



1997 ASSEMBLY BILL 712

January 15, 1998 - Introduced by Representatives KELSO, MURAT, HUEBSCH, DOBYNS, JENSEN, LADWIG, M. LEHMAN, OTT, OWENS, PORTER, UNDERHEIM and RYBA, cosponsored by Senators FITZGERALD and DARLING. 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 a person from knowingly harboring or aiding a juvenile (a person under the age of 18) after the juvenile does any of the following: 1) runs away

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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 bill exempts all of the following from the prohibition on harboring or aiding a juvenile who runs away from his or her parents, guardian or legal or physical custodian: 1) a parent or grandparent of a runaway juvenile; 2) a foster home or treatment foster home authorized to provide services to runaways (a runaway home); 3) a relative other than a parent or grandparent who harbors a runaway if, within 48 hours after the juvenile joins him or her, the relative either notifies the juvenile's parents, guardian or legal custodian that the juvenile is with him or her or requests a runaway home, a child welfare agency or a law enforcement agency to notify the juvenile's parents, guardian or legal custodian that the juvenile is with him or her; 4) any other person who harbors a runaway juvenile if, within 24 hours after the juvenile joins him or her, the person either notifies the juvenile's parents, guardian or legal custodian that the juvenile is with him or her or requests a runaway home, a child welfare agency or a law enforcement agency to notify the juvenile's parents, guardian or legal custodian that the juvenile is with him or her; and 5) a church.

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) "Court" means the court assigned to exercise jurisdiction under ch. 48 or
- 5 938.
- 6 (b) "Custody" has the meaning given in s. 946.42 (1) (a).
- 7 (c) "Escape" has the meaning given in s. 946.42 (1) (b).

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1 (d) "Guardian" means the person named by a court to have the duty and
2 authority of guardianship of a juvenile.

3 (e) "Juvenile" means a person who has not attained 18 years of age.

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

7 (g) "Legal custody" means a legal status created by the order of a court, which
8 confers the right and duty to protect, train and discipline a juvenile, and to provide
9 food, shelter, legal services, education and ordinary medical and dental care, subject
10 to the rights, duties and responsibilities of the guardian of the juvenile and subject
11 to any residual parental rights and responsibilities and the provisions of any court
12 order.

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

19 (i) "Physical custody" means actual custody of the person in the absence of an
20 order of a court granting legal custody to the physical custodian.

21 (j) "Relative" has the meaning given in s. 48.02 (15).

22 **(2)** Whoever knowingly harbors or aids a juvenile after the juvenile does any
23 of the following is guilty of a Class A misdemeanor:

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

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

3 (c) The juvenile escapes from custody.

4 **(3)** Subsection (2) (a) does not apply to any of the following:

5 (a) A home licensed under s. 48.48 or 48.75 that is providing housing or services
6 to a juvenile as provided in s. 48.227.

7 (b) A parent or grandparent of a juvenile.

8 (c) A person who, within 24 hours after the time that the juvenile joins the
9 person, does any of the following:

10 1. Notifies a parent, guardian or legal custodian of a runaway juvenile that the
11 juvenile is with the person.

12 2. Requests any of the following to notify a parent, guardian or legal custodian
13 of a runaway juvenile that the juvenile is with the person:

14 a. A child welfare agency licensed under s. 48.60.

15 b. A home licensed under s. 48.48 or 48.75 that provides housing and services
16 to juveniles under s. 48.227.

17 c. A law enforcement agency.

18 (d) A relative other than a relative specified in par. (b) who, within 48 hours
19 after the time that the juvenile joins the relative, does any of the following:

20 1. Notifies a parent, guardian or legal custodian of a runaway juvenile that the
21 juvenile is with the relative.

22 2. Requests any of the following to notify a parent, guardian or legal custodian
23 of a runaway juvenile that the juvenile is with the relative:

24 a. A child welfare agency licensed under s. 48.60.

