943.01, 943.012, 943.013, 943.02, 943.03, 943.04,
8 943.05, 943.06 or for an attempt to commit any of those violations.

9 **SECTION 82.** 938.396 (6) of the statutes is amended to read:

10 938.396 **(6)** ~~Notwithstanding sub. (5),~~ The victim-witness coordinator may
11 disclose to a victim of a juvenile's act or alleged act ~~may, with the approval of the~~
12 court, ~~obtain the names~~ the name and address of the juvenile and the juvenile's
13 parents.

14 **SECTION 83.** 938.396 (7) (a) of the statutes is amended to read:

15 938.396 **(7)** (a) Notwithstanding sub. (2) (a), if a petition under s. 938.12 or
16 938.13 (12) is filed alleging that a juvenile has committed a delinquent act that would
17 be a felony if committed by an adult, the court clerk shall notify the school board of
18 the school district, or the governing body of the private school, in which the juvenile
19 is enrolled or the ~~school board's designee~~ of the school board or governing body of the
20 fact that the petition has been filed and the nature of the delinquent act alleged in
21 the petition. Notwithstanding sub. (2) (a) and subject to par. (b), if a juvenile is
22 adjudged delinquent, within 5 days after the date on which the dispositional order
23 is entered, the court clerk shall notify the school board of the school district, or the
24 governing body of the private school, in which the juvenile is enrolled or the school
25 board's designee of the school board or governing body of the fact that the juvenile

1 has been adjudicated delinquent, the nature of the violation committed by the
2 juvenile and the disposition imposed on the juvenile under s. 938.34 as a result of
3 that violation. Notwithstanding sub. (2) (a), if school attendance is a condition of a
4 dispositional order under s. 938.355 (2) (b) 7., within 5 days after the date on which
5 the dispositional order is entered, the court clerk shall notify the school board of the
6 school district, or the governing body of the private school, in which the juvenile is
7 enrolled or the school board's designee of the school board or governing body of the
8 fact that the juvenile's school attendance is a condition of a dispositional order.

9 **SECTION 84.** 938.396 (7) (b) of the statutes is amended to read:

10 938.396 (7) (b) If a juvenile is found to have committed a delinquent act at the
11 request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would
12 have been a felony under chs. 939 to 948 or 961 if committed by an adult and is
13 adjudged delinquent on that basis, within 5 days after the date on which the
14 dispositional order is entered the court clerk shall notify the school board of the
15 school district, or the governing body of the private school, in which the juvenile is
16 enrolled or the school board's designee of the school board or governing body of the
17 fact that the juvenile has been adjudicated delinquent on that basis, the nature of
18 the violation committed by the juvenile and the disposition imposed on the juvenile
19 under s. 938.34 as a result of that violation.

20 **SECTION 85.** 938.396 (7) (bm) of the statutes is amended to read:

21 938.396 (7) (bm) Notwithstanding sub. (2) (a), in addition to the disclosure
22 made under par. (a) or (b), if a juvenile is adjudicated delinquent and as a result of
23 the dispositional order is enrolled in a different school district or private school from
24 the school district or private school in which the juvenile is enrolled at the time of the
25 dispositional order, the court clerk, within 5 days after the date on which the

1 dispositional order is entered, shall provide the school board of the juvenile's new
2 school district, the governing body of the juvenile's new private school or the school
3 board's designee of the school board or governing body with the information specified
4 in par. (a) or (b), whichever is applicable, and, in addition, shall notify that school
5 board, governing body or designee of whether the juvenile has been adjudicated
6 delinquent previously by that court, the nature of any previous violations committed
7 by the juvenile and the dispositions imposed on the juvenile under s. 938.34 as a
8 result of those previous violations.

