

1 **AN ACT** *to amend* 938.18 (6) of the statutes; **relating to:** creating rebuttable
 2 presumption in waiver proceedings.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Special Committee on High–Risk Juvenile Offenders.

Under current law, the juvenile court may waive its jurisdiction over a juvenile who is alleged to have violated one of several serious offenses on or after the juvenile’s 14th birthday and may waive its jurisdiction over a juvenile who is alleged to have violated any criminal law on or after the juvenile’s 15th birthday.

The juvenile court, after taking relevant testimony presented by the district attorney and considering other relevant evidence, must base its decision whether to waive jurisdiction on specified criteria, including the juvenile’s personality and prior record.

Under the draft, there is a rebuttable presumption that the juvenile court must retain jurisdiction if the juvenile has not previously been adjudicated delinquent.

3 **SECTION 1.** 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 there is clear and convincing evidence that it is contrary to the best interests
 7 of the juvenile or of the public to hear the case, the court shall enter an order waiving
 8 jurisdiction and referring the matter to the district attorney for appropriate proceedings in the
 9 court of criminal jurisdiction. There is a rebuttable presumption that the court shall retain
 10 jurisdiction if the juvenile has not previously been adjudicated delinquent. After the an order
 11 waiving jurisdiction, the court of criminal jurisdiction has exclusive jurisdiction.

NOTE: Creates a rebuttable presumption that, in a proceeding to waive a juvenile to adult court, the juvenile court must retain jurisdiction if the juvenile has not previously been adjudicated delinquent.

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(END)