State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0418/2
EH/EW/FK/TD/MG:all

SENATE SUBSTITUTE AMENDMENT 2,

TO SENATE BILL 807

March 20, 2018 – Offered by Senators FITZGERALD and WANGGAARD.

AN ACT ***to repeal*** 301.20; ***to renumber*** 938.48 (16); ***to renumber and amend*** 938.357 (3) and 938.357 (4) (a); ***to amend*** 16.99 (3b), 20.866 (1) (u), 20.866 (2) (ux), 20.866 (2) (v), 46.011 (1p), 46.057 (1), 46.20 (3), 46.22 (1) (a), 48.023 (4), 48.526 (2) (c), 48.526 (6) (b), 48.526 (7) (bm), 48.66 (1) (b), 49.11 (1c), 49.45 (25) (bj), 51.35 (3) (a), 51.35 (3) (c) and (e), 301.01 (1n), 301.03 (9), 301.03 (10) (d), 301.08 (1) (b) 3., 301.16 (1x), 301.37 (1), 938.02 (4), 938.02 (15g), 938.22 (1) (a), 938.22 (2) (a), 938.225, 938.34 (2) (a), 938.34 (2) (b), 938.34 (3) (f) 1., 938.34 (4m) (intro.), 938.34 (4n) (intro.), 938.357 (1) (am) 1., 938.357 (4) (am), 938.357 (4) (b) 1., 938.357 (4) (b) 2., 938.357 (4) (b) 4., 938.357 (4) (c) 1., 938.357 (4m), 938.48 (3), 938.48 (4), 938.48 (4m) (b), 938.48 (5), 938.48 (6), 938.48 (14), 938.49 (title), 938.49 (1), 938.49 (2) (intro.), 938.49 (2) (a), 938.505 (1), 938.52 (2) (a) and (c), 938.53, 938.535, 938.539 (2), 938.539 (3), 938.539 (4), 938.539 (5), 938.54, 938.59 (1) and 938.595; ***to repeal and recreate*** 938.357 (4) (title); and ***to***

create 13.48 (27m), 13.94 (1) (v), 13.94 (1s) (c) 9., 20.410 (3) (f), 20.410 (3) (fm), 20.437 (1) (ck), 20.866 (2) (uzc), 46.20 (1m), 48.527, 59.53 (8m), 121.79 (1) (e), 301.16 (1f), 301.16 (1w), 301.18 (1) (fm), 301.37 (1m), 301.373, 302.01 (13), 938.22 (2) (d), 938.357 (3) (b), (c) and (d), 938.357 (4) (ab), 938.357 (4) (d) and 938.48 (16) (b) of the statutes; **relating to:** juvenile correctional facilities, secured residential care centers for children and youth, juvenile detention facilities, youth aids, granting bonding authority, providing an exemption from emergency rule procedures, granting rule–making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

This substitute amendment requires the state to close the Lincoln Hills School and Copper Lake School by January 1, 2021, and authorizes the Department of Corrections to convert those facilities into an adult correctional facility, requires DOC to establish new Type 1 juvenile correctional facilities, requires the Department of Health Services to expand the Mendota Juvenile Treatment Center (MJTC), and authorizes counties to establish secured residential care centers for children and youth. Once the secured residential care centers for children and youth are established, the substitute amendment transfers the supervision of a juvenile under a correctional placement to the county department of human services or social services (county department) of the county in which the juvenile was adjudicated delinquent. The substitute amendment creates a council to study juvenile corrections issues and a grant program under which counties may apply for state funding towards the cost of establishing or constructing secured residential care centers for children and youth. The substitute amendment also expands the authorized uses of youth aids for program costs in juvenile detention facilities and secured residential care centers for children and youth and increases amounts paid to certain counties.

New facilities for juveniles.

Under current law, DOC oversees all juvenile correctional services for juveniles who are under original adult court jurisdiction or who have been adjudged delinquent under the Juvenile Justice Code, placed under the supervision of DOC, and placed in a juvenile correctional facility, in the Serious Juvenile Offender Program (SJOP), or under community supervision. Under the substitute amendment, DOC maintains supervision over juveniles in SJOP, under community supervision, and under original adult court jurisdiction, but supervision over

juveniles who are under any other correctional placement under the Juvenile Justice Code is transferred to county departments.

This substitute amendment authorizes a county or American Indian tribe or band to establish, or contract with a child welfare agency to establish, a secured residential care center for children and youth. A county may establish a secured residential care center for children and youth on its own or jointly with one or more counties or may contract with another county to place juveniles in that county's secured residential care center for children and youth. In addition, as in current law, the substitute amendment allows a child welfare agency to be licensed to operate a secured residential care center for children and youth. By January 1, 2021, the substitute amendment requires, subject to the approval of the Joint Committee on Finance, DOC to construct or establish one or more Type 1 juvenile correctional facilities and requires DHS to expand MJTC to accommodate no fewer than 29 additional juveniles. The substitute amendment amends the 2017–19 Authorized State Building Program to add these projects. The DOC project is financed with $25,000,000 in general fund supported borrowing, and the DHS project is financed with $15,000,000 in general fund supported borrowing.

The substitute amendment creates in DOC a Juvenile Corrections Study Committee, which is required to research and develop recommendations on all of the following:

1. Optimal locations for the new Type 1 juvenile correctional facilities based on space and security needs, cost, proximity to the populations of juveniles the facilities would serve, and best practices for holding juveniles in secure custody. The substitute amendment requires the committee to favor the use of existing facilities and to conduct an inventory of existing state–owned facilities that have the capacity to be used as Type 1 juvenile correctional facilities. The substitute amendment requires the committee to submit its recommendations to DOC no later than November 1, 2018, and requires DOC to consider these recommendations in establishing the new facilities.

2. Rules governing the services and programming provided to juveniles in secured residential care centers for children and youth. The substitute amendment requires the committee to submit its findings and recommendations to DOC no later than September 1, 2018, and requires DOC to promulgate rules establishing standards for services in secured residential care centers for children and youth based on those recommendations. The substitute amendment requires DOC to promulgate emergency rules establishing these standards no later than December 31, 2018.

The committee is required under the substitute amendment to consult with one or more organizations that focus on developing best practices for holding juveniles in secure custody to aid the committee's research and development of recommendations. Under the substitute amendment, the committee terminates on January 1, 2021.

The substitute amendment requires the transfer from Lincoln Hills School and Copper Lake School of all juveniles who are under a correctional placement to the appropriate secured residential care center for children and youth and the transfer

of all other juveniles to the new Type 1 juvenile correctional facilities. The substitute amendment then requires the closure of Lincoln Hills School and Copper Lake School once all juveniles have been transferred, but no later than January 1, 2021, and authorizes DOC to then convert those facilities into an adult correctional institution named the Lincoln County Correctional Institution.

Under the substitute amendment, once a juvenile is placed in a secured residential care center for children and youth under a correctional placement, or once a juvenile who was under a correctional placement at Lincoln Hills School or Copper Lake School is transferred to a secured residential care center for children and youth, the juvenile is under the supervision of the county department of the county in which the juvenile was adjudicated delinquent. Under the substitute amendment, DOC maintains supervision over juveniles in secured residential care centers for children and youth that are in SJOP or under original adult court jurisdiction.

The substitute amendment maintains DOC's authority under current law to license, supervise, and inspect secured residential care centers for children and youth. Under the substitute amendment, a county, American Indian tribe or band, or child welfare agency that proposes to construct or operate a secured residential care center for children and youth is required to submit its plans to DOC for approval.

Change of placement.

Under the substitute amendment, generally, a juvenile who is given a correctional placement under a county department's supervision may only be placed in a secured residential care center for children and youth. However, if a secured residential care center for children and youth cannot meet the treatment needs of the juvenile, the county department may place the juvenile in a different secured residential care center for children and youth that offers more appropriate treatment without a hearing. Similarly, if a juvenile is placed under DOC's supervision in a secured residential care center for children and youth and the facility cannot meet the treatment needs of the juvenile, DOC may place the juvenile in a different secured residential care center for children and youth without a hearing. If DOC places a juvenile at a secured residential care center for children and youth or if a county department places a juvenile at a secured residential care center for children and youth other than its own, the substitute amendment requires that the entity operating the receiving secured residential care center for children and youth agree to the placement and requires that care and services for that juvenile be provided under a contract.

Also under the substitute amendment, a juvenile in a secured residential care center for children and youth under the supervision of either DOC or a county department may be placed in a Type 1 juvenile correctional facility after a hearing if the court assigned to exercise jurisdiction under the Juvenile Justice Code (juvenile court) finds that the secured residential care center cannot meet the treatment needs of the juvenile and the Type 1 juvenile correctional facility can or that the county's secured residential care center for children and youth does not have space for the juvenile, and no other placement in a secured residential care center for children and youth can be found.

Under current law, MJTC is a Type 1 juvenile correctional facility that is operated by the Department of Health Services. Under current law, DOC can transfer juveniles to MJTC from other Type 1 juvenile correctional facilities, with the approval of DHS. Under the substitute amendment, a juvenile who has been placed under the supervision of a county department in a secured residential care center for children and youth can be placed at MJTC by the juvenile court upon the recommendation of DHS in a change of placement hearing.

Juvenile corrections grant program.

The substitute amendment creates in DOC the Juvenile Corrections Grant Committee, which is required to establish and administer a juvenile corrections grant program. Under the grant program, a county may apply for one of the following grants:

1. A grant to pay 95 percent of the costs of designing and constructing a secured residential care center for children and youth.

2. A grant to pay 95 percent of the costs of designing and constructing a facility that houses both a secured residential care center for children and youth and a juvenile detention facility.

3. A grant to pay 100 percent of the costs of designing and constructing a secured residential care center for children and youth only for female juveniles or any portion that is only for female juveniles.

The substitute amendment provides that a grant also reimburses a successful applicant for any design costs incurred in preparing a grant application at the same percent as the grant covers other costs. The substitute amendment finances the grant program with $40,000,000 in general fund supported borrowing.

The substitute amendment allows multiple counties to jointly submit a grant application for construction of a secured residential care center for children and youth that will hold juveniles from all of the cooperating counties. The substitute amendment requires the committee to establish requirements, guidelines, and criteria for the grant program but requires that, in developing a grant application, the applicant must consider best practices in designing and operating facilities that hold juveniles in secure custody and the feasibility of developing an existing facility, and must solicit input on the design of the facility from judges at the juvenile court for each county participating in the grant application. The substitute amendment also requires the committee to favor proposals that utilize existing facilities and to encourage multicounty coordination by favoring applications submitted jointly by multiple counties.

Under the substitute amendment, grant applications are due March 31, 2019, but the committee is authorized to work with applicants between that date and June 30, 2019, to modify applications in order to increase the likelihood of being awarded a grant. The substitute amendment requires the committee, in consultation with DOC and DCF, to develop a statewide plan that recommends which of the grant applications to approve based on an overall view towards a Wisconsin model of juvenile justice. The committee is prohibited from recommending approval of an application unless DOC approves the plans and specifications for the site and the design and construction of the facility.