9 **SECTION 86.** 938.396 (7) (c) of the statutes is amended to read:

10 938.396 (7) (c) No information from the juvenile's court records, other than
11 information disclosed under par. (a), (b) or (bm), may be disclosed to the school board
12 of the school district, or the governing body of the private school, in which the juvenile
13 is enrolled or the school board's designee of the school board or governing body except
14 by order of the court. Any information provided under this subsection to the school
15 board of the school district, or the governing body of the private school, in which the
16 juvenile is enrolled or the school board's designee of the school board or governing
17 body shall be disclosed by the school board, governing body or designee to employees
18 of the school district or private school who work directly with the juvenile or who have
19 been determined by the school board, governing body or designee to have legitimate
20 educational interests, including safety interests, in the information. A school district
21 or private school employee to whom information is disclosed under this paragraph
22 shall may not further disclose the information. A school board shall not use any
23 information provided under this subsection as the sole basis for expelling or
24 suspending a juvenile. A school board member of a school board or of the governing
25 body of a private school or an employee of a school district or private school may not

1 be held personally liable for any damages caused by the nondisclosure of any
2 information specified in this paragraph unless the member or employee acted with
3 actual malice in failing to disclose the information. A school district or private school
4 may not be held liable for any damages caused by the nondisclosure of any
5 information specified in this paragraph unless the school district, private school or
6 its agent acted with gross negligence or with reckless, wanton or intentional
7 misconduct in failing to disclose the information.

8 **SECTION 87.** 938.45 (1r) of the statutes is created to read:

9 938.45 (1r) (a) In a proceeding in which a juvenile has been found to have
10 committed a delinquent act or a civil law or ordinance violation that has resulted in
11 damage to the property of another, or in actual physical injury to another excluding
12 pain and suffering, the court may order a parent who has custody, as defined in s.
13 895.035 (1), of the juvenile to make reasonable restitution for the damage or injury.
14 Except for recovery for retail theft under s. 943.51, the maximum amount of any
15 restitution ordered under this paragraph for damage or injury resulting from any
16 one act of a juvenile or from the same act committed by 2 or more juveniles in the
17 custody of the same parent may not exceed the amount specified in s. 799.01 (1) (d).
18 Any order under this paragraph shall include a finding that the parent who has
19 custody of the juvenile is financially able to pay the amount ordered and may allow
20 up to the date of expiration of the order for the payment. Any recovery under this
21 paragraph shall be reduced by the amount recovered as restitution for the same act
22 under s. 938.34 (5) or 938.343 (4).

23 (b) In a proceeding in which the court has determined under s. 938.34 (8) or
24 938.343 (2) that the imposition of a forfeiture would be in the best interest of the
25 juvenile and in aid of rehabilitation, the court may order a parent who has custody,

1 as defined in s. 895.035 (1), of the juvenile to pay the forfeiture. The amount of any
2 forfeiture ordered under this paragraph may not exceed the amount specified in s.
3 799.01 (1) (d). Any order under this paragraph shall include a finding that the parent
4 who has custody of the juvenile is financially able to pay the amount ordered and
5 shall allow up to 12 months after the date of the order for the payment. Any recovery
6 under this paragraph shall be reduced by the amount recovered as a forfeiture for
7 the same act under s. 938.34 (8) or 938.343 (2).

8 **SECTION 88.** 938.45 (2) of the statutes is amended to read:

9 938.45 (2) No order under sub. (1) (a) ~~or~~, (1m) (a) or (1r) (a) or (b) may be entered
10 until the person who is the subject of the contemplated order is given an opportunity
11 to be heard on the contemplated order. The court shall cause notice of the time, place
12 and purpose of the hearing to be served on the person personally at least 10 days
13 before the date of hearing. The procedure in these cases shall, as far as practicable,
14 be the same as in other cases in the court. At the hearing the person may be
15 represented by counsel and may produce and cross-examine witnesses. Any person
16 who fails to comply with any order issued by a court under sub. (1) (a) ~~or~~, (1m) (a) or
17 (1r) (a) or (b) may be proceeded against for contempt of court. If the person's conduct
18 involves a crime, the person may be proceeded against under the criminal law.

