NEW LAW RELATING TO SEX OFFENDER REGISTRATION; OFFENSES BY, AND WAIVER OF, JUVENILE OFFENDERS; AND GANG-RELATED CRIMES AND PROGRAMS (1993 WISCONSIN ACT 98)

Information Memorandum 94-1

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INTRODUCTION

This Information Memorandum describes 1993 Wisconsin Act 98, relating to offenses by, procedures relating to, and programs for, juvenile offenders and gang-related crimes and programs. This Act was signed into law on December 10, 1993 by Governor Thompson. The general effective date of Act 98 is ***December 25, 1993***. The Gang Violence Prevention Council (see Part III, B, 7, below) takes effect on ***July 1, 1994***.

Copies of Act 98 may be obtained from the Documents Room, Lower Level, One East Main Street, Madison, Wisconsin 53702; telephone: (608) 266-2400.

This Memorandum is divided into the following parts:

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PART I

KEY PROVISIONS OF 1993 WISCONSIN ACT 98

The key provisions of 1993 Wisconsin Act 98:

a. ***Sex offender registration.*** Creates a sex offender registration requirement in the state, specifying that any person who is currently imprisoned or placed on probation, parole or aftercare supervision for first- or second-degree sexual assault or sexual assault of a child is required, following discharge from supervision (and annually for 15 years thereafter), to provide to the Department of Justice (DOJ) information about his or her home address, place of school enrollment, place of employment and employment duties.

b. ***Gang-related crimes.*** Creates crimes and penalties for: (1) a person who violates a court order prohibiting contact with gang members if criteria specified in the Act are met; and (2) a person who intentionally solicits a child to participate in "criminal gang activity" (as defined in the Act). The Act also creates a penalty enhancement provision for certain offenses committed for the benefit of, at the direction of or in association with any criminal gang, with the specific intent to promote or assist in any criminal conduct by gang members.

c. ***Civil action for criminal gang activity.***

1. Allows the state, county, city, town, village or school district to bring a civil action against a criminal gang or gang member for any expenditure of money for the allocation or reallocation of law enforcement, fire fighting, emergency or other personnel or resources relating to criminal gang activity.

2. Allows an individual to bring a civil action for any physical injury or property damage or loss resulting from any criminal gang activity.

d. ***Gang Violence Prevention Council.*** Creates a 15-member Gang Violence Prevention Council, which is required, among other things, to submit an annual report to the Legislature on ways to improve the existing strategies and programs and ways to establish new strategies and programs to prevent children from becoming influenced by and involved with gangs.

e. ***Gang-troubled neighborhoods: job training grants.*** Provides funding in 1994-95 for DHSS to award a grant to a community organization to conduct a community improvement job training program. The grant recipient is required to, among other things, provide job training, counseling and education for persons 16 to 23 years of age who reside in neighborhoods that have gang problems.

f. ***Condemnation of gang buildings.*** Provides that any building or structure used as a meeting place of a criminal gang or used to facilitate the activities of a criminal gang may be

declared a public nuisance and allows a city, town or village to close and sell or raze such buildings in order to abate the activity.

g. ***Notification of school and school board of gang-related delinquent act.*** Eliminates the right of parents under prior law to object to notification of the school board by the juvenile court that the parents' child has been adjudged delinquent. The Act also requires the clerk of the juvenile court to notify the principal of the child's school, as well as the school board if the child is adjudged delinquent for committing a delinquent act, at the request of or for the benefit of a criminal gang, that would be a felony if committed by an adult, whether or not the child's parents object.

h. ***Records in juvenile court.*** Specifies that upon request of a law enforcement agency to review court records for the purposes of investigating a crime that might fall within "a pattern of criminal gang activity" (as defined in the Act), the juvenile court is required to open for inspection by authorized representatives of the law enforcement agency the records of the court relating to any child who has been found to have committed a delinquent act at the request of or for the benefit of a criminal gang that would have been a felony if committed by an adult.

i. ***Penalties for the manufacture, delivery or possession of cocaine and "crack" (cocaine base).*** Makes all cocaine offenses (i.e., powder cocaine and "crack" cocaine) subject to the same penalties and eliminates the mandatory minimum fines for cocaine violations and the mandatory minimum period of imprisonment for all first offense cocaine violations.

j. ***Revocation or suspension of alcohol beverage licenses and permits for drug-related activity.*** Provides that a municipality or the Department of Regulation (DOR) may revoke, suspend or refuse to renew a person's alcohol beverage license or permit if: (1) the person has been convicted of manufacturing or delivering a controlled substance or of possessing, with intent to manufacture or deliver, a controlled substance; or (2) the person knowingly allows another person, who is on the premises for which the license is issued, to possess, with the intent to manufacture or deliver, or to manufacture or deliver, a controlled substance.

k. ***Waiver of children age 14 or older to adult court: additional offenses.*** Authorizes a juvenile court to waive its jurisdiction and transfer to the adult court system a child who, on or after the child's 14th birthday, is alleged to have committed specified serious offenses, including a violation committed at the request of, or for the benefit of, a criminal gang that would constitute a felony under ch. 161, Stats. (the Controlled Substances Act), or under the Criminal Code [chs. 939 to 948, Stats.], if committed by an adult.

l. ***Waiver criteria: consideration of prior waiver or conviction.*** Modifies current law to expand the criteria which a judge must consider when deciding whether or not to waive a child into adult court to include: (1) whether the court has previously waived its jurisdiction over the child; and (2) whether the child has been previously convicted following a waiver of the court's jurisdiction.

m. ***Battery or assault while in a secured juvenile correctional facility:***

1. Grants original jurisdiction (i.e., the child does not go through the waiver procedure in juvenile court) over a child who is accused of committing battery under s. 940.20 (1), Stats. (battery by prisoners), or aggravated assault under s. 946.43, Stats. (assaults by prisoners), while placed in a secured juvenile correctional facility to a court of criminal jurisdiction (adult court). The Act sets forth conditions under which the adult court of criminal jurisdiction may transfer jurisdiction over the child to the juvenile court.

2. Requires an adult court to sentence a person who is convicted of battery under s. 940.20 (1), Stats., while placed in a secured juvenile correctional facility to not less than three years of imprisonment and to sentence a person who is convicted of aggravated assault under s. 946.43, Stats., while placed in a secured juvenile correctional facility to not less than five years of imprisonment.

3. Requires a juvenile court to extend its jurisdiction over a person until the person reaches 21 years of age, unless the person is discharged sooner, if the person is adjudicated delinquent following transfer of jurisdiction from an adult court for committing battery under s. 940.20 (1), Stats., or aggravated assault under s. 946.43, Stats., while placed in a secured juvenile correctional facility.

n. ***Holding a child in custody in secure detention.*** Provides that if a child meets the criteria under current law for holding a child in secure detention, the intake worker, after consulting by telephone with the law enforcement officer who took the child into custody, may authorize the secure holding of the child, without an intake interview, until 8:00 a.m. of the day following the night on which the child was taken into custody.

o. ***Limitation on judge substitution in certain juvenile proceedings.*** Provides that a child may not request the substitution of a judge in a juvenile delinquency proceeding or in a "child in need of protection or services" (CHIPS) proceeding based on a child under 12 years of age committing a delinquent act within one year after the entry of a dispositional order in another juvenile proceeding under ch. 48, Stats., in which the child requested the substitution of a judge.

p. ***Creation of juvenile boot camp program.*** Requires the DHSS to provide, and appropriates the funding for, a juvenile boot camp program for children, allowing the DHSS to place in the program any child whose legal custody has been transferred to the DHSS under s. 48.34 (4m), Stats., for placement in a secured juvenile correctional facility (e.g., Ethan Allen).

q. ***Electronic monitoring of juvenile offenders.*** Authorizes a juvenile court to order electronic monitoring of a child under certain situations, including: (1) predisposition monitoring of a child who would otherwise be kept in physical custody; (2) monitoring of a delinquent child who is placed under house arrest, in an out-of-home placement or in a supervised independent living situation; and (3) monitoring of a child who is placed on house arrest as a sanction for violating a delinquency disposition.

r. ***Juvenile forfeitures.*** Increases: (1) the maximum forfeiture that a municipal court may order a child who has violated a civil law or a municipal ordinance to pay; and (2) the maximum forfeiture that a juvenile court may impose on a child adjudicated delinquent.

s. ***Combination of restitution with certain other dispositions.*** Modifies the combinations of juvenile delinquency dispositions provided under current law to allow the payment of restitution or the repair of damage to property to be combined with other dispositions imposed on children alleged to have committed a delinquent act or adjudicated delinquent.

t. ***Age at which child may be issued a citation for municipal ordinance or civil law violations.*** Reduces the age at which a child may be issued a citation for violating a civil law or municipal ordinance from age 14 to age 12.

u. ***Contempt of court for certain juvenile offenders.*** Specifies that if a child adjudicated delinquent commits a second or subsequent violation of a condition specified in the juvenile's dispositional order, a district attorney may file a delinquency petition charging the child with contempt of court and reciting the disposition under s. 48.34, Stats. (the delinquency dispositions under the Children's Code), the district attorney seeks to be imposed.

v. ***Victim attendance at juvenile court hearings.*** Permits the victim of an act for which a child is adjudicated delinquent to attend a dispositional hearing before the juvenile court relating to that act, subject to the same restrictions as under current law for attendance at a fact-finding hearing. The Act also requires: (1) a juvenile court or a municipal court to provide notice to any victim or alleged victim of a child's act or alleged act of any hearing that the victim or alleged victim is entitled to attend; and (2) a juvenile court to allow a victim of a delinquent act that would be a felony if committed by an adult or a family member of a homicide victim to make a statement to the juvenile court before the juvenile court imposes a disposition.