The substitute amendment requires the Juvenile Corrections Grant Committee to submit its plan to JCF no later than July 1, 2019, to request approval to proceed with the plan. If approved, the substitute amendment requires DOC to implement the plan by awarding the grants under the plan, and requires the Juvenile Corrections Grant Committee to monitor the progress of the projects funded by the grants to ensure compliance with the grant program and completion in time to transfer juveniles from Lincoln Hills School and Copper Lake School to the new Type 1 juvenile correctional facilities and secured residential care centers for children and youth by January 1, 2021. Under the substitute amendment, the Juvenile Corrections Grant Committee terminates on the earlier of the date on which all projects funded with the grants are completed or January 1, 2021.

Juvenile detention facilities.

Under current law, a juvenile who is adjudicated delinquent may be placed in a juvenile detention facility for any combination of single or consecutive days totaling not more than 365 days if the county board of supervisors has adopted a resolution authorizing such a length of placement. Under this substitute amendment, with some exceptions, a juvenile may not be placed in a juvenile detention facility for more than 30 consecutive days.

The substitute amendment defines an "eligible juvenile detention facility" as a juvenile detention facility at which placements of juveniles for longer than 30 days is authorized as of January 1, 2018. With respect to an eligible juvenile detention facility that is awarded a grant under the substitute amendment, the limitation on placement in a juvenile detention facility to no more than 30 days does not apply until January 1, 2021. On that date, the portion of the facility that holds juveniles who are placed for more than 30 days becomes a secured residential care center for children and youth, at which juveniles may be placed under a correctional placement. However, it remains a juvenile detention facility with respect to juveniles placed in the juvenile detention facility prior to January 1, 2021.

Under the substitute amendment, an eligible juvenile detention facility that is not awarded a grant is authorized to continue to accept juveniles for placement for any combination of single or consecutive days totaling not more than 365 days if, after January 1, 2021, the number of juveniles that are housed at the juvenile detention facility does not exceed the number that are housed there on January 1, 2021, and if the facility is not altered or added to or repaired in excess of 50 percent of its assessed value. If the juvenile detention facility violates these conditions, it is no longer authorized to accept juveniles for placement for more than 30 consecutive days.

Department of Corrections employees.

The substitute amendment authorizes some preferential treatment for employees of Lincoln Hills School or Copper Lake School in applying for open positions at the new Type 1 juvenile correctional facilities and secured residential care centers for children and youth. Under the substitute amendment, a classified employee who, on the date DOC begins accepting applications for a position at a Type 1 juvenile correctional facility is employed at the Lincoln Hills School or Copper Lake School may apply to DOC to transfer to a position at the Type 1 juvenile correctional

facility and DOC is authorized to transfer such an employee to certain positions at a new Type 1 juvenile correctional facility without competitive procedures. Similarly, an applicant for a position at a secured residential care center for children and youth operated by a county who is employed at Lincoln Hills School or Copper Lake School on the date that the county begins accepting applications for the position may be selected by the county without regard to the requirements of any county civil service system that would otherwise apply. Finally, if, prior to January 1, 2021, a county enters into a contract with a child welfare agency under which the child welfare agency agrees to operate a new secured residential care center for children and youth, the county shall include in the contract a requirement that the child welfare agency grant an initial interview to any applicant for a position at the new secured residential care center for children and youth who is an employee of Lincoln Hills School or Copper Lake School on the date that the child welfare agency begins accepting applications for that position.

Youth aids funding.

Current law requires Department of Children and Families to allocate to counties various state and federal moneys to pay for juvenile correctional services and community–based juvenile delinquency–related services (commonly referred to as "youth aids"). Under current law, youth aids funding may not be used to pay for land purchase, building construction, or maintenance of county buildings, for reimbursement of costs relating to holding juveniles in secure custody, city lockups, or temporary shelter care. Under current law, youth aids may be used to reimburse costs of program services in juvenile detention facilities, except for the costs of basic care and supervision. The substitute amendment removes this exception, so that youth aids may be used to reimburse costs of basic care and supervision in juvenile detention facilities, and adds that youth aids may be used to reimburse costs of program services in secured residential care centers for children and youth. This substitute amendment also requires DCF to provide a bonus payment of 15 percent of a county's youth aids payment in the preceding year, up to $750,000, if the county operates a joint secured residential care center for children and youth that was funded by the juvenile corrections grant program under the substitute amendment.

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

SECTION 1. 13.48 (27m) of the statutes is created to read:

13.48 **(27m)** SECURED RESIDENTIAL CARE CENTERS FOR CHILDREN AND YOUTH. (a) The legislature finds and determines that the legislative intent set forth under s. 938.01 (2) is served by the design and construction of secured residential care centers for children and youth and attached juvenile detention facilities and that the design

and construction of such facilities is a statewide concern of statewide dimension. It is therefore in the public interest, and it is the public policy of this state, to assist counties in designing and constructing secured residential care centers for children and youth and attached juvenile detention facilities.

(b) The building commission may authorize up to a total of $40,000,000 in general fund supported borrowing to assist counties in establishing or constructing secured residential care centers for children and youth and attached juvenile detention facilities. Any such state funding commitment shall be in the form of a grant to a county issued under 2017 Wisconsin Act .... (this act), section 110 (4).

(c) If for any reason, the facility that is constructed with funds from the grant is not used for the purposes identified in the grant under 2017 Wisconsin Act .... (this act), section 110 (4), the state shall retain an ownership interest in the facility equal to the amount of the state's grant.

SECTION 2. 13.94 (1) (v) of the statutes is created to read:

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

SECTION 3. 13.94 (1s) (c) 9. of the statutes is created to read:

13.94 **(1s)** (c) 9. The department of corrections for the cost of an audit performed under sub. (1) (v).

SECTION 4. 16.99 (3b) of the statutes is amended to read:

16.99 **(3b)** "Juvenile correctional facility" means ~~the Copper Lake School and the Lincoln Hills School~~ a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), but does not include the Mendota juvenile treatment center under s. 46.057.

SECTION 5. 20.410 (3) (f) of the statutes is created to read:

20.410 **(3)** (f) *Operating loss reimbursement program.* A sum sufficient for reimbursement to counties under s. 301.373 and for audits conducted by the legislative audit bureau under s. 13.94 (1) (v).

SECTION 6. 20.410 (3) (fm) of the statutes is created to read:

20.410 **(3)** (fm) *Secured residential care centers for children and youth.* A sum sufficient to reimburse s. 20.866 (1) (u) for the payment of principal and interest costs incurred in financing the design and construction of secured residential care centers for children and youth and attached juvenile detention facilities as specified in s. 13.48 (27m), to make the payments determined by the building commission under s. 13.488 (1) (m) that are attributable to the proceeds of obligations incurred in financing those projects, and to make payments under an agreement or ancillary arrangement entered into under s. 18.06 (8) (a).

SECTION 7. 20.437 (1) (ck) of the statutes is created to read:

20.437 **(1)** (ck) *Community youth and family aids; bonus for county facilities.* The amounts in the schedule for bonuses to qualifying counties with a secured residential care center for children and youth under s. 48.527.

SECTION 8. 20.866 (1) (u) of the statutes, as affected by 2017 Wisconsin Act 59, is amended to read:

20.866 **(1)** (u) *Principal repayment and interest.* A sum sufficient from moneys appropriated under sub. (2) (zp) and ss. 20.115 (2) (d) and (7) (b) and (s), 20.190 (1) (c), (d), (i), and (j), 20.225 (1) (c) and (i), 20.245 (1) (e) and (j), 20.250 (1) (c) and (e),

20.255 (1) (d), 20.285 (1) (d), (je), and (gj), 20.320 (1) (c) and (t) and (2) (c), 20.370 (7) (aa), (ad), (ag), (aq), (ar), (at), (au), (bq), (br), (cb), (cc), (cd), (cg), (cq), (cr), (cs), (ct), (ea), (eq), and (er), 20.395 (6) (af), (aq), (ar), and (au), 20.410 (1) (e), (ec), and (ko) and (3) (e) and (fm), 20.435 (2) (ee), 20.465 (1) (d), 20.485 (1) (f) and (go), (3) (t) and (4) (qm), 20.505 (4) (es), (et), (ha), and (hb) and (5) (c), (g), and (kc), 20.855 (8) (a), and 20.867 (1) (a) and (b) and (3) (a), (b), (bb), (bc), (bd), (be), (bf), (bg), (bh), (bj), (bL), (bm), (bn), (bq), (br), (bt), (bu), (bv), (bw), (bx), (cb), (cd), (cf), (ch), (cj), (cq), (cr), (cs), (g), (h), (i), (kd), and (q) for the payment of principal, interest, premium due, if any, and payment due, if any, under an agreement or ancillary arrangement entered into under s. 18.06 (8) (a) relating to any public debt contracted under subchs. I and IV of ch. 18.

SECTION 9. 20.866 (2) (ux) of the statutes, as affected by 2017 Wisconsin Act 59, is amended to read:

20.866 **(2)** (ux) *Corrections; correctional facilities.* From the capital improvement fund, a sum sufficient for the department of corrections to acquire, construct, develop, enlarge, or improve adult and juvenile correctional facilities. The state may contract public debt in an amount not to exceed ~~$926,679,900~~ $951,679,900 for this purpose.

SECTION 10. 20.866 (2) (uzc) of the statutes is created to read:

20.866 **(2)** (uzc) *Secured residential care centers for children and youth.* From the capital improvement fund, a sum sufficient for the department of corrections to provide grants to counties for designing and constructing secured residential care centers for children and youth and attached juvenile detention facilities as specified in s. 13.48 (27m). The state may contract public debt in an amount not to exceed $40,000,000 for this purpose.

SECTION 11. 20.866 (2) (v) of the statutes, as affected by 2017 Wisconsin Act 59, is amended to read:

20.866 **(2)** (v) *Health services; mental health and secure treatment facilities.* From the capital improvement fund, a sum sufficient for the department of health services to acquire, construct, develop, enlarge, or extend mental health and secure treatment facilities. The state may contract public debt in an amount not to exceed ~~$208,646,200~~ $223,646,200 for this purpose.

SECTION 12. 46.011 (1p) of the statutes is amended to read:

46.011 **(1p)** "Juvenile correctional services" means services provided for a juvenile who is under the supervision of the department of corrections under s. 938.183, 938.34 (2), (4h), (4m), (4n), or (7g), or 938.357 (3) or (4).

SECTION 13. 46.011 (1p) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

46.011 **(1p)** "Juvenile correctional services" means services provided for a juvenile who is under the supervision of the department of corrections under s. 938.183, 938.34 ~~(2),~~ (4h), ~~(4m),~~ (4n), or (7g), or 938.357 (3) or (4).

