



## 1997 ASSEMBLY BILL 686

December 30, 1997 - Introduced by Representatives OLSEN, KRUSICK, LADWIG, AINSWORTH, ALBERS, DOBYNS, FOTI, FREESE, GREEN, HANSON, KELSO, F. LASEE, J. LEHMAN, M. LEHMAN, MURAT, MUSSER, OWENS, PORTER, POWERS, TURNER, URBAN and WARD, cosponsored by Senators DARLING, C. POTTER, FARROW, PLACHE, ROESSLER and ROSENZWEIG. Referred to 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 118.16 (5m); **to renumber and**  
3     **amend** 118.15 (5) (a), 118.162 (2) (b), 118.163 (2m) and 938.355 (6m) (a); **to**  
4     **consolidate, renumber and amend** 118.16 (1) (a) (intro.) and 1. and 118.162  
5     (3) (intro.), (a) and (b); **to amend** 118.16 (2) (cg) 1., 118.16 (2) (cg) 3., 118.16 (2)  
6     (cg) 4., 118.16 (6), 118.162 (1) (intro.), 118.163 (2) (a), 118.163 (2) (b), 118.163 (2)  
7     (d), 118.165 (1) (e), 895.035 (2m) (b), 938.125 (2), 938.13 (6), 938.17 (2) (a) 1.,  
8     938.17 (2) (cm), 938.17 (2) (g), 938.17 (2) (h) 1., 938.23 (1) (am), 938.342 (1) (a)  
9     and (b), 938.342 (1m) (b), 938.342 (2) (a), 938.342 (2) (b), 938.345 (2), 938.355  
10    (6) (a) and 938.355 (6) (an) 1.; **to repeal and recreate** 49.26 (1) (a) 1. and  
11    118.163 (1) (b); and **to create** 118.125 (2) (c) 2., 118.15 (1) (am), 118.15 (3m),  
12    118.15 (5) (a) 1. a. and b., 118.15 (5) (a) 2., 118.16 (5m) (a), 118.162 (4m), 118.163  
13    (1) (c), 118.163 (2) (g) to (j), 118.163 (2m) (b), 118.163 (4), 938.17 (2) (i), 938.342  
14    (1) (g) to (j), 938.342 (1m) (am), 938.355 (6m) (a) 2. and 938.355 (6m) (am) of the  
15    statutes; **relating to:** compulsory school attendance, habitual truancy, the

- 1 penalties for contributing to truancy, truancy planning committees and school  
2 district truancy plans.
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***Analysis by the Legislative Reference Bureau***

With certain exceptions, current law requires any person having under control a child between the ages of 6 and 18 years to ensure that the child attends school regularly. A person who violates that requirement may be fined not more than \$500 or imprisoned for not more than 30 days or both.

With certain exceptions, this bill requires any person having under control a child who is under the age of 6 and who is attending a public school to cause the child to continue to attend that school. This new requirement applies only if the school board adopts a resolution specifying that it applies. In addition, the requirement does not apply if the person in control of the child notifies the school board that the child will no longer be attending the program in which the child is enrolled.

The bill also changes the penalties for violating the compulsory attendance law. The bill provides that for a 2nd or subsequent offense the person may be fined not more than \$1,000 or imprisoned for not more than 90 days or both. The bill authorizes a court, for a first or subsequent offense, to require a person to perform community service work for a public agency or a nonprofit charitable organization in lieu of the other penalties. The bill exempts any organization or agency to which the person is assigned from civil liability in excess of \$25,000 for any act or omission by or impacting on the defendant if the agency or organization acts in good faith.

Under current law, any person 17 years of age or older who, by any act or omission, knowingly encourages or contributes to the truancy of a child 17 years of age or under is guilty of a Class C misdemeanor. This bill eliminates the requirement that the person know that his or her act or omission is encouraging or contributing to a child's truancy.

Under current law, a county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a habitual truant. A habitual truant is a pupil who is absent from school without an acceptable excuse for part or all of 5 or more days out of 10 consecutive school days during a school semester, or part or all of 10 or more school days during a school semester.

