



**SENATE SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 686**

March 12, 1998 - Offered by COMMITTEE ON EDUCATION.

1 **AN ACT to repeal** 118.16 (1) (a) 2., 118.162 (2) (intro.) and (a), 118.162 (3) (c) and
2 118.162 (5); **to renumber** 118.125 (2) (c) and 118.15 (5) (b); **to renumber and**
3 **amend** 118.15 (5) (a), 118.162 (2) (b), 118.163 (2m), 938.342 (1) and 938.355
4 (6m) (a); **to consolidate, renumber and amend** 118.16 (1) (a) (intro.) and 1.
5 and 118.162 (3) (intro.), (a) and (b); **to amend** 103.72 (2), 118.125 (2) (cg),
6 118.125 (2) (j), 118.15 (5) (am), 118.16 (2) (cg) 1., 118.16 (2) (cg) 3., 118.16 (2) (cg)
7 4., 118.16 (5m), 118.16 (6), 118.162 (1) (intro.), 118.163 (2) (a), 118.163 (2) (b),
8 118.163 (2) (d), 118.163 (2) (f), 895.035 (2m) (b), 938.06 (5), 938.125 (2), 938.13
9 (6), 938.17 (2) (a) 1., 938.17 (2) (g), 938.17 (2) (h) 1., 938.245 (5), 938.275 (1) (c),
10 938.32 (1) (a), 938.342 (1m) (a), 938.342 (1m) (b), 938.342 (2) (a), 938.342 (2) (b),
11 938.345 (2), 938.355 (6) (a), 938.355 (6) (an) 1., 938.355 (6m) (title), 938.355 (6m)
12 (b) and 938.355 (6m) (c); **to repeal and recreate** 49.26 (1) (a) 1., 118.163 (1) (b)
13 and 118.163 (3); and **to create** 118.125 (2) (c) 2., 118.15 (1) (am), 118.15 (3) (c),

1 118.15 (3m), 118.15 (5) (a) 1. a. and b., 118.15 (5) (a) 2., 118.15 (5) (b) 2., 118.162
2 (4m), 118.163 (1) (c), 118.163 (1) (d), 118.163 (1m), 118.163 (2) (g) to (k), 118.163
3 (2m) (b), 118.163 (4), 938.17 (2) (i), 938.245 (2v), 938.32 (1v), 938.342 (1d),
4 938.342 (1g) (g) to (j), 938.342 (1m) (am), 938.355 (6m) (a) 1., 938.355 (6m) (ag)
5 and 938.355 (6m) (am) of the statutes; **relating to:** compulsory school
6 attendance, truancy, habitual truancy, the penalties for contributing to truancy,
7 truancy planning committees and school district truancy plans.

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

8 **SECTION 1.** 49.26 (1) (a) 1. of the statutes is repealed and recreated to read:
9 49.26 (1) (a) 1. "Habitual truant" has the meaning given in s. 118.16 (1) (a).

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

11 103.72 (2) Whenever it appears to the department that a permit has been
12 improperly or illegally issued, or that the physical or moral welfare or school
13 attendance of the minor would be best served by the revocation of the permit or that
14 the failing school performance of the minor would be remedied by the revocation of
15 the permit, the department may immediately, without notice, revoke the permit. The
16 department shall revoke a permit if ordered to do so under s. 938.342 (1) (1g) (e). If
17 the department revokes a permit, the department shall, by registered mail, notify
18 the person employing the minor and the minor holding the permit of the revocation.
19 Upon receipt of the notice, the employer employing the minor shall immediately
20 return the revoked permit to the department and discontinue the employment of the
21 minor.

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

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

1 118.125 (2) (c) 2. Names of dropouts shall be provided to a court in response to
2 an order under s. 118.163 (2m) (b).

3 **SECTION 5.** 118.125 (2) (cg) of the statutes is amended to read:

4 118.125 (2) (cg) The school district clerk or his or her designee shall provide a
5 law enforcement agency with a copy of a pupil's attendance record if the law
6 enforcement agency certifies in writing that the pupil is under investigation for
7 truancy or for allegedly committing a criminal or delinquent act, and that the law
8 enforcement agency will not further disclose the pupil's attendance record except as
9 permitted under s. 938.396 (1) to (1r). A school district clerk or designee who
10 discloses a copy of a pupil's attendance record to a law enforcement agency for
11 purposes of a truancy investigation shall notify the pupil's parent or guardian of that
12 disclosure as soon as practicable after that disclosure.

13 **SECTION 6.** 118.125 (2) (j) of the statutes is amended to read:

14 118.125 (2) (j) 1. Except as provided under subs. 2. and 3., directory data may
15 be disclosed to any person, if the school has notified the parent, legal guardian or
16 guardian ad litem of the categories of information which it has designated as
17 directory data with respect to each pupil, has informed the parent, legal guardian or
18 guardian ad litem of that pupil that he or she has 14 days to inform the school that
19 all or any part of the directory data may not be released without the prior consent
20 of the parent, legal guardian or guardian ad litem and has allowed 14 days for the
21 parent, legal guardian or guardian ad litem of that pupil to inform the school that
22 all or any part of the directory data may not be released without the prior consent
23 of the parent, legal guardian or guardian ad litem.

24 2. If a school has notified the parent, legal guardian or guardian ad litem that
25 a pupil's name and address has been designated as directory data, has informed the

1 parent, legal guardian or guardian ad litem of the pupil that he or she has 14 days
2 to inform the school that the pupil's name and address may not be released without
3 the prior consent of the parent, legal guardian or guardian ad litem, has allowed 14
4 days for the parent, legal guardian or guardian ad litem of the pupil to inform the
5 school that the pupil's name and address may not be released without the prior
6 consent of the parent, legal guardian or guardian ad litem and the parent, legal
7 guardian or guardian ad litem has not so informed the school, the school district clerk
8 or his or her designee, upon request, shall provide a technical college district board
9 with the name and address of each such pupil who is expected to graduate from high
10 school in the current school year.