w. ***Juvenile court records: confidential information.*** Authorizes a law enforcement agency to request to review juvenile court records for the purpose of investigating a crime that may fall within a pattern of criminal gang activity; and requires a juvenile court to open for inspection its records relating to any child who has been found to have committed a gang-related delinquent act that would have been a felony had it been committed by an adult.

x. ***Increased penalties for providing guns to children.*** Increases penalties for people convicted of selling or giving certain dangerous weapons (firearms, electric weapons, brass knuckles and a number of other weapons) to children.

y. ***Prohibition against armor-piercing bullets.*** Creates a new felony for the commission of a crime with a handgun loaded with armor-piercing bullets (as defined in the Act) that may be fired with a muzzle velocity of 1,500 feet per second or greater, or while in the possession of armor-piercing bullets that could be fired from a handgun.

z. ***Penalty for attempt to disarm a peace officer.*** Increases the penalties for attempting to disarm a peace officer by making them the same as for the completed crime and broadens the coverage of the crime to apply to the taking of any dangerous weapon from the officer.

aa. ***Terrorism penalty enhancer.*** Creates a "terrorism" penalty enhancer that increases the fine and term of imprisonment for certain acts of terrorism (as defined in the Act).

bb. ***Evidence in criminal actions: videotaped statements of children and use of recorded communications:***

1. Eliminates a provision in prior law that allowed a party in a court proceeding to call a child, who had testified on videotape for a preliminary examination in a felony case, to appear for cross-examination in the preliminary hearing if the party submitting the videotaped statement did not call the child to testify.

2. Expands the authorized use of one-party consent recordings to include solicitation or conspiracy to commit a felony.

cc. ***Authority of peace officers to make arrests or render assistance.*** Provides another exception to the current law on peace officers acting outside of their territorial jurisdiction by specifying that a peace officer outside of his or her territorial jurisdiction may, if certain conditions are met, arrest a person or provide aid or assistance anywhere in the state if certain criteria specified in the Act are met.

dd. ***Law enforcement access to Department of Corrections (DOC) records.*** Provides that the DOC must give a law enforcement officer access to DOC records pertaining to probationers, parolees, intensive sanctions participants and community residential confinement prisoners who are residing or planning to reside in the officer's territorial jurisdiction.

ee. ***Task force on children and families.*** Requires the Secretary of DHSS to establish a committee to be known as the Task Force on Improving Services to Children and Families for the purpose of submitting recommendations on, among other things, how to: (1) improve state programs that support collaboration between schools and social services agencies by using existing resources; (2) coordinate state agency operations to reduce barriers to collaboration between schools and social services agencies; and (3) deliver services efficiently to children and families by reducing duplication of effort.

PART II

BACKGROUND OF 1993 WISCONSIN ACT 98

On October 26, 1993, Senate Bill 548 was introduced by the Joint Committee on Finance. The Joint Committee on Finance reported introduction and adoption of Senate Substitute Amendment 1 by a vote of Ayes, 15; Noes, 1; and recommended passage of the Bill as amended by a vote of Ayes, 15; Noes, 1.

On October 28, 1993, the Senate adopted Senate Substitute Amendment 1, as amended by Senate Amendments 2, 3, 4, 13, 14 and 22. The Senate then passed the Bill, as amended, on a vote of Ayes, 30; Noes, 2.

On October 28, 1993, the Assembly concurred in the Bill, as amended by Assembly Amendments 2 and 3, by a vote of Ayes, 96; Noes, 2. The Senate then concurred in the Assembly Amendments by voice vote.

Senate Bill 548 was approved by the Governor in part and vetoed in part on December 10, 1993 and was published on December 24, 1993 as 1993 Wisconsin Act 98. On February 8, 1994, the Senate refused to suspend the rules and take up the vetoed portion of the Bill by a vote of Ayes, 16; Noes, 17.

PART III

DETAILED DESCRIPTION OF PROVISIONS OF 1991 WISCONSIN ACT 98

A. PROVISIONS RELATING TO SEX OFFENDER REGISTRATION

1. Creation of Program; Appropriation

1993 Wisconsin Act 98 creates a sex offender registration in the state and provides, for this purpose: (a) $77,200 in general purpose revenue (GPR) in 1993-94 and $144,700 GPR in 1994-95; and (b) 4.0 GPR positions for the DOJ beginning in 1993-94.

2. Persons Subject to Registration; Information Required

Under Act 98, any person who is currently: (a) imprisoned or placed on probation, parole or aftercare supervision for first- or second-degree sexual assault [s. 940.225 (1) or (2), Stats.] or sexual assault of a child [s. 948.02, Stats.]; or (b) found not guilty or not responsible by reason of mental disease or defect and is under DHSS institutional care for first- or second-degree sexual assault or sexual assault of a child, ***is required***, following discharge from supervision, to provide to the ***DOJ*** information about his or her ***home address, place of school enrollment, place of employment and employment duties***. A court ***may*** also require the sex offender registration, in the interest of public protection, for persons convicted or adjudicated for third- or fourth-degree sexual assault [s. 940.225 (3) or (4), Stats.] or a person for whom the court determines that the underlying conduct was seriously sexually assaultive in nature.

3. Time Periods Applicable to Registration

Under Act 98, a person is required to submit the registration information ***annually*** for a period of ***15 years following discharge from supervision***. The Act requires that any ***changes*** in address, school enrollment or employment be ***updated within 14 days*** of the change.

4. Penalty for Violating Registration or Deoxyribonucleic Acid Analysis Requirements

Under Act 98, a person violating the registration requirement, or failing to provide a required specimen for deoxyribonucleic acid (DNA) analysis (required under current law for these offenders as a result of the enactment of 1993 Wisconsin Act 16), is subject to a fine of up to $10,000 and imprisonment for not more than nine months, or both (i.e., the same penalty as for a Class A misdemeanor under the Criminal Code, chs. 939 to 951, Stats.).

5. Confidentiality Requirement

Act 98 specifies that the registration information is to be maintained by DOJ and kept confidential except as needed for law enforcement purposes. A fine of up to $500 or imprisonment for not more than 30 days or both is provided for any knowing violation of the confidentiality requirement.

6. Other Provisions

Act 98 also:

a. Specifies an ***expungement process*** for sex offender registration records. Under the Act, a person who has provided this information may request, in writing, expungement of all pertinent DOJ information on the ground that his or her conviction, delinquency adjudication finding of need of protection or services or commitment has been reversed, set aside or vacated.

b. Requires the DOJ to promulgate ***rules*** necessary to carry out its duties under these new registration provisions.

c. Requires the DOC and DHSS to cooperate with the DOJ in obtaining information under these new registration provisions.

d. Limits liability for medical personnel and hospitals responsible for taking biological specimens for DNA analysis.

B. PROVISIONS RELATING TO CRIMINAL GANGS

1. Definition of a Criminal Gang

Act 98 defines a "criminal gang" as an ongoing organization, association or group of ***three or more people***, that has as one of its primary activities the commission of one or more of the offenses specified in the definition of "pattern of criminal gang activity"; that has a common name or an identifying symbol; and whose members individually or collectively engage in a ***pattern of criminal gang activity***. "A pattern of criminal gang activity" is defined as the commission, attempt or solicitation to commit ***two or more*** of the following offenses:

a. Manufacture or delivery of a controlled substance [s. 161.41 (1), Stats.].

b. First- or second-degree intentional homicide [s. 940.01 or 940.05, Stats.].

c. Battery or aggravated battery [s. 940.19, Stats.].

d. Mayhem [s. 940.21, Stats.].

e. Sexual assault [s. 940.225, Stats.].

f. False imprisonment [s. 940.30, Stats.].

g. Taking hostages [s. 940.305, Stats.].

h. Kidnapping [s. 940.31, Stats.].

i. Intimidation of witnesses [s. 940.42 or 940.43, Stats.].

j. Intimidation of victims [s. 940.44 or 940.45, Stats.].

k. Criminal damage to property [s. 943.01, Stats.].

l. Arson of buildings or damage by explosives [s. 943.02, Stats.].

m. Burglary [s. 943.10, Stats.].

n. Theft [s. 943.20, Stats.].

o. Taking, driving or operating a vehicle, or removing a component of a vehicle without the owner's consent [s. 943.23, Stats.].

p. Robbery [s. 943.32, Stats.].

q. Sexual assault of a child [s. 948.02, Stats.].

Under the Act, the pattern is established if: (a) at least one of the offenses occurs after the effective date of the Act (i.e., December 25, 1993); (b) the last of the offenses occurred within three years after a prior offense; and (c) the offenses are committed, attempted or solicited on separate occasions ***or*** by two or more people.

2. Gang-Related Crime: Violation of Court Order Prohibiting Contact With Gang Members

Act 98 creates a ***Class A misdemeanor*** (a fine of not more than $10,000 or imprisonment for not more than nine months, or both) for violating a court order prohibiting contact with gang members if ***all*** of the following apply:

a. The court finds that the person subject to the court order is a gang member;

b. The court had informed the person of the contact restriction; and

c. The order specifies how long the restriction applies.

3. Gang-Related Crime: Intentional Solicitation of a Child for Gang Activity

Act 98 creates a ***Class E felony*** (a fine of not more than $10,000 or imprisonment of not more than two years, or both) for any person who ***intentionally solicits*** a child to participate in criminal gang activity. "***Criminal gang activity***" is defined to mean the commission of, or attempt to commit or solicitation to commit one or more of the offenses specified in item 1, above, committed for the benefit of, at the direction of, or in association with any criminal gang, with specific intent to promote, further or assist in any criminal conduct by criminal gang members.

