

State of Wisconsin



1997 Assembly Bill 686

Date of enactment: **June 3, 1998**
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1997 WISCONSIN ACT 239

AN ACT to repeal 118.16 (1) (a) 2., 118.162 (2) (intro.) and (a), 118.162 (3) (c) and 118.162 (5); to renumber 118.125 (2) (c), 118.15 (5) (b), 938.17 (2) (i) 2. and 938.355 (6m) (a) 1.; to renumber and amend 118.15 (5) (a), 118.162 (2) (b), 118.163 (2m), 938.17 (2) (i) 3. and 938.342 (1); to consolidate, renumber and amend 118.16 (1) (a) (intro.) and 1. and 118.162 (3) (intro.), (a) and (b); to amend 103.72 (2), 118.125 (2) (cg), 118.125 (2) (j), 118.15 (5) (am), 118.16 (2) (cg) 3., 118.16 (5m), 118.16 (6) (a) (intro.), 118.162 (1) (intro.), 118.163 (2) (a), 118.163 (2) (b), 118.163 (2) (d), 118.163 (2) (f), 895.035 (2m) (b), 938.06 (5), 938.125 (2), 938.13 (6), 938.17 (2) (a) 1., 938.17 (2) (g), 938.17 (2) (h) 1., 938.17 (2) (i) 1., 938.245 (5), 938.275 (1) (c), 938.32 (1) (a), 938.32 (1t) (a) 1., 938.342 (1m) (a), 938.342 (1m) (b), 938.342 (2) (a), 938.342 (2) (b), 938.355 (6) (a), 938.355 (6) (an) 1., 938.355 (6m) (title), 938.355 (6m) (a) (intro.), 938.355 (6m) (b) and 938.355 (6m) (c); to repeal and recreate 49.26 (1) (a) 1., 118.163 (1) (b) and 118.163 (3); and to create 118.125 (2) (c) 2., 118.15 (3) (c), 118.15 (5) (a) 1. a. and b., 118.15 (5) (a) 2., 118.15 (5) (b) 2., 118.162 (1) (j) to (L), 118.162 (4m), 118.163 (1) (c), 118.163 (1) (d), 118.163 (1m), 118.163 (2) (g) to (k), 118.163 (2m) (b), 118.163 (4), 938.17 (2) (i) 2m., 938.17 (2) (i) 4m., 938.245 (2v), 938.32 (1v), 938.342 (1d), 938.342 (1g) (g) to (j), 938.342 (1m) (am), 938.355 (6m) (a) 1g., 938.355 (6m) (ag) and 938.355 (6m) (am) of the statutes; relating to: compulsory school attendance, truancy, habitual truancy, the penalties for contributing to truancy, truancy planning committees and school district truancy plans.

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

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 of the statutes is repealed and recreated to read:

49.26 (1) (a) 1. "Habitual truant" has the meaning given in s. 118.16 (1) (a).

SECTION 2. 103.72 (2) of the statutes is amended to read:

103.72 (2) Whenever it appears to the department that a permit has been improperly or illegally issued, or that the physical or moral welfare or school attendance of the minor would be best served by the revocation of the permit or that the failing school performance of the minor

would be remedied by the revocation of the permit, the department may immediately, without notice, revoke the permit. The department shall revoke a permit if ordered to do so under s. 938.342 (4) (1g) (e). If the department revokes a permit, the department shall, by registered mail, notify the person employing the minor and the minor holding the permit of the revocation. Upon receipt of the notice, the employer employing the minor shall immediately return the revoked permit to the department and discontinue the employment of the minor.