This bill provides that a habitual truant is a pupil who is absent from school without an acceptable excuse for part or all of 5 or more school days during a semester. The bill also allows an ordinance to specify additional dispositions available to the court, including an order for the person to attend school, a forfeiture of up to \$500, an order placing the person under supervision and any other reasonable conditions, including a curfew. In addition, the bill exempts any county department of human services or social services (county department), community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned as a disposition for habitual truancy from civil liability in excess of \$25,000

for any act or omission by or impacting on the person if the county department, agency or organization acts in good faith.

Currently, when a pupil initially becomes a habitual truant, the school attendance officer must notify the pupil's parent or guardian.

The notice must specify the date on which the parent or guardian is requested to meet with appropriate school personnel to discuss the child's truancy. This bill requires the date to be within 5 school days after the date the notice is sent. The bill also provides that, if the meeting is not held within 10 school days after the notice is sent, the parent or guardian may be prosecuted for failing to comply with the compulsory school attendance law. Completion of the currently required school activities (meeting with the parent or guardian, providing an opportunity for educational counseling and evaluating the child for learning and social problems) is not necessary.

Under current law, if the court assigned to exercise jurisdiction under the juvenile justice code (juvenile court) finds that a juvenile who has been found to be in need of protection or services based on habitual truancy has violated a condition of his or her dispositional order, the juvenile court may impose certain sanctions on the juvenile. Those sanctions include, in addition to any of the dispositions that may be imposed for habitual truancy, suspension of the juvenile's operating privilege for not more than one year. Also under current law, if the municipal court or the juvenile court finds that a juvenile who has been adjudged to have violated a municipal ordinance, including an ordinance prohibiting habitual truancy, has violated a condition of his or her dispositional order, the municipal court or juvenile court may impose certain sanctions on the juvenile. Those sanctions include placement in secure or nonsecure detention for not more than 10 days, suspension of the juvenile's operating privilege for not more than 3 years, home detention for not more than 30 days and not more than 25 hours of community service work.

This bill permits a juvenile court or a municipal court to impose the same sanctions on a person who is habitually truant and who violates a condition of his or her dispositional order, whether that dispositional order is based on a municipal habitual truancy ordinance violation or a finding of need of protection or services based on habitual truancy. Those sanctions are the sanctions that may be imposed under current law and under the bill on a juvenile found to be in need of protection or services based on habitual truancy. In addition, the bill permits a person who has violated a condition of a dispositional order based on habitual truancy to be placed in secure or nonsecure detention for not more than 10 days.

Current law required the appointment, by July 1, 1988, of truancy planning committees in each county. The committees were required to make recommendations, by February 1, 1989, to school boards of school districts in the county on items to be included in the school districts' truancy plans. Each school board was required to adopt a truancy plan by September 1, 1989.

This bill requires each school board to review and, if appropriate, revise its truancy plan at least once every 2 years. The bill also requires the appointment of county truancy planning committees at least once every 4 years to make recommendations to the school districts in the county on the revisions to their

truancy plans. County truancy planning committees must consist of representatives of:

1. School districts in the county.
2. The district attorney.
3. The sheriff's department.
4. Another local law enforcement agency.
5. The circuit court.
6. The county social services or human services agency.
7. The juvenile court intake unit.
8. A representative of the county community programs or developmental disabilities department (if the county has not established a human services agency).
9. Any other members, as determined by the committee.

The district attorney representative on the county truancy planning committee must participate in reviewing and developing any recommendations regarding revisions to the portions of the school districts' truancy plans relating to the types of cases to be referred to the district attorney for the filing of information or prosecution and the time periods within which the district attorney will respond to and take actions on the referrals.

Each county truancy planning committee must write a report to accompany its recommendations to school districts that describes the factors that contribute to truancy in the county and any state statutes, municipal ordinances or school, social services, law enforcement, district attorney, court or other policies that contribute to or inhibit the response to truancy in the county. The committee must submit copies of the report to all of the entities designating representatives to the committee.