4. Gang-Related Penalty Enhancer

Act 98 provides a penalty enhancement (similar to the dangerous weapons penalty enhancement under current law, s. 939.63, Stats.) for any drug offense or any misdemeanor or felony drug or Criminal Code offense committed ***for the benefit of, at the direction of or in association with any criminal gang, with the specific intent to promote or assist in any criminal conduct by gang members***. Penalties may be increased by ***up to six months*** for a ***misdemeanor*** and by ***three to five years*** for a ***felony*** depending on the maximum penalty for the underlying crime.

5. Civil Action for Criminal Gang Activity

a. State or Local Government Action

Under ***prior law***, there was no specific civil cause of action available for injury caused by criminal gang activity. ***Act 98*** allows the state, county, city, town, village or school district to bring a civil action for any expenditure of money for the allocation or reallocation of law enforcement, fire fighting, emergency or other personnel or resources ***relating to criminal gang activity***, as defined in Section C, above. The action may be brought against a criminal gang or any member or leader who: (1) authorizes, causes, orders, ratifies, requests or suggests a criminal gang activity; ***or*** (2) participates in the criminal gang activity. The criminal gang and any participating gang members must be named as defendants in the action and all unknown criminal gang members may be named as a class to the action. The civil action may be brought ***regardless of any criminal action or disposition***.

The Act authorizes the service of a summons upon any member or leader of a criminal gang and provides that a judgment rendered after service is a binding adjudication against the criminal gang. Under the Act, a court is authorized to:

1. Grant an ***injunction*** restraining an individual from committing an act that would injure the state, political subdivision or school district or order other relief the court determines is proper;

2. Order a gang member to ***divest*** himself or herself of any interest or involvement in any criminal gang activity; and

3. ***Restrict*** a gang member from engaging in any future criminal gang activity.

The Act requires that a final judgment in favor of the state, political subdivision or school district must include ***compensatory damages*** for any expenditure of money resulting from the criminal gang activity and compensation for the costs of investigation, prosecution and ***reasonable attorneys fees.*** The Act allows the final judgment to include ***punitive damages*** assessed against a participating gang member or leader.

b. Individual Action

Act 98 allows a person to bring a civil action for any physical injury or property damage or loss resulting from any criminal gang activity. The burden of proof rests with the plaintiff who must prove his or her case by a preponderance of the evidence. The action is for the actual damages sustained and punitive damages may be awarded. Further, an award includes ***attorneys fees and investigation and litigation costs.*** The civil action may be brought ***regardless of any criminal action or disposition.***

c. Statute of Limitations

Act 98 establishes a ***six-year*** statute of limitations for the civil action described in items a and b, above.

6. Waiver of Children age 14 or Older to Adult Court for Gang-Related Violation

See Section D, 1, below, for an analysis of this change in Act 98 (see, in particular, 1, b, (10), in that Section).

7. Gang Violence Prevention Council

Act 98 creates a 15-member Gang Violence Prevention Council which is attached to the Division of Youth Services in DHSS. Under the Act, the Gang Violence Prevention Council must do the following:

a. Conduct public hearings and surveys to solicit the opinions and recommendations of citizens and public officials on ways to prevent children from becoming influenced by and involved with gangs.

b. Based on the opinions and recommendations under item a, above, submit an annual report to the appropriate standing committees of the Legislature, the cochairpersons of the Joint Committee on Finance and the Secretary of Health and Social Services, and otherwise provide information and recommendations to interested persons on ways to improve the existing strategies and programs and ways to establish new strategies and programs to prevent children from becoming influenced by and involved with gangs.

The Council is comprised of appropriate state and local public officials and four citizen members who have a recognized interest in and demonstrate a knowledge of prevention and intervention strategies and programs that are effective in reducing gang influence and gang violence that is affecting children throughout the state. The Administrator of the Division of Youth Services in the DHSS serves as Chairperson of the Council.

The Act provides $50,000 GPR in 1994-95 and authorizes 1.0 GPR position beginning in 1994-95. The provisions in the Act concerning the appointment of members of the Council and the Council's responsibilities take effect on ***July 1, 1994***.

8. Community Improvement Job Training Grant

Under ***current law*** the DHSS provides GPR as grants for community program to fund various programs.

Act 98 provides $250,000 GPR in 1994-95 for DHSS to award a grant to a community organization to conduct a community improvement job training program. The grant recipient is required to:

a. Provide job training, counseling and education for persons 16 to 23 years of age who reside in neighborhoods that have gang problems;

b. Provide projects to rebuild and strengthen such neighborhoods;

c. Assist program participants who want to start their own small businesses by referring them to sources of grants, loans, venture capital and other funding and by assisting them with the funding application process; and

d. Encourage former gang members to participate in the program.

9. Condemnation of Gang Buildings

a. Background

Under ***current law***, a building or structure used to deliver or manufacture a controlled substance is a public nuisance. The city, town or village where the building or structure is located may bring an action to abate the nuisance and prevent the continuance of the nuisance. The court is required to order the removal and sale of the personal property from a building or structure that is declared a nuisance, order the building or structure closed until all building code violations are corrected or, if there is no compliance with an order to repair the premises, order the building or structure sold [ss. 66.05 (1) (b), 823.113 and 823.114, Stats.].

b. Act 98

Act 98 provides that any building or structure used as a ***meeting place of a criminal gang or used to facilitate the activities of a criminal gang*** (refer to item 1, above, for the definition of a "criminal gang") may be declared a public nuisance. This allows a city, town or village to close and sell or raze such buildings in order to abate the activity. Further, the Act provides that proceeds from any sale must be paid in equal shares to:

(1) The local law enforcement agency for gang-related law enforcement activities; and

(2) The treasurer of the city, town or village for gang abatement programs.

10. Notification of School and School Board of Gang-Related Delinquent Act

a. Prior Law

Under the law prior to Act 98, if a child is adjudged delinquent, the clerk of the juvenile court must notify the school board of the school district in which the child is enrolled of that adjudication ***unless the child's parents object*** [s. 48.396 (7), Stats.].

b. Act 98

Act 98:

(1) Eliminates the parents' right to object to that notification.

(2) Requires the clerk of the juvenile court to notify the principal of the child's school and the school board of the school district in which a child is enrolled if the child is adjudged delinquent for committing a delinquent act, at the request of or for the benefit of a criminal gang, that would be a felony if committed by an adult, ***whether or not the child's parents object.*** Refer to item 1, above, for the definition of a "criminal gang."

11. Records in Juvenile Court

Under current law, subject to certain exceptions, the records of the juvenile court are not open to inspection and may not be disclosed except by order of the juvenile court [s. 48.396 (2), Stats.].

Act 98 specifies that upon request of a law enforcement agency to review court records for the purpose of investigating a crime that might fall within ***"a pattern of criminal gang activity,"*** as defined in the Act (see item 1, above), the juvenile court is required to open for inspection by authorized representatives of the law enforcement agency the records of the court relating to any

child who has been found to have committed a delinquent act at the request of or for the benefit of a criminal gang that would have been a felony if committed by an adult.

C. PROVISIONS RELATING TO DRUG OFFENSES AND ALCOHOL

1. Penalties for the Manufacture, Delivery or Possession of Cocaine and "Crack" (Cocaine Base)

a. Background

(1) Overview of Uniform Controlled Substances Act

The primary Wisconsin statutes governing drug-related crimes are contained in ch. 161, Stats., the Uniform Controlled Substances Act. That Act is a uniform state law developed for consideration and possible enactment by the individual states by the National Conference of Commissioners on Uniform State Laws. Chapter 161 is the Uniform Act as amended and enacted in Wisconsin.

(2) Classification of substances

Subchapter II of chapter 161, Stats., classifies all controlled substances into five different categories or "schedules" according to: (a) each substance's potential for abuse; (b) the existence of any accepted medical use for the substance in treatment; and (c) the potential that abuse of the particular substance may lead to psychological or physical dependence.

Schedules I and II include substances which have a high potential for abuse. For example, Schedule I includes ***cocaine base*** ("crack") [s. 161.14 (7) (a), Stats.], lysergic acid diethylamide (LSD), phencyclidine (PCP), heroin and tetrahydrocannabinol (THC, the hallucinogenic contained in marijuana). Examples of substances listed in Schedule II include ***cocaine***, other than cocaine base [s. 161.16 (2) (b), Stats.], opium, codeine, morphine, methadone and amphetamines. Schedules III, IV and V contain substances with lower potentials for abuse for which there is a currently accepted medical use.

The Wisconsin Controlled Substances Board may add, delete or reschedule substances enumerated in the five schedules, by administrative rule. The statutes direct the Controlled Substances Board to use certain criteria in placing substances in each of the five schedules. For purposes of Schedules I and II, the criteria are:

(a) Schedule I

(i) The substance has high potential for abuse; and

(ii) The substance has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision [ss. 161.13 and 161.14, Stats.].

(b) Schedule II

(i) The substance has high potential for abuse;

(ii) The substance has currently accepted medical use in treatment in the United States or currently accepted medical use with severe restrictions; and

(iii) Abuse of the substance may lead to severe psychological or physical dependence [ss. 161.15 and 161.16, Stats.].

(3) "Presumptive" minimums: court's authority to deviate from mandatory minimum sentences

Current law provides that any minimum sentence under ch. 161, Stats., is a "presumptive" minimum. A court may impose a sentence which is less than a "presumptive" minimum or place the person on probation only if it finds that the best interests of the community will be served and the public will not be harmed and if it places its reasons on the record. Thus, the minimum penalties are not, in fact, mandatory minimums, but presumptive minimums [s. 161.438, Stats.].