19 **SECTION 89.** 938.78 (2) (b) 1. of the statutes is amended to read:

20 938.78 (2) (b) 1. Paragraph (a) does not apply to the confidential exchange of
21 information between an agency, and another social welfare agency, a law
22 enforcement agency, the victim-witness coordinator ~~or~~, a fire investigator under s.
23 165.55 (15), a public school district or a private school regarding an individual in the
24 care or legal custody of the agency. A social welfare agency that obtains information
25 under this paragraph shall keep the information confidential as required under this

1 section and s. 48.78. A law enforcement agency that obtains information under this
2 paragraph shall keep the information confidential as required under ss. 48.396 (1)
3 and 938.396 (1). A public school that obtains information under this paragraph shall
4 keep the information confidential as required under s. 118.125 and a private school
5 that obtains information under this paragraph shall keep the information
6 confidential in the same manner as is required of a public school under s. 118.125.

7 **SECTION 90.** 938.78 (2) (b) 2. of the statutes is amended to read:

8 938.78 (2) (b) 2. On petition of an agency to review pupil records, as defined in
9 s. 118.125 (1) (d), other than pupil records that may be disclosed without court order
10 under s. 118.125 (2) or (2m), for the purpose of providing treatment or care for an
11 individual in the care or legal custody of the agency, the court may order the school
12 board of the school district, or the governing body of the private school, in which an
13 individual is enrolled to disclose to the agency the pupil records of the individual as
14 necessary for the agency to provide that treatment or care. The agency may use the
15 pupil records only for the purpose of providing treatment or care and may make the
16 pupil records available only to employees of the agency who are providing treatment
17 or care for the individual.

18 **SECTION 91.** 938.78 (2) (e) of the statutes is amended to read:

19 938.78 (2) (e) Paragraph (a) does not prohibit the department from disclosing
20 information about an individual adjudged delinquent under s. ~~938.31~~ 938.183 or
21 938.34 for a sexually violent offense, as defined in s. 980.01 (6), to the department
22 of justice, or a district attorney or a judge acting under ch. 980 or to an attorney who
23 represents a person subject to a petition under ch. 980. The court in which the
24 petition under s. 980.02 is filed may issue any protective orders that it determines
25 are appropriate concerning information disclosed under this paragraph.

SECTION 92. 970.032 (title) of the statutes is amended to read:

970.032 (title) Preliminary examination; child juvenile under original adult court jurisdiction.

SECTION 93. 970.032 (1) of the statutes is amended to read:

970.032 (1) Notwithstanding s. 970.03, if a preliminary examination is held regarding a child juvenile who is subject to the original jurisdiction of the court of criminal jurisdiction under s. 938.183 (1) or (2), the court shall first determine whether there is probable cause to believe that the child juvenile has committed the violation of which he or she is accused under the circumstances specified in s. 938.183 (1) (a), (am), (ar), (b) or (c) or (2), whichever is applicable. If the court does not make that finding, the court shall order that the child juvenile be discharged but proceedings may be brought regarding the child juvenile under ch. 938.

SECTION 94. 970.032 (2) (intro.) of the statutes is amended to read:

970.032 (2) (intro.) If the court finds probable cause ~~as specified in sub. (1) to~~ believe that the juvenile has committed the violation of which he or she is accused under the circumstances specified in s. 938.183 (1) (a), (am), (ar), (b) or (c), the court shall determine whether to retain jurisdiction or to transfer jurisdiction to the court assigned to exercise jurisdiction under chs. 48 and 938. The court shall retain jurisdiction unless the child juvenile proves by a preponderance of the evidence all of the following:

SECTION 95. 970.032 (2) (a) of the statutes is amended to read:

970.032 (2) (a) That, if convicted, the ~~child~~ juvenile could not receive adequate treatment in the criminal justice system.

SECTION 96. 970.032 (2) (c) of the statutes is amended to read:

1 970.032 (2) (c) That retaining jurisdiction is not necessary to deter the ~~child~~
2 juvenile or other ~~children~~ juveniles from committing the violation of which the ~~child~~
3 juvenile is accused under the circumstances specified in s. 938.183 (1) (a), (am), (ar),
4 (b) or (c), whichever is applicable.