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

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

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

SECTION 5m. 118.125 (2) (cg) of the statutes, as affected by 1997 Wisconsin Act (Assembly Bill 410), is amended to read:

118.125 (2) (cg) The school district clerk or his or her designee shall provide a law enforcement agency with a copy of a pupil's attendance record if the law enforcement agency certifies in writing that the pupil is under investigation for truancy or for allegedly committing a criminal or delinquent act and that the law enforcement agency will not further disclose the pupil's attendance record except as permitted under s. 938.396 (1) to (1x). A school district clerk or designee who discloses a copy of a pupil's attendance record to a law enforcement agency for purposes of a truancy investigation shall notify the pupil's parent or guardian of that disclosure as soon as practicable after that disclosure.

SECTION 6. 118.125 (2) (j) of the statutes is amended to read:

118.125 (2) (j) 1. Except as provided under subds. 2. and 3., directory data may be disclosed to any person, if the school has notified the parent, legal guardian or guardian ad litem of the categories of information which it has designated as directory data with respect to each pupil, has informed the parent, legal guardian or guardian ad litem of that pupil that he or she has 14 days to inform the school that all or any part of the directory data may not be released without the prior consent of the parent, legal guardian or guardian ad litem and has allowed 14 days for the parent, legal guardian or guardian ad litem of that pupil to inform the school that all or any part of the directory data may not be released without the prior consent of the parent, legal guardian or guardian ad litem.

2. If a school has notified the parent, legal guardian or guardian ad litem that a pupil's name and address has been designated as directory data, has informed the parent, legal guardian or guardian ad litem of the pupil that he or she has 14 days to inform the school that the pupil's name and address may not be released without the prior consent of the parent, legal guardian or guardian ad litem, has allowed 14 days for the parent, legal guardian or guardian ad litem of the pupil to inform the school that the pupil's name and address may not be released without the prior consent of the parent, legal guardian or guardian ad litem and the parent, legal guardian or guardian ad litem has not so informed the school, the school district clerk or his or her designee, upon request, shall provide a technical college district board with the name and address of each such pupil who is expected to graduate from high school in the current school year.

3. If a school has notified the parent, legal guardian or guardian ad litem of the information that it has designated as directory data with respect to any pupil, the school has informed the parent, legal guardian or guard-

ian ad litem of the pupil that he or she has 14 days to inform the school that such information may not be released without the prior consent of the parent, legal guardian or guardian ad litem, has allowed 14 days for the parent, legal guardian or guardian ad litem of the pupil to inform the school that such information may not be released without the prior consent of the parent, legal guardian or guardian ad litem and the parent, legal guardian or guardian ad litem has not so informed the school, the school district clerk or his or her designee, upon request, shall provide any representative of a law enforcement agency, as defined in s. 165.83 (1) (b), district attorney, city attorney or corporation counsel, county department under s. 46.215, 46.22 or 46.23 or a court of record or municipal court with such information relating to any such pupil enrolled in the school district for the purpose of enforcing that pupil's school attendance, investigating alleged criminal or delinquent activity by the pupil or responding to a health or safety emergency.

SECTION 8. 118.15 (3) (c) of the statutes is created to read:

118.15 (3) (c) Any child excused in writing by his or her parent or guardian before the absence. The school board shall require a child excused under this paragraph to complete any course work missed during the absence. A child may not be excused for more than 10 days in a school year under this paragraph.

SECTION 10. 118.15 (5) (a) of the statutes is renumbered 118.15 (5) (a) 1. (intro.) and amended to read:

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

SECTION 11. 118.15 (5) (a) 1. a. and b. of the statutes are created to read:

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

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

SECTION 12. 118.15 (5) (a) 2. of the statutes is created to read:

118.15 (5) (a) 2. The court may require a person who is subject to subd. 1. to perform community service work for a public agency or a nonprofit charitable organization

in lieu of the penalties specified under subd. 1. Any organization or agency to which a defendant is assigned pursuant to an order under this subdivision acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on the defendant.

SECTION 13. 118.15 (5) (am) of the statutes is amended to read:

118.15 (5) (am) The court may order any person who violates this section to participate in counseling at the person's own expense or to attend school with his or her child, or both.

SECTION 14. 118.15 (5) (b) of the statutes is renumbered 118.15 (5) (b) 1.

