State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1241/P1
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1/20/09 - to Peter Grant - See the changes I marked - thanks, Joyce Kiel

AN ACT *to amend* 6.28 (2) (c), 7.30 (2) (am), 15.377 (4) (f), 15.57 (3), 16.971 (15), 16.972 (2) (b), 16.974 (2) and (3), 16.9785, 16.99 (2g), 20.505 (1) (is), 27.01 (7) (c) 10., 28.06 (1), 29.301 (1) (a), 30.74 (1) (a), 36.11 (36m), 38.001 (3) (a), 38.04 (27), 38.14 (3) (a) and (bm), 39.41 (1) (bm), 39.41 (1m) (a) (intro.), (b), (c) 4. and 5., (e), (em), (g) and (j), 45.09 (2), 45.20 (2) (a) 1., (c) 1. and (d) 1., 46.275 (3r) (a) 3., 48.345 (12) (c), 48.355 (2) (c), 48.396 (1), 48.65 (2) (b), 48.78 (2) (b), 49.26 (1) (g) 2., 51.45 (4) (d), 103.23 (2) (intro.) and (a), 103.25 (3m) (c) and (5), 103.27 (3), 103.275 (8), 103.67 (2) (c), 103.71 (1) (b), 115.28 (7) (b) and (e) 1. and (11) (intro.), 115.28 (53), 115.34 (2), 115.341, 115.343 (1), 115.345 (7m), 115.36 (1) and (2) (a), (b) and (d) 3., 115.365 (1), (2) (a) and (b) and (3), 115.368 (1) and (2) (a) and (b), 115.42 (1) (a) 2., 115.42 (2) (a) 2., 115.52 (3) (b) 1., 115.52 (3) (b) 2., 115.52 (3) (b) 10., 115.525 (3) (b) 2., 116.01, 116.032 (1) and (3) (a) (intro.), 118.025, 118.07 (3), 118.08 (1), 118.125 (2) (n), 118.125 (4), 118.127 (2), 118.145 (3) and (4), 118.15 (1) (a), 118.15 (1) (d) 4., 118.153 (1) (b), 118.16 (2) (e), 118.255 (2), 118.257 (1) (d), 118.29 (2) (a) (intro.) and 3. and (b) and (3), 118.291 (1g) (b), 118.295, 120.18 (1)

1 (a) 2. and (s), 121.05 (1) (a) 7., 121.76 (1) (a), 121.76 (2) (c), 121.78 (4), 125.09
2 (2) (a) 2., 125.68 (3) (intro.), 252.15 (1) (ab) and (2) (a) 7. a., 255.30 (4), 301.45
3 (1d) (c), 301.46 (4) (a) 1., 343.06 (1) (c), 343.07 (1c), 343.16 (1) (c) 3., 447.06 (2)
4 (a) 2., 895.48 (1m) (a) (intro.), 895.515 (2), 938.34 (7d) (c), 938.34 (14t), 938.342
5 (1r), 938.355 (2) (c), 938.396 (1) (b) 2., 938.396 (1) (c) 3. (intro.), a., c. and d. and
6 4., 938.396 (2g) (m), 938.78 (2) (b), 939.632 (1) (a) and (d) 3., 944.21 (8) (b) 2.,
7 948.095 (1) (a), 948.11 (4) (b) 2., 948.50 (2) (a), 948.61 (1) (b), 961.49 (1m) (b) 6.
8 and 961.495; and ***to create*** 15.377 (8) (c) 14., 16.972 (1) (cm), 38.01 (9m), 39.41
9 (1) (br), 45.09 (1) (d), 48.02 (18m), 48.345 (12) (a) 5., 49.26 (1) (a) 2. bm., 103.21
10 (7), 103.64 (6), 115.001 (15m), 118.16 (2) (f), 118.162 (1) (am) and (m), 118.29
11 (4m), 118.291 (2) (c), 121.78 (5), 938.02 (18e), 938.34 (7d) (a) 5. and 938.396 (1)
12 (b) 2m. of the statutes; **relating to:** providing benefits and protections to tribal
13 schools and tribal school pupils and staff similar to those provided to private
14 schools and private school pupils and staff and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on State–Tribal Relations.

GENERAL BACKGROUND

Current Law

Private Schools

Under current law, a "private school" is defined in s. 115.001 (3r), stats., for the purposes of the K–12 education statutes (chs. 115 to 121, stats.) as an institution with a private educational program that: (1) meets all of the criteria under s. 118.165 (1), stats.; or (2) is determined to be a private school by the State Superintendent of Public Instruction (State Superintendent) under s. 118.167, stats., because evidence is

presented that it meets or exceeds the criteria in s. 118.165 (1), stats. Those criteria are that the educational program: (1) has as its primary purpose providing private or religious-based education; (2) is privately controlled; (3) provides at least 875 hours of instruction in each school year; (4) has a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science, and health; (5) is not operated to avoid or circumvent the compulsory attendance laws; and (6) has its pupils return annually to their homes for at least two months of summer vacation or the institution is licensed as a child welfare agency.

Current law imposes certain requirements on private schools and provides certain benefits and protections to private schools and private school pupils and staff. A tribally operated school is not a private school. Since the school is controlled by tribal government, rather than a private entity

Tribally Operated Schools

Under current Wisconsin statutes, tribally operated schools are dealt with only in subch. IV, ch. 115, stats., relating to the American Indian language and culture education program. In that subchapter, an "alternative school" is defined as "any nonsectarian *private school* or *tribally operated school* in this state which complies with the requirements of 42 USC 2000d [relating to prohibiting exclusion from participation, denial of benefits, or discrimination based on race, color, or national origin] and in which at least 75% of the pupils enrolled are American Indians". [s. 115.71 (1), stats. (emphasis added).]

Subchapter IV, ch. 115, then provides that any school district enrolling American Indian pupils *or* any "alternative school" may, after developing a plan containing certain elements and appointing a parent advisory committee, establish, on a voluntary basis, an American Indian language and culture education program which may contain certain elements. These schools are required to keep certain records, and the State Superintendent is required to periodically assess the needs of the program and evaluate available resources and programs. However, the programs of alternative schools can be evaluated only with the permission of the alternative school [s. 115.74 (1) (b), stats.]; and the assessment and evaluation can be "performed on Indian reservations and in other Indian communities recognized by the federal government only in conjunction with, or with the permission of, the respective tribal governments". [s. 115.74 (3), stats.]

A tribally operated school does not need authorization from the state to create an educational program related to American Indian language and culture. Rather, subch. IV, ch. 115, including its requirements to keep records, was enacted in connection with providing state categorical aid to a school district or alternative school that provided a program that met the criteria in subch. IV, ch. 115. State aid for such programs was eliminated by 2003 Wisconsin Act 33.

Tribally Operated Schools in Wisconsin

Currently, three schools in Wisconsin come under the tribally operated schools component of the "alternative school" definition in s. 115.71 (1), stats. They are: Menominee Tribal School; Oneida Nation of Wisconsin Schools; and Lac Courte Oreilles Ojibwe School. These schools have contracts with and are funded, in full or in part, by the U.S. Department of Interior, Bureau of Indian Affairs (BIA). (The Bad River Band of Lake Superior Chippewa Indians previously operated the Mashkiisiibii Tribal School, but that school no longer exists. The Waadookodaading Charter School is, in part, supported by funds contributed by the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. However, it is a public charter school, chartered by the Hayward School District. Thus, the bill does not affect it.)

Currently it appears that one school in Wisconsin meets the "nonsectarian private school...in which at least 75% of the pupils enrolled are American Indians" component of

, which is a privately owned and operated corporation, controlled by a board of directors

the "alternative school" definition in s. 115.71 (1), stats. It is the Indian Community School of Milwaukee, Inc. It appears that the state statutes dealing with private schools already apply to this school, and this bill does not affect it.

Authority of the State with Regard to Tribally Operated Schools

In general, state civil regulatory laws do not apply to a tribe or a member of that tribe on the tribe's reservation or off-reservation trust land unless an act of Congress, a treaty, or case law (that is, decisions by the courts) provides that the state law is applicable. Most K-12 education laws likely would be considered by the courts to be civil regulatory laws. It appears that neither an act of Congress nor any treaty has authorized the state to apply its civil regulatory education laws to a tribal school that is located on a tribe's reservation or off-reservation trust land. As for whether case law does so, court decisions suggest that, if a matter were litigated, a court would apply a balancing of interests test and hold that a state civil regulatory education law applies to a tribal school only if the state interests outweigh the tribal and federal interests. That analysis depends on the facts surrounding each individual statute; thus, there is no universal answer as to whether a state civil regulatory law applies to a tribal school.

However, in general, it appears that, with respect to most state K-12 education laws, the state does not have authority to impose such laws on tribal schools. Moreover, a tribe may choose to assert sovereign immunity if a legal action were filed against the tribal school or tribal school officials to enforce any such law.

Nonetheless, a state may choose to provide funding or other benefits to a tribal school and may condition such funding or benefits on meeting certain prerequisites.

THE BILL--GENERAL COMMENTS

The bill defines a "tribal school" in s. 115.001 (15m), stats., as an institution with an educational program that has as its primary purpose providing education in any grade or grades from kindergarten to 12 and that is: (a) controlled by the elected governing body of a federally recognized American Indian tribe or band in Wisconsin; (b) jointly controlled by the elected governing bodies of two or more federally recognized American Indian tribes or bands in Wisconsin; (c) controlled by the tribal educational authority established by a federally recognized American Indian tribe or band in Wisconsin; or (d) controlled by a tribal educational authority established jointly by two or more federally recognized American Indian tribes or bands in Wisconsin. That definition then applies in chs. 115 to 121 (statutes relating to K-12 education) under s. 115.001 (intro.), stats. The bill then uses the same definition by cross-reference in statutes outside chs. 115 to 121, stats.

Private School References-Benefits

The bill amends statutes that refer specifically to private schools, private school pupils, or private school staff and provide a benefit or protection to them, with the exception of statutes relating to: pupil transportation; special education; eligibility for bonding for certain building projects through the Wisconsin Health and Educational Facilities Authority; and statutes in ch. 119, stats., that refer to private schools (since ch. 119 relates only to the Milwaukee Public Schools). In general, the amendments add references to tribal schools, tribal school pupils, or tribal school staff in those statutes.

Private School References-Benefit Linked to Requirement

In some cases, the bill includes language relating to tribal schools that is not identical to current statutes relating to private schools. These relate to statutes in which a requirement is integrally linked to a benefit provided--for example, statutes allowing a private school to receive certain confidential records but prohibiting redisclosure of the records. For those statutes, the bill generally extends the benefit to a tribal school that chooses to comply with the required provision.

Private School References-Requirements Not Imposed on Tribal Schools

With respect to statutes that explicitly impose a requirement on private schools unrelated to a benefit, the bill does *not* add a reference to tribal schools. Such statutes include requirements to: make a report to the Department of Public Instruction (DPI) about enrollment; report to DPI charges and convictions of certain crimes and dismissals and resignations related to immoral conduct of a person licensed by DPI and employed by the school; display the flag and offer the pledge of allegiance or national anthem; have a first aid kit; conduct fire, tornado, or other hazard drills and file reports on those drills with the Department of Commerce and chief of the local fire department; distribute information about meningococcal disease; annually inform professional staff about resources available regarding suicide prevention; establish school safety zones; prohibit the use of a pupil's Social Security number as a pupil identification number; have periodic lead inspections in kindergarten; and abide by restaurant regulations if food is brought in under contract.

Generic School References

The bill amends several statutes that refer generically to schools without explicitly referring to public schools, private schools, or tribal schools to make clear that if a benefit or protection applies to the school, school pupils, and school staff, the benefit also applies to tribal schools, tribal school pupils, and tribal school staff. The bill does not amend statutes that impose a requirement generically on schools, including private schools, to impose the requirement on tribal schools, for example, statutes relating to excluding children who have not met the immunization or waiver of immunization requirements. Whether such requirements apply to tribal schools is an issue to be resolved by the courts.

THE BILL--LIST OF BENEFITS AND PROTECTIONS PROVIDED TO TRIBAL SCHOOLS, TRIBAL SCHOOL PUPILS, AND TRIBAL SCHOOL STAFF

The benefits and protections provided in the bill to tribal schools, tribal school pupils, and tribal school staff are briefly listed below in each of these categories. Each listing is followed by a reference to the SECTION number in the bill. The provisions of the bill are further explained in the NOTE following each SECTION of the bill. [In some cases, a benefit or protection could have been included in more than one category because of overlapping considerations (for example, permitting disclosure to tribal schools of certain confidential police records could ultimately benefit the tribal school, tribal school pupils, and tribal school staff). However, each provision in the bill is listed in only one category below, namely, what appeared to be the most pertinent category.]

Benefits or Protections Provided to Tribal Schools

The bill provides the following benefits or protections to tribal schools:

1. Permits a tribal school to ask the municipal clerk to conduct voter registration at the high school. [SECTION 1.]

2. Permits representatives of tribal schools to serve on the DPI Council on Special Education. [SECTION 3.]

3. Permits the Governor to nominate a representative to the Educational Communications Board who may represent either a tribal school or private school. [SECTION 5.]

4. Requires the Department of Administration (DOA) to include tribal schools in the educational telecommunication access program under s. 16.997, Stats., which provides access to data lines and video links under certain conditions to certain educational agencies (including private schools) at certain costs. This program is the part of the Technology for Educational Achievement (TEACH) program that applies to private

schools. The bill permits DOA to provide telecommunications services to tribal schools that DOA considers appropriate and permits DOA to charge for such services. [SECTIONS 6, 7, 8, 9, 11, and 12.]

5. Exempts a motor vehicle transporting tribal school pupils to a state park or recreational area from the requirement to display a state park admission receipt. [SECTION 13.]

6. Extends to tribal schools the requirement that the Department of Natural Resources (DNR) create boating safety courses and offer them in cooperation with, among others, schools. [SECTION 16.]

7. Requires the Board of Regents of the University of Wisconsin (UW) System to direct the UW schools of education to work with tribal schools, among others, on researching improving school safety and reducing school discipline problems and to share with tribal schools the results of such research. [SECTION 17.]

8. Provides that the purposes of the Technical College System (TCS) include contracting, coordinating, and cooperating with tribal schools; requires the TCS Board to work with tribal schools on researching improving school safety and reducing school discipline problems and to share with tribal schools the results of such research; and authorizes a technical college district board to contract with tribal schools, among others, to provide educational services or fiscal and management services. [SECTIONS 18, 19, 20, and 21.]

9. Requires the Department of Veterans Affairs to award a certificate of achievement and appreciation to a veteran who completes 20 hours of volunteer service in a tribal school in a school term if certain conditions are met. [SECTIONS 25 and 26.]

10. Clarifies that a tribal school is not required to obtain a day care license. [SECTION 34.]

11. Requires the Department of Health Services (DHS) to cooperate with various entities, including tribal schools, to establish alcoholism prevention and treatment programs and to prepare curriculum materials on this subject. [SECTION 38.]

12. Establishes a process by which driver education courses offered in a tribal school can be accepted by the Department of Transportation (DOT) for purposes of obtaining a driver's license under certain circumstances. [SECTIONS 48, 97, 98, and 99.]

13. Requires the State Superintendent to make online courses available for a reasonable fee, through a statewide web academy, to tribal schools located in Wisconsin. [SECTION 49.]

14. Provides that tribal schools are eligible for the school lunch program, school breakfast program, school day milk program, and food services plan for the elderly. [SECTIONS 50, 51, 52, and 53.] (According to DPI staff, tribal schools currently receive funds for the school lunch program and school breakfast program, and no tribal schools currently offer the school day milk program or food services plan for the elderly.)

15. Includes tribal schools in DPI's programs to assist schools in developing: alcohol and other drug abuse programs; suicide prevention programs; and protective behavior programs. The bill also requires DPI to provide a model notice to the governing body of a tribal school, which can be used to inform professional staff of the tribal school about suicide prevention services that DPI has developed and how to access those services. [SECTIONS 54, 55, and 56.]

16. Includes tribal schools with those groups to which the Wisconsin Center for the Blind and Visually Impaired and the Wisconsin Educational Services Program for the Deaf and Hard of Hearing may provide technical assistance and consultation services and other specified services. [SECTIONS 59, 60, 61, and 62.]

17. Authorizes cooperative educational service agencies (CESAs) to facilitate communication and cooperation among public, private, and tribal schools, agencies, and organizations that provide services to pupils; subject to certain conditions, authorizes a CESA to contract with a tribal school. [SECTIONS 63 and 64.]

18. Specifies that tribal schools may request trees from the state forest nursery for Arbor Day observance. The bill also provides that tribal school pupils may be included in the distribution to school pupils by state forest nurseries of planting stock to celebrate Arbor Day. [SECTIONS 14 and 65.]

19. Requires DPI to provide information to tribal schools about meningococcal disease. [SECTION 66.]

20. Requires the authority in charge of a street or highway to erect school warning signs, including signs for tribal schools. [SECTION 67.]

21. Provides for the disclosure of certain confidential records to tribal schools under certain circumstances if enforceable protections are in place to ensure that tribal school officials will not disclose the records except under the same situations that private schools may do so. This includes: police and law enforcement records in a ch. 48, Stats. (Children's Code), proceeding; public school records in certain circumstances; records of the Department of Children and Families (DCF), a county department of human services or county department of social services, a licensed child welfare agency, or a licensed day care center, or of the Department of Corrections in a ch. 938, Stats. (Juvenile Justice Code), proceeding; records of a juvenile court in a ch. 938 proceeding; and law enforcement records in a ch. 938 proceeding. [SECTIONS 33, 35, 68, 70, 109, 110, 111, 112, and 113.]

