

1991 Senate Bill 346

Date of enactment: **April 20, 1992**

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1991 WISCONSIN ACT 213

AN ACT to *renumber* 48.34 (5) (b) 2 and 48.34 (9) (c) 2; to *renumber and amend* 48.34 (5) (b) 1 and 48.34 (9) (c) 1; to *amend* 48.32 (1), 48.34 (5) (a), 48.34 (9) (b) and 48.343 (4); and to *create* 48.245 (2) (a) 5 and 6 and 48.32 (1t) of the statutes, **relating to:** juvenile restitution and supervised work programs.

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

SECTION 1. 48.245 (2) (a) 5. and 6. of the statutes are created to read:

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

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

c. Under this subdivision, an informal disposition may not require a child who is 12 or 13 years of age to make more than \$250 in restitution.

6. a. That the child participate in a supervised work program if the child has attained the age of 12 and the county has a supervised work program in accordance with s. 48.34 (9) (a). The supervised work program shall be of a constructive nature designed to promote the rehabilitation of the child, shall be appropriate to the age level and physical ability of the child and shall be combined with counseling from a member of the staff of the county department or community agency or other qualified person. The program may not conflict with the child's regular attendance at school. Subject to subd. 6. c., the amount of work required shall be reasonably related to the seriousness of the child's offense.

b. In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a child who is 12 or 13 years of age who is participating in a community service project provided by the county may, for purposes of performing community service work ordered by the court under this subsection, be employed or perform any duties under any circumstances in which a child 14 or 15 years of age is permitted to be employed or to perform duties under ch. 103 or any rule or order under ch. 103.

c. Under this subdivision, an informal disposition may not require a child who is 12 or 13 years of age to per-

form more than 40 total hours of community service work.

SECTION 2. 48.32 (1) of the statutes is amended to read:

48.32 (1) At any time after the filing of a petition for a proceeding relating to s. 48.12 or 48.13 and before the entry of judgment, the judge or juvenile court commissioner may suspend the proceedings and place the child under supervision in the child's own home or present placement. The court may establish terms and conditions applicable to the parent, guardian or legal custodian, and to the child, including any conditions specified in sub. (1g) ~~or (1t)~~. The order under this section shall be known as a consent decree and must be agreed to by the child if 12 years of age or older; the parent, guardian or legal custodian; and the person filing the petition under s. 48.25. If the consent decree includes any conditions specified in sub. (1g), the consent decree shall include provisions for payment of the services as specified in s. 48.361. The consent decree shall be reduced to writing and given to the parties.

SECTION 3. 48.32 (1t) of the statutes is created to read:

48.32 (1t) (a) 1. Subject to subd. 3, if the petition alleges that the child committed a delinquent act that has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the judge or juvenile court commissioner may require the child, if the child is 12 years of age or older, as a condition of the consent decree, to repair damage to property or to make reasonable restitution for the damage or injury if the judge or juvenile court commissioner, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being and behavior of the child. Any consent decree that includes a condition of restitution shall include a finding that the child alone is financially able to pay and may allow up to the date of the expiration of the consent decree for the payment. Objection by the child to the amount of damages claimed shall entitle the child to a hearing on the question of damages before the amount of restitution is made part of the consent decree.

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

3. Under this paragraph, a judge or juvenile court commissioner may not order a child who is 12 or 13 years of age to make more than \$250 in restitution.

(b) 1. The court or juvenile court commissioner may require a child to participate in a supervised work pro-

gram, as a condition of the consent decree, if the child has attained the age of 12 and the county has a supervised work program in accordance with s. 48.34 (9) (a). The supervised work program shall be of a constructive nature designed to promote the rehabilitation of the child, shall be appropriate to the age level and physical ability of the child and shall be combined with counseling from a member of the staff of the county department or community agency or other qualified person. The program may not conflict with the child's regular attendance at school. Subject to subd. 3, the amount of work required shall be reasonably related to the seriousness of the child's offense.

2. In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a child who is 12 or 13 years of age who is participating in a community service project provided by the county may, for purposes of performing community service work ordered by the court under this subsection, be employed or perform any duties under any circumstances in which a child 14 or 15 years of age is permitted to be employed or to perform duties under ch. 103 or any rule or order under ch. 103.

3. Under this paragraph, a judge or juvenile court commissioner may not order a child who is 12 or 13 years of age to perform more than 40 total hours of community service work.

SECTION 4. 48.34 (5) (a) of the statutes is amended to read:

48.34 (5) (a) ~~If Subject to par. (c), if~~ the child is found to have committed a delinquent act which has resulted in damage to the property of another, or actual physical injury to another excluding pain and suffering, the judge may order the child to repair damage to property or to make reasonable restitution for the damage or injury if the judge, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being and behavior of the child. Any such order shall include a finding that the child alone is financially able to pay and may allow up to ~~12 months~~ the date of the expiration of the order for the payment. Objection by the child to the amount of damages claimed shall entitle the child to a hearing on the question of damages before the amount of restitution is ordered.

SECTION 5. 48.34 (5) (b) 1. of the statutes is renumbered 48.34 (5) (b) and amended to read:

48.34 (5) (b) ~~Subject to subd. 2, in~~ In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a child who is 12 or 13 years of age who is participating in a restitution project provided by the county may, for the purpose of making restitution ordered by the court under this subsection, be employed or perform any duties under any circumstances in which a child 14 or 15 years of age is permitted to be employed or perform duties under ch. 103 or any rule or order under ch. 103.

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SECTION 6. 48.34 (5) (b) 2. of the statutes is renumbered 48.34 (5) (c).

SECTION 7. 48.34 (9) (b) of the statutes is amended to read:

48.34 (9) (b) The supervised work program shall be of a constructive nature designed to promote the rehabilitation of the child, shall be appropriate to the age level and physical ability of the child and shall be combined with counseling from a member of the staff of the county department or community agency or other qualified person. The program may not conflict with the child's regular attendance at school. ~~The Subject to par. (d), the~~ amount of work required shall be reasonably related to the seriousness of the child's offense.

SECTION 8. 48.34 (9) (c) 1. of the statutes is renumbered 48.34 (9) (c) and amended to read:

48.34 (9) (c) ~~Subject to subd. 2, in~~ In addition to any other employment or duties permitted under ch. 103 or any rule or order under ch. 103, a child who is 12 or 13 years of age who is participating in a community service project provided by the county may, for purposes of performing community service work ordered by the court under this subsection, be employed or perform any duties under any circumstances in which a child 14 or 15 years

of age is permitted to be employed or perform duties under ch. 103 or any rule or order under ch. 103.

SECTION 9. 48.34 (9) (c) 2. of the statutes is renumbered 48.34 (9) (d).

SECTION 10. 48.343 (4) of the statutes is amended to read:

48.343 (4) If the violation has resulted in damage to the property of another, or actual physical injury to another excluding pain and suffering, the court may order the child to make repairs of the damage to property or reasonable restitution for the damage or injury if the court, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being and behavior of the child. Any such order requiring payment for repairs or restitution shall include a finding that the child alone is financially able to pay and may allow up to ~~12 months~~ the date of the expiration of the order for the payment. Objection by the child to the amount of damages claimed shall entitle the child to a hearing on the question of damages before the amount of restitution is ordered.

SECTION 11. Initial applicability. This act first applies to informal dispositions, consent decrees or dispositional orders made on the effective date of this SECTION.