School districts' truancy plans must include all of the following:

1. Procedures to be followed for notifying the parents or guardians of the unexcused absences of habitual truants and for meeting and conferring with such parents or guardians.
2. Plans and procedures for identifying truant children and returning them to school, including the identity of school personnel to whom a truant child must be returned.
3. Methods to increase and maintain public awareness of and involvement in responding to truancy within the school district.
4. The immediate response to be made by school personnel when a truant child is returned to school.
5. The types of truancy cases to be referred to the district attorney for the filing of information or prosecution and the time periods within which the district attorney will respond to and take action on the referrals.
6. Plans and procedures to coordinate the responses to the problems of habitual truants with public and private social services agencies.
7. Methods to involve the truant child's parent or guardian in dealing with and solving the child's truancy problem.

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

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

1           **SECTION 1.** 49.26 (1) (a) 1. of the statutes is repealed and recreated to read:

2           49.26 (1) (a) 1. “Habitual truant” has the meaning given in s. 118.16 (1) (a).

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

4           **SECTION 3.** 118.125 (2) (c) 2. of the statutes is created to read:

5           118.125 (2) (c) 2. Names of dropouts shall be provided to a court in response to  
6 an order under s. 118.163 (2m) (b).

7           **SECTION 4.** 118.15 (1) (am) of the statutes is created to read:

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

14           **SECTION 5.** 118.15 (3m) of the statutes is created to read:

15           118.15 (3m) (a) Subsection (1) (am) applies only if the school board of the school  
16 district in which the child is enrolled has adopted a resolution specifying that it  
17 applies.

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

1           **SECTION 6.** 118.15 (5) (a) of the statutes is renumbered 118.15 (5) (a) 1. (intro.)  
2 and amended to read:

3           118.15 **(5)** (a) 1. (intro.) Except as provided under par. (b) or if a person has been  
4 found guilty of a misdemeanor under s. 948.45, whoever violates this section may be  
5 ~~fined not more than \$500 or imprisoned for not more than 30 days or both~~ penalized  
6 as follows, if evidence has been provided by the school attendance officer that the  
7 activities under s. 118.16 (5) have been completed or were not required to be  
8 ~~completed due to the child's absence from school as provided in s. 118.16 (5m). In a~~  
9 ~~prosecution under this paragraph, if the defendant proves that he or she is unable~~  
10 ~~to comply with the law because of the disobedience of the child, the action shall be~~  
11 ~~dismissed and the child shall be referred to the court assigned to exercise jurisdiction~~  
12 ~~under chs. 48 and 938.:~~

13           **SECTION 7.** 118.15 (5) (a) 1. a. and b. of the statutes are created to read:

14           118.15 **(5)** (a) 1. a. For the first offense, by a fine of not more than \$500 or  
15 imprisonment for not more than 30 days or both.

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

18           **SECTION 8.** 118.15 (5) (a) 2. of the statutes is created to read:

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

1           **SECTION 9.** 118.16 (1) (a) (intro.) and 1. of the statutes are consolidated,  
2           renumbered 118.16 (1) (a) and amended to read:

3           118.16 (1) (a) “Habitual truant” means a pupil who is absent from school  
4           without an acceptable excuse under sub. (4) and s. 118.15 for ~~either of the following:~~  
5           ~~1. Part part~~ or all of 5 or more days out of 10 consecutive days on which school is held  
6           during a school semester.

7           **SECTION 10.** 118.16 (1) (a) 2. of the statutes is repealed.

8           **SECTION 11.** 118.16 (2) (cg) 1. of the statutes is amended to read:

9           118.16 (2) (cg) 1. A statement of the parent’s or guardian’s responsibility, under  
10          s. 118.15 (1) (a) and (am), to cause the child to attend school regularly.

11          **SECTION 12.** 118.16 (2) (cg) 3. of the statutes is amended to read:

12          118.16 (2) (cg) 3. A request that the parent or guardian meet with appropriate  
13          school personnel to discuss the child’s truancy. The notice shall include the name of  
14          the school personnel with whom the parent or guardian should meet, a date, time and  
15          place for the meeting and the name, address and telephone number of a person to  
16          contact to arrange a different date, time or place. The date for the meeting shall be  
17          within 5 school days after the date that the notice is sent.