22. Adds to the county committee that advises on school districts' truancy plans: (a) a representative of each tribal school in the county; and (b) a parent of a tribal school pupil. [SECTION 77.]

23. Requires the annual school district report submitted by the school district clerk to DPI to include certain information about tribal schools and tribal school pupils, if the information is voluntarily provided to the school district by the tribal school. [SECTION 85.]

24. Requires the State Superintendent to include tribal schools in the category of entities to which information about eye safety is provided. [SECTION 94.]

25. Adds tribal schools to the list of entities that may request information about persons on the sex offender registry; also amends the definition of "student" for the purpose of the sex offender registration law to also include students at a tribal educational institution, which would include tribal colleges as well as tribal schools. [SECTIONS 95 and 96.]

26. Permits a dental hygienist to be employed at or independently contract with a tribal school. [SECTION 100.]

Benefits or Protections Provided to Tribal School Pupils

The bill provides the following benefits or protections to tribal school pupils:

1. Permits certain tribal school pupils to serve as inspectors at a polling place under certain conditions. [SECTION 2.]

2. Includes seniors at a tribal high school in the Academic Excellence Higher Education Scholarship Program. [SECTIONS 22, 23, and 24.]

3. Provides that a veteran is eligible for reimbursement for a course taken at a tribal high school under certain circumstances. [SECTION 27.]

4. Includes a tribal school in the list of schools that may serve a person relocated to the community by DHS from a state center for the developmentally disabled. [SECTION 28.]

5. Provides that in entering a child in need of protection or services (CHIPS), juvenile in need of protection or services (JIPS), or delinquency dispositional order, a court may order a child to attend a tribal school *if* the school district has a contract with the tribal school for such placements and also requires the court to order the supervising agency to disclose information to the tribal school necessary to assure appropriate educational services in such cases. The bill also provides that, in such cases, the educational placement at a tribal school must be paid for by the school district. [SECTIONS 29, 30, 31, 87, 88, 89, 103, 104, and 105.]

6. If a CHIPS, JIPS, delinquency, or truancy or habitual truancy municipal ordinance dispositional order includes attendance at a tribal school as a condition of the order, requires that the court order request that a tribal school notify the court within five days of a violation of the condition. [SECTIONS 32, 107, and 108.]

7. Counts attendance at a tribal school for purposes of the Learnfare Program. [SECTIONS 36 and 37.]

8. Provides that minors doing fund raising by selling for a tribal school are exempt from the statutes relating to minors working in the street trades or fund raising on the same basis as minors doing fund raising for public or private schools. [SECTIONS 39, 40, 41, 42, 43, 44, and 45.]

9. Permits a child who has completed tribal high school to be employed during school hours. [SECTION 46.]

10. Clarifies that when a pupil transfers from a public school to a tribal school, the school district is required to transfer records to the tribal school. [SECTION 69.]

11. Permits a tribal school to file with DPI information about the elementary school course of study which entitles a pupil having completed that course of study to be admitted to a public high school. [SECTION 71.]

12. Permits a tribal school pupil who has met the standards for admission to high school to take up to two courses each semester at a public high school in the school district in which the pupil resides if the school board determines that there is sufficient space in the classroom. [SECTION 71.]

13. Explicitly provides that attendance at a tribal school satisfies the compulsory school attendance laws and provides that a child attending tribal school is not a "dropout." The bill also requires a school attendance officer to request information about the attendance of a child between the ages of 6 and 18 who is a resident of the school district and who claims or is claimed to be attending a tribal school. [SECTIONS 72, 74, and 76.]

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14. Permits a child's parent or the child to request that a school board provide a program or curriculum modification to attend a tribal school. *If* the school board approves, the bill also provides that, in such cases, the educational placement at a tribal school must be paid for by the school district. [SECTIONS 73, 86, 87, 88, and 90.]

15. Permits school boards, CESAs, and county children with disabilities education boards to provide health treatment services to tribal school pupils at tribal schools under certain circumstances. [SECTION 78.]

16. Adds tribal schools to the definition of "school" for purposes of the statute that provides that it is a Class H felony for school staff at a public or private school to have sexual contact or sexual intercourse with a child who is age 16 or 17. [SECTION 116.]

17. Adds tribal schools to the definition of "school" for purposes of the statute that provides a criminal penalty for strip searches of pupils by school employees. [SECTION 118.]

18. Adds tribal schools to the definition of "school" for purposes of the statutes that: restrict possession of alcohol beverages on school premises; generally restrict the location of premises that have a Class A or Class B liquor license from being within 300 feet from the main entrance of a school; prohibit hunting within 1,700 feet of certain facilities, including a school; prohibit a retailer from placing a vending machine that dispenses cigarettes within 500 feet of a school; provide a criminal penalty for possessing (subject to certain exceptions) certain dangerous weapons other than firearms on school premises; prohibit (subject to certain exceptions) possession of a firearm in or on the grounds of a school or within 1,000 feet of a school (school zone) and provide certain criminal penalties under certain circumstances for the discharge of a firearm in a school zone; and specify additional consequences for a delinquency disposition for firearms violation on school premises. [SECTIONS 15, 79 (cross-referenced definition of school in s. 134.66 (1) (h), Stats.), 91, 92, and 119.]

19. Provides that the criminal penalty for possession of certain controlled substances on or within 1,000 feet of the premises of a school also applies to tribal schools and also extends the penalty enhancement to such violations. [SECTIONS 106, 120, and 121.]

20. Applies penalty enhancement for violent crimes committed in a school zone to tribal schools. [SECTION 114.]

Benefits or Protections Provided to Tribal School Staff

The bill provides the following benefits or protections to tribal school staff:

1. Permits a licensed teacher employed by a tribal school to serve on the DPI Professional Standards Council for Teachers. [SECTION 4.]

2. Includes tribal school teachers in the DOA program to facilitate the purchase of computers by school teachers. [SECTION 10.]

3. Provides that, although state law does not require that teachers in tribal schools have a state license, a state license may be issued if the applicant who teaches in a tribal school meets the state license criteria. Further provides that appropriate experience in a tribal school is counted in determining teaching experience under the state licensure law. [SECTION 48.]

4. For the alternative education program license, specifies that, like a private school, an alternative educational program does not include a tribal school. [SECTION 48.]

5. Makes teachers employed at a tribal school eligible for grants if they are certified by the National Board for Professional Teaching Standards or are licensed by DPI as a master educator and meet other criteria. [SECTIONS 57 and 58.]

6. Extends immunity from liability under several state laws to certain tribal school officials and others, including: for removing a pupil from school premises or from school-sponsored activities for suspicion of certain activities relating to controlled substances; for administering certain drugs to pupils under certain circumstances; for rendering emergency care; for permitting or prohibiting the use of an asthma inhaler under certain circumstances; for a good faith attempt to prevent suicide; for rendering free health care by certain health care providers at an athletic event at a tribal school; and for death or injury caused by the donation by certain individuals of commercial equipment or technology to a tribal school. [SECTIONS 79, 80, 81, 82, 83, 84, 101, and 102.]

Extending immunity under state law does not affect liability under tribal law or whatever right a person may have to raise a defense of tribal sovereign immunity if sued.

7. Includes tribal school employees and certain health care providers who provide free health care at a tribal school athletic event in the category of persons who, when significantly exposed to an individual (for example, by contact with the individual's blood) may require testing of that individual for human immunodeficiency virus (HIV) and receive the results of the test. [SECTIONS 93 and 101.]

8. Provides that an employee, member of the board of directors, or trustee of a tribal school, while in his or her capacity as such, may not be prosecuted under s. 944.21 (crimes relating to obscene materials or performance) or 948.11, Stats. (crimes relating to exposing a child to harmful material or harmful descriptions or narrations). [SECTIONS 115 and 117.]

1 **SECTION 1.** 6.28 (2) (c) of the statutes is amended to read:

2 6.28 **(2)** (c) The principal of any private high school ~~having~~ or of any tribal
3 school, as defined in s. 115.001 (15m), that operates high school grades that has a
4 substantial number of students residing in a municipality may request the
5 municipal clerk to establish registration dates when a special registration deputy
6 will be present in the high school, or to appoint a special school registration deputy
7 in accordance with par. (b). The clerk shall establish registration dates or appoint
8 a special school registration deputy in the high school if the clerk determines the
9 school to have a substantial number of students residing in the municipality.

NOTE: Permits a tribal school with high school grades that has a substantial number of students to ask the municipal clerk to conduct voter registration at the high school.

10 **SECTION 2.** 7.30 (2) (am) of the statutes is amended to read:

11 7.30 **(2)** (am) Except as otherwise provided in this paragraph, a pupil who is
12 16 or 17 years of age and who is enrolled in grades 9 to 12 in a public or private school
13 or in a tribal school, as defined in s. 115.001 (15m), may serve as an inspector at the
14 polling place serving the pupil's residence, with the approval of the pupil's parent or
15 guardian. Any pupil who has at least a 3.0 grade point average or the equivalent may
16 serve. In addition, a school board or governing body of a private school or tribal school
17 may establish criteria for service by a pupil who does not have at least a 3.0 grade
18 point average or the equivalent. A pupil may serve as an inspector at a polling place

1 under this paragraph only if at least one election official at the polling place other
2 than the chief inspector is a qualified elector of this state. No pupil may serve as chief
3 inspector at a polling place under this paragraph. Before appointment by any
4 municipality of a pupil as an inspector under this paragraph, the municipal clerk
5 shall obtain written authorization from the pupil's parent or guardian for the pupil
6 to serve for the election for which he or she is appointed. In addition, if a pupil does
7 not have at least a 3.0 grade point average or the equivalent, the municipal clerk
8 shall obtain written certification from the principal of the school where the pupil is
9 enrolled that the pupil meets any criteria established by the school board or
10 governing body for service as an inspector. Upon appointment of a pupil to serve as
11 an inspector, the municipal clerk shall notify the principal of the school where the
12 pupil is enrolled of the name of the pupil and the date of the election at which the
13 pupil has been appointed to serve.

NOTE: Permits certain tribal school pupils to serve as inspectors at a polling place under certain conditions.

14 **SECTION 3.** 15.377 (4) (f) of the statutes is amended to read:

15 15.377 **(4)** (f) Representatives of private schools ~~and~~, charter schools, and tribal
16 schools, as defined in s. 115.001 (15m).

NOTE: Provides that representatives of tribal schools may serve on the DPI Council on Special Education.

17 **SECTION 4.** 15.377 (8) (c) 14. of the statutes is created to read:

18 15.377 **(8)** (c) 14. One person licensed as a teacher and actively employed in a
19 tribal school, as defined in s. 115.001 (15m), recommended by a federally recognized
20 American Indian tribe or band in this state that has a tribal school.

NOTE: Current law permits one licensed teacher actively employed in a private school, recommended by the Wisconsin Council of Religious and Independent Schools, to serve on the DPI Professional Standards Council for Teachers. The council currently has 19 members who, with one limited exception, are appointed for three-year terms. With three exceptions, a vacancy in any category is filled by having the entity that is authorized

to make a recommendation in that category provide three names to the State Superintendent, who then makes the selection for that category.

This SECTION ~~The bill~~ increases the number of members to 20 by adding a provision for a licensed teacher employed by a tribal school. The State Superintendent must select this teacher based on the recommendation of a tribe that has a tribal school.

1 **SECTION 5.** 15.57 (3) of the statutes is amended to read:

2 15.57 **(3)** One representative of public schools and one representative of private
3 schools or of tribal schools, as defined in s. 115.001 (15m), appointed for 4–year terms.

NOTE: The Educational Communications Board has 16 members who, with limited exceptions not applicable to this provision, are nominated by the Governor and confirmed by the Senate. This ~~provision~~ permits the Governor to nominate a representative who may represent either a tribal school or private school. SECTION

4 **SECTION 6.** 16.971 (15) of the statutes is amended to read:

5 16.971 **(15)** Provide private schools and tribal schools, as defined in s. 115.001
6 (15m), with telecommunications access under s. 16.997 and contract with
7 telecommunications providers to provide that access.

NOTE: Requires DOA to include tribal schools in the educational telecommunication access program under s. 16.997, stats., which provides access to data lines and video links under certain conditions to certain educational agencies (including private schools) at certain costs. This program is the part of the TEACH program that applies to private schools.

auto-ref #7

8 **SECTION 7.** 16.972 (1) (cm) of the statutes is created to read:

9 16.972 **(1)** (cm) "Qualified tribal school" means a tribal school as defined in s.
10 115.001 (15m).

11 **SECTION 8.** 16.972 (2) (b) of the statutes is amended to read:

12 16.972 **(2)** (b) Except as provided in par. (a), provide such computer services and
13 telecommunications services to local governmental units and the broadcasting
14 corporation and provide such telecommunications services to qualified private
15 schools, tribal schools, postsecondary institutions, museums, and zoos, as the
16 department considers to be appropriate and as the department can efficiently and
17 economically provide. The department may exercise this power only if in doing so

it maintains the services it provides at least at the same levels that it provides prior to exercising this power and it does not increase the rates chargeable to users served prior to exercise of this power as a result of exercising this power. The department may charge local governmental units, the broadcasting corporation, and qualified private schools, tribal schools, postsecondary institutions, museums, and zoos, for services provided to them under this paragraph in accordance with a methodology determined by the department. Use of telecommunications services by a qualified private school, tribal school, or postsecondary institution shall be subject to the same terms and conditions that apply to a municipality using the same services. The department shall prescribe eligibility requirements for qualified museums and zoos to receive telecommunications services under this paragraph.

auto-ref #9

SECTION 9. 16.974 (2) and (3) of the statutes are amended to read:

16.974 **(2)** Subject to s. 16.972 (2) (b), enter into and enforce an agreement with any agency, any authority, any unit of the federal government, any local governmental unit, ~~or~~ any entity in the private sector, or any tribal school, as defined in s. 115.001 (15m), to provide services authorized to be provided by the department to that agency, authority, unit, ~~or~~ entity, or tribal school at a cost specified in the agreement.

(3) Develop or operate and maintain any system or device facilitating Internet or telephone access to information about programs of agencies, authorities, local governmental units, ~~or~~ entities in the private sector, or any tribal schools, as defined in s. 115.001 (15m), or otherwise permitting the transaction of business by agencies, authorities, local governmental units, ~~or~~ entities in the private sector, or tribal schools by means of electronic communication. The department may assess executive branch agencies, other than the board of regents of the University of

Wisconsin System, for the costs of systems or devices relating to information technology or telecommunications that are developed, operated, or maintained under this subsection in accordance with a methodology determined by the department. The department may also charge any agency, authority, local governmental unit, ~~or~~ entity in the private sector, or tribal school for such costs as a component of any services provided by the department to that agency, authority, local governmental unit, ~~or~~ entity, or tribal school.

7 auto-ref #7 at p.12, line 8

9 auto-ref #9 at p.13, line 12

NOTE: SECTIONS to permit DOA to provide telecommunications services to tribal schools that DOA considers appropriate and charge for such services. Also see the treatment of s. 20.505 (1) (is), stats., below.

SECTION 10. 16.9785 of the statutes is amended to read:

16.9785 Purchases of computers by teachers. The department shall negotiate with private vendors to facilitate the purchase of computers and other educational technology, as defined in s. 24.60 (1r), by public ~~and~~, private, and tribal elementary and secondary school teachers for their private use. The department shall attempt to make available types of computers and other educational technology under this section that will encourage and assist teachers in becoming knowledgeable about the technology and its uses and potential uses in education.

NOTE: Includes tribal school teachers in the DOA program to facilitate the purchase of computers by school teachers.

SECTION 11. 16.99 (2g) of the statutes is amended to read:

16.99 **(2g)** "Educational agency" means a school district, charter school sponsor, juvenile correctional facility, private school, tribal school, as defined in s. 115.001 (15m), cooperative educational service agency, technical college district, private college, public library system, public library board, public museum, the Wisconsin Center for the Blind and Visually Impaired, or the Wisconsin Educational Services Program for the Deaf and Hard of Hearing.

NOTE: Includes tribal schools under the educational telecommunications access program which is part of the TEACH program. See s. 16.971 (15), stats., above.

1 **SECTION 12.** 20.505 (1) (is) of the statutes is amended to read:

2 20.505 **(1)** (is) *Information technology and communications services; nonstate*
3 *entities.* From the sources specified in ss. 16.972 (2) (b) and (c), 16.974 (2) and (3),
4 and 16.997 (2) (d), to provide computer, telecommunications, electronic
5 communications, and supercomputer services to state authorities, units of the
6 federal government, local governmental units, tribal schools, and entities in the
7 private sector, the amounts in the schedule.

NOTE: Amends the appropriation to DOA for technology and communications services provided to tribal schools to reflect the amendment to ss. 16.972 (2) (b) and 16.974 (2) and (3), stats., above.

8 **SECTION 13.** 27.01 (7) (c) 10. of the statutes is amended to read:

9 27.01 **(7)** (c) 10. Any motor vehicle operated for the purpose of transporting
10 pupils to or from curricular or extracurricular activities of a public or private school
11 ~~or~~, a tribal school as defined in s. 115.001 (15m), or a home–based private educational
12 program under s. 118.15 (4) or for the purpose of transporting students to or from an
13 outdoor academic class given by an accredited college or university in this state. The
14 operator of a motor vehicle transporting pupils or students under this subdivision
15 shall possess and exhibit for inspection a written authorization from an
16 administrator of the school, home–based private educational program, or college or
17 university indicating that admission to the vehicle admission area is part of an
18 official school, home–based private educational program, or college or university
19 function and indicating the date for which the authorization is applicable. A
20 separate authorization is required for each date on which the motor vehicle is
21 admitted to the vehicle admission area under this subdivision.