SECTION 15. 118.15 (5) (b) 2. of the statutes is created to read:

118.15 (5) (b) 2. In a prosecution under par. (a), if the defendant proves that he or she is unable to comply with the law because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under ch. 48.

SECTION 16. 118.16 (1) (a) (intro.) and 1. of the statutes are consolidated, renumbered 118.16 (1) (a) and amended to read:

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

SECTION 17. 118.16 (1) (a) 2. of the statutes is repealed.

SECTION 19. 118.16 (2) (cg) 3. of the statutes is amended to read:

118.16 (2) (cg) 3. A request that the parent or guardian meet with appropriate school personnel to discuss the child's truancy. The notice shall include the name of the school personnel with whom the parent or guardian should meet, a date, time and place for the meeting and the name, address and telephone number of a person to contact to arrange a different date, time or place. The date for the meeting shall be within 5 school days after the date that the notice is sent, except that with the consent of the child's parent or guardian the date for the meeting may be extended for an additional 5 school days.

SECTION 21. 118.16 (5m) of the statutes is amended to read:

118.16 (5m) Subsection (5) (a) does not apply if a meeting under sub. (2) (cg) 3. is not held within 10 school days after the date that the notice under sub. (2) (cg) is sent. Subsection (5) (b), (c) and (d) does not apply if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child's absences from school.

SECTION 21m. 118.16 (6) (a) (intro.) of the statutes, as affected by 1997 Wisconsin Act (Assembly Bill 410), is amended to read:

118.16 (6) (a) (intro.) If the school attendance officer receives evidence that activities under sub. (5) have been completed or were not required to be completed ~~due to the child's absence from school~~ as provided in sub. (5m), the school attendance officer may do any of the following:

SECTION 23. 118.162 (1) (intro.) of the statutes is amended to read:

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

SECTION 23m. 118.162 (1) (j) to (L) of the statutes are created to read:

118.162 (1) (j) A parent of a pupil enrolled in a private school, who resides in a school district in the county, designated by the county board.

(k) A parent of a pupil enrolled in a public school, who resides in a school district in the county, designated by the county board.

(L) A parent of a pupil enrolled in a home-based private educational program, who resides in a school district in the county, designated by the county board.

SECTION 24. 118.162 (2) (intro.) and (a) of the statutes are repealed.

SECTION 25. 118.162 (2) (b) of the statutes is renumbered 118.162 (2) and amended to read:

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

SECTION 26. 118.162 (3) (intro.), (a) and (b) of the statutes are consolidated, renumbered 118.162 (3) and amended to read:

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

SECTION 27. 118.162 (3) (c) of the statutes is repealed.

SECTION 28. 118.162 (4m) of the statutes is created to read:

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

SECTION 29. 118.162 (5) of the statutes is repealed.

SECTION 30. 118.163 (1) (b) of the statutes is repealed and recreated to read:

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

SECTION 31. 118.163 (1) (c) of the statutes is created to read:

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

SECTION 32. 118.163 (1) (d) of the statutes is created to read:

118.163 (1) (d) "Truant" means a pupil who is absent from school without an acceptable excuse under ss. 118.15 and 118.16 (4) for part or all of any day on which school is held during a school semester.

SECTION 33. 118.163 (1m) of the statutes is created to read:

118.163 (1m) A county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a truant. The ordinance shall provide which of the following dispositions are available to the court:

(a) An order for the person to attend school.

(b) A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to s. 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

SECTION 34. 118.163 (2) (a) of the statutes is amended to read:

118.163 (2) (a) Suspension of the person's operating privilege, ~~as defined in s. 340.01 (40),~~ for not less than 30 days nor more than 90 days one year. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.

SECTION 35. 118.163 (2) (b) of the statutes is amended to read:

118.163 (2) (b) An order for the person to participate in counseling or a supervised work program or other community service work ~~under as described in s. 938.34 (5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the~~

person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on that person.

