



2019 SENATE BILL 168

April 18, 2019 - Introduced by Senators WANGGAARD, L. TAYLOR, DARLING, FEYEN, JOHNSON, JACQUE and TIFFANY, cosponsored by Representatives SCHRAA, GOYKE, BOWEN, BILLINGS, BORN, BROOKS, CONSIDINE, CROWLEY, EDMING, EMERSON, FELZKOWSKI, HESSELBEIN, JAMES, KITCHENS, KNODL, KRUG, KULP, MILROY, MURSAU, MYERS, NOVAK, OHNSTAD, POPE, RAMTHUN, ROHRKASTE, SARGENT, SINICKI, SPIROS, STEFFEN, STUBBS, SUBECK, TAUCHEN, VINING and ZIMMERMAN. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to repeal** 46.22 (1) (b) 5m. d., 46.22 (2g) (d) 4., 46.23 (5) (n) 3. and 301.031;
2 **to amend** 13.94 (1) (v), 46.011 (1p), 46.21 (2) (j), 46.215 (3), 46.23 (5) (c) 3., 46.23
3 (5m) (c), 48.023 (4), 48.527, 48.66 (1) (b), 49.11 (1c), 49.45 (25) (bj), 101.123 (1)
4 (ac) 2., 301.01 (1n), 301.027, 301.373, 938.02 (4), 938.02 (15g), 938.22 (1) (a),
5 938.22 (2) (d) 2., 938.33 (1) (c), 938.33 (3r), 938.34 (4m) (intro.), 938.34 (4n)
6 (intro.), 938.355 (2) (b) 1., 938.355 (2) (b) 2., 938.355 (2) (b) 6m., 938.357 (3) (b)
7 (intro.) and (c), 938.357 (4g) (a), 938.48 (3), 938.48 (4), 938.48 (4m) (b), 938.48
8 (5), 938.48 (6), 938.48 (14), 938.505 (1), 938.52 (2) (a) and (c), 938.53, 938.533
9 (2) (intro.), 938.54, 938.57 (4) and 938.78 (3); **to repeal and recreate** 938.34
10 (4m) (intro.); **to create** 46.057 (1m), 938.33 (6), 938.355 (2) (b) 2m., 938.355 (2)
11 (b) 6n., 938.357 (3) (e) and (f) and 938.357 (4) (as) of the statutes; and **to affect**
12 2017 Wisconsin Act 185, section 38, 2017 Wisconsin Act 185, section 70, 2017
13 Wisconsin Act 185, section 110 (1) (a), 2017 Wisconsin Act 185, section 110 (2)
14 (a), 2017 Wisconsin Act 185, section 110 (3) (c), 2017 Wisconsin Act 185, section

SENATE BILL 168

1 110 (4) (a) 1. c., 2017 Wisconsin Act 185, section 110 (4) (d), 2017 Wisconsin Act
2 185, section 110 (4) (e), 2017 Wisconsin Act 185, section 110 (4) (f), 2017
3 Wisconsin Act 185, section 110 (6) (e), 2017 Wisconsin Act 185, section 110 (7),
4 2017 Wisconsin Act 185, section 110 (7m) (b), 2017 Wisconsin Act 185, section
5 111 (3) and 2017 Wisconsin Act 185, section 112 (1); **relating to:** facilities for
6 holding juveniles in secure custody.

Analysis by the Legislative Reference Bureau

This bill does all of the following:

1. Makes certain changes to the grant program for the design and construction of new secured residential care centers for children and youth (SRCCCYs) under 2017 Wisconsin Act 185.
2. Changes the closure date for the Lincoln Hills and Copper Lake Schools.
3. Modifies how juveniles who are transferred between an SRCCCY or a Type 1 juvenile correctional facility and the Mendota Juvenile Treatment Center (MJTC) are supervised and released.
4. Changes the provisions for grandfathering current juvenile detention programs and allows the temporary transfer of juveniles from Lincoln Hills and Copper Lake Schools into certain juvenile detention centers without a change-in-placement order.
5. Changes the requirements for the purchase of services between counties and the Department of Corrections.
6. Makes other changes to clarify the intent of Act 185.

CHANGES TO THE JUVENILE CORRECTIONS GRANT PROGRAM

Act 185 created a grant program for counties to construct new SRCCCYs for the purpose of holding in secure custody juveniles who are adjudicated delinquent and given a correctional placement. Under Act 185, grant applications are due to the juvenile corrections grant committee by March 31, 2019, and the committee is responsible for submitting a plan to the Joint Committee on Finance for which applications to fund no later than July 1, 2019. This bill provides a three-month extension to the timeline for submitting grant applications to the grant committee and for the grant committee to submit the plan for funding grant applications to JCF.

Under Act 185, a grant to construct a new SRCCCY covers 95 percent of the county's cost for design and construction, except that the grant covers 100 percent of the county's cost for design and construction for a girls-only facility. Act 185 also provided that DOC will reimburse a girls-only facility any net operating loss, as determined by the Legislative Audit Bureau. This bill changes the grant program so that 100 percent of the portion of any facility that is designed and constructed to hold female juveniles is paid for by the grant program, and that the net operating loss

SENATE BILL 168

reimbursement applies to any portion of a facility that houses female juveniles or any portion of services provided to female juveniles at the facility.

CLOSURE OF LINCOLN HILLS AND COPPER LAKE SCHOOLS

Act 185 also requires the current juvenile correctional facility owned and operated by DOC (Lincoln Hills and Copper Lake Schools) to be closed no later than January 1, 2021, or when all of the juveniles that are held there are transferred to the new county-run SRCCCYs or a new state-run juvenile correctional facility, also funded by and required to be established by DOC under Act 185. This bill extends the timeline for closing Lincoln Hills and Copper Lake Schools and for constructing the new SRCCCYs and new state-run juvenile correctional facility by six months, to July 1, 2021.

Act 185 also provides a youth aids bonus of 15 percent of the county's annual youth aids payment or \$750,000, whichever is less, to any county that agrees to operate a joint SRCCCY for two or more counties. This bill provides the youth aids bonus to any county that operates an SRCCCY that serves juveniles from more than one county.