NOTE: Exempts a motor vehicle transporting tribal school pupils to a state park or recreational area from the requirement to display a state park admission receipt.

1 **SECTION 14.** 28.06 (1) of the statutes is amended to read:

2 28.06 **(1)** LIMITATION. Only planting stock of species and sizes suitable for forest
3 and woodlot planting and for planting by school pupils, including pupils at a tribal
4 school, as defined in s. 115.001 (15m), to celebrate arbor day under s. 118.025 shall
5 be produced in state forest nurseries. The department may employ labor at
6 prevailing local wages for nursery operation or reforestation.

NOTE: Current law provides that the state forest nurseries may plant stock suitable for planting by school pupils to celebrate Arbor Day and authorizes distribution of the stock for Arbor Day plantings by school pupils. ~~The bill~~ THIS SECTION specifies that tribal school pupils are included.

7 **SECTION 15.** 29.301 (1) (a) of the statutes is amended to read:

8 29.301 **(1)** (a) In this subsection, "school" means a public or private elementary
9 or secondary school, including a charter school, a tribal school, as defined in s.
10 115.001 (15m), or a technical college.

NOTE: Adds tribal school to the definition of "school" that is used in s. 29.301 (1) (b), stats., which prohibits hunting within 1,700 feet of certain facilities, including a school.

11 **SECTION 16.** 30.74 (1) (a) of the statutes is amended to read:

12 30.74 **(1)** (a) The department shall create comprehensive courses on boating
13 safety and operation. These courses shall be offered in cooperation with schools,
14 including tribal schools, as defined in s. 115.001 (15m), private clubs and
15 organizations, and may be offered by the department in areas where requested and
16 where other sponsorship is unavailable. The department shall issue certificates to
17 persons 10 years of age or older successfully completing such courses. The
18 department shall prescribe the course content and the form of the certificate.

NOTE: Requires the DNR to create boating safety courses and offer them in cooperation with, among others, schools, including tribal schools.

19 **SECTION 17.** 36.11 (36m) of the statutes is amended to read:

36.11 **(36m)** SCHOOL SAFETY RESEARCH. The board shall direct the schools of education and other appropriate research-oriented departments within the system, to work with the technical college system board under s. 38.04 (27), school districts, private schools, tribal schools, as defined in s. 115.001 (15m), and the department of public instruction to present to school districts ~~and~~, private schools, and tribal schools the results of research on models for and approaches to improving school safety and reducing discipline problems in schools and at school activities.

NOTE: Requires the Board of Regents of the UW System to direct the UW schools of education to work with tribal schools, among others, on researching improving school safety and reducing school discipline problems and to share with tribal schools the results of such research.

SECTION 18. 38.001 (3) (a) of the statutes is amended to read:

38.001 **(3)** (a) 1. Contract with secondary schools, including tribal schools, to provide educational opportunities for high school age students in order to enhance their potential for benefiting from postsecondary education and for obtaining employment.

2. Coordinate and cooperate with secondary schools, including tribal schools, to facilitate the transition of secondary school students into postsecondary technical college education through curriculum articulation and collaboration.

NOTE: Provides that the purposes of the technical college system include contracting, coordinating, and cooperating with tribal schools.

SECTION 19. 38.01 (9m) of the statutes is created to read:

38.01 **(9m)** "Tribal school" has the meaning given in s. 115.001 (15m).

SECTION 20. 38.04 (27) of the statutes is amended to read:

38.04 **(27)** SCHOOL SAFETY. The board shall work with schools of education and other departments of the University of Wisconsin System under s. 36.11 (36m), school districts, private schools, tribal schools, and the department of public

instruction to present to school districts ~~and~~, private schools, and tribal schools the results of research on models for and approaches to improving school safety and reducing discipline problems in schools and at school activities.

NOTE: Requires the Technical College System Board to additionally work with tribal schools on researching improving school safety and reducing school discipline problems and to share with tribal schools the results of such research.

SECTION 21. 38.14 (3) (a) and (bm) of the statutes are amended to read:

38.14 **(3)** (a) The district board may enter into contracts to provide educational services to public and private educational institutions, tribal schools, federal and state agencies, local governmental bodies, industries, and businesses.

(bm) The district board may enter into contracts to provide fiscal and management services to public and private educational institutions, tribal schools, federal and state agencies, and local governmental units.

NOTE: Authorizes a technical college district board to contract with tribal schools, among others, to provide educational services or fiscal and management services.

auto-ref #22

SECTION 22. 39.41 (1) (bm) of the statutes is amended to read:

39.41 **(1)** (bm) "Senior" means a pupil enrolled in the 12th grade in a public or private high school, a tribal school, the school operated by the Wisconsin Educational Services Program for the Deaf and Hard of Hearing, or the school operated by the Wisconsin Center for the Blind and Visually Impaired.

SECTION 23. 39.41 (1) (br) of the statutes is created to read:

39.41 **(1)** (br) "Tribal school" has the meaning given in s. 115.001 (15m).

auto-ref # 24

SECTION 24. 39.41 (1m) (a) (intro.), (b), (c) 4. and 5., (e), (em), (g) and (j) of the statutes are amended to read:

39.41 **(1m)** (a) (intro.) Subject to par. (d), by February 15 of each school year, the school board of each school district operating one or more high schools and the governing body of each private high school and of each tribal high school shall:

1 (b) By February 15 of each school year, the school board of each school district
2 operating one or more high schools and the governing body of each private high
3 school and of each tribal high school may, for each high school with an enrollment of
4 less than 80 pupils, nominate the senior with the highest grade point average in all
5 subjects who may be designated as a scholar by the executive secretary under par.
6 (c) 3.

7 (c) 4. For each public ~~or~~, private, or tribal high school with an enrollment of at
8 least 80 pupils, notify the school board of the school district operating the public high
9 school or the governing body of the private or tribal high school of the number of
10 scholars to be designated under par. (a).

11 5. For each public ~~or~~, private, or tribal high school with an enrollment of less
12 than 80 pupils, notify the school board of the school district operating the public high
13 school or the governing body of the private or tribal high school that the school board
14 or governing body may nominate a senior under par. (b) who may be designated as
15 a scholar by the executive secretary.

16 (e) Except as provided under par. (em), if 2 or more seniors from the same high
17 school of less than 80 pupils have the same grade point average and, except for the
18 limitation of one nominated senior, are otherwise eligible for nomination under par.
19 (b), the faculty of the high school shall select the senior who may be nominated by
20 the school board of the school district operating the public high school or the
21 governing body of the private or tribal high school for designation under par. (b) as
22 a scholar by the executive secretary. If that senior is designated as a scholar by the
23 executive secretary and does not qualify for a higher education scholarship under
24 sub. (2) (a) or (3) (a), faculty of the high school shall select one or more of the
25 remaining seniors with the same grade point average for certification as a scholar

1 and the school board of the school district operating the high school or the governing
2 body of the private or tribal high school shall certify to the board one or more of these
3 seniors as eligible for a higher education scholarship as a scholar under sub. (2) (a)
4 or (3) (a) until the scholarship may be awarded by the board.

5 (em) If the high school weights different courses differently to determine a
6 pupil's grade point average, and the senior designated as a scholar by the executive
7 secretary under par. (e) does not qualify for a higher education scholarship under
8 sub. (2) (a) or (3) (a), the faculty of the high school shall select one senior with the
9 same grade point average for certification as a scholar, or, if there is no senior with
10 the same grade point average, one senior with the next highest grade point average
11 for certification as a scholar, and the school board of the school district operating the
12 high school or the governing body of the private or tribal high school shall certify to
13 the board the selected senior as eligible for a higher education scholarship as a
14 scholar under sub. (2) (a) or (3) (a) until the scholarship may be awarded by the board.

15 (g) Notwithstanding par. (a), if a high school of at least 80 pupils closes or
16 merges in the 1991-92 school year or in any school year thereafter, the school board
17 of the school district operating the high school or the governing body of the private
18 or tribal high school shall, subject to par. (d), for each of the 2 school years following
19 the closure or merger, designate the same number of scholars from among the pupils
20 enrolled in the high school at the time of closure or merger as the number of scholars
21 designated for that high school in the school year the high school closed or merged.
22 Any seniors designated under this paragraph shall be eligible for an original
23 scholarship under this section.

24 (j) In the event that 2 or more seniors from the same high school of at least 80
25 pupils have the same grade point average and are otherwise eligible for designation

24 auto-ref #24 at p.18, line 18

1 under par. (a), the school board of the school district operating the high school or the
2 governing body of the private or tribal high school shall make the designation of the
3 faculty of the high school for purposes of par. (d) or (i).

auto-ref #22 at p.18, line 11 22

NOTE: SECTIONS to include seniors at a tribal high school in the Academic Excellence Higher Education Scholarship Program that provides certain seniors with academic scholarships at the UW, technical college, or participating private institutions of higher education.

auto-ref #25

4 **SECTION 25.** 45.09 (1) (d) of the statutes is created to read:

5 45.09 **(1)** (d) "Tribal school" has the meaning given in s. 115.001 (15m).

auto-ref #26

6 **SECTION 26.** 45.09 (2) of the statutes is amended to read:

7 45.09 **(2)** Subject to sub. (3), the department shall award a certificate of
8 achievement and appreciation to any veteran who completes 20 hours of volunteer
9 service in a public ~~or~~, private, or tribal school during a school term.

CS SECTIONS 25 and 26

auto-ref #26 at this page, line 6

NOTE: Current law provides that the Department of Veterans Affairs must award a certificate of achievement and appreciation to any veteran who completes 20 hours of volunteer service in a public or private school during a school term if certain conditions are met. ~~The bill~~ also includes such volunteer service in a tribal school.

auto-ref #25 at this page line 4

10 **SECTION 27.** 45.20 (2) (a) 1., (c) 1. and (d) 1. of the statutes are amended to read:

11 45.20 **(2)** (a) 1. The department shall administer a tuition reimbursement
12 program for eligible veterans enrolling as undergraduates in any institution of
13 higher education in this state, enrolling in a school that is approved under s. 45.03
14 (11), enrolling in a proprietary school that is approved under s. 38.50, enrolling in a
15 public or private high school, enrolling in a tribal school, as defined in s. 115.011
16 (15m), in any grade from 9 to 12, or receiving a waiver of nonresident tuition under
17 s. 39.47.

18 (c) 1. A veteran who meets the eligibility requirements under par. (b) 1. may
19 be reimbursed upon satisfactory completion of an undergraduate semester in any
20 institution of higher education in this state, or upon satisfactory completion of a

course at any school that is approved under s. 45.03 (11), any proprietary school that is approved under s. 38.50, any public or private high school, any tribal school, as defined in s. 115.001 (15m), that operates any grade from 9 to 12, or any institution from which the veteran receives a waiver of nonresident tuition under s. 39.47. Except as provided in par. (e), the amount of reimbursement may not exceed the total cost of the veteran's tuition minus any grants or scholarships that the veteran receives specifically for the payment of the tuition, or, if the tuition is for an undergraduate semester in any institution of higher education, the standard cost of tuition for a state resident for an equivalent undergraduate semester at the University of Wisconsin–Madison, whichever is less.

(d) 1. A veteran's eligibility for reimbursement under this subsection at any institution of higher education in this state, at a school that is approved under s. 45.03 (11), at a proprietary school that is approved under s. 38.50, at a public or private high school, at a tribal school, as defined in s. 115.001 (15m), that operates any grade from 9 to 12, or at an institution where he or she is receiving a waiver of nonresident tuition under s. 39.47 is limited to the following:

NOTE: Provides that a veteran is eligible for reimbursement for a course taken at a tribal high school under certain circumstances.

SECTION 28. 46.275 (3r) (a) 3. of the statutes is amended to read:

46.275 **(3r)** (a) 3. The person will be relocated into the home of the person's parent or guardian and will be receiving state monitoring of the relocation and services provided by a public or private school or a tribal school, as defined in s. 115.001 (15m).

NOTE: Current law permits DHS to relocate a resident of a state center for the developmentally disabled to the community without county participation under certain circumstances, including the circumstance in s. 46.275 (3r) (a) 3., stats., which is amended to include a tribal school.

SECTION 29. 48.02 (18m) of the statutes is created to read:

48.02 **(18m)** "Tribal school" has the meaning given in s. 115.001 (15m).

auto-ref #30

SECTION 30. 48.345 (12) (a) 5. of the statutes is created to read:

48.345 **(12)** (a) 5. Pursuant to a contractual agreement with the school district in which the child resides, an educational program provided by a tribal school.

auto-ref #31

SECTION 31. 48.345 (12) (c) of the statutes is amended to read:

48.345 **(12)** (c) The judge shall order the county department, department, in a county having a population of 500,000 or more, or licensed child welfare agency responsible for supervising the child to disclose to the school board, technical college district board, tribal school, or private, nonprofit, nonsectarian agency which is providing an educational program under par. (a) 3. records or information about the child, as necessary to assure the provision of appropriate educational services under par. (a).

NOTE: Under current law, a CHIPS dispositional order may include an order that a child attend an educational program provided by the school district or one of several programs under contract with the school district. Current law does not include a tribal school.

CS

auto-ref # 30 at this page, line 3

SECTION 30 amends s①

to specify

~~Section~~ 48.345 (12) (a) 5., stats., ~~specifies~~ that the court is permitted to order a child to attend a tribal school if the school district has a contract with the tribal school for such placements. ~~Section~~ 48.345 (12) (c), stats., ~~is amended~~ to require the court to order the supervising agency to disclose information to the tribal school necessary to assure appropriate educational services in such cases. Also see the treatment of ss. 121.78 (4) and 938.34 (7d) (a) 5. and (c), stats., below.

CS

SECTION 31 amends s①

auto-ref # 31 at this page, line 6

SECTION 32. 48.355 (2) (c) of the statutes is amended to read:

48.355 **(2)** (c) If school attendance is a condition of an order under par. (b) 7., the order shall specify what constitutes a violation of the condition and shall direct the school board of the school district, or the governing body of the private school, in which the child is enrolled, or shall request the governing body of the tribal school in which the child is enrolled, to notify the county department that is responsible for

1 supervising the child or, in a county having a population of 500,000 or more, the
2 department within 5 days after any violation of the condition by the child.

NOTE: Under s. 48.355 (2) (b) 7., stats., a CHIPS dispositional order may state the conditions with which the child must comply. If school attendance is a condition, current law requires that the order direct the school board or the governing body of a private school to notify the court within five days of a violation of the condition. ~~The bill~~ requires that the court order request that a tribal school do so.

3 **SECTION 33.** 48.396 (1) of the statutes is amended to read:

4 48.396 **(1)** Law enforcement officers' records of children shall be kept separate
5 from records of adults. Law enforcement officers' records of the adult expectant
6 mothers of unborn children shall be kept separate from records of other adults. Law
7 enforcement officers' records of children and the adult expectant mothers of unborn
8 children shall not be open to inspection or their contents disclosed except under sub.
9 (1b), (1d), (5), or (6) or s. 48.293 or by order of the court. This subsection does not
10 apply to the representatives of newspapers or other reporters of news who wish to
11 obtain information for the purpose of reporting news without revealing the identity
12 of the child or adult expectant mother involved, to the confidential exchange of
13 information between the police and officials of the public or private school attended
14 by the child or other law enforcement or social welfare agencies, or to children 10
15 years of age or older who are subject to the jurisdiction of the court of criminal
16 jurisdiction. A public school official who obtains information under this subsection
17 shall keep the information confidential as required under s. 118.125, and a private
18 school official who obtains information under this subsection shall keep the
19 information confidential in the same manner as is required of a public school official
20 under s. 118.125. This subsection does not apply to the confidential exchange of
21 information between the police and officials of the tribal school attended by the child
22 if the police determine that enforceable protections are provided by a tribal school

policy or tribal law that requires tribal school officials to keep the information confidential in a manner at least as stringent as is required of a public school official under s. 118.125. A law enforcement agency that obtains information under this subsection shall keep the information confidential as required under this subsection and s. 938.396 (1) (a). A social welfare agency that obtains information under this subsection shall keep the information confidential as required under ss. 48.78 and 938.78.

NOTE: Current law provides that the subsection that specifies that, subject to certain exceptions, law enforcement records relating to children under ch. 48 (the children's code) are confidential does not apply to the confidential exchange of information between the police and school officials. Current law further requires that public school officials who obtain information under this provision keep the information confidential as required in s. 118.125, stats. (relating to the confidentiality of pupil records). Current law also requires that private school officials who obtain information under this provision keep the information confidential in the same manner as is required of a public school official. ~~The bill~~ This SECTION permits the police to confidentially exchange information with tribal school officials if the police determine that a tribal school policy or tribal law provides enforceable protections that require tribal school officials to keep the information confidential in a manner at least as stringent as is required of public and private school officials. CS

SECTION 34. 48.65 (2) (b) of the statutes is amended to read:

48.65 **(2)** (b) A public or parochial school or a tribal school.