SECTION 36. 118.163 (2) (d) of the statutes is amended to read:

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

SECTION 37. 118.163 (2) (f) of the statutes, is amended to read:

118.163 (2) (f) An order for the person to be placed in a teen court program as described in s. 938.342 ~~(1) (1g)~~ (f).

SECTION 38. 118.163 (2) (g) to (k) of the statutes are created to read:

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

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

(i) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

(j) An order placing the person under formal or informal supervision, as described in s. 938.34 (2), for up to one year.

(k) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

SECTION 39. 118.163 (2m) of the statutes is renumbered 118.163 (2m) (a) and amended to read:

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

SECTION 40. 118.163 (2m) (b) of the statutes is created to read:

118.163 (2m) (b) A court may order a school district to provide to the court a list of all persons who are known to the school district to be dropouts and who reside within the county in which the circuit court is located or the municipality in which the municipal court is located. Upon

request, the department of transportation shall assist the court to determine which dropouts have operating privileges.

SECTION 41. 118.163 (3) of the statutes is repealed and recreated to read:

118.163 (3) An ordinance enacted by a county under sub. (1m), (2) or (2m) is applicable and may be enforced in that part of any city or village located in the county and in any town located in the county regardless of whether the city, village or town has enacted an ordinance under sub. (1m), (2) or (2m).

SECTION 42. 118.163 (4) of the statutes is created to read:

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

SECTION 43m. 895.035 (2m) (b) of the statutes, as affected by 1997 Wisconsin Acts 35 and (Assembly Bill 410), is amended to read:

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

SECTION 44m. 938.06 (5) of the statutes, as affected by 1997 Wisconsin Act (Assembly Bill 410), is amended to read:

938.06 (5) (title) SHORT-TERM DETENTION AS A DISPOSITION OR SANCTION OR FOR VIOLATION OF ORDER. The county board of supervisors of any county may, by resolution, authorize the court to use placement in a secure detention facility or juvenile portion of the county jail as a disposition under s. 938.34 (3) (f), as a sanction under s. 938.355 (6m) (a) 1g. or as a place of short-term detention under s. 938.355 (6d) (a) 1. or 2. or (b) 1. or 2. or

938.534 (1) (b) 1. or 2. or to use commitment to a county department under s. 51.42 or 51.437 for special treatment or care in an inpatient facility, as defined in s. 51.01 (10), as a disposition under s. 938.34 (6) (am). The use by the court of a disposition under s. 938.34 (3) (f) or (6) (am), a sanction under s. 938.355 (6m) (a) 1g. or short-term detention under s. 938.355 (6d) (a) 1. or 2. or (b) 1. or 2. or 938.534 (1) (b) 1. or 2. is subject to any resolution adopted under this subsection.

SECTION 45. 938.125 (2) of the statutes, as affected by 1997 Wisconsin Act 35, is amended to read:

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

SECTION 46. 938.13 (6) of the statutes, as affected by 1997 Wisconsin Act 35, is amended to read:

938.13 (6) Who is habitually truant from school, if evidence is provided by the school attendance officer that the activities under s. 118.16 (5) have been completed or were not required to be completed due to the juvenile's absence from school as provided in s. 118.16 (5m), except as provided under s. 938.17 (2).

SECTION 47. 938.17 (2) (a) 1. of the statutes is amended to read:

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

SECTION 48. 938.17 (2) (g) of the statutes is amended to read:

938.17 (2) (g) If the municipal court finds that a juvenile violated a municipal ordinance enacted under s. 118.163 (1m), it shall enter a dispositional order under s. 938.342 (1d). If a municipal court finds that a juvenile violated a municipal ordinance enacted under s. 118.163 (2), it shall enter a dispositional order under s. 938.342 ~~(4)~~ (1g), and may enter a dispositional order under s. 938.342 (1m) (a), that is consistent with the municipal ordinance. If a municipal court finds that a juvenile violated a municipal ordinance enacted under s. 118.163

(2m), it shall enter a dispositional order under s. 938.342 (2) that is consistent with the municipal ordinance.