(4) Determining amount of controlled substance for purpose of applying appropriate penalty

Current law provides that, for the purpose of determining the appropriate penalty where the amount of the controlled substance is significant, the amount includes the weight of the controlled substance together with any compound, mixture, diluent or other substance mixed or combined with the controlled substance (e.g., sugar). Current law also specifies that the amount of THC (the hallucinogenic chemical in marijuana) includes the weight of any marijuana [s. 161.41 (1r), Stats.].

(5) Penalties, Prior to Act 98, for the Manufacture, Delivery or Possession of Cocaine and "Crack" Cocaine

(a) Cocaine offenses

Table 1 sets forth the penalty structure for cocaine first offenses under the law prior to Act 98. As under Act 98, for cocaine and other major controlled substances under ch. 161, Stats. (including "crack"), any applicable minimum and maximum fines and minimum and maximum periods of imprisonment are doubled if: (1) it is the person's second or subsequent offense; or (2) the cocaine was distributed by a person 18 years of age or older to a person under 18 years of age who is at least three years his or her junior.

Note that, in the tables in this Information Memorandum, unless otherwise specified by "may," "up to" or "not more than," the penalties cited must be imposed by the court, subject to the concept of "presumptive" minimums described above.

TABLE 1
PRIOR LAW:
PENALTIES FOR ILLEGAL MANUFACTURE OR DELIVERY OF, POSSESSION WITH INTENT TO MANUFACTURE OR DELIVER, OR POSSESSION OF COCAINE
[Section 161.41 (1) (c), (1m) (c) and (3m), Stats.]

OFFENSE	*AMOUNT*	*PENALTY* (FINE/PERIOD OF IMPRISONMENT)***
A. MANUFACTURE OR DELIVERY OF COCAINE	10 grams or less	$1,000 to $200,000 (may be imprisoned up to 5 years)
	More than 10 grams but not more than 25 grams	$1,000 to $250,000 (6 months to 5 years)
	More than 25 grams but not more than 100 grams	$1,000 to $500,000 (1 to 15 years)
	More than 100 grams but not more than 400 grams	$1,000 to $500,000 (3 to 15 years)
	More than 400 grams but not more than 800 grams	$1,000 to $500,000 (5 to 15 years)
	More than 800 grams	$25,000 to $1,000,000 (10 to 30 years)
B. POSSESSION OF COCAINE WITH INTENT TO MANUFACTURE OR DELIVER	10 grams or less	May be imprisoned up to 5 years and must be fined $1,000 to $100,000
	More than 10 grams but not more than 25 grams	$1,000 to $250,000 (6 months to 5 years)
	More than 25 grams but not more than 100 grams	$1,000 to $500,000 (1 to 15 years)
B. POSSESSION OF COCAINE WITH INTENT TO MANUFACTURE OR DELIVER (CONTINUED)	More than 100 grams but not more than 400 grams	$1,000 to $500,000 (3 to 15 years)
	More than 400 grams but not more than 800 grams	$1,000 to $500,000 (5 to 15 years)
	More than 800 grams	$25,000 to $1,000,000 (10 to 30 years)

OFFENSE	*AMOUNT*	*PENALTY* (FINE/PERIOD OF IMPRISONMENT)***
C. POSSESSION OR ATTEMPTED POSSESSION OF COCAINE	--	$250 to $5,000 (may be imprisoned up to one year in county jail)

* Unless otherwise specified, a violator must be fined and imprisoned at least the minimum amounts and periods set forth in the table (see a, (3) in the text, above, on "presumptive" minimums).

** Upon a second or subsequent offense, the minimum and maximum fines and periods of imprisonment are doubled.

(b) "Crack" (cocaine base) offenses

Prior law established a separate penalty structure for offenses involving cocaine base. The penalty structure is shown in Table 2, below.

TABLE 2
PRIOR LAW:
PENALTIES FOR ILLEGAL MANUFACTURE OR DELIVERY OF, POSSESSION WITH INTENT TO MANUFACTURE OR DELIVER, OR POSSESSION OF COCAINE BASE ("CRACK")
[Section 161.41 (1) (cm), (1m) (cm) and (3m), Stats.]

OFFENSE	*AMOUNT*	*PENALTY* (FINE/PERIOD OF IMPRISONMENT)***
A. MANUFACTURE OR DELIVERY OF COCAINE BASE	3 grams or less	$1,000 to $500,000 (1 to 15 years)
	More than 3 grams to 10 grams	$1,000 to $500,000 (3 to 15 years)
	More than 10 grams to 40 grams	$1,000 to $500,000 (5 to 30 years)
	More than 40 grams	$25,000 to $1,000,000 (10 to 30 years)
B. POSSESSION OF COCAINE BASE WITH INTENT TO MANUFACTURE OR DELIVER	3 grams or less	$1,000 to $500,000 (1 to 15 years)
	More than 3 grams to 10 grams	$1,000 to $500,000 (3 to 15 years)
	More than 10 grams to 40 grams	$1,000 to $500,000 (5 to 30 years)
	More than 40 grams	$25,000 to $1,000,000 (10 to 30 years)

OFFENSE	*AMOUNT*	*PENALTY* (FINE/PERIOD OF IMPRISONMENT)***
C. POSSESSION OR ATTEMPTED POSSESSION OF COCAINE BASE	--	$250 to $5,000 (may be imprisoned not more than one year in county jail)

* Unless otherwise specified, a violator must be fined and imprisoned at least the minimum amounts and periods set forth in the table (see a, (3) in the text, above, on "presumptive" minimums).

** Upon a second or subsequent offense, the minimum and maximum fines and periods of imprisonment are doubled.

b. Act 98

Act 98 makes all cocaine offenses (i.e., powder cocaine and "crack" cocaine) subject to the same ***penalties***, as set forth in Table 3, below. Note that the Act ***eliminates*** the mandatory minimum fines for cocaine violations and the mandatory minimum period of imprisonment for all first offense cocaine violations.

TABLE 3
PENALTIES IN ACT 98 FOR ILLEGAL MANUFACTURE OR DELIVERY OF, POSSESSION WITH INTENT TO MANUFACTURE OR DELIVER, OR POSSESSION OF COCAINE OR "CRACK" COCAINE [Section 161.41 (1) (cm), (1m) (cm) and (3m), Stats.]

OFFENSE	*AMOUNT*	*PENALTY* (FINE/PERIOD OF IMPRISONMENT)***
A. MANUFACTURE OR DELIVERY OF COCAINE OR "CRACK" COCAINE	5 grams or less	Not more than $500,000 (up to 15 years)
	More than 5 grams to 15 grams	Not more than $500,000 (1 to 15 years)
	More than 15 grams to 40 grams	Not more than $500,000 (3 to 20 years)
	More than 40 grams to 100 grams	Not more than $500,000 (5 to 30 years)
	More than 100 grams	Not more than $500,000 (10 to 30 years)

OFFENSE	*AMOUNT*	*PENALTY* (FINE/PERIOD OF IMPRISONMENT)***
B. POSSESSION OF COCAINE WITH INTENT TO MANUFACTURE OR DELIVER	5 grams or less	Not more than $500,000 (up to 10 years)
	More than 5 grams to 15 grams	Not more than $500,000 (1 to 15 years)
	More than 15 grams to 40 grams	Not more than $500,000 (3 to 20 years)
	More than 40 grams	Not more than $500,000 (5 to 30 years)
C. POSSESSION OR ATTEMPTED POSSESSION OF COCAINE	--	Not more than $5,000 (may be imprisoned not more than one year in county jail)

* Unless otherwise specified, a violator must be fined and imprisoned at least the minimum amounts and periods set forth in the table (see a, (3) in the text, above, on "presumptive" minimums).

** Upon a second or subsequent offense, the minimum and maximum fines and periods of imprisonment are doubled.

2. Revocation or Suspension of Alcohol Beverage Licenses and Permits for Drug-Related Activity

a. Background

Under current law, in general, any person who sells, manufactures or brews alcohol beverages must hold the appropriate license or permit required under ch. 125, Stats. Licenses are issued by the local governing body of each city, village or town and permits are issued by the Secretary of the Wisconsin DOR.

Section 125.12, Stats., sets forth the current due process procedures relating to revocation, suspension, refusal to issue or refusal to renew a license or permit under ch. 125, Stats. The methods by which a license or permit may be revoked, suspended, not issued or not renewed are the following:

(1) By a municipal governing body; license. A municipal governing body may revoke or suspend any alcohol beverage license issued by the municipality upon a written complaint of a resident, if it is found that the licensee has: (a) violated any provision of ch. 125, Stats., or a municipal regulation relating to the sale of alcohol beverages; (b) *kept a disorderly, riotous, indecent or improper house*; (c) sold or given alcohol beverages to a known habitual drunkard; or (d) *does not possess the qualifications under ch. 125 to hold a license.*

A municipality may also refuse to ***renew*** a license for the same reasons discussed above [s. 125.12 (3), Stats.].

(2) By a court upon complaint of the DOR; licenses. An alcohol beverage license issued under ch. 125, Stats., may be revoked or suspended by a court of record having jurisdiction over the licensed premises upon complaint of an authorized employe of the DOR ***for the same reasons*** that a local governing body may revoke or suspend a license. ***In addition***, the DOR may revoke a license when: (a) the licensee has failed to maintain the standards of sanitation prescribed by the DHSS; or (b) has permitted known criminals or prostitutes to loiter on the licensed premises.

