

1 **AN ACT** *to repeal* 938.357 (4) (d); *to renumber and amend* 938.34 (8d) (a), (b), (c)
2 and (d); *to amend* 938.33 (1) (intro.), (b), (c) and (f), 938.33 (3) (intro.) and (a),
3 938.33 (3r), 938.33 (4m) (intro.), 938.335 (1), 938.335 (3g), 938.335 (3m) (b),
4 938.34 (2) (a) and (b), 938.34 (2g) (intro.) and (a), 938.34 (2m) (a), 938.34 (3) (a),
5 (b) and (e), 938.34 (4d), 938.34 (4h) (a) and (b), 938.34 (4m) (intro.), (a) and (b)
6 (intro.), 938.34 (4n) (intro.) and (b), 938.34 (5) (a) and (am), 938.34 (5g) (b), 938.34
7 (6) (am) 1. and 2., 938.34 (6r) (a) and (b) and (6s), 938.34 (7d) (c), 938.34 (8),
8 938.34 (13r), (13t), (14d) and (14q), 938.34 (14r) (a), 938.34 (15) (b), 938.34 (16),
9 938.342 (1d) (intro.), 938.342 (1g) (intro.) and (b), 938.342 (1g) (f) 1., 938.342
10 (1m), (1r) and (2), 938.343 (2), 938.343 (2m) (a), 938.343 (4), (5), (6) and (7),
11 938.343 (9), 938.344 (2) (a), (b) and (c), 938.344 (2b) (a), (b) and (c), 938.344 (2d)
12 (a), (b) and (c), 938.344 (2e) (a) 1., 2. and 3. and (b) and (c), 938.344 (2g) (a) 1. and
13 (d), 938.345 (1) (intro.), (a), (e) and (g), 938.345 (2), 938.345 (3) (a) (intro.) and (c),
14 938.346 (1) (d) 2., 938.346 (1m) and (2), 938.35 (1m) and (2), 938.355 (1), 938.355
15 (2) (b) 1., 1m., 4m., 6. and 6r., 938.355 (2c) (a) (intro.) and (b), 938.355 (2d) (a) 1.,
16 (b) 1., 2., 3. and 4. and (c) 1., 938.355 (2e) (b), 938.355 (2m), 938.355 (3) (a) and (b)
17 1. and 1m., 938.355 (3m), (4) and (4m) (a), 938.355 (6) (a) and (an), 938.355 (6)
18 (cm), 938.355 (6d) (a) 1. and 2. and (b) 1. and 2., 938.355 (6d) (c) 1. and 2. and (d),
19 938.355 (6g) (a) and (b) (intro.), 938.355 (6m) (a) (intro.), (ag), (am) and (cm),
20 938.355 (7), 938.356 (1), 938.357 (1) (am) 1. and 3., 938.357 (1) (c) and (2),
21 938.357 (2m) and (2r), 938.357 (2v) (a) 1., 2. and 3. and (b), 938.357 (2v) (c) 1.,
22 938.357 (3), 938.357 (4) (a) and (b) 1., 2. and 3., 938.357 (4) (c) 1., 2. and 3.,

1 938.357 (4d) (a) and (am), 938.357 (4g) (a), (b), (c) (intro.) and (d), 938.357 (5) (a),
2 (c), (d), (e) and (f), 938.357 (5m) (a), 938.357 (6), 938.36 (2), 938.361 (2), 938.362
3 (3) and (4) (a), 938.363 (1) (a) and (b), (1m) and (2), 938.364, 938.365 (1) and (1m),
4 938.365 (2) (intro.), 938.365 (2) (a) 2. and (c), 938.365 (2m) (a), (ad) 1. and (ag),
5 938.365 (5) and (6), 938.368 (2) (intro.), 938.371 and 938.373 (1); and **to create**
6 938.335 (3) (title), 938.335 (3m) (title), 938.335 (3r) (title), (4) (title) and (5) (title),
7 938.343 (1) (title), 938.343 (2m) (title), 938.343 (3) (title) and (3m) (title), 938.343
8 (8) (title), 938.343 (10) (title), 938.344 (2) (title), 938.344 (2b) (title), 938.344 (2d)
9 (title), 938.344 (2e) (title), 938.344 (2g) (title), 938.344 (2m) (title) and (3) (title),
10 938.345 (3) (title), 938.346 (1) (title), 938.346 (3) (title), (4) (title) and (5) (title),
11 938.35 (1) (title), 938.355 (6) (b) (title) and (c) (title), 938.355 (6) (d) (title) and (e)
12 (title), 938.356 (2) (title), 938.357 (1) (title), (1) (a) (title) and (1) (am) (title),
13 938.357 (2v) (title) and (a) (title), 938.357 (2v) (c) (title), 938.357 (4m) (title) and
14 (5) (title), 938.357 (5m) (title), 938.36 (1) (title), 938.36 (3) (title), 938.361 (1)
15 (title), 938.362 (1) (title) and (2) (title), 938.363 (1) (title), 938.365 (2) (title) and
16 (2g) (title), 938.365 (2m) (title), 938.365 (3) (title) and (4) (title), 938.365 (7) (title),
17 938.368 (1) (title), 938.37 (1) (title) and (3) (title) and 938.373 (2) (title) of the
18 statutes; **relating to:** disposition.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on recodification of ch. 938, the juvenile justice code. The draft proposes initial language for the recodification of subchapter VI, relating to disposition.

SECTION 1. 938.33 (1) (intro.), (b), (c) and (f) of the statutes are amended to read:

1 938.33 (1) REPORT REQUIRED. (intro.) Before the disposition of a juvenile adjudged to
2 be delinquent or in need of protection or services, the court shall designate an agency, as
3 defined in under s. 938.38 (1) (a), to submit a report ~~which shall contain~~ that contains all of
4 the following:

5 (b) A recommended plan of rehabilitation or treatment and care for the juvenile ~~which~~
6 ~~is,~~ based on the investigation conducted by the agency and any report resulting from an
7 examination or assessment under s. 938.295, ~~which~~ that employs the most effective means
8 available to accomplish the objectives of the plan.

9 (c) A description of the specific services or continuum of services ~~which~~ that the agency
10 is recommending ~~that~~ the court order for the juvenile or family, the persons or agencies that
11 would be primarily responsible for providing those services, and the identity of the person ~~or,~~
12 agency that would provide case management or coordination of services, ~~if any or,~~ and
13 whether or not the juvenile should receive an integrated service plan.

14 (f) If the agency is recommending that the court order the juvenile's parent, guardian,
15 or legal custodian to participate in mental health treatment, anger management, individual or
16 family counseling, or parent training and education, a statement as to the availability of those
17 services and as to the availability of funding for those services.

18 **SECTION 2.** 938.33 (3) (intro.) and (a) of the statutes are amended to read:

19 938.33 (3) CORRECTIONAL PLACEMENT REPORTS. (intro.) A report recommending
20 placement of a juvenile in a secured juvenile correctional facility, ~~a secured child-caring~~
21 ~~institution or a secured group home~~ shall be in writing, except that the report may be presented
22 orally at the dispositional hearing if the juvenile and the juvenile's counsel consent. A report
23 that is presented orally shall be transcribed and made a part of the court record. In addition

1 to the information specified under sub. (1) (a) to (d), the report shall include all of the
2 following:

3 (a) A description of any less restrictive alternatives that are available and that have been
4 considered, and why they have been determined to be inappropriate. If the judge court has
5 found that any of the conditions specified in s. 938.34 (4m) (b) 1., 2., or 3. applies, the report
6 shall indicate that a less restrictive alternative than placement in a secured juvenile
7 correctional facility, ~~a secured child caring institution or a secured group home~~ is not
8 appropriate.

9 **SECTION 3.** 938.33 (3r) of the statutes is amended to read:

10 938.33 **(3r)** SERIOUS JUVENILE OFFENDER REPORT. If a juvenile has been adjudicated
11 delinquent for committing a violation for which the juvenile may be placed in the serious
12 juvenile offender program under s. 938.34 (4h) (a), the report shall be in writing and, in
13 addition to the information specified in sub. (1) and in sub. (3) or (4), if applicable, shall
14 include an analysis of the juvenile's suitability for placement in the serious juvenile offender
15 program under s. 938.34 (4h) or in a secured juvenile correctional facility ~~or a secured group~~
16 ~~home~~ under s. 938.34 (4m), a placement specified in s. 938.34 (3), or placement in the
17 juvenile's home with supervision and community-based programming and a
18 recommendation as to the type of placement for which the juvenile is best suited.

19 **SECTION 4.** 938.33 (4m) (intro.) of the statutes is amended to read:

20 938.33 **(4m)** SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. (intro.) In making
21 a recommendation for an amount of child support under sub. (3) or (4), the agency shall
22 consider the factors ~~that the court considers~~ under s. 301.12 (14) (c) ~~for deviation from the~~
23 ~~percentage standard~~. At or before the dispositional hearing under s. 938.335, the agency shall
24 provide the juvenile's parent with all of the following:

1 **SECTION 5.** 938.335 (1) of the statutes is amended to read:

2 938.335 (1) WHEN REQUIRED. The court shall conduct a hearing to determine the
3 disposition of a case in which a juvenile is adjudged to be delinquent under s. 938.12, to have
4 violated a civil law or ordinance under s. 938.125 or to be in need of protection or services
5 under s. 938.13, except that the court shall proceed ~~as provided in~~ under s. 938.237 (2) if a
6 citation is issued and the juvenile fails to contest the citation.

7 **SECTION 6.** 938.335 (3) (title) of the statutes is created to read:

8 938.335 (3) (title) EVIDENCE AND RECOMMENDATIONS.

9 **SECTION 7.** 938.335 (3g) of the statutes is amended to read:

10 938.335 (3g) REASONABLE EFFORTS FINDING. At hearings under this section, if the
11 agency, as defined in s. 938.38 (1) (a), is recommending placement of the juvenile in a foster
12 home, treatment foster home, group home, or residential care center for children and youth
13 or in the home of a relative other than a parent, the agency shall present as evidence specific
14 information showing that ~~continued:~~

15 (a) Continued placement of the juvenile in his or her home would be contrary to the
16 welfare of the juvenile, ~~specific information showing that the.~~

17 (b) The county department or the agency primarily responsible for providing services
18 to the juvenile has made reasonable efforts to prevent the removal of the juvenile from the
19 home, while assuring that the juvenile's health and safety are the paramount concerns, unless
20 any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, ~~and specific~~
21 ~~information showing that the.~~

22 (c) The county department or agency has made reasonable efforts to achieve the goal
23 of the juvenile's permanency plan, unless return of the juvenile to the home is the goal of the
24 permanency plan and any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies.

1 **SECTION 8.** 938.335 (3m) (title) of the statutes is created to read:

2 938.335 (**3m**) (title) VICTIMS' STATEMENTS.

3 **SECTION 9.** 938.335 (3m) (b) of the statutes is amended to read:

4 938.335 (**3m**) (b) After a finding that a juvenile is delinquent under s. 938.12 or is found
5 ~~to be~~ in need of protection or services under s. 938.13 (12), the district attorney or corporation
6 counsel shall make a reasonable attempt to contact any known victim to inform that person
7 of the right to make a statement under par. (a). ~~Any~~ A failure to comply with this paragraph
8 is not a ground for an appeal of a dispositional order or for any court to reverse or modify a
9 dispositional order.

10 **SECTION 10.** 938.335 (3r) (title), (4) (title) and (5) (title) of the statutes are created to
11 read:

12 938.335 (**3r**) (title) CHILD SUPPORT.

13 (**4**) (title) TESTIMONY BY TELEPHONE OR LIVE AUDIOVISUAL MEANS.

14 (**5**) (title) ORDER AT CONCLUSION.

15 **SECTION 11.** 938.34 (2) (a) and (b) of the statutes are amended to read:

16 938.34 (**2**) SUPERVISION. (a) Place the juvenile under the supervision of an agency, the
17 department, if the department approves, or a suitable adult, including a friend of the juvenile,
18 under conditions prescribed by the court, including reasonable rules for the juvenile's conduct,
19 designed for the physical, mental, and moral well-being and behavior of the juvenile.

20 (b) If the juvenile is placed in the juvenile's home under the supervision of an agency
21 or the department, order the agency or department to provide specified services to the juvenile
22 and the juvenile's family, ~~which may include but are not limited to~~ including individual,
23 family, or group counseling, homemaker or parent aide services, respite care, housing
24 assistance, day care, or parent skills training.

1 **SECTION 12.** 938.34 (2g) (intro.) and (a) of the statutes are amended to read:

2 938.34 **(2g)** VOLUNTEERS IN PROBATION PROGRAM. (intro.) If the juvenile is adjudicated
3 delinquent for the commission of an act that would constitute a misdemeanor if committed by
4 an adult, if the chief judge of the judicial administrative district has approved under s. 973.11
5 (2) a volunteers in probation program established in the juvenile's county of residence, and
6 if the court determines that volunteer supervision under that ~~volunteers in probation~~ program
7 will likely benefit the juvenile and the community, ~~placement of~~ place the juvenile with that
8 the volunteers in probation program under such conditions as the court determines are
9 reasonable and appropriate. These conditions may include, ~~but need not be limited to,~~ any of
10 the following:

11 (a) A directive to a volunteer to provide for the juvenile a role model, informal
12 counseling, general monitoring ~~and or~~ or monitoring of the conditions established by the court,
13 or any combination of these functions.

14 **SECTION 13.** 938.34 (2m) (a) of the statutes is amended to read:

15 938.34 **(2m)** (a) The chief judge of the judicial administrative district has approved a
16 teen court program established in the juvenile's county of residence and the judge court
17 determines that participation in the teen court program will likely benefit the juvenile and the
18 community.

19 **SECTION 14.** 938.34 (3) (a), (b) and (e) of the statutes are amended to read:

20 938.34 **(3)** (a) The home of a parent or other relative of the juvenile, except that the court
21 may not designate the home of a parent or other relative of the juvenile as the juvenile's
22 placement if the parent or other relative has been convicted ~~under s. 940.01 of the first-degree~~
23 ~~intentional homicide, or under s. 940.05 of the 2nd-degree intentional~~ of the homicide, of a
24 parent of the juvenile under s. 940.01 or 940.05, and the conviction has not been reversed, set

1 aside, or vacated, unless the court determines by clear and convincing evidence that the
2 placement would be in the best interests of the juvenile. The court shall consider the wishes
3 of the juvenile in making that determination.

4 (b) The home of a person who is not required to be licensed if placement is for less than
5 30 days, except that the court may not designate the home of a person who is not required to
6 be licensed as the juvenile's placement if the person has been convicted ~~under s. 940.01 of the~~
7 ~~first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional~~ of the
8 ~~homicide,~~ of a parent of the juvenile under s. 940.01 or 940.05, and the conviction has not been
9 reversed, set aside, or vacated, unless the court determines by clear and convincing evidence
10 that the placement would be in the best interests of the juvenile. The court shall consider the
11 wishes of the juvenile in making that determination.

12 (e) An independent living situation effective on or after the juvenile's 17th birthday,
13 either alone or with friends, under ~~such~~ supervision as the court considers appropriate, but only
14 if the juvenile is of sufficient maturity and judgment to live independently and only upon proof
15 of a reasonable plan for supervision by an appropriate person or agency.

COMMENT: Section 938.34 (4) which sets forth the disposition for
transfer of legal custody, requires a showing that the rehabilitation or the
treatment and care of the juvenile cannot be accomplished by means of
voluntary consent of the parent or guardian. Should this requirement be
clarified?

16 **SECTION 15.** 938.34 (4d) of the statutes is amended to read:

17 938.34 **(4d)** ~~TYPE 2 CHILD-CARING INSTITUTION~~ RESIDENTIAL CARE CENTER FOR CHILDREN
18 ~~AND YOUTH PLACEMENT.~~ (intro.) Place the juvenile in a Type 2 ~~child-caring institution~~
19 residential care center for children and youth under the supervision of the county department
20 and subject to Type 2 status, ~~as described in~~ under s. 938.539, but only if all of the following
21 apply:

1 (a) The juvenile has been found to be delinquent for the commission of an act ~~which~~
2 that if committed by an adult, would be punishable by a sentence of 6 months or more.

3 (b) The juvenile has been found to be a danger to the public and to be in need of
4 restrictive custodial treatment. If the judge court determines that any of the conditions
5 specified in sub. (4m) (b) 1., 2., or 3. applies, but that placement in the serious juvenile offender
6 program under sub. (4h) or in a secured juvenile correctional facility under sub. (4m) would
7 not be appropriate, ~~that determination shall be prima facie evidence~~ the court shall find that
8 the juvenile is a danger to the public and in need of restrictive custodial treatment under this
9 subsection.