SECTION 14. 46.057 (1) of the statutes is amended to read:

46.057 **(1)** The department shall establish, maintain, and operate the Mendota juvenile treatment center on the grounds of the Mendota Mental Health Institute. The department may designate staff at the Mendota Mental Health Institute as responsible for administering, and providing services at, the center. Notwithstanding ss. 301.02, 301.03, and 301.36 (1), the department shall operate the Mendota juvenile treatment center as a juvenile correctional facility, as defined in s. 938.02 (10p). The center shall not be considered a hospital, as defined in s. 50.33 (2), an inpatient facility, as defined in s. 51.01 (10), a state treatment facility, as

defined in s. 51.01 (15), or a treatment facility, as defined in s. 51.01 (19). The center shall provide psychological and psychiatric evaluations and treatment for juveniles whose behavior presents a serious problem to themselves or others in other juvenile correctional facilities and whose mental health needs can be met at the center. With the approval of the department of health services, the department of corrections may transfer to the center any juvenile who has been placed in a juvenile correctional facility or a secured residential care center for children and youth under the supervision of the department of corrections under s. 938.183, 938.34 (4h) or (4m), or 938.357 (3), (4), or (5) (e) in the same manner that the department of corrections transfers juveniles between other juvenile correctional facilities. Upon the recommendation of the department of health services, a court may place a juvenile at the center in a proceeding for a change in placement order under s. 938.357 (3).

SECTION 15. 46.057 (1) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

46.057 **(1)** The department shall establish, maintain, and operate the Mendota juvenile treatment center on the grounds of the Mendota Mental Health Institute. The department may designate staff at the Mendota Mental Health Institute as responsible for administering, and providing services at, the center. Notwithstanding ss. 301.02, 301.03, and 301.36 (1), the department shall operate the Mendota juvenile treatment center as a juvenile correctional facility, as defined in s. 938.02 (10p). The center shall not be considered a hospital, as defined in s. 50.33 (2), an inpatient facility, as defined in s. 51.01 (10), a state treatment facility, as defined in s. 51.01 (15), or a treatment facility, as defined in s. 51.01 (19). The center shall provide psychological and psychiatric evaluations and treatment for juveniles whose behavior presents a serious problem to themselves or others in other juvenile

correctional facilities and whose mental health needs can be met at the center. With the approval of the department of health services, the department of corrections may transfer to the center any juvenile who has been placed in a juvenile correctional facility or a secured residential care center for children and youth under the supervision of the department of corrections under s. 938.183, 938.34 (4h) ~~or (4m)~~, or 938.357 (3), (4), or (5) (e) in the same manner that the department of corrections transfers juveniles between other juvenile correctional facilities. Upon the recommendation of the department of health services, a court may place a juvenile at the center in a proceeding for a change in placement order under s. 938.357 (3).

SECTION 16. 46.20 (1m) of the statutes is created to read:

46.20 **(1m)** Any 2 or more counties may jointly, by majority vote of all the members of each county board, provide for a secured residential care center for children and youth, as defined in s. 938.02 (15g), under ss. 59.52 (7) and 66.0301. A secured residential care center for children and youth established under this section shall be the county secured residential care center for children and youth of each of the counties so joining.

SECTION 17. 46.20 (3) of the statutes is amended to read:

46.20 **(3)** Upon approval of the site, plans~~,~~ and specifications for the institution, as provided in ss. 46.17 and 301.37~~, as to other institutions~~, the joint committee shall report to the several county boards the estimated cost of the site and buildings, and the amount thereof chargeable to each county on the basis set forth in sub. (6) (a), appending to each report a copy of the plans and specifications and all matter relating to the site and buildings. If the report is approved by each county board, the joint committee shall purchase the site and cause the buildings to be erected in accordance with the plans and specifications.

SECTION 18. 46.22 (1) (a) of the statutes is amended to read:

46.22 **(1)** (a) *Creation.* Except as provided under s. 46.23 (3) (b), the county board of supervisors of any county with a population of less than ~~500,000~~ 750,000, or the county boards of 2 or more counties, shall establish a county department of social services on a single–county or multicounty basis. The county department of social services shall consist of a county social services board, a county social services director and necessary personnel.

SECTION 19. 48.023 (4) of the statutes is amended to read:

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

SECTION 20. 48.023 (4) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

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

SECTION 21. 48.526 (2) (c) of the statutes is amended to read:

48.526 **(2)** (c) All funds to counties under this section shall be used to purchase or provide community–based juvenile delinquency–related services, as defined in s. 46.011 (1c), and to purchase juvenile correctional services, as defined in s. 46.011 (1p), except that no funds to counties under this section may be used for purposes of

land purchase, building construction, or maintenance of buildings under s. 46.17, 46.175, or 301.37, for reimbursement of costs under s. 938.209, for city lockups, or for reimbursement of care costs in temporary shelter care under s. 938.22. Funds to counties under this section may be used for reimbursement of costs of program services, ~~other than~~ including basic care and supervision costs, in juvenile detention facilities and secured residential care centers for children and youth.

SECTION 22. 48.526 (6) (b) of the statutes is amended to read:

48.526 **(6)** (b) The criteria developed under par. (a) shall include performance standards criteria to be used to determine whether counties are successfully diverting juveniles from juvenile correctional facilities and secured residential care centers for children and youth to less restrictive community programs and are successfully rehabilitating juveniles who are adjudged delinquent. Counties shall provide information requested by the department in order to apply the criteria and assess their performances.

SECTION 23. 48.526 (7) (bm) of the statutes is amended to read:

48.526 **(7)** (bm) Of the amounts specified in par. (a), the department shall allocate $6,250,000 for the last 6 months of 2015, $12,500,000 for 2016, and $6,250,000 for the first 6 months of 2017 to counties based on each county's proportion of the number of juveniles statewide who are placed in a juvenile correctional facility or a secured residential care center for children and youth during the most recent 3–year period for which that information is available.

SECTION 24. 48.527 of the statutes is created to read:

48.527 Community youth and family aids; bonus for county facilities. From the appropriation under s. 20.437 (1) (ck), the department shall allocate an amount equal to 15 percent of a county's allocation in the preceding fiscal year under

s. 48.526 or $750,000, whichever is less, in additional funds for a county that operates a joint secured residential care center for children and youth under s. 46.20 (1m) that was funded by a grant under 2017 Wisconsin Act .... (this act), section 110 (4).

SECTION 25. 48.66 (1) (b) of the statutes, as affected by 2017 Wisconsin Act 47, is amended to read:

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

SECTION 26. 49.11 (1c) of the statutes is amended to read:

49.11 **(1c)** "Community–based juvenile delinquency–related services" means juvenile delinquency–related services provided under ch. 938 other than services provided for a juvenile who is under the supervision of the department of corrections under s. 938.183, 938.34 (2), (4h), (4m), (4n), or (7g), or 938.357 (3) or (4).

SECTION 27. 49.11 (1c) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

49.11 **(1c)** "Community–based juvenile delinquency–related services" means juvenile delinquency–related services provided under ch. 938 other than services provided for a juvenile who is under the supervision of the department of corrections under s. 938.183, 938.34 ~~(2),~~ (4h), ~~(4m),~~ (4n), or (7g), or 938.357 (3) or (4).

SECTION 28. 49.45 (25) (bj) of the statutes is amended to read:

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

SECTION 29. 49.45 (25) (bj) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

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

SECTION 30. 51.35 (3) (a) of the statutes is amended to read:

51.35 **(3)** (a) A licensed psychologist of a juvenile correctional facility or a secured residential care center for children and youth, or a licensed physician of a county department under s. 938.02 (2g) or the department of corrections, who has reason to believe that any individual confined in the juvenile correctional facility or secured residential care center for children and youth is, in his or her opinion, in need of services for developmental disability, alcoholism, or drug dependency or in need

of psychiatric services, and who has obtained consent to make a transfer for treatment, shall make a report, in writing, to the superintendent of the juvenile correctional facility or secured residential care center for children and youth, stating the nature and basis of the belief and verifying the consent. In the case of a minor age 14 or older who is in need of services for developmental disability or who is in need of psychiatric services, the minor and the minor's parent or guardian shall consent unless the minor is admitted under s. 51.13 (1) (c) or unless the minor refuses to consent, in which case the minor's parent or guardian may consent on behalf of the minor. In the case of a minor age 14 or older who is in need of services for alcoholism or drug dependency or a minor under the age of 14 who is in need of services for developmental disability, alcoholism, or drug dependency or in need of psychiatric services, only the minor's parent or guardian needs to consent unless the minor is admitted under s. 51.13 (1) (c). The superintendent shall inform, orally and in writing, the minor and the minor's parent or guardian, that transfer is being considered and shall inform them of the basis for the request and their rights as provided in s. 51.13 (3) (am). If the county department or the department of corrections, upon review of a request for transfer, determines that transfer is appropriate, that department shall immediately notify the department of health services and, if the department of health services consents, the county department or department of corrections may immediately transfer the individual. The department of health services shall file a petition under s. 51.13 (4) (a) in the court assigned to exercise jurisdiction under chs. 48 and 938 of the county where the treatment facility is located.

SECTION 31. 51.35 (3) (c) and (e) of the statutes, as affected by 2017 Wisconsin Act 34, are amended to read:

51.35 **(3)** (c) A licensed psychologist of a juvenile correctional facility or a secured residential care center for children and youth or a licensed physician of a county department under s. 938.02 (2g) or the department of corrections, who has reason to believe that any individual confined in the juvenile correctional facility or secured residential care center for children and youth, in his or her opinion, has a mental illness, drug dependency, or developmental disability and is dangerous as described in s. 51.20 (1) (a) 2., or is dangerous and is an alcoholic or a person who is drug dependent as described in s. 51.45 (13) (a) 1. and 2., shall file a written report with the superintendent of the juvenile correctional facility or secured residential care center for children and youth, stating the nature and basis of the belief. If the superintendent, upon review of the allegations in the report, determines that transfer is appropriate, he or she shall file a petition according to s. 51.20 or 51.45 in the court assigned to exercise jurisdiction under chs. 48 and 938 of the county where the juvenile correctional facility or secured residential care center for children and youth is located. The court shall hold a hearing according to procedures provided in s. 51.20 or 51.45 (13).

