



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0559/P2
EAW:skw

DOA:.....Schmidt, BB0154 - Minimum age of delinquency

FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

JUVENILE CORRECTIONAL SYSTEM

Age of delinquency

Under current law, a child age 10 or over may be adjudged delinquent by the juvenile court for an act that would be a crime if committed by an adult. Under this bill, only a child age 12 or over may be adjudged delinquent by the juvenile court for an act that would be a crime if committed by an adult.

Under current law, a child age 10 or over may be subject to original jurisdiction by a criminal court if the child commits certain crimes. Under this bill, the age of original adult court jurisdiction is raised from 10 to 12.

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

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

SECTION 1. 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 the adult expectant mothers of unborn children shall be kept separate from records of other adults. Law enforcement officers' records of children and the adult expectant mothers of unborn children shall not be open to inspection or their contents disclosed except under sub. (1b), (1d), (5), or (6) or s. 48.293 or 938.396 (2m) (c) 1p. 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 or adult expectant mother involved, to the confidential exchange of information between the police and officials of the public or private school attended by the child or other law enforcement or social welfare agencies, or to children ~~10~~ 12 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 information confidential in the same manner as is required of a public school official under s. 118.125. This subsection does not apply to the confidential exchange of information between the police and officials of the tribal school attended by the child if the police determine that enforceable protections are provided by a tribal school policy or tribal law that requires tribal school officials to keep the information confidential in a manner at least as stringent as is required of a public school official under s. 118.125. A law enforcement agency that obtains information under this subsection shall keep the information confidential as required under this subsection and s. 938.396 (1) (a). A social welfare agency that obtains information

under this subsection shall keep the information confidential as required under ss. 48.78 and 938.78.

SECTION 2. 48.685 (1) (bm) of the statutes is amended to read:

48.685 (1) (bm) “Nonclient resident” means a person, including a person who is under 18 years of age, but not under ~~10~~ 12 years of age, who resides, or is expected to reside, at an entity or with a caregiver specified in par. (ag) 1. am., who is not a client of the entity or caregiver, and who has, or is expected to have, regular, direct contact with clients of the entity or caregiver.

SECTION 3. 48.686 (1) (bm) of the statutes is amended to read:

48.686 (1) (bm) “Household member” means a person who is age ~~10~~ 12 or older, who resides, or is expected to reside, at a child care program, and who is not a client of the child care program or caregiver.

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

301.26 (4) (cm) 1. Notwithstanding pars. (a), (b), and (bm), the department shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the appropriations under s. 20.410 (3) (hm), (ho), and (hr) for the purpose of reimbursing juvenile correctional facilities, secured residential care centers for children and youth, alternate care providers, and community supervision providers for costs incurred beginning on July 1, 1996, for the care of any juvenile 14 years of age or over who has been placed in a juvenile correctional facility based on a delinquent act that is a violation of s. 943.23 (1m) or (1r), 1999 stats., s. 948.35, 1999 stats., or s. 948.36, 1999 stats., or s. 939.32 (1) (a), 940.03, 940.06, 940.21, 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1), 948.025 (1), or 948.30 (2), that is a conspiracy to commit any of those violations, or that is an attempted violation of s. 943.32 (2) and for the care of any juvenile ~~10~~ 12 years of age

or over who has been placed in a juvenile correctional facility or secured residential care center for children and youth for attempting or committing a violation of s. 940.01 or for committing a violation of s. 940.02 or 940.05.

SECTION 5. 938.02 (3m) of the statutes is amended to read:

938.02 (3m) “Delinquent” means a juvenile who is ~~10~~ 12 years of age or older who has violated any state or federal criminal law, except as provided in ss. 938.17, 938.18 and 938.183, or who has committed a contempt of court, as defined in s. 785.01 (1), as specified in s. 938.355 (6g).

SECTION 6. 938.12 (1) of the statutes is amended to read:

938.12 (1) IN GENERAL. The court has exclusive jurisdiction, except as provided in ss. 938.17, 938.18, and 938.183, over any juvenile ~~10~~ 12 years of age or older who is alleged to be delinquent.