10 **SECTION 16.** 938.34 (4h) (a) and (b) of the statutes are amended to read:

11 938.34 **(4h)** (a) The juvenile ~~is 14 years of age or over and~~ has been adjudicated
12 delinquent for committing a violation of s. 939.31, 939.32 (1) (a), 940.03, 940.21, 940.225 (1),
13 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1),
14 948.025 (1), or 948.30 (2) on or after the juvenile's 14th birthday or the juvenile ~~is 10 years~~
15 ~~of age or over and~~ has been adjudicated delinquent for attempting or committing a violation
16 of s. 940.01 on or after the juvenile's 10th birthday or for committing a violation of 940.02
17 or 940.05 on or after the juvenile's 10th birthday.

COMMENT: The department of corrections/division of juvenile
corrections (DOC/DJC) has requested clarification as to whether the
reference to conspiracy [s. 939.31] means conspiracy to commit an
offense for which a juvenile may be placed in the Serious Juvenile
Offender Program or conspiracy to commit a class A felony.

18 (b) The judge court finds that the only other disposition that ~~would be~~ is appropriate for
19 the juvenile ~~would be~~ is placement of the juvenile in a secured juvenile correctional facility
20 under sub. (4m).

21 **SECTION 17.** 938.34 (4m) (intro.), (a) and (b) (intro.) of the statutes are amended to read:

1 938.34 (4m) CORRECTIONAL PLACEMENT. (intro.) Place the juvenile in a secured
2 juvenile correctional facility ~~or a secured child caring institution~~ under the supervision of the
3 department ~~or in a secured group home under the supervision of a county department if the~~
4 juvenile is 12 years of age or over or, if the juvenile is under 12 years of age, in a secured child
5 caring institution ~~under the supervision of the department or in a secured group home under~~
6 the supervision of a county department, unless the department, after an examination under s.
7 938.50, determines that placement in a secured correctional facility is more appropriate, but
8 only if all of the following apply:

9 (a) The juvenile has been found to be delinquent for the commission of an act which
10 ~~if committed by an adult~~ that would be punishable by a sentence of 6 months or more if
11 committed by an adult.

12 (b) (intro.) The juvenile has been found to be a danger to the public and to be in need
13 of restrictive custodial treatment. If the ~~judge~~ court determines that any of the following
14 conditions applies, but that placement in the serious juvenile offender program under sub. (4h)
15 ~~would~~ is not be appropriate, ~~that determination shall be prima facie evidence~~ the court shall
16 find that the juvenile is a danger to the public and in need of restrictive custodial treatment
17 under this subsection:

COMMENT: Committee member Don Garber has suggested that
 attempted armed robbery [s. 943.32 (2)] and 2nd-degree reckless
 homicide [s. 940.06] be added as offenses for which a juvenile may be
 placed in the Serious Juvenile Offender Program.

18 **SECTION 18.** 938.34 (4n) (intro.) and (b) of the statutes are amended to read:

19 938.34 (4n) AFTERCARE SUPERVISION. (intro.) Subject to any arrangement between the
20 department and a county department regarding the provision of aftercare supervision for
21 juveniles who have been released from a secured juvenile correctional facility, ~~a secured child~~

1 ~~caring institution, or a secured group home~~, designate one of the following to provide aftercare
2 supervision for the juvenile following the juvenile's release from the ~~secured juvenile~~
3 ~~correctional facility, secured child caring institution, or secured group home~~:

4 (b) The county department of the county of the court that placed the juvenile in the
5 ~~secured juvenile~~ correctional facility, ~~secured child caring institution or secured group home~~.

6 **SECTION 19.** 938.34 (5) (a) and (am) of the statutes are amended to read:

7 938.34 **(5) RESTITUTION.** (a) Subject to par. (c), if the juvenile is found to have
8 committed a delinquent act ~~which has~~ that resulted in damage to the property of another, or
9 actual physical injury to another excluding pain and suffering, order the juvenile to repair the
10 damage to property or to make reasonable restitution for the damage or injury, either in the
11 form of cash payments or, if the victim agrees, the performance of services for the victim, or
12 both, if the court, after taking into consideration the well-being and needs of the victim,
13 considers it beneficial to the well-being and behavior of the juvenile. ~~Any such~~ The order
14 shall include a finding that the juvenile alone is financially able to pay or physically able to
15 perform the services, may allow up to the date of the expiration of the order for the payment
16 or for the completion of the services and may include a schedule for the performance and
17 completion of the services. ~~Objection by~~ If the juvenile objects to the amount of damages
18 claimed ~~shall entitle~~, the juvenile is entitled to a hearing on the question of damages before
19 the amount of restitution is ordered. Any recovery under this paragraph shall be reduced by
20 the amount recovered as restitution under s. 938.45 (1r) (a).

21 (am) Subject to par. (c), order a juvenile who owes restitution under par. (a) and who
22 is receiving income while placed in a ~~secured juvenile~~ correctional facility, residential
23 ~~treatment care center for children and youth~~, or other out-of-home placement to contribute
24 a ~~stated~~ specified percentage of that income towards that restitution.

COMMENT: Should the restitution disposition language be clarified as to whether the \$250 in restitution and 40 hours of service limit for the victim is a limit for each victim or for each dispositional order?

1 **SECTION 20.** 938.34 (5g) (b) of the statutes is amended to read:

2 938.34 **(5g)** (b) The supervised work program or other community service work shall
3 be ~~of a constructive nature~~ and designed to promote the rehabilitation of the juvenile, ~~shall be~~
4 appropriate to the age level and physical ability of the juvenile, ~~and shall be~~ combined with
5 counseling from a member of the staff of the county department, community agency, public
6 agency, or nonprofit charitable organization or other qualified person. The supervised work
7 program or other community service work may not conflict with the juvenile's regular
8 attendance at school. Subject to par. (d), the amount of work required shall be reasonably
9 related to the seriousness of the juvenile's offense.

10 **SECTION 21.** 938.34 (6) (am) 1. and 2. of the statutes are amended to read:

11 938.34 **(6)** (am) 1. ~~That the~~ The juvenile has an alcohol or other drug abuse impairment.

12 2. ~~That the~~ The juvenile is a proper subject for treatment and is in need of inpatient
13 treatment because appropriate treatment is not available on an outpatient basis.

14 **SECTION 22.** 938.34 (6r) (a) and (b) and (6s) of the statutes are amended to read:

15 938.34 **(6r)** ALCOHOL OR DRUG TREATMENT OR EDUCATION. (a) If the report prepared
16 under s. 938.33 (1) recommends that the juvenile is in need of treatment for the use or abuse
17 of alcohol beverages, controlled substances, or controlled substance analogs and its medical,
18 personal, family, or social effects, ~~the court may~~ order the juvenile to enter an outpatient
19 alcohol and other drug abuse treatment program at an approved treatment facility. The
20 approved treatment facility shall, under the terms of a service agreement between the county
21 and the approved treatment facility, or with the written informed consent of the juvenile or the
22 juvenile's parent if the juvenile has not attained the age of 12, report to the agency primarily

1 responsible for providing services to the juvenile as to whether the juvenile is cooperating with
2 the treatment and whether the treatment appears to be effective.

3 (b) If the report prepared under s. 938.33 (1) recommends that the juvenile is in need
4 of education relating to the use of alcohol beverages, controlled substances, or controlled
5 substance analogs, ~~the court may~~ order the juvenile to participate in an alcohol or other drug
6 abuse education program approved by the court. The person or agency that provides the
7 education program shall, under the terms of a service agreement between the county and the
8 education program, or with the written informed consent of the juvenile or the juvenile's
9 parent if the juvenile has not attained the age of 12, report to the agency primarily responsible
10 for providing services to the juvenile about the juvenile's attendance at the program.

11 **(6s) DRUG TESTING.** If the report under s. 938.33 (1) ~~indicate~~ indicates that the juvenile
12 is in need of treatment for the use or abuse of controlled substances or controlled substance
13 analogs, order the juvenile to submit to drug testing under a drug testing program that the
14 department shall promulgate by rule.

15 **SECTION 23.** 938.34 (7d) (c) of the statutes is amended to read:

16 938.34 **(7d)** (c) The court shall order the county department or licensed child welfare
17 agency responsible for supervising the juvenile to disclose to the school board, technical
18 college district board, or private, nonprofit, nonsectarian agency which is providing an
19 educational program under par. (a) ~~3~~ records or information about the juvenile, as necessary
20 to assure the provision of appropriate educational services under par. (a).

COMMENT: The reference to subd. 3. appears to be incorrect.

21 **SECTION 24.** 938.34 (8) of the statutes is amended to read:

22 938.34 **(8) FORFEITURE.** Impose a forfeiture based upon a determination that this
23 disposition is in the best interest of the juvenile and ~~in aid of~~ the juvenile's rehabilitation. The

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

18 **SECTION 25.** 938.34 (8d) (a), (b), (c) and (d) of the statutes are renumbered 938.34 (8d)
19 (intro.), (b) and (c) and amended to read:

20 938.34 **(8d)** DELINQUENCY VICTIM AND WITNESS ASSISTANCE SURCHARGE. (intro.) In
21 addition to any other disposition imposed under this section, the court shall impose a
22 delinquency victim and witness assistance surcharge of \$20-, subject to all of the following:

23 (b) If a juvenile placed in a secured juvenile correctional facility ~~or a secured child~~
24 ~~caring institution~~ fails to pay the surcharge under par. (a), the department shall assess and

1 collect the amount owed from the juvenile's wages or other moneys. If a juvenile placed in
2 a secured group home fails to pay the surcharge under par. (a), the county department shall
3 assess and collect the amount owed from the juvenile's wages or other moneys. Any amount
4 collected shall be transmitted to the secretary of administration.

5 (c) If the juvenile fails to pay the surcharge under par. (a), the court may vacate the
6 surcharge and order other alternatives under this section, in accordance with the conditions
7 specified in this chapter; or the court may suspend any license issued under ch. 29 for not less
8 than 30 days nor more than 5 years, or suspend the juvenile's operating privilege, as defined
9 in s. 340.01 (40), for not less than 30 days nor more than 5 years. If the court suspends any
10 license under this subsection, the clerk of the court shall immediately take possession of the
11 suspended license and forward it to the department which issued the license, together with a
12 notice of suspension clearly stating that the suspension is for failure to pay a surcharge
13 imposed by the court. If the surcharge is paid during the period of suspension, the suspension
14 shall be reduced to the time period which has already elapsed and the court shall immediately
15 notify the department which shall then return the license to the juvenile.

16 **SECTION 26.** 938.34 (13r), (13t), (14d) and (14q) of the statutes are amended to read:

17 938.34 **(13r)** VIOLENT VIOLATION IN A SCHOOL ZONE. (a) If the juvenile is adjudicated
18 delinquent ~~under~~ of a violation of a violent crime law specified in under s. 939.632 (1) (e) in
19 a school zone, as defined in s. 939.632 (1) (d), ~~the court may~~ require that the juvenile
20 participate for 100 hours in a supervised work program under sub. (5g) or perform 100 hours
21 of other community service work.

22 (b) The court ~~shall~~ may not impose the requirement under par. (a) if the court determines
23 that the ~~person~~ juvenile would pose a threat to public safety while completing the requirement.

1 **(13t)** GRAFFITI VIOLATION. If the juvenile is adjudicated delinquent under a violation of
2 s. 943.017, ~~the court may~~ require that the juvenile participate for not less than 10 hours nor
3 more than 100 hours in a supervised work program under sub. (5g) or perform not less than
4 10 hours nor more than 100 hours of other community service work, except that if the juvenile
5 has not attained 14 years of age the maximum number of hours is 40.

6 **(14d)** HATE VIOLATIONS. In addition to any other disposition imposed under this section,
7 if the juvenile is found to have committed a violation under circumstances in which, if
8 committed by an adult, the adult would be subject to a penalty enhancement under s. 939.645,
9 ~~the court may~~ order any one or more of the following dispositions:

10 (a) ~~That the juvenile make restitution~~ Restitution under sub. (5).

11 (b) ~~That the juvenile participate~~ Participation in a supervised work program or other
12 community service work under sub. (5g) or (5m).

13 (c) ~~That the juvenile participate~~ Participation in a victim-offender mediation program
14 under sub. (5r) or otherwise apologize to the victim.

15 (d) ~~That the juvenile participate~~ Participation in an educational program under sub. (7n)
16 that includes sensitivity training or training in diversity.

17 **(14q)** CERTAIN BOMB SCARES AND FIREARM VIOLATIONS. In addition to any other
18 disposition imposed under this section, if the juvenile is found to have violated s. 947.015 and
19 the property involved is owned or leased by the state or any political subdivision of the state,
20 or if the property involved is a school premises, as defined in s. 948.61 (1) (c), or if the juvenile
21 is found to have violated s. 941.235 or 948.605, ~~the court may~~ immediately suspend the
22 juvenile's operating privilege, as defined in s. 340.01 (40), for 2 years. The court shall
23 immediately forward to the department of transportation the notice of suspension, ~~clearly~~
24 stating that the suspension is for a violation of s. 947.015 involving school premises, or for

1 a violation of s. 941.235 or 948.605. If otherwise eligible, the juvenile is eligible for an
2 occupational license under s. 343.10.

3 **SECTION 27.** 938.34 (14r) (a) of the statutes is amended to read:

4 938.34 **(14r)** VIOLATIONS RELATING TO CONTROLLED SUBSTANCES OR CONTROLLED
5 SUBSTANCE ANALOGS. (a) In addition to any other dispositions imposed under this section, if
6 the juvenile is found to have violated ch. 961, the court shall suspend the juvenile's operating
7 privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years. The
8 court shall immediately take possession of any suspended license and forward it to the
9 department of transportation together with the notice of suspension clearly stating that the
10 suspension or revocation is for a violation of ch. 961.

11 **SECTION 28.** 938.34 (15) (b) of the statutes is amended to read:

12 938.34 **(15)** (b) The department of justice shall promulgate rules providing procedures
13 for juveniles to provide specimens under par. (a) and for the transportation of ~~those~~ the
14 specimens to the state crime laboratories under s. 165.77.

15 **SECTION 29.** 938.34 (16) of the statutes is amended to read:

16 938.34 **(16)** STAY OF ORDER. After ordering a disposition under this section, enter an
17 additional order staying the execution of the dispositional order contingent on the juvenile's
18 satisfactory compliance with any conditions that are specified in the dispositional order and
19 explained to the juvenile by the court. If the juvenile violates a condition of his or her
20 dispositional order, the agency supervising the juvenile or the district attorney or corporation
21 counsel in the county in which the dispositional order was entered shall notify the court and
22 the court shall hold a hearing within 30 days after the filing of the notice to determine whether
23 the original dispositional order should be imposed, unless the juvenile signs a written waiver
24 of any objections to imposing the original dispositional order, and the court approves the

1 waiver. If a hearing is held, the court shall notify the parent, juvenile, guardian and legal
2 custodian, all parties bound by the original dispositional order and the district attorney or
3 corporation counsel in the county in which the dispositional order was entered of the time and
4 place of the hearing at least 3 days before the hearing. If all parties consent, the court may
5 proceed immediately with the hearing. The court may not impose the original dispositional
6 order unless the court finds by a preponderance of the evidence that the juvenile has violated
7 a condition of his or her dispositional order.

COMMENTS: 1. Committee member Don Garber requested adding the district attorney and corporation counsel as persons who may notify the court of a violation of the dispositional order.

2. In *State v. Cesar G.*, 2004 WI 61, 272 Wis. 2d 22, 682 N.W.2d (2004), the Wisconsin supreme court held that a juvenile court may stay an order requiring sex offender registration under s. 938.34 (15m) after considering the factors listed in s. 938.34 (15m) (c) (e.g., the ages and relationship of the juvenile and the victim, whether the violation resulted in bodily harm, the probability that the juvenile will reoffend) and the seriousness of the offense. Should this decision be codified or otherwise addressed in the statutes?

8 **SECTION 30.** 938.342 (1d) (intro.) of the statutes is amended to read:

9 938.342 **(1d)** TRUANCY ORDINANCE. (intro.) If the court finds that the person violated
10 a municipal ordinance enacted under s. 118.163 (1m), the court shall enter an order making
11 one or more of the following dispositions if such a the disposition is authorized by the
12 municipal ordinance:

13 **SECTION 31.** 938.342 (1g) (intro.) and (b) of the statutes are amended to read:

14 938.342 **(1g)** HABITUAL TRUANCY ORDINANCE. (intro.) If the court finds that a person
15 under 18 years of age violated a municipal ordinance enacted under s. 118.163 (2), the court
16 shall enter an order making one or more of the following dispositions if such a the disposition
17 is authorized by the municipal ordinance:

1 (b) Order the person to participate in counseling or a supervised work program or other
2 community service work as described in s. 938.34 (5g). The costs of any ~~such~~ counseling,
3 supervised work program, or other community service work may be assessed against the
4 person, the parents or guardian of the person, or both. Any county department, community
5 agency, public agency, or nonprofit charitable organization administering a supervised work
6 program or other community service work to which a person is assigned pursuant to an order
7 under this paragraph acting in good faith has immunity from any civil liability in excess of
8 \$25,000 for any act or omission by or impacting on that person.