(e) The department of corrections or a county department under s. 938.02 (2g) may authorize emergency transfer of an individual from a juvenile correctional facility or a secured residential care center for children and youth to a state treatment facility if there is cause to believe that the individual has a mental illness, drug dependency, or developmental disability and exhibits conduct that constitutes a danger as described under s. 51.20 (1) (a) 2. a., b., c., or d. to the individual or to others, has a mental illness, is dangerous, and satisfies the standard under s. 51.20 (1) (a) 2. e., or is dangerous and is an alcoholic or a person who is drug dependent as provided in s. 51.45 (13) (a) 1. and 2. The custodian of the sending juvenile

correctional facility or secured residential care center for children and youth shall execute a statement of emergency detention or petition for emergency commitment for the individual and deliver it to the receiving state treatment facility. The department of health services shall file the statement or petition with the court within 24 hours after the subject individual is received for detention or commitment. The statement or petition shall conform to s. 51.15 (4) or (5) or 51.45 (12) (b). After an emergency transfer is made, the director of the receiving facility may file a petition for continued commitment under s. 51.20 (1) or 51.45 (13) or may return the individual to the juvenile correctional facility or secured residential care center for children and youth from which the transfer was made. As an alternative to this procedure, the procedure provided in s. 51.15 or 51.45 (12) may be used, except that no individual may be released without the approval of the court that directed confinement in the juvenile correctional facility or secured residential care center for children and youth.

SECTION 32. 59.53 (8m) of the statutes is created to read:

59.53 **(8m)** SECURED RESIDENTIAL CARE CENTER FOR CHILDREN AND YOUTH. The board may establish, or contract with a child welfare agency to establish, a secured residential care center for children and youth, on its own or jointly with one or more counties, under ss. 46.20 (1m), 59.52 (7), 66.0301, and 938.22 (1) (a), or may contract with another county to place juveniles in that county's secured residential care center for children and youth. If a board contracts with another county to place a juvenile at that county's secured residential care center for children and youth, that secured residential care center for children and youth shall be the county secured residential care center for children and youth of the placing county with respect to the placed juvenile.

SECTION 33. 121.79 (1) (e) of the statutes is created to read:

121.79 **(1)** (e) For pupils in secured residential care centers for children and youth, as defined under s. 938.02 (15g).

SECTION 34. 301.01 (1n) of the statutes is amended to read:

301.01 **(1n)** "Juvenile correctional services" means services provided for a juvenile who is under the supervision of the department of corrections under s. 938.183, 938.34 (2), (4h), (4m), (4n), or (7g), or 938.357 (3) or (4).

SECTION 35. 301.01 (1n) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

301.01 **(1n)** "Juvenile correctional services" means services provided for a juvenile who is under the supervision of the department of corrections under s. 938.183, 938.34 ~~(2),~~ (4h), ~~(4m),~~ (4n), or (7g), or 938.357 (3) or (4).

SECTION 36. 301.03 (9) of the statutes is amended to read:

301.03 **(9)** Supervise all persons placed in a state prison under s. 938.183~~, all persons placed under court–ordered departmental supervision under s. 938.34 (2), all persons placed in the serious juvenile offender program under s. 938.34 (4h), all persons placed in a juvenile correctional facility or a secured residential treatment center for children and youth under s. 938.34 (4m) or 938.357 (4), all persons placed under community supervision under s. 938.34 (4n) or 938.357 (4), and all persons placed in an experiential education program under the supervision of the department under s. 938.34 (7g)~~ and all persons placed under the supervision of the department by the court under ch. 938.

SECTION 37. 301.03 (10) (d) of the statutes is amended to read:

301.03 **(10)** (d) Administer the office of juvenile offender review in the division of juvenile corrections in the department. The office shall be responsible for decisions

regarding case planning and the release of juvenile offenders who are under the supervision of the department from juvenile correctional facilities or secured residential care centers for children and youth to aftercare or community supervision placements.

SECTION 38. 301.03 (10) (d) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

301.03 **(10)** (d) Administer the office of juvenile offender review in the division of juvenile corrections in the department. The office shall be responsible for decisions regarding case planning and the release of juvenile offenders who are under the supervision of the department from juvenile correctional facilities or secured residential care centers for children and youth to ~~aftercare or~~ community supervision placements.

SECTION 39. 301.08 (1) (b) 3. of the statutes is amended to read:

301.08 **(1)** (b) 3. Contract with public, private, or voluntary agencies for the supervision, maintenance, and operation of juvenile correctional facilities, residential care centers for children and youth, as defined in s. 938.02 (15d), and secured residential care centers for children and youth for the placement of juveniles who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.183 or 938.34 (4d), (4h), or (4m). The department may designate a juvenile correctional facility~~,~~ or a residential care center for children and youth~~, or a secured residential care center for children and youth~~ contracted for under this subdivision as a Type 2 juvenile correctional facility, as defined in s. 938.02 (20), and may designate a residential care center for children and youth ~~or secured residential care center for children and youth~~ contracted for under this subdivision as a Type 2 residential care center for children and youth, as defined in s. 938.02 (19r).

SECTION 40. 301.16 (1f) of the statutes is created to read:

301.16 **(1f)** In addition to the institutions under sub. (1), the department may establish and operate an adult correctional institution in the town of Birch, Lincoln County, at the location that was the Lincoln Hills School and Copper Lake School.

SECTION 41. 301.16 (1w) of the statutes is created to read:

301.16 **(1w)** The department shall establish one or more Type 1 juvenile correctional facilities, as enumerated in 2017 Wisconsin Act .... (this act), section 110 (10) (a).

SECTION 42. 301.16 (1x) of the statutes is amended to read:

301.16 **(1x)** Inmates from the Wisconsin state prisons may be transferred to the institutions under this section ~~and they~~, except that inmates may not be transferred to a Type 1 juvenile correctional facility established under sub. (1w) unless required under s. 973.013 (3m). Inmates transferred under this subsection shall be subject to all laws pertaining to inmates of other penal institutions of this state. Officers and employees of the institutions shall be subject to the same laws as pertain to other penal institutions. Inmates shall not be received on direct commitment from the courts.

SECTION 43. 301.18 (1) (fm) of the statutes is created to read:

301.18 **(1)** (fm) Provide the facilities necessary for each Type 1 juvenile correctional facility established under s. 301.16 (1w).

SECTION 44. 301.20 of the statutes is repealed.

SECTION 45. 301.37 (1) of the statutes is amended to read:

301.37 **(1)** The department shall fix reasonable standards and regulations for the design, construction, repair, and maintenance of all houses of correction, reforestation camps maintained under s. 303.07, jails, as defined in s. 302.30,

extensions of jails under s. 59.54 (14) (g), rehabilitation facilities under s. 59.53 (8), lockup facilities, as defined in s. 302.30, work camps under s. 303.10, Huber facilities under s. 303.09, and, after consulting with the department of children and families, all juvenile detention facilities and secured residential care centers for children and youth, with respect to their adequacy and fitness for the needs which they are to serve.

SECTION 46. 301.37 (1m) of the statutes is created to read:

301.37 **(1m)** Subject to the rules promulgated by the department under sub. (1), a secured residential care center for children and youth may be located in a portion of a juvenile detention facility or a Type 1 juvenile correctional facility. A secured residential care center for children and youth that is located in a portion of a juvenile detention facility or a Type 1 juvenile correctional facility shall provide programming and services as required by the department under s. 938.48 (16) (b).

SECTION 47. 301.373 of the statutes is created to read:

301.373 Operating loss reimbursement program. The department shall reimburse a county that operates a secured residential care center for children and youth that holds only female juveniles in secure custody and that was established using funding from the grant program under 2017 Wisconsin Act .... (this act), section 110 (4) for any annual net operating loss. A county seeking reimbursement under this section shall submit its request and supporting financial statements for the prior fiscal year to the department and the legislative audit bureau in a format prescribed by the department. The department shall reimburse the county for the amount of the net operating loss, as determined by the legislative audit bureau under s. 13.94 (1) (v), from the appropriation under s. 20.410 (3) (f). The department may pay for

the cost of the audit by the legislative audit bureau under s. 13.94 (1) (v) from the appropriation under s. 20.410 (3) (f).

SECTION 48. 302.01 (13) of the statutes is created to read:

302.01 **(13)** The adult correctional institution established under s. 301.16 (1f) is named "Lincoln County Correctional Institution."

SECTION 49. 938.02 (4) of the statutes is amended to read:

938.02 **(4)** "Department" means the department of children and families, except that with respect to a juvenile who is under the supervision of the department of corrections under s. 938.183, 938.34 (2), (4h), (4m), (4n), or (7g), or 938.357 (3) or (4), "department" means the department of corrections.

SECTION 50. 938.02 (4) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

938.02 **(4)** "Department" means the department of children and families~~,~~ except that with respect to a juvenile who is under the supervision of the department of corrections under s. 938.183, 938.34 ~~(2),~~ (4h), ~~(4m),~~ (4n), or (7g), or 938.357 (3) or (4), "department" means the department of corrections.

SECTION 51. 938.02 (15g) of the statutes is amended to read:

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

SECTION 52. 938.22 (1) (a) of the statutes is amended to read:

938.22 **(1)** (a) ~~Subject to s. 48.66 (1) (b), the~~ The county board of supervisors of a county may establish a juvenile detention facility or secured residential care center

for children and youth in accordance with ss. 301.36 and 301.37 or the county boards of supervisors for 2 or more counties may jointly establish a juvenile detention facility or secured residential care center for children and youth in accordance with ss. 46.20, 59.53 (8m), 301.36, and 301.37. An Indian tribe may establish a secured residential care center for children and youth in accordance with ss. 301.36 and 301.37. The county board of supervisors of a county may establish a shelter care facility in accordance with ss. 48.576 and 48.578 or the county boards of supervisors for 2 or more counties may jointly establish a shelter care facility in accordance with ss. 46.20, 48.576, and 48.578. A private entity may establish a juvenile detention facility in accordance with ss. 301.36 and 301.37 and contract with one or more county boards of supervisors under s. 938.222 to hold juveniles in the private juvenile detention facility. Subject to ss. 48.66 (1) (b), 301.36, and 301.37, a child welfare agency may establish a secured residential care center for children and youth and contract with one or more county boards of supervisors to hold juveniles in the secured residential care center for children and youth.

SECTION 53. 938.22 (2) (a) of the statutes is amended to read:

938.22 **(2)** (a) Counties shall submit plans for a juvenile detention facility, secured residential care center for children and youth, or juvenile portion of the county jail to the department of corrections and submit plans for a shelter care facility to the department of children and families. A private entity that proposes to establish a juvenile detention facility or an Indian tribe or a child welfare agency that proposes to establish a secured residential care center for children and youth shall submit plans for the facility to the department of corrections. The applicable department shall review the submitted plans. A county ~~or a~~ , Indian tribe, private entity, or child welfare agency may not implement a plan unless the applicable

department has approved the plan. The department of corrections shall promulgate rules establishing minimum requirements for the approval and operation of juvenile detention facilities, secured residential care centers for children and youth, and the juvenile portion of county jails. The plans and rules shall be designed to protect the health, safety, and welfare of the juveniles placed in those facilities.