18          **SECTION 13.** 118.16 (2) (cg) 4. of the statutes is amended to read:

19          118.16 (2) (cg) 4. A statement of the penalties, under s. 118.15 (5), that may be  
20          imposed on the parent or guardian if he or she fails to cause the child to attend school  
21          regularly as required under s. 118.15 (1) (a) and (am).

22          **SECTION 14.** 118.16 (5m) of the statutes is renumbered 118.16 (5m) (b).

23          **SECTION 15.** 118.16 (5m) (a) of the statutes is created to read:

1           118.16 (5m) (a) Subsection (5) does not apply if a meeting under sub. (2) (cg)  
2           3. is not held within 10 school days after the date that the notice under sub. (2) (cg)  
3           is sent.

4           **SECTION 16.** 118.16 (6) of the statutes is amended to read:

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

12          **SECTION 17.** 118.162 (1) (intro.) of the statutes is amended to read:

13          118.162 (1) (intro.) ~~On July 1, 1988~~ At least once every 4 years, in each county,  
14          the ~~superintendent~~ school district administrator of the school district which contains  
15          the county seat designated under s. 59.05, or his or her designee, shall convene a  
16          committee ~~under this section. At its first meeting, the committee shall elect a~~  
17          ~~chairperson, vice chairperson and secretary. Not later than February 1, 1989, the~~  
18          ~~committee shall~~ to review and make recommendations to the school boards of all of  
19          the school districts in the county on ~~the items to be included in~~ revisions to the school  
20          districts' truancy plans under sub. (4) (4m). The committee shall consist of the  
21          following members:

22          **SECTION 18.** 118.162 (2) (intro.) and (a) of the statutes are repealed.

23          **SECTION 19.** 118.162 (2) (b) of the statutes is renumbered 118.162 (2) and  
24          amended to read:



1           118.162 (2) The district attorney representative on the committee shall  
2 participate in reviewing and developing any recommendations regarding revisions  
3 to the portions of the plan school districts' plans under sub. (4) (e).

4           **SECTION 20.** 118.162 (3) (intro.), (a) and (b) of the statutes are consolidated,  
5 renumbered 118.162 (3) and amended to read:

6           118.162 (3) The committee shall write a report to accompany the  
7 recommendations under sub. (1). The report shall include ~~all of the following:~~ (a)  
8 A a description of the factors that contribute to truancy in the county.—(b)  
9 ~~Identification~~ and a description of any state statutes, municipal ordinances or school  
10 ~~or~~, social services, law enforcement, district attorney, court or other policies that  
11 contribute to or inhibit the response to truancy in the county. A copy of the report  
12 shall be submitted to each of the entities identified in sub. (1) (b) to (h) and any other  
13 entity designating members on the committee under sub. (1) (i).

14           **SECTION 21.** 118.162 (3) (c) of the statutes is repealed.

15           **SECTION 22.** 118.162 (4m) of the statutes is created to read:

16           118.162 (4m) At least once every 2 years, each school board shall review and,  
17 if appropriate, revise the truancy plan adopted by the school board under sub. (4).

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

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

20           118.163 (1) (b) “Habitual truant” has the meaning given in s. 118.16 (1) (a).

21           **SECTION 25.** 118.163 (1) (c) of the statutes is created to read:

22           118.163 (1) (c) “Operating privilege” has the meaning given in s. 340.01 (40).

23           **SECTION 26.** 118.163 (2) (a) of the statutes is amended to read:

24           118.163 (2) (a) Suspension of the person’s operating privilege, ~~as defined in s.~~  
25 ~~340.01 (40),~~ for not less than 30 days nor more than ~~90 days~~ one year. The court shall

1 immediately take possession of any suspended license and forward it to the  
2 department of transportation together with a notice stating the reason for and the  
3 duration of the suspension.

4 **SECTION 27.** 118.163 (2) (b) of the statutes, is amended to read:

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

15 **SECTION 28.** 118.163 (2) (d) of the statutes is amended to read:

16 118.163 (2) (d) An order for the person to attend an educational program under  
17 as described in s. 938.34 (7d).

18 **SECTION 29.** 118.163 (2) (g) to (j) of the statutes are created to read:

19 118.163 (2) (g) An order for the person to attend school.