9 **SECTION 32.** 938.342 (1g) (f) 1. of the statutes is amended to read:

10 938.342 **(1g)** (f) 1. The chief judge of the judicial administrative district has approved
11 a teen court program established in the person's county of residence and the ~~judge~~ court
12 determines that participation in the teen court program will likely benefit the person and the
13 community.

14 **SECTION 33.** 938.342 (1m), (1r) and (2) of the statutes are amended to read:

15 938.342 **(1m)** ORDERS APPLICABLE TO PARENTS, GUARDIANS, AND LEGAL CUSTODIANS. (a)
16 If the court finds that the person violated a municipal ordinance enacted under s. 118.163 (2),
17 the court may, in addition to or instead of the dispositions under sub. (1g), order the person's
18 parent, guardian, or legal custodian to participate in counseling at the parent's, guardian's, or
19 legal custodian's own expense or to attend school with the person, or both, if ~~such a~~ the
20 disposition is authorized by the municipal ordinance.

21 (am) If the court finds that the person violated a municipal ordinance enacted under s.
22 118.163 (1m), the court may, as part of the disposition under sub. (1d), order the person's
23 parent or guardian to pay all or part of a forfeiture plus costs assessed under sub. (1d) (b). If
24 the court finds that the person violated a municipal ordinance enacted under s. 118.163 (2),

1 the court may, as part of the ~~dispositions~~ disposition under sub. (1g), order the person's parent
2 or guardian to pay all or part of the costs of any program ordered under sub. (1g) (b) or to pay
3 all or part of a forfeiture plus costs assessed under sub. (1g) (h).

4 (b) No order to any parent, guardian or legal custodian under par. (a) or (am) may be
5 entered until the parent, guardian or legal custodian is given an opportunity to be heard on the
6 contemplated order of the court. The court shall cause notice of the time, place and purpose
7 of the hearing to be served on the parent, guardian or legal custodian personally at least 10 days
8 before the date of the hearing. The procedure in these cases shall, as far as practicable, be the
9 same as in other cases to the court. At the hearing, the parent, guardian or legal custodian may
10 be represented by counsel and may produce and cross-examine witnesses. Any A parent,
11 guardian or legal custodian who fails to comply with any order issued by a court under par.
12 (a) or (am) may be proceeded against for contempt of court.

COMMENT: Should the 3rd sentence, requiring the procedure to be the
same as in other cases to the court as far as practicable, be clarified?

13 **(1r) SCHOOL ATTENDANCE CONDITION.** If school attendance ~~under sub. (1d) (a) or (1g)~~
14 ~~(g)~~ is a condition of an order under sub. (1d) or (1g), the order shall specify what constitutes
15 a violation of the condition and shall direct the school board of the school district, or the
16 governing body of the private school, in which the person is enrolled to notify the court or,
17 if the person is under the supervision of an agency under sub. (1g) (j), the agency that is
18 responsible for supervising the person, within 5 days after any violation of the condition by
19 the person.

20 **(2) OPERATING PRIVILEGE.** (a) ~~Except as provided in~~ under par. (b), if the court finds that
21 a person is subject to a municipal ordinance enacted under s. 118.163 (2m) (a), the court shall

1 enter an order suspending the person's operating privilege, as defined in s. 340.01 (40), until
2 the person reaches the age of attains 18 years of age.

3 (b) The court may ~~enter an order making~~ any of the dispositions specified under sub.
4 (1g) if the court finds that suspension of the person's operating privilege, as defined in s.
5 340.01 (40), until the person reaches the age of attains 18 years of age would cause an undue
6 hardship to the person or the person's family.

7 **SECTION 34.** 938.343 (1) (title) of the statutes is created to read:

8 938.343 (1) (title) COUNSELING.

9 **SECTION 35.** 938.343 (2) of the statutes is amended to read:

10 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum forfeiture that
11 may be imposed on an adult for committing that violation or, if the violation is only applicable
12 to a person under 18 years of age, \$50. ~~Any such~~ The order shall include a finding that the
13 juvenile alone is financially able to pay and shall allow up to 12 months for the payment. If
14 a juvenile fails to pay the forfeiture, the court may suspend any license issued under ch. 29 or
15 suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2
16 years. The court shall immediately take possession of the suspended license and forward it
17 to the department which issued the license, together with the notice of suspension ~~clearly~~
18 stating that the suspension is for failure to pay a forfeiture imposed by the court. If the
19 forfeiture is paid during the period of suspension, the court shall immediately notify the
20 department, which ~~will thereupon~~ shall return the license to the person. Any recovery under
21 this subsection shall be reduced by the amount recovered as a forfeiture for the same act under
22 s. 938.45 (1r) (b).

23 **SECTION 36.** 938.343 (2m) (title) of the statutes is created to read:

24 938.343 (2m) (title) TEEN COURT PROGRAM.

1 **SECTION 37.** 938.343 (2m) (a) of the statutes is amended to read:

2 938.343 **(2m)** (a) The chief judge of the judicial administrative district has approved
3 a teen court program established in the juvenile's county of residence and the judge court
4 determines that participation in the teen court program will likely benefit the juvenile and the
5 community.

6 **SECTION 38.** 938.343 (3) (title) and (3m) (title) of the statutes are created to read:

7 938.343 **(3)** (title) COMMUNITY SERVICE WORK PROGRAM.

8 **(3m)** (title) YOUTH REPORT CENTER.

9 **SECTION 39.** 938.343 (4), (5), (6) and (7) of the statutes are amended to read:

10 938.343 **(4)** RESTITUTION. If the violation has resulted in damage to the property of
11 another, or in actual physical injury to another excluding pain and suffering, ~~the court may~~
12 order the juvenile to make repairs of the damage to property or reasonable restitution for the
13 damage or injury, either in the form of cash payments or, if the victim agrees, the performance
14 of services for the victim, or both, if the court, after taking into consideration the well-being
15 and needs of the victim, considers it beneficial to the well-being and behavior of the juvenile.
16 ~~Any such~~ An order requiring payment for repairs or restitution shall include a finding that the
17 juvenile alone is financially able to pay or physically able to perform the services, may allow
18 up to the date of the expiration of the order for the payment or for the completion of the
19 services, and may include a schedule for the performance and completion of the services.
20 ~~Objection by~~ If the juvenile objects to the amount of damages claimed ~~shall entitle~~, the
21 juvenile is entitled to a hearing on the question of damages before the amount of restitution
22 is ordered. Any recovery under this subsection shall be reduced by the amount recovered as
23 restitution for the same act under s. 938.45 (1r) (a).

1 (5) BOAT SAFETY COURSE. If the violation is related to unsafe use of a boat, order the
2 juvenile to attend a safety course under s. 30.74 (1). If the juvenile has a valid boating safety
3 certificate at the time that the court imposes ~~sentence~~ the disposition, the court shall
4 ~~permanently~~ revoke the certificate and order the person to obtain a another boating safety
5 ~~certificate of satisfactory completion of a safety course~~ under s. 30.74 (1).

6 (6) RECREATIONAL LICENSE. If the violation is of ch. 29, ~~suspension of~~ suspend the
7 license or licenses of the juvenile issued under that chapter for not more than one year or until
8 the juvenile is 18 years of age, whichever occurs first.

9 (7) HUNTER EDUCATION PROGRAM. If the violation is related to the unsafe use of firearms,
10 order the juvenile to attend ~~the course under~~ the hunter education program course under s.
11 29.591.

12 **SECTION 40.** 938.343 (8) (title) of the statutes is created to read:

13 938.343 (8) (title) SNOWMOBILE SAFETY COURSE.

14 **SECTION 41.** 938.343 (9) of the statutes is amended to read:

15 938.343 (9) ALL-TERRAIN VEHICLE SAFETY COURSE. If the violation is one under s. 23.33
16 or under an ordinance enacted in conformity with s. 23.33 concerning the use of all-terrain
17 vehicles, order the juvenile to ~~enroll and participate in~~ attend an all-terrain vehicle safety
18 course.

19 **SECTION 42.** 938.343 (10) (title) of the statutes is created to read:

20 938.343 (10) (title) ALCOHOL OR DRUG TREATMENT OR CARE.

21 **SECTION 43.** 938.344 (2) (title) of the statutes is created to read:

22 938.344 (2) (title) UNDERAGE ALCOHOL POSSESSION OR POSSESSION ON SCHOOL GROUNDS.

23 **SECTION 44.** 938.344 (2) (a), (b) and (c) of the statutes are amended to read:

1 938.344 (2) (a) For a first violation, a forfeiture of not more than \$50, suspension of the
2 juvenile's operating privilege as provided under s. 343.30 (6) (b) 1., or the juvenile's
3 participation in a supervised work program or other community service work under s. 938.34
4 (5g).

5 (b) For a violation committed within 12 months of one previous violation, a forfeiture
6 of not more than \$100 or the juvenile's participation in a supervised work program or other
7 community service work under s. 938.34 (5g). In addition, the juvenile's operating privilege
8 may be suspended as provided under s. 343.30 (6) (b) 2., except that if the violation of s. 125.07
9 (4) (b) involved a motor vehicle the juvenile's operating privilege shall be suspended as
10 provided under s. 343.30 (6) (b) 2.

11 (c) For a violation committed within 12 months of 2 or more previous violations, a
12 forfeiture of not more than \$500 or the juvenile's participation in a supervised work program
13 or other community service work under s. 938.34 (5g). In addition, the juvenile's operating
14 privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation
15 of s. 125.07 (4) (b) involved a motor vehicle the juvenile's operating privilege shall be
16 suspended as provided under s. 343.30 (6) (b) 3.

17 **SECTION 45.** 938.344 (2b) (title) of the statutes is created to read:

18 938.344 (2b) (title) UNDERAGE PURCHASE OF ALCOHOL OR ENTERING TAVERN.

19 **SECTION 46.** 938.344 (2b) (a), (b) and (c) of the statutes are amended to read:

20 938.344 (2b) (a) For a first violation, a forfeiture of not less than \$250 nor more than
21 \$500, suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 1.,
22 or the juvenile's participation in a supervised work program or other community service work
23 under s. 938.34 (5g).

1 (b) For a violation committed within 12 months of one previous violation, a forfeiture
2 of not less than \$300 nor more than \$500 or ~~the juvenile's~~ participation in a supervised work
3 program or other community service work under s. 938.34 (5g). In addition, the juvenile's
4 operating privilege may be suspended as ~~provided~~ under s. 343.30 (6) (b) 2., except that if the
5 violation involved a motor vehicle the juvenile's operating privilege shall be suspended as
6 ~~provided~~ under s. 343.30 (6) (b) 2.

7 (c) For a violation committed within 12 months of 2 or more previous violations, a
8 forfeiture of \$500 or ~~the juvenile's~~ participation in a supervised work program or other
9 community service work under s. 938.34 (5g). In addition, the juvenile's operating privilege
10 may be suspended as ~~provided~~ under s. 343.30 (6) (b) 3., except that if the violation involved
11 a motor vehicle the juvenile's operating privilege shall be suspended as ~~provided~~ under s.
12 343.30 (6) (b) 3.

13 **SECTION 47.** 938.344 (2d) (title) of the statutes is created to read:

14 938.344 **(2d)** (title) FALSE IDENTIFICATION.

15 **SECTION 48.** 938.344 (2d) (a), (b) and (c) of the statutes are amended to read:

16 938.344 **(2d)** (a) For a first violation, a forfeiture of not less than \$100 nor more than
17 \$500, suspension of the juvenile's operating privilege as ~~provided~~ under s. 343.30 (6) (b) 1.,
18 or ~~the juvenile's~~ participation in a supervised work program or other community service work
19 under s. 938.34 (5g).

20 (b) For a violation committed within 12 months of a previous violation, a forfeiture of
21 not less than \$300 nor more than \$500, suspension of the juvenile's operating privilege as
22 ~~provided~~ under s. 343.30 (6) (b) 2., or ~~the juvenile's~~ participation in a supervised work
23 program or other community service work under s. 938.34 (5g).

1 (c) For a violation committed within 12 months of 2 or more previous violations, a
2 forfeiture of \$500, suspension of the juvenile's operating privilege as provided under s. 343.30
3 (6) (b) 3., or the juvenile's participation in a supervised work program or other community
4 service work under s. 938.34 (5g).

5 **SECTION 49.** 938.344 (2e) (title) of the statutes is created to read:

6 938.344 (2e) (title) DRUG PARAPHERNALIA VIOLATION.

7 **SECTION 50.** 938.344 (2e) (a) 1., 2. and 3. and (b) and (c) of the statutes are amended
8 to read:

9 938.344 (2e) (a) 1. For a first violation, a forfeiture of not more than \$50 or the juvenile's
10 participation in a supervised work program or other community service work under s. 938.34
11 (5g) or both.

12 2. For a violation committed within 12 months of a previous violation, a forfeiture of
13 not more than \$100 or the juvenile's participation in a supervised work program or other
14 community service work under s. 938.34 (5g) or both.

15 3. For a violation committed within 12 months of 2 or more previous violations, a
16 forfeiture of not more than \$500 or the juvenile's participation in a supervised work program
17 or other community service work under s. 938.34 (5g) or both.

18 (b) Whenever a court suspends a juvenile's operating privilege under this subsection,
19 the court shall immediately take possession of any suspended license and forward it to the
20 department of transportation, together with the notice of suspension clearly stating that the
21 suspension is for a violation under s. 961.573 (2), 961.574 (2), or 961.575 (2), or a local
22 ordinance that strictly conforms to one of those statutes.

23 (c) If the juvenile's license or operating privilege is currently suspended or revoked or
24 the juvenile does not currently possess a valid operator's license issued under ch. 343, the

1 suspension under this subsection is effective on the date on which the juvenile is first eligible
2 and applies for issuance or reinstatement of an operator's license under ch. 343.

3 **SECTION 51.** 938.344 (2g) (title) of the statutes is created to read:

4 938.344 **(2g)** (title) ORDERS TO STAY PENALTY.

5 **SECTION 52.** 938.344 (2g) (a) 1. and (d) of the statutes are amended to read:

6 938.344 **(2g)** (a) 1. Submit to an alcohol and other drug abuse assessment that conforms
7 to the criteria specified under s. 938.547 (4) and that is conducted by an approved treatment
8 facility. The order shall designate an approved treatment facility to conduct the alcohol and
9 other drug abuse assessment and shall specify the date by which the assessment must be
10 completed.

11 (d) If an approved treatment facility, court-approved pupil assistance program, or
12 court-approved alcohol or other drug abuse education program, with the written informed
13 consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed
14 consent of the juvenile's parent, notifies the agency primarily responsible for providing
15 services to the juvenile that a juvenile is not participating, or has not satisfactorily completed,
16 a recommended alcohol or other drug abuse treatment program, a court-approved pupil
17 assistance program, or a court-approved alcohol or other drug abuse education program, the
18 court shall hold a hearing to determine whether to impose the penalties under sub. (2), (2b),
19 (2d), or (2e) ~~should be imposed~~.

20 **SECTION 53.** 938.344 (2m) (title) and (3) (title) of the statutes are created to read:

21 938.344 **(2m)** (title) COUNTING VIOLATIONS.

22 **(3)** (title) JUVENILES 3 MONTHS FROM 17TH BIRTHDAY.

23 **SECTION 54.** 938.345 (1) (intro.), (a), (e) and (g) of the statutes are amended to read:

1 938.345 (1) ORDER. (intro.) If the court finds that the juvenile is in need of protection
2 or services, the court shall enter an order ~~deciding~~ including one or more of the dispositions
3 ~~of the case as provided in under~~ s. 938.34 under a care and treatment plan except that the order
4 may not do any of the following:

5 (a) Place the juvenile in the serious juvenile offender program, or a secured juvenile
6 ~~correctional facility, a secured child caring institution or a secured group home.~~

7 (e) Place any juvenile not specifically found under chs. ch. 46, 49, 51, 115 and or 880
8 to be developmentally disabled or mentally ill or to be a child with a disability, as defined in
9 s. 115.76 (5), in ~~facilities~~ a facility which exclusively treat treats one or more of those
10 categories of juveniles.

11 (g) ~~Order~~ Place the juvenile ~~into~~ in a secure detention facility or juvenile portion of a
12 county jail or in nonsecure custody under s. 938.34 (3) (f).

COMMENT: Section 938.345 (1) (d) allows the court to revoke a juvenile's driver's license as a juvenile in need of protection or services (JIPS) disposition, although revocation is not available in other types of proceedings. Committee member Gina Pruski has asked if this is an oversight.