TRANSFER AND SUPERVISION OF JUVENILES BETWEEN FACILITIES

This bill specifies that when a juvenile is placed at MJTC under a change-in-placement order, the Department of Health Services is responsible for determining the date of the transfer and is responsible for determining whether to release a juvenile who has been placed there back to the county.

EXISTING JUVENILE DETENTION PROGRAMS

Under Act 185, existing programs to hold juveniles in a juvenile detention facility for up to one year will be grandfathered in and allowed to hold a number of juveniles equal to the facility's population on January 1, 2021. This bill changes the cap for the grandfathered juvenile detention programs under Act 185 to a number of juveniles equal to the three-year average daily population of the facility between July 1, 2018, and June 30, 2021. This bill also allows DOC to transfer juveniles from Lincoln Hills and Copper Lake Schools to the existing programs without a change-in-placement order. Under the bill, juveniles who are so transferred must be placed in an SRCCCY or Type 1 juvenile correctional facility by July 1, 2021.

COUNTY BUDGETS

This bill repeals the current law requirement for counties to submit an annual budget to DOC for the purchase of juvenile correctional services and the requirements for contracts between counties and DOC for the purchase of juvenile correctional services.

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:

SENATE BILL 168**SECTION 1**

1 **SECTION 1.** 13.94 (1) (v) of the statutes is amended to read:

2 13.94 (1) (v) Conduct an audit, at the request of the department of corrections,
3 of a county's net operating costs for a secured residential care center for children and
4 youth that holds ~~only~~ female juveniles for the purpose of determining the amount,
5 if any, of a net operating loss to be reimbursed by the department of corrections to
6 a county under s. 301.373. The bureau shall report the result of the audit to the
7 department of corrections as soon as practicable.

8 **SECTION 2.** 46.011 (1p) of the statutes, as affected by 2017 Wisconsin Act 185,
9 section 13, is amended to read:

10 46.011 (1p) "Juvenile correctional services" means services provided for a
11 juvenile who is under the supervision of the department of corrections under s.
12 938.183, 938.34 (4h), ~~(4n)~~, or (7g), or 938.357 (3) or (4).

13 **SECTION 3.** 46.057 (1m) of the statutes is created to read:

14 46.057 (1m) The director of the Mendota Mental Health Institute, or his or her
15 designee, shall be responsible for decisions regarding admissions, treatment, and the
16 release and return of juvenile offenders from the Mendota juvenile treatment center
17 to county supervision.

18 **SECTION 4.** 46.21 (2) (j) of the statutes is amended to read:

19 46.21 (2) (j) May exercise approval or disapproval power over contracts and
20 purchases of the director that are for \$50,000 or more, except that the county board
21 of supervisors may not exercise approval or disapproval power over any personal
22 service contract or over any contract or purchase of the director that relates to
23 community living arrangements, adult family homes, or foster homes and that was
24 entered into pursuant to a contract under s. 46.031 (2g) or ~~301.031~~ 49.325 (2g),
25 regardless of whether the contract mentions the provider, except as provided in par.

SENATE BILL 168

1 (m). The county board of supervisors may not exercise approval or disapproval power
2 over any contract relating to mental health or mental health institutions, programs,
3 or services. This paragraph does not preclude the county board of supervisors from
4 creating a central purchasing department for all county purchases that are not
5 related to mental health.

6 **SECTION 5.** 46.215 (3) of the statutes is amended to read:

7 46.215 (3) PROGRAM BUDGETS. The county department of social services shall
8 submit a final budget for authorized services to the department of health services
9 under s. 46.031 (1), ~~to the department of corrections under s. 301.031 (1), and to the~~
10 ~~department of children and families under s. 49.325 (1), for authorized services.~~

11 **SECTION 6.** 46.22 (1) (b) 5m. d. of the statutes is repealed.

12 **SECTION 7.** 46.22 (2g) (d) 4. of the statutes is repealed.

13 **SECTION 8.** 46.23 (5) (c) 3. of the statutes is amended to read:

14 46.23 (5) (c) 3. Shall monitor the performance of contracts for the purchase of
15 juvenile correctional services. ~~Contracts for the purchase of those services shall be~~
16 ~~subject to the conditions specified in s. 301.031.~~

17 **SECTION 9.** 46.23 (5) (n) 3. of the statutes is repealed.

18 **SECTION 10.** 46.23 (5m) (c) of the statutes is amended to read:

19 46.23 (5m) (c) Prepare, with the assistance of the county human services
20 director under sub. (6m) (e), a proposed budget for submission to the county executive
21 or county administrator; a final budget for submission to the department of health
22 services in accordance with s. 46.031 (1) for authorized services, except services
23 under ch. 48 and subch. III of ch. 49, community-based juvenile delinquency-related
24 services, and juvenile correctional services; and a final budget for submission to the
25 department of children and families in accordance with s. 49.325 for authorized

SENATE BILL 168**SECTION 10**

1 services under ch. 48 and subch. III of ch. 49 and for authorized community-based
2 juvenile delinquency-related services; ~~and a final budget for submission to the~~
3 ~~department of corrections in accordance with s. 301.031 for the purchase of~~
4 ~~authorized juvenile correctional services.~~

5 **SECTION 11.** 48.023 (4) of the statutes, as affected by 2017 Wisconsin Act 185,
6 section 20, is amended to read:

7 48.023 (4) The rights and responsibilities of legal custody except when legal
8 custody has been vested in another person or when the child is under the supervision
9 of the department of corrections under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3)
10 or (4) or the supervision of a county department under s. 938.34 (4d), (4m), or (4n).