NOTE: The day care license statute requires that, with certain exceptions, a facility that provides care for four or more children under the age of seven must obtain a day care center license. Because the day care license statute is a state civil regulatory law, it is not clear that this statute applies to a facility operated by a tribe or tribal member on a reservation or off-reservation trust land, although a tribe or tribal member may choose to obtain a license. In the event a court interprets the day care license statute as applying to a tribe or tribal member, ~~the bill~~ This SECTION makes clear that a tribal school is not subject to this statute. CS

SECTION 35. 48.78 (2) (b) of the statutes is amended to read:

48.78 **(2)** (b) Paragraph (a) does not apply to the confidential exchange of information between an agency and another social welfare agency, a law enforcement agency, a public school, or a private school regarding an individual in the care or legal custody of the agency. A social welfare agency that obtains information under this paragraph shall keep the information confidential as

1 required under this section and s. 938.78. A law enforcement agency that obtains
2 information under this paragraph shall keep the information confidential as
3 required under ss. 48.396 (1) and 938.396 (1) (a). A public school that obtains
4 information under this paragraph shall keep the information confidential as
5 required under s. 118.125, and a private school that obtains information under this
6 paragraph shall keep the information confidential in the same manner as is required
7 of a public school under s. 118.125. Paragraph (a) does not apply to the confidential
8 exchange of information between an agency and officials of a tribal school regarding
9 an individual in the care or legal custody of the agency if the agency determines that
10 enforceable protections are provided by a tribal school policy or tribal law that
11 requires tribal school officials to keep the information confidential in a manner at
12 least as stringent as is required of a public school official under s. 118.125.

NOTE: Section 48.78 (2) (a), stats., provides that, subject to certain exceptions, DCF, a county department of human services or county department of social services, a licensed child welfare agency, or a licensed day care center (collectively referred to as agency) must keep its records relating to children under ch. 48, stats., confidential. Section 48.78 (2) (b), stats., provides an exception and permits the confidential exchange of information with a public or private school which is then required to keep the information confidential if required to do so under the pupil records statute. ~~The bill~~ This SECTION permits an agency to confidentially exchange information with tribal school officials if the agency determines that a tribal school policy or tribal law provides enforceable protections that require tribal school officials to keep the information confidential in a manner at least as stringent as is required of public and private school officials. CS

13 **SECTION 36.** 49.26 (1) (a) 2. bm. of the statutes is created to read:

14 49.26 **(1)** (a) 2. bm. A tribal school, as defined in s. 115.001 (15m).

NOTE: Includes a tribal school in the definition of a "school" under the Learnfare Program, which requires certain individuals to attend school under certain circumstances as a condition of eligibility under the Wisconsin Works Program.

15 **SECTION 37.** 49.26 (1) (g) 2. of the statutes is amended to read:

16 49.26 **(1)** (g) 2. The individual has not graduated from a public ~~or~~, private, or
17 tribal high school or obtained a declaration of equivalency of high school graduation
18 under s. 115.29 (4).

NOTE: Provides an exception for the school attendance requirement under the Learnfare Program if an individual has graduated from a tribal high school.

1 **SECTION 38.** 51.45 (4) (d) of the statutes is amended to read:

2 51.45 **(4)** (d) Cooperate with the department of public instruction, local boards
3 of education, schools, including tribal schools, as defined in s. 115.001 (15m), police
4 departments, courts, and other public and private agencies, organizations, and
5 individuals in establishing programs for the prevention of alcoholism and treatment
6 of alcoholics and intoxicated persons, and preparing curriculum materials thereon
7 for use at all levels of school education.

NOTE: Requires DHS to cooperate with various entities, including tribal schools, to establish alcoholism prevention and treatment programs and to prepare curriculum materials.

auto-red #39

8 **SECTION 39.** 103.21 (7) of the statutes is created to read:

9 103.21 **(7)** "Tribal school" has the meaning given in s. 115.001 (15m).

auto-red #40

10 **SECTION 40.** 103.23 (2) (intro.) and (a) of the statutes are amended to read:

11 103.23 **(2)** (intro.) A minor under 12 years of age may work in a fund-raising
12 sale for a nonprofit organization, a public school ~~or~~, a private school, or a tribal school
13 under the following conditions:

14 (a) Each minor must give the nonprofit organization, public school ~~or~~, private
15 school, or tribal school written approval from the minor's parent or guardian.

16 **SECTION 41.** 103.25 (3m) (c) and (5) of the statutes are amended to read:

17 103.25 **(3m)** (c) This subsection does not apply to employment of a minor by a
18 newspaper publisher or in a fund-raising sale for a nonprofit organization, a public
19 school ~~or~~, a private school, or a tribal school.

20 **(5)** This section does not apply to employment of a minor in a fund-raising sale
21 for a nonprofit organization, a public school ~~or~~, a private school, or a tribal school.

22 **SECTION 42.** 103.27 (3) of the statutes is amended to read:

1 103.27 **(3)** This section does not apply to employment of a minor in a
2 fund-raising sale for a nonprofit organization, a public school ~~or~~, a private school, or
3 a tribal school.

auto-ref #43

4 **SECTION 43.** 103.275 (8) of the statutes is amended to read:

5 103.275 **(8)** EXCEPTION. This section does not apply to the employment of a
6 minor by a newspaper publisher or in a fund-raising sale for a nonprofit
7 organization, a public school ~~or~~, a private school, or a tribal school.

NOTE: SECTION 39 creates a definition of "tribal school" for purposes of the statutes relating to minors working in the street trades or fund raising. In general, minors raising funds by selling for a public or private school are exempt from these statutes. The courts have not made clear if these statutes may be applied on reservations or on off-reservation trust land to minors who are engaged in such activities for a tribal school. While a court may be less likely to apply the statute to American Indian minors who are raising funds on their own reservation or off-reservation trust land, it is possible that a court would apply the statute to non-Indian minors who are raising funds for a tribal school.

auto-ref #40 at p. 27, line 10

40

43

SECTIONS to specify that the statutes do not apply if a minor is engaged in fund-raising activities for a tribal school.

auto-ref #43 at this page, line 4

8 **SECTION 44.** 103.64 (6) of the statutes is created to read:

9 103.64 **(6)** "Tribal school" has the meaning given in s. 115.001 (15m).

NOTE: Defines tribal school as used in ss. 103.67 (2) (c) and 103.71 (1) (b), below.

10 **SECTION 45.** 103.67 (2) (c) of the statutes is amended to read:

11 103.67 **(2)** (c) Minors 12 years of age or older may be employed in street trades,
12 and any minor may work in fund-raising sales for nonprofit organizations, public
13 schools ~~or~~, private schools, or tribal schools, as provided in ss. 103.21 to 103.31.

39

NOTE: Relates to SECTIONS and ~~s.~~ above.

43

auto-ref #43 at this page, line 4

14 **SECTION 46.** 103.71 (1) (b) of the statutes is amended to read:

auto-ref #39 at p. 27, line 8

15 103.71 **(1)** (b) A diploma or certificate to this effect issued by the superintendent
16 of the parochial school system or by the principal of the parochial or private school
17 or tribal school last attended by such minor. Such superintendent, principal, or clerk
18 shall issue such diploma or certificate upon receipt of any application in behalf of any

1 minor entitled thereto. As used in this paragraph the term "school district" shall
2 apply to all regularly constituted school districts, including union free high school
3 districts.

NOTE: Permits a child who has completed high school, including a tribal high school, to be employed during school hours.

4 **SECTION 47.** 115.001 (15m) of the statutes is created to read:

5 115.001 **(15m)** "Tribal school" means an institution with an educational
6 program that has as its primary purpose providing education in any grade or grades
7 from kindergarten to 12 and that is one of the following:

8 (a) Controlled by the elected governing body of a federally recognized American
9 Indian tribe or band in this state.

10 (b) Jointly controlled by the elected governing bodies of 2 or more federally
11 recognized American Indian tribes or bands in this state.

12 (c) Controlled by a tribal educational authority established by a federally
13 recognized American Indian tribe or band in this state.

14 (d) Controlled by a tribal educational authority established jointly by 2 or more
15 federally recognized American Indian tribes or bands in this state.

NOTE: Defines tribal school for purposes of chs. 115 to 121, stats., which relate to K-12 education. This definition is also cross-referenced in statutes outside these chapters that are being amended by this bill to refer to tribal schools.

16 **SECTION 48.** 115.28 (7) (b) and (e) 1. and (11) (intro.) of the statutes are amended
17 to read:

18 115.28 **(7)** (b) Subject to the same rules and laws concerning qualifications of
19 applicants and granting and revocation of licenses or certificates under par. (a), the
20 state superintendent shall grant certificates and licenses to teachers in private
21 schools <u>and tribal schools</u>, except that teaching experience requirements for such
22 certificates and licenses may be fulfilled by teaching experience in ~~either~~ public ~~or~~,

1 private, or tribal schools. An applicant is not eligible for a license or certificate unless
2 the state superintendent finds that the private school or tribal school in which the
3 applicant taught offered an adequate educational program during the period of the
4 applicant's teaching therein. Private schools are not obligated to employ only
5 licensed or certified teachers.

NOTE: Provides that, although state law does not require that teachers in tribal schools have a state license, a state license may be issued if the applicant who teaches in a tribal school meets the state license criteria. Further provides that appropriate experience in a tribal school is counted in determining teaching experience under the state licensure law.

Whether a tribal school is obligated to employ only state licensed or certified teachers is determined by tribal law (or by federal law if the tribal school receives funding from the BIA). Because the issue is not determined by state law, the bill does not include language regarding the matter.

6 (e) 1. In this paragraph, "alternative education program" means an
7 instructional program, approved by the school board, that utilizes successful
8 alternative or adaptive school structures and teaching techniques and that is
9 incorporated into existing, traditional classrooms or regularly scheduled curricular
10 programs or that is offered in place of regularly scheduled curricular programs.
11 "Alternative educational program" does not include a private school, a tribal school,
12 or a home-based private educational program.

NOTE: For the alternative education program license, specifies that, like a private school, an alternative educational program does not include a tribal school.

13 **(11)** DRIVER EDUCATION COURSES. (intro.) Approve driver education courses
14 offered by school districts, county children with disabilities education boards, and
15 technical college districts for the purposes of s. 343.16 (1) (c) 1. and establish
16 minimum standards for driver education courses offered in private schools and tribal
17 schools for the purposes of s. 343.16 (1) (c) 3. All driver education courses approved
18 or for which standards are established under this subsection shall do all of the
19 following:

NOTE: Requires the State Superintendent to establish minimum standards for driver education courses offered in tribal schools so that the courses can be accepted by DOT under ss. 343.06 (1) (c) and 343.16, stats., which relate to qualifications for a driver's license and examining applicants for a driver's license.

If the tribal school does not comply with the requirements for the driver education course, the consequence would be that DOT cannot accept the tribal school course for purposes of the driver's license statute.

1 **SECTION 49.** 115.28 (53) of the statutes is amended to read:

2 115.28 **(53)** ONLINE COURSES. Make online courses available for a reasonable
3 fee, through a statewide web academy, to school districts, cooperative educational
4 service agencies, and charter schools ~~and~~, private schools, and tribal schools located
5 in this state.

NOTE: Requires the State Superintendent to make online courses available for a reasonable fee, through a statewide web academy, to tribal schools located in Wisconsin.

6 **SECTION 50.** 115.34 (2) of the statutes is amended to read:

7 115.34 **(2)** The state superintendent shall make payments to school districts,
8 private schools, charter schools under s. 118.40 (2r), tribal schools, the program
9 under s. 115.52, and the center under s. 115.525 for school lunches served to children
10 in the prior year as determined by the state superintendent from the appropriation
11 under s. 20.255 (2) (cn). Payments shall equal the state's matching obligation under
12 42 USC 1751 et seq. Payments in the current year shall be determined by prorating
13 the state's matching obligation based on the number of school lunches served to
14 children in the prior year. In this subsection, "private school" means any school
15 defined in s. 115.001 (3r) which complies with the requirements of 42 USC 2000d.

NOTE: Adds tribal schools to the school lunch program. (According to DPI staff, tribal schools currently receive funds for the school lunch program.)

16 **SECTION 51.** 115.341 of the statutes is amended to read:

17 **115.341 School breakfast program. (1)** From the appropriation under s.
18 20.255 (2) (cm), the state superintendent shall reimburse each school board 15 cents
19 for each breakfast served at a school that meets the requirements of 7 CFR 220.8 or

220.8a, whichever is applicable, and shall reimburse each governing body of a private school or tribal school 15 cents for each breakfast served at the private school or tribal school that meets the requirements of 7 CFR 220.8 or 220.8a, whichever is applicable.

(2) If the appropriation under s. 20.255 (2) (cm) in any fiscal year is insufficient to pay the full amount of aid under this section, the state superintendent shall prorate state aid payments among the school boards and governing bodies of private schools and tribal schools entitled to the aid.

NOTE: Adds tribal schools to the school breakfast program. (According to DPI staff, tribal schools currently receive funds for the school breakfast program.)

SECTION 52. 115.343 (1) of the statutes is amended to read:

115.343 **(1)** The department shall establish a school day milk program. A public, private, or tribal school participating in the program shall offer each eligible child one half-pint of Wisconsin-produced whole milk, 2% milk, 1.5% milk, one percent milk, 0.5% milk, skim milk or chocolate milk on each day in which school is in session. If a child is allergic to milk or has metabolic disorders or other conditions which prohibit him or her from drinking milk, the child shall be offered juice as a substitute. Any school that participates in the program is encouraged to consider bids from local milk suppliers. The school shall keep all information related to the identity of the pupils who receive a beverage under the program confidential. In this subsection, "Wisconsin-produced" means that all or part of the raw milk used by the milk processor was produced in this state.

NOTE: Current law provides aid for the school day milk program. ~~The bill~~ clearly specifies that tribal schools may be participating schools.

SECTION 53. 115.345 (7m) of the statutes is amended to read:

1 115.345 **(7m)** A private school or tribal school may establish a food services plan
2 for elderly persons. If the plan meets all of the requirements of this section and is
3 approved by the state superintendent, the private school or tribal school is eligible
4 for reimbursement in the same manner as school districts under sub. (5).

NOTE: Adds tribal schools as eligible for reimbursement for a food services plan for the elderly.

5 **SECTION 54.** 115.36 (1) and (2) (a), (b) and (d) 3. of the statutes are amended
6 to read:

7 115.36 **(1)** The purpose of this section is to enable and encourage public ~~and~~,
8 private, and tribal schools to develop comprehensive programs to prevent or
9 ameliorate alcohol and other drug abuse among minors.

10 **(2)** (a) Develop and conduct training programs for the professional staff of
11 public ~~and~~, private, and tribal schools in alcohol and other drug abuse prevention,
12 intervention, and instruction programs.

13 (b) Provide consultation and technical assistance to public ~~and~~, private, and
14 tribal schools for the development and implementation of alcohol and other drug
15 abuse prevention, intervention, and instruction programs.

16 (d) 3. The systematic dissemination of information concerning available
17 resources to appropriate public ~~and~~, private, and tribal school staff.

NOTE: Includes tribal schools in DPI's program to assist schools in developing alcohol and other drug abuse programs.

18 **SECTION 55.** 115.365 (1), (2) (a) and (b) and (3) of the statutes are amended to
19 read:

20 115.365 **(1)** The purpose of this section is to enable and encourage public ~~and~~,
21 private, and tribal schools to develop programs designed to prevent suicide among
22 minors.

1 **(2)** Develop and conduct training programs in suicide prevention for the
2 professional staff of public ~~and~~, private, and tribal schools and county departments
3 under ss. 46.215, 46.22, and 51.42. The programs shall include information on how
4 to assist minors in the positive emotional development which will help prevent
5 suicidal tendencies; the detection, by minors, school staff, and parents, of conditions
6 which indicate suicidal tendencies; the proper action to take when there is reason to
7 believe that a minor has suicidal tendencies or is contemplating suicide; and the
8 coordination of school suicide prevention programs and activities with the suicide
9 prevention and intervention programs and activities of other state and local
10 agencies. Persons other than the professional staff of public ~~and~~, private, and tribal
11 schools and county departments under ss. 46.215, 46.22, and 51.42 may attend the
12 training programs. The department may charge such persons a fee sufficient to cover
13 the increased costs to the department of their participation in the programs.

14 (b) Provide consultation and technical assistance to public ~~and~~, private, and
15 tribal schools for the development and implementation of suicide prevention
16 programs and the coordination of those programs with the suicide prevention and
17 intervention programs of other state and local agencies.

18 **(3)** Each school board and the governing body of each private school annually
19 shall inform their professional staff of the resources available from the department
20 and other sources regarding suicide prevention. The department annually shall
21 provide school boards and the governing bodies of private and tribal schools with a
22 model notice, describing the suicide prevention services that it has developed and
23 how staff may access those services, that school boards and governing bodies of
24 private and tribal schools may use to inform their professional staff.

NOTE: Includes tribal schools in DPI's program to assist schools in developing suicide prevention programs. Requires that DPI provide a model notice to the governing body of a tribal school, which can be used to inform tribal school professional staff about suicide prevention services that DPI has developed and how to access those services. However, in contrast to requirements imposed on public, private, and charter schools, the bill does not require that tribal schools annually inform professional staff about resources available regarding suicide prevention.

1 **SECTION 56.** 115.368 (1) and (2) (a) and (b) of the statutes are amended to read:

2 115.368 **(1)** The purpose of this section is to enable and encourage public ~~and~~,
3 private, and tribal schools to develop protective behaviors programs and
4 anti-offender behavior programs designed to assist minors and their parents or
5 guardians in recognizing, avoiding, preventing, and halting physically or
6 psychologically intrusive or abusive situations that may be harmful to minors.