SECTION 49m. 938.17 (2) (h) 1. of the statutes, as affected by 1997 Wisconsin Act (Assembly Bill 410), is amended to read:

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

SECTION 50m. 938.17 (2) (i) 1. of the statutes, as created by 1997 Wisconsin Act (Assembly Bill 410), is amended to read:

938.17 (2) (i) 1. If a juvenile who has violated a municipal ordinance enacted under s. 118.163 (2) (1m) violates a condition of his or her dispositional order, the municipal court may impose on the juvenile any of the sanctions specified in s. 938.355 (6m) that are authorized under par. (cm) (ag), if at the time of judgment the court explained the conditions to the juvenile and informed the juvenile of the those possible sanctions under s. 938.355 (6m) that are authorized under par. (cm) for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions.

SECTION 50p. 938.17 (2) (i) 2. of the statutes, as created by 1997 Wisconsin Act (Assembly Bill 410), is renumbered 938.17 (2) (i) 3g.

SECTION 50r. 938.17 (2) (i) 2m. of the statutes is created to read:

938.17 (2) (i) 2m. If a juvenile who has violated a municipal ordinance enacted under s. 118.163 (2) violates a condition of his or her dispositional order, the municipal court may impose on the juvenile any of the sanctions specified in s. 938.355 (6m) (a) that are authorized under par. (cm) except for the sanction specified in s. 938.355 (6m) (a) 1g. or may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction specified in s. 938.355 (6m) (a) 1g.,

if authorized under par. (cm), if at the time of judgment the court explained the conditions to the juvenile and informed the juvenile of the possible sanctions under s. 938.355 (6m) (a) that are authorized under par. (cm) for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions.

SECTION 50t. 938.17 (2) (i) 3. of the statutes, as created by 1997 Wisconsin Act (Assembly Bill 410), is renumbered 938.17 (2) (i) 4. and amended to read:

938.17 (2) (i) 4. Before imposing any sanction, the court shall hold a hearing, at which the juvenile may present evidence. Except as provided in s. 901.05, neither common law nor statutory rules of evidence are binding at a hearing under this subdivision.

SECTION 50u. 938.17 (2) (i) 4m. of the statutes is created to read:

938.17 (2) (i) 4m. If the court assigned to exercise jurisdiction under this chapter and ch. 48 imposes the sanction specified in s. 938.355 (6m) (a) 1g., on a petition described in subd. 2m., that court shall order the municipality of the municipal court that filed the petition to pay to the county the cost of providing the sanction imposed under s. 938.355 (6m) (a) 1g.

SECTION 51. 938.245 (2v) of the statutes is created to read:

938.245 (2v) If the deferred prosecution agreement is based on an allegation that the juvenile has violated a municipal ordinance enacted under s. 118.163 (2), the deferred prosecution agreement may require that the juvenile's parent, guardian or legal custodian attend school with the juvenile.

SECTION 52. 938.245 (5) of the statutes is amended to read:

938.245 (5) A deferred prosecution agreement under sub. (2) (a) 1. to 8., (2g) or (2v), may be terminated upon the request of the juvenile, parent, guardian or legal custodian. A deferred prosecution agreement under sub. (2) (a) 9. may be terminated by the court upon the request of the juvenile, parent, guardian or legal custodian.

SECTION 53m. 938.275 (1) (c) of the statutes, as affected by 1997 Wisconsin Act (Assembly Bill 410), is amended to read:

938.275 (1) (c) If the court imposes a sanction on a juvenile as specified in s. 938.355 (6) (d) or (6m) (a) or (ag) or finds the juvenile in contempt under s. 938.355 (6g) (b) and orders a disposition under s. 938.34 or if the juvenile is placed in a secure detention facility or place of nonsecure custody under s. 938.355 (6d) (a), (b) or (c) or 938.534 (1) (b) or (c), the court shall order the parents of the juvenile to contribute toward the cost of the sanction, disposition or placement the proportion of the total amount which the court finds the parents are able to pay.

