

2009 BILL

1 AN ACT *to renumber* 938.18 (2m); *to repeal and recreate* 938.18 (2m) (title);
2 and *to create* 938.18 (2m) (b) of the statutes; **relating to:** an examination of
3 the juvenile in a proceeding for waiver of juvenile court jurisdiction.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

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

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

Under current law, when a petition is filed requesting the court assigned to exercise jurisdiction under the Juvenile Justice Code (juvenile court) to waive its jurisdiction over a juvenile who is alleged to be delinquent and to transfer the case to a court of criminal jurisdiction (adult court), the juvenile court may designate the Department of Corrections, the county department of human or social services, or a licensed child welfare agency to submit a report analyzing the criteria the juvenile court must consider in determining whether to waive its jurisdiction over the juvenile.

This bill adds a provision requiring the juvenile court to designate a psychiatrist, psychologist, or another expert appointed by the juvenile court, to examine the juvenile

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and submit a report assessing the juvenile's physical, psychological, mental, or developmental condition; alcohol or other drug abuse problems; and maturity, if the district attorney or the juvenile allege that the juvenile may have a mental illness, a psychological or developmental condition, or an alcohol or drug abuse problem, unless a similar examination was conducted in the prior six months. The psychiatrist, psychologist, or other expert must file the report with the juvenile court and the juvenile court must ensure that copies of the report are given to the juvenile, any parent, guardian, or legal custodian of the juvenile, and counsel at least three days before the waiver hearing. The juvenile court may rely on facts stated in the report in making its findings with respect to the criteria the juvenile court must consider in determining whether to waive its jurisdiction over the juvenile.

1 **SECTION 1.** 938.18 (2m) (title) of the statutes is repealed and recreated to read:

2 938.18 **(2m)** (title) REPORTS TO COURT.

3 **SECTION 2.** 938.18 (2m) of the statutes is renumbered 938.18 (2m) (a).

4 **SECTION 3.** 938.18 (2m) (b) of the statutes is created to read:

5 938.18 **(2m)** (b) If the district attorney or the juvenile alleges that the juvenile
6 may have a mental illness, a psychological or developmental condition, or an alcohol
7 or other drug abuse problem, the court shall designate a psychiatrist or licensed
8 psychologist, or another expert appointed by the court holding at least a master's
9 degree in social work or another related field of child development, to examine the
10 juvenile and submit a report to the court assessing the juvenile's physical,
11 psychological, mental, or developmental condition; any alcohol or other drug abuse
12 problems; and the juvenile's maturity, unless the court finds that a substantially
13 similar examination of the juvenile has been conducted within the prior 6 months.
14 The psychiatrist, psychologist, or other expert shall file the report with the court and
15 the court shall cause copies of the report to be given to the juvenile, any parent,
16 guardian, or legal custodian of the juvenile, and the juvenile's counsel at least 3 days
17 before the hearing. The court may rely on facts stated in the report in making its
18 findings with respect to the criteria under sub. (5).

NOTE: Requires that in a waiver proceeding in which the district attorney or the juvenile alleges that the juvenile has a mental illness, psychological or developmental condition, or an alcohol or other drug abuse problem, the juvenile court must designate

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a psychiatrist, psychologist, or other expert to examine the juvenile and submit a report to the juvenile court assessing the juvenile's physical, psychological, mental, or developmental condition; alcohol or other drug abuse problems; and maturity, unless the juvenile court finds that a substantially similar examination of the juvenile has been conducted within the prior six months.

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(END)