11 3. If a school has notified the parent, legal guardian or guardian ad litem of the
12 information that it has designated as directory data with respect to any pupil, ~~the~~
13 ~~school~~ has informed the parent, legal guardian or guardian ad litem of the pupil that
14 he or she has 14 days to inform the school that such information may not be released
15 without the prior consent of the parent, legal guardian or guardian ad litem, has
16 allowed 14 days for the parent, legal guardian or guardian ad litem of the pupil to
17 inform the school that such information may not be released without the prior
18 consent of the parent, legal guardian or guardian ad litem and the parent, legal
19 guardian or guardian ad litem has not so informed the school, the school district clerk
20 or his or her designee, upon request, shall provide any representative of a law
21 enforcement agency, as defined in s. 165.83 (1) (b), district attorney, city attorney or
22 corporation counsel, county department under s. 46.215, 46.22 or 46.23 or a court of
23 record or municipal court with such information relating to any such pupil enrolled
24 in the school district for the purpose of enforcing that pupil's school attendance,

1 investigating alleged criminal or delinquent activity by the pupil or responding to a
2 health or safety emergency.

3 **SECTION 7.** 118.15 (1) (am) of the statutes is created to read:

4 118.15 (1) (am) Except as provided under par. (d) and sub. (3m), unless the child
5 is excused under sub. (3), any person having under control a child who is under the
6 age of 6 and who is attending a public school, including a prekindergarten program,
7 shall cause the child to continue to attend that school regularly during the full period
8 and hours, religious holidays excepted, that the program in which the child is
9 enrolled is in session.

10 **SECTION 8.** 118.15 (3) (c) of the statutes is created to read:

11 118.15 (3) (c) Any child excused in writing by his or her parent or guardian
12 before the absence. The school board shall require a child excused under this
13 paragraph to complete any course work missed during the absence. A child may not
14 be excused for more than 10 days in a school year under this paragraph.

15 **SECTION 9.** 118.15 (3m) of the statutes is created to read:

16 118.15 (3m) (a) Subsection (1) (am) applies only if the school board of the school
17 district in which the child is enrolled has adopted a resolution specifying that it
18 applies.

19 (b) Subsection (1) (am) does not apply if the person in control of the child notifies
20 the school board of the school district in which the child is enrolled that the child will
21 no longer be attending the program in which the child is enrolled.

22 **SECTION 10.** 118.15 (5) (a) of the statutes is renumbered 118.15 (5) (a) 1. (intro.)
23 and amended to read:

24 118.15 (5) (a) 1. (intro.) Except as provided under par. (b) or if a person has been
25 found guilty of a misdemeanor under s. 948.45, whoever violates this section may be

1 ~~fined not more than \$500 or imprisoned for not more than 30 days or both penalized~~
2 ~~as follows, if evidence has been provided by the school attendance officer that the~~
3 ~~activities under s. 118.16 (5) have been completed or were not required to be~~
4 ~~completed due to the child's absence from school as provided in s. 118.16 (5m). In a~~
5 ~~prosecution under this paragraph, if the defendant proves that he or she is unable~~
6 ~~to comply with the law because of the disobedience of the child, the action shall be~~
7 ~~dismissed and the child shall be referred to the court assigned to exercise jurisdiction~~
8 ~~under chs. 48 and 938.;~~

9 **SECTION 11.** 118.15 (5) (a) 1. a. and b. of the statutes are created to read:

10 118.15 (5) (a) 1. a. For the first offense, by a fine of not more than \$500 or
11 imprisonment for not more than 30 days or both.

12 b. For a 2nd or subsequent offense, by a fine of not more than \$1,000 or
13 imprisonment for not more than 90 days or both.

14 **SECTION 12.** 118.15 (5) (a) 2. of the statutes is created to read:

15 118.15 (5) (a) 2. The court may require a person who is subject to subd. 1. to
16 perform community service work for a public agency or a nonprofit charitable
17 organization in lieu of the penalties specified under subd. 1. Any organization or
18 agency to which a defendant is assigned pursuant to an order under this subdivision
19 acting in good faith has immunity from any civil liability in excess of \$25,000 for any
20 act or omission by or impacting on the defendant.

21 **SECTION 13.** 118.15 (5) (am) of the statutes is amended to read:

22 118.15 (5) (am) The court may order any person who violates this section to
23 participate in counseling at the person's own expense or to attend school with his or
24 her child, or both.

25 **SECTION 14.** 118.15 (5) (b) of the statutes is renumbered 118.15 (5) (b) 1.

1 **SECTION 15.** 118.15 (5) (b) 2. of the statutes is created to read:

2 118.15 (5) (b) 2. In a prosecution under par. (a), if the defendant proves that he
3 or she is unable to comply with the law because of the disobedience of the child, the
4 action shall be dismissed and the child shall be referred to the court assigned to
5 exercise jurisdiction under ch. 48.

6 **SECTION 16.** 118.16 (1) (a) (intro.) and 1. of the statutes are consolidated,
7 renumbered 118.16 (1) (a) and amended to read:

8 118.16 (1) (a) “Habitual truant” means a pupil who is absent from school
9 without an acceptable excuse under sub. (4) and s. 118.15 for either of the following:
10 1. ~~Part part~~ or all of 5 or more days out of 10 consecutive days on which school is held
11 during a school semester.

12 **SECTION 17.** 118.16 (1) (a) 2. of the statutes is repealed.

13 **SECTION 18.** 118.16 (2) (cg) 1. of the statutes is amended to read:

14 118.16 (2) (cg) 1. A statement of the parent’s or guardian’s responsibility, under
15 s. 118.15 (1) (a) and (am), to cause the child to attend school regularly.

16 **SECTION 19.** 118.16 (2) (cg) 3. of the statutes is amended to read:

17 118.16 (2) (cg) 3. A request that the parent or guardian meet with appropriate
18 school personnel to discuss the child’s truancy. The notice shall include the name of
19 the school personnel with whom the parent or guardian should meet, a date, time and
20 place for the meeting and the name, address and telephone number of a person to
21 contact to arrange a different date, time or place. The date for the meeting shall be
22 within 5 school days after the date that the notice is sent, except that with the consent
23 of the child’s parent or guardian the date for the meeting may be extended for an
24 additional 5 school days.

