

1       **AN ACT** *to renumber and amend* 938.183 (2); *to amend* 938.12, 938.125 (intro.) and  
2       (2), 938.13, 938.135, 938.15, 938.17 (1) (intro.) and (c), 938.17 (2) (a) 2. d. and 3.,  
3       938.17 (2) (b) to (e), 938.17 (2) (g), 938.17 (2) (h) 1. and 2., 938.17 (2) (i) 1., 2m.  
4       and 3g., 938.18 (1) and (2), 938.18 (3), 938.18 (4) (b), 938.18 (5) (a), 938.18 (6),  
5       938.183 (1) (am), 938.183 (1m) (intro.) and (c) 1. and 2., 938.183 (3) and (4),  
6       938.185 (1) (title) and 938.185 (2); and *to create* 938.17 (2) (a) (title), 938.17 (2) (e)  
7       (title) and (f) (title), 938.17 (2) (h) (title), 938.17 (2) (i) (title), 938.18 (2m) (title),  
8       938.18 (4) (title), 938.18 (5) (title), 938.18 (7) (title), (8) (title) and (9) (title),  
9       938.183 (1) (title), 938.183 (4) (title) and 938.185 (3) (title) and (4) (title) of the  
10       statutes; **relating to:** jurisdiction.

*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 III, relating to jurisdiction.

11       **SECTION 1.** 938.12 of the statutes is amended to read:

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

15       **(2) SEVENTEEN-YEAR OLDS.** ~~If a court proceeding has been commenced under this~~  
16       ~~section before a petition alleging that a juvenile is delinquent is filed before the juvenile is 17~~  
17       years of age, but the juvenile becomes 17 years of age before admitting the facts of the petition

1 at the plea hearing or if the juvenile denies the facts, before an adjudication, the court retains  
2 jurisdiction over the case.

**COMMENT:** 1. Clarifies that a delinquency proceeding is commenced when a delinquency petition is filed. [*D.W.B. v. State*, 158 Wis. 2d 398, 462 N.W.2d 520, 521 (1990).]

2. It appears that the language under which the juvenile court retains jurisdiction only if the juvenile becomes 17 years of age before admitting the facts of the petition at the plea hearing or if the juvenile denies the facts, before adjudication, is unnecessary. Prior to 1995 Wisconsin Act 77, once a juvenile reached majority for purposes of juvenile court jurisdiction, the juvenile court retained jurisdiction to: (a) dismiss the action with prejudice; (b) waive its jurisdiction; or (c) enter into a consent decree. [s. 48.12 (2), 1993 stats.] Repealing this language appears to suggest the intent that the juvenile court retains full jurisdiction once the juvenile attains age 17 whether he or she admitted or denied the facts, or if no action has been taken on the petition.

3 **SECTION 2.** 938.125 (intro.) and (2) of the statutes are amended to read:

4 **938.125 Jurisdiction over juveniles alleged to have violated civil laws or**  
5 **ordinances.** The court has exclusive jurisdiction over ~~any~~ a juvenile alleged to have violated  
6 a law punishable by forfeiture or a county, town, or other municipal ordinance, except as  
7 follows:

8 (2) ~~That the~~ The court has exclusive jurisdiction over ~~any~~ a juvenile alleged to have  
9 violated an ordinance enacted under s. 118.163 (2) only if evidence is provided by the school  
10 attendance officer that the activities under s. 118.16 (5) have been completed or were not  
11 required to be completed as provided in s. 118.16 (5m).

12 **SECTION 3.** 938.13 of the statutes is amended to read:

13 **938.13 Jurisdiction over juveniles alleged to be in need of protection or services.**  
14 The court has exclusive original jurisdiction over a juvenile alleged to be in need of protection  
15 or services which can be ordered by the court, ~~and~~ based upon one or more of the following  
16 conditions:

1           (4) UNCONTROLLABLE. ~~Whose~~ The juvenile's parent or guardian signs the petition  
2 requesting jurisdiction under this subsection and is unable or needs assistance to control the  
3 juvenile.