13 **SECTION 55.** 938.345 (2) of the statutes is amended to read:

14 938.345 (2) SCHOOL DROPOUTS AND HABITUAL TRUANTS. If the court finds that a juvenile
15 is in need of protection or services based on the fact that the juvenile is a school dropout, as
16 defined in s. 118.153 (1) (b), or based on habitual truancy, and the court also finds that ~~the~~
17 ~~reason~~ the juvenile has dropped out of school or is a habitual truant is as a result of the
18 juvenile's intentional refusal to attend school rather than the failure of any other person to
19 comply with s. 118.15 (1) (a), the court, instead of or in addition to any other disposition
20 imposed under sub. (1), may enter an order permitted under s. 938.342.

21 **SECTION 56.** 938.345 (3) (title) of the statutes is created to read:

1 938.345 (3) (title) SEX OFFENDER REGISTRATION.

2 **SECTION 57.** 938.345 (3) (a) (intro.) and (c) of the statutes are amended to read:

3 938.345 (3) (a) (intro.) If the court finds that a juvenile is in need of protection or
4 services on the basis of a violation, or the solicitation, conspiracy, or attempt to commit a
5 violation, under ch. 940, 944, or 948 or ss. 942.08 or 943.01 to 943.15, the court may require
6 the juvenile to comply with the reporting requirements under s. 301.45 if the court determines
7 that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it
8 ~~would be~~ is in the interest of public protection to have the juvenile report under s. 301.45. In
9 determining whether it ~~would be~~ is in the interest of public protection to have the juvenile
10 report under s. 301.45, the court may consider any of the following:

11 (c) If the court orders a juvenile to comply with the reporting requirements under s.
12 301.45, the clerk of the court in which the order is entered shall promptly forward a copy of
13 the order to the department of ~~corrections~~. If the finding of need of protection or services on
14 which the order is based is reversed, set aside or vacated, the clerk of the court shall promptly
15 forward to the department of ~~corrections~~ a certificate stating that the finding has been reversed,
16 set aside or vacated.

17 **SECTION 58.** 938.346 (1) (title) of the statutes is created to read:

18 938.346 (1) (title) INFORMATION TO VICTIMS.

19 **SECTION 59.** 938.346 (1) (d) 2. of the statutes is amended to read:

20 938.346 (1) (d) 2. The procedure ~~the victim may follow~~ for obtaining the information
21 in subd. 1.

22 **SECTION 60.** 938.346 (1m) and (2) of the statutes are amended to read:

23 938.346 (1m) DUTIES OF INTAKE WORKERS AND DISTRICT ATTORNEYS. The intake worker
24 shall make a reasonable attempt to provide notice of the information ~~specified in~~ under sub.

(1) (a), (b), (c), and (h), the information ~~specified in~~ under sub. (1) (d) relating to a deferred prosecution agreement under s. 938.245, the information ~~specified in~~ under sub. (1) (em) relating to the right to confer, if requested, on deferred prosecution agreements and the information ~~specified in~~ under sub. (3) if the juvenile's case is closed. The district attorney or corporation counsel shall make a reasonable attempt to provide notice of the information ~~specified in~~ under sub. (1) (e), ~~(ec)~~, (f), (fm), and (g), the information ~~specified in~~ under sub. (1) (d) relating to a consent decree under s. 938.32 or a dispositional order under ss. 938.34 to 938.345, the information ~~specified in~~ under sub. (1) (em) relating to the right to request an opportunity to confer, if requested, on amendment of petitions, consent decrees and disposition recommendations and the information under sub. (3) if he or she decides not to file a petition or the proceeding is terminated without a consent decree or dispositional order after the filing of a petition.

COMMENT: DOC/DJC has noted that current law does not address who must provide notice of how to request testing for communicable diseases of a juvenile who is alleged to have thrown or expelled a bodily substance at another in violation of s. 946.43 (2m). The bill draft requires the district attorney or corporation counsel to provide the notice.

(2) DISCLOSURE OF INFORMATION. The notice under sub. (1) shall include an explanation of the restrictions on ~~divulging~~ disclosing information obtained under this chapter and the penalties for ~~violations~~ violating the restrictions.

SECTION 61. 938.346 (3) (title), (4) (title) and (5) (title) of the statutes are created to read:

938.346 (3) (title) CLOSED CASES.

(4) (title) CHILD VICTIMS.

(5) (title) COURT POLICIES AND RULES.

SECTION 62. 938.35 (1) (title) of the statutes is created to read:

1 938.35 (1) (title) EFFECT AND ADMISSIBILITY OF JUDGMENT.

COMMENT: Should the statutes provide that a juvenile disposition is admissible in a ch. 980 (sexually violent persons), proceeding to codify *State v. Matthew A. B.*, 231 Wis. 2d 688, 605 N.W.2d 598 (1999)?

2 **SECTION 63.** 938.35 (1m) and (2) of the statutes are amended to read:

3 938.35 (1m) JEOPARDY. Disposition by the court assigned to exercise jurisdiction under
4 this chapter and ch. 48 of any allegation under s. 938.12 or 938.13 (12) shall bar any future
5 proceeding on the same matter in criminal court when the juvenile reaches the age of attains
6 17 years of age. This paragraph does not affect proceedings in criminal court which have been
7 transferred under s. 938.18.

8 (2) COURT DISCLOSURE OF INFORMATION. Except as ~~specifically provided in~~ under sub.
9 (1), this section does not preclude the court from disclosing information to qualified persons
10 if the court considers the disclosure to be in the best interests of the juvenile or of the
11 administration of justice.

12 **SECTION 64.** 938.355 (1) of the statutes is amended to read:

13 938.355 (1) **INTENT.** In any order under s. 938.34 or 938.345, the court shall decide on
14 a placement and treatment finding based on evidence submitted to the court. The disposition
15 shall employ those means necessary to promote the objectives ~~specified in~~ under s. 938.01.
16 If the ~~judge~~ court has determined that any of the conditions specified in s. 938.34 (4m) (b) 1.,
17 2., or 3. applies, ~~that determination~~ the court shall be ~~prima facie evidence~~ find that a less
18 restrictive alternative than placement in a secured juvenile correctional facility, ~~a secured~~
19 ~~juvenile child-caring institution, or a secured group home~~ is not appropriate. If information
20 under s. 938.331 has been provided in a court report under s. 938.33 (1), the court shall
21 consider that information when deciding on a placement and treatment finding.

22 **SECTION 65.** 938.355 (2) (b) 1., 1m., 4m., 6. and 6r. of the statutes are amended to read:

1 938.355 (2) (b) 1. The specific services or continuum of services to be provided to the
2 juvenile and the juvenile's family, the identity of the agencies ~~which~~ that are to be primarily
3 responsible for the provision of the services ~~mandated by the court~~, the identity of the person
4 or agency ~~who~~ that will provide case management or coordination of services, if any, and, if
5 custody is to be transferred to effect the treatment plan, the identity of the legal custodian.

6 1m. A notice that the juvenile's parent, guardian or legal custodian or the juvenile, if
7 14 years of age or ~~over~~ older, may request an agency that is providing care or services for the
8 juvenile or that has legal custody of the juvenile to disclose to, or make available for inspection
9 by, the parent, guardian, legal custodian or juvenile the contents of any record kept or
10 information received by the agency about the juvenile ~~as provided in~~ under s. 938.78 (2) (ag).

11 4m. If the juvenile is placed outside the home and if the juvenile's parent has not ~~already~~
12 provided a statement of income, assets, debts, and living expenses to the county department
13 under s. 938.30 (6) (b) or (c) or 938.31 (7) (b) or (c), an order for the parent to provide that
14 statement to the county department by a date specified by the court. The county department
15 shall provide, without charge, to the parent a form on which to provide that statement, and the
16 parent shall provide that statement on ~~that~~ the form. The county department shall use the
17 information ~~provided~~ in the statement to determine whether the department may claim federal
18 foster care and adoption assistance reimbursement under 42 USC 670 to 679a for the cost of
19 providing care for the juvenile.

COMMENT: DOC/DJC suggests that the statement of income, assets,
debts, and living expenses should state those of the parent and the
juvenile.

20 6. If the juvenile is placed outside the home, a finding that continued placement of the
21 juvenile in his or her home would be contrary to the welfare of the juvenile or, if the juvenile
22 has been adjudicated delinquent and is placed outside the home under s. 938.34 (3) (a), (c),

1 (cm), or (d) or (4d), a finding that the juvenile's current residence will not safeguard the
2 welfare of the juvenile or the community due to the serious nature of the act for which the
3 juvenile was adjudicated delinquent. The court order shall also contain a finding as to whether
4 the county department or the agency primarily responsible for providing services under a court
5 order has made reasonable efforts to prevent the removal of the juvenile from the home, while
6 assuring that the juvenile's health and safety are the paramount concerns, unless the court finds
7 that any of the circumstances ~~specified in~~ under sub. (2d) (b) 1. to 4. applies, and a finding as
8 to whether the county department or agency has made reasonable efforts to achieve the goal
9 of the juvenile's permanency plan, unless return of the juvenile to the home is the goal of the
10 permanency plan and the court finds that any of the circumstances ~~specified in~~ under sub. (2d)
11 (b) 1. to 4. applies. The court shall make the findings specified in this subdivision on a
12 case-by-case basis based on circumstances specific to the juvenile and shall document or
13 reference the specific information on which those findings are based in the court order. A court
14 order that merely references this subdivision without documenting or referencing that specific
15 information in the court order or an amended court order that retroactively corrects an earlier
16 court order that does not comply with this subdivision is not sufficient to comply with this
17 subdivision.

18 6r. If the court finds that any of the circumstances ~~specified in~~ under sub. (2d) (b) 1. to
19 4. applies with respect to a parent, a determination that the county department or agency
20 primarily responsible for providing services under the court order is not required to make
21 reasonable efforts with respect to the parent to make it possible for the juvenile to return safely
22 to his or her home.

23 **SECTION 66.** 938.355 (2c) (a) (intro.) and (b) of the statutes are amended to read:

1 938.355 (2c) REASONABLE EFFORTS STANDARDS. (a) (intro.) When a court makes a
2 finding under sub. (2) (b) 6. as to whether a county department which provides social services
3 or the agency primarily responsible for providing services to the juvenile under a court order
4 has made reasonable efforts to prevent the removal of the juvenile from his or her home, while
5 assuring that the juvenile's health and safety are the paramount concerns, the court's
6 consideration of reasonable efforts shall include, ~~but not be limited to,~~ whether:

7 (b) When a court makes a finding under sub. (2) (b) 6. as to whether the county
8 department or the agency primarily responsible for providing services to the juvenile under
9 a court order has made reasonable efforts to achieve the goal of the permanency plan, the
10 court's consideration of reasonable efforts shall include the considerations listed under par.
11 (a) ~~1. to 5.~~ and whether visitation schedules between the juvenile and his or her parents were
12 implemented, unless visitation was denied or limited by the court.

13 **SECTION 67.** 938.355 (2d) (a) 1., (b) 1., 2., 3. and 4. and (c) 1. of the statutes are amended
14 to read:

15 938.355 (2d) (a) 1. "Aggravated circumstances" ~~include~~ includes abandonment in
16 violation of s. 948.20 or in violation of the law of any other state or federal law if that violation
17 would be a violation of s. 948.20 if committed in this state, torture, chronic abuse and sexual
18 abuse.

19 (b) 1. ~~That the~~ The parent has subjected the juvenile to aggravated circumstances, as
20 evidenced by a final judgment of conviction.

21 2. ~~That the~~ The parent has committed, has aided or abetted the commission of, or has
22 solicited, conspired, or attempted to commit, a violation of s. 940.01, 940.02, 940.03, or
23 940.05 or a violation of the law of any other state or federal law, if that violation would be a

1 violation of s. 940.01, 940.02, 940.03, or 940.05 if committed in this state, as evidenced by
2 a final judgment of conviction, and that the victim of that violation is a child of the parent.

3 3. ~~That the~~ The parent has committed a violation of s. 940.19 (3), 1999 stats., or s.
4 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.03 (2) (a) or (3)
5 (a) or a violation of the law of any other state or federal law, if that violation would be a
6 violation of s. 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.03
7 (2) (a) or (3) (a) if committed in this state, as evidenced by a final judgment of conviction, and
8 that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or in substantial
9 bodily harm, as defined in s. 939.22 (38), to the juvenile or another child of the parent.

10 4. ~~That the~~ The parental rights of the parent to another child have been involuntarily
11 terminated, as evidenced by a final order of a court of competent jurisdiction terminating those
12 parental rights.

13 (c) 1. If the court finds that any of the circumstances specified in par. (b) 1. to 4. applies
14 with respect to a parent, the court shall hold a hearing within 30 days after the date of that
15 finding to determine the permanency plan for the juvenile. If a hearing is held ~~under this~~
16 ~~subdivision~~, the agency responsible for preparing the permanency plan shall file the
17 permanency plan with the court not less than 5 days before the date of the hearing.

18 **SECTION 68.** 938.355 (2e) (b) of the statutes is amended to read:

19 938.355 (2e) (b) Each time a juvenile's placement is changed under s. 938.357 or a
20 dispositional order is revised under s. 938.363 or extended under s. 938.365, the agency that
21 prepared the permanency plan shall revise the plan to conform to the order and shall file a copy
22 of the revised plan with the court. Each plan filed ~~under this paragraph~~ shall be made a part
23 of the court order.

24 **SECTION 69.** 938.355 (2m) of the statutes is amended to read:

1 938.355 (2m) TRANSITIONAL PLACEMENTS. The court order may include the name of
2 transitional placements, but may not designate a specific time when transitions are to take
3 place. The procedures of ss. 938.357 and 938.363 shall govern when such transitions take
4 place. The court, however, may place specific time limitations on interim arrangements made
5 for the care of the juvenile pending the availability of the dispositional placement.

6 **SECTION 70.** 938.355 (3) (a) and (b) 1. and 1m. of the statutes are amended to read:

7 938.355 (3) PARENTAL VISITATION. (a) Except as provided in under par. (b), if, after a
8 hearing on the issue with due notice to the parent or guardian, the court finds that it would be
9 in the best interest of the juvenile, the court may set reasonable rules of parental visitation.

10 (b) 1. Except as provided in under subd. 2., the court may not grant visitation under par.
11 (a) to a parent of a juvenile if the parent has been convicted ~~under s. 940.01 of the first-degree~~
12 ~~intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, under s.~~
13 940.01 or 940.05 of the juvenile's other parent, and the conviction has not been reversed, set
14 aside, or vacated.

15 1m. Except as provided in under subd. 2., if a parent who is granted visitation rights with
16 a juvenile under par. (a) is convicted ~~under s. 940.01 of the first-degree intentional homicide,~~
17 ~~or under s. 940.05 of the 2nd-degree intentional homicide, under s. 940.01 or 940.05 of the~~
18 juvenile's other parent, and the conviction has not been reversed, set aside, or vacated, the
19 court shall issue an order prohibiting the parent from having visitation with the juvenile on
20 petition of the juvenile, the guardian or legal custodian of the juvenile, a person or agency
21 bound by the dispositional order, or the district attorney or corporation counsel of the county
22 in which the dispositional order was entered, or on the court's own motion, and on notice to
23 the parent.

24 **SECTION 71.** 938.355 (3m), (4) and (4m) (a) of the statutes are amended to read:

1 938.355 **(3m)** ORDERS BASED ON EVIDENCE. Dispositional orders under s. 938.343 or
2 938.344 shall be based upon the evidence ~~except that this.~~ This subsection does not require
3 a dispositional hearing for the disposition of an uncontested citation.

4 **(4)** TERMINATION OF ORDERS. (a) ~~Except as provided~~ under par. (b) or s. 938.368, an
5 order under this section or s. 938.357 or 938.365 made before the juvenile ~~reaches~~ attains 18
6 years of age that places or continues the placement of the juvenile in his or her home shall
7 terminate at the end of one year after its entry unless the court specifies a shorter period of time
8 or the court terminates the order sooner. ~~Except as provided in~~ under par. (b) or s. 938.368,
9 an order under this section or s. 938.357 or 938.365 made before the juvenile ~~reaches~~ attains
10 18 years of age that places or continues the placement of the juvenile in a foster home,
11 treatment foster home, group home, or residential care center for children and youth or in the
12 home of a relative other than a parent shall terminate when the juvenile ~~reaches~~ attains 18 years
13 of age, at the end of one year after its entry, or, if the juvenile is a full-time student at a
14 secondary school or its vocational or technical equivalent and is reasonably expected to
15 complete the program before ~~reaching~~ attaining 19 years of age, when the juvenile ~~reaches~~
16 attains 19 years of age, whichever is later, unless the court specifies a shorter period of time
17 or the court terminates the order sooner.