SECTION 7. 938.13 (12) of the statutes is amended to read:

938.13 (12) DELINQUENT ACT BEFORE AGE ~~10~~ 12. The juvenile is under ~~10~~ 12 years of age and has committed a delinquent act.

SECTION 8. 938.183 (1) (am) of the statutes is amended to read:

938.183 (1) (am) A juvenile who is alleged to have attempted or committed a violation of s. 940.01 or to have committed a violation of s. 940.02 or 940.05 on or after the juvenile’s ~~10th~~ 12th birthday.

SECTION 9. 938.245 (2g) of the statutes is amended to read:

938.245 (2g) GRAFFITI VIOLATION. If the deferred prosecution agreement is based on an allegation that the juvenile violated s. 943.017 and the juvenile has attained ~~10~~ 12 years of age, the agreement may require that the juvenile participate for not less than 10 hours nor more than 100 hours in a supervised work program under s. 938.34 (5g) or perform not less than 10 hours nor more than 100 hours of

other community service work, except that if the juvenile has not attained 14 years of age the maximum number of hours is 40.

SECTION 10. 938.32 (1x) of the statutes is amended to read:

938.32 (1x) SUPERVISED WORK PROGRAM. If the petition alleges that the juvenile violated s. 943.017 and the juvenile has attained ~~10~~ 12 years of age, the court may require, as a condition of the consent decree, that the juvenile participate for not less than 10 hours nor more than 100 hours in a supervised work program under s. 938.34 (5g) or perform not less than 10 hours nor more than 100 hours of other community service work, except that if the juvenile has not attained 14 years of age the maximum number of hours is a total of 40 under the consent decree.

SECTION 11. 938.396 (1) (b) 5. of the statutes is amended to read:

938.396 (1) (b) 5. The disclosure of information relating to a juvenile ~~10~~ 12 years of age or over who is subject to the jurisdiction of a court of criminal jurisdiction.

SECTION 12. 938.52 (1) (d) of the statutes is amended to read:

938.52 (1) (d) Institutions, facilities, and services, including forestry or conservation camps, for the training and treatment of juveniles ~~10~~ 12 years of age or older who have been adjudged delinquent.

SECTION 13. 948.40 (1) of the statutes is amended to read:

948.40 (1) No person may intentionally encourage or contribute to the delinquency of a child. This subsection includes intentionally encouraging or contributing to an act by a child under the age of ~~10~~ 12 which would be a delinquent act if committed by a child ~~10~~ 12 years of age or older.

SECTION 14. 948.40 (2) of the statutes is amended to read:

948.40 (2) No person responsible for the child's welfare may, by disregard of the welfare of the child, contribute to the delinquency of the child. This subsection

includes disregard that contributes to an act by a child under the age of ~~10~~ 12 that would be a delinquent act if committed by a child ~~10~~ 12 years of age or older.

SECTION 9106. Nonstatutory provisions; Children and Families.

(1) CRIMINAL HISTORY AND CHILD ABUSE RECORD SEARCHES.

(a) Notwithstanding s. 48.685 (1) (bm), for the purposes of conducting a criminal history and child abuse record search under s. 48.685, “nonclient resident” includes a person who has attained 10 years of age on the effective date of this paragraph.

(b) Notwithstanding s. 48.686 (1) (bm), for the purposes of conducting a criminal history and child abuse record search under s. 48.686, “household member” includes a person who has attained 10 years of age on the effective date of this paragraph.

SECTION 9306. Initial applicability; Children and Families.

(1) AGE OF JUVENILE DELINQUENCY. The treatment of ss. 48.396 (1), 301.26 (4) (cm) 1., 938.02 (3m), 938.12 (1), 938.13 (12), 938.183 (1) (am), 938.245 (2g), 938.32 (1x), 938.396 (1) (b) 5., 938.52 (1) (d), and 948.40 (1) and (2) first applies to a juvenile who is alleged to be delinquent on the effective date of this subsection.

(END)