11 **SECTION 12.** 48.527 of the statutes is amended to read:

12 **48.527 Community youth and family aids; bonus for county facilities.**
13 From the appropriation under s. 20.437 (1) (ck), the department shall allocate an
14 amount equal to 15 percent of a county's allocation in the preceding fiscal year under
15 s. 48.526 or \$750,000, whichever is less, in additional funds for a county that operates
16 a joint secured residential care center for children and youth ~~under s. 46.20 (1m)~~ that
17 was funded by a grant under 2017 Wisconsin Act 185, section 110 (4), and that serves
18 juveniles from more than one county.

19 **SECTION 13.** 48.66 (1) (b) of the statutes is amended to read:

20 48.66 (1) (b) Except as provided in s. 48.715 (6), the department of corrections
21 may license a child welfare agency to operate a secured residential care center for
22 children and youth for holding in secure custody juveniles who have been convicted
23 under s. 938.183 or adjudicated delinquent under s. 938.183 or 938.34 (4d), (4h), or
24 (4m) and referred to the child welfare agency by the court, the tribal court, the county

SENATE BILL 168

1 department, or the department of corrections and to provide supervision, care, and
2 maintenance for those juveniles.

3 **SECTION 14.** 49.11 (1c) of the statutes, as affected by 2017 Wisconsin Act 185,
4 section 27, is amended to read:

5 49.11 (1c) “Community-based juvenile delinquency-related services” means
6 juvenile delinquency-related services provided under ch. 938 other than services
7 provided for a juvenile who is under the supervision of the department of corrections
8 under s. 938.183, 938.34 (4h), ~~(4n)~~, or (7g), or 938.357 (3) or (4).

9 **SECTION 15.** 49.45 (25) (bj) of the statutes, as affected by 2017 Wisconsin Act
10 185, section 29, is amended to read:

11 49.45 (25) (bj) The department of corrections may elect to provide case
12 management services under this subsection to persons who are under the
13 supervision of that department under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3)
14 or (4), who are Medical Assistance beneficiaries, and who meet one or more of the
15 conditions specified in par. (am). The amount of the allowable charges for those
16 services under the Medical Assistance program that is not provided by the federal
17 government shall be paid from the appropriation account under s. 20.410 (3) (hm),
18 (ho), or (hr).

19 **SECTION 16.** 101.123 (1) (ac) 2. of the statutes is amended to read:

20 101.123 (1) (ac) 2. A juvenile detention facility, as defined in s. 938.02 (10r), a
21 secured residential care center for children and youth, as defined in s. 938.02 (15g),
22 or a juvenile correctional facility, as defined in s. 938.02 (10p), except a juvenile
23 correctional facility authorized under s. 938.533 (3) (b), 938.538 (4) (b), or 938.539 (5)
24 if the facility is a private residence in which the juvenile is placed and no one is
25 employed there to ensure that the juvenile remains in custody.

SENATE BILL 168**SECTION 17**

1 **SECTION 17.** 301.01 (1n) of the statutes, as affected by 2017 Wisconsin Act 185,
2 section 35, is amended to read:

3 301.01 **(1n)** “Juvenile correctional services” means services provided for a
4 juvenile who is under the supervision of the department of corrections under s.
5 938.183, 938.34 (4h), ~~(4n)~~, or (7g), or 938.357 (3) or (4).

6 **SECTION 18.** 301.027 of the statutes is amended to read:

7 **301.027 Treatment program at one or more juvenile correctional**
8 **facilities.** The department shall maintain ~~a cottage-based~~ an intensive alcohol and
9 other drug abuse program at one or more juvenile correctional facilities.

10 **SECTION 19.** 301.031 of the statutes is repealed.

11 **SECTION 20.** 301.373 of the statutes is amended to read:

12 **301.373 Operating loss reimbursement program.** The department shall
13 reimburse a county that operates a secured residential care center for children and
14 youth that holds ~~only~~ female juveniles in secure custody and that was established
15 using funding from the grant program under 2017 Wisconsin Act 185, section 110 (4),
16 for any annual net operating loss for the services and facilities offered to female
17 juveniles. A county seeking reimbursement under this section shall submit its
18 request and supporting financial statements for the prior fiscal year to the
19 department and the legislative audit bureau in a format prescribed by the
20 department. The department shall reimburse the county for the amount of the net
21 operating loss, as determined by the legislative audit bureau under s. 13.94 (1) (v),
22 from the appropriation under s. 20.410 (3) (f). The department may pay for the cost
23 of the audit by the legislative audit bureau under s. 13.94 (1) (v) from the
24 appropriation under s. 20.410 (3) (f).

SENATE BILL 168

1 **SECTION 21.** 938.02 (4) of the statutes, as affected by 2017 Wisconsin Act 185,
2 section 50, is amended to read:

3 938.02 (4) “Department” means the department of children and families except
4 that with respect to a juvenile who is under the supervision of the department of
5 corrections under s. 938.183, 938.34 (4h), ~~(4n)~~, or (7g), or 938.357 (3) or (4),
6 “department” means the department of corrections.

7 **SECTION 22.** 938.02 (15g) of the statutes is amended to read:

8 938.02 (15g) “Secured residential care center for children and youth” means
9 a facility operated by an Indian tribe or a county under ss. 46.20, 59.53 (8m), ~~301.26,~~
10 ~~301.27~~ 301.36, 301.37, and 938.22 (1) (a) or by a child welfare agency that is licensed
11 under s. 48.66 (1) (b) to hold in secure custody persons adjudged delinquent.

12 **SECTION 23.** 938.22 (1) (a) of the statutes is amended to read:

13 938.22 (1) (a) The county board of supervisors of a county may establish a
14 juvenile detention facility or secured residential care center for children and youth
15 in accordance with ss. 301.36 and 301.37 or the county boards of supervisors for 2 or
16 more counties may jointly establish a juvenile detention facility or secured
17 residential care center for children and youth in accordance with ss. 46.20, 59.53
18 (8m), 301.36, and 301.37. An Indian tribe may establish a secured residential care
19 center for children and youth in accordance with ss. 301.36 and 301.37 or may
20 contract with a county board of supervisors to hold juveniles who are adjudicated
21 delinquent by the tribal court in that county’s secured residential care center for
22 children and youth. The county board of supervisors of a county may establish a
23 shelter care facility in accordance with ss. 48.576 and 48.578 or the county boards
24 of supervisors for 2 or more counties may jointly establish a shelter care facility in
25 accordance with ss. 46.20, 48.576, and 48.578. A private entity may establish a

SENATE BILL 168**SECTION 23**

1 juvenile detention facility in accordance with ss. 301.36 and 301.37 and contract with
2 one or more county boards of supervisors under s. 938.222 to hold juveniles in the
3 private juvenile detention facility. Subject to ss. 48.66 (1) (b), 301.36, and 301.37, a
4 child welfare agency may establish a secured residential care center for children and
5 youth and contract with one or more county boards of supervisors or an Indian tribe
6 to hold juveniles in the secured residential care center for children and youth.