18 (b) ~~Except as provided in~~ under s. 938.368, an order under s. 938.34 (4d) or (4m) made
19 before the juvenile ~~reaches~~ attains 18 years of age may apply for up to 2 years after its entry
20 or until the juvenile's 18th birthday, whichever is earlier, unless the court specifies a shorter
21 period of time or the court terminates the order sooner. ~~Except as provided in~~ under s. 938.368,
22 an order under s. 938.34 (4h) made before the juvenile ~~reaches~~ attains 18 years of age shall
23 apply for 5 years after its entry, if the juvenile is adjudicated delinquent for committing a
24 violation of s. 943.10 (2) or for committing an act that would be punishable as a Class B or

1 C felony if committed by an adult, or until the juvenile reaches 25 years of age, if the juvenile
2 is adjudicated delinquent for committing an act that would be punishable as a Class A felony
3 if committed by an adult. Except as ~~provided in~~ under s. 938.368, an extension of an order
4 under s. 938.34 (4d), (4h), (4m), or (4n) made before the juvenile reaches attains 17 years of
5 age shall terminate at the end of one year after its entry unless the court specifies a shorter
6 period of time or the court terminates the order sooner. No extension under s. 938.365 of an
7 original dispositional order under s. 938.34 (4d), (4h), (4m), or (4n) may be granted for a
8 juvenile who is 17 years of age or older when the original dispositional order terminates.

9 (4m) EXPUNGEMENT OF RECORD. (a) A juvenile who has been adjudged delinquent may,
10 on attaining 17 years of age, petition the court to expunge the court's record of the juvenile's
11 adjudication. Subject to par. (b), the court may expunge the ~~court's record of the juvenile's~~
12 ~~adjudication~~ if the court determines that the juvenile has satisfactorily complied with the
13 conditions of his or her dispositional order and that the juvenile will benefit from, and society
14 will not be harmed by, the expungement.

COMMENT: Section 938.355 (4m) (a) permits the court to expunge a juvenile's delinquency adjudication under certain circumstances. This provision only applies to persons who were adjudicated delinquent for violations committed on or after the effective date of ch. 938 (July 1, 1996). [*State v. Jason J.C.*, 216 Wis. 2d 12, 573 N.W.2d 564 (1997).] Committee member Don Garber suggests that the provision be amended so that a person who was adjudicated delinquent for an offense committed before July 1, 1996 may request to have his or her record expunged.

15 SECTION 72. 938.355 (6) (a) and (an) of the statutes are amended to read:

16 938.355 (6) SANCTIONS FOR VIOLATION OF ORDER. (a) Delinquency and JIPS orders. 1.
17 If a juvenile who has been adjudged delinquent or to have violated a civil law or ordinance,
18 other than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition specified
19 in sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in par.

1 (d). A sanction may be imposed under this subdivision only if, at the dispositional hearing
2 under s. 938.335, the court explained the conditions to the juvenile and informed the juvenile
3 of those possible sanctions or if before the violation the juvenile has acknowledged in writing
4 that he or she has read, or has had read to him or her, those conditions and possible sanctions
5 and that he or she understands those conditions and possible sanctions.

6 2. If a juvenile who has been found to be in need of protection or services under s. 938.13
7 (4), (6m), (7), (12), or (14) violates a condition specified in sub. (2) (b) 7., the court may
8 impose on the juvenile any of the sanctions ~~specified in~~ under par. (d), other than placement
9 in a secure detention facility or juvenile portion of a county jail, A sanction may be imposed
10 under this subdivision only if, at the dispositional hearing under s. 938.335, the court
11 explained the conditions to the juvenile and informed the juvenile of those possible sanctions
12 or if before the violation the juvenile has acknowledged in writing that he or she has read, or
13 has had read to him or her, those conditions and possible sanctions and that he or she
14 understands those conditions and possible sanctions.

15 (an) Municipal court orders. 1. If a juvenile who has violated a municipal ordinance,
16 other than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of a
17 dispositional order imposed by the municipal court, the municipal court may petition the court
18 assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the
19 sanction ~~specified in~~ under par. (d) 1. or ~~the sanction specified in par. (d) 3.,~~ with monitoring
20 by an electronic monitoring system, A sanction may be imposed under this subdivision only
21 if, at the time of the judgment, the municipal court explained the conditions to the juvenile and
22 informed the juvenile of those possible sanctions for a violation or if before the violation the
23 juvenile has acknowledged in writing that he or she has read, or has had read to him or her,
24 those conditions and possible sanctions and that he or she understands those conditions and

1 possible sanctions. The petition shall contain a statement of whether the juvenile may be
2 subject to the federal Indian child welfare act, 25 USC 1911 to 1963.

3 2. If the court assigned to exercise jurisdiction under this chapter and ch. 48 imposes
4 the sanction ~~specified in~~ under par. (d) 1. or home detention with monitoring by an electronic
5 monitoring system ~~as specified in~~ under par. (d) 3., on a petition described in subd. 1., ~~that the~~
6 court shall order the municipality of the municipal court that filed the petition to pay to the
7 county the cost of providing the sanction imposed under par. (d) 1. or 3.

8 **SECTION 73.** 938.355 (6) (b) (title) and (c) (title) of the statutes are created to read:

9 938.355 (6) (b) (title) *Motion to impose sanction.*

10 (c) (title) *Sanction hearing.*

11 **SECTION 74.** 938.355 (6) (cm) of the statutes is amended to read:

12 938.355 (6) (cm) Reasonable efforts finding. The court may not order the sanction of
13 placement in a place of nonsecure custody specified in par. (d) 1. unless the court finds that
14 the agency primarily responsible for providing services for the juvenile has made reasonable
15 efforts to prevent the removal of the juvenile from his or her home and that continued
16 placement of the juvenile in his or her home is contrary to the welfare of the juvenile. These
17 findings are not required if they were made in the dispositional order under which the juvenile
18 is being sanctioned. The court shall make the findings ~~specified in~~ under this paragraph on
19 a case-by-case basis based on circumstances specific to the juvenile and shall document or
20 reference the specific information on which that finding is based in the sanction order. A
21 sanction order that merely references this paragraph without documenting or referencing that
22 specific information in the sanction order or an amended sanction order that retroactively
23 corrects an earlier sanction order that does not comply with this paragraph is not sufficient to
24 comply with this paragraph.

COMMENT: DOC/DJC requested clarification as to whether reasonable efforts findings must be made if they have already been made in the dispositional order. According to DOC and the department of health and family services (DHFS), a subsequent finding is not required.

1 **SECTION 75.** 938.355 (6) (d) (title) and (e) (title) of the statutes are created to read:

2 938.355 **(6)** (d) (title) *Sanctions available.*

3 (e) (title) *Contempt of court.*

4 **SECTION 76.** 938.355 (6d) (a) 1. and 2. and (b) 1. and 2. of the statutes are amended to
5 read:

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

1 2. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies
2 adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board
3 relating to the taking into custody and placement of a juvenile under this subdivision, if a
4 juvenile who has been adjudged delinquent violates a condition specified in sub. (2) (b) 7., the
5 juvenile's caseworker or any other person authorized to provide or providing intake or
6 dispositional services for the court under s. 938.067 or 938.069 may, without a hearing, take
7 the juvenile into custody and place the juvenile in a secure detention facility or juvenile portion
8 of a county jail that meets the standards promulgated by the department by rule or in a place
9 of nonsecure custody designated by that person for not more than 72 hours as a consequence
10 of that violation. The sanction may be imposed under this subdivision only if at the
11 dispositional hearing the court explained those conditions to the juvenile and informed the
12 juvenile of the possibility of that placement or if before the violation the juvenile has
13 acknowledged in writing that he or she has read, or has had read to him or her, those conditions
14 and that possible placement and that he or she understands those conditions and that possible
15 placement. A person who takes a juvenile into custody under this subdivision shall permit the
16 juvenile to make a written or oral statement concerning the possible placement of the juvenile
17 and the course of conduct for which the juvenile was taken into custody. A person designated
18 by the court or county department who is employed in a supervisory position by a person
19 authorized to provide or providing intake or dispositional services under s. 938.067 or 938.069
20 shall review that statement and shall either approve the placement or order the juvenile to be
21 released from custody.

22 (b) 1. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies
23 adopted by the court under s. 938.06 (1) or (2), to any policies adopted by the county
24 department relating to aftercare supervision administered by the county department, and to

1 any policies adopted by the county board relating to the taking into custody and placement of
2 a juvenile under this subdivision, if a juvenile who is on aftercare supervision administered
3 by the county department violates a condition of that supervision, the juvenile's caseworker
4 or any other person authorized to provide or providing intake or dispositional services for the
5 court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and
6 place the juvenile in a secure detention facility or juvenile portion of a county jail that meets
7 the standards promulgated by the department by rule or in a place of nonsecure custody
8 designated by that person for not more than 72 hours while the alleged violation and the
9 appropriateness of revoking the juvenile's aftercare status are being investigated. The
10 sanction may be imposed under this subdivision only if before the violation the juvenile has
11 acknowledged in writing that he or she has read, or has had read to him or her, those conditions
12 and that possible placement and that he or she understands those conditions and that possible
13 placement.

COMMENT: Should this provision include an oral warning of possible sanctions as well as a written one?

14 2. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies
15 adopted by the court under s. 938.06 (1) or (2), to any policies adopted by the county
16 department relating to aftercare supervision administered by the county department, and to
17 any policies adopted by the county board relating to the taking into custody and placement of
18 a juvenile under this subdivision, if a juvenile who is on aftercare supervision administered
19 by the county department violates a condition of that supervision, the juvenile's caseworker
20 or any other person authorized to provide or providing intake or dispositional services for the
21 court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and
22 place the juvenile in a secure detention facility or juvenile portion of a county jail that meets

1 the standards promulgated by the department by rule or in a place of nonsecure custody
2 designated by that person for not more than 72 hours as a consequence of that violation. The
3 sanction under this subdivision may be imposed only if at the dispositional hearing the court
4 explained those conditions to the juvenile and informed the juvenile of ~~the possibility of that~~
5 possible placement or if before the violation the juvenile has acknowledged in writing that he
6 or she has read, or has had read to him or her, those conditions and that possible placement
7 and that he or she understands those conditions and that possible placement. A person who
8 takes a juvenile into custody under this subdivision shall permit the juvenile to make a written
9 or oral statement concerning the possible placement of the juvenile and the course of conduct
10 for which the juvenile was taken into custody. A person designated by the court or the county
11 department who is employed in a supervisory position by a person authorized to provide or
12 providing intake or dispositional services under s. 938.067 or 938.069 shall review that
13 statement and ~~shall~~ either approve the placement of the juvenile or order the juvenile to be
14 released from custody.

15 **SECTION 77.** 938.355 (6d) (c) 1. and 2. and (d) of the statutes are amended to read:

16 938.355 **(6d)** (c) 1. Notwithstanding ss. 938.19 to 938.21, but subject to any general
17 written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by
18 the county board relating to the taking into custody and placement of a juvenile under this
19 subdivision, if a juvenile who has been found to be in need of protection or services under s.
20 938.13 violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker or any other
21 person authorized to provide or providing intake or dispositional services for the court under
22 s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the
23 juvenile in a place of nonsecure custody designated by that person for not more than 72 hours
24 while the alleged violation and the appropriateness of a sanction under sub. (6) or (6m) are

1 being investigated. The sanction may be imposed under this subdivision only if at the
2 dispositional hearing the court explained those conditions to the juvenile and informed the
3 juvenile of ~~the possibility of~~ that possible placement or if before the violation the juvenile has
4 acknowledged in writing that he or she has read, or has had read to him or her, those conditions
5 and that possible placement and that he or she understands those conditions and that possible
6 placement.

7 2. Notwithstanding ss. 938.19 to 938.21, but subject to any general written policies
8 adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board
9 relating to the taking into custody and placement of a juvenile under this subdivision, if a
10 juvenile who has been found to be in need of protection or services under s. 938.13 violates
11 a condition specified in sub. (2) (b) 7., the juvenile's caseworker or any other person
12 authorized to provide or providing intake or dispositional services for the court under s.
13 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the
14 juvenile in a place of nonsecure custody designated by that person for not more than 72 hours
15 as a consequence of that violation. The sanction may be imposed under this subdivision only
16 if at the dispositional hearing the court explained those conditions to the juvenile and informed
17 the juvenile of ~~the possibility of~~ that possible placement or if before the violation the juvenile
18 has acknowledged in writing that he or she has read, or has had read to him or her, those
19 conditions and that possible placement and that he or she understands those conditions and that
20 possible placement. A person who takes a juvenile into custody under this subdivision shall
21 permit the juvenile to make a written or oral statement concerning the possible placement of
22 the juvenile and the course of conduct for which the juvenile was taken into custody. A person
23 designated by the court or the county department who is employed in a supervisory position
24 by a person authorized to provide or providing intake or dispositional services under s.

1 938.067 or 938.069 shall review that statement and shall either approve the placement or order
2 the juvenile to be released from custody.

3 (d) *Hearing; when required.* If a juvenile is held under par. (a), (b), or (c) in a secure
4 detention facility, juvenile portion of a county jail, or place of nonsecure custody for longer
5 than 72 hours, the juvenile is entitled to a hearing under sub. (6) (c) or s. 938.21. The hearing
6 shall be conducted in the manner provided in sub. (6) or s. 938.21, except that for a hearing
7 under, notwithstanding s. 938.21 (1) (a), the hearing shall be conducted within 72 hours, rather
8 than 24 hours, after the time that the decision to hold the juvenile was made and a written
9 statement of the reasons for continuing to hold the juvenile in custody may be filed rather than
10 instead of a petition under s. 938.25.

11 **SECTION 78.** 938.355 (6g) (a) and (b) (intro.) of the statutes are amended to read:

12 938.355 (6g) (a) If a juvenile upon whom the court has imposed a sanction under sub.
13 (6) (a) or (6m) commits a 2nd or subsequent violation of a condition specified in sub. (2) (b)
14 7., the district attorney may file a petition under s. 938.12 charging the juvenile with contempt
15 of court, as defined in under s. 785.01 (1), and reciting the recommended disposition under
16 s. 938.34 ~~sought to be imposed~~. The district attorney may bring the motion on his or her own
17 initiative or on the request of the court that imposed the condition specified in sub. (2) (b) 7.
18 or that imposed the sanction under sub. (6) (a) or (6m). If the district attorney brings the motion
19 on the request of the court ~~that imposed the condition specified in sub. (2) (b) 7. or that imposed~~
20 ~~the sanction under sub. (6) (a) or (6m),~~ that court is disqualified from holding any a hearing
21 on the contempt petition.

COMMENT: Should the language regarding the district attorney bringing
a motion be changed to filing a petition?

1 (b) (intro.) The court may find a juvenile in contempt of court, as defined in s. 785.01
2 (1), and order a disposition under s. 938.34 ~~only~~ if the court makes all of the following
3 findings:

4 **SECTION 79.** 938.355 (6m) (a) (intro.), (ag), (am) and (cm) of the statutes are amended
5 to read:

6 938.355 (**6m**) (a) (intro.) If the court finds by a preponderance of the evidence that a
7 juvenile who has been found to have violated a municipal ordinance enacted under s. 118.163
8 (2) or who has been found to be in need of protection or services under s. 938.13 (6) has
9 violated a condition specified under sub. (2) (b) 7., the court may order as a sanction any
10 combination of the sanctions ~~specified in~~ under subds. 1g. to 4. and the dispositions specified
11 ~~in~~ under s. 938.342 (1g) (d) to (j) and (1m), regardless of whether the disposition was imposed
12 in the order violated by the juvenile, A sanction may be imposed under this paragraph only
13 if at the dispositional hearing under s. 938.335 the court explained those conditions to the
14 juvenile and informed the juvenile of the possible sanctions under this paragraph for a
15 violation or if before the violation the juvenile has acknowledged in writing that he or she has
16 read, or has had read to him or her, those conditions and possible sanctions and that he or she
17 understands those conditions and possible sanctions. The court may order as a sanction under
18 this paragraph any of the following:

19 (ag) If the court finds by a preponderance of the evidence that a juvenile who has been
20 found to have violated a municipal ordinance enacted under s. 118.163 (1m) has violated a
21 condition specified under sub. (2) (b) 7., the court may order as a sanction any combination
22 of the operating privilege suspension specified in par. (a) and the dispositions specified in s.
23 938.342 (1g) (b) to (k) and (1m), regardless of whether the disposition was imposed in the
24 order violated by the juvenile, A sanction may be imposed under this paragraph only if at the

1 dispositional hearing under s. 938.335 the court explained those conditions to the juvenile and
2 informed the juvenile of the possible sanctions under this paragraph for a violation or if before
3 the violation the juvenile has acknowledged in writing that he or she has read, or has had read
4 to him or her, those conditions and possible sanctions and that he or she understands those
5 conditions and possible sanctions.

6 (am) 1. If a juvenile who has violated a municipal ordinance enacted under s. 118.163
7 (2) violates a condition of a dispositional order imposed by the municipal court, the municipal
8 court may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to
9 impose on the juvenile the sanction specified in par. (a) 1g. A sanction may be imposed under
10 this subdivision only if, at the time of the judgment the municipal court explained the
11 conditions to the juvenile and informed the juvenile of that possible sanction ~~for a violation~~
12 or if before the violation the juvenile has acknowledged in writing that he or she has read, or
13 has had read to him or her, those conditions and that possible sanction and that he or she
14 understands those conditions and that possible sanction. The petition shall contain a statement
15 of whether the juvenile may be subject to the federal Indian child welfare act, 25 USC 1911
16 to 1963.

