



State of Wisconsin
2015 - 2016 LEGISLATURE

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2015 ASSEMBLY BILL 378

October 8, 2015 - Introduced by Representatives HUTTON, CZAJA, ALLEN, BALLWEG, BARNES, BILLINGS, BRANDTJEN, BROSTOFF, BERCEAU, CRAIG, DOYLE, EDMING, GANNON, GENRICH, GOYKE, HEBL, HESSELBEIN, HINTZ, JARCHOW, JOHNSON, KAHL, KESSLER, KITCHENS, KNUDSON, KOLSTE, KOOYENGA, KUGLITSCH, KULP, T. LARSON, LOUDENBECK, MACCO, MILROY, MURPHY, MURSAU, MURTHA, NEYLON, NOVAK, OHNSTAD, A. OTT, PETRYK, POPE, RIEMER, RIPP, RODRIGUEZ, ROHRKASTE, SARGENT, SCHRAA, SPIROS, SPREITZER, STUCK, SUBECK, TAUCHEN, C. TAYLOR, THIESFELDT, WEATHERSTON and ZAMARRIPA, cosponsored by Senators PETROWSKI, BEWLEY, CARPENTER, ERPENBACH, HARRIS DODD, HARSDFORF, KAPENGA, C. LARSON, MOULTON, OLSEN, RINGHAND, SHILLING, L. TAYLOR and WIRCH. Referred to Committee on Judiciary.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber and amend* 48.02 (1d), 48.02 (2), 938.02 (1), 938.02 (10m),
2 938.355 (4) (b), 948.01 (1), 990.01 (3) and 990.01 (20); *to amend* subchapter IX
3 (title) of chapter 48 [precedes 48.44], 48.44, 48.45 (1) (a), 48.45 (1) (am), 48.45
4 (3), 118.163 (4), 125.07 (4) (d), 125.07 (4) (e) 1., 125.085 (3) (bt), 165.83 (1) (c) 1.,
5 165.83 (1) (c) 2., 301.12 (2m), 301.12 (14) (a), 302.31 (7), 938.12 (2), 938.18 (2),
6 938.183 (3), 938.255 (1) (intro.), 938.34 (8), 938.343 (2), 938.344 (3), 938.35 (1m),
7 938.355 (4m) (a), 938.39, subchapter IX (title) of chapter 938 [precedes 938.44],
8 938.44, 938.45 (1) (a), 938.45 (3), 938.48 (4m) (title), 938.48 (4m) (a), 938.48 (4m)
9 (b), 938.48 (14), 938.57 (3) (title), 938.57 (3) (a) (intro.), 938.57 (3) (a) 1., 938.57
10 (3) (a) 3., 938.57 (3) (b), 939.632 (1) (e) 1., 939.632 (1) (e) 3., 946.50 (intro.),
11 948.11 (2) (am) (intro.), 948.45 (1), 948.60 (2) (d), 948.61 (4), 961.455 (title),
12 961.455 (1), 961.455 (2), 961.46, 961.573 (2), 961.574 (2), 961.575 (1), 961.575
13 (2) and 961.575 (3); and *to create* 48.02 (1d) (a), 48.02 (1d) (b), 48.02 (2) (a),
14 48.02 (2) (b), 938.02 (1) (a), 938.02 (1) (b), 938.02 (10m) (a), 938.02 (10m) (b),

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1 938.355 (4) (b) 2., 948.01 (1) (a), 948.01 (1) (b), 990.01 (3) (a), 990.01 (3) (b),
2 990.01 (20) (a) and 990.01 (20) (b) of the statutes; **relating to:** the age at which
3 a person who is alleged to have violated a criminal law, a civil law, or a
4 municipal ordinance and who has not been charged with certain violent
5 offenses, and has not, after previously being convicted of a crime or adjudicated
6 delinquent, been charged with a crime or alleged in a complaint or citation to
7 have violated a civil law or municipal ordinance, is subject to juvenile court
8 jurisdiction.

Analysis by the Legislative Reference Bureau

Under current law, a person 17 years of age or older who is alleged to have violated a criminal law is subject to the procedures specified in the Criminal Procedure Code and, on conviction, is subject to sentencing under the Criminal Code, which may include a sentence of imprisonment in the Wisconsin state prisons. Currently, subject to certain exceptions, a person under 17 years of age who is alleged to have violated a criminal law is subject to the procedures specified in the Juvenile Justice Code and, on being adjudicated delinquent, is subject to an array of dispositions under that code including placement in a juvenile correctional facility. This bill raises from 17 to 18 the age at which a person who is alleged to have violated a criminal law is subject to the procedures specified in the Criminal Procedure Code and, on conviction, to sentencing under the Criminal Code, if the person has not been charged with committing certain violent offenses and has not, after previously being convicted of a crime or adjudicated delinquent, been charged with a crime. The bill, however, does not affect the age at which a person who has been charged with committing certain violent offenses or who has, after previously being convicted of a crime or adjudicated delinquent, been charged with a crime is subject to those procedures and that sentencing.