7 **SECTION 24.** 938.22 (2) (d) 2. of the statutes is amended to read:

8 938.22 (2) (d) 2. After ~~January~~ July 1, 2021, the number of juveniles that may
9 be housed at a juvenile detention facility under subd. 1. is limited to the number that
10 ~~are housed at~~ is equal to the average daily population of juveniles housed under subd.
11 1., rounded up to the nearest whole number, of the juvenile detention facility on
12 January 1 between July 1, 2018, and June 30, 2021, excluding any juveniles placed
13 there under 2019 Wisconsin Act ... (this act), section 67 (1), and the juvenile
14 detention facility may not be altered or added to or repaired in excess of 50 percent
15 of its assessed value. If a juvenile detention facility violates this subdivision, it is no
16 longer authorized to accept juveniles for placement for more than 30 consecutive
17 days.

18 **SECTION 25.** 938.33 (1) (c) of the statutes is amended to read:

19 938.33 (1) (c) A description of the specific services or continuum of services that
20 the agency is recommending ~~the court to order~~ for the juvenile or family, the persons
21 or agencies that would be primarily responsible for providing those services, and the
22 identity of the person or agency that would provide case management or coordination
23 of services, if any, and whether or not the juvenile should receive a coordinated
24 services plan of care.

25 **SECTION 26.** 938.33 (3r) of the statutes is amended to read:

SENATE BILL 168

1 938.33 **(3r)** SERIOUS JUVENILE OFFENDER REPORT. If a juvenile has been
2 adjudicated delinquent for committing a violation for which the juvenile may be
3 placed in the serious juvenile offender program under s. 938.34 (4h) (a), the report
4 shall be in writing and, in addition to the information specified in sub. (1) and in sub.
5 (3) or (4), if applicable, shall include an analysis of the juvenile's suitability for
6 placement in the serious juvenile offender program under s. 938.34 (4h) or in a
7 ~~juvenile correctional facility~~ secured residential care center for children and youth
8 under s. 938.34 (4m), a placement specified in s. 938.34 (3), or placement in the
9 juvenile's home with supervision and community-based programming and a
10 recommendation as to the type of placement for which the juvenile is best suited.

11 **SECTION 27.** 938.33 (6) of the statutes is created to read:

12 938.33 **(6)** RETENTION. Reports submitted under this section shall be retained
13 in the record of the pending action, which shall be made available to the agency that
14 is designated to supervise the juvenile under a disposition under s. 938.34 or a
15 change of placement order under s. 938.357.

16 **SECTION 28.** 938.34 (4m) (intro.) of the statutes is amended to read:

17 938.34 **(4m)** CORRECTIONAL PLACEMENT. (intro.) Place the juvenile under the
18 supervision of the department of corrections in a juvenile correctional facility or
19 under the supervision of the county department in a secured residential care center
20 for children and youth ~~under the supervision of~~ identified by the county department
21 ~~or the department of corrections~~ if all of the following apply:

22 **SECTION 29.** 938.34 (4m) (intro.) of the statutes, as affected by 2017 Wisconsin
23 Act 185, section 62, is repealed and recreated to read:

SENATE BILL 168**SECTION 29**

1 938.34 (4m) CORRECTIONAL PLACEMENT. (intro.) Place the juvenile under the
2 supervision of the county department in a secured residential care center for children
3 and youth identified by the county department if all of the following apply:

4 **SECTION 30.** 938.34 (4n) (intro.) of the statutes is amended to read:

5 938.34 (4n) ~~COMMUNITY SUPERVISION OR AFTERCARE~~ AFTERCARE SUPERVISION.
6 (intro.) In the case of a juvenile who has received a correctional placement under sub.
7 (4m), designate ~~the county department~~ one of the following to provide aftercare
8 supervision for the juvenile following the juvenile's release from a secured
9 residential care center for children and youth or Type 1 juvenile correctional facility.
10 ~~In the case of a juvenile who has been placed in a juvenile correctional facility or a~~
11 ~~secured residential care center for children and youth under the supervision of the~~
12 ~~department of corrections, designate the department of corrections to provide~~
13 ~~community supervision for the juvenile following the juvenile's release from that~~
14 ~~facility or center or, subject to any arrangement between the department of~~
15 ~~corrections and a county department regarding the provision of aftercare~~
16 ~~supervision for juveniles who have been released from a juvenile correctional facility~~
17 ~~or a secured residential care center for children and youth, designate one of the~~
18 ~~following to provide aftercare supervision for the juvenile following the juvenile's~~
19 ~~release from that facility or center:~~

20 **SECTION 31.** 938.355 (2) (b) 1. of the statutes is amended to read:

21 938.355 (2) (b) 1. ~~The specific~~ Specific services to be provided to the juvenile
22 and the juvenile's family, and, if custody is to be transferred to effect the treatment
23 plan, the identity of the legal custodian.

24 **SECTION 32.** 938.355 (2) (b) 2. of the statutes is amended to read:

SENATE BILL 168

1 938.355 (2) (b) 2. If the juvenile is placed outside the home under s. 938.34 (3)
2 or (4d), the name of the place or facility, including transitional placements, where the
3 juvenile shall be cared for or treated, except that if the placement is a foster home
4 and the name and address of the foster parent is not available at the time of the order,
5 the name and address of the foster parent shall be furnished to the court and the
6 parent within 21 days after the order. If, after a hearing on the issue with due notice
7 to the parent or guardian, the court finds that disclosure of the identity of the foster
8 parent would result in imminent danger to the juvenile or the foster parent, the court
9 may order the name and address of the prospective foster parents withheld from the
10 parent or guardian.