25 **SECTION 20.** 118.16 (2) (cg) 4. of the statutes is amended to read:

1 118.16 (2) (cg) 4. A statement of the penalties, under s. 118.15 (5), that may be
2 imposed on the parent or guardian if he or she fails to cause the child to attend school
3 regularly as required under s. 118.15 (1) (a) and (am).

4 **SECTION 21.** 118.16 (5m) of the statutes is amended to read:

5 118.16 (5m) Subsection (5) (a) does not apply if a meeting under sub. (2) (cg)
6 3. is not held within 10 school days after the date that the notice under sub. (2) (cg)
7 is sent. Subsection (5) (b), (c) and (d) does not apply if the school attendance officer
8 provides evidence that appropriate school personnel were unable to carry out the
9 activity due to the child's absences from school.

10 **SECTION 22.** 118.16 (6) of the statutes is amended to read:

11 118.16 (6) If the school attendance officer receives evidence that activities
12 under sub. (5) have been completed or were not required to be completed ~~due to the~~
13 ~~child's absence from school~~ as provided in sub. (5m), the school attendance officer
14 may file information on any child who continues to be truant with the court assigned
15 to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing
16 information on a child under this subsection does not preclude concurrent
17 prosecution of the child's parent or guardian under s. 118.15 (5).

18 **SECTION 23.** 118.162 (1) (intro.) of the statutes is amended to read:

19 118.162 (1) (intro.) ~~On July 1, 1988~~ At least once every 4 years, in each county,
20 ~~the superintendent~~ school district administrator of the school district which contains
21 the county seat designated under s. 59.05, or his or her designee, shall convene a
22 committee ~~under this section.~~ ~~At its first meeting, the committee shall elect a~~
23 ~~chairperson, vice chairperson and secretary.~~ ~~Not later than February 1, 1989, the~~
24 ~~committee shall~~ to review and make recommendations to the school boards of all of
25 the school districts in the county on ~~the items to be included in~~ revisions to the school

1 districts' truancy plans under sub. (4) (4m). The committee shall consist of the
2 following members:

3 **SECTION 24.** 118.162 (2) (intro.) and (a) of the statutes are repealed.

4 **SECTION 25.** 118.162 (2) (b) of the statutes is renumbered 118.162 (2) and
5 amended to read:

6 118.162 (2) The district attorney representative on the committee shall
7 participate in reviewing and developing any recommendations regarding revisions
8 to the portions of the plan school districts' plans under sub. (4) (e).

9 **SECTION 26.** 118.162 (3) (intro.), (a) and (b) of the statutes are consolidated,
10 renumbered 118.162 (3) and amended to read:

11 118.162 (3) The committee shall write a report to accompany the
12 recommendations under sub. (1). The report shall include ~~all of the following:~~ (a)
13 A a description of the factors that contribute to truancy in the county.—(b)
14 ~~Identification~~ and a description of any state statutes, municipal ordinances or school
15 ~~or~~, social services, law enforcement, district attorney, court or other policies that
16 contribute to or inhibit the response to truancy in the county. A copy of the report
17 shall be submitted to each of the entities identified in sub. (1) (b) to (h) and any other
18 entity designating members on the committee under sub. (1) (i).

19 **SECTION 27.** 118.162 (3) (c) of the statutes is repealed.

20 **SECTION 28.** 118.162 (4m) of the statutes is created to read:

21 118.162 (4m) At least once every 2 years, each school board shall review and,
22 if appropriate, revise the truancy plan adopted by the school board under sub. (4).

23 **SECTION 29.** 118.162 (5) of the statutes is repealed.

24 **SECTION 30.** 118.163 (1) (b) of the statutes is repealed and recreated to read:

25 118.163 (1) (b) "Habitual truant" has the meaning given in s. 118.16 (1) (a).

1 **SECTION 31.** 118.163 (1) (c) of the statutes is created to read:

2 118.163 (1) (c) “Operating privilege” has the meaning given in s. 340.01 (40).

3 **SECTION 32.** 118.163 (1) (d) of the statutes is created to read:

4 118.163 (1) (d) “Truant” means a pupil who is absent from school without an
5 acceptable excuse under ss. 118.15 and 118.16 (4) for part or all of any day on which
6 school is held during a school semester.

7 **SECTION 33.** 118.163 (1m) of the statutes is created to read:

8 118.163 (1m) A county, city, village or town may enact an ordinance prohibiting
9 a person under 18 years of age from being a truant. The ordinance shall provide
10 which of the following dispositions are available to the court:

11 (a) An order for the person to attend school.

12 (b) A forfeiture of not more than \$50 plus costs for a first violation, or a
13 forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation
14 committed within 12 months of a previous violation, subject to s. 938.37 and subject
15 to a maximum cumulative forfeiture amount of not more than \$500 for all violations
16 committed during a school semester. All or part of the forfeiture plus costs may be
17 assessed against the person, the parents or guardian of the person, or both.

18 **SECTION 34.** 118.163 (2) (a) of the statutes is amended to read:

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

24 **SECTION 35.** 118.163 (2) (b) of the statutes, is amended to read:

1 118.163 (2) (b) An order for the person to participate in counseling or a
2 supervised work program or other community service work under as described in s.
3 938.34 (5g). The costs of any such counseling, supervised work program or other
4 community service work may be assessed against the person, the parents or
5 guardian of the person, or both. Any county department of human services or social
6 services, community agency, public agency or nonprofit charitable organization
7 administering a supervised work program or other community service work to which
8 a person is assigned pursuant to an order under this paragraph acting in good faith
9 has immunity from any civil liability in excess of \$25,000 for any act or omission by
10 or impacting on that person.

