

# State of Wisconsin



1997 Assembly Bill 300

Date of enactment: April 27, 1998

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## 1997 WISCONSIN ACT 183

AN ACT to amend 938.245 (2) (a) 5., 938.32 (1t) (a), 938.34 (5) (a), (b) and (c) and 938.343 (4) of the statutes; relating to: the performance of services for the victim by a juvenile as restitution for the juvenile's act.

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

**SECTION 1.** 938.245 (2) (a) 5. of the statutes is amended to read:

938.245 (2) (a) 5. a. That the juvenile participate in a restitution project if the act for which the deferred prosecution agreement is being entered into has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering. Subject to subd. 5. c., the deferred prosecution agreement may require the juvenile to repair the damage to property or to make reasonable restitution for the damage or injury, either in the form of cash payments or, if the victim agrees, the performance of services for the victim, or both, if the intake worker, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being and behavior of the juvenile. Any such deferred prosecution agreement shall include a determination that the juvenile alone is financially able to pay and or physically able to perform the services, may allow up to the date of the expiration of the deferred prosecution agreement for the payment or for the completion of the services and may include a schedule for the performance and completion of the services.

b. In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a juvenile under 14 years of age who is participating in a

restitution project provided by the county or who is performing services for the victim as restitution may, for the purpose of making restitution, be employed or perform any duties under any circumstances in which a juvenile 14 or 15 years of age is permitted to be employed or to perform duties under ch. 103 or any rule or order under ch. 103. A juvenile who is participating in a restitution project provided by the county or who is performing services for the victim as restitution is exempt from the permit requirement under s. 103.70 (1).

c. Under this subdivision, a deferred prosecution agreement may not require a juvenile who is under 14 years of age to make more than \$250 in restitution or to perform more than 40 total hours of services for the victim as restitution.

**SECTION 2.** 938.32 (1t) (a) of the statutes is amended to read:

938.32 (1t) (a) 1. Subject to subd. 3., if the petition alleges that the juvenile committed a delinquent act that has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the judge or juvenile court commissioner may require the juvenile as a condition of the consent decree, to repair the damage to property or to make reasonable restitution for the damage or injury, either in the form of cash payments or, if the victim agrees, the performance of services for the victim, or both, if the judge or juvenile court commissioner, after taking into consideration the well-

\* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

being and needs of the victim, considers it beneficial to the well-being and behavior of the juvenile. Any consent decree that includes a condition of restitution shall include a finding that the juvenile alone is financially able to pay ~~and~~ or physically able to perform the services, may allow up to the date of the expiration of the consent decree for the payment ~~or for the completion of the services~~ and may include a schedule for the performance and completion of the services. Objection by the juvenile to the amount of damages claimed shall entitle the juvenile to a hearing on the question of damages before the amount of restitution is made part of the consent decree.

2. In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a juvenile under 14 years of age who is participating in a restitution project provided by the county or who is performing services for the victim as restitution may, for the purpose of making restitution under the consent decree, be employed or perform any duties under any circumstances in which a juvenile 14 or 15 years of age is permitted to be employed or to perform duties under ch. 103 or any rule or order under ch. 103. A juvenile who is participating in a restitution project provided by the county or who is performing services for the victim as restitution is exempt from the permit requirement under s. 103.70 (1).

3. Under this paragraph, a judge or juvenile court commissioner may not order a juvenile who is under 14 years of age to make more than \$250 in restitution or to perform more than 40 total hours of services for the victim as restitution.

**SECTION 3.** 938.34 (5) (a), (b) and (c) of the statutes are amended to read:

938.34 (5) (a) Subject to par. (c), if the juvenile is found to have committed a delinquent act which has resulted in damage to the property of another, or actual physical injury to another excluding pain and suffering, order the juvenile to repair the damage to property or to make reasonable restitution for the damage or injury, either in the form of cash payments or, if the victim agrees, the performance of services for the victim, or both, if the court, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being and behavior of the juvenile. Any such order shall include a finding that the juvenile alone is financially able to pay ~~and~~ or physically able to perform the services, may allow up to the date of the expiration of the order for the payment ~~or for the completion of the services~~ and may in-

clude a schedule for the performance and completion of the services. Objection by the juvenile to the amount of damages claimed shall entitle the juvenile to a hearing on the question of damages before the amount of restitution is ordered.

(b) In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a juvenile under 14 years of age who is participating in a restitution project provided by the county or who is performing services for the victim as restitution may, for the purpose of making restitution ordered by the court under this subsection, be employed or perform any duties under any circumstances in which a juvenile 14 or 15 years of age is permitted to be employed or perform duties under ch. 103 or any rule or order under ch. 103. A juvenile who is participating in a restitution project provided by the county or who is performing services for the victim as restitution is exempt from the permit requirement under s. 103.70 (1).

(c) Under this subsection, a court may not order a juvenile who is under 14 years of age to make more than \$250 in restitution or to perform more than 40 total hours of services for the victim as restitution.

**SECTION 4.** 938.343 (4) of the statutes is amended to read:

938.343 (4) If the violation has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the court may order the juvenile to make repairs of the damage to property or reasonable restitution for the damage or injury, either in the form of cash payments or, if the victim agrees, the performance of services for the victim, or both, if the court, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being and behavior of the juvenile. Any such order requiring payment for repairs or restitution shall include a finding that the juvenile alone is financially able to pay ~~and~~ or physically able to perform the services, may allow up to the date of the expiration of the order for the payment ~~or for the completion of the services~~ and may include a schedule for the performance and completion of the services. Objection by the juvenile to the amount of damages claimed shall entitle the juvenile to a hearing on the question of damages before the amount of restitution is ordered.

**SECTION 5. Initial applicability.**

(1) This act first applies to acts committed by a juvenile on the effective date of this subsection.