



1997 SENATE BILL 26

January 28, 1997 - Introduced by Senators PLACHE, BUETTNER and MOEN, cosponsored by Representatives LADWIG, TURNER, J. LEHMAN, KRUSICK, OLSEN and PLALE. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

1 **AN ACT to repeal** 118.163 (1) (b) 2.; **to renumber** 118.125 (2) (c); **to renumber**
2 **and amend** 118.163 (2m) and 938.342 (1); **to consolidate, renumber and**
3 **amend** 118.163 (1) (b) (intro.) and 1.; **to amend** 103.72 (2), 118.163 (2) (a),
4 118.163 (2) (b), 118.163 (2) (d), 118.163 (2) (f), 895.035 (2m) (b), 938.17 (2) (g),
5 938.342 (1m) (a), 938.342 (1m) (b), 938.342 (2) (a), 938.342 (2) (b) and 938.355
6 (6m) (a); **to repeal and recreate** 118.163 (3); and **to create** 59.56 (8), 118.125
7 (2) (c) 2., 118.163 (1) (c), 118.163 (1) (d), 118.163 (1m), 118.163 (2) (g) to (j),
8 118.163 (2m) (b), 118.163 (4), 938.342 (1d), 938.342 (1g) (g) to (j) and 938.342
9 (1m) (am) of the statutes; **relating to:** ordinances that prohibit truancy and
10 habitual truancy and authorize suspension of the operating privilege of a
11 person under 18 years of age if he or she drops out of school.

Analysis by the Legislative Reference Bureau

Under current law, a county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a habitual truant. A habitual truant is a pupil who is absent from school without an acceptable excuse for part or

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all of 5 or more days out of 10 consecutive school days during a school semester, or part or all of 10 or more school days during a school semester.

This bill provides that a habitual truant is a pupil who is absent from school without an acceptable excuse for part or all of 7 or more school days during a semester. The bill also allows an ordinance to specify additional dispositions available to the court, including an order for the person to attend school, a forfeiture of up to \$500, an order placing the person under supervision and any other reasonable conditions, including a curfew.

The bill also authorizes a county, city, village or town to enact an ordinance prohibiting a person under 18 years of age from being a truant. The ordinance must specify the dispositions available to the court, which may include suspension of the person's operating privilege for up to 90 days; an order for the person to participate in counseling, a supervised work program or other community service; an order for the person to attend school; or a forfeiture of up to \$50 plus costs.

Under current law, a town may enact an ordinance prohibiting an adult from contributing to the truancy of a child. Cities and villages may enact such an ordinance under their home rule powers. This bill authorizes a county to enact such an ordinance.

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

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

1 **SECTION 1.** 59.56 (8) of the statutes is created to read:

2 59.56 (8) CONTRIBUTION TO TRUANCY. The board may enact and enforce an
3 ordinance to prohibit conduct that is the same as or similar to that prohibited by s.
4 948.45 and impose a forfeiture for a violation of the ordinance.

5 **SECTION 2.** 103.72 (2) of the statutes is amended to read:

6 103.72 (2) Whenever it appears to the department that a permit has been
7 improperly or illegally issued, or that the physical or moral welfare or school
8 attendance of the minor would be best served by the revocation of the permit or that
9 the failing school performance of the minor would be remedied by the revocation of
10 the permit, the department may immediately, without notice, revoke the permit. The
11 department shall revoke a permit if ordered to do so under s. 938.342 (1) (1g) (e). If

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1 the department revokes a permit, the department shall, by registered mail, notify
2 the person employing the minor and the minor holding the permit of the revocation.
3 Upon receipt of the notice, the employer employing the minor shall immediately
4 return the revoked permit to the department and discontinue the employment of the
5 minor.

6 **SECTION 3.** 118.125 (2) (c) of the statutes is renumbered 118.125 (2) (c) 1.

7 **SECTION 4.** 118.125 (2) (c) 2. of the statutes is created to read:

8 118.125 (2) (c) 2. Names of dropouts shall be provided to a court in response to
9 an order under s. 118.163 (2m) (b).

10 **SECTION 5.** 118.163 (1) (b) (intro.) and 1. of the statutes are consolidated,
11 renumbered 118.163 (1) (b) and amended to read:

12 118.163 (1) (b) "Habitual truant" means a pupil who is absent from school
13 without an acceptable excuse under s. 118.15 for ~~either of the following:~~ 1. Part part
14 or all of ~~5 7~~ or more days ~~out of 10 consecutive days~~ on which school is held during
15 a school semester, including a summer session.