11 **SECTION 36.** 118.163 (2) (d) of the statutes is amended to read:

12 118.163 (2) (d) An order for the person to attend an educational program under
13 as described in s. 938.34 (7d).

14 **SECTION 37.** 118.163 (2) (f) of the statutes, is amended to read:

15 118.163 (2) (f) An order for the person to be placed in a teen court program as
16 described in s. 938.342 ~~(1)~~ (1g) (f).

17 **SECTION 38.** 118.163 (2) (g) to (k) of the statutes are created to read:

18 118.163 (2) (g) An order for the person to attend school.

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

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

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

3 (k) An order for the person's parent, guardian or legal custodian to participate
4 in counseling at the parent's, guardian's or legal custodian's own expense or to attend
5 school with the person, or both.

6 **SECTION 39.** 118.163 (2m) of the statutes is renumbered 118.163 (2m) (a) and
7 amended to read:

8 118.163 **(2m)** (a) A county, city, village or town may enact an ordinance
9 permitting a court to suspend the operating privilege, ~~as defined in s. 340.01 (40)~~, of
10 a person who is at least 16 years of age but less than 18 years of age and is a dropout.
11 The ordinance shall provide that the court may suspend the person's operating
12 privilege, ~~as defined in s. 340.01 (40)~~, until the person reaches the age of 18. The
13 court shall immediately take possession of any suspended license and forward it to
14 the department of transportation together with a notice stating the reason for and
15 the duration of the suspension.

16 **SECTION 40.** 118.163 (2m) (b) of the statutes is created to read:

17 118.163 **(2m)** (b) A court may order a school district to provide to the court a
18 list of all persons who are known to the school district to be dropouts and who reside
19 within the county in which the circuit court is located or the municipality in which
20 the municipal court is located. Upon request, the department of transportation shall
21 assist the court to determine which dropouts have operating privileges.

22 **SECTION 41.** 118.163 (3) of the statutes is repealed and recreated to read:

23 118.163 **(3)** An ordinance enacted by a county under sub. (1m), (2) or (2m) is
24 applicable and may be enforced in that part of any city or village located in the county

1 and in any town located in the county regardless of whether the city, village or town
2 has enacted an ordinance under sub. (1m), (2) or (2m).

3 **SECTION 42.** 118.163 (4) of the statutes is created to read:

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

6 **SECTION 43.** 895.035 (2m) (b) of the statutes, as affected by 1997 Wisconsin Acts
7 27 and 35, is amended to read:

8 895.035 (2m) (b) If a juvenile fails to pay a forfeiture ~~or~~, surcharge or costs as
9 ordered by a court assigned to exercise jurisdiction under chs. 48 and 938 or a
10 forfeiture as ordered by a municipal court or if it appears likely that the juvenile will
11 not pay the forfeiture ~~or~~, surcharge or costs as ordered, the representative of the
12 public interest under s. 938.09, the agency, as defined in s. 938.38 (1) (a), supervising
13 the juvenile or the law enforcement agency that issued the citation to the juvenile
14 may petition the court assigned to exercise jurisdiction under chs. 48 and 938 to order
15 that the amount of the forfeiture ~~or~~, surcharge or costs unpaid by the juvenile be
16 entered and docketed as a judgment against the juvenile and the parent with custody
17 of the juvenile and in favor of the county or appropriate municipality. A petition
18 under this paragraph may be filed after the expiration of the dispositional order or
19 sentence under which the forfeiture ~~or~~, surcharge is or costs are payable, but no later
20 than one year after the expiration of the dispositional order or sentence or any
21 extension of the dispositional order or sentence.

22 **SECTION 44.** 938.06 (5) of the statutes is amended to read:

23 938.06 (5) (title) SHORT-TERM DETENTION AS A DISPOSITION OR SANCTION. The
24 county board of supervisors of any county may, by resolution, authorize the court to
25 use placement in a secure detention facility or juvenile portion of the county jail as

1 a disposition under s. 938.34 (3) (f) or as a sanction under s. 938.355 (6m) (a) 1. or to
2 use commitment to a county department under s. 51.42 or 51.437 for special
3 treatment or care in an inpatient facility, as defined in s. 51.01 (10), as a disposition
4 under s. 938.34 (6) (am). The use by the court of those dispositions or that sanction
5 is subject to any resolution adopted under this subsection.

6 **SECTION 45.** 938.125 (2) of the statutes, as affected by 1997 Wisconsin Act 35,
7 is amended to read:

8 938.125 (2) That the court has exclusive jurisdiction over any juvenile alleged
9 to have violated an ordinance enacted under s. 118.163 (2) only if evidence is provided
10 by the school attendance officer that the activities under s. 118.16 (5) have been
11 completed or were not required to be completed ~~due to the juvenile's absence from~~
12 ~~school~~ as provided in s. 118.16 (5m).

13 **SECTION 46.** 938.13 (6) of the statutes, as affected by 1997 Wisconsin Act 35,
14 is amended to read:

15 938.13 (6) Who is habitually truant from school, if evidence is provided by the
16 school attendance officer that the activities under s. 118.16 (5) have been completed
17 or were not required to be completed ~~due to the juvenile's absence from school~~ as
18 provided in s. 118.16 (5m), except as provided under s. 938.17 (2).

19 **SECTION 47.** 938.17 (2) (a) 1. of the statutes is amended to read:

20 938.17 (2) (a) 1. Except as provided in sub. (1), municipal courts have
21 concurrent jurisdiction with the court assigned to exercise jurisdiction under this
22 chapter and ch. 48 in proceedings against juveniles aged 12 or older for violations of
23 county, town or other municipal ordinances. If evidence is provided by the school
24 attendance officer that the activities under s. 118.16 (5) have been completed or were
25 not required to be completed ~~due to the juvenile's absence from school~~ as provided

1 in s. 118.16 (5m), the municipal court specified in subd. 2. may exercise jurisdiction
2 in proceedings against a juvenile for a violation of an ordinance enacted under s.
3 118.163 (2) regardless of the juvenile's age and regardless of whether the court
4 assigned to exercise jurisdiction under this chapter and ch. 48 has jurisdiction under
5 s. 938.13 (6).