SECTION 54. 938.32 (1) (a) of the statutes is amended to read:

938.32 (1) (a) At any time after the filing of a petition for a proceeding relating to s. 938.12 or 938.13 and before the entry of judgment, the judge or juvenile court commissioner may suspend the proceedings and place the juvenile under supervision in the juvenile's own home or present placement or in a youth village program as described in s. 118.42. The court may establish terms and conditions applicable to the parent, guardian or legal custodian, and to the juvenile, including any of the conditions specified in subs. (1d), (1g), (1m), (1t), (1v) and (1x). The order under this section shall be known as a consent decree and must be agreed to by the juvenile; the parent, guardian or legal custodian; and the person filing the petition under s. 938.25. 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. 938.361. The consent decree shall be reduced to writing and given to the parties.

SECTION 54m. 938.32 (1t) (a) 1. of the statutes, as affected by 1997 Wisconsin Act (Assembly Bill 410), is amended to read:

938.32 (1t) (a) 1. Subject to subd. 3., if the petition alleges that the juvenile 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 juvenile as a condition of the consent decree, to repair the 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 juvenile. Any consent decree that includes a condition of restitution by a juvenile shall include a finding that the juvenile 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 juvenile to the amount of damages claimed shall entitle the juvenile to a hearing on the question of damages before the amount of restitution is made part of the consent decree. Any recovery under this subdivision shall be reduced by the amount recovered as restitution for the same act under subd. 1m.

SECTION 55. 938.32 (1v) of the statutes is created to read:

938.32 (1v) If the petition alleges that the juvenile is in need of protection or services under s. 938.13 (6), the judge or juvenile court commissioner may establish as a condition under sub. (1) that the juvenile's parent, guardian or legal custodian attend school with the juvenile.

SECTION 56. 938.342 (1) of the statutes is renumbered 938.342 (1g), and 938.342 (1g) (a) and (b), as renumbered, are amended to read:

938.342 (1g) (a) Suspend the person's operating privilege, as defined in s. 340.01 (40), for not less than 30

days nor more than 90 days one year. The court shall immediately take possession of the suspended license and forward it to the department of transportation together with a notice stating the reason for and duration of the suspension.

(b) Order the person to participate in counseling or a supervised work program or other community service work under as described in s. 938.34 (5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any 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 pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on that person.

SECTION 57. 938.342 (1d) of the statutes is created to read:

938.342 (1d) If the court finds that the person violated a municipal ordinance enacted under s. 118.163 (1m), the court shall enter an order making one or more of the following dispositions if such a disposition is authorized by the municipal ordinance:

(a) Order the person to attend school.

(b) Impose a forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to s. 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parent or guardian of the person, or both.

SECTION 58. 938.342 (1g) (g) to (j) of the statutes are created to read:

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

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

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

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

SECTION 59. 938.342 (1m) (a) of the statutes is amended to read:

938.342 (1m) (a) If the court finds that the person violated a municipal ordinance enacted under s. 118.163 (2), the court may, in addition to or instead of the dispositions under sub. (4) (1g), order the person's parent, guardian or legal custodian to participate in counseling at the

parent's, guardian's or legal custodian's own expense or to attend school with the person, or both, if such a disposition is authorized by the municipal ordinance.

SECTION 60. 938.342 (1m) (am) of the statutes is created to read:

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

SECTION 61. 938.342 (1m) (b) of the statutes is amended to read:

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

SECTION 62. 938.342 (2) (a) of the statutes is amended to read:

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

SECTION 63. 938.342 (2) (b) of the statutes is amended to read:

938.342 (2) (b) The court may enter an order making any of the dispositions specified under sub. (1) (1g) if the court finds that suspension of the person's operating privilege, as defined in s. 340.01 (40), until the person reaches the age of 18 would cause an undue hardship to the person or the juvenile's person's family.

