

1985 Assembly Bill 677

Date of enactment: April 29, 1986
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1985 Wisconsin Act 320

AN ACT to renumber 946.42 (3) (d); to renumber and amend 946.42 (5) (a) and 946.42 (5) (b); to amend 48.08 (3), 946.42 (2) (a) to (c), 946.42 (3) (a) and (b), 946.42 (5) (c), 946.44 (2) and 946.45 (2); and to create 946.42 (1) (d), (e) and (f), 946.42 (2) (e) and (f), 946.42 (3) (d), 946.44 (2) (b), (c) and (d) and 946.45 (2) (b), (c) and (d) of the statutes, relating to creating penalties for persons subject to juvenile court jurisdiction who escape from custody.

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

SECTION 1. 48.08 (3) of the statutes is amended to read:

48.08 (3) (a) In addition to the law enforcement authority specified in sub. (2), the superintendent of a juvenile correctional institution and personnel designated by the superintendent of the juvenile correctional institution have the power of law enforcement authorities to take a child into physical custody ~~when~~ under the following conditions:

1. If they are in prompt pursuit of a child who has run away from a secured correctional facility. The child

2. If the child has failed to return to a secured correctional facility after any authorized absence.

(b) A child taken into custody under par. (a) may be returned directly to the secured correctional facility and shall have a hearing regarding placement in a disciplinary cottage or in disciplinary status in accordance with ch. 227.

SECTION 2. 946.42 (1) (d), (e) and (f) of the statutes are created to read:

946.42 (1) (d) Lawfully taken into custody under s. 48.19 for a violation of any of the following:

1. A criminal law that is a misdemeanor.
2. A statutory traffic regulation.
3. A statutory provision for which the penalty is a forfeiture.
4. A municipal ordinance.

(e) Lawfully alleged or adjudged under ch. 48 to be delinquent on the basis of a violation of a criminal law that is a misdemeanor.

(f) Lawfully alleged or adjudged under ch. 48 to have violated any of the following:

1. A statutory traffic regulation.
2. A statutory provision for which the penalty is a forfeiture.
3. A municipal ordinance.

SECTION 3. 946.42 (2) (a) to (c) of the statutes are amended to read:

946.42 (2) (a) Pursuant to a legal arrest for a felony; ~~or.~~

(b) Pursuant to a legal arrest as a fugitive from justice in another state; ~~or.~~

(c) Lawfully charged with or convicted of, but not sentenced for, a felony; ~~or.~~

SECTION 4. 946.42 (2) (e) and (f) of the statutes are created to read:

946.42 (2) (e) Lawfully taken into custody under s. 48.19 for a violation of a criminal law that is a felony.

(f) Lawfully alleged or adjudged under ch. 48 to be delinquent on the basis of a violation of a criminal law that is a felony, but not yet subject to a disposition under s. 48.34.

SECTION 5. 946.42 (3) (a) and (b) of the statutes are amended to read:

946.42 (3) (a) Sentenced to a state prison; ~~or.~~

(b) Sentenced for one year or more in a county reforestation camp or house of correction for a felony; ~~or.~~

SECTION 6. 946.42 (3) (d) of the statutes is renumbered 946.42 (3) (c).

SECTION 7. 946.42 (3) (d) of the statutes is created to read:

946.42 (3) (d) Subject to a disposition under s. 48.34 (4m).

SECTION 8. 946.42 (5) (a) of the statutes is renumbered 946.42 (5) (b) and amended to read:

946.42 (5) (b) "Escape" means to leave in any manner without lawful permission or authority;.

SECTION 9. 946.42 (5) (b) of the statutes is renumbered 946.42 (5) (a) and amended to read:

946.42 (5) (a) "Custody" includes without limitation actual custody of an institution, including a secured juvenile correctional facility, a secure detention facility, as defined under s. 48.02 (16), or a juven-

ile portion of a county jail, or of a peace officer or institution guard and constructive custody of prisoners and juveniles subject to an order under s. 48.34 (4m) temporarily outside the institution whether for the purpose of work, school, medical care, a leave granted under s. 56.068, a temporary leave or furlough granted to a juvenile or otherwise. Under s. 56.08 (6) it means, without limitation, that of the sheriff of the county to which the prisoner was transferred after conviction. It does not include the custody of a probationer or parolee by the department of health and social services or a probation or parole officer or the custody of a person who has been released to aftercare supervision under ch. 48 unless the prisoner person is in actual custody after revocation of probation or parole or aftercare supervision, or to enforce discipline or to prevent the prisoner person from absconding;.

SECTION 10. 946.42 (5) (c) of the statutes is amended to read:

946.42 (5) (c) "Legal arrest" includes without limitation an arrest pursuant to process fair on its face notwithstanding insubstantial irregularities and also includes taking a child into custody under s. 48.19.

SECTION 11. 946.44 (2) of the statutes is amended to read:

946.44 (2) In this section "~~custody~~" and "~~escape~~" have:

(a) "Custody" has the meaning designated in s. 946.42 (5) (a).

SECTION 12. 946.44 (2) (b), (c) and (d) of the statutes are created to read:

946.44 (2) (b) "Escape" has the meaning designated in s. 946.42 (5) (b).

(c) "Institution" includes a secured juvenile correctional facility.

(d) "Prisoner" includes a person who is committed to the custody of the department of health and social services under s. 48.34 (4m).

SECTION 13. 946.45 (2) of the statutes is amended to read:

946.45 (2) In this section "~~custody~~" and "~~escape~~" have:

(a) "Custody" has the meaning designated in s. 946.42 (5) (a).

SECTION 14. 946.45 (2) (b), (c) and (d) of the statutes are created to read:

946.45 (2) (b) "Escape" has the meaning designated in s. 946.42 (5) (b).

(c) "Institution" includes a secured juvenile correctional facility.

(d) "Prisoner" includes a person who is committed to the custody of the department of health and social services under s. 48.34 (4m).