6 **SECTION 48.** 938.17 (2) (g) of the statutes is amended to read:

7 938.17 (2) (g) If the municipal court finds that a juvenile violated a municipal
8 ordinance enacted under s. 118.163 (1m), it shall enter a dispositional order under
9 s. 938.342 (1d). If a municipal court finds that a juvenile violated a municipal
10 ordinance enacted under s. 118.163 (2), it shall enter a dispositional order under s.
11 938.342 (1) (1g), and may enter a dispositional order under s. 938.342 (1m) (a), that
12 is consistent with the municipal ordinance. If a municipal court finds that a juvenile
13 violated a municipal ordinance enacted under s. 118.163 (2m), it shall enter a
14 dispositional order under s. 938.342 (2) that is consistent with the municipal
15 ordinance.

16 **SECTION 49.** 938.17 (2) (h) 1. of the statutes is amended to read:

17 938.17 (2) (h) 1. If a juvenile who has violated a municipal ordinance, other
18 than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of his or
19 her dispositional order, the municipal court may impose on the juvenile any of the
20 sanctions specified in s. 938.355 (6) (d) 2. to 4. that are authorized under par. (cm)
21 except for monitoring by an electronic monitoring system or may petition the court
22 assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the
23 juvenile the sanction specified in s. 938.355 (6) (d) 1. or home detention with
24 monitoring by an electronic monitoring system as specified in s. 938.355 (6) (d) 3., if
25 authorized under par. (cm), if at the time of judgment the court explained the

1 conditions to the juvenile and informed the juvenile of the possible sanctions under
2 s. 938.355 (6) (d) that are authorized under par. (cm) for a violation or if before the
3 violation the juvenile has acknowledged in writing that he or she has read, or has had
4 read to him or her, those conditions and possible sanctions and that he or she
5 understands those conditions and possible sanctions.

6 **SECTION 50.** 938.17 (2) (i) of the statutes is created to read:

7 938.17 (2) (i) 1. If a juvenile who has violated a municipal ordinance enacted
8 under s. 118.163 (1m) violates a condition of his or her dispositional order, the
9 municipal court may impose on the juvenile any of the sanctions specified in s.
10 938.355 (6m) (ag), if at the time of judgment the court explained those conditions to
11 the juvenile and informed the juvenile of those possible sanctions or if before the
12 violation the juvenile has acknowledged in writing that he or she has read, or has had
13 read to him or her, those conditions and possible sanctions and that he or she
14 understands those conditions and possible sanctions.

15 2m. If a juvenile who has violated a municipal ordinance enacted under s.
16 118.163 (2) violates a condition of his or her dispositional order, the municipal court
17 may impose on the juvenile any of the sanctions specified in s. 938.355 (6m) (a) that
18 are authorized under par. (cm) except for the sanction specified in s. 938.355 (6m) (a)
19 1. or may petition the court assigned to exercise jurisdiction under this chapter and
20 ch. 48 to impose on the juvenile the sanction specified in s. 938.355 (6m) (a) 1., if
21 authorized under par. (cm), if at the time of judgment the court explained the
22 conditions to the juvenile and informed the juvenile of the possible sanctions under
23 s. 938.355 (6m) (a) that are authorized under par. (cm) for a violation or if before the
24 violation the juvenile has acknowledged in writing that he or she has read, or has had

1 read to him or her, those conditions and possible sanctions and that he or she
2 understands those conditions and possible sanctions.

3 3. A motion requesting the municipal court to impose or petition for a sanction
4 may be brought by the person or agency primarily responsible for the provision of
5 dispositional services, the administrator of the school district in which the juvenile
6 is enrolled or resides, the municipal attorney or the court that entered the
7 dispositional order. If the court initiates the motion, that court is disqualified from
8 holding a hearing on the motion. Notice of the motion shall be given to the juvenile
9 and the juvenile's parent, guardian or legal custodian.

10 4. Before imposing any sanction, the court shall hold a hearing, at which the
11 juvenile may present evidence.

12 4m. If the court assigned to exercise jurisdiction under this chapter and ch. 48
13 imposes the sanction specified in s. 938.355 (6m) (a) 1., on a petition described in
14 subd. 2m., that court shall order the municipality of the municipal court that filed
15 the petition to pay to the county the cost of providing the sanction imposed under s.
16 938.355 (6m) (a) 1.

17 **SECTION 51.** 938.245 (2v) of the statutes is created to read:

18 938.245 (2v) If the deferred prosecution agreement is based on an allegation
19 that the juvenile has violated a municipal ordinance enacted under s. 118.163 (2), the
20 deferred prosecution agreement may require that the juvenile's parent, guardian or
21 legal custodian attend school with the juvenile.

22 **SECTION 52.** 938.245 (5) of the statutes is amended to read:

23 938.245 (5) A deferred prosecution agreement under sub. (2) (a) 1. to 8., (2g)
24 or (2v). may be terminated upon the request of the juvenile, parent, guardian or legal

1 custodian. A deferred prosecution agreement under sub. (2) (a) 9. may be terminated
2 by the court upon the request of the juvenile, parent, guardian or legal custodian.

3 **SECTION 53.** 938.275 (1) (c) of the statutes is amended to read:

4 938.275 (1) (c) If the court imposes a sanction on a juvenile as specified in s.
5 938.355 (6) (d) or (6m) (a) or (ag) or finds the juvenile in contempt under s. 938.355
6 (6g) (b) and orders a disposition under s. 938.34 or if the juvenile is placed in a secure
7 detention facility or place of nonsecure custody under s. 938.355 (6d) or 938.534 (1),
8 the court shall order the parents of the juvenile to contribute toward the cost of the
9 sanction, disposition or placement the proportion of the total amount which the court
10 finds the parents are able to pay.

