

1979 Assembly Bill 1075

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CHAPTER 298, Laws of 1979

AN ACT to repeal 118.15 (1) (a) and (3) (a) 1 and (b) and 118.16 (6) (b); to renumber 118.15 (3) (a) (intro.), 2 and 3; to renumber and amend 118.15 (1) (b) and (c) and 118.16 (6) (a); to amend 48.13 (6), 103.27 (2), 103.28, 103.74 (1), 103.80, 103.82 (1) (a), 118.15 (2) (a), (3) (a) and (b), as renumbered, and (5), 118.16 (3) and 119.04 (1); to repeal and recreate 118.15 (1) (d) and (e) and 118.16 (title), (1), (2), (4) and (5); and to create 118.15 (1) (c) and 118.16 (6) of the statutes, relating to compulsory school attendance and truancy.

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

SECTION 1. 48.13 (6) of the statutes is amended to read:

48.13 (6) Who is habitually truant from school, after evidence is provided by the school attendance officer that the activities under s. 118.16 (5) have been completed;

SECTION 2. 103.27 (2) of the statutes is amended to read:

103.27 (2) Every employer shall receive and file a street trade permit authorizing employment of each minor by him or her before the minor is permitted to work; and shall keep the permit on file and allow inspection of the permit at any time by the department or any police or ~~truant~~ school attendance officer.

SECTION 3. 103.28 of the statutes is amended to read:

103.28 Enforcement. (1) Sections 103.21 to 103.31 shall be enforced by the department. Police and ~~truant~~ school attendance officers of cities, towns ~~and~~, villages and school districts shall assist the department in enforcement by questioning minors seen on the

streets engaged in street trades and reporting to the department all cases of minors apparently engaged in street trades in violation of ss. 103.21 to 103.31.

(2) The failure of an employer to produce for inspection by the department or any ~~truant school attendance~~ or police officer a permit required for a minor employed in street trades is prima facie evidence of unlawful employment of the minor.

SECTION 4. 103.74 (1) of the statutes is amended to read:

103.74 (1) Receive and file a child labor permit authorizing employment of the minor by him or her before the minor is permitted to do any work, and shall keep the permit on file and allow inspection of the permit at any time by the department or any ~~truant school attendance~~ officer. A permit shall be valid only for the employer for whom issued.

SECTION 5. 103.80 of the statutes is amended to read:

103.80 Inspection. (1) The department and ~~truant school attendance~~ officers shall visit and inspect at all reasonable times, and as often as possible, all places covered by ss. 103.64 to 103.82.

(2) The failure of any employer to produce for inspection to the department, or ~~truant school attendance~~ officers, the permit provided for in s. 103.70 shall be prima facie evidence of unlawful employment of the minor. The presence of any minor in any factory, workshop or other place of employment, shall be prima facie evidence of the employment of ~~such the~~ minor.

SECTION 6. 103.82 (1) (a) of the statutes is amended to read:

103.82 (1) (a) Any employer who employs or permits any minor to work in any employment in violation of ss. 103.64 to 103.82, or of any order of the department issued under those sections, or who hinders or delays the department or ~~truant school attendance~~ officers in the performance of their duties, or who refuses to admit or locks out the officer from any place required to be inspected under ss. 103.64 to 103.82 may be fined not less than \$10 nor more than \$100 for each offense, or imprisoned not more than 30 days. Every day during which the violation continues constitutes a separate offense.

SECTION 7. 118.15 (1) (a) and (3) (a) 1 and (b) of the statutes are repealed.

SECTION 8. 118.15 (1) (b) and (c) of the statutes are renumbered 118.15 (1) (a) and (b) and amended to read:

118.15 (1) (a) ~~Unless~~ Except as provided under pars. (b) and (c), unless the child has a legal excuse is excused under sub. (3) or (4) or has graduated from high school, any person having under control a child who is between the ages of 6 and 18 years and who resides within a school district which also contains within its boundaries a vocational, technical and adult education school designated by the board of vocational, technical and adult education as a school with a day class program, shall cause such the child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which ~~such the~~ child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes 18 years of age. A child is eligible to attend a vocational, technical and adult education school under s. 38.22 (1), in lieu of high school, upon attaining the age of 16 years.