11 **SECTION 33.** 938.355 (2) (b) 2m. of the statutes is created to read:

12 938.355 (2) (b) 2m. If the juvenile is placed outside the home under s. 938.34
13 (4m), the name of the county department that will provide supervision and
14 determine placement for the juvenile.

15 **SECTION 34.** 938.355 (2) (b) 6m. of the statutes is amended to read:

16 938.355 (2) (b) 6m. If the juvenile is placed outside the home in a placement
17 under s. 938.34 (3) or (4d) recommended by the agency designated under s. 938.33
18 (1), a statement that the court approves the placement recommended by the agency
19 or, if the juvenile is placed outside the home in a placement other than a placement
20 recommended by that agency, a statement that the court has given bona fide
21 consideration to the recommendations made by the agency and all parties relating
22 to the juvenile's placement.

23 **SECTION 35.** 938.355 (2) (b) 6n. of the statutes is created to read:

24 938.355 (2) (b) 6n. If the juvenile is placed outside the home under s. 938.34
25 (4m), a statement that the court has given bona fide consideration to the

SENATE BILL 168**SECTION 35**

1 recommendations made by the agency and all parties relating to the juvenile's
2 placement.

3 **SECTION 36.** 938.357 (3) (b) (intro.) and (c) of the statutes are amended to read:

4 938.357 (3) (b) (intro.) Notwithstanding s. 938.34 (4m) and subject to par. (c),
5 the court may order placement in a Type 1 juvenile correctional facility ~~under~~
6 ~~supervision of~~ operated by the department of corrections for a juvenile who was
7 adjudicated delinquent under s. 938.34 (4m) if the court finds, after a hearing under
8 this section, that any of the following apply:

9 (c) ~~Upon~~ Notwithstanding s. 938.34 (4m), upon the recommendation of the
10 department of health services, the court may order the placement of a juvenile ~~under~~
11 ~~par. (b) who was adjudicated delinquent under s. 938.34 (4m) at the Mendota juvenile~~
12 ~~treatment center if par. (b) 1. a. to c. are met. The department of health services shall~~
13 ~~determine the date for the actual transfer of the juvenile to the Mendota juvenile~~
14 ~~treatment center, and no change of placement to the Mendota juvenile treatment~~
15 ~~center may be ordered without the prior agreement of the department of health~~
16 ~~services to admit the juvenile. No further hearing or court order is necessary for the~~
17 ~~department of health services to transfer the juvenile back to the supervision of the~~
18 ~~county department.~~

19 **SECTION 37.** 938.357 (3) (e) and (f) of the statutes are created to read:

20 938.357 (3) (e) A juvenile who is placed in a Type 1 juvenile correctional facility
21 under par. (b) is under the supervision of the department of corrections. The change
22 of placement order shall designate the department of corrections to provide
23 community supervision or the county department to provide aftercare supervision
24 for the juvenile following the juvenile's release from the Type 1 juvenile correctional
25 facility.

SENATE BILL 168

1 (f) A juvenile who is placed at the Mendota juvenile treatment center under par.
2 (c) is under the supervision of the department of health services until the juvenile
3 is released back to the supervision of the county department.

4 **SECTION 38.** 938.357 (4) (as) of the statutes is created to read:

5 938.357 (4) (as) When a juvenile is placed under the supervision of a county
6 department, that department may place the juvenile in a secured residential care
7 center for children and youth or on aftercare supervision, either immediately or after
8 a period of placement in a secured residential care center for children and youth. The
9 county department shall send written notice of any change in placement to the
10 parent, guardian, legal custodian, if any, and the court. The county department shall
11 be responsible for decisions regarding the release of a juvenile who is under its
12 supervision.

13 **SECTION 39.** 938.357 (4g) (a) of the statutes is amended to read:

14 938.357 (4g) (a) Not later than 120 days after the date on which the juvenile
15 is placed in a juvenile correctional facility or a secured residential care center for
16 children and youth, or within 30 days after the date on which the department of
17 corrections requests the community supervision or aftercare plan, whichever is
18 earlier, the community supervision provider or the aftercare provider designated
19 under s. 938.34 (4n) shall prepare a community supervision or aftercare plan for the
20 juvenile. If the juvenile is to be placed on aftercare supervision, the county
21 department designated as the aftercare provider shall submit the aftercare plan to
22 the department of corrections within the applicable period specified in this
23 paragraph, unless the department of corrections waives the period under par. (b).

24 **SECTION 40.** 938.48 (3) of the statutes, as affected by 2017 Wisconsin Act 185,
25 section 78, is amended to read:

SENATE BILL 168**SECTION 40**

1 938.48 (3) SUPERVISION AND SPECIAL TREATMENT OR CARE. Accept supervision
2 over juveniles transferred to it by the court under s. 938.183, 938.34 (4h) ~~or (4n)~~, or
3 938.357 (3) or (4), and provide special treatment or care to juveniles when directed
4 by the court. Except as provided in s. 938.505 (2), a court may not direct the
5 department to administer psychotropic medications to juveniles who receive special
6 treatment or care under this subsection.

7 **SECTION 41.** 938.48 (4) of the statutes, as affected by 2017 Wisconsin Act 185,
8 section 80, is amended to read:

9 938.48 (4) CARE, TRAINING, AND PLACEMENT. Provide appropriate care and
10 training for juveniles under its supervision under s. 938.183, 938.34 (4h) ~~or (4n)~~, or
11 938.357 (3) or (4), including serving those juveniles in their own homes, placing them
12 in licensed foster homes or licensed group homes under s. 48.63 or in independent
13 living situations as provided in s. 938.34 (3) (e), contracting for their care by licensed
14 child welfare agencies, or replacing them in juvenile correctional facilities or secured
15 residential care centers for children and youth in accordance with rules promulgated
16 under ch. 227, except that the department may not purchase the educational
17 component of private day treatment programs for a juvenile in its custody unless the
18 department, the school board, as defined in s. 115.001 (7), and the state
19 superintendent of public instruction all determine that an appropriate public
20 education program is not available for the juvenile. Disputes between the
21 department and the school district shall be resolved by the state superintendent of
22 public instruction.