11 **SECTION 54.** 938.32 (1) (a) of the statutes is amended to read:

12 938.32 (1) (a) At any time after the filing of a petition for a proceeding relating
13 to s. 938.12 or 938.13 and before the entry of judgment, the judge or juvenile court
14 commissioner may suspend the proceedings and place the juvenile under
15 supervision in the juvenile's own home or present placement or in a youth village
16 program as described in s. 118.42. The court may establish terms and conditions
17 applicable to the parent, guardian or legal custodian, and to the juvenile, including
18 any of the conditions specified in subs. (1d), (1g), (1m), (1t), (1v) and (1x). The order
19 under this section shall be known as a consent decree and must be agreed to by the
20 juvenile; the parent, guardian or legal custodian; and the person filing the petition
21 under s. 938.25. If the consent decree includes any conditions specified in sub. (1g),
22 the consent decree shall include provisions for payment of the services as specified
23 in s. 938.361. The consent decree shall be reduced to writing and given to the parties.

24 **SECTION 55.** 938.32 (1v) of the statutes is created to read:

1 938.32 (**1v**) If the petition alleges that the juvenile is in need of protection or
2 services under s. 938.13 (6), the judge or juvenile court commissioner may establish
3 as a condition under sub. (1) that the juvenile's parent, guardian or legal custodian
4 attend school with the juvenile.

5 **SECTION 56.** 938.342 (1) of the statutes is renumbered 938.342 (1g), and
6 938.342 (1g) (a) and (b), as renumbered, are amended to read:

7 938.342 (**1g**) (a) Suspend the person's operating privilege, as defined in s.
8 340.01 (40), for not less than 30 days nor more than ~~90 days~~ one year. The court shall
9 immediately take possession of the suspended license and forward it to the
10 department of transportation together with a notice stating the reason for and
11 duration of the suspension.

12 (b) Order the person to participate in counseling or a supervised work program
13 or other community service work under as described in s. 938.34 (5g). The costs of
14 any such counseling, supervised work program or other community service work
15 may be assessed against the person, the parents or guardian of the person, or both.
16 Any county department, community agency, public agency or nonprofit charitable
17 organization administering a supervised work program or other community service
18 work to which a person is assigned pursuant to an order under this paragraph acting
19 in good faith has immunity from any civil liability in excess of \$25,000 for any act or
20 omission by or impacting on that person.

21 **SECTION 57.** 938.342 (1d) of the statutes is created to read:

22 938.342 (**1d**) If the court finds that the person violated a municipal ordinance
23 enacted under s. 118.163 (1m), the court shall enter an order making one or more of
24 the following dispositions if such a disposition is authorized by the municipal
25 ordinance:

1 (a) Order the person to attend school.

2 (b) Impose a forfeiture of not more than \$50 plus costs for a first violation, or
3 a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation
4 committed within 12 months of a previous violation, subject to s. 938.37 and subject
5 to a maximum cumulative forfeiture amount of not more than \$500 for all violations
6 committed during a school semester. All or part of the forfeiture plus costs may be
7 assessed against the person, the parent or guardian of the person, or both.

8 **SECTION 58.** 938.342 (1g) (g) to (j) of the statutes are created to read:

9 938.342 (1g) (g) Order the person to attend school.

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

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

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

19 **SECTION 59.** 938.342 (1m) (a) of the statutes is amended to read:

20 938.342 (1m) (a) If the court finds that the person violated a municipal
21 ordinance enacted under s. 118.163 (2), the court may, in addition to or instead of the
22 dispositions under sub. (1) (1g), order the person's parent, guardian or legal
23 custodian to participate in counseling at the parent's, guardian's or legal custodian's
24 own expense or to attend school with the person, or both, if such a disposition is
25 authorized by the municipal ordinance.

1 **SECTION 60.** 938.342 (1m) (am) of the statutes is created to read:

2 938.342 **(1m)** (am) If the court finds that the person violated a municipal
3 ordinance enacted under s. 118.163 (1m), the court may, as part of the disposition
4 under sub. (1d), order the person's parent or guardian to pay all or part of a forfeiture
5 plus costs assessed under sub. (1d) (b). If the court finds that the person violated a
6 municipal ordinance enacted under s. 118.163 (2), the court may, as part of the
7 dispositions under sub. (1g), order the person's parent or guardian to pay all or part
8 of the costs of any program ordered under sub. (1g) (b) or to pay all or part of a
9 forfeiture plus costs assessed under sub. (1g) (h).

10 **SECTION 61.** 938.342 (1m) (b) of the statutes is amended to read:

11 938.342 **(1m)** (b) No order to any parent, guardian or legal custodian under par.
12 (a) or (am) may be entered until the parent, guardian or legal custodian is given an
13 opportunity to be heard on the contemplated order of the court. The court shall cause
14 notice of the time, place and purpose of the hearing to be served on the parent,
15 guardian or legal custodian personally at least 10 days before the date of the hearing.
16 The procedure in these cases shall, as far as practicable, be the same as in other cases
17 to the court. At the hearing, the parent, guardian or legal custodian may be
18 represented by counsel and may produce and cross-examine witnesses. Any parent,
19 guardian or legal custodian who fails to comply with any order issued by a court
20 under par. (a) or (am) may be proceeded against for contempt of court.

21 **SECTION 62.** 938.342 (2) (a) of the statutes is amended to read:

22 938.342 **(2)** (a) Except as provided in par. (b), if the court finds that a person
23 is subject to a municipal ordinance enacted under s. 118.163 (2m) (a), the court shall
24 enter an order suspending the person's operating privilege, as defined in s. 340.01
25 (40), until the person reaches the age of 18.

1 **SECTION 63.** 938.342 (2) (b) of the statutes is amended to read:

2 938.342 **(2)** (b) The court may enter an order making any of the dispositions
3 specified under sub. ~~(1)~~ (1g) if the court finds that suspension of the person's
4 operating privilege, as defined in s. 340.01 (40), until the person reaches the age of
5 18 would cause an undue hardship to the person or the juvenile's person's family.