(b) ~~If his parent or legal custodian and the school board of his district so determine~~ Upon the child's request of the school board and with the written approval of the child's parent or guardian, any child who is 16 years of age or over shall may attend, in lieu of high school or on a part-time basis as determined by the parent or legal custodian, a vocational, technical and adult education school. Where such a determination request is made and approved by the school board, the district board of the vocational, technical and adult education district in which the child resides must admit the child and must enter into the contract specified in sub. (2). Every district board must offer day class programs satisfactory to meet the requirements of this paragraph and sub. (2) as a condition to the receipt of any state aid.

SECTION 9. 118.15 (1) (c) of the statutes is created to read:

118.15 (1) (c) Upon the child's request and with the written approval of the child's parent or guardian, any child who is 16 years of age or over shall be excused by the school board from school attendance. A child who is excused from school attendance under this paragraph shall be informed by the school board of his or her right to be readmitted to school upon request. The school board may specify when the child will be excused or readmitted after being excused from school attendance.

SECTION 10. 118.15 (1) (d) and (e) of the statutes are repealed and recreated to read:

118.15 (1) (d) Any child's parent or guardian, or the child if the parent or guardian is notified, may request the school board to provide the child with program or curriculum modifications, including but not limited to:

1. Modifications within the child's current academic program.
2. A school work training or work study program.
3. Enrollment in any alternative public school or program located in the school district in which the child resides.
4. Enrollment in any nonsectarian private school or program, located in the school district in which the child resides, which complies with the requirements of 42 USC 2000d. Enrollment of a child under this subdivision shall be pursuant to a contractual agreement which provides for the payment of the child's tuition by the school district.
5. Home-bound study, including nonsectarian correspondence courses or other courses of study approved by the school board or nonsectarian tutoring provided by the school in which the child is enrolled.
6. Enrollment in any public educational program located outside the school district in which the child resides. Enrollment of a child under this subdivision may be pursuant to a contractual agreement between school districts.

(e) Any decision made by a school board or a designee of the school board in response to a request for program or curriculum modifications under par. (d) shall be reviewed by the school board upon request of the child's parent or guardian. The school board shall render its determination upon review in writing, if the child's parent or guardian so requests.

SECTION 11. 118.15 (2) (a) and (5) of the statutes are amended to read:

118.15 (2) (a) If the determination is made under sub. (1) ~~(e) that (b) for~~ a child ~~shall to~~ attend a vocational, technical and adult education school, the district board governing the vocational, technical and adult education school shall establish appropriate vocational and technical courses in accordance with par. (b) 1 and the school board of the district and the district board governing the vocational, technical and adult education school shall enter into a contract for such attendance.

(5) Whoever violates this section ~~or files a false statement under s. 118.16 (1)~~ may be fined not less than \$5 nor more than \$50 or imprisoned not more than 3 months or both, after evidence has been provided by the school attendance officer that the activities under s. 118.16 (5) have been completed. In a prosecution under this subsection, if the defendant proves that he or she is unable to comply with the law because of the disobedience of the child in question, the action shall be dismissed and the child shall be proceeded against as delinquent under ch. 48.

SECTION 12. 118.15 (3) (a) (intro.), 2 and 3 of the statutes are renumbered 118.15 (3) (intro.), (a) and (b), and 118.15 (3) (a) and (b), as renumbered, are amended to read:

118.15 (3) (a) Any child who is excused by the school board because he ~~or she~~ is temporarily not in proper physical or mental condition to attend school or ~~his~~ an educational program under s. 115.85 (2), but who can be expected to return to his school or the program upon termination or abatement of his the illness or condition. ~~The certificate of a reputable school attendance officer may request the parent or guardian of the child to obtain a written statement from a physician, reputable licensed psychologist, licensed chiropractor or Christian Science practitioner living and residing in this state, who is listed in the Christian Science Journal, shall be as~~ sufficient proof of the physical or mental condition of the child ~~and of the expectations for the child upon termination of his illness or condition.~~ An excuse under this subdivision paragraph shall be in writing and shall state the time period for which it is valid, not to exceed 30 days.

(b) Any child ~~exempted~~ excused for good cause by the school board of the district in which the child resides, with the written approval of the child's parent or guardian, except that good cause may not be based upon the child's exceptional educational needs as described in s. 115.76 (3). An excuse under this paragraph shall be in writing and shall state the time period for which it is effective, not to exceed one year.

SECTION 13. 118.16 (title), (1), (2), (4) and (5) of the statutes are repealed and recreated to read:

118.16 (title) School attendance enforcement. (1) In this section:

(a) "School attendance officer" means an employe designated by the school board to deal with matters relating to school attendance and truancy.