23 **SECTION 42.** 938.48 (4m) (b) of the statutes, as affected by 2017 Wisconsin Act
24 185, section 82, is amended to read:

SENATE BILL 168

1 938.48 ~~(4m)~~ (b) Was under the supervision of the department under s. 938.183,
2 938.34 (4h) ~~or (4n)~~ or 938.357 (3) or (4) when the person reached 17 years of age.

3 **SECTION 43.** 938.48 (5) of the statutes, as affected by 2017 Wisconsin Act 185,
4 section 84, is amended to read:

5 938.48 **(5)** MORAL AND RELIGIOUS TRAINING. Provide for the moral and religious
6 training of a juvenile under its supervision under s. 938.183, 938.34 (4h) ~~or (4n)~~, or
7 938.357 (3) or (4) according to the religious beliefs of the juvenile or of the juvenile's
8 parents.

9 **SECTION 44.** 938.48 (6) of the statutes, as affected by 2017 Wisconsin Act 185,
10 section 86, is amended to read:

11 938.48 **(6)** EMERGENCY SURGERY. Consent to emergency surgery under the
12 direction of a licensed physician or surgeon for any juvenile under its supervision
13 under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4) upon notification by a
14 licensed physician or surgeon of the need for the surgery and if reasonable effort,
15 compatible with the nature and time limitation of the emergency, has been made to
16 secure the consent of the juvenile's parent or guardian.

17 **SECTION 45.** 938.48 (14) of the statutes, as affected by 2017 Wisconsin Act 185,
18 section 88, is amended to read:

19 938.48 **(14)** SCHOOL-RELATED EXPENSES FOR JUVENILES OVER 17. Pay
20 maintenance, tuition, and related expenses from the appropriation under s. 20.410
21 (3) (ho) for persons who, when they attained 17 years of age, were students regularly
22 attending a school, college, or university or regularly attending a course of vocational
23 or technical training designed to prepare them for gainful employment, and who
24 upon attaining that age were under the supervision of the department under s.
25 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4) as a result of a judicial decision.

SENATE BILL 168**SECTION 46**

1 **SECTION 46.** 938.505 (1) of the statutes, as affected by 2017 Wisconsin Act 185,
2 section 96, is amended to read:

3 **938.505 (1) RIGHTS AND DUTIES OF DEPARTMENT OF CORRECTIONS OR COUNTY**
4 **DEPARTMENT.** When a juvenile is placed under the supervision of the department of
5 corrections under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3), (4), or (5) (e) or under
6 the supervision of a county department under s. 938.34 (4m) or (4n), the department
7 of corrections or county department, whichever has supervision over the juvenile,
8 shall have the right and duty to protect, train, discipline, treat, and confine the
9 juvenile and to provide food, shelter, legal services, education, and ordinary medical
10 and dental care for the juvenile, subject to the rights, duties, and responsibilities of
11 the guardian of the juvenile and subject to any residual parental rights and
12 responsibilities and the provisions of any court order.

13 **SECTION 47.** 938.52 (2) (a) and (c) of the statutes, as affected by 2017 Wisconsin
14 Act 185, section 98, are amended to read:

15 **938.52 (2) (a)** In addition to facilities and services under sub. (1), the
16 department of corrections may use other facilities and services under its jurisdiction.
17 The department of corrections may contract for and pay for the use of other public
18 facilities or private facilities for the care and treatment of juveniles in its care.
19 Placement of a juvenile in a private or public facility that is not under the jurisdiction
20 of the department of corrections does not terminate that department's supervision
21 over the juvenile under s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4).
22 Placements in institutions for persons with a mental illness or development
23 disability shall be made in accordance with ss. 48.14 (5), 48.63, and 938.34 (6) (am)
24 and ch. 51.

SENATE BILL 168

1 (c) The department of corrections may inspect any facility it is using and
2 examine and consult with persons under its supervision under s. 938.183, 938.34
3 (4h) ~~or (4n)~~, or 938.357 (3) or (4) who have been placed in the facility.

4 **SECTION 48.** 938.53 of the statutes, as affected by 2017 Wisconsin Act 185,
5 section 100, is amended to read:

6 **938.53 Duration of control of department of corrections over**
7 **delinquents.** Except as provided under s. 938.183, a juvenile adjudged delinquent
8 who has been placed under the supervision of the department of corrections under
9 s. 938.183, 938.34 (4h) ~~or (4n)~~, or 938.357 (3) or (4) shall be discharged as soon as that
10 department determines that there is a reasonable probability that departmental
11 supervision is no longer necessary for the rehabilitation and treatment of the
12 juvenile or for the protection of the public.

13 **SECTION 49.** 938.533 (2) (intro.) of the statutes is amended to read:

14 938.533 (2) COMMUNITY SUPERVISION SERVICES. (intro.) From the appropriation
15 under s. 20.410 (3) (hr), the department of corrections shall purchase or provide
16 community supervision services for juveniles who have been placed under the
17 community supervision of the department of corrections under s. 938.183, 938.34
18 ~~(4n)~~ (4h), 938.357 (3) or (4), or 938.538 (3) (a) 2. For each juvenile who is placed under
19 community supervision, the department of corrections may purchase or provide any
20 of the following services:

21 **SECTION 50.** 938.54 of the statutes, as affected by 2017 Wisconsin Act 185,
22 section 107, is amended to read:

23 **938.54 Records.** The department of corrections shall keep a complete record
24 on each juvenile under its supervision under s. 938.183, 938.34 (4h), ~~or (4n)~~ or
25 938.357 (3) or (4). This record shall include the information received from the court,

SENATE BILL 168**SECTION 50**

1 the date of reception, all available data on the personal and family history of the
2 juvenile, the results of all tests and examinations given the juvenile, and a complete
3 history of all placements of the juvenile while under the supervision of the
4 department-of corrections.