(3) By the DOR; permit. The DOR may revoke, suspend or refuse to renew any retail permit issued by it for the reasons discussed in 1 and 2, above, and any other permit issued by it under ch. 125, Stats., for any violation of ch. 125, Stats., or ch. 139, Stats. (beverage, controlled substances and tobacco taxes) [s. 125.12 (5), Stats.].

b. Act 98

Act 98 provides that a municipality or DOR may also **revoke, suspend or refuse to renew** a person's alcohol beverage license or permit if:

(1) The person has been ***convicted*** of manufacturing or delivering a controlled substance under s. 161.41 (1), Stats.; of possessing, with intent to manufacture or deliver, a controlled substance under s. 161.41 (1m), Stats.; or of possessing, with intent to manufacture or deliver, or of manufacturing or delivering a controlled substance ***under a substantially similar federal law or a substantially similar law of another state***; or

(2) The person ***knowingly allows*** another person, who is on the premises for which the license is issued, to possess, with the intent to manufacture or deliver, or to manufacture or deliver, a controlled substance.

The Act specifies that it is not employment discrimination under the Fair Employment Act because of conviction record to revoke, suspend or refuse to renew a license or permit under ch. 125, Stats. (the alcohol beverage laws), if the person holding or applying for the license or permit has been convicted of one or more of the offenses described above.

D. PROVISIONS RELATING TO CHANGES IN THE CHILDREN'S CODE

1. Waiver of Children Age 14 or Older to Adult Court: Additional Offenses

a. Background

Under the law prior to Act 98, a child ***could*** be tried in a court of general civil and criminal jurisdiction (adult court) after the juvenile court has waived its jurisdiction over the child only if: (1) the child is alleged to have committed first-degree intentional homicide or first-degree reckless

homicide on or after the child's ***14th birthday***; or (2) the child is alleged to have violated any ***state*** criminal law on or after the child's ***16th birthday***.

Current law specifies that the juvenile court may waive its jurisdiction only after a hearing at which the judge finds "prosecutive merit," that is, reasonable grounds to believe that the child has committed the offense charged and that it would be contrary to the best interests of the child or of the public to proceed in juvenile court based on such criteria as the personality and prior record of the child, the seriousness of the alleged offense and the adequacy of the treatment available for the child in the juvenile justice system. After a juvenile court waives its jurisdiction over a child, the child may be tried in a court of criminal jurisdiction (adult court) [s. 48.18, Stats.].

b. Act 98

Act 98 authorizes a juvenile court to waive its jurisdiction and transfer to the adult court system a child who, on or after the child's **14th** birthday, is alleged to have committed any of the following offenses:

(1) ***Attempted*** first-degree intentional homicide;

(2) First-degree intentional homicide;

(3) Second-degree intentional homicide;

(4) Second-degree reckless homicide;

(5) First-degree sexual assault;

(6) Kidnapping;

(7) Taking hostages;

(8) Actual drug manufacturing or delivery (but not for drug possession with intent to manufacture or deliver);

(9) Armed burglary; or

(10) A violation committed at the request of, or for the benefit of, a criminal gang that would constitute a felony under ch. 161, Stats. (the Controlled Substances Act) or under the Criminal Code [chs. 939 to 948, Stats.] if committed by an adult. Refer to Section B, 1, above, for the definition of "criminal gang."

2. Waiver Criteria: Consideration of Prior Waiver or Conviction

a. Background

Under ***current law***, in order to waive its jurisdiction, a juvenile court must first determine whether there are reasonable grounds to believe that the child committed the offense. In addition, a juvenile court must base its decision to waive its jurisdiction on the following criteria:

(1) The personality and prior record of the child, including any prior delinquency adjudications;

(2) The type and seriousness of the alleged offense;

(3) The adequacy of the services available for treatment of the child and the protection of the public within the juvenile justice system; and

(4) The desirability of trial and disposition of the entire offense in one court if the child was allegedly associated in the offense with adults who will be charged in adult criminal court.

Under the law prior to Act 98, the juvenile court was not specifically required to consider a previous waiver of the child into adult court in deciding whether or not to waive the child into adult court on a subsequent alleged offense [s. 48.18 (5), Stats.].

b. Act 98

Act 98 modifies current law to expand the criteria which a judge must consider when deciding whether or not to waive a child into adult court to also include:

(1) Whether the court has ***previously waived its jurisdiction*** over the child; and

(2) Whether the child has been ***previously convicted following a waiver*** of the court's jurisdiction.

3. Battery or Assault While in a Secured Juvenile Correctional Facility: Original Jurisdiction in Adult Court

a. Background

See discussion of the law on waiver in item 1, above.

b. Act 98

Act 98 grants ***original jurisdiction*** (i.e., the child does not go through the waiver procedure in juvenile court) over a child who is accused of committing battery under s. 940.20 (1), Stats. (battery by prisoners), or aggravated assault under s. 946.43, Stats. (assaults by prisoners), while

placed in a secured juvenile correctional facility ***to a court of criminal jurisdiction*** (adult court). Under the Act, a child who is accused of committing battery or aggravated assault while placed in a secured juvenile correctional facility is subject to the procedures specified in the Criminal Procedure Code and to adult sentencing [chs. 967 to 979, Stats.], ***unless the adult court of criminal jurisdiction transfers jurisdiction over the child to the juvenile court.***

Under the Act, if an adult court finds probable cause at a preliminary hearing to believe that a child has committed battery or aggravated assault while placed in a secured juvenile correctional facility, the adult court ***must retain jurisdiction*** over that child ***unless the adult court finds that***:

(1) If convicted, the child could not receive adequate treatment in the criminal justice system.

(2) Transferring jurisdiction to the juvenile court would not depreciate the seriousness of the offense.

(3) Retaining jurisdiction is not necessary to deter the child or other children from committing battery or aggravated assault or "other similar offenses," while placed in a secured juvenile correctional facility.

If, at the preliminary hearing, the adult court does not find probable cause to believe that the child has committed battery or aggravated assault at the facility, the court must order that the child be discharged. However, proceedings may then be brought regarding the child under the Children's Code (e.g., a delinquency petition).

4. Battery or Assault While in a Secured Juvenile Correctional Facility: Presumptive Minimum Imprisonment

a. Background

Under current law, ***presumptive minimum sentences*** are provided for certain crimes or for crimes committed under certain circumstances. For example, under current law, a person who commits a felony while possessing, using or threatening to use a dangerous weapon is subject to a minimum term of imprisonment, but the adult court may impose probation or a lesser sentence if the court states its reasons for doing so on the record [s. 939.63, Stats.]. The discretion given to the court to deviate from the minimum imprisonment term makes this a presumptive minimum sentence, rather than a mandatory minimum sentence.

b. Act 98

Act 98 requires an adult court to sentence a person who is convicted of ***battery*** under s. 940.20 (1), Stats., while placed in a secured juvenile correctional facility to ***not less than three years*** of imprisonment and to sentence a person who is convicted of ***aggravated assault*** under s. 946.43, Stats., while placed in a secured juvenile correctional facility to ***not less than five years***

of imprisonment. An adult court ***may*** impose ***probation or a lesser sentence*** only if the adult court finds all of the following:

(1) That placing the person on probation or imposing a lesser sentence would not depreciate the seriousness of the offense; and

(2) That imposing the applicable presumptive minimum sentence under the Act is not necessary to deter the person or other persons from committing battery, aggravated assault or other similar offenses, while placed in a secured juvenile correctional facility. The court must place these findings of fact ***on the record.***

5. Battery or Assault While in a Secured Juvenile Correctional Facility: Extended Juvenile Court Jurisdiction

a. Background

Current law provides that the juvenile court must enter an order extending its jurisdiction over a person until the person reaches ***21*** or ***25*** years of age, ***unless*** the person is discharged sooner, if:

(1) The person committed first-degree intentional homicide [s. 940.01], second-degree intentional homicide [s. 940.05], first-degree reckless homicide [s. 940.02], physical abuse of a child [s. 948.03], causing mental harm to a child [s. 948.04], mayhem [s. 940.21] or first-degree sexual assault [s. 940.225 (1)] and the person was adjudicated delinquent on that basis; and

(2) The person has been transferred to the legal custody of the DHSS for placement in a secured correctional facility.

If the person committed ***first-degree intentional homicide***, the juvenile court must enter an order extending its jurisdiction over the person until the person reaches ***25 years*** of age ***unless*** the person is discharged sooner. If the person committed ***any of the other crimes specified above***, the juvenile court must enter an order extending its jurisdiction over the person until the person reaches ***21 years*** of age ***unless*** the person is discharged sooner [s. 48.366, Stats.].

b. Act 98

Act 98 requires a juvenile court to extend its jurisdiction over a person until the person reaches ***21 years of age***, unless the person is discharged sooner, if the person is adjudicated delinquent following transfer of jurisdiction from an adult court for committing ***battery*** under s. 940.20 (1), Stats., or ***aggravated assault*** under s. 946.43, Stats., while placed in a secured juvenile correctional facility.

6. Holding a Child in Custody in Secure Detention

a. Background

Under current law, a child of any age may be taken into custody under the Children's Code and, under certain circumstances, a child 14 years of age or older may be taken into custody under authority found outside the Children's Code. Under current law, no child who has been taken into custody under the Children's Code may be held in a ***secure detention facility*** unless various criteria for holding the child in secure detention are met and the child is interviewed by an intake worker. A child may, however, be held temporarily in a secure detention facility while the intake worker is en route to the interview [ss. 48.067 and 48.208, Stats.].

b. Act 98

Act 98 provides that if a child meets the criteria for holding a child in secure detention, the intake worker, after consulting by telephone with the law enforcement officer who took the child into custody, may authorize the secure holding of the child, without an intake interview, until ***8:00 a.m.*** of the day following the night on which the child was taken into custody.