(b) "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of s. 118.15.

(2) The school attendance officer:

(a) Shall determine daily which pupils enrolled in the school district are absent from school and whether that absence is excused under s. 118.15.

(b) Annually, on or before August 1, shall determine how many pupils enrolled in the school district were absent in the previous year and whether the absences were excused under s. 118.15 and shall notify the state superintendent of the determination.

(c) Shall notify the parent or guardian of a child who has been truant of the child's truancy and direct the parent or guardian to return the child to school no later than the next day on which school is in session or to provide an excuse under s. 118.15. The notice under this paragraph must be given before the end of the 2nd school day after receiving a report of an unexcused absence and may be made by personal service, mail or telephone call of which a written record is kept.

(d) May visit any place of employment in the school district to ascertain whether any minors are employed there contrary to law. The officer shall require that school certificates and lists of minors who are employed there be produced for inspection, and shall report all cases of illegal employment to the proper school authorities and to the department of industry, labor and human relations.

(e) Shall have access to information regarding the attendance of any child between the ages of 6 and 18 who is a resident of the school district or who claims or is claimed to be in attendance at a private school located in the school district.

(4) The school board shall establish a written attendance policy specifying the reasons for which pupils may be permitted to be absent from a public school under s. 118.15 and shall require the teachers employed in the school district to submit to the school attendance officer daily attendance reports on all pupils under their charge. No public school may deny a pupil credit in a course or subject solely because of the pupil's unexcused

absences from school. The school board may establish policies which utilize detention as a deterrent to truancy. The school board shall provide each pupil enrolled in the public schools in the district with a copy of the school attendance policy established under this subsection and shall file a copy of the policy in each school in the district. In addition, the school board shall make copies available upon request.

(5) Prior to any proceeding being brought against a child under s. 48.13 (6) or against the child's parent or guardian under s. 118.15, the school attendance officer shall provide evidence that appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred:

(a) Met with the child's parent or guardian to discuss the child's truancy or have attempted to meet with the child's parent or guardian and been refused.

(b) Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications under s. 118.15 (1) (d).

(c) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems.

(d) Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.

SECTION 14. 118.16 (3) of the statutes is amended to read:

118.16 (3) All ~~teachers in~~ private schools shall keep a record containing the information required under ss. 115.30 (2) and 120.18. The record shall be open to the inspection of ~~truancy school attendance~~ officers at all reasonable times. When called upon by any ~~truancy school attendance~~ officer, ~~such teachers~~ the school shall furnish, on blanks supplied by the ~~truancy school attendance~~ officer, such information in regard to any child between the ages of 6 and 18 who is a resident of the school district or who claims or is claimed to be in attendance at ~~such schools~~. ~~Every school teacher shall notify promptly the proper truancy officer of any pupil whose attendance is habitually and inexcusably irregular~~ the school.

SECTION 15. 118.16 (6) (a) of the statutes is renumbered 118.16 (7) and amended to read:

118.16 (7) Any school district administrator, principal, teacher or ~~truancy school attendance~~ officer who violates this section shall forfeit not less than \$5 nor more than \$25.

SECTION 16. 118.16 (6) (b) of the statutes is repealed.

SECTION 17. 118.16 (6) of the statutes is created to read:

118.16 (6) Following receipt of evidence that activities under sub. (5) have been completed, the school attendance officer may file information on any child who continues to be truant with the court assigned to exercise jurisdiction under ch. 48 in accordance with s. 48.24. Filing information on a child under this subsection does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

SECTION 18. 119.04 (1) of the statutes, as affected by chapters 20 and 34, laws of 1979, is amended to read:

119.04 (1) Subchapter VI of ch. 115, ch. 121 and ss. 66.03 (3) (c), 115.01 (1) and (2), 115.28 (15), 115.34, 115.345, 115.76, 115.77, 115.79 to 115.94, 118.015, 118.03, 118.04, 118.06, 118.07, 118.10, 118.12 (1), 118.125, 118.135, 118.14, 118.15, 118.16 ~~(1), (2) and (4) to (6)~~, 118.18, 118.19 (3) (b) and (7), 118.20, 118.24 (2) (c) to (e), 118.255, 120.12 (15), 120.13 (1) and (19), 120.49 (6) and (14) and 120.61 are applicable to the board of school directors and to schools in 1st class cities.