5 **SECTION 51.** 938.57 (4) of the statutes is amended to read:

6 938.57 (4) **AFTERCARE SUPERVISION.** A county department may provide aftercare
7 supervision under s. 938.34 (4n) for juveniles who are released from juvenile
8 correctional facilities or secured residential care centers for children and youth. If
9 ~~a county department intends to change its policy regarding whether the county~~
10 ~~department will provide aftercare supervision for juveniles released from juvenile~~
11 ~~correctional facilities or secured residential care centers for children and youth or the~~
12 ~~department of corrections will provide community supervision for those juveniles,~~
13 ~~the county executive or county administrator, or, if the county has no county~~
14 ~~executive or county administrator, the chairperson of the county board of~~
15 ~~supervisors, or, for multicounty departments, the chairpersons of the county boards~~
16 ~~of supervisors jointly, shall submit a letter to the department of corrections stating~~
17 ~~that intent before July 1 of the year preceding the year in which the policy change~~
18 ~~will take effect.~~

19 **SECTION 52.** 938.78 (3) of the statutes is amended to read:

20 938.78 (3) **RELEASE OF INFORMATION WHEN ESCAPE OR ABSENCE; RULES.** If a juvenile
21 adjudged delinquent under s. 48.12, 1993 stats., or s. 938.12 or found to be in need
22 of protection or services under s. 48.13 (12) or (14), 1993 stats., or s. 938.13 (12) or
23 (14) on the basis of a violation of s. 943.23 (1m) or (1r), 1999 stats., or s. 941.10, 941.11,
24 941.20, 941.21, 941.23, 941.231, 941.235, 941.237, 941.26, 941.28, 941.295, 941.298,
25 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2) (a), 943.23 (1g),

SENATE BILL 168

1 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055, 948.085 (2), 948.60, 948.605, or
2 948.61 or any crime specified in ch. 940 has escaped from a juvenile correctional
3 facility, residential care center for children and youth, secured residential care center
4 for children and youth, inpatient facility, as defined in s. 51.01 (10), juvenile
5 detention facility, or juvenile portion of a county jail, or from the custody of a peace
6 officer or a guard of such a facility, center, or jail, or has been allowed to leave a
7 juvenile correctional facility, residential care center for children and youth, secured
8 residential care center for children and youth, inpatient facility, juvenile detention
9 facility, or juvenile portion of a county jail for a specified time period and is absent
10 from the facility, center, home, or jail for more than 12 hours after the expiration of
11 the specified period, the department of corrections or county department, whichever
12 has supervision over the juvenile, may release the juvenile's name and any
13 information about the juvenile that is necessary for the protection of the public or to
14 secure the juvenile's return to the facility, center, home, or jail. The department of
15 corrections shall promulgate rules establishing guidelines for the release of the
16 juvenile's name or information about the juvenile to the public.

17 **SECTION 53.** 2017 Wisconsin Act 185, section 38 is repealed.

18 **SECTION 54.** 2017 Wisconsin Act 185, section 70 is repealed.

19 **SECTION 55.** 2017 Wisconsin Act 185, section 110 (1) (a) is amended to read:

20 [2017 Wisconsin Act 185] Section 110 (1) (a) Upon the establishment of the Type
21 1 juvenile correctional facilities under subsection (7) and the secured residential care
22 centers for children and youth under subsections (4) and (7m), the department of
23 corrections shall begin to transfer each juvenile held in secure custody at the Lincoln
24 Hills School and Copper Lake School to the appropriate Type 1 juvenile correctional
25 facility or secured residential care center for children and youth. No juvenile may

SENATE BILL 168**SECTION 55**

1 be transferred to a Type 1 juvenile correctional facility until the department of
2 corrections determines the facility to be ready to accept juveniles, and no juvenile
3 may be transferred to a secured residential care center for children and youth until
4 the entity operating the facility determines it to be ready to accept juveniles. The
5 transfers may occur in phases. The department shall transfer all juveniles under
6 this subsection no later than ~~January~~ July 1, 2021.

7 **SECTION 56.** 2017 Wisconsin Act 185, section 110 (2) (a) is amended to read:

8 [2017 Wisconsin Act 185] Section 110 (2) (a) On the earlier of the date on which
9 all juveniles have been transferred to secured residential care centers for children
10 and youth and Type 1 juvenile correctional facilities under subsection (1) or ~~January~~,
11 July 1, 2021, the department of corrections shall permanently close the Type 1
12 juvenile correctional facilities housed at the Lincoln Hills School and Copper Lake
13 School in the town of Birch, Lincoln County.

14 **SECTION 57.** 2017 Wisconsin Act 185, section 110 (3) (c) is amended to read:

15 [2017 Wisconsin Act 185] Section 110 (3) (c) *Termination.* The juvenile
16 corrections grant committee terminates on the earlier of the date on which all
17 projects funded with grants under subsection (4) are completed or ~~January~~ July 1,
18 2021.

19 **SECTION 58.** 2017 Wisconsin Act 185, section 110 (4) (a) 1. c. is amended to read:

20 [2017 Wisconsin Act 185] Section 110 (4) (a) 1. c. A grant to pay 100 percent of
21 the costs of designing and constructing a secured residential care center for children
22 and youth ~~only for female juveniles~~ or any portion thereof that is ~~only intended~~
23 primarily for the holding and treatment of female juveniles.

24 **SECTION 59.** 2017 Wisconsin Act 185, section 110 (4) (d) is amended to read:

SENATE BILL 168

1 [2017 Wisconsin Act 185] Section 110 (4) (d) *Deadline*. Grant applications are
2 due no later than ~~March 31~~ June 30, 2019. Between that date and ~~June 30~~
3 September 30, 2019, the juvenile corrections grant committee may work with
4 applicants to modify their applications in order to increase the likelihood of being
5 awarded a grant.