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

23 (i) Any other reasonable conditions consistent with this subsection, including  
24 a curfew, restrictions as to going to or remaining on specified premises and  
25 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 **SECTION 30.** 118.163 (2m) of the statutes is renumbered 118.163 (2m) (a) and  
4 amended to read:

5 118.163 (2m) (a) A county, city, village or town may enact an ordinance  
6 permitting a court to suspend the operating privilege, ~~as defined in s. 340.01 (40)~~, of  
7 a person who is at least 16 years of age but less than 18 years of age and is a dropout.  
8 The ordinance shall provide that the court may suspend the person's operating  
9 privilege, ~~as defined in s. 340.01 (40)~~, until the person reaches the age of 18. The  
10 court shall immediately take possession of any suspended license and forward it to  
11 the department of transportation together with a notice stating the reason for and  
12 the duration of the suspension.

13 **SECTION 31.** 118.163 (2m) (b) of the statutes is created to read:

14 118.163 (2m) (b) A court may order a school district to provide to the court a  
15 list of all persons who are known to the school district to be dropouts and who reside  
16 within the county in which the circuit court is located or the municipality in which  
17 the municipal court is located. Upon request, the department of transportation shall  
18 assist the court to determine which dropouts have operating privileges.

19 **SECTION 32.** 118.163 (4) of the statutes is created to read:

20 118.163 (4) A person who is under 17 years of age on the date of disposition is  
21 subject to s. 938.342.

22 **SECTION 33.** 118.165 (1) (e) of the statutes is amended to read:

23 118.165 (1) (e) The program is not operated or instituted for the purpose of  
24 avoiding or circumventing the compulsory school attendance requirement under s.  
25 118.15 (1) (a) or (am).

1           **SECTION 34.** 895.035 (2m) (b) of the statutes, as affected by 1997 Wisconsin Act  
2 27, is amended to read:

3           895.035 **(2m)** (b) If a child fails to pay a forfeiture ~~or~~, surcharge or costs as  
4 ordered by a court assigned to exercise jurisdiction under chs. 48 and 938 or a  
5 forfeiture as ordered by a municipal court or if it appears likely that the child will not  
6 pay the forfeiture ~~or~~, surcharge or costs as ordered, the representative of the public  
7 interest under s. 938.09, the agency, as defined in s. 938.38 (1) (a), supervising the  
8 child or the law enforcement agency that issued the citation to the child may petition  
9 the court assigned to exercise jurisdiction under chs. 48 and 938 to order that the  
10 amount of the forfeiture ~~or~~, surcharge or costs unpaid by the child be entered and  
11 docketed as a judgment against the child and the parent with custody of the child and  
12 in favor of the county or appropriate municipality. A petition under this paragraph  
13 may be filed after the expiration of the dispositional order or sentence under which  
14 the forfeiture ~~or~~, surcharge is or costs are payable, but no later than one year after  
15 the expiration of the dispositional order or sentence or any extension of the  
16 dispositional order or sentence.

17           **SECTION 35.** 938.125 (2) of the statutes is amended to read:

18           938.125 **(2)** That the court has exclusive jurisdiction over any juvenile alleged  
19 to have violated an ordinance enacted under s. 118.163 (2) only if evidence is provided  
20 by the school attendance officer that the activities under s. 118.16 (5) have been  
21 completed or were not required to be completed due to the child's absence from school  
22 as provided in s. 118.16 (5m).

23           **SECTION 36.** 938.13 (6) of the statutes is amended to read:

24           938.13 **(6)** Who is habitually truant from school, if evidence is provided by the  
25 school attendance officer that the activities under s. 118.16 (5) have been completed

1 or were not required to be completed due to the child's absence from school as  
2 provided in s. 118.16 (5m), except as provided under s. 938.17 (2).