7 **(2)** (a) Develop and conduct protective behaviors training programs for the
8 professional staff of public ~~and~~, private, and tribal schools and counties under ss.
9 46.034, 46.215, 46.22, 46.23, 51.42, and 51.437. The training programs shall include
10 information on how to assist a minor and his or her parent or guardian in
11 recognizing, avoiding, preventing, and halting physically or psychologically
12 intrusive or abusive situations that may be harmful to the minor, including child
13 abuse, sexual abuse, and child enticement. The training programs shall emphasize
14 how to help minors to develop positive psychological, emotional, and
15 problem-solving responses to such situations, and to avoid relying on negative,
16 fearful, or solely reactive methods of dealing with such situations. The training
17 programs shall also include information on the detection, by other minors, their
18 parents or guardians, and school staff, of conditions that indicate that a minor is
19 being or has been subjected to such situations; the proper action to take when there
20 is reason to believe that a minor is being or has been subjected to such situations; and
21 the coordination of school protective behaviors programs and activities with

1 programs and activities of other state and local agencies. Persons other than the
2 professional staff of public ~~and~~, private, and tribal schools and counties under ss.
3 46.034, 46.215, 46.22, 46.23, 51.42, and 51.437 may attend the training programs.
4 The department may charge such persons a fee sufficient to cover the increased costs
5 of materials, but not personnel cost, to the department of their participation in the
6 programs. The department may not deny any resident of Wisconsin the opportunity
7 to participate in a program if the person is unable to pay any fee.

8 (b) Provide consultation and technical assistance to public ~~and~~, private, and
9 tribal schools for the development and implementation of protective behaviors
10 programs and the coordination of those programs with programs of other state and
11 local agencies.

NOTE: Includes tribal schools in DPI's program to assist schools in developing protective behavior programs.

12 **SECTION 57.** 115.42 (1) (a) 2. of the statutes is amended to read:

13 115.42 **(1)** (a) 2. The person is licensed as a teacher by the state superintendent
14 or employed as a teacher in a private school or tribal school located in this state.

15 **SECTION 58.** 115.42 (2) (a) 2. of the statutes is amended to read:

16 115.42 **(2)** (a) 2. The person maintains his or her license as a teacher issued by
17 the state superintendent or remains employed in a private school or tribal school
18 located in this state.

NOTE: Includes teachers employed at a tribal school as those eligible for grants if they are certified by the National Board for Professional Teaching Standards or are licensed by DPI as a master educator and meet other criteria.

19 **SECTION 59.** 115.52 (3) (b) 1. of the statutes is amended to read:

20 115.52 **(3)** (b) 1. Provide evaluation services to assist local educational agencies,
21 cooperative educational service agencies, county children with disabilities education
22 boards, private schools, tribal schools, and others.

1 **SECTION 60.** 115.52 (3) (b) 2. of the statutes is amended to read:

2 115.52 **(3)** (b) 2. Provide technical assistance and consultation services to local
3 educational agencies, cooperative educational service agencies, county children with
4 disabilities education boards, private schools, tribal schools, and others.

5 **SECTION 61.** 115.52 (3) (b) 10. of the statutes is amended to read:

6 115.52 **(3)** (b) 10. Rent or lease technological materials and assistive technology
7 devices, as defined in s. 115.76 (1), to local educational agencies, cooperative
8 educational service agencies, county children with disabilities education boards, ~~and~~
9 private schools, and tribal schools.

NOTE: Includes tribal schools with those groups to which the Wisconsin Educational Services Program for the Deaf and Hard of Hearing may provide the services specified.

10 **SECTION 62.** 115.525 (3) (b) 2. of the statutes is amended to read:

11 115.525 **(3)** (b) 2. Provide technical assistance and consultation services to
12 entities such as local educational agencies, cooperative educational service agencies,
13 county children with disabilities education boards ~~and~~, private schools, and tribal
14 schools.

NOTE: Includes tribal schools with those groups to which the Wisconsin Center for the Blind and Visually Impaired may provide technical assistance and consultation services.

15 **SECTION 63.** 116.01 of the statutes is amended to read:

16 **116.01 Purpose.** The organization of school districts in Wisconsin is such that
17 the legislature recognizes the need for a service unit between the school district and
18 the state superintendent. The cooperative educational service agencies are designed
19 to serve educational needs in all areas of Wisconsin by serving as a link both between
20 school districts and between school districts and the state. Cooperative educational
21 service agencies may provide leadership, coordination, and education services to

1 school districts, University of Wisconsin System institutions, and technical colleges.
2 Cooperative educational service agencies may facilitate communication and
3 cooperation among all public ~~and~~, private, and tribal schools, and all public and
4 private agencies and organizations, that provide services to pupils.

NOTE: Authorizes CESAs to facilitate communication and cooperation among public, private, and tribal schools, agencies, and organizations that provide services to pupils.

5 **SECTION 64.** 116.032 (1) and (3) (a) (intro.) of the statutes are amended to read:
6 116.032 **(1)** Subject to subs. (2) to (5), for the purpose of providing services to
7 pupils, a board of control may contract with school districts, University of Wisconsin
8 System institutions, technical college district boards, private schools, tribal schools,
9 and agencies or organizations that provide services to pupils. A board of control may
10 also contract with one or more school boards to operate a charter school under s.
11 118.40 (3) (c).
12 **(3)** (a) (intro.) A board of control may contract with a private school, tribal
13 school, or private agency or organization to provide a service or program to that
14 private school, tribal school, or private agency or organization only if all of the
15 following apply:

NOTE: Subject to certain conditions, authorizes a CESA to contract with a tribal school.

16 **SECTION 65.** 118.025 of the statutes is amended to read:
17 **118.025 Arbor day observance.** ~~A school~~ The principal of a public, private,
18 or tribal school may request one free tree provided from state forest nurseries by the
19 department of natural resources under s. 28.06 for each 4th grade pupil in the school
20 for planting in conjunction with an annual observance and celebration of arbor day.

NOTE: Specifies that tribal schools may request trees from the state forest nursery for Arbor Day observance.

21 **SECTION 66.** 118.07 (3) of the statutes is amended to read:

1 118.07 **(3)** The department shall make available to school districts, private
2 schools, tribal schools, and charter schools information about meningococcal disease,
3 including the causes and symptoms of the disease, how it is spread, and how to obtain
4 additional information about the disease and the availability, effectiveness, and
5 risks of vaccinations against the disease. The department may do so by posting the
6 information on its Internet site. At the beginning of the 2006-07 to 2011-12 school
7 years, each school board and the governing body of each private school and each
8 charter school shall provide the parents and guardians of pupils enrolled in grades
9 6 to 12 in the school district or school with the information. At the beginning of the
10 2012-13 school year and each school year thereafter, each school board and the
11 governing body of each private school and each charter school shall provide the
12 parents and guardians of pupils enrolled in grade 6 in the school district or school
13 with the information.

NOTE: Requires DPI to provide information to tribal schools about meningococcal disease. However, in contrast to requirements imposed on public, private, and charter schools, the bill does not require that tribal schools provide the information to parents and guardians of pupils.

14 **SECTION 67.** 118.08 (1) of the statutes is amended to read:

15 118.08 **(1)** On any street or highway which borders the grounds of any public
16 ~~or~~, private, or tribal school in which school is held for a term of not less than 6 months,
17 the authority in charge of the maintenance of the street or highway shall erect black
18 and yellow "school" warning signs. The authority may also designate school
19 crossings across any street or highway, whether or not the street or highway borders
20 on the grounds of a school.

NOTE: Requires the authority in charge of a street or highway to erect school warning signs, including signs for tribal schools.

21 **SECTION 68.** 118.125 (2) (n) of the statutes is amended to read:

1 118.125 **(2)** (n) For the purpose of providing services to a pupil before
2 adjudication, a school board may disclose pupil records to a law enforcement agency,
3 district attorney, city attorney, corporation counsel, agency, as defined in s. 938.78
4 (1), intake worker under s. 48.067 or 938.067, court of record, municipal court,
5 private school, or another school board if disclosure is pursuant to an interagency
6 agreement and the person to whom the records are disclosed certifies in writing that
7 the records will not be disclosed to any other person except as permitted under this
8 subsection. For the purpose of providing services to a pupil before adjudication, a
9 school board may disclose pupil records to a tribal school if disclosure is pursuant to
10 an agreement between the school board and the governing body of the tribal school
11 and if the school board determines that enforceable protections are provided by a
12 tribal school policy or tribal law that requires the tribal school official to whom the
13 records are disclosed not to disclose the records to any other person except as
14 permitted under this subsection.

NOTE: Current law provides that, for the purpose of providing services to a pupil before adjudication, a school board may disclose pupil records to certain entities, including a private school, if disclosure is pursuant to an interagency agreement and the person to whom records are disclosed certifies that the records will not be disclosed to any other person except as permitted under s. 118.125 (2), stats. ~~The bill~~ This SECTION permits a school board to disclose pupil records to a tribal school under this provision if disclosure is pursuant to an agreement between the school board and the governing body of the tribal school and if the school board determines that enforceable protections are provided by a tribal school policy or tribal law that requires the tribal school official to whom the records are disclosed not to disclose the records to any other person except as permitted under s. 118.125 (2), stats.

15 **SECTION 69.** 118.125 (4) of the statutes is amended to read:

16 118.125 **(4)** TRANSFER OF RECORDS. Within 5 working days, a school district shall
17 transfer to another school, including a private or tribal school, or school district all
18 pupil records relating to a specific pupil if the transferring school district has
19 received written notice from the pupil if he or she is an adult or his or her parent or

1 guardian if the pupil is a minor that the pupil intends to enroll in the other school
2 or school district or written notice from the other school or school district that the
3 pupil has enrolled or from a court that the pupil has been placed in a juvenile
4 correctional facility, as defined in s. 938.02 (10p), or a secured residential care center
5 for children and youth, as defined in s. 938.02 (15g). In this subsection, "school" and
6 "school district" include any juvenile correctional facility, secured residential care
7 center for children and youth, adult correctional institution, mental health institute,
8 or center for the developmentally disabled, that provides an educational program for
9 its residents instead of or in addition to that which is provided by public ~~and~~, private,
10 and tribal schools.

This SECTION CS

NOTE: Clarifies that, under current law, the requirement that a school district transfer records to a school includes a requirement that a school district transfer records to a tribal school. ~~The bill~~ also adds a reference to tribal schools in referring to a center for the developmentally disabled that provides an educational program directly or in addition to that provided by a tribal school.

11 **SECTION 70.** 118.127 (2) of the statutes is amended to read:

12 118.127 **(2)** A school district ~~or~~, private school, or tribal school may disclose
13 information from law enforcement officers' records obtained under s. 938.396 (1) (c)
14 3. only to persons employed by the school district who are required by the department
15 under s. 115.28 (7) to hold a license, to persons employed by the private school or
16 tribal school as teachers, and to other school district ~~or~~, private school, or tribal school
17 officials who have been determined by the school board or governing body of the
18 private school or tribal school to have legitimate educational interests, including
19 safety interests, in that information. In addition, if that information relates to a
20 pupil of the school district ~~or~~, private school, or tribal school, the school district ~~or~~,
21 private school, or tribal school may also disclose that information to those employees
22 of the school district ~~or~~, private school, or tribal school who have been designated by

1 the school board or governing body of the private school or tribal school to receive that
2 information for the purpose of providing treatment programs for pupils enrolled in
3 the school district ~~or~~, private school, or tribal school. A school district may not use
4 law enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the sole basis
5 for expelling or suspending a pupil or as the sole basis for taking any other
6 disciplinary action, including action under the school district's athletic code, against
7 a pupil.

NOTE: This amendment relates to the amendment to s. 938.396 (1) (c) 3., below. If law enforcement records are disclosed to a tribal school under that provision, the amendment to s. 118.127 (2), stats., imposes duties on the tribal school that are the same as those duties imposed on a private school that receives such information, namely, limiting to whom the tribal school may disclose the information. (The amendment to s. 938.396 (1) (c) 3., stats., below, specifies that the law enforcement agency policy must specify that the law enforcement agency cannot provide information under s. 938.396 (1) (c) 3., stats., to a tribal school unless the governing body of the tribal school agrees that the information will be used by the tribal school in the same manner as public and private schools as provided under s. 118.127 (2), stats.)

8 **SECTION 71.** 118.145 (3) and (4) of the statutes are amended to read:

9 118.145 **(3)** If the superintendent ~~or principal~~ of a private school or of a tribal
10 school files with the department the course of study for elementary grades prescribed
11 by such school and if such course of study is substantially equivalent to the course
12 of study prepared for elementary grades by the department, a certificate or diploma
13 or other written evidence issued by the superintendent ~~or principal~~ of the private
14 school or tribal school showing that the pupil has completed such course of study
15 shall entitle the pupil to admission to a public high school. The certificate or diploma
16 or a certified copy thereof or a certified copy of a list of graduates shall be filed with
17 the school district clerk of the school district operating the high school.

18 **(4)** The school board of a school district operating high school grades shall allow
19 a pupil enrolled in a private school, a pupil enrolled in a tribal school, or a pupil
20 enrolled in a home-based educational program, who has met the standards for

[Note to Peter Grant - I see your point on not adding principal - Joyce]

1 admission to high school under sub. (1), to take up to 2 courses during each school
2 semester if the pupil resides in the school district in which the public school is located
3 and if the school board determines that there is sufficient space in the classroom.

NOTE: Permits a tribal school to file with DPI information about the elementary school course of study which entitles a pupil having completed that course of study to be admitted to a public high school. Also permits a tribal school pupil who has met the standards for admission to high school to take up to two courses each semester at a public high school in the school district in which the pupil resides if the school board determines that there is sufficient space in the classroom. (Under s. 121.004 (7) (e), stats., public schools receive some equalization aid for providing this instruction; under s. 121.05 (1) (a) 12., stats., the number of these pupils is included in the annual school district report; and under s. 121.54 (2) (c), stats., a school district may elect, but is not required, to provide transportation for pupils under s. 118.145 (4), stats.)

4 **SECTION 72.** 118.15 (1) (a) of the statutes is amended to read:

5 118.15 **(1)** (a) Except as provided under pars. (b) to (d) and (g) and sub. (4),
6 unless the child is excused under sub. (3) or has graduated from high school, any
7 person having under control a child who is between the ages of 6 and 18 years shall
8 cause the child to attend school regularly during the full period and hours, religious
9 holidays excepted, that the public ~~or~~, private, or tribal school in which the child
10 should be enrolled is in session until the end of the school term, quarter or semester
11 of the school year in which the child becomes 18 years of age.

NOTE: Current law does not clearly provide that attendance at a tribal school satisfies the compulsory school attendance laws. ~~The bill~~ This SECTION explicitly refers to attendance at a tribal school.

The bill does not treat tribal schools similarly to private schools under the compulsory school attendance laws in that private schools are required to: (1) keep records, including: the dates school is held, the names and ages of pupils, the names and addresses of parents of the pupils, and the dates pupils were present at school; and (2) make that information available to the school board's school attendance officer. The bill does not require tribal schools to do so.

12 **SECTION 73.** 118.15 (1) (d) 4. of the statutes is amended to read:

13 118.15 **(1)** (d) 4. Enrollment in any nonsectarian private school or program, or
14 tribal school, located in the school district in which the child resides, which complies
15 with the requirements of 42 USC 2000d. Enrollment of a child under this subdivision

shall be pursuant to a contractual agreement ~~which~~ under s. 121.78 (5) that provides for the payment of the child's tuition by the school district.

NOTE: Under current law, a child's parent or the child may request that the school board provide program or curriculum modifications, including several items specified in the statutes, including a request to attend a private school, rather than the public school. The school board then decides the matter. ~~The bill~~ permits a curriculum modification to be requested to attend a tribal school.

SECTION 74. 118.153 (1) (b) of the statutes is amended to read:

118.153 **(1)** (b) "Dropout" means a child who ceased to attend school, does not attend a public ~~or~~, private, or tribal school, technical college, or home-based private educational program on a full-time basis, has not graduated from high school, and does not have an acceptable excuse under s. 118.15 (1) (b) to (d) or (3).

NOTE: Exempts a child who attends a tribal school from the definition of "dropout" in the statute for children at risk of not graduating from high school programs. That definition is used by cross-reference in several other statutes.

The bill does not amend s. 118.163, stats., relating to municipal truancy and school dropout ordinances. However, the effect of the amendments noted above that include tribal schools will affect s. 118.163, stats.

SECTION 75. 118.16 (2) (e) of the statutes is amended to read:

118.16 **(2)** (e) ~~Shall~~ Except as provided in par. (f), 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.

SECTION 76. 118.16 (2) (f) of the statutes is created to read:

118.16 **(2)** (f) Shall request information regarding the attendance of any child between the ages of 6 and 18 who is a resident of the school district and who claims or is claimed to be in attendance at a tribal school, or who is not a resident of the school district and who claims or is claimed to be in attendance at a tribal school located in the school district.

NOTE: As part of the school attendance enforcement statute, current law requires private schools to keep a record containing certain information about pupils, including

Or (b) is Not a resident of the school district but claims or is claimed to be attending a tribal school located in the school district

(a)

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This SECTION

their attendance. Current law also specifies that a school attendance officer must have access to this information at all reasonable times. [s. 118.16 (2) (e) and (3), stats.] ~~The bill~~ requires a school attendance officer to request information about the attendance of a child between the ages of 6 and 18 who is a resident of the school district and ~~who~~ claims or is claimed to be attending a tribal school. The bill does not require the tribal school to keep or provide the information to the school attendance officer.