17 2. If the court assigned to exercise jurisdiction under this chapter and ch. 48 imposes
18 the sanction ~~specified in~~ under par. (a) 1g. on a petition ~~described in~~ under subd. 1., ~~that the~~
19 court shall order the municipality of the municipal court that filed the petition to pay to the
20 county the cost of providing the sanction imposed under par. (a) 1g.

21 (cm) The court may not order the sanction of placement in a place of nonsecure custody
22 ~~specified in~~ under par. (a) 1g. unless the court finds that the agency primarily responsible for
23 providing services for the juvenile has made reasonable efforts to prevent the removal of the
24 juvenile from his or her home and that continued placement of the juvenile in his or her home

1 is contrary to the welfare of the juvenile. The court shall make the findings ~~specified in~~ under
2 this paragraph on a case-by-case basis based on circumstances specific to the juvenile and
3 shall document or reference the specific information on which that finding is based in the
4 sanction order. A sanction order that merely references this paragraph without documenting
5 or referencing that specific information in the sanction order or an amended sanction order that
6 retroactively corrects an earlier sanction order that does not comply with this paragraph is not
7 sufficient to comply with this paragraph.

8 **SECTION 80.** 938.355 (7) of the statutes is amended to read:

9 938.355 (7) ORDERS APPLICABLE TO PARENTS, GUARDIANS, LEGAL CUSTODIANS AND OTHER
10 ADULTS. In addition to any dispositional order entered under s. 938.34 or 938.345, the court
11 may enter an order applicable to a juvenile's parent, guardian, or legal custodian or to another
12 adult, as provided under s. 938.45.

13 **SECTION 81.** 938.356 (1) of the statutes is amended to read:

14 938.356 (1) ORAL WARNING. Whenever the court orders a juvenile to be placed outside
15 his or her home or denies a parent visitation because the juvenile has been adjudged delinquent
16 or to be in need of protection or services under s. 938.34, 938.345, 938.357, 938.363 or
17 938.365, the court shall orally inform the parent or parents who appear in court of any grounds
18 for termination of parental rights under s. 48.415 which may be applicable and of the
19 conditions necessary for the juvenile to be returned to the home or for the parent to be granted
20 visitation.

COMMENT: DOC/DJC requests modifying current law to require that
parents be warned of grounds for termination of parental rights when a
juvenile is adjudged delinquent in addition to when a juvenile is
adjudged JIPS.

21 **SECTION 82.** 938.356 (2) (title) of the statutes is created to read:

1 938.356 (2) (title) WRITTEN ORDERS.

2 **SECTION 83.** 938.357 (1) (title), (1) (a) (title) and (1) (am) (title) of the statutes are
3 created to read:

4 938.357 (1) (title) REQUEST BY PERSON OR AGENCY RESPONSIBLE FOR DISPOSITIONAL
5 ORDER OR DISTRICT ATTORNEY.

6 (1) (a) (title) *Applicability.*

7 (1) (am) (title) *From out-of-home placement.*

8 **SECTION 84.** 938.357 (1) (am) 1. and 3. of the statutes are amended to read:

9 938.357 (1) (am) 1. If the proposed change in placement involves any change in
10 placement other than a change in placement ~~specified in~~ under par. (c), the person or agency
11 primarily responsible for implementing the dispositional order or the district attorney shall
12 cause written notice of the proposed change in placement to be sent to the juvenile, the parent,
13 guardian, and legal custodian of the juvenile, and any foster parent, treatment foster parent,
14 or other physical custodian described in s. 48.62 (2) of the juvenile. The notice shall contain
15 the name and address of the new placement, the reasons for the change in placement, a
16 statement describing why the new placement is preferable to the present placement, and a
17 statement of how the new placement satisfies objectives of the treatment plan ordered by the
18 court.

19 3. If the court changes the juvenile's placement from a placement outside the home to
20 another placement outside the home, the change in placement order shall contain one of the
21 statements ~~specified in~~ under sub. (2v) (a) 2.

22 **SECTION 85.** 938.357 (1) (c) and (2) of the statutes are amended to read:

23 938.357 (1) (c) From placement in the home. 1. If the proposed change in placement
24 would change the placement of a juvenile placed in the home to a placement outside the home,

1 the person or agency primarily responsible for implementing the dispositional order or the
2 district attorney shall submit a request for the change in placement to the court. The request
3 shall contain the name and address of the new placement, the reasons for the change in
4 placement, a statement describing why the new placement is preferable to the present
5 placement, and a statement of how the new placement satisfies objectives of the treatment plan
6 ordered by the court. The request shall also contain specific information showing that
7 continued placement of the juvenile in his or her home would be contrary to the welfare of the
8 juvenile and, unless any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4.
9 applies, specific information showing that the agency primarily responsible for implementing
10 the dispositional order has made reasonable efforts to prevent the removal of the juvenile from
11 the home, while assuring that the juvenile's health and safety are the paramount concerns.

12 2. The court shall hold a hearing prior to ordering ~~any a~~ change in placement requested
13 under subd. 1. ~~Not less than~~ At least 3 days prior to the hearing, the court shall provide notice
14 of the hearing, together with a copy of the request for the change in placement, to the juvenile,
15 the parent, guardian, and legal custodian of the juvenile, and all parties that are bound by the
16 dispositional order. If all parties consent, the court may proceed immediately with the hearing.

17 3. If the court changes the juvenile's placement from a placement in the juvenile's home
18 to a placement outside the juvenile's home, the change in placement order shall contain the
19 findings ~~specified in~~ under sub. (2v) (a) 1., one of the statements ~~specified in~~ under sub. (2v)
20 (a) 2., and, if in addition the court finds that any of the circumstances ~~specified in~~ under s.
21 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the determination ~~specified in~~ under
22 sub. (2v) (a) 3.

23 (2) EMERGENCY CHANGE IN PLACEMENT. If emergency conditions necessitate an
24 immediate change in the placement of a juvenile placed outside the home, the person or agency

1 primarily responsible for implementing the dispositional order may remove the juvenile to a
2 new placement, whether or not authorized by the existing dispositional order, without the prior
3 notice ~~provided in~~ under sub. (1) (am) 1. The notice shall, ~~however,~~ be sent within 48 hours
4 after the emergency change in placement. Any party receiving notice may demand a hearing
5 under sub. (1) (am) 2. In emergency situations, a juvenile may be placed in a licensed public
6 or private shelter care facility as a transitional placement for not more than 20 days, ~~as well~~
7 as or in any placement authorized under s. 938.34 (3).

8 **SECTION 86.** 938.357 (2m) and (2r) of the statutes are amended to read:

9 938.357 (2m) REQUESTS BY OTHERS. (a) Request. The juvenile, the parent, guardian,
10 or legal custodian of the juvenile, or any person or agency primarily bound by the dispositional
11 order, other than the person or agency responsible for implementing the order, may request
12 a change in placement under this paragraph. The request shall contain the name and address
13 of the new placement requested and shall state what new information is available that affects
14 the advisability of the current placement. If the proposed change in placement would change
15 the placement of a juvenile placed in the home to a placement outside the home, the request
16 shall also contain specific information showing that continued placement of the juvenile in the
17 home would be contrary to the welfare of the juvenile and, unless any of the circumstances
18 ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies, specific information showing that the
19 agency primarily responsible for implementing the dispositional order has made reasonable
20 efforts to prevent the removal of the juvenile from the home, while assuring that the juvenile's
21 health and safety are the paramount concerns. The request shall be submitted to the court.
22 ~~In addition, the~~ The court may propose a change in placement on its own motion.

23 (b) Hearing; when required. The court shall hold a hearing ~~on the matter~~ prior to
24 ordering any change in placement requested or proposed under par. (a) if the request states that

1 new information is available that affects the advisability of the current placement, ~~unless. A~~
2 hearing is not required if the requested or proposed change in placement ~~involves any change~~
3 ~~in placement other than~~ does not involve a change in placement of a juvenile placed in the
4 home to a placement outside the home and, written waivers of objection to the proposed
5 change in placement are signed by all parties entitled to receive notice under sub. (1) (am) 1.,
6 and the court approves. If a hearing is scheduled, the court shall notify the juvenile, the parent,
7 guardian, and legal custodian of the juvenile, any foster parent, treatment foster parent, or
8 other physical custodian described in s. 48.62 (2) of the juvenile, and all parties who are bound
9 by the dispositional order at least 3 days prior to the hearing. A copy of the request or proposal
10 for the change in placement shall be attached to the notice. If all of the parties consent, the
11 court may proceed immediately with the hearing.

COMMENT: DOC/DJC has commented that it is unclear whether a hearing is required for a change in placement to a less restrictive placement if all parties agree. It appears that a hearing is not required. [See s. 938.357 (1) (am) 2. and (2m) (b).] Is clarification of the statutes needed?

12 (c) Findings if change from in-home to out-of-home placement. If the court changes
13 the juvenile's placement from a placement in the juvenile's home to a placement outside the
14 juvenile's home, the change in placement order shall contain the findings ~~specified in~~ under
15 sub. (2v) (a) 1., one of the statements ~~specified in~~ under sub. (2v) (a) 2., and, if in addition the
16 court finds that any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies
17 with respect to a parent, the determination ~~specified in~~ under sub. (2v) (a) 3.

18 (2r) REMOVAL FROM FOSTER HOME OR PHYSICAL CUSTODIAN. If a hearing is held under
19 sub. (1) (am) 2. or (2m) (b) and the change in placement would remove a juvenile from a foster
20 home, treatment foster home, or other placement with a physical custodian described in s.
21 48.62 (2), the court shall give the foster parent, treatment foster parent, or other physical

1 custodian ~~described in s. 48.62 (2)~~ an opportunity to be heard at the hearing by permitting the
2 foster parent, treatment foster parent, or other physical custodian to make a written or oral
3 statement during the hearing or to submit a written statement prior to the hearing relating to
4 the juvenile and the requested change in placement. A foster parent, treatment foster parent,
5 or other physical custodian ~~described in s. 48.62 (2)~~ who receives notice of a hearing under
6 sub. (1) (am) 1. or (2m) (b) and an opportunity to be heard under this subsection does not
7 become a party to the proceeding on which the hearing is held solely on the basis of receiving
8 that notice and opportunity to be heard.

9 **SECTION 87.** 938.357 (2v) (title) and (a) (title) of the statutes are created to read:

10 938.357 **(2v)** (title) ORDER. (a) (title) *Contents*.

11 **SECTION 88.** 938.357 (2v) (a) 1., 2. and 3. and (b) of the statutes are amended to read:

12 938.357 **(2v)** (a) 1. If the court changes the juvenile's placement from a placement in
13 the juvenile's home to a placement outside the juvenile's home, a finding that continued
14 placement of the juvenile in his or her home would be contrary to the welfare of the juvenile
15 and, unless a circumstance ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies, a finding that
16 the agency primarily responsible for implementing the dispositional order has made
17 reasonable efforts to prevent the removal of the juvenile from the home, while assuring that
18 the juvenile's health and safety are the paramount concerns.

19 2. If the change in placement order would change the placement of the juvenile to a
20 placement outside the home recommended by the person or agency primarily responsible for
21 implementing the dispositional order, whether from a placement in the home or from another
22 placement outside the home, a statement that the court approves the placement recommended
23 by the person or agency ~~or, if,~~ If the change in placement order would change the placement
24 of the juvenile to a placement outside the home that is not a placement recommended by that

1 person or agency, whether from a placement in the home or from another placement outside
2 the home, a statement that the court has given bona fide consideration to the recommendations
3 made by that person or agency and all parties relating to the juvenile's placement.

4 3. If the court finds that any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b)
5 1. to 4. applies with respect to a parent, a determination that the agency primarily responsible
6 for providing services under the change in placement order is not required to make reasonable
7 efforts with respect to the parent to make it possible for the juvenile to return safely to his or
8 her home.

9 (b) 'Documentation of basis of findings.' The court shall make the findings ~~specified~~
10 ~~in~~ under par. (a) 1. and 3. on a case-by-case basis based on circumstances specific to the
11 juvenile and shall document or reference the specific information on which those findings are
12 based in the change in placement order. A change in placement order that merely references
13 par. (a) 1. or 3. without documenting or referencing that specific information in the change in
14 placement order or an amended change in placement order that retroactively corrects an earlier
15 change in placement order that does not comply with this paragraph is not sufficient to comply
16 with this paragraph.

17 **SECTION 89.** 938.357 (2v) (c) (title) of the statutes is created to read:

18 938.357 (2v) (c) (title) *Permanency plan hearing.*

19 **SECTION 90.** 938.357 (2v) (c) 1. of the statutes is amended to read:

20 938.357 (2v) (c) 1. If the court finds under par. (a) 3. that any of the circumstances
21 ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall
22 hold a hearing within 30 days after the date of that finding to determine the permanency plan
23 for the juvenile. If a hearing is held under this paragraph, the agency responsible for preparing

1 the permanency plan shall file the permanency plan with the court ~~not less than~~ at least 5 days
2 before the date of the hearing.

3 **SECTION 91.** 938.357 (3) of the statutes is amended to read:

4 938.357 (3) PLACEMENT IN JUVENILE CORRECTIONAL FACILITY. Subject to subs. (4) (b)
5 and (c) and (5) (e), if the proposed change in placement would involve placing a juvenile in
6 a secured juvenile correctional facility, ~~a secured child caring institution, or a secured group~~
7 ~~home,~~ notice shall be given as provided in sub. (1) (am) 1. A hearing shall be held, unless
8 waived by the juvenile, parent, guardian, and legal custodian, before the ~~judge~~ court makes
9 a decision on the request. The juvenile ~~shall be~~ is entitled to counsel at the hearing, and any
10 party opposing or favoring the proposed new placement may present relevant evidence and
11 cross-examine witnesses. The proposed new placement may be approved only if the ~~judge~~
12 court finds, on the record, that the conditions set forth in s. 938.34 (4m) have been met.

13 **SECTION 92.** 938.357 (4) (a) and (b) 1., 2. and 3. of the statutes are amended to read:

14 938.357 (4) PLACEMENT WITH DEPARTMENT OF CORRECTIONS. (a) When the juvenile is
15 placed with the department, the department may, after an examination under s. 938.50, place
16 the juvenile in a secured juvenile correctional facility ~~or a secured child caring institution~~ or
17 on aftercare supervision, either immediately or after a period of placement in a secured
18 juvenile correctional facility ~~or a secured child caring institution.~~ The department shall send
19 written notice of the change in placement to the parent, guardian, legal custodian, county
20 department designated under s. 938.34 (4n), if any, and committing court. If the department
21 places a juvenile in a Type 2 secured juvenile correctional facility operated by a child welfare
22 agency, the department shall reimburse the child welfare agency at the rate established under
23 s. 46.037 that is applicable to the type of placement that the child welfare agency is providing
24 for the juvenile. A juvenile who is placed in a Type 2 secured juvenile correctional facility

1 ~~or a secured child caring institution~~ remains under the supervision of the department, remains
2 subject to the rules and discipline of that department, and is considered to be in custody, as
3 defined in s. 946.42 (1) (a).

4 (b) 1. If a juvenile whom the department has placed in a Type 2 secured juvenile
5 correctional facility operated by a child welfare agency violates a condition of his or her
6 placement in the Type 2 secured juvenile correctional facility, the child welfare agency
7 operating the Type 2 secured juvenile correctional facility shall notify the department and the
8 department, after consulting with the child welfare agency, may place the juvenile in a Type 1
9 secured juvenile correctional facility under the supervision of the department, without a
10 hearing under sub. (1) (am) 2.

11 2. If a juvenile whom the court has placed in a Type 2 ~~child caring institution~~ residential
12 care center for children and youth under s. 938.34 (4d) violates a condition of his or her
13 placement in the Type 2 ~~child caring institution~~ residential care center for children and youth,
14 the child welfare agency operating the Type 2 ~~child caring institution~~ residential care center
15 for children and youth shall notify the county department that has supervision over the juvenile
16 and, if the county department agrees to a change in placement under this subdivision, the child
17 welfare agency shall notify the department, and the department, after consulting with the child
18 welfare agency, may place the juvenile in a Type 1 secured juvenile correctional facility under
19 the supervision of the department, without a hearing under sub. (1) (am) 2., for not more than
20 10 days. If a juvenile is placed in a Type 1 secured juvenile correctional facility under this
21 subdivision, the county department that has supervision over the juvenile shall reimburse the
22 child welfare agency operating the Type 2 child caring institution in which the juvenile was
23 placed at the rate established under s. 46.037, and that child welfare agency shall reimburse

1 the department at the rate specified in s. 301.26 (4) (d) 2. or 3., whichever is applicable, for
2 the cost of the juvenile's care while placed in a Type 1 ~~secured~~ juvenile correctional facility.