SECTION 54. 938.22 (2) (d) of the statutes is created to read:

938.22 **(2)** (d) 1. Except as provided in subd. 2., a juvenile detention facility is authorized to accept juveniles for placement for more than 30 consecutive days under s. 938.34 (3) (f) 1. if all of the following apply:

a. The juvenile detention facility is operated by a county, the county board of supervisors of which has adopted a resolution under section 938.34 (3) (f) 3., prior to January 1, 2018, authorizing placement of juveniles at the juvenile detention facility under section 938.34 (3) (f) for more than 30 consecutive days.

b. The county that operates the juvenile detention facility is not awarded a grant under 2017 Wisconsin Act .... (this act), section 110 (4).

2. After January 1, 2021, the number of juveniles that may be housed at a juvenile detention facility under subd. 1. is limited to the number that are housed at the juvenile detention facility on January 1, 2021, and the juvenile detention facility may not be altered or added to or repaired in excess of 50 percent of its assessed value. If a juvenile detention facility violates this subdivision, it is no longer authorized to accept juveniles for placement for more than 30 consecutive days.

SECTION 55. 938.225 of the statutes is amended to read:

938.225 Statewide plan for juvenile detention and correctional facilities. The department of corrections shall assist counties in establishing juvenile detention facilities and secured residential care centers for children and

youth under s. 938.22 by developing and promulgating a statewide plan for the establishment and maintenance of suitable juvenile detention facilities reasonably accessible to each court and secured residential care centers for children and youth reasonably accessible to each county.

SECTION 56. 938.34 (2) (a) of the statutes is amended to read:

938.34 **(2)** (a) Place the juvenile under the supervision of an agency, the county department, the department of corrections, if that department approves, or a suitable adult, including a friend of the juvenile, under conditions prescribed by the court, including reasonable rules for the juvenile's conduct, designed for the physical, mental, and moral well–being and behavior of the juvenile.

SECTION 57. 938.34 (2) (a) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

938.34 **(2)** (a) Place the juvenile under the supervision of an agency, the county department, ~~the department of corrections, if that department approves,~~ or a suitable adult, including a friend of the juvenile, under conditions prescribed by the court, including reasonable rules for the juvenile's conduct, designed for the physical, mental, and moral well–being and behavior of the juvenile.

SECTION 58. 938.34 (2) (b) of the statutes is amended to read:

938.34 **(2)** (b) If the juvenile is placed in the juvenile's home under the supervision of an agency, the county department, or the department of corrections, order that agency or department to provide specified services to the juvenile and the juvenile's family, including individual, family, or group counseling, homemaker or parent aide services, respite care, housing assistance, child care, or parent skills training.

SECTION 59. 938.34 (2) (b) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

938.34 **(2)** (b) If the juvenile is placed in the juvenile's home under the supervision of an agency, or the county department, ~~or the department of corrections,~~ order that agency or department to provide specified services to the juvenile and the juvenile's family, including individual, family, or group counseling, homemaker or parent aide services, respite care, housing assistance, child care, or parent skills training.

SECTION 60. 938.34 (3) (f) 1. of the statutes is amended to read:

938.34 **(3)** (f) 1. The placement may be for any combination of single or consecutive days totalling not more than 365 in a juvenile detention facility under s. 938.22 (2) (d) 1. and may be for no more than 30 consecutive days in any other juvenile detention facility, including any placement under pars. (a) to (e). The juvenile shall be given credit against the period of detention or nonsecure custody imposed under this paragraph for all time spent in secure detention in connection with the course of conduct for which the detention or nonsecure custody was imposed.

SECTION 61. 938.34 (4m) (intro.) of the statutes is amended to read:

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

SECTION 62. 938.34 (4m) (intro.) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

938.34 **(4m)** CORRECTIONAL PLACEMENT. (intro.) Place the juvenile in a ~~juvenile correctional facility or a~~ secured residential care center for children and youth under

the supervision of the county department ~~or the department of corrections~~ if all of the following apply:

SECTION 63. 938.34 (4n) (intro.) of the statutes is amended to read:

938.34 **(4n)** COMMUNITY SUPERVISION OR AFTERCARE SUPERVISION. (intro.) In the case of a juvenile who has received a correctional placement under sub. (4m), designate the county department to provide aftercare supervision for the juvenile following the juvenile's release from a secured residential care center for children and youth or Type 1 juvenile correctional facility. In the case of a juvenile who has been placed in a juvenile correctional facility or a secured residential care center for children and youth under the supervision of the department of corrections, designate the department of corrections to provide community supervision for the juvenile following the juvenile's release from that facility or center or, subject to any arrangement between the department of corrections and a county department regarding the provision of aftercare supervision for juveniles who have been released from a juvenile correctional facility or a secured residential care center for children and youth, designate one of the following to provide aftercare supervision for the juvenile following the juvenile's release from that facility or center:

SECTION 64. 938.357 (1) (am) 1. of the statutes is amended to read:

938.357 **(1)** (am) 1. Except as provided in par. (c), the person or agency primarily responsible for implementing the dispositional order, the district attorney, or the corporation counsel may request a change in placement under this subsection by causing written notice of the proposed change in placement to be sent to the juvenile, the juvenile's counsel or guardian ad litem, the parent, guardian, and legal custodian of the juvenile, and any foster parent or other physical custodian described in s. 48.62 (2) of the juvenile. If the request is for a change in placement under sub.

(3), notice shall be sent to the entity that operates the secured residential care center for children and youth or Type 1 juvenile correctional facility where placement is proposed. If the juvenile is an Indian juvenile who has been removed from the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), written notice shall also be sent to the Indian juvenile's Indian custodian and tribe. The notice shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement, and a statement of how the new placement satisfies objectives of the treatment plan or permanency plan ordered by the court. The person sending the notice shall file the notice with the court on the same day that the notice is sent.

SECTION 65. 938.357 (3) of the statutes is renumbered 938.357 (3) (a) and amended to read:

938.357 **(3)** (a) Subject to subs. (4) (b) ~~and~~, (c), and (d), and (5) (e), if the proposed change in placement would involve placing a juvenile in a juvenile correctional facility or a secured residential care center for children and youth, notice shall be given as provided in sub. (1) (am) 1. A hearing shall be held, unless waived by the juvenile, parent, guardian, and legal custodian, before the court makes a decision on the request. The juvenile is entitled to counsel at the hearing, and any party opposing or favoring the proposed new placement may present relevant evidence and cross–examine witnesses. The department of corrections shall have the opportunity to object to a change of placement of a juvenile from a secured residential care center for children and youth to a Type 1 juvenile correctional facility under par. (b). The proposed new placement may be approved only if the court finds, on the record, that the conditions set forth in s. 938.34 (4m) (a) and (b) have been met.

SECTION 66. 938.357 (3) (b), (c) and (d) of the statutes are created to read:

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

1. The juvenile is placed at a secured residential care center for children and youth and all of the following apply:

a. The secured residential care center for children and youth where the juvenile is placed is not able to meet the juvenile's treatment needs.

b. The programming available at the proposed Type 1 juvenile correctional facility as of the date of the hearing is able to meet the treatment needs of the juvenile.

c. No other secured residential care center for children and youth is willing and able to meet the juvenile's treatment needs.

2. The county department does not have space for the juvenile in its secured residential care center for children and youth and no other secured residential care center for children and youth is willing and able to meet the juvenile's treatment needs.

(c) Upon the recommendation of the department of health services, the court may order the placement of a juvenile under par. (b) at the Mendota juvenile treatment center.

(d) A juvenile who is placed in a Type 1 juvenile correctional facility under par. (b) or (c) is the financial responsibility of the county department of the county where the juvenile was adjudicated delinquent and that county department shall

reimburse the department of corrections at the rate specified under s. 301.26 (4) (d) 2. or 3., whichever is applicable, for the cost of the juvenile's care while placed in a Type 1 juvenile correctional facility.

SECTION 67. 938.357 (4) (title) of the statutes is repealed and recreated to read:

938.357 **(4)** (title) CHANGE IN PLACEMENT WITHOUT A HEARING.

SECTION 68. 938.357 (4) (a) of the statutes is renumbered 938.357 (4) (am) and amended to read:

938.357 **(4)** (am) When the juvenile is placed with the department of corrections, that department may, after an examination under s. 938.50, place the juvenile in a juvenile correctional facility or, with the consent of the operating entity, a secured residential care center for children and youth or on community supervision or aftercare supervision, either immediately or after a period of placement in a juvenile correctional facility or a secured residential care center for children and youth. The department of corrections shall send written notice of the change in placement to the parent, guardian, legal custodian, county department designated under s. 938.34 (4n), if any, and committing court. If the department of corrections places a juvenile in a Type 2 juvenile correctional facility operated by a child welfare agency, that department shall reimburse the child welfare agency at the rate established under s. 49.343 that is applicable to the type of placement that the child welfare agency is providing for the juvenile. If the department of corrections places a juvenile in a secured residential care center for children and youth under this paragraph, the department of corrections shall contract with the operating entity for the care and services provided under s. 301.08. A juvenile who is placed in a Type 2 juvenile correctional facility or a secured residential care center for children and youth under this paragraph remains under the supervision of the department of

corrections, remains subject to the rules and discipline of that department, and is considered to be in custody, as defined in s. 946.42 (1) (a).

SECTION 69. 938.357 (4) (ab) of the statutes is created to read:

938.357 **(4)** (ab) In this subsection, "operating entity" means the county department, the Indian tribe, or the child welfare agency, whichever entity operates a secured residential care center for children and youth.

SECTION 70. 938.357 (4) (am) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

938.357 **(4)** (am) When the juvenile is placed with the department of corrections, that department may, after an examination under s. 938.50, place the juvenile in a juvenile correctional facility or, with the consent of the operating entity, a secured residential care center for children and youth or on community supervision ~~or aftercare supervision~~, either immediately or after a period of placement in a juvenile correctional facility or a secured residential care center for children and youth. The department of corrections shall send written notice of the change in placement to the parent, guardian, legal custodian, county department designated under s. 938.34 (4n), if any, and committing court. If the department of corrections places a juvenile in a Type 2 juvenile correctional facility operated by a child welfare agency, that department shall reimburse the child welfare agency at the rate established under s. 49.343 that is applicable to the type of placement that the child welfare agency is providing for the juvenile. If the department of corrections places a juvenile in a secured residential care center for children and youth under this paragraph, the department of corrections shall contract with the operating entity for the care and services provided under s. 301.08. A juvenile who is placed in a Type 2 juvenile correctional facility or a secured residential care center for children and

youth under this paragraph remains under the supervision of the department of corrections, remains subject to the rules and discipline of that department, and is considered to be in custody, as defined in s. 946.42 (1) (a).

SECTION 71. 938.357 (4) (b) 1. of the statutes is amended to read:

938.357 **(4)** (b) 1. If a juvenile whom the department of corrections has placed in a Type 2 juvenile correctional facility operated by a child welfare agency violates a condition of his or her placement in the Type 2 juvenile correctional facility, the child welfare agency operating the Type 2 juvenile correctional facility shall notify the department of corrections and that department, after consulting with the child welfare agency, may place the juvenile in a Type 1 juvenile correctional facility or, with the consent of the operating entity, a secured residential care center for children and youth, a under the supervision of the department, without a hearing under sub. (1) (am) 2.