6 **SECTION 64.** 938.345 (2) of the statutes is amended to read:

7 938.345 **(2)** If the court finds that a juvenile is in need of protection or services
8 based on the fact that the juvenile is a school dropout, as defined in s. 118.153 (1) (b),
9 or based on habitual truancy, and the court also finds that the reason the juvenile has
10 dropped out of school or is a habitual truant is a result of the juvenile's intentional
11 refusal to attend school rather than the failure of any other person to comply with
12 s. 118.15 (1) (a) or (am), the court, instead of or in addition to any other disposition
13 imposed under sub. (1), may enter an order permitted under s. 938.342.

14 **SECTION 65.** 938.355 (6) (a) of the statutes is amended to read:

15 938.355 **(6)** (a) If a juvenile who has been adjudged delinquent or to have
16 violated a civil law or ordinance, other than an ordinance enacted under s. 118.163
17 (1m) or (2), violates a condition specified in sub. (2) (b) 7., the court may impose on
18 the juvenile any of the sanctions specified in par. (d) if, at the dispositional hearing
19 under s. 938.335, the court explained the conditions to the juvenile and informed the
20 juvenile of those possible sanctions or if before the violation the juvenile has
21 acknowledged in writing that he or she has read, or has had read to him or her, those
22 conditions and possible sanctions and that he or she understands those conditions
23 and possible sanctions. ~~Subject to sub. (6m), if~~ If a juvenile who has been found to
24 be in need of protection or services under s. 938.13 (4), (6m), (7), (12) or (14) violates
25 a condition specified in sub. (2) (b) 7., the court may impose on the juvenile any of the

1 sanctions specified in par. (d), other than placement in a secure detention facility or
2 juvenile portion of a county jail, if, at the dispositional hearing under s. 938.335, the
3 court explained the conditions to the juvenile and informed the juvenile of those
4 possible sanctions or if before the violation the juvenile has acknowledged in writing
5 that he or she has read, or has had read to him or her, those conditions and possible
6 sanctions and that he or she understands those conditions and possible sanctions.
7 The court may not order the sanction of placement in a place of nonsecure custody
8 specified in par. (d) 1. unless the court finds that the agency primarily responsible
9 for providing services for the juvenile has made reasonable efforts to prevent the
10 removal of the juvenile from his or her home and that continued placement of the
11 juvenile in his or her home is contrary to the welfare of the juvenile.

12 **SECTION 66.** 938.355 (6) (an) 1. of the statutes is amended to read:

13 938.355 (6) (an) 1. If a juvenile who has violated a municipal ordinance, other
14 than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of a
15 dispositional order imposed by the municipal court, the municipal court may petition
16 the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose
17 on the juvenile the sanction specified in par. (d) 1. or the sanction specified in par. (d)
18 3., with monitoring by an electronic monitoring system, if, at the time of the
19 judgment the municipal court explained the conditions to the juvenile and informed
20 the juvenile of those possible sanctions for a violation or if before the violation the
21 juvenile has acknowledged in writing that he or she has read, or has had read to him
22 or her, those conditions and possible sanctions and that he or she understands those
23 conditions and possible sanctions. The petition shall contain a statement of whether
24 the juvenile may be subject to the federal Indian child welfare act, 25 USC 1911 to
25 1963.

1 **SECTION 67.** 938.355 (6m) (title) of the statutes is amended to read:

2 938.355 (**6m**) (title) SANCTIONS FOR VIOLATION OF ORDER: TRUANCY OR HABITUAL
3 TRUANCY.

4 **SECTION 68.** 938.355 (6m) (a) of the statutes is renumbered 938.355 (6m) (a)
5 (intro.) and amended to read:

6 938.355 (**6m**) (a) (intro.) If the court finds by a preponderance of the evidence
7 that a juvenile who has been found to have violated a municipal ordinance enacted
8 under s. 118.163 (2) or who has been found to be in need of protection or services based
9 on habitual truancy from school under s. 938.13 (6) has violated a condition specified
10 under sub. (2) (b) 7., the court may order as a sanction any combination of the
11 ~~operating privilege suspension specified in this paragraph~~ sanction specified in
12 subds. 1. and 2. and the dispositions specified in s. 938.342 (1) (1g) (b) to (f) (j) and
13 (1m), regardless of whether the disposition was imposed in the order violated by the
14 juvenile, if at the dispositional hearing under s. 938.335 the court explained those
15 conditions to the juvenile and informed the juvenile of the possible sanctions under
16 this paragraph for a violation or if before the violation the juvenile has acknowledged
17 in writing that he or she has read, or has had read to him or her, those conditions and
18 possible sanctions and that he or she understands those conditions and possible
19 sanctions. The court may order as a sanction ~~suspension under this paragraph~~ any
20 of the following:

21 2. Suspension of the juvenile's operating privilege, as defined under s. 340.01
22 (40), for not more than one year. If the juvenile does not hold a valid operator's license
23 under ch. 343, other than an instruction permit under s. 343.07 or a restricted license
24 under s. 343.08, on the date of the order issued under this paragraph subdivision, the
25 court may order the suspension to begin on the date that the operator's license would

1 otherwise be reinstated or issued after the juvenile applies and qualifies for issuance
2 or 2 years after the date of the order issued under this ~~paragraph~~ subdivision,
3 whichever occurs first. If the court suspends an operating privilege under this
4 ~~paragraph~~ subdivision, the court shall immediately take possession of the suspended
5 license and forward it to the department of transportation with a notice stating the
6 reason for and the duration of the suspension.

7 **SECTION 69.** 938.355 (6m) (a) 1. of the statutes is created to read:

8 938.355 **(6m)** (a) 1. Placement of the juvenile in a secure detention facility or
9 juvenile portion of a county jail that meets the standards promulgated by the
10 department by rule or in a place of nonsecure custody, for not more than 10 days and
11 the provision of educational services consistent with his or her current course of
12 study during the period of placement. The juvenile shall be given credit against the
13 period of detention or nonsecure custody imposed under this subdivision for all time
14 spent in secure detention in connection with the course of conduct for which the
15 detention or nonsecure custody was imposed. The use of placement in a secure
16 detention facility or in a juvenile portion of a county jail as a sanction under this
17 subdivision is subject to the adoption of a resolution by the county board of
18 supervisors under s. 938.06 (5) authorizing the use of those placements as a sanction.