Similarly, under current law, a person 17 years of age or older who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court, while a person under 17 years of age who is alleged to have violated a civil law or municipal ordinance, subject to certain exceptions, is subject to the jurisdiction and procedures of the court assigned to exercise jurisdiction under the Juvenile Justice Code. This bill raises from 17 to 18 the age at which a person who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court, if the person has not been alleged, in a complaint or citation filed with the court, to have violated a civil law or municipal ordinance after previously being convicted of a crime or adjudicated delinquent. The

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bill, however, does not affect the age at which a person who has been alleged, in a complaint or citation filed with the court, to have violated a civil law or municipal ordinance, after previously being convicted of a crime or adjudicated delinquent, is subject to that jurisdiction and those procedures.

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:

1 **SECTION 1.** 48.02 (1d) of the statutes is renumbered 48.02 (1d) (intro.) and
2 amended to read:

3 48.02 **(1d)** (intro.) “Adult” means a person who is 18 years of age or older, except
4 that, for purposes of investigating or prosecuting a person who is alleged to have
5 violated any state or federal criminal law or any civil law or municipal ordinance,
6 “adult” means includes a person who ~~has attained~~ 17 years of age. for whom any of
7 the following apply:

8 **SECTION 2.** 48.02 (1d) (a) of the statutes is created to read:

9 48.02 **(1d)** (a) The person is alleged, in a criminal complaint filed under s.
10 968.02, to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or
11 any misdemeanor under s. 940.42, if the underlying crime is a felony, or s. 941.20 (1)
12 (b), (bm), (c), or (d) or 941.24.

13 **SECTION 3.** 48.02 (1d) (b) of the statutes is created to read:

14 48.02 **(1d)** (b) The person has previously been convicted of a crime or
15 adjudicated delinquent and is alleged in a criminal complaint filed under s. 968.02
16 or under federal law to have committed a crime, alleged in a complaint filed under
17 s. 23.65 or 778.02 or in a citation filed under s. 23.62, 778.25, or 778.26 to have
18 violated a civil law punishable by a forfeiture, or alleged in a complaint or citation

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1 filed with or transmitted to the court under s. 800.01 (1) to have violated a municipal
2 ordinance.

3 **SECTION 4.** 48.02 (2) of the statutes is renumbered 48.02 (2) (intro.) and
4 amended to read:

5 48.02 (2) (intro.) “Child”, when used without further qualification, means a
6 person who is less than 18 years of age, except that, for purposes of investigating or
7 prosecuting a person who is alleged to have violated a state or federal criminal law
8 or any civil law or municipal ordinance, “child” does not include a person who has
9 attained 17 years of age. for whom any of the following apply:

10 **SECTION 5.** 48.02 (2) (a) of the statutes is created to read:

11 48.02 (2) (a) The person is alleged, in a criminal complaint filed under s. 968.02,
12 to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or any
13 misdemeanor under s. 940.42, if the underlying crime is a felony, or s. 941.20 (1) (b),
14 (bm), (c), or (d) or 941.24.

15 **SECTION 6.** 48.02 (2) (b) of the statutes is created to read:

16 48.02 (2) (b) The person has previously been convicted of a crime or adjudicated
17 delinquent and is alleged in a criminal complaint filed under s. 968.02 or under
18 federal law to have committed a crime, alleged in a complaint filed under s. 23.65 or
19 778.02 or in a citation filed under s. 23.62, 778.25, or 778.26 to have violated a civil
20 law punishable by a forfeiture, or alleged in a complaint or citation filed with or
21 transmitted to the court under s. 800.01 (1) to have violated a municipal ordinance.

22 **SECTION 7.** Subchapter IX (title) of chapter 48 [precedes 48.44] of the statutes
23 is amended to read:

24

CHAPTER 48

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SUBCHAPTER IX

JURISDICTION OVER PERSON ~~17~~~~OR OLDER ADULTS~~

SECTION 8. 48.44 of the statutes is amended to read:

48.44 **Jurisdiction over persons ~~17 or older~~ adults.** The court has jurisdiction over ~~persons 17 years of age or older~~ adults as provided under ss. 48.133, 48.355 (4), 48.357 (6), 48.365 (5), and 48.45 and as otherwise specifically provided in this chapter.

SECTION 9. 48.45 (1) (a) of the statutes is amended to read:

48.45 (1) (a) If in the hearing of a case of a child alleged to be in a condition described in s. 48.13 it appears that any ~~person 17 years of age or older~~ adult has been guilty of contributing to, encouraging, or tending to cause by any act or omission, ~~such~~ that condition of the child, the judge may make orders with respect to the conduct of ~~such~~ that person in his or her relationship to the child, including orders determining the ability of the person to provide for the maintenance or care of the child and directing when, how, and from where funds for the maintenance or care shall be paid.

SECTION 10. 48.45 (1) (am) of the statutes is amended to read:

48.45 (1) (am) If in the hearing of a case of an unborn child and the unborn child's expectant mother alleged to be in a condition described in s. 48.133 it appears that any ~~person 17 years of age or over~~ adult has been guilty of contributing to, encouraging, or tending to cause by any act or omission, ~~such~~ that condition of the unborn child and expectant mother, the judge may make orders with respect to the conduct of ~~such~~ that person in his or her relationship to the unborn child and expectant mother.