16 **SECTION 6.** 118.163 (1) (b) 2. of the statutes is repealed.

17 **SECTION 7.** 118.163 (1) (c) of the statutes is created to read:

18 118.163 (1) (c) "Operating privilege" has the meaning given in s. 340.01 (40).

19 **SECTION 8.** 118.163 (1) (d) of the statutes is created to read:

20 118.163 (1) (d) "Truant" means a pupil who is absent from school without an
21 acceptable excuse under s. 118.15 for part or all of any day on which school is held,
22 including a summer session.

23 **SECTION 9.** 118.163 (1m) of the statutes is created to read:

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1 118.163 **(1m)** A county, city, village or town may enact an ordinance prohibiting
2 a person under 18 years of age from being a truant. The ordinance shall provide
3 which of the following dispositions are available to the court:

4 (a) Suspension of the person's operating privilege for not less than 30 days nor
5 more than 90 days. The court shall immediately take possession of any suspended
6 license and forward it to the department of transportation together with a notice
7 stating the reason for and the duration of the suspension.

8 (b) An order for the person to participate in counseling or a supervised work
9 program or other community service work as described in s. 938.34 (5g). The costs
10 of any such counseling, supervised work program or other community service work
11 may be assessed against the person, the parents or guardian of the person, or both.

12 (c) An order for the person to attend school.

13 (d) A forfeiture of not more than \$50 plus costs, subject to s. 938.37. All or part
14 of the forfeiture plus costs may be assessed against the person, the parents or
15 guardian of the person, or both.

16 **SECTION 10.** 118.163 (2) (a) of the statutes is amended to read:

17 118.163 **(2)** (a) Suspension of the person's operating privilege, ~~as defined in s.~~
18 ~~340.01 (40),~~ for not less than 30 days nor more than 90 days one year. The court shall
19 immediately take possession of any suspended license and forward it to the
20 department of transportation together with a notice stating the reason for and the
21 duration of the suspension.

22 **SECTION 11.** 118.163 (2) (b) of the statutes, is amended to read:

23 118.163 **(2)** (b) An order for the person to participate in counseling or a
24 supervised work program or other community service work ~~under~~ as described in s.
25 938.34 (5g). The costs of any such counseling, supervised work program or other

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1 community service work may be assessed against the person, the parents or
2 guardian of the person, or both.

3 **SECTION 12.** 118.163 (2) (d) of the statutes is amended to read:

4 118.163 (2) (d) An order for the person to attend an educational program ~~under~~
5 as described in s. 938.34 (7d).

6 **SECTION 13.** 118.163 (2) (f) of the statutes, is amended to read:

7 118.163 (2) (f) An order for the person to be placed in a teen court program as
8 described in s. 938.342 (1) ~~(1g)~~ (f).

9 **SECTION 14.** 118.163 (2) (g) to (j) of the statutes are created to read:

10 118.163 (2) (g) An order for the person to attend school.

11 (h) A forfeiture of not more than \$500 plus costs, subject to s. 938.37. All or part
12 of the forfeiture plus costs may be assessed against the person, the parents or
13 guardian of the person, or both.

14 (i) Any other reasonable conditions consistent with this subsection, including
15 a curfew, restrictions as to going to or remaining on specified premises and
16 restrictions on associating with other children or adults.

17 (j) An order placing the person under formal or informal supervision, as
18 described in s. 938.34 (2), for up to one year.

19 **SECTION 15.** 118.163 (2m) of the statutes is renumbered 118.163 (2m) (a) and
20 amended to read:

21 118.163 (2m) (a) A county, city, village or town may enact an ordinance
22 permitting a court to suspend the operating privilege, ~~as defined in s. 340.01 (40),~~ of
23 a person who is at least 16 years of age but less than 18 years of age and is a dropout.
24 The ordinance shall provide that the court may suspend the person's operating
25 privilege, ~~as defined in s. 340.01 (40),~~ until the person reaches the age of 18. The

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1 court shall immediately take possession of any suspended license and forward it to
2 the department of transportation together with a notice stating the reason for and
3 the duration of the suspension.