SECTION 72. 938.357 (4) (b) 2. of the statutes is amended to read:

938.357 **(4)** (b) 2. If a juvenile whom the court has placed in a Type 2 residential care center for children and youth under s. 938.34 (4d) violates a condition of his or her placement in the Type 2 residential care center for children and youth, the child welfare agency operating the Type 2 residential care center for children and youth shall notify the county department that has supervision over the juvenile ~~and, if the county department agrees to a change in placement under this subdivision, the child welfare agency shall notify the department of corrections, and that~~. The county department, after consulting with the child welfare agency, may place the juvenile in a ~~Type 1 juvenile correctional facility under the supervision of the department of corrections~~ secured residential care center for children and youth, without a hearing under sub. (1) (am) 2., for not more than 10 days. ~~If a juvenile is placed in a Type 1~~

~~juvenile correctional facility under this subdivision, the county department that has supervision over the juvenile shall reimburse the child welfare agency operating the Type 2 residential care center for children and youth in which the juvenile was placed at the rate established under s. 49.343, and that child welfare agency shall reimburse the department of corrections at the rate specified in s. 301.26 (4) (d) 2. or 3., whichever is applicable, for the cost of the juvenile's care while placed in a Type 1 juvenile correctional facility.~~

SECTION 73. 938.357 (4) (b) 4. of the statutes is amended to read:

938.357 **(4)** (b) 4. A juvenile may seek review of a decision of the department of corrections or the county department under subd. 1. or 2. only by the common law writ of certiorari.

SECTION 74. 938.357 (4) (c) 1. of the statutes is amended to read:

938.357 **(4)** (c) 1. If a juvenile is placed in a Type 2 juvenile correctional facility operated by a child welfare agency under par. ~~(a)~~ (am) and it appears that a less restrictive placement would be appropriate for the juvenile, the department of corrections, after consulting with the child welfare agency that is operating the Type 2 juvenile correctional facility, may place the juvenile in a less restrictive placement, and may return the juvenile to the Type 2 juvenile correctional facility without a hearing under sub. (1) (am) 2. The rate for each type of placement shall be established by the department of children and families, in consultation with the department of corrections, in the manner provided in s. 49.343.

SECTION 75. 938.357 (4) (d) of the statutes is created to read:

938.357 **(4)** (d) 1. If a juvenile under the supervision of the department of corrections is placed in a secured residential care center for children and youth and that secured residential care center for children and youth is unable to meet the

treatment needs of the juvenile, the operating entity shall notify the department of corrections and the department of corrections, after consulting with the operating entity, may place the juvenile in a secured residential care center for children and youth that is able to meet the treatment needs of the juvenile without a hearing under sub. (1) (am) 2. if the receiving operating entity agrees. The department of corrections shall send written notice of the change in placement to the parent, guardian, legal custodian, county department designated under s. 938.34 (4n), if any, and committing court. If the department of corrections places a juvenile in a secured residential care center for children and youth under this subdivision, the department of corrections shall contract with the operating entity for the care and services provided under s. 301.08. A juvenile who is placed in a secured residential care center for children and youth under this subdivision remains under the supervision of the department of corrections, remains subject to the rules and discipline of that department, and is considered to be in custody, as defined in s. 946.42 (1) (a).

2. If a juvenile under the supervision of a county department is placed in a secured residential care center for children and youth and that secured residential care center for children and youth is unable to meet the treatment needs of the juvenile, the supervising county department, after consulting with the operating entity, may transfer the juvenile to a different secured residential care center for children and youth that is able to meet the treatment needs of the juvenile and offers more appropriate care and services without a hearing under sub. (1) (am) 2. if the receiving operating entity agrees. The supervising county department shall send written notice of the change in placement to the parent, guardian, legal custodian, county department designated under s. 938.34 (4n), if any, and committing court. If a county department places a juvenile in a secured residential care center for

children and youth under this subdivision, the county department shall contract with the operating entity for the care and services provided. If a county department places a juvenile in a secured residential care center for children and youth under this subdivision, the juvenile remains under the supervision of the placing county department, remains subject to the rules and discipline of that county department, and is considered to be in custody, as defined in s. 946.42 (1) (a).

3. A juvenile may seek review of a decision by the department of corrections or county department under subd. 1. or 2. only by the common law writ of certiorari.

SECTION 76. 938.357 (4m) of the statutes is amended to read:

938.357 **(4m)** RELEASE TO COMMUNITY SUPERVISION OR AFTERCARE SUPERVISION. The department of corrections shall try to release a juvenile to community supervision ~~or~~ and the county department with supervision of a juvenile shall try to release the juvenile to aftercare supervision under sub. (4) within 30 days after the date on which ~~that~~ the department of corrections or county department determines the juvenile is eligible for the release.

SECTION 77. 938.48 (3) of the statutes is amended to read:

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

SECTION 78. 938.48 (3) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

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

SECTION 79. 938.48 (4) of the statutes is amended to read:

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

SECTION 80. 938.48 (4) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

938.48 **(4)** CARE, TRAINING, AND PLACEMENT. Provide appropriate care and training for juveniles under its supervision under s. 938.183, 938.34 (4h)~~, (4m),~~ or

(4n), or 938.357 (3) or (4), including serving those juveniles in their own homes, placing them in licensed foster homes or licensed group homes under s. 48.63 or in independent living situations as provided in s. 938.34 (3) (e), contracting for their care by licensed child welfare agencies, or replacing them in juvenile correctional facilities or secured residential care centers for children and youth in accordance with rules promulgated under ch. 227, except that the department may not purchase the educational component of private day treatment programs for a juvenile in its custody unless the department, the school board, as defined in s. 115.001 (7), and the state superintendent of public instruction all determine that an appropriate public education program is not available for the juvenile. Disputes between the department and the school district shall be resolved by the state superintendent of public instruction.

SECTION 81. 938.48 (4m) (b) of the statutes is amended to read:

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

SECTION 82. 938.48 (4m) (b) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

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

SECTION 83. 938.48 (5) of the statutes is amended to read:

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

SECTION 84. 938.48 (5) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

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

SECTION 85. 938.48 (6) of the statutes is amended to read:

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

SECTION 86. 938.48 (6) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

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

SECTION 87. 938.48 (14) of the statutes is amended to read:

938.48 **(14)** SCHOOL-RELATED EXPENSES FOR JUVENILES OVER 17. Pay maintenance, tuition, and related expenses from the appropriation under s. 20.410 (3) (ho) for persons who, when they attained 17 years of age, were students regularly

attending a school, college, or university or regularly attending a course of vocational or technical training designed to prepare them for gainful employment, and who upon attaining that age were under the supervision of the department under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357 (3) or (4) as a result of a judicial decision.

SECTION 88. 938.48 (14) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

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

SECTION 89. 938.48 (16) of the statutes is renumbered 938.48 (16) (a).

SECTION 90. 938.48 (16) (b) of the statutes is created to read:

938.48 **(16)** (b) Promulgate rules governing services and programming for juveniles in a secured residential care center for children and youth. The department shall include uniform data reporting standards for counties or Indian tribes that operate or contract with a child welfare agency for a secured residential care center for children and youth in rules promulgated under this paragraph. The department shall base the rules it promulgates under this paragraph on the recommendations provided by the juvenile corrections study committee under 2017 Wisconsin Act .... (this act), section 110 (6) (c) 1.

SECTION 91. 938.49 (title) of the statutes is amended to read:

938.49 (title) **Notification by court of placement with a county department or the department of corrections; transfer of reports and records.**

SECTION 92. 938.49 (1) of the statutes is amended to read:

938.49 **(1)** NOTICE TO COUNTY DEPARTMENT OR DEPARTMENT OF CORRECTIONS OF PLACEMENT. When a court places a juvenile in a juvenile correctional facility under the supervision of a county department or the department of corrections or a secured residential care center for children and youth under the supervision of ~~the department of corrections~~ a county department, the court shall immediately notify ~~that~~ the county department or the department of corrections of that action. The court shall, in accordance with procedures established by the department of corrections, provide transportation for the juvenile to a receiving center designated by ~~that~~ the county department or the department of corrections or deliver the juvenile to personnel of ~~that~~ the county department or the department of corrections.

SECTION 93. 938.49 (2) (intro.) of the statutes is amended to read:

938.49 **(2)** TRANSFER OF COURT REPORT AND PUPIL RECORDS. (intro.) When a court places a juvenile in a juvenile correctional facility or a secured residential care center for children and youth under the supervision of the department of corrections or a county department, the court and all other public agencies shall immediately do all of the following:

SECTION 94. 938.49 (2) (a) of the statutes is amended to read:

938.49 **(2)** (a) Transfer to the department of corrections or the county department a copy of the report submitted to the court under s. 938.33 or, if the report

was presented orally, a transcript of the report and all other pertinent data in their possession.

SECTION 95. 938.505 (1) of the statutes is amended to read:

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

SECTION 96. 938.505 (1) of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

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

SECTION 97. 938.52 (2) (a) and (c) of the statutes are amended to read:

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

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

SECTION 98. 938.52 (2) (a) and (c) of the statutes, as affected by 2017 Wisconsin Act .... (this act), are amended to read:

938.52 **(2)** (a) In addition to facilities and services under sub. (1), the department of corrections may use other facilities and services under its jurisdiction. The department of corrections may contract for and pay for the use of other public facilities or private facilities for the care and treatment of juveniles in its care. Placement of a juvenile in a private or public facility that is not under the jurisdiction of the department of corrections does not terminate that department's supervision over the juvenile under s. 938.183, 938.34 (4h)~~, (4m),~~ or (4n), or 938.357 (3) or (4). Placements in institutions for persons with a mental illness or development

disability shall be made in accordance with ss. 48.14 (5), 48.63, and 938.34 (6) (am) and ch. 51.

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

SECTION 99. 938.53 of the statutes is amended to read:

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

SECTION 100. 938.53 of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

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

SECTION 101. 938.535 of the statutes is amended to read:

938.535 Early release and intensive supervision program; limits. The department of corrections or a county department may establish a program for the

early release and intensive supervision of juveniles who have been placed in a juvenile correctional facility or a secured residential care center for children and youth under s. 938.183 ~~or,~~ 938.34 (4m), or 938.357 (3). The program may not include any juveniles who have been placed in a juvenile correctional facility or a secured residential care center for children and youth as a result of a delinquent act involving the commission of a violent crime as defined in s. 969.035, but not including the crime specified in s. 948.02 (1).