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1 **SECTION 11.** 48.45 (3) of the statutes is amended to read:

2 48.45 (3) If it appears at a court hearing that any person ~~17 years of age or older~~
3 adult has violated s. 948.40, the judge shall refer the record to the district attorney
4 for criminal proceedings as may be warranted in the district attorney's judgment.
5 This subsection does not prevent prosecution of violations of s. 948.40 without the
6 prior reference by the judge to the district attorney, as in other criminal cases.

7 **SECTION 12.** 118.163 (4) of the statutes is amended to read:

8 118.163 (4) A person who is ~~under 17 years of age~~ a minor on the date of
9 disposition is subject to s. 938.342.

10 **SECTION 13.** 125.07 (4) (d) of the statutes is amended to read:

11 125.07 (4) (d) A person who is ~~under 17 years of age~~ a minor on the date of
12 disposition is subject to s. 938.344 unless proceedings have been instituted against
13 the person in a court of civil or criminal jurisdiction after dismissal of the citation
14 under s. 938.344 (3).

15 **SECTION 14.** 125.07 (4) (e) 1. of the statutes is amended to read:

16 125.07 (4) (e) 1. In this paragraph, "defendant" means a person found guilty
17 of violating par. (a) or (b) who is ~~17, 18, 19 or 20~~ an adult under 21 years of age.

18 **SECTION 15.** 125.085 (3) (bt) of the statutes is amended to read:

19 125.085 (3) (bt) A person who is ~~under 17 years of age~~ a minor on the date of
20 disposition is subject to s. 938.344 unless proceedings have been instituted against
21 the person in a court of civil or criminal jurisdiction after dismissal of the citation
22 under s. 938.344 (3).

23 **SECTION 16.** 165.83 (1) (c) 1. of the statutes is amended to read:

24 165.83 (1) (c) 1. An act that is committed by ~~a person who has attained the age~~
25 ~~of 17~~ an adult and that is a felony or a misdemeanor.

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1 **SECTION 17.** 165.83 (1) (c) 2. of the statutes is amended to read:

2 165.83 (1) (c) 2. An act that is committed by a ~~person~~ minor who has attained
3 the age of 10 ~~but who has not attained the age of 17~~ and that would be a felony or
4 misdemeanor if committed by an adult.

5 **SECTION 18.** 301.12 (2m) of the statutes is amended to read:

6 301.12 (2m) The liability specified in sub. (2) shall not apply to persons ~~17~~ 18
7 and older receiving care, maintenance, services, and supplies provided by prisons
8 named in s. 302.01.

9 **SECTION 19.** 301.12 (14) (a) of the statutes is amended to read:

10 301.12 (14) (a) Except as provided in pars. (b) and (c), liability of a person
11 specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons under ~~17~~
12 18 years of age in residential, nonmedical facilities such as group homes, foster
13 homes, residential care centers for children and youth, and juvenile correctional
14 institutions is determined in accordance with the cost-based fee established under
15 s. 301.03 (18). The department shall bill the liable person up to any amount of
16 liability not paid by an insurer under s. 632.89 (2) or (4m) or by other 3rd-party
17 benefits, subject to rules that include formulas governing ability to pay promulgated
18 by the department under s. 301.03 (18). Any liability of the resident not payable by
19 any other person terminates when the resident reaches age ~~17~~ 18, unless the liable
20 person has prevented payment by any act or omission.

21 **SECTION 20.** 302.31 (7) of the statutes is amended to read:

22 302.31 (7) The temporary placement of persons in the custody of the
23 department, other than ~~persons under 17 years of age~~ minors, and ~~persons who have~~
24 ~~attained the age of 17 years but have not attained~~ adults under the age of 25 years
25 who are under the supervision of the department under s. 938.355 (4) and who have

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1 been taken into custody pending revocation of aftercare supervision under s. 938.357
2 (5) (e).

3 **SECTION 21.** 938.02 (1) of the statutes is renumbered 938.02 (1) (intro.) and
4 amended to read:

5 938.02 (1) (intro.) “Adult” means a person who is 18 years of age or older, except
6 that, for purposes of investigating or prosecuting a person who is alleged to have
7 violated any state or federal criminal law or any civil law or municipal ordinance,
8 “adult” means includes a person who has attained 17 years of age. for whom any of
9 the following apply:

10 **SECTION 22.** 938.02 (1) (a) of the statutes is created to read:

11 938.02 (1) (a) The person is alleged, in a criminal complaint filed under s.
12 968.02, to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or
13 any misdemeanor under s. 940.42, if the underlying crime is a felony, or s. 941.20 (1)
14 (b), (bm), (c), or (d) or 941.24.