19 **SECTION 70.** 938.355 (6m) (ag) of the statutes is created to read:

20 938.355 **(6m)** (ag) If the court finds by a preponderance of the evidence that a
21 juvenile who has been found to have violated a municipal ordinance enacted under
22 s. 118.163 (1m) has violated a condition specified under sub. (2) (b) 7., the court may
23 order as a sanction any combination of the operating privilege suspension specified
24 in par. (a) and the dispositions specified in s. 938.342 (1g) (b) to (j) and (1m),
25 regardless of whether the disposition was imposed in the order violated by the

1 juvenile, if at the dispositional hearing under s. 938.335 the court explained those
2 conditions to the juvenile and informed the juvenile of the possible sanctions under
3 this paragraph for a violation or if before the violation the juvenile has acknowledged
4 in writing that he or she has read, or has had read to him or her, those conditions and
5 possible sanctions and that he or she understands those conditions and possible
6 sanctions.

7 **SECTION 71.** 938.355 (6m) (am) of the statutes is created to read:

8 938.355 **(6m)** (am) 1. If a juvenile who has violated a municipal ordinance
9 enacted under s. 118.163 (2) violates a condition of a dispositional order imposed by
10 the municipal court, the municipal court may petition the court assigned to exercise
11 jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction
12 specified in par. (a) 1. if, at the time of the judgment the municipal court explained
13 the conditions to the juvenile and informed the juvenile of that possible sanction for
14 a violation or if before the violation the juvenile has acknowledged in writing that
15 he or she has read, or has had read to him or her, those conditions and that possible
16 sanction and that he or she understands those conditions and that possible sanction.
17 The petition shall contain a statement of whether the juvenile may be subject to the
18 federal Indian child welfare act, 25 USC 1911 to 1963.

19 2. If the court assigned to exercise jurisdiction under this chapter and ch. 48
20 imposes the sanction specified in par. (a) 1. on a petition described in subd. 1., that
21 court shall order the municipality of the municipal court that filed the petition to pay
22 to the county the cost of providing the sanction imposed under par. (a) 1.

23 **SECTION 72.** 938.355 (6m) (b) of the statutes is amended to read:

24 938.355 **(6m)** (b) A motion for the imposition of a sanction under par. (a) or (ag)
25 may be brought by the person or agency primarily responsible for providing

1 dispositional services to the juvenile, the administrator of the school district in which
2 the juvenile is enrolled or resides, the district attorney, the corporation counsel or the
3 court that entered the dispositional order. If the court initiates the motion, that court
4 is disqualified from holding a hearing on the motion. Notice of the motion shall be
5 given to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian
6 and all parties present at the original dispositional hearing.

7 **SECTION 73.** 938.355 (6m) (c) of the statutes is amended to read:

8 938.355 **(6m)** (c) Before imposing a sanction under par. (a) or (ag), the court
9 shall hold a hearing at which the juvenile is entitled to be represented by legal
10 counsel and to present evidence. The hearing shall be held within 15 days after the
11 filing of a motion under par. (b).

12 **SECTION 74. Nonstatutory provisions.**

13 (1) AUDIT OF EFFECTIVENESS OF SECURE DETENTION IN DETERRING HABITUAL
14 TRUANCY.

15 (a) The joint legislative audit committee is requested to direct the legislative
16 audit bureau to perform a performance evaluation audit to evaluate all of the
17 following:

18 1. The accuracy and uniformity of truancy statistics that are reported to the
19 department of public instruction by school boards.

20 2. The effectiveness of using placement of a juvenile in a secure detention
21 facility or juvenile portion of a county jail under section 938.355 (6m) (a) 1. of the
22 statutes, as created by this act, as a sanction for a violation of a condition of a
23 dispositional order based on habitual truancy from school in deterring truancy. The
24 audit shall compare the effectiveness of that sanction with the effectiveness of other

1 sanctions and dispositions, including attendance at an educational program
2 described in section 938.34 (7d) of the statutes, in deterring truancy.

3 (b) If the legislative audit bureau performs the audit under paragraph (a), the
4 legislative audit bureau shall file its report as described in section 13.94 (1) (b) of the
5 statutes by September 1, 1999.

6 **SECTION 75. Initial applicability.**

7 (1) The treatment of section 118.15 (5) (a) of the statutes first applies to
8 violations under section 118.15 of the statutes occurring on the effective date of this
9 subsection, but does not preclude the counting of other violations as prior violations
10 for sentencing a person.

11 (2) The treatment of sections 118.15 (1) (am) and (3) (c), 118.16 (2) (cg) 1. and
12 4. and 938.345 (2) of the statutes first applies to pupils enrolled in school in the
13 1998-99 school year.

14 (3) The treatment of sections 938.06 (5), 938.17 (2) (h) 1. and (i) and 938.355
15 (6) (a) and (an) 1. and (6m) (title), (ag), (am), (b) and (c) of the statutes, the
16 renumbering and amendment of section 938.355 (6m) (a) of the statutes and the
17 creation of section 938.355 (6m) (a) 1. of the statutes first apply to dispositional
18 orders entered on the effective date of this subsection.

19 (4) The treatment of sections 118.15 (5) (am), 118.163 (2) (k), 938.17 (2) (g),
20 938.245 (2v) and (5), 938.32 (1) (a) and (1v) and 938.342 (1m) (a) of the statutes first
21 applies to the parent, guardian or legal custodian of a person who becomes a habitual
22 truant, as defined in section 118.16 (1) (a) of the statutes, on the effective date of this
23 subsection and to a parent or guardian having control of a child who does not cause

1 the child to attend school regularly in violation of section 118.15 (1) (a) of the statutes
2 on the effective date of this subsection.

3 (END)