5 **SECTION 97.** 970.035 of the statutes is amended to read:

6 **970.035 (title) Preliminary examination; ~~child~~ juvenile younger than**
7 **16 15 years old.** Notwithstanding s. 970.03, if a preliminary examination under s.
8 970.03 is held regarding a ~~child~~ juvenile who was waived under s. 938.18 for a
9 violation which is alleged to have occurred prior to his or her 15th birthday, the court
10 may bind the ~~child~~ juvenile over for trial only if there is probable cause to believe that
11 a crime under s. 940.03, 940.06, 940.225 (1) or (2), 940.305, 940.31 or 943.10 (2),
12 943.32 (2) or 961.41 (1) has been committed or that a crime that would constitute a
13 felony under chs. 939 to 948 or 961 if committed by an adult has been committed at
14 the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9). If the
15 court does not make any of those findings, the court shall order that the ~~child~~ juvenile
16 be discharged but proceedings may be brought regarding the ~~child~~ juvenile under ch.
17 938.

18 **SECTION 98.** 971.31 (13) (a) (intro.) of the statutes is amended to read:

19 971.31 (13) (a) (intro.) A ~~child~~ juvenile over whom the court has jurisdiction
20 under s. 938.183 (1) (b) or (c) on a misdemeanor action may make a motion before trial
21 to transfer jurisdiction to the court assigned to exercise jurisdiction under chs. 48 and
22 938. The motion may allege that the ~~child~~ juvenile did not commit the violation
23 under the circumstances described in s. 938.183 (1) (b) or (c), whichever is applicable,
24 or that transfer of jurisdiction would be appropriate because of all of the following:

25 **SECTION 99.** 971.31 (13) (a) 1. of the statutes is amended to read:

1 971.31 (13) (a) 1. If convicted, the ~~child~~ juvenile could not receive adequate
2 treatment in the criminal justice system.

3 **SECTION 100.** 971.31 (13) (a) 3. of the statutes is amended to read:

4 971.31 (13) (a) 3. Retaining jurisdiction is not necessary to deter the ~~child~~
5 juvenile or other ~~children~~ juveniles from committing the violation of which the ~~child~~
6 juvenile is accused under the circumstances specified in s. 938.183 (1) (b) or (c),
7 whichever is applicable.

8 **SECTION 101.** 971.31 (13) (b) of the statutes is amended to read:

9 971.31 (13) (b) The court shall retain jurisdiction unless the ~~child~~ juvenile
10 proves by a preponderance of the evidence that he or she did not commit the violation
11 under the circumstances described in s. 938.183 (1) (b) or (c), whichever is applicable,
12 or that transfer would be appropriate because all of the factors specified in par. (a)
13 1., 2. and 3. are met.

14 **SECTION 102.** 972.14 (2) of the statutes is amended to read:

15 972.14 (2) Before pronouncing sentence, the court shall ask the defendant why
16 sentence should not be pronounced upon him or her and allow the district attorney,
17 defense counsel and defendant an opportunity to make a statement with respect to
18 any matter relevant to the sentence. In addition, if the defendant is under 21 years
19 of age and if the court has not ordered a presentence investigation under s. 972.15,
20 the court shall ask the defendant if he or she has been adjudged delinquent under
21 ch. 48, 1993 stats., or ch. 938 or has had a similar adjudication in any other state in
22 the 3 years immediately preceding the date the criminal complaint relating to the
23 present offense was issued.

24 **SECTION 103.** 972.15 (2s) of the statutes is amended to read:

1 972.15 (2s) If the defendant is under 21 years of age, the person preparing the
2 presentence investigation report shall attempt to determine whether the defendant
3 has been adjudged delinquent under ch. 48, 1993 stats., or ch.938 or has had a similar
4 adjudication in any other state in the 3 years immediately preceding the date the
5 criminal complaint relating to the present offense was issued and, if so, shall include
6 that information in the report.

7 **SECTION 104.** 980.015 (2) (b) of the statutes is amended to read:

8 980.015 (2) (b) The anticipated release from a secured correctional facility, as
9 defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02
10 (15g), of a person adjudicated delinquent under s. 938.183 or 938.34 on the basis of
11 a sexually violent offense.