4           (6) HABITUALLY TRUANT FROM SCHOOL. ~~Who~~ Except as provided under s. 938.17 (2),  
5 the juvenile is habitually truant from school, ~~if~~ and evidence is provided by the school  
6 attendance officer that the activities under s. 118.16 (5) have been completed or were not  
7 required to be completed as provided in s. 118.16 (5m), ~~except as provided under s. 938.17~~  
8 ~~(2).~~

9           (6m) SCHOOL DROPOUT. ~~Who~~ The juvenile is a school dropout, as defined in s. 118.153  
10 (1) (b).

11           (7) HABITUALLY TRUANT FROM HOME. ~~Who~~ The juvenile is habitually truant from home  
12 and either the juvenile or a parent, ~~or~~ guardian, or a relative in whose home the juvenile resides  
13 signs the petition requesting jurisdiction and attests in court that reconciliation efforts have  
14 been attempted and have failed.

15           (12) DELINQUENT ACT BEFORE AGE 10. ~~Who, being~~ The juvenile is under 10 years of age,  
16 and has committed a delinquent act ~~as defined in s. 938.12.~~

17           (14) NOT RESPONSIBLE OR NOT COMPETENT. ~~Who~~ The juvenile has been determined,  
18 under s. 938.30 (5) (c), to be not responsible for a delinquent act by reason of mental disease  
19 or defect or who has been determined, under s. 938.30 (5) (d), to be not competent to proceed.

20           **SECTION 4.** 938.135 of the statutes is amended to read:

21           **938.135 Referral of juveniles to proceedings under ch. 51 or 55. (1)**  
22 DEVELOPMENTALLY DISABLED, MENTALLY ILL, OR ALCOHOL OR DRUG DEPENDENT JUVENILES. If a  
23 juvenile alleged to be delinquent or in need of protection or services is before the court and

1 it appears that the juvenile is to be developmentally disabled, mentally ill or, drug dependent  
2 or suffers suffering from alcoholism, the court may proceed under ch. 51 or 55.

3 (2) ADMISSIONS, PLACEMENTS, AND COMMITMENTS TO INPATIENT FACILITIES. Any voluntary  
4 or involuntary admissions, placements, or commitments of a juvenile made in or to an  
5 inpatient facility, as defined in s. 51.01 (10), other than a commitment under s. 938.34 (6) (am)  
6 shall be, are governed by ch. 51 or 55.

7 SECTION 5. 938.15 of the statutes is amended to read:

8 **938.15 Jurisdiction of other courts to determine legal custody.** Nothing contained  
9 in s. 938.12, 938.13 or 938.14 this chapter deprives other courts another court of the right to  
10 determine the legal custody of juveniles a juvenile by habeas corpus or to determine the legal  
11 custody or guardianship of juveniles a juvenile if the legal custody or guardianship is  
12 incidental to the determination of causes an action pending in the other courts that court. But  
13 the jurisdiction of the court assigned to exercise jurisdiction under this chapter and ch. 48 is  
14 paramount in all cases involving juveniles alleged to come within the provisions of ss. 938.12  
15 to 938.14.

COMMENT: Is the last sentence in need of revision? Is the use of the  
phrase "is paramount in all cases" specific enough?

16 SECTION 6. 938.17 (1) (intro.) and (c) of the statutes are amended to read:

17 **938.17 Jurisdiction over traffic, boating, snowmobile and all-terrain vehicle**  
18 **violations and over civil law and ordinance violations. (1) TRAFFIC, BOATING, SNOWMOBILE**  
19 **AND ALL-TERRAIN VEHICLE VIOLATIONS.** Except for violations of ss. 342.06 (2) and 344.48 (1),  
20 and violations of ss. 30.67 (1) and 346.67 (1) when death or injury occurs, courts of criminal  
21 and civil jurisdiction shall have exclusive jurisdiction in proceedings against juveniles 16  
22 years of age or older for violations of s. 23.33, of ss. 30.50 to 30.80, of chs. 341 to 351, and

1 of traffic regulations as defined in s. 345.20 and nonmoving traffic violations as defined in s.  
2 345.28 (1). A juvenile charged with a traffic, boating, snowmobile, or all-terrain vehicle  
3 offense in a court of criminal or civil jurisdiction shall be treated as an adult before the trial  
4 of the proceeding except that the juvenile may be held in secure custody only in a secure  
5 detention facility. A juvenile convicted of a traffic, boating, snowmobile, or all-terrain  
6 vehicle offense in a court of criminal or civil jurisdiction shall be treated as an adult for  
7 sentencing purposes except as follows:

8 (c) If the court of civil or criminal jurisdiction orders the juvenile to serve a period of  
9 incarceration of 6 months or more, that court shall petition the court assigned to exercise  
10 jurisdiction under this chapter and ch. 48 to order one or more of the dispositions ~~provided in~~  
11 under s. 938.34, including placement of the juvenile in a secured correctional facility, a  
12 secured child caring institution, or a secured group home under s. 938.34 (4m), if appropriate.