7. Limitation on Judge Substitution in Certain Juvenile Proceedings

a. Background

Under current law, in a proceeding under s. 48.12, Stats. (delinquency proceeding) or 48.13 (12), Stats. ("child in need of protection or services" proceeding as a result of a child under 12 years of age committing a delinquent act), only the child may request a substitution of the judge. Whenever any person has the right to request a substitution of judge, that person's counsel or guardian ad litem may file the request. Not more than one such written request may be filed in any one proceeding, nor may any single request name more than one judge [s. 48.29 (1), Stats.].

b. Act 98

Act 98 provides that a child may ***not*** request the substitution of a judge in a juvenile delinquency proceeding or in a "child in need of protection or services" proceeding based on a child under 12 years of age committing a delinquent act ***within one year*** after the entry of a dispositional order in another juvenile proceeding under ch. 48, Stats., in which the child requested the substitution of a judge.

8. Corrective Sanctions Program (Created by 1993 Wisconsin Act 16)

a. Background

Under current law (created by 1993 Wisconsin Act 16), beginning on April 1, 1994, DHSS is required to administer a **corrective sanctions pilot program** to serve an average daily population of 20 children who have been adjudicated delinquent, placed in a secured correctional facility and selected by the Juvenile Offender Review Program (JORP) in DHSS to participate in the pilot program. Under current law, beginning on July 1, 1994, DHSS is required to administer a corrective sanctions program in three counties, including Milwaukee County, to serve an average daily population of 60 children who have been adjudicated delinquent, placed in a secured correctional facility and selected by JORP to participate in the program. Under both the pilot program and the permanent program, DHSS must place a participant in the community under **intensive surveillance**, which may include electronic monitoring, and must provide an average of $5,000 per year per participant for the purchase of community-based treatment services. Under both the pilot program and the permanent program, a participant remains in the legal custody of DHSS and subject to the rules and discipline of DHSS, may be returned to a secured correctional facility for up to 72 hours without a hearing as a sanction for violating a condition of the child's participation in the pilot program or permanent program and is considered to have escaped from secure custody if the child runs away from his or her placement in the community under the pilot program or permanent program.

Current law created by Act 16 also provides for an **intensive supervision program** that is similar to the corrective sanctions program under current law, except that county departments, rather than DHSS, administer the intensive supervision program.

b. Act 98

Act 98 provides $100,000 GPR in 1993-95 for DHSS to award grants to counties to operate **county intensive supervision** programs (i.e., local corrective sanctions programs).

9. Intensive Aftercare Grants

a. Background

Juvenile aftercare is comparable to the adult parole system, providing supervision, services and programs after release of a child from a facility or institution.

The Intensive Aftercare Pilot Program was created by 1989 Wisconsin Act 122. Under the pilot program, DHSS provided grants to five intensive aftercare programs operating in Vilas, Oneida, Waukesha, Kenosha, Racine and Rock Counties. Vilas and Oneida Counties operated a joint program. Funding for the pilot program was eliminated by 1993 Wisconsin Act 16, the 1993-95 Biennial Budget Act. ***The pilot program terminated on June 30, 1993.***

b. Act 98

(1) Funding; Selection of Grant Recipients

Act 98 reinstates the intensive aftercare program and provides $100,000 GPR in 1993-94 and $200,000 GPR in 1994-95 for grants to counties to operate intensive aftercare programs. The Act specifies that: (a) no county may receive more than $75,000 GPR each calendar year; (b) each county must provide matching funds equal to 25% of the amount awarded under the grant from sources other than funding from the intensive aftercare grant; and (c) counties which were operating intensive aftercare programs on January 1, 1993 under the intensive aftercare pilot program must receive preference in the award of grants.

(2) Program Requirements

Under the program, counties receiving grants are required to: (a) appoint a case manager to meet with a child placed in a child-caring institution or a secured juvenile correctional facility to develop an aftercare plan to be implemented upon the child's release to the community; (b) provide all delinquent children who are released from a child-caring institution or a secured juvenile correctional facility with at least one face-to-face supervisory contact per day for a period of not less than 60 days; and (c) provide intensive aftercare services to children in the program for not less than 90 days, including tutoring and educational services, vocational training, AODA treatment and education, family counseling, employment services, recreational opportunities and assistance with independent living arrangements.

10. Creation of Juvenile Boot Camp Program

a. Background

Under current law (1993 Wisconsin Act 16), DHSS is required to study residential boot camp and wilderness challenge programs for juvenile offenders and submit a plan by August 31, 1994, to the Joint Committee on Finance for the establishment of a boot camp and wilderness challenge program for juvenile offenders to be operated or contracted for by DHSS.

b. Act 98

(1) Design and Purpose of the Program

Act 98 requires the DHSS to provide a juvenile boot camp program for children.

(2) Program Eligibility

Under Act 98, the DHSS may place in the juvenile boot camp program any child whose legal custody has been transferred to the DHSS under s. 48.34 (4m), Stats., for placement in a secured juvenile correctional facility.

(3) Funding; Cost of Operation; Daily Rate

Act 98 provides $624,000 GPR in 1994-95 in the youth aids appropriation and $3,000,000 in GPR-supported bonding for DHSS to establish a boot camp program for juvenile offenders. In addition, the Act increases the expenditure authority in the juvenile correctional institutions appropriation by $624,000 program revenue (PR) in 1994-95, with the increased funding placed in unallotted reserve, subject to release by the Department of Administration (DOA), for the operating costs of the boot camp.

The Act also establishes a new daily rate for the juvenile correctional facilities. The new rate, applicable only for the first six months of calendar year 1995, is ***$118.60*** per day. Under current law, the daily rates charged by the juvenile correctional facilities are: (a) $108.12 per day for calendar year 1994; and (b) ***$114.42*** per day for the first six months of calendar year 1995. The calendar year 1994 rate is unchanged by Act 98.

11. Electronic Monitoring of Juveniles

a. Background

Under current law, counties may electronically monitor children who are adjudicated delinquent and placed in a local intensive supervision program.

b. Act 98

Act 98 authorizes a juvenile court to order electronic monitoring of a child under certain situations, including:

(1) Pre-disposition monitoring of a child who would otherwise be kept in physical custody;

(2) Monitoring of a delinquent child who is placed under house arrest, in an out-of-home placement or in a supervised independent living situation; and

(3) Monitoring of a child who is placed on house arrest as a sanction for violating a delinquency disposition.

12. Juvenile Forfeitures

a. Background

Under the law prior to Act 98, the maximum amount a child could be ordered to forfeit for violating a civil law or municipal ordinance was $25. Similarly, a juvenile court could impose a maximum forfeiture of $50 upon a child adjudicated delinquent, except that the court could raise the maximum amount of the forfeiture by $50 for every subsequent adjudication of delinquency concerning the juvenile. As continued under Act 98, current law specifies if a child fails to pay

a forfeiture ordered for a delinquency disposition or for a violation of a civil law or municipal ordinance, the court may suspend the child's hunting or fishing license or the child's driver's license for not less than 30 days and not more than 90 days [ss. 48.34 (8) and 48.343 (2), Stats.].

b. Act 98

Act 98 increases the maximum forfeiture that a ***municipal court*** may order a child who has violated a civil law or a municipal ordinance to pay from ***$25*** to ***the maximum amount that an adult may be ordered to forfeit for committing that violation.*** In addition, the Act increases the maximum forfeiture that a ***juvenile court*** may impose on a child adjudicated delinquent from ***$50*** to the ***maximum amount that an adult may be fined for committing that violation.*** As under current law, the municipal or juvenile court must: (1) find that the child alone can pay the forfeiture; and (2) allow the child up to 12 months for payment of the forfeiture.

13. Combination of Restitution With Certain Other Dispositions

Under ***current law***, restitution may be provided only as an **alternative** to certain other disposition options. For example, under s. 48.34, Stats., which sets forth the dispositions that may be imposed on a child adjudicated delinquent, a disposition may not combine the payment of a forfeiture with the payment of restitution or the repair of damage to property [ss. 48.32 (1) and (1t) and 48.34 (intro.) and (5), Stats.].

Act 98 modifies the combinations of juvenile delinquency dispositions provided under current law to allow the payment of restitution or the repair of damage to property to be **combined** with other dispositions imposed on children alleged to have committed a delinquent act or adjudicated delinquent as follows:

a. Consent decree. For purposes of a consent decree for a child who is ***alleged*** to have committed a misdemeanor offense, the Act would authorize the court to require the child to make reasonable restitution, repair damage to property and/or participate in a supervised work or community service program in addition to other disposition options provided under current law.

b. Disposition of child adjudicated delinquent. For a child who has been adjudicated delinquent and required to pay a forfeiture, a judge is authorized to require the child to make reasonable restitution or to repair damage to property, if the child committed an act that resulted in damage to the property of another person or in physical injury to another person.

14. Dispositions Available if Informal Disposition

Act 98 clarifies that an informal disposition of a matter involving a child under ch. 48, Stats., may include ***one or more***, rather than "any," of the seven options available for informal disposition provided under current s. 48.245 (2) (a), Stats.

15. Age at Which Child May be Issued a Citation for Municipal Ordinance or Civil Law Violations

Under the law prior to Act 98, a child aged ***14 or older*** who violated a civil law or municipal ordinance could be issued a citation [s. 48.17 (2) (b) (intro.), Stats.].

Act 98 ***reduces*** the age at which a child may be issued a citation for violating a civil law or municipal ordinance from age 14 to ***age 12***.