6 **SECTION 60.** 2017 Wisconsin Act 185, section 110 (4) (e) is amended to read:

7 [2017 Wisconsin Act 185] Section 110 (4) (e) *Wisconsin model of juvenile justice;*
8 *statewide plan*. The juvenile corrections grant committee shall develop a statewide
9 plan that recommends which grant applications to approve, based on an overall view
10 toward a Wisconsin model of juvenile justice. The committee shall consult with the
11 departments of corrections and children and families on the statewide plan and may
12 not recommend approval of an application unless the department of corrections
13 approves the plans and specifications for the site and the design and construction of
14 the proposed secured residential care center for children and youth under section
15 301.37 of the statutes.

16 **SECTION 61.** 2017 Wisconsin Act 185, section 110 (4) (f) is amended to read:

17 [2017 Wisconsin Act 185] Section 110 (4) (f) *Plan approval*. No later than ~~July~~
18 October 1, 2019, the juvenile corrections grant committee shall submit the plan
19 under paragraph (e) for approval to the joint committee on finance. The juvenile
20 corrections grant committee and the department of corrections may not implement
21 the plan until it is approved by the joint committee on finance, as submitted or as
22 modified.

23 **SECTION 62.** 2017 Wisconsin Act 185, section 110 (6) (e) is amended to read:

24 [2017 Wisconsin Act 185] Section 110 (6) (e) *Termination*. The juvenile
25 corrections study committee terminates on ~~January~~ July 1, 2021.

SENATE BILL 168**SECTION 63**

1 **SECTION 63.** 2017 Wisconsin Act 185, section 110 (7) is amended to read:

2 [2017 Wisconsin Act 185] Section 110 (7) TYPE 1 JUVENILE CORRECTIONAL
3 FACILITIES. The department of corrections shall establish or construct the Type 1
4 juvenile correctional facilities under section 301.16 (1w) (a) of the statutes no later
5 than ~~January~~ July 1, 2021, subject to the approval of the joint committee on finance.
6 The department shall consider the recommendations of the juvenile corrections
7 study committee under subsection (6) (c) 2. in establishing or constructing these
8 facilities.

9 **SECTION 64.** 2017 Wisconsin Act 185, section 110 (7m) (b) is amended to read:

10 [2017 Wisconsin Act 185] Section 110 (7m) (b) 1. Notwithstanding section
11 938.22 (1) and (2) of the statutes, except as provided in subdivision 2., on ~~January~~
12 July 1, 2021, the portion of an eligible juvenile detention facility that holds juveniles
13 who are placed under section 938.34 (3) (f) of the statutes for more than 30 days is
14 a secured residential care center for children and youth and juveniles may be placed
15 there under section 938.34 (4m) of the statutes.

16 2. Notwithstanding subdivision 1., on ~~January~~ July 1, 2021, the portion of an
17 eligible juvenile detention facility that holds juveniles who are placed under section
18 938.34 (3) (f) of the statutes for more than 30 days is, with respect to a juvenile placed
19 under section 938.34 (3) (f) of the statutes prior to ~~January~~ July 1, 2021, a juvenile
20 detention facility.

21 **SECTION 65.** 2017 Wisconsin Act 185, section 111 (3) is amended to read:

22 [2017 Wisconsin Act 185] Section 111 (3) The treatment of section 938.34 (3) (f)
23 1. of the statutes, with respect to an eligible juvenile detention facility under SECTION
24 110 (7m), first applies to a juvenile adjudicated delinquent on ~~January~~ July 1, 2021.

25 **SECTION 66.** 2017 Wisconsin Act 185, section 112 (1) is amended to read:

SENATE BILL 168

1 [2017 Wisconsin Act 185] Section 112 (1) The treatment of sections 46.011 (1p)
2 (by SECTION 13), 46.057 (1) (by SECTION 15), 48.023 (4) (by SECTION 20), 49.11 (1c) (by
3 SECTION 27), 49.45 (25) (bj) (by SECTION 29), 301.01 (1n) (by SECTION 35), 301.20,
4 938.02 (4) (by SECTION 50), 938.34 (2) (a) (by SECTION 57) and (b) (by SECTION 59) and
5 (4m) (intro.) (by SECTION 62), 938.48 (3) (by SECTION 78), (4) (by SECTION 80), (4m) (b)
6 (by SECTION 82), (5) (by SECTION 84), (6) (by SECTION 86), and (14) (by SECTION 88),
7 938.505 (1) (by SECTION 96), 938.52 (2) (a) and (c) (by SECTION 98), 938.53 (by SECTION
8 100), and 938.54 (by SECTION 107) of the statutes takes effect on the date specified
9 in the notice under SECTION 110 (2) (b) or January July 1, 2021, whichever is earlier.

SECTION 67. Nonstatutory provisions.

11 (1) TEMPORARY CHANGE IN PLACEMENT WITHOUT A HEARING.

12 (a) The department of corrections may, using the procedure set forth in s.
13 938.357 (4) (am), place a juvenile who is placed in the Type 1 juvenile correctional
14 facility known as Lincoln Hills School or Copper Lake School on the effective date of
15 this paragraph in a juvenile detention facility under s. 938.22 (2) (d) 1. If the
16 department of corrections places a juvenile in a juvenile detention facility under this
17 paragraph, the department of corrections shall contract with the operating entity for
18 the care and services provided under s. 301.08.

19 (b) Notwithstanding s. 938.34 (3) (f) 1., a juvenile may be placed in a juvenile
20 detention facility under par. (a) for a period longer than 365 days, and shall be
21 transferred out of the juvenile detention facility using the procedure and by the date
22 required under 2017 Wisconsin Act 185, section 110 (1). The department of
23 corrections shall transfer all juveniles placed in a juvenile detention facility under
24 par. (a) out of the juvenile detention facility no later than July 1, 2021.

SECTION 68. Initial applicability.