SECTION 65m. 938.355 (6) (a) of the statutes, as affected by 1997 Wisconsin Act (Assembly Bill 410), is amended to read:

938.355 (6) (a) If a juvenile who has been adjudged delinquent or to have violated a civil law or ordinance, other than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition specified in sub. (2) (b) 7., the

court may impose on the juvenile any of the sanctions specified in par. (d) if, at the dispositional hearing under s. 938.335, the court explained the conditions to the juvenile and informed the juvenile of those possible sanctions or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. If a juvenile who has been found to be in need of protection or services under s. 938.13 (4), (6m), (7), (12) or (14) violates a condition specified in sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in par. (d), other than placement in a secure detention facility or juvenile portion of a county jail, if, at the dispositional hearing under s. 938.335, the court explained the conditions to the juvenile and informed the juvenile of those possible sanctions or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. The court may not order the sanction of placement in a place of non-secure custody specified in par. (d) 1. unless the court finds that the agency primarily responsible for providing services for the juvenile has made reasonable efforts to prevent the removal of the juvenile from his or her home and that continued placement of the juvenile in his or her home is contrary to the welfare of the juvenile.

SECTION 66m. 938.355 (6) (an) 1. of the statutes, as affected by 1997 Wisconsin Act (Assembly Bill 410), is amended to read:

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

SECTION 67. 938.355 (6m) (title) of the statutes is amended to read:

938.355 (6m) (title) SANCTIONS FOR VIOLATION OF ORDER: TRUANCY OR HABITUAL TRUANCY.

SECTION 68m. 938.355 (6m) (a) (intro.) of the statutes, as affected by 1997 Wisconsin Act (Assembly Bill 410), is amended to read:

938.355 (6m) (a) (intro.) If the court finds by a preponderance of the evidence that a juvenile who has been found to have violated a municipal ordinance enacted under s. 118.163 (2) or who has been found to be in need of protection or services under s. 938.13 (6) has violated a condition specified under sub. (2) (b) 7., the court may order as a sanction any combination of the sanctions specified in subds. 1. ~~1g.~~ to 3. and the dispositions specified in s. 938.342 (4) (1g) (d) to (f) (j) and (1m), regardless of whether the disposition was imposed in the order violated by the juvenile, if at the dispositional hearing under s. 938.335 the court explained those conditions to the juvenile and informed the juvenile of the possible sanctions under this paragraph for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. The court may order as a sanction ~~or limitation on the use~~ under this paragraph any of the following:

SECTION 68p. 938.355 (6m) (a) 1. of the statutes, as created by 1997 Wisconsin Act (Assembly Bill 410), is renumbered 938.355 (6m) (a) 1m.

SECTION 69m. 938.355 (6m) (a) 1g. of the statutes is created to read:

938.355 (6m) (a) 1g. Placement of the juvenile in a secure detention facility or juvenile portion of a county jail that meets the standards promulgated by the department by rule or in a place of nonsecure custody, for not more than 10 days and the provision of educational services consistent with his or her current course of study during the period of placement. The juvenile shall be given credit against the period of detention or nonsecure custody imposed under this subdivision for all time spent in secure detention in connection with the course of conduct for which the detention or nonsecure custody was imposed. The use of placement in a secure detention facility or in a juvenile portion of a county jail as a sanction under this subdivision is subject to the adoption of a resolution by the county board of supervisors under s. 938.06 (5) authorizing the use of those placements as a sanction.

SECTION 70. 938.355 (6m) (ag) of the statutes is created to read:

938.355 (6m) (ag) If the court finds by a preponderance of the evidence that a juvenile who has been found to have violated a municipal ordinance enacted under s. 118.163 (1m) has violated a condition specified under sub. (2) (b) 7., the court may order as a sanction any combination of the operating privilege suspension specified in par. (a) and the dispositions specified in s. 938.342 (1g) (b) to (j) and (1m), regardless of whether the disposition was imposed in the order violated by the juvenile, if at the dispositional hearing under s. 938.335 the court explained those conditions to the juvenile and informed the juvenile of the possible sanctions under this paragraph for a violation or if before the violation the juvenile has

acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions.