15 **SECTION 23.** 938.02 (1) (b) of the statutes is created to read:

16 938.02 (1) (b) The person has previously been convicted of a crime or
17 adjudicated delinquent and is alleged in a criminal complaint filed under s. 968.02
18 or under federal law to have committed a crime, alleged in a complaint filed under
19 s. 23.65 or 778.02 or in a citation filed under s. 23.62, 778.25, or 778.26 to have
20 violated a civil law punishable by a forfeiture, or alleged in a complaint or citation
21 filed with or transmitted to the court under s. 800.01 (1) to have violated a municipal
22 ordinance.

23 **SECTION 24.** 938.02 (10m) of the statutes is renumbered 938.02 (10m) (intro.)
24 and amended to read:

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1 938.02 (10m) (intro.) “Juvenile~~”,~~” when used without further qualification,
2 means a person who is less than 18 years of age, except that, for purposes of
3 investigating or prosecuting a person who is alleged to have violated a state or federal
4 criminal law or any civil law or municipal ordinance, “juvenile” does not include a
5 person who has attained 17 years of age. for whom any of the following apply:

6 **SECTION 25.** 938.02 (10m) (a) of the statutes is created to read:

7 938.02 (10m) (a) The person is alleged, in a criminal complaint filed under s.
8 968.02, to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or
9 any misdemeanor under s. 940.42, if the underlying crime is a felony, or s. 941.20 (1)
10 (b), (bm), (c), or (d) or 941.24.

11 **SECTION 26.** 938.02 (10m) (b) of the statutes is created to read:

12 938.02 (10m) (b) The person has previously been convicted of a crime or
13 adjudicated delinquent and is alleged in a criminal complaint filed under s. 968.02
14 or under federal law to have committed a crime, alleged in a complaint filed under
15 s. 23.65 or 778.02 or in a citation filed under s. 23.62, 778.25, or 778.26 to have
16 violated a civil law punishable by a forfeiture, or alleged in a complaint or citation
17 filed with or transmitted to the court under s. 800.01 (1) to have violated a municipal
18 ordinance.

19 **SECTION 27.** 938.12 (2) of the statutes is amended to read:

20 938.12 (2) ~~SEVENTEEN-YEAR-OLDS~~ JUVENILES WHO BECOME ADULTS. If a petition
21 alleging that a juvenile is delinquent is filed before the juvenile is 17 years of age
22 becomes an adult, but the juvenile becomes 17 years of age an adult before admitting
23 the facts of the petition at the plea hearing or, if the juvenile denies the facts, before
24 an adjudication, the court retains jurisdiction over the case.

25 **SECTION 28.** 938.18 (2) of the statutes is amended to read:

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1 938.18 (2) PETITION. The petition for waiver of jurisdiction may be filed by the
2 district attorney or the juvenile or may be initiated by the court and shall contain a
3 brief statement of the facts supporting the request for waiver. The petition for waiver
4 of jurisdiction shall be accompanied by or filed after the filing of a petition alleging
5 delinquency and shall be filed prior to the plea hearing, except that if the juvenile
6 denies the facts of the petition and becomes ~~17 years of age~~ an adult before an
7 adjudication, the petition for waiver of jurisdiction may be filed at any time prior to
8 the adjudication. If the court initiates the petition for waiver of jurisdiction, the
9 judge shall disqualify himself or herself from any future proceedings on the case.

10 **SECTION 29.** 938.183 (3) of the statutes is amended to read:

11 938.183 (3) PLACEMENT IN STATE PRISON; PAROLE. When a juvenile who is subject
12 to a criminal penalty under sub. (1m) or s. 938.183 (2), 2003 stats., ~~attains the age~~
13 ~~of 17 years~~ becomes an adult, the department may place the juvenile in a state prison
14 named in s. 302.01, except that the department may not place any person under the
15 age of 18 years in the correctional institution authorized in s. 301.16 (1n). A juvenile
16 who is subject to a criminal penalty under sub. (1m) or under s. 938.183 (2), 2003
17 stats., for an act committed before December 31, 1999, is eligible for parole under s.
18 304.06.

19 **SECTION 30.** 938.255 (1) (intro.) of the statutes is amended to read:

20 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings
21 under this chapter, other than a petition initiating proceedings under s. 938.12,
22 938.125, or 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a
23 person under the age of 18".." A petition initiating proceedings under s. 938.12,
24 938.125, or 938.13 (12) shall be entitled, "In the interest of (juvenile's name), a ~~person~~

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1 ~~under the age of 17". juvenile."~~ A petition initiating proceedings under this chapter
2 shall specify all of the following:

3 **SECTION 31.** 938.34 (8) of the statutes is amended to read:

4 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that
5 this disposition is in the best interest of the juvenile and the juvenile's rehabilitation.
6 The maximum forfeiture that the court may impose under this subsection for a
7 violation by a juvenile is the maximum amount of the fine that may be imposed on
8 an adult for committing that violation or, if the violation is applicable only to ~~a person~~
9 ~~under 18 years of age juveniles~~, \$100. The order shall include a finding that the
10 juvenile alone is financially able to pay the forfeiture and shall allow up to 12 months
11 for payment. If the juvenile fails to pay the forfeiture, the court may vacate the
12 forfeiture and order other alternatives under this section; or the court may suspend
13 any license issued under ch. 29 for not less than 30 days nor more than 5 years, or
14 suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more
15 than 2 years. If the court suspends any license under this subsection, the clerk of the
16 court shall immediately take possession of the suspended license if issued under ch.
17 29 or, if the license is issued under ch. 343, the court may take possession of, and if
18 possession is taken, shall destroy, the license. The court shall forward to the
19 department ~~which~~ that issued the license a notice of suspension stating that the
20 suspension is for failure to pay a forfeiture imposed by the court, together with any
21 license issued under ch. 29 of which the court takes possession. If the forfeiture is
22 paid during the period of suspension, the suspension shall be reduced to the time
23 period ~~which~~ that has already elapsed and the court shall immediately notify the
24 department, which shall then, if the license is issued under ch. 29, return the license

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1 to the juvenile. Any recovery under this subsection shall be reduced by the amount
2 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

3 **SECTION 32.** 938.343 (2) of the statutes is amended to read:

4 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum
5 forfeiture that may be imposed on an adult for committing that violation or, if the
6 violation is only applicable to ~~a person under 18 years of age~~ juveniles, \$50. The
7 order shall include a finding that the juvenile alone is financially able to pay and
8 shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture,
9 the court may suspend any license issued under ch. 29 or suspend the juvenile's
10 operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court
11 shall immediately take possession of the suspended license if issued under ch. 29 or,
12 if the license is issued under ch. 343, the court may take possession of, and if
13 possession is taken, shall destroy, the license. The court shall forward to the
14 department ~~which~~ that issued the license the notice of suspension stating that the
15 suspension is for failure to pay a forfeiture imposed by the court, together with any
16 license issued under ch. 29 of which the court takes possession. If the forfeiture is
17 paid during the period of suspension, the court shall immediately notify the
18 department, which shall, if the license is issued under ch. 29, return the license to
19 the person. Any recovery under this subsection shall be reduced by the amount
20 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

21 **SECTION 33.** 938.344 (3) of the statutes is amended to read:

22 938.344 (3) PROSECUTION IN ADULT COURT. If the juvenile alleged to have
23 committed the violation is within 3 months of ~~his or her 17th birthday~~ becoming an
24 adult, the court assigned to exercise jurisdiction under this chapter and ch. 48 may,
25 at the request of the district attorney or on its own motion, dismiss the citation

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1 without prejudice and refer the matter to the district attorney for prosecution under
2 s. 125.07 (4). The juvenile is entitled to a hearing only on the issue of his or her age.
3 This subsection does not apply to violations under s. 961.573 (2), 961.574 (2), or
4 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

5 **SECTION 34.** 938.35 (1m) of the statutes is amended to read:

6 938.35 (1m) FUTURE CRIMINAL PROCEEDINGS BARRED. Disposition by the court
7 assigned to exercise jurisdiction under this chapter and ch. 48 of any allegation
8 under s. 938.12 or 938.13 (12) shall bar any future proceeding on the same matter
9 in criminal court when the juvenile ~~attains 17 years of age~~ becomes an adult. This
10 subsection does not affect proceedings in criminal court that have been transferred
11 under s. 938.18.

12 **SECTION 35.** 938.355 (4) (b) of the statutes is renumbered 938.355 (4) (b) 1. and
13 amended to read:

14 938.355 (4) (b) 1. Except as provided in s. 938.368, an order under s. 938.34 (4d)
15 or (4m) made before the juvenile attains ~~18~~ 17 years of age may apply for up to 2 years
16 after the date on which the order is granted or until the juvenile's 18th birthday,
17 whichever is earlier, unless the court specifies a shorter period of time or the court
18 terminates the order sooner. If the order does not specify a termination date, it shall
19 apply for one year after the date on which the order is granted or until the juvenile's
20 18th birthday, whichever is earlier, unless the court terminates the order sooner.

21 3. Except as provided in s. 938.368, an order under s. 938.34 (4h) made before
22 the juvenile attains 18 years of age shall apply for 5 years after the date on which the
23 order is granted, if the juvenile is adjudicated delinquent for committing a violation
24 of s. 943.10 (2) or for committing an act that would be punishable as a Class B or C
25 felony if committed by an adult, or until the juvenile reaches 25 years of age, if the

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1 juvenile is adjudicated delinquent for committing an act that would be punishable
2 as a Class A felony if committed by an adult.

3 4. Except as provided in s. 938.368, an extension of an order under s. 938.34
4 (4d), (4h), (4m), or (4n) made before the juvenile attains 17 years of age shall
5 terminate at the end of one year after the date on which the order is granted unless
6 the court specifies a shorter period of time or the court terminates the order sooner.
7 No extension under s. 938.365 of an original dispositional order under s. 938.34 (4d),
8 (4h), (4m), or (4n) may be granted for a juvenile who is 17 years of age or older when
9 the original dispositional order terminates.