3 **SECTION 37.** 938.17 (2) (a) 1. of the statutes is amended to read:

4 938.17 (2) (a) 1. Except as provided in sub. (1), municipal courts have  
5 concurrent jurisdiction with the court assigned to exercise jurisdiction under this  
6 chapter and ch. 48 in proceedings against juveniles aged 12 or older for violations of  
7 county, town or other municipal ordinances. If evidence is provided by the school  
8 attendance officer that the activities under s. 118.16 (5) have been completed or were  
9 not required to be completed due to the juvenile's absence from school as provided  
10 in s. 118.16 (5m), the municipal court specified in subd. 2. may exercise jurisdiction  
11 in proceedings against a juvenile for a violation of an ordinance enacted under s.  
12 118.163 (2) regardless of the juvenile's age and regardless of whether the court  
13 assigned to exercise jurisdiction under this chapter and ch. 48 has jurisdiction under  
14 s. 938.13 (6).

15 **SECTION 38.** 938.17 (2) (cm) of the statutes is amended to read:

16 938.17 (2) (cm) A city, village or town may adopt an ordinance or bylaw  
17 specifying which of the dispositions under ss. 938.343 and 938.344 and sanctions  
18 under s. 938.355 (6) (d) and (6m) (a) the municipal court of that city, village or town  
19 is authorized to impose or petition the court assigned to exercise jurisdiction under  
20 this chapter and ch. 48 to impose. The use by the court of those dispositions and  
21 sanctions is subject to any ordinance or bylaw adopted under this paragraph.

22 **SECTION 39.** 938.17 (2) (g) of the statutes is amended to read:

23 938.17 (2) (g) If a municipal court finds that a juvenile violated a municipal  
24 ordinance enacted under s. 118.163 (2), it shall enter a dispositional order under s.  
25 938.342 (1) that is consistent with the municipal ordinance.

1           **SECTION 40.** 938.17 (2) (h) 1. of the statutes is amended to read:

2           938.17 (2) (h) 1. If a juvenile who has violated a municipal ordinance, other  
3 than an ordinance enacted under s. 118.163 (2), violates a condition of his or her  
4 dispositional order, the municipal court may impose on the juvenile any of the  
5 sanctions specified in s. 938.355 (6) (d) 2. to 4. that are authorized under par. (cm)  
6 except for monitoring by an electronic monitoring system or may petition the court  
7 assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the  
8 juvenile the sanction specified in s. 938.355 (6) (d) 1. or home detention with  
9 monitoring by an electronic monitoring system as specified in s. 938.355 (6) (d) 3., if  
10 authorized under par. (cm), if at the time of judgment the court explained the  
11 conditions to the juvenile and informed the juvenile of the possible sanctions under  
12 s. 938.355 (6) (d) that are authorized under par. (cm) for a violation or if before the  
13 violation the juvenile has acknowledged in writing that he or she has read, or has had  
14 read to him or her, those conditions and possible sanctions and that he or she  
15 understands those conditions and possible sanctions.

16           **SECTION 41.** 938.17 (2) (i) of the statutes is created to read:

17           938.17 (2) (i) 1. If a juvenile who has violated a municipal ordinance enacted  
18 under s. 118.163 (2) violates a condition of his or her dispositional order, the  
19 municipal court may impose on the juvenile any of the sanctions specified in s.  
20 938.355 (6m) (a) that are authorized under par. (cm) except for the sanction specified  
21 in s. 938.355 (6m) (a) 1. or may petition the court assigned to exercise jurisdiction  
22 under this chapter and ch. 48 to impose on the juvenile the sanction specified in s.  
23 938.355 (6m) (a) 1., if authorized under par. (cm), if at the time of judgment the court  
24 explained the conditions to the juvenile and informed the juvenile of the possible  
25 sanctions under s. 938.355 (6m) (a) that are authorized under par. (cm) for a violation

1 or if before the violation the juvenile has acknowledged in writing that he or she has  
2 read, or has had read to him or her, those conditions and possible sanctions and that  
3 he or she understands those conditions and possible sanctions.

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

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

13 4. If the court assigned to exercise jurisdiction under this chapter and ch. 48  
14 imposes the sanction specified in s. 938.355 (6m) (a) 1., on a petition described in  
15 subd. 1., that court shall order the municipality of the municipal court that filed the  
16 petition to pay to the county the cost of providing the sanction imposed under s.  
17 938.355 (6m) (a) 1.