13 **SECTION 7.** 938.17 (2) (a) (title) of the statutes is created to read:

14 938.17 (2) (a) (title) *Municipal court jurisdiction: municipal ordinances.*

15 **SECTION 8.** 938.17 (2) (a) 2. d. and 3. of the statutes are amended to read:

16 938.17 (2) (a) 2. d. If the municipality specified under subd. 2. b. or c. has not adopted  
17 an ordinance under s. 118.163, the municipal court that may exercise jurisdiction under subd.  
18 1. is the municipal court that is located in the municipality where the juvenile resides, if that  
19 municipality has adopted an ordinance under s. 118.163.

20 3. When a juvenile is alleged to have violated a municipal ordinance, ~~the juvenile one~~  
21 of the following may be occur:

22 a. ~~Issued~~ The juvenile may be issued a citation directing the juvenile to appear in  
23 municipal court or make a deposit or stipulation and deposit in lieu of appearance;

1           b. Issued The juvenile may be issued a citation directing the juvenile to appear in the  
2 court assigned to exercise jurisdiction under this chapter and ch. 48 or make a deposit or  
3 stipulation and deposit in lieu of appearance as provided in s. 938.237; ~~or~~.

4           c. ~~Referred~~ The juvenile may be referred to intake for a determination whether a petition  
5 should be filed in the court assigned to exercise jurisdiction under this chapter and ch. 48  
6 pursuant to s. 938.125.

7           **SECTION 9.** 938.17 (2) (b) to (e) of the statutes are amended to read:

8           938.17 (2) (b) Juvenile court jurisdiction; civil laws and municipal ordinances. When  
9 a juvenile 12 years of age or older is alleged to have violated a civil law punishable by a  
10 forfeiture or ~~where a juvenile is alleged to have violated a municipal ordinance but there is no~~  
11 municipal court in the municipality, ~~the juvenile~~ one of the following may ~~be~~ occur:

12           1. Issued The juvenile may be issued a citation directing the juvenile to appear in the  
13 court assigned to exercise jurisdiction under this chapter and ch. 48 or make a deposit or  
14 stipulation and deposit in lieu of appearance as provided in s. 938.237; ~~or~~.

15           2. ~~Referred~~ The juvenile may be referred to intake for a determination whether a petition  
16 should be filed in the court assigned to exercise jurisdiction under this chapter and ch. 48  
17 pursuant to s. 938.125.

18           (c) Citations. The citation procedures described in ch. 800 ~~shall~~ govern proceedings  
19 involving juveniles in municipal court, except that this chapter ~~shall govern~~ governs the taking  
20 and holding of a juvenile in custody and par. (cg) ~~shall govern~~ governs the issuing of a  
21 summons to the juvenile's parent, guardian, or legal custodian. When a juvenile is before the  
22 court assigned to exercise jurisdiction under this chapter and ch. 48 upon a citation alleging  
23 that the juvenile ~~to have~~ violated a civil law or municipal ordinance, the procedures specified  
24 in s. 938.237 ~~shall~~ apply. If a citation is issued to a juvenile, the issuing agency shall notify

1 the juvenile's parent, guardian, and legal custodian within 7 days. The agency issuing a  
2 citation to a juvenile who is 12 to 15 years of age for a violation of s. 125.07 (4) (a) or (b),  
3 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2), or 961.575 (2) or an ordinance  
4 conforming to one of those statutes shall send a copy to an intake worker under s. 938.24 for  
5 informational purposes only.