16. Contempt of Court for Certain Juvenile Offenders

a. Background

Under current law, any child who is adjudicated delinquent and who violates a condition of a dispositional order may be subject to the following sanctions: (1) placement in a secure detention facility for up to 10 days; (2) suspension or limitation of the child's driver's license for up to 90 days; (3) home detention for not more than 20 days; and (4) not more than 25 hours of uncompensated community service in a supervised work program [s. 48.355, Stats.].

b. Act 98

Under Act 98, if a child adjudicated delinquent commits a ***second or subsequent*** violation of a ***condition*** specified in the juvenile's dispositional order, a district attorney ***may*** file a delinquency petition charging the child with contempt of court and reciting the disposition under s. 48.34, Stats. (the delinquency dispositions under the Children's Code) sought to be imposed. In addition, the Act permits the juvenile court judge who imposed the condition that the child is alleged to have violated to request that the district attorney bring a motion charging the child with contempt of court. If that judge does request a motion charging a child with contempt of court for allegedly violating a condition of a dispositional order, he or she is disqualified from holding any hearing on the contempt petition.

Under the Act, a juvenile court is authorized to find a child in contempt of court only if the court finds that: (1) the child was previously sanctioned for violating a condition of the juvenile's dispositional order; (2) the child, subsequent to that sanction, committed another violation of a condition of the dispositional order; (3) the court, at the sanction hearing, explained the conditions of the dispositional order to the child and informed the child of a possible finding of contempt and the possible consequences of that contempt; (4) the violation is egregious; and (5) the court has considered less restrictive alternatives and found them to be ineffective.

The Act authorizes a juvenile court, if it finds a child in contempt of court for a second or subsequent violation of a delinquency dispositional order, ***to order a disposition that is available for a delinquent under s. 48.34, Stats. (delinquency dispositions under the Children's Code).***

17. Reimbursement of Legal Counsel Costs for Juvenile Cases

The Act modifies the requirement in prior s. 48.275 (2) (a), Stats., for reimbursement by a parent or guardian of legal counsel costs provided by the state or county in juvenile cases to: (a) require that reimbursement be ordered by a court and not, as under current law, be ordered only if the juvenile court or the district attorney moves such an order; and (b) specify that the court may not order reimbursement until the proceeding is complete or until the state or county is no longer providing the child with legal counsel in the proceedings. Under ***prior law***, the court could not order reimbursement until after the child is found delinquent, in need of protective services or all juvenile court proceedings are complete. Current provisions prohibiting reimbursement if the parent is the complaining party or if such reimbursement would be unfair are retained in the Act.

The Act also requires the clerk of court in each county to report to the State Public Defender, within 30 days after each calendar quarter, the total amount of reimbursement determined or ordered for state-provided counsel during the previous calendar quarter and the total amount collected for reimbursement of state-provided counsel costs during the previous quarter. The reporting requirement first applies to amounts ordered and collected during the calendar quarter ending ***December 31, 1993***.

18. Victim Attendance at Juvenile Court Hearings

a. Background

Under current law, the victim of a child's act has ***"the right to attend"*** a ***fact-finding hearing*** before a juvenile court and hearings before a municipal court relating to the alleged act, except that a judge may exclude the victim from any portion of a hearing that deals with sensitive personal matters of the child or the child's family and which is not directly related to the alleged act against the victim [s. 48.299 (1) (am), Stats.].

b. Act 98

Act 98 also ***permits*** the victim of an act for which a child is adjudicated delinquent to attend a ***dispositional hearing*** before the juvenile court relating to that act, subject to the same restrictions as under current law for attendance at a fact-finding hearing. The Act also:

(1) Notice. ***Requires*** a juvenile court or a municipal court to provide notice to any victim or alleged victim of a child's act or alleged act of any hearing that the victim or alleged victim is entitled to attend.

(2) Statements by victim and others at disposition. ***Requires*** a juvenile court to allow a victim of a delinquent act that would be a ***felony*** if committed by an adult or a family member of a homicide victim to make a statement (or to submit a written statement to be read to the court) to the juvenile court before the juvenile court imposes a disposition. The Act: (a) ***permits*** the

court to allow ***any other person*** to make or submit a statement; and (b) specifies that any statement must be ***relevant to the disposition.***

After a delinquency or a CHIPS finding (CHIPS is an acronym for "children in need of protection and services") based on a violation that would be a felony if committed by an adult, the district attorney or corporation counsel must attempt to contact any known victim or family member of a homicide victim to inform that person of the right to make such a statement. The district attorney or corporation counsel may mail ***a letter*** or ***form*** to comply with this requirement. Any failure to comply with this requirement is ***not*** a ground for an appeal of a dispositional order or for any court to reverse or modify a dispositional order.

These provisions ***first*** apply to acts committed by a child on the general effective date of the Act (i.e., December 25, 1993).

19. Juvenile Court Records: Confidential Information

Act 98:

a. Authorizes a law enforcement agency to request to review juvenile court records for the purpose of investigating a crime that may fall within a pattern of criminal gang activity.

b. Requires a juvenile court to open for inspection its records relating to any child who has been found to have committed a gang-related delinquent act that would have been a felony had it been committed by an adult. Under ***current law***, in general, juvenile court records are not open for inspection nor are their contents disclosed except by order of the juvenile court [s. 48.396, Stats.].

c. If a child is adjudicated delinquent for a gang-related felony offense, requires the juvenile court to notify the principal of a child's school and the school board of the district in which the child is enrolled of the fact that the child has been adjudicated delinquent on that basis. Under ***prior law***, the juvenile court could only notify the school board of the fact that the child was adjudicated delinquent. Information on the nature of the juvenile's offense could not be disclosed [s. 48.396 (7), Stats.].

d. Eliminates the right of the parents of a child adjudicated delinquent to object to the release to the school board of the district in which the child is enrolled of the fact that the child has been adjudicated delinquent. Under ***prior law***, the parents may submit a written objection to the release of such information to the school board [s. 48.396 (7) (a), Stats.].

e. Clarifies that, although information obtained by juvenile intake workers and disposition workers in the course of providing intake and disposition services to juveniles is not privileged, such information is subject to the confidentiality and disclosure provisions contained in the Children's Code. Under current law, with few exceptions, information obtained by certain health care providers and social workers in the course of a patient's diagnosis or treatment is privileged and the patient may prevent that information from being disclosed in a court of law or an

administrative hearing. Under the Children's Code, specific confidentiality and disclosure provisions are provided for records of juveniles [s. 48.396, Stats.].

20. Availability of Counseling: Juvenile Intake Worker Requirement

a. Background

Under current law, when a juvenile intake worker receives information indicating that a child should be referred to the juvenile court as delinquent, in need of protection or services or in violation of a civil law or municipal ordinance, the juvenile intake worker must conduct an intake inquiry to determine whether the available facts establish prima facie jurisdiction and to determine the best interests of the child and of the public with regard to any action that may be taken. As part of the intake inquiry, the juvenile intake worker may conduct multidisciplinary screens and intake conferences with notice to the child and the child's parent, guardian and legal custodian [s. 48.24, Stats.].

b. Act 98

Act 98 requires the juvenile intake worker, as part of the intake inquiry, to inform the child and the child's parent, guardian and legal custodian that they may request **counseling** from the staff of the agency that is responsible for providing dispositional services for the juvenile court. The Act also requires the disposition staff to offer individual counseling.

21. Continuance of Dispositional Orders Where Extension Hearing is Delayed

In addition to the ***current 30-day grace period*** following the expiration of a dispositional order during which a juvenile court may extend the order [s. 48.365 (6), Stats.], the Act allows the court to grant a continuance for any period of delay resulting from the inability of the court to provide notice to a child of an extension hearing due to the child having run away or otherwise being unavailable for notice.

E. PROVISIONS RELATING TO CHANGES IN THE CRIMINAL CODE AND EVIDENCE AND PROCEDURE IN CRIMINAL ACTIONS

1. Increased Penalties for Providing Guns to Children

Act 98 increases penalties under s. 948.60 (2), Stats., for people convicted of selling or giving certain dangerous weapons (firearms, electric weapons, brass knuckles and a number of other weapons) to children as follows:

a. The selling, loaning or giving of dangerous weapons to a child, which was a ***Class A misdemeanor*** (punishable by a fine not to exceed $10,000 or imprisonment not to exceed nine

months, or both), is increased to a ***Class E felony*** (punishable by a fine not to exceed $10,000 or imprisonment not to exceed two years, or both).

b. If a person provides a child with a dangerous weapon, ***and*** the child discharges the firearm and causes death to himself, herself or another, the person who provided the weapon is guilty of a ***Class D felony*** (punishable by a fine not to exceed $10,000 or imprisonment not to exceed five years, or both), instead of a ***Class E felony*** as under prior law.

The Act does not affect the various current exemptions to these prohibitions relating to authorized hunting and supervised target practice.

2. Prohibition Against Armor-Piercing Bullets

Act 98 creates a ***Class E felony*** (punishable by a fine not to exceed $10,000 or imprisonment not to exceed two years, or both) for the commission of a crime with a handgun loaded with armor-piercing bullets that may be fired with a muzzle velocity of 1,500 feet per second or greater, or while in the possession of armor-piercing bullets that could be fired from a handgun (as defined in current s. 175.35 (1) (b), Stats.). "Armor-piercing bullets" are defined as those fired from any handgun that are constructed entirely from one or a combination of the following: tungsten alloy; steel; iron; brass; bronze; beryllium copper or depleted uranium.

This new provision applies to drug crimes [ch. 161, Stats.] and most Criminal Code violations (i.e., all except those crimes in ch. 951, Stats., crimes against animals). The Act requires that any sentence imposed for using armor-piercing bullets be imposed ***consecutive*** to any previous or current sentence.