18 **SECTION 42.** 938.23 (1) (am) of the statutes is amended to read:

19 938.23 (1) (am) A juvenile subject to a sanction under s. 938.355 (6) (a) shall  
20 be entitled to representation by counsel at the hearing under s. 938.355 (6) (c). A  
21 juvenile subject to a sanction under s. 938.355 (6m) (a) shall be entitled to  
22 representation by counsel at the hearing under s. 938.355 (6m) (c).

23 **SECTION 43.** 938.342 (1) (a) and (b) of the statutes are amended to read:

24 938.342 (1) (a) Suspend the person's operating privilege, as defined in s. 340.01  
25 (40), for not less than 30 days nor more than ~~90 days~~ one year. The court shall

1 immediately take possession of the suspended license and forward it to the  
2 department of transportation together with a notice stating the reason for and  
3 duration of the suspension.

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

13 **SECTION 44.** 938.342 (1) (g) to (j) of the statutes are created to read:

14 938.342 (1) (g) Order the person to attend school.

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

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

22 (j) Place the person under formal or informal supervision, as described in s.  
23 938.34 (2), for up to one year.

24 **SECTION 45.** 938.342 (1m) (am) of the statutes is created to read:



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

6           **SECTION 46.** 938.342 (1m) (b) of the statutes is amended to read:

7           938.342 **(1m)** (b) No order to any parent, guardian or legal custodian under par.  
8 (a) or (am) may be entered until the parent, guardian or legal custodian is given an  
9 opportunity to be heard on the contemplated order of the court. The court shall cause  
10 notice of the time, place and purpose of the hearing to be served on the parent,  
11 guardian or legal custodian personally at least 10 days before the date of the hearing.  
12 The procedure in these cases shall, as far as practicable, be the same as in other cases  
13 to the court. At the hearing, the parent, guardian or legal custodian may be  
14 represented by counsel and may produce and cross-examine witnesses. Any parent,  
15 guardian or legal custodian who fails to comply with any order issued by a court  
16 under par. (a) or (am) may be proceeded against for contempt of court.

17           **SECTION 47.** 938.342 (2) (a) of the statutes is amended to read:

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

22           **SECTION 48.** 938.342 (2) (b) of the statutes is amended to read:

23           938.342 **(2)** (b) The court may enter an order making any of the dispositions  
24 specified under sub. (1) if the court finds that suspension of the person's operating

1 privilege, as defined in s. 340.01 (40), until the person reaches the age of 18 would  
2 cause an undue hardship to the person or the juvenile's person's family.

3 **SECTION 49.** 938.345 (2) of the statutes is amended to read:

4 938.345 (2) If the court finds that a juvenile is in need of protection or services  
5 based on the fact that the juvenile is a school dropout, as defined in s. 118.153 (1) (b),  
6 or based on habitual truancy, and the court also finds that the reason the juvenile has  
7 dropped out of school or is a habitual truant is a result of the juvenile's intentional  
8 refusal to attend school rather than the failure of any other person to comply with  
9 s. 118.15 (1) (a) or (am), the court, instead of or in addition to any other disposition  
10 imposed under sub. (1), may enter an order permitted under s. 938.342.

11 **SECTION 50.** 938.355 (6) (a) of the statutes is amended to read:

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

1 possible sanctions or if before the violation the juvenile has acknowledged in writing  
2 that he or she has read, or has had read to him or her, those conditions and possible  
3 sanctions and that he or she understands those conditions and possible sanctions.  
4 The court may not order the sanction of placement in a place of nonsecure custody  
5 specified in par. (d) 1. unless the court finds that the agency primarily responsible  
6 for providing services for the juvenile has made reasonable efforts to prevent the  
7 removal of the juvenile from his or her home and that continued placement of the  
8 juvenile in his or her home is contrary to the welfare of the juvenile.