10 **SECTION 36.** 938.355 (4) (b) 2. of the statutes is created to read:

11 938.355 (4) (b) 2. Except as provided in s. 938.368, an order under s. 938.34 (4d)
12 or (4m) made while the juvenile is 17 years of age may apply for up to 2 years after
13 the date on which the order is granted or until the juvenile's 19th birthday, whichever
14 is earlier, unless the court specifies a shorter period of time or the court terminates
15 the order. If the order does not specify a termination date, it shall apply for one year
16 after the date on which the order is granted or until te juvenile's 19th birthday,
17 whichever is earlier, unless the court terminates the order sooner.

18 **SECTION 37.** 938.355 (4m) (a) of the statutes is amended to read:

19 938.355 (4m) (a) A juvenile who has been adjudged delinquent under s. 48.12,
20 1993 stats., or s. 938.12 may, on ~~attaining 17 years of age~~ becoming an adult, petition
21 the court to expunge the court's record of the juvenile's adjudication. Subject to par.
22 (b), the court may expunge the record if the court determines that the juvenile has
23 satisfactorily complied with the conditions of his or her dispositional order and that
24 the juvenile will benefit from, and society will not be harmed by, the expungement.

25 **SECTION 38.** 938.39 of the statutes is amended to read:

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1 **938.39 Disposition by court bars criminal proceeding.** Disposition by the
2 court of any violation of state law within its jurisdiction under s. 938.12 bars any
3 future criminal proceeding on the same matter in circuit court when the juvenile
4 reaches ~~the age of 17~~ becomes an adult. This section does not affect criminal
5 proceedings in circuit court that were transferred under s. 938.18.

6 **SECTION 39.** Subchapter IX (title) of chapter 938 [precedes 938.44] of the
7 statutes is amended to read:

CHAPTER 938

SUBCHAPTER IX

JURISDICTION OVER PERSONS 17

OR OLDER ADULTS

12 **SECTION 40.** 938.44 of the statutes is amended to read:

13 **938.44 Jurisdiction over persons ~~17 or older~~ adults.** The court has
14 jurisdiction over ~~persons 17 years of age or older~~ adults as provided under ss. 938.355
15 (4), 938.357 (6), 938.365 (5), and 938.45 and as otherwise specified in this chapter.

16 **SECTION 41.** 938.45 (1) (a) of the statutes is amended to read:

17 938.45 (1) (a) If in the hearing of a case of a juvenile alleged to be delinquent
18 under s. 938.12 or in need of protection or services under s. 938.13 it appears that any
19 ~~person 17 years of age or older~~ adult has been guilty of contributing to, encouraging,
20 or tending to cause by any act or omission, ~~such~~ that condition of the juvenile, the
21 court may make orders with respect to the conduct of that person in his or her
22 relationship to the juvenile, including orders relating to determining the ability of
23 the person to provide for the maintenance or care of the juvenile and directing when,
24 how, and from where funds for the maintenance or care shall be paid.

25 **SECTION 42.** 938.45 (3) of the statutes is amended to read:

ASSEMBLY BILL 378**SECTION 42**

1 938.45 (3) PROSECUTION OF ADULT CONTRIBUTING TO DELINQUENCY OF JUVENILE.
2 If it appears at a court hearing that any person ~~17 years of age or older~~ adult has
3 violated s. 948.40, the court shall refer the record to the district attorney. This
4 subsection does not prohibit prosecution of violations of s. 948.40 without the prior
5 reference by the court to the district attorney.

6 **SECTION 43.** 938.48 (4m) (title) of the statutes is amended to read:

7 938.48 (4m) (title) CONTINUING CARE AND SERVICES FOR JUVENILES ~~OVER 17~~ WHO
8 BECOME ADULTS.

9 **SECTION 44.** 938.48 (4m) (a) of the statutes is amended to read:

10 938.48 (4m) (a) Is ~~at least 17 years of age~~ an adult.

11 **SECTION 45.** 938.48 (4m) (b) of the statutes is amended to read:

12 938.48 (4m) (b) Was under the supervision of the department under s. 938.183,
13 938.34 (4h), (4m), or (4n), or 938.357 (4) when the person ~~reached 17 years of age~~
14 became an adult.

15 **SECTION 46.** 938.48 (14) of the statutes is amended to read:

16 938.48 (14) SCHOOL-RELATED EXPENSES FOR JUVENILES ~~OVER 17~~ WHO BECOME
17 ADULTS. Pay maintenance, tuition, and related expenses from the appropriation
18 under s. 20.410 (3) (ho) for persons who, when they ~~attained 17 years of age~~ became
19 adults, were students regularly attending a school, college, or university or regularly
20 attending a course of vocational or technical training designed to prepare them for
21 gainful employment, and who upon ~~attaining that age~~ becoming adults were under
22 the supervision of the department under s. 938.183, 938.34 (4h), (4m), or (4n), or
23 938.357 (4) as a result of a judicial decision.

24 **SECTION 47.** 938.57 (3) (title) of the statutes is amended to read:

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1 938.57 (3) (title) CONTINUING MAINTENANCE FOR JUVENILES ~~OVER 17~~ WHO BECOME
2 ADULTS.

