



1995 ASSEMBLY BILL 889

February 15, 1996 - Introduced by Representatives MURAT, HANSON, WASSERMAN, KRUSICK, SCHNEIDER, WILDER, MEYER, WOOD, R. POTTER, WALKER, KLUSMAN, GARD, CARPENTER, KRUG, ZIEGELBAUER, PLACHE, UNDERHEIM, OTTE, SERATTI, KAUFERT, LADWIG, GUNDERSON, OLSEN, OURADA, BAUMGART and HUBER. Referred to Committee on Children and Families.

1 **AN ACT to create** 946.475 of the statutes; **relating to:** harboring or aiding
2 juveniles who have run away or failed to appear in court and providing a
3 penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who harbors or aids a felon with the intent to prevent the apprehension of the felon is guilty of a Class E felony. Current law also provides that a person is guilty of absconding if, before the person reached the age of 17, he or she was adjudicated delinquent as a juvenile and then intentionally failed to appear for his or her dispositional hearing before the court assigned to exercise jurisdiction under the children's code or juvenile justice code (juvenile court) and did not return to juvenile court before turning 17. The penalty for absconding is the same penalty that is provided for the criminal act on the basis of which the person was adjudicated delinquent (for example, if a person who absconds was adjudicated delinquent for an act that would be a Class B felony if committed by an adult, he or she would be guilty of a Class B felony for absconding). Finally, current law also prohibits a person from intentionally encouraging or contributing to an act of a juvenile that, if committed by an adult, would be a crime. A person who violates this prohibition is guilty of a Class A misdemeanor, except as follows: 1) if the act of the juvenile is an act that would be a felony if committed by an adult, the person is guilty of a Class D felony; and 2) if the act of the juvenile results in death, the person is guilty of a Class C felony.

This bill prohibits an adult (a person who is 17 years of age or older) from knowingly harboring or aiding a juvenile (a person under the age of 17) after the juvenile does any of the following: 1) runs away from his or her parents, guardian or legal or physical custodian; 2) intentionally fails to appear before a juvenile court for a juvenile court proceeding; or 3) escapes from a juvenile correctional facility, secure detention facility or other type of custody. A person who violates the prohibition created by the bill is guilty of a Class A misdemeanor.

The penalties for the crime classifications mentioned above are as follows:

<u>Crime</u>	<u>Maximum fine</u>	<u>Maximum imprisonment</u>
Class A misdemeanor	\$10,000	9 months
Class E felony	\$10,000	2 years
Class D felony	\$10,000	5 years
Class C felony	\$10,000	10 years
Class B felony	no fine	40 years

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

1 **SECTION 1.** 946.475 of the statutes is created to read:

2 **946.475 Harboring juvenile who has absconded, escaped or run away.**

3 **(1)** In this section:

4 (a) "Adult" means a person who has attained 17 years of age.

5 (b) "Court" means the court assigned to exercise jurisdiction under ch. 48 or
6 938.

7 (c) "Custody" has the meaning given in s. 946.42 (1) (a).

8 (d) "Escape" has the meaning given in s. 946.42 (1) (b).

9 (e) "Guardian" means the person named by a court to have the duty and
10 authority of guardianship of a juvenile.

11 (f) "Juvenile" means a person who has not attained 17 years of age.

12 (g) "Legal custodian" means a person, other than a parent or guardian, or an
13 agency to whom legal custody of a juvenile has been transferred by a court, but does
14 not include a person who has only physical custody of the juvenile.

15 (h) "Legal custody" means a legal status created by the order of a court, which
16 confers the right and duty to protect, train and discipline a juvenile, and to provide
17 food, shelter, legal services, education and ordinary medical and dental care, subject

1 to the rights, duties and responsibilities of the guardian of the juvenile and subject
2 to any residual parental rights and responsibilities and the provisions of any court
3 order.

4 (i) "Parent" means either a biological parent, a husband who has consented to
5 the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the
6 juvenile is a nonmarital child who is not adopted or whose parents do not
7 subsequently intermarry under s. 767.60, "parent" includes a person adjudged in a
8 judicial proceeding to be the biological father. "Parent" does not include any person
9 whose parental rights have been terminated.

10 (j) "Physical custody" means actual custody of the person in the absence of an
11 order of a court granting legal custody to the physical custodian.

12 (2) An adult who knowingly harbors or aids a juvenile after the juvenile does
13 any of the following is guilty of a Class A misdemeanor:

14 (a) The juvenile runs away from his or her parents, guardian, legal custodian
15 or person who has physical custody of the juvenile.

16 (b) The juvenile intentionally fails to appear before a court for a hearing in any
17 proceeding under ch. 48 or 938.

18 (c) The juvenile escapes from custody.

19 (3) Subsection (2) does not apply to a home licensed under s. 48.48 or 48.75 that
20 is providing housing and services to a juvenile as provided s. 48.227.

21 **SECTION 2. Effective date.**

22 (1) This act takes effect on July 1, 1996, or on the day after publication,
23 whichever is later.

24 (END)