6 (cg) Summons. After a citation is issued, unless the juvenile and his or her parent,  
7 guardian, and legal custodian voluntarily appear, the municipal court may issue a summons  
8 requiring the parent, guardian ~~and, or~~ legal custodian of the juvenile to appear personally at  
9 any hearing involving the juvenile and, if the court so orders, to bring the juvenile before the  
10 court at a time and place stated. Section 938.273 ~~shall govern~~ governs the service of a  
11 summons under this paragraph, except that the expense of service or publication of a summons  
12 and of the travelling expenses and fees ~~as allowed in ch. 885~~ of a person summoned allowed  
13 in ch. 885 shall be a charge on the municipality of the court issuing the summons when  
14 approved by the court. If any person summoned under this paragraph fails without reasonable  
15 cause to appear, he or she may be proceeded against for contempt of court under s. 785.06.  
16 If a summons cannot be served or if the person served fails to obey the summons or if it appears  
17 to the court that the service will be ineffectual, a *capias* may be issued for the juvenile and for  
18 the parent, guardian ~~and, or~~ legal custodian.

19 (cm) Authorization for dispositions and sanctions. A city, village, or town may adopt  
20 an ordinance or bylaw specifying which of the dispositions under ss. 938.343 and 938.344 and  
21 sanctions under s. 938.355 (6) (d) and (6m) the municipal court of that city, village, or town  
22 is authorized to impose or to petition the court assigned to exercise jurisdiction under this  
23 chapter and ch. 48 to impose. The use by the court of those dispositions and sanctions is  
24 subject to any ordinance or bylaw adopted under this paragraph.

1           (d) Disposition; certain ordinance violations. 1. If a municipal court finds that the  
2 juvenile violated a municipal ordinance other than an ordinance enacted under s. 118.163 or  
3 an ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2),  
4 961.574 (2), or 961.575 (2), the court shall enter any of the dispositional orders permitted  
5 under s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture  
6 imposed by the municipal court, the court may not impose a jail sentence but may suspend any  
7 license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the  
8 juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2 years.

9           2. If a court suspends a license or privilege under this section subdivision, the court shall  
10 immediately take possession of the applicable license and forward it to the department that  
11 issued the license, together with the notice of suspension clearly stating that the suspension  
12 is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period  
13 of suspension, the court shall immediately notify the department, which shall ~~thereupon~~ then  
14 return the license to the person.

15           **SECTION 10.** 938.17 (2) (e) (title) and (f) (title) of the statutes are created to read:

16           938.17 (2) (e) (title) *Disposition; alcohol and drug violations.*

17           (2) (f) (title) *Notice to victims.*

18           **SECTION 11.** 938.17 (2) (g) of the statutes is amended to read:

19           938.17 (2) (g) Disposition; truancy or school dropout ordinance. If the municipal court  
20 finds that a juvenile violated a municipal ordinance enacted under s. 118.163 (1m), it shall  
21 enter a dispositional order under s. 938.342 (1d). If a municipal court finds that a juvenile  
22 violated a municipal ordinance enacted under s. 118.163 (2), it shall enter a dispositional order  
23 under s. 938.342 (1g), and may enter a dispositional order under s. 938.342 (1m) (a), that is  
24 consistent with the municipal ordinance. If a municipal court finds that a juvenile violated a



1 municipal ordinance enacted under s. 118.163 (2m), it shall enter a dispositional order under  
2 s. 938.342 (2) that is consistent with the municipal ordinance.

3 **SECTION 12.** 938.17 (2) (h) (title) of the statutes is created to read:

4 938.17 (2) (h) *Sanctions; general.*

5 **SECTION 13.** 938.17 (2) (h) 1. and 2. of the statutes are amended to read:

6 938.17 (2) (h) 1. If a juvenile who has violated a municipal ordinance, other than an  
7 ordinance enacted under s. 118.163 (1m) or (2), violates a condition of his or her dispositional  
8 order, the municipal court may impose on the juvenile any of the sanctions specified in s.  
9 938.355 (6) (d) 2. to 5. that are authorized under par. (cm) except for monitoring by an  
10 electronic monitoring system ~~or~~. The municipal court may also petition the court assigned to  
11 exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction  
12 specified in s. 938.355 (6) (d) 1. or home detention with monitoring by an electronic  
13 monitoring system as specified in s. 938.355 (6) (d) 3., if authorized under par. (cm); A  
14 sanction may be imposed under this subdivision only if at the time of judgment the court  
15 explained the conditions to the juvenile and informed the juvenile of the possible sanctions  
16 under s. 938.355 (6) (d) that are authorized under par. (cm) for a violation or if before the  
17 violation the juvenile has acknowledged in writing that he or she has read, or has had read to  
18 him or her, those conditions and possible sanctions and that he or she understands those  
19 conditions and possible sanctions.