1 **SECTION 77.** 118.162 (1) (am) and (m) of the statutes are created to read:

2 118.162 **(1)** (am) A representative from each tribal school in the county,
3 designated by the governing body of the tribal school that he or she represents, who
4 may be a member of the tribal school governing body, school administrator, teacher,
5 pupil services professional, or parent of a child enrolled in that tribal school.

6 (m) A parent of a pupil enrolled in a tribal school located in the county, who
7 resides in the county, designated by the county board.

NOTE: Adds to the county committee that advises on school districts' truancy plans: (1) a representative of each tribal school in the county; and (2) a parent of a tribal school pupil. The latter provision is modeled after the provision for a parent of a private school pupil being appointed to the county committee.

8 **SECTION 78.** 118.255 (2) of the statutes is amended to read:

9 118.255 **(2)** (a) If a school board, cooperative educational service agency, or
10 county children with disabilities education board provides physical or mental health
11 treatment services to its pupils, it may also provide such services within the private
12 school <u>or tribal school</u> facilities to those private school <u>or tribal school</u> pupils who are
13 referred to the public school board, cooperative educational service agency, or county
14 children with disabilities education board by the administrator of a private school
15 <u>or tribal school</u> for evaluation for possible servicing. There shall be no charge for
16 health treatment services provided to any pupils unless public school students or
17 their parents are charged for similar services. For purposes of state aid, as it is
18 provided under s. 115.88 to the public school district, for the health treatment service
19 program, private school <u>and tribal school</u> pupils receiving such health treatment
20 services shall be counted among the pupils of the public school district receiving such

1 services, although each child may receive health treatment services within the
2 child's own school facilities, whether public ~~or~~, private, or tribal.
3 (b) A school board, cooperative educational service agency, or county children
4 with disabilities education board providing services under this section may enter
5 into agreements with the administrator of a private school or tribal school on the
6 scheduling, space, and other necessary arrangements for performance of such health
7 treatment services. A school board, cooperative educational service agency, or county
8 children with disabilities education board shall not pay any private school or tribal
9 school for any services or facilities provided under this section. Control of the health
10 treatment services program shall rest with the public school board, cooperative
11 educational service agency, or county children with disabilities education board.
12 (c) A school board, cooperative educational service agency, or county children
13 with disabilities education board may provide health treatment services only within
14 private school or tribal school facilities located within the boundaries of the school
15 district, cooperative educational service agency, or county.

NOTE: Permits school boards, CESAs, and county children with disabilities education boards to provide health treatment services to tribal school pupils at tribal schools under certain circumstances. One of the required circumstances is that the pupil be referred by the tribal school administrator.

16 **SECTION 79.** 118.257 (1) (d) of the statutes is amended to read:
17 118.257 **(1)** (d) "School" means a public, parochial ~~or~~, private, or tribal school
18 which provides an educational program for one or more grades between grades 1 and
19 12 and which is commonly known as an elementary school, middle school, junior high
20 school, senior high school, or high school.

NOTE: Current law exempts from liability certain staff at a private school for removing a pupil from school premises or from school-sponsored activities for suspicion of certain activities relating to controlled substances. Changing this definition has the effect of extending to certain tribal school officials the same exemption from liability under state law. It also has the effect of adding tribal schools to the definition of school

in s. 134.66 (1) (h), stats., which cross–references this definition. This would prohibit a retailer from placing a vending machine that dispenses cigarettes within 500 feet of a tribal school.

Extending the immunity protections under state law to certain tribal school staff does not affect liability under tribal law or whatever right such staff may have to raise a defense of tribal sovereign immunity if sued.

SECTION 80. 118.29 (2) (a) (intro.) and 3. and (b) and (3) of the statutes are amended to read:

118.29 **(2)** (a) (intro.) Notwithstanding chs. 441, 447, 448, and 450, a school bus operator validly authorized under ss. 343.12 and 343.17 (3) (c) to operate the school bus he or she is operating, any school employee or volunteer, county children with disabilities education board employee or volunteer or cooperative educational service agency employee or volunteer authorized in writing by the administrator of the school district, the board or the agency, respectively, or by a school principal, ~~and~~ any private school employee or volunteer authorized in writing by a private school administrator or private school principal, and any tribal school employee or volunteer authorized in writing by a tribal school administrator or tribal school principal:

3. ~~Is~~ Subject to sub. (4m), is immune from civil liability for his or her acts or omissions in administering a drug or prescription drug to a pupil under subd. 1., 2., 2m., or 2r. unless the act or omission constitutes a high degree of negligence. This subdivision does not apply to health care professionals.

(b) ~~Any~~ Subject to sub. (4m), any school district administrator, county children with disabilities education board administrator, cooperative educational service agency administrator, public ~~or~~, private, or tribal school principal, or private or tribal school administrator who authorizes an employee or volunteer to administer a drug

or prescription drug to a pupil under par. (a) is immune from civil liability for the act of authorization unless it constitutes a high degree of negligence.

(3) EMERGENCY CARE; CIVIL LIABILITY EXEMPTION. Any school bus operator validly authorized under ss. 343.12 and 343.17 (3) (c) to operate the school bus he or she is operating and any public ~~or~~, private, or tribal school employee or volunteer, county children with disabilities education board employee or volunteer, or cooperative educational service agency employee or volunteer, other than a health care professional, who in good faith renders emergency care to a pupil of a public ~~or~~, private, or tribal school is immune from civil liability for his or her acts or omissions in rendering such emergency care. The immunity from civil liability provided under this subsection is in addition to and not in lieu of that provided under s. 895.48 (1).

SECTION 81. 118.29 (4m) of the statutes is created to read:

118.29 **(4m)** APPLICABILITY TO TRIBAL SCHOOL EMPLOYEES. The immunity under sub. (2) applies to a tribal school employee, administrator, or volunteer only if the governing body of the tribal school has adopted a written policy that complies with sub. (4).

Current law

NOTE: Current law, in pertinent part, permits private school employees and volunteers to administer certain drugs to pupils under certain circumstances and exempts them from liability under state law for doing so. It also requires the governing board of a private school to adopt a written policy governing such administration. ~~The bill~~ This SECTION permits tribal school employees and volunteers to do so in the same situations and extends to them the same exemptions from liability under state law if the governing body of the tribal school has adopted a written policy that complies with the requirements for a written policy that apply to private schools. ~~The bill~~ This SECTION also extends to tribal school employees and volunteers the same exemption from liability under state law when they are rendering emergency care that applies to certain others, including private school employees and volunteers.

Extending the immunity protections under state law to tribal school employees and volunteers does not affect liability under tribal law or whatever right tribal school employees and volunteers may have to raise a defense of tribal sovereign immunity if sued.

SECTION 82. 118.291 (1g) (b) of the statutes is amended to read:

118.291 **(1g)** (b) "School" includes a public ~~and a~~, private, and tribal school.

SECTION 83. 118.291 (2) (c) of the statutes is created to read:

118.291 **(2)** (c) No tribal school or tribal school employee is civilly liable for injury to a pupil caused by a tribal school employee who prohibits a pupil from using an inhaler because of the employee's good faith belief that the requirements of sub. (1r) had not been satisfied or who allows a pupil to use an inhaler because of the employee's good faith belief that the requirements of sub. (1r) had been satisfied.

NOTE: Current law permits a pupil with asthma to use an inhaler at school under circumstances when the pupil has provided the school principal with written approval of the pupil's physician and parent. Current statutes provide immunity under state law for school employees who permit inhaler use because of a good faith belief that these conditions have been satisfied or who prohibit use because of a good faith belief that these conditions have not been satisfied.

~~The bill~~ extends the immunity to tribal school employees under the same conditions. This extension of immunity protections under state law does not affect liability under tribal law or whatever right a tribal school employee may have to raise a defense of tribal sovereign immunity if sued.

SECTION 84. 118.295 of the statutes is amended to read:

118.295 Suicide intervention; civil liability exemption. Any school board, private school, tribal school, county children with disabilities education board, or cooperative educational service agency, and any officer, employee, or volunteer thereof, who in good faith attempts to prevent suicide by a pupil is immune from civil liability for his or her acts or omissions in respect to the suicide or attempted suicide. The civil liability immunity provided in this section is in addition to and not in lieu of that provided under s. 895.48 (1).

NOTE: Current law, in pertinent part, specifies that private school officers, employees, and volunteers who in good faith attempt to prevent suicide by a pupil are exempt under state law from civil liability for their acts or omissions. ~~The bill~~ extends the same exemptions from liability under state law to tribal school officers, employees, and volunteers.

Extending the immunity protections to tribal school officers, employees, and volunteers does not affect liability under tribal law or whatever right tribal school officers, employees, and volunteers may have to raise a defense of tribal sovereign immunity if sued.

1 **SECTION 85.** 120.18 (1) (a) 2. and (s) of the statutes are amended to read:

2 120.18 **(1)** (a) 2. Adding the number of persons under this paragraph who were
3 residents of the school district and were enrolled in the school district on the 3rd
4 Friday of September of the previous school year; plus the number of persons under
5 this paragraph who were residents of the school district and who were enrolled in
6 private schools, tribal schools, home-based private educational programs, or other
7 school districts on the 3rd Friday of September of the previous school year; plus the
8 number or an estimate of the number of those persons under this paragraph who
9 were residents of the school district and not enrolled in the school district, private
10 schools, tribal schools, home-based private educational programs, or other school
11 districts on the 3rd Friday of September of the previous school year.

12 (s) Such other facts and statistics in relation to the ~~schools,~~ public ~~or~~, private
13 or tribal schools, in the school district as the department requires.

NOTE: In the annual school district report submitted by the school district clerk to DPI, ~~the bill~~ requires inclusion of the above information about tribal schools and tribal school pupils. (This information can be included only if the tribal school voluntarily provides the information to the school district.)

14 **SECTION 86.** 121.05 (1) (a) 7. of the statutes is amended to read:

15 121.05 **(1)** (a) 7. Pupils enrolled in a nonsectarian private school or program or
16 tribal school under s. 118.15 (1) (d) 4.

NOTE: Current law requires that the pupil membership report (which is used to calculate state aid to school districts) include pupils enrolled in a nonsectarian private school or program if the school district is paying tuition for the pupil to attend such a private school or program because of a curriculum modification agreed to by the school board. ~~The bill~~ adds tribal schools to reflect the proposed amendment to s. 118.15 (1) (d) 4., stats., above.

17 **SECTION 87.** 121.76 (1) (a) of the statutes is amended to read:

18 121.76 **(1)** (a) "Agency of service" means a school board, board of control of a
19 cooperative educational service agency, county children with disabilities education

1 board, or governing body of a nonsectarian private school ~~or~~, university model school,
2 or tribal school, which provides services for which tuition may be charged.

NOTE: Current law defines "agency of service" for purposes of subch. V, ch. 121, stats., which describes various circumstances under which a pupil may attend a school other than a public school in the school district of residence, how tuition and aid are calculated if the school district is paying for it, and how tuition is otherwise calculated. The entity providing the services is the agency of service. ~~The bill~~ This SECTION adds tribal schools to this definition. As a result of other provisions of this bill, a tribal school may be providing the services due to curriculum modification or court-ordered educational placement.

3 **SECTION 88.** 121.76 (2) (c) of the statutes is amended to read:

4 121.76 **(2)** (c) The agency of service, other than a tribal school, shall rebate a
5 proportional share of state or federal aid received for pupils for whom it received
6 tuition. The rebate shall be paid to the agency or person who paid the tuition within
7 30 days of its receipt by the agency of service.

NOTE: Under current law, if an agency of service, including a private school, receives tuition from a school district, it must rebate a proportional share of any federal or state aid it received. Because a tribal school could assert a defense of sovereign immunity in any lawsuit to collect a rebate, ~~the bill~~ This SECTION does not require a tribal school to rebate such aid. Rather, the bill provides in s. 121.78 (4) and (5), stats., below, that federal and state aid are subtracted in determining the amount of tuition paid to a tribal school that is providing either court-ordered educational placement under an agreement with the school district or curriculum modification under an agreement with the school district.

8 **SECTION 89.** 121.78 (4) of the statutes is amended to read:

9 121.78 **(4)** COURT-ORDERED EDUCATIONAL SERVICES. If a pupil is receiving
10 educational services as the result of a court order under s. 48.345 (12) or 938.34 (7d),
11 the school board of the school district in which the pupil resided at the time of
12 issuance of the court order shall pay tuition for the pupil. A school board paying
13 tuition for a pupil under this subsection shall count the pupil as 1.0 pupil in
14 membership for general aid under subch. II. The school board shall pay each agency
15 specified under s. 48.345 (12) (a) 2. to 4. or 938.34 (7d) (a) 2. to 4., for each full-time
16 equivalent pupil served by the agency, an amount equal to at least 80% of the average
17 per pupil cost for the school district. No state aid may be paid to the technical college

1 district for pupils attending the technical college under s. 48.345 (12) (a) 4. or 938.34
2 (7d) (a) 4. The minimum amount paid by a school board to a tribal school specified
3 under s. 48.345 (12) (a) 5. or 938.34 (7d) (a) 5., for each full-time equivalent pupil
4 served by the tribal school, shall be determined by multiplying the average per pupil
5 cost for the school district by 0.8 and then subtracting any federal or state aid
6 received by the tribal school for the pupil.

NOTE: Amends this provision to reflect the amendments which add s. 48.345 (12) (a) 5., stats., above, and s. 938.34 (7d) (a) 5., stats., below, which permit a court to require in a CHIPS, JIPS, or delinquency dispositional order an educational placement at a tribal school that must be paid for by the school district. Under current law, a school board must pay an agency providing such services, other than a technical college, at least 80% of the average per pupil cost for the school district. This is the minimum amount that must be specified in the contract between the school board and agency. The agency of service must rebate all federal and state aid received for that pupil under s. 121.76 (2) (c), stats.

CS THIS SECTION

~~The bill~~ specifies that if a tribal school is providing a court-ordered educational placement for a pupil under an agreement with the school district, the *minimum* amount paid by the school board to the tribal school must be determined by multiplying the average per pupil cost of the school district times 0.80 and then subtracting all federal and state aid received by the tribal school for that pupil.

7 **SECTION 90.** 121.78 (5) of the statutes is created to read:

8 121.78 **(5)** ALTERNATIVE PROGRAMS. If a pupil is placed in an alternative program
9 under s. 118.15 (1) (d) 4., the school board shall pay tuition for the pupil to the agency
10 of service pursuant to a contractual agreement between the school board and the
11 agency of service. If the agency of service is a tribal school, any federal or state aid
12 received by the tribal school for the pupil shall be subtracted in determining the
13 amount of aid to be paid.

THIS SECTION CS

NOTE: ~~The bill~~ provides that, if a school board approves a curriculum modification allowing a pupil to attend a nonsectarian private school or tribal school at school district expense and pursuant to an agreement between the school board and the private school or tribal school, the school board pays tuition pursuant to an agreement with the private school or tribal school. (Current law included this requirement with respect to private schools in s. 118.15 (1) (d) 4., stats.; the bill adds tribal schools and cross-references the requirement with respect to private schools.) ~~The bill~~ requires such an agreement with a tribal school to provide for subtracting the amount of federal and state aid received for the pupil in determining the amount of tuition paid by the school district for the pupil to the tribal school. The bill is silent with respect to private schools in this regard, as private schools are required to rebate any such payment under s. 121.76 (2) (c), stats.

THIS SECTION CS

1 **SECTION 91.** 125.09 (2) (a) 2. of the statutes is amended to read:

2 125.09 **(2)** (a) 2. "School" means a public~~,~~ school, a parochial or private school,
3 or a tribal school, as defined in s. 115.001 (15m), which provides an educational
4 program for one or more grades between grades 1 and 12 and which is commonly
5 known as an elementary school, middle school, junior high school, senior high school,
6 or high school.

NOTE: Includes tribal school in the definition of "school" for purposes of the statute that restricts possession of alcohol beverages on school premises. Violation of this statute or an ordinance adopted in conformity with this statute has consequences under various statutes, with special provisions applying to juveniles.

7 **SECTION 92.** 125.68 (3) (intro.) of the statutes is amended to read:

8 125.68 **(3)** RESTRICTIONS ON LOCATION. (intro.) No "Class A" or "Class B" license
9 or permit may be issued for premises the main entrance of which is less than 300 feet
10 from the main entrance of ~~any~~ a public or parochial school, tribal school, as defined
11 in s 115.001 (15m), hospital, or church, except that this prohibition may be waived
12 by a majority vote of the governing body of the municipality in which the premises
13 is located. The distance shall be measured by the shortest route along the highway
14 from the main entrance of the school, church, or hospital to the main entrance of the
15 premises covered by the license or permit. The prohibition in this subsection does
16 not apply to any of the following:

NOTE: Includes tribal schools in the statute that generally restricts the location of the premises for which a Class A or Class B liquor license is issued from being within 300 feet from the main entrance of a school.