4 **SECTION 16.** 118.163 (2m) (b) of the statutes is created to read:

5 118.163 (2m) (b) A court may order a school district to provide to the court a
6 list of all persons who are known to the school district to be dropouts and who reside
7 within the county in which the circuit court is located or the municipality in which
8 the municipal court is located. Upon request, the department of transportation shall
9 assist the court to determine which dropouts have operating privileges.

10 **SECTION 17.** 118.163 (3) of the statutes is repealed and recreated to read:

11 118.163 (3) An ordinance enacted by a county under this section is applicable
12 and may be enforced in that part of any city or village located in the county and in
13 any town located in the county regardless of whether the city, village or town has
14 enacted an ordinance under this section.

15 **SECTION 18.** 118.163 (4) of the statutes is created to read:

16 118.163 (4) A person who is under 17 years of age on the date of disposition is
17 subject to s. 938.342.

18 **SECTION 19.** 895.035 (2m) (b) of the statutes is amended to read:

19 895.035 (2m) (b) If a child fails to pay a forfeiture or costs as ordered by a court
20 assigned to exercise jurisdiction under chs. 48 and 938 or a municipal court or if it
21 appears likely that the child will not pay the forfeiture or costs as ordered, the
22 representative of the public interest under s. 938.09, the agency, as defined in s.
23 938.38 (1) (a), supervising the child or the law enforcement agency that issued the
24 citation to the child may petition the court assigned to exercise jurisdiction under
25 chs. 48 and 938 to order that the amount of the forfeiture or costs unpaid by the child

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1 be entered and docketed as a judgment against the child and the parent with custody
2 of the child and in favor of the county or appropriate municipality. A petition under
3 this paragraph may be filed after the expiration of the dispositional order or sentence
4 under which the forfeiture is or costs are payable, but no later than one year after
5 the expiration of the dispositional order or sentence or any extension of the
6 dispositional order or sentence.

7 **SECTION 20.** 938.17 (2) (g) of the statutes is amended to read:

8 938.17 (2) (g) If a municipal court finds that a juvenile violated a municipal
9 ordinance enacted under s. 118.163 (2), it shall enter a dispositional order under s.
10 938.342 (1) that is consistent with the municipal ordinance.

11 **SECTION 21.** 938.342 (1) of the statutes is renumbered 938.342 (1g), and
12 938.342 (1g) (a) and (b), as renumbered, are amended to read:

13 938.342 (1g) (a) Suspend the person's operating privilege, as defined in s.
14 340.01 (40), for not less than 30 days nor more than ~~90 days~~ one year. The court shall
15 immediately take possession of the suspended license and forward it to the
16 department of transportation together with a notice stating the reason for and
17 duration of the suspension.

18 (b) Order the person to participate in counseling or a supervised work program
19 or other community service work under as described in s. 938.34 (5g). The costs of
20 any such counseling, supervised work program or other community service work
21 may be assessed against the person, the parents or guardian of the person, or both.

22 **SECTION 22.** 938.342 (1d) of the statutes is created to read:

23 938.342 (1d) If the court finds that the person violated a municipal ordinance
24 enacted under s. 118.163 (1m), the court shall enter an order making one or more of

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1 the following dispositions if such a disposition is authorized by the municipal
2 ordinance:

3 (a) Suspend the person's operating privilege, as defined in s. 340.01 (40), for not
4 less than 30 days nor more than 90 days. The court shall immediately take
5 possession of the suspended license and forward it to the department of
6 transportation together with a notice stating the reason for and duration of the
7 suspension.

8 (b) Order the person to participate in counseling or a supervised work program
9 or other community service work as described in s. 938.34 (5g). The costs of any such
10 counseling, supervised work program or other community service work may be
11 assessed against the person, the parents or guardian of the person, or both.

12 (c) Order the person to attend school.

13 (d) Impose a forfeiture of not more than \$50 plus costs, subject to s. 938.37. All
14 or part of the forfeiture plus costs may be assessed against the person, the parent or
15 guardian of the person, or both.

16 **SECTION 23.** 938.342 (1g) (g) to (j) of the statutes are created to read:

17 938.342 (1g) (g) Order the person to attend school.

18 (h) Impose a forfeiture of not more than \$500 plus costs, subject to s. 938.37.
19 All or part of the forfeiture plus costs may be assessed against the person, the parent
20 or guardian of the person, or both.

21 (i) Order the person to comply with any other reasonable conditions that are
22 consistent with this subsection, including a curfew, restrictions as to going to or
23 remaining on specified premises and restrictions on associating with other juveniles
24 or adults.