20 2. A motion requesting the municipal court to impose or petition for a sanction may be  
21 brought by the person or agency primarily responsible for the provision of dispositional  
22 services, the municipal attorney, or the court that entered the dispositional order. If the court  
23 initiates the motion, that court ~~is disqualified from holding~~ may not hold a hearing on the

1 motion. Notice of the motion shall be given to the juvenile and the juvenile's parent, guardian,  
2 or legal custodian.

3 **SECTION 14.** 938.17 (2) (i) (title) of the statutes is created to read:

4 938.17 (2) (i) *Sanctions; truancy or school dropout ordinance.*

5 **SECTION 15.** 938.17 (2) (i) 1., 2m. and 3g. of the statutes are amended to read:

6 938.17 (2) (i) 1. If a juvenile who has violated a municipal ordinance enacted under s.  
7 118.163 (1m) violates a condition of his or her dispositional order, the municipal court may  
8 impose on the juvenile any of the sanctions specified in s. 938.355 (6m) (ag). A sanction may  
9 be imposed under this subdivision only if at the time of judgment the court explained the  
10 conditions to the juvenile and informed the juvenile of those possible sanctions or if before  
11 the violation the juvenile has acknowledged in writing that he or she has read, or has had read  
12 to him or her, those conditions and possible sanctions and that he or she understands those  
13 conditions and possible sanctions.

14 2m. If a juvenile who has violated a municipal ordinance enacted under s. 118.163 (2)  
15 violates a condition of his or her dispositional order, the municipal court may impose on the  
16 juvenile any of the sanctions specified in s. 938.355 (6m) (a) that are authorized under par.  
17 (cm) except for the sanction specified in s. 938.355 (6m) (a) 1g. ~~or~~ The municipal court may  
18 also petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose  
19 on the juvenile the sanction specified in s. 938.355 (6m) (a) 1g., if authorized under par. (cm).  
20 A sanction may be imposed under this subdivision only if at the time of judgment the court  
21 explained the conditions to the juvenile and informed the juvenile of the possible sanctions  
22 under s. 938.355 (6m) (a) that are authorized under par. (cm) for a violation or if before the  
23 violation the juvenile has acknowledged in writing that he or she has read, or has had read to

1 him or her, those conditions and possible sanctions and that he or she understands those  
2 conditions and possible sanctions.

3 3g. A motion requesting the municipal court to impose or petition for a sanction may  
4 be brought by the person or agency primarily responsible for the provision of dispositional  
5 services, the municipal attorney, or the court that entered the dispositional order. If the court  
6 initiates the motion, that court ~~is disqualified from holding~~ may not hold a hearing on the  
7 motion. Notice of the motion shall be given to the juvenile and the juvenile's parent, guardian,  
8 or legal custodian.

9 **SECTION 16.** 938.18 (1) and (2) of the statutes are amended to read:

10 938.18 (1) WHO MAY BE WAIVED. ~~(a) Subject to s. 938.183, a juvenile or district attorney~~  
11 ~~may apply to~~ petition requesting the court to waive its jurisdiction under this chapter ~~in~~ may  
12 be filed if the juvenile meets any of the following ~~situations~~ conditions:

13 ~~1. If the~~ (a) The juvenile is alleged to have violated s. 940.03, 940.06, 940.225 (1) or  
14 (2), 940.305, 940.31, 943.10 (2), 943.32 (2), or 961.41 (1) on or after the juvenile's 14th  
15 birthday.

16 ~~2. If the~~ (b) The juvenile is alleged to have committed, ~~on or after the juvenile's 14th~~  
17 ~~birthday,~~ on or after the juvenile's 14th birthday at the request of or for the benefit  
18 of a criminal gang, as defined in s. 939.22 (9), that would constitute a felony under chs. 939  
19 to 948 or 961 if committed by an adult.

20 ~~3. If the~~ (c) The juvenile is alleged to have violated any state criminal law on or after  
21 the juvenile's 15th birthday.