3 **SECTION 48.** 938.57 (3) (a) (intro.) of the statutes is amended to read:

4 938.57 (3) (a) (intro.) From the reimbursement received under s. 48.569 (1) (d),
5 counties may provide funding for the maintenance of any juvenile person who meets
6 all of the following qualifications:

7 **SECTION 49.** 938.57 (3) (a) 1. of the statutes is amended to read:

8 938.57 (3) (a) 1. Is ~~17 years of age or older~~ an adult.

9 **SECTION 50.** 938.57 (3) (a) 3. of the statutes is amended to read:

10 938.57 (3) (a) 3. Received funding under s. 48.569 (1) (d) immediately prior to
11 ~~his or her 17th birthday~~ becoming an adult.

12 **SECTION 51.** 938.57 (3) (b) of the statutes is amended to read:

13 938.57 (3) (b) The funding provided for the maintenance of a juvenile person
14 under par. (a) shall be in an amount equal to that to which the juvenile person would
15 receive under s. 48.569 (1) (d) if the person were a juvenile were ~~16 years of age.~~

16 **SECTION 52.** 939.632 (1) (e) 1. of the statutes is amended to read:

17 939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
18 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305, 940.31,
19 940.32, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1)
20 or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085,
21 or 948.30 (2) or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

22 **SECTION 53.** 939.632 (1) (e) 3. of the statutes is amended to read:

23 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), ~~940.32~~
24 ~~(2)~~, 940.42, 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3).

25 **SECTION 54.** 946.50 (intro.) of the statutes is amended to read:

ASSEMBLY BILL 378**SECTION 54**

1 **946.50 Absconding.** (intro.) Any person who is adjudicated delinquent, but
2 who intentionally fails to appear before the court assigned to exercise jurisdiction
3 under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who
4 does not return to that court for a dispositional hearing before ~~attaining the age of~~
5 ~~17 years~~ becoming an adult is guilty of the following:

6 **SECTION 55.** 948.01 (1) of the statutes is renumbered 948.01 (1) (intro.) and
7 amended to read:

8 948.01 (1) (intro.) “Child” means a person who has not attained the age of 18
9 years, except that, for purposes of prosecuting a person who is alleged to have
10 violated a state or federal criminal law, “child” does not include a person ~~who has~~
11 ~~attained the age of 17 years.~~ of age for whom any of the following apply:

12 **SECTION 56.** 948.01 (1) (a) of the statutes is created to read:

13 948.01 (1) (a) The person is alleged, in a criminal complaint filed under s.
14 968.02, to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or
15 any misdemeanor under s. 940.42, if the underlying crime is a felony, or s. 941.20 (1)
16 (b), (bm), (c), or (d) or 941.24.

17 **SECTION 57.** 948.01 (1) (b) of the statutes is created to read:

18 948.01 (1) (b) The person has previously been convicted of a crime or
19 adjudicated delinquent and is alleged in a criminal complaint filed under s. 968.02
20 or under federal law to have committed a crime.

21 **SECTION 58.** 948.11 (2) (am) (intro.) of the statutes is amended to read:

22 948.11 (2) (am) (intro.) ~~Any person who has attained the age of 17 and adult~~
23 who, with knowledge of the character and content of the description or narrative
24 account, verbally communicates, by any means, a harmful description or narrative

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1 account to a child, with or without monetary consideration, is guilty of a Class I
2 felony if any of the following applies:

3 **SECTION 59.** 948.45 (1) of the statutes is amended to read:

4 948.45 (1) Except as provided in sub. (2), any ~~person 17 years of age or older~~
5 adult who, by any act or omission, knowingly encourages or contributes to the
6 truancy, as defined under s. 118.16 (1) (c), of a ~~person 17 years of age or under~~ child
7 is guilty of a Class C misdemeanor.

8 **SECTION 60.** 948.60 (2) (d) of the statutes is amended to read:

9 948.60 (2) (d) A ~~person under 17 years of age~~ child who has violated this
10 subsection is subject to the provisions of ch. 938 unless jurisdiction is waived under
11 s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction
12 under s. 938.183.

13 **SECTION 61.** 948.61 (4) of the statutes is amended to read:

14 948.61 (4) A ~~person under 17 years of age~~ child who has violated this section
15 is subject to the provisions of ch. 938, unless jurisdiction is waived under s. 938.18
16 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s.
17 938.183.

18 **SECTION 62.** 961.455 (title) of the statutes is amended to read:

19 **961.455 (title) Using a ~~child~~ minor for illegal drug distribution or**
20 **manufacturing purposes.**

21 **SECTION 63.** 961.455 (1) of the statutes is amended to read:

22 961.455 (1) Any ~~person who has attained the age of 17 years~~ adult who
23 knowingly solicits, hires, directs, employs, or uses a ~~person who is under the age of~~
24 ~~17 years~~ minor for the purpose of violating s. 961.41 (1) is guilty of a Class F felony.

25 **SECTION 64.** 961.455 (2) of the statutes is amended to read:

ASSEMBLY BILL 378**SECTION 64**

1 961.455 (2) The knowledge requirement under sub. (1) does not require proof
2 of knowledge of the age of the child minor. It is not a defense to a prosecution under
3 this section that the actor mistakenly believed that the person solicited, hired,
4 directed, employed, or used under sub. (1) had attained the age of 18 years, even if
5 the mistaken belief was reasonable.