SECTION 71. 938.355 (6m) (am) of the statutes is created to read:

938.355 (6m) (am) 1. If a juvenile who has violated a municipal ordinance enacted under s. 118.163 (2) violates a condition of a dispositional order imposed by the municipal court, the municipal court may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction specified in par. (a) 1g. if, at the time of the judgment the municipal court explained the conditions to the juvenile and informed the juvenile of that possible sanction for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible sanction and that he or she understands those conditions and that possible sanction. The petition shall contain a statement of whether the juvenile may be subject to the federal Indian child welfare act, [25 USC 1911 to 1963](#).

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

SECTION 72m. 938.355 (6m) (b) of the statutes, as affected by 1997 Wisconsin Act (Assembly Bill 410), is amended to read:

938.355 (6m) (b) A motion for the imposition of a sanction under par. (a) ~~or (ag)~~ may be brought by the person or agency primarily responsible for providing dispositional services to the juvenile, the district attorney, the corporation counsel or the court that entered the dispositional order. If the court initiates the motion, that court is disqualified from holding a hearing on the motion. Notice of the motion shall be given to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian and all parties present at the original dispositional hearing.

SECTION 73. 938.355 (6m) (c) of the statutes is amended to read:

938.355 (6m) (c) Before imposing a sanction under par. (a) ~~or (ag)~~, the court shall hold a hearing at which the juvenile is entitled to be represented by legal counsel and to present evidence. The hearing shall be held within 15 days after the filing of a motion under par. (b).

SECTION 74. Nonstatutory provisions.

(1) AUDIT OF EFFECTIVENESS OF SECURE DETENTION IN DETERRING HABITUAL TRUANCY.

(a) The joint legislative audit committee is requested to direct the legislative audit bureau to perform a performance evaluation audit to evaluate all of the following:

1. The accuracy and uniformity of truancy statistics that are reported to the department of public instruction by school boards.

2. The effectiveness of using placement of a juvenile in a secure detention facility or juvenile portion of a county jail under section 938.355 (6m) (a) 1. of the statutes, as created by this act, as a sanction for a violation of a condition of a dispositional order based on habitual truancy from school in deterring truancy. The audit shall compare the effectiveness of that sanction with the effectiveness of other sanctions and dispositions, including attendance at an educational program described in section 938.34 (7d) of the statutes, in deterring truancy.

(b) If the legislative audit bureau performs the audit under paragraph (a), the legislative audit bureau shall file its report as described in section 13.94 (1) (b) of the statutes by September 1, 1999.

SECTION 75. Initial applicability.

(1) The treatment of section 118.15 (5) (a) of the statutes first applies to violations under section 118.15 of the

statutes occurring on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for sentencing a person.

(3m) The treatment of sections 938.06 (5), 938.17 (2) (h) 1. and (i) 1., 2., 2m., 3. and 4m. and 938.355 (6) (a) and (an) 1. and (6m) (title), (a) (intro.), 1. and 1g. (ag), (am), (b) and (c) of the statutes first applies to dispositional orders entered on the effective date of this subsection.

(4) The treatment of sections 118.15 (5) (am), 118.163 (2) (k), 938.17 (2) (g), 938.245 (2v) and (5), 938.32 (1) (a) and (1v) and 938.342 (1m) (a) of the statutes first applies to the parent, guardian or legal custodian of a person who becomes a habitual truant, as defined in section 118.16 (1) (a) of the statutes, on the effective date of this subsection and to a parent or guardian having control of a child who does not cause the child to attend school regularly in violation of section 118.15 (1) (a) of the statutes on the effective date of this subsection.