22 ~~(b) The judge may also initiate a petition for waiver in any of the situations described~~  
23 ~~in par. (a) if the judge disqualifies himself or herself from any future proceedings on the case.~~

1           (2) PETITION. ~~The waiver hearing shall be brought on by filing a petition alleging~~  
2 ~~delinquency drafted under s. 938.255 and a petition for waiver of jurisdiction which may be~~  
3 ~~filed by the district attorney or the juvenile or may be initiated by the judge and shall contain~~  
4 a brief statement of the facts supporting the request for waiver. The petition for waiver of  
5 jurisdiction shall be accompanied by or filed after the filing of a petition alleging delinquency  
6 and shall be filed prior to the plea hearing, except that if the juvenile denies the facts of the  
7 petition and becomes 17 years of age before an adjudication, the petition for waiver of  
8 jurisdiction may be filed at any time prior to the adjudication. If the judge files the petition  
9 for waiver of jurisdiction, the judge shall disqualify himself or herself from any future  
10 proceedings on the case.

**COMMENT:** The last sentence in sub. (2) is based on current s. 938.18 (1)  
          (b), stats., which is deleted in this draft.

11           **SECTION 17.** 938.18 (2m) (title) of the statutes is created to read:

12           938.18 (2m) (title) AGENCY REPORT.

13           **SECTION 18.** 938.18 (3) of the statutes is amended to read:

14           938.18 (3) RIGHTS OF JUVENILE. At a waiver hearing under this section, the juvenile:

15           (a) ~~The juvenile shall~~ Must be represented by counsel ~~at the waiver hearing.~~ Written  
16 notice of the time, place, and purpose of the hearing shall be given to the juvenile, any parent,  
17 guardian, or legal custodian, and counsel at least 3 days prior to the hearing. The notice shall  
18 contain a statement of the requirements of s. 938.29 (2) with regard to substitution of the judge.  
19 ~~Where~~ If parents entitled to notice have the same address, notice to one constitutes notice to  
20 the other. Counsel for the juvenile shall have access to the social records and other reports  
21 consistent with s. 938.293.

**COMMENT:** Does the last sentence adequately describe the records that must be available to counsel? Should this provision specify that the records and reports must be relevant to the criteria for waiver?

1 (b) ~~The juvenile has~~ Has the right to present testimony on his or her own behalf  
2 including expert testimony and has the right to cross-examine witnesses ~~at the hearing.~~

3 (c) ~~The juvenile does~~ Does not have the right to a jury ~~at a hearing under this section.~~

4 **SECTION 19.** 938.18 (4) (title) of the statutes is created to read:

5 938.18 (4) (title) PROSECUTIVE MERIT; WAIVER HEARING.

6 **SECTION 20.** 938.18 (4) (b) of the statutes is amended to read:

7 938.18 (4) (b) If a petition for waiver of jurisdiction is contested, the court, after taking  
8 relevant testimony ~~which~~ the district attorney ~~shall present~~ presents and considering other  
9 relevant evidence, shall base its decision whether to waive jurisdiction on the criteria specified  
10 in sub. (5).

**COMMENT:** Should the statutes address the procedure if the court does not find prosecutive merit?

11 **SECTION 21.** 938.18 (5) (title) of the statutes is created to read:

12 938.18 (5) (title) CRITERIA FOR WAIVER.

13 **SECTION 22.** 938.18 (5) (a) of the statutes is amended to read:

14 938.18 (5) (a) The personality and prior record of the juvenile, including whether the  
15 juvenile is mentally ill or developmentally disabled, whether the court has previously waived  
16 its jurisdiction over the juvenile, whether the juvenile has been previously convicted following  
17 a waiver of the court's jurisdiction or has been previously found delinquent, whether ~~such~~ the  
18 conviction or delinquency involved the infliction of serious bodily injury, the juvenile's  
19 motives and attitudes, the juvenile's physical and mental maturity, and the juvenile's pattern

1 of living, prior offenses, prior treatment history and apparent potential for responding to future  
2 treatment.