3. Attempt to Disarm a Peace Officer

a. Background

(1) Attempt to Commit a Crime; Penalty

Under current law, with certain exceptions, a person who is convicted of attempting to commit a felony may be fined or imprisoned up to one-half of the penalty for the completed crime. The felony crime of disarming a peace officer is punishable by a fine of not more than $10,000 or imprisonment for not more than two years, or both. Under the law prior to Act 98, therefore, an attempt to disarm a peace officer was punishable by a fine of not more than $5,000 or imprisonment for not more than one year, or both [s. 939.32, Stats.].

In addition to specific offenses set forth in s. 939.32 for attempt, it should be noted that ***some crimes have penalty provisions for attempts included within the substantive statutes themselves.*** For example, s. 943.45, relating to obtaining telecommunications services by fraud, provides that the penalties apply if the fraudulent charges for services are obtained or ***are attempted to be obtained.***

Under current law, an attempt to commit a crime (i.e., a felony or a misdemeanor) requires that:

(a) The actor have an intent to perform acts and attain a result which, if accomplished, would constitute such crime; and

(b) He or she does acts towards the commission of the crime which demonstrate unequivocally, under all of the circumstances, that he or she formed that intent and would commit the crime except for the intervention of another person or some other extraneous factor [s. 939.32 (3), Stats.].

(2) Disarming a Peace Officer

Under prior law, whoever intentionally disarmed a peace officer who was acting in his or her official capacity by taking a firearm from the officer without his or her consent was guilty of a ***Class E felony*** (punishable by a fine not to exceed $10,000 or imprisonment not to exceed two years, or both). This prohibition applied to any firearm which the officer is carrying or which is in an area within the officer's immediate presence [s. 941.21, Stats.]. For purposes of the Criminal Code (i.e., chs. 939 to 951, Stats.), "peace officer" is defined to mean any person vested by law with a duty to maintain public order to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes [s. 939.22 (22), Stats.].

b. Act 98

Act 98:

(1) Increases the penalties for attempting to disarm a peace officer by making them ***the same as for the completed crime*** (i.e., a Class E felony, punishable by a fine not to exceed $10,000 or imprisonment not to exceed two years, or both).

(2) Broadens the coverage of the crime to apply to the taking of ***any dangerous weapon*** from the officer. For purposes of the entire Criminal Code, "dangerous weapon" is defined to mean any firearm, whether loaded or unloaded; any device designed as a weapon and capable of producing death or great bodily harm; any electric weapon, as defined in s. 941.295 (4), Stats.; or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm [s. 939.22 (10), Stats.].

4. Terrorism Penalty Enhancer

Act 98 creates a "terrorism" penalty enhancer that increases any fine by ***up to $50,000*** and a term of imprisonment ***by not more than 10 years*** for certain acts of terrorism. The penalty enhancement applies only if ***all of the following*** conditions are met:

a. The crime committed is a felony under the Criminal Code.

b. The felony: (1) causes bodily harm, great bodily harm or death to another; (2) causes damage to the property of another and the total property damaged is reduced in value by $25,000 or more; ***or*** (3) involves the use of force or violence or threat of force or violence.

c. The felony is committed with the intent to influence the policy of any governmental unit (federal, state or local) or punish a governmental unit for a prior policy decision.

The court or jury is required to find a special verdict that all of the above criteria are met in order for the enhancement to apply.

The Act specifies that the penalty enhancer does not apply to conduct arising out of or in connection with a "labor dispute" (which is defined in the Act).

5. Evidence in Criminal Actions: Videotaped Statements of Children and Use of Recorded Communications

Act 98:

a. Videotaped statements of children. Eliminates a provision in prior law that allowed a party in a court proceeding to call a child, who had testified on videotape for a preliminary examination in a felony case, to appear for cross-examination in the preliminary hearing if the party submitting the videotaped statement did not call the child to testify. Under ***prior law***, if a party submitted a videotaped statement and did not call the child to appear, the other party had the option of calling the child to appear for cross-examination [s. 908.08 (5), Stats.].

b. Use of recorded communications. Expands the authorized use of one-party consent recordings to include ***solicitation or conspiracy to commit a felony***. Under ***prior law***, a recorded communication, where one-party consents to the recording, may be disclosed only in court proceedings for ***dangerous drug felony cases*** [s. 968.29 (3) (b), Stats.]. For example, if a police informant consented to wearing a bug or being wiretapped, the recordings could currently be used in a drug prosecution and, under the Act, also in a case charging the solicitation or conspiracy to commit a felony.

6. Confinement of Grand Jury Witness for Refusal to Give Testimony or Failure to Appear

Act 98 eliminates the provision in s. 972.08 (3), Stats., that limited confinement of a grand jury witness to a single offense for refusal or failure to give testimony. Under ***prior law***, if a witness at a trial or a grand jury or John Doe investigation refused or failed to give testimony, without cause, the court could order the person confined until he or she agrees to testify or until the court proceeding is over. However, the witness could not be confined for more than one separate refusal or failure to appear before a grand jury. Act 98, by deleting s. 972.08 (3), Stats., allows confinement for each refusal or failure to appear before a grand jury, though the current one-year maximum confinement period is retained.

F. PROVISIONS RELATING TO LAW ENFORCEMENT OFFICERS

1. Authority of Peace Officers to Make Arrests or Render Assistance

a. Background

Under current law, with certain exceptions, peace officers generally do not have authority to act outside of their territorial jurisdictions. "Peace officer" is defined to mean any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes. One exception to the current law on peace officers acting outside of their territorial jurisdiction specifies that, for purposes of civil and criminal liability, any peace officer may, when in ***fresh pursuit***, follow a suspected offender anywhere in the state and arrest the person for violation of any law or ordinance the officer is authorized to enforce [s. 175.40 (1) (c) and (2), Stats.].

b. Act 98

Act 98 provides for another exception, specifying that a peace officer outside of his or her territorial jurisdiction may arrest a person or provide aid or assistance anywhere in the state if the criteria under items a to c, below, are met:

(1) The officer is in ***uniform***, on **duty** and on ***official business***. If the officer is using a vehicle, that vehicle is a ***marked*** police vehicle.

(2) The officer is taking action that he or she would be authorized to take under the same circumstances in his or her territorial jurisdiction.

(3) The officer is acting to respond to ***any*** of the following:

(a) An ***emergency situation*** that poses a significant threat to life or of bodily harm.

(b) Acts that the officer believes, on reasonable grounds, constitute a felony.

The Act provides that a peace officer specified in this new exception has the additional arrest and other authority ***only if the peace officer's supervisory agency has adopted policies and the officer complies with those policies***. The Act specifies that in order to allow a peace officer to exercise authority under the new exception, the peace officer's supervisory agency must adopt and implement written policies regarding the arrests and other authority under this new exception, including at least a policy on notification to and cooperation with the law enforcement agency of another jurisdiction regarding arrest made and other actions taken in the other jurisdiction.

The Act specifies that for purposes of civil and criminal liability, any peace officer outside of his or her territorial jurisdiction acting under the new exception is considered to be acting in an official capacity.

The Act, if enacted into law, ***first applies*** to acts by peace officers on the general effective date of the new law (i.e., December 25, 1993).

2. Law Enforcement Access to DOC Records

a. Background

Under the current Open Records Law in subch. II of ch. 19, Stats., any person generally has the right to inspect and copy a public record, unless access to the record is specifically limited or prohibited by law or unless the custodian of the record demonstrates that the public interest in nondisclosure outweighs the strong public interest in providing access [s. 19.36, Stats.].

b. Act 98

Act 98 provides that the DOC ***must*** give a law enforcement officer access to DOC records pertaining to probationers, parolees, intensive sanctions participants under s. 301.048, Stats., and community residential confinement prisoners [s. 301.046, Stats.] ***who are residing or planning to reside in the officer's territorial jurisdiction.*** "Law enforcement officer" is defined to mean any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce. "Records" has the meaning given in the Open Records Law (i.e., the definition in s. 19.32 (2), Stats.).

3. Offender Release Information; Computer Software

Act 98 requires the DOC to obtain computer software and use the software to provide local law enforcement agencies with information regarding prisoners who have been released to or placed in the agencies' jurisdictions. The Act appropriates ***$50,000*** GPR for this purpose.

G. TASK FORCE ON CHILDREN AND FAMILIES

Act 98 requires the Secretary of DHSS to establish a committee to be known as the ***Task Force on Improving Services to Children and Families*** ("Task Force"). The Act specifies that:

1. Members. The Secretary of DHSS or a designee will chair the Task Force and the members of the Task Force will be the State Superintendent of Public Instruction, the Administrators of the Divisions of Community Services, Economic Support, Health and Youth Services in DHSS and the Administrator of the Division of Handicapped Children and Pupil Services in the DPI, or their designees.

2. Recommendations to Governor. By ***October 1, 1994***, the Task Force must submit recommendations to the Governor on how to: (a) improve state programs that support collaboration between schools and social services agencies by using existing resources; (b) coordinate state agency

operations to reduce barriers to collaboration between schools and social services agencies; and (c) deliver services efficiently to children and families by reducing duplication of effort.

3. Report to Governor and Legislature. By ***January 1, 1995***, the Task Force must submit a ***report*** to the Governor and the Legislature that: (a) describes the barriers to collaboration between school and social services agencies in serving children and families; (b) analyzes the need for federal waivers and state law revisions that would enable increased collaboration between schools and social services agencies in serving children and families; and (c) identifies programs and funding sources that serve children and families.

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