3 3. The child welfare agency operating the Type 2 ~~secured~~ juvenile correctional facility
4 or Type 2 ~~child-caring institution~~ residential care center for children and youth shall send
5 written notice of a change in placement under subd. 1. or 2. to the parent, guardian, legal
6 custodian, county department, and committing court.

7 **SECTION 93.** 938.357 (4) (c) 1., 2. and 3. of the statutes are amended to read:

8 938.357 (4) (c) 1. If a juvenile is placed in a Type 2 ~~secured~~ juvenile correctional facility
9 operated by a child welfare agency under par. (a) and it appears that a less restrictive placement
10 would be appropriate for the juvenile, the department, after consulting with the child welfare
11 agency that is operating the Type 2 ~~secured~~ juvenile correctional facility ~~in which the juvenile~~
12 ~~is placed~~, may place the juvenile in a less restrictive placement, and may return the juvenile
13 to the Type 2 ~~secured~~ juvenile correctional facility without a hearing under sub. (1) (am) 2.
14 The child welfare agency shall establish a rate for each type of placement in the manner
15 provided in s. 46.037.

16 2. If a juvenile is placed in a Type 2 ~~child-caring institution~~ residential care center for
17 children and youth under s. 938.34 (4d) and it appears that a less restrictive placement would
18 be appropriate for the juvenile, the child welfare agency operating the Type 2 ~~child-caring~~
19 ~~institution~~ residential care center for children and youth shall notify the county department
20 that has supervision over the juvenile and, if the county department agrees to a change in
21 placement under this subdivision, the child welfare agency may place the juvenile in a less
22 restrictive placement. A child welfare agency may also, with the agreement of the county
23 department that has supervision over a juvenile who is placed in a less restrictive placement
24 under this subdivision, return the juvenile to the Type 2 ~~child-caring institution~~ residential care

1 center for children and youth without a hearing under sub. (1) (am) 2. The child welfare
2 agency shall establish a rate for each type of placement in the manner provided in s. 46.037.

3 3. The child welfare agency operating the Type 2 secured juvenile correctional facility
4 or Type 2 child-caring institution residential care center for children and youth shall send
5 written notice of a change in placement under subd. 1. or 2. to the parent, guardian, legal
6 custodian, county department, and committing court.

7 **SECTION 94.** 938.357 (4) (d) of the statutes is repealed.

COMMENT: The repealed paragraph permitted a juvenile who was
adjudicated delinquent to be transferred to an adult correctional facility.
This provision was found to be unconstitutional in *State of Wisconsin v.*
Hezzie R., 219 Wis. 2d 849, 580 N.W.2d 660 (1998).

8 **SECTION 95.** 938.357 (4d) (a) and (am) of the statutes are amended to read:

9 938.357 (4d) PROHIBITED PLACEMENTS BASED ON CRIMINAL CONVICTION. (a) Except as
10 provided in under par. (b), the court may not change a juvenile's placement to a placement in
11 the home of a person who has been convicted ~~under s. 940.01 of the first-degree intentional~~
12 ~~homicide, or under s. 940.05 of the 2nd-degree intentional homicide,~~ under s. 940.01 or
13 940.05 of a parent of the juvenile, if the conviction has not been reversed, set aside, or vacated.

14 (am) Except as ~~provided in~~ under par. (b), if a parent in whose home a juvenile is placed
15 is convicted ~~under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the~~
16 ~~2nd-degree intentional homicide,~~ of the juvenile's other parent under s. 940.01 or 940.05, and
17 the conviction has not been reversed, set aside, or vacated, the court shall change the juvenile's
18 placement to a placement out of the home of the parent on petition of the juvenile, the guardian
19 or legal custodian of the juvenile, a person or agency bound by the dispositional order, or the
20 district attorney or corporation counsel of the county in which the dispositional order was
21 entered, or on the court's own motion, ~~and on~~ with notice to the parent.

1 **SECTION 96.** 938.357 (4g) (a), (b), (c) (intro.) and (d) of the statutes are amended to read:

2 938.357 **(4g)** AFTERCARE PLAN. (a) Not later than 120 days after the date on which the
3 juvenile is placed in a secured juvenile correctional facility, ~~a secured child caring institution~~
4 ~~or a secured group home~~, or within 30 days after the date on which the department requests
5 the aftercare plan, whichever is earlier, the aftercare provider designated under s. 938.34 (4n)
6 shall prepare an aftercare plan for the juvenile. If the designated aftercare provider ~~designated~~
7 ~~under s. 938.34 (4n)~~ is a county department, that county department shall submit the aftercare
8 plan to the department within the time limits specified in this paragraph, unless the department
9 waives those time limits under par. (b).

10 (b) The department may waive the time period within which an aftercare plan must be
11 prepared and submitted under par. (a) if the department anticipates that the juvenile will
12 remain in the secured juvenile correctional facility, ~~secured child caring institution or secured~~
13 ~~group home~~ for a period exceeding 8 months or if the juvenile is subject to s. 48.366 or
14 938.183. If the department waives that time period, the designated aftercare provider
15 ~~designated under s. 938.34 (4n)~~ shall prepare the aftercare plan within 30 days after the date
16 on which the department requests the aftercare plan.

17 (c) (intro.) An aftercare plan ~~prepared under par. (a) or (b)~~ shall include all of the
18 following:

19 (d) A juvenile may be released from a secured juvenile correctional facility, ~~a secured~~
20 ~~child caring institution or a secured group home~~ whether or not an aftercare plan has been
21 prepared under this subsection.

22 **SECTION 97.** 938.357 (4m) (title) and (5) (title) of the statutes are created to read:

23 938.357 **(4m)** (title) **RELEASE TO AFTERCARE SUPERVISION.**

24 **(5)** (title) **REVOCATION OF AFTERCARE SUPERVISION.**

COMMENT: Section 938.357 (4m) provides that DOC must “try” to release a juvenile to aftercare supervision within 30 days after the date DOC determines the juvenile is eligible for release. Should this provision be made more specific?

1 **SECTION 98.** 938.357 (5) (a), (c), (d), (e) and (f) of the statutes are amended to read:

2 938.357 **(5)** (a) The department or a county department, whichever has been designated
3 as a juvenile’s aftercare provider ~~under s. 938.34 (4n)~~, may revoke the aftercare status of that
4 juvenile. ~~Revocation of aftercare supervision shall not require prior~~ Prior notice of revocation
5 of aftercare supervision under sub. (1) (am) 1. is not required.

6 (c) The juvenile ~~shall be~~ is entitled to representation by counsel at all stages of the
7 revocation proceeding.

8 (d) A hearing on the revocation shall be conducted by the division of hearings and
9 appeals in the department of administration within 30 days after the juvenile is taken into
10 custody for an alleged violation of ~~the conditions~~ a condition of the juvenile’s aftercare
11 supervision. This time limit may be waived only upon the agreement of the aftercare provider,
12 the juvenile, and the juvenile’s counsel.

13 (e) If the hearing examiner finds that the juvenile has violated a condition of aftercare
14 supervision, the hearing examiner shall determine whether confinement in a ~~secured~~ juvenile
15 ~~correctional facility, a secured child caring institution or a secured group home~~ is necessary
16 to protect the public, to provide for the juvenile’s rehabilitation, ~~or to not depreciate~~ recognize
17 the seriousness of the violation.

18 (f) Review of a revocation decision shall be by certiorari to the court ~~by whose order~~
19 ~~the juvenile was~~ that placed the juvenile in a ~~secured~~ the juvenile correctional facility, ~~a~~
20 ~~secured child caring institution or a secured group home.~~

21 **SECTION 99.** 938.357 (5m) (title) of the statutes is created to read:

1 938.357 (5m) (title) CHILD SUPPORT.

2 **SECTION 100.** 938.357 (5m) (a) of the statutes is amended to read:

3 938.357 (5m) (a) If a proposed change in placement ~~changes~~ would change a juvenile's
4 placement from a placement in the juvenile's home to a placement outside the juvenile's home,
5 the court shall order the juvenile's parent to provide a statement of income, assets, debts, and
6 living expenses to the court or the person or agency primarily responsible for implementing
7 the dispositional order by a date specified by the court. The clerk of court shall provide,
8 without charge, to any parent ordered to provide a statement of income, assets, debts, and
9 living expenses a document setting forth the percentage standard established by the
10 department of workforce development under s. 49.22 (9) and listing the factors ~~that a court~~
11 ~~may consider~~ under s. 301.12 (14) (c). If the juvenile is placed outside the juvenile's home,
12 the court shall determine the liability of the parent in the manner provided in s. 301.12 (14).

13 **SECTION 101.** 938.357 (6) of the statutes is amended to read:

14 938.357 (6) DURATION OF ORDER. No change in placement may extend the expiration
15 date of the original order, except that if the change in placement is from a placement in the
16 juvenile's home to a placement in a foster home, treatment foster home, group home, or
17 residential care center for children and youth or in the home of a relative who is not a parent,
18 the court may extend the expiration date of the original order to the date on which the juvenile
19 ~~reaches~~ attains 18 years of age, to the date that is one year after the date of the change in
20 placement order, or, if the juvenile is a full-time student at a secondary school or its vocational
21 or technical equivalent and is reasonably expected to complete the program before ~~reaching~~
22 attaining 19 years of age, to the date on which the juvenile ~~reaches~~ attains 19 years of age,
23 whichever is later, or for a shorter period of time as specified by the court. If the change in
24 placement is from a placement in a foster home, treatment foster home, group home, or

1 residential care center for children and youth or in the home of a relative to a placement in the
2 juvenile's home and if the expiration date of the original order is more than one year after the
3 date of the change in placement order, the court shall shorten the expiration date of the original
4 order to the date that is one year after the date of the change in placement order or to an earlier
5 date as specified by the court.

6 **SECTION 102.** 938.36 (1) (title) of the statutes is created to read:

7 938.36 (1) (title) SUPPORT.

8 **SECTION 103.** 938.36 (2) of the statutes is amended to read:

9 938.36 (2) SERVICES OR TREATMENT. If a juvenile whose legal custody has not been taken
10 from a parent or guardian is given educational and social services, or medical, psychological,
11 or psychiatric treatment by order of the court, the cost thereof, if ordered by the court, shall
12 be a charge upon may order the county to pay for those services or treatment. This section does
13 not prevent recovery of reasonable contribution toward the costs from the parent or guardian
14 of the juvenile as the court may order based on the ability of the parent or guardian to pay.
15 This subsection is subject to s. 301.03 (18).

16 **SECTION 104.** 938.36 (3) (title) of the statutes is created to read:

17 938.36 (3) (title) SERVICES PROVIDED BY SCHOOL DISTRICT.

18 **SECTION 105.** 938.361 (1) (title) of the statutes is created to read:

19 938.361 (1) (title) DEFINITIONS.

20 **SECTION 106.** 938.361 (2) of the statutes is amended to read:

21 938.361 (2) ORDERS FOR PAYMENT. (a) 1. If a juvenile's parent neglects, refuses, or is
22 unable to provide court-ordered alcohol and other drug abuse services for the juvenile through
23 his or her health insurance or other 3rd-party payments, notwithstanding s. 938.36 (3) the
24 court assigned to exercise jurisdiction under this chapter and ch. 48 or municipal court may

1 order the parent to pay for the alcohol and drug abuse services. If the parent consents to
2 provide alcohol and other drug abuse services for a juvenile through his or her health insurance
3 or other 3rd-party payments but the health insurance provider or other 3rd-party payer refuses
4 to provide the alcohol and other drug abuse services, the court assigned to exercise jurisdiction
5 under this chapter and ch. 48 or municipal court may order the health insurance provider or
6 3rd-party payer to pay for the alcohol and other drug abuse services in accordance with the
7 terms of the parent's health insurance policy or other 3rd-party payment plan.

COMMENT: The phrase "notwithstanding s. 938.36 (3)" does not appear
to make sense. Should it be deleted or is the cross-reference incorrect?

8 2. This paragraph applies to payment for alcohol and other drug abuse services in any
9 county, ~~regardless of whether the county is a~~ including pilot county counties under s. 938.547.

10 (am) 1. If a court assigned to exercise jurisdiction under this chapter and ch. 48 in a pilot
11 county ~~that has a pilot program~~ under s. 938.547 finds that payment is not attainable cannot
12 be attained under par. (a), the court may order payment ~~in accordance with~~ under par. (b).

13 2. If a court assigned to exercise jurisdiction under this chapter and ch. 48 in a county
14 that does not have a pilot program under s. 938.547 finds that payment is not attainable cannot
15 be attained under par. (a), the court may order payment ~~in accordance with~~ under s. 938.34 (6)
16 (ar) or 938.36.

17 3. If a municipal court finds that payment is not attainable cannot be attained under par.
18 (a), the municipal court may order the municipality over which the municipal court has
19 jurisdiction to pay for any alcohol and other drug abuse services ordered by the municipal
20 court.

21 (b) 1. In ~~counties that have a pilot program~~ counties under s. 938.547, in addition to
22 ~~using the alternative provided for~~ ordering payment under par. (a), the court assigned to

1 exercise jurisdiction under this chapter and ch. 48 may order a county department of human
2 services established under s. 46.23 or a county department established under s. 51.42 or 51.437
3 in the juvenile's county of legal residence to pay for the alcohol and other drug abuse services
4 whether or not custody has been taken from the parent.

5 2. If a ~~judge~~ court orders a county department established under s. 51.42 or 51.437 to
6 provide alcohol and other drug abuse services under this paragraph, the provision of ~~the~~
7 ~~alcohol and other drug abuse services shall be~~ is subject to conditions specified in ch. 51.

8 (c) Payment for alcohol and other drug abuse services by a county department or
9 municipality under this section does not prohibit the county department or municipality from
10 contracting with another county department, municipality, school district, or approved
11 treatment facility for the provision of alcohol and other drug abuse services. Payment by the
12 county or municipality under this section does not prevent recovery of reasonable contribution
13 toward the costs of the court-ordered alcohol and other drug abuse services from the parent
14 ~~which is~~ based upon the ability of the parent to pay. This subsection is subject to s. 46.03 (18).

15 **SECTION 107.** 938.362 (1) (title) and (2) (title) of the statutes are created to read:

16 938.362 (1) (title) DEFINITION.

17 (2) (title) APPLICABILITY.

18 **SECTION 108.** 938.362 (3) and (4) (a) of the statutes are amended to read:

19 938.362 (3) PAYMENT BY PARENT. If a juvenile's parent neglects, refuses, or is unable
20 to provide court-ordered special treatment or care for the juvenile through his or her health
21 insurance or other 3rd-party payments, ~~notwithstanding s. 938.36 (3),~~ the court may order the
22 parent to pay for the court-ordered special treatment or care. If the parent consents to provide
23 court-ordered special treatment or care for a juvenile through his or her health insurance or
24 other 3rd-party payments but the health insurance provider or other 3rd-party payer refuses

1 to provide the ~~court-ordered~~ special treatment or care, the court may order the health
2 insurance provider or 3rd-party payer to pay for the ~~court-ordered~~ special treatment or care
3 in accordance with the terms of the parent's health insurance policy or other 3rd-party
4 payment plan.

5 (4) PAYMENT BY COUNTY DEPARTMENT. (a) If the court finds that payment is not
6 attainable under sub. (3), the court may order the county department under s. 51.42 or 51.437
7 of the juvenile's county of legal residence to pay the cost of any court-ordered special
8 treatment or care that is provided ~~by or~~ directly by or under contract with ~~that,~~ the county
9 department.

10 **SECTION 109.** 938.363 (1) (title) of the statutes is created to read:

11 938.363 (1) (title) REQUESTS FOR REVISION.

12 **SECTION 110.** 938.363 (1) (a) and (b), (1m) and (2) of the statutes are amended to read:

13 938.363 (1) (a) A juvenile, the juvenile's parent, guardian or legal custodian, any person
14 or agency bound by a dispositional order, or the district attorney or corporation counsel in the
15 county in which the dispositional order was entered may request a revision in the order that
16 does not involve a change in placement, including a revision with respect to the amount of
17 child support to be paid by a parent, ~~or the.~~ The court may ~~on its own motion~~ also propose
18 ~~such~~ a revision. The request or court proposal shall set forth in detail the nature of the proposed
19 revision and what new information is available that affects the advisability of the court's
20 disposition. The request or court proposal shall be submitted to the court. The court shall hold
21 a hearing on the matter prior to any revision of the dispositional order if the request or court
22 proposal indicates that new information is available that affects the advisability of the court's
23 dispositional order, unless written waivers of objections to the revision are signed by all parties
24 entitled to receive notice and the court approves.