SECTION 102. 938.539 (2) of the statutes is amended to read:

938.539 **(2)** TYPE 2 JUVENILE CORRECTIONAL FACILITY; DEPARTMENT OF CORRECTIONS CONTROL. A juvenile who is placed in a Type 2 juvenile correctional facility under s. 938.357 (4) ~~(a)~~ (am) or who, having been so placed, is replaced in a less restrictive placement under s. 938.357 (4) (c) is under the supervision and control of the department of corrections, is subject to the rules and discipline of that department, and is considered to be in custody, as defined in s. 946.42 (1) (a).

SECTION 103. 938.539 (3) of the statutes is amended to read:

938.539 **(3)** VIOLATION OF CONDITION OF PLACEMENT. Notwithstanding ss. 938.19 to 938.21, if a juvenile placed in a Type 2 residential care center for children and youth under s. 938.34 (4d) or 938.357 (4) (c) or in a Type 2 juvenile correctional facility under s. 938.357 (4) ~~(a)~~ (am) or (c) violates a condition of his or her placement in the center or facility, the juvenile may be placed in a Type 1 juvenile correctional facility as provided in s. 938.357 (4) (b) 1. or in a secured residential care center for children and youth as provided in s. 938.357 (4) (b) 2. This subsection does not preclude a juvenile who has violated a condition of the juvenile's placement in a Type 2 juvenile correctional facility or a Type 2 residential care center for children and youth from being taken into and held in custody under ss. 938.19 to 938.21.

SECTION 104. 938.539 (4) of the statutes is amended to read:

938.539 **(4)** ESCAPE OR ABSENCE. A juvenile placed in a Type 2 residential care center for children and youth under s. 938.34 (4d) or 938.357 (4) (c) or in a Type 2 juvenile correctional facility under s. 938.357 (4) ~~(a)~~ (am) or (c) who intentionally fails to remain within the extended limits of his or her placement or to return within the time prescribed by the administrator of the center or facility is considered an escape under s. 946.42 (3) (c).

SECTION 105. 938.539 (5) of the statutes is amended to read:

938.539 **(5)** OPERATION AS TYPE 2 PLACEMENT. With respect to a juvenile who is placed in a ~~secured~~ residential care center for children and youth under s. 938.34 (4d) or 938.357 (4) ~~(a)~~ (am) or in a less restrictive placement under s. 938.357 (4) (c), the child welfare agency operating the center in which the juvenile is placed, and the person operating any less restrictive placement in which the juvenile is placed, shall operate that center or less restrictive placement as a Type 2 residential care center for children and youth or a Type 2 juvenile correctional facility. This subsection does not preclude a child welfare agency or other person from placing in a residential care center for children and youth or less restrictive placement in which a juvenile is placed under s. 938.34 (4d) or 938.357 (4) ~~(a)~~ (am) or (c) a juvenile who is not placed under s. 938.34 (4d) or 938.357 (4) ~~(a)~~ (am) or (c).

SECTION 106. 938.54 of the statutes is amended to read:

938.54 Records. The department of corrections shall keep a complete record on each juvenile under its supervision under s. 938.183, 938.34 (4h), (4m), or (4n) or 938.357 (3) or (4). This record shall include the information received from the court, the date of reception, all available data on the personal and family history of the juvenile, the results of all tests and examinations given the juvenile, and a complete

history of all placements of the juvenile while under the supervision of the department of corrections.

SECTION 107. 938.54 of the statutes, as affected by 2017 Wisconsin Act .... (this act), is amended to read:

938.54 Records. The department of corrections shall keep a complete record on each juvenile under its supervision under s. 938.183, 938.34 (4h)~~, (4m),~~ or (4n) or 938.357 (3) or (4). This record shall include the information received from the court, the date of reception, all available data on the personal and family history of the juvenile, the results of all tests and examinations given the juvenile, and a complete history of all placements of the juvenile while under the supervision of the department of corrections.

SECTION 108. 938.59 (1) of the statutes is amended to read:

938.59 **(1)** INVESTIGATION AND EXAMINATION. The county department shall investigate the personal and family history and environment of any juvenile transferred to its legal custody or placed under its supervision under s. 938.34 (2), (4d), (4m), or (4n) and make any physical or mental examinations of the juvenile considered necessary to determine the type of care necessary for the juvenile. The county department shall screen a juvenile who is examined to determine whether the juvenile is in need of special treatment or care because of alcohol or other drug abuse, mental illness, or severe emotional disturbance. The county department shall keep a complete record of the information received from the court, the date of reception, all available data on the personal and family history of the juvenile, the results of all tests and examinations given the juvenile, and a complete history of all placements of the juvenile while in the legal custody or under the supervision of the county department.

SECTION 109. 938.595 of the statutes is amended to read:

938.595 Duration of control of county departments over delinquents. A juvenile who has been adjudged delinquent and placed under the supervision of a county department under s. 938.34 (2), (4d), (4m), or (4n) shall be discharged as soon as the county department determines that there is a reasonable probability that it is no longer necessary either for the rehabilitation and treatment of the juvenile or for the protection of the public that the county department retain supervision.

SECTION 110. Nonstatutory provisions.

(1) TRANSFER OF JUVENILES.

(a) Upon the establishment of the Type 1 juvenile correctional facilities under subsection (7) and the secured residential care centers for children and youth under subsections (4) and (7m), the department of corrections shall begin to transfer each juvenile held in secure custody at the Lincoln Hills School and Copper Lake School to the appropriate Type 1 juvenile correctional facility or secured residential care center for children and youth. No juvenile may be transferred to a Type 1 juvenile correctional facility until the department of corrections determines the facility to be ready to accept juveniles, and no juvenile may be transferred to a secured residential care center for children and youth until the entity operating the facility determines it to be ready to accept juveniles. The transfers may occur in phases. The department shall transfer all juveniles under this subsection no later than January 1, 2021.

(b) On the date on which a juvenile who was under the supervision of the department of corrections under section 938.34 (2) or (4m) of the statutes is transferred to a secured residential care center for children and youth under paragraph (a), the juvenile is under the supervision of the county department of the

county of the court that adjudicated the juvenile delinquent under section 938.34 (2) or (4m) of the statutes.

(2) CLOSURE AND CONVERSION OF FACILITIES.

(a) On the earlier of the date on which all juveniles have been transferred to secured residential care centers for children and youth and Type 1 juvenile correctional facilities under subsection (1) or January 1, 2021, the department of corrections shall permanently close the Type 1 juvenile correctional facilities housed at the Lincoln Hills School and Copper Lake School in the town of Birch, Lincoln County.

(b) The department of corrections shall send a notice to the legislative reference bureau for publication in the Wisconsin Administrative Register that states the date on which the facilities under paragraph (a) are closed.

(3) JUVENILE CORRECTIONS GRANT COMMITTEE.

(a) *Committee; members.* There is created in the department of corrections a juvenile corrections grant committee consisting of the following members:

1. The governor, or his or her designee.

2. The secretary of corrections, or his or her designee.

3. The secretary of children and families, or his or her designee.

4. Three senators appointed by the senate majority leader or the appointed senator's designee.

5. Three representatives to the assembly appointed by the speaker of the assembly or that appointed representative's designee.

6. One representative of a nonprofit that focuses on best practices for holding juveniles in secure custody, appointed by the governor.

(b) *Duties.* The juvenile corrections grant committee shall establish and administer the juvenile corrections grant program under subsection (4).

(c) *Termination.* The juvenile corrections grant committee terminates on the earlier of the date on which all projects funded with grants under subsection (4) are completed or January 1, 2021.

(4) JUVENILE CORRECTIONS GRANT PROGRAM.

(a) *Grants.*

1. There is created a juvenile corrections grant program, administered by the juvenile corrections grant committee and the department of corrections. Under the juvenile corrections grant program, a county may apply for any of the following:

a. A grant to pay 95 percent of the costs of designing and constructing a secured residential care center for children and youth.

b. A grant to pay 95 percent of the costs of designing and constructing a facility that houses both a secured residential care center for children and youth and a juvenile detention facility.

c. A grant to pay 100 percent of the costs of designing and constructing a secured residential care center for children and youth only for female juveniles or any portion that is only for female juveniles.

2. Construction costs that are eligible to be paid by a grant under this subsection include costs of renovating an existing structure.

3. A grant awarded under this subsection shall reimburse 95 percent of any design costs incurred by a successful applicant in preparing the grant application, or 100 percent of any design costs incurred by a successful applicant in preparing the grant application with respect to a facility or portion of a facility for female juveniles.

(b) *Multicounty coordination.* Multiple counties may coordinate to submit one grant application for construction or establishment of a secured residential care center for children and youth that will hold juveniles from all of the cooperating counties.

(c) *Requirements.* The juvenile corrections grant committee shall establish requirements, guidelines, and criteria for the grant proposals and for awarding the grants. The committee shall require that, in developing a grant application, the county or counties consider best practices in designing and operating facilities that hold juveniles in secure custody and the feasibility of developing an existing facility into the secured residential care center for children and youth, and solicit input on the design of the secured residential care center for children and youth from judges at the court assigned to exercise jurisdiction under chapters 48 and 938 of the statutes for that county or, for multicounty grant applications under paragraph (b), at the court assigned to exercise jurisdiction under chapters 48 and 938 of the statutes for each county. The juvenile corrections grant committee shall favor proposals that utilize existing facilities that consider proximity to the populations of juveniles the facility would serve and shall encourage multicounty coordination by favoring applications under paragraph (b).

(d) *Deadline.* Grant applications are due no later than March 31, 2019. Between that date and June 30, 2019, the juvenile corrections grant committee may work with applicants to modify their applications in order to increase the likelihood of being awarded a grant.

(e) *Wisconsin model of juvenile justice; statewide plan.* The juvenile corrections grant committee shall develop a statewide plan that recommends which grant applications to approve, based on an overall view toward a Wisconsin model of

juvenile justice. The committee shall consult with the departments of corrections and children and families on the statewide plan and may not recommend approval of an application unless the department of corrections approves the plans and specifications for the site and the design and construction of the proposed secured residential care center for children and youth under section 301.37 of the statutes.

(f) *Plan approval.* No later than July 1, 2019, the juvenile corrections grant committee shall submit the plan under paragraph (e) for approval to the joint committee on finance. The juvenile corrections grant committee and the department of corrections may not implement the plan until it is approved by the joint committee on finance, as submitted or as modified.

(g) *Grant issuance.* In implementing the plan under paragraph (e), the department of corrections shall award the grants under the plan and the juvenile corrections grant committee shall monitor the progress of the projects funded by the grants to ensure compliance with the grant program and completion in time to transfer juveniles as provided under subsection (1).

(5) EMERGENCY RULE MAKING.