3 **SECTION 23.** 938.18 (6) of the statutes is amended to read:

4 938.18 (6) DECISION ON WAIVER. After considering the criteria under sub. (5), the court  
5 shall state its finding with respect to the criteria on the record, and, if the court determines on  
6 the record that ~~it~~ there is ~~established by~~ clear and convincing evidence that it ~~would be~~ is  
7 contrary to the best interests of the juvenile or of the public to hear the case, the court shall  
8 enter an order waiving jurisdiction and referring the matter to the district attorney for  
9 appropriate proceedings in the court of criminal jurisdiction, ~~and the.~~ The court of criminal  
10 jurisdiction thereafter has exclusive jurisdiction.

11 **SECTION 24.** 938.18 (7) (title), (8) (title) and (9) (title) of the statutes are created to read:

12 938.18 (7) (title) JUVENILE WHO ABSCONDS.

13 (8) (title) SECURE CUSTODY.

14 (9) (title) CRIMINAL CHARGE.

15 **SECTION 25.** 938.183 (1) (title) of the statutes is created to read:

16 938.183 (1) (title) JUVENILES UNDER ADULT COURT JURISDICTION.

17 **SECTION 26.** 938.183 (1) (am) of the statutes is amended to read:

18 938.183 (1) (am) A juvenile who is alleged to have attempted or committed a violation  
19 of s. 940.01 or to have committed a violation of s. 940.02 or 940.05 on or after the juvenile's  
20 10th birthday, ~~but before the juvenile's 15th birthday.~~

**COMMENT:** This language is repealed to reflect the reorganization of  
subs. (1m) and (2).

21 **SECTION 27.** 938.183 (1m) (intro.) and (c) 1. and 2. of the statutes are amended to read:

1           938.183 **(1m)** CRIMINAL PENALTIES AND PROCEDURES. Notwithstanding subchs. IV to VI,  
2 a juvenile described in sub. (1) is subject to the procedures specified in chs. 967 to 979 and  
3 the criminal penalties ~~provided~~ for the crime that the juvenile is alleged to have committed  
4 except as follows:

5           (c) 1. ~~The Except as provided in subd. 3., the~~ court of criminal jurisdiction finds that  
6 the juvenile has committed a lesser offense or a joined offense that is not a violation of s.  
7 940.20 (1) or (2m) or 946.43 under the circumstances described in sub. (1) (a), that is not an  
8 attempt to violate s. 940.01 under the circumstances described in sub. (1) (am), that is not a  
9 violation of s. 940.02 or 940.05 under the circumstances described in sub. (1) (am) and that  
10 is not an offense for which the court assigned to exercise jurisdiction under this chapter and  
11 ch. 48 may waive its jurisdiction over the juvenile under s. 938.18.

12           2. ~~The Except as provided in subd. 3., the~~ court of criminal jurisdiction finds that the  
13 juvenile has committed a lesser offense or a joined offense that is a violation of s. 940.20 (1)  
14 or (2m) or 946.43 under the circumstances described in sub. (1) (a), that is an attempt to violate  
15 s. 940.01 under the circumstances described in sub. (1) (am), that is a violation of s. 940.02  
16 or 940.05 under the circumstances described in sub. (1) (am) or that is an offense for which  
17 the court assigned to exercise jurisdiction under this chapter and ch. 48 may waive its  
18 jurisdiction over the juvenile under s. 938.18 and the court of criminal jurisdiction, after  
19 considering the criteria specified in s. 938.18 (5), determines that the juvenile has proved by  
20 clear and convincing evidence that it would be in the best interests of the juvenile and of the  
21 public to adjudge the juvenile to be delinquent and impose a disposition specified in s. 938.34.

22           **SECTION 28.** 938.183 (2) of the statutes is renumbered 938.183 (1m) (c) 3. and amended  
23 to read:

1           938.183 (1m) (c) 3. ~~Notwithstanding ss. 938.12 (1) and 938.18, courts of criminal~~  
2 ~~jurisdiction have exclusive original jurisdiction over~~ For a juvenile who is alleged to have  
3 attempted or committed a violation of s. 940.01 or to have committed a violation of s. 940.02  
4 or 940.05 on or after the juvenile's 15th birthday. ~~Notwithstanding ss. 938.12 (1) and 938.18,~~  
5 ~~courts of criminal jurisdiction also have exclusive original jurisdiction over a juvenile~~  
6 ~~specified in the preceding sentence who is alleged to have attempted or committed a violation~~  
7 ~~of any state law in addition to the violation alleged under the preceding sentence if the~~  
8 ~~violation alleged under this sentence and the violation alleged under the preceding sentence~~  
9 ~~may be joined under s. 971.12 (1). Notwithstanding subchs. IV to VI, a juvenile who is alleged~~  
10 ~~to have attempted or committed a violation of s. 940.01 or to have committed a violation of~~  
11 ~~s. 940.02 or 940.05 on or after the juvenile's 15th birthday and a juvenile who is alleged to have~~  
12 ~~attempted or committed a violation of any state criminal law, if that violation and an attempt~~  
13 ~~to commit a violation of s. 940.01 or the commission of a violation of s. 940.01, 940.02 or~~  
14 ~~940.05 may be joined under s. 971.12 (1), is subject to the procedures specified in chs. 967~~  
15 ~~to 979 and the criminal penalties provided for the crime that the juvenile is alleged to have~~  
16 ~~committed, except that the court of criminal jurisdiction shall, in lieu of convicting the~~  
17 ~~juvenile, adjudge the juvenile to be delinquent and impose a disposition specified in s. 938.34~~  
18 ~~if, the court of criminal jurisdiction finds that the juvenile has committed a lesser offense than~~  
19 ~~the offense alleged under this subsection or has committed an offense that is joined under s.~~  
20 ~~971.12 (1) to an attempt to commit a violation of s. 940.01 or to the commission of a violation~~  
21 ~~of s. 940.01, 940.02 or 940.05, but has not attempted to commit a violation of s. 940.01 or~~  
22 ~~committed a violation of s. 940.01, 940.02 or 940.05, and the court of criminal jurisdiction,~~  
23 ~~after considering the criteria specified in under s. 938.18 (5), determines that the juvenile has~~  
24 ~~proved by clear and convincing evidence that it would be in the best interests of the juvenile~~



1 and of the public to adjudge the juvenile to be delinquent and impose a disposition specified  
2 in under s. 938.34.

3 **SECTION 29.** 938.183 (3) and (4) of the statutes are amended to read:

4 938.183 (3) PLACEMENT IN STATE PRISON; PAROLE. When a juvenile who is subject to a  
5 criminal penalty under sub. (1m) ~~or (2)~~ attains the age of 17 years, the department may place  
6 the juvenile in a state prison named in s. 302.01, except that the department may not place any  
7 person under the age of 18 years in the correctional institution authorized in s. 301.16 (1n).  
8 If a juvenile who is subject to a criminal penalty under sub. (1m) ~~or (2)~~ is 15 years of age or  
9 over, the department may transfer the juvenile to the Racine youthful offender correctional  
10 facility named in s. 302.01 as provided in s. 938.357 (4) (d). A juvenile who is subject to a  
11 criminal penalty under sub. (1m) or (2) for an act committed before December 31, 1999, is  
12 eligible for parole under s. 304.06.

**COMMENT:** This provision is inconsistent with current law relating to  
when other juveniles who are convicted in adult court may be transferred  
to an adult correctional facility. Should it be repealed?

13 **SECTION 30.** 938.183 (4) (title) of the statutes is created to read:

14 938.183 (4) (title) CHILD SUPPORT.

15 **SECTION 31.** 938.185 (1) (title) of the statutes is amended to read:

16 938.185 (1) (title) DELINQUENCY AND ~~JPS~~ PROCEEDINGS.

17 **SECTION 32.** 938.185 (2) of the statutes is amended to read:

18 938.185 (2) REVISION AND EXTENSION OF ORDERS. Venue for any proceeding under s.  
19 938.363 or 938.365 shall be in the county where the dispositional order was issued, unless the  
20 juvenile's county of residence has changed, or the parent of the juvenile has resided in a  
21 different county of this state for at least 6 months. In either case, the court may, upon a motion

1 and for good cause shown, transfer the case, along with all appropriate records, to the county  
2 of residence of the juvenile or parent.

3 **SECTION 33.** 938.185 (3) (title) and (4) (title) of the statutes are created to read:

4 938.185 **(3)** (title) SEX OFFENDER REGISTRY VIOLATIONS.

5 **(4)** (title) AMERICAN INDIAN JUVENILES.

6 (END)