



1995 ASSEMBLY BILL 385

May 23, 1995 - Introduced by Representatives GREEN, KRUSICK, HUEBSCH, HARSDORF, LAZICH, HOVEN, GOETSCH, COLEMAN, SCHNEIDERS, JOHNSRUD, RYBA, ALBERS, WIRCH, OTT, AINSWORTH, JENSEN, ZUKOWSKI, KLUSMAN, SKINDRUD, LEHMAN, FREESE, MUSSER, BAUMGART, F. LASEE, SPRINGER, HAHN, KREIBICH, BALDWIN and VRAKAS, cosponsored by Senators FITZGERALD, ANDREA, RUDE, DARLING, WEEDEN, BUETTNER, PETAK, FARROW, COWLES, HUELSMAN, A. LASEE and ROSENZWEIG. Referred to Committee on Children and Families.

1 **AN ACT to amend** 48.245 (2) (a) 5., 48.32 (1t) (a), 48.34 (5) and 48.343 (4) of the
2 statutes; **relating to:** the performance of services for the victim by a child as
3 restitution for the child's act.

Analysis by the Legislative Reference Bureau

Under current law, a dispositional order, consent decree or informal disposition of the court assigned to exercise jurisdiction under the children's code (juvenile court) may require a child who has caused damage to property or actual physical injury to another to repair the damage to the property or to make reasonable restitution to the victim for the damage or injury. A dispositional order, consent decree or informal disposition that requires a child to make restitution must include a determination that the child alone is financially able to pay and may allow up to the date of expiration of the dispositional order, consent decree or informal disposition for the payment. This bill permits a juvenile court to require a child who has caused damage to property or physical injury to a victim to make restitution to the victim in the form of services to the victim. Under the bill, a dispositional order, consent decree or informal disposition that requires a child to make restitution in the form of services for the victim must include a determination that the child is able to perform the services and may allow up to the date of expiration of the dispositional order, consent decree or informal disposition for the completion of those services.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

4 **SECTION 1.** 48.245 (2) (a) 5. of the statutes is amended to read:

1 48.245 (2) (a) 5. a. That the child participate in a restitution project if the child
2 has attained the age of 12 and the act for which the informal disposition is being
3 imposed has resulted in damage to the property of another, or in actual physical
4 injury to another excluding pain and suffering. Subject to subd. 5. c., the informal
5 disposition may require the child to repair damage to property or to make reasonable
6 restitution for the damage or injury, either in the form of cash payments or the
7 performance of services for the victim or both, if the intake worker, after taking into
8 consideration the well-being and needs of the victim, considers it beneficial to the
9 well-being and behavior of the child. Any such informal disposition shall include a
10 determination that the child alone is ~~financially~~ able to pay or able to perform the
11 services and may allow up to the date of the expiration of the disposition for the
12 payment or for the completion of the services.

13 b. In addition to any other employment or duties permitted under ch. 103 or
14 any rule or order under ch. 103, a child who is 12 or 13 years of age who is
15 participating in a restitution project provided by the county or who is performing
16 services for the victim as restitution may, for the purpose of making restitution, be
17 employed or perform any duties under any circumstances in which a child 14 or 15
18 years of age is permitted to be employed or to perform duties under ch. 103 or any
19 rule or order under ch. 103

20 c. Under this subdivision, an informal disposition may not require a child who
21 is 12 or 13 years of age to make more than \$250 in restitution or to perform more than
22 40 total hours of services for the victim as restitution.

23 **SECTION 2.** 48.32 (1t) (a) of the statutes is amended to read:

24 48.32 (1t) (a) 1. Subject to subd. 3., if the petition alleges that the child
25 committed a delinquent act that has resulted in damage to the property of another,

1 or in actual physical injury to another excluding pain and suffering, the judge or
2 juvenile court commissioner may require the child, if the child is 12 years of age or
3 older, as a condition of the consent decree, to repair damage to property or to make
4 reasonable restitution for the damage or injury, either in the form of cash payments
5 or the performance of services for the victim or both, if the judge or juvenile court
6 commissioner, after taking into consideration the well-being and needs of the victim,
7 considers it beneficial to the well-being and behavior of the child. Any consent
8 decree that includes a condition of restitution shall include a finding that the child
9 alone is financially able to pay or perform the services and may allow up to the date
10 of the expiration of the consent decree for the payment or for the completion of the
11 services. Objection by the child to the amount of damages claimed shall entitle the
12 child to a hearing on the question of damages before the amount of restitution is
13 made part of the consent decree.

14 2. In addition to any other employment or duties permitted under ch. 103 or
15 any rule or order under ch. 103, a child who is 12 or 13 years of age who is
16 participating in a restitution project provided by the county or who is performing
17 services for the victim as restitution may, for the purpose of making restitution under
18 the consent decree, be employed or perform any duties under any circumstances in
19 which a child 14 or 15 years of age is permitted to be employed or to perform duties
20 under ch. 103 or any rule or order under ch. 103

21 3. Under this paragraph, a judge or juvenile court commissioner may not order
22 a child who is 12 or 13 years of age to make more than \$250 in restitution or to
23 perform more than 40 total hours of services for the victim as restitution.

24 **SECTION 3.** 48.34 (5) of the statutes is amended to read:

1 48.34 (5) (a) Subject to par. (c), if the child is found to have committed a
2 delinquent act which has resulted in damage to the property of another, or actual
3 physical injury to another excluding pain and suffering, the judge may order the
4 child to repair damage to property or to make reasonable restitution for the damage
5 or injury , either in the form of cash payments or the performance of services for the
6 victim or both, if the judge, after taking into consideration the well-being and needs
7 of the victim, considers it beneficial to the well-being and behavior of the child. Any
8 such order shall include a finding that the child alone is financially able to pay or
9 perform the services and may allow up to the date of the expiration of the order for
10 the payment or for the completion of the services. Objection by the child to the
11 amount of damages claimed shall entitle the child to a hearing on the question of
12 damages before the amount of restitution is ordered.

13 (b) In addition to any other employment or duties permitted under ch. 103 or
14 any rule or order under ch. 103, a child who is 12 or 13 years of age who is
15 participating in a restitution project provided by the county or who is performing
16 services for the victim as restitution may, for the purpose of making restitution
17 ordered by the court under this subsection, be employed or perform any duties under
18 any circumstances in which a child 14 or 15 years of age is permitted to be employed
19 or perform duties under ch. 103 or any rule or order under ch. 103

20 (c) Under this subsection, a court may not order a child who is 12 or 13 years
21 of age to make more than \$250 in restitution or to perform more than 40 total hours
22 of services for the victim as restitution.

23 **SECTION 4.** 48.343 (4) of the statutes is amended to read:

24 48.343 (4) If the violation has resulted in damage to the property of another,
25 or actual physical injury to another excluding pain and suffering, the court may order

1 the child to make repairs of the damage to property or reasonable restitution for the
2 damage or injury, either in the form of cash payments or services for the victim or
3 both, if the court, after taking into consideration the well-being and needs of the
4 victim, considers it beneficial to the well-being and behavior of the child. Any such
5 order requiring payment for repairs or restitution shall include a finding that the
6 child alone is financially able to pay or to perform the services and may allow up to
7 the date of the expiration of the order for the payment or for the completion of the
8 services. Objection by the child to the amount of damages claimed shall entitle the
9 child to a hearing on the question of damages before the amount of restitution is
10 ordered.

11 **SECTION 5. Initial applicability.**

12 (1) This act first applies to delinquent acts committed on the effective date of
13 this subsection.

14 (END)