9 **SECTION 51.** 938.355 (6) (an) 1. of the statutes is amended to read:

10 938.355 (6) (an) 1. If a juvenile who has violated a municipal ordinance, other  
11 than an ordinance enacted under s. 118.163 (2), violates a condition of a dispositional  
12 order imposed by the municipal court, the municipal court may petition the court  
13 assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the  
14 juvenile the sanction specified in par. (d) 1. or the sanction specified in par. (d) 3., with  
15 monitoring by an electronic monitoring system, if, at the time of the judgment the  
16 municipal court explained the conditions to the juvenile and informed the juvenile  
17 of those possible sanctions for a violation or if before the violation the juvenile has  
18 acknowledged in writing that he or she has read, or has had read to him or her, those  
19 conditions and possible sanctions and that he or she understands those conditions  
20 and possible sanctions. The petition shall contain a statement of whether the  
21 juvenile may be subject to the federal Indian child welfare act, 25 USC 1911 to 1963.

22 **SECTION 52.** 938.355 (6m) (a) of the statutes is renumbered 938.355 (6m) (a)  
23 (intro.) and amended to read:

24 938.355 (6m) (a) (intro.) If the court finds by a preponderance of the evidence  
25 that a juvenile who has been found to have violated a municipal ordinance enacted

1 ~~under s. 118.163 (2) or who has been found to be in need of protection or services based~~  
2 ~~on habitual truancy from school~~ under s. 938.13 (6) has violated a condition specified  
3 under sub. (2) (b) 7., the court may order as a sanction any combination of the  
4 ~~operating privilege suspension~~ sanction specified in ~~this paragraph~~ subds. 1. and 2.  
5 and the dispositions specified in s. 938.342 (1) (b) to ~~(f)~~ (j) and (1m), regardless of  
6 whether the disposition was imposed in the order violated by the juvenile, if at the  
7 dispositional hearing under s. 938.335 the court explained those conditions to the  
8 juvenile and informed the juvenile of the possible sanctions under this paragraph for  
9 a violation or if before the violation the juvenile has acknowledged in writing that  
10 he or she has read, or has had read to him or her, those conditions and possible  
11 sanctions and that he or she understands those conditions and possible sanctions.

12 ~~The court may order as a sanction suspension:~~

13 1. Suspension of the juvenile's operating privilege, as defined under s. 340.01  
14 (40), for not more than one year. If the juvenile does not hold a valid operator's license  
15 under ch. 343, other than an instruction permit under s. 343.07 or a restricted license  
16 under s. 343.08, on the date of the order issued under ~~this paragraph~~ subdivision, the  
17 court may order the suspension to begin on the date that the operator's license would  
18 otherwise be reinstated or issued after the juvenile applies and qualifies for issuance  
19 or 2 years after the date of the order issued under ~~this paragraph~~ subdivision,  
20 whichever occurs first. If the court suspends an operating privilege under ~~this~~  
21 ~~paragraph~~ subdivision, the court shall immediately take possession of the suspended  
22 license and forward it to the department of transportation with a notice stating the  
23 reason for and the duration of the suspension.

24 **SECTION 53.** 938.355 (6m) (a) 2. of the statutes is created to read:

1           938.355 (6m) (a) 2. Placement of the juvenile in a secure detention facility or  
2 juvenile portion of a county jail that meets the standards promulgated by the  
3 department by rule or in a place of nonsecure custody, for not more than 10 days and  
4 the provision of educational services consistent with his or her current course of  
5 study during the period of placement. The juvenile shall be given credit against the  
6 period of detention or nonsecure custody imposed under this subdivision for all time  
7 spent in secure detention in connection with the course of conduct for which the  
8 detention or nonsecure custody was imposed.

9           **SECTION 54.** 938.355 (6m) (am) of the statutes is created to read:

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

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

25           **SECTION 55. Initial applicability.**

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

5 (2) The treatment of sections 118.15 (1) (am), 118.16 (2) (cg) 1. and 4., 118.165  
6 (1) (e) and 938.345 (2) of the statutes first applies to pupils enrolled in school in the  
7 1998-99 school year.

8 (3) The treatment of sections 938.17 (2) (cm), (h) 1. and (i) and 938.355 (6) (a)  
9 and (an) 1. and (6m) (am) of the statutes, the renumbering and amendment of section  
10 938.355 (6m) (a) of the statutes and the creation of section 938.355 (6m) (a) 2. of the  
11 statutes first apply to dispositional orders entered on the effective date of this  
12 subsection.

13 (END)