12 **SECTION 105.** 980.02 (2) (ag) of the statutes is amended to read:

13 980.02 (2) (ag) The person is within 90 days of discharge or release, on parole
14 or otherwise, from a sentence that was imposed for a conviction for a sexually violent
15 offense, from a secured correctional facility, as defined in s. 938.02 (15m), or a secured
16 child caring institution, as defined in s. 938.02 (15g), if the person was placed in the
17 facility for being adjudicated delinquent under s. 938.183 or 938.34 on the basis of
18 a sexually violent offense or from a commitment order that was entered as a result
19 of a sexually violent offense.

20 **SECTION 106. Nonstatutory provisions.**

21 (1) AUDIT OF SECURE DETENTION OF JUVENILES. The legislative audit bureau is
22 requested to perform a performance evaluation audit of the use by counties of
23 placement of a juvenile, as defined in section 938.02 (10m) of the statutes, in a secure
24 detention facility, as defined in section 938.02 (16) of the statutes, as a disposition
25 under section 938.34 (3) (f) of the statutes, as a sanction under section 938.355 (6)

(d) 1. of the statutes or as a place of short-term detention under section 938.355 (6d) or 938.534 (1) of the statutes. The audit shall examine the primary reasons why a juvenile is placed in a secure detention facility as a disposition, as a sanction or as a place of short-term detention and the length of time that a juvenile is held in a secure detention facility as a disposition, as a sanction or as a place of short-term detention; and shall evaluate whether the length of time that a juvenile is held in a secure detention facility is related to any reduction in repeat offenses or repeat violations of dispositional orders, distributed according to the length of time that a juvenile is held in a secure detention facility. If the legislative audit bureau performs the audit, it shall submit its report as described in section 13.94 (1) (b) of the statutes by December 31, 1998.

SECTION 107. Initial applicability.

(1) ORIGINAL ADULT COURT JURISDICTION. The treatment of sections 48.66 (1), 301.08 (1) (b) 3., 938.183 (1) (ar) and (2) (intro.), (a) and (b), 938.78 (2) (e), 970.032 (title), (1) and (2) (intro.), (a) and (c), 970.035, 971.31 (13) (a) (intro.), 1. and 3. and (b), 980.015 (2) (b) and 980.02 (2) (ag) of the statutes, the renumbering of section 938.183 (1m) (c) of the statutes and the creation of section 938.183 (1m) (c) 1. and 2. of the statutes first apply to acts committed by a juvenile on the effective date of this subsection.

(2) RESTITUTION AND FORFEITURES. The treatment of sections 895.035 (2m) (a) and (b), (3) and (6), 938.245 (2) (a) 5. a. and am., 938.32 (1t) (a) 1. and 1m., 938.34 (5) (a) and (8), 938.343 (2) and (4) and 938.45 (1r) and (2) of the statutes first applies to acts committed by a juvenile on the effective date of this subsection.

(3) SANCTIONS AND CONTEMPT. The treatment of sections 118.163 (2) (b) and (c), 938.342 (1) (b) and (c) and 938.355 (6) (d) 2. and (e), (6g) (c) and (6m) (a) and (b) of

1 the statutes first applies to dispositional orders entered on the effective date of this
2 subsection.

3 (4) RULES OF EVIDENCE. The treatment of sections 800.08 (4), 938.17 (2) (h) 3.
4 and 938.299 (4) (b) of the statutes first applies to postdispositional hearings held on
5 the effective date of this subsection.

6 (5) SHORT-TERM DETENTION. The treatment of sections 938.067 (8m), 938.069 (1)
7 (dm) and 938.08 (2) of the statutes, the renumbering and amendment of section
8 938.355 (6d) of the statutes and the repeal and recreation of section 938.355 (6d)
9 (title) of the statutes first apply to a juvenile who is taken into custody under section
10 938.355 (6d) of the statutes, as affected by this act, on the effective date of this
11 subsection.

12 **SECTION 108. Effective date.**

13 (1) This act takes effect on January 1, 1998, or on the day after publication,
14 whichever is later.

15 (END)