6 **SECTION 65.** 961.46 of the statutes is amended to read:

7 **961.46 Distribution to persons under age 18 minors.** If ~~a person 17 years~~
8 ~~of age or over~~ an adult violates s. 961.41 (1) by distributing or delivering a controlled
9 substance or a controlled substance analog to a ~~person 17 years of age or under~~ minor
10 who is at least 3 years his or her junior, the applicable maximum term of
11 imprisonment prescribed under s. 961.41 (1) for the offense may be increased by not
12 more than 5 years.

13 **SECTION 66.** 961.573 (2) of the statutes is amended to read:

14 961.573 (2) Any person minor who violates sub. (1) ~~who is under 17 years of age~~
15 is subject to a disposition under s. 938.344 (2e).

16 **SECTION 67.** 961.574 (2) of the statutes is amended to read:

17 961.574 (2) Any person minor who violates sub. (1) ~~who is under 17 years of age~~
18 is subject to a disposition under s. 938.344 (2e).

19 **SECTION 68.** 961.575 (1) of the statutes is amended to read:

20 961.575 (1) Any ~~person 17 years of age or over~~ adult who violates s. 961.574 (1)
21 by delivering drug paraphernalia to a ~~person 17 years of age or under~~ minor who is
22 at least 3 years younger than the violator may be fined not more than \$10,000 or
23 imprisoned for not more than 9 months or both.

24 **SECTION 69.** 961.575 (2) of the statutes is amended to read:

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1 961.575 (2) Any person minor who violates this section who is under 17 years
2 of age is subject to a disposition under s. 938.344 (2e).

3 **SECTION 70.** 961.575 (3) of the statutes is amended to read:

4 961.575 (3) Any person ~~17 years of age or over~~ adult who violates s. 961.574 (3)
5 by delivering drug paraphernalia to a person ~~17 years of age or under~~ minor is guilty
6 of a Class G felony.

7 **SECTION 71.** 990.01 (3) of the statutes is renumbered 990.01 (3) (intro.) and
8 amended to read:

9 990.01 (3) ADULT. (intro.) “Adult” means a person who has attained the age of
10 18 years, except that, for purposes of investigating or prosecuting a person who is
11 alleged to have violated any state or federal criminal law or any civil law or municipal
12 ordinance, “adult” means includes a person who has attained the age of 17 years. of
13 age for whom any of the following apply:

14 **SECTION 72.** 990.01 (3) (a) of the statutes is created to read:

15 990.01 (3) (a) The person is alleged, in a criminal complaint filed under s.
16 968.02, to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or
17 any misdemeanor under s. 940.42, if the underlying crime is a felony, or s. 941.20 (1)
18 (b), (bm), (c), or (d) or 941.24.

19 **SECTION 73.** 990.01 (3) (b) of the statutes is created to read:

20 990.01 (3) (b) The person has previously been convicted of a crime or
21 adjudicated delinquent and is alleged in a criminal complaint filed under s. 968.02
22 or under federal law to have committed a crime, alleged in a complaint filed under
23 s. 23.65 or 778.02 or in a citation filed under s. 23.62, 778.25, or 778.26 to have
24 violated a civil law punishable by a forfeiture, or alleged in a complaint or citation

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1 filed with or transmitted to the court under s. 800.01 (1) to have violated a municipal
2 ordinance.

3 **SECTION 74.** 990.01 (20) of the statutes is renumbered 990.01 (20) (intro.) and
4 amended to read:

5 990.01 (20) MINOR. (intro.) “Minor” means a person who has not attained the
6 age of 18 years, except that, for purposes of investigating or prosecuting a person who
7 is alleged to have violated a state or federal criminal law or any civil law or municipal
8 ordinance, “minor” does not include a person ~~who has attained the age of 17 years.~~
9 of age for whom any of the following apply:

10 **SECTION 75.** 990.01 (20) (a) of the statutes is created to read:

11 990.01 (20) (a) The person is alleged, in a criminal complaint filed under s.
12 968.02, to have committed any violent crime specified in s. 939.632 (1) (e) 1. or 2. or
13 any misdemeanor under s. 940.42, if the underlying crime is a felony, or s. 941.20 (1)
14 (b), (bm), (c), or (d) or 941.24.

15 **SECTION 76.** 990.01 (20) (b) of the statutes is created to read:

16 990.01 (20) (b) The person has previously been convicted of a crime or
17 adjudicated delinquent and is alleged in a criminal complaint filed under s. 968.02
18 or under federal law to have committed a crime, alleged in a complaint filed under
19 s. 23.65 or 778.02 or in a citation filed under s. 23.62, 778.25, or 778.26 to have
20 violated a civil law punishable by a forfeiture, or alleged in a complaint or citation
21 filed with or transmitted to the court under s. 800.01 (1) to have violated a municipal
22 ordinance.

23 **SECTION 77. Initial applicability.**