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1 (j) Place the person under formal or informal supervision, as described in s.
2 938.34 (2), for up to one year.

3 **SECTION 24.** 938.342 (1m) (a) of the statutes is amended to read:

4 938.342 **(1m)** (a) If the court finds that the person violated a municipal
5 ordinance enacted under s. 118.163 (2), the court may, in addition to or instead of the
6 dispositions under sub. ~~(1)~~ (1g), order the person's parent, guardian or legal
7 custodian to participate in counseling at the parent's, guardian's or legal custodian's
8 own expense.

9 **SECTION 25.** 938.342 (1m) (am) of the statutes is created to read:

10 938.342 **(1m)** (am) If the court finds that the person violated a municipal
11 ordinance enacted under s. 118.163 (1m) or (2), the court may, as part of the
12 dispositions under sub. (1d) or (1g), order the person's parent or guardian to pay all
13 or part of the costs of any program ordered under sub. (1d) (b) or (1g) (b) or to pay all
14 or part of a forfeiture plus costs assessed under sub. (1d) (d) or (1g) (h).

15 **SECTION 26.** 938.342 (1m) (b) of the statutes is amended to read:

16 938.342 **(1m)** (b) No order to any parent, guardian or legal custodian under par.
17 (a) or (am) may be entered until the parent, guardian or legal custodian is given an
18 opportunity to be heard on the contemplated order of the court. The court shall cause
19 notice of the time, place and purpose of the hearing to be served on the parent,
20 guardian or legal custodian personally at least 10 days before the date of the hearing.
21 The procedure in these cases shall, as far as practicable, be the same as in other cases
22 to the court. At the hearing, the parent, guardian or legal custodian may be
23 represented by counsel and may produce and cross-examine witnesses. Any parent,
24 guardian or legal custodian who fails to comply with any order issued by a court
25 under par. (a) or (am) may be proceeded against for contempt of court.

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1 **SECTION 27.** 938.342 (2) (a) of the statutes is amended to read:

2 938.342 **(2)** (a) Except as provided in par. (b), if the court finds that a person
3 is subject to a municipal ordinance enacted under s. 118.163 (2m) (a), the court shall
4 enter an order suspending the person's operating privilege, as defined in s. 340.01
5 (40), until the person reaches the age of 18.

6 **SECTION 28.** 938.342 (2) (b) of the statutes is amended to read:

7 938.342 **(2)** (b) The court may enter an order making any of the dispositions
8 specified under sub. ~~(1)~~ (1g) if the court finds that suspension of the person's
9 operating privilege, as defined in s. 340.01 (40), until the person reaches the age of
10 18 would cause an undue hardship to the person or the ~~juvenile's~~ person's family.

11 **SECTION 29.** 938.355 (6m) (a) of the statutes is amended to read:

12 938.355 **(6m)** (a) If the court finds by a preponderance of the evidence that a
13 juvenile who has been found in need of protection or services based on habitual
14 truancy from school has violated a condition specified under sub. (2) (b) 7., the court
15 may order as a sanction any combination of the operating privilege suspension
16 specified in this paragraph and the dispositions specified in s. 938.342 ~~(1)~~ (1g) (b) to
17 ~~(f)~~ (j) and (1m), regardless of whether the disposition was imposed in the order
18 violated by the juvenile, if at the dispositional hearing under s. 938.335 the court
19 explained those conditions to the juvenile and informed the juvenile of the possible
20 sanctions under this paragraph for a violation or if before the violation the juvenile
21 has acknowledged in writing that he or she has read, or has had read to him or her,
22 those conditions and possible sanctions and that he or she understands those
23 conditions and possible sanctions. The court may order as a sanction suspension of
24 the juvenile's operating privilege, as defined under s. 340.01 (40), for not more than
25 one year. If the juvenile does not hold a valid operator's license under ch. 343, other

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1 than an instruction permit under s. 343.07 or a restricted license under s. 343.08, on
2 the date of the order issued under this paragraph, the court may order the
3 suspension to begin on the date that the operator's license would otherwise be
4 reinstated or issued after the juvenile applies and qualifies for issuance or 2 years
5 after the date of the order issued under this paragraph, whichever occurs first. If the
6 court suspends an operating privilege under this paragraph, the court shall
7 immediately take possession of the suspended license and forward it to the
8 department of transportation with a notice stating the reason for and the duration
9 of the suspension.

10

(END)