17 **SECTION 93.** 252.15 (1) (ab) and (2) (a) 7. a. of the statutes are amended to read:

18 252.15 **(1)** (ab) "Affected person" means an emergency medical technician; first
19 responder; fire fighter; peace officer; correctional officer; person who is employed at
20 a juvenile correctional facility, as defined in s. 938.02 (10p), or a secured residential
21 care center for children and youth, as defined in s. 938.02 (15g); state patrol officer;

1 jailer, keeper of a jail, or person designated with custodial authority by the jailer or
2 keeper; health care provider; employee of a health care provider; staff member of a
3 state crime laboratory; social worker; or employee of a school district, cooperative
4 educational service agency, charter school, private school, tribal school, as defined
5 in s. 115.001 (15m), the Wisconsin Educational Services Program for the Deaf and
6 Hard of Hearing, or the Wisconsin Center for the Blind and Visually Impaired.

7 **(2)** (a) 7. a. If all of the conditions under subd. 7. ai. to c. are met, an emergency
8 medical technician; first responder; fire fighter; peace officer; correctional officer;
9 person who is employed at a juvenile correctional facility, as defined in s. 938.02
10 (10p), or a secured residential care center for children and youth, as defined in s.
11 938.02 (15g); state patrol officer; jailer, keeper of a jail, or person designated with
12 custodial authority by the jailer or keeper, during the course of providing care or
13 services to an individual; a peace officer, correctional officer, state patrol officer,
14 jailer, or keeper of a jail, or person designated with custodial authority by the jailer
15 or keeper, while searching or arresting an individual or while controlling or
16 transferring an individual in custody; a health care provider or an employee of a
17 health care provider, during the course of providing care or treatment to an
18 individual or handling or processing specimens of body fluids or tissues of an
19 individual; a staff member of a state crime laboratory, during the course of handling
20 or processing specimens of body fluids or tissues of an individual; social worker; or
21 an employee of a school district, cooperative educational service agency, charter
22 school, private school, tribal school, as defined in s. 115.001 (15m), the Wisconsin
23 Educational Services Program for the Deaf and Hard of Hearing, or the Wisconsin
24 Center for the Blind and Visually Impaired, while performing employment duties
25 involving an individual; who is significantly exposed to the individual may subject

1 the individual's blood to a test or a series of tests for the presence of HIV, antigen or
2 nonantigenic products of HIV or an antibody to HIV and may receive disclosure of
3 the results.

NOTE: While the results of HIV tests are generally confidential, this amendment includes tribal school employees in the category of persons who, when significantly exposed to an individual (for example, by contact with the individual's blood) may require HIV testing of the individual and receive the results of the test.

4 **SECTION 94.** 255.30 (4) of the statutes is amended to read:

5 255.30 **(4)** The state superintendent of public instruction shall prepare and
6 circulate to each public and private educational institution and to each tribal school,
7 as defined in s. 115.001 (15m), in this state instructions and recommendations for
8 implementing the eye safety provisions of this section.

NOTE: Requires the state superintendent to provide information about eye safety to tribal schools, in addition to the other entities specified in current law.

9 **SECTION 95.** 301.45 (1d) (c) of the statutes is amended to read:

10 301.45 **(1d)** (c) "Student" means a person who is enrolled on a full-time or
11 part-time basis in any public ~~or~~, private, or tribal educational institution, including
12 a secondary school, a business, trade, technical or vocational school, or an institution
13 of higher education.

NOTE: Amends the definition of "student" for the purpose of the sex offender registration law to also include students at a tribal educational institution, which would include tribal colleges as well as tribal schools. The registration and reporting requirements apply to state residents, persons employed or carrying on a vocation in this state, and students attending school in this state.

14 **SECTION 96.** 301.46 (4) (a) 1. of the statutes is amended to read:

15 301.46 **(4)** (a) 1. A public or private elementary or secondary school or a tribal
16 school, as defined in s. 115.001 (15m).

NOTE: Adds tribal schools to the list of those who may request information about persons on the sex offender registry.

17 **SECTION 97.** 343.06 (1) (c) of the statutes is amended to read:

343.06 **(1)** (c) To any person under age 18 unless the person is enrolled in a school program or high school equivalency program and is not a habitual truant as defined in s. 118.16 (1) (a), has graduated from high school or been granted a declaration of high school graduation equivalency, or is enrolled in a home-based private educational program, as defined in s. 115.001 (3g), and has satisfactorily completed a course in driver education in public schools approved by the department of public instruction, or in technical colleges approved by the technical college system board, or in nonpublic and private schools <u>or tribal schools, as defined in s. 115.001 (15m),</u> that meet the minimum standards set by the department of public instruction, or has satisfactorily completed a substantially equivalent course in driver training approved by the department and given by a school licensed by the department under s. 343.61, or has satisfactorily completed a substantially equivalent course in driver education or training approved by another state and has attained the age of 16, except as provided in s. 343.07 (1g). The department shall not issue a license to any person under the age of 18 authorizing the operation of "Class M" vehicles unless the person has successfully completed a basic rider course approved by the department. The department may, by rule, exempt certain persons from the basic rider course requirement of this paragraph. Applicants for a license under s. 343.08 or 343.135 are exempt from the driver education, basic rider or driver training course requirement. The secretary shall prescribe rules for licensing of schools and instructors to qualify under this paragraph. The driver education course shall be made available to every eligible student in the state. Except as provided under s. 343.16 (1) (c) and (2) (cm) to (e), no operator's license may be issued unless a driver's examination has been administered by the department.

NOTE: Allows an individual age 16 or 17 to obtain a driver's license if the individual has taken a driver training course at a tribal school if the course meets DPI minimum standards and all other license criteria are met. See the treatment of s. 115.28 (11), stats., above, and s. 343.16 (1) (c) 3., stats., below.

SECTION 98. 343.07 (1c) of the statutes is amended to read:

343.07 **(1c)** DEFINITION. In this section, "qualified instructor" means a person employed by a public ~~or~~ school, private school, or tribal school, as defined in s. 115.001 (15m), holding an operator's license and meeting the teaching certification standards of the department of public instruction or the technical college system board to teach driver education~~,~~; or an instructor of a school licensed under s. 343.61~~,~~; or a teacher or student teacher in a driver education course for teachers conducted by an institution of higher education.

NOTE: Provides that an individual meeting certain credentials and employed by a tribal school is considered to be a qualified instructor to teach a driver education course for purposes of the state driver's license statutes.

SECTION 99. 343.16 (1) (c) 3. of the statutes is amended to read:

343.16 **(1)** (c) 3. A course in driver education in nonpublic and private schools or tribal schools, as defined in s. 115.001 (15m), that meets the minimum standards set by the department of public instruction.

NOTE: Permits an instructor of a driver education course in a tribal school to administer part of the driver's license examination. See s. 343.06 (1) (c), stats., above.

SECTION 100. 447.06 (2) (a) 2. of the statutes is amended to read:

447.06 **(2)** (a) 2. For a school board or a governing body of a private school or of a tribal school, as defined in s. 115.001 (15m).

NOTE: Current law limits where a dental hygienist may practice. This ~~provision~~ additionally permits a dental hygienist to be employed at or independently contract with a tribal school.

SECTION 101. 895.48 (1m) (a) (intro.) of the statutes is amended to read:

895.48 **(1m)** (a) (intro.) Except as provided in par. (b), any physician or athletic trainer licensed under ch. 448, chiropractor licensed under ch. 446, dentist licensed

1 under ch. 447, emergency medical technician licensed under s. 256.15, first
2 responder certified under s. 256.15 (8), physician assistant licensed under ch. 448,
3 registered nurse licensed under ch. 441, or a massage therapist or bodyworker issued
4 a certificate under ch. 460 who renders voluntary health care to a participant in an
5 athletic event or contest sponsored by a nonprofit corporation, as defined in s.
6 66.0129 (6) (b), a private school, as defined in s. 115.001 (3r), a tribal school, as
7 defined in s. 115.001 (15m), a public agency, as defined in s. 46.856 (1) (b), or a school,
8 as defined in s. 609.655 (1) (c), is immune from civil liability for his or her acts or
9 omissions in rendering that care if all of the following conditions exist:

This SECTION CS

NOTE: Current law specifies, in pertinent part, that certain health care providers who render free health care at an athletic event at a private school are immune from liability for acts and omissions. ~~The bill~~ extends the immunity under state law if care is rendered at a tribal school's athletic event. Adding immunity under this provision also permits the health care provider who has been significantly exposed to the emergency victim to get the results of HIV tests. Extending immunity under state law does not affect liability under tribal law or whatever right a person may have to raise a defense of tribal sovereign immunity if sued.

10 **SECTION 102.** 895.515 (2) of the statutes is amended to read:

11 895.515 **(2)** Any person engaged in the sale or use of commercial equipment or
12 technology, for profit or not for profit, who donates any commercial equipment or
13 technology to a public or private elementary or secondary school, a tribal school, as
14 defined in s. 115.001 (15m), or an institution of higher education or who accepts
15 reimbursement in an amount not to exceed overhead and transportation costs for any
16 commercial equipment or technology provided to a public or private elementary or
17 secondary school, to a tribal school, or to an institution of higher education is immune
18 from civil liability for the death of or injury to an individual caused by the commercial
19 equipment or technology.

NOTE: Current law specifies, in pertinent part, that certain individuals who donate commercial equipment or technology to a private school are immune from civil liability under state law for death or injury caused by the donated equipment or technology. This ~~amendment~~ extends the immunity under state law if the donation is made to a tribal

SECTION CS

school. Extending immunity under state law does not affect liability under tribal law or whatever right a person may have to raise a defense of tribal sovereign immunity if sued.

SECTION 103. 938.02 (18e) of the statutes is created to read:

938.02 **(18e)** "Tribal school" has the meaning given in s. 115.001 (15m).

auto. ref #104

SECTION 104. 938.34 (7d) (a) 5. of the statutes is created to read:

938.34 **(7d)** (a) 5. Under a contractual agreement with the school district in which the child resides, an educational program provided by a tribal school.

auto. ref #105

SECTION 105. 938.34 (7d) (c) of the statutes is amended to read:

938.34 **(7d)** (c) The court shall order the county department or licensed child welfare agency responsible for supervising the juvenile to disclose to the school board, technical college district board, tribal school, or private, nonprofit, nonsectarian agency which is providing an educational program under par. (a) 3. records or information about the juvenile, as necessary to assure the provision of appropriate educational services under par. (a).

auto-ref #104 at this page, line 3

NOTE: Under current law, a delinquency dispositional order, JIPS dispositional order, or a habitual truancy ordinance violation dispositional order may include an order that a juvenile attend an educational program provided by the school district or one of several programs under contract with the school district. Current law does not include a tribal school.

CS

SECTION 104 amends s. 1

to specify

~~Section~~ 938.34 (7d) (a) 5., stats., ~~specifies~~ that the court is permitted to order a juvenile to attend a tribal school if the school district has a contract with the tribal school for such placements. ~~Section~~ 938.34 (7d) (c), stats., ~~requires~~ the court to order the supervising agency to disclose information to the tribal school necessary to assure the provision of appropriate educational services. Also see the treatment of ss. 48.345 (12) (a) 5. and (c) and 121.78 (4), stats., above.

CS

SECTION 105 amends s.

to require

auto-ref #105 at this page, line 6

SECTION 106. 938.34 (14t) of the statutes is amended to read:

938.34 **(14t)** POSSESSION OF A CONTROLLED SUBSTANCE OR CONTROLLED SUBSTANCE ANALOG ON OR NEAR CERTAIN PREMISES. If the juvenile is adjudicated delinquent under a violation of s. 961.41 (3g) by possessing or attempting to possess a controlled substance included in schedule I or II under ch. 961, a controlled substance analog of a controlled substance included in schedule I or II under ch. 961 or ketamine or

1 flunitrazepam while in or on the premises of a scattered-site public housing project,
2 as defined in s. 961.01 (20i), while in or on or otherwise within 1,000 feet of a state,
3 county, city, village, or town park, a jail or correctional facility, as defined in s. 961.01
4 (12m), a multiunit public housing project, as defined in s. 961.01 (14m), a swimming
5 pool open to members of the public, a youth center, as defined in s. 961.01 (22), or a
6 community center, while in or on or otherwise within 1,000 feet of any private, tribal,
7 or public school premises, or while in or on or otherwise within 1,000 feet of a school
8 bus, as defined in s. 340.01 (56), the court shall require that the juvenile participate
9 for 100 hours in a supervised work program or other community service work under
10 sub. (5g).

NOTE: Current statutes provide that if a juvenile is adjudicated delinquent for possessing certain drugs on the premises of or within 1,000 feet of a school, the juvenile court must impose 100 hours of community service work for a public agency or a nonprofit charitable organization in addition to other penalties the court imposes. ~~The bill~~ THIS SECTION specifies that the penalty enhancement also applies for possession on or within 1,000 feet of the premises of a tribal school.

11 **SECTION 107.** 938.342 (1r) of the statutes is amended to read:

12 938.342 **(1r)** SCHOOL ATTENDANCE CONDITION. If school attendance is a condition
13 of an order under sub. (1d) or (1g), the order shall specify what constitutes a violation
14 of the condition and shall direct the school board of the school district~~,~~ or the
15 governing body of the private school~~,~~ in which the person is enrolled, or shall request
16 the governing body of the tribal school in which the person is enrolled, to notify the
17 court or, if the person is under the supervision of an agency under sub. (1g) (j), the
18 agency that is responsible for supervising the person, within 5 days after any
19 violation of the condition by the person.

NOTE: Under s. 938.342 (1d) and (1g), stats., a court that determined that a juvenile violated a school truancy or habitual truancy ordinance may order the juvenile to attend school. If school attendance is required, current law requires the court to order the school board or the governing body of a private school to notify the court within five days of a

violation of this condition. ~~The bill~~ THIS SECTION requires that the court order request that a tribal school do so.

SECTION 108. 938.355 (2) (c) of the statutes is amended to read:

938.355 **(2)** (c) If school attendance is a condition of an order under par. (b) 7., the order shall specify what constitutes a violation of the condition and shall direct the school board of the school district~~,~~ or the governing body of the private school~~,~~ in which the juvenile is enrolled, or shall request the governing body of the tribal school in which the juvenile is enrolled, to notify the county department that is responsible for supervising the juvenile within 5 days after any violation of the condition by the juvenile.

NOTE: Under s. 938.355 (2) (b) 7., stats., a delinquency or JIPS dispositional order may state the conditions with which the juvenile must comply. If school attendance is a condition, current law requires that the order direct the school board or the governing body of a private school to notify the court within five days of a violation of this condition. ~~The bill~~ THIS SECTION requires that the court order request that a tribal school do so.

SECTION 109. 938.396 (1) (b) 2. of the statutes is amended to read:

938.396 **(1)** (b) 2. The confidential exchange of information between a law enforcement agency and officials of the public or private school attended by the juvenile. A public school official who obtains information under this subdivision shall keep the information confidential as required under s. 118.125, and a private school official who obtains information under this subdivision shall keep the information confidential in the same manner as is required of a public school official under s. 118.125.

SECTION 110. 938.396 (1) (b) 2m. of the statutes is created to read:

938.396 **(1)** (b) 2m. The confidential exchange of information between a law enforcement agency and officials of the tribal school attended by the juvenile if the law enforcement agency determines that enforceable protections are provided by a tribal school policy or tribal law that requires tribal school officials to keep the

information confidential in a manner at least as stringent as is required of a public school official under s. 118.125.

NOTE: Under current law, subject to certain exceptions, law enforcement records relating to juveniles under ch. 938, stats. (juvenile justice code), are confidential. One of the exceptions is for the confidential exchange of information between a law enforcement agency and school officials. However, current law requires that public school officials who obtain information under this exception keep the information confidential as required in s. 118.125, stats. (relating to the confidentiality of pupil records). Current law also requires that private school officials who obtain information under this exception keep the information confidential in the same manner as is required of a public school official.

THIS SECTION ~~The bill~~ permits a law enforcement agency to confidentially exchange information with tribal school officials if the law enforcement agency determines that a tribal school policy or tribal law provides enforceable protections that require tribal school officials to keep the information confidential in a manner at least as stringent as is required of public and private school officials.

SECTION 111. 938.396 (1) (c) 3. (intro.), a., c. and d. and 4. of the statutes are amended to read:

938.396 **(1)** (c) 3. (intro.) ~~A law enforcement agency, on its own initiative or on~~ At the request of ~~the~~ a school district administrator ~~of a public school district, the,~~ administrator of a private school, or administrator of a tribal school, or ~~the~~ designee of ~~the~~ a school district administrator ~~or the,~~ private school administrator, or tribal school administrator, or on its own initiative, a law enforcement agency may, subject to official agency policy, provide to the school district administrator, private school administrator, or tribal school administrator or designee, for use as provided in s. 118.127 (2), any information in its records relating to any of the following if the official agency policy specifies that the information may not be provided to an administrator of a tribal school or a tribal school administrator's designee unless the governing body of the tribal school agrees that the information will be used by the tribal school as provided in s. 118.127 (2):

a. The use, possession, or distribution of alcohol or a controlled substance or controlled substance analog by a juvenile enrolled in the public school district ~~or~~, private school, or tribal school.

c. An act for which a juvenile enrolled in the school district ~~or~~, private school, or tribal school was taken into custody under s. 938.19 based on a law enforcement officer's belief that the juvenile was committing or had committed a violation of any state or federal criminal law.

d. An act for which a juvenile enrolled in the public school district ~~or~~, private school, or tribal school was adjudged delinquent.

4. A law enforcement agency may enter into an interagency agreement with a school board, a private school, a tribal school, a social welfare agency, or another law enforcement agency providing for the routine disclosure of information under subs. (1) (b) 2. and 2m. and (c) 3. to the school board, private school, tribal school, social welfare agency, or other law enforcement agency.