1 (b) If a hearing is held, the court shall notify the juvenile, the juvenile's parent, guardian
2 and legal custodian, all parties bound by the dispositional order, the juvenile's foster parent,
3 treatment foster parent or other physical custodian described in s. 48.62 (2), and the district
4 attorney or corporation counsel in the county in which the dispositional order was entered at
5 least 3 days prior to the hearing. A copy of the request or proposal shall be attached to the
6 notice. If all parties consent, the court may proceed immediately with the hearing. No revision
7 may extend the effective period expiration date of the original order, or revise an original order
8 under s. 938.34 (3) (f) or (6) (am) to impose more than a total of 30 days of detention,
9 nonsecure custody, or inpatient treatment on a juvenile.

10 **(1m) EVIDENCE AND STATEMENTS.** If a hearing is held under sub. (1) (a), any party may
11 present evidence relevant to the issue of revision of the dispositional order. In addition, the
12 court shall give a foster parent, treatment foster parent, or other physical custodian described
13 in s. 48.62 (2) of the juvenile an opportunity to be heard at the hearing by permitting the foster
14 parent, treatment foster parent, or other physical custodian to make a written or oral statement
15 during the hearing, or to submit a written statement prior to the hearing, relevant to the issue
16 of revision. A foster parent, treatment foster parent, or other physical custodian ~~described in~~
17 ~~s. 48.62 (2)~~ who receives notice of a hearing under sub. (1) (a) and an opportunity to be heard
18 under this subsection does not become a party to the proceeding on which the hearing is held
19 solely on the basis of receiving that notice and opportunity to be heard.

20 **(2) REVISION OF SUPPORT.** If the court revises ~~a dispositional order with respect to the~~
21 ~~amount of child support to be paid by a parent~~ under the dispositional order for the care and
22 maintenance of the parent's ~~minor~~ juvenile who has been placed by a court order under this
23 chapter in a residential, nonmedical facility, the court shall determine the liability of the parent
24 ~~in the manner provided in~~ under s. 301.12 (14).

1 **SECTION 111.** 938.364 of the statutes is amended to read:

2 **938.364 Dismissal of certain dispositional orders.** A juvenile, the juvenile's parent,
3 guardian or legal custodian, or the district attorney or corporation counsel in the county in
4 which the dispositional order was entered may request a judge the court to dismiss an order
5 made under s. 938.342 (2) if the juvenile shows documentary proof that he or she is enrolled
6 in a school program or a high school equivalency program, ~~or the~~ The court may ~~on its own~~
7 motion also propose such a dismissal.

8 **SECTION 112.** 938.365 (1) and (1m) of the statutes are amended to read:

9 **938.365 (1) DATE ON WHICH JUVENILE PLACED OUTSIDE HOME.** In this section, a juvenile
10 is considered to have been placed outside of his or her home on the date on which the juvenile
11 was first removed from his or her home, except that ~~in the case of a juvenile who on removal~~
12 was removed from his or her home was and first placed in a secure detention facility, or a
13 secured juvenile correctional facility, ~~a secured child caring institution, or a secured group~~
14 ~~home~~ for 60 days or more and then moved to a ~~nonsecured~~ nonsecure out-of-home placement,
15 the juvenile is considered to have been placed outside of his or her home on the date on which
16 the juvenile was moved to the ~~nonsecured~~ nonsecure out-of-home placement.

17 **(1m) REQUEST.** The parent, juvenile, guardian, legal custodian, any person or agency
18 bound by the dispositional order, the district attorney or corporation counsel in the county in
19 which the dispositional order was entered, or the court on its own motion, may request an
20 extension of an order under s. 938.355. The request shall be submitted to the court which
21 entered the order. ~~No An~~ order under s. 938.355 that placed for placement of a juvenile in
22 detention, nonsecure custody, or inpatient treatment under s. 938.34 (3) (f) or (6) (am) may
23 not be extended. ~~No other order~~ Other orders under s. 938.355 may be extended except only
24 as provided in this section.

COMMENT: DOC/DJC suggests modifying the 2nd sentence to clarify that only the portion of a dispositional order that places a juvenile in detention, nonsecure, or inpatient treatment may not be extended.

1 **SECTION 113.** 938.365 (2) (title) and (2g) (title) of the statutes are created to read:

2 938.365 (2) (title) NOTICE.

3 (2g) (title) COURT REPORT.

4 **SECTION 114.** 938.365 (2) (intro.) of the statutes is amended to read:

5 938.365 (2) PLACEMENT WITH GUARDIAN. (intro.) If a juvenile's placement with a
6 guardian appointed under s. 48.977 (2) is designated by the court under s. 48.977 (3) as a
7 permanent foster placement for the juvenile while a dispositional order under s. 938.345, a
8 revision order under s. 938.363 or an extension order under s. 938.365 is in effect with respect
9 to the juvenile, ~~such~~ the dispositional order, revision order, or extension order shall remain in
10 effect until the earliest of the following:

11 **SECTION 115.** 938.365 (2) (a) 2. and (c) of the statutes are amended to read:

12 938.365 (2) (a) 2. An evaluation of the juvenile's adjustment to the placement and of
13 any progress the juvenile has made, suggestions for amendment of the permanency plan, and
14 specific information showing the efforts that have been made to achieve the goal of the
15 permanency plan, including, if applicable, the efforts of the parents to remedy the factors that
16 contributed to the juvenile's placement, unless return of the juvenile to the home is the goal
17 of the permanency plan and any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b)
18 1. to 4. applies.

19 (c) ~~In cases where~~ If the juvenile has not been placed outside the home, the report shall
20 contain a description of efforts that have been made by all parties concerned toward meeting
21 the objectives of treatment, care, or rehabilitation; an explanation of why these efforts have
22 not yet succeeded in meeting the objective; and anticipated future planning for the juvenile.

1 **SECTION 116.** 938.365 (2m) (title) of the statutes is created to read:

2 938.365 (**2m**) (title) HEARING.

3 **SECTION 117.** 938.365 (2m) (a), (ad) 1. and (ag) of the statutes are amended to read:

4 938.365 (**2m**) (a) 1. Any party may present evidence relevant to the issue of extension.

5 If the juvenile is placed outside of his or her home, the person or agency primarily responsible
6 for providing services to the juvenile shall present as evidence specific information showing
7 that the agency has made reasonable efforts to achieve the goal of the juvenile's permanency
8 plan, unless return of the juvenile to the home is the goal of the permanency plan and any of
9 the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to 4. applies. The court shall make
10 findings of fact and conclusions of law based on the evidence. The findings of fact shall
11 include a finding as to whether reasonable efforts were made by the agency primarily
12 responsible for providing services to the juvenile to achieve the goal of the juvenile's
13 permanency plan, unless return of the juvenile to the home is the goal of the permanency plan
14 and the court finds that any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b) 1. to
15 4. applies. An order shall be issued under s. 938.355.

16 2. If the court finds that any of the circumstances ~~specified in~~ under s. 938.355 (2d) (b)
17 1. to 4. applies with respect to a parent, the order shall include a determination that the person
18 or agency primarily responsible for providing services to the juvenile is not required to make
19 reasonable efforts with respect to the parent to make it possible for the juvenile to return safely
20 to his or her home.

21 3. The court shall make the findings ~~specified in~~ under subd. 1. relating to reasonable
22 efforts to achieve the goal of the juvenile's permanency plan and the findings ~~specified in~~
23 under subd. 2. on a case-by-case basis based on circumstances specific to the juvenile and
24 shall document or reference the specific information on which those findings are based in the

1 order issued under s. 938.355. An order that merely references subd. 1. or 2. without
2 documenting or referencing that specific information in the order or an amended order that
3 retroactively corrects an earlier order that does not comply with this subdivision is not
4 sufficient to comply with this subdivision.

5 (ad) 1. If the court finds that any of the circumstances ~~specified in~~ under s. 938.355 (2d)
6 (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing within 30 days after
7 the date of that finding to determine the permanency plan for the juvenile. If a hearing is held
8 under this subdivision, the agency responsible for preparing the permanency plan shall file the
9 permanency plan with the court not less than 5 days before the date of the hearing.

10 (ag) The court shall give a foster parent, treatment foster parent, or other physical
11 custodian described in s. 48.62 (2) who is notified of a hearing under par. (ad) 2. or sub. (2)
12 an opportunity to be heard at the hearing by permitting the foster parent, treatment foster
13 parent, or other physical custodian to make a written or oral statement during the hearing, or
14 to submit a written statement prior to the hearing, relevant to the issue of extension. A foster
15 parent, treatment foster parent, or other physical custodian ~~described in s. 48.62 (2)~~ who
16 receives notice of a hearing under par. (ad) 2. or sub. (2) and an opportunity to be heard under
17 this paragraph does not become a party to the proceeding on which the hearing is held solely
18 on the basis of receiving that notice and opportunity to be heard.

19 **SECTION 118.** 938.365 (3) (title) and (4) (title) of the statutes are created to read:

20 938.365 (3) (title) WAIVER OF APPEARANCE.

21 (4) (title) DISPOSITIONS TO BE CONSIDERED.

22 **SECTION 119.** 938.365 (5) and (6) of the statutes are amended to read:

23 938.365 (5) DURATION OF EXTENSION. Except as ~~provided in~~ under s. 938.368, an order
24 under this section that continues the placement of a juvenile in his or her home or that extends

1 an order under s. 938.34 (4d), (4h), (4m), or (4n) shall be for a specified length of time not to
2 exceed one year after its date of entry. Except as ~~provided in~~ under s. 938.368, an order under
3 this section that continues the placement of a juvenile in a foster home, treatment foster home,
4 group home, or residential care center for children and youth or in the home of a relative other
5 than a parent shall be for a specified length of time not to exceed the date on which the juvenile
6 ~~reaches~~ attains 18 years of age, one year after the date ~~of entry of~~ on which the order ~~is granted~~,
7 or, if the juvenile is a full-time student at a secondary school or its vocational or technical
8 equivalent and is reasonably expected to complete the program before ~~reaching~~ attaining 19
9 years of age, the date on which the juvenile ~~reaches~~ attains 19 years of age, whichever is later.

COMMENT: DOC/DJC suggests this change so that the order expires one
year after the court orally makes, or grants, its order instead of one year
after the order is filed with the clerk of court.

10 (6) HEARINGS CONDUCTED AFTER ORDER TERMINATES. If a request to extend a
11 dispositional order is made prior to the termination of the order, but the court is unable to
12 conduct a hearing on the request prior to the termination date, the court may extend the order
13 for a period of not more than 30 days, not including any period of delay resulting from any
14 of the circumstances ~~specified in~~ under s. 938.315 (1). The court shall grant appropriate relief
15 ~~as provided in~~ under s. 938.315 (3) with respect to any request to extend a dispositional order
16 on which a hearing is not held within the time limit specified in this subsection. Failure to
17 object if a hearing is not held within the time limit ~~specified in~~ under this subsection waives
18 that time limit.

19 **SECTION 120.** 938.365 (7) (title) of the statutes is created to read:

20 938.365 (7) (title) REVOCATION OF AFTERCARE AND OTHER CHANGES IN PLACEMENT.

21 **SECTION 121.** 938.368 (1) (title) of the statutes is created to read:

22 938.368 (1) (title) TERMINATION OF PARENTAL RIGHTS PROCEEDINGS.

1 **SECTION 122.** 938.368 (2) (intro.) of the statutes is amended to read:

2 938.368 (2) PLACEMENT WITH GUARDIAN. (intro.) If a juvenile's placement with a
3 guardian appointed under s. 48.977 (2) is designated by the court under s. 48.977 (3) as a
4 permanent foster placement for the juvenile while a dispositional order under s. 938.345, a
5 revision order under s. 938.363 or an extension order under s. 938.365 is in effect with respect
6 to the juvenile, ~~such~~ the dispositional order, revision order or extension order shall remain in
7 effect until the earliest of the following:

8 **SECTION 123.** 938.37 (1) (title) and (3) (title) of the statutes are created to read:

9 938.37 (1) (title) JUVENILE COURT.

10 (3) (title) CIVIL AND CRIMINAL COURTS.

11 **SECTION 124.** 938.371 of the statutes is amended to read:

12 938.371 (1) MEDICAL INFORMATION. If a juvenile is placed in a foster home, treatment
13 foster home, group home, residential care center for children and youth, or secured juvenile
14 correctional facility, including a placement under s. 938.205 or 938.21, the agency, as defined
15 in s. 938.38 (1) (a), that placed the juvenile or arranged for the placement of the juvenile shall
16 provide the following information to the foster parent, treatment foster parent, or operator of
17 the group home, residential care center for children and youth, or secured juvenile correctional
18 facility at the time of placement or, if the information has not been provided to the agency by
19 that time, as soon as possible after the date on which the agency receives that information, but
20 not more than 2 working days after that date:

21 (a) Results of a test or a series of tests of the juvenile to determine the presence of HIV,
22 as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an antibody to HIV,
23 ~~as provided~~ under s. 252.15 (5) (a) 19., including results included in a court report or
24 permanency plan. At the time that the test results are provided, the agency shall notify the

1 foster parent, treatment foster parent, or operator of the group home, residential care center
2 for children and youth, or ~~secured~~ juvenile correctional facility of the confidentiality
3 requirements under s. 252.15 (6).

4 (b) Results of any tests of the juvenile to determine the presence of viral hepatitis, type
5 B, including results included in a court report or permanency plan. The foster parent,
6 treatment foster parent, or operator of a group home, residential care center for children and
7 youth, or ~~secured~~ juvenile correctional facility receiving information under this paragraph
8 shall keep the information confidential.

9 (c) Any other medical information concerning the juvenile that is necessary for the care
10 of the juvenile. The foster parent, treatment foster parent, or operator of a group home,
11 residential care center for children and youth, or ~~secured~~ juvenile correctional facility
12 receiving information under this paragraph shall keep the information confidential.

13 (3) OTHER INFORMATION. At the time of placement of a juvenile in a foster home,
14 treatment foster home, group home, residential care center for children and youth, or ~~secured~~
15 juvenile correctional facility or, if the information is not available at that time, as soon as
16 possible after the date on which the court report or permanency plan has been submitted, but
17 no later than 7 days after that date, the agency, as defined in s. 938.38 (1) (a), responsible for
18 preparing the juvenile's permanency plan shall provide to the foster parent, treatment foster
19 parent, or operator of the group home, residential care center for children and youth, or ~~secured~~
20 juvenile correctional facility information contained in the court report submitted under s.
21 938.33 (1) or 938.365 (2g) or permanency plan submitted under s. 938.355 (2e) or 938.38
22 relating to findings or opinions of the court or agency that prepared the court report or
23 permanency plan relating to any of the following:

1 (a) Any mental, emotional, cognitive, developmental, or behavioral disability of the
2 juvenile. The foster parent, treatment foster parent, or operator of a group home, residential
3 care center for children and youth, or ~~secured~~ juvenile correctional facility receiving
4 information under this subsection shall keep the information confidential.

5 (b) Any involvement of the juvenile in any criminal gang, as defined in s. 939.22 (9),
6 or in any other group in which any child was traumatized as a result of his or her association
7 with that group. The foster parent, treatment foster parent, or operator of a group home,
8 residential care center for children and youth, or ~~secured~~ juvenile correctional facility
9 receiving information under this paragraph shall keep the information confidential.

10 (c) Any involvement of the juvenile in any activities that are harmful to the juvenile's
11 physical, mental, or moral well-being. The foster parent, treatment foster parent, or operator
12 of a group home, residential care center for children and youth, or ~~secured~~ juvenile
13 correctional facility receiving information under this paragraph shall keep the information
14 confidential.

15 (d) Any involvement of the juvenile, whether as victim or perpetrator, in sexual
16 intercourse or sexual contact in violation of s. 940.225, 948.02, or 948.025, prostitution in
17 violation of s. 944.30, sexual exploitation of a child in violation of s. 948.05, or causing a child
18 to view or listen to sexual activity in violation of s. 948.055, if the information is necessary
19 for the care of the juvenile or for the protection of any person living in the foster home,
20 treatment foster home, group home, residential care center for children and youth, or ~~secured~~
21 juvenile correctional facility. The foster parent, treatment foster parent, or operator of a group
22 home, residential care center for children and youth, or ~~secured~~ juvenile correctional facility
23 receiving information under this paragraph shall keep the information confidential.

24 (e) The religious affiliation or ~~belief~~ beliefs of the juvenile.

SECTION 125. 938.373 (1) of the statutes is amended to read:

938.373 (1) GIVING AUTHORIZATION. The court assigned to exercise jurisdiction under this chapter and ch. 48 may authorize medical services including surgical procedures when needed if the court assigned to exercise jurisdiction under this chapter and ch. 48 determines that reasonable cause exists for the services and that the juvenile is within the jurisdiction of the court assigned to exercise jurisdiction under this chapter and ch. 48 and, except as provided in under s. 938.296 (4) and (5), consents.

SECTION 126. 938.373 (2) (title) of the statutes is created to read:

938.373 (2) (title) ABORTION SERVICES.

(END)