(a) Using the procedure under section 227.24 of the statutes, the department of corrections shall promulgate emergency rules under sections 301.37 (1) and 938.22 (2) (a) of the statutes as needed to establish standards for the approval, design, construction, repair, maintenance, and operation of secured residential care centers for children and youth. Using the procedure under section 227.24 of the statutes, the department of corrections shall promulgate emergency rules under section 938.48 (16) (b) of the statutes as needed to establish standards for services, programming, and uniform data reporting requirements for counties or Indian tribes that operate or contract with a child welfare agency to operate a secured residential care center

for children and youth. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect for 2 years after the date they become effective, or until the date on which permanent rules take effect, whichever is sooner, and the effective period may not be further extended under section 227.24 (2) of the statutes.

(b) The department of corrections shall present the statement of scope of the rules required under paragraph (a) to the department of administration for gubernatorial approval under section 227.135 (2) of the statutes no later than than August 24, 2018. Notwithstanding section 227.24 (1) (e) 1d. of the statutes, if the governor does not disapprove the statement of scope of the rules under this paragraph by the 7th day after the department presents the statement to the governor, the statement is considered approved by the governor.

(c) The department of corrections shall submit to the governor the rules required under paragraph (a) in final draft form no later than December 17, 2018. Notwithstanding section 227.24 (1) (e) 1g. of the statutes, if the governor does not reject the rules under this paragraph by the 14th day after the rules are submitted to the governor in final draft form, the rules are considered to be approved by the governor.

(6) JUVENILE CORRECTIONS STUDY COMMITTEE.

(a) *Committee; members.* There is created in the department of corrections a juvenile corrections study committee consisting of all of the following members:

1. The secretary of corrections, or his or her designee, who shall serve as cochairperson.

2. The secretary of children and families, or his or her designee, who shall serve as cochairperson.

3. The secretary of health services, or his or her designee.

4. The superintendent of public instruction, or his or her designee.

5. The state public defender, or his or her designee.

6. Three representatives to the assembly appointed by the speaker of the assembly or the appointed representative's designee.

7. Three senators appointed by the senate majority leader or the appointed senator's designee.

8. Two circuit court judges, appointed by the governor.

9. Two district attorneys, appointed by the governor.

10. Two representatives of law enforcement agencies in this state, appointed by the governor.

10m. One sheriff, or his or her designee, appointed by the governor.

11. One representative of a national organization that focuses on eliminating race–based discrimination, appointed by the governor.

12. One representative of a nonprofit that focuses on issues relating to juvenile justice, appointed by the governor.

13. One representative of a nonprofit organization that focuses on best practices for holding juveniles in secure custody, appointed by the governor.

14. One representative of the county department of social services or human services in the county with the highest percentage of juveniles under the supervision

of either the department of corrections or a county department under chapter 938 of the statutes, appointed by the governor.

15. One representative of a county department of social services or human services of a county that operates a regional juvenile detention facility that is also an eligible juvenile detention facility, as defined under subsection (7m) (a), appointed by the governor.

16. One representative of a county department of social services or human services of a county not described in subdivision 14. or 15., appointed by the governor.

17. One resident of the state who either has been under the supervision of the department of corrections under chapter 938 of the statutes or has had a close family member who has been under the supervision of the department of corrections under chapter 938 of the statutes, appointed by the governor.

(b) *Staff.* The state agencies with membership on the committee shall provide adequate staff to conduct the functions of the committee.

(c) *Duties.*

1. The juvenile corrections study committee shall research and develop recommendations for rules governing the services and programming provided to juveniles in secured residential care centers for children and youth. The committee shall submit to the department of corrections its findings and recommendations no later than September 1, 2018.

2. The juvenile corrections study committee shall study and develop recommendations for the location of Type 1 juvenile correctional facilities under section 301.16 (1w) (a) of the statutes based on space and security needs, cost, proximity to the populations of juveniles the facilities would serve, and best practices for holding juveniles in secure custody. In developing these recommendations, the

committee shall conduct an inventory of existing state–owned facilities that have the capacity be used as Type 1 juvenile correctional facilities and shall favor the use of existing facilities. The committee shall submit to the department of corrections its recommendations for these facilities no later than November 1, 2018.

(d) *Consultation.* The juvenile corrections study committee shall consult with one or more organizations that focus on developing best practices for holding juveniles in secure custody to aid the committee's research and development of recommendations under paragraph (c).

(e) *Termination.* The juvenile corrections study committee terminates on January 1, 2021.

(7) TYPE 1 JUVENILE CORRECTIONAL FACILITIES. The department of corrections shall establish or construct the Type 1 juvenile correctional facilities under section 301.16 (1w) (a) of the statutes no later than January 1, 2021, subject to the approval of the joint committee on finance. The department shall consider the recommendations of the juvenile corrections study committee under subsection (6) (c) 2. in establishing or constructing these facilities.

(7g) MENDOTA JUVENILE TREATMENT CENTER. The department of health services shall construct an expansion of the Mendota juvenile treatment center to accommodate no fewer than 29 additional juveniles, subject to the approval of the joint committee on finance.

(7m) CERTAIN JUVENILE DETENTION FACILITIES.

(a) In this subsection, an "eligible juvenile detention facility" is a juvenile detention facility operated by a county board of supervisors that has adopted a resolution under section 938.34 (3) (f) 3. of the statutes, prior to January 1, 2018, authorizing placement of a juvenile at the juvenile detention facility under section

938.34 (3) (f) of the statutes for more than 30 consecutive days and that is not a juvenile detention facility described under section 938.22 (2) (d) 1. of the statutes.

(b) 1. Notwithstanding section 938.22 (1) and (2) of the statutes, except as provided in subdivision 2., on January 1, 2021, the portion of an eligible juvenile detention facility that holds juveniles who are placed under section 938.34 (3) (f) of the statutes for more than 30 days is a secured residential care center for children and youth and juveniles may be placed there under section 938.34 (4m) of the statutes.

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

(8) EMPLOYEES OF LINCOLN HILLS SCHOOL AND COPPER LAKE SCHOOL.

(a) *Type 1 juvenile correctional facility.* A classified employee who, on the date the department of corrections begins accepting applications for a position at a Type 1 juvenile correctional facility established under subsection (7), is employed at the Lincoln Hills School or Copper Lake School may apply to the department of corrections to transfer to a position at the Type 1 juvenile correctional facility. Notwithstanding section 230.29 of the statutes, the department of corrections may transfer a classified employee who applies for a transfer under this paragraph to any of the following positions without competitive procedures:

1. A position assigned to a class having the same or counterpart pay rate or pay range as a class to which any of the employee's current positions at Lincoln Hills School or Copper Lake School is assigned.

2. A position in a class having a lower pay rate or pay range maximum for which the person is qualified to perform the work after the customary orientation provided to newly hired workers in the position.

(b) *Secured residential care center for children and youth established by a county.* An applicant for a position at a secured residential care center for children and youth operated by a county who is employed at Lincoln Hills School or Copper Lake School on the date that the county begins accepting applications for the position may be selected by the county without regard to the requirements of any civil service system under section 59.52 (8) of the statutes or subchapter I of chapter 63 of the statutes that would otherwise apply to such employees or applicants.

(c) *Secured residential care center for children and youth established by a child welfare agency.* If, prior to the date specified in the notice under subsection (2) (b), a county enters into a contract with a child welfare agency under which the child welfare agency agrees to operate a new secured residential care center for children and youth established under section 59.53 (8m) of the statutes, the county shall include in the contract a requirement that the child welfare agency grant an initial interview to any applicant for a position at the new secured residential care center for children and youth who is an employee of Lincoln Hills School or Copper Lake School on the date that the child welfare agency begins accepting applications for that position.

(9) BUDGET REQUESTS.

(a) The department of health services shall include in its 2019–21 biennial budget request under section 16.42 of the statutes the cost for staffing, operating, and maintaining the expansion of the Mendota Juvenile Treatment Center under subsection (7g).

(b) The department of corrections shall include in its 2019–21 biennial budget request under section 16.42 of the statutes the cost for staffing, operating, and maintaining the new Type 1 juvenile correctional facilities constructed or established under section 301.16 (1w) of the statutes.

(c) The department of children and families shall include in its 2019–21 biennial budget request under section 16.42 of the statutes a proposal to increase the appropriation under section 20.437 (1) (ck) of the statutes to provide bonuses under section 48.527 of the statutes to counties that operate a joint secured residential care center for children and youth.

(10) 2017–19 AUTHORIZED STATE BUILDING PROGRAM ADDITIONS. In 2017 Wisconsin Act 59, SECTION 9104 (1), the following projects are added to the 2017–19 Authorized State Building Program and the appropriate totals are increased by the amounts shown:

(a) In paragraph (c) 1., under projects financed by general fund supported borrowing:

em. Type 1 juvenile correctional facilities — statewide $25,000,000

(b) In paragraph (d) 1., under projects financed by general fund supported borrowing:

bh. Expansion of the Mendota Juvenile Treatment Center — Madison $15,000,000

SECTION 111. Initial applicability.

(1) The treatment of sections 938.34 (4m) (intro.) and (4n) (intro.) and 938.357 (4) (a), (ab), (b) 1., 2., and 4., (c) 1. and 4., and (d) of the statutes, the renumbering

and amendment of section 938.357 (3) of the statutes, and the creation of section 938.357 (3) (b), (c), and (d) of the statutes with respect to a county department's supervision of a juvenile, first applies to a juvenile adjudicated delinquent by the court of the county and placed at that county's secured residential care center for children and youth under section 938.34 (4m) of the statutes.

(2) The treatment of section 938.34 (3) (f) 1. of the statutes, with respect to juvenile detention facilities that are not eligible juvenile detention facilities under SECTION 110 (7m), first applies to a juvenile adjudicated delinquent on the effective date of this subsection.

(3) The treatment of section 938.34 (3) (f) 1. of the statutes, with respect to an eligible juvenile detention facility under SECTION 110 (7m), first applies to a juvenile adjudicated delinquent on January 1, 2021.

SECTION 112. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 46.011 (1p) (by SECTION 13), 46.057 (1) (by SECTION 15), 48.023 (4) (by SECTION 20), 49.11 (1c) (by SECTION 27), 49.45 (25) (bj) (by SECTION 29), 301.01 (1n) (by SECTION 35), 301.03 (10) (d) (by SECTION 38), 301.20, 938.02 (4) (by SECTION 50), 938.34 (2) (a) (by SECTION 57) and (b) (by SECTION 59) and (4m) (intro.) (by SECTION 62), 938.357 (4) (am) (by SECTION 70), 938.48 (3) (by SECTION 78), (4) (by SECTION 80), (4m) (b) (by SECTION 82), (5) (by SECTION 84), (6) (by SECTION 86), and (14) (by SECTION 88), 938.505 (1) (by SECTION 96), 938.52 (2) (a) and (c) (by SECTION 98), 938.53 (by SECTION 100), and 938.54 (by SECTION 107) of the statutes takes effect on the date specified in the notice under SECTION 110 (2) (b) or January 1, 2021, whichever is earlier.

(END)