NOTE: Under current law, a law enforcement agency may, on its own initiative or on the request of a public or private school, disclose certain information to the public or private school. The school is then required to use the information as provided in s. 118.127 (2), stats., which generally prohibits disclosure except to certain individuals. The law enforcement agency may do so only subject to official agency policy.

This SECTION ~~The bill~~ permits a law enforcement agency to also disclose information, on its own initiative or on request, to a tribal school but requires that the law enforcement agency policy specify that the law enforcement agency cannot provide information to a tribal school unless the governing body of the tribal school agrees that the information will be used by the tribal school in the same manner as public and private schools as provided under s. 118.127 (2)., stats., above. ~~The bill~~ also permits a law enforcement agency to enter into an interagency agreement with a tribal school to disclose information under s. 938.396 (1) (b) 2m. and (c) 3., stats. This SECTION

SECTION 112. 938.396 (2g) (m) of the statutes is amended to read:

938.396 **(2g)** (m) *Notification of juvenile's school.* 1. If a petition under s. 938.12 or 938.13 (12) is filed alleging that a juvenile has committed a delinquent act that would be a felony if committed by an adult, the court clerk shall notify the school

1 board of the school district, ~~or~~ the governing body of the private school, or the
2 governing body of the tribal school in which the juvenile is enrolled or the designee
3 of the school board or governing body of the fact that the petition has been filed and
4 the nature of the delinquent act alleged in the petition. If later the proceeding on the
5 petition is closed, dismissed, or otherwise terminated without a finding that the
6 juvenile has committed a delinquent act, the court clerk shall notify the school board
7 of the school district~~,~~ or the governing body of the private school~~,~~ or tribal school in
8 which the juvenile is enrolled or the designee of the school board or governing body
9 that the proceeding has been terminated without a finding that the juvenile has
10 committed a delinquent act.

11 2. Subject to subd. 4., if a juvenile is adjudged delinquent, within 5 days after
12 the date on which the dispositional order is entered, the court clerk shall notify the
13 school board of the school district, ~~or~~ the governing body of the private school, or the
14 governing body of the tribal school in which the juvenile is enrolled or the designee
15 of the school board or governing body of the fact that the juvenile has been
16 adjudicated delinquent, the nature of the violation committed by the juvenile, and
17 the disposition imposed on the juvenile under s. 938.34 as a result of the violation.

18 3. If school attendance is a condition of a dispositional order under s. 938.342
19 (1d) or (1g) or 938.355 (2) (b) 7., within 5 days after the date on which the dispositional
20 order is entered, the clerk of the court assigned to exercise jurisdiction under this
21 chapter and ch. 48 or the clerk of the municipal court exercising jurisdiction under
22 s. 938.17 (2) shall notify the school board of the school district, ~~or~~ the governing body
23 of the private school, or the governing body of the tribal school in which the juvenile
24 is enrolled or the designee of the school board or governing body of the fact that the
25 juvenile's school attendance is a condition of a dispositional order.

4. If a juvenile is found to have committed a delinquent act at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been a felony under chs. 939 to 948 or 961 if committed by an adult and is adjudged delinquent on that basis, within 5 days after the date on which the dispositional order is entered, the court clerk shall notify the school board of the school district, ~~or~~ the governing body of the private school, or the governing body of the tribal school in which the juvenile is enrolled or the designee of the school board or governing body of the fact that the juvenile has been adjudicated delinquent on that basis, the nature of the violation committed by the juvenile, and the disposition imposed on the juvenile under s. 938.34 as a result of that violation.

5. In addition to the disclosure made under subd. 2. or 4., if a juvenile is adjudicated delinquent and as a result of the dispositional order is enrolled in a different school district ~~or~~, private school, or tribal school from the school district ~~or~~, private school, or tribal school in which the juvenile is enrolled at the time of the dispositional order, the court clerk, within 5 days after the date on which the dispositional order is entered, shall provide the school board of the juvenile's new school district, the governing body of the juvenile's new private school, or the governing body of the tribal school or the designee of the school board or governing body with the information specified in subd. 2. or 4., whichever is applicable, and, in addition, shall notify that school board, governing body, or designee of whether the juvenile has been adjudicated delinquent previously by that court, the nature of any previous violations committed by the juvenile, and the dispositions imposed on the juvenile under s. 938.34 as a result of those previous violations.

6. Except as required under subds. 1. to 5. or by order of the court, no information from the juvenile's court records may be disclosed to the school board of

1 the school district, ~~or~~ the governing body of the private school, or the governing body
2 of the tribal school in which the juvenile is enrolled or the designee of the school board
3 or governing body. Any information from a juvenile's court records provided to the
4 school board of the school district~~,~~ or the governing body of the private school~~,~~ in
5 which the juvenile is enrolled or the designee of the school board or governing body
6 shall be disclosed by the school board, governing body, or designee to employees of
7 the school district or private school who work directly with the juvenile or who have
8 been determined by the school board, governing body, or designee to have legitimate
9 educational interests, including safety interests, in the information. A school district
10 or private school employee to whom that information is disclosed may not further
11 disclose the information. If information is disclosed to the governing body of a tribal
12 school under this subdivision, the court shall request that the governing body of the
13 tribal school or its designee disclose the information to employees who work directly
14 with the juvenile or who have been determined by the governing body or its designee
15 to have legitimate educational interests, including safety interests, in the
16 information, and shall further request that the governing body prohibit any
17 employee to whom information is disclosed under this subdivision from further
18 disclosing the information. A school board may not use any information from a
19 juvenile's court records as the sole basis for expelling or suspending a juvenile or as
20 the sole basis for taking any other disciplinary action, including action under the
21 school district's athletic code, against the juvenile. A member of a school board or of
22 the governing body of a private school or tribal school or an employee of a school
23 district ~~or~~, private school, or tribal school may not be held personally liable for any
24 damages caused by the nondisclosure of any information specified in this subdivision
25 unless the member or employee acted with actual malice in failing to disclose the

information. A school district ~~or~~, private school, or tribal school may not be held liable for any damages caused by the nondisclosure of any information specified in this subdivision unless the school district, private school, or tribal school or its agent acted with gross negligence or with reckless, wanton, or intentional misconduct in failing to disclose the information.

NOTE: Under current law, juvenile court records relating to ch. 938 proceedings are confidential unless an exception is specified in the statutes. Those exceptions include a requirement that the clerk of juvenile court notify the school board of the school district or the governing body of a private school, or their designee, of certain matters relating to a juvenile delinquency or JIPS proceeding or adjudication. The bill additionally requires that the clerk notify the governing body of a tribal school, or its designee, of those matters.

Current law requires that the school board or governing body of a private school disclose this information to employees who work directly with the juvenile or who have been determined by the governing body, or its designee, to have legitimate educational interests, including safety interests, in the information. Current law prohibits the employee from further disclosing this information. ~~The bill~~ requires the court to request that the governing body of a tribal school, or its designee, disclose the information to those employees and request that the governing body prohibit those employees from further disclosing the information. ~~The bill~~ extends the immunity protections under state law to employees of the tribal school. THIS SECTION also CS THIS SECTION CS

Extending the immunity protections to employees of the tribal school does not affect liability under tribal law or whatever right tribal school employees may have to raise a defense of tribal sovereign immunity if sued for redisclosure of the information.

SECTION 113. 938.78 (2) (b) of the statutes is amended to read:

938.78 **(2)** (b) 1. Paragraph (a) does not apply to the confidential exchange of information between an agency and another social welfare agency, a law enforcement agency, the victim–witness coordinator, a fire investigator under s. 165.55 (15), a public school district or a private school regarding an individual in the care or legal custody of the agency. A social welfare agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. 48.78. A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. 48.396 (1) and 938.396 (1) (a). A public school that obtains information under this paragraph

1 shall keep the information confidential as required under s. 118.125, and a private
2 school that obtains information under this paragraph shall keep the information
3 confidential in the same manner as is required of a public school under s. 118.125.
4 Paragraph (a) does not apply to the confidential exchange of information between an
5 agency and officials of a tribal school regarding an individual in the care or legal
6 custody of the agency if the agency determines that enforceable protections are
7 provided by a tribal school policy or tribal law that requires tribal school officials to
8 keep the information confidential in a manner at least as stringent as is required of
9 a public school official under s. 118.125.

10 1m. An agency may enter into an interagency agreement with a school board,
11 a private school, a tribal school, a law enforcement agency, or another social welfare
12 agency providing for the routine disclosure of information under subd. 1. to the school
13 board, private school, tribal school, law enforcement agency, or other social welfare
14 agency.

15 2. On petition of an agency to review pupil records, as defined in s. 118.125 (1)
16 (d), other than pupil records that may be disclosed without court order under s.
17 118.125 (2) or (2m), for the purpose of providing treatment or care for an individual
18 in the care or legal custody of the agency, the court may order the school board of the
19 school district, or the governing body of the private school, in which an individual is
20 enrolled to disclose to the agency the pupil records of the individual as necessary for
21 the agency to provide that treatment or care. The court may request the governing
22 body of the tribal school in which an individual is enrolled to disclose to the agency
23 the pupil records of the individual as necessary for the agency to provide that
24 treatment or care. The agency may use the pupil records only for the purpose of

1 providing treatment or care and may make the pupil records available only to
2 employees of the agency who are providing treatment or care for the individual.

NOTE: Section 938.78, stats., provides that, subject to certain exceptions, the Department of Corrections, a county department of human services or county department of social services, or a licensed child welfare agency (collectively referred to as agency) must keep its ch. 938 records confidential. Section 938.78 (2) (b), stats., provides the exception that permits the confidential exchange of information with a public or private school which is then required to keep the information confidential if required to do so under the pupil records statute.

THIS SECTION CS

~~The bill~~ permits an agency to confidentially exchange information with a tribal school if the agency determines that a tribal school policy or tribal law provides enforceable protections that require tribal school officials to keep the information confidential in a manner at least as stringent as is required of public and private school officials. ~~The bill~~ also permits interagency agreements for the disclosure of information to include tribal schools and permits the court to request a tribal school to disclose information necessary for the agency to provide care and treatment.

THIS SECTION CS

3 **SECTION 114.** 939.632 (1) (a) and (d) 3. of the statutes are amended to read:

4 939.632 **(1)** (a) "School" means a public school, parochial or private school, or
5 tribal school, as defined in s. 115.001 (15m), that provides an educational program
6 for one or more grades between grades 1 and 12 and that is commonly known as an
7 elementary school, middle school, junior high school, senior high school, or high
8 school.

9 (d) 3. On a school bus or public transportation transporting students to and
10 from a public or private school or to and from a tribal school, as defined in s. 115.001
11 (15m).

NOTE: Current statutes provide an enhanced penalty for violent crimes committed in a school zone, which includes on the premises of or within 1,000 feet of the school premises, on a school bus or public transportation transporting pupils to and from school, and at school bus stops. ~~The bill~~ adds tribal schools to the definition of a "school" for the purpose of the penalty enhancement.

THIS SECTION CS

12 **SECTION 115.** 944.21 (8) (b) 2. of the statutes is amended to read:

13 944.21 **(8)** (b) 2. A private school, as defined in s. 115.001 (3r), or a tribal school,
14 as defined in s. 115.001 (15m).

NOTE: Provides that an employee, member of the board of directors, or trustee of a tribal school, while in his or her capacity as such, may not be prosecuted under s. 944.21, stats. (crimes relating to obscene materials or performance).

SECTION 116. 948.095 (1) (a) of the statutes is amended to read:

948.095 **(1)** (a) "School" means a public or private elementary or secondary school, or a tribal school, as defined in s. 115.001 (15m).

NOTE: Current statutes provide that it is a class H felony for school staff at a public or private school to have sexual contact or sexual intercourse with a child who is age 16 or 17. ~~The bill~~ adds tribal schools to the definition of "school" for this purpose. (Current law also provides that it is a class H felony for a person age 21 or older who works or volunteers with children to have sexual contact or sexual intercourse with a 16– or 17–year old child with whom the person works or interacts as a volunteer.)

SECTION 117. 948.11 (4) (b) 2. of the statutes is amended to read:

948.11 **(4)** (b) 2. A private school, as defined in s. 115.001 (3r), or a tribal school, as defined in s. 115.001 (15m).

NOTE: Provides that an employee, member of the board of directors, or trustee of a tribal school, while in his or her capacity as such, may not be prosecuted under s. 948.11, stats. (crimes relating to exposing a child to harmful material or harmful descriptions or narrations).

SECTION 118. 948.50 (2) (a) of the statutes is amended to read:

948.50 **(2)** (a) "School" means a public school, parochial or private school, or tribal school, as defined in s. 115.001 (15m), which provides an educational program for one or more grades between kindergarten and grade 12 and which is commonly known as a kindergarten, elementary school, middle school, junior high school, senior high school, or high school.

NOTE: Current statutes provide a criminal penalty for strip searches of pupils by school employees. ~~The bill~~ adds tribal schools to the definition of school for this purpose. [Section 118.32, stats. (prohibiting strip searches), refers to schools without further definition, and the definition is supplied by s. 948.50, stats.]

SECTION 119. 948.61 (1) (b) of the statutes is amended to read:

948.61 **(1)** (b) "School" means a public school, parochial or private school, or tribal school, as defined in s. 115.001 (15m), which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as

1 an elementary school, middle school, junior high school, senior high school, or high
2 school.

NOTE: Current law in s. 948.61, stats., provides a criminal penalty for possessing (subject to certain exceptions) certain dangerous weapons other than firearms on school premises. Current law in s. 948.605, stats., prohibits (subject to certain exceptions) possession of a firearm in or on the grounds of a school or within 1,000 feet of a school (school zone) and provides certain criminal penalties under certain circumstances for the discharge of a firearm in a school zone. ~~The bill~~ adds tribal schools to the definition of "school" for both of these statutes inasmuch as s. 948.605, stats., cross-references the definition in s. 948.61, stats. Under s. 938.34 (14q), stats., additional consequences for a delinquency disposition also may apply for firearms violation on school premises. Under s. 973.137, stats., information about a conviction must be forwarded to DOT.

3 **SECTION 120.** 961.49 (1m) (b) 6. of the statutes is amended to read:

4 961.49 **(1m)** (b) 6. Any private or public school premises and any premises of
5 a tribal school, as defined in s. 115.001 (15m).

NOTE: Current statutes provide a criminal penalty for possessing controlled substances (certain drugs) on or within 1,000 feet of a school. ~~The bill~~ specifies that possession on or within 1,000 feet of the premises of a tribal school is included in that crime.

6 **SECTION 121.** 961.495 of the statutes is amended to read:

7 **961.495 Possession or attempted possession of a controlled substance**
8 **on or near certain places.** If any person violates s. 961.41 (3g) by possessing or
9 attempting to possess a controlled substance included in schedule I or II, a controlled
10 substance analog of a controlled substance included in schedule I or II or ketamine
11 or flunitrazepam while in or on the premises of a scattered-site public housing
12 project, while in or on or otherwise within 1,000 feet of a state, county, city, village,
13 or town park, a jail or correctional facility, a multiunit public housing project, a
14 swimming pool open to members of the public, a youth center or a community center,
15 while in or on or otherwise within 1,000 feet of any private or public school premises
16 or of any premises of a tribal school, as defined in s. 115.001 (15m), or while in or on
17 or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the court
18 shall, in addition to any other penalties that may apply to the crime, impose 100

1 hours of community service work for a public agency or a nonprofit charitable
2 organization. The court shall ensure that the defendant is provided a written
3 statement of the terms of the community service order and that the community
4 service order is monitored. Any organization or agency acting in good faith to which
5 a defendant is assigned pursuant to an order under this section has immunity from
6 any civil liability in excess of $25,000 for acts or omissions by or impacting on the
7 defendant.

NOTE: Current statutes provide that for possessing certain drugs on the premises of or within 1,000 feet of a school, the court must additionally impose 100 hours of community service work for a public agency or a nonprofit charitable organization. ~~The bill~~ This SECTION specifies that the penalty enhancement also applies for possession on or within 1,000 feet of the premises of a tribal school.

8 **SECTION 122. Initial applicability.**

9 (1) The treatment of sections 15.377 (4) (f) and (8) (c) 14. and 15.57 (3) of the
10 statutes first applies to appointments made on the effective date of this subsection.

11 (2) The treatment of section 45.20 (2) (a) 1., (c) 1., and (d) 1. of the statutes first
12 applies to courses completed on the effective date of this subsection.

13 (3) The treatment of sections 48.345 (12) (a) 5., 48.355 (2) (c), 938.34 (7d) (a) 5.,
14 938.342 (1r), 938.355 (2) (c), and 938.396 (2g) (m) 2. to 6. of the statutes first applies
15 to dispositional orders issued on the effective date of this subsection.

16 (4) The treatment of section 938.396 (2g) (m) 1. of the statutes first applies to
17 petitions filed on the effective date of this subsection.

18 **(END)**

State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -

PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 03/26/2009 (Per: PG)

☞ Appendix A

☞ The 2009 drafting file for LRB–1241/1

has been copied/added to the drafting file for

2009 LRB–2456

☞ The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2009 drafting file. The drafting file was then returned, intact, to its folder and filed.

Basford, Sarah

From: Kiel, Joyce
Sent: Thursday, March 26, 2009 1:05 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-1241/1 Topic: Tribal school benefits

Please Jacket LRB 09-1241/1 for the SENATE.

(Sorry, I can't remember if I sent this to you already. Please disregard if this is the second message